



CITY OF ITHACA
PLANNING COMMISSION
Regular Meeting Agenda
Tuesday, November 12, 2024 @ 5:00pm
City Council Chamber

1. Call to Order
2. Pledge of Allegiance to the American Flag
3. Approval of Minutes from the Regular Meeting of October 8, 2024
4. Public Comments *(regarding items on this agenda)*
5. Unfinished Business *(none)*
6. New Business
 - a) Special Use Permit (revised request)
 - a. Accessory Building – 720 Leeward Court
7. Public Comments
8. Adjournment

CITY OF ITHACA
PLANNING COMMISSION MEETING MINUTES

Tuesday, October 8, 2024 @ 5:00pm

The regular meeting of the Ithaca Planning Commission was called to order by Mayor Baublitz at 5:00pm, followed by the Pledge of Allegiance to the American Flag.

Present: Commissioners George Bailey, Jared Macha, Mary Beth Mates and Mayor Brett Baublitz

Absent: Jerry Timmons and Richard Teal

Staff Present: City Manager Jamey Conn and City Clerk Cathy Cameron

Audience Present: Robert Bennett, Derryl & Kim Leonard, Marci Bellinger, Brenda Whitmore, Elizabeth Palmer and Adam & Brandy Harger.

Approval of Minutes

Minutes from the Regular Meeting held August 13, 2024.

Moved by Bailey, second by Macha to approve minutes of the regular meeting held August 13, 2024. Motion carried.

Public Comments

Mayor Baublitz asked for any public comments. Residents (Robert Bennett, Derryl & Kim Leonard, Marci Bellinger, Brenda Whitmore, Elizabeth Palmer) who live within Westwind Estates addressed the Commissioners on the proposed accessory building requested by their neighbors, Adam & Brandy Harger. Of those in attendance, there was support for approval and others that were against having an accessory building of that size within the subdivision.

Unfinished Business

There was none.

New Business

Manager Conn presented the special use permit request submitted by Adam and Brandy Harger who reside at 720 Leeward Court. The proposed plan is for a 24' x 48' accessory building. The property is located within Westwind Estates, a subdivision, which is governed by its covenants and restrictions.

Under Section 14. Exterior Storage; it is written "Garden sheds or outbuildings will be permitted with the following restrictions; minimum area 10' x 12' frame construction on a cement slab, shingled roof and keeping with the aesthetics of the primary structure. Exterior storage is limited to the rear yard of any lot and must be located on a cement slab."

Manager Conn noted that a minimum is listed, however no maximum limitations. This would then revert to the city ordinance on accessory buildings.

§ 4.05 Accessory buildings. *Except as otherwise permitted in this ordinance, accessory buildings shall be allowed as permitted uses, subject to the following regulations. (d) In the R-1, R-2, R-3, R-4 and R-O Districts, the maximum allowable size for the total of all accessory buildings on a developed lot shall be 864 square feet. A special use permit shall be required if the total area of all accessory buildings is larger than 864 square feet.*

Discussion was held. Commissioners requested Manager Conn seek legal counsel advice of the Westwind Estates Covenants & Restrictions vs. City Zoning Ordinance; for determination to be applied in this case.

Moved by Bailey, second by Mates to deny the special use permit of an accessory building within the subdivision and request Manager Conn seek a legal counsel decision in this matter. Motion carried by Roll Call vote: Deny (4) Bailey, Macha, Mates, Baublitz: Approve (0) None.

Public Comments

There was none.

Moved by Bailey, second by Mates to adjourn the meeting at 5:33pm. Motion carried.

Cathy Cameron, City Clerk

CITY OF ITHACA ZONING APPLICATION

Application for:

Rezoning Variance

Special Use Land Division

Site Plan Review Other

This application will not be accepted if incomplete. All required materials including Site Plan Reviews, must be submitted at least 10 business days prior to the next Planning Commission meeting. Planning Commission meetings are held on the second Tuesday of each month.

RECEIVED
OCT 10 2024
CITY OF ITHACA
ITHACA, MICHIGAN

APPLICANT/OWNER INFORMATION

Name: Adam & Brandy Harger

Phone: () 989-620-5785 Fax () 989-620-6149 (Brandy) E-mail: bfreed49@yahoo.com

Address: 720 Leeward Ct

PROPERTY INFORMATION

Address or Location: 720 Leeward Ct

Permanent Parcel# 52-004-031-00

Current Zoning: Residential

Property Size: .54 acres

TYPE OF IMPROVEMENT and/or PROJECT

New Construction Addition Alteration Repair Demolition Relocation

Mobile Home Set-up Pre-manufacture Other Accessory Building

PROPOSED USE of BUILDING

<u>Residential</u>	<u>Non-Residential</u>
<input type="checkbox"/> One Family	<input type="checkbox"/> Amusement <input type="checkbox"/> Office/bank
<input type="checkbox"/> Two or more family - # of units _____	<input type="checkbox"/> Church, religion <input type="checkbox"/> Public utility
<input type="checkbox"/> Hotel/motel - # of units _____	<input type="checkbox"/> Industrial <input type="checkbox"/> School/library
<input type="checkbox"/> Attached garage	<input type="checkbox"/> Parking garage <input type="checkbox"/> Store
<input type="checkbox"/> Detached garage	<input type="checkbox"/> Service Station <input type="checkbox"/> Tanks, towers
<input checked="" type="checkbox"/> Other <u>Accessory building</u>	<input type="checkbox"/> Hospital, institution <input type="checkbox"/> Other _____

I HEREBY CERTIFY THAT THE PROPOSED WORK IS AUTHORIZED BY THE OWNER OF RECORD AND THAT I HAVE BEEN AUTHORIZED BY THE OWNER TO MAKE THIS APPLICATION AS HIS/HER AUTHORIZED AGENT, AND WE AGREE TO CONFORM TO ALL APPLICABLE LAWS OF THE STATE OF MICHIGAN. ALL INFORMATION SUBMITTED ON THIS APPLICATION IS ACCURATE TO THE BEST OF MY KNOWLEDGE.

I HEREBY GRANT PERMISSION FOR EMPLOYEES, STAFF, AND MEMBERS OF THE CITY OF ITHACA, PLANNING COMMISSION, BOARD OF APPEALS AND/OR ZONING ADMINISTRATOR TO ENTER THE ABOVE DESCRIBED PROPERTY (OR AS DESCRIBED IN THE ATTACHED DOCUMENTS) FOR THE PURPOSE OF GATHERING INFORMATION RELATED TO THIS APPLICATION.

Signature of Applicant: Brandy Harger Date: 10/10/24

DESCRIPTION OF PROPOSED USE/REQUEST (Attach explanation letter with setbacks)

**Please provide sketch plan below

<i>See Attached</i>																	

DO NOT WRITE BELOW THIS LINE

Date received 10-10-24 Application Fee Paid \$ 50

Submitted Materials: Site Plan Application Legal Description

Planning Commission or City Council Meeting Date: _____

Approved for: Rezoning Variance Site Plan Special Use Meets current zoning

Denied (explanation) _____

Approved by: _____ Title: _____

Zoning Plan Examiners Notes

District: _____

Use: _____

Front Yard: _____

Side Yard: _____ Side Yard: _____

Rear Yard: _____

Notes:

Description of Proposed Zoning Application Request

Address: 720 Leeward Ct.

Legal Description: WESTWIND ESTATES SUBDIVISION NO 3 LOT 31.

Description of Proposed Project:

We are proposing to build an accessory structure of 24' x 36' foot (864 square feet total). The proposed building will sit 10' off of the Northern property line, 10' off the eastern property line, 114' off the southern property line and 148' from the western property line.

The existing 10'x12' accessory building that is currently on the property will be removed to accommodate the maximum size of the new building once it is completed.

The new structure will be frame construction on a cement slab, with a shingled roof and will keep with the aesthetics of the primary structure.



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10m



Map Publication

Disclaimer: This map does not represent a survey or legal document and is provided on an "as is" basis. Gratiot GIS Authority expresses no warranty for the information displayed on this web document.

720 Leeward Ct. (Westwind Estates Subdivision)

Proposed Project: Accessory Building (24x36) = 864 sq. ft.

The proposed project is located in Westwind Estates, which is governed by its covenants and restrictions (included in packet), as well as the city ordinance. I have included the pertinent sections of both and included staff notes in blue of each section for your review, with a summary at the end. Please call Cathy or I with any questions regarding this submittal.

WESTWIND ESTATES SUBDIVISION

SECTION 2. ARCHITECTURAL CONTROL

The Developer in conjunction with City reserves the right to review all construction projects within the subdivision. The following are considered permitted uses with the approval of the City and Developer: buildings or any other structure on any Lot or subdivision property. All plans must be submitted in writing to the City and will be approved in writing by the City as to the harmony of external design, location in relationship to surrounding structures.

Staff notes: this section included to note the covenants state needing city approval for all construction projects and its' harmony of external design.

SECTION 14. EXTERIOR STORAGE

Outdoor storage shall be limited to temporary on-site storage of recreational vehicles whose title is held by the Lot owner "Storage" is considered anything over forty-eight (48) hours in any one week. "Temporary" is defined as not exceeding 20 days in any given 30-day period. No carport shall be erected or maintained on any Lot. Garden sheds or outbuildings will be permitted with the following restrictions: minimum area 10' x 12', frame construction on a cement slab, shingled roof and keeping with the aesthetics of the primary structure. Exterior storage is limited to the rear yard of any Lot and must be located on a cement slab.

Staff notes: The Westwind covenants and restrictions does allow for garden sheds and outbuildings with a minimum area 10' x 12'. There is not a maximum square footage listed in the Westwind covenants. Therefore, we shall revert to city ordinance which is a maximum of 864 accumulated square feet of accessory building(s) allowed. Also note, it must be on a cement slab, have a shingled roof, and keep with the aesthetics of the primary structure per Westwind covenants.

SECTION 5. DRIVEWAYS

All driveways must be made of paving brick or concrete materials. The City will not approve a site plan with an asphalt or gravel driveway.

Staff notes: section 5 is included in case there is an approval of a structure, the Westwind covenants state the driveway must be brick or concrete and this should be stated in an approval.

City of Ithaca Ordinance

§ 4.05 Accessory buildings.

Except as otherwise permitted in this ordinance, accessory buildings shall be allowed as permitted uses, subject to the following regulations.

(d) In the R-1, R-2, R-3, R-4 and R-O Districts, the maximum allowable size for the total of all accessory buildings on a developed lot shall be 864 square feet. A special use permit shall be required if the total area of all accessory buildings is larger than 864 square feet. In no instance shall the total area of all detached accessory buildings be larger than the area of the ground floor of the main building or occupy more than 10% of a required rear yard (and 25% of a nonrequired rear yard), whichever is less. All farm related accessory buildings in the R-1 District shall require a special use permit but shall not be larger than 10% of the required rear yard or more than 25% of the nonrequired rear yard.

864 square feet is the maximum size for total of all accessory buildings on any given lot. This project would meet that maximum if the homeowner, first, removes their current shed which they informed the city they would do.

§ 7.04 Regulations.

7.04:3.

Maximum lot coverage: not to exceed 15% for residential development and 40% for all other uses, except public recreation, which may cover up to 100% of the lot.

Staff notes: Once the current shed is removed, the owners house, garage, and proposed building would accumulate to under 15% of lot coverage, and would adhere to this portion of the City of Ithaca ordinance as well.

(g) No detached accessory building shall be located closer than 10 feet to any main building or any street right-of-way line, nor shall it be located closer than five feet to any side or rear lot line.

Staff notes: the design on the homeowner's zoning application notes the building would meet this guideline.

(h) No detached accessory building in a residential district shall exceed 20 feet in height

Staff notes: the design on the homeowner's zoning application notes the building would be under 20 ft.

PROPOSED PROJECT NUMBERS

- Proposed accessory building 24x36 = 864 square feet (**Meets city maximum**)

Current accessory building 12x14 = 168 square feet (**MUST BE REMOVED**).

Lot size: 23,365 square feet (.535 acres)

House: 1,672 square feet

Attached garage: 840 square feet

Proposed building: 864 square feet

Total: 3,376 square feet (14.4%). (Meets lot size percentage coverage)

Yard setbacks and building height are met with this proposed project.

In staff review of the project we considered the Westwind covenants and restrictions, and where they did not specify guidelines, we utilized the City of Ithaca ordinance. With outbuildings being allowed per Section 14 of Westwind covenants, without a maximum size, we revert to city ordinance that allows 864 square feet of accessory building in total. The Westwind covenants also state in section 14 that the outbuilding needs to keep with the aesthetics of the primary structure.

Upon seeking a legal opinion on this project in regards to the Westwind covenants and restrictions as well as the city ordinance staff recommends the 864 square feet building should be approved on the following grounds.

The Westwind ordinance only lists a minimum square footage and no maximum. We shall, then, revert to the City Ordinance of 864 square feet of maximum allowable accessory building. This project would also meet the percentage of lot coverage at $\leq 15\%$.

The building shall be on a cement slab, have a shingled roof, and keep with the aesthetics of the primary structure per Westwind covenants under section 14 (Exterior Storage). This would also follow along with section 2 (Architectural Control) and the building being in harmony with surrounding structures in Westwind Estates.

Our legal team is drawing up the legal opinion on the matter, and we will have it by the meeting for reference.

DECLARATION OF COVENANTS AND RESTRICTIONS

WESTWIND ESTATES SUBDIVISION

THIS DECLARATION, made this 15th day of July 1994 by T.A. Forsberg, Inc. a Michigan Corporation of 2360 Jolly Oak Road, Okemos, MI 48864, is hereinafter called "Developer", City of Ithaca, A Municipal Corporation located at 129 W. Emerson Street, Ithaca, MI 48847, is hereinafter called "City", George H. and Suzanne L. Bailey, Husband and wife, 624 Leeward Court, Ithaca, MI 48847, and Robert and Sheila Bennett, Husband and wife, 721 Westwind Lane, Ithaca, MI 48847, as their interest may appear.

WITNESSETH:

WHEREAS, Developer is the owner of the real property described in Article II of this Declaration and desires to create thereon a residential community; and

WHEREAS, City of the owner of the infrastructure improvements necessary to develop the real property described in Article II of this Declaration and as such has developed a special assessment district to secure repayment of said costs; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and, to this end, desires to subject the real property described in Article II to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

NOW, THEREFORE, the Developer declares that the real property described in Article II, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "Covenants and restrictions") hereinafter set forth.

ARTICLE II

DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

"The Properties" shall mean and refer to those areas of land shown on any recorded subdivision plat of the properties.

"Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat of the properties.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot or the land contract purchaser of any lot situated upon the properties but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

ARTICLE II

Property Subject to this Declaration

EXISTING PROPERTY

The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is described as:

A PART OF THE SOUTH ½ OF THE NORTHWEST ¼ OF SECTION 31, T11N, R2W, CITY OF ITHACA, GRATIOT COUNTY, MICHIGAN, DESCRIBED AS BEGINNING ON THE NORTH-SOUTH ¼ LINE AT A POINT S 00 DEG. 10'06" E 1847.83 FEET FROM THE NORTH ¼ CORNER OF SECTION 31; THENCE S 00 DEG. 10'06" E 179.00 FEET ALONG THE NORTH-SOUTH ¼ LINE; THENCE S 89 DEG. 43'13" W 280.00 FEET; THENCE S 00 DEG. 10'06" E 166.18 FEET; THENCE N 89 DEG. 43'12" E 16.00 FEET; THENCE S 00 DEG. 10'06" E 221.74 FEET; THENCE S 89 DEG. 43'12" W 430.49 FEET; THENCE S 00 DEG. 10'06" E 68.00 FEET; THENCE S 89 DEG. 43'12" W 371.00 FEET; THENCE N 06 DEG. 49'27" E 205.03 FEET; THENCE N 68 DEG. 59'23" W 145.82 FEET; THENCE NORTHERLY 23.21 FEET ALONG THE ARC OF A 75.00 FOOT RADIUS CURVE TO THE LEFT WHERE CHORD BEARS N 00 DEG. 45'03" E 23.12 FEET AND WHOSE DELTA ANGLE IS 17 DEG. 43'52"; THENCE NORTHEASTERLY 48.65 FEET ALONG THE ARC OF A 60.00 FOOT RADIUS CURVE TO THE RIGHT WHOSE CHORD BEARS N 15 DEG. 06'51" E 47.33 FEET AND WHOSE DELTA ANGLE IS 46 DEG. 27'28"; THENCE N 38 DEG. 20'35" E 76.14 FEET; THENCE NORTHWESTERLY 66.20 FEET ALONG THE ARC OF A 248.00 FOOT RADIUS CURVE TO THE RIGHT WHOSE CHORD BEARS N 52 DEG. 05'10" W 66.00 FEET AND WHOSE DELTA ANGLE IS 15 DEG. 17'38"; THENCE S 38 DEG. 20'35" W 75.65 FEET; THENCE SOUTHWESTERLY 48.65 FEET ALONG THE ARC OF A 60 FOOT RADIUS CURVE TO THE RIGHT WHOSE CHORD BEARS S 61 DEG. 34'19" W 47.33 FEET AND WHOSE DELTA ANGLE IS 46 DEG. 27'28"; THENCE SOUTHWESTERLY 39.90 FEET ALONG THE ARC OF A 75.00 FOOT RADIUS CURVE TO THE LEFT WHOSE CHORD BEARS S 69 DEG. 33'36" W 39.43 FEET AND WHOSE DELTA ANGLE IS 30 DEG. 28'55"; THENCE N 35 DEG. 40'52" W 163.35 FEET; THENCE N 00 DEG. 04'38" W 462.91 FEET TO THE SOUTHEAST CORNER OF LOT 1 OF THE PLAT OF BECKER SUBDIVISION NO. 1, AS RECORDED IN LIBER 1 OF PLATS, PAGE 189, GRATIOT COUNTY RECORDS; THENCE N 89 DEG. 45'03" E 219.82 FEET; THENCE N 00 DEG. 00'44" W 199.39 TO THE SOUTH LINE OF GIBBS STREET AS SHOWN ON THE PLAT OF BRILHART SUBDIVISION NO. 1, AS RECORDED IN LIBER 1, PAGE 188, OF GRATIOT COUNTY RECORDS; THENCE N 89 DEG. 43'13" E 66.00 FEET ALONG SAID SOUTH LINE; THENCE S 00 DEG. 00'44" E 199.39 FEET; THENCE N 89 DEG. 43'13" E 68.82 FEET; THENCE S 00 DEG. 10'06" E 150.00 FEET; THENCE S 30 DEG. 51'20" W 77.11 FEET; THENCE S 00 DEG. 28'58" E 147.14 FEET; THENCE N 89 DEG. 43'13" E 350.00 FEET; THENCE N 69 DEG. 32'49" E 223.19 FEET; THENCE S 71 DEG. 54'57" E 78.43 FEET; THENCE N 82 DEG. 46'40" E 159.79 FEET; THENCE N 89 DEG. 43'13" E 280.00 FEET TO THE POINT OF BEGINNING CONTAINING 15.97 ACRES OF LAND, AND CONTAINING 26 LOTS NUMBERED 1 THROUGH 26 INCLUSIVE AND WESTWIND PARK (PUBLIC).

ARTICLE III

RESTRICTIVE COVENANTS

SECTION 1. LAND USE AND BUILDING TYPE.

All lots within the subdivision are restricted to residential use. Further, any building that is erected, altered, placed or permitted to remain shall be one detached single-family dwelling or new construction not to exceed two and one-half stories in height and a private attached garage for not more than four cars or less than two cars.

However, model homes or homes with displays and sales activities may be maintained by the builder, developer or real estate broker as long as they are well maintained and they are not a nuisance to the general neighborhood. Also "Home Occupation" is permitted as defined by the City of Ithaca Zoning Ordinance at the time of such use.

SECTION 2. ARCHITECTURAL CONTROL

The Developer in conjunction with City reserves the right to review all construction projects within the subdivision. The following are considered permitted uses with the approval of the City and Developer: buildings or any other structure on any Lot or subdivision property. All plans must be submitted in writing to the City and will be approved in writing by the City as to the harmony of external design, location in relationship to surrounding structures.

In addition to the foregoing, the following requirements shall be met and the following improvements shall be made with regard to that portion of the property upon which any dwelling will be constructed.

- A. The setback from the front line to the front of the house shall be at least thirty (30) feet unless this requirement is waived by the City of Ithaca;
- B. The setback from the rear lot line to the rear of the house shall be at least forty (40) feet unless this requirement is waived by the City of Ithaca;
- C. The side yards shall be at least ten (10) feet unless this requirement is waived by the City of Ithaca;
- D. Any trees being planted must be a minimum of fifteen (15) feet behind the curb; and
- E. Five (5) foot sidewalks shall be constructed and installed between any dwelling and any street located in the City of Ithaca with twelve (12) feet to be between the sidewalk and the curb.

SECTION 3. FENCES.

Fences, walls, and hedges may be constructed or grown on any Lot in the subdivision, under the following guidelines:

- A. Fences required by law or ordinances may be constructed around a swimming pool and shall be constructed of materials and in a manner that is not unsightly from neighboring Lots (see Item "C").
- B. Fences must be of wood construction or approved metal wrought iron.
- C. Fences, walls, and hedges, shall be of open construction not more than five (5) feet in height and shall not extend in front of the rear dwelling line.

SECTION 4. BUILDINGS

Dwelling foundations are limited to an exposure height of two (2) feet. Further, all elevations are to be approved by the developer.

SECTION 5. DRIVEWAYS

All driveways must be made of paving brick or concrete materials. The City will not approve a site plan with an asphalt or gravel driveway.

SECTION 6. PARKING AREAS

Outside parking areas may be permitted with the approval of the City.

SECTION 7. BUILDING SIZE

Any one story residential building shall have no less than 1400 sq. ft. of livable first floor area and shall have an attached 2 car (or more) garage.

Any 2 story residential building shall have no less than 950 sq. ft. of livable first floor area and minimum 1700 total sq. ft. floor area on first and second floor. (Finished basements shall never be included in square footage requirements) and shall have an attached 2 car (or more) garage.

Any one and one-half story residential building shall have no less than 1200 sq. ft. of livable first floor area and shall have no less than 1600 sq. ft. total living area on first and second levels and shall have an attached 2 car (or more) garage.

Any split level residential building shall have no less than 1700 sq. ft. of livable floor space and shall have an attached 2 car (or more) garage.

Any residence shall be constructed in accordance with the requirements of the Michigan State Housing Code.

The term "Livable Floor Space, or Area" shall include all the area enclosed by, and including, the exterior walls of the dwelling, but shall not include any space or area in basements, garages, breezeways, carports, porches, and terraces. "Livable Floor Space or Area" is defined as living area with finished walls and ceilings and approved floor finish.

SECTION 8. EXTERNAL ENERGY SYSTEMS, SATELLITE DISHES OR ANTENNAS.

Solar collectors and satellite dishes or any other device or equipment erected either on the exterior of a dwelling or detached therefrom and designed for the production shall be permitted upon review and approval of the Developer.

SECTION 9. GARAGES

Any dwelling built on any Lot shall have at least a 2 car garage attached to, connected with, or built as part of the dwelling, with interior walls finished. Area will be a minimum of 400 sq. ft.

SECTION 10. TEMPORARY STRUCTURES

No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out buildings shall be erected or maintained on any Lot at any time as a residence or for storage whether temporarily or permanently.

SECTION 11. EASEMENTS FOR DRAINAGE AND SIGNS

The display of any sign in public view on any Lot is prohibited except one sign of not more than six (6) sq. ft. advertising the property for sale or rent, or signs used by builder to advertise the property during construction and sales period.

Easements for installation and maintenance of drainage facilities, structures, and grades are reserved over eight (8) feet of the side and rear of each lot. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may obstruct or retard the flow of water through the drainage channels in the easements. The easement area of each Lot and all improvements shall be maintained continuously by the Owner and the Lot.

The Developer covenants that it will endeavor to provide drainage channels within said easements, but it is expressly recognized that water flow obstruction may result by reason of grade on any particular Lot in the subdivision. In the event that obstruction of water flow does result, Developer shall be permitted, but not required, to take such action to correct the obstruction upon any Lot, whether such obstruction occurs on that Lot or on any other lot within the property.

Further, attendant to said easement for said drainage purposes, rights of ingress and egress are reserved to the Developer for the purpose of installation of drainage channels in the easement for correction of flow obstruction.

SECTION 12. SIGHT DISTANCE AT INTERSECTIONS

No fence, wall hedge, shrub, or planting which obstructs sightline at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street lines, or in case of a rounded property corner, from the intersection of the street property lines extended. The same sightline limitations shall apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless foliage line is maintained at sufficient height to prevent obstruction of such sightlines.

SECTION 13. YARD AND LAWN PLANTING

Each lot, including the area between front lot line and the curb, shall be seeded or sodded or landscaped in a neat, orderly and aesthetically pleasant manner within one (1) year from the start of construction.

SECTION 14. EXTERIOR STORAGE

Outdoor storage shall be limited to temporary on-site storage of recreational vehicles whose title is held by the Lot owner "Storage" is considered anything over forty-eight (48) hours in any one week. "Temporary" is defined as not exceeding 20 days in any given 30 day period. No carport shall be erected or maintained on any Lot. Garden sheds or outbuildings will be permitted with the following restrictions: minimum area 10' x 12', frame construction on a cement slab, shingled roof and keeping with the aesthetics of the primary structure. Exterior storage is limited to the rear yard of any Lot and must be located on a cement slab.

SECTION 15. RESTORATION

Any dwelling on any lot in the Plat which may be damaged or destroyed by fire, windstorm or from any other cause, shall be repaired, rebuilt or torn down and all debris removed and the lot restored to a slightly condition with reasonable promptness. Developer may enter on any premises where an excavation or foundation to be filled or

removed, or such uncompleted house has been left without substantial and continuing building progress for more than three (3) months and cause such excavation or foundation to be filled or removed, or such uncompleted house to be demolished, the expense thereof shall be immediately due and payable to Developer by the lot owner and shall become a lien on the property, and may be foreclosed by the Developer as in the case of the foreclosure of a mortgage under Michigan statutes.

SECTION 16. LOT CONDITION AND MAINTENANCE

The Owner of any improved Lot shall at all times keep and maintain the same in an orderly manner causing grass and other growth to be regularly cut, prevent accumulations of rubbish and debris, and in general maintain the Lot in a slightly condition. Should the Owner refuse or neglect to maintain any Lot in an orderly manner as herein provided after notice in writing is given him by the City of violation of the requirements herein contained, the premises may be placed in an orderly manner and the Owner shall be required to pay the cost thereof, and shall be a continuing lien assessment, together with such interest thereon, and cost of collection thereof, shall be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

SECTION 17. NUISANCES

The following shall not be permitted within the plat:

- A. The keeping of livestock or poultry.
- B. Outdoor tanks for storage of fuel.
- C. Outdoor receptacles for ashes, garbage, or refuse.
- D. On-site exploration or drilling of oil or gas.
- E. On-site exploration or removal of sand, gravel or other subsurface minerals.
- F. Vegetable gardens in the front or side yards.
- G. No swimming or wading pool with a water surface of more than 50 square feet shall be erected on any lot unless the proposed water level is below the average elevation of the ground around the pool.
- H. Basketball backboards attached to the primary structure including the garage.
- I. Closelines in front or side yards.

ARTICLE IV

General Provisions

SECTION 1. DURATION

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Developer, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of 25 years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then Owners of two thirds (2/3) of the Lots has been recorded agreeing to change. Said advance of the effective date of such change, and only if written ninety (90) days in advance of any action taken. However, changes can be made in these covenants at any time upon the recording of an instrument, signed by the then Owners of eighty (80) percent of the Lots (with a minimum of three homeowners), agreeing to said changes.

SECTION 2. NOTICES

Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage paid, to the last known address of the person who appears as Owner on the records of the Developer at the time of such mailing.

SECTION 3. ENFORCEMENT

Enforcement of these covenants and restrictions shall be any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Developer to enforce any lien created by these covenants and failure by the Developer to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 4. SEVERABILITY

Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way effect any other provision which shall remain in full force and effect.

WESTWIND ESTATES
PRICE LIST

1. SOLD
2. SOLD
3. SOLD
4. \$27,370
5. SOLD
6. SOLD
7. \$22,900
8. \$19,900
9. SOLD
10. \$22,900
11. \$22,900
12. \$23,900
13. \$20,900
14. \$19,900
15. SOLD
16. \$21,900
17. \$21,900
18. \$21,900
19. \$22,900
20. SOLD
21. SOLD
22. SOLD
23. \$21,900
24. \$21,900
25. SOLD
26. \$22,900

****PRICES ARE SUBJECT TO CHANGE WITHOUT NOTICE****

§ 4.05. Accessory buildings.

Except as otherwise permitted in this ordinance, accessory buildings shall be allowed as permitted uses, subject to the following regulations:

- (a) Where the accessory building is attached to or within 10 feet of a main building, it shall be subject to and must conform to all regulations of this ordinance applicable to such main building.
- (b) No accessory building shall be built upon any lot on which there is no principal building unless the accessory building is located on adjoining lots in single ownership. All exceptions are subject to special use permit approval by the planning and zoning commission.
- (c) Accessory buildings shall not be erected in any required front or side yard.
- (d) In the R-1, R-2, R-3, R-4 and R-O Districts, the maximum allowable size for the total of all accessory buildings on a developed lot shall be 864 square feet. A special use permit shall be required if the total area of all accessory buildings is larger than 864 square feet. In no instance shall the total area of all detached accessory buildings be larger than the area of the ground floor of the main building or occupy more than 10% of a required rear yard (and 25% of a nonrequired rear yard), whichever is less. All farm related accessory buildings in the R-1 District shall require a special use permit but shall not be larger than 10% of the required rear yard or more than 25% of the nonrequired rear yard.
- (e) In nonresidential districts, any accessory buildings in total may occupy not more than 10% of a required rear yard, and, in addition, not more than 25% of any nonrequired rear yard, provided that in no instance shall that total accessory building floor area exceed the ground floor area of the main building. This requirement shall not apply to normal farm buildings existing at the time of adoption of this ordinance.
- (f) In residential districts, any accessory building shall be located in the rear yard of the lot, except when attached to the main building. The rear yard is defined as the space on a lot or parcel lying between the main building or group of main buildings and the rear lot or property line. In the case of row housing or apartment developments, parking garages or covered bays may

be exempted from this requirement subject to approval by the Zoning Administrator.

- (g) No detached accessory building shall be located closer than 10 feet to any main building or any street right-of-way line, nor shall it be located closer than five feet to any side or rear lot line.
- (h) No detached accessory building in a residential district shall exceed 20 feet in height.
- (i) When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, the accessory building shall not project beyond the front yard setback line required on the lot in the rear of such corner lot.

