



ZONING BOARD OF APPEALS

Special Meeting

July 11, 2023

7:00p.m.

1. CALL MEETING TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. APPROVAL OF AGENDA
5. CORRESPONDENCE / BOARD REPORTS
 - Boards and Commissions Expiration Dates
6. APPROVAL OF MINUTES
 - May 3, 2023 Regular ZBA Meeting
7. PUBLIC COMMENT: Restricted to (3) minutes regarding issues not on this agenda
8. NEW BUSINESS
 - A. **Election of Vice-Chair**
 - B. **PZA23-01 Administrative Appeal**– Request from William Ervin to appeal the denial of the PLD23-0023 land division application by the Zoning Administrator, Peter Gallinat, to split approximately 10.10 acres from the northeast corner of their 45.73-acre parcel number 14-016-10-001-06. The new parcel is intended for the construction of a one-family residential home that would access the end of Sandstone Drive. The parcel is located in the SW ¼ of Section 16 and zoned R-2A (One and Two Family, Low Density Residential), B-4 (General Business), and OS (Office Service) zoning districts [Legal Description: T14N R4W SECTION 16 NW 1/4 OF SW ¼]. The land division as proposed did not satisfy the standards of Section 7.17.B. (Streets, Roads, and Other Means of Access/Public Access Required/Minimum Road Frontage) that the front lot line of all lots shall abut onto a publicly dedicated road right-of-way, and that the required frontage on an approved road right-of-way shall be equal to or greater than 100.0 feet in length, which is the minimum lot width for the R-2A zoning district in which the proposed lot would be located.
 - a. Updates from staff and the applicant
 - b. Public Hearing
 - c. Questions from Board of Appeals members
 - d. Board of Appeals deliberation and determination as to whether or not the Zoning Administrator’s action:
 - Constituted an abuse of discretion? (YES/NO)
 - Was arbitrary or capricious? (YES/NO)
 - Was based upon an erroneous finding of a material fact? (YES/NO)
 - Was based upon an erroneous interpretation of the Zoning Ordinance? (YES/NO)
 - e. If the Board of Appeals answers YES to any of the above, then the Zoning Administrator’s action is reversed and the Board of Appeals then *“may, reverse or affirm wholly or in part; modify the order, requirement, decision or determination; or make such order,*

requirement, decision, or determination as ought to be made, and may issue or direct the issuance of a permit. To that end, the (Board of Appeals) shall have all of the powers of the (Zoning Administrator)."

- i. Board of Appeals review of the PLD23-0023 land division application for compliance with applicable Zoning Ordinance standards.
- ii. Board of Appeals deliberation and action on the land division application (approve, deny, or postpone action with a request for additional information)
- iii. Board of Appeals determination of compliance with Zoning Ordinance standards:
 - o Meets or exceeds Section 3.8 (R-2A District) standards for a minimum lot width of 100 feet and a minimum lot area of 14,00 square-feet? (YES/NO)
 - o Meets or exceeds the Section 7.17.B. (Streets, Roads, and Other Means of Access/Public Access Required/Minimum Road Frontage) standards that the front lot line of all lots shall abut onto a publicly dedicated road right-of-way, and that the required frontage on an approved road right-of-way shall be equal to or greater than 100.0 feet in length, which is the minimum lot width for the R-2A zoning district? (YES/NO)
- iv. Board of Appeals action on the land division application (approve, deny, or postpone action with a request for additional information)

C. **PZBA23-0001 Zoning Ordinance Interpretation– Request from William Ervin for an ordinance interpretation to determine if a designated but not constructed right-of-way meets the standards of the “approved road right-of-way” required in Section 7.17.B.** The proposed PLD23-0023 land division is near where Sandstone Drive ends in a “T” Turn-around. Where Sandstone ends there is a designated right-of-way for the extension of E. Broadway. This designated right-of-way for E. Broadway is not constructed and is not planned to be constructed as part of the land division.

- a. Updates from staff and the applicant
- b. Public Hearing
- c. Questions from Board of Appeals members
- d. Board of Appeals deliberation
- e. Board of Appeals Action to *“decide questions that arise in the interpretation of the text of the Zoning Ordinance in a manner consistent with the intents and purposes stated in the Ordinance, and in such a way as to preserve and promote the character of the zoning district in question.”*
 - o Motion to take no action, finding that there is no question that requires an interpretation.
 - o Motion to interpret Section 7.17.B of the Zoning Ordinance in a way that a designated but not constructed right-of-way [DOES] [DOES NOT] meet the standards of the “approved road right-of-way” requirement for calculating minimum required road frontage for any new lot created by land division.

9. OTHER BUSINESS

10. EXTENDED PUBLIC COMMENT: Restricted to 5 minutes regarding any issue

11. FINAL BOARD COMMENT

12. ADJOURNMENT

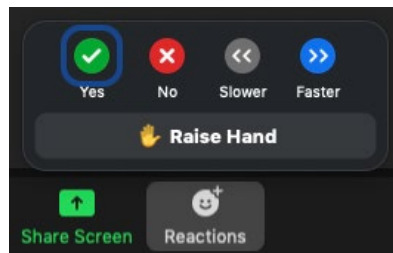
Hybrid Meeting Instructions for the Charter Township of Union Zoning of Board of Appeals

The public can view all Union Township meetings live by clicking on our [YouTube Channel](#). For those who would like to participate, you can do so via Zoom.

[Click here](#) to participate in the Zoom Meeting via computer or smart phone. (Meeting ID Enter “884 6841 7954” Password enter “562748”). Access to the electronic meeting will open at 6:50 p.m. and meeting will begin at 7:00 p.m.

Telephone conference call, dial (312-626-6799). Enter “884 6841 7954” and the “#” sign at the “Meeting ID” prompt, and then enter “562748” at the “Password” prompt. Lastly, re-enter the “#” sign again at the “Participant ID” prompt to join the meeting.

- All public comments for items on the agenda will be taken at the Public Comment and any issue not on the agenda will be taken at the Extended Public Comment section of the Agenda.
- Computer/tablet/smartphone audience: To indicate you wish to make a public comment, please use the “Reactions” icon. **Next, click on the “Raise Hand” icon** near the bottom right corner of the screen.



- **To raise your hand for telephone dial-in participants, press *9.** You will be called on by the last three digits of your phone number for comments, at which time you will be unmuted by the meeting moderator.
- Please state your name and address for the minutes and keep public comments concise.

You will be called upon once all in-person comments have been made, at which time you will be unmuted by the meeting moderator.

Persons with disabilities needing assistance should call the Township office at (989) 772-4600. Persons requiring speech or hearing assistance can contact the Township through the Michigan Relay Center at 711. A minimum of one (1) business day of advance notice will be necessary for accommodation.

Board Expiration Dates

Planning Commission Board Members (9 Members) 3 year term			
#	F Name	L Name	Expiration Date
1-BOT Representative	James	Thering	11/20/2024
2-Chair	Phil	Squatrito	2/15/2026
3-Vice Chair	Ryan	Buckley	2/15/2025
4-Secretary	Doug	LaBelle II	2/15/2025
5 - Vice Secretary	Tera	Albrecht	2/15/2024
6	Stan	Shingles	2/15/2024
7	Paul	Gross	2/15/2025
8	Nivia	McDonald	2/15/2026
9	Jessica	Lapp	2/15/2026
Zoning Board of Appeals Members (5 Members, 2 Alternates) 3 year term			
#	F Name	L Name	Expiration Date
1- PC Rep	Ryan	Buckley	2/15/2025
2 -	Richard	Barz	12/31/2025
3 -	Liz	Presnell	12/31/2025
4 -	Vacant		12/31/2023
5 -	Eric	Loose	12/31/2024
Alt. #1	David	Coyne	12/31/2024
Alt #2 (BOT Representative)	Jeff	Brown	11/20/2024
Board of Review (3 Members) 2 year term			
#	F Name	L Name	Expiration Date
1	Doug	LaBelle II	12/31/2024
2	Sarvjit	Chowdhary	12/31/2024
3	Bryan	Neyer	12/31/2024
Alt #1	Randy	Golden	12/31/2024
Construction Board of Appeals (3 Members) 2 year term			
#	F Name	L Name	Expiration Date
1	Colin	Herren	12/31/2023
2	Joseph	Schafer	12/31/2023
3	Andy	Theisen	12/31/2023
Hannah's Bark Park Advisory Board (2 Members from Township) 2 year term			
1	Mark	Stuhldreher	12/31/2024
2	John	Dinse	12/31/2023
Chippewa River District Library Board 4 year term			
1	Ruth	Helwig	12/31/2023
2	Lynn	Laskowsky	12/31/2025



Board Expiration Dates

EDA Board Members (9 Members) 4 year term			
#	F Name	L Name	Expiration Date
1-BOT Representative	Bryan	Mielke	11/20/2024
2	Thomas	Kequom	4/14/2027
3	James	Zalud	4/14/2027
4	Richard	Barz	2/13/2025
5	Robert	Bacon	1/13/2027
6	Marty	Figg	6/22/2026
7	Sarvjit	Chowdhary	6/22/2027
8	Jeff	Sweet	2/13/2025
9	David	Coyne	3/26/2026
Mid Michigan Area Cable Consortium (2 Members)			
#	F Name	L Name	Expiration Date
1	Kim	Smith	12/31/2025
2	vacant seat		
Cultural and Recreational Commission (1 seat from Township) 3 year term			
#	F Name	L Name	Expiration Date
1	Robert	Sommerville	12/31/2025
Sidewalks and Pathways Prioritization Committee (2 year term -PC Appointments)			
#	F Name	L Name	Expiration Date
1 - BOT Representative	Kimberly	Rice	11/20/2024
2 - PC Representative	Stan	Shingles	2/15/2024
3 - Township Resident	Jeff	Siler	8/15/2023
4 - Township Resident	vacant seat		10/17/2022
5 - Member at large	Phil	Hertzler	8/15/2023
Mid Michigan Aquatic Recreational Authority (2 seat from Township) 3 year term			
#	F Name	L Name	Expiration Date
1-City of Mt. Pleasant	John	Zang	12/31/2023
2-City of Mt. Pleasant	Judith	Wagley	12/31/2022
1-Union Township	Stan	Shingles	12/31/2023
2-Union Township	Allison	Chiodini	12/31/2025
1-Mt. Pleasant Schools	Lisa	Diaz	12/31/2022
1-Member at Large	Mark	Stansberry	2/14/2025
2- Member at Large	Michael	Huenemann	2/14/2025

CHARTER TOWNSHIP OF UNION
Zoning Board of Appeals
Regular Meeting Minutes

A regular meeting of the Charter Township of Union Zoning Board of Appeals was held on May 3, 2023, at 7:00 p.m. at the Union Township Hall.

Meeting was called to order at 7:00 p.m.

Roll Call

Present:

Barz, Brown, Coyne, Loose, and Presnell

Excused:

Buckley

Others Present

Rodney Nanney, Community and Economic Development Department Director, Peter Gallinat, Zoning Administrator, and Tera Green, Administrative Assistant

Approval of Agenda

Brown moved **Barz** supported to approve the agenda as presented. **Vote: Ayes: 5. Nays 0. Motion carried.**

Correspondence / Board Reports

None

Approval of Minutes

Coyne moved **Loose** supported to approve the March 1, 2023 regular meeting minutes as presented. **Vote: Ayes: 5. Nays 0. Motion carried.**

Public Comment: Restricted to (3) minutes regarding issues not on this Agenda.

Open – 7:03 p.m.

No comments were offered.

Closed – 7:03 p.m.

New Business

- A. **PVAR23-01 Request from James Recker for an eight (8) inch height variance from the requirements of Section 7.5.C.3 of the Zoning Ordinance to allow an existing accessory building built without a permit and located at 5401 S. Lincoln Road on parcel 14-033-30-005-00 in the SW ¼ of Section 33 and in the AG (Agricultural) zoning district to remain in place with modifications by the owner to reduce the total floor area by 300 square-feet.**
 - a. Updates from staff and the applicant
 - b. Public Hearing
 - c. Questions from Board of Appeals members
 - d. Board of Appeals deliberation and action (approved, deny, approve with conditions, postpone action)

Nanney introduced the PVAR23-01 Application for an eight (8) inch height variance for a detached accessory building located at 5401 S. Lincoln Road that was built without a permit. The applicant is requesting that it remain in place with modifications by the owner to reduce the total floor area by 300 square feet.

Discussion by the Board.

Public Hearing

Open: 7:10 p.m.

No comments were offered

Closed: 7:10 p.m.

Deliberation by the Board.

Barz moved **Brown** supported to approve the PVAR23-01 request for an eight (8) inch height variance from the requirements of Section 7.5.C.3 of the Zoning Ordinance to allow an existing accessory building built without a permit and located at 5401 S. Lincoln Road on parcel 14-033-30-005-00 in the southwest quarter of Section 33 and in the AG (Agricultural) zoning district to remain in place with modifications by the owner to reduce the total floor area by 300 square-feet, finding that the variance is consistent with the standards for review in Section 14.4.K.1 of the Zoning Ordinance, and recognizing that:

1. This is the minimum necessary action based on the applicant’s proposal to remove 300 square-feet of the total floor area, and
2. This is not self-created because potential challenges related to COVID19 could have created or exacerbated the confusion that led to the violations.

Vote: Ayes: 5. Nays 0. Motion carried.

Other Business

Extended Public Comment: Restricted to 5 minutes regarding any issue.

Open: 7:26 p.m.

No comments were offered.

Closed: 7:26 p.m.

Final Board Comment

N/A

Adjournment

Chair Presnell adjourned the meeting at 7:26 p.m.

APPROVED BY:

Eric Loose – Secretary

(Recorded by Tera Green)

Charter Township of Union

APPLICATION FOR ZONING BOARD OF APPEALS REVIEW

Variance Administrative Appeal Interpretation Sign Variance Other: _____

A complete application will contain all the information required per the Zoning Ordinance, Section 14.4 (Variances and Appeals).

Name of Proposed Development/Project		PLD23-0023 LAND DIVISION	
Common Description of Property & Address (if issued)		PIN 14-016-10-001-06	
2499 S. Sandstone Dr.			
Applicant's Name(s)		William Ervin	
Phone/Fax numbers	231-947-7900	Email	MSM@KUHNROGERS.COM
Address	PO Box 70	City:	Mount Pleasant Zip: 48804

Legal Description:	Attached	Included on Plan/Survey	Tax Parcel ID Number(s):	14-016-10-001-06	
Existing Zoning:	R-2A	Land Acreage:	45.73	Existing Use(s):	vacant
<input checked="" type="checkbox"/> ATTACHED: Letter summarizing the request and responding to the applicable review criteria found in Section 14.5.B.					

Firm(s) or Individuals(s) who prepared the plan or survey drawing.	1. Name: _____ Phone: _____ Email: _____ 2. Address: _____ City: _____ State: MI Zip: _____ Contact Person: _____ Phone: _____
Legal Owner(s) of Property. All persons having legal interest in the property must sign this application. Attach a separate sheet if more space is needed.	1. Name: <u>Willam Ervin</u> Phone: _____ Address: <u>same as above</u> City: _____ State: MI Zip: _____ DocuSigned by: <u>William Ervin</u> Signature: <u>William Ervin</u> Interest in Property: <u>owner/lessee/other</u> DB9E039DB700464 2. Name: <u>Richard Ervin</u> Phone: _____ Address: <u>same as above</u> City: _____ State: MI Zip: _____ DocuSigned by: <u>RE</u> Signature: <u>Richard Ervin</u> Interest in Property: <u>owner/lessee/other</u> 76AAF933EB38460

I do hereby affirm that all the statements, signatures, descriptions, exhibits submitted on or with this application are true and accurate to the best of my knowledge and that I am authorized to file this application and act on behalf of all the owners of the property. False or inaccurate information may be cause for rejection of the application or revocation of any action by the Board of Appeals. Approval of a variance shall not constitute the right to violate any other provisions of the Zoning Ordinance or other applicable codes and ordinances.

DocuSigned by:
William Ervin 5/9/2023
 DB9E039DB700464

 Signature of Applicant Date

Office Use Only

Application Received By: _____ Fee Paid: \$ _____
 Date Received: _____ Escrow Deposit Paid: \$ _____

Memo

To: Members, Charter Township of Union Zoning Board of Appeals
From: David L. Puskar, Braun Kendrick Finkbeiner P.L.C.
Date: June 30, 2023
Subject: PZA23-01 Administrative Appeal // PZBA23-0001 Interpretation

This Memorandum outlines the legal standards applicable to the above referenced Zoning Board of Appeals (“ZBA”) items.

I. PZA23-01 ADMINISTRATIVE APPEAL

A. The Request

The Ervins described their Administrative Appeal as follows:

“The applicant made a request for one division of vacant land located at 2499 S. Sandstone Dr. This property consists of 45.73 acres and is described as: NM 1/4 OF SW 1/4 SEC 16 T14N R4W.SPLIT FOR 2008 FROM 016-10-001-05 TO 016-10-001-06 & 054-00-057-00 THRU 054-00-081-00. The request was for approximately 10.10 acres be [sic] split off. The portion to be split off would front (approx. 400 feet) on the dedicated public right-of-way of Broadway Street, *see Exhibit A*. While the request met the requirements of the land division act, Peter Gallinat and Rodney Nanney denied the request. The basis of the denial is outlined in Mr. Nanney’s letter dated April 20, 2023, *see Exhibit B*. . . .” [Letter from Marc S. McKellar II to the ZBA, p. 1, dated May 9, 2023.]

B. Legal Standard

1. *ZBA Administrative Appeal Determination Standard*

The primary sources of authority in this matter are the Michigan Zoning Enabling Act, Public Act 110 of 2006 (“MZEA”) and related case law as well as the Union Township Zoning Ordinance (“Zoning Ordinance”). The MZEA mandates that the ZBA hold a public hearing on appeals of administrative decisions such as this. MCL 125.3604(5). The ZBA “shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative

official or body charged with enforcement of a zoning ordinance.” MCL 125.3603(1). The Zoning Ordinance provides further guidance to the ZBA in this matter by reiterating that “[t]he ZBA shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of this Ordinance.” Zoning Ordinance, § 14.4.G.2. “The ZBA shall reverse an administrative decision only upon determining that the order, requirement, decision or determination:

- a. Constituted an abuse of discretion;
- b. Was arbitrary or capricious;
- c. Was based upon an erroneous finding of a material fact; or
- d. Was based upon an erroneous interpretation of the Zoning Ordinance.”

Id., § 14.4.J.2. A finding that any one of these occurred will result in a reversal. *Id.* After completing the above review, “the ZBA may, reverse or affirm wholly or in part; modify the order, requirement, decision or determination; or make such order, requirement, decision, or determination as ought to be made, and may issue or direct the issuance of a permit. To that end, the ZBA shall have all of the powers of the [Zoning Administrator] from whom the appeal is taken.” *Id.*

a. Abuse of Discretion

An abuse of discretion occurs when a decision results in an outcome falling outside the range of reasonable and principled outcomes. *Ronnisch Constr Grp, Inc v Lofts on the Nine, LLC*, 499 Mich 544, 552; 886 NW2d 113 (2016), citing *Moore v Secura Ins*, 482 Mich 507, 516; 759 NW2d 833 (2008). See also *Woodward v Custer*, 476 Mich 545, 557; 719 NW2d 842 (2006), citing *Novi v Robert Adell Children’s Funded Trust*, 473 Mich 242, 254; 701 NW2d 144 (2005). An abuse of discretion occurs when a factfinder makes an error of law. *Ronnisch Constr Grp*, 499 Mich at 552, citing *People v Duncan*, 494 Mich 713, 723; 835 NW2d 399 (2013).

b. Arbitrary and Capricious

“A decision is arbitrary if it is ‘fixed or arrived at through an exercise of will or by caprice, without consideration or adjustment with reference to principles, circumstances or significance’” *Shirvell v Dep’t of AG*, 308 Mich App 702, 753; 866 NW2d 478 (2015), quoting *Mich Farm Bureau v Dep’t of Environmental Quality*, 292 Mich App 106, 141; 807 NW2d 866 (2011). “A decision is ‘capricious’ if it is ‘apt to change suddenly, freakish or whimsical[.]’” *Id.*, quoting *Mich Farm Bureau*, 292 Mich App at 141.

c. Erroneous Finding of a Material Fact

The term “clearly erroneous” has acquired a well-accepted meaning in Michigan law. *Heindlmeyer v Ottawa County Concealed Weapons Licensing Bd*, 268 Mich App 202, 222; 707 NW2d 353 (2005). A finding of fact is clearly erroneous when the reviewing body, after weighing all the evidence, “is left with a definite and firm conviction that a mistake has been committed.” *Beason v Beason*, 435 Mich 791, 805; 460 NW2d 207 (1990). This is true even when there is some evidence to support the finding. *Heindlmeyer*, 268 Mich App at 222. Under a clearly erroneous standard, there is a “review of the evidence and facts presented to a lower tribunal and review of the tribunal’s decision made thereon, or in other words, ‘review of the record for error.’” *Id.* Deference is given to the lower tribunal’s findings during a clear error review. *Id.*

A material fact is distinguishable from an ordinary fact. A material fact is an “ultimate fact.” *Simerka v Pridemore*, 380 Mich 250, 274-275; 156 NW2d 509 (1968). That is, a material fact is a fact that is essential to the claim at issue. *Sandusky v VHS of Mich, Inc*, 2021 Mich App LEXIS 5671, at *6 (September 23, 2021), citing *Simerka*, 380 Mich at 274-275. “For example, in a contract case the material fact, or ultimate fact, as distinguished from the evidentiary fact, is the meeting of the minds, rather than merely that the parties conferred” *Simerka*, 380 Mich at 275.

d. Erroneous Interpretation of the Zoning Ordinance

This standard is necessarily tied to the ZBA’s interpretation of the Zoning Ordinance and the clearly erroneous standard and is therefore fully discussed in those portions of this Memorandum, below.

2. *Land Division Approval Standard*

The primary sources of authority are Michigan’s Land Division Act, Public Act 288 of 1967 (“LDA”) and related case law as well as the Zoning Ordinance and the Union Township Land Division Ordinance (“Land Division Ordinance”). The LDA regulates both divisions¹ and subdivisions² of platted and unplatted land. A division is a

¹ A division of land is “the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in 1 or more parcels of less than 40 acres or the equivalent, *and that satisfies the requirements of sections 108 and 109.*” MCL 560.102(d) (emphasis added).

² A subdivision of land is “the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in 1 or more parcels of less than 40 acres or the equivalent, *and that is not exempted from the platting requirements of this act by sections 108 and 109.*” MCL 560.102(f) (emphasis added).

split of unplatted land and is not subject to the platting requirements in the LDA if the proposed division complies with certain municipal approval standards. See MCL 560.108(1). Divisions of land are subject, however, to the municipal approval requirements of Sections 108 and 109 of the LDA. MCL 560.103(1).

Section 109 describes the municipal approval process and the standards by which an application for a land division must be approved or disapproved. An application must be approved if it complies with Section 108 and with **all** of the following requirements in Section 109:

- (a) Each resulting parcel has an adequate and accurate legal description and is included in a tentative parcel map showing area, parcel lines, public utility easements, accessibility, and other requirements of this section and section 108. The tentative parcel map shall be a scale drawing showing the approximate dimensions of the parcels.
- (b) Each resulting parcel has a depth of not more than 4 times the width or, if an ordinance referred to in subsection (5) requires a smaller depth to width ratio, a depth to width ratio as required by the ordinance. The municipality or county having authority to review proposed divisions may allow a greater depth to width ratio than that otherwise required by this subdivision or an ordinance referred to in subsection (5). The greater depth to width ratio shall be based on standards set forth in the ordinance referred to in subsection (5). The standards may include, but need not be limited to, exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands. The depth to width ratio requirements of this subdivision do not apply to a parcel larger than 10 acres, unless an ordinance referred to in subsection (5) provides otherwise, and do not apply to the remainder of the parent parcel or parent tract retained by the proprietor.
- (c) Each resulting parcel has a width not less than that required by an ordinance referred to in subsection (5).
- (d) Each resulting parcel has an area not less than that required by an ordinance referred to in subsection (5).
- (e) Each resulting parcel is accessible.
- (f) The division meets all of the requirements of section 108.

- (g) Each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities.
- (h) The division does not isolate a cemetery so that it does not meet the requirements of either section 102(j)(i) or (ii).
- (i) One of the following are satisfied:
 - (i) All property taxes and special assessments due on the parcel or tract subject to the proposed division for the 5 years preceding the date of the application have been paid, as established by a certificate from the county treasurer of the county in which the parcel or tract is located. If the date of the application is on or after March 1 and before the local treasurer of the local tax collecting unit in which the parcel or tract is located has made his or her return of current delinquent taxes, the county treasurer shall include with his or her certification a notation that the return of current delinquent taxes was not available for examination. The official having authority to approve or disapprove the application shall not disapprove the application because the county treasurer's certification includes such a notation. The county treasurer shall collect a fee for a certification under this subdivision in an amount equal to the fee payable under section 1(2) of 1895 PA 161, MCL 48.101, for a certificate relating to the payment of taxes under section 135 of the general property tax act, 1893 PA 206, MCL 211.135.
 - (ii) If property taxes or special assessments due on the parcel or tract subject to the proposed division have not been paid, the unpaid property taxes or special assessments have been apportioned by the township or city assessing officer as provided by section 53 of the general property tax act, 1893 PA 206, MCL 211.53. Any apportioned property taxes or special assessments are a lien against the parcels or tracts as apportioned by the assessing officer and shall be treated in the same manner as property taxes and special assessments of the year of the original assessment for the purpose of collection and sale for

delinquent taxes under the general property tax act,
1893 PA 206, MCL 211.1 to 211.155.

MCL 560.109(1).

Subsection b of MCL 560.109(1) contains the core of the municipal approval requirements. MCL 560.109(1)(b) provides for very a specific depth to width ratio of the parcel resulting from a land division. It specifically excludes the parent parcel from its requirements. *Id.* The ratio is: depth must not be more than 4 times the width. However, a municipality may adopt an ordinance describing the standards authorized in MCL 560.109(1)(b)-(d). MCL 560.109(5). Pursuant to that authority, if an ordinance requires a smaller ratio, the parcel must comply with that ordinance. MCL 560.109(1)(b). The municipality may also require a greater ratio, but it must be based on standards included in the ordinance. *Id.*

Union Township’s Land Division Ordinance states that the ratio must not exceed four to one, mirroring the statute. Land Division Ordinance, § 202.007(D). The Land Division Ordinance also states that all parcels must comply with any applicable Zoning Ordinance requirements for, among other things, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, and minimum lot width to depth ratios. *Id.*, § 202.007(A). It also states that “[t]he width of a parcel shall be measured at the abutting road right-of-way line, or as otherwise provided in any applicable ordinance.” *Id.*, § 202.007(D).

Looking to applicable provisions of the Zoning Ordinance, Section 7.17.B provides for required minimum frontage on public road rights-of-way. It also provides that the required frontage (which also means width) on the public road right-of-way must be equal to or greater than the minimum lot width for the district where the lot is located. *Id.* For an R-2A district, the minimum width is 100 feet for a single family and 43,560 feet for area. Zoning Ordinance, § 4.2.A. Section 7.17.B also states that “[f]rontage on a “T” turnaround shall not be counted toward the minimum road frontage requirements.”

II. PZBA23-0001 INTERPRETATION OF ZONING ORDINANCE

A. The Request

The Ervins described their Zoning Ordinance Interpretation request as follows:

“Notwithstanding any determination as to the land division application, the applicant requests a text interpretation. Specifically, the applicant wishes for the ZBA to interpret section 7.17 of the zoning ordinance, in conjunction with all other applicable terms, including the definitions of front lot line, lot width, setback, and right-of-way. More specifically, the applicant requests that Section 7.17 be interpreted to mean that the property must front on a dedicated right-of-way and that the road or street

being constructed is not a requirement to meet the requirements of 7.17.”
[Letter from Marc S. McKellar II to the ZBA, p. 4, dated May 9, 2023.]

B. Legal Standard

This interpretation request requires an analysis of the definitions of “road,” “public road,” “right-of-way” with Section 7.17.B of the Zoning Ordinance to determine whether a “publicly dedicated road right-of-way” exists on a strip of land that has been designated as a right-of-way and has appropriate easements for same but has not been constructed.

The primary sources of authority in this matter are the MZEA and related case law as well as the Zoning Ordinance. The MZEA mandates that the ZBA hold a public hearing on interpretation requests such as this. MCL 125.3604(5). The Zoning Ordinance provides further guidance to the ZBA in this matter when it states, in relevant part, that “[t]he ZBA shall hear and decide questions that arise in the administration of the zoning ordinance.” Zoning Ordinance, § 14.4.G.1. The ZBA can hear and decide questions that arise in the interpretation of the text of the Zoning Ordinance in a manner consistent with the intents and purposes stated in the Ordinance, and in such a way as to preserve and promote the character of the zoning district in question. *Id.*, § 14.4.I.

The ZBA has the power to interpret the zoning ordinance or zoning map when there are questions or ambiguities present. *Macenas v Michiana*, 433 Mich 380, 446 NW2d 102 (1989). In interpreting an ordinance to determine the extent of a restriction on the use of property, the language must be interpreted, where doubt exists regarding legislative intent, in favor of the property owner. *Talcott v Midland*, 150 Mich App 143, 387 NW2d 845 (1985).

A ZBA must also reasonably construe a zoning ordinance with regard to the objects sought to be attained and the overall structure of the zoning scheme. *Szluha v Charter Twp of Avon*, 128 Mich App 402, 408; 340 NW2d 105 (1983). In *Szluha*, the Michigan Humane Society wanted to build an animal welfare complex in a district zoned light industrial. *Id.* at 408. An animal welfare complex was not explicitly identified as a permissible use in any of the township’s zoning districts. *Id.* After considering whether that use was sufficiently similar to any of the uses specifically allowed in any of the zoning districts, the ZBA concluded that the proposed animal center was a permitted use in the light industrial district because it had characteristics of a storage facility and was more like an industrial building than a retailing business. *Id.* at 408-409. The court concluded that this interpretation was a reasonable exercise of the ZBA’s discretion, complying with both state law and the zoning ordinance. *Id.* at 410 (“Decisions by a zoning board of appeals of the type involved in this matter are largely discretionary.”).

The relevant portions of Section 7.17 applicable to this interpretation request are as follows:

A. **Intent.**

Unimpeded, safe access to parcels of land throughout the Township is necessary to provide adequate police and fire protection, ambulance services, and other public services, and to otherwise promote and protect the health, safety, and welfare of the public. The standards and specifications set forth herein are determined to be the minimum standards and specifications necessary to meet the above stated intentions.

B. **Public Access Required/Minimum Frontage.**

The front lot line of all lots shall abut onto a publicly dedicated road right-of-way. The required frontage on an approved road right-of-way shall be equal to or greater than the minimum lot width for the district in which the lot is located, as specified in Section 4; except that the minimum frontage of lots that abut the turnaround at the end of a cul-de-sac shall be equal to or greater than 50% of the minimum lot width. On lots located on a curve, frontage shall be measured along a straight line between the two points where the side lot lines intersect the curved right-of-way line (see drawing). Frontage on a "T" turnaround shall not be counted toward the minimum road frontage requirements.

The relevant definitions of terms described in the interpretation request are as follows:

Front Lot Line. The line separating said lot from the public or private road right-of-way. In the case of a corner lot or double frontage lot, the 'front lot line' shall be that line that separates said lot from the right-of-way for the road which is designated as the front on the plat, or which is designated as the front on the site plan review application or request for a building permit, subject to approval by the Zoning Administrator. On a flag lot, the 'front lot line' shall be the interior lot line most parallel to and nearest the street from which access is obtained.

Lot Width. The straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines

Setback. The horizontal distance between any lot line and the nearest part of a structure on a lot. The 'minimum required setback' is the minimum distance between a front, side or rear lot line and the nearest part of a structure in order to conform to the required yard setback provisions of this Ordinance (see Yard).

Right-of-Way. The strip of land over which an easement exists to allow facilities such as streets, roads, highways, and power lines to be built.

Road. Any public or private thoroughfare or right-of-way, other than a public or private alley, dedicated to or designed for travel and access to any land, lot or parcel whether designated as a thoroughfare, road, avenue, highway, boulevard, drive, lane, place, court, or any similar designation.

Public Road. Any road or street or portion thereof which has been dedicated to and accepted for maintenance by the Isabella County Road Commission, State of Michigan or the federal government.

This interpretation request requires an analysis of the definitions of “road,” “public road,” “right-of-way” with Section 7.17.B of the Zoning Ordinance to determine whether a “publicly dedicated road right-of-way” exists on a strip of land that has been designated as a right-of-way and has appropriate easements for same but has not been constructed.



May 9, 2023

VIA EMAIL ONLY

Charter Township of Union
Zoning Board of Appeals
2010 S. Lincoln Road
Mt. Pleasant, MI 48858

Re: *ZBA appeal of administrative decision of PLD23-0023 Land Division of PID 14-016-10-001-06 and text interpretation*

Dear ZBA members:

Please be advised that the undersigned represents the applicant regarding the appeal of his land division request denial. Notwithstanding, the appeal the applicant wishes to have a text interpretation. Please include this letter as part of the application to the ZBA and incorporate it into the record.

Land Division Denial

The applicant made a request for one division of vacant land located at 2499 S. Sandstone Dr. This property consists of 45.73 acres and is described as: NW 1/4 OF SW 1/4 SEC 16 T14N R4W.SPLIT FOR 2008 FROM 016-10-001-05 TO 016-10-001-06 & 054-00-057-00 THRU 054-00-081-00. The request was for approximately 10.10 acres be split off. The portion to be split off would front (approx. 400 feet) on the dedicated public right-of-way of Broadway Street, *see Exhibit A*. While the request met the requirements of the land division act, Peter Gallinat and Rodney Nanney denied the request. The basis of the denial is outlined in Mr. Nanney's letter dated April 20, 2023, *see Exhibit B*. It is evident that the justifications for the denial were improper.

Essentially Mr. Nanney's letter provided the following basis for denial:

- 1) The proposed use of Broadway Street for the front lot line does meet the standards of the ordinance.
- 2) The interconnectivity goals of the Township's and City's master plans would not be met.
- 3) The proposal would inhibit access to parcels for utilities.

I have included a response to each of these issues in the attached commentary to Mr. Nanney's letter, my comments are inserted after the applicable statement and are in blue, *see Exhibit C*.

However, to understand this issue better it is important to identify the type of request that was made. The request was for a division of land, not a subdivision of land. A division and subdivision are inherently different things. A division of land is not subject to the platting requirements of the Michigan Land Division Act ("MLDA"). This will be of some importance in pointing out the Township's flawed rationale, which at times is based on the incorrect characterization of the request being for a subdivision. This difference is identified in 560.108 of the MLDA.

As a cursory matter an analysis of the scope of the powers of the Township has to regulate a land division by a land division ordinance is necessary. The statutory formula in Sections 108 and 109 of the MLDA specifies the exclusive universe of criteria which is required for approval of a land division. A land division ordinance may be adopted but can only add specific provisions, which only address width and area. A land division ordinance may be adopted by the Township, MCL 560.109(5) provides that:

"The governing body of a municipality or the county board of commissioners of a county having authority to approve or disapprove a division may adopt an ordinance setting forth the standards authorized in subsection (1)(b), (c), and (d). The ordinance may establish a fee for a review of an application under this section and section 108. The fee shall not exceed the reasonable costs of providing the services for which the fee is charged."

MCL 560.109(b), (c), and (d) provide:

(b) Each resulting parcel has a depth of not more than 4 times the width or, if an ordinance referred to in subsection (5) requires a smaller depth to width ratio, a depth to width ratio as required by the ordinance. The municipality or county having authority to review proposed divisions may allow a greater depth to width ratio than that otherwise required by this subdivision or an ordinance referred to in subsection (5). The greater depth to width ratio shall be based on standards set forth in the ordinance referred to in subsection (5). The standards may include, but need not be limited to, exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands. The depth to width ratio requirements of this subdivision do not apply to a parcel larger than 10 acres, unless an ordinance referred to in subsection (5) provides otherwise, and do not apply to the remainder of the parent parcel or parent tract retained by the proprietor.

(c) Each resulting parcel has a width not less than that required by an ordinance referred to in subsection (5).

(d) Each resulting parcel has an area not less than that required by an ordinance referred to in subsection (5).

There are no other statutory powers granted to the Township to regulate the division of land except as provided for in the MLDA. While a land division ordinance can regulate the creation

of metes and bounds splits of a parcel of land it can only deviate from the MLDA requirements related to 560.109(b), (c), and (d). These provisions only regulate the width and area of the resulting parcels. Consequently, where the Township's land division ordinance tries to regulate land divisions contrary to the MLDA, it has no authority to. Specifically, the standards for approval in the Township's land division ordinance are:

A proposed land division shall be approved if the following criteria are met:

- A. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the applicable zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum set-backs for existing buildings/structures, or have received a variance from such requirements from the Zoning Board of Appeals.
- B. The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.
- C. All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the requirements of all applicable ordinances.
- D. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-development sites. The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

The width of a parcel shall be measured at the abutting road right-of-way line, or as otherwise provided in any applicable ordinance.

- E. No lot in a recorded plat shall be divided into more than four parts, and the resulting lots shall not be less in area than permitted by the township Zoning Ordinance, or by subdivision deed restrictions.

Criteria E is not applicable as this is not a subdivision. However, all other criteria are clearly met based on the application submitted. Further, the MLDA clearly provides that an application is considered complete if it contains information necessary to ascertain whether the requirements of section 108 and 109 are met, *see* the **Exhibit D**.

Any requirements of the Township's land division ordinance that are outside of its authority are not applicable and the decision to deny the application was improper. Therefore, the application must be approved.

Text Interpretation

Notwithstanding any determination as to the land division application, the applicant requests a text interpretation. Specifically, the applicant wishes for the ZBA to interpret section 7.17 of the zoning ordinance, in conjunction with all other applicable terms, including the definitions of front lot line, lot width, setback, and right-of-way. More specifically, the applicant requests that Section 7.17 be interpreted to mean that the property must front on a dedicated right-of-way and that the road or street being constructed is not a requirement to meet the requirements of 7.17.

I believe that this letter and the attachments are otherwise self-explanatory. However, should you have any questions please feel free to contact me. Further, please confirm that this application will be placed on the June ZBA agenda.

Sincerely,

KUHN ROGERS PLC



Marc S. McKellar II
Direct Dial: (231) 947-7901 x106
msm@kuhnrogers.com

Exhibit A

**CHARTER TOWNSHIP OF UNION
LAND DIVISION APPLICATION**

1. Applicant/Ownership Detail

A. Name: WILLIAM T. ERVIN, RICHARD S. ERVIN, RONALD E. ERVIN, ROBERT L. ERVIN

B. Mailing Address: P.O. BOX 70 MT. PLEASANT MI 48804-0070
Street Address City State Zip

C. Telephone: 989-621-8268

D. Fax: _____

E. Parent Tract Includes Parcel #'s: 14-016-10-001-06

F. Exemption:

- | | | |
|---|---|--|
| 1. All resulting parcels are 40 acres or the equivalent (or more) | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. All resulting parcels are on an existing public road or have existing easements to public roads. | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. All resulting parcels have direct or easement access to public utilities | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

G. Split Calculations:

- | | |
|--|--------------|
| 1. Size of parent parcel or tract (acres) as of March 31, 1997 | _____ |
| 2. First 10 acres or less (4 splits) | _____ |
| 3. Each additional 10 acres, up to 120 acres (1 split/10 acres) | _____ |
| 4. Each 40 acres above 120 acres (1 split/ 40 acres) up to 520 acres | _____ |
| 5. Bonus splits <40% of parcel or 1 access drive add 2 splits (Parcels > 20 acres) | _____ |
| 6. Less prior parcels split (since March 31, 1997) | _____ |
| Total..... | _____ |

*More splits may be available after 10 years

H. Names, addresses and ownership interest – Provide the names, mailing addresses, and type of ownership interest of all parties having an interest in the land to be divided. Use additional sheet if needed.

Check here if an additional sheet is attached. *Please label it Exhibit 1.*

WILLIAM T. ERVIN, RICHARD S. ERVIN, RONALD E. ERVIN, ROBERT L. ERVIN 100% OWNERSHIP

P.O. BOX 70 , MT. PLEASANT, MI 48804-0070

I. Zoning: Current Zoning B-4, OS, R2A as of 2008
 NEW 10.08 ACRE PARCEL WOULD BE R2A ONLY

	With Sewer	Without Sewer
1. Minimum Lot Width	<u>100</u>	_____
2. Minimum Lot Depth	<u>140</u>	_____
3. Minimum Lot Size (Area).....	<u>14000</u>	_____
4. Minimum Width to Depth Ratio	<u>1:4</u>	_____
5. Sewer required prior to building permit	<u>N/A</u>	_____

J. Public Road Ordinance Compliance Date Initials

- | | | |
|---|-------|-------|
| 1. Complies with ordinance for 1-2 Parcels..... | _____ | _____ |
| 2. Complies with ordinance for 3 -12 Parcels..... | _____ | _____ |
| 3. Complies with ordinance of 13 or more Parcels..... | _____ | _____ |

2. Property Detail

A. Address of Property TBD S. LINCOLN MT. PLEASANT MI 48858
Street Address City State Zip

B. Tax Identification Number of Property to be Divided: 14-016-10-001-06

C. Legal Description of Property to be Divided (include existing easements and covenants.) Use additional sheet if necessary.

Check here if an additional sheet is attached. Please label it Exhibit 2.

SEE ATTACHED

D. Legal Description of Parcels to be Created (Including all remnant parcels, including all easements and covenant .)

Check here if an additional sheet is attached. Please label it Exhibit 3.

SEE ATTACHED

E. Option 1

Attach a copy of survey showing items listed in option 2 below. (See Ordinance 1997-8 Section V.C)

Option 2

See Ordinance 1997-8 Section V.C. paragraph 2.

In place of survey of resulting parcels, I am submitting a land sketch of resulting parcels with items listed below. By doing this, I waive any right to notification within 45 days of submittal. I also agree to resubmit a survey by a licensed land surveyor if the sketch provided fails to clearly and accurately show sufficient details to determine the descriptions of resulting parcels and to demonstrate conformity to all ordinance requirements.

Signature: _____ Date: _____

F. Attach 3 copies of Tentative Parcel Map to Include:

- Date, north arrow, scale, and name and address of individual or firm responsible for completion of the parcel map.
- Name and address of applicant.
- Proposed lot lines and their dimensions. Square footage of each parcel. Location & distance from point of beginning to nearest corner of parent parcel.
- Location and nature of proposed ingress and egress locations to any existing public or private roads. Include a single copy of driveway permit from the Road Commission.
- Location and nature of any public or private street, driveway, lake or stream, access, or utility easements to be located within any proposed lot or parcel to benefit the same.
- Any existing buildings, wells and septic fields, public or private streets, and driveways within 100 feet of all proposed lots or parcels.
- Zoning designation of all proposed lots or parcels.
- Proposed method of storm drainage. "B" and "I" Zoning only.
- Previous splits made after March 31, 1997.
- Unbuildable lots marked as such.
- Proposed Driveways

G. Registered deed showing ownership and number of divisions transferred (for property bought after March 31, 1997)

3. Additional Information

A. Proved a map and written description of any previous land divisions from the parent parcel, including the size, number, and date of such divisions. Use additional sheets as necessary.

Check here if an additional sheet is attached. *Please label it Exhibit 4.*

SEE ATTACHED

B. Does the project involve easements, restrictive covenants, or other such attachments to the land? If so, provide copies of the instruments describing and granting same.

Check here if an additional sheet is attached. *Please label it Exhibit 5.*

YES, SEE ATTACHED.

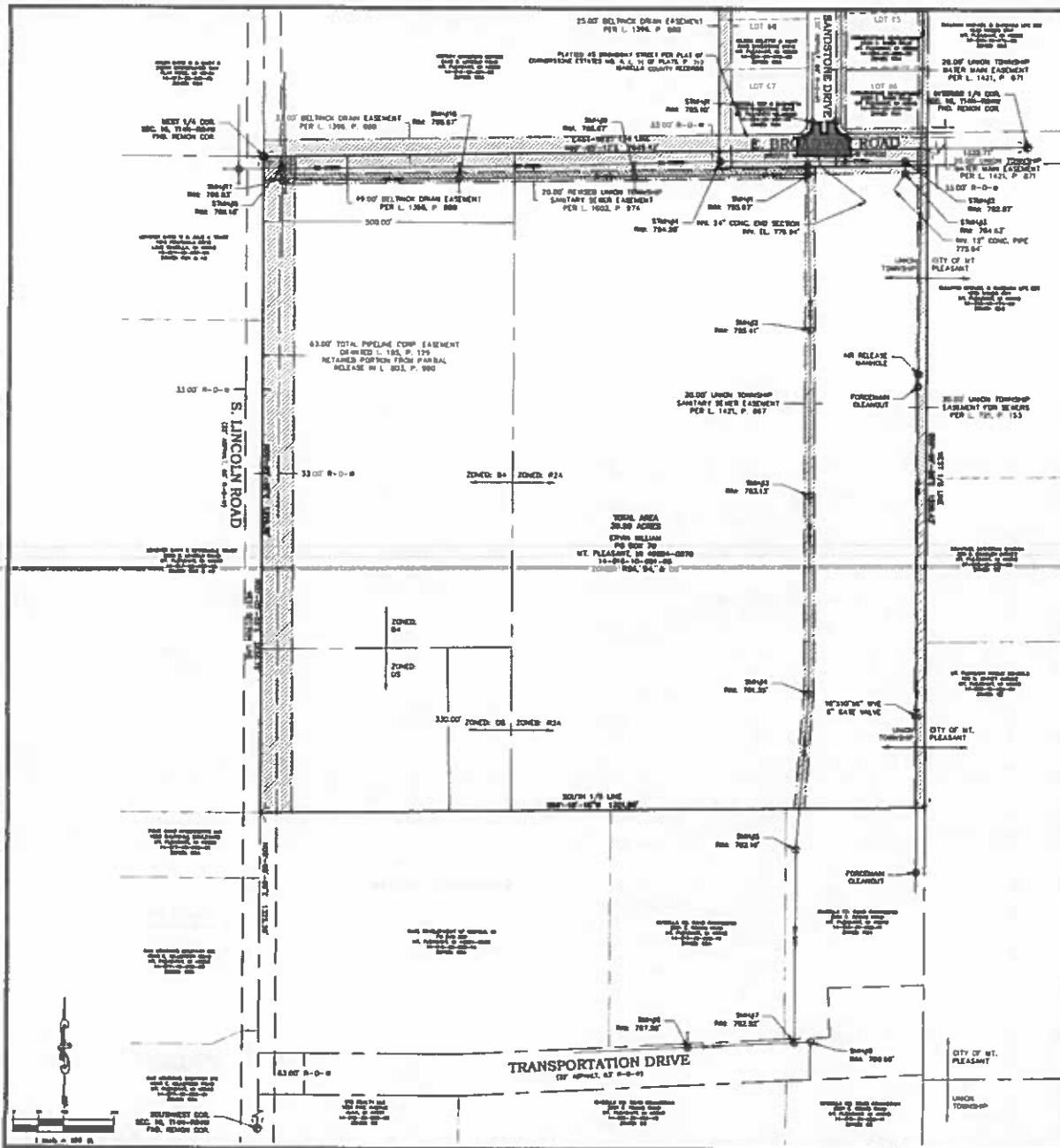
4. Applicant Certification

By the signature attached hereto, the applicant certifies that the information included with this application is, to the best of his/her knowledge, true and accurate. The applicant also understands and acknowledges that the Township, the Township staff, and professional consultants retained by the Township to review and approve this request, make no expressed or implied warranty as to the marketability of the property subject to this request does not warrant that prior land divisions associated with the subject property have been made consistent with local, state, and federal law, nor is any guarantee being made or implied concerning any rights to future land divisions.

By: _____ Date: _____

LOCAL GOVERNMENT USE ONLY:

Mapinfo:		Homestead Letters:	
PARENT.TAB	_____	Qualified Ag	_____
REGION.TAB	_____	Hstd. Aff. For new parcel	_____
Boundary	_____	Rescind old parcels	_____
Dimensions	_____	Equalizer:	
PID	_____	Enter public imp & topo	_____
Easements	_____	Enter land division info	_____
Text	_____	Create new parcels	_____
Maps:		Copy data from parent	_____
Boundary	_____	Class ___90 New ___99 Old ___97 DDA	_____
Dimensions	_____	Name & Address (Prop Add)	_____
PID	_____	** Inactive Parcel	_____
Scan Surveys	_____	Legal changed & Add date of split	_____
List:		ECF & land dimensions	_____
Check wat & sew specials	_____	AV & TV Split	_____
Update master list for splits	_____	Property Record Cards:	
Application sent:	_____	PID	_____
Send to County:		Split map & calculations	_____
Map with labels	_____	Property Address	_____
Legals w/parcel numbers	_____	Print Labels	_____



EXISTING STORM STRUCTURES

STRONG
24 STORM SEWER CATCH BASIN
REA 785.10 (ELEVATION)
S INV. 777.38 (12" CONC.)
S INV. 777.38 (12" CONC.)
S INV. 777.24 (12" CONC.)
SLAB: 773.29

STRONG
24 STORM SEWER RISER
TOP OF CONC. NEAR 784.26
S INV. 773.87 (12" CONC.)
S INV. 773.87 (12" CONC.)
S INV. 773.73 (8" CONC.)
S INV. 773.15 (6" PLASTIC PIPE)

STRONG
24 CONCRETE STRUCTURE W/
CONCRETE NEAR WALL
TOP OF CONC. NEAR 784.26
S INV. 775.42 (12" CONC.)
S INV. 775.28 (12" CONC.)
SLAB: 773.29

STRONG
24 STORM SEWER CATCH BASIN
REA 784.36
S INV. 772.38 (12" CONC.)
S INV. 772.12 (12" CONC.)
S INV. 770.88 (12" CONC.)
S INV. 775.83 (12" CONC.)

STRONG
24 STORM SEWER CATCH BASIN
REA 780.15
S INV. 770.28 (12" CONC.)
S INV. 781.88 (12" CONC.)
S INV. 780.88 (12" CONC.)
S INV. 781.43 (12" CONC.)

EXISTING SANITARY STRUCTURES

STRONG
18" 785.67
S INV. 780.18 (8" PVC)
S INV. 780.18 (8" PVC)
S INV. 780.18 (8" PVC)

STRONG
18" 782.87
S INV. 779.18 (8" PVC)
S INV. 779.11 (8" PVC)

STRONG
18" 783.13
S INV. 778.18 (8" PVC)
S INV. 778.08 (8" PVC)

STRONG
TOP OF CONC. STRUCTURE: 781.35
TOP OF UP200 DOWN ON
STRUCTURE
S INV. 776.79 (8" PVC)
S INV. 776.73 (8" PVC)

STRONG
18" 782.16
S INV. 773.87 (8" PVC)
S INV. 775.76 (8" PVC)

STRONG
18" 780.88
S INV. 774.38 (8" PVC)
S INV. 774.38 (8" PVC)

STRONG
18" 781.63
S INV. 774.38 (8" PVC)
S INV. 774.38 (8" PVC)
S INV. 774.08 (8" PVC)

STRONG
18" 787.65
S INV. 776.39 (8" PVC)
S INV. 776.38 (8" PVC)
S INV. 776.38 (8" PVC)

STRONG
18" 781.63
FLOORLINE: 771.86
ALL OUTLETS 18" PVC

STRONG
18" 788.87
FLOORLINE: 782.27
ALL OUTLETS 18" PVC

STRONG
18" 789.63
FLOORLINE: 784.86
ALL OUTLETS 18" PVC

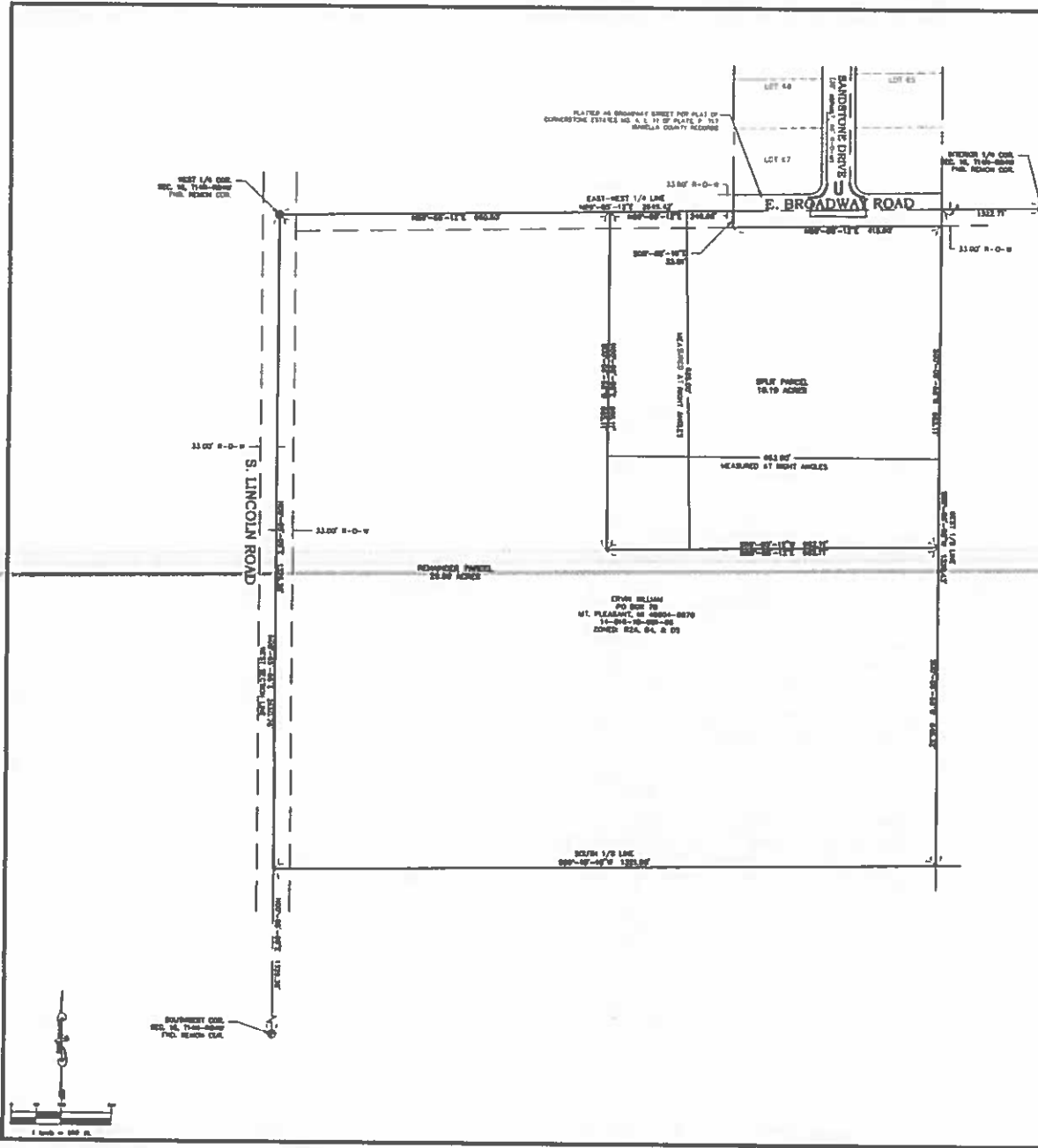
NOTED: THE PROPERTY IS CURRENTLY SUBJECT TO THREE DIFFERENT ZONING CLASSIFICATIONS AS A RESULT OF A RECEIVING DATED NOVEMBER 2008 WHICH INCLUDES THE WEST 500 FEET OF THE PARCEL BE SUBJECT TO THE S-4 GENERAL BUSINESS DISTRICT ZONING. ADDITIONAL THE SOUTH 250 FEET OF THE WEST 500 FEET OF THE PARCEL HAS BEEN PLUNGED INTO THE 08 OFFICE SERVICE DISTRICT AS OF APRIL 2008. THE REMAINDER OF THE PARCEL IS WITHIN THE S-24 ONE AND TWO FAMILY, LOW-DENSITY RESIDENTIAL DISTRICT.

NOTED: THE OFFICIAL UNION CHARTER TOWNSHIP ZONING MAP DOES NOT CURRENTLY SHOW THE SOUTH 250 FEET OF THE WEST 500 FEET AS WITHIN THE 08 OFFICE SERVICE DISTRICT. HOWEVER, IT IS UNDERSTOOD THAT THIS PORTION OF THE PROPERTY WAS IN FACT PLUNGED TO THIS CLASSIFICATION.



EXISTING TOPOGRAPHY SURVEY
DEVELOPER NAME: [REDACTED]
THE NORTHWEST 1/4 SECTION 17 & 18, T14N R07E W08E UNION TOWNSHIP, IAGRELLA COUNTY, MICHIGAN

DATE SUBMITTED: 10/10/2011	PROJECT NO: 11-001
DATE: 10/10/2011	SCALE: 1" = 100'
DATE: 10/10/2011	SHEET: 2 OF 3
DATE: 10/10/2011	PROJECT: 11-001
DATE: 10/10/2011	CLIENT: [REDACTED]
DATE: 10/10/2011	PROJECT: 11-001



SPLIT PARCEL DESCRIPTION

A PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 16, T14 N-R24 W, UNION TOWNSHIP, ISABELLA COUNTY, MICHIGAN, DESCRIBED AS FOLLOWS: TO THE POINT OF BEGINNING, COMMENCE AT THE WEST 1/4 CORNER OF SAID SECTION 16, THENCE S89°08'-17"W, ON THE BOUNDARIES EAST AND WEST 1/4 LINE OF SAID SECTION, 608.86 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, THENCE S28°02'-12"E, ON THE EAST AND WEST 1/4 LINE, 246.27 FEET TO THE WEST LINE OF CONGRESSIONAL ESTATES NO. 4, AS RECORDED IN THE ISABELLA COUNTY RECORDS, THENCE S89°08'-17"E, ON AND ALONG THE WEST LINE OF SAID SUBDIVISION AND ON AND ALONG THE PUBLIC ROAD RIGHT-OF-WAY LINE OF BROADWAY ROAD, 33.00 FEET, THENCE N89°08'-17"E, PARALLEL WITH AND 33.00 FEET, MEASURED AT RIGHT ANGLES, SOUTH OF SAID EAST AND WEST 1/4 LINE AND CONTINUE ON SAID PLAT LINE AND NORTH-OF-WAY LINE, 415.89 FEET TO A POINT ON THE WEST 1/2 LINE OF SAID SECTION, THENCE S27°02'-16"W, ON AND ALONG SAID WEST 1/2 LINE, 652.11 FEET, THENCE S89°08'-17"E, PARALLEL WITH AND 652.11 FEET, MEASURED AT RIGHT ANGLES, SOUTH OF SAID EAST AND WEST 1/4 LINE, 642.11 FEET, THENCE N89°08'-17"E, PARALLEL WITH AND 642.11 FEET, MEASURED AT RIGHT ANGLES, WEST OF SAID WEST 1/2 LINE, 642.11 FEET BACK TO THE POINT OF BEGINNING, CONTAINING 16.19 ACRES OF LAND AND SUBJECT TO AN EASEMENT FOR THE EXTENSION OF BROADWAY ROAD OVER THE NORTH 33.00 FEET THEREOF WHICH LIES ALONG AND ADJACENT TO THE EAST AND WEST 1/4 LINE OF SAID SECTION AND ALSO SUBJECT TO AND TOGETHER WITH ANY OTHER EASEMENTS AND/OR RESTRICTIONS OF RECORD.

REMANDED PARCEL DESCRIPTION

A PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 16, T14 N-R24 W, UNION TOWNSHIP, ISABELLA COUNTY, MICHIGAN, DESCRIBED AS FOLLOWS: COMMENCE AT THE WEST 1/4 CORNER OF SAID SECTION 16, THENCE S89°08'-17"W, N 89°08'-17"E, ON THE BOUNDARIES EAST AND WEST 1/4 LINE OF SAID SECTION, 608.86 FEET, THENCE S89°08'-17"W, PARALLEL WITH AND 608.86 FEET, MEASURED AT RIGHT ANGLES, WEST OF THE WEST 1/2 LINE OF SAID SECTION, 652.11 FEET, THENCE N89°08'-17"E, PARALLEL WITH AND 652.11 FEET, MEASURED AT RIGHT ANGLES, SOUTH OF SAID EAST AND WEST 1/4 LINE, 642.11 FEET TO A POINT ON THE WEST 1/2 LINE OF SAID SECTION, THENCE S89°08'-17"E, ON AND ALONG SAID WEST 1/2 LINE, 642.11 FEET, THENCE S89°08'-17"E, ON AND ALONG THE SOUTH 1/2 LINE OF SAID SECTION, 132.88 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 16, THENCE S89°08'-17"E, ON AND ALONG SAID WEST SECTION LINE, 132.88 FEET BACK TO THE POINT OF BEGINNING, CONTAINING 22.89 ACRES OF LAND AND SUBJECT TO AN EASEMENT FOR THE EXTENSION OF BROADWAY ROAD OVER THE NORTH 33.00 FEET THEREOF WHICH LIES ALONG AND ADJACENT TO THE EAST AND WEST 1/4 LINE OF SAID SECTION AND ALSO SUBJECT TO AND TOGETHER WITH ANY OTHER EASEMENTS AND/OR RESTRICTIONS OF RECORD.

CMS & D
 SURVEYING/ENGINEERING
 1177 FARM ROAD
 P.O. BOX 100
 ISABELLA, MICHIGAN 49755
 PHONE: (517) 776-9478
 FAX: (517) 776-9479
 CELL: (517) 776-4788



PROPOSED PARCEL DIVISION
 DEVELOPER NAME
 THE NORTHWEST 1/4
 SECTION 16, T14 N-R24 W,
 UNION TOWNSHIP, ISABELLA COUNTY, MICHIGAN

SCALE	JOB NUMBER	SUBJECT	DATE
1" = 100'	2024-0024	ISABELLA, TO Union Township 2-4-13	
DRAWN BY	CHECKED BY	CREATED BY	TED
3	3	3	

Exhibit B



Community and Economic Development Department
2010 S. Lincoln Rd.
Mt. Pleasant, MI 48858
989-772-4600 ext. 241

April 20, 2023

William T. Ervin
2330 E. River Road
Mt. Pleasant, MI 48858

Subject: PLD23-0023 Land Division of PID 14-016-10-001-06; follow up to 4/13/2023 meeting

Dear Mr. Ervin:

This is intended as a follow up to the April 13, 2023 meeting at the Township Hall. The additional information gained during that meeting with Peter Gallinat, our Zoning Administrator, was helpful to better understand the background of the request. As you are aware, the application as initially presented was rejected by the Zoning Administrator and Township Assessor due to a lack of the minimum required frontage on an approved and constructed public or private road. The application can be revised to address the deficiency and resubmitted at any time.

Roads and Required Lot Frontage

As you know, the adjacent subdivision development includes the platted Sandstone Drive, which ends at a T-intersection with a shorted platted section of "Broadway Street" that is in direct line to the west of the end of the existing W. Broadway St. in the City of Mt. Pleasant where it currently ends at Bradley St. Sandstone Drive was fully constructed as a public road up to the point where it ends at the north edge of the "Broadway Street" platted right-of-way. A temporary asphalt T-turnaround was constructed within this undeveloped right-of-way to allow emergency vehicles and others to be able to maneuver back on to Sandstone Drive.

As Mr. Gallinat previously shared with you, this T-turnaround in the undeveloped "Broadway Street" right-of-way is not in itself a road and cannot be used to meet the Township's Zoning Ordinance requirements for minimum lot frontage on an approved and constructed public road or private road. The dedicated right-of-way for the platted but undeveloped "Broadway Street" is also part of this requirement, but alone is insufficient.

Your project engineer, Mr. Bebee, is aware of this, as this is not the first land division project he has worked on where this requirement has arisen. The other recent case involved land off the end of Bilbrael Drive, an existing public road. In that case, Mr. Bebee is currently working with the County Road Commission to seek approval to construct an extension of Bilbrael Drive a sufficient distance into the subject lot to establish the minimum road frontage for two (2) proposed residential lots. These new lots will have addresses on the extended Bilbrael Drive.

I also understand that the purpose of creating the proposed 10-acre lot was to provide a location to develop a new dwelling, which would be located near the southeast corner of the proposed

lot and intended to have an address on Sandstone Drive. As Mr. Gallinat shared with you during the 4/13/2023 meeting, it is necessary to extend Sandstone Drive further south of the "Broadway Street" right-of-way to establish the required frontage on an approved and constructed road within a dedicated right-of-way and also to ensure logical provisions for correct addressing in a manner where the dwelling can be quickly and easily located by emergency responders.

The other alternative would be to wait until such time as W. Broadway Street is extended west from Bradley Street and across the intersection with Sandstone Drive a sufficient distance to establish both the required road frontage for the lot and the correct conditions for assignment of a Broadway Street address.

Other Factors to Consider

The Township's Master Plan includes policy priorities for an interconnected network of "complete streets" and pedestrian pathways, which includes interconnected neighborhoods and road connectivity between development parcels. The City of Mt. Pleasant's Master Plan also includes transportation plan priorities for an interconnected road system, including a specific provision on their future streets map for extension of W. Broadway Street from Bradley Street west to S. Lincoln Road. The Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, authorizes local units of government to plan for future road and street connections. Section 71 of this Act also includes a specific provision that an approved subdivision plat "shall be considered to be an amendment to the master plan and a part thereof."

The proposed 10-acre lot, if approved as depicted on Mr. Bebee's initial plan for the initial land division request, would conflict with these established plans. As importantly, the proposed lot and intended building site also appear to conflict with and to potential impair future connectivity and extension of Township water and sanitary sewer services within and through the PID 14-016-10-001-06 parent parcel. These conditions would conflict with the Township's adopted utility policies to "coordinate utility expansion in a way that encourages development...on vacant or underutilized sites first (and) in a logical, efficient manner."

The proposed lot configuration would also inhibit access to the force main that runs north-south parallel to the east lot boundary, and would prevent anticipated future connections to the other sanitary sewer line that runs through the middle of the proposed lot and was designed to accommodate far more intensive future development on the PID 14-016-10-001-06 parent parcel. Finally, the proposed lot configuration would potentially inhibit extension and looping of the Township's water service to serve future development on this parent parcel. Some adjustments to the proposed development are necessary for protection of the Township's interests related to these utility easements and in order to provide for safe, efficient, and coordinated water and sanitary sewer utility services.

Recommendations

With the additional information provided during the 4/13/2023 meeting, I better understand the plans for this development project. Hopefully the additional background information provided in this letter is similarly helpful to you and your team. It is my opinion, based on further review

of the initial proposal and the additional information provided at the 4/13/2023 meeting, that if we work together an appropriate solution can be identified which would support the proposed development without impairing future road or utility connectivity.

I would suggest that we meet again to discuss how best to accomplish this. Please contact me at (989) 772-4600 ext. 232, or via email at rnanney@uniontownshipmi.com, with any questions about this information and to make arrangements for this meeting.

Respectfully submitted,

Rodney C. Nanney, AICP

Community and Economic Development Director

Exhibit C



Community and Economic Development Department
2010 S. Lincoln Rd.
Mt. Pleasant, MI 48858
989-772-4600 ext. 241

April 20, 2023

William T. Ervin
2330 E. River Road
Mt. Pleasant, MI 48858

Subject: PLD23-0023 Land Division of PID 14-016-10-001-06; follow up to 4/13/2023 meeting

Dear Mr. Ervin:

This is intended as a follow up to the April 13, 2023 meeting at the Township Hall. The additional information gained during that meeting with Peter Gallinat, our Zoning Administrator, was helpful to better understand the background of the request. As you are aware, the application as initially presented was rejected by the Zoning Administrator and Township Assessor due to a lack of the minimum required frontage on an approved and constructed public or private road.

This is a made-up requirement. There is no requirement in the land division ordinance or the zoning ordinance that the road must be "constructed". Specifically, the land division ordinance provides that the depth to width ratio be determined by the boundary abutting the road right-of-way, see Sec. VII (C). There is no requirement in the MLDA, nor the Township's land division or zoning ordinances' that the road be constructed. In fact, the Township's zoning ordinance proves clear evidence of what is required, which is contradictory to the basis for the denial.

Section 7.17 of the Township's zoning ordinance, which provides the public access and minimum frontage standards, which states:

"The front lot line of all lots shall abut onto a publicly dedicated road right-of-way. The required frontage on an approved road right-of-way shall be equal to or greater than the minimum lot width for the district in which the lot is located, as specified in Section 4."

The minimum lot width requirement in the R2-A district is not greater than 120 feet, see Section 4.2 of the Township's zoning ordinance. The ROW for Broadway Street on the platted development abuts the proposed split for over 400 feet and is contiguous with the ROW for Broadway to the east of the subject property.

The Township's zoning ordinance further provides these important definitions:

"Front Lot Line: The line separating said lot from the public or private road right-of-

way. In the case of a corner lot or double frontage lot, the 'front lot line' shall be that line that separates said lot from the right-of-way for the road which is designated as the front on the plat, or which is designated as the front on the site plan review application or request for a building permit, subject to approval by the Zoning Administrator. On a flag lot, the 'front lot line' shall be the interior lot line most parallel to and nearest the street from which access is obtained."

"Lot Width: The straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines"

"Setback: The horizontal distance between any lot line and the nearest part of a structure on a lot. The 'minimum required setback' is the minimum distance between a front, side or rear lot line and the nearest part of a structure in order to conform to the required yard setback provisions of this Ordinance (see Yard)."

"Right-of-way: The strip of land over which an easement exists to allow facilities such as streets, roads, highways, and power lines to be built."

"Road or Street: Any public or private thoroughfare or right-of-way, other than a public or private alley, dedicated to or designed for travel and access to any land, lot or parcel whether designated as a thoroughfare, road, avenue, highway, boulevard, drive, lane, place, court, or any similar designation. Various types of roads are defined as follows:..."

"...B. Public Road or Street: Any road or street or portion thereof which has been dedicated to and accepted for maintenance by the Isabella County Road Commission..."

The land division ordinance requires that the depth to width ratio is determined by the boundary abutting the road right-of-way. The Township zoning ordinance provides that the minimum frontage is based on the front lot line abutting the dedicated road right-of-way. The front lot line is the separating line of the parcel and the public or private road right-of-way. Lot width is the straight line between the side lot lines measured at the two points where the minimum front yard setback line intersects the side lot lines. The front setback is the nearest point between the front lot line and where any structure can be. A road or street is any public or private thoroughfare or right-of-way dedicated to or designed for travel. A right-of-way is a strip of land over which an easement exists to allow facilities such as street, road, highways, and power line to be built.

The proposed division fronts on over 400 feet of public dedicated and accepted ROW and meets the criteria related to same. Further, the argument that the T should not count towards the minimum lot frontage is contrary to every other provision of the ordinance. Even if it was, the T happens to be within a much larger ROW for Broadway and not just for the purposes of the T, i.e., the T happens to be within a full ROW, the ROW is not for the sole purpose of the T. Therefore, under the provisions of the land division and zoning ordinances this is an unfounded basis which to deny the application.

The application can be revised to address the deficiency and resubmitted at any time.

Roads and Required Lot Frontage

As you know, the adjacent subdivision development includes the platted Sandstone Drive, which ends at a T-intersection with a shorted platted section of "Broadway Street" that is in direct line to the west of the end of the existing W. Broadway St. in the City of Mt. Pleasant where it currently ends at Bradley St. Sandstone Drive was fully constructed as a public road up to the point where it ends at the north edge of the "Broadway Street" platted right-of-way. A temporary asphalt T-turnaround was constructed within this undeveloped right-of-way to allow emergency vehicles and others to be able to maneuver back on to Sandstone Drive.

As Mr. Gallinat previously shared with you, this T-turnaround in the undeveloped "Broadway Street" right-of-way is not in itself a road and cannot be used to meet the Township's Zoning Ordinance requirements for minimum lot frontage on an approved and constructed public road or private road. The dedicated right-of-way for the platted but undeveloped "Broadway Street" is also part of this requirement, but alone is insufficient.

This is incorrect, for the reasons stated above. Therefore, the minimum lot width is determined by utilizing the ROW of Broadway Street and the proposed division is compliant.

Your project engineer, Mr. Bebee, is aware of this, as this is not the first land division project he has worked on where this requirement has arisen. The other recent case involved land off the end of Bilbrael Drive, an existing public road. In that case, Mr. Bebee is currently working with the County Road Commission to seek approval to construct an extension of Bilbrael Drive a sufficient distance into the subject lot to establish the minimum road frontage for two (2) proposed residential lots. These new lots will have addresses on the extended Bilbrael Drive.

I also understand that the purpose of creating the proposed 10-acre lot was to provide a location to develop a new dwelling, which would be located near the southeast corner of the proposed lot and intended to have an address on Sandstone Drive. As Mr. Gallinat shared with you during the 4/13/2023 meeting, it is necessary to extend Sandstone Drive further south of the "Broadway Street" right-of-way to establish the required frontage on an approved and constructed road within a dedicated right-of-way and also to ensure logical provisions for correct addressing in a manner where the dwelling can be quickly and easily located by emergency responders.

For the reasons stated above a driveway can be permitted off of Broadway Street and there is no requirement that Broadway Street be built out. Also, Sandstone does not have to nor can it be required by the Township to be extend, especially as part of a land division application.

The other alternative would be to wait until such time as W. Broadway Street is extended west from Bradley Street and across the intersection with Sandstone Drive a sufficient distance to establish both the required road frontage for the lot and the correct conditions for assignment of a Broadway Street address.

This is illogical and not required, and further it is approved by a third-party agency.

Other Factors to Consider

The Township's Master Plan includes policy priorities for an interconnected network of "complete streets" and pedestrian pathways, which includes interconnected neighborhoods and road connectivity between development parcels. The City of Mt. Pleasant's Master Plan also includes transportation plan priorities for an interconnected road system, including a specific provision on their future streets map for extension of W. Broadway Street from Bradley Street west to S. Lincoln Road. The Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, authorizes local units of government to plan for future road and street connections. Section 71 of this Act also includes a specific provision that an approved subdivision plat "shall be considered to be an amendment to the master plan and a part thereof."

There is no requirement in the MLDA to meet any of the goals or objectives of a master plan. There is also no such requirement in the land division ordinance, even if there was it would not be enforceable. The Township's master plan plays no role in land divisions. Its sole purpose is as a guide for the legislative process for land use ordinances. Even less applicable is the City's master plan, not only for the same reason as noted above, but it's not the jurisdiction which the land division is contemplated and has no bearing whatsoever, in a land division. Last the reference to Section 71 of PA 33 of 2008 is astonishingly misplaced and misguided. Section 71, exclusively deals with plans for platted subdivisions as permitted under and exclusively for Section 105 of the MLDA. This is not a platted subdivision, and therefore any references inappropriate. These reasons do not provide any basis to deny any land division request, let alone the subject one.

The proposed 10-acre lot, if approved as depicted on Mr. Bebee's initial plan for the initial land division request, would conflict with these established plans. As importantly, the proposed lot and intended building site also appear to conflict with and to potential impair future connectivity and extension of Township water and sanitary sewer services within and through the PID 14-016-10-001-06 parent parcel. These conditions would conflict with the Township's adopted utility policies to "coordinate utility expansion in a way that encourages development...on vacant or underutilized sites first (and) in a logical, efficient manner."

The proposed lot configuration would also inhibit access to the force main that runs north-south parallel to the east lot boundary, and would prevent anticipated future connections to the other sanitary sewer line that runs through the middle of the proposed lot and was designed to accommodate far more intensive future development on the PID 14-016-10-001-06 parent parcel. Finally, the proposed lot configuration would potentially inhibit extension and looping of the Township's water service to serve future development on this parent parcel. Some adjustments to the proposed development are necessary for protection of the Township's interests related to these utility easements and in order to provide for safe, efficient, and coordinated water and sanitary sewer utility services.

Likewise, the utility matter is a non-issue. The proposal would include provisions for any properly required utility easements for whatever use the land will be used for. However, any request from the Township that easements be provided or utilities placed which are not otherwise required is an exaction and the Township is prohibited from requiring same. Ultimately, it appears that the denial is based on land use permitting processes or the

master plan goals or objectives, neither of which are applicable in a land division. Only the lot size, width, depth and access are at issue. Its future use is not a consideration whatsoever. While the division may come at the dislike of the planner and/or ZA in their personal narrative for planning, it is not their property and they can only require the applicant to meet the strict standards, and only those which are legally enforceable, of the land division and zoning ordinances'. Unfortunately, they have gone outside their scope of authority and denied the request on standards which do not exist or for reasons that are improper.

Recommendations

With the additional information provided during the 4/13/2023 meeting, I better understand the plans for this development project. Hopefully the additional background information provided in this letter is similarly helpful to you and your team. It is my opinion, based on further review

of the initial proposal and the additional information provided at the 4/13/2023 meeting, that if we work together an appropriate solution can be identified which would support the proposed development without impairing future road or utility connectivity.

I would suggest that we meet again to discuss how best to accomplish this. Please contact me at (989) 772-4600 ext. 232, or via email at rnanney@uniontownshipmi.com, with any questions about this information and to make arrangements for this meeting.

Respectfully submitted,

Rodney C. Nanney, AICP

Community and Economic Development Director

Exhibit D

adopted to carry out the provisions of this act.

(d) The rules of the state transportation department relating to provisions for the safety of entrance upon and departure from the abutting state trunk line highways or connecting streets and relating to the provisions of drainage as required by the department's then currently published standards and specifications.

(e) The rules of the department of consumer and industry services for the approval of plats, including forms, certificates of approval, and other required certificates, captioning of plats, and numbering of lots.

(f) The rules of the department of environmental quality for the determination and establishment of floodplain areas of rivers, streams, creeks, or lakes, as provided in this act, as published in the state administrative code.

(g) The rules of the department of environmental quality relating to suitability of groundwater for on-site water supply for subdivisions not served by public water or to suitability of soils for subdivisions not served by public sewers. The department of environmental quality may authorize a city, county, or district health department to carry out the provisions of this act and rules promulgated under this act relating to suitability of groundwater for subdivisions not served by public water or relating to suitability of soils for subdivisions not served by public sewers. The department of environmental quality may require percolation tests and boring tests to determine suitability of soils. When such tests are required, they shall be conducted under the supervision of a registered engineer, registered land surveyor, or registered sanitarian in accordance with uniform procedures established by the department of environmental quality.

History: 1967, Act 288, Eff. Jan. 1, 1968;—Am. 1996, Act 591, Eff. Mar. 31, 1997;—Am. 1997, Act 87, Imd. Eff. July 28, 1997.

Popular name: Plat Act

Popular name: Subdivision Control

Administrative rules: R 560.101 et seq. and R 560.401 et seq. of the Michigan Administrative Code.

560.106 Approving authorities; limitation on powers of approval or rejection.

Sec. 106. No approving authority or agency having the power to approve or reject plats shall condition approval upon compliance with, or base a rejection upon, any requirement other than those included in section 105.

History: 1967, Act 288, Eff. Jan. 1, 1968.

Popular name: Plat Act

Popular name: Subdivision Control

560.107 Preliminary plat; submission, discretion.

Sec. 107. (1) Nothing contained in this act shall prohibit a proprietor from submitting a prepreliminary plat to a governing body for the proprietors information and review.

(2) Nothing contained in this act shall allow a municipality, county, or state agency to require an approval of a preliminary plat or plan other than those provided for in sections 112 to 120.

History: Add. 1969, Act 308, Imd. Eff. Aug. 14, 1969.

Popular name: Plat Act

Popular name: Subdivision Control

560.108 Parent parcel or parent tract; number of parcels resulting from division; limitations; requirements.

Sec. 108. (1) A division is not subject to the platting requirements of this act.

(2) Subject to subsection (3), the division, together with any previous divisions of the same parent parcel or parent tract, shall result in a number of parcels not more than the sum of the following, as applicable:

(a) For the first 10 acres or fraction thereof in the parent parcel or parent tract, 4 parcels.

(b) For each whole 10 acres in excess of the first 10 acres in the parent parcel or parent tract, 1 additional parcel, for up to a maximum of 11 additional parcels.

(c) For each whole 40 acres in excess of the first 120 acres in the parent parcel or parent tract, 1 additional parcel.

(3) For a parent parcel or parent tract of not less than 20 acres, the division may result in a total of 2 parcels in addition to those permitted by subsection (2) if 1 or both of the following apply:

(a) Because of the establishment of 1 or more new roads, no new driveway accesses to an existing public road for any of the resulting parcels under subsection (2) or this subsection are created or required.

(b) One of the resulting parcels under subsection (2) and this subsection comprises not less than 60% of the area of the parent parcel or parent tract.

(4) A parcel of 40 acres or more created by the division of a parent parcel or parent tract shall not be

counted toward the number of parcels permitted under subsections (2) and (3) and is not subject to section 109, if the parcel is accessible.

(5) A parcel or tract created by an exempt split or a division is not a new parent parcel or parent tract and may be further partitioned or split without being subject to the platting requirements of this act if all of the following requirements are met:

(a) Not less than 10 years have elapsed since the parcel or tract was recorded.

(b) The partitioning or splitting results in not more than the following number of parcels, whichever is less:

(i) Two parcels for the first 10 acres or fraction thereof in the parcel or tract plus 1 additional parcel for each whole 10 acres in excess of the first 10 acres in the parcel or tract.

(ii) Seven parcels or 10 parcels if one of the resulting parcels under this subsection comprises not less than 60% of the area of the parcel or tract being partitioned or split.

(c) The partitioning or splitting satisfies the requirements of section 109.

(6) A parcel or tract created under the provisions of subsection (5) may not be further partitioned or split without being subject to the platting requirements of this act, except in accordance with the provisions of subsection (5).

History: Add. 1996, Act 591, Eff. Mar. 31, 1997.

Popular name: Plat Act

Popular name: Subdivision Control

560.109 Approval or disapproval of proposed division; requirements; exemption from platting requirements; notice of transfer; form; sale of unplatted land; statement contained in deed; ordinance; approval not determination of compliance; effect of failure to comply.

Sec. 109. (1) A municipality shall approve or disapprove a proposed division within 45 days after the filing of a complete application for the proposed division with the assessor or other municipally designated official. However, a municipality with a population of 2,500 or less may enter into an agreement with a county to transfer to the county authority to approve or disapprove a division. An application is complete if it contains information necessary to ascertain whether the requirements of section 108 and this section are met. The assessor or other municipally designated official, or the county official, having authority to approve or disapprove a proposed division, shall provide the person who filed the application written notice whether the application is approved or disapproved and, if disapproved, all the reasons for disapproval. A complete application for a proposed division shall be approved if, in addition to the requirements of section 108, all of the following requirements are met:

(a) Each resulting parcel has an adequate and accurate legal description and is included in a tentative parcel map showing area, parcel lines, public utility easements, accessibility, and other requirements of this section and section 108. The tentative parcel map shall be a scale drawing showing the approximate dimensions of the parcels.

(b) Each resulting parcel has a depth of not more than 4 times the width or, if an ordinance referred to in subsection (5) requires a smaller depth to width ratio, a depth to width ratio as required by the ordinance. The municipality or county having authority to review proposed divisions may allow a greater depth to width ratio than that otherwise required by this subdivision or an ordinance referred to in subsection (5). The greater depth to width ratio shall be based on standards set forth in the ordinance referred to in subsection (5). The standards may include, but need not be limited to, exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands. The depth to width ratio requirements of this subdivision do not apply to a parcel larger than 10 acres, unless an ordinance referred to in subsection (5) provides otherwise, and do not apply to the remainder of the parent parcel or parent tract retained by the proprietor.

(c) Each resulting parcel has a width not less than that required by an ordinance referred to in subsection (5).

(d) Each resulting parcel has an area not less than that required by an ordinance referred to in subsection (5).

(e) Each resulting parcel is accessible.

(f) The division meets all of the requirements of section 108.

(g) Each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities.

(h) The division does not isolate a cemetery so that it does not meet the requirements of either section 102(j)(i) or (ii).

(i) One of the following are satisfied:

(i) All property taxes and special assessments due on the parcel or tract subject to the proposed division for the 5 years preceding the date of the application have been paid, as established by a certificate from the county treasurer of the county in which the parcel or tract is located. If the date of the application is on or after March 1 and before the local treasurer of the local tax collecting unit in which the parcel or tract is located has made his or her return of current delinquent taxes, the county treasurer shall include with his or her certification a notation that the return of current delinquent taxes was not available for examination. The official having authority to approve or disapprove the application shall not disapprove the application because the county treasurer's certification includes such a notation. The county treasurer shall collect a fee for a certification under this subdivision in an amount equal to the fee payable under section 1(2) of 1895 PA 161, MCL 48.101, for a certificate relating to the payment of taxes under section 135 of the general property tax act, 1893 PA 206, MCL 211.135.

(ii) If property taxes or special assessments due on the parcel or tract subject to the proposed division have not been paid, the unpaid property taxes or special assessments have been apportioned by the township or city assessing officer as provided by section 53 of the general property tax act, 1893 PA 206, MCL 211.53. Any apportioned property taxes or special assessments are a lien against the parcels or tracts as apportioned by the assessing officer and shall be treated in the same manner as property taxes and special assessments of the year of the original assessment for the purpose of collection and sale for delinquent taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(2) The right to make divisions exempt from the platting requirements of this act under section 108 and this section can be transferred, but only from a parent parcel or parent tract to a parcel created from that parent parcel or parent tract. A proprietor transferring the right to make a division pursuant to this subsection shall within 45 days give written notice of the transfer to the assessor of the city or township where the property is located on a form prescribed by the state tax commission. The form shall include substantially the following questions in the mandatory information portion of the form:

(a) "Did the parent parcel or parent tract have any unallocated divisions under the land division act, 1967 PA 288, MCL 560.101 to 560.293?"

(b) "Were any unallocated divisions transferred to the newly created parcel? If so, state whether all were transferred or, if not, how many?"

(3) A person shall not sell a parcel of unplatted land unless the deed contains a statement as to whether the right to make further divisions exempt from the platting requirements of this act under this section and section 108 is proposed to be conveyed. The statement shall be in substantially the following form: "The grantor grants to the grantee the right to make [insert "zero", a number, or "all"] division(s) under section 108 of the land division act, 1967 PA 288, MCL 560.108." In the absence of a statement conforming to the requirements of this subsection, the right to make divisions under section 108(2), (3), and (4) stays with the remainder of the parent tract or parent parcel retained by the grantor.

(4) All deeds for parcels of unplatted land within this state executed after March 31, 1997 shall contain the following statement: "This property may be located within the vicinity of farm land or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act."

(5) The governing body of a municipality or the county board of commissioners of a county having authority to approve or disapprove a division may adopt an ordinance setting forth the standards authorized in subsection (1)(b), (c), and (d). The ordinance may establish a fee for a review of an application under this section and section 108. The fee shall not exceed the reasonable costs of providing the services for which the fee is charged.

(6) Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.

(7) Compliance with this section is not a requirement for a deed to be received for record or recorded by a register of deeds.

History: Add. 1996, Act 591, Eff. Mar. 31, 1997;—Am. 1997, Act 87, Imd. Eff. July 28, 1997;—Am. 2012, Act 525, Imd. Eff. Dec. 28, 2012;—Am. 2017, Act 196, Eff. Mar. 13, 2018;—Am. 2019, Act 23, Eff. Sept. 16, 2019.

Popular name: Plat Act

Popular name: Subdivision Control

560.109a Parcel less than 1 acre.

Sec. 109a. (1) If a parcel resulting from a division is less than 1 acre in size, a building permit shall not be issued for the parcel unless the parcel has all of the following:

(a) Public water or city, county, or district health department approval for the suitability of an on-site water supply under the same standards as set forth for lots under rules described in section 105(g).

Charter Township of Union



APPLICATION FOR ZONING BOARD OF APPEALS REVIEW

Variance Administrative Appeal Interpretation Sign Variance Other: _____

A complete application will contain all the information required per the Zoning Ordinance, Section 14.4 (Variances and Appeals).

Name of Proposed Development/Project		PLD23-0023 LAND DIVISION	
Common Description of Property & Address (if issued)		PIN 14-016-10-001-06	
2499 S. Sandstone Dr.			
Applicant's Name(s)		William Ervin	
Phone/Fax numbers	231-947-7900	Email	MSM@KUHNROGERS.COM
Address	PO Box 70	City:	Mount Pleasant Zip: 48804

Legal Description:	Attached	Included on Plan/Survey	Tax Parcel ID Number(s):	14-016-10-001-06	
Existing Zoning:	R-2A	Land Acreage:	45.73	Existing Use(s):	vacant
<input checked="" type="checkbox"/> ATTACHED: Letter summarizing the request and responding to the applicable review criteria found in Section 14.5.B.					

Firm(s) or Individuals(s) who prepared the plan or survey drawing.	1. Name: _____ Phone: _____ Email _____ 2. Address: _____ City: _____ State: MI Zip: _____ Contact Person: _____ Phone _____
Legal Owner(s) of Property. All persons having legal interest in the property must sign this application. Attach a separate sheet if more space is needed.	1. Name: Robert Ervin Phone: _____ Address: same as above City: _____ State: MI Zip: _____ Signature:  Interest in Property: owner/lessee/other <small>BBESCE1094854AS</small>
	2. Name: Ronald Ervin Phone: _____ Address: same as above City: _____ State: MI Zip: _____ Signature:  Interest in Property: owner/lessee/other <small>BBAB90B5C0B3441</small>

I do hereby affirm that all the statements, signatures, descriptions, exhibits submitted on or with this application are true and accurate to the best of my knowledge and that I am authorized to file this application and act on behalf of all the owners of the property. False or inaccurate information may be cause for rejection of the application or revocation of any action by the Board of Appeals. Approval of a variance shall not constitute the right to violate any other provisions of the Zoning Ordinance or other applicable codes and ordinances.

Signature of Applicant

Date

Office Use Only

Application Received By: _____ Fee Paid: \$ _____

Date Received: _____ Escrow Deposit Paid: \$ _____

**CHARTER TOWNSHIP OF UNION ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING**

NOTICE is hereby given that the Zoning Board of Appeals will hold a public hearing on Tuesday, July 11, 2023, at 7:00 p.m. in the Township Hall Board Room at 2010 South Lincoln Road, Mt. Pleasant, MI 48858 for the purpose of receiving public comments on Williams Ervin's request for an Administrative Appeal (PZA23-01) and Zoning Ordinance Interpretation (PZBA23-0001). The applicant intends to split approximately 10.10 acres from the northeast corner of their 45.73-acre parcel number 14-016-10-001-06. The new parcel is intended for the construction of a one-family residential home that would access the end of Sandstone Drive. The remaining parcel will remain unchanged. The parcel is located in the SW ¼ of Section 16 and zoned R-2A (One and Two Family, Low Density Residential), B-4 (General Business), and OS (Office Service) zoning districts [Legal Description: T14N R4W SECTION 16 NW 1/4 OF SW ¼]

PZA23-01. The administrative appeal is the applicant appealing the denial of the land division PLD23-0023 from the Zoning Administrator, Peter Gallinat. The land division as proposed did not satisfy the standards of Section 7.17.B. (Streets, Roads, and Other Means of Access/Public Access Required/Minimum Road Frontage) that the front lot line of all lots shall abut onto a publicly dedicated road right-of-way, and that the required frontage on an approved road right-of-way shall be equal to or greater than 100.0 feet in length, which is the minimum lot width for the R-2A zoning district in which the proposed lot would be located.

PZBA 23-0001. The interpretation is to determine if a designated but not constructed right-of-way meets the standards of the "approved road right-of-way" required in Section 7.17.B. The proposed land division is near where Sandstone Drive ends in a "T" Turn-around. Where Sandstone ends there is a designated right-of-way for the extension of E. Broadway. This designated right-of-way for E. Broadway is not constructed and is not planned to be constructed as part of the land division.

The appeal and interpretation only apply to Land Division Application PLD23-0023. This application only applies to approximately 10.10 acres located just south of Sandstone Drive in the northeast corner of the property. The remainder of the 45.73 acres is not affected by the appeal or interpretation.

The application and Zoning Ordinance may be inspected during business hours at the Township Hall. The Zoning Ordinance and Map are also available for viewing on the Township's website at: <http://www.uniontownshipmi.com/Departments/ZoningandPlanningServices.aspx/>.

Any interested person may submit their views in person, in writing, or by signed proxy prior to the public hearing or at the public hearing. Written comments may be sent to the Charter Township of Union Zoning Board of Appeals, 2010 South Lincoln Road, Mt. Pleasant, MI 48858, sent via email to info@uniontownshipmi.com, or dropped off in the drop box next to the Township Hall entrance.

For additional information, and for individuals who require special accommodations per the Americans with Disabilities Act, please contact Peter Gallinat, Zoning Administrator, by phone at (989) 772-4600 extension 241.

AFFIDAVIT OF PUBLICATION
2125 Butterfield Dr, Suite 102N • Troy MI 48084

UNION TOWNSHIP
2010 S Lincoln

Mount Pleasant, MI 48858
Attention: Tera Green

STATE OF MICHIGAN,
COUNTY OF ISABELLA

The undersigned Cindy Slater Amy Slater, being duly sworn the he/she is the principal clerk of Morning Sun, morningstarpublishing.com, published in the English language for the dissemination of local or transmitted news and intelligence of a general character, which are duly qualified newspapers, and the annexed hereto is a copy of certain order, notice, publication or advertisement of:

UNION TOWNSHIP

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Prindy/publishing

VICKI ARSENAULT
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF OAKLAND
My Commission Expires May 11, 2026
Acting in the County of

Sworn to the subscribed before me this

23 June 2023

Vicki Arsenault

Notary Public, State of Michigan
Acting In Oakland County

Advertisement Information

Client Id: 531226 Ad Id: 2487711 PO: Sales Person: 200309

CHARTER TOWNSHIP OF UNION
ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the Zoning Board of Appeals will hold a public hearing on Tuesday, July 11, 2023, at 7:00 p.m. in the Township Hall Board Room at 2010 South Lincoln Road, Mt. Pleasant, MI 48858 for the purpose of receiving public comments on William Ervin's request for an Administrative Appeal (PZA23-01) and Zoning Ordinance Interpretation (PZBA23-0001). The applicant intends to split approximately 10.10 acres from the northeast corner of their 45.73-acre parcel number 14-016-10-001-06. The new parcel is intended for the construction of a one-family residential home that would access the end of Sandstone Drive. The remaining parcel will remain unchanged. The parcel is located in the SW 1/4 of Section 16 and zoned R-2A (One and Two Family, Low Density Residential), B-4 (General Business), and O5 (Office Service) zoning districts [Legal Description: T14N R4W SECTION 16 NW 1/4 OF SW 1/4]

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PZBA 23-0001. The interpretation is to determine if a designated but not constructed right-of-way meets the standards of the "approved road right-of-way" required in Section 7.17.B. The proposed land division is near where Sandstone Drive ends in a "T" turn-around. Where Sandstone ends there is a designated right-of-way for the extension of E. Broadway. This designated right-of-way for E. Broadway is not constructed and is not planned to be constructed as part of the land division.

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The application and Zoning Ordinance may be inspected during business hours at the Township Hall. The Zoning Ordinance and Map are also available for viewing on the Township's website at: http://www.uniontownshipmi.com/Departments/ZoningandPlanningServices.aspx/.

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For additional information, and for individuals who require special accommodations per the Americans with Disabilities Act, please contact Peter Gallinat, Zoning Administrator, by phone at (989) 772-4600 extension 241.

From: Scott Shattuck <scott.s@victorymtp.com>
Sent: Monday, June 26, 2023 12:10 PM
To: info@uniontownshipmi.com
Cc: Dar Blanshan <dblanshan@gmail.com>; Curt Blanshan <curt.b@victorymtp.com>
Subject: View of Appeal Williams Ervin's request (July 11th, 2023)

To the Zoning Board of Appeals,
We have reviewed the notice and feel the designated right-of-way and proximity to the T turnaround at the end of Sandstone is sufficient for a one-family residential home. We have no opposition to granting the split intended for a one-family residential home by viewing it as meeting standards or variance.

Thank You.
Victory Christian Center and Childcare
2445 S. Lincoln Rd.
989-772-3909



ISABELLA COUNTY
APPLICATION FOR HOUSE NUMBER/
ADDRESS VERIFICATION

200 N. Main Street
Mt. Pleasant, MI 48858
(989) 772-0911, ext. 227

OFFICE USE ONLY
Permit No.:
Date:
Check No: 00199707
Receipt No.:

OWNERS NAME RICHARD ERVIN PROPERTY TAX ID # 14-016-10-00-06 (Required)
IS THIS A NEW SPLIT? YES NO *If yes a copy of the split record showing the correct legal description and property tax ID# assigned by the assessor must be attached.
ROAD OR STREET YOU NEED ADDRESS ON Sandstone (?) CITY Mt. P
OWNERS PRESENT MAILING ADDRESS 2330 E. River Rd
CITY Mt. PLEASANT STATE MI ZIP 48858
OWNERS PHONE NUMBER 989-621-8268 mike - 989 621 8266

WHAT SIDE OF THE ROAD NORTH SOUTH EAST WEST
BETWEEN WHAT TWO CROSSROADS
DIRECTIONS:
WHAT BEST DESCRIBES YOUR LOCATION? (Check One)
NEW CONSTRUCTION EXISTING HOME EMPTY LOT
OTHER EXPLAIN:
NUMBER REQUESTED BY: Richard Ervin (Signature of Applicant)

GREEN E911 SIGN
I acknowledge that Isabella County has offered me an E911 address sign and I have elected "NOT" to accept it.
I acknowledge that I have received an E911 sign from Isabella County on Date
SIGNATURE

Please complete plot plan on reverse side

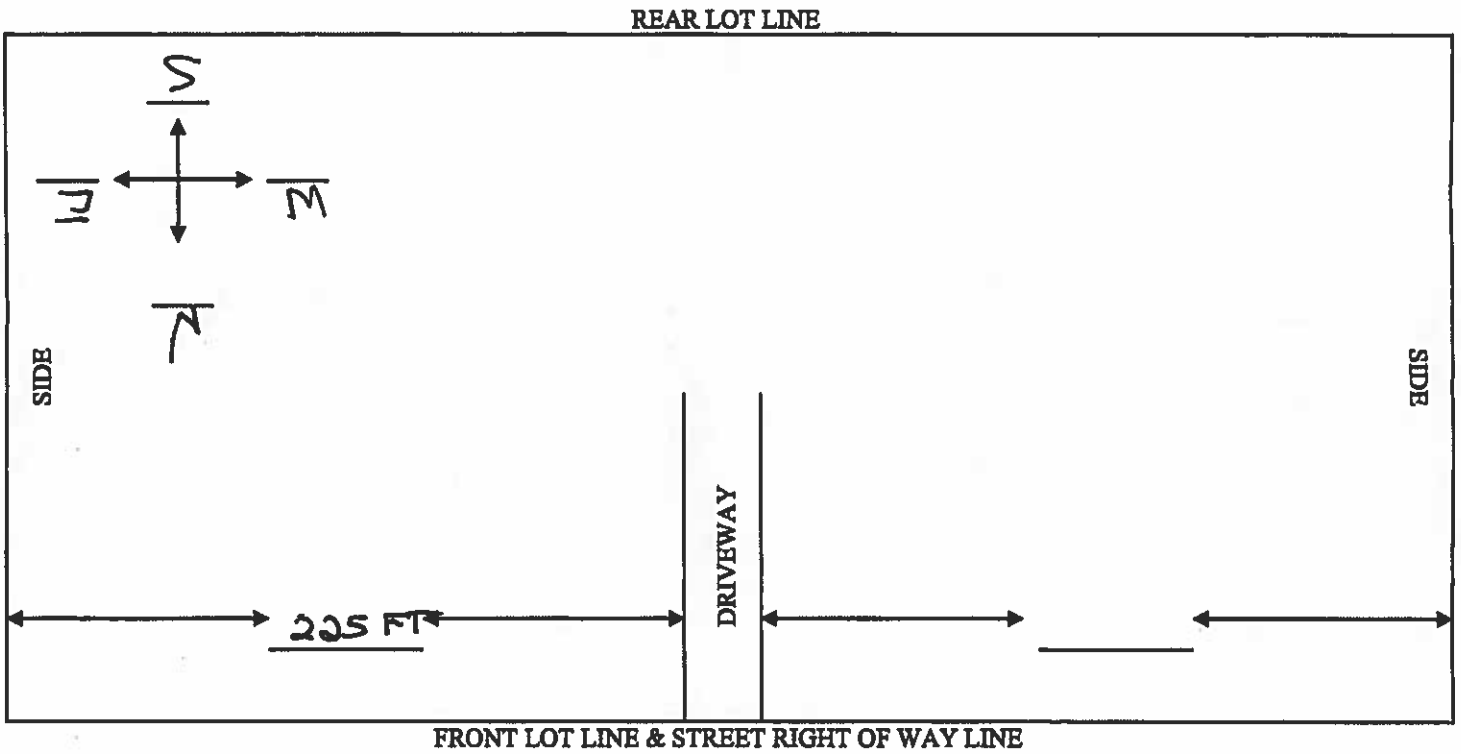
Fee: \$50.00

FOR OFFICE USE ONLY
ADDRESS ASSIGNED 2499 S Sandstone Dr. DATE CALLED IN 02/15/2023
INSPECTOR DATE # ASSIGNED 02/16/2023
048

PLOT PLAN

Please show the following on the plot plan below or the application may not be accepted.

1. North arrow
2. Proposed driveway/existing driveway
3. Distance from one of the side lot lines to center of driveway



STREET NAME: _____

**Isabella County Road
Commission**

2261 E Remus Road
Mt Pleasant, MI 48858
Phone: (989) 773-7131
(989) 772-2371



Scan to Verify

Permit #2023R0016

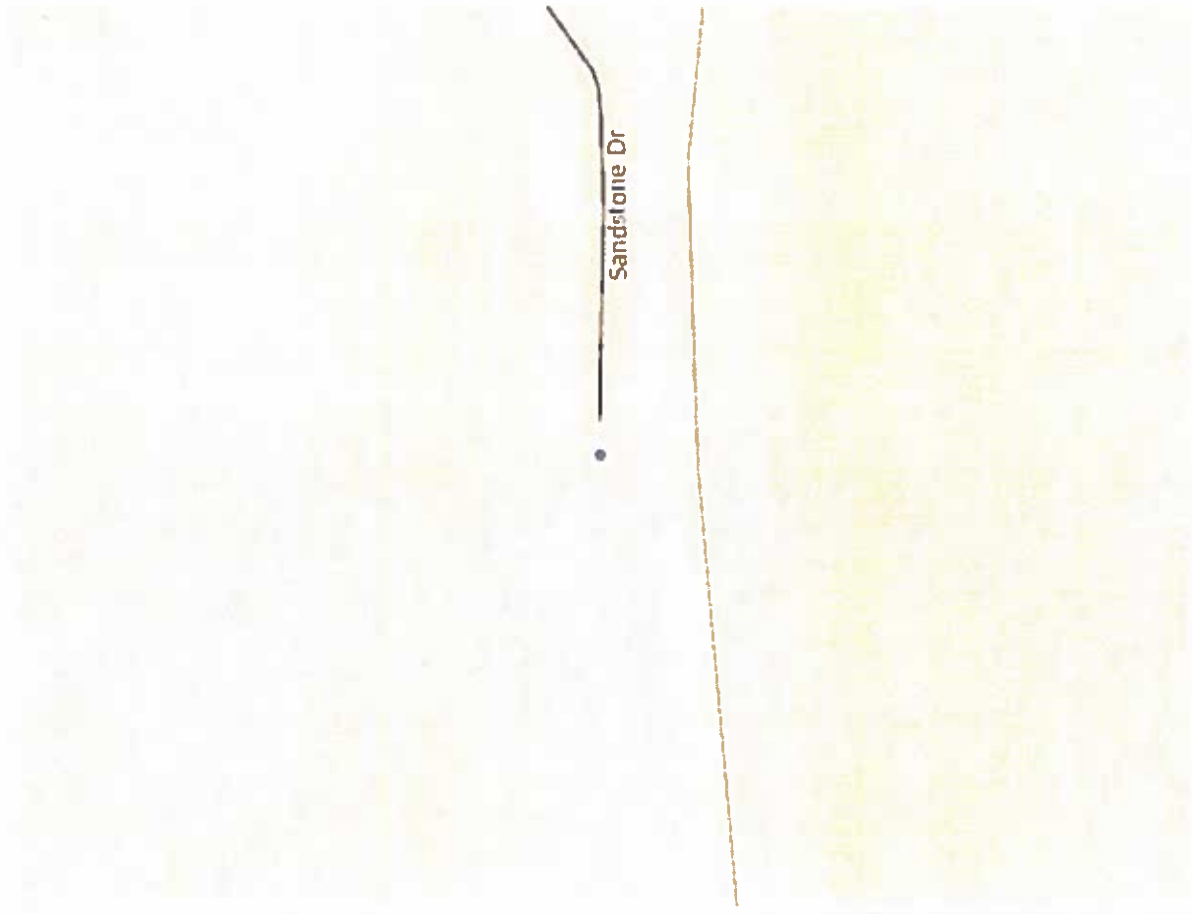
Approved by: Brock Mogg on
2/6/2023 2:44 PM

Effective: 2/6/2023
Expires: 2/6/2024

ISABELLA COUNTY PERMIT TO CONSTRUCT, OPERATE, USE AND/OR MAINTAIN WITHIN THE RIGHT-OF-WAY

Amount Due	\$50.00
Applicant Name	Michael Ervin
Address	2068 E Pickard Rd Mount Pleasant, MI 48858 US
Phone	(989) 621-8266
Email	ekimervin@gmail.com
Contractor	Yes
Business Name	Cornerstone Acres
Contractor Name	Kelly Beltinck
Contractor Address	1625 W Pickard Rd Mt Pleasant, MI 48858 US
Contractor Phone	(989) 621-8264
Contractor Email	cornerstoneacres@hotmail.com
Type of Permit	Driveway Permit
Driveway Permits	Farm Field Approach
Description of work to be completed in the right-of-way	Culvert
Work Start Date	2023/02/10
Work Completion Date	2023/02/17
Worksite Address	South End of Sandstone at dead end in Cornerstone Estates
County Road	Sandstone Rd
Between	Sandstone
And	Broadway

Township	Union
Side of Road	South
Acknowledgement	Yes



i Provisions

The term "Permit Holder" in the terms and conditions set forth on the reverse side hereof, refers to the applicant and the contractor, where applicable. By performing work under this permit, the Permit Holder acknowledges and agrees that this permit is subject to all the rules, regulations, terms and conditions set forth herein, including on the reverse side hereof. Failure to comply with any of said rules, regulations, terms and conditions shall render this permit NULL AND VOID.

RULES AND REGULATIONS

1. **Specifications.** All proposed work contained in this permit must be performed in accordance with the application, plans, specifications, maps and statements filed with the County Road Commission ("Road Commission"), and must comply with any modifications requested by the Road Commission and must comply with the Road Commission's current procedures and regulations on file at its offices and the current MOOT Standard Specifications for Construction, if applicable.

2. **Fees and Costs.** The Permit Holder shall be responsible for all costs incurred by the Road Commission relating to review of this application and shall deposit estimated fees and costs as determined by the Road Commission, at the time the permit is issued. Prior to permit issuance a deposit of the estimated fees and costs as determined by the Road Commission, will be require at the time the permit is issued.

3. **Bond.** The Permit Holder shall provide a cash deposit, Irrevocable letter of credit or bond in a form and amount acceptable to the Road Commission at the time permit is issued.

4. **Insurance.** Without limiting the Permit Holder's indemnification of the Road Commission, the Permit Holder shall furnish (1) proof of general liability insurance providing bodily injury, property damage and personal injury liability coverage for all operations of Permit Holder in amounts not less than \$1,000,000 for each occurrence and in the aggregate, and (2) proof of personal (or commercial if the Permit Holder is operating a vehicle for business-related purposes) automobile liability insurance covering all owned, non-owned and hired automobiles and other vehicles used by Permit Holder in an amount not less than \$1,000,000 for property damage per occurrence, and not less than \$500,000 for bodily injury per person, per occurrence. If the policy providing general liability insurance is on a "claims made" form, the Permit Holder is required to maintain such coverage for a minimum of three years following completion or attempted completion of the performance of the work identified in the Permit. Except as provided above for a "claims made" form, all required insurance under Paragraphs 4 and 4.1 must remain in effect for the full term of the Permit and for at least 30 days following the expiration of the Permit, covering both ongoing and completed work performed under the Permit, and shall only be cancelled upon 30 days advance written notice to the Road Commission, by certified mail, first-class, return receipt requested. This permit is automatically invalid if any required insurance expires during the authorized period of work described herein. The need for additional types of insurance or expanded coverage limits will be evaluated on a case-by-case basis, and may be required at the Road Commission's sole

discretion.

4.1 **Additional Insured.** The Road Commission may require that the Permit Holder's general liability insurance policy contain an endorsement specifically identifying the Road Commission, including its commissioners, officers, agents, volunteers and employees, as an additional insured. Subject to the remaining requirements of this paragraph, the additional insured obligation may be satisfied by an endorsement providing automatic additional insured status whenever it is required in a contract or agreement executed by the Permit Holder. In all cases, the additional insured endorsement must specify that its coverage is primary and extends to the full limits of the policy. The additional insured endorsement must provide coverage for all claims or liability that are caused by, related to, or arise from the acts or omissions of the named insured or those acting on its behalf, but the provision may exclude any independent acts or omissions solely attributable to the Road Commission.

5. **Indemnification.** In addition to any liability or obligation of the Permit Holder that may otherwise exist, Permit Holder shall, to the fullest extent permitted by law, indemnify and hold harmless the Road Commission and its commissioners, officers, agents, volunteers and employees from and against any and all claims, allegations, actions, proceedings, liabilities, judgments, losses, costs, expenses (including attorney's fees), and damages arising out of (1) the negligent performance or attempted performance of the work described in the permit, or (2) the violation of the terms and conditions of the permit by the Permit Holder, its officers, agents, or employees, or (3) work performed or attempted to be performed by the Permit Holder that is not authorized by this permit, or (4) the continued existence of the operation or facility which is the subject of this permit.

6. **Miss Dig.** The Permit Holder must comply with the requirements of Act 53 of Public Acts of 1974, as amended. CALL MISS DIG AT (800) 482-7171 or www.missdig.org AT LEAST THREE (3) FULL WORKING DAYS, BUT NOT MORE THAN FOURTEEN (14) CALENDAR DAYS, BEFORE YOU START WORK. The

Permit Holder assumes all responsibility for damage to or interruption of underground utilities.

7. **Notification of Start and Completion of Work.** The Permit Holder must notify the Road Commission at least 48 hours before starting work, when work is completed, and additionally as directed by the Road Commission.

8. **Time Restrictions.** All work shall be performed Mondays through Fridays between sunrise and sunset unless written approval is obtained from the Road Commission, and work shall be performed only during the period set forth in this permit. Perform no work except emergency work, unless authorized by the Road Commission on Saturdays, Sundays, or from 3:00 p.m. on the day proceeding until the normal starting time the day after the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

9. **Safety.** The Permit Holder shall furnish, install and maintain all necessary traffic controls and protection during Permit Holder's operations in accordance with the current *Michigan Manual of Uniform Traffic Control Devices, Part 6* and any supplemental specifications set forth herein.

10. **Restoration and Repair of Road.** The construction, operation and maintenance of the activity covered by this permit shall be performed by the Permit Holder without cost to the Road Commission unless specified herein. The Permit Holder shall also be responsible for the cost of restoration and repair of the right-of-way determined by the Road Commission to be damaged as a result of the activity which is the subject of this permit. Restoration shall meet or exceed conditions when work is commenced and be in accordance with specifications. The Permit Holder shall be responsible for costs incurred by the Road Commission for emergency repairs performed by or on behalf of the Road Commission for the safety of the motoring public. Said repairs shall be performed with or without notice to the Permit Holder if immediate action is required. This determination shall be in the sole and reasonable opinion of the Road Commission.

11. **Limitation of Permit.** Issuance of this permit does not relieve Permit Holder from meeting any and all requirements of law, or of other public bodies or agencies. The Permit Holder shall be responsible for securing and shall secure any other permits or permission necessary or required by law from cities, villages, townships, corporations, property owners, or individuals for the activities hereby permitted. Any work not described by the application, including the

time and place thereof, is strictly prohibited in the absence of the application for and issuance of an additional permit or amendment to this permit.

12. **Revocation of Permit.** This permit may be suspended or revoked at will, and at the Road Commission's request, the Permit Holder shall surrender this permit or alter, relocate or remove its facilities. The Permit Holder acquires no rights in the right-of-way by virtue of this permit and expressly waives any right to claim damages or compensation in the event that this permit is revoked.

13. **Assignability.** This permit is not assignable and not transferable unless specifically agreed to by the Road Commission.

14. **Authority.** The statutory authority of the Road Commission to require compliance with permit requirements is predicated upon its jurisdictional authority and is set forth in various statutes including, without limitation and in no particular order, MCL §247.321 et seq; MCL §224.19b; MCL §560.101 et seq; and MCL §247.171 et seq.

This permit was processed for Isabella County Road Commission by Oxcart Permit Systems on 02/06/2023 02:44 PMET - Easy solutions for local permitting. Visit us at oxcartpermits.com

