

4/19/13 P/C List

A. Re: Application for Special Use Permit

Applicant's statement of the expected community impact of the project effecting emergency services, schools, storm water systems and automobile and truck circulation patterns and local traffic volume is not sufficient. Article VII, section 7.04, item 33 makes reference to some of the things that should be addressed.

Answer: Applicant contends that a further statement is inapplicable because this is an existing building that is grandfathered in, exterior changes and parking lot changes are not being made from existing. It was previously a school and motel having greater traffic than the proposed apartments. There are already established traffic entrance/exit points from M-22 and 1st Street. Further, it is on the edge of town and most traffic from the apartments would be headed south to Grace Road, rather than toward town. However, in the spirit of cooperation, Application further states:

Expected community impact on emergency services:

a. Ambulance, EMS: Upon information and belief the Village of Elberta does not have an Ambulance service. Any surrounding ambulance, EMT service, such as Paul Oliver Memorial Hospital/Munson Medical Center's North flight service would not be affected any greater than if the people occupying these apartments lived anywhere else in the County. Moreover, when this building was a motel, it is understood that EMT services had to respond before when a guest had a heart attack. Since it was a rather seedy motel at the time that "dirty old men" would rent to take their "guests," there is no doubt said persons occasionally occupying said rooms, when it was a motel, would have to engage emergency services. When this building was a school, it had numerous elementary school children there during the day; obviously, children get hurt from a variety of types of accidents or get extremely ill needing ambulance service. Since the building as proposed will house many less children than when it was a school, services to children for EMS will be much more limited. Since this building will be used to house, respectable, hard working families, like stated on the application, use of emergency EMS services will be much more limited than when it was a seedy motel, as these people have more constructive things to do with their time.

b. Police: Upon information and belief, the Village of Elberta does not have its own police force. Assuming the Village still contracts with the City of Frankfort, or may Contract with the City of Frankfort in the Future, or for that matter, service by the Benzie County Sheriff's Department or the Michigan State Police is expected to be less than when it was a seedy motel. It is common knowledge that when it was a motel the police had to come a few times concerning domestic violence situations and other inappropriate behavior that occurred in said seedy motel. When the building was vacant, it was broken into and used for a drug house and for teens to have sex on the beds. This was a complete embarrassment to the Village of Elberta, why the Village would like a more definite statement when they know the actual facts, therefore making this more public makes no sense at all. Obviously it is to cause a greater burden and expense to Applicant. Since this building will be used to house, respectable, hard working families, like stated on the application, use of emergency EMS services will be

much more limited than when it was a seedy motel, as these people have constructive things to do with their time. They work the orchards from sun up to sun set. Perhaps others could learn from their example.

c. Fire Department: This building has been inspected and will continue to be inspected by the State Inspector for the Michigan Department of Ag. There is more than adequate egress and there is working smoke detectors in each apartment. Using this building as apartments to house hard working families, obviously has a lesser risk of use of the fire department, than when it was vacant and being broke into by vandals to use it for a drug and sex house. When it was an operating motel, that use was a greater intensity because any transient member of the public could come, rent a room, and even conduct illegal activities in the room. When it was a school with the large kitchen and etc, it would present a greater risk, with all the children present of not only a fire starting but risk of human loss from a fire. These are so obvious this is really quite ridiculous.

d. Schools: The Village of Elberta does not have its own school. This building was the Village's former elementary school. As stated on the application, it is anticipated that a couple of families would stay year round thereby increasing the headcount of the Frankfort Schools by a few students, thereby, increasing State Funding. This is a good thing so impact on the neighboring school will be positive.

e. Storm Water Systems: This building and parking lot has existed for years. There are no changes to the exterior of the building or parking lots; it is all existing and grandfathered in. Therefore to the extent that Elberta has a storm water system there will be no change. When it rains water will drain as it always has for years when this was a school and motel.

f. Automobile and truck circulation patterns: This building will have a lesser effect on automobile and truck circulation patterns than when it was a school or motel. When it was a school, parents coming, to and from, to drop off and pick up their children was an intensive use. Likewise, the school busses had to pull in front of the building on the circle drive, (drive described within this document), which was a more intensive use similar to that of a truck. When this building was a motel, various transient members of the public would be coming and going at all various times of the day and night to rent rooms. The motel at times had a rather seedy and suspicious reputation. In use of this building as apartments it will have very minimal impact limited to passenger vehicles for the occupants to travel to and from work. They will likely leaving in the morning and return near dark. Consequently this use is obviously much less extreme than when it was a motel or school.

g. Local Traffic Volume. This building will have a lesser effect on local traffic patterns than when it was a school or motel. When it was a school, parents coming, to and from, to drop off and pick up their children was an intensive use. Likewise, the school busses had to pull in front of the building on the circle drive, (drive described within this document), which was a more intensive use similar to that of a truck. When this building was a motel, various transient members of the public would be coming and going at all various times of the day and night to rent rooms. The motel at times had a rather seedy and suspicious reputation. In use of this building as apartments it will have very minimal impact limited to passenger vehicles for the occupants to travel to and from work. They will likely leave in the morning and return near dark. This building is located on the far Southern end of the Village, and it is likely that the occupants will primarily be leaving the building and heading South on M-22 to Grace Road rather than through the main town. Consequently this use is obviously much less extreme than when it was a

motel or school, where the people were primarily coming from town to the school or from Frankfort to the motel. Therefore this is an improvement in traffic and circulation patterns.

h. Natural Resources: This will be the exact same as the building has existed for the past 60 years, there will be no change. There are no exterior modifications and therefore there will be no change to the environment that has existed for years.

i. Public water and sewer. It is anticipated that the use of public water and sewer will be less than when it was a school because of the number of children occupying the building. The use will be similar to when it was a motel. Since occupants will be gone during the day working, most of the water and sewer use will be before and after work, as with any working family.

j. Noise: These apartments will have less noise than when it was a school full of children or when it operated as a motel with a rather seedy reputation.

k. Vibration: When this building was a school having busses entering and exiting, there would be more vibrations from the busses than the passenger cars that residents will drive.

l. Noise: There is expected to be less noise by these families occupying the apartments than when it was a motel or school.

m. Odor: There is no odor related to this project. This is normal residential living.

n. Smoke: There is no smoke related to this project. This is normal residential living.

o. Trash and Debris: The premises will be kept clean and mowed. There will be an on site dumpster in an enclosure, see site plan.

p. Financial: Owner has financial capacity to complete the project. He has sustained an almost 1 ½ year legal battle and has the funds to complete the project and take this matter all the way to the Supreme Court.

B. Re: Application for Site Plan Review

Village Zoning Ordinance Article 7, section 7.04 Site Plan – Required Information

1. Legal description of property needs to be on site plan

Answer: Inserted on Plan: Also it is as follows:

PROPERTY DESCRIPTION

The land referred to in this Commitment is described as follows:

Land situated in the Township of Gilmore, County of Benzie, State of Michigan, more fully described as: Part of the Southeast 1/4, Section 34, T26N, R16W, Commencing at the East 1/4 corner of said Section, Thence along the East-West 1/4 Line N89°51'50"W 646.09 feet to the point of beginning; Thence parallel with the East Line of said Section S00°35'45"W 439.80 feet; Thence parallel with said East-West 1/4 Line N89°51'50"W 350.77 feet to the Centerline of State Highway M-22; Thence along said Centerline N18°54'18"W 400.24 feet to a point 65.00 feet Southeasterly of said East-West 1/4 Line of said Section; Thence parallel with said East-West 1/4 line S89°51'50"E 234.91 feet; Thence N00°08'12"E 61.44

feet to said East-West 1/4 Line; Thence along said East-West 1/4 Line S89°51'50"E 249.96 feet to the point of beginning

2. N/A Elevation drawings were not requested by the P/C.

Answer: Not Requested.

3. Name, address and phone # of owner do not appear on plan.

Answer: Loy Putney, 4286 Raymond Rd., Frankfort, MI 49635. 231-352-4809.

4. N/A Title block, scale, north arrow, and date of plan are present.

Answer: Was provided.

5. Dimensional Requirements:

- Statement regarding adequate access to and around building for fire and police protection

Answer: This is a large parking lot with wide asphalt that goes around the entire perimeter of the building. In fact, as the Village is well aware, this was its elementary school and busses could pull in and out of the drives. The drives are wide enough for two way traffic. There is no comparable facility in the Village of Elberta that has ingress and egress right to the front door, or any apartment door for that matter, like this. This is a superior existing, site plan.

- Establishment of pleasant vistas

Answer: On all sides of the building, it is open with pleasant, open green grass lawn.

- Maintain natural features which contribute to environmental quality

Answer: The building has existed for years and no changes to the site/lawn are proposed. The land will remain the same as it has for years. The lawn will be mowed to the comparable standard in the Village. There will be no change to environmental quality as this building and parking lot has existed for years, there are no changes to the exterior or parking lot, beyond which will be standard maintenance that will take place over the years, which is the case with any building or parking lot/drive.

- a) Number of apartments not given and room at the 1 ½ story level does not appear on drawings nor does the interior stairway leading to it so drawing is incomplete.

Answer: See site plan, there are 10 units total.

b) Location and width of entries and exits are not indicated

Answer: The entry/exit doors are shown on the site plan. They are standard 36" doors.

c) West parking area is not labeled. Parking lot dimensions, angle of spaces and number of spaces are not given.

Answer: Angle of spaces was given on the original plan. See site plan for more this information.

6. Applicant said that he would be required by state to have recreation areas. Open spaces and recreation areas are not indicated on plan. Loy Putney said recreation areas would have playgrounds and maybe a basketball court.

Answer: Playground is indicated on the site plan with a basketball court and two nets/rims. There is no other recreation area, other than any person could walk over the lawn if they so chose. The lawn will remain open area.

7. Existing zoning class on site plan is shown as R-1. Applications show present zoning classification as "reported as commercial". Not sure where to go with this as P/C has not been able as of this date to produce a map or evidence in council/P/C minutes that commercial classification is current.

Answer: The zoning ordinance refers to the zoning map. At the time Mr. Putney purchased this property there was not an updated zoning map showing the classification of his property. This was observed in January 2012. It has been reported by the Village to the Applicant that it is commercial. Recent production suggests that prior to the new zoning ordinance adopted in 2009 the property was previously reportedly zoned commercial. With the adoption of the 2009 zoning ordinance and it referring to the map, and Mr. Putney's property not being zoned on the map at that time, subsequent classification of his property on the map, after his purchase and/or after his original application, may constitute a taking or the implementation of an *ex post facto law*.

8. No comment

Answer: Applicant does not know what this means, but would agree to no comment.

9. Applicant said there are sidewalks around the building but plan does not show them; give the width or surface material.

Answer: This has existed for years as a site plan and is grandfathered in. Sidewalks and parking will not change. When the asphalt parking ends, the cement sidewalk begins. It is barrier free and

around the building. Each unit opens onto the barrier free sidewalk and then the asphalt parking lot begins. The width is ambiguous because the parking lot and sidewalk all flow together, barrier free.

There is a circle drive that connects M-22 to First Street. Providing vehicle and pedestrian ingress and egress.

10. Needs to indicate location of utility poles? Are there any easements?

Answer: See site plan for location of utility poles; they have existed for years and will not change. They are also observable by casual inspection by any member of the Village. Title work reveals just one easement. It is an easement for public utilities. See attached document. It is for subsurface placement only and it runs under the Easterly ten (10) feet of the subject parcel for the benefit of the Village. See site plan. It is the same area as the setback.

11. Adjacent land. (vacant acreage?) See #6 above

Answer: The remainder of the property that is not the building and parking lot will be mowed to comparable standards in the Village. As stated below, it will remain vacant.

12. N/A Nothing requested yet by P/C

Answer: No answer required.

13. Easements – goes back to #10 above. If easements do exist, applicant needs to indicate location and width.

Answer: Title work reveals just one easement. It is an easement for public utilities. See attached document. It is for subsurface placement only and it runs under the Easterly ten (10) feet of the subject parcel for the benefit of the Village. See site plan.

14. Streets and drives (driveways?) part of this project?

Answer: The streets and drives are indicated on the site plan. The building faces M-22/Scenic Hwy. To the North is 1st Street. Valley Ave is the private driveway for entrance and exit. It is a circle drive wide enough for two way traffic; it has an entrance/exit on both M-22 and 1st Street. 1st street has a second entrance to the back, east of the apartment complex, see site plan. All of these entrances/exits will not change and they are grandfathered in. This exiting layout is well known by all members of this planning commission and Village Board. It is anticipated that each one of them has driven them at one time or another. It is also indicated on the site plan, so applicant is at a loss of what the Village wants when in fact it was on the site plan as indicated, it has existed for years and it is blatantly obvious.

15. Parking lots were addressed in #5c above.

Answer: See number 5 above.

16. Loy Putney responded that he would maintain open spaces and recreation areas by mowing the grass.

Answer: Correct, the areas outside of the parking lot, playground, front, back and side yards will be mowed comparable to the standard in the surrounding neighborhood.

17. Applicant replied that there would be no bike paths or pedestrian ways. Sidewalks are covered in #9 above.

Answer: Correct, that is drawn on the site plan and what has existed for years is what will remain, there is no need for pedestrian ways or sidewalks as the property has never had them and it is on the edge of town, there is no sidewalk to connect this property to. As to the sidewalks around the building as indicated above:

This has existed for years and is grandfathered in. Sidewalks and parking will not change. When the asphalt parking ends, the cement sidewalk begins. It is barrier free and around the building. Each unit opens onto the barrier free sidewalk and then the asphalt parking lot begins. The width is ambiguous because the parking lot and sidewalk all flow together, barrier free.

18. Applicant replied that there would be no fences or screens.

Answer: Correct, there is no need for this; this is a free flowing site plan and it has always been that way to maintain the character of the surrounding community.

19. Adjacent property – is this the vacant acreage? He stated he would have recreational areas as in #6 above.

Answer: As stated above many times, the vacant acreage outside of the parking lot asphalt area, the front, back, and side yards will be mowed. The playground will be mowed. It will be an open nicely groomed area.

20. N/A No topographic drawings have been requested by P/C.

Answer: Not requested.

21. Show village sewer and water line positions.

Answer: See site plan, this is preexisting, it will not change. This is in the actual knowledge and possession of the Village. In fact the Village gave this to Applicant, see attachment of Village providing the information.

22. N/A In talking with Kenny, floor drains discharging to grade or anywhere other than public sanitary or septic systems is not an issue due to connection with village infrastructure for water and sewer.

Answer: This is correct.

23. Outdoor storage facility (maintenance garage?) appears on plan but there is no description.

Answer: See site plan for the dimensions of this existing building. It has existed for years and the dimensions will not change. This is in the actual knowledge and possession of the Village. The Village is also welcome to review its own assessor's file that should have this information contained in it.

24. N/A On site wastewater treatment & disposal not an issue as in #22 above.

Answer: No comment necessary.

25. Proposed outdoor trash container enclosures. Applicant responded he would have this. Needs to provide location, size, typical elevation, vertical section of enclosure showing materials and dimensions. Location of transformers is not on plan.

Answer: See site plan for waste disposal enclosure that will house a dumpster. As to electrical transformers if any, they are owned by Consumer's Energy and would have been present for years, will not change. This information is in the knowledge and possession of the Village by casual observation, Mr. Putney has no reason to ask Consumers to move any of its utilities as this building and exterior site plan is not changing, it has existed for years and it is grandfathered in. See site plan for its location, which you already know by casual observation.

26. "Bay Valley" sign near road. Show on site plan?

Answer: Please refer to site plan.

27. Location of electricity and phone line not on plan.

Answer: See site plan. This has existed for years and will not change. It is obvious to the Village by causal inspection.

28. Landscaping – Need Applicant's detailed proposal.

Answer: Landscaping will be simply replacing the former dead/over grown bushes and/or flowers that were immediately in front of the building with new similar bushes, which are similar and complementary as the old former ones once were, and are also similar to the surrounding community. This is simple common sense. A wide selection of noninvasive evergreen and deciduous plants and shrubs are available at Crystal Gardens.

29. Please review and provide/explain.

Answer: This is an incomplete question; Applicant has no idea on how to respond. This is an existing site plan, no excavation will take place. N/A.

30. N/A No retaining walls required?

Answer: Not Applicable.

31. Lighting – Applicant said that he will have lights on exterior of building but they are not on plan and ZO asks for type, fixture detail, height, and photometric of outside lighting shall appear on the plan. Downward lighting?

Answer: As the planning commission is well aware, the existing building has lights at each door of the building and they point downward, this has existed for years and it will not change. They are grandfathered in. They will have no effect on the surrounding community because this effect has been the same for years. They will each have one standard 40 watt bulb and according to packaging of a 40 watt bulb, it emits approximately 490 lumens. As any ordinary person with any common sense knows this is minimal but adequate lighting, so that safety of occupants are maintained but neighboring property is not overburdened with light. They are 9 feet off the ground.

32. Right of ways – he said he wasn't aware of any. Need to confirm.

Answer: Title commitment established there are no right of ways other than the public records which include the following:

- A. State Highway M-22 (also known as Scenic Highway) which runs along the West side of subject land.
- B. First Street which runs along the North side of subject land.
- C. Valley Street (so-called) as created and defined in the Quit-claim Deed recorded Sept. 17, 1971 in Liber 143 page 263 (see circle drive on site plan). This has existed for years and it connects M-22 to First Street.

33. Community Impact Statement – I feel this should have been covered on the SUP application.

Answer: Presumably what is being asked for here is a more detailed statement of impact on services than there was room for on the one page Special Use Application form. This is rather obvious and really

does not require a more detailed statement; however, in the spirit of cooperation, Application further states:

Applicant's statement of the expected community impact of the project affecting emergency services, schools, storm water systems and automobile and truck circulation patterns and local traffic volume if applicable:

Applicant contends that a further statement is inapplicable because this is an existing building that has existed for years and exterior changes and parking lot changes are not being made. However, in the spirit of cooperation, Application further states:

Expected community impact on emergency services:

a. Ambulance, EMS: Upon information and belief the Village of Elberta does not have an Ambulance service. Any surrounding ambulance, EMT service, such as Paul Oliver Memorial Hospital/Munson Medical Center's North flight service would not be affected any greater than if the people occupying these apartments lived anywhere else in the County. Moreover, when this building was a motel, it is understood that EMT services had to respond before when a guest had a heart attack. Since it was a rather seedy motel at the time that "dirty old men" would rent to take their "guests," there is no doubt said persons occasionally occupying said rooms, when it was a motel, would have to engage emergency services. When this building was a school, it had numerous elementary school children there during the day; obviously, children get hurt from a variety of types of accidents or get extremely ill needing ambulance service. Since the building as proposed will house many less children than when it was a school, services to children for EMS will be much more limited. Since this building will be used to house, respectable, hard working families, like stated on the application, use of emergency EMS services will be much more limited than when it was a seedy motel, as these people have more constructive things to do with their time.

b. Police: Upon information and belief, the Village of Elberta does not have its own police force. Assuming the Village still contracts with the City of Frankfort, or may Contract with the City of Frankfort in the Future, or for that matter, service by the Benzie County Sheriff's Department or the Michigan State Police is expected to be less than when it was a seedy motel. It is common knowledge that when it was a motel the police had to come a few times concerning domestic violence situations and other inappropriate behavior that occurred in said seedy motel. When the building was vacant, it was broken into and used for a drug house and for teens to have sex on the beds. This was a complete embarrassment to the Village of Elberta, why the Village would like a more definite statement when they know the actual facts, therefore making this more public makes no sense at all. Obviously it is to cause a greater burden and expense to Applicant. Since this building will be used to house, respectable, hard working families, like stated on the application, use of emergency EMS services will be much more limited than when it was a seedy motel, as these people have constructive things to do with their time. They work the orchards from sun up to sun set. Perhaps others could learn from their example.

c. Fire Department: This building has been inspected and will continue to be inspected by the State Inspector for the Michigan Department of Ag. There is more than adequate egress and there

is working smoke detectors in each apartment. Using this building as apartments to house hard working families, obviously has a lesser risk of use of the fire department, than when it was vacant and being broke into by vandals to use it for a drug and sex house. When it was an operating motel, that use was a greater intensity because any transient member of the public could come, rent a room, and even conduct illegal activities in the room. When it was a school with the large kitchen and etc, it would present a greater risk, with all the children present of not only a fire starting but risk of human loss from a fire. These are so obvious this is really quite ridiculous.

d. Schools: The Village of Elberta does not have its own school. This building was the Village's former elementary school. As stated on the application, it is anticipated that a couple of families would stay year round thereby increasing the headcount of the Frankfort Schools by a few students, thereby, increasing State Funding. This is a good thing so impact on the neighboring school will be positive.

e. Storm Water Systems: This building and parking lot has existed for years. There are no changes to the exterior of the building or parking lots; it is all existing and grandfathered in. Therefore to the extent that Elberta has a storm water system there will be no change. When it rains water will drain as it always has for years when this was a school and motel.

f. Automobile and truck circulation patterns: This building will have a lesser effect on automobile and truck circulation patterns than when it was a school or motel. When it was a school, parents coming, to and from, to drop off and pick up their children was an intensive use. Likewise, the school busses had to pull in front of the building on the circle drive, (drive described within this document), which was a more intensive use similar to that of a truck. When this building was a motel, various transient members of the public would be coming and going at all various times of the day and night to rent rooms. The motel at times had a rather seedy and suspicious reputation. In use of this building as apartments it will have very minimal impact limited to passenger vehicles for the occupants to travel to and from work. They will likely leaving in the morning and return near dark. Consequently, this use is obviously much less extreme than when it was a motel or school.

g. Local Traffic Volume. This building will have a lesser effect on local traffic patterns than when it was a school or motel. When it was a school, parents coming, to and from, to drop off and pick up their children was an intensive use. Likewise, the school busses had to pull in front of the building on the circle drive, (drive described within this document), which was a more intensive use similar to that of a truck. When this building was a motel, various transient members of the public would be coming and going at all various times of the day and night to rent rooms. The motel at times had a rather seedy and suspicious reputation. In use of this building as apartments it will have very minimal impact limited to passenger vehicles for the occupants to travel to and from work. They will likely leave in the morning and return near dark. This building is located on the far Southern end of the Village, and it is likely that the occupants will primarily be leaving the building and heading South on M-22 to Grace Road rather than through the main town. Consequently this use is obviously much less extreme than when it was a motel or school, where the people were primarily coming from town to the school or from Frankfort to the motel. Therefore this is an improvement in traffic and circulation patterns.

C. Re: Article 7, Section 7.07 Criteria of Site Plan Review - Need Applicant's Comments on All Items.

3. That the proposed development conforms to all regulations of the zoning district in which it is located and all other applicable standards and requirements of this Ordinance, including but not limited, supplementary regulations.

Answer: The zoning ordinance refers to the zoning map. At the time Mr. Putney purchased this property there was not an updated zoning map showing the classification of his property. This was observed in January 2012. It has been reported by the Village to the Applicant that it is commercial. Recent production suggests that prior to the new zoning ordinance adopted in 2009 the property was previously reportedly zoned commercial. With the adoption of the 2009 zoning ordinance and it referring to the map, and Mr. Putney's property not being zoned on the map at that time, subsequent classification of his property on the map, after his purchase and/or after his original application, may constitute a taking or the implementation of an *ex post facto law*.

13.01 allows for apartments. Judge Batzer has stated that he can see no reason how apartments cannot be granted. At the time of application, there was no definition of apartments. At the time of purchase this is true as well. As addressed within, there are no health or safety concerns to the occupants or the community as a whole. It has been inspected for by the State and the State has approved 3 of the apartment units for health and safety concerns. See answers both above and below for additional information.

4. That the plan meets the standards of other governmental agencies where applicable and that the approval of these agencies has been obtained or is assured.

Answer: The site plan meets State Standards and has been inspected. The Michigan Department of Agriculture has inspected and approved 3 units for no more than 17 occupants to date. Additional apartments before occupied will likewise be inspected by the State and meet all of their building and safety guidelines. See attached application and approval of 3 units from the Michigan Department of Agriculture. Mr. Roy also provided copies of the same proving he knew of this fact at the April 16, 2013 planning commission meeting.

7. That the development will be designed, constructed, operated, and maintained to be harmonious, compatible, and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area or neighborhood in which it is proposed to be located.

Answer: Designed, constructed and maintained: This is an existing building and parking lot. There are no proposed changes to the exterior of the building or parking lot/drives, other than that of general maintenance that pertains to owning any existing building and maintaining any existing parking lot. For example, from time to time, exterior painting or roof repairs will need to be done, like on any building. Like in any parking lot or asphalt drive, from time to time, it will need asphalt patch and repair etc. Discussed within was how the premises would be mowed. This is all existing and already compatible and appropriate in appearance with the existing or intended character of the general vicinity

and will therefore not change the essential character of the area or neighborhood of where it is already located.

Operated: Likewise, this apartment building will be operated and maintained, the grass and yard will be mowed, and exterior painting or roof repairs from time to time will need to be done, like on any building. Like in any parking lot or asphalt drive, from time to time it will need asphalt patch and repair etc. Discussed within was how the premises would be mowed. This is all existing and already compatible and appropriate in appearance with the existing or intended character of the general vicinity and will remain that way while operated. Simply put, to address Mr. Holmes' concern, there will be no rhubarb coming in and operating a trash house.

11. That the proposed use will be harmonious to the surrounding neighborhood.

Answer: This building has existed on this site for years and is grandfathered in as harmonious with the surrounding neighborhood and it is in fact harmonious with the surrounding neighborhood or in some cases superior thereto. See attachment hereto showing a house and trailer adjacent to the North side of the property. The pictures clearly show the degree of maintenance or lack thereof in the immediate surrounding neighborhood. The Village also contains dilapidated and some abandoned homes as noted near the Village Library, photos not provided as it is open and obvious.

There are no changes to the exterior of the building proposed and as address above, this apartment building will be operated and maintained, the grass and yard will be mowed, exterior painting or roof repairs will from time to time need to be done, like on any building. Like in any parking lot or asphalt drive, from time to time, it will need asphalt patch and repair etc. Discussed within was how the premises would be mowed. This is all existing and already compatible and appropriate in appearance with the existing or intended character of the general vicinity and will remain that way while operated. Simply put, to address Mr. Holmes' concern, there will be no rhubarb coming in and operating a trash house. It is anticipated that all people can live in harmony.

This will be the day when all of God's children will be able to sing with a new meaning, "My country, 'tis of thee, sweet land of liberty, of thee I sing. Land where my fathers died, land of the pilgrim's pride, from every mountainside, let freedom ring."

And if America is to be a great nation this must become true. So let freedom ring from the prodigious hilltops of New Hampshire. Let freedom ring from the mighty mountains of New York. Let freedom ring from the heightening Alleghenies of Pennsylvania!

Let freedom ring from the snowcapped Rockies of Colorado!

Let freedom ring from the curvaceous slopes of California!

But not only that; let freedom ring from Stone Mountain of Georgia!

Let freedom ring from Lookout Mountain of Tennessee!

Let freedom ring from every hill and molehill of Mississippi. From every mountainside, let freedom ring.

And when this happens, when we allow freedom to ring, when we let it ring from every **village [emphasis added]** and every hamlet, from every state and every city, we will be able to speed up that day when all of God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the old Negro spiritual, "Free at last! free at last! thank God Almighty, we are free at last!"

20. That the proposed building or use is in accord with the spirit and purpose of this Ordinance and not inconsistent with, or contrary to, the objectives sought to be accomplished by this Ordinance and the principles of sound planning.

Answer: This building has existed on this site for years and is grandfathered in as harmonious with the surrounding neighborhood, to provide adequate and safe housing, and it is in fact harmonious with or superior to the surrounding neighborhood. There are no changes to the exterior of the building proposed and as address above, this apartment building will be operated and maintained, the grass and yard will be mowed, exterior painting or roof repairs will from time to time need to be done, like on any building. Like in any parking lot or asphalt drive, from time to time, it will need asphalt patch and repair etc. Discussed within was how the premises would be mowed. This is all existing and already compatible and appropriate in appearance with the existing or intended character of the general vicinity and will remain that way while operated. Simply put, to address Mr. Holmes' concern, there will be no rhubarb coming in and operating a trash house. It is anticipated that all people can live in harmony and there are no health or safety concerns to anyone in the Village.

The ordinance provides for encouragement of residential land uses and apartments. See 13.01. Moreover, the master plan on page 59 provides that it desires the school building, to be redeveloped or adaptive for reuse. "Future land Use Recommendations" "The intent of the Mixed Use District is to accommodate and encourage redevelopment or reuse of the former school property, in order to provide opportunities for a variety of uses including. . . residential uses."

D. Re: Article 21, Section 21.09 General Review Standards for All Special Uses

1. The Special Use will be consistent with the goals, objectives and future land use plan contemplated in the Master Plan. Please address.

Answer: The master plan on page 59 provides that it desires the school building, to be redeveloped or adaptive for reuse. "Future land Use Recommendations" "The intent of the Mixed Use District is to accommodate and encourage redevelopment or reuse of the former school property, in order to provide opportunities for a variety of uses including. . . residential uses."

Automobile and truck circulation patterns: This building will have a lesser effect on automobile and truck circulation patterns than when it was a school or motel. When it was a school, parents coming, to and from, to drop off and pick up their children was an intensive use. Likewise, the school busses had to pull in front of the building on the circle drive, (drive described within this document), which was a more intensive use similar to that of a truck. When this building was a motel, various transient members of the public would be coming and going at all various times of the day and night to rent rooms. The motel at times had a rather seedy and suspicious reputation. In use of this building as apartments it will have very minimal impact limited to passenger vehicles for the occupants to travel to and from work. They will likely leaving in the morning and return near dark. Consequently this use is obviously much less extreme than when it was a motel or school.

Local Traffic Volume. This building will have a lesser effect on local traffic patterns than when it was a school or motel. When it was a school, parents coming, to and from, to drop off and pick up their children was an intensive use. Likewise, the school busses had to pull in front of the building on the circle drive, (drive described within this document), which was a more intensive use similar to that of a truck. When this building was a motel, various transient members of the public would be coming and going at all various times of the day and night to rent rooms. The motel at times had a rather seedy and suspicious reputation. In use of this building as apartments it will have very minimal impact limited to passenger vehicles for the occupants to travel to and from work. They will likely leave in the morning and return near dark. This building is located on the far Southern end of the Village, and it is likely that the occupants will primarily be leaving the building and heading South on M-22 to Grace Road rather than through the main town. Consequently this use is obviously much less extreme than when it was a motel or school, where the people were primarily coming from town to the school or from Frankfort to the motel. Therefore this is an improvement in traffic and circulation patterns.

This building has existed on this site for years and is grandfathered in as harmonious with the surrounding neighborhood and it is in fact harmonious with or superior to the surrounding neighborhood. There are no changes to the exterior of the building proposed and as address above, this apartment building will be operated and maintained, the grass and yard will be mowed, exterior painting or roof repairs will from time to time need to be done, like on any building. Like in any parking lot or asphalt drive, from time to time, it will need asphalt patch and repair etc. Discussed within was how the premises would be mowed. This is all existing and already compatible and appropriate in appearance with the existing or intended character of the general vicinity and will remain that way while operated. Simply put, to address Mr. Holmes' concern, there will be no rhubarb coming in and operating a trash house. It is anticipated that all people can live in harmony.

Designed, constructed and maintained: This is an existing building and parking lot. There are no proposed changes to the exterior of the building or parking lot/drives, other than that of general maintenance that pertains to owning any existing building and maintaining any existing parking lot. For example, from time to time, exterior painting or roof repairs will need to be done, like on any building. Like in any parking lot or asphalt drive, from time to time, it will need asphalt patch and repair etc. Discussed within was how the premises would be mowed. This is all existing and already compatible and appropriate in appearance with the existing or intended character of the general vicinity and will therefore not change the essential character of the area or neighborhood of where it is already located.

Operated: Likewise, this apartment building will be operated and maintained, the grass and yard will be mowed, and exterior painting or roof repairs from time to time will need to be done, like on any building. Like in any parking lot or asphalt drive, from time to time it will, need asphalt patch and repair etc. Discussed within was how the premises would be mowed. This is all existing and already compatible and appropriate in appearance with the existing or intended character of the general vicinity and will remain that way while operated. Simply put, to address Mr. Holmes' concern, there will be no rhubarb coming in and operating a trash house.

The existing building has lights at each door of the building and they point downward, this has existed for years and it will not change. They are grandfathered in. They will have no effect on the surrounding community because this effect has been the same for years. They will each have one standard 40 watt bulb and according to packaging of a 40 watt bulb, it emits approximately 490 lumens.

As any ordinary person with any common sense knows this is minimal but adequate lighting, so that safety of occupants are maintained but neighboring property is not overburdened with light. The light fixtures are 9 feet off the ground.

The development is of the South edge of town and is connected to the neighborhood by Valley Ave. which connects M-22 to 1st street by the way of a circle drive.

E. Supplemental.

1. Section 21.09.3 describes various criteria which need to be addressed in determining whether the proposed use is "compatible", etc. Please comment/provide information concerning each of those items.

Answer: 21.09.3 state: "The special Use will be designed, constructed, operated and maintained to be compatible with, and not significantly alter, the existing or intended character of the general vicinity in consideration of environmental impacts, views, aesthetics, noise, vibration, glare, air quality, drainage, traffic, property values or similar impacts."

Designed, constructed and maintained: This is an existing building and parking lot. There are no proposed changes to the exterior of the building or parking lot/drives, other than that of general maintenance that pertains to owning any existing building and maintaining any existing parking lot. For example, from time to time, exterior painting or roof repairs will need to be done, like on any building. Like in any parking lot or asphalt drive, from time to time, it will need asphalt patch and repair etc. Discussed within was how the premises would be mowed. This is all existing and already compatible and appropriate in appearance with the existing or intended character of the general vicinity and will therefore not change the essential character of the area or neighborhood of where it is already located.

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Automobile and truck circulation patterns: This building will have a lesser effect on automobile and truck circulation patterns than when it was a school or motel. When it was a school, parents coming, to and from, to drop off and pick up their children was an intensive use. Likewise, the school busses had to pull in front of the building on the circle drive, (drive described within this document), which was a more intensive use similar to that of a truck. When this building was a motel, various transient members of the public would be coming and going at all various times of the day and night to rent rooms. The motel at times had a rather seedy and suspicious reputation. In use of this building as apartments it will have very minimal impact limited to passenger vehicles for the occupants to travel to and from work. They will likely leaving in the morning and return near dark. Consequently this use is obviously much less extreme than when it was a motel or school.

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The existing building has lights at each door of the building and they point downward, this has existed for years and it will not change. They are grandfathered in. They will have no effect on the surrounding community because this effect has been the same for years. They will each have one standard 40 watt bulb and according to packaging of a 40 watt bulb, it emits approximately 490 lumens. As any ordinary person with any common sense knows this is minimal but adequate lighting, so that safety of occupants are maintained but neighboring property is not overburdened with light.

This building has existed on this site for years and is grandfathered in as harmonious with the surrounding neighborhood and it is in fact harmonious with the surrounding neighborhood. There are no changes to the exterior of the building proposed and as address above, this apartment building will be operated and maintained, the grass and yard will be mowed, exterior painting or roof repairs will, from time to time, need to be done, like on any building. Like in any parking lot or asphalt drive, from time to time, it will need asphalt patch and repair etc. Discussed within was how the premises would be mowed. This is all existing and already compatible and appropriate in appearance with the existing or intended character of the general vicinity and will remain that way while operated. Simply put, to address Mr. Holmes' concern, there will be no rhubarb coming in and operating a trash house. It is anticipated that all people can live in harmony.

Environmental impacts: This is an established preexisting building, parking lot and driveways, as described herein; there will be no changes to any environmental impact. It will be the same as it has been for the past 60 years.

Views: This is an established grandfathered in building, there will be no changes to the views. It is the same as it has been for 60 plus years. There is a pleasant view in every direction.

Aesthetics: This is an established grandfathered in building, the aesthetics will be maintained and the building will be maintained, see within. To address Mr. Holmes's there will not be an old rhubarb running a trash house.

Noise: These apartments will have less noise than when it was a school full of children or when it operated as a motel with a rather seedy reputation.

Vibration: When this building was a school having busses entering and exiting, there would be more vibrations from the busses than the passenger cars that residents will drive.

Glare: This is an existing building and is grandfathered in, there is no known glare and if there were, it would be no different than existed for the last 60 some years.

Air quality: This existing building will not affect air quality. It exists how it has for 60 some years.

Drainage: This is an existing building and parking lot, there is no concerns with drainage and the parking lot will drain as it always has. As stated by Mr. Bonney there is not a concern in drainage.

Property values or similar impacts: This building has been vacant for a few years, when it was vacant, vandals and drug users would break into it and use the building for a drug and sex house. Reusing the building as apartments, as the master plan suggests, will increase surrounding property values rather than diminishing them by having a drug house and a vacant, decaying, unmaintained building.

2. With regard to the floor plan/diagrams, please identify the number of occupants per sleeping room, occupants utilizing kitchen/bathrooms, common area; and for areas within the building which are not going to be occupied/utilized, please identify on the site plan and describe the manner in which the area will be rendered inaccessible.

Answer: This question is vague and ambiguous. However, applicant will attempt to answer it as he understands it. The applicant has currently been approved by the State for 3 units and a total of no more than 17 occupants. When all 10 units are approved the building could have no more than 50 occupants. Each apartment has its own cooking/kitchen and own bathroom. This is shown on the floor plan. Six of the apartment units have 4 rooms, two bedrooms, bath and kitchen. The 4 other apartments are one bedroom units, with kitchen and bath. There are community rooms listed as gym, laundry and storage. The second story room will be owner storage only and it will be locked on the passage way on the first floor and therefore not accessible to occupants of the apartments.

3. Please provide a floor plan of the second floor area.

Answer: See site plan.

4. [2] Exterior elevations: Please provide along with any necessary comments concerning architectural compatibility with exterior building changes.

Answer: There are no exterior building changes from when this was a motel, it is existing and grandfathered in. A photo was provided on the smaller copies of the original site plan. It is primarily a one story building. In the open common area, there are sky lights of a rather aesthetically pleasing triangular peaked shapes; it provides nice character. The limited second story area will only be used for storage and will be locked from the first floor. The windows on the second floor remain locked. This second story elevation and the triangular peaks are shown on the photo on the front of the original site plan.

[5] Please provide finish floor elevations on the floor plan.

Answer: The floor elevations are the same with the ground. It is also barrier free. The parking lot/sidewalk is the same level as the apartment's entry doors. It is barrier free.
See site plan.

[6] Please label recreation areas.

Answer: See playground on the site plan, this is unchanged and well known to the Village. It has been there since it was a school.

[11] Identify adjacent/contiguous land uses and zoning classification.

Answer: There is a residential home on the corner of M-22 and 1st Street. There are ones on the North side of 1st Street. There is a Village/Township meeting hall on the end of 1st Street, to the immediate east of the outbuilding/garage. There is public baseball field to the immediate east of the building. The North side of the property abuts to Gilmore Township property that appears to be open field, undeveloped residential use. See site plan. Also see drawing the was submitted with the prior applications and court documents.

[26] Need to show location of existing sign or, if it is to be removed, then it should be noted on the site plan.

Answer: See site plan.

[27] Please see item 27 and include this on the site plan.

Answer: See site plan. This is also unchanged and has existed as is for years. See utilities drawn on site plan. There are no retaining basins. There are no underground tanks or drain fields. See other questions and answers for additional information. The Village is in actual knowledge and possession of this information and it is readily observable by simply looking at the property. Mr. Bonney has identified the location of hydrants for you.

[28] Please provide a proposed landscape plan with consideration of any proposed buffering on the property line relative to residential uses.

Answer: The landscape plan is limited to flowers and/or small bushes around the immediate front between the building and sidewalk/parking lot of the building, like was present when it was a motel. See site plan. Said bushes were removed as overgrown and may be replanted. A wide selection of noninvasive evergreen and deciduous plants and shrubs are available at Crystal Gardens. There is no proposed buffering of the property line, adjoining residences are of an appropriate distance from the building that it is not an issue. The one home, is shown on the site plan on the corner of M-22 and 1st street. Other residential uses are across the highway or First Street. This use should have much less impact on the surrounding residences than when it was a motel of a somewhat “seedy” reputation. Moreover, when it was closed it was used by the public as a teenage drug and sex house which the instant use is therefore complementary with a quiet, peaceful residential use, not involving increased police activity that the building was known for in the past.

F. Miscellaneous.

1. Please supply a copy of the documents you submitted to the Department of Agriculture for an Agricultural Labor Camp/any of the Department's written responses (report) .

Answer: It is understood that when this was requested at the PC meeting, attorney Roy had obtained a copy of the same previously that day. Despite having actual possession of the same, attached is an additional copy and correspondence from Mr. Roy proving this information was in his possession.

2. If not already provided in response to 1 above, please provide additional information concerning the number of residents expected to maintain year round occupancy.

Answer: 2-4 families, it may vary by year; i.e. 2-4 double room units.

3. Please provide an explanation as to how the proposed use of "apartments"/explanation to obtain an ALC Permit is different from transient housing as identified under the Zoning Ordinance.

Answer: As provided by the Village after suit was filed, the then provided Zoning Ordinance defined transient housing as “Motels, Hotel, or other transient Lodging.” By that definition which was later provided, it appeared that it may be a daily or perhaps weekly rental situation where any member of the public from any town or State may rent while traveling to or through the area.

In comparison, in the instant situation, the apartments will be used by individuals and by families on a long term basis. As indicated on the application, a few families will stay through the winter and their children will attend the local school. Others, just like our area retired “snow birds” will head South for the winter and return in the spring and work in the area through the late fall. In short, these

apartments are meant to be used as residences to house people and families to live and work in the surrounding area, such as in local orchards and fields.

4. To the extent not already provided above, please provide an explanation as to the limitations/restrictions intended for the vacant acreage (the area of the parcel not occupied by the footprint of the building), e.g. no storage/use of campers, storage for unlicensed vehicles, etc. Upon the issuance of an ALC Permit and upon Village Council approval, is a "reasonable condition" identifying a violation of the ALC Permit as a reason to revoke a Special Use Permit reasonable?

Answer: The vacant acreage--the area of the parcel not occupied by the footprint of the building, or the driveways or marked parking spots—shall remain open. The grass of the area will be mowed as needed to complementary standard of the Village. The play area, as designated on the drawing will likewise be mowed to said standard. There is no outdoor storage in open areas and it is not the plan or intent of the property to be used for outdoor storage. Any vehicles in the parking lots will be vehicles of the occupants of said units suitable for and used for transportation. In short, owner will not be operating a junk yard or as Mr. Holmes has stated, a “trash house.”

Again, this is not intended to be an exhaustive list, but based upon the limited submission by the Applicant to date.

Answer: No comment.