



The regular meeting of the Council of the Village of Bingham Farms will be held at 24255 Thirteen Mile Road, Suite 190, Bingham Farms, Michigan, on Monday, April 27, 2020 at 7:45 p.m. or as soon as possible following the scheduled Zoning Board of Appeals meeting.

AGENDA

- I. Call to Order**
- II. Approval of Agenda – M**
- III. Approval of Meeting Minutes of April 27, 2020 - M**
- IV. President's Comments**
 - a. Gun Violence Awareness Proclamation**
- V. Public comments not on published agenda**
- VI. Discussion Topics**
 - a. Police Department Monthly Report
 - b. Fire Department Monthly Report
 - c. PUD agreement update
 - d. Adopt Fiscal Year 2020/21 Budgets – R
 - e. Adopt Fiscal Year 2020/21 Millage Rate – R
 - f. Adopt Appropriations Act for FY 2020/21 – R
 - g. Adopt Police SAD for FY 2020/21 – R
 - h. Adopt Woodlynne Pump SAD for FY 2020/21 - R
 - i. Administrator's Report
- VII. New Business**
 - a. 23712 Thirteen Mile Road: Rezoning Request - M
 - b. SOCWA Board of Trustees appointment - R
 - c. Village Administrator's Contract - M
- VIII. Old Business**
 - a. Accessory Use Expansion Ordinance - second reading - M
 - b. Massage Therapy Ordinance - first reading
- IX. Treasurer's Report**
 - a. Accept Financial Statements for April 2020 - M
 - b. Approve May 2020 Bills - M
- X. Trustee Comments**
- XI. Adjourn - M**

M-Motion R-Resolution

IN ACCORDANCE WITH PUBLIC ACT 267 (OPEN MEETING ACT)

The Village of Bingham Farms will provide necessary, reasonable auxiliary aids and services to individuals with disabilities requiring such services. All requests must be made to the Village Manager at least five business days before meeting. Individuals with disabilities requiring auxiliary aids or services should contact the office in writing or by phone: 24255 Thirteen Mile, Suite 190, Bingham Farms MI 48025 * 248-644-0044.



The regular **meeting minutes** of the Council of the Village of Bingham Farms, held at 24255 13 Mile Road, Suite 190, Bingham Farms, MI, Monday, April 27, 2020 at 7:30 p.m, held by videoconference.

I. **Call to Order:** 7:30 p.m.

Trustees present: Lisa Blackburn, Spencer Doty, Mel Ettenson, Larry Freedman, Carl Grenadier, Kurt Jones, President Ben Templeton

Trustees absent: None

Others present: Police Chief Dan Roberts, Fire Chief Tony Averbuch, Treasurer Karin Ludwick, Village Manager Ken Marten, Admin Assistant Yevgeniy Malkin, Village Attorney Jennifer Hill.

II. **Proposed Resolution and Policy Establishing Rules for Remote Attendance By Council Members and other Village Public Bodies and Members of the Public At meetings due to Coronavirus Pandemic.**

**Resolution Establishing Rules for Remote Attendance
By Council Members and other Village Public Bodies
and Members of the Public at Meetings Due to Coronavirus Pandemic**

WHEREAS, on March 10, 2020, Governor Whitmer declared a state of emergency as a result of the Coronavirus outbreak; and

WHEREAS, on March 11, 2020, the World Health Organization declared the Coronavirus outbreak a pandemic; and

WHEREAS, on March 13, 2020, the President declared a National Emergency as a result of the Coronavirus outbreak; and

WHEREAS, the Michigan Department of Health and Human Services (MDHHS) has issued Interim Recommendations for COVID-19 Community Mitigation Strategies; and

WHEREAS, such strategies include encouraging staff to tele-work when feasible and implementing social distancing measures as feasible, including limiting in-person meetings, and to limit large work-related gatherings; and

WHEREAS, on March 18, 2020, Governor Whitmer issued Executive Order 2020-15 to suspend rules and procedures relating to physical presence at meetings and hearings of public bodies to allow for public bodies to continue to conduct public business during the COVID-19 emergency and the general public to continue to participate in government decision making without unduly compromising public health, safety, and welfare; and

WHEREAS, to implement MDHHS’s mitigation strategies, to allow the Village Council and all other Village boards, and commissions (hereinafter referred to collectively as “Public Bodies”) to continue public business, and to allow the public to attend meetings of the Public Bodies remotely if they desire, consistent and in compliance with Executive Order 2020-15, the Village Council desires to establish rules to authorize and allow its members and members of the public to attend all meetings of Public Bodies by telephone or other electronic means;

NOW IT IS THEREFORE RESOLVED:

The Village Council hereby adopts the attached Policy governing meetings being held via teleconferencing, a copy of which is attached hereto, and authorizes the various Public Bodies of the Village of Bingham Farms to utilize remote teleconferencing in the course of conducting public meetings business in accordance with said Policy.

This Resolution shall be effective immediately and shall remain in effect so long as Executive Order 2020-15 or any amendments thereto is in effect.

RESOLUTION 2020-06 OFFERED BY: Jones, SUPPORTED BY: Ettenson. Roll Call Vote:

Ayes: Blackburn, Doty, Ettenson, Freedman, Grenadier, Jones, Templeton.

Opposed: None

Passed: 7-0

III. **Approval of Agenda:** Request by Jones to add new item (X. Council Budget Discussion).
Motion by Ettenson to approve agenda with amendment. Second by Blackburn.
AYES: Blackburn, Doty, Ettenson, Freedman, Grenadier, Jones, Templeton.
NAYS: None

IV. **Approval of Meeting Minutes of March 23, 2020:** Motion by Freedman, second by Ettenson.
Roll Call Vote:
AYES: Blackburn, Doty, Ettenson, Freedman, Grenadier, Jones, Templeton.
NAYS: None

V. **Public comments:** None

VI. **Public Hearings related to budget:**

A. Public Hearing for 2020-2021 Budget

- i. Templeton opened the hearing at 7:35 p.m. Ludwick presented a balanced General Fund budget of \$2,290,101 and a balanced Gas and Weight Fund budget of \$273,243. Noted the budget timetable, unanimously approved by council at the January meeting, council review of the budget at the March meeting and approval to send budgets to be published in print for public hearings per state law, then referred to budget categories that increased or decreased per budget overview sheet. No questions/comments.

ii. President Templeton closed the hearing at 7:37 p.m.

B. Public Hearing for Truth in Taxation

i. Templeton opened hearing at 7:37 p.m. Ludwick reviewed state law requirements for Truth-in-Taxation hearing. No questions/comments.

ii. Templeton closed the hearing at 7:39 p.m.

C. Public Hearing for Police Special Assessment District

i. Templeton opened the hearing at 7:39 p.m. Ludwick explained purpose of police S.A.D. and referred to Chief Roberts' presentation last month and the 2020 S.A.D. budget of \$333,530, paid for by the business owners in the PS and C-1 districts. No questions/comments.

ii. Templeton closed the hearing at 7:41 p.m.

VII. Discussion Topics:

A. **Police Department Monthly Report:** Roberts presented the monthly police report with additional commentary.

B. **Fire Department Monthly Report:** Averbuch presented the monthly report with additional commentary.

C. **Administrator's Report:** Marten had no additional comments.

D. **Certify delinquent water accounts to 2020 tax roll:**

RESOLUTION 2020-07 OFFERED BY: Ettenson, SUPPORTED BY: Blackburn that whereas the Village of Bingham Farms has been requested by the Oakland County Water Resources Commissioner to collect delinquent water and sewer amounts, and whereas such collections shall be returned to the County of Oakland after full payment has been received, be it resolved that the following amounts be certified to the respective three property tax bills:

Sidwell #	Amount
24-09-326-001	\$ 228.05
24-09-127-007	286.71
24-04-178-011	237.98
24-04-377-018	231.83
24-04-126-021	<u>231.83</u>
Total	\$ 1,216.40

AYES: Blackburn, Doty, Ettenson, Freedman, Grenadier, Jones, Templeton.

NAYS: None

PASSED: 7-0

- VIII. **Accessory Use Expansion Ordinance:**
A. **First Reading:** Council discussed language and several expressed concern regarding massage therapy and massage "parlors." Hill suggested additional ordinance language that would further define massage therapy and require additional procedures for said businesses prior to receiving a business license. Said language will be presented at the May 26, 2020 council meeting

IX. **Treasurer's Report:**

- A. Motion by Ettenson, second by Blackburn to accept General Fund balance at March, 2020 of \$2,683,961.24 with income for the month of \$51,606.36 against expenditures of \$167,756.87, and to accept the Gas & Weight Fund balance at \$1,130,961.37 with income for the month of \$10,491.39 against expenditures for March of \$7,300.00.

AYES: Blackburn, Doty, Ettenson, Freedman, Grenadier, Jones, Templeton.
NAYS: None.

- B. Motion by Jones, second by Ettenson, to approve payment of the April 2020 bills in the following amounts: General Fund, \$150,315.12; and Gas & Weight, \$1,057.49.

AYES: Blackburn, Doty, Ettenson, Freedman, Grenadier, Jones, Templeton.
NAYS: None.

X. **Council Budget Discussion:**

RESOLUTION 2020-08 OFFERED BY: Jones, SUPPORTED BY: Freedman that the proposed 2020 General Fund budget be reduced by \$37,000 in the category of Public Safety; Police P.O.S., and the millage rate be reduced correspondingly to 8.8 mills. Roll Call Vote:

AYES: Freedman, Jones.
NAYS: Blackburn, Doty, Ettenson, Grenadier, Templeton.
RESOLUTION FAILED: 2-5

- XI. **Trustee Comments:** Freedman commented on raising awareness of tree and greenery preservation in the village.

- XII. **Adjourn:** Motion by Jones, second by Grenadier:
AYES: Blackburn, Doty, Freedman, Grenadier, Jones, Templeton.
NAYS: None.
ABSENT: Ettenson (left meeting at 9:15 p.m.)

Adjourned 9:20pm.

2020 PROCLAMATION
DECLARING THE FIRST FRIDAY IN JUNE TO BE
NATIONAL GUN VIOLENCE AWARENESS DAY

This proclamation declares the first Friday in June to be National Gun Violence Awareness Day in the City of Bingham Farms to honor and remember all victims and survivors of gun violence and to declare that we as a country must do more to reduce gun violence.

WHEREAS, every day, more than 100 Americans are killed by gun violence and on average there are more than 13,000 gun homicides every year; and Americans are 25 times more likely to die by gun homicide than people in other high-income countries; and Michigan has 1,187 gun deaths every year, with a rate of 11.8 deaths per 100,000 people. Michigan has the 30th highest rate of gun deaths in the US; and cities across the nation, including in Bingham Farms, are working to end the senseless violence with evidence-based solutions.

Anyone can join this campaign by pledging to Wear Orange on June 5th, the first Friday in June in 2020, to help raise awareness about gun violence. By wearing orange on June 5, 2020 Americans will raise awareness about gun violence and honor the lives of gun violence victims and survivors.

WHEREAS, we renew our commitment to reduce gun violence and pledge to do all we can to keep firearms out of the wrong hands, and encourage responsible gun ownership to help keep our children safe.

NOW, THEREFORE BE IT RESOLVED, that Ben Templeton, President of the Village of Bingham Farms, declares the first Friday in June, June 5, 2020, to be National Gun Violence Awareness Day. I encourage all citizens to support their local communities' efforts to prevent the tragic effects of gun violence and to honor and value human lives.

Date May 26, 2020

VILLAGE OF FRANKLIN
OAKLAND COUNTY
MICHIGAN
FRANKLIN - BINGHAM FARMS POLICE DEPARTMENT

32311 FRANKLIN RD
FRANKLIN, MICHIGAN

Telephone
(248) 626-9672

DANIEL D. ROBERTS
Chief of Police

Fax
(248) 538-5450

MONTHLY REPORT
APRIL 2020

CALLS FOR SERVICE

	<u>NUMBER</u>	<u>PERCENT</u>	<u>YEAR - TO - DATE</u>	<u>YEAR-TO DATE LAST YEAR</u>
BINGHAM FARMS w/S.A.D.	56	29%	348	442
FRANKLIN	118	62%	452	500
OTHER	4	2%	23	31
TRAFFIC STOPS ONLY	13	7%	763	974
TOTAL:	191	100%	1586	1947
S.A.D. Only: S.A.D.=Special Assessment District	20		124	148

WRITTEN COMPLAINTS

	<u>NUMBER</u>	<u>PERCENT</u>	<u>YEAR - TO - DATE</u>	<u>YEAR-TO DATE LAST YEAR</u>
BINGHAM FARMS	9	38%	82	110
FRANKLIN	14	58%	74	78
S.A.D./OTHER	1	4%	16	42
TOTAL:	24	100%	172	230

BREAKING AND ENTERING/HOME INVASION

RESIDENTIAL

<u>THIS MONTH</u>	<u>YEAR - TO - DATE</u>
0	0
<u>THIS MONTH LAST YEAR</u>	<u>YEAR - TO - DATE LAST YEAR</u>
1	1

	<u>DATE</u>	<u>INCIDENT</u>	<u>ADDRESS</u>
BINGHAM FARMS	n/a	n/a	n/a
FRANKLIN	n/a	n/a	n/a

COMMERCIAL

<u>THIS MONTH</u>	<u>YEAR - TO - DATE</u>
0	0
<u>THIS MONTH LAST YEAR</u>	<u>YEAR - TO - DATE LAST YEAR</u>
1	1

VI(A)

	<u>DATE</u>	<u>INCIDENT</u>	<u>ADDRESS</u>
BINGHAM FARMS	n/a	n/a	n/a
FRANKLIN	n/a	n/a	n/a
S.A.D.	n/a	n/a	n/a

ARRESTS

	<u>NUMBER</u>	<u>YEAR - TO - DATE</u>	<u>YEAR - TO - DATE 2019</u>
FELONIES	0	2	3
MISDEMEANORS	0	41	59

MISDEMEANOR INCIDENTS

	<u>DATE</u>	<u>INCIDENT</u>	<u>COMMENTS</u>
(A)=Arrest	4/18/2020	20-1509(B)	Reckless Driving
(B)=Bingham Farms			
(F)=Franklin			
(S)=S.A.D.			
(O)=Other			

FELONY INCIDENTS

	<u>DATE</u>	<u>INCIDENT</u>	<u>COMMENTS</u>
(A)=Arrest	4/8/2020	20-1442(F)	Fraud
(B)=Bingham Farms	4/15/2020	20-1492(B)	Larceny - From Mails
(F)=Franklin	4/18/2020	20-1506(B)	Fraud
(S)=S.A.D.	4/20/2020	20-1522(F)	Fraud
(O)=Other			

TRAFFIC CITATIONS:

	<u>NUMBER</u>	<u>PERCENT</u>	<u>YEAR - TO - DATE</u>	<u>LAST YEAR-TO-DATE</u>
BINGHAM FARMS/S.A.D.	7	88%	420	601
FRANKLIN	1	12%	161	216
OTHER	0	0%	0	0
TOTAL:	8	100%	581	817

OTHER MATTERS

<u>DATE</u>	<u>INCIDENT</u>	<u>COMMENTS</u>
Month of April		"Birthday in Place Patrol" - Officers conducted 13 Birthday in Place Patrol drive-bys in the Villages of Franklin and Bingham Farms.



 Daniel D. Roberts, Chief of Police

5/4/2020

VI(A)

FRANKLIN-BINGHAM FARMS POLICE DEPARTMENT
S.A.D. ACTIVITY REPORT
April 2020

REPORTS TAKEN WITHIN THE SAD	NUMBERS	20YTD	19YTD
Incident Reports	0	10	33
Violations Issued ¹	5	220	351
Arrests ²	0	13	19
Crime Prevention Meetings	0	2	4
Total Vehicle Miles	1782	6562	6200
Overtime Hours	0	0	8.25
Open Buildings	1	10	24
Private Property Accident Reports Taken Within The S.A.D	0	4	4
Public Property Accident Reports In Front of the S.A.D. (Telegraph Rd.)	4	16	36

¹ Starting in 2019, parking violations were included in this line item (not previously recorded).

² Does not include arrests on Telegraph Rd by non S.A.D. officers, but does include arrests made by S.A.D. officers outside of the S.A.D.

**FRANKLIN-BINGHAM FARMS POLICE DEPARTMENT
INCIDENTS REPORTED IN THE COMMERCIAL DISTRICT
April 2020**

	NUMBER	20YTD	19YTD
Homicide	0	0	0
Attempt Armed Robbery	0	0	0
Armed Robbery	0	0	0
Larceny from Auto, Incl. Attempt	0	0	1
Attempt U.D.A.A.	0	0	0
Larceny in Building, Incl. Attempt	0	0	1
Larceny, All Other	0	0	0
Malicious Destruction of Property	0	0	0
Breaking and Entering	0	0	1
Attempt Breaking and Entering	0	0	0
Assault (Incl. Stalking)	0	0	2
Forgery-Fraud/Embezzlement/N.S.F. Checks	0	1	2
Extortion	0	0	0
	0	1	7

**FRANKLIN-BINGHAM FARMS POLICE DEPARTMENT
SPECIAL ASSESSMENT DISTRICT: ARRESTS
April 2020**

ARRESTS	CURRENT	20YTD	19YTD
FELONY	0	0	1
MISDEMEANOR	0	13	18
*TOTAL	0	13	19

*These totals are arrests made by the S.A.D. Officers in the district as well as in other parts of the villages.

**FRANKLIN-BINGHAM FARMS POLICE DEPARTMENT
SPECIAL ASSESSMENT DISTRICT: ARRESTS
April 2020**

INCIDENT#	LOCATION	SEX/AGE/RESIDENCE	OFFENSE
n/a	n/a	n/a	

**FRANKLIN-BINGHAM FARMS POLICE DEPARTMENT
SPECIAL ASSESSMENT DISTRICT: Incidents
April 2020**

INCIDENT#	LOCATION	BUSINESS	OFFENSE
n/a	n/a	n/a	

FRANKLIN-BINGHAM FARMS POLICE DEPARTMENT
MONTHLY PERSONNEL REPORT
April 2020

DAYS/HRS. S.A.D. OFFICERS WERE OUT OF THE S.A.D. *

Sick Days	0 hrs.
Vacation Days	12 hrs.
Comp. Days	0 hrs
Personal Days	0 hrs.

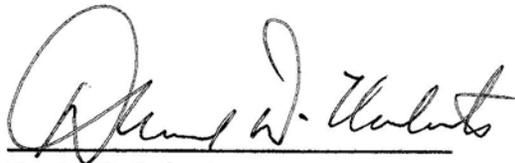
SHIFTS S.A.D. OFFICERS WERE REQUIRED TO BE OUT OF THE S.A.D.*

<u>DATE</u>	<u>REASON</u>	<u>OFFICER</u>
4/27/20	Vacation	Goodroe

*On the day above, a part-time officer was called-in to work the S.A.D. in the absence Ofc. Goodroe.

ADDITIONAL TIME DEVOTED TO THE S.A.D.

Patrol Hours: 143.00
Investigative Hours: 0



Daniel D. Roberts
Chief of Police

5/7/2020

Date

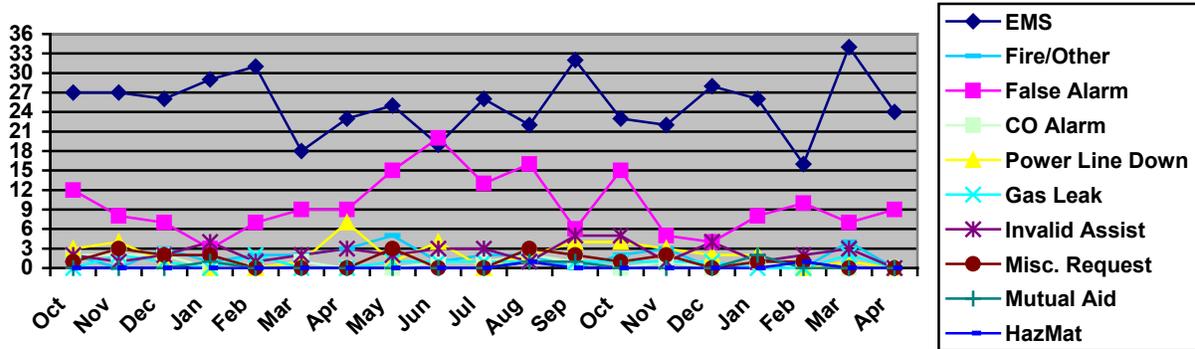
Violation Summary
April 2020

VIOLATIONDESC	VIOL_COUNT	VIOL_PERCENTAGE
FAIL TO STOP ASSURED CLEAR DISTANCE AHEAD	3	42.85
20 MPH OVER LIMIT	2	28.57
1-5 MPH OVER LIMIT	1	14.29
6-10 MPH OVER LIMIT	1	14.29

TTL Violations 7

To: The Board of Fire Commissioners
 From: Chief of Department Tony Averbuch
 Subject: Report for the 18 May 2020 Meeting

Past 18 Months Response Trends:

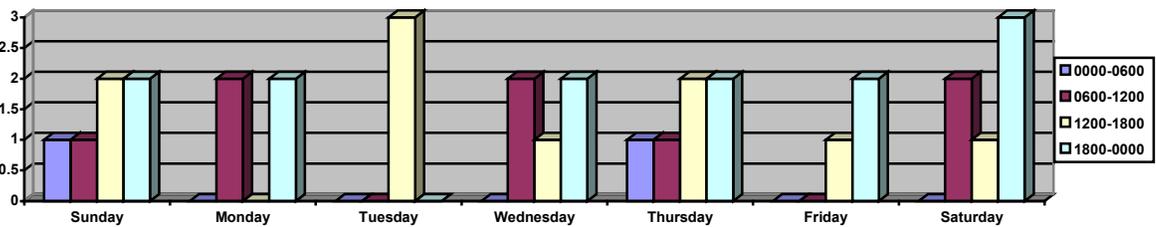


April Response Information:

33 incidents for the month of April 2020. Average response time for the month (time of call to time on-scene) was 4.09 minutes. Below listed are those false alarms that have occurred during the month of April:

Date	Incident.	Village	Address	Time	Billable	Comments
4/2/20	127	Bingham Farms	23930 Greenglen Ct	13:57	No	Cancelled Enroute
4/12/20	139	Bingham Farms	30425 Oakview Way	09:19	No	Cancelled Enroute
4/17/20	142	Bingham Farms	30965 Timberbrook Ln	17:28	No	Cancelled Enroute
4/18/20	144	Bingham Farms	Timber Trail & Bingham	21:56	No	Good Intent Call, Other
4/20/20	145	Bingham Farms	30725 Ivyglen Ct	08:02	Yes	Malfunction
4/21/20	146	Franklin	32760 Franklin Rd	15:02	Yes	Malfunction
4/23/20	149	Franklin	32877 Romsey	13:43	No	Cancelled Enroute
4/27/20	152	Franklin	27400 Scenic Dr	11:26	Yes	Malfunction
4/28/20	155	Franklin	26499 W 13 Mile Rd	16:35	No	Good Intent Call, Other

Incidents by hour and day for April 2020:



Top Ten Responders

- | | |
|---------------|----------------------|
| 1. LT Johnson | 6. FF Longworth |
| 2. LT Croyle | 7. FM Fine |
| 3. FF Rubin | 8. FF Stefancin |
| 4. FF Kelly | 9. Lt. Adams |
| 5. CAPT Kelly | 10. FF Kochensparger |

ADOPT 2020/21 GENERAL FUND, GAS & WEIGHT BUDGETS

RESOLUTION 2020- XX OFFERED BY: _____, **SUPPORTED BY:** _____ that
whereas the Village of Bingham Farms has conducted a public hearing on the proposed 2020/21 Fiscal
Year Budget on April 27, 2020 and whereas public comments have been heard and considered, be it
resolved that the 2020/21 Fiscal Year Budget for the General Fund, Major Road Fund and Local Road
Fund be adopted as follows:

<u>Fund</u>	<u>Revenues</u>	<u>Expenditures</u>
General	\$2,290,101	\$2,290,101
Gas & Weight	273.243	273,243

Ayes:
Nays:
Absent:

ADOPT 2020/21 MILLAGE RATE

RESOLUTION 2020- XX OFFERED BY: _____, **SUPPORTED BY:** _____ that
whereas the Village of Bingham Farms on May 26, 2020 adopted the 2020/21 Fiscal Year Budget, and
whereas the Village must adopt a millage rate to be spread across the Village tax roll for 2020/21, be
it resolved that the Village of Bingham Farms does hereby approve the 2020/21 millage rate for the
Village at 9.0 mills.

Ayes:
Nays:
Absent:

ADOPT APPROPRIATIONS ACT FOR FY 2020/21

RESOLUTION 2020- XX OFFERED BY: _____, **SUPPORTED BY:** _____ that
whereas the Village of Bingham Farms has adopted its annual budget for its fiscal year beginning July
1, 2020 in accordance with State law and the Village Charter, and whereas the Village is required to
adopt an appropriations act to provide the authority to incur obligations and expend public funds, be it
resolved that the adopted budget for the fiscal year beginning July 1, 2020 and ending June 30, 2021
shall establish the approved appropriation levels for the 2020/21 fiscal year. Further, the Village retains
the authority to amend the Village budget and this appropriation act at such times as it should become
necessary.

Ayes:
Nays:
Absent:

ADOPT 2020/21 POLICE S.A.D. MILLAGE RATE

RESOLUTION 2020- XX OFFERED BY: _____, **SUPPORTED BY:** _____ that
whereas the Village of Bingham Farms has conducted a public hearing on the proposed 2020/21 Police
Special Assessment District presented by the Franklin-Bingham Farms Police Department on April 27,
2020 and whereas public comments have been heard and considered, and whereas now the Village
must adopt a millage rate to be spread across the Special Assessment District members on the Village
tax roll for 2020/21, be it resolved that the Village of Bingham Farms does hereby approve the 2020/21
Police SAD millage rate at 5.47717 mills.

Ayes:
Nays:
Absent:

ADOPT WOODLYNNE PUMP SAD

RESOLUTION 2020- XX OFFERED BY: _____, **SUPPORTED BY:** _____ that
whereas on July 22, 1996 the Village of Bingham Farms established the necessity of a twenty year
Special Assessment District to maintain the Woodlynne Pump Station and Drainage Basin Operation
for all properties vacant and improved on Woodlynne Drive, and whereas on May 23, 2016 that
necessity was extended an additional 20 years, until the cost to be spread for 2020/21 is in the amount
of \$3,240, be it resolved that the assessment roll for all property owners on Woodlynne Drive
(showing a levy of 0.2944 mills) for the period 7-1-20 to 6-30-2021 be confirmed and that the
payment of the special assessment be in one installment to be made payable with the annual Village
property tax bill due on July 1, 2020.

Ayes:
Nays:
Absent:



Council Communication

To: President Templeton and Village Council Trustees

From: Ken Marten, Village Manager

Date: May 22, 2020

Re: Village Administrator Report for May 2020

Heroes Act: I participated in a Zoom meeting on Monday, May 18, hosted by Rep. Andy Levin and his office. The purpose of the meeting was to review the Heroes Act, legislation that has passed the House of Representatives and is now before the Senate. If passed by the Senate and signed by the president, Michigan's communities would receive assistance funding this year and next. Bingham's allocation would be \$379,000 in 2020 and \$189,000 in 2021.

Large Item Pickup: Large/bulk item pickup day is scheduled for Thursday, June 4.

2020 Census: 71.7 percent of village households have thus far responded to the census as of May 11. At Trustee Jones' request, I've uploaded census information and links to the village website.

Water Quality Report: The Oakland County Water Resources Commissioner's Office released the 2019 Consumer Confidence Report on water quality earlier this month. The WRC will also mail copies to all ratepayers by July, and it has been uploaded to the village website.

Planning Commission: Met on Monday, May 11. There was one actionable item: Rezoning Request recommendation for 23712 Thirteen Mile. The applicant is Huntington Homes, and it has requested that the vacant 5-acre parcel be rezoned from R-1 to R-5. The recommendation was not approved. See meeting agenda item VII a.

Design Review Board: Met on Monday, May 4. Many items were on the agenda.

- 30731 Bristol Lane, home addition: Approved.
- 31033 Cardinal Lane, installation of ground-mounted solar panel array: Tabled pending landscaping plan.
- 23172 Old Orchard Trail installation of sports pad and landscaping plan: Approved.\
- 23100 Sager Court, reapplication of front porch replacement: Approved.
- 32100 Bingham Road, approval of paint color: still pending.
- Tree Ordinance amendment recommendations: The board approved recommending a host of changes to ordinances that regulate trees. These are attached to the memo email.

Damaged sign: A two-vehicle accident on Monday night, April 27, wiped out the green directional sign in the Telegraph boulevard at 13 Mile. Chief Roberts informed me that RCOC has been notified. In light of the COVID-19 work limitations, it may be awhile before the sign is replaced. **Sign has been repaired.**



Business licensing update: As of May 19, we had 376 business registrations out of about 460 as listed in the tax database. We've received between 20 and 30 notifications from businesses that have moved or closed. Registrations, questions about registrations, and "I'm gone" notices continue to trickle at the rate of five or six a week.

Yevgeniy is working on a complete database. However, with limited hours and us having to coordinate via phone, text and email, progress is slower than any of us would like. Eventually, I plan to make calls -- and some day personal visits -- to the businesses that have yet to respond.

There are obvious good reasons for creating programs like this. As I've mentioned before, it will contribute to an accurate count of the village's daytime/business population, and help with planning and in determining the best use of the village's resources (police, fire, underground infrastructure). Then there are unknown reasons that reveal themselves "after the fact." For example, if we already had an established database with contact emails, we could've alerted

everyone about the small business loans and grants from various government entities with a few keystrokes, and perhaps provided additional resources.

CORONAVIRUS UPDATES: Gov. Whitmer extended the Stay Home/Stay with Executive Order 2020-77 through **Thursday, May 28**.

The office remains closed to the public. We operate in shifts, one with person in the office 9 to noon, and someone else from 12:30 to 4. This avoids all person-to-person contact.

I've uploaded messages from the police and fire departments to the village website. Both departments have received an overload of 911 calls related to non-emergencies. They're trying to limit them through public education/information.

There are cases of COVID-19 in the village. Please practice social distancing and remain vigilant.



Council Communication

To: President Templeton and Village Council Trustees

From: Ken Marten, Village Manager

Date: May 22, 2020

Re: 23712 Thirteen Mile Road Rezoning Request

Dear President Templeton and Village Trustees:

Before you at the May 26, 2020 Village Council Meeting is a rezoning request for 23712 Thirteen Mile Road. The property is approximately 4.7 acres and is presently vacant. The applicant is Huntington Homes LLC.

The Village Council's role, per ordinance is to grant or deny the rezoning request.

The Planning Commission's role, per ordinance, is to hold a public hearing on all rezoning requests, followed by a recommendation to Village Council whether to grant the request.

The public hearing was held on Dec. 9, 2019. One Cardinal Lane resident submitted an opinion opposing the project; a second Cardinal Lane resident attended the hearing and expressed concerns about increased traffic on Cardinal Lane. The commission opted to not make a recommendation because only four of the seven commissioners attended the meeting, and those in attendance wanted the entire commission to weigh the decision.

The commission met on Monday, May 11 and considered the rezoning request. Five of the seven commissioners attended. After the applicant's presentation and a commission discussion, a motion to recommend was made and seconded. The vote was 3-2. While that appears to be an approval to recommend based on a simple majority, the motion actually failed. According to the Planning Commission bylaws, "an affirmative vote of the majority of the commission membership is required..." regardless of the number of commissioners in attendance. Four votes would have resulted in a recommendation.

Note that in this instance, the granting of a rezoning request is only the first of several steps in the development process. The applicant has stated its intention to construct a 10-unit condo complex on the eastern third to half of the property; the western portion includes the Franklin River and significant wetlands and is deemed unbuildable.



Should council grant the rezoning request, the applicant would still need to appear before the commission for site plan approval recommendation, then appear before Village Council for site plan approval, and then appear before the Design Review Board for design approval.

An additional step in this process is that the property is currently divided into three east/west R-1 parcels. A "reverse lot split" would need to occur to bring them all together.

Attached to this packet are the following documents:

- A. Letter from applicant's attorney (2 pages)
- B. Applicant Huntington Homes conceptual site plan (1 pages)
- C. Applicant Huntington Homes building rendering (1 page)
- D. Photos of another Huntington Homes development (3 pages)
- E. Planning Consultant Giffels Webster's Rezoning Review (5 pages)
- F. Second memo from me regarding rezoning considerations (4 pages)
- G. Protest Petition (1 page)
- H. Letter from neighbors opposing rezoning (2 pages)
- I. Letter from neighbor opposing rezoning (1 page)
- J. Memo form neighbor's attorney opposing rezoning (2 pages)
- K. Zoning District Summary Table (1 page)



Dykema Gossett PLLC
 39577 Woodward Avenue
 Bloomfield Hills, MI 48304
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Tel: (248) 203-0700
 Fax: (248) 203-0763

Alan M. Greene
 Direct Dial: (248) 203-0757
 Direct Fax: (855) 236-1206
 Email: AGreene@dykema.com

May 18, 2020

Via Email

Ken Marten
 Village of Bingham Farms
 24255 Thirteen Mile Road, Suite 190
 Bingham Farms, MI 48025

Re: Rezoning Request--23712 Thirteen Mile Road--Bingham Ridge Condominiums

Dear Mr. Marten:

I wanted to thank you and the Planning Commission for holding the zoom meeting on Monday, May 11 and considering the proposed rezoning for the proposed Bingham Ridge Condominium, at which time the Planning Commission members present voted 3 to 2 in favor of the rezoning request. I understand that the matter will be on the agenda for consideration by Village Council on Tuesday, May 26.

As we previously described to the Planning Commission, this is a small 10-unit condominium development along Thirteen Mile Road, constructed to appeal to empty nester, active adults. One key concern addressed in the Master Plan is the rapid aging of the Village's population. The Plan indicates that a whopping 39% of the Village population is over age 65, up from 17% in 1990, and the population in the 75-84 age group was approximately 17%. *See Master Plan at pp. 10-11.* These numbers have likely increased in the last 10 years. As the Master Plan states, after discussing the 39% figure:

The fact that the population of Bingham Farms is aging indicates that the Village may want to plan strategies to help people age "in place" and "in community." **The Village may want to examine whether its housing alternatives will be sufficient to accommodate a population with changing needs.**

Master Plan, at page 11(emphasis in the Plan).



Ken Marten
May 18, 2020
Page 2

The Village, however, has no location available to provide the kind of alternate housing desired by the empty nesters and large numbers of retiring baby boomers who may want to “age in community” and thus remain or locate in the Village. We learned from the Village’s Planning Consultant that the only other location identified could be the redevelopment of portions of the parking lots utilized by office buildings on Telegraph. The Property involved here along 13 Mile in close proximity to other multi-family projects and Telegraph Road is an ideal site for this proposed housing. Indeed, as explained at the Planning Commission meeting, the land has sat vacant for many years and no one would purchase it for single-family residential because of marketing and other impediments.

I believe someone asked whether we could provide any images or examples of the type of housing we would be proposing as part of any future site planning if the rezoning is approved. While we have not completed plans and architectural details for the Bingham Ridge condominium units, we are currently constructing an empty nester, stay in community in-fill housing project in the City of Saline. Here are some images of the units. These are also first floor master bedroom units, with two additional bedrooms or an additional bedroom and an office. The units range in size from 1850-2100 square, not including lower level, and in general cost from about \$450,000 and up. They are all ADA accessible. The proposed Bingham Ridge Condominiums will be larger, have more amenities and will be more expensive. But the intent is to target the same active empty nesters who want to stay in the community to meet the dearth of such housing as reflected in the Village’s Master Plan.

I greatly appreciate the Council’s consideration of this information. We will be happy to discuss this further and answer questions at the next meeting on the proposed rezoning. Please let me know if you need any additional information before the Council meeting. Thank you and be safe.

Sincerely,

DYKEMA GOSSETT, PLLC



Alan M. Greene

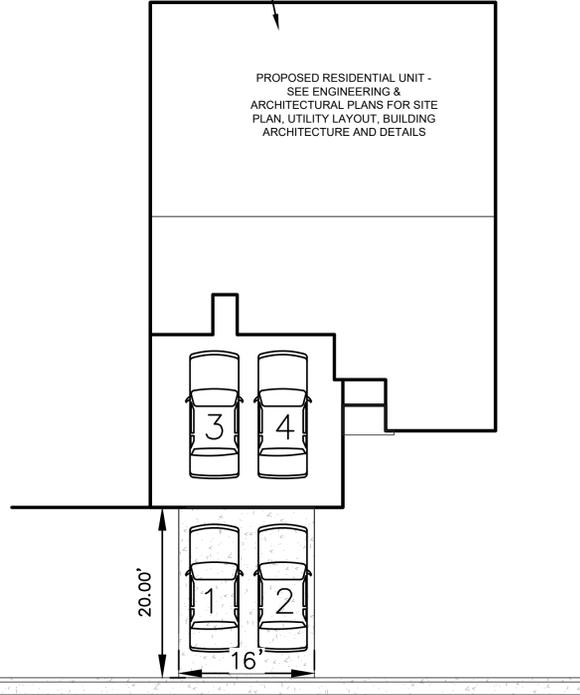
Enclosure

cc: Mark Lewis

B

ALL DECKS, SCREENED PATIOS, AND SUN ROOMS SHALL BE CONSTRUCTED WITHIN THE BUILDING ENVELOPE SHOWN, AT GRADE CONC. OR PAVER PATIOS MAY EXTEND INTO THE REAR YARD SETBACK.

PROPOSED RESIDENTIAL UNIT - SEE ENGINEERING & ARCHITECTURAL PLANS FOR SITE PLAN, UTILITY LAYOUT, BUILDING ARCHITECTURE AND DETAILS



TYPICAL HOUSING UNIT PARKING LAYOUT

LEGEND table with columns for SYMBOL and DESCRIPTION, listing various site features like spot elevations, contours, ditches, manholes, and utilities.

LEGAL DESCRIPTION:

Parcel 1: Part of the Southwest 1/4 of Section 4, Town 1 North, Range 10 East, described as: Beginning at a point distant North 00 degrees 46 minutes 00 seconds West 304.31 feet; thence North 89 degrees 00 minutes 00 seconds East 297 feet from the Southwest 1/4; thence North 89 degrees 00 minutes 00 seconds East 522.12 feet; thence South 09 degrees 17 minutes 45 seconds East 140 feet; thence North 60 degrees 40 minutes 31 seconds West 119.39 feet; thence South 81 degrees 54 minutes 15 seconds West 63.64 feet; thence South 45 degrees 44 minutes 14 seconds West 53.82 feet; thence South 89 degrees 00 minutes 00 seconds West 337.44 feet; thence North 00 degrees 45 minutes 26 seconds West 123 feet to the point of beginning.

Parcel 2: Part of the Southwest 1/4 of Section 4 and the Northwest 1/4 of Section 9, Town 1 North, Range 10 East, described as: Beginning at a point distant North 00 degrees 46 minutes 00 seconds West 304.31 feet and North 89 degrees 00 minutes 00 seconds East 297 feet and South 00 degrees 45 minutes 26 seconds East 123 feet from the Southwest 1/4; thence North 89 degrees 00 minutes 00 seconds East 337.44 feet; thence North 45 degrees 44 minutes 14 seconds East 53.82 feet; thence North 81 degrees 54 minutes 15 seconds East 63.64 feet; thence South 60 degrees 40 minutes 31 seconds East 119.39 feet; thence South 09 degrees 17 minutes 45 seconds East 140 feet; thence South 80 degrees 39 minutes 00 seconds West 68.39 feet; thence South 83 degrees 49 minutes 00 seconds West 36.66 feet; thence North 09 degrees 17 minutes 45 seconds West 172.15 feet; thence South 87 degrees 44 minutes 25 seconds West 445.60 feet; thence North 00 degrees 45 minutes 26 seconds West 82.98 feet to the point of beginning.

Parcel 3: Part of the Southwest 1/4 of Section 4 and the Northwest 1/4 of Section 9, Town 1 North, Range 10 East, described as: Beginning at a point distant North 00 degrees 46 minutes 00 seconds West 304.31 feet and North 89 degrees 00 minutes 00 seconds East 297 feet and South 00 degrees 45 minutes 26 seconds East 123 feet from the Southwest 1/4 of Section 4; thence North 87 degrees 44 minutes 25 seconds East 445.60 feet; thence South 09 degrees 17 minutes 45 seconds East 140 feet; thence South 83 degrees 49 minutes 00 seconds West 163.34 feet; thence South 89 degrees 04 minutes 00 seconds West 308.40 feet; thence North 00 degrees 45 minutes 26 seconds West 174.95 feet to the point of beginning.

EXISTING ZONING: VILLAGE OF BINGHAM FARMS SINGLE FAMILY R-1

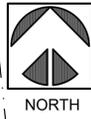
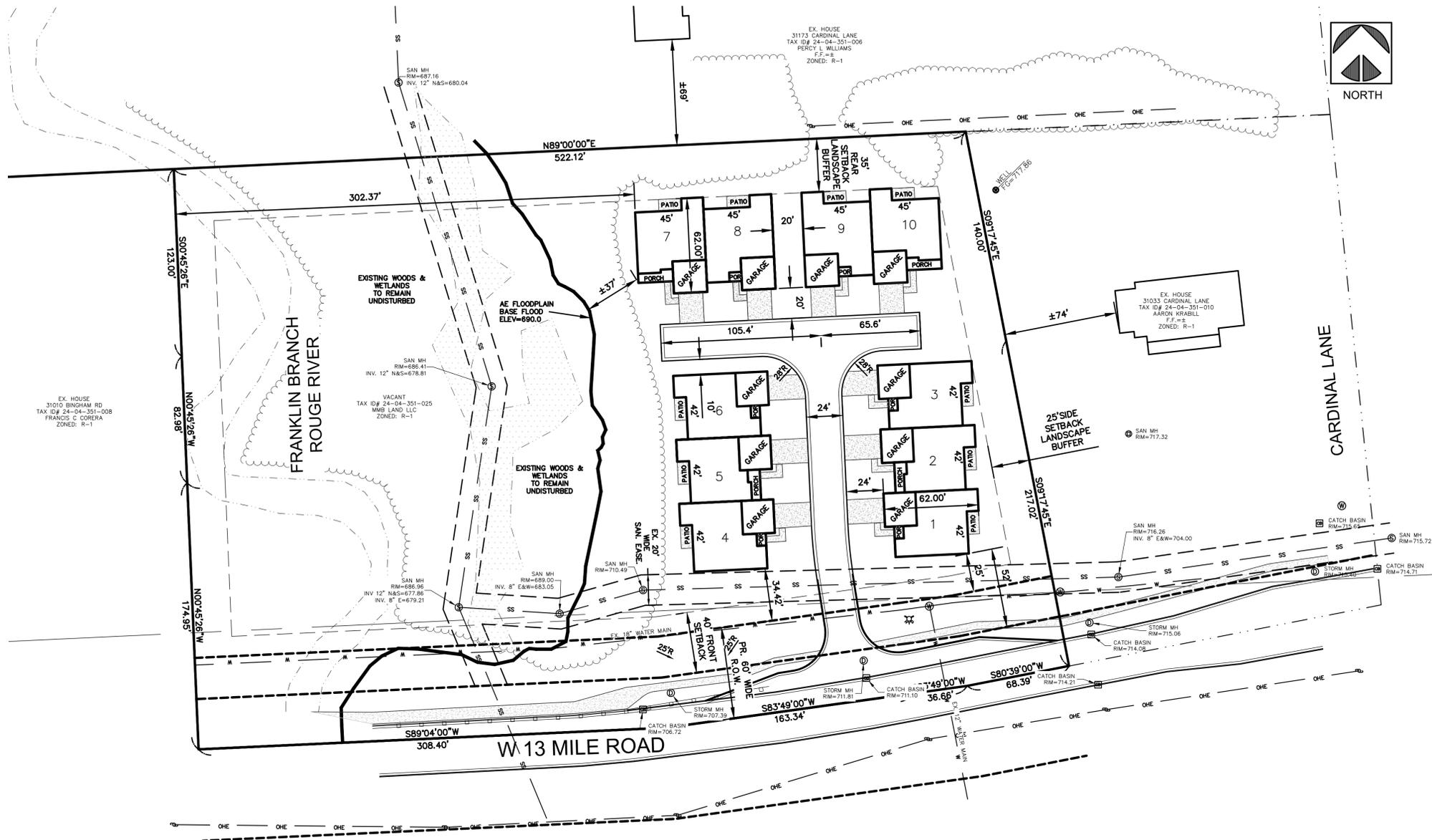
PROPOSED ZONING: R-5 MULTIPLE FAMILY RESIDENTIAL. MIN. LIVING AREA = 1,200-SQ.FT. MIN. LOT AREA PER DWELLING = 10,000 SQ.FT. MIN. LOT WIDTH = 100.0 FT. MAX HEIGHT = 27' MAX. NO. DWELLINGS PER CLUSTER = 4 UNITS MAX. DISTANCE BETWEEN CLUSTERS = 50 FT. MAX. % LOT COVERED (BUILDING) = 50%

BUILDING SETBACKS: FRONT = 40' EACH SIDE = 25' & 25' TOTAL 50' REAR = 35'

GROSS SITE AREA = ±206,427 SQ.FT. OR ±4.739 ACRES. PROPOSED FUTURE R.O.W. = ±34,343 SQ.FT. OR ±0.788 ACRES. NET SITE AREA = ±172,084 SQ.FT. OR ±3.95 ACRES. FLOODPLAIN AREA = ±83,200 SQ.FT. OR ±1.91 ACRES. USEABLE SITE AREA = ±88,884 SQ.FT. OR ±2.04 ACRES. IMPERVIOUS AREA = ±43,500-SQFT. OPEN SPACE PROVIDED = ±128,584-SQFT OR 2.951 ACRES (±75%)

MAXIMUM DENSITY CALCULATION PER R-5 ZONING DISTRICT: LOT AREA PER DWELLING 172,084 SQ.FT. / 10,000-SQ.FT. = 17.2 UNITS. LOT AREA PER CLUSTER 172,084-SQ.FT. / 20,000-SQ.FT. = 8.6 CLUSTERS

UNITS PROVIDED: 10-UNITS 4-CLUSTERS 10-UNITS / 4.739-ACRES = 2.11-UNITS/ACRE



CARDINAL LANE

W 13 MILE ROAD



49287 WEST ROAD WIXOM, MI 48393 (P): 248-437-7803 (F): 866-960-4307

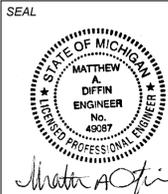
REVISIONS

Table with columns for revision number and description.

CLIENT: HUNTING HOMES LLC 30600 NORTHWESTERN HIGHWAY, SUITE 250 FARMINGTON HILLS, MICHIGAN 48334

These documents are instruments of service in respect of the Project and any reuse without written verification or adaptation by Diffin-Umlor & Associates will be at Users sole risk and without liability or legal exposure to DUA from all claims, damages, losses and harmlessness DUA from all claims, damages, losses and resulting therefrom. Any such verification or adaptation will entitle DUA to further compensation at rates to be agreed upon by User and DUA.

SECTIONS 4 & 9 TOWN 1 NORTH, RANGE 10 EAST VILLAGE OF BINGHAM FARMS OAKLAND COUNTY, MICHIGAN



DATE: 9-6-19 Drawn By: XX P.E.: MD 1" = 40' Job No.: 190907 Sheet No.: 1



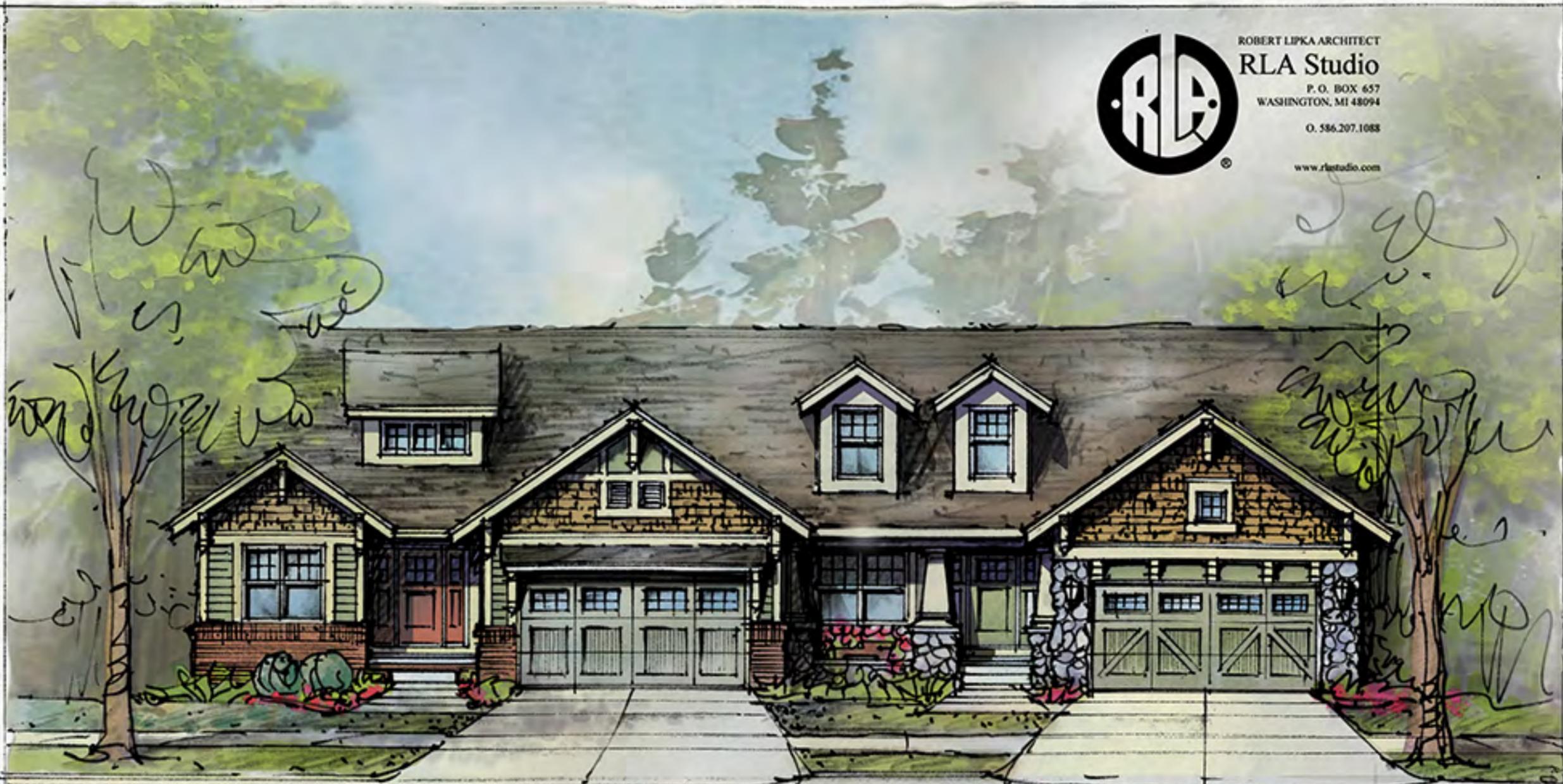
VII(A)

Matthew A. Diffin

C



ROBERT LIPKA ARCHITECT
RLA Studio
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WASHINGTON, MI 48094
O. 586.207.1088
www.rlastudio.com



CURTISS PARK BLUFFS - DUPLEX BUILDING

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RLA STUDIO, P.C.

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VII(A)





324

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VII(A)

October 10, 2019

Ken Marten, Village Manager
 Village of Bingham Farms
 24255 Thirteen Mile Road, Suite 190
 Bingham Farms, MI 48025

Rezoning Review

Site: 23712 E. 13 Mile Rd
 Applicant: Huntington Homes
 Mark D. Lewis
 Application Date: 09/11/2019
 Existing Zoning: R-1 Single Family Residential
 Proposed Zoning: R-5 Clustered One Family Residential
 Parcel ID: See attached

Dear Mr. Marten:

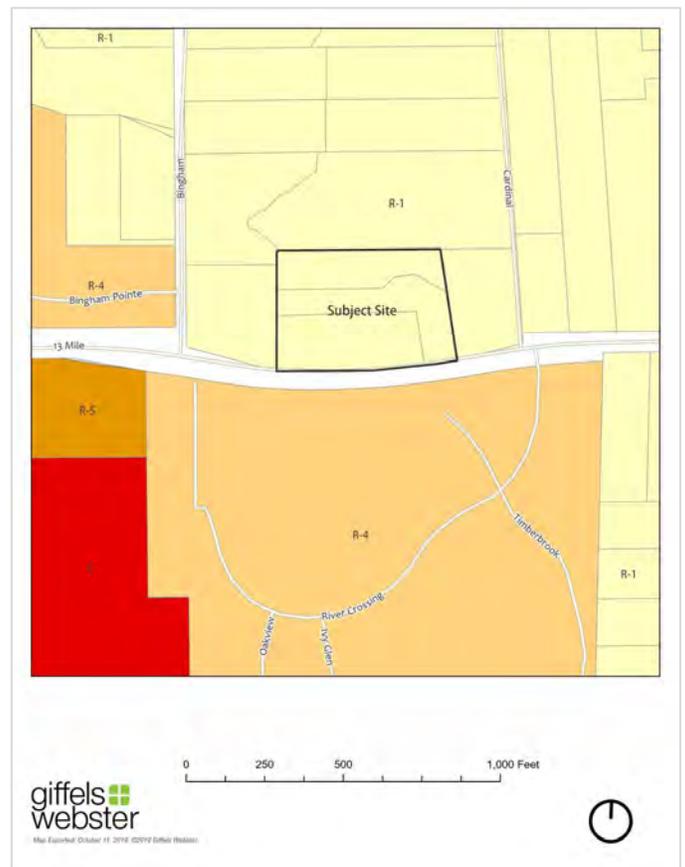
We have reviewed the rezoning request for the subject parcel and a summary of our findings is below.

REZONING PROCESS

A rezoning request is a request to amend the Village's zoning map. The applicant has included a conceptual development plan and offered some conditions in association with his rezoning request. While this information is helpful, the Village's ordinance does not allow for conditions to be attached to a rezoning and there is no guarantee that a rezoning will result in a development as presented. For the purposes of our review of the proposed rezoning, we will focus on the general application of ordinance standards, not on the concept as proposed by the applicant.

The general process outlined in the Zoning Ordinance in Section 157.245 (b) is as follows (note that item 1 pertains to text amendments and is not included below):

- 2) An amendment to the zoning map shall be submitted in writing for consideration by the Planning Commission and Village Council, in accordance with Public Act 110 of 2006, being M.C.L. §§ 125.3101–125.3207, as amended. A description of the request, map of the location of the subject property or properties, description of existing and proposed zoning, as well as justification for the request, shall be included in the petition. – **This has been submitted by the applicant.**



3) Standards for approval. When reviewing an amendment request, the village may consider, but shall not be limited to:

- future land use recommendation in the Village Master Plan;
- goals and objectives in the Village Master Plan;
- the availability and capacity of utilities;
- ability of the property to be used as zoned; potential impact on neighboring land uses and the natural environment; and
- other concerns related to the general welfare, safety and health of area residents.

Our findings on the above standards are contained in the Summary of Review provided below.

4) Notice. Notice of an amendment to the zoning ordinance shall be given in accordance with the process set forth in § 157.248. – **A public hearing is required.**

Action Requested: The Planning Commission is asked to set a public hearing date, hold the public hearing, review the application and offer a recommendation on the request to the Village Council, who takes final action.

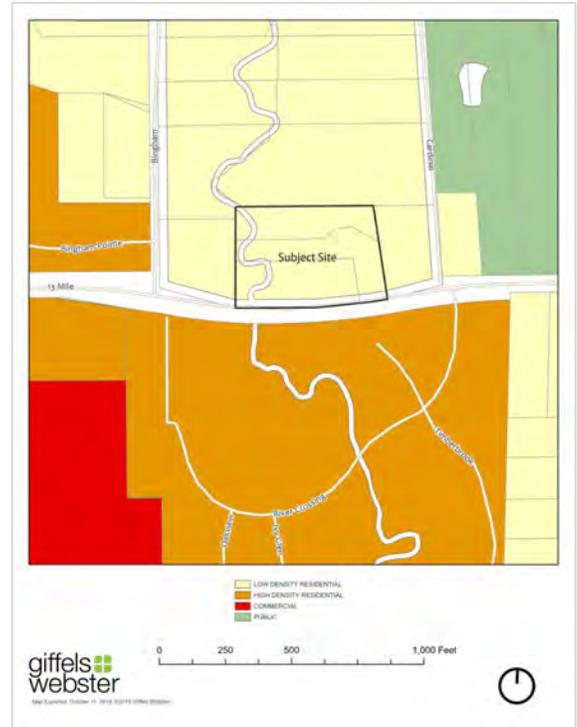
SUMMARY OF REVIEW

1. **Existing Conditions.** The subject property is located on the north side of Thirteen Mile Road, east of Bingham Road. The parcel is approximately 4.7 acres and is currently vacant.
2. **Proposed.** The applicant is seeking to rezone the property from R1 to R5 for the purpose of developing clustered one-family dwellings on approximately 2.3 acres of the site.
3. **Zoning & Land Use.** The site is zoned R-1 Single Family Residential and is designated as “Low Density Residential” on the Future Land Use Map. Surrounding properties are zoned and planned as follows:

Direction	Zoning	Future Land Use Designation	Use
North	R-1 Single Family Residential	Low Density Single Family Residential	Single family homes
East	R-1 Single Family Residential	Low Density Single Family Residential	Single family homes
West	R-1 Single Family Residential	Low Density Single Family Residential	Single family homes
South (across 13 Mile Road)	R-4 Single Family Residential	High Density Single Family Residential	Clustered single family homes

4. **Master Plan.** The Master Plan’s Future Land Use Map (excerpt at right) specifically identifies this parcel and the surrounding parcels to the north, east, and west as Low Density Residential. Property to the south is designated High Density Residential (and is already developed as such). The Master Plan describes that land use designation as follows:

In keeping with the prevailing residential character of Bingham Farms, most of the Village – specifically the north half and southeast area – is planned for low density single family residential. The category is also recommended for property abutting 14 Mile Road immediately west of Outland Trail, to assist in protection of the woodlands on this site. The maximum density proposed for this category is 0.7 dwelling units per acre. The Bingham Woods Elementary School site is included in this residential land use category because it would be attractive as a residential redevelopment parcel. Many school districts, including Birmingham, sell off surplus school sites when enrollments decline.



The applicant is interested in rezoning the parcel(s) to R-5, one family clustered residential. The proposed density would fall under the “High Density Residential” category of the Master Plan, which describes this land use designation as a “transition” between more intense uses and low-density residential areas. The plan says:

The high-density residential land use is designated for Bingham Woods and Bingham Pointe. The 191-unit Bingham Woods townhouse development provides a desirable transition between the four-story commercial buildings along Telegraph Road to the west and the single-family neighborhoods to the east and northeast. The 29-unit Bingham Pointe townhouse development provides a similar transition between the office area at the corner of Telegraph and 13 Mile Roads and the low-density residential areas to the north and east. The high-density residential category is also applied to the assisted living site on the south side of 13 Mile Road between the westerly boundary of the Bingham Woods subdivision and the Jamestowne office complex. This land use category permits the clustering of homes at a density between 2.5 and 4.3 dwelling units per acre.

The land to the south, across 13 Mile Road, is developed with attached single family homes. Parcels to the west, across Bingham Road are similarly developed. However, the parcels immediately adjacent to the subject site are developed with large single family homes. **The Planning Commission may wish to consider how the rezoning of the subject site to R5 is in keeping with the transition between more intense and less intense uses.**

5. **Current Zoning.** The following table illustrates the current zoning standards compared to proposed zoning standards:

Development Standard	R-1	R-5
Minimum living area in sq ft	1,800 sf	1,200 sf
Minimum lot area in sq ft	60,000 sf (0.72 dwellings per acre)	10,000 per dwelling/ 20,000 per cluster (4.3 dwellings per acre)
Minimum width of lot at front setback line in ft	140	100
Minimum distance of nearest point of dwelling from:		
1. Front lot line	100	100
2. Side lot line	25	25
3. Sum of two sides	50	50
4. Rear lot line	100	35
Maximum lot coverage by all impervious surfaces	40%	50%
Site Application (4.7 acres x minimum lot area)	3.4 dwellings	20.4 dwellings

At least three single family homes could be developed on the site’s 4.7 acres. The applicant should be prepared to discuss the potential for this site to be developed under the current zoning.

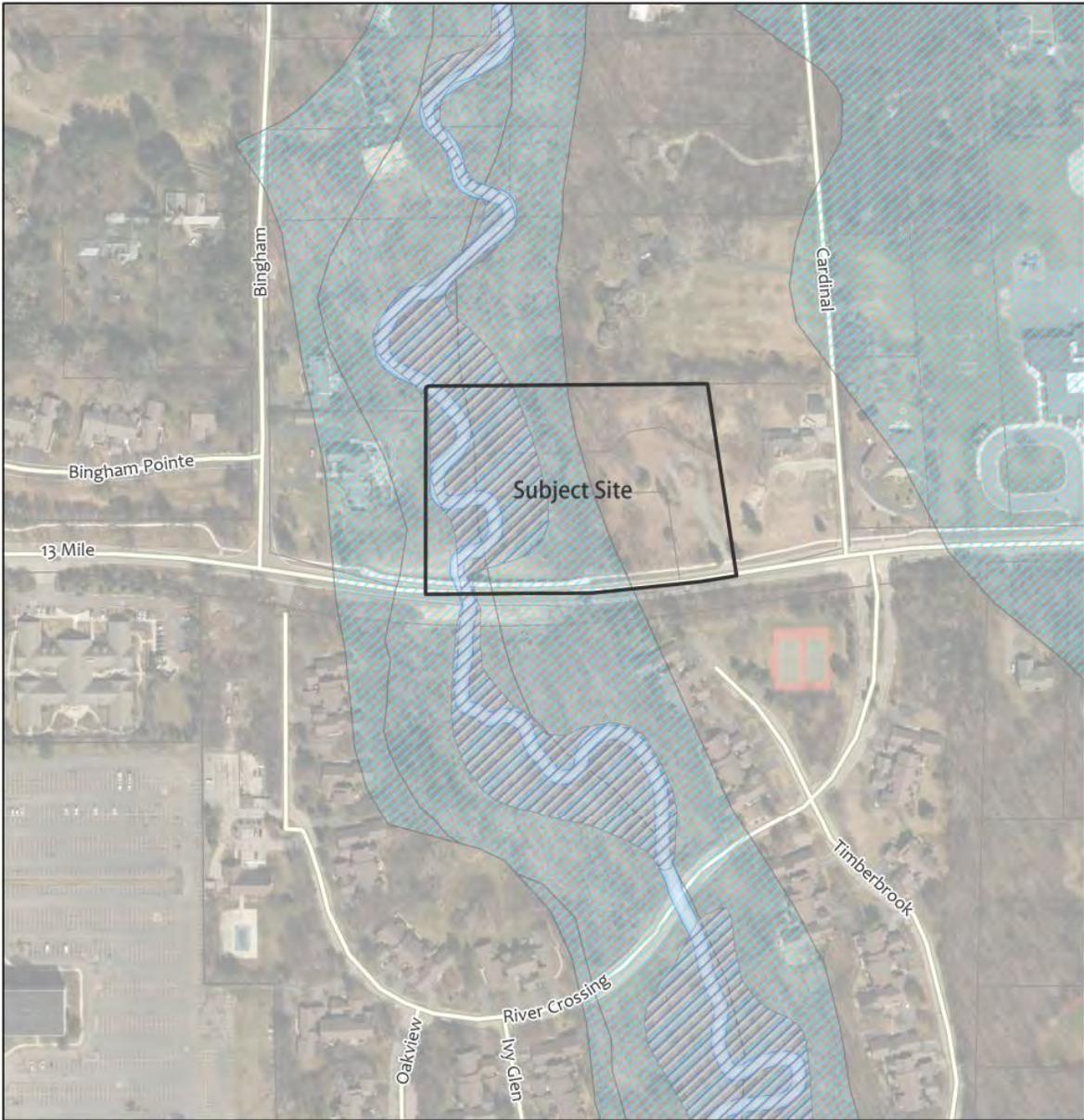
6. **Potential impact on neighboring land uses and the natural environment.** The surrounding uses are single family homes. Franklin Branch of the Rouge River runs through the western portion of the subject property. A portion of land on either side of the river is identified as floodway and may present development challenges (see maps that follow). A cluster-type development offers flexibility in the placement of dwellings on a site in consideration of the floodway and river. **The Planning Commission may wish to discuss with the applicant the impact of managing the stormwater associated with a moderate- to high-density residential development.**

We look forward to our upcoming discussions on this matter.

Respectfully,
Giffels Webster


 Jill Bahm, AICP
 Partner


 Eric Fazzini, CNU-A
 Senior Planner



-  SPECIAL FLOOD HAZARD AREA
-  WETLANDS
-  SURFACE WATER
-  HYDRIC SOILS



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community
Wetlands, Surface Water, Hydric Soils: NWI, Version 2. Special Flood Hazard Area: FEMA. Map Exported: October 11, 2019. ©2019 Giffels Webster.



Council Communication

To: President Templeton and Village Council Trustees

From: Ken Marten, Village Manager

Date: May 21, 2020

Re: Concepts to consider regarding the rezoning request of 23712 Thirteen Mile Road from R-1 to R-5

The following is from the Village's Zoning Ordinance:

157.245 (c) Standards for approval. When reviewing an amendment request, the village may consider, but shall not be limited to: future land use recommendation in the Village Master Plan; goals and objectives in the Village Master Plan; the availability and capacity of utilities; ability of the property to be used as zoned; potential impact on neighboring land uses and the natural environment; and other concerns related to the general welfare, safety and health of area residents.

An examination of each consideration follows.

2014-15 Master Plan Update recommendations, goals, objectives: “Future Land Use” is all outlined on Page 41: *“There is no change proposed to the residential density...Residential infill/redevelopment proposals must be consistent with the use and density recommendations of the Master Plan.”*

Describing Low Density Residential: *“...most of the village – specifically the north half and southeast area – is planned for low density single family residential.”* This presumably includes the north side of 13 Mile; however, only the Bingham Elementary site is specifically mentioned in the event that the school district sold the land.

Describing Moderate Density Residential: *“...is provided in the following locations...Fromm Drive, Old Stage Road, Coachlight Lane...”* These streets are perpendicular to -- and flow into -- 13 Mile.

Describing High Density Residential: The plan mentions Bingham Pointe and Bingham Woods condo complexes, both of which are on 13 Mile

One could describe 13 Mile as essentially a “mixed use” road. Of the village’s five residential zoning classifications, examples of all of them currently border 13 Mile. The C-1 commercial district does as well. The school property is also R-1, but is a Special Land Use. Rezoning a property on 13 Mile from one residential category to another residential category could be described as a great or minor deviation. It is a matter of perspective.



Note that the Master Plan is intended to be used as a guide, as described on Page 5: “*While the Zoning Ordinance and Zoning Map regulate current and proposed land use, it is the Master Plan, its maps and policy statements that guide land use decision-making for 10-20 years.*”

Additionally, “*no change proposed to the residential density*” (Page 41) doesn’t translate into “no change should be allowed.”

Availability and capacity of utilities: At one time, the property in question included one single family home that was lost in a fire some years ago. Water and sewer mains run along 13 Mile, and lead lines for both serviced the home. Thus, availability and capacity of these utilities aren’t a concern. Appropriately sized lead lines would be installed at the expense of the developer.

Installing lead lines to the gas main that serves other residential and commercial customers along 13 Mile will also be at the developer’s expense.

Bingham’s section of 13 Mile is owned by the county. Any easements and permits would be granted by the Road Commission for Oakland County.

Ability of the property to be used as zoned: A 1952 map of Southfield Township shows the subject property as one roughly 5-acre parcel.

In 2004, a request to split the R-1 property into three rectangular parcels, each with 13 Mile frontage, was denied.

In 2005, a request to split the R-1 property into three alternatively shaped parcels (the current configuration) was approved by the Planning Commission and Village Council. However, the approval was conditioned on variances that the ZBA granted. The variances “run with the land” and are still valid today.

The paucity of construction activity over the past 15 years may suggest that the current zoning may not be attractive to developers or families. Possibilities include the costs of properties, the fact that a substantial portion of each lot is in a floodplain (more about that below), the odd parcel shapes that – with variances – make attractive home concepts difficult to design, or that relatively few families with or without children view living on a busy mile road as desirable.

The lots themselves are unique due to their size, shape and topography. Each lot runs parallel to 13 Mile (oriented east-west); the western portions include the Franklin River and its accompanying wetlands, woods and floodplain, rendering a third to half of each parcel unbuildable.



Parcel A: 1.39 acres, northernmost lot, no access to 13 Mile
 Three variances: 40-foot front yard setback (100 feet required); 15-foot side yard setbacks on each side (25 feet required on each side); 100-foot lot width at the 40-foot front setback (140 feet required); no rear yard setback (100 feet required)

Parcel B: 1.48 acres, middle “dogleg” lot, site of burned home
 Three variances: 40-foot front yard setback (100 feet required); 15-foot side yard setbacks on each side (25 feet required on each side); lot width to be 140 feet at the 40-foot front yard setback; no rear yard setback (100 feet required); lot also includes 50-foot easement on western edge for driveway for Parcel A

Parcel C: 1.87 acres, southernmost lot, ZBA minutes state “*this parcel is similar to a corner lot configuration*”
 Three variances: 40-foot setbacks applied to east and south sides; 15-foot setback applies to the north property line; lot width to be 140 feet at a 40-foot setback; no rear yard setback (100 feet required)

	R-1	R-5	Parcel A variances	Parcel B variances	Parcel C variances
Front setback	100 ft	40 ft	40 ft	40 ft	40 ft
Rear setback	100 ft	35 ft	None	None	None
Side setback	25 ft	25 ft	15 ft	15 ft	15 ft
Min. lot width	140 ft	100 ft	100 ft at the 40 ft front setback	140 ft at the 40 ft front setback	140 ft at the 40 ft front setback

Potential impact on neighboring land uses: If “neighboring” means adjacent, there are four R-1 properties adjacent to the subject property. Two of them are to the west, and the east-west depth of the subject property, which includes the river, floodplain, and woodlands, provides substantial distance from building site. Regardless of the zoning R-1 or R-5, western neighbors likely would have little to no view of any new buildings.

Residents of the adjacent two R-1 properties to the north and east would be able to see new development regardless of the zoning. Trees and berms installed as part of the project would serve as screens.

Across 13 Mile from the subject property is the much larger R-4 zoned Bingham Woods, with 191 units. Due to distance and screening, it’s doubtful that residents of Bingham Woods or the subject property would have sight of each other.

As a vacant lot, there presently is little or no activity on the subject property that impacts neighbors. Any residential infill within the frame of R-1 or R-5, whether it would include three houses or four condo buildings, would obviously result in a degree of additional sound related to socializing, yard work, vehicles, etc.



Considering increased traffic, the proposed development includes 10 condos geared toward empty nesters. The maximum number of vehicles associated with the proposal are logically assumed to be at most 20. Adding a maximum of 20 cars to 13 Mile's daily traffic count would be imperceptible.

Potential impact on the natural environment: Just as in the current zoning, The Franklin River and its surrounding floodplain and woodlands are “baked in” to the recipe of the rezoning request and the applicant’s conceptual site plan. The applicant can’t develop the river area – approximately a third to half the property. The rezoning request respects the natural environment and would continue to preserve it, as mentioned in the “Natural Features” portion of the Master Plan’s appendix.

The applicant has emphasized that they view the river area as a unique natural feature and has suggested it will serve as an attractive selling point.

Impact on general welfare, safety and health of area residents: These are rather broad terms. It appears that residential development – whatever the zoning may be – wouldn’t have an adverse effect on the welfare, safety or health of area residents.

Thoughts on “precedent:” Each property is unique due to size, topography, location, existing vegetation and structures, measurements, street frontage, water features, neighboring properties, and other factors. Thus, a rezoning request must be decided on its own merits.

It's been said that rezoning property on 13 Mile could “set a precedent” for rezoning other properties elsewhere in Bingham. But “precedent” has no place in rezoning requests. Rezoning requests are mutually exclusive. Rezoning one property this year should have no bearing on the rezoning request of another property next year.

Case – or cases – in point: Many properties in Bingham Farms have been rezoned over the years. The most recent occurred in 2019 at 14 Mile and Telegraph when Village Council approved the PUD. Every condo complex and commercial building in Bingham was once zoned residential or agricultural. The building that houses the villages offices is on the site of former horse farm.

It’s worth observing that no elected or appointed official has yet offered any comment on a supposed “precedent” being set as a result of a previous rezoning.

Zoning Protest Petition – Village of Bingham Farms

We the undersigned are submitting this Zoning Protest Petition on May 20, 2020 in accordance with the MICHIGAN ZONING ENABLING ACT (Act 110 of 2006), section 125.3403 *Amendment to zoning ordinance; filing of protest petition; vote*. This protest petition is being made to protest the proposed zoning change from R-1 to R-5 for 23712 13 Mile Rd, Bingham Farms, MI. We believe rezoning this lot to R-5 is not consistent with the Master Plan. All of the undersigned are the owners of properties that are within an area extending 100 feet outward from 23712 13 Mile Rd. This protest petition represents more than the required 20% of the land owners in the area extending 100 feet outward from the boundary of the land included in the proposed change.

PRINTED NAME OF PROTESTING PARTY (AS IT APPEARS ON THE VILLAGE'S TAX ROLL)	ADDRESS/DESCRIPTION OF PROPERTY AFFECTED WITHIN 100 FEET OF THE PROPOSED ZONING CHANGE FOR WHICH THIS PROTEST IS SUBMITTED	SIGNATURE OF PROTESTING PARTY
Aaron Krabill	31033 Cardinal Lane Bingham Farms, MI 48025	
Francis C. Coreca	31010 Bigham Rd. Bingham Farms, MI 48025	
Percy Williams	31173 CARDINAL LANE BINGHAM FARMS, MI 48025	

I, Aaron Krabill personally circulated the foregoing petition, that it bears 3 signatures, that all signatures included were made in my presence, and that I believe them to be the genuine signatures of the persons whose names they purport to be.



H

May 19, 2020

Ken Marten
Village of Bingham Farms
24255 Thirteen Mile Road, Suite 190
Bingham Farms, MI 48025

Re: Rezoning Request 23712 Thirteen Mile Road

Dear Mr. Marten,

This letter is being submitted on behalf of seven residents who own and reside on a total of over 18 acres located around 23712 Thirteen Mile Road. We ask that this letter be shared with the Village Counsel prior to the meeting on May 26, 2020, where they will be considering the re-zoning of 23712 Thirteen Mile Road. We are unanimously against any change to the zoning of 23712 Thirteen Mile Road. We all reside on property that is currently zoned R-1 (low density residential) and our neighborhood consists of large tranquil parcels of land that range between 1 and 5 acres with homes ranging from 3,000 square feet to over 5,500 square feet. This is an area of Bingham Farms that showcases both open spaces and wooded areas that make this Village such a unique place to live.

We believe that re-zoning 23712 Thirteen Mile Road would not be in keeping with the character of our neighborhood and would be in direct conflict with the Village’s Master Plan, which designates this property as R-1 low density residential and the stated goal included in the Master Plan to continue to be a low density residential community. The Master Plan describes R-4 and R-5 zones (High Density Residential) as a “transition” between more intense uses and low-density residential areas. This lot is not transitioning between any intense uses as it is bordered on three sides by low-density single family homes and no commercial use land. All other land zoned R-4 or R-5 in the Village boarder commercial use land. Furthermore, we believe that simply inserting high-density condos into an area of tranquil large lots would significantly impair the future value of our properties.

We are all supportive of this property being developed as it is poorly maintained by the property owner, however, we believe that this must be done without changing the zoning of the property. We ask that you reject the proposed re-zoning and make it clear to the owner that his endless pursuit of financial gain will not be at the expense of the character of this Village or the surrounding properties where we are living and raising our families. This is critical to keeping the Village the special place that it is and a key differentiator to surrounding communities.

Respectfully,

<p>DocuSigned by: <i>Francis C. Corera</i> 8E82CAC451DB4AE... Francis C. Corera</p>	<p>Owner of 31010 Bingham Rd</p>
---	----------------------------------

<p>DocuSigned by: <i>Percy Williams</i> 7DA97A3F799B4D0... Percy Williams</p>	Owner of 31173 Cardinal Lane
<p>DocuSigned by: <i>Aaron Krabill</i> 118D31A20A91455... Aaron Krabill</p>	Owner of 31033 Cardinal Lane
<p>DocuSigned by: <i>Karen Russell</i> 90A85E0AA30945B... Karen Russell</p>	Owner of 23570 W. Thirteen Mile Rd
<p>DocuSigned by: <i>Mary Prebish</i> E74335DADA7A45F... MARY PREBISH</p>	Owner of 31333 Cardinal Lane
<p>DocuSigned by: <i>David Hines</i> F17D57170AFA4A7... David Hines</p>	Owner of 31393 Cardinal Lane
<p>DocuSigned by: <i>Jim Balogh</i> 854FEA29663841A... Jim Balogh</p>	Owner of 31433 Cardinal Lane

To: kmarten@binghamfarms.org; btempleton@binghamfarms.org

Subject: Rezoning request for 27312 13 Mile Rd

Mr. Templeton and Mr Marten,

I am writing you in regard to the May 26th Village Council Meeting where a request for the rezoning of 27312 13 Mile Rd will be discussed. I am a resident of the Village for 18 years and live at 31010 Bingham Rd. I would like to have this email shared with all members of the Village Council.

I believe that the proposed re-zoning should be rejected by the Village Council as it is not consistent with character of the Village or the Master Plan. 27312 13 Mile Rd is surrounded on three sides by large homes on large lots. Re-zoning this to high density residential would be inconsistent with those properties and inconsistent with the Master Plan. Our immediate neighborhood consists of large homes on large lots simply allowing one property owner for their benefit to have his property re-zoned should not be allowed. I strongly object to this re-zoning request and respectfully ask that you consider the impact to my property and our neighborhood and you vote to reject this proposal.

Regards,

F Cedric Corera

MEMORANDUM

TO: Village of Bingham Farms Council
c/o Administrator, Ken Marten

FROM: Jeffrey M. Leib and Harry S. Ellman
Attorneys for Mr. Aaron Krabill, 31033 Cardinal Lane, Bingham Farms

SUBJECT: Proposed rezoning of property at 23712 West Thirteen Mile Rd. from R-1
Single Family Residential to R-5 Clustered One Family Residential

DATE: May 26, 2020

We respectfully submit this Memorandum on behalf of our client, Village of Bingham Farms resident, Aaron Krabill and his family, who reside at 31033 Cardinal Lane; and their interests are identical to their fellow Bingham Farms neighbors, Percy Williams, of 31173 Cardinal Lane, Francis C. Corera, of 31010 Bingham Road, Karen Russell, of 23570 W. Thirteen Mile Rd., Mary Prebish, 31333 Cardinal Lane, Dave and Mary Hines, of 31393 Cardinal Lane and Jim and Joann Balogh, of 31433 Cardinal Lane. The single-family properties of the Krabills, the Williams and the Coreras border the subject property to the East, North and West, respectively.

The Village of Bingham Farms is a low-density residential Community and it has adopted a Master Plan that provides stated Goals and Objectives for it to continue as a community of low-density residences, in sharp contrast to the more intensive urbanization of nearby communities; and to maintain zoning districts that provide for large residential lot sizes with generous setback and yard requirements.

The Applicant for this rezoning request has submitted a conceptual development plan together with conditions associated with the rezoning. As your Planning Consultant, GiffelsWebster, noted in its October 10, 2019 Rezoning Review, the Village zoning ordinance does not allow for conditions to be attached to a rezoning and there is no guarantee that a rezoning will result in a development as presented. So, this proposed change in zoning from R-1 to R-5 must be evaluated as a land use change, justified on its merits, without considering a site plan.

Among the standards for approval of a zoning change, the Village is charged with considering the ability of the property to be used as zoned and the potential impact on neighboring land uses.

In Bingham Farms, the R-5 Zoning District is considered as a “High Density Residential” category, and, according to the Master Plan, is described as a “transition” between more intense uses and low-density residential areas. Examples of transition parcels in Bingham Farms are the developments of Bingham Point and Bingham Woods, both of which buffer the office developments along Telegraph Road from the low-density, large lot residential uses to the East. The 2014-2015 Bingham Farms Master

Plan Update provides in part:

“The high density residential land use is designated for Bingham Woods and Bingham Pointe. The 191-unit Bingham Woods townhouse development provides a desirable transition between the four-story commercial buildings along Telegraph road to the west and the single family neighborhoods to the east and northeast. The 29-unit Bingham Pointe townhouse development provides a similar transition between the office area at the corner of Telegraph and 13 Mile Roads and the low density residential areas to the north and east.”

CONCLUSION

The rezoning of the subject property to R-5 is not in keeping with the “transition” between more intense and less intense uses. All of the surrounding uses are single-family homes on large acreage parcels, in keeping with standards of the R-1 Zoning District. Any deviation from that would be looked upon as “Spot Zoning”. It simply doesn’t fit the subject location. It doesn’t fit the goals and objectives of the Master Plan. And, it would negatively impact and affect the values of each of the low-density residential properties that surround the subject parcel.

How to Use This Ordinance

5. DISTRICT SUMMARY TABLE

Below is a quick reference table that summarizes district regulations. Consult **Article 3 Zoning Districts** for additional requirements and exceptions to the information below.

District Summary Table					
District	Minimum Lot Size	Minimum Lot Width (feet)	Setbacks		
			Front Yard (feet)	Side Yards (feet)	Rear Yard (feet)
R-1 One-Family Residential	60,000 sq. ft.	140	100	25	100
R-2 One-Family Residential	30,000 sq. ft.	120	60	15	60
R-3 One-Family Residential	17,500 sq. ft.	100	40	15	35
R-4 Clustered One-Family Residential	17,500 sq. ft.	100	40	25	35
R-5 Clustered One-Family Residential	10,000 sq. ft.	100	40	25	35
Professional Service	N/A	N/A	60	30	120
Commercial	10,000 sq. ft.	100	60	60	60
Frontage Overlay District	N/A	N/A	80	0	20
Residential Overlay District	N/A	N/A	25	15	45



**VILLAGE OF BINGHAM FARMS
RESOLUTION 2020-XX
APPOINTMENT OF SOCWA TRUSTEE AND ALTERNATE**

WHEREAS, the Village of Bingham Farms is a member of the Southeast Oakland County Water Authority (SOCWA);

WHEREAS, the Village is required to appoint a representative trustee and an alternate;

WHEREAS, Michigan Compiled Law 55.285[7] allows for a maximum fee of \$10 to be attributed to any notarial act,

NOW THEREFORE BE IT RESOLVED, that the Village of Bingham Farms Village Council appoints Village Trustee Kurt Jones as its representative to the SOCWA Board of Trustees, and appoints Village Administrator Ken Marten as its alternate to the SOCWA Board of Trustees.

RESOLUTION OFFERED BY _____, SECONDED BY _____

AYES:

NAYS:

ABSENT:

It is hereby certified that the forgoing Resolution is a true and accurate copy of the Resolution adopted by the Village Council of the Village of Bingham Farms at a meeting duly called and held on the 26th day of May, 2020.

VILLAGE OF BINGHAM FARMS

Kenneth D. Marten, Administrator/Clerk

Date

**THIRD AMENDMENT TO
EMPLOYMENT AGREEMENT**

THIS AGREEMENT is as of the date it is fully signed and is between the VILLAGE OF BINGHAM FARMS (“Village” or “Employer”), Oakland County, Michigan, by and through its Village Council and Ken Marten, (“Employee”) (collectively referred to as “Parties”).

RECITALS:

WHEREAS, the Parties entered into an Employment Agreement dated October 22, 2018; and

WHEREAS, the Parties entered into a First Amendment to the Employment Agreement dated June 6, 2019; and

WHEREAS, the Parties entered into a Second Amendment to the Employment Agreement dated July 22, 2019; and

WHEREAS, the Parties wish to amend the Employment Agreement according to the terms contained herein,

NOW THEREFORE, the Parties hereby agree to amend the terms of the Employment Agreement only as set forth below. All other terms of the agreement will remain in full force and effect as previously agreed.

1. **SECTION V: TERM OF AGREEMENT.** The term of the Agreement will expire on June 6, 2021. Further, any additional successive terms to which employee is elected or appointed to position of Clerk by the Village Council in its discretion, in accordance with the current or amended Village Charter, shall expire exactly one (1) year from June 6, 2020 and any successive years thereafter.

2. **SECTION VI: COMPENSATION.** The terms of the Employee’s compensation are as follows:

From July 1, 2019 through June 30, 2020, the annual salary is \$84,000

From July 1, 2020 through June 30, 2021, the annual salary is \$87,360.

WITNESSES:

VILLAGE OF BINGHAM FARMS

BY: _____

Ben Templeton
Village President

Ken Marten
Employee

Dated: _____

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May 21, 2020

2600 Troy Center Drive
P.O. Box 5025
Troy, MI 48007-5025
Tel: 248-851-9500
Fax: 248-538-1223
www.secrestwardle.com

JENNIFER C. HILL
Direct: 248-539-2838
jhill@secrestwardle.com

Ken Marten, Village Administrator
Village of Bingham Farms
24255 W. Thirteen Mile Road, Ste. 190
Bingham Farms, MI 48025

Re: Health and Wellness Facilities Ordinance
Ordinance Regarding Massage Therapy Establishments
Regulations and Licensing
Our File No 20385 FG2

Dear Mr. Marten:

Attached, please find the Health and Wellness Facilities Ordinance and an Ordinance Regulating and licensing Massage Therapy Establishments.

As you know, the Health and Wellness Facilities Ordinance is placed on the agenda for the second reading. At the first reading, there were no concerns other than the regulation of massage therapy establishments. In response, the second attached ordinance was prepared.

The Massage Therapy Establishments Ordinance regulates these types of establishments by setting out specific regulations and through a licensing system. The ordinance only regulates the establishments, not the person providing the services, as MCLA 333.17951, et seq., preempts local municipalities from providing additional regulations. The specific regulations are discussed are discussed below:

Massage regulations

- Section 116.1 – Definitions – This section sets out the Definitions in the ordinance.
- Section 116.2 – Exemptions – This section sets out the doctors and similar professions as well as licensed massage therapists are not being regulated.
- Section 116.3 – Unlawful Activities – Prohibits inappropriate touching at a massage facility.
- Section 116.4 – Employees – This requires all employees to be licensed in accordance with the State’s statutes.

- Section 116.5 – Wearing Apparel – This section requires that uniforms or garments covering the torso shall be worn by all employees.
- Section 116.6 – Patronage of Massage Business by Minors – Persons 18 and under are not allowed to receive services.
- Section 116.7 – Name of Business – The name of the business shall be that as provided in the license.
- Section 116.8 – Advertising – Advertising materials shall not be false, deceptive, or misleading.
- Section 116.9 – Hours of Operation – No facility shall be open to the public for business between the hours of 12 midnight and 7:00 a.m.
- Section 116.10 – Sale or Transfer – A new application is required upon the sale or transfer of the business.

The licensing revisions are as follows:

- Section 116.21 – Required – States that a license is required to operate within the Village.
- Section 116.22 – Requirements and Duties – All licensees must ensure that the employees are licensed by the State.
- Section 116.23 – Application Investigation Fee – Any person desiring to obtain a license to operate a massage facility or similar business must make application to the Administrator and pay a fee.
- Section 116.24 – Application Content – This section sets forth the required contents of the application.
- Section 116.25 – Investigation, Inspection – The application shall be submitted to the Administrator. Subsequently, the Police Chief shall investigate the background of the Applicant and will make a recommendation to the Village. This also sets forth the standards for when the Police Chief will make a denial of the application and also allows the building department, fire department, and County Health Office to inspect the premises to ensure compliance with the requirements of the code.
- Section 116.26 – Issuance, Denial – Once the recommendation is received, the license shall be granted unless the establishment does not meet the

requirements or the records reveal a conviction of a felony or a crime of moral turpitude.

- Section 116.27 – Appeal from Denial – An applicant may appeal the denial of the license to the Village Council, and the Village Council may review the decision.
- Section 116.28 – Transfer – The licenses are not transferable.
- Section 116.29 – Required Facilities and Maintenance – The license shall not be issued unless all the criteria contained therein are met which regulate the facility and the maintenance thereof. It also provides that the license can be revoked if the facility is not properly maintained.
- Section 116.30 – License Fee – The Village Council shall set the fee for the license by resolution (this may be done at the next meeting if the Village chooses to move forward with the adoption of this ordinance).
- Section 116.31 – Expiration – The license expires on December 31st of the year in which it was issued unless suspended or revoked.
- Section 116.32 – Renewal – The section provides that a massage facility shall reapply annually at least 15 days prior to the date of its expiration.
- Section 116.33 – Display – The license shall be displayed in a conspicuous place.
- Section 116.34 – Revocation and Suspension – This section provides that a license shall not be revoked until the Village Council reviews such proposed revocation to determine whether or not there is just cause. The section provides procedures for the hearing.

I hope you find this helpful. If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

Jennifer C. Hill

JENNIFER C. HILL

JCH/aw

Ken Marten, Village Administrator

May 21, 2020

Page | 4

cc: Ben Templeton, Village President
Derk W. Beckerleg, Esq.

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STATE OF MICHIGAN
COUNTY OF OAKLAND
VILLAGE OF BINGHAM FARMS
ORDINANCE NO. ____

An Ordinance to amend Section 2.2 Definitions, Section 3.7 Professional Service district, Section 3.8 C-1 Commercial district, Section 5.8 Off Street Parking Facilities and to add Section 4.10 in Use standards, Chapter 157, Zoning Code, of the Village of Bingham Farms Code of Ordinances, as amended, to allow and regulate Health and Wellness Facilities and other Accessory Uses in the C-1 Commercial District and the PS Professional Service District in the Village.

THE VILLAGE OF BINGHAM FARMS ORDAINS:

Section 1 of Ordinance

Section 2.2 Definitions, of Chapter 157, Zoning Code, of the Village of Bingham Farms Code of Ordinances, as amended, is hereby amended to add a new definition of *Health & Wellness Facility* to read as follows:

Health and Wellness Facility. An establishment which is equipped and arranged to provide instruction services or activities which improve or affect a person's physical condition by physical exercise, massage, or activities which improve or affect a person's physical condition by physical exercise, massage or rehabilitation by providers licensed by the State of Michigan, as applicable. This may include but shall not be limited to yoga, Pilates and barre studios; physical, massage and alternative therapy; physical rehabilitation clinics; and health spas.

Section 2 of Ordinance

Section 3.7., of Chapter 157, Zoning Code, of the Village of Bingham Farms Code of Ordinances, as amended, is hereby amended to add *Health & Wellness Facilities* as a permitted use in the PS Professional Service district and also adds accessory uses similar to the C-1 Commercial District, as follows:

B. Principal Permitted Uses

3. Health and Wellness Facility

D. Accessory uses

1. Barber Shop §3.18
2. Beauty Shop §3.18
3. Copy/Reproduction Services §3.18
4. Travel Agency §3.18
5. Food Preparation Service §3.18
6. Sundry Shop §3.18

Section 3 of Ordinance

Section 3.8.B., of Chapter 157, Zoning Code, of the Village of Bingham Farms Code of Ordinances, as amended, is hereby amended to add *Health & Wellness Studio* as a permitted use in the C-1 Commercial district as follows:

B. Principal Permitted Uses

6. Health and Wellness Facility

Section 4 of Ordinance

Article 4 of Chapter 157, Zoning Code, of the Village of Bingham Farms Code of Ordinances, as amended, is hereby amended to add Section 4.10, use standards as follows:

4.10 Health and Wellness Facility

Health and wellness facilities shall be a principal permitted use in the PS and C-1 districts, subject to the following:

The maximum gross floor facility area shall not exceed 3,000 sq. ft. and shall be located entirely within the ground floor of a building or lower level.

- A. Facilities shall comply with the parking standards of Section 5.8. Facilities that occupy a portion of an office building or are located on sites that include an office building may utilize shared parking provided that the Planning Commission finds that the respective hours of peak operation of all uses utilizing the off-street parking area do not overlap.
- B. Each individual yoga, Pilates, barre studio or similar fitness studio shall have no more than three individual instruction areas, with an open floor plan arrangement. If more than one health and wellness establishment is located within the same building, then the establishments shall be operated by separate entities and shall not share ownership or facilities.

Section 5 of Ordinance

Section 5.8 of Chapter 157, Zoning Code, of the Village of Bingham Farms Code of Ordinances, as amended, is hereby amended to add the following to table 5.8A:

Offices of Doctors and Dentists; Medical offices; Health and Wellness Facilities: One parking space for each 200 square feet of gross floor area

Section 6 of Ordinance

All ordinances and resolutions or parts of ordinances and resolutions in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 7 of Ordinance

Should any section, subdivision, clause or phrase of this ordinance be declared by the court to be invalid, same shall not affect the validity of the ordinance as a whole or any part thereof, other than the parts invalidated.

Section 8 of Ordinance

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 9 of Ordinance

This Ordinance shall take effect upon publication in the manner prescribed by law.

CERTIFICATION

I certify that this ordinance was adopted by the Village Council of the Village of Bingham Farms at a meeting of the Village Council duly called and held on _____, 2020.

VILLAGE OF BINGHAM FARMS

By: _____
Ken Marten, Village Administrator & Clerk

Date:

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STATE OF MICHIGAN
COUNTY OF OAKLAND
VILLAGE OF BINGHAM FARMS
ORDINANCE NO.

An Ordinance to establish and provide regulations and a licensing procedure for massage therapy establishments that provide massage services within the Village of Bingham Farms.

THE VILLAGE OF BINGHAM FARMS ORDAINS:

Section 1 of Ordinance

Title XI, Business Regulations, of the Bingham Farms Village Code is amended to add a new Chapter 116, Massage Therapy Establishments, to read as follows:

CHAPTER 116. MASSAGE THERAPY ESTABLISHMENTS

GENERALLY

§ 116.1 DEFINITIONS.

As used in this Chapter, the following words and phrases have the meanings indicated.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (A) *Administrator* means the Village Clerk or other person designated to administer this chapter by resolution of the Village.
- (B) *Massage* means the treating of external parts of the body for remedial or hygienic purposes, consisting of rubbing, stroking, kneading, adjusting, or tapping with the hand or any instrument, electric, magnetic or otherwise, with or without supplementary aids.
- (C) *Massage facility* means any Turkish bath facility, steam bath, sauna bath, magnetic healing institute or any room, place, establishment or institution where treatment of any nature for the human body is given by means of massage, and where a massage, alcohol rub, fomentation, bath, physiotherapy, manipulation of the body or similar treatment is given.
- (D) *Massage school* means a school which is recognized by the state board of massage, which requires for admission students with a tenth grade education or its equivalent, which employs one or more competent licensed massagists as instructors, and

which has minimum requirements of a continuous course of study in physiology, anatomy, massage theory, hydrotherapy, hygiene, ethics and practical massage. For the purposes of this chapter, a correspondence school shall not be construed to be a recognized school.

- (E) *Massagist* means any person who administers to another person, for any form of consideration, a massage, alcohol rub, fomentation, bath, electric or magnetic massage procedure, manipulation of the body or other similar procedure. For purposes of this chapter, the meaning of "massagist" shall incorporate the meaning ascribed to this term as set forth in MCL 333.17951, et seq., as amended.
- (F) *Student* means any person who, under the guidance of an instructor in a massage school, is being trained or instructed in the theory, method or practice of massage.

§ 116.2 EXEMPTIONS.

This chapter shall not apply to:

- (1) Physicians, surgeons, chiropractors, osteopaths, psychiatrists, psychologists, clinical social workers, and family counselors who are licensed to practice their respective professions in the state or who are permitted to practice temporarily under the auspices of an association or establishment duly licensed in the state, and clergymen.
- (2) Nurses who are registered under the laws of this state and who administer a massage in the normal course of nursing duties.
- (3) A trainer of any athletic team who administers a massage in the normal course of training duties.
- (4) Barbers and cosmetologists who are duly licensed under the laws of this state and who administer a massage in the normal course of their duties.
- (5) Participants in growth seminars or sensitivity sessions provided such seminars or sessions are conducted by a member of one of the exempted professions defined in subsection (1).
- (6) Individuals who hold a license from the state or are otherwise authorized by the state to administer a massage.
- (7) Massagists who meet the criteria as set forth in MCL 333.17951, et seq., as amended.
- (8) Any establishment in which the persons mentioned in subsections (1) through (6) practice their respective professions.

- (9) Massage therapists licensed pursuant to MCL 333.17951, et seq., as amended.

§ 116.3 CHANGE OF LOCATION.

A change of location of any premises licensed under this chapter shall be approved by the village administrator provided the requirements set forth in this chapter, as well as all other provisions of this Code and state law, are complied with and the change of location fee in the amount set forth in the schedule of fees, charges, bonds and insurance is paid to the Village.

§ 116.4 UNLAWFUL ACTIVITIES.

It shall be unlawful for any person to massage any other person, or give or administer any bath or for monetary gain or profit have any contact with a person's breasts, genital area or buttocks in a manner intended to arouse, appeal to or gratify a person's lust, passions or sexual desires. Any violation of this section shall be grounds for the revocation of any license granted pursuant to this chapter.

§ 116.5 EMPLOYEES.

It shall be the responsibility of the holder of the license for the massage facility, or the employer of any persons purporting to act as massagist, to ensure that each person employed as a massagist shall first have obtained a valid license pursuant to the provisions of MCL 333.17951, et seq., as amended. All other employees who work closely with massage activities shall provide annually the medical certificate required under section 116.29(11).

§ 116.6 WEARING APPAREL.

Uniforms or garments covering the torso shall be worn by massagists or employees attending patrons. Such uniforms or garments shall be of washable material and shall be kept in a clean condition.

§ 116.7 PATRONAGE OF MESSAGE BUSINESS BY MINORS.

No person licensed as a massagist shall massage or treat any person under the age of 18 upon the licensed premises, except upon written order by a licensed physician, osteopath or registered physical therapist, such order being dated and in the possession of the massagist giving the massage or treatment. If the person under the age of 18 is accompanied by a parent or legal guardian during the massage or treatment, this section shall not apply.

§ 116.8 NAME OF BUSINESS.

No person licensed to do business as provided in this chapter shall operate under any name or conduct his business under any designation not specified in his license.

§ 116.9 ADVERTISING.

No massage facility, massage school or similar business or massagist granted a license under the provisions of this chapter shall place, publish or distribute, or cause to be placed, published or distributed, any advertisement, picture or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any professional massage services.

§ 116.10 HOURS OF OPERATION.

No massage facility or massage school shall be open to the public for business between the hours of 12:00 midnight and 7:00 a.m.

§ 116.11 SALE OR TRANSFER.

- (A) Upon the sale or transfer of any interest in a massage facility, massage school or similar business, or the sale or transfer of any stock ownership of more than ten percent in such establishment, the license shall be null and void. A new application shall be made by any person desiring to own or operate the massage facility, massage school or similar business.
- (B) Any sale or transfer of any interest in an existing massage establishment, or the sale or transfer of any stock ownership of more than ten percent in such establishment, or any application for an extension or expansion of the building or other place of business of the massage establishment shall require inspection and shall require compliance with section 116.29. A fee to be set by the Village Council shall be payable for each application involving extension or expansion of the building or other place of business of the massage establishment.

LICENSE

§ 116.21 LICENSE REQUIRED.

No person shall practice or engage in the business of a massagist within the Village without first having obtained a license pursuant to MCL 333.17951, et seq., as amended, which is incorporated into this ordinance by reference. No person shall operate the business of a massagist or conduct, operate and carry on a massage facility, massage school, or similar business within the Village without first having applied for and obtained a massagist's license issued pursuant to this chapter, and complying with all regulations and requirements as set forth in this chapter, nor shall any person employ as a massagist any person who does not hold a current unrevoked license as required by MCL 333.17951, et seq., as amended. No person shall practice massage for compensation without obtaining and maintaining in effect a license as a massagist as required by MCL 333.17951, et seq., as amended.

§ 116.22 REQUIREMENTS AND DUTIES.

It shall be the responsibility of an owner, operator, manager or licensee under this chapter in charge of or in control of a massage facility, massage school or similar business to ensure that each person employed or engaged by him in such business as a massagist shall have first obtained a valid massagist license pursuant to MCL 333.17951, et seq., as amended. Any owner, operator, manager or person in charge of or in control of a massage facility, massage school or similar business, who allows any such person to perform, operate or practice within a massage facility, massage school or similar business shall be in violation of this chapter.

§ 116.23 APPLICATION INVESTIGATION FEE.

Any person desiring to obtain a license to operate a massage facility, massage school or similar business shall make application to the Administrator. The application fees shall be payable to the Village Treasurer at the time the application is filed; and shall be in addition to any other license, permit or fee required by this Code.

- (1) An application to obtain a license to operate a massage facility, massage school or similar business shall be accompanied by an investigation fee in the amount set forth in the schedule of fees, charges, bonds and insurance, no part of which shall be refundable.
- (2) An application for a license to allow an individual to perform massage services shall be accompanied by an investigation fee in the amount set forth in the schedule of fees, charges, bonds and insurance, no part of which shall be refundable.

§ 116.24 APPLICATION; CONTENTS.

Any applicant for a license required by this article shall submit the following information:

- (1) The full name and present address of the applicant or applicants.
- (2) The two previous addresses immediately prior to the present address of the applicant and dates of residence.
- (3) A description of service to be provided.
- (4) The location and mailing address of the proposed establishment.
- (5) If the applicant is a corporation, the names and residence addresses of each of the officers and directors of such corporation, and of each stockholder owning more than ten percent of the corporation.

- (6) If the applicant is a partnership, the names and residence addresses of each of the partners, including limited partners.
- (7) Written proof, such as a birth certificate or sworn affidavit, that the applicant is at least 18 years of age.
- (8) Individual applicant's height, weight, sex, color of eyes and hair.
- (9) One portrait photograph at least two inches by two inches and a complete set of the applicant's fingerprints, which shall be taken by the police chief or his agent.
- (10) Business, occupation or employment of the applicant for the three years immediately preceding the date of the application.
- (11) A certificate from a medical or osteopathic doctor stating that the applicant has, within 30 days immediately prior thereto, been examined and found to be free of any contagious or communicable disease.
- (12) A statement as to whether or not such person, in previously operating in this or another city or state under license, has had such license revoked or suspended and the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
- (13) All criminal convictions other than traffic violations and the reasons therefor.
- (14) The application signed and sworn to by the applicant.
- (15) If an application for a license to conduct a massage facility, the names and qualifications of all persons who are intended to give massages in the proposed facility.
- (16) Such other identification and information necessary to discover the truth of the matters set forth in the application.

§ 116.25 INVESTIGATION, INSPECTION.

- (A) The application for a license under this article shall be presented to the Village clerk. The application shall be referred to the police chief, who shall have a reasonable time in which to investigate the application and the background of the applicant. Based upon such investigation, the police chief or his representative shall render a recommendation as to the approval or denial of the license to the Administrator.

- (B) The police chief shall recommend denial of an application for a license under this article if the character, reputation, integrity or physical or mental condition of the applicant or his employees is found to be inimical to the health, safety, moral or general welfare of the public. In making such determination, the police chief shall consider:
- (1) Criminal history. All applicant's convictions, the reasons therefor, and the demeanor of the applicant subsequent to his release.
 - (2) License and permit history. The license and permit history of the applicant; whether such person has previously operated in this city or state or in another city or state under a license or permit has had such license or permit revoked or suspended; the reasons therefor; and the demeanor of the applicant subsequent to such action.
 - (3) Application contents. Any information set forth in the application.
- (C) The building department, the fire department and county health officer shall inspect the premises proposed to be devoted to the massage facility, massage school or similar business and shall make within a reasonable time separate recommendations to the Administrator concerning compliance with the requirements of this Code.

§ 116.26 ISSUANCE, DENIAL.

The Administrator, or his designee, after receiving such recommendations, shall grant a license to the applicant if all requirements for a massage facility, massage school or similar business described are met, unless it appears that the record of such applicant reveals a conviction of a felony or crime of moral turpitude.

§ 116.27 APPEAL FROM DENIAL.

Any person denied a license required by this article by the Administrator or his designee may appeal to the Village Council in writing, stating reasons why the license should be granted. The Village Council may grant or deny the license after a public hearing, and such decision shall be final. The Village Council may elect on its own motion to review any determination of the Administrator granting or denying a license.

§ 116.28 TRANSFER.

All licenses issued under this chapter shall not be transferable.

§ 116.29 REQUIRED FACILITIES AND MAINTENANCE.

- (A) No license to conduct a massage facility, massage school or similar business shall be issued until an inspection of the licensed premises by the Village reveals that the establishment complies with each of the following requirements:
- (1) A recognizable and readable sign is posted at the main entrance identifying the establishment as a massage facility or massage school. All such signs shall comply with the sign requirements of this Code.
 - (2) All provisions of the Village building, plumbing, fire and electrical codes have been fulfilled.
 - (3) Hot and cold running water are provided.
 - (4) Adequate dressing, locker and toilet facilities are available, including a minimum of one dressing room containing a separate locker with lock for each patron to be served, as well as a minimum of one toilet and one wash basin, are available. If male and female patrons are to be served simultaneously at the establishment, separate dressing and separate toilet facilities are provided for male and female patrons.
 - (5) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment are in good repair.
 - (6) A minimum of one separate wash basin is provided for the use of employees and it is located as close as practicable to the area devoted to the performance of massage services.
 - (7) Material safety data sheets, as required by the state, (M.C.L.A. § 408.1001 et seq.) shall be kept and maintained by the massage facility, massage school or similar business. The data on the sheets shall be current and made available to the fire department upon application for a license and/or inspection.
 - (8) If organic materials, oils, lotions or other products are used by the massage facility, massage school or similar business, all linens must be laundered off site at a facility duly licensed to launder such items. If the materials, oils lotions or other products are not organic, laundering of linens can be performed on site.

(B) Every massage facility, massage school or similar business licensed under this chapter shall, during the period of its license, comply with the following:

- (1) All facilities required by subsection (A) shall continue in existence.
- (2) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and other facilities shall be kept in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. If available, bathtubs and showers shall be cleaned after each use.
- (3) Clean and sanitary towels shall be provided for each patron. No common use of towels or linens shall be permitted.
- (4) Soap or detergent shall be provided at all wash basins and sanitary towels placed in a permanently installed dispenser shall be provided at all wash basins utilized by employees.
- (5) Material safety data sheets, as required by the state, (M.C.L.A. §408.1001 et seq.) shall be kept and maintained by the massage facility, massage school or similar business. The data on the sheets shall be current and made available to the fire department upon application for a license and/or inspection.
- (6) If organic materials, oils, lotions or other products are used by the massage facility, massage school or similar business, all linens must be laundered off site at a facility duly licensed to launder such items. If the materials, oils lotions or other products are not organic, laundering of linens can be performed on site.

§ 116.30 LICENSE FEE.

Any person granted a license to operate a massage facility, massage school or similar business by the Administrator or Village Council shall pay to the Village Treasurer a fee in an amount as shall be set by the Village Council from time to time.

§ 116.31 EXPIRATION.

Each license issued under the provisions of this chapter shall expire on December 31 next following its date of issuance, unless previously suspended or revoked.

§ 116.32 RENEWAL.

Application to renew a license to operate a massage facility, massage school or similar business shall be filed at least 15 days prior to the date of its expiration. A license shall be renewed

provided the applicant submits a sworn affidavit that the matters contained in the original application have not changed.

§ 116.33 DISPLAY.

Every person to whom a license shall have been granted under this chapter display the license in a conspicuous place so that it may be readily seen by persons entering the premises where the massage, bath or treatment is given.

§ 116.34 REVOCATION AND SUSPENSION.

- (A) No license issued under this chapter shall be revoked until after a hearing shall have been held before the Village Council to determine just cause for such revocation. The Administrator his designee may order any permits suspended pending such hearing, and it shall be unlawful for any person to operate as a massage facility, massage school or similar business, depending upon the particular type of permit which has been suspended, until the suspended permit has been reinstated by the Village Council. Notice of such hearing shall be given in writing and served at least five days prior to the date of the hearing thereon. The notice shall state the grounds of the complaint against the licensee and shall state the time and place where such hearing shall be held.
- (B) Such notice shall be served upon the license holder by delivering the same to such person or by leaving such notice at the place of business or residence of the license holder in the custody of a person of suitable age and discretion. If the license holder cannot be found, and the service of such notice cannot be made as herein provided in this section, a copy of such notice shall be mailed, postage fully prepaid, addressed to the license holder at his place of business or residence at least five days prior to the date of such hearing.

Section 2 of Ordinance

All ordinances and resolutions or parts of ordinances and resolutions in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 3 of Ordinance

Should any section, subdivision, clause or phrase of this ordinance be declared by the court to be invalid, same shall not affect the validity of the ordinance as a whole or any part thereof, other than the parts invalidated.

Section 4 of Ordinance

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 5 of Ordinance

This Ordinance shall take effect upon publication in the manner prescribed by law.

CERTIFICATION

I certify that this ordinance was adopted by the Village Council of the Village of Bingham Farms at a meeting of the Council duly called and held on _____, 2020.

VILLAGE OF BINGHAM FARMS

Date:

By: _____
KEN MARTEN, Village Administrator and Clerk

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