

MEMORANDUM

To: City of the Village of Douglas Planning Commission
Date: April 3, 2026
From: Tricia Anderson, AICP
RE: **Westshore Preliminary PUD Amendment and Preliminary Condominium Review Request**

Introduction. At the February 12, 2026 meeting, the Planning Commission discussed a proposed amendment to the Westshore PUD and the preliminary condominium plan for the “third phase” of the existing residential development. No action was taken on the item, as a motion was made to recommend approval to the City Council, but no support was received for that motion, so it failed. Since an alternative motion was not made, the item remains unresolved and is still pending before the Commission. This item should be reintroduced to the Planning Commission at the April 9, 2026 meeting to allow for additional discussion on remaining outstanding issues and to allow the Planning Commission to formally take action in the form of a recommendation to City Council.

The purpose of this memorandum is to provide the Planning Commission with additional context and perspective regarding this longstanding project, which has been progressively built out over the last 14+ years (not including the earlier Planned Unit Development approval in the mid-2000s (Paul Wicks/Westshore Cottages)). This memorandum is not intended to advocate for a specific outcome, but merely to assist the Planning Commission in making an objective and well-informed decision grounded in sound planning principles.

Procedures. The applicant has provided an updated narrative, proposed open space exhibit (P-104), and an exhibit that depicts the Center Street frontage area and west development area (Exhibit A) with the 65% open space consistent with the approved 2012 Westshore PUD plan. The applicant will attend the upcoming meeting to discuss the concerns expressed by the Planning Commission at the February 12, 2026 meeting, consisting primarily of the reduction of the 65% open space and the proposed road network.

Procedurally, the Planning Commission may recommend approval, approval with conditions, or disapproval of the preliminary PUD amendment and/or the preliminary condominium plan. If it does not make a recommendation to the City Council, it should approve a motion to postpone action until a subsequent meeting.

Approved 2012 Westshore PUD and Open Space. As a refresher, the current proposal for the “third phase” is a combination of the “future west development area” and the “Center Street frontage development area” as specified on the 2012 approved PUD. The 2012 PUD approval included a total of 60 units for both the future west development area and the Center Street frontage area. The approved density was based on a test plan as shown on Sheet C-117 of the approved PUD plans. The test plan shows how the land *could* be developed and subdivided under a traditional plat or site condo under conventional zoning (in this case, under R-1 Residential dimensional requirements).

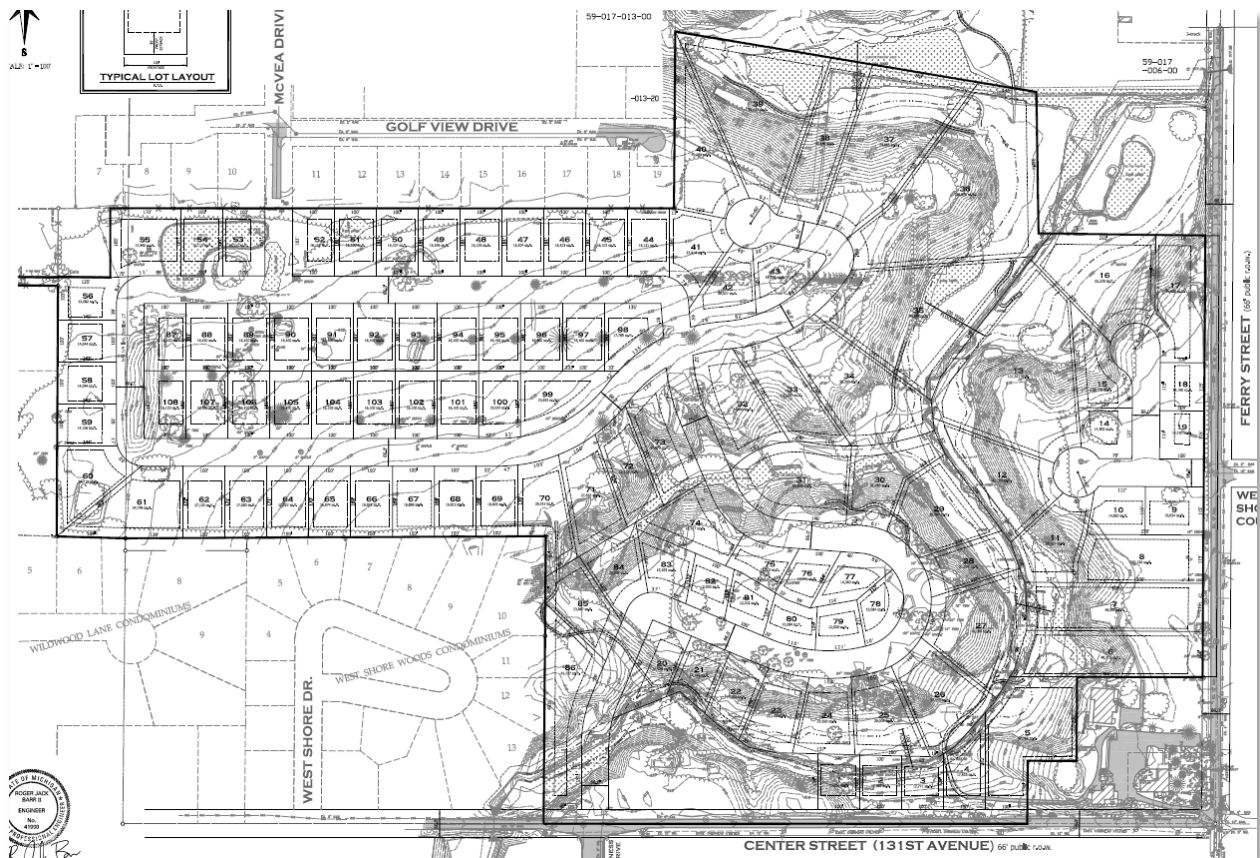


Figure 1 – Test Plan from 2012 approved Westshore PUD

The Planning Commission is likely aware that if the land was developed as a plat, there would be no requirement for open space within the development. Instead, individual lots would be required to adhere to the maximum lot coverage limitation, which is 35% in the R-1 zoning district. To assist the Planning Commission in visualizing what 35% lot coverage looks like on a 10,000 square foot lot with a hypothetical 30’ front yard setback, 20’ rear yard setback, and 10’ side yard setback, Figure 2 depicts a scaled block sketch of a home, garage, and driveway that maxes out the 35% lot coverage limit, leaving 65% of the lot left as “open space”.

Intent of Open Space Preservation. In our experience, maximum lot coverage standards for individual lots are useful to ensure that some undeveloped space is left for stormwater infiltration, aesthetics in residential subdivisions, fire suppression and access, among other reasons. Zoning ordinance language that ties maximum lot coverage to open space requirements as it relates to PUD developments seems unusual; in our experience, open space requirements in a PUD are a separately defined element of the development with a specific purpose, such as protection of steep slopes, water bodies, wetlands, or other sensitive natural features.

It should be acknowledged that the applicant has the right to seek an approval for an amendment that breaks off the developed areas from the undeveloped areas, and request a rezoning to R-1 or R-2 to develop it as a plat with no restrictions on open space outside of maximum lot coverage limitations applied to each individual lot.

We view the applicant’s request to reduce the open space by 3% as reasonable, given the changes to different variables related to housing in the last ten years. As best practices continue to evolve around emerging issues and trends in land use, communities can adapt by taking a closer look at the intent behind past approvals and ordinances that are presently in place, and ask whether the intent to preserve open space is balanced with the need to add to housing stock, make efficient use of land, and protect natural features.

Section 125.3503 of the Zoning Enabling Act (MZEA, Act 110 of 2006, as amended) allows a municipality to develop PUD zoning regulations that:

“.....permit flexibility in the regulation of land development, encourage innovation in land use and variety in design, layout, and type of structures constructed, achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities, encourage useful open space, and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of this state”

The MZEA allows each local unit to develop such zoning regulations. The MZEA does not specify a percentage of open space that should remain undeveloped, however, it does indicate that the regulations *“need not be uniform with regard to each type of land*

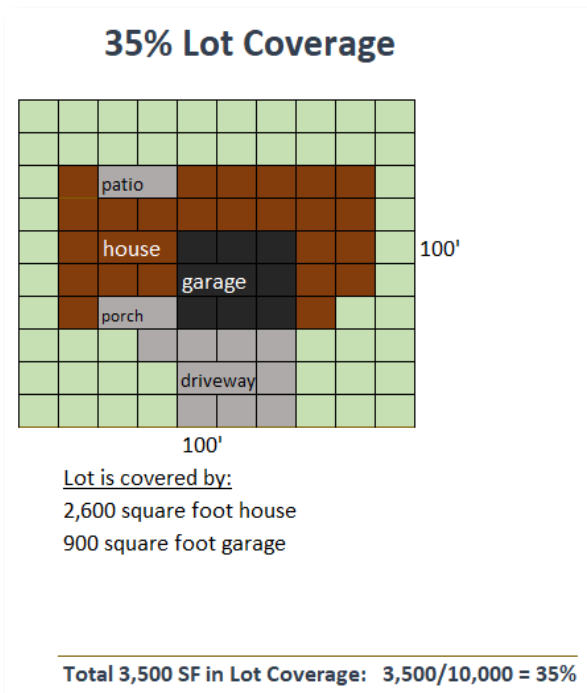


Figure 2 – Visualizing 35% lot coverage

use if equitable procedures recognizing due process principles and avoiding arbitrary decisions are followed in making regulatory decisions”.

The statute does not *prohibit* uniformity; thus, it is reasonable for the City to use the underlying zoning district to establish baseline regulations. However, this brings us back to the reasonableness of the open space requirement being tied to the maximum lot coverage as prescribed in the City’s PUD ordinance. While the applicant is not requesting an amendment to the City’s PUD ordinance, the proposed reduction in open space prompts a closer look at the purpose and intent of the open space requirement, its alignment with the MZEA, and the reasonableness to require open space for the sake of complying with the 2012 approval. We also suggest evaluating the degree to which the open space requirement has been applied consistently across the City’s existing residential PUDs if they were approved under the same version of the PUD ordinance as the Westshore PUD.

Regulatory Flexibility in the Zoning Ordinance. As noted above, the Planning Commission does have the authority to permit flexibility in design through the MZEA and its own PUD ordinance. Section 27.04, Project Design Standards, indicates the applicable base regulations in the underlying zoning district may be waived or modified. There is only one criterion for waiving or modifying these base regulations, as stated in Section 27.04(5):

“Such modifications may be permitted only if they will result in a higher quality of development or a better design or layout than would be possible without the modifications”

We conducted an audit of the entire Zoning Ordinance one year ago. We found that while several components of the City’s PUD ordinance appear to be workable and reasonable, the open space requirement, and the one subjective criterion that must be met for modifications to be permitted, were elements that were identified as potentially prohibitive in achieving the goals outlined in the 2025 Master Plan.

Exhibit A included in the applicant’s submittal, depicts the use of the land if the 65% open space standard is met. Planning Commission should consider whether the layout shown in Exhibit A is an efficient use of the land, particularly when a site proposed for a PUD is encumbered with undevelopable acreage like steep slopes, creeks, wetlands, and other natural features. In our view, protecting these areas through an open space requirement would be useful and beneficial to the City.

Conclusion. When a PUD is proposed on land that is already encumbered by steep slopes, creeks, wetlands, etc. is it reasonable to require those areas AND an additional amount of space to be left undeveloped? After all, the goal of the PUD is to allow for flexibility in the development of land alongside the preservation of important natural features. If open space requirements are overly restrictive, or if available regulatory

flexibility is not fully utilized, developers may be less inclined to pursue development approvals under the PUD. Over time, this could limit opportunities to preserve the very unique features that Planned Unit Developments are intended to protect through flexible design approaches. The Planning Commission should consider this, the intent and purpose of a PUD district as described in the MZEA, and the goals in the 2025 Master Plan that relate to housing and preservation of natural features, as it prepares for additional discussion with the applicant on this request.

Excerpt from Michigan Zoning Enabling Act (MZEA, Act 110 of 2006, as amended)

(5) A site plan shall be approved if it contains the information required by the zoning ordinance and is in compliance with the conditions imposed under the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008

125.3502 Special land uses; review and approval; application; notice of request; public hearing; incorporation of decision in statement of findings and conclusions.

Sec. 502.

(1) The legislative body may provide in a zoning ordinance for special land uses in a zoning district. A special land use shall be subject to the review and approval of the zoning commission, the planning commission, an official charged with administering the zoning ordinance, or the legislative body as required by the zoning ordinance. The zoning ordinance shall specify all of the following:

(a) The special land uses and activities eligible for approval and the body or official responsible for reviewing and granting approval.

(b) The requirements and standards for approving a request for a special land use.

(c) The procedures and supporting materials required for the application, review, and approval of a special land use.

(2) Upon receipt of an application for a special land use which requires a discretionary decision, the local unit of government shall provide notice of the request as required under section 103. The notice shall indicate that a public hearing on the special land use request may be requested by any property owner or the occupant of any structure located within 300 feet of the property being considered for a special land use regardless of whether the property or occupant is located in the zoning jurisdiction.

(3) At the initiative of the body or official responsible for approving the special land use or upon the request of the applicant, a real property owner whose real property is assessed within 300 feet of the property, or the occupant of a structure located within 300 feet of the property, a public hearing shall be held before a discretionary decision is made on the special land use request.

(4) The body or official designated to review and approve special land uses may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

History: 2006, Act 110, Eff. July 1, 2006

125.3503 Planned unit development.

Sec. 503.

(1) As used in this section, "planned unit development" includes such terms as cluster zoning, planned development, community unit plan, and planned residential development and other terminology denoting zoning requirements designed to accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

(2) The legislative body may establish planned unit development requirements in a zoning ordinance that permit flexibility in the regulation of land development, encourage innovation in land use and variety in design, layout, and type of structures constructed, achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities, encourage useful open space, and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of this state. The review and approval of planned unit developments shall be by the zoning commission, an individual charged with administration of the zoning ordinance, or the legislative body, as specified in the zoning ordinance.

(3) Within a land development project designated as a planned unit development, regulations relating to the use of land, including, but not limited to, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density, shall be determined in accordance with the planned unit development regulations specified in the zoning ordinance. The planned unit development regulations need not be uniform with regard to each type of land use if equitable procedures recognizing due process principles and avoiding arbitrary decisions are followed in making regulatory decisions. Unless explicitly prohibited by the planned unit development regulations, if requested by the landowner, a local unit of government may approve a planned unit development with open space that is not contiguous with the rest of the planned unit development.

(4) The planned unit development regulations established by the local unit of government shall specify all of the following:

(a) The body or official responsible for the review and approval of planned unit development requests.

(b) The conditions that create planned unit development eligibility, the participants in the review process, and the requirements and standards upon which applicants will be reviewed and approval granted.

(c) The procedures required for application, review, and approval.

(5) Following receipt of a request to approve a planned unit development, the body or official responsible for the review and approval shall hold at least 1 public hearing on the request. A zoning ordinance may provide for preapplication conferences before submission of a planned unit development request and the submission of preliminary site plans before the public hearing. Notification of the public hearing shall be given in the same manner as required under section 103.

(6) Within a reasonable time following the public hearing, the body or official responsible for approving planned unit developments shall meet for final consideration of the request and deny, approve, or approve with conditions the request. The body or official shall prepare a report stating its conclusions, its decision, the basis for its decision, and any conditions imposed on an affirmative decision.

(7) If amendment of a zoning ordinance is required by the planned unit development regulations of a zoning ordinance, the requirements of this act for amendment of a zoning ordinance shall be followed, except that the hearing and notice required by this section shall fulfill the public hearing and notice requirements of section 306.

(8) If the planned unit development regulations of a zoning ordinance do not require amendment of the zoning ordinance to authorize a planned unit development, the body or official responsible for review and approval shall approve, approve with conditions, or deny a request.

(9) Final approval may be granted on each phase of a multiphased planned unit development if each phase contains the necessary components to insure protection of natural resources and

the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area.

(10) In establishing planned unit development requirements, a local unit of government may incorporate by reference other ordinances or statutes which regulate land development. The planned unit development regulations contained in zoning ordinances shall encourage complementary relationships between zoning regulations and other regulations affecting the development of land.

History: 2006, Act 110, Eff. July 1, 2006

125.3504 Special land uses; regulations and standards; compliance; conditions; record of conditions.

Sec. 504.

(1) If the zoning ordinance authorizes the consideration and approval of special land uses or planned unit developments under section 502 or 503 or otherwise provides for discretionary decisions, the regulations and standards upon which those decisions are made shall be specified in the zoning ordinance.

(2) The standards shall be consistent with and promote the intent and purpose of the zoning ordinance and shall insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The standards shall also insure that the land use or activity is consistent with the public health, safety, and welfare of the local unit of government.

(3) A request for approval of a land use or activity shall be approved if the request is in compliance with the standards stated in the zoning ordinance, the conditions imposed under the zoning ordinance, other applicable ordinances, and state and federal statutes.

(4) Reasonable conditions may be required with the approval of a special land use, planned unit development, or other land uses or activities permitted by discretionary decision. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

(a) 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.

(b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

(c) Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

(5) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of conditions which are changed.

History: 2006, Act 110, Eff. July 1, 2006