

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

ARBOR OAKS ASSOCIATES, LLC, n/k/a
ARBOR OAKS, LLC,
a Michigan limited liability company,

Plaintiff/Appellant,

v.

Case No. 0371-CH
HON. Timothy P. Connors

PITTSFIELD CHARTER TOWNSHIP;
PITTSFIELD TOWNSHIP PLANNING
COMMISSION; PITTSFIELD TOWNSHIP
BOARD OF TRUSTEES; and PITTSFIELD
TOWNSHIP ZONING BOARD OF
APPEALS, jointly and severally,

Defendants/Appellees.

ROBERT A. JACOBS (P15402)
Robert A. Jacobs, PLC
Attorney for Plaintiff/Appellant
121 West Long Lake Road, Second Floor
Bloomfield Hills, MI 48304-2719
248-433-2594
jacobs@rjacobsplc.com

JAMES A. FINK (P40386)
Fink & Fink, PLLC
Attorney for Defendants/Appellees
320 North Main Street, #300
Ann Arbor, Michigan 48104
734-994-1077
james.fink@finkandfink.com

SECOND AMENDMENT TO CONSENT JUDGMENT

At a session of said Court held in the Washtenaw County
Courthouse, in the City of Ann Arbor and State of Michigan
on _____

PRESENT: _____
CIRCUIT COURT JUDGE

The facts on which this Second Amendment to Consent Judgment are based are as follows:

RECITALS AND PREAMBLE

Arbor Oaks Associates, LLC n/k/a Arbor Oaks, LLC ("Arbor"), is a Michigan limited liability company doing business in Washtenaw County, Michigan and is the title owner of real property located in the Charter Township of Pittsfield, County of Washtenaw, State of Michigan.

The Defendant, Charter Township of Pittsfield (the "Township"), is a Michigan Charter Township created under the laws of the State of Michigan.

On August 4, 2005, a Consent Judgment was entered and a Site Plan was Approved for not more than ninety (90) detached single-family homes, as provided in Exhibit "B" of the Consent Judgment, (the "Approved Site Plan"), which shall be served by municipal sewer and water.

Based upon the terms and conditions, both the Township and Plaintiff agreed that the separate and common goals of the parties and interests of the public will be best served by the Approval of the Land Use Plan, as set forth in the Consent Judgment, which will provide for an orderly, predictable and proper development of the property.

On August 20, 2007, an Amendment to the Consent Judgment was entered and Approved. Site Plan CSPA #05-22, dated and stamped on April 12, 2007 was substituted for all references in the Consent Judgment to Exhibit "B", Preliminary Approved Site Plan, and it was agreed that Plaintiff was granted the permission to develop the property in two phases.

Since 2007, Plaintiff has worked with the Washtenaw County Water Resources Commission, the Washtenaw County Road Commission and Pittsfield Township in making minor changes to the Site Plan as required by outside agencies and as a result of new regulations.

The Washtenaw County Road Commission has required that the entrance drive be relocated northward in order to avoid conflict with Warner Creek Drive and the boulevard entrance to the subdivision across the street.

In other respects, the Site Plan is essentially unchanged containing the same layout, same number of units, same lot sizes and side yard setbacks.

On November 21, 2019 at a regular Planning Commission Meeting and Public Hearing under agenda item "New Business 8.3 Arbor Oaks Consent Judgment", a motion by Commissioner Williams and supported by Commissioner Young recommended to the Township Board that "ranch and the ranch lot one and one half story homes should be 30% lot coverage but limited to discussions with the planning staff".

A regular meeting of the Pittsfield Township Planning Commission (the "Planning Commission") was held on February 20, 2020, in which the Planning Commission approved CSPA 20-01 Arbor Oaks' Site Condominium as the Preliminary Site Plan to replace Exhibit "B" of the First Amendment, with certain conditions for Final Site Plan Approval and recommended that the Consent Judgment and First Amendment be amended to relocate the entrance road as required by the Road Commission, to permit lot coverage of up to 30% for individual home sites for the construction of ranch homes, and that individual home sites with two-story home products be restricted to 20% lot coverage.

The original Consent Judgment of August 4, 2005, under Paragraph VI (H), pages 10-11 provides for minor modifications to the Approved Preliminary Site Plan that "may be made and submitted as part of the final site plan without the necessity of amending this Judgment so long as Plaintiff and the Township consent in writing to such modifications."

Paragraph VI (M) on page 12 of the Consent Judgment provides that in the event that a

modification of the site plan must be made as a result of decisions by other governmental agencies, these revisions will be accepted by the Township as part of the Final Site Plan submittal.

The Planning Commission and the Township Planner and staff have reviewed and approved the action of the Planning Commission on November 21, 2019 and February 20, 2020.

The Plaintiff and Township represent that they have consulted with their legal counsel and that the terms and conditions of this Second Amendment to Consent Judgment are fair and entered into voluntarily, reasonably and in accordance with the Michigan Law and that the land uses authorized herein and the locations of same are appropriate and reasonable under all of the circumstances present, and that this Second Amendment to Consent Judgment is consistent with the public health safety and welfare of the community.

THIS COURT HAVING BEEN FULLY ADVISED IN THE PREMISES AND PURSUANT TO THE STIPULATION OF THE PARTIES TO FURTHER AMEND THE CONSENT JUDGMENT AND TO ENTER THIS SECOND AMENDMENT TO CONSENT JUDGMENT.

IT IS HEREBY ORDERED AND ADJUDGED that the Consent Judgment entered in this matter on August 4, 2005, and amended on August 20, 2007 is further Amended by this Second Amendment to Consent Judgment to the following:

1. The Arbor Oaks Site Condominium Plan CSPA 20-01, approved by the Planning Commission on November 21, 2019 and on February 20, 2020 is substituted as the Approved Preliminary Site Plan, Exhibit B to the Consent Judgment and shall be deemed to also be the Approved Preliminary Site Plan Exhibit B, which supersedes Site Plan CSPA #05-22, dated and stamped April 12, 2007 in the First Amendment to Consent Judgment.

2. All references in the Consent Judgment to Exhibit "B" and to the First Amendment of Consent Judgment shall be deemed to reference Arbor Oaks Condominium

Preliminary Approved Site Plan CSPA 20-01.

3. Plaintiff shall be permitted to develop the Property pursuant to the approved conditions set forth in the Approval of the CSPA 20-01 Arbor Oaks Condominium Site Plan at the Planning Commission on November 21, 2019 and February 20, 2020 for Final Site Plan Approval provided that with respect to the one and one half story ranch homes they shall not exceed 30 % lot coverage and shall be no larger than 3,000 square feet in living area, and all two story homes shall all be subject to the Township's existing 20% lot coverage limitation.

4. The Consent Judgment and First Amendment to the Consent Judgment are amended to relocate the entrance road of the proposed subdivision, as requested by the Washtenaw County Road Commission and Pittsfield Township and to permit lot coverage of up to 30% for individual home sites for the construction of all one story ranch homes and one and one half story ranch homes provided that they are no larger than 3,000 square feet.

5. Upon the satisfaction of the Planning and Development Departments, the Pittsfield Charter Township Department of Engineering, Utilities and Municipal Services, compliance with outside agencies, and the satisfaction of the conditions of the Planning Commission of November 21, 2019 and of February 20, 2020, the Planning Commission has the authority and shall approve the Final CSPA 20-01 Arbor Oaks Site Condominium Site Plan.

6. Any further changes or alterations to the Approved CSPA 20-01 Arbor Oaks Site Condominium Site Plan which are agreed to by the Plaintiff and the Township may be recorded as a further Amendment to this Second Amendment to Consent Judgment, when signed by Township attorney and Plaintiff's attorney.

7. The parties shall record this Second Amendment to the Consent Judgment with the Washtenaw County Register of Deeds Office.

Circuit Court Judge

Signatures and notarizations on the following pages

THE UNDERSIGNED PARTIES HAVE HEREBY READ, UNDERSTAND AND AGREE AND CONSENT TO THE FOREGOING SECOND AMENDMENT TO CONSENT JUDGMENT AND FIRST AMENDMENT TO CONSENT JUDGMENT AND ALL TERMS AND CONDITIONS STATED THEREIN.

WITNESSES:

PITTSFIELD CHARTER TOWNSHIP

By:
Its: Supervisor

By:
Its: Clerk

STATE OF MICHIGAN)
)ss
COUNTY OF WASHTENAW)

On this ____ day of _____, 2020, before me, a Notary Public, in and for said County, personally appeared _____ and _____, known to be the Supervisor and Clerk of Pittsfield Charter Township, who executed the above Second Amendment to Consent Judgment, and acknowledged the same to be his/her free act and deed by authority given by the resolution of the Township Board.

Signatures continue on the next page

ARBOR OAKS ASSOCIATES, LLC
n/k/a ARBOR OAKS, LLC, a
Michigan limited liability company

By:
Its:

STATE OF MICHIGAN)
)ss
COUNTY OF WASHTENAW)

On this _____ day of _____, 2020, before me, a Notary Public, in and for said County, personally appeared _____, on behalf of Arbor Oaks Associates, LLC n/k/a Arbor Oaks, LLC, a Michigan limited liability company, who executed the above Second Amendment to Consent Judgment, and acknowledged the same to be his/her free act and deed.

Approved as to Form and Substance

Approved as to Form and Substance

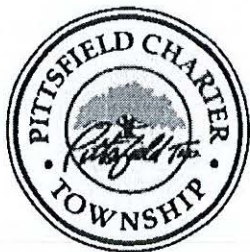
James A. Fink (P40386)
Attorney for Defendants/Appellees

Robert A. Jacobs (P15402)
Attorney for Defendants/Appellees

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EXHIBIT "B"

APPROVED SITE PLAN



Pittsfield Charter Township
Department of Utilities & Municipal Services

6201 West Michigan Avenue, Ann Arbor, MI 48108
Phone: (734) 822-3101 • Fax: (734) 944-1103
Website: www.pittsfield-mi.gov

Mandy Grewal, Supervisor

February 24, 2020

Manny Kianicky
S.R. Jacobson
32400 Telegraph Road, Suite 200 A
Bingham Farms, MI 48025

SUBJECT: Planning Commission Action Letter
Arbor Oaks
CSPA 20-01

Dear Mr. Kianicky:

This is to advise you that at a regular meeting of the Pittsfield Township Planning Commission held on February 20, 2020, the following action was taken on the Arbor Oaks Preliminary Site Plan:

Motion by Commissioner Williams, supported by Commissioner Young, to approve CSPA 20-01 Arbor Oaks Site Condominium with the following conditions:

- 1) ECT review of wetland mitigation plan.**
- 2) Provide tree mitigation in accordance with Section 14.08.F.**
- 3) EGLE wetland approval and submission of wetland permit to the Township**
- 4) Verify landscape plantings on plant list to coincide with plantings on landscape plan.**
- 5) Provide required landscape calculations based on Section 13.02.**
- 6) Demonstrate locations where street parking is proposed.**
- 7) Recommendation that consent judgement be amended:**
 - a) To relocate driveway; and**
 - b) To permit lot coverage of up to 30% for individual home sites only for the construction of ranch homes. Individual home sites with two-story home products are restricted to 20% lot coverage.**

Sincerely,

Benjamin Carlisle, AICP
Township Consultant

BC/zbc

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2020-02-21.doc

Code Enforcement
(734) 822-2111
codeenforcement@pittsfield-mi.gov

Engineering
(734) 822-3109
engineering@pittsfield-mi.gov

Planning
(734) 822-3130
planning@pittsfield-mi.gov

Utilities
(734) 822-3105
utilities@pittsfield-mi.gov

PITTSFIELD TOWNSHIP PLANNING COMMISSION MINUTES

Members Present: Stanley Young, Mike Petraszko, Deborah Williams, Matthew Payne, Roland Kibler, George Ralph

Members Absent: Ann Harris

Others Present: Christina Lirones, Todd Pascoe, Manny Kianck, Matt Doan, Benjamin Carlisle, Township Planning Consultant, Sheryl Saliba, and Zoe Crowley, Recording Clerks.

1.0 Call Meeting to Order at 6:30 p.m. / Determination of a Quorum

Chairperson Payne called the meeting to order at 6:30 p.m. A quorum was present.

2.0 Pledge of Allegiance

Chairperson Payne led the Pledge of Allegiance.

3.0 Approval of Agenda

Motion to move Item 8.1 to follow 6.1 to move Item 8.2 to follow Item 6.2, and approve the agenda as recommended.

Motion by Commissioner Williams, supported by Commissioner Ralph, to approve the agenda as recommended.

MOTION CARRIED

4.0 Approval of Prior Minutes

4.1 Regular Minutes of November 7, 2019

Motion by Commissioner Williams, supported by Commissioner Kibler, to approve the Regular Meeting Minutes of November 7, 2019.

MOTION CARRIED

5.0 Public Comment I

None.

6.0 Public Hearings

6.1 CUP 19-10 3840 Morgan Road (Doan Companies)
Submitted for Conditional Use Permit
3840 Morgan Road, Section 23

Mr. Carlisle summarized his report. The applicant is requesting a Conditional Use to allow expansion of the existing concrete facility. The proposed development would relocate the existing concrete producing facility from 3660 Carpenter Road to the subject site. The project will be completed in multiple phases. The site improvements will include a new stormwater management system, additional washout area, a new maintenance shop building, a new office/industrial building and landscaping. Mr. Carlisle clarified that Doan has two facilities. The applicant will need to request two variances from the Zoning Board of Appeals, one of which is a height variance. Currently, 45 feet is the limit. The structure is 80 feet. The applicant will also need to seek a variance to not have to pave the site. The Commission cannot take action tonight.

Chairman Payne opened the Public Hearing.

Christina Lirones, 151 E. Textile Road, inquired about whether or not the applicant has a proposal for vacating the site.

Matt Doan, applicant, commented on the amount of water usage.

Motion by Commissioner Williams, supported by Commissioner Young to close the public hearing for CUP 19-10 3840 Morgan Road.

MOTION CARRIED

Discussion was held on:

1. Future intentions for the site
2. Environmental impact

Item 8.1 of New Business moved to follow Item 6.1 of the Public Hearing.

- 8.1 CSPA 19-21 & CUP 19-10 3840 Morgan Road**
Submitted for Preliminary Site Plan & Conditional Use Permit
3840 Morgan Road, Section 23

Motion by Commissioner Williams, supported by Commissioner Ralph to postpone action on CUP 19-10 / CSPA 19-21 3840 Morgan Road to allow the Zoning Board of Appeals to consider the variance requests.

ROLL CALL

YES: WILLIAMS, YOUNG, KIBLER, RALPH, PAYNE
NO: None
ABSENT: HARRIS, PETRASKO
ABSTAIN: None

MOTION CARRIED

- 6.2 ZOA 19-207 Zoning Amendments**
Zoning Ordinance Text Amendments

2. The differences between ranch and one-story.
3. The different models being offered to buyers.

Mr. Carlisle expressed concerns about ordinances regarding stories.

Motion by Commissioner Williams, supported by Commissioner Young, to recommend to the Township Board that the Commission agrees with the road relocation. It recommends ranch, and the ranch-loft, one and a half story homes should be 30% lot coverage, but limited to discussions with planning staff.

ROLL CALL

YES: PAYNE, RALPH, KIBLER, YOUNG, WILLIAMS
NO: None
ABSENT: HARRIS, PETRASZKO
ABSTAIN: None

MOTION CARRIED

8.4 2020 Planning Commission Meeting Schedule

Motion by Commissioner Ralph, supported by Commissioner Young, to approve the 2020 Planning Commission meeting schedule.

MOTION CARRIED

9.0 Planner's Report

Mr. Carlisle discussed two brief items. Lodi Township has given Pittsfield its intent to amend the Land Use Plan. First, there will be a change in land use along Pleasant Lake Road. Secondly, the Saline-Lodi border will also be corrected. The Sustainability Committee requested a discussion from Planning Commission for best zoning practices from a sustainability perspective. The Committee has requested a workshop centered on techniques and specific actions. It will be a multistep workshop, beginning in December. There will be a range of options discussed based upon Township goals.

10.0 Chairperson's Report

Chairman Payne sent Mr. Carlisle a concept plan regarding guidelines for early concept plans. He encouraged Commissioners to attend some of the Administrative Review Committee meetings.

11.0 Commissioner's Report

None.

12.0 Public Comment II

None.

13.0 Adjournment

Motion by Commissioner Ralph, seconded by Commissioner Kibler, to adjourn the meeting.

Chairman Payne adjourned the meeting at 7:26pm

Please Note: This meeting is being recorded

This notice is posted in compliance with PA 267 of 1976 (as amended) Open Meetings Act, MCL 125.3103 and 125.3502 and the Americans with Disabilities Act (ADA). Individuals with disabilities requiring auxiliary aids or services should contact the Pittsfield Charter Township Clerk's Office Office 3 business days prior to the meeting. The Clerk's Office can be reached at 734-822-3120 or via email clerk@pittsfield-mi.gov.

s/ Deborah Williams, Secretary

December 12, 2019