

STATE OF MICHIGAN
COURT OF APPEALS

MILFORD HILLS PROPERTIES, INC.,
a Michigan corporation, and
RPL of MICHIGAN, INC.,
a Michigan corporation,
Plaintiffs,

MCOA No. 353249

Lower Court No: 2017-162642-CZ

v

CHARTER TOWNSHIP OF MILFORD,
a Michigan charter township,
Defendant.

LAW OFFICE OF PAUL E. BURNS
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133 West Grand River
Brighton, MI 48116
(810) 227-5000

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Ann Arbor, Michigan 48106
(734) 369-1009

APPENDIX

**PLAINTIFFS-APPELLEES' RESPONSE
TO DEFENDANT-APPELLANT'S BRIEF ON APPEAL**

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- EXHIBIT U:** July 12, 2016 Parson Brinckerhoff Trip Generation Letter
- EXHIBIT V:** Affidavit and Report of Paul LeBlanc, Expert Land Use Planner

EXHIBIT A

Secs. 32-168—32-187. - Reserved.

DIVISION 5. - R-2, MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 32-223. - Statement of purpose.

- (a) The R-2, multiple-family residential district is designed to permit a more intensive residential use of land with various types of multiple-family dwellings, two-family dwellings, boardinghouses and convalescent or nursing homes. These areas would be located near major roads for good accessibility.
- (b) The intent of this district is to allow various types and sizes of residential uses in order to meet the needs of the different age and family groups in the township.

(Code 1992, § 19-256; Ord. No. 101, § 10.01, 3-23-1971)

Sec. 32-224. - Permitted principal uses.

The following uses are permitted in an R-2 district:

- (1) All principal permitted uses in the R-1 district.
- (2) Two-family dwellings.
- (3) Multiple-family dwellings including apartments (garden type) and townhouses (row housing).
- (4) Accessory buildings and uses customarily incidental to the above permitted principal uses, including open space designed as part of a condominium or rental project.
- (5) Signs in accordance with section 32-687.
- (6) Private garage, used primarily for the storage of self-propelled vehicles for the use of the occupants of a lot on which such building is located. The foregoing definition shall not be construed to permit the storage on any one lot, for the occupants thereof, of not more than one commercial vehicle not exceeding a rated capacity of one ton.

(Code 1992, § 19-257; Ord. No. 101, § 10.02, 3-23-1971)

Sec. 32-225. - Permitted uses after special approval.

The following uses shall be permitted subject to the conditions hereinafter specified and subject to requirements of section 32-35 and section 32-586:

- (1) Convalescent or nursing homes.
- (2) Children's homes, orphanages.
- (3) Group day care homes.
- (4) Tourist home, roominghouse and boardinghouse.
- (5) Hospitals, medical clinics, or medical or dental offices, except the following: animal hospital, hospital or sanitarium for care of contagious, mental, drug or liquor addiction cases.
- (6) Preschools, nursery schools, day nurseries, child care centers, including Montessori schools, operated for a profit or nonprofit, but not including dormitories; provided that the following conditions are met:

- a. Have primary means of ingress and egress directly on a major thoroughfare having or planned to have of-way of 120 feet.
 - b. Minimum site size shall be three acres.
 - c. Only one principal building shall be permitted on site which may be used either as a school facility or as a combined school and residence for the person operating the school. In either case the building shall be designed in the character of a residence and be in harmony with adjacent residences in the surrounding neighborhood. Any building used in whole or in part for school purposes shall be located not less than 75 feet from any adjacent property line.
 - d. That for each child so cared for, being in total of not more than 45 children on the premises at any one time, in addition to those in the family of the occupant if occupant lives on the premises, there is provided and maintained a minimum of at least 150 square feet of outdoor play area.
 - e. Such play space shall have a total minimum area of not less than 5,000 square feet.
 - f. Such play area shall not be located closer than 50 feet to any adjoining property line and within said yard space there shall be provided a greenbelt planted with plant materials in accordance with section 32-587, and shall include a continuous fence not in excess of six feet or less than four feet in height.
 - g. The required front yard setback shall remain as open space unoccupied and unobstructed from the ground upward and shall not be used for off-street parking or outdoor playground space, except that landscaping, plant materials, sidewalks and vehicular access drives are permitted.
 - h. Where a parking lot is provided, a greenbelt planted with plant materials in accordance with section 32-587, shall be provided along all sides of the parking area except for entrance and exit driveways.
- (7) Public, parochial or other private elementary, intermediate or high schools.
- a. The site shall be adjacent to a primary thoroughfare, as defined by the township in this chapter and all ingress and egress shall be limited to and directly upon such thoroughfare.
 - b. Buildings exceeding 25 feet in height shall be permitted, provided the front, side and rear yard setbacks are increased one foot for each foot the building exceeds 25 feet.
 - c. A continuous and uninterrupted masonry obscuring wall of at least four feet in height shall be provided along sides of the off-street parking area when adjacent properties are zoned residential.
 - d. A minimum site of three acres shall be provided.
 - e. The front setback area shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials or vehicular access drives.

(Code 1992, § 19-258; Ord. No. 101, § 10.03, 3-23-1971; Ord. No. A35, § 10, 10-11-1986; Ord. No. 101-A-64, §§ 3, 4, 9-15-1993; Ord. No. 156-A-171, § 1, 3-19-2014)

Sec. 32-226. - Site plan review.

For all uses permitted in an R-2 district, other than single-family detached residences and accessory buildings, structures and uses thereto there must be site plan review as required under section 32-586.

(Code 1992, § 19-259; Ord. No. 101, § 10.04, 3-23-1971)

Sec. 32-227. - Density, area, height, bulk, placement requirements.

EXHIBIT B



BOSS ENGINEERING

3121 E. Grand River
Howell, MI 48843

July 25, 2002

Mr. Scott Ross
Groundwater Permits Section
Waste Management Division
Michigan Department of Environmental Quality
P.O. Box 30241
Lansing, Michigan 48909

Re Bridge Valley of Milford, Milford Township, Oakland County

Dear Mr. Ross:

Enclosed is a wastewater discharge permit application for the Bridge Valley of Milford development in Milford Township of Oakland County. Bridge Valley of Milford is a proposed residential development consisting of senior citizen apartment units, townhouse units and single-family home sites. Mr. Donald Green, the Milford Township supervisor, has signed the permit application.

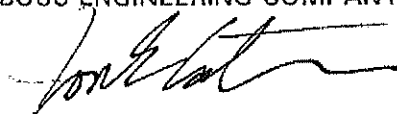
This application requests a permit to discharge less than 50,000 gallons of sanitary sewage per day under rule 2216(3). We propose land application via rapid infiltration beds in accordance with the requirements of rule 2236. Included with the application are the following:

1. The required site maps,
2. A water use diagram,
3. A list of the adjacent property owners,
4. A copy of the public notice placed in the Milford Times,
5. The certification of Discharge Minimization,
6. A water use narrative supporting the daily wastewater flow determination,
7. A basis of design for the proposed wastewater treatment plant,
8. A soils report from McDowell & Associates indicating that the proposed disposal area is acceptable for installation of rapid infiltration beds.

I trust that you will find the application complete. If you have any questions concerning this letter, do not hesitate to contact me at 517-546-4836.

Sincerely,

BOSS ENGINEERING COMPANY


Jon E. Caterino, P.E.

JEC/kdr
Enclosures
cc: Ray Leduc ✓

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517-546-4836
Fax: 517-548-1616
e-mail: be@bosseng.com
www.bosseng.com

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WATER USE NARRATIVE

Bridge Valley of Milford is a proposed residential development in section 3 of Milford Township. The development proposes the following:

- 115 One Bedroom Senior Citizen Apartment Units
- 23 Two Bedroom Senior Citizen Apartment Units
- 44 Two Bedroom Single Family Townhouse Units
- 52 Four Bedroom Single Family Homes
- 35 Three Bedroom Single Family Homes

Water use is assumed at 75 gallons per capita per day. It is assumed that the majority of the one-bedroom senior citizen apartments will have only one inhabitant. Assuming an occupancy mix for the one-bedroom senior citizen apartments of 70% one inhabitant and 30% two inhabitants the daily wastewater flow from the 115 single-family senior citizen apartment units is 11,250 gallons per day.

The daily flow from each of the two bedroom senior citizen apartment units is assumed at 150 gallons per unit per day per unit. The assumption is that only two individuals will occupy the majority of these units even though they are two bedroom units. Those two bedroom units occupied by a single resident will offset the number of units that may have more than two occupants. The total daily wastewater flow anticipated from these units is 3,450 gallons per day.

The daily flow from each of the 44 two bedroom townhouse units is assumed at 185 gallons per unit per day. This assumption is based on an average occupancy of 2.5 individuals per unit at 75 gallons per capita per day. The total daily wastewater flow anticipated from the 44-townhouse units is 8,140 gallons per day.

The daily flow from each of the four bedroom single-family homes is assumed at 338 gallons per home per day. The assumption is based on an average occupancy of 4.5 individuals per home at 75 gallons per capita per day. The total daily wastewater flow anticipated from the 52 four bedroom single-family homes is 17,576 gallons per day.

The daily flow from each of the three bedroom single-family homes is assumed at 265 gallons per home per day. The assumption is based on an average occupancy of 3.5 individuals per home at 75 gallons per capita per day. The total daily wastewater flow anticipated from the 35 three bedroom single-family homes is 9,275 gallons per day.

The total daily wastewater flow generated by the development is 49,691 gallons per day. This sewage is entirely generated by the residents of the Bridge Valley of Milford development. Domestic wastewater flow will be collected in a gravity sanitary sewer system serving all of the apartment units, townhouse units and residential lots in the project. Sewage will be transported via the gravity sewer system to a sanitary lift station. Sewage will be pumped from the lift station to a modern extended aeration wastewater treatment plant where it will be treated and discharged to the groundwater via rapid infiltration beds. A conceptual plan for the proposed wastewater treatment plant along with a basis of design for the proposed plant is attached.

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EXHIBIT C

STATE OF MICHIGAN
**GROUNDWATER DISCHARGE AUTHORIZATION
APPLICATION**

for
the disposal of wastewater
to the ground or groundwater



Groundwater Program Section
Waste Management Division
Michigan Department of Environmental Quality

John Engler, Governor

Russell J. Harding, Director

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Groundwater Discharge Permit Application

REFERENCES IN THIS DOCUMENT TO "RULES" ARE TO ADMINISTRATIVE RULES IMPLEMENTING PART 31 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, AS AMENDED, BEING R 323.2101 TO 2192 AND R 323.2201 TO 2240.

GENERAL INFORMATION

Please type or print clearly

1. DISCHARGE FACILITY NAME			
Bridge Valley of Milford			
2. FACILITY OWNER NAME AND MAILING ADDRESS			
Name R.L. Corporation			
Street Address or P.O. Box 4801 Faircourt			
City, State and Zip Code West Bloomfield, MI 48322			
Telephone No. 248-343-6487			
Fax No. 248-592-0084			
3. CONTACT PERSON			
Name and Title Raymond Leduc			
Street Address or P.O. Box 4801 Faircourt			
City, State and Zip Code West Bloomfield, MI 48322			
Telephone No. 248-343-6487			
Fax No. 248-592-0084			
4. DISCHARGE LOCATION			
Street Address			
City Milford		State Michigan	
		Zip Code	
County Oakland		Township Milford	
Township T2N		Range R7E	
		Section Number 03	
First Quarter Section NW		Second Quarter Section SE	
Additional Quarter Sections			
Latitude		Longitude	
42°36'01"N		83°36'16"W	
5. FACILITY TYPE			
Municipal (Sanitary Only) _____		Municipal (w/ Sanitary and Industrial Wastewater Inputs) _____	
Industrial _____		Commercial <u> X </u>	
If Municipal, population served _____			
6. CERTIFIED OPERATOR (NOT REQUIRED FOR 2211(c), (d), (e), (g), (h), or 2213 (2), (3), (4))			
A Certified Operator is required by Section 3110 (1) of Part 31 of Act 451.			
Name Highland Treatment Inc.		Certification Number 0477	
Street Address 938 N. Milford Rd.			
City Highland		State MI	
		Zip Code 48357	
Telephone No. 248-889-1922			

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7. FOR RULE 2215, 2216 AND 2218 AUTHORIZATIONS ONLY:

PLEASE INDICATE WHERE THE COMPLIANCE MONITORING REPORT FORMS SHOULD BE SENT

NAME

Highland Treatment Inc.

STREET ADDRESS

938 N. Milford Rd.

CITY

Highland

STATE
MI

ZIP CODE

48357

8. AUTHORIZATION REQUESTED:

- | | | |
|---|---|-------------------------------------|
| <input type="checkbox"/> Rule 2210(y), Site Specific Exemption | <input type="checkbox"/> NEW USE | <input type="checkbox"/> REISSUANCE |
| <input type="checkbox"/> Rule 2211, Notification | <input type="checkbox"/> NEW USE | <input type="checkbox"/> REISSUANCE |
| <input type="checkbox"/> Rule 2213, Notification with Certification | <input type="checkbox"/> NEW USE | <input type="checkbox"/> REISSUANCE |
| <input type="checkbox"/> Rule 2215, General Permit, Certificate of Coverage | <input type="checkbox"/> NEW USE | <input type="checkbox"/> REISSUANCE |
| <input checked="" type="checkbox"/> Rule 2216, Specific Discharges | <input checked="" type="checkbox"/> NEW USE | <input type="checkbox"/> REISSUANCE |
| <input type="checkbox"/> Rule 2218, Discharge Permit | <input type="checkbox"/> NEW USE | <input type="checkbox"/> REISSUANCE |

IF REQUESTING A REISSUANCE OR AN AUTHORIZATION DIFFERENT THAN THE CURRENT AUTHORIZATION, PLEASE INCLUDE THE PERMIT/EXEMPTION NUMBER OF THE CURRENT AUTHORIZATION:

If the current authorization is a permit, Rules 2216 or 2218, or was issued prior to August 26, 1999, the number is: M _____

If the current authorization is a General Permit, Rule 2215, the number is: MG _____

If the current authorization is a site specific exemption, Rule 2210(y), or was issued prior to August 26, 1999, the number is: GWE- _____

If the current authorization is a notification, Rule 2211, the number is: GWN- _____

If the current authorization is a notification/certification, Rule 2213, the number is: GWC- _____

9. FACILITY STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE. 1521

This information is available through the US Department of Labor, Office of Safety and Health Administration, at the following web address: www.osha.gov/oshstats/sicser.html

10. SITE MAPS

Provide two black and white 8 1/2" X 11" maps drawn to scale that show the following:

SITE MAP 1

- Discharge location in relation to property boundaries on a topographic map.
- Township and county name.
- North arrow orientation.

Attachment 1a

SITE MAP 2 - All sites must include item a, include items b-e as necessary.

- Current and proposed treatment units and discharge areas and distance to property lines.
- Monitoring wells on site and on adjacent properties.
- Potable wells on site and on adjacent properties.
- Surface waters, including wetlands, lakes, rivers, streams, and drains on the property.
- Distance between multiple disposal sites.

Attachment 1b

ATTACH SITE MAP TO THIS APPLICATION FORM

11. WATER USAGE DIAGRAM

Please attach an 8 1/2 x 11 diagram showing water usage at the facility, from supply to discharge. Include all flows such as sanitary, process water, etc. Please also indicate where in the system additives or other substances are added to the waste stream for which this authorization is being sought. The water balance should show daily average flow rates at influent, intake and discharge points and daily flow rates between treatment units. Please use actual measurements whenever possible. Attachment #2

12. OWNERSHIP OF TREATMENT SYSTEM AND DISPOSAL AREA

Are all parts of the treatment system and discharge areas (e.g. treatment plant, underground piping or irrigation fields) located on property owned by the applicant? Yes No _____

IF NO, ATTACH THE NAME AND ADDRESS OF THE PROPERTY OWNER WHERE THE DISCHARGE WILL OCCUR, AND A COPY OF THE WRITTEN PERMISSION TO DISCHARGE ON PROPERTY NOT OWNED BY THE DISCHARGER.

13. PROXIMITY OF TREATMENT SYSTEM TO A KNOWN SOURCE OF GROUNDWATER CONTAMINATION

Are there any known groundwater contamination sites within 1/4 mile of your disposal site?

Yes _____ No _____ Unknown

IF YES, ATTACH TO THE APPLICATION FORM A DESCRIPTION OF THE LOCATION AND CONTAMINANTS BEING REMEDIATED AT THE SITE.

14. ISOLATION DISTANCE

The following are isolation distances required from the discharge to adjacent water supply wells. What is the distance from your discharge to the nearest water supply well?

WELL TYPE	PERMIT AUTHORIZATION: 2218, 2216(3)	ALL OTHER AUTHORIZATIONS
I, IIa	2000	200
IIb, III	800	75
Domestic	300	50

Distance to nearest Type I, IIa water supply well 2000
 Distance to nearest Type IIb, III water supply well 800
 Distance to nearest Domestic water supply well 300

15. ADJACENT PROPERTY OWNERS

List the names and addresses of all property owners adjacent to the facility, treatment systems and discharge locations. Include properties across roadways.

ATTACH ANY ADDITIONAL NAMES AND ADDRESSES TO THE APPLICATION FORM.

Attachment #3

NAME

COMPLETE MAILING ADDRESS

16. WELLHEAD PROTECTION

Is your facility located in a designated wellhead protection area? Yes No _____

If yes, please identify the community * Village of Milford

- Approved wellhead protection areas can be reviewed at the following web address:
www.deq.state.mi.us/dwr/wpu/wellhead/wellhd.html

17. SIGNATORY REQUIREMENT

Pursuant to Rule 2114 of the Part 21 Rules, this application must have an original signature, and be signed by the appropriate representative(s) as follows:

- A. For a corporation, the form must be signed by a principal executive officer of at least the level of Vice-president, or his/her designated representative, if the representative is responsible for the overall operation of the facility from which the discharge described in the permit application (appropriate documentation must be provided to demonstrate the position and responsibility of the designated representative).
- B. For a partnership, the form must be signed by a general partner.
- C. For a sole proprietorship, the form must be signed by the proprietor.
- D. For municipal, state or other public facility, the form must be signed by either a principal executive officer, the mayor, village president, city or village manager or other duly authorized employee.

All signatures submitted to the department must be original signatures, or the application will be returned as incomplete. The details of these requirements are found in Rule 2114.

The department reserves the right to request information in addition to that supplied with this application if necessary to verify statements made by the applicant or for the department to make a determination required by Part 31, Water Resources Protection, Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451) and/or the Part 22 Rules associated with Part 31.

I certify, under penalty of law, that I have personally examined and am familiar with the information submitted in this document and all attachments. The information being submitted was collected and analyzed in accordance with the Part 22 Rules of Part 31 of Act 451, as amended. Based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Print Name Raymond P. Ledix Title President
 Representing B.L. Corporation
 Signature Raymond P. Ledix Date 5/30/02

If the application is for the discharge of treated sanitary wastewater from a privately owned treatment system serving a mobile home park, campground, apartment complex, condominium, nursing home, prison, or other commercial or residential facility, a principal executive officer or ranking elected official from the local unit of government must sign the permit application in the space provided. The signature is only a certification that the local unit of government is aware of its responsibilities as set forth in Section 3109(2) of Act 451. The refusal of the local unit of government to sign the application does not reduce its liability under the statute.

This is to certify that I am aware of and recognize the responsibilities of the municipality as set forth in Section 3109 of Act 451.

Print Name DONALD GREEN Title SUPERVISOR
 Representing MILFORD TOWNSHIP
 Signature Donald Green Date 6/20/02

RULE 323.2216

PERMITS FOR SPECIFIC DISCHARGES

A DISCHARGE OF THE TYPE AND VOLUME SPECIFIED IN RULE 2216 THAT DOES NOT MEET THE SPECIFIC CRITERIA OF THIS RULE MUST APPLY FOR A PERMIT UNDER RULE 2218.

1. RULE 2216 AUTHORIZATION REQUESTED

WASTEWATER TYPE	DAILY MAXIMUM DISCHARGE, GALLONS
<input type="checkbox"/> (2a) Sanitary Sewage, Constructed Wetland	less than 20,000
<input type="checkbox"/> (2b) Alternative Treatment System	
<input checked="" type="checkbox"/> (3) Sanitary Sewage, Rule 2216 Design	less than 50,000
<input type="checkbox"/> (4) Laundromat Wastewater	less than 20,000

2. DISCHARGE VOLUME

ALL DISCHARGES:

Maximum daily discharge: 50,000 gallons per day

Cumulative annual discharge: 18,250,000 gallons per year

SEASONAL DISCHARGES SHOULD INCLUDE THE FOLLOWING:
 Discharge period _____ through _____

IRRIGATION SYSTEMS AND SEEPAGE BEDS UTILIZING SOILS FOR TREATMENT SHOULD INCLUDE THE FOLLOWING:

Effluent application rate:
 Inches per hour _____ Inches per day _____ Inches per week _____ Inches per year _____

3. PUBLIC NOTICE Attachment #4

Please attach a copy of the public notice, containing information required by Rule 2217(2)(b).

4. CERTIFICATION OF DISCHARGE MINIMIZATION Attachment #5

Please attach the steps identified and considered to avoid or minimize the use and discharge of pollutants according to Rule 2217(2)(c)

5. DISCHARGE METHOD

Please check the discharge method used:

LAND SURFACE DISPOSAL	DISPOSAL CODE	SUBSURFACE DISPOSAL	DISPOSAL CODE
<input type="checkbox"/> Spray Irrigation	A1f1	<input type="checkbox"/> Tile Field	A1g1
<input type="checkbox"/> Ridge and Furrow	A1f2	<input type="checkbox"/> Injection well	A1g2
<input type="checkbox"/> Flood/Sheet Irrigation	A1f3	<input type="checkbox"/> Trench	A1g3
		<input type="checkbox"/> Drywell	A1g4
Seepage Beds:			
<input type="checkbox"/> Slow/Medium Rate	A1f4		
<input checked="" type="checkbox"/> Rapid Rate	A1f5		
<input type="checkbox"/> Other - Please describe:			

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7. Sanitary sewage, specific design, Rule 2216(3), less than 50,000 gallons per day.

Please check the treatment systems being proposed under this Rule:

- Lagoon w/land treatment
- Sequencing batch reactor
- Activated sludge w/denitrification
- Oxidation ditch
- Other If other, please describe:

Please check all system characteristics that apply for this specific discharge:

- The discharge is less than 50,000 gallons per day.
- The sanitary sewage is not mixed with any other type of wastewater.
- The treatment system has sufficient hydraulic capacity to treat organic or inorganic loading so that the discharge receives physical, chemical, biological treatment or a combination of treatments to meet the standards of Rule 2222.
- The facility is under the supervision of a certified operator.
- Land application is in accordance with Rule 2233, requirements common to all land application.
- Land application is in accordance with the specific requirements of the following Rule:
 - Rule 2234, Slow rate land treatment
 - Rule 2235, Overland flow treatment
 - Rule 2236, Rapid Infiltration

7a. Lagoon with land treatment

- The lagoon liner meets the requirements of Rule 2237. See Guidesheet IV for lagoon construction guidance.
- The lagoon system has at least 2 cells.
- The lagoon storage volume is at a minimum 1/2 of the annual influent flow.
- The lagoon has security fencing and warning signs.
- Wastewater disposal is by means of land application to a suitable crop in accordance with Rule 2233. See Guidesheet II for guidance regarding land application of wastewater.
- The discharge occurs only from a cell(s) which have not received untreated wastewater for at least 30 calendar days prior to the discharge.

Lagoons without aeration

- Cell 1 does not exceed a maximum depth of 6 feet.
- Cell 2 does not exceed a maximum depth of 8 feet.
- All additional cells do not exceed a maximum depth of 10 feet.

Lagoons with aeration

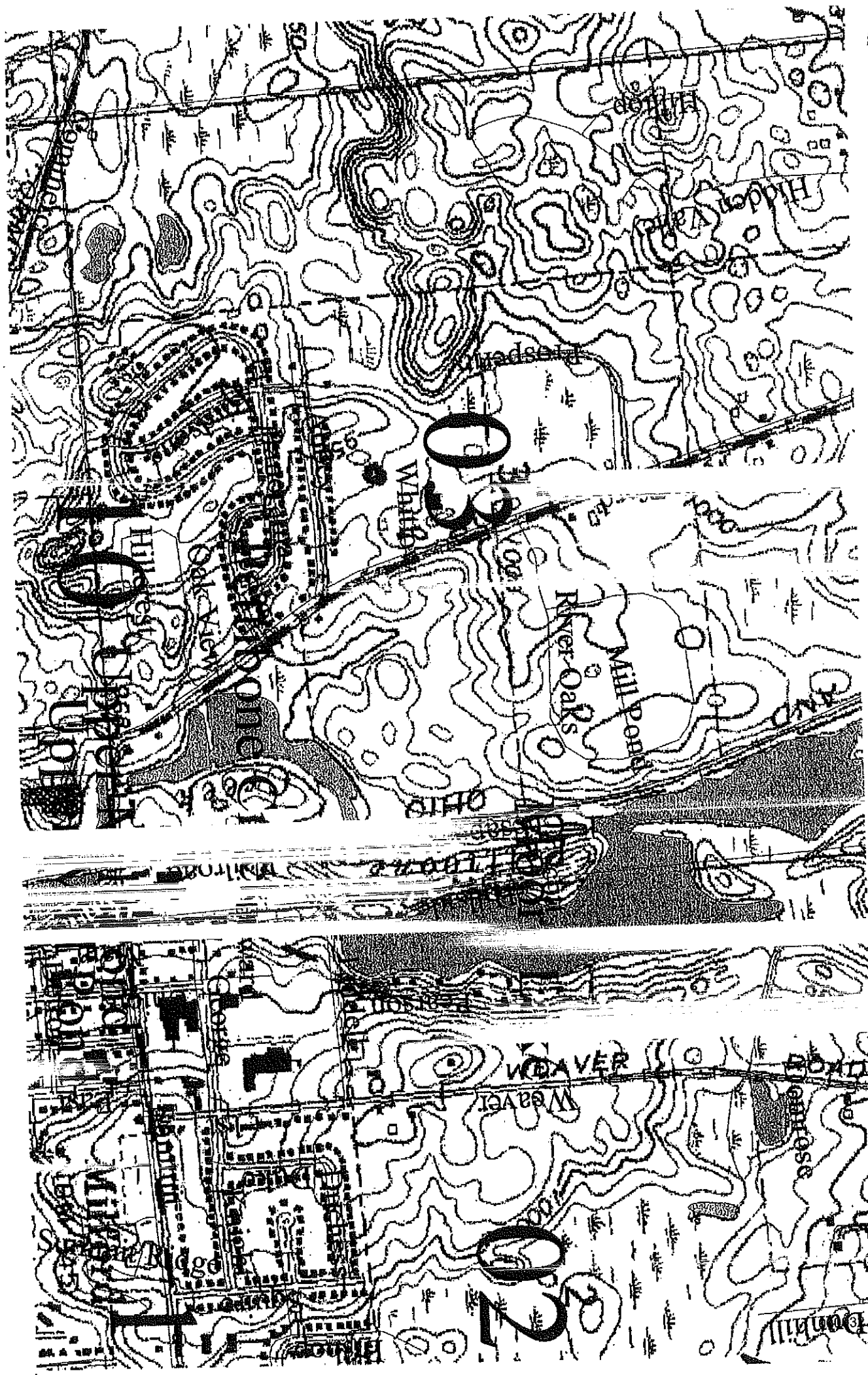
- A minimum of 2 mg/l of dissolved oxygen is maintained in the primary cell.
- The maximum depth of secondary cells does not exceed 10 feet.

7b. Sequencing batch reactor

- The discharge meets the requirements of Rule 2222 in the effluent.
- The facility has a contingency plan to deal with periods of upset, mechanical malfunctions, and routine maintenance while maintaining compliance with this part.
- The sequencing batch reactor system has at least 2 treatment tanks.

7c. All other treatment systems which do not involve land treatment

- The treatment system has a minimum storage volume of 1/2 the annual influent flow.
- The treatment system does not have a minimum storage volume of 1/2 the annual influent flow, the discharge meets the requirements of Rule 2222 in the effluent, and the facility has a contingency plan to deal with periods of upset, mechanical malfunctions, and routine maintenance while maintaining compliance with these rules.



Section 3 Milford Twp 21st ADD C

BOSS ENGINEERING

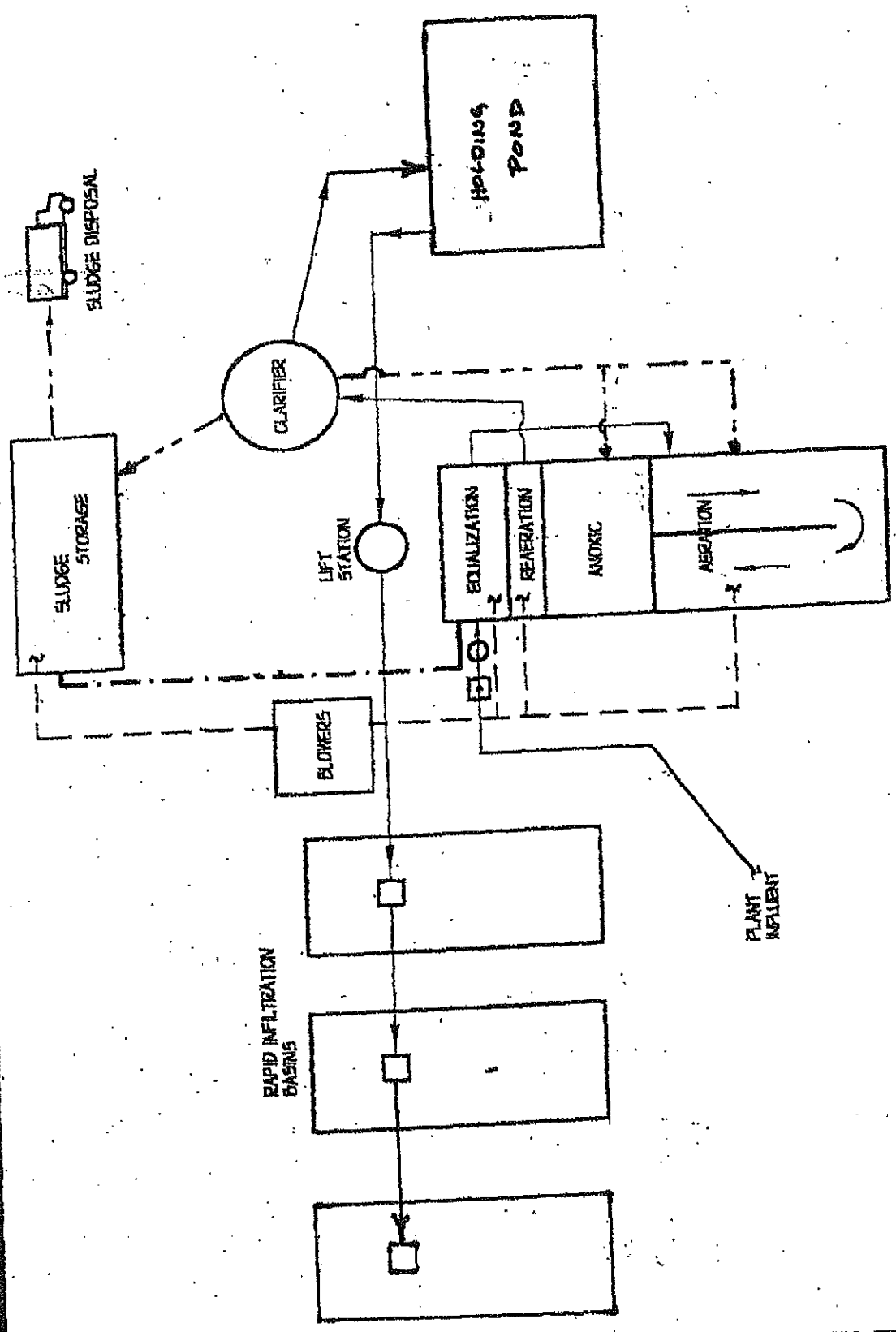
PLANT PROCESS FLOW SCHEMATIC

PROPOSED WASTE WATER TREATMENT PLANT



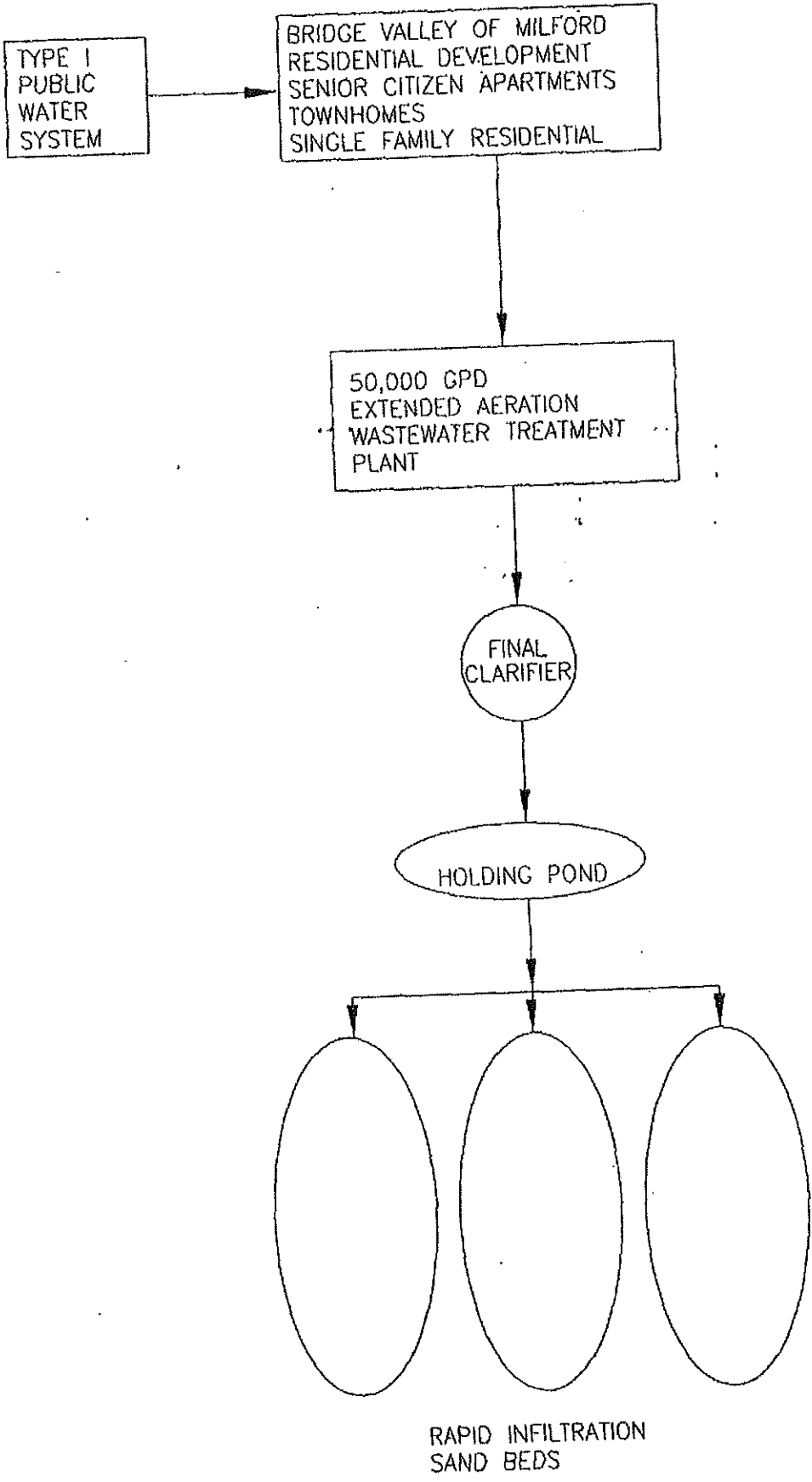
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PROCESS WASTEWATER ———
 SLUDGE - - - - -
 SUPERNATANT - · - · -
 AIR - - - - -



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FLOW DIAGRAM



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ADJACENT PROPERTY OWNERS

1603226005
DEPT OF NATURAL RESOURCES
BOX 30735
LANSING, MI 48909

1603201028
KURT & KAREN FULKERSON
529 RIVER OAKS
MILFORD, MI 48381

1603201024
CHRISTOPHER HOEPF
611 RIVER OAKS
MILFORD, MI 48381

1603201022
STEPHEN & LYNN MCCOY
182 RIVER OAKS
MILFORD, MI 48381

1603201027
RANDALL W RIDENOUR
563 RIVER OAKS
MILFORD, MI 48381

1603201026
JEFFREY & MARRIETTA RILEY
587 RIVER OAKS
MILFORD, MI 48381

1603201021
EDWARD & DIANNA BARRETT
677 RIVER OAKS
MILFORD, MI 48381

1603201025
KEVIN & SHIRLEY CRAFT
595 RIVER OAKS
MILFORD, MI 48381

1603201023
BRUCE & LYNN WOODROW
623 RIVER OAKS
MILFORD, MI 48381

1603201045
ARTHUR KOBY
502 RIVER OAKS
MILFORD, MI 48381

1603201046
PETER G HEIMANN
516 RIVER OAKS
MILFORD, MI 48381

1603201047
DAVID E SOBIESKI
534 RIVER OAKS
MILFORD, MI 48381

1603201048
MICHAEL & KIMBERLY PORTUESI
548 RIVER OAKS
MILFORD, MI 48381

1603201053
STEPHANIE VASILOFF
626 RIVER OAKS
MILFORD, MI 48381

1603201052
ROSS & MARYCLAIRE PUDALOFF
608 RIVER OAKS
MILFORD, MI 48381

1603201051
BOHDAN & MARIA KRAJ
594 RIVER OAKS
MILFORD, MI 48381

1603201050
MICHAEL & CHARLOTTE BYNDAS
586 RIVER OAKS
MILFORD, MI 48381

1603201054
VINCENT V & MELISSA VERNA
642 RIVER OAKS
MILFORD, MI 48381

1603201049
ERIK J & JULIE A SAJDAK
562 RIVER OAKS
MILFORD, MI 48381

1603201055
MARTIN R FALLAT JR
660 RIVER OAKS
MILFORD, MI 48381

1603201056
JAMES & LYNDY POOLE II
674 RIVER OAKS
MILFORD, MI 48381

1603201057
CRAIG HILLS
236 IVY GLEN DR
MILFORD, MI 48380

1603426002
PREHLAD S VACHHER
42814 OATYER CT
ASHBURN, VA 20148

1603402011
PATRICK BOCK
1306 N MILFORD
MILFORD, MI 48381

1603402012
FRANK RAYL
1292 N MILFORD
MILFORD, MI 48381

1603402014
KAREN KILLINGBECK
1288 N MILFORD
MILFORD, MI 48381

1603402016
DAVID & SHERRY BURLEY
1272 N MILFORD
MILFORD, MI 48381

1603402020
PREHLAD S VACHHER
42814 OATYER CT
ASHBURN, VA 20148

1603402021
PREHLAD S VACHHER
42814 OATYER CT
ASHBURN, VA 20148

1603402026
PREHLAD VACHHER
42814 OATYER CT
ASHBURN, VA 20148

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1603402025
PREHLAD VACHHER
42814 OATYER CT
ASHBURN, VA 20148

1603402024
PREHLAD S VACHHER
42814 OATYER CR
ASHBURN, VA 20148

1603402007
CAROL A WILKOP
435 N MAIN SUITE 2000
MILFORD, MI 48381

1603402019
EDWARD RIDALLS
1042 N MILFORD
MILFORD, MI 48381

NORTH MILFORD DEVELOPMENT LLC
425 W. HURON STE 210
MILFORD MICHIGAN
48381

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#4

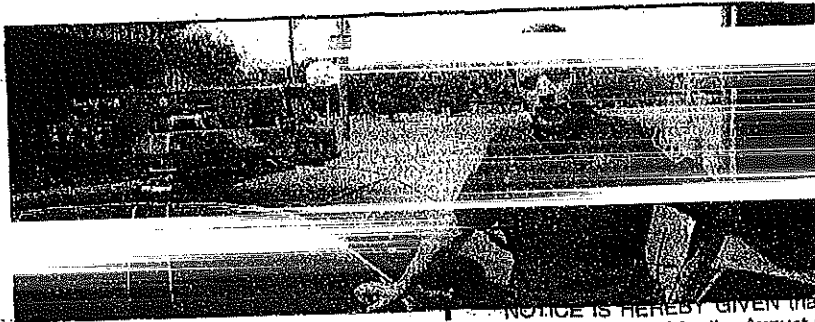
PUBLIC NOTICE

milfordtimes.com

Highland voters asked to renew sheriff f

By David Aguilar
STAFF WRITER

Less could equal more.
That's what Highland-based
Oakland County Sheriff Lt. Mike
Sutton hopes voters believe Aug. 6
when they march to the polls and



patrol

liaison, a DA
ing sergeant
tenant.

He said s
provided h
Oakland
Department

The 2.85-mill ballot request

NOTICE IS HEREBY GIVEN that a public hearing
equipment being used for the August 6, 2002 General E
ducted on Monday, July 15, 2002 at 4:30 p.m. at the
located at 205 North John Street, Highland, Michigan.

(7-11-02 MT 1117980)

HIGH



NOTICE CHARTER TOWNSHIP OF MILFORD AND MILFORD VILLAGE TAXPAYERS

All 2002 School Taxpayers must file an application for a
Monday, September 16, 2002. RESIDENTS THAT QUALIFY FOR SUMMER
DEFERMENT MUST HAVE AN APPLICATION FILED AT THE TREASURER'S
OFFICE NO LATER THAN SEPTEMBER 16, 2002. To qualify, your total household
income, including Social Security, cannot EXCEED \$95,000.00. You must reside on
the homestead of a
person who is 62 years of age or older, a paraplegic or quadriplegic, legally blind
person; blind, totally and permanently disabled persons.

If you have any questions regarding the above, please call the Milford Township
Treasurer's office at 248-685-8731, Monday through Friday 8:30 a.m. to 5:00 p.m.

CYNTHIA DAGENHARDT, TREASURER
CHARTER TOWNSHIP OF MILFORD

(7-11-02 MT 1117789)

PUBLIC NOTICE

The R.L. Corporation will apply for a wastewater discharge permit from the
Waste Management Division of the Michigan Department of Environmental
Quality on or about July 15, 2002. The permit being applied for is
of the discharge of 50,000 gallons per day of treated sanitary sewage from the
Bridge Valley of Milford, a proposed residential development. The development is
located in Section 03 of Milford Township, Oakland County, T2N, R7E. The mail-
ing address for the R.L. Corporation is 4801 Faircourt, West Bloomfield, Michigan
48322.

Interested parties can comment on the application by sending material to the
Groundwater Program Section, Waste Management Division, Michigan
Department of Environmental Quality, P.O. Box 30241, Lansing, Michigan 48909.
The material submitted must indicate that it relates to the proposed
Bridge Valley of Milford, Milford Road, Milford.
Material received by the Michigan Department of Environmental Quality on or after the
indicated application date will be considered by the department in deciding on
the application.

(7-11-02 MT 1117510)

10% Off in Stock
Pool Packages
The Ballation Ready Available

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Three Pools • 12,900

#5

CERTIFICATION OF DISCHARGE MINIMIZATION

The applicant will construct a new continuous flow nitrogen removal/extended aeration wastewater treatment plant with final disposal to the groundwater via construction of rapid infiltration beds. The new wastewater treatment facility will comply with Rules: 2230, 2232, 2233 & 2236

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Bridge Valley of Milford Residential Development

Basis of Design

GENERAL PLANT DESIGN CONCEPTS:

The wastewater treatment plant proposed is a continuous flow nitrification-denitrification treatment plant. Milford Township has signed the wastewater discharge permit application and has granted a franchise under Section 4305 of the Natural Resources and Environmental Protection Act authorizing the homeowners association to operate the public wastewater treatment and disposal system. The homeowners association will retain the services of an MDEQ certified operator to operate and maintain the treatment plant, conduct the required testing and prepare and submit the required monthly operation reports and the quarterly groundwater monitoring well reports.

Influent flow will be shredded in a comminutor or screened for solids removal and discharged to an equalization tank. Wastewater will flow from the equalization tank to the aeration tank where aerobic conditions are maintained to facilitate conversion of ammonia to nitrite and then nitrate. The system is designed to provide for the introduction of return activated sludge into the aeration tank to allow the operator to maximize treatment efficiency. The aeration tank will be designed to provide detention time of 16-18 hours in accordance with 10-State Standards.

At the completion of the nitrification process the wastewater will be directed to an anoxic basin. Mechanical mixers will be provided to accomplish mixing in this tank. Nitrate is converted to water and nitrogen gas in this environment. This system is also designed to receive return activated sludge to allow the operator to maximize treatment efficiency. The anoxic tank will be designed to provide a detention time of approximately 6-8 hours.

Wastewater is routed from the anoxic basin to the re-aeration tank for a detention time of approximately 1.5-2 hours. Air will be re-introduced at this time in the process to control odor and insure that aerated mixed liquor is discharge to the clarifier.

After reintroduction of air in the re-aeration tank wastewater is discharged to the clarifier. Final settling occurs in the clarifier resulting in a final effluent for discharge to the rapid infiltration beds for final discharge to the groundwater in compliance with the groundwater discharge permit. Settled sludge is removed from the bottom of the clarifier and directed to the sludge holding tank for thickening. Sludge from this unit can also be returned and return activated sludge at the various points in the system where it is called for to maximize treatment efficiency.

Final discharged effluent from the clarifier will be discharged to a small upset pond and then from the pond to the rapid infiltration beds. The upset pond will be lined with a synthetic liner or clay. Upset pond volume will be based on the allowable loading rate

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for final discharge to the rapid infiltration beds. A two to three day equivalent volume is anticipated. A two-foot freeboard will be maintained in all tanks between the maximum liquid level and the tops of the tanks. Overflow piping 8 inches above the overflow weirs between the tanks will divert sewage to the upset pond for capture and recirculation through the treatment plant.

Biosolids (waste sludge) will be hauled from the treatment plant and disposed of in accordance with the applicable laws and in accordance with a residuals management plan approved by the MDEQ.

DESIGN CALCULATIONS;

Design Flow	50,000 gallons per day
BOD5	260 mg/l
Total Suspended Solids	300 mg/l
TKN	42 mg/l
NH3-N	25 mg/l
Phosphorus	10 mg/l

Organic loading - Oxygen Requirements

Lb/day BOD5: $(.05\text{mgd})(8.34)(260) = 108 \text{ lb/day BOD5}$ $(1.5 \text{ lb O}_2/ \text{lbBOD5}) = 163 \text{ lb O}_2/\text{day}$

Lb/day TKN: $(.05)(8.34)(42) = 17.5 \text{ lb/day TKN}$ $(4.6 \text{ lb O}_2/ \text{lb TKN}) = 81 \text{ lb O}_2/\text{day}$

TOTAL O2 required 244 lb O2/day

Air requirement assuming 8% efficiency

$(244 \text{ lb O}_2/\text{day}) / [(.08)(.232)] = 13,150 \text{ lb air/day}$

CFM of air required

$$\frac{13,500}{(1440 \text{ min/day}) \frac{14.5 \text{ psi} * 528 \text{ R} (0.075 \text{ lb/cf})}{560 \text{ R} * 14.7}} = 131 \text{ scfm}$$

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Mixing Demand:

20 cfm/1000 cu ft required

$$(50,000 \text{ gal}) / (7.48) = 6,685 \text{ cubic feet} * 20 \text{ cfm} / 1000 \text{ ft}^3 = 134 \text{ scfm}$$

Use greater of demands = 134+ scfm plus requirement for air lift pumps.

FINAL CLARIFICATION:

Required surface area: 300 gallons per day per square foot of surface area

$$50,000 / 300 = 167 \text{ square feet required}$$

Use a 15 foot diameter circular clarifier = 176 square feet of surface area

DETENTION TIMES:

Aeration tank $12 \times 10 \times 40 = 4,800 \text{ cubic feet} = 35,904 \text{ gallons}$

$$35,904 / 50,000 = .72 \text{ days} = 17.23 \text{ hours}$$

Anoxic tank $12 \times 10 \times 17 = 2040 \text{ cubic feet} = 15,260 \text{ gallons}$

$$15,260 / 50,000 = .31 \text{ days} = 7.5 \text{ hours}$$

Re-aeration $12 \times 10 \times 3 = 360 \text{ cubic feet} = 2695 \text{ gallons}$

$$2695 / 50000 = .05 \text{ days} = 1.4 \text{ hours}$$

SLUDGE PRODUCTION AND STORAGE;

Assume sludge production of 2,000 lb per day per million gallons of daily sewage flow and using average day flow of 50,000 gallons per day, sludge generated equals:

$$(2000 \text{ lb sludge} / \text{day} * \text{mgd}) (.05 \text{ mgd}) = 100 \text{ lb of sludge per day (solids)}$$

$$(100 \text{ lb/day}) / [(8.34 \text{ lb/gallon}) (.01)] = 1,200 \text{ gallons of sludge per day at 1\% solids}$$

$(100 \text{ lb/day}) / [(8.34 \text{ lb/gallon}) (.02)] = 600 \text{ gallons of sludge per day at 2\% solids}$

Sludge storage provided = 30,000 gallons

$30,000 \text{ gallons sludge storage} / 600 \text{ lb sludge per day} = 50 \text{ days of sludge storage}$

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McDowell & Associates

Geotechnical, Environmental & Hydrogeological Services • Materials Testing & Inspection
21355 Hatcher Avenue • Ferndale, MI 48220
Phone: (248) 399-2066 • Fax: (248) 399-2157

July 23, 2002

The RL Corporation
4801 Faircourt
West Bloomfield, Michigan 48322

Job No. 02-238

Attention: Ray Leduc
Subject: Limited Hydrogeological Study
Proposed Sand Beds
SE ¼, Section 3, Milford Township
Oakland County, Michigan

Gentlemen:

As requested, we have conducted a limited hydrogeological study for the subject project. Our findings are presented below.

Three (3) Soil Test Borings, designated 1 through 3, have been made and these were advanced to depths ranging from about twenty-four feet (24') to twenty-five feet six inches (25'6") below the existing ground surface. Descriptions of the subsurface conditions found at each boring location are provided on the Log of Soil Boring sheets which accompany this report. Each of the borings was completed as a two inch (2") diameter PVC piezometer. Details of the piezometer installations may be found on the boring logs. The approximate boring/piezometers locations are indicated on the accompanying Soil Boring Location Plan. These were surveyed by Wilcox Professional Services. Selected soil samples were subjected to laboratory tests for moisture content, density, grain-size distribution, and permeability (saturated hydraulic conductivity). The results of the laboratory tests may be found on the boring logs and laboratory data summary sheet which accompanies this report.

The soil stratifications shown on the boring logs are not intended to represent areas of exact change between soil types. Due to the manner of deposition, the transition from one soil type to the next may be gradual rather than abrupt.

The general soil profile encountered by the borings showed organic topsoil and/or uncontrolled fill at the surface which continued to depths ranging from about zero foot eight inches (0'8") to two feet ten inches (2'10") below the existing ground surface. The surface soils were underlain by brown fine sands with clay and vegetation to brown clayey sands with vegetation which ranged in thickness from about one foot six inches (1'6") to two feet five inches (2'5"). These were underlain, in turn, by brown fine sands with pebbles, stones, and occasional silt and which showed about 6.7% to 16.5% fines passing the #200 sieve and permeabilities (saturated hydraulic conductivities) ranging from 1.4×10^{-3} cm/sec to 2.0×10^{-5} cm/sec. The lower permeabilities are associated with thin silt seams. The brown fine sands ranged in thickness from about two feet three inches (2'3") to five feet two inches (5'2"). At depths of about seven

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Job No. 02-238

feet four inches (7'4") to seven feet six inches (7'6") below the existing ground surface, clayey sands and clay soils were encountered. The sands and clays appear to be interbedded and possibly intercalated from the depths indicated above to the termination depths of the borings.

Groundwater was encountered in each of the borings at about Elevation 961.87' to Elevation 966.99'. These groundwater levels vary more than expected considering the soil profiles and relative ground levels. Therefore, it is possible that these represent perched or trapped groundwater conditions. Where granular soils are underlain by lower permeability materials, such as clays or clayey sands, the potential exists for water to become trapped in the overlying soils, particularly following heavy rainfalls. It is anticipated that groundwater levels at the site fluctuate seasonally.

It is understood that the proposed project will employ rapid infiltration sand beds for disposal of treated sanitary wastewater effluent. The total discharge rate is expected to be less than fifty thousand gallons per day (50,000 gpd).

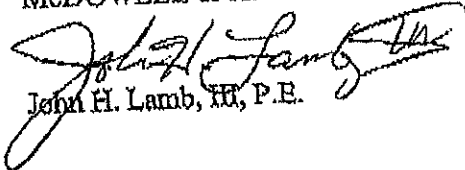
Based on the results of field and laboratory tests and the project information provided, it is our professional opinion that rapid infiltration sand beds are feasible. Due to layering of the upper soils, it will be necessary to remove some of the upper soils and replace them with clean granular materials. At Boring 1, the upper soils should be removed to a depth of about seven feet four inches (7'4"). At Boring 2, the upper soils should be removed to a depth of about five feet three inches (5'3"). At Boring 3, the upper soils should be removed to a depth of about two feet two inches (2'2"). These soil removals are expected to result in remaining soils having permeabilities in the range of 1.4×10^{-3} cm/sec to 1.7×10^{-3} cm/sec. The horizontal extents of soil removals are unknown. It is recommended that clean, granular soils be used to replace the removed soils. These should have a permeability of at least 1.0×10^{-2} cm/sec. Our experience has been that MDOT Specification 2NS sand would be suitable for this purpose. Other materials may also be considered but would need to be checked. If the soil removal and replacement is performed as indicated above and the sand beds are set at Elevation 973' or higher, it is anticipated that an infiltration rate of one and one-half gallons per day per square foot (1.5 gpd per sq. ft.) could be assimilated by the subsoils.

It must be noted that the soil profiles found by the borings showed different layering from boring to boring. Consequently the possibility exists that soil conditions may vary from those found at the actual boring locations. Therefore, it is strongly recommended that McDowell & Associates be notified if significant variations in the subgrade are found compared to those indicated by the borings and allowed the opportunity to evaluate the effects of the variations on the proposed sand beds.

If you have any questions or need additional information, please do not hesitate to call.

Very truly yours,

MCDOWELL & ASSOCIATES


John H. Lamb, III, P.E.

JHL/jb

cc: Jon Caterino - Boss Engineering

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McDOWELL & ASSOCIATES
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LOG OF SOIL BORING NO. 1

PROJECT Limited Hydrogeological Study
Proposed Sand Beds

LOCATION Millford Road & Abbey Lane

JOB NO. 02-238

Millford Township, Michigan

SURFACE ELEV. 972.23' DATE 5-20-02

Sample & Type	Depth	Legend	SOIL DESCRIPTION	Penetration Blows 100'	Moisture %	Natural WL,P.C.F.	Dry Den WL,P.C.F.	Unc. Comp. Strength ESP	Sr. %
	1		0'8" Moist dark brown organic silty sandy clayey TOPSOIL with vegetation and pebbles						
A	2		2'5" Medium compact moist brown clayey fine SAND with pebbles, vegetation and occasional stones	3					
UL		4							
	3			5					
	4		5'8" Very compact moist brown fine SAND with pebbles, some silt and occasional stones	9					
B	5			9	3.5				
UL				9					
	6		7'4" Very compact moist brown clayey fine SAND with silt, pebbles and stones	7					
C	7			12	8.5				
UL				13					
	8		Compact to very compact wet brown coarse SAND with gravel, stones and occasional clayey sand seams	5					
D	9			8	9.5				
UL	10			7					
	11		13'0" Compact wet brown fine SAND with pebbles and silt						
	12								
	13								
E	14		15'3" Stiff moist brown silty CLAY with sand & pebbles	8					
UL	15			8	12.2				
	16			8					
	17		19'3" Extremely stiff moist blue silty CLAY with sand & pebbles and occasional stones						
	18								
	19								
F	20		25'0" Extremely stiff moist blue silty sandy CLAY with pebbles, occasional stones and wet sand seams	20					
UL				24	10.0				
	21			28					
	22		25'6" Stiff moist blue silty CLAY with sand & pebbles						
	23								
	24								
G	25		Notes: (1) Moved 2' and redrilled to 15'6" and installed 2" diameter PVC Monitoring Well with bottom of screen at 15' and 3' stick up. (2) Water level at completion at 9.40' below black mark at top of pipe.	20					
UL				24					
				7					

- TYPE OF SAMPLE
 D. - DISTURBED
 UL. - UNDIST. UNEX
 S.T. - SHIMBELY TUBE
 S.S. - SPLIT SPOON
 R.C. - ROCK CORE
 () - PENETROMETER

REMARKS:
 Standard Penetration Test - Driving 2" OD Sampler 1' With 140# Hammer Falling 30" Count Made at 6" Intervals

GROUND WATER OBSERVATIONS

G.W. ENCOUNTERED AT	7	FT.	4	INS.
G.W. ENCOUNTERED AT	10	FT.	3	INS.
G.W. AFTER COMPLETION	7	FT.	3	INS.
G.W. AFTER		FT.		INS.
G.W. VOLUMES	HR8.			
	Heavy	Case-in @ 7'3"		

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LOG OF SOIL BORING NO. 2

PROJECT Limited Hydrogeological Study
Proposed Sand Beds

LOCATION Milford Road & Abbey Lane

JOB NO. 02-28B

Milford Township, Michigan

SURFACE ELEV. 971.13' DATE 5-20-02

Sample & Type	Depth	Legend	SOIL DESCRIPTION	Penetration Blows for 0"	Moisture %	Natural Wt. P.C.F.	Dry Den Wt. P.C.F.	Unsat. Comp. Strength PSE	Str. %
A	1		Slightly compact dark brown organic silty clayey sandy TOPSOIL with vegetation and pebbles, possible fill	1					
UL	2			2					
B	3		Slightly compact moist brown fine SAND with pebbles, vegetation, traces of roots, clay and silt	2	13.4	134			
UL	4			2					
C	5		Compact to very compact moist brown fine SAND with pebbles and occasional stones	1					
UL	6			2	8.0				
D	7		Very stiff moist brown silty CLAY with sand & pebbles	2					
UL	8			4					
E	9		Very compact moist brown fine SAND with silt and stones	6					
UL	10			8	8.7				
F	11		Wet brown fine SAND with stones, pebbles and cobbles	9					
UL	12			10					
G	13		Very stiff to extremely stiff moist brown silty CLAY with sand & pebbles and occasional wet sand seams	8					
UL	14			17	5.7				
H	15		Extremely compact wet oxidized brown silty fine SAND	20/1"					
UL	16			Stone					
I	17		Extremely compact wet brown fine SAND with silt and pebbles	10					
UL	18			10	9.6				
J	19		Extremely stiff moist brown silty CLAY with sand & pebbles	10					
UL	20			11					
K	21		Extremely stiff moist blue silty CLAY with sand & pebbles and some wet sand seams	17	17.1	127			
UL	22			17					
L	23		Very compact wet brown gravelly fine SAND with stones	20					
UL	24			8					
	25		Notes: (1) Moved 2' and redrilled to 10'8" and installed 2" diameter PVC monitoring well with bottom of screen at 10', and 3' stick-up. (2) No water in well at completion.	11	16.1	137			
				15					
				13					
				10	16.2				
				19					
				24					
				9					
				16	9.8	144			(9000+)
				18					
				21					
				7					
				16					
				16					
				17					
				16					
				17					
				11					
				10					

- TYPE OF SAMPLE
 D. - DISTURBED
 U.L. - UNSAT. LINER
 S.T. - SHELBY TUBE
 S.S. - SPMT 6" O.D.
 R.C. - ROCK CORE
 () - PENETROMETER

REMARKS:
 *Calibrated penetrometer
 Standard Penetration Test - Driving 2" OD Sampler 1" With 1400 Hammer Falling 30"; Count Made at 6" Intervals

GROUND WATER OBSERVATIONS

G.W. ENCOUNTERED AT	9	FT.	3	INS.
G.W. ENCOUNTERED AT	13	FT.	0	INS.
G.W. AFTER COMPLETION	18	FT.	2	INS.
G.W. AFTER	23	FT.	0	INS.
G.W. VOLUMES	10	FT.	2	INS.

Medium to Heavy

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LOG OF SOIL BORING NO. 3

PROJECT Limited Hydrogeological Study
Proposed Sand Beds

LOCATION Millford Road & Abbey Lane

JOB NO. 02-238

Millford Township, Michigan

SURFACE ELEV. 970.89' DATE 5-20-02

Sample & Type	Depth	Legend	SOIL DESCRIPTION	Penetration Blows for 6"	Molduro %	Natural Wt. P.C.F.	Dry Den Wt. P.C.F.	Unc. Comp. Strength PSE	Str. %
	1		0'8" Moist dark brown organic silty clayey fine sandy TOPSOIL with vegetation and pebbles						
A	2		2'2" Medium compact moist brown fine SAND with vegetation, pebbles and clay	3	7.3				
UL	3			3					
	4								
B	5		4'0" Medium compact moist brown fine SAND with pebbles and stones	5	10.3				
UL	6			8					
	7			9					
C	8		7'4" Compact to very compact wet brown fine SAND with gravel and occasional stones	10	7.2				
UL	9			10					
	10			10					
	11		8'4" Very stiff moist brown gravelly sandy CLAY with stones						
	12								
	13								
D	14		10'7" Very compact wet brown fine SAND with pebbles, occasional stones and silty fine sand seams	9	13.7				
UL	15			10					
	16			11					
	17		Extremely compact wet brown gravelly medium SAND with some stones						
	18								
	19								
E	20		14'10" Very compact wet brown silty fine SAND	15	9.0				
UL	21			14					
	22			12					
	23		17'0" Very compact wet brown fine SAND with pebbles and sandy clay seams						
	24								
	25								
F	26'3"		20'3" Very stiff moist brown silty CLAY with sand & pebbles	10	11.1				
UL	21'0"			12					
	22		Extremely stiff moist blue silty CLAY with sand & pebbles	13					
	23								
	24								
G	25'		Notes: (1) Installed 2" diameter PVC monitoring well in boring with bottom of screen at 20', and 3' slick up. (2) Water level at completion at 19.3' below black mark at top of pipe.	11	9.4				
UL	25'			15					
	25'			17					

TYPE OF SAMPLE
 O. - DISTURBED
 UL. - UNDIST. LINER
 S.T. - SHELBY TUBE
 S.S. - SPLIT SPOON
 R.C. - ROCK CORE
 () - PENETROMETER

REMARKS:
 *Calibrated penetrometer
 Standard Penetration Test - Driving 2" OD Sampler 1" With 140# Hammer Falling 31" Count Made at 5" Intervals

GROUND WATER OBSERVATIONS
 G.W. ENCOUNTERED AT 4 FT. 0 INS.
 G.W. ENCOUNTERED AT 8 FT. 4 INS.
 G.W. AFTER COMPLETION 13 FT. 7 INS.
 G.W. AFTER HRG. FT. INS.
 G.W. VOLUMES Heavy *3 1/4" HSA

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Boring Number	Sample	Grain Size Distribution, Percent Finer By Weight					Saturated Permeability (cm/sec)
		#4	#10	#40	#100	#200	
1	B	57.8	43.5	21.5	7.2	6.7	2.0E-05
	C	74.3	62.7	39.9	11.4	10.4	6.0E-06
	D	80.0	58.9	28.9	9.2	8.4	1.5E-04
	E	99.3	96.4	70.6	21.6	20.1	
	F	88.9	77.7	44.5	17.7	17.0	
2	B	97.8	96.5	60.5	21.5	20.6	6.5E-05
	C	82.1	72.8	51.8	17.2	16.5	1.4E-03
	D	78.0	73.1	65.1	21.0	19.0	
	E	80.1	72.7	60.4	12.7	11.9	
	F	93.7	88.4	65.7	38.2	37.5	
	G	100.0	99.8	97.9	61.8	53.9	
	H	100.0	99.3	97.6	64.5	59.0	
	I	100.0	99.6	77.4	12.2	11.0	
3	A						1.7E-03
	B	77.5	65.2	30.4	8.1	7.7	
	C	65.9	45.3	26.3	16.3	15.9	4.6E-04
	D	83.8	78.1	64.6	37.1	36.0	
	E	69.9	49.6	20.3	9.0	8.7	
	F	86.9	75.8	61.6	29.5	27.4	

LABORATORY DATA SUMMARY SHEET

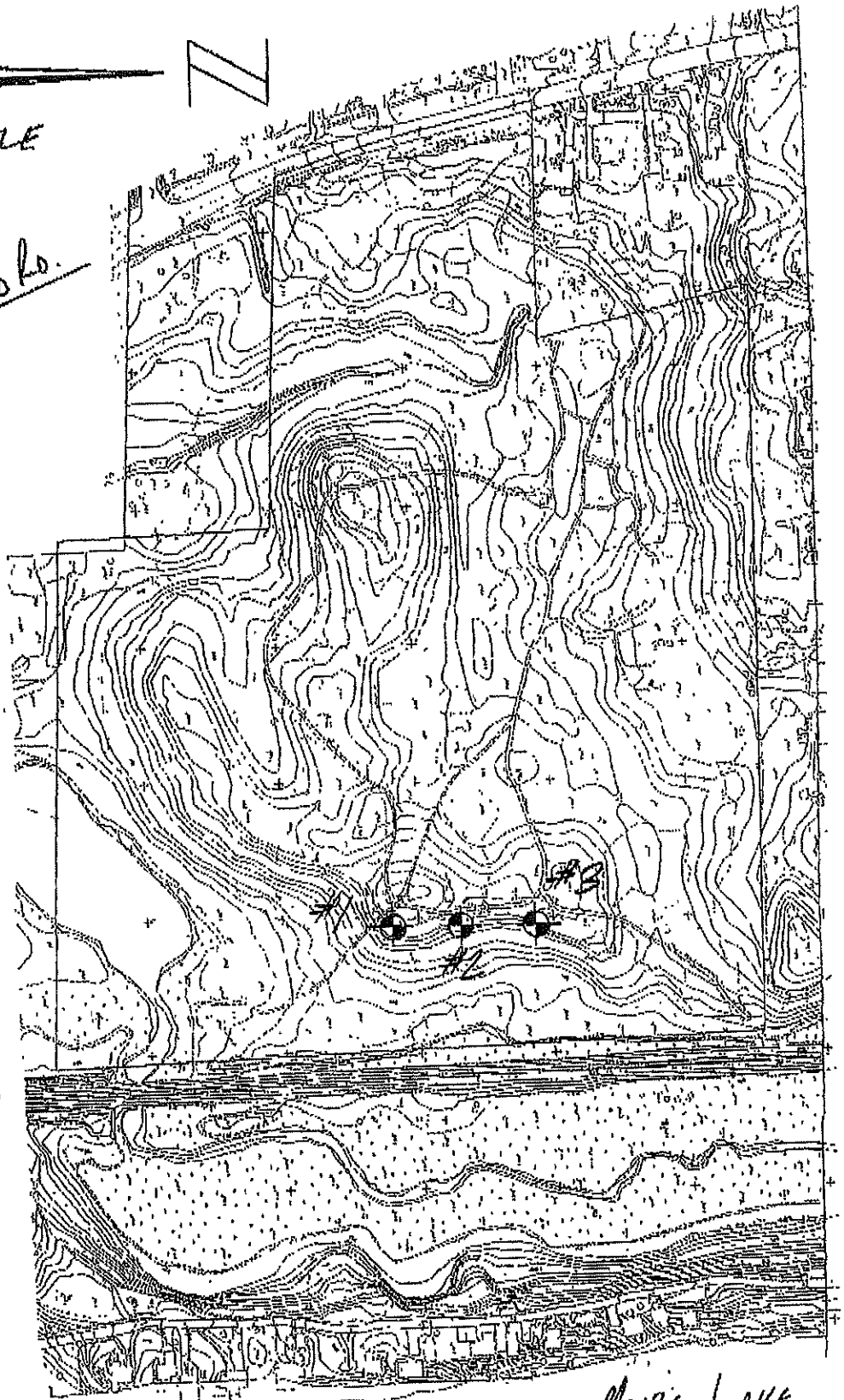
M&A Job 02-238

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No SCALE

MILFORD RD.



RAILROAD TRACKS

MOORE LAKE

SOIL BORING LOCATION PLAN

#02-238

000049

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JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

January 7, 2003

CERTIFIED MAIL

Mr. Raymond Leduc
R.L. Corporation
4801 Faircourt
West Bloomfield, Michigan 48322

Post-It® Fax Note	7671	Date	1-7-03	# of pages	7
To	Jon CATERINO	From	Jim JANICZEK		
Co./Dept.		Co.	DEQ/WD		
Phone #		Phone #	517-373-7262		
Fax #	517-548-1690	Fax #			

Dear Mr. Leduc:

Enclosed is the Authorization to Discharge, GW166300203, issued by the Department of Environmental Quality (DEQ) on January 7, 2003. The Authorization provides for the discharge by Bridge Valley of Milford of 50,000 gallons per day (18,250,000 gallons per year) of treated sanitary wastewater via sand beds.

Please review carefully the conditions of the Authorization. In particular, please notice that any change in the discharge will require a new Authorization by the DEQ.

Questions concerning this Authorization can be directed to the Groundwater Section, Water Division (WD), telephone 517-373-8148, or the WD, Southeast Michigan District Office, 734-953-8905.

Sincerely,

Wm. Elgar Brown, P.E., Chief
Groundwater Section
Water Division
517-373-8148

Enclosure

- cc: Mr. Jon Caterino, Boss Engineering
- Mr. Donald Green, Milford Township Supervisor
- Oakland County Health Department
- Mr. Phil Agriroff, DEQ - Southeast Michigan
- Mr. James Janiczek, DEQ

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**MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER DIVISION**

**GROUNDWATER DISCHARGE PERMIT FOR DISCHARGES OF LESS THAN
50,000 GALLONS PER DAY OF SANITARY SEWAGE**

This permit is issued under the provisions of Part 31, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451) being Sections 324.3101 through 324.3119 of the Compiled Laws of Michigan, and the Administrative Rules promulgated thereunder. This permit does not relieve the permittee from obtaining and complying with any other permits required under local, state, or federal law.

Permit Number: GW166300208	Authorization Rule: 2216(3)
Facility Name: Bridge Valley of Milford	
Issue Date: January 7, 2003	Expiration Date: January 7, 2008
Deadline for Submittal of Renewal Application: July 11, 2007	
Facility Address: Milford Road, north of Commerce Road Milford, Michigan	
Telephone: 248-343-6487	Fax: 248-592-0084
Discharge Location Description: NW ¼ of the SE ¼, Section 3, T2N, R7E, Milford Township, Oakland County, Michigan, as identified in Attachment 1 (Site Map) and fully described in this permit.	
Permittee Name: R.L. Corporation	
Facility Owner Address: 4801 Faircourt West Bloomfield, Michigan 48322	
Telephone: 248-343-6487	Fax: 248-592-0084
Authorization to discharge a maximum 50,000 Gallons Per Day (18,250,000 Gallons Per Year) in accordance with the limitations, monitoring requirements, and other conditions as set forth in this permit, Part 31, and its administrative rules.	
Type of Wastewater: Sanitary Sewage	Facility Classification: C3b
Method of Treatment: Extended Aeration/ Anoxic Tank	Method of Disposal: Sand Beds-A1f5

This permit is based upon the information submitted in the May 30, 2002 Application for Groundwater Discharge received by the Michigan Department of Environmental Quality on July 26, 2002.

All construction, maintenance, operations, and monitoring of this facility must comply with the conditions set forth in this permit or in plans approved by the Department in accordance with this permit. Failure to comply with the terms and provisions of this permit may result in civil and/or criminal penalties as provided in Part 31.

Wm. Elgar Brown, P.E., Chief, Groundwater Section
Water Division
Michigan Department of Environmental Quality

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A. Effluent Limitations and Monitoring Requirements

During the period beginning with issuance of this permit and lasting until January 1, 2008, the discharge of sanitary sewage shall be limited and monitored by the permittee, at a minimum, as specified below. The permittee shall submit reports quarterly as specified in section E.1 of this permit. In the event of any non-compliance with limitations, including any detected in additional sampling to the minimum required below, the permittee shall fulfill the requirements of Section D. 1 of this permit and in accordance with Rule 2227.

TABLE 1 - Rapid Infiltration

SAMPLE LOCATION ID	PARAMETER	LIMITATION UNITS	MEASUREMENT FREQUENCY	SAMPLE TYPE
EF-1	Flow	50,000 GPD	Daily	Direct Measurement
		18,250,000 GPY	Annually	Calculation
EQ-1	Chloride	250 mg/l	2 times per month	Grab
	Phosphorus	1.0 mg/l	2 times per month	Grab
	pH	5.5 - 10 S.U.	2 times per month	Grab
	Sodium	120 mg/l	2 times per month	Grab
	Total Inorganic Nitrogen	5 mg/l daily maximum	2 times per month	Calculation
	Ammonia Nitrogen		2 times per month	Grab
	Nitrate Nitrogen		2 times per month	Grab
	Nitrite Nitrogen	0.5 mg/l	2 times per month	Grab

B. Observation Monitoring Requirements

The permittee shall inspect the treatment and disposal facilities for the operational conditions required below at the minimum frequency specified. All inspections shall be documented in a logbook to be maintained at the on-site facility and shall be available for review by Department personnel at all times.

LOCATION	CONDITION	MEASUREMENT FREQUENCY	SAMPLE TYPE
Holding Pond	Dike Integrity	Weekly	Visual Observation
	Vegetation Control	Weekly	Visual Observation
	Nuisance Animals, Birds, Insects	Weekly	Visual Observation
	Freeboard (2 ft. minimum)	Weekly	Visual Observation
	Odors	Daily	Olfactory Observation
Rapid Infiltration	Vegetation Control, Even Distribution, Erosion, and Run-off Control	Daily	Visual Observation

C. Schedule of Activities – The permittee shall undertake the following activities by the dates specified.

1. Prior to the initiation of construction of the wastewater treatment and disposal facilities, the discharger shall submit, for review and approval, plans and specifications consistent with the requirements of Rule 2216(3).
2. Subsequent to construction of wastewater treatment and disposal facilities constructed under this authorization, the discharger shall obtain certification by an engineer licensed under Act No. 299 of the Public Acts of 1980, as amended, being §339.101 et seq. of the Michigan Compiled Laws, and known as the Occupational Code, that the wastewater treatment and disposal facilities were constructed in accordance with the plans approved pursuant to Item C.1 above. A copy of this certification shall be submitted to the Southeast Michigan District Office, Water Division.
3. Provide written notification to the Department at least 30 days prior to facility start-up.
4. An Operation and Maintenance Manual shall be developed for the facility and shall include the following:
 - a. The function, start-up, shutdown and periodic maintenance procedures for each process and for each item of mechanical and electrical equipment.
 - b. Outline steps to be taken by the facility during an emergency situation which will reduce the impact of the emergency by following the correct response.
 - c. A program to monitor process efficiency.
 - d. The details of how inspections will be conducted and a schedule for the inspection of the treatment system, collection system and pump stations where applicable, irrigation equipment, and discharge area.
 - e. Periodic maintenance procedures for the treatment system, collection system and pump stations where applicable, irrigation equipment, and discharge area.

D. Compliance Requirements If Permit Limits Are Exceeded

1. If a limit described in Section A is exceeded, the discharger shall comply with Rule 2227 and undertake the following within the specified timeframes indicated below:
 - a. Provide written notification to the Department at the address in Section E.2 of this permit, within seven calendar days that a limit has been exceeded. Such notification shall include the name of the substance(s), the concentration(s), and the location(s) that exceeded the limit(s).
 - b. Resample and analyze for the parameter(s) of concern within 14 days at the location where a limit was exceeded.
 - c. Submit a report to the Department at the address in Section E.2 of this permit within 60 days. Such report shall include the results of confirmation sampling, an evaluation of the reasons for the limit being exceeded, and the steps taken or proposed to prevent recurrences.

d. Complete additional activities as may be required by the Department pursuant to Rule 2227(2).

E. Reporting Requirements – Rule 2225

1. Two copies of all monitoring data, as required and specified by this permit, shall be submitted quarterly on a form provided by the Department by the 15th of the month following each calendar quarter (April 15th, July 15th, October 15th, and January 15th). Quarterly Compliance Monitoring Reports shall be submitted to the following address:

CMR Reporting – GS - WD
 Department of Environmental Quality
 P.O. Box 30241
 Lansing, Michigan 48909

Telephone: 517-335-4030

2. All other notices, plans, reports, and other submissions required by and pursuant to this permit shall be submitted to the following:

Southeast Michigan District Supervisor
 Water Division
 Department of Environmental Quality
 33980 Seven Mile Road
 Livonia, Michigan 48152-1006

Telephone: 734-953-8905

F. Other Conditions:

1. Effluent shall be isolated from property lines and water supply wells as specified in R 323.2204(2)(c) and R 323.2204(2)(d)(ii).
2. The Department may modify the effluent monitoring parameters or frequency requirements of this permit upon the request of the permittee.
3. The permittee shall maintain all treatment or control facilities or systems installed or used by the discharger to achieve compliance with this permit in good working order and operate the facilities or systems as efficiently as possible.
4. Prior to any land application of bulk biosolids, the permittee shall submit to the District Supervisor of the Water Division, and receive approval of, a Residuals Management Program (RMP) that complies with the requirements of the Part 24 Rules (R 323.2401 through R 323.2418 of the Michigan Administrative Code). The permittee is authorized to land apply bulk biosolids or prepare bulk biosolids for land application in accordance with an approved RMP.

G. Permit Application

Issuance of this permit is based upon the information submitted on the May 30, 2002 Application for Groundwater Discharge (Application) received by the Department on July 26, 2002 as amended through August 8, 2002. Any material or intentional inaccuracies found in this information may be grounds for the revocation or modification of this permit or other enforcement action. The permittee shall inform the Southeast Michigan District Supervisor, Water Division, of any known material or intentional inaccuracies in the information of the Application which would affect the permittee's ability to comply with the applicable rules or license conditions.

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H. Transfer of Ownership

The permittee shall notify the Department, in writing, no less than 60 days before a change in ownership of the facility. This permit may be transferred to the new owner by written approval of the Chief of the Groundwater Section, Water Division.

I. Change or Modification of Treatment or Discharge

The permittee, if proposing to modify the quantity or effluent characteristics of the discharge, if proposing to modify the monitoring program, or if proposing to modify the treatment process for the discharge, shall notify the Department of the proposed modification before it occurs. The Department shall determine if the proposed modification requires the permit to be modified to ensure that the terms of Rule 2204 are met. Modifications determined by the Department to be significant, require that the permittee submit an application for and obtain reissuance of the permit before such modification occurs.

J. By-Passing

Any diversion from or bypass of facilities necessary to maintain compliance with the terms and conditions of this permit is prohibited, except where unavoidable to prevent loss of life, personal injury, or severe property damage. The permittee shall immediately notify the Department of any such occurrence by telephone at 1-800-292-4706. Such notice shall be supplemented by a written report with the next operation report detailing the cause of such diversion or bypass and the corrective actions taken to minimize adverse impact and eliminate the need for future diversion or bypass.

K. Cessation of Discharge-Related Activities

If all or any portion of the permitted treatment facilities and discharge areas are intended to be eliminated, the permittee shall comply with the requirements of Rule 2226.

NOTE:

IF THE PERMITTEE WISHES TO CONTINUE DISCHARGING BEYOND THE EXPIRATION DATE, THE PERMITTEE SHALL SUBMIT AN ADMINISTRATIVELY COMPLETE APPLICATION FOR REISSUANCE NO LATER THAN 180 DAYS PRIOR TO THE EXPIRATION DATE IN ACCORDANCE WITH RULE 2151 OF THE PART 21 ADMINISTRATIVE RULES. FAILURE TO SUBMIT AN ADMINISTRATIVELY COMPLETE APPLICATION FOR REISSUANCE BY THE REQUIRED DATE WILL RESULT IN TERMINATION OF THE AUTHORIZATION TO DISCHARGE ON THE EXPIRATION DATE.

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Subject: WSSN: 00838 - Ridge Valley of Milford, Project - Ridge Valley Development Approval.

From: Bridges, Jeriesha (DEQ) (BridgesJ@michigan.gov)

To: joncaterino@comcast.net; rplwb@sbcglobal.net;

Date: Wednesday, August 3, 2016 9:35 AM

Mr. Caterino & Mr. Leduc,

We have no objections to the proposed expansion of 182 homes at the Ridge Valley Development.

The existing groundwater system appears to be more than capable of supplying the additional demand: The total projected maximum daily demand would be 0.252 MG (182 x 3.5 x 150 gpcpd x 2 = 0.191 MG plus current max day of 0.061 MG). The wells must be able to supply the maximum day demand with firm capacity, which is currently 1.009 MG. The firm well capacity of 1 MG also capable of supplying the peak instantaneous peak demand of 0.5042 MG.

We look forward to receiving your permit application. Please contact me if you have any further questions.

Jaiye

From: Bridges, Jeriesha (DEQ)
Sent: Thursday, July 28, 2016 12:52 PM
To: 'Jon Caterino'
Cc: Ray Leduc; Lopez, Amber (DEQ)
Subject: RE: Ridge Valley

Mr. Caterino and Mr. Leduc,

I will work on an approval letter/email for the development and should have it available maybe early next week.

Thanks

Jaiye

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Ryan, Terence Dennis (DEQ)

To: R L Corporation INC.
Cc: Beauchamp, Dan (DEQ); Jon Caterino
Subject: RE: Ridge Valley / Timber Valley of Milford

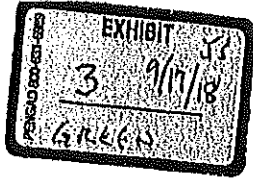
Importance: High

A review of supporting documentation presented by the Developer of the Ridge Valley Phase 2 Project (Timber Valley) with a proposal to use 200gpd per home as the basis of design to develop 182 single family homes and discharge that wastewater to the existing 70,000gpd capacity Ridge Valley development sewer system and wastewater treatment plant has been reviewed by the DEQ and is accepted.

**Dennis Ryan, P.E.
Senior Environmental Engineer
Public Wastewater Unit
Water Resources Division
Warren
248-508-1078**

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EXHIBIT D



WORKING/DEVELOPMENT AGREEMENT FOR
OPERATION OF COMMUNITY SEWER SYSTEM

This Agreement is entered into as of June 5, 2003, by and between:

Name: R.P.L. of Michigan, Inc., ("Developer")
Address: 4801 Faircourt, West Bloomfield, MI 48089

Name: Charter Township of Milford (the "Township")
Address: 1100 Atlantic, Milford, MI 48381

Name: Bridge Valley of Milford Master Association
Address: _____

WHEREAS, the Developer has proposed and the Township has approved a multi-use development in the Township;

WHEREAS, the Developer, the Township and the Bridge Valley Master Association have entered into an "Agreement to Assume Responsibility for Operation of Community Sewer System" (Agreement to Assume Responsibility);

WHEREAS, Developer has already applied for and been promised an MDEQ approval for a Community Sewer System by "Rule" in the size of 50,000 gallons per day and Township desires that Developer seek a larger 70,000 gallons per day system. Developer is willing to apply for a larger system, and the parties desire that Developer be permitted to use certain excess capacity created by the larger system;

NOW, THEREFORE, it is hereby agreed as follows:

1. Size: The Developer is awaiting receipt of its MDEQ construction permit for a 50,000 gallons per day system. The Township desires Developer seek MDEQ approval for a larger system. The Developer's engineer estimated the proposed average day flow using 75 gallons per capita per day (gpcd). The Township's engineer, following the commonly accepted "Recommended Standards for Wastewater Facilities" (A.K.A. 10 State Standards), estimated the proposed average day flow using 100 gpcd. Applying the factors over the entire development yields estimate flows of approximately 50,000 gallons per day (gpd) based on the Developer's calculation and approximately 70,000 gpd using the Township's calculations. Recognizing that both of the design flows are estimates, the Township allowed the Developer to pursue permitting under the 50,000 gpd design capacity with the understanding that if the actual flows at the community sewer plant exceed the 50,000 gpd limit, the Developer would pursue and obtain the additional required MDEQ permitting before developing any further units that would cause the 50,000 gpd limit to be exceeded. Accordingly, Developer will begin planning and building a 70,000 per day gallon Community Sewer System. Once Developer has received the 50,000 gallons per day MDEQ permit it will apply to the MDEQ for a permit to operate the larger 70,000 gallons per day Community Sewer System. It is understood and agreed that the parties to this Agreement shall use their "best efforts" to cooperate

000002

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and effectuate securing all necessary approvals for the larger Community Sewer System.

2. Excess Capacity: Developer believes that the 70,000 gallon per day Community Sewer System will provide Excess Capacity ("Excess Capacity"). It is understood and agreed that to the extent that there is Excess Capacity, Developer shall retain all rights to use said Excess Capacity as determined below for Developer's (or its affiliates) other property located on the west side of Millford Road, provided Developer or that user contributes a proportional contribution for the operation, maintenance, repair and replacement of the Community Sewer System only when the excess capacity is actually used. The ability to use and contract this Excess Capacity shall be retained by Developer even after title and ownership of the Community Sewer System reverts to the Association under the Agreement to Assume Responsibility, or as may otherwise occur by law. It is understood and agreed that the Excess Capacity shall be determined as follows. After one full year of waste water treatment plant operation, a reading of the waste water treatment plant flow meter shall be taken by the parties. This reading of the number of gallons shall be divided by the actual number of residents in the Bridge Valley Development at the time of the reading. If the resulting quotient computes to 75 gallons or less per resident or less, then the Excess Capacity shall be made available to Developer for Developer's other property or as Developer may otherwise determine as set forth above. Notwithstanding the foregoing, Excess Capacity shall not be made available to Developer to properties outside of the Bridge Valley Community Development until Developer receives a permit from MDEQ to operate a 70,000 gallon per day Community Sewer System. Should there be a dispute between the parties as to whether there is Excess Capacity for the Developer, the parties shall attempt to work out their differences. Failing resolution, the parties shall have their dispute(s) arbitrated through the American Arbitration Association according to its rules then prevailing. The arbitrator shall be a competent engineer familiar with waste water treatment plants and similar operations. His decision shall be final and binding upon the parties and his award may be enforced in any circuit court or other court having appropriate jurisdiction thereof. Should any court determine that the matter is not arbitrable, the court shall use its equitable powers to the maximum extent permitted by law in order to effectuate a speedy and cost effective determination and resolution of the dispute, including the ability to appoint a special master or court appointed expert under MRE 706.

3. Best Efforts: It is agreed that the parties shall cooperate and use their "best efforts" to effectuate the terms and provisions of the Agreement to Assume Responsibility and this Addendum. This includes, but is not limited to, the obligation on the part of the Developer to use its "best efforts" to complete the Community Sewer System and senior citizen portion of the Development in an expeditious fashion. Likewise, the Township shall be obligated to use its "best efforts" to expeditiously provide approval of all plans, paperwork, permits or otherwise to effectuate this Agreement and the Agreement to Assume Responsibility. This includes using its best efforts to cooperate with the Oakland County Road Commission or others in the granting of any easements necessary to effectuate the Agreement to Assume Responsibility or this Working/Development Agreement for Operation of Community Sewer System.

4. Amendments: It is understood and agreed that to the extent that the Developer uses Excess Capacity, that the provisions relating to the maintenance and replacement escrow funds (as set forth in Paragraphs 4 (M) and (N) of the Agreement to Assume Responsibility), may need to be modified to better reflect the proportional costs for the operation, maintenance or replacement of the Community Sewer System. In that event, the parties agree to use their best efforts to negotiate in good faith an amendment that more fully and fairly reflects the proportional costs for operating, maintaining and replacing the Community Sewer System. Should the parties be unable to agree, the matter shall be submitted to arbitration in accordance with the arbitration provision set forth in Paragraph 2 above. In that event, the arbitrator shall have the maximum legal authority to establish a maintenance escrow and replacement escrow in conformity with his determinations as to their fair and respective allocations. The parties shall be bound by his decision and award and his decision and award may be enforced in any circuit court or other court having appropriate jurisdiction thereof.

5. Added Costs: It is understood and agreed that any costs of review or future modification to this Agreement, the Agreement to Assume Responsibility or other agreements between the parties or processes relating thereto, shall be borne by Developer.

6. Construction: This Agreement shall constitute a supplement to the Agreement to Assume Responsibility, hereby incorporated by reference, and in the event of any conflict of interpretation between the two Agreements, this Agreement shall control. In the event of any dispute concerning any provision in this Agreement or the Agreement to Assume Responsibility, the provision(s) shall be interpreted giving the construction meaning ordinarily given to the words and the Agreements shall be interpreted in a neutral and unbiased fashion, without any presumptions in favor of or against the drafter, Developer, municipality or otherwise.

Dated: 6/5/03

DEVELOPER:

R.P.L. of Michigan, Inc.

By: *Raymond B. Rubin*

Its: *President*

Dated: 6/5/03

ASSOCIATION:

Bridge Valley of Milford

By: *Raymond B. Rubin*

Its: *President*

Dated: 6/5/03

CHARTER TOWNSHIP OF MILFORD

By: *Donald Green*

Its: *SUPERVISOR*

EXHIBIT E



PLAINTIFF'S
PROPERTY
PROPOSED FOR
DEVELOPMENT

Village of Milford

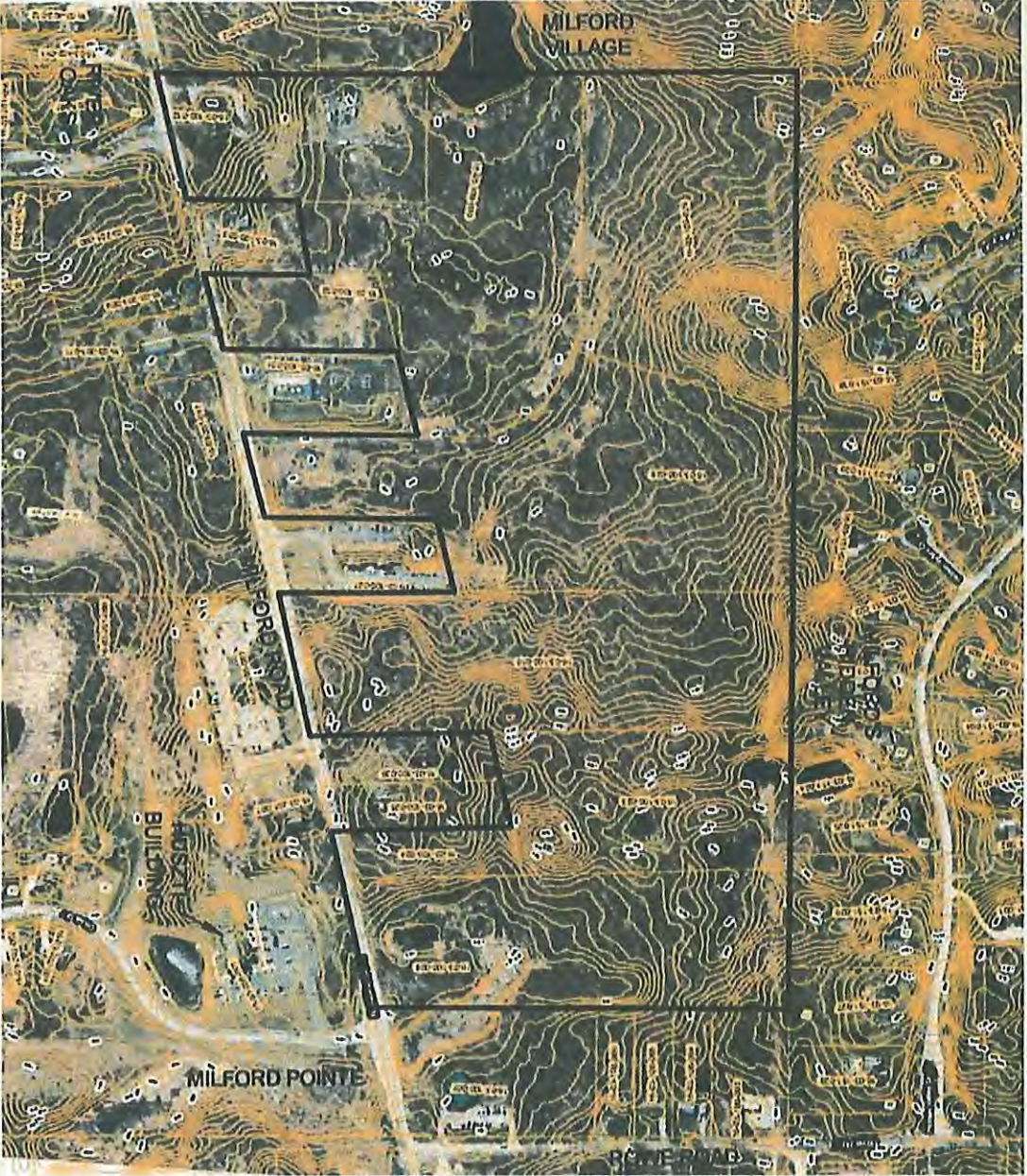
Highland Township

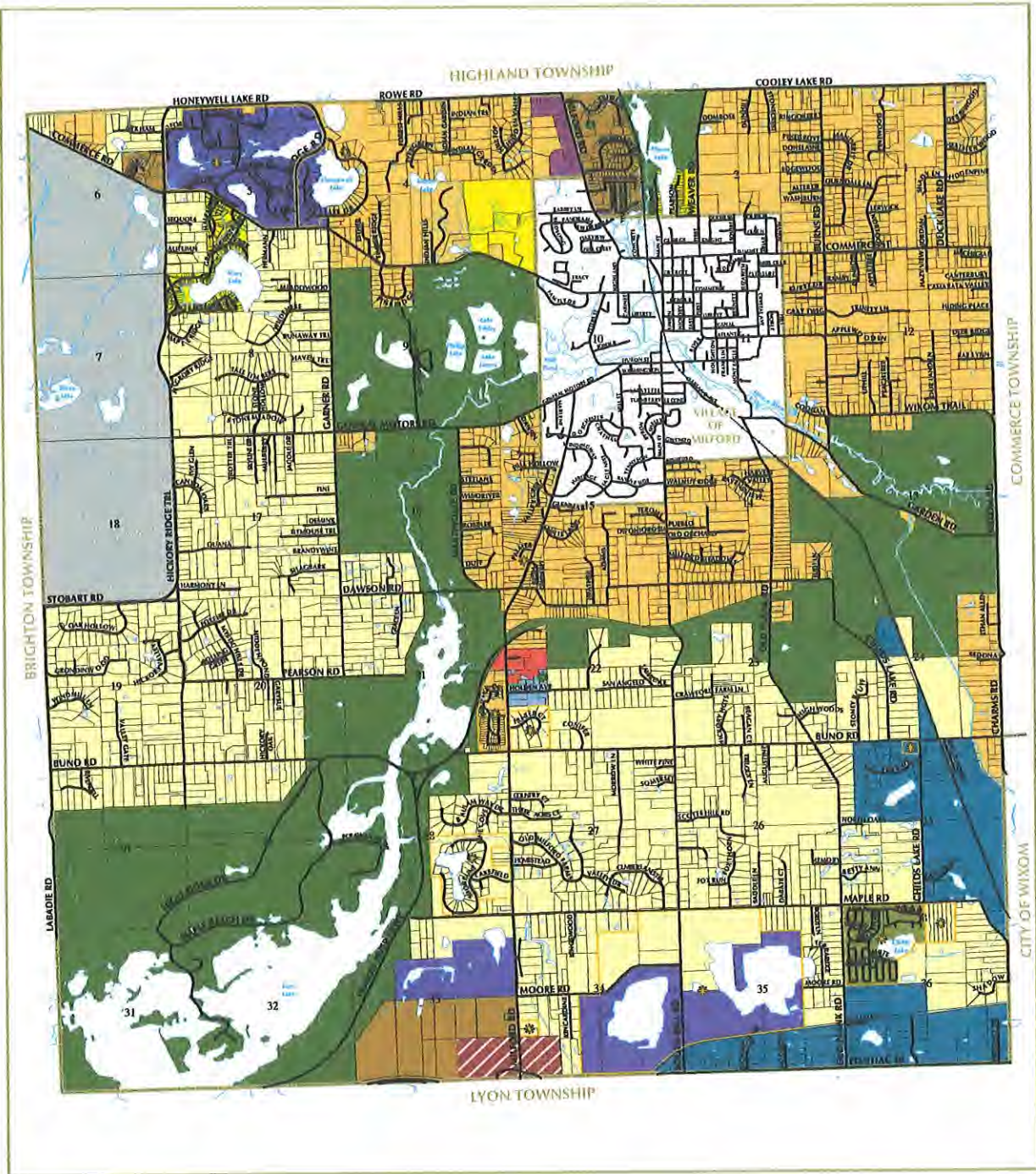
Wastewater Treatment
Plan built by plaintiff

Wetlands - Unbuildable land

Wetlands - Unbuildable

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Zoning Districts Map

Milford Charter Township
Oakland County, Michigan

Zoning Districts				Zoning Map Amended Through April, 2009
	R1 Single Family Residential		M2 General Industrial	
	R1R Rural Residential		M3 Extractive Industrial	
	R1S Suburban Residential		E Proving Ground	Roads Railroads Parcel Lines Municipal Boundaries Water Bodies Water Features
	R2 Multiple Family Residential		Use Variance Granted	
	R3 Mobile Home Park		Consent Judgment Granted	
	RO1 Restricted Office			
	REC Recreation			
	C1 Local Business			
	C2 Planned Shopping Center			
	M1 Light Industrial			

WADETRIM
 25251 Northline Rd
 Taylor, MI 48180
www.WadeTrim.com

\\tydal\Projects\MTP623701\GIS Data\Projects\Zoning Map.mxd

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HIGHLAND TOWNSHIP

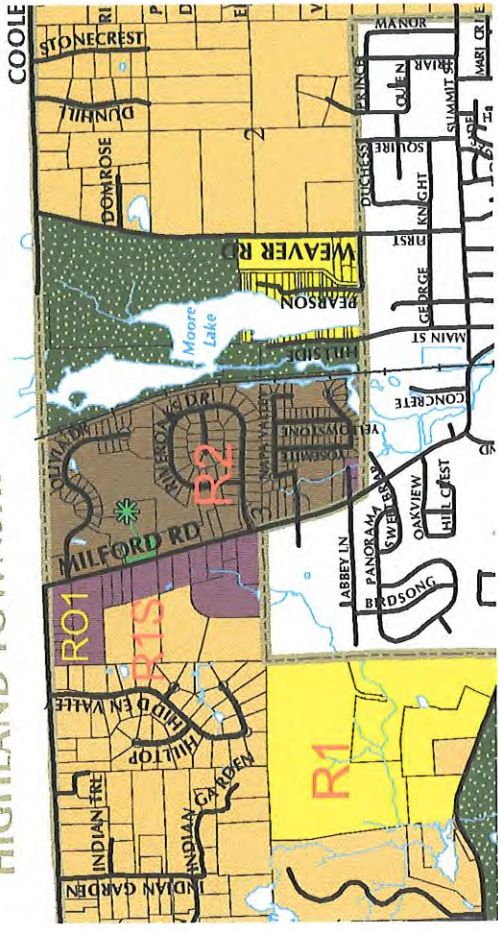


EXHIBIT F

Density, area, height, bulk and placement requirements in the R-2 district shall be in accordance with the schedule of regulations, division 15 of this article.

(Code 1992, § 19-260; Ord. No. 101, § 10.05, 3-23-1971)

Secs. 32-228—32-247. - Reserved.

DIVISION 7. - RO-1, RESTRICTED OFFICE DISTRICT

Sec. 32-285. - Statement of purpose.

- (a) The RO-1 restricted office district is intended to permit those office and personal service uses which will provide modern office buildings in landscaped settings, adjacent to residential areas.
- (b) The intent of this district is to establish an appropriate district for uses which do not generate large volumes of traffic, traffic congestion and parking problems; and which will promote the most desirable use of land in accordance with the township's land use plan.

(Code 1992, § 19-306; Ord. No. 101, § 12.01, 3-23-1971)

Sec. 32-286. - Permitted principal uses.

The following uses are permitted in an RO-1 district:

- (1) Office buildings resulting from any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales.
- (2) Medical or dental office, including clinics and medical laboratories.
- (3) Banks, credit unions, savings and loan associations.
- (4) Publicly owned buildings, public utility transformer stations and substations, telephone exchanges and public utility offices.
- (5) Business or private schools operated for a profit.
- (6) Photographic studios.
- (7) A veterinarian clinic for small animals, such as dogs, cats, birds and the like, provided that any treatment room, cage, pen or kennel facility is located within a completely enclosed, soundproof building and that such clinic is operated in such a way as to produce no objectionable odors outside its walls.
- (8) Accessory buildings and uses customarily incidental to any of the permitted principal uses.
- (9) Signs in accordance with section 32-688.

(Code 1992, § 19-307; Ord. No. 101, § 12.02, 3-23-1971; Ord. No. A38, § 2, 5-27-1987)

Sec. 32-287. - Permitted uses after special approval.

The following uses shall be permitted in the RO-1 district subject to the conditions hereinafter specified and subject to requirements of section 32-35 and section 32-586:

- (1) Pharmacy or apothecary shops; stores limited to corrective garments or bandages, optical company or restaurant may be permitted, provided, it is within the building to which it is accessory and does not have

a direct outside entrance for customer use.

- (2) Private service clubs, fraternal organizations and lodge halls subject to the following:
 - a. The minimum lot area shall be one acre.
 - b. The site shall have at least one property line abutting a major thoroughfare.
 - c. All vehicular ingress and egress to the site shall be directly from a major thoroughfare.
- (3) Preschools, nursery schools, day nurseries, child care centers, including Montessori schools, operated for a profit or nonprofit but not including dormitories; provided that the following conditions are met:
 - a. Have primary means of ingress and egress directly on a major thoroughfare having or planned to have a right-of-way of 120 feet.
 - b. Minimum site size shall be three acres.
 - c. Only one principal building shall be permitted on site which may be used either as a school facility or as a combined school and residence for the person operating the school. In either case the building shall be designed in the character of a residence and be in harmony with adjacent residences in the surrounding neighborhood. Any building used in whole or in part for school purposes shall be located not less than 75 feet from any adjacent property line.
 - d. That for each child so cared for, being in total of not more than 45 children on the premises at any one time, in addition to those in the family of the occupant if occupant lives on the premises, there is provided and maintained a minimum of at least 150 square feet of outdoor play area.
 - e. Such play space shall have a total minimum area of not less than 5,000 square feet.
 - f. Such play area shall not be located closer than 50 feet to any adjoining property line and within the yard space there shall be provided a greenbelt planted with plant materials in accordance with section 32-587, and shall include a continuous fence not in excess of six feet or less than four feet in height.
 - g. The required front yard setback shall remain as open space unoccupied and unobstructed from the ground upward and shall not be used for off-street parking or outdoor playground space, except that landscaping, plant materials, sidewalks and vehicular access drives are permitted.
 - h. Where a parking lot is provided, a greenbelt planted with plant materials in accordance with section 32-587, shall be provided along all sides of the parking area except for entrance and exit driveways.
- (4) Churches, in accordance with section 32-589.

(Code 1992, § 19-308; Ord. No. 101, § 12.03, 3-23-1971; Ord. No. A35, § 12, 10-15-1986; Ord. No. A46, § 5, 3-16-1988; Ord. No. 101-A-64, § 4, 9-15-1993)

Sec. 32-288. - Site plan review.

For all uses permitted in an RO-1 district there must be site plan review as required under section 32-586.

(Code 1992, § 19-309; Ord. No. 101, § 12.04, 3-23-1971)

Sec. 32-289. - Area, height, bulk, placement requirements.

The area, height, bulk, and placement regulations in the RO-1 district shall be in accordance with the schedule of regulations, division of this article.

(Code 1992, § 19-310; Ord. No. 101, § 12.05, 3-23-1971)

Secs. 32-290—32-311. - Reserved.

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EXHIBIT G

DIVISION 3. - R-1-S, SUBURBAN RESIDENTIAL DISTRICT

Sec. 32-163. - Statement of purpose.

The R-1-S, suburban residential district, is intended as a district primarily for single-family homes on large lots which need not require urban services such as municipal water supply or sewerage.

(Code 1992, § 19-206; Ord. No. 101, § 8.01, 3-23-1971)

Sec. 32-164. - Permitted principal uses.

The following uses are permitted in an R-1-S district:

- (1) Any principal use permitted in the R-1 single-family residential district.
- (2) Home occupations, as limited and defined in section 32-2.
- (3) Accessory buildings and uses customarily incidental to the above permitted principal uses.
- (4) Keeping and raising of horses, cattle, fowl, rabbits or other small animals and accessory buildings to house same provided they are so housed and fenced as not to become a nuisance and the requirements of sections 32-572 and 32-592 are met. A suitable fence or other enclosure shall be erected around the outdoor premises used for horses, cattle, fowl, rabbits or other small animals. There shall be no obnoxious odors, flies or other nuisances caused by the keeping of livestock or fowl.
- (5) Personal use heliports in accordance with section 32-595.
- (6) Signs in accordance with section 32-687.
- (7) Private garage, used primarily for the storage of self-propelled vehicles for the use of the occupants of the lot on which the building is located. The foregoing definition shall not be construed to prevent the storage on any one lot, for the occupants thereof, of not more than one commercial vehicle not exceeding a gross vehicle weight of 10,000 pounds. See also section 32-609(c).
- (8) Township government buildings.

(Code 1992, § 19-207; Ord. No. 101, § 8.03, 3-23-1971; Ord. No. A21, § II, 3-31-1982; Ord. No. A41, § 1, 11-18-1987; Ord. No. 156-A-137, § 1, 4-15-2009; Ord. No. 156-A-185, § 1, 5-18-2016)

Sec. 32-165. - Permitted uses after special approval.

The following uses shall be permitted in the R-1-S district subject to the conditions hereinafter specified and subject to requirements of sections 32-35 and section 32-586.

- (1) Preschools, nursery schools, day nurseries, child care centers, including Montessori schools, operated for profit or nonprofit but not including dormitories; provided that the following conditions are met:
 - a. Have primary means of ingress and egress directly on a major thoroughfare having or planned to have a right-of-way of 120 feet.
 - b. Minimum site size shall be three acres.
 - c. Only one principal building shall be permitted on site which may be used either as a school facility or as a combined school and residence for the person operating the school. In either case the building shall be designed in the character of a residence and be in harmony with adjacent

residences in the surrounding neighborhood. Any building used in whole or in part for school purposes shall be located not less than 75 feet from any adjacent property line.

- d. That for each child so cared for, being in total of not more than 45 children on the premises at any one time, in addition to those in the family of the occupant lives on the premises, there is provided and maintained a minimum of at least 150 square feet of outdoor play area.
- e. Such play space shall have a total minimum area of not less than 5,000 square feet.
- f. Such play area shall not be located closer than 50 feet to any adjoining property line and within said yard space there shall be provided a greenbelt planted with plant materials in accordance with section 32-587, and shall include a continuous fence not in excess of six feet or less than four feet in height.
- g. The required front yard setback shall remain as open space unoccupied and unobstructed from the ground upward and shall not be used for off-street parking or outdoor playground space, except that landscaping, plant materials, sidewalks and vehicular access drives are permitted.
- h. Where a parking lot is provided, a greenbelt planted with plant materials in accordance with section 32-587(f), shall be provided along all sides of the parking area except for entrance and exit driveways.

(2) Group day care homes.

(3) Churches, in accordance with section 32-589.

(4) Public, parochial or other private elementary, intermediate or high schools.

- a. The site shall be adjacent to a primary thoroughfare, as defined by the township in this chapter and all ingress and egress shall be limited to and directly upon such thoroughfare.
- b. Buildings exceeding 25 feet in height shall be permitted provided the front, side and rear yard setbacks are increased one foot for each foot the building exceeds 25 feet.
- c. A continuous and uninterrupted masonry obscuring wall of at least four feet in height shall be provided along sides of the off-street parking area when adjacent properties are zoned residential.
- d. A minimum site of three acres shall be provided.
- e. The front setback area shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials or vehicular access drives.

(Code 1992, § 19-208; Ord. No. 101, § 8.03, 3-23-1971; Ord. No. A35, § 8, 10-15-1986; Ord. No. A46, § 1, 3-16-1988; Ord. No. 101-A-64, §§ 2, 4, 9-15-1993)

Sec. 32-166. - Site plan review.

For all uses permitted in an R-1-S district, other than single-family detached residences and accessory buildings, structures and uses thereto, there must be site plan review as required under section 32-586.

(Code 1992, § 19-209; Ord. No. 101, § 8.04, 3-23-1971)

Sec. 32-167. - Density, area, height, bulk, placement requirements.

The density, area, height, bulk and placement requirements in the R-1-S district shall be in accordance with the schedule of regulations in division 15 of this article.

(Code 1992, § 19-210; Ord. No. 101, § 8.05, 3-23-1971)

DIVISION 4. - R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 32-188. - Statement of purpose.

The purpose of the R-1, single-family district is to encourage a suitable environment for families typically with children. Uses are limited to one-family dwellings along with certain other uses, such as schools, parks and playgrounds which provide a desirable neighborhood land use pattern. In keeping with this intent, development is restricted to a moderately low density with few traffic generators. Commercial, certain residential uses and other nonresidential uses that tend to be incompatible with the character of the district are prohibited.

(Code 1992, § 19-231; Ord. No. 101, § 9.01, 3-23-1971)

Sec. 32-189. - Permitted principal uses.

The following uses are permitted in an R-1 district:

- (1) Single-family detached dwellings.
- (2) Family day care homes.
- (3) Home occupations as limited and defined in section 32-2.
- (4) Accessory buildings and uses customarily incidental to the above permitted principal uses.
- (5) A state licensed residential facility providing supervision or care, or both, to six or fewer persons. The permitted use shall not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.
- (6) Signs in accordance with section 32-687.
- (7) Private garage, used primarily for the storage of self-propelled vehicles for the use of the occupants of a lot on shall not be construed to permit the storage on any one lot, for the occupants thereof, of not more than one commercial vehicle not exceeding a rated capacity of one ton.
- (8) Bed and breakfast operation.

(Code 1992, § 19-232; Ord. No. 101, § 9.02, 3-23-1971; Ord. No. A52, § 3, 10-5-1989)

Sec. 32-190. - Permitted uses after special approval.

The following uses shall be permitted in the R-1 district subject to the conditions hereinafter specified and subject to requirements of section 32-35 and section 32-586.

- (1) Churches, in accordance with section 32-589.
- (2) Group day care homes.
- (3) Cemeteries existing and lawfully occupied on March 23, 1971.
- (4) Public, parochial or other private elementary, intermediate or high schools.
 - a. The site shall be adjacent to a primary thoroughfare, as defined by the township in this chapter and all ingress and egress shall be limited to and directly upon such thoroughfare.
 - b. Buildings exceeding 25 feet in height shall be permitted, provided the front, side and rear yard setbacks are increased one foot for each foot the building exceeds 25 feet.
 - c. A continuous and uninterrupted masonry obscuring wall of at least four feet in height shall be provided along sides of the off-street parking area when adjacent properties are zoned residential.
 - d. A minimum site of three acres shall be provided.
 - e. The front setback area shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials or vehicular access drives.
- (5) Public utility buildings and uses, but not including service and storage yards, when operating requirements necessitate locating within the district to serve the immediate vicinity.
- (6) Temporary buildings for use incidental to construction work for a period not to exceed one year.
- (7) Open space in a single-family subdivision having an overall approved plan by the township, wherein such open space is permanently reserved for and/or owned by the residents of such subdivision.
- (8) Preschools, nursery schools, day nurseries, child care centers, including Montessori schools, operated for a profit or nonprofit, but not including dormitories; provided that the following conditions are met:
 - a. Have primary means of ingress and egress directly on a major thoroughfare having or planned to have a right-of-way of 120 feet.
 - b. Minimum site size shall be three acres.
 - c. Only one principal building shall be permitted on site which may be used either as a school facility or as a combined school and residence for the person operating the school. In either case the building shall be designed in the character of a

residence and be in harmony with adjacent residences in the surrounding neighborhood. Any building used in whole or in part for school purposes shall be located not less than 75 feet from any adjacent property line.

- d. That for each child so cared for, being in total of not more than 45 children on the premises at any one time, in addition to those in the family of the occupant if occupant lives on the premises, there is provided and maintained a minimum of at least 150 square feet of outdoor play area.
- e. Such play space shall have a total minimum area of not less than 5,000 square feet.
- f. Such play area shall not be located closer than 50 feet to any adjoining property line and within the yard space there shall be provided a greenbelt planted with plant materials in accordance with section 32-587, and shall include a continuous fence not in excess of six feet or less than four feet in height.
- g. The required front yard setback shall remain as open space unoccupied and unobstructed from the ground upward and shall not be used for off-street parking or outdoor playground space, except that landscaping, plant materials, sidewalks and vehicular access drives are permitted.
- h. Where a parking lot is provided, a greenbelt planted with plant materials in accordance with section 32-587, shall be provided along all sides of the parking area except for entrance and exit driveways.

(Code 1992, § 19-233; Ord. No. 101, § 9.03, 3-23-1971; Ord. No. A32, § 1, 2-20-1985; Ord. No. A35, § 9, 10-15-1986; Ord. No. A46, § 2, 3-16-1988; Ord. No. 101-A-64, § 4, 9-15-1993)

Sec. 32-191. - Site plan review.

For all uses permitted in an R-1 district, other than single-family detached residences and accessory buildings, structures and uses thereto, there must be site plan review as required under section 32-586.

(Code 1992, § 19-234; Ord. No. 101, § 9.04, 3-23-1971)

Sec. 32-192. - Density, area, height, bulk, placement requirements.

The density, area, height, bulk, and placement requirements in the R-1 district shall be in accordance with the schedule of regulations in division 15 of this article.

(Code 1992, § 19-235; Ord. No. 101, § 9.05, 3-23-1971)

Secs. 32-193—32-222. - Reserved.

EXHIBIT H

DIVISION 4. - R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 32-188. - Statement of purpose.

The purpose of the R-1, single-family district is to encourage a suitable environment for families typically with children. Uses are limited to one-family dwellings along with certain other uses, such as schools, parks and playgrounds which provide a desirable neighborhood land use pattern. In keeping with this intent, development is restricted to a moderately low density with few traffic generators. Commercial, certain residential uses and other nonresidential uses that tend to be incompatible with the character of the district are prohibited.

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(Code 1992, § 19-235; Ord. No. 101, § 9.05, 3-23-1971)

Secs. 32-193—32-222. - Reserved.

EXHIBIT I



CHARTER TOWNSHIP OF MILFORD

Oakland County

CHARTER TOWNSHIP OF MILFORD
APPLICATION FOR REZONING
PLANNING COMMISSION

REZONING # _____
DATE _____
FEE _____
RECEIVED BY: _____
PARCEL ID # _____

Property Owner's Name Please see attached
Address _____
Zip _____ Phone _____ Fax _____

Applicant's Name RAY LEDUC
Address 1042 N. Milford Rd. SUITE 103, MILFORD MI
Zip 48381 Phone 248 343 6487 Fax 248 529 3812

Present Zoning R01 and R1S Proposed Zoning R1

Purpose of Request to Rezone Conditional Down zoning of MORE Intensive R01/R1S zoning to less Intensive R1 zoning, thereby providing a more transitional zoning

The following information must be included on Site Plan:

1. Title block containing:
 - a. Existing zoning of subject property and adjacent properties
 - b. Sidwell number
 - c. Property owner
2. Property line dimensions, with ties to major roads
3. Date, northpoint, scale

Note: This application must be submitted to the Township Clerk at least 30 days prior to the Planning Commission meeting at which it is to be considered. This application must be accompanied by 22 copies of the site plan of said property and a fee of \$350.

Additional fees may be charged if consultation (engineer, planner or attorneys, etc.) is necessary. The APPLICANT will be responsible for these costs.

Ray Leduc
Signature

2/28/17
Date

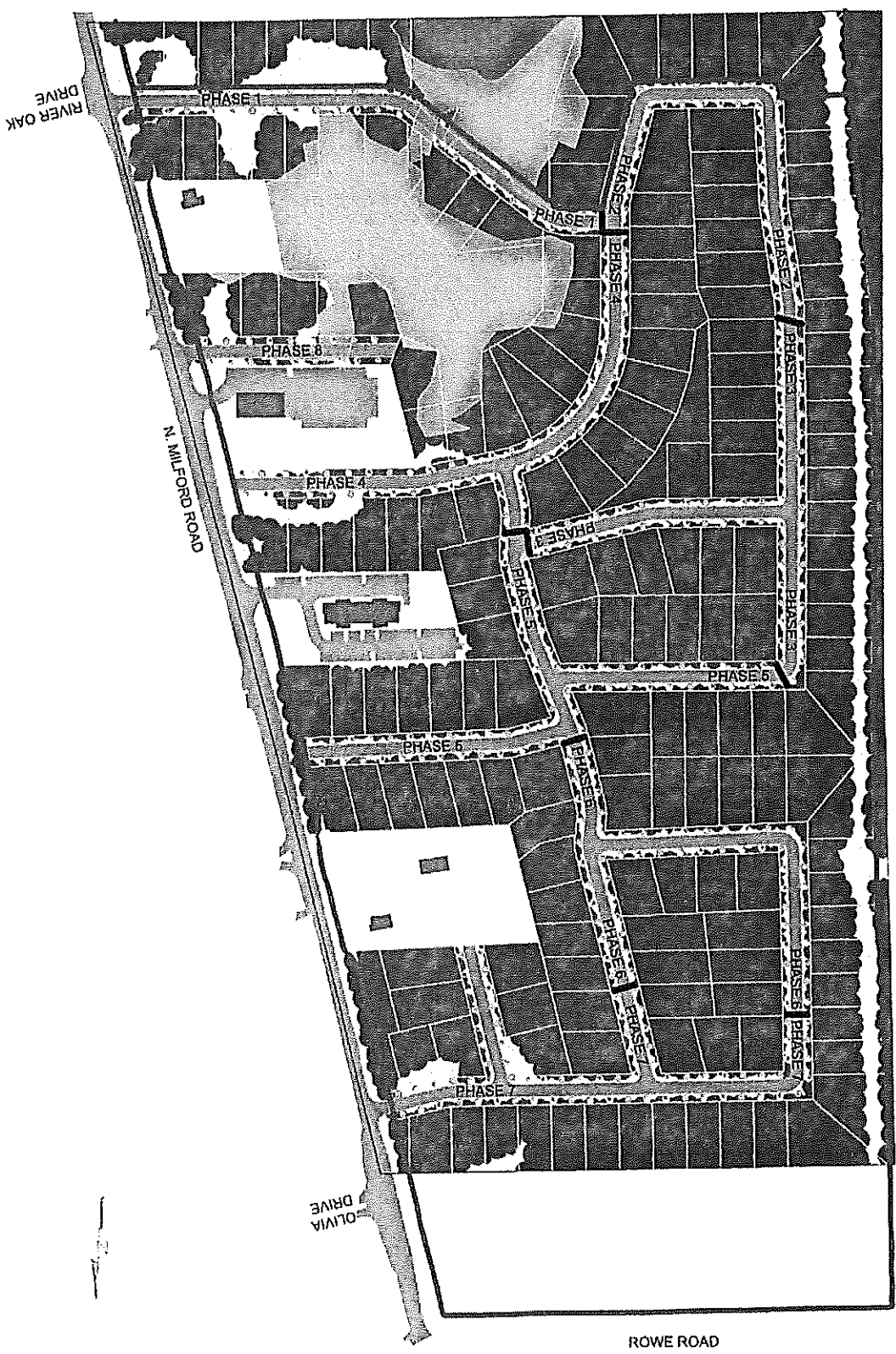
Donald D. Green, Supervisor
Holly Brundt, Clerk
Cynthia Dagehard, Treasurer

Randal K. Binstek,
Brien R. Worrell,
William H. Mazzara,
Dale R. White,

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The following are the parcel ID numbers for the subject property

<u>Current Zoning</u>	<u>Proposed Zoning</u>	<u>Owner Name</u>	<u>Address</u>	<u>Phone</u>
16-03-100-008	RO1 Zoning	Fani Adelsberg IRR Trust	1995 Broadway, Suite 1201, NY, NY 10023	212 799-2365
16-03-100-010	R1S Zoning	Milford Hills Properties	4801 Faircourt West Bloomfield MI 48322	248 661-2801
16-03-100-012	R1S Zoning	Milford Hills Properties	4801 Faircourt West Bloomfield MI 48322	248 661-2801
16-03-100-023	RO1 Zoning	Milford Hills Properties	4801 Faircourt West Bloomfield MI 48322	248 661-2801
16-03-100-024	RO1 Zoning	Carol and Bill Stofer	49988 Cooke Ave, Plymouth MI 48170	734 454-1434
16-03-100-028	RO1/R1S Zoning	Milford Hills Properties	4801 Faircourt West Bloomfield MI 48322	248 661-2801
16-03-100-029	R1S Zoning	Milford Hills Properties	4801 Faircourt West Bloomfield MI 48322	248 661-2801
16-03-100-030	RO1 Zoning	Elia Nichols and Elizabeth Nevells	10565 Blaine Rd, Brighton, MI 48356	248 887-4161
16-03-100-032	RO1 Zoning	Elia Nichols and Elizabeth Nevells	3648 Ramada Drive, Highland, MI 48356	248 887-4161



Legend
 PROPOSED BELLE TERRE OF MILFORD TRAIL

ISSUE/REVISION	DATE
FOR PRESENTATION	3/2/17

DRAWN BY: CLM
 CHECKED BY: FP
 SCALE:

BELLE TERRE OF MILFORD

SITE PLAN


CIROS
STATE ENGINEERING, LLC
1324 S. 10th Ave. 910 E. 1st Ave.
 Tallahassee, FL 32304 Tallahassee, FL 32304

EXHIBIT J

STATE OF MICHIGAN
OAKLAND COUNTY CIRCUIT COURT

MILFORD HILLS PROPERTIES, INC.,
a Michigan corporation, and
RPL of MICHIGAN, INC.,
a Michigan corporation,
Plaintiffs,

Hon. **D. LANGFORD MORRIS**

v

Case No.: 2017-162642-CZ

CHARTER TOWNSHIP OF MILFORD,
a Michigan charter township,
Defendant.

LAW OFFICE OF PAUL E. BURNS
Paul E. Burns (P31596)
Attorneys for Plaintiffs
133 West Grand River
Brighton, MI 48116
(810) 227-5000

O'CONNOR, DeGRAZIA, TAMM
& O'CONNOR, P.C.
James E Tamm (P38154)
Richard V. Stokan, Jr. (P61997)
Attorneys for Defendant
40701 Woodward Avenue, Ste. 105
Bloomfield Hills, MI 48304
(248) 433-2000

LUCAS LAW, P.C.
Frederick Lucas (P29074)
Co-Counsel for Plaintiffs
7577 US 12, Ste. A
Onsted, MI 49265
(517) 467-4000

LAW OFFICE OF JEFFREY D. ALBER
Jeffrey D. Alber (P76530)
Co-Counsel for Plaintiffs
110 Main Street, Suite 5
Dundee, Michigan 48131
P.O. Box 1971
Ann Arbor, Michigan 48106
(734) 823-5292

**AFFIDAVIT OF JOHN WIDMER, JR., MAI
REAL ESTATE APPRAISWER**

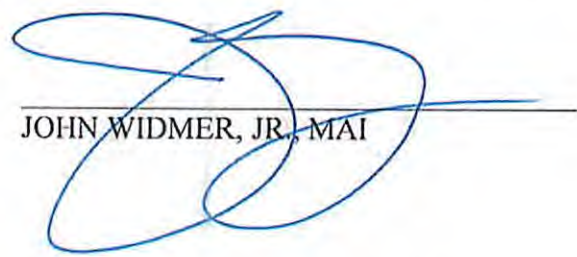
STATE OF MICHIGAN)
COUNTY OF Livingston)

John Widmer, Jr., MAI, being duly sworn, deposes as says:

1. I am a Certified General Appraiser in the State of Michigan, while also holding an MAI designation of the Appraisal Institute since 1991. A copy of my curriculum vitae is attached as Exhibit 1.
2. I have been retained by Plaintiffs to appraise its 68-acre parcel of property located in Milford Township, Michigan.
3. I have appraised the Subject Property. A copy of my appraisal is attached as Exhibit 2.
4. It is my conclusion that, as of the date that the Township voted to deny Plaintiffs' rezoning application, the Subject Property has no value.
5. It is further my conclusion that if a developer attempted to develop the Subject Property as currently zoned that it could only do so at a substantial loss.
6. If sworn I can testify to the contents herein.

I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my information, knowledge, and belief.

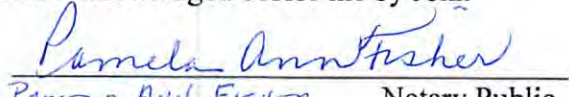
Dated: 12/17/2019



 JOHN WIDMER, JR., MAI

STATE OF MICHIGAN)
 COUNTY OF Livingston)

On 12/17/2019, the foregoing instrument was acknowledged before me by John Widmer, Jr., MAI..



 PAMELA ANN FISHER, Notary Public
LIVINGSTON County, Michigan
 Acting in LIVINGSTON County, Michigan
 My commission expires: 3/13/2024

Prepared by: Jeffrey D. Alber
 Law Office of Jeffrey D. Alber
 110 Main Street, Suite 5
 Dundee MI 48131
 P.O. Box 1971
 Ann Arbor, Michigan 48106

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EXHIBIT 1

APPRAISAL QUALIFICATIONS
of
JOHN R. WIDMER, JR., MAI

APPRAISAL EXPERIENCE

Over 32-years experience in the real estate appraisal field. Principal activities have included a wide range of income property valuation, primarily within the southeast Michigan region, with additional activity in outstate Michigan and northern Ohio. Appraisal assignments primarily include comprehensive narrative reporting of market value for owner-user and investment oriented properties. Additional experience includes appraisal review and consultation for an assortment of litigation matters, involving various property types. Real estate related services include property owner representation in ad valorem appeals filed with the Michigan Tax Tribunal.

ILLUSTRATION OF APPRAISAL EXPERIENCE

- 1990-Present: **Frohm & Widmer, Inc.** - specializing in the appraisal of income producing properties; extensive experience also with regard to owner/user properties and “going-concern” valuations; property types include but are not limited to, shopping centers, apartments, office and industrial buildings, and special use properties. Appraisals and consultation completed for tax and zoning appeals, estate and probate matters, mortgage financing, litigation involving foreclosed properties, condemnation procedures, feasibility analysis for new construction, establishing bid and/or sale prices, investment analysis and annual portfolio reviews for institutional investors. Additional appraisal related activity includes fee review assignments.
- 1986-1990: **Independent Fee Appraiser** - specializing in the preparation of narrative appraisal reports on various income producing properties. Appraisal assignments sub-contracted through local fee appraisers. Consulting services included condominium and single-family subdivision market studies, zoning appeal, and lease analyses.

ASSOCIATED CLIENTELE

Appraisals prepared for various local and national commercial banks, life insurance companies, governmental agencies, municipalities, attorneys, accountants, developers, institutional and private investors.

PROFESSIONAL MEMBERSHIPS AND AFFILIATIONS

Member, Appraisal Institute (MAI No. 9038 - August 1991)

(As of the date of this report, John R. Widmer, Jr. has completed the continuing education program for Designated Members of the Appraisal Institute)

Member - MAI Admissions Review Committee, Michigan Chapter

Member - Region III Ethics/Review and Counseling Committee

Certified General Appraiser - Permanent I.D. No. 1201000280 (through 7/31/2021)

GENERAL EDUCATION

Eastern Michigan University, Ypsilanti, Michigan (December 1985)

Bachelor Business Administration - Real Estate and Finance majors

Real Estate Related Courses:

- Introduction to Real Estate Appraisal
- Property Management
- Real Estate Development (Ind. Study)
- Land Use Planning
- Economics
- Real Estate Law
- Real Estate Financing
- Investment Analysis

APPRAISAL EXAMINATIONS SUCCESSFULLY COMPLETED

American Institute of Real Estate Appraisers - Course 1A-1/8-1
"Real Estate Appraisal Principles"

American Institute of Real Estate Appraisers - Course 8-2
"Residential Valuation"

American Institute of Real Estate Appraisers - Course 1A-2
"Basic Valuation Procedures"

American Institute of Real Estate Appraisers - Course 1B-A
"Capitalization Theory and Techniques, Part A"

American Institute of Real Estate Appraisers - Course 1B-B
"Capitalization Theory and Techniques, Part B"

American Institute of Real Estate Appraisers
"Comprehensive Examination"

SPECIALIZED APPRAISAL EDUCATION

American Institute of Real Estate Appraisers - Course SPP
“Standards of Professional Practice”

American Institute of Real Estate Appraisers - Course 2-1
“Case Studies in Real Estate Valuation”

American Institute of Real Estate Appraisers - Course 2-2
“Report Writing and Valuation Analysis”

Appraisal Institute - Course 410
“Standards of Professional Practice - Part A (USPAP)”

Appraisal Institute - Course 420
“Standards of Professional Practice - Part B”

Appraisal Institute - Course 430
“Standards of Professional Practice - Part C”

Appraisal Institute - Course 520
“Highest and Best Use and Market Analysis”

APPRAISAL SEMINARS

A sampling of appraisal seminars I have attended include:

Leased Fee Valuation - Appraisal Institute
Valuation of Partial Interests - Appraisal Institute
Discounted Cash Flow Analysis - Appraisal Institute
Market Rate Extraction - Appraisal Institute
Current Issues & Misconceptions in the Appraisal Process - Appraisal Institute
Appraisal of Retail Properties - Appraisal Institute
Analyzing Operating Expenses - Appraisal Institute
Feasibility, Market Value, Investment Timing: Option Value - Appraisal Institute
Small Hotel/Motel Valuation - Appraisal Institute
Introduction to GIS Applications for Real Estate Appraisal - Appraisal Institute
Online Internet Search Strategies for Appraisers - Appraisal Institute
Michigan Appraisal Law - Appraisal Institute

I have presented the following seminars:

Understanding Appraisals (Commercial Lending Group - Michigan National Corporation)
“Nuts and Bolts” of the Market Approach (International Association of Assessing Officers)
Michigan Property Tax (Lorman Education Services)

NOTABLE APPRAISAL ASSIGNMENTS

Office:

Wilshire Plaza
(3) Class "A" Office bldgs.
3-story/547,000 SF
Troy, MI

Michigan National Bank
Corporate Headquarters
27777 Inkster Road
Farmington Hills, MI

American Center
Class "A" Office/Retail
25-story/623,773 SF
Southfield, MI

Standard Federal HQ
Class "A" Office
6-story/450,000 SF
Troy, MI

Columbia Center
Class "A" Office/Retail
13-story/250,000 SF
Troy, MI

Timberland Office Center
class A office park
355,000 square feet
Troy, MI

Volkswagen of N.A.
Headquarters - ±330,000 SF
Auburn Hills, MI

Retail:

Hudson's Department Store
Northland Center
Southfield, MI

Westwood Mall
enclosed regional mall
456,000 square feet
Jackson, MI

Meadowbrook Village
open-air "lifestyle center"
Rochester Hills, MI

Northland Mall
enclosed regional center
Southfield, MI

Grand Traverse Mall
enclosed regional center
Garfield Twp., MI

Fountain Walk
open-air "lifestyle center"
Novi, MI

Industrial:

Metro Airport Center
Foreign trade zone
297,941 square feet
Romulus, MI

Centerpoint Business Park
GM/Etkin joint venture
146 acres
Pontiac, MI

Reid Road Warehouse
Multi-tenant
673,534 square feet
Grand Blanc, MI

Detroit Diesel Corporation
Industrial Manufacturing
±3.2 million square feet
Redford Twp., MI

Residential:

Franklin Park Towers
1,135 unit elevator project
Southfield, MI

The Willits
Luxury condos/CBD Retail
Birmingham, MI

Hidden Lake
Private, lakefront community
330 units, ±380 acres
Green Oak Township, MI

The Hamlet
954 unit P.D.D.
Canton Township, MI

Miscellaneous:

Forest Lake CC
Bloomfield Twp., MI

Suburban Collection
Novi Expo Center
Novi, MI

Townsend Hotel
full-service, luxury hotel
Birmingham, MI

Parking lots at DTW
13,600 spaces, long-term,
"off-airport" parking
Romulus, MI

EDS deep injection well
Valuation impact study
Romulus, MI

MIS - Motorsports Super
Speedway
Brooklyn, MI

SSIHM Monroe Campus
Motherhouse, accessory
land and structures
Monroe, MI

Farmington Founders Park
Municipal recreation park
93.80 acres
Farmington Hills, MI

Treetops Resort
4-season Recreational
resort
Gaylord, MI

RECENT REPRESENTATIVE LIST OF CLIENTS

Financial Institutions:

Bank of America
JPMorgan Chase Bank
PNC Bank
TCF National Bank
Talmer Bank
Huntington Bank
Fifth Third Bank
People's Bank
The Private Bank
Level One Bank
Comerica Bank
First National Bank in Howell

Mortgage Companies:

AMI Capital, Inc.
AMRESO, Inc.
Bloomfield Acceptance Corp.
Eichler, Fayne & Associates
Hartger & Williard
J.E. Robert Company
Keycorp Mortgage, Inc.
Washington Mortgage Financial
Washington Capital

Attorneys:

Jackier Gould, PC
Hallahan & Associates, PC
Monaghan, PC
Honigman Miller Schwartz & Cohn, LLP
Frasco Caponigro Wineman & Scheible, PC
Secrest Wardle, PC
Sullivan & Leavitt, PC
Miller, Canfield, PLC
Wright Penning & Beamer, PC
Eastman & Smith Ltd.
Kerr, Russell and Weber, PLC
Steinhardt Pesick & Cohen, PC

Development/Investment:

AEW Capital Partners, LP
Biltmore Properties
Damavoletes Properties
Etkin Equities, Inc.
JP Morgan Investment Mgt., Inc.
JFK Investment Group
Kojaian Management
R.A. DeMattia Company
The Farbman Group
The Selective Group

Corporations:

Argus Corporation
Botsford General Hospital
Catherine McAuley Health Systems
Clark Refining & Marketing
Country Building Supplies
Daughters of Charity of St. Vincent dePaul
Roush Technologies
Environmental Disposal Systems, Inc.
Hines Park Lincoln Mercury
Jackson National Life
JCPenney
LDJ Electronics
McDonald Ford
Northwest Propane
Phillips Service Industries
Rush Trucking
Ticor Title Insurance Company
World Computer Corporation

Institutional Lenders:

AEGON USA Realty Advisors
Alexander Hamilton Life
CIBC World Markets
Citi Mortgage
IDS Financial Services
The Equitable of Iowa
Nomura Asset Capital Corporation
United of Omaha Life
Starwood Mortgage Capital, LLC

Government Related:

FDIC
FNMA
State of Michigan
M-DOT

Municipalities:

Adrian, Auburn Hills, Bear Creek Twp., Big Rapids, Birmingham, Cambridge Twp., Clinton Twp., Farmington, Farmington Hills, Garfield Twp., Greenville, Livonia, Marion Twp., Orchard Lake Village, Port Huron, Rochester Hills, Royal Oak, Southfield, Taylor, Tecumseh, West Bloomfield Twp., Westland

GRETCHEN WHITMER GOVERNOR	STATE OF MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS BUREAU OF PROFESSIONAL LICENSING	P026631
CERTIFIED GENERAL APPRAISER LICENSE		
JOHN RUSSELL WIDMER, JR		
LICENSE NO. 1201000280	EXPIRATION DATE 07/31/2021	AUDIT NO 3430146
THIS DOCUMENT IS DULY ISSUED UNDER THE LAWS OF THE STATE OF MICHIGAN		

RECEIVED by MCOA 10/29/2020 3:58:18 PM

EXHIBIT 2



October 9, 2019

Milford Hills Properties, Inc.

% Mr. Paul E. Burns, Esq.
Law Office of Paul E. Burns
133 West Grand River
Brighton, Michigan 48116

RE: Restricted Appraisal Report
Belle Terre, Milford Township, Oakland County, Michigan

Milford Hills Properties, Inc. v. Charter Township of Milford (2017-162642-CZ)

Frohm & Widmer, Inc. File No. 19-33C

Dear Mr. Burns:

Corresponding with your request, I have undertaken an analysis of a proposed single-family residential development for a ±68.23 acre parcel of land which is located along the west side of Milford Road, south of Rowe Road, in the north central section of Milford Township, Oakland County, Michigan. The project is commonly known as Belle Terre, which was originally proposed as a 178-lot subdivision, and ultimately revised to include a total of 157-lots, a plan that was denied by the Milford Township Zoning Board of Appeals on December 13, 2017. This Restricted Appraisal Report has been completed in conformance with Standard Rule 1 (S.R.-1) and prepared in conformance with Standard Rule 2 (S.R.-2) of the **Uniform Standards of Professional Appraisal Practice (USPAP) 2018-2019 Edition**. This report also complies with all Code of Professional Ethics and Standards of Professional Appraisal Practice of the **Appraisal Institute**. As stipulated by Michigan law, “*appraisers are to be licensed/certified and are regulated by the Michigan Department of Licensing and Regulatory Affairs, P.O. Box 30018, Lansing, Michigan 48909*”. John R. Widmer, Jr., MAI is licensed in the state of Michigan as a certified general appraiser.

All market analysis has been prepared, and the appraisal has been reported in conformance with the **Uniform Standards of Professional Appraisal Practice (USPAP) 2018-2019 Edition**, as well as all Professional Appraisal Standards and Code of Professional Ethics of the **Appraisal Institute**. When the intended users include parties other than the client, an Appraisal Report must be provided. When the intended users do not include parties other than the client, a Restricted Appraisal Report may be provided. The essential difference between these two (2) options is in the content and level of information provided. The appropriate reporting option and the level of information necessary in the report are dependent on the intended use and the intended users.

USPAP requires that the report prominently state which option is used. It is noted, the main difference between the two options are in three areas, namely: 1.) an Appraisal Report may have the client as the only intended user but may also have other intended users, while a Restricted Appraisal Report must have the client as the only intended user; 2.) in an Appraisal Report, specified parts of the research and development must be summarized, while in a Restricted Appraisal Report, those same parts need only be stated; and, 3.) an Appraisal Report requires the appraiser to summarize the information analyzed and the reasoning that supports the analyses, opinions, and conclusions, while a Restricted Appraisal Report does not have this requirement.

Accordingly, a Restricted Appraisal Report must include a prominent use restriction that limits the use of the report to the client and warns that the rationale for how the appraiser arrived at the opinions and conclusions set forth in the report may not be understood properly without additional information in the Appraiser's workfile. Prior to entering into this agreement, the appraiser and client discussed the limitations on use of the appraisal, and the client understands the limited utility of this Restricted Appraisal Report. Based on the appraisal engagement agreement, market value will be established and reported in an Restricted Appraisal Report, in conformance with Standards Rule 2-2(b).

A party receiving a copy of an Appraisal Report or Restricted Appraisal Report in order to satisfy disclosure requirements does not become an intended user of the appraisal unless the appraiser identifies such party as an intended user as part of the assignment. For each appraisal assignment, an appraiser must:

- 1.) identify the problem to be solved;
- 2.) determine and perform the scope of work necessary to develop credible assignment results; and,
- 3.) disclose the scope of work in the report.

An appraiser must properly identify the problem to be solved in order to determine the appropriate scope of work. The appraiser must be prepared to demonstrate that the scope of work is sufficient to produce credible assignment results. Scope of work includes, but is not limited to:

- the extent to which the property is identified;
- the extent to which tangible property is inspected;
- the type and extent of data researched; and,
- the type and extent of analyses applied to arrive at opinions or conclusions.

Appraisers have broad flexibility and significant responsibility in determining the appropriate scope of work for an appraisal assignment. Credible assignment results require support by relevant evidence and logic. The credibility of assignment results is always measured in the context of the intended use.

The Appraisal Report and the Restricted Appraisal Report both require, at a minimum, the appraiser to state the following items:

- (i.) the identity of the client and any intended users, by name or type;
- (ii.) the intended use of the appraisal;
- (iv.) the real property interest appraised;

- (v.) the type and definition of value and cite the source of the definition;
- (vi.) the effective date of the appraisal and the date of the report;
- (ix.) the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal;
- (xi.) clearly and conspicuously, state all extraordinary assumptions and hypothetical conditions and, state that their use might have affected the assignment results; and,
- (xii.) include a signed certification in accordance with Standards Rule 2-3.

The four (4) remaining items mainly differ by a single word, with the statement option still applicable for the Restricted Appraisal Report, while in an Appraisal Report, the appraiser is required to *summarize* the following items:

- (iii.) information sufficient to identify the real estate involved in the appraisal, including the physical, legal, and economic property characteristics relevant to the assignment;
- (vii.) the scope of work used to develop the appraisal;
- (viii.) the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained; and,
- (x.) when an opinion of highest and best use was developed by the appraiser, summarize the support and rationale for that opinion.

Also, corresponding with USPAP, the accompanying Restricted Appraisal Report will include a signed certification, which is acknowledged as being an integral part of the Restricted Appraisal Report. Said certification denotes that the undersigned accept full responsibility for all elements of the certification, for the assignment results, and for the contents of the Restricted Appraisal Report. The signing appraisers are responsible for the decision to rely upon the work of others contributing in the appraisal process. Likewise, the signing appraisers are required to have a reasonable basis for believing that any individual performing the work is competent and have no reason to doubt that the work of said individual is credible. The names of individuals providing significant real property appraisal assistance who do not sign a certification must be stated in the certification. USPAP does not require that the description of assistance be contained in the certification, however, the extent of the significant assistance provided by others must be summarized. In this instance, it will be disclosed that no one provided real property appraisal assistance in the preparation of this Restricted Appraisal Report.

CLIENT/INTENDED USER: The client and intended user of this Restricted Appraisal Report is:

Milford Hills Properties, Inc.

% Mr. Paul E. Burns, Esq.
Law Office of Paul E. Burns
133 West Grand River
Brighton, Michigan 48116

This report is intended for use only by the above identified client. Use of this report by others is not intended by the appraiser.

INTENDED USE OF APPRAISAL REPORT: This report is intended only for the use of the client, to be used relative to reviewing economic feasibility for development of the subject property, “*As Zoned*”.

PURPOSE OF THE APPRAISAL: The purpose of this report is to review the subject parcels in their present “*As Zoned*” condition, measure supply and demand, and to determine whether development would be economically feasible. This analysis will focus on the RO-1 (Restricted Office) and R-1-S (Suburban Residential) zoning designation in-place retrospective to December 13, 2017. Each analysis of feasibility will be predicated upon ownership in fee simple estate. The main focus on this analysis is the concept “**Market determines Use and Use determines Value**”.

COMPETENCY STATEMENT: The appraiser has the appropriate knowledge, education and experience to complete this assignment with competence. The appraiser’s qualifications are submitted in the **Addendum** of this Restricted Appraisal Report.

DEFINITION OF MARKET VALUE: Within USPAP, market value is a type of value, stated as an opinion, that presumes the transfer of a property (i.e., a right of ownership or a bundle of such rights), as of a certain date, under specific conditions set forth in the definition of the term identified by the appraiser as applicable in an appraisal. Forming an opinion of market value is the purpose of many real property appraisal assignments, particularly when the client's intended use includes more than one intended user. The conditions included in market value definitions establish market perspectives for development of the opinion. These conditions may vary from definition to definition but generally fall into three categories:

- 1.) the relationship, knowledge, and motivation of the parties (i.e., seller and buyer);
- 2.) the terms of sale (e.g., cash, cash equivalent, or other terms); and,
- 3.) the conditions of sale (e.g., exposure in a competitive market for a reasonable time prior to sale).

A current economic definition agreed upon by agencies that regulate federal financial institutions in the United States of America is:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- 1.) buyer and seller are typically motivated;
- 2.) both parties are well informed or well advised, and acting in what they consider their own best interests;
- 3.) a reasonable time is allowed for exposure in the open market;
- 4.) payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
- 5.) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.¹

¹ Federal Register / Vol. 75, No. 237 / Friday, December 10, 2010 / Notices

PROPERTY INTEREST APPRAISED: Definitions of various ownership interests that may apply in a real property appraisal are provided below:

Fee simple interest: Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.²

Leased fee interest: The ownership interest held by the lessor, which includes the right to the contract rent specified in the lease plus the reversionary right when the lease expires.³

Leasehold interest: The right held by the lessee to use and occupy real estate for a stated term and under the conditions specified in the lease.⁴

All analyses in this report will be based upon ownership in fee simple estate.

DATE OF RESTRICTED APPRAISAL: October 9, 2019

EFFECTIVE DATE OF VALUE: The determination of economic feasibility will be retrospective to December 13, 2017, the date in which the Milford Township ZBA denied the fee owner's request to construct 157 homes on the subject parcels.

SCOPE OF WORK: Appraisers have broad flexibility and significant responsibility in determining the appropriate scope of work for an appraisal assignment. Credible assignment results require support by relevant evidence and logic. The credibility of assignment results is always measured in the context of the intended use. This Restricted Appraisal Report is intended to assist the client with measuring market value of the property, to be used in a pending divorce proceeding. The client has been informed that should the results of this Restricted Appraisal Report need to be shared with or relied upon by a third party, the results can be presented within an Appraisal Report at some point in the future. The scope of any real estate appraisal assignment relates to the extent and manner in which research is conducted, data is gathered, and analysis applied. Each of these components is based implicitly upon the purpose of the appraisal and its intended use, each previously outlined. The general scope of work for this assignment included the following:

- Identification of the subject property by its legal description, real property tax identification numbers and the commonly as-known-as address. In defining the subject property, the following data sources have been reviewed:
 - Milford Township Assessment records
 - www.bsasoftware.com database records
 - Oakland County Gateway
 - Site Plan information supplied by ownership
 - CoStar database records

² The Appraisal of Real Estate, Appraisal Institute, 2013, 14th Edition, page 5

³ Ibid, page 72

⁴ Ibid

- www.realcomponline.com database records

Amongst the above data sources, information was sufficient to quantify physical characteristics of the subject parent property.

- o John R. Widmer, Jr., MAI observed the property on April 12, 2019.
- o At the time of the property observation, the neighborhood was driven and the development patterns were noted.
- o Identification relevant demographic factors through a combination of internet search engines, www.semco.org, www.stdbonline.com, and CoStar database.

A requirement within the **Uniform Standards of Professional Appraisal Practice (USPAP) 2018-2019 Edition** is:

If known prior to accepting an assignment and/or if discovered at any time during the assignment, an appraiser must disclose to the client, and in the subsequent report certification:

- 1.) any current or prospective interest in the subject property or parties involved; and,
- 2.) any services regarding the subject property performed by the appraiser within the 3-year period immediately preceding acceptance of the assignment, as an appraiser or in any other capacity.

There are some cases in which the appraiser is asked by the client not to reveal that he or she has appraised that particular property. In such cases, the fact that the appraiser previously appraised the property is confidential information. If the occurrence of a prior appraisal is confidential, and disclosure of prior appraisals is a condition of a potential new assignment or a requirement of USPAP, the appraiser must decline the new assignment, because the appraiser could not make the requested disclosure. Corresponding with this requirement, I must report that I have not provided real estate appraisal services or any other services for this property within the 3-year period immediately preceding acceptance of this assignment.

EXTRAORDINARY ASSUMPTIONS: An extraordinary assumption is “*an assumption, directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser’s opinions or conclusions.*” Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.⁵ As provided within USPAP, an extraordinary assumption may be used in an assignment only if:

- it is required to properly develop credible opinions and conclusions;
- the appraiser has a reasonable basis for the extraordinary assumption;
- use of the extraordinary assumption results in a credible analysis; and,
- the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

The market values reported herein are conditioned upon the following extraordinary assumptions:

- 1.) The property is free a clear of any adverse environmental conditions, whether in the form of surface or sub-surface soil contamination and/or building material contaminates. While not an expert in measuring the potential for environmental contamination, we did not observe any obvious form of environmental contamination. Correspondingly, the value is conditioned upon the fact there are no environmental conditions that would have an adverse influence on either value or marketability of the property. Should any adverse environmental conditions arise, I reserve the right to review these findings and the value estimate and make any revisions, if necessary.
- 2.) The property’s legal boundaries exhibited within this appraisal are accurate, as recent title policies identifying the subject property was not supplied. The site’s dimensions and land area are based on information obtained from Oakland County Equalization records. Should a future survey indicate a variation in the legal description or net site area, I reserve the right to review any variances to establish whether there would be any impact on value and marketability reported in this appraisal.

⁵ Uniform Standards of Professional Appraisal Practice (USPAP), 2018-2019 Edition, page 4

HYPOTHETICAL CONDITIONS: A hypothetical condition is “a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.” Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.⁶

As provided within USPAP, a hypothetical condition may be used in an assignment only if:

- use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;
- use of the hypothetical condition results in a credible analysis; and,
- the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.

When a value opinion is subject to a hypothetical condition, the report must clearly and conspicuously disclose the assumption or condition and state that its use might have affected the value conclusion. There is no hypothetical condition associated with the opinions of value presented herein.

OWNERSHIP HISTORY: The current fee owner of record is Milford Hills Properties, Inc., 1042 North Milford Road, Suite 103, Milford, Michigan 48381-5108. Each of the subject parcels have been acquired by the current fee owner within the 3-years preceding the effective date of the subject property. Details of each transaction are included in the Oakland County Equalization Department documents provided in the **Addendum** of this report.

LEGAL DESCRIPTION: A legal description for each subject property is provided below, and included in the Addendum is an aerial plat map for each parcel:

16-03-100-008: T2N-R7E, SECTION 3, PART OF NE ¼ OF NW ¼ BEGINNING AT A POINT DISTANT N01-19-05W 332.00 FEET FROM SW CORNER OF NE ¼ OF NW ¼, THENCE N88-20-35E 1,233.00 FEET, THENCE N13-52-35W 779.64 FEET, THENCE S88-20-35W 1,063.64 FEET, THENCE S01-19-05E 762.00 FEET TO P.O.B., EXCLUDING SOUTH 10.00 ACRES (±10.08 ACRES)

16-03-100-010: T2N-R7E, SECTION 3, SOUTH 10.00 ACRES OF THAT PART OF NE ¼ OF NW ¼ LYING WEST OF CENTER LINE OF MILFORD RD. (±10.00 ACRES)

16-03-100-012: T2N-R7E, SECTION 3, PART OF NORTH FRACTIONAL ½ OF SECTION, BEGINNING AT CENTER OF SECTION, THENCE WEST 384.90 FEET, THENCE NORTH 330.00 FEET, THENCE EAST 618.86 FEET TO CENTER OF ROAD, THENCE SE ALONG CENTER LINE 340.00 FEET, THENCE WEST ALONG ¼ LINE TO P.O.B. (±5.30 ACRES)

16-03-100-023: T2N-R7E, SECTION 3, PART OF NW ¼ BEGINNING AT A POINT DISTANT N00-14-29W 332.00 FEET FROM SW CORNER OF NE ¼ OF NW ¼, THENCE N00-14-29W 365.40 FEET, THENCE N88-20-35E 703.08 FEET, THENCE S13-07-32E 375.85 FEET, THENCE S88-33-56W 786.76 FEET TO P.O.B. (±6.27 ACRES)

⁶ Uniform Standards of Professional Appraisal Practice (USPAP), 2018-2019 Edition, page 4

16-03-100-024: T2N-R7E, SECTION 3, PART OF NW ¼ BEGINNING AT A POINT DISTANT N00-14-29W 697.40 FEET & N88-20-35 E703.08 FEET FROM SW CORNER OF NE ¼ OF NW ¼, THENCE N88-20-35E 450.00 FEET, THENCE S13-07-32E 125.00 FEET, THENCE S88-20-35W 450.00 FEET, THENCE N13-07-32W 125.00 FEET TO P.O.B. (±1.27 ACRES)

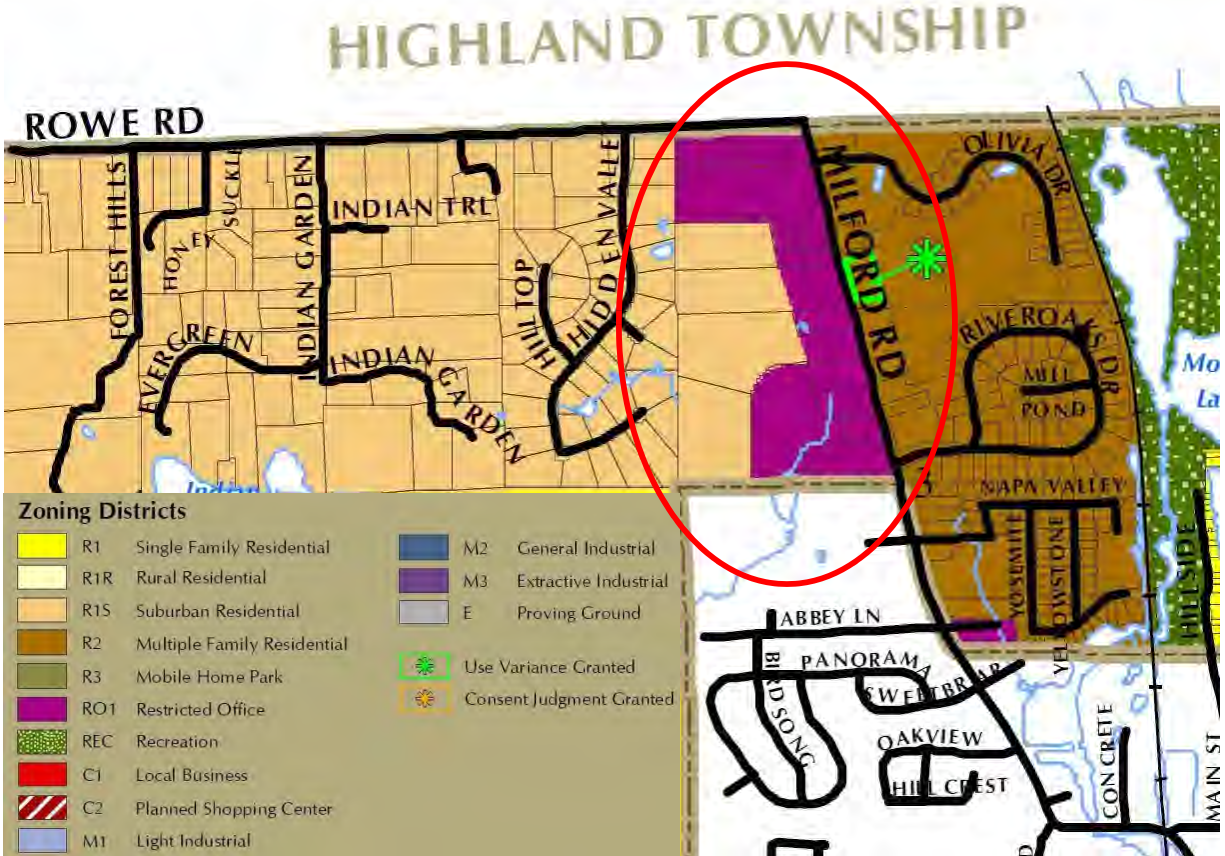
16-03-100-028: T2N-R7E, SECTION 3, PART OF N ½ OF SECTION BEGINNING AT A POINT DISTANT S89-41-15E 1,321.20 FEET & N01-01-00E 869.37 FEET FROM W ¼ CORNER, THENCE N01-01-00E 460.68 FEET, THENCE N89-39-30E 868.14 FEET, THENCE S13-40-06E 191.97 FEET, THENCE S89-21-30E 452.14 FEET, THENCE S13-44-00E 221.00 FEET, THENCE N89-21-30W 572.39 FEET, THENCE ALONG CURVE CONCAVE SE, RADIUS 300.00 FEET, CHORD BEARS S53-00-25W 366.38 FEET, DISTANCE OF 394.11 FEET, THENCE N74-37-37W 582.98 FEET TO P.O.B. (±12.92 ACRES)

16-03-100-029: T2N-R7E, SECTION 3, PART OF N ½ OF SECTION BEGINNING AT A POINT DISTANT S87-54-30E 1,321.20 FEET FROM W ¼ CORNER, THENCE N01-07-30E 869.37 FEET, THENCE S74-37-37E 582.98 FEET, THENCE ALONG CURVE CONCAVE EASTERLY, RADIUS 300.00 FEET, CHORD BEARS S08-14-55W 74.41 FEET, DISTANCE OF 74.60 FEET, THENCE S01-07-30W 639.02 FEET, THENCE S89-46-58W 555.96 FEET TO P.O.B. (±10.05 ACRES)

16-03-100-030: T2N-R7E, SECTION 3, PART OF N ½ OF SECTION BEGINNING AT A POINT DISTANT S87-54-30E 1,321.20 FEET & N89-46-58E 555.96 FEET FROM W ¼ CORNER, THENCE N01-07-30E 639.02 FEET, THENCE ALONG CURVE CONCAVE SE, RADIUS 300.00 FEET, CHORD BEARS N45-53-00E 422.27 FEET, DISTANT OF 468.71 FEET, THENCE S89-21-30E 120.00 FEET, THENCE S13-40-06E 422.24 FEET, THENCE S89-21-30E 177.90 FEET, THENCE S09-18-00E 194.56 FEET, THENCE N89-21-30W 332.79 FEET, THENCE S00-38-30W 330.00 FEET, THENCE S89-46-58W 408.50 FEET TO P.O.B. (±10.27 ACRES)

16-03-100-032: T2N-R7E, SECTION 3, PART OF N ½ OF SECTION BEGINNING AT POINT DISTANT S89-26-15W 384.90 FEET & N00-38-30E 330.00 FEET & S89-21-30E 618.86 FEET & N13-19-30W 197.03 FEET FROM CENTER OF SECTION, THENCE N89-21-30W 450.00 FEET, THENCE N13-40-06W 200.30 FEET, THENCE S89-21-30E 451.24 FEET, THENCE S13-19-30E 200.00 FEET TO P.O.B. (±2.07 ACRES; 06-14-1990 CORRECTED)

ZONING: As shown in the following Zoning Map excerpt, the subject property lies within an RO-1, Restricted Office and R-1-S, Suburban Residential zoning districts:



Based upon each parcel's dimensions, as obtained from Oakland County Equalization records, the Restricted Office zoning encompasses a total land area of ± 34.71 acres, while the Suburban Residential zoning encompasses a total of ± 33.52 acres.

The R-1-S, Suburban Residential district, is intended as a district primarily for single-family homes on large lots which need not require urban services such as municipal water supply or sanitary sewer. The minimum lot size in this district equates to 1.5 acres. In an R-1-S district, a maximum of 2.0 acre lot area and 175-foot lot width for any given lot may be utilized in establishing average lot size. Larger lot areas and greater lot widths may be provided in the respective districts; however, the stated limits apply for lot average computation purposes. Paved road surfaces may not be included in lot average computations. All lots in cluster housing developments shall equal or exceed the minimum lot area or width standards required in their respective district. Based upon information provided by the property owner, the R-1-S land, as zoned, has been conceptually planned to include a total of 22 sites. Another factor that has not yet been considered is the potential soil problems accommodating private septic systems for each lot. This will only reduce density, unless engineered septic fields can be accommodated on-site.

The RO-1, Restricted Office district, is intended to permit those office and personal service uses which will provide modern office buildings in landscaped settings, adjacent to residential areas.

The intent of this district is to establish an appropriate district for uses which do not generate large volumes of traffic, traffic congestion and parking problems; and which will promote the most desirable use of land in accordance with the township's land use plan. The location of the subject parcels is the only vacant land within an RO-1 zoning district in all of the township, and lies just to the northern periphery of the Village of Milford. For the office land, a market oriented Floor-area Ratio (FAR) is considered well supported within a range from 0.20 to 0.25, which suggests the office land can accommodate between roughly 300,000 and 375,000 square feet. Ownership has provided a study suggesting 340,000 square feet can be accommodated on the site. Based on the market FAR measures, ownership's estimated inventory is considered reliable to consider when reviewing feasibility of office development.

In terms of specific data for the office market, CoStar Group, Inc. statistics will be presented for the local sub-market. Within the tables to be presented, a substantial amount of data has been presented for the sampled sub-markets and it is important to understand the extent and source of the data presented and to what degree the reliability of the data is measured. This data source is widely accepted and applied within the appraisal industry as a reliable source for research data. Likewise, it is noted that the entire data set presented has not been personally verified. While there may be inconsistencies relative to data that is personally verified, that would be the case with almost any research data provided in whole from brokerage sources. This section of the analysis is intended to represent a macro-presentation of market activity, with micro-analyses to be considered within each valuation approach, to the extent it would impact value. Based on a long-term personal application of this research database, the data is deemed to be sufficiently reliable in a presentation of overall market performance for the Milford sub-market.

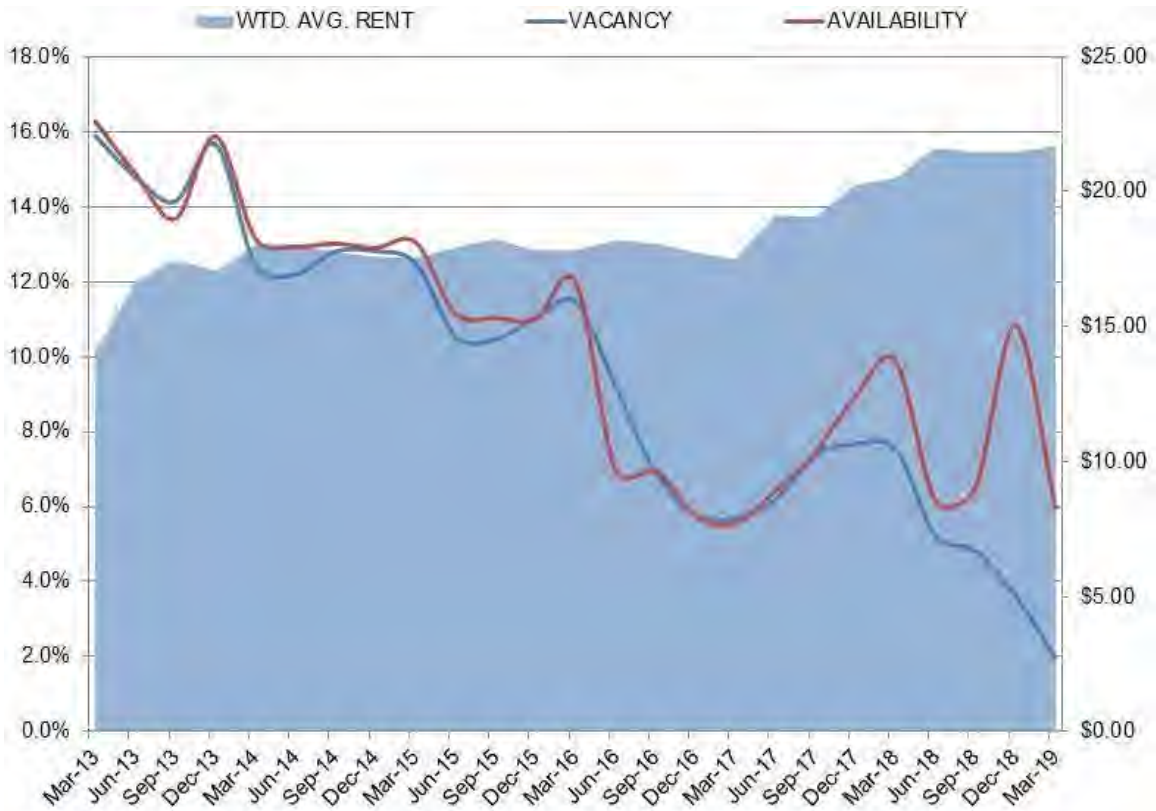
Prior to analyzing performance of the market, it is important to understand the variance between vacant and available space. Within the CoStar database, each is defined, as follows:

Available space is the total amount of space that is currently being marketed as available for lease in a given time period. It includes any space that is available, regardless of whether the space is vacant, occupied, available for sub-lease, or available at a future date.

Vacant space is represented as space that is not currently occupied by a tenant, regardless of any lease obligation that may be on the space. Vacant space could be space that is either available or not available. For example, sub-lease space that is currently being paid for by a tenant but not occupied by that tenant, would be considered vacant space. Likewise, space that has been leased but not yet occupied because of finish work being done, would also be considered vacant space.

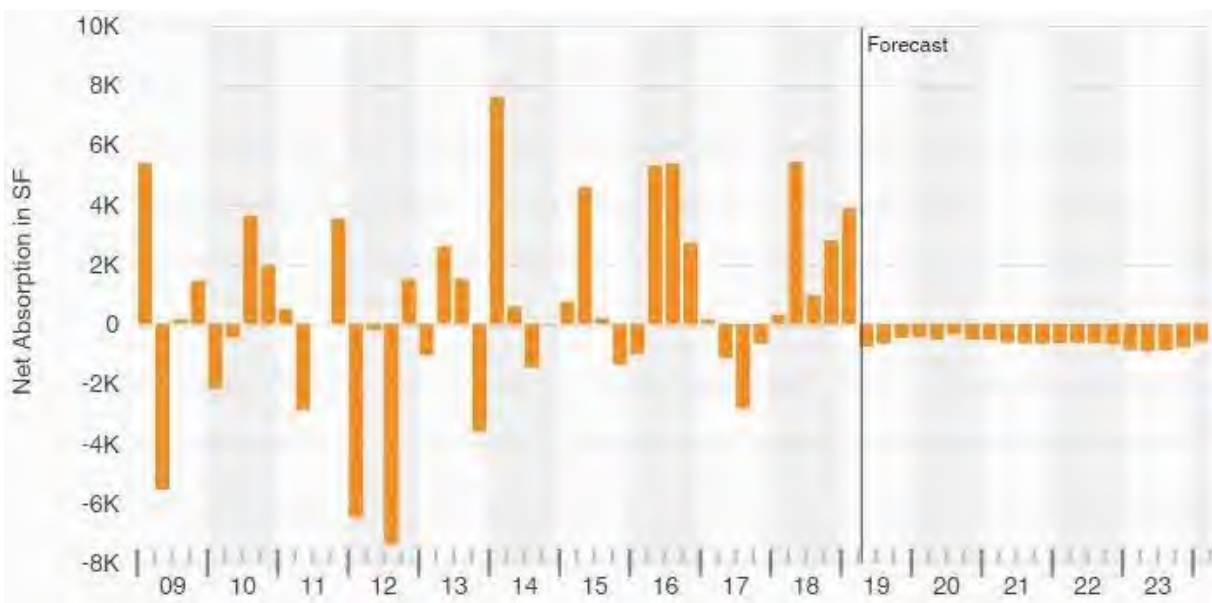
Included on the following page is a table summarizing historical performance of the noted sub-market dating back to 2Q-2015, with a graphic illustration of historical market performance of the noted sub-markets dating back to 1Q-2013.

	NO.	TOTAL NRA	VACANCY SF %	AVAILABLE SF %	GROSS RENT	ABSORPTION GROSS NET
1Q-end 2019	40	235,664	4,642 2.0%	14,110 6.0%	\$21.70	5,000 3,900
4Q-end 2018	40	235,664	8,542 3.6%	25,510 10.8%	\$21.47	2,941 2,809
3Q-end 2018	40	235,664	11,351 4.8%	15,397 6.5%	\$21.47	2,014 964
2Q-end 2018	40	235,664	12,315 5.2%	14,501 6.2%	\$21.67	7,500 5,441
1Q-end 2018	40	235,664	17,756 7.5%	23,299 9.9%	\$20.48	1,500 300
4Q-end 2017	40	235,664	18,056 7.7%	21,099 9.0%	\$20.31	3,638 (662)
3Q-end 2017	40	235,664	17,394 7.4%	17,594 7.5%	\$19.07	1,000 (2,822)
2Q-end 2017	40	235,664	14,572 6.2%	15,122 6.4%	\$19.16	100 (1,150)
1Q-end 2017	40	235,664	13,422 5.7%	13,122 5.6%	\$17.52	159 159
4Q-end 2016	40	235,664	13,581 5.8%	13,581 5.8%	\$17.77	2,720 2,720
3Q-end 2016	40	235,664	16,301 6.9%	16,401 7.0%	\$18.11	5,390 5,390
2Q-end 2016	40	235,664	21,691 9.2%	16,401 7.0%	\$18.22	7,016 5,316
1Q-end 2016	40	235,664	27,007 11.5%	28,257 12.0%	\$17.82	1,924 (1,004)
4Q-end 2015	40	235,664	26,003 11.0%	25,953 11.0%	\$17.82	0 (1,352)
3Q-end 2015	40	235,664	24,651 10.5%	26,001 11.0%	\$18.28	200 200
2Q-end 2015	40	235,664	24,851 10.5%	26,269 11.1%	\$17.93	4,586 4,586



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As illustrated above, the local sub-market has not added any new office inventory dating back to the beginning of 2013, and has maintained an overall inventory of 40 buildings and $\pm 236,000$ square feet. Likewise, dating back to 1Q-2013, there has been total gross leasing activity of only $\pm 69,650$ square feet, and total net absorption of only $\pm 31,750$ square feet, for an average annual net absorption of only 1,270 square feet. This performance clearly denotes that the local sub-market is inactive in comparison to other office sub-markets across southeast Michigan. This also raises significant concerns as to a forecasted demand for even a fraction of the space that has been estimated to be accommodated on the subject's office zoned land. The concerns are further portrayed when considering Costar Group's Office Demand forecast for this sub-market, which shows negative net absorption through year-end 2023, as depicted below:



Based on these considerations, it is important to understand that “**Market determines Use and Use determines Value**”, which is critical in measuring market value for any property. When there is no feasibility that can be measured, there correspondingly is no value to assign to that specific property. On this basis, with no demand for office use, there is no possible feasibility to measure, and it is concluded that any office use on this land is not likely to occur at any point in the future.

For the residential segment of the combined subject parcel, it was previously determined that a total of roughly 22 home sites would be considered possible for the proposed development, as zoned. For this analysis, feasibility will be tested through use of a Subdivision Development Method (Discounted Cash Flow Analysis), and is defined as:

Procedure: Direct and indirect costs and entrepreneurial incentive are deducted from an estimate of the anticipated gross sales price of the finished lots, and the net sales proceeds are discounted to present value at a market derived rate over the development and absorption period. If entrepreneurial incentive is not deducted as a line-item expense, then the discount rate must reflect the full effect of any profit.

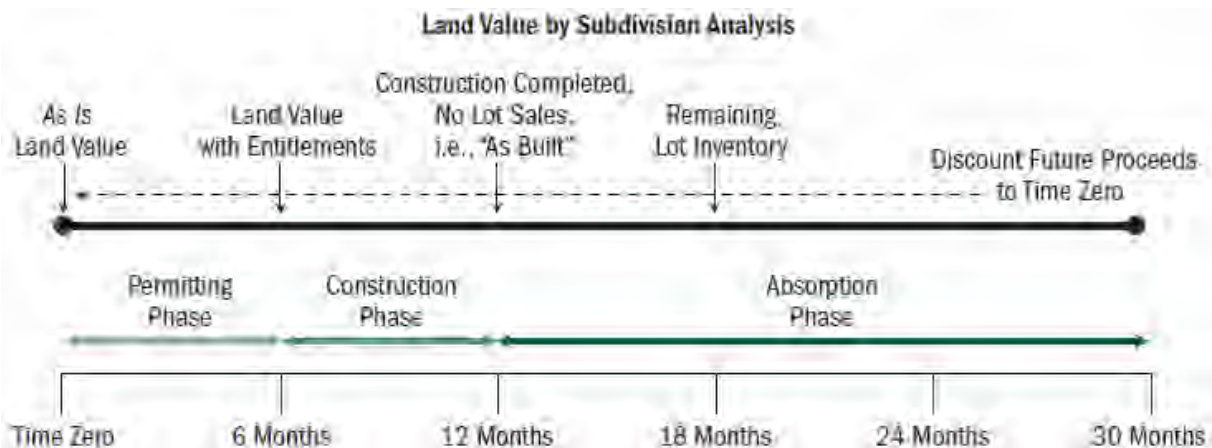
Applicability: This technique is applicable when subdivision development is the highest and best use of the land and there is market support for immediate absorption.

Limitations: Discounted cash flow analysis requires significant amounts of data such as development costs, profit margins, sales projections, and the pricing of developed lots, together with a supportable forecast of market absorption.⁷

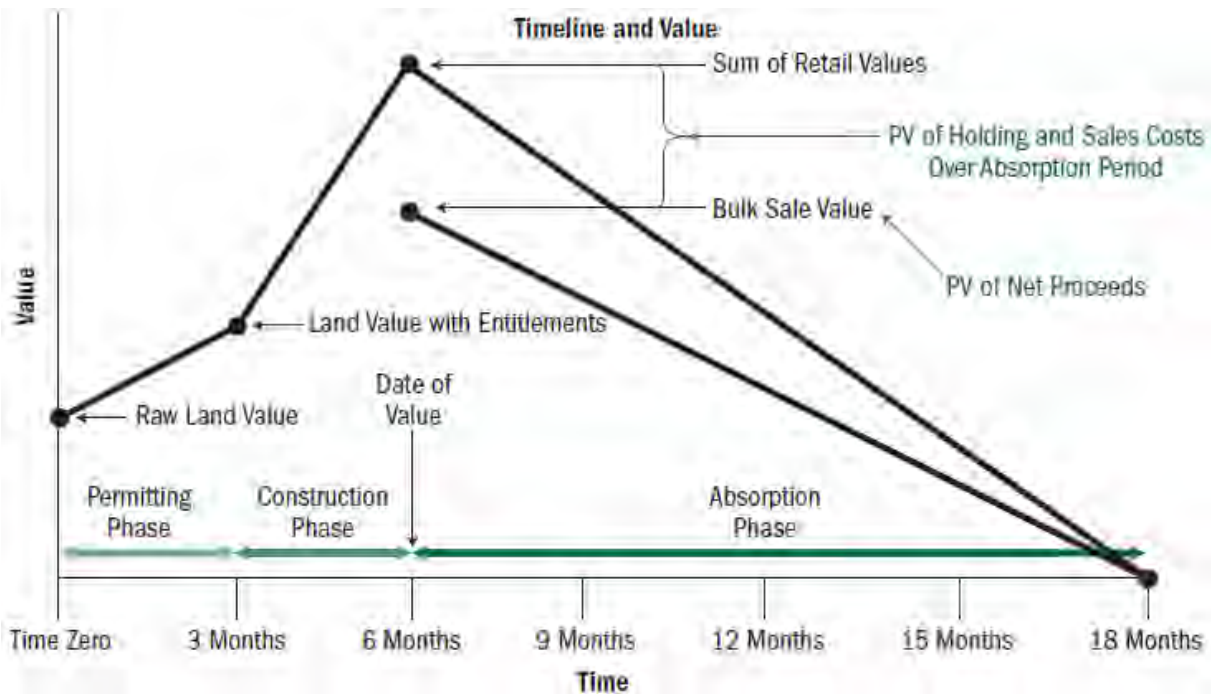
The steps used in a subdivision development analysis are summarized below:

- Develop the appropriate number and size of units, based on physical, legal and economic analysis, or if approval is in-place or pending, utilize actual approved plan.
- Project absorption period for sell-off of finished units, and ultimate finished home pricing, so that appropriate absorption calculations can be implemented:
 - unit pricing can be established by implementing the appropriate valuation technique, such as sales comparison, allocation, extraction, etc.; and,
 - establish absorption by reviewing governmental forecasts for population and household growth, along with historical activity in the marketplace.
- Calculate gross sale proceeds by applying appropriate unit values to sell-off assumptions.
- Calculate all development costs, direct and indirect, necessary to create the finished units.
- Determine net sales proceeds by subtracting all expenses associated with carry and sell-off of units.
- Estimate value by implementing the selected capitalization parameters.

A timeline and the effect on value, as presented within the **Appraisal Institute's The Appraisal of Real Estate** is presented below, as a means of best summarizing the application of this valuation methodology:



⁷ The Appraisal of Real Estate, Appraisal Institute, 2013, 14th Edition, page 365



The other characteristic to consider is the perceived risk of development as time elapses. Obviously at time period zero, risk would be greater as the entitlement process and costs associated with same have not been realized. One of several important ingredients in a subdivision development analysis, is the process by which to address risk. This is primarily accounted for in the selection of an appropriate yield rate (discount rate), which is defined as: *The rate of return on the total capital invested, including both debt and equity; also called the property yield rate. When applied to cash flows, it is called a discount rate*⁸.

For this appraisal, a subdivision development analysis will be applied, with a forthcoming value matrix presenting market values at various yield intervals (i.e., including and excluding entrepreneurial profit). Recognize, however, reconciliation of market value will rely most heavily on average preferred returns for local residential developments. National yield requirement publications will be reviewed and presented as source material within this appraisal, however, local investor/land developer quotations will be most heavily weighed in reconciling market values for the subject. A subdivision development analysis is relatively simple to follow once the major assumptions have been set-forth. This process consists of adding the present value of all net sales proceeds over the projected sell-off period.

A subdivision development model provides a method of discounting future sale proceeds to present value dollars, taking into consideration investor yield requirements. The process, when utilized properly, results in a reliable indication of value. The discount, or yield rate selected requires a good understanding of the marketplace, and the risk commensurate with the property type being appraised. It is important the rate selected reflects the attitudes of potential investors in a specific marketplace. The determination of a yield rate (Y_0) is more difficult to extract from

⁸ The Appraisal of Real Estate, Appraisal Institute, 2013, 14th Edition, page 457

the marketplace. This figure represents the anticipated performance of a property, subject to the specific assumptions provided within an analysis. As the probability of occurrence for the assumptions and projections within an analysis decrease, the required yield to attract capital to this investment would be expected to increase. Conversely, if the assumptions and projections are considered to be highly provable, the yield rate required to attract capital would be expected to be reduced.

The selection of a yield rate is best supported by actual market transacted sales. However, substantiating yields by market sales is not easily achieved. The most appropriate means of justifying yields for the property type being appraised, is to query potential investors as to their expected yield. In addition, a number of yield capitalization surveys are conducted in the marketplace. In selecting an appropriate yield rate for the subject's valuation, two surveys have been relied upon for review. The first is the PwC Real Estate Investor Survey® published by **PricewaterhouseCoopers** (i.e., formerly Peter F. Korpacz & Associates, Inc.). Within said survey, the publisher states that *“participants represent a cross-section of major institutional equity real estate investors who invest primarily in institutional grade property. As such, the information presented is not generally applicable to non-institutional grade investments. In addition, the information represents investor investment expectations and does not reflect actual property performances. The information in this survey is gathered through on-line questionnaires and telephone interviews. As such, the findings and opinions expressed reflect those of our investor participants and do not necessarily reflect those of PwC. Although we do not represent that the survey is statistically accurate, its results provide important insight into the thinking of a significant portion of the equity real estate marketplace. The individual investor responses contained in each issue are a representative sample, and due to space constraints, not all responses are included.”* Likewise, the survey further defines institutional grade investment as: *Real property investments that are sought out by institutional buyers and have the capacity to meet generally prevalent institutional investment criteria.* This information will be further analyzed relative to an application for the subject in forthcoming discussions.

Development Land is defined within the PwC Survey as: *Land that has been purchased, readied for subdivision development (i.e., entitlements and infrastructure), and subsequently sold to builders,* which is similar to the basis upon which the subject's feasibility will be reviewed.

A summary of yield rates as presented within the PwC Investor Survey over the past few years is provided below:

	min.	max.	avg.
PwC Investor Survey (4Q-2016)	10.00%	20.00%	16.00%
PwC Investor Survey (4Q-2017)	10.00%	20.00%	15.40%
<i>year-over-year CH (BP):</i>	0	0	(60)
PwC Investor Survey (4Q-2018)	10.00%	20.00%	15.80%
<i>year-over-year CH (BP):</i>	0	0	40

Within this survey, anticipated yield rate indications are unleveraged and do include entrepreneurial profit as a built-in component of the total return. It is also noted, the above yield rates assume entitlements are in-place. Without entitlements, the survey participants report a

yield premium within a range from 100 to 800 basis points, with an average indication of 394 basis points as of the most recent survey. Using the 394 basis point spread to reflect lack of entitlements, an overall average yield requirement as of 4Q-2017 equates to $\pm 19.3\%$. Based on the *Emerging Trends in Real Estate® 2019*, published by **PwC** and **ULI**, in terms of value expectations it reported the following “Looking ahead over the next 12 months, surveyed investors forecast property values in the national development land market to either increase as much as 10.0% or decrease as much as 5.0%. Their average expected appreciation rate is 3.8%, just above the rate of 3.5% six months ago.”

Below is a summary of all assumptions implemented in the calculation of net sale proceeds, a summary of which is included within the Cash Flow Tables in the **Addendum** of this report:

PRICING: For this analysis, retail value for the individual single-family homes has been estimated at \$675,000, which based upon a review of Realcomp on-line data, as well as information provided by the subject’s fee owner. This price will be increased at a rate of 3.0% annually. At the end of the sell-off or absorption period, average home pricing can be quantified as roughly \$716,000.

ABSORPTION: In terms of absorption, a development time table has been estimated as roughly 2.5 years, with an absorption of all lots anticipated to be completed by quarter-end March 2020, which produces an average absorption level of roughly one (1) unit per month, which at the subject’s price point is considered to represent an optimistic projection for this property.

EXPENSES: Within this analysis, expenses accruing to a developer include property taxes, liability insurance, development costs, sale commissions, and miscellaneous sale expense (i.e., transfer tax, recording fees, legal fees, and administrative charges).

For property tax and liability insurance carry expense, actual 2018 taxes have been applied, which equates to a quarterly carry cost of $\pm \$372.88$ per lot. Liability insurance is estimated at a total of \$2,500 per quarter, which equates to an additional $\pm \$113.64$ per lot. The total carry expense equates to $\pm \$486.51$ per lot per quarter. This expense will be applied only to those lots that remain unsold at the end of each quarter. For example as of 1Q-2018 the total carry expense equates to $\pm \$10,703$ which is calculated as 22-lots times $\pm \$486.51$. As lots are sold, the associated carry expense will decline. For example as of 4Q-2018, the developer will only be carrying 19-lots and the carry expense is computed at $\pm \$9,244$, calculated as 19-lots times $\pm \$486.51$. The total carry expense per lot will be increased annually by 3.0%.

For development or infrastructure expense, there are both horizontal and vertical costs to ready the site and build individual homes on each site. For this analysis, the horizontal infrastructure cost has been estimated at $\pm \$50,000$ per site, or \$1,100,000. This cost will be allocated over the first two quarters in the amount of \$550,000 per quarter. In addition, it is necessary to consider the 40% excess capacity for the Waste Water Treatment Plant (WWTP) constructed by the owner of the subject properties in 2003. The Township required the subject’s fee owner to increase capacity of the WWTP by approximately 40% to account for future use on the subject parcels. As such, it is necessary to establish a contributory cost for the excess capacity as of December 2017, which is summarized below:

Excess Capacity WWTP:

Total WWTP Cost		\$4,437,500
Excess Capacity (20,000/50,000)	40%	1,775,000
Effective Date of Cost		07/01/03
Effective Date of Valuation		12/13/17
No. Years for Adjustment		14.46
Annual Inflation factor		5.0%
FV of Excess Capacity of WWTP		\$3,594,674
FV Carry Costs of WWTP Excess Capacity		271,349
Total Cost & Carry for Excess Capacity WWTP		<u>\$3,866,023</u>

rounded to: \$3,870,000

For vertical construction costs, a unit cost has been estimated at an average of \pm \$125.00 per square foot, which has been estimated using Marshall Valuation Service (MVS) as a guide, as well as estimates supplied by the subject's fee owner. This unit cost will be applied to an average home size of \pm 3,200 square feet.

An expense for sale commissions will be estimated at 4.8% of all sale proceeds, which falls somewhat below average co-op sale commissions of roughly 6.0%. The final expense will be deducted for miscellaneous/legal/administrative expenses (i.e., closing, recording fee, property transfer tax, legal, administrative), which has been stabilized during the sell-out period at 1.61% of all gross sale proceeds.

PROFIT: Entrepreneurial profit is a necessary and very important ingredient in land development. When queried, the land developers cited a minimum profit of 15%, with some responses up to 50%. The degree of profit in any venture varies depending on several elements, such as property type, development costs, income potential, financing, developer experience, absorption, etc. As the subject represents unimproved acreage, reportedly in the initial phase of land assemblage, the risk component is increased. Bearing this in mind, profit will be quantified within a range from 10% to 20%. Another consideration when reviewing profit is the overall risk, and whether it has been treated accordingly in the selection of a yield rate.

Each of the above market variables have been input into a subdivision development model. Provided in the **Addendum** is the cash flow projection model established as of the effective date of this report. Provided below is the valuation matrix based upon the input assumptions discussed previously:

MILFORD HILLS PROPERTIES, LLC - AS ZONED FEASIBILITY, MILFORD TWP., OAKLAND COUNTY, MI						
	annual yield	15.0%	17.5%	20.0%	22.5%	25.0%
PV of net proceeds, no profit		(\$650,490)	(\$766,463)	(\$876,126)	(\$979,833)	(\$1,077,918)
PV net proceeds and profit at	10.0%	(\$1,757,039)	(\$1,833,586)	(\$1,905,615)	(\$1,973,384)	(\$2,037,137)
PV net proceeds and profit at	15.0%	(\$2,238,147)	(\$2,297,552)	(\$2,353,219)	(\$2,405,363)	(\$2,454,188)
PV net proceeds and profit at	20.0%	(\$2,679,163)	(\$2,722,855)	(\$2,763,522)	(\$2,801,344)	(\$2,836,485)
			-5%	reconciled	+5%	
	market value range:		\$0	\$0	\$0	
	market value (\$/lot):		\$0	\$0	\$0	
	imputed IRR at net proceeds excluding profit:		N/A	N/A	N/A	

As depicted above, the residential segment of the property “As Zoned” is estimated to have a negative market value, which concludes that development on the site “As Zoned” is not financially feasible.

CONCLUSION: For this analysis, an overview of the market has concluded to the following, relative to in-place zoning for the property:

RO-1, Restricted Office: The subject parcels include a total of ±34.71 acres of land, which was previously concluded to physically accommodate a total of ±340,000 square feet of office space. As illustrated, the Milford Township office market is less active than most southeast Michigan sub-markets. In addition, the inventory of space has remained static between 1Q-2013 and 1Q-2019. Over this same time frame, more active office sub-markets have seen unprecedented growth in inventory, while the subject's sub-market has not experienced a single new office development. This fact is not surprising, as there has been only 69,646 square feet of total gross leasing activity and only 31,747 square feet of total net absorption over this 6-year time frame. In fact, the average quarterly net absorption is calculated at ±1,300 square feet. Assuming 340,000 square feet could be accommodated on the subject's RO-1 land, a development time frame can be estimated at over 65-years. The sub-market clearly cannot support this volume of office space, and feasibility does not exist. With the market clearly not supporting an office use, with no use, there is no value.

R-1-S, Suburban Residential: As shown previously, the site "*As Zoned*" is determined to accommodate a maximum of 22-units, which is an overly optimistic conclusion given physical characteristics of the subject site. However, this calculation has been used to measure whether development on the site is feasible. Given development costs and forecasted proceeds from the sale of homes in the development, value is negative, which also clearly concludes that development "*As Zoned*" is not economically feasible.

CERTIFICATION: I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- I have not performed appraisal or any other real estate services on the property that is the subject of this report within the 3-year period immediately preceding acceptance of this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in a manner which complies with Standard 2-2(a) of the **Uniform Standards of Professional Appraisal Practice (USPAP) 2018-2019 Edition**.

- The reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the **Appraisal Institute**.
- The use of this report is subject to the requirements of the **Appraisal Institute** relating to review by its duly authorized representatives.
- John R. Widmer, Jr., MAI has made a physical inspection of the property that is the subject of this report, inspected all comparables utilized in substantiation of market value for the subject, and personally made the necessary investigations and analyses pertinent to valuing the property.
- no one provided real property appraisal assistance to the person signing this certification.
- As of the date of this report, John R. Widmer, Jr. has completed the continuing education program for Designated Members of the Appraisal Institute.
- I am licensed in the state of Michigan as a certified general appraiser, and as stipulated by Michigan law, "appraisers are required to be licensed and are now regulated by the Michigan Department of Licensing & Regulatory Affairs, P.O. Box 30018, Lansing, Michigan 48909".



John R. Widmer, Jr., MAI
Certified General Appraiser No. 1201000280
jwidmer@frohmwidmer.com
Direct line: 248-471-6767 ext. 11

DATE: October 9, 2019

No property address available



16-03-100-008

Commercial and Industrial Property Profile

Note: Please be advised the data included in Property Gateway originates from multiple local municipalities. Data, in regard to properties, may be classified and updated differently by municipalities. If you have any questions, please contact the local community where the data originated.

Owner Information

Owner(s) : MILFORD HILLS PROPERTIES INC
Mailing Address : 1042 N MILFORD RD MILFORD MI 48381-5107

Location Information

Site Address : No property address available
PIN : 16-03-100-008 Neighborhood Code : CVL
Municipality : Charter Township of Milford
School District : 140 HURON VALLEY
Use : 202 BUS VAC (Commercial Business Vac.)
Water Indicator : N Sewer Indicator : N
Well Indicator : N Septic Indicator : N

Property Description

T2N, R7E, SEC 3 PART OF NE 1/4 OF NW 1/4 BEG AT PT DIST N 01-19-05 W 332 FT FROM SW COR OF NE 1/4 OF NW 1/4, TH N 88-20-35 E 1233 FT, TH N 13-52-35 W 779.64 FT, TH S 88-20-35 W 1063.64 FT, TH S 01-19-05 E 762 FT TO BEG EXC S 10 ACRES 10.08 A

Most Recent Sale Since 1994

Date : 11/14/2017
Amount : \$1 Liber : 51325:276
Grantor : FANI AEDELSBERG TR Grantee : MILFORD HILLS PROPINC

Next Most Recent Sale

Date : 12/13/2006
Amount : \$1 Liber : 38619:057
Grantor : AEDELSBERG, NORMAN
Grantee : FANI AEDELSBERG TR

Tax Information

Taxable Value : \$70,290 State Equalized Value : \$70,290
Current Assessed Value : \$70,290 Capped Value : \$71,970
Effective Date For Taxes : 12/01/2018 Principal Residence Exemption : 0%
2017 Taxes **2018 Taxes**
Summer : \$2,705.42 Summer : \$2,833.45
Winter : \$591.18 Winter : \$638.77
Village : Village :

Lot Information

Description : LOW Acres : 9.78

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Note: Please be advised the data included in Property Gateway originates from multiple local municipalities. Data, in regard to properties, may be classified and updated differently by municipalities. If you have any questions, please contact the local community where the data originated.

Owner Information

Owner(s) : MILFORD HILLS PROPERTIES INC
 Mailing Address : 1042 N MILFORD RD STE 103 MILFORD MI 48381-5108

Location Information

Site Address : No property address available
 PIN : 16-03-100-010 Neighborhood Code : CVL
 Municipality : Charter Township of Milford
 School District : 140 HURON VALLEY
 Use : 202 BUS VAC (Commercial Business Vac.)
 Water Indicator : N Sewer Indicator : N
 Well Indicator : N Septic Indicator : N

Property Description

T2N, R7E, SEC 3 S 10 ACRES OF THAT PART OF NE 1/4 OF NW 1/4 LYING W OF CEN LI OF MILFORD RD 10 A

Most Recent Sale Since 1994

Date : 10/11/2016
 Amount : \$450,000 Liber : 49951:458
 Grantor : TALMER BANK TR Grantee : MILFORD HILLS PROPINC

Next Most Recent Sale

Date : 10/29/2004
 Amount : \$900,000 Liber : 38246:128
 Grantor : SALEM CREEK Grantee : EUG

Tax Information

Taxable Value : \$103,840 State Equalized Value : \$103,840
 Current Assessed Value : \$103,840 Capped Value : \$104,220
 Effective Date For Taxes : 12/01/2018 Principal Residence Exemption : 0%
2017 Taxes **2018 Taxes**
 Summer : \$4,037.48 Summer : \$4,102.86
 Winter : \$882.29 Winter : \$924.93
 Village : Village :

Lot Information

Description : ROLLING Acres : 9.73

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No property address available



16-03-100-023

Commercial and Industrial Property Profile

Note: Please be advised the data included in Property Gateway originates from multiple local municipalities. Data, in regard to properties, may be classified and updated differently by municipalities. If you have any questions, please contact the local community where the data originated.

Owner Information

Owner(s) : MILFORD HILLS PROPERTIES INC
Mailing Address : 1042 N MILFORD RD STE 103 MILFORD MI 48381-5108

Location Information

Site Address : No property address available
PIN : 16-03-100-023 Neighborhood Code : CVL
Municipality : Charter Township of Milford
School District : 140 HURON VALLEY
Use : 202 BUS VAC (Commercial Business Vac.)
Water Indicator : N Sewer Indicator : N
Well Indicator : N Septic Indicator : N

Property Description

T2N, R7E, SEC 3 PART OF NW 1/4 BEG AT PT DIST N 00-14-29 W 332.00 FT FROM SW COR OF NE 1/4 OF NW 1/4, TH N 00-14-29 W 365.40 FT, TH N 88-20-35 E 703.08 FT, TH S 13-07-32 E 375.85 FT, TH S 88-33-56 W 786.76 FT TO BEG 6.27 A

Split/Combination Information

Added Status : Added Parcel
Added Date : 01/23/1979 Added To : FROM 03-100-009

Most Recent Sale Since 1994

Date : 10/11/2016
Amount : \$450,000 Liber : 49951:458
Grantor : TALMER BANK TR Grantee : MILFORD HILLS PROPINC

Next Most Recent Sale

Date : 10/29/2004
Amount : \$900,000 Liber : 38246:128
Grantor : SALEM CREEK Grantee : EUG

Tax Information

Taxable Value : \$44,760 State Equalized Value : \$45,070
Current Assessed Value : \$45,070 Capped Value : \$44,760
Effective Date For Taxes : 12/01/2018 Principal Residence Exemption : 0%
2017 Taxes 2018 Taxes
Summer : \$1,734.62 Summer : \$1,762.38
Winter : \$379.01 Winter : \$397.29
Village : Village :

Lot Information

Description : ROLLING Acres : 6.27

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No property address available



16-03-100-024

Commercial and Industrial Property Profile

Note: Please be advised the data included in Property Gateway originates from multiple local municipalities. Data, in regard to properties, may be classified and updated differently by municipalities. If you have any questions, please contact the local community where the data originated.

Owner Information

Owner(s) : MILFORD HILLS PROPERTIES, INC
Mailing Address : 1042 N MILFORD RD MILFORD MI 48381-5107

Location Information

Site Address : No property address available
PIN : 16-03-100-024 Neighborhood Code : CVL
Municipality : Charter Township of Milford
School District : 140 HURON VALLEY
Use : 202 BUS VAC (Commercial Business Vac.)
Water Indicator : N Sewer Indicator : N
Well Indicator : N Septic Indicator : N

Property Description

T2N, R7E, SEC 3 PART OF NW 1/4 BEG AT PT DIST N 00-14-29 W 697.40 FT & N 88-20-35 E 703.08 FT FROM SW COR OF NE 1/4 OF NW 1/4, TH N 88-20-35 E 450.00 FT, TH S 13-07-32 E 125.00 FT, TH S 88-20-35 W 450.00 FT, TH N 13-07-32 W 125.00 FT TO BEG 1.27 A

Split/Combination Information

Added Status : Added Parcel
Added Date : 01/23/1979 Added To : FROM 03-100-009

Most Recent Sale Since 1994

Date : 09/14/2017
Amount : \$1 Liber : 51087:846
Grantor : STOFER, WILLIAM E
STOFER, CAROL A Grantee : MILFORD HILLS PROPINC

Tax Information

Taxable Value : \$42,660 State Equalized Value : \$42,660
Current Assessed Value : \$42,660 Capped Value : \$43,680
Effective Date For Taxes : 12/01/2018 Principal Residence Exemption : 0%
2017 Taxes 2018 Taxes
Summer : \$1,387.53 Summer : \$1,719.65
Winter : \$303.17 Winter : \$387.65
Village : Village :

Lot Information

Description : ROLLING Acres : 1.18

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Note: Please be advised the data included in Property Gateway originates from multiple local municipalities. Data, in regard to properties, may be classified and updated differently by municipalities. If you have any questions, please contact the local community where the data originated.

Owner Information

Owner(s) : MILFORD HILLS PROPERTIES INC
 Mailing Address : 1042 N MILFORD RD MILFORD MI 48381-5107

Location Information

Site Address : No property address available
 PIN : 16-03-100-028 Neighborhood Code : CVL
 Municipality : Charter Township of Milford
 School District : 140 HURON VALLEY
 Use : 202 BUS VAC (Commercial Business Vac.)
 Water Indicator : N Sewer Indicator : N
 Well Indicator : N Septic Indicator : N

Property Description

T2N, R7E, SEC 3 PART OF N 1/2 OF SEC BEG AT PT DIST S 89-41-15 E 1321.20 FT & N 01-01-00 E 869.37 FT FROM W 1/4 COR, TH N 01-01-00 E 460.68 FT, TH N 89-39-30 E 868.14 FT, TH S 13-40-06 E 191.97 FT, TH S 89-21-30 E 452.14 FT, TH S 13-44-00 E 221.00 FT, TH N 89-21-30 W 572.39 FT, TH ALG CURVE CONCAVE SELY, RAD 300.00 FT, CHORD BEARS S 53-00-25 W 366.38 FT, DIST OF 394.11 FT, TH N 74-37-37 W 582.98 FT TO BEG 12.92 A

Split/Combination Information

Added Status : Added Parcel
 Added Date : 11/13/1979 Added To : FROM 16-03-100-011

Most Recent Sale Since 1994

Date : 10/11/2016
 Amount : \$450,000 Liber : 49951:458
 Grantor : TALMER BANK TR Grantee : MILFORD HILLS PROPINC

Next Most Recent Sale

Date : 03/30/2015
 Amount : \$1 Liber : 49469:558
 Grantor : EUG Grantee : TALMER BANK TR

Tax Information

Taxable Value	: \$92,260	State Equalized Value	: \$92,860
Current Assessed Value	: \$92,860	Capped Value	: \$92,260
Effective Date For Taxes	: 12/01/2018	Principal Residence Exemption	: 0%
2017 Taxes		2018 Taxes	
Summer	: \$3,574.16	Summer	: \$3,632.01
Winter	: \$781.04	Winter	: \$818.79
Village	:	Village	:

Lot Information

Description : ROLLING Acres : 12.92

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No property address available



16-03-100-029

Commercial and Industrial Property Profile

Note: Please be advised the data included in Property Gateway originates from multiple local municipalities. Data, in regard to properties, may be classified and updated differently by municipalities. If you have any questions, please contact the local community where the data originated.

Owner Information

Owner(s) : MILFORD HILLS PROPERTIES INC
Mailing Address : 1042 N MILFORD RD MILFORD MI 48381-5107

Location Information

Site Address : No property address available
PIN : 16-03-100-029 Neighborhood Code : CVL
Municipality : Charter Township of Milford
School District : 140 HURON VALLEY
Use : 202 BUS VAC (Commercial Business Vac.)
Water Indicator : N Sewer Indicator : N
Well Indicator : N Septic Indicator : N

Property Description

T2N, R7E, SEC 3 PART OF N 1/2 OF SEC BEG AT PT DIST S 87-54-30 E 1321.20 FT FROM W 1/4 COR, TH N 01-07-30 E 869.37 FT, TH S 74-37-37 E 582.98 FT, TH ALG CURVE CONCAVE ELY, RAD 300.00 FT, CHORD BEARS S 08-14-55 W 74.41 FT, DIST OF 74.60 FT, TH S 01-07-30 W 639.02 FT, TH S 89-46-58 W 555.96 FT TO BEG 10.05 A

Split/Combination Information

Added Status : Added Parcel
Added Date : 11/13/1979 Added To : FROM 16-03-100-011

Most Recent Sale Since 1994

Date : 10/11/2016
Amount : \$450,000 Liber : 49951:458
Grantor : TALMER BANK TR Grantee : MILFORD HILLS PROPINC

Next Most Recent Sale

Date : 03/30/2015
Amount : \$1 Liber : 49469:558
Grantor : EUG Grantee : TALMER BANK TR

Tax Information

Taxable Value : \$71,760 State Equalized Value : \$72,230
Current Assessed Value : \$72,230 Capped Value : \$71,760
Effective Date For Taxes : 12/01/2018 Principal Residence Exemption : 0%
2017 Taxes **2018 Taxes**
Summer : \$2,779.93 Summer : \$2,824.99
Winter : \$607.48 Winter : \$636.88
Village : Village :

Lot Information

Description : ROLLING Acres : 10.05

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SUBDIVISION DEVELOPMENT ANALYSIS

Development, Absorption and Cash Flow Schedule - Milford Hills Properties, LLC - As Zoned

	quarter	1	2	3	4	5
quarter-begin		Jan-18	Apr-18	Jul-18	Oct-18	Jan-19
quarter-end		Mar-18	Jun-18	Sep-18	Dec-18	Mar-19
Trailing inventory (# Lots)		0.00	0.00	22.00	19.00	16.00
<u>Inventory and sell-off (SFR lots):</u>						
beginning inventory of units		0.00	0.00	22.00	19.00	16.00
addition to inventory		0.00	0.00	0.00	0.00	0.00
projected quarterly sales		0.00	0.00	3.00	3.00	3.00
ending inventory of units		0.00	0.00	19.00	16.00	13.00
Average Market Value (\$/unit)	3.00%	\$675,000	\$675,000	\$675,000	\$675,000	\$695,250
Average Vertical Cost (\$/unit)	3.00%	\$400,000	\$400,000	\$400,000	\$400,000	\$412,000
<u>Net sale proceeds:</u>						
Residential sales proceeds		\$0	\$0	\$2,025,000	\$2,025,000	\$2,085,750
Property taxes/Insurance		(10,703)	(10,703)	(10,703)	(9,244)	(8,018)
Infrastructure improvements		(4,420,000)	(550,000)	0	0	0
Vertical improvements		0	0	(1,200,000)	(1,200,000)	(1,236,000)
Sale commissions	4.80%	0	0	(97,200)	(97,200)	(100,116)
Marketing/legal/admin.	1.61%	0	0	(32,603)	(32,603)	(33,581)
Cash flow (no profit deduction)		(\$4,430,703)	(\$560,703)	\$684,494	\$685,954	\$708,036
Cash flow, profit deduction of	10%	(\$4,430,703)	(\$560,703)	\$500,403	\$501,863	\$518,422
Cash flow, profit deduction of	15%	(\$4,430,703)	(\$560,703)	\$420,364	\$421,823	\$435,981
Cash flow, profit deduction of	20%	(\$4,430,703)	(\$560,703)	\$346,994	\$348,454	\$360,411
total forecasted quarterly absorption		0.00	0.00	3.00	3.00	3.00
implied monthly absorption		0.00	0.00	1.00	1.00	1.00
implied annual absorption		0.00	0.00	12.00	12.00	12.00

SUBDIVISION DEVELOPMENT ANALYSIS

Development, Absorption and Cash Flow Schedule - Milford Hills Properties, LLC - As Zoned

	quarter	6	7	8	9	10
quarter-begin		Apr-19	Jul-19	Oct-19	Jan-20	Apr-20
quarter-end		Jun-19	Sep-19	Dec-19	Mar-20	Jun-20
Trailing inventory (# Lots)		13.00	10.00	7.00	4.00	1.00
<u>Inventory and sell-off (SFR lots):</u>						
beginning inventory of units		13.00	10.00	7.00	4.00	1.00
addition to inventory		0.00	0.00	0.00	0.00	0.00
projected quarterly sales		3.00	3.00	3.00	3.00	1.00
ending inventory of units		10.00	7.00	4.00	1.00	0.00
Average Market Value (\$/unit)	3.00%	\$695,250	\$695,250	\$695,250	\$716,108	\$716,108
Average Vertical Cost (\$/unit)	3.00%	\$412,000	\$412,000	\$412,000	\$424,360	\$424,360
<u>Net sale proceeds:</u>						
Residential sales proceeds		\$2,085,750	\$2,085,750	\$2,085,750	\$2,148,323	\$716,108
Property taxes/Insurance		(6,514)	(5,011)	(3,508)	(2,065)	(516)
Infrastructure improvements		0	0	0	0	0
Vertical improvements		(1,236,000)	(1,236,000)	(1,236,000)	(1,273,080)	(424,360)
Sale commissions	4.80%	(100,116)	(100,116)	(100,116)	(103,119)	(34,373)
Marketing/legal/admin.	1.61%	(33,581)	(33,581)	(33,581)	(34,588)	(11,529)
Cash flow (no profit deduction)		\$709,539	\$711,042	\$712,546	\$735,470	\$245,329
Cash flow, profit deduction of	10%	\$519,925	\$521,429	\$522,932	\$540,168	\$180,228
Cash flow, profit deduction of	15%	\$437,485	\$438,988	\$440,491	\$455,254	\$151,924
Cash flow, profit deduction of	20%	\$361,914	\$363,417	\$364,921	\$377,417	\$125,978
total forecasted quarterly absorption		3.00	3.00	3.00	3.00	1.00
implied monthly absorption		1.00	1.00	1.00	1.00	0.33
implied annual absorption		12.00	12.00	12.00	12.00	4.00

EXHIBIT K

<p style="text-align: center;">Page 1</p> <p style="text-align: center;">STATE OF MICHIGAN IN THE 6TH CIRCUIT COURT FOR THE COUNTY OF OAKLAND</p> <p>MILFORD HILLS PROPERTIES, INC., a Michigan Corporation, and RPL of MICHIGAN, INC., a Michigan Corporation, Plaintiffs, -vs- CHARTER TOWNSHIP OF MILFORD, a Michigan charter township, Defendant.</p> <p style="text-align: right;">Case No. 2017-162642-CZ Hon. D. Langford Morris</p> <p>-----/</p> <p>DEPONENT: DONALD DOUGLAS GREEN</p> <p>DATE: Monday, September 17, 2018 TIME: 12:57 p.m. LOCATION: O'Connor, DeGrazia, Tamm & O'Connor, P.C. 40701 Woodward Avenue, Suite 105 Bloomfield Hills, Michigan</p> <p>REPORTER: John J. Slatin, RPR, CSR-5180 Certified Shorthand Reporter</p> <p>(Appearances listed on page 2)</p>	<p style="text-align: center;">Page 3</p> <p>APPEARANCES CONTINUED:</p> <p>RICHARD V. STOKAN, JR. (P61997) O'Connor, DeGrazia, Tamm & O'Connor, P.C. 40701 Woodward Avenue, Suite 105 Bloomfield Hills, Michigan 48304 (248) 433-2000 rvstokan1@tdtlegal.com Appearing on behalf of the Defendant.</p>																								
<p style="text-align: center;">Page 2</p> <p>APPEARANCES:</p> <p>PAUL E. BURNS (P31596) Law Office of Paul E. Burns 113 West Grand River Avenue Brighton, Michigan 48116 (810) 227-5000 burns@peblaw.net Appearing on behalf of the Plaintiffs.</p> <p>FREDERICK LUCAS (P29074) Lucas Law, P.C. 7577 US Highway 12, Suite A Onsted, Michigan 49265 (517) 467-4000 lucas@lucaslawpc.com Appearing on behalf of the Plaintiffs.</p> <p>(Appearances continued on page 3)</p>	<p style="text-align: center;">Page 4</p> <p>TABLE OF CONTENTS</p> <table border="0"> <thead> <tr> <th style="text-align: left;">WITNESS</th> <th style="text-align: right;">PAGE</th> </tr> </thead> <tbody> <tr> <td>DONALD DOUGLAS GREEN</td> <td></td> </tr> <tr> <td>Examination by Mr. Burns</td> <td style="text-align: right;">6</td> </tr> <tr> <td>Examination by Mr. Stokan</td> <td style="text-align: right;">100</td> </tr> <tr> <td>Re-Examination by Mr. Burns</td> <td style="text-align: right;">101</td> </tr> </tbody> </table> <table border="0"> <thead> <tr> <th style="text-align: left;">EXHIBITS (Attached):</th> <th style="text-align: right;">IDENTIFIED</th> </tr> </thead> <tbody> <tr> <td>Exhibit 1 Zoning District Map, Belle Terre of Milford</td> <td style="text-align: right;">11</td> </tr> <tr> <td>Exhibit 2 Agreement to Assume Responsibility for Operation of Community Sewer System</td> <td style="text-align: right;">32</td> </tr> <tr> <td>Exhibit 3 Working/Development Agreement for Operation of Community Sewer System</td> <td style="text-align: right;">35</td> </tr> <tr> <td>Exhibit 4 E-mail documents</td> <td style="text-align: right;">59</td> </tr> <tr> <td>Exhibit 5 Photograph</td> <td style="text-align: right;">69</td> </tr> <tr> <td>Exhibit 6 Photograph</td> <td style="text-align: right;">71</td> </tr> </tbody> </table> <p>(Exhibits continued on page 5)</p>	WITNESS	PAGE	DONALD DOUGLAS GREEN		Examination by Mr. Burns	6	Examination by Mr. Stokan	100	Re-Examination by Mr. Burns	101	EXHIBITS (Attached):	IDENTIFIED	Exhibit 1 Zoning District Map, Belle Terre of Milford	11	Exhibit 2 Agreement to Assume Responsibility for Operation of Community Sewer System	32	Exhibit 3 Working/Development Agreement for Operation of Community Sewer System	35	Exhibit 4 E-mail documents	59	Exhibit 5 Photograph	69	Exhibit 6 Photograph	71
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Page 5	Page 7
<p>1 EXHIBITS (Continued): IDENTIFIED</p> <p>2</p> <p>3 Exhibit 7 E-mail string from Green 75</p> <p>4 dated 6-1-17</p> <p>5 Exhibit 8 Letter from Caterino, P.E., 77</p> <p>6 dated 5-20-04 with</p> <p>7 attachments</p> <p>8 Exhibit 9 Milford Township Future 82</p> <p>9 Land Use Map</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 Then we have a brown box, which -- from the Ridge</p> <p>2 Valley development. It has the original construction</p> <p>3 documents, Heritage Place, American House Senior</p> <p>4 Housing, townhomes, office building and site plans.</p> <p>5 MR. BURNS: Are those all Township records?</p> <p>6 MR. STOKAN: These are all original Township</p> <p>7 records.</p> <p>8 MR. BURNS: All right. And a binder? What's the</p> <p>9 binder?</p> <p>10 MR. STOKAN: We have a binder with Mr. Green's</p> <p>11 e-mail correspondence, which also has other attachments,</p> <p>12 site plans and other things that were submitted.</p> <p>13 Attachments to the e-mails are contained in the binder.</p> <p>14 MR. BURNS: As you said, off the record, they're</p> <p>15 not in chronological order?</p> <p>16 MR. STOKAN: They are unfortunately not in</p> <p>17 chronological order. Several of the e-mails were chain</p> <p>18 e-mails, so it was hard to put them in order. But they</p> <p>19 are Bates-stamped. The whole binder is Bates-stamped.</p> <p>20 MR. BURNS: Oh, it is? Okay.</p> <p>21 MR. STOKAN: Yes.</p> <p>22 BY MR. BURNS:</p> <p>23 Q. All right. Mr. Green, as you know, I'm -- Fred and I</p> <p>24 are the attorneys for Mr. LeDuc and his development</p> <p>25 corporations, and we've known each other for a while.</p>
<p>1 Monday, September 17, 2018</p> <p>2 Bloomfield Hills, Michigan</p> <p>3 12:57 p.m.</p> <p>4 * * *</p> <p>5 DONALD DOUGLAS GREEN,</p> <p>6 having been first duly sworn, was examined and testified</p> <p>7 as follows:</p> <p>8 EXAMINATION</p> <p>9 BY MR. BURNS:</p> <p>10 Q. Good afternoon, Mr. Green.</p> <p>11 A. How are you doing?</p> <p>12 Q. Good.</p> <p>13 MR. BURNS: Let the record reflect that this is a</p> <p>14 deposition, taken for all purposes authorized under the</p> <p>15 Michigan Court Rules and the Judicature Act by</p> <p>16 agreement, scheduled duces tecum.</p> <p>17 So, doing a housekeeping thing, we're going to</p> <p>18 start off with what -- what is it that you brought in</p> <p>19 response to the duces tecum?</p> <p>20 Would you just put on the record, Richard?</p> <p>21 MR. STOKAN: We have two -- we have a folder, which</p> <p>22 contains the Belle Terre Estates, Milford Property,</p> <p>23 Inc., file. It has all of the site plans and packets</p> <p>24 submitted by Plaintiff and Mr. LeDuc, and I believe it</p> <p>25 may have some correspondence in there.</p>	<p>1 Do you mind if I call you Don?</p> <p>2 A. That's fine.</p> <p>3 Q. All right. And I assume you've been deposed before?</p> <p>4 A. Once.</p> <p>5 Q. And when was that?</p> <p>6 A. Sixteen years ago.</p> <p>7 Q. And in conjunction with a lawsuit?</p> <p>8 A. Labor.</p> <p>9 Q. Labor --</p> <p>10 A. Labor lawsuit.</p> <p>11 Q. Okay. Involving the Township or --</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And so what kind of a case was that?</p> <p>14 You said "labor."</p> <p>15 A. Somebody got fired.</p> <p>16 Q. Was it a wrongful discharge case --</p> <p>17 A. That's what it ended up as being, age discrimination.</p> <p>18 Q. All right. So, you understand that when we take</p> <p>19 depositions, you have to answer audibly. The court</p> <p>20 reporter has to pick it up; right?</p> <p>21 And so if you don't understand the question, let me</p> <p>22 know. I'll rephrase the question. Of course, if you</p> <p>23 need a break, you're entitled to a break.</p> <p>24 A. Raise my hand?</p> <p>25 Q. Raise your hand, ask your lawyer.</p>

<p style="text-align: right;">Page 9</p> <p>1 MR. LUCAS: Either that or start fidgeting really 2 bad. 3 A. Yeah. 4 BY MR. BURNS: 5 Q. Start fidgeting. Let us know, and we will accommodate 6 you; okay? 7 A. Okay. 8 Q. Could you briefly explain to me your educational 9 background. 10 Where did you go to high school? 11 A. High school, Mackenzie and Cooley in Detroit. GED 12 through the U.S. Coast Guard. Trade school through the 13 Coast Guard. Trade school after and college. 14 Q. Okay. 15 A. Some college. 16 Q. So, when did you get your GED? 17 A. In 1969. 18 Q. And you said "trade school." 19 So, is there a trade that you're adept at? 20 A. Well, I'm -- in the military, I was an engine man, in 21 law enforcement, and I'm -- right now, I'm a licensed 22 plumber, journeyman plumber. 23 Q. Okay. And how long have you been a journeyman plumber? 24 A. Twenty-five years. 25 Q. Are you self-employed, or do you work for somebody else?</p>	<p style="text-align: right;">Page 11</p> <p>1 what is your employment with the Township? 2 A. I'm the township supervisor. 3 Q. And how long have you been the township supervisor? 4 A. Eighteen years. 5 Q. So, the year 2000? Is that when you -- 6 A. Yes. 7 Q. Before that, were you a trustee? 8 A. Yes. 9 Q. And so when were you first a trustee for the Township? 10 A. 1996 until 2000. 11 Q. All right. And the trustee was a part-time position? 12 A. One day -- one evening a month, part-time. 13 Q. And in 2000, when you got elected supervisor, correct, 14 it became a full-time position? 15 A. Yes. 16 Q. And you've been employed ever since -- 17 A. Yes. 18 Q. -- 2000 as full-time township supervisor; correct? 19 A. Correct. 20 Q. Okay. How many terms have you been elected? 21 A. Five. 22 Q. And when is your next term up? 23 When is this term up? 24 A. 2020. 25 Q. When everybody else is up?</p>
<p style="text-align: right;">Page 10</p> <p>1 A. I work for Milford Township. 2 Q. As a plumber? 3 A. No. 4 Q. Okay. So, as a plumber, do you work for anybody? 5 A. No. 6 Q. Okay. When was the last time you worked as a plumber? 7 I mean, full-time as a plumber, part-time as a 8 plumber? 9 A. Last time I worked full-time as a plumber would have 10 been in 2000. 11 Q. Okay. So, your principal employment is working for the 12 Township; is that correct? 13 A. Yes. 14 Q. All right. And prior to that -- before that, was your 15 principal employment working as a plumber or -- 16 A. Yes. 17 Q. -- in the trades? 18 All right. How old are you? 19 A. Sixty-nine. I'll be 70 in two and a half months. 20 Q. All right. And how long have you lived in the Township? 21 A. Since 1981. 22 Q. All right. And did you move from Detroit out to the 23 Township? 24 A. Yes. 25 Q. Okay. And can you tell me, in terms of your employment,</p>	<p style="text-align: right;">Page 12</p> <p>1 A. Yes. 2 Q. Is the whole board up in 2020? 3 A. Yes. 4 Q. Okay. All right. And so you understand that we're here 5 for the Belle Terre development; correct? 6 A. Correct. 7 Q. And how long have you known Mr. LeDuc? 8 A. Since about 2001 or '02. 9 Q. All right. So, pretty much right when you started as 10 supervisor you knew -- 11 A. Yes. 12 Q. And in what capacity did you meet Mr. LeDuc? 13 A. I believe he was coming in for development. 14 Q. All right. 15 A. Which would have been Bridge Valley at the time. 16 Q. Bridge Valley? 17 A. Correct. 18 Q. Which we had a conversation off the record. 19 It subsequently became Ridge Valley; correct? 20 A. Correct. 21 Q. So, Bridge Valley, to your knowledge, was that the first 22 development that he started in Milford Township? 23 A. Yes. 24 Q. And where is that located? 25 A. East side of Milford Road, just north of the Village</p>



The Power of Commitment™

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1 limits.
2 Q. Okay. So, let's get a map out here so we can -- so to
3 your knowledge -- I don't know if this is going to work
4 or not.
5 MR. BURNS: You don't have an easel, do you?
6 MR. STOKAN: Let me ask. I was just thinking that.
7 (Short recess at 1:05 p.m.)
8 * * *
9 (Record resumed at 1:07 p.m.)
10 (Deposition Exhibit 1 marked
11 for identification.)
12 BY MR. BURNS:
13 Q. Mr. Green, we've got -- we marked Exhibit Number 1,
14 which is an existing zoning map of Milford Township.
15 Can you see it from where you're at?
16 A. Yes.
17 Q. All right. So, we're talking Ridge Valley.
18 Can you tell me where that's located at?
19 A. **It's where it says "Milford Road 3." Napa Valley,**
20 **Yosemite and Yellowstone are Ridge Valley.**
21 Q. All right. And what type of development is that?
22 A. **It's townhouses, villas, single-family homes, and a**
23 **131-unit apartment building.**
24 Q. And were you supervisor at the time of that approval?
25 A. Yes.

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1 Q. And is that property surrounded by property owned or
2 regulated by the Village?
3 A. **Its southern boundary is with the Village. The other**
4 **property is all Milford Township.**
5 Q. So, the southern boundary is the Village and everything
6 else is Milford Township; correct?
7 A. Yes.
8 Q. To the north; correct?
9 A. **Right. Correct.**
10 Q. All right. And the property located in the yellow,
11 where it says "R-1," that's the Belle Terre property?
12 A. **That should be "R-1-S."**
13 Q. "R-1-S."
14 Standing for what?
15 A. **Rural residential, acre and a half minimum, or suburban**
16 **residential, acre and a half minimum.**
17 Q. All right. In preparation for your testimony today,
18 what did you review?
19 A. **A couple of letters and a site plan.**
20 Q. What letters did you review?
21 A. **I reviewed the one from Mr. LeDuc, with a summary of his**
22 **deposition. That's about it.**
23 MR. BURNS: Is that a summary from you?
24 MR. STOKAN: That's my -- that's a summary from my
25 office.

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1 MR. BURNS: Okay. All right.
2 MR. STOKAN: That my office's summary.
3 A. **Right.**
4 BY MR. BURNS:
5 Q. All right. Anything else that you reviewed?
6 A. **No.**
7 Q. All right. So, back to Mr. LeDuc.
8 So, you've known him since the early 2000s; is that
9 correct?
10 A. **Yes.**
11 Q. All right. And when he did -- originally it was called
12 Bridge Valley; correct?
13 A. **Correct.**
14 Q. And it subsequently became Ridge Valley; correct?
15 A. **Correct.**
16 Q. All right.
17 MR. LUCAS: Let me stop you for one second.
18 (Discussion held off the record.)
19 BY MR. BURNS:
20 Q. All right. At the time that Bridge Valley was at its
21 inception in early 1999, 2000, do you recall
22 conversations regarding sewers and annexation?
23 A. **Sewer was discussed and 425 rather than annexation.**
24 Q. Okay. So, Mr. LeDuc's then Bridge Valley property was
25 located in the Township; correct?

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1 A. **Correct.**
2 Q. Adjacent to the Village?
3 A. **Correct.**
4 Q. Okay. And the Village had sewer?
5 A. **Correct.**
6 Q. And did the Village have water?
7 A. **Correct.**
8 Q. And did the Township have sewer?
9 A. **No.**
10 Q. And did the Township have water?
11 A. **Not in that location, no.**
12 Q. Not in that location.
13 How many sewer plants are there in the Township?
14 A. **Three, I believe.**
15 Q. All right. So, there's the one that was put in by
16 Mr. LeDuc; correct?
17 A. **Correct.**
18 Q. And the other two are where?
19 A. **Well, there's three more. One is brand-new.**
20 **One is to the north of Mr. LeDuc's property up**
21 **there on Olivia Drive, which is on the north boundary of**
22 **Milford Township. There's one at Maple Lake, off of**
23 **Milford Road, and there's one at Duck Lake Road and**
24 **Commerce Road.**
25 Q. Are any of those operated by the Township?

Page 17	Page 19
<p>1 A. Mr. LeDuc's is operated by the Township. And -- well, 2 we have a sewer line on the south end of the Township, 3 too, and that's operated by Highland Treatment. 4 Q. Okay. But I'm trying to get at public versus private 5 sewer. 6 Is the -- the Village's plant and water, is it 7 public, operated by the Village? 8 A. Correct. 9 Q. And currently the -- let's call it the LeDuc plant is 10 operated by the Township; correct? 11 A. Correct. 12 Q. So, it's a public plant; correct? 13 Publicly run? 14 A. Yes. 15 MR. BURNS: Okay. So -- 16 (Discussion held off the record.) 17 BY MR. BURNS: 18 Q. So, does currently the Township own the sewer plant 19 constructed by Mr. LeDuc and his companies? 20 A. No. 21 Q. Who owns it? 22 A. I believe Mr. LeDuc. 23 Q. You believe Mr. LeDuc owns it? 24 A. (Nods head.) 25 THE REPORTER: I'm sorry. Is that "yes"?</p>	<p>1 Q. And pays the bills for the plant? 2 A. Yes. 3 Q. And is that also true for the water? 4 A. No. 5 Q. The water is privately held; is that correct? 6 A. Correct. 7 Q. And that's owned by Mr. LeDuc? 8 A. Yes. 9 Q. Or one of his companies; correct? 10 A. Yes. 11 Q. All right. Now, the Village water and sewer, is it 12 owned by the Village? 13 A. Yes. 14 Q. And are both water and sewers owned by the Village? 15 A. Yes. 16 Q. All right. And who is the operator of that plant? 17 A. Village DPS. 18 Q. Okay. So, it's operated by their own public service 19 department? 20 A. Yes. 21 Q. All right. So, back in 2000, when Mr. LeDuc was doing 22 the Ridge Valley development, it was -- I understand 23 there were legalistics about it, but the closest system 24 to his property would be to connect to the Village water 25 and sewer; is that true?</p>
Page 18	Page 20
<p>1 A. Yes. 2 BY MR. BURNS: 3 Q. Or do you know? 4 What's your understanding of how that Milford 5 Township plant -- who's the operator? 6 A. Milford Township is the operator under a special 7 assessment district to pay for maintenance, replacement, 8 repair of the sewer plant, building all the individual 9 lots in the Ridge/Bridge, Ridge Valley development on an 10 annual basis for a ten-year period. 11 Q. And for the record -- for the record, to avoid 12 confusion, let's just call it Ridge Valley from here on 13 out. 14 A. Okay. 15 Q. So we're not doing that. 16 But -- so, the Township implemented a special 17 assessment district? 18 A. Yes. 19 Q. And spread the role on the property owners within the 20 district; correct? 21 A. Yes. 22 Q. And the Township collects the special assessment 23 payments and puts them in the Township's special 24 assessment fund; correct? 25 A. Yes.</p>	<p>1 A. Yes. 2 Q. Because it was adjacent to it; correct? 3 A. Yes. 4 Q. All right. So, you said that there were negotiations 5 involving a 425 agreement; is that correct? 6 A. A short negotiation. 7 Q. All right. Explain to me what your understanding of a 8 425 agreement is and what happened back in 2000. 9 A. A 425 agreement is a tax share with another municipality 10 for service supplied. 11 There was one meeting between me and 12 Arthur Shufflebarger, who was the village manager at the 13 time. And he said "Now we'll become a city" basically, 14 and I said "Talks are over." 15 Q. So, the options back in 2000, at the beginning of Ridge 16 Valley, were that theoretically Mr. LeDuc or his 17 companies could have received public water and sewer 18 from the Village; correct? 19 A. If the Township had agreed to it. 20 Q. If there was an appropriate agreement in place; correct? 21 A. Correct. 22 Q. And was the Township at that time or were you, as 23 supervisor, concerned about the prospect of annexation? 24 A. No. 25 Q. You were not concerned about it?</p>

<p style="text-align: right;">Page 21</p> <p>1 A. No.</p> <p>2 Q. Was there discussion about annexation to the Village?</p> <p>3 A. No.</p> <p>4 Q. Then why was a 425 discussed?</p> <p>5 A. That would be the only way we would be able to get the</p> <p>6 sewer system, because --</p> <p>7 Q. I mean --</p> <p>8 A. The Village ordinance says if they extend water and</p> <p>9 sewer, then annexation is the key unless you come up</p> <p>10 with a 425, which is a tax-sharing agreement.</p> <p>11 Q. The Village ordinance.</p> <p>12 A. Right.</p> <p>13 Q. Not the Township ordinance.</p> <p>14 A. Correct.</p> <p>15 Q. All right. So, you're saying that, at the time, in the</p> <p>16 year 2000, that if Mr. LeDuc wanted water -- public</p> <p>17 water and sewer from the Village, the options under</p> <p>18 the -- your understanding under the Village ordinances</p> <p>19 were either had his property annexed; correct?</p> <p>20 A. Correct.</p> <p>21 Q. Or he did a 425 agreement between the Township of</p> <p>22 Milford and the Village of Milford; correct?</p> <p>23 A. Correct.</p> <p>24 Q. And so were you authorized by the board to attempt to</p> <p>25 engage in the negotiation of a 425 agreement?</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. And why were you against that?</p> <p>2 A. Township government is the least intrusive form of</p> <p>3 government, and city is just too much government.</p> <p>4 Q. All right. So, you're just generally against becoming a</p> <p>5 city? You like the township form of government?</p> <p>6 A. Yes.</p> <p>7 Q. And so it fell apart.</p> <p>8 And did it fall apart in the early 2000s. Is that</p> <p>9 what happened?</p> <p>10 A. Yes.</p> <p>11 Q. Do you recall whether anybody drafted a 425 agreement.</p> <p>12 Did you have legal counsel do that?</p> <p>13 A. No.</p> <p>14 Q. All right. So, what happened next? What -- how did you</p> <p>15 move to resolve the issue of sewer for Mr. LeDuc's Ridge</p> <p>16 Valley property?</p> <p>17 A. He would have to build his own wastewater plant.</p> <p>18 Q. All right. And did you support him building his own</p> <p>19 wastewater treatment plant?</p> <p>20 A. Yes.</p> <p>21 Q. All right. So, instead of him essentially paying</p> <p>22 connection fees and connecting to the Village, the next</p> <p>23 plan was to have Mr. LeDuc build a plant; is that</p> <p>24 correct?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 22</p> <p>1 A. Yes.</p> <p>2 Q. And Arthur Shuffeburger(ph) was the --</p> <p>3 A. "-barger."</p> <p>4 Q. "-barger."</p> <p>5 He was the Village manager at the time?</p> <p>6 A. Correct. Yes.</p> <p>7 Q. And was he authorized to --</p> <p>8 A. Yes.</p> <p>9 Q. All right. And so you said there was a short</p> <p>10 negotiation which fell apart?</p> <p>11 A. Yes.</p> <p>12 Q. And how did it fall apart?</p> <p>13 A. Mr. Shuffebarger said it would be -- we would be</p> <p>14 becoming a city.</p> <p>15 Q. So, it was your understanding that if public water came</p> <p>16 from the Village onto the LeDuc property, that it would</p> <p>17 become -- all of you would become a city, or who would</p> <p>18 become a city?</p> <p>19 A. Well, that would have been the first step.</p> <p>20 Q. For the two communities together --</p> <p>21 A. Yeah.</p> <p>22 Q. -- to become a city?</p> <p>23 A. Correct.</p> <p>24 Q. And were you against that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. All right. And, in fact, Mr. LeDuc did build a plant;</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. And did you support him constructing both the water and</p> <p>5 a sewer plant?</p> <p>6 A. Yes.</p> <p>7 Q. All right. And did -- did the -- to your knowledge, did</p> <p>8 the Township also request that Mr. LeDuc build a senior</p> <p>9 center?</p> <p>10 A. We didn't request. We said senior housing would be an</p> <p>11 appropriate thing.</p> <p>12 Q. On this property?</p> <p>13 A. On this property. Correct.</p> <p>14 Q. All right. So, this is -- so, this is east of Milford</p> <p>15 Road; correct?</p> <p>16 A. Correct.</p> <p>17 Q. And so do you know what the density is for the senior</p> <p>18 center property that was part of Ridge Valley?</p> <p>19 A. The density at that time was multiple.</p> <p>20 Q. All right. Do you know how many units per acre?</p> <p>21 A. The smallest lot would have been 9,600 square feet.</p> <p>22 Q. Smallest lot.</p> <p>23 But there's actually a senior center there that</p> <p>24 is -- looks like --</p> <p>25 A. The senior center is 131 units, four-story.</p>

Page 25	Page 27
<p>1 Q. Four stories. 2 On how many acres? 3 A. I couldn't tell you the acreage for that complex, no. 4 Q. Does 40 or 45 units per acre sound approximately what 5 that density is on there, on the parcel that's for the 6 senior center? 7 A. I couldn't tell you. 8 Q. I don't want you to guess, but if you know. 9 So, it's essentially an apartment building? 10 A. Yes. 11 Q. And it's how many units again? 12 A. 131. 13 Q. And what's the other components of the Ridge Valley 14 development? 15 A. Single-family housing, townhouses and villas. 16 Q. And what are the -- 17 A. And an office. 18 Q. And what are the size of the lots for each of those 19 uses; if you know? 20 A. I don't know. 21 Q. Do you know the frontage of the lots in there, how wide 22 the lots are on some of the units? 23 A. No. 24 Q. All right. Was that developed as a PUD? 25 A. No.</p>	<p>1 an NPDES permit to the Department of Environmental 2 Quality for the State of Michigan; correct? 3 A. Yes. 4 Q. And do you recall there being discussion about the 5 sizing of the plant? 6 A. Yes. 7 Q. And do you recall Mr. LeDuc's engineers being Boss 8 Engineers, sizing the plant for those uses at 50,000 9 gallons per day? 10 A. Yes. 11 Q. Okay. And do you recall that the Township -- at the 12 time the Township's engineers were Hubbell -- we call 13 them Hubbell, Bubble and Trouble. 14 A. I know. 15 Q. But Hubbell, Roth & Clark; correct? 16 A. Correct. 17 Q. And they, in fact, did a review of the development, and 18 they recommended 70,000 gallons a day? 19 A. Correct. 20 Q. Is that your understanding -- 21 A. Yes. 22 Q. -- of what happened? 23 And so there was -- let's call it a friendly 24 dispute between the engineers as to the sizing of the 25 plant for these uses on the Ridge Valley development; is</p>
Page 26	Page 28
<p>1 Q. Did the Township rezone each of the individual parcels? 2 A. No. It was zoned multiple. 3 Q. The whole parcel was zoned -- all of Mr. LeDuc's 4 property -- 5 A. I believe so. 6 Q. -- was zoned multiple? 7 And it was site -- so, was it rezoned to multiple 8 or did it start out originally as multiple? 9 A. Started out as multiple. 10 Q. And so it got site planned for all of these three or 11 four different uses; is that correct? 12 A. Yes. 13 Q. Two or three different types of housing uses; correct? 14 A. Yes. 15 Q. Essentially a senior apartment building; correct? 16 A. And an office. 17 Q. And an office. 18 And is it a fair statement to say that the Township 19 wanted the senior facility in the Township? 20 A. Yes. 21 Q. And were you a proponent of the Township being -- having 22 the senior center? 23 A. Yes. 24 Q. All right. So, there came a time when there needed to 25 be an application for the construction of what we call</p>	<p>1 that correct? 2 A. Yes. 3 Q. And the engineers for Mr. LeDuc contended that the size 4 of the plant would be for 50,000 gallons a day; correct? 5 A. Correct. 6 Q. And the Township's engineers contended that the capacity 7 for the plant would be 70,000 gallons a day? 8 A. Correct. 9 Q. Initially, you signed an application on behalf of the 10 Township for the 50,000-gallon-a-day plant; is that 11 correct? 12 A. Correct. 13 Q. That was your job as supervisor. 14 It was a requirement of the Michigan Department of 15 Environmental Quality that you signed the application; 16 correct? 17 A. Yes. 18 Q. And that was to be, at that time, a private plant; 19 correct? 20 A. Correct. 21 Q. Did you have any understanding at the time how much it 22 would cost to build that plant? 23 A. No. 24 Q. Do you have any understanding today how much it did cost 25 to build that plant?</p>



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1 **A. No.**
2 **Q.** All right. So, this is all occurring in the early
3 2000s; is that correct? Roughly 2002?
4 **A. Correct.**
5 **Q.** All right. And by the way, I'm going to give you these
6 uses.
7 115 one-bedroom senior citizens apartments; is that
8 correct? Sound right?
9 **A. Yes.**
10 **Q.** Twenty-three two-bedroom senior citizens apartments?
11 **A. Yes.**
12 **Q.** Forty-four two-bedroom single-family townhouse units;
13 correct?
14 **A. Yes.**
15 **Q.** Fifty-two four-bedroom single-family homes.
16 Does that sound correct?
17 **A. No.**
18 **Q.** How many?
19 **A. Eighty-six.**
20 **Q.** Eighty-six and -- oh, I'm sorry.
21 There's 35 -- there's 52 four-bedroom and 35
22 three-bedroom single-family homes.
23 **A. Oh, okay.**
24 **Q.** So, that would be your -- this says "87."
25 **A. Yeah. Okay. Yes.**

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1 **Q.** Eighty-seven or eighty, something like that; right?
2 Do you know on what size parcel that was all
3 located on?
4 **A. No.**
5 **Q.** Do you know what the Township considered to be an REU,
6 the gallonage for an REU in 2002?
7 **A. 315 gallons per day.**
8 **Q.** Does the Township consider an REU today at 315 gallons
9 per day?
10 **A. Yes.**
11 **Q.** Do you know what the DEQ's requirements for an REU is
12 per day for design purposes?
13 **A. No.**
14 **Q.** Did you know in 2002?
15 **A. No.**
16 **Q.** Do you know today?
17 **A. No.**
18 **Q.** Do you know what design capacity that your township used
19 for calculating the 70,000 gallons for the Ridge Valley
20 sewer plant in 2002?
21 Do you know what the flow per day they were using
22 per unit?
23 **A. 315 gallons per day.**
24 **Q.** 315.
25 Is the 315 -- you say that's the same REU that is

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1 used by the Township today?
2 **A. Yes.**
3 **Q.** Is that by ordinance?
4 Has that been adopted by ordinance?
5 **A. I believe it is in our sewer ordinance, yes.**
6 **Q.** And do you know what the actual usage of the plant is
7 per day?
8 **A. No.**
9 **Q.** You don't know what the flow is? The actual flow?
10 **A. No.**
11 **Q.** So, there came a time when -- so the dispute between the
12 Township's engineers and the developer's engineer --
13 there came a time when it was time to apply for a
14 70,000-gallon-per-unit permit; is that correct?
15 **A. Yes.**
16 **Q.** And did you sign that permit?
17 **A. Yes.**
18 **Q.** All right. And there was an agreement reached at that
19 time, was there not, between the Township and
20 Mr. LeDuc's development companies?
21 **A. Yes.**
22 **Q.** And what was the -- do you know the name of that -- that
23 agreement?
24 It was called a working agreement?
25 **A. The agreement that I signed was for the Township to**

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1 **assume --**
2 **Q.** Assume responsibility for the --
3 **A. Yeah.**
4 **Q.** And why did that happen?
5 **A. DEQ requires it.**
6 **Q.** Did it cause -- did the agreement, to your
7 understanding, cause the Township to immediately take
8 responsibility for the plant?
9 **A. No.**
10 **(Deposition Exhibit 2 marked**
11 **for identification.)**
12 **BY MR. BURNS:**
13 **Q.** So, let me show you what's been marked as Exhibit
14 Number 2.
15 And is that a copy of the agreement to take
16 responsibility?
17 **A. Yes.**
18 **Q.** Is that your signature -- a copy of your signature on
19 that document?
20 **MR. LUCAS:** On page 11.
21 **A. I don't have a signature on this page. It's Holly**
22 **Brandt.**
23 **MR. LUCAS:** Oh, I'm sorry. Go down one more page,
24 12.
25 **BY MR. BURNS:**



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1 Q. 12.
2 A. Yes.
3 Q. All right. So, just -- I assume the original is in the
4 Township file, or do you know?
5 A. Yes.
6 Q. Okay. And so did you, in fact, sign this?
7 A. Yes.
8 Q. And did the Township Board approve it in March of 2003?
9 A. Yes.
10 Q. Okay. So you signed this as authorized by the Township
11 Board?
12 A. Yes.
13 Q. And do you know who drafted this document?
14 A. I believe Ray LeDuc did.
15 Q. You believe Mr. LeDuc did?
16 A. Right.
17 Q. Was the Township attorney involved in this?
18 A. Yes.
19 Q. And who was the Township attorney at the time?
20 A. Let me look at that again.
21 I might be able to -- I don't know for sure, but it
22 could be done by Hubbell, Roth & Clark.
23 Q. So, it would have been Tom Connelley's office? Was
24 Connelley --
25 A. They would have gone over it, yeah.

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1 Q. All right. So, it was reviewed by the Township
2 attorneys?
3 A. Yes. Yes.
4 Q. Which -- at the time, was it Tom --
5 A. John Crowley.
6 Q. John Crowley of Connelley, Crowley, Groth --
7 A. Groth and Seglund.
8 Q. -- and Seglund.
9 That firm; correct?
10 A. Yes.
11 Q. They were long-time Township attorneys, were they not?
12 A. Yes.
13 Q. And they were -- I assume they were Township attorneys
14 in 2000, when you first became supervisor?
15 A. Yes.
16 Q. And when did they cease being Township attorneys?
17 A. Eight years ago.
18 Q. Okay. So, at the time that this was executed, you were
19 aware that Mr. LeDuc was either acquiring or attempting
20 to acquire what is now the Belle Terre piece; is
21 that -- a property on the other side of --
22 A. No.
23 Q. You were not aware of that.
24 When did you first become aware that Mr. LeDuc
25 was -- were you aware of the fact that Mr. LeDuc thought

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1 that when -- the application for 70,000-gallon permit,
2 that he thought that he was oversizing the plant at his
3 expense?
4 A. Yes.
5 Q. And were you aware that his intention was to use it on
6 another property that he acquired? The excess capacity?
7 A. Yes.
8 Q. So, what was your understanding of what the purpose of
9 this agreement was?
10 A. The purpose of the agreement was if Mr. LeDuc could not
11 operate the facility or didn't operate the facility, the
12 Township would assume the responsibility and run the
13 facility.
14 (Discussion held off the record.)
15 MR. BURNS: Who has got the Bates stamp --
16 MR. LUCAS: I've got them right here.
17 (Discussion held off the record.)
18 BY MR. BURNS:
19 Q. All right. Back on the record.
20 So, for the purposes of the record, the agreement
21 to assume responsibility that we just went over,
22 Mr. Green, is Bates stamp 065 through 076.
23 (Deposition Exhibit 3 marked
24 for identification.)
25 BY MR. BURNS:

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1 Q. And I'm going to mark Exhibit Number 3, which is the --
2 entitled the "Working/Development Agreement for
3 Operation of Community Sewer System."
4 And I apologize. I've got these in the wrong
5 order; all right?
6 And this is Bates-stamped 62 through 64.
7 So, the Working/Development Agreement -- I'll show
8 you the first page of it.
9 That was the first contract, if you will, executed
10 between the Township and Mr. LeDuc; is that correct?
11 A. Yes.
12 Q. All right. And I'll show you Bates stamp 64.
13 Is that your signature on there?
14 A. Yes.
15 Q. And was that -- this document prepared by the Township
16 attorneys?
17 (Discussion held off the record.)
18 A. I don't know. I think Ray did it.
19 BY MR. BURNS:
20 Q. Do you know, or are you guessing?
21 A. That's a guess.
22 Q. Okay. So, back to the -- at the point that this
23 document, June 5 of 2003, was executed, you were aware
24 of the fact that Mr. LeDuc believed that he was building
25 the system larger than it needed to be for the Ridge



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1 Valley development; correct?
 2 A. Say that again.
 3 Q. That the plant that he was building, at 70,000 gallons
 4 per day, was larger than the capacity that Mr. LeDuc
 5 believed he needed for the Ridge Valley --
 6 A. Yes.
 7 Q. Okay. In fact, he thought it was --
 8 (Discussion held off the record.)
 9 BY MR. BURNS:
 10 Q. -- 20,000 gallons in excess of what was needed for the
 11 original development --
 12 A. Yes.
 13 Q. -- per day; correct?
 14 A. (Nods head.)
 15 THE REPORTER: I'm sorry. Is that "yes"?
 16 A. Yes.
 17 BY MR. BURNS:
 18 Q. All right. So, let me draw your attention to page 2 of
 19 this agreement, Section 2, regarding "Excess Capacity."
 20 Are you following me there?
 21 A. Yes.
 22 Q. All right. And third line down -- and I'll read it out
 23 loud.
 24 "-- developer shall retain all rights to
 25 use excess capacity as determined below for

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1 developer's (or its affiliates) other property
 2 located on the west side of Milford Road
 3 provided developer or that user contributes a
 4 proportional contribution for the operation,
 5 maintenance, repair and replacement of the
 6 community sewer systems only when the excess
 7 capacity is actually used."
 8 Do you see that?
 9 A. Yes.
 10 Q. All right. And the Township agreed to this provision in
 11 this agreement, did it not?
 12 A. Yes.
 13 Q. And this was, as I indicated before, approved by the
 14 Township Board --
 15 A. Yes.
 16 Q. -- prior to your -- and reviewed by the Township
 17 engineer, I assume?
 18 A. Yes.
 19 Q. And the Township attorneys?
 20 A. Yes.
 21 Q. And maybe the Township planners, too?
 22 A. I don't know about the planner.
 23 Q. You don't know about the planners?
 24 So, when you say the west side of Milford Road,
 25 that would be the Belle Terre property; correct?

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1 A. Possibly.
 2 Q. ~~And are there other properties it could be?~~
 3 A. Yes.
 4 Q. What other properties --
 5 A. The Mott properties.
 6 Q. The Mott property -- which property is that?
 7 Where are those?
 8 A. That's on the southwest corner.
 9 Q. But those were properties not owned by Mr. LeDuc; right?
 10 I mean, let me ask it to you this way: Isn't it a
 11 fair statement that you knew Mr. LeDuc was essentially
 12 going to try to do roughly the mirror image of the
 13 development on the other side of the road?
 14 A. No. No.
 15 Q. You did not know that?
 16 A. No.
 17 Q. You did not know that he was going to build homes on the
 18 other side of the road?
 19 A. I didn't know what he was going to do on the other side
 20 of the road.
 21 Q. All right. When he applied for Belle Terre, you knew
 22 what he was going to do on the other side of the road?
 23 A. Yes.
 24 Q. Correct?
 25 A. Yes.

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1 Q. And when he applied for Belle Terre, you knew that he
 2 intended to use the extra 20,000 gallons of capacity for
 3 the Belle Terre property; correct?
 4 A. ~~If the capacity existed?~~
 5 Q. Does the capacity exist?
 6 A. I don't know.
 7 Q. Well, didn't you receive an engineering letter that says
 8 that the capacity does exist? A review letter for the
 9 Belle Terre property?
 10 A. I don't remember.
 11 Q. Do you know what the flow of the plant is today?
 12 A. No.
 13 Q. Do you know whether it's even at 50,000 gallons per day
 14 right now?
 15 A. No.
 16 Q. So, you have no idea what the capacity of the plant is?
 17 A. No.
 18 Q. Are you aware of the fact that the Belle Terre property
 19 doesn't perc?
 20 A. Yes.
 21 Q. Are there lots of properties in the Township that don't
 22 perc?
 23 A. Yes.
 24 Q. And the Belle Terre property does not perc; correct?
 25 A. Correct.

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1 Q. And so the Belle Terre property cannot be developed
2 without sewer; correct?
3 **A. Correct.**
4 Q. Mr. LeDuc has the right to at least 20,000 gallons of
5 additional capacity; correct?
6 MR. STOKAN: Object to the form of the question.
7 Foundation.
8 BY MR. BURNS:
9 Q. Under this agreement, Mr. LeDuc's companies are the
10 owners of the excess capacity to the plant?
11 **A. Right.**
12 Q. Correct?
13 **A. Yes.**
14 Q. And you understand Mr. LeDuc contends that there's at
15 least 20,000 gallons of excess capacity that's
16 available?
17 **A. But my engineer said no originally. So --**
18 Q. Do you have a copy of that letter that says that?
19 **A. That's why he said 70,000 gallons.**
20 Q. Oh. Way back then?
21 **A. Yeah.**
22 Q. All right. But now we're into 2018, and we're
23 looking -- now we've got the benefit of hindsight.
24 So, the Ridge Valley property is essentially all
25 built out; correct?

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1 **A. Yes.**
2 Q. All right. And we have flow capacity for that entire
3 plant; correct?
4 **A. They're not all sold, so they're not all used.**
5 Q. So, there's like eight or ten left?
6 **A. Right.**
7 Q. All right. So, the development is like 90 percent built
8 out; correct?
9 **A. Yes.**
10 Q. And we have 16 years' worth of history of flow at that
11 plant; correct?
12 **A. Yes.**
13 Q. And the Township is managing the plant?
14 **A. We're paying the bills.**
15 Q. And the Township is getting reports quarterly from
16 Highland to how the plant is functioning?
17 **A. No.**
18 Q. The Township is not getting any reports --
19 **A. No.**
20 Q. -- at all?
21 So, the Township has no idea what the flow is out
22 at that plant?
23 **A. That's not what we're there for. We're there to pay the**
24 **bills.**
25 Q. But you have no idea whether -- what the flow is out

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1 there or --
2 **A. No.**
3 Q. Do you have any idea whether it's -- the plant is
4 complying with its permit?
5 **A. No.**
6 Q. Who does?
7 **A. Mr. LeDuc.**
8 Q. The Township engineer has no review responsibilities
9 whatsoever of the plant?
10 MR. STOKAN: Object to foundation.
11 BY MR. BURNS:
12 Q. Well, I'm asking, does the Township engineer have any
13 review responsibilities for the plant?
14 **A. Just for the construction.**
15 Q. For the operation and maintenance.
16 You have a special assessment district going;
17 correct?
18 **A. Correct.**
19 Q. You're paying all the bills through the special
20 assessment district; correct?
21 **A. Yes.**
22 Q. The Township has levied the special assessment; correct?
23 **A. Yes.**
24 Q. All the bills for the plant come to the Township;
25 correct?

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1 **A. Yes.**
2 Q. The Township bills are paid for by the -- the bills for
3 the plant are paid for by the Township?
4 **A. With authorization from Ray LeDuc.**
5 Q. That's fine.
6 And there are engineering reports generated for the
7 plant for the last 16 years.
8 Does the Township have any of those reports?
9 **A. Not that I'm aware of.**
10 Q. So, has the current Township engineer done any analysis
11 to determine whether there's excess capacity in the
12 plant for the Belle Terre property?
13 **A. Not that I'm aware of.**
14 Q. Do you know if the State of Michigan has done any
15 analysis of the excess capacity in the plant for the
16 Belle Terre property?
17 **A. Ray showed me a report from the DEQ, I believe it was**
18 **Q. Do --**
19 **A. But I don't remember the numbers.**
20 Q. Do you remember Mr. LeDuc giving you a letter from the
21 State of Michigan saying that they authorized the plant
22 to be used for the Belle Terre property?
23 **A. Not sure.**
24 Q. Okay. Would you agree that under page 2, Section 2 of
25 the "Excess Capacity," that under this agreement, that



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<p>1 it would be an appropriate use, if there was excess 2 capacity, to use the excess capacity for this plant on 3 the Belle Terre property? 4 A. Yes. 5 Q. Would you agree that it would have been cheaper to 6 connect into the Village plant years ago rather than 7 build a whole new plant? 8 MR. STOKAN: Object to foundation. 9 BY MR. BURNS: 10 Q. If you know. 11 A. I don't know. 12 Q. All right. So, page 2, Section 3, it says "Best 13 Efforts." 14 Do you see that paragraph? 15 A. Yes. 16 Q. So, I'm going to read this. 17 "It is agreed that the parties shall 18 cooperate and use their best efforts to 19 effectuate the terms and provisions of the 20 agreement." 21 Do you agree that that is -- 22 A. Yes. 23 Q. All right. 24 "This includes but is not limited to the 25 obligation on the part of the developer to use</p>	<p>1 provide approval of all plans, paperwork, 2 permits or otherwise to effectuate this 3 agreement and the agreement to assume 4 responsibility." 5 So, you agree that the Township, under this 6 contract, is required to use its best efforts to 7 expeditiously provide approval of all plans, et cetera? 8 A. Yes. 9 Q. All right. Let's go to paragraph 6 of this agreement. 10 You understand there's really two agreements here. 11 One is the -- which is the later agreement. There's a 12 working development agreement and then the agreement to 13 assume responsibility for operation of community sewer 14 system, which is Exhibit 2. 15 Do we have this marked? Has it been marked? 16 MR. LUCAS: Yeah. That one is -- 17 MR. BURNS: It's 3? 18 MR. LUCAS: That's 3. 19 MR. BURNS: Yeah. 3. Okay. 20 Oh, you've got the marked one. Okay. 21 BY MR. BURNS: 22 Q. In paragraph 6 you agree that it says, about halfway 23 down -- at least on mine it's on there that: 24 "In the event of any conflict of 25 interpretation between the two agreements,</p>
Page 46	Page 48
<p>1 its best efforts to complete the community's 2 sanitary sewer system --" 3 which Mr. LeDuc did; correct? 4 A. Yes. 5 Q. (Reading.) 6 "-- and the senior citizen portion of 7 the development --" 8 which Mr. LeDuc did; correct? 9 A. Yes. 10 Q. And it was a contractual requirement of the Township 11 that Mr. LeDuc build the senior citizen portion of the 12 development; correct? 13 A. I'm not sure. 14 Q. Well, does this say that: 15 "-- and the senior citizen portion of 16 the development in an expeditious fashion"? 17 A. That's what it says. 18 Q. And Mr. LeDuc did that? 19 A. Yes. 20 Q. Are you aware of the fact that Mr. LeDuc lost a lot of 21 money on that senior project? 22 A. No. 23 Q. (Reading.) 24 "Likewise, the Township shall be obligated 25 to use its 'best efforts' to expeditiously</p>	<p>1 this agreement shall control?" 2 You agree that's in there and that's -- 3 A. Yes. 4 Q. -- a correct recitation? All right. 5 So, this is the operative agreement -- the 6 principal operative agreement between the Township and 7 Mr. LeDuc; is that correct? 8 A. Yes. 9 Q. And can you say, for the record, that Mr. LeDuc has 10 complied with all aspects of this agreement? 11 A. Yes. 12 Q. And later on, there's an agreement to provide an escrow 13 of some \$28,000; is that correct? 14 A. Yes. 15 Q. And Mr. LeDuc has paid the escrow; correct? 16 A. Yes. 17 Q. All right. So, in -- 2003 is when the Township assumed 18 responsibility for the operation of the community sewer 19 system; correct? By virtue of Exhibit Number 2, the 20 agreement? 21 A. Yes. 22 Q. All right. And are you using Highland Treatment to 23 run -- who is -- is Highland running the plant? 24 A. Yes. 25 Q. All right. And have they been running it since 2003?</p>



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1 **A. I'm not sure, no.**
2 Q. And I know -- I'm just perplexed that Highland doesn't
3 give you the operational reports to the Township at all.
4 **A. That would go to Mr. LeDuc.**
5 Q. But you're running it; right?
6 Not you.
7 The Township is running it?
8 **A. We pay the bills.**
9 Q. All right. In paragraph 3 of Exhibit 2, it says:
10 "The Township hereby agrees it will assume
11 the temporary responsibility for the effective
12 and continued operation and maintenance of the
13 community sewer system."
14 So, is it your understanding that -- I understand
15 you're paying the bills, but under this agreement, do
16 you understand that the Township is actually running the
17 plant?
18 **A. That's through Mr. LeDuc's contractors.**
19 Q. Who has -- does the Township have a contract with
20 Highland to run the plant?
21 **A. Treatment?**
22 Q. Yes.
23 **A. We do now, yes.**
24 Q. So, the contract for the -- you have to have a license
25 to run a plant; correct?

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1 **A. Yes.**
2 Q. Mr. LeDuc doesn't have a license to run a wastewater
3 treatment plant?
4 **A. Correct.**
5 Q. And so the Township has entered into a contract with
6 Highland -- what's --
7 **A. Treatment.**
8 Q. -- Treatment, and the Township pays Highland Treatment
9 to run the plant?
10 **A. Yes.**
11 Q. So, is it a fair statement to say that the Township is
12 running the plant?
13 **A. Yes.**
14 Q. When did you first learn that Mr. LeDuc purchased the
15 Belle Terre property?
16 **A. I don't know for sure.**
17 Q. Do you have any -- was it 2003?
18 **A. No.**
19 **My discussions with Ray was probably two years ago,**
20 **about, when he was talking about doing Belle Terre and**
21 **buying up property.**
22 Q. So, he talked to you about Belle Terre before he made
23 application for rezoning the property?
24 **A. Conditional rezoning.**
25 Q. All right. So, he came in under conditional rezoning?

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1 **A. Yes.**
2 Q. Did you talk to him about coming in under conditional
3 rezoning?
4 **A. Yes.**
5 Q. And what was the substance of that conversation?
6 **A. He would have a better chance under conditional rezoning**
7 **than he would have just rezoning the property.**
8 Q. And why is that?
9 **A. The way conditional rezoning works is, the developer**
10 **offers the municipality something in return for the spot**
11 **zoning, which was illegal up until about five years ago.**
12 Q. So, you recommended he apply for conditional rezoning?
13 **A. Yes.**
14 Q. And what were the conditions that you recommended he
15 apply under?
16 **A. I didn't give any conditions.**
17 Q. I mean, the product that he's building on the east side
18 of the road has been pretty popular in the Township, has
19 it not?
20 **A. Yes.**
21 Q. And, generally, the community has been happy with --
22 let's call it Ridge Valley; right?
23 **A. Yes.**
24 Q. And the senior center?
25 I mean, more complex --

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1 **A. The ownership is a big issue there.**
2 Q. All right. But the density and the construction?
3 **A. It's fine.**
4 Q. Everybody is happy with --
5 **A. Yes.**
6 **Now, yes.**
7 Q. All right. So, is it a fair statement to say Mr. LeDuc
8 has done a good job on the Ridge Valley property?
9 **A. Yes.**
10 MR. STOKAN: Object to the form of the question.
11 BY MR. BURNS:
12 Q. I mean, as a Township resident and Township supervisor,
13 do you think he's done a good job?
14 **A. Yes.**
15 Q. And do you think that he's a guy who does what he says
16 he's going to do?
17 MR. STOKAN: Object to the form of the question.
18 **A. Yes.**
19 BY MR. BURNS:
20 Q. So, approximately two years ago, you had a
21 conversation -- is it -- do I have that right?
22 Approximately two years ago, you had a conversation
23 with him about going for conditional rezoning?
24 **A. Yes.**
25 Q. And you understand that he could attach conditions under

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1 the law to his application that you thought it might
2 make it more probable that he would get approved?
3 **A. Yes.**
4 Q. And did he, in fact, do that?
5 **A. Apparently no.**
6 Q. What conditions did you think that he needed to attach
7 to his application for conditional rezoning?
8 **A. I don't know what conditions. He has to offer the**
9 **conditions.**
10 Q. Well, what was the Township looking for on development
11 on the Belle Terre property?
12 **A. Could you work on that a little bit? It's kind of a --**
13 Q. Well, my question is, is that -- it seems as though the
14 Township has been satisfied with everything that
15 Mr. LeDuc has done on the east side of the road.
16 **A. Correct.**
17 Q. As I understand it, the homes that he's going to build
18 on the west side of the road are substantially similar
19 to the homes that he built on the east side of the road;
20 right?
21 **A. Yes.**
22 Q. And it's reasonable to assume that he would, so to
23 speak, do much of the same thing because it's working;
24 correct?
25 **A. Yes.**

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1 Q. And so I'm sure Mr. LeDuc assumed that it would work on
2 the west side of the road because it worked on the east
3 side of the road; right?
4 **A. Yes.**
5 Q. It doesn't take rocket science to figure this out.
6 And I assume that Mr. LeDuc would think that if the
7 Township was happy on the east side of the road, they
8 would be happy with essentially the same product on the
9 west side of the road; correct?
10 **A. Correct.**
11 Q. So, if they're not looking for what Mr. LeDuc -- if the
12 Township is not looking for what Mr. LeDuc did on the
13 east side of the road, what is it that the township is
14 looking for on that property?
15 **A. Under a conditional rezoning, the developer is supposed**
16 **to tell you, "I'm going to give your municipality this"**
17 **or "this" or "this and this, if you allow me to do this**
18 **development this way."**
19 Q. So, what are the things that Mr. LeDuc offered the
20 Township as part of the conditional rezoning?
21 **A. He offered 52 percent open space to protect the people**
22 **that are already in Hidden Valley.**
23 Q. Hidden Valley is the subdivision?
24 **A. The subdivision to the west.**
25 Q. To the west.

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1 So -- so, he --
2 **A. And he was going to put --**
3 Q. Well, let's stay there.
4 **A. Okay.**
5 Q. So, he offered a buffer, if you will; right?
6 **A. Correct.**
7 Q. You said "52 percent open space"?
8 **A. Yes.**
9 Q. So, over half the site would not be disturbed?
10 **A. Correct.**
11 Q. And a bunch of it would be along the existing
12 subdivision to the west?
13 **A. Yes.**
14 Q. So, that's a -- would you consider that a betterment,
15 positive, that he's offering open space?
16 **A. It's all open space now.**
17 Q. Right. I understand that.
18 It's not zoned park; right?
19 **A. Right.**
20 Q. Okay. So -- all right. So, what else did he offer?
21 **A. A traffic signal, if required by the Road Commission.**
22 **If required by the Road Commission.**
23 Q. Do you know if it was required by the Road Commission?
24 **A. Not at this point in time.**
25 Q. All right. And --

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1 **A. And a trail around his project.**
2 Q. And the trail is designed to connect to the trails in
3 Kensington?
4 **A. No.**
5 Q. Connect to the trails that connect to the Kensington
6 trails?
7 **A. No.**
8 Q. Is the trail --
9 **A. Connect to the Village sidewalk.**
10 Q. Okay. So, is it possible, then, if you lived in Belle
11 Terre, and it was built, that you could ride a bike from
12 Belle Terre all the way into the Kensington Metro Parks?
13 **A. Yes.**
14 Q. And that's a good idea in your opinion?
15 **A. It's not a benefit for the Township.**
16 Q. Why is that?
17 **A. It doesn't do anything for the Township. It does it for**
18 **the development.**
19 Q. Doesn't it do something for the residents that live in
20 the Township, that they can ride a bike through to the
21 park system?
22 **A. That's not the development -- that's not a development**
23 **for the Township.**
24 Q. So, what --
25 **A. That's particularly for that development only.**



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1 Q. Well, what -- how do you define something under 425
2 agreement that does something for the Township? What
3 are some examples that would do something for the
4 Township?
5 **A. 425 doesn't do anything for the Township except transfer**
6 **tax dollars to another municipality.**
7 Q. I'm sorry. Maybe I -- not 425.
8 I'm saying under a conditional rezoning.
9 What are the things that -- under a conditional
10 rezoning application, what are the things that you think
11 would be a betterment or something for the Township?
12 **A. Whatever he offered wasn't good enough.**
13 Q. Well, was the open --
14 **A. So, I will not say, "This is what I need you to give me**
15 **to approve your development."**
16 **That is wrong.**
17 Q. All right. So, what is the -- what is the standard that
18 the Township uses as to when you ring the bell when it's
19 good enough, as you say? What does he have to give to
20 make sure it's good enough?
21 **A. I don't know.**
22 Q. How does a developer ascertain when it's good enough or
23 whether he's given enough --
24 **A. That would be through the Planning Commission.**
25 Q. And so do you believe that having open space was a

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1 betterment under a conditional rezoning that was to the
2 benefit of the Township or no?
3 **A. Open space is always good.**
4 Q. Do you believe that the traffic light was a betterment
5 that was offered to the Township as part of the 425?
6 **A. I don't believe so.**
7 Q. You don't believe having open space is a betterment?
8 **A. No. You're talking about the traffic signal.**
9 Q. Did I say "traffic signal"?
10 **A. Yes.**
11 Q. All right. You don't believe the traffic signal is a
12 betterment that's necessary?
13 **A. That's up to the Road Commission to determine that.**
14 Q. So, give me some examples of what are things that would
15 be a betterment that the Township would consider as a
16 part of a conditional rezoning application.
17 **A. I have no idea.**
18 Q. Do you have any other applications in the Township for
19 conditional rezoning where there are betterments
20 offered?
21 **A. No.**
22 Q. Is this the only one?
23 **A. Yes.**
24 Q. And so did the Planning Commission negotiate with
25 Mr. LeDuc over the Belle Terre proposal?

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1 **A. They did not negotiate, no.**
2 Q. Did they make alternate proposals? Did the City -- did
3 they come up with alternate proposals?
4 **A. Yes.**
5 Q. Did you ask him for alternate proposals?
6 **A. No, I didn't.**
7 **(Deposition Exhibit 4 marked**
8 **for identification.)**
9 BY MR. BURNS:
10 Q. All right. Let me show you what's marked as Exhibit
11 Number 4, which is an e-mail. It's Bates stamp 429,
12 from you to Mr. LeDuc.
13 Can you read that for me, please?
14 MR. BURNS: Counsel, if you have the book --
15 MR. STOKAN: I can look --
16 MR. BURNS: You can look over his shoulder.
17 **A. (Reading.)**
18 **"Are you working on an alternate plan**
19 **cluster option? The group would meet if you**
20 **have anything."**
21 BY MR. BURNS:
22 Q. All right. So, did you ask Mr. LeDuc for an alternate
23 plan?
24 **A. I didn't ask him to. It was mentioned at a meeting we**
25 **had with --**

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1 Q. Did you want Mr. LeDuc to give an alternate plan?
2 **A. It was mentioned by Trustee Planning Commissioner Bill**
3 **Mazzara.**
4 Q. So, I'm asking you, did you want him to do an alternate
5 plan?
6 **A. No.**
7 Q. So, did Mr. LeDuc, in fact, provide alternate plans to
8 the Township as part of his application process?
9 **A. I believe so.**
10 Q. At the request of the Planning Commission or a Planning
11 Commission member?
12 **A. Yes.**
13 Q. So, he did a parallel plan; correct?
14 **A. Yes.**
15 Q. And he did a cluster plan; correct?
16 **A. Yes.**
17 Q. And how many plans did he do?
18 **A. Three, I believe.**
19 Q. All right. And did you believe that all three of them
20 didn't ring the bell, if you will, for conditional
21 rezoning?
22 It wasn't enough, as you said?
23 **A. Correct.**
24 Q. Why wasn't it enough?
25 **A. There wasn't any direct benefit to the Township. It was**



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1 **direct benefit to the development.**
2 Q. So, I'm asking you what are the -- what are possible
3 items that would be of direct benefit to the Township
4 that could have been offered that you would have
5 considered?
6 A. **I'm not going to answer that, because I'm putting things
7 out on the table that I'm not supposed to put out on the
8 table.**
9 Q. Well, I'm just asking you, how can a developer know
10 what the things that are a direct benefit to the
11 Township is if the Township doesn't tell him?
12 He's supposed -- the process, he's supposed to keep
13 making application until he gets the guess right?
14 There's no direction provided?
15 A. **According to the state law, they have to offer something
16 to the Township. The Township is not allowed to say,
17 "I'll give you this if you give me that."**
18 Q. Well, then why were there three different plans
19 submitted?
20 A. **Planning Commission wanted to see alternates.**
21 Q. Is that a violation of the state law, in your opinion,
22 because they wanted different plans?
23 A. **No.**
24 Q. Is that a negotiation?
25 A. **Site plans are always a negotiation.**

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1 Q. But I thought you just told me you can't negotiate a
2 conditional rezoning request.
3 Is that your understanding?
4 A. **We're -- you're --**
5 Q. Let me -- I'm not trying to confuse you.
6 Is it your position that once a developer makes an
7 application under Michigan law for conditional rezoning
8 that there's no negotiation?
9 A. **There's no negotiation on the part of what he's going to
10 offer us.**
11 Q. All right. But once he makes an application, is it your
12 position that the Township can negotiate with him?
13 A. **No.**
14 Q. So, it's a "take it or leave it" proposition?
15 A. **Basically.**
16 Q. But I also thought you told me that the Planning
17 Commission asked for three different plans?
18 A. **A planning commissioner trustee.**
19 Q. A trustee.
20 What trustee asked --
21 A. **Bill Mazzara.**
22 **We had meetings with Mr. Mazzara, Mr. LeDuc,**
23 **Mr. Lomako, myself, and it was requested by Mr. Mazzara**
24 **"Show me an alternate plan."**
25 Q. All right. These are meetings that are outside of

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1 formal Planning Commission meetings?
2 A. **Yes.**
3 Q. All right. So, maybe that's where I'm getting confused.
4 So, Mr. LeDuc applies for his Belle Terre proposal;
5 correct?
6 A. **Yes.**
7 Q. All right. And what year -- roughly two years ago?
8 A. **Yes.**
9 Q. Okay. So, your understanding is the Township can't tell
10 him what he's supposed to put in his application?
11 A. **Correct.**
12 Q. All right. So, he gets in front of the Planning
13 Commission and now there's meetings at the Township
14 hall?
15 A. **Yes.**
16 Q. How many meetings is there at the Township hall?
17 A. **I believe three.**
18 Q. And these are in the office?
19 A. **Yes.**
20 Q. That are not part of the Planning Commission?
21 A. **Correct.**
22 Q. Okay. Or a board meeting?
23 A. **Correct.**
24 Q. And who is at these meetings?
25 A. **Myself, Trustee Mazzara, I believe Planning Commissioner**

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1 **Chair, George Magro, Nick Lomako.**
2 **I don't remember if Jennifer was there or not.**
3 Q. Jennifer, the Township attorney?
4 A. **Yes.**
5 Q. And what's the purpose of these meetings?
6 A. **To iron out what he's going to put in front of the
7 Planning Commission.**
8 Q. All right. And --
9 A. **We meet with all developers before they go to the
10 Planning Commission.**
11 Q. All right. So, when was the first -- so, this meeting
12 occurred after the application?
13 A. **I couldn't be sure on that.**
14 Q. And so at the first meeting -- do you know when it was?
15 A. **No.**
16 Q. So, what was Mr. LeDuc told at that meeting by the
17 Township?
18 A. **He showed us a plan, and Mr. Mazzara said, "Can you do
19 an alternate plan and then a cluster option plan after
20 that?"**
21 Q. Are you on the Planning Commission?
22 A. **No.**
23 Q. Is Mr. Mazzara the chair of the Planning Commission?
24 A. **No.**
25 Q. So, Mr. Mazzara asked Mr. LeDuc for two more plans in



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1 the first meeting?

2 **A. No. Subsequent meetings.**

3 Q. Okay. So, then what -- what happened at the second

4 meeting then?

5 Same people at that meeting?

6 **A. I believe so.**

7 Q. And what happened at that meeting?

8 **A. We had discussions as to what he was doing and how many**

9 **units. And he decided he was going to do a cluster**

10 **option.**

11 Q. In conformance with the request from Mr. Mazzara?

12 **A. I believe so, but I'm not sure.**

13 Q. Did he, in fact, do a cluster option?

14 **A. Yes.**

15 Q. And what happened at the third meeting?

16 **A. That was the cluster option.**

17 Q. Okay. Then what happened at the second meeting, then?

18 There were three meetings; right?

19 **A. Yeah.**

20 Q. I'm just trying to figure out generally, what are the

21 big things that happened in meeting one, meeting two,

22 meeting three.

23 **A. I believe there were three different sites.**

24 Q. Three different sites?

25 **A. Originally that wasn't all 52 percent green space.**

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1 **There was a small amount of green space on the west**

2 **boundary of his property.**

3 Q. From his original -- Mr. LeDuc's original application

4 had less open space?

5 **A. Yes.**

6 Q. And when he got to the cluster option, he had more open

7 space?

8 **A. Yes.**

9 Q. And by the time he got done with the cluster option, he

10 had 52 percent open space?

11 **A. Yes.**

12 Q. And was that also a request of the planner?

13 **A. No.**

14 Q. It was all Mr. Mazzara?

15 **A. Mr. Mazzara asked did he think about a cluster plan.**

16 **And then that's when he came in with a third**

17 **meeting and had a cluster --**

18 Q. All right. So, he --

19 **A. -- plan.**

20 Q. Plan. Okay. A cluster. I got you.

21 So, Mr. LeDuc redraws this thing; right?

22 **A. (Nods head.)**

23 THE REPORTER: I'm sorry. Is that "yes"? Sorry.

24 **A. Yes.**

25 BY MR. BURNS:

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1 Q. Oh, I'm sorry. You've got to say "yes."

2 And did he take these three drawings back in front

3 of the Planning Commission?

4 **A. I'm not sure.**

5 **Probably, yes.**

6 Q. All right. So, was it the request of the group for the

7 cluster option or just Mr. Mazzara?

8 **A. I believe Mr. Mazzara.**

9 Q. Did you have any direction to him in any of these three

10 meetings? Did you give him any advice?

11 **A. Mr. LeDuc?**

12 Q. Yes.

13 **A. No.**

14 Q. Did the planner give him any advice?

15 Nick Lomako; right?

16 **A. I believe Mr. Lomako and Mr. LeDuc had other private**

17 **conversations, too. So -- but I'm not aware of when and**

18 **where they were.**

19 Q. So, which plan got in front of the Planning Commission?

20 **A. I believe it was -- I believe it was the cluster.**

21 Q. So, is the cluster plan the plan that the Planning

22 Commission voted on?

23 **A. If that's the one that went in front of the Township**

24 **Board, that's the one that they voted on.**

25 Q. Is the cluster plan the plan that the board voted on?

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1 **A. I believe so.**

2 Q. And so the cluster plan was different than the plan that

3 was originally submitted by Mr. LeDuc under the

4 conditional rezoning?

5 **A. Yes.**

6 Q. And it was different as a result, essentially, because

7 of the request of Mr. Mazzara?

8 **A. It was 20 units different between the original and the**

9 **cluster.**

10 Q. More or less?

11 **A. Less.**

12 Q. So, in addition to making the cluster, he reduced the

13 number of units on this thing?

14 **A. Yes.**

15 Q. How many units were in the cluster proposal?

16 **A. 158, I believe.**

17 Q. Was the traffic signal in the original proposal of

18 Mr. LeDuc?

19 **A. If required by the Road Commission.**

20 Q. Was the trail in the original plan?

21 **A. Yes.**

22 Q. So, it morphed. It changed from when Mr. LeDuc

23 originally applied to what originally got voted on;

24 correct?

25 **A. Yes.**

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1 Q. And is it a fair statement that it was essentially at
2 the request of Mr. Mazzara?

3 **A. It was requested by Mr. Mazzara, and I didn't hear any**
4 **opposition from any of the people at the meeting.**

5 Q. How about -- who is the chair of the Planning
6 Commission?

7 **A. I believe George Magro was the chair, but I'm not**
8 **positive if he was at that meeting or not. I think he**
9 **was.**

10 Q. George Magro.
11 How do you spell his last name?

12 **A. M-a-g-r-o.**

13 Q. Do you know if this property is a master plan?

14 **A. It's master planned office in R-1-S.**
15 **(Deposition Exhibit 5 marked**
16 **for identification.)**

17 BY MR. BURNS:

18 Q. Did the Township request Mr. LeDuc purchase a piece of
19 property that was in a decayed condition?

20 **A. No, we didn't request him to purchase anything.**

21 Q. I'll show you Exhibit Number 5 that's marked.
22 Who is the owner of this property?

23 **A. Frank Frontiera was the owner --**

24 Q. And has the --

25 **A. -- through a consent judgment.**

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1 Q. Through a consent judgment.

2 **A. That -- a lot of that junk is there because of a consent**
3 **judgment.**

4 Q. Explain that to me, please.
5 Who sued who?

6 **A. We took him to court for all the junk, and the judge**
7 **says, "Well, you can keep this, this, this, this and**
8 **this."**

9 Q. So, the Court let him keep a bunch of this?

10 **A. Some of that stuff, yep.**

11 Q. Does the Township consider this to be blight?

12 **A. I do.**

13 Q. Are you saying that the Township didn't ask Mr. LeDuc to
14 purchase this property?

15 **A. Did not ask him to purchase it, no.**

16 Q. Did any individuals of the Township or the Planning
17 Commission ask Mr. LeDuc to purchase it?

18 **A. I have no idea.**

19 Q. Do you know if Mr. LeDuc did purchase this property?

20 **A. I believe he did, but I haven't seen the property**
21 **transfer affidavit.**

22 Q. Did Mr. LeDuc agree to clean all this up as part of his
23 conditional rezoning application?

24 **A. He would have had to anyway.**

25 Q. He wouldn't be bound by the consent judgment?

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1 **A. A lot of that material would go away when Mr. Frontiera**
2 **leaves. A lot of that is for his businesses.**

3 Q. So, my question is, did Mr. LeDuc offer to clean this
4 property up to the Township?

5 **A. I don't know if he did or not. I would say he did.**

6 Q. I'm sorry. What did you say the property is master
7 planned again?

8 **A. Office and rural -- suburban residential.**
9 **(Discussion held off the record.)**

10 MR. BURNS: Back on record.
11 (Deposition Exhibit 6 marked
12 for identification.)

13 BY MR. BURNS:

14 Q. All right. We're looking at Exhibit Number 6.
15 This is the Belle Terre property; correct?
16 (Discussion held off the record.)

17 BY MR. BURNS:

18 Q. Excuse me. Outlined in black.

19 **A. Yes.**

20 Q. Yes. Okay.
21 And it has these -- let's call them teeth.

22 **A. Yes.**

23 Q. Are those parcels that are zoned office?

24 **A. According to your map, yes. But I don't have my zoning**
25 **map in front of me.**

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1 Q. Is it a fair statement to say that -- are you aware of
2 the fact that some members of the Planning Commission
3 told Mr. LeDuc that office was not appropriate on this
4 parcel?

5 **A. Yes.**

6 Q. And is it a fair statement to say that -- let's call
7 them the teeth, if they're zoned office, that most of
8 those parcels are economically challenged?

9 MR. STOKAN: Object to foundation.

10 BY MR. BURNS:

11 Q. That they're having problems. They have vacancies,
12 substantial vacancies?

13 **A. The -- there's one that I'm aware of that has**
14 **substantial vacancy and that's Dr. Belgiano's office.**

15 Q. Do you believe that the highest and best use of those
16 parcels that are zoned office is office?

17 MR. STOKAN: Object to the form of the question.

18 **A. Well, I would say at this point in time because we're**
19 **going through our master land use plan and they have not**
20 **addressed this issue, that's what it is.**
21 **It's zoned office.**

22 BY MR. BURNS:

23 Q. I know it's zoned office.
24 I'm asking you, is that, in your opinion, the
25 highest and best use of those parcels?

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1 **A. My opinion? No.**
2 **But I'm only one opinion.**
3 **Q. When -- how many -- in the last five years, how**
4 **many proposals has the Township received for**
5 **acre-and-a-half subdivisions -- acre-and-a-half minimum**
6 **lot subdivisions?**
7 **A. No.**
8 **Q. None?**
9 **A. No.**
10 **Q. In the last ten years?**
11 **A. No.**
12 **Q. When was the last time that the Township received a**
13 **proposal for an acre-and-a-half minimum lot size**
14 **subdivisions, to your knowledge?**
15 **A. Twenty years ago.**
16 **Q. Do you have any idea how many -- if this, the Belle**
17 **Terre, was developed with acre-and-a-half lots, how many**
18 **lots could be placed on there?**
19 **A. Twenty-two.**
20 **Q. Do you have any way of knowing whether it would be**
21 **economically feasible for the developer to put 22**
22 **acre-and-a-half lots on there?**
23 **A. I'm not in the finance business. I couldn't say for**
24 **sure.**
25 **Q. So, you wouldn't know?**

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1 **A. (Shakes head.)**
2 **Q. You have to answer "yes" or "no" or --**
3 **A. No.**
4 **Q. Is there anybody at the Township who has done any kind**
5 **of economic feasibility study to ascertain whether or**
6 **not acre-and-a-half lots on the Belle Terre property**
7 **would be economically feasible?**
8 **A. No.**
9 **Q. Is it a true statement that in order to develop the**
10 **Belle Terre property in any zoning classification, it**
11 **would have to have a sewer?**
12 **A. Yes.**
13 **Q. Is it a fair statement to say that the most logical**
14 **place to get sewer for the Belle Terre property would be**
15 **the LeDuc plant?**
16 **MR. STOKAN: Object to form and foundation.**
17 **A. That's a logical place to get it.**
18 **BY MR. BURNS:**
19 **Q. And it's the closest; correct?**
20 **A. Yes. Without building his own wastewater plant.**
21 **Q. And if there turns out to be excess capacity, that would**
22 **be the perfect place to use the excess capacity, on the**
23 **Belle Terre property; correct?**
24 **A. Yes.**
25 **(Discussion held off the record.)**

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1 **MR. BURNS: Let's take a quick break.**
2 **(Short recess at 2:20 p.m.)**
3 *** * ***
4 **(Record resumed at 2:28 p.m.)**
5 **BY MR. BURNS:**
6 **Q. So, Mr. Green, I showed you before Exhibit 4. These**
7 **meetings that --**
8 **A. Yeah.**
9 **Q. -- you're talking about, is that -- this one is dated**
10 **May 1st, 2017. That would be about the time you had the**
11 **meetings with --**
12 **A. Yeah.**
13 **Q. -- the consultants and Mr. Mazzara; correct?**
14 **A. (Nods head.)**
15 **THE REPORTER: I'm sorry. Is that --**
16 **A. Yes.**
17 **THE REPORTER: Thank you.**
18 **BY MR. BURNS:**
19 **Q. Okay. Here is another one, Exhibit Number 7.**
20 **(Deposition Exhibit 7 marked**
21 **for identification.)**
22 **BY MR. BURNS:**
23 **Q. Why don't you take a look. It looks like an e-mail. It**
24 **looks like a month later. It looks like you're meeting**
25 **roughly -- so, is that in response to another meeting?**

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1 **A. Yeah.**
2 **Q. So --**
3 **A. Yes.**
4 **Q. So, they're like let's call it spring of '17, you had**
5 **those three meetings that you --**
6 **A. Yes.**
7 **Q. -- described earlier.**
8 **Was there anybody there -- other, you know,**
9 **different people there than the ones that you listed?**
10 **A. I don't believe so.**
11 **Q. Do you have any current applications for office in the**
12 **Township that you're processing at this time?**
13 **A. No.**
14 **Q. When was the last time you received any application for**
15 **office?**
16 **A. To build office?**
17 **Q. Yes.**
18 **A. It was a consent judgment property on the corner of**
19 **Milford and Pontiac Trail, and that was probably ten**
20 **years ago, eight years ago.**
21 **Q. Is that the Bryan property?**
22 **A. Yeah.**
23 **Q. And that's not sold; correct? Nothing has happened?**
24 **A. It was almost a gun shop.**
25 **Q. But it wasn't?**



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1 **A. No.**
2 Q. It's not an office; right?
3 **A. No.**
4 Q. And so there's not -- so, in the last ten years, there's
5 been no applications to the Township for office?
6 **A. No.**
7 MR. BURNS: I'm sorry. Where's the Bates stamp --
8 Fred, can you give me --
9 MR. LUCAS: What number?
10 MR. BURNS: It is 216 --
11 (Discussion held off the record.)
12 MR. LUCAS: You want the entire application?
13 MR. BURNS: Just -- yeah, let's do that whole
14 thing.
15 (Deposition Exhibit 8 marked
16 for identification.)
17 BY MR. BURNS:
18 Q. All right. I'm going to show you what's been marked as
19 Exhibit Number 8, which, for the record, is Bates stamps
20 217 to 229.
21 I'll tell you, this is the application for the
22 70,000 gallons --
23 **A. Okay.**
24 Q. -- per day to the State of Michigan.
25 Correct?

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1 **A. (Nods head.)**
2 THE REPORTER: I'm sorry. Is that "yes"?
3 BY MR. BURNS:
4 Q. You have to say "yes"?
5 **A. I have to see it first.**
6 Q. Okay. You can see it.
7 And as you say, you're required to sign this; is
8 that correct?
9 **A. Yes.**
10 Q. All right. I want to draw -- on the first page of it --
11 if you want to check for your signature.
12 **A. Yes.**
13 Q. So, by signing it, you agreed that it was an appropriate
14 application to the State --
15 **A. Yes.**
16 Q. -- for the 70,000 gallons; correct?
17 **A. Yes.**
18 Q. Did you have this reviewed by your engineers?
19 **A. I believe so.**
20 Q. How about legal counsel?
21 **A. Yes.**
22 Q. Was this authorized by the Township Board as well to do
23 this, or did you --
24 **A. They would authorize me to sign it.**
25 Q. Right.

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1 Do you recall if they did, in fact, do that?
2 **A. I don't know.**
3 Q. All right.
4 **A. Too long ago.**
5 Q. So, I'm going to give this back to you.
6 So, paragraph 3 -- I want to read this to you, and
7 Mr. John Caterino was the engineer for -- from Boss
8 Engineering for Mr. LeDuc; correct?
9 **A. Yes.**
10 Q. So, the third paragraph says:
11 "The wastewater treatment plant was
12 designed and constructed to accommodate future
13 development."
14 Do you agree with that?
15 **A. Yes.**
16 Q. (Reading.)
17 "The wastewater treatment plant was
18 constructed sufficient to treat up to 70,000
19 gallons per day."
20 Do you agree with that?
21 **A. Yes.**
22 Q. (Reading.)
23 "It was anticipated that adjacent land to
24 the Bridge Valley development would be developed
25 and utilize the excess capacity in the treatment

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1 plant should the property be rezoned."
2 That was part of the submission; correct?
3 **A. Yes.**
4 Q. And that's the Belle Terre property; correct?
5 **A. Not for sure.**
6 Q. (Reading.)
7 "The adjacent land has been rezoned to
8 allow for additional development, hence we
9 are requesting reissuance of the permit."
10 Correct? That's what it says?
11 **A. That's what it says.**
12 Q. So, in 20 -- this is 2004.
13 The property to the west, which is the Belle Terre
14 property, was in play; correct?
15 **A. Yes.**
16 Q. Would you agree that -- or do you have any idea of the
17 traffic generation should the property be built out as
18 office in these -- let's call it the teeth on Exhibit
19 Number 6?
20 **A. Want to restate that?**
21 Q. Do you have any idea what the traffic counts would be if
22 the property were developed as zoned?
23 **A. I have an idea, but I can't remember what Mr. LeDuc put**
24 **in front of us.**
25 Q. So, Mr. LeDuc did a traffic study and gave it --



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1 **A. I believe so.**
2 Q. -- to the Township?
3 Did the Township do a traffic study?
4 **A. No.**
5 Q. Did the Township do any studies regarding the
6 LeBelle(sic) property at all?
7 **A. No.**
8 Q. So, there's no traffic study; correct?
9 **A. No.**
10 Q. No economic feasibility study; right?
11 **A. No.**
12 Q. No wetland study?
13 **A. Yes, there was a wetland study.**
14 Q. Done by the Township?
15 **A. Done by Mr. LeDuc and then verified by our engineers.**
16 Q. So, is it a fair statement to say that all of the
17 studies that were done were done by Mr. LeDuc and then
18 reviewed by the Township; correct?
19 **A. Correct.**
20 Q. The Township itself did not commission any studies?
21 **A. Correct.**
22 MR. LUCAS: Off the record for a minute.
23 MR. BURNS: Yeah.
24 (Discussion held off the record.)
25 (Deposition Exhibit 9 marked

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1 for identification.)
2 (Discussion held off the record.)
3 MR. LUCAS: All you have to do is follow the blue
4 up at the top there.
5 MR. BURNS: Oh, here?
6 MR. LUCAS: Yeah.
7 MR. BURNS: Okay.
8 MR. STOKAN: I'm not going to lie. This hurts my
9 eyes.
10 MR. BURNS: Yeah. I was going to say the same
11 thing.
12 **A. Want to borrow mine?**
13 MR. STOKAN: No. I just need --
14 BY MR. BURNS:
15 Q. I'll give you one that's marked 9.
16 Do you have a future land use map?
17 MR. STOKAN: That's this one?
18 **A. Yeah.**
19 MR. STOKAN: Yeah. You have an extra copy, don't
20 you, right in front of you?
21 MR. BURNS: I did.
22 MR. STOKAN: I made three copies.
23 So, this is going to be 9.
24 BY MR. BURNS:
25 Q. All right. So, Exhibit 9 is -- we just downloaded it

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1 from the Township's website, the future land use map;
2 okay?
3 I assume you're familiar with it.
4 Could you take this pen and circle on this map both
5 the Ridge Valley property and the Belle Terre property?
6 Maybe we've got a highlighter that we'll use --
7 MR. STOKAN: Want to use my highlighter?
8 MR. BURNS: Yeah. Use the pink highlighter. It's
9 better.
10 **A. (Drawing diagram.)**
11 BY MR. BURNS:
12 Q. So, did you say the Township is currently undergoing a
13 revision of the master plan?
14 **A. They're working on it right now, yes.**
15 Q. Is that the five-year revision that's required by state
16 law?
17 Why don't you hang onto this --
18 **A. They're trying to get the zoning map and the parcels**
19 **that are zoned certain ways corrected so they're in line**
20 **with one another.**
21 We had some extractive mining which was developed
22 as residential, so we had to change that to residential.
23 Q. So, you're making corr- -- but are you going out for
24 public input as well? Did you send out the notice that
25 you --

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1 **A. Not yet, no.**
2 Q. Is the plan to do that?
3 **A. Well, if we do it, we have to.**
4 Q. Right.
5 But --
6 **A. Right.**
7 Q. -- are you in that statutory process? Have you started?
8 Are you thinking about it?
9 **A. We're thinking about it.**
10 Q. Or are you kicking the tires at this time? Is it really
11 happening?
12 **A. It's not really happening, but it's in the works.**
13 Q. It's in the works. Okay.
14 So, if you take what you just circled, at least on
15 the surface of it, the future land use map, it appears
16 that the Bridge Valley property and the Belle Terre
17 property are master planned the same.
18 Is that true?
19 **A. It says "single-family low density R-1-S."**
20 **Yes.**
21 Q. Where does it say that?
22 **A. Down here in the color coding.**
23 Q. You're saying the yellow?
24 **A. Yeah.**
25 Q. And the green over the top is the conservation overlay?

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1 A. Yes.

2 Q. So, what is the conservation overlay?

3 A. **Conservation overlay has to do with the amount of**

4 **vegetation and trees in the area.**

5 Q. Did you just enact a tree ordinance?

6 A. Yes.

7 Q. Does it require -- is it applicable to the Belle Terre

8 property?

9 And when I say "you," I mean the Township.

10 A. **For development, yes. It would be -- would come under**

11 **the tree ordinance.**

12 Q. And so how would that impact development on the Belle

13 Terre property?

14 A. **I don't know because I don't have an inventory of what**

15 **the trees are.**

16 Q. So, what's the ordinance intended to do? To leave

17 trees?

18 A. Yes.

19 Q. So, what -- can you just -- what's your understanding of

20 what it does generally?

21 A. **It saves mature trees of certain caliber, caliper and**

22 **quality.**

23 **There's a list of trees that are no actual benefit.**

24 **In fact, they're considered junk trees, so they --**

25 Q. So, when did this -- the tree ordinance get adopted?

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1 A. **120 days ago or so.**

2 Q. So, it just went into -- is it part of the zoning

3 ordinance, or is it administrative ordinance?

4 A. **Administrative and zoning.**

5 Q. And so it's designed so that you -- a developer can cut

6 down less trees; is that correct?

7 A. **Correct.**

8 Q. So, would that, do you believe, impact the Belle Terre

9 or any development on the LeDuc property?

10 A. **I don't have an inventory of the trees on his property.**

11 Q. So, there's a lot of trees on Mr. LeDuc's property;

12 correct?

13 So, it's designed to target hardwoods or what?

14 A. **It's designed to target trees of a certain age, quality.**

15 **There's a list in the ordinance.**

16 Q. And so there's a list of the types of trees. So,

17 there's -- the way the ordinance works, there's a list

18 of the types of trees; correct? That the developer

19 submits to the Township; correct?

20 A. Yes.

21 Q. And then who hires the tree expert to check all that?

22 Does the Township do that or --

23 A. **No, the developer.**

24 Q. The developer does that.

25 Does the Township review the inventory of the

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1 trees?

2 A. Yes.

3 Q. And then if the trees that are listed on the ordinance

4 are on the property, is it -- do -- they cannot be cut?

5 A. **They can be cut, but in certain instances, they have to**

6 **be replaced.**

7 Q. So, in general, it would cost more for a developer to

8 comply with the tree ordinance than not?

9 A. Yes.

10 Q. And that would most likely be pertinent in some respect

11 to the Belle Terre property; correct?

12 A. Yes.

13 Q. Now, under the master plan, low density residential, it

14 says:

15 "A popular feature of Milford Township is

16 the country-oriented subdivision developments,

17 and/or the detached home site condominiums."

18 That's what Mr. LeDuc proposed in the Belle Terre

19 project, did he not?

20 A. **I believe so.**

21 Q. And with the cluster option, it would be designed to

22 protect the natural features of the property; correct?

23 A. **Could be.**

24 Q. And then just, you're saying, 120 days ago, the Township

25 may have passed an ordinance that would actually make it

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1 more expensive for Mr. LeDuc to develop the Belle Terre

2 property?

3 A. Yes.

4 Q. Most likely it would cost more to develop the Belle

5 Terre property; correct?

6 A. Yes.

7 Q. So, in considering the zoning, does the Township

8 consider the economic viability of these parcels of land

9 such as the LeDuc parcels?

10 A. **I don't believe so. This master land use plan has been**

11 **in place for a number of years, and there's very, very**

12 **little change to it. Very little change to it.**

13 Q. All right. Let me back up.

14 If there's essentially no market for office, you

15 haven't had any applications in ten years, that would

16 indicate to you as the supervisor that there's really no

17 market for office; correct?

18 A. **Correct.**

19 Q. If there's been no applications in the last 20 years for

20 acre-and-a-half subdivisions, that would essentially

21 indicate to you that there's really no market for

22 acre-and-a-half minimum lot size subdivisions; correct?

23 A. **Could be.**

24 Q. Well, you haven't had any interest in two decades.

25 A. **Well, individuals are buying up acre-and-a-half lots and**

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1 building houses.
2 Q. I'm talking subdivisions. Subdivisions.
3 Has there been any?
4 A. No subdivisions.
5 Q. All right. So, this century, there's been no one apply
6 for acre-and-a-half subdivisions in Milford Township;
7 correct?
8 A. I don't remember when Lakes of Milford was done, but
9 probably 20, yeah.
10 Q. So, not this century?
11 A. Right.
12 Q. All right. Now, the fact that the property doesn't perc
13 is what makes it even more expensive to develop the
14 property; correct?
15 A. Yes.
16 Q. And the Belle Terre property doesn't perc; correct?
17 A. Correct.
18 Q. The fact that you have a tree ordinance now that would
19 make it more expensive to develop it would also affect
20 the economic viability of the Belle Terre property as
21 well; correct?
22 A. Yes.
23 Q. The fact that if the capacity exists, if the statistics
24 show that there actually is 20,000 gallons of extra
25 capacity in the plan that Mr. LeDuc already paid for,

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1 and he can't use it, that would affect the economic
2 viability of development on the Belle Terre property as
3 well; correct?
4 MR. STOKAN: Object to foundation.
5 BY MR. BURNS:
6 Q. Let me ask it --
7 A. You mean under the current zoning?
8 Q. Under any zoning.
9 If he can't use the 20,000 gallons of capacity that
10 are already built and paid for, it's wasted.
11 That whole capacity is wasted; correct?
12 MR. STOKAN: Object to foundation.
13 A. I couldn't answer that because I'm not the engineer, and
14 I'm not doing the cost analysis.
15 BY MR. BURNS:
16 Q. Well, if he had to build a new plant for any development
17 on the Belle Terre property, that would affect the
18 economic viability of development on the Belle Terre
19 property?
20 A. Yes.
21 Q. They're expensive; correct? And hard to get; correct?
22 A. Yes.
23 Q. And so the Township has maintained this master plan and
24 voted no on Mr. LeDuc's Belle Terre project without
25 having any idea of whether the economic viability of the

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1 existing zoning exists?
2 MR. STOKAN: Object to the form of the question.
3 A. My statement on that would be, it's not up to the
4 Township to tell the developer how much money he can
5 make or how much money he can't make.
6 BY MR. BURNS:
7 Q. Well, let me ask it a different way.
8 You know that -- in the last 20 years that no one
9 has applied for office or one-and-a-half-acre
10 subdivisions, yet the Township believes this property
11 zoned in those two zones, when, at least based upon
12 applications, there's no demand?
13 A. Correct.
14 Q. And if you've got to build a sewer plant, arguably the
15 entire project is a complete loser because there's no
16 demand and extra expense; correct? As zoned?
17 A. Correct.
18 Q. So, no developer in their right mind would go ahead and
19 intentionally lose money?
20 MR. STOKAN: Object to form and foundation.
21 BY MR. BURNS:
22 Q. Correct?
23 A. I have no idea.
24 I know a couple that did things like that.
25 Q. Do you believe -- okay.

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1 Do you believe the Township has an obligation to
2 place the zoning on the property in a condition that is
3 economically viable?
4 A. That's not my field of expertise.
5 Q. So, you don't know?
6 A. No.
7 Q. And you also don't know what betterments that could be
8 offered potentially by a developer for a conditional
9 rezoning that would be considered by the Township to be
10 something that is good for the Township?
11 A. Correct.
12 Q. You don't have a list or don't know; correct?
13 A. Don't know.
14 And no list.
15 Q. And do you know what the standard of review is for the
16 Township to determine whether or not it grants or denies
17 a conditional rezoning request or whether it, so to
18 speak, rang the bell?
19 A. No.
20 Q. So, I'll ask you: How does a developer know or how
21 could a developer know what to apply for if we don't
22 know what the standard is?
23 A. I have no idea.
24 Q. You understand that -- you do understand that Mr. LeDuc
25 paid for the entire wastewater treatment plant, correct?

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1 To construct it?
2 **A. That would be my observation, yes.**
3 **Q. Is that your understanding?**
4 **A. Because the Township did not pay any money for it.**
5 **Correct.**
6 **Q. The Township didn't. Correct.**
7 You understand the concept of holding costs and
8 interest and all those types of things that, when you
9 spend money and you can't use it, is just spent money;
10 correct?
11 **A. Correct.**
12 **Q. All right. You understand that a developer has an**
13 **interest in keeping his company together by having**
14 **projects, so to speak, in the hopper going forward;**
15 **correct?**
16 **A. Correct.**
17 **Q. And you understand that if Mr. LeDuc and his companies**
18 **don't have a project such as the Belle Terre to go**
19 **forward, that it harms -- economically harms the**
20 **company; correct?**
21 **MR. STOKAN: Object to foundation.**
22 **A. It could.**
23 **BY MR. BURNS:**
24 **Q. And he could lose all his trades. People go work**
25 **elsewhere; correct?**

Page 94

A. Correct.
Q. Is that a consideration for the Township in terms of
granting or denying the application for rezoning?
A. No.
Q. So, what are the considerations that the Township
considers in reviewing an application such as
Mr. LeDuc's application for rezoning?
What are the principles that the Township reviews
and considers?
A. We use our consultant. We use our engineer. We use our
attorney.
Q. So, what's your understanding of what's wrong with the
application from the Township's perspective?
Mr. LeDuc's application?
A. As I stated previously, it only benefitted his
development, not anybody -- no one else in the Township.
Q. So, if somebody builds a McDonald's in town, does that
benefit the Township?
A. No.
Q. So, your standard is, in order to get approved, it has
to --
A. If it gets built in the town, we don't have any control
over that.
Q. Well, I'm asking you, what are the things that -- in
zoning generally that you understand benefit the

Page 95

Township in any -- any development?
Whatever any developer is building in the Township,
obviously developers are doing it to make money;
correct?
A. Correct.
Q. So, what are -- what is the Township looking over and
above that that benefits the Township that a developer
needs to provide?
A. Township is trying to keep the rural atmosphere, which
is in their mission statement, with large lots. And
that's usually, well, most of the Township because they
use the Village as the density issue.
Q. So -- but you're just -- earlier you said Ridge Valley,
very well-received?
A. Yes.
Q. Right across the street?
A. Except for the development -- the second development to
the north. They don't like the quality of the houses
that Mr. LeDuc built.
That's the only complaints I've received about
Mr. LeDuc.
Q. So, in terms of -- let's call it the cluster option that
Mr. LeDuc proposes for the LeBelle property, what are
the health, welfare and safety concerns of the Township?
A. Well, the health would be the sewer and water.

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Q. All right. So, he provides --
A. Correct.
Q. He provides sewer and water?
A. Correct.
Q. So, that's solved.
A. Safety would be the roads, access, accel/decel lanes,
passing lane.
Q. Okay. Those are not within your jurisdiction; correct?
A. Correct.
Well, yes, they're required by ordinance.
Q. But the Road Commission --
A. Right.
Q. -- regulates those.
So, he agreed to provide a traffic light if
necessary?
A. If the Road Commission --
Q. So, my question is going the other way.
What are the health, welfare and safety concerns of
the Township to the LeBelle cluster option project?
MR. STOKAN: You mean LeDuc?
MR. BURNS: LeDuc.
MR. BURNS: What did I say? "LeBelle"?
MR. STOKAN: Yeah.
A. That's my great-grandmother's maiden name.
BY MR. BURNS:

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1 Q. Oh. All right.

2 **A. Just the amount of traffic.**

3 Q. What else, then?

4 **A. Well, the health issues, the water and sewer, which we**
5 **discussed previously.**

6 Q. So, that's solved.

7 So, what I'm saying is, if he gets -- puts

8 essentially the water system out there and the sewer

9 system out there, he solves the water and the sewer

10 issue, health safety question; correct?

11 **A. Correct.**

12 Q. If he gets permits from the Road Commission and builds

13 the improvements in the road right-of-way, presumably he

14 solved the safety issues associated with the county

15 roads?

16 **A. Except for the amount of traffic generated.**

17 Q. All right. So -- but if he built out the office sites

18 with bigger and better office, which there's no demand

19 for, wouldn't there be more traffic than what he's

20 proposing?

21 **A. Possibly.**

22 Q. But if he got permits from the Road Commission for the

23 road improvements that were necessary in the

24 right-of-way -- traffic lights, decel lanes --

25 theoretically, at least according to the Road

Page 98

1 Commission, the traffic concerns would be satisfied?

2 **A. I couldn't answer that specifically.**

3 Q. So -- my question is, so what other health, safety and

4 welfare concerns does the Township have about the Belle

5 Terre site?

6 **A. It's probably the density issue. Nothing says that he**
7 **can't build 22 homes there.**

8 Q. If there's no market for it? Is it --

9 **A. There may be a market for it.**

10 Q. Is it the expectation that the Township require him to

11 build 22 homes there on acre-and-a-half sites with

12 sewer, with water, with road improvements when there's

13 no demand for acre-and-a-half subdivisions this century

14 in the Township?

15 MR. STOKAN: Object to the form of the question.

16 **A. Let me back up here. I just thought of one of the**
17 **wastewater plants that we put in. It was -- we just put**
18 **it in.**

19 **And they just started to develop it. And it's nine**
20 **houses in a subdivision. That's the one at Commerce and**
21 **Duck Lake Road.**

22 **Originally, it was going to be 13 units. It didn't**
23 **perc for 20 years. A guy came in, bought it, put in a**
24 **wastewater plant, and he's building nine homes because**
25 **the zoning ordinance has changed, and he lost four**

Page 99

1 **houses out of the sub.**

2 BY MR. BURNS:

3 Q. Is that a privately built plant that you were just

4 talking about?

5 **A. Yes.**

6 Q. What's the permitted size? What is the -- is it a

7 surface water discharge or ground water discharge?

8 **A. Ground water discharge.**

9 Q. What's the flow?

10 **A. I don't know. I don't keep those records in my head.**

11 Q. Is it 70,000 gallons?

12 **A. No, nine houses.**

13 Q. Nine houses.

14 So, that's my question.

15 Is it the expectation that the Township require

16 Mr. LeDuc to build 24 homes on this site, provide sewer,

17 provide water, and comply with the tree ordinance?

18 **A. That's the way the ordinances are written, yes.**

19 Q. Even if it makes no economic sense and there's no

20 demand?

21 Is that the expectation of the Township?

22 **A. It's not the Township's position to make or break a**
23 **developer. It's not the Township's position to make**
24 **people make money.**

25 Q. I understand that, but the property has to be in a

Page 100

1 economically viable condition, does it not?

2 **A. You mean buildable?**

3 Q. Right.

4 The Township cannot zone property for which there

5 is no use; correct?

6 That's a taking?

7 **A. There is a use for that property at acre and a half.**

8 Q. Economically viable use?

9 **A. I have no idea.**

10 Q. And you don't believe that the Township has an

11 obligation or a duty to figure out whether the use for

12 which it's zoned is economically viable?

13 **A. No, I don't.**

14 MR. BURNS: Need a quick break, and then I'm pretty

15 close to being done here.

16 (Short recess at 3:05 p.m.)

17 * * *

18 (Record resumed at 3:09 p.m.)

19 MR. BURNS: I'm done.

20 MR. STOKAN: You're done.

21 I only have maybe one question.

22 * * *

23 EXAMINATION

24 BY MR. STOKAN:

25 Q. The Township engineers believed that the Ridge Valley

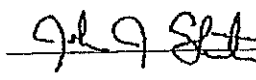


The Power of Commitment™

Page 101

1 development required 70,000 gallons capacity for the
 2 sewer system; correct?
 3 A. Correct.
 4 Q. And if their calculations would have been right, there
 5 wouldn't have been any excess capacity to use on the
 6 neighboring property, would there?
 7 A. Correct.
 8 MR. STOKAN: Nothing further.
 9 * * *
 10 RE-EXAMINATION
 11 BY MR. BURNS:
 12 Q. But their calculations weren't correct, were they?
 13 A. I would have to see what the total flow is when the
 14 development is all built.
 15 Q. You mean after the last five houses that are out there?
 16 A. Yeah.
 17 Q. But you haven't seen any -- I think you already
 18 testified you hadn't seen any numbers recently?
 19 A. No.
 20 MR. BURNS: No further questions.
 21 MR. STOKAN: Nothing else.
 22 MR. BURNS: Okay. Thank you.
 23 (Discussion held off the record.)
 24 THE REPORTER: Okay. Go ahead.
 25 MR. STOKAN: E-trans, a PDF. I don't need a hard

Page 103

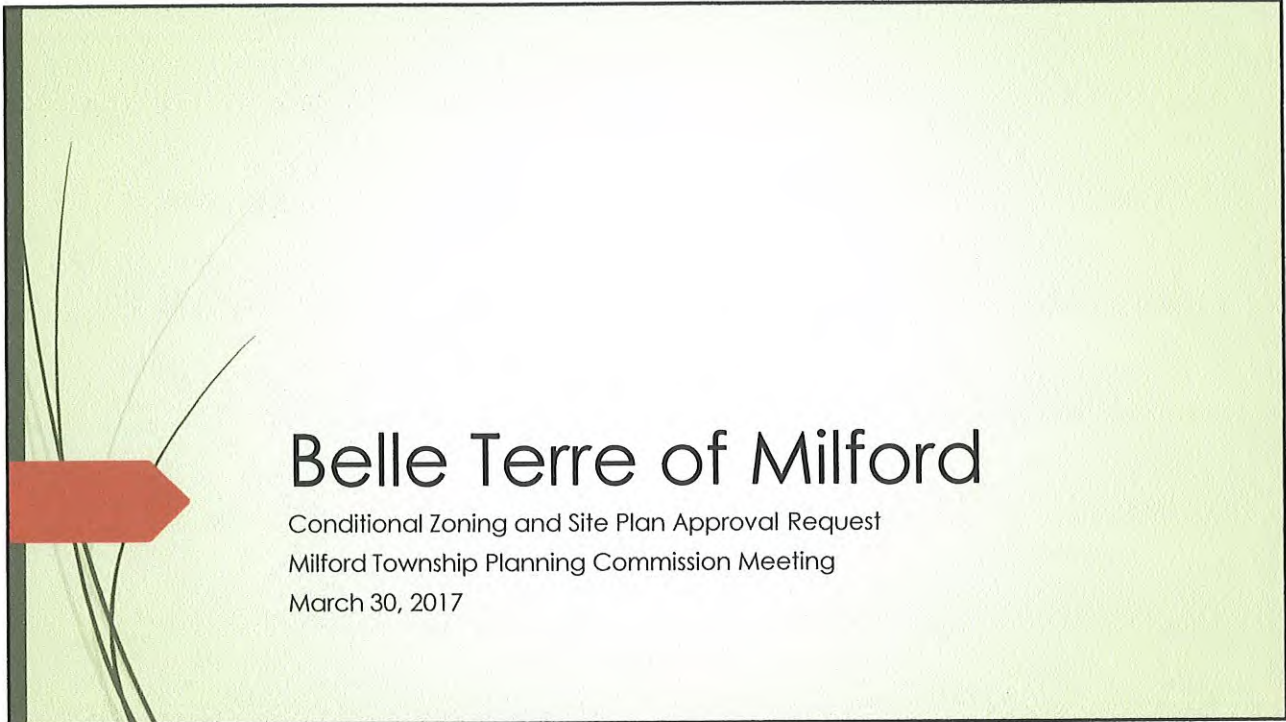
1 STATE OF MICHIGAN)
 2 COUNTY OF OAKLAND)
 3 CERTIFICATE OF NOTARY PUBLIC
 4 I do hereby certify that the witness, whose
 5 attached testimony was taken in the above matter, was
 6 first duly sworn to tell the truth; the testimony
 7 contained herein was reduced to writing in the presence
 8 of the witness by means of stenography; afterwards
 9 transcribed; and is a true and complete transcript of
 10 the testimony given.
 11 I further certify that I am not connected by blood
 12 or marriage with any of the parties; their attorneys or
 13 agents; and that I am not interested, directly or
 14 indirectly, in the matter of controversy.
 15 In witness whereof, I have hereunto set my hand
 16 this day at Highland, Michigan, County of Oakland, State
 17 of Michigan on Monday, September 24, 2018.
 18 
 19 _____
 20 John J. Slatin, RPR, CSR-5180
 21 Certified Shorthand Reporter
 22 Notary Public, Oakland County, Michigan
 23 My commission expires: July 25, 2023
 24
 25

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1 copy.
 2 THE REPORTER: Yeah, perfect. Okay.
 3 (Discussion held off the record.)
 4 THE REPORTER: So, Paul, by -- from our discussion,
 5 I assume you want a copy of the transcript? You want
 6 just electronic version? Do you need paper at all?
 7 MR. BURNS: Just give me electronic.
 8 THE REPORTER: Okay. Thank you.
 9 (Deposition concluded at 3:11 p.m.)
 10 * * *
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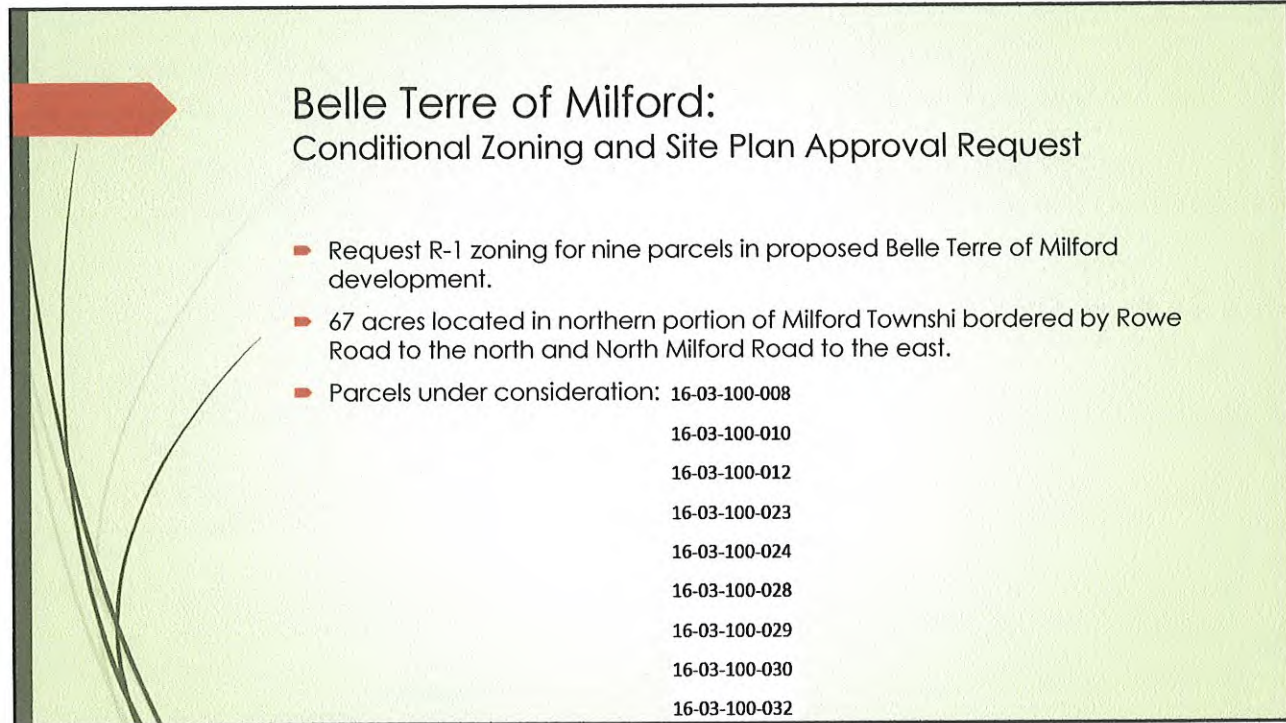
EXHIBIT L



Belle Terre of Milford

Conditional Zoning and Site Plan Approval Request
 Milford Township Planning Commission Meeting
 March 30, 2017

1



Belle Terre of Milford: Conditional Zoning and Site Plan Approval Request

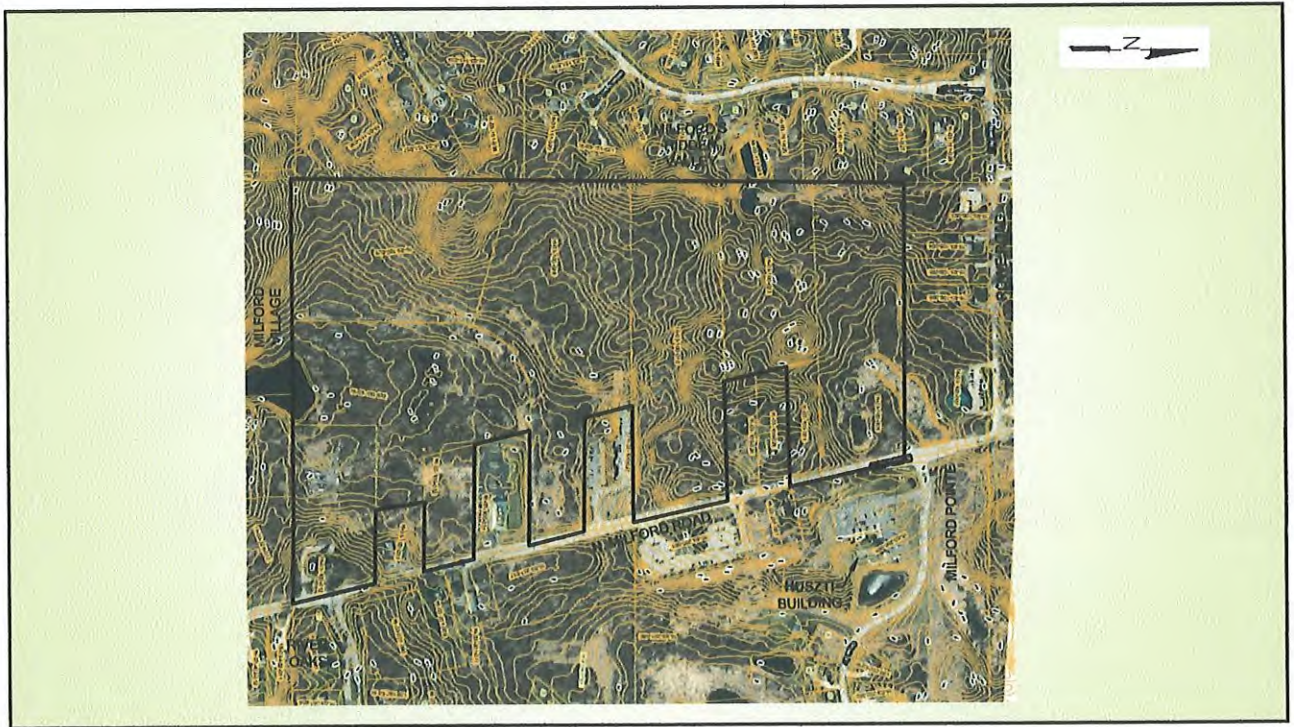
- Request R-1 zoning for nine parcels in proposed Belle Terre of Milford development.
- 67 acres located in northern portion of Milford Townshi bordered by Rowe Road to the north and North Milford Road to the east.
- Parcels under consideration: 16-03-100-008
 16-03-100-010
 16-03-100-012
 16-03-100-023
 16-03-100-024
 16-03-100-028
 16-03-100-029
 16-03-100-030
 16-03-100-032

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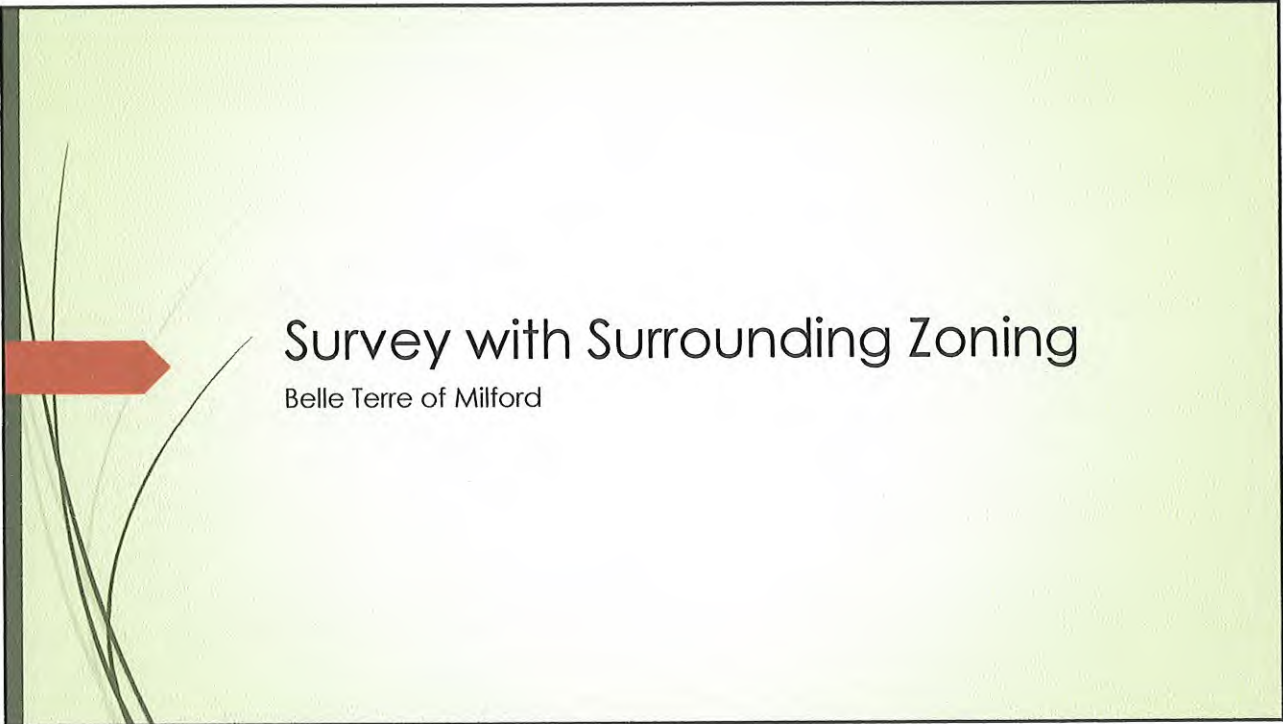
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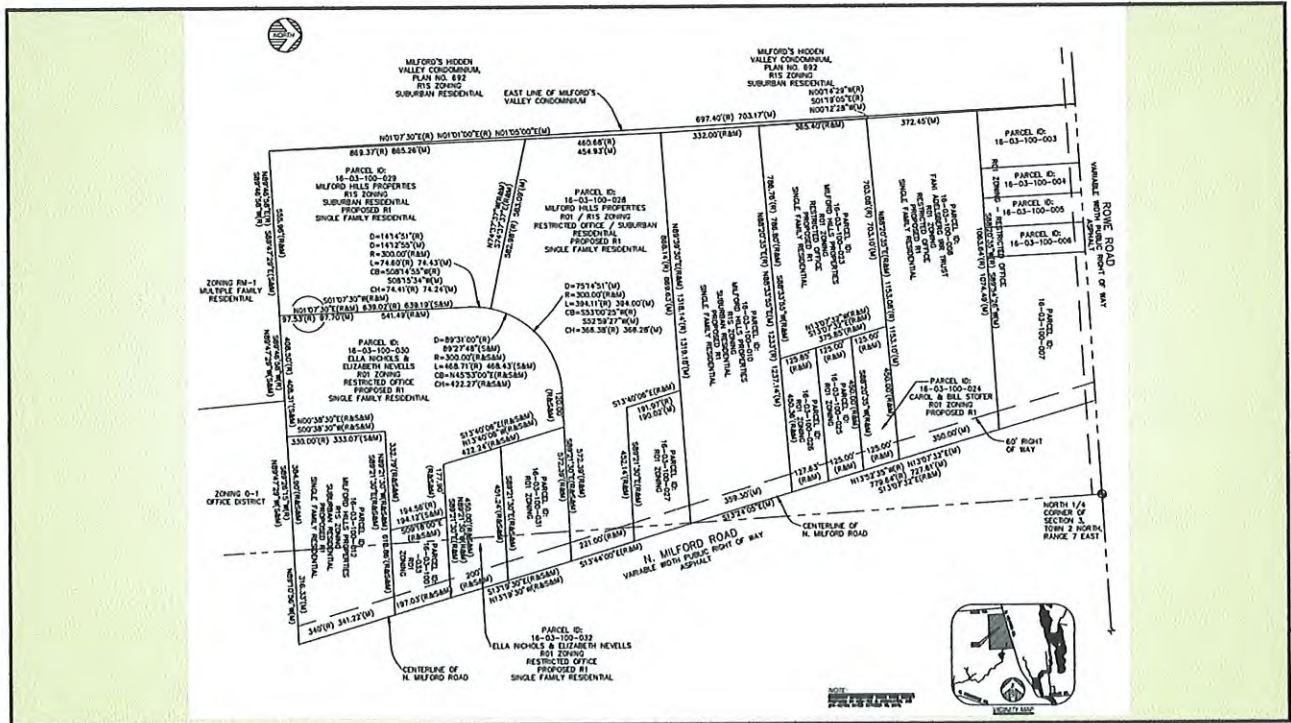
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Survey with Surrounding Zoning

Belle Terre of Milford

5



6

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Belle Terre of Milford: Conditional Zoning and Site Plan Approval Request

- Sound zoning provides incremental stepped zoning from high intensive use to lower intensive use:

```

graph TD
    HI[Heavy Industrial] --> LI[Light Industrial]
    LI --> O[Office]
    O --> HDSF[High Density Single Family]
    HDSF --> MDSF[Medium Density Single Family]
    MDSF --> LDSF[Low Density Single Family]
  
```

11

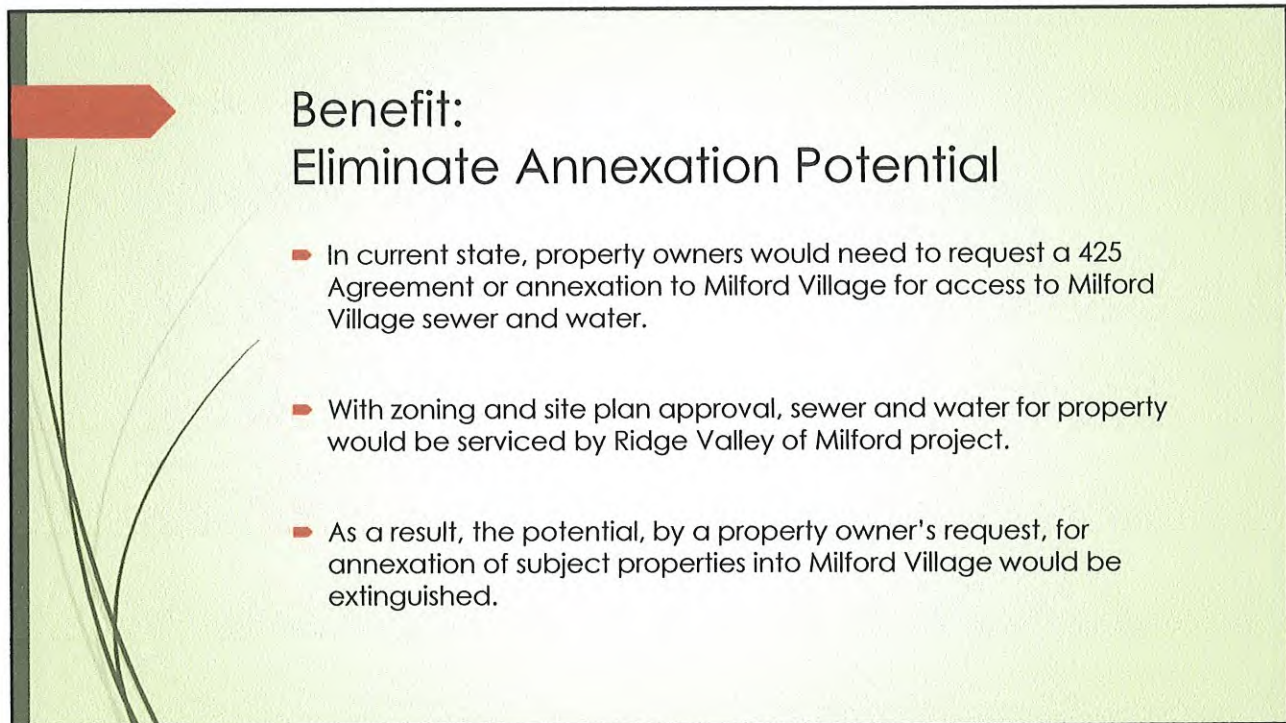
Belle Terre of Milford: Conditional Zoning and Site Plan Approval Request

- Current zoning adjacent to property:
 - To north and east – RO1 (Restricted Office),
 - To east R2 (Multi-family), R-2 (Office under Special Use), North Milford Road
 - To south – Milford Village, Office, Multi-family
 - To west – R1S (Suburban Residential)
- Property bordered on three sides by high intensive use
- Proposed zoning of R-1 (Single Family Residential) transitions from the three sides of high intensive use to the one side of lower intensive use


12



13




14



Benefit: Traffic Reduction

- In current state, with the existing Restricted Office and RIS zoning, the projected traffic counts of 12,494 per day on North Milford Road would be realized.
- With approval, the traffic counts would be reduced to 1,694 per day under the proposed zoning.
- 86% Reduction

15



Benefit: Blight Removal

- In current state, the five acre property located at 1325 N. Milford Road (Frontiera Property) is a terrible eyesore (see photos). Residents of the River Oaks Subdivision are subject to the view everyday. Visitors to Milford are greeted by the blight.
- With zoning and site plan approval, removal of the existing structure and cleanup of the property will be accomplished.
- A welcoming entrance into Milford Township's northern border will be provided.

16



Present Condition of Parcel L-16-03-100-012

Fronting North Milford Road

17



18



19



20



21




22



23



24




Benefit: Reverse Declining School Enrollment

- In current state, enrollment at Huron Valley School District is declining:

Year	First Grade Students	Graduating Seniors
2012	656	849
2013	642	831
2014	652	822
2015	601	821
2016	541	825
2017	500	800*
- With zoning and site plan approval, the decline will be reversed.
- 350 students in grades K – 12 projected to be added at full build-out, with \$2,500,000 in allocated state funding.

25



Benefit: Recreational Trail Extension

- In current state, no complete trail from north to south border of Milford Township.
 - Kensington Park Trail - approximately 8.0 miles
 - Milford Trail - approximately 3.6 miles
 - Milford Village Pedestrian Trail - approximately 1.25 miles
- With zoning and site plan approval, a trail circumnavigating property will be built allowing access to Milford Trail System and safe walkability to downtown Milford Village.
 - Belle Terre Trail - approximately 2 miles
- Trail extension will complete final link from southern border of Milford Township at the Kensington/Island Lake Trail to Milford Township's northern border at Rowe Road. Trail will also extend to southern border of subject property so it can connect to the adjacent 130 acre properties, potentially continuing down to Commerce Road and the YMCA/ Library in the future.
- Cost for the trail system, in excess of \$1,000,000, will be paid by the Developer.

26




Map of Proposed Belle Terre Trail

Two mile extension to Kensington and Milford Trails
Connecting Milford Township from north to south borders


27

Walking Trail Legend

- PROPOSED BELLE TERRE OF MILFORD TRAIL
- EXISTING VILLAGE WALK
- KENSINGTON/MILFORD TRAIL




28



Benefit: Conservation Easement

- In current state, no conservation easement exists on the property.
- With zoning and site plan approval, a conservation easement of approximately two acres along the entire western border of the property will be provided.
- The easement will ensure a buffer belt of wooded land.

29



Benefit: Extension of Sewer and Water

- In current state, sewer and water systems are not available at the property.
- With zoning and site plan approval, extension of the sewer and water system from Ridge Valley of Milford system will be provided.
- Septic systems, with potential environmental issues, will no longer be needed.
- Special Assessment District (SAD) cost to Ridge Valley of Milford residents will be reduced by approximately 50% upon final buildout.
- The cost of the sewer and water extension will be paid by the Developer.

30

Benefit: Positive Economic Impact

- In current state, the taxable value of the property is approximately \$600,000.
- With zoning and site plan approval, The projected buildout value for the project would be approximately \$60 million, of which 50% would be taxable value. Based on the National Association of Home Builder's publication, "The Economic Impact of Home Building in a Typical Local Area," the following economic benefits of the project are calculated:

	<u>YEAR ONE IMPACT</u>	<u>ANNUALLY RECURRING IMPACT</u>
Local Income	\$ 43,350,000	\$ 6,200,000
Local Business Owner's Income	\$ 12,750,000	\$ 1,400,000
Local Wages and Salaries	\$ 30,360,000	\$ 4,800,000
Local Taxes	\$ 5,080,000	\$ 1,500,000
Local Jobs Supported	701	122

Benefit: Transitional Zoning

- In current state, RO1 (Restricted Office) zoning abuts R1S (Suburban Residential) zoning, an abrupt change.
- With zoning and site plan approval, the proposed R1 (Single Family Residential) zoning will provide smooth transitional zoning from the current high intensive use, RO-1 (Restricted Office) zoning on the eastern side of property along with high intensive use R-2 (Multi Family and Special Use Medical Office) on the eastern side of North Milford Road.
- The transitional zoning would occur as well with the RM-1 (Multi Family) and O-1 (Office) existing zoning located along the southern border in Milford Village and existing RO-1 (Restricted Office) zoning along the northern property line along Rowe Road.
- As the adjacent 130 acre parcels are zoned R1 and provide transitional zoning from the high intensive uses of Milford Village on its eastern border to the R1S less intensive use on its western and northern border, the subject parcel should also provide the same transitional zoning.



Benefit: Master Plan Cohesion

- The proposed conditional down zoning request is in keeping with the goals and objectives of Milford Township's Master Plan.

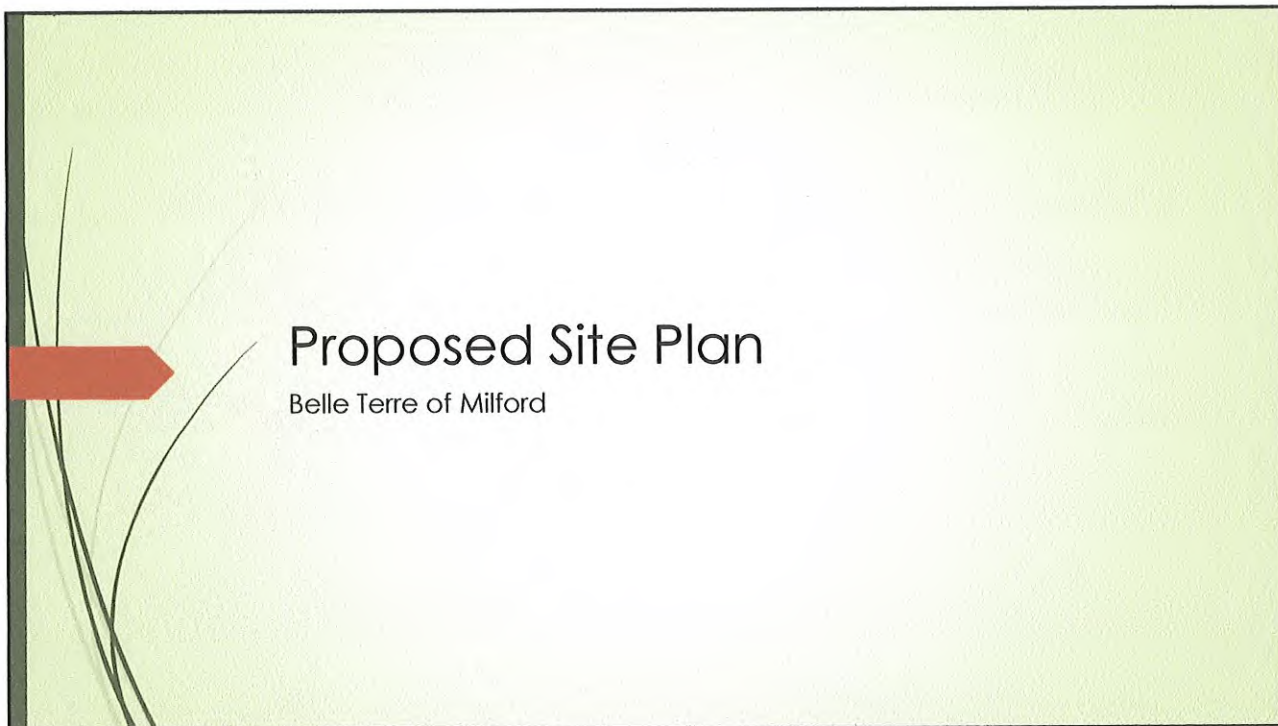
33



Experienced Developer: Ridge Valley of Milford

Belle Terre of Milford will provide a development of exceptional quality and value, as demonstrated by the developer at Ridge Valley of Milford.


34



35



36



Conditional Terms of Belle Terre of Milford Zoning and Site Plan Approval

The Applicant would like to provide to Milford Township the following benefits conditioned upon rezoning and site plan approval of Belle Terre of Milford. The Conditional rezoning approval would be null and void if the site plan is not approved by Milford Township.

- Applicant would not request an extension of sewer or water from Milford Village via an annexation or a 425 Agreement.
- Applicant would extend sewer and water services from the Ridge Valley of Milford current systems at no cost to Milford Township.
- Applicant would limit the home sites to 178 under the R-1 zoning, as shown on the site plan.
- Applicant would remove all debris, junk and the residential structure at the southeastern parcel of the area, known as 1325 North Milford Road.
- Applicant would build a trail system, to be maintained by the Belle Terre Homeowners Association, at no cost to Milford Township. The overall trail would provide complete pedestrian access from Highland Township to the north, through Milford Township and Village, to Lyon Township to the south.
- Applicant would dedicate the western portion of the property (west of gas main and east of property line), as shown on the site plan, as a conservation easement. Easement would provide a wooded buffer to properties to the west, be used to host a portion of the new trail, and be owned and maintained by the future Home Owner's Association of Belle Terre of Milford.
- Applicant will install a traffic signal at the southern entrance of Belle Terre and Milford Road should Milford Township require it and Oakland County Road Commission permit it.

37



Belle Terre of Milford

Thank you for your consideration.

38

EXHIBIT M

**REGULAR MEETING
PLANNING COMMISSION
CHARTER TOWNSHIP OF MILFORD**

**APRIL 27, 2017
PAGE 1**

MEMBERS PRESENT: George Magro, Chairman
Vaughn Koshkarian, Vice Chairman
Commissioners: Myles Davis
Neill DeVries
Julie Ryszka
Christopher Winn
David Latka
William Mazzara

ABSENT: Gordon Muir, Secretary

ALSO PRESENT: Terrell Tucker, Recording Secretary
Jennifer Elowsky, Attorney
Timothy Brandt, Building Official
100 audience members

Chairman Magro called the meeting to order at 7:32 p.m. and determined that a quorum was present.

ZONING BOARD OF APPEALS LIAISON REPORT

Commissioner DeVries stated there were two cases at the April 12, 2017 meeting. Case V17-001 was postponed and Case V17-002 Camp Dearborn Request of a Zip Line was denied.

TOWNSHIP BOARD REPORT

Commissioner Mazzara stated that two site plans were approved at the April 19, 2017 meeting based on the Planning Commission's recommendation.

CALL TO THE PUBLIC NON-AGENDA ITEMS:

Chairman Magro made a call to the public.

Mr. Dan Jenkins, Sheeran, inquired if there will be any more halfway houses in village limit.

Mr. Lomako stated that he would take it to the appropriate board which is the Village Planning Commission.

Chairman Magro stated that the introduction and the Master Plan Public Hearing would be after the Public Hearing of the Conditional Rezoning Approval of Mr. Ray LeDuc.

PUBLIC HEARING: CONDITIONAL REZONING APPROVAL REQUEST OF MR. RAY LEDUC, MILFORD HILLS PROPERTIES, INC. ON PARCELS L-16-03-100-008, L-16-03-100-023, L-16-03-100-029, L-16-03-100-010, L-16-03-100-024, L-16-03-100-030, L-16-03-100-012, L-16-03-100-028 AND L-16-03-100-032 FROM SUBURBAN RESIDENTIAL AND RESTRICTED OFFICE TO SINGLE FAMILY RESIDENTIAL.

Commissioner Mazzara moved, Commissioner Koshkarian seconded, to open the public hearing at 7:45 p.m. Motion unanimously carried.

Mr. Nick Lomako, Planner stated the process for a conditional rezoning approval was changed with the State of Michigan Planning and Zoning Enabling Act. Mr. Lomako stated that at this time Mr. LeDuc has only submitted a preliminary not precise plan. After a conditional rezoning approval then an actual site plan would be submitted. Mr. Lomako reviewed the required criteria for a conditional rezoning approval that needs to be met.

Commissioner Mazzara explained to audience that this is the first step in a multi-step process.

Mr. Ray LeDuc gave a PowerPoint presentation of property and would like feedback from Commissioners and the residents.

Mr. Shawn Kalinowski, gave a presentation in opposition of proposed project and represented 42 residents as well as a petition of 200 signatures.

Several residents expressed their concerns with the traffic already on Milford Road, the proposed traffic light, wildlife that would be affected, and it is not in line with the existing Master Plan. These residents are not in favor of approval.

Ms. Lindsay Cotter, Liaison with the Huron Valley School of Education would welcome any residential property.

Mr. Robert Combs, stated that the development will not solve Huron Valley School problems.

Mr. Tyler Remington, DTE representative stated that there is a 50 ft wide easement for DTE and willing to work with applicant to leave a wooded strip buffer.

Commissioner Mazzara moved, Commissioner DeVries seconded, to close the public hearing at 8:49 p.m. Motion unanimously carried.

NEW BUSINESS:

BELLE TERRE OF MILFORD, CONDITIONAL RE-ZONING, NORTH MILFORD ROAD, MR. RAY LEDUC

Commissioner Mazzara inquired if the current property owners gave permission to Mr. LeDuc to speak on their behalf.

Mr. LeDuc stated that one was supplied in the packets.

Attorney Elowsky recommended reviewing the list of the rezoning criteria that Mr. Lomako presented to make a decision.

Commissioners discussed the following rezoning criteria:

1. Appropriateness of a proposed zoning district change versus a text amendment to accommodate what is being requested.
Commissioners discussed R1S district property nearby, extension of village utilities to the site, changing R0 to R1 and continue that rezoning to the R1S, or using a cluster option. A text amendment to the ordinance isn't to make it possible but to see if there is something else that addresses the concerns.
2. Evidence of a changed condition.
Commissioners don't see a trend that can be clearly established.
3. Consistency with the adopted master plan.
Commissioners determined it is not in line with the Master Plan.
4. Compatibility with the existing land use pattern.
Commissioners stated that it is an issue because the proposed density is greater than what exists nearby.
5. Ability for the proposed use to be built on the subject site if it were rezoned.
Commissioners discussed that whole area has wetlands, low lying areas, and possibly high water tables which may make certain areas unbuildable.
6. Adequacy of existing public facilities or ability of the petitioner to provide them.
Commissioners discussed that the property owner does have water and sewer facilities across the street. They are not sure what the process would be to bring those utilities to the site.

7. Availability of nearby sites that are already properly zoned that can be used for the intended purposes.
Commissioners discussed that there are other properly zoned sites for this purpose.
8. Consistency with the established zoning pattern and that the proposed district boundary change does not represent spot zoning.
Commissioners discussed when the proposed zoning is substantially different from surrounding zoning it may be spot zoning, and this proposal would be close to spot zoning. Attorney Elowsky stated that spot zoning is addressed in the legislation for conditional rezoning.
9. Appropriateness of a lesser district classification.
Commissioners determined the petitioner has a twofold request, asking for a less intensive use than the office component – downzoning, offset by part of it being up zoning to R1.
10. The availability of other remedies.
Commissioners that there are other options that allows for development within the master plan.

Mr. LeDuc is willing to relook at the conceptual plans based on the comments made at the Public Hearing.

Commissioner Mazzara moved, Commissioner Koshkarian seconded, to postpone Belle Terre of Milford, Conditional Re-zoning, North Milford Road, for Planner Lomako, Attorney Elowsky, and Building Official Brandt to have further discussion with the applicant on the conditional rezoning request. Motion unanimously carried.

Mr. Lomako explained that when going through criteria of rezoning, look at consistency with master plan. Planning commissioners should also look at the stated policies contained within Master Plan regarding residential growth and development types at appropriate locations. It is the intent of the utilities section to make sure it can serve the residents safely. Mr. Lomako also stated that he believes the request is not spot zone because of the size of the property.

PUBLIC HEARING MASTER LAND USE PLAN REVISIONS:

Commissioner Mazzara moved, Commissioner Winn seconded, to open the public hearing at 9:52 p.m. Motion unanimously carried.

Mr. Lomako had a document passed out to everyone in attendance as well as the commissioners on how the process works for the revisions. He explained that there are eight changes to take place on the zoning map.

Mr. Robert Combs, is in favor of approval.

Mr. Brick Slade, inquired about what conservation overlay is.

Mr. Lomako explained that conservation overlay in the master plan is to alert property owners that there is something important on that property.

Commissioner Mazzara moved, Commissioner DeVries seconded, to close the public hearing at 10:12 p.m. Motion unanimously carried.

INTRODUCTION

VETERINARY CARE SPECIALISTS, 205 ROWE RD

Mr. Jim Scharl, Kieft Engineering, representing applicants, is concerned about the parking requirements because they don't exist currently for veterinary clinic and would like to add 3515 square feet addition to the existing building.

Mr. Lomako stated most of the concerns in the letter dated March 17, 2017 are just housekeeping issues but the largest issue is the parking because there is not a current formula to calculate parking spaces for veterinary clinics. Mr. Lomako recommends 35 parking spaces.

Commissioners inquired how many employees are on site at any given time.

Mr. Peter Barnes stated there are three shifts and the most at one time is 12 employees.

UNFINISHED BUSINESS:

CONSIDERATION TREE PRESERVATION ORDINANCE

Commissioner Mazzara stated that Township Board's concern is that the ordinance doesn't infringe on homeowners rights.

Mr. Lomako stated that homeowner rights are in the legislative intent and captures the spirit of the regulation.

Commissioner Mazzara recommends putting the legislative intent into layman's terms for the Township Board to better understand.

Ms. Rutherford, submitted petition of 118 signatures in favor of Tree Preservation Ordinance. She is pleased with the Tree Preservation Ordinance that the Village recently passed on properties over 1 acre.

Commissioner Mazzara moved, Commissioner DeVries seconded, to direct Planner Lomako to further develop the Tree Preservation Ordinance based on the comments for the May 25, 2017 Planning Commission Meeting. Motion unanimously carried.

NEW BUSINESS:

MASTER LAND USE PLAN REVISIONS

Commissioner Mazzara moved, Commissioner Winn seconded, to direct Planner Lomako to prepare a resolution for adoption of Master Land Use Plan Revisions at May 25, 2017 Planning Meeting. Motion unanimously carried.

ITEMS FOR FUTURE CONSIDERATION PREVIOUSLY POSTPONED:

None

APPROVAL OF MINUTES: March 30, 2017

Commissioner Ryszka moved, Commissioner Koshkarian seconded to approve the March 30, 2017 Planning Commission Regular Meeting minutes striking the word conditional from Attorney Elowsky comment on page 2 and grammatical error on bottom of page 2. Motion unanimously carried.

PLANNING CONSULTANT'S REMARKS

Planner Lomako had none

PLANNING COMMISSIONERS REMARKS

Commissioner Mazzara had questions on how the cost was established for the Belle Terre project.

**REGULAR MEETING
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CHARTER TOWNSHIP OF MILFORD**

**APRIL 27, 2017
PAGE 7**

Building Official Brandt stated that it was put under administrative review initially and then Mr. LeDuc paid the re-zoning application. The administrative fees were to cover attorney costs.

CALL TO PUBLIC

Chairman Magro made a call to the public and there was no response.

ADJOURNMENT

Commissioner Koshkarian moved, Commissioner Winn seconded, to adjourn at 10:33 p.m. Motion unanimously carried.

Charter Township of Milford,

Terrell Tucker
Recording Secretary

EXHIBIT N

**REGULAR MEETING
PLANNING COMMISSION
CHARTER TOWNSHIP OF MILFORD**

**MAY 25, 2017
PAGE 1**

MEMBERS PRESENT:

Vaughn Koshkarian, Vice Chairman
Gordon Muir, Secretary
Commissioners: Myles Davis
Neill DeVries
William Mazzara

ABSENT:

George Magro, Chairman
Commissioners: Christopher Winn
Julie Ryszka
David Latka

ALSO PRESENT:

Terrell Tucker, Recording Secretary
Timothy Brandt, Building Official
50 audience members

Vice Chairman Koshkarian called the meeting to order at 7:30 p.m. and determined that a quorum was present.

ZONING BOARD OF APPEALS LIAISON REPORT

Commissioner DeVries stated there were two cases before the board at the May 1, 2017 ZBA meeting. Case V17-001 for an 11 ft. side yard variance was granted and Case V17-003 was postponed.

TOWNSHIP BOARD REPORT

Commissioner Mazzara stated at the May 17, 2017 meeting several residents spoke against rezoning request for Belle Terre. The Residential Burning Permit was revised and adopted. The zoning change for Child Lake was also approved.

CALL TO THE PUBLIC NON-AGENDA ITEMS:

Vice Chairman Vaughn made a call to the public and there was no response.

PUBLIC HEARING: LAND DIVISION APPEAL, 17-004, CANDICE CALLAN, 16-08-400-021, R-1-R ZONING. TOWNSHIP ORDINANCE REQUIRES THAT A CREATED PARCEL IN THE R-1-R ZONING DISTRICT HAVE A MINIMUM ROAD FRONTAGE OF 200 FEET, MINIMUM NET ACREAGE OF 3.0 ACRES AND BE GENERALLY SYMMETRICAL IN SHAPE. APPLICANT PROPOSES LAND DIVISIONS WHERE CERTAIN LOTS DO NOT COMPLY WITH THE ORDINANCE STANDARDS LISTED ABOVE.

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Vice Chairman Koshkarian moved, Commissioner Mazzara seconded, to open the public hearing at 7:39 p.m. Motion unanimously carried.

Mr. Dan Callan, spoke on behalf of his sister-in-law Candice Callan, clarifying that originally they were to build a second home on property. In 1998 when initial request was granted it was the intent to share a driveway with the neighbor. The ordinance then changed and now the property is not split able.

Mr. Richard Barr, General Motors Rd, is neighbor to property and is not in favor of applicant's request.

Commissioner Mazzara moved, Commissioner Devries seconded, to close the public hearing at 7:45 p.m. Motion unanimously carried.

UNFINISHED BUSINESS:

CONSIDERATION TREE PRESERVATION ORDINANCE

Planner Lomako stated that new language has been underlined per the direction of the Planning Commission and the guiding principals have not been changed.

Commissioners discussed clear cutting canopy area would be no more than 25% and the word "alternatively" needs to be changed to "additional" and clear cutting should not occur within 5 years. It was also discussed that if a fee is paid in lieu of replacement trees, the money needs to be dedicated to a separate fund for a designated purpose and can't go into general fund.

Planner Lomako stated that he would make the appropriate changes per the Planning Commission direction and bring it back next month.

**BELLE TERRE OF MILFORD, CONDITIONAL RE-ZONING, NORTH MILFORD ROAD,
MR. RAY LeDUC**

Planner Lomako stated that the discussion guide was created in part so the public knows that their thoughts are not being dismissed. More importantly, Planner Lomako indicated the discussion guide was created to help the Planning Commission to develop a complete finding of fact before taking final action. Planner Lomako reminded the

Planning Commission that a Master Plan, it is a general long range guide for land development and not to be treated as the current zoning map.

Commissioner Mazzara stated that the Michigan Enabling Act allows you to zone, and that zoning be based on a Master Plan.

Planner Lomako explained that in some communities there has been confusion that Future Land Use Map and Zoning Map should be identical but that is not the case.

Commissioner Mazzara is concerned about how a non-motorized trail system that is privately owned would be maintained.

Planner Lomako stated a private developer would create an access easement.

Commissioner Mazzara stated office space along Milford Road doesn't work because it is so far from the expressway. This should be looked at during the next update of the Master Plan.

Planner Lomako stated that Parsons Brinckerhoff is a respectable firm, who completed the traffic study.

Commissioner Mazzara has reviewed several traffic studies and would like more information on how the study was done.

Planner Lomako stated a traffic impact study which was not done, the study provided was just an analysis of trip generation. Within the Master Plan are several reports regarding concerns with the traffic, noise, harm to wild life, protection of natural resources, and the development of additional programs.

Commissioner Mazzara reminded that the wetland part of Township Code of Ordinances is more restrictive than the state restrictions for wetlands.

Planner Lomako recited that State law says a developer can legally provide an offer of conditions in connection with a rezoning request, that it would be recorded.

Commissioner Mazzara suggested that an independent third party be brought in for a utility analysis of the existing well and waste treatment plant to determine the capacity of future expansion.

Planner Lomako indicated if the offer of conditions was updated by the applicant another public hearing would not be required. He also stated that the property is currently a split zoning and couldn't be fully used as office.

The Planning Commissioners would like Mr. LeDuc to meet with Planner Lomako and a Planning Commission member.

Mr. Robert Combs, stated that the surrounding residents would like the property to stay zoned R1S and would not be opposed if the office was rezoned to R1S and cluster housing done.

MASTER LAND USE PLAN REVISIONS

Planner Lomako stated the Public Hearing was held and next step would be to approve a resolution to adopt the Master Land Use Plan revisions.

Commissioner Mazzara moved, Commissioner Muir seconded.

WHEREAS, the Charter Township of Milford has constituted a Planning Commission which is required to develop and adopt a Master Plan to guide future development within the Township pursuant to state Public Act 33 of 2008, as amended (MCL 125.3831); and,

WHEREAS, the Charter Township of Milford Planning Commission and the Village of Milford Planning Commission jointly prepared and adopted the Milford Community Master Plan in May 2009; and,

WHEREAS, the Charter Township of Milford Planning Commission may amend a Master Plan as a whole or by successive parts corresponding with major geographical areas of the planning jurisdiction or with functional subject matter areas of the Master Plan pursuant to state Public Act 33 of 2008, as amended (MCL 125.3845 and MCL 125.3839); and,

WHEREAS, the Charter Township of Milford Planning Commission was concerned that the current zoning designations for certain areas of the Township may allow development that was contrary to the recommendations for future land use contained in the Milford Community Master Plan; and,

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**MAY 25, 2017
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WHEREAS, the Charter Township of Milford Planning Commission decided to investigate this concern and to document the results of this investigation as an addendum to the Milford Community Plan dated September 23, 2016; and,

WHEREAS, the Charter Township of Milford complied with the notice, distribution and adoption procedures for a Master Plan specified in Section 39, 41, and 43 of state Public Act 33 of 2008, as amended (MCL 125.3839, MCL 125.3841 and MCL 125.3843) including the Charter Township of Milford Planning Commission receiving public comment during a public hearing held on April 27, 2017; and,

WHEREAS, the Charter Township of Milford Board, at its February 15, 2017 meeting, affirmed that the Charter Township of Milford Planning Commission retains the right to adopt the addendum to the Milford Community and that the Board does not instead assert its right to approve or reject the addendum; and,

WHEREAS, the adoption of the addendum to the Milford Community Master Plan dated September 23, 2016 by the Charter Township of Milford Planning Commission must be by resolution carried by not less than the majority of its members pursuant to state Public Act 33 of 2008, as amended (MCL 125.3843).

NOW, THEREFORE, BE IT RESOLVED that the Charter Township of Milford Planning Commission hereby adopts the addendum to the Milford Community Master Plan dated September 23, 2016 and hereby directs the following actions: (1) that a statement recording the Planning Commission's approval of it, signed by the Chair or Secretary of the Planning Commission, be included on the inside of the front or back cover; (2) that the Secretary of the Planning Commission submit a copy of the approved addendum to the Township Board; and, (3) that the Secretary of the Planning Commission also provide copies of approved addendum to the same entities which received the proposed addendum as described in Section 41 of state PA 33 of 2008, as amended (MCL 125.3841).

Roll call vote: Yes-Muir, Davis, Devries, Mazzara, Koshkarian Nay- None. Absent – Magro, Ryszka, Winn, and Latka. Vote unanimously carried.

NEW BUSINESS:

LAND DIVISION APPEAL 17-004

Commissioner Mazzara explained that the request was denied by the land split board and other options to divide the property could be looked at.

Mr. Callan stated his engineer has looked at other options.

Commissioners discussed the possibility of eliminating part of A and adjoining neighbor to part of A and then split the remainder to bring the others in compliance.

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Mr. Callan stated it would be more restrictive. The placement of house and other out building was planned around the initial splits.

Building Official Brandt stated that Mr. Crane was asked to provide the net acreage but it has not been supplied to date.

Mr. Callan was concerned with replacing road because of the four parcels but may not be needed if it was split into three parcels and part of A was combined with neighbor and requested the commissioners postpone until other options could be reviewed and modified by applicant.

Commissioner Mazzara moved, Commissioner Muir seconded, to postpone Land Division Appeal 17-004, Candice Callan, 16-08-400-021, R-1-R Zoning so applicant could look at other options. Motion unanimously carried.

ITEMS FOR FUTURE CONSIDERATION PREVIOUSLY POSTPONED:

None

APPROVAL OF MINUTES: April 27, 2017

Secretary Muir moved, Commissioner Devries seconded to approve the April 27, 2017 Planning Commission Regular Meeting minutes. Motion unanimously carried.

PLANNING CONSULTANT'S REMARKS

Planner Lomako stated there is currently a house bill regarding Air bnb being reviewed.

PLANNING COMMISSIONERS REMARKS

Commissioner Mazzara stated that a safety path needs to be reviewed along Milford Road near the Dairy Queen.

CALL TO PUBLIC

Vice Chairman Koshkarian made a call to the public and there was no response.

ADJOURNMENT

**REGULAR MEETING
PLANNING COMMISSION
CHARTER TOWNSHIP OF MILFORD**

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Commissioner Muir moved, Commissioner Devries seconded, to adjourn at 9:32 p.m.
Motion unanimously carried.

Charter Township of Milford,

Gordon Muir
Secretary

EXHIBIT O

In the Matter Of:

MILFORD HILLS PROPERTIES, INC., ET AL vs CHARTER TOWNSHIP OF MILFORD

NICHOLAS P. LOMAKO, AICP, PCP

October 03, 2018

Prepared for you by

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<p style="text-align: center;">Page 1</p> <p>STATE OF MICHIGAN IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND</p> <p>MILFORD HILLS PROPERTIES, INC., a Michigan Corporation, 1042 North Milford Road, Ste. 103, Milford, MI 48381; and RPL of MICHIGAN, INC., a Michigan Corporation, 1042 North Milford Road, Ste 103, Milford,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">vs. Case No. 2017-162642-CZ Hon. D. Langford Morris</p> <p>CHARTER TOWNSHIP OF MILFORD, a Michigan charter township, Defendant,</p> <hr style="width: 20%; margin-left: 0;"/> <p>The Deposition of NICHOLAS P. LOMAKO, AICP, PCP, Taken at 40701 Woodward Avenue, Suite 105, Bloomfield Hills, Michigan, Commencing at 1:30 p.m., Wednesday, October 3, 2018, Before Kathryn L. Janes, CSR-3442, RMR, RPR.</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 3</p> <p>JAMES E. TAMM G' Connor De Grazia Tamm & O'Connor PC 40701 Woodward Avenue Suite 105 Bloomfield Hills, Michigan 48304 248.433.2000 jetamm@odtlegal.com</p> <p style="text-align: center;">Appearing on behalf of the Defendant.</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p style="text-align: center;">Page 2</p> <p>APPEARANCES:</p> <p>PAUL E. BURNS Law Office of Paul E. Burns 133 West Grand River Avenue Brighton, Michigan 48116 910.227.5000 burns@peblaw.net Appearing on behalf of the Plaintiffs.</p> <p>FREDERICK LUCAS Lucas Law, P.C. 7577 US Highway 12 Suite A Onsted, Michigan 49265 517.467.4000 lucas@lucaslawpc.com Appearing as co-counsel on behalf of the Plaintiffs.</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p style="text-align: center;">TABLE OF CONTENTS</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 80%;">WITNESS</td> <td style="width: 20%; text-align: right;">PAGE</td> </tr> <tr> <td>NICHOLAS P. LOMAKO, AICP, PCP</td> <td></td> </tr> <tr> <td>EXAMINATION</td> <td></td> </tr> <tr> <td>BY MR. LUCAS:</td> <td style="text-align: right;">7</td> </tr> <tr> <td colspan="2" style="text-align: center;">EXHIBITS</td> </tr> <tr> <td>EXHIBIT</td> <td style="text-align: right;">PAGE</td> </tr> <tr> <td>(Exhibits 1-18 and 21 attached to transcript.)</td> <td></td> </tr> <tr> <td>(Exhibits 19 and 20 retained by Mr. Lucas.)</td> <td></td> </tr> <tr> <td>DEPOSITION EXHIBIT 1</td> <td style="text-align: right;">6</td> </tr> <tr> <td>DEPOSITION EXHIBIT 2</td> <td style="text-align: right;">6</td> </tr> <tr> <td>DEPOSITION EXHIBIT 3</td> <td style="text-align: right;">6</td> </tr> <tr> <td>DEPOSITION EXHIBIT 4</td> <td style="text-align: right;">6</td> </tr> <tr> <td>DEPOSITION EXHIBIT 5</td> <td style="text-align: right;">6</td> </tr> <tr> <td>DEPOSITION EXHIBIT 6</td> <td style="text-align: right;">6</td> </tr> <tr> <td>DEPOSITION EXHIBIT 7</td> <td style="text-align: right;">6</td> </tr> <tr> <td>DEPOSITION EXHIBIT 8</td> <td style="text-align: right;">6</td> </tr> <tr> <td>DEPOSITION EXHIBIT 9</td> <td style="text-align: right;">6</td> </tr> <tr> <td>DEPOSITION EXHIBIT 10</td> <td style="text-align: right;">6</td> </tr> <tr> <td>DEPOSITION EXHIBIT 11</td> <td style="text-align: right;">6</td> </tr> </table>	WITNESS	PAGE	NICHOLAS P. LOMAKO, AICP, PCP		EXAMINATION		BY MR. LUCAS:	7	EXHIBITS		EXHIBIT	PAGE	(Exhibits 1-18 and 21 attached to transcript.)		(Exhibits 19 and 20 retained by Mr. Lucas.)		DEPOSITION EXHIBIT 1	6	DEPOSITION EXHIBIT 2	6	DEPOSITION EXHIBIT 3	6	DEPOSITION EXHIBIT 4	6	DEPOSITION EXHIBIT 5	6	DEPOSITION EXHIBIT 6	6	DEPOSITION EXHIBIT 7	6	DEPOSITION EXHIBIT 8	6	DEPOSITION EXHIBIT 9	6	DEPOSITION EXHIBIT 10	6	DEPOSITION EXHIBIT 11	6	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 DEPOSITION EXHIBIT 12 6</p> <p>2 DEPOSITION EXHIBIT 13 6</p> <p>3 DEPOSITION EXHIBIT 18 12</p> <p>4 DEPOSITION EXHIBIT 19 17</p> <p>5 DEPOSITION EXHIBIT 20 33</p> <p>6 DEPOSITION EXHIBIT 14 42</p> <p>7 DEPOSITION EXHIBIT 15 42</p> <p>8 DEPOSITION EXHIBIT 21 45</p> <p>9 DEPOSITION EXHIBIT 16 45</p> <p>10 DEPOSITION EXHIBIT 17 112</p> <p>11 DEPOSITION EXHIBIT 22 112</p> <p>12 DEPOSITION EXHIBIT 23 112</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 5</p>	<p>1 spelling, I noticed that. Because every time I did a</p> <p>2 search for Lamako, L-A, nothing came up, so.</p> <p>3 EXAMINATION</p> <p>4 BY MR. LUCAS:</p> <p>5 Q. A couple things before we start, do you mind if I call</p> <p>6 you Nick?</p> <p>7 A. Of course not.</p> <p>8 Q. And you can call me Fred, that's fine. Okay. Nick, I</p> <p>9 know you said you're near retirement, so I'm sure this</p> <p>10 is not your first time giving a deposition.</p> <p>11 A. True.</p> <p>12 Q. All right. So number one, you know the drill, I don't</p> <p>13 need to go through it with you. Speak your responses,</p> <p>14 all that, wait for people to finish talking. But</p> <p>15 also, I don't know how anybody else does it, but if</p> <p>16 you want to take a break or anything, just let me</p> <p>17 know, I've not any issue with trying to see how long I</p> <p>18 can make you sit in that chair and squirm. So any</p> <p>19 time you need to take a break, just let me know, I'm</p> <p>20 good with that and we can go forward.</p> <p>21 Also, for the record I have given to</p> <p>22 Mr. Tamm a set of exhibits that we have already marked</p> <p>23 here. I'll go through those with you as we go through</p> <p>24 the deposition. But he's got a set and I'm going to</p> <p>25 provide you with a set also so that you can review</p>	<p>Page 7</p>
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<p>1 Bloomfield Hills, Michigan</p> <p>2 Wednesday, October 3, 2018</p> <p>3 1:30 p.m.</p> <p>4</p> <p>5 NICHOLAS P. LOMAKO,</p> <p>6 was thereupon called as a witness herein, and after</p> <p>7 having first been duly sworn to testify to the truth,</p> <p>8 the whole truth and nothing but the truth, was</p> <p>9 examined and testified as follows:</p> <p>10 MARKED FOR IDENTIFICATION:</p> <p>11 DEPOSITION EXHIBITS 1-13</p> <p>12 1:33 p.m.</p> <p>13 MR. LUCAS: Good afternoon, my name is Fred</p> <p>14 Lucas, I'm here in the matter of Milford Hills versus</p> <p>15 Charter Township of Milford. I represent the, along</p> <p>16 with my co-counsel, Paul Burns, represent the</p> <p>17 plaintiffs in this matter. Also present here today is</p> <p>18 Jim Tamm who is an attorney for the defendant, and</p> <p>19 this is the time and place noticed for the deposition</p> <p>20 of Nick Lomako.</p> <p>21 MR. TAMM: I think it should reflect that</p> <p>22 the notice spells Mr. Lomako's name wrong.</p> <p>23 MR. LUCAS: I know, yes, it's L-O-</p> <p>24 MR. TAMM: Yes.</p> <p>25 MR. LUCAS: -- M-A-K-O is the correct</p>	<p>Page 6</p>	<p>1 them as we're looking at them.</p> <p>2 All right. Anything we want to put on the</p> <p>3 record before we start?</p> <p>4 MR. BURNS: I think we're good.</p> <p>5 BY MR. LUCAS:</p> <p>6 Q. Okay. Name?</p> <p>7 A. Nicholas Peter Lomako.</p> <p>8 Q. And you are a land use planner?</p> <p>9 A. I am.</p> <p>10 Q. What is your -- what is your -- is that the actual --</p> <p>11 what is the occupation? I mean what is it called,</p> <p>12 land use planner, is that it?</p> <p>13 A. Well, I consider myself professional community</p> <p>14 planner.</p> <p>15 Q. Okay. And you're employed by Wade Trim?</p> <p>16 A. I am.</p> <p>17 Q. How long have you been with them?</p> <p>18 A. Since about 1981.</p> <p>19 Q. Okay. And what is your professional address?</p> <p>20 A. It's Guardian Building in Detroit.</p> <p>21 Q. Okay. And your phone number there, office phone</p> <p>22 number?</p> <p>23 A. 313-961-3650.</p> <p>24 Q. And did I hear obviously you graduated high school and</p> <p>25 went to college, correct?</p>	<p>Page 8</p>
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1 A. Yes.
 2 Q. Where did you go to college?
 3 A. Michigan State and Wayne State.
 4 Q. All right. And was that where you received your
 5 bachelor's degree?
 6 A. Bachelor's degree is from Michigan State.
 7 Q. Okay, and master's at Wayne?
 8 A. Yes.
 9 Q. And your master's in what program?
 10 A. Public administration.
 11 Q. Following -- what year was that that you graduated
 12 from Wayne State?
 13 A. On or about 1982 or '3.
 14 Q. Well, you were there four years after me so, that's
 15 okay.
 16 MR. TAMM: I was still there.
 17 BY MR. LUCAS:
 18 Q. So about 1982, you said?
 19 A. Approximately.
 20 Q. Is that where you received your training as a
 21 professional community planner?
 22 A. I received my bachelor of science and urban planning
 23 from Michigan State University.
 24 Q. Urban planning?
 25 A. Urban planning.

1 A. Correct.
 2 Q. All right. Any others?
 3 A. No.
 4 Q. Okay. And what is the -- what is the criteria for
 5 receiving that certification?
 6 A. Experience and testing.
 7 Q. How many years experience?
 8 A. I don't remember.
 9 Q. Been so long?
 10 A. It's been a while.
 11 Q. All right. How long do you think it's been since you
 12 got that certification?
 13 A. That occurred in the '80s as well.
 14 Q. Okay. And there's no requirement that you be retested
 15 or recertified at any point, is there?
 16 A. There is a requirement, certification maintenance
 17 credits that you have to take to keep that
 18 certification.
 19 Q. All right. And how many is that a year, do you know?
 20 A. 16 credits a year, I believe.
 21 Q. All right. So you said you've been with Wade Trim
 22 since what year?
 23 A. '81.
 24 Q. '81. So you actually started there while you were
 25 still in school at Wayne State?

1 Q. Okay, right.
 2 A. And besides the formal education, training through the
 3 course of my career.
 4 Q. Okay. And that's what I was going to ask you next,
 5 what other forms of training, is it just -- is there a
 6 specific program you went through or is it just the
 7 attrition of all the years of going to seminars and
 8 things of that nature?
 9 A. The training at Michigan State was rather complete.
 10 There was very limited opportunity for electives in
 11 the urban planning program, so it was a four-year
 12 program essentially with few electives that was rather
 13 intensive.
 14 Q. Okay.
 15 A. Once I graduated and then became employed with the
 16 variety of different employers, of course there's
 17 training at national conferences, state conferences,
 18 other training that I personally requested and was
 19 sent to.
 20 Q. All right. Do you have any certifications in the area
 21 of community planning or land use planning?
 22 A. Yes.
 23 Q. And who are those certifications from?
 24 A. The American Institute of Certified Planners.
 25 Q. Okay. AICP?

1 A. Well, I had employment before Wade Trim --
 2 Q. Okay.
 3 A. -- as well.
 4 Q. Where did you work before Wade Trim?
 5 A. When I graduated with my undergrad degree, I went to
 6 work for a transportation engineering and planning
 7 firm called Goodell-Grievas & Associates.
 8 Q. Okay. Do you have a CV or resume?
 9 A. I have what I call a biography that we do. I have
 10 that.
 11 Q. That will be fine. Have you got that, do you have a
 12 copy of that?
 13 A. I do.
 14 Q. Can I see that? It will save me from being tedious.
 15 MR. TAMM: It will save all of us.
 16 MR. LUCAS: Yes. Let's just mark this as
 17 18.
 18 MARKED FOR IDENTIFICATION:
 19 DEPOSITION EXHIBIT 18
 20 1:40 p.m.
 21 BY MR. LUCAS:
 22 Q. Nick, you handed me a copy of what you call your
 23 biography which includes a discussion of your
 24 education and work history, correct?
 25 A. Correct.

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1 Q. All right. Also talks about some other things, that
 2 you served as an expert witness in a number of cases.
 3 And then I see that you called O'Connor DeGrazia and
 4 Tamm a prestigious law firm.
 5 MR. BURNS: Objection.
 6 MR. TAMM: I'm just saying.
 7 MR. BURNS: Objection.
 8 MR. LUCAS: All right.
 9 (Discussion off the record at 1:41 p.m.)
 10 (Back on the record at 1:41 p.m.)

11 BY MR. LUCAS:

12 Q. All right. So let's just talk about your work at Wade
 13 Trim at this point. You started at Wade Trim, you
 14 said in 1981, and what did you start out as?
 15 A. As a planner.
 16 Q. So you never really changed positions for the last 30
 17 odd years?
 18 A. Well, I -- I've grown in the hierarchy of achievement
 19 within the firm.
 20 Q. Right. I mean, you've gone in terms of levels of
 21 planning or levels of authority within the firm, but
 22 in terms of the types of work that you're doing and
 23 the area of the work, you have remained in planning
 24 your entire career?
 25 A. Yes.

1 Q. You have Milford, right?
 2 A. Milford Village and Milford Township.
 3 Q. All right.
 4 A. You mentioned Milford, I didn't want to be redundant.
 5 Q. Well, I didn't know about Milford Village.
 6 A. Yeah, Milford Village as well or two, and Gibraltar,
 7 Michigan. I believe those are the ones that I'm
 8 currently active in.
 9 Q. Okay. So you are "the municipal planner" for those
 10 communities, correct?
 11 A. Yes, that's correct.
 12 Q. Do you work under a contract under that, in those
 13 communities, is that how that works?
 14 A. Yes.
 15 Q. So it's not just an informal arrangement, you are
 16 actually contracted to provide planning services in
 17 those communities?
 18 A. In most cases, Davison Township, for example, we don't
 19 have a contract, it's -- or on call, we have an
 20 on-call relationship with them.
 21 Q. Okay. And I presume you've been doing that sort of
 22 work, working for the communities -- well, since 1981
 23 when you started with Wade Trim?
 24 A. Right. Yes, sir.
 25 Q. How long have you worked with Milford Township?

1 Q. What, as a planner at Wade Trim, what are your
 2 responsibilities?
 3 A. My responsibilities are to serve clients on a
 4 day-to-day basis. We call that a continuing service
 5 relationship with a number of clients, to do project
 6 manager roles on independent projects of whatever
 7 scale they are, zoning, master planning, things like
 8 that to lead the team or accomplish that work by
 9 myself. There's also an administrative hat that I
 10 wear at Wade Trim in terms of trying to get additional
 11 sales and revenue for the company, that sort of thing,
 12 and to critique work performed by other planners.
 13 Q. Are you assigned or tasked with representing a
 14 particular -- not just one, but a single community,
 15 for example, you represent Milford Township and you
 16 represent other communities, as you are the principal
 17 planner for those communities?
 18 A. Yes.
 19 Q. All right. Which communities are you the principal
 20 planner for?
 21 A. Right now that would be the city of Durand, that would
 22 be Atlas Township in Genesee County, Davison Township
 23 in Genesee County, Redford Township in Wayne County,
 24 Dearborn Heights in Wayne County. I'm envisioning my
 25 calendar, excuse me.

1 A. Since 2000.
 2 Q. And in 2000 -- okay. Strike that question.
 3 All right. Now, as the Township planner
 4 for Milford Township, what are your duties?
 5 A. My duties are to provide advice and direction to both
 6 the elected and appointed officials on land use
 7 planning matters.
 8 Q. All right. And does that include assisting the
 9 Township in evaluating rezoning requests?
 10 A. If requested, I do that, yes.
 11 Q. Okay. How about in evaluating conditional use
 12 requests?
 13 A. Yes.
 14 Q. How about zoning board of appeals matters?
 15 A. In Milford Township, that rarely happens, but on
 16 occasion, yes.
 17 Q. How about drafting ordinance amendments for the zoning
 18 ordinance?
 19 A. Yes.
 20 Q. All right. Do you suggest those amendments or are
 21 they primarily -- is the direction of work, the
 22 Township directs you what to do or do you also provide
 23 the Township with advice on changes that you feel are
 24 relevant and important?
 25 A. Both.

1 Q. Okay. Both. Now, you received, your attorney
 2 received a Notice of Taking Deposition which is marked
 3 as Exhibit 1. And in that notice you were requested
 4 to bring with you all materials, including, but not
 5 limited to your files concerning contracts between the
 6 Township, blah, blah, blah, blah, between the Township
 7 and RPL of Michigan, Milford Hills, and did you, in
 8 fact, bring those documents with you?
 9 A. **The case file is here in the loose-leaf binder.**
 10 Q. Okay.
 11 A. **I also have in my -- I brought my contract along with**
 12 **me in case you want to see the contract that I have**
 13 **with the Township.**
 14 Q. That's okay. I don't need it right now. What am I
 15 going to do with that, other than undercut you.
 16 If you don't mind, what I would like to do
 17 since this is your file, I'm going to mark the entire
 18 file as Exhibit 19. And then I'm going to ask your
 19 attorney to just make a -- scan it in and then e-mail
 20 it to me and then we'll -- I'll make -- I don't think
 21 we need to force the poor court reporter to print it
 22 all out and attach it?
 23 MR. TAMM: That's fine.
 24 MARKED FOR IDENTIFICATION:
 25 DEPOSITION EXHIBIT 19

1 Q. Well, let me ask this question. Can you do your job
 2 without at least having some rudimentary information
 3 as to what the law requires in terms of rezoning and
 4 zoning law?
 5 A. **I would rephrase the question, what the planning**
 6 **practice, my profession directs me to consider.**
 7 Q. Okay. But you're also aware there are certain legal
 8 limitations in terms of what you can and can't do as a
 9 planner or what a community can and can't do? And
 10 I'll give you an example, tell me if you agree with
 11 this. For example, you could not recommend to the
 12 township that they pass an ordinance saying that Jews
 13 can't live in this block, correct?
 14 A. **Correct.**
 15 Q. You know that that would be illegal, right?
 16 A. **Yes.**
 17 Q. All right. So whether a particular regulatory scheme
 18 violates some form, some law, does play into your
 19 advice, does it not?
 20 A. **Yes.**
 21 Q. All right. That's all I'm getting at. I mean, you --
 22 this isn't -- there's no easy way for me to ask it.
 23 I'm sure someone smarter than me could, but I'm just
 24 trying to figure out is, you do have some background
 25 in knowing what is legitimate, what's not a legitimate

1 1:47 p.m.
 2 BY MR. LUCAS:
 3 Q. We can just do it electronically. Okay. All right.
 4 Are your duties in other townships and other
 5 municipalities essentially the same as what you do for
 6 Milford Township?
 7 A. **Yes.**
 8 Q. All right. So there's nothing unique about what
 9 you're doing for Milford Township than you've done for
 10 the last 30 years, 30 plus years, correct, for other
 11 communities?
 12 A. **Yes, that's true.**
 13 Q. All right. Now, obviously you're familiar with zoning
 14 law at least in terms of how it impacts decisions
 15 concerning when to rezone property and when not to
 16 rezone property; is that correct?
 17 A. **I don't understand your question.**
 18 Q. Well, what I mean is this, for example, are you
 19 familiar with what are the legitimate factors that a
 20 township can or a municipality can consider as it
 21 determines whether it is going to rezone a -- in
 22 handling a rezoning request?
 23 MR. TAMM: Object to foundation, I think it
 24 calls for a legal conclusion.
 25 BY MR. LUCAS:

1 area of concern for the community, correct?
 2 A. **I believe I do.**
 3 Q. All right. And there are -- and as we talked about,
 4 there's certain times that a community may not -- may
 5 not do certain things because it would run afoul of
 6 the law, in terms of rezoning decisions, correct?
 7 A. **Correct.**
 8 Q. All right. When a community is asked to rezone
 9 property from one zoning classification to another,
 10 what do you believe to be legitimate questions or
 11 legitimate concerns for the community to base its
 12 decision on? I mean, in other words, we already know,
 13 for example, they can't base its decision on the fact
 14 that it may entice more minorities to move in, that
 15 would be improper; would you agree?
 16 A. **Yes.**
 17 Q. All right. What are legitimate concerns? What are
 18 legitimate areas for a community to consider?
 19 A. **Well, let me answer it this way. In some communities,**
 20 **those criteria are established as part of the zoning**
 21 **code and so we go to that section of the zoning code**
 22 **and see what that community has predetermined to be**
 23 **the relevant issues. Absent that, there are a number**
 24 **of different things that I look at, including and**
 25 **probably foremost what the master plan of the**

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1	community indicates for the future use of the property	1	not be a harmonious use, correct?
2	via consideration, the capacity of the land to support	2	A. The word I commonly use is compatibility.
3	the proposal in terms of environmental constraints and	3	Q. All right. Compatible, that's fine.
4	issues, utilities and things like that, the	4	MR. TAMM: Don't insult where I grew up.
5	surrounding development pattern, the zoning pattern,	5	There was a smokestack right next to my junior high
6	traffic considerations, the ability to have utilities	6	school.
7	to actually serve the site if there are utilities in	7	MR. LUCAS: Well, that explains a lot. It
8	and around the area. Certainly public comment and	8	explains all the medical issues.
9	public hearing comments are part of the consideration	9	We can go off the record.
10	as well.	10	(Discussion off the record at 1:53 p.m.)
11	Q. All right. And these are real important because I	11	(Back on the record at 1:53 p.m.)
12	want to write this one down, okay? So we've got the	12	BY MR. LUCAS:
13	land use plan, right, that's very important, right?	13	Q. Okay. So existing land use patterns and as you said,
14	A. Yes.	14	that really relates to compatibility of uses, is that
15	Q. That's probably the number one thing you're looking	15	a fair way of saying that?
16	at?	16	A. I said that, yes.
17	A. I start there.	17	Q. All right. I want to make sure that I'm not
18	Q. You'd start there, okay. Not necessarily end all and	18	misspeaking what you're -- or misunderstanding what
19	be all, right?	19	you're trying to say. Next item was?
20	A. Correct.	20	A. Zoning pattern.
21	Q. But it is a starting point?	21	Q. How is that different than existing land use pattern?
22	A. Yes.	22	A. Existing land use is just that, what is built in and
23	Q. You talked about traffic. You talked about the	23	around the property. The zoning pattern is the
24	ability of the land to --	24	prescribed ordinance that the community has
25	A. The capacity of the land to support the project.	25	established for the subject site and vicinity.
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1	Q. The capacity of land. And when you say the capacity	1	Q. Now, we'll get into this a little bit more, but
2	of land to support the project, could you explain that	2	clearly zoning and future land use are two different
3	to me a little bit better?	3	concepts, correct?
4	A. One example would be if somebody wanted to build	4	A. Yes.
5	something intensely on property that was swampland,	5	Q. All right. This really just relates to the zoning map
6	the land would have little capacity to support that.	6	itself when you say zoning pattern, the existing
7	Q. All right. And what was the next item you said?	7	zoning map?
8	A. Utility capacity.	8	A. No.
9	Q. Utility capacity, so in other words, are there	9	Q. Okay.
10	municipal services that could service, either	10	A. Zoning pattern begins with the map, but obviously
11	municipal services or private services, that could	11	within the zoning map, there are districts and uses
12	service the site?	12	permitted and allowed in each of those districts. So
13	A. Yes.	13	you have to kind of build beneath the veneer of what
14	Q. Next item was?	14	the map says and dive down a little deeper --
15	A. Existing land use pattern.	15	Q. All right.
16	Q. In other words, would I be fair in saying that the	16	A. -- and determine what each of those districts means in
17	consideration there is to try to harmonize the new use	17	terms of land development potential.
18	with the existing uses in that area?	18	Q. All right. So let me see if I can put it in words
19	A. I don't understand what -- how you define harmonize.	19	that a simple mind like mine can understand. If I
20	Q. Well, I presume you don't want to put a landfill in	20	understand correctly, the difference between existing
21	the middle of a subdivision, would that be a fair	21	land use pattern and zoning pattern, one looks at what
22	statement?	22	is actually there and the compatibility of the uses to
23	A. I wouldn't.	23	what actually exist, whereas zoning pattern looks at
24	Q. Okay. I mean it's not harmonious with that use or	24	what may be there under the zoning ordinance and looks
25	putting a smokestack factory next to a school would	25	at the compatibility of uses under that, under that

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1 ordinance; is that a fair statement?
 2 A. I don't think that's a fair statement. I think you
 3 took that a little too far.
 4 Q. Okay. I mean, I thought you were talking about you
 5 have to look at beyond what's -- what is actually on
 6 the property to looking at what potential uses could
 7 be there under the zoning ordinance?
 8 A. That's true.
 9 Q. Okay. I'm trying to figure out where I took it too
 10 far?
 11 A. Yeah, you blended the words compatibility and zoning
 12 pattern together, I don't ordinarily do that.
 13 Q. All right. Was there anything beyond zoning pattern?
 14 A. Yes, I mentioned the public comment is something.
 15 Q. Okay. I know something about that aspect since I had
 16 a court case on that a long time ago.
 17 All right. Now -- go ahead.
 18 A. I was just going to add to your list.
 19 Q. All right. That's what I want.
 20 A. Okay.
 21 Q. And the next item?
 22 A. One of the items that you have to consider is whether
 23 or not there is already zoning that's in place that
 24 can accommodate the use and vicinity of where it's
 25 being proposed that's available.

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1 Q. Okay. Why is that a relevant consideration?
 2 A. It's an issue of supply and demand and land market
 3 equilibrium.
 4 Q. Okay. Are those all of the factors you consider?
 5 A. The other things, I don't know if it belongs on the
 6 list, but one of the things that comes to my mind too
 7 is whether or not the use can be accommodated perhaps
 8 not by the zoning that the applicant wants, but
 9 perhaps through an application of another zoning
 10 district classification.
 11 Q. Okay.
 12 A. And that usually falls into, for example, a gentleman
 13 might want to have a commercial enterprise and ask for
 14 a what I'm going to call a C3, the most intensive.
 15 Q. Right.
 16 A. And a C1 might be more appropriate given the other
 17 factors I mentioned. So a lesser intense zoning might
 18 be something to consider.
 19 Q. Would that also include a consideration of whether or
 20 not the objectives can be served with conditional
 21 zoning?
 22 A. Well, conditional zoning is a different style of
 23 zoning. There are two major ways to rezone property,
 24 a traditional way, you asked for it, and the applicant
 25 doesn't offer any --

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1 Q. Limitations?
 2 A. Or conditions in order to garner approval, voluntarily
 3 offer those. And conditional zoning is where he does,
 4 steps forward and say in addition to asking for this
 5 rezoning classification, I will voluntarily stipulate
 6 to the following conditions.
 7 Q. Okay. Anything else?
 8 A. Not that I can think of at the moment.
 9 Q. Do you also consider whether or not the existing
 10 zoning is appropriate for that site? Is that a
 11 consideration that you have in considering a rezoning
 12 request?
 13 A. I would consider that question to be an umbrella
 14 question that incorporates everything we just talked
 15 about.
 16 Q. Okay. Well, I'm going to talk about a very specific
 17 issue, and that is an economic viability of a specific
 18 use. Is that something that you consider to be an
 19 umbrella question, the economic viability? For
 20 example, I mean, you're familiar I'm sure with the
 21 Augusta Township case, a famous case, tell me if
 22 you're not?
 23 A. I don't know what case you're referencing.
 24 Q. It's where they planned for a mobile home park on top
 25 of a landfill, you know, and the court said that, you

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1 know, there's no economic viability for that. Are you
 2 familiar with the concept of economic viability?
 3 A. I mentioned land market equilibrium as part of one of
 4 the criteria, so yes, market factors are part of it.
 5 Q. Okay. Market factors, so I didn't have that on here,
 6 I'm sorry. So that's another thing, it's market
 7 factors? All right. Just so I'm clear, I'm going to
 8 read through these. I've got ten items is what you've
 9 told me. The land use plan, traffic, the capacity of
 10 the land to accept the use, utility capacity, existing
 11 land use pattern, zoning pattern, public comments,
 12 existing zoning in the vicinity, is that supply -- is
 13 that market pattern, is that what you were talking,
 14 supply and demand?
 15 A. That's where I mentioned land market equilibrium, yes.
 16 Q. Okay. So that's -- that market factors would figure
 17 in that supply and demand issue then?
 18 A. Yes.
 19 Q. Okay. And then the last thing is, can the use be
 20 accommodated by another zoning, less intensive or less
 21 objectionable zoning class?
 22 A. I did say that.
 23 Q. Okay. So that's nine factors I count total. Anything
 24 else that you can think of?
 25 A. Off the top of my head, no.

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<p style="text-align: center;">Page 29</p> <p>1 Q. All right. And I want to focus on this market factors 2 issue, does that relate not only to the question of 3 the use being proposed, but does it also relate to the 4 use which is presently applied to a piece of property? 5 Do you look at that in considering your rezoning? 6 A. I -- 7 Q. Well, let me give you a hypothetical. And I'm not 8 saying that this situation here, I just want to know. 9 For example, I come to you and I say, look, I cannot 10 use my property under the present zone, it literally 11 has no value under the present zoning. You've got it 12 zoned for, you know, like I said, the situation I had 13 is it was a former landfill site and you've got it 14 zoned for high rise apartments, no one is going to let 15 me build anything on that. Do you consider the fact 16 that the existing zoning renders the property 17 valueless in making a decision regarding a rezoning 18 request? 19 A. Yes. 20 Q. Okay. And that is a legitimate concern for you to say 21 look, you know, we've got to look at what this 22 existing zoning is in terms of whether we should -- 23 whether it's reasonable to rezone the property? 24 A. Yes. 25 Q. And I don't want to put words in your mouth, but I'm</p>	<p style="text-align: center;">Page 31</p> <p>1 A. Yes. 2 Q. And that's also owned by -- that property is also 3 developed by Ray Leduc, correct? 4 A. Yes. 5 Q. All right. Now, can you describe for me -- let's talk 6 about the Belle Terre property. The Belle Terre 7 property is -- we know it's across the street from an 8 existing single-family residence to the -- that would 9 be to the east? 10 A. Yes. 11 Q. What exists to the north of the Belle Terre property? 12 A. Well, as I remember, to the north of the property, 13 it's Rowe Road and essentially there's some minor 14 commercial north of that and undeveloped land north of 15 that. 16 MR. TAMM: I have no objection if you want 17 to stick to -- just refer to it as whatever the 18 exhibit was previously. 19 MR. LUCAS: Well, and that's fine, I'm 20 going to do that, I'm just going to make a note as to 21 what I've got here too so we just have them both. We 22 had previously marked during the deposition of 23 Supervisor Green what was marked as exhibit -- well, 24 you know, I'm not going to take the blame for this. 25 BY MR. LUCAS:</p>
<p style="text-align: center;">Page 30</p> <p>1 not assuming in that question that that necessarily 2 means you're going to give them whatever rezoning they 3 requested, but you will look at rezoning the property 4 at that point; is that correct? 5 MR. TAMM: Objection to form. 6 A. I -- 7 BY MR. LUCAS: 8 Q. Well, I'll strike the question. I'll strike it. It 9 doesn't matter. 10 All right. Now, the Belle Terre property 11 or what the Belle Terre project is -- well, let's just 12 so we're not confused, I'm going to just call it the 13 Belle Terre property; is that fair to you, is that -- 14 A. I would appreciate that, thank you. 15 Q. Okay. And the Belle Terre project is the project that 16 lies west of the -- is it River Ridge project? 17 MR. BURNS: Ridge Valley. 18 BY MR. LUCAS: 19 Q. Ridge Valley, Bridge Valley, we dropped the B, is that 20 across the street to Belle Terre property? 21 A. I don't remember the name, the name of the property 22 across the street. 23 Q. Well, there is an existing single-family housing 24 development across Milford Road from the Belle Terre 25 property, correct?</p>	<p style="text-align: center;">Page 32</p> <p>1 Q. For the record, again, I'm showing you what was 2 previously marked as Exhibit 1 during the deposition 3 of Supervisor Green which we have marked as a blowup 4 of the area where the Belle Terre property has been 5 marked as Exhibit 13 for this deposition. Obviously 6 you're familiar with the zoning map for Milford 7 Township? 8 A. I am. 9 Q. All right. And the property. I don't know, is that 10 the zoning map itself? Is that the present zoning 11 map? I'm not -- R-S -- is R-1 the same at R-1-S? 12 A. No, it's not. 13 Q. Okay. 14 MR. TAMM: That may be the proposed zoning. 15 MR. LUCAS: Yeah, it might have been. 16 MR. TAMM: That's your proposed zoning. 17 A. The other categories nearby don't seem to be accurate. 18 BY MR. LUCAS: 19 Q. Yeah, this is the one here, I apologize, strike that. 20 What I've got here is actually the zoning. 21 I think this is the one. It was not actually ever 22 marked in the... 23 MR. BURNS: Prior dep. 24 BY MR. LUCAS: 25 Q. In the prior dep.</p>

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<p style="text-align: right;">Page 33</p> <p>1 Let's mark that for this one. It will be</p> <p>2 Lomako 20.</p> <p>3 MARKED FOR IDENTIFICATION:</p> <p>4 DEPOSITION EXHIBIT 20</p> <p>5 2:08 p.m.</p> <p>6 BY MR. LUCAS:</p> <p>7 Q. It's the full map. What I have marked as 13 is just a</p> <p>8 blowup of the area in question. So you can look at</p> <p>9 13. That is the existing zoning classification, the</p> <p>10 zoning map for the Township; is that correct?</p> <p>11 A. I'll take your word for it. I'd have to compare the</p> <p>12 existing map that I have with that, but I'll --</p> <p>13 Q. Well, do you have the existing map?</p> <p>14 A. (Witness nods head affirmatively.)</p> <p>15 Q. Why don't you take a look. I just want to make sure</p> <p>16 that I'm not... Exhibit 20 is the board J?</p> <p>17 A. Yes.</p> <p>18 Q. So Exhibit 20 is, in fact, the zoning map, existing</p> <p>19 zoning map for Milford Township?</p> <p>20 A. A portion of it.</p> <p>21 Q. A portion of it, right. The portion relating to the</p> <p>22 area where the Belle Terre property is, correct?</p> <p>23 A. Correct.</p> <p>24 Q. All right. And you have the full map there, right?</p> <p>25 A. Right.</p>	<p style="text-align: right;">Page 35</p> <p>1 A. Yes.</p> <p>2 Q. On the -- it's on a diagonal, it would be southwest of</p> <p>3 the Belle Terre property?</p> <p>4 A. Yes.</p> <p>5 Q. Now, immediately south of the Belle Terre property is</p> <p>6 what zoning, looking in this area here?</p> <p>7 A. I don't have my village zoning map with me.</p> <p>8 Q. That's in the village? The reason I ask is because it</p> <p>9 appears to be -- I didn't know whether that's village</p> <p>10 property or not.</p> <p>11 MR. TAMM: Can you be more specific,</p> <p>12 Mr. Lucas?</p> <p>13 BY MR. LUCAS:</p> <p>14 Q. Well, I'm looking at the area immediately south of the</p> <p>15 Belle Terre property, you're indicating that's all</p> <p>16 village property?</p> <p>17 A. That's village property.</p> <p>18 Q. Okay, and -- okay. Where does the village property</p> <p>19 begin and end?</p> <p>20 A. At the southern limits of the Belle Terre project.</p> <p>21 Q. Okay. Can you tell me, do you know what is south of</p> <p>22 the village of the Belle Terre property?</p> <p>23 A. There's some office and I believe there's an assisted</p> <p>24 living development there and a condominium development</p> <p>25 there.</p>
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<p style="text-align: right;">Page 34</p> <p>1 Q. All right. Now, in the middle of the Township</p> <p>2 obviously, is that -- that's the village itself, the</p> <p>3 white areas; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. All right. And what is the -- can I see your map</p> <p>6 there just for a minute so I see the legend on the</p> <p>7 bottom here? The land that is to the east of the</p> <p>8 village, almost takes in -- it covers the entire east</p> <p>9 side of the village, what is that presently zoned?</p> <p>10 A. R-1-S suburban residential.</p> <p>11 Q. Okay. And the land south of the village is?</p> <p>12 A. R-1-S suburban residential.</p> <p>13 Q. Now, the land directly across the street from --</p> <p>14 across Milford Road from the Belle Terre property is</p> <p>15 zoned what?</p> <p>16 A. Office, restricted office.</p> <p>17 Q. No, across Milford Road?</p> <p>18 A. On the east side of Milford Road?</p> <p>19 Q. Yes.</p> <p>20 A. Multiple family.</p> <p>21 Q. Multiple family. The land behind the Belle Terre</p> <p>22 property is zoned what?</p> <p>23 A. Suburban residential.</p> <p>24 Q. And kitty-corner to it, I see is R-1 zoning; is that</p> <p>25 correct?</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. Okay. This development behind the Belle Terre</p> <p>2 property, what is that development? Do you know what</p> <p>3 that is?</p> <p>4 MR. TAMM: When you say behind, west?</p> <p>5 MR. LUCAS: West, I apologize, you're</p> <p>6 correct.</p> <p>7 BY MR. LUCAS:</p> <p>8 Q. West of the Belle Terre property, what is that</p> <p>9 development there?</p> <p>10 A. The single-family development, estate housing, I call</p> <p>11 it.</p> <p>12 Q. Estate housing. What densities?</p> <p>13 A. I don't know what that density is particular for that</p> <p>14 particular project.</p> <p>15 Q. Do you know what the name, is that a subdivision or is</p> <p>16 it a site condo or what is it, do you know?</p> <p>17 A. I don't remember.</p> <p>18 Q. Do you know -- you have no information relative to the</p> <p>19 number of units per acre on that site or acres per</p> <p>20 unit, either way?</p> <p>21 A. On that particular development, I don't.</p> <p>22 Q. Did you review that when you were reviewing the</p> <p>23 rezoning request of Leduc on this one?</p> <p>24 A. My -- I did not provide a written opinion on the</p> <p>25 rezoning request for Mr. Leduc.</p>
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1 Q. Yeah, that's an interesting question. Why -- they did
2 not -- did the Township not request that you provide a
3 written opinion?
4 A. Correct.
5 Q. And unless they request it, obviously you're not going
6 to do it, correct?
7 A. Correct.
8 Q. All right. Did they ever explain to you why they
9 didn't request a written opinion?
10 A. No.
11 Q. Did you discuss this matter with either -- did you
12 discuss the Leduc property -- I mean the Belle Terre
13 property with either any members of the planning
14 commission or members of the Township board?
15 A. Yes.
16 Q. Okay. We'll get to that in a little bit. All right.
17 Getting back to where we were. Now, I see that there
18 is some purple on the zoning ordinance too; is that
19 correct, on the Belle Terre property?
20 A. Yes.
21 Q. What is that -- what is that purple?
22 A. Restricted office.
23 Q. All right. So the entire -- the entire east frontage
24 on Milford Road is zoned for restricted office,
25 correct?

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1 A. No.
2 Q. As it relates to what portion is not?
3 A. It would be the western frontage, not the eastern
4 frontage.
5 Q. I'm sorry. Well, it's eastern frontage of the Belle
6 Terre property?
7 A. Yeah, that's true. It's east of the Belle Terre
8 property.
9 Q. Right, that's what I'm saying, the eastern frontage of
10 the Belle Terre property on Milford Road is all zoned
11 office, correct?
12 A. The -- the Milford Road frontage between Milford Road
13 and the Belle Terre project is zoned for restricted
14 office, yes.
15 Q. Okay. Well, the Belle Terre project included some of
16 the land that's actually zoned for restricted office,
17 correct?
18 A. Yes.
19 Q. All right. That's why I was trying to say it's not
20 between the Belle Terre project and the road because
21 part of the frontage is also included in the Belle
22 Terre project; is that an accurate statement?
23 A. Yes.
24 Q. All right. What we can say is, do you know to what
25 depth the restricted office zoning goes?

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1 A. I would -- I would have to scale it or see a tax map
2 to be certain.
3 Q. Okay. Fair enough. How many acres was the Belle
4 Terre project?
5 A. I don't recall.
6 Q. Do you know what the physical features were on the
7 Belle Terre project or are?
8 A. Mr. Leduc provided a report which provided an
9 environmental assessment of the property.
10 Q. All right. And what was -- do you remember what that
11 assessment was?
12 A. It was had wooded property on it, it had wetland
13 property on it, it had water features on it. It is an
14 environmentally challenging site is how I would
15 characterize it.
16 Q. All right. Would it be a site -- let's say for
17 example, let me ask you something. Do you know
18 whether or not the land in that area perks?
19 A. I don't.
20 Q. Okay. Do you think that when you say it would be
21 environmentally challenging, would that also make it
22 challenging to obtain septic permits --
23 A. Yes.
24 Q. -- on that site?
25 A. Yes.

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1 Q. So from a standpoint of development of that site,
2 would it be appropriate or would it be better for the
3 site that it be serviced by municipal or some form of
4 public sewer --
5 MR. TAMM: Objection to form.
6 BY MR. LUCAS:
7 Q. -- from a development standpoint? Strike that.
8 Let's just go back to the question I had
9 before. Developing that Belle Terre property with
10 septic would be problematic, is that an accurate
11 statement?
12 A. I don't have enough knowledge of the site to do that,
13 to give you that opinion, I don't.
14 Q. Okay. Did you review -- you did not do any review of
15 the site for that purpose?
16 A. Only to the extent that we requested Mr. Leduc's team
17 to provide an environmental assessment of the property
18 so we had a better understanding of what was going on.
19 Q. Okay. But I think you testified, and correct me, I'm
20 not trying to -- look, if I'm wrong, just tell me I'm
21 wrong. But I thought I heard you say that because of
22 the environmental issues on this site, that obtaining
23 or having septic on the site would be somewhat
24 problematic?
25 A. As a general concept applying to all property, if you

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1 have an environmentally challenged site with woodlands
 2 and wetlands, there's suspicion that a septic would be
 3 appropriate.
 4 Q. Would not be or would be?
 5 A. There would be question whether or not it would be
 6 appropriate.
 7 Q. Okay, and that's fair. I'm not trying -- you
 8 obviously didn't do any perk testing out here,
 9 correct?
 10 A. I did not.
 11 Q. All right. So you haven't done any investigation of
 12 this site to determine whether or not it actually is
 13 suitable for a septic, you're just saying as a general
 14 rule, environmental issues create issues, can have
 15 issues with septic, correct?
 16 A. Exactly.
 17 Q. All right. I'm really not trying to put words in your
 18 mouth as it relates to that, all right, so we both
 19 understand each other.
 20 So but because environmental issues could
 21 have an issue with respect to septic, would it be
 22 beneficial if this property could be developed with
 23 municipal services?
 24 A. Yes.
 25 Q. All right.

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1 2:21 p.m.
 2 MR. TAMM: Which is page 50 from the zoning
 3 ordinance?
 4 MR. LUCAS: Correct.
 5 BY MR. LUCAS:
 6 Q. And then the next document is page 56 through I think
 7 it's 60 of the zoning ordinance. Are these -- is this
 8 the language which defines the permitted and
 9 conditional uses in the R-1-S and the R -- this is
 10 R-1-S, I think.
 11 A. My copy has R-1 as well.
 12 Q. Yeah, it has more. I don't know why I bothered to
 13 copy all of it. I have R-1.
 14 MR. LUCAS: Did you make a copy of the RO?
 15 MR. BURNS: What number is it?
 16 MR. LUCAS: 15.
 17 MR. BURNS: No.
 18 MR. LUCAS: I don't have it either. I'll
 19 have to get it off the line here.
 20 BY MR. LUCAS:
 21 Q. All right. Well, 15 does have the permitted and
 22 conditional uses for the R-1-S, correct?
 23 A. Correct.
 24 Q. Do you have the zoning book in front of you available
 25 to look at?

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1 (Off the record at 2:18 p.m.)
 2 (Back on the record at 2:19 p.m.)
 3 BY MR. LUCAS:
 4 Q. The next thing I want you to take a look at, you told
 5 me that this parcel of land is presently zoned R-S-1
 6 (sic) which is the kind of orangey, I don't know what
 7 color you'd call that, to me it kind of looks like
 8 orange, creamsicle. And the purple, correct, is RO?
 9 A. Restricted office and R-1-S suburban residential,
 10 right.
 11 MARKED FOR IDENTIFICATION:
 12 DEPOSITION EXHIBIT 14
 13 2:20 p.m.
 14 BY MR. LUCAS:
 15 Q. Yes. And I'm going to show you what's been marked as
 16 Exhibit 14. Is this a list of all of the zoning
 17 districts under the Milford Township zoning ordinance?
 18 And you've got it right in front of you too.
 19 A. Yes.
 20 Q. All right. And look at the next document below that
 21 which I marked as Exhibit 15.
 22 MR. TAMM: This is Exhibit 14?
 23 MR. LUCAS: Yes, that's 14.
 24 MARKED FOR IDENTIFICATION:
 25 DEPOSITION EXHIBIT 15

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1 A. I do.
 2 Q. Is my page numbering the same as what you've got in
 3 yours? Probably not. But it's section 32, division
 4 3, section 32-163 is the beginning of that section; is
 5 that correct? With regard to the --
 6 A. Yes.
 7 Q. -- suburban residential district?
 8 A. Yes.
 9 Q. And what section number is the section for the
 10 restricted office? I think it's division 7,
 11 section 32-285, would you look there?
 12 A. Yes.
 13 Q. Do you have a copy of those sections available?
 14 A. I have the whole zoning ordinance.
 15 Q. I know, but can we -- the reason I'm asking you is,
 16 can we copy those? For some reason I don't have --
 17 MR. TAMM: You want to copy it now or do
 18 you want to wait?
 19 MR. LUCAS: I want to make it an exhibit.
 20 MR. TAMM: Okay.
 21 MR. LUCAS: Because I want to ask him about
 22 those sections. It's 287 through 290.
 23 (Discussion off the record at 2:25 p.m.)
 24 (Back on the record at 2:28 p.m.)
 25 MARKED FOR IDENTIFICATION:

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1 DEPOSITION EXHIBIT 21
2 2:28 p.m.
3 BY MR. LUCAS:
4 Q. What we've marked -- okay, so we have marked, we
5 previously marked -- Exhibit 15 contains -- if you
6 look at this document here, right there, we talked
7 about this Exhibit 15, it has division 3 which is the
8 R-1-S, correct?
9 A. Yes.
10 Q. It also has division 4 which is the R-1 single-family
11 residential, correct?
12 A. Yes.
13 Q. Was that the zoning classification that Belle Terre --
14 that Leduc was seeking for the Belle Terre property
15 was the R-1 single family?
16 A. Yes.
17 Q. Okay. And as we said, what it was previously -- what
18 it is now is a combination of R-1-S and the R0?
19 A. Yes.
20 Q. All right. And what I had your attorney copy for us
21 because he's such a nice guy, was a copy of the R0
22 restricted office district language, correct?
23 A. Yes.
24 MARKED FOR IDENTIFICATION:
25 DEPOSITION EXHIBIT 16

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1 Q. While you're looking, it's my understanding that that
2 map was -- that the master plan was updated in 2017;
3 is that correct?
4 A. I believe that to be true. I'm trying to remember the
5 calendar date. Yes, I believe that to be true.
6 Q. That's what I thought too, I just was looking at
7 the...
8 A. Your Exhibit 8 is the map.
9 Q. Okay. So this is the correct -- the existing land
10 use -- future land use plan for Milford Township,
11 Exhibit 8.
12 Okay. By the way, can you identify for me
13 what is the identified future land use for the Belle
14 Terre property?
15 A. It's a single-family residential low density with the
16 conservation overlay.
17 Q. Under the land use plan, and in fact, that is also --
18 is that not the same, looking at the Ridge Valley
19 site, across the street, across Milford Road, is that
20 also master plan with the same designation?
21 A. Yes.
22 Q. Now, there also appears to be office, again, that's
23 shown on the frontage of Milford Road on the east side
24 of the Belle Terre property, on the west side of
25 Milford Road, but the east side of Belle Terre

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1 2:29 p.m.
2 BY MR. LUCAS:
3 Q. All right. And that was taken from the book you have
4 of the -- we've marked that as Exhibit 21. The next
5 thing I'm going to show you is Exhibit 16, and ask if
6 you can identify if that's the area height and density
7 table, building height and yard setback tables.
8 MR. TAMM: Schedule of regulations?
9 MR. LUCAS: Yeah. Division 15.
10 BY MR. LUCAS:
11 Q. And let's pay special attention to the R-1-S, just
12 make sure that I've got the right one for R-1-S, for
13 the R-1 and for the R0-1, those are the three that are
14 really involved here.
15 A. It is.
16 Q. Okay. So Exhibit 16 is an accurate -- an accurate
17 reproduction of the scheduled regulations from the
18 Milford Township zoning ordinance. Okay. Next thing
19 I'd like you to look at, I've marked as Exhibit 8 what
20 I see is the Milford Township future land use map, are
21 you familiar with that document?
22 A. I am.
23 Q. Do you have a copy of the map that you can compare
24 that to, to make sure that I've got the correct one?
25 A. I do.

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1 property, correct?
2 A. Correct.
3 Q. All right. Were you -- were you involved in the
4 designation of that frontage as being office space?
5 Did you have some -- did you have any input on that?
6 A. Our office prepared the plan.
7 Q. You prepared all of that plan?
8 A. Yes.
9 Q. Okay.
10 A. Yes.
11 Q. All right. Can you -- well, your office prepared it,
12 but you're in charge of the --
13 A. I was the principal in charge guiding the team who
14 prepared this.
15 Q. All right. What is the -- what was the rationale
16 for -- because obviously you didn't approve it, it has
17 to be approved by the Township, but what was your
18 rationale for recommending that there be office on
19 that frontage?
20 A. Primarily that was historically designated that way.
21 Q. Okay. It was not any kind of conscious decision other
22 than it was just a carryover; is that correct?
23 A. I consider that a conscious decision.
24 Q. All right. Well, did you review whether or not that
25 property has any viability as office development --

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1 did you -- strike that.
 2 Did you do any investigation as to the
 3 suitability of that property for office development?
 4 A. Yes.
 5 Q. What investigation did you do?
 6 A. Well, as part of our investigation, we do a
 7 demographic and socioeconomic analysis, the number
 8 part of the plan, we try to estimate what the need is
 9 for different categories of land uses are. We look at
 10 the established development pattern and where some of
 11 those uses we believe are in demand currently located,
 12 and we look at the road pattern, to determine whether
 13 or not you're on a major thoroughfare or local
 14 thoroughfare to help shape where particular uses ought
 15 to go.
 16 Q. So what factors led you to conclude, other than the
 17 fact that it had always been designated as office,
 18 what factors led you to conclude that this area was
 19 appropriate for office in the future?
 20 A. The -- besides the historical designation of that
 21 property for that purpose, the existing development
 22 pattern of North Milford Road.
 23 Q. All right. So you believed that the existing pattern
 24 of development on North Milford Road supports the
 25 finding that it should continue to be developed as

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1 commercial office?
 2 A. At the time the plan was prepared, that was our
 3 recommendation.
 4 Q. All right. Well, you seem to be differentiating, is
 5 that still -- would that still be your recommendation
 6 at this point?
 7 A. No.
 8 Q. And why is that?
 9 A. Because the Township has come to the conclusion, the
 10 Township being the planning commission, that there is
 11 not market justification to support office development
 12 along that stretch.
 13 Q. All right. In other words, they're saying that you
 14 can't develop that land for market -- for -- as
 15 offices because of market forces?
 16 MR. TAMM: Objection to form.
 17 BY MR. LUCAS:
 18 Q. Is that what -- is that how you interpret that?
 19 A. I interpret the commonly held belief that there is a
 20 market demand for office development along that
 21 stretch of the road.
 22 Q. Okay. Do you agree or disagree with that assessment?
 23 A. I agree.
 24 Q. All right. And so what is the recommendation going to
 25 be, that to remove all of the -- to change the

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1 designation on the future land use plan from office to
 2 something else?
 3 A. There's no effort to, that I know of, to make a change
 4 at this present time.
 5 Q. How is it that that determination that it's not
 6 appropriate for office was relayed to you? How did
 7 you find out about it?
 8 A. A casual conversation with the planning commission at
 9 planning commission meetings.
 10 Q. Well, I mean --
 11 A. Over time.
 12 Q. Okay. I guess what I'm trying to figure out is, if
 13 they're not changing the plan, what difference does it
 14 make what they're saying? That's what I'm trying to
 15 figure out. I mean, are they going to change the plan
 16 at some point or is this just something that they just
 17 decided and then said we're not doing anything about
 18 it?
 19 MR. TAMM: Objection to foundation.
 20 BY MR. LUCAS:
 21 Q. I mean, if you know?
 22 A. Well, my only response can be is that the planning
 23 commission follows state enabling law which requires
 24 them to review their master plan at least once every
 25 five years.

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1 Q. Correct.
 2 A. And make a determination whether or not they ought to
 3 make changes.
 4 Q. All right.
 5 A. At the present time, they have decided not to change
 6 that part.
 7 Q. Okay. But you do know that they have decided that it
 8 should be changed?
 9 A. I think it's a general consensus that the majority of
 10 the commissioners believe that.
 11 Q. Okay. And if they were to come to you and tell you
 12 what should it be changed to, what would you
 13 recommend?
 14 A. I don't have an opinion at this time.
 15 Q. Okay. And hopefully, you're planning on being retired
 16 before you have to come up with one. Strike that,
 17 just kidding you.
 18 All right. So you also at this point agree
 19 that the designation of this property for future
 20 office just does not make sense?
 21 A. I do personally hold that belief.
 22 Q. All right. And professionally you hold that belief,
 23 correct?
 24 A. Yes.
 25 Q. All right. Now, looking at Exhibit 15, if you would.

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1 Can you list for me the uses that are permitted in
 2 the -- in that district, in the R-1-S district?
 3 **A. Permitted principal uses include R-1, single-family**
 4 **residential district development, home occupations,**
 5 **accessory buildings and uses customarily incidental to**
 6 **residential development, the keeping and raising of**
 7 **horses, cattle and other farm animals, personal use**
 8 **heliports, signs, private garages, Township government**
 9 **buildings.**
 10 Q. Okay. And those are, just so the record is clear,
 11 those uses are uses which do not -- which any person
 12 who owns land zoned R-S-1 (sic) can develop without
 13 obtaining additional approval other than site plan
 14 perhaps or building approval, building code approval
 15 can develop without any additional zoning approvals,
 16 correct?
 17 **A. Yes.**
 18 Q. Those are permitted uses by right?
 19 **A. Yes.**
 20 Q. All right. There in addition obviously are
 21 conditional uses, I think that's what they call them
 22 in your ordinance here; is that correct?
 23 **A. Special approval.**
 24 Q. Special approval. I never understood why, anyways.
 25 And these uses of special approval do require that the

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1 those are set forth in what we had marked as
 2 Exhibit 16, correct? And that shows that you have to
 3 have a minimum lot size of, was it 1 acre?
 4 **A. Yes.**
 5 Q. All right. And that's -- and that's only 1 acre
 6 because -- what is that T that's on there? There
 7 appears to be two, it depends, it says either
 8 1.5 acres or 1 acre, but I don't know what the T --
 9 why do you say it's 1 acre, is it because -- is it
 10 public sewer or not public sewer?
 11 **A. There are footnotes attached to the schedule of**
 12 **regulations and there are other provisions that also**
 13 **apply to schedule regulations, lot size averaging, for**
 14 **example.**
 15 Q. Okay.
 16 **A. So if you have a development, you don't have to have**
 17 **every lot the same size, but there is minimum lot size**
 18 **that has to be achieved.**
 19 Q. All right. Do you have the -- okay. So let's talk
 20 about the R-1-S zoning, just so I know exactly what's
 21 applicable here. And you have the zoning book with
 22 you, right?
 23 **A. I do.**
 24 Q. If you would pull up the schedule of regulations so we
 25 can take a look at it.

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1 applicant go to what, the planning commission for
 2 approval or the planning commission and the Township
 3 board?
 4 **A. Planning commission and Township board.**
 5 Q. Okay. And as I understand uses that are permitted
 6 with special approval, these are uses which may be
 7 suitable in this district, but not in all locations,
 8 correct?
 9 **A. Yes.**
 10 Q. All right. And those uses are listed on page 57
 11 and -- is that correct, 57?
 12 **A. Yes.**
 13 Q. All right. And they are basically either schools,
 14 nursery schools, daycare, churches or -- yeah, I mean
 15 that's it, I mean the preschool, nursery schools,
 16 daycares, churches, public schools, nothing else,
 17 right?
 18 **A. Yes.**
 19 Q. So essentially you're either going to put up a school
 20 or you're going to put up a house in this area; is
 21 that correct?
 22 **A. I'd say that's generally true.**
 23 Q. Yeah, and I know I'm generalizing, but that's really
 24 what this is designed for. Okay. And the density
 25 regulations are set forth for the R-1-S district,

Page 56

1 **A. I found it.**
 2 Q. Okay. Now, what is the T in the -- that's shown in
 3 the box there, what does that refer to?
 4 **A. T is a footnote to the schedule of regulation which**
 5 **indicates that a developer is permitted to vary lot**
 6 **sizes in the R-1-R, R-1-S and R-1 residential**
 7 **districts.**
 8 Q. That's assuming that they subdivide the property,
 9 correct, in accordance with the provisions of the
 10 State's Land Division Act, is that what it says?
 11 **A. In part it says that.**
 12 Q. What else is -- what else do they have to do?
 13 **A. Obtain site plan approval for cluster housing**
 14 **development if they choose to do that or obtain site**
 15 **plan approval for a site condominium which is not a**
 16 **subdividing.**
 17 Q. What -- what differentiates the property between being
 18 1 acre or 1.5 acres? You see where it's got under
 19 minimum lot size, lot size requirements for R-1-S,
 20 there's either 1-and-a-half or 1 acre, do you know
 21 what the difference is there?
 22 **A. Yes, the column heading above the 1 acre is the**
 23 **minimum lot size that has to be achieved --**
 24 Q. Right.
 25 **A. -- in the R-1-S development.**

1 Q. Right. But there's two columns, but I'm seeing -- I'm
2 not sure. It says area, you see what I'm looking at
3 here? It says area, right? It says 1 acre or 1.5.
4 A. Yes.
5 Q. Okay. Which one -- what is the criteria for
6 determining whether the 1 acre applies or the 1.5 acre
7 applies?
8 A. The criteria is up to the developer and how he wants
9 to develop the property.
10 Q. So he gets to pick whether it's 1 acre or 1.5 acres
11 without consideration for -- I mean...
12 A. Footnote T indicates that we have an ability for
13 developer for a piece of property to try to achieve
14 design flexibility in the design of that project so
15 all the lots aren't exactly the same or uniform.
16 Q. I understand.
17 A. Based upon preference and the characteristics of the
18 land, so what the schedule of regulations is
19 attempting to do is establish a minimum lot size that
20 they can't go under and an area requirement that we
21 hope will be achieved generally through the
22 development.
23 Q. Okay. So the minimum is 1 acre under any -- under all
24 circumstances, correct? You can't go -- you couldn't
25 put in a three-quarters acre lot in an R-1-S district?

1 A. Close enough.
2 Q. So this jumps from basically .67 units per acre which
3 is the R-1-S, right, less than one unit per acre
4 overall density requirement?
5 A. R-1-S less than 1 acre?
6 Q. Yeah, 1-and-a-half acre because you can't -- it's --
7 A. Yeah, more than 1 acre.
8 Q. Yeah, more than -- sorry. Around -- well, you can get
9 two units for three acres, so that figures about .67
10 units per acre?
11 A. I'll take your word for it.
12 Q. All right.
13 MR. TAMM: What one is this?
14 MR. LUCAS: That's 16.
15 MR. TAMM: Okay, because I thought this one
16 was 16.
17 MR. LUCAS: No, that's 15.
18 MR. TAMM: No, this is the one I copied.
19 Let's go off the record.
20 (Discussion off the record at 2:49 p.m.)
21 (Back on the record at 2:49 p.m.)
22 BY MR. LUCAS:
23 Q. All right. Do you know under the master plan or the
24 future land use plan which we looked at, and you
25 indicated that that shows it's rural residential, I

1 A. Not -- that's true.
2 Q. All right. Under any circumstances.
3 But they have to average 1-and-a-half acres
4 is what you're indicating?
5 A. That's what I'm indicating subject to the footnote T
6 requirements.
7 Q. Okay. So I could have -- if I have a 3-acre parcel of
8 land, I can have one 1-acre and one 2-acre parcel,
9 correct?
10 A. Yes.
11 Q. I mean, lot averaging?
12 A. I gotcha.
13 Q. But I couldn't have one 2-and-a-half acre and one half
14 acre?
15 A. You cannot go below 1 acre.
16 Q. Right. Now, the R-1 district allows what kind of
17 densities?
18 A. The R-1 requires a minimum lot size of 9,600 square
19 feet and a desired development lot size of 11,200
20 square feet.
21 Q. So that comes out to -- what is that, about four units
22 per acre, assuming 40,000 square feet is --
23 A. Yeah, 43,560 square feet is an acre, so on average
24 that would be right.
25 Q. Okay.

1 think that's how it designated it or?
2 A. The future land use designation for the subject site
3 is plans to be equivalent to the R-1-S zoning
4 classification.
5 Q. So is that -- my understanding that, in fact, that
6 they would like to see the Ridge Valley property also
7 revert to those -- to those densities?
8 A. There's nothing reversion about this, the future land
9 use plan.
10 Q. Well, what is the densities of the Ridge Valley
11 property now?
12 A. I don't know.
13 Q. It's greater than one unit for every two-thirds of an
14 acre, is it not?
15 A. I believe that to be true.
16 Q. And it's not consistent with the R-1-S zoning
17 classification at this time, correct?
18 A. Correct.
19 Q. So in order for the land use plan to be implemented,
20 so to speak, Ridge Valley would have to dramatically
21 change in the future? You'd have to have far fewer
22 units on that property than what you've got now?
23 A. Yes.
24 Q. All right. Even though Ridge Valley was developed
25 within the last how many years?

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Page 61	<p>1 A. I don't know.</p> <p>2 Q. You don't know when it was developed?</p> <p>3 A. I don't.</p> <p>4 Q. Okay. Now, as far as -- Ridge Valley is served by 5 municipal sewer, correct?</p> <p>6 A. I understand it's a private system.</p> <p>7 Q. All right. Who -- who actually operates it?</p> <p>8 A. I don't know.</p> <p>9 Q. Okay. You don't know that the Township actually 10 operates the system?</p> <p>11 A. I don't.</p> <p>12 Q. Okay. I'm not saying about who owns it, I'm saying 13 operational.</p> <p>14 A. I understand the difference.</p> <p>15 Q. Okay.</p> <p>16 A. I don't, no.</p> <p>17 Q. All right. Was it your understanding that the Belle 18 Terre project was to be built with municipal services 19 on them or public sewer, public sewer system?</p> <p>20 A. It's my understanding that it was going to be served 21 by utilities and not a private system -- not septic, 22 excuse me.</p> <p>23 Q. Okay. Was it to be served by the sewer plant that 24 presently serves the property at Ridge Valley?</p> <p>25 A. That's what Mr. Leduc told me.</p>	Page 63	<p>1 try to figure that out for you.</p> <p>2 Q. Okay. We know that the planning commission was 3 begin -- had some discussions with regards to this 4 property in April of 2017, correct?</p> <p>5 A. Sounds right.</p> <p>6 Q. Okay. Well, take a look at the minutes for April of 7 2017. This should be in front of you. Keep going, it 8 should be April there. Here it is. All right. And 9 we know there was a discussion -- if you flip through 10 it, I've actually highlighted it. Okay, do you see 11 that?</p> <p>12 A. I do.</p> <p>13 Q. All right. Do you remember -- do you remember that 14 meeting?</p> <p>15 A. I do.</p> <p>16 Q. All right. And that was the public hearing on the 17 application, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Were there meetings prior to this in which the project 20 was discussed at the planning commission?</p> <p>21 A. I believe so.</p> <p>22 Q. Okay. So clearly, the project, at least your 23 standpoint was initiated, at least some discussions 24 were initiated prior to April of 2017, right?</p> <p>25 A. Yes.</p>
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Page 62	<p>1 Q. And you didn't receive any information to the 2 contrary; is that correct?</p> <p>3 A. That's true.</p> <p>4 (Discussion off the record at 2:54 p.m.) 5 (Back on the record at 2:54 p.m.)</p> <p>6 BY MR. LUCAS:</p> <p>7 Q. All right. When did you first become aware of the 8 Belle Terre project, how were you made aware of it?</p> <p>9 A. I received a call from the Township, I believe it was 10 from Mr. Brandt, the building official who asked me to 11 attend a development meeting with Mr. Leduc at the 12 Township Hall.</p> <p>13 Q. And when was that meeting? Did you attend the 14 meeting?</p> <p>15 A. I did.</p> <p>16 Q. And when was that meeting?</p> <p>17 A. I can't recall the date.</p> <p>18 Q. I know the exact date, but around when, any idea? 19 Last year, this year?</p> <p>20 A. It certainly wasn't this year.</p> <p>21 Q. Okay.</p> <p>22 A. It wasn't -- I don't believe it was even last year. 23 It could have been the year before probably.</p> <p>24 Q. 2016?</p> <p>25 A. I really -- I'd have to go back and check my log and</p>	Page 64	<p>1 Q. And in your meetings with Mr. Leduc, did you express 2 to him your opinion about the viability of the project 3 or the benefits or anything with regards to whether he 4 should proceed forward with the project?</p> <p>5 A. I never gave a recommendation to Mr. Leduc whether to 6 proceed or not. My direction from the Township was to 7 participate with Mr. Leduc and determine whether or 8 not there could be a viable residential development 9 project for that property.</p> <p>10 Q. Did you determine that there could be a viable 11 residential development project for that property?</p> <p>12 A. I -- I never reached a conclusion of that sort. My 13 job was to be an advocate on the Township's behalf to 14 work with Mr. Leduc to move him in a direction where I 15 thought approval could be achieved.</p> <p>16 Q. Okay. But you never reached a conclusion as to 17 whether or not a viable residential project could be 18 developed on that site?</p> <p>19 A. That's true.</p> <p>20 Q. Now, as I understand rezoning, the initial rezoning 21 process occurs by the matter going before the planning 22 commission, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Planning commission has a public hearing, correct?</p> <p>25 A. Yes.</p>
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1 Q. Planning commission makes its recommendation, correct?
 2 A. To the Township board, yes.
 3 Q. All right. The Township -- now, I don't know whether
 4 in -- this is Oakland County?
 5 A. Yes.
 6 Q. Does Oakland County have a county zoning that it's
 7 referred to?
 8 A. I believe -- on master planning they do, I don't know
 9 on rezonings, I don't know.
 10 Q. Okay. So you're not aware of whether there was any
 11 kind of -- because in some places where there's a
 12 county zoning, you have to send the proposed rezoning
 13 request recommendation to the county zoning, you're
 14 familiar with that?
 15 A. I am familiar with that.
 16 Q. But you don't know whether that occurs here?
 17 A. I don't.
 18 Q. All right. But then after that, it then goes to the
 19 Township board, correct?
 20 A. Yes.
 21 Q. Now, in Milford, does Milford require a public hearing
 22 before the Township board acts?
 23 A. I don't know if they require it, but they believe that
 24 they can call one, should they choose to.
 25 Q. All right. Well, I understand whether they believe

1 was made, I provided what I called a white paper where
 2 I outlined what the arguments against the rezoning
 3 were, and parallel to that, what additional
 4 considerations should be considered by the planning
 5 commission based on those criticisms. In addition to
 6 that, I indicated what next steps could be pursued
 7 before an opinion was rendered on yes or no on the
 8 rezoning.
 9 Q. Was that white paper, was that contained in a document
 10 called decision -- discussion guide?
 11 A. Yes.
 12 Q. Which we have marked as Exhibit 6?
 13 A. That's it.
 14 Q. Okay. And in this document, you identify what the
 15 policies are, correct, I mean -- strike that.
 16 You identify what the concerns may be with
 17 regards to this rezoning request?
 18 A. Yes.
 19 Q. All right. Now, let me ask you something about master
 20 plans, first of all. Master plan as I understand it
 21 is kind of the road map for the future of the
 22 Township, right?
 23 A. Yes.
 24 Q. All right. It's designed to provide a guidance,
 25 correct?

1 that they can, I mean, I'm not saying that they can,
 2 I'm just saying do they require it?
 3 A. I don't know.
 4 Q. Does their ordinance require it?
 5 A. I don't know.
 6 Q. Okay. Now, I know that there were at least four
 7 planning commission meetings involving Leduc and Belle
 8 Terre property, do you know how many more there were?
 9 A. I don't know if there was any more than that.
 10 Q. All right. And your function during the course of the
 11 rezoning process -- well, let me ask you this. At
 12 what point were you given the directive by the
 13 Township that you were to try to facilitate -- to
 14 determine whether a viable residential development
 15 could be built on this site? At what point was that
 16 assignment given to you?
 17 A. That was at the initial meeting where I was invited to
 18 meet Mr. Leduc and to see what he had in mind. That
 19 was a meeting held at the Township Hall.
 20 Q. Did you intercede or provide any guidance and advice
 21 to the planning commission as they were going through
 22 their review process of the Belle Terre project?
 23 A. Yes.
 24 Q. What was the nature of the guidance that you provided?
 25 A. After the public hearing was held and before a motion

1 A. Yes.
 2 Q. But it is not set in stone, correct?
 3 A. Correct.
 4 Q. All right. The master plan should be flexible and you
 5 don't always have to follow it; would that be a fair
 6 statement?
 7 A. That would be a fair statement.
 8 Q. All right. You should follow it in most cases,
 9 correct?
 10 A. Yes.
 11 Q. But there are times when you don't -- you shouldn't
 12 follow it and there's times when, you know, it should
 13 be changed, correct?
 14 A. Yes.
 15 Q. For example, if I came to you and told you that I
 16 wanted to build R-1-S development on the area in your
 17 master plan that's shown as office space, you would
 18 recommend that they rezone it to R-1-S, would you not?
 19 A. I can't answer that.
 20 Q. Well, you just told me that you don't think that the
 21 R0 zoning or the R0 designation for the frontage on
 22 the -- on the east side of -- on the west side of
 23 Milford Road is appropriate at this point and neither
 24 does the planning commissioner, correct?
 25 A. Correct.

1 Q. So if someone came to you and said I want to build
 2 R-1-S zoning, which is, in fact, what you're saying
 3 it's rural residential zoning everywhere else around
 4 there, right?
 5 A. Yes.
 6 Q. You think that that would be appropriate for rezoning
 7 that property even though the master plan is different
 8 from that?
 9 MR. TAMM: Objection to foundation.
 10 If you know, you can answer.
 11 A. I really can't answer that based on the scenario that
 12 you've given me.
 13 BY MR. LUCAS:
 14 Q. Okay. Well, my point is, the fact that -- here, let
 15 me break it down even simpler. The fact that that
 16 area is master planned for RO right now, which you've
 17 acknowledged is not appropriate for that area,
 18 correct?
 19 A. Yes.
 20 Q. Which the planning commission has acknowledged is not
 21 appropriate for that area, correct?
 22 A. Informally, yes.
 23 Q. Informally. But in your opinion, so that if someone
 24 came and wanted to rezone it to a zoning
 25 classification which, in fact -- we'll look at that,

1 was the density of use.
 2 BY MR. LUCAS:
 3 Q. How many -- what did the people want? What density
 4 did they want?
 5 A. It never was quite clear what the public wanted in
 6 terms of density.
 7 Q. They just didn't want what Leduc was proposing?
 8 A. My personal opinion that the citizens who are voicing
 9 complaints preferred the property remain undeveloped.
 10 Q. That's not a legitimate basis for denying a rezoning;
 11 would you agree?
 12 A. Absolutely.
 13 Q. All right. So the fact that they wanted to remain
 14 undeveloped, you want it to remain undeveloped, there
 15 is a way to deal with that, correct?
 16 A. Yes.
 17 Q. It's called buying the property?
 18 A. True.
 19 Q. Or condemning the property for public purpose, right?
 20 MR. TAMM: Objection to form.
 21 BY MR. LUCAS:
 22 Q. Would that be an accurate statement, that's one way?
 23 A. I would agree with the -- if you want it to remain
 24 undeveloped, buy it.
 25 Q. Right. So those people that were -- that were

1 what is shown behind it as being rural --
 2 single-family residential low density, correct?
 3 A. Yes.
 4 Q. You believe, and you would -- would the fact that the
 5 master plan doesn't account for that, would that be an
 6 absolute barrier to rezoning the property to the
 7 single-family residential low density?
 8 A. No.
 9 Q. Okay. So the fact is, that you can still rezone
 10 property regardless of whether or not the master --
 11 it's -- it is established in the master plan, correct?
 12 MR. TAMM: Objection to form.
 13 BY MR. LUCAS:
 14 Q. There is -- strike that, strike it. Forget it. We've
 15 already answered the question. There is no sense in
 16 me beating a dead horse.
 17 All right. Now, would it be fair to say
 18 that this was quite a contentious rezoning request?
 19 A. Yes.
 20 Q. All right. A number of people came out, correct?
 21 A. Yes.
 22 Q. A lot of people complaining about rezoning this
 23 property for residential purposes, correct?
 24 MR. TAMM: Objection to form.
 25 A. The major complaint was not the residential use, it

1 clamoring for this property to remain undeveloped,
 2 that's not a legitimate concern for the planning
 3 commission to base its decision on, correct?
 4 A. Right. But let me just say that it's -- it's my
 5 opinion is that's what the outcome they wanted to
 6 achieve was no development. They prepared
 7 documentation that you'll find in my file if you don't
 8 have it already that their major complaint, that the
 9 proposal was not matching the master plan.
 10 Q. Okay.
 11 A. That was their official line.
 12 Q. Okay. But it was clear from you that they wanted to
 13 just stop any development on that site?
 14 MR. TAMM: Objection to form. Calls for
 15 speculation.
 16 MR. LUCAS: Well, I think that's what he --
 17 he already testified to it.
 18 MR. TAMM: It's still speculation.
 19 MR. LUCAS: I understand, I understand.
 20 BY MR. LUCAS:
 21 Q. Well, did they voice that at times? Not just --
 22 you're not just speculating, they actually voiced that
 23 they didn't want it developed?
 24 A. It was my impression based upon the emotion of their
 25 argument that they did not want to see development on

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1 that property.

2 Q. Okay. Did you ever express to the planning commission

3 that that's not an appropriate -- that's not an

4 appropriate outcome, that they cannot prevent this

5 property from being developed at some point?

6 A. I did not need to tell the planning commission that, I

7 believe they knew that.

8 Q. Well, did they ever express to the individuals that

9 that could not -- that they could not just block any

10 development from that property?

11 A. I don't believe that argument was made to the public

12 during the exchange.

13 Q. All right. So all right, in fact, let's go through --

14 and I know it was actually -- we know that the Belle

15 Terre property was actually discussed in the March

16 meeting, was it not, a March planning commission

17 meeting?

18 A. My recollection of the number of meetings and when

19 they were held is foggy.

20 Q. Okay.

21 A. But generally speaking, what happened was, Mr. Leduc

22 was invited to make an informal presentation to the

23 planning commission about what he wanted to achieve on

24 the property prior to a formal submittal, and so that

25 was entertained before the planning commission. And

1 A. I do.

2 Q. All right. Now, what was the primary -- what was the

3 primary difference between the proposal --

4 MR. TAMM: Sorry, you have the -- June 29th

5 is which one?

6 MR. LUCAS: That is Exhibit 3. So it's 2,

7 3 and 4.

8 MR. TAMM: Yeah, I know. Mine is, I'm not

9 sure because the staples are kind of --

10 MR. LUCAS: Top right.

11 MR. TAMM: Yeah. And the August 31st is 4?

12 MR. LUCAS: Yes, August is 4.

13 MR. TAMM: And I'm sorry, March is

14 Exhibit 2?

15 MR. LUCAS: Correct.

16 MR. TAMM: Got it.

17 BY MR. LUCAS:

18 Q. Can you tell me, how did the -- there's three

19 proposals, there are three presentations, I don't

20 know, the different proposals, but how did the

21 presentation -- did the proposal change from proposal

22 1 through proposal 3?

23 A. Yes.

24 Q. How did it change?

25 A. It changed and it morphed from a single-family

1 then --

2 Q. Go ahead, I'm sorry. I apologize.

3 A. And then there was, of course, the public hearing that

4 was the formal presentation of it. And then there was

5 other -- after the white paper, the discussion guide,

6 if you will, that I provided, Mr. Leduc thought it was

7 a good idea to attempt a cluster housing proposal that

8 we helped him with, which we thought would have value

9 to present to the planning commission, and again, that

10 plan was presented to the planning commission too. So

11 I remember -- I remember three.

12 Q. Was that rejected also?

13 A. The motion was to deny the rezoning, so the answer is

14 yeah, that was rejected.

15 Q. All right. I'm going to show you, you've got in front

16 of you the packet of three separate PowerPoint

17 presentations that I believe Mr. Leduc prepared and

18 presented to the planning commission, one dated March

19 30th, one dated June 29th, and one dated August 31st;

20 do you see those?

21 A. I do.

22 Q. Okay. Just for the record, the one dated March 30th

23 is Exhibit 2, Exhibit 3 is the June 29th proposal, and

24 August 31st is the Exhibit 4. Okay. Do those -- do

25 you recognize those, that proposal?

1 development with -- as originally conceived by

2 Mr. Leduc, the second presentation showed how that

3 could be modified to accommodate the criticisms of the

4 original design, then the third one resulted from the

5 discussion guide I presented in a cluster housing

6 approach.

7 Q. All right. Again, let me say, is this -- let me show

8 you what's been marked as Exhibit 5, the design

9 flexibility plan; do you see that?

10 A. I do.

11 Q. And did you help prepare that?

12 A. I didn't draw it. I --

13 Q. Did you have input in the drawing of the plan?

14 A. I did.

15 Q. Okay. Who -- do you know, was Mr. Leduc's

16 professionals, did they actually draw the plan?

17 A. I assume so.

18 Q. All right. Did you meet with any of his professionals

19 or did you just meet with Mr. Leduc?

20 A. Primarily Mr. Leduc.

21 Q. Okay. And you felt that this design flexibility plan

22 addressed the issues that were raised at the planning

23 commission by the residents?

24 A. I did.

25 Q. And this was rejected also?

1 A. Yes.

2 Q. All right. What was the criticism of this plan?

3 A. Density.

4 Q. Now, how many units were -- how many units were on

5 this site in this design flexibility plan?

6 A. I'd have to look at the drawing. I think it might say

7 underneath that.

8 Q. You've got one right there too if you look. Right

9 there.

10 A. It's fuzzy, I can't read it, it may be in my original

11 file --

12 Q. Okay.

13 A. -- if I can look.

14 Q. Absolutely. And that's the best one, that's all I've

15 got so I can't read it.

16 MR. LUCAS: Why don't we take a break.

17 (Recess taken at 3:14 p.m.)

18 (Back on the record at 3:23 p.m.)

19 BY MR. LUCAS:

20 Q. Okay. So how many units were anticipated in that --

21 in that plan?

22 A. 157.

23 Q. Again, do you know what the density, what that would

24 translate to in terms of density on the property?

25 A. Well, the total acreage is -- I can't remember what

1 A. No, not at that time. One of the conditions offered

2 by Mr. Leduc is that he was providing renderings

3 during the rezoning application that were conceptual,

4 and he -- one of the conditions was he was going to

5 stipulate that the final design would be subject to

6 final site plan approval.

7 Q. All right.

8 A. But conceptually speaking, I support that cluster

9 development plan.

10 Q. All right. And you think that that would make sense

11 for that location, that site?

12 A. I do.

13 Q. All right. And you still believe that?

14 A. I do.

15 Q. Because I know when we ran through the -- your

16 criteria for rezoning, which we ran through earlier

17 today, this project, this proposed project actually

18 meets most, if not all, of the criteria that you would

19 want to in terms of why it made sense to rezone it?

20 A. That's fair. The -- the point I was trying to make

21 with the planning commission with my discussion guide

22 is that the master plan narrative also supports a

23 project like this at this location.

24 Q. Okay. So from your perspective, the master plan was

25 not an impediment to the rezoning of the property

1 that is. I'll have to find that. We could do some

2 quick math and figure that out. I don't -- units per

3 acre, I would have to --

4 Q. All right.

5 A. Do you remember what the total acres of the property

6 are? It's probably in his -- it's probably right in

7 one of these things right here. Probably right there.

8 67 acres.

9 Q. 67 acres, so you've got 157 units, 67 acres, roughly

10 2.something an acre, 2.some units per acre, correct?

11 A. Sure.

12 Q. Somewhere around there?

13 A. I turned off my phone before I came in here.

14 Q. Here, you can use mine.

15 A. It's coming back to life.

16 MR. TAMM: How many acres, say that again?

17 THE WITNESS: 67 I believe his presentation

18 said. 67 acres and 157 units.

19 MR. TAMM: 2.34.

20 BY MR. LUCAS:

21 Q. So and you, I presume you thought that was a good

22 plan?

23 A. I did.

24 Q. All right. And would you have recommended that plan

25 to the planning commission?

1 because it could be interpreted as supporting it,

2 correct?

3 A. It could be.

4 Q. All right. Now, you may not have supported it at the

5 higher numbers, but at these numbers, you did support

6 this plan?

7 A. With the caveat that conceptually we supported this

8 plan. I would still suggest to Mr. Leduc at the time

9 of site plan approval that we would do some tweaking

10 to this plan that we might reduce the unit count a

11 little more.

12 Q. Okay. Well, every plan it gets -- you would agree

13 with me that there isn't a plan that's ever been

14 submitted that hasn't had to be tweaked at some point

15 or another as you're going through the site plan

16 process, right?

17 A. I just want to be specific.

18 Q. Okay. No, and it's fair. It's a fair statement. I'm

19 not disagreeing with you, nor am I suggesting that you

20 just blanketly accepting the plan. So what you're

21 saying is that this plan as a conceptual plan in terms

22 of the density, in terms of the overall design was a

23 plan that you could get behind and support?

24 A. I would agree with that statement except for the

25 density. Again, looking at the plan, there was some

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1 things I reflected upon that some of those units ought
 2 to go away, so the density would be slightly lower
 3 than what Mr. Leduc presented on there, but other than
 4 that --
 5 Q. This was 157 units, right?
 6 A. Yes.
 7 Q. What would you believe to be -- when you say slightly
 8 lower, what are you talking about, 150?
 9 A. Give or take. My criticisms of that plan is that
 10 there are some isolated home sites. I don't believe
 11 that's what the intent of a cluster housing unit ought
 12 to be, so.
 13 Q. Because I can't really see mine that well. Where was
 14 yours at? Do you have yours? Are you talking about
 15 like -- are these home sites over here?
 16 A. Yes.
 17 Q. Okay. So you would talk about eliminating some of
 18 these that are like not bunched up with the other
 19 ones, right?
 20 A. Right.
 21 Q. So it isn't so much -- it wasn't even so much the
 22 number as it was eliminating the non-clustered houses?
 23 A. And part of that would be the number, of course.
 24 Q. Of course, but I mean it wasn't -- the number would
 25 naturally be reduced based upon the elimination of

1 Q. Okay, was he required to provide one?
 2 A. Not that I recall.
 3 Q. All right. So did he provide what he was required to
 4 provide?
 5 A. I don't believe anybody -- strike that.
 6 At the initial meeting traffic was raised
 7 as an issue and Mr. Leduc was asked to address that.
 8 Q. All right.
 9 A. Later on, I'm trying to remember at what event, I
 10 think it was after the public hearing, I believe
 11 Trustee Mazzara was talking about a full blown traffic
 12 impact study.
 13 Q. All right. Is there anything in the zoning ordinance
 14 that would have required Leduc to provide that?
 15 A. During site plan review, there are site plan submittal
 16 requirements so that we could use to require that.
 17 Q. Okay. But there's nothing in the rezoning end of it
 18 that would require that?
 19 A. True.
 20 Q. All right. Number one. Number two, the Township did
 21 not provide any, other than anecdotal statements
 22 regarding traffic, did they have any information to
 23 support the concerns about the traffic?
 24 A. Not that I --
 25 Q. Any studies?

1 those non-clustered houses, but the primary concern is
 2 that these -- that these were not part of a cluster,
 3 those properties?
 4 A. Yeah, density was not driving that recommendation.
 5 Q. Yeah. I understand. That's all I'm saying. Okay.
 6 And under this plan out of 67 acres, if I understand
 7 correctly, 37 of it would have actually been open
 8 space?
 9 A. Yes.
 10 Q. Over half of the property would have remained
 11 undeveloped?
 12 A. Yes.
 13 Q. I know that traffic was raised as a concern by the
 14 residents, some of the residents at the meeting; is
 15 that correct?
 16 A. Yes.
 17 Q. Did you -- did the Township ever engage anybody to do
 18 an independent traffic analysis?
 19 A. No, that was an obligation of the applicant,
 20 Mr. Leduc.
 21 Q. Okay, and did he do that?
 22 A. He hired a consultant that talked only about trip
 23 generation.
 24 Q. Okay.
 25 A. It wasn't a full-blown traffic impact study.

1 A. Not that I'm aware of.
 2 Q. These were just generalized concerns about traffic
 3 that were raised by the residents?
 4 A. Well, keep in mind that the residents travel that road
 5 every day and --
 6 Q. I understand.
 7 A. -- in different conditions, I mean, they had firsthand
 8 knowledge of how that road operates.
 9 Q. I understand that. But they also don't have the tools
 10 to determine, would you agree, they do not have the
 11 tools to determine how their traffic could be made
 12 better even with the addition of this development?
 13 A. I'm unaware if they had the tools or not.
 14 Q. Okay. Well, they didn't -- I mean, isn't that what a
 15 traffic study would provide you with, ways of
 16 improving traffic flow?
 17 A. The traffic impact study would examine what impacts
 18 and how they could be remediated, yes, but we do that,
 19 but you asked me the question of whether or not the
 20 public who was criticizing the plan would have the
 21 talent to do that, and my answer is I don't know.
 22 Q. Well, they certainly didn't provide any documentation
 23 to support their concerns?
 24 A. Only what they personally knew.
 25 Q. All right. Well, did you feel -- I mean, you

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1 indicated that with minor changes to this design
 2 flexibility plan, you felt that it was an appropriate
 3 plan for this site, correct?
 4 **A. In order to gain the conditional rezoning.**
 5 Q. Right. My question is, is did you feel that under
 6 this design flexibility plan, that you would be
 7 creating a traffic scenario that would be untenable
 8 for that location?
 9 **A. I don't know. At the time of the site plan where we**
 10 **get into the nitty and gritty of the design, Mr. Leduc**
 11 **would be asked to submit a full-blown traffic impact**
 12 **study.**
 13 Q. Okay. And one of the things that occurs is, as we
 14 talked about, is when you do a full-blown traffic
 15 study, there are recommendations made on how to
 16 mitigate the impact of traffic on particular roads by
 17 various factors, correct?
 18 **A. Correct.**
 19 Q. But we never got to that point?
 20 **A. We never got to the point.**
 21 Q. Are there any locations within the Township which you
 22 believe are better suited to the type of development
 23 that Mr. Leduc was promoting for this site?
 24 MR. TAMM: Objection to form and
 25 foundation.

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1 Can you make a copy of this?
 2 MR. TAMM: I don't know that I can make a
 3 copy of this size.
 4 MR. LUCAS: A firm of your size not having
 5 11 by 17? Can you scan it in and then --
 6 MR. TAMM: I may be able to do that. You
 7 want me to see if I can get that done right now --
 8 MR. LUCAS: No, you don't have to do it
 9 now. We'll just talk about it and we'll mark it when
 10 we're done.
 11 MR. TAMM: We can certainly --
 12 MR. LUCAS: Because you need to get out of
 13 here by 4:30, right?
 14 **THE WITNESS: I need to, yes, which is an**
 15 **hour from now.**
 16 MR. LUCAS: Well, you know, if we're not
 17 done, I will stop at 4:30 regardless, okay? I mean, I
 18 don't want to...
 19 **THE WITNESS: Thank you.**
 20 MR. LUCAS: We're not nasty people.
 21 **THE WITNESS: You haven't been nasty yet.**
 22 **I'm waiting for it, but you haven't been.**
 23 MR. LUCAS: It isn't going to happen.
 24 **THE WITNESS: Okay.**
 25 BY MR. LUCAS:

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1 BY MR. LUCAS:
 2 Q. If you know.
 3 **A. I couldn't give you a judgment on that. The Township**
 4 **has a variety of areas that are environmentally**
 5 **sensitive that are suited for cluster development.**
 6 Q. Well, for higher density development? I mean, all of
 7 higher density within the Township does appear to be
 8 to the north end of the Township, correct?
 9 **A. Yes.**
 10 Q. All right. And there really -- is there any -- are
 11 there any utilities to service, you know, higher
 12 density developments anywhere else in the Township
 13 other than in the area where Belle Terre properties is
 14 located?
 15 **A. Yes.**
 16 Q. Where else?
 17 **A. The south end of the Township.**
 18 Q. This area down here?
 19 **A. Down by I96, Pontiac Trail.**
 20 Q. Further south?
 21 **A. Further south, that area.**
 22 Q. Okay. Do you have that -- do you have the full
 23 drawing there? I want to take a look at that.
 24 So down by I96 which you've indicated is --
 25 MR. LUCAS: Do you mind if I mark this?

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1 Q. All right. So the only other location, as you said,
 2 was in the south end of the Township, extreme southern
 3 end of the Township, correct?
 4 **A. Yeah, the southern tier sections, a number of years**
 5 **ago, the Township brought in a sanitary sewer system**
 6 **to serve the south end, and as a result of that,**
 7 **there's been a lot of interest in developing that.**
 8 **There's a large project that the Township approved a**
 9 **number of years ago by Robertson Brothers to have a**
 10 **large residential development including cluster and**
 11 **single-family detached. There's conversations right**
 12 **now at the intersection of Milford Road and Pontiac**
 13 **Trail on the western side of that intersection.**
 14 **There's an old gravel mine operation right now that is**
 15 **subject to consent judgment. I know the property**
 16 **owner has contacted me about developing in the form**
 17 **and fashion higher density that Mr. Leduc would like**
 18 **to achieve.**
 19 Q. Are you talking about is this Milford and Pontiac
 20 Trail extreme southern end of the Township?
 21 **A. Yes, uh-huh.**
 22 Q. What is that zoned, planned shopping center?
 23 **A. Yeah, that's the one corner.**
 24 Q. Uh-huh, okay. Well, I mean it appears to be on both
 25 sides of the street?

1 A. Yeah, right. But if I may point?
 2 Q. Yeah, go right ahead.
 3 A. This area right here is subject to a consent judgment
 4 that was achieved a number of years ago that's an old
 5 gravel mining operation.
 6 Q. Oh, okay.
 7 A. And there are current conversations that we expect
 8 that property owner to come in by the year's end with
 9 a major proposal, perhaps to be developed as a planned
 10 unit development with higher density residential
 11 development part of it.
 12 Q. Where is the sewer on the southern end coming from?
 13 A. I think it's coming from Wixom.
 14 Q. Okay. All right. Is there any other availability of
 15 sewer anywhere else in the --
 16 A. Not that I'm aware of.
 17 Q. So we've got an offsite sewer plant coming, actually
 18 just a pipe coming in from some other municipality,
 19 correct?
 20 A. Yes.
 21 Q. To the south. And then the sewer plant to the north
 22 that services Ridge Valley, correct?
 23 A. Yes. And the village, of course, has their own
 24 system.
 25 Q. Right. Were you -- did you have any knowledge of the

1 A. I don't know.
 2 Q. But as far as you know, you've never seen anything of
 3 that nature from the Township, correct?
 4 A. Correct.
 5 Q. All right. And you've never seen an appraisal from
 6 the Township, correct?
 7 A. Correct.
 8 Q. You've never seen a traffic study from the Township
 9 which you've told me before. And you said that based
 10 upon the characteristics that you look at for rezoning
 11 property which we discussed, I think it was nine
 12 characteristics, that this property would have been an
 13 appropriate one for rezoning consistent with, and
 14 again, when I say consistent with, with your caveat,
 15 consistent with your design flexibility plan?
 16 A. Yes.
 17 Q. And had the Township rezoned the property, you felt --
 18 you would have, consistent with your plan, you would
 19 not have viewed that as being any kind of an improper
 20 act or an illegal act in terms of violating any
 21 principles, any laws or principles of planning, good
 22 planning?
 23 A. Yes.
 24 Q. Now, Bill Mazzara is -- he's with the planning
 25 commission?

1 capacity of the -- do you have any knowledge about the
 2 capacity of the Ridge Valley plant?
 3 A. No.
 4 Q. Okay. You don't know anything about the circumstances
 5 under which that plant was -- you have no information
 6 about the circumstances under which that plant was
 7 developed and all of that?
 8 A. The only information I have really is from Mr. Leduc
 9 himself which if I remember, that facility was
 10 oversized in anticipation of having future development
 11 attached to it.
 12 Q. But you were not involved in any of those discussions
 13 initially?
 14 A. No.
 15 Q. Okay. Then if you have no knowledge of it, I'm not
 16 going to ask you about it.
 17 And you would agree that had the Township
 18 agreed to this rezoning, it would not have been spot
 19 zoning because of the proximity to other similar types
 20 of zoning in and around that area, correct?
 21 A. Yes, that's true.
 22 Q. All right. The Township never had the property
 23 appraised, they've never had -- they've never done any
 24 kind of a market feasibility study on this property;
 25 is that a fair statement?

1 A. He's a trustee and he's the representative from the
 2 board to the planning commission, so yes, he's a
 3 planning commissioner too.
 4 Q. Did you meet with him on any occasions about this
 5 project?
 6 A. Not independently.
 7 Q. Okay. Well, when you say not independently, were
 8 there other people in the room?
 9 A. Well, as part of the planning commission.
 10 Q. Just as part, okay. So you did not have any meetings
 11 outside of the planning commission meetings with Bill
 12 Mazzara?
 13 A. Yes, that's true.
 14 Q. Okay. Did Bill Mazzara express -- I mean in the
 15 planning commission, what position did he take
 16 relative to this project? Was he supporting your
 17 design flexibility plan?
 18 MR. TAMM: Object to foundation.
 19 BY MR. LUCAS:
 20 Q. If he expressed anything?
 21 A. If my memory serves me, he made the motion to deny.
 22 Q. Okay. Did he state any reasons for that?
 23 A. Yes, there was a whole findings of fact in his motion.
 24 I don't recall them.
 25 Q. All right.

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1 A. But generally speaking, Mr. Mazzara is a real advocate
 2 of maintaining the rural character of the Township,
 3 that's his point, that's his position.
 4 Q. You have no expertise in the area of sewer capacity,
 5 water capacity, MDEQ reviewing all those matters; is
 6 that an accurate statement?
 7 A. That is accurate.
 8 Q. Okay. You take no position upon the jurisdiction of
 9 the MDEQ or position of any other body relative to
 10 this sewer plan or the adequacy of the plan or
 11 adequacy of the water and sewer for the site, correct?
 12 A. I can't offer any opinion on that.
 13 Q. I understand. I just want to make sure. Just
 14 clarifying. Was there any -- what is your
 15 understanding about the availability of annexation of
 16 this site to the village, was there any discussion or
 17 have you ever looked into that issue?
 18 A. No.
 19 Q. Okay. Was that ever raised in any of your
 20 discussions, of having this property annexed to the
 21 village?
 22 A. I don't recall that being discussed.
 23 Q. In your discussion points, discussion guidelines, I
 24 mean, you talked about I think the favorable impact
 25 that this development would have on the tax base for

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1 with an existing ordinance in place.
 2 Q. Okay.
 3 A. But over those 18 years, we've made a lot of different
 4 amendments to that.
 5 Q. No doubt, no doubt. Let me ask you this, did you
 6 act -- the language in there about the, for example,
 7 the R-1-S district, is that your language or language
 8 that you proposed or was that existing language when
 9 you came?
 10 A. I think that was existing language if my memory serves
 11 me right, I'm pretty sure it was.
 12 Q. And probably also true for R-1 and R0?
 13 A. Yeah, mostly the schedule of regulation was there, we
 14 did not change the schedule of regulations or the
 15 footnotes.
 16 Q. Okay. Or the uses, permitted uses and the conditional
 17 uses within those districts, were those also there
 18 when you came?
 19 A. Yes.
 20 Q. Okay. Did you have any -- any communications with
 21 Mazzara outside of -- I know you said you never met
 22 with him other than during planning commission
 23 meetings, correct?
 24 A. Correct.
 25 Q. All right. Were there any communications from Mazzara

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1 the -- for the community, I think it's .12?
 2 A. That was one of the discussion points, yes.
 3 Q. Okay. And you believe that by rezoning this property
 4 consistent with your design flexibility plan, and
 5 again, whenever I say that, I understand that there's
 6 the caveat, so you don't need to preface your remarks
 7 by saying subject to approval because I understand
 8 that whatever I say, that it is subject to the
 9 reductions that you talked about.
 10 A. Very good.
 11 Q. But you believed that this design, the flexibility
 12 plan, would have been financially beneficial to the
 13 community?
 14 A. Well, in my discussion guide, I presented the rebuttal
 15 that Mr. Leduc was making not on that last plan, but
 16 on the plan that he presented at public hearing.
 17 Q. Okay.
 18 A. But generally speaking, there would be a financial
 19 benefit to the community to have property developed
 20 because they would gain taxes.
 21 Q. All right. And as far as did you -- did you or your
 22 firm draft that zoning ordinance? The actual
 23 ordinance itself or was that an existing ordinance
 24 that's just been updated?
 25 A. Well, since our arrival there, we came to the table

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1 in the form of e-mails, letters, texts, whatnot, as it
 2 relates to this project?
 3 A. Yes.
 4 Q. Do you have those?
 5 A. I don't. I can tell you what they were relevant to,
 6 if you're interested.
 7 Q. I am, yeah, absolutely. What were they relevant to?
 8 A. At the very beginning of the project, when Mr. Leduc
 9 was doing his due diligence for the environmental
 10 study, he was -- had equipment on the site that seemed
 11 to follow an old road. There was a lot of outcry at
 12 the time by observers, whoever those people were, that
 13 there was already construction activity occurring on
 14 the site without any approval being granted. That
 15 percolated around a lot of different people, Jennifer
 16 Elowsky, ma, Don Green, Bill Mazzara was in that loop,
 17 and if my recollection is clear, I believe that he was
 18 part of a cc on an e-mail that I might have sent
 19 trying to figure out what was going on here.
 20 Q. But you eventually determined that there actually was
 21 no work going on at that point, correct?
 22 A. Right. It was investigative work, it was not
 23 development work.
 24 Q. Okay. I'm going to show you what we had marked as
 25 Exhibit 7. These are some e-mails. You've got them.

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1 A. Oh, I have them?

2 Q. Yeah, you've got them in that packet I gave you. I'll

3 find it here in a second. Here you go. All right.

4 Have you ever seen any of the e-mails in the front

5 here?

6 A. **This is not ringing, this does not look familiar to**

7 **me, but --**

8 Q. Okay.

9 A. **-- it's been a while.**

10 Q. All right. I'm just curious, I mean, it's -- that's

11 okay. I noticed there on the next page, it's from

12 Bates stamp 432. By the way, this is Exhibit 7. You

13 were cc'd on an e-mail from Don to Ray, Don Green,

14 supervisor, to Ray. Remember "I want you to follow

15 the guidelines that were discussed at the last PC

16 meeting, keeping the RS zoning," is that -- do you

17 remember receiving that?

18 A. I don't.

19 Q. I see you sent an e-mail back in June of last year,

20 and is that your -- do you remember sending that

21 e-mail?

22 A. **The one that begins gentlemen?**

23 Q. Yes.

24 A. **I don't remember it, but it appears that I did.**

25 Q. Okay. But you don't remember any communications with

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1 A. **I don't know who prepared it.**

2 BY MR. LUCAS:

3 Q. Okay. Would it be fair to say you did not agree with

4 the denying the proposal all together?

5 A. **That would be fair.**

6 Q. Okay. You would have -- you would have recommended to

7 approve the project as your design project as modified

8 as we know, the design flexibility project, what you

9 felt was in the best interest of the community,

10 correct?

11 A. **If I was the voting member, I would vote that way.**

12 Q. Okay. And you felt that there were no -- there was no

13 legitimate health, safety concerns which could not be

14 addressed through the site plan process which would --

15 which would support denying this report?

16 MR. TAMM: Objection to form and

17 foundation.

18 A. **I can't agree with that statement. I don't know what**

19 **the site plan review process would discover or what we**

20 **would uncover during that process.**

21 BY MR. LUCAS:

22 Q. Well, I understand. But I'm saying during the site

23 plan process, if there were problems, those could be

24 uncovered at that point is what I'm getting at,

25 correct?

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1 Lamarsa? What's his name?

2 A. **Mazzara.**

3 MR. TAMM: Is that where you had lunch

4 today?

5 MR. LUCAS: Not where I had lunch, but

6 Lamarsa.

7 BY MR. LUCAS:

8 Q. But Mazzara, you haven't had any conversations with

9 him outside of the actual meetings themselves, and

10 that's it?

11 A. **That's my recollection.**

12 Q. Okay. And do you know who drafted the resolution to

13 deny the rezoning request at the planning commission?

14 A. **It's my recollection was, that was Bill's language.**

15 **Didn't he make the...**

16 Q. I don't know.

17 A. **I thought Bill made the motion to deny and did it.**

18 Q. You don't know --

19 A. **I didn't.**

20 Q. That's fine. I understand that. I wasn't suggesting

21 that you did. I was wondering if you were consulted

22 at all -- well, because you didn't agree with denying

23 it, if I understand correctly?

24 MR. TAMM: Objection to form.

25 Go ahead.

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1 A. **That's true, but...**

2 Q. I know, you're right. The way it was phrased, I can

3 understand why you didn't agree with it. But saying

4 it -- what I'm saying to you is, in terms of the

5 process where it was previously through the planning

6 commission at the Township, the rezoning process, you

7 did not feel that the design flexibility plan

8 violated -- created any concerns for public health,

9 safety and welfare?

10 A. **I don't know how to answer that. I...**

11 Q. Well, let me put it to you this way. If you had felt

12 that that plan, the design flexibility plan was

13 contrary to the best interest of the community, you

14 would never recommend it; would that be a fair

15 statement?

16 MR. TAMM: Objection to foundation, he

17 didn't make a recommendation.

18 MR. LUCAS: Well, he would never have

19 proposed it?

20 A. **I'm having trouble divorcing the idea of a conditional**

21 **rezoning action and then approving a particular**

22 **design. I'm struggling with that the way you phrased**

23 **your question.**

24 BY MR. LUCAS:

25 Q. I understand what you're saying, but I guess the

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1 design flexibility plan was a conditional designing
 2 option, correct?
 3 A. Right. He would -- Mr. Leduc was willing to offer
 4 that as conceptually, if you approve my rezoning, that
 5 will be a condition that I will pursue site plan
 6 approval using this plan.
 7 Q. Right, but it was a conditional rezoning proposal,
 8 right?
 9 A. Absolutely.
 10 Q. Which you felt was appropriate?
 11 A. I did.
 12 Q. Okay, and what I'm saying to you is you wouldn't -- if
 13 you had thought there was any health, safety and
 14 welfare concerns with that conditional offer, you
 15 wouldn't think that that's appropriate, I mean if
 16 someone came to you and said I want you to, you know,
 17 this is what I'm thinking and you've got real problems
 18 with it, you're not going to -- you're not going to
 19 recommend it, you're not going to tell people it's a
 20 good project?
 21 A. Let me answer it this way, if Mr. Leduc came in under
 22 traditional rezoning without conditions for this
 23 project, I couldn't support it. But inasmuch as it
 24 was a conditional and one of the conditions being that
 25 he would -- the condition is subject to final site

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1 Q. Accurate.
 2 A. Oh, okay.
 3 Q. Generally speaking.
 4 A. Yeah.
 5 Q. I mean, they could have changed the language, but that
 6 would have been, in your opinion --
 7 A. Not a good thing.
 8 Q. Not a good thing. Now, he's got a second thing,
 9 evidence of change condition, is that a -- is that a
 10 requirement for rezoning? Is that a criteria for
 11 denying a rezoning, evidence of change condition?
 12 MR. TAMM: Objection to form.
 13 A. It is a criteria that communities consider in terms of
 14 rezoning, if an area is undergoing some sort of
 15 transformation.
 16 BY MR. LUCAS:
 17 Q. Right.
 18 A. You have an old master plan that hasn't been updated
 19 in a long time, you would look to see what evidence of
 20 a change condition occurs which would support the
 21 request. So that's a reasonable thing too.
 22 Q. It says there's no evidence of a change in condition
 23 due to land use trends which was recently confirmed by
 24 the adoption of the master land use plan. Would you
 25 agree with that statement?

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1 plan approval, I'd be willing to move forward with it.
 2 Q. Okay.
 3 MR. LUCAS: Give me a second. I think
 4 we're just about done.
 5 (Recess taken at 3:55 p.m.)
 6 (Back on the record at 4:03 p.m.)
 7 BY MR. LUCAS:
 8 Q. All right. I just want to go through a couple things
 9 with you. On August 31st, Mazzara made a motion to
 10 deny or to recommend the denial of the rezoning,
 11 correct?
 12 A. That's what my notes indicate.
 13 Q. All right. And he did it based on the following:
 14 Appropriateness of a proposed district change versus a
 15 text amendment to accomplish -- accommodate what is
 16 requested. The proposed district -- he says the
 17 proposed district boundary change cannot be
 18 accommodated by amending the zoning text change. Once
 19 text is changed, it would apply to the entire zoning
 20 classification of both R-S-1 (sic) and RO. You agree
 21 that that statement is an accurate statement from him,
 22 from Mazzara and from the planning commission?
 23 MR. TAMM: Did you say accurate or
 24 inaccurate?
 25 BY MR. LUCAS:

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1 A. I really don't know what he was talking about there.
 2 Q. Okay. So you're neither agreeing nor disagreeing?
 3 A. Yes, that's true, I'm not.
 4 Q. All right. Consistency with the adopted master plan,
 5 he says it's inconsistent, I think you said in your
 6 testimony here today that it's not necessarily
 7 inconsistent?
 8 A. That's true.
 9 Q. Compatibility with existing land use pattern. It says
 10 it's not compatible with existing and adjacent land
 11 use patterns; do you agree with that statement?
 12 A. No.
 13 Q. Ability for the proposed use to be built on the
 14 subject site if it were -- if it were rezoned. The
 15 applicant has not provided any evidence that the land
 16 as zoned cannot be developed in accordance with the
 17 current zoning. Would you agree with that statement?
 18 A. Repeat that question, please?
 19 Q. The applicant has not provided any evidence that this
 20 land as zoned cannot be developed in accordance with
 21 the current zoning. Would you agree with that?
 22 A. I would.
 23 Q. Well, you also agree that the RO zoning on a portion
 24 of this property is not appropriate, correct?
 25 A. I agree with that.

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1 Q. Okay. You believe that that RO zoning because there's
2 no need -- there's no call for that zoning in that
3 area, correct?
4 A. **That's my opinion.**
5 Q. All right. It's based upon your 18 years of working
6 in that community, right?
7 A. **Yes.**
8 Q. Then we're not talking about some guy off the street
9 giving me an opinion.
10 A. **Excuse me.**
11 Q. That's all right. Availability of nearby sites that
12 are already properly zoned that can be used for the
13 intended purposes. He says that in his motion there
14 are nearby developments that provide for this type of
15 use and product. Well, that's correct, there are
16 other developments already in existence, correct?
17 A. **I don't know what he's talking about there.**
18 Q. You don't know?
19 A. **No.**
20 Q. Now, again, this property, it actually borders on the
21 village, correct?
22 A. **Yes.**
23 Q. Which already has higher density housing right there,
24 correct?
25 A. **Yes.**

Page 106

1 Q. All right. So we're not taking and plopping higher
2 density in the middle of nowhere as it relates to this
3 particular parcel, correct?
4 A. **Fair statement.**
5 Q. The availability of other remedies, there are several
6 options offered within the current zoning ordinance
7 that could offer the applicant other remedies such as
8 lot averaging and cluster development. The ordinance
9 also affords some opportunity for dimensional
10 variances through environmental preservation, but does
11 not allow for increased density. Do you know what
12 he's referring to there?
13 A. **Sure.**
14 Q. What is he referring to?
15 A. **He's saying forget the rezoning, use the footnote T
16 mechanism for design flexibility to the site and
17 you'll be able to get a development yield that's way
18 less than what Mr. Leduc is asking for, but you could
19 build it under the traditional means.**
20 Q. So now if this was 67 acres, okay? Okay? And you
21 still have to have an average of one unit for every
22 1.5 acres, correct?
23 A. **Yes.**
24 Q. Regardless of your clustering or your -- you can lot
25 average or whatever, but you still have to come up

Page 107

1 with an average of one unit per 1.5 acres, right?
2 A. **That's the average lot size in the R-1-S, yes.**
3 Q. What would be the maximum number of units that could
4 be constructed on that site?
5 A. **Well, I -- see, here's the way I like to answer that.
6 Mr. Leduc provided an illustration at the very
7 beginning showing how that property could be developed
8 under current zoning.**
9 Q. Okay. And how many units were there?
10 A. **I have to find it. I believe it was in his first
11 presentation to the...**
12 Q. Well, if you just -- let's just do this, take 67
13 divided by 1.5, you get about 44 units, right?
14 A. **You can't do that, though. The sites are irregularly
15 shaped, you have to discount for property that can't,
16 you know, you can't build on top of wetlands.**
17 Q. Right, so that's the maximum number you could get,
18 right, would be 44, if everything was perfect?
19 A. **Yeah.**
20 Q. All right. And in addition, would you agree that just
21 by reducing density does not necessarily -- does not
22 necessarily create more green space? In other
23 words --
24 A. **Yes.**
25 Q. -- if I broke this property into 5-acre lots, and sold

Page 108

1 off 5-acre lots, I'm not preserving more green space
2 for the residents of that community by doing that
3 because they don't have the use of that property?
4 A. **Well, you're talking -- you're defining green space
5 two different ways in the statement you just made.**
6 Q. You're right. When I'm talking about with green space
7 is public space, spaces that the public can enjoy and
8 use the property, correct?
9 A. **Then my answer to your question would be correct.**
10 Q. All right. The plan that you had put -- you and
11 Mr. Leduc had worked on together, the design
12 flexibility plan actually guarantees more public land,
13 more land available for the public to use for
14 recreational purposes than a plan which follows a
15 traditional -- the traditional type of zoning that we
16 see where you just chop up the land in one, you know,
17 in the acreage required under the ordinance, correct?
18 MR. TAMM: Objection to form and
19 foundation.
20 A. **Yeah, cluster housing provides more public utility
21 available open space than traditional development,
22 yes.**
23 BY MR. LUCAS:
24 Q. Right. And what Mr. Leduc was offering to you was, in
25 fact, something that was -- he wasn't just saying I'm

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Page 109

1 not going to build on it, he was offering that as
2 public space, correct?
3 A. Yes.
4 Q. All right. So that the residents, surrounding
5 residents could use that as recreational land?
6 A. Yes.
7 Q. Which if developed under -- which if developed under
8 the existing zoning, would not necessarily be -- would
9 not necessarily be something that he would have to
10 offer?
11 A. Correct.
12 Q. In fact, there is no way that a community can force
13 a -- can force a developer to -- to provide that sort
14 of amenities to the public, short of this type of
15 conditional rezoning?
16 A. We could not force that.
17 Q. Okay.
18 A. If I may go back, I did find the drawing that
19 Mr. Ieduc provided showing how the property could be
20 developed under current zoning.
21 Q. Right.
22 A. That was contained in the --
23 Q. June?
24 A. -- the June 29th --
25 Q. Right.

Page 110

1 A. -- packet. And he showed how he would lay that out
2 under current zoning, if this didn't go forward and
3 there was 22 home sites.
4 Q. And he used up the entire parcel, correct?
5 A. Yeah, and he left the office as office.
6 Q. All right. All right. One last thing, this tree
7 ordinance, what do you know about the tree ordinance,
8 did you draft that?
9 A. I wrote it.
10 Q. And what -- why would -- what instigated the drafting
11 of that ordinance?
12 A. There was a project in the Village of Milford on south
13 Milford Road just at the southern edge of the
14 community that was approved using cluster housing
15 where there was an expectation that a lot of the trees
16 on the property would be preserved. That expectation
17 was conveyed through documents provided by the
18 applicant at the time. When that project went
19 forward, that site was cleared.
20 The Milford community, the broader Milford
21 community was aghast of that. People were really
22 upset. The commissioners were upset and both the
23 Township and the village on that. That was the
24 impetus for the village and Township to work in
25 parallel paths to develop a tree ordinance. So we

Page 111

1 worked with the village and the Township to come up
2 with regulations.
3 Q. Was there any discussion of the tree ordinance and how
4 it would potentially impact the Belle Terre property?
5 A. Only -- only in rebuttal to a citizen's concern that
6 the natural characteristics of the land would be lost
7 and there was -- the public was informed at the time
8 that the community was developing a tree ordinance
9 that would, in fact, prevent that from happening.
10 Q. Would you explain how the tree ordinance would affect
11 the cluster option, if at all?
12 A. Well, development affects the tree ordinance, the tree
13 ordinance basically says that if you have landmark
14 trees as defined by the ordinance, really large trees,
15 historically important trees, that sort of thing and
16 trees of a certain size or greater that were healthy,
17 those need to be preserved and protected.
18 Q. Okay.
19 A. If -- it doesn't prevent development. If an applicant
20 wanted to move ahead and destroy some of those trees
21 that we -- he discovers are preserved or protected, he
22 could either replant somewhere else or put money into
23 a fund and the Township could then use those money to
24 re-forest another area. So it doesn't prevent
25 development.

Page 112

1 MARKED FOR IDENTIFICATION:
2 DEPOSITION EXHIBIT 17
3 4:17 p.m.
4 BY MR. LUCAS:
5 Q. Okay. Is this a copy of the tree ordinance itself, a
6 draft of it, Exhibit 17?
7 A. It looks it, yes.
8 Q. Okay. All right.
9 MR. TAMM: No questions.
10 MR. LUCAS: Thank you very much
11 MARKED FOR IDENTIFICATION:
12 DEPOSITION EXHIBITS 22-23
13 4:17 p.m.
14 MR. LUCAS: Ordering.
15 MR. TAMM: Ordering, copy.
16 (The deposition was concluded at 4:18 p.m.
17 Signature of the witness was not requested by
18 counsel for the respective parties hereto.)
19
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CERTIFICATE OF NOTARY

STATE OF MICHIGAN)

) SS

COUNTY OF WAYNE)

I, KATHRYN L. JANES, certify that this deposition was taken before me on the date hereinbefore set forth; that the foregoing questions and answers were recorded by me stenographically and reduced to computer transcription; that this is a true, full and correct transcript of my stenographic notes so taken; and that I am not related to, nor of counsel to, either party nor interested in the event of this cause.

Kathryn L. Janes

KATHRYN L. JANES, CSR-3442

Notary Public,

Wayne County, Michigan.

My Commission expires: October 22, 2022

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EXHIBIT P

Belle Terre of Milford

Conditional Zoning and Site Plan Approval Request
Milford Township Planning Commission Meeting
June 29, 2017

1

Benefits of Approval

Belle Terre of Milford

2

Benefit: Traffic Reduction

- In current state, with the existing Restricted Office and R1S zoning, the projected traffic counts of 12,494 per day on North Milford Road would be realized.
- With approval, the traffic counts would be reduced to 1,495 per day under the proposed zoning.
- 88% Reduction

3

Benefit: Eliminate Annexation Potential

- In current state, property owners would need to request a 425 Agreement or annexation to Milford Village for access to Milford Village sewer and water.
- With zoning and site plan approval, sewer and water for property would be serviced by Ridge Valley of Milford project.
- As a result, the potential, by a property owner's request, for annexation of subject properties into Milford Village would be extinguished.

4

Benefit: Blight Removal

- In current state, the five acre property located at 1325 N. Milford Road (Frontiera Property) is a terrible eyesore (see photos). Residents of the River Oaks Subdivision are subject to the view everyday. Visitors to Milford are greeted by the blight.
- With zoning and site plan approval, removal of the existing structure and cleanup of the property will be accomplished.
- A welcoming entrance into Milford Township's northern border will be provided.

5



6



7

Benefit: Reverse Declining School Enrollment

- In current state, enrollment at Huron Valley School District is declining:

Year	First Grade Students	Graduating Seniors
2012	656	849
2013	642	831
2014	652	822
2015	601	821
2016	541	825
2017	500	800*

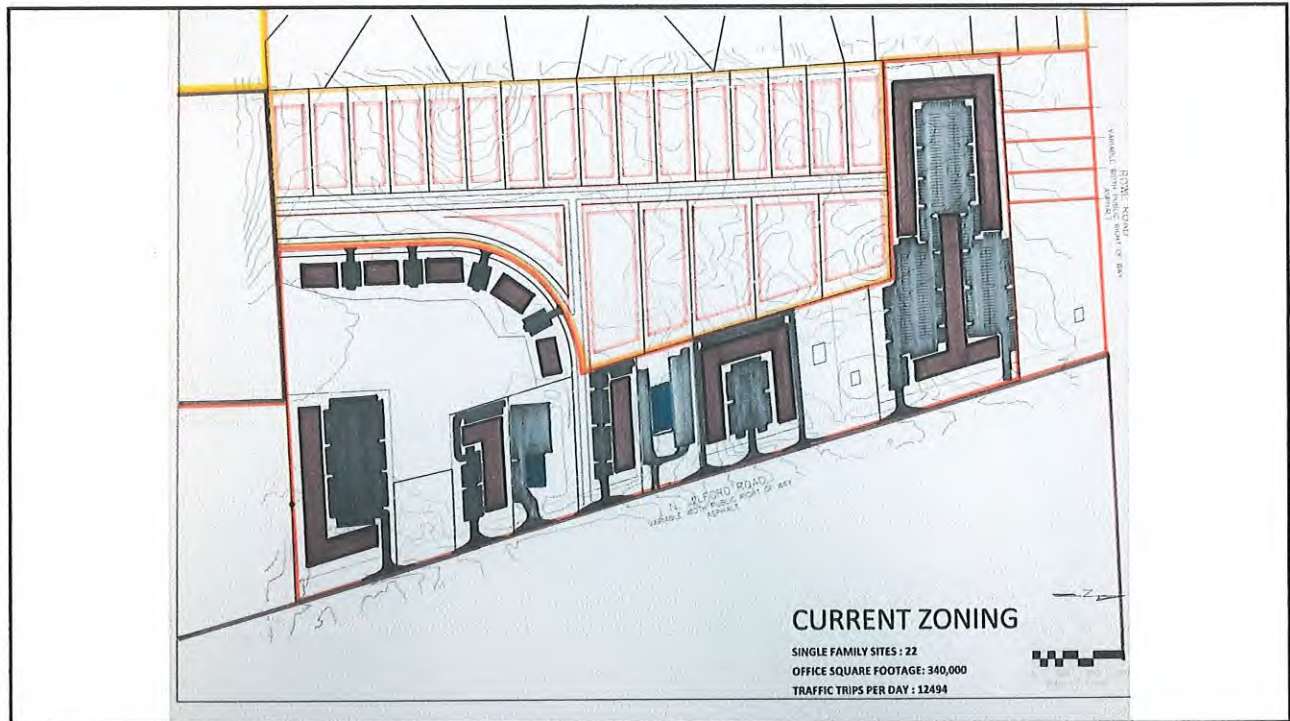
- With zoning and site plan approval, the decline will be reversed.
- 314 students in grades K – 12 projected to be added at full build-out, with \$2,000,000 in allocated state funding.

8

Benefit: Recreational Trail Extension

- In current state, no complete trail from north to south border of Milford Township.
 Kensington Park Trail - approximately 8.0 miles
 Milford Trail - approximately 3.6 miles
 Milford Village Pedestrian Trail - approximately 1.25 miles
- With zoning and site plan approval, a trail circumnavigating property will be built allowing access to Milford Trail System and safe walkability to downtown Milford Village.
 Belle Terre Trail - approximately 2 miles
- Trail extension will complete final link from southern border of Milford Township at the Kensington/Island Lake Trail to Milford Township's northern border at Rowe Road. Trail will also extend to southern border of subject property so it can connect to the adjacent 130 acre properties, potentially continuing down to Commerce Road and the YMCA/ Library in the future.
- Cost for the trail system, will be paid by the Developer.

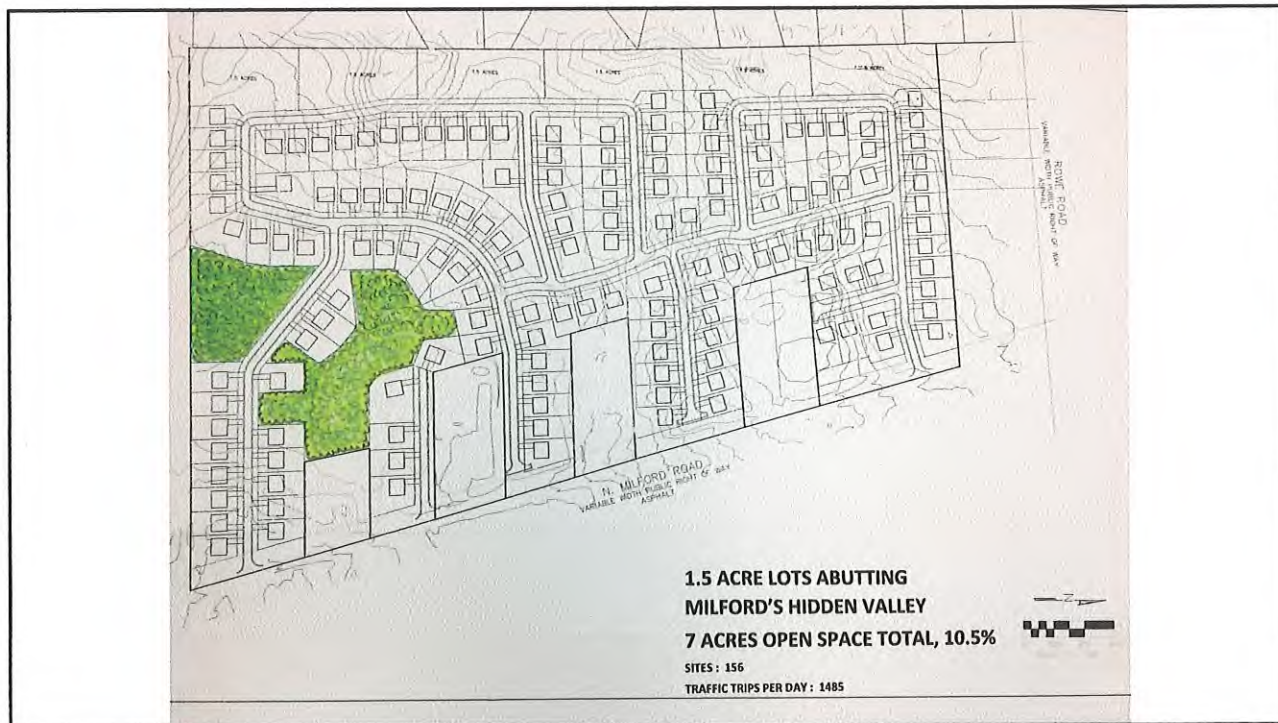
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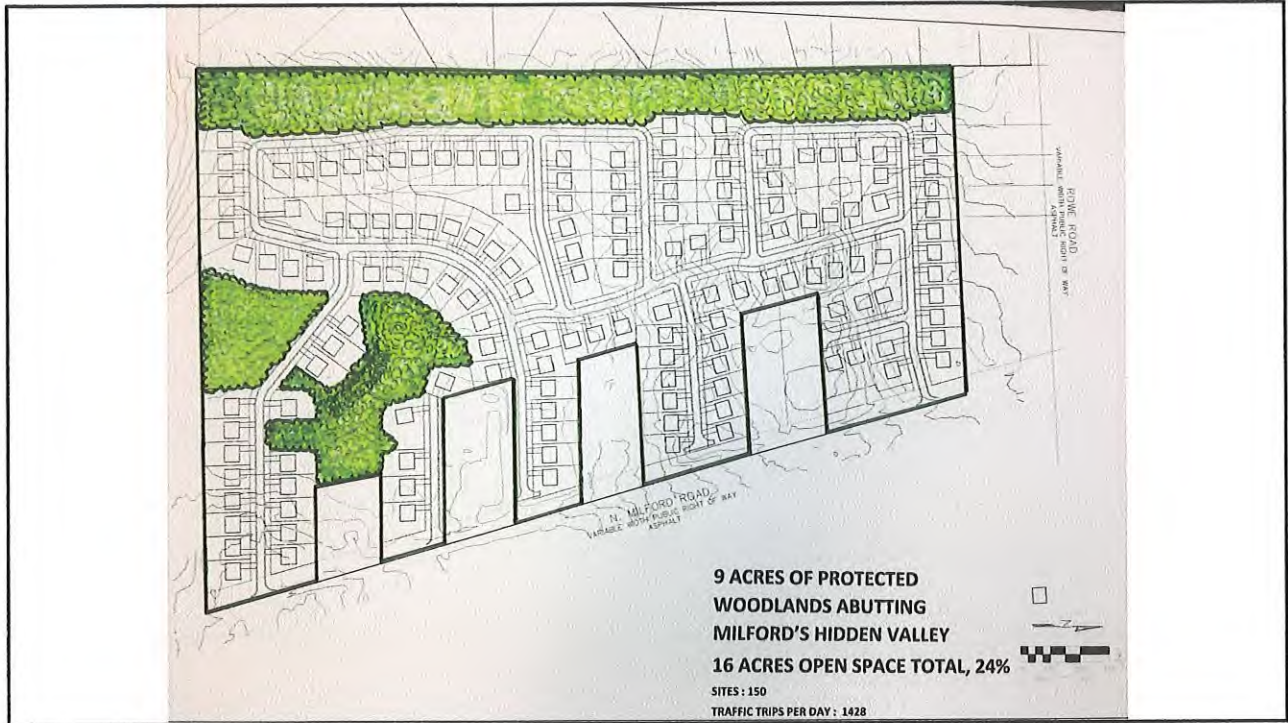
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	R1-S Zoning	R-1 Zoning	R1-S/ RO1 Zoning
Traditional Plan	42 *	175	22 lots and 340,000 sf office
Cluster Plan	42 *	178	22 lots and 340,000 sf office
Design Flexibility Plan	157	157	22 lots and 340,000 sf office
* Not Feasible			

23



24

Conditional Terms of Belle Terre of Milford Zoning and Site Plan Approval

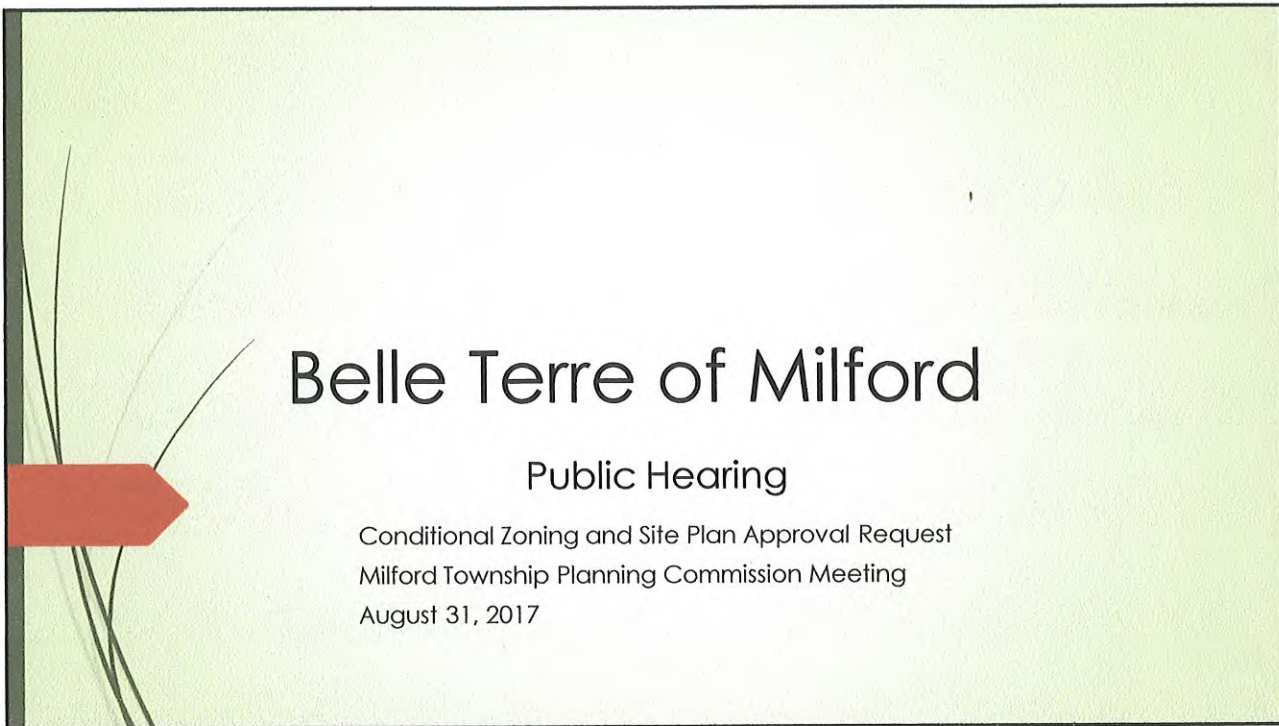
The Applicant would like to provide to Milford Township the following benefits conditioned upon rezoning and site plan approval of Belle Terre of Milford. The Conditional rezoning approval would be null and void if the site plan is not approved by Milford Township.

- Applicant would not request an extension of sewer or water from Milford Village via an annexation or a 425 Agreement.
- Applicant would extend sewer and water services from the Ridge Valley of Milford current systems at no cost to Milford Township.
- Applicant would limit the home sites to 157 under the R-1 zoning, as shown on the Design Flexibility Site Plan.
- Applicant would remove all debris, junk and the residential structure at the southeastern parcel of the area, known as 1325 North Milford Road.
- Applicant would build a trail system, to be maintained by the Belle Terre Homeowners Association, at no cost to Milford Township. The overall trail would provide complete pedestrian access from Highland Township to the north, through Milford Township and Village, to Lyon Township to the south as shown on the Design Flexibility Site Plan.
- Applicant would dedicate the western portion of the property, west of proposed new trail to the eastern property line, as shown on the site plan, under a conservation easement. The easement would provide a wooded buffer to properties to the west, be used to host a portion of the new trail, and be owned and maintained by the future Home Owner's Association of Belle Terre of Milford.
- Applicant will install a traffic signal at the southern entrance of Belle Terre and Milford Road should Milford Township require it and Oakland County Road Commission permit it.

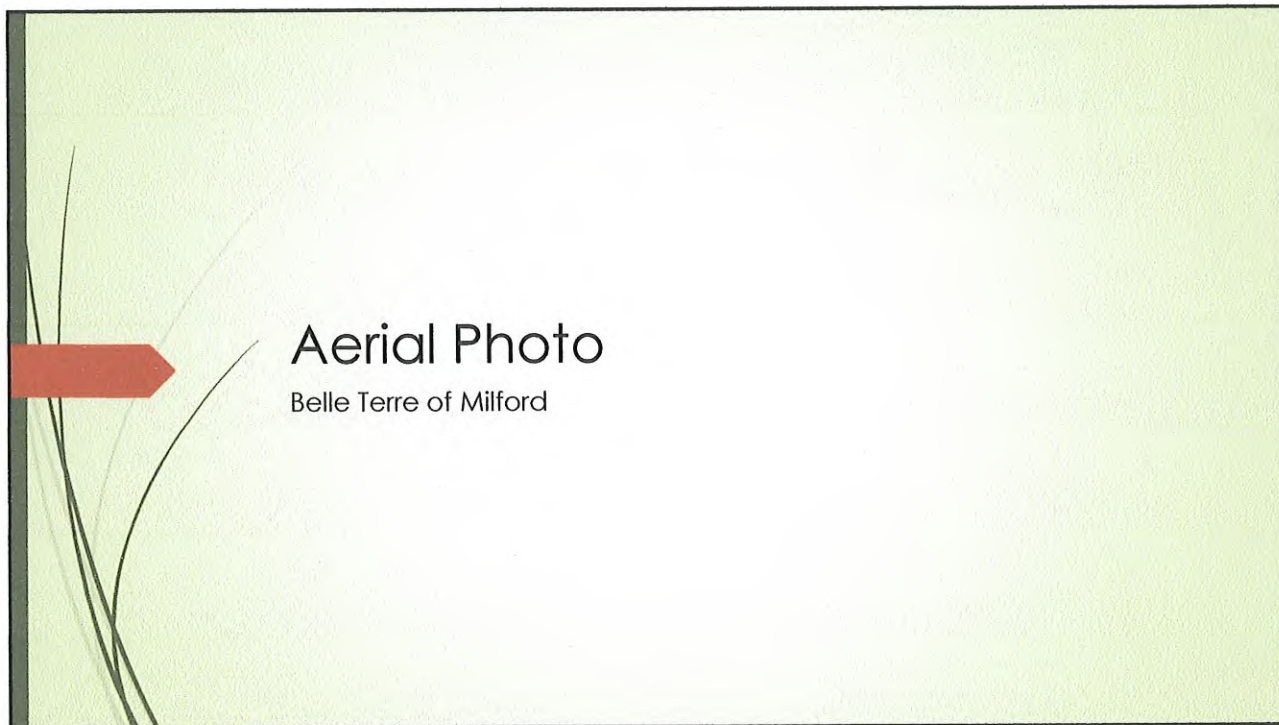
Belle Terre of Milford

Thank you for your consideration.

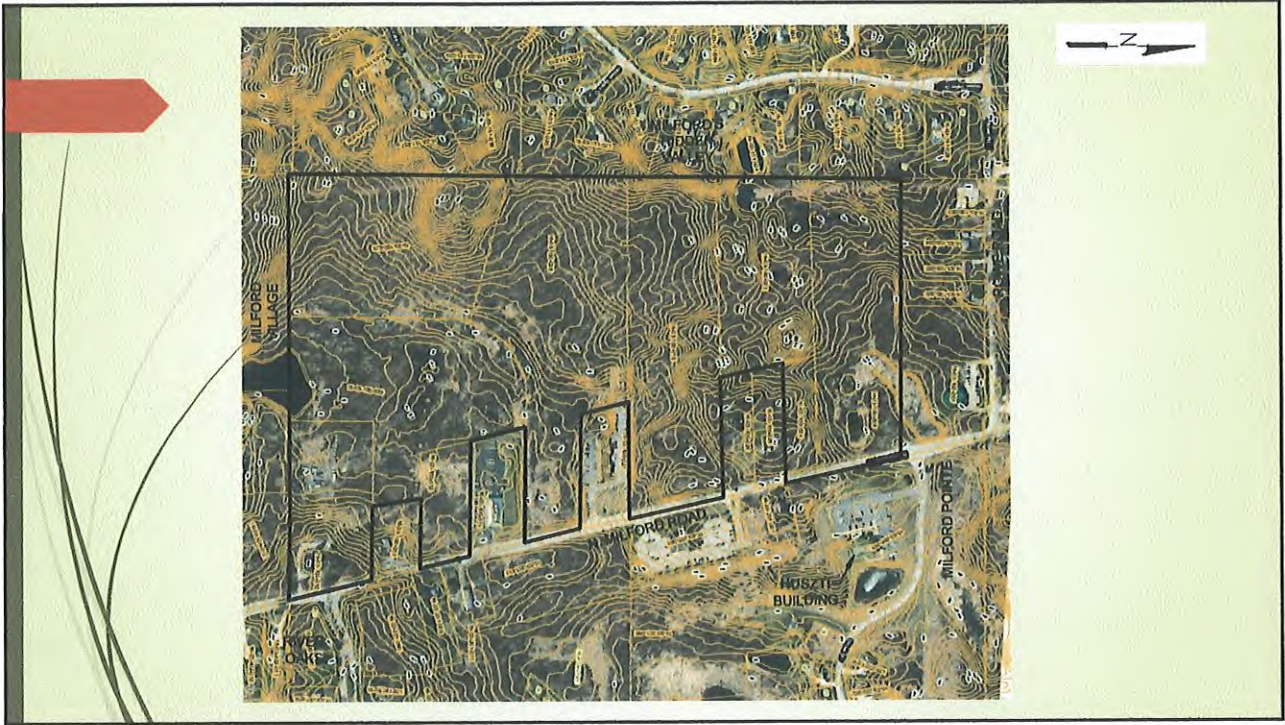
EXHIBIT Q



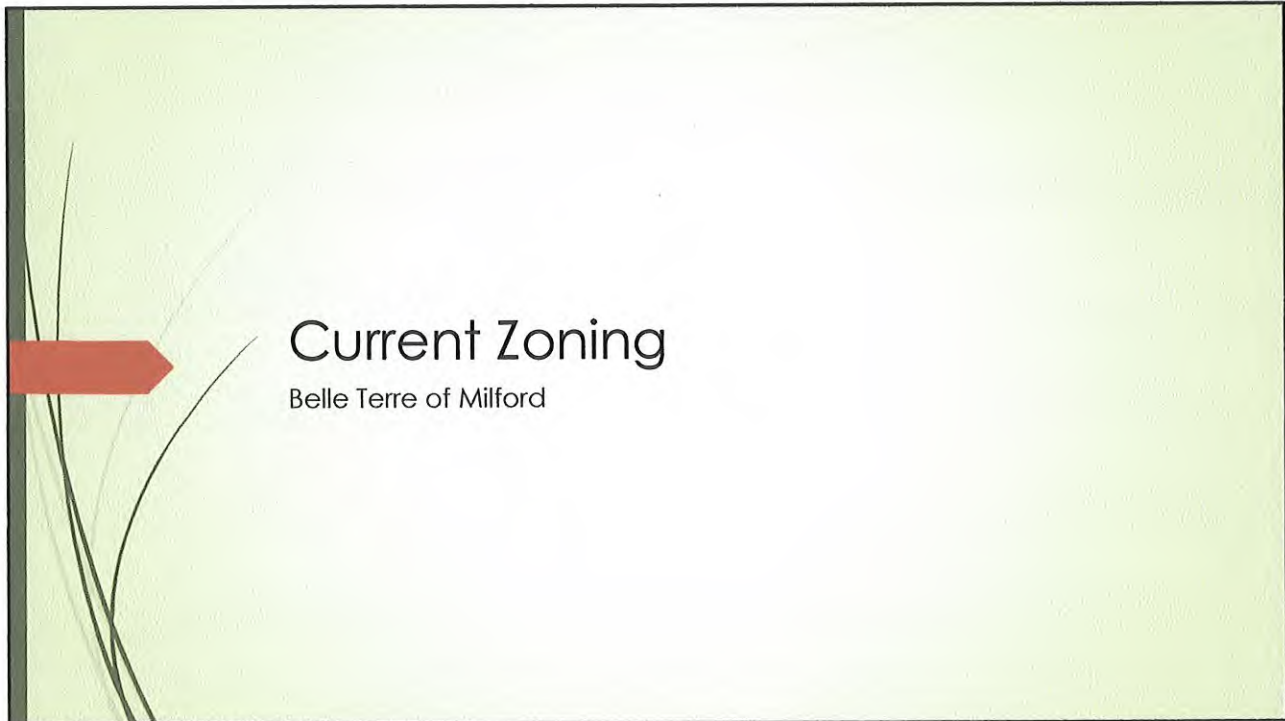
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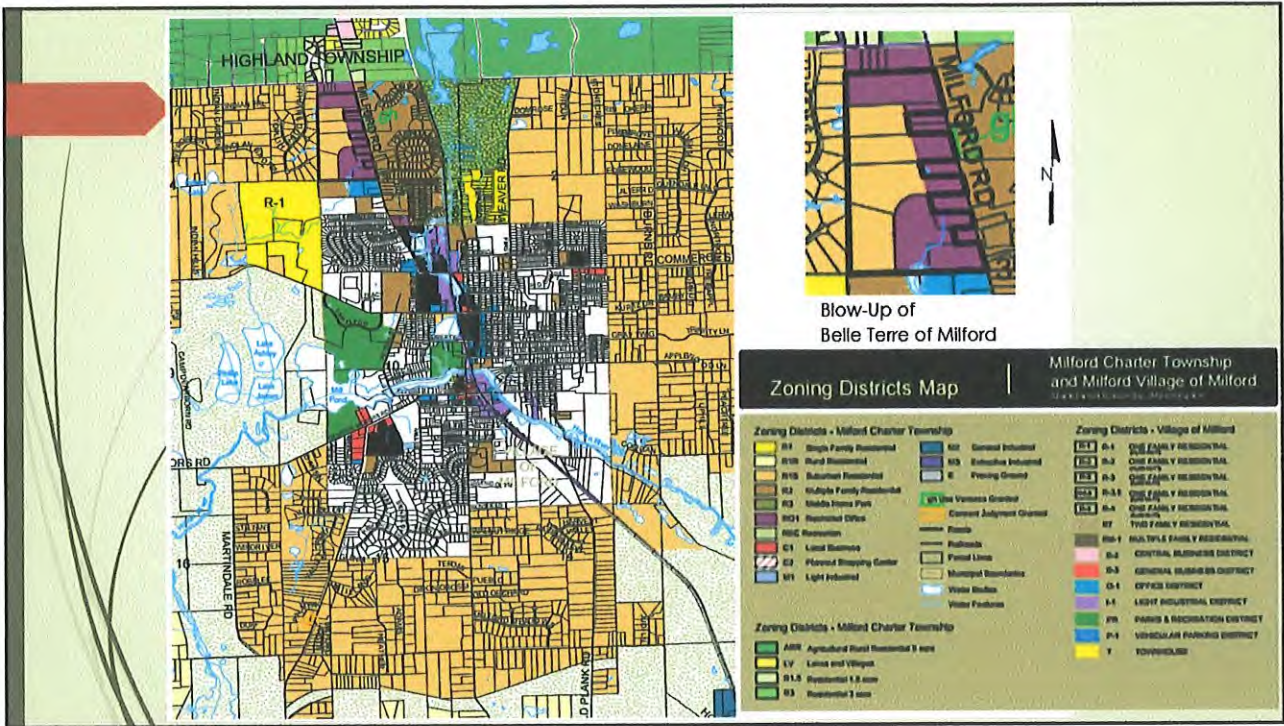
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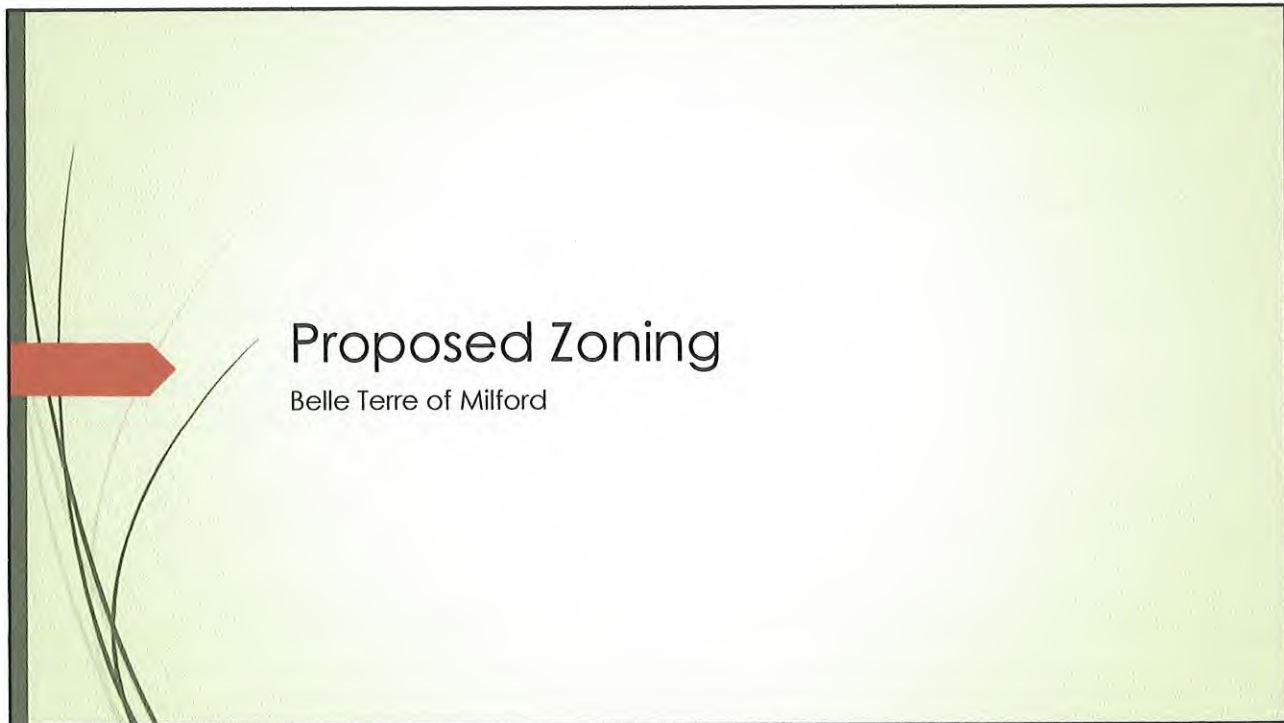
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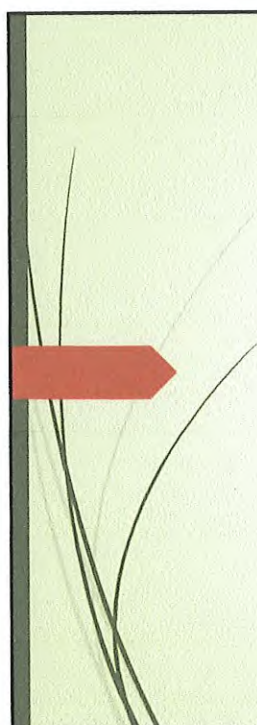
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Belle Terre of Milford: Conditional Zoning and Site Plan Approval Request

- Current zoning adjacent to property:
 - To north and east – RO1 (Restricted Office),
 - To east R2 (Multi-family), R-2 (Office under Special Use), North Milford Road
 - To south – Milford Village, Office, Multi-family
 - To west – R1S (Suburban Residential)
- Property bordered on three sides by high intensive use
- Proposed zoning of R-1 (Single Family Residential) transitions from the three sides of high intensive use to the one side of lower intensive use


9



Benefits of Approval

Belle Terre of Milford


10



Benefit: Eliminate Annexation Potential

- In current state, property owners would need to request a 425 Agreement or annexation to Milford Village for access to Milford Village sewer and water.
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11



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- In current state, with the existing Restricted Office and RIS zoning, the projected traffic counts of 12,494 per day on North Milford Road would be realized.
- With approval, the traffic counts would be reduced to 1,495 per day under the proposed zoning.
- **88% Reduction**

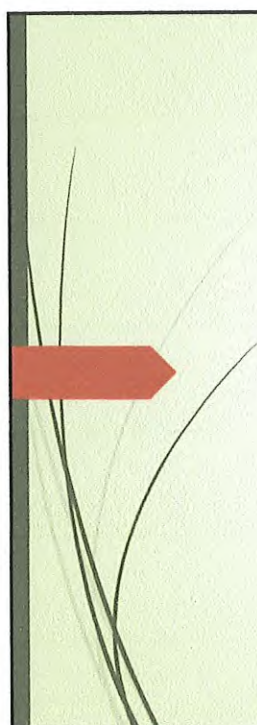
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- With zoning and site plan approval, removal of the existing structure and cleanup of the property will be accomplished.
- A welcoming entrance into Milford Township's northern border will be provided.

13



Present Condition of Parcel L-16-03-100-012

Fronting North Milford Road

14



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Benefit: Reverse Declining School Enrollment

- In current state, enrollment at Huron Valley School District is declining:

Year	First Grade Students	Graduating Seniors
2012	656	849
2013	642	831
2014	652	822
2015	601	821
2016	541	825
2017	500	800*
- With zoning and site plan approval, the decline will be reversed.
- 314 students in grades K – 12 projected to be added at full build-out, with \$2,000,000 in allocated state funding.
- 60 % of the value of a home is based upon the ranking of the school district



Benefit: Recreational Trail Extension

- In current state, no complete trail from north to south border of Milford Township.
 - Kensington Park Trail - approximately 8.0 miles
 - Milford Trail - approximately 3.6 miles
 - Milford Village Pedestrian Trail - approximately 1.25 miles
- With zoning and site plan approval, a trail circumnavigating property will be built allowing access to Milford Trail System and safe walkability to downtown Milford Village.
 - Belle Terre Trail - approximately 2 miles
- Trail extension will complete final link from southern border of Milford Township at the Kensington/Island Lake Trail to Milford Township's northern border at Rowe Road. Trail will also extend to southern border of subject property so it can connect to the adjacent 130 acre properties, potentially continuing down to Commerce Road and the YMCA/ Library in the future.
- Cost for the trail system, will be paid by the Developer.



Map of Proposed Belle Terre Trail

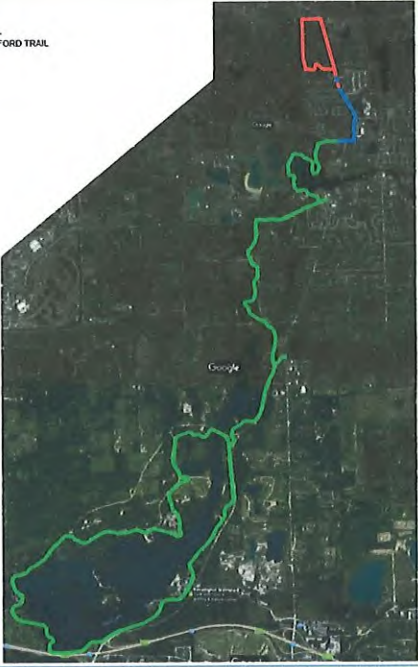
Two mile extension to Kensington and Milford Trails
Connecting Milford Township from north to south borders

23




Walking Trail Legend

- PROPOSED BELLE TERRE OF MILFORD TRAIL
- EXISTING VILLAGE WALK
- KENSINGTON-MILFORD TRAIL




24



Benefit: Conservation Easement

- In current state, no conservation easement exists on the property.
- With zoning and site plan approval, a conservation easement of approximately **(10) ten acres** along the entire western border of the property will be provided.
- The easement will ensure a buffer belt of wooded land.

25



Benefit: Extension of Sewer and Water

- In current state, sewer and water systems are not available at the property.
- With zoning and site plan approval, extension of the sewer and water system from Ridge Valley of Milford system will be provided.
- Septic systems, with potential environmental issues, will no longer be needed.
- Special Assessment District (SAD) cost to Ridge Valley of Milford residents will be reduced by approximately 50% upon final buildout.
- The cost of the sewer and water extension will be paid by the Developer.

26


Benefit: Positive Economic Impact

- In current state, the taxable value of the property is approximately \$600,000.
- With zoning and site plan approval, The projected buildout value for the project would be approximately \$53 million, of which 50% would be taxable value. Based on the National Association of Home Builder's publication, "The Economic Impact of Home Building in a Typical Local Area," the following economic benefits of the project are calculated:

	<u>YEAR ONE IMPACT</u>	<u>ANNUALLY RECURRING IMPACT</u>
Local Income	\$ 38,235,000	\$ 5,470,000
Local Business Owner's Income	\$ 11,245,000	\$ 1,235,000
Local Wages and Salaries	\$ 26,778,000	\$ 4,233,000
Local Taxes	\$ 4,480,000	\$ 1,323,000
Local Jobs Supported	618	107

Benefit: Transitional Zoning

- In current state, RO1 (Restricted Office) zoning abuts R1S (Suburban Residential) zoning, an abrupt change.
- With zoning and site plan approval, the proposed R1 (Single Family Residential) zoning will provide smooth transitional zoning from the current high intensive use, RO-1 (Restricted Office) zoning on the eastern side of property along with high intensive use R-2 (Multi Family and Special Use Medical Office) on the eastern side of North Milford Road.
- The transitional zoning would occur as well with the RM-1 (Multi Family) and O-1 (Office) existing zoning located along the southern border in Milford Village and existing RO-1 (Restricted Office) zoning along the northern property line along Rowe Road.
- As the adjacent 130 acre parcels are zoned R1 and provide transitional zoning from the high intensive uses of Milford Village on its eastern border to the R1S less intensive use on its western and northern border, the subject parcel should also provide the same transitional zoning.




Benefit: Master Plan Cohesion

- The proposed conditional down zoning request is in keeping with the goals and objectives of Milford Township's Master Plan.



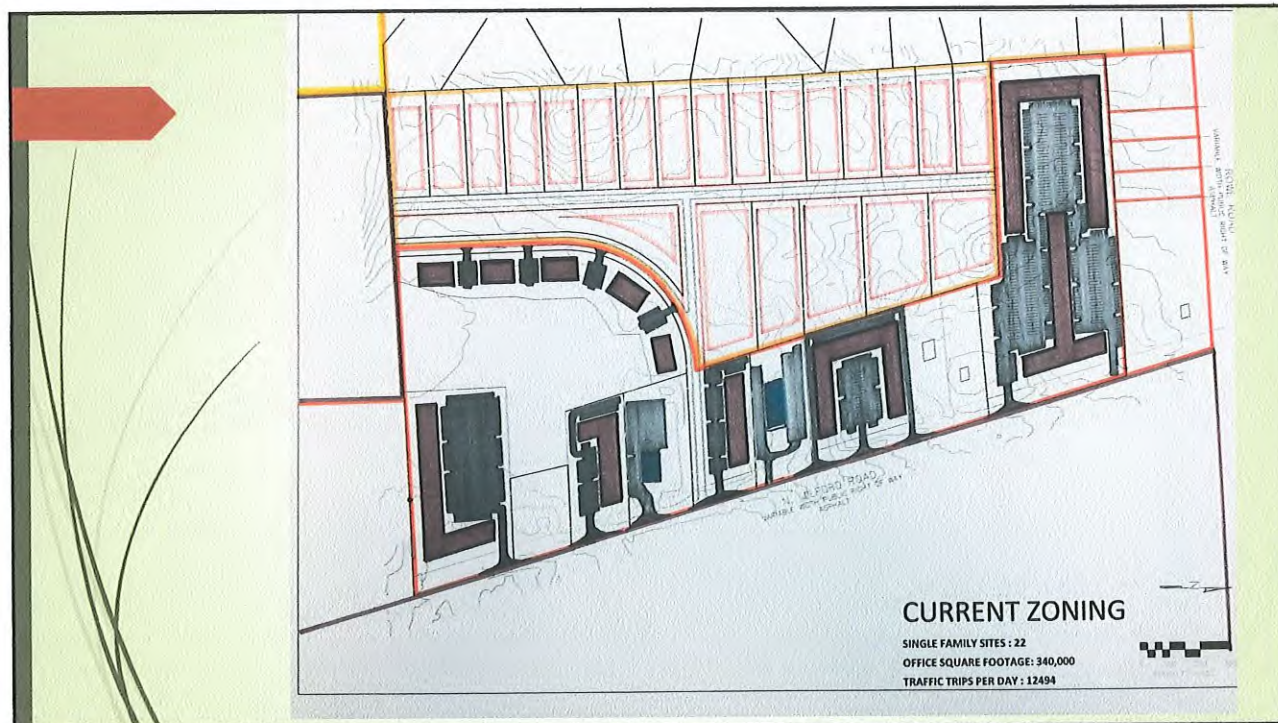

Experienced Developer: Ridge Valley of Milford

Belle Terre of Milford will provide a development of exceptional quality and value, as demonstrated by the developer at Ridge Valley of Milford.



Potential Conceptual Site Plan Under Current Zoning

31



32

Original Cluster Plan

7 Acres Open Space
 10.5% Total Open Space
 Sites 178 Traffic Trips Per Day 1695

33

ORIGINAL CLUSTER PLAN
7 ACRES OPEN SPACE TOTAL
10.5% OF TOTAL SITE OPEN SPACE
 SITES: 178
 TRAFFIC TRIPS PER DAY, 1695

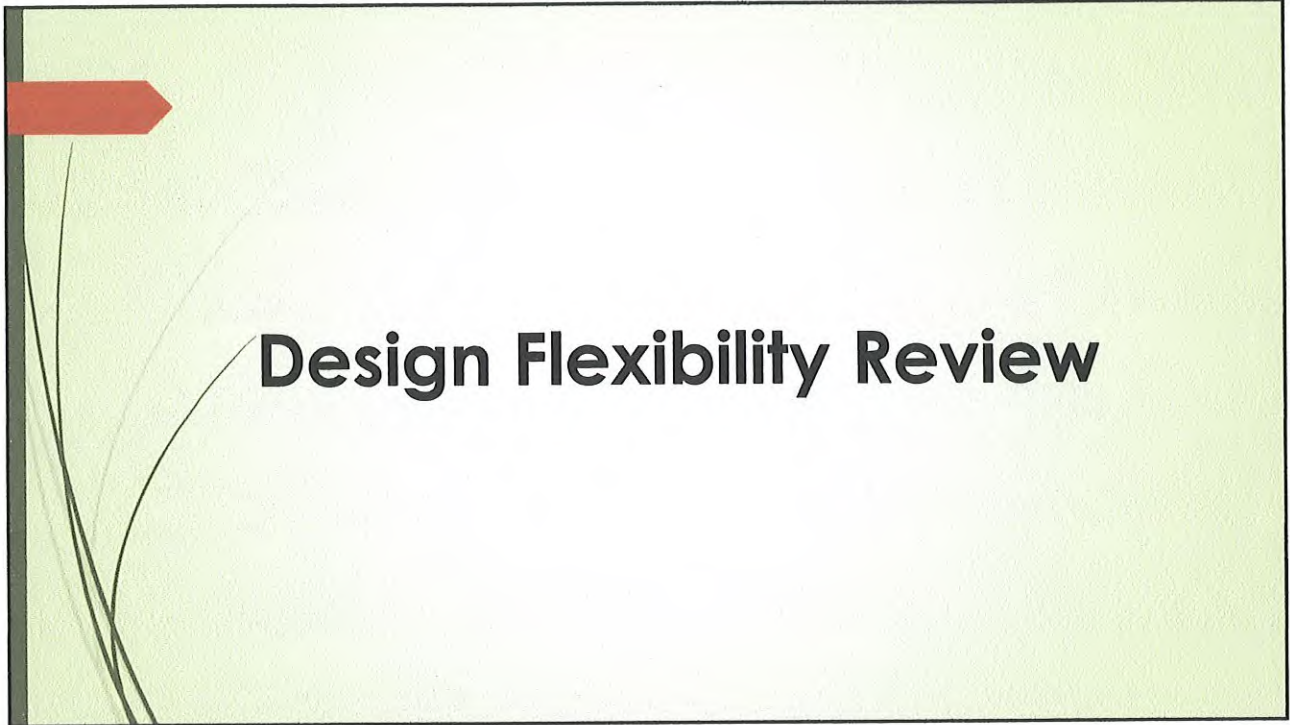
ROWE ROAD
 NORTH MILFORD ROAD

TIMBER VALLEY OF MILFORD
 SITE LAYOUT PLAN

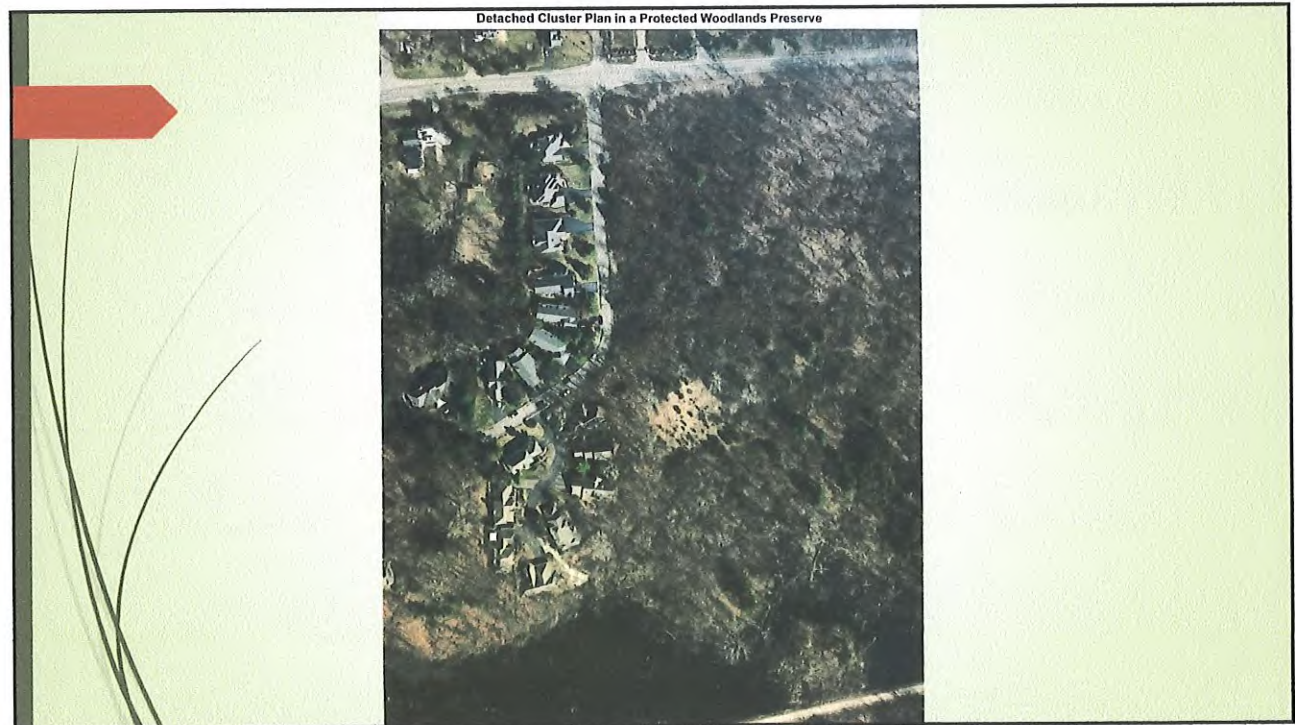
DATE: _____
 DRAWN BY: _____
 CHECKED BY: _____

CRS
 SITE ENGINEERING, LLC
 1000 W. 100th Street
 Suite 100
 Milford, NY 12548
 Phone: 518-859-1100

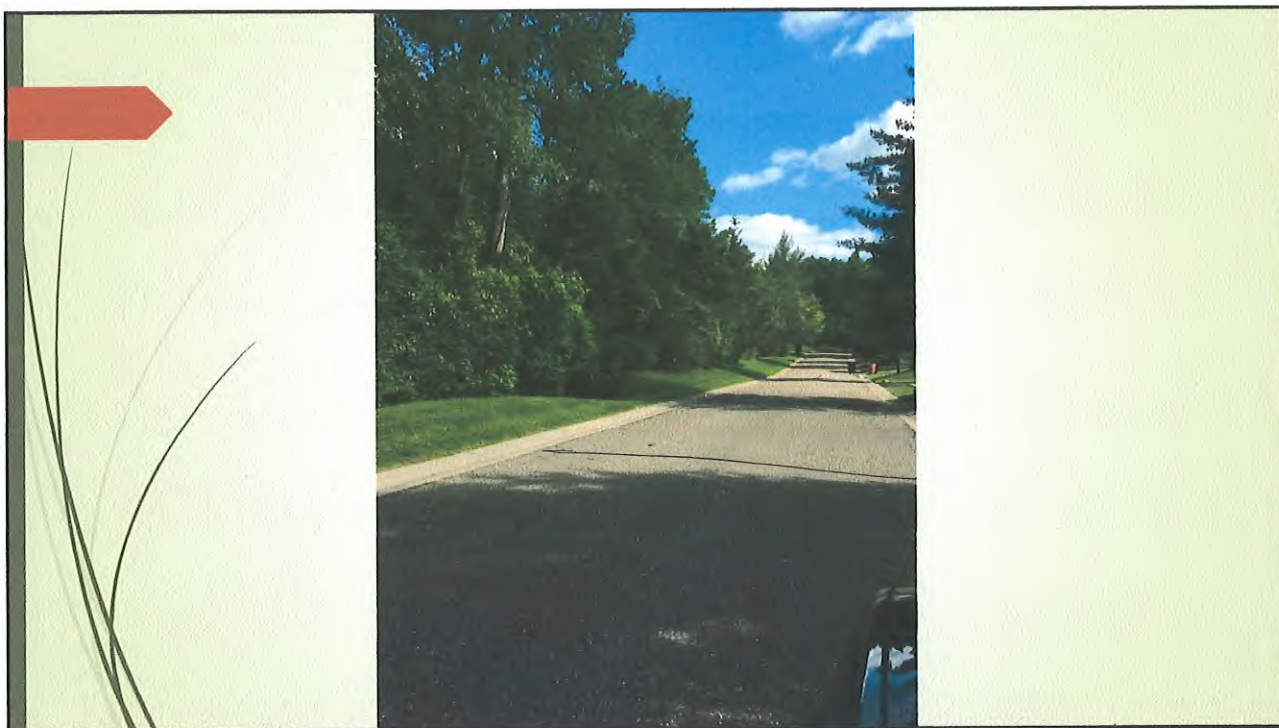
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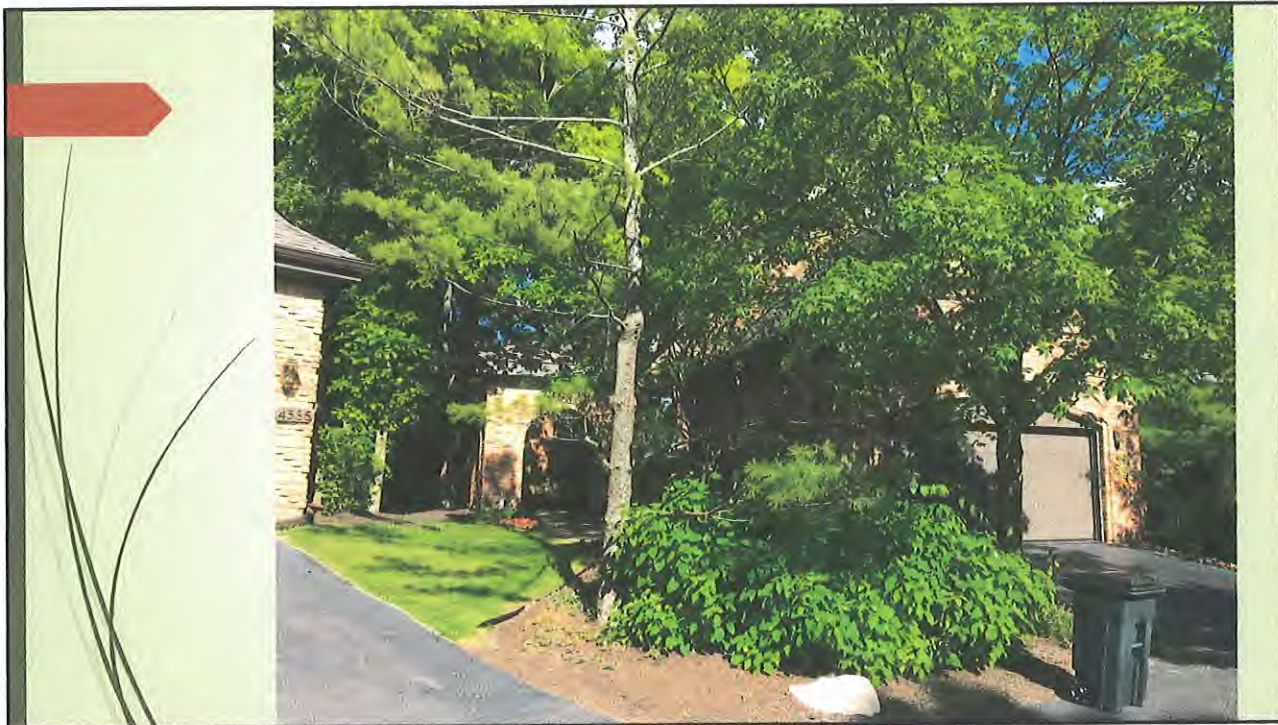
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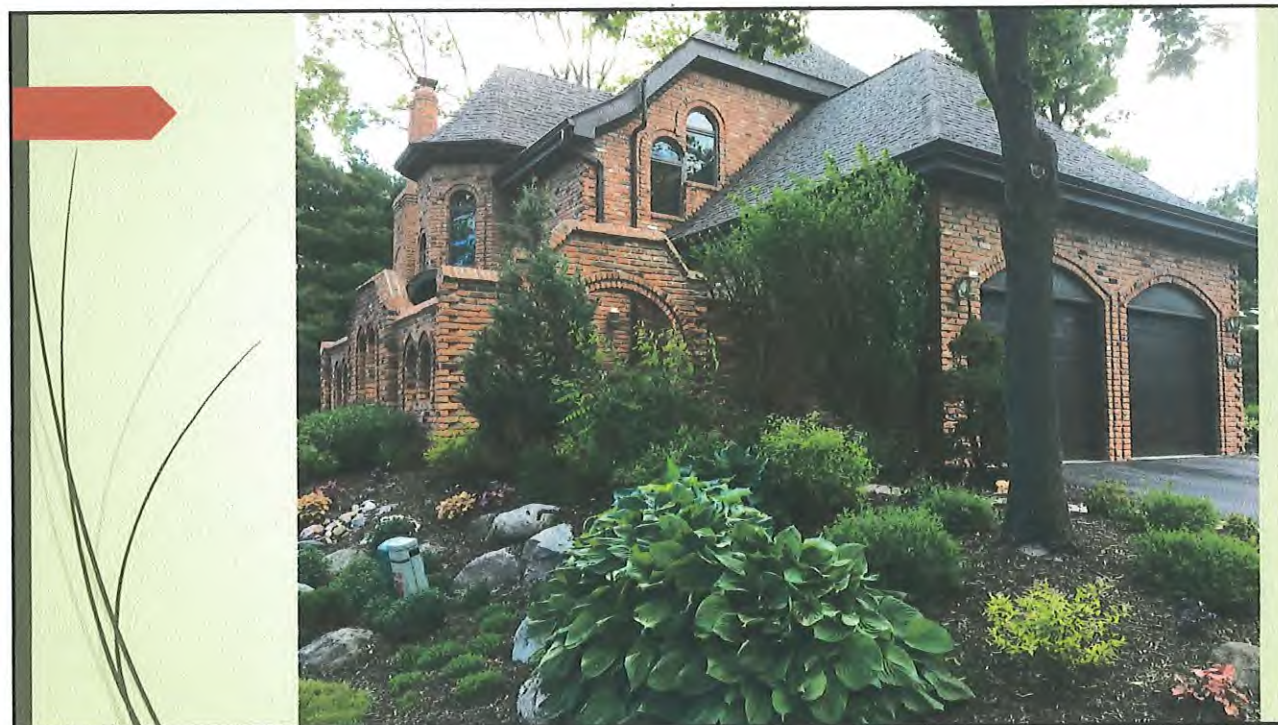
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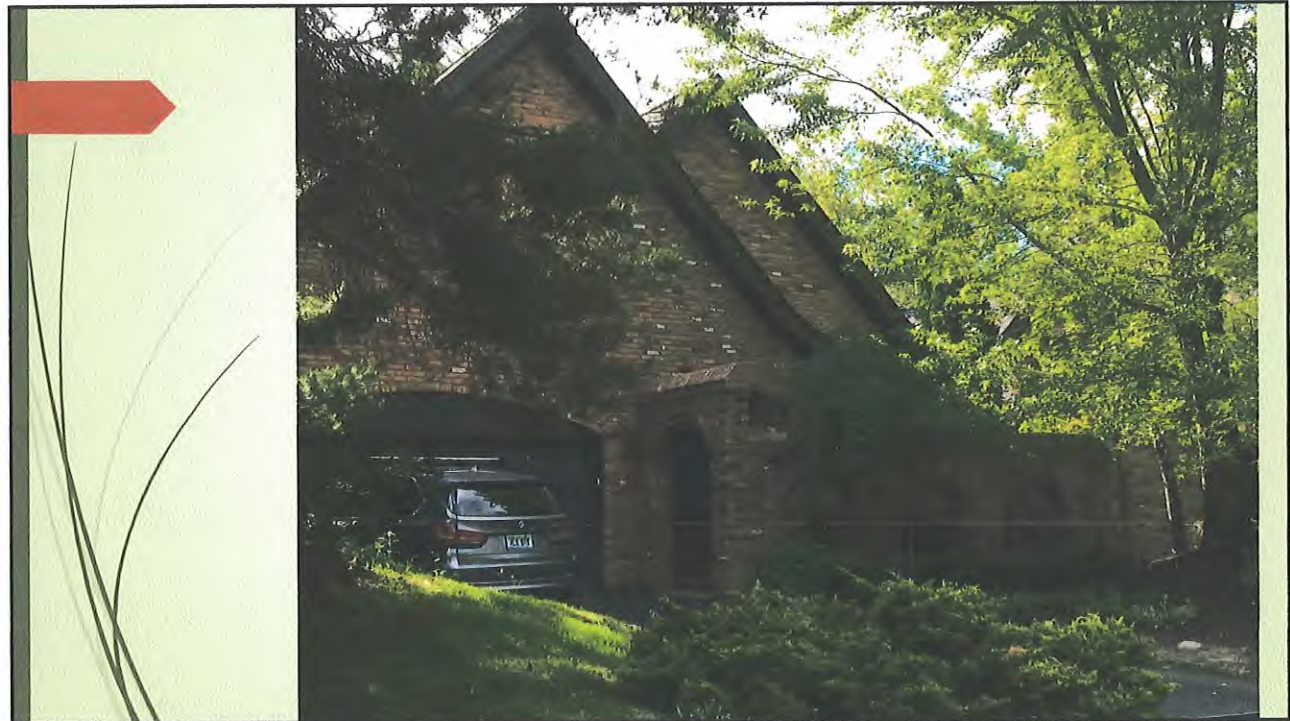
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Parallel Plans

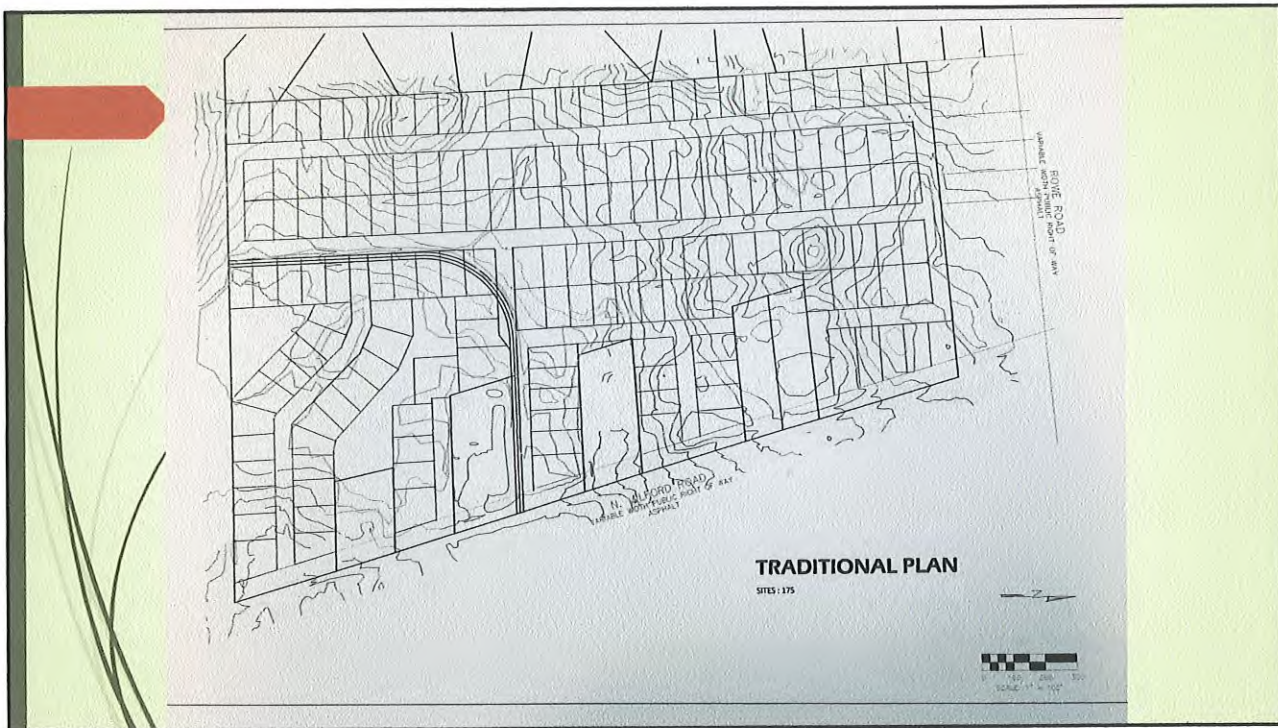
	R-1 Zoning	R1-S/ RO1 Zoning
Traditional Plan	175	22 lots and 340,000 sf office
Cluster Plan	178	22 lots and 340,000 sf office
Design Flexibility Plan	157	22 lots and 340,000 sf office

45

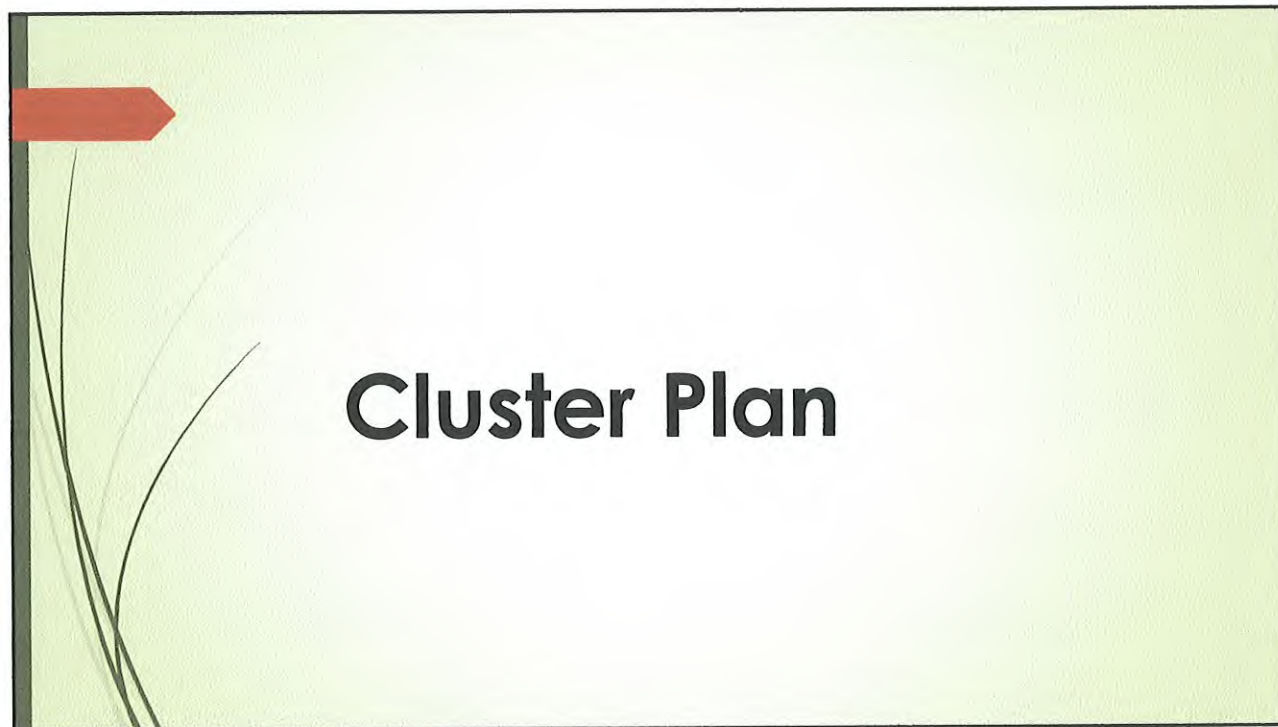


Traditional Plan

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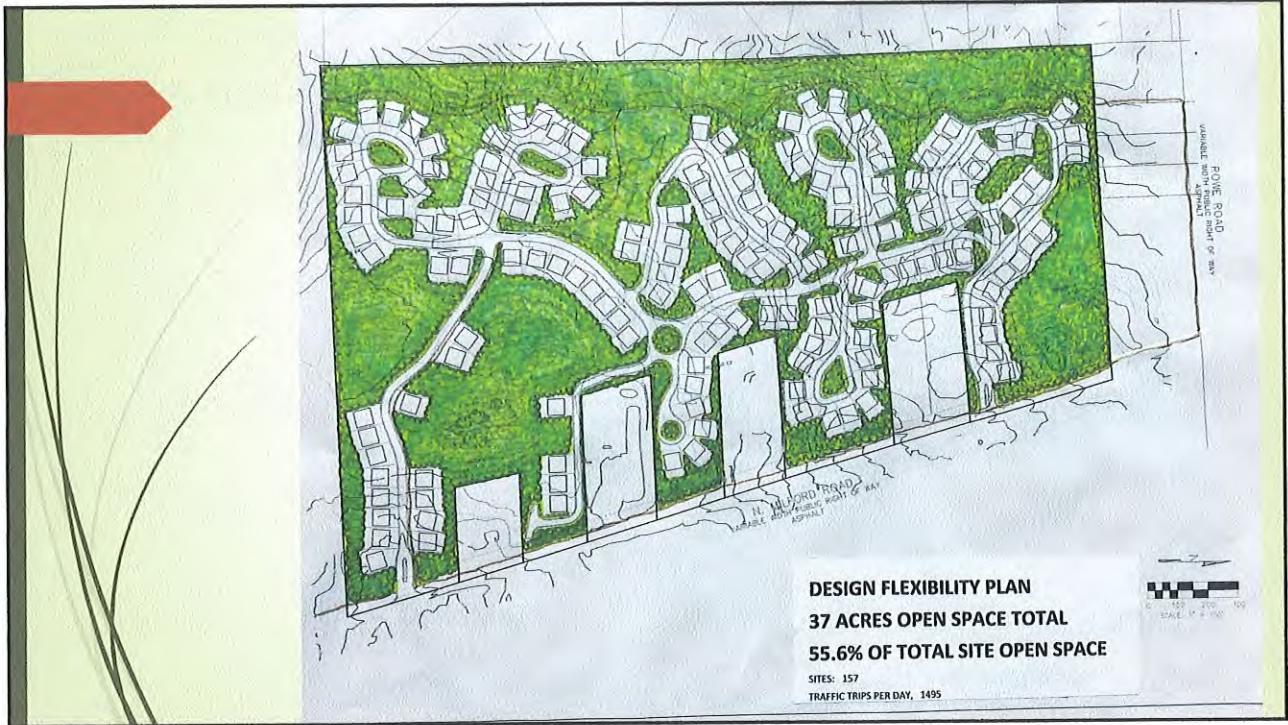
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49

Design Flexibility Plan

50



51

Natural Resources Overlay of Design Flexibility Plan

52



53

Conditional Terms of Belle Terre of Milford Zoning and Site Plan Approval

The Applicant would like to provide to Milford Township the following benefits conditioned upon rezoning to R-1 and site plan approval per the attached Design Flexibility Plan of 157 sites of Belle Terre of Milford.

- Applicant would not request an extension of sewer or water from Milford Village via an annexation or a 425 Agreement.
- Applicant would extend sewer and water services from the Ridge Valley of Milford current systems at no cost to Milford Township.
- Applicant would limit the home sites to 157 under the R-1 zoning, as shown on the Design Flexibility Site Plan.
- Applicant would remove all debris, junk and the residential structure at the southeastern parcel of the area, known as 1325 North Milford Road.
- Applicant would build a trail system, to be maintained by the Belle Terre Homeowners Association, at no cost to Milford Township. The overall trail would provide complete pedestrian access from Highland Township to the north, through Milford Township and Village, to Lyon Township to the south as shown on the Design Flexibility Site Plan.
- Applicant would dedicate the western portion of the property, west of proposed new trail to the eastern property line, as shown on the site plan, under a conservation easement. The easement would provide a wooded buffer to properties to the west, be used to host a portion of the new trail, and be owned and maintained by the future Home Owner's Association of Belle Terre of Milford.
- Applicant will install a traffic signal at the southern entrance of Belle Terre and Milford Road should Milford Township require it and Oakland County Road Commission permit it.

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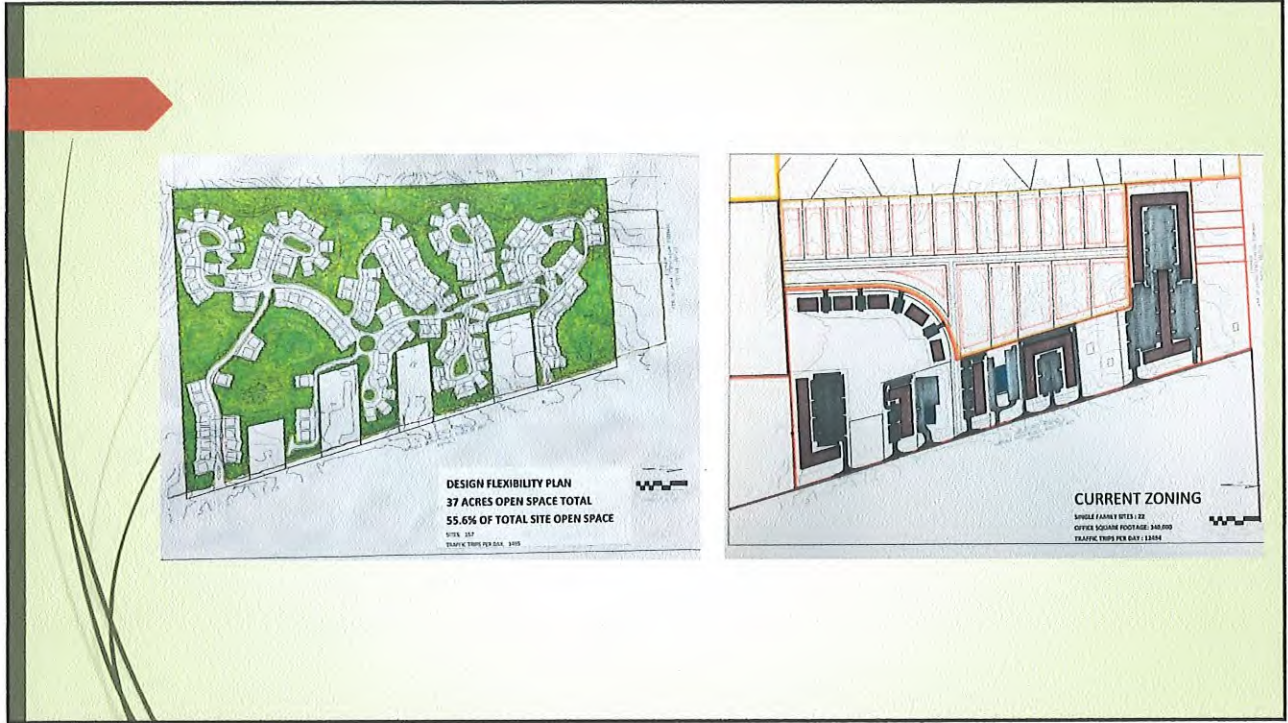


EXHIBIT R

**REGULAR MEETING
PLANNING COMMISSION
CHARTER TOWNSHIP OF MILFORD**

**AUGUST 31, 2017
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MEMBERS PRESENT: George Magro, Chairman
Vaughn Koshkarian, Vice Chairman
Gordon Muir, Secretary
Commissioners: Myles Davis
William Mazzara
Christopher Winn
David Latka
Neill DeVries
Julie Ryszka

ALSO PRESENT: Terrell Tucker, Recording Secretary
Timothy Brandt, Building Official
Leann Kimberlin, Attorney
90 audience members

Chairman Magro called the meeting to order at 7:30 p.m. and determined that a quorum was present.

ZONING BOARD OF APPEALS LIAISON REPORT

Commissioner DeVries stated that the ZBA meeting was cancelled.

TOWNSHIP BOARD REPORT

Commissioner Mazzara stated that two site plans were submitted and approved.

CALL TO THE PUBLIC NON-AGENDA ITEMS:

Chairman Magro made a call to the public and there was no response.

Secretary Muir moved, Commissioner Mazzara seconded, to move #7 Site Plan Review, S-17-5007, Andover Park, 16-03-201-017, BPH Development, Inc., Multi-family Residential zoning, 8 unit proposed development before the public hearing. Motion unanimously carried.

NEW BUSINESS:

SITE PLAN REVIEW, S-17-5007, ANDOVER PARK, 16-03-201-017, BPH DEVELOPMENT, INC., MULTI-FAMILY RESIDENTIAL ZONING, 8 UNIT PROPOSED DEVELOPMENT.

Mr. Craig Piasecki, Project Engineer requested a new development of 8 units off Milford Road.

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Planner Lomako recommend conditional approval based on August 3, 2017 letter where each plan sheet needs to contain registration number or seal, the latest site plan needs to contain updated revision date. Both of these items have been updated.

Mr. Piasecki explained the color of brick and shingles to be used. The sides and rear of the structure will be vinyl sided.

Commissioner Mazzara requested that the colors be noted on the documents.

Planner Lomako stated that site plan approval is contingent each building plan sheet having registration number and seal of architect, site plans will contain revision date, approval of building materials and colors, receipt of positive recommendations of local public safety and civil engineer professionals. Township Attorney needs to review and approve Master Deed and Bylaws. They need to go before Zoning Board of Appeals for the rear yard setback variance of 50 feet. Planner Lomako recommends approval to Township Board.

Building Official Brandt stated that request for the fire and police report have been submitted and waiting on approval.

Mr. Piasecki stated that lane egress and ingress as well as bypass lane, have been submitted to Road Commission.

Commissioner Mazzara moved, Commissioner Devries seconded, to recommend approval to Township Board Site Plan Review, S-17-5007, Andover Park, 16-03-201-017, BPH Development, Inc., Multi-family Residential zoning, 8 unit proposed development with applicant agreeing to obtain a variance as part of permit process, provide positive recommendation from Police and Fire, agrees to requirements on Hubble, Roth and Clark report. Final review of master deed by Township Attorney and comments on Wade Trim review letter be met. Motion unanimously carried.

PUBLIC HEARING: CONDITIONAL REZONING APPROVAL REQUEST OF MR. RAY LEDUC, MILFORD HILLS PROPERTIES, INC. ON PARCELS L-16-03-100-008, L-16-03-100-023, L-16-03-100-029, L-16-03-100-010, L-16-03-100-024, L-16-03-100-030, L-16-03-100-012, L-16-03-100-028 AND L-16-03-100-032 FROM SUBURBAN RESIDENTIAL AND RESTRICTED OFFICE TO SINGLE FAMILY RESIDENTIAL.

Vice Chairman Koskarian moved, Secretary Muir seconded, to open the public hearing at 7:45 p.m. Motion unanimously carried.

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Mr. Shaun Kalinowski gave a brief presentation in opposition. The new proposal only in part aligns with master plan with more greenspace. The rezoning is doesn't fit with the rest of the community of one acre lots. Stick to master plan and no rezoning.

Ms. Christine Quane expressed concern with over development of wetlands.

Ms. Angelo Jordan moved over 20 years ago because of country side atmosphere. Doesn't think adding more homes will benefit the residents of Milford Township.

Ms. Sandra Walsh, is concerned what will happen with the wild life, if this is developed.

Ms. Heidi Allen circulated petition to Ridge Valley resident and heard many complaints.

Ms. Beth Markell stated that the petition has 1300 signatures between hard copy and online petition.

Ms. Renene Brodae doesn't understand why there is so much development and the voices of the residents are not being heard.

Mr. Ralph Emmons stated that the Village and Township came up with master plan as a long term vision.

Secretary Muir moved, Commissioner Devries seconded, to close the public hearing at 8:13 p.m. Motion unanimously carried.

UNFINISHED BUSINESS:

**BELLE TERRE OF MILFORD, CONDITIONAL RE-ZONING, NORTH MILFORD ROAD,
MR. RAY LEDUC**

Mr. Ray LeDuc, Milford Hills Properties gave a presentation of a revised plan with potential uses that could be done in that classification. 1. R01 allows for any office buildings, executive, administrative, professional, and writing. 2. R1S allows for single family detached dwellings, home occupations, and state licensed facilities. The subject property has 8100 feet of frontage (approximately 1 ½ miles). Request for less intense than multifamily with an R1 is a good transition for multifamily and office. R1 is the best zoning for property 1. Lowers potential impact on Milford Road based on current zoning, 2. Provides correct transitional zoning, 3. Provides most logical zoning choice with the 1 ½ mile of zoning, 4. Affords the possibility of 55 of open space, no annexation with Milford Village, has blight removal, additional students at Huron Valley Schools, and jobs that community needs.

Commissioners asked if he evaluated a plan to develop the property as currently zoned and to provide data as to why the current zoning is not feasible.

Mr. LeDuc stated the geography of the sawtooth design makes it impracticable for 1 ½ acre lots.

Commissioner Mazzara moved, Secretary Muir seconded, to deny Conditional Rezoning Request of Mr. Ray LeDuc, Milford Hills Properties, Inc. on parcels L-16-03-100-008, L-16-03-100-023, L-16-03-100-029, L-16-03-100-010, L-16-03-100-024, L-16-03-100-030, L-16-03-100-012, L-16-03-100-028 and L-16-03-100-032 from Suburban Residential and Restricted Office to Single Family Residential based on the following:

1. Appropriateness of a proposed zoning district change versus a text amendment to accommodate what is being requested.

The proposed district boundary change cannot be accommodated by amending the zoning text change. Once text is changed, it would apply to the entire zoning classification of both R1S & RO.

2. Evidence of a changed condition.

There is no evidence of a change in condition due to land use trends which was recently reconfirmed by the adoption of the Master Land Use Plan. Also there is no market study submitted addressing this.

3. Consistency with the adopted master plan.

The proposal is not compatible with the Master Land Use Plan.

4. Compatibility with the existing land use pattern.

The proposal is not compatible with existing and adjacent land use patterns. These existing land use patterns comply with current zoning and master land use. This proposal would have a negative effect on the adjacent neighborhood

5. Ability for the proposed use to be built on the subject site if it were rezoned.

The applicant has not provided any evidence that the land as zoned cannot be developed in accordance with current zoning. The applicant through the submission of a compliant parallel plan showed the land can be developed in accordance with correct zoning ordinances. The applicant stated that even though a compliant plan is possible it is not economical.

6. Adequacy of existing public facilities or ability of the petitioner to provide them.

The public water and sewer are not necessary for the property to be developed as presently zoned. No information has been provided by Oakland County.

7. Availability of nearby sites that are already properly zoned that can be used for the intended purposes.

There are nearby developments that provide for this type of use and product. The Milford Community Land Use Plan is a well thought out, joint land use plan between the Village of Milford and the Township of Milford. The plan is designed to keep and promote the Village as the center core of the community. With higher density housing and commercial development, as it has been historically, even though the proposed development would not be considered spot zoning.

8. Consistency with the established zoning pattern and that the proposed district boundary change does not represent spot zoning.

The proposed development is not consistent with established zoning patterns.

9. Appropriateness of a lesser district classification.

The proposed development does not offer an opportunity for the Township to grant a change in zoning. The residential portion of the project is already zoned in a lesser district classification. As such, the property currently permits a residential use in a lesser district classification.

10. The availability of other remedies.

There are several options offered within the current zoning ordinances that could afford the applicant other remedies, such as lot averaging and cluster development. The ordinance also affords some opportunity for dimensional variances through environmental preservation but does not allow for increased density.

The conditions offered by the applicant, referred to as benefits, do not promote the intent of the master plan or serve as a means to blend the existing land use with the proposed plan.

Motion unanimously carried.

ITEMS FOR FUTURE CONSIDERATION PREVIOUSLY POSTPONED:

RE-ZONING PLAN IMPLEMENTATION FROM MASTER PLAN REVISIONS.

Planner Lomako stated he is meeting with Building Official Brandt in the next few weeks.

DISCUSSION TREE PRESERVATION ORDINANCE.

Will be brought forward next month.

S-17-5006, GORETSKI CONSTRUCTION COMPANY

Building Official Brandt stated that no revisions have been submitted yet.

**REGULAR MEETING
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**AUGUST 31, 2017
PAGE 6**

APPROVAL OF MINUTES: July 27, 2017

Secretary Muir moved, Vice Chairman Koshkarian seconded to approve the July 27, 2017 Planning Commission Regular Meeting minutes as amended. Motion unanimously carried.

PLANNING CONSULTANT'S REMARKS

Planner Lomako had none.

PLANNING COMMISSIONERS REMARKS

Commissioner had none.

CALL TO PUBLIC

Chairman Magro made a call to the public and there was no response.

ADJOURNMENT

Chairman Magro moved, Secretary Muir seconded, to adjourn at 8:39 p.m. Motion unanimously carried.

Charter Township of Milford,

Gordon Muir
Secretary

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EXHIBIT S

**REGULAR BOARD MEETING
CHARTER TOWNSHIP OF MILFORD**

**OCTOBER 18, 2017
PAGE 1**

MEMBERS PRESENT: Donald Green, Supervisor; Holly Brandt, Clerk; Cynthia Dagenhardt, Treasurer; Trustees Randal Busick, William Mazzara, Dale Wiltse, Brien Worrell

ALSO PRESENT: Jennifer Elowsky, Township Attorney; Thomas Moore, Fire Chief; Tom Lindberg, Police Chief; Pam Przybyla, Recording Secretary; 80 Audience members

CALL TO THE PUBLIC (NON-AGENDA)
No public response.

PUBLIC HEARING – CDBG REPROGRAMMING FROM PUBLIC SERVICE TRANSPORTATION TO MOBILE HOME MINOR REPAIR FOR 2016 FUNDS

Clerk Brandt moved, Treasurer Dagenhardt seconded to open the Public Hearing – CDBG Reprogramming from Public Service Transportation to Mobile Home Minor repair for 2016 at 7:31pm. Roll call vote: Yes- Brandt, Dagenhardt, Mazzara, Worrell, Green, Busick, Wiltse. Vote unanimously carried.

No response from the public.

Trustee Worrell moved, Trustee Mazzara seconded to close the Public Hearing – CDBG Reprogramming from Public Service Transportation to Mobile Home Minor repair for 2016 at 7:32pm. Roll call vote: Yes- Worrell, Mazzara, Wiltse, Busick, Green, Dagenhardt, Brandt. Vote unanimously carried.

CONSENT AGENDA

APPROVAL OF MINUTES, SEPTEMBER 20, 2017 (REGULAR); SEPTEMBER 11, 2017 (BUDGET WORK SESSION); APPROVAL OF BILLS – GENERAL FUND, FIRE DEPARTMENT, SENIOR CENTER

Trustee Wiltse moved, Treasurer Dagenhardt seconded to approve consent agenda as presented. Roll call vote: Yes- Wiltse, Dagenhardt, Mazzara, Worrell, Brandt, Green, Busick. Vote unanimously carried.

SUPERVISOR'S REPORT

Supervisor Green stated that the next budget meeting is October 25, 2017 at 6pm. The landscape in front of the Civic Center was finished yesterday.

PLANNING COMMISSION REPORT (SEPTEMBER 28, 2017)

Trustee Mazzara reported on the meeting on September 28, 2017.

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ZONING BOARD OF APPEALS REPORT (OCTOBER 11, 2017)

Trustee Wiltse reported on the meeting on October 11, 2017.

FIRE DEPARTMENT REPORT

Runs for September 2017: 125, - ytd. 1211, September 2016 140, - ytd. 1099. This reflects an increase of 10.2% in total call volume over last year, or 112 responses. FTO training covered apparatus driving for probationary members. FTO members ran a practice practical for all new members in the fire academy. Aerial ladder operations with rescue operations. Ground ladder evolutions with lock-in procedures. Milford Fire Department again hosted the Pumping Apparatus Driver / Operator course. This course was open to area departments. Our fallen brother, Firefighter / EMT Ron Savage, name was placed on the Memorial Wall at Emmetsburg, Maryland, The Fallen Firefighters Memorial Wall at Roscommon, Michigan and the Fallen Heroes Memorial Wall at the Oakland County Complex, Oakland County, Michigan.

UNFINISHED BUSINESS

SITE PLAN SP-17-5007, ANDOVER PARK, 16-03-201-017 – BPH DEVELOPMENT, INC.

Trustee Mazzara stated that the applicant had satisfied all the criteria regarding the fire issues.

Trustee Mazzara moved, Trustee Wiltse seconded to approve Site Plan SP-17-5007, Andover Park, 16-03-201-017 – BPH Development Inc as recommended by the Planning Commission. Vote unanimously carried.

REQUEST, CONDITIONAL REZONING OF PARCELS L-16-03-100-008, L-16-03-100-023, L-16-03-100-029, L-16-03-100-010, L-16-03-100-024, L-16-03-100-030, L-16-03-100-012, L-16-03-100-028 AND L-16-03-100-032, ZONED R-1-S, SUBURBAN SINGLE FAMILY RESIDENTIAL AND RO1, RESTRICTED OFFICE TO R1, SINGLE FAMILY RESIDENTIAL – BELLE TERRE OF MILFORD, RAY LEDUC

Mr. Ray LeDuc, Milford Hills Properties gave a presentation of a revised plan, dated October 18, 2017 (on file in the Township office) he previously presented to the Planning Commission with potential uses that could be done in that classification. In his presentation he stated the following points: 1. Zoning Text Change Preserves Zoning of Master Plan. 2. Non- Viability of Office Zoning is a Change in Condition. 3. Compatible with Master Plan – Conservation Overlay. 4. Compatible with Master Plan – Trail Network and Walkable Community. 5. Compatible with Master Plan – Vibrant Residential Neighborhoods. 6. Compatible with Adjacent Land Use Patterns and Neighborhoods. 7. Detrimental Impact of Developing Property without Requested Changes. 8. Public Water and Sewer are required for this Property to be developed. 9. Compatible with Joint Land Use Plans. 10. Consistent with Established Zoning Patterns. 11. Opportunity to change zoning, consistent with blending existing land use.

Mr. LeDuc also stated he provided the following documents to Clerk Brandt: Agreement to assume responsibility for operation of community sewer system dated March 1, 2003; Working/Development agreement for operation of community sewer system dated June 5, 2003; Amendment to agreement to assume responsibility for operation of community sewer system dated May 13, 2015; Letter dated June 26, 2017 from Township Engineers Hubbell, Roth & Clark, Inc.

Mr. Shaun Kalinowski gave a brief presentation in opposition. The rezoning doesn't fit with the rest of the community of one acre lots.

Mr. Angelo Jordan, Hidden Valley Drive, spoke in opposition.

Mr. James Mallon, Hidden Valley Drive, spoke in opposition.

Trustee Mazzara stated he agrees with the findings of the Planning Commission and believe this board should support those findings as its own.

Trustee Mazzara moved, Trustee Busick seconded to deny the Belle Terre of Milford conditional rezoning request, as recommended by the Planning Commission, for the reasons stated on the record at its meeting on August 31, 2017. Vote unanimously carried.

PROPOSAL, MILFORD ROAD SIDEWALK BETWEEN DAWSON & BUNO ROADS
Hubbell, Roth & Clark Township Engineers prepared a conceptual cost estimate for a proposed sidewalk along the east side of Milford Road from Dawson to Buno Road. A site visit was conducted to review a conceptual layout of five (5) foot wide concrete sidewalk and to identify key features.
The Township Board discussed the cost of doing the sidewalk and decided it was cost prohibitive at this time.

The Township directed the Supervisor to inquire about a grant writer to apply for grants for the proposal. **No action taken.**

ENGINEERING PROPOSAL, ROOF SPECIFICATIONS – HUBBELL ROTH & CLARK

Trustee Wiltse moved, Trustee Mazzara seconded to direct Hubbell Roth & Clark to draw up specifications and put them out for bids. Vote unanimously carried.

NEW BUSINESS

RESOLUTION, RETIREMENT FROM ZONING BOARD OF APPEALS – RICHARD CHOWANIEC

Supervisor Green read the following resolution into the records as follows:

WHEREAS, Rich faithfully served the township for twelve years on the Township Board as Trustee from December, 1984 – November, 1996 and;

WHEREAS, Richard Chowaniec has served the Charter Township of Milford as Chairman and Board Member on the Zoning Board of Appeals for more than twenty (20) years and;

WHEREAS, Rich's dedication and professionalism have served to assist ZBA applicants and residents with Zoning Ordinance variances and;

WHEREAS, Rich has given his time and talents to serve on the Cemetery Committee for many years, guiding improvements and enhancements to our cemeteries and;

WHEREAS, Milford will always be a better community because of Rich's loyalty and commitment to the residents he has served and;

THEREFORE, be it resolved, that the Township Board of the Charter Township of Milford, on behalf of the entire community, sincerely thank Rich for his long and valuable service to this community.

Trustee Busick moved, Trustee Wiltse seconded to adopt the Resolution for Richard Chowaniec. **Vote unanimously carried.**

CDBG REPROGRAMMING FROM PUBLIC SERVICE TRANSPORTATION TO MOBILE HOME MINOR REPAIR FOR 2016 FUNDS

Treasurer Dagenhardt moved, Trustee Worrell seconded to approve CDBG Reprogramming from Public Service Transportation to Mobile Home Minor Repair for 2016 Funds. **Roll call vote: Yes-** Dagenhardt, Worrell, Mazzara, Brandt, Green Busick, Wiltse. **Vote unanimously carried.**

PROPOSAL, PLANNED MAINTENANCE FOR GENERATORS – CUMMINS
Supervisor Green stated that he had just received from Preventive Maintenance Technologies a maintenance agreement quote which was lower than Cummins.

Trustee Worrell moved, Trustee Mazzara seconded to approve the agreement for maintenance for generators from Preventive Maintenance Technologies in the amount of \$550.00 for 2018 and \$970.00 for 2019. **Roll call vote: Yes-** Worrell, Mazzara, Busick, Wiltse, Dagenhardt, Green, Brandt. **Vote unanimously carried.**

METRO ACT PERMIT APPLICATION – VERIZON ACCESS TRANSMISSION SERVICES

Trustee Worrell moved, Trustee Wiltse seconded to approve Metro Act Permit – Verizon Access Transmission with legal counsel to determine a bond amount. **Vote unanimously carried.**

RESIGNATION, PARKS & RECREATION COMMISSION, TERM ENDING 12/31/17 – LINDSEY FRANTSEN

Trustee Mazzara moved, Trustee Worrell seconded to accept resignation of Park & Recreation Commissioner Frantsen with regret. **Vote unanimously carried.**

SET PUBLIC HEARING, CDBG 2018 APPLICATION OF FUNDS, NOVEMBER 15, 2017

Treasurer Dagenhardt moved, Trustee Worrell seconded to set the Public Hearing, CDBG 2018 application of funds on November 15, 2017. **Vote unanimously carried.**

SET PUBLIC HEARING, 2018 PROPOSED BUDGET, NOVEMBER 15, 2017

Clerk Brandt moved, Treasurer Dagenhardt seconded to set the Public Hearing, 2018 Proposed budget on November 15, 2017. **Vote unanimously carried.**

BOARD MEMBER'S REMARKS

Clerk Brandt requested to look into having the Spinal Column publish legal notices and the Township Board agreed to have Clerk Brandt look into having the Spinal Column publish the Township legal notices.

Trustee Mazzara wanted to thank the Concert Committee and Kevin Lawrence for all the hard work they put into the concert series every year.

EXECUTIVE SESSION TO DISCUSS PENDING LITIGATION

Trustee Wiltse moved, Clerk Brandt seconded to enter into Executive Session at 9:01pm. **Vote unanimously carried.**

Treasurer Dagenhardt moved, Clerk Brandt seconded to resume regular meeting at 9:13pm. **Vote unanimously carried.**

Trustee Wiltse moved, Trustee Worrell seconded to direct legal counsel to proceed with legal action as discussed in executive session. **Vote unanimously carried.**

**REGULAR BOARD MEETING
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ADJOURNMENT

Supervisor Green adjourned the meeting at 9:14pm.

Charter Township of Milford,

Holly Brandt, CMC
Clerk

EXHIBIT T

**REGULAR MEETING
ZONING BOARD OF APPEALS
CHARTER TOWNSHIP OF MILFORD**

**DECEMBER 13, 2017
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PRESENT: Vice-Chair Huber
Members: Dale Wiltse, Linda Cavanaugh, Neill DeVries, Keith Cheresko, Edward Clink, Patti Janette, Leann Kimberlin, Legal Counsel

ABSENT:

ALSO, PRESENT: Timothy Brandt, Building Official/Planning & Zoning Administrator
Pam Zurek, Recording Secretary, Members of the Public

Vice-Chair Huber called the meeting to order at 7:30 p.m. and led the Pledge of Allegiance.

PLANNING COMMISSION LIAISON REPORT

Mr. DeVries referred to the synopsis provided from the meeting held on December 5, 2017. Mr. DeVries stated the cases discussed included Goretski Construction Company, whose site plan was recommended for approval with some changes and the Camp Dearborn zip line site plan, which was recommended for approval. The Indian Lake subdivision proposed amendment to existing lot lines was postponed to allow the applicant more time to revise the drawings for all affected lot lines. Lastly, a Land-Division Appeal located at 4212 Old Plank Road, which was a request to split the property to provide two three-acre minimum lots. The request was recommended for denial with the suggestion that the applicant provide a new plan with easement given by the north lot for the benefit of the south lot.

TOWNSHIP BOARD LIAISON REPORT

Mr. Wiltse referred to the synopsis provided for the most recent meeting and offered to answer questions.

Vice-Chair Huber requested more information regarding the request to refinish the Station 1 bay doors. Mr. Wiltse responded that the doors would receive an industrial coating, as the doors were affected by salt and rusted at the bottom of the doors.

NEW BUSINESS:

PUBLIC HEARING: V-17-013, Christopher Lusko, 3886 W. Commerce, L-16-06-200-035, R-1-S zoning district. Ordinance #196 Section 32-572, (5) b. Accessory buildings and structures in residential districts. Ordinance does not permit a detached accessory building to be erected closer than 25 feet to any side or rear lot line. Applicant proposes to construct a detached garage 10-feet from the West lot boundary.

Mr. Christopher Lusko, 3886 West Commerce was present, and stated the shape of his lot was unique and he desired to build an accessory building next to the home, which would not allow a 25-foot easement from the neighbor's property line.

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Mr. Lusko added that building the accessory building in that location would allow the best access from the driveway without having a separate driveway running through the yard around the home to the rear yard. Mr. Lusko further added that building the structure in the proposed location was in line with the neighbor's home and would provide a clear view to the tree line at the rear of the properties.

Vice-Chair Huber opened Public Hearing at 7:35 p.m. Being no comments from the Public, Vice-Chair Huber closed Public Hearing at 7:35 p.m.

Vice-Chair Huber asked the applicant the size of the existing shed. Mr. Lusko responded that the existing structure would be removed.

Vice-Chair Huber asked the applicant if the structure was present when the home was purchased. Mr. Lusko responded that the structure existed when he purchased the home and stated that the structure was under 200 square feet in size.

Vice-Chair Huber stated that the existing structure was in violation of the ordinance. Mr. Lusko replied that he recently was notified that the existing structure was a violation of the ordinance.

Vice-Chair Huber stated that the applicant's yard was ample size and building a new structure in the rear yard would not interfere with the septic system or well. Vice-Chair Huber further stated he was trying to understand the applicant's hardship. Vice-Chair Huber added that the desire to place that structure in that location did not equal hardship. Mr. Lusko agreed and added that though his case might not be strong, he wanted to request the variance. Vice-Chair Huber added that the applicant should have the opportunity to provide input so the Board would understand the situation.

Mr. Lusko stated he moved to Milford from a city-type environment and desired to have open space and would not be ideal to have a building in the middle of his lot.

Vice-Chair Huber asked the applicant if the side yard setback requirements could be met by decreasing the size of the proposed structure. Mr. Lusko stated there was only 44 feet from the house to the property line and did not want the structure to be smaller than 20 feet in width.

Mr. Wiltse asked the applicant if the structure could be built behind the home and moved over 10 feet. Mr. Lusko agreed that the structure could be built behind the home and moved over 10 feet.

Mr. DeVries asked the applicant the purpose of the proposed building. Mr. Lusko responded that he had outdoor equipment to store, as well as a trailer, a third car, and lawnmower.

Mr. Cheresko stated there was not a reason the proposed structure could not be moved back and over. Mr. Lusko agreed and added that a tree might need to be removed.

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Mr. Cheresko explained to the applicant the need for strong justification for a variance to be granted and if the ordinance could be met then there was no justification. Mr. Cheresko further explained that the placement of the proposed structure could be pushed back and over to meet the ordinance regardless of the possible need to remove a tree. Mr. Lusko stated his understanding.

Vice-Chair Huber stated the Board was only empowered to grant variances once a hardship was determined, such as topography of the land, placement of the septic that would make it impossible to build behind the home and by placing it closer than 25 feet would be the only option to use the applicant's land.

Vice-Chair Huber called for Findings of Fact.

Findings of Fact:

1. The applicant has not provided a strong enough hardship in order to leave the proposed barn in the location of his choosing.
2. There is ample room on the property behind the house, which would conform to the zoning requirements for the district.
3. The well is off to the east side of the house and the septic is on the southeast side of the house and they are not impediment to building the structure in the applicant's rear yard.
4. There are no topographical issues observed that would make it difficult for such a structure to be erected within the zoning confines.

Mr. Cheresko moved, Mr. Clink seconded that based on Findings of Fact, V-17-013 be denied. **Motion UNANIMOUSLY CARRIED.**

PUBLIC HEARING: V-17-014, Milford Hills Properties, Inc., 1042 N. Milford Road, Suite 103, Milford, L-16-03-100-032, L-16-03-100-028, L-16-03-100-023, L-16-03-100-029, L-16-03-100-030, L-16-03-100-008, L-16-03-100-012, L-16-03-100-010, L-16-03-100-024. Property parcels are zoned Suburban Residential and Restricted Office. Ordinance #196 Section 32-163 and Section 32-285. The applicant is seeking use variances at the above-mentioned properties to allow for Single Family Residential use and associated zoning regulations for that district to replace the Use requirements in the Suburban Residential and Restricted Office zoning districts.

Mr. Ray Leduc was present representing Milford Hills Properties and stated the presentation would consist of what was presented to the Planning Commission and the Township Board. Mr. Leduc made note of the packets of information distributed to the Board members and noted the packet also included the response to the Planning Commission and Township Board's motion for denial, as well as the drawings of the site plan, and legal description of the project in general. Mr. Leduc also provided a detailed application noting the reasons for the requests. Mr. Leduc offered to answer questions.

Vice-Chair Huber opened the Public Hearing at 7:43 p.m. and asked Members of the Public to limit comments to three minutes per person.

**REGULAR MEETING
ZONING BOARD OF APPEALS
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Ms. Beth Markell, 650 Olivia Drive, was present and provided a copy of approximately 1,300 signatures from Milford Township and area residents in opposition of the rezoning request. Vice-Chair Huber asked Ms. Markell if she was providing copies of the signatures. Ms. Markell affirmed and added she was providing hard copy petitions that were circulated, as well as electronic signatures on the website, change.org/No to the Rezone. Mr. Wiltse acknowledged the signatures as part of the record. Mr. DeVries asked Ms. Markell if the signatures were all Milford residents. Ms. Markell stated the signatures were mostly residents of the Village of Milford and Milford Township, but also included some Highland residents. Ms. Markell added that she was told by the Township Clerk, Ms. Holly Brandt, that the signatures could be from residents in the surrounding area, as well as the Milford Township area. Ms. Markell further added it was important to note what residents in the surrounding areas have to say, as this situation was precedent setting.

Mr. Sean Conway, 1292 North Milford Road, was present and stated that he drove on Milford Road near Rowe Road every day and has lived in the Milford area for several years. Mr. Conway added that trying to turn in that area could be dangerous and noted a neighbor was in a motor vehicle accident at the intersection near Milford Road. Mr. Conway further added that a larger concentration of drivers commuting and turning would create more problems. Mr. Conway also stated he was from the Fenton area and noted what overdevelopment had done to the rural small-town area with increased traffic.

Mr. Marcus DiGiorgio, 1306 North Milford Road, was present and stated his home was almost directly across from the proposed development. Mr. DiGiorgio stated a development of this scope would damage the rural nature of Milford Township, opposed the Master Plan, and was not supported by the infrastructure. Mr. DiGiorgio further stated he was representing his neighbors and had not spoken with anyone that expressed the opinion that the proposed development would be beneficial, as the development would not benefit residents. Mr. DiGiorgio added that he did not see problems with a development that was within current zoning requirements.

Mr. Shaun Kalinowski, 1808 Hidden Valley Drive, was present and stated he was representing Concerned Citizens of Milford, LLC. Mr. Kalinowski stated the members of Concerned Citizens of Milford were not opposed to development, but were opposed to variance on current zoning and did not see a hardship that would dictate a need to change the zoning from R-1-S. Mr. Kalinowski further stated the developer did not prove a willingness to work with the Township to build within the zoning restrictions. Mr. Kalinowski added that he had attended prior Township Board meetings and Planning Commission meetings and a hardship had not been demonstrated to justify a variance.

Mr. Paul Burns, attorney was present and stated he represented Mr. Leduc and his companies. Mr. Burns further stated he had reviewed the Township ordinance and the powers of the Zoning Board of Appeals and wished to register an objection that he did not believe the Zoning Board of Appeals had the authority, under its own use-ordinance, to grant a use variance.

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Mr. Burns stated his understanding that it was a requirement of the Michigan Supreme Court to make the application under the Paragon Properties Company versus City of Novi case, but in reviewing section 32-65 of the ordinance this was not a dimensional variance and the Zoning Board of Appeals did not have jurisdiction or authority to grant a use variance.

Vice-Chair Huber asked Mr. Burns to repeat the referred-to section and Mr. Burns responded he was referring to Section 32-65 section 2 and stated the authorization in section 2 laid out four specific powers that had been enumerated in the legislation and none referenced use variance, referenced street layouts, public service corporations, public utilities, street-bordered vehicle parking, and dimensional-type ordinances. Mr. Burns added he had practiced municipal law for 37 years and most communities in the Zoning Board of Appeals ordinances did not have use variances. Mr. Burns continued that the form the Township had was basically for a dimensional variance and felt the Board could pass a resolution that the Board did not have jurisdiction over the matter that would satisfy the requirements of the Michigan Supreme Court.

Ms. Kimberlin, legal counsel for Milford Township, stated in past practice this issue had been before legal counsel and reviewed by the Township's Planning Consultant as early as 2009, opining that under the standards required, the ordinance did satisfy requirements. Mr. Burns stated his understanding, but restated under his review it was his position there was no subject-matter jurisdiction under the Township ordinance.

Ms. Sue Stevens Schultz, 1105 Rowe Road, was present and stated as discussed at other meetings, she would like to continue the Master Plan. Ms. Stevens Schultz added she preferred the rural feel of Milford and moved to Milford for that rural feel. Ms. Stevens Schultz further added that the Master Plan provided for the rural feel of the area and with the new development wildlife would be gone, quiet would be gone, and traffic would increase. Ms. Stevens Schultz stated she would like to keep the area quiet.

Being no further comments from the Public, Vice-Chair Huber closed Public Hearing at 7:55 p.m.

Mr. Wiltse verified with Mr. Leduc that the property was zoned R-1-S. Mr. Leduc stated the parcel was made up of two zoning classifications and 33 acres, half of the property, was zoned R-1-S and the other 33 acres of the property was zoned RO-1, Restricted Office.

Mr. Wiltse asked Mr. Leduc if there was a reason why the R-1-S property could not be developed under the R-1-S setting. Mr. Leduc responded that the documents provided explained in detail the reasons that the residents of the Hidden Valley subdivision did not want to back up to a development that was of a more intensive nature. Mr. Leduc continued that one-and-a-half miles of frontage on three sides of the property that bordered either office or multi-family use and the other 1,000 feet, one-eighth of the other three sides of the property, bordered R-1-S.

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Mr. Leduc further continued that the intent was to have transitional zoning from R-1-S of the Hidden Valley subdivision down through the existing office area.

Mr. Cheresko reminded the applicant that the question from Mr. Wiltse was if the applicant could build in conformity with the standard zoning. Mr. Leduc responded that a person would not buy, but stated anything could be built on the property.

Mr. Cheresko stated that the applicant disagreed with the zoning plan and the creation of the Master Plan. Mr. Leduc responded he did not disagree with the zoning plan or creation of the Master Plan. Mr. Cheresko asked him to respond to the question asked by Mr. Wiltse.

Mr. Leduc asked Mr. Wiltse to repeat his question. Mr. Wiltse asked if the R-1-S property could be developed under the ordinance. Mr. Leduc asked if Mr. Wiltse was referring to being physically possible or economically possible. Mr. Wiltse responded that economics could not affect the variance request and that he was referring to physically building on the property under the ordinance requirements. Mr. Leduc stated the property could be physically built under R-1-S zoning if sewer and water were possible; however, if the property did not perc, the property would not have the ability to be developed. Mr. Wiltse asked the applicant if he was stating that the property could not be developed under R-1-S guidelines because the property lacked sewer and water. Mr. Leduc stated the property could not be developed without sewer and water; however, sewer and water were available across the property at the Ridge Valley development. Mr. Leduc further stated a contract was developed with the Township 15 years ago for the sewer specifically for this property. Mr. Wiltse asked the applicant if the property could be developed under R-1-S zoning restrictions based on the agreement Mr. Leduc referenced. Mr. Leduc responded that if sewer and water were allowed to bring across to the property, which had not been allowed, then the property could be developed under R-1-S zoning restrictions, but economics then would become an issue.

Mr. Leduc added that a home costing \$700,000 would not sell when backed up to an office building. Mr. Wiltse again asked the applicant if the property could be developed under R-1-S. Mr. Leduc responded that physically it could be developed.

Ms. Cavanaugh asked the applicant if the lots had been perc tested. Mr. Leduc responded that the Township was aware that previous owners had the property perc tested, but failed the perc test and the applicant tried, but also failed perc testing on the property, which necessitated the contract with the Township 15 years ago to develop the additional capacity at the Ridge Valley development specifically for the proposed property.

Mr. Cheresko asked the applicant if the zoning ordinance was in place at the time the contract was developed regarding the sewer and water and the applicant knew at that time the zoning requirements.

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Mr. Leduc responded that there had been discussions and contemplation for the property in question, Belle Terre property, to be developed similar to the Estates portion of Ridge Valley.

Ms. Cavanaugh asked the applicant why he was projecting the homes to cost \$700,000 based on the smaller lot sizes. Mr. Leduc responded that under the scenario of building on one-and-a-half-acre lots the homes would need to cost \$700,000. Ms. Cavanaugh stated a \$700,000 home would not need to be built on a lot that was an acre in size. Mr. Leduc responded that the cost development would require the home to sell for that price.

Vice-Chair Huber asked the applicant if he purchased the land 15 years ago. Mr. Leduc responded that the contract was developed 15 years ago, but only closed on various parcels within this year.

Vice-Chair Huber asked the applicant if the contract was not finalized. Mr. Leduc stated the contract was finalized and a copy was provided to the Board.

Vice-Chair Huber asked the applicant if he had purchased the land within the last year under the current zoning of R-1-S. Mr. Leduc affirmed he had purchased the land under R-1-S zoning. Vice-Chair Huber then asked the applicant when he purchased the land and contemplated development of the area zoned as R-1-S if he determined the number of possible homes. Mr. Leduc responded that potential development was discussed with the Planning Commission.

Vice-Chair Huber asked the applicant if he knew the number of potential homes. Mr. Leduc responded that 22 lots were sketched in the R-1-S zoning area. Mr. Leduc stated demographics change rapidly including house size, lot size, price point.

Vice-Chair Huber asked the applicant if the density was allowed to be increased in the R-1-S area, the number of potential homes that would be built. Mr. Leduc demonstrated on a map the existing properties and the potential transitional zoning.

Vice-Chair Huber restated his question of the potential number of units if the density of the R-1-S area was increased. Mr. Leduc stated the plan was for 157 homes over 66 acres; however, of the 66 acres only 45 percent of the property would be developed and the remaining 56 percent would remain a natural environment with a possible conservation easement or donation to the Township, but undeveloped.

Mr. Wiltse verified with the applicant that the current zoning requirements for R-1-S would allow 22 homes. Mr. Leduc verified that 22 homes would be allowed under the current R-1-S zoning requirements.

Mr. Leduc stated the RO-1 office portion of the property would allow 340,000 square feet of office space on 33 acres of land and 257 parking spaces, which would be equivalent to a Super Walmart and Meijer combined.

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Mr. Leduc further stated that the office portion, in addition to the 22 homes, would increase traffic, 12,500 cars a day, on Milford Road. Mr. Cheresko stated the applicant was making a huge assumption that those types of buildings would be erected in that area and further stated increasing the number of homes from 22 to 157 would also affect traffic. Mr. Leduc responded that the office portion would generate traffic even if half the previously stated amount.

Mr. Cheresko asked the applicant to demonstrate on the map where the office portion was located. Mr. Leduc demonstrated the designated office-zoned portion on the map and stated the current zoning on the property was a mess and demonstrated on the map a private gravel road that serviced R-1-S zoning on one side, one-and-a-half-acre lots, and on the other side the gravel road serviced an office area. Mr. Leduc added that the gravel road was the only access to the 12-acre office parcel. Mr. Leduc wondered why the plan was to have an office building on one side of the road and a possible \$700,000 house across the street. Mr. Leduc then stated he was asking for common sense. Mr. Cheresko responded that the applicant was asking for a fundamental change in the character of the area.

Mr. DeVries asked the applicant to explain his hardship. Mr. Leduc explained that two dissimilar zonings existed side by side that did not work and the Township Board and Planning Commission both agreed that office zoning did not work in this location. Mr. Leduc further explained that the office zoning belonged near the freeway, as quoted by Trustee Mazzara.

Mr. Leduc continued that the issue existed of two sides of the street that were so dissimilar and did not work together and the Township Board and Planning Commission agreed that the office zoning did not work. Mr. Leduc further continued that he was not asking to build a mobile home park, multifamily homes, or industrial, but a single-family project and was trying to look for common sense and something good for the community.

Vice-Chair Huber reminded the applicant that he was asked to explain his hardship and added that the applicant purchased the property knowing the zoning requirements. Vice-Chair Huber also stated that Mr. Leduc estimated 12,000 parking spots for Restricted Office zoning would greatly increase traffic, but also stated the current offices were not fully occupied.

Vice-Chair Huber again asked Mr. Leduc to explain his hardship relative to the zoning requirements. Mr. Leduc responded that his hardship was zoning for which there was no market and the Township numerous times had agreed there was no market for the current zoning.

Mr. Cheresko asked why the Township Board and the Planning Commission had not changed the area zoning if they agreed that it was incorrect.

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Mr. Leduc referred to the record of the Planning Commission meeting in February 2017 when the scenario was brought to the attention of the Planning Commission then again on May 25, 2017 when presented for a vote, Trustee Mazzara clearly stated on record that the zoning did not work and belonged on the south side by the freeway and should be reviewed for revision of the Master Plan. Mr. Leduc continued that ten minutes after that statement was made the Planning Commission then discussed revisions for the Master Plan. Mr. Leduc noted a four-month period where the Township knew the zoning would not work, but did not revise the Master Plan.

Mr. Cheresko noted other commercial properties in that designated area were small, single structures, which was consistent with the overall area being discussed and were not multi, big-box stores, and not multi-story, high intensity, commercial representations. Mr. Leduc noted a two-story, 20,000 square foot medical office building. Mr. Cheresko agreed there were one or two two-story office buildings. Mr. Leduc demonstrated on the map different commercial properties in the area.

Mr. Cheresko stated the applicant would still need to obtain State approval to increase the use. Mr. Leduc responded that the Township Engineer reviewed and approved and he had provided the contract. Mr. Cheresko then stated that the applicant knew the zoning requirements and purchased the property fully aware of the requirements and would realize the ability to build 22 homes and meet the ordinance requirements.

Mr. Leduc asked Mr. Cheresko why he would only refer to the 22 lots and not the remaining 33 acres of Restricted Office zoning, as the lots would not sell next to the 33 acres of office buildings. Mr. Cheresko asked the applicant if the lots would not sell, why people still wished to enter the community demanding large lots. Mr. Leduc responded that the lots would not back up to two-story office buildings with 2,200 parking spaces. Mr. Cheresko suggested the applicant was assuming office buildings would be built in that location. Mr. Leduc responded the zoning restrictions dictated what would be built in that location.

Mr. Leduc stated the zoning classification of the property was taking away the value of the property.

Vice-Chair Huber asked the applicant why he purchased the property. Mr. Leduc responded that 15 years ago the issues were discussed with the Township and had the contract in place. Mr. Cheresko stated the contract in place made no reference to the development, but discussed the potential of using the sewer system for a future development, but did not describe the nature of the development and could assume it would be conforming with the zoning. Mr. Leduc stated the contract was strictly based on the gallons per day per person and was not for office buildings. Mr. Leduc further added the discussion involved the same density and same size homes that were built in Ridge Valley Estates. Mr. Cheresko informed the applicant that there was no evidence in the paperwork provided.

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Mr. Wiltse stated the only hardship the applicant discussed was the reason the property could not be developed under R-1-S zoning was that it was not economically feasible. Mr. Leduc suggested carefully reading the documents provided, which demonstrated over 4 million dollars-worth of expenses that the Township mandated to build the excess capacity and could not be distributed over 22 lots.

Mr. Wiltse again stated that the applicant's hardship was economical. Mr. Leduc responded that he was asked if he could build on the lot and he responded he could build a home, but might not make sense or be allowed. Mr. Wiltse stated the only hardship demonstrated was it was not economical to build under R-1-S zoning on the property. Mr. Leduc stated with the existing zoning adjacent to the R-1-S property, it would be impossible to build.

Mr. Cheresko responded the applicant noted the need for sewer and water that would be extended from Ridge Valley Estates, subject to approval, to allow construction on the property. Mr. Leduc responded that money was needed to physically build and added people would not buy next to an office building. Mr. Cheresko asked the applicant why he purchased the property. Mr. Leduc restated that an agreement was made 15 years ago and was contemplated to have the volume of sewer capacity for higher residential use across the road.

Mr. Clink referred to a document dated June 5, 2003 and Mr. Cheresko added that there was no reference to a development on the other side. Mr. Leduc responded the document clearly designated the west side of Milford Road. Mr. Cheresko stated the document enabled to build to a capacity that could be used if the property was existing in zone that had to be taken into account the time the agreement was made but nothing to suggest a large number of homes could be built and the reason Mr. Leduc was planning to build on that property. Mr. Cheresko continued that Mr. Leduc was building to protect his future and the development plan should have been consistent with the existing zone; however, the applicant did not feel the houses would sell because of the potential conflict between two bordering zones. Mr. Leduc thanked Mr. Cheresko for his opinion.

Ms. Cavanaugh asked the applicant if the trees would be left in place. Mr. Leduc demonstrated on a map and stated the trees would be saved. Mr. Leduc referred to document of a project 30 years ago similar to his current proposal, which cut out a footprint of the homes within a protective forest. Mr. Leduc referred to the photographs and stated the trees were saved, but if the lots were developed as one-and-a-half acres there would be no restrictions and it would be at the discretion of the homeowner. Mr. Leduc further stated under his proposed scenario there would be a deed restriction with protection of 56 percent of the site and would be deeded to the Township, or a nature conservancy if preferred, and was only asked to build on 44 percent of the property.

Mr. Leduc added that the development would not be visible from Milford Road and the natural, rolling hills with mature trees would be saved to protect the neighbors to the west.

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Mr. Cheresko asked the average lot size on the parcels. Mr. Leduc responded that the parcels were clustered together and would be less than one-quarter of an acre similar the lots at Ridge Valley Estates.

Mr. DeVries asked the applicant the current capacity of the sewage and water usage for the existing subdivision. Mr. Leduc responded that on full buildup the sewer usage was less than half and water usage was approximately 12 percent.

Ms. Cavanaugh asked the applicant the number of existing homes. Mr. Leduc responded that the Ridge Valley development contained 86 homes, 40 townhomes, eight villas, 131 senior apartments, and an office building.

Mr. Clink asked the applicant how it was determined there would be 1,495 traffic trips per day. Mr. Leduc responded that a traffic study was performed by Parsons Brinckerhoff, which was a very well-respected traffic engineering firm. Mr. Leduc added that the traffic study was presented to the Planning Commission. Mr. Cheresko asked if the assumption for the study was that the potential building in the area would be commercially built. Mr. Leduc responded the study was performed per the zoning requirements. Mr. Clink asked the applicant if the traffic study included the space that was not being developed. Mr. Leduc demonstrated the areas on the map and stated the traffic study performed regarding 33 acres of office space and 33 acres of the one-and-a-half-acre lots showed 12,500 cars per day also performed by Parsons Brinckerhoff. Vice-Chair Huber asked if the studies were performed based on 100 percent utilization and Mr. Leduc responded that the engineer's assumption was based on 100 percent utilization.

Mr. Clink asked the applicant how the proposed development would not impact the value of the homes in the Hidden Valley subdivision. Mr. Leduc stated a majority of the property would not be touched and the trees would be protected, which would provide a buffer from neighbors. Mr. Leduc added that working in the R-1-S zone allowed building to the property line.

Mr. DeVries asked the applicant the total expense for sewage and water at Ridge Valley Estates. Mr. Leduc replied that he did not have the information, but would supply the information. Mr. DeVries stated that the applicant referred to 4.1 million as excess. Mr. Leduc agreed.

Ms. Cavanaugh asked the applicant if the number of homes could vary between 22 and 157. Mr. Leduc replied that initially the potential number of homes was 178 and with feedback from the Township decreased the number of homes. Ms. Cavanaugh asked if the potential number of homes could decrease further. Mr. Leduc responded that there was enormous debt to cover with the proposed number of homes.

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Mr. Clink asked the applicant how 20,000 gallons per day of excess of water and sewage from Ridge Valley Estates serves the needs of the proposed development. Mr. Leduc responded that the MDEQ performed an in-depth analysis on the sewer and water and determined a potential for 182 homes documented in a letter that Mr. Leduc provided for the Board. Mr. Leduc continued that the Township Engineer agreed with that analysis and provided a letter of approval of that number as well. Mr. Clink stated he did not have a copy of that letter and Mr. Leduc stated the Township had many copies. Ms. Kimberlin stated the Zoning Board of Appeals did not have a copy of the letter from the MDEQ. Mr. Leduc stated the letter of approval from the MDEQ was on record with the Planning Commission and the Township Board.

Mr. DeVries asked the applicant how many of the nine properties discussed the applicant owned. Mr. Leduc responded that he owned 100 percent of the discussed properties. Mr. DeVries verified with the applicant that when the properties were purchased the applicant knew the current zoning situations. Mr. Leduc responded affirmatively.

Mr. Cheresko asked the applicant for the signed agreement with the Township that related to the development of this particular area at that time. Mr. Leduc explained the agreement was distributed to the Board and in the agreement, were details, which needed to be explained in great detail on how it was derived and the discussion and contemplated issues. Mr. Cheresko responded that the level of development was not explained in the document to which the applicant was referring or in other documents provided. Mr. Leduc replied the level of development was discussed in the pages explaining the sewer.

Vice-Chair Huber stated the document only spoke to what the words said on the face of it and Mr. Leduc responded in regards to engineering when speaking of gallons per capita per day and details provided would explain the exact number of units.

Mr. DeVries asked the applicant that if the document had been in place for 15 years and R-1-S zoning had been in place for that same amount of time, what the applicant had done with the Township to try and change that before the purchase of the property. Mr. Leduc responded that the project was started many years ago with the Township and last year reached an agreement from MDEQ with the detailed number that was allowed and had been moving forward since that time.

Mr. Wiltse stated the MDEQ did not make zoning changes. Mr. Leduc noted that the MDEQ had jurisdiction responsibilities for sewer and water. Mr. Cheresko stated the MDEQ provided capacity potential. Mr. Leduc replied the MDEQ approved 182 units. Mr. Cheresko stated the sewer and water potential could support up to 182 units, but the MDEQ did not agree that 182 units should be built. Mr. Leduc agreed.

Ms. Cavanaugh asked the applicant the average square footage of homes. Mr. Leduc responded that the homes would be similar to the homes in Ridge Valley Estates in the price range of \$300,000 to \$400,000.

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Ms. Cavanaugh asked the age of the Ridge Valley Estates subdivision. Mr. Leduc replied that Ridge Valley Estates the developer started construction in 2003, but only completed eight homes before the economy forced the developer to stop building then Mr. Leduc took the project over in late 2010 and built the remaining homes. Ms. Cavanaugh asked how many homes remained to be completed. Mr. Leduc responded the last 11 were being completed at this time.

Mr. DeVries referred to documents the applicant provided and stated there was no documentation that the Township or applicant were working to change the existing zoning to accommodate the proposed project. Mr. Leduc stated he was not an attorney, but an engineer, and spent millions of dollars developing at excess capacity, but would not have gotten into the situation if discussing only 22 homes.

Mr. DeVries asked why the applicant did not require the change to protect the applicant. Mr. Leduc stated the Township Attorney would have a draft of that document. Mr. DeVries stated he had no information stating the Township was working to change the zoning of the properties. Mr. Leduc agreed that the word "rezoning" was not on any documents provided.

Vice-Chair Huber called for Findings of Fact. Ms. Kimberlin noted a specific checklist for the required standards in the case of a use variance and would like to apply the Findings of Fact to those specific standards in the checklist.

Mr. Burns asked Ms. Kimberlin if the standards were in the ordinance. Ms. Kimberlin responded affirmatively and added were also located in the Zoning Enabling Act. Mr. Burns asked Ms. Kimberlin to note the section of the ordinance. Ms. Kimberlin responded that the standards were located in Section 32-66. Mr. Burns asked Ms. Kimberlin if she was telling the Zoning Board of Appeals that the Board had jurisdiction over this matter pursuant to 32-65. Mr. Burns reiterated that he did not believe the Zoning Board of Appeals had jurisdiction and did not feel that Findings of Fact were proper under the ordinance.

Findings of Fact:

1. The applicant has stated primarily that his hardship is an economic hardship.
2. These findings are based on standards, which are 32-66 of our ordinance, items that must be taken into account and resolved in favor of the applicant for use variance, to be granted.
3. The applicant in his presentation to the Board has not substantially made his position whereby he has proven he cannot reasonably use his land for the purpose permitted within the zoning district.
4. The applicant has requested this variance based on the peculiarities of the general neighborhood and not the uniqueness of the property in question.
5. There has been nothing presented that says if a use variance is granted it would not alter the essential character of the area.
6. Such a use variance, if granted would not be in harmony with the surrounding neighborhood.

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7. If the variance was granted, the use of the property would go from 22 lots to 157 lots and it has been represented that it would not have an effect on vehicular and pedestrian traffic, a conclusion not accepted.
8. Mr. Leduc purchased property within the last year knowing full well of the zoning requirements and therefore the caveat of buyer beware would seem appropriate and now based on, in the applicant's words, the economics of the situation, he is requesting a use variance to increase the density use of this particular zoning area.
9. The applicant also did not indicate that it was necessary for public convenience, did not demonstrate market need for this development at this Hearing, and the development could cause some harm to the Hidden Valley development to the west.
10. The applicant has pointed numerous times during discussion of this issue to an existing contract regarding sewage that was made 15 years ago. Reading of the contract on its face, signed by both parties, does not give any indication that there was any understanding that the zoning in place at that time would be altered other than as it currently stands.

Ms. Cavanaugh asked if this problem was self-created by purchasing the land knowing the zoning requirements.

Mr. Clink moved, Mr. Cheresko seconded that based on Findings of Fact to deny V-17-014 to seek a use variance for the properties mentioned at Public Hearing, L-16-03-100-032, L-16-03-100-028, L-16-03-100-023, L-16-03-100-029, L-16-03-100-030, L-16-03-100-008, L-16-03-100-012, L-16-03-100-010, L-16-03-100-024. **Motion UNANIMOUSLY CARRIED.**

APPROVAL OF MINUTES

Mr. Clink moved, Mr. Cheresko seconded to approve minutes from November 8, 2017 as amended. **Motion UNANIMOUSLY CARRIED.**

CALL TO THE PUBLIC

A Member of the Public thanked the Board.

BOARD MEMBER REMARKS

None.

ADJOURNMENT:

Wiltse moved, Mr. Cheresko seconded to adjourn the meeting at 8:48 p.m. **Motion UNANIMOUSLY CARRIED.**

Charter Township of Milford,

Keith Cheresko
Secretary

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EXHIBIT U



July 12, 2016

Ray Leduc, PE
RL Corporation Inc.

RE: Trip Generation Estimate Comparison for Revised Zoning

Dear Mr. Leduc:

We have reviewed the current and proposed zoning information provided by you and prepared trip generation estimates for both scenarios. The below table summarizes the comparison. The following assumptions as provided by RL Corporation Inc. were used in the preparation of these estimates:

- Existing Zoning
 - 67 acres total: 34 acres is zoned restricted office and 33 acres is zoned R1S (single family housing units at 1.5 acre per unit)
 - 34 acres of restricted office assumed to be 10,000 square feet of medical use per acre (340,000 square feet total of medical office space)
 - 33 acres of zoned R1S at 1.5 acres per unit equates to approximately 22 units
- Revised Zoning
 - Approximately 200 single family units across the full 67 acres (no office)
- Trip Generation Rates
 - Rates from the Institute of Transportation Engineers (ITE) Trip Generation Manual 9th Edition were used for this estimate based on current state of practice.

	Housing Units	Office (square-feet)	AM Peak Hour (Trips)	PM Peak Hour (Trips)	Daily (Trips)
Existing Zoning	22	340,000	829	1236	12494
Revised Zoning	200	-	150	200	1904

As shown in the above table, the Revised Zoning based on the assumptions above is expected to yield significantly less trips than the existing zoning (approximately 679 less trips in the AM peak hour, 1036 less trips in the PM peak hour, and 10,590 less trips daily).

Sincerely,

WSP | PARSONS BRINCKERHOFF

Matthew Hill, PE, PTOE

EXHIBIT V

STATE OF MICHIGAN
OAKLAND COUNTY CIRCUIT COURT

MILFORD HILLS PROPERTIES, INC.,
a Michigan corporation, and
RPL of MICHIGAN, INC.,
a Michigan corporation,
Plaintiffs,

Hon. D. LANGFORD MORRIS

Case No.: 2017-162642-CZ

v

CHARTER TOWNSHIP OF MILFORD,
a Michigan charter township,
Defendant.

LAW OFFICE OF PAUL E. BURNS
Paul E. Burns (P31596)
Attorneys for Plaintiffs
133 West Grand River
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**AFFIDAVIT OF PAUL LEBLANC
LAND USE PLANNER**

STATE OF MICHIGAN)
COUNTY OF LIVINGSTON)

Paul LeBlanc, being duly sworn, deposes as says:

1. I am a certified land use planner licensed by the American Institute of Certified Planners.

I have been licensed since 1979. A copy of my curriculum vitae is attached as Exhibit 1.

2. I have been retained by Plaintiffs to review the current zoning ordinance as applied to a 68-acre parcel of property owned by Plaintiffs west of Milford Road in Milford Township.
3. I have prepared a report containing my findings and opinion, a copy of which is attached as Exhibit 2.
4. I confirm that the contents of my report are true and accurate to the best of my information, knowledge, and belief.
5. If sworn I can testify to the contents herein.

I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my information, knowledge, and belief.


Dated: 12/16/19



 PAUL LEBLANC

STATE OF MICHIGAN)
 COUNTY OF LIVINGSTON)

On 12/17/19, the foregoing instrument was acknowledged before me by Paul LeBlanc.



 Pamela Ann Fisher, Notary Public

 Livingston County, Michigan
 Acting in _____
 Livingston County, Michigan
 My commission expires: 3/13/2024

Prepared by: Jeffrey D. Alber
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EXHIBIT 1



Paul M. LeBlanc, AICP

Principal, PLB Planning Group, LLC



Education:

- BA, University of Wisconsin, Urban Analysis
- MPA, Western Michigan University, Public Administration

Memberships/Affiliations:

- American Institute of Certified Planners
- American Planning Association
- Michigan Association of Planning
- Former Trustee, Ada Township, Michigan
- Former member City of Kentwood Planning Commission

Professional Experience

- 1971-1973, *Saginaw County Metropolitan Planning Commission*
Senior Planner
- 1974-1979, *West Michigan Regional Planning Commission*
Assistant Director-Land Use
- 1979-1991, *The WBDC Group*
Vice-President/Manager-Community Development Division
- 1991-1995, *Design Plus*
Partner/Manager-Planning and Landscape Architecture
- 1996-2016, *LSL Planning*
Co-founder, Principal
- 2016-Present, *PLB Planning Group*
Founder, Principal

Representative Project Experience

- Comprehensive and Master Planning:
Cannon Township (MI) Master Plan / Peters Township (PA) Comprehensive Plan / Algoma Township (MI) Master Plan / Park Township (MI) Master Plan / Johnson County (IN) Comprehensive Plan / Stone Mountain (GA) Master Plan / Cedar Lake (IN) Comprehensive Plan / West Side Business District (Grand Rapids, MI) Area Specific Plan / Town of Whiteland (IN) Comprehensive Plan/ East Grand Rapids (MI) Master Plan/ Rockford (MI) Master Plan
- Zoning and Land Development Regulation:
East Grand Rapids (MI) Zoning Ordinance / Rockford (MI) Zoning Ordinance / Yellow Springs (OH) Zoning Ordinance / Cannon Township (MI) Zoning Ordinance / Richmond Hill (GA) UDO / Fort Mill (SC) UDO / Wilmington (NC) UDO / North Olmsted (OH) Business District Regulations / La Porte County (IN) Joint Zoning Ordinance/ Palmetto (GA) Zoning Ordinance / Kodiak Island Borough (AK) Zoning Code / Hilliard (OH) Zoning Code / Fayetteville (GA) UDO/ Portland (MI) Zoning Audit
- Expert Testimony (Circuit Court):
Berrien County, Kent County, Livingston County, Macomb County, Monroe County, Oakland County, Ottawa County

EXHIBIT 2

Case Analysis Milford Hills Properties v. Milford Charter Township

Proposed Development

The applicant requested a conditional rezoning from the current R-1S, Suburban Residential, and RO-1, Restricted Office, to permit a single-family residential development consisting of, in its final iteration, 157 single-family dwelling units (a net density of 2.3 units per acre). Under the proposed plan, homesites would be arranged in clusters throughout the site to respect the scattered wetlands and allow residents to abut sizeable open space areas. More than half the entire site would be preserved as open space and no lots would be closer than 100 feet to the existing single-family development to the west.



Existing Conditions

The subject property is approximately 68 acres, located on the west side of Milford Road, abutting the north boundary of Milford Village.

Most of the site is heavily wooded and much of it is encumbered by wetlands scattered throughout the property. Four small exception parcels are found intermittently along the Milford Road frontage, each contains one or more structures, either office buildings or dwellings.

Properties surrounding the subject site are mostly developed and contain a variety of uses and intensity, as illustrated in the following table.

Adjacency	Existing Use
North	Single-family homes
South	Offices, multi-family, and single-family
East	Offices, multi-family, single-family, and vacant
West	Single-family subdivision

Analysis

○ Zoning

The subject property is split, approximately in half, into two zoning districts – R-1S Residential (33.5 acres) and RO-1 Office (34.7 acres). Surrounding zoning is mixed, as shown in the following table:

Adjacency	Existing Zoning
North	RO-1, Restricted Office
South	RM-1, Multiple-Family and O-1, Office
East	R-2, Multiple-Family
West	R-1S, Suburban Residential



○ **Master Plan**

The Township Master Plan was originally adopted in February 2009 and was updated and newly adopted on May 25, 2017, three months after the applicant’s rezoning request was submitted. While the Future Land Use Map designated the subject property as Office along the Milford Road frontage and Low Density Single-Family Residential for the balance of the site, the text offers additional guidance regarding the intent of the Plan and the desired land use patterns in the community. Based on the goals and policies articulated in the Plan document and the location of the site, there is a disconnect between the Future Land Use map designation and the intent of the Plan itself.

The Plan’s **Guiding Principles**, beginning on page 4, establish the framework for future development decisions. However, the future land use designation of the subject property is inconsistent with several of these key planning principles.

1. *“Maintain a policy of controlled, moderated growth, based upon the principles of concurrency”— requiring facilities and services at the time of development and ‘sustainability’— making community planning decisions that will benefit, not burden or penalize, the Community’s future generations.”*

The proposed development has access to an existing sanitary sewer and water system serving the property on the opposite side of Milford Road. The available capacity of the sanitary sewer, as acknowledged by the Township’s own engineering consultant and the Michigan Department of Environmental Quality, is sufficient to serve the project.

Traffic projections, prepared by a nationally recognized consulting firm, demonstrated that the traffic to be generated by the proposed development would be approximately one-tenth of that expected from development that would be consistent with the Master Plan’s future land use designation (office and residential). Public comment throughout the review process focused on traffic as one of the primary objections to the project. Yet, the proposed development would be of substantially greater benefit to the community by reducing the traffic burden to a fraction of the master planned uses.

2. *“Acknowledge the historic community service center in the Village of Milford as a focal point for specialized shopping, office, entertainment and civic functions. Its available services, alternative housing opportunities and downtown historic focal point are features conducive to supporting the Township’s surrounding rural residential development pattern.”*

The development pattern surrounding the village is not rural in this area. Land use adjacent to the village boundary on the east side of Milford Road consists of high density multiple-family, small lot single-family, and office uses. Property west of Milford Road is partially zoned for offices along the north boundary of the village and moderate density single-family residential along the west village boundary. While the village is acknowledged as the core activity center, land use should transition out from that core in gradually decreasing intensity, providing roof tops and population to support the village businesses and creating a walkable environment to further mitigate potential traffic issues.

3. *“Recognize the emerging importance of the I-96/South Milford Road interchange area as the gateway entrance to the Community from the south. Carefully plan for commercial and residential uses in proximity to this interchange that will benefit from its proximity, as well as its position near the emerging shopping district located to its south in Lyon Township.”*

Clearly, the designation of the Milford Road frontage for offices is inconsistent with this policy. Evidence of this incongruity was offered by a member of the Planning Commission at a public meeting, noting that office uses wouldn't work in this area along North Milford Road due to the distance from the I-96 interchange.

7. *“Reject sprawl development characterized by spread-out development along roadways, generic or uncoordinated architecture, big box construction, strip malls, and fast-food drive-through restaurants. Instead, focus development within planned centers offering a pedestrian orientation and distinctive design that maintains Milford's strong sense of place and protects its rural atmosphere, characterized by open fields, farmland or woodlands as common elements of the visual landscape.”*

Adhering to a zoning pattern that requires one-and-a-half acre lots adjacent to the village is sprawl. It needlessly consumes land, discourages walking, and replaces the visual landscape with homes and manicured lawns. Requiring large lot density in an area capable of being serviced with public utility systems instead of private on-site systems, is wasteful, inefficient, and environmentally irresponsible. The project proposed as a condition of the rezoning offered walkability, preservation of sensitive lands, and reduced traffic.

8. *“Maintain “life cycle housing” and a full range of supporting community services so that people in various stages of life can find a home they can afford which is suited to their personal needs and tastes.”*

Not all single-family homes are the same. The proposed rezoning would allow for smaller, more affordable homes, on smaller lots than currently required by the R-1S zoning.

10. *“Promote the development of community services and facilities that work to integrate and unify the Community.”*

The proposed development would include pathways, sidewalks, and a connection to Kennington Metro Park and adjacent communities, reinforcing the concept of walkability and allowing greater use and enjoyment of available resources and facilities.

In addition to the Planning Principles espoused in the document, the Master Plan at page 5 also emphasizes **Smart Growth Principles**, many of which are ingrained within the proposed development. Of the 10 Smart Growth Principles, the project linked to the rezoning directly addressed each of these principles as described below:

1. Mix land uses;

The proposed single-family residential development would contribute to the mix of varying residential types within the immediate surroundings, as well as supporting the businesses and other non-residential uses within the adjacent village.

2. Take advantage of compact building design;

The proposed development would be a compact cluster layout, occupying less than half of the 68 acres of land. Individual homes, likewise, would be in scale with the smaller lots.

3. Create a range of housing opportunities;

Dwellings within the proposed development would contribute additional housing choices to the community beyond the predominant large homes on acreage lots for which most of the Township is zoned.

4. Create walkable neighborhoods;

In addition to the inherent compactness of the neighborhood, the proposed development would include, as a condition of the rezoning, interior sidewalks and pathways providing a connection to the Village business district and other off-site amenities such as Kennsington Metro Park.

5. Foster distinctive, attractive communities with a strong sense of place;

Not only would the resulting development be a distinctive neighborhood, but its adjacency to the village and connectivity to surrounding amenities would enhance the viability of the village business district, contributing to its sense of place.

6. Preserve open space, natural beauty, and critical environmental areas;

Over half the site would be set aside as permanent open space, part of which would contain a pedestrian trail available to the general public.

7. Strengthen and direct development towards existing communities;

This is a significant strength of the proposed project. Lying adjacent to the Village of Milford, the proposed development would create an excellent transitional use from urbanized village to more rural large lot development to the west. Its nonmotorized trail connection would create a functional link to the village business district, enhancing the potential customer base and stimulating the district's viability.

8. Provide a variety of transportation choices;

Again, proximity to the village business district and the inclusion of a pathway network for pedestrians and cyclists affords residents and their visitors an alternative to adding more vehicles to the roadways.

9. *Make development decisions predictable, fair and cost effective; and,*

The denial of the proposed rezoning is the antithesis of a predictable, fair, and cost-effective process. A project that contributed to the goals and policies of the Township Master Plan, located on a site for which the designated land use was acknowledged to be unsuited, should have been embraced by the community. Instead, the review process was dragged out for eight months before the rezoning was denied for reasons that are unsupportable.

10. *Encourage community collaboration in development decisions.*

While extensive community input was apparently sought during the formulation of the updated Master Plan and from which the planning principles were ultimately derived, the decision to deny the rezoning request ignored those principles and relied on emotional pleas from the adjacent neighbors whose objective was to retain the open field behind their homes.

In addition to the stated planning principles, the Master Plan also advocates transitional development, i.e., a gradual reduction in land use intensity from the central core. The current zoning pattern on the subject property of very low density residential adjacent to office and multiple family zoning on three sides is not transitional.

○ **Decision Findings**

In making its recommendation to the Township Board to deny the proposed conditional rezoning, the Planning Commission adopted the following nine findings to support its decision. These same findings were incorporated into the Township Board's final decision to deny the request. As indicated by my comments accompanying each of the findings, there were no material facts offered to support any of the findings and some conclusions were completely erroneous.

1. *The proposed district change cannot be accommodated by amending the zoning text change once a text change of this nature would be implemented as text change, it would apply to the entire zoning classification and the entire community, other districts, both R-1S and also RO-1.*

While not the preferred approach, the text could be amended to accommodate the proposed project as a special land use in the R-1S and RO-1 districts. Criteria specific to the subject site, proposed use, minimum open space, and project density could be inserted to ensure that only this property would qualify.

2. *There is no evidence of a change in conditions due to the land use trends which was recently confirmed by adoption of our Master Plan. Also, there is no market study submission as part of this proposal to address this.*

During the course of the Planning Commission's review of the rezoning request, it was acknowledged by individual members of the Commission that "office space along Milford Road doesn't work because it is so far from the expressway." [Commissioner Mazzara, May 25, 2017 minutes]

In addition, the Planning Commission never requested a market feasibility study. However, subsequent to the Township's action to deny the request, the applicant did commission such a

study from a professional firm which concluded that the subject property, as zoned, has no value. Specifically, the analysis states:

“The sub-market clearly cannot support this volume of office space, and feasibility does not exist. With the market clearly not supporting an office use, with no use, there is no value.” [Restricted Appraisal Report, Frohm & Widmer, October 9, 2019, p. 21]

“Given development costs and forecasted proceeds from the sale of homes in the development, value is negative, which also clearly concludes that development ‘As Zoned’ is not economically feasible.” [ibid.]

3. *The proposal is not compatible with the Master Plan.*

The Township’s decision-makers based their entire conclusion on the future land use map contained within the Master Plan document. As the applicant pointed out, which was affirmed by the Township’s planning consultant, the Master Plan is more than a map. The substance of the Master Plan is its goals, policies, and recommendations. The proposed development was fully supported by these integral elements of the Plan.

In addition, at the May 25, 2017 meeting at which the amended Master Plan was adopted, Commissioner Mazzara stated that office development along North Milford Road (as shown on the proposed Future Land Use Map that was about to be adopted) “doesn’t work because it is so far from the expressway.”

4. *The proposal is not compatible with the existing or adjacent land use patterns. These existing land use patterns comply with the current zoning ordinances of the Master Plan use. The proposal would have negative effect on the adjacent neighborhood.*

This statement is false. The proposed development borders the Village of Milford on the south where there is a development consisting of offices, multi-family dwellings, and single-family dwellings at densities higher than the 2.3 units per acre proposed by the applicant.

Additionally, the property on the southwest corner of the subject site (in Milford Township) is both zoned and planned for Medium Density Single-Family Residential (four dwellings per acre), the same zoning as requested for the subject property but at nearly half the density.

To the east, there are two office buildings (partially vacant) abutting the subject site and directly across Milford Road from the site is a mixed-use development consisting of offices, multiple-family dwellings, and single-family dwellings at a density substantially higher than that proposed by the applicant. It should also be noted that while the property across the street is zoned R-2, Multiple-Family, it is designated on the Master Plan’s Future Land Use Map as Single-Family Residential Low Density, completely inconsistent with its actual use.

Likewise, the individual lots lining Rowe Road on the north side of the subject site are planned for Low Density Single-Family Residential, but zoned RO-1, Restricted Office.

The subdivision abutting the west side of the site is the only property in the township adjoining the site whose actual use mirrors the current zoning. It is both zoned and master planned for low density residential development.

One of the factors most blatantly disregarded findings relates to traffic impact. An analysis provided to the Planning Commission found the following: “the Revised Zoning...is expected to yield significantly less trips than the existing zoning (approximately 679 less trips in the AM peak hour, 1036 less trips in the PM peak hour, and 10, 590 less trips daily).” [Parsons Brinckerhoff *Trip Generation Comparison Estimate* letter, July 12, 2016]

5. *The applicant has not provided any evidence that the land as zoned cannot be developed in accordance with the current zoning. The applicant through the submission of the compliant parallel plans shows the land can be developed in accordance with the correct zoning ordinances. The applicant stated that even through the compliant plan is not economically possible.*

Even Planning Commissioner/Township Trustee Mazzara, who made the motion to recommend denial, acknowledged in a public meeting that the site was not suitable for office development because of its location. This opinion was also supported by the Township’s planning consultant, Nick Lomako, who stated in his deposition: “the Township [planning commission] has come to the conclusion...that there is not market justification to support office development along that stretch. [Lomako deposition, p.50] Likewise, the Township supervisor conceded the same point in his deposition that there is no market for offices. [Green deposition, p. 88]

6. *Public water and sewer are not necessarily the necessity for the property to be developed as presently zoned. No information has been provided by Oakland County. There are nearby developments that provide for this type of use and product.*

On pages 40 and 41 of Supervisor Green’s deposition, he acknowledged that the subject property does not perc and that the site cannot be developed without sanitary sewer. He also stated at page 73 of that deposition that no applications had been submitted to the Township for one-and-a-half acre lot subdivisions in 20 years.

7. *The Milford community land use plan is a well thought out joint land use plan between the Village of Milford and the Township of Milford. The plan is designed to keep and promote the Village as the center core of the community with the higher density housing and commercial development it has been this way historically for years.*

This is a complete misstatement regarding the Plan, current zoning, and land use adjacent to the Village. There are existing Township zoning districts abutting the Village that allow for high density multiple-family development, moderate density single-family development (such as proposed by the applicant), and office development. All such zones surround the subject site. In addition, the transect concept advocated by the Master Plan (p. 6) acknowledges the desirability of transitional zoning in a concentric circle pattern outward from the urbanized core, exactly as proposed by the applicant.

8. *Even though this development would not be considered spot zoning, the proposed development is not consistent with the established zoning patterns.*

Again, this statement is untrue and completely ignores the established zoning pattern surrounding the subject property – office zoning to the north; multiple-family zoning to the east; and multiple-family, office, and moderate density single-family to the south. Even the subject site, itself, is partially zoned for offices. Only the property to the west is zoned for large lot single-family residential.

The proposed R-1 zoning district on this site is a textbook example of transitional zoning, consistent with the transect concept advocated by the Master Plan.

R-1 zoning would constitute a down-zoning of the RO-1 portion of the site to a less intensive land use. It would also potentially be less intrusive than the current R-1S district (which allows keeping of farm animals and helipads as a matter of right) adjacent to the existing multiple-family, office, and moderate density single-family development and zoning.

In addition, it has been noted repeatedly by Planning Commission members and in depositions by both the Township supervisor and Township planning consultant that there is no market demand for offices in this location.

9. *The proposed development does not offer any opportunities to the township to grant a change in zoning. The residential portion of the project is already zoned a lesser district classification. As such the property currently permits the residential use in the lesser district classification. There are several options offered within the current zoning ordinance that could afford the applicant other remedies such as lot averaging in cluster developments. The ordinance also affords some opportunity for dimensional variances to the environmental preservation but does not allow for increased density. The conditions offered by the applicant referred to as benefits do not promote the intent of the Master Plan or serve as a means to blend the existing land use with the proposed plan.*

Under the current R-1S zoning, the applicant would be permitted to develop a maximum of 22 single-family lots, regardless of the purported options noted in the above statement, and 340,000 sq. ft. of offices. It has been acknowledged in the Township supervisor’s deposition that there have been no requests for R-1S subdivisions in 20 years; such a development would have to be served by sewer; and there is no demand for offices in this location. This conclusion has been verified by the market analysis prepared for this site.

In addition, the above statement mischaracterizes the intent of the Master Plan. As noted previously, the proposed rezoning and resulting residential development fully support the policies articulated in the Plan and the transect model on which the Plan is based.

It should also be noted that the above statement and the supervisor’s deposition reference “benefits” to be derived from the proposed project. There is no zoning ordinance standard that references “benefits” to the community related to zoning amendments. Despite such benefits not being an appropriate consideration for a rezoning, the proposed conditional rezoning does afford the community substantial benefits by:

- contributing far less traffic than would be generated if the subject property could be developed as zoned and master planned;

- preserving and protecting more than half of the 68 acres as open space, much of which is sensitive wetlands and habitats;
- constructing a nonmotorized pathway through the site and linking it with adjacent paths to provide connectivity to the Village and other regional amenities; and
- agreeing to install a traffic signal on Milford Road, if warranted.

Conclusion

It is my professional opinion, as a community planner with over 40 years of municipal land use planning and zoning experience, that the conditional rezoning of the subject property should have been approved. Further, the Township Planning Commission and Township Board acted inappropriately by misapplying the review criteria of their ordinance and ignoring the content of their adopted Master Plan. My opinion is based on the comments in this report and more specifically the following:

- Master Plan. The Master Plan principles and transect model upon which it is based support the rezoning. The future land use map incorrectly designates property directly across Milford Road from the subject site as “Single-Family Residential Low Density”, completely contrary to its actual intense use and zoning.
- Compatible. The proposed conditional rezoning and intended use of the subject property are fully compatible with the adjacent uses and zoning on all sides, including the adjacent Village property to the south.
- Transition. The proposed conditional rezoning offers an ideal transition from the more intense development on the east side of Milford Road to the large-lot homes abutting the west side of the subject site. In addition, the proposed cluster arrangement of the site would provide a natural buffer along that western boundary, creating an even more gradual transition.
- Traffic. One of the predominant concerns expressed by the public and decision-makers throughout the proceedings related to traffic impact. The results of a professionally prepared traffic analysis showed traffic generation would be substantially less from the proposed development than as currently planned and zoned. These findings fell on deaf ears and were completely ignored.
- Utilities. Public sewer and water are available to serve the proposed project. Providing such utilities to serve a 22 acre subdivision, as currently allowed, would be cost prohibitive.
- No material facts. The reasons cited for denial of the request lacked any empirical or factual support. So called “findings” were based on emotion and hyperbole voiced at several public hearings. Even the public admission by members of the Planning Commission that the office designation on the subject property was inappropriate did not sway the final vote.
- Planning Consultant’s Decision Guide. Despite the unusual step of not being asked to provide a professional review and recommendation relative to the conditional rezoning application, the Township’s consultant offered comments via a Decision Guide. That document pointed out the fallacy of many of the public comments and Planning Commission statements, noting the project’s appropriateness relative to the Master Plan.
- Decision criteria. As noted previously, the statements supporting the decision criteria lacked foundation and, in some cases, were completely false.
- Legitimate governmental interest. The current inappropriate zoning of the subject property does not advance a legitimate governmental interest by ignoring the Master Plan principles, failing to acknowledge changing conditions, and denying the applicant a reasonable use of the property.