

**CHARTER TOWNSHIP OF PITTSFIELD
WASHTENAW COUNTY, MICHIGAN
RESOLUTION TO APPROVE CONSENT JUDGMENT
IN FRICKE LAWSUIT (RES #00-15)**

Minutes of a Regular Meeting of the Township Board of the Charter Township of Pittsfield, Washtenaw County, Michigan, held at the Township Hall in said Township, on the 29th day of August, 2000, at 7:30 p.m.

PRESENT: Aldrich, Brackenbury, Lennington, Shelton, Skrobola, Woolley
ABSENT: Bocklage

The following preamble and resolution were offered by Member Skrobola and supported by Member Aldrich.

WHEREAS, there is presently pending in the Washtenaw County Circuit Court a lawsuit entitled Roger M. Fricke v Pittsfield Charter Township, et al, bearing file number 00-784-CZ; and

WHEREAS, the Township's former Municipal Services Director and the Township's planning consultant, attorney and Treasurer have discussed with the attorney for the Plaintiff a possible Consent Judgment to resolve the matters in controversy in the lawsuit; and

WHEREAS, the Township's representatives have generally agreed on the terms of a proposed Consent Judgment, a copy of which is attached hereto as Exhibit A, which has been accepted by the Plaintiff and his attorney; and

WHEREAS the members of this Board have reviewed the terms of the Consent Judgment;

NOW, THEREFORE, BE IT RESOLVED that this Board hereby approves the proposed Consent Judgment in substantially the form attached hereto and made a part hereof, and does hereby authorize the Township Supervisor, Douglas R. Woolley, and the Township's attorney, John L. Etter, to sign the same on behalf of the Township.

Roll Call Vote:

Ayes: Aldrich, Brackenbury, Lennington, Shelton, Skrobola, Woolley
Nays: None
Absent: Bocklage
Abstain: None

RESOLUTION DECLARED ADOPTED.


Marjorie K. Shelton, Clerk
Pittsfield Charter Township

Dated: August 29, 2000

CERTIFICATE

I, Marjorie K. Shelton hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Township Board of Pittsfield Charter Township, County of Washtenaw, State of Michigan, at a Regular Meeting held on August 29, 2000, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.


Marjorie K. Shelton, Clerk
Pittsfield Charter Township

DATED: August 29, 2000

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

ROGER M. FRICKE,

Case No. 00-784-CZ

Plaintiff,

Hon. Timothy P. Connors

v.

PITTSFIELD CHARTER TOWNSHIP,
a Michigan municipal corporation,

Defendant.

JOSEPH W. PHILLIPS (P34063)
CONLIN, MCKENNEY & PHILBRICK, P.C.
Attorneys for Plaintiff
350 S. Main, Ste. 400
Ann Arbor, MI 48104-2131
(734) 761-9000

JOHN L. ETTER (P13233)
READING, ETTER & LILlich
Attorneys for Defendant
101 N. Main, Ste. 575
Ann Arbor, MI 48104
(734) 769-9050

CONSENT JUDGMENT

At a session of said Court held in
the Washtenaw County Courthouse, Ann Arbor,
Michigan, on the ____ day of _____, 2000

PRESENT: HONORABLE TIMOTHY P. CONNORS
Circuit Judge

Upon the stipulation and consent of the parties hereto, by and through
their respective attorneys, the Court finds that:

1. Plaintiff is the record title owner of an approximately 23.61 acre
parcel of land located in Section 35 of Pittsfield Charter Township,

Washtenaw County, Michigan, more fully described in Exhibit A attached hereto (the "Property").

2. The Property is zoned (AG) Agricultural, but there is no designation of planned use for the Property in Defendant's duly adopted Comprehensive Plan.

3. In May 1997 Plaintiff petitioned Defendant for rezoning of the Property from (AG) Agricultural to (I-2) General Industrial and subsequently resubmitted an application for rezoning from (AG) Agricultural to (I-1) Limited Industrial.

4. In December 1997 Defendant's Planning Commission voted to recommend denial of Plaintiff's rezoning petition.

5. In January 1998 the County Planning Commission recommended denial of Plaintiff's rezoning petition, and Defendant's Township Board voted to deny the rezoning petition.

6. The parties have been engaged in extended discussions as to reasonable use of the property.

7. Plaintiff has alleged in its Complaint as follows:

- a. That the denial of Plaintiff's Petition for Rezoning and the Township's failure to designate a land use for the property in the Comprehensive Plan is arbitrary and capricious and has no rational relationship to protecting the public health, safety and welfare.
- b. That the denial of the Petition for Rezoning violates the standards of 1963 Mich Const, Art VI, Sec 28.
- c. That the continued zoning of the property as (AG) Agricultural violates Plaintiff's substantive due process rights under 1963 Mich Const, Art 1, Sec 17.
- d. That Defendant's failure to rezone the property is arbitrary, capricious and unreasonable and has denied Plaintiff the right to to improve his Property and the right to substantial use and

enjoyment of the Property, and has destroyed the economic value of the Property.

All of these allegations are denied in Defendant's Answer.

8. The parties hereto desire to resolve this dispute by means of this Consent Judgment, thereby avoiding further costs and expenses and the uncertainty of trial, and seek to provide a reasonable use of Plaintiff's Property without any admission of liability by Defendant.

NOW, THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

A. That the zoning of the Property shall be changed from (AG) Agricultural to (PUD) Planned Unit Development and designated on the Official Zoning Map as "PUD-Consent Judgment." The Property may be used as follows:

1. PURPOSE

It is recognized by the Township that the value to the public of designating this area of the Township for a compatible mixture of business uses within a campus type environment is represented in the employment opportunities to the citizens and the resultant economic benefits to the Township. These uses as outlined below are characterized by an insignificant amount of such nuisance factors as noise, heat, glare, and emission of air pollutants.

This area located within the Township will permit the development of a compatible mixture of uses, to protect the adjacent institutional, agricultural and residential property against the encroachment of incompatible uses, and to lessen congestion on public streets and highways. Development of this parcel will require construction of a Class A Road and lot splits would have to be approved by the Township. Each lot as developed would be required to follow either the preliminary and final site plan review procedures or the preliminary and final plat procedures, depending on whether development is by site condominium or by land division. Conditional uses would be required to follow the Conditional Use procedures as required by the Zoning Ordinance. All references to Articles or Sections below shall be understood to be references to those Articles or Sections of the Township's Zoning Ordinance.

2. PERMITTED USES

The following buildings and structures and uses of parcels, lots, buildings and structures are permitted on this parcel upon site plan approval, provided that materials and equipment to be used in the principal business and products resulting from the principal business shall be stored entirely within completely enclosed buildings:

- a. Business, professional, executive or administrative offices, such as financial institution without drive-in facilities, advertising, real estate, legal, engineering, accounting, insurance corporation, medical, non-profit organizations, and similar uses.
- b. Business, professional, executive or administrative offices related to research, development, testing and training activities.
- c. Any use which is charged with the principal business function of research, such as scientific, business, industrial research developments, training centers, and testing laboratories.
- d. Research oriented and light industrial park uses.
- e. The manufacturing, compounding, processing or treatment of such products as medical devices (except syringes).
- f. Assembly of merchandise such as electrical appliances, electronic or precision instruments, and articles of a similar nature.
- g. Light manufacturing industrial uses which by the nature of the materials, equipment and processes utilized are to a considerable extent clean, quiet, and free from any objectionable or dangerous nuisance or hazard. Such uses include the manufacturing of machine vision systems, robotics, automated testing and manufacturing systems, jewelry, musical instruments, sporting goods, small household appliances, electronic and fiber optic products, cameras and photographic equipment, printed matter and other similar uses.
- h. Warehousing and material distribution centers, contractors establishments.
- i. An accessory use, building or structure.
- j. A sign, only in accordance with the regulations specified in Article 53.0.
- k. Essential services, as provided in Section 30.02E.

For all such uses, it is agreed that no use shall be permitted which involves the discharge of process water. Process water does not include

water used solely for cooling.

3. CONDITIONAL USES

The Property may also be used for the following conditional uses subject to the conditional use permit application and decision process as set forth in Defendant's Zoning Ordinance in effect at the time of any such application.

- a. Restaurants and cafeteria facilities for employees of firms within this Property only.
- b. Business/technical schools, when licensed by the State of Michigan, which provide education in skills which are commonly used in the principal uses permitted on this parcel. Such uses include schools for the training of secretaries, bookkeepers, business machine operators, medical business, legal secretaries, medical and dental technicians, research technicians, engineering technicians, and machine operators.
- c. Pharmacies, and medical and dental laboratories located wholly within an office building.
- d. Indoor recreation facilities consisting of more than twenty thousand (20,000) square feet such as bowling alleys, indoor tennis courts, other indoor game courts, gymnasiums and similar facilities.
- e. Day care centers and nursery schools.
- f. Church, synagogue, mosque, temple, or other building for public worship.

4. REGULATIONS AND PERFORMANCE STANDARDS

The following regulations shall apply on this parcel.

- a. NUMBER OF LOTS AND LOT AREA - There shall be a maximum of 13 lots on the property. No building or structure shall be established on any lot less than one acre in area.
- b. LOT WIDTH - The minimum lot width shall be one hundred fifty (150) feet.
- c. LOT COVERAGE - The maximum lot coverage shall not exceed twenty-five (25) percent.

- d. FLOOR AREA RATIO - The maximum floor area shall not exceed forty (40) percent.
- e. YARD REQUIREMENTS
 - 1. Front Yard - Not less than fifty (50) feet.
 - 2. Side Yards - Least width of either yard shall not be less than twenty (20) feet, except in the case of a corner lot or parcel where the side yard on the road or street side shall be not less than fifty (50) feet.
 - 3. Rear Yard - Not less than thirty-five (35) feet.
 - 4. The above requirements shall apply to every lot, building or structure.
- f. HEIGHT REQUIREMENTS - Except as otherwise provided in Article 56.0, Section 56.06, no building or structure shall exceed a height of forty-five (45) feet or three (3) stories, whichever is less.
- g. TRANSITION STRIPS
 - i. On every lot on the Property which abuts a lot line of an adjacent property which is not part of the Property, there shall be a transition strip. Such transition strip shall be twenty-five feet in width on the sides bordering the correctional facility and expressway, and forty feet in width on any side bordering residential property. Such transition strip shall not be included as part of the yard required around a building or structure, and shall be improved, when said lot in this district is improved, with a screen, wall, or hedge not less than four (4) feet nor more than eight (8) feet in height, and maintained in good condition; provided, however, that no such screen, wall or hedge shall be required on any lot line bordering the correctional facility or the expressway.
 - ii. A use or structure on any lot within this Property fronting a public road, street, or way shall provide in addition to and as an integral part of any site development, on the front yard, a landscaped strip of land twenty-five (25) feet or more in depth, such landscaped strip to be well defined and designed to provide access to the lot and separate off-street parking from the public right-of-way.

- h. OUTDOOR STORAGE - No outdoor storage of material and equipment is permitted within this Property. All such material, equipment, and products for any permitted principal or conditional use within this Property shall be stored entirely within completely enclosed buildings.
- i. REQUIRED OFF-STREET PARKING - As required in Article 51.0.
- j. REQUIRED SITE PLAN REVIEW - As required in Article 55.0.
- k. PERFORMANCE STANDARDS - As described, and as required in Article 54.0.
- 5. SITE PLAN REQUIREMENTS
 - a. The Property may be sold in its entirety and developed with one principal use and building. The Property, when divided, shall be divided by means of a subdivision plat or site condominium, and not by metes and bounds divisions. Prior to the sale of any lots, the owner of the Property shall be responsible for installation of a Class A road to serve the Property, a central or coordinated storm water management system including a retention/detention pond or ponds installed according to the requirements of the Washtenaw County Drain Commissioner, and the landscaped transition strip adjacent to residences. There shall also be an owner's association established for maintenance of these improvements.
 - b. A site concept sketch submitted by Plaintiff showing the road alignment and lot layout is attached hereto as Exhibit B, and is approved as a preliminary area plan. It is understood that the lot layout is subject to amendment as the market dictates. It is further agreed that approval of this concept sketch plan shall not be considered an approval which is subject to expiration pursuant to Section 52.13 of the Ordinance. Subsequent approvals in the development process, however, shall be subject to all applicable expiration provisions.
 - c. Further development of the Property shall be either by site condominium or by plat pursuant to the land division act.
 - i. If by site condominium, the petitioner or developer must provide all information required for a preliminary site plan by the Township's Zoning

Ordinance and adopted land development standards. Once the preliminary site plan has been approved by the Planning Commission, petitioner or developer shall proceed with a final site plan pursuant to the Zoning Ordinance and land development standards.

ii. If by plat pursuant to the land division act, the petitioner or developer must provide all information required for tentative approval of a preliminary plat by the Township's Subdivision Ordinance and adopted land development standards. Once the preliminary plat has been tentatively approved by the Township Board, the petitioner or developer shall follow the further procedures of the Subdivision Ordinance and land development standards.

6. INFORMATION REQUIREMENTS

a. A preliminary site plan or preliminary plat for this parcel shall provide all information required by applicable ordinances and land development standards and shall provide the following additional information:

i. A traffic study, prepared and signed by a registered traffic engineer, shall be provided to the Municipal Services Department showing projected daily, street peak hour, and center peak hour traffic volumes, street improvements required to handle the projected traffic upon opening of the proposed park and for ten (10) years after the park opens, utilizing projections of area wide traffic on the adjacent streets, recommended design of drives within the park; and recommended traffic control devices in the park and at intersections of the park's drives with public streets.

B. Except as set forth herein, the Property shall be subject to all other provisions of Defendant's Zoning Ordinance, including all required site plan reviews for site condominiums, and all applicable provisions of Defendant's Subdivision Ordinance for

plats, and subject to all other applicable ordinances and adopted land development standards of Defendant (including payment of all required fees) in effect at the time of any application.

C. This Consent Judgment may be amended, changed, waived or modified only by a written agreement executed by the parties or their respective successors, heirs or assigns. No waiver of any provision of this Consent Judgment shall be valid unless in writing and signed by the party against whom the waiver is charged.

D. A certified copy of this Consent Judgment shall be promptly recorded with the Washtenaw County Register of Deeds by Defendant and shall run with the land.

E. By execution of this Consent Judgment the signatories hereby warrant that they have authority to execute the Consent Judgment and bind the respective parties to its terms and conditions.

F. Subject to the terms and provisions of this Consent Judgment, Plaintiff for himself, his heirs, successors, assigns and representatives, hereby releases and discharges the Township, its trustees, officers, employees, agents and independent contractors (collectively referred to as the "Township") from any and all claims, in law or in equity, against the Township on any cause, known or unknown, foreseen or unforeseen, arising directly or indirectly from any acts or omissions of the Township prior to this date, including, but not limited to, denial of approval to Plaintiff's petition for rezoning of Plaintiff's Property from AG

to I-1. This release includes all claims for damages, costs and attorney fees.

G. This court retains jurisdiction to enforce or interpret the terms of this Consent Judgment. The parties agree that while this Consent Judgment was initially drafted by the attorney for Defendant, Plaintiff and his attorney have had a full opportunity to read and revise it, and therefore in the event of any ambiguity later requiring interpretation, no inference adverse to Defendant as drafter shall arise.

Timothy P. Connors, Circuit Judge

Approved as to form
and content by:



Roger M. Fricke, Plaintiff



Joseph W. Phillips (P 34063)
Attorney for Plaintiff

Douglas R. Woolley, Supervisor
Charter Township of Pittsfield,
Defendant

John L. Etter (P 13233)
Attorney for Defendant

Prepared by and when recorded return to:

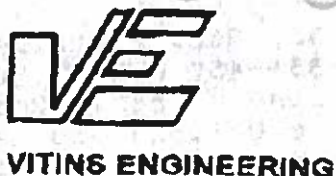
John L. Etter, Esq.
Reading, Etter & Lillich
101 N. Main, Suite 575
Ann Arbor, MI 48104
(734) 769-9050

DESCRIPTION - PARCEL

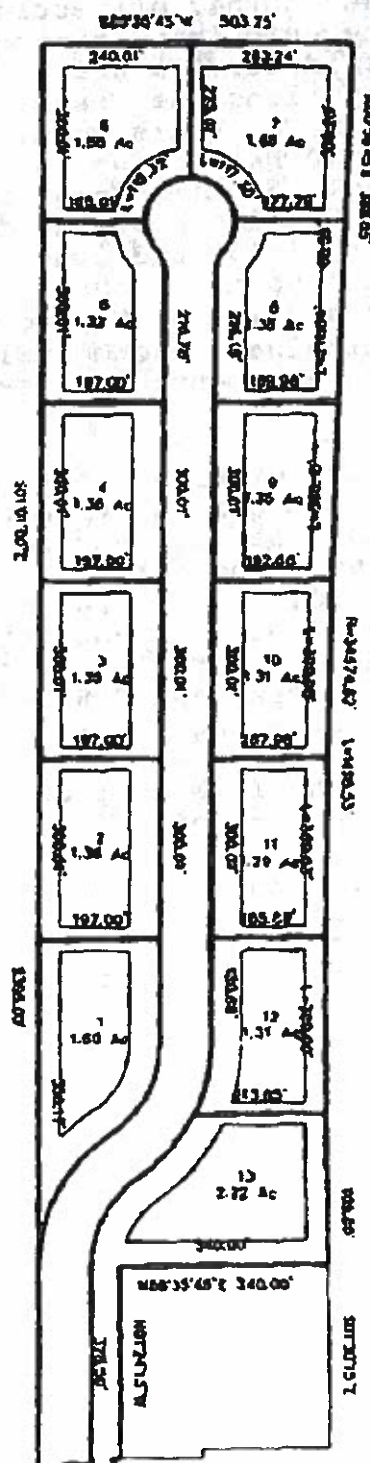
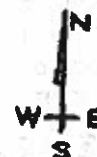
commencing at the Southeast corner of Section 35, T3S, R6E, Pittsfield Township, Washtenaw County, Michigan; thence S 88°-35'-45" W 1711.50 feet along the South line of said section and the centerline of Bemis Road; thence S 01°-30'-15" W 70.00 feet along the West line of the U.S.-23 expressway to a point on the North line of Bemis Road, said point being the POINT OF BEGINNING; thence along said North line in the following courses: S 88°-35'-45" W 202.88 feet, S 01°-24'-15" E 15.00 feet, and S 88°-35'-45" W 7.67 feet; thence N 01°-24'-15" W 328.50 feet; thence N 88°-35'-45" E 0.00 feet; thence S 01°-30'-15" E 313.50 feet along the Westerly right-of-way line of U.S.-23 expressway to the Point of Beginning; said parcel being a part of the Southeast 1/4 of Section 35, T3S, R6E, Pittsfield Township, Washtenaw County, Michigan, and containing 2.50 acres of land, more or less. Being subject to easements and restrictions of record, if any.

DESCRIPTION - PARCEL II

commencing at the Southeast corner of Section 35, T3S, R6E, Pittsfield Township, Washtenaw County, Michigan; thence S 88°-35'-45" W 1711.50 feet along the South line of said section and the centerline of Bemis Road; thence S 01°-30'-15" W 383.50 feet along the Westerly right-of-way line of the U.S.-23 expressway to the POINT OF BEGINNING; thence S 88°-35'-45" W 340.00 feet; thence S 01°-24'-15" E 328.50 feet; thence along the Northerly right-of-way line of Bemis Road in the following courses: S 88°-35'-45" W 12.33 feet, S 01°-24'-15" E 10.00 feet and S 88°-35'-45" W 121.44 feet; thence S 01°-01'-00" W 2395.00 feet along an existing fence line; thence S 88°-35'-45" E 503.25 feet; thence along the Westerly right-of-way line of the U.S.-23 expressway in the following courses: S 00°-58'-45" W 388.85 feet, 1498.55 feet along the arc of a 34574.62 foot radius circular curve to the left through a central angle of 02°-29'-00" having a chord which bears S 00°-15'-45" E 1498.43 feet and S 01°-30'-15" E 169.80 feet to the Point of Beginning; said parcel being a part of the Southeast 1/4 of Section 35, T3S, R6E, Pittsfield Township, Washtenaw County, Michigan, and containing 1.61 acres of land, more or less. Being subject to easements and restrictions of record, if any.



US-23 EXPRESSWAY
(300 FEET WIDE)



SITE CONCEPT SKETCH
SCALE: 1" = 300'

PITTSFIELD TOWNSHIP
WASHTENAW COUNTY, MICHIGAN
Section 35 Town 3 South Range 6 East

BEMIS ROAD
(VARIABLE WIDTH)

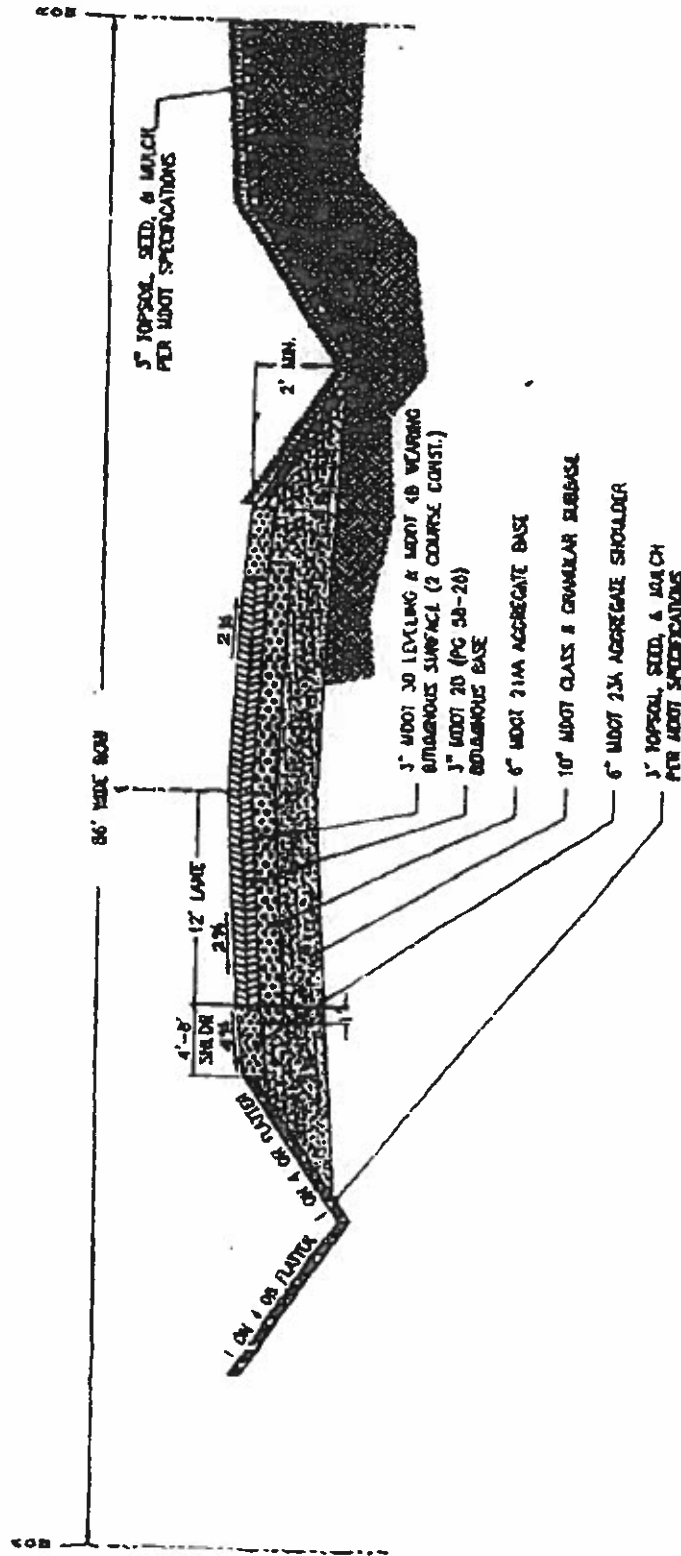
Date: August 11, 2000

Civil/Environmental Engineering • Municipal Consulting • Software Development

44276 Brandywine • Canton, Michigan 48187-2106
(734) 453-3460 (phone) • (734) 453-6812 (fax)

Exhibit B

BITUMINOUS PAVEMENT CROSS-SECTIONS



TYPICAL RURAL, COLLECTOR & INDUSTRIAL - 86' ROW

SCALE: N.T.S.

BIT 1d

