

RAY TOWNSHIP PLANNING COMMISSION
MEETING MINUTES
TUESDAY, AUGUST 8, 2017 AT 7:30 P.M.
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Location: Ray Township Hall
64255 Wolcott. Ray, MI 48096

Present: Tom Hancock, Chairman
Tom Penzien, Vice-Chairman
Justin Lease, Secretary
Members: Randy Forro
Doug Stier
John Zoccola

Absent: Cynthia Banach (excused)

Also Present: Lisa Hall, Planning and Zoning Clerk,
Jack Dailey and Jerry Schmeiser, Township Planners.
Attendance record on file

1. CALL TO ORDER – PLEDGE OF ALLEGIANCE AND ROLL CALL.
Chairman Hancock called the meeting to order at 7:30 p.m. The Pledge of Allegiance was recited. All members were present.
2. APPROVAL OF MINUTES – June 13, 2017
**MOTION by Lease supported Forro to approve the minutes from June 13, 2017 as presented.
MOTION carried.**
3. APPROVAL OF AGENDA-
**MOTION by Penzien supported by Zoccola to approve the agenda as presented.
MOTION carried.**
4. Scheduled Public Hearings
 - A. Special Land Use Application, Accessory building to be located within front yard. Permanent Parcel #05-18-200-037 Romeo Plank Road; Crystal Austin, Applicant

Chairman Hancock explained the public hearing procedure to stand and state their name and address and any comments they may have regarding the agenda item.

**MOTION by Penzien supported by Zoccola to open the public hearing at 7:33 p.m.
MOTION carried.**

Crystal Austin, Petitioner, stated they are requesting to build an accessory building, 330 feet from Romeo Plank. She stated the parcel is narrow and would be less intrusive to the neighbors instead of building the accessory building in the rear yard.

**MOTION by Penzien supported by Forro to close the public hearing at 7:35 p.m.
MOTION carried.**

Discussion was held on the requirements of the Zoning Ordinance for a special land use instead of the application being a variance request before the Zoning Board of Appeals.

Mr. Dailey presented his findings of August 3, 2017, as follows;

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The purpose of this request as noted on the APPLICATION FOR SPECIAL LAND USE APPROVAL is to allow an accessory building to be constructed within the front yard. The subject parcel is zoned R-1 (Agricultural-Residential). The parcel is located approximately 1/4 mile south of 30 Mile Road on the west side of Romeo Plank Road.

Section 200 of the Zoning Ordinance provides that the use as requested may be permitted after special land use approval has been granted by the Township Planning Commission; see Section 200-C which states: Accessory buildings may only be located within the non-required front yard as a Special Land Use by the Planning Commission.

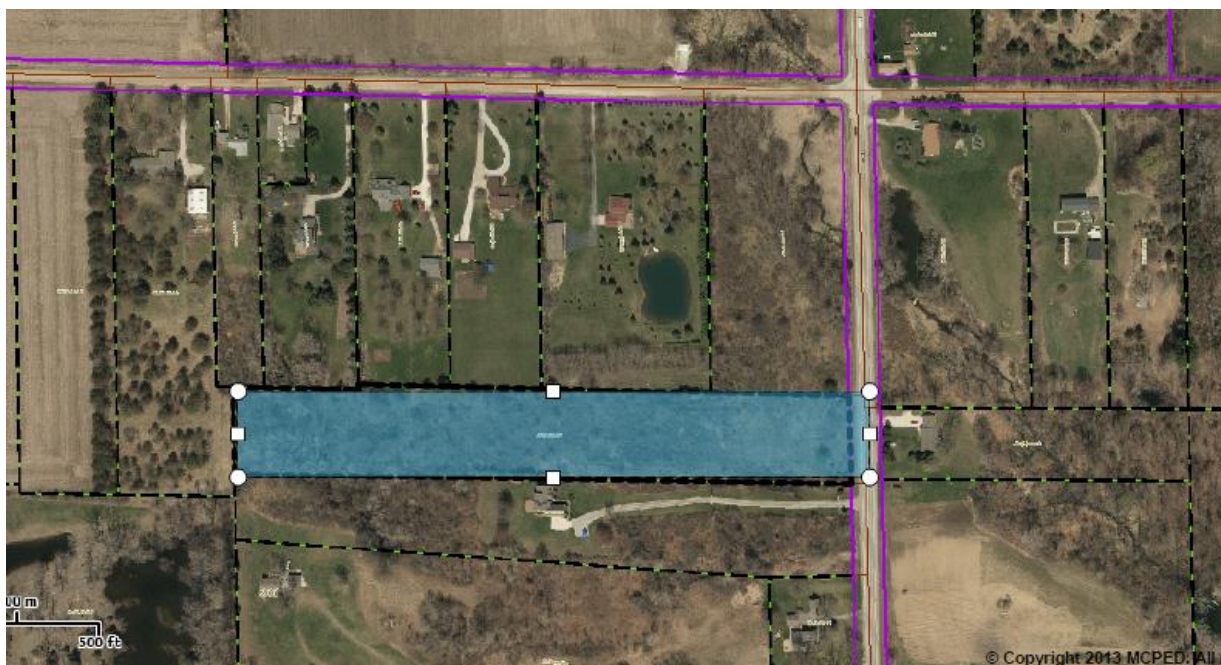
Special Land Use (SLU) is the use of a lot or parcel of land for an activity which, under usual circumstances, might be detrimental to other permitted land uses and cannot be permitted within the same district, but which use can be permitted under circumstances unique to the proposed location and subject to conditions acceptable to the community and providing protection to adjacent land use.

The Zoning Ordinance has vested the power to grant special land use approval to the Planning Commission. The Planning Commission must as part of its review and consideration conduct a public hearing regarding the merits of this request. The Planning Commission shall make a determination as to whether the proposed use as discussed below meets all ordinance requirements applicable to the Special Land Use requested in addition to the required review standards found in Section 2202 of the Zoning Ordinance. The Commission must also find that there are no more adverse effects than would normally be associated with the subject district which in the opinion of the Planning Commission cause injury to the adjacent properties or residents, or the Township as a whole.

The Special Land Use Standards itemized in Section 2202 of the Zoning Ordinance will be referenced individually later in this report.

The general description of the surrounding properties is as follows:

- A. The parcels adjoining on the north, south and to east across Romeo Plank Road are zoned R-1 and developed for single family purposes on acreage parcels
- B. The parcel to the west is zoned R-1 and contains a parcel that fronts on 30 Mile Road.



II. The site plan sketch submitted indicates the following:

- A. The subject property is provided with 187.09 ft. of frontage on the west side of Romeo Plank Road and extends for a depth of 1327.02 ft.; for a total site size of 5.05 acres.
- B. The parcel is presently vacant. The applicant intends to build the house approximately 87 ft. behind (west) the proposed accessory building. The proposed septic field and reserve field will be south of the barn and south of the proposed entrance drive off Romeo Plank Road.
- C. The proposed barn 40 ft. x 60 ft. (2,400 sq. ft.) would be setback 330' from the centerline of Romeo Plank Road setback 15' from the north property line and 120' from the south property line.
- D. The proposed accessory building would be approximately 285 ft. from the nearest existing residence (64665 Romeo Plank) to the south and in excess of 350 ft. from the residence fronting 30 Mile Road.

III. Applicable Sections of the Zoning Ordinance relating to the Special Land Use Request are cited below for reference:

- A. As noted above, Section 200-C of the Zoning Ordinance states: *“In reviewing the special land use application the Planning Commission shall take into account the proposed accessory structure, the location of the proposed structure the size of the subject property and the proximity of neighboring homes, existent vegetation, topography, and any other conditions specific to the property which the Commission determines is pertinent to their review.”*
- B. The required front yard for subject parcel is 110' from the centerline of Romeo Plank. The barn is proposed to be 333' from the centerline, therefore it is outside the REQUIRED front yard.

IV. Recommendation: “Accessory Building in Front Yard” is based on how the use of subject property for an accessory building to be located on subject parcel comports with the special land use standards itemized in Section 2202 of the Zoning Ordinance. You will find below our opinion of how the proposed use conforms to each of the six standards.

STANDARD NO. 1 -The proposed special approval land use will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.

Comment to Standard No. 1: The Application for SLU to use subject parcel for an accessory building to be located in a residential district as discussed above would be harmonious with the appropriate and orderly development of the surrounding neighborhood and/or vicinity, since the area is planned and zoned for Residential Development which would be consistent with the Township Master Plan and the Township Zoning Ordinance.

STANDARD NO. 2 -The use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements, routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access to off-street parking and provisions for pedestrian traffic, with particular attention to minimizing pedestrian vehicle conflicts.

Comments to Standard No. 2: The Application for SLU to use subject parcel for an accessory building to be located in a residential district as discussed above would be consistent with the R-1 District. The parcel in question is of sufficient size to accommodate the proposed use and has been designed with respect to access to the public rights-of-way to safely and efficiently move vehicles on and off the parcel with no impact on either vehicular or pedestrian traffic.

STANDARD NO. 3 - The proposed use will be designated so that the location, size, intensity, site layout and periods of operation of the proposed use eliminate any excessive nuisance emanating there from which might be objectionable to the occupants of any other nearby permitted uses.

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Comments to Standard No. 3: The Application for Special Land Use to construct an accessory building to be located on a residential district as discussed above would NOT be out of character with the District and adjoining parcels with respect to issues of noise, fumes lights, and vibration. Given that the residence to the south is approximately 285' and the residence to the north fronting 30 Mile is more than 350' from the proposed accessory building there should be no negative impacts relating to noise, lights, fumes and other potential nuisance factors.

STANDARD NO. 4 -The proposed use will be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value. *No Comments Applicable or Related to the Request.*

STANDARD NO. 5 -The proposed use is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected.

Comments to Standard No. 5: The Application for SLU to use subject parcel to construct an accessory building to be located on in a residential district as discussed above can and is designed to be operated in such a manner that the public health and safety would be adequately protected.

STANDARD NO. 6 -The proposed use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

Comments to Standard No. 6: The Application for SLU to use subject parcel to construct an accessory building to be located on in a residential district as discussed above would operate as a complement to future land uses permitted with said zoning district.

It is recommended that the Special Land Use Permit for an Accessory Building for Parcel #05-18-200-037 be approved based on the following:

- The accessory building will NOT encroach into the REQUIRED FRONT YARD OF 110 FT.
- The proposed use as described herein is consistent with or not in conflict with any of the Special Land Use standards found in Section 2202 of the Zoning Ordinance.
- Given the size of the parcel, the vegetation on site and the proposed building's location in relation to structures on adjoining parcels the proposed location is reasonable in relation to adjoining parcels and further:

The approval however, should be approved subject to the following Conditions:

1. That the front or east facing elevation shall be brick faced.
2. That all requirements of the Zoning Ordinance be met.
3. That a building permit may not be obtained until the proposed house is completely enclosed.
4. That the petitioner be aware that a Certificate of Zoning Compliance and a Certificate of Occupancy must be obtained prior to the occupation of the proposed building.

Chairman Hancock read the Buiding Officials comments regarding the special land use dated August 1, 2017, as 1) No accessory building shall be constructed prior to the enclosure of the principal building 2) An accessory building shall not be located closer than fifteen (15) feet to any lot line 3) Shall not be closer than 10 feet to any other building 4) Shall not exceed twenty-two feet in total height as measured from ground level to the ridge line, or have a sidewall height greater than fourteen feet 5) Footprints of all accessory buildings which in total have greater than 3,000 square feet in size may be permitted with a special land use approval 6) Recommended the east wall of the structure facing Romeo Plank to be bricked to match brick on the house.

Discussion was held on the front/east facing elevation to match the facade of the home instead of a brick faced as recommended by the Planners.

MOTION by Penzien supported by Stier to Approve Special Land Use Application, Accessory building to be located within front yard for Permanent Parcel #05-18-200-037 Romeo Plank Road. Crystal Austin, Applicant. The special land use for the accessory building with the following conditions:

1. That the front or east facing elevation shall match the front elevation for the primary structure.
2. The building footprint for the accessory building shall not exceed 2,400 square feet.
3. The height of the accessory building shall not exceed 22 feet.
4. That the petitioner be aware that a Certificate of Zoning Compliance and a Certificate of Occupancy must be obtained prior to the occupation of the proposed building.
5. That a building permit may not be obtained until the proposed house is completely enclosed.
6. That all requirements of the Zoning Ordinance be met.

Upon receipt of the following this office will issue a Certificate of Zoning Compliance for use of the subject property.

1. Submit plans to building official for accessory structure including front elevation.
2. Submit completed Certificate of Zoning application.

**FOR THIS APPROVAL: Yes: Penzien, Stier, Forro, Lease, Zoccola, Hancock.
No: None.
Absent: Banach.**

MOTION carried.

B. Special Land Use Application, Group Child Care in the R-1 (Residential Agricultural) district. Located at 17777 28 Mile Road, Permanent Parcel #05-19400-019; Jillian Spano Mercure, Petitioner.

Chairman Hancock explained the public hearing procedure to stand and state their name and address and any comments they may have regarding the agenda item.

MOTION by Penzien supported by Forro to open the public hearing at 7:55 p.m.

MOTION carried.

Jillian Spano Mercure, Petitioner stated her request is for an In-Home Day Care for 6-12 children and she is in the process of getting a State license.

MOTION by Penzien supported by Zoccola to close the public hearing at 7:56 p.m.

MOTION carried.

Mr. Dailey, Planner presented his findings dated August 3, 2017, they are as follows:

The purpose of this request as noted on the APPLICATION FOR SPECIAL LAND USE APPROVAL is to allow a Group Child Care in the R-1 (Residential-Agricultural) District. According to Ray Township Zoning Ordinance 36, Section 403-L Group Child Care may be permitted as a Special Land Use in the R-1(Residential Agricultural) District.

The subject parcel is zoned R-1 (Agricultural-Residential). The parcel is located on the north side of 28 Mile Road approximately 1/3 Mile west of Kunstman Road.

Special Land Use (SLU) is the use of a lot or parcel of land for an activity which, under usual circumstances, might be detrimental to other permitted land uses and cannot be permitted within the same district, but which use can be permitted under circumstances unique to the proposed location and subject to conditions acceptable to the community and providing protection to adjacent land use.

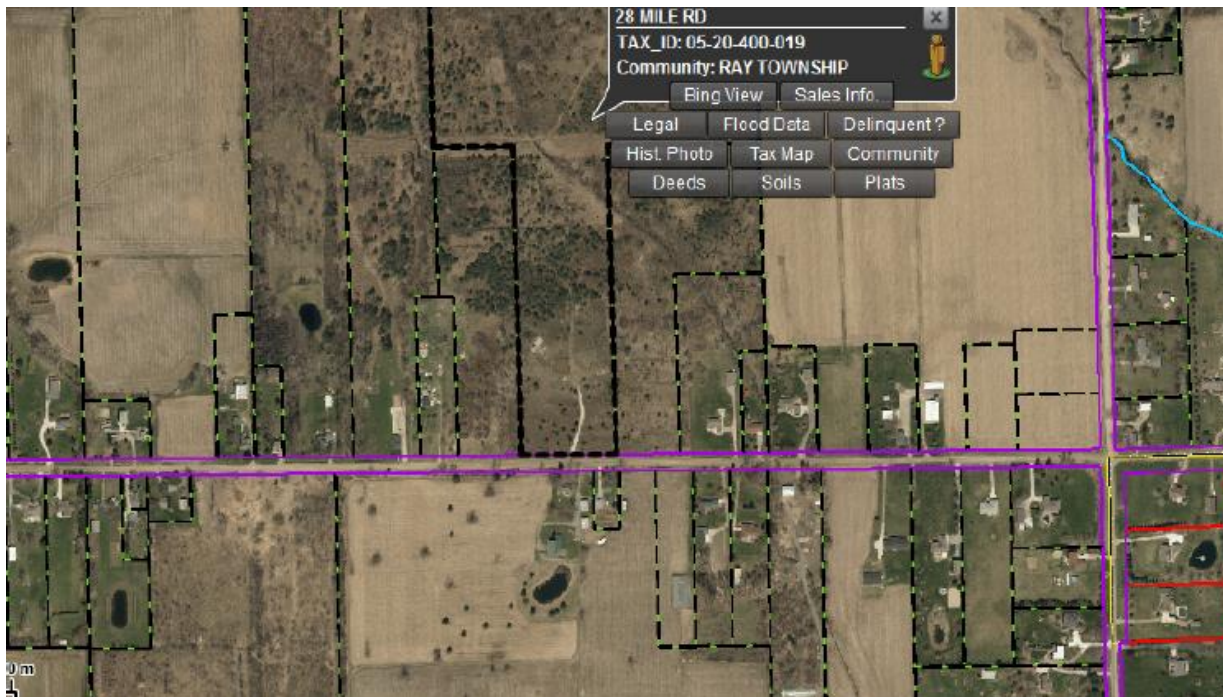
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The Zoning Ordinance has vested the power to grant special land use approval to the Planning Commission. The Planning Commission must as part of its review and consideration conduct a public hearing regarding the merits of this request. The Planning Commission shall make a determination as to whether the proposed use as discussed below meets all ordinance requirements applicable to the Special Land Use requested in addition to the required review standards found in Section 2202 of the Zoning Ordinance. The Commission must also find that there are no more adverse effects than would normally be associated with the subject district which in the opinion of the Planning Commission cause injury to the adjacent properties or residents, or the Township as a whole.

The Special Land Use Standards itemized in Section 2202 of the Zoning Ordinance will be referenced individually later in this report.

The general description of the surrounding properties is as follows:

- A. The parcels adjoining on the east, west and south across 28 Mile Road are zoned R-1 and developed for single family purposes on acreage parcels.
- B. The parcel to the north is zoned R-1 and contains parcels that fronts on 29 Mile Road.



The site plan sketch submitted indicates the following:

- A. The subject property is provided with 423 ft. of frontage on the north side of 28 Mile Road and extends for a maximum depth of 2665 ft. for a total site size of 55 acres.
- B. The parcel is presently used as a single-family residence with barn. The applicant intends to use the existing residence and small fenced in outdoor play area as a State Licensed Child Care Facility.
- C. The existing residence is approximately 330 ft. from the centerline of 28 Mile Road. The outdoor play area would be a fenced in area (25' x 48') attached to the rear elevation and accessible only through the door-wall of the forced walkout basement. The fence will be above the wall which at the lowest point is 26 inches high and at the highest point is 42 inches. There would be no other outside areas used for the Child Care.

- D. Access to the site would be via the existing drive off 28 Mile Road. There is provided on the site sufficient area for vehicle turnaround between the residence and the barn located to the rear and east of the residence. It will not be necessary for any vehicles to back out on to 28 Mile Road.

Applicable Sections of the Zoning Ordinance relating to the Special Land Use Request are cited below for reference:

- A. Group Child Care is defined by the Zoning Ordinance as a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group child care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.
- B. The off-street parking requirements for a Group Child Care Facility is One (1) space for each employee plus one (1) space for each four (4) children on the premises at one time. Adequate drop off space shall be provided as determined by the Planning Commission.

Recommendation: “Group Child Care in a R-1 Residential District”; the recommendation is based on our opinion of how the use of subject property for a Child Care facility with the special land use standards itemized in Section 2202 of the Zoning Ordinance. You will find below our opinion of how the proposed use conforms to each of the six standards.

STANDARD NO. 1 - The proposed special approval land use will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.

Comments to Standard No. 1: The Application for SLU to use subject parcel for a Child Care Facility to be in a residential district as discussed above would be harmonious with the appropriate and orderly development of the surrounding neighborhood and/or vicinity, since the area is planned and zoned for Residential Development which would be consistent with the Township Master Plan and the Township Zoning Ordinance.

STANDARD NO. 2 - The use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements, routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access to off-street parking and provisions for pedestrian traffic, with particular attention to minimizing pedestrian vehicle conflicts.

Comments to Standard No. 2: The Application for SLU to use subject parcel for a Child Care Facility to be located in a residential district as discussed above would be consistent with the R-1 District. The parcel in question is of sufficient size to accommodate the proposed use and has been designed with respect to access to the public right-of-way to safely and efficiently move vehicles on and off the parcel with no impact on either vehicular or pedestrian traffic. There will be no need for vehicles using the facility to back out on to 28 Mile Road. Further, there is sufficient space on-site to provide for parking to meet the Zoning Ordinance requirement.

STANDARD NO. 3 - The proposed use will be designated so that the location, size, intensity, site layout and periods of operation of the proposed use eliminate any excessive nuisance emanating there from which might be objectionable to the occupants of any other nearby permitted uses.

Comments to Standard No. 3: The Application for Special Land Use to construct a Child Care Facility to be located on a residential district as discussed above would NOT be out of character with the District and adjoining parcels with respect to issues of noise, fumes lights, and vibration. Given that the residence child care activities are more than 300 ft. off the public right of way and more than 200 ft. from the adjoining residences to the east and west there should be no negative impacts relating to noise, lights, fumes and other potential nuisance factors.

STANDARD NO. 4 - The proposed use will be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value. **No Comments Applicable or Related to the Request.**

STANDARD NO. 5 -The proposed use is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected.

Comments to Standard No. 5: The Application for SLU to use subject parcel for a Child Care Facility to be located on in a residential district as discussed above can and is designed to be operated in such a manner that the public health and safety would be adequately protected.

STANDARD NO. 6 -The proposed use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

Comments to Standard No. 6: The Application for SLU to use subject parcel for a Child Care Facility to be located on in a residential district as discussed above would operate as a complement to future land uses permitted with said zoning district.

It is recommended that the Special Land Use Permit for “a Child Care Facility” for Parcel #: 05-20-400-019 be approved based on the following:

- The proposed use as described herein is consistent with or not in conflict with any of the Special Land Use standards found in Section 2202 of the Zoning Ordinance.
- given the size of the parcel, the vegetation on site and the proposed building’s location in relation to structures on adjoining parcels the proposed location is reasonable in relation to adjoining parcels and further:

The approval however, should be approved subject to the following Conditions:

1. That any openings to the yard shall be secured by a self-locking fence.
2. There must be a minimum area of 30’ x 60’ east of the residence and immediately north of the north end of the driveway between the residence and the barn left open for emergency vehicles and to allow for other vehicles to drop off children during any time children are under care within the residence.
3. That all requirements of the Zoning Ordinance be met.
4. That the petitioner be aware that a Certificate of Zoning Compliance and a Certificate of Occupancy must be obtained prior to the occupation of the proposed building as a Child Care Center.

Chairman Hancock reviewed the department reports, as follows:

Building Officials comments dated August 1, 2017, as follows: Due to the fact that there are ponds and animals in the area, the outside area being used for the proposed Group Child Care should be protected the same as if it were a swimming pool. The fence would be a barrier to keep the children in the area designated for the Group Child Care. The fence should have self-locking gates that will swing into the enclosed area.

Fire Marshal comments dated August 1, 2017, as follows: 1) Applicant will file a business survey form with Ray Township Fire & Rescue, 2) Applicant shall file paperwork with state for licensing, Ray Township Fire & Rescue will help with any paperwork that we need to file; i.e., smoke detectors, fire extinguishers, etc. 3) Recommend residential Knox Box 4) If applicant needs CPR or First Aid Training to contact their office.

Discussion was held on the requirements for the special land use and the use runs with the land.

MOTION by Lease supported by Penzien to Approve Special Land Use Application, Group Child Care in the R-1 (Residential Agricultural) district. Located at 17777 28 Mile Road, Permanent Parcel #05-19400-019; Jillian Spano Mercure, Petitioner. The special land use for the accessory building with the following conditions:

1. That any openings to the yard shall be secured by a self-locking fence gate.
2. There must be a minimum area of 30' x 60' east of the residence and immediately north of the north end of the driveway between the residence and the barn left open for emergency vehicles to drop off children during any time children are under care within the residence.
3. A residential Knox box shall be installed as per the Fire Department.
4. The Special Land Use remains in effect with the State of Michigan License for Group Child Care. If a new property owner would like to continue the Group Child Care that they would have to provide proper licensing from the State of Michigan and any necessary inspections of Ray Township.
5. Any future licensee must file for and receive a Certificate of Zoning Compliance prior to use as a Group Child Care.
6. That all requirements of the Zoning Ordinance be met.
7. That the petitioner be aware that a Certificate of Zoning Compliance and a Certificate of Occupancy must be obtained prior to the occupation of the proposed building as a Group Child Care.

Upon receipt of the following this office will issue a Certificate of Zoning Compliance for use of the subject property.

1. Submit revised site plan to the office to illustrate the following:
 - a. Notations on plan relating to self locking fence gate as noted in item 1 above.
 - b. That the 30' x 60' all clear safety area be developed as noted in item 2 above.
2. Submit completed application for Certificate of Zoning.

**FOR THIS MOTION: Yes: Lease, Penzien, Forro, Zoccola, Stier, Hancock.
No: None.
Absent: Banach.**

MOTION carried.

- C. Special Land Use Application, Wireless Communication Tower in the B-2 (General Business) district, Located at 17447 26 Mile Road, Permanent Parcel #05-32-300-025. Fred Low of Chaille Tower Consultants, Petitioner.

Chairman Hancock explained the public hearing procedure to stand and state their name and address and any comments they may have regarding the agenda item.

**MOTION by Penzien supported by Zoccola to open the public hearing at 8:08 p.m.
MOTION carried.**

Fred Low, Petitioner, stated the request is for a communication tower to be located on 26 Mile Road, approximately 1/3 mile east of Romeo Plank. He explained the communication facility is designed to provide multiple users and potentially eliminate the need for carriers to construct their own antenna towers. He stated the tower would be 171 feet in height with a 4-foot lightning rod with a monopole design. He stated they are proposing an enclosed fence compound for the north, east and west sides with a faux wood vinyl fence which is low maintenance and provides an attractive visual screening and a cyclone fence on the south side, along the cattle barn.

**MOTION by Penzien supported by Zoccola to close the public hearing at 8:11 p.m.
MOTION carried.**

Mr. Dailey presented his findings of August 3, 2017, as follows;

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The purpose of this request as noted on the APPLICATION FOR SPECIAL LAND USE APPROVAL is to allow Wireless Communication Tower in the B-2 (General Business) District. According to Ray Township Zoning Ordinance 36, Section 1700-O, 2, General Provisions, Commercial wireless communication towers may be permitted as a special land use in the General Business District.

The subject parcel is zoned B-2 (General Business). The parcel is located on the north side of 26 Mile Road approximately 1/3 Mile east of Romeo Plank Road.

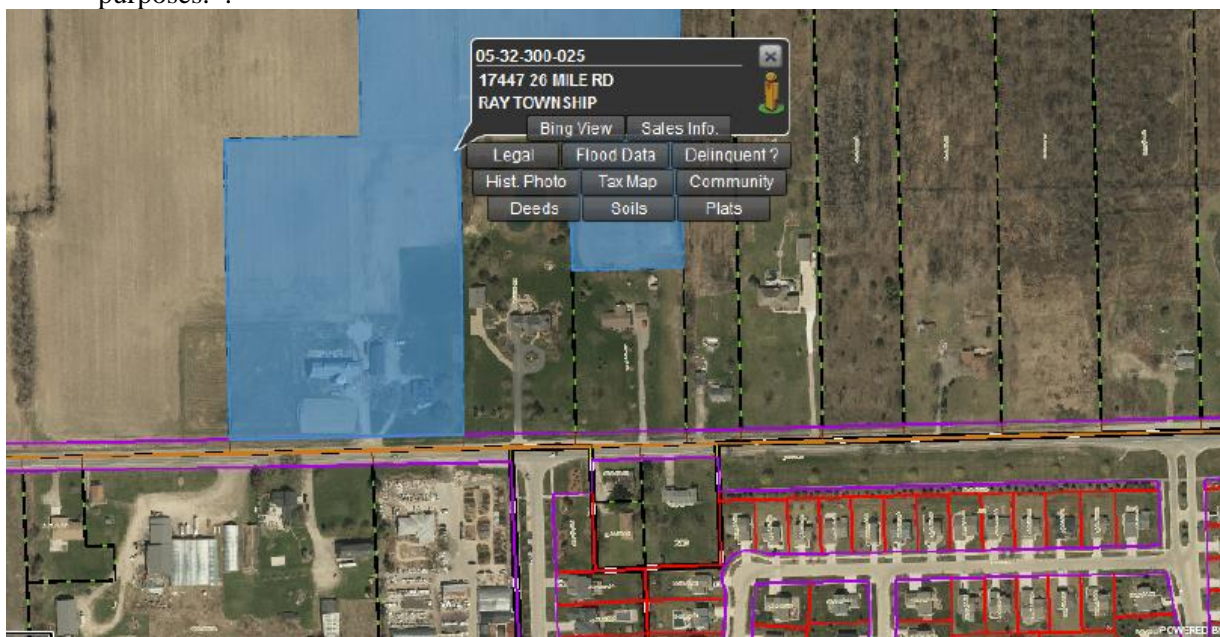
Special Land Use (SLU) is the use of a lot or parcel of land for an activity which, under usual circumstances, might be detrimental to other permitted land uses and cannot be permitted within the same district, but which use can be permitted under circumstances unique to the proposed location and subject to conditions acceptable to the community and providing protection to adjacent land use.

The Zoning Ordinance has vested the power to grant special land use approval to the Planning Commission. The Planning Commission must as part of its review and consideration conduct a public hearing regarding the merits of this request. The Planning Commission shall make a determination as to whether the proposed use as discussed below meets all ordinance requirements applicable to the Special Land Use requested in addition to the required review standards found in Section 2202 of the Zoning Ordinance. The Commission must also find that there are no more adverse effects than would normally be associated with the subject district which in the opinion of the Planning Commission cause injury to the adjacent properties or residents, or the Township as a whole.

The Special Land Use Standards itemized in Section 2202 of the Zoning Ordinance will be referenced individually later in this report.

The general description of the surrounding properties is as follows:

- A. The parcels adjoining on the east are zoned B-2 and contain residential parcels fronting on 26 Mile Road.
- B. The parcel to the west is zoned B-2 and is used for agriculture.
- C. The parcel to the north is zoned B-2 and is used for agriculture.
- D. The parcels to the south across 26 Mile Road are in Macomb Township and developed for commercial purposes.



The site plan sketch submitted indicates the following;

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- A. The subject property is an irregular shaped parcel with 500 ft. of frontage on the north side of 26 Mile Road. The parcel extends for a maximum depth of 1,243 ft. with a total site size of 18.479 acres.
- B. The parcel is presently contains a single-family residence with two barns and is used for agriculture.
- C. The applicant intends to develop a 75' x 75' compound within which to erect a 171' monopole cell tower centered in the compound. The compound would be set within a leased area measuring 100' x 100' that would be located 272' north of the centerline of 26 Mile Road and approximately 85' behind (north) of the westernmost barn existing on the parcel.
- D. The proposed monopole would be erected approximately 260' from the nearest point of existing residence and 120' from the north side of the nearest barn.
- E. Access to the site would be via an existing drive off 26 Mile Road. The 12' wide drive will extend due north between the two existing barns and turn slightly northwest into the compound approximately 50' west of the drive. The drive will be recorded as part of an 'Access/Utility Easement. The far west line of the easement will adjoin the east line of the leased area.
- F. Access to the compound will be obtained via the driveway easement through a 12' wide gate centered on the east line of the compound. The compound is proposed to be enclosed by sections of vinyl/wood style fencing on the north, west and east sides; with chain link fencing proposed on the south.
- G. The pole is designed to be capable to allow three additional future carriers within the proposed height.
- H. The interior of the compound will be covered with compacted gravel.
- I. The twenty-five ft area surrounding the compound will be landscaped with grass and tree plantings.

Applicable Sections of the Zoning Ordinance relating to the Special Land Use Request are cited below for reference:

- A. The request for a Unmanned Communication Facility (tower) is regulated by Section 1700-O of the Zoning Ordinance adopted by the Township Board on February 18, 2014 in accordance with MCL 125.3514; the Michigan Zoning Enabling Act that addresses the regulation of Wireless communications equipment.
- B. The applicant has addressed those paragraphs in the General Provisions section that relate to the documentation that must be submitted for review and site development issues. See letter dated July 17, 2017 within the packets of each planning commissioner. The undersigned finds that information complete. Our comments are as follows:
 1. With respect to O.2.a: The applicant is making the point that until an approval with conditions has been given by the Township it is unreasonable to supply sealed design drawings. We agree and would recommend that if SLU Approval is granted one of the conditions of approval should be that plans must be submitted as part of the application for Building Permit.
 2. With respect to O.2.b: The undersigned has no comment.
 3. With respect to O.2.c: The undersigned is satisfied with the response and notes that the plans for the monopole as referenced above made note that the pole is designed to be capable to allow three additional future carriers within the proposed height.
 4. With respect to O.2.d: It is noted that this paragraph does not apply and we agree.
 5. With respect to O.2.e: Relative to the height and design of the proposed tower; we agree the plans indicate that the standards are being met. The height is less than the maximum and the design proposed is a monopole which the ordinance requires.
 6. With respect to O.2.e-(3) regarding landscaping and screening. The plans as noted above provide that the compound will be enclosed by a combination of vinyl/wood look and chain link; and the area outside the compound within the leased area will be landscaped with grass only. It is the opinion of the undersigned that the compound should be enclosed with a 7-8' high brick-faced wall on four sides except for the span needed for the entry gate. The brick type should be one used by home builders in Ray Township. The spans should be broken intermittently on the north, east and west sides with the use of glass block. We would support the use of grass on the balance of the site and include a total of **-JEROME will PICK A NUMBER AND LOCATION FOR SOME DECIDUOUS AND SPRUCE TREES for this area.**
 7. With respect to O.2.e-(5) regarding setback requirements for the tower; we agree that the standard has been met.

8. With respect to O.2.f regarding liability for removal of all improvements in the event of damage or abandonment; it is our recommendation that the language submitted by the applicant must be reviewed and approved by the Township Attorney as a condition of approval.

Recommendation: The recommendation is based on our opinion of how the use of subject property for a Wireless Communication Tower to be located on subject parcel comports with the special land use standards itemized in Section 2202 of the Zoning Ordinance. You will find below our opinion of how the proposed use conforms to each of the six standards.

STANDARD NO. 1 -The proposed special approval land use will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.

Comments to Standard No. 1: The Application for SLU to use subject parcel for a Wireless Communication Tower to be located as discussed above would be in harmony with planned future residential development to the north, east and west of subject site. The Master Plan as amended proposes surrounding areas to be developed for residential parcels of 15,000 sq. ft. minimum. The tower will be in place and the focal point of the area when new housing is developed. It should be a striking visual space enclosed with compatible brick and pleasing landscaping.

STANDARD NO. 2 - The use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements, routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access to off-street parking and provisions for pedestrian traffic, with particular attention to minimizing pedestrian vehicle conflicts.

Comments to Standard No. 2: The Application for SLU to use subject parcel for a Wireless Communication Tower to be located as discussed above would be consistent with the B-2 District. The parcel in question is of sufficient size to accommodate the proposed use and has been designed with respect to access to the public right-of-way to safely and efficiently move vehicles on and off the parcel with no impact on either vehicular or pedestrian traffic. The vehicular traffic to the site would be minimal with no employees assigned to be present and active at the site on a regular basis. The drive approach must be reviewed by the Macomb Department of Roads.

STANDARD NO. 3 - The proposed use will be designated so that the location, size, intensity, site layout and periods of operation of the proposed use eliminate any excessive nuisance emanating there from which might be objectionable to the occupants of any other nearby permitted uses.

Comments to Standard No. 3: The Application for Special Land Use to construct a Wireless Communication Tower to be located as discussed above would NOT be out of character with the District and adjoining parcels with respect to issues of noise, fumes lights, and vibration. Given that the location of the tower is outside the fall line of any residential structures and any future residential structures that will be constructed if the property to the north is rezoned in accordance with the Master Plan as amended. There should be no negative impacts relating to noise, lights, fumes and other potential nuisance factors.

STANDARD NO. 4 - The proposed use will be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

Comments to Standard No. 4: The recommendation includes items that are essential to making subject site compatible with the planned residential neighborhoods that will surround the subject site. The brick wall enclosure and landscaping will make the site more compatible with the future surrounding residential area.

STANDARD NO. 5 - The proposed use is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected.

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Comments to Standard No. 5: The Application for SLU to use subject parcel for a Wireless Communication Tower to be located as discussed above can and is designed to be operated in such a manner that the public health and safety would be adequately protected. The tower as noted will be out of the fall zone of any residential structures; access to the site will be directed straight to subject site; the compound will be secure.

STANDARD NO. 6- The proposed use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

Comments to Standard No. 6: The Application for SLU to use subject parcel for a Wireless Communication Tower to be located as discussed above would operate as a complement to future land uses permitted with said zoning district. The use in question serves a recognized need in society at present and into the foreseeable future. The site should be enclosed with decorative wall in fitting with a future residential character.

It is recommended that the Special Land Use Permit for Special Land Use, Wireless Communication Tower be approved based upon the following:

- The proposed use as described herein is consistent with or not in conflict with any of the Special Land Use standards found in Section 2202 of the Zoning Ordinance.
- The proposed use as described herein can be designed to comply with the special requirements imposed by Section 1700-O as noted above.

The Special Land Use however, should be approved subject to the following Conditions:

1. That the applicant must submit Signed and Sealed Design Drawings attesting to the ability of the structure to withstand winds, ice and other naturally occurring hazards to the Building Department prior to commencing any work on subject site.
2. The applicant shall submit the following documents for review and approval by the Township Attorney:
 - Letter of intent to lease excess space on tower
 - Written Commitment of Collocation
 - Removal of Improvements Agreement
3. The site plan must be revised to provide for the following revisions:
 - the compound to be enclosed with a 7-8' high brick-faced wall on four sides except for the span needed for the entry gate. The brick type should be one used by home builders in Ray Township. The wall sections should be broken intermittently on the north, east and west sides with the use of glass block
 - The drive connection to 26 Mile Road must be paved and meet the requirements of the Macomb Department of Roads.
 - The open space outside the compound wall and inside the leased area shall be planted with grass and trees and maintained in accordance with a landscape plan that provides for selection of deciduous ornamental trees to be planted approximately 15 ft. from the edge of the compound walls with two trees along each side.

Chairman Hancock read the correspondences from each department, as follows:

Township Engineer, dated July 31, 2017 – based on the review they recommend approval of the site plan subject to the following: 1) The drive connection to 26 Mile Road should be paved and must meet the requirements of the Macomb County Department of Roads, 2) On Sheet Z-1, 26 Mile Road is labeled as 22 Mile Road, 3) Clarify why chain link fencing is required along the south fence line, and specify the fence height, 4) Define the improvements proposed for the existing gravel drive, 5) Provide more details regarding the T-mobile equipment (sizes, structure, etc.), 6) Landscape plantings should be provided.

Macomb County Department of Road, dated August 2, 2017 – will require a permit to pave the approach either concrete or asphalt. The permit is \$35 and \$100 deposit, the deposit is retrained on completion of the inspections.

Fire Marshal, dated August 1, 2017 requested the site plan be revised to include the proper Fire/Police Departments, advised a separate address is required, 12-foot gravel drive is Fire Department access/fire lane; fire lanes shall be 20 feet wide per code. Fire lane can be varied by the Fire Department, 12 feet wide is narrow for a fire truck, gravel drive shall withstand weight of fire truck, Knox box or Knox lock will be required, business survey shall be filed with the Ray Township Fire and Rescue.

Building Official, dated August 1, 2017 advised if the special land use is approved the building plans must be submitted and approved for the tower, fence and any other proposed structures. He recommended if barbed wire would be used that it be brought up at this time.

Fred Low, Petitioner stated there is no for any barbed wire.

Discussion was held on the zoning ordinance requirements for the wall requirements and the screening requirements.

Harold DeMan, Fire Marshal stated the County Communication tower that is being constructed at the Fire Department will have chain link fencing.

Lease stated the majority of the population no longer have home phones and he is glad to see that the wireless communication tower can be used by other co-locators.

MOTION by Penzien supported by Forro to approve the Special Land Use Application, Wireless Communication Tower in the B-2 (General Business) district, Located at 17447 26 Mile Road, Permanent Parcel #05-32-300-025. Fred Low of Chaille Tower Consultants, Petitioner. This approval is based upon the following conditions, as follows:

- 1. That the applicant must submit Signed and Sealed Design Drawings attesting to the ability of the structure to withstand winds, ice and other naturally occurring hazards to the Building Department prior to commencing any work on subject site.**
- 2. The applicant shall submit the following documents for review and approval by the Township Attorney:**
 - a. Letter of intent to lease excess space on tower**
 - b. Written Commitment of Collection**
 - c. Removal of Improvements Agreement**
- 3. The site plan must be revised to provide for the following revisions:**
 - a. That the drive connection to 26 Mile Road must be paved and meet the requirements of the Macomb Department of Roads.**
 - b. That the drive shall be approved by the township engineer.**
 - c. The open space outside the compound wall and inside the leased area shall be planted with grass and trees and maintained in accordance with a landscape plan that provides for selection of deciduous ornamental trees to be planted approximately 15 ft. from the edge of the compound walls with two trees along each side.**
 - d. That the Knox box shall be installed as per the Fire Department.**
 - e. Separate Address application must be submitted for review then approved by the assessor at the township.**

Upon receipt of the following this office will issue a Certificate of Zoning Compliance for use of the subject property.

- 1. The Building Official has approved the plans as referenced in item 1 above.**

2. **Letter from the Township Attorney to verify that letters specified in item 2 above have been deemed satisfactory to meet the intent of the Zoning Ordinance.**
 3. **A landscape plan submitted for review relaying to the open space outside the compound as noted in item 3c above has been approved.**
 4. **Address has been issued.**
 5. **Application for Certificate of Zoning has been submitted for review and final approved.**
- FOR THIS MOTION: Yes: Penzien, Forro, Stier, Lease, Zoccola, Hancock.**
No: None.
Absent: Banach.

MOTION carried.

5. NEW BUSINESS. *None.*

6. OLD BUSINESS.

A. Section 211 Correspondence from Township Board relating to Proposed Amendment to Zoning Ordinance; Medical Marijuana.

Chairman Hancock stated at the July 18, 2017 the Township Board voted to send the proposed amendment to the Planning Commission for further review. 1) The Board has concerns regarding the current ordinance requires a registered primary caregiver must be located outside of a one-thousand-foot radius from any public or private park property or public library property. 2) That a caregiver would be allowed in the I-R district. 3) Township Attorneys opinion on the letter dated July 17, 2017 from Pollicella & Associates, PLLC.

Mr. Dailey explained there is no distance requirement for a caregiver. He explained the ordinance is proposed for caregivers to be in the industrial areas. Further stated the Township Attorney reviewed the proposed the zoning ordinance amendment for adoption.

MOTION by Penzien supported by Lease to not modify the Proposed Amendment to Zoning Ordinance; Medical Marijuana, Section 211 and to send it to the Township Board of Adoption.
MOTION carried.

B. 2016 Medical Marijuana Discussion

Chairman Hancock stated regarding the 2016 Medical Marijuana Law if nothing is done the Township would be opting out. Further reviewed the five types of licenses 1) growers 2) processor 3) provisioning center 4) secure transport 5) safety compliance.

Discussion was held.

MOTION by Forro supported by Penzien to Table 2016 Medical Marijuana Discussion.
MOTION carried.

7. PRESENTATION: *None.*

8. BOARD REPRESENTATIVE: *No report was given.*

9. ZONING BOARD OF APPEALS REPRESENTATIVE: *No report was given.*

10. CORRESPONDENCE: Shelby Township Master Plan Draft

Chairman Hancock reported the Shelby Township Planning Commission held a public hearing on the draft master plan on July 19th, 2017. Further stated the master plan is available at www.shelbytwp.org for review.

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11. PLANNING CONSULTANTS REPORT.

Chairman Hancock stated the Planning Commission received the Planning Consultants report this evening for review dated August 3, 2017.

12. PUBLIC COMMENTS.

Art Bonikowski, 65648 Wolcott stated he was born and raised in Detroit and moved to Ray Township in 1969 to get away from the activities in Detroit. He stated marijuana is marijuana. Further asked the Planning Commission to opt-out of the Medical Marijuana 2016.

13. ADJOURNMENT.

**MOTION by Stier supported by Penzien to adjourn the meeting at 8:53 p.m.
MOTION carried.**

Tom Hancock, Chairman

Justin Lease, Secretary

Date

Respectfully submitted,
Lori R. Lascoe, Recording Secretary
Township Clerk