

**SUPERIOR CHARTER TOWNSHIP PLANNING COMMISSION
SUPERIOR TOWNSHIP HALL
3040 N. PROSPECT, YPSILANTI, MI 48198
AGENDA
JUNE 24, 2020
7:30 p.m.**

1. CALL TO ORDER
2. ROLL CALL
3. DETERMINATION OF QUORUM
4. ADOPTION OF AGENDA
5. APPROVAL OF MINUTES
 - A. Approval of the January 22, 2020 regular meeting minutes
6. CITIZEN PARTICIPATION
7. CORRESPONDENCE
 - A. 2020 Meeting Dates for Design Review Board
8. PUBLIC HEARINGS, DELIBERATIONS AND ACTIONS
9. REPORTS
 - A. Ordinance Officer
 - B. Building Inspector
 - C. Zoning Administrator
10. OLD BUSINESS
11. NEW BUSINESS
 - A. STPC 19-08 Fairway Glens Phase II – Preliminary Site Plan
 - B. STPC 20-01 Ypsilanti District Library – Preliminary Site Plan
12. POLICY DISCUSSION
13. ADJOURNMENT

Thomas Brennan III, Commission Secretary
3040 N. Prospect, Ypsilanti, MI 48198

Laura Bennett, Planning Clerk
734-482-6099

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1. CALL TO ORDER

Chairperson Guenther called the regular meeting to order at 7:30 p.m.

2. ROLL CALL

The following members were present: Brennan, Findley, Guenther, McGill, Sani-Yahyai. Gardner and Steele were absent. Also present were George Tsakoff, Township Engineer; Ben Carlisle, Carlisle Wortman; and Rick Mayernik, Building/Zoning Administrator.

3. DETERMINATION OF QUORUM

A quorum was present.

4. ADOPTION OF AGENDA

A motion was made by Commissioner Sani-Yahyai and supported by Commissioner Brennan to adopt the agenda as presented. The motion carried.

5. APPROVAL OF MINUTES

A. Minutes of the November 20, 2019 Meeting

A motion was made by Commissioner Brennan and supported by Commissioner Sani-Yahyai to approve the minutes as presented. The motion carried.

6. CITIZEN PARTICIPATION

None.

7. CORRESPONDENCE

None.

8. PUBLIC HEARINGS, DELIBERATIONS AND ACTIONS

None.

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9. REPORTS

A. Ordinance Officer

A motion was made by Commissioner Brennan and supported by Commissioner Sanii-Yahyai to receive the report. The motion carried.

B. Building Inspector

A motion was made by Commissioner Brennan and supported by Commissioner Sanii-Yahyai to receive the report. The motion carried.

C. Zoning Administrator

A motion was made by Commissioner Findley and supported by Commissioner Brennan to receive the report. The motion carried.

10. OLD BUSINESS

A. STPC 19-07 The Farm at St. Joes – Major/Minor Change Determination

Dave Raymond explained that since the Planning Commission last saw the project, it was discovered that a drainage easement belonging to Washtenaw County is located on the site. Therefore, the planned stormwater had to be relocated.

Mr. Tsakoff reviewed the Engineer's Report dated January 15, 2020.

Commissioner Guenther reviewed the major change criteria. It was determined that the project did not constitute a major change determination.

Motion by Commissioner Brennan, supported by Commissioner McGill to find that the revised St. Joes Final Site Plan dated December 30, 2019 meets the Minor Site Plan Amendment Standards as set forth in Section 7.106.C of the Zoning Ordinance.

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Roll Call:

Yes: Brennan, Findley, Guenther, McGill, Sanii-Yahyai.
No: None.
Absent: Gardner, Steele.
Abstain: None.

Motion Carried.

B. STPC 19-02 The Farm at St. Joes – Revised Final Site Plan

Motion by Commissioner Brennan, supported by Commissioner Findley to approve STPC 19-07 St. Joes Farm Final Site Plan dated December 30, 2019, with the condition that the applicant submits a final site plan that:

1. Addresses all outstanding comments in the engineer's report dated January 15, 2020;
2. Receives approval from all required outside agencies; and
3. Addresses all comments made by the Planning Commission at tonight's meeting.

Roll Call:

Yes: Brennan, Findley, Guenther, McGill, Sanii-Yahyai.
No: None.
Absent: Gardner, Steele.
Abstain: None.

Motion Carried.

11. NEW BUSINESS

A. Election of Officers for 2020

Motion by Commissioner Sanii-Yahyai, supported by Commissioner Findley to nominate Commissioner Guenther as Chairperson.

Roll Call:

Yes: Brennan, Findley, McGill, Sanii-Yahyai.
No: None.
Absent: Gardner, Steele.
Abstain: Guenther.

Motion Carried.

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Motion by Commissioner Brennan, supported by Chairperson Guenther to nominate Commissioner Gardner as Vice Chairperson.

Roll Call:

Yes: Brennan, Findley, Guenther, McGill, Sanii-Yahyai.
No: None.
Absent: Gardner, Steele.
Abstain: None.

Motion Carried.

Motion by Commissioner Guenther, supported by Commissioner McGill to nominate Commissioner Brennan as Secretary.

Roll Call:

Yes: Findley, Guenther, McGill, Sanii-Yahyai.
No: None.
Absent: Gardner, Steele.
Abstain: Brennan.

Motion Carried.

B. Adoption of 2020 meeting schedule

Motion by Commissioner Sanii-Yahyai, supported by Commissioner Brennan to approve the 2020 meeting schedule.

Motion Carried.

12. POLICY DISCUSSION

None.

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13. ADJOURNMENT

Motion by Commissioner Findley, supported by Commissioner Sani-Yahyai to adjourn.

Motion Carried.

The meeting was adjourned at 8:18p.

Respectfully submitted,
Thomas Brennan III, Planning Commission Secretary

Laura Bennett, Recording Secretary
Superior Charter Township
3040 N. Prospect Rd.
Ypsilanti, MI 48198 (734) 482-6099

DRAFT

CHARTER TOWNSHIP OF SUPERIOR
WASHTENAW COUNTY, MICHIGAN

MEMORANDUM

TO: David Guenther, Chair
Superior Charter Township Planning Commission

FROM: Tom Freeman, Chair

DATE: February 10, 2020

RE: 2020 Meeting Dates for Design Review Board

As you are aware, the Design Review Board is required by Ordinance to hold meetings during April and October of each year:

“...the Design Review Board shall meet in April and October of each year, and at other times as required by applicants or the Planning Commission...”

In compliance with the above requirement, the Design Review Board has scheduled the following meeting dates during 2020:

April 16, 2020
October 1, 2020

Of course, the Design Review Board will schedule any additional meetings needed to review projects submitted for our consideration.

I hope the above information is of assistance. If you have any questions, please feel free to contact me.

cc: Members, Design Review Board.
Township Clerk

Superior Township Monthly Report

May/ June 2020

Resident Debris/ Complaints:

- 1619 Sheffield- Wood, Refrigerator & Toys on Lawn- **(Tagged)**
- 1610 Wiard Rd.- Dog House, Door, Post and Vac. on Extension- **(Tagged)**
- 1390 Stamford Rd.- Grill on Extension- **(Tagged)**
- 1779 Manchester- Sink on Extension- **(Tagged)**
- 9785 Ravenshire- Wood Cabinet on Extension- **(Tagged)**
- 9753 Ravenshire- Toilet & Lamp on Extension- **(Tagged)**
- 9272 Panama- Furniture moved to backyard- **(Tagged)**
- 8259 Berkshire- Mattress & Boxspring on Extension- **(Tagged)**
- 1810 Norfolk- Wood Pieces on Extension- **(Tagged)**
- 1561 Stamford Ct.- Mattress & Misc. Debris on side of House- **(Tagged)**
- 8975 Nottingham- Mattress on Extension- **(Tagged)**
- 8260 Warwick Ct.- Grill on Extension- **(Tagged)**
- 1744 Bridgewater-Grill & Shovel on Extension- **(Tagged)**
- 9205 Abbey Ln.- Animals Living in Pool- **(Tagged)(Spoke With Owner)**
- 9221 Abbey Ln.- Mattress on Extension- **(Tagged)**
- 9214 Abbey Ln.-Broken down Wood Bed on Extension- **(Tagged)**

Yard Waste/ Grass Complaints:

- 9272 Panama- Grass in Backyard needs cutting- **(Tagged)**
- 8954 Bristol Ct.- Grass needs cutting- **(Has Been Cut)**
- 8948 Berkshire- Grass needs cutting- **(Tagged)**
- 1583 Courtney Ct.- Grass needs cutting- **(Tagged)**
- 9670 Wexford- Grass needs cutting- **(Tagged)**
- 1818 Ashley Dr.- Grass needs cutting- **(Tagged)**
- 1923 Andover- Grass needs cutting- **(Tagged)**
- 9262 Abbey Ln.- Grass needs cutting- **(Tagged)**
- 9258 Abbey Ln.- Grass needs cutting- **(Tagged)**
- 1666 Stephens Dr.- Grass needs cutting- **(Tagged)**
- 8614 Pine Ct.- Grass needs cutting- **(Tagged)**
- 8690 Cedar Ct.- Grass needs cutting- **(Tagged)**
- 8940 Nottingham- Grass needs cutting- **(Tagged)**
- 8607 Kingston Ct.- Grass needs cutting- **(Tagged)**
- 7584 Abigale- Grass needs cutting- **(Has Been Cut)**
- 1798 Dover Ct.- Grass needs cutting- **(Tagged)**
- 1536 Wiard Rd.- Grass needs cutting- **(Tagged)**

1580 Wiard Rd.- Grass needs cutting- **(Tagged)**

Vehicle Complaints:

1782 Hamlet- Vehicle Parked on Lawn- **(Tagged)**

1783 Hamlet- Vehicle Parked on Lawn- **(Tagged)**

8975 Nottingham- Vehicle Parked on Lawn- **(Tagged)**

1556 Wiard Rd.- Vehicle Parked on Lawn- **(Tagged)**

Dog Complaint:

8597 Eral Ct.- Barking Dogs- **(Neighbor Called Animal Control)**

Illegal Dumping:

Gotfredson & Geddes- Mattress, Boxspring & Fence Dumped

Zoning Report

June 15, 2020

Court Decisions: I came across two court cases that I thought may be of interest and have attached them to my report. We have received inquiries and/or complaints relating to both of these topics.

The first is an unpublished Court of Appeals decision from January 2020 relating to “wedding barns” in Webster Township.

The second is a May 2019 Michigan Supreme Court decision relating to short-term rentals in a residentially zoned district.

Construction Progress: Construction was allowed to resume in Michigan on May 7 and our developments have re-started and are back up to full speed.

All Sutton Ridge Apartment permits have been issued and I expect the project to be complete by the end of August. My understanding is that demand is strong and each building has been fully leased by the time a C of O was issued.

Prospect Pointe East continues to have strong sales with 6 new permits issued in June. There are very few lots remaining and I would expect the development to be complete sometime near the end of 2020 or early 2021.

Woodside Village progress continues with phase 1 nearing completion. Consultants and staff met with the builder last summer to discuss moving forward with phase 2 but, we have not had further discussions since.

Planning Commission: The Planning Commission will meet virtually (Zoom) on June 24th. This will be the first meeting since January. The agenda will include the preliminary site reviews for both the Library and Fairway Glens (Golfside) phase 2. There has been little or no inquiries relating to development activity during the Covid 19 pandemic stay at home order time period.

Richard Mayernik, Building/Zoning Official



If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN
COURT OF APPEALS

RYAN S. NIXON and NIXON FARMS, LLC,

Plaintiffs-Appellees,

v

WEBSTER TOWNSHIP,

Defendant-Appellant,

and

FRANK KOLAKOWSKI and SHERRY
KOLAKOWSKI,

Intervenors-Appellants.

UNPUBLISHED

January 21, 2020

No. 343505

Washtenaw Circuit Court

LC No. 17-000084-CZ

Before: CAMERON, P.J., AND SHAPIRO AND SWARTZLE, JJ.

PER CURIAM.

Defendant, Webster Township ("Township"), and Intervenors, Frank and Sherry Kolakowski (collectively, "the Township parties") appeal the trial court's order, ruling in favor of plaintiffs Ryan S. Nixon and Nixon Farms, LLC ("plaintiffs"). The trial court reversed the decision of the Webster Township Zoning Board of Appeals ("ZBA") and concluded that the ZBA erroneously determined that wedding barns were not included within the definition of "seasonal agri-tourism" under the Township's Agriculture Zoning District's ("Agriculture District") permitted land uses. We reverse.

In June 2011, the Township adopted the Webster Township Zoning Ordinance ("Ordinance"), effective July 8, 2011. The Ordinance created several zoning districts, including the Agriculture District. The intent of the Agriculture District was to enable productive farming, to encourage the continuation of contiguous blocks of active farms, to preserve the rural character of the Township, and to allow very low density housing that is compatible with the Township's agricultural heritage. Webster Ordinance, § 9.10(A). The Ordinance included as a permitted use within the Agriculture District: "Seasonal agri-tourism, including but not limited to

hay rides, pumpkin patches, corn mazes, and Christmas tree farms.” Webster Ordinance, § 9.10(B)(ix).

Plaintiffs operated 330 acres of farmland in the Agriculture District and grew corn, soybeans, pumpkins, and hay. In 2012, Nixon began to rent a barn on his property for weddings. According to Nixon, he requested and was given permission from the Township zoning administrator to do so because that use was considered “seasonal.”

In July 2016, the Township sent Nixon a letter to inform him “that the Michigan Court of Appeals has confirmed the ruling of the Washtenaw County Circuit Court that the operation of event barns is not allowed within the Agricultural Zoning District in Webster Township.”¹ The Township stated that it would delay enforcement of the ruling until October 31, 2016, but that any weddings, receptions, or similar events held at Nixon Farms thereafter would be considered a violation of the Zoning Ordinance.

Plaintiffs then requested that the ZBA define the term “agri-tourism” as provided in Webster Ordinance, § 9.10(B)(ix), effective July 8, 2011, to include holding barn weddings and receptions within the agricultural zoning district. The Township asked the ZBA to reject plaintiffs’ interpretation and argued that in order for the land use to qualify as “seasonal agri-tourism,” barn wedding ceremonies and receptions would have to fit within one of the examples of “seasonal agri-tourism” listed in the Ordinance.

The ZBA held two public hearings regarding the requests for interpretation of the Ordinance. Some of the community members who addressed the ZBA were in favor of interpreting “agri-tourism” to include wedding barns. However, a greater number of community members disagreed, expressing concerns regarding the noise, traffic, light pollution, waste, and safety issues related to wedding barns, as well as the potential disruptions to the rural character of the Agriculture District and the Township. The ZBA concluded that wedding barns were not included within the definition of agri-tourism because they did not conform to the examples provided in the Ordinance. Additionally, the ZBA concluded that “event barns” had previously been rejected by the Township as a special use within the Agriculture District.

Plaintiffs appealed the ZBA’s decision to the trial court. The trial court determined that there was doubt regarding the legislative intent of the Ordinance and therefore, the language of the Ordinance must be construed in plaintiffs’ favor as the property owner. The trial court reversed the ZBA’s decision and concluded that wedding barns were included in the definition of “seasonal agri-tourism” under the Ordinance. This appeal followed.

¹ The Township referred to *Webster Twp v Waitz*, unpublished per curiam opinion of the Court of Appeals, issued June 7, 2016 (Docket No. 325008), in which a panel of this Court affirmed a trial court order that prohibited the defendants from operating a commercial event barn. Notably, the panel did not address whether the barn constituted “seasonal agritourism.” See *id.* at 6 n 1. (“While the [defendants] contend that holding weddings in a barn can constitute agritourism, even if this was the case, there is no question that the barn operated year-round rather than seasonally.”).

The Township and amici curiae in support of the Township argue on appeal that the trial court improperly applied rules of statutory and ordinance construction and exceeded its reviewing authority when it reversed the ZBA's factual findings and conclusions of law. We agree.

We review de novo the underlying interpretation and application of an ordinance. *Great Lakes Society v Georgetown Charter Twp*, 281 Mich App 396, 407; 761 NW2d 371 (2008). The Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*, provides the standard used to review the decision of a local zoning board of appeals. It provides, in relevant part:

(1) Any party aggrieved by a decision of the zoning board of appeals may appeal to the circuit court for the county in which the property is located. The circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:

(a) Complies with the constitution and laws of the state.

(b) Is based upon proper procedure.

(c) Is supported by competent, material, and substantial evidence on the record.

(d) Represents the reasonable exercise of discretion granted by law to the zoning board of appeals. [MCL 125.3606.]

In other words, “[t]he decision of a zoning board of appeals should be affirmed unless it is contrary to law, based on improper procedure, not supported by competent, material, and substantial evidence on the record, or an abuse of discretion.” *Janssen v Holland Charter Twp Zoning Bd of Appeals*, 252 Mich App 197, 201; 651 NW2d 464 (2002).

A trial court “may affirm, reverse, or modify the decision of the zoning board of appeals” or “make other orders as justice requires.” MCL 125.3606(4). Generally, a reviewing court gives deference to a municipality’s interpretation of its ordinance. *Macenas v Michiana*, 433 Mich 380, 398; 446 NW2d 102 (1989). “[I]n cases of ambiguity in a municipal zoning ordinance, where a construction has been applied over an extended period by the officer or agency charged with its administration, that construction should be accorded great weight in determining the meaning of the ordinance.” *Id.* However, if the language of an ordinance is unambiguous, “the ordinance must be enforced as written.” *Kalinoff v Columbus Twp*, 214 Mich App 7, 10; 542 NW2d 276 (1995).

The purpose of interpreting a statute or an ordinance is “to discern and give effect to the intent of the legislative body.” *Great Lakes*, 281 Mich App at 407-408. We presume that the legislative body intended the meaning it plainly expressed in the statute or ordinance. *Joseph v Auto Club Ins Ass’n*, 491 Mich 200, 205-206; 815 NW2d 412 (2012). Clear statutory language must be enforced as written. *Velez v Tuma*, 492 Mich 1, 16-17; 821 NW2d 432 (2012). If the plain and ordinary meaning of the language is clear, “judicial construction is neither necessary nor permitted.” *Pace v Edel-Harrelson*, 499 Mich 1, 7; 878 NW2d 784 (2016). A statutory provision is ambiguous only if it irreconcilably conflicts with another provision or it is equally

susceptible to more than one meaning. See *Mayor of Lansing v Public Serv Comm*, 470 Mich 154, 166; 680 NW2d 840 (2004) (quotation marks and citation omitted).

Terms are given their plain and ordinary meanings. *Great Lakes*, 281 Mich App at 408. “When a term or phrase is not defined in a statute, the court may consult a dictionary to ascertain its commonly accepted meaning.” *Motycka v Gen Motors Corp*, 257 Mich App 578, 581-582; 669 NW2d 292 (2003). Unless it is clear that something different was intended, words and phrases should be read in their grammatical context, and in the context of the entire legislative scheme. See *Bush v Shabahang*, 484 Mich 156, 167; 772 NW2d 272 (2009). “The statute must be interpreted in a manner that ensures that it works in harmony with the entire statutory scheme.” See *id.*

The doctrine of *ejusdem generis* is

a rule whereby in a statute in which general words follow a designation of particular subjects, the meaning of the general words will ordinarily be presumed to be and construed as restricted by the particular designation and as including only things of the same kind, class, character or nature as those specifically enumerated. *Sands Appliance Servs, Inc v Wilson*, 463 Mich 231, 242; 615 NW2d 241 (2000) (quotation marks and citation omitted).

However, the doctrine also applies “[w]hen a statute uses a general term followed by specific examples included within the general term.” *Huggett v Dep’t of Natural Resources*, 464 Mich 711, 718; 629 NW2d 915 (2001); *Belanger v Warren Consol Sch Dist, Bd of Ed*, 432 Mich 575, 583; 443 NW2d 372 (1989).² The doctrine “accomplishes the purpose of giving effect to both the particular and the general words, by treating the particular words as indicating the class, and the general words as extending the provisions of the statute to everything embraced in that class, though not specifically named by the particular words.” *Belanger*, 432 Mich at 583 (quotation marks and citation omitted).

In this case, when defining the term “agri-tourism,” the ZBA concluded as follows:

The Ordinance does not contain a definition for agritourism, as such, the ZBA exercises its discretion to utilize other dictionaries and other tools to assist its interpretation. Merriam-Webster defines agritourism as “the practice of touring agricultural areas to see farms and often participate in farm activities.”

² To the extent that this Court in *Brown v Farm Bureau Gen Ins Co of Mich*, 273 Mich App 658, 664; 730 NW2d 518 (2007), stated that the doctrine of *ejusdem generis* does not apply when the general term precedes the more specific terms, this statement of the law was contrary to *Huggett*, 464 Mich at 718, and *Belanger*, 432 Mich at 583. This Court is bound to follow decisions of the Michigan Supreme Court when decisions of this Court conflict with Supreme Court decisions. See *Kennedy v Robert Lee Auto Sales*, 313 Mich App 277, 298 n 14; 882 NW2d 563 (2015).

Further, the State of Michigan Agricultural Tourism Advisory Commission defined “agricultural tourism” as “the practice of visiting an agribusiness, horticultural, or agricultural operation, including, but not limited to, a farm, orchard, or winery or a companion animal or livestock show, for the purpose of recreation, education, or active involvement in the operation, other than as a contractor or employee of operation.”

The ZBA then interpreted the term “seasonal” as it relates to agri-tourism as follows:

When interpreting the language of a statute or ordinance, a word or phrase is given meaning by its context or setting. Section 9.10(B)(ix) provides a number of sample (seasonal) agritourism activities. These activities include, but are not limited to, “hay rides, pumpkin patches, corn mazes, and Christmas tree farms.” These uses show that *seasonal* agritourism in Webster Township is related to an agricultural product, connected with an agricultural or harvest season, open to the public, has dispersed traffic patterns consisting largely of passenger vehicles, mainly occurs during daytime hours, utilizes a rural setting, and has sounds and noise traditionally associated with agricultural activities.

* * *

[T]he modifier “seasonal” in the listed permitted use of “Seasonal agritourism” of [the Ordinance] compels a more restrictive interpretation of the term “agritourism” in this community.

We conclude that the ZBA complied with the rules of interpretation outlined above when it interpreted Webster Ordinance, § 9.10(B)(ix) to exclude wedding barns from the permitted uses under “seasonal agri-tourism.”³ Specifically, the text of the Ordinance provides that “seasonal agri-tourism” “includ[es] but [is] not limited to hay rides, pumpkin patches, corn mazes, and Christmas tree farms.” The term “includes” can be one of enlargement or of limitation, depending on the context. See *Frame v Nehls*, 452 Mich 171, 178-179; 550 NW2d 739 (1996). In this case, it is clear that “including, but not limited to” is a phrase of enlargement, rather than limitation, to describe nonexclusive examples of “seasonal agri-tourism.” See *Bedford Pub Schs v Bedford Edu Ass’n MEA/NEA*, 305 Mich App 558, 567; 853 NW2d 452 (2014).

However, the examples of agri-tourism listed in the Ordinance relate to recreational or amusement activities on a farm that occur during the autumn and winter seasons and during the holidays. As reasoned by the ZBA, these activities share the common characteristics of being associated with an agricultural or harvest season. The activities are also open to the public and

³ Although plaintiffs urge this Court to interpret “seasonal agri-tourism” more expansively, interpreting the Ordinance is within the province of the ZBA so long as it did not err. Because the ZBA did not do so, we decline to assign our own definition to the term “seasonal agri-tourism.”

involve members of the public coming and going during the hours that the activities are available. The examples identified in the Ordinance involve products that are grown on a farm, namely hay, pumpkins, corn, and Christmas trees. The examples of seasonal agri-tourism listed in the Ordinance also involve visiting farms and participating in farm activities, i.e., “harvesting” pumpkins or cutting down Christmas trees. See *Huggett*, 464 Mich at 719 (holding that the statute exempted “farming activities” and that the examples of “farming activities” demonstrated that the activities were related to the operation of a farm or the practice of farming).

In contrast, wedding ceremonies and receptions are private events that are not associated with a particular agricultural product or harvest season. As reasoned by the ZBA, agricultural products are not necessary or utilized during a wedding ceremony or reception. Although plaintiffs argue that there is a “wedding season” generally from May to September, weddings are unrelated to an agricultural or harvest season that takes place on a farm as contemplated by the Ordinance. Weddings have concentrated traffic patterns at the beginning and end of the event and may also include significant commercial traffic for vendors. Wedding receptions often stretch late into the night. The ZBA further reasoned that the sounds of hundreds of wedding attendees and amplified music for dancing and celebrating are not traditional agricultural sounds or noise associated with agricultural activities.

Additionally, the context and legislative scheme of the Ordinance supports the conclusion that the Township intended to exclude wedding barns from the permitted use of “seasonal agri-tourism.” The Township Master Plan, as amended in 2015, provides that agriculture was historically a major economic activity in the Township, and Township residents supported farmland preservation and preservation of natural features. The Township established the planning goals of preserving the rural character of the Township, strengthening the rural identity of the Township, and maintaining large areas of active agricultural land. Regarding agriculture area policies, the Master Plan provided that Township residents emphasized the importance of farming and agricultural preservation. The Master Plan provided that “[i]ntense commercial operations such as event barns are not compatible within the Agriculture district.” Therefore, wedding barns were expressly contrary to the purposes of the Agriculture District under which “seasonal agri-tourism” was a permitted use. Further, the purposes of the Agriculture District support the conclusion that “seasonal agri-tourism” did not include wedding barns. The intent of the Agriculture District was to “enable productive farming, encourage the continuation of contiguous blocks of active farms, preserve the rural character of the Township, and allow very low density housing that is compatible with the Township’s agricultural heritage.”

The ZBA considered the Ordinance scheme, the purpose of the Agriculture District, and the rural character of the Township and rejected plaintiffs’ proffered definitions of “agri-tourism” from other sources and jurisdictions as specific to those communities. Additionally, it concluded that plaintiffs’ proffered definitions of “agri-tourism” were contrary to the plain language and legislative scheme of the Ordinance. More specifically, as already discussed, the ZBA found that weddings have concentrated traffic patterns at the beginning and end of the event and that sounds associated with wedding receptions are not traditional agricultural sounds that can be associated with agricultural activities. Therefore, the ZBA’s determination that weddings do not promote the rural character of the Agriculture District and the Township was supported by its findings.

Regarding the Township's prior legislative activity, the ZBA considered that the Township previously decided that wedding barns were a commercial activity and were therefore not appropriate as a "special use" within the Agriculture District. Although this legislative activity occurred in 2012 and 2013, i.e., after the Township adopted the Ordinance, the ZBA considered the Township's actions regarding the Ordinance and whether wedding barns should be permitted in the Agriculture District when interpreting the meaning of "seasonal agri-tourism" at the time plaintiffs requested that the ZBA interpret the Ordinance. The ZBA properly considered the legislative history to further support its interpretation, but it did not allow it to supersede its analysis of the plain language of the Ordinance and the scheme and context of the Ordinance. See *Mason Co v Dep't of Community Health*, 293 Mich App 462, 473-479; 820 NW2d 192 (2011) (explaining that a court may consider predecessor statutes and the law's historical development, as well as the law's historical context); but see *Universal Underwriters Ins Group v Auto Club Ins Ass'n*, 256 Mich App 541, 546; 666 NW2d 294 (2003) ("[W]e note that legislative analyses are unpersuasive tools of statutory construction.").

Because the ZBA's decision was supported by the plain language of the Ordinance and the context of the provision regarding "seasonal agri-tourism" in the legislative scheme of the Ordinance, the principle of interpretation discussed in *Talcott v Midland*, 150 Mich App 143; 387 NW2d 845 (1985), was not applicable.⁴ The *Talcott* Court stated that "[w]hen interpreting the language of an ordinance to determine the extent of a restriction upon the use of property, the language must be interpreted, where doubt exists regarding legislative intent, in favor of the property owner." *Talcott*, 150 Mich App at 147. However, *Talcott* did not establish a rule requiring that an ordinance be construed in favor of a property owner when a term in the ordinance is *unambiguous* and the Legislative intent is clear. In this case, the ZBA properly based its determination that wedding barns were not included in the definition of "seasonal agri-tourism" on the plain language and the scheme of the Ordinance. Therefore, the principle of interpretation in *Talcott* is not applicable in this case. See *Talcott*, 150 Mich App at 147.

We conclude that the ZBA's decision to exclude wedding barns from the term "seasonal agri-tourism" was authorized by law and supported by competent, material, and substantial evidence on the whole record and was a reasonable exercise of its discretion. See MCL 125.3606; *Olsen v Chikaming Twp*, 325 Mich App 170, 179-180; 924 NW2d 889 (2018). We conclude that the trial court should have afforded deference to the ZBA's expertise. See *Macenas*, 433 Mich at 398. We further conclude that the trial court erred by failing to apply the correct legal principles, by misapplying the substantial-evidence test to the ZBA's findings of

⁴ Additionally, we acknowledge that Court of Appeals cases decided before November 1, 1990, are not binding. MCR 7.215(J)(1). Although this Court is not "'strictly required to follow uncontradicted opinions from this Court decided prior to November 1, 1990,' those opinions are nonetheless 'considered to be precedent and entitled to significantly greater deference than are unpublished cases.'" *People v Bensch*, 328 Mich App 1, 7 n 6; 935 NW2d 382 (2019), quoting *Woodring v Phoenix Ins Co*, 325 Mich App 108, 114-115; 923 NW2d 607 (2018) (emphasis omitted).

fact and conclusions of law, and by reversing the ZBA's determination that "seasonal agri-tourism" did not include wedding

barns. See MCL 125.3606(4); *Olsen*, 325 Mich App at 179-180.⁵

Reversed. The findings and decision of the ZBA are reinstated.

/s/ Thomas C. Cameron
/s/ Douglas B. Shapiro
/s/ Brock A. Swartzle

⁵ Notwithstanding our decision in this case, we acknowledge that in August 2018, the Township further defined the term "seasonal agri-tourism" to expressly excluded event and wedding barns.

Order

Michigan Supreme Court
Lansing, Michigan

November 27, 2019

Bridget M. McCormack,
Chief Justice

159874

David F. Viviano,
Chief Justice Pro Tem

SUSAN REAUME,
Plaintiff-Appellant,

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

v

SC: 159874
COA: 341654
Ottawa CC: 17-004964-AA

TOWNSHIP OF SPRING LAKE,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the May 21, 2019 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1).

The appellant shall file a supplemental brief within 42 days of the date of this order addressing: (1) whether the Court of Appeals improperly relied on the character of the relationship that defines the term “family” in the zoning ordinance in order to conclude that the permitted use of a “Dwelling, Single Family” in the R-1 district does not include short-term rentals; and (2) whether, aside from the definition of “family,” the appellant met her burden of proof to establish that her actual use of 18190 Lovell Road as a short-term rental complied with the permitted use of the property as a “Dwelling, Single Family” before the township adopted Ordinance 255 and Ordinance 257. In addition to the brief, the appellant shall electronically file an appendix conforming to MCR 7.312(D)(2). In the brief, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellee shall file a supplemental brief within 21 days of being served with the appellant’s brief. The appellee shall also electronically file an appendix, or in the alternative, stipulate to the use of the appendix filed by the appellant. A reply, if any, must be filed by the appellant within 14 days of being served with the appellee’s brief. The parties should not submit mere restatements of their application papers.

The Michigan Townships Association and the Michigan Municipal League, and the Real Property Law and Government Law Sections of the State Bar of Michigan are

invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



s1120

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 27, 2019

Handwritten signature of Larry S. Royster in black ink.

Clerk

If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN
COURT OF APPEALS

SUSAN REAUME,

Plaintiff-Appellant,

v

TOWNSHIP OF SPRING LAKE,

Defendant-Appellee.

FOR PUBLICATION

May 21, 2019

9:05 a.m.

No. 341654

Ottawa Circuit Court

LC No. 17-004964-AA

Before: GLEICHER, P.J., and RONAYNE KRAUSE and O'BRIEN, JJ.

RONAYNE KRAUSE, J.

Plaintiff, Susan Reaume, appeals by leave granted¹ the trial court's order affirming the denial by defendant, the Township of Spring Lake (the Township), of plaintiff's application for a short-term rental license. We affirm.

I. BACKGROUND

In 2003, plaintiff purchased a home ("the property") located in the Township. The property has at all relevant times been located within the "R-1 Low Density Residential" zoning district. Plaintiff utilized the property as her full-time residence until 2014. In 2015, plaintiff retained a property management company, and an agent of that company made a telephone inquiry to the Township regarding restrictions on short term rentals for the property. According to the agent, a person named Connie Meiste "said that Spring Lake Township had no restrictions on short term or long term rentals." Plaintiff made substantial improvements to the property, and in 2015 and 2016, she rented it out seasonally as a short-term vacation rental. As will be discussed further, plaintiff contends that Lukas Hill, the Township's Zoning Administrator,²

¹ *Reaume v Spring Lake*, unpublished order of the Court of Appeals, entered June 4, 2018 (Docket No. 341654).

² Apparently, the Township uses the terms "zoning administrator" and "community development director" interchangeably.

“expressly affirmed [plaintiff’s] right to lawfully use [the property] as a short-term rental.” Plaintiff’s neighbors, however, objected to the use of the property for short-term rentals and lodged complaints with the Township.

In December 2016, the Township adopted Ordinance No. 255, which prohibited short-term rentals in the R-1 zone. However, the ordinance allowed long-term rentals of more than 28 days. The ordinance provided that all short-term rentals must be registered and licensed with the community development director before rental activity could occur. The Township also adopted Ordinance No. 257, which amended the Spring Lake Township Zoning Ordinance to allow “short-term rentals” and “limited short-term rentals,” which had independent definitions, in certain zoning districts. Ordinance No. 257 permitted “limited short-term rentals,” but not “short-term rentals,” in R-1 zones. The amendment defined “limited short-term rentals” as “[t]he rental of any Dwelling for any one or two rental periods of up to 14 days, not to exceed 14 days total in a calendar year.”

Plaintiff applied for a short-term rental license, which the Township denied. She appealed that decision to the Township Zoning Board of Appeals (ZBA), which denied her appeal. Plaintiff then appealed that decision in the trial court. Following a hearing, the trial court affirmed the Township’s decision in a written opinion and order. Plaintiff sought leave to appeal in this Court, which was granted.

II. STANDARD OF REVIEW

We review the interpretation of ordinances de novo. *Soupal v Shady View, Inc*, 469 Mich 458, 462; 672 NW2d 171 (2003). Ordinances are interpreted in the same manner as statutes; we must apply clear and unambiguous language as written, and any rules of construction are applied “in order to give effect to the legislative body’s intent.” *Brandon Charter Twp v Tippett*, 241 Mich App 417, 422; 616 NW2d 243 (2000). We also review de novo the application of legal and equitable doctrines. *Estes v Titus*, 481 Mich 573, 578-579; 751 NW2d 493 (2008); *Sylvan Twp v City of Chelsea*, 313 Mich App 305, 315-316; 882 NW2d 545 (2015). It is well established that courts will consider the substance of pleadings and look beyond the names or labels applied by the parties. *Hurtford v Holmes*, 3 Mich 460, 463 (1855); *Norris v Lincoln Park Police Officers*, 292 Mich App 574, 582; 808 NW2d 578 (2011).

“In general, we review de novo a circuit court’s decision in an appeal from a ZBA decision.” *Hughes v Almena*, 284 Mich App 50, 60; 711 NW2d 453 (2009). However, there is no single standard of review applicable to the appeal itself, because zoning cases typically entail questions of both fact and law. *Macenas v Village of Michiana*, 433 Mich 380, 394-395; 446 NW2d 102 (1989). The courts must defer to a ZBA’s factual findings to the extent they are “supported by competent, material, and substantial evidence on the record.” *Id.* at 395. We in turn review the circuit court’s factual findings for, in effect, clear error to determine whether the circuit court properly applied the substantial evidence test. *Hughes*, 284 Mich App at 60. The ZBA’s decisions on the basis of its factual findings are also given deference “provided they are procedurally proper ... and are a reasonable exercise of the board’s discretion.” *Macenas*, 433 Mich at 395. The ZBA’s determinations of law are afforded no deference. *Id.* at 395-396.

III. ESTOPPEL

We observe initially that much of plaintiff's argument is, in substance and effect, an equitable estoppel argument. Equitable estoppel may preclude the enforcement of a zoning ordinance if a party reasonably relies to its prejudice on a representation made by the municipality. *Lyon Charter Twp v Petty*, 317 Mich App 482, 490; 896 NW2d 477 (2016), vacated in part on other grounds by 500 Mich 1010 (2017). Generally, plaintiff contends that prior to the Township's adoption of Ordinance Nos. 255 and 257, it had formally determined and communicated that plaintiff's use of the property for short-term rentals was lawful. Plaintiff therefore concludes that her use of the property is necessarily "grandfathered," and the Township may not deny her permission to continue using her property for short-term rentals. Plaintiff argues that she expended considerable sums of money on renovations and modifications to the property in reliance upon the Township's alleged assurances that short-term rentals were lawful in the R-1 zoning district. However, plaintiff's argument turns on making untenable extrapolations from statements made by individuals who had no authority to bind the Township.

"[A] historical failure to enforce a particular zoning ordinance, standing alone, is insufficient to preclude enforcement in the present." *Lyon*, 317 Mich App at 489. A municipality may, in some cases, be estopped from enforcement "pursuant to the positive acts of municipal officials which induced plaintiff to act in a certain manner, and where plaintiff relied upon the official's actions by incurring a change of position or making expenditures in reliance upon the officials' actions." *Parker v West Bloomfield Twp*, 60 Mich App 583, 591; 231 NW2d 424 (1975); see also *Lyon*, 317 Mich App at 490. The general rule is against estopping municipalities from enforcing zoning ordinances in the absence of "exceptional circumstances," which must be viewed as a whole, and "no factor is in itself decisive." *Pittsfield Twp v Malcolm*, 375 Mich 135, 146-148; 134 NW2d 166 (1965). However, a municipality cannot be estopped by unauthorized or illegal conduct by individual officers. *Parker*, 60 Mich App at 594-595; see also *Blackman Twp v Koller*, 357 Mich 186, 189; 98 NW2d 538 (1959). "Casual private advice offered by township officials does not constitute exceptional circumstances." *Howard Twp Bd of Trustees v Waldo*, 168 Mich App 565, 576; 425 NW2d 180 (1988), citing *White Lake Twp v Amos*, 371 Mich 693, 698-699; 124 NW2d 803 (1963).

Plaintiff's only argument of serious concern pertains to the conversation her property management company's manager, Barbara Hass, had "with Connie Meiste at the Spring Lake Township offices by telephone." According to Hass's affidavit, she was told "that Spring Lake Township had no restrictions on short term or long term rentals." It is reasonable to expect municipal employees to provide accurate information upon request. However, this record does not disclose enough detail about the conversation to draw any conclusions. For example, it appears that the Township did not, in fact, have any formal regulations that specifically addressed rentals of property. Nevertheless, that is not necessarily equivalent to a statement that any kind of rental was explicitly authorized. We do not know precisely what question was asked. It is unclear whether Hass's affidavit repeats a direct quotation from Meiste's answer, or whether the affidavit sets forth Hass's understanding of the gravamen of Meiste's answer. Importantly, the record provides no support for the proposition that Meiste had any authority to bind the Township. Because plaintiff has the burden of proof, we are unimpressed with plaintiff's protestations to the effect that the Township has not *disproved* Meiste's authority or anything about the nature of her statement to Hass.

Plaintiff argues that the Township's Zoning Administrator, Lukas Hill, explicitly approved plaintiff's revised rental listing after obtaining clarification that the property was not being improperly held out as a multi-family dwelling. Again, there is nothing in the record to show that Hill had any individual authority to bind the Township to a zoning determination.³ Furthermore, the record indicates that the Township's enforcement protocol has historically been to address violations as they are reported in the forms of complaints, rather than to affirmatively look for violations. The record does not reflect whether the Township had received any complaints at the time of the original rental listing alleging a violation of the R-1 zoning requirements. Plaintiff extrapolates too much from Hill's satisfaction that plaintiff's revised rental listing complied with the specific prohibition against multi-family dwellings in R-1 zones. The fact that the revised listing did not contravene one restriction is not proof that it did not contravene *any* restrictions. In any event, as noted, failure to enforce a zoning ordinance does not constitute approval of an otherwise illegal use.

Plaintiff also argues that Hill had "determined unequivocally that short-term rentals were lawful under the Spring Lake Township Zoning Ordinance." We have carefully reviewed the documents plaintiff provided in support. One document is a printout of an emailed complaint from one of plaintiff's neighbors regarding plaintiff's rentals, upon which an unidentified person handwrote "Lukas says nothing we can do about it as yet." No explanation has been provided as to why Hill might have made such a statement, and we decline to speculate. Another document, from the Township Supervisor, John Nash, conveyed some advice to neighbors about actions they could take; it again contains no hint of a determination that plaintiff's use of the property was actually lawful. Neither document constitutes a formal determination by the Township, or binding on the Township, that plaintiff's use of the property for short-term rentals was actually lawful. Indeed, neither document appears even to constitute a private opinion that plaintiff's use of the property was lawful. Plaintiff also relies on the fact that the Township had not cited any other short-term rentals, which, again, is not an expression of approval.

In summary, plaintiff mostly relies on seriously mischaracterizing statements made by individuals. We conclude that there is no basis for estopping, formally or substantively, the Township from enforcing its zoning or regulatory ordinances to preclude plaintiff from using the property for short-term rentals.

³ Plaintiff cites *Gordon Sel-Way, Inc v Spence Bros, Inc*, 177 Mich App 116, 124; 440 NW2d 907 (1989), rev'd in part on other grounds 438 Mich 488 (1991), for the proposition that Hill's "interpretation" should be imputed to the Township. Hill does not appear to have rendered an "interpretation." More importantly, the pertinent holding in *Gordon Sel-Way* was that *knowledge* possessed by a corporation's managerial employees may be imputed to the corporation, such that the corporation may not willfully ignore any duties that might arise as a consequence of that knowledge. Here, the Township does not claim ignorance of any of the statements made by its employees and officers, but rather properly challenges their meaning and significance. *Gordon Sel-Way* did not purport to contravene the case law we have discussed above limiting the circumstances under which a municipality's employees or officers could bind the municipality.

IV. LAWFUL NONCONFORMING USE

MCL 125.3208(1) provides that “[i]f the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment.” This is colloquially, often referred to as “grandfathering.” A similar provision was included in Section 335 of the Spring Lake Township Zoning Ordinance, which provides:

Nonconforming Buildings, Structures, Lots, and uses which do not conform to one (1) or more of the provisions or requirements of this Ordinance or any subsequent amendments thereto, but which were lawfully established prior to the adoption of this Ordinance or subsequent amendment, may be continued. However, no such Building, Structure or use shall be enlarged or extended, and no nonconforming Lot created or made more nonconforming, except as provided herein. It is the intent of this Section to reduce or remove the number of nonconforming occurrences in the Township.

“A prior nonconforming use is a vested right in the use of particular property that does not conform to zoning restrictions, but is protected because it lawfully existed before the zoning regulation’s effective date.” *Heath Twp v Sall*, 442 Mich 434, 439; 502 NW2d 627 (1993).

On appeal, plaintiff does not challenge whether Ordinance Nos. 255 and 257 were properly adopted or prohibit short-term rentals in properties zoned R-1. As discussed, we find no merit to plaintiff’s contention that the Township had itself determined plaintiff’s use of her property for short-term rentals to be lawful. Nevertheless, if that use of the property *actually was* lawful prior to the adoption of Ordinances 255 and 257, then plaintiff has a right to continue using her property for short-term rentals. We conclude that it was not lawful prior to the adoption of Ordinances 255 and 257.

Plaintiff argues that her use of the property as a short-term rental was lawful pursuant to the definition of the term “dwelling” in the Spring Lake Township Zoning Ordinance. We disagree. The Spring Lake Township Zoning Ordinance defines “dwelling” under Section 205 as:

Any Building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, by one (1) or more Families, but not including Motels or tourist rooms. Subject to compliance with the requirements of Section 322, a Mobile Home shall be considered to be a Dwelling.

(1) Dwelling, Single-Family: A Building designed for use and occupancy by one (1) Family only.

(2) Dwelling, Two-Family: A Building designed for use and occupancy by two (2) Families only and having separate living, cooking and eating facilities for each Family.

(3) Dwelling, Multi-Family: A Building designed for use and occupancy by three (3) or more Families and having separate living, cooking and eating facilities for each Family.

The Ordinance does not define “tourist room,” but it defines “motel” under Section 214 as:

A Building or group of Buildings on the same Lot, whether Detached or in connected rows, containing sleeping or Dwelling Units which may or may not be independently accessible from the outside with garage or Parking Space located on the Lot and designed for, or occupied by transient residents. The term shall include any Building or Building groups designated as a Hotel, motor lodge, transient cabins, cabanas, or by any other title intended to identify them as providing lodging, with or without meals, for compensation on a transient basis.

Finally, “family” is defined under Section 207 as:

A single individual or individuals, domiciled together whose relationship is of a continuing, non-transient, domestic character and who are cooking and living together as a single, nonprofit housekeeping unit, but not including any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students, or other individuals whose relationship is of a transitory or seasonal nature, or for anticipated limited duration of school terms, or other similar determinable period of time.

We note that R-1, R-2, R-3, and R-4 zones all permit “Dwelling, Single-Family” use, but only in R-4 zones are “Dwelling, Two-Family” and “Dwelling, Multiple-Family” uses permitted. The described “intent” of R-4 zoning notes that such zoning “is dispersed throughout the Township to avoid pockets of rental or transient housing.”

Read as a whole, the definition of “Dwelling, Single-Family” unambiguously excludes transient or temporary rental occupation. Plaintiff focuses on the word “temporarily” in the overview definition of “Dwelling.” Plaintiff fails to note that although *some* kinds of dwellings permit temporary occupancy, *single-family* dwellings do not. The definition of single-family dwelling emphasizes one family *only*, and “family” expressly excludes “transitory or seasonal” or otherwise temporary relationships. Notwithstanding the possibility of some temporary occupancy, *any* kind of “dwelling” excludes a “motel.” “Motels” expressly provide transient lodging, or “tourist rooms,” which are undefined but reasonably understood as also referring to transient lodging. Plaintiff’s use of her property for short-term rentals seemingly fits the definition of a “motel.” Finally, it is notable to contrast the descriptions of the R-1 through R-3 zones with the description of R-4 zoning, which suggests that some kind of temporary occupancy might be permitted in two-family or multiple-family dwellings. The Ordinance clearly forbids short-term rental uses of property in R-1 zones, irrespective of whether the Ordinance does so in those exact words.

As plaintiff notes, there was never any serious dispute that she actually was using the property for short-term rental purposes. However, doing so was not permitted in the R-1 district

at any time. Therefore, plaintiff is not entitled to continue doing so as a prior nonconforming use, notwithstanding the Township's failure to enforce its zoning requirements.

V. PUBLICATION

Unpublished opinions of this Court have no precedential effect under either stare decisis, MCR 7.215(C)(1), or under the "first-out rule," MCR 7.215(J)(1). Our Court Rules set forth a list of standards for publication in MCR 7.215(B). We note that the Court Rule does not state that an opinion may not be published for other reasons, only that it "must be published if" any of the enumerated conditions are present. A party may request publication after an opinion has been issued pursuant to MCR 7.215(D). However, we remind the bar that if they believe any basis for publication exists, it is enormously more helpful—to us and to them—if they bring that basis to our attention *before* the case is submitted. Advocating for publication, or at least the possibility of publication, from the outset guarantees that we can properly consider any such basis at the most appropriate and optimal time, and doing so also avoids the taint of self-interested opportunism after issuance. We would likely look more favorably upon a publication request where we have already had the opportunity to holistically analyze the potential merits of publication in context, while analyzing the rest of the case.

In this matter, plaintiff has brought to our attention the unpublished case of *Concerned Property Owners of Garfield Twp, Inc v Charter Twp of Garfield*, unpublished per curiam opinion of the Court of Appeals, Docket No. 342831 (issued October 25, 2018). This case is unpublished, and we have not relied upon it in our substantive analysis. However, the existence of this case supports that the issues presented in the current matter are of increasing importance and commonality in Michigan, and that the bench and bar would benefit from the certainty that a published opinion would bring. We conclude that publication of this matter is warranted under MCR 7.215(B)(5).

VI. CONCLUSION

Plaintiff's use of the property for short-term rentals was never permitted under the Township's R-1 zoning. This is consistent with case law establishing that commercial or business uses of property, generally meaning uses intended to generate a profit, are inconsistent with residential uses of property. See *Terrien v Zwit*, 467 Mich 56, 61-65; 648 NW2d 602 (2002). Plaintiff's use of the property for short-term rental was not a prior nonconforming use because it was never lawful pursuant to the Ordinance. The Township's mere failure to enforce the Ordinance does not confer upon plaintiff a right to continue violating the ordinance. Neither does a statement made by any individual without the power to bind the Township, especially where none of the statements clearly express an opinion that short-term rentals in R-1 zones was affirmatively lawful. Accordingly, the trial court properly affirmed the Township Board's denial of plaintiff's application for a short-term rental license.

Affirmed. Defendant, being the prevailing party, may tax costs. MCR 7.219(A).

/s/ Amy Ronayne Krause
/s/ Elizabeth L. Gleicher
/s/ Colleen A. O'Brien

SUPERIOR TOWNSHIP BUILDING DEPARTMENT
MONTH-END REPORT
JUNE 2020

| Category | Estimated Cost | Permit Fee | Number of Permits |
|-------------------------------------|------------------------------|---------------------------|-------------------|
| Electrical | <i>\$0.00</i> | <i>\$1,915.00</i> | <i>13</i> |
| Mechanical | <i>\$0.00</i> | <i>\$4,189.00</i> | <i>31</i> |
| Plumbing | <i>\$0.00</i> | <i>\$3,125.00</i> | <i>17</i> |
| Res-Additions (Inc. Garages) | <i>\$23,800.00</i> | <i>\$290.00</i> | <i>1</i> |
| Res-New Building | <i>\$2,395,109.00</i> | <i>\$15,961.00</i> | <i>8</i> |
| Res-Other Building | <i>\$58,420.00</i> | <i>\$425.00</i> | <i>4</i> |
| Res-Other Non-Building | <i>\$29,800.00</i> | <i>\$275.00</i> | <i>2</i> |
| Totals | <i>\$2,507,129.00</i> | <i>\$26,180.00</i> | <i>76</i> |

SUPERIOR TOWNSHIP BUILDING DEPARTMENT
YEAR-TO-DATE REPORT

January 2020 To Date

| Category | Estimated Cost | Permit Fee | Number of Permits |
|----------------------------------------|------------------------------|----------------------------|-------------------|
| Com/Multi-Family New Building | <i>\$315,694.00</i> | <i>\$2,152.00</i> | <i>1</i> |
| Com/Multi-Family Other Building | <i>\$196,500.00</i> | <i>\$200.00</i> | <i>1</i> |
| Com-Other Non-Building | <i>\$5,000.00</i> | <i>\$100.00</i> | <i>1</i> |
| Electrical | <i>\$0.00</i> | <i>\$20,919.00</i> | <i>103</i> |
| Mechanical | <i>\$0.00</i> | <i>\$23,123.50</i> | <i>141</i> |
| Plumbing | <i>\$0.00</i> | <i>\$11,527.00</i> | <i>70</i> |
| Res-Additions (Inc. Garages) | <i>\$82,300.00</i> | <i>\$505.00</i> | <i>2</i> |
| Res-New Building | <i>\$6,800,443.00</i> | <i>\$45,342.10</i> | <i>23</i> |
| Res-Other Building | <i>\$344,684.00</i> | <i>\$2,239.00</i> | <i>17</i> |
| Res-Other Non-Building | <i>\$68,520.00</i> | <i>\$575.00</i> | <i>5</i> |
| Res-Renovations | <i>\$181,263.00</i> | <i>\$711.00</i> | <i>4</i> |
| Totals | <i>\$7,994,404.00</i> | <i>\$107,393.60</i> | <i>368</i> |

SITE PLAN REVIEW APPLICATION

(This application must be typewritten or printed. All questions must be answered.)

APPLICANT NAME Nabil Akhras

**NAME OF PROPOSED
DEVELOPMENT** Fairway Glens Phase II

APPLYING FOR

- PRELIMINARY SITE PLAN
- FINAL SITE PLAN
- COMBINED PRELIMINARY AND FINAL SITE PLAN
(Combination is at discretion of Planning Commission)
- MINOR SITE PLAN
- MAJOR/MINOR CHANGE DETERMINATION
- ADMINISTRATIVE REVIEW

WILL PROJECT BE PHASED? YES NO

IF PROJECT IS PHASED COMPLETE THE FOLLOWING:

- Total number of phases _____
- Phase number of current application _____
- Name and date of preliminary site plan approval _____

• Date of Previous Phase Approvals:

| | | | |
|---------|-------|------|-------|
| Phase # | _____ | Date | _____ |
| Phase # | _____ | Date | _____ |
| Phase # | _____ | Date | _____ |
| Phase # | _____ | Date | _____ |

SEEKING ADDITIONAL APPROVAL FOR A CONDITIONAL USE YES NO

Laura Bennett

Signature of the Clerk or Designee

12/20/2019

Date of Receipt of Application

\$5900

Amount of Fee

GENERAL INFORMATION

- Name of Proposed Development Fairway Glens Phase II
- Address of Property 1609 Clark Road (per tax records)
- Current Zoning District Classification of Property R-4 SF Residential (CJ)

Is the zoning classification a Special District as defined by Article 7? YES NO

- Has this property been the subject of a rezoning request, Zoning Board of Appeals petition or other Township action with the past five (5) years? YES NO

Please explain The property has both a consent judgment and development agreement from 2002

- Tax ID Number(s) of property J-10-35-400-012
- Site Location - Property is located on (circle one) N S E W side of Wiard Road between Clark and Stamford Roads.
- Legal Description of Property (please attach a separate sheet)
Where a metes and bounds description is used, lot line angles or bearings shall be indicated on the plan. Lot line dimensions and angles or bearings shall be based upon a boundary survey prepared by a registered surveyor and shall correlate with the legal description.

Site Area (Acreage) and Dimensions

- Are there any existing structures on the property? YES NO
Please explain: _____

PROPOSED LAND USE

- Residential Office Commercial Other

If other, please specify _____

- Number of units 65
- Total floor area of each unit TBD (<42% FAR)
- Give a complete description of the proposed development.
Original Development Plans (Fairway Glens) were approved in February 2002.
Phase II was recently purchased separately by owner for development.
Pre-Application meeting was help with the Township and their consultants on 11/5/19.

ESTIMATED COSTS

- Buildings and other structures TBD
- Site improvements \$1.25 Million
- Landscaping \$30,000
- Total \$1.28 Million

ESTIMATED DATES OF CONSTRUCTION

- Initial construction Spring 2020
- Project completion Spring 2021
- Initial construction of phases (IF APPLICABLE) _____
- Completion of subsequent phases. (IF APPLICABLE) _____
- Estimated date of first occupancy Spring 2021

IDENTIFY EACH DRAWING SUBMITTED BY NAME OF PLAN OR DRAWING, DATE AND DRAWING NUMBER (ATTACH ADDITIONAL SHEET IF NECESSARY)

Preliminary Site Plan Fairway Glens Phase II, 12/20/19

APPLICANT INFORMATION

- APPLICANTS NAME Nabil Akhras
Company _____
Address 6085 Pontiac Trail, West Bloomfield, MI 48323
Telephone Number (734) 272-7998 Email AKHRASNABIL@GMAIL.COM

- PROPERTY OWNER'S NAME _____
Company Mayalco, LLC
Address 10429 Canary Isle, Tampa, FL 33647
Telephone Number _____ Email _____

- DEVELOPER'S NAME Nabil Akhras
Company Mayalco, LLC
Address 10429 Canary Isle, Tampa, FL 33647
Telephone Number (734) 272-7998 Email AKHRASNABIL@GMAIL.COM

- ENGINEER'S NAME Craig Kantola, PE
Company Atwell, LLC
Address 311 N Main, Ann Arbor, MI 48104
Telephone Number (734)994-4000 Email CKantola@atwell-group.com


- ARCHITECT/PLANNER'S NAME _____
Company Atwell, LLC
Address 311 N Main, Ann Arbor, MI 48104
Telephone Number (734)994-4000 Email _____

The applicant indicated on page 4 must sign this application. All correspondence regarding the application and plan will be directed to the applicant. If the applicant is not the property owner, the owner's signed consent must also be provided with this application.

APPLICANT'S DEPOSITION

I hereby depose and certify that all information contained in this application, all accompanying plans and all attachments are complete and accurate to the best of my knowledge.

APPLICANT'S PRINTED NAME: Nabil Akhras

APPLICANT'S SIGNATURE  DATE 12/17/2019

PROPERTY OWNER'S PRINTED NAME Nabil Akhras, Moyalco LLC

PROPERTY OWNER'S SIGNATURE  DATE 12-14-2019



Carlisle | Wortman
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

Date: January 14, 2020
Revised: February 25, 2020

**Site Plan Review
For
Superior Township, Michigan**

| | |
|--------------------------|----------------------------------------|
| Applicant: | Mayalco, LLC |
| Project Name: | Fairway Glens – Phase 2 |
| Location: | Wiard Boulevard |
| Plan Date: | December 20, 2019 |
| Revision Date: | February 7, 2020 |
| Zoning: | R-4 Single Family Residential |
| Action Requested: | Phase 2 Preliminary Site Plan Approval |

PROJECT DESCRIPTION

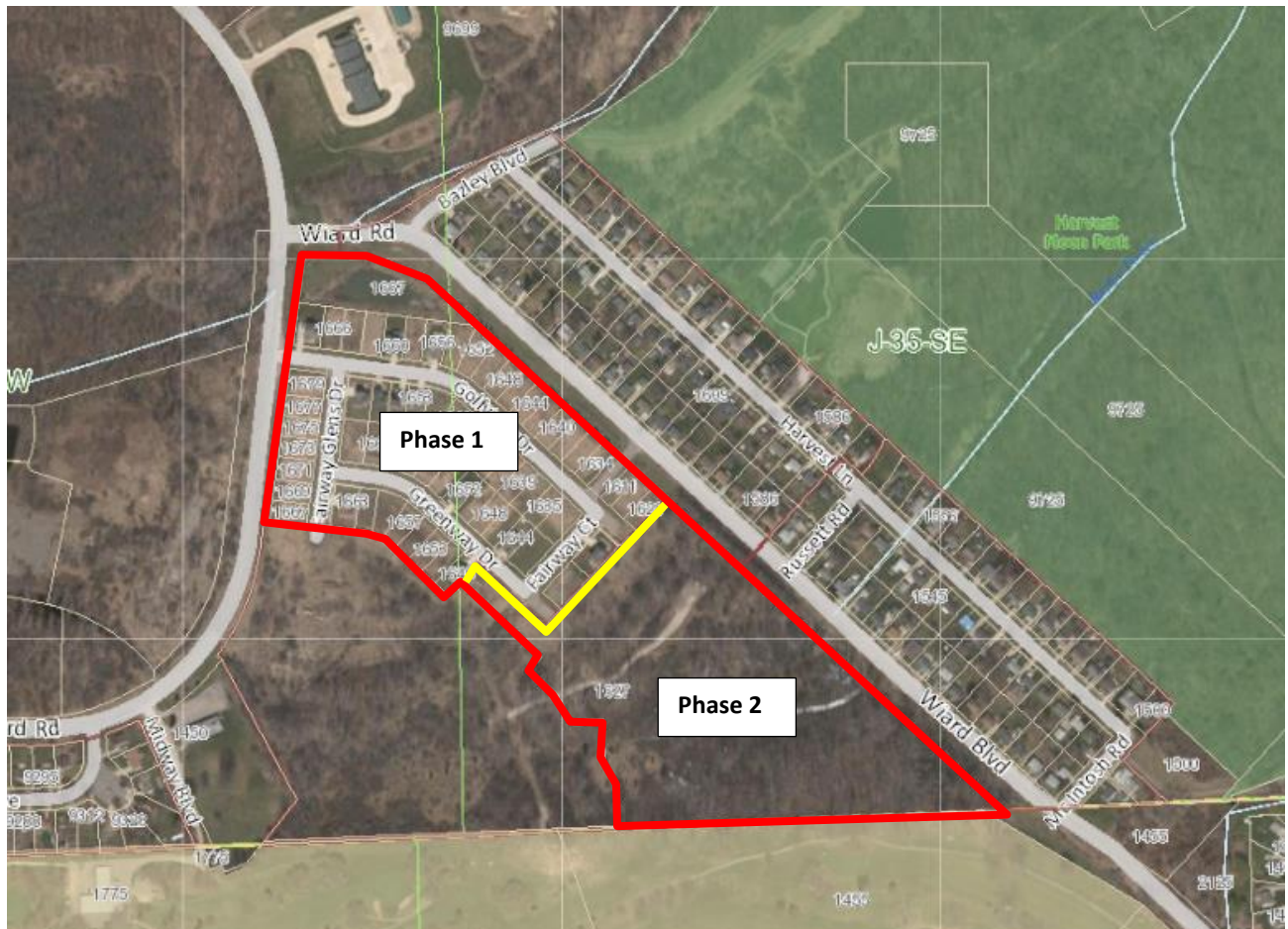
The applicant has submitted a revised Preliminary Site Plan for the development of phase 2 of single-family site condominium. Phase 1, which has already been constructed, includes 64 units. Phase 2 is proposed for 65 units on 14.9 acres. The site is zoned R-4 Single Family Residential Zoning District, which allows for approximately 6 dwelling units per acre. With a proposed 65 units the density has been calculated to be 4.36 dwelling units per acre. The project is proposed to be developed in one (1) phase.

A site plan for this project with a revision date of 12/17/01 was previously approved with a development agreement in 2002. The Development agreement and site plan approvals have expired, however, there is a consent judgment related to this project that still remains in effect. The consent Judgments modifies some of the bulk requirements. These modifications are identified in the section of this report dealing with area, width, height, and setbacks.

The proposed phase 2 to is generally consistent with the original phase 2 for this project with some exceptions. The original plan included 3 phases. The land that comprised phase 3 is now owned by the Township. Where two road connections were previously proposed to phase 3, the applicant is now showing residential lots. In this area a cul-de-sac for Fairway Court was previously shown extending into phase 3. The applicant is now showing a reconfiguration of 2 lots, that fronted on Fairway Court, to create six lots that would front on Greenway Drive. The reconfiguration of the site constitutes an increase in 3 overall units. The reconfiguration of the site is logical due to the removal of access to the third phase. However, in order to make these reconfigured lots conform to the lot size in the neighborhood the applicant has proposed “land swap” with the Township.

The proposed land swap includes the transfer of 0.36 acres from the land that was phase 3 to make up the rear, approximately 50 feet, of lots 65-71. In exchange, the applicant would transfer 0.46 of land to the Township which lies between Greenway Drive and the former phase 3. In their response letter the applicant has indicates that they will incorporate this into the final site plan. However, this is critical to the layout of the preliminary plan. Any preliminary approval should therefore be contingent on the township board agreeing to the land swap.

Aerial Photograph



Items to be Addressed: *The Township Board must agree to the proposed land swap.*

NATURAL RESOURCES

Topography: The site is generally flat with lower slopes in the middle of the site around the onsite wetland.

Woodlands: The site includes heavy woodlands. The applicant did not submit a detailed tree inventory; however the natural features notes that “trees on the site although in good condition, are not necessarily high quality with respect to species. The treed area covers most of the proposed development area.

A detailed tree inventory is not required until the final site plan. The preliminary site plan requires a general evaluation of the quality of woodland areas and trees on and around the site by means of a reasonable sampling. The applicant has provided a general evaluation of the woodlands on sheet 5. The predominate species for the canopy are indicated to be Cottonwood, Quaking Aspen, Black Walnut and American Elm. They note the understory includes shrubs and saplings and invasive species. Though not stated outright it appears that applicant is suggesting the woodland is not the highest quality. A full tree inventory and mitigation plan for protected trees will be required in the final.

Wetlands: There are two wetlands delineated on the site plan. The plan indicates that all wetlands on site are to be filled. The total fill is indicated to be 1.5 acres. The regulatory status is not provided for either wetland. However, the applicant has indicated that as part of the final site plan the size, delineation and regulatory status of the wetlands will be verified by the Michigan Department of the Environment Great Lakes and Energy (EGLE) have been provided.

Soils: Soil information has been provided on sheet 4. This page indicates 2 different soil types on site.

Items to be Addressed: *1) A detailed grading plan is required in the final site plan. 2) A detailed tree inventory and mitigation plan must be provided with the final site plan. 3) Provide the regulatory status of each wetland along with verification of the size and delineation from the EGLE for the final site plan.*

SITE LAYOUT, ACCESS, AND CIRCULATION

As noted in the project description above, the layout of the site is generally consistent with the previously approved site plan. There is one proposed access point of Wiard Boulevard, and two internal connection points to the existing phase 1. The sixty-five (65) lots will be accessed and arranged around two internal streets. Sidewalks are proposed along both sides of all roads within the development.

At the time of this memo, the applicant has submitted plans to the Road Commission but has not received comments back.

Items to be Addressed: *The applicant must provide an initial review letter from the WCRC.*

AREA, WIDTH, HEIGHT, SETBACKS

The following table summarizes the Density, Placement, and Height Regulations for the site plan associated with this use. The table will use the typical or smallest dimensions provided for any lot.

Density, Placement, and Height Regulations

| | Required | Provided |
|------------------------------------------|------------------------------------------|------------------------------------------|
| Lot Area | 6,000 Square Feet (by consent judgement) | 6000 Square Feet |
| Lot Width | 50 Feet (by consent judgement) | 50 Feet |
| Front Setback | 25 Feet | 25 Feet |
| Side Setback | 5 Feet (by consent judgement) | 5 feet |
| Rear Setback | 35 Feet | 35 Feet |
| Ground Floor Coverage | 28% Max (by consent judgement) | Confirmed through building permit review |
| Floor area Ratio | 42% Max (by consent judgement) | Confirmed through building permit review |
| Maximum Net Dwelling Unit Density | 6 | 4.36 |
| Building Height | 35 Feet/2.5 Stories | Confirmed through building permit review |

The plan meets the dimensional standards from Section 3.101 of the Zoning Ordinance or set forth in the consent judgement.

Items to be Addressed: *None*

PARKING

Two spaces are required for each dwelling unit. Parking for each unit will be accommodated in driveways and granges for each dwelling.

Items to be Addressed: *None.*

LANDSCAPING

The Development Agreement addresses landscaping in two sections:

2.11 Landscape Plan for Development. Developer shall provide a complete landscape plan for the Development depicting the type, size, and location of landscaping materials. Such plan shall consider landscaping along Wiard Boulevard, Stamford road, all roadway entrances to the Development, and adjacent to retention /detention basin within the Development. Such landscaping plan shall be submitted and approved by the Township's consultants prior to any building permit being issued.

2.26 Street Trees. Developer shall be responsible for installing, within the street right-of-way, one (1) street tree for every individual lot frontage according to approved landscaping plan. Developer shall also be responsible for installing, within the street right-of-way, street trees along both sides of Wiard Boulevard extending along the entire frontage of the Development thereon and street trees, within the right-of-way, along the entire frontage of the Development on Stamford Road according to the landscaping plan.

The applicant has provided one (1) street tree per lot as set forth in the Development Agreement. However, they have not provided landscaping at the entrance or along Wiard Boulevard per the requirements in the development agreement and Section 3.203.F. of the zoning ordinance. Additionally, detention basin landscaping must be provided that conforms with the requirements of Section 14.10.G.

Items to be Addressed: 1) Provide landscaping at the entrance and along Wiard Boulevard per the requirements in the development agreement and Section 3.203.F. 2) Provide detention basin landscaping per the requirements in the development agreement and Section 14.10.G.

LIGHTING

No lighting plan has been provided. Section 2.28 of the Development Agreement states:

2.28 Street Lighting. Developer shall petition the Township for the creation and establishment of a special assessment district for the purpose of defraying the costs of installation, the annual maintenance, and operation of street lighting by special assessment against the property especially benefited. Upon creation and establishment of the special assessment district for the purposes of street lighting, Developer shall install down shielded street lighting which meets or exceeds the minimum residential street lighting standards of the Detroit Edison Company and is in compliance with approved final site plan.

The applicant has indicated in their response letter that they will submit a lighting plan with the final site plan. Based on Section 12.10.H. of the Zoning Ordinance street lighting will be required

in this development. The lighting plan on the final site plan must demonstrate compliance with Section 12.10.H. and Section 14.11 of the Zoning Ordinance.

Items to be Addressed: 1) Developer shall petition the Township for the creation and establishment of a special assessment district for lighting. 2) A lighting plan will be required on the final site plan that demonstrates compliance with Section 12.10.H. and Section 14.11 of the Zoning Ordinance.

FLOOR PLANS AND ELEVATIONS

The applicant has not provided floor plans and elevations. The applicant has indicated in their response letter that they will provide floor plans and elevations with the final site plan.

Items to be Addressed: Submit building floor plans and elevations with the final site plan to confirm compliance with Section 14.09.B. of the Zoning Ordinance.

SUMMARY

The proposed land swap includes the transfer of 0.36 acres from the land that was phase 3 to make up the rear, approximately 50 feet, of lots 65-71. In exchange, the applicant would transfer 0.46 of land to the Township which lies between Greenway Drive and the former phase 3. In their response letter the applicant has indicated that they will incorporate this into the final site plan. However, this is critical to the layout of the preliminary plan. Any preliminary approval should therefore be contingent on the township board agreeing to the land swap.

We recommend preliminary site plan approval with the following conditions:

1. The Township Board must agree to the proposed land swap prior to applicant submitting final site plan.
2. The following items to be submitted with final site plan submittal:
 - a. A detailed grading plan.
 - b. A tree inventory and mitigation plan.
 - c. Outside agency approvals including EGLE (wetlands), WCRC, and WCWRC.
 - d. Provide landscaping at the entrance and along Wiard Boulevard per the requirements in the development agreement and Section 3.203.F.
 - e. Provide detention basin landscaping per the requirements in the development agreement and Section 14.10.G.
 - f. A lighting plan that demonstrates compliance with Section 12.10.H. and Section 14.11 of the Zoning Ordinance.
 - g. Submit building floor plans and elevations to confirm compliance with Section 14.09.B. of the Zoning Ordinance.
 - h. Developer shall petition the Township for the creation and establishment of a special assessment district for lighting.

Fairway Glens Phase 2
February 25, 2020



CARLISLE/WORTMAN ASSOC., INC.
Benjamin R. Carlisle, AICP, LEED AP
Principal



CARLISLE/WORTMAN ASSOC., INC.
Paul Montagno, AICP
Associate

#351-2000

cc: Ken Schwartz, Township Supervisor
Lynette Findley, Township Clerk
Richard Mayernik, CBO, Building Department
Laura Bennett, Planning Coordinator
George Tsakof, Township engineer



EVAN N. PRATT, P.E.

WATER RESOURCES COMMISSIONER
705 North Zeeb Road
P.O. Box 8645
Ann Arbor, MI 48107-8645

email: drains@ewashtenaw.org
<http://drain.ewashtenaw.org>

HARRY SHEEHAN
Chief Deputy Water Resources Commissioner

SCOTT A. MILLER, P.E.
Deputy Water Resources Commissioner

Telephone 734.222.6860
Fax 734.222.6803

February 14, 2020

Mr. Matt Bush, P.E.
Atwell, LLC
311 N. Main Street
Ann Arbor, Michigan 48104

RE: Fairway Glens Phase 2
Superior Township, Michigan
WCWRC Project No. 5270

Dear Mr. Bush:

This office has reviewed the site plans for the above-referenced project, to be located in Superior Township. These plans have a job number of 19000721, a date of December 20, 2019, and were received on February 3, 2020. As a result of our review, we would like to offer the following comments:

1. This site is located within the Fairway Glens drainage district, and will be under the jurisdiction of the Washtenaw County Water Resources Commissioner. A cost estimate of the proposed storm drainage facilities shall be submitted along with detailed construction plans for review by our office. The drain inspection and contingency fees and construction security will be based on this estimate. All fees and construction securities, in the form of a letter of credit or cash, must be paid prior to our approval.
2. A drain use permit application will be required to discharge to the Bazley-Foster drain. However, the permit application can be submitted once the design is finalized.
3. The engineer's certificate of outlet, accompanied by corresponding calculations and documentation, should be submitted to our office for review.
4. A certificate of soil infiltration results, signed and sealed by a licensed geotechnical engineer, should be submitted to our office for review.
5. The proposed grading is unclear on the drainage area map.
6. The minimum required easement width for enclosed piping is 20 feet. The easement over the proposed detention basin must include the entire basin and buffer area and have sufficient easement size to, at a minimum, accommodate access and operation of equipment related to maintenance activities.

7. Plan sheet 5 notes that a portion of land within phase 2 may be swapped with a portion of land within phase 3 (owner by Superior Township). A portion of the proposed storm sewer is located on both of these portions of land. Regardless of whether the land swap occurs, if the developer intends to install storm sewer on property owned by someone else, an easement between the property owners allowing that construction and future maintenance will be required. In addition, the property owner would also need to grant easement to the Washtenaw County Water Resources Commissioner.
8. The rear yard drainage from Lots 120 through 129 must be routed to the proposed detention basin.
9. Additional information related to the upstream ditch flow (near Lot 74) to be passed through to the Bazley-Foster drain must be provided for our review. This information should include profile drawings and supporting calculations at a minimum.
10. It appears that the basin has been designed as a wet basin. The storage volume chart should be revised such that the volume of the permanent pool may be verified.
11. An emergency overflow channel, approximately 0.25 to 0.5 feet above the 100-year storm volume elevation, with an unimpeded route to a receiving channel should be included in the detention basin design.
12. The side slopes of the detention basin exceed 5:1, which would require continuous fencing, a minimum of 6 feet high, with maintenance access under our rules.
13. Please see the attached invoice for the current fees and remit these fees upon receipt. As requested, the invoice is being submitted directly to Mr. Nabil Akhras.

At your convenience please send us a complete set of revised plans and the additional information requested above so that we may continue our review. If you have any questions, please contact our office.

Sincerely,



Theresa M. Marsik, P.E.
Storm Water Engineer
(drainage district\Fairway Glens Phase 2 rev1)

cc: Mr. Nabil Akhras
Ms. Lynette Findley, Superior Township Clerk
Mr. George Tsakoff, P.E., Superior Township Engineer (OHM)

March 12, 2020

CHARTER TOWNSHIP OF SUPERIOR

3040 N. Prospect Road
Ypsilanti, MI 48198

Attention: **Lynette Findley, Township Clerk**

Regarding: **Fairway Glens Phase II
Preliminary Site Plan Review No. 2
OHM Job No. 0140-19-1061**

Dear Ms. Findley,

We have reviewed the Preliminary Site Plan material, dated February 7, 2020, as prepared by Atwell, Inc. for the above reference project. The site plan materials are for a proposed single-family residential development comprised of 65 units consistent with current Single Family Residential (R-4) zoning. This site was originally part of Fairway Glens subdivision Phases I-III, but Phases II and III were never constructed. Currently the land is vacant.

The applicant is proposing to connect to the existing Fairway Glens Phase I. Roads within Fairway Glens Phase I are public with sidewalks on both sides of the street. The proposed roads for Fairway Glens Phase II are to be public with sidewalks on both sides. Confirmation is required from the WCRC that public streets are still acceptable in Phase II.

Stormwater is to be managed on-site by a proposed detention basin per Washtenaw County Water Resources Commissioner (WCWRC) standards. The storm sewer is being proposed to be turned over to the WCWRC. The applicant is proposing public water main connections to the adjacent Fairway Glens Phase I and to the Wiard Rd water main. The Applicant is also proposing public sewer by connecting it to the Fairway Glens Phase I sanitary sewer and the Wiard Rd sanitary sewer main. The Applicant is also proposing to vacate an existing portion of sanitary sewer owned and operated by the Ypsilanti Community Utility Authority (YCUA). We offer the following comments for your consideration:

GENERAL

1. Detail grading will be reviewed during the final site plan stage of work once vertical design of utilities has been completed.

ROADS

2. The Washtenaw County Road Commission (WCRC) will need to review the plans and provide additional comments. The following comments are provided as guidance to the applicant, however the WCRC will make the final determination on the acceptability of the public roads.
3. The applicant is asking the WCRC for a variance to address the reverse curve on Greenway Drive as it does not appear to meet the minimum tangent curve requirement.
4. The preferred ADA ramp style at the intersection of Golfview and Greenview Drives is the MDOT detail Ramp F.



UTILITIES (WATER, SANITARY SEWER & STORM SEWER)

5. Public utilities will be reviewed in further detail during the final site plan stage after vertical profiles are provided.
6. A preliminary review on the stormwater detention system has been provided by WCWRC on February 14, 2020. Comments should be addressed by the Applicant as part of their final site plan submittal.
7. The proposed bypass manhole will require further detail at the final site plan submittal.
8. The Applicant is proposing to vacate a portion of active sanitary sewer in use by the YCUA. This will require approval by YCUA and may require vacating easements.
9. Access should be maintained before and after construction for the YCUA sanitary sewer.

NATURAL FEATURES

10. The applicant is proposing to provide updates related to wetland status (unregulated or regulated), impacts, and future permitting requirements during final site plan stage. If found to be necessary, wetland modifications/impacts will be required to be permitted or have reasonable assurance of permitting through EGLE (if regulated) during the final site plan stage.

PERMITS AND OTHER AGENCY APPROVALS:

The petitioner should provide all necessary permits with their Final Site Plan submittal or provide reasonable assurance that they will be obtained during the Final Site Plan process. At a minimum, the following permits and approvals are anticipated for this project:

- WCWRC for soil erosion and sedimentation control (SESC) and for stormwater management (Public Drainage District)
- WCRC permit for public roads
- YCUA approval for sanitary sewer and water main prior to EGLE permitting
- Michigan Department of EGLE Act 399 Water Main Permit
- Michigan Department of EGLE Part 41 Sanitary Sewer Permit
- Michigan Department of EGLE Part 303 Wetland Permit (if regulated)
- Superior Township Building Department
- Superior Township Fire Department



CONCLUSION AND RECOMMENDATIONS:

We have reviewed the material, dated February 7, 2020, for the above referenced project on the Township's behalf. The plans appear ready for consideration of Preliminary Site Plan approval by the Planning Commission. The applicant shall be aware that additional comments will be provided during the future final site plan review phase based on material presented, and consistent with the requirements of the Township Zoning Ordinance and Engineering Standards.

Please feel free to contact me at (734) 466-4439 if you have any questions or concerns regarding this review.

Sincerely,
OHM Advisors

George Tsakoff, PE

cc: Ken Schwartz, Township Supervisor (via e-mail)
Richard J. Mayernik, C.B.O, Building Department (via e-mail)
Laura Bennett, Planning Coordinator (via e-mail)
Ben Carlisle, Township Planner (via e-mail)
Marcus McNamara, OHM
File

P:\0126_0165\SITE_SuperiorTwp\2019\0140191060_Fairway Glens Ph 2\1061_Prelim_Site_Plan\Fariway Glen PHII PSP#2.docx

Superior Township Fire Department
Bureau of Fire Prevention
7999 Ford Road
Ypsilanti, MI 48198

.....
Site Plan Review Report
.....

Date: 24 March 2020
Business Name: Fairway Glens Phase II
Business Address: Mayalco LLC., 10429 Canary Isle, Tampa FL 33647, Tel: 734-272-7998
Contractor: Atwell. 311 N. Main St., Ann Arbor, MI 48104, Tel: 734-994-4000
Applicable Codes: IFC 2015, MBC 2015
Reviewed By: Victor G. Chevrette, Fire Chief
Nicolas Robson, Firefighter
Plans Dated: 2/7/20
Job No: 19000721

.....
Review Comments and Requirements
.....

1. Pg 8 "Utilities" does not show any Fire Hydrants.
2. Fire Hydrant Type and Style need to be per Township Ordinance.
- 3.
- 4.

.....
Status of Plans:
.....

- Approved as submitted – pending field inspection and final testing
- Approved conditionally – see remarks
- Denied – see remarks

Remarks: Plans for Fire Hydrants need to be submitted with "cutsheets".

.....
Respectfully Submitted,



Victor G. Chevrette, Fire Chief
Superior Township Fire Department

One (1) set of these plans will be retained by the Fire Department, one (1) set forwarded to the mechanical inspector, three (3) sets are available for pickup with the permit.

SITE PLAN REVIEW APPLICATION

(This application must be typewritten or printed. All questions must be answered.)

APPLICANT NAME Daniels and Zermack Architects, LLC

NAME OF PROPOSED DEVELOPMENT Ypsilanti District Library - Superior Township Branch

APPLYING FOR

- PRELIMINARY SITE PLAN
- FINAL SITE PLAN
- COMBINED PRELIMINARY AND FINAL SITE PLAN
(Combination is at discretion of Planning Commission)
- MINOR SITE PLAN
- MAJOR/MINOR CHANGE DETERMINATION
- ADMINISTRATIVE REVIEW

WILL PROJECT BE PHASED? YES NO

IF PROJECT IS PHASED COMPLETE THE FOLLOWING:

- Total number of phases _____
- Phase number of current application _____
- Name and date of preliminary site plan approval _____

• Date of Previous Phase Approvals:

| | | | |
|---------|-------|------|-------|
| Phase # | _____ | Date | _____ |
| Phase # | _____ | Date | _____ |
| Phase # | _____ | Date | _____ |
| Phase # | _____ | Date | _____ |

SEEKING ADDITIONAL APPROVAL FOR A CONDITIONAL USE YES NO

Laura Bennett
Signature of the Clerk or Designee

February 21, 2020
Date of Receipt of Application

\$ 5,900
Amount of Fee

GENERAL INFORMATION

- Name of Proposed Development YDL - Superior Township Branch
- Address of Property N Harris Rd, Superior Charter Twp, 48198
- Current Zoning District Classification of Property PSP

Is the zoning classification a Special District as defined by Article 7 ? YES NO

- Has this property been the subject of a rezoning request, Zoning Board of Appeals petition or other Township action with the past five (5) years? YES NO

Please explain Property was re-zoned from A-2 Agricultural to PSP Public/Semi-Public to accommodate construction of new district library branch.

- Tax ID Number(s) of property J-10-35-200-001
- Site Location - Property is located on (circle one) N S E W side of N Harris Road between Geddes Rd and MacArthur Blvd Roads.
- Legal Description of Property (please attach a separate sheet) **Refer to attached**
Where a metes and bounds description is used, lot line angles or bearings shall be indicated on the plan. Lot line dimensions and angles or bearings shall be based upon a boundary survey prepared by a registered surveyor and shall correlate with the legal description.

Site Area (Acreage) and Dimensions

- Are there any existing structures on the property? YES NO
Please explain: _____

PROPOSED LAND USE

- Residential Office Commercial Other

If other, please specify Public Library Branch

- Number of units N/A
- Total floor area of each unit N/A
- Give a complete description of the proposed development.
The site is proposed to be developed for a new 8,383sf, single story public library building with associated parking and site development.

ESTIMATED COSTS

- Buildings and other structures \$2,800,000.
- Site improvements \$518,000.
- Landscaping \$45,000.
- Total \$3,363,000.

ESTIMATED DATES OF CONSTRUCTION

- Initial construction August 2020
- Project completion October 2021
- Initial construction of phases (IF APPLICABLE) _____
- Completion of subsequent phases. (IF APPLICABLE) _____
- Estimated date of first occupancy December, 2021

IDENTIFY EACH DRAWING SUBMITTED BY NAME OF PLAN OR DRAWING, DATE AND DRAWING NUMBER (ATTACH ADDITIONAL SHEET IF NECESSARY)

refer to attached drawing list _____

APPLICANT INFORMATION

- APPLICANTS NAME Daniel, E. Whisler, AIA
Company Daniels and Zermack Architects, LLC
Address 2080 S State St, Ann Arbor, MI 48104
Telephone Number (734) 761-2090 Email dwhisler@danielsandzermackarchitects.com
- PROPERTY OWNER'S NAME Ken Schwartz, Supervisor *
Superior Charter Township *current owner, parcel split is planned and will be completed during the site plan review process
Company _____
Address 3040 North Prospect
Telephone Number (734) 482-6099 Email kenschwartz@superior-twp.org
- DEVELOPER'S NAME Lisa Hoenig, Director **
Ypsilanti District Library **future owner of Library Parcel following completion of parcel split
Company _____
Address 5577 Whittaker Rd, Ypsilanti, MI 48197
Telephone Number (517) 333-2254 Email lisa@ypsilibrary.org
- ENGINEER'S NAME Brian Barrick
Company Beckett & Raeder, Inc
Address 535 W William St #101, Ann Arbor, MI 48103
Telephone Number (734)663-2622 Email bbarrick@bria2.com
- ARCHITECT/PLANNER'S NAME Daniel E. Whisler, AIA
Company Daniels and Zermack Architects, LLC
Address 2080 S State St, Ann Arbor, MI 48104
Telephone Number (734) 761-2090 Email dwhisler@danielsandzermackarchitects.com

The applicant indicated on page 4 must sign this application. All correspondence regarding the application and plan will be directed to the applicant. If the applicant is not the property owner, the owner's signed consent must also be provided with this application.

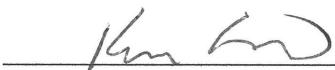
APPLICANT'S DEPOSITION

I hereby depose and certify that all information contained in this application, all accompanying plans and all attachments are complete and accurate to the best of my knowledge.

APPLICANT'S PRINTED NAME: Daniel E. Whisler, AIA

APPLICANT'S SIGNATURE  DATE 2.20.2020

PROPERTY OWNER'S PRINTED NAME Ken Schwartz

PROPERTY OWNER'S SIGNATURE  DATE 2-22-20



Carlisle | Wortman
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

Date: March 2, 2020

**Site Plan Review
For
Superior Township, Michigan**

| | |
|--------------------------|---------------------------------------------------------|
| Applicant: | Ypsilanti District Library |
| Project Name: | Superior Township Branch |
| Location: | East side of N. Harris Road, just south of Geddes Road. |
| Plan Date: | February 21, 2020 |
| Zoning: | PSP Public/Semi-Public Service District |
| Action Requested: | Preliminary Site Plan |

PROJECT DESCRIPTION

The applicant has submitted a Preliminary Site Plan application for the development of an 8,300 square foot district library. Other site improvements include landscaping, lighting, and a 40-space parking lot. The total site is 12-acre site. The applicant proposes to split +/-3.1 acres for construction of the library. The remaining +/-9-acres will be owned/maintained by the Township.

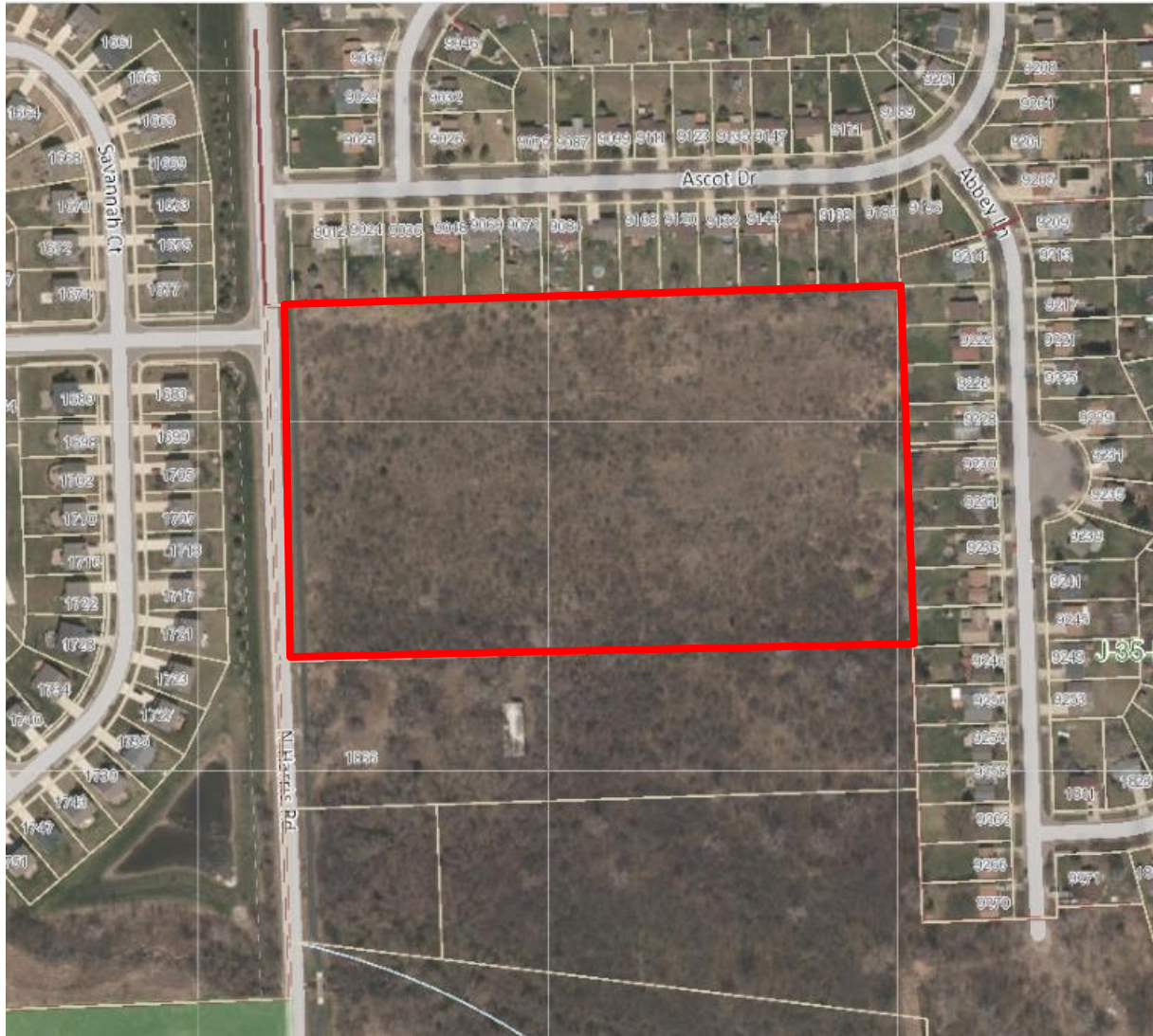
In 2019, the site was rezoned from A-2, Agriculture District to PSP, Public/Semi-Public Services District in order to construct an Ypsilanti Township District Library facility.

Please note that anything labeled as potential future building expansion is for illustrative purposes only. Any future building expansion will require a full review by the Planning Commission.

A library is a permitted use in the PSP, Public/Semi-Public Services District.

SITE DETAILS

Aerial Photograph



PROPERTY SPLIT

The total site is 12-acres. The applicant proposes to split +/-3.1 acres for construction of the library. The remaining +/-9-acres will be owned/maintained by the Township.

It is difficult to tell from the plans what are the proposed boundaries of the lot split. For the final site plan, a survey and legal description should be provided to delineate the split. It appears that the proposed split bisects the access drive. An easement and shared maintenance agreement will be required on behalf of the applicant and Township.

Items to be Addressed: For final site plan 1). Provide survey and legal description of split; and 2). An easement and shared maintenance agreement will be required on behalf of the applicant and Township.

SITE LAYOUT, ACCESS, AND CIRCULATION

There is one point of access off Harris Road. The site includes a 33-parking lot north of the building and a book drop-off drive circle between the building front and Harris Road. There is a service drive and a small 7-space parking lot in the back of the building.

Items to be Addressed: None

AREA, WIDTH, HEIGHT, SETBACKS

The following table summarizes the Density, Placement, and Height Regulations for the PSP, Public/Semi-Public Services District.

Density, Placement, and Height Regulations

| | Required | Provided | Compliance |
|-------------------------|----------------------------------|-------------------------------------------|-------------------|
| Lot Area | 20,000 square feet | 134,989 square feet | Complies |
| Lot Width | 150 Feet | 540 Feet | Complies |
| Front Setback | 20 Feet | 78 Feet | Complies |
| Side Setback | 20 Feet combine total of 40 Feet | 76 Feet South side 350 Feet North side | Complies |
| Rear Setback | 35 Feet | 370 Feet | Complies |
| Lot Coverage | 25 % Max | Less than 25% | Complies |
| Floor area Ratio | .50 Max | Less than 0.5 | Complies |
| Building Height | 35 Feet/2.5 Stories | 25.5 Feet | Complies |

The site meets all PSP requirements.

Items to be Addressed: None

PARKING

Library ordinance requires as set forth in section 8.05:

| | Required | Provided |
|-------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|----------------------|
| Library: One (1) per on-duty employee, plus one (1) per four (4) persons allowed within the maximum building occupancy. | 6 on-duty employees = 6 spaces 133 maximum = 34 (133 / 4 = 33.25) spaces | 40 |
| Barrier Free | 1 | 1 |
| Total | 40 automobile | 40 automobile |

In addition to the 40-space parking lot the applicant shows a future 26-parking lot expansion should additional parking be required.

Items to be Addressed: None

LANDSCAPING

A concept landscape plan has been provided on sheet L-1.0 and are supplemented by tree protection and planting details on sheet L-1.1. The following table discusses the development’s compliance with the landscape requirements set forth in Section 14.10.

| | Required: | Provided: | Compliance: |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|-------------------------------------------|-------------|
| <u>Greenbelt (Southern property line)</u> One (1) tree and three (3) shrubs per 15 linear feet of greenbelt length. | 386 linear feet = 26 trees and 90 shrubs | 26 trees and 90 shrubs | Complies |
| <u>Detention Basin</u> Plantings shall be clustered around the basin to achieve a variety of plant materials, and to replicate a natural environment. Deciduous shade trees shall be clustered around the south and west sides of the basin to provide shade and minimize solar heating of the water | 650 linear feet = 44 trees and 132 shrubs | 650 linear feet = 44 trees and 132 shrubs | Complies |
| <u>Parking Lot Landscaping:</u> | 2 trees per island | 2 tree per island | Complies |

| | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------|------------------------------|
| A minimum of two (2) deciduous shade or ornamental trees shall be provided for each planting island. Shrubs and live groundcover plantings shall be used to cover the remaining areas of the island. | | | |
| <u>Mitigation:</u> Based on Section 14.05.F | | No information provided | Provide with Final Site plan |

For the final site plan applicant shall provide a more detailed landscape plan including species type and size, and tree mitigation requirements.

Items to be Addressed: *For final site plan the applicant shall provide a more detailed landscape plan including species type and size and tree mitigation requirements.*

LIGHTING

No lighting plan has been provided. A lighting plan will be required for final site plan approval. All parking lot lighting and building mounted lighting should be fully shielded and down directed.

Items to be Addressed: *For final site plan submit a lighting and photometric plan.*

FLOOR PLANS AND ELEVATIONS

Floor plans and elevations have been provided. The building is composed of a mix of brick and cement fiber cladding panels. The primary color scheme is charcoal grey and red brick.

The applicant has provided a rendering of the building from the parking lot. The applicant should also provide a rendering of the building from Harris Road. In addition, the applicant should provide material samples at the Planning Commission meeting.

Items to be Addressed: *1). Provide a rendering of the building from Harris Road; and 2). Provide material samples at the Planning Commission meeting.*

SPECIFIC USE STANDARDS

The following are specific standards for private recreational facilities from Section 5.306 of the Zoning Ordinance. The following general standards shall apply to all *Institutional Uses*.

- 1. Height. The maximum height of the principal building containing an institutional use shall be subject to the following conditions and exceptions:*

- a. *The building height shall be permitted to exceed the maximum height requirements of the district up to a maximum height equal to twice the permitted maximum height of the zoning district, provided that the minimum required front, side and rear yard setbacks shall be increased by one (1) foot for each foot of additional building height above the maximum.*
- b. *The highest point of chimneys, stage towers of scenery lofts, church spires, cupolas, and domes may be erected to a height not exceeding one-hundred-fifty percent (150%) of the height of the building, provided that no such structure shall occupy more than twenty percent (20%) of the roof area of the building.*

The maximum building height is 32.5 feet (to the top of the cupola), which meet the height requirements of the district.

2. *Frontage and access. Institutional uses shall have direct vehicle access to a primary road as classified by the master transportation plans of the Township, or county or state road authorities.*

The site has frontage on Harris Road, which is a primary road.

3. *Traffic impacts. A traffic impact study and proposed mitigation measures may be required by the Planning Commission for facilities that have a seating capacity of over 500 persons.*

The overall capacity of the building is much less than 500 persons. A traffic study may be required the Road Commission.

Items to be Addressed: None

SUMMARY

For the Planning Commission meeting we request that the applicant provide a rendering of the building from Harris Road and material samples.

We recommend preliminary site plan approval with the following items to be submitted as part of the final site plan:

- a. Provide survey and legal description of split.
- b. Provide an easement and shared maintenance agreement will be required on behalf of the applicant and Township.
- c. Outside agency approvals from WCRC, and WCWRC.
- d. A tree inventory and mitigation plan.
- e. A detailed landscape plan including species type and size and tree mitigation requirements.
- f. A lighting plan that demonstrates compliance with Section 12.10.H. and Section 14.11 of the Zoning Ordinance.

Ypsilanti District Library
March 2, 2020



CARLISLE/WORTMAN ASSOC., INC.
Benjamin R. Carlisle, AICP, LEED AP
Principal

cc: Ken Schwartz, Township Supervisor
Lynette Findley, Township Clerk
Richard Mayernik, CBO, Building Department
Laura Bennett, Planning Coordinator
George Tsakof, Township engineer

March 26, 2020

CHARTER TOWNSHIP OF SUPERIOR

3040 N. Prospect Road
Ypsilanti, MI 48198

Attention: **Lynette Findley, Township Clerk**

Regarding: **Ypsilanti District Library – Superior Township Branch
Preliminary Site Plan Review
OHM Job No. 0140-19-1010**

Dear Ms. Findley,

On the Township's behalf, we have reviewed the Preliminary Site Plan material prepared and submitted by Daniels and Zermack Architects, LLC., and dated February 21, 2020 for the above referenced project. The site plan materials are for a new, single story public library building with associated parking lots and site improvements. This site development is associated with the rezoning application approved at the Superior Township Planning Commission meeting on January 23, 2019.

The site is in the northwest quarter of Section 35 on North Harris Road. Please note that we have reviewed the submittal consistent with requirements for preliminary site plan based on the Township Zoning Ordinance. Based on the information presented, we offer the following comments for your consideration:

General Comments

1. The proposed lot split shown on the plans must be accepted prior to final site plan approval. Once the lot split is executed, the legal description of the parcel shall be included in the plan set.
2. The proposed property line for the parcel split is shown along the middle of the proposed access drive to the parking area. An easement and shared maintenance agreement between the Applicant and the Township will be required prior to final site plan approval.
3. A callout leader appears to be pointing to a proposed light pole on the south side of the library parking area. Please add a label to the leader for clarity.
4. Delineated areas of cut and fill should be shown on the plans.
5. Any notes or callouts depicted with "XXX" should be updated on final site plan.
6. The Applicant should continue to coordinate with the North Harris Road widening design and construction contacts to ensure approach and utility construction are phased appropriately with the site development.

Grading/Paving Comments

7. The proposed North Harris Road widening alignment should be shown on the final site plan. OHM will provide necessary CAD files to the Applicant in the future.
8. Turning radii for largest anticipated vehicle on the site (e.g. garbage truck, fire truck, delivery vehicle) should be added to the plans to ensure appropriate radius dimensions are proposed.



Utility Comments

9. An easement for the proposed storm sewer outside the proposed property line for the parcel split must be acquired for future maintenance by the Applicant.
10. Final water main, sanitary sewer, and storm sewer pipe slopes and lengths, as well as invert and rim elevations should be provided with final site plan submittal. Detailed stormwater calculations and conveyance tables should also be included.
11. The basis of design for sanitary sewer and water main should be included with final site plan submittal.
12. It appears that the proposed horizontal alignment for sanitary sewer within the North Harris Road right-of-way is less than 10 feet from the existing water main. Please review the proposed sanitary sewer alignment and revise as necessary to meet the 10-foot Ten States Standards offset requirement.
13. The Township Engineering Standards require stormwater runoff to be collected and conveyed by means of storm sewers to approved points of discharge (Section VII. Paving). Drainage collection methods and stormwater conveyance calculations for the proposed site development will be reviewed during final site plan stage. Storm collection infrastructure may be necessary to appropriately manage stormwater. Additionally, WCWRC may have further requirements regarding stormwater management.
14. Superior Township Standard Details for Sanitary Sewer and Storm Sewer should be included in the final site plan set. OHM will provide necessary PDF files to the Applicant.

Summary of Necessary Future Permits and/or Approvals

1. Approval and permit from the Washtenaw County Road Commission (WCRC) is required for sanitary sewer construction within the North Harris Road Right-of-way.
2. Approval and permit from the Washtenaw County Water Resources Commission (WCWRC) for soil erosion control is required.
3. Approval and permit from the Washtenaw County Water Resources Commission (WCWRC) is required for stormwater management, including proposed detention pond review.
4. Township Building Department approval is required.
5. Township Fire Department approval is required. The Township Fire Department is anticipated to review hydrant access and coverage.
6. Review and approval of proposed sanitary sewer from the Ypsilanti Community Utilities Authority (YCUA) will be required related to the Part 41 Permit application.
7. Approval and permit from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) under Part 41 for sanitary sewer construction will be required.
8. The Applicant should be aware that the Township Ordinance requires that all outside agency permits be reasonably assured at the future Final Site Plan approval stage of the work. Therefore, initial submittals to those agencies are recommended to take place soon.
9. Include an “Agency Permits Required” table on the cover sheet and update as necessary to reflect the current permit status as necessary on the next submittal.



Recommendation

We have reviewed the material, dated February 21, 2020, for the above referenced project on the Township's behalf. Based on the provided material, we recommend the Planning Commission consider future approval of the preliminary site plan considering our comments outlined above.

The Applicant should be aware that there are additional requirements for future final site plan submittal and review, consistent with the Township Zoning Ordinance and Engineering Standards.

If you have any questions regarding our review, please feel free to contact me at (734) 466-4439.

Sincerely,
OHM Advisors

George Tsakoff, PE

cc: Ken Schwartz, Township Supervisor (via e-mail)
Richard Mayernik, CBO, Building Department (via e-mail)
Laura Bennett, Planning Coordinator (via e-mail)
Ben Carlisle, Township Planning Consultant (via e-mail)
Lisa Hoenig, Ypsilanti District Library Director (via e-mail)
Daniel Whisler, Daniels and Zermack Architects (via e-mail)
Brian Barrick, Beckett & Raeder (via e-mail)
file

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Superior Township Fire Department
Bureau of Fire Prevention
7999 Ford Road
Ypsilanti, MI 48198

Building Plan Review Report

Date: 20 March 2020
Business Name: Ypsilanti District Library Superior Township Branch
Business Address: Harris Road, Ypsilanti, MI 48198
Contractor: Daniels & Zermack Architect
2080 S. State St., Ann Arbor, MI 48104, Tel: 734-761-2090
Applicable Codes: IFC 2015, MBC 2015
Reviewed By: Victor G. Chevrette, Fire Chief
Plans Dated: Jan. 2020
Job No: 2017-55

Review Comments and Requirements

1. Wrong Fire Code, must be IFC 2015 not NFPA 1.
2. Fire Hydrant required on property. Hydrant on Harris Road not acceptable under IFC 2015, Chapter 5, section 507.5.1.
3. Key box required (Knox Type), IFC 2015 Chapter 5, section 506.
- 4.

Status of Plans:

- Approved as submitted – pending field inspection and final testing
 Approved conditionally – see remarks
 Denied – see remarks

Remarks: Review Comments and Requirements

Respectfully Submitted,



Victor G. Chevrette, Fire Chief
Superior Township Fire Department

One (1) set of these plans will be retained by the Fire Department, one (1) set forwarded to the mechanical inspector, three (3) sets are available for pickup with the permit.