

City of Berkeley
Zoning Ordinance Steering Committee

Wednesday, September 6, 2023
6:00 p.m. – 8:30 p.m.

AGENDA

- 1. Check in (5 min)**
- 2. Review of previous work (45 min)**
 - a. Draft Zoning Map
 - b. Development Review Processes
 - i. Draft Article 7 - PUD
 - ii. Draft Article 14 – Site Plan Review
 - iii. Draft Article 15 – Special Land Use
 - iv. Draft Article 18 - Rezoning
- 3. Parking (45 min)**
 - a. Discussion
 - b. Direction
- 4. Preview: Signs (15 min)**
 - a. Ideas
 - b. Advice
- 5. Check out (5 min)**
 - a. Community education and communication
 - b. Steering Committee: Questions & suggestions to staff by September 13, 2023
 - c. Staff & CWA: Materials for next meeting to Steering Committee by September 20, 2023
 - d. Next meeting date: October 3, 2023 at 6 p.m.

Decision-Making Process

The Steering Committee will make decisions by consensus, i.e., all members agree.

If consensus is not reached, CWA and staff will draft a memo to the Planning Commission, cc'd to City Council, explaining both sides of the issue. The Planning Commission would make a decision at its next meeting that would be acted upon during the Zoning Ordinance rewrite.



- Conditional Rezoning
- Parking Overlay
- City Boundary
- R1A/R1B
- R1C/R1D
- R2
- RM
- RHM
- Community Centerpiece
- Downtown
- Flex
- Gateway Corridor
- Residential Corridor
- Consent Judgement
- PUD
- Woodward
- Cemetery



Draft Zoning Map

City of Berkley

Oakland County, Michigan

TO: City of Berkley Zoning Ordinance Steering Committee

FROM: Megan A. Masson-Minock, AICP
Michelle Marin

DATE: August 23, 2023

RE: September 2023 Zoning Ordinance Steering Committee Meeting

Thank you for the productive meeting earlier this month where we discussed the zoning districts, zoning map, draft Article 4 – Establishment of Districts, draft Article 5 – Use-based Districts, and the elements of the site-based districts.

At the upcoming September meeting, we would like to review draft Article 7 – PUD, draft Article 14 – Site Plan Review, draft Article 15 – Special Land Use, draft Article 18 – Rezoning, and parking. The draft articles are in your packets. The materials from the recently completed [Parking Study](#) are posted in the Google Drive. Other parking examples and discussion questions are included in this memo.

Review of Previous Work: Zoning Map and Development Processes

We have updated the draft zoning map, posted on the Google Drive per the discussion at your last meeting. The following changes from the previous draft Zoning Map were made:

- Maintain Cemetery Zoning District
- Change Brookline to R1A/R1B
- Show LaSalette as conditional rezoning
- Change parcels on Eleven Mile, Princeton, and Eaton from multiple family to Woodward.
- For lots subject to the Vinsetta Garage consent judgement, the underlying zoning in the parking overlay should be the adjacent single family zoning district.

We have posted on Google Drive the following draft articles: Article 7 – PUD, Article 14 – Site Plan Review, Article 15 – Special Land Use, Article 18 – Rezoning.

The table on the following page describes the changes proposed in each Article from the current zoning:

Article	Proposed Changes
Article 7 – PUD	<ul style="list-style-type: none"> ● The intent (preamble in the current ZO) is more descriptive ● The minimum of 0.5 acre is proposed to be removed. ● Expanded standards of approval and more specific examples of recognizable and material benefits. ● The approval process is proposed to change from a sketch plan review with the Planning Commission and site plan review by the City Council with a recommendation from the Planning Commission to the following: pre-application meeting with staff and consultants, applicant meeting with adjoining neighborhoods/properties, preliminary plan (PC recommends, CC approves), and final plan (PC recommends, CC approves). ● Expanded requirements for preliminary application and plan set. ● Final application and plan set requirements in addition to those required for site plan review. ● Instead of a single year to begin construction after approval, the applicant would have 2 years after preliminary approval to apply for final approval and then 3 years for final approval to begin construction. ● Regulations on abandonment are proposed. ● It is specified that the ZBA has no authority over PUDs. ● A section on violations is proposed.
Article 14 – Site Plan Review	<ul style="list-style-type: none"> ● The intent is proposed to be updated. ● Site plan is proposed to be required for new or expansions of building types subject to special approval. ● Instead of a single site plan review by the Planning Commission, a preliminary and final site plan review process is proposed. ● Administrative site plan is proposed for façade changes that bring a structure closer to compliance with the Zoning Ordinance, the number or size of windows is increasing, minor changes required by an outside governmental agency, expansion of a structure by 1,000 square feet or 5% percent of the gross floor area, (whichever is less), changes to the landscape plan to bring it closer to compliance with the Zoning Ordinance, parking lot changes that comply with the Zoning Ordinance. ● Site plan review standards are proposed to be expanded. ● An optional pre-application meeting with staff and consultants is proposed. ● Instead of 1 year with two 1-year extensions possible, final site plan approval is proposed to be valid for 2 years, with multiple 1-year extensions allowed. ● Proposed sections on performance guarantees and development agreements.

Article	Proposed Changes
Article 15 – Special Land Use	<ul style="list-style-type: none"> ● Update the Intent section ● Describe the process in more detail ● Expand the review standards ● Instead of 1 year with no extensions possible, special land use approval is proposed to be valid for 2 years, with a single 2-year extension allowed. ● Add regulations for amendments, expansions, change in use, inspections, and revocation.
Article 18 – Rezoning	<ul style="list-style-type: none"> ● Eliminate the Purpose section ● Expand the amendments to include site or street type changes to the regulating plans in Article 6. ● Specify application requirements for rezonings and site or street type changes ● Specific criteria for site or street type changes ● Specific criteria for rezonings ● Specific criteria for text amendments ● Process, application requirements and standards for conditional rezonings ● Section on amendments required to conform to court decree

Please come prepared to discuss the following:

- *Is the process for the PUD correct?*
- *Are the standards for the PUD clearer, including what recognizable and material benefits are?*
- *What time period should a preliminary and final PUD be valid for?*
- *Do you agree with a preliminary and final site plan review process?*
- *What time period should a preliminary and final site plan be valid for?*
- *Will the proposed changes for the special land use process be helpful? How can it be improved?*
- *Will the proposed changes for rezonings and amendments be helpful? How can it be improved?*

Parking

The Berkley Parking Study Zoning Ordinance Audit offers a full rewrite of the parking regulations for Berkley. We agree with the proposed text and the additional recommendations, with the following exceptions:

- We recommend requiring bicycle parking, rather than offering it as an option to reduce the number of required vehicle parking spaces.
- For loading spaces, allow commercial uses to have a delivery truck space at the curb or at the side of a building instead of a loading space.

We have heard concerns from members of the Steering Committee about the following:

- The recommendation for on-premise parking to be waived entirely for a non-residential use is within 500-feet of a municipal parking lot.
 - CWA Thoughts: Many communities do not require on-premise parking in their Downtown Zoning Districts, particularly for non-residential uses. Since gaps exist in parking lot coverage in the Downtown zoning district, Berkley would be better to consider waivers for parking requirements in one or more of the following instances:
 - A specified distance from a municipal parking lot. Typically, the distance is 500 feet, but we have seen as low as 200 feet and up to 1,320 feet (5 minute walk).
 - When a site cannot accommodate on-premises parking, some municipalities allow an in-lieu contribution to a municipal parking fund, usually approved by the legislative body of the municipality.
 - A combination of the two options above could be used as well. Attached to this cover memo are examples from the City of Dexter and the City of Plymouth. Dexter’s regulations are more permissive than usual, and Plymouth’s are more restrictive than usual in a Downtown situation. Both allow for in-lieu contributions.
- Members were concerned that the proposed 0.85 requirement per dwelling unit for multiple-family was too low.
 - CWA Thoughts: The Michigan Association of Planning [Zoning Reform Toolkit – 15 Tools to Expand Housing Choice + Supply](#) recommends reducing or eliminating parking requirements (pages 59-61). This publication estimates the cost of building surface parking lot spaces to begin at \$20,000 per space, with that cost usually passed to the occupant in higher rents or purchase prices. It states that many communities have reduced parking requirements to 1 or 1.25 parking spaces per dwelling unit or have used the number of bedrooms to determine parking space minimums.

Some of our clients have also allowed for on-street parking and/or municipal lots to account for guest parking for multiple-family developments. Others have allowed municipal spaces to be rented for overnight parking for dwelling units in a downtown area.

For context, the required parking spaces for approved Phillips Row Houses (7 units) and the proposed Columbia PUD (57 units) are shown in the table below.

Multiple Family Development	# of dwelling units	# of spaces per dwelling unit			
		0.85	1	1.25	2
Phillips Row Houses	7	6(5.95)	7	9 (8.75)	14

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Columbia PUD	57	49 (48.45)	57	72 (71.25)	114
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Please come prepared to discuss the following:

- *What text or recommendations from the Berkley Parking Study Zoning Ordinance Audit do you feel should NOT be included in the Zoning Ordinance revision?*
- *When and how should the presence of municipal parking lots and/or on-street parking allow for a by-right waiver of minimum on-premise parking requirements?*
- *What should the minimum number of on-premise parking requirements per dwelling unit be?*

Thank you for your time and contributions. We look forward to meeting with you on September 6th, 6 - 8:30 p.m.! Should you have any questions, please do not hesitate to contact us.



CARLISLE/WORTMAN ASSOC., INC
Megan Masson-Minock, AICP
Principal



CARLISLE/WORTMAN ASSOC., INC.
Michelle Marin
Community Planner

Parking Zoning Text Examples

City of Dexter - Section 5.05 PARKING SPACE NUMERICAL REQUIREMENTS,

A. Applicability of Regulations. The requirements of this Section shall apply except in the following circumstances:

- 1. CBD Zoning District.** No minimum parking is required for developments in the CBD zoning district.
- 2. On-Street Parking, Public Parking and Municipal Parking Lots.** The Planning Commission may waive part of the off-street parking required in this section when public parking, on-street parking and municipally owned parking lots for public use, are located within 1,320 feet of a site.

The applicant shall submit a parking analysis with a map showing a 1,320-foot buffer from the property lines of the site, and the public parking, on-street parking, municipally owned parking lots for public use, street and pedestrian facilities within the buffer. On the parking analysis, the number of parking spaces publicly available must be listed by type: public parking, on-street parking or within a municipally owned parking lot for public use.

The Planning Commission may request a Parking Demand Study completed by a qualified person or firm that analyzes parking demand based on the recommendations of the Institute of Traffic Engineers (ITE), and includes relevant data collected from uses or mix of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location.

A waiver may be granted when the following are standards met:

- a. On-street parking spaces may be used for required guest or customer parking only. Employee parking and resident parking is restricted to off-street parking, whether private or public.
 - b. On-street parking spaces that are completely contained within the street frontage of the site for guest or customer parking may be counted towards the parking required in Section 5.05.B. on a one to one (1:1) basis.
 - c. On-street parking spaces not within the street frontage of the site, public parking spaces, and spaces in municipally owned parking lots for public use may be counted towards up to fifty percent (50%) of the parking required in Section 5.05.B. in the VC zoning district, up to twenty-five percent (25%) in the ARC, BRC, I-1, R-D, PF zoning districts, and for uses other than single-family dwellings in the VR-1 and VR-2 zoning districts.
 - d. The use of public parking, on-street parking, and/or municipally owned parking lots for public use shall not adversely affect parking for surrounding uses.
 - e. The use of public parking, on-street parking, and/or municipally owned parking lots for public use shall not adversely affect pedestrian or vehicle circulation patterns.
 - f. The pedestrian network between the site and the parking spaces considered in the waiver would support a safe, year-round walk on a public route of no more than five (5) minutes.
- 3. Deviations.** Deviations approved by the Planning Commission under Section 5.03.

4. **In-lieu Fees in the Village Commercial Zoning District.** After using on-street, public parking or municipal lot parking spaces towards the required parking, the Planning Commission may waive some or all of the remaining required parking, subject to the applicant's election to contribute a one-time fee to the City's Public Parking Fund in an amount established by resolution of City Council, in lieu of the number of spaces waived.

City of Plymouth

Sec. 78-270. Off-street parking requirements.

- (a) There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses, shall be provided prior to the issuance of a certificate of occupancy, as hereinafter prescribed.
- (1) Off-street parking for other than residential use and other than those spaces accommodated by payment in lieu of parking as approved by the city commission shall be either on the same lot or within 300 feet of the building it is intended to serve, measured by public right-of-way from the nearest point of the building to the nearest point of the off-street parking lot. Ownership of the parking lot must be the same as the building. Spaces may be leased from municipal lots or other lots controlled by the city or downtown development authority (DDA), provided such spaces are within 300 feet of the building and the lease is not in default. Rate and terms of the leased spaces shall be determined by the city commission. Default of a parking lease agreement will constitute a violation and enforcement by the city.
- (2) Residential off-street parking spaces shall consist of parking spaces, driveways, garage, or combination thereof and shall be located on the premises they are intended to service, and subject to the provisions of section 78-273.
- (3) Unless otherwise provided herein, off-street parking shall not be permitted in any required or non-required front yard, except for use of the driveway. Off-street parking shall be permitted within the required side or rear yard setbacks, provided a minimum five foot setback is maintained between off-street parking and the side and rear lot lines of all adjoining properties. This requirement may be waived or modified by the planning commission for sites where there is limited land area available to meet the strict requirements of this section or for sites where it is possible to provide additional landscaping or screening to buffer parking from adjoining uses and a public road right-of-way.
- (4) Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.
- (5) Off-street parking existing at the effective date of this chapter in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or use.
- (6) Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
- (7) In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the zoning board of appeals may grant a variance from the parking requirements of this chapter.
- (8) The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited.
- (9) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which is similar in type as noted in section 78-271 below.

Units and methods of measurement. For the purpose of determining off-street parking requirements, the following units of measurement shall apply:

- a. *Floor area:* Where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that floor area's within the principal building used for parking, incidental service and storage, housing of mechanical equipment, heating systems and similar uses need not be included.
- b. *Employees:* For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
- c. *Places of assembly:* In stadiums, sports arenas, churches and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities, each 24 inches of such shall be counted as one seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.
- d. *Fractional requirements.* When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction shall require one parking space.

(10) Parking requirements within the B-2 central business district.

- a. Within the B-2 central business district only, parking required for principal uses permitted or special land uses permitted (Sections 78-101 and 78-102) shall be based upon a parking rate according to the following schedule:

Residential	Two (2) spaces for each dwelling unit
Retail	One space for each 500 sq. ft. of gross floor area
Office	One space for each 500 sq. ft. of gross floor area
Medical Office	One space for each 250 sq. ft. of gross floor area
Restaurant	One space for each 250 sq. ft. of gross floor area

The above parking schedule and requirements for off-street parking shall be required for all new development. For existing development where there is a proposed intensification of use which requires additional parking, a property owner or developer will be responsible for that portion which is greater than the parking required for the current use. For example, an existing retail use which is being converted to a restaurant use shall require additional parking for that portion of restaurant parking over and above what is previously credited for retail use.

The planning commission and/or city commission may also consider previously assigned parking credits established by payment in lieu of parking or by other previously approved parking arrangements recognized by the city. It is the responsibility of the property owner or applicant to provide written documentation on the existence of prior parking credits. These credits or payments in lieu of parking may be considered for fulfilling all or a portion of the off-street parking requirements of subsection 78-270(10).

- b. Uses other than those listed above shall meet the parking requirements of section 78-271.
- c. The planning commission or city commission may, at their discretion, modify the numerical requirements for off-street parking, based on evidence provided by the applicant that indicates that another standard would be more reasonable because of the level of current or future employment and/or the level of current or future customer traffic. The planning commission or city commission may also consider parking standards such as the Institute Of Transportation Engineers (ITE) or other documented parking standards or studies, including shared parking/collective parking arrangements and/or peak/non-peak parking demand. The planning commission or city commission may also consider prior arrangements or written agreements

established before December 31, 2011, which satisfies required parking for the downtown or B-2 zoning district.

- d. Within the B-2 central business district only, for all buildings which include a mix of uses, the total number of parking spaces required by each separate use shall be divided by a sharing factor according to the following matrix:

	Residential	Retail	Office
Residential	1	1.2	1.4
Retail/Restaurant	1.2	1	1.2
Office	1.4	1.2	1

(modified from SmartCode)

For projects involving more than two land uses, the sharing factor shall be based upon the highest sharing factor of all land uses. A minimum floor area of at least twenty-five (25%) percent of the total building area for each shared land use shall be required in order to be eligible for a sharing factor.

- e. In the interest of creating a viable central business district and to enhance the goal of separation of pedestrian and vehicular requirements, it is the goal of the City of Plymouth to encourage development of strategically located parking lots. These strategically located parking lots are developed largely out of public support to discourage the indiscriminate location or small dysfunctional parking spaces and the creation of a compatible and aesthetic arrangement of land uses. In keeping with this policy, the provision of off-street parking requirements as herein provided may be waived or modified by resolution of the city commission.

In lieu thereof, the city commission may determine that the number of spaces normally required at the time of erection, enlargement or change of use of any building or structure requiring off-street parking space pursuant to section 78-270(a)(10), may be provided in the form of lease payments, special assessments, or other forms of payment in lieu of parking according to policies established by resolution of the city commission. In establishing such policy, the city commission shall take into account the current inventory and future needs of B-2 parking, as well as the benefit to the private owners and to the public from such parking which would subsequently be provided by the city. In implementing such policy, the city commission shall assure that the future needs for parking in the B-2 shall be adequately met by such alternative fee arrangements in lieu of parking. Payments in lieu of parking requirements are non-refundable.

- f. Requirements for off-street parking may be waived or modified as part of a planned unit development (PUD).
 - g. Parking within the B-2 zoning district shall comply with barrier free/accessible parking requirements of the State Construction Code.
 - h. Within the B-2 zoning district, a change of use or an intensification of land use which requires additional parking shall not be entitled to the non-conforming use status as provided in section 78-352 or section 78-353 and assumed parking exemptions. Such change of use shall be required to provide parking in accordance with this section.
- (b) Off-street parking for other than residential use and other than those spaces accommodated by payment in lieu of parking as approved by the city commission shall be either on the same lot or within 300 feet of the building it is intended to serve, measured by public right-of-way from the nearest point of the building to the nearest point of the off-street parking lot. When any required off-street parking is provided, not upon the same lot, but a lot within 300 feet of the building it is intended to serve, documentation meeting the requirements for recording at the register of deeds, shall be provided reflecting that the ownership of the

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realty (upon which parking is located) has given to the owner of the realty (upon which the building requiring the parking is located), a permanent right of use for the required number of parking spaces.

Article 7

PLANNED UNIT DEVELOPMENT

SECTION 7.01 INTENT

- A. The intent of the Planned Unit Development (PUD) option is to permit flexibility in the design and use of residential and non-residential land which, through the implementation of an overall development plan, when applicable to the site, will:
1. Encourage developments that will result in a long-term contribution to social, environmental, and economic sustainability in the City of Berkley.
 2. Permit development patterns that respond to changing public and private needs.
 3. Encourage flexibility in design and use that will result in a higher quality of development and a better overall project than would be accomplished under conventional zoning, and which can be accommodated without sacrificing established community values.
 4. Provide for the long-term protection and/or preservation of natural resources, natural features, and/or historic and cultural resources.
 5. Promote the efficient use and conservation of energy.
 6. Encourage the use, redevelopment, and improvement of existing sites where current ordinances do not provide adequate protection and safeguards for the site or its surrounding areas, or where current ordinances do not provide the flexibility to consider redevelopment, replacement, or adaptive re-use of existing structures and sites.
 7. Provide enhanced housing, employment, recreation, and shopping opportunities for the citizens of Berkley.
 8. Ensure the compatibility of design and use between various components within the PUD project area and with neighboring properties and uses.

9. Ensure development that is consistent with the intent of the Master Plan.
- B. A Planned Unit Development project is viewed as an integrated development concept. To that end, the provisions of this Article are not intended to be used as a device for avoiding the zoning requirements that would otherwise apply, but rather to allow flexibility and mixture of uses, and to improve the design, character, and quality of new development. The use of a Planned Unit Development option to permit variations from other requirements of this Ordinance must only be approved when such approval results in improvements to the public health, safety, and welfare in the area affected, and in accordance with the intent of this Article.

SECTION 7.02 USES PERMITTED

The uses permitted within a Planned Unit Development project area must be consistent with the intent of the Master Plan or the intent of any applicable corridor or sub-area plans, including the Downtown Master Plan. If conditions have changed since the Plan or any applicable corridor or sub-area plans were adopted, the uses must be consistent with recent development trends in the area. Other land uses may be authorized when such uses are determined to be consistent with the intent of this Article. Physical standards relating to matters such as building height, bulk, density, parking, and setbacks will be determined based on the specific Planned Unit Development plan presented and its design quality and compatibility with adjacent uses, rather than being based upon the specific standards contained in the underlying zoning districts or in those districts within which the proposed uses otherwise occur. A Planned Unit Development project, approved in accordance with the provisions of this Article, replaces the underlying zoning districts as the basis upon which the subject property is developed and its uses are controlled.

SECTION 7.03 STANDARDS FOR APPROVAL

A Planned Unit Development project may be applied for in any zoning district. The Planning Commission must determine and must provide evidence of its determinations in its report to the City Council, that the application meets the

following standards, as reasonably applicable to the site. Failure to meet any standard may be a ground for a recommendation of denial.

- A. The proposed development must be applied for by a person or entity who has the legal right to execute a binding agreement covering all parcels in the Planned Unit Development area.
- B. The applicant must demonstrate that through the use of the PUD option, the development will accomplish the following objectives, as are reasonably applicable to the site:
 - 1. A mixture of land uses that would otherwise not be permitted without the use of the PUD option, provided that other objectives of this Article are also met.
 - 2. A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be infeasible or unlikely to be achieved absent these regulations. Recognizable and material benefits include the following:
 - a. A public improvement or public facility (e.g., recreational, transportation, safety, and security) that will enhance, add to, or replace those provided by public entities, thereby furthering the public health, safety, and welfare.
 - b. Reuse or repurpose an unutilized, underutilized, or blighted property.
 - c. Long-term protection and preservation of natural resources, natural features, and historic and cultural resources, of a significant quantity or quality in need of protection or preservation, and which would otherwise be unfeasible or unlikely to be achieved absent these regulations.
 - d. Design features and techniques, such as green building and low-impact design, that will promote and encourage energy conservation and sustainable development.
 - e. For an appropriate assembly, use, redevelopment, replacement, or improvement of existing sites that are occupied by obsolete uses or structures.

- f. A reduction of the impact of a non-conformity or removal of an obsolete building or structure.
3. A compatible mixture of open space, landscaped areas, and/or pedestrian amenities, beyond the site plan requirements of this Zoning Ordinance.
4. Appropriate land use transitions between the proposed PUD and surrounding properties.
5. Innovative and creative site and building designs, solutions, and materials.
6. The desirable qualities of a dynamic urban environment that is compact, designed to human scale, and exhibits contextual integration of buildings and city spaces.
7. The PUD project will reasonably mitigate impacts on the transportation system and enhance non-motorized facilities and amenities.
8. A complementary variety of housing types within the PUD project that is in harmony with adjacent uses and in keeping with the future land uses for the site in question in the City Master Plan.
9. A development consistent with and meeting the intent of this Article, which will promote the intent of the Master Plan or the intent of any applicable corridor or sub-area plans. If conditions have changed since the Plan, or any applicable corridor or sub-area plans were adopted, the uses must be consistent with recent development trends in the area.
10. Includes all necessary information and specifications with respect to structures, heights, setbacks, density, parking, circulation, landscaping, amenities, and other design and layout features, exhibiting due regard for the relationship of the development to the surrounding properties and uses thereon, as well as to the relationship between the various elements within the proposed PUD project. In determining whether these relationships have been appropriately addressed, consideration must be given to the following:

- a. The bulk, placement, and materials of construction of the proposed structures and other site improvements.
 - b. The location and screening of vehicular circulation and parking areas in relation to surrounding properties and the other elements of the development.
 - c. The location and screening of outdoor storage, loading areas, outdoor activity or work areas, and mechanical equipment.
 - d. The hours of operation of the proposed uses.
 - e. The location, amount, type, and intensity of landscaping, and other site amenities.
11. Parking must be provided to properly serve the total range of uses within the PUD project area. The sharing of parking among the various uses within a PUD project area may be permitted. The applicant must provide justification to the satisfaction of the City that the shared parking proposed is sufficient for the development and will not impair the functioning of the development and will not have a negative effect on traffic flow within the development and/or on properties adjacent to the development.
 12. Innovative methods of stormwater management that enhance water quality must be considered in the design of the stormwater system.
 13. The proposed PUD project must be in compliance with all applicable Federal, State, and local laws and ordinances, and must coordinate with existing public facilities.

SECTION 7.04 CONSISTENCY WITH MASTER PLAN

In the event that an applicant proposes a Planned Unit Development project wherein the predominant use or uses would not be consistent with the intent of the Master Plan, applicable corridor or sub-area plans, recent development trends in the area, or this Article, the City may consider initiating an amendment to the Master Plan or applicable corridor or sub-area plans. If an applicant proposes any such uses, the applicant must provide supporting documentation in advance of or simultaneously with the request for Preliminary Development Plan Approval.

SECTION 7.05 SUMMARY OF THE APPROVAL PROCESS

- A. ***Step One: Preliminary Development Plan Approval.*** The first step of the PUD process is the application for and approval of a Preliminary Development Plan, which requires a legislative enactment amending the Official Zoning Map to reclassify the property as a Planned Unit Development.
1. The Zoning Administrator will transmit the application and preliminary site plan to appropriate City staff for review. Any application that fails to provide the information and materials regulated by this Article must be held in abeyance until the petitioner rectifies all deficiencies.
 2. A proposed Development Agreement must be included and incorporated with the Preliminary Development Plan, to be agreed upon and approved at the same time as the Preliminary Development Plan.
 3. The Preliminary Development Plan and Development Agreement are subject to approval by the City Council following the recommendation of the Planning Commission. Such action, if and when approved, confers upon the applicant approval of the Preliminary Development Plan and rezones the property to a PUD district in accordance with the terms and conditions of the Preliminary Development Plan approval.
- B. ***Step Two: Final Development Plan Approval.*** The second step of the review and approval process is the application for and approval of a Final Development Plan (final site plan) for the entire project. If the project includes multiple construction phases, all of the phases must be included in the Final Development Plan. City Council has the final authority to approve and grant Final Development Plan approvals, following a recommendation by the Planning Commission.

SECTION 7.06 STEP ONE: PRELIMINARY DEVELOPMENT PLAN APPROVAL

A. ***Pre-application Meeting.*** Prior to the submission of an application for approval of a Planned Unit Development district, the applicant must meet informally with the Community Development Director or their designee, together with such staff and outside consultants as deemed appropriate by the City. The applicant must present at this meeting, or a series of meetings, a sketch plan of the proposed Planned Unit Development project, as well as the following information:

1. A legal description of the property and the total number of acres in the project;
2. A topographical map of the site;
3. A statement as to all proposed uses;
4. Hours of operation for all non-residential uses;
5. The known deviations sought from the ordinance regulations otherwise applicable;
6. The number of acres to be preserved as open or recreational space and the intended uses of such space;
7. All known natural resources, natural features, historic resources, and historic features; which of these are to be preserved;
8. A listing and specification of all site development constraints; and
9. The project's consistency with Master Plan or applicable corridor or sub-area plan goals.

The intent of the pre-application meeting is to discuss the appropriateness of the PUD concept, solicit feedback, and receive requests for additional materials supporting the proposal. Statements made during the pre-application meeting are not legally binding commitments.

B. ***Applicant Meeting with Adjoining Neighborhoods/Properties.*** Following the pre-application meeting, the applicant has the option to arrange for one (1) or more informal meetings with representatives of the adjoining neighborhoods or properties, soliciting their comments and providing them

to the Planning Commission. The City must be advised in advance as to the scheduling and location of all such meetings.

C. ***Preliminary Development Plan.*** Following any meeting(s) with adjoining neighborhoods and/or properties, a Preliminary Development Plan conforming to the application provisions set forth in sub-section D below must be submitted to the Zoning Administrator. A proposed Development Agreement must be incorporated with the Preliminary Development Plan submittal and must be reviewed and approved concurrently with the Plan. The preliminary development plan review and approval process is as follows:

1. ***Review for Completeness.*** The Zoning Administrator will distribute the Preliminary Development Plan to applicable reviewing parties. Once reports from reviewing parties have been received, the Zoning Administrator must determine if the application is complete. If the application is complete, the Zoning Administrator must schedule a public hearing in accordance with the procedures in Section 3.10 for consideration at a regular or special Planning Commission meeting.
2. ***Planning Commission Public Hearing.*** The Preliminary Development Plan constitutes an application to amend the zoning district map. Before making a recommendation to the City Council, the Planning Commission must hold a Public Hearing on the proposal.
3. ***Planning Commission Recommendations.*** After the public hearing, the Planning Commission must make a recommendation to the City Council with regard to the Preliminary Development Plan. The application may be tabled if it is determined to be incomplete, if the applicant has not fully responded to the deficiencies identified in the review, or if the Planning Commission determines more time is needed to fully evaluate the PUD project. The application will be tentatively rescheduled for a future meeting date.

The Planning Commission must either recommend approval of the Preliminary Development Plan, with or without conditions, or recommend denial. If the Planning Commission recommends denial, the minutes of the meeting must include the reasons for

recommending denial. If approval is recommended with conditions, the minutes must include a statement of the conditions.

4. ***City Council Public Hearing.*** After a recommendation by the Planning Commission, a Public Hearing must be scheduled before the City Council, at which time the City Council will consider the proposal along with the recommendations of the Planning Commission, the City staff, and comments of all interested parties. The City Council must then take action to approve, approve with conditions, or disapprove the Preliminary Development Plan. The City Council must set forth in their resolution the reasons for such action, including any reasons for the denial.
- D. ***Application.*** The application for approval of a Preliminary Development Plan must include the information and materials set forth below, which must be in a plan format together with a narrative explanation. The Zoning Administrator has the authority to waive certain information and materials if it is determined that such information and materials do not affect compliance with this Ordinance.
1. Documentation of Applicant Meeting with Adjoining Neighborhoods/Properties. A written summary of the optional meeting with adjoining neighborhoods and/or properties must, if applicable, accompany the application.
 2. Development Concept. A summary explanation of the development concept must describe the project and explain how the project will meet the intent of the PUD option as set forth in Section 7.01 and the criteria for consideration as a PUD as set forth in Section 7.03 hereof, as those sections reasonably apply to the site.
 3. Density. The maximum density of the overall project and the maximum density for each proposed use and phase.
 4. Road System. A general description of the road system and circulation pattern; the location of roads, entrances, exits, and pedestrian walkways; a statement of whether roads are intended to be public or private. Efforts must be made to ensure that multiple transportation modes are safely and effectively accommodated in an

effort to provide alternate modes of access and alleviate vehicle traffic congestion particularly as it pertains to the improvements along major roads.

5. Utilities. A general description and location of both on-site and off-site utilities including proposed water, sanitary sewer, storm sewer systems, and utility lines; a general indication of the size and location of stormwater detention and retention ponds, and a map and text showing off-site utilities, existing and proposed, which will provide services to the project.
6. Open Space/Common Areas. A general description of proposed open space and common areas; the total area of open space; the total area of open space in each proposed phase; and the proposed uses of open space and common areas.
7. Uses. A list of all proposed uses; the location, type, and land area to be devoted to each use, both overall and in each phase; and a demonstration that all of the proposed uses are permitted under this Article.
8. Development Guidelines. A plan of the site organization, including typical setback and lot dimensions; the minimum lot sizes for each use; typical minimum and maximum building height and size; massing models; conceptual building design; and the general character and arrangement of parking; fencing; lighting; berms; and building materials.
9. Parking and Traffic. A study of the parking requirements and needs; and a traffic impact study and analysis, if applicable.
10. Landscaping. A general landscaping plan; a landscape plan for entrances; a landscape plan for overall property perimeters; any theme/streetscape design; and any proposed irrigation.
11. Natural Resources and Features. Floodway/floodplain locations and elevations; wetlands and watercourses; woodlands; and location and description of other natural resources and natural features.
12. Phasing Information. The approximate location, area, and boundaries of each phase; the proposed sequence of development,

including phasing areas and improvements; and the projected timing for commencement and completion of each phase.

13. **Public Services and Facilities.** A description of the anticipated demand to be generated by the development for public sewer, water, off-site roads, schools, solid waste disposal, off-site drainage, police, and fire; a description of the sufficiency of each service and facility to accommodate such demands; and the anticipated means by which any insufficient services and facilities will be addressed and provided.
14. **Historical Resources and Structures.** Their location, description, and proposed preservation plan.
15. **Site Topography.** Topography on the site and within 100 feet of the site at two-foot contour intervals, referenced to a USGS benchmark
16. **Signage.** General character and location of the entrance and internal road system signage; project identification signage; and temporary or permanent signage proposed for any other locations.
17. **Amenities.** Location and description of any amenities proposed. Amenities can include but are not limited to parks, plazas, landscaping beyond that required by the Zoning Ordinance, streetscape enhancements, public parking, green infrastructure, public improvements, or public facilities.
18. **Zoning Classification.** Existing zoning classifications on and surrounding the site.
19. **Specification Of Deviations.** A specification of all deviations proposed from the regulations that would otherwise be applicable to the underlying zoning and to the proposed uses, which are proposed and sought for any phase or component of the Planned Unit Development project; the safeguards, features, or planning mechanisms proposed to achieve the objectives intended to be accomplished by any regulation from which a deviation is being sought.
20. **Community Impact Statement.** A community impact statement must provide an assessment of the developmental, ecological, social, economic, and physical impacts of the project on the natural

environmental and physical improvements on and surrounding the development site. Information required for compliance with other ordinance provisions need not be duplicated in the community impact statement.

- E. Standards for Approval. In making a determination as to whether to approve a proposed Planned Unit Development project, the Planning Commission and the City Council must be guided by the intent and criteria as set forth in Sections 7.01 through 7.04, as reasonably applicable to the site. When reviewing the standards for approval in Section 7.03, the Planning Commission and City Council must make a finding on each standard as to whether the standard is met, not met, or not reasonably applicable to the site.

- F. Planned Unit Development Agreement. In conjunction with a request for Preliminary Development Plan approval, the applicant must submit one or more proposed documents which, when agreed upon by all parties, must serve as the PUD Agreement. As a part of the Preliminary Development Plan approval process, the applicant and the City Council must each authorize the execution of a PUD Development Agreement. The PUD Development Agreement must include, but must not be limited to, items such as the following:
 - 1. A summary description of the nature and character of the proposed development, including uses, densities, and site improvements as approved in the Preliminary Development Plan.
 - 2. A statement of the conditions upon which Preliminary Development Plan Approval by the City Council is based, with particular attention given to those conditions which are unique to this particular PUD Plan. These conditions may include matters such as, but not limited to, architectural standards, building elevations and materials, site lighting, pedestrian facilities, and landscaping.
 - 3. A summary of the public improvements (streets, utilities, etc.) and any other material benefits offered by the applicant, which are to be carried out in conjunction with the proposed PUD development, along with a summary of the financial guarantees which will be required and provided in order to ensure completion of those

improvements, as well as the form of such guarantees which will be acceptable to the City.

4. A document specifying and ensuring the maintenance of any open space or common areas contained within the PUD development (e.g. through a property owners association, or through conveyance to the City with maintenance deposit, etc.)
 5. A statement that if there is a conflict between the Zoning Ordinance, the Preliminary Development Plan, and the Planned Unit Development Agreement, the Planned Unit Development Agreement must control.
 6. Upon the granting of Preliminary Development Plan approval, the Planned Unit Development Agreement must be recorded in the office of the Oakland County Register of Deeds by the City of Berkley, referencing the legal description of the subject property.
- G. ***Effect of Preliminary Development Plan Approval.*** If the City Council approves the Preliminary Development Plan and the Development Agreement, the zoning map must be amended to designate the property as a Planned Unit Development. Such action, if and when approved, must confer Preliminary Development Plan approval for two (2) years (herein to be referred to as PDP Period). The two-year PDP Period commences upon the effective date of adoption of the ordinance that rezones the parcel to PUD by the City Council.
- H. ***Plan approval in the manner hereinafter provided.*** Upon the submittal of the Final Development Plan for one (1) or more phases of the PUD project, the two (2) year expiration period must no longer apply to the Preliminary Development Plan, and the Preliminary Development Plan must remain in full force and effect for the development of the entire PUD project, including without limitation, the development of all future phases of the entire PUD Property. Any submittals of Final Development Plans must comply with all the requirements of Article 14, Site Plan Review, for Final Site Plan submittals and any additional requirements of the Zoning Administrator reasonably needed to demonstrate consistency with the Preliminary Development Plan and Section 7.03, Standards for Approval. Any Final Development Plans that do not comply with these requirements

must not be considered submittals for the purposes of this Paragraph. After the submittal of the first Final Development Plan, the timing for the issuance of permits and construction of the PUD project and/or all future phases, must be determined.

Upon the request of the applicant, prior to the expiration of the Preliminary Development Plan, the City Council may extend the expiration date of the Preliminary Development Plan. In determining whether to extend the expiration date of the Preliminary Development Plan, approval of an extension may be granted if the ordinances and laws applicable to the project have not changed in a manner that would substantially affect the project as previously approved.

In the event of the expiration of the Preliminary Development Plan, the applicant may either make an application for a new Preliminary Development Plan or make an application for some other zoning classification. Following Final Development Plan Approval for one or more phases or for the entire PUD development, no use or development of the subject property may occur which is inconsistent with the approved Final Development Plan and Development Agreement. There must be no use or development of the subject property until a new Preliminary Development Plan or rezoning is approved.

SECTION 7.07 STEP TWO: FINAL DEVELOPMENT PLAN APPROVAL

- A. Development of property classified as a PUD must require Final Development Plan approval, which must be granted by the City Council following a recommendation by the Planning Commission. Application(s) must be submitted to the Planning Commission and City Council for review and approval consistent with the approved Preliminary Development Plan.
- B. Final Development Plan approval may be applied for and granted with respect to the entire PUD development or for one (1) or more phases. However, if the project is developed in phases, the design must be such that upon completion, each phase or the cumulative result of approved phases must be capable of standing on its own in terms of the presence of services, facilities, and open space, and must contain the necessary

components to ensure the protection of natural resources and the health, safety, and welfare of the users of the Planned Unit Development and properties in the surrounding area.

The Final Development Plan must specify the public improvements required to be constructed in addition to and outside of the proposed phase or phases for which approval is sought, which are determined to be necessary in order to support and service such phase or phases.

Further, the Final Development Plan may require the recordation of permanent or temporary easements, open space agreements, and other instruments in order to ensure the use and development of the public improvements on the property as proposed and/or to promote and/or protect the public health, safety, and welfare in a manner consistent with the intent and spirit of this Article.

- C. Except as otherwise modified in this Section, Final Development Plan approval must be based upon the requirements, standards, and procedures set forth in Article 14, Site Plan Review. In addition to the information required in Article 14, the applicant must also submit the following:
1. A demonstration, including map and text, that the requirements of Section 7.03 hereof have been met.
 2. In addition to the information required in Article 14, Site Plan Review, the following information and documentation must be submitted:
 - a. Sufficient information to demonstrate compliance with any applicable project design standards as approved during the Preliminary Development Plan review.
 - b. A site plan showing the type, location, and density of all structures and uses.
 - c. A plan showing all open spaces, including preserves, recreational areas, and historic resources, including but not limited to all similar uses and spaces, and the purpose proposed for each area.

- d. Expert opinion of an independent consultant with regard to a market need for the use or uses proposed and the economic feasibility of the project.
- e. A specification of all deviations proposed from the regulations, which would otherwise be applicable to the underlying zoning and to the proposed uses.

This specification must state the reasons and mechanisms to be utilized for the protection of public health, safety, and welfare in lieu of the regulations, which would otherwise apply to a traditional development.

- f. Additional landscaping details as required by the Planning Commission and/or the City Council in order to achieve a specific purpose consistent with the spirit of this Article.
- g. The general improvements which will constitute a part of each phase or phases proposed, including, without limitation, lighting, signage, visual and noise screening mechanisms, utilities, and further including the aesthetic qualities of the general improvements.

D. Upon receipt of a complete application as determined by the Zoning Administrator, the Planning Commission will review the Final Development Plan for either the entire PUD development or for any one or more phases thereof in the manner specified below and in accordance with the provisions of Article 14, Site Plan Review. The Planning Commission must determine that:

- 1. The Final Development Plan continues to meet and conform to the criteria for, the intent of and the objectives contained in the approved Preliminary Development Plan. In the event that the Planning Commission determines that the Final Development Plan does not continue to meet or conform to the criteria for, the intent of, or the objectives contained in the approved Preliminary Development Plan, the Planning Commission must make this determination a part of their recommendation.

2. The Final Development Plan meets the requirements, standards, and procedures set forth in Article 14, Site Plan Review, and any other applicable requirements as set forth in this Article.
- E. At the conclusion of the Planning Commission’s review, the Planning Commission must either recommend approval of the Final Development Plan, with or without conditions, or recommend denial. If the Planning Commission recommends denial, the minutes of the meeting must include the reasons for recommending denial. If approval is recommended with conditions, the minutes must include a statement of the conditions.
- Following receipt of the Planning Commission’s recommendation of a Final Development Plan, the City Council must either approve the Final Development Plan, with or without conditions, or deny the Preliminary Development Plan. If City Council determines the Final Development Plan does not conform to the Preliminary Development Plan, the applicant must either revise the Final Development Plan to so conform or, must seek an amendment to the Preliminary Development Plan in accordance with Section 7.08.
- F. City Council’s approval of the Final Development Plan must be effective for a period of three (3) years, during which period of time the applicant is authorized to submit engineering and construction plans for site improvements, together with all other documents necessary for Construction Plan approval and the issuance of Building Permits. The applicant may apply to the City for an extension of the three (3) year period for approval of the Final Development Plan.

SECTION 7.08 AMENDMENT

Any proposed amendment of the Planned Unit Development that seeks to alter the intent, the conditions, or terms of the Preliminary Development Plan as approved and/ or the terms or conditions of Final Development Plan approval, must be presented to and considered by the Planning Commission and the City Council at Public Hearings, following the procedures set forth for Preliminary Development Plan approval.

SECTION 7.09 PUBLIC NOTICE FOR PLANNED UNIT DEVELOPMENT PUBLIC HEARINGS

- A. All applications for a Planned Unit Development must require public notice and a public hearing. Section 3.10, Public Notice Requirements, sets forth notification requirements for all public hearings.
- B. A sign must be placed on the subject property to inform the public that an application for a Planned Unit Development has been filed, and to indicate the location of information regarding the request.

SECTION 7.10 ABANDONMENT

- A. ***Abandonment of Preliminary Development Plan.*** Following any action evidencing abandonment of the Preliminary Development Plan, whether through failure to proceed during the Preliminary Development Plan period as required under this Article, or through notice of abandonment given by the property owners, applicants, or their successors. The City Council must be entitled to take any necessary and appropriate action to rescind the Preliminary Development Plan approvals, invalidate any related Development Agreements, and rezone the subject property from PUD to an appropriate classification. Abandonment rescinds any and all rights and approvals granted under and as part of the Preliminary Development Plan, and the same are deemed null and void. Evidence of such actions must be recorded in the office of the Oakland County Register of Deeds and referenced to the subject property.
- B. ***Abandonment of Final Development Plan.*** Approved Final Development Plans, upon which construction does not commence within a three (3) year period from the date of a Final Development Plan approval, must be considered abandoned for the purposes of this Article. The applicant may request a twelve (12) month extension of Final Development Plan approval, which will be considered and acted upon by the City Council following a Public Hearing. A written request for an extension must be received by the City before the expiration of the three (3) year Final Plan Approval period.

SECTION 7.11 APPEALS

The Zoning Board of Appeals has no authority in matters covered by this Article. Modifications to plans or proposals submitted under this Article must be processed in accordance with the amendment procedures covered under Section 7.08, Amendment.

SECTION 7.12 VIOLATIONS

Any violation of the approved PUD Final Development Plan or the PUD Agreement must be considered a violation of the Zoning Ordinance, which must be subject to the enforcement actions and penalties described in Section 3.13, Violations and Penalties.

Article 14

SITE PLAN REVIEW PROCEDURES AND REQUIREMENTS

Section 14.01 INTENT

The site plan review requirements in this Article are intended to provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the regulations in this Ordinance, other applicable ordinances, and state and federal laws, to achieve efficient use of the land, to encourage innovative design solutions, to protect natural resources, to ensure safety for both internal and external vehicular and pedestrian users, to achieve innovative stormwater management solutions, and to prevent adverse impact on adjoining or nearby properties. It is the intent of these provisions to encourage cooperation and consultation between the City and the applicant to facilitate development in accordance with the City's land use objectives.

Section 14.02 BUILDING, STRUCTURES, AND USES REQUIRING SITE PLAN REVIEW

A site plan review is required for any of the following activities.

- A. All proposed or permitted uses and related buildings, except single-family dwellings, accessory dwelling units, and accessory structures or buildings;
- B. All proposed special uses and related buildings or building types subject to special approval;
- C. Any alteration, addition, or expansion of an existing permitted or special use and/or related building
- D. Any alteration, addition, or expansion of an existing building subject to special approval;
- E. Façade alterations where fifty percent (50%) or more of the exterior surface materials of any single façade of a building is proposed to change;
- F. Façade alterations that reduce the size and/or number of windows; and

- G. Any new parking lot or additions to existing parking lots, except for resurfacing or repair of existing parking lots.

Section 14.03 SITE PLAN REVIEW PROCEDURES

- A. **Sketch Plan (Optional).** Except as otherwise required by this Ordinance, an applicant has the option of submitting a sketch plan to the Zoning Administrator for informal review. All applications for special land uses must be accompanied by a sketch plan. A sketch plan drawn to a reasonable scale must have the following information.
 - 1. Applicant's name, address, and telephone number.
 - 2. Common description of the property and complete legal description.
 - 3. Dimensions of land, including width, length, acreage, and frontage.
 - 4. Existing zoning and current land use of the property under consideration and zoning and current land use of all adjacent properties.
 - 5. General location of all existing structures, roadways, and natural features.
 - 6. The general location and size of all proposed buildings, roadways, parking areas, and any other changes proposed to be made on the subject property.

- B. **Pre-Application Meeting (Optional).** Prior to the submission of an application for site plan approval, the applicant, with appropriate experts, may meet with the directors of the community development, building, and DPW departments of the City or their designees, together with any consultants such directors deem appropriate. The applicant must present at such conference, or conferences, at least a sketch plan of the proposed site plan, as well as the following information:
 - 1. Applicant's name, address, and telephone number.
 - 2. Common description of the property and complete legal description.

3. Dimensions of land, including width, length, acreage, and frontage.
4. Existing zoning and current land use of the property under consideration and zoning and current land use of all adjacent properties.
5. General location of all existing structures, roadways, and natural features.
6. The general location and size of all proposed buildings, roadways, parking areas, and any other changes proposed to be made on the subject property.

B. *Preliminary Site Plan Procedures.*

1. A petitioner seeking Site Plan Approval as required under Section 14.02 must submit an application to the Zoning Administrator for preliminary site plan approval, together with the appropriate fees, not less than thirty (30) days prior to the date of the regular meeting of the Planning Commission, at which the application for a preliminary site plan will be considered.
2. The Zoning Administrator will transmit the application and preliminary site plan to the appropriate city staff and consultants for review. Any application that fails to provide the information and materials regulated by this Article must be held in abeyance until the petitioner rectifies all deficiencies.
3. Complete applications will be reviewed inter-departmentally and by City consultants, as needed. Any necessary revisions and/or corrections must be made by the applicant prior to submission to the Planning Commission for Preliminary Site Plan Approval consideration. If the application is complete, the Zoning Administrator must schedule the application for consideration at a regular or special Planning Commission meeting. Written notice must be sent to the applicant stating the time and place of review of the site plan by the Planning Commission.
4. After reviewing the site plan, the Planning Commission must either table, approve, with or without conditions, or deny the site plan. If the Planning Commission denies the site plan, the minutes of the

meeting must include the reasons for denial. If the site plan is approved with conditions, the minutes must include a statement of the conditions.

5. Preliminary Site Plan Approval is effective for a period of two (2) years. Within that two (2) year period, the petitioner must submit a complete application for Final Site Plan Approval to the Community Development Director in accordance with Section 14.03.C of this Ordinance. If the petitioner does not receive Final Site Plan Approval within two (2) years, Preliminary Site Plan Approval will expire. Extensions may be granted in one (1) year increments by administrative approval, provided no changes have been made to the approved plan.
6. **Variance requests.** When the applicant intends to seek a variance from the Zoning Board of Appeals for the subject request, the applicant must first receive tentative approval of the preliminary site plan from the Planning Commission. Tentative approval of the preliminary site plan by the Planning Commission must be conditioned upon the granting of any necessary variances by the Zoning Board of Appeals.

C. Final Site Plan Procedures.

1. Prior to requesting any building permits, the petitioner must seek Final Site Plan approval. This final site plan submittal must include those items specified under Section 14.06 of this Ordinance. Applications for Final Condominium Approval must also include a copy of the recorded Condominium Master Deed and Condominium Bylaws. It is the responsibility of the petitioner to secure all necessary approvals and authorizations related to the items required under Section 14.06 of this Ordinance.
2. The Zoning Administrator must review the submittal for Final Site Plan Approval to ascertain that all the requirements of Section 14.06 have been satisfied. Any submittal that fails to include the required modifications, information, and/ or documents must be deemed incomplete and held in abeyance until the petitioner rectifies all deficiencies.

3. In the event that the Final Site Plan has been substantially revised from the Preliminary Site Plan Approval, as determined by the Zoning Administrator, the applicant must be directed to reapply for a new Preliminary Site Plan approval or to revise the Final Site Plan to bring it into conformance with the approved Preliminary Site Plan.
4. The Zoning Administrator must determine if the final site plan includes the required information set forth in the Land Development Standards and other information requested by the Planning Commission during the preliminary site plan review. The Zoning Administrator must transmit complete submittals to the Planning Commission prior to its next available regularly scheduled meeting.
5. The Planning Commission must study the site plan and must, within sixty (60) days of the date of the Planning Commission meeting at which the application is received from the Zoning Administrator, approve, or deny the final site plan. Written notice must be sent to the applicant stating the time and place of review of the site plan by the Planning Commission.
6. Upon approval of a final site plan by the Planning Commission, the applicant must file sealed copies thereof with the City reflecting all changes and conditions, if any, attached to the Planning Commission's approval.
7. Upon review thereof for compliance with any conditions of approval, the Zoning Administrator, or their designee, must stamp and sign the plans certifying that the site plan conforms to all of the provisions of this article and the Zoning Ordinance. If the site plan is denied by the Planning Commission, an explanation and notification of such denial must be given to the applicant(s) within 30 days.
8. Final Site Plan approval is effective for a period of two (2) years, during which the petitioner must obtain the required permits and commence construction of the approved project. Extensions may be granted in one (1) year increments by administrative approval, provided no changes have been made to the approved plan.

- D. **Engineering Plan Approval.** Upon certification of the approved final site plan by the Zoning Administrator, the applicant may apply for engineering plan approval, which may include, but is not limited to, soil erosion control permits, utility permits, and all other required county and state permits.

Section 14.04 ADMINISTRATIVE PLAN REVIEW

- A. The Community Development Director or their designee will have the authority to waive the requirement for a site plan if it is determined that a project does not affect compliance with the standards of this Ordinance or other regulations.

The Community Development Director or their designee is also authorized to conduct an administrative review of a site plan, provided all other standards of this Ordinance are met. The Community Development Director or their Designee may conduct an administrative review of a site plan for the following projects or under the following circumstances:

1. Façade changes that bring a structure closer to compliance with the Zoning Ordinance, where less than fifty percent (50%) of the exterior surface materials of any single façade of a building is proposed to change.
2. An increase in the percentage of the windows on a single facade..
3. Minor changes required by an outside governmental agency.
4. Expansion of a structure by one thousand (1,000) square feet or five (5%) percent of the gross floor area, whichever is less.
5. Changes to the landscape plan that are in compliance with the Zoning Ordinance.
6. Parking lot changes that comply with the Zoning Ordinance.
7. Changes to the lighting plan that are in compliance with the Zoning Ordinance.

The Community Development Director or their designee has the discretion to request site plan Final Site Plan Procedures.

Section 14.05 SITE PLAN REVIEW STANDARDS

In reviewing all applications for site plan approval, the approving body must consider the plan in relation to the following standards:

A. General.

1. The proposed development must be consistent with the general principles and objectives of the adopted City of Berkeley Master Plan, the intent of any applicable corridor or sub-area plans, including the Downtown Master Plan, and all applicable building codes.
2. All elements of the site plan must be designed to take into account the site's topography, existing historical and architectural features, the size and type of lot, the character of adjoining property, and the traffic operations of adjacent streets. The site must be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
3. The site plan must be consistent with the requirements and guidelines of any applicable site design based zoning district.

B. Transitions between uses. Development must ensure compatibility with existing commercial districts and provide a transition between land uses through the application of the following requirements:

1. Building design must enhance the character of the surrounding area in relation to building and parking placement, landscape and streetscape features, and architectural design.
2. Street fronts must provide a variety of architectural expressions that are appropriate in their context and prevent monotony.
3. Building design must achieve a compatible transition between areas with different heights, massing, scales, and architectural styles.
4. District-specific requirements and guidelines apply for site plans within the site design based zoning districts.

C. **Design Standards.** Development must incorporate the following recognized best architectural building design practices:

1. Foster a lasting impact on the community through the provision of high-quality design, construction, and detailing.
2. Provide high-quality, durable materials, such as but not limited to stone, brick, glass, and metal. E.I.F.S. or material equivalent must only be used as an accent material.
3. Develop buildings with creativity that include balanced compositions and forms.
4. Design roofs that are appropriate to the architectural style of the building and create an appropriate visual exterior mass of the building given the context of the site.
5. For commercial buildings, incorporate clearly defined, highly visible customer entrances using features such as canopies, porticos, arcades, arches, wing walls, ground plane elements, and/or landscape planters.
6. Where called for in the Master Plan or the Downtown Master Plan, include community amenities that add value to the development such as patio/ seating areas, water features, artwork, sculpture, clock towers, pedestrian plazas with park benches, or other features located in areas accessible to the public.

D. **Vehicular Access and Circulation.**

1. The location and design of driveways providing vehicular access to the site must be arranged to promote the safety and convenience of vehicles and pedestrians and to provide access in a manner that promotes proper internal circulation, taking into consideration such issues as proper driveway alignment, driveway spacing and internal connectivity between sites.
2. The Planning Commission must require public streets adjacent or through a proposed development when it is necessary for the public health, safety, and welfare, and/or provide continuity to the public road system.

3. In those instances where the Planning Commission determines that there are an excessive number of curb cuts in relation to abutting public roads, thereby diminishing the capacity of the road, or creating excessive points of conflict, a reduction in the number of driveways must be required.
4. On-site circulation must be clearly indicated on the plan. Access lanes, maneuvering lanes, parking stalls, stacking lanes, loading/unloading bays, and doors, must be designed in a manner that promotes the general safety, convenience, and interaction of both vehicles and pedestrians. The relationship to and the impacts upon adjacent properties must also be considered.

E. *Sidewalks, Pedestrian, and Bicycle Circulation.*

1. The arrangement of public or common ways for vehicular and pedestrian circulation must be connected to existing or planned streets and sidewalks/pedestrian or bicycle pathways in the area.
2. A pedestrian circulation system must be separated from vehicular circulation systems.
3. To ensure public safety, special pedestrian measures, such as crosswalks and crossing signals, and other such facilities may be required when adjacent to the site in question and in the vicinity of primary and secondary schools, playgrounds, local shopping areas, fast food/service restaurants, and other high-traffic areas of pedestrians or bicycles.

F. *Relationship to Surrounding Property.* All site development features must be arranged to minimize the potential for negatively impacting surrounding property. In making this determination, the Planning Commission must review the plan for negative conditions, such as, but not limited to:

1. Channeling excessive traffic onto local residential streets.
2. The lack of adequate screening of parking, maneuvering, or service areas.
3. Excessive visual pollution from lighting and debris.

4. The building structure and use must be generally consistent in size, scale, and intensity with the adjacent uses.
 5. The impediments to the access of emergency vehicles.
- G. **Emergency Vehicle Access.** All buildings or groups of buildings must be arranged to permit necessary emergency vehicle access as required by the City Public Safety Department.
- H. **Preservation of Natural Features.**
1. All buildings, driveways, parking lots, and site improvements must be designed to be compatible with all natural features on-site. The site buildings and improvements must not encroach into the physical characteristics of the site, such as wetlands, floodplains, and natural drainage ways, and must minimize the impact on environmental features, including, but not limited to, woodlands, slopes, and sensitive soils.
 2. The proposed development must not have an unreasonable adverse impact on the natural environment of the site or the surrounding area. Natural drainage ways or other natural water retention bodies must not be altered in a manner that reduces or significantly alters the current drainage location, patterns, or volumes.
- I. **Adequacy of Infrastructure.** The Planning Commission must consider the City Engineer's evaluation of the adequacy of public or private utilities proposed to serve the site, including water, sanitary sewers, and stormwater retention.

Section 14.06 DATA REQUIRED FOR PRELIMINARY AND FINAL SITE PLANS

Plan Data	Preliminary Site Plan	Final Site Plan
A. Application Form		
Name and address of the applicant and property owner	X	X
Address and common description of property and complete legal description	X	X
Dimensions of land and total acreage	X	X

Site Plan Review Procedures and Requirements

Zoning on the site and all adjacent properties	X	X
Description of proposed project or use, type of building or structures, and name of proposed development, if applicable	X	X
Name and address of firm or individual who prepared the site plan	X	X
Proof of property ownership	X	X
B. Site and Zoning Data		
Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within 100 feet of the site	X	X
Proposed lot lines, lot dimensions, property lines, setback dimensions, structures, and other improvements to the site and within 100 feet of the site	X	X
All existing and proposed easements, including type	X	X
Zoning district of site and all adjacent properties	X	X
Land use of site and all adjacent properties	X	X
Proposed use of site	X	X
Gross and net lot area in acres and square feet, net lot area excluding all existing road rights-of-way as well as that in proposed rights-of-way, required access easements and portions covered by wetlands, bodies of water (including streams, ponds, and lakes), and 90% of the area of all existing drainage easements	X	X
Ground floor and total floor area to be constructed	X	X
Lot coverage (ground floor area divided by net lot area)	X	
Impervious surface (total impervious area and percentage of impervious area to total net lot area)		X
Floor area ratio (total floor area divided by net lot area)	X	X
Number and type of dwelling units and density for residential properties	X	X
Building height, in feet and number of floors	X	X
Required yards	X	X
C. Natural Features		
General location of existing plant materials, with identification of materials to be removed and materials to be preserved		
Location, sizes, types, and condition of existing trees 6 inches DBH, heritage trees	X	X
Topography on the site and within 100 feet of the site at two-foot contour intervals, referenced to a USGS benchmark	X	X
Location of existing drainage courses, floodplains, lakes and streams, and wetlands with elevations	X	X
Wetlands delineated both in the field and on the plan. The existing area must be shown for each wetland. All impacted areas and mitigation areas must be shown with calculations provided.	X	X
Soils information, location, and extent of soils that are unbuildable in their natural state because of organic content or water table level, based on the Oakland County Soil Survey or equivalent information	X	X

Site Plan Review Procedures and Requirements

Groundwater information on the site, with supporting evidence, including but not limited to site-specific soils information	X	X
D. Access and circulation		
Dimensions, curve radii, and center lines of existing and proposed access points, roads, and road rights-of-way or access easements		X
Driveways and intersections within 250 feet of the site		X
Location of proposed roads, driveways, parking lots, sidewalks, and nonmotorized pathways	X	X
Cross-section details of proposed roads, driveways, parking lots, sidewalks, and nonmotorized paths illustrating materials and thickness		X
Dimensions of acceleration, deceleration, and passing lanes		X
Calculations for required number of parking and loading spaces, location and layout	X	X
Dimensions of parking spaces, islands, circulation aisles, and loading zones		X
Fire protection plan	X	X
Traffic regulatory signs and pavement markings		X
E. Landscape Plans		
General landscape plan, including location and type of all proposed shrubs, trees, and other live plant material	X	X
Existing live plant material to remain, and if material will be applied to landscaping requirements	X	X
Existing and proposed topography, by contours, correlated with the grading plan		X
Location of all proposed improvements, as shown on the site plan	X	X
Planting list for proposed landscape materials, with caliper size or height of material, root ball type, method of installation (planting/staking details), botanical and common names, spacing, and quantity	X	X
Irrigation system plan for watering and draining landscape areas		X
Sections, elevations, plans, and details of landscape elements, such as berms, walls, ponds, retaining walls, and tree wells	X	X
Proposed means of protecting existing plant material during construction		X
Proposed dates of plant installation		X
Landscape maintenance schedule		X
F. Building, Structure, and Miscellaneous Site Information		
Location, height, and outside dimensions of all proposed buildings and structures	X	X
Building floor plans and total floor area		X
Details on accessory structures and any screening	X	X
Location, size, height, and lighting of all proposed site and wall signs		X

Site Plan Review Procedures and Requirements

Building facade elevations for all sides, drawn at an appropriate scale	X	X
Description of exterior building materials and colors (samples may be required)	X	X
Location of exterior lighting (site and building lighting)	X	X
Lighting details, including size, height, initial lumen rating, type of lamp, method of shielding, type of lens,color temperature, and depiction of lighting pattern for all site and building lighting	X	X
Lighting photometric grid overlaid on proposed site plan showing light intensity in lumens on site and 10 feet beyond parcel lines	X	X
Location of trash receptacle(s) and transformer pad(s) and method of screening	X	X
Location of any outdoor sales or display area	X	X
G. Information Concerning Utilities, Drainage, and Related Issues		
Location of existing and proposed sanitary sewers and septic systems		X
Size of existing and proposed sanitary sewers and septic systems		X
Location of existing and proposed water mains, well sites, water service, and fire hydrants		X
Size of existing and proposed water mains, well sites, water service, and fire hydrants	X	X
Site grading, drainage patterns, and other stormwater management measures	X	X
Stormwater drainage and retention/detention calculations	X	X
Stormwater retention and detention ponds, including grading, side slopes, depth, high-water elevation, volume, and outfalls	X	X
Location of storm sewers and drains	X	X
Size of storm sewers and drains	X	X
Location of above- and below-ground gas, electric, and telephone lines, existing and proposed	X	X
Location of transformers and utility boxes		X
Assessments of potential impacts from the use, processing, or movement of hazardous materials or chemicals, if applicable	X	
H. Additional Information Required for Multiple-Family Residential Development		
The number and location of each type of residential unit (one-bedroom units, two-bedroom units, etc.)	X	X
Density calculations by type of residential unit (dwelling units per acre)	X	X
Garage and/or carport locations and details, if proposed	X	X
Mailbox clusters, if applicable		X
Location, dimensions, floor plans, and elevations of common building(s) (e.g., recreation, laundry, etc.), if applicable	X	X

Swimming pool fencing detail, including height and type of fence, if applicable		X
Location and size of recreation and open space areas	X	X
Indication of type of recreation facilities proposed for recreation area		X
I. Additional Study (as required by the Community Development Director)		
Traffic study	X	
Environmental assessment	X	
Noise study		X
Additional study as required by the Zoning Administrator	X	X

Section 14.08 AMENDMENTS

An applicant for site plan approval may wish to amend a previously approved site plan. A site plan outlining the differences between the original approved site plan and the requested changes must be submitted to the city. The approval process must be similar to that outlined above. If the revised site plan is denied, the applicant may develop the site plan as originally approved or appeal the matter as outlined below.

If a change is deemed to be minor in scope or intensity, the revised site plan may be approved administratively. Such minor revisions may include but are not limited to:

- A. Additions or alterations to the landscape plan or landscape materials.
- B. Relocation or additional screening of trash enclosure.
- C. Alterations to the internal parking layout of the off-street parking lot, restriping, etc.

Any major revisions to the site plan, as determined by the Zoning Administrator or the Community Development Director, must be subject to review and approval by the Planning Commission.

Section 14.09 EXTENSION, REVOCATION, AND ABANDONMENT OF SITE PLAN APPROVAL

- A. **Extension.** Final site plan approval is valid for a period of two (2) years from the date of final action by the Planning Commission within which time all necessary building or construction permits must be secured, and construction begun. No single extension will be granted for a period of more than one (1) year, and multiple extensions are allowed. All requests for extensions must be made in writing and include a statement of why the extension is necessary, and confirmation of the ability to complete construction in conformity with the final site plan as approved.

- B. **Revocation.** The Planning Commission may, upon hearing, revoke approval of a site plan if the Commission determines that any information on the approved site plan is in error. Upon revocation, work on the affected part of the development, or on the entire development, as determined by the Planning Commission, must cease. The Planning Commission may direct the Community Development Department to issue a stop-work order to enforce its determination. Upon revocation, the Planning Commission may require the applicant to amend the site plan in a manner appropriate to reflect the corrected information. Any work so suspended must not be resumed until an amended site plan is approved by the Planning Commission.

- C. Abandonment.
 - 1. **Abandonment of preliminary site plan.** An approved preliminary site plan for which a final site plan has not been submitted as required under Section 14.08 of this Ordinance within two (2) years from the date of preliminary site plan approval must be considered abandoned.

 - 2. **Abandonment of final site plan.** An approved final site plan, upon which construction does not commence and an extension of approval has not been requested within a two-year period from the date of a final site plan approval, must be considered abandoned.

Article 15

SPECIAL LAND USES

Section 15.01 INTENT

This Article provides a set of procedures and standards for special uses of land or structures, which, because of their unique characteristics, require special consideration in relation to their location and compatibility with adjacent properties, other permitted uses, and the City of Berkeley as a whole.

The regulations and standards, herein, allow the Planning Commission to determine the appropriateness of a given special land use in relationship to its: location; design; size; intensity; impact on traffic, public services, utilities, and effect on natural features and resources. This Article also authorizes the Planning Commission to impose reasonable conditions on a special land use that are necessary to ensure the protection of public health, safety, convenience, and general welfare of the community.

Section 15.02 PROCEDURES

- A. **Applicant.** An applicant must be the owner of the land, an agent of the owner, or a person having an interest in the land for which the special land use approval is sought.
- B. **Application.**
 - 1. If the proposed special use involves the construction of a new building, construction of additional parking, or other substantial renovations to an existing building that requires an architect's or engineer's seal, site plan approval shall also be required as set forth in Article 14, Site Plan Review. The site plan review application must be applied for concurrently with the submittal of the special land use application. The site plan review application will be reviewed by the Planning Commission once the special land use is approved. All application forms must be supplied by the City of Berkeley.

2. If the proposed special use will utilize an existing building, without the need for substantial renovations, then no additional site plan submittal shall be required. However, a legible sketch plan illustrating the proposed activity and a narrative describing the proposed use and how it meets the standards outlined in Section 15.03 of this Ordinance shall be required.
 3. Any additional information that is necessary for the City to complete the review. Additional information the Zoning Administrator or Planning Commission finds necessary and may include but is not limited to natural features, stormwater management, surrounding land uses, public facilities/services, public utilities, and traffic.
- C. *Public Hearing.*** Upon initiation of a Special Land Use review, a public hearing on the proposed special land use must be scheduled before the Planning Commission. Notice of the hearing must be given in accordance with the provisions of Section 3.10, Public Notice Requirements.
- D. *Planning Commission Review and Recommendation.*** Following the public hearing, the Planning Commission must identify and evaluate all factors relevant to the petition and report its findings and recommendations to the City Council. The Planning Commission may table, or recommend approval, approval subject to conditions, or denial of a proposed special land use as follows:
1. ***Table.*** The application may be tabled if it is determined to be incomplete, if the applicant has not fully responded to the deficiencies identified in the review, or if the Planning Commission determines more time is needed to fully evaluate the special land use request. The application will be tentatively rescheduled for a future meeting date.
 2. ***Approval.*** The Planning Commission may recommend approval of the special land use if it is determined to be consistent with the standards and requirements of Section 15.03 of this Ordinance.
 3. ***Conditional Approval.*** The Planning Commission may recommend approval of the proposed special land use subject to conditions, as set forth in Section 15.04 of this Ordinance.

4. **Denial.** The Planning Commission must recommend the denial of an application if the special land use does not comply with all of the standards and requirements of this Ordinance or any provisions specific to the Zoning District that the proposed use is permitted by right.
- E. **City Council Review and Action.** Following receipt of the findings and recommendation of the Planning Commission, the City Council must consider the proposed Special Land Use. A public hearing on the proposed special land use must be scheduled before the City Council.
- F. **Notice of Adoption.** Following the approval of a special land use, a notice will be published in accordance with the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, MCL 125.3101 *et seq.*, as amended.

Section 15.03 STANDARDS FOR SPECIAL LAND USES

The Planning Commission must consider the following general standards and any standards established for a specific use when reviewing a special use request.

- A. **Compatibility with Adjacent Uses.** The Special Land Use must be designed and constructed in a manner harmonious with the character of adjacent properties and the surrounding area, as compared to the impacts of permitted uses.
- B. **Compatibility with the Master Plan.** The proposed Special Land Use must be compatible and in accordance with the goals and objectives of the City of Berkley Master Plan and any associated sub-area and corridor plans, including the Downtown Master Plan.
- C. **Traffic Impact.** The proposed Special Land Use must be located and designed in a manner that will minimize the impact of traffic, taking into consideration the following:
 1. Pedestrian access and safety,
 2. Vehicle trip generation,
 3. Types of traffic,

4. Access location and design,
5. Circulation,
6. Parking design,
7. Street and bridge capacity, and
8. Traffic operations at nearby intersections and access points.

Efforts must be made to ensure that multiple transportation modes are safely and effectively accommodated in an effort to provide alternate modes of access and alleviate vehicular traffic congestion.

- D. *Impact on Public Services.*** The proposed Special Land Use must be adequately served by essential public facilities and services, such as streets, pedestrian or bicycle facilities, police and fire protection, drainage systems refuse disposal, water and sewage facilities, and schools. Such services must be provided and accommodated without an unreasonable public burden.
- E. *Compliance with Zoning Ordinance Standards.*** The proposed Special Land Use must be designed, constructed, operated, and maintained to meet the stated intent of the zoning districts and must comply with all applicable ordinance standards.
- F. *Impact on the Overall Environment.*** The proposed Special Land Use must not unreasonably impact the quality of natural features and the environment in comparison to the impacts associated with typical permitted uses.
- G. *Special Land Use Approval Specific Requirements.*** The general standards and requirements of this Section are basic to all uses authorized by Special Use Approval. The specific and detailed requirements relating to particular uses and area requirements must also be satisfied for those uses.
- H.** The following factors will also be considered by the Planning Commission when reviewing a Special Land Use request.
1. The nature and character of the activities, processes, materials, equipment, or conditions or operation, either specifically or typically associated with the use.

2. Vehicular circulation and parking areas.
3. Outdoor activity, storage, and work areas.
4. Hours of operation.
5. Production of traffic, noise vibration, smoke, fumes, odors, dust, glare, and light.

Section 15.04 CONDITIONS OF APPROVAL

- A. Authority.** The City Council and Planning Commission, in their review of a request for Special Land Use approval, may at its discretion impose additional conditions when it is determined that such increases in standards or additional conditions are required to achieve or assure compatibility with adjacent uses and/or structures or to implement the Master Plan.
- B. Scope.** Conditions that are imposed must:
1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;
 2. Be related to the valid exercise of the police power and purposes that are affected by the proposed use or activity;
 3. Be necessary to meet the intent and purpose of this section;
 4. Be related to the standards established in this section for the land use or activity under consideration; and
 5. Be necessary to ensure compliance with those standards.
- C.** The conditions imposed with respect to the approval of a land use or activity must be written in the record of the approval action and must remain unchanged except upon the mutual consent of the approving authority and the landowner. The City must maintain a record of changes granted under the conditions of initial approval.

- D. In approving a special land use, the City Council may require a performance guarantee per Section 3.09 of this Zoning Ordinance.

Section 15.05 EXTENSIONS, AMENDMENTS, EXPANSIONS, AND CHANGES IN USES

The following provisions apply when there is an amendment or a proposed expansion to an approved Special Land Use or when there is a proposed change from one Special Land Use to another.

- A. **Extensions.** Special land use approval is valid for a period of two (2) years from the date of final action by the City Council within which time all necessary building or construction permits must be secured and substantial construction completed. A single extension may be granted for a period of not more than two (2) years. The request for an extension must be made in writing and include a statement of why the extension is necessary, and confirmation of the ability to complete construction in conformity with the special use approval and, if applicable, final site plan as approved.
- B. **Amendments.** Any applicant who has been granted Special Land Use approval must notify the Zoning Administrator of any proposed amendment to the approved site plan. The Zoning Administrator must determine whether a proposed amendment requires new Special Land Use approval.
- C. **Expansions.** An expansion of any use requiring a Special Land Use approval that results in an increase of ten (10) percent or more of the building, parking, paved areas, or site area must require resubmittal in the manner described in this Article. A separate Special Land Use approval must be required for each use requiring Special Land Use Approval on a lot, or for any expansions of a Special Land Use approval.
- D. **Change in Use.** The applicant must be responsible for informing the Zoning Administrator of any change in an approved use, operations, or activities prior to any such change. The Zoning Administrator must determine if a new Special Use approval is required. A significant change means any department from the operation or use described in the

approved application or any change that may cause external impacts such as additional traffic, hours of operation, noise, additional outdoor storage, or display.

Section 15.06 INSPECTIONS

The City may make periodic investigations of developments authorized by special land use permits to determine continued compliance with all requirements imposed by the Planning Commission and this ordinance. Noncompliance with the requirements and conditions approved for the special land use shall constitute grounds to terminate said approval following a public hearing.

Section 15.07 REVOCATION

The revocation of a special land use may occur if its recipient fails to abide by its terms, conditions, or development agreement. The revocation procedure is as follows:

- A.** If the City receives credible information that the special land use permit or conditions of approval have been violated, the Zoning Administrator shall prepare a report in writing specifying (i) the specific factual details of such violation(s); and (ii) any other information or recommendation relevant to a proper determination by the Planning Commission or the City Council, whichever approved the special land use permit, as to the nature of such violation(s) and the appropriate action to be taken by the City.
- B.** The Zoning Administrator, after the investigation and based on the facts discovered, shall determine if the case goes forward. If the case does not go forward, the Zoning Administrator shall give the approving body a written report as to why that determination was made. If the case goes forward, the process in subsections C-H below shall be followed.
- C.** The Zoning Administrator shall file the original report prepared under subsection 1 above with the City Council/Planning Commission and serve a copy of such report upon the owner of the property for which the special land use permit was granted or its authorized agent or employee, personally or by registered mail.

- D.** Within thirty (30) days from the date such report has been filed with the City Council/Planning Commission, the Clerk/Zoning Administrator shall set a date for a hearing before the City Council/Planning Commission on the alleged violation(s) for a determination by the City Council/Planning Commission as to whether or not the City Council/Planning Commission shall revoke the special land use permit. Notice of this hearing shall be served by the City Clerk/Zoning Administrator upon the owner of the property for which the special land use permit was granted or its authorized agent or employee, personally or by registered mail, not less than ten (10) days before the scheduled hearing date, and such notice shall contain the following:
1. Notice of proposed action;
 2. Reason for the proposed action;
 3. Date, time, and place of hearing;
 4. A statement that the property owner may present evidence and testimony and confront adverse witnesses;
 5. A statement that the property owner has the right to be represented by legal counsel at the hearing.
- E.** At all such hearings, the property owner shall have the legal right to defend against the allegations made by way of confronting any adverse witnesses, by being allowed to present live witnesses in its own behalf, by being allowed to present other evidence in its own behalf, and by being allowed to present arguments personally or through legal counsel in its own behalf.
- F.** The City Council/Planning Commission shall prepare a written statement of its findings, which may be formal or informal in nature within a reasonable time, not to exceed sixty (60) days, after the conclusion of all such hearings. Such statement of findings may be embodied in a resolution adopted by the City Council.
- G.** If the City Council/Planning Commission determines after due notice and proper hearing that competent, material and substantial evidence exists that a violation of the special land use permit and the conditions of approval has been committed by a property owner or that, even if no

violation has been demonstrated, nevertheless the interests of public health, safety, or welfare warrant that the City Council/Planning Commission revoke the special land use permit issued to the property, the City Council/Planning Commission may revoke the special land use permit.

H. *Criteria for revocation.* The City Council/Planning Commission may revoke the special land use permit upon a determination by the City Council or Planning Commission that based upon competent material and substantial evidence presented at the public hearing, any of the following exists:

1. Violation of the special land use permit, any of the conditions of the special land use, and any provisions of a development agreement attached to the special land use permit.
2. Maintenance of a nuisance upon the premises, including, but not limited to, any of the following:
 - a. Existing violations of building, zoning, health, fire, or regulatory codes.
 - b. A pattern of conduct on the property which violates the terms of the special land use permit.
 - c. A pattern of conduct on the property which creates a public nuisance.
 - d. Perjury or any material misrepresentation of information in any application required or hearing held pertaining to the grant, renewal, or revocation of any license or permit.

Article 18

REZONING AND ZONING ORDINANCE TEXT AMENDMENTS

SECTION 18.01 INITIATION OF ZONING ORDINANCE MAP AND TEXT AMENDMENTS

An amendment to the zoning district boundaries contained on the Official Zoning Map (rezoning), the regulating plans in Article 6 (site or street type change), and the text of this ordinance may be initiated by the City Council, the Planning Commission, or by a property owner or a person acting on behalf of a property owner. An amendment to the text of this ordinance may also be initiated by the petition of one (1) or more residents or property owners of the City.

SECTION 18.02 ZONING ORDINANCE TEXT AND MAP AMENDMENT APPLICATION PROCEDURE

- A. ***Application Information for Amendments.*** An amendment to the official zoning map, the regulating plans in Article 6, or this Zoning Ordinance, except those initiated by the City Council or Planning Commission, must be initiated by submission of a complete application on a form supplied by the City, including an application fee, which must be established from time to time by resolution of the City Council. Said application must explicitly describe the proposed amendment and must be signed by the applicant.
- B. ***Application Information for Zoning Map or Regulating Plan Amendment.*** In the case of an application for an amendment to the Official Zoning Map (rezoning) or the regulating plans in Article 6 (site or street type change), the following information must accompany the application:
 - 1. Information to indicate the dimensions, location, and size of the subject property such as a sketch plan, property identification number, a legal description, street address of the subject property, a map identifying the subject property in relation to surrounding properties, or other method required by the Planning Commission.

2. The name, signature, and address of the owner of the subject property, a statement of the applicant's interest in the subject property if not the owner in fee simple title, and proof of consent from the property owner.
3. For an amendment to the Official Zoning Map (rezoning), the following must be included in the application:
 - i. The existing and proposed zoning district designation of the subject property; and
 - ii. A written description of how the requested rezoning meets Sec. 18.04 Criteria for Amendment of the Official Zoning Map (Rezoning).
4. For an amendment to a regulating plan in Article 6 (site or street type change), the following must be included in the application:
 - i. The existing and proposed site type designation; and
 - ii. A written description of how the requested rezoning meets Sec. 18.06 Criteria for Amendment of a Regulating Plan in Article 6 (Site or street type change).

SECTION 18.03 REZONING AND ZONING ORDINANCE AMENDMENT PROCESS

- A. **Public Hearing.** Upon initiation of a rezoning, Zoning Ordinance text amendment, or Regulating Plan amendment, a public hearing on the proposed amendment must be scheduled before the Planning Commission. Notice of the hearing must be given in accordance with the provisions of Section 3.10, Public Notice Requirements.
- B. **Planning Commission Review and Recommendation.** Following the public hearing, the Planning Commission must identify and evaluate all factors relevant to the petition and report its findings and recommendations to the City Council. In the case of an amendment to the official zoning map (Rezoning), the Planning Commission must consider the criteria contained in Sec. 18.04 Criteria for Amendment of the Official Zoning Map (Rezoning), below, in making its findings and recommendation. In the case of an

amendment to a regulating plan in Article 6 (site or street type change), the Planning Commission must consider the criteria contained in Sec. 18.05 Criteria for Amendment of a Regulating Plan in Article 6 (Site or street type change), below, in making its finding and recommendation.

- C. **City Council Review and Action.** Following receipt of the findings and recommendation of the Planning Commission, the City Council must consider the proposed Zoning Ordinance Map, Regulating Plan, or text amendment. In the case of an amendment to the text of this Zoning Ordinance, the City Council may modify or revise the proposed amendment as recommended by the Planning Commission. In the case of an amendment to the Official Zoning Map (rezoning) or a Regulating Plan in Article 6 (site or street type change), the City Council must approve or deny the amendment, which may be based on consideration of the criteria contained in Sec. 18.04 Criteria for Amendment of the Official Zoning Map (Rezoning), or in Sec. 18.05 Criteria for Amendment of a Regulating Plan in Article 6 (Site or street type change), respectively.
- D. **Notice of Adoption.** Following the adoption of a zoning text, regulating plan or Official Zoning Map amendment by the City Council, a notice will be published in accordance with the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, MCL 125.3101 *et seq.*, as amended.
- E. **Resubmittal.** No petition for a Zoning Ordinance text, regulating plan, or Official Zoning Map amendment that has been denied by the City Council can be resubmitted for a period of one (1) year from the date of denial, except on the grounds of new evidence or proof of changed conditions.

SECTION 18.04 CRITERIA FOR AMENDMENT OF THE OFFICIAL ZONING MAP (REZONING)

In considering any petition for an amendment to the Official Zoning Map (rezoning), the Planning Commission and the City Council must consider the following criteria in making its findings, recommendations, and decision:

- A. Consistency with the goals, policies, and City of Berkley Master Plan, all applicable subarea and corridor studies, including the Downtown Master Plan. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area.

- B. Compatibility of the site's physical, geological, hydrological, and other environmental features with the potential uses allowed in the proposed zoning district.
- C. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values.
- D. The capacity of City infrastructure and services sufficient to accommodate the uses permitted in the requested district and the City.
- E. The demonstrated need for the types of uses permitted in the requested zoning district in the city in relation to the amount of land in the City currently zoned to accommodate the demand.

SECTION 18.05 CRITERIA FOR AMENDMENT OF A REGULATING PLAN IN ARTICLE 6 (SITE OR STREET TYPE CHANGE)

In considering any petition for an amendment to a regulating plan in Article 6 (site or street type change), the Planning Commission and the City Council must consider the following criteria in making its findings, recommendations, and decision:

- A. Consistency with the Master Plan, any applicable subarea or corridor studies, including the Downtown Master Plan. If conditions have changed since the Master Plan was adopted, the site or street type change is consistent with recent development trends in the area.
- B. Compatibility with the site's physical, geological, hydrological, and other environmental features with the potential uses allowed on the proposed property and surrounding property.
- C. Consistency with the size, scale, and character desired within the zoning district.
- D. The property can accommodate the requirements of the proposed site or street type change.
- E. Compatibility with surrounding uses, buildings, and zoning in terms of land suitability, impacts on the environment, impacts on the transportation

network, density, nature of use, aesthetics, infrastructure and potential influence on property values.

- F. The capacity of City infrastructure and services sufficient to accommodate the site or street type change on the property in question without compromising the health, safety, sustainability and welfare of the City.
- G. The site or street type change will not be detrimental to the financial stability and economic welfare of the City.
- H. The site or street type change will not negatively impact the condition of any nearby parcels considering existing vacancy rates, current per-square-foot lease or sale rates, and other impacts.
- I. Consistency with the trend of development in the neighborhood or surrounding area.
- J. The property in question is consistent with the description of the requested site type in Section 6.04.

SECTION 18.06 CRITERIA FOR AMENDMENT OF THE OFFICIAL ZONING ORDINANCE TEXT

The Planning Commission and City Council must, at minimum, consider the following before taking action on any proposed amendment:

- A. Compatibility with the basic intent and purpose of the Zoning Ordinance.
- B. Consistency with the goals and objectives City Master Plan, applicable sub-area or corridor studies, including the Downtown Master Plan.
- C. The requested amendment will correct an error in the current appropriate documentation.
- D. There is documentation from City staff, the Planning Commission, or the Zoning Board of Appeals indicating problems and conflicts in the implementation or interpretation of specific sections of the Ordinance.
- E. The requested amendment will address changes in state legislation, other City ordinances, or federal regulations.

SECTION 18.07 CONDITIONAL REZONING OF LAND

As an alternative to a map amendment, the City may allow conditional rezoning to help ensure the proper use of land and natural resources and to allow for a more flexible approach to the rezoning process in accordance with Public Act No. 110 of Public Acts of Michigan of 2006, as amended. It is recognized that, in certain instances, it would be an advantage to both the City and petitioners seeking rezoning of land if a site plan, along with conditions and limitations that may be relied upon by the City, could be proposed as part of a petition for rezoning. Conditional rezoning of land must follow the standards and procedures as noted below.

- A. The amendment procedure for a conditional rezoning must follow the same procedure as a traditional rezoning amendment pursuant to Section 18.03 above.
- B. In addition to the procedures as noted in Sections 18.04 and 18.06, the following specific procedures, standards, and requirements apply to all proposed conditional rezoning requests.
 1. A conditional rezoning request must be voluntarily offered by an owner of land within the City. All offers must be made in writing and must provide the specific conditions to be considered by the City as a part of the rezoning request. All offers must be in the form of a written agreement approvable by the City Council and property owner, incorporating the conditional rezoning site plan and setting forth any conditions and terms mutually agreed upon by the parties relative to the land for which the conditional rezoning is sought.
 2. Conditional rezoning must not allow a use or activity that would not otherwise be allowed in the proposed zoning district.
 3. Conditional rezoning must not alter any of the various zoning requirements for the use(s) in question, i.e., parking, landscaping, lot area, lot width, building height, setbacks, lot area coverage, etc. Conditional rezoning must not grant zoning variances of any kind. Any zoning variance must follow the provisions of Article 17, General Provisions, of this Zoning Ordinance.

4. Conditional rezoning must not grant special land use approval. The process for review and approval of special land uses must follow the provisions of Article 15, Special Land Uses, of this Ordinance.
 5. All conditions offered by a landowner in relation to a rezoning request must have a direct relationship to the rezoning itself. The provisions to allow conditional rezoning must not be construed to allow rezoning by exaction.
 6. In addition to the informational requirements provided for in Section 18.02 of this ordinance, the applicant must provide a conditional rezoning site plan prepared by a licensed professional allowed to prepare such plans under this Ordinance, that may show the location, size, height, or other measures for and/or of buildings, structures, improvements and features, including natural features on, and in some cases adjacent to, the property that is the subject of the conditional rezoning of land. The details to be offered for inclusion in the conditional rezoning site plan must be determined by the applicant, subject to the approval of the City. A conditional rezoning site plan must not replace the requirement under this Ordinance for site plan review and approval, or subdivision or site condominium approval.
- C. ***Conditional Rezoning Agreement.*** Upon approval of a conditional rezoning request, the applicant must submit a formal written statement of conditions as approved by the City Council which must be incorporated by attachment as an inseparable part of the ordinance adopted by the City Council. The statement of conditions must:
1. Be in a form recordable with the Oakland County Register of Deeds and include a statement acknowledging that it is recorded.
 2. Contain a legal description of the land to which it pertains.
 3. Acknowledge that upon the rezoning taking effect, the use and development of the land must conform thereafter to all the requirements regulating use and development within the new zoning district as modified by the statement of conditions.

4. Contain a provision acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land. Any person who establishes a development or commences a use upon such land must continuously operate and maintain the development or use in compliance with the conditions set forth in the statement of conditions.
 5. 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 must specify where the document may be examined.
 6. Specify that failure to comply with any of the conditions set forth in the statement of conditions must constitute a violation of this zoning ordinance and is punishable accordingly.
 7. Contain the notarized signatures 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 document.
- D. Time Limits and Reversion of Land to Previous District.
1. If the proposed conditions of rezoning are acceptable to the City, the City may establish a time period during which the conditions apply to the property and must be met. If the conditions are not satisfied within the time specified under this section, the property must revert to its former zoning classification unless an extension is granted as noted below. Reversion of a property back to its former classification must follow the rezoning amendment provisions as provided in Section 18.03 of this Ordinance.
 2. Unless a reversion of the zoning takes place as described in the section above, the approved conditional rezoning must be binding upon the subject property owner, their heirs, successors, assigns, and transferees.
 3. Upon approval of a conditional rezoning, a copy of the written agreement between the property owner and the City must be filed with the Oakland County Register of Deeds, which must act to

provide notice to all subsequent owners of the property of the conditions approved and agreed to by the City.

4. The City may not add to or alter any conditions approved as a part of a rezoning during the time period specified above.
 5. The time limits specified and approved by the City may be extended upon the application of the landowner and approval of the City.
- E. ***Review Procedures.*** The factors found in Section 18.04 of this Ordinance must be considered in any conditional rezoning request.

SECTION 18.07 AMENDMENTS REQUIRED TO CONFORM TO COURT DECREE

Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction must be adopted by the City Council and published, without the necessity of a public hearing.

Content
Neutral means
you cannot
regulate based
on what it
says....



You can regulate on where (zoning or land use), construction, and duration



Big Choice

Stand Alone Ordinance

Current situation

Allows amortization of non-conforming signs

No subject to Zoning Ordinance restrictions (variance standards)

Article in the Zoning Ordinance

Change from current situation

Links to zoning districts more easily

Subject to Zoning Ordinance restrictions

Big Choice

Implement Downtown Design Guidelines

		Sign Types				
		Flush-Mounted Signs	Canopy and Awning Signs	Projecting Signs	Monument Signs	Pole Mounted Signs
Character Areas	Gateway West	✓	✓	✓	✗	✗
	Downtown Core					
	Sub-area A	✓	✓	✓	✗	✗
	Sub-area B	✓	✓	✓	✓	✗
	Sub-area C	✓	✓	✓	✗	✗
Gateway South	✓	✓	✓	✓	✓	

- ✓ Appropriate
- ✗ Inappropriate

Tweak Current Sign Ordinance



Sign Advice



INITIAL
REACTIONS



EXAMPLES FOR
NEXT TIME



SIGNS YOU
LOVE



SIGNS YOU
HATE