



**THE CITY OF THE VILLAGE OF DOUGLAS  
PLANNING COMMISSION  
THURSDAY, MAY 09, 2024 AT 7:00 PM  
86 W CENTER ST., DOUGLAS MI**

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**AGENDA**

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**To view remotely, join online or by phone.**

**Join online by visiting:** <https://us02web.zoom.us/j/84100073894>

**Join by phone by dialing:** +1 (312) 626-6799 | **Then enter "Meeting ID":** 841 0007 3894

**1. CALL TO ORDER**

**2. ROLL CALL**

**A. Election of Officers**

Call for Nomination of Officers (City Clerk)

- a. Nomination(s) for Chair - *Motion to Approve - voice vote*
- b. Nomination(s) for Vice Chair - *Motion to Approve - voice vote*
- c. Nomination(s) for Secretary - *Motion to Approve - voice vote*

**B. Approval of Agenda - May 9, 2024 (additions/changes/deletions)**

*Motion to approve the May 9, 2024 agenda*

**C. Approval of Minutes - April 11, 2024 (additions/changes/deletions)**

*Motion to approve the April 11, 2024 minutes*

**3. PUBLIC COMMUNICATION - VERBAL (LIMIT OF 3 MINUTES)**

**4. PUBLIC COMMUNICATION - WRITTEN**

**A. Letter - Isabel's**

**5. NEW BUSINESS**

**A. 6825 Wiley Rd – Zoning of an Annexed Unzoned Parcel to R-5, Multiple Family District - Public Hearing**

*-Motion to Open Public Hearing - voice vote*

- a. Planning and Zoning Administrators Report

- b. Public Comments (limit 3 minutes each, please)
- c. Planning Commissioner Remarks

*-Motion to Close Public Hearing - voice vote*

**B.** Amendment to Zoning Ordinance Section 16.16(3)(a) & 16.16(3)(b) Swimming Pools - Public Hearing

*-Motion to Open Public Hearing - voice vote*

- a. Planning and Zoning Administrators Report
- b. Public Comments (limit 3 minutes each, please)
- c. Planning Commissioner Remarks

*-Motion to Close Public Hearing - voice vote*

**6. UNFINISHED BUSINESS**

**7. REPORTS**

- A. Planning and Zoning Administrator Report
- B. Planning Commissioner Remarks (limit 3 minutes each, please)

**8. PUBLIC COMMUNICATION – VERBAL (LIMIT OF 3 MINUTES)**

**9. ADJOURNMENT**

Motion to adjourn the meeting.

**Please Note – The City of the Village of Douglas (the “City”) is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of this meeting or the facilities, are requested to contact Laura Kasper, City Clerk, at (269) 857-1438, or [clerk@douglasmi.gov](mailto:clerk@douglasmi.gov) to allow the City to make reasonable accommodations for those persons. CITY OF THE VILLAGE OF DOUGLAS, ALLEGAN COUNTY, MICHIGAN**



**THE CITY OF THE VILLAGE OF DOUGLAS  
PLANNING COMMISSION  
THURSDAY, APRIL 11, 2024 AT 7:00 PM  
86 W CENTER ST., DOUGLAS MI**

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**MINUTES**

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**1. CALL TO ORDER:** By Chair Buszka

**2. ROLL CALL:** By Clerk Kasper

**PRESENT**

Commissioner John O'Malley

Commissioner Neal Seabert

Chair Paul Buszka

Vice-Chair Louise Pattison

Commissioner Matt Balmer

Commissioner Patty Hanson

Also Present City Clerk Laura Kasper

Planning & Zoning Administrator Sean Homyen

Williams & Works Consultant Tricia Anderson

**ABSENT**

Secretary Kelli Heneghan

A. Approval of Agenda - April 11, 2024 (additions/changes/deletions)

B. Approval of Minutes - March 14, 2024 (additions/changes/deletions)

*Motion by Seabert, second by O'Malley, to approve the April 11, 2024 Agenda, and the March 14, 2024 Minutes. – Motion carried by majority roll call vote.*

*Voting Yes: Buszka, Hanson, O'Malley, Pattison, Seabert.*

*Voting Nay: None.*

*Abstain: Balmer*

**3. PUBLIC COMMUNICATION - VERBAL (LIMIT OF 3 MINUTES):** Mary Fechtig, co-owner of Isabel's mentioned past dispute with parking lot and easement that was resolved and strongly opposes 319 Ferry Street plans.

**4. PUBLIC COMMUNICATION – WRITTEN:** A communication was received from Isabel's after agenda packet publication and distributed to Commissioners opposing 319 Ferry Street plan. The written communication will be added to the next meeting agenda.

**5. NEW BUSINESS**

- A. Lakewood Construction (319 Ferry St) Presentation – Discussion Only - A memorandum was provided to the Planning Commission from Tricia Anderson, with Williams & Works, giving background information and information related to some of the items City administration is working with the applicant to resolve. Mr. Max Nykerk, of Lakewood Construction, on behalf of property owner, AMK Holdings, LLC., submitted an application for Site Plan Review of a 6-unit townhome development on a one-acre parcel located at 319 Ferry Street. This item is for discussion purposes only as the applicant has requested to be added to the agenda to simply introduce the project as they work to seek compliance with some of the required site plan elements. Mr. Nykerk discussed the project and addressed Commissioner questions and concerns.

**6. UNFINISHED BUSINESS**

- A. Master Plan Goals and Objectives - Discussion Only – Tricia Anderson, Williams & Works drafted a goals and objectives worksheet for the Master Plan discussion and is in process of drafting a future land use map.

**7. REPORTS**

- A. Planning and Zoning Administrator Report - Sean Homyen, Planning & Zoning Administrator requested for the City owned property (6825 W Wiley Rd) to be zoned to R-5 and for an amendment to Section 16.16(3)(a) and 16.16(3)(c) to align with the 2015 International Swimming Pool Code that Michigan Township Services (MTS) administers.
- B. Planning Commissioner Remarks – Discussed holding a 5:30pm Master Plan workshop prior to the Commission meeting next month. In addition, May will be the Commission organizational meeting.

**8. PUBLIC COMMUNICATION – VERBAL (LIMIT OF 3 MINUTES):** No communication received.**9. ADJOURNMENT**

Motion by Seabert, second by Pattison, to adjourn the meeting.



# ISABEL'S

MARKET + EATERY

April 11, 2024

**VIA HAND DELIVERY**

Planning Commission  
City of the Village of Douglas  
City Hall  
86 W. Center Street, Douglas, MI

Re: AMK Holdings, Inc. - Site Plan Review (319 Ferry Street)  
NOTICE OF OPPOSITION OF PLAN APPROVAL

Dear Commissioners,

I am the Co-Managing Partner of Isabel's Market & Eatery and the holding company that owns the 310 Blue Star Highway property. I write on behalf of myself and the other owners to lodge our opposition to approval of the above-referenced Site Plan.

As some of you may know, about 5 years ago we purchased the 310 Blue Star property (which was vacant and in ill-repair) in an effort to invest in our community. Eventually, we also created a market/catering concept and a brand based on a local woman (Isabel Graham) who "planted a seed" here decades ago. To bring this to life, we hired legal, financial, and environmental consultants and a local architectural firm (Studio Two) to put together our own Site Plan.

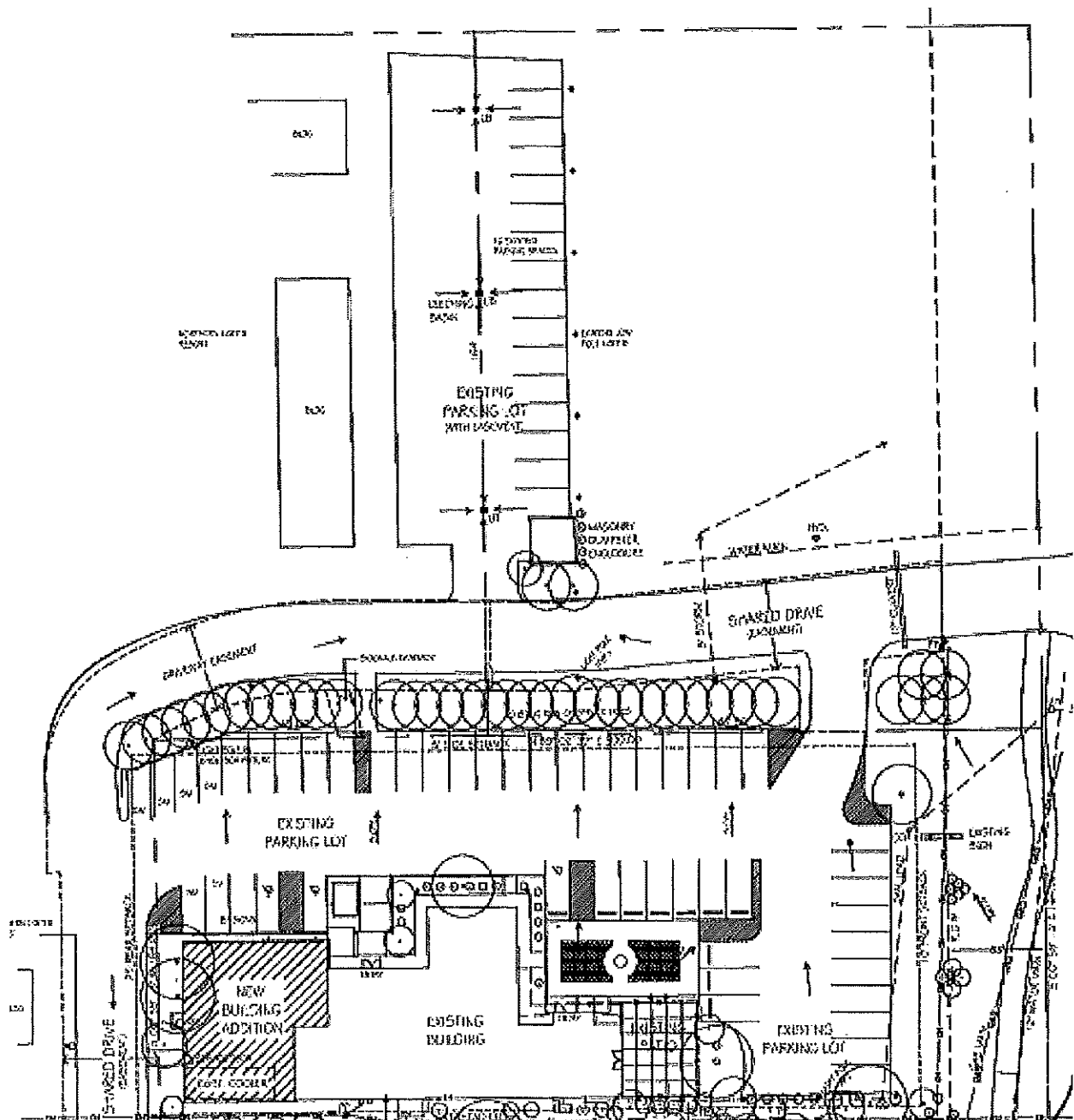
As part of the Site Plan, we were required to calculate the parking requirements necessary for Isabel's (our market, kitchen, and new event space), as well as for the two residential apartments sitting above it. Based on our calculations, 52 parking spaces were required. Our Site Plan provided for 65 spaces -- 49 at the 310 Blue Star property and 16 in a shared parking lot located to the north.<sup>1</sup> Our right to use the shared lot, we understood, was via an easement established in a 2006 Stipulated Settlement Agreement between Northern Lights and the former owners of 310 Blue Star. That Agreement allowed Northern Lights and the 310 Blue Star owners to agree to share the lot in a manner suitable to them. This happened

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<sup>1</sup> We have since utilized 3 of the 49 parking spaces at the 310 Blue Star property to accommodate an outdoor bar area, reducing the total current number to 62 spaces.

in early 2007, with Northern Lights taking the western half of the lot and the 310 Blue Star owners taking the eastern half of the lot. To my knowledge, the parking lot has existed and been shared in that manner since 2007 -- some 17 years and counting. Importantly, the eastern half of the lot is situated on the 319 Ferry Street property at issue.

Our Site Plan (03-59-017-089-50) was presented for approval in a Planning Commission meeting held on December 11, 2019. The Plan included a schematic showing the eastern half of the shared parking lot ("EXISTING PARKING LOT (with easement)") located on the 319 Ferry Street parcel with "16 existing parking spaces" designated to be used by Isabel's:

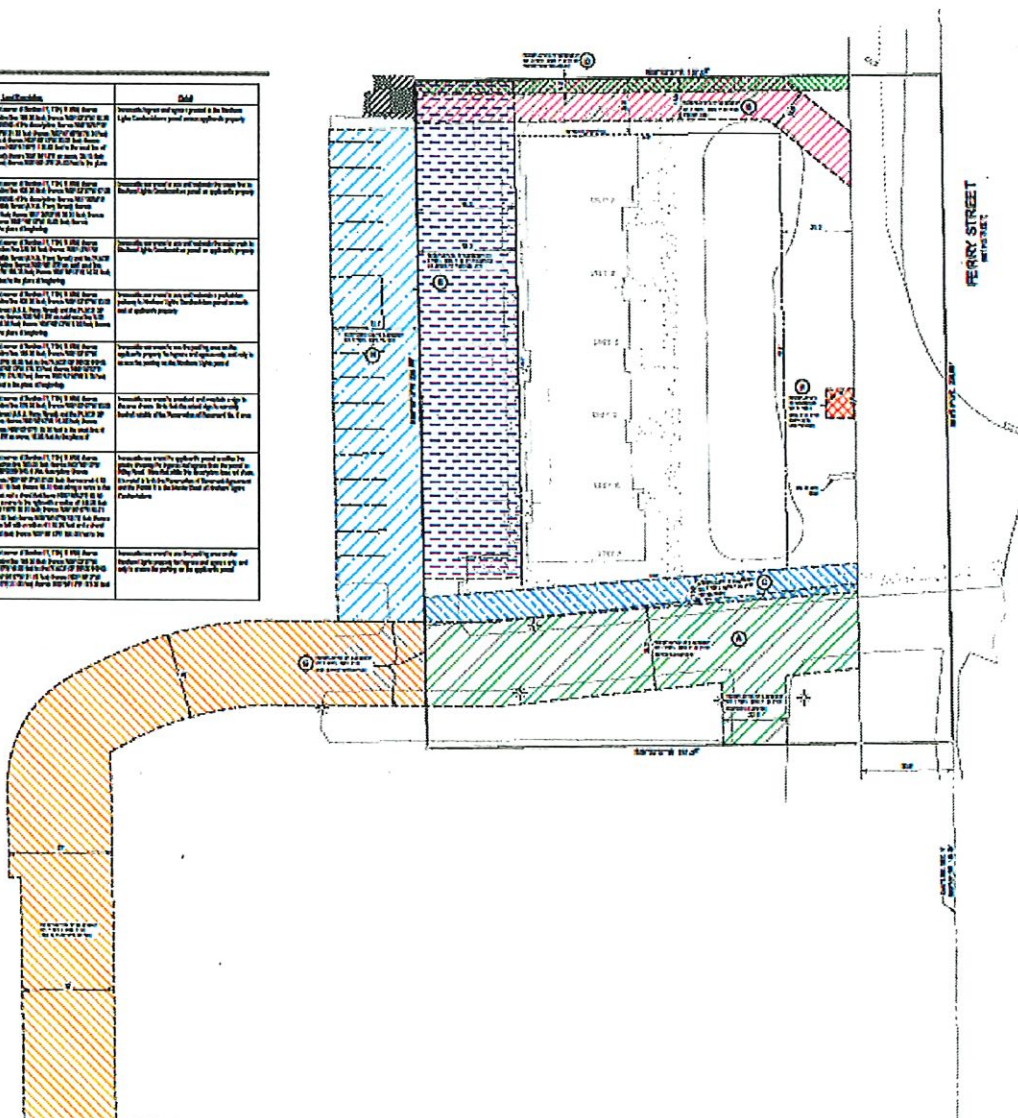




See Site Plan, attached. The Meeting Minutes reflect that 6 individuals provided comments (in writing or in person) regarding the Plan. The 319 Ferry Street property owner (then Donna Agnew, who had purchased the property for \$21,000 in 2018) was not among them. In addition, we presented our Plan to the Commission in person with the Minutes noting that we were "very excited to start construction" and that our "business concept will be a market with a mid-sized event space." After consideration, the Commission unanimously approved our Plan, noting as a condition "confirmation that the seating and use capacity meets the required parking area allocation." See Minutes, attached. Subsequently, that condition was confirmed, and we were given the green light for the project, based in part on the right to use the eastern half of the shared parking lot.

As for the extant Site Plan under review, the Williams & Works Memorandum dated April 4, 2024 contains a schematic of the proposed project, which includes a Table entitled "Easement Detail Notes." It is unclear who prepared the Table, but the section designated in purple, directly conflicts with the Isabel's Site Plan approved by the Commission in 2019:

### EASEMENT DETAIL NOTES

[illegible]

The Memorandum states:

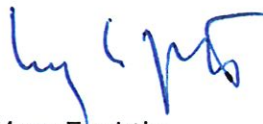
The purpose of the applicant's inclusion of the court settlement and the descriptions of all the easement permissions and benefitting parties **is [merely] to demonstrate the applicant's right to lawful access to the subject parcel.**

Memorandum, Page 3 (emphasis added). The source of this information is unknown. However, the Memorandum further reflects that Williams & Works has "suggested that the applicant connect with the owners of Isabelle's [sic] or the Northern Lights Condo Association since the three parcels are affected by established parking and traffic circulation patterns, and changes to the subject site may have an impact on these elements." Id.

About a month ago, we received a letter from an attorney representing AMK Holdings. The attorney indicated that AMK (which purchased the lot last year from Donna Agnew for \$140,000) was contesting Isabel's right to use the eastern half of the shared parking lot. We responded laying out the basis for our rights -- including language found in the 2006 Stipulated Settlement Agreement and the long-term historical usage (again, 17 years and counting). Meanwhile, we have spoken with AMK's General Manager to try to work out a resolution, but so far have not been successful.

As most of you know, after nearly 4 years of operations, we are now looking to pass the torch to a next generation of ownership to build on our successes and take Isabel's into the future. It is, therefore, disturbing to us that in the midst of that process, we are having to address a potential legal dispute over something we believed was settled long ago. For our part, we intend to do everything possible to resolve this dispute with the AMK Holdings without the need for litigation. For your part, in light of the fact that this body previously approved our Site Plan, based in part on our right to use the eastern half of the shared parking lot situated on 319 Ferry, we would ask that you table any consideration of the AMK's application until such time as our dispute with them is resolved.

Sincerely,



Mary Fechtig  
Co-Managing Partner  
Halas Holdings, LLC  
Halas, LLC (d/b/a Isabel's Market & Eatery)

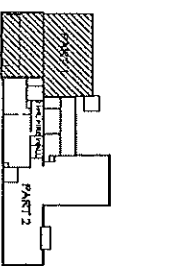
Encls.

Isabel's Site Plan Excerpts  
Planning Commission Meeting Minutes (December 11, 2019)



STUDIO

- GENERAL**  
OF COVER SHEET & INTRODUCTION
- SITE**  
1 SITE PLAN, LOT & STREET WATER PLUM  
2 NOT INCLUDED  
3 LAYOUT & PLUMBING PLAN (NOT INCLUDED)
- STRUCTURAL**  
NOT INCLUDED
- ARCHITECTURAL**  
1 FLOOR PLAN PART 1  
2 FLOOR PLAN PART 2  
3 FLOOR PLAN PART 3 (NOT INCLUDED)  
4 FLOOR PLAN PART 4  
5 SECTION ELEVATION PART 1 (NOT INCLUDED)  
6 DETAILS PART 1  
7 DETAILS PART 2 (NOT INCLUDED)
- MECHANICAL**  
NOT INCLUDED
- ELECTRICAL**  
NOT INCLUDED
- PLUMBING**  
NOT INCLUDED



The logo for Studio Two, featuring the word "STUDIO" in a large, bold, sans-serif font, with the word "TWO" in a smaller, bold, sans-serif font directly below it. The text is white and set against a dark, textured background that appears to be a close-up of a film strip or a similar material.

ARCHITECTURE  
LANDSCAPE  
ARCHITECTURE

452 FREEMONT ST., BOX 653  
DOLGAS, MICHIGAN 49406  
269.455.5593  
WWW.STUDIOS-317A.COM

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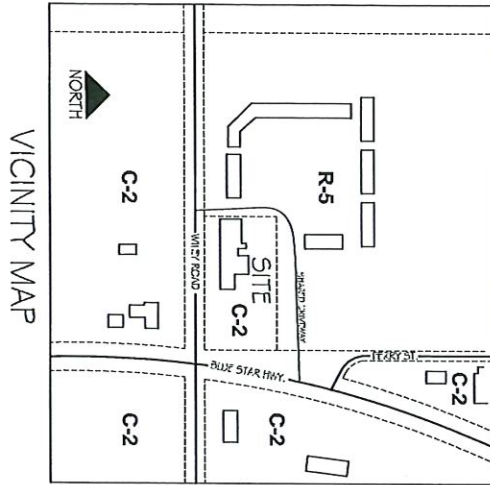
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THE NATIONAL SYSTEM OF THE DEPARTMENT OF THE ARMY IS TO BE REORGANIZED TO ACCORD WITH THE GENERAL PRINCIPLES OF THE ARMY.

PART 1  
COVER SHEET  
& NOTES

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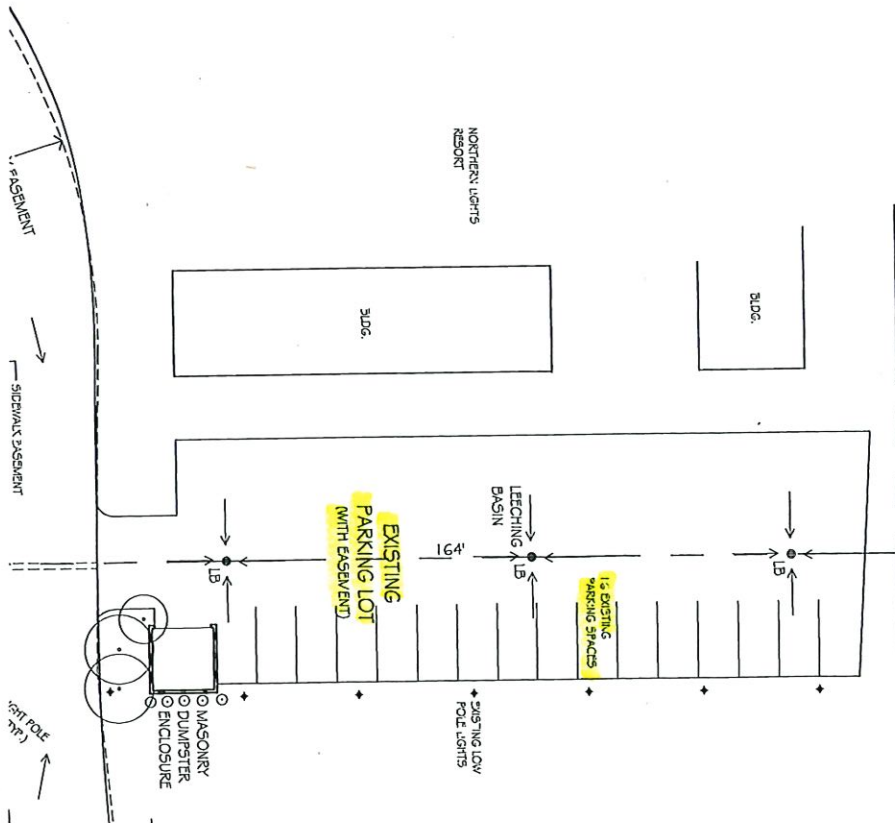




VICINITY MAP

PROJECT DATA:  
 SITE AREA: 1.13 ACRES  
 ZONING: C-2 AND IN COMPLIANCE WITH THE TRC COMMUNITY PLAN FOR USE AS COMMERCIAL.  
 USE: COMMERCIAL - MARKET & EVENT SPACE AND TWO RESIDENTIAL UNITS (1- ONE BEDROOM UNIT+ 1- EFFICIENCY UNIT)  
 STORIES: 2 STORY (RESIDENTIAL ON SECOND FLOOR)  
 EXISTING BUILDING AREA: 6,474 S.F.  
 FIRST FLOOR COMMERCIAL: 4,388 S.F.  
 SECOND FLOOR RESIDENTIAL: 1,886 S.F.  
 PROPOSED BUILDING AREA: 8,824 S.F. (EXISTING + 2,350 S.F. FIRST FLOOR ADDITION)  
 MARKET AREA: 3,752 S.F.  
 CIRCULATION / RESTROOMS / KITCHEN / STORAGE: 1,750 S.F.  
 EVENT SPACE: 1,436 S.F.  
 BUILDING LOT COVERAGE: 14.10% (6,938 S.F. ON FIRST FLOOR)  
 PAVEMENT LOT COVERAGE: 47.95% (EXCLUDES PUBLIC SIDEWALK & STREET IN CALCULATION)  
 IMPERVIOUS AREA: 62.05% (EXCLUDES PUBLIC SIDEWALK & STREET IN CALCULATION)  
 LOT COVERAGE CHANGE: 0.27% (THE PROPOSED DEVELOPMENT INCREASED IMPERVIOUS AREA BY 132.17 S.F.)

PARKING REQUIREMENTS: 52 SPACES  
 MARKET: 19 SPACES (3,752 S.F. @ 1 SPACE PER 200 GROSS S.F.)  
 KITCHEN: 3 SPACES (7 PEOPLE @ 1 SPACE PER 3 PEOPLE)  
 EVENT SPACE: 26 SPACES (77 SEATS @ 1 SPACE PER 3 SEATS)  
 RESIDENTIAL: 4 SPACES (2 SPACES PER UNIT)  
 PROVIDED PARKING: 65 SPACES (67 REGULAR SIZE, 3 BARRIER FREE, 5 SMALL CAR SPACES)  
 LOADING ZONES: 1





**PLANNING COMMISSION  
CITY OF THE VILLAGE OF DOUGLAS  
CITY HALL - 86 W. CENTER STREET, DOUGLAS, MI  
WEDNESDAY, DECEMBER 11<sup>TH</sup>, 2019 – 7:00 P.M.**

**MINUTES**

- A. Call to Order:** Vice-Chair Louise Pattison called the meeting at 7:00 PM
- B. Roll Call:** – Buszka, Pattison, Stewart, Seabert, McWebb  
Absent – Heneghan  
Also Present – City Planner, Lisa Imus
- C. Agenda Approval** – Kenny, with support from Seabert, made a motion to approve the Planning Commission Agenda for December 11th, 2019 as amended. (amendment to #2 under New Business changed to 435 Blue Star Highway, Koi Holdings, LLC) Motion approved by acclimation.
- D. Approval of Minutes** – Seabert, supported by Stewart, made a motion to approve the Planning Commission Minutes of October 9<sup>th</sup>, 2019 and November 13<sup>th</sup>, 2019 as presented. Motion approved by acclimation.
- E. Written Communications:** None
- F. Public Comment related to agenda items only** (limit 2 minutes per person)  
Robin Bauer, 36 Center St. is in support of and recommends final approval of the new business at 310 Blue Star Highway.
- G. New Business:**
1. **Site Plan Review of 310 Blue Star Highway (03-59-017-089-50).....Public Hearing**
    - a. Declare Public Hearing open - Pattison opened the public hearing. Stewart recused himself from the chamber room due to a conflict of interest.



- b. Presentation by applicant – Vicki Cobb presented the site plan for 310 Blue Star Highway. They are very excited to start construction. Their business concept will be a market with a midsized event space. Planning to open in April of 2020.
- c. Public Comments – Lisa received 5 letters:
1. Danny Esterling, Dunes Resort & Northern Lights Condominium Complex Owner, is in support of the site plan.
  2. Frederick Royce, neighboring business owner, is in support of the site plan.
  3. Jodi Welscot, Huntington Bank employee and West Michigan Blue Star Chamber of Commerce member, is in support of the site plan.
  4. Kathy Shroder, Northern Lights Condominium condo owner, had concerns about hours of operation, parking, and pool rights and would like to see signs stating private property.
  5. Dick Waskins, RE/MAX of Saugatuck/Douglas realtor, is in support of the site plan.
- d. Declare Public Hearing closed – Pattison closed the public hearing.
- e. Planning Commission review and consideration of a motion to approve / conditionally approve / deny / table the request for Site Plan Approval on 310 Blue Star Highway

Motion by Kenny, with support from Buszka, to approve the 310 Blue Star Highway site plan as presented with the following conditions; exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets, signage shall fully comply with the City Sign Ordinance, dumpster enclosure doors must be added to the dumpster enclosure, fire department approval is obtained, as well as confirmation that the seating and use capacity meets the required parking area allocation, and all required permits are obtained and receipts are forwarded to the City. Motion approved by unanimous roll call vote.

2. 435 Blue Star Highway, Koi Holdings, LLC.....Follow Up  
Dave Setzke and Ethan Del Stone, owners of Koi Holdings, LLC requested more clarity on the requirements regarding outstanding site plan deficiencies that are holding up their Final Certificate of Occupancy (they have a temporary Certificate of Occupancy). They are seeking their Final

Certificate of Occupancy due to state regulations and financial challenges regarding medical marihuana. Imus stated they will need to correct the items that are deficient before a Final Certificate of Occupancy can be issued, unless a) Planning Commission would opt for a performance guarantee to be secured pursuant to Section 23.06 for the amount of the cost of landscaping to be released only after the landscaping is completed or Planning Commission approves for the final landscaping to be delayed until the adjacent properties also install the same landscaping element. 435 Blue Star Highway will be tabled to the January 8, 2020 Planning Commission meeting to see if they have complied with all site plan deficiencies.

**3. 2020 Planning Commission Schedule.....Approve Schedule**

Kenny, supported by Buska, made a motion to approve the Planning Commission 2020 Calendar as presented. Motion approved by acclimation.

**H. Unfinished Business**

**1. Sign Ordinance.....Committee Report**

Kenny stated that the committee has met and is making progress. Imus stated that due to the increased pressure to pass the recreational marihuana ordinance the sign ordinance will be put on temporary hold.

**I. Hear from the Audience:** Dave Setzke offered his lawyer's assistance with point system information for recreational marihuana from other cities.

**J. Commissioner Comments:**

Stewart voiced concerns about the complexity of site plan requirements in the zoning ordinance. Seabert, Kenny, Buska, McWebb – Wished all a happy holiday season.

**K. Adjournment:** Kenny, supported by Seabert, made a motion to adjourn meeting. Motion approved by acclamation at 8:55 p.m.

**Respectfully Submitted by Jenny Pearson, Deputy Clerk**

**To:** City of the Village of Douglas Planning Commission

**Date:** April 19, 2024

**From:** Sean Homyen, Planning & Zoning Administrator

**RE:** 6825 Wiley Road – Zoning of Annexed Parcel



*The Village of Friendliness – Since 1870*

**Background.** The parcel located at 6825 Wiley Road is a 16.77-acre (73,0501.2 square feet) parcel that the City of Douglas annexed and purchased in 2013 from Saugatuck Township. The parcel was originally planned for the construction of a new DPW building, however, this plan never came to fruition and continues to be vacant.

The procedure to annex land from another jurisdiction is outlined in the Home Rule City Act (Public Act 279 of 1909). Section 16.05 of the Zoning Ordinance further provides procedures for the zoning land that the City annexes. Section 16.05, Zoning of Annexed Lands states:

*Whenever any portion of any township becomes a part of the City or whenever any territory is annexed to and becomes part of the City, the then-existing zoning regulations for the territory being incorporated into the City shall remain in full force and effect for a period of 2 years after incorporation or annexation unless the Douglas City Council shall lawfully adopt other zoning regulations ordinances.*

According to Section 16.05, the Saugatuck Township zoning district would have expired in July of 2015. The subject parcel has since been “unzoned” since that time, however, it has been included in the City’s Master Plan and Future Land Use.

In 2022, The City Council adopted an ordinance to establish procedures for the transfer of surplus real property. This ordinance defines “surplus real property” as real property that is no longer needed in the foreseeable future or has no practical benefit to the City. This ordinance enables the City Council to sell and transfer property in a fair and transparent manner, by outlining the procedures that the City must follow for selling such property designated as “surplus”.

At a recent meeting, the City Council considered the authorization of the subject parcel to be sold as surplus property, so that the process to accept bids from potential buyers could be initiated. The City Council ultimately determined that potential buyers of the parcel would need to know the permitted uses of the land before bidding. Since permitted land uses are determined by the zoning district, it was decided that the parcel should undergo the process of assigning a zoning district before authorizing the sale.

**Procedures.** The Planning Commission must hold a public hearing to assign a zoning designation to an annexed parcel in the same manner it would for a rezoning of a parcel. Giving the parcel a zoning designation is technically considered an amendment of the zoning ordinance and map.

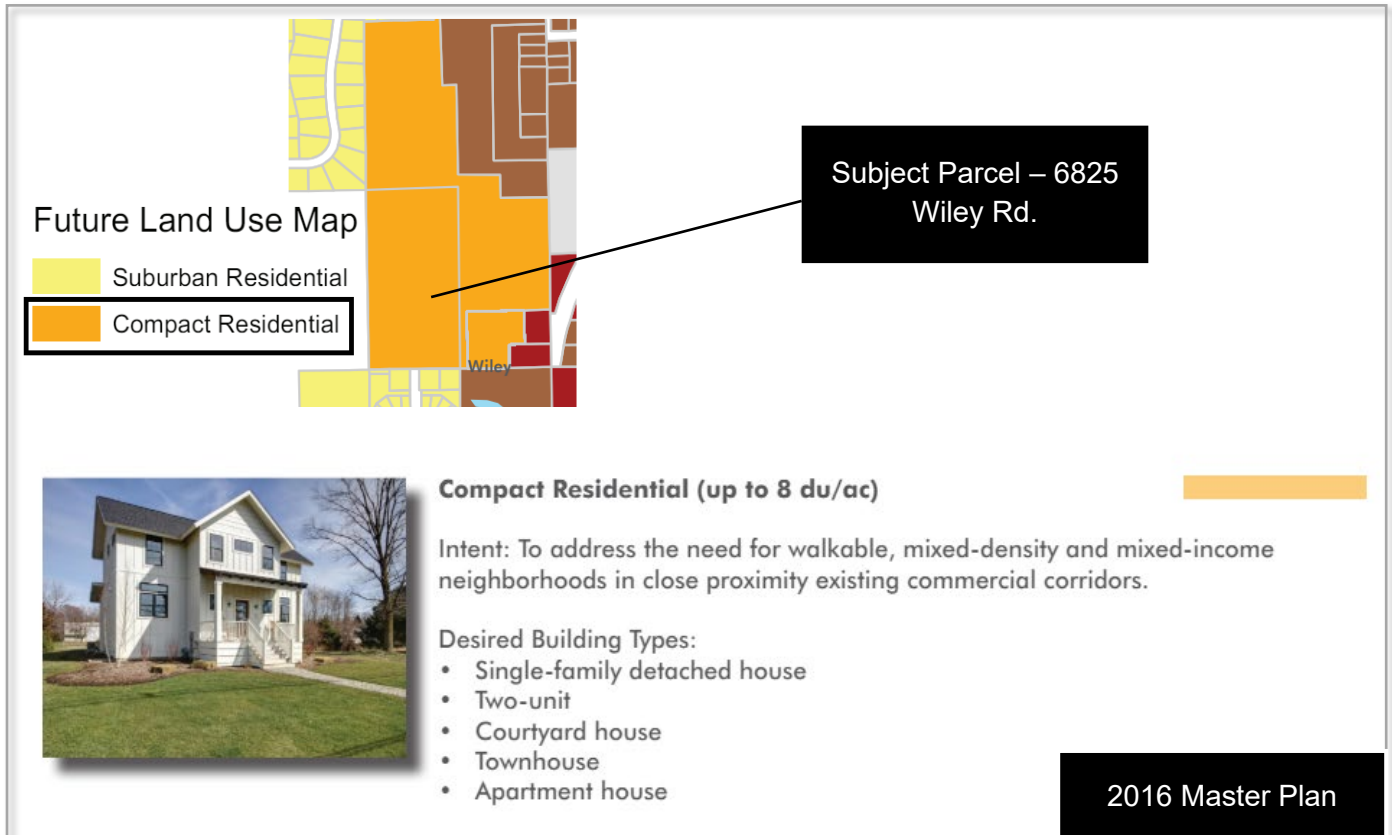
Section 28.02 provides procedures for the review and approval of amendments. The Planning Commission is tasked with recommending the designation of a zoning district to the City Council. The City Council is the final reviewing authority for any amendment to the Zoning Ordinance and will hold two readings of the proposed zoning designation.

**Assigning a Zoning Designation.** The Planning Commission would normally take the criteria listed in Section 28.06 into consideration when making decisions on *rezonings*. Because the subject parcel is not being *rezoned* and is simply being given a zoning designation when there was not one before, the Future Land Use map and text within the Master Plan shall serve as the guide for designating an appropriate zoning district. The rezoning criteria are listed below for your reference, though many are not applicable.

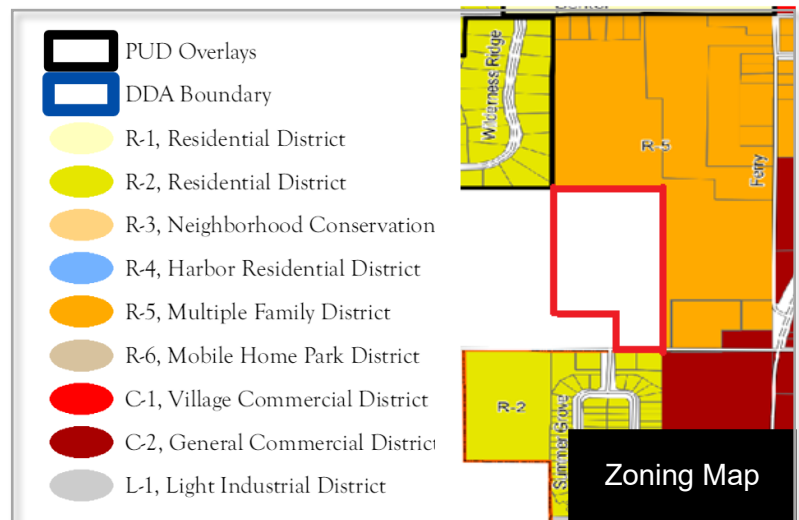
- a. *What, if any, identifiable conditions related to the application have changed since the existing zoning district was established which justify the proposed amendment?*
- b. *What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?*
- c. *What is the impact of the amendment on the ability of the City and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?*
- d. *Does the petitioned district change adversely affect environmental conditions, or the rights of a neighboring property owner?*
- e. *Is the class of uses permitted in the district appropriate for the location proposed to be rezoned?*
- f. *Does the petitioned district change generally comply with the Tri-Community Comprehensive Plan, or a subsequent document that guides land use and development decisions in the City of the Village of Douglas?*
- g. *What is the ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located?*

The current Master Plan designates the subject parcel as “Compact Residential”. The Future Land Use map and text are shown below.





Based on the Future Land Use designation and the existing zoning of adjacent parcels, staff has determined that R-5, Multiple Family Residential is the most appropriate zoning district for the subject parcel.



**RECOMMENDATION**

Based on the findings outlined in this staff report, staff is recommending that the Planning Commission provide a favorable recommendation to the City Council to approve the zoning designation of the 6825 Wiley Road parcel to R-5, Multiple Family Residential.

**SUGGESTED MOTION**

*I move to forward a recommendation for [approval/denial] of the assignment of the R-5, Multiple Family zoning district to the parcel located at 6825 Wiley Road (PPN 59-017-089-40) annexed by the City of the Village of Douglas, based on the findings outlined in the staff report dated May 3, 2024.*

Please feel free to reach out with any questions.

CITY OF THE VILLAGE OF DOUGLAS  
ALLEGAN COUNTY, MICHIGAN  
ORDINANCE NO. 02-2022

**AN ORDINANCE TO ESTABLISH PROCEDURES FOR  
TRANSFER OF SURPLUS REAL PROPERTY FOR  
THE CITY OF THE VILLAGE OF DOUGLAS**

**THE CITY OF THE VILLAGE OF DOUGLAS DOES HEREBY ORDAIN AS  
FOLLOWS:**

**Section 1: PURPOSE AND SCOPE**

The purpose of the Surplus Real Property Transfer Ordinance is to provide a framework for the transfer of City real property deemed to be surplus. This Ordinance is intended to create a process to transfer of Real Property that is transparent to the community, fair, equitable, and consistent with the best interests of the City.

**Section 2: DEFINITIONS**

*Transfer:* Disposal shall mean the transfer of control or ownership of real property considered by the City to be surplus, by means of a sale or lease, to include preparing, negotiating and executing a written contract, where necessary. This ordinance shall not apply to intragovernmental property transfers pursuant to Act 425 of 1984, as amended.

*Notice of Intent– Request for Bid:* The notice prepared by the City announcing that the City will receive bids for the sale or lease of Surplus Real Property. The notice shall also provide prospective purchasers with direction on where or how they may obtain specific information concerning the Surplus Real Property and the sealed bid process.

*Practical Use:* The use of something for a reasonable purpose.

*Proprietary Fund:* Fund that charges a fee to cover the cost of operations.

*Real Property:* Any fixed property (i.e., buildings, land, etc.) controlled or owned by the City, from which the City expects to derive economic benefit for service delivery to the general public. This Ordinance is not intended to apply to Personal Property (i.e., automobiles/vehicles, electronics, furniture, machinery and tools, miscellaneous equipment, or office machines.) except as incidental to the sale of Real Property pursuant to a purchase agreement.

*Surplus Real Property:* Real property that is no longer needed in the foreseeable future or has no practical benefit to the City.

### **Section 3: APPLICABILITY**

This Ordinance applies to all City owned real property except:

- Real property purchased with grant funds which shall be disposed of in accordance with applicable grant requirements, if any.
- Seized or unclaimed property within the Police Department which shall be handled and disposed of in accordance with applicable Federal, State, and Local requirements.

This Ordinance applies to all City Officials, employees and users including, but not limited to, full time, part time, and intermittent / seasonal / contracted employees.

### **Section 4: REAL PROPERTY GUIDELINES**

1. The City Manager or designee will review City owned real property and recommend to Council if any City owned real property is surplus.
2. Disposing of real property by City Officials or employees for personal gain or to benefit the interest of any person or party other than the City is strictly prohibited.
3. Sale of land or other real property requires City Council authorization and may require a vote of the majority of electors as provided in Chapter 13 of the City Charter.
4. Sale of Surplus Real Property shall be done by passing an ordinance.
  - a. The City shall retain an easement on all properties where public utilities exist or where future development may conceivably require public utilities.
  - b. The City may retain an easement for ingress/egress over properties to access and/or maintain other City Properties, facilities, or services.
5. Real property may be conveyed by quit claim deed.
6. The City shall not sell, transfer or convey real property or any other parcel of City owned real property to any individual or entity who is in default of any contract or obligation with the City, including but not limited to a prospective purchaser who is shown in the City records to have delinquent City real or personal property taxes or special assessments, outstanding invoices for City services, or has received a notice or citation for violation of any City ordinance, rule or regulation, unless the default, delinquency or violation is corrected prior to City Council's consideration of the sale or other disposition of the real property.



7. The purchaser of real property shall agree to pay and be responsible to pay for any mortgage or title insurance policy, all costs in applying for and securing financing or assuming existing financing, all costs of preparation of documents relating to new or existing financing, recording financing statements, inspections, environmental assessments, recording fees for mortgage and deed, , costs in connection with matters relating to purchaser's use or intended use of the real property, including but not limited to, re-zoning, special use permits, variances, soil borings, surveying, rights-of-way, site plan preparation, sanitary sewer lines, water lines and other matters related to development of the real property, and purchaser's broker and attorney fees, and any other conditions that may apply.

### **Section 5: METHODS OF TRANSFER**

Following are the allowable methods of transfer of Surplus Real Property:

1. **Sale or Lease through sealed bids/offers** after Notice of Intent – Request for Bid
  - a. The City shall publish at least one time a Notice of Intent – Request for Bid in customary locations. An appraisal shall be done prior to a Notice of Intent – Request for Bid for all real property.
    - i. The notice of intent shall at a minimum:
      1. Describe the Surplus Real Property and minimum bid price.
        - a. The minimum bid price shall be at least 80% of appraised value.
      2. The notice shall allow a minimum of 30 days for the submission of responses proposals, leases, offers, and/or bids.
  - b. All offers shall be presented in a sealed envelope in writing and signed by the prospective buyer/ lessor and contain the following information:
    - i. Name, address, telephone number
    - ii. Total purchase price/ lease price (annual)
    - iii. Terms of sale or lease
    - iv. Any contingencies
  - c. The offer shall contain the following additional information
    - i. Parcel number and street address
    - ii. Proposed use and development of the property
    - iii. Anticipated method of financing
    - iv. Number of jobs to be created/retained and average job wage (if commercial or industrial)
    - v. Hours of operation (if downtown or commercial)
  - d. The City may apply the following preferences for real property:
    - i. For residential real property: preference will be given to purchasers that will construct a home on a vacant property. Adjoining property owners will be given preference if the real property is unbuildable because of zoning, other codes or laws, environmental or economic factors.
    - ii. For commercial real property: preference will be given based on the number of jobs created and dollar amount of total investment.

- e. The City may reject all offers and decline to enter a sale or lease up until the time of execution of the deed or lease when it is in the best interests of the City.
- f. City Employees shall not participate in in this method of transfer.

2. **Sale through Auction** In the event the Surplus Real Property cannot be sold after following the above procedures, the Surplus Real Property shall be sold through auction

- a. Any expense incurred in conducting the auction shall be deducted from the auction receipts.
- b. Employees may participate in public auction or sale of City Surplus Real Property.

### **Section 6: Property Transfer Request Form**

The City Manager or designee shall notify the Treasurer's Department, Planning and Zoning, Assessor, and City Clerk's Office of the sale or lease of any real property. This shall be coordinated to update City records (i.e., capital improvement documents, insurance records, audit lists and grant requirement documentation). This shall be done by filling out the Property Disposition Request form kept with the City Treasurer.

### **Section 7: SALE PROCEEDS**

All proceeds, after expense of sale, shall be allocated by the methods outlined below:

**Proprietary Funded Surplus Real Property** – If Surplus Real Property was purchased with proprietary funds, all proceeds from the sale of the Surplus Real Property shall be deposited into the proprietary fund in which the original purchase was sourced.

**Non-Proprietary Funded Surplus Real Property**- If the intent of the disposal was to offset the acquisition of a newer real property, those funds shall be used to reduce the purchase price of the new acquisition. If the proceeds were greater than anticipated, the remaining proceeds shall be deposited into the General Fund.

### **Section 8: PUBLIC RECORDS**

All City owned property is public record, therefore records of sales or leases of Surplus Real Property must be maintained by the City Clerk's Office.

Public records will be managed in compliance with applicable local, State and Federal laws, regulations, and policies including the Freedom of Information Act, Open Meetings Act, and Public Records retention schedules, Copyright Law and other applicable City policies.

Ordinance Offered by: Seabert

Ordinance Supported by: Toepper

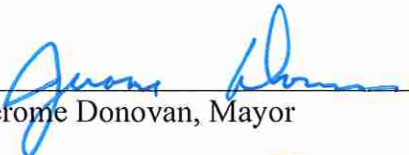
Ayes: Donovan, Miller, Nauman, Seabert, Toepper

Nays: None

Abstain: None

Absent: North, Van Loon

Ordinance Declared Adopted.

  
Jerome Donovan, Mayor

2-22-2022  
Date

  
Pamela Alderink, City Clerk

2/22/2022  
Date

Ordinance Adoption Date: February 21, 2022

Ordinance Effective Date: 20 days after adoption and publication

**CITY OF THE VILLAGE OF DOUGLAS**

**ALLEGAN COUNTY, MICHIGAN**

**ORDINANCE NO.05-2024**

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE AND MAP**

**TO DESIGNATE THE 6825 W. WILEY RD (PPN 59-017-089-40)**

**SECTION 017, CITY OF THE VILLAGE OF DOUGLAS, ALLEGAN COUNTY, MICHIGAN**

**PREAMBLE**

**WHEREAS**, The City of the Village of Douglas annexed the parcel known as 6825 Wiley Road (PPN 59-017-089-40) (“the Property”) from Saugatuck Township in 2015, and it remained zoned R-4, Lakeshore Transitional Residential for two years following the annexation, per Section 16.05, Zoning of Annexed Lands, of the City of the Village of Douglas Zoning Ordinance; and

**WHEREAS**, The City finds that the Property was not given a zoning designation after the two years specified by Section 16.05 for the previous zoning district to be in effect;

**WHEREAS**, the 2016 Master Plan provides for a future land use designation of Compact Residential, which is compatible with the R-5, Multiple Family Zoning District, and consistent with the existing zoning of adjacent parcels, the City hereby designates the zoning of the Property as R-5, Multiple Family Residential.

**WHEREAS**, pursuant to Article 28 of the Douglas Zoning Ordinance, adding a zoning designation or changing a zoning designation constitutes an amendment to the Official Zoning Map of the City of the Village of Douglas, requiring a public hearing by the Planning Commission and Approval by City Council;

**WHEREAS**, pursuant to and in compliance with Act 110 of 2006 of the Public Acts of Michigan, being the Zoning Enabling Act as amended, the Planning Commission conducted a public hearing on \_\_\_\_\_, 2024

THE CITY OF THE VILLAGE OF DOUGLAS HEREBY ORDAINS:



The City of the Village of Douglas Zoning Ordinance, adopted in 2009, as amended, is hereby amended as follows:

**SECTION 1. ASSIGNMENT OF ZONING DESIGNATION.** The zoning designation of R-5, Multiple Family Residential to the entire parcel located at 6825 Wiley Road (59-017-089-40), legally described below to R-5, Multiple Family Residential.

**LEGAL DESCRIPTION**

ALL THAT PT OF W 1/2 E 1/2 SE 1/4 LYING S OF A LIN EXTENDING FROM SW COR FELKERS L S SUBDV TH E TO W LIN E 1/2 E 1/4 SE 1/4 EX S 200' OF W 400' OF E 1309.85' ALSO EX COM 1309.85' W OF SE 1/4 COR TH N 200' TO POB TH CONT N 100' TH E 100' TH S 100' TH W 100' TO POB SEC 17 T3N R16W (2016).

**SECTION 2. SEVERABILITY AND CAPTIONS.** This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

**SECTION 3. REPEAL.** Any existing ordinance or resolution that is inconsistent or conflicts with this Ordinance is hereby repealed to the extent of any such conflict or inconsistency.

**SECTION 4. EFFECTIVE DATE.** This Ordinance is ordered to take effect upon the expiration of seven (7) days following publication of adoption in the Commercial Record, a newspaper having general circulation in the City, under the provisions of 2006 Public Act 110, except as may be extended under the provisions of such Act.

Ordinance Offered by: \_\_\_\_\_

Ordinance Supported by: \_\_\_\_\_

Ayes:

Nays:

Abstain:

Absent:

**ORDINANCE DECLARED ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2024**

\_\_\_\_\_  
Cathy North, Mayor

\_\_\_\_\_  
Laura Kasper, City Clerk

Ordinance Adoption Date: \_\_\_\_\_ (to be published within 15 days of adoption)

Ordinance Effective Date: \_\_\_\_\_ (7 days after publication)

**To:** City of the Village of Douglas Planning Commission  
**Date:** April 19, 2024  
**From:** Sean Homyen, Planning & Zoning Administrator  
**RE:** Zoning Text Amendment –16.16(3)(a) & 16.16(3)(c) –  
 Swimming Pools



*The Village of Friendliness – Since 1870*

## **BACKGROUND**

Recent applications for pools within the City have revealed some outdated language in the Zoning Ordinance pertaining to the requirements for fencing. As you know, swimming pool installation requires a zoning permit and a building permit before construction can begin. The Zoning Ordinance and building codes both have the intent to prioritize safety. The building codes can change more frequently as technology and building materials evolve for more efficiency and safety. The Zoning Ordinance should usually reflect this type of change as well, as the two codes tend to work in unison. The Zoning Ordinance can be *more restrictive* than building codes, but cannot be *less restrictive* as zoning codes mainly regulate land use, and building code regulations are mainly for ensuring safety with any structure or appurtenance that humans will occupy or use. In 2015, the Michigan Residential Code made some changes to the barrier requirements for swimming pools and spas which would provide exceptions to the requirement to install a fence, and for the safety of building walls to serve as a barrier.

Michigan Township Services building inspectors administer the 2015 International Swimming Pool and Spa Code 2015, which perhaps may be more comprehensive than the requirements within the Michigan Residential Code. Sections from the 2015 International Swimming Pool and Spa Code are shown below for the Planning Commission's reference.

### ***305.2.1 Barrier height and clearances.***

*Barrier heights and clearances shall be in accordance with all of the following:*

- 1. The top of the barrier shall be not less than 48 inches (1219 mm) above grade where measured on the side of the barrier that faces away from the pool or spa. Such height shall exist around the entire perimeter of the barrier and for a distance of 3 feet (914 mm) measured horizontally from the outside of the required barrier.*
- 2. The vertical clearance between grade and the bottom of the barrier shall not exceed 2 inches (51 mm) for grade surfaces that are not solid, such as grass or gravel, where measured on the side of the barrier that faces away from the pool or spa.*
- 3. The vertical clearance between a surface below the barrier to a solid surface, such as concrete, and the bottom of the required barrier shall not exceed 4 inches (102 mm) where measured on the side of the required barrier that faces away from the pool or spa.*

4. *Where the top of the pool or spa structure is above grade, the barrier shall be installed on grade or shall be mounted on top of the pool or spa structure. Where the barrier is mounted on the top of the pool or spa, the vertical clearance between the top of the pool or spa and the bottom of the barrier shall not exceed 4 inches (102 mm).*

#### **305.4 Structure wall as a barrier.**

*Where a wall of a dwelling or structure serves as part of the barrier and where doors or windows provide direct access to the pool or spa through that wall, one of the following shall be required:*

1. *Operable windows having a sill height of less than 48 inches (1219 mm) above the indoor finished floor and doors shall have an alarm that produces an audible warning when the window, door or their screens are opened. The alarm shall be listed and labeled as a water hazard entrance alarm in accordance with UL 2017.*

*In dwellings or structures not required to be Accessible units, Type A units or Type B units, the operable parts of the alarm deactivation switches shall be located 54 inches (1372 mm) or more above the finished floor. In dwellings or structures required to be Accessible units, Type A units or Type B units, the operable parts of the alarm deactivation switches shall be located not greater than 54 inches (1372 mm) and not less than 48 inches (1219 mm) above the finished floor.*

2. *A safety cover that is listed and labeled in accordance with ASTM F 1346 is installed for the pools and spas.*
3. *An approved means of protection, such as self-closing doors with self-latching devices, is provided. Such means of protection shall provide a degree of protection that is not less than the protection afforded by Item 1 or 2.*

The current ordinance language does not permit a building wall to serve as a barrier if it has windows or doors. Building codes have changed to require the alarms on doors and windows so that it is known when a door to the pool area is opening. The Zoning Ordinance amendment proposes to remove language that allows a building wall to serve as a barrier if doors or windows are not present. The amendment also proposes to change the minimum fencing height to 4' instead of 5' to both match the applicable building codes, and eliminate any special ordering of fence panels, since most standard fence panels come in 4' and 6' in height. We have also added an optional exception to preclude the fencing requirement when a power safety cover has been installed.

**Proposed Amendment.** Based on discussions held at the April meeting, there seemed to be a consensus regarding on *keeping* the fence requirement, regardless of the applicable building code's exception to fencing when a power safety cover is installed. We have made the practical changes to the ordinance, as noted above, that have had an impact on recent applications for swimming pools, and we have added the option to add an exception to the fencing requirement if the Planning Commission is comfortable with it. An ordinance to amend has been drafted for your review and can be changed before it goes to the City Council, depending on whether the Planning Commission chooses to add part e to Section 16.16(3).

The proposed amendment is below with the language that is proposed for removal shown as highlighted and stricken to make the changes clear.

#### Section 16.16 Swimming Pools:

- 3) Fencing: Yard areas with pools are to be fenced to discourage unsupervised access.
  - a. Such fencing is to be a minimum of ~~five (5)~~ four (4) feet high and equipped with a self-closing and self-latching gate/door.
  - b. Latching devices are to be located at a minimum height of four feet above the ground.
  - c. Such fencing may be omitted where building walls ~~without doorways or windows~~ abut the pool area, provided that the entire perimeter of the pool area is secured.
  - d. [OPTIONAL]: EXCEPTION: The installation of a *safety cover* that is *listed* and *labeled* in accordance with ASTM F 1346 may preclude the requirement to install a fence in accordance with 16.16(3)a. through c. when installed according to the manufacturer's instructions and inspected and approved by the building inspector.

**Procedures.** Section 28.02 provides procedures for the review and approval of amendments. The City Council is the final reviewing authority for any amendment to the Zoning Ordinance. Therefore, the Planning Commission is tasked with making a recommendation, rather than an approval, of the proposed text amendment.

In addition, Section 28.04 outlines the requirements for holding a public hearing and the proper publication of the public hearing notice which informs the public in a newspaper of general circulation that the Planning Commission will hold a public hearing to consider the amendment on May 9, 2024.

**Analysis of Amendment Criteria.** Section 28.06 provides a list of considerations the Planning Commission must keep in mind when reviewing a proposed amendment to the ordinance. The majority of these considerations are not applicable to a text amendment of the Zoning Ordinance and apply mostly to amendments of the zoning map (rezonings), which is an integral part of the Zoning Ordinance. The criteria that are applicable to a zoning text amendment are highlighted:

- a. *What, if any, identifiable conditions related to the application have changed since the existing zoning district was established which justify the proposed amendment?*
- b. *What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?*
- c. *What is the impact of the amendment on the ability of the City and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?*
- d. *Does the petitioned district change adversely affect environmental conditions, or the rights of a neighboring property owner?*

- e. *Is the class of uses permitted in the district appropriate for the location proposed to be rezoned?*
- f. *Does the petitioned district change generally comply with the Tri-Community Comprehensive Plan, or a subsequent document that guides land use and development decisions in the City of the Village of Douglas?*
- g. *What is the ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located?*

The Planning Commission may find that there is not likely to be any detrimental effects on properties neighboring properties with swimming pools, nor is there a type of precedent that is being set, other than the practice of amending the text of the ordinance from time to time to keep up with other changing codes, so that the ordinance is not unnecessarily burdensome to those who wish to install a pool.

### **RECOMMENDATION**

Based on the findings noted in this staff report, we would recommend the Planning Commission provide a favorable recommendation to the City Council to approve the amendment of Section 16.16(3) of the City of Douglas Zoning Ordinance. The Planning Commission must determine if the power cover should preclude the fencing requirement, and reflect this in its motion as suggested below:

### **SUGGESTED MOTION**

*I move to forward a favorable recommendation to the City Council for the adoption of the text amendment to Article 16, General Provisions, Section 16.16, Swimming Pools, Subsection 3, Fences, parts a. and c. of the City of the Village of Douglas Zoning Ordinance, per the specific language stated in the Ordinance to Amend the Zoning Ordinance, and based on the findings stated in the Planning and Zoning Administrator's report dated May 3, 2024.*

If the Planning Commission feels comfortable with adding on part e to section 16.16.(3), then the following language should be added to the motion:

*“and the addition of part e pertaining to exceptions to the installation of a fence when a power safety cover is installed”*

Feel free to reach out to me with any questions on this proposed amendment.



**CITY OF THE VILLAGE OF DOUGLAS****ALLEGAN COUNTY, MICHIGAN****ORDINANCE NO.06-2024****AN ORDINANCE TO AMEND THE ZONING ORDINANCE****CITY OF THE VILLAGE OF DOUGLAS, ALLEGAN COUNTY, MICHIGAN**

An ordinance to amend the City of the Village of Douglas Zoning Ordinance, Ordinance No. 02-2009, as amended, to amend Article 16, General Provisions, Section 16.16, Swimming Pools, Subsection(3) Fencing. This ordinance repeals all ordinances or parts of ordinances in conflict therewith.

**THE CITY OF THE VILLAGE OF DOUGLAS HEREBY ORDAINS:****SECTION 1: PREAMBLE**

**WHEREAS** The City of the Village of Douglas acknowledges the modernization and updates to applicable building codes that regulate swimming pools; and

**WHEREAS** The City's Zoning Ordinance must be updated from time to time to keep up with changing codes applicable to structures and activities that are also regulated by zoning; and

**WHEREAS** The regulations within the Zoning Ordinance may be more restrictive, but not less restrictive than applicable building codes.

**SECTION 2: AMENDMENT.** An ordinance to amend article 16, General Provisions, Section 16.16, Swimming Pools, Subsection 3, Fencing, which shall read as follows:

- 3) Fencing: Yard areas with pools are to be fenced to discourage unsupervised access.

- a. Such fencing is to be a minimum of four (4) feet high and equipped with a self-closing and self-latching gate/door.
- b. Latching devices are to be located at a minimum height of four feet above the ground.
- c. Such fencing may be omitted where building walls abut the pool area, provided that the entire perimeter of the pool area is secured.

**SECTION 2. SEVERABILITY.** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

**SECTION 3. REPEALER.** All other ordinances or portions of ordinances inconsistent with this ordinance are hereby repealed.

**SECTION 4. PUBLICATION.** Within fifteen (15) days of its adoption, this Ordinance or a notice of adoption summarizing this Ordinance, as required by law, shall be published by the City Clerk in a newspaper of general circulation in the City in accordance with Act 110 of 2006.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall become effective twenty (20) days after the date of publication.

[SIGNATURES ON FOLLOWING PAGE]

Ordinance Offered by: \_\_\_\_\_

Ordinance Supported by: \_\_\_\_\_

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Abstain: \_\_\_\_\_

Absent: \_\_\_\_\_

**First Reading:** \_\_\_\_\_

**Second Reading:** \_\_\_\_\_

**Date of Publication:** \_\_\_\_\_

**Effective Date:** \_\_\_\_\_

**ORDINANCE DECLARED ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2024**

\_\_\_\_\_  
Cathy North, Mayor

\_\_\_\_\_  
Laura Kasper, City Clerk

### CERTIFICATION

I, \_\_\_\_\_, the duly appointed Clerk of the City of the Village of Douglas, do hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Douglas City Council at a regular meeting held on Monday, \_\_\_\_\_, 2024, in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan, 1976, as amended, the minutes of the meeting were kept and will be or have been made available as requires by this Act.

CITY OF THE VILLAGE OF DOUGLAS

By: \_\_\_\_\_

City Clerk, City of the Village of Douglas