

VILLAGE OF MIDDLEVILLE

BARRY COUNTY, MICHIGAN

At a regular meeting of the Village Council of the Village of Middleville, held in the Village of Middleville Council Chambers, 100 E. Main St., within the Village, on the 23 day of May, 2023, at 7:00 p.m.

PRESENT: Mike Cramer, Johnny DeMaagd, Richard Hamilton, Robert Bishop, MaKenzi Peters, Kevin Smith, Ann Williams

ABSENT: None

The following Ordinance was offered by Hamilton and seconded by DeMaagd:

ORDINANCE NO. 2131

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF
THE VILLAGE OF MIDDLEVILLE**

[Flats at Mid-Villa Planned Unit Development]

THE VILLAGE OF MIDDLEVILLE ORDAINS:

CONTENTS

SECTION 1.	PLANNED UNIT DEVELOPMENT.	1
SECTION 2.	REZONING TO PUD DISTRICT.	1
(A)	DEVELOPMENT PLAN	1
(B)	COMMERCIAL AND RESIDENTIAL LANDS AND USES.	2
(C)	COMMERCIAL PARCELS AND LAND USES.	2
(D)	RESIDENTIAL LANDS AND USES.....	3
(E)	SITE ACCESS; STREETS; DRIVEWAY TO ADJACENT LAND.....	5
(F)	OFF-STREET MOTOR VEHICLE PARKING AND CIRCULATION.	6
(G)	SANITARY SEWER SERVICE AND PUBLIC WATER SUPPLY.....	7
(H)	SURFACE WATER DRAINAGE.	7
(I)	LANDSCAPING.....	8
(J)	OUTDOOR LIGHTING.	9
(K)	SIGNAGE.	10

(L)	SIDEWALKS; PEDESTRIAN PATHWAY.....	11
(M)	REFUSE DISPOSAL.....	12
(N)	WETLAND PROTECTION.	13
(O)	UNDEVELOPED OPEN SPACE.....	13
(P)	FIRE CODE COMPLIANCE; VILLAGE FIRE CHIEF REQUIREMENTS.....	13
(Q)	PHASING OF CONSTRUCTION.....	14
(R)	EMERGENCY ACCESS.	14
(S)	PERFORMANCE GUARANTEE.....	15
(T)	OTHER MATTERS.	16
SECTION 3.	FINDINGS UNDER SECTION 78-474.	17
SECTION 4.	ENFORCEMENT.....	18
SECTION 5.	PUBLICATION AND EFFECTIVE DATE.	19

Section 1. ***Planned Unit Development.*** The zoning ordinance and the zoning map of the Village of Middleville are hereby amended to rezone the following described lands from the C-2 Highway Commercial District to the Mixed-Use Planned Unit Development (PUD) District, in accordance with the final development plan of The Flats At MidVilla Planned Unit Development, subject to all of the following terms and conditions of this ordinance:

PARCEL 1: That part of the Northeast 1/4, Section 22, Town 4 North Range 10 West, Thornapple Township, Barry County, Michigan, described as: Commencing at the North 1/4 corner of Section 22, thence North 88 degrees 53 minutes 06 seconds East 70.65 feet along the North line of said Northeast 1/4; thence South 29 degrees 52 minutes 40 seconds East 1551.32 feet along the centerline of M-37 (120 feet wide) to the PLACE OF BEGINNING of this description; thence South 29 degrees 52 minutes 40 seconds East 48.68 feet along said centerline; thence South 54 degrees 30 minutes West 420.02 feet; thence South 29 degrees 52 minutes 40 seconds East 360.39 feet; thence North 60 degrees 07 minutes 20 seconds East 205.00 feet; thence South 34 degrees 52 minutes 40 seconds East 244.00 feet; thence South 60 degrees 07 minutes 20 seconds West 300.00 feet; thence South 01 degree 07 minutes 20 seconds West 185 feet more or less to the North line of the South 10 Acres of that part of said Northeast 1/4 which lies Westerly of the centerline of Arlington Street; thence Westerly 696 feet more or less along said North line to its intersection with the West line of said Northeast 1/4; thence North 01 degree 30 minutes 31 seconds West along said West line a distance of 1023 feet, more or less to its intersection with the South line of PIONEER FARM SUBDIVISION; thence North 88 degrees 09 minutes 21 seconds East 807.78 feet along the South line of PIONEER FARM SUBDIVISION and its extension to the place of beginning.

PARCEL 2: That part of the Northeast fractional one quarter of Section 22, Town 4 North, Range 10 West, Thornapple Township, Barry County, Michigan, described as: Commencing at the North 1/4 post of Section 22, Town 4 North, Range 10 West, thence East 1.1 feet to Westerly right of way of Highway M-37, thence South 29 degrees 53 minutes East 2,236.2 feet to point of beginning; thence South 29 degrees 53 minutes East 500 feet, thence West 625.5 feet, thence North 01 degrees 07 minutes 20 seconds East 185 feet, thence North 60 degrees 07 minutes 20 seconds East 300 feet, thence North 34 degrees 52 minutes 40 seconds West 244 feet, thence North 60 degrees 07 minutes 20 seconds East 213 feet to center line of M-37, thence Southeasterly to point of beginning.

EXCEPT: That part of the Northeast 1/4, Section 22, Town 4 North, Range 10 West, described as: Commencing at the North 1/4 corner of Section 22; thence South 00 degrees 46 minutes 03 seconds East 2393.27 feet along the West line of said Northeast 1/4; thence North 89 degrees 30 minutes 54 seconds East 1215.20 feet along the North line of the South 10 acres of that part of the Northeast 1/4, Section 22 which lies West of the centerline of Arlington Street to the place of beginning of this description; thence North 60 degrees 51 minutes 33 seconds East 133.20 feet; thence South 29 degrees 08 minutes 27 seconds East 72.79 feet along the centerline of Highway M-37; thence South 89 degrees 30 minutes 54 seconds West 151.80 feet along said North line to the place of beginning.

In the event of conflict between any part of the final development plan and the terms of this ordinance, this ordinance shall control.

Section 2. ***Rezoning to PUD District.*** The rezoning of the above-described lands to the Planned Unit Development (PUD) District is expressly subject to all of the following terms and conditions:

(a) ***Development Plan.*** The Flats at Mid-Villa Planned Unit Development (the “Development”) shall comply in all respects with the final development plan (the “Plan”), having a last revision date of April 28, 2023, except as the Plan may be changed, revised, modified or

required to be augmented by the terms of this ordinance, and as to such matters, this ordinance shall control.

(b) *Commercial and Residential Lands and Uses.* The Development consists of four outlots (each an “Outlot” and collectively, the “Outlots”), for such commercial uses as are permitted by this ordinance; and a land area and multi-family buildings consisting of residential apartments and off-street parking areas, undeveloped open space, private streets, private water and sanitary sewer facilities, a storm water drainage system, outdoor lighting, signage, landscaping and other features and amenities shown on the Plan and as otherwise required by the terms of this ordinance.

(c) *Commercial Parcels and Land Uses.*

(1) The Development shall include Outlots A, B, C and D each being located and having an area and configuration shown on the Plan, with vehicle access off M-37 Highway by means of west entrances of the looped internal private street adjacent to the Outlots.

(2) The Outlots are included in a Future Phase of the Development, but only Outlot D has a future identified use as a self-storage facility. As of the date of this ordinance, the future uses for Outlots A, B and C have not been identified, nor is a particular land use approved for any such Outlot by the terms of this ordinance.

(3) The use and development of each of the Outlots shall be subject to site plan review and approval by the Planning Commission, including the land use of each Outlot, consistent with the terms of this ordinance. It is understood that at the time of site plan review the particular dimensions and/or configuration of an Outlot may be revised, and the Planning Commission is authorized to approve such revisions not substantially inconsistent with the Plan and this ordinance.

(4) Outlots A, B, and C may include the following uses: a sit-down restaurant; professional offices; medical and dental offices; a bank or other financial institution; small retail or service uses such as those permitted in the C-2 District though subject to Planning Commission approval in site plan review; a licensed child care center; and a hotel or motel.

(5) The following land uses are prohibited in all of the Outlots: a so-called big-box store; a strip commercial center (defined as more than two individual businesses in a single building); gasoline service stations; vehicle wash establishments; vehicle repair; other high-traffic commercial uses; and land uses not approved by the Planning Commission in site plan review for any of the Outlots.

(d) *Residential Lands and Uses.*

(1) The Development may include an area for residential uses, consisting of apartment buildings, condominium buildings, attached and unattached garages, a clubhouse building, off-street parking areas and other residential features and amenities as shown on the Plan, but limited to the extent and in the respects stated in this ordinance.

(2) The residential portion of the Development shall consist of the following:

(i) Phase 1: three apartment buildings, of three stories each, not to exceed 37 feet in height as calculated by the village code of ordinances (section 78-878). The apartment buildings shall be located as shown on the Plan and shall have access from the private street entering from M-37 and Towne Center Drive with a round-about traffic circle effectively circulating traffic entering and exiting the residential site. Each building shall consist of 24 apartment dwelling units, for a total of 72 dwelling units. Of that number, 12 units are one-bedroom apartments and 60 units are two-bedroom apartments.

(ii) Phase 1 shall also include 118 off-street vehicle parking spaces, all outdoor spaces.

(iii) Phase 2 shall consist of three groups of apartment buildings and associated garages and 91 off-street vehicle parking spaces.

(3) The floor area of each apartment dwelling unit shall be not less than the minimum floor area required by the terms of the PUD District; accordingly, each dwelling unit shall have a minimum floor area of at least 600 square feet plus 150 square feet for each bedroom in excess of one bedroom.

(4) The site plan shall be revised to state the actual floor area of each typical dwelling unit.

(5) Site amenities shall be provided and maintained and may include desirable site amenities and features, such as (among others): bicycle parking structures or locations; sidewalk planters and outdoor seating areas; and ponds or other water features. In this regard, the applicant has agreed to include in each phase of the Development additional site amenities such as those stated above in this paragraph, and others as the applicant may choose, consistent with Section 78-476(c) of the zoning ordinance.

(6) The residential portion of the Development shall include the outdoor recreation facilities shown on the Plan, namely two pickle ball courts and a gazebo, both of which are to be completed in Phase 1. As more particularly described in Section 2(1)(5) of this ordinance, the residential portion of the Development shall also include the construction and maintenance of a non-motorized pathway to provide a connection from the Development to Wildwoods Trail, which non-motorized pathway shall be constructed and completed in accordance with Section 2(1)(5) of this ordinance.

(7) Section 18.4(c) with respect to site amenities in a PUD District, identifies desirable site amenities and features (including among others): bicycle parking structures or locations; sidewalk planters and outdoor seating areas; ponds or other water features and the like. In this regard, the applicant has agreed to include in each phase of the Development, additional site amenities such as those stated above in this paragraph, and others as the applicant may choose, consistent with Section 18.4(c) of the PUD District.

(8) In view of the extended period of time during which the Development is expected to proceed and be completed, it is understood that dimensional and similar changes that are not material or significant in relation to the entire Development may be requested by the applicant. The Planning Commission is authorized to consider and approve such type of changes in the Plan, in site plan review proceedings.

(e) *Site Access; Streets; Driveway to Adjacent Land.*

(1) Access to the Development shall be by means of the two entry/exit locations off M-37 HWY and Towne Center Drive, as shown on the Plan. The location, width and configuration of the M-37 entrance shall be subject to the approval of the Michigan Department of Transportation (MDOT). If required by MDOT, the applicant shall construct acceleration/deceleration lanes at the M-37 HWY entrances, to MDOT specifications, and shall permit any part thereof to be located within the frontage portion of the Development site.

(2) As noted above, the streets in the Development shall be private streets. The private streets shall be given names that are not similar to those of other streets in the Village; the street names shall be subject to Village approval. The right-of-way for the entire length of the private streets shall be 66 feet wide. The traveled portion of the private streets shall

be 26 feet. The private streets shall be designed and constructed according to Village private street specifications, and shall be subject to Village inspection and approval.

(3) The private street extending directly off M-37 HWY and which loops around Outlots A, B and C, and that part of the other private street that extends northerly to the residential development, shall be fully completed and available for use in Phase 1.

(4) A private street maintenance agreement shall be required, to be signed by all parties having any legal interest in the lands to be served by the private streets in the Development. The agreement shall be in such form as to constitute a restrictive covenant, binding upon all current and future owners and other parties in interest in the lands to be served by the private streets. The private street maintenance agreement shall be subject to Village review and approval, prior to recording. The private street maintenance agreement covering the private street adjacent to the Outlots and extending directly from M-37 HWY and Towne Center Drive shall be completed, approved and recorded prior to construction of any part of the private street.

(f) *Off-Street Motor Vehicle Parking and Circulation.*

(1) All driveway access to, and motor vehicle parking and circulation within the commercial Outlots shall be subject to site plan review and approval by the Planning Commission.

(2) The off-street parking areas and parking spaces shall be as shown on the Plan. The width of all driveways into the off-street parking areas shall be at least 24 feet. The width between rows of parking spaces and garages shall be as shown on the Plan, but in any event shall be not less than 24 feet. Other dimensions within the residential off-street parking spaces shall be as indicated on the Plan.

(3) Each outdoor parking space shall be 9 feet wide by 19 feet long.

(4) All driveways, parking areas and other locations for the driving or parking of motor vehicles shall be paved in accordance with Village requirements.

(5) Barrier-free off-street parking spaces shall be provided in accordance with applicable requirements for such parking spaces.

(g) *Sanitary Sewer Service and Water Supply.*

(1) The Development shall be served by the public sanitary sewer system and the public water supply, in accordance with Village ordinance requirements and subject to the approval of the Village engineer and Public Works Director.

(2) The Village and the applicant shall enter into a Development Agreement concerning the Development with respect to public sanitary sewer service and public water supply service to be provided to the Development, upon stated terms and conditions, and whereby the applicant would agree to pay the cost of specified public sanitary sewer and public water supply system infrastructure, and other costs, and whereby the applicant would agree to other obligations with respect to public sanitary sewer service and public water supply service for the Development. Accordingly, it is a condition of this ordinance that the applicant fully and timely comply with the provisions of the Development Agreement and other applicable agreements, if any, once executed by the applicant and the Village. The Development Agreement shall be approved prior to applicant submitting for site plan review and approval for Phase 1 of the Development.

(h) *Surface Water Drainage.*

(1) The drainage of surface waters within and for the Development shall be accomplished by storm sewers, storm water discharge, storm water detention ponds and other

means of storm water control and dispersion, as indicated on the site plan, but subject to the Village storm water ordinance and the approval of the Village engineer.

(2) The surface water drainage system shall be designed, engineered, installed and operated so as to have no significant adverse effect upon land within the Development or adjacent or nearby lands or surface waters, by reason of erosion, pollution or otherwise.

(3) The storm water drainage system shall be subject to the issuance of a Barry County storm water permit, under the Barry County Drain Commissioner rules, approved as revision date 08-14-2012. The applicant shall fully and timely comply with all of the terms and provisions of the storm water permit.

(4) If required by the Village engineer, the applicant shall submit further information and detail concerning the storm water drainage system, storm water volume calculations and other aspects of the design and projected operation of the storm water drainage system, including the various proposed elements thereof. Any discharge of storm water drainage to the wetlands shown within the Development shall be subject to applicable State of Michigan requirements, including permits for such purpose, if required by law or State regulation.

(i) *Landscaping.*

(1) The applicant has submitted a landscape plan for the Development, dated April 28, 2023 (the "Landscape Plan"). The Landscape Plan includes overall site landscaping for the residential portion of the Development, including landscaping associated with the apartment buildings, within and associated with the off-street parking areas, certain landscape plantings along the east property line and otherwise. Certain existing trees are indicated to remain. Other landscaping is shown along the M-37 and Towne Center frontage. The existing landscaping within the identified green space areas shall also remain.

(2) Landscaping within the Outlots is not included in the Landscape Plan, and accordingly as each Outlot or group of Outlots are submitted to the Planning Commission for site plan review, the applicant shall include a corresponding landscape plan for each Outlot as part of the site plan review process.

(3) The landscaping of the Outlots shall be subject to the applicable provisions of Chapter 78 of the zoning ordinance, including front yard landscaping, parking area landscaping, parking area perimeter landscaping, landscaped green belts and other matters, including the respective required numbers of canopy trees, evergreen trees, ornamental trees, shrubs and other vegetation, except that the required front yard landscaping on the M-37 HWY side of Outlots A, B and C may consist of the existing wetlands and existing vegetation at that location.

(4) The Landscape Plan shall be amended to include typical standard planting specifications and continuing plant-maintenance procedures, to assure healthy plant conditions as required by Article VI of the Zoning Ordinance.

(j) *Outdoor Lighting.*

(1) Outdoor lighting within and for the Development is regulated by Section 78-30 of the zoning ordinance and Section 78-30(b) as to nonresidential land uses, and Section 78-30(c) for all other land uses.

(2) Under Section 78-30, all outdoor light fixtures shall be shielded and are to be fully cut-off fixtures, such that light emitted from the fixture is projected only below a horizontal plane running through the lowest point on the fixture where light is emitted. Outdoor lighting shall be such as not to produce any glare, nor spill onto adjacent properties or streets. Outdoor light fixtures shall not exceed a height of 23 feet from grade.

(3) The applicant shall submit specifications as to the proposed lights and light fixtures within the Development and a photometric plan showing the levels of illumination resulting from the proposed light fixtures at the time of site plan review. The photometric plan is subject to Planning Commission approval, consistent with Section 78-30 of the zoning ordinance and other applicable Village outdoor lighting requirements.

(4) The applicant shall submit further detail as to the placement of wall-mounted lighting on the residential buildings, and the particular placement of freestanding outdoor light fixtures at the time of site plan review. Such further detail shall include the height of outdoor light poles and confirmation that all such light fixtures shall be of the fully cut-off type. All such lighting detail shall be subject to the approval of the zoning administrator.

(k) *Signage.*

(1) The applicant has submitted drawings, with dimensions, of proposed signs in and for the Development. The site layout plan (C-205) shows (1) legacy monument sign near the southeast corner of the Development located 25 feet from the M-37 and Towne Center right-of-way.

(2) The monument sign stating the name of the Development shall not exceed 96 sq. ft. in size, nor exceed 12 feet in height.

(3) The monument sign shall contain architectural features of the former Mid-Villa sign currently on site. See exhibit B. These architectural features include: similar color, similar material such as wooden framing, pitched shingle-roof design on the upper level of the sign, and shall be externally illuminated.

(4) Signs in the commercial portion of the PUD District are regulated by Section 78-631 and Section 78-634 of the zoning ordinance.

(5) Signs in the residential portion of the PUD District are regulated by Section 78-629 and Section 78-634 of the zoning ordinance.

(6) Signs are required to be set back at least 5 feet from street rights-of-way, private drives and property lines.

(l) *Sidewalks; Pedestrian Pathway.*

(1) The Plan shows five-foot-wide sidewalks to be located along a portion of the westerly side of the private street that extends northerly from the looped private street, and as to a portion of that street, a sidewalk is shown to be located on the other side of the street. The sidewalk extends into the most westerly off-street parking area in the residential portion. Similarly, a five-foot-wide sidewalk is shown along the easterly and northerly side of the looped private street.

(2) The sidewalks as shown on the Plan on one side of the private street in the residential portion of the Development are approved, at the locations shown. However, the sidewalk along the looped private street around the Outlots shall be constructed and maintained on both sides of that street, in view of the commercial land uses for the Outlots.

(3) All sidewalks shall be constructed of concrete, and designed and otherwise constructed to Village sidewalk specifications. The sidewalks serving the Outlots in Phase 1 of the Development shall be constructed on each Outlot not later than the issuance of a certificate of occupancy for the building completed on each respective Outlot.

(4) Sidewalks in the residential portion of Phase 1 and in Phase 2 of the Development shall be constructed not later than the issuance of a certificate of occupancy for the first building to be completed in a group or other element of the residential buildings in Phase 2,

or in accordance with such other deadline as may be specified by the Planning Commission in site plan review.

(5) A non-motorized pathway shall be designed and constructed by the applicant, at its expense, extending from the Southwest corner of the parking facility near Building B-1 to the connection point at Wildwood Trails. The pathway shall be at least eight feet wide, but in any case, its width shall match the width of the trail in Wildwood Trail Park. The pathway shall be constructed to the specifications of other Village pathways or as otherwise required by the Village to match the existing trail. The pathway shall be constructed and completed prior to the issuance of a certificate of occupancy.

(6) At convenient points on the sidewalks along the private streets, there shall be clearly marked pedestrian crossings, including but not limited to the sidewalks serving the Outlots. The number and location of the crosswalks shall be subject to the approval of the Planning Commission as part of site plan review and approval.

(m) *Refuse Disposal.*

(1) Each of the two apartment building groups shall include a screened dumpster, as shown on the Plan in accordance to Section 78-36 of the Zoning Ordinance.

(2) Each dumpster for the apartment buildings shall be fully enclosed from view from all sides, except when the doors or gates are open for disposal of refuse or for the emptying of the dumpster. The applicant shall submit to the zoning administrator a drawing showing the detail of the screening for all of the dumpsters in the Development. A dumpster shall be installed, with appropriate screening, for each group of residential apartment buildings, not later than the issuance of a certificate of occupancy for the first building to be completed in each group of buildings.

(n) *Wetland Protection.* The Plan shows existing wetlands located along the southerly lot line in the southwest corner of the property, smaller wetland near the proposed private drive off Towne Center, and a small wetland located to the east of Building B-2 in the northeast corner of the property. The applicant shall fully and timely comply with applicable State requirements regarding any interference or non-permitted impact as to the existing wetland, as a result of proposed construction in the Development. A copy of all State permits with respect to the wetlands shall be obtained, and copies thereof shall be promptly submitted to the Village zoning office.

(o) *Undeveloped Open Space.* The Plan shows forested green space of about 6 acres to be preserved between the south line of the Development and an area just south of Building B-1; similarly, such undeveloped green space extends southerly from that location into the interior of the Development. As indicated on the Plan, the entirety of these areas shall be undeveloped and shall remain in their natural state.

(p) *Fire Code Compliance; Township Fire Chief Requirements.*

(1) The Village has adopted the International Fire Code, the most recent edition of which is the 2015 edition. Accordingly, the Development shall comply in all applicable respects with the International Fire Code, including but not limited to Chapter 5, Fire Service Features; Chapter 6, Building Services and Systems; Chapter 9, Fire Protection Systems; Chapter 10, Means of Egress; and other applicable provisions concerning access roads for fire apparatus.

(2) The applicant shall comply with the requirements of the Township fire chief, as stated in correspondence. Further, the applicant shall confer with the fire chief on all aspects of the Development involving or which are subject to the requirements of the International Fire Code, to verify compliance. As the Development proceeds to be constructed, perhaps over

some period of years, subsequent editions of the International Fire Code may be adopted, and in that case, elements of the Development to be constructed thereafter shall comply with the then-applicable edition of the fire code.

(3) The issuance of a certificate of occupancy by the Village building official as to any building in the Development shall be subject to prior compliance with all applicable Fire Code requirements as to the building and fire department access thereto, and other applicable requirements as to fire suppression and emergency rescue.

(q) *Phasing of Construction.*

(1) As noted above, the Development is proposed to be constructed in two phases. Phase 1 consists of the initial group of apartment buildings and off-street parking areas located. As a part of that phase, the applicant shall complete the entire length of the private streets providing access to the parcels and buildings within that phase, as shown on the Plan, together with public utilities, sidewalks (except as stated in subsection (l)(3) of this ordinance), storm water drainage, outdoor lighting, signage, and all other elements and structures within or otherwise applicable to Phase 1.

(2) Likewise, as additional portions of the Development are constructed, including greater numbers of the commercial Outlots or greater residential development, the Planning Commission in site plan review shall determine whether some further portion of residential development, or commercial development, shall be required, though the Commission shall take account of the qualifying factors stated in above in (2).

(r) *Emergency Access.*

(1) The buildings, street access, motor vehicle circulation, placement and sufficiency of driveways, intersections and other aspects of the vehicle circulation system and

the Plan shall be subject to the approval of the township fire chief, or the chief's designee, as to safe and convenient access for fire department and other emergency vehicles, to and from the Development and for vehicle circulation and building access within the Development, consistent with the applicable provisions of the International Fire Code, which is in effect in the Village.

(2) Following review of the Plan by the fire chief or the chief's designee, the fire chief's written approval or other comments shall be submitted in writing to the Village zoning office. Any requirements of the fire chief with respect to emergency access, fire suppression water supply and related fire department and rescue matters, consistent with the International Fire Code, as in effect in the Village, shall be complied with by the applicant.

(s) *Performance Guarantee.*

(1) Under the similar provisions in Section 30-46(b)(4) and Section 78-585 with respect to approval of site plans, the Village Council may require a reasonable performance guarantee in the form of a performance bond, letter of credit or other written assurance, conditioned upon the applicant's faithful compliance with all of the terms and provisions of this ordinance and the applicable provisions of the PUD District.

(2) The performance bond or letter of credit shall be in such amount as would be sufficient to cover the cost of layout, construction and completion of all common facilities within portions of the Development that are being constructed at a given time, including motor vehicle parking and circulation areas, water and sewer systems, the storm water drainage system, outdoor lighting, sidewalks, measures and facilities for soil erosion protection, as well as other common facilities.

(3) Upon request, the village engineer shall calculate the estimated cost of layout, construction, maintenance and completion of the required protective measures and

common facilities within relevant portions of the Development and associated with the permitted uses therein. Such amount so determined shall be the required amount for a performance bond or letter of credit to be submitted by the applicant as to the portion of the Development involved. The performance bond or letter of credit, in form and content satisfactory to the Village, shall be submitted by the applicant prior to the issuance of a zoning permit or a building permit for the relevant portion of Development.

From time to time, as components of the Development are satisfactorily completed, the Village, zoning administrator and Village clerk's office, working with the Village engineer, shall release or discharge appropriate portions of the amounts secured by the performance bond or letter of credit.

(t) *Other Matters.*

(1) The applicant shall comply with the requirements of the Village planner as stated in the planner's memorandum of May 2, 2023.

(2) The applicant shall likewise comply with the requirements of the Village engineer as stated in the engineer letter of April 25, 2023.

(3) The applicant shall comply with the requirements of the Village Site Plan Review Committee as stated in the Committee's report of March 13, 2023, except as to such matters as may otherwise be specified in the terms of this ordinance.

(4) The Development shall comply with all applicable provisions of Chapter 78 of the Village zoning ordinance, covering the PUD District, except as to such provisions therein as have been modified by the terms of this ordinance, and with respect to those matters, the terms of this ordinance shall control.

Section 3. **Findings.** Upon considering the Development and the Plan, together with the other materials and information submitted by the applicant, the Village Council makes the following findings with respect to the Development, as those required findings are specified in Section 78-474 of the zoning ordinance, upon the assumption that all of the requirements herein will be fully and timely complied with:

(a) Approval of the planned unit development will result in a recognizable and substantial benefit to the users thereof and to the Village, and such benefit would otherwise be unlikely to be achieved.

(b) The proposed type and density of the commercial and residential uses would not result in an undue burden or need for public services, facilities and utilities, other than the specific utilities and other public arrangements that are proposed to be installed or augmented in order to adequately serve the Development.

(c) The Development is predominantly compatible with the Village Master Plan and would be consistent with the intent and purposes of the PUD District.

(d) The Development requires additional cost for sanitary sewer lift station which the density may exceed what is described in the 2021 Future Land Use Plan, but the Planning Commission shall review the density and take into account topography, elevation, proximity to existing public utilities and make recommendations accordingly to the Village Master Plan and Future Land Use Plan.

(e) The Development would not substantially change the essential character of the surrounding area.

(f) The Development would not result in significant adverse effects upon adjacent or nearby lands.

(g) The Development provides the necessary housing diversity in the Village.

(h) The Development has received support from the Downtown Development Authority as noted in the Letter of Support dated January 18, 2022 (see Exhibit A).

(i) The Development would be suitably protective of wetlands, steep slopes, vegetation, and other topographical features.

(j) The Development would preserve and maintain significant open space, to be left in an undeveloped condition.

(k) The Development would be suitably set back from M-37 HWY and Towne Center Drive.

(l) The Development includes an adequate extent of sidewalks and pathways to promote ease of walking by pedestrians throughout the Development and to public parks and other nodes of non-motorized activity.

(m) The Development would otherwise advance land development and preservation, in the form of a mixed-use development, as contemplated under the terms of the PUD District.

Section 4. ***Enforcement.***

(a) With respect to the Development, the Village may enforce the provisions of this ordinance and applicable provisions of the Village zoning ordinance, building code and other ordinances, laws and regulations to the extent and in any manner provided by law.

(b) In the event that the applicant shall fail to carry out, either at all or on a timely basis, any provision or requirement of this ordinance or other applicable law, ordinance or regulation, the Village may, through its building inspector or other Village agency, issue and post a stop work order at the site of any improper or noncomplying part of the Development, directing

that all further construction of such part of the Development be ceased forthwith, pending the compliance with any applicable provisions of this ordinance or of other Village ordinances, regulations or State laws.

Upon the issuance of such a stop work order, the applicant and its agents shall comply fully therewith without delay. Upon the correction of any matters as to which the stop work order was issued, the Village shall promptly rescind and remove the stop work order, whereupon the applicant may again proceed with construction or other permissible activity within the Development. The issuance and posting of any stop work order shall not be an exclusive remedy, but may be undertaken by the Village in addition to other lawful means of enforcement.


Section 5. ***Publication and Effective Date.*** This ordinance, or a summary of its provisions, shall be published in a local newspaper of general circulation within the Village. This Ordinance shall take effect seven days following such publication.

AYES: Williams, DeMaagd, Hamilton, Bishop, Peters, Smith, Cramer

NAYS: None

ABSTAIN: None

ORDINANCE DECLARED ADOPTED.



Michael Cramer, Village President

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Village Board of the Village of Middleville at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.



Rhonda Van Polen, Village Clerk

