

GRAND HAVEN CHARTER TOWNSHIP BOARD
MONDAY, MARCH 28, 2016

Work Session – 6:45 P.M. (HELD AT THE FIRE/RESCUE STATION)

1. Proposal to Change Board Meeting Dates

REGULAR MEETING – 7:00 P.M. (HELD AT THE FIRE/RESCUE STATION)

- I. CALL TO ORDER
- II. PLEDGE TO THE FLAG
- III. ROLL CALL
- IV. APPROVAL OF MEETING AGENDA
- V. CONSENT AGENDA
 1. Approve March 14, 2016 Board Minutes
 2. Approve Payment of Invoices in the amount of \$165,510.28 (*A/P checks of \$76,922.29 and payroll of \$88,587.99*)
- VI. OLD BUSINESS
 1. Second Reading – Speedway & North Star Commercial PUD Rezoning
 2. Health Pointe PUD Amendment Application
- VII. NEW BUSINESS
 1. Approval of a Payment in Lieu of Taxes (PILOT) agreement with Health Pointe
- VIII. REPORTS AND CORRESPONDENCE
 1. Correspondence
 2. Committee Reports
 3. Manager's Report
 - a. February Legal Report
 4. Others
- IX. EXTENDED PUBLIC COMMENTS/QUESTIONS ON NON-AGENDA ITEMS ONLY
(*LIMITED TO THREE MINUTES, PLEASE.*)
- X. ADJOURNMENT

NOTE: The public will be given an opportunity to comment on any agenda item when the item is brought up for discussion. The supervisor will initiate comment time.

SUPERINTENDENT'S MEMO

DATE: March 23, 2016
TO: Township Board
FROM: Cargo
SUBJECT: Change of Board Meeting Dates

Supervisor French asked that a request from Trustee Redick to change the Board meeting dates be considered at the Work Session on March 28th. (*Please see attached email from Trustee Redick.*)

In brief, Trustee Redick has a work conflict because of his recent appointment as the primary attorney for Crockery Township – which meets on the second Monday of each month.

That said, if the Board does agree to accommodate Trustee Redick request, I would recommend that the Board simply change the regular Board meeting day to Tuesday nights (*i.e., the Tuesday following the second and fourth Monday of each month*).

In addition to accommodating Trustee Redick, there are some “Pros” related to the request, including:

- ✓ Because the meeting would be on a Tuesday night, it would be easier for Township Attorney Bultje to attend Board meetings when requested (*i.e., it would eliminate the current conflict with the Spring Lake Township Board*);
- ✓ Because the meeting would be on a Tuesday night, it would allow elected officials to plan “long” weekends and/or provide additional time to review Board packets. (*Board packets would continue to be prepared by the Thursday prior.*)

The only “Con” is that some of the public expect Board meetings to be on Monday nights.

If you have any questions, please contact either Redick or French prior to the meeting.

Bill Cargo

From: Ronald M. Redick <RRedick@mikameyers.com>
Sent: Thursday, March 17, 2016 1:41 PM
To: Karl French
Cc: Bill Cargo
Subject: 2016 Election

Karl,

Good afternoon. I have a matter I need to discuss with you and the GHCT Board, concerning the possibility of me running for Trustee at the Nov. 2016 election. I would like to do that, but I have an obstacle.

Our firm represents Crockery Township, and starting next year (in 2017) I will become their primary attorney, meaning that I will need to attend their Board meetings. The problem with that is that the Crockery Township Board meets the second Monday of each month, just like GHCT. Thus, if I was on the GHCT Board, this would mean that I would miss at least ½ of the GHCT Board meetings. I wouldn't do that, however. I could not in good faith remain a GHCT trustee, knowing that I would be unable to attend half the meetings.

So, my question is this -- is there any possibility that the GHCT would consider changing its Board meeting schedule?

I am reluctant to even ask this question, for reason that GHCT should not have to rearrange its schedule to accommodate one person. Moreover, I might not win election, in which case this would be a moot point. In short, I feel a little bad about even asking the question, because I don't want to leave the impression that anyone should rearrange their schedule around me. That's not the case.

At the same time, however, I need to make a decision soon about whether to run for Trustee. April 19 is the deadline for filing nominating petitions and affidavits of identify for the August primary. And so I need to decide how to proceed before then.

If there is no possibility of a schedule change, then I probably will not run. I don't want to get into a situation where I might be elected, the Board then decides not to change the schedule, and I then need to resign because of the conflict. I would not want to put the Township in the position of having to appoint someone and then have an off-year special election.

So, I would appreciate hearing your thoughts on this. I would like to continuing serving as a trustee, but if it's just not possible, I would understand. Thanks.

Mika Meyers^{PLC}

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**GRAND HAVEN CHARTER TOWNSHIP BOARD
MONDAY, MARCH 14, 2016**

REGULAR MEETING – 7:00 P.M.

I. CALL TO ORDER

Supervisor French called the special meeting of the Grand Haven Charter Township Board to order at 7:02 p.m.

Fire Marshal Kriger discussed the emergency exits, the presence of emergency personnel, and what would occur in the event of an emergency.

II. PLEDGE TO THE FLAG

III. ROLL CALL

Board members present: French, Larsen, Behm, Redick, Meeusen, Hutchins and Kieft.

Board members absent:

Also present were Manager Cargo, Planner Fedewa, and Attorney Bultje.

IV. APPROVAL OF MEETING AGENDA

Motion by Clerk Larsen and seconded by Trustee Hutchins to approve the meeting agenda. **Which motion carried**, with Kieft voting no.

V. APPROVAL OF CONSENT AGENDA

1. Approve February 22, 2016 Board Minutes
2. Approve Payment of Invoices in the amount of \$525,493.43 (A/P checks of \$411,948.27 and payroll of \$113,545.16)
3. Approve Proclamation for National Library Week (April 10th - 16th)
4. Approve 2016 Street Paving Agreement with OCRC (\$275,405)
5. Approve Low Bid for Mercury Pathway Resurfacing (\$175,721)
6. Approve Low Bid for Lakeshore Pathway Resurfacing (\$88,894)
7. Approve Barbara VanHeest to the Board of Review for Term Ending 01/01/2017

Motion by Supervisor French and seconded by Trustee Behm to approve the items listed on the Consent Agenda. **Which motion carried.**

VI. PRESENTATION - Loutit District Library Annual Report

Caryn Lannon, Susan Robertson (*who are Board members of the Loutit District Library*) and John Martin (*who is the Director of the Loutit District Library*) provided a brief overview of the 2015 Annual Report and activities occurring at the Library

VII. PUBLIC HEARING

1. Opening Statement – Supervisor French opened the Speedway and North Star

Commercial PUD Rezoning hearing at 7:11 p.m. and welcomed the public and noted the general format for the public hearing.

2. Planning & Zoning Review – Planner Fedewa provided a review of the proposed project, which encompasses about 4.37 acres, includes a 4,600 square foot store, auto fueling canopy with 14 fueling stations, commercial fueling area with three stations outdoor seating, and other amenities. The project also encompasses Phase II, which is a 4.25 acre lot immediately adjacent.
3. Applicant’s Review & Explanation
 - a. Mandy Gauss is a civil engineer with CESO, Inc. (8164 Executive Court, Suite B, Lansing, Michigan). Gauss reviewed the site plan and exceptions; discussed improvements to Hayes Street at US-31 and 172nd Avenue at the entrance.
 - b. Mike Bergman (8902 Vincennes Circle, Suite B, Indianapolis, Indiana 46268) reviewed the architectural design and outdoor seating and merchandise sales, which will be enclosed with metal fencing.

It was noted that the current metal face of the canopy roofs do not comply with the standards of the Township’s Overlay District. The applicant noted that the metal face would be coated with a “stucco” like material in a neutral color. It was noted that the color and final decision on the material would need to be determined prior to passage of this PUD application.

There being no further comments, Supervisor French closed the public hearing at 7:35 p.m.

VIII. NEW BUSINESS

1. **Motion** by Clerk Larsen supported by Trustee Behm to postpone further action until the March 28th Board meeting on the proposed Speedway, North Star, and Alice Bottje Planned Unit Development application and rezoning of parcels 70-03-33-300-068 and 70-03-33-300-069 from Agricultural (AG) to Planned Unit Development (PUD). This is a first reading. **Which motion carried.**
2. **Motion** by Treasurer Kieft supported by Trustee Meeusen to approve Resolution 16-03-01 approving a one-year license agreement with Allied Waste for waste collection and hauling services in Grand Haven Charter Township. **Which motion carried,** pursuant to the following roll call vote:
Ayes: Kieft, Meeusen, Larsen, French, Behm, Hutchins, Redick
Nays:
Absent:

IX. OLD BUSINESS

1. The Board received public comments on the proposed Zoning Text Amendments, which included the following:
 - a. Jana Reenders (16616 Warner Street, Grand Haven Township) provided a PowerPoint presentation that addressed the scale of a 55' building.
 - b. Mark Reenders (16616 Warner Street, Grand Haven Township) is the Director of

Facilities for NOCH and believes that medical offices cannot be included in a Commercial PUD; Building height should be limited to 40', which is the same as the City; the building height should be applied throughout the commercial zones in the township; the Planning Commission joint meeting minutes do not reflect the meeting.

- c. Charlie Hoats (6641 Fence Row Court, Caledonia) is an owner of Trio-Real Estate and owns 7 acres immediately north of the proposed Health Pointe facility. Believes that the 1998 Meijer PUD established that the highest and best use is commercial; that the ordinance amendments are supported by the Robbins Road Master Plan amendments; and, the Board has done what is required and beyond with regard to the review process.
- d. Matthew Zimmerman (333 Bridge Street, NW, Grand Rapids) is an attorney representing Mark Reenders. Believes that the Board should table or postpone indefinitely the ordinance amendments and there should not be changes to an established ordinance.
- e. Holly Lookabaugh-Deur (owner of Generation Care) is a vendor with Spectrum, Holland Hospital and NOCH. The proposed medical office should not be a reason for supporting the ordinance changes; zoning is a contract with the owner and the Township; rules should not change and if the rules are changed it will reduce the value of other properties that are zoned Service Professional.

Trustee Redick noted that he supported the proposal to lower the maximum building height from 55'; but, that he has concerns with the clause in Section 2 of the proposed ordinance that reads “, *or the Future Land Use Map designation of the property*”. Trustee Redick believes that this creates a situation in which any designated Master Plan land use could define the underlying zoning for a PUD.

Motion by Trustee Redick and seconded by Trustee Hutchins to approve the Zoning Text Amendment Ordinance, with a draft date of March 14, 2016, to revise sections of the Planned Unit Development Chapter of the Grand Haven Charter Township Zoning Ordinance, following the February 22, 2016 first reading of this Zoning Text Amendment Ordinance, with a draft date of December 28, 2015; the two differences between the March 14, 2016 draft and the December 28, 2015 draft are (1) that the clause in Section 17.06.2 that reads, “or the Future Land Use Map designation of the property” is deleted; and, (2) that the maximum structure height allowed by proposed Section 17.08.5 shall be 45 feet rather than 55 feet. This is the second reading. **Which motion carried**, pursuant to the following roll call vote:

Ayes: Larsen, Redick, Meeusen, Behm, Hutchins, French
Nays: Kieft
Absent:

2. The Board received public comments regarding the Health Pointe PUD amendment application, which included the following:
 - a. Haney Assaad (178 Independence Court, Norton Shores) is the Chief Medical Officer with NOCH. Questioned whether an out-patient operating room is allowed. (*Attorney Bultje opined that an outpatient operating facility is an ancillary use.*)

- b. Jen VanSkiver (7513 Treeline Drive, S.E., Cascade) is the Chief Communications Officer with NOCH and stated that there has been no communication from Spectrum; Certificate of Need is a regulatory formula that is “gamed” to gain market share with no regulatory oversight.
- c. Tami Harvey (1030 Oak Lane, Grand Haven City) is a Board member of NOCH and does not want the duplication of services; the project will take away business from NOCH and will create job loss; can’t be compared to a gas station; does not want another hospital.
- d. Holly Lookabaugh-Deur (owner of Generation Care) noted that when something new is built, the developer must tell you what the facility will include and the Board must examine the economic impact, taxes, and the content and scope of the business.
- e. Susan Thorpe (935 Pennoyer, City of Grand Haven) is opposed because of the duplication of services; an outpatient surgical facility is the same as a hospital; requires a CON that it does not have; and is not a taxable entity.
- f. Hillary Burns (15745 Grand Point Drive, Grand Haven Township) stated that health care is not a free market system; will create a second hospital when there is no need, no tax base, increased costs and income will leave the community.
- g. David Rehm (15360 Oak Point Drive, Spring Lake) is the general counsel for NOCH. Provided a letter. Noted that the expansion of the Spectrum physicians will not benefit the community; Township not following zoning ordinance or protecting the community.
- h. Dan Holwerda (5361 Fawn Creek Drive, Grandville) is the chief operating officer of NOCH. Noted that there is no identified community need and that the developer is being considered more than the community.
- i. Shelleye Yaklin (10287 Whitewood Drive, Robinson Township) is the President of NOCH. Believes the project is not necessary, that the intent and objectives of the zoning ordinance have not been met; and the project will undermine NOCH.
- j. Scott Alfree (516 Buena Vistas, Spring Lake) noted that it is a rare situation where the right thing is unrelated to zoning or legal analysis; need to ration health care and evolve NOCH; deny or postpone a decision until there is more discussion.
- k. Jack Steinmetz (15695 High Ridge Drive, Grand Haven Township) is the Chairperson of the NOCH Board and is appearing for the third time; approval of the ordinance was despicable; will not provide a tax base; adversely will impact NOCH; this will result in litigation.
- l. Katie Cather (17971 North Fruitport Road, Spring Lake) purchased a home in the area because of the sense of community; vote to delay the project.
- m. Madonna Kramer (18022 Woodland Trail, Spring Lake) left the military and moved to the area in 1998 because of sense of community; concerned about the economic base; this is not just about the mechanics, but the heart.
- n. Frank Durante (14834 Pine Ridge, Grand Haven Township) believes the Township is ramming the project down the throat and have not done their homework.
- o. Cynthia VanKampen (10510 River Bluff Trail, Zeeland) is the Chief Nursing Officer with NOCH. She questioned the amount of parking and the strain on the electrical power grid.

- p. Susan McKinnon (406 Lake Avenue, City of Grand Haven) stated that there is no tax revenue; traffic onto Robbins Road is detrimental; no new jobs; stealing jobs from NOCH; NOCH has specialists; duplication of services; will drive-up medical costs.
- q. Geri McCaleb (1235 Slayton Avenue, City of Grand Haven) is the Mayor of the City of Grand Haven. Believes that there is no recognizable or substantial benefits; competes with NOCH; Birthing Center is placed at risk if NOCH closes; no market study was done; and, it is a duplication of services.
- r. Mark Reenders (16616 Warner Street, Grand Haven Township) is the Director of Facilities for NOCH and believes that the Township should wait for the CON; the HVAC chiller is too close to the public and could create Legionella disease; does not meet the Overlay requirements, landscaping requirements or the zoning requirements.
- s. Matthew Zimmerman (333 Bridge Street, N.W., Grand Rapids) is an attorney representing Mark Reenders and provided a letter from Attorney Kracker. Reviewed five reasons why the application should be denied.
- t. Judy Hooyenga (17515 Ridgemoor Court, #105, Grand Haven Township) remains concerned with Health Pointe; community not large enough to support two hospitals; will have a major negative impact on the community.
- u. Jack Barr (217 Grandville Avenue, Grand Rapids) is an engineer with Nederveld and reviewed the revisions to the landscaping.
- v. Greg Koenig (2959 Crownview Court, NE, Grand Rapids) reviewed the revised building plans including the lower roof and the additional architectural features.
- w. Art Veneklas (139 Youell Avenue, SE, Grand Rapids) noted that there are no cooling towers that could spread Legionella disease.
- x. Dave Ottenbaker (17142 Majestic Court, Grand Haven Township) notes that the Spectrum physicians that are moving from the City to the Health Pointe facility have 20,000 patients and that 80% of these patients health care will be able to be provided on-site; many patients are leaving the area for health care; there is sufficient demand for both NOCH and Health Pointe; have collaborated in the past with NOCH; is not a hospital and has no ER or inpatient services.
- y. Mark Pawlak (8953 North Clearwater Drive, Zeeland) is the Vice President of Holland Hospital. Stated that Grand Haven patients deserve more options and higher care; would create 160 new jobs, have 5 transfers from Holland Hospital and would transfer 85 jobs from the Harbor Dunes facility for a total of 250 jobs; complies with the Master Plan, tax exempt status issue is not decided; Spectrum provides \$283 million in charity care free services while Holland provides \$44 million; Health Pointe is not a hospital and has no inpatient rooms only outpatient surgery.
- z. Jana Reenders (16616 Warner Street, Grand Haven Township) discussed her mother's outpatient surgery at NOCH that required a transfer to the ICU because of an error. If surgeries are the "bread and butter" for NOCH and NOCH is forced to close, where will outpatient surgeries be moved if there is no ER or ICU at NOCH?
- aa. Jeff Beswick (13623 Hofma Court, Grand Haven Township) is a Trustee of NOCH and Co-Chair of the ER Construction Campaign. NOCH provides \$4 million in charity care and free services; the Health Pointe services can be

provided by NOCH; Board has sufficient reasons to vote No.
bb. Don Longpre (1725 Dykhouse, City of Grand Haven) stated that outpatient surgery is done outside of a doctors' office.

Trustee Redick noted that the architectural changes were not responsive with regard to the roof line portion. The issue of whether Health Pointe will be detrimental to NOCH would be a tenuous basis upon which to deny the application. Further, noted that concerns on the possible tax exempt status may be a valid in that a tax exempt status would be a net drag or draw on public services. This is a discretionary zoning decision; but, there is little case law regarding the expected request for tax exempt status. A “Payment In Lieu of Tax” (PILOT) agreement should be considered. A medical facility would not necessarily be detrimental to commercial uses.

Trustee Hutchins noted that NOCH did not agree to participate in a meeting that he wanted to schedule with Spectrum to discuss collaboration. Believes that the Health Pointe development will offer a choice with regard to health care.

Trustee Meeusen noted that there is a great deal of misinformation regarding the Health Pointe application. As an example, he noted that many believe that NOCH is supported by local property taxes. Believes that requests for additional time to review the application are a stall tactic. Noted that the competitive concerns raised are not sufficient reasons to deny approval.

Treasurer Kieft noted that he disagreed with how the zoning text amendments were approved by the Board.

Trustee Behm noted that NOCH provides good services and has a number of close ties to the community. Appreciated the comments received that will help ensure a good decision.

Clerk Larsen agreed that NOCH provides good services and the comments and information received.

Supervisor French requested that Attorney Bultje respond to the following questions:

- Whether the certificate of need (CON) application should factor into the Township decision making process.
- Whether the perceived economic impact on NOCH should factor into the Township decision making process. He asked about the economic argument – protection of an existing competitor to the applicant.
- Whether an outpatient surgical unit – if approved by the State of Michigan through the CON process – is considered an ancillary use for a medical office building.

Motion by Trustee Redick and seconded by Treasurer Kieft to table the Health Pointe PUD Amendment application until (1) the architectural drawings with regard to the roofline are remedied; and, (2) the Township and applicant discuss the use of a PILOT agreement to address the possibility that the Health Pointe facility will secure

a property tax exemption. **Which motion failed**, pursuant to the following roll call vote:

Ayes: Behm, Kieft, Redick

Nays: Hutchins, French, Larsen, Meeusen

Absent:

Motion by Hutchins and seconded by Meeusen to conditionally approve the Health Pointe PUD Amendment, which includes the revised building height, revised elevations, revised landscape plan. This is based on the application meeting the requirements and standards set forth by the Grand Haven Charter Township Zoning Ordinance and Master Plan. The motion is subject to, and incorporates, the following report concerning the PUD Amendments, which report also references certain Zoning Ordinance amendments concerning planned unit developments in general, which received a first reading by the Township Board on February 22, 2016.

REPORT

Pursuant to the provisions of the Grand Haven Charter Township (the "Township") Zoning Ordinance (the "Zoning Ordinance"), the following is the report of the Grand Haven Charter Township Board (the "Board") concerning an application by Health Pointe Corp (the "Developer") for approval of a Health Pointe Planned Unit Development Amendment (the "Project" or the "PUD").

The Project will consist of a 120,026 square foot three story medical office building. This 12 acre project will be located on the remaining five outlots from the original 1998 Meijer PUD. The Project as recommended for approval is shown on a final site plan, last revised 12/9/2015 (the "Final Site Plan"); final landscape plan, last revised 2/10/2016 (the "Final Landscape Plan"); and final building elevation renderings, last revised 3/7/2016 (the "Final Elevations"); collectively referred to as the "Documentation," presently on file with the Township.

The purpose of this report is to state the decision of the Board concerning the Project, the basis for the Board's recommendation, and the Board's decision that the Health Pointe PUD Amendment be approved as outlined in this motion. The Developer shall comply with all of the Documentation submitted to the Township for this Project. In granting the approval of the proposed PUD application, the Board makes the following findings pursuant to Section 17.04.3 of the Zoning Ordinance.

By this report, the Board affirms the tasks assigned to the Grand Haven Charter Township Planning Commission (the "Planning Commission") on January 25, 2016 have been completed. Specifically, the Planning Commission has recommended certain amendments to the Zoning Ordinance, has reviewed certain revisions to the Project, and has met with the City of Grand Haven Planning Commission to discuss the Project.

The Board notes that the Developer's Traffic Impact Study concluded the

Project would have "little or no additional impact on traffic operations" for Robbins Road or 172nd Avenue. Nonetheless, the Traffic Engineer for the Ottawa County Road Commission ("OCRC") has requested certain infrastructure improvements, and the Developer has voluntarily offered to help fund them (as noted in Section 8.T below).

1. The Project meets the site plan review standards of Section 23.06 of the Zoning Ordinance. Specifically, pursuant to Section 23.06.7, the Board finds as follows:

- A. The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site. The site will be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
- B. Safe, convenient, uncontested, and well defined vehicular and pedestrian circulation is provided for ingress/egress points and within the site. Drives, streets and other circulation routes are designed to promote safe and efficient traffic operations within the site and at ingress/egress points.
- C. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area are planned to provide a safe and efficient circulation system for traffic within the Township.
- D. Removal or alterations of significant natural features are restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Board has required that landscaping, buffers, and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
- E. Areas of natural drainage such as swales, wetlands, ponds, or swamps are protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
- F. The site plan provides reasonable visual and sound privacy for all dwelling units located therein and adjacent thereto. Landscaping shall be used, as appropriate, to accomplish these purposes.
- G. All buildings and groups of buildings are arranged so as to permit necessary emergency vehicle access as requested by the fire department.
- H. All streets and driveways are developed in accordance with the OCRC specifications, as appropriate.
- I. Appropriate measures have been taken to ensure that removal of surface waters will not adversely affect neighboring properties or

the public storm drainage system. Provisions have been made to accommodate stormwater, prevent erosion and the formation of dust.

- J. Exterior lighting is arranged so that it is deflected away from adjacent properties and so it does not interfere with the vision of motorists along adjacent streets, and consists of sharp cut-off fixtures.
 - K. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public streets, are screened.
 - L. Entrances and exits are provided at appropriate locations so as to maximize the convenience and safety for persons entering or leaving the site.
 - M. The Documentation conforms to all applicable requirements of County, State, Federal, and Township statutes and ordinances.
 - N. The general purposes and spirit of this Ordinance and the Master Plan of the Township are maintained.
2. The Board finds the Project meets the intent for a PUD, as described in Section 17.01.3 of the Zoning Ordinance. By approving this Project as a PUD, the Township has been able to negotiate various amenities and design characteristics as well as additional restrictions with the Developer, as described in this report, which the Township would not have been able to negotiate if the PUD Chapter of the Zoning Ordinance was not used.
3. Section 17.01.5, Section 17.02.1.B.3, and Section 17.02.1.B.4 of the Zoning Ordinance, as well as Section 503 of the Michigan Zoning Enabling Act, allow for departures from Zoning Ordinance requirements; these provisions are intended to result in land use development that is substantially consistent with the goals and objectives of the Township Master Plan and the Zoning Ordinance, and consistent with sound planning principles. The Developer requested five departures. The Board makes the following findings.
- A. A maximum building height of 45 feet is permitted because of the following findings.
 - i. The Resilient Master Plan Draft encourages vertical expansion to reduce sprawl, preserve open space, and limit the cost of extending infrastructure.
 - ii. The Robbins Road Sub-Area Plan encourages new development to expand vertically by exceeding 2.5 stories and 35 feet.
 - iii. The Grand Haven Charter Township Fire/Rescue Department has an emergency vehicle with the ability to exceed the proposed building height, so public safety is not compromised.
 - iv. The Township has approved height departures for previous PUDs and even buildings outside of any PUD.
 - v. The Project is not surrounded by unique landscapes (e.g., wetlands, dunes, floodplains, etc.).

- vi. The Project does not abut residentially zoned properties, either in the Township or in the City of Grand Haven. The nearest single family dwelling is located in the City, over 1,100 feet away. The nearest dwelling located in the Township, is in a high density residential development, and is more than 550 feet away.
 - vii. The parcels abutting the Project are not master planned for residential use.
 - viii. In addition to all of the above, which the Board finds is adequate justification without more, the Board notes that it had a first reading to adopt a Zoning Ordinance amendment on February 22, 2016, and has just considered a second reading of that revised amendment at this meeting, which eliminates any doubt whatsoever that the increased height requested by the Developer for the Project is allowed in a commercial planned unit development.
- B. A total of 577 parking spaces, which is 93 spaces more than allowed by the US-31 and M-45 Area Overlay Zone (the "Overlay Zone"), is permitted because of the following findings.
- i. Sections 15A.05.13, 15A.10.10, 17.05.1.F, and 24.03.1 require a maximum number of parking spaces unless the applicant provides a parking study that demonstrates the need for additional parking. The Developer has an established history with similar developments which establishes the need for additional parking, and has submitted a parking study to further establish the need.
 - ii. Outside of the Overlay Zone this project would have been permitted 1,200 parking spaces.
 - iii. The excess parking will not be highly visible from US-31.
- C. Three ground signs, each 48 square feet in size and six feet in total height, are permitted because of the following findings.
- i. The original Planned Unit Development approval memorialized in the March 9, 1998 Township Board meeting minutes permits one monument (ground) sign for each outlot, not to exceed 52 square feet and five feet in height, subject to review by the Planning Commission for location. This PUD Amendment comprises five of the six outlots.
 - ii. The three permitted ground signs reduce the amount of signage permitted under the 1998 PUD by 116 square feet.
 - iii. A total height of six feet is permitted under Section 24.13 of the current Zoning Ordinance.
- D. Interior landscape islands shall be permitted to extend the length of the parking space, contrary to Section 15A.10.5 of the Zoning Ordinance, because of the following findings.
- i. Aesthetics to the surrounding area will be enhanced because the interior landscape island will screen the entire length of the parking space.

- ii. The parking spaces surround sides of the building, and each abut a private road or access road. Due to the high visibility of this parking lot this departure is approved in order to provide additional screening from adjacent roadways.
 - iii. This provision has not been uniformly enforced by the Township for other development projects in the Overlay Zone.
 - E. A departure from Section 15A.10.7 of the Zoning Ordinance, which requires concrete curb and gutter throughout the parking lot and paved areas, is denied because of the following findings.
 - i. The Board has consistently required curb and gutter throughout the parking lot and paved areas of developments in the Overlay Zone.
 - ii. As required by Section 15A.10.7, the Developer did not provide compelling evidence to find that overall stormwater disposition will be enhanced if the curbing requirement is reduced.
- 4. Compared to what could have been constructed by right, the Project has been designed to accomplish the following objectives from Section 17.01.4 of the Zoning Ordinance.
 - A. The Project will encourage the use of land in accordance with its natural character and adaptability;
 - B. The Project will promote innovation in land use planning and development;
 - C. The Project will promote the enhancement of commercial employment and traffic circulation for the residents of the Township;
 - D. The Project will promote greater compatibility of design and better use between neighboring properties; and
 - E. The Project will promote more economical and efficient use of the land while providing harmonious integration of necessary commercial and community facilities.
- 5. The Project meets the following qualification requirements of Section 17.02 of the Zoning Ordinance:
 - A. The Project meets the minimum size of five acres of contiguous land.
 - B. The PUD design substantially promotes the Intent and Objectives of Section 17.01 of the Zoning Ordinance; it further permits an improved layout of land uses and roadways that could not otherwise be achieved under normal zoning.
 - C. The Project, as part of the original 1998 PUD, contains two or more separate and distinct uses.
- 6. The Board also finds the Project complies with the general PUD Design Considerations of Section 17.05 of the Zoning Ordinance.
 - A. The stormwater management system for the Project and the drainage facilities will properly accommodate stormwater on the site, will prevent runoff to adjacent properties, and are consistent with the

Township's groundwater protection strategies.

- B. The Project will not interfere with or unduly burden the water supply facilities, the sewage collection and disposal systems, or other public services such as school facilities, park and recreation facilities, etc.
- C. Utility services within the Project shall be underground. This includes but is not limited to electricity, gas lines, telephone, cable television, public water and sanitary sewer.
- D. The internal road system in the Project is designed to limit destruction of existing natural vegetation and to decrease the possibility of erosion.
- E. Vehicular circulation, traffic and parking areas have been planned and located to minimize effects on occupants and users of the Project and to minimize hazards to adjacent properties and roadways.
- F. Parking requirements for each use have been determined to be in accordance with Chapter 24 (Parking, Loading Space, and Signs), and the deviation from Section 15A.10.10 is covered elsewhere in this motion.
- G. Street lighting will be installed in the same manner as required under the Township's Subdivision Control Ordinance.
- H. Buildings in the Project have been sited to protect natural resources. Natural features such as natural grade, trees, vegetation, water bodies and others have been incorporated into the Documentation.
- I. Architectural design features visually screen the mechanical and services areas from adjacent properties, public roadways, and other public areas.
- J. The exterior walls greater than 50 feet in horizontal length or that can be viewed from a public street contain a combination of architectural features, variety of building materials, and landscaping near the walls.
- K. Onsite landscaping abuts the walls so the vegetation combined with architectural features significantly reduce the visual impact of the building mass when viewed from the street.
- L. The predominant building materials have been found to be those characteristic of the Township such as brick, native stone, and glass products. Pre-fabricated metal panels used to screen the mechanical equipment do not dominate the building exterior of the structure.
- M. Landscaping, natural features, open space and other site amenities have been located in the Project to be convenient for occupants of, and visitors to, the PUD.
- N. The Project is reasonably compatible with the natural environment of the site and the adjacent premises.

- O. The Project will not unduly interfere with the provision of adequate light or air, nor will it overcrowd land or cause an unreasonably severe concentration of population.
 - P. Exterior lighting within the Project complies with Chapter 20A for an LZ 3 zone.
 - Q. Outside storage of materials shall be screened from view.
 - R. Signage is compliant with Section 24.13 of the Zoning Ordinance, and the Board approves a modification to the sign provisions found in the March 9, 1998 meeting minutes of the original PUD.
 - S. The Project will not have a substantially detrimental effect upon or substantially impair the value of neighborhood property, as long as all of the standards and conditions of this approval of the Project are satisfied.
 - T. The Project is in compliance with all applicable Federal, State, County, and local laws and regulations. Any other permits for development that may be required by other agencies shall be available to the Township Board before construction is commenced.
 - U. No additional driveways onto public roadways have been permitted.
 - V. The Project is consistent with the goals and objectives of the Master Land Use Plan. Specifically, it is consistent with the Master Plan designation of the property in question.
7. The Board also finds the Project complies with the Overlay Zone findings and statement of purpose found in Section 15A.01 of the Zoning Ordinance.
- A. The Project accommodates a variety of uses permitted by the underlying zoning, but ensures such uses are designed to achieve an attractive built and natural environment.
 - B. The Project provides architectural and site design standards that are more demanding than required elsewhere in the Township in order to promote harmonious development and complement the natural characteristics in the western sections of the Township.
 - C. The Project promotes public safety and efficient flow of vehicular traffic by minimizing conflicts from turning movements resulting from the proliferation of unnecessary curb cuts and driveways.
 - D. The Project ensures safe access by emergency vehicles.
 - E. The Project encourages efficient flow of traffic by minimizing the disruption and conflicts between through traffic and turning movements.
 - F. The Project preserves the capacity along US-31 and other roads in the Overlay Zone by limiting and controlling the number and location of driveways, and requires alternate means of access through service drives.
 - G. The Project seeks to reduce the number and severity of crashes by improving traffic operations and safety.

- H. The Project requires coordinated access among adjacent lands where possible.
 - I. The Project provides landowners with reasonable access through a service drive.
 - J. The Project requires demonstration that prior to approval of any land divisions, the resultant parcels are accessible through compliance with the access standards.
 - K. The Project preserves woodlands, view sheds, and other natural features along the corridor.
 - L. The Project ensures that distractions to motorists are minimized by avoiding blight and clutter while providing property owners and businesses with appropriate design flexibility and visibility.
 - M. The Project implements the goals expressed in the US-31/M-45 Corridor Study.
 - N. The Project establishes uniform standards to ensure fair and equal application.
 - O. The Project addresses situations where existing development within the Overlay Zone does not conform to the standards.
 - P. The Project promotes a more coordinated development review process with the OCRC.
8. The Board also finds the Project complies with the conditions of approval described in the March 9, 1998 Township Board meeting minutes for the original PUD, which conditions are still applicable to the Project, and it shall comply with the below additional conditions as well.
- A. Outlot development was subjected to site plan review.
 - B. Parking lots are setback a minimum of 25 feet.
 - C. Outlot has architectural materials and landscaping compatible with that of the principal Meijer facility and site.
 - D. Location of monument (ground) signs have been approved.
 - E. Monument (ground) signs do not exceed 52 square feet.
 - F. Monument (ground) sign has a maximum height of six feet as permitted by Section 24.13 of the current Zoning Ordinance.
 - G. Revisions or changes to the conditions are made by the Township Board after a public hearing. These conditions are binding upon the Developer and all successor owners or parties in interest in the Project.
 - H. Drainage for the Project is approved by the Ottawa County Water Resources Commissioner ("OCWRC").
 - I. Any violation of the conditions constitute a violation of the Zoning Ordinance, and in addition to the remedies provided therein, shall be cause for the Township Board to suspend or revoke any zoning or building permit applicable to the project.

- J. The right is reserved by the Township to impose additional conditions if reasonably necessary to achieve the purposes of the Zoning Ordinance.
- K. The PUD approval is personal to the Developer and shall not be transferred by the Developer to a third party without the prior written consent of the Township.
- L. Except as expressly modified, revised or altered by these conditions the Project shall be acquired, developed, and completed in conformance with the Zoning Ordinance, as amended, and all other applicable Township ordinances.
- M. Approval and compliance with all requirements set forth by the OCRC, and if applicable the OCWRC. No building permits shall be issued until all permits have been obtained.
- N. The Developer shall enter into a PUD Contract with the Township. The Contract shall be reviewed and approved by the Township Board prior to the issuance of building permits.
- O. The Developer shall agree to an access easement to the Township for the purpose of realigning the north end of Whittaker Way directly with DeSpelder Street pursuant to the Robbins Road Sub-Area Plan, and an additional internal access easement for connection to the adjacent parcel at the corner of Robbins Road and 172nd Avenue. The Developer shall preliminarily identify the easement areas on the Final Site Plan, and the easements shall be drafted by the Township Attorney and approved by the Township Board prior to the issuance of certificates of occupancy.
- P. This approval is also conditioned upon the Developer meeting all applicable Federal, State, County and Township laws, rules and ordinances.
- Q. The Developer shall comply with all of the requirements of the Documentation, specifically including all of the notes contained thereon, and all of the representations made in the written submissions by the Developer to the Township for consideration of the Project.
- R. The parking areas in the Project are "backloaded," which means that the Final Site Plan has been revised to allow vehicles to enter or leave the parking areas as far from the building in the Project as possible.
- S. In the event of a conflict between the Documentation and these conditions, these conditions shall control.
- T. The Township understands it could not require this condition. However, the Developer has voluntarily made an offer, and the Township has relied upon the offer in considering this application. Specifically, the Developer offered to pay 15 percent of the cost of restriping Robbins Road, based on finalized scope and pricing, not to exceed \$7,000.00; and 50 percent of the cost of Box Span type traffic

signal upgrades at the Robbins Road and Ferry Street/172nd Avenue intersection, based on finalized scope and pricing, not to exceed \$125,000.00. The Township and the Developer shall enter into a contract for these payments by the Developer.

- U. The Township shall complete negotiations on a "Payment in Lieu of Taxes" agreement with the Developer that would become effective should the Health Pointe development obtain a property tax exemption and be incorporated into the development agreement.
9. The Board finds that the Project complies with the uses permitted for a commercial planned unit development, as described in Section 17.08 of the Zoning Ordinance
- A. Office buildings, together with accessory buildings and uses customarily incidental to office buildings, have historically been and are currently permitted to be located in commercial planned unit developments.
 - B. "Office buildings" are not defined in the Zoning Ordinance, but they are commonly defined to include professional activities such as medical offices.
 - C. Although the Service Professional District specifically references medical offices, among other offices, since 1979, when the Service Professional District was established, the Township has consistently interpreted its Zoning Ordinance to not limit medical offices and other offices described in the Service Professional District to just being located in the Service Professional District. Rather, medical offices and other offices specifically described in the Service Professional District have since 1979 routinely been allowed in the Commercial District as well, which allows "office buildings."
 - D. Chapter Six, Future Land Use Plan, of the 2009 Township Master Plan, states on page 6-9 that the Commercial, the Service Professional, and the Commercial Planned Unit Development Districts should all be considered as commercial, and that any commercial development proposal significant in scale or scope (as the Planning Commission finds this Project is) should be considered as a planned unit development.
 - E. In addition to all of the above, the Board notes that it had a first reading to adopt a Zoning Ordinance amendment on February 22, 2016, and has just considered a second reading of that amendment at this meeting, which eliminates any doubt whatsoever that all uses allowed either by right or by special land use in the Service Professional District are also allowed in a commercial planned unit development.

Which motion failed, pursuant to the following roll call vote:

Ayes: Meeusen, Hutchins, Larsen
Nays: Kieft, French, Behm, Redick
Absent:

Motion by Trustee Redick and seconded by Clerk Larsen to table the Health Pointe

PUD Amendment application until (1) the architectural drawings with regard to the roofline are remedied; and, (2) the Township and applicant shall complete negotiations on a "Payment in Lieu of Taxes" agreement that would be incorporated into the Development Agreement and would become effective should the Health Pointe development obtain a property tax exemption. **Which motion carried,** pursuant to the following roll call vote:

Ayes: Kieft, Larsen, French, Behm, Redick

Nays: Meeusen, Hutchins

Absent:

3. **Motion** by Trustee Hutchins and seconded by Trustee Behm to award the Witteveen Farm Hazardous Material Clean-up Project to Young's Environmental Clean-up at a not-to-exceed price of \$17,337 and authorize the Township Superintendent to execute the necessary agreement. Further, staff are instructed to prepare the necessary budget amendments during the first quarter budget amendment process for this expenditure. **Which motion carried.**

X. REPORTS AND CORESPONDENCE

1. Correspondence
2. Committee Reports noted that the Superintendent's evaluation will be discussed at the April 5th Personnel Committee meeting at 12:00 noon.
3. Manager's Report
 - a. The February Building report.
 - b. The February Community Oriented Policing Services (COPS) report
 - c. The February Ordinance Enforcement Report.
 - d. The Department of Public Service report for February.
4. Clerk Larsen noted that the Presidential Primaries had a voter turnout of 5,193 or 41.8% for the Township.
5. Staff were instructed to prepare a zoning ordinance amendment that would increase the building height for all Commercial PUDs to 45 feet.

XI. PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

XII. ADJOURNMENT

Motion by Trustee Hutchins and seconded by Clerk Larsen to adjourn the meeting at 10:26 p.m. **Which motion carried.**

Respectfully Submitted,

Laurie Larsen
Grand Haven Charter Township Clerk

Karl French
Grand Haven Charter Township Supervisor

Community Development Memo

DATE: March 24, 2016

TO: Township Board

FROM: Stacey Fedewa, Planning & Zoning Official

RE: Speedway, North Star Commercial, and Alice Bottje PUD Application

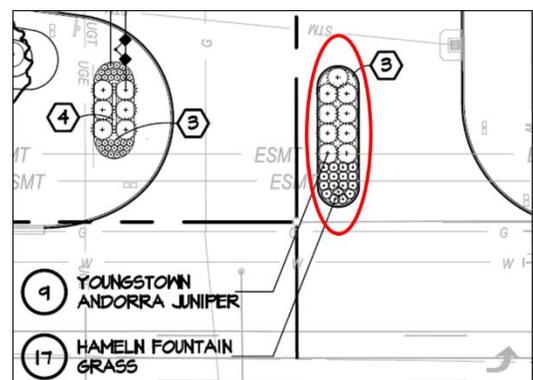
BACKGROUND

On March 14th the Township Board held a public hearing, and first reading, of the proposed Speedway, North Star Commercial, and Alice Bottje PUD application. Two items arose from that meeting, which are summarized below:

1. A stucco-coating spray (*called Stuc-O-Flex*) must be used on the metal canopy to reduce the metallic appearance. The applicant supplied provided an array of six different colors, which are shown below. Staff recommends #3 - Moonlight because it provides a neutral off-white/gray color that should blend in well with its surroundings.



2. There is a concern that the center island at the Hayes Street entrance will be damaged over time from commercial truck strikes. A Planning Commissioner, who is a professional Traffic Engineer reviewed the concerns and offered the following:



- a. Acknowledges that many of these islands become damaged over time, part of which can be attributed to poor lighting conditions.
 - i. Staff recommends a supplemental requirement be added, which would require the applicant to install landscape lighting within the island to ensure it is visible at night.
- b. The larger width of the entrance/exit lanes and the cross-section on Hayes will assist in reducing the potential of damage.
- c. The island must be measured from “back of curb to back of curb” to provide more long-term viability.

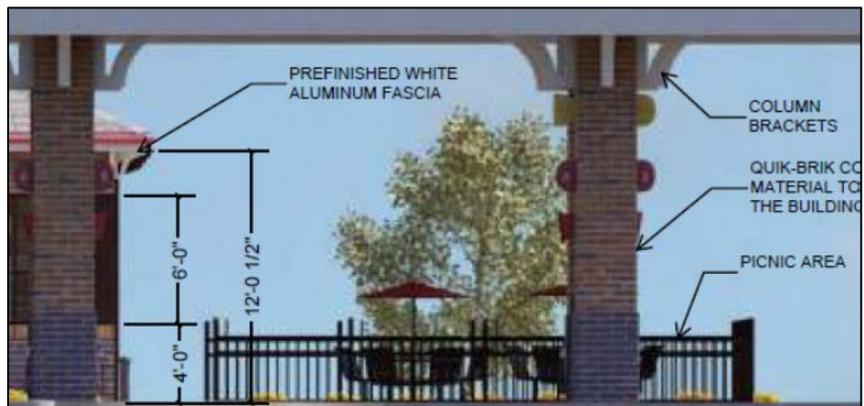
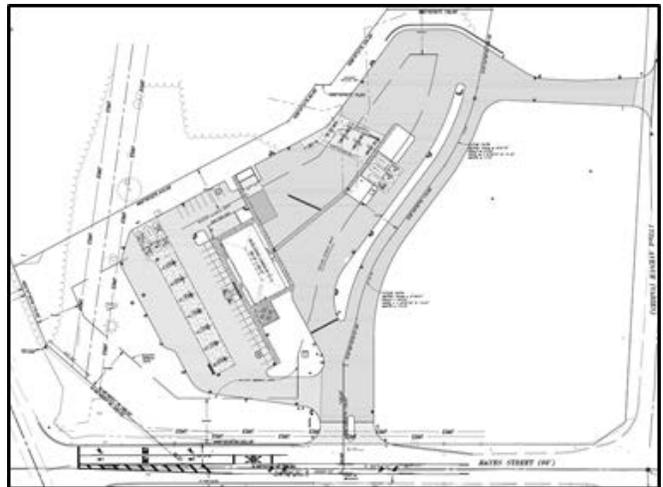


PROJECT DESCRIPTION

The site will be developed in two phases.

Phase 1 will be:

- 4.365 acres in size
- 4,600 square foot Speedway Gas Station and Convenience Store
 - Operate 24 hours per day, 7 days per week
 - No alcohol sales proposed at this time
- Auto fueling canopy with seven pump islands (*14 fueling stations*)
- Commercial fueling canopy with four pump islands (*three fueling stations*)
- Outdoor seating area
- Ancillary sales area (*i.e., seasonal sales such as mulch*)

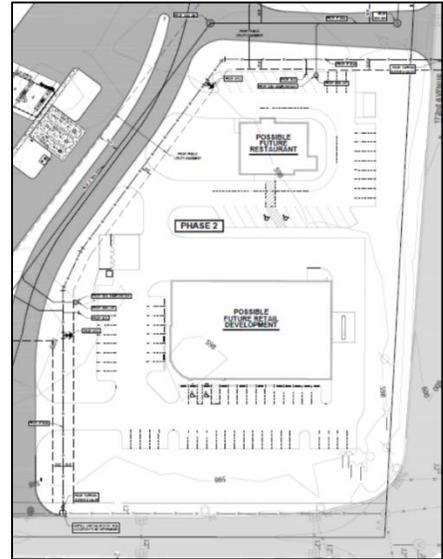


Phase 2 will be:

- 4.25 Acres in size
- Proposed future retail and commercial development
- Development will be dependent on market demand
- Will require a PUD Amendment application

REQUESTED DEPARTURES

As required by Section 17.03.3.D, the applicant is required to provide a list of requested departures, which are:



Parking – 15A.10.10

Ordinance Requirement

1 parking space per 200 square feet of useable floor area (UFA).

Departure Request

Requesting a total of 28 spaces, where only 13 spaces would be permitted.

Planning Commission Recommendation

Approve, based on the following findings:

- The Developer has an established history with similar developments, which establishes the need for additional parking, and a parking study has been submitted to further establish the need.
- The sensitive landscape could be harmed if excess vehicles began parking in the grass.

Canopy Height – 20.03.2.H

Ordinance Requirement

Height of the canopy roof shall not exceed 14 feet and shall be open on all sides. Staff notes FHWA requires a 14 foot vertical clearance for overhead structures on local roads (*i.e., road surface to lowest point of overhead structure*).

Departure Request

Requesting each canopy has 16'6" of vertical clearance, plus 4' roof height, which totals 20'6" in overall height. Lowering the roof height will impact the drive aisle due to the corbels on the canopy columns.

Planning Commission Recommendation

Approve, based on the following findings:

- The Statement of Purpose for the US-31 Area Overlay Zone is to, “provide architectural and site design standards that are more demanding than required elsewhere in the Township in order to promote harmonious development and complement the natural characteristics in the western sections of the Township.”



- If the canopy height remained at 14 feet the corbels will likely be struck, and damaged, by larger vehicles that would not have enough clearance to park next to the fueling station.
- The spirit and emphasis of the Overlay Zone is aesthetics, therefore, the corbels should be kept, which in turn justifies the request for the increased canopy height of 20’6”.

Ground Sign – 24.13

Ordinance Requirement

1. Total size of sign for a Gasoline Station is 50 square feet. However, if constructed to monument standards, Section 15A.10.8 permits a 10% size bonus, which allows a total size of 55 square feet.
2. Maximum height is 6 feet.
3. Must be setback 15 feet from any property line.

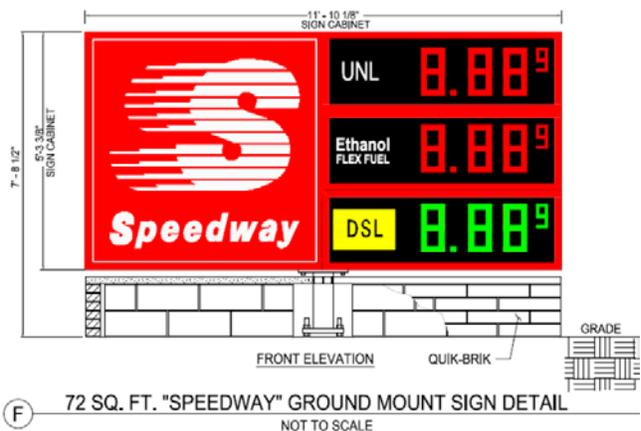
Departure Request

1. Requesting a total size of 72 square feet.
2. Requesting a total height of 7’10”.
3. Proposed sign location is setback 20 feet from property line, and 32 feet from the road edge. Requested departure still meets the requirements of the Clear Vision Ordinance.

Planning Commission Recommendation

Approve, based on the following findings:

- The wetland location precluded the applicant from maximizing the signage permitted by the Zoning Ordinance.
- The requested size is commensurate with a freestanding sign.



- The proposed location of the sign is setback farther than what is required by the Zoning Ordinance.
- The request exceeds the requirements of the Clear Vision Ordinance.

Manual Message Board – 24.12.12

Ordinance Requirement

1. A manual message board may comprise up to 25% of the sign area, but not exceeding 12 square feet of a wall sign.
2. Only 1 manual message board shall be permitted on a lot or parcel. Must be setback 15 feet from any property line.

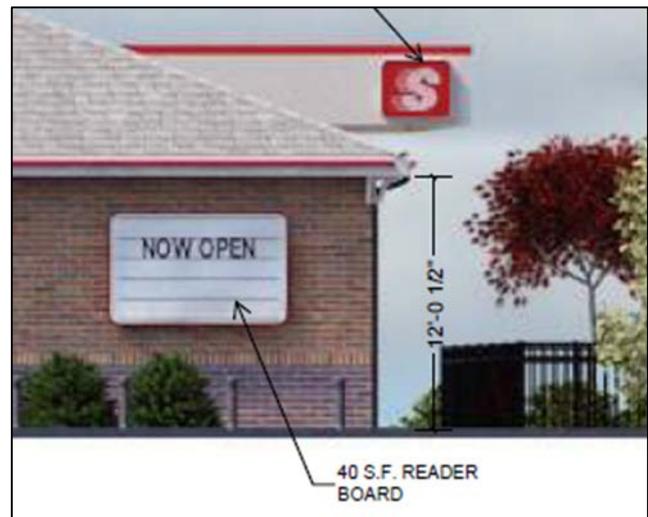
Departure Request

1. Requesting the entire wall sign be a manual message board, rather than only 25%. Proposed signs are each 40 square feet. A wall sign can encompass up to 10% of the total wall area (*less windows and doors*) — maximum size for a wall sign on front is 72 square feet and rear is 100 square feet.
2. Requesting a total of 2 manual message boards. One facing the auto canopy fueling station. The second facing the commercial canopy fueling station.

Planning Commission Recommendation

Approve, based on the following findings:

- A second wall sign/manual message board is permitted, so long as no other wall signs are erected on the site.
- The proposed configuration and design is significantly less than what is permitted by Chapter 24 of the Zoning Ordinance.
- Will ensure the aesthetics gained by the US-31 Overlay Zone are sustained because the three potential wall signs will not be allowed, and therefore, the building materials will remain visible.



WAIVER REQUEST

Lastly, the applicants are requesting a waiver of Section 20.11.5, which requires all commercial uses to be screened from adjacent parcels zoned R-5 or higher (*i.e., residential or agricultural*). A waiver

can be granted if there is at least a 200 foot distance from the commercial property and the nearest residential structure.

The waiver expires as soon as a residential structure is located within 200 feet of the commercial property. Staff notes, there is currently over 1,000 feet between the proposed PUD and the nearest residential structure.

SAMPLE MOTIONS

If the Township Board finds the PUD meets the applicable standards, the following motion can be offered:

Motion to conditionally approve the proposed Speedway, North Star Commercial, and Alice Bottje Planned Unit Development application and rezoning of parcels 70-03-33-300-068 and 70-03-33-300-069 from Agricultural (AG) to Planned Unit Development (PUD). This is based on the application meeting the requirements and standards set forth by the Grand Haven Charter Township Zoning Ordinance and Master Plan. The motion is subject to, and incorporates, the following report. **This is the second reading.**

If the Board finds the Planned Unit Development does not meet the applicable standards, the following motion can be offered:

Motion to direct staff to draft a formal motion and report, which will **deny** the Speedway, North Star Commercial, and Alice Bottje PUD application, with those discussion points which will be reflected in the meeting minutes. This will be reviewed and considered for adoption at the next meeting.

If the Board finds the applicant must make revisions to the Planned Unit Development, the following motion can be offered:

Motion to **table** the Speedway, North Star Commercial, and Alice Bottje PUD, and direct the applicant to make the following revisions:

1. *List the revisions.*

Please contact me prior to the meeting with questions or concerns.

REPORT OF FINDINGS (TO BE USED WITH A MOTION FOR APPROVAL)

Pursuant to the provisions of the Grand Haven Charter Township (the “Township”) Zoning Ordinance (the “Zoning Ordinance”), the following report of the Grand Haven Charter Township Board (the “Board”) concerning an application by Speedway LLC, North Star Commercial, and Alice Bottje (the “Developers”) for approval of a Planned Unit Development (the “Project” or the “PUD”).

The Project will consist of two phases. The first phase including a Speedway gas station and convenience store with auto and commercial fueling canopies. The second phase will be future commercial and retail development. The Project as recommended for approval is shown on a final site plans, last revised 2/8/2016 (the “Final Site Plan”), final photometric plans, last revised 3/3/2016 (the “Final Photometric Plan”); collectively referred to as the “Documentation,” presently on file with the Township.

The purpose of this report is to state the decision of the Board concerning the Project, the basis for the Board’s decision, and the Board’s decision that the Developers PUD be approved as outlined in the above motion. The Developers shall comply with all of the Documentation submitted to the Township for this Project. In recommending the approval of the proposed PUD application, the Board makes the following findings pursuant to Section 17.04.3 of the Zoning Ordinance:

1. The Project meets the site plan review standards of Section 23.06 of the Zoning Ordinance. Specifically, pursuant to Section 23.06.7, the Board finds as follows:
 - A. The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site.
 - B. The site will be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this ordinance.
 - C. Safe, convenient, uncontested, and well defined vehicular and pedestrian circulation is provided for ingress/egress points and within the site. Drives, streets and other circulation routes are designed to promote safe and efficient traffic operations within the site and at ingress/egress points.
 - D. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area are planned to provide a safe and efficient circulation system for traffic within the township.
 - E. Removal or alterations of significant natural features are restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Board has required that landscaping, buffers, and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.

- F. Areas of natural drainage such as swales, wetlands, ponds, or swamps are protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
 - G. The Documentation provide reasonable visual and sound privacy for all dwelling units located therein and adjacent thereto. Landscaping shall be used, as appropriate, to accomplish these purposes.
 - H. All buildings and groups of buildings are arranged so as to permit necessary emergency vehicle access as requested by the fire department.
 - I. All streets and driveways are developed in accordance with the Ottawa County Road Commission specifications, as appropriate.
 - J. Appropriate measures have been taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions have been made to accommodate storm water, prevent erosion and the formation of dust.
 - K. Exterior lighting is arranged so that it is deflected away from adjacent properties and so it does not interfere with the vision of motorists along adjacent streets, and consists of sharp cut-off fixtures.
 - L. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public streets, are screened.
 - M. Entrances and exits are provided at appropriate locations so as to maximize the convenience and safety for persons entering or leaving the site.
 - N. The Documentation conform to all applicable requirements of County, State, Federal, and Township statutes and ordinances.
 - O. The general purposes and spirit of this Ordinance and the Master Plan of the Township are maintained.
2. The Board finds the Project meets the intent for a PUD, as described in Section 17.01.3 of the Zoning Ordinance. By approving this Project as a PUD, the Township has been able to negotiate various amenities and design characteristics as well as additional restrictions with the Developers, which the Township would not have been able to negotiate if the PUD Chapter of the Zoning Ordinance was not used. The Developers were granted the following departures from the zoning ordinance based on the defined benefits received by the Township:
- A. The Board finds the combination of the parking study provided by the applicant, plus the possibility of disrupting the sensitive landscape if certain spaces were deferred does meet the requirements set forth in Section 15A.10.10 of the Zoning Ordinance. Therefore, the Board is able to justify the requested 28 parking spaces.
 - B. The Board finds the statement of purpose for the Overlay Zone (Section 15A.01) is to, “provide architectural and site design standards that are more demanding than required elsewhere in the Township in order to promote harmonious development

and complement the natural characteristics in the western sections of the Township.” The spirit and emphasis of this Chapter is aesthetics, therefore, the Board finds the corbels should be kept, which in turn justifies the request for the increased canopy height of 20’6”.

- C. The Board finds the wetland location precluded the applicant from maximizing the signage that is permitted under Section 24.13 of the Zoning Ordinance. The requested size is commensurate with a freestanding sign, the proposed location is setback farther than required, and the request exceeds the requirements of the Clear Vision Ordinance. Based on these conditions, the Board is able to justify the requested departure.
 - D. The Board finds the request to modify the wall sign/manual message board composition and justify a second message board for the rear wall is reasonable and is able to justify the request, so long as no other wall signs are permitted. Furthermore, the proposed configuration and design is significantly less than what is permitted by Chapter 24 of the Zoning Ordinance. This justification will ensure the aesthetics gained by the US-31 Overlay Zone are sustained because the three potential wall signs will not be allowed, and therefore, the building materials will remain visible.
3. Compared to what could have been constructed by right, the Project has been designed to accomplish the following objectives from Section 17.01.4 of the Zoning Ordinance:
- A. The Project will encourage the use of land in accordance with its natural character and adaptability;
 - B. The Project will promote the conservation of natural features and resources through the preservation of required open space;
 - C. The Project will promote innovation in land use planning and development;
 - D. The Project will promote the enhancement of housing and traffic circulation for the residents of the Township;
 - E. The Project will promote greater compatibility of design and better use between neighboring properties;
 - F. The Project will promote more economical and efficient use of the land while providing harmonious variety of housing choices; and
 - G. The Project will promote the preservation of open space.
4. The Project meets the following qualification requirements of Section 17.02 of the Zoning Ordinance:
- A. The Project meets the minimum size of five (5) acres of contiguous land.
 - B. The Project exhibits significant natural features encompassing more than 25% of the land area, which will be preserved as a result of the PUD plan.
 - C. The PUD design substantially moves forward the Intent and Objectives of Section 17.01 of the Zoning Ordinance.

5. The Board also finds the Project complies with the general PUD Design Considerations of Section 17.05 of the Zoning Ordinance:
 - A. The storm water management system for the Project and the drainage facilities will properly accommodate storm water on the site, will prevent run off to adjacent properties, and are consistent with the Township's groundwater protection strategies.
 - B. The Project will not interfere with or unduly burden the water supply facilities, the sewage collection and disposal systems, or other public services such as school facilities, park and recreation facilities, etc.
 - C. Utility services within the Project shall be underground. This includes but is not limited to electricity, gas lines, telephone, cable television, public water and sanitary sewer.
 - D. The internal road system in the Project is designed to limit destruction of existing natural vegetation and to decrease the possibility of erosion.
 - E. Vehicular circulation, traffic and parking areas have been planned and located to minimize effects on occupants and users of the Project and to minimize hazards to adjacent properties and roadways.
 - F. Parking requirements for each use have been determined to be in accordance with Chapter 24 (Parking, Loading Space, and Signs).
 - G. Street lighting will be installed in the same manner as required under the Township's Subdivision Control Ordinance.
 - H. Buildings in the Project have been sited to protect natural resources. Natural features such as natural grade, trees, vegetation, water bodies and others have been incorporated into the Documentation.
 - I. The predominant building materials have been found to be those characteristic of Grand Haven Charter Township such as brick, wood, native stone and tinted/textured concrete masonry units and/or glass products.
 - J. Landscaping, natural features, open space and other site amenities have been located in the Project to be convenient for occupants of, and visitors to, the PUD.
 - K. The Project is reasonably compatible with the natural environment of the site and the adjacent premises.
 - L. The Project will not unduly interfere with the provision of adequate light or air, nor will it overcrowd land or cause an unreasonably severe concentration of population.
 - M. Exterior lighting within the Project complies with Chapter 20A for an LZ 3 zone.
 - N. The Project will not have a substantially detrimental effect upon or substantially impair the value of neighborhood property, as long as all of the standards and conditions of this approval of the Project are satisfied.
 - O. The Project is in compliance with all applicable Federal, State, County, and local laws and regulations. Any other permits for development that may be required by other agencies shall be available to the Township Board before construction is

commenced.

- P. The Project meets the access provision regulations.
 - Q. The driveways providing access to corner lots shall gain access from the lesser traveled of the two intersecting streets.
 - R. The Project satisfies the minimum open space of 25% required by the Zoning Ordinance.
 - S. The open space in the Project is large enough and properly dimensioned to contribute to the purpose and objectives of the PUD.
 - T. The open space in the Project consists of contiguous land area which is restricted to non-development uses.
 - U. The open space shall remain under common ownership or control.
 - V. The open space shall be set aside by a means of conveyance approved by the Township Board, which conveyance satisfies the requirements of Section 17.05.5.G of the Zoning Ordinance.
 - W. The Project is consistent with the goals and objectives of the Master Land Use Plan. Specifically, it is consistent with the Master Plan designation of the property in question.
6. The Board also finds the Project complies with the US-31 and M-45 Area Overlay Zone findings and statement of purpose found in Section 15A.01 of the Zoning Ordinance:
- A. Accommodates a variety of uses permitted by the underlying zoning, but ensure such uses are designed to achieve an attractive built and natural environment.
 - B. Provides architectural and site design standards that are more demanding than required elsewhere in the Township in order to promote harmonious development and complement the natural characteristics in the western sections of the Township.
 - C. Promotes public safety and efficient flow of vehicular traffic by minimizing conflicts from turning movements resulting from the proliferation of unnecessary curb cuts and driveways.
 - D. Ensures safe access by emergency vehicles.
 - E. Encourages efficient flow of traffic by minimizing the disruption and conflicts between through traffic and turning movements.
 - F. Preserve the capacity along US-31/M-45 and other roads in the Overlay Zone by limiting and controlling the number and location of driveways, and requiring alternate means of access through shared driveways, service drives, and access via cross streets.
 - G. Reduces the number and severity of crashes by improving traffic operations and safety.
 - H. Requires coordinated access among adjacent lands where possible.

- I. Provides landowners with reasonable access, although the access may be restricted to a shared driveway, service drive, or via a side street, or the number and location of access points may not be the arrangement most desired by the landowner or applicant.
 - J. Requires demonstration that prior to approval of any land divisions, the resultant parcels is accessible through compliance with the access standards herein.
 - K. Preserves woodlands, view sheds, and other natural features along the corridor.
 - L. Ensures that distractions to motorists are minimized by avoiding blight and clutter while providing property owners and businesses with appropriate design flexibility and visibility.
 - M. Implements the goals expressed in the US-31/M-45 Corridor Study.
 - N. Establishes uniform standards to ensure fair and equal application.
 - O. Addresses situations where existing development within the Overlay Zone does not conform to the standards of this chapter.
 - P. Promotes a more coordinated development review process with the Michigan Department of Transportation and the Ottawa County Road Commission.
7. The Board also finds the Project shall comply with the below additional conditions as well.
- A. Approval and compliance with all requirements set forth by the DEQ, OCWRC, and OCRC. No building permits shall be issued until all permits have been obtained.
 - B. The legal descriptions of the PUD boundaries shall be finalized, thus, permitting the finalization of the land division application. This includes the necessary title conveyances.
 - C. The Declaration of Restrictions and Easements shall be reviewed, and approved by Township Attorney Bultje. The Developers shall submit a copy of the document recorded at the Ottawa County Register of Deeds. No building permits shall be issued until the condition is met.
 - D. The Developers shall enter into a PUD Contract with the Township. The Contract shall be reviewed and approved by the Township Board prior to the issuance of building permits.
 - E. The Developers shall enter into a Special Assessment Private Road Maintenance Agreement with the Township. The Agreement shall be reviewed and approved by the Township Board prior to the issuance of building permits.
 - F. The Developers shall supply documentation that confirms the vegetation proposed to be planted in the wetland is appropriately rated (i.e., native vegetation suitable to thrive in a wetland environment).
 - G. The Developers shall revise the Documentation to include landscape lighting within the center divider island at the Hayes Street entrance to increase its visibility.

- H. The Developers shall revise the Documentation to more clearly state the center divider island at the Hayes Street entrance shall be measured from ‘the back of curb to the back of curb.’
- I. The Developer shall use the ‘Stuc-O-Flex International SFT 311 Moonlight’ coating spray on the metal canopies above the fueling stations.
- J. The Board approves the Section 20.11.5 screening waiver request because the Project has over 1,000 feet of separation from the nearest parcel zoned R-5 or higher. Pursuant to Section 20.11.5 the waiver shall expire upon a building permit being issued by the Township for a residential structure within 200 feet of the Project.



Community Development Memo

DATE: March 24, 2016
TO: Township Board
FROM: Stacey Fedewa, Planning & Zoning Official
RE: Revised Health Pointe PUD Amendment Application

BACKGROUND

On March 14th the Township Board tabled the Health Pointe PUD Amendment application for two reasons:

1. Developer shall enter into a Payment In Lieu of Taxes (PILOT) Agreement, which would become effective if the property ever became tax exempt.
 - The Township and Developer have negotiated, and **agreed to, a PILOT Agreement**, and will be executed by both parties if the application is approved.
 - Minimally, the Developer would remit an **annual payment of \$43,200**, which would be adjusted for inflation each year.
 - This amount will pay for the services and infrastructure provided by the Township, which include ordinance enforcement, fire protection, police protection, transit services, municipal water and sewer, etc.
2. Revise the building elevations to provide more variation to the roofline. The Developer notes the new architectural features will cost upwards of \$1 million, which include:
 - Modified footprint of main canopy to include a center curved glass skylight matching the new curved entry piece.
 - Revised patient pick-up canopy to mimic the curved roof language present on all facades.
 - Revised roof lines with new 3-story curved roof atrium center piece. This vertical focal point gives the building a sense-of-entry.

- Decreased the brick massing with extended fascia panels at roofline.
- Added stone wall architectural elements with curved roof features that project out from the wall plane to limit the scale of the elevations and varied rooflines.
- Added windows to help limit the scale and add a vertical element to the facades.
- Relocated and removed portions of the 3rd floor to allow dramatic roofline changes on the main entry façade. This allowed the creation of the vertical focal point at the entrance and add additional, more pronounced roofline changes. The 3rd floor massing was relocated above the single-story portion of the building to provide a more dynamic roofline with multiple roofline setbacks.
- Relocated rooftop equipment and screen wall to allow natural light into the staff work area. Consolidated ground air handling unit to new rooftop screen wall location to decrease building footprint on site, which allows for better landscaping at the base of the building.
- Added a combination of louvers and metal panels to mechanical screen wall to compliment the brick and stone patterning around the building.
- Maintained the use of sunshades on each wall of the building



SOUTH ELEVATION - MAIN ENTRANCE CANOPY
NOT TO SCALE



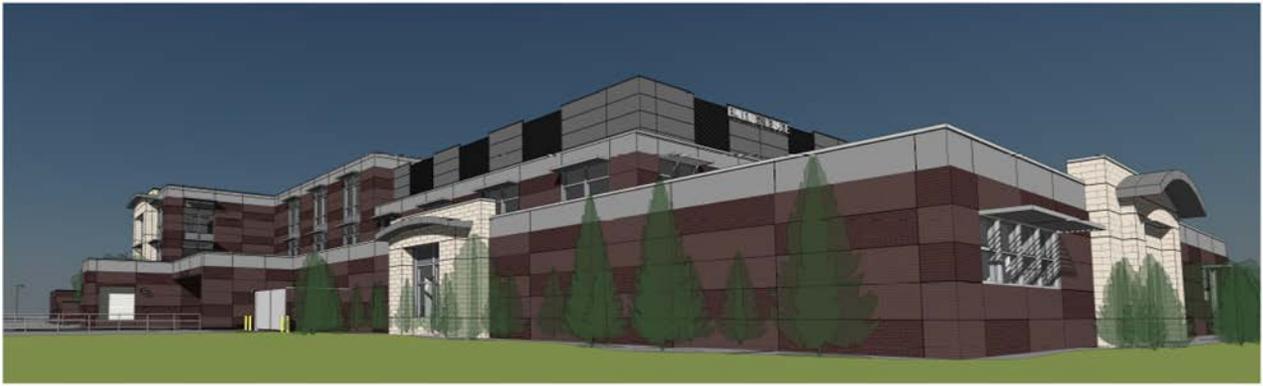
NORTHEAST CORNER - EMPLOYEE ENTRANCE
NOT TO SCALE



SOUTHEAST
NOT TO SCALE



SOUTHWEST
NOT TO SCALE



NORTHWEST
NOT TO SCALE



NORTHEAST
NOT TO SCALE

MISCELLANEOUS INFORMATION

There were several items of interest that were presented over the past weeks, which staff will address below:

Recognizable and Substantial Benefit to Community

The following items are the anticipated recognizable and substantial benefits to the community:

- Will provide residents with more choices for their health care, and greater access to specialists and patient-centered care.
 - Spectrum Health and Holland Hospital physicians will be afforded the opportunity to expand their practices.

- In part, this will be achieved by the Developer’s voluntarily contribution offer of up to \$132,000 for the proposed improvements, which are consistent with the City of Grand Haven’s Capital Improvement Plan.
- Health Pointe has offered to provide 400± percent more landscaping than required, which will add substantial aesthetic value to the surrounding area. This includes using tree species identified as Landmark Trees by the Township.
- The Project’s Total Site Power Limits are significantly below↓ the Outdoor Lighting requirements, which will maintain the Township’s goal of prohibiting light pollution.
- Included in the Board packet is a memo from the Developer describing the recognizable benefits to the community from their perspective.

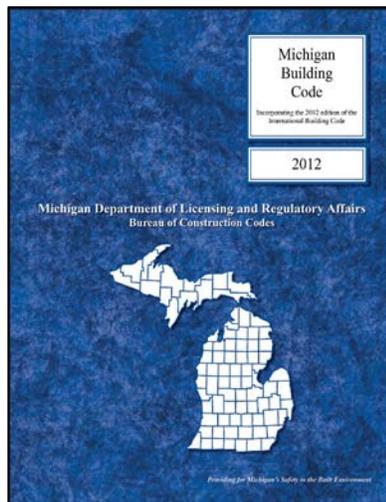
Proposed Medical Services

- Primary Care
- Urgent Care
- Specialty Physician Services
- Ambulatory Surgical Services
- Laboratory Services
- Radiology
- CT
- MRI

2012 Michigan Building Code Use Group

A question was raised regarding the type of Use Group the Health Pointe facility would be considered under the Michigan Building Code (MBC). It appears there was some confusion due to the changes between the 2009 MBC and 2012 MBC.

Due to advancements in the health care industry surgical procedures that previously could only be done in hospitals are becoming common in outpatient facilities such as Health Pointe. The 2012 MBC recognized this evolution by classifying



304.1 Business Group B – Examples

- Airport traffic control towers
- *Ambulatory care facilities*
- Animal hospitals, kennels and pounds
- Banks
- Civic administration
- *Clinic, outpatient*
- Laboratories: testing and research
- Professional services (architects, attorneys, dentists, physicians, engineers, etc.)

Ambulatory Care Facilities as a Business Group B (*i.e., not a hospital*). Specifically, the definition states, “buildings or portions thereof used to provide medical, surgical, psychiatric, nursing or similar care of less than a 24-hour basis to persons who are rendered incapable of self-preservation (*i.e., the patient is defenseless and immobile while under anesthesia*) by the services provided.”

This is further supported by the 2012 National Fire Protection Association (NFPA) Codes and Standards. Chapter 20 of the NFPA regulates New Ambulatory Health Care Occupancies, which requires these facilities to comply with the Business Group classification.

Traffic Impact Study

Staff notes, the Township exceeded the typical requirements of a Traffic Impact Study review by supplying it to both the Ottawa County Road Commission and City of Grand Haven Department of Public Works.

- Both agree that traffic will **continue to operate at a “Level of Service C” in 2017** when the facility opens (*using a scale of A – F, with A being excellent and F being a failure*).
- Both disagree with the Study’s findings that no improvements are warranted. Rather, both entities believe a left-turn signal and center left-turn lane are needed (*which the Developer has volunteered to pay up to \$132,000*).

Construction Schedule

If approved, the applicant proposes the following construction schedule (*estimates only*):

1. Submitted Civil/Site-work plans for staff review on March 11th
2. Submit permit applications for Foundation/Structure/Shell – April 15th
3. Submit remaining permit applications for Buildout – May 2016
4. Site preparation – April/May 2016
5. Driveway relocation – May 2016
6. Underground utility installation – May/June 2016
7. Building construction – Summer 2016 through Fall 2017
8. Final grading, paving, landscaping, and site restoration – Fall 2017
9. Grand opening – Fall 2017

Cooling System, Generator, and Noise

There was a question about the possibility of the air conditioning system (*also known as a cooling tower*) could cause a Legionella outbreak. However, this is only applicable when this system is water-cooled, and the Developer proposes an air-cooled system. Therefore, **Legionnaires' disease is not a concern**.

Subsequently, there was a question about the level of noise that will be produced by the air-cooled system and the generator (*which is required for all medical buildings that offer surgical procedures*). The Developer provided information that the highest calculated sound value for the air-cooled system is 59 dBA at the nearest property line.



Although this level is compliant with the Township Noise Ordinance staff was concerned that noise reflection that can occur through reverberation, temperature changes, humidity fluctuations, etc. could cause the sound level to violate the Noise Ordinance. As a result of these concerns the **Developer proposes to incorporate sound dampening materials to reduce the potential for reflected sound levels and reduce the overall dBA's**.

Lastly, in the event the facility must utilize the generator due to an emergency situation the Township would grant a temporary exemption to the Noise Ordinance. Furthermore, it is noted that if Health Pointe must utilize a generator then it is likely the emergency situation will result in numerous residents and businesses in the Township having to run a generator to supply electrical power.

SAMPLE MOTIONS

If the Township Board finds the Health Pointe revisions meet the applicable standards, the following motion can be offered:

Motion to conditionally approve the Health Pointe PUD Amendment, which includes the revised building height, revised elevations, revised landscape plan. This is based on the application meeting the requirements and standards set forth by the Grand Haven Charter Township Zoning Ordinance and Master Plan. The motion is subject to, and incorporates, the following report concerning the PUD Amendments, which report also references certain Zoning Ordinance amendments concerning planned unit developments in general, which received a first reading by the Township Board on February 22, 2016, and were adopted by the Township Board on March 14, 2016 - although they are not yet in effect, per a notice of intent to file a petition seeking a referendum (a roll call vote has been requested).

If the Township Board finds the Health Pointe revisions do not meet the applicable standards, the following motion can be offered:

Motion to direct staff to draft a formal motion and report, which will **deny** the revised Health Pointe PUD Amendment application, with those discussion points which will be reflected in the meeting minutes. This will be reviewed and considered for adoption at the next meeting.

If the Township Board finds the Health Pointe applicant must make additional revisions, the following motion can be offered:

Motion to **table** the revised Health Pointe PUD Amendment application, and direct the applicant to make the following revisions:

1. *List the revisions.*

Please contact me prior to the meeting with questions or concerns.

REPORT (TO BE USED WITH A MOTION FOR APPROVAL)

Pursuant to the provisions of the Grand Haven Charter Township (the “Township”) Zoning Ordinance (the “Zoning Ordinance”), the following is the report of the Grand Haven Charter Township Board (the “Board”) concerning an application by Health Pointe Corp (the “Developer”) for approval of a Health Pointe Planned Unit Development Amendment (the “Project” or the “PUD”).

The Project will consist of a 120,026 square foot three story medical office building. This 12 acre project will be located on the remaining five outlots from the original 1998 Meijer PUD. The Project as recommended for approval is shown on a final site plan, last revised 12/9/2015 (the “Final Site Plan”); final landscape plan, last revised 2/10/2016 (the “Final Landscape Plan”); and final building elevation renderings, last revised 3/24/2016 (the “Final Elevations”); collectively referred to as the “Documentation,” presently on file with the Township.

The purpose of this report is to state the decision of the Board concerning the Project, the basis for the Board’s recommendation, and the Board’s decision that the Health Pointe PUD Amendment be approved as outlined in this motion. The Developer shall comply with all of the Documentation submitted to the Township for this Project. In granting the approval of the proposed PUD application, the Board makes the following findings pursuant to Section 17.04.3 of the Zoning Ordinance.

By this report, the Board affirms the tasks assigned to the Grand Haven Charter Township Planning Commission (the “Planning Commission”) on January 25, 2016 have been completed. Specifically, the Planning Commission has recommended certain amendments to the Zoning Ordinance, has

reviewed certain revisions to the Project, and has met with the City of Grand Haven Planning Commission to discuss the Project.

The Board notes that the Developer's Traffic Impact Study concluded the Project would have “little or no additional impact on traffic operations” for Robbins Road or 172nd Avenue. Nonetheless, the Traffic Engineer for the Ottawa County Road Commission (“OCRC”) has requested certain infrastructure improvements, and the Developer has voluntarily offered to help fund them (as noted in Section 8.T below).

1. The Project meets the site plan review standards of Section 23.06 of the Zoning Ordinance. Specifically, pursuant to Section 23.06.7, the Board finds as follows:
 - A. The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site. The site will be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
 - B. Safe, convenient, uncontested, and well defined vehicular and pedestrian circulation is provided for ingress/egress points and within the site. Drives, streets and other circulation routes are designed to promote safe and efficient traffic operations within the site and at ingress/egress points.
 - C. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area are planned to provide a safe and efficient circulation system for traffic within the Township.
 - D. Removal or alterations of significant natural features are restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Board has required that landscaping, buffers, and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
 - E. Areas of natural drainage such as swales, wetlands, ponds, or swamps are protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
 - F. The site plan provides reasonable visual and sound privacy for all dwelling units located therein and adjacent thereto. Landscaping shall be used, as appropriate, to accomplish these purposes.
 - G. All buildings and groups of buildings are arranged so as to permit necessary emergency vehicle access as requested by the fire department.
 - H. All streets and driveways are developed in accordance with the OCRC specifications, as appropriate.

- I. Appropriate measures have been taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions have been made to accommodate stormwater, prevent erosion and the formation of dust.
 - J. Exterior lighting is arranged so that it is deflected away from adjacent properties and so it does not interfere with the vision of motorists along adjacent streets, and consists of sharp cut-off fixtures.
 - K. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public streets, are screened.
 - L. Entrances and exits are provided at appropriate locations so as to maximize the convenience and safety for persons entering or leaving the site.
 - M. The Documentation conforms to all applicable requirements of County, State, Federal, and Township statutes and ordinances.
 - N. The general purposes and spirit of this Ordinance and the Master Plan of the Township are maintained.
2. The Board finds the Project meets the intent for a PUD, as described in Section 17.01.3 of the Zoning Ordinance. By approving this Project as a PUD, the Township has been able to negotiate various amenities and design characteristics as well as additional restrictions with the Developer, as described in this report, which the Township would not have been able to negotiate if the PUD Chapter of the Zoning Ordinance was not used.
 3. Section 17.01.5, Section 17.02.1.B.3, and Section 17.02.1.B.4 of the Zoning Ordinance, as well as Section 503 of the Michigan Zoning Enabling Act, allow for departures from Zoning Ordinance requirements; these provisions are intended to result in land use development that is substantially consistent with the goals and objectives of the Township Master Plan and the Zoning Ordinance, and consistent with sound planning principles. The Developer requested five departures. The Board makes the following findings.
 - A. A maximum building height of 45 feet is permitted because of the following findings.
 - i. The Resilient Master Plan Draft encourages vertical expansion to reduce sprawl, preserve open space, and limit the cost of extending infrastructure.
 - ii. The Robbins Road Sub-Area Plan encourages new development to expand vertically by exceeding 2.5 stories and 35 feet.
 - iii. The Grand Haven Charter Township Fire/Rescue Department has an emergency vehicle with the ability to exceed the proposed building height, so public safety is not compromised.
 - iv. The Township has approved height departures for previous PUDs and even buildings outside of any PUD.
 - v. The Project is not surrounded by unique landscapes (e.g., wetlands, dunes, floodplains, etc.).

- vi. The Project does not abut residentially zoned properties, either in the Township or in the City of Grand Haven. The nearest single family dwelling is located in the City, over 1,100 feet away. The nearest dwelling located in the Township, is in a high density residential development, and is more than 550 feet away.
 - vii. The parcels abutting the Project are not master planned for residential use.
 - viii. In addition to all of the above, which the Board finds is adequate justification without more, the Board notes that it had a first reading to adopt a Zoning Ordinance amendment on February 22, 2016, and adopted the Zoning Ordinance amendment on March 14, 2016, which would eliminate any doubt whatsoever that the increased height requested by the Developer for the Project is allowed in a commercial planned unit development. The Zoning Ordinance amendment is not yet in effect, per a notice of intent to file a petition seeking a referendum.
- B. A total of 577 parking spaces, which is 93 spaces more than allowed by the US-31 and M-45 Area Overlay Zone (the “Overlay Zone”), is permitted because of the following findings.
- i. Sections 15A.05.13, 15A.10.10, 17.05.1.F, and 24.03.1 require a maximum number of parking spaces unless the applicant provides a parking study that demonstrates the need for additional parking. The Developer has an established history with similar developments which establishes the need for additional parking, and has submitted a parking study to further establish the need.
 - ii. Outside of the Overlay Zone this project would have been permitted 1,200 parking spaces.
 - iii. The excess parking will not be highly visible from US-31.
- C. Three ground signs, each 48 square feet in size and six feet in total height, are permitted because of the following findings.
- i. The original Planned Unit Development approval memorialized in the March 9, 1998 Township Board meeting minutes permits one monument (ground) sign for each outlot, not to exceed 52 square feet and five feet in height, subject to review by the Planning Commission for location. This PUD Amendment comprises five of the six outlots.
 - ii. The three permitted ground signs reduce the amount of signage permitted under the 1998 PUD by 116 square feet.
 - iii. A total height of six feet is permitted under Section 24.13 of the current Zoning Ordinance.
- D. Interior landscape islands shall be permitted to extend the length of the parking space, contrary to Section 15A.10.5 of the Zoning Ordinance, because of the following findings.
- i. Aesthetics to the surrounding area will be enhanced because the interior landscape island will screen the entire length of the parking space.

- ii. The parking spaces surround sides of the building, and each abut a private road or access road. Due to the high visibility of this parking lot this departure is approved in order to provide additional screening from adjacent roadways.
 - iii. This provision has not been uniformly enforced by the Township for other development projects in the Overlay Zone.
 - E. A departure from Section 15A.10.7 of the Zoning Ordinance, which requires concrete curb and gutter throughout the parking lot and paved areas, is denied because of the following findings.
 - i. The Board has consistently required curb and gutter throughout the parking lot and paved areas of developments in the Overlay Zone.
 - ii. As required by Section 15A.10.7, the Developer did not provide compelling evidence to find that overall stormwater disposition will be enhanced if the curbing requirement is reduced.
- 4. Compared to what could have been constructed by right, the Project has been designed to accomplish the following objectives from Section 17.01.4 of the Zoning Ordinance.
 - A. The Project will encourage the use of land in accordance with its natural character and adaptability;
 - B. The Project will promote innovation in land use planning and development;
 - C. The Project will promote the enhancement of commercial employment and traffic circulation for the residents of the Township;
 - D. The Project will promote greater compatibility of design and better use between neighboring properties; and
 - E. The Project will promote more economical and efficient use of the land while providing harmonious integration of necessary commercial and community facilities.
- 5. The Project meets the following qualification requirements of Section 17.02 of the Zoning Ordinance:
 - A. The Project meets the minimum size of five acres of contiguous land.
 - B. The PUD design substantially promotes the Intent and Objectives of Section 17.01 of the Zoning Ordinance; it further permits an improved layout of land uses and roadways that could not otherwise be achieved under normal zoning.
 - C. The Project, as part of the original 1998 PUD, contains two or more separate and distinct uses.
- 6. The Board also finds the Project complies with the general PUD Design Considerations of Section 17.05 of the Zoning Ordinance.
 - A. The stormwater management system for the Project and the drainage facilities will properly accommodate stormwater on the site, will prevent runoff to adjacent properties,

and are consistent with the Township's groundwater protection strategies.

- B. The Project will not interfere with or unduly burden the water supply facilities, the sewage collection and disposal systems, or other public services such as school facilities, park and recreation facilities, etc.
- C. Utility services within the Project shall be underground. This includes but is not limited to electricity, gas lines, telephone, cable television, public water and sanitary sewer.
- D. The internal road system in the Project is designed to limit destruction of existing natural vegetation and to decrease the possibility of erosion.
- E. Vehicular circulation, traffic and parking areas have been planned and located to minimize effects on occupants and users of the Project and to minimize hazards to adjacent properties and roadways.
- F. Parking requirements for each use have been determined to be in accordance with Chapter 24 (Parking, Loading Space, and Signs), and the deviation from Section 15A.10.10 is covered elsewhere in this motion.
- G. Street lighting will be installed in the same manner as required under the Township's Subdivision Control Ordinance.
- H. Buildings in the Project have been sited to protect natural resources. Natural features such as natural grade, trees, vegetation, water bodies and others have been incorporated into the Documentation.
- I. Architectural design features visually screen the mechanical and services areas from adjacent properties, public roadways, and other public areas.
- J. The exterior walls greater than 50 feet in horizontal length or that can be viewed from a public street contain a combination of architectural features, variety of building materials, and landscaping near the walls.
- K. Onsite landscaping abuts the walls so the vegetation combined with architectural features significantly reduce the visual impact of the building mass when viewed from the street.
- L. The predominant building materials have been found to be those characteristic of the Township such as brick, native stone, and glass products. Pre-fabricated metal panels used to screen the mechanical equipment do not dominate the building exterior of the structure.
- M. Landscaping, natural features, open space and other site amenities have been located in the Project to be convenient for occupants of, and visitors to, the PUD.
- N. The Project is reasonably compatible with the natural environment of the site and the adjacent premises.
- O. The Project will not unduly interfere with the provision of adequate light or air, nor will it overcrowd land or cause an unreasonably severe concentration of population.
- P. Exterior lighting within the Project complies with Chapter 20A for an LZ 3 zone.

- Q. Outside storage of materials shall be screened from view.
 - R. Signage is compliant with Section 24.13 of the Zoning Ordinance, and the Board approves a modification to the sign provisions found in the March 9, 1998 meeting minutes of the original PUD.
 - S. The Project will not have a substantially detrimental effect upon or substantially impair the value of neighborhood property, as long as all of the standards and conditions of this approval of the Project are satisfied.
 - T. The Project is in compliance with all applicable Federal, State, County, and local laws and regulations. Any other permits for development that may be required by other agencies shall be available to the Township Board before construction is commenced.
 - U. No additional driveways onto public roadways have been permitted.
 - V. The Project is consistent with the goals and objectives of the Master Land Use Plan. Specifically, it is consistent with the Master Plan designation of the property in question.
7. The Board also finds the Project complies with the Overlay Zone findings and statement of purpose found in Section 15A.01 of the Zoning Ordinance.
- A. The Project accommodates a variety of uses permitted by the underlying zoning, but ensures such uses are designed to achieve an attractive built and natural environment.
 - B. The Project provides architectural and site design standards that are more demanding than required elsewhere in the Township in order to promote harmonious development and complement the natural characteristics in the western sections of the Township.
 - C. The Project promotes public safety and efficient flow of vehicular traffic by minimizing conflicts from turning movements resulting from the proliferation of unnecessary curb cuts and driveways.
 - D. The Project ensures safe access by emergency vehicles.
 - E. The Project encourages efficient flow of traffic by minimizing the disruption and conflicts between through traffic and turning movements.
 - F. The Project preserves the capacity along US-31 and other roads in the Overlay Zone by limiting and controlling the number and location of driveways, and requires alternate means of access through service drives.
 - G. The Project seeks to reduce the number and severity of crashes by improving traffic operations and safety.
 - H. The Project requires coordinated access among adjacent lands where possible.
 - I. The Project provides landowners with reasonable access through a service drive.
 - J. The Project requires demonstration that prior to approval of any land divisions, the resultant parcels are accessible through compliance with the access standards.

- K. The Project preserves woodlands, view sheds, and other natural features along the corridor.
 - L. The Project ensures that distractions to motorists are minimized by avoiding blight and clutter while providing property owners and businesses with appropriate design flexibility and visibility.
 - M. The Project implements the goals expressed in the US-31/M-45 Corridor Study.
 - N. The Project establishes uniform standards to ensure fair and equal application.
 - O. The Project addresses situations where existing development within the Overlay Zone does not conform to the standards.
 - P. The Project promotes a more coordinated development review process with the OCRC.
8. The Board also finds the Project complies with the conditions of approval described in the March 9, 1998 Township Board meeting minutes for the original PUD, which conditions are still applicable to the Project, and it shall comply with the below additional conditions as well.
- A. Outlot development was subjected to site plan review.
 - B. Parking lots are setback a minimum of 25 feet.
 - C. Outlot has architectural materials and landscaping compatible with that of the principal Meijer facility and site.
 - D. Location of monument (ground) signs have been approved.
 - E. Monument (ground) signs do not exceed 52 square feet.
 - F. Monument (ground) sign has a maximum height of six feet as permitted by Section 24.13 of the current Zoning Ordinance.
 - G. Revisions or changes to the conditions are made by the Township Board after a public hearing. These conditions are binding upon the Developer and all successor owners or parties in interest in the Project.
 - H. Drainage for the Project is approved by the Ottawa County Water Resources Commissioner (“OCWRC”).
 - I. Any violation of the conditions constitute a violation of the Zoning Ordinance, and in addition to the remedies provided therein, shall be cause for the Township Board to suspend or revoke any zoning or building permit applicable to the project.
 - J. The right is reserved by the Township to impose additional conditions if reasonably necessary to achieve the purposes of the Zoning Ordinance.
 - K. The PUD approval is personal to the Developer and shall not be transferred by the Developer to a third party without the prior written consent of the Township.
 - L. Except as expressly modified, revised or altered by these conditions the Project shall be acquired, developed, and completed in conformance with the Zoning Ordinance, as amended, and all other applicable Township ordinances.

- M. Approval and compliance with all requirements set forth by the OCRC, and if applicable the OCWRC. No building permits shall be issued until all permits have been obtained.
- N. The Developer shall enter into a PUD Contract with the Township. The Contract shall be reviewed and approved by the Township Board prior to the issuance of building permits.
- O. The Developer shall agree to an access easement to the Township for the purpose of realigning the north end of Whittaker Way directly with DeSpelder Street pursuant to the Robbins Road Sub-Area Plan, and an additional internal access easement for connection to the adjacent parcel at the corner of Robbins Road and 172nd Avenue. The Developer shall preliminarily identify the easement areas on the Final Site Plan, and the easements shall be drafted by the Township Attorney and approved by the Township Board prior to the issuance of certificates of occupancy.
- P. This approval is also conditioned upon the Developer meeting all applicable Federal, State, County and Township laws, rules and ordinances.
- Q. The Developer shall comply with all of the requirements of the Documentation, specifically including all of the notes contained thereon, and all of the representations made in the written submissions by the Developer to the Township for consideration of the Project.
- R. The parking areas in the Project are “backloaded,” which means that the Final Site Plan has been revised to allow vehicles to enter or leave the parking areas as far from the building in the Project as possible.
- S. In the event of a conflict between the Documentation and these conditions, these conditions shall control.
- T. The Township understands it could not require this condition. However, the Developer has voluntarily made an offer, and the Township has relied upon the offer in considering this application. Specifically, the Developer offered to pay 15 percent of the cost of restriping Robbins Road, based on finalized scope and pricing, not to exceed \$7,000.00; and 50 percent of the cost of Box Span type traffic signal upgrades at the Robbins Road and Ferry Street/172nd Avenue intersection, based on finalized scope and pricing, not to exceed \$125,000.00. The Township and the Developer shall enter into a contract for these payments by the Developer.
- U. The Developer shall enter into a Payment in Lieu of Taxes Agreement with the Township prior to the issuance of any building permits. This Agreement is contingent upon the Project, in whole or in part, being deemed to be exempt from *ad valorem* real property taxes under the General Property Tax Act, Act 206 of 1893, as amended, and/or any other applicable law.
- V. The Developer is prohibited from using the Project, or any part of the Project, as a hospital. Under the Michigan Health Code, referencing Article 17 of the Public Health Code; under the standards for hospitals according to the Department of Licensing and Regulatory Affairs; and under the Building Code, as enforced by the Township, a hospital

offers inpatient care for one or more overnight periods, or one or more periods of more than 24 hours. The Project may not provide that type of care.

- W. The Developer shall submit a full set of the Documentation, which includes all changes that have been required by the Board. The Documentation shall be submitted prior to the issuance of building permits.
9. The Board finds that the Project complies with the uses permitted for a commercial planned unit development, as described in Section 17.08 of the Zoning Ordinance
- A. Office buildings, together with accessory buildings and uses customarily incidental to office buildings, have historically been and are currently permitted to be located in commercial planned unit developments.
 - B. "Office buildings" are not defined in the Zoning Ordinance, but they are commonly defined to include professional activities such as medical offices.
 - C. Although the Service Professional District specifically references medical offices, among other offices, since 1979, when the Service Professional District was established, the Township has consistently interpreted its Zoning Ordinance to not limit medical offices and other offices described in the Service Professional District to just being located in the Service Professional District. Rather, medical offices and other offices specifically described in the Service Professional District have since 1979 routinely been allowed in the Commercial District as well, which allows "office buildings."
 - D. Chapter Six, Future Land Use Plan, of the 2009 Township Master Plan, states on page 6-9 that the Commercial, the Service Professional, and the Commercial Planned Unit Development Districts should **all** be considered as commercial, and that **any** commercial development proposal significant in scale or scope (as the Planning Commission finds this Project is) should be considered as a planned unit development.
 - E. In addition to all of the above, which the Board finds is adequate justification without more, the Board notes that it had a first reading to adopt a Zoning Ordinance amendment on February 22, 2016, and adopted the Zoning Ordinance amendment on March 14, 2016, which would eliminate any doubt whatsoever that all uses allowed either by right or by special land use in the Service/Professional District are also allowed in a commercial planned unit development. The Zoning Ordinance amendment is not yet in effect, per a notice of intent to file a petition seeking a referendum.
10. The Township further notes that under the Building Code, the Project will be categorized as a Use Group "B" (i.e., offices), with any outpatient operating facility approved by the State of Michigan with a Certificate of Need also categorized as a Use Group "B" (i.e., ambulatory care facility). Alternatively, a hospital under the Building Code would be a Use Group "I-2," with standards significantly higher than those imposed upon Use Group "B." The Township finds that combining the offices portion of the Project with the ambulatory care portion of the Project in the same use group of the Building Code shows that the Project is not a hospital, but rather a medical office building with accessory uses incidental to medical offices.

Health Pointe Information for the Grand Haven Township Board

Health Pointe brings area residents and current patients of Spectrum Health and Holland Hospital a choice for convenient care, access to specialists and newly available patient services in their community - where they live, work and play. In recent months, the Board has heard considerable speculation about Health Pointe. The following outline is intended to offer some fundamental facts about the project, and bring some clarity in advance of any final vote:

The Need

There is a need to provide Grand Haven residents with new, high-quality options closer to home. We know that many patients are leaving the community for health care. Health Pointe would give these patients another local choice in the form of a convenient option for care. The argument that “there is already a hospital” misses the true differences that will be offered to patients, and the larger question of providing choice in the market. Local residents deserve more options for their care.

Impact on the Community

Health Pointe will bring new health care services, new jobs and new revenue to the region. The health services provided by Health Pointe will include primary care, urgent care, radiology, laboratory services and specialty physician services, including audiology, cardiology, ENT, endocrinology, neurology and urology. It is also planned that the facility will include CT, MRI and ambulatory surgical services. Health Pointe will be an active and engaged community partner, with local decision-making and local investment from day one. Area residents deserve the highest level of care in their community and a choice as to who delivers that care.

Tax Status

While the final tax status of the facility will not be determined for many months, Health Pointe has agreed to a PILOT agreement to provide payment for township services and infrastructure. We recognize that our patients and staff benefit from maintained roads and rely on having the support of local law enforcement, fire personal and other emergency services. Health Pointe is prepared to pay its fair share.

CON Process

It was falsely asserted Health Pointe is avoiding the Certificate of Need (CON) process. Health Pointe has filed for CON review and approval for the inclusion of one outpatient surgical suite. The Health Pointe project has been and will continue to be fully compliant with all aspects of CON review.

Hospitals and Integrated Care Centers

Health Pointe is about giving Grand Haven residents more options when it comes to top-notch health care that is conveniently located within their communities. There are more than 20,000 area patients who already depend on care from the 20+ local doctors who will be part of Health Pointe. These physicians currently work closely with NOCH in many ways, and we expect those relationships will continue. Hospitals, like NOCH, provide many services that integrated care centers, like Health Pointe, will not provide.

In the Zeeland and Holland communities, the development of new integrated care options has proven to be a net benefit without putting other providers at undue risk. Integrated care models are not unique to West Michigan and are part of a national shift in how providers are meeting the needs of their patients.

Collaboration with NOCH

Claims that Spectrum Health has been unwilling to collaborate with NOCH are simply not true. Good faith attempts have been made many times over the years to find ways to work together. For years, Spectrum Health, NOCH, Holland Hospital and Spectrum Health Zeeland Community Hospital have collaborated on radiation oncology services in Ottawa County. The same organizations have worked collaboratively on the Ottawa County Health Needs Assessment with the Greater Ottawa County United Way. Spectrum Health physicians located in Grand Haven work closely with NOCH and we expect those relationships will continue. The fact that additional collaborative discussions have not advanced should not prevent the development of more services and more choices for area residents. We respect everyone’s right to be heard, but at the end of the day zoning decisions are not meant to block free market competition, limit patient choice, or narrow available health care.



CHRISTIAN E. MEYER

616.752.2423
FAX 616.222.2423

cmeyer@wnj.com

March 24, 2016

Grand Haven Charter Township Board of Trustees
13300 168th Avenue
Grand Haven, Michigan 49417

Re: **Medical Office Use is a Use Permitted by Right in the PUD District; and Ambulatory Surgical Suites are a “Customarily Incidental” Use to a Medical Office**

Dear Honorable Members of the Grand Haven Charter Township Board of Trustees:

As you know, this office represents Health Pointe, a Michigan nonprofit corporation (“**Health Pointe**”), which is proposing to erect a medical office building in the Township. Health Pointe’s purpose is to provide health care at a single convenient location for patients who live in the greater Grand Haven area.

The property that Health Pointe owns and on which it intends to erect its medical office building is in the PUD Planned Unit Development District (“**PUD District**”). Permitted principal uses in the PUD District include “office buildings” as well as uses that are “customarily incidental” to that principal use. Zoning Ordinance, Sections 1708.2. and 1710.1.

I am writing this letter to address two issues regarding the PUD District zoning that were raised at the Township Board meeting on March 14, 2016, by opponents of the Health Pointe Project – are medical offices permitted by right in the PUD District and are ambulatory surgical suites “customarily incidental” to a medical office? The answer to both questions is “yes”.

Medical Offices are Permitted by Right in the PUD District

Opponents continue to argue that when the Township added the SP Service/Professional District (“**SP District**”) regulations to its Zoning Ordinance in approximately 1979, the Township intended that any future medical offices be located only in the SP District because the SP District specifically allows “[m]edical and dental offices, including clinics.” Zoning Ordinance, Section 1402.2.

Although the opponents haven’t mentioned it, the Township also expressly allows “[m]edical clinics and doctor’s offices for the treatment of human beings”, but not “office buildings” or other office uses, in the R-4 Multiple-Family Residential District (“**R-4 District**”).

Zoning Ordinance, Section 1202. This district appears to also have been created in approximately 1979.

As I pointed out in more detail in my March 10, 2016, letter to this Board, this argument fails for three independent reasons.

First, the term used by the Zoning Ordinance in the PUD District for permitted uses is “office buildings” without any limitation. Dictionary definitions, to which a court would turn because the Township’s Zoning Ordinance does not define the word “office”, include “a doctor’s office” within the definition of the broader word “office”. Also included in that dictionary definition of “office” are the broader uses of “business” and “clerical” offices. These are much broader permitted uses when compared to the limited office uses allowed in the SP District and the medical office uses allowed in the R-4 District.

Second, this is consistent with the stated legislative intent of the Township when it created the SP and R-4 Districts in 1979. The express stated purpose of the SP District is to allow certain less intense commercial uses, such as medical offices, to buffer residential uses from the full suite of commercial uses. The “Statement of Purpose” for the SP District states that this District is intended to serve as a “transitional area[] between residential and commercial districts.” Zoning Ordinance, Section 1401. The express stated purpose for allowing medical offices in the R-4 District is the convenience “to the inhabitants of the area”. In addition, a multiple-family district like the R-4 District is another type of district which is typically used in zoning as a buffer or transition district to adjacent or nearby commercial districts. In neither case is the stated legislative purpose to provide that medical office uses are only allowed in the SP or R-4 District. Rather, they are allowed in these two Districts to serve other zoning aims such as buffers and convenience.

Third, since 1979 the Township has, by its own actions in regulating zoning, understood its own Zoning Ordinance to provide that office uses permitted in the SP District and medical uses permitted in the R-4 District are also permitted in districts, such as the C-1 Commercial District (“**C-1 District**”), that permit “office buildings” as a use by right.

In response to my letter, the opponents cited four appellate court decisions to support their position. Two of these decisions are not applicable in this instance because they deal with proposed uses that are different in kind from those allowed in the zoning district at issue in those cases (e.g., whether manufacturing of a product is allowed in a district that only allows the sale of that product, and whether exotic animals can be kept when the district allows that only domestic pets and livestock may be kept).¹ The remaining two decisions also are not

¹ *Independence Township v Skibowski*, 136 Mich App 178 (1984) involved the question of whether the *manufacturing* of building supplies and materials was allowed in a commercial zone which allowed only for the *sale* of building supplies and materials. The court logically held that manufacturing wasn’t permitted because

applicable, one because it turned on a definition set forth in the zoning ordinance and the other because it involved the question of exclusionary zoning, which is not relevant here.²

However, there are appellate decisions that are applicable and binding here. First, when interpreting a zoning ordinance, the sole goal is to follow legislative intent. *Fremont Township v McGarvie*, 164 Mich App 611, 614 (1987). And, when the language is clear, no other interpretation is permitted and the zoning ordinance must be applied as written. *Brandon Charter Township v Tippett*, 241 Mich App 417, 422 (2000).

In our case, the language is clear – the permitted use of “office buildings” in the PUD District is a broad phrase that by the common dictionary definition allows medical office use.

And, this plain language aligns with the Township’s stated legislative intent of creating the SP District as a transitional buffer district and allowing medical uses in the R-4 District as a convenience to residents. In neither District is the stated legislative intent to create exclusive districts where medical office uses must go to the exclusion of the districts that allow the broader “office building” use.

Therefore, a medical office building use is allowed by right in the PUD District.

However, assume for a moment for the sake of argument that the Township’s zoning ordinance is ambiguous on this point. First, any doubt must be resolved in favor of Health Pointe. “When interpreting the language of an ordinance to determine the extent of a restriction upon the use of property, the language must be interpreted, where doubt exists regarding legislative intent, in favor of the property owner.” *Talcott v City of Midland*, 150 Mich App 143, 147 (1985).

Second, “in cases of ambiguity in a municipal zoning ordinance, where a construction has been applied over an extended period by the officer or agency charged with its

manufacturing is an industrial use, different in kind than selling, and thus only permitted in the industrial district. *Independence Twp v Murdoch*, 155 Mich App 770 (1986) involved the question of whether a Siberian tiger and bobcat could be considered either “domesticated household pets” or “livestock maintained on a farm.” The court logically held they were neither because they are different in kind from the permitted animals.

² *Warren’s Station, Inc v City of Bronson*, 2001 WL 693937 (Mich Ct App March 30, 2001) and 241 Mich App 384 (2000) involved the question of whether a gasoline station that did not service cars could be considered a “service station” subject to special land use approval under the city’s zoning ordinance. The court logically held that because the applicable zoning ordinance actually had a definition for “gasoline service station” that the proposed gasoline station was a “service station” for purposes of the zoning ordinance. In our case, of course, there is no separate definition in the Township’s zoning ordinance defining medical office buildings separately from other office buildings. Finally, *Johnecheck v Bay Twp*, 199 F App’x 707 (6th Cir 2004) is a federal case that involved the question of exclusionary zoning which is not relevant to this current situation.

administration, that construction should be accorded great weight in determining the meaning of the ordinance.” *Macenas v Village of Michiana*, 433 Mich 380, 398 (1989). In our case, the Township has interpreted its own ordinance for more than 35 years to allow the uses permitted in the SP District and the medical uses permitted in the R-4 District to also be present in the districts, such as the C-1 District, that allow “office buildings”.

Third and finally, ambiguous zoning ordinances are to be interpreted as a whole and are constructed to give effect to each provision so as to produce a harmonious and consistent result. *Fremont Township, supra*, at 615. In our case, the opponents’ argument that medical office buildings are only allowed in the SP District (or, presumably, the R-4 District) gives no meaning to Section 1401 “Statement of Purpose” for the SP District which states that the SP District is intended to serve “as transitional areas between residential and commercial districts” and no meaning to Section 1201 “Statement of Purpose” for the R-4 District which states that medical uses are allowed in the R-4 District for the convenience of residents.

Thus, no matter which way a court were to perceive the Township’s zoning ordinance it would reach the same result that medical office use is a use allowed by right in the PUD District. And, none of the cases cited by the opponents adversely affect that conclusion.

Ambulatory Surgical Suites are “Customarily Incidental” to a Medical Office

The PUD District also allows uses that are “customarily incidental” to permitted principal uses. Zoning Ordinance, Section 1708.2.F. “Customarily incidental” uses are uses that are “ancillary” to and “enhance” or “further” the principal use of the property. *Lerner v Bloomfield Township*, 106 Mich App 809, 812-814 (1981).

For Health Pointe, the use of an ambulatory surgical suite in this medical office building will enhance the principal use of the medical office building because it will allow Health Pointe patients who need out-patient procedures to easily receive them close to home.

Further, there is strong push in medicine for integrated care at one location because it results in better patient outcomes and reduces medical expenses. For this reason, a surgical suite in a medical office building is very common. Health Pointe is aware of the following medical office buildings in the West Michigan area that have a surgical suite or suites: 80 68th Street SE, Gaines Township; 4068-4100 Lake Drive, City of Kentwood; 1111 Leffingwell Avenue NE; 750 East Beltline Avenue NE, Grand Rapids Township; 3300 Walker View Drive, City of Walker; and 3235 N. Wellness Drive #210, Holland Township. Pictures of these medical office buildings are attached.

Conclusion

The medical office building proposed by Health Pointe is a use permitted by right in the PUD District. In addition, any surgical suite to be located in this medical office building would be a use permitted by right as customarily incidental to the principal use of a medical office building.

Therefore, Health Pointe's request for approval should be granted under the terms of the current Zoning Ordinance.

Very truly yours,



Christian E. Meyer

CM/cd
Attachments
14160003-1 165798.165798

cc: Ronald A. Bultje
Randall W. Kraker

80 68th Street SE, Gaines Township, MI 49548



12/02/2009



1111 Leffingwell Avenue NE, City of Grand Rapids



750 East Beltline Avenue NE, Grand Rapids Township



Google Maps

Grand Rapids Ophthalmology & Walker Surgical Center

3300 Walker View Drive, Walker, MI 49544

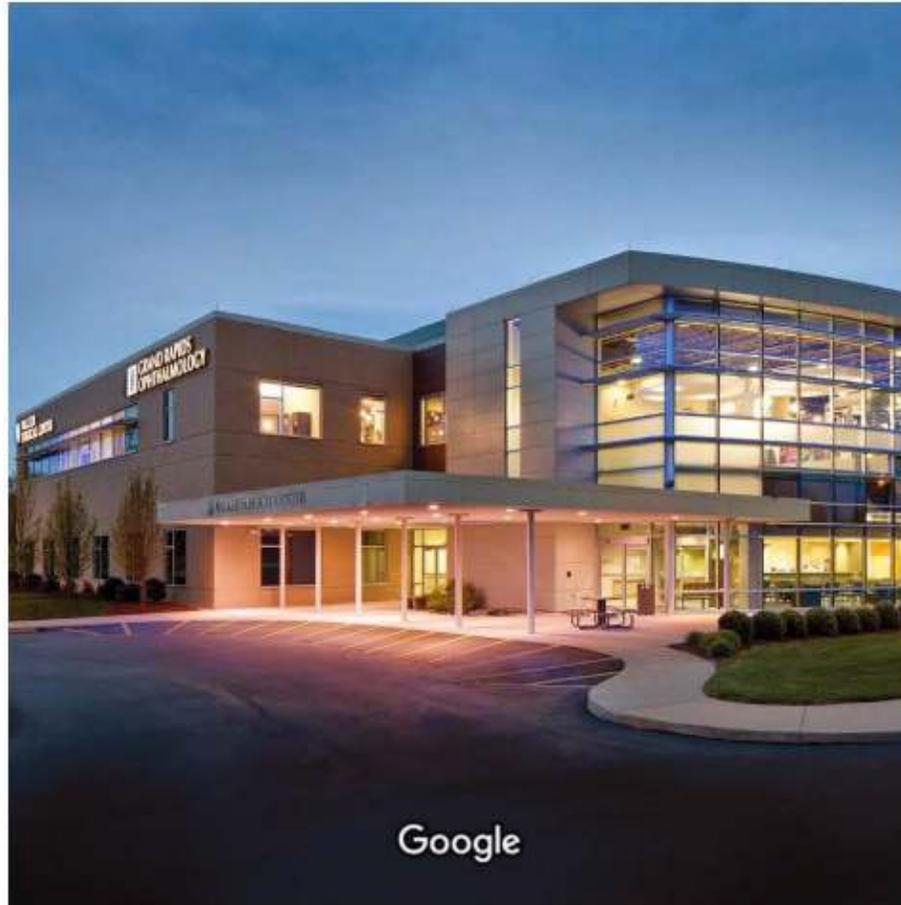


Image capture: Apr 2012

Photos are copyrighted by their owners

3235 N. Wellness Drive, Holland Township



SUPERINTENDENT'S MEMO

DATE: March 24, 2016

TO: Township Board

FROM: Cargo

SUBJECT: Health Pointe Payment In Lieu of Taxes (PILOT) Agreement

Per the request of the Township Board, attached please find a proposed PILOT agreement with Health Pointe, LLC.

Because of a precedent-setting Michigan Supreme Court decision (*i.e.*, *Wexford Medical Group v. City of Cadillac*) that established that a non-profit health care corporation is exempt from property taxation as a “charitable institution” under the Michigan General Property Tax Act, it is probably that at some future date the proposed Health Pointe facility could apply for and receive an exemption from property taxes. If that situation does occur, the proposed PILOT agreement will become effective.

In brief, the Health Pointe Board approved the proposed PILOT agreement that accomplishes the following:

- ✓ The PILOT agreement will only effective **if** Health Pointe applies for an receives a complete or partial exemption from property taxes.
- ✓ The PILOT guarantees that a payment in lieu of taxes will be provided to the Township equal to the Township’s millage rate (*i.e.*, *about 4.32 mills*) on a \$10 million Taxable Value. Also, this \$43,200 annual payment will be adjusted annually for inflation.
- ✓ Health Pointe waives it right to challenge the PILOT at some future date.

To approve the agreement, the following motion can be offered:

Motion to approve and authorize the Township Supervisor and Clerk to execute the proposed Payment in lieu of Taxes agreement with Health Pointe.

If you have any questions, please contact either Bultje or me prior to the meeting.

PAYMENT IN LIEU OF TAXES AGREEMENT

This Payment in Lieu of Taxes Agreement (the "Agreement") is made between Health Pointe ("Health Pointe"), a Michigan nonprofit corporation, at 100 Michigan Street, N.E., MC 60, Grand Rapids, Michigan 49503, and Grand Haven Charter Township, at 13300 - 168th Avenue, Grand Haven, Michigan 49417, a Michigan charter township (the "Township"). This Agreement is based upon the following facts.

A. Health Pointe has applied to the Township for planned unit development approval (the "Application") under the Grand Haven Charter Township Zoning Ordinance (the "Zoning Ordinance") and the Michigan Zoning Enabling Act (the "MZEA").

B. The property owned by Health Pointe and subject to the Application from Health Pointe is described on the attached Exhibit A, which is incorporated into this Agreement (the "Property").

C. Approval of a planned unit development by the Township for the Property is a discretionary zoning approval, subject to the reasonable discretion of the Township as more particularly set forth in the Zoning Ordinance, the MZEA, and other applicable law.

D. In considering the Application from Health Pointe, the Township has proposed and discussed with Health Pointe numerous conditions which the Township may attach to planned unit development approval of the Application pursuant to the Zoning Ordinance, the MZEA, and other applicable law.

E. Health Pointe has reserved to itself the right to apply for *ad valorem* real property tax exempt status of the Property pursuant to the General Property Tax Act, Act 206 of 1893, as amended, (the "Tax Act"), and/or any other applicable law (collectively with the Tax Act, "Applicable Property Tax Law").

F. Even if the Property is deemed exempt under Applicable Property Tax Law, Health Pointe will continue to benefit from those Township services and infrastructure funded through *ad valorem* real property taxes (the "Township Real Property Taxes"), which services and infrastructure include ordinance enforcement, fire protection, police protection, transit services, certain utilities such as sewer and water, and other services and infrastructure provided by the Township from time-to-time.

G. Recognizing the benefits it will receive from these Township services, even if the Property is deemed exempt under Applicable Property Tax Law, Health Pointe is willing to enter into this Agreement.

H. Having considered Health Pointe's Application according to the standards and the procedures of the Zoning Ordinance, the MZEA and other applicable law, the Township has decided to approve the Application, but with a number of conditions. One of the conditions is that the Township and Health Pointe enter into this Agreement.

Based on the preceding facts, Health Pointe and the Township agree as follows.

1. Contingency. This Agreement is contingent upon Health Pointe obtaining planned unit development approval from the Township for its Application currently pending before the Township. The Agreement is further contingent upon the Property, in whole or in part, being deemed to be exempt from Township Real Property Taxes under Applicable Property Tax Law.

2. Application. This Agreement shall apply to the Property if some or all of the Property is determined to be exempt from Township Real Property Taxes under Applicable Property Tax Law from year to year.

3. Tax Exemption and Recording. This Agreement shall remain applicable to the Property and in effect as long as the Property is deemed exempt from Township Real Property Taxes under Applicable Property Tax Law, in whole or in part. The Agreement shall "run with the Property" and shall be applicable to any successors of Health Pointe. The Agreement will be recorded with the Ottawa County Register of Deeds.

4. Payment to the Township. As long as this Agreement remains in effect, which shall be as long as the Property or any part of it is deemed exempt from Township Real Property Taxes under Applicable Property Tax Law, Health Pointe shall pay to the Township an annual amount equal to \$43,200.00 per calendar year as adjusted according to Section 5 below (the "Annual Payment"), which Annual Payment the parties agree is a fair and reasonable amount for the Township services provided to the Property and funded by the Township Real Property Taxes.

5. Adjustment of the Annual Payment. Each Annual Payment shall be adjusted by the product obtained by multiplying \$43,200.00 by a fraction, the numerator of which shall be the "Consumer Price Index" - seasonally adjusted U.S. City Average For All Items For All Urban Consumers (1982-84=100) published monthly in the "Monthly Labor Review" of the Bureau of Labor Statistics of the United States Department of Labor (the "CPI") for the month of October immediately prior to the December 1 in which the Annual Statement (defined below) is issued and the denominator of which is the CPI for October 2016. In no event shall the Annual Payment be less than \$43,200.00. In the event the CPI is discontinued, the Township shall select comparable statistics on the purchasing power of the consumer dollar published by the Bureau of Labor Statistics of the United States Department of Labor for the purpose of making the

Draft Date:
03/23/16

calculation set forth above. In the event the Bureau of Labor Statistics no longer maintains statistics on the purchasing power of the consumer dollar, comparable statistics published by responsible financial periodical or other recognized authorities selected by the Township, acting reasonably, shall be used for the purpose of making the computations set forth above. In the event the Base Year 1982-84 = 100 or other Base Year used in computing the CPI is changed, figures used to make an adjustment as set forth above shall accordingly be changed so that all increases in the CPI are taken into account notwithstanding any such change in the Base Year period. The Township shall compute any increase in the Annual Payment resulting from the application of this adjustment as soon as practical after the appropriate index figures are available and shall notify Health Pointe in the Annual Statement of the amount of the increase, if any, pursuant to the above. Any failure by the Township to promptly notify Health Pointe of the increase, whether resulting from delay in publication of said index or for any other reason, shall not relieve Health Pointe of its liability to pay such increase as of the date due under the terms hereof, provided Health Pointe shall not be in default for non-payment of such increase until thirty (30) days after receipt of written notice of the amount due as to the adjustment.

6. Deduction From the Annual Payment. Notwithstanding anything to the contrary contained in this Agreement, if any portion of the Property in any year covered by this Agreement is deemed not exempt from Township Real Property Taxes under Applicable Property Tax Law, and if any portion of the Property is thus taxed by the Township for that year, the Annual Payment to be made by Health Pointe to the Township for that year shall be reduced by the amount of Township Real Property Taxes billed by the Township to the Property in that year and paid to the Township for that year by Health Pointe.

7. Annual Statement and Payment. The Township shall issue its annual statement setting forth the Annual Payment (the "Annual Statement") to Health Pointe on or about December 1 of each calendar year that is subject in whole or in part to this Agreement. Health Pointe shall then be liable to make the Annual Payment to the Township by no later than the immediately following February 14.

8. Lien on the Property; Enforcement and Interest. The Annual Payments required to be made by Health Pointe to the Township under this Agreement shall be a lien on the Property. If an Annual Payment becomes delinquent, it shall be collected and enforced, and interest shall accrue, in the same manner as *ad valorem* real property taxes are collected by the Township, and interest accrues on such taxes, under the Tax Act.

9. Equal Application. If a non-profit entity that is not related to Health Pointe applies for rezoning or other discretionary Township zoning approval(s) to erect a medical office building or similar facility in the Township, the Township shall require such non-profit entity to enter into a payment in lieu of taxes agreement with the Township substantially similar to this Agreement and with an annual payment substantially similar to that required of Health Pointe under this Agreement. If the Township fails to do so, then upon ninety (90) days written notice and opportunity to cure to the Township, Health Pointe may terminate this Agreement.

10. Replacement Taxes. If the Township replaces any portion of its current Township Real Property Taxes, collected for funding the services and infrastructure provided by the Township, with a replacement tax or assessment, such as an income tax or a special assessment, from which Health Pointe, the Property, or the people who are employed at the Property are not exempt, Health Pointe shall be proportionally relieved of the obligation to make the Annual Payment required by this Agreement.

11. Waiver of Right to Challenge. By entering into this Agreement, Health Pointe waives any right it may have to accept planned unit development approval from the Township for the Application and to then challenge in any forum the legality and enforceability of this Agreement, other than an alleged breach of the Agreement by the Township.

12. No Third Party Beneficiary. No third party has any rights under this Agreement. No third party may challenge or attempt to enforce any provision of or obligation imposed under this Agreement.

13. Miscellaneous. This Agreement and its rights and obligations shall not be assignable unless both parties agree in writing, which agreement shall not be unreasonably withheld. This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns. All notices and other documents to be served or transmitted shall be in writing and addressed to the parties at the addresses stated on page 1 of this Agreement or such other address or addresses as shall be specified by the parties from time to time and may be served or transmitted in person or by ordinary mail properly addressed with sufficient postage. This Agreement has been executed in the State of Michigan and shall be governed by Michigan law. The waiver by any party of a breach or violation of any provision of this Agreement shall not be a waiver of any subsequent breach of the same or any other provision of this Agreement. If any section or provision of this Agreement is unenforceable for any reason and the unenforceability of such section or provision does not materially impair the remainder of this Agreement, then the remainder of this Agreement shall remain in full force and effect, provided that if Section 9 "Equal Application" is held to be unenforceable and if the Township does not comply with the Section 9 terms (which it could do even if Section 9 is unenforceable), then Health Pointe may at its option terminate this Agreement. It is contemplated that this Agreement will be executed in multiple counterparts, all of which together shall be deemed to be one contract. Any captions in this Agreement are for convenience only and shall not be considered as part of this Agreement or in any way to amplify or modify its terms and provisions. All attached exhibits are incorporated by reference as though fully stated in the Agreement. This Agreement may not be amended other than by a written document signed by both parties. Nothing contained in this Agreement shall be construed to obligate Health Pointe to commence or complete construction of the improvements set forth in its Application. Each party has negotiated this Agreement through legal counsel and this Agreement shall be construed as if mutually drafted.

{remainder of page intentionally left blank}

The parties have executed this Agreement as of the dates noted below.

GRAND HAVEN CHARTER TOWNSHIP,
a Michigan charter township

HEALTH POINTE, a Michigan
nonprofit corporation

By: _____
Karl French, Supervisor

By: _____
Its: President

By: _____
Laurie Larsen, Clerk

Dated: _____, 2016

Dated: _____, 2016

STATE OF MICHIGAN)
)ss.
COUNTY OF OTTAWA)

The foregoing Agreement was acknowledged before me this _____ day of _____, 2016, by Karl French and Laurie Larsen, the Supervisor and the Clerk of Grand Haven Charter Township, a Michigan charter township, on behalf of the Township.

Notary Public
Ottawa County, Michigan
Acting in Ottawa County, Michigan
My Commission expires: _____

STATE OF MICHIGAN)
)ss.
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this _____ day of _____, 2016, by _____, President of Health Pointe, a Michigan nonprofit corporation, on behalf of the Corporation.

Prepared by:
Ronald A. Bultje (P29851)
Scholten and Fant, P.C.
100 North Third Street
P.O. Box 454
Grand Haven, MI 49417
(616) 842-3030

Notary Public
_____ County, Michigan
Acting in _____ County, Michigan
My Commission expires: _____

GHCT 1086 Payment in Lieu of Taxes Agreement With Health Pointe Corporation 03232016

EXHIBIT A

From C-201 Existing Conditions Plan 10/27/15

Part of the Northwest 1/4 of Section 33, Town 8 North, Range 16 West, Grand Haven Township, Ottawa County, Michigan, described as: Commencing at the North 1/4 corner of said section; thence S01°13'43"E 653.23 feet along the North-South 1/4 line of said section to the Point of Beginning; thence continuing S01°13'43"E 336.27 feet along said 1/4 line; thence S89°43'31"W 53.74 feet parallel with the North line of the South 3/4 of the Northwest 1/4 of said section; thence S01°12'05"E 25.63 feet; thence S89°43'31"W 47.88 feet; thence S01°12'05"E 30.79 feet; thence Southwesterly 117.48 feet along a 200.00 foot radius curve to the left, said curve having a central angle of 33°39'22", and a chord that bears S61°16'06"W 115.80 feet; thence S44°26'25"W 162.16 feet; thence Southwesterly 153.82 feet along a 200.00 foot radius curve to the right, said curve having a central angle of 44°03'55", and a chord that bears S66°28'23"W 150.05 feet; thence S88°30'20"W 386.19 feet; thence Northwesterly 62.90 feet along a 40.00 foot radius curve to the right, said curve having a central angle of 90°05'36", and a chord bearing N46°26'52"W 56.61 feet; thence N01°24'04"W 367.19 feet; thence Northeasterly 253.22 feet along a 881.00 foot radius curve to the right, said curve having a central angle of 16°28'05", and a chord that bears N06°49'59"E 252.35 feet; thence N15°04'02"E 115.89 feet; thence Northeasterly 146.64 feet along a 748.52 foot radius curve to the left, said curve having a central angle of 11°13'27", and a chord that bears N11°24'41"E 146.40 feet; thence S89°40'56"E 102.72 feet; thence S00°18'11"W 280.30 feet; thence N89°43'31"E 691.62 feet along the North line of the South 3/4 of the Northwest 1/4 of said section to the Point of Beginning. Containing 12.00 acres (11.74 Acres excluding R.O.W.). Subject to highway right-of-way for 172nd Avenue over the Easterly most 33 feet thereof. Also subject to easements, restrictions, and rights-of-way of record.