

AGENDA

PLANNING & DEVELOPMENT COMMITTEE

October 6, 2011 at 8:30 a.m.

McHenry County Government Center
County Board Office - Administrative Building
667 Ware Road
Woodstock, Illinois 60098

1.0 Call to Order

Minute Approval - September 1, 2011
September 15, 2011

2.0 Public Comment

3.0 Presentations

4.0 Subdivisions

5.0 Old Business

5.05 UDO Technical Review Memorandum

6.0 New Business

6.05 Resolution Authorizing an Amendment to Resolution R-200708-10-208 Authorizing Adoption of Housing Investment Partnership (HOME) Program Funding for the 2007 Program Year and Authorizing an Amendment to Resolution R-201104-10-093 Authorizing Adoption of Housing Investment Partnership (HOME) Program Funding for the 2010 Program Year and an Emergency Appropriation to the CDBG-HOME FY2011 Budget and the Submittal of Amended Action Plans as Applicable to HUD

6.10 CDBG Commission Revised Bylaws (Draft)

7.0 Reports to Committee, as applicable

7.05 Chicago Metropolitan Agency for Planning

7.10 Community Development Block Grant Commission

7.20 Historic Preservation Commission

7.30 Housing Commission

8.0 Miscellaneous

9.0 Executive Session

10.0 Adjournment

PLANNING AND DEVELOPMENT COMMITTEE
McHenry County Government Center – Administration Building
667 Ware Road – Conference Room A
Woodstock, IL 60098

MINUTES OF THURSDAY, SEPTEMBER 1, 2011

Chairman Hill called the Planning and Development Committee meeting to order at 8:33 a.m. The following members were present: Tina Hill, Chairman; Randy Donley; Mary Donner; Sue Draffkorn; Jim Heisler; Marc Munaretto and Ersel Schuster. Jim Heisler arrived at 8:45 a.m. Also in attendance: Peter Austin, County Administrator; Dennis Sandquist, Matt Hansel, Darrell Moore and Maryanne Wanaski, Planning and Development; Mary McCann, County Board; Zoning Board of Appeals members Richard Kelly, Linnea Kooistra, Vicki Gartner, Charles Eldredge, Elizabeth Scherer, Edward Haerter, John Rosene and Patricia Kennedy; Les Pollock, Arista Strungys and Roxanne Sosnowski from Camiros, Ltd., and interested public.

	Tina Hill, Chairman
Randy Donley	Mary L. Donner
Sue Draffkorn	Jim Heisler
Marc Munaretto	Ersel Schuster

MINUTE APPROVAL:

Committee members reviewed the Planning and Development Committee minutes of August 18, 2011. Ms. Donner made a motion, seconded by Ms. Draffkorn, to approve the minutes. The minutes were approved with a unanimous voice vote of all eyes.

PUBLIC COMMENT:

Julie Biel Claussen, Executive Director, McHenry County Housing Authority and ex-officio member of the McHenry County Housing Commission, addressed the committee and read a statement as follows: "The McHenry County Housing Commission participated in a stakeholder meeting with the consultants in connection with the Unified Development Ordinance in February. The consultants accurately summarized the concerns of the Housing Commission in the memorandum dated February 28, 2011. Some of these concerns addressed density bonuses for affordable housing development. These included current subdivision regulations contain a density bonus for affordable housing. The percentage of affordable housing required to qualify should be increased. One option is to create a sliding scale allowing developers to use the bonus that makes the most economic sense. Affordable housing bonuses should be tied to the land as a long-term regulation. Transit-oriented development should include affordable housing density bonuses. Mixed-use development should be encouraged as much as possible. The current subdivision ordinance allows for a 5% bonus for inclusion of affordable housing within a conservation design proposal. The consultants propose removing density bonuses from the conservation design. The consultants suggest using a Planned Development process for subdivision approval. The Technical Review Memorandum states, "In the PD process, there must be a give and take between the developer and the County within the proposal. PD requirements should define the types of amenities or elements desired in exchange for the flexibility and bonuses offered through the process." I suggest the UDO contain explicit density bonuses for inclusion of affordable housing within the new Planned Development process as proposed by the consultants.

Conor Brown, McHenry County Association of Realtors, addressed the Committee concerning the UDO. He previously provided County Board members with letters dated August 16 and September 1, 2011. He mentioned their organization has concerns with the direction that the technical review is going after hearing some of the comments that followed the P&D and ZBA joint meeting as it relates to development. There is a philosophy going on that is creating more restrictions and more barriers to development and not streamlining it so it can be more efficient and a less costly option for developments in the County. Part of the reason why the Conservation Design Ordinance was created was to assist developers to create more environmentally-friendly subdivisions. There is a requirement that some people are calling for and an example is an assured water supply which is a highly subjective requirement and he feels it is a very dangerous requirement if the County decides to pursue this. In his correspondence he included an issue related to non-conforming legal structures that was prepared by the Association's attorneys in Rockford when they dealt with this issue in the City of Rockford. He would argue that anytime a property owner loses their building due to something outside of their control, be it an act of God or arson, they should be able to rebuild the legal structure to its prior use. He feels there is a reasonable timeframe to do so and it goes with the property rights of the owner.

Rob Schaid, broker with ReMax Plaza in McHenry and Richmond, addressed the Committee concerning the UDO. He referenced page 7 of the UDO Technical Review Memorandum dated June 2011 which references an automatic sunset clause. He stated that this raises a few concerns, especially given the current market. Local restaurants and banquet halls may sit empty for a long period of time. The property owners take care of their property, but it can take longer than one year to remarket their property. He requested that the Committee extend the one-year time period for the sunset clause suggested in the UDO to three years. Concerning the contiguous ownership of lots mentioned on page 14 of the UDO Memo, Mr. Schaid mentioned that this was very common during the boom years when investors were looking for lots to purchase. Many were lots where a homeowner built a garage on an adjoining lot. When the homeowner attempts to sell their property in the future, they would receive more money if they sold the lot with the garage on it separately. The new builder would remove the garage, or be able to reuse the garage with a new home built on it. If they are forced to combine the lots at a later date, then they will not be able to separate them and sell them individually.

Dianne Ochesky, realtor and a member of the McHenry County Realtors Association, addressed the Committee concerning the UDO. Her concern is where the UDO Memo addresses equines and making them a separate district. She questioned how the Committee planned to do this when many of the equine facilities have agriculture on them, including hay and barns. She asked if they were going to look at the different uses of land on specific parcels, and if there would be a different type of taxation.

Tom Harding addressed the Committee and stated that the stormwater part of the ordinance is overdone and stated that we do not need more regulation, we need less. One of the stumbling blocks toward development in McHenry County and in the country is overregulation which is now a burden on a developer and we need less regulation, not more.

Nancy Schietzelt, Environmental Defenders of McHenry County, addressed the Committee concerning the UDO. She mentioned that she hopes the Committee, as they go through the process of working on the UDO, will keep all of McHenry County in mind. McHenry County is diverse in many ways and she hopes that the Committee will protect the common good in the County for everyone who lives here, far into the future. As they work and develop the UDO, she asked that the Committee consider keeping a healthy environment, a sustainable water supply that is of high quality, and to not walk over individual property rights. She hopes that the Committee considers the common good for everyone in keeping a sustainable environment for everyone far into the future.

Jim Heisler arrived at 8:45 a.m.

PRESENTATIONS: None.

SUBDIVISIONS: None.

OLD BUSINESS: None.

NEW BUSINESS: *Planning and Development Committee and Zoning Board of Appeals Joint Review of the Unified Development Ordinance (UDO) Technical Review Memo:* Members from the Zoning Board of Appeals (ZBA) joined Committee members to review the UDO Technical Review Memorandum (Memo) and provide Camiros with final direction before the UDO is drafted.

On page 4, Article 4 of the Memo (Application Process), there were prior questions concerning the timing of hearing notices. Ms. Strungys mentioned that the timing of public notice for a public hearing is determined by statute which states that it cannot be less than 15 days and no more than 30 days before a hearing. Ms. Schuster mentioned that it is important to have it clarified and noted in the UDO how the days are counted for public hearing notices. Mr. Kelly mentioned that when days are counted, every day of the week is counted, including Saturdays and Sundays.

On page 5 of the Memo concerning hearing processes, it was questioned how written comments will be addressed. Ms. Strungys stated that in the Memo they noted how they would describe the process. They will add language as to how written comments are addressed in the UDO. Ms. Sosnowski mentioned that written comments may be addressed during the public hearing process by being read into the record by staff. It is determined by the ZBA how they want to handle written comments. She mentioned that the ZBA needs to rely on the evidence presented by way of testimony at the hearing.

Concerning the "LaSalle/Sinclair Factors" located on page 6 in the Memo, it was questioned how these factors are used to evaluate whether to uphold a local zoning decision or not. A table of the standards for zoning amendments is located on page 7 of the Memo. Mr. Pollock mentioned that the LaSalle Factor is a consideration of the whole rather than the consideration of each individual item. The presumption is that every item needs to be proved. When the results of the testimony are given, the factors are generally proved. Mr. Sandquist mentioned that the current zoning ordinance uses both sets of standards, the LaSalle Factor for rezoning and for CUPs and the Ordinance states that you must meet all of the standards. The proposal from Camiros is to follow the court standard which is they have to meet the preponderance of the standards. Ms. Sosnowski mentioned that Camiros is suggesting following case law which is more of preponderance rather than a checklist. Mr. Pollock mentioned that there are unique situations with each conditional use. Mr. Rosene mentioned that they are hired to make judgments and weighing evidence and weighing preponderance of evidence in determining the individual conditions of a petition makes more sense than checking off items on a list to show whether items were covered or not. Mr. Kelly mentioned that the conditions are there to defend the ZBA on petitions that are turned down, not on the petitions that are approved. Mr. Munaretto mentioned that there should be consistency in the methodology and apply the same broad or narrow standards, depending on the petition.

Concerning the Standards for Zoning Amendments table on page 7, Ms. Strungys stated that it reflects the standards for the zoning amendments. Certain standards are applicable only for map amendments, while other standards are applicable for text amendments, or applicable for both. Ms. Scherer requested that Standard No. 2 be explained, which reads "The extent to which property values of the subject property are diminished by the existing zoning." Ms. Strungys mentioned that when a rezoning comes into place, this standard can be used in the evaluation. Ms. Kooistra requested an example as to how this standard would be implemented in a rural zoning change. Mr. Pollock stated that there is not an inherent value in property, but value of property is created by allowing development on the property. The basis of establishing value are the policies that the County sets for its land use and the County's 2010/2030 Plan sets the land use policy and that is where the zoning ordinance sets the values. This is the connection between regulation and policy.

A question was raised as to what development is going to be subject to a site plan review as referenced on page 9. Ms. Strungys mentioned that it is suggested to require any multi-family, townhouse development, and non-residential development over 20,000 sq. feet in area to come before a site plan review. She mentioned that these are common in most site plan reviews because they are more intensive developments. Chairman Hill questioned if there were any concerns by members present concerning how the process for site plan reviews will work. Ms. Kennedy stated that she feels it would be beneficial to include the County's stormwater engineer in the site plan review, along with a township highway commissioner. Mr. Sandquist stated that the site plan review could be a staff function under the existing staff plat committee. They are well suited to do this task and this is his recommendation. Mr. Munaretto mentioned that he does not support the P&D Committee having any role in what is traditionally a staff or committee function and he does not support the P&D Committee being involved in the site plan review. The township road commissioner may not have a role in the site plan review. Traditionally their role is more involved in the subdivision process where they evaluate the interconnection of roads and issues relating to roads. He also does not support having the County's stormwater engineer become a member of the site plan review committee because the County is already at a point where the cost administering the Watershed Development Ordinance has far exceeded the expectation of the County Board and this exasperates the problem. Mr. Pollock advised that the best situation is to have a review done by staff and the recommendations of the review be transmitted to the hearing body. Mr. Sandquist mentioned that a major portion of the subdivision review process, and a significant portion of the site plan review, involve stormwater management. The chief engineer spends time reviewing subdivisions, he attends the staff plat committee meetings, and he provides his recommendation to them. His perspective is to have the County's chief stormwater engineer be able to vote on site plan reviews. Ms. Sosnowski stated that there is a state regulation that is from the IEPA where any time a community in the State of Illinois where there are more than five acres of soil that are going to be disturbed, there are certain plans that have to be submitted to the IEPA. A stormwater management plan also has to be submitted and these are materials that are important to have the County's stormwater engineer be a part of. Mr. Munaretto questioned whether or not the engineer should have a voting privilege and he feels very strongly that this separates the engineer outside of the staff role. He does not support having the County's stormwater engineer become a voting member. Ms. Kooistra questioned how the strategic aquifer recharge areas will be included in the site review because stormwater is different than groundwater. Ms. Strungys mentioned that one of the proposals in the Memo, based on the Water Resources Action Plan (WRAP) was to create a SARA overlay district which would have certain standards that apply to everything located within the SARA map within the Plan. Those additional standards would come into play whether there is a site plan review or not. Ms. Schuster suggested that road commissioners be involved with site plan reviews from the beginning. Mr. Sandquist mentioned that the proposal is to allow the stormwater engineer have a vote on site plan reviews.

Concerning zoning map corrections located on page 10, it was questioned whether there needs to be a control mechanism for the recommendations stated. Mr. Munaretto mentioned that Camiros is establishing the standards that will allow an environment for map amendments to take place. Ms. Gartner stated that an administrator's ability to make map amendments would be invaluable. Mr. Moore mentioned that they have compiled a catalog of various places located in the County where there are discrepancies in the zoning map. It currently is a very involved process to amend a zoning map. Ms. Schuster stated that there needs to be a reporting mechanism for all corrections to zoning maps for future reference. It was the consensus of the Committee to include a simpler process for zoning map corrections that are administrative in nature. Ms. Sosnowski mentioned that she worked with Camiros on this issue and according to state statute, there is not a requirement that a matter go before the ZBA for simple map corrections that are scrivener's errors. She would recommend that property owners are notified of any changes.

With reference to nonconformity provision recommendations found on page 11, Chairman Hill questioned if members wanted a new zoning designation and standards for nonconforming lots and buildings. Ms. Strungys mentioned that they previously discussed with Committee members that a new zoning designation would be for small lots located along waterfronts located in the County. Their intent was to review what the current development standards are and possibly create a new zoning district. This would remove the lots from being nonconforming and make them conforming lots which would allow homeowners to alter or rebuild their homes on these lots. Mr. Eldredge stated that if they change a nonconforming lot to a conforming lot for someone who has a legal nonconforming use, they are substantially diminishing the value of the homeowner's property. Ms. Strungys stated that the intent is to create a zoning district for areas that would make the homes conforming. The goal is to document what the homes look like now and then build that into the standards for the new zoning district. Mr. Pollock said their intent is to create a district that would allow the nonconforming lots to exist and to be conforming to a new set of rules, assuming the rules are acceptable to the Committee. Ms. Schuster mentioned that she is concerned that a new zoning designation will eventually work its way into other areas of the County. As an example, more cottages could be built on small lots along rivers and lakes. She suggested identifying the nonconforming lots and do not create a new zoning designation that can be applied to every part of the County. Mr. Hansel mentioned that the best solution to some of the nonconforming lots was to create a historic district that could be overlaid in certain areas of the County. The County Board has to tightly restrict where the historic districts can be. Mr. Donley questioned if this would allow for more development because there are many empty lots that cannot be built on because of current standards. Ms. Strungys mentioned that there could be buildings placed on many of these lots. They would require a variance and the builder/owner would have to work with the current standards which are in place. Mr. Munaretto questioned why it would be negative to have vacant land along the river developed consistent with the existing buildings that surround it. This would add to the County's equalized assessed valuation and would enrich the County's ability to merchandise an area of the County which is wonderful, in his opinion, specifically the Fox River Valley. Ms. Gartner stated that this could expand into a type of zoning that they do not necessarily want to see in the County. Mr. Rosene mentioned that he agreed with Mr. Munaretto's point of view, other than if there were any environmental impacts from building along waterways. He feels owners of empty property along the areas mentioned should have the opportunity to build on the lots.

Chairman Hill asked Camiros representatives to provide a summary concerning built-in flexibility for nonconforming structures/lots mentioned on page 11. Ms. Strungys stated this addresses two common non-conforming structure/lot provisions. The first proposed built-in flexibility concerns nonconforming single-family structures where the sidewall of a home encroaches into the yard by a foot or so. In order to allow the owner to build an addition and expand the structure, built-in flexibility would allow the owner to build an addition without having to apply for a variation. This is proposed in order to allow residential owners to maintain, preserve and expand their homes. A second proposed built-in flexibility concerns existing lots of record where a portion of the lot is taken by the Department of Transportation for roadway expansion to allow them to be deemed as a conforming lot because it is not the owner's fault that part of their land was taken away for the roadway. This flexibility would work best with additions and expansions of existing nonconforming structures.

Concerning the proposed discontinuation or abandonment for an extension of time for nonconforming uses mentioned on page 12, Ms. Strungys stated that it is proposed that the process be tightened up so that the ultimate goal of eliminating nonconforming uses is still valid. Mr. Hansel mentioned that in the current ordinance, applicants write a letter stating that they are ceasing their nonconforming use for one year and then they are allowed an extension for their nonconforming use. Ms. Strungys stated that they recommend, under the new ordinance, to allow one year to maintain the

nonconforming status, but require tighter standards for timeframes for the extensions on a case-by-case basis. They also suggest limiting the number of extensions allowed to a maximum of two. Mr. Munaretto mentioned that no one can predict what the economy will be in the future, and he feels there are issues with respect to the landowner's right that they should be sensitive to. He feels they should be more permissive and not more restrictive. Mr. Eldredge mentioned that he feels they should allow the property owners to be able to keep the rights they have. Mr. Pollock stated that they would like to receive direction from members present to place provisions in the UDO that will restrict nonconforming uses. Ms. Schuster stated that she feels a one-year extension is acceptable, but also allow the owners the ability to apply for rezoning.

Chairman Hill asked Camiros representatives to provide a summary concerning the ownership of contiguous lots and deed restrictions mentioned on page 14. Ms. Strungys provided the following example: a property owner owns two contiguous lots and builds a home on one lot and a detached garage on the other lot and the owner wants to sell the lots. Camiros suggests regulations to ensure that new nonconforming lots are not created and one way would be to require property owners to deed restrict or consolidate the lots. The County can also create its own deed restriction form where the County can require notification if the deed restriction is removed from the property. The intent is to encourage the property owners to consolidate the two lots. Mr. Haerter questioned if homeowners know that they have nonconforming lots. Ms. Sosnowski mentioned that this information typically is provided at the time the properties are sold, or are attempted to be sold.

Ms. Donner left the meeting at 10:45 a.m.

On page 16, clarification was requested concerning standards for approval of a subdivision and it should be linked to subdivision standards. Ms. Strungys stated that an example would be standards that are directly linked to subdivisions. When there is a review and approval of a subdivision, staff would review subdivision standards. They are not reviewing the design of the building or the use of the property, but rather looking at how the lots are being laid out.

Page 17 refers to planned developments. Chairman Hill inquired as to what criteria shapes a planned development (PD). Ms. Strungys mentioned that they propose a PD be approved as a conditional use. They propose to allow a PD in all districts, except agricultural and industrial districts. In the PD process, there must be a give and take between the developer and the County within the proposal. A PD is usually approved as a conditional use, but the approval process is not that of a conditional use. There are additional steps that require County review and approval, along with offering opportunities for public input. There is a pre-application meeting with County staff; a concept plan must be submitted before submitting a formal application for a PD; the detailed preliminary plan is submitted following the concept plan; and then the final plan is submitted for review, which is then forwarded to the County Board for approval or denial. Mr. Haerter stated that he feels this would be beneficial to have in the UDO because it allows both the ZBA and County Board to design the criteria for planned developments. Ms. Strungys mentioned that planned development is a use within a use table and are to be used in commercial and residential areas.

Mr. Munaretto left the meeting at 10:55 a.m.

Chairman Hill questioned if planned development standards exceptions be tied to additional public benefits as noted in the second paragraph on page 18. Ms. Strungys mentioned that they have to look at the overall benefits that the project provides in determining this.

Chairman Hill requested clarification as to what Camiros means by the "modern generic use approach to address permitted and conditional uses within districts" mentioned on page 20. Ms. Strungys mentioned that the generic use approach is used instead of specifically listing every type of retail use. As an example, instead of listing book stores, shoes stores and record stores, you would list retail goods establishments instead. There would be a clear definition of retail goods establishments. This may help with nonconforming uses, as well. It provides a greater sense of flexibility by grouping specific uses together.

Page 21 mentioned a list of temporary uses with appropriate standards. Ms. Strungys mentioned that they added a list of a variety of temporary uses in Section 404.3 of the UDO. An example would be temporary storage containers (PODS). It would have to be determined how long the containers can be on a site, where they can be place, how they can function, and that they cannot be used as a place to live.

With reference to various yard and bulk standards reviewed on pages 22 and 23, Mr. Strungys mentioned that three areas identified to date include the following: yards should be set as minimums and uncoupled from the building line; yards should be measured from building walls; and an impervious surface control should be added to the district regulations. Currently yards are measured from the building overhangs which may create easement situations based on the shape of the lot. Typically ordinances measure yards from the building wall.

Ms. Draffkorn left the meeting at 11:00 a.m.

Ms. Strungys stated that in addition to architectural features that may encroach, they recommend doing a comprehensive accessory structure section in the UDO. Swimming pools would have their own set of provisions, including setbacks from lot lines. Decks, porches, sheds, and provisions on enclosed and unenclosed porches and the distinctions between them will be outlined in this section, along with the standards for them. Mr. Haerter feels that setbacks should be maintained. Ms. Strungys mentioned that the intent is to maintain the integrity of the setback.

Page 22 references agricultural (AG) districts and mentions that the UDO should clearly define what qualifies as an agricultural use. Ms. Sosnowski mentioned that the definition included in the Memo is how agricultural purposes are written in the state statute. They also included some representative case law on the issue, and history of relevant Illinois Attorney General's opinions going back to the 1970s which has evolved the definition of what is included as AG purposes. She mentioned that they have not crafted the definition of agricultural uses because they are limited in this regard as to what is included in the state statute. She stated that they would not use any other definition of agricultural uses other than the one written in the state statute. Using the County Code, the interpretations from case law and the Attorney General, Camiros will prepare a definition for agricultural uses. Ms. Schuster suggested that they obtain a clear definition of what "Agri-business" is before they define agri-tourism. Mr. Kelly stated that the definition in the statute states that nurseries are a part of agriculture. Nursery businesses that obtain product from outside of their own property, as well as their property, should be exempt to have the storage of their equipment on their property, and other sites, similar to a farmer that harvests grain and stores their vehicles on other sites. Nurseries should be able to have the same exemption for their business similar to what area grain farmers do. He feels this should be addressed in the UDO instead of nurseries having to apply for conditional uses in order to store their equipment for their nurseries on other property. Mr. Hansel mentioned that if a nursery conducts any other type of business other than a nursery, they have to obtain a conditional use to operate a business on the property that is zoned agriculture.

Chairman Hill thanked the members of the ZBA for attending today's meeting.

Camiros representatives mentioned that they plan to provide a draft of the UDO within four months. Mr. Pollock mentioned that the most controversial issues at the present time are agricultural uses and creating zoning districts.

It was the consensus of the Committee to continue reviewing the UDO Memo with Camiros representatives, and members of the ZBA, during the Planning and Development Committee's meeting scheduled for October 6, 2011 at 8:30 a.m. There may be a future Committee of the Whole meeting to discuss the UDO.

REPORTS TO COMMITTEE:

Community Metropolitan Agency for Planning (CMAP): None.

Community Development Block Grant (CDBG) Commission: None.

Historic Preservation Commission: None.

Housing Commission: None.

MISCELLANEOUS: None.

EXECUTIVE SESSION: None.

ADJOURNMENT: Noting no further business, Mr. Heisler made a motion, seconded by Ms. Schuster, to adjourn the meeting at 11:40 a.m. The motion carried with a unanimous voice vote.

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RECOMMENDED FOR BOARD/COMMITTEE ACTION:

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PLANNING AND DEVELOPMENT COMMITTEE
McHenry County Government Center – Administration Building
667 Ware Road – Conference Room A
Woodstock, IL 60098

MINUTES OF THURSDAY, SEPTEMBER 15, 2011

Chairman Hill called the Planning and Development Committee meeting to order at 8:34 a.m. The following members were present: Tina Hill, Chairman; Randy Donley; Mary Donner; Sue Draffkorn; Jim Heisler; Marc Munaretto and Ersel Schuster. Also in attendance: Peter Austin, County Administrator; Dennis Sandquist, Matt Hansel, Darrell Moore and Maryanne Wanaski, Planning and Development; Diane Evertsen, County Board; Pam Palmer and Shannon Teresi, Auditor's Office; Evert Evertsen, Housing Commission; and interested public.

Tina Hill, Chairman	
Randy Donley	Mary L. Donner
Sue Draffkorn	Jim Heisler
Marc Munaretto	Ersel Schuster

MINUTE APPROVAL: None.

PUBLIC COMMENT: None.

PRESENTATIONS: None.

SUBDIVISIONS:

Subdivision Extension – The Preserve at Twin Creeks: Mr. Moore reported that this is the third request for a one-year extension for this subdivision which consists of 67 lots off of U.S. 20 in Coral Township. A letter from the developer explains the reason for the extension is because of the significant recession and the lack of demand for housing. Letters from the McHenry County Health Department, McHenry County Division of Transportation and the County's Chief Stormwater Engineer were provided which noted no objections to an extension at this time. This subdivision is currently at the Final Plat stage. The motion carried on a voice vote of all ayes (Donley, Donner, Draffkorn, Heisler, Munaretto, Schuster and Hill).

OLD BUSINESS: Mr. Donley spoke on behalf of Bob Zimmerman, owner of Zimmerman Farm Drainage on Rose Farm Road in Woodstock, Illinois. Mr. Zimmerman contacted Mr. Donley and requested Mr. Donley state his concerns to the committee and that his concerns become a part of today's meeting minutes. Mr. Donley stated that Mr. Zimmerman has a Conditional Use Permit (CUP) for his property and he recently received a violation notice from the Planning & Development (P&D) Department stating that he is violating the CUP because he has vehicles parked outside. Mr. Zimmerman does not know why he is accused of operating illegally because he is operating a farm business on farm property. He has hired an attorney to represent him on this matter. Mr. Moore mentioned that to his recollection, Mr. Zimmerman's CUP was a site plan stating that he would not have outdoor storage of vehicles on certain areas of his property, or only have indoor storage of vehicles. Staff will follow up with Mr. Zimmerman concerning this matter.

NEW BUSINESS:

Appointment – Greenwood Drainage District–Keith Weingart: Mr. Munaretto made a motion, seconded by Ms. Draffkorn, to recommend the appointment of Keith Weingart to the Greenwood Drainage District. Mr. Weingart was unable to attend today's meeting. The term for this appointment will expire on September 1, 2014. Ms. Schuster mentioned that she will be voting against this appointment because she feels they should have some connection to the people being appointed to committees and commissions. The motion carried on a roll call vote of five ayes (Donley, Donner, Draffkorn, Heisler and Munaretto) and two nays (Schuster and Hill).

Recommendations for Consultants for the USEPA Brownfield's Grant (Resolution Authorizing a Contract for Brownfields Assessment Services with URS Corporation): Ms. Donner made a motion, seconded by Mr. Donley, to recommend the County Board approve the above resolution as presented. Mr. Moore mentioned that on July 21, 2011 the Committee gave staff the approval to apply for a USEPA Brownfields Assessment Grant which is 100% funded by the USEPA. No matching funds are required and the performance period for an assessment grant is three years. The grant is for locating brownfield sites and to determine what level of pollution the sites have, and what would be required to clean up the sites. This grant would not be used for cleaning up the sites. The County posted an RFP and six proposals were received. URS Corporation was selected as the most qualified vendor. They are a national environmental engineering firm with an office in Chicago. Their Chicago office is the hub of where they do their brownfield grants. URS Corporation will be writing the grants with assistance from the P&D staff. Staff will be responsible for managing the grant over the three year performance period designated by the USEPA. They will be responsible for producing quarterly reports; however, staff can still negotiate with URS to have them assist staff with those services. There is a public outreach component that is a requirement of the grant which will require staff to attend meetings over the course of the three year grant period. Overall, approximately 99% of the work will be completed by the consultant. There may be grant funds that may be applied to cover materials and staff/administration expenses. Mr. Moore stated that brownfields are sites that are polluted. The end goal of this project is economic development. Many sites in the County may be undeveloped because people have a perception of sites possibly being polluted. Brownfield assessments review the history of the site, test the soil, and in some cases conclude that the site is not polluted which will make the site more marketable. If pollution is located on a site, the brownfield assessment will conclude with an estimate as to what it will cost to clean up the site which will then make the site more attractive for future development. Mr. Munaretto mentioned that there is a published record of sites that are either actual or suspected brownfield sites. Mrs. Schuster stated that she would like to see the published record of sites. Mr. Moore mentioned that a major aspect of this grant is for the URS Corporation to do research and locate brownfield locations. It is suspected that only a small amount of sites will be located in unincorporated McHenry County. A major part of the work will have to be done with cooperation with municipalities who have already expressed an interest in becoming involved in this project. Municipalities have been eligible to apply for this grant in the past, but may have been discouraged by the regulations and paperwork. The County will be able to provide oversight for this project to multiple municipalities. Mr. Sandquist mentioned that the goal is economic development. This program helps to implement the 2030 Plan and encourages compact, contiguous development and redevelopment as opposed to brownfield development. A list of approximately ten potential sites for Phase I inventories will be presented to the P&D Committee. Some sites may be chosen that may have significant potential contamination that may require Phase II of this project which would require more in depth field analysis of the sites. Ms. Schuster mentioned that since municipalities have the ability to do brownfield assessments, she questioned if they could isolate Phase I sites to rural McHenry County. Mr. Sandquist answered yes, but they may want to consider including municipalities because he feels that many of the sites will be located in municipalities. Mr. Moore mentioned that the County has a need for this project. URS Corporation will be doing all the work to seek the grant on behalf of the County over the next year, even though the grant, if awarded, will not begin until the fall of 2012. There will not be a charge to the County for the URS Corporation to prepare the grant. Ms. Donner feels this is a good project, especially the intergovernmental cooperation with municipalities. Mr. Sandquist mentioned that assessments cannot be done on property where the property owner is not interested in having it done. Ms. Schuster mentioned that this project has merit to it, but she will be voting against it because the County is looking at major budget problems and considerations and there will be staff time involved in this project. She would support the project if they would identify rural McHenry County sites and have those sites taken care of first. Mr. Sandquist stated that they would not hire new staff to assist with this project, but would use existing staff resources to oversee the project. Mr. Munaretto stated that he supports the project and to take advantage of the resources available to the County. The motion carried on a roll call vote of six ayes (Donley, Donner, Draffkorn, Heisler, Munaretto and Hill) and one nay (Schuster).

Resolution Approval to Enter Into Contract with Mullins & Lonergan Associates for the Preparation of an Analysis of Impediments to Fair Housing Choice: Ms. Donner made a motion, seconded by Ms. Draffkorn, to recommend the County Board approve the above resolution as presented. Ms. Wanaski and Mr. Evertsen joined committee members to discuss this resolution. Mr. Evertsen will be the liaison with staff for this study. Ms. Wanaski stated that the federal government passed the Federal Fair Housing Act approximately one year ago and the County is required to provide an updated Analysis of Impediments as mandated under this Act. The last time the County conducted an Analysis of Impediment study was in 1997 and it was based on 1990 data. The Housing Commission plans to have the study completed by mid-March, 2012 at the latest. This is a county-wide study. An RFP was posted and six firms responded. The Housing Commission voted to recommend Mullins & Lonergan Associates (MLA) to prepare the Analysis of Impediments to Fair Housing Choice. The analysis will include information on where the County is weak in terms of fair housing choices. The analysis will analyze the impediments and identify them. MLA counts on on-line data bases to gather their information and they will be checking ordinance and zoning codes for all municipalities in the County. The analysis will also have suggestions on ways to remediate the impediments. MLA's proposal clearly outlined the County's and the consultant's responsibilities, as well as a timeline wherein interim reports will be produced. The funds to pay for this study are budgeted in the Home Investment Partnerships (HOME) administration funds. Mr. Evertsen mentioned that he reviewed the proposals received from the RFP. After extensive review by staff and himself, they all came up with the recommendation for the same company, that being MLA. Ms. Draffkorn complimented the Housing Commission, Legislative Committee, on doing a great job. They read through all the proposals and it was a lot of hard work for everyone involved. The motion carried on a roll call vote of six ayes (Donley, Donner, Draffkorn, Heisler, Munaretto and Hill) and one nay (Schuster).

Community Development Block Grant (CDBG) Commission Membership: Ms. Wanaski, Ms. Palmer and Mr. Sandquist joined committee members to discuss the structure of the CDBG Commission. Ms. Wanaski reported that concerns have been raised pertaining to the current structure of the CDBG Commission and possible conflicts of interest. Concerns have also been expressed relating to the structure and approval process for federal grant programs as it currently stands with the CDBG Commission. Currently the Commission structure allows for members of entities that receive CDBG funding to either be directly appointed to the Commission, or by general public appointments. The current Commission reflects cases where the general public appointments are executive directors and/or board members or employees of organizations receiving funds. The Commission practices the process of declaration of conflict of interest and recusal during voting on line items. There is a concern that there may be a possibility that Commission members are still participating in discussion in conjunction with voting which may directly impact funding for the agency being personally represented, or that may be in competition. Having received consultation from the State's Attorney, staff recommends having a structure similar to the Housing Commission which is comprised of a voting bloc and an ex-officio bloc of members. The Commission's membership expired on July 31, 2011, and they serve until being re-appointed or having new members appointed. It was suggested by Committee members that all voting members of the CDBG Commission may not be associated with work that the Commission funds. Ms. Wanaski mentioned that the Commission currently has 17 members and it has been difficult to have a quorum of members at meetings. She also asked Committee members to consider reducing the number of Commission meetings and suggested that they meet quarterly. The Commission will need to meet when there are funding decisions to be made, and also for the Action Plan. It was the consensus of the Committee that the restructuring of the CDBG Commission structure proceed with staff preparing proposed by-law amendments. It was the consensus of the Committee to suggest that the CDBG Commission consist of a minimum of seven and a maximum of nine voting members. It was the consensus of the Committee to suggest that the CDBG Commission meet a minimum of four times per year. Concerning ex-officio members, the Commission would like to have members consisting of a representative from the township supervisors and a representative from the township road commissioners. Ex-officio members would be able to discuss Commission matters, but would be unable to vote. Staff will present suggested CDBG Commission by-law changes to the Committee at a future date.

REPORTS TO COMMITTEE:

Community Metropolitan Agency for Planning (CMAP): None.

Community Development Block Grant (CDBG) Commission: None.

Historic Preservation Commission: Mr. Sandquist stated that the Commission has conducted three interviews for one open position on the Commission and they will be voting on a recommendation at their October 5, 2011 meeting. The Commission will then submit their recommendation to the Committee for this appointment. Chairman Hill requested a report be provided to this Committee and to the Management Services Committee concerning the Victory Garden.

Housing Commission: None.

MISCELLANEOUS:

Mr. Sandquist reported that a stormwater engineer will be taking emergency medical leaves in October and again in December, 2011. He stated that the stormwater division is struggling to keep up with the workload and amount of permits. He would like to bring a resolution before the County Board at the October 4, 2011 meeting requesting the reallocation of funds which would allow the existing consulting engineers to review permits. There will not be another P&D meeting before the October 4, 2011 County Board meeting and he would like to present a resolution to the Finance and Audit Committee meeting on September 27, 2011. Mr. Munaretto stated that he has never been a proponent of having their own internal staff person/PE (professional engineer) as stated many times in the past. This may be an opportunity to reflect on the need to hire a company that has a depth of staff that will not create a log jam if one person becomes ill or decides to leave the organization. Ms. Schuster agrees with Mr. Munaretto and suggests that they look at the structure of the department. It was the consensus of the Committee to allow Mr. Sandquist to bring a resolution to the September 27, 2011 Finance and Audit Committee meeting and to the October 4, 2011 County Board meeting requesting the allocation of funds to have the existing consulting engineer review permits.

Mr. Hansel stated, as a follow up to Bob Zimmerman's CUP violation for his property located on Rose Farm Road that the violation has been closed. The department conducted an inspection on September 13, 2011 and closed the violation with no further action being taken. A recent inspection of properties with conditional use permits found trucks parked on Mr. Zimmerman's property. The CUP issued to Mr. Zimmerman is for indoor storage only and there was at least one commercial truck being stored outdoors. All outdoor storage matters have been resolved and the violation has been closed. Mr. Hansel mentioned that in the past the Committee was provided with a copy of a map listing all of the conditional uses in the County. The inspection of Mr. Zimmerman's property was part of the department's annual inspection process of all conditional uses and making sure they were in compliance. Staff will follow up with Mr. Zimmerman on this matter.

Mr. Donley stated that there is property located on Rt. 20 that does not have proper zoning and also has zoning violations. There are vehicles on the property with "for sale" signs on them. The owner will remove the signs when he receives complaints about the signs. The property in question does not have a conditional use permit. Mr. Hansel stated that he will be meeting with the Sheriff's Department and State's Attorney's Office to address various zoning violations associated with this property.

Mr. Sandquist mentioned that there needs to be clear language concerning outdoor storage in the Unified Development Ordinance.

Ms. Schuster requested an update from staff concerning a horse racing event held in Union, Illinois on September 4, 2011. Mr. Sandquist stated that the owner applied for a permit which was not issued because the applicant was not able to satisfy several requirements in the zoning ordinance for temporary uses, one of which requires adequate insurance. The applicant was not able to satisfy the requirements in a timely manner and they were denied their permit. The property owner has applied for another temporary use permit for an

event to be held on October 9, 2011 which is being processed. Ms. Schuster reported that there were horse races held at the property in Union, Illinois on September 4, 2011 and the first race began at 9:15 a.m. Mr. Austin stated that the Sheriff's Department did not receive any calls complaining of any horse races being held on this date at this location, nor were there any reports to the Sheriff's Department of any activity being held on this date and at this location.

Ms. Schuster requested a State's Attorney's opinion concerning residents filing false information with permit/zoning applications.

EXECUTIVE SESSION: None.

ADJOURNMENT: Noting no further business, Ms. Donner made a motion, seconded by Ms. Draffkorn, to adjourn the meeting at 9:55 a.m. The motion carried with a unanimous voice vote.

* * * * *

RECOMMENDED FOR BOARD/COMMITTEE ACTION/APPROVAL:

Recommend the appointment of Keith Weingart to the Greenwood Drainage District
Resolution Authorizing a Contract for Brownfields Assessment Services with URS Corporation
Resolution Approval to Enter Into contract with Mullins & Lonergan Associates for the Preparation of an
Analysis of Impediments to Fair Housing Choice

mh

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To: Tina Hill, Chairman, and members of the Planning and Development Committee
Rich Kelly, Chairman, and member of the Zoning Board of Appeals

From: Dennis Sandquist, Director of Planning and Development

Date: September 29, 2011

Re: P&D/ZBA Continued Joint Review of the UDO Technical Review Memorandum

Action Requested:

Continue the P&D/ZBA joint review and discussion of the Technical Review Memorandum and provide the consulting team with any additional direction for consideration prior to starting to draft the UDO

Background:

The P&D Committee and ZBA commenced its joint review of the UDO Technical Review Memorandum on September 1, 2011. At they were not able to review the entire document at that time, the item was continued for further review on October 6, 2011.

A copy of the Technical Review Memorandum is attached.



McHenry County Unified Development Ordinance

TECHNICAL REVIEW MEMORANDUM

June 2011

Prepared by
Camiros, Ltd.
Barrick, Switzer, Long, Balsley & Van Evera
Baxter & Woodman

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INTRODUCTION

This memorandum outlines the findings of the technical review of the McHenry County ordinances that will be consolidated into a new Unified Development Ordinance, performed by the consultant team. The purpose of this review is three-fold. First, the review provides our understanding of the County's current development regulations. Second, it allows for the identification of additional problems and issues not identified during initial meetings and interviews with County staff and stakeholders. Third, it allows for the introduction and discussion of concepts and regulatory approaches that will set direction for substantive revisions to be included in the new UDO.

The review of the existing ordinance is based on sound development regulation practices found within a "good ordinance." A good UDO combines rational substantive controls with fair procedures, which, when reasonably applied, assure that the pattern of development and redevelopment protects the status quo where warranted and facilitates change where desired. The UDO must be well organized, easy to use, and have standards and procedures that are clear, understandable and designed to regulate effectively. It must provide a framework that allows for predictable results and fulfillment of County objectives.

Many of the issues identified during interviews with key stakeholders and County staff are very detailed in nature and are not covered under the broad drafting direction set by this technical review. However, these issues have been catalogued and will be incorporated into the drafts of the UDO.

I. GENERAL APPROACH

Input from stakeholders has indicated that the current ordinances are difficult to use. There are a number of reorganization techniques that can help make McHenry County's Unified Development Ordinance (UDO) more user-friendly and clarify the application of various provisions.

The UDO should contain a greater use of illustrations, tables and flowcharts, which would make it more user-friendly.

The UDO should supplement written requirements with illustrations and photographs to more effectively communicate information to users. The UDO would also benefit from greater use of tables and flowcharts. For example, as zoning districts are grouped into larger articles by general land use category – agricultural, residential, commercial, etc. - tables can summarize permitted and conditional uses, and dimensional standards. Tables can also be used to summarize requirements for common development regulations, such as permitted encroachments, off-street parking requirements and sign regulations. Flowcharts for the various zoning applications that include the recommending and approving bodies and timelines would also assist users in understanding how these applications are processed.

All terms, including uses, in the UDO should be defined.

All definitions should be located in a single article, essentially creating a glossary of terms. By consolidating all definitions in one article, the risk of redefining terms differently throughout the UDO and creating inconsistencies and conflicts is eliminated. Currently, zoning definitions are contained in Article 2, while other ordinances, such as the sign ordinance, have their own set of definitions within them; the UDO should bring all definitions from the various ordinances together.

Existing definitions need to be evaluated and updated for clarity, and checked for any conflicts between those ordinances that make up the UDO and other sections of the County Code. Key terms that are undefined must be included, which is especially important for uses. Many times, interpretation difficulties in the application of an ordinance are the result of the lack of definitions for uses and common terms.

Finally, the guiding rule for the revision of current definitions and the crafting of new definitions is that they should only define terms and exclude any regulations. Any regulations or conditions should be included within a separate section of the ordinance for use standards.

The UDO should make use of numerous cross-references in order to ensure that a user can identify all applicable regulations. This includes cross-references to documents outside the UDO as well.

The nature of development regulations often makes it necessary to refer to a number of different articles or even other ordinances outside the UDO to determine whether a particular action is or is not allowed. The need to review multiple sections is unavoidable. However, the process can be greatly streamlined by the logical organization of the individual articles, and then liberal

use of cross-references to help the user find related provisions. In addition, cross-references should cite other relevant provisions of the larger County Code to identify all applicable regulations for both users and administrators, such as the Stormwater Management Ordinance, Access Management Ordinance and Health Ordinance.

The rewrite should ensure internal consistency in terminology and "voice."

The integrity of development regulations hinges on the internal consistency of the various details. Consistent terminology should be used throughout the various provisions. As a simple example, early in the revision process the decision should be made whether to use the term setback or yard, rather than using them interchangeably. In addition, because different authors have written different sections of and amendments to the ordinances, it is an amalgam of different "voices," which reflect the background of authors – attorneys, planners, board or commission members, engineers, etc. An overall rewrite will eliminate this type of inconsistency.

The Ordinance should follow a logical system of compartmentalization.

The Ordinance should follow a consistent, structured pattern from beginning to end. One way to improve the organizational structure and, in turn, its ease of use, is to employ a system of compartmentalization. This is a technique whereby similar items of information are grouped together by regulatory categories and purpose. Once regulations are grouped with similar regulations into their respective articles, lengthy articles with unrelated information, which users oftentimes find daunting and frustrating, are eliminated. (See Section VII of this report for an overview of the proposed UDO's organization, which reflects this system of compartmentalization.)

II. ADMINISTRATION

Administrative procedures within the UDO should be easy to understand for all users. Much of this can be achieved by a logical reorganization where the purpose and definition of each application, the process and timelines, and the approval standards are clearly laid out for each application. However, more substantive revision is required for some current regulations, as well as codification of certain practices that are part of the review and approval process but not necessarily included in the current regulations.

A. General Approach

The administrative provisions should be organized into four separate articles to clarify how applications are processed.

Currently, zoning administrative provisions are organized into two articles (Article 7 – Variations, and Article 8 - Administration and Enforcement) and a separate ordinance for subdivision regulations. This organization fragments certain applications, such as variations, where approval standards are located in Article 7 but the process is found in Article 8. To make the process clear for applicants, the following organization is recommended:

- Article 3. Unified Development Ordinance Administrators
- Article 4. Application Process
- Article 5. Zoning Applications
- Article 6. Subdivision Applications

Article 3. Unified Development Ordinance Administrators

This article would list all the powers related to boards, commissions, committees and officials involved in UDO administration, which would include zoning and subdivision regulations. By listing the responsibilities of these bodies and officials for all applications, including subdivision and conservation design, it becomes easier for the user to understand how an application is processed. At a minimum, the following boards, commissions, committees and officials should be included:

- County Board, including the role of the Planning and Development Committee
- Zoning Board of Appeals
- McHenry County Hearing Officer
- Code Enforcement Officer
- Department of Planning and Development
- Staff Plat Review Committee

Article 4: Application Process

The rules for processing the various applications and approvals should be consolidated into one article. Current administrative procedures would be reviewed for consistency with Illinois statutes and grouped into the following three sections:

- Filing of applications
- Notice requirements
- Public hearing procedures

Article 5: Zoning Applications

All zoning applications would be consolidated into this article, which would include the following applications:

- Zoning Amendments
- Variations (including unique variation approval standards for certain uses, such as cell towers)
- Conditional Use Permit
- Site Plan Review (new application)
- Zoning Interpretations (new application)
- Sign Permit
- Zoning Appeals
- Temporary Use Permit

To the degree possible, the following structure should be used for the provisions of each application:

- Purpose
- Applicability
- Authority
- Procedure and Timelines
- Approval Standards

To further distinguish between the different applications and clarify the various processes in this article, “process flowcharts” would be included that take an applicant through the process step-by-step – from submittal of the initial application to a final decision by the appropriate body.

In order to make the administration of the various applications more predictable, zoning processes should have clear timeframes for each step of the process, including deadlines established for the submitted application to be heard at a public hearing, and from the close of the public hearing to the final approval. While it is understood that sometimes these deadlines have to change due to the Board’s schedule or at the request of the applicant, general timeframes and deadlines are necessary to assist in overall management of expectations.

Article 6. Subdivision Applications

This article would include the process for subdivision application and approval, including any special requirements for the conservation design process. This article would only describe the process; the design and approval standards for subdivision and conservation design would be contained in a separate article. Timelines will also be established for each step in the subdivision approval process.

The UDO should include an up-to-date description of how to conduct a public hearing and what is required in the record of such hearing.

The preparation of a clear record in a public hearing is crucial to defend decisions on appeals. In a public hearing before the Zoning Board of Appeals it is important that the Illinois Supreme Court’s requirement of a hearing which encompasses the basic notions of due process and which embodies the rules of fair play are included. First, the Chairman should determine whether there are any attorneys representing the petitioner, as well as any attorneys representing

a group of objectors. If there are, then the attorney can serve as the spokesperson for the objectors and present evidence, whether in the form of testimony, written documents or exhibits, in an orderly fashion and in the same manner in which a petitioner presents evidence. After the petitioner presents their case, it is best to allow questions of each witness after their presentation by the petitioner. In the event that a question has already been raised by some other objector, there is no requirement that a second objector be allowed to speak to ask the same question.

During the petitioner's presentation, Board members should feel free to ask questions on the record. When the petitioner has finished with their presentation, the Chairman should call on the objector to present their case. All witnesses should testify under oath and exhibits should be clearly marked and entered into the record. In the case of variations and conditional uses, there is a requirement that findings of fact be discussed on the record and entered into evidence. The key to defending any decision is to ensure that the factors are read into the record individually and discussed even though some evidence may be duplicative or applicable to more than one factor - each should still be discussed individually. Further, Illinois case law has held that findings of fact cannot be mere generalizations parroting the words of the ordinances.

It is recommended that the UDO include a complete description of the public hearing process, including what is read into the record, that meets these requirements.

B. Zoning Applications

The zoning amendment provisions should contain approval standards that match the criteria established by Illinois courts to evaluate applications.

The current standards for zoning text and map amendments in the Zoning Ordinance do not match those established by Illinois case law, specifically the "LaSalle/Sinclair Factors." The Illinois Supreme Court first addressed the issue of when land use restrictions go too far in *LaSalle National Bank v. County of Cook*, 12 Ill.2d 40, 145 N.E.2d 65 (Ill. 1957) and the subsequent case of *Sinclair Pipe Line Co. v. Village of Richton Park*, 19 Ill.2d 370, 167 N.E.2d 406 (Ill. 1960). These factors are used to evaluate whether to uphold a local zoning decision, therefore it is recommended that these standards be included in the review of amendment applications to ensure consistency in approvals and denials, and so that a finding of fact is on the record for each application. These standards are provided in the table below. It is important to keep in mind that the approval of amendments is based on a balancing of these factors, not a finding that each and every standard has been met.

STANDARDS FOR ZONING AMENDMENTS		
Standards	Map Amendments	Text Amendments
The existing use and zoning of nearby property.	X	
The extent to which property values of the subject property are diminished by the existing zoning.	X	
The extent to which the proposed amendment promotes the public health, safety and welfare of the County.	X	X
The relative gain to the public, as compared to the hardship imposed upon the applicant.	X	X
The suitability of the property for the purposes for which it is presently zoned, i.e. the feasibility of developing the property in question for one (1) or more of the uses permitted under the existing zoning classification.	X	
The length of time that the property in question has been vacant, as presently zoned, considered in the context of development in the area where the property is located.	X	
The evidence, or lack of evidence, of community need for the use proposed by the applicant.	X	
The consistency of the proposed amendment with the Comprehensive Plan.	X	X
The consistency of the proposed amendment with the intent and general regulations of this Ordinance.		X
Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, or reflects a change in policy.		X
That the proposed amendment will benefit the residents of the County as a whole, and not just the applicant, property owner(s), neighbors of any property under consideration, or other special interest groups, and the extent to which the proposed use would be in the public interest and would not serve solely the interest of the applicant.	X	X
Whether the proposed amendment provides a more workable way to achieve the intent and purposes of this Ordinance and the Comprehensive Plan.		X
The extent to which the proposed amendment creates nonconformities.	X	X
The trend of development, if any, in the general area of the property in question.	X	
Whether adequate public facilities are available including, but not limited to, schools, parks, police and fire protection, roads, sanitary sewers, storm sewers, and water lines, or are reasonably capable of being provided prior to the development of the uses, which would be permitted on the subject property if the amendment were adopted.	X	
The extent to which the proposed amendment is consistent with the overall structure and organization of this Ordinance.		X

In addition, the current ordinance language only allows a property owner to apply for a map amendment. The Ordinance should state that any property owner in the unincorporated County may apply for a text amendment as well. Also, the notice requirements should clearly state that only published notice is required for text amendments, and that posted and mailed notice is not applicable.

Conditional uses should have a sunset clause that allows for simple expiration if discontinued or not utilized after approval.

An issue with conditional uses frequently cited as problematic is that, essentially, a second conditional use approval is required to remove an existing conditional use from a property. Conditional uses should have a simple expiration – a sunset clause – that goes into effect automatically if they are not acted upon or if they are discontinued. The following three standards are an example of these expirations:

1. For new construction, the conditional use approval should expire within two years of the date of approval if a building permit has not been issued and substantial construction has not started.
2. For conditional uses approved for an existing structure or on land where no structure is planned, if the structure or land remains vacant for a period of one year, then the conditional use should expire.
3. The conditional use approval should expire when an approved conditional use has ceased operations for a continuous period of one year because of discontinuation or abandonment, similar to a nonconforming use. This provision should include specific flexibilities for those conditional uses that are seasonal in nature and for uses that could be affected by acts of God, such as crop failure for agriculture related uses.
4. At the request of the property owner.

Other than an administrative verification that the conditional use has not been acted upon or discontinued, no additional processing would be required. These timeframes can be adjusted as deemed appropriate.

There are currently limits on the types of variations that can be granted, which creates inflexibility in UDO application and may not adequately address unique situations.

The variation provisions contain limitations on which types of variations can be applied for. Because the purpose of a variation is to respond to unique situations and hardships, most modern ordinances do not place limits upon these requests. Restrictions on variation applications can also lead to situations where applicants are forced into using other zoning approvals, such as planned unit development, to circumvent ordinance provisions, when this is not the intent of these other approvals. Unless there are specific public policy reasons for limiting the Board of Zoning Appeals' discretion, it is recommended that limitations on variation applications be eliminated. If limitations are retained, these limitations should be drafted in the negative – i.e., those types of specific variations that may not be requested. For example, the County may want to specifically state that conditions on gravel pits cannot be varied.

The administrative variation procedure should be better integrated into the UDO so that applicants are aware of the process.

The County currently has an administrative variation procedure in a separate ordinance that should be integrated into the UDO under the variation procedures. Currently, the ordinance cites Illinois statutes for the permitted variations as well as the review and processing of such variations. In order to make the UDO more user-friendly, these provisions should be included in the Ordinance, rather than cited, so that the process is clear.

The UDO should include a process for zoning interpretations.

Because a zoning regulations cannot adequately or clearly address every possible aspect of regulation, modern ordinances include a process for zoning interpretations by which a property owner or board or commission member may request an interpretation of a specific ordinance provision. This would be a

formal application filed with the Code Enforcement Officer, who renders a decision in writing, which can be appealed to the Zoning Board of Appeals. The County appears to have an ad hoc process for zoning interpretations, but it is recommended that this process be described and codified in the administrative provisions in order to keep a written record of interpretation requests, which leads to predictable and consistent application of the regulations.

It may be appropriate to incorporate a site plan review process.

The incorporation of a site plan review process can help ensure that the new development meets the intent of development regulations, Comprehensive Plan policies and the character of McHenry County. If the County desires a mechanism for review of new development, there are three key issues related to instituting a site plan review process. These are:

1. What developments are subject to site plan review? Many ordinances require large-scale developments to receive site plan approval and specifically exclude single-family and two-family dwellings. For example, multi-family and townhouse developments and non-residential developments over a certain square footage, such as sites over 20,000 square feet in area, are common thresholds for site plan review. In addition, a number of ordinances also require site plan review for all conditional uses as part of approval, as the County does now.
2. What are the standards for site plan review? A typical list of criteria used for evaluating site plans include the following categories:
 - Site design: The location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
 - Landscaping, screening and open space: Proper buffering, stormwater management, drainage, and preservation of existing natural resources.
 - Circulation systems and parking: Adequate and safe access to the site for motor vehicles, pedestrians and bicyclists, traffic movements, traffic impact analysis and design of parking lots or structures to minimize adverse impacts.

The implementation of a site plan review process is also an opportunity to add basic form standards to the UDO for larger developments. These standards can address basic design elements, such as scale, siting and massing, without becoming rigid architectural standards.

3. Who will review applications? There are a number of options for a review body. Some ordinances use a committee comprised of key County staff, while others grant existing committees, such as the Planning and Development Committee of the County Board, approval power. This can also be refined so that site plan review is required as part of other zoning applications, which is appropriate for conditional use applications. One option for the County is to utilize the existing Staff Plat Review Committee to conduct site plan reviews, as the Committee is established, meets regularly and involves the various departments in the County that would provide input on new development.

The County should include a simple process for zoning map corrections that is administrative in nature.

For map corrections required due to drafting errors on a zoning map, there is no requirement under Illinois law for a public hearing and formal notification provisions, as those corrections would not amount to a map amendment. They are defined as scrivener's error.

Under *55 ILCS 5/5-12014* the term "map amendment" is defined as an amendment to the map of a zoning ordinance, which affects an individual parcel or parcels of land. The statute also contains a provision which states the following: "if a map amendment is proposed solely to correct an error made by the county as a result of a comprehensive rezoning by the county, the map amendments may be passed at a county board meeting by a simple majority of the elected board." Under this scenario, no formal notification or public hearing would be required and the amendment could simply be effected by a majority vote at the County Board. Despite the fact that the correction may not be needed as the result of a comprehensive rezoning by the County, but rather was a correction necessary due to an old error recently discovered, it is likely that Illinois courts would allow for the same County Board approval process to correct the error. This process would not simply be administrative, but could be raised by either the County or a property owner, reviewed by the planning department and Zoning Board of Appeals, and then forwarded to the full County Board for a vote to correct the error in the map.

The current Zoning Ordinance requires the annual recertification of the County's zoning map, which is an unnecessary administrative procedure.

Illinois enabling legislation does not require a County or municipality to recertify their zoning map on an annual basis. During the course of a year, the County, at various times, reviews and updates the zoning map as needed. To require recertification on a yearly basis is unnecessary and is rarely done in Illinois communities. This requirement should be eliminated.

The nonconformity provisions should clearly spell out what types of changes and/or alterations are permissible, which would build greater flexibility into the Ordinance, thereby reducing variation requests.

In any ordinance update, the intent is to eliminate as many nonconformities as possible. Many are eliminated when districts are revised to address existing conditions, however, some properties and uses will remain nonconforming. Therefore, the nonconformities section should be rewritten for clarity and include provisions for three types of nonconformities: 1) uses; 2) structures; and 3) lots of record. What is important to remember is that the intent of nonconformity provisions is to allow structures and uses that have been grandfathered to be maintained, but to limit their expansion and to encourage their gradual elimination.

For example, while the nonconforming structure provisions contain allowances for maintenance, the Ordinance is silent on additional permissions and restrictions such as:

- Normal repair, replacement, restoration, maintenance or improvement is permitted for any nonconforming structure, so long as it does not create any new nonconformity or increase the nonconformity.
- Structural alterations to any nonconforming structure are permitted so long as they do not create any new nonconformity, with the exception that any alteration is permitted if it is required by law, necessary to restore the structure to a safe condition, or eliminates the nonconformity.
- A nonconforming structure cannot be expanded, extended, enlarged, added to or increased in intensity.
- A nonconforming structure cannot be relocated, in whole or in part, to any other location on the same zoning lot, or to any other zoning lot, unless it conforms to all zoning regulations.
- If the nonconforming structure is destroyed, any subsequent structure must comply with all regulations of the zoning district in which it is located.
- If a nonconforming structure is damaged or destroyed, by any means not within the control of the owner/tenant, by more than a certain percentage of replacement value (such as the current Ordinance's 50%) then it cannot be restored. The Ordinance should also define how to calculate replacement value, limit the amount of time permitted to obtain a building permit (for example, a year), and prohibit an owner/tenant who did the damage themselves from rebuilding/restoring.

Certain flexibilities should be built into the nonconformity provisions.

While the current Ordinance allows a nonconforming residential structure to build an addition, many communities build in an additional flexibility that allows an existing dwelling that is nonconforming in terms of the side or rear wall to extend that nonconforming wall when building an addition. This type of provision is very useful in allowing additions to existing homes, as it encourages continued investment in existing older neighborhoods, preserves the housing stock, and is a way to reward property owners who propose to construct additions to older homes. Requiring the wall of an addition to set back to meet yard requirements can increase the expense of building an addition and result in additions that are out of character with the home; this type of provision would eliminate this situation.

Another situation that the County faces are lots that are technically made nonconforming when land area is taken for roadways by the Illinois Department of Transportation. Currently, the policy is that these existing lots of record that lose lot area to right-of-way are considered nonconforming. The UDO should clearly state that parcels should not be made nonconforming due to right of way acquisition.

The nonconforming lot provisions should clearly define what makes a lot nonconforming and what actions make a lot illegal, including the enforcement of illegal lots.

The conveyance of a portion of an existing lot through sale, lease, or gift without proper local government approval creates an illegal lot and is a zoning violation.

Under *Ganley v. City of Chicago*, 18 Ill.App.3d 248, 252, 309 N.E.2d 653, 656 (1974), the Court held that the fact that a conforming parcel of land had been platted into lot sizes that were individually less than the minimum specifications required by the zoning ordinance would not vest the owner of the parcel with the right to evade the zoning ordinance by establishing nonconforming lots from that parcel. In *Ganley*, the Court supported the municipalities ability to refuse to issue building permits for the lots for three individual residences because the lots were platted into lot sizes that were less than the minimum required by the required by the zoning regulations. Essentially, the lots as platted were rendered unbuildable due to the fact that they did not conform to the minimum lot sizes in the zoning ordinance.

The UDO should include a clear definition for an illegal lot. For enforcement purposes, the UDO can state that the County will not issue building permits in these situations.

The nonconformity provisions should allow a discontinued or abandoned nonconforming use to extend its validity for good cause, but this should be limited in order to encourage the gradual elimination of nonconforming uses.

The County allows the Code Enforcement Officer to grant an extension of time for a nonconforming use that has been discontinued or abandoned if the owner submits a letter stating his/her intention to continue the use. This allows nonconforming uses to continue, essentially, in perpetuity so long as a letter is submitted before the approval expires, in direct opposition to the intent of the general nonconformity provisions that seek the gradual elimination of nonconforming uses. One recommendation is to eliminate this provision entirely.

However, if the provision is maintained, it is recommended that this process be tightened up so that the ultimate goal of eliminating nonconforming uses is still valid. Again, similar to the conditional use process, the power to extend the nonconforming use should remain with the Code Enforcement Officer and the following added to the process:

- Standards to evaluate whether the extension is valid
- Require the applicant, in the request letter, to show good cause for why an extension is needed
- Limit the number of extensions allowed to a maximum of two
- Allow the Code Enforcement Officer to determine timeframes for the extensions on a case-by-case basis

The UDO should make clear that certain zoning applications only apply to zoning regulations and are not applicable to other development regulations in the UDO, such as the subdivision standards.

As part of the administrative provisions, it should be clear how certain standards apply. Certain procedures are only applicable for certain regulations. The UDO should state that the following applications only pertain to zoning regulations, i.e., those regulations that deal with the use of private property already recorded as a lot of record and not the public right-of-way or the subdivision of land. In general, these are:

- The variance process is only applicable to zoning regulations, including the unique variance procedures for communications towers
- The zoning amendment process is only for zoning regulations (text amendments) and the zoning map (map amendments)
- Appeals of the Zoning Administrator's decision are limited to decisions on zoning regulations

Related to this, the sign ordinance should be considered a part of the zoning regulations and subject to the zoning process (amendments and variations) given the fact that the authority to regulate signs in the unincorporated areas is derived from the County Code relating to zoning and the authority to regulate and restrict the location and use of structures. Municipalities have clear power to regulate the character and control of the location of signs and billboards, however, counties do not have parallel citation in the County Code. Therefore it is necessary to relate a County authority to regulate signs to the express language outlined in the statute governing zoning authority.

C. Subdivision Applications

The subdivision application and approval process should be clearly defined within the UDO, including the responsibilities of those who review, comment and approve the application.

Reorganization of the subdivision application process will create a better understanding of the process. An effective way to accomplish this is to separate the process and submittal requirements from the site improvement standards by creating a separate article (Article 6. Subdivision Applications) that includes the process and all timeframes and submittal requirements. A cross-reference would be included to the site improvement standards, which would be consolidated into a separate article (see Section IV for recommended revisions to those standards). In addition, the UDO should cross-reference the County Planning and Development Fee Schedule and remove all specific fees, including impact fees, from the UDO.

There are two issues related to the review of proposed subdivision applications. The first is the make-up of the Staff Plat Review Committee (SPRC). Currently, the voting members of the SPRC are the Director of Planning and Development, Code Enforcement Officer, County Engineer and Director of Environmental Health. It is recommended that the Stormwater Chief Engineer be made a voting member of the SPRC. The second issue is that other individuals and organizations are forwarded copies of the application for review and comment as

non-voting members, such as the Fire Protection District, the township highway commissioners, utility companies and the like. An issue heard in the stakeholder interviews is that, while these groups may receive the various plats, they are not afforded enough time to review and comment, and the current regulations do not require their comments to be submitted as part of review; as a result, the forwarding of the plats can serve as more of a courtesy notice.

The UDO update affords the County the opportunity to define the membership of the SPRC, and in particular who serves as a voting member, and adjust the timeframes for review, comment and approval from outside agencies so that their comments are part of the record. Three outside agencies should be considered as potential voting members of the SPRC: the Township Highway Commissioner, the Fire Protection District and the School District. As drafting proceeds, further discussions with staff and County boards and commissions will determine the make-up of the SPRC, as careful thought should be given to the voting members of the SPRC. Finally, the process timelines can be modified so that the various agencies who receive the plats are given appropriate time to review and comment on the plats.

In the stakeholder interviews, the Township Highway Commissioner was suggested as a voting member of the SPRC. However, given the fact that the Township Highway Commissioner derives his/her powers from Illinois Highway Code, and the Code itself does not specifically state that a township can legally adopt roadway standards on its own, it is unlikely that a township could enforce standards different than those included in the statutory language of the Highway Code. Therefore, the idea of adding the Township Highway Commissioner as a voting member of the SPRC will require additional review and discussion. (See discussion on roadway standards in Section VI (Site Improvement Standards) for township input on roadway standards.)

The UDO needs to clarify how ordinance regulations apply to lots in contiguous ownership.

Current regulations do not address how ordinance regulations apply to lots in contiguous ownership. For example, a property owner owns two contiguous lots and builds a home (principal structure) on one lot and a detached garage (accessory structure) on the other. Because these are two separate lots of record, if the bulk regulations are applied as if this is one zoning lot, there will be issues with nonconformities if the property owner decides to sell one of the lots.

In order to ensure that new nonconforming lots are not created, one of the most straightforward means of addressing this situation is to require property owners to deed restrict or consolidate the lots. Further, the County can also create its own deed restriction form, where the County can require notification if the deed restriction is removed from the property. From a legal perspective, the enabling legislation of 55 ILCS 5/5-12001 of the County Code grants McHenry County the authority to regulate and restrict the location and use of structures for the purpose of promoting the public health, safety, morals, comfort and general

welfare, conserving the values of property throughout the County. This statutory section contains language that states:

[t]he powers by this Division given shall not be exercised so as to deprive the owner of any existing property of its use or maintenance for the purpose to which it is then lawfully devoted, but provisions may be made for (i) the gradual elimination of the uses of unimproved lands or lot areas when the existing rights of the persons in possession are terminated or when the uses to which they are devoted are discontinued, (ii) the gradual elimination of uses to which the buildings and structures are devoted if they are adaptable to permitted uses, and (iii) the gradual elimination of the buildings and structures when they are destroyed or damaged in major part...See 55ILCS 5/5-12001.

The County would have to rely on this language and draft language in an ordinance requiring a deed restriction or consolidation in an effort to eliminate future nonconformities. In the event that someone challenged this as lacking statutory authority, the reasonable alternative would be to simply not allow the bulk restrictions to be applied to both lots as if they were one lot which would likely result in an inability on the part of the property owner to build as they would want. More information is needed on this issue however to craft specific language for an ordinance, but arguably it can be upheld on the basis of Section 5/5-12001.

The standards for approval of a subdivision should be directly linked to the subdivision standards.

Subdivision is defined as the division of land into two or more parcels, therefore approval standards need to be directly related to standards applicable to the division of land. The UDO must clearly state that new lots need to meet the lot dimension standards of the applicable zoning district, the required improvements for site development and other ordinances of the County not included in the UDO, such as the Stormwater Management Ordinance, Access Management Ordinance and Health Ordinance. Other standards, such as the potential use and design of a structure, are not part of land division and should not be considered as part of subdivision review and approval. To address those issues, it is recommended to include a new site plan review process.

III. PLANNED DEVELOPMENTS

Traditionally, planned developments (PD) are a special regulatory technique included in many development regulations in recognition of the fact that flexibility may be needed for the development or redevelopment of areas that lend themselves to an individual, innovative planned approach. The County currently has three types of planned development: planned development – estate district (PD-E), planned development – residential district (PD-R), and commercial, office, research, light industrial planned development (CORI). Based on evaluation of the current regulations there are a number of revisions that could lend greater flexibility to development within the County.

There is limited application for the three types of planned development currently in place, and could be eliminated.

Planned Development – Estate District (PD-E)

With the adoption of Conservation Design (CD), the utility of the PD-E District is questionable. Many of the standards for this district are included in the CD regulations and the intent of these regulations generally aligns with the goals of Conservation Design. In fact, some of the standards could be used to further augment the CD regulations.

It should be noted that an issue with the current regulations for this district is that the linkages to the referenced “McHenry County Comprehensive Plan Map” have been broken with the adoption of the new 2030 Comprehensive Plan, so its applicability is invalid. For those PD-E Districts that exist as of the time of UDO adoption, special provisions would be included in the planned development and nonconformity provisions that grandfather these developments.

Planned Development – Residential District (PD-R)

As this district has not been used, it could be eliminated from the Ordinance. Like the PD-E, the linkages to the referenced “McHenry County Comprehensive Plan Map” have been broken with the adoption of the new 2030 Comprehensive Plan so its applicability is invalid.

Commercial, Office, Research, Light Industrial Planned Development (CORI)

As this district has not been used, it could be eliminated from the Ordinance. The intent of flexible non-residential development could be accomplished through a more modern planned development approach.

A new planned development process, such as that seen in modern ordinances, would give the County a tool to encourage innovative development and implement policies of the Comprehensive Plan, such as mixed-use development.

A modern planned development is a development guided by a total integrated design plan in which one or more of the zoning regulations are waived to allow flexibility and creativity in site and building design, in accordance with general guidelines that accrue benefits to the County and the public interest. Planned development is typically included in ordinances as a distinct category of conditional use. In particular, the planned development technique is intended to allow for flexibility in the application of zoning requirements based upon detailed review of individual proposals in exchange for additional benefits to the County

and public. This special regulatory technique is included in ordinances in recognition of the fact that flexibility may be needed in the application of required district dimensional regulations, and occasionally use regulations, for the development or redevelopment of areas that lend themselves to an individual, innovative planned approach. For example, a shortcoming of the current three types of PD is that none allow for mixed-use - this new approach would help to address that.

The County can adopt a planned development procedure that would be a single development application approved as a conditional use in appropriate districts. The underlying district regulations, including use, bulk and yard requirements, would apply unless the applicant makes a strong case for exceptions to these regulations and provides the County with a public benefit. These exceptions to district regulations are considered relative to the merit and appropriateness of the development.

In the PD process, there must be a give and take between the developer and the County within the proposal. PD requirements should define the types of amenities or elements desired in exchange for the flexibility and bonuses offered through the process. It is important to remember that, because of its inherent flexibility, the PD process can become a surrogate for the variation process. When a property owner does not want to meet existing district requirements or they want to add a use that is not permitted in the underlying district, they often request a PD where they do not have to demonstrate a hardship or practical difficulty, as would be required under a variation. Therefore, it is important to list which public benefits or amenities are required to qualify for the exceptions to the zoning district standards so that petitioners cannot circumvent basic zoning district requirements without providing measurable benefits to the County. Examples of some of the public benefits that can be considered in determining whether an exception should be granted include:

- Neo-traditional design including, but not limited to, mixed-use development, traditional neighborhood development and transit-oriented development
- Community amenities, including plazas, malls, formal gardens, public art, and pedestrian and transit facilities
- The use of green building and sustainable design techniques
- Preservation and reuse of historic structures
- Preservation of natural features above that required by the UDO
- Open space and recreational amenities above that required by the UDO
- Affordable housing
- Senior housing

This is not a definitive list but rather a suggested list of public amenities and benefits. In some cases, the actual development itself may be a public benefit. For example, in areas where there is a demand for senior housing, a senior housing planned development can itself be considered a public benefit.

While a PD is usually approved as a conditional use, the approval process is not simply that of a conditional use. Because of the complex nature of the application, there are additional steps that require County review and approval, and offer opportunities for public input. An outline of one approach to this process is provided below.

- Pre-Application Meeting with County Staff: Prior to the formal filing of an application for a PD, the applicant meets with staff to discuss the proposed development. The purpose of the pre-application meeting is to make advice and assistance available to the applicant before preparation of the concept plan or preliminary plan.
- Concept Plan: Before submitting a formal application for a PD, the applicant presents a concept plan to the Planning and Development Committee for the purpose of obtaining information and guidance prior to entering into binding commitments or incurring substantial expense. Any opinions or advice provided at the meeting are not binding with respect to any official action on the subsequent formal application.
- Preliminary Plan: Following the concept plan, the detailed preliminary plan is submitted, where a formal public hearing is held on the PD application and conditional use. This process would generally follow that of conditional use approval process.
- Final Plan: Because all issues and concerns with the PD should be resolved during the preliminary plan and public hearing that takes place as part of that approval, the final plan approval is intended to be a technical confirmation of the approved preliminary plan. If there are numerous changes between the approved preliminary plan and the final plan, then the plan requires resubmittal as a new application. Typically the County staff reviews the final plan for conformance with the approved preliminary plan, which is then forwarded on to the County Board for approval or denial.

The new provisions would also integrate the conditional use, site plan review and plat processes into the PD process.

The County must decide in which districts PD is desirable. Because a PD is a conditional use, it can be restricted only to certain districts, such as higher density residential areas, to encourage better design of multi-family developments, and commercial districts, to allow for innovative developments such as mixed-use. Similar to the current planned developments, the County may want to limit use exceptions to non-residential districts. Also districts like the A-1, A-2, I-1 and I-2 Districts should prohibit PD in order to preserve land for agricultural and industrial uses respectively.

IV. ZONING DISTRICTS

The zoning districts within the current Ordinance should be reviewed and provisions restructured so that the districts reflect the established development patterns of the County and link to the policies of the Comprehensive Plan and Water Resources Action Plan. In some cases, new districts may be needed to both implement these plans and properly address existing development patterns.

A. Use Structure

The County should adopt the modern generic use approach to address permitted and conditional uses within the districts.

A complete revision of the permitted and conditional use structure within the zoning districts is recommended. The recommended approach is based upon the concept of "generic uses." Currently, McHenry County employs a specific use approach. This type of approach has become disfavored in modern practice because of its length and inability to respond to new and emerging uses. Inherent in a specific use approach is the requirement that every possible use desired by the community must be included in the use list or, by virtue of exclusion, it is prohibited.

In addition, the County has created a loophole around this restriction by allowing uses that are not listed in the use table to be included in a district if they are similar to other listed uses, subject to interpretation by the Code Enforcement Office (Section 304.3). This means, while uses should be tailored to the purpose of each district, that refinement can be negated by this permission. The generic use structure would eliminate this loophole.

For this reason, the generic use approach is recommended to better address permitted and conditional uses within the districts. For example, specific uses such as barber shops, beauty parlors and tailors would be replaced by the generic use "personal services establishment." Modern practice has moved toward this approach because of two main benefits. First, it eliminates the need for extensive and detailed lists, and the permitted and conditional use sections of the ordinance become shorter and easier to use. Secondly, the generic use approach provides staff with greater flexibility to review and permit those uses that may be desirable for the community, but not specifically listed, within the broad context of the use definition. Generic uses have the advantage of being broad enough to include a wide range of uses, eliminating the need for amendments as new uses emerge. However, the County would still have the ability to exclude less desirable uses or those that should be limited in location right within the use definition.

Current uses are not properly defined.

All uses listed within each district should be defined within the UDO. If the generic use approach is adopted, definitions take on additional importance. First, each generic use must be defined. The generic use definition includes both examples of that type of use and specifically *excludes* those uses that are not part of the generic use definition. For example, the definition for "retail goods establishment" will specifically state "adult bookstores" are not considered a

"retail goods establishment." This means that an "adult bookstore" must be specifically permitted within a district in order to locate there; it cannot come in under the umbrella of "retail goods establishment." The second important element of generic use definitions is that any use that is permitted elsewhere within the UDO and is listed separately cannot be considered part of a generic use category. For example, if a district specifically permits "drive-thru facilities," "drive-thru facilities" are not allowed in other districts unless they are listed within the use table (i.e., they are not automatically part of a restaurant).

Additional use standards for certain permitted and conditional uses are needed, and should be organized within one article.

Article 4 (Section 407. Standards for Permitted Uses) and Article 5 (Conditional Uses) contains use standards for certain permitted and conditional uses. In order to understand all conditions that apply to certain uses, these should be consolidated into one article and cross-referenced in the use tables. For those uses that have been given the same set of conditions as part of zoning approval, those conditions should be incorporated into the UDO as use standards in order to make the approval process consistent and predictable. Also, the standards found in various ordinances that are currently outside the zoning ordinance, such as agricultural trailers, telecommunications equipment and earth material extraction sites, should also be incorporated into this article.

Use standards are also important in a generic use approach in order to ensure that the impacts of uses are properly addressed. If there is a specific type of use within a generic use category that requires special consideration, that can be addressed within the use standards. For example, if pet day care establishments are permitted under the category of "personal service establishments," there may be a desire for special standards for this type of use for areas of outdoor recreation to buffer nuisance impacts.

The UDO should contain a comprehensive list of temporary uses with appropriate standards.

Section 404.3 lists a variety of temporary uses. However, many of the temporary uses in this list are controlled only by how long the use may operate. Standards should be added to the Ordinance that control various aspects of these temporary uses - for example, parking requirements, buffering and screening requirements, siting standards, and districts where these uses are permitted.

B. Dimensional Standards

How various yard and bulk standards are applied should be evaluated and revised for consistent and easy application, and include new requirements that implement County policy.

As part of the UDO drafting process, the application of all yard and bulk regulations will be evaluated. In addition, looking at County policies contained in plans such as the Water Resources Action Plan, additional controls may be necessary. Three areas that have been identified to date include the following:

Yards should be set as minimums and uncoupled from the building line

The Ordinance establishes the building line as the required yard line, which can create a series of problems. One example is residential estates with deep setbacks. A large setback creates unique siting conditions, such as enough space to allow certain accessory structures in the front yard. This situation can be simply resolved by unlinking the building line from required yard line. The UDO should only require a minimum yard dimension – typically called a “minimum setback,” creating a building envelope where property owners can site their building.

Yards should be measured from building walls

Current yards are measured from building overhangs. This creates difficulties in measurement in the field and also discourages architectural elements, such as eaves that create shadowing on building facades. Typically, ordinances measure yards from the building wall and then allow for a certain amount of encroachment for architectural features. This approach would simplify yard measurement and incentivize good design.

An impervious surface control should be added to the district regulations

The Water Resources Action Plan and the Stormwater Management Ordinance both seek to reduce the amount of impervious surface coverage on a lot. This becomes a zoning issue when looking at percentages of total lot coverage allowed. The more impervious surface located on a zoning lot, the less water can be absorbed. A key zoning control to address this situation is that of a maximum impervious surface requirement. While the County does have building coverage controls, without other controls it cannot effectively manage impervious surface on a lot. The building coverage control, coupled with yard and height restrictions, primarily helps to control the overall volume of a structure. Therefore the recommendation is to enhance this control with that of a maximum impervious surface requirement to control the total amount of impervious surface on the lot.

C. Agricultural Districts

The UDO should clearly define what qualifies as an agricultural use.

The County Code is specific on what qualifies as agricultural purposes; however, the list is so broad and expansive that most activity that could relate even in the slightest to farming would qualify:

"The powers by this Division given shall not be exercised so as to deprive the owner of any existing property of its use or maintenance for the purpose to which it is then lawfully devoted nor shall they be exercised so as to impose regulations, eliminate uses, buildings, or structures, or require permits with respect to land used for agricultural purposes, which includes the growing of farm crops, truck garden crops, animal and poultry husbandry, apiculture, aquaculture, dairying, floriculture, horticulture, nurseries, tree farms, sod farms, pasturage, viticulture, and wholesale greenhouses when such agricultural purposes constitute the principal activity on the land, other than parcels of land consisting of less than 5 acres from which \$1,000 or less of agricultural products were sold in any calendar year in counties with a population between 300,000 and 400,000 or in counties contiguous to a county with

a population between 300,000 and 400,000, and other than parcels of land consisting of less than 5 acres in counties with a population in excess of 400,000, or with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or to be used for agricultural purposes upon such land except that such buildings or structures for agricultural purposes may be required to conform to building or set back lines and counties may establish a minimum lot size for residences on land used for agricultural purposes....”

Further, in this Division, “agricultural purposes” include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.” Some Illinois case law does exist interpreting this section and attempting to better define what will qualify as an agricultural use. A few of those cases are outlined below:

Representative Case Law

- In deciding whether zoning as agricultural land is valid, question is not whether parcel of land is or is not profitable farmland, but whether parcel is suited for its zoned purpose. (*Racich v. County of Boone*, 192 Ill.Dec. 940, 254 Ill.App.3d 311, 625 N.E.2d 1095 (2nd Dist. 1993))
- In determining whether activity involving use of land has agricultural purpose, as required for agricultural use exemption from county regulation, courts look to nature of activity itself rather than to property owner's ultimate business objectives. (*County of DeKalb v. Vidmar*, 190 Ill.Dec. 667, 251 Ill.App.3d 419, 622 N.E.2d 77 (2nd Dist. 1993))

Relevant Illinois Attorney General Opinions

- Property which is operated as a game breeding and hunting preserve area pursuant to the provisions of the Wildlife Code is used for agricultural purposes, within the meaning of § 5-12001 of the Counties Code and is exempt from county zoning regulation. (1992 Op.Atty.Gen. No. 92-004.)
- The building of a hog confinement structure was an agricultural use whose regulation by zoning was not permitted by state statute. (1978 Op.Atty.Gen. No. S-1377.)
- Where a dwelling, even though situated on land zoned for agricultural purposes, was used only for residential purposes by persons not engaged in agriculture, county had authority to require permits for the erection, maintenance, repair, alteration, remodeling or extension of such dwellings. (1976 Op.Atty.Gen. No. S-1109.)
- Where a dwelling on land zoned for agricultural purposes was occupied by a person not engaged in agriculture and was used only for residential purposes and not for agricultural purposes, county could charge fee for issuance of permit to erect, maintain, repair, alter, remodel or extend such dwelling. (1976 Op.Atty.Gen. No. S-1109.)
- While a zoning ordinance which simply classifies land for agricultural use was not violative of state statute a zoning ordinance which imposed conditions precedent to the use of lands for agricultural purposes, prohibited outright operation of concentrated livestock production facilities located within the specified distance of certain classifications of

zoned property when approved for operations at such locations was denied and provided that the facilities for livestock purposes and not used for the production of livestock for an 18 month term would revert to a non-concentrated livestock operation classification unless time extensions were granted, would clearly violate statutory prohibition against the imposition of zoning regulations with respect to land used or to be used for agricultural purposes and amendment to the county zoning ordinance prohibiting certain land uses within the specified distance of properly zoning concentrated livestock production facilities did not violate paragraph, since it in no way regulated land used for agricultural purposes. (1974 Op.Atty.Gen. No. S-694.)

Using the County Code and the interpretations rendered by case law and the Attorney General, a definition for agricultural uses will be crafted.

The A-1 District should be reserved for primarily agricultural purposes.

The current A-1 District allows for a variety of non-agricultural uses, such as athletic fields, arenas, heliports, hospitals, golf courses and similar uses; it seems to have evolved into a "catch-all" district for a variety of uses that are difficult to place in other districts. The A-1 District uses should be refined so that it functions exclusively as an agricultural district. Other non-agriculture-related uses should be eliminated from the district and allowed in the appropriate non-residential districts. The revision of the use structure of the A-1 District must also address uses that the County has struggled with in controlling the scope of, such as landscaping businesses and commercial storage, and new uses that may be appropriate, such as wind farms. (See additional recommendation for a new R-MU Rural Mixed-Use District at the end of this section.)

The current A-2 District has been cited as problematic as it breaks up agricultural land.

Many of the stakeholders with agricultural interests cited the A-2 District as being counter to agricultural preservation. Carving out five-acre lots for single-family homes has disrupted continuous land areas of agriculture. One option is to eliminate the district from the UDO. However, there are valid reasons to keep the district in place. The purpose of the A-2 District was to allow for family farms to be maintained, for example, providing an adjacent home so that family members can continue to farm, and estate planning. Therefore, if maintained, the County should strengthen the criteria that allow for this division of land within the agricultural areas. One current requirement mandates that land be unsuitable for agriculture or have barriers to agricultural purposes. While some specific criteria are included, such as LESA scores, woodlands and steep slopes, the language can be strengthened so that it is clear what type of land is appropriate for the application of the A-2 District. In addition, standards need to be strengthened for preservation of those natural resources on the site, through buffering and siting standards. Without additional controls on how the A-2 lot is developed, new development could negatively impact natural resources. These regulations should also be supplemented with a requirement for regular boundaries to the lot (i.e., as "square" as possible) to prevent meandering of the boundaries to split off the five acres only because the land is unsuitable for farming and creating a lot that is almost entirely comprised of natural resources.

An additional preference could be established for rezoning of new A-2 District lots that have an existing farmhouse. It is not recommended to require this, but as a general standard it should be included. Finally, the application process for creating a new A-2 District lot should allow only one petition at a time to prevent a “loophole” subdivision process.

In addition to farming, the agricultural areas of the County also include a variety of agriculture-related businesses (farmstands, agri-tourism and agri-entertainment) that have an impact on the function of these areas and need to be regulated in the UDO.

One of the County’s key issues in agricultural areas are accessory agricultural uses such as farmstands and U-pick opportunities, horse shows, banquet/event facilities, and seasonal events like pumpkin patches, hay rides or corn mazes. We will work to create a definitive list of agriculture-related businesses in these areas. It will be important to define each of these uses, and distinguish those that are permanent from those that are temporary. Each of these uses will need standards that mitigate and minimize their impacts to adjacent uses and the general area. These standards should incorporate conditions that have been applied in past approvals and address common issues. Finally, as temporary uses are distinguished from permanent uses, it will be necessary to determine the approval methods. These uses would be approved one of three ways: by conditional use, by temporary use permit and permitted by-right with standards. (See additional recommendation for a new R-MU Rural Mixed-Use District at the end of this section.)

The County may want to create a new Rural Mixed-Use District to address the variety of agricultural businesses seen in the County.

One option to deal with the variety of agriculture-related businesses in the agricultural areas is to create a special district for those uses, the R-MU Rural Mixed-Use District. While this district would allow agricultural, commercial and residential uses – hence, its name as a mixed-use district – it would focus on providing a place for more intensive uses that have found themselves in more rural and/or agricultural parts of the County, such as landscaping businesses, commercial storage and certain types of agri-tourism and agri-entertainment, for example wineries and banquet halls/event facilities. The benefit of a new district is two-fold. First, this creates a home for these types of uses within the County where they can predictably locate. The more intensive uses can also be split into permitted and conditional uses within the district, so that certain uses would still be subject to the conditional use evaluation and approval process. Second, because this is a rezoning to a new district, the district standards can include a full range of buffering, screening, access and other development standards that create a more compatible environment with neighboring districts and uses.

D. Residential Districts

There may be a need for a new residential district to address former summer cottages that have been converted to year-round homes where current standards create significant nonconformities.

Many of the former summer cottages along the Fox River have been converted into year-round residences. The unique development and siting of homes within these lots do not align with the current district requirements, which also do not take into account the unique characteristics of developing along the riverfront. This creates significant areas of nonconformities and requires property owners to obtain variances for simple improvements. The most direct way to address this problem is to craft a zoning district for these areas specifically, where lot area and width, yard and siting requirements could be tailored to match the established pattern of development.

Certain yard and bulk standards for residential districts should be refined.

Stakeholders have indicated that certain yard and bulk standards within the residential districts can be revised to be more applicable to existing conditions. Examples of these include the following:

- The required front yard provision is confusing, as is the application of the averaging provision. This is currently applied by allowing the property owner to choose either the required minimum yard or the averaging provision. This needs to be made clear in the Ordinance as the current provision is written to come into applicability when 60% or more of the block is developed. Based on the variability seen in the County, the residential front yard should be revised as a series of options. This should include the ability to use the historically platted setback if that is available. Essentially, a property owner would have three options for a front yard: 1) a set minimum dimension; 2) an averaging provision; or 3) the historically platted front yard dimension. As part of this revision, the front yard averaging provision should also be refined so that it is easier to apply.
- Because the County has a significant number of smaller residential lots, many measuring 50 feet in width, the current 10 foot side yard requirement for residential lots may be excessive. The County can address this issue with a proportional control for lots less than the required width, such as 10% of lot width. This would eliminate variations for these existing smaller lots.
- Residential lots located along the waterfront require special provisions that address their unique orientation and the range of distinct accessory structures that come with waterfront access. This includes provisions regarding the orientation of yards, as many structures are oriented with their front yard to the water and the rear yard to the street, which then impacts the permitted locations for accessory structures. The UDO should also include regulations that respond to unique platting situations where the lot line located parallel to the waterline does not coincide with the waterline, effectively creating a “no man’s land” for a portion of the lot between the lot line and the waterline.

E. Non-Residential Districts

The commercial districts should be restructured and linked to their desired form and function.

The current Zoning Ordinance has three commercial districts. The B-2 Liquor Business District provides controls over the location of bars and liquor stores. In order to continue to limit the location of these specific uses within the County, the B-2 District should be retained. However, the County should consolidate the B-1 Neighborhood Business District and the B-3 General Business District into a single district. A key control within the B-1 Neighborhood Business District and the B-3 General Business District is the limitation on the size of businesses within each of these districts. This is an older zoning technique that can create issues of nonconformities and variations, and should be eliminated. In addition, this limitation actually encourages larger buildings that create more impervious surface, especially in the B-3 District. If the issue is scale and character within these two districts – i.e., how to distinguish neighborhood pedestrian scale from larger auto-oriented commercial scale – this can be accomplished through building dimensional and siting standards and basic building form controls. A local business would have a different “look” and scale than a larger commercial use.

The County may want to allow for mixed-use development, as described in the Comprehensive Plan.

The Comprehensive Plan speaks at length about allowing for mixed-use development, but the current districts do not encourage this type of development. The current use structure allows for a single dwelling within the B-1 District and no residences in the B-3. With the consolidation of the B-1 and B-3 District into a single business district, this new B-1 District should be revised to allow “dwellings above the ground floor,” removing the restriction of only one dwelling. The use type - “dwellings above the ground floor” – is a modern zoning use that allows for mixed-use development but requires the ground floor to be commercial in nature, thereby preserving the commercial nature of the district.

F. Special Purpose Districts

To protect the County’s groundwater supply, the sensitive aquifer recharge area (SARA) map can be converted into an overlay district.

Using the Water Resources Action Plan’s (WRAP) recommendations of Section 2 – Part 2B (Land Use and Zoning), a Sensitive Aquifer Recharge Area (SARA) Overlay District can be drafted. The intent of this overlay district is to control development in these areas to minimize adverse impacts to natural recharge functions.

As stated in the WRAP: “Any development that involves grading or paving over large tracts of land, such as shopping centers, parking lots, and high density housing developments, can be particularly damaging to the soil’s natural recharge ability. High-intensity developments also generate pollutants, such as salt, herbicides, pesticides, nutrients, and petroleum by-products that can contaminate surface and/or groundwater. In sensitive recharge areas, leaks or

spills from landfills, chemical storage facilities, and industrial or manufacturing facilities involving solvents or other polluting chemicals can contaminate groundwater.” Therefore, it is anticipated that the SARA Overlay District would include the following provisions:

- A list of prohibited uses within the overlay district
- An alternative maximum impervious surface requirement that is stricter than the underlying district. Flexibilities can be built into this control by allowing a property owner to use the underlying district’s requirement if they utilize Stormwater Best Management Practices to off-set the run-off of the additional impervious area.
- If site plan review is included, it should include special site plan review standards for development located in the SARA Overlay District.

Similar to the way that the Floodplain Ordinance is administered, development within the SARA Overlay District should be subject to on-site verification that the proposed development is within the SARA boundaries. In addition, provisions are needed to determine how to handle development on a lot where only a portion of the lot is in the SARA boundaries. At a minimum, this should trigger automatic site plan review.

For ease of administration, the SARA Overlay District should be mapped via ordinance. Rather than a rezoning where an overlay district is mapped on the Official Zoning Map, the UDO would state where the SARA map exists and how it is applied, and include reference to a map that the County can adopt separately from the Official Zoning Map. This will have the same legal effect as long as it is adopted via ordinance.

The County may find utility in a new special purpose district for natural resource protection and open space.

The County has a significant amount of open space. Due to the size and amount of land area occupied by open space, an appropriate approach would be to create a special purpose district. An Open Space District offers two benefits. The first is that the use within the district is protected as it is the only type of use allowed – for example, only natural resource preservation and passive recreation areas, with the appropriate accessory structure controls, are allowed within the district. Additional uses such as active recreation and more extensive park-type structures could be allowed by right or by conditional use. The second is that, if someone desired to change to the use of that area, a rezoning is required, allowing the County control over the redevelopment of that parcel.

V. SITE DEVELOPMENT STANDARDS

Site development standards regulate the other aspects of site development other than the principal use, and the dimensions and siting of the principal building on the site. These are the standards that regulate landscape, the placement and design of off-street parking, exterior lighting, measurement methodologies, accessory structures and uses, signs and permitted encroachments. It is recommended that the new UDO include a comprehensive set of site development standards.

In the UDO, the proposed structure for site development standards would be covered under the following articles:

- Article 15: Site Development Standards, including general on-site improvement regulations, accessory structures and uses, and permitted encroachments.
- Article 16: Off-Street Parking and Loading
- Article 17: Landscape and Screening
- Article 18: Signs

One of the issues brought up by the County and by stakeholders is the need for stronger property maintenance standards. Those issues of property maintenance that can be addressed within the scope of the UDO, such as the storage of vehicles and maintenance of required yards, will be addressed within the appropriate articles. In this example, the storage of vehicles would be addressed in the parking article and the maintenance of required yards in landscape.

A. General Development Standards

The UDO should clearly describe the general site improvement regulations that apply throughout the County.

The general provisions for on-site development should consolidate the various standards found throughout the current Zoning Ordinance that typically apply to all districts, including standards such as prohibitions of view obstruction at corners, restrictions on the number of principle buildings in certain districts, and requirements that all lots front on a street. In addition, the current regulations should be supplemented with a number of standards. These would include performance standards to control the impacts from higher intensity uses such as noise, odor, glare and vibrations. Where the County has other ordinances in place to regulate these impacts, the UDO should include a cross-reference to those sections.

The UDO should be updated to include a full range of exterior lighting standards.

Currently, only the Conservation Design standards include standards for exterior lighting. In the UDO update, a full range of exterior lighting standards should be applied County-wide, including the design and intensity of building-mounted lighting, light poles in residential and non-residential districts, neon tubing, and illumination of signs, structures and canopies. Tailored lighting standards may be needed for certain uses, such as gas stations, where excessive lighting is both a

safety and aesthetic issue. Many of the “best practice” standards on appropriate exterior lighting are based on information gathered and model ordinance standards created by the International Dark-Sky Association, a non-profit organization that seeks to minimize light pollution and conserve energy. These standards provide a preliminary basis for exterior lighting regulations, but would be adjusted to address the County specifically.

However, one concern is the ability to enforce these requirements. Many of these requirements can be written as self-enforcing, such as the requirements for installation of fully-shielded lighting fixtures, requirements for downlighting and prohibitions on uplighting, and prohibitions on floodlights. In addition, for larger developments subject to site plan review, the site plan review submittals requirements should require a lighting plan that shows footcandles at the lot line. However, for smaller developments, there may still be a need to verify footcandle intensities at the lot line. In order to enforce such standards, the County should assess what equipment is needed to measure light trespass and how enforcement would be conducted.

The accessory structure section of the existing UDO is limited and should be updated to include a comprehensive list of accessory structures.

Few accessory structures are regulated in Section 306 of the current Zoning Ordinance. In addition, the controls on accessory structures are not tailored to the variety of structures than can occur in a county as diverse as McHenry County. The UDO needs to clearly define and regulate what is considered an accessory structure, and what limitations apply to each in terms of size and dimension, height and permitted location. By regulating accessory structures more specifically, the County can eliminate the current restriction that permits accessory structures to cover only 20% of the maximum building coverage of a lot. Such a blanket restriction can create difficulties for certain types of accessory structures and actually work to effectively prohibit common structures as they cannot be constructed within the size limitations to be practical.

Because the current Ordinance is not very specific on what qualifies as an accessory structure, it will be necessary to define them. For some, in addition to size and height controls, it will also be necessary to regulate in which yards structures may or may not locate. For example, residential estates in more rural parts of the County may have a principal building that is setback a significant distance from the front lot line. In those cases, a simple regulation that prohibits accessory structures in the front yard would be unreasonable, as the generous setback creates a situation where certain accessory structures are appropriate in the front yard. However, not all of the above accessory structures are regulated through individual sets of standards. Many are permitted simply through a permitted encroachments table, where the location in relation to the required yards is restricted.

Finally, many sustainable regulations fall under the provisions for accessory structures (solar, wind and geothermal energy, electric car charging stations, etc.). Controls over how these newer accessory structures are installed will be included. There may also be a need for provisions that allow the installation of community-based alternative energy arrangements (solar, wind, geothermal). This describes a situation where neighbors on adjacent properties construct a

communal alternative energy system between their properties. While any equipment used would be subject to the standards for an individual system, a community-based system would need to provide an agreement between neighbors as to access, operation and maintenance of the system, which should be filed with the County. This works similarly to a shared parking arrangement. It is important to note that the agreement filed with the County is for informational purposes only, and that the County will not enforce such a private agreement.

There is limited regulation of permitted encroachments. A permitted encroachments table would clarify where most types of accessory structures and architectural features may encroach into required yards.

The current Ordinance is silent in terms of permitted encroachments. A permitted encroachment is defined as the permission of an architectural feature, such as eaves, or an accessory structure, such as a garage, to locate within a required yard. Currently, any type of encroachment into a required yard requires a variation, which may be the result of the definition of a yard beginning at the building line and measurement of a yard from any overhangs. The benefits of allowing permitted encroachments is two-fold. First, it creates flexibilities in the siting of structures on a lot. Second, it encourages good building design (façade articulation, shadowing, etc.) by accommodating good design features in structures, such as eaves, balconies, bay windows, chimneys, sills, belt courses and ornamental features.

B. Off-Street Parking

Off-street parking requirements should address the full range of off-street parking and loading elements.

In order to be comprehensive, the off-street parking provisions should be revised to address the following:

- Permitted location of off-street spaces for all districts
- Parking lot design (surfacing, lighting, curbing, marking, etc.)
- Minimum parking space measurements
- Accessible parking set asides (parking for persons with disabilities)
- Required stacking spaces for drive-through facilities
- Parking flexibilities, such as shared parking and land-banked parking
- Required number of off-street spaces per use
- Storage of commercial and recreational vehicles in residential districts
- Storage of junked or wrecked vehicles
- Location and design of off-street loading
- Bicycle parking

Parking regulations should also consider the design and appearance of parking areas, addressing factors such as the permitted location of off-street spaces, construction standards like surfacing and bumper stops, stacking space requirements for drive-through facilities and provisions that encourage cross-access easements between adjacent commercial uses. Many of these are already addressed within Section 405, which will be updated to include modern standards, such as permitting the construction of parking lots with semi-pervious materials. The UDO should also clearly state how parking spaces can be used, in

that they can only be used for car storage and not, for example, to store other materials on the site or for motor vehicle repair.

The parking design standards will also take into account some of the unique circumstances within unincorporated McHenry County, which has both rural and more urban areas. In certain rural areas, especially the agricultural districts and the potential new R-MU District, all parking lots should not require paving. For example, overflow lots for rural businesses may only be used for a few months out of the year. In these circumstances, gravel lots may be appropriate.

Parking requirements should reflect local demand and national standards.

Similar to the current Zoning Ordinance, the parking requirements should include a table that establishes requirements for a certain amount of off-street parking for each use. This allows for tailoring of parking requirements to the nature and physical make-up of each use. In addition, when the use structure is finalized in the UDO, the listing of parking requirements by use will match the uses within that structure making it clear how much parking is required for each use within the UDO.

The County should consider including a maximum parking restriction.

As important as creating the right minimum number of spaces required, the County should consider including a maximum number of parking spaces allowed on-site. This would be particularly important for large developments that typically have no issue in providing the minimum number of spaces and often want to provide a significant amount of excess spaces. For example, specific maximums could be applied to commercial developments over a certain square footage, such as 20,000 square feet of gross floor area. Another alternative for maximum parking is to include a maximum percentage of spaces permitted for all uses, such as setting 125% of the minimum number of spaces as the maximum number of spaces allowed. An additional element that can be added, whether parking maximums are included or not, is to require all parking areas that exceed the minimum number to pave the excess area with semi-pervious materials.

The County should consider adding certain parking flexibilities into the UDO.

Another component of off-street parking requirements is to allow for certain flexibilities as to how much required parking need be provided on-site. These include the following:

Shared Parking

The current Zoning Ordinance allows for joint parking, but requires the uses to provide the sum total of spaces on the site. An additional flexibility that can be added to this provision is to calculate how much parking is actually needed by uses that share a parking lot when developed jointly, based on their intensity of use during the hours of the day. The following table provides is an example of this (this would be tailored specifically to McHenry County). The minimum required number of spaces for each use is calculated according to UDO requirements. The required number of spaces for each use is then applied to the percentages for each time, according to the appropriate land use category, to

determine the number of required spaces. This is done for each time category. Finally, the numbers are summed for all land uses within each timeframe and the highest sum total in a timeframe is the required number of spaces, which, due to the percentages, is less than would be required by simply summing the requirements at 100%.

SHARED PARKING CALCULATION						
LAND USE	Weekday			Weekend		
	Mid-7am	7am-6pm	6pm-Mid	Mid-7am	7am-6pm	6pm-Mid
Residential	100%	55%	85%	100%	65%	75%
Commercial	0%	100%	80%	0%	100%	60%
Restaurant	50%	70%	100%	45%	70%	100%
Hotel/Motel	100%	65%	90%	100%	65%	80%
Movie Theater	0%	70%	100%	5%	70%	100%
Office	5%	100%	5%	0%	60%	10%
Industrial	5%	100%	5%	0%	60%	10%

Land Banked Parking

The Ordinance could also allow for land banking for developments that require a large amount of parking, such as a shopping center. With land banking, only a certain percentage of the parking area is required to be constructed during initial development. The remainder of the parking area is kept as green space, reducing the amount of impervious surface on the site and improving the appearance of the area with additional landscape. Only if the demand increases such that the County sees a need to expand parking facilities is that land area (or a portion of it) called in and paved for parking spaces. The County could also allow the owner to subdivide and sell off the land banked area if the land has not been called in for parking three years after development, which encourages large developments to take advantage of the land banking provision.

Car-Sharing Bonus

The UDO should allow a reduction in the amount of parking required if the parking area shares spaces with a car-sharing program, such as “Zip Cars” or “iGo” (i.e., the intent is not to require additional spaces for car sharing above that required by ordinance). At a minimum, car sharing programs should be permitted in parking lots and parking structures. This type of bonus would be especially appropriate near incorporated municipalities.

The UDO should specify the amount and design of loading spaces.

Currently the Zoning Ordinance does not provide specific requirements for loading spaces, stating only that there needs to be a space on-site if a use ships or receives goods. This should be updated to a specific number of required loading spaces based on floor area, with appropriate exemptions for smaller businesses and a maximum number of loading spaces required. The loading requirements should also include design standards that address permitted location (distance from street intersections, which yards the loading space may or may not be located in, distance from abutting residential, etc.), surfacing requirements, required access control and permitted signs, and screening.

The UDO should require bike parking as part of some new parking lots.

Similar to vehicular parking requirements, certain uses could be required to provide bike parking. Generally the uses required to provide bike spaces include multi-family dwellings, retail, office, schools, places of worship, parks and entertainment uses. In addition to the number of bike spaces required, the provisions need to be supplemented with design and siting requirements:

- Bike parking facilities should provide racks or lockable enclosed lockers where the bicycle may be safely locked by the user.
- For residential uses, required bicycle parking should allow a variety of options for placement, such as in garages, storage rooms and other resident-accessible secure areas, and exclude space within dwelling units or on balconies.
- For parking lots over a certain size, a reduction in the number of parking spaces could be permitted when a certain number of bike spaces are provided.

Because of the varied nature of McHenry County, bike parking requirements cannot be applied throughout the County as a whole. This type of requirement would be most appropriate in those areas near the incorporated municipalities. Therefore, bike parking requirements in the County should be tied to a series of triggers that would determine when they are required. However, in no case would the Ordinance prohibit voluntary installation of bike parking facilities.

C. Landscape and Screening

The current Zoning Ordinance is limited to screening standards and should be updated to include site landscape for all aspects of development.

The Zoning Ordinance only addresses landscape in terms of screening in Section 308. These requirements do not provide the County with a comprehensive and consistent landscape scheme. The contribution of landscape to the visual quality of the built environment cannot be overemphasized. In addition to its aesthetic benefits, green space provides environmental benefits. For example, landscaped parking lots allow for stormwater absorption and reduce the heat island effect.

It is recommended that the UDO include landscape requirements for:

- Interior of parking lots
- Perimeter of parking lots
- Buffer yards between incompatible zoning districts and between incompatible uses
- On-lot landscaping requirements for higher intensity uses (multi-family, commercial and industrial) through building foundation landscape and landscape yards
- Screening requirements for refuse containers, loading areas, drive-thrus and outdoor sales, display and storage

Allowances would be built into each of these requirements that specific stormwater run-off absorption techniques are permitted and encouraged, such as landscape islands designed to absorb stormwater and the use of bio-swales and rain gardens as part of interior parking lot landscaping.

Design standards for landscape are necessary for proper implementation.

Basic landscape design standards should be included as part of the UDO, for example: prohibition of invasive species, minimum planting sizes, ongoing maintenance of required landscaping, replacement of dead or diseased plant material, etc. These standards are important because they assure a significant landscape impact by controlling the level of maturity required for plant types at the time of installation. Plantings that are too young (i.e., too small) could result in an insufficient level of landscape improvements during the first several years of a project and may not perform the intended screening and beautification functions until the plants mature.

Once landscape requirements are in place, the challenge will be to bring existing developed sites into compliance.

Landscape should be required when modification of parking lots and significant building permits are requested. When building additions or expansions are undertaken, the percentage of landscape required should be proportionally linked to the proposed additional building area. Existing parking lots should be required to comply with landscape requirements when a certain number of parking spaces are added to the lot or if the lot is reconstructed. A simpler but less flexible alternative would be to establish a time period over which all sites must be brought into compliance with the landscape standards. For example, all property owners must install the required landscape within a two year time period.

D. Signs

The County's sign regulations should be completely revised.

Sign regulation is one of the most defining aspects of a community's character. While the County has broad legal authority to control signs based on traffic and safety considerations, the exercise of that authority raises serious economic and constitutional issues. As such, sign regulations must be based on well-conceived and careful policy considerations. Good regulations must balance the needs of businesses and others to communicate with the public, and the needs of communities to protect the public welfare.

Sign standards should address the construction and design of signs, and to distinguish between the different types of permanent signs, prohibited signs, exempt signs, and temporary signs. For these reasons we believe that the County's current sign ordinance should be completely revised to create regulations that are clear, understandable and easily administered, legally sound, and strike a balance between the needs of businesses to advertise and the aesthetic concerns of the community.

The standards for permanent signs need to be evaluated to adjust permitted number, size and height.

Each type of permanent sign should be regulated by maximum height, maximum sign area, permitted districts, setback requirements and permitted locations. There are a number of issues related to each permanent sign type and the appropriate standards when located in the various districts.

Freestanding Signs

The current freestanding sign regulations are perhaps the most confusing section of the Sign Ordinance. Sections 502.3 through 502.6 appear to regulate freestanding *pole* signs, while Section 504 regulates *monument* signs. If this is the case, the distinction needs to be made clear.

In terms of freestanding pole signs, the maximum sign area of 260 square feet seems excessive, as do maximum heights (as related to setback) of 35 and 40 feet in business and industrial districts. Pole signs should relate to the character and form of each district. While the restriction of pole signs to the non-residential districts should be maintained, the maximum area and height should be reevaluated and adjusted for each individual district. Certain special circumstances, such as signs located near expressways, can be considered and allow for larger signs if needed. Setbacks from the lot line should be adjusted accordingly.

Monument signs are permitted in the residential and non-residential districts and the dimensional requirements align with those seen in many other communities. We would recommend maintaining these standards.

Wall Signs

Wall signs appear to include traditional wall signs, projecting signs and awning signs, and are permitted in the non-residential districts. The maximum area is controlled by an overall sign area for all types. Most sign ordinances separate these types of signs so that sizes, permissions and installation locations can be tailored by district. Also, because the regulations use an overall sign area, these can lead to out of scale signs, as a property owner may choose to use the square footage for one wall sign.

It is recommended to separate these three types of signs into separate sign categories, with their own standards.

Projecting Signs

Projecting signs are typically regulated by the amount of projection from the structure's façade, clearance, a limit on the number of projecting signs permitted, especially when used in a multi-tenant building, and maximum sign area standards by district. Projecting signs should be permitted only in non-residential districts.

Awnings and Canopies

It is recommended that awnings and canopies used as signs be limited to non-residential districts and standards included that regulate the amount of projection from the structure's façade, clearance, location regulations, and percentage of advertising allowed on awning or canopy.

Wall Signs

Regulating wall signs by a proportional measurement, as is done now, should be maintained though it is likely that the multipliers will need to be reduced since they would no longer include three sign types. The County should also consider allowing wall signs in residential districts for any non-residential uses that may be located in those districts, such as places of worship or schools.

Window Signs

Window signs do not appear to be regulated in the current sign ordinance, though an assumption could be made that they are part of overall wall sign calculation. The UDO should regulate both temporary and permanent window signs in order to maintain window transparency. Many communities use a 30% coverage limitation to address the total area covered by permanent and temporary window signs. Window signs should be permitted in non-residential districts.

Finally, it appears that only agriculture-related and temporary signs are permitted in agriculture districts. If some non-agriculture uses are permitted in those districts, such as places of worship or an agriculture business such as a feed store, the County may want to allow monument signs and wall signs, similar to non-residential uses in residential districts.

Temporary sign standards should be enhanced, so that the variety of temporary signs are controlled.

Currently all temporary signs are considered exempt under one category of "temporary signs." However, there are a variety of temporary sign that need their own set of standards. The following are examples of typical temporary signs:

- A-Frame Signs
- Banners
- Construction Signs
- Political Signs
- Real Estate Signs
- Temporary Pole Signs
- Temporary Wall Signs

For each of these types, and any others the County may see frequently, standards should be crafted for each that include setback, permitted timeframe, maximum size, and maximum number of temporary signs per lot. The County may also want to evaluate whether or not some temporary signs should require a sign permit. If a certain type of temporary sign, such as banners, tend to proliferate in the County and begin to be used as more of a permanent sign, requiring a sign permit would help to control this.

In defining the types of temporary signs, the UDO itself must be content-neutral, which means it must be applied regardless of the message of the sign. The current regulations in the McHenry County sign ordinance are content-neutral because they apply to all temporary signs and require any type of temporary sign to be removed within 30 days after the purpose for the sign has been completed. However, the current approach does not offer a refined control over the types of

temporary signs present in the community. In addition, a new state statute has imposed new regulation over a certain type of temporary sign.

The new exception to temporary signs are political campaign signs. Illinois law now provides that a non-home rule municipality may not: “[p]rohibit the display of outdoor political campaign signs on residential property during any period of time, the regulation of these signs being a power and function of the State ... 65 ILCS 5/11-13-1 (12) (West 2011).”

As long as the sign regulations refrain from regulating the actual message of the sign, which would render a First Amendment dilemma, the County is well within its power and authority to regulate temporary signs. A temporary sign can be defined but then further refined to include the "type" of sign, i.e. real estate signs and construction signs, but not regulate the content of the actual sign. The language of the ordinance will need to be clear to maintain content neutrality.

The Sign Ordinance only vaguely addresses electronic signs, generally regulating them as changeable copy signs.

Electronic signs are signs where informational content is changed or altered on a fixed display screen composed of electrically illuminated segments. The closest requirement in the current Ordinance is that of changeable copy signs. However, this is an outdated provision, as changeable copy signs are generally thought of as bulletin board signs where letter are manually changed. The County should clearly state its position on these sign types in the UDO. It is recommended that the County allow electronic message signs, as this has become an acceptable alternative in most communities to the older manually changeable copy signs because they present a neater, more coordinated and modern appearance.

Generally, electronic signs are regulated as one of the two following types: 1) electronic display screen, which is a sign (or portion of a sign) that displays an electronic image or video, which may or may not include text (i.e., TV screens) and includes television screens, plasma screens, digital screens, flat screens, LED screens, video boards and holographic displays; or 2) an electronic message sign, which uses changing lights to form a sign message or messages in text form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Both types of electronic signs should be clearly defined, and permitted or prohibited where appropriate.

Like many communities, it is recommended that the County limit electronic signs to electronic message signs, prohibiting electronic display screens altogether. By creating a specific provision for electronic message sign, the Ordinance can include specific controls needed for electronic message signs, such as permitted locations by district, spacing between electronic signs, limitations on brightness, and timeframes for the message to change over.

A master sign plan requirement can be added to the UDO to require sign coordination for multi-tenant developments.

Many communities require master sign plans when a new multi-tenant development is constructed. For example, in a multi-tenant development, the master sign plan can be written so that only one ground sign (whether pole or

monument) is permitted for the development, which identifies the name and address of the development and includes one identification sign per business, all of equal size. Permitted signs for each individual business can then be described in terms of placement, sign area and permitted sign types. For example, in a single-story development, all wall and window signs can be coordinated at the same height with the same maximum sign area. The master sign plan does not dictate color or content of the signs, but rather placement and size. This achieves a look that is coordinated and organized, even if there are a number of different fonts, styles and colors used.

Specific regulations are needed for billboards.

Currently, the County regulates billboards as a freestanding sign. It is recommended that the County create specific regulations for billboards, separate from freestanding signs, including regulations on location, size and the like. Any regulations crafted for billboards in the County must be in line with the Highway Advertising Control Act. For signs located on interstate highways and primary highways, both municipalities and counties must be in compliance with the Highway Advertising Control Act of 1971. This Act specifically references a County's ability to regulate signs when it outlines in Section 7 of the Act that "[i]n zoned commercial and industrial areas, whenever a state, county or municipal zoning authority has adopted laws or ordinances, which include regulations with respect to the size, lighting and spacing of signs, which regulations are consistent with the intent of this Act and with customary use, then from and after the effective date of such regulations, and so long as they shall continue in effect, the provisions of Section 6 shall not apply to the erection of signs in such areas."

The creation of separate billboard standards is particularly important if the freestanding sign regulations are revised, as those regulations will be tailored to the districts. In addition, the UDO should also address whether or not electronic billboards should be permitted. If the County would like to permit these, a series of standards for illumination, brightness and minimum duration of message must be crafted. Additionally, if the County would like to encourage electronic billboards, provisions for "trade-offs" of nonconforming existing billboards can be included. For example, for every three nonconforming billboards are taken down, one new electronic billboard can be erected. This creates an incentive to remove nonconformities.

VI. SITE IMPROVEMENT STANDARDS

The requirements for subdivision, including Conservation Design, should be consolidated into one section with standards rewritten so that requirements are as clear as possible.

The subdivision regulations contain a series of standards for site improvement when a lot is to be divided. These standards cover streets, drainage, utilities and a variety of other improvements. In addition, the Conservation Design (CD) regulations should be integrated into the subdivision regulations so that the standards of a subdivision are consistent with the standards of Conservation Design.

As site improvement standards are drafted, the language should be written as definitive as possible, eliminating terms such as "encourage," "discourage" and "minimize," so that applicants understand what is required.

Stormwater management requirements within the subdivision regulations need to be updated by cross-reference.

The current requirements for stormwater management should be eliminated and replaced with a cross-reference to the County's adopted Stormwater Management Ordinance. (This assignment does not include revisions to the Stormwater Management Ordinance.)

Right-of-way requirements need to be evaluated, updated and coordinated as needed.

A topic frequently mentioned during stakeholder interviews were the issues involved in roadway standards. Part of the confusion stems from the fact the subdivision regulations contain County roadway standards, which may conflict with those used by the township. This conflict needs to be resolved in the UDO, as the County cannot enforce township roadway standards.

The Township Highway Commissioner of each township has powers and duties provided for in Article 6 of the Illinois Highway Code - 60 ILCS 1/73-5 (West 2011). Such duties include: laying out, altering, widening, or vacating township or district roads (605 ILCS 5/6-201.2); constructing, maintaining, and repairing of roads within the district (605 ILCS 5/6-201.7); and a general charge of the roads of his district, repairing and improving the roads so far as practicable and cooperating and assisting in the construction and improvement of such roads (605 ILCS 5/6-201.8).

Given the fact that the Township Highway Commissioner derives his powers from Illinois Highway Code, and the Code itself does not specifically state that a township can legally adopt roadway standards on its own, it is unlikely that a township could enforce standards different than those included in the statutory language of the Highway Code. However, given the fact that the statutory language does state that the Highway Commissioner has the power to cooperate and assist in the construction and improvement of such roads, the County could take into account the desires of the township with regard to roadway standards and could incorporate such into its standards.

It is recommended that the County organize a meeting of Township Highway Commissioners to work as an advisory body during the UDO drafting to compile a list of roadway standards that could be applied County-wide.

In summary, the following issues will be addressed within the updated roadway standards, based on further discussion with the County:

- Create clear roadway standards, which can be drafted with the input of the Township Highway Commissioners.
- Determine if cul-de-sacs should be allowed. Currently the regulations ask that the use of cul-de-sacs be “minimized.” The UDO can outright prohibit cul-de-sacs or prohibit them except in certain defined and limited circumstances. If they are retained, the diameter should be updated to a sufficient width that allows for fire vehicle access.
- Determine in which instances sidewalks should be required, if not in all new developments. To create a more walkable environment within new developments, the County should consider requiring all developments to provide sidewalks, however this will require further discussion as the installation of sidewalks also requires the maintenance of sidewalks.
- Include standards that require new subdivisions to connect to existing subdivisions. This should address auto, bike and pedestrian access.
- Clarify maintenance responsibilities for roadways.
- Clarify roadway dedications prior to new subdivisions, particularly for those subdivisions that are located adjacent to state routes, where the Illinois Department of Transportation has jurisdiction.
- Determine if private roadways should be prohibited. If there is a need for roadways that do not meet the general County standards for right-of-ways, such as narrower roads for CD, standards acceptable to all jurisdictions should be drafted and adopted into the UDO, rather than defaulting to private roads as a “loophole” for not meeting the standards.

The Conservation Design Development Subdivision Ordinance is currently an addendum to the Subdivision Ordinance. Standard subdivision regulations and CD regulations should be consolidated into one ordinance for ease of use and understanding.

As the application process for conservation design is identical to that of a traditional subdivision (described in Section A1103), the two ordinances should be consolidated into one process. The additional submittal requirements for a CD would be identified in the submittal requirements for the various plats.

The UDO should have a process for exceptions to subdivision requirements.

The CD currently has a provision for variations (Section A1121) that appears to require the applicant to follow the zoning ordinance variation process. If the County would like to allow exceptions to CD or subdivision requirements, a separate process should be created for that which is not tied to zoning. Currently only the CD speaks of variations to the regulations; it is recommended that this be expanded as a permitted exceptions to subdivision regulations. It is also

recommended to use the term "exception" to distinguish this process for subdivision regulations from zoning regulations.

One process that the County could use for these subdivision exceptions is to generally follow the subdivision approval process. When an applicant presents their application, they may request exceptions to certain standards. This would then require a recommendation on these exceptions from the Staff Plat Review Committee, which would be forwarded to the Planning and Development Committee for their recommendation and finally to the County Board for their approval or denial. It will be important to clearly state that exceptions apply only to subdivision regulations – zoning regulations, such as minimum lot area and lot width, are subject to zoning variations, not exceptions.

It should be clear to UDO users when a CD is triggered as the required type of subdivision.

Currently the CD may be triggered automatically or the applicant may voluntarily choose to use the CD regulations. During stakeholder interviews, many stated that it was unclear when a CD is required. Part of this is likely due to organization, as the CD regulations are currently an addendum to the subdivision regulations.

Also, a required CD may be triggered either automatically or cumulatively. The use of these terms may also be confusing. The two can be consolidated into one section as "Required Conservation Design," where the calculation of cumulative triggers would be illustrated.

Finally, the Water Resources Action Plan also recommends that high priority recharge areas be added as a trigger for CD. More specifically, the subdivision ordinance should be revised to require an inventory of high priority recharge areas on the site and within 200 feet of the boundary of the site. These would become a one of the triggers for CD.

The County may want to strengthen the design standards contained within the CD regulations.

In many of the CD required design standards, the requirements are written in language that encourages, rather than requires, their application, and allows for significant leeway in implementation by the use of terms such as "where possible." In order to ensure that a CD fulfills its purpose and goals, this language should be strengthened through additional standards and more specific requirements. For example, the following requirements can be augmented:

- Section A1107 (Conservation Design Procedures) should be renamed Conservation Design Principles to more accurately reflect that these are principals for development. They provide general guidance to the application of a CD, rather than specific procedures.
- Section A1108.1 states that "sites shall be clustered where possible." Typically, CD requires clustering of sites and includes specific standards for maximum number of sites in a cluster, spacing between clusters, and how the clusters themselves should be sited and linked within the development.

- Within Section A1108.1, the encroachment of clusters into natural areas is to be avoided unless there are “no practical alternatives.” This language is rather open-ended and allows any applicant to make the case that there is no alternative. For a CD, encroachment into these listed natural areas should be prohibited, but, if the County would like to include some flexibility, there should be standards in place for evaluating that it is necessary, with a requirement that the developer provide something in kind to make up for the loss of such areas.
- The maintenance of scenic views from adjacent roadways is required, which can be supplemented with standards that describe how the scenic roadway must be maintained. These type of regulations are similar to those seen in Scenic Roadway Overlay Districts.
- The current buffer requirements are a minimum 30 feet from the perimeter of the development, increased to 50 feet if the perimeter abuts deeded open space or a natural area. For a CD, this is a relatively small buffer; it is recommended to increase this buffer width (many communities require a 100 foot buffer). However, if the current widths are maintained, the County should consider increasing the buffer along any part of the perimeter that abuts an agricultural use to 100 feet. This will help to create more compatibility between the CD and agricultural uses, as agriculture has numerous impacts in terms of noise, odor, dust and the like.
- In Section A1111, permeable paving is encouraged. The County can take this one step further and require that all parking spaces above the minimum number required be paved with a permeable surface where the soil is able to absorb the excess water.
- The exterior lighting standards may no longer be necessary, as it is proposed to add exterior lighting standards to the UDO generally.
- The subdivision regulations and CD standards for roadways should be aligned. While there may be some unique roadway characteristics in the CD that can be included in the standards, it is important that subdivisions of either type have the same requirements, especially if a CD is redeveloped at a later time.

Bulk requirements and density limitations in the CD need to be clarified.

There are a number clarifications needed within the bulk and density limitations of a CD. In principle, the full build-out of a CD should have a density equal to that of the underlying zoning, though the actual development sites are smaller, clustered and preserve more open space than the underlying zoning district regulations would. There are a number of issues in the current regulations that need to be evaluated and, if retained, identified with a purpose statement for their application. It is recommended that the CD remain density neutral, which is how conservation design developments are generally written throughout the country. To achieve this, two specific provisions need to be reconsidered:

- It is unclear why “per acreage” is used. This reduces the number of dwelling units that could be constructed, which may discourage the use of CD on a voluntary basis. By allowing a straightforward density calculation (maximum density equals the number of dwelling units permitted in the gross acreage) more units would be permitted but would not exceed the number allowed by underlying zoning. However, if

the gross acreage and underlying zoning district density is used, it is important to supplement many of the existing standards with more rigid requirements as described above (clustering requirements, etc.) to ensure proper design.

- For similar reasons, elimination of the density bonuses should be considered. In some cases, some of the qualifying items should be general requirements for a basic CD. Others should be used as qualifying "trade-offs" that developers can utilize if they encroach into natural areas. In particular, maintaining and/or reusing existing historic structures on the development site should be required.

Also, it is unclear if a CD is permitted within the A-1 and A-2 Districts. The regulations state that a CD is permitted in any district. Since a decrease in lot size is not permitted for the A-2 and A-1 Districts, this means that the underlying zoning district regulations would apply, which then means that the CD is not truly applicable to these districts (clustering would not apply, the site sizes remain the same, etc.). If this is true, the ordinance should state that the CD is applicable in the residential and non-residential districts only.

VII. ORDINANCE OUTLINE

Overview

The UDO should follow a consistent, structured pattern from beginning to end. One way to improve the organizational structure and, in turn, its ease of use, is to employ a system of compartmentalization. This is a technique whereby similar items of information are grouped together by regulatory categories and purpose. Once all similar regulations are grouped into their respective articles, lengthy articles with unrelated information, which users oftentimes find daunting and frustrating, are eliminated.

Based upon the current regulations contained within the various ordinances, the following structure illustrates the compartmentalization approach for the McHenry County Unified Development Ordinance.

- Article 1: Title, Purpose and Intent
- Article 2: Definitions
- Article 3. Unified Development Ordinance Administrators
- Article 4. Application Process
- Article 5. Zoning Applications
- Article 6. Subdivision Applications
- Article 7: Planned Unit Developments
- Article 8: Introduction to Zoning Map
- Article 9: Agricultural Zoning Districts
- Article 10: Residential Zoning Districts
- Article 11: Commercial Zoning Districts
- Article 12: Industrial Zoning Districts
- Article 13: Special Purpose Zoning Districts
- Article 14: Use Standards
- Article 15: Site Development Standards
- Article 16: Off-Street Parking and Loading
- Article 17: Landscape and Screening
- Article 18: Signs
- Article 19: Site Improvement Standards
- Article 20: Nonconformities
- Article 21: Enforcement

Each title is described in more detail below. These descriptions do not include recommendations for revisions; they only outline content.

Organization

Article 1: Title, Purpose and Intent

This article introduces the UDO. It includes the overall purpose and intent, its application to land and structures within McHenry County, and the transition rules upon adoption of the UDO or any amendments to the Ordinance. This mimics the current provisions of Article 1 and 9 of the County's Zoning Ordinance.

Article 2: Definitions

This article would contain all the definitions within the UDO, consolidating those in the Zoning Ordinance and those in other ordinances. As stated earlier, definitions should only *define* uses and terms, and not regulate.

Article 3. Unified Development Ordinance Administrators

This article would list all the powers related to boards, commissions, committees and officials involved in UDO administration, which would include zoning and subdivision regulations. By listing the responsibilities of these bodies and officials for all applications, including subdivision and conservation design applications, the process becomes easier for the user to understand how the application will be processed. At a minimum, the following boards, commissions, committees and officials should be included:

- County Board, including the role of the Planning and Development Committee
- Zoning Board of Appeals
- McHenry County Hearing Officer
- Code Enforcement Officer
- Department of Planning and Development
- Staff Plat Review Committee

Article 4: Application Process

The rules for processing the various applications and approvals should be consolidated into one article. Current administrative procedures would be reviewed for consistency with Illinois statutes and grouped into the following three sections:

- Filing of applications
- Notice requirements
- Public hearing procedures

Article 5: Zoning Applications

All zoning applications would be consolidated into this article, which would include the following applications:

- Zoning Amendments
- Variations
- Conditional Use Permit
- Site Plan Review (new application)
- Zoning Interpretations (new application)
- Zoning Appeals
- Sign Permit
- Temporary Use Permit

To the degree possible, the following structure would be used for each application:

- Purpose
- Applicability

- Authority
- Procedure and Timelines
- Approval Standards

Article 6. Subdivision Applications

The process for subdivision application and approval would be found in this article, including any special requirements for the Conservation Design process. This article would only describe the process; the design and approval standards for subdivision and Conservation Design are contained in a separate article.

Article 7: Planned Developments

If planned developments are included, the provisions are rather detailed, containing both a series of requirements and an application process. Therefore PD requirements are better organized within their own article.

Article 8: Introduction to Zoning Districts

This title is standard ordinance language that introduces the zoning districts and the zoning map.

Article 9: Agricultural Zoning Districts

Article 10: Residential Zoning Districts

Article 11: Commercial Zoning Districts

Article 12: Industrial Zoning Districts

Article 13: Special Purpose Zoning Districts

These articles would each contain the use and dimensional regulations, as well as any design standards, for each district grouped by larger land use category, rather than a single matrix as is the current organization.

While no map changes are expected, it is anticipated that additional districts could be created as part of the rewrite process, such as a residential district for the homes originally located along the river, a rural business mixed-use district and an overlay district for the sensitive aquifer recharge areas. These would be integrated within the appropriate articles.

Article 14: Use Standards

All use standards for principal uses (permitted and conditional uses) would be found in Article 14. This would be an enhancement of the standards contained in Article 5 of the current Zoning Ordinance. It is anticipated that conditions commonly attached to conditional uses would be incorporated into the UDO. This article would also include regulations on permitted temporary uses.

Article 15: Site Development Standards

This title covers a variety of on-site improvements outside of the principal building or use on a zoning lot. It is divided into three sections:

1. General On-Site Improvement Regulations: This section consolidates various standards, including standards such as how to the various bulk and yard regulations are calculated, exterior lighting provisions, view obstruction, etc. These regulations are found throughout the ordinances within various sections.

2. Accessory Structures and Uses: All accessory structure and use provisions would be brought together in this article. The current accessory uses and structures will be evaluated for their comprehensiveness, and the permitted type, size, location, etc. for all types should be included in the update.
3. Permitted Encroachments: These standards delineate which accessory structures and architectural features can be located within required yards. Conventional zoning terminology is to call these "permitted encroachments." These are best presented in table format.

Article 16: Off-Street Parking and Loading

Parking and loading standards would be located here. Various parking requirements (required number of spaces per use, required loading spaces, etc.) should be placed into table format.

Article 17: Landscape and Screening

One of the recommendations is to include comprehensive landscape and screening requirements. These would be located within this article.

Article 18: Signs

This article would include the sign provisions of the County's sign ordinance.

Article 19: Site Improvement Standards

Various site improvements standards from the current subdivision regulations and Conservation Design addendum would be consolidated in this article.

Article 20: Nonconformities

This article would include specific provisions for regulating: 1) nonconforming uses; 2) nonconforming structures; and 3) nonconforming lots of record. It should clearly define what a nonconformity is, and explain what changes and/or alterations are permissible for each type of nonconformity. Also, this article would include an explanation of grandfathering provisions.

Article 21: Enforcement

This article would include all the enforcement provisions for the UDO.

RESOLUTION

AUTHORIZING AN AMENDMENT TO RESOLUTION R-200708-10-208 AUTHORIZING ADOPTION OF HOUSING INVESTMENT PARTNERSHIP (HOME) PROGRAM FUNDING FOR THE 2007 PROGRAM, YEAR, AND

AUTHORIZING AN AMENDMENT TO RESOLUTION R-201104-10-093 AUTHORIZING ADOPTION OF HOUSING INVESTMENT PARTNERSHIP (HOME) PROGRAM FUNDING FOR THE 2010 PROGRAM YEAR, AND

AN EMERGENCY APPROPRIATION TO THE CDBG - HOME FY 2011 BUDGET AND THE SUBMITTAL OF AMENDED ACTION PLANS AS APPLICABLE TO HUD

WHEREAS, McHenry County has been designated as an “Entitlement County” by the U.S. Department of Housing and Urban Development (HUD) thereby receiving an annual allocation of Housing Investment Partnership (HOME) funds; and

WHEREAS, McHenry County received notice from HUD of a HOME allocation of \$499,629.00 for the 2007 Program Year and \$532,300.00 for the 2010 Program Year; and

WHEREAS, administration funds were set aside in HUD’s financial accounting system to be expended within five (5) years of agreements, but not recognized or committed through County resolution to allocate \$49,962.90 (PY 2007) and \$53,230.00 (PY 2010) to manage HOME program activities; and

WHEREAS, Resolutions R 200708-10-208 and R-201104-10-093 also did not include appropriations of \$49,962.90 and \$53,230.00 respectively to the County’s budgetary process.

NOW THEREFORE BE IT RESOLVED, by this County Board of McHenry County, Illinois, that the Chairman of the Board is hereby authorized to execute the necessary documentation to accept \$49,962.90 (PY 2007) and \$53,230.00 (PY 2010) in HOME program grant funding from the United States Department of Housing and Urban Development (HUD) to manage HOME program activities; and

BE IT FURTHER RESOLVED, that emergency appropriations in the amounts of \$49,962.90 (PY 2007) and \$53,230.00 (PY 2010) to the CDBG – Fund 2011 fiscal year budget is hereby authorized as follows:

OCA 100047-9405 (HOME – Federal Government Grants):	\$103,192.90
OCA 100047-3010 (HOME – Regular Salaries)	\$ 49,962.90
OCA 100047-3010 (HOME – Regular Salaries)	\$ 53,230.00

BE IT FURTHER RESOLVED, that this County Board approves and authorizes Community Division staff to submit the amended Action Plans for Program Years 2007 and 2010 as applicable; and

BE IT FURTHER RESOLVED, that the County Clerk is hereby authorized to distribute a certified copy of this resolution to the County Administrator; the County Treasurer; the County Auditor; the Associate County Administrator-Finance; and the Planning and Development Director.

DATED at Woodstock, Illinois, this 18th day of October, A.D., 2011.

 KENNETH E. KOEHLER, Chairman
 McHenry County Board

ATTEST:

 KATHERINE C. SCHULTZ, County Clerk

**Department of Planning and Development
McHenry County Government Center - Administration Building**

2200 North Seminary Avenue
Woodstock, Illinois 60098



815 334-4560 Fax 815 337-3720
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To: Tina Hill, Chairman, and members of the Planning and Development Committee
Scott Breeden, Chairman, and members of the Finance and Audit Committee

From: Maryanne Wanaski
Community Development Division

Date: September 28, 2011

Re: HOME Investment Partnerships Program (HOME) 2007 and 2010 Administration
Allocation

Action Required:

Recommendation to the McHenry County Board approving the attached Resolution to amend Program Years 2007 and 2010 HOME Investment Partnerships Program (HOME) funding to include allocations for administration dollars.

Background:

As noted in the attached Resolution, the 10% allocation for grant administration is reserved in HUD's financial accounting system, but was not committed with the County by resolution.

Discussion:

In order to account for previously set aside administration funds and to evidence proper documentation in the County's budgetary system, the attached Resolution amends each of the 2007 Program Year and the 2010 Program Year funding allocations for the Housing Investment Partnership Program (HOME) to include said administration funds and directs Community Development staff to submit to HUD applicable amended Action Plans for programs years as required.

Attachments:

1. Resolution

BYLAWS

McHENRY COUNTY

COMMUNITY DEVELOPMENT BLOCK GRANT COMMISSION

I. BACKGROUND

The Community Development Block Grant (CDBG) Program was established by the Federal Housing and Community Development Act of 1974 (Act). Administered nationally by the U.S. Department of Housing and Urban Development (HUD), the Act combined eight categorical programs into a single block grant program. Through this program, funds are available to assist McHenry County communities meet their greatest economic and community development needs, with an emphasis upon helping persons of low-to-moderate income.

In order to ensure that the program meets the intent of the Act, as amended and reauthorized by the National Affordable Housing Act of 1990, Congress has required that entitlement programs meet at least one of the following three national objectives:

1. Benefiting low and moderate income persons;
2. Aiding in the prevention or elimination of slums and blight; and
3. Meeting other community development needs that pose a serious and immediate threat to the health and welfare of the community.

Within the statutory requirements of the Act, McHenry County has the flexibility to design its own program objectives and procedures for program administration and to develop criteria for selection of grant recipients. The County's CDBG program is intended to supplement the efforts of localities in initiating and/or engaging in a community development process.

To complement these three federally-mandated national objectives, the County has established the following specific objectives for its Community Development Block Grant Program:

1. Improvement of public infrastructure and elimination of conditions which are detrimental to health, safety and public welfare;
2. Conservation of the County's housing stock in order to provide a decent home and a suitable living environment for persons of low and moderate income;
3. Strengthening of community economic development by creating jobs, stimulating private investment and expanding the tax base; and,
4. Support of the full range of public services required to make McHenry County a suitable living environment for its low and moderate income residents.

The McHenry County Community Development Block Grant Commission (Commission) has been established by the County Board to manage the County's CDBG/~~HOME~~ grant program. The Department of Planning and Development will provide staff support to the Commission.

It is intended that the Commission ~~will~~ establish policies and procedures for program management, review sub-grantee applications and recommend projects for grant funding to the County Board. The County Board ~~will~~ **shall be the responsible entity that** makes the final determination regarding the use **and allocation** of CDBG/~~HOME~~ grant funds. ~~The County Board,~~

~~through its Chairman, is delegating the responsibility for operating and maintaining this program in compliance with federal law and all related rules and regulation to the Commission.~~

II. PURPOSE

It shall be the purpose of the McHenry County Community Development Block Grant Commission to act as representative body of elected officials and citizens to ascertain facts, ~~prepare~~ **recommend** plans and programs, coordinate activities, set priorities for funding and undertake such other activities that may be necessary and appropriate to accomplish the purpose(s) of the Act, as approved by the McHenry County Board.

III. MEMBERSHIP

The Commission shall consist of ~~seventeen (17)~~ **a minimum of seven (7), maximum of nine (9) voting members.** ~~The Chairman of the County Board shall appoint six (6) County Board Members (one from each County Board District) and one (1) citizen who shall represent a human service agency within McHenry County.~~ **There shall be at minimum three (3) and at maximum, five (5) ex-officio members of the Commission; total Commission membership shall not exceed fourteen (14) members.**

It is a goal of the Commission to create a public-private partnership that represents a broad spectrum of stakeholders. Voting membership shall include:

- 1. One member of the McHenry County Board,**
- 2. Representation at large from among the following professions, associations or organizations: banking industry, McHenry County Association of Realtors, McHenry County Homebuilder Association, McHenry County Bar Association, carpenters, electricians, plumbers, building inspectors, architects, engineers**
- 3. Members of the general public,**

Membership shall include at minimum three (3) and at maximum five (5) ex-officio members consisting of:

- 1. A Township Supervisor,**
- 2. A Township Road Commissioner**
- 3. A representative from a municipality of McHenry County limited to a Mayor, Trustee, or Manager,**
- 4. A representative from the McHenry County Housing Authority,**
- 5. A representative from two (2) McHenry County service agencies.**

All members shall be residents of and/or, employed in McHenry County, and/or serve as an elected or appointed official serving McHenry County, and shall be actively engaged in business in, or concerned with the welfare of the people in McHenry County

~~The Chairman of the McHenry County Board shall also appoint six (6) citizen at large representatives, with one representative being appointed from each of the six County Board districts based upon their place of residence. Recommendations for appointment of the six~~

~~citizens at large shall be made by the Community Development Block Grant Commission based upon application and interviews.~~

~~The McHenry County Township Supervisor's Association shall appoint one (1) Township Supervisor.~~

~~The McHenry County Township Road Commissioner's Association shall appoint one (1) Township Road Commissioner.~~

~~The McHenry County Economic Development Corporation (EDC) Board of Directors shall appoint one (1) Board Member.~~

~~The McHenry County Housing Authority Board of Commissioners shall appoint one (1) Commissioner.~~

~~The Chairman of the Board shall serve as an ex-officio Member of the Commission and any of its Subcommittees.~~

- A. **APPOINTMENT:** Preliminary membership of the Commission shall be appointed by the Chairman of the County Board in consultation with the Planning and Development Committee subject to confirmation by resolution of the full County Board. Future membership of the Commission shall be determined by recommendation of the P&D Committee with approval by the County Board.
- B. **TERMS:** ~~Each Commission Member shall be appointed for a two-year term. The initial term shall commence on October 19, 1995 and end on December 31, 1997. As of January 1, 1998 County Board Members, Township Supervisor, and Township Road Commissioner Members shall be appointed to a one-year term in order to achieve a staggering of terms. Municipal Representatives and Representative Citizens of McHenry County shall be appointed to a two-year term. As of January 1, 1999 County Board Members, Township Supervisor, and Township Road Commissioner Members shall be appointed to a two-year term.~~

~~The terms, reappointment, and removal of Commission members shall be as follows: Commissioners shall serve for terms of three (3) years, and may serve a maximum of three (3) terms, successive or otherwise. Terms are to be staggered with the goal of having the terms of no more than one-third of the membership expiring in any given year. Terms of the Commissioners may be adjusted at the time of preliminary appointment in order to achieve staggered termination dates.~~

- ~~1. Vacancies shall be filled if needed to maintain the minimum number of Commissioners required herein. Commissioners appointed to fill a vacancy shall be appointed for the unexpired term of his or her predecessor in the office. If the remaining expired term is greater than eighteen months, then this shall be considered the newly appointed Commissioner's first term.~~
- ~~2. A Commissioner may be removed if he or she fails to attend Commission meetings on three (3) or more occasions in any twelve (12) consecutive calendar month period, or if he or she is found to undermine the purposes of the Commission via a majority vote of the total Commission and said termination is approved by the County Board.~~

C. COMPENSATION: No member of the Commission shall be entitled to receive any compensation for services rendered in such office. However, each officer shall be entitled to reimbursement for any expenses reasonably incurred in performing such services other than in connection with his attendance at meetings of the Commission or any committee.

C. VACANCIES: ~~When a position on the Commission becomes vacant, the vacancy shall be filled in a timely fashion in the same manner of appointment and by a person of the qualification as prescribed in Section III above.~~

D. ABSENCES: ~~A Commissioner may be removed if he or she fails to attend Commission meetings on three (3) or more occasions in any twelve (12) consecutive calendar month period, or if he or she is found to undermine the purposes of the Commission via a majority vote of the total Commission and approval of the Chairman of the County Board. The subsequent vacancy shall be filled in accordance with Section III Membership, Item B. vacancies as stated herein.~~

IV. OFFICERS

~~There shall be a Chairman, Vice-Chairman, and Secretary of the Commission. The Chairman shall be a County board Member and shall be designated as Chairman by the Chairman of the McHenry County Board at the time of appointment, The Vice-Chairman and the Secretary shall be elected by the Commission Members from among the Commission Membership.~~

A. DUTIES:

~~1. **CHAIRMAN:** Shall preside at all Commission meetings; appoint Subcommittees with the advice and consent of the Commission; sign all Resolution and document requiring to be executed on behalf of the Commission; and perform such other duties as prescribed by the Commission.~~

~~2. **VICE-CHAIRMAN:** Shall serve, perform all duties and exercise all powers of the Chairman in the absence of or given the inability of the Chairman to act. The Vice-Chairman shall assist the Chairman as requested.~~

~~3. **SECRETARY:** Shall provide notices for all regularly scheduled meetings of the Commission and its Subcommittees at least seven (7) days prior to any such meeting; provide an agenda and related documents for each such meeting at least seven (7) days in advance for general distribution; prepare minutes of all meetings of the Commission and its Subcommittees; and maintain all records of the Commission's operations. The County Board Office shall provide clerical support to the Commission and its Secretary.~~

B. TERMS: ~~Officers shall serve from the date of their appointment/election for a term of two (2) years.~~

C. SUCCESSION: ~~Officers may serve two year terms in succession.~~

A. OFFICERS: The Officers of the Commission shall be a Chairman, a Vice-Chairman, and other such officer positions as established by the Chairman of the Commission. Officers whose authority and duties are not outlined in these bylaws shall have authority at the

discretion of the Chairman.

- B. TERM AND APPOINTMENT:** The Chairman of the Commission shall be a member of the County Board appointed by the Chairman of the McHenry County Board and shall serve for a term of two (2) years from the date of their appointment. The appointed Chairman shall be subject to reappointment by the Chairman of the McHenry County Board for one additional term successive. Other officers of the Commission shall be elected by the members of the Commission and shall serve for a term of two (2) years with a maximum of two (2) terms successive or otherwise. Vacancies may be filled or new offices created and filled at any meeting of the Commission by a majority vote of the membership present. The Vice-Chairman shall be determined by a majority vote of the Commission.
- C. REMOVAL:** Any officer elected by the members of the Commission may be removed by a majority vote of the members of the Commission whenever in their judgment as prescribed in Section III.B.2 the best interests of the Commission would be served thereby, subject to approval from the Chairman of the McHenry County Board and the Chairman of the Block Grant Commission.
- D. CHAIRMAN:** The Chairman shall be in charge of the business and affairs of the Commission; he or she shall see that the resolutions and directives of the Commission are carried into effect except in those instances in which that responsibility is assigned to staff; and, in general, he or she shall discharge all duties incident to the office of Chairman and such other duties as may be prescribed by the Commission. The Chairman shall preside at all meetings of the Commission except in those instances in which the authority to execute is expressly delegated to another officer or agent of the Commission or a different mode of executive is expressly prescribed by the Commission or these bylaws.
- E. VICE-CHAIRMAN:** The Vice-Chairman shall perform the functions of the Chairman when the Chairman is not present at regular or special meetings of the Commission and otherwise perform the functions of the Chairman when the Chairman is unavailable or incapable of performing those functions.

V. MEETINGS

All meetings of the Commission and its Subcommittees shall be open to the public and shall be conducted in accordance with the *Illinois Open Meetings Act* as may be amended from time to time. The Commission shall maintain its principal office in care of the McHenry County Department of Planning & Development, 2200 Seminary, Woodstock, Illinois 60098. Other offices within McHenry County may be designated from time to time by the Commission.

- ~~A. **ORGANIZATIONAL MEETING:** The first meeting of the Commission shall be an organizational meeting and shall be held within thirty (30) days of approval of these By-Laws by the County Board.~~
- ~~B. **REGULAR MEETINGS:** There shall be regularly scheduled meetings of the Commission. The Commission shall set the schedule of meetings. Said schedule shall take cognizance of the time required to meet the U.S. Department of Housing and Urban Development application requirements or the requirements of any agency of the State of Illinois.~~

~~C. **SPECIAL OR EMERGENCY MEETINGS:** The Chairman may call special or emergency meetings of the Commission on his/her own initiative or at the request of one-third of the Commission Members (6). Notice of special meetings shall be given at least two business days prior to such meetings to each Commission Member. Notice of emergency meetings shall be given with as much notice as possible to the Commission Members. The notice shall include the time, date and location of the special or emergency meeting. Business conducted at a special or emergency meeting shall be limited to those items specified in the agenda for said meeting(s).~~

~~E. **PLACE:** All meetings of the Commission shall be held in the McHenry County Government Center, unless otherwise designated by the Commission.~~

A. REGULAR MEETINGS: There shall be a minimum of three (3) regular meetings of the Commission per calendar year. Regular meetings will be set each year by an annual calendar schedule. The Chairman of the Commission will enforce the Commission calendar and comply with necessary provisions to properly notice members of the Commission and the general public in accordance with the *Illinois Open Meetings Act*.

B. SPECIAL MEETINGS: Special meetings of the Commission may be called by the Chairman or no less than one-third of the total members of the Commission, and subsequent notice is to be at minimum forty-eight (48) hours prior to the established meeting date for Commissioners and the general public. The location of the meeting is per the party of request and shall follow meeting guidelines as contained above.

C. NOTICE: Notice of all meetings of the Commission shall be given in accordance with the *Illinois Open Meetings Act* by written notice delivered personally or sent by mail, fax or email to each member at his or her address as shown by the records of the Commission and stated preferred method of contact. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If sent by electronic copy, such notice shall be deemed to be delivered as of the date of the transmission.

D. ORDER OF BUSINESS: The Commission shall generally observe the following order of business at all meetings of the Commission and its Subcommittees:

1. Call to Order
2. Roll Call of Members
3. Approval of Minutes
4. Public Participation
5. Old Business
6. New Business
7. Reports to the Commission
8. Members Comments, Miscellaneous Business and Announcements
9. Adjournment

~~VI. SUBCOMMITTEES~~ **AD-HOC COMMITTEES/TASK FORCE MEMBERSHIP**

~~The Chairman may appoint, with the consent of the Commission, Subcommittees deemed appropriate.~~

The Commission may create one or more ad-hoc committees or task forces and authorize it to accomplish a specific purpose. Each ad-hoc committee or task force shall act at the sole discretion of the Commission via instruction of the Chairman and shall report all actions and activities to the Commission. All ad-hoc committees and task forces shall be chaired by a member of the Commission, but non-commission members may serve on the body.

VII. QUORUM

~~A quorum shall consist of a majority of the Commission members (9). A quorum shall be required for the conduct of business by the Commission. A quorum of any Subcommittee subsequently appointed shall be a majority of members of the Subcommittee.~~

A majority of the total voting membership shall constitute a quorum at any meeting of the Commission. If a quorum is not present, the majority of the total members present shall adjourn the meeting to another date and time.

VIII. VOTING REQUIREMENTS

Each designated **voting** Commission Member is entitled to one (1) vote on all matters coming before the Commission and requiring a vote of the Commission. The vote must be cast by the Member, who must be in attendance at a duly appointed, legally called meeting of the Commission. No proxy votes or absentee voting shall be permitted.

The concurrence of a majority of the total ~~Commission Members (9)~~ **voting-member bloc** is necessary for the passage of any motion incurring a financial obligation or approving the allocation of grant funds to subrecipients. All other actions of the Commission shall require a majority of the Commission Members present (**voting or ex-officio**), provided there is a quorum present.

~~A vote on a motion to reconsideration may be made at any time prior to the adjournment of the meeting at which the original motion was voted upon. A motion for reconsideration must be made by a Commission Member who voted on the prevailing side of the original motion.~~

IX. RULES OF ORDER

The Chairman shall preside at all Commission meetings, shall preserve decorum and shall conduct said meetings in an orderly fashion. The Chairman may speak to points of order and shall decide all questions of procedure. The Chairman shall vote in case of a tie and may vote on any matter before the Commission. ~~Questions of procedure for meetings of the Commission not covered by these Bylaws, shall be governed by the latest edition of Roberts Rules of Order, Revised.~~ In case of any disturbance or disorderly conduct, the Chairman shall have the power to remove the cause of same or suspend the meetings.

The Commission shall follow Robert's Rules of Order in the conduct of each meeting and comply with the requirements of the *Illinois Open Meetings Act* (Stat. Ch. 102, Section 41) as amended.

X. DISQUALIFICATION/~~CONFLICT-OF-INTEREST PROVISIONS~~

~~No Commission Member who has an individual financial or other material interest in any matter coming before the Commission shall participate in the deliberations or the decisions in such matters. Furthermore, Members who recognize that they may have such an interest shall so state during the public deliberations of the Commission.~~

No Commission member who has a direct financial interest, or is an employee or representative in any capacity of an entity having interest in any matter coming before the Commission shall participate in the deliberations or the decision in such matters.

In order to serve on the CDBG Commission, voting-bloc Members agree to abide by the provisions of 24 CFR 92.356, 24 CFR 85.36 and 24 CFR Part 84.42 with respect to conflicts of interest, and covenants and certifies that he or she presently has no financial interest and shall not acquire any financial interest direct or indirect, or any such benefit, which would conflict in any manner or degree with the performance of services required per their term of office as a voting-bloc Member. In addition to not being allowed to have a financial interest as stated above, voting-bloc Members shall not be employed or retained by any subrecipient organization. These conflicts of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of a McHenry County subrecipient organization. Lastly, voting-bloc Members as outlined herein may not acquire a financial interest or any such benefit due to family or business ties to a member, an employee, agent, consultant, officer, or elected official or appointed official of the Participating Jurisdiction known as the County of McHenry, Illinois.

XI. RESCISSION

No action of the Commission shall be rescinded at any special meeting of the Commission unless there shall be present at such special meeting at least as many **voting-bloc** Members as were present at the meeting at which such action was originally approved.

XII. DURATION

~~The Commission shall continue to exist until all CDBG/HOME funds have been expended, returned to the funding agency, or otherwise accounted for the satisfaction of the funding agency.~~

XIII. AMENDMENT

~~These By-Laws may be amended by Resolution of the McHenry County board by simple majority of those voting at a regular or special meeting thereof.~~

These bylaws are subject to review and approval of the McHenry County Board. The power to amend or repeal these bylaws or adopt new bylaws may be exercised by no less than a majority of the current membership of the Commission or at the request and discretion of the McHenry County Board and final approval by and of a Resolution of the McHenry County Board by simple majority of those voting at a regular or special meeting thereof.

XIV. SEVERABILITY

If any provision of these By-Laws is found to be invalid for any reason, such invalidation shall not affect other provisions of the By-Laws which can be given effect without the invalid provisions, and to this end, to provisions of these By-Laws are to be severable.

XV. LEGAL COUNSEL

~~The Commission shall seek appropriate legal advice if, and/or when, it is needed, from the McHenry County State's Attorney.~~

The Commission shall seek appropriate legal advice if and/or when, it is needed from the McHenry County State's Attorney. Members of the Commission and subsequent staff and contracted parties shall be indemnified against expenses, judgments, fines and settlement amounts incurred with any action or suit whether civil, criminal, administrative, or investigative, for the reason that he or she is affiliated with the Commission and acted in a good faith manner in respect to the interests of the Commission and no reasonable cause is suspect to be unlawful or not in accordance with the Commission.

XVI. FISCAL/PROGRAM YEAR

~~The Commission shall operate on both a Program Year, as prescribed by the funding agency and shall also operate within the parameters of the County's Fiscal Year (December 1 through November 30).~~

The fiscal year of the Commission shall begin on December 1 in accordance with the County. All fiscal activities of the initial term of the Commission shall be retroactive to the stated date.

XVII. EFFECTIVE DATE

These Bylaws shall become effective upon approval of the County Board. Any amendment to these Bylaws shall take effect immediately upon approval by the County Board.

APPROVED: July 18, 1995 by Resolution No. R-9507-2250-170.

AS AMENDED: July 15, 1997 by Resolution No. R-9707-10-180.

AS AMENDED: May 18, 2010 by Resolution No. R-201005-10-122

**Department of Planning and Development
McHenry County Government Center - Administration Building**

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TO: Tina Hill, Planning & Development Committee Chairman
Planning & Development Committee Members

FROM: Maryanne Wanaski
CD Administrator

DATE: September 29, 2011

RE: Recommendation of approval for the Adoption and Implementation of revised
McHenry County Community Development Block Grant Commission Bylaws

Board Action Required: Recommendation of approval of revised Community Development Block Grant (CDBG) Commission Bylaws to be forwarded to the McHenry County Board via ordinance.

Background: The CDBG Commission was originally established by the County Board in 1995 to ensure that the County's program met the *Federal Housing and Community Development Act* of 1974. Through the County's program, funds have been made available from the U.S. Department of Housing and Urban Development to assist County communities' meet their infrastructure/service needs with an emphasis on helping persons earning low-to-moderate incomes.

Discussion: The CDBG Committee is currently comprised of seventeen (17) members including six (6) County Board Members, one (1) township supervisor, one (1) township road commissioner, municipal representatives, members representing service organizations and members selected from the general public. Through research by the County's Auditor and discussions with the State's Attorney's Office and CD staff it was suggested to the P&D Committee to revised the CDBG Commission's bylaws to eliminate as much as possible any actual or perceived conflicts of interest in order to more fully comply with HUD regulations and the County's adopted ethics policies and ordinance.

Per P&D Committee recommendations, the proposed revisions allow for a voting membership of seven (7), maximum of nine (9) members and three (3) to five (5) ex-officio members. Voting on any funding or financial obligation will come from just the voting bloc; however, all members may vote on any other Commission matter.

In addition to the elimination of conflicts, it is hoped that a smaller member based Commission and fewer meetings will help achieve a quorum more often than not.

Impact of Budget (Revenue, Expenses and Fringe Benefits): Approval of the revised bylaws and restructured Commission as a County entity will have no impact on County funds as the Commission will continue to be funded through Community Development Block Grant Administration funds in accordance with approved HUD activities.

Impact on Capital Expenditures: Approval to adopt revised CDBG Commission bylaws will not have an impact on capital expenses.

Impact on Physical Space: Approval to adopt revised CDBG Commission bylaws will not have an impact on physical space.

Impact on Other County Departments or Outside Agencies: Approval of the revised CDBG Commission bylaws will continue to impact the McHenry County Planning and Development Department through the Community Development Division, as the Department will continue to serve as the responsible entity for staffing of the Commission and necessary assistance through administration.

Conformity to Board Ordinances and Policies: The revised bylaws conform to all County ordinances and policies in relation to the rights to establish/re-establish such a Commission.

Attachments/Appendices: Revised CDBG Commission Bylaws