



**COHOCTAH PLANNING COMMISSION**  
**MEETING**  
**October 05, 2023 at 7:00 PM**  
**Township Hall | Fowlerville, Michigan**

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*The Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities at the meeting upon 72 hour advance notice by contacting Barb Fear, Township Clerk, by email: [bfearclerk@gmail.com](mailto:bfearclerk@gmail.com), phone: (517) 546-0655, or mail: 10518 N Antcliff Rd Fowlerville MI 48836.*

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**AGENDA**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE** – *Moment of Silence*

**ROLL CALL**

**APPROVAL OF AGENDA**

**APPROVAL OF MINUTES**

- [1.](#) Minutes 09/07/2023

**CALL TO THE PUBLIC**

**MATTERS PERTAINING TO THE GENERAL PUBLIC**

**UNFINISHED BUSINESS**

2. Master Plan Review
3. Wind Ordinance

**NEW BUSINESS**

- [4.](#) Open Space Discussion

**CALL TO THE PUBLIC**

**ADJOURNMENT**



# COHOCTAH PLANNING COMMISSION MEETING

September 07, 2023 at 7:00 PM  
Township Hall | Fowlerville, Michigan

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*The Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities at the meeting upon 72 hour advance notice by contacting Barb Fear, Township Clerk, by email: [bfearclerk@gmail.com](mailto:bfearclerk@gmail.com), phone: (517) 546-0655, or mail: 10518 N Antcliff Rd Fowlerville MI 48836.*

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## MINUTES

### CALL TO ORDER

Meeting was called to order at 7:00pm.

**PLEDGE OF ALLEGIANCE** – *Moment of Silence*

### ROLL CALL

PRESENT: Clint Beach, Mark Cican, Phil Charette, Jessica Buttermore, Kyle Engel, Sarah Newton, and Chrissy DeFrancisco.

### APPROVAL OF AGENDA

Motion made by DeFrancisco, Seconded by Charette to approve the agenda as presented. Voting Yea: DeFrancisco, Cican, Charette, Buttermore, Engel, Newton, Beach. Motion carried.

### APPROVAL OF MINUTES

1. Minutes 07/06/2023

Motion made by Cican, Seconded by Charette to approve the minutes of 07/06/2023 as presented. Voting Yea: DeFrancisco, Cican, Charette, Buttermore, Engel, Newton, Beach. Motion carried.

### CALL TO THE PUBLIC

Public comment was received.

### MATTERS PERTAINING TO THE GENERAL PUBLIC

### UNFINISHED BUSINESS

2. Master Plan Review

Master Plan was discussed. The review will continue after necessary information is received by Township Planner John Enos.

### NEW BUSINESS

3. Renew Trailer Permits

Motion made by Charette, Seconded by DeFrancisco to approve the renewal of the Temporary Mobile Home Permits for Gerald Simkus and Steven Balder pursuant to Section 13.10A and 6.05B.1 of the Cohoctah Township Zoning Ordinance. This permit will require renewal at the regular meeting of

the Cohoctah Township Planning Commission in September 2024. If any conditions change, applicant must immediately remove said manufactured home from the property at the applicant's own expense. Voting Yea: DeFrancisco, Cican, Charette, Buttermore, Engel, Newton, Beach. Motion carried.

4. Wind Ordinance

Motion made by Cican, Seconded by Engel to table discussion until a draft ordinance is provided. Voting Yea: DeFrancisco, Cican, Charette, Buttermore, Engel, Newton, Beach. Motion carried.

**CALL TO THE PUBLIC**

None

**ADJOURNMENT**

Motion by Beach, Seconded by Charette to adjourn at 7:43pm. Voting Yea: DeFrancisco, Cican, Charette, Buttermore, Engel, Newton, Beach. Motion carried.

# MEMO

**FOSTER SWIFT**  
FOSTER SWIFT COLLINS & SMITH PC || ATTORNEYS

**TO:** Cohoctah Township  
**FROM:** Michael D. Homier  
**DATE:** June 22, 2023  
**RE:** Open Space Question

**Subject to Attorney Client Privilege**

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The Township has requested our opinion regarding its Open Space and Rural Preservation Development Ordinance (the Ordinance), Section 16.50 of the Township Code of Ordinances. In particular, the Township asked whether the owner of a parcel containing a home in an open space district may “deed back the equitable use of the open space to the main parcel owner.” In other words, the Township asked “whether an owner of an open space parcel can relinquish their rights to the open space to another parcel owner in the open space development.” We believe that the answer is generally no.

Section A of the Ordinance provides as follows:

The intent of the Open Space and Rural Preservation Development District is to permit residential development that results in an enhanced living environment through the preservation of open space. The provisions set forth in this Section offer an alternative to traditional subdivisions and encourage innovative and livable housing environments through both permanent dedication of open space and a planned reduction of individual lot area requirements. The Open Space and Rural Preservation Development District is established as an overlay district in those districts in the Township that allow single-family residential housing as a permitted principal use and therefore is not permissible in the MHR, LI, and NSC Districts. The Open Space and Rural Preservation Development District is also not allowed in the S Settlement District.

Section C of the Ordinance provides, in part, as follows:

The regulations set forth herein are intended to preserve a traditional rural character to the land use pattern in the Township through the creation of small residential nodes contrasting with open space and less intensive land uses. This Section is not intended as a device for ignoring the zoning regulations of the Township, the standards set forth herein, or the planning concepts upon which the Zoning Ordinance has been based. The regulations are intended to result in a specific development substantially consistent with Zoning Ordinance standards and the Township Comprehensive Plan.

Section 16.50(D)(4) provides as follows:

The proposed development shall maintain a minimum 50 percent of the gross area of the site as dedicated open space as a separate parcel *held in common ownership*, with evidence of a plan for perpetually preserving the open space. Documents shall be presented and ultimately approved by the Township Planning Commission that bind all successors and future owners in fee title to open space commitments made as a part of the proposal. [Emphasis added.]

The Ordinance also provides that “[a]n Open Space and Rural Preservation Development shall maintain a minimum of 50 percent of the gross area of the site as dedicated open space held in common ownership.” Section 16.50(F)(3)(a).

Open spaces “shall be set aside by the developer through an irrevocable conveyance or covenant appurtenant to the open space[.]” Section 16.50(F)(3)(d)(4). “Such conveyance shall...ensure that all residents have access to the open space for use of the open space and prohibit interfering with the use of the open space by residents and their guests.” *Id.*

Any property owner who fails to maintain an approved site design shall be deemed in violation of the use provisions of the Zoning Ordinance and shall be subject to the appropriate action to obtain compliance with the Zoning Ordinance. Each and every property owner shall also be responsible for insuring the open space is maintained in accordance with the approved final plan or be subject to the appropriate action to obtain compliance with the Zoning Ordinance. [Section 16.50(G)(5)].

We believe that specific provisions within the Ordinance and its overall structure express an intent to require that the dedicated open space area remain in common ownership. An equitable owner of the designated open space relinquishing their rights to the open space would defeat the intent of the Ordinance. “Common ownership” would not exist in the open space, and multiple sections of the Ordinance would be violated. Therefore, we do not believe that the owner of one of the residential lots may sell their equitable rights to the open space back to the legal owner of the open space.

This interpretation is bolstered by the existence of an exception that is explicitly enumerated in the Ordinance. The exception, Section 16.50(D)(5), provides as follows:

*Limited Division Option.* For a property owner of at least ten acres, who desires to retain ownership and control of the dedicated open space, an option is available to allow for the retention of ownership and control rather than allowing all division owners the right to use the dedicated open space. This option is available only if the property owner agrees to apply for a division or divisions that would result in the creation of no more than a total

of two single-family homes. The property owner would still be required to create a division for the dedicated open space but the open space could continue to be owned by the property owner subject to compliance with the requirements otherwise imposed herein upon the dedicated open space.

Here, it appears that there are only two single-family homes in the district. At this time, we do not know if the property is (or was) at least 10 acres. But assuming that it is and that the original site plan for the district did not call for the main property owner to maintain control of the open space (because such is not the case currently), the main property owner could apply for changes or revisions to the approved plan by submitting a request to the Planning Commission, subject to the requirements of Section 16.50(J).

Please let me know if you have any additional questions.

MDH:KTB

88436:00001:7177466-3

# COHOCTAH TOWNSHIP

LIVINGSTON COUNTY, MICHIGAN

APPLICANT'S NAME DONALD STRUBLE

MAILING ADDRESS 5862 HAYNER RD DATE 2-7-06

FOWLERVILLE MI ZIP 48836

TELEPHONE NUMBER 517 881-8698 Home APPLICATION NUMBER 1186

FEES: CONCEPTUAL FEE (due with app) ..... \$400 pd 2/8/06  
 PRELIMINARY & FINAL REVIEW FEE (due before prelim meeting) \$850 pd 3/7/06  
 CONTINGENCY FESS (due before prelim meeting-refundable).. ..... \$800+ pd 3/7/06  
 LAND DIVISION FEE (\$50 PER PARCEL, due before final meeting) \$~~200~~ 200 pd 3/23/06

PLEASE NOTE: THIS APPLICATION AND FEE SCHEDULE DOES NOT INCLUDE LAND USES OR SITE PLAN REVIEW FOR PRIVATE ROADS AND/OR CONSOMINIUMS.

## APPLICATION FOR OPEN SPACE AND RURAL PRESERVATION DEVELOPMENT

RETURN TO:  
 COHOCTAH TOWNSHIP CLERK  
 1459 W COHOCTAH RD  
 PO BOX 278  
 COHOCTAH MI 48816-0278

REVISED  
 (#12) 3/2/06  
 \$ (#10)

1. Property owner (attach deed, land contract, or other evidence of ownership). DONALD STRUBLE
2. Tax I.D. number(s) 4702-18-100-005
3. Legal description of the property (attach if necessary) (Attached - Tax bill)
4. Number of splits currently available on parent parcel 4
5. Location of property (address or intersection) 5862 HAYNER RD
6. Zoning District AR



7. Parcel area in acres or square feet 16 ACRES
8. If any lakes, ponds, rivers, streams, water courses, wetlands, or drainage ways abut or pass through the property, please provide the following:
- a) Describe the type of water source POND
- b) Dimensions from water to boundary lines 75' from W + 200' from N line of Parcel #3
9. Percentage of parcel dedicated to open space 8 ACRES 50% SHARED 3 WAYS DS
10. Describe intended ownership (16.50 4D&E) ALL TO PARCEL #1
11. Describe the intended use of open space (16.50 6C) MOWED OR LEFT FOR WILDLIFE.
12. Describe how open space will be dedicated and set aside. (16.50 C4) REVISED ~~DEDICATED TO PARCEL #1~~  
SHARED 3 WAYS DS.
13. Number of single family dwellings proposed 2 NEW + 1 EXISTING
14. Access to homes by driveways or private road DRIVEWAYS
15. Is the project anticipated to be a condominium? NO

**Please initial the following:**

16. Applicant shall attach a conceptual drawing that identifies the following: DS
- ☒ a) buildable land areas
  - ☒ b) proposed open space
  - ☒ c) any unique features
  - ☒ d) residential building sites, including all current buildings and improvements
  - ☒ e) location of all neighboring homes contiguous to the parent parcel
17. Applicant shall have property corners staked by a surveyor prior to conceptual review. DS.
18. Applicant shall provide a full survey prior to the scheduled preliminary meeting.  
Surveyor \_\_\_\_\_ Job Number \_\_\_\_\_ DS.
19. Applicant shall provide documentation of dedicated open space for preliminary meeting. DS.
20. Applicant acknowledges that permits may be required from Livingston County's Drain Commission, Health Department, Road Commission, or the Michigan Department of Environmental Quality. DS
21. All applications, documents, fees, and supporting data must be received at least 10 working days prior to the scheduled meeting. DS



22. Applicant hereby grants consent to members or representatives of Cohoctah Township to enter onto the undersigned's property for purposes of inspection for conceptual review and for compliance with the zoning ordinance requirements.

D.S.

I/we understand that prior to the issuance of a land use permit, the owner/developer must submit to Cohoctah Township a copy of the recorded documents required by Section 16.50(7)C including the affidavit that sets forth the full legal description of the property specifying the date of Township approval and that all improvements will be carried out in accordance with the approved final site plan as well as any and all deed restrictions, easements, and any other documents necessary to be recorded to comply with the Cohoctah Township Zoning Ordinance and with the state law.

I/we hereby declare that all the above statements and information contained in this application and any attachments submitted herewith are true and accurate and I/we shall immediately inform Cohoctah Township in the event there is a change in any such information.

Donald Stuebel date 2-8-04  
signature of applicant

\_\_\_\_\_  
signature of owner, if different from applicant date \_\_\_\_\_

\*\*\*\*\*

TOWNSHIP USE ONLY

Application number 1186

Date completed application received 2/8/06, by Dean M. Shumer  
Cohoctah Township Clerk

Date submitted to Planning Commission 2/9/06

On site review observations: visited site on 2-19-06

All 4 corners of parent parcel were staked.  
35% of open space parcel wooded, with the  
remainder rolling fields.

by: Ron Smith P.C.

VICKI ATKINSON P.C.

Todd Thomas 2A.

date: 2-19-06

Conceptual meeting date: 3/2/06

Preliminary meeting date: 3-21-06

Action taken: Needs to make open space at  
Soast 8.01 acres.

Initialed #10 to show ownership  
to be shared.

Final meeting date: April 6, '06

FINAL APPROVAL OF APPLICATION NUMBER 1186:

Chairman signature Kranni Palmerton date 4-6-06

Secretary signature Debra M. Blainey date 4-6-06

P.C. ACTION: approve



9. Does the project meet the following standards of Section 16.50(8)(A-F)?

- A. The overall design and land uses proposed in connection with an Open Space and Rural Preservation development are consistent with its concept, and the specific design standards set forth herein. yes
- B. Open space should include irreplaceable natural features located on the parcel, such as, but not limited to, stream beds, wetlands, significant stands of trees and individual trees of significant size. The protection of these natural features complies with applicable environmental protection laws and regulations. yes
- C. Diversity and originality in lot layout and individual building design achieves the best possible relationship between the development and the land. yes
- D. The Open Space and Rural Preservation development is designed to minimize the impact of traffic generated by the proposed development on surrounding uses. yes
- E. The proposed Open Space and Rural Preservation development complies with all applicable federal, state, and local regulations to the best of our understanding. yes
- F. The proposed development is in compliance with the requirements of the provisions of the Open Space and Rural Preservation Development Ordinance. yes

Planning Commission Action

Motion By Charlotte to  
approve final for Struble Open Space  
per check list, initial #1 of declaration  
stating open space to be 8.01, and new  
survey to be recorded as exhibit A.  
Support By Atkinson. Motion  
Carried.

**COHOCTAH TOWNSHIP  
OPEN SPACE AND RURAL PRESERVATION**

**FINAL APPROVAL CHECKLIST**

(FOR PLANNING COMMISSION USE)

APPLICANT STRUBLE APPLICATION NUMBER 1186

FINAL MEETING DATE 4-6-06

1. Have the following issues from the preliminary meeting been addressed or has preliminary site plan approval been granted?

① at least 8.01 AC in Open Space

✓

② initial #10 - shared ownership

✓

on "Declaration of open space"  
we had from initial #1 to  
Read 8.01

✓

2. Have land split applications been submitted and fees paid?

yes

3. Have necessary documents been submitted to verify irrevocable conveyance of open space, and do such documents meet the approval of the Planning Commission and the township attorney?

yes

4. Do documents adequately provide for upkeep, maintenance, and costs for open space?

yes

5. Are private road or site condo approval processes completed?

N/A

6. Do documents adequately provide for upkeep, maintenance, and costs for shared driveways, roadways, and accessways?

N/A

7. Have final surveys and legal descriptions been submitted and reviewed?

yes

8. Does open space exclude any area devoted to a residential dwelling, minimum lot size, accessory use, vehicle access, parking, or roadway?

yes



RECORDED

The Grantor(s) PAULA R. STRUBLE, a married woman

, whose address is

5862 Hayner Road, Fowlerville, Michigan 48836quit-claim(s) to PAULA R. STRUBLE and DONALD W. STRUBLE,  
husband and wifewhose address is 5862 Hayner Road, Fowlerville, MI 48836the following described premises situated in the Township  
of Cohoctah, County of Livingston  
and State of Michigan:The South 1320 feet of the East 528 feet of the West half of the  
Northwest fractional quarter of Section 18, Town 4 North, Range 4  
East, Michigan.[This deed is exempt from Michigan Realty Transfer Tax pursuant to  
M.S.A. §7.456(5)[(a) and (o)].for the sum of No dollars and 00/100 (\$0.00)Dated this 28th day of October, 19 88

Signed in presence of:

Barbara B. Spellman  
• BARBARA B. SPELLMANSusan A. Blonde  
• SUSAN A. BLONDE

Signed by:

Paula R. Struble  
• PAULA R. STRUBLESTATE OF MICHIGAN. }  
COUNTY OF INGHAM } ss.The foregoing instrument was acknowledged before me this 28th day of October,  
19 88, by Paula R. StrubleBarbara B. Spellman  
• BARBARA B. SPELLMAN  
Notary Public, Eaton acting in Ingham County,  
Michigan  
My commission expires: FEBRUARY 12, 1990

When Recorded Return To:

(Name)

(Street Address)

(City and State)

Send Subsequent Tax Bills To:

Drafted By:

Raymond L. Scodeller  
Attorney at Law

Business Address:

222 W. Genesee Street  
Lansing, MI 48933Tax Parcel # 02-18-100-005-401-47030 Recording Fee \_\_\_\_\_ Transfer Tax \_\_\_\_\_

• TYPE OR PRINT NAMES UNDER SIGNATURES.

Nov 1 1 03 PM '88

NANCY HAVILAND  
REGISTER OF DEEDS  
LIVINGSTON COUNTY, MI  
48843



Print Date: 12/28/2005

2005

Recpt Date: 12/28/2005

Official Winter Tax Receipt

Recpt No: 00000734

COHOCTAH  
4702-18-100-005

COHOCTAH TOWNSHIP  
TAMI BOCK, TREASURER  
6153 BYRON ROAD  
HOWELL MI 48855

Received of:  
STRUBLE, DONALD W & PAULA R  
5862 HAYNER RD  
FOWLERVILLE MI 48836

TAXABLE: 82,164, SEV: 126,100, SCHL: 47030

P.R.E.: 100.0000 CLASS: 401

Previous Payments			Previous Payments		
Date	Chk #	Amount	Date	Chk #	Amount

\*\* CURRENT PAYMENT \*\*

Date	Chk #	Amount
12/28/2005	7275	1,431.50

Total Recvd 1,431.50

DETAILED BREAKDOWN OF BILLING/PAYMENTS FOR 4702-18-100-005

Heading	Mills	Tax Billed	Total Paid	Balance
COUNTY ALLOCATED	2.27170	186.65	186.65	0.00
COUNTY AMBULANCE	0.27990	22.99	22.99	0.00
HCMA - PARKS	0.21460	17.63	17.63	0.00
COHOCTAH ALLOC	0.87020	71.49	71.49	0.00
COHOCTAH ROADS	1.44040	118.34	118.34	0.00
FO SCHOOL OPER	18.00000	0.00	0.00	0.00
FO SCHOOL DEBT	8.34000	685.24	685.24	0.00
LIVINGSTON ISD	2.35070	193.14	193.14	0.00
FO LIBRARY	0.40730	33.46	33.46	0.00
HO FIRE AUTH	1.07580	88.39	88.39	0.00
Admin Fee		14.17	14.17	0.00
Interest/Pen		0.00	0.00	0.00
Over Payments		0.00	0.00	0.00
Totals----->	35.25060	1,431.50	1,431.50	0.00

Addr: 5862 W HAYNER RD

Property Description:

SEC 18, T4N,R4E, THE S 1320 FT OF E 528 FT OF W 1/2 OF NW 1/4 16 AC M/L

TO:STRUBLE, DONALD W & PAULA R  
5862 HAYNER RD  
FOWLERVILLE MI 48836

320

2.61 AC.  
PARCEL #3

BARN

HOUSE

POND

PUMP  
HOUSE

—528'—  
PARCEL #4  
OPEN SPACE

16 AC. TOTAL  
8 AC. OPEN SPACE  
9 AC. WOODS  
7 AC. ROLLING

WOODS

—250—

—184—

—1201—

—462—

3.38 AC.  
EASEMENT INCLUDED  
PARCEL #1

1.95 AC.

PARCEL #2

—545—

—425—

—66'—

—262—

—113— DRIVE

—200'—

75' DRIVE

← OWOSSO RD 500' W.

HAYNER RD

HOUSE ON EAST  
SIDE - BOB  
HOISINGTON



DON STROBLE  
5862 HAYNER RD  
FOWLERVILLE, MI  
48836  
HOME 223-8268  
CELL 517 881-8622

## DECLARATION OF OPEN SPACE RESTRICTIONS

This Declaration of Open Space Restrictions is made this 23 day of March, 2006, by Donald W. Struble and Paula R. Struble, husband and wife, ("Strubles") whose address is 5862 Hayner Road, Fowlerville, Michigan 48836, Owner and Developer.

### **RECITALS**

WHEREAS, Strubles are the Owner and Developer of certain real property consisting of 16.01 acres more or less located in Cohoctah Township, Livingston County, Michigan, as more particularly described hereinafter in attached Exhibit "A".

WHEREAS, the Owner and Developer in conjunction with development of said real estate are desirous of reserving an open space area with restrictive use in respect to said development of Parcels 1-3.

NOW, THEREFORE, in consideration of the mutual benefits to be received by the Owner, Developer, successors and assigns and all intended purchasers and future owners of the various parcels, mortgagees and lenders, Owner, Developer hereby grants and imposes these use restrictions in respect to the described real property described in Exhibit "A".

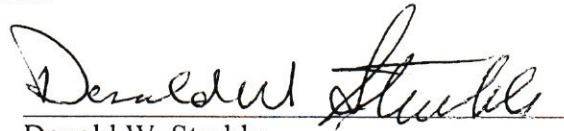
### **RESTRICTIONS**

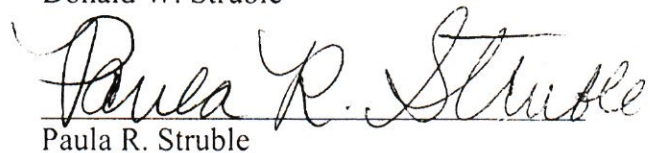
1. *Use.* The area described as open space in Exhibit "A" containing <sup>8.01 DS</sup>~~8.005~~+ acres is hereby restricted to non-development and it shall be perpetually preserved in its present condition for the purpose of conservation of the natural or scenic resources and shall be used for walking and hiking purposes and no other use is allowed.
2. *Maintenance.* The open space area shall be maintained as reasonable and necessary to promote the intended purpose of conservation of the natural and scenic resources. In the event that any maintenance is necessary, decisions for such maintenance shall be made by a majority vote of owners of Parcels 1-3 and any cost associated with maintenance shall be pro-rationally divided amongst said owners.
3. *Reciprocal Rights.* It is intended that the open space area be a reciprocal benefit with reciprocal rights to Parcel owners 1-3 and any one of such parcel owners shall have the right to enforce the provisions of these use restrictions and the responsibilities set forth in



this instrument shall be perpetual and shall run with the land and may be modified or amended only by written instrument signed by all of the owners of the Parcels. No amendment to these restrictions can affect a right of Cohoctah Township without the Township's consent.


IN WITNESS WHEREOF the undersigned have executed this Declaration of Open Space Restrictions as of this 23 day of March, 2006.

  
Donald W. Struble

  
Paula R. Struble

STATE OF MICHIGAN                    )  
  ) SS.  
COUNTY OF LIVINGSTON            )

On the 23 day of March, 2006, before me personally appeared Donald W. Struble and Paula R. Struble, husband and wife, being first duly sworn depose and state that they have read the foregoing DECLARATION OF OPEN SPACE RESTRICTIONS by them subscribed and that they sign same as their own free act and deed.

  
Notary Public,  
Livingston County, Michigan  
Acting in Livingston County, Michigan  
My Commission Expires: 8-2-08

**ELAINE L. STRUBLE**  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF INGHAM  
My Commission Expires Aug. 2, 2008  
Acting in the County of Ingham

Prepared by:  
Alan J. Czekaj, Esq.  
PO Box J  
New Hudson, MI 48165

When Recorded Return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **USE AND BUILDING RESTRICTIONS**

This Declaration of Use and Building Restrictions is made this 23 day of March, 2006, by Donald W. Struble and Paula R. Struble, husband and wife, ("Strubles") whose address is 5862 Hayner Road, Fowlerville, Michigan 48836, Owner and Developer.

### **RECITALS**

**WHEREAS**, Strubles are the Owner and Developer of certain real property consisting of three (3) parcels and an open space area located in Cohoctah Township, Livingston County, Michigan, and described in Exhibit "A" attached hereinafter.

**WHEREAS**, the Owner and Developer is desirous of recording certain Use and Building Restrictions in respect to said development for Parcels 1-3.

**NOW THEREFORE**, in consideration of mutual benefits to be received by the Owner, Developer, successors and assigns and all intended purchasers, future owners of the various parcels, mortgagees and lenders, Owner, Developer hereby grants and imposes these use and building restrictions in respect to the described real property described in Exhibit "A" (Parcels 1 through 3).

### **SECTION 1 USE AND BUILDING RESTRICTIONS**

- 1.1 *Residential use.* Parcels and divisions thereof shall be used solely for the construction of one (1) single-family residence and shall be limited in use to single-family residential purposes. No dwelling shall be erected on any parcel unless it is constructed with an attached garage for at least two (2) cars.
- 1.2 *Area of Dwellings.* The dwellings to be erected on each parcel shall have the minimum square footage of living area, to wit:

Dwellings of one story	1400 square feet
Dwellings of two stories	2000 square feet

Attached two-car garage is mandatory.

In computing the minimum total living area, porches, breezeways, terraces, basements and garages shall not be included. No single family residence which does not meet the BOCA Building Code shall be erected or placed on any parcel. All roof pitches will be a minimum of five/twelve (5/12) pitch.



Detached accessory buildings will be permitted upon each parcel, provided that the accessory building complies with the Accessory Building Provisions, Cohoctah Township Zoning Ordinance; and provided further, that the accessory building be built of similar siding and roof material as the single family residence.

- 1.3 *Zoning Compliance.* All dwellings and any other structures shall be in compliance with a Lot line setback requirements and all other applicable requirements of the Cohoctah Township Zoning Ordinance, as amended, as it is in existence at the time of construction, or any other applicable municipal zoning requirements substituted therefore as well as restrictions stated herein.
- 1.4 *Maintenance.* Each parcel owner shall maintain the exterior of all improvements on any parcel and the parcel itself in a neat and attractive manner and in good condition and repair.
- 1.5 *Landscaping.* The owner of each lot shall develop a landscape treatment which will tend to enhance, complement and harmonize with adjacent property. New planting should complement and enhance the character of the existing vegetation, topography and structures.
- 1.6 *Repair of Damaged Buildings.* In the event that any building is damaged or destroyed by fire or other casualty, the building shall either be repaired or removed within six (6) months after the occurrence of such damage or destruction.
- 1.7 *Signs and Billboards.* No sign or billboard shall be placed or maintained on any residential lot except that one sign advertising the lot, or house and lot for sale or lease, and having not more than 8 square feet of surface, and not exceeding 4 feet in height above the ground may be erected and maintained on any lot.
- 1.8 The purpose of these restrictions are to maintain the value of the parcels in a manner consistent with environmental, aesthetic and residential standards. To accomplish this, these building and use restrictions, covenants and conditions are contained upon and for the benefit of said parcels. All buyers and subsequent owners must accept such parcels subject to these restrictions and conditions. These restrictions shall run with the land and shall be binding upon the heirs, administrators, executors, successors and assigns of the owners of such parcels as indicated hereinabove.

## **SECTION 2 AMENDMENTS**

- 2.1 The Use and Building Restrictions and responsibilities set forth in this instrument shall be perpetual and shall run with the land and may be modified or amended only by a written instrument signed by the owners of at least two-thirds (2/3) of the parcels, as well as the Developer, if the Developer still owns any of the parcel, and any governmental body or government agency having jurisdiction. No amendment to these restrictions can affect a right of Cohoctah Township without the Township's consent.
- 2.2 All descriptions contained herein are made pursuant to Garlock-Smith Professional Surveyors dated February 27, 2006.

IN WITNESS WHEREOF the undersigned have executed this USE AND BUILDING RESTRICTIONS as of this 23 day of March, 2006.

Donald W. Struble

Donald W. Struble

Paula R. Struble

Paula R. Struble

STATE OF MICHIGAN )

) SS.

COUNTY OF LIVINGSTON )

On the 23 day of March, 2006, before me personally appeared Donald W. Struble and Paula R. Struble, husband and wife, being first duly sworn depose and state that they have read the foregoing USE AND BUILDING RESTRICTIONS by them subscribed and that they sign same as their own free act and deed.

Elaine L. Struble

Notary Public,

Livingston County, Michigan

Acting in Livingston County, Michigan

My Commission Expires: 8-2-2008

ELAINE L. STRUBLE  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF INGHAM  
My Commission Expires Aug. 2, 2008  
Acting in the County of Ingham

**Drafted By:**

Alan J. Czekaj

PO Box J

New Hudson, MI 48165

**When recorded return to:**

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