

**TYRONE TOWNSHIP**  
**REGULAR BOARD MEETING AGENDA**  
**JUNE 16, 2020 – 7:00 P.M.**  
**(810) 629-8631**  
**clerk@tyronetownship.us**

The Board will meet in person at the township hall, but for COVID precautions, the public is invited to attend electronically via Zoom. Details to join the meeting with Zoom follow this agenda.

**CALL TO ORDER – PLEDGE OF ALLEGIANCE – 7:00 P.M.**

**ROLL CALL**

**APPROVAL OF AGENDA – OR CHANGES**

**APPROVAL OF CONSENT AGENDA**

**COMMUNICATIONS**

1. Planning Commission Approved Meeting Minutes-February 11, 2020
2. Planning Commission Approved Meeting Minutes-April 14, 2020
3. Planning Commission Approved Meeting Minutes-May 12, 2020
4. Planning Commission Meeting Synopsis-June 9, 2020

**PUBLIC REMARKS**

**UNFINISHED BUSINESS**

1. The Sanctuary at Tyrone conditional rezoning request.

**NEW BUSINESS**

1. Quote for door buzzers at township office.

**MISCELLANEOUS BUSINESS**

**PUBLIC REMARKS**

**ADJOURNMENT**

\*\*\*\*\*

**Supervisor Mike Cunningham    Clerk Marcie Husted**

Please note: The Public Remarks section appears twice on the agenda - once after Communications and once before Adjournment. Anyone wishing to address the Township Board may do so at these times. The Tyrone Township Board of Trustees has established a policy limiting the time a person may address the Township Board at a regular or at a special meeting during the Public Remarks section of the agenda to three minutes. The Board reserves the right to place an issue under the New Business section of the agenda if additional discussion is warranted or to respond later either verbally or in writing through an appropriately appointed Township Official. - Individuals with disabilities requiring auxiliary aids or services should contact the Tyrone Township Clerk at (810) 629-8631 at least seven days prior to the meeting.

Mike Cunningham is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/82528365743?pwd=MjlPU2JBUS9hQzJDSW1DeEFmVUxWUT09>

Meeting ID: 825 2836 5743

Password: 893055

One tap mobile

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+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 825 2836 5743

Password: 893055

Find your local number: <https://us02web.zoom.us/j/kmRIMoVHa>

# **COMMUNICATION #1**

Planning Commission Approved Meeting Minutes-  
February 11, 2020

**TYRONE TOWNSHIP PLANNING COMMISSION  
REGULAR MEETING MINUTES  
February 11, 2020 7:00 p.m.**

**PRESENT:** Mark Meisel, Dave Wardin, Kurt Schulze, Rich Erickson, Dan Stickel, and Bill Wood.

**ABSENT:** Perry Green

**OTHERS PRESENT:** Tyrone Township Planner Greg Elliott and Tyrone Township Planning & Zoning Administrator Ross Nicholson

**CALL TO ORDER (7:03 pm):** The meeting was called to order by Chairman Mark Meisel.

**PLEDGE OF ALLEGIANCE (7:04 pm):**

**CALL TO THE PUBLIC (7:04 pm):**

No public comments or questions were received.

**APPROVAL OF THE AGENDA (7:05 pm):**

Dave Wardin made a motion to approve the agenda as presented. Kurt Schulze supported the motion. Motion carried by unanimous voice vote.

**APPROVAL OF THE MINUTES (7:05 pm):**

November 12, 2019 Regular Meeting Minutes:

Dan Stickel made a motion to approve the minutes as amended. Dave Wardin supported the motion. Motion carried by unanimous voice vote.

*Dave Wardin made a motion to move New Business Items 1 (Betley Sight Line Determination for a New Home on Runyan Lake Road) & 2 (Betley Temporary Structure Use During Construction) ahead of all other business to accommodate the applicant in attendance. Kurt Schulze supported the motion. Motion carried by unanimous voice vote.*

**NEW BUSINESS #1 (7:07 pm): Betley Sight Line Determination for a New Home on Runyan Lake Road:**

Chairman Meisel introduced the topic and requested that the applicant, Mark Betley, summarize his proposal for a new dwelling on his property. Mark Betley explained that he would like to build a multi-story dwelling with a lakeside walk-out basement and he would also like to utilize the existing dwelling on the property as temporary housing during construction. Chairman Meisel brought up supporting documents on the overhead screens which had previously been



submitted by the applicant including a site plan, elevation renderings, and photographs. The documentation was used to attempt to compare existing views of the lake with proposed views if the new dwelling were to be erected. Chairman Meisel explained that the Planning Commission needs to look at all potential impacts to the sight lines of the adjacent dwellings, relying on documentation and communication. Mark Betley stated that the renderings that had been provided to the Planning Commission were based on the location depicted in his site plan. He added that the proposed setback from the water's edge would be approximately 120' to 130'. The Planning Commission briefly discussed the renderings with the applicant.

Chairman Meisel asked if the Planning Commission had any questions or comments at this time. No questions or comments were received. Chairman Meisel observed that there were members of the public in attendance other than the applicant. He stated that the purpose of the meeting is not for a public hearing, however, if there are any public comments or questions related to the proposal, the Planning Commission would like to hear them. He asked that any member of the public who would like to make public comment should state their name for the record.

Penny Lucia (Power of Attorney for the neighbor immediately north of the applicant) referred to a rendering that was included in the packet. She explained that the rendering, which depicted an approximate view from the neighbor's property, was based on a photograph taken from the highest viewpoint of the property and, therefore, is not an accurate depiction of what the view would look like if the proposed new dwelling is erected. She then explained that she had a letter to the Planning Commission from the property owner, Robert Landers, which she would like to read on his behalf. She read from the letter, which explained that, based on the information they have seen, the proposed new dwelling would significantly reduce the existing view from his house which would, in turn, significantly diminish the value of his property. She continued to read from the letter. She then read a letter that she had prepared as the daughter of Robert Landers. She explained that she is one of nine children in the Landers family and explained that they grew up having extensive views of the lake. She stated that other homes in the area were constructed in a way to preserve existing lakefront views. She passed out a handout which included "Footnote X" from the Tyrone Township Zoning Ordinance, Section 20.01, as well as several photographs to demonstrate existing views from the Landers property. She questioned the accuracy of the elevation drawings for the proposed new dwelling. Mark Betley explained that the elevation drawings were done using real data from laser measurements. He stated that the elevation of the 1<sup>st</sup> floor of the proposed dwelling would be lower than the walkout basement level of the immediate neighbor's dwelling to the south. Chairman Meisel brought up the elevation drawings provided to explain the height issue being discussed. The Planning Commission briefly discussed the drawings. Penny Lucia stated that she would like the proposed dwelling to be moved back further from the lake than the location depicted on the current proposal.

Mark Betley asked whether the mature walnut trees which had previously been removed from his property would be taken into account in discussion on potential sight line impacts. He indicated that the trees had historically obstructed views of the lake from his property as well as both immediately adjacent properties. The Planning Commission reviewed photographs and renderings showing the trees prior to and following their removal.

Kathleen Anderson, who owns the property directly south of the subject property, stated that her family has owned the property for 67 years. She continued, stating that her and her husband had built their home in 2014 and they both have an interest in preserving sight lines. She stated that she has concerns that the proposed Betley dwelling would negatively impact the value of their property. She stated that she had spoken with Ross Nicholson who explained that the Township has some sight line regulations in place which the Planning Commission is in the process of amending to potentially protect sight lines more effectively than the regulations currently in place. She continued, noting that the site plan provided by the applicant does not include some of the required information such as a scale and the name of the person who prepared the drawing. Chairman Meisel stated that the sight line determination is a preliminary evaluation and some of the requirements for a final site plan may not be relevant at this time. Kathleen Anderson stated that her family has utilized a shared access driveway from Runyan Lake Road to the lake between her property and the Betley property for many years, which had recently been torn up by Mr. Betley with his tractor. Chairman Meisel brought up an aerial image of the properties on the overhead screens. Kathleen explained the location of the shared access driveway and indicate that a portion lies mostly on her property. She continued, indicating that she has concerns about the accuracy of the site plan and drawings that have been provided, adding that she has never seen a professional work vehicle in the Betley's driveway. Mark Betley indicated that the information is accurate and is based on a stake survey that was performed following the purchase of the property as well as laser measurements for the elevation data. There was a brief discussion between the applicant and Kathleen Anderson regarding the access driveway between their properties. Dan Stickel questioned the relevancy of the access driveway in relation to the sight line determination. Chairman Meisel directed the Planning Commission and public in attendance to stay on topic and focus on sight lines.

Discussion continued. Kathleen Anderson reiterated to the Planning Commission that she feels the site plan and additional information that had been provided by the applicant is insufficient and is not comfortable that the data is accurate. She thanked the Planning Commission for taking her concerns into consideration. Due to continued discussions between the applicant and members of the public in attendance, Dan Stickel suggested that all questions and comments be directed to the Planning Commission. Chairman Meisel agreed.

Dave Wardin asked to see a copy of the survey that was prepared for a Zoning Board of Appeals variance request from 2014 for the construction of the Anderson home. The Planning Commission reviewed the survey and briefly discussed.

Tom Landers addressed the Planning Commission. He stated that he and his siblings have been privileged to enjoy the view from their parent's property for many years. He listed a number of concerns with the drawings and proposed placement of the new dwelling to the Planning Commission. He asked Mark Betley how he would feel if he was in their shoes. A brief discussion between Mark Betley and Tom Landers followed. Kurt Schulze asked that questions and comments be directed to the Planning Commission. Discussion continued.

Chairman Meisel asked the Planning Commission if they had any follow-up questions. Bill Wood requested to see the photographs which show the walnut trees which had previously been removed from the Betley property. A brief discussion followed. Chairman Meisel asked the

138 Planning Commission what they felt would be the next appropriate step(s). Dan Stickel read the  
139 language in the Zoning Ordinance pertaining to sight lines. He indicated that in his opinion, the  
140 proposed placement of the new dwelling would impact the sight lines of adjacent properties.  
141 Rich Erickson agreed. Dave Wardin suggested that there was not enough real data on the  
142 drawings and renderings provided to accurately make a determination. He suggested that the  
143 best way to proceed would be for the applicant to have a professionally engineered survey with  
144 topographical information depicting all three properties (Betley property and both immediately  
145 adjacent neighbors) and elevation renderings showing views from both adjacent dwellings  
146 prepared. Mark Betley indicated that he has provided all of the information that had been  
147 requested by the Planning Commission so far and feels that they have enough information to  
148 make a determination. He asked when his responsibilities will end. Dave Wardin indicated that  
149 a survey, as previously described, should provide sufficient information for the Planning  
150 Commission to make a determination. Mark Betley indicated that he is not going to have a  
151 survey prepared unless he has reassurance that the Planning Commission will definitely be able  
152 to make a determination once it has been done. A brief discussion between Mark Betley and  
153 Dave Wardin followed. Dave Wardin indicated that the professional survey and elevation  
154 drawings would be the only way to know for certain the information provided thus far is  
155 accurate. Dave Wardin addressed the public in attendance and the Planning Commission. He  
156 stated that he noticed that the neighbors claim to have the best views on the lake. He indicated  
157 that the neighbors are not entitled to have the best view on the lake, they are only entitled to have  
158 a reasonable view.

159  
160 Chairman Meisel explained to the public in attendance that many municipalities have sight line  
161 regulations which vary in terms of the methods and standards used to evaluate potential conflicts.  
162 He continued, stating that the current language in Tyrone Township is a much more simplistic  
163 version of sight line regulations than many that exist elsewhere. He brought up aerial images on  
164 the overhead screens to explain how the Planning Commission generally reviews potential  
165 impacts to sight lines. He stated that the objective is to understand and minimize potential  
166 impacts to existing sight lines.

167  
168 The Planning Commission briefly discussed the content they would like to see on professional  
169 prepared elevation and survey drawings. Chairman Meisel indicated that the Planning  
170 Commission would collaborate and prepare a letter to Mr. Betley including the specific  
171 information that is being requested.

172  
173 Penny Lucia stated that she had not received any public notice that the sight line evaluation was  
174 going to be on the Planning Commission meeting agenda. She asked if she should have received  
175 notification. Chairman Meisel explained that the Zoning Ordinance does not require a public  
176 hearing for such determinations to be made and therefore, no public hearing notifications are  
177 required.

178  
179 *The item was closed at 8:26 pm.*  
180  
181

182 **NEW BUSINESS #2 (8:27 pm): Betley Temporary Structure Use During Construction:**

183  
184 Chairman Meisel introduced the topic and brought up the application documents on the overhead  
185 screen. He summarized the application, which is a proposal to utilize the existing dwelling on  
186 the Betley property during construction of the new proposed dwelling. The existing dwelling  
187 would be removed from the property prior to or immediately following completion of the  
188 proposed dwelling. The Planning Commission briefly discussed the site plan. There was a  
189 question regarding construction vehicle access between the existing dwelling and the property  
190 boundaries. Mark Betley indicated that there would be sufficient distance between the south side  
191 of the existing dwelling and the south property line. He added that if it is found that there is not  
192 sufficient space, he would have no issue with having the existing attached garage demolished to  
193 open up more space for construction vehicle access. The Planning Commission briefly  
194 discussed.

195  
196 Chairman Meisel asked Greg Elliott to summarize the review letter he had previously prepared  
197 for the application. Greg Elliott summarized the request, commenting the provided sketch does  
198 not comply with the requirements of Section 21.31.A.3.a. for a Plot Plan and Written Statement,  
199 and does not demonstrate how access to the property by construction equipment would occur.  
200 The Planning Commission briefly discussed.

201  
202 Chairman Meisel asked the Planning Commission if they had any additional questions or  
203 comments. None were received.

204  
205 Dave Wardin made a motion to table the Betley temporary dwelling during construction  
206 application pending a formal written agreement with the Township Board regarding the  
207 timeframe for removal of the existing dwelling as well as revisions to the site plan as noted in the  
208 McKenna review letter. Dan Stickel supported the motion. Motion carried by unanimous voice  
209 vote except Meisel, who abstained at the applicant's request.

210  
211 *The item was closed at 8:41 pm.*

212  
213 *There was a brief informal discussion amongst the Planning Commission.*

214  
215 **NEW BUSINESS #3 (8:51 pm): Open Space Regulations Review and Consolidation:**

216  
217 Chairman Meisel introduced the topic with a summary of where the Planning Commission had  
218 previously left off in discussion. He suggested that the Planning Commission should focus on  
219 discussing CDO (Cluster Development Option) open space regulations. He explained that the  
220 Township has not received any Conditional Rezoning or CDO application in recent years. He  
221 asked the Planning Commission their thoughts on whether or not the CDO should be applicable  
222 to PUD (Planned Unit Development) developments. He explained that the current PUD  
223 standards, as they are currently written, may apply to mixed uses only, but there are some  
224 differences in interpretation. The Planning Commission briefly discussed.

225  
226 The Planning Commission reviewed documents and correspondence from a recent CDO  
227 application and discussed. They compared open space standards between the existing text and

228 those in other municipalities. Discussion amongst the Planning Commission followed. It was  
229 determined that the discussion would continue at a future meeting.

230

231 No action was taken.

232

233 *The item was closed at 9:57 pm.*

234

235 **MISCELLANEOUS BUSINESS #1 (9:57 pm): Next Workshop Meeting:**

236

237 A workshop meeting was scheduled for February 20, 2020, beginning at 6:00 pm.

238

239 *The meeting was adjourned at 10:01 pm.*

# **COMMUNICATION #2**

Planning Commission Approved Meeting Minutes-  
April 14, 2020

1                   **TYRONE TOWNSHIP PLANNING COMMISSION**  
2                   **REGULAR MEETING MINUTES**

3                   **April 14, 2020 7:00 p.m.**  
4                   **Meeting Held Via Zoom Video Conferencing**  
5

6  
7   **PRESENT:** Mark Meisel, Dave Wardin, Kurt Schulze, Rich Erickson, and Perry Green  
8

9   **ABSENT:** Dan Stickel and Bill Wood.  
10

11   **OTHERS PRESENT:** Tyrone Township Planner Greg Elliott and Tyrone Township Planning &  
12   Zoning Administrator Ross Nicholson  
13

14   **CALL TO ORDER (7:00 pm):** The meeting was called to order by Chairman Mark Meisel.  
15

16   **PLEDGE OF ALLEGIANCE (7:00 pm):**  
17

18   **CALL TO THE PUBLIC (7:01 pm):**  
19

20   No public comments or questions were received.  
21

22   **APPROVAL OF THE AGENDA (7:02 pm):**  
23

24   Dave Wardin made a motion to suspend the order of business, placing New Business item #1  
25   (Rock Church Site Plan Review & Special Land Use) ahead of all other business items. Kurt  
26   Schulze supported the motion. Motion carried by unanimous voice vote.  
27

28   **APPROVAL OF THE MINUTES (7:03 pm):**  
29

30   January 14, 2020 Regular Meeting Minutes:  
31

32   Dave Wardin made a motion to approve the minutes as presented. Kurt Schulze supported the  
33   motion. Motion carried by unanimous voice vote.  
34  
35

36   **NEW BUSINESS #1 (7:05 pm): Rock Church Site Plan Review & Special Land Use:**  
37

38   Chairman Meisel introduced the topic and provided a summary of where the Planning  
39   Commission had left off in review of the application. He stated that the application had been  
40   previously tabled pending minor revisions to the site plan and the use statement as well as  
41   obtaining additional approvals from agencies having jurisdiction. He pulled up the latest  
42   approvals that had been issued on the computer from the Michigan Department of Environment,  
43   Great Lakes, and Energy (EGLE) and the Livingston County Road Commission (LCRC). Kurt  
44   Schulze noted that the EGLE approval documents do not specifically reference parking lot  
45   drainage/runoff. He asked the agent representing the Rock Church to explain. Tom Atkins  
46   explained the parking lot drainage plan. Chairman Meisel explained that it is implied that EGLE

has no issue with the proposed drainage plan since it is specifically shown on the plans referenced in the approval documents and there are no comments indicating otherwise. Chairman Meisel asked Tom Adkins if the new proposed dumpster location and screening detail is shown on the revised drawings. Tom Adkins stated that the location is shown on page # 17 of the plan set and the enclosure details are included in the architectural drawings. Chairman Meisel noted that the placement of bumper/parking blocks is now shown on the drawings. He asked if the snow storage area is depicted on the plans. Tom Adkins indicated that the snow storage area is shown and there are notes included which describe the details. He stated that he cannot find the exact location of the notes but he would look for them as the Planning Commission continues review of the application documents. Chairman Meisel asked if the Church was still planning on applying for a land use permit for sign design and placement at a later date. Tom Atkins confirmed.

Chairman Meisel asked the Planning Commission if they had any questions or comments. Greg Elliott asked for additional information on the location of the proposed snow storage area in relation to the regulated wetlands on the site. Tom Atkins elaborated. Chairman Meisel brought up the use statement on the overhead screens and read through it. He asked for confirmation that no on-site housing is being proposed. Tom Atkins confirmed that no on-site housing is proposed. Chairman Meisel requested that a note be added to the use statement specifically stating that there would be no on-site housing.

Note: The Zoom meeting was abruptly terminated at 7:40 PM. All attendees were contacted via email and were able to join a second meeting segment, which also lasted 40 minutes.

Tom Atkins stated that he had located the additional snow storage area details in the plans and showed the Planning Commission. The Planning Commission briefly discussed.

Chairman Meisel asked if there were any additional questions or comments from the Planning Commission. None were received.

Dave Wardin mad a motion to recommend Township Board approval of the Rock Church Special Land Use Permit conditional upon site plan approval. Rich Erickson supported the motion. Motion carried by unanimous voice vote.

Dave Wardin made a motion to recommend Township Board approval of the Rock Church site plan conditional upon a revision to the use statement to note that there would be no on-site housing and revisions to the site plan to included additional information on the snow storage area. Perry Green supported the motion. Motion carried by unanimous voice vote.

Chairman Meisel explained to the applicants that they may submit the amended documents to address the snow storage area detail and the note pertaining to on-site housing to the Planning and Zoning Administrator via email. Once the documents are received, the Planning Commission would review to confirm the revisions are satisfactory. Once the revisions are confirmed to be satisfactory, the Planning Commission would make their recommendation to the Township Board.



93 *The item was closed at 7:55 pm.*

94  
95 **NEW BUSINESS #2 (7:56 pm): Review of Planning Commission Roles and Responsibilities**  
96 **Class:**

97  
98 Chairman Meisel explained that he had recently attended an MSU Extension class regarding  
99 Planning Commission roles and responsibilities. He brought up his notes from the class on the  
100 computer and shared his notes. A few items highlighted were: Reinforced that the zoning  
101 ordinance is law, while the master plan is a guide; Courts more likely to uphold a zoning  
102 decision if it is supported by a strong master plan; Participate in deliberations and vote your  
103 conscience – allows your thoughts and reasoning to be captured in the minutes; Details are  
104 important – good minutes required by courts to defend actions; Take your time deliberating – as  
105 much time as is needed; and A public hearing is the minimum required to engage the public.  
106 There may be benefits to additional communications with the public prior to a public hearing.  
107 The Planning Commission briefly discussed possible improvements to the ways their meetings  
108 are conducted.

109  
110 *The item was closed at 8:15 pm.*

111  
112 *Due to the 40 minute time constraint with the second Zoom meeting the old business item on the*  
113 *agenda was deferred to a future meeting.*

114  
115 **MISCELLANEOUS BUSINESS #1 (8:15 pm): Next Workshop Meeting:**

116  
117 A workshop meeting was scheduled for April 22, 2020, beginning at 6:00 pm.

118  
119 *The meeting was adjourned at 8:16 pm.*

# **COMMUNICATION #3**

Planning Commission Approved Meeting Minutes-  
May 12, 2020

1                   **TYRONE TOWNSHIP PLANNING COMMISSION**  
2                   **REGULAR MEETING MINUTES**  
3                   **May 12, 2020 7:00 p.m.**  
4                   **Meeting Held Via Zoom Video Conferencing**  
5  
6

7   **PRESENT:** Mark Meisel, Dave Wardin, Kurt Schulze, Rich Erickson, Perry Green, and Dan  
8   Stickel.  
9

10 **ABSENT:** Bill Wood.  
11

12 **OTHERS PRESENT:** Tyrone Township Planner Greg Elliott and Tyrone Township Planning &  
13 Zoning Administrator Ross Nicholson  
14

15 **CALL TO ORDER (7:00 pm):** The meeting was called to order by Chairman Mark Meisel.  
16

17 **PLEDGE OF ALLEGIANCE (7:00 pm):**  
18

19 **CALL TO THE PUBLIC (7:02 pm):**  
20

21 No public comments or questions were received.  
22

23 **APPROVAL OF THE AGENDA (7:03 pm):**  
24

25 Chairman Meisel suggested removing the approval of the meeting minutes from 02/11/2020 and  
26 04/14/2020 because they are not yet available.  
27

28 Kurt Schulze made a motion to approve the agenda as amended. Dave Wardin supported the  
29 motion. Motion carried by unanimous voice vote.  
30

31 **APPROVAL OF THE MINUTES (7:03 pm):**  
32

33 February 11, 2020 Regular Meeting Minutes:  
34

35 The item was deferred.  
36

37 April 14, 2020 Regular Meeting Minutes:  
38

39 The item was deferred.  
40

41 *Chairman Meisel noted that he saw that several members of the public had joined the meeting.*  
42 *He explained that there have been some technical issues with the publishing of the meeting*  
43 *agendas remotely, however, most of the issues appear to have been resolved. He continued,*  
44 *stating that there is nothing being formally approved at the meeting. He stated that he is*  
45 *attempting to record the meeting so that it may be reviewed at a later date by any interested*

parties upon request (in case there were any issues with agenda publication). He stated that if the meeting ends prematurely, an email link to a new meeting will be sent out to everyone.

**OLD BUSINESS #1 (7:05 pm): Open Space Regulations Review and Consolidation:**

Chairman Meisel introduced the topic and provided a summary of where the Planning Commission had left off in review of the existing open space regulations in the Zoning Ordinance. He brought up a document including open space regulations from Article 21 of the Zoning Ordinance on the computer. He stated that there had been previous discussion on yard setback exceptions which was intended to clarify that required open space is not intended to be designated on all lots/units in a subdivision/site condominium, but the exception is specific to one or several lots/units within a development. He stated that further clarification is needed for situations where open space is required as part of Cluster Development Option (CDO) applications. He stated that additional clarification on Planned Unit Development (PUD) open space requirements are also necessary.

Chairman Meisel worked through the Zoning Ordinance open space requirements with the Planning Commission. Discussion amongst the Planning Commission followed. Kurt Schulze asked where they were at with maintenance of open space areas in terms of dead and/or diseased vegetation. He stated that he believes in situations where vegetation is diseased, there should be provisions for removal to control potential spread. He also stated that there may be situations where dead vegetation and trees may become hazardous to health and safety. Greg Elliott stated that the Michigan Department of Environment, Great Lakes, and Energy (EGLE) would likely be in favor of removing diseased vegetation but opposed to the removal of dead (non-diseased) vegetation since it is part of the natural ecosystem. Chairman Meisel stated that the original language provided for removal of vegetation under certain circumstances. He continued, stating that the proposed revision would provide for the removal or prohibit removal depending on the circumstances. He stated that if someone wished to remove vegetation from a regulated wetland within an open space, consent from EGLE would likely be required. Kurt Schulze asked for clarification on removal of vegetation from open space areas where regulated wetlands are not present. Chairman Meisel indicated that the proposed language would allow for those situations to be addressed in open space maintenance agreements. The open space maintenance agreements would be created between applicants, the Planning Commission, and other agencies having jurisdiction, when applicable. Perry Green asked if the open space maintenance agreement requirements being discussed would apply only to properties within developments where open space is required or if it would also apply to individual parcels not located within developments. Chairman Meisel indicated that they would apply primarily to developments since open space is no longer required for individual residential parcels not located within a development. He stated that it is possible that open space could be included on other properties, but it is not likely. Discussion continued.

The Planning Commission discussed proposed revisions to the existing Zoning Ordinance requirements pertaining to maintenance and removal of vegetation in open space areas. The Planning Commission discussed adding clarification to Zoning Ordinance text regarding amendments to open space areas within developments where open space is required, such as

91 CDO and the Opens Space Preservation (OSP) option. The Planning Commission briefly  
92 discussed enforcement mechanisms for open space violations.

93  
94 Chairman Meisel brought up additional open space requirements from the Zoning Ordinance on  
95 the computer and read through them with the Planning Commission to identify any other areas  
96 which could benefit from revisions for clarification. The Planning Commission discussed.  
97 Discussion on CDO open space design requirements followed. The draft text document was  
98 revised to add clarification to existing open space requirements as well as the intent of the open  
99 space design requirements.

100  
101 Chairman Meisel read through the text documents and summarized the latest proposed revisions  
102 to the Zoning Ordinance open space requirements. The Planning Commission discussed CDO  
103 open space requirements further.

104  
105 Chairman Meisel read through the proposed text that had been discussed so far. Discussion  
106 amongst the Planning Commission followed. The Planning Commission briefly discussed  
107 Conditional Rezoning application requirements. The Planning Commission discussed site plan  
108 review standards from Article 23 of the Zoning Ordinance.

109  
110 Chairman Meisel asked if there were any questions or comments. None were received. He  
111 suggested revisiting the topic at a future meeting.

112  
113 *The item was closed at 9:17 pm.*

114  
115 **OLD BUSINESS #3 (9:17 pm): Pool Covers:**

116  
117 Chairman Meisel brought up documents on the computer pertaining to requirements for Pool  
118 Covers. He referenced communications with the Livingston County Building Department  
119 (LCBD) regarding pool enclosure regulations. He summarized the communication, which  
120 explained that the state of Michigan building code now permits the use of ASTM-compliant pool  
121 covers in place of perimeter fencing for pools. He continued, stating that ASTM-compliant pool  
122 covers have specified life expectancy ratings. He asked the LCBD how their pool permitting  
123 process works in the communication as well as whether or not there is any follow-up inspection  
124 requirements for pool covers after they reach the end of their rated life expectancy. He explained  
125 that the LCBD does not require any follow-up inspections after the initial approval but they  
126 stated the local municipality could require and administrate them.

127  
128 Chairman Meisel suggested that the Planning Commission should discuss whether or not the  
129 Township should be responsible for requiring follow-up inspections for pools that utilize ASTM-  
130 compliant pool covers in lieu of perimeter fencing. He brought up some suggestions for  
131 proposed amendments to the Zoning ordinance requirements for pools. The Planning  
132 Commission briefly discussed pool cover weight load ratings, life expectancies, and potential  
133 liability. Chairman Meisel suggested that the Planning Commission review the proposed text to  
134 be discussed further at a later date.

135  
136 *The item was closed at 9:40 pm*

137  
138 **OLD BUSINESS #2 (9:40 pm): Signs:**  
139

140 Chairman Meisel asked Greg Elliott if he has had a chance to review and make minor  
141 adjustments to the proposed sign requirements amendments that had previously been sent to the  
142 Township Board. He stated that the previous draft document had some formatting and continuity  
143 issues which should be corrected to prevent confusion. Greg Elliott stated that he has not yet  
144 made any changes to the document. Chairman Meisel suggested revisiting the topic at a later  
145 date.

146  
147 *The item was closed at 9:47 pm*  
148

149 **MISCELLANEOUS BUSINESS #1 (9:47 pm): Next Workshop Meeting:**  
150

151 Chairman Meisel stated that the Township Board had suggested that the Planning Commission  
152 discuss the Betley sight line determination request at the next available meeting. He confirmed  
153 with the Planning Commission that they would discuss the topic at the next meeting assuming  
154 that a quorum is present. He confirmed that a quorum would be present at the meeting if  
155 scheduled for May 20, 2020, beginning at 6:00 pm. The meeting was scheduled.

156  
157 Molly Betley asked for the status of the February 11 and April 14, 2020 meeting minutes.  
158 Chairman Meisel suggested that she would need to confirm with Ross Nicholson. She asked if  
159 the minutes should have been completed by this time. Chairman Meisel indicated that it was  
160 anticipated that they would have been completed. Molly Betley asked Ross Nicholson why there  
161 is a delay. Ross Nicholson apologized for the delay and explained that the Planning and Zoning  
162 Department has been understaffed and experiencing a high volume of applications and inquiries  
163 as a result of the COVID-19 executive orders which has led to a delay in the completion of the  
164 meeting minute drafts. She asked when a video recording of the February 11, 2020 meeting will  
165 be made available to the public. Ross Nicholson stated that he is unaware of the status of the  
166 recording and was uncertain whether or not it would be made available to the public. Molly  
167 Betley stated that she was under the impression that the meeting was going to be recorded. Ross  
168 Nicholson stated that the plan was to record the meeting to test the new video equipment at the  
169 Township Hall, however, he is uncertain whether or not the recording was successful.

170  
171 *The meeting was adjourned at 9:58 pm.*

# **COMMUNICATION #4**

Planning Commission Meeting Synopsis-  
June 9, 2020

**TYRONE TOWNSHIP PLANNING COMMISSION  
REGULAR MEETING SYNOPSIS**

**June 9, 2020 7:00 p.m.**

**Note: This meeting was held via electronic remote access, in accordance with the Michigan Governor's Executive Orders 2020-75, 2020-99, and 2020-100.**

**Present:** Mark Meisel, Dave Wardin, Kurt Schulze, Rich Erickson, and Perry Green.

**Absent:** Dan Stickel and Bill Wood.

Approved the agenda as presented.

**APPROVAL OF THE MINUTES:**

- 1) February 11, 2020 Regular Meeting – Were approved as amended.
- 2) April 14, 2020 Regular Meeting – Were approved as amended.
- 3) May 12, 2020 Regular Meeting – Were approved as presented.

**OLD BUSINESS:**

- 1) Betley Sight Line Determination – Details for Amended Submittal by the Applicant – Documents submitted on 6/9 were discussed with the applicant's representative. The Planning Commission identified and communicated additional information needed to arrive at a determination during the 6/24/20 meeting.
- 2) Article 27: Sign Amendments – Reviewed the work still required to reformat the proposed amendments prior to forwarding to the Township Board.
- 3) Swimming Pool Covers – Discussed additional information desired prior to requesting direction from the Township Board regarding potential regulations.
- 4) Open Space Regulations Review and Consolidation – Discussed status and next steps prior to making a recommendation to the Township Board.

**NEW BUSINESS: None**

**MISCELLANEOUS BUSINESS:**

- 1) Other Business Items: Meeting & Public Hearing, Wednesday, 6-24-2020, 6:00 PM
- 2) Briefly discussed when the Planning Commission will return to in person meetings. At least two planning commissioners remain uncomfortable with in person public meetings due to potential COVID-19 transfer to family members and/or primary employer restrictions. At this time Zoom meetings will continue unless the executive order permitting them expires.

**ADJOURNMENT:** The meeting adjourned at 9:08 P.M.



# **UNFINISHED BUSINESS #1**

The Sanctuary at Tyrone request for conditional rezoning.

February 26, 2020



Township Board  
Tyrone Township  
8420 Runyan Lake Road  
Fenton, MI 48430

**Subject: Agenda Request – The Sanctuary at Tyrone Conditional Rezoning Request by Boss Engineering**

Dear Township Board Members:

During our meeting on December 10, 2019, an application review and public hearing were held regarding a conditional zoning request for a site condominium development. Dave Wardin made a motion to recommend denial of the Sanctuary at Tyrone conditional rezoning offer to rezone 72 acres from FR to RE based on the fact that it does not comply with [Michigan] PA 110 of 2006 requiring 50% of undeveloped open space for a CDO development. Dan Stickel supported the motion. Roll call vote: Dan Stickel- yes, Rich Erickson- yes, Perry Green- no, Mark Meisel- yes, Dave Wardin- yes, Kurt Schulze- yes, Bill Wood- no. Motion carried 5:2.

The Planning Commission identified several other areas of noncompliance with our Zoning Ordinance standards for submittal of a conditional rezoning application. Conditional Rezoning also requires compliance with site plan approval standards, and compliance with Section 29.02 and 29.03 – the procedural and material requirements to process a rezoning, as well as the requirements within Section 29.05 – Conditional Rezoning. The Michigan Zoning Enabling Act, PA 110 of 2006, states in part “The development of land under subsection (1) is subject to other applicable ordinances, laws, and rules.....” Because the Planning Commission felt compliance with Tyrone Township Zoning Ordinance standards was secondary to compliance with State of Michigan requirements set forth in PA 110 of 2006, the Planning Commission’s recommendation for denial focused solely on the applicant’s lack of compliance with PA 110 of 2006.

The review provided by the Livingston County Planning Department (LCPD) is comprehensive, so we won’t submit repetitive documentation. It should be noted, however, the LCPD review is consistent with the findings of the Planning Commission. We are providing an attached summary of the major challenges regarding this request for conditional rezoning. Additional information can be found in the LCPD review.

The Planning Commission recommends denial of this request because it does not comply with PA 110 of 2006 regarding open space preservation requirements and compliance with Township ordinances, it does not comply with our Zoning Ordinance standards, it is inconsistent with our Master Plan, and it appears to meet the criteria for spot zoning, which is prohibited by law.

Respectfully submitted,

**Tyrone Township Planning Commission**

*Mark Meisel*

Chairman

Tyrone Township Planning Commission

8420 Runyan Lake Road Fenton, MI 48430 (810) 629-8631

Mark Meisel, Chairman Kurt Schulze, Vice Chair David Wardin, Secretary Richard Erickson Perry Green Dan Stickel Bill Wood

## Summary of the Sanctuary at Tyrone Proposed Conditional Rezoning

1. Under current FR zoning, 3 acre minimum lots are required, so the proposed developmental area is entitled to a maximum of  $72/3 = 24$  lots minus any infrastructure required for access, wetlands, etc. which would reduce the developable lot area and therefore reduce the maximum number of lots in order to comply with site plan approval requirements. The developer is proposing 36 lots.
2. The developer is requesting to conditionally rezoning from FR to RE. This would allow a maximum of  $72/1.75 = 41$  lots minus any infrastructure required for access, wetlands, etc. which would reduce the developable lot area and therefore reduce the maximum number of lots in order to comply with site plan approval requirements. The developer is proposing 36 lots.
3. The developer then intends to apply CDO to the RE rezoned property, thereby being permitted to develop lots as small as 0.875 acre, as long as they comply with other RE developmental requirements as set forth by CDO developmental requirements in the MZEA (PA 110 of 2006). Item 3 under Section 125.3506 of the MZEA reads, “(3) The development of land under subsection (1) is subject to other applicable ordinances, laws, and rules, including rules relating to suitability of groundwater for on-site water supply for land not served by public water and rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.” The developer is proposing 36 – one acre lots, however approximately 25% of each proposed lot is allocated as open space to meet the minimum area required by PA 110.

## Challenges and Nonconformities

1. Under CDO, Section 125.3506 states, “..... land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land than specified in the zoning ordinance, but not more than 50% for a county or township or 80% for a city or village, that could otherwise be developed, as determined by the local unit of government under existing ordinances, laws, and rules on the entire land area, if all of the following apply: (a) The land is zoned at a density equivalent to 2 or fewer dwelling units per acre or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre. (b) A percentage of the land area specified in the zoning ordinance, but not less than 50% for a county or township or 20% for a city or village, will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, as prescribed by the zoning ordinance.”

CDO therefore requires a minimum of 50% open space preservation. Minimum. The developer is attempting to utilize provisions they are not entitled by right to use in an effort to meet the open space requirement, including allocating the entire required rear yards of all 36 proposed lots/units as open space. This results in noncompliance with several sections of our Zoning Ordinance:

- a. Section 21.51.B.3 - **Exclusions**. Open space shall not include: **Yard Setbacks**. Required yard setback areas as specified in Section 20.01., and
  - b. Section 21.51.D - **Perimeter Open Space Measurement**. If the Planning Commission allows required open space to be located within the yard perimeter, the setback shall be measured from the closest point of the open space boundary. (note – the PC has not allowed required open space to be located within the perimeter, and regardless, the developer shows the building envelopes abutting the open space in violation of this requirement if it were to be allowed.)
  - c. By using approximately 25% of each lot area as open space, the effective lot areas are only 0.75 acre, which is below the 0.875 required for CDO in RE.
2. When applying CDO the developer has encountered practical difficulties when attempting to develop 36 lots using the maximum statutorily allowed 50% land area as they cannot comply with all underlying zoning district requirements as required by the MZEA and our Ordinance. As noted by the underlined text in item 3 of the summary above, CDO “.. is subject to other applicable ordinances, laws, and rules...” This has been legally interpreted to require compliance with all underlying zoning district standards and agency approval requirements.
    - a. The proposed lot sizes do not comply with RE dimensional requirements for minimum lot width, rear yard setbacks, and percent lot coverage, and are substantially similar to R-1 dimensional standards, so one might suggest as proposed the developer is requesting to develop lots using R-1 standards in the current FR zoning

district. Existing adjacent development is 2.5 – 10+ acres per dwelling unit. The developer is proposing 1.0 acre lots, the same as the minimum allowed in R-1.

- b. CDO is a development tool that may be used by a developer at their option. There is no right to be able to develop a parcel of land using CDO, and there is no guarantee land can be developed using CDO using the minimum lot sizes allowed for all lots within the development combined with the maximum possible number of lots if no infrastructure, wetlands, etc. were required for the development.
- 3. A request for conditional rezoning is a specific offer to develop land for a specific use or purpose, in this case that use is set forth by the developer's submitted site plan and statement of conditions. Section 29.05.A states in part, "This option shall apply site planning criteria to achieve integration of the development project into the fabric of the project area."
  - a. As stated in item 2.a above, the site plan does not comply with RE lot dimensional requirements. Section 29.05.B.3: **Uses or Densities.** The owner's offer of conditions may not purport to authorize uses or densities not permitted in the requested new zoning district.
  - b. The applicant is requesting a conditional rezoning from FR to RE, then to apply CDO to develop land with 1 acre lots. The applicant then proposes deviations from RE zoning district standards for minimum lot width, rear yard setbacks, percent lot coverage, use of the rear yard for open space, and building envelopes with no setback from the open space. These nonconforming elements appear to contrast with items A and D in the developers Conditional Zoning Agreement Terms Offered by Applicant document, which state an intent to comply with RE dimensional and other standards.
  - c. Conditional rezoning requires offsetting concessions to typical requirements within the requested zoning district to justify the zoning change being requested. What is the developer offering? Section 21.05.B.6 **Deviation from Ordinance Standards.** Any deviation from a Zoning Ordinance standard for the proposed zoning district included as part of the conditional rezoning application shall be balanced by offsetting concession in the Statement of Conditions volunteered by the applicant. As set forth in Section 29.05.E.2, offsetting concessions can include:

**a. Structures and Improvements.** The location, size, height, and setbacks of buildings, structures, and improvements; **Developer is offering 30 foot side yard setbacks versus the required 20 feet, but is also requesting deviations to lot widths, yard setbacks, percent lot coverage, and the location of open space within all 36 required rear yards, rather than providing dimensions exceeding minimum requirements, as is intended here.**

**b. Density.** The maximum density or intensity of development (e.g., units per acre, maximum useable floor area, hours of operation, etc.); **Instead of reduced density, the developer proposes the maximum number of units possible based on math rather than a parallel plan, on lots that do not comply with RE dimensional requirements. Using the entire required rear yard as open space also reduces the effective lot area to approximately 0.75 acre, below the required 0.875 acre under CDO in the RE district, and in sharp contrast to the 3.0 acre (1.5 with CDO) lots allowed in FR, as well as the existing adjacent development ranging from 2.5 to 10+ acres per dwelling unit.**

**c. Natural Resources.** Measures to preserve natural resources or features; **The proposal seeks to establish the absolute minimum open space preservation required by law, and to achieve this the developer is applying methods that typically are not permitted, and are not permitted by right, when establishing open space, such as use of the entire required rear yards of all 36 lots/units as open space.**

**d. Storm Water Drainage.** Facilities to address storm water drainage and water quality; **Nothing unique here above minimum agency requirements.**

**e. Traffic Impacts.** Facilities to address traffic issues, for example through road paving or other road improvements; **Nothing that impacts any arterial or connected public road. Road infrastructure is strictly limited to a private road being created within the development.**

- f. Open Space Preservation.** Open space preservation provisions; The developer seeks to provide only the minimum required by law, see also item c.
- g. Landscaping and Screening.** Minimum landscaping, buffering, and screening provisions, Nothing is being proposed above the absolute minimum. The proposed buffer to the north only includes required open space to meet the statutory minimum, nothing extra.
- h. Bonus Landscaping.** Added landscaping above and beyond what is required by the Zoning Ordinance; Nothing has been presented suggesting this, and the developer did hesitate when adjacent residents suggested additional trees be planted for buffering during the public hearing.
- i. Site Design.** Building design, materials, lighting and sign criteria; Nothing unique.
- j. Uses.** Permissible and prohibited uses of the property; Nothing unique.
- k. Historic Preservation.** Provisions to preserve historic farms, barns, and other buildings to preserve the history and character of the Township; None
- l. Rural View Shed.** Measures to protect the rural view shed, which is an undeveloped area adjacent to the road right-of-way, having a depth of at least two hundred (200) feet, where existing natural features such as wetlands, woodlands, hedgerows, undulating land forms, and scenic vistas are preserved and incorporated into the landscape. None
- m. Reclamation.** Reclamation and reuse of land where previous use of the land has caused severe development difficulties or has caused blight. None
- n. Drainage.** Drainage improvements, beyond what is required by ordinance using best management practices. None, and would be limited by regulated and unregulated wetland on site regardless
- o. Other Conditions.** Such other conditions as deemed important to the development by the applicant. This is the offer of one REU and arguably the 1 acre versus 0.875 acre lots, although to be fair the latter is already the result of FR to RE then CDO and of a size permitted under CDO, not because something is being offered, or developed to a standard beyond what the ZO requires.

4. [Section 29.05.E.3.d states:](#) **Compliance with the Statement of Conditions.** Agreement and understanding that each of the requirements and conditions in the Statement of Conditions represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved conditional rezoning, taking into consideration the change zoning district classification and the specific use authorization granted.

Referencing the deviations requested by the developer to our RE zoning district standards and then comparing those to the offsetting concessions discussed in the above item 3, there does not appear to be sufficient offsetting conditions to comply with "...is roughly proportional to the increased impact created by the use represented in the approved conditional rezoning...."

5. [Spot Zoning.](#) The conditional rezoning proposal requests RE zoning despite being surrounded on all sides by FR zoned land. The MSU Extension states, "One illegal form of rezoning is spot zoning. This practice gets its name from the appearance of small spots of different zoning districts on a zoning map that otherwise has large contiguous areas in the same zoning district around the spots. To be considered a spot zone, the property, in most cases, must meet the following four criteria:
- The area is small compared to districts surrounding the parcel in question.
  - The new district allows land uses inconsistent with those allowed in the vicinity.
  - The spot zone would confer a special benefit on the individual property owner not commonly enjoyed by the owners of similar property.

- The existence of the spot zone conflicts with the policies in the text of the master plan and the future land use map.”

Using the above criteria, the developer proposes 1 acre lots in an area developed using 2.5 – 10+ acres solely benefiting the developer, and is inconsistent with the Master Plan designation of Low Density Single Family Detached Residential, with lots ranging from 1.5 to 3.0 acres (note – this range is consistent with current FR and CDO provision, allowing 3.0 acre lots to be developed at 1.5 acres minimum under CDO. Nothing states an FR lot can be developed using 1.5 acres as a baseline and then applying CDO to reduce the lot size below 1.5 acres.). As noted by the Livingston County Planning Commission, and later determined by the Livingston County Planning Commission staff, the proposed conditional rezoning plan appears to meet the tests of spot zoning, and therefore would be illegal to establish.

6. We note items A and D in the developers Conditional Zoning Agreement Terms Offered by Applicant appear to contrast with the deviations to RE zoning district standards the developer has proposed.

- A. The conditional rezoning will allow for the 72.39 acre EXHIBIT A parcel to be developed consistent with the EXHIBIT B Site Plan as an Open Space Preservation Site Condominium (OSP) using the dimensions shown, using the dimensional requirements under the existing RE Zoning District.
- D. The conditional rezoning shall not permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the RE zoning district.

Prepared by the Tyrone Township Planning Commission





# Livingston County Department of Planning

February 20, 2020

Kathleen J. Kline-Hudson  
AICP, PEM  
Director

Robert A. Stanford  
AICP, PEM  
Principal Planner

Scott Barb  
AICP, PEM  
Principal Planner

Tyrone Township Board of Trustees  
c/o Marcella Husted, Township Clerk  
10408 Center Rd.  
Fenton, MI 48430

**Re: Livingston County Planning Commission Review**

**Z-05-20: Conditional Rezoning**  
**RE: Rural Estates with Open Space and Cluster Development Options**

Dear Board Members:

The Livingston County Planning Commission met on Wednesday, February 19, 2020, and reviewed the Tyrone Township Conditional Rezoning proposal referenced above. The County Planning Commissioners made the following recommendation:

---

## **Z-05-20      DISAPPROVAL**

The proposed conditional rezoning is not consistent with the Master Plan for the subject parcel and would generally not be compatible with the rural residential nature of the surrounding area.

There also appears to be sufficient evidence provided by the Tyrone Township Planning Department and Planning Commission to demonstrate that the proposed conditional rezoning does not completely comply with either the intent of the Michigan Zoning Enabling Act (MZEA) Public Act 110 of 2006 (MCL 125.3101 to 125.3702), nor the intent of the Tyrone Township Zoning Ordinance Article 8 Open Space Preservation (OSP) Option (Section 8.02 Cluster Development Option (CDO)), and Open Space Design Requirements (Section 21.51), nor does it completely satisfy the required provisions of Section 25.05.E.1., Elements of a Conditional Rezoning.

---

Copies of the staff review and Livingston County Planning Commission meeting minutes are enclosed. Please do not hesitate to contact our office should you have any questions regarding county actions.

Sincerely,

Kathleen J. Kline-Hudson, Director

Enclosures

c: Ross Nicholson, Tyrone Township Zoning Administrator  
Mark Meisel, Chair, Tyrone Township Planning Commission

Meeting minutes and agendas are available at: <https://www.livgov.com/plan/Pages/meetings.aspx>

### Department Information

Administration Building  
304 E. Grand River Avenue  
Suite 206  
Howell, MI 48843-2323

•  
(517) 546-7555  
Fax (517) 552-2347

•  
Web Site  
[co.livingston.mi.us](http://co.livingston.mi.us)



# Livingston County Department of Planning

## LIVINGSTON COUNTY PLANNING COMMISSION MEETING

Wednesday, February 19, 2020 – 6:30 p.m.

Administration Building, Board of Commissioners Chambers

304 East Grand River, Howell, MI 48843

### Agenda

Kathleen J. Kline-Hudson  
AICP, PEM  
Director

Robert A. Stanford  
AICP, PEM  
Principal Planner

Scott Barb  
AICP, PEM  
Principal Planner

1. Call to Order
2. Pledge of Allegiance to the Flag
3. Roll and Introduction of Guests
4. Approval of Agenda – February 19, 2020
5. Approval of Meeting Minutes – January 15, 2019
6. Call to the Public
7. Zoning Reviews
  - A. Z-04-20 Hartland Township, Rezoning, GC to LI in Section 28
  - B. Z-05-20 Tyrone Township, Conditional Rezoning, FR to RE in Section 21
8. Old Business
  - A. Progress on visits to local planning commissions
  - B. Review of MSU Extension Training, Planning Commission Roles and Responsibilities
9. New Business
10. Reports
  - A. Staff Reports
11. Commissioners Heard and Call to the Public
12. Adjournment
13. Optional visit to new County Planning office space

#### Department Information

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•  
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•  
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**LIVINGSTON COUNTY PLANNING COMMISSION  
MEETING MINUTES**

**February 19, 2020**

**6:30 p.m.**

**304 E. Grand River Ave., Howell, Michigan**

<b>PLANNING COMMISSION</b>		
<b>COMMISSIONERS PRESENT:</b>	<b>BRIAN PROKUDA MATT IKLE LAURA ABRAMSON</b>	<b>DENNIS BOWDOIN BILL CALL</b>
<b>COMMISSIONERS ABSENT:</b>	<b>BILL ANDERSON JEANNE CLUM</b>	
<b>STAFF PRESENT:</b>	<b>KATHLEEN KLINE-HUDSON ROB STANFORD SCOTT BARB</b>	
<b>OTHERS PRESENT:</b>	<b>BRUCE POWELSON, MARION TOWNSHIP PLANNING COMMISSION MARK MEISEL, TYRONE TOWNSHIP PLANNING COMMISSION CHAIR BRENT LAVANWAY, BOSS ENGINEERING STEVE MORGAN, BOSS ENGINEERING</b>	

1. **CALL TO ORDER:** Meeting was called to order by Commissioner Prokuda at 6:30 PM.
2. **PLEDGE OF ALLEGIANCE TO THE FLAG**
3. **ROLL AND INTRODUCTION OF GUESTS:** None.
4. **APPROVAL OF AGENDA**

**Commissioner Action: IT WAS MOVED BY COMMISSIONER IKLE TO APPROVE THE AGENDA DATED FEBRUARY 19, 2020, SECONDED BY COMMISSIONER BOWDOIN.**

**All in favor, motion passed.**

5. **APPROVAL OF PLANNING COMMISSION MEETING MINUTES**

**Commissioner Action: IT WAS MOVED BY COMMISSIONER BOWDOIN TO APPROVE THE MINUTES OF THE PLANNING COMMISSION MEETING DATED JANUARY 15, 2020, SECONDED BY COMMISSIONER ABRAMSON.**

**All in favor, motion passed.**

6. **CALL TO THE PUBLIC:** None.

## 7. ZONING REVIEWS:

### A. Z-04-20: HARTLAND TOWNSHIP – REZONING

**Current Zoning:** GC: General Commercial

**Proposed Zoning:** LI: Light Industrial

**Section / Proponents:** Section 28 / Hartland Township

**Township Master Plan:**

The Hartland Township Comprehensive Plan (2015) designates the site as Planned Industrial / Research and Development. The master plan defines this future land use category as follows:

*The word "Planned" in this designation's name is intended to convey the Township's intentions to partner with private developers or public entities in the creation of planned developments consistent with the provisions of the Michigan Zoning Act and the Township's Zoning Ordinance. In anticipation of population growth and the resulting demand such growth will place upon Township services, additional nonresidential land use areas will be required. These uses will help stimulate the local economy, provide jobs, and contribute to a diverse tax base in order to facilitate Township growth and allow it to continue to provide the quality of service its residents have grown to expect.*

**General Location.** On the Future Land Use Map, PIRD has been planned for approximately 627 acres of the Township. Two distinct areas have been designated for future Planned Industrial Research and Development. These areas are the Clyde Road and US-23 interchange and the Old US-23 corridor, south of M-59.

**County Comprehensive Plan:**

The 2018 Livingston County Master Plan does not direct future land use patterns, or development within Livingston County. Alternatively, it offers a county-wide land use perspective when reviewing potential rezoning amendments. The Land Use & Growth Management chapter of the plan includes decision-making recommendations regarding potential land use conflicts and promoting good land governance.

**Township Planning Commission Recommendation:**

The Hartland Township Planning Commission tabled the rezoning at their October 10, 2019 meeting after the public hearing of this rezoning amendment. There were no comments from the public at the public hearing. At the subsequent January 9, 2020 meeting, the Hartland Township Planning Commission recommended Approval of the rezoning amendment.

**Staff Recommendation: Approval.** The proposed rezoning to LI Light Industrial will help Hartland Township achieve an area of more consistent industrial zoning along the east side of Old US-23. LI zoning is consistent with the existing industrial land use of this area and the Planned Industrial/Research Development (PIRD) master plan designation.

**Commission Discussion:** Commissioner Abramson requested clarification on whether the use of the property will remain a nonconformity. Director Kline-Hudson stated that it will remain a nonconforming use and there will not be an opportunity for expansion of this use.

**Commission Action:**

**Commissioner Action:** IT WAS MOVED BY COMMISSIONER CALL TO RECOMMEND  
APPROVAL. SECONDED BY COMMISSIONER ABRAMSON.

**Motion passed: 5-0**

**B. Z-05-20: TYRONE TOWNSHIP – CONDITIONAL REZONING**

**Current Zoning:** FR: Farming Residential

**Proposed Zoning:** Conditional RE: Rural Estates with Open Space Preservation (OSP) Option and Cluster Development Option (CDO)

**Section / Proponents:** Section 21 / Tyrone Four, LLC

**Township Master Plan:**

The Future Land Use plan and map of Tyrone Township designates the site as Low Density Single Family Detached Residential per the future land use map. The Township Master Plan describes this area in the following manner (pg. 92):

*Low Density Single Family Detached Residential. This category will permit single family residential development at a density of 1.5 to 3 acres per dwelling unit. This designation can be found in portions of the southeast part of the Township, where residential uses are appropriate but higher densities are not advisable due to infrastructure concerns.*

Additionally, the Master Plan describes Open Space Preservation in the following manner (pg. 91):

*The Township continues to be dedicated to preservation of open space, particularly in accordance with its program that has been pursued since 1997. The Planning Commission also recognizes the obligation in the Zoning Enabling Act to provide open space in cluster development for all residential land zoned for development at 2 or fewer dwellings per acre where no public sanitary sewers exist and 3 or fewer dwellings per acre with public sewers. As required by the State of Michigan, the Zoning Ordinance provides a cluster option for residential development, if open space is preserved equal to at least 50% of the total land area that is developed. Maintenance of the open space must be established in perpetuity.*

**County Comprehensive Plan:**

The 2018 Livingston County Master Plan does not direct future land use patterns, or development within Livingston County. Alternatively, it offers a county-wide land use perspective when reviewing potential rezoning amendments. The Land Use & Growth Management chapter of the plan includes decision-making recommendations regarding potential land use conflicts and promoting good land governance.

Conditional rezonings are beginning to be a recent trend in Livingston County (four proposed in 2019). If petitioners see this tool as simply a means to get around existing zoning standards to get what they want, this is not the intent of the provision, most importantly at the State statute level. Therefore it is vitally important that petitioners clearly understand the intent of the conditional rezoning tool as well as townships standing firm within the prescribed rules and regulations of their local zoning ordinance and provisions of their Master Plan, in order to make sure they are getting the best and most desired development possible that is a benefit to the entire local community in the end.

**Township Planning Commission Recommendation:**

The Tyrone Township Planning Commission recommended **DISAPPROVAL / DENIAL** of this Conditional Rezoning at its December 10, 2019 Public Hearing, as follows:

*While the proposed plan may have merit if it were a concept plan and appropriate revisions were made to comply with our Zoning Ordinance and State statute prior to final site plan approval, this is a request for a conditional rezoning – therefore the site plan submitted is the only plan that may be considered. The Planning Commission finds the deviations requested from the township's zoning requirements are not justified by the offsetting concessions offered and do not comply with the requested underlying zoning district requirements (RE). Further, the plan as currently proposed cannot comply with the statutory requirement for at least 50% perpetually undeveloped open space left in its natural state.*



In its motion, the Planning Commission chose to focus on its duty to not recommend or approve developments that violate state law, in this case specifically the Planned Unit Development Option requirements set forth in PA 110 of 2006 (Michigan Zoning Enabling Act -MZEA - MCL125.3503), the Open Space Preservation Option - MCL125.3506). A motion was passed 5-2 to recommend Denial of the Conditional Rezoning offer because the Planning Commission believes the proposed development does not comply with the planned unit development and open space requirements set forth by the MZEA as well as when utilizing the Township's Cluster Development Option (CDO) in reference to Township Ordinance Section 21.51 (C) with regard to the provision's application of allowable open space in the rear yard setback.

**Staff Recommendation: Disapproval.**

The proposed conditional rezoning is not consistent with the Master Plan for the subject parcel and would generally not be compatible with the rural residential nature of the surrounding area.

There also appears to be sufficient evidence provided by the Tyrone Township Planning Commission to demonstrate that the proposed conditional rezoning does not comply with either the intent of the Michigan Zoning Enabling Act (MZEA) Public Act 110 of 2006 (MCL 125.3101 to 125.3702), nor the intent of the Tyrone Township Zoning Ordinance Article 8 Open Space Preservation (OSP) Option (Section 8.02 Cluster Development Option (CDO), and Open Space Design Requirements (Section 21.51), nor does it completely satisfy the required provisions of Tyrone Township Zoning Ordinance Section 25.05.E.1., Elements of a Conditional Rezoning.

**Commission Discussion:** Mark Meisel, Chair, Tyrone Township Planning Commission provided the township's perspective as to how the proposed conditional rezoning does not completely comply with the open space option at both the state and township levels as well as non-compliance with several sections of the township zoning ordinance regarding the proposed underlying zoning district.

Steve Morgan, Boss Engineering, presented the history of the proposed development, the density allowed under different zoning districts and with open space planning. He also discussed how the proposal met the guidelines of the MZEA, but does not meet the requirements of the Tyrone Township Zoning Ordinance.

Commissioner Call requested clarification on how the proposed conditional rezoning was initiated. Steve Morgan, Boss Engineering, explained that discussions between the township and the applicant's legal representatives led them to apply for the conditional rezoning and to pursue the proposed open space option as designated by the Michigan Zoning Enabling Act. Planning Commissioners briefly discussed spot zoning and whether it applied to this site. Commissioner Abramson noted that the County Planning Commission does not normally review site plan issues, but that a conditional rezoning requires this review as a part of the decision-making process.

County Planning Commissioners discussed the regulated versus unregulated wetlands located on-site and that the petitioner did not present any State of Michigan Department of EGLE delineation of the wetlands. Commissioner Bowdoin expressed that with a conditional rezoning the site plan is set, and he is uncomfortable with the fact that the petitioner has not had EGLE sign-off on wetland delineation. Commissioner Ikle stated that the Township does not have the tools available for a good open space option for this property. Commissioner Abramson expressed concern that if the Planning Commission approved this proposal, the site plan is set and no further changes can be made. She said that Tyrone Township has some work to do on their ordinance language. Commissioner Prokuda summarized the concerns of the County Planning Commission regarding the Township's lack of development tools such as a residential PUD, the site plan being set as part of a conditional rezoning, and an open space plan that does not work well on this site.

**Commission Action:**

**Commissioner Action:** IT WAS MOVED BY COMMISSIONER IKLE TO RECOMMEND DISAPPROVAL BASED ON STAFF REVIEW. SECONDED BY COMMISSIONER BOWDOIN.

**Motion passed: 5-0**

**8. OLD BUSINESS:**

- A. Progress on Planning Department Visits:** During the month of January, Handy (Commissioner Call, Principal Planner Barb) and Marion Townships (Commissioner Prokuda) were visited by staff and commissioners. Upcoming visits to Green Oak, Unadilla and Cohoctah Townships were scheduled with staff and commissioners.
- B. January 29, 2020 MSU Extension Training:** Director Kline-Hudson initiated discussion regarding the January PC training that was led by MSU Extension. She stated that thirty-three persons were in attendance and they represented twelve local planning commissions. Commissioners had positive comments about the experience and thought it was helpful. Commissioners would like to continue to discuss next steps at the March 18 Planning Commission meeting.

**9. NEW BUSINESS:** None.

**10. REPORTS:**

- A. January 22 Trail Summit -** Director Kline-Hudson reported that over 50 persons were present at the trail summit, including a number of bicycle enthusiasts. She said that the summit included three (3) prioritization exercises, most important of which was a mapping exercise on maps that showed existing trails and asked participants to show which trails they would most like to see connected and the route they would recommend. She stated that staff has a follow-up phone conference with the trails consultant on 2/20 to go over the results of these exercises.
- B. Park Resolutions -** Kline-Hudson reported that four (4) parks resolutions have been presented to the Board of Commissioners this week at the Public Safety/Infrastructure & Development Committee and Finance Committee. The resolutions regard the honorary naming of Fillmore County Park features, the submittal of an Urban Night Sky Place designation application for Lutz County Park, and revised park rules for both county parks. The final decision on these resolutions will be at the Board of Commissioners meeting on Monday, February 24.
- C. Master Plan Survey -** The Master Plan Implementation Survey on Survey Monkey has been closed due to low response.
- D. New Department Responsibilities -** Kline-Hudson spoke briefly about some new administrative responsibilities that County Planning has been assigned including a grant for a new Meals on Wheels facility.
- E. Planning Department Move -** The Finance and Planning Department office spaces have been rearranged. The last week of January was moving week for County Planning. The department is now located in the former County Administration office area.

**11. COMMISSIONERS HEARD AND CALL TO THE PUBLIC:** Mark Meisel, Tyrone Township Planning Commission, spoke briefly about open space planning zoning legislation.

**12. ADJOURNMENT:**

**Commissioner Action:** IT WAS MOVED BY COMMISSIONER IKLE TO ADJOURN THE MEETING AT 8:35 P.M., SECONDED BY COMMISSIONER BOWDOIN.

**Motion passed: 5-0**





# LIVINGSTON COUNTY PLANNING DEPARTMENT REZONING REQUEST - | CONDITIONAL STAFF REPORT

**CASE NUMBER:**  
**Z-05-20**

<b>COUNTY CASE NUMBER:</b>	<b>Z-05-20</b>	<b>TOWNSHIP:</b>	<b>Tyrone Township</b>
<b>REPORT DATE:</b>	<b>February 3, 2020</b>	<b>SECTION NUMBER:</b>	<b>21</b>
<b>STAFF ANALYSIS BY:</b>	<b>Robert Stanford</b>	<b>TOTAL ACREAGE:</b>	<b>72.39 Acres</b>

<b>APPLICANT / OWNER:</b>	<b>Tyrone Four, LLC</b>
<b>LOCATION:</b>	<b>East side of Runyan Lake Road, South of Center Road and North of Gordon Road</b>
<b>LAND USE:</b>	<b>Currently Vacant</b>

CURRENT ZONING:	REQUESTED ZONING:												
FR - Farming Residential	<u>Conditional</u> RE – Rural Estates with Open Space Preservation (OSP) Option and Cluster Development Option (CDO)												
PERMITTED/SPECIAL USES (Not all inclusive):	PERMITTED/SPECIAL USES (Not all inclusive):												
<u>Permitted:</u>  Agriculture, Single family dwellings, Home Occupations, Essential Services excluding outside storage, Stables, Travel trailer storage – noncommercial, Child and adult care facilities	<u>Permitted:</u>  Agriculture, Single family dwellings, Home Occupations, Essential Services excluding outside storage, Stables, Travel trailer storage – noncommercial, Child and adult care facilities												
<u>Special:</u>  Agri-Business, Churches and Schools, Public and private cemeteries, Golf Courses, Colleges and Universities, Airports, Feedlots, Recreational Areas, Kennels, Campgrounds, Care Facilities, Public utilities, Hospitals, Livestock sales, Contractor’s Limited Storage, Medical Marijuana Caregiver Operation, Zoological Park or Wildlife Sanctuary, Utility-scale Solar Energy Facilities	<u>Special:</u>  Agri-Business, Churches and Schools, Public and private cemeteries, Golf Courses, Colleges and Universities, Airports, Feedlots, Recreational Areas, Kennels, Campgrounds, Care Facilities, Public utilities, Hospitals, Livestock sales, Contractor’s Limited Storage, Medical Marijuana Caregiver Operation												
<u>Minimum Lot Area:</u> 3 acres	<u>Minimum Lot Area:</u> 1.75 acres  <b>Open Space Preservation Option / Cluster Development Option:</b>  <b>Section 8.02 E.1.</b> Lots may be reduced in area below the lot size required by the residential zoning district in which the subdivision is located. Lot area reductions may be up to fifty (50) percent in the FR and RE Districts according to the following schedule:												
<u>NOTE REGARDING CLUSTER AND OPEN SPACE PRESERVATION OPTIONS:</u> ➡  All land remaining after lot area reductions shall be preserved and maintained in perpetuity for its scenic value or for recreation and conservation purposes. Such open space shall be protected to remain as open space by a conservation easement, plat dedication, restrictive covenant, or other legal mechanism that runs with ownership of the land.	<table><tr><th>Zoning District</th><th>Minimum Lot Area in Zoning District</th><th>Proposed Minimum Lot Area with Cluster Option</th><th>Minimum Open Space Required per Proposed Lot with Cluster Option</th></tr><tr><td>FR</td><td>3 acres</td><td>1.5 acres</td><td>1.5 acres</td></tr><tr><td>RE</td><td>1.75 acres</td><td>0.875 acre</td><td>0.875 acre</td></tr></table>	Zoning District	Minimum Lot Area in Zoning District	Proposed Minimum Lot Area with Cluster Option	Minimum Open Space Required per Proposed Lot with Cluster Option	FR	3 acres	1.5 acres	1.5 acres	RE	1.75 acres	0.875 acre	0.875 acre
Zoning District	Minimum Lot Area in Zoning District	Proposed Minimum Lot Area with Cluster Option	Minimum Open Space Required per Proposed Lot with Cluster Option										
FR	3 acres	1.5 acres	1.5 acres										
RE	1.75 acres	0.875 acre	0.875 acre										

**TOWNSHIP PLANNING COMMISSION RECOMMENDATION AND PUBLIC COMMENTS:**

The Tyrone Township Planning Commission recommended DISAPPROVAL / DENIAL of this Conditional Rezoning at its December 10, 2019 Public Hearing, as follows:

*While the proposed plan may have merit if it were a concept plan and appropriate revisions were made to comply with our Zoning Ordinance and State statute prior to final site plan approval, this is a request for a conditional rezoning – therefore the site plan submitted is the only plan that may be considered. The Planning Commission finds the deviations requested from the township's zoning requirements are not justified by the offsetting concessions offered and do not comply with the requested underlying zoning district requirements (RE). Further, the plan as currently proposed cannot comply with the statutory requirement for at least 50% perpetually undeveloped open space left in its natural state.*

In its motion, the Planning Commission chose to focus on its duty to not recommend or approve developments that violate state law, in this case specifically the Planned Unit Development Option requirements set forth in PA 110 of 2006 (Michigan Zoning Enabling Act – MZEA – MCL125.3503), the Open Space Preservation Option – MCL125.3506). A motion was passed 5-2 to recommend Denial of the Conditional Rezoning offer because the Planning Commission believes the proposed development does not comply with the planned unit development and open space requirements set forth by the MZEA as well as when utilizing the Township's Cluster Development Option (CDO) in reference to Township Ordinance Section 21.51 (C) with regard to the provision's application of allowable open space in the rear yard setback.

**ESSENTIAL FACILITIES AND ACCESS:**

**Water:** The site will be serviced by private well.

**Sewer:** The site will be serviced by a proposed private community septic to serve the development only.

**Access:** Access to subject site via Runyan Lake Road

**EXISTING LAND USE, ZONING AND MASTER PLAN DESIGNATION:**

	Land Use:	Zoning:	Master Plan:
<b>Subject Site:</b>	Vacant	FR	Low Density Residential
<b>To the North:</b>	Tyrone Township Hall and SF Residential	FR	Low Density Residential
<b>To the East:</b>	Single Family Residential	FR	Low Density Residential
<b>To the South:</b>	Utility Easement and SF Residential	FR	Low Density Residential
<b>To the West:</b>	US-23 Highway	N/A	N/A

**ENVIRONMENTAL CONDITIONS:**

<b>Soils / Topography:</b>	Hillsdale-Miami loams (6 to 12 percent slope) and Miami loams (6 to 12 percent slopes) are the predominant soils on site with varying slopes. These soil types are well drained and have good stability for building. Topography on site is fairly level to gently sloping, 6-12 percent slopes.
<b>Wetlands:</b>	The National Wetlands Inventory (NWI) indicates that there are several (5) small (less than 2 acres) unregulated palustrine emergent wetlands scattered throughout the central portions of the entire subject site. There is also a portion of a larger regulated palustrine forested wetland (approximately 3 acres of a total 12 acre) that encroaches into the far northeast portion of the subject site.
<b>Vegetation:</b>	The subject properties are entirely wooded.
<b>County Priority Natural Areas:</b>	According to the map "Livingston County's High Quality Natural Areas", the entire 72-acre subject parcel contains a Priority Level 3 Natural Area.

**TOWNSHIP MASTER PLAN DESIGNATION:**

The Future Land Use plan and map of Tyrone Township designates the site as Low Density Single Family Detached Residential per the future land use map. The Township Master Plan describes this area in the following manner (pg. 92):

*Low Density Single Family Detached Residential. This category will permit single family residential development at a density of 1.5 to 3 acres per dwelling unit. This designation can be found in portions of the southeast part of the Township, where residential uses are appropriate but higher densities are not advisable due to infrastructure concerns.*

Additionally, the Master Plan describes Open Space Preservation in the following manner (pg. 91):

*The Township continues to be dedicated to preservation of open space, particularly in accordance with its program that has been pursued since 1997. The Planning Commission also recognizes the obligation in the Zoning Enabling Act to provide open space in cluster development for all residential land zoned for development at 2 or fewer dwellings per acre where no public sanitary sewers exist and 3 or fewer dwellings per acre with public sewers. As required by the State of Michigan, the Zoning Ordinance provides a cluster option for residential development, if open space is preserved equal to at least 50% of the total land area that is developed. Maintenance of the open space must be established in perpetuity.*

**COUNTY COMPREHENSIVE PLAN:**

The 2018 Livingston County Master Plan does not direct future land use patterns, or development within Livingston County. Alternatively, it offers a county-wide land use perspective when reviewing potential rezoning amendments. The Land Use & Growth Management chapter of the plan includes decision-making recommendations regarding potential land use conflicts and promoting good land governance.

Conditional rezonings are beginning to be a recent trend in Livingston County (four proposed in 2019). If petitioners see this tool as simply a means to get around existing zoning standards to get what they want, this is not the intent of the provision, most importantly at the State statute level. Therefore it is vitally important that petitioners clearly understand the intent of the conditional rezoning tool as well as townships standing firm within the prescribed rules and regulations of their local zoning ordinance and provisions of their Master Plan, in order to make sure they are getting the best and most desired development possible that is a benefit to the entire local community in the end.

**COUNTY PLANNING STAFF COMMENTS:**

The applicants have requested application consideration by the Tyrone Township Planning Commission for a conditional rezoning to create a development known as the "Sanctuary at Tyrone". The proposed development is 72.39 acres, located in Section 21 of the township, on the east side of Runyan Lake Road, South of Center Road and North of Gordon Road.

**HISTORY OF THE PROJECT:**

The applicant originally proposed to develop 31 condominium units (site condominium) on a 82 acre parcel in the FR Farming Residential district. Zoning requirements in effect at that time required 2 acre minimum lots with an additional 50% of the developed area being set aside as open space preserved in perpetuity. The applicant stated they wished to utilize the Cluster Development Option (CDO) as set forth in our Zoning Ordinance, and in compliance with PA 110 of 2006, the Michigan Zoning Enabling Act (the "Act").

As a result, lot sizes could be reduced by not more than 50%, and open space must be established for not less than 50% of the land area. Also required by the Act is compliance with the dimensional requirements of the underlying zoning district.

As is typical with concept plan approval, the applicant at this point must simply provide a plan that could reasonably be executed. Historically, concept plans undergo various modifications to address infrastructure needs, approving agency requirements, identification of regulated wetlands, and other minor site plan modifications deemed necessary. Consistent with this historical approach and as set forth in Table 21.2 of the township zoning ordinance, the township planning commission originally granted concept approval of the plan was on December 19, 2017. After no development activity was undertaken, the applicant submitted a request to the township to extend the concept plan for 120 days. The extension was granted on November 20, 2018. A further 120-day extension was granted on March 5, 2019.

During the period of time the extensions were granted, in March of 2018, Tyrone Township amended its zoning ordinance, which changed the minimum lot area in the FR district from a minimum of 2.0 acres to 3.0 acres.

Applicant purchases the additional 10 acres in June 2019.

During July of 2019, the applicant submitted a modified site plan which now included another adjacent 10 acre parcel. The new site plan proposes 36 condominium units on 72 total acres, again utilizing CDO, and utilizing the previous FR district minimum lot size requirement rather than the current requirement. When the applicant was advised the new plan had similar challenges and limitations as the prior plan in addition to the minimum lot size change, the applicant sought a conditional rezoning of the two parcels from FR to RE (Rural Estates) along with utilization of the CDO.

**Key issues with Z-05-20: "Sanctuary At Tyrone"**

- 72.39 Acres – 36 proposed units under RE with OSD option as opposed to 24 units under FR zoning
- Requested Zoning – RE: Rural Estates with Cluster Development Option (CDO)
- RE: 1.75 Acres (standard) to 0.875 Acres (Open Space/Cluster Development)
- Required Open Space: 36.195 acres (50% of development)
- Proposed Developed Open Space: 26.68 Acres (36.8 % of development)
- Proposed Lot Open Space: 11.18 Acres (15.4% of development)
- Total Proposed Open Space: 37.86 Acres (52% of development)
- Township Planner has indicated to the Township Planning Commission that the conditional rezoning process is an offer of a specific development and use (the site plan) if the rezoning is granted, and no other. Therefore the site plan as submitted must be considered the final site plan that would be approved, rather than a concept plan which might be modified to resolve developmental concerns.
- Must comply with proposed underlying zoning: RE with CDO option: From 1.75 to 0.875 acres minimum if CDO is applied.
- Township not required to accept conditional rezoning.



**A. Project compliance with Township Master Plan**

- The Future Land Use plan and map of Tyrone Township designates the site as Low Density Single Family Detached Residential per the future land use map. The Township Master Plan describes this area in the following manner (pg. 92):

*Low Density Single Family Detached Residential. This category will permit single family residential development at a density of 1.5 to 3 acres per dwelling unit. This designation can be found in portions of the southeast part of the Township, where residential uses are appropriate but higher densities are not advisable due to infrastructure concerns.*

- Additionally, the Master Plan describes Open Space Preservation in the following manner (pg. 91):

*The Township continues to be dedicated to preservation of open space, particularly in accordance with its program that has been pursued since 1997. The Planning Commission also recognizes the obligation in the Zoning Enabling Act to provide open space in cluster development for all residential land zoned for development at 2 or fewer dwellings per acre where no public sanitary sewers exist and 3 or fewer dwellings per acre with public sewers. As required by the State of Michigan, the Zoning Ordinance provides a cluster option for residential development, if open space is preserved equal to at least 50% of the total land area that is developed. Maintenance of the open space must be established in perpetuity.*

- It must be remembered that the Master Plan is a flexible document. In addition to a Plan meeting all State and local planning/development regulations, flexible zoning tools, techniques and options are made available to local municipalities (i.e., cluster development option (CDO), planned unit development (PUD), open space planning (OSP) in order to better achieve sound planning decisions and good/compatible development patterns. However, the Plan must still meet all underlying zoning requirements.

**B. Project compliance with Livingston County "High Quality Natural Features Inventory" provisions**

- Entire 72-acre site has been identified as a Priority Level Three (3) Natural Area, which is part of a total 132-acre natural area that extends well past the boundaries of this subject parcel.

- The development as proposed:

(a) Under current FR: Farming Residential zoning, 3 acre minimum lots are required, so the proposed developmental area, if developed similarly, is entitled up to  $72/3 = 24$  lots minus any infrastructure required for access, wetlands, etc.  
**The developer is proposing 36 lots.**

(b) Existing adjacent development is characteristically 2.5 – 10+ acres per dwelling unit.  
**The developer is proposing 1.0 acre lots.**

(c) The developer is requesting rezoning from FR: Farming Residential (3 acre) to RE: Rural Estates (1.75 acre), then is proposing to apply Cluster Development Option (0.875 acre).  
**The proposed lot sizes do not comply with RE dimensional requirements, and are much more similar to R-1 Zoning District dimensional standards (developing FR lots using R-1 standards).**

(d) CDO requires a minimum of 50% open space preservation.  
**The developer is only providing a proposed 50% open space, the absolute minimum required by law. Nothing is being proposed to preserve natural features outside of the minimum – rather it appears that the proposed development is attaining the absolute maximum number of lots which can be developed.**

(e) Of the open space required, the developer proposes approximately 25% of the land area of each of the 36 lots, accounting for the entire required rear yard setback, which has already been reduced below RE developmental standards, as open space.  
 $0.25 \text{ acre} \times 36 \text{ lots} = \text{approximately } 9 \text{ acres}$  of the required 36 acres of open space, 25%, would be difficult to enforce and most likely will not be retained as open space over time.

(f) Nothing proposed makes any attempt to preserve the majority of the land, as is desired through the County Natural Features Inventory.  
**The proposal appears to maximize the number of lot/units that can be created within the development, and utilizes methods that most likely will result in some open space intended to be preserved (the 25% rear yard lot open space as proposed) to being used ultimately for other purposes.**

(g) There are significant wetlands throughout the site, which act as important groundwater recharge areas and significant wildlife habitat.  
**The proposed development does not appear to take any further steps to design around these important natural features, other than leaving the large wetland area to the northeast (presumed regulated) as is. The other significant wetland areas on site are mostly absorbed (i.e., filled and graded) into the overall development as building sites rather than integrated and preserved.**

**C. Project compliance with State and township open space requirements for CDO****State Requirements:****MZEA, MCL 125.3506. Open Space Preservation****MCL 125.3506 Open space preservation.**

*Sec. 506. (1) Subject to subsection (4) and section 402, a qualified local unit of government shall provide in its zoning ordinance that land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land than specified in the zoning ordinance, but not more than 50% for a county or township or 80% for a city or village, that could otherwise be developed, as determined by the local unit of government under existing ordinances, laws, and rules on the entire land area, if all of the following apply:*

- Under MZEA, Open space preservation is a development tool that local municipalities must make available, however, it does not establish development by right, it is only an option that may be utilized by the landowner in order to develop land in an alternative manner than by right (standard rezoning).
- The statute does not specify the number of units.
- All underlying zoning requirements are to be met

*(a) The land is zoned at a density equivalent to 2 or fewer dwelling units per acre or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre. (b) A percentage of the land area specified in the zoning ordinance, but not less than 50% for a county or township or 20% for a city or village, will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, as prescribed by the zoning ordinance.*

- "Undeveloped state": Open Space proposed in rear yard setbacks. HOA Maintenance Agreement. No real way for township to enforce this other than requiring a Maintenance Agreement in the Zoning Ordinance. This area could be cleared at some point by a home owner.

*(3) The development of land under subsection (1) is subject to other applicable ordinances, laws, and rules, including rules relating to suitability of groundwater for on-site water supply for land not served by public water and rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.*

*(5) The zoning ordinance provisions required by subsection (1) shall be cited as the "open space preservation" provisions of the zoning ordinance.*

- Strict interpretation of Item #5: Township Ordinance 8.01 Parallel Plan is required – has one been submitted? Tyrone Township says, no.

**Township Requirements:****Article 8 Open Space Preservation Option (OSP)****SECTION 8.00 INTENT**

*The intent of open space development is to provide a procedure for residential development that will result in concentrated and enhanced living environments. OSP development can permit more economical residential development and encourage a variety of architectural types and styles for residential dwellings. It will provide a basis for ingenuity and originality in residential lot and street design and development and will preserve open space to serve recreational, scenic, and public service purposes. The provisions have been modified in compliance with the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended.*

**Section 8.01**

**SECTION 8.01 OSP APPROVAL PROCEDURE** *An OSP development shall be constructed in accordance with a subdivision plan, condominium plan, or land division plan.*

**A. Parallel Plan.** *Applicants shall submit a parallel plan, a location map, a topography map, an aerial photo, a concept plan and other such information as is necessary, and shall seek advice from and confer with the Tyrone Township Planning Commission, prior to formal submission of a preliminary subdivision plat or condominium plan or land division application.*

- Township Ordinance 8.01 Parallel Plan is required – has one been submitted? Tyrone Township says, no.



*Section 8.02*

**SECTION 8.02 CLUSTER DEVELOPMENT OPTION** Development under the CDO development option is permitted only in the FR, RE, R-1, R-2, and LK-1 zoning districts, and is subject to approval of the Township Planning Commission and Township Board, provided the requirements contained in this ordinance are satisfied. Cluster development included in PUD Districts shall be limited to those circumstances where the Planning Commission and Township Board find the proposed cluster development will provide open space benefits in the development of single family detached dwellings in a planned unit development.

**Section 8.02 C**

**(i) Number of Dwelling Units.** The total number of dwelling units permitted in the cluster development shall be determined by dividing the total land area of the subdivision by the minimum lot area required for the applicable zoning district before lot area modification.

- This appears to be in error, as acknowledged by the Township. This provision was left over in error in the Zoning Ordinance when the Township required open space with land divisions.
- The applicant is using this provision to determine the number of units under the CDO option. However, the township believes that the MZEA requirement that states "that could otherwise be developed..." overrules the township requirement here.
- The applicant cannot develop the proposed 36 units without the required road(s) and other private infrastructure as well.

**Section 8.02 D.1**

**(j) Sanitary Sewer Requirements. 1. RE and R-1 Zoning Districts.** Cluster development will only be permitted when community septic systems or public sanitary sewer systems are available to serve all lots at the reduced lot size.

- The applicant is constructing a private community septic system to serve the development.

**Section 8.02 E.1 and 2**

**E. Modification of Requirements.** Modification of lot area, width and yard setback requirements.

1. Lots may be reduced in area below the lot size required by the residential zoning district in which the subdivision is located. Lot area reductions may be up to fifty (50) percent in the FR, RE, R-1, R-2, and LK-1 Districts according to the following schedule:

Zoning District	Minimum Lot Area in Zoning District	Proposed Minimum Lot Area with Cluster Option	Minimum Open Space Required per Proposed Lot with Cluster Option
RE	1.75 acres	0.875 acre	0.875 acre

2. All land remaining after lot area reductions shall be preserved and maintained in perpetuity for its scenic value or for recreation and conservation purposes. Such open space shall be protected to remain as open space by a conservation easement, plat dedication, restrictive covenant, or other legal mechanism that runs with ownership of the land.

- This provision provides no procedure or method to modify underlying zoning requirements for minimum lot widths or setbacks.
- "Undeveloped state and Protected Open Space": Open Space proposed in rear yard setbacks. HOA Maintenance Agreement. Could be voted out by homeowners at some point, no way for township to enforce this.
- Twp Zoning Ordinance does provide a method of determining max number of lots, but by intent, that method is for land division.
- This provides max lots before roads, infrastructure is added since not all land divisions require the addition of private roads.

*Section 8.03*

**SECTION 8.03 OPEN SPACE PRESERVATION DESIGN STANDARDS** Open space preservation areas shall be provided in compliance with the provisions of Section 21.51. All open space areas preserved under these provisions must meet the requirements of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended. In particular, open space areas must be preserved in an undeveloped state as defined in the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, which excludes golf course development on open space preserved by these provisions.

*Section 21.51 OPEN SPACE DESIGN REQUIREMENTS***Sections B.1 and B.3**

**B. Exclusions.** Open space shall not include:

1. **Certain Easements.** Areas devoted to public or private streets or the easement for shared driveway or private roads.

3. **Yard Setbacks.** Required yard setback areas as specified in Section 20.01

*Section 21.51 C*

**C. Yard Setback Exceptions.** The Planning Commission may allow specified areas located within the required yard setback or setbacks of an individual parcel to be included as required open space, if the Commission finds that the protection of that open space area is consistent with the intent of the open space concept.

- Intent is one (1) Lot, not the entire 36 lot development
- This is an Exception, not a Rule.
- Insufficient Rear and Front setbacks and Minimum Lot widths proposed – doesn't meet RE dimensional requirements.
- Approximately 25% of lot area is proposed to be used as open space – doesn't comply with MZEA intent. Also substantially reduces the proposed lot sizes to 0.75 acres (0.875 min in RE with OSP). See also Section 29.05.B.3 (Conditional Rezoning-Uses and Densities)

*Section 21.51 D*

**D. Perimeter Open Space Measurement.** If the Planning Commission allows required open space to be located within the yard perimeter, the setback shall be measured from the closest point of the open space boundary.

- It appears that this requirement is being ignored by the applicant.
- If the Planning Commission were to allow the required rear yard to be included as open space, this land area clearly falls within the yard perimeter. Setbacks are then required to be measured from the open space boundary, so once again the building envelopes that are depicted on the proposed lots abut the open space boundary, therefore there is no rear yard setback, which does not comply with the lot dimensional requirements for RE

*Section 21.51 F*

**Wetland Open Space.** Not more than thirty-five (35) percent of the minimum open space area provided to satisfy the requirements of this Ordinance shall be included in a wetland protected by the Natural Resources and Environmental Protection Act (PA 451 of 1994, as amended).

- The applicant has not provided a wetland determination with EGLE's acceptance. Any land area determined to be wetland would apply, reducing the land area available for use as open space.
- The applicant has provided a 2005 preliminary wetland assessment which did identify regulated wetlands on the property, however, the document was dismissed by the Planning Commission due to:
  - The document being 15 years old; and
  - There is no formal endorsement from MDEQ or EGLE;
- The township therefore requested/required an updated assessment along with endorsement from EGLE as a condition of acceptance.



- Wetland areas within the proposed subject site should be professionally determined and endorsed through the State of Michigan Department EGLE.

#### Section 21.51 H

**H. Relocation.** Open space may be relocated if the Planning Commission and Township Board find that the original intent of the open space requirement may be met at another location within the lot, parcel, or condominium unit.

- This appears to be being applied incorrectly. First, this is at the discretion of the Planning Commission and Township Board, not the applicant's. Second, this provision allows for open space within a lot/unit to be relocated within that same lot/unit. Nothing here states required open space for a development may be relocated to be within condominium lots/units.

#### Section 21.51 J

**J. Maintenance Agreement.** If open space is not dedicated to public use, it shall be protected by an open space maintenance agreement as described herein. With regard to the privately owned open space, the open space maintenance agreement shall...:

- HOA Maintenance Agreement.** Is required and applicant indicates one will be put in place, However, the open space could be cleared out by homeowners at some point, no way for township to enforce this.

#### Section 29.05 CONDITIONAL REZONING

##### Section 29.05 B 3. Uses and Densities

**2. Uses or Densities.** The owner's offer of conditions may not purport to authorize uses or densities not permitted in the requested new zoning district.

**Section 29.05.B.6 6. Deviation from Ordinance Standards.** Any deviation from a Zoning Ordinance standard for the proposed zoning district included as part of the conditional rezoning application shall be balanced by offsetting concession in the Statement of Conditions volunteered by the applicant.

The applicant proposed the following offsetting concessions:

- To conditionally rezone from FR to RE zoning (i.e., reduction of one zoning district density);
- Lot sizes of 1 acre versus the minimum 0.875 allowed when applying CDO to lands rezoned RE (i.e., effectively through a second zoning district density reduction)
- Side yard setbacks of 30 feet versus the required 20 feet in RE (i.e., develop the lots/units with reduced lot width and reduced front and rear yard setbacks which confirms a second zoning district density reduction, since the lots now comply more with R-1 Residential Zoning District developmental standards, not RE, Rural Estates)
- A physical tap at the Runyan Lake Road right of way and an offer of 1 REU for use of the Sanctuary at Tyrone community septic system at a quarterly O&M charge of 1/37th proportionate share. (Note: The offer of a physical tap is a consideration the Township Board must assess.)

The applicant is also proposing to use the entire required rear yard of all 36 units as open space, thereby reducing the developable, and usable lot area to 0.75 acre, which makes the lots quite similar to the Township's R-2 Residential Zoning District developmental standards, which is their highest density single family residential district.

- In essence the proposed development goes from the largest required lots to the smallest required lots in residential development.

The applicant is asking for the following deviations from developmental standards under RE zoning:

- 36 required rear yard setbacks used entirely for required open space;
- 36 rear yards without rear yards as a result of the prior bullet, because the building envelopes abut the open space;
- 36 rear yards with reduced rear yard setbacks prior to use as open space
- 36 front yards with reduced front yard setbacks.

This is a conditional rezoning request. The intent here is that the applicant offer offsetting concessions for modifications to the requirements set forth for a typical rezoning to justify their specific use request.

**Concluding comments:**

- The applicant's plan does not comply with the township's Master Plan for the area.
- The applicant's plan does not fulfill the intended nature of the use of open space preservation through the Michigan Zoning Enabling Act, as there is non-compliance with many underlying zoning requirements (RE district) as proposed.
- Significant natural features (i.e., wetlands) have been absorbed into the development as building sites, rather than planned around and retained, as is desired by the County High Quality Natural Features Inventory.
- The applicant's plan does not comply with the underlying zoning district standards of RE, and the Township Zoning Ordinance, in the following areas:
  - (a) Insufficient front yard setback
  - (b) Insufficient rear yard setback
  - (c) Insufficient lot width
  - (d) Applicant is using the entire required rear yard for all 36 units as open space
  - (e) No rear yard setback from the open space

**COUNTY PLANNING STAFF RECOMMENDATION:****Disapproval**

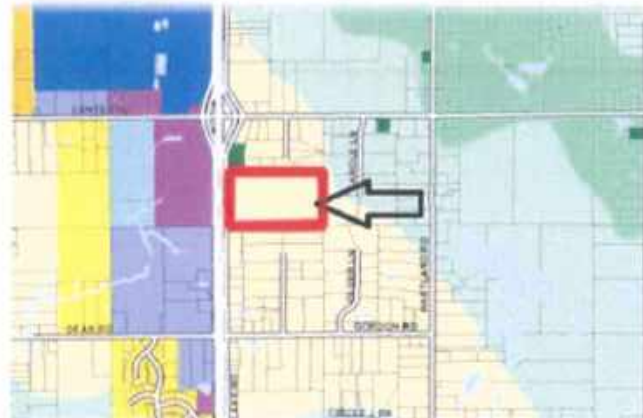
The proposed conditional rezoning is not consistent with the Master Plan for the subject parcel and would generally not be compatible with the rural residential nature of the surrounding area.

There also appears to be sufficient evidence provided by the Tyrone Township Planning Commission to demonstrate that the proposed conditional rezoning does not comply with either the intent of the Michigan Zoning Enabling Act (MZEA) Public Act 110 of 2006 (MCL 125.3101 to 125.3702), nor the intent of the Tyrone Township Zoning Ordinance Article 8 Open Space Preservation (OSP) Option (Section 8.02 Cluster Development Option (CDO)), and Open Space Design Requirements (Section 21.51), nor does it completely satisfy the required provisions of Tyrone Township Zoning Ordinance Section 25.05.E.1., Elements of a Conditional Rezoning.

## EXISTING LAND USE MAP:



## FUTURE LAND USE MAP:



## Future Land Use Categories

## Residential

- Agricultural/Residential
- Residential/ Natural Resources Preservation
- Low Density Single Family Detached Residential
- Medium Density Single Family Detached Residential
- Medium Density Single Family - Lake Side
- High Density Attached Residential
- Manufactured Single Family Detached Residential

## Non-Residential

- Planned Commercial Services
- Planned Office
- Planned Industrial Research Office
- Planned Commercial Industrial
- Commercial Recreation
- Public/ Quasi-Public



[illegible]

The map displays a residential neighborhood with a grid of streets. A red rectangle highlights a specific lot, which is labeled with the number 20. A large black arrow points to this highlighted lot. The map includes several street names: Dean Road, Sheraton Park Drive, Older Lane, and Gordon Road. A highway shield with the number 23 is located near the top center. Surrounding areas are labeled with codes such as ES, FR, M-1, B-2, and 22. The highlighted lot is situated between Sheraton Park Drive and Older Lane, and between Dean Road and Gordon Road.



## SITE PHOTOS:



## Subject Site



View Looking North from Site



View Looking East from Site

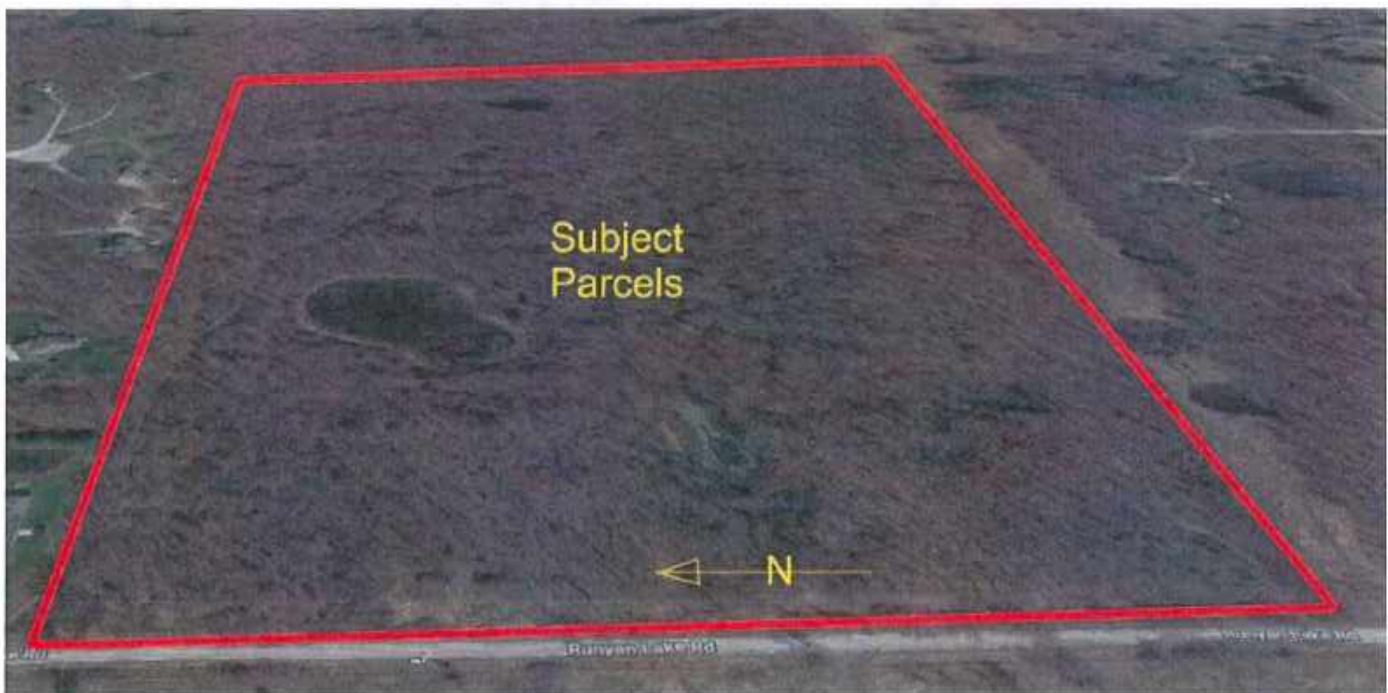
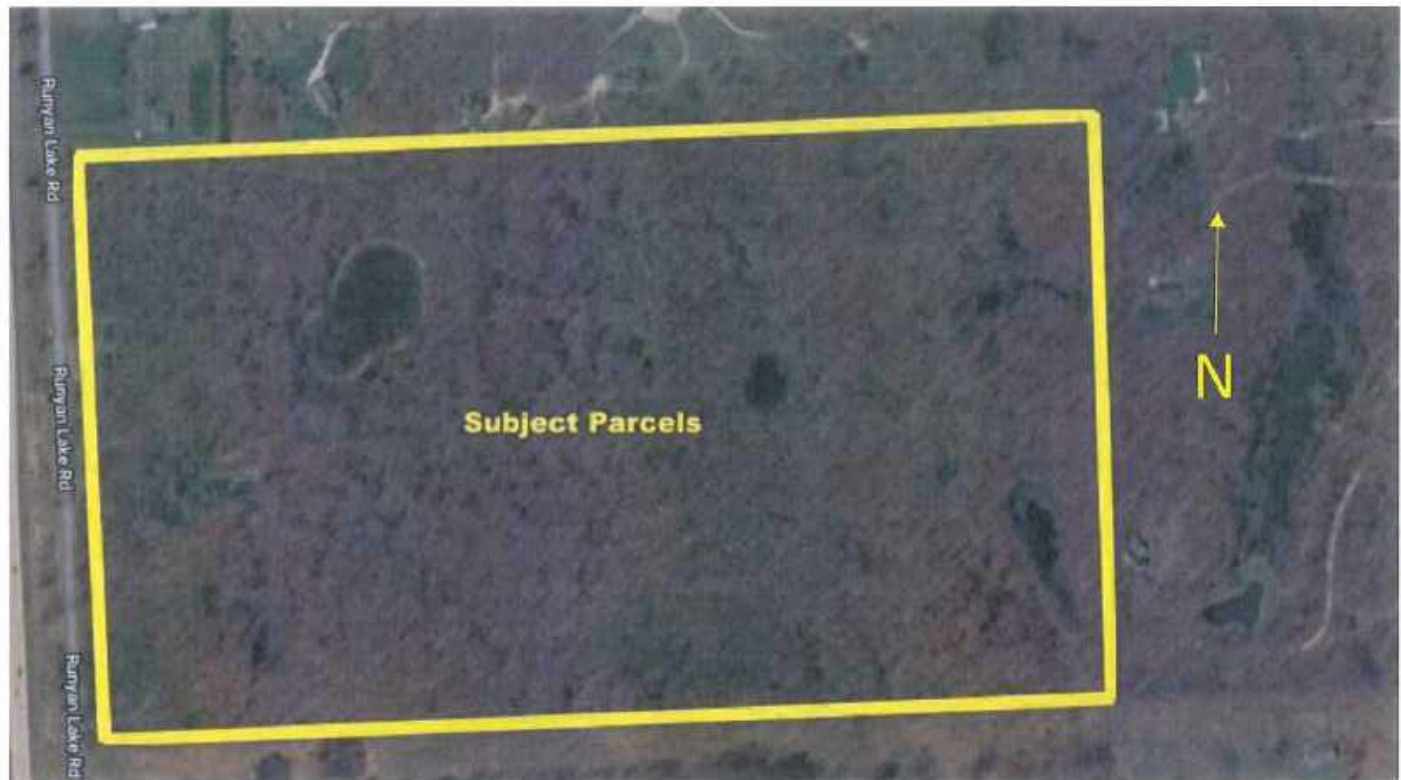


View Looking South from Site



View Looking West from Site

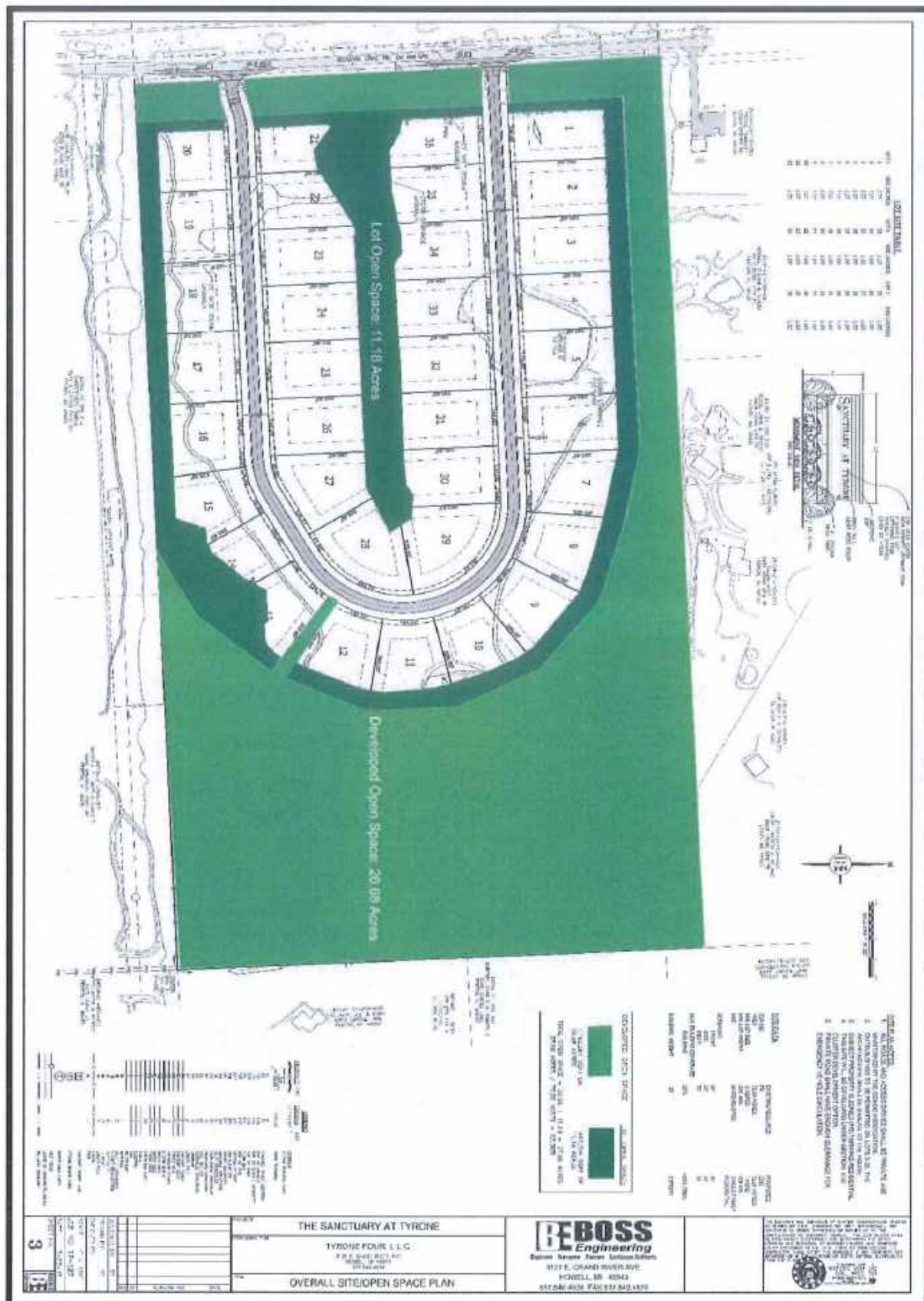
AERIAL PHOTO:



Oblique View: Looking East at Subject Parcel



**ATTACHMENT "A": PROPOSED OVERALL OPEN SPACE PLAN:**



**ATTACHMENT "B": PROPOSED CONDITIONAL REZONING AGREEMENT PAGE 1****EXHIBIT C****Conditional Zoning Agreement Terms Offered by Applicant**

This conditional zoning offer is submitted pursuant to Section 465 of the Michigan Zoning Enabling Act P.A. 110 of 2006, as amended, between Tyrone Four LLC, whose address is 3121 E. Grand River, Howell, Michigan 48843 (Applicant), and Tyrone Township, whose address is 10408 Center Road, Fenton Michigan 48430 (Township).

Owner hereby offers to the Township the Conditional Rezoning of Parcel Nos. 04-21-100-021 and 022, 72.39 acres (**EXHIBIT A**), from FR to RE, as shown on the Conceptual Site Plan (**CSP**) (**EXHIBIT B**) drawing, subject to and inclusive of all of the following conditions to be set forth in an executed Conditional Zoning Agreement (**CZA**):

- A. The conditional rezoning will allow for the 72.39 acre **EXHIBIT A** parcel to be developed consistent with the **EXHIBIT B** Site Plan as an Open Space Preservation Site Condominium (**OSP**) using the dimensions shown, using the dimensional requirements under the existing RE Zoning District.
- B. Applicant voluntarily proposes this conditional rezoning and certifies that this property shall not be developed or used in any manner that is inconsistent with the conditions proposed and the attached **EXHIBIT B CSP**.
- C. The approval of a conditional rezoning shall be binding upon and inure to the benefit of the Applicant and the Township, and also their respective heirs, successors, assigns, receivers, or transferees and shall run with the land.
- D. The conditional rezoning shall not permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the RE zoning district.
- E. The conditional rezoning is proposed voluntarily by the Applicant and the Township may rely upon the stated terms herein and may not grant the requested rezoning but for the conditions offered.
- F. Applicant agrees and understands that the rezoning is conditioned upon obtaining site plan approval and other necessary approvals required by the Township and all applicable county and state agencies, having jurisdiction.
- G. The conditional rezoning shall result in the 72.39-acre **EXHIBIT A** parcel being rezoned to RE utilizing Tyrone Township's Open Space Preservation (**OSP**) overlay district.
- H. After approval of the conditional rezoning, the **OSP** will overlay the entire 72.39 acre development and the **EXHIBIT B** Site Plan will meet dimensional, density, and open space standards, without any needed variances.
- I. A minimum 150' foot wooded open space buffer will exist along the northerly border (units 1-8) as shown on the site plan.
- J. All open space wooded areas delineated on the **EXHIBIT B** Site Plan will be preserved for the use of the unit owners, excepting the small area designated for the on-site waste treatment system, providing in excess of 52% of the total Property as a designated open space/natural feature preservation area consistent with the


## ATTACHMENT "B" PROPOSED CONDITIONAL REZONING AGREEMENT PAGE 2

ment of Sections 8.03 (Open Space Preservation Design Standards) and 29.05 of the Tyrone Township Zoning Ordinance, as well as the Michigan Zoning Enabling Act.

- K. As a condition of the rezoning, the Applicant will provide a physical tap at the Runyan Lake Road right-of-way as shown on the EXHIBIT B site plan and one (1) REU (at 300 gallons per day) of capacity to the Township at no cost for access by the adjacent Township Hall property to tap into the Applicant's proposed on-site waste treatment system. If the tap was utilized, the Township would then participate in a 1/37<sup>th</sup> proportionate share of the quarterly operation and maintenance charges for users of the system.
- L. Applicant seeks a two-year approval window by which the development conditions set forth herein (final site plan and other governmental agency approvals) under the conditional rezoning must be completed, with the option to extend for any additional time periods upon request to, and approval by, the Township. MCL 125.3405(2) and (4).

Respectfully Submitted,

Tyrone Four LLC



By: Daniel P. Ross

Its: Member

Dated: October 23, 2019

**MYERS & MYERS, PLLC**  
**ATTORNEYS AT LAW**

---

Kelly A. Myers

Roger L. Myers \*

\*Also Admitted to Practice in  
California

915 N. Michigan Avenue  
Suite 200

Howell, Michigan 48843

(517) 540-1700

Fax: (517) 540-1701

Matthew M. Hagerty

Rebecca J. S. Cassell

Michael A. Bussert

October 23, 2019

**Tyrone Township Planning Commission**  
c/o, Ms. Marcella Husted, Clerk  
**10408 Center Rd.**  
**Fenton, MI 48430**

**VIA HAND-DELIVERY**

**RE:** Conditional Rezoning Offer for Parcel Nos. 04-21-100-021 and 04-21-100-022  
Pursuant to Section 405 of the Michigan Zoning Enabling Act

Dear Members of the Tyrone Township Planning Commission:

My client, Tyrone Four, LLC (the "Applicant"), and I are in receipt of the Tyrone Township Planning Commission Subcommittee's notes concerning Applicant's proposed conditional rezoning application dated October 1, 2019. The Applicant has gone through, in detail, the conditional rezoning requirements outlined your correspondence forwarded from the Township's legal counsel, John Harris, on October 15, 2019 as well as those set forth in Section 29.05 of the Tyrone Township Zoning Ordinance. The subcommittee's quick turnaround in providing feedback for the conditional rezoning application as previously submitted is appreciated.

In accordance with the subcommittee's recommendations, enclosed is the Applicant's resubmittal of an application for a conditional rezoning of the entire 72.39 acres (Parcel Nos. 04-21-100-021 and 04-21-100-022, collectively the "Property") owned by the Applicant from Farming Residential (FR) to Residential Estate (RE) as depicted and described on the **Exhibit A** survey attached hereto. First, this will eliminate any issues concerning whether or not there were any prior vested rights as to the Applicant's 31 unit plan on parcel 04-21-100-021 under the prior-existing FR zoning requirements that existed before March of 2018; and secondly, permit the entire Property to be developed cohesively under a single conditional rezoning with the development conditions and public benefits set forth herein applying to the entire Property.

As shown on the revised **Exhibit B** site plan and detailed more specifically in the attached **Exhibit C** amended conditional rezoning terms offered, the Applicant is proposing the following site conditions and amenities for public benefit:

- A minimum 150' foot wooded open space buffer along the northerly border (units 1-8) of the Property.
- All single family homes will be constructed within the building envelopes as detailed in the **Exhibit B** site plan.
- All open space wooded areas will be preserved for the use of the unit owners, excepting the small area designated for the on-site waste treatment system, providing in excess of 52% of the total Property as a designated open space/natural feature preservation area consistent with the intent of Sections 8.03 (Open Space Preservation Design Standards) and 29.05 of the Tyrone Township Zoning Ordinance, as well as the Michigan Zoning Enabling Act.
- The Applicant will provide a physical tap at the Runyan Lake Road right-of-way as shown on revised **Exhibit B** and one (1) REU (at 300 gallons per day) of capacity to the Township at no cost for access by the adjacent Township Hall property to tap into the Applicant's proposed on-site waste treatment system. If the tap was utilized, the Township would then participate in a 1/37<sup>th</sup> proportionate share of the quarterly operation and maintenance charges for users of the system.

It remains the Applicant's intent to construct the development consistent with the revised **Exhibit B** site plan. Due to the significant open space buffers and designated building envelopes, it is not the Applicant's desire to remove any units from the total 36 as proposed, which will result in a uniform development, but taking care to preserve all natural site features to the greatest extent possible and as required under Article 8 of the Tyrone Township Zoning Ordinance. No additional density beyond that set forth in the **Exhibit B** site plan is proposed and the development would be capped at a density of 36 units. The Applicant is willing to adhere to the 36 unit density cap as proposed, although a conditional rezoning of the entire Property to the RE zoning district would technically afford the Applicant up to five (5) additional units (for a total of 41 units) utilizing the Cluster Development Ordinance (CDO) provisions under an open space plan (OSP). Keeping the site plan at 36 units will result in units larger than the minimum .875 acre lot size required under the OSP option in the RE zoning district and reduce the overall permitted density by over 12%. The following table details the density afforded and proposed under a conditional rezoning from FR to RE:

**Current Proposed Conditional Zoning from FR to RE**

REGULATION	RE District Standards (as of March 2018)	Proposed Units under RE Zoning and Applying the Cluster Development Option under Article 8
Lot Width	200	150
Front Yard setback	100	50

Side Yard setback	20	<b>30</b>
Rear Yard setback	75	<b>50</b> <b>(150' including 100' buffer)</b>
Lot Area	1.75 acres	0.875 acres (allowed) <b>1.0 acres (requested)</b>
Total Units 72 acres	41 (allowed)	<b>36 (requested) - 12.2% density reduction from permitted density</b>

As detailed previously, the conditional rezoning of the Property proposed by the Applicant would be in the form of a conditional zoning agreement between itself and Tyrone Township pursuant to Section 405 of the Michigan Zoning Enabling Act P.A. 110 Of 2006, as amended (MCL 125.3405).

#### **Applicant's Development Plan**

Applicant intends to provide a 36 unit Site Condominium on the 72 acre Property using the **OSP** (overlay district) plan to minimize impact on the neighboring parcels. There will be a significant dedicated Open Space buffer between the Property and both adjacent property owners to the north. The easterly portion of the 72 acre development will also be dedicated Open Space. The minimum unit size will be one (1) acre with 150' feet of frontage. In addition to the lot sizes and open space preservation, the following additional site development amenities are proposed:

- Garage entrances will be side entry.
- It is expected that natural gas will be brought to the entire 72 acre development.
- The development will have an on-site community sewage system.
- Applicant intends to allow for out buildings of the same materials and architecture as the single family homes.
- The development will have two separate entrances onto Runyan Lake Road in a "horseshoe" site configuration and layout.
- The development will include a community sewage system for all units and will have asphalt roads with concrete curbs and gutters. This type of road will allow for a greater retention of trees and natural features.



The Applicant intends to commence construction of the infrastructure as soon as approved, weather permitting, and has a pending agreement with a builder to purchase the entire 36 unit development upon completion of the infrastructure and site plan approval.

**Rationale for Conditional Rezoning of the Property**

The entire 72 acre development on the Property as proposed is designated to be Low Density Single Family Detached Residential. This designation is in Tyrone Township's Master Plan and Future Land Use Map prepared by McKenna Associates dated February 2012, which permits density as low as 1.5 acres per dwelling unit. The conditional rezoning of the Property to the RE (Residential Estate) Zoning District will allow for development at 1.75 acres per unit (prior to application of the CDO), well above the lowest permitted density in the Master Plan.

The conditional rezoning from FR to RE will also permit improvements to the total development as follows:

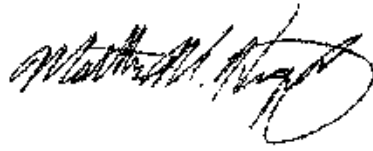
- A. The roads would be realigned to provide better traffic flow from Runyan Lake Road thru the development.
- B. The road layout improves emergency response access to each residential unit.
- C. The public utility infrastructure will be reduced, resulting in more efficient use in serving the 36 unit development and potential adjacent properties.
- D. The significant reduction in total road infrastructure will reduce the development impact on the existing natural features that exist on the 72 acre site.

Applicant hereby offers the terms and conditions as set forth in attached Exhibit C hereto, which would be set forth in a separate Conditional Zoning Agreement (CZA) between the Applicant and the Township as a basis for the rezoning of the Property from the FR to the RE Zoning District.

Based upon all of the foregoing, Applicant respectfully requests that the enclosed Planning Commission Review Application and accompanying attachments for the conditional rezoning of parcel nos. 04-21-100-021 and 022 be placed on the Planning Commission agenda for its next available meeting in November for consideration and recommended approval.

Very Truly Yours,

**MYERS & MYERS, PLLC**



Matthew M. Hagerty  
Direct Dial: 517-376-4018

MH/hs

Cc: John K. Harris, Esq., Harris & Literski, via electronic mail only

Enclos.

AMENDED  
TYRONE TOWNSHIP  
PLANNING COMMISSION REVIEW APPLICATION

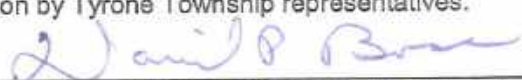
Property Address / Location <b>V-L RUNYAN LAKE ROAD</b>		Parcel ID/Zoning District <b>4704-21-100-022</b>
Property Owner(s) <b>TYRONE FOUR LLC</b>		Telephone <b>810-599-8890</b>
Street Address <b>3121 E. GRAND RIVER</b>		Cell Phone <b>810-599-8890</b>
City <b>HOWELL</b>	State and Zip code <b>MI. 48843</b>	FAX or E-Mail <b>DANEBOSSENG.COM</b>
Authorized Agent <b>DAN BOSS</b>		Telephone
Street Address <b>SAME</b>		Cell Phone
City		State and Zip Code

Type of Review:

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Boundary Realignment<br><input type="checkbox"/> Concept Review<br><input checked="" type="checkbox"/> Conditional Zoning<br><input type="checkbox"/> Home Occupation<br><input type="checkbox"/> Land Division<br><input type="checkbox"/> Open Space Preservation<br><input type="checkbox"/> Other | <input type="checkbox"/> Open Space Relocation<br><input type="checkbox"/> Private Road/Shared Drive<br><input type="checkbox"/> Planned Unit Development<br><input type="checkbox"/> Public Hearing<br><input type="checkbox"/> Rezoning<br><input type="checkbox"/> Site Condominium | <input type="checkbox"/> Site Plan Review<br><input type="checkbox"/> Site Visit<br><input type="checkbox"/> Special Land Use<br><input type="checkbox"/> Special Meeting<br><input type="checkbox"/> Subcommittee Meeting<br><input type="checkbox"/> Subdivision Plat |
|--|--|---|

Project Description: **72.39**  
**REZONING ~~X~~ ACRES FROM FR TO RE.**  
**REZONING WILL BE A CONDITIONAL ZONING AGREEMENT**  
**(SEE ATTACHMENTS)**

Planning Commission applications should be filed with the Planning Commission Recording Secretary at least 14 days (21 days for land divisions/realignments) prior to review. Applications will not be scheduled for review until all information has been received. This Signature constitutes the applicant's acknowledgement of the application requirements and permission for site inspection by Tyrone Township representatives.

  
 Signature of Owner(s) or Authorized Agent

Date	Tax Status	Fees: 101-000000-607-006	Escrow: 701-000000-283-__
Received By:			

Part of the Northwest 1/4 of Section 21, T4N-R6E, Tyrone Township, Livingston County, Michigan, more particularly described as follows: Commencing at the North 1/4 Corner of Section 21; thence along the North-South 1/4 line of Section 21, S 02°28'08" W, 1332.42 feet (previously described as 1332.40 feet), to the POINT OF BEGINNING of the Parcel to be described; thence continuing along the North-South 1/4 line of Section 21, S 02°28'08" W, 1336.68 feet (previously described as 1332.40 feet), to the Center of Section 21; thence along the East-West 1/4 line of Section 21, N 87°42'32" W, 2353.05 feet (previously described as N 87°59'37" W, 2348.56 feet); thence along the East line of Runyan Lake Road (a.k.a. east line of east service road of US-23) (70 foot wide Right of Way), N 01°51'44" E, 1335.38 feet (previously described as N 01°39'35" W, 1335.16 feet); thence S 87°44'28" E, 2367.19 feet (previously described as S 87°55'35" E, 2367.42 feet), to the POINT OF BEGINNING, containing 72.39 acres, more or less, and including the use of the existing Runyan Lake Road. Also subject to any other easements or restrictions of record.

**PROPOSED PARCEL 1 (DESIGNATED AS PARENT PARCEL):**

Part of the Northwest 1/4 of Section 21, T4N-R6E, Tyrone Township, Livingston County, Michigan, more particularly described as follows: Commencing at the North 1/4 Corner of Section 21; thence along the North-South 1/4 line of Section 21, S 02°28'08" W, 1332.42 feet (previously described as 1332.40 feet), to the POINT OF BEGINNING of the Parcel to be described; thence continuing along the North-South 1/4 line of Section 21, S 02°28'08" W, 1336.68 feet (previously described as 1332.40 feet), to the Center of Section 21; thence along the East-West 1/4 line of Section 21, N 87°42'32" W, 2353.05 feet (previously described as N 87°59'37" W, 2348.56 feet); thence along the East line of Runyan Lake Road (a.k.a. east line of east service road of US-23) (70 foot wide Right of Way), N 01°51'44" E (previously described as N 01°39'35" W), 675.38 feet; thence S 87°44'28" E, 660.00 feet; thence N 01°51'44" E, 660.00 feet; thence S 87°44'28" E (previously described as S 87°55'35" E), 1707.19 feet, to the POINT OF BEGINNING, containing 62.39 acres, more or less, and including the use of the existing Runyan Lake Road. Also subject to any other easements or restrictions of record. The above described parcel does not require open space. The above described parcel contains approximately 5.00 acres of open space, more or less, as described below (Open Space A), as required under provisions of Tyrone Township Zoning Ordinance #36, Section 20.22.AA and Section 21.51, set off as required for Parcel 2 (5.00 acres, more or less), as described below. The open space so described shall be owned, maintained and used by the owner of Parcel 1, to which open space has been assigned. Within the open space area, no permanent structures may be built.

**PROPOSED PARCEL 2:**

Part of the Northwest 1/4 of Section 21, T4N-R6E, Tyrone Township, Livingston County, Michigan, more particularly described as follows: Commencing at the North 1/4 Corner of Section 21; thence along the North-South 1/4 line of Section 21, S 02°28'08" W, 1332.42 feet (previously described as 1332.40 feet); thence N 87°44'28" W (previously described as N 87°55'35" W), 1707.19 feet, to the POINT OF BEGINNING of the Parcel to be described; thence S 01°51'44" W, 660.00 feet; thence N 87°44'28" W, 660.00 feet; thence along the East line of Runyan Lake Road (a.k.a. east line of east service road of US-23) (70 foot wide Right of Way), N 01°51'44" E (previously described as N 01°39'35" W), 660.00 feet; thence S 87°44'28" E (previously described as S 87°55'35" E), 660.00 feet, to the POINT OF BEGINNING, containing 10.00 acres, more or less, and including the use of the existing Runyan Lake Road. Also subject to any other easements or restrictions of record. The above described parcel does not require open space. The above described parcel is required to have approximately 5.00 acres of open space, as required under provisions of Tyrone Township Zoning Ordinance #36, Section 20.22.AA and Section 21.51. The required 5.00 acres, more or less, of open space has been designated to Parcel 1, as described above, being part of Open Space A, as described below. The open space so described shall be owned, maintained and used by the owner of Parcel 1, to which open space has been assigned. Within the open space area, no permanent structures may be built.

G:\09024\docs\09024\_D.doc  
September 10, 2009

AEB

Job Number: 09024  
Sheet: 3 of 4

**BOSS ENGINEERING**  
**ENGINEERS & SURVEYORS**

3121 E. Grand River Ave. Howell, MI 48843  
Phone: (517)546-4836 • Fax: (517)548-1670



CHRISTOPHER S. FERGUS, P.S.

## **EXHIBIT C**

### **Conditional Zoning Agreement Terms Offered by Applicant**

This conditional zoning offer is submitted pursuant to Section 405 of the Michigan Zoning Enabling Act P.A. 110 of 2006, as amended, between Tyrone Four LLC, whose address is 3121 E. Grand River, Howell, Michigan 48843 (Applicant), and Tyrone Township, whose address is 10408 Center Road, Fenton Michigan 48430 (Township).

Owner hereby offers to the Township the Conditional Rezoning of Parcel Nos. 04-21-100-021 and 022, 72.39 acres (**EXHIBIT A**), from FR to RE, as shown on the Conceptual Site Plan (**CSP**) (**EXHIBIT B**) drawing, subject to and inclusive of all of the following conditions to be set forth in an executed Conditional Zoning Agreement (**CZA**):

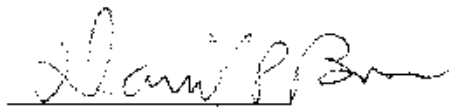
- A. The conditional rezoning will allow for the 72.39 acre **EXHIBIT A** parcel to be developed consistent with the **EXHIBIT B** Site Plan as an Open Space Preservation Site Condominium (**OSP**) using the dimensions shown, using the dimensional requirements under the existing RE Zoning District.
- B. Applicant voluntarily proposes this conditional rezoning and certifies that this property shall not be developed or used in any manner that is inconsistent with the conditions proposed and the attached **EXHIBIT B CSP**.
- C. The approval of a conditional rezoning shall be binding upon and inure to the benefit of the Applicant and the Township, and also their respective heirs, successors, assigns, receivers, or transferees and shall run with the land.
- D. The conditional rezoning shall not permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the RE zoning district.
- E. The conditional rezoning is proposed voluntarily by the Applicant and the Township may rely upon the stated terms herein and may not grant the requested rezoning but for the conditions offered.
- F. Applicant agrees and understands that the rezoning is conditioned upon obtaining site plan approval and other necessary approvals required by the Township and all applicable county and state agencies, having jurisdiction.
- G. The conditional rezoning shall result in the 72.39-acre **EXHIBIT A** parcel being rezoned to RE utilizing Tyrone Township's Open Space Preservation (**OSP**) overlay district.
- H. After approval of the conditional rezoning, the **OSP** will overlay the entire 72.39 acre development and the **EXHIBIT B** Site Plan will meet dimensional, density, and open space, standards, without any needed variances.
- I. A minimum 150' foot wooded open space buffer will exist along the northerly border (units 1-8) as shown on the site plan.
- J. All open space wooded areas delineated on the **EXHIBIT B** Site Plan will be preserved for the use of the unit owners, excepting the small area designated for the on-site waste treatment system, providing in excess of 52% of the total Property as a designated open space/natural feature preservation area consistent with the

intent of Sections 8.03 (Open Space Preservation Design Standards) and 29.05 of the Tyrone Township Zoning Ordinance, as well as the Michigan Zoning Enabling Act.

- K. As a condition of the rezoning, the Applicant will provide a physical tap at the Runyan Lake Road right-of-way as shown on the **EXHIBIT B** site plan and one (1) REU (at 300 gallons per day) of capacity to the Township at no cost for access by the adjacent Township Hall property to tap into the Applicant's proposed on-site waste treatment system. If the tap was utilized, the Township would then participate in a 1/37<sup>th</sup> proportionate share of the quarterly operation and maintenance charges for users of the system.
- L. Applicant seeks a two-year approval window by which the development conditions set forth herein (final site plan and other governmental agency approvals) under the conditional rezoning must be completed, with the option to extend for any additional time periods upon request to, and approval by, the Township. MCL 125.3405(2) and (4).

Respectfully Submitted,

**Tyrone Four LLC**



By: Daniel P. Boss  
Its: Member

Dated: October 23, 2019



PROPERTY DESCRIPTION AS SUPPLIED:

Part of the North-West 1/4 of Section 21, T4N-R6E, T49E Township, Livingston County, Michigan, more particularly described as follows: Commencing at the North 1/4 Corner of Section 21; thence along the North-South 1/4 line of Section 21, S 02°28'08" W, 1332.42 feet (previously described as 1332.40 feet), to the POINT OF BEGINNING of the Parcel to be described; thence continuing along the North-South 1/4 line of Section 21, S 02°28'08" W, 1336.68 feet (previously described as 1332.40 feet), to the Center of Section 21; thence along the East-West 1/4 line of Section 21, N 87°42'32" W, 2535.05 feet (previously described as N 87°59'37" W, 2348.56 feet); thence along the East line of Runyan Lake Road (a.k.a. east line of east service road of US-23) (70 foot wide Right of Way), N 01°51'44" E, 1335.38 feet (previously described as N 01°39'35" W, 1335.16 feet); thence S 87°44'28" E, 2367.19 feet (previously described as S 87°55'35" E, 2367.42 feet), to the POINT OF BEGINNING, containing 72.39 acres, more or less, and including the use of the existing Runyan Lake Road. Also subject to any other easements or restrictions of record.

1. THE CONTRACTOR SHALL COMPLY WITH THE FOLLOWING NOTES AND ANY WORK INVOLVED SHALL BE CONSIDERED INCIDENTAL TO THE CONTRACT.
2. THE CONTRACTOR SHALL HOLD HARMLESS THE DESIGN PROFESSIONAL, MUNICIPALITY, COUNTY, STATE AND ALL OF ITS SUB CONSULTANTS, PUBLIC AND PRIVATE UTILITY COMPANIES, AND LANDOWNERS FOR DAMAGES TO INDIVIDUALS AND PROPERTY, REAL OR OTHERWISE, DUE TO THE OPERATIONS OF THE CONTRACTOR AND/OR THEIR SUBCONTRACTORS.
3. DO NOT SCALE THESE DRAWINGS AS IT IS A REPRODUCTION AND SUBJECT TO DISTORTION.
4. A GRADING PERMIT FOR SOIL EROSION-SEDIMENTATION CONTROL SHALL BE OBTAINED FROM THE GOVERNING AGENCY PRIOR TO THE START OF CONSTRUCTION.
5. IF DUST PROBLEM OCCURS DURING CONSTRUCTION, CONTROL WILL BE PROVIDED BY AN APPLICATION OF WATER, EITHER BY SPRINKLER OR TANK TRUCK.
6. ALL CONSTRUCTION AND MATERIALS SHALL BE IN ACCORDANCE WITH LOCAL, MUNICIPAL STANDARDS AND SPECIFICATIONS.
7. THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING ALL REQUIRED TOWNSHIP, COUNTY, AND STATE OF MICHIGAN PERMITS.
8. PAVED SURFACES, WALKWAYS, SIGNS, LIGHTING AND OTHER STRUCTURES SHALL BE MAINTAINED IN A SAFE, ATTRACTIVE CONDITION AS ORIGINALLY DESIGNED AND CONSTRUCTED.
9. ALL BARRIER-FREE FEATURES SHALL BE CONSTRUCTED TO MEET ALL LOCAL, STATE AND D.A. REQUIREMENTS.
10. ANY DISCREPANCY IN THIS PLAN AND ACTUAL FIELD CONDITIONS SHALL BE REPORTED TO THE DESIGN ENGINEER PRIOR TO THE START OF CONSTRUCTION. CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFICATION OF ALL SETBACKS, EASEMENTS AND DIMENSIONS SHOWN HEREON BEFORE BEGINNING CONSTRUCTION.
11. THE CONTRACTOR SHALL CONTACT ALL OWNERS OF EASEMENTS, UTILITIES AND RIGHTS-OF-WAY, PUBLIC OR PRIVATE, PRIOR TO THE START OF CONSTRUCTION.
12. THE CONTRACTOR SHALL COORDINATE WITH ALL OWNERS TO DETERMINE THE LOCATION OF EXISTING LANDSCAPING, IRRIGATION LINES & PRIVATE UTILITY LINES. THE CONTRACTOR IS RESPONSIBLE FOR ANY DAMAGE TO EXISTING LANDSCAPING, IRRIGATION LINES, AND PRIVATE UTILITY LINES.
13. THE CONTRACTOR SHALL REMOVE ALL TRASH AND DEBRIS FROM THE SITE UPON COMPLETION OF THE PROJECT.
14. THE CONTRACTOR SHALL MAINTAIN THE SITE IN A MANNER SO THAT WORKMEN AND PUBLIC SHALL BE PROTECTED FROM INJURY, AND ADJOINING PROPERTY PROTECTED FROM DAMAGE.
15. THE CONTRACTOR SHALL KEEP THE AREA OUTSIDE THE "CONSTRUCTION LIMITS" BROOM CLEAN AT ALL TIMES.
16. THE CONTRACTOR SHALL CALL MISS DIG A MINIMUM OF 72 HOURS PRIOR TO THE START OF CONSTRUCTION.
17. ALL EXCAVATION UNDER OR WITHIN 3 FEET OF PUBLIC PAVEMENT, EXISTING OR PROPOSED SHALL BE BACKFILLED AND COMPACTED WITH SAND (MDOT CLASS II).
18. ALL PAVEMENT REPLACEMENT AND OTHER WORKS COVERED BY THESE PLANS SHALL BE DONE IN ACCORDANCE WITH THE REQUIREMENTS OF THE TOWNSHIP, INCLUDING THE LATEST MICHIGAN DEPARTMENT OF TRANSPORTATION (MDOT) SPECIFICATIONS FOR HIGHWAY CONSTRUCTION.
19. THE CONTRACTOR IS RESPONSIBLE FOR ALL DAMAGE TO EXISTING UTILITIES.
20. NO ADDITIONAL COMPENSATION WILL BE PAID TO THE CONTRACTOR FOR ANY DELAY OR INCONVENIENCE DUE TO THE MATERIAL SHORTAGES OR RESPONSIBLE DELAYS DUE TO THE OPERATIONS OF SUCH OTHER PARTIES DOING WORK INDICATED OR SHOWN ON THE PLANS OR IN THE SPECIFICATION OR FOR ANY REASONABLE DELAYS IN CONSTRUCTION DUE TO THE ENCOUNTERING OR EXISTING UTILITIES THAT MAY OR MAY NOT BE SHOWN ON THE PLANS.
21. DURING THE CONSTRUCTION OPERATIONS, THE CONTRACTOR SHALL NOT PERFORM WORK BY PRIVATE AGREEMENT WITH PROPERTY OWNERS ADJACENT TO THE PROJECT.
22. IF WORK EXTENDS BEYOND NOVEMBER 15, NO COMPENSATION WILL BE DUE TO THE CONTRACTOR FOR ANY WINTER PROTECTION MEASURES THAT MAY BE REQUIRED BY THE ENGINEER.
23. NO TREES ARE TO BE REMOVED UNTIL MARKED IN THE FIELD BY THE ENGINEER.
24. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO THE PROPERTY BEYOND THE CONSTRUCTION LIMITS INCLUDING BUT NOT LIMITED TO EXISTING FENCE, LAWN, TREES AND SHRUBBERY.
25. ALL AREAS DISTURBED BY THE CONTRACTOR BEYOND THE NORMAL CONSTRUCTION LIMITS OF THE PROJECT SHALL BE SODDED OR SEEDED AS SPECIFIED OR DIRECTED BY THE ENGINEER.
26. ALL ROOTS, STUMPS AND OTHER OBJECTIONABLE MATERIALS SHALL BE REMOVED AND THE HOLE BACKFILLED WITH SUITABLE MATERIAL, WHERE GRADE CORRECTION IS REQUIRED, THE SUBGRADE SHALL BE CUT TO CONFORM TO THE CROSS-SECTION AS SHOWN IN THE PLANS.
27. TRAFFIC SHALL BE MAINTAINED DURING CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING ALL SIGNS AND TRAFFIC CONTROL DEVICES. FLAG PERSONS SHALL BE PROVIDED BY THE CONTRACTOR IF DETERMINED NECESSARY BY THE ENGINEER. ALL SIGNS SHALL CONFORM TO THE MICHIGAN MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES AT NO COST TO THE TOWNSHIP. NO WORK SHALL BE DONE UNLESS THE APPROPRIATE TRAFFIC CONTROL DEVICES ARE IN PLACE.
28. ALL DEMOLISHED MATERIALS AND SOIL SPOILS SHALL BE REMOVED FROM THE SITE AT NO ADDITIONAL COST, AND DISPOSED OF IN ACCORDANCE WITH LOCAL, STATE AND FEDERAL REGULATIONS.
29. AFTER REMOVAL OF TOPSOIL, THE SUBGRADE SHALL BE COMPACTED TO 95% OF ITS UNIT WEIGHT.
30. ALL GRADING IN THE PLANS SHALL BE DONE AS PART OF THIS CONTRACT. ALL DELETERIOUS MATERIAL SHALL BE REMOVED FROM THE SUBGRADE PRIOR TO COMPACTING.
31. NO SEEDING SHALL BE DONE AFTER OCTOBER 15 WITHOUT APPROVAL OF THE ENGINEER.
32. ANY EXISTING APPURTENANCES SUCH AS MANHOLES, GATE VALVES, ETC. SHALL BE ADJUSTED TO THE PROPOSED GRADE AND SHALL BE CONSIDERED INCIDENTAL TO THE CONTRACT.
33. SOIL EROSION MEASURES SHALL BE MAINTAINED BY THE CONTRACTOR UNTIL VEGETATION HAS BEEN RE-ESTABLISHED.
34. ALL PERMANENT SIGNS AND PAVEMENT MARKINGS SHALL BE INSTALLED IN ACCORDANCE WITH THE LATEST REVISION OF THE MICHIGAN MUTCD MANUAL AND SHALL BE INCIDENTAL TO THE CONTRACT.

THE CONTRACTOR SHALL HOLD HARMLESS THE DESIGN PROFESSIONAL, MUNICIPALITY, COUNTY, STATE AND ALL OF ITS SUB CONSULTANTS, PUBLIC AND PRIVATE UTILITY COMPANIES, AND LANDOWNERS FOR DAMAGES TO INDIVIDUALS AND PROPERTY, REAL OR OTHERWISE, DUE TO THE OPERATIONS OF THE CONTRACTOR AND/OR THEIR SUBCONTRACTORS.

THE SANCTUARY AT TYRONE  
AN OPEN SPACE COMMUNITY  
PART OF S 1/2 OF NW 1/4, SECTION 21  
TYRONE TOWNSHIP, LIVINGSTON COUNTY, MI



FOR SITE PLAN APPROVAL ONLY!  
NOT FOR CONSTRUCTION











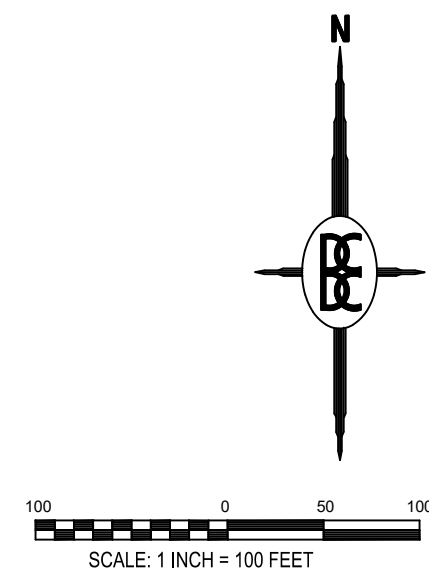
BENCHMARK #1: BOSS TAG/NAIL SET E/S 1/8" HICKORY, W/S RUNYAN LAKE RD., 260'± SOUTH OF NORTH R/W CORNER. ELEVATION = 1025.39  
BENCHMARK #2: CHISELED "X" ON SE CORNER OF CONCRETE DEADWALL, E/S RUNYAN LAKE RD., 122'± SOUTH OF NORTH R/W CORNER. ELEVATION = 1026.03  
BENCHMARK #3: TOP OF GROUND BRACKET N/S ALUMINUM P. POLE, E/S RUNYAN LAKE RD., 80'± SOUTH OF SOUTH PROPERTY LINE. ELEVATION = 1025.99  
BENCHMARK #4: BOSS TAG/NAIL SET S/S 1/0" LOCUST, 210'± EAST OF RUNYAN LAKE ROAD AND 64'± NORTH OF THE SOUTH PROPERTY LINE. ELEVATION = 1037.88  
BENCHMARK #5: BOSS TAG/NAIL SET S/S 1/0" LOCUST, 550'± EAST OF RUNYAN LAKE ROAD AND 75'± NORTH OF THE SOUTH PROPERTY LINE. ELEVATION = 1033.06  
BENCHMARK #6: BOSS TAG/NAIL SET SE/S 1/0" LOCUST, 510'± EAST OF RUNYAN LAKE ROAD AND 90'± NORTH OF THE SOUTH PROPERTY LINE. ELEVATION = 1043.77  
BENCHMARK #7: BOSS TAG/NAIL SET S/S 1/0" LOCUST, 580'± EAST OF RUNYAN LAKE ROAD AND 90'± NORTH OF THE SOUTH PROPERTY LINE. ELEVATION = 1042.36  
BENCHMARK #8: BOSS TAG/NAIL SET SE/S 0/0" 2" ELM, 790'± WEST OF THE EAST PROPERTY LINE AND 330'± NORTH OF THE SOUTH PROPERTY LINE. ELEVATION = 1028.31  
BENCHMARK #9: BOSS TAG/NAIL SET E/S 4" OAK, 584'± WEST OF THE EAST PROPERTY LINE AND 360'± NORTH OF THE SOUTH PROPERTY LINE. ELEVATION = 1010.15  
BENCHMARK #10: BOSS TAG/NAIL SET W/S 12" OAK, 377'± WEST OF THE EAST PROPERTY LINE AND 592'± NORTH OF THE SOUTH PROPERTY LINE. ELEVATION = 998.93  
BENCHMARK #11: BOSS TAG/NAIL SET W/S 5" CHERRY, 550'± WEST OF THE EAST PROPERTY LINE AND 720'± NORTH OF THE SOUTH PROPERTY LINE. ELEVATION = 1004.81

CONTROLS & MEASURES POST CONSTRUCTION SEQUENCE			
ACTIVITY	WEEKLY	MONTHLY	AS REQUIRED
MAINTAIN LANDSCAPING, REPLACE MULCH	X	X	X
CLEAN INLETS		X	X
COLLECT LITTER	X		X
SWEEP PARKING LOT		X	X

CONTROLS & MEASURES NARRATIVE	
ACTIVITY	DESCRIPTION
MAINTAIN LANDSCAPING, REPLACE MULCH	COLLECT GRASS, TREE, AND SHRUB CLIPPINGS. DISPOSE IN APPROVED CONTAINER. REPLACE DEAD SOD, TREES AND SHRUBS.
CLEAN INLETS	REMOVE LITTER, SEDIMENT, AND DEBRIS. DISPOSE OF IN APPROVED LANDFILL.
COLLECT LITTER	DISPOSE OF WITH INLET DEBRIS.
SWEEP PARKING LOT	REMOVE MUD, DIRT, GREASE AND OIL WITH PERIODIC SWEEPING
DUST CONTROL	SPRINKLE WATER AS NEEDED

**MAINTENANCE SCHEDULE FOR SOIL EROSION CONTROLS**



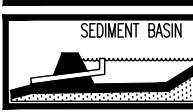
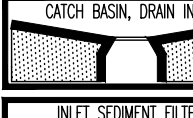

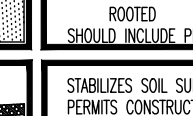



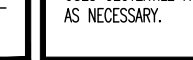
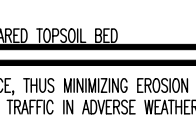
1. SILT FENCE SHALL BE INSPECTED WEEKLY AND AFTER EACH MAJOR STORM EVENT. MAINTENANCE SHALL INCLUDE REMOVAL OF ACCUMULATED SEDIMENT AND REPLENISHMENT OF FILL. SILT FENCE SHALL BE REMOVED WHEN ALL CONTRIBUTING AREAS HAVE BEEN STABILIZED.
2. TRACKING PAD SHALL BE INSPECTED MONTHLY FOR ACCUMULATED DIRT. TRACKING PAD SHALL BE REPLACED WHEN THE STONES ARE CHOKED WITH DIRT. TRACKING SHALL BE REMOVED IMMEDIATELY PRIOR TO THE FIRST COURSE OF ASPHALT BEING LAID.
3. DETENTION POND SHALL BE INSPECTED QUARTERLY ON A PERMANENT BASIS. MAINTENANCE SHALL INCLUDE SEDIMENT REMOVAL, EMANKMENT STABILIZATION AND MAINTAINING THE OUTLET STRUCTURE IN GOOD CONDITION. NO TREES SHALL BE ALLOWED TO GROW IN THE EMBANKMENT.
4. CATCH BASINS SHALL BE INSPECTED ANNUALLY FOR ACCUMULATION OF SEDIMENT. ALL SEDIMENT MUST BE REMOVED AND DISPOSED OF PROPERLY. THE CATCH BASIN SHALL BE REPAIRED AS NEEDED.
5. COMMON AREAS SHALL BE STABILIZED NO LATER THAN 15 DAYS AFTER GRADE WORK, PURSUANT TO RULE 1709 (5).



**CONSTRUCTION SEQUENCE**

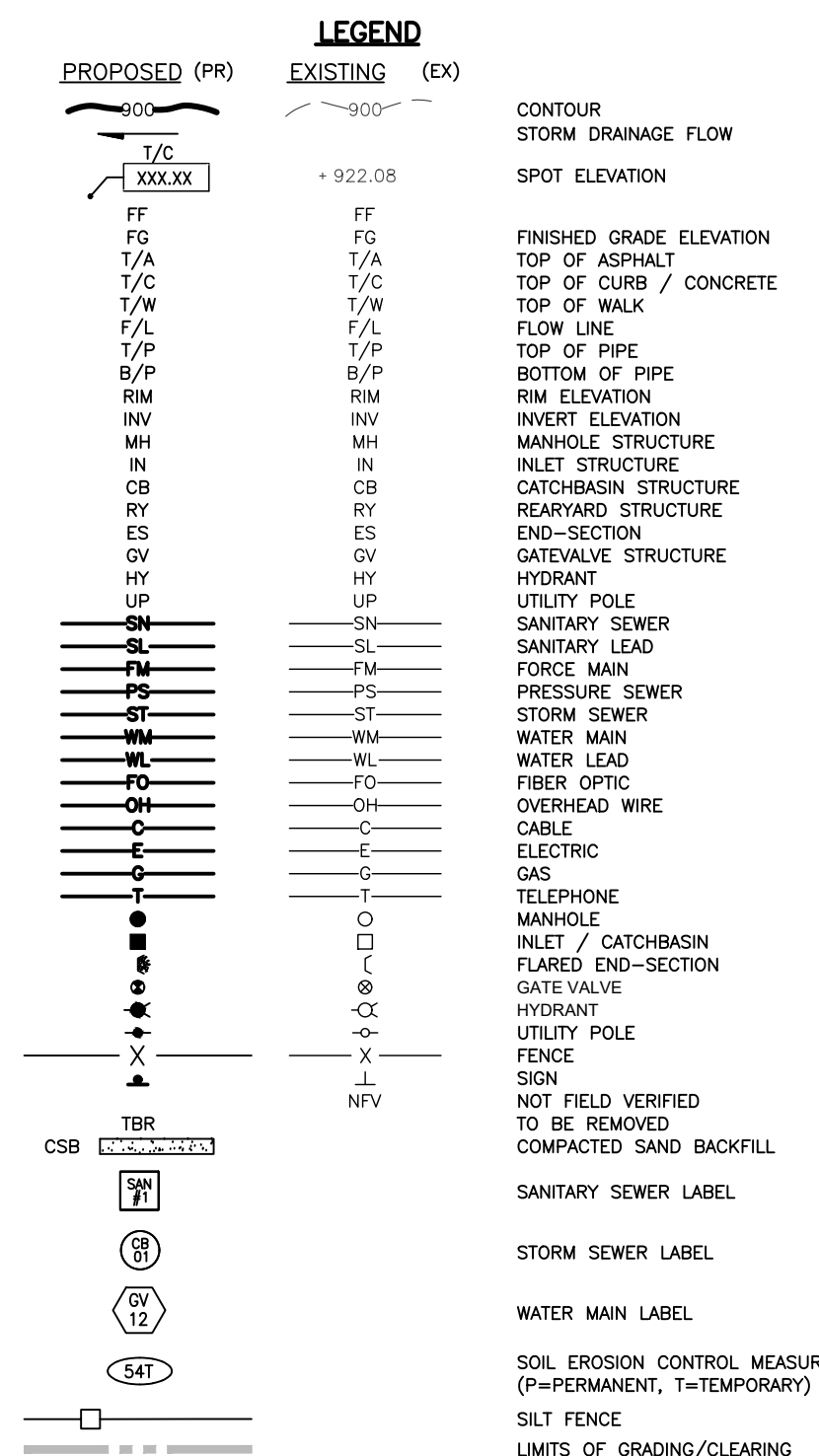
THE CONTRACTOR IS RESPONSIBLE FOR ENSURING THAT EROSION IS MINIMIZED AND THAT COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS, REGULATIONS, AND ORDINANCES IS MAINTAINED THROUGHOUT EXECUTION OF THIS PROJECT.

- |          |    |  |
|----------|----|--|
| 1 DAY    | 1. | INSTALL SILT FENCE AS SHOWN ON PLANS.                                  |
| 30 DAYS  | 2. | ROUGH GRADE AND INSTALL STORM DRAINAGE.                                |
| 1 DAY    | 3. | INSTALL INLET PROTECTION ON STORM INLETS.                              |
| ON-GOING | 4. | START BLDG. CONSTRUCTION   |
| 14 DAYS  | 5. | INSTALL CURB & PAVEMENT  |
| 10       | 6. | FINE GRADE AROUND BUILDING, SPREAD TOPSOIL, SEED OR SOD AS APPLICABLE. |
| 1 DAY    | 7. | REMOVE ALL EROSION CONTROL STRUCTURES.                                 |
| 1 DAY    | 8. | REMOVE ACCUMULATED SILT FROM ALL EXISTING DRAINAGE.                    |

1	 <p>STRIPPING &amp; STOCKPILING TOPSOIL</p>	<p>TOPSOIL MAY BE STOCKPILED ABOVE BORROW AREAS TO ACT AS A DIMENSION STOCKPILE SHOULD BE TEMPORARILY SEED</p>
7	 <p>HYDRO SEEDING</p>	<p>EFFECTIVE ON LARGE AREAS MULCH NUTRIENT AGENT USED TO PROVIDE IMMEDIATE PROTECTION UNTIL GRASS IS ROOTED SHOULD INCLUDE PREPARED TOPSOIL BED</p>
14	 <p>AGGREGATE COVER</p>	<p>STABILIZES SOIL SURFACE, THIS WINDMOWN SYSTEM POINTS CONSTRUCTS RUNOFF IN ADVERSE WEATHER MAY BE USED AS PART OF PERMANENT BASE CONSTRUCTION OF PAVED AREAS</p>
15	 <p>PAVING</p>	<p>PROTECTS AREAS WHICH CANNOT OTHERWISE BE PROTECTED, BUT INCREASES RUNOFF VELOCITY IRREGULAR SURFACE WILL HELP SLOW VELOCITY</p>
16	 <p>CURB &amp; GUTTER</p>	<p>KEEPS HIGH VELOCITY RUNOFF ON PAVED AREAS FROM LEAVING PAVED SURFACE COLLECTS AND CONDUCTS RUNOFF TO ENCLOSED DRAINAGE SYSTEM OR PREPARED DRAINWAY</p>
33	 <p>SEDIMENT TRAP</p>	<p>MAY BE CONSTRUCTED OF A VARIETY OF MATERIALS TRAPS SEDIMENT AND REDUCES VELOCITY OF FLOW CAN BE CLEANED AND EXPANDED AS NEEDED</p>
34	 <p>SEDIMENT BASIN</p>	<p>TRAPS SEDIMENT RELEASES RUNOFF AT LOW-EROSION RATES CONTROLS RUNOFF AT SYSTEM OUTLETS CAN BE SIZED AUGMENTED</p>
35	 <p>STORM SEWER</p>	<p>SYSTEM REMOVES COLLECTED RUNOFF FROM SITE, PARTICULARLY FROM PAVED AREAS CAN ACCEPT LARGE CONCENTRATIONS OF RUNOFF CONDUCTS RUNOFF TO MAINPAIN, SEWER SYSTEM OR STABILIZED OUTFALL LOCATION USE COVER DEVICES TO COLLECT SEDIMENT</p>
36	 <p>CATCH BASIN, DRAIN INLET</p>	<p>COLLECTS HIGH VELOCITY CONCENTRATED RUNOFF MAY USE FILTER CLOTH OVER INLET</p>
40	 <p>INLET SEDIMENT FILTER</p>	<p>EASY TO SHAKE COLLECTS SEDIMENT MAY BE CLEANED AND EXPANDED AS NEEDED</p>
54	 <p>GEOTEXTILE FABRIC AND POST AND POLE</p>	<p>USES GEOTEXTILE FABRIC AND POST OR POLES. EASY TO CONSTRUCT AND LOCATIONS AS NECESSARY. (SEE DETAIL THIS SHEET)</p>

P= PERMANEN

T= TEMPORARY



THE LOCATION AND ELEVATION OF EXISTING UNDERGROUND UTILITIES SHOWN ON PLANS SUBMITTED FOR PERMITS OR FOR ANY PRIVATE SURVEY OR OTHER PURPOSES, FOR THE PURPOSE OF DETERMINING THE LOCATION AND ELEVATION OF EXISTING UTILITIES AND THE LOCATION AND ELEVATION OF FIELD LOCATIONS FOR PROPOSED UTILITY CROSSINGS IN THE FIELD PRIOR TO CONSTRUCTION. THE INFORMATION OBTAINED FROM THIS SERVICE WILL BE USED TO PREPARE APPROPRIATE RECORDS AND TO LOCATE UTILITIES FROM THE PLANS.

**BEBOSS**  
*Engineering*  
Engineers Surveyors Planners Landscape Architects  
3121 E. GRAND RIVER AVE.  
HOWELL, MI. 48843  
800.246.6735 FAX 517.548.1670

## THE SANCTUARY AT TYRONE

TYRONE FOUR, L.L.C.  
3121 E. GRAND RIVER AVE.  
HOWELL, MI 48843

## GRADING AND SOIL EROSION CONTROL PLAN

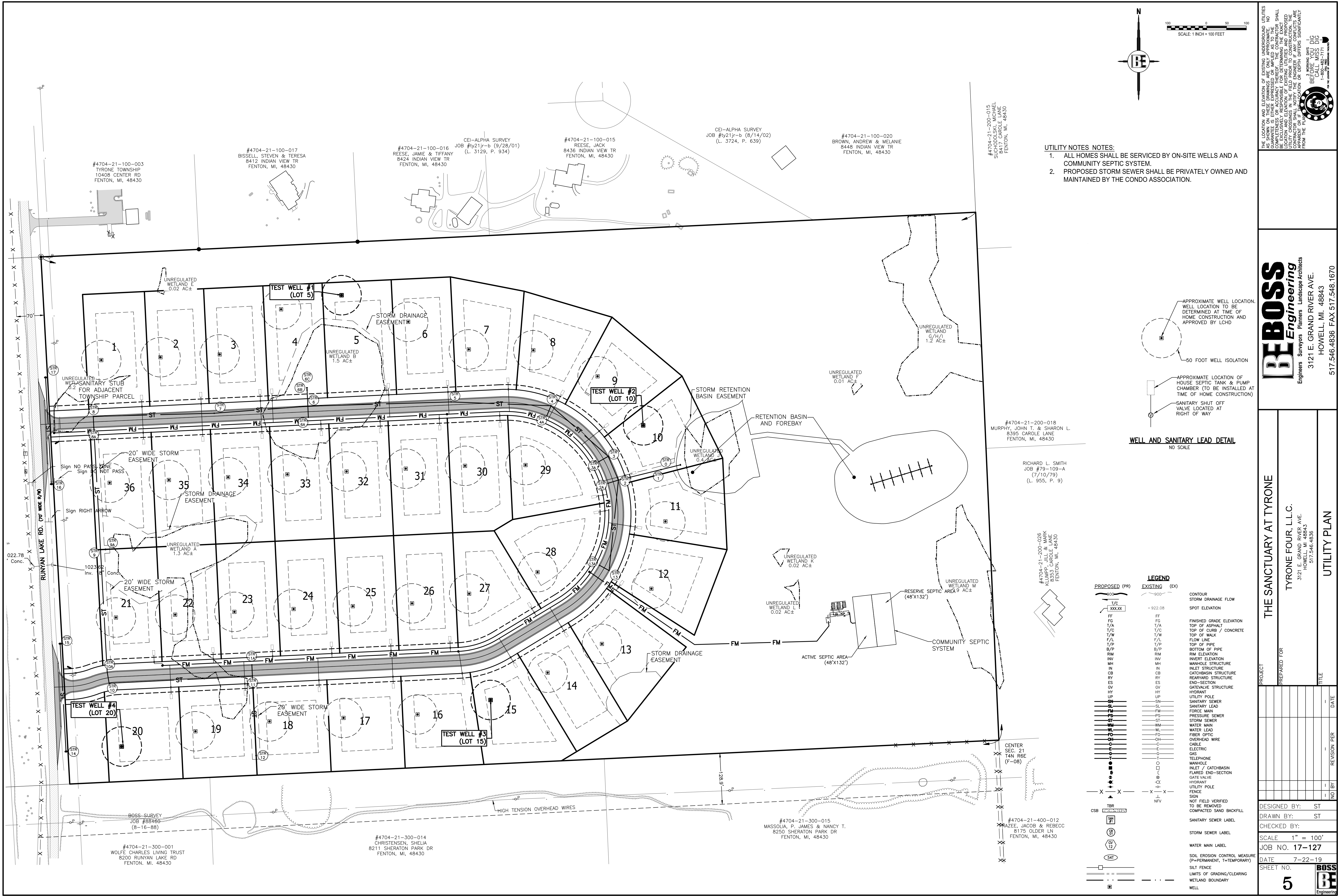
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JOB NO.	17-127
DATE	7-22-19
SHEET NO.	1

DATE
SHEET NO

STREET NO.

**BOSS**  
**B**  
Engineering













1                   **TYRONE TOWNSHIP PLANNING COMMISSION**  
2                   **REGULAR MEETING & PUBLIC HEARING MINUTES**  
3                   **December 10, 2019 7:00 p.m.**  
4  
5

6   **PRESENT:** Mark Meisel, Dave Wardin, Kurt Schulze, Rich Erickson, Dan Stickel, Bill Wood,  
7   and Perry Green  
8

9   **ABSENT:** None  
10

11   **OTHERS PRESENT:** Tyrone Township Planner Greg Elliott and Tyrone Township Planning &  
12   Zoning Administrator Ross Nicholson  
13

14   **CALL TO ORDER (7:00 pm):** The meeting was called to order by Chairman Mark Meisel.  
15

16   Chairman Meisel took a moment to thank everyone for attending and welcomed them to the new  
17   Township Hall.  
18

19   **PLEDGE OF ALLEGIANCE (7:02 pm):**  
20

21   **CALL TO THE PUBLIC (7:03 pm):**  
22

23   No public comments or questions were received.  
24

25   **APPROVAL OF THE AGENDA (7:03 pm):**  
26

27   Kurt Schulze made a motion to approve the agenda as presented. Dave Wardin supported the  
28   motion. Motion carried by unanimous voice vote.  
29

30   **APPROVAL OF THE MINUTES (7:03 pm):**  
31

32   Dave Wardin made a motion to approve the October 8, 2019 Regular Meeting minutes as  
33   presented. Kurt Schulze supported the motion. Motion carried by unanimous voice vote.  
34

35   *Dave Wardin made a motion to suspend the order of business placing New Business #2*  
36   *(Proposed Permitted Expansion or Extension of Nonconforming Structures Amendments*  
37   *Returned by the Township Board) ahead of all other business items.*  
38

39   **OLD BUSINESS #2 (7:07 pm): Proposed Permitted Expansion or Extension of**  
40   **Nonconforming Structures Amendments Returned by the Township Board:**  
41

42   Chairman Meisel introduced the topic with a summary of the topic. He explained that the  
43   original intent of Section 26.04.A was to establish a set of criteria for which applicants could  
44   present a proposed expansion and/or extension of nonconforming structures to the Zoning Board  
45   of Appeals (ZBA) for consideration separate from the typical variance procedure. He continued,  
46   stating that the text was designed to streamline the process when dealing with existing

nonconforming structures but any creation of nonconformities would still require the standard ZBA application process. Ross Nicholson pointed out that the Township Board was interested in determining whether the ZBA was the best venue for applications pertaining to the expansion and/or extension of existing nonconforming structures or if there are other options for making the determinations such as the Planning Commission or Township staff. The Planning Commission briefly discussed the topic. Greg Elliott indicated that the Michigan Zoning Enabling Act does not mandate that such decisions be made by the ZBA and that it is possible to make such decisions through alternate channels. Discussion continued.

*The item was tabled at 7:30 pm.*

*Chairman Meisel recessed the regular meeting to hold the scheduled public hearing at 7:31 pm.*

**PUBLIC HEARING #1 (7:31 pm): The Sanctuary at Tyrone Site Condominium Conditional Rezoning Application:**

Chairman Meisel summarized the application and read the public hearing notice:

*“Notice is hereby given the Tyrone Township Planning Commission will hold a Public Hearing on Tuesday, December 10, 2019, beginning at 7:30 at the Tyrone Township Hall, 8420 Runyan Lake Road, Fenton, Michigan 48430. The purpose for the Public Hearing is:  
To receive public comments regarding: A request by Dan Boss for a conditional rezoning of vacant parcels # 4704-21-100-021 & # 4704-21-100-022 from the FR (Farming Residential) district to the RE (Rural Estates) district to develop a 36-unit single-family detached site condominium, located off of Runyan Lake Rd between Center Rd and Gordon Rd.”*

Dan Boss (applicant) introduced himself and his associates Dan White, Steve Morgan, and Brent LaVanway. He indicated to the Planning Commission that they have decided to change the name of the proposed site condominium from the “Sanctuary at Tyrone” to the “Oaks of Tyrone”. He then addressed the public in attendance and provided a brief history of the site and the project. He explained that the property was purchased as an investment and sold in 2005 as two separate parcels, one being 10-acres and the other being 62-acres. He stated that the Future Land Use map in the Township Master Plan calls for the site to be zoned for low density single-family residential. While they would have liked to present a plan for development of the entire 72-acres, they were unable to acquire the 10-acre parcel, so they made the best of what was available. It was at that time (2017) when they presented the original plan for development of the 62-acre site and obtained concept plan approval. In 2018, the Township amended its Zoning Ordinance, changing the minimum lot sizes in the FR zoning district from 2 acres (plus an additional 50% open space) to 3-acres [with no open space requirement]. At the time following the concept plan approval but prior to the acquisition of the additional 10-acres, they were working with the Fire Department having jurisdiction and various Livingston County agencies when it was determined that there would need to be revisions to the concept plan to meet standards for approval. The 10-acre parcel was finally obtained and they decided to rework the plan to come up with a layout substantially similar to what is being currently presented. After some preliminary discussion with Township officials and the Planning Commission, it was determined that the general consensus of the new plan was overall positive since the design



would allow for a more efficient road design and mostly contiguous open space. The Planning Commission found the plan to be better than the previous design which had been granted concept plan approval, but there were some procedural difficulties with allowing a development with the overall density being proposed. He stated that their attorney discussed the issue with the Township attorney before they came to the conclusion that a conditional rezoning could potentially allow them to approve the plan with a higher density than what the current zoning would allow for. Dan Boss noted again that the latest proposal is not for the maximum permitted density if the conditional rezoning is granted. He stated that it would be possible to develop 41 units, however, they are only requesting a total of 36 units. He stated that he is here tonight to ask for a motion to approve the development and conditional rezoning as proposed for 36 units on the 72-acre site.

Chairman Meisel thanked Dan Boss for his comments.

Steve Bissell (residing on Indian View Trail) asked Dan Boss for clarification on the proposed open space buffer between the northernmost units and the north property line. Dan Boss stated that the open space and required rear yard setback for the northernmost units would create a one hundred and fifty-foot (150') buffer between the rear of the building envelopes and the north property boundary.

Chairman Meisel took a moment to explain the procedure for the public hearing. He then summarized the procedure for the review and recommendation of the conditional rezoning application. He explained that the previous version of the plan only received conceptual approval and not final approval. He stated that the revised plan is a new application and the purpose of the public hearing is to review the latest proposal for a conditional rezoning. He explained that under the previous zoning district requirements for minimum lot area, a 2-acre parcel plus the required 50% open space would result in the equivalent of a 3-acre parcel in the FR zoning district. He continued, stating that the statutory requirements for utilizing the CDO remain the same as they were with the previous application. He stated that if the Conditional Rezoning is granted, the development itself will still need to go through the prescribed approval process inclusive of agency reviews.

*Chairman Meisel opened the floor to take public comments and questions regarding the proposed conditional rezoning.*

Ed Wolf (residing on Runyan Lake Road) stated that he had concerns regarding the water table in the immediate area and inquired how the development would be supplied with potable water for each unit. Chairman Meisel indicated that the development is being proposed to utilize individual (private) wells for each dwelling unit. He continued, stating that the Livingston County Health Department (LCHD) requires that a series of test wells are drilled throughout the site to demonstrate that there would not be any significant adverse impacts to surrounding private wells if the development is approved. He stated that the likelihood of thirty-six (36) new wells at the site causing well water issues in the immediate area is relatively low due to the size and quality of the local aquifer.

Steve Bissell made a statement indicating that he had personally experienced issues with the water table in the area. He stated that he recently had to have a new eighty-foot (80') well drilled after his previous well had only lasted sixteen (16) years. He stated that he is skeptical that the proposed development would not adversely affect existing wells in the area. He then asked for clarification on the test well process. Brent LaVanway (applicant) explained the test well process. He indicated that the LCHD requires a minimum flow of ten (10) gallons-per-minute (GPM) for each test well, which is significantly less than what those on site produced.

Steve Bissell inquired about sanitary waste disposal/sewage treatment for the proposed development. Brent LaVanway explained that the development would utilize a community septic system. He explained that the system would have pre-treatment septic tanks and disposal systems which function similarly to that of a single-family septic system. He explained that the primary difference between the proposed community septic system and private single-family systems is that the standards for treatment are at a significantly higher level. He indicated that the proposed septic field would be ten-thousand (10,000) square feet. Steve Bissell asked whether the system would be gravity fed or pressurized. Brent LaVanway indicated that it would be gravity fed from the individual units to the tanks before being pumped to the field.

Steve Bissell inquired about the stormwater runoff management for the proposed development. Brent LaVanway explained that the stormwater runoff is designed to flow from west to east into the retention basin to prevent overflow onto adjacent properties. Steve Bissell stated that he has concerns about the proposed drainage system and how it would function in relation to the existing natural wetland areas. He stated that the wetland area on Units 4 and 5 ["Unregulated Wetland B"] currently drains onto his property. Brent LaVanway explained that they are proposing to construct an overflow basin system which would divert the water through the road system into the retention basin. Steve Bissell asked whether there are any wetland areas on the site which are regulated through the State of Michigan. Brent LaVanway stated that there is one regulated wetland area at the northeast corner on the site, which is proposed to remain undisturbed.

Jack Reese (residing on Indian View Trail) asked where alterations to the existing wetlands would occur. Brent LaVanway explained, using the site plan as a visual aid.

Mark Klumpp (residing on Carole Lane) asked how the 50% open space requirement would be met. Brent LaVanway explained that there is lot open space allocated to individual units in addition to the development open space. Mark Klumpp asked how the open space would be preserved long-term. Brent LaVanway stated that the condominium documents (Master Deed and Bylaws) would be a function and responsibility of the condominium association. He continued, stating that it would be self-policed to a certain extent, however, it is much less likely that the open space area would be encroached upon since they intend to use a single builder for the entire development. Mark Klumpp stated to the Planning Commission that he doesn't believe that the association would preserve the open space areas as intended since it is something that is frequently ignored or not enforced in other developments.

Steve Morgan (applicant) addressed Mark Klumpp's comment regarding the preservation of open space areas. He stated that he lives in a site condominium development and explained his personal experiences in association-maintained property. Chairman Meisel indicated to Mark

184 Klumpp that the Planning Commission shares concerns with the open space preservation and  
185 will need to continue to work with the applicants to solidify a plan.

186  
187 Mark Klumpp stated that he has concerns surrounding the proposed community septic system,  
188 primarily the proximity to the existing wetland areas. He asked how the community septic  
189 system would be monitored and maintained. Brent LaVanway explained that the State of  
190 Michigan requires that community septic systems be monitored and maintained through a State-  
191 licensed operator. He continued, stating that the operator would be required to submit annual  
192 reports to the LCHD for monitoring purposes.

193  
194 Steve Bissell asked who the contracted builder for the development would be. Dan Boss stated  
195 that they have hired Big Sky Development as the contractor for the project. He cited some  
196 examples of work performed by Big Sky Development for reference.

197  
198 Tiffany Reese (residing on Indian View Trail) asked the Planning Commission if the Township  
199 will be requiring a development agreement. Chairman Meisel explained that the site plan, if  
200 approved, would act as a development agreement. He explained that most condominium  
201 documents can be amended by an association without consent of the municipality, however, site  
202 plan amendments require municipality approval before they can be recorded.

203  
204 Steve Bissell pointed out that the majority of the open space in the area between the proposed  
205 northernmost units and the north property boundary is covered in mostly dead ash trees. He  
206 stated that he would assume that the developer, the association, or the future owners would likely  
207 wish to remove the dead trees since they are unsightly and potentially hazardous. Removal of  
208 the dead trees would result in what is effectively a field between the proposed development and  
209 the existing properties to the north of the site.

210  
211 Mark Klumpp asked what impact the retention basin would have on the existing wetland areas.  
212 Brent LaVanway stated that the surface drainage would flow from the road system to the forebay  
213 and into the retention basin. From the retention basin, some of the water would be absorbed into  
214 the ground and some would evaporate.

215  
216 Steve Bissell stated that filling in the wetland area which is present over proposed Units 4 and 5  
217 ["Unregulated Wetland B"] would be difficult. Brent LaVanway replied, stating that they are  
218 only proposing to fill a portion of that particular wetland for installation of the roadway. He  
219 indicated that the wetland area would remain in the area where Units 4 and 5 are proposed which  
220 reduces the building envelopes for each of those units. Steve Bissell indicated that he still has  
221 concerns that filling in the portion of the wetlands as proposed would significantly affect the site  
222 drainage. He also pointed out that it would force any structures built on Units 4 and 5 to be as  
223 far north as possible, reducing the potential buffer between the adjacent properties to the north.

224  
225 Steve Buza (residing on Older Lane) asked what the houses in the development would look like.  
226 Dan Boss pointed out the Hills of Tyrone West as an example of the type of architecture that  
227 would be used. He stated that Big Sky Development follows building trends and changes the  
228 style of the homes annually. He stated that they do not build identical homes directly next to  
229 each other and are not in any way "cookie cutter" style houses. Steve Buza asked what the

approximate price point of the homes would be. Dan Boss indicated that prices would be in the neighborhood of around five hundred thousand dollars (\$500,000.00).

Steve Bissell asked if accessory structures would be permitted in the development. Dan Boss stated that accessory structures would be permitted but they would be required to match the architecture of the principal structure. A brief discussion amongst the public in attendance and the applicants regarding proposed architectural design standards ensued.

Tiffany Reese urged the Planning Commission to require planting of trees in the open space area between the northernmost units and the north property boundary to replace some of the dead ash trees and establish a more significant buffer. Steve Bissell stated that when the Baptist State Convention Ministries built the church office building located at 8420 Runyan Lake Road (Currently the Tyrone Township Hall), the owners approached himself and the other adjacent property owners and offered to plant a row of pine trees along their common property boundaries. He continued, stating that they were even considerate enough to give them a few additional trees. He stated that he believes there definitely needs to be more significant of a natural buffer in the open space area between the northernmost units and the north property boundary. Dan Boss indicated that the open space area is intended to remain undisturbed and that they currently do not have any plans to plant trees in the area in question.

*Chairman Meisel closed the public comment/question portion of the public hearing at 8:44 pm and opened the floor to the Planning Commission for questions and comments.*

Dan Stickel stated that he believed that the lot open space should not be included in the overall open space calculations since it is unlikely that it would meet the intent of open space as defined in the Zoning Ordinance. Dave Wardin stated that he does not believe the proposed open space areas would be enough to meet the 50% minimum required for CDO developments under the MZEA. Dan Stickel noted that he believes granting approval without meeting the minimum open space requirements would be precedent setting and, therefore, should not be considered. The Planning commission briefly discussed the open space calculations provided by the applicants versus the Zoning Ordinance and MZEA standards for CDO developments.

Dan Boss stated that the previous proposal for 31 units on 62 acres was essentially the same as the current proposal for 36 units on 72 acres. He stated that the new plan is logical and should follow the same criteria as the last approval. Chairman Meisel indicated that the previous plan had only received concept approval and, therefore, there was no guarantee that final approval would be granted if problems were found during agency reviews and/or final Township review. Dan Boss asked if that meant that one could theoretically receive concept plan approval, obtain all necessary agency approvals, and potentially get denied during final Township review. The Planning Commission briefly discussed the procedure for approval of a site condominium and a conditional rezoning with the applicants.

Steve Morgan indicated to the Planning Commission that he believes the proposed open space would fulfill the requirements set forth in the MZEA. He stated that the Zoning Ordinance also allows the Planning Commission to permit open space in required yard locations within a lot, unit, or parcel (lot open space). He stated that with a combination of the perimeter open space

combined with the lot open space, the 50% minimum requirement for CDO would be met. The Planning Commission discussed the Zoning Ordinance definition for open space as well as the MZEA requirements for CDO with the applicants.

Bill Wood stated that he believes it is likely the open space areas consisting primarily of dead ash trees would likely be cleared because it would be considered to be unsightly to most people looking to purchase a home in the price range being proposed. Dan Boss stated that he doesn't necessarily disagree but, based on the Zoning Ordinance definition of open space, he's not sure how they could plant trees if the intent is for open space to remain in an unaltered state for perpetuity. The Planning Commission briefly discussed the definition of open space with the applicants.

Chairman Meisel summarized the elements of the application and discussed the procedure. He stated that the application is for a conditional rezoning from FR to RE combined with the proposed CDO development, therefore, the development would need to comply with the RE district standards. Greg Elliott emphasized that granting of the conditional rezoning must still comply with the standards for the zoning district, therefore, the CDO development must be subject to a subset of standards for the RE district. The Planning Commission briefly discussed.

*Chairman Meisel closed the public hearing at 9:10 pm.*

**OLD BUSINESS #1 (9:11 pm): The Sanctuary at Tyrone Site Condominium Conditional Rezoning Application:**

The Planning Commission briefly discussed the application amongst themselves. Chairman Meisel stated that there are concerns from the Planning Commission regarding the wetland areas on the site as well as the amount of open space to be eligible for the CDO. He continued, stating that, overall, the Planning Commission agrees that the proposed layout is logical, however, because of the aforementioned items, additional information may be necessary before proceeding with the review. Dave Wardin commented that he has heard a lot of negative comments regarding condominium developments and how they are managed. He continued, stating that condominiums can be much better than subdivisions in a number of ways.

Chairman Meisel stated that the Planning Commission has received the conditional rezoning application and held the required public hearing so they have a few options on how to proceed; They can (1) make a recommendation for approval or denial based on the information that has been provided, (2) require agency reviews as a condition for a recommendation, or (3) table the application. Dan Boss stated that tabling the application would kill the project. Chairman Meisel briefly explained the steps of the approval process. He indicated that the Planning Commission is not trying to kill the project, however, they cannot violate the MZEA or Zoning Ordinance in making a recommendation for approval. Dave Wardin reiterated that he does not believe the MZEA allows for lot open space to be included in the overall open space calculations of a CDO.

Perry Green made a motion to recommend approval of the Sanctuary at Tyrone conditional rezoning application to the Township Board. Bill Wood supported the motion. Roll call vote:



322 Dan Stickel- no, Rich Erickson- no, Perry Green- yes, Mark Meisel- no, Dave Wardin- no, Kurt  
323 Schulze- no, Bill Wood- yes. Motion failed 2:5.

324

325 Dave Wardin made a motion to recommend denial of the Sanctuary at Tyrone conditional  
326 rezoning offer to rezone 72 acres from FR to RE based on the fact that it does not comply with  
327 [Michigan] PA 110 of 2006 requiring 50% of undeveloped open space for a CDO  
328 development. Dan Stickel supported the motion. Roll call vote: Dan Stickel- yes, Rich  
329 Erickson- yes, Perry Green- no, Mark Meisel- yes, Dave Wardin- yes, Kurt Schulze- yes, Bill  
330 Wood- no. Motion carried 5:2.

331

332

333 *The item was closed at 9:55 pm*

334

335 *Dan Stickel made a motion to table all remaining business items. Dave Wardin supported the*  
336 *motion.*

337

338 *The meeting was adjourned at 10:00 pm by Chairman Meisel.*

# NEW BUSINESS #1

Quote for door buzzers for COVID precautions at township office.

*(quote available Monday)*