CHARTER TOWNSHIP OF PLYMOUTH BOARD OF TRUSTEES SPECIAL MEETING

Tuesday, May 3, 2022 7:00 PM



CALL TO ORDER AT P.M.
A. ROLL CALL: Kurt Heise, Mark Clinton, Chuck Curmi, Bob Doroshewitz, Jerry Vorva, Audrey Monaghan John Stewart
B. PLEDGE OF ALLEGIANCE
 Proclamation Recognizing International Firefighters Day – May 4, 2022
C. APPROVAL OF AGENDA — Tuesday, May 3, 2022
D. Approval of Consent Agenda — N/A
E. PUBLIC COMMENT (Limited to 3 Minutes)
F. NEW BUSINESS
1. Selection of New Township Treasurer, Township Clerk Jerry Vorva
 Salary Adjustment for Deputy Treasurer, Resolution #2021-05-03-24, Outgoing Treasurer Mark Clinton

3. Various FY2022 Budget Amendments and Adjustments, Resolution #2021-

4. Discussion on the M-14 Billboard Appeal Request, Supervisor Kurt Heise and

05-03-25, Finance Director Ginger Moriarty

Township Attorney Greg Demopoulos

CHARTER TOWNSHIP OF PLYMOUTH BOARD OF TRUSTEES SPECIAL MEETING

Tuesday, May 3, 2022 7:00 PM



G.	PUBLIC COMMENT (Limited to 3 Minutes)
H.	BOARD COMMENTS
I.	CLOSED SESSION
	At p.m., moved that a Closed Session be called for the purpose of an Attorney consultation on specific pending litigation (International Outdoor Inc. v. Charter Township of Plymouth) and settlement strategy in accordance with the Michigan Open Meetings Act, Section 8(e), MCL 15.268(8). Seconded by
J.	RETURN TO OPEN SESSION
	At p.m., moved that the Board return to Open Session.
	Seconded by

<u>PLEASE TAKE NOTE:</u> The Charter Township of Plymouth will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at all Township Meetings, to individuals with disabilities at the Meetings/Hearings upon two weeks' notice to the Charter Township of Plymouth by writing or calling the following: Human Resource Office, 9955 N Haggerty Road, Plymouth, MI 48170. Phone number (734) 354-3202 TDD units: 1-800649-3777 (Michigan Relay Services)

K. ADJOURNMENT

The public is invited and encouraged to attend all meetings of the Board of Trustees of the Charter Township of Plymouth



CHARTER TOWNSHIP OF PLYMOUTH REQUEST FOR BOARD ACTION

MEETING DATE: May 3, 2022

ITEM: Selection of New Township Treasurer

PRESENTERS: Clerk Jerry Vorva

BACKGROUND: Tonight, I will be accepting nominations for the position of Township Treasurer. I concur with outgoing Treasurer Clinton that we appoint a new Treasurer as soon as possible, as the Summer Tax preparation begins later this month, our new auditors need assistance from the Treasurer's office, and we need someone with a good understanding of our internal processes, ordinances, and business practices. As Treasurer Clinton said in his letter of April 23, 'time is of the essence.'

The individual we appoint would be sworn in tonight, with an effective start date of May 10, which is the effective date requested in Treasurer Clinton's resignation letter. Amy Hammye will continue in her role as Deputy Treasurer throughout the transition and her status would not be adversely impacted.

PROPOSED MOTION: I move that the Board of Trustees appoint _______to the position of Township Treasurer for the Charter Township of Plymouth with the identical salary and benefit package provided to the outgoing Treasurer; said individual to be sworn in on May 3, 2022, and will assume office on May 10, 2022 at midnight.



CHARTER TOWNSHIP OF PLYMOUTH REQUEST FOR BOARD ACTION

MEETING DATE: May 3, 2022
ITEM: Salary Adjustment for Deputy Treasurer
PRESENTERS: Treasurer Mark Clinton
BACKGROUND: Michigan Law (MCL 41.69 and 41.77(5)), states that the office of Deputy Treasurer 'shall be paid by salary or otherwise as determined by the Township Board."
Throughout my nearly six-month medical challenge, Deputy Treasurer Amy Hammye has performed vital and unprecedented work in the Treasurer's Office. She successfully guided the office through the Winter Tax collection and has carried out all other duties of the office efficiently and with the highest integrity. She has also agreed to assist with the transition to the new Treasurer. Therefore, I am requesting a one-time salary adjustment in the amount of \$25,000 to recognize and reward Amy for her efforts for the last six months, and in the weeks and months ahead.
PROPOSED MOTION: I move to adopt Resolution 2022-05-03-24 authorizing a one-time salary adjustment in the amount of \$25,000 to Deputy Treasurer Amy Hammye as reflected in the attached Resolution. Furthermore, to authorize the Finance Director to appropriate and amend the FY2022 Treasurer's department wage and benefits budget accounts in the total amount of \$30,700: for Wages of \$25,000, Social Security & Medicare of \$1,900, and the Defined Contribution plan in the amount of \$3,800
Moved BySeconded By
ROLL CALL:
Vorva, Curmi,Clinton,Monaghan,Doroshewitz,Stewart,Heise

STATE OF MICHIGAN COUNTY OF WAYNE CHARTER TOWNSHIP OF PLYMOUTH

RESOLUTION # 2022-05-03-24

SALARY ADJUSTMENT FOR DEPUTY TREASURER

At a regular meeting of the Board of Trustees for the Charter Township of Plymouth (the "Board"), held at Township Hall located at 9955 N. Haggerty Road, Plymouth, Michigan on May 3, 2022, the following resolution was offered:

WHEREAS, State Law (MCL 41.69 and 41.77(5)), states that the office of Deputy Treasurer 'shall be paid by salary or otherwise as determined by the Township Board, and;

WHEREAS, Throughout the long-term medical challenges of Treasurer Mark Clinton, Deputy Treasurer Amy Hammye has performed vital and unprecedented work in his absence, and;

WHEREAS, Treasurer Clinton has requested a one-time salary adjustment in the amount of \$25,000 to compensate Ms. Hammye for her efforts for the last six months and her future assistance in the transition to a new Treasurer:

WHEREAS, A one-time appropriation of Social Security and Medicare as a result of the salary adjustment in the amount of \$1,900;

WHEREAS, A one-time appropriation of Defined Contribution as a result of the salary adjustment in the amount of \$3,800;

NOW, THEREFORE BE IT RESOLVED that the Plymouth Township Board of Trustees hereby adopts this Resolution #2022-05-03-24 authorizing a one-time salary adjustment of \$25,000 to Deputy Treasurer Amy Hammye along with \$1,900 in Social Security & Medicare, and \$3,800 in Deferred Compensation;

FURTHERMORE, that the Board authorizes the Finance Director to appropriate fund balance in the amount of \$30,700 amending the 2022 General Fund budget to the Treasury Department's appropriate Wage and Benefit accounts to provide for this salary adjustment.

Moved by:					
Supported by: <u>Roll Call Vote</u>					
Ayes: Nays:					
Adopted: Regular Meeting of the Board of Trustees on May 3, 2022.					
Jerry Vorva, Clerk, Charter Township of Plymouth					
Certification STATE OF MICHIGAN) COUNTY OF WAYNE)					
I hereby certify that the foregoing is a true copy of the above Resolution, the original of which is on					

Resolution: 2022-05-03-24

Charter Township of Plymouth

file in my office.

Jerry Vorva, Clerk

Date



CHARTER TOWNSHIP OF PLYMOUTH REQUEST FOR BOARD ACTION

MEETING DATE: May 3, 2022

ITEM: Various FY2022 Budget Amendments

PRESENTER: Finance Director Ginger Moriarty

BACKGROUND: The Uniform Budgeting and Accounting Act requires that a Township prepare a budget amendment as soon as it is apparent that a deviation from the original budget is necessary and the amount can be determined.

The attached amendments reflect activity incurred in the General Fund, ARPA Fund, Transportation Fund, and Water & Sewer Fund. Board action is required for the following:

- Amend FY2022 approving General Fund appropriations in the amount of \$202,900;
- Amend FY2022 approving ARPA Fund appropriation in the amount of \$1,375,000;
- Amend FY2022 approving Transportation Fund appropriations in the amount of \$7,500;
- Amend FY2022 Water & Sewer Fund appropriations in the amount of \$24,400;
- Amend FY2022 recognize Transportation Fund Revenue in the amount of \$7,100;
- Amend FY2022 recognize APRA Fund Revenue in the amount of \$1,375,000.

PROPOSED MOTION: I move that the Board of Trustees hereby adopt Resolution #2022-05-03-25 authorizing the Finance Director to amend budgets for: General Fund of \$202,900, ARPA Fund of \$1,375,000, Transportation Fund of \$7,500 and Water & Sewer Fund of \$24,400 to appropriate fund balance for all funds requested in the amount of \$1,609,800 and to recognize Transportation Fund Revenue in the amount of \$7,100 and to recognize ARPA Fund Revenue in the amount of \$1,375,000 to the accounts as outlined and attached.

Moved By _	Seconded By					
ROLL CALL:						
Vorva	Curmi,	Clinton,	_Monaghan,	_Doroshewitz,	_Stewart,	_Heise

STATE OF MICHIGAN COUNTY OF WAYNE CHARTER TOWNSHIP OF PLYMOUTH

RESOLUTION # 2022-05-03-25

FY2022 BUDGET AMENDMENT

At a regular meeting of the Board of Trustees for the Charter Township of Plymouth (the "Board"), held at Township Hall located at 9955 N. Haggerty Road, Plymouth, Michigan on May 3, 2022, the following resolution was offered:

WHEREAS, the Uniform Budgeting and Accounting Act requires that a Township Board prepare a budget amendment as soon as it is apparent that a deviation from the original budget is necessary and the amount can be determined, and;

WHEREAS, the referenced amendments are reflective of activity incurred in the General Fund since the adoption of the FY2022 budget approved on November 09, 2021, and;

WHEREAS, The Board of Trustees of the Charter Township of Plymouth was presented with a proposed budget amendment for Fiscal/Calendar Year 2022, and;

WHEREAS, the Board of Trustees are satisfied with proposed budget amendment, and;

WHEREAS, the board authorizes the Finance Director to appropriate fund balance amending the 2022 General Fund's fund balance in the amount of \$202,900, and;

WHEREAS, the board authorizes the Finance Director to appropriate fund balance amending the 2022 American Rescue Plan Act Fund's fund balance in the amount of \$1,375,000, and;

WHEREAS, the board authorizes the Finance Director to appropriate fund balance amending the 2022 Transportation Fund's Net Position in the amount of \$7,500, and;

WHEREAS, the board authorizes the Finance Director to appropriate fund balance amending the 2022 Water & Sewer Fund's Net Position in the amount of \$24,400, and;

WHEREAS, the board authorizes the Finance Director to recognize 2022 American Rescue Plan Act (ARPA) revenue in the amount of \$1,375,000, and;

WHEREAS, the board authorizes the Finance Director to recognize 2022 Transportation Fund revenue in the amount of \$7,100, and;

NOW, THEREFORE BE IT RESOLVED that the Plymouth Township Board of Trustees hereby adopt this Resolution #2022-05-03-25 authorizing the Finance Director to

Transportation Fund revenue of \$7,100 and to appropriate fund balance amending 2022 All Funds budgets as General Fund, ARPA Fund, Transportation Fund, and Water & Sewer in the appropriate accounts in the total amount of \$1,609,800 for all funds, as outlined and attached. Moved by: Supported by: Roll Call Vote Ayes: Nays: Adopted: Regular Meeting of the Board of Trustees on May 3, 2022 Jerry Vorva, Clerk, Charter Township of Plymouth Certification **STATE OF MICHIGAN**)) COUNTY OF WAYNE) I hereby certify that the foregoing is a true copy of the above Resolution, the original of which is on file in my office.

recognize 2022 American Rescue Plan Act (APRA) revenue of \$1,375,000 and 2022

Resolution: 2022-05-03-25

Charter Township of Plymouth

Jerry Vorva, Clerk

Date

	FY2022 Budget Appropriations				
			quested		- Contra
GL Numiser	Ascount Description		udget endment	Prefied Budgeted	FY2022 Revised
		_		<u> </u>	A 200
101-101-940.000	Rental/Leased Equipment 1 New Leased Computer - A/V Board Chambers - Witg Broadcasting Terminal (PEG Funds)	\$	200	5	\$ 200
					N
101-253-718.000	Medical & Other EF. Insurances Opt-Out (2) EF Participating in Optical & Vision & Inc to Harford (Deputy Wage Inc).	\$	6,000	\$ 20,000	\$ 26,000
	Obt. out (5) FE Learning an Obition is appained unit to statuons facilities and units				
101-261-801.000	Professional & Contractual Services	\$	3,000	\$ 86,500	\$ 89,500
	Township's cost share of 35th District annual expenditure for the MIDC Grant 260 Fund				
101-262-851.000	Communication - Mail & Postage	\$	5,000	\$ 10,500	\$ 15,500
	Mail - Voter Precinct District Changes & Voter Registration Cards				
101-262-900.000	Printing Services	\$	10,000	5	5 10,000
	Voter Precinct District Changes & Voter Registration Cards			7-5	8-5
101-262-934.000	Office Equipment Service Agmts/Repairs		10,000	\$ 500	\$ 10,500
202 2517000	Amusi Dominion Voting Machines Service Agmt/Warranty (Yr 1 of 5)		20,000	4 350	-
404 757 040 000	Dental and France		200	A 3.700	A 0.000
101-262-940.000	Rentals/Leased Equipment 1 New Leased Computer - Election Terminal	,	200	\$ 3.700	\$ 3,900
101-265-852.000	Communication - Internet Services (2) Companies in field in Georgeoids - Internet Services such states are PCPSH 50106	\$	200	\$ *	\$ 200
	THE COST IN THE SECOND COST AND ADDRESS OF THE PROPERTY OF THE PROPERTY OF THE SECOND COST OF THE PROPERTY OF				
101-301-718.000	Medical & Other EE Insurances	\$	29,500	\$ 360,800	\$ 390,300
	Life Event: Couple to Family Rate & Opt-out to Family Rate: Tiderton \$ \$3,500 & Maples J \$24,10	0			
101-325-801.000	Professional & Contractual Services	\$	6,500	\$ 47,100	\$ 53,600
2:	Inc. Svcs Agmt from 2 to 3 Radio Consoles for FY2022 + Vendor CPI Inc. of 10% (3% budgeted)				
101-325-940,000	Rentals/Leased Equipment	\$	400	4	\$ 400
202-323-340,000	2 New Leased Computers - Dispatch Supervisor & Dispatcher Terminal (7 mo)		400		400
				A =	
101-336-702.000	Wages - Full Time Employees Retirement Accrual Payout of Sick & Vacation (Phillips/Conety)	\$	49,000	\$ 2,173,900	\$ 2,222,900
	, , , , , , , , , , , , , , , , , , , ,				
101-336-710.000	Social Security/Medicare	\$	3,800	\$ 202,100	\$ 205,900
	Retirement Accrual Payout of Sick & Vacation (ER) FICA portion (Ph/lips/Conely)				
101-336-718.000	Medical & Other EE Insurances	\$	38,900	§ 349,156	\$ 388,056
	Life Event: Opt-out to Family Rate \$24,100: Hanson N; Single to Couple \$11,300 Mack C; Couple to	to Fam \$5,90	00 Smith C		
101-336-821.000	Contractual Lawncare/Lanscaping Services	\$	1,900	\$ 6,500	\$ 8,400
	Tree Triming Approved Budget of \$500. Merch Tree Services of \$2,400				
101-336-824.000	Contractual Services - Trash Collection Services	4	800	\$ 600	\$ 1,400
101-330-01-41000	Waste Management fee of \$34S per quarter for all (3) Three Fire Stations			3 500	7 2,400
					(A) an ass
101-336-850.000	Communications - Phones/Cellular & Radio Loud Alarm 3 Stations - CBTS Install & Mo Svc (\$1500), new Verizon Lilepack Acc't (\$500)	\$	2,000	\$ 14,900	\$ 16,900
	,				
101-336-931.000	Equipment Maintenance Svc Agmts & Repairs	\$	5,000	\$ 14,000	\$ 19,000
	New FY2022 Stryker Annual Svc. Agmt for 2 Power Loaders & Cots (AFG Grant Purchase)				
101-371-964.000	Refunds & Rebates	\$	24,500	\$ 10,500	\$ 35,000
	FY2022 Refunds Budget has been used up for current year as of February 2022. Proposed to Inc. budget to \$35,000 to match FY2021 Actual Activity of \$34,967 in refund expenditures	ease			
	and the state of t				
101-426-850.000	Communications - Phones/Cellular & Radio's	\$	4,000	\$	\$ 4,000
	New FY2022 AT&T Services for communication services: EOC				
101-737-703.000	Wages - Part Time Employees	\$	1,100	<u>\$</u> 10,200	11,300
	12 Planning Comm Mtgs: \$850 per mtg @ 1 Hr per. Extra mtg in Feb + extra Hrs for some membe	ers - through	Feb 2022		
101-737-710.000	Social Security/Medicare	\$	100	\$ 900	\$ 900
0	12 Planning Comm mtgs; \$65 per mtg @ 1 Hr per. Extra mtg in Feb + extra Hrs for some member	s - through (Feb 2022		
101-905-993.000	Debt Service - Interest Expense	\$	800	93,500	\$ 94,300
202-304-3331000	2017 Refunding Bond \$500 & Huntington Benk Admin Fea \$300	4	500	33,000	4 34/300
T. 1404 C. 17			202 202		
Total 101 General Fund Appropriat	tions	\$	202,900		
285-000-970.000-20222851.4504	Capital Outlay - Sidewalk Gap Project - ARPA Funds	\$	700,000	\$ -	\$ 700,000
	Appropriate ARPA Funds - FY 2022 ARPA Grant Funding Project 202228514504				
285-000-970.000-2022285L4503	Capital Outlay - Golfview Park Walkway & Recreational Amenities - ARPA Funds	\$	400,000	Š :=	\$ 400,000

285-000-970.000-2022285V0004	Capital Outlay - Ambulance ARPA Funds	\$	275,000		\$ 275,000	
	Appropriate ARPA Funds - FY 2022 ARPA Grent Funding Project 2022285V0004			-	1.	
Total 285 American Rescue Act Plan	n Appropriations	\$	1,375,000			
588-596-940,000	Rental/Leased Equipment	\$	400	<u> </u>	\$ 400	
	2 New Leased Computers - Transportation Supervisor & Driver terminal (7 mo)					
588-596-970.000-SMART6/30/23	Capital Outley	\$	7,100	4	\$ 7,100	
	City of Plymouth's 5MART Covid - 19 Grant Expenditures	9				
Total 588 Transportation Fund App	roprietions	\$	7,500			
592-537-875,000	Retiree Medical/Healthcare Insurance	\$	24,400	6 51,400	\$ 75,800	
17.00	Add New Retiree: Krauger R - 2 Person Coverage @ \$2,442 mo x 10 months)					
Total 592 Water & Sewer Fund App	propriations	\$	24,400			
		-				
All Funds - Appropriation		5	1,609,800			
		44.0	-			
	FY2022 Recognition of Funding Sources					
			Sequested		CARCINO CO	
GL Number	Account Description	R	Budget ecognition	PVZ0ZZ Budgeted	Revised	
				2		
285-000-528.000	Federal Grant- Other Recognize Unearned Revenue ARPA Funding in FY2022 for ARPA Projects	\$	1,375,000	\$	\$ 1,375,000	
	recognise onesines traditionary canonical in Lance in Suck Linkers					
Total 285 American Rescue Act Pla	n Revenue Recognition	\$	1,375,000			
588-000-586,000	Contributions - City of Plymouth	Ś	7,100	\$ 95,000	\$ 102,100	
	Recognize the City's of Plymouth's portion of SMART Covid-19 Grant Funds		71200	- John 10	¥ 202,200	
Total 588 Transportation Fund Rev	enue Recognition	\$	7,100			
All Funds - Revenue Recognition		\$	1,382,100			



CHARTER TOWNSHIP OF PLYMOUTH REQUEST FOR BOARD ACTION

MEETING DATE: May 3, 2022

ITEM: Discussion on the M-14 Billboard Appeal Request

PRESENTERS: The Applicant, Latif Oram with International Outdoor, Inc.

Township Attorney, Kevin Bennett and Greg Demopoulos

Township Planner Laura Haw (via phone, as needed)

BACKGROUND:

International Outdoor, Inc. proposes two digital billboard signs along M-14, located within the parcel northeast of M-14 and Ridge Road (subject site outlined in orange below, parcel ID: 78-007-01-0002-003). The following summarizes key elements of the proposal:

Zoning and Use. The currently vacant subject site is zoned the TAR, Technology and Research District, is approximately 15 acres in size, and is immediately adjacent to the Metro West Industrial Park. The current zoning at this site supports industrial uses such as fabrication, office, distribution, and warehousing. However, the Wetlands Mapping Viewer by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) indicates the presence of wetlands and wetland soils on the property (largely covering the northern portion of the site) that present construction challenges for a typical industrial development.



Proposal. The proposed two billboard signs are shown in their approximate locations below (material provided by the applicant).



Zoning Board of Appeals. The Zoning Board of Appeals (ZBA) considered six variances for each billboard in November of 2021. These variances included deviations from the zoning ordinance for maximum height, maximum size of the sign display (signable area), the use of two signs on one parcel, the use of a pole sign (as opposed to a monument sign base), and illumination of the sign between 11:00 PM and 7:00 AM, among others.

At this public meeting, the following resident concerns were expressed regarding the proposal:

- 1. Linda Anivers is a teacher that lives in the community, she indicated that residents did not have an opportunity to submit letters to be reviewed by the ZBA. She indicated she is opposed to the signs.
- 2. Donna Duprie is a resident from Plymouth Hills who expressed concern about the sign running 24/7.
- 3. Mark Magee also lives at Plymouth Hills and indicated he too opposes the sign due to light and sound that would disturb wetlands and animals.

The ZBA ultimately denied the proposed signage.

Comparison Review. The following table offers a comparison summary of the proposed billboards to the existing seven billboards in the Township (as stipulated in the 1987 (amended 2013) Consent Judgement). The proposed billboards are significant larger and taller than currently permitted through the 2013 CJ.

	Display Type	Max. Height	Max. Size of the Billboard Sign	Max. Illumination Levels	Permitted Hours of Illumination	
Existing CBS	Outdoor / Lama	ar Advertis	ing Billboards per th	e CJ		
Billboard #1	Digital	35-feet	378 square feet1	No greater than	24/7	
Billboard #2	Digital	35-feet	378 square feet	0.3-foot candles		
Billboard #3	Digital	35-feet	378 square feet	over ambient light levels, measured		
Billboard #4	Digital	35-feet	378 square feet	at a distance of		
Billboard #5	Digital	35-feet	378 square feet	200-feet		
Billboard #6	Vinyl	35-feet	378 square feet			
Billboard #7	Digital	35-feet	378 square feet	78 square feet		
Proposed Inte	rnational Outd	oor Billboa	rds			
Billboard A	One side a Static face / One side a Digital face	70-feet	672 square feet	See applicant's diagram for illumination levels at various setback	24/7	
Billboard B	One side a Static face / One side a Digital face	70-feet	672 square feet	distances		

BOARD CONSIDERATIONS:

We offer the following considerations for the Board's deliberations regarding a potential settlement on this proposal:

Height. Each billboard sign is proposed at 70-feet in height. When the applicant appeared before the Planning Commission in 2021, they offered to reduce this height to 60-feet. It is recommended that both signs are reduced to the minimum height necessary and no greater than 60-feet tall, as previously offered by the applicant.

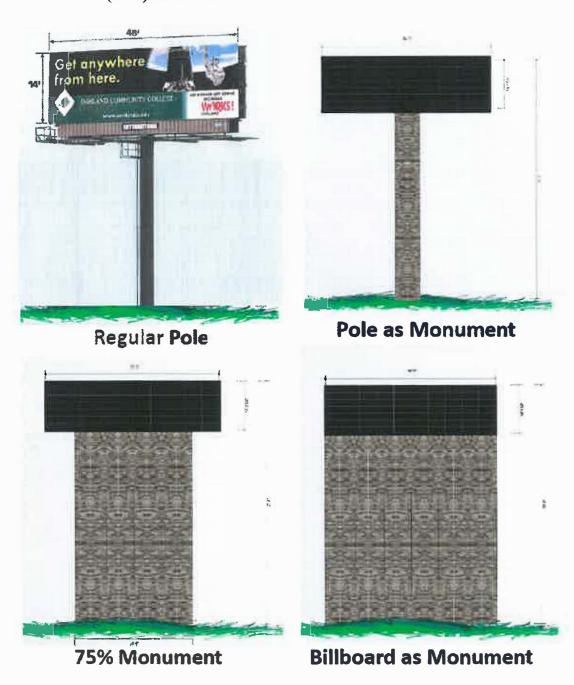
Community Messaging. The applicant has offered the Township up to eight weeks of community-based messaging (ex: civic events / programs / facilities) each year. If unused during the year, this time would not carry over.

Base (Pole) Design and Material. When before the Planning Commission, the applicant also offered several variations to the design the base (steel pole), as shown below. This includes the thickening of the pole width (so as to create a monument sign, instead of a pole sign) and the

¹ The existing CJ reads: The total sign face shall not exceed 378 square feet. Plaintiffs each agree and stipulate that the 10.5 feet by 36 feet size of the Signs will allow them each to successfully and adequately achieve their objectives of displaying outdoor advertising messages and expressing their First Amendment rights.

incorporation of a brick or stone treatment to the base. This treatment is similar to the applicant's billboard in Orion Township (see next page for site images).

It is recommended that the billboard base present a finished appearance, with the use of stone and/or brick to conceal the steel pole structure. It is not recommended that the billboard include a 75% or 100% (solid) monument base.



Subject billboard at 4960 S. Baldwin Rd, Orion Twp, MI 48359 (source: Google Earth, October 2021 image capture).





Screening / Site Improvements. Per the applicant's summary environmental report (enclosed and dated July 20, 2021) the natural vegetation on the site was cleared long ago and has been overgrown by "invasive trees and shrubs that provide little to no ecosystem services or other value to the community". Should the property be redeveloped and improved with the proposed billboards, this is an opportunity to remove the invasive species and supplement the site with native plantings. It is recommended that such a landscape plan and invasive species management plan be provided by the applicant for Township review.

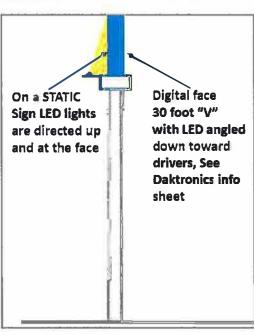
This may also be an opportunity to create a berm and landscape screen along M-14, similar to the berm and evergreen plantings on the south side of M-14. This would provide additional screening for the residents of the manufactured home park to the northwest, and create a more aesthetically pleasing, environmental sound backdrop for the Township along the freeway. The berm could be located to the north of the proposed billboards, so as not to obstruct future views.

Pictured below: to the **right** shows the existing berm and landscape screen and to the **left** shows the existing scrub vegetation on the subject site. Source: *Google Earth*, 2021 image capture).



Illumination. The applicant has provided supplemental lighting information to the Township (enclosed). In general, the zoning ordinance requires that the maximum illumination level at a property line be no greater than 0.50 footcandles. The diagrams produced by the applicant illustrate that the proposed footcandles will be no greater than 0.20 at the property line, and in compliance with this standard.

Please note, the applicant has proposed for the STATIC sign to be illuminated with LED lights that are directed upward to the sign itself, as opposed to an internally illuminated sign. This will reduce the glare and brightness of the signs to the east and west.



To minimize illumination intrusion, the following is recommended. Please note, these are current stipulations of the 2013 CJ:

- In the event of a malfunction, an LED digital display shall immediately go black.
- The frequency of the message changes on the non-static signs shall not exceed one change per eight seconds.
- Message changes must be completed in one second or less.
- Special visual effects (e.g., fade, dissolve, scroll, bounce, etc.) shall not be permitted.
- Displays shall be equipped with photosensitive equipment and shall adjust at all times in direct relation to the ambient outdoor light.

RECOMMENDATION:

It is recommended that the Board consider the design, placement, and site improvements associated with the proposed billboards in its deliberation, including:

- Reduction of the sign to a maximum of 60-feet in height (previously offered by the applicant, see enclosed supplemental materials provided by the applicant).
- Reduction in size of the billboard sign faces.
- Incorporation of a brick or stone treatment to cover the steel pole base.
- Provision of a landscape plan for a berm and evergreen screen along M-14, along with an invasive species management plan for the remainder of the parcel.
- Establish illumination standards similar to the existing 2013 CJ.

PROPOSED MOTION: I move to direct the Township Attorney to draft a settlement agreement regarding the proposed billboards with the stipulations noted above.							
Motion By: Seconded By:							
Roll Call:							
VorvaCurmiClintonMonaghanDoroshewitzStewartHeise							

Enclosures:

- 1 Supplemental Information Provided by the Applicant
- 2 Environmental Report Provided by the Applicant
- 3 Amended Consent Judgement (CBS Outdoor, Inc. and Lamar Advertising of Michigan, Inc.)
- 4 Location Map of Existing Billboards along M-14 and I-275

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

CBS OUTDOOR, INC. and LAMAR ADVERTISING OF MICHIGAN, INC.,

Plaintiffs,

Case Number 12-11628 Honorable David M. Lawson

CHARTER TOWNSHIP OF PLYMOUTH.

٧.

Defendant.

CONSENT JUDGMENT

The parties stipulate as follows:

- 1. Plaintiff CBS Outdoor, Inc., now CBS Outdoor LLC ("CBS Outdoor") is a Delaware limited liability company having its registered office address at 601 Abbott Road, East Lansing, MI 48823. CBS Outdoor is owned by CBS Corporation, a Pennsylvania corporation, having its registered office address at 30600 Telegraph Road, Bingham Farms, MI 48025.
- 2. Plaintiff Lamar Advertising of Michigan, Inc. ("Lamar") is a Michigan corporation having its registered office address at 42180 Ford Road, Suite 101, Canton, MI 48187. Lamar is owned by Lamar Advertising Company, a Delaware corporation, having its principal executive offices at 5321 Corporate Blvd, Baton Rouge, LA 70808.
 - 3. CBS Outdoor and Lamar are collectively referred to herein as "Plaintiffs."
- 4. Defendant Charter Township of Plymouth ("Township") is a Michigan municipal corporation, organized and existing under the laws of Michigan with its offices located at 9955 N. Haggerty Road, Plymouth, MI 48170.

- 5. Pursuant to the Michigan Zoning Enabling Act, the Township has duly adopted a Zoning Ordinance ("Zoning Ordinance") which has been amended from time to time. Article XXV of the Township's Zoning Ordinance regulates, among other things, outdoor advertising and billboard signs within the Township.
- 6. The Township, James Anulewicz and National Advertising Company entered into a settlement agreement dated September 11, 1986 (the "1986 Settlement Agreement") to settle the claims asserted in United States District Court Case No. 85 CV 74167, and a Consent Judgment was entered in that case on June 9, 1987 (the "1987 Consent Judgment"). The 1986 Settlement Agreement and the 1987 Consent Judgment allowed National Advertising Company to erect outdoor advertising billboard signs at nine (9) specified locations in the Township and further regulated various aspects of the permitted outdoor advertising signs. All nine referenced outdoor advertising sign locations were located along Michigan Route 14 ("M-14") and Interstate Highway I-275 ("I-275"). M-14 and I-275 are individually and collectively referred to as the "Roadways."
- 7. Of the nine (9) permitted locations for outdoor advertising billboard signs to be erected only eight (8) such signs were erected, but one (1) sign has since been removed. Thus, there are seven (7) outdoor advertising billboard signs located within the Township which were erected and exist pursuant to and are subject to the 1987 Consent Judgment. The seven existing signs and two other locations without signs are summarized and referenced as follows:
 - Existing Site No. 1 1987 Consent Judgment Reference No. 13950 located on the east side of I-275 approximately 800 feet south of Schoolcraft Road;

- Existing Site No. 2 1987 Consent Judgment Reference No. 12950 located on the
 east side of I-275 approximately 1,100 feet north of Plymouth Road;
- Existing Site No. 3 1987 Consent Judgment Reference No. 12400 located on the
 east side of I-275 approximately 75 feet north of Plymouth Road;
- Existing Site No. 4 1987 Consent Judgment Reference No. 12803 located on the west side of I-275 approximately 750 feet north of Plymouth Road;
- Existing Site No. 5 1987 Consent Judgment Reference No. 13951 located on the
 west side of I-275 approximately 0.25 miles south of Schoolcraft Road;
- Existing Site No. 6 1987 Consent Judgment Reference No. 44801 located on the south side of M-14 approximately 800 feet west of Sheldon Road;
- Existing Site No. 7 1987 Consent Judgment Reference No. 45100 located on the north side of M-14 approximately 2,000 feet west of Sheldon Road;
- Potential Site No. 1 1987 Consent Judgment Reference No. 13201 located on west
 side of I-275 approximately 0.25 miles north of Plymouth Road; and
- Potential Site No. 2 1987 Consent Judgment Reference No. 44205 located on the south side of M-14 east of Sheldon Road;

(Exhibit 1).

8. Lamar acquired ownership of and currently owns five (5) of the outdoor advertising signs permitted under the 1987 Consent Judgment. Lamar owns and operates signs on Existing Site Nos. 1, 2, 3, 4, and 5. (See Exhibit 1).

- 9. CBS Outdoor acquired ownership of and currently owns two (2) of the outdoor advertising signs permitted under the 1987 Consent Judgment. CBS Outdoor owns and operates signs on Existing Site Nos. 6 and 7. (See Exhibit 1).
- 10. On February 23, 2012, CBS Outdoor filed an application to convert the existing vinyl display faces on its outdoor advertising sign located at Existing Site No. 1 on the north side of M-14 approximately ½ mile west of Sheldon Road to digital display faces.
- 11. On March 7, 2012, the Township Building Official denied CBS Outdoor's sign permit application, stating the digital display faces are prohibited under the 1987 Consent Judgment and the Township's Zoning Ordinance, Article XXV.
- 12. On April 11, 2012, CBS Outdoor and Lamar filed this action against the Township seeking declaratory and injunctive relief and monetary damages.
- 13. On May 11, 2013, the Township filed its Answer and Affirmative Defenses generally denying the allegations in Plaintiffs' Complaint.
- 14. The parties now desire to settle this lawsuit in accordance with the terms and conditions of this Consent Judgment, and in order to avoid further costs and expenses and the uncertainty of a trial and an appeal, and to resolve this dispute without any admission of liability.

Accordingly, the following is **ORDERED AND ADJUDGED**:

1. Applicability

1.1 Applicability. This Consent Judgment shall apply to and regulate all of Plaintiffs' seven (7) existing outdoor advertising signs (the "Signs") in the Township which are identified and referred to as Existing Site Nos. 1 through 7 in Exhibit 1 as well as the additional two (2) locations

identified in the 1987 Consent Judgment, which are identified and referred to as Potential Site Nos.

1 and 2 in Exhibit 1.

1.2 1987 Consent Judgment. The parties agree that this Consent Judgment supersedes, replaces, and terminates the 1987 Consent Judgment and the 1986 Settlement Agreement.

2. Regulations

- 2.1 Location. Potential Site Nos. 1 and 2 shall be eliminated, and Plaintiffs will not erect outdoor advertising signs at those locations. Plaintiffs shall be permitted to keep and retain the existing seven (7) outdoor advertising Signs at their current locations and configurations subject to the terms and conditions of this Consent Judgment and applicable laws, statutes, ordinances, and regulations.
 - 2.2 Conversion to LED Digital Display Faces.
 - 2.2.1 CBS Outdoor shall be allowed to convert the two (2) existing vinyl sign faces on its outdoor advertising Sign at Existing Site No. 7 to LED (light emitting diode) digital displays subject to the terms and conditions of this Consent Judgment and applicable laws, statutes, ordinances and regulations, including but not limited to Township permitting requirements.
 - 2.2.2 Lamar shall be allowed to convert the following three (3) existing vinyl sign faces on its outdoor advertising Signs at Existing Site Nos. 1 through 5 to LED digital displays subject to the terms and conditions of this Consent Judgment and applicable laws, statutes, ordinances, and regulations, including but not limited to Township permitting requirements:

- Existing Site No. 2 1987 Consent Judgment Reference Number 12950 Lamar Location Description: Panel # 28011 E/S I-275, 1100' north of Plymouth Rd Facing North;
- ii) Existing Site No. 2 1987 Consent Judgment Reference Number 12950 Lamar Location Description: Panel # 28012 E/S I-275, 1100' north of Plymouth Rd Facing South; and
- iii) Existing Site No. 5 1987 Consent Judgment Reference Number 13951 Lamar Location Description: Panel # 28021 W/S I-275 0.25 miles south of I-96 Facing North.
- 2.2.3 Plaintiffs shall be permitted to keep and retain the remaining vinyl Sign faces at their current locations and configurations subject to the terms and conditions of this Consent Judgment and applicable laws, statutes, ordinances, and regulations, as amended.
- 2.2.4 a The parties acknowledge that the conversion of existing static display faces to LED digital displays, as provided for in paragraphs 2.2.1 and 2.2.2, may require that the existing Sign structures be replaced, re-built, or modified to hold the digital displays which shall be subject to applicable application, review, permit, and inspection requirements.
- 2.3 Number of Sign Faces Per Sign. There shall be no more than two (2) sign faces (which comply with this Consent Judgment) per Sign structure with no more than one (1) sign face per direction of traffic.
- 2.4 Size and Dimensions. Each Sign face shall be a rectangle and shall have dimensions of 10.5 feet in height by 36 feet in width. The total Sign face shall not exceed 378 square feet.

 Plaintiffs each agree and stipulate that the 10.5 feet by 36 feet size of the Signs will allow them each

to successfully and adequately achieve their objectives of displaying outdoor advertising messages and expressing their First Amendment rights.

- 2.5. Alignment of Sign Faces and Decorative Trim. Each Sign shall have a "V" type construction or a parallel type construction in relation to the adjacent Roadway.
- 2.6: Decorative Trim. Each Sign may include decorative trim not to exceed three (3) feet directly underneath each Sign face. Decorative trim shall be defined as a solid facing or skirt which is intended to shield from view portions of the Sign structure and shall be devoid of any message other than identification of the Sign owner and MDOT license or permit numbers.
- 2.7 Height. Each Sign may project 35 feet above the surface of the adjacent roadway from which it is intended to be viewed at the point at which the sign face is adjacent to the roadway. However, where the surface of the roadway is similar to or lower than the adjacent grade, then the Sign may project 35 feet from the top of the grade to the top of the sign face.
 - 2.8 Restrictions and Prohibitions.
 - 2.8.1 The Signs shall not have visible portions in motion or visible moving parts, motion, or movement whether constant or at intervals or whether caused by artificial or natural sources.
 - 2.8.2 The Signs shall not display scrolling, animated, full motion, or 3-D images or messages, special visual effects (e.g., fade, dissolve, shatter, scroll, bounce, etc), motion, movement, animation, video, or similar movement or effects.
 - 2.9 Illumination.
 - 2.9.1 The Signs permitted under this Consent Judgment may be illuminated at all hours.

- 2.9.2 Such illumination shall be continuous and for illumination purposes only and shall not be flashing, blinking, scintillating, intermittent, or alternating nor be of a nature to constitute a nuisance to abutting properties or drivers. The Signs shall not have lights and/or illumination of varying intensity or color which create the appearance of movement.
- 2.9.3 In addition to the limits in Section 2.9.5, lighting and illumination of the Signs, whether vinyl faces or LED digital displays, shall also comply with Section 18(f) of the Highway Advertising Act, MCL252.318(f) which provides, in pertinent part: "maximum luminescence level is not more than 0.3 foot candles over ambient light levels . . . measured at a distance of 200 feet for those sign faces greater than 300 square feet but less than or equal to 378 square feet . . . " as amended from time to time.
- 2.9.4 Each LED digital display face shall be equipped with photosensitive equipment and other technology such that the display face, including its brightness/luminance, contrast to ambient light, and messages displayed can be controlled remotely.
- 2.9.5 Luminance or brightness is a photometric term associated with one's perception of brightness which quantifies the amount of light (or brightness) from a light source that reaches the eye of the observer measured in units of luminous intensity (candelas) per unit area (meters squared) also termed "nits."
- 2.9.6 The luminance and contrast of each LED digital display face shall be adjusted at all times in direct relation to the ambient outdoor light and the following luminance limits shall apply to LED digital display faces:
 - a. Daytime (dawn to dusk): 5,000 nits (candelas per square meter).

- b. Nighttime (dusk to dawn): 250 nits (candelas per square meter).
- 2.9.7 The luminance of a LED digital display shall be determined by the Township by averaging the brightness/luminance measured in nits (candelas per square meter) at six (6) points on the display as shown in Exhibit 2. Luminance may be measured at any time using any message or combination of messages shown on the display face.
- 2.9.8 In the event of a malfunction, a LED digital display shall immediately go black whether automatically or manually.
- 2.9.9 Nothing in this Consent Judgment shall be deemed or construed to allow Plaintiffs to change or increase the brightness/luminance (measured in nits) of existing vinyl faces on the Signs which may be illuminated at or below existing brightness/luminance levels.

2.10 Message Changes.

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- 2.10.1 The frequency of the message changes on the Signs, specifically on digital displays, shall not exceed one (1) change per eight (8) seconds. However, if federal or state law or statutes (including the Highway Beautification Act and/or the Highway Advertising Act, MCL 252.301, et seq.) is amended or revised to require a longer time between message changes. Plaintiffs shall comply with such laws or statutes.
 - 2.10.2 Message changes must be completed in one (1) second or less.
- 2.10.3 There shall be no special visual effects (e.g., fade, dissolve, shatter, scroll, bounce, etc.) involved in a message change. Each message displayed shall be a stand-alone message, and segmented messages displayed on two or more sequential eight-second message slots are prohibited.

2.11 Spacing.

- 2.11.1 Generally. No two Signs on the same side of a Roadway shall be closer than 1,000 feet apart. No Sign located alongside a Roadway shall be closer than 200 feet to a line drawn perpendicular to and across the roadway from any Sign on the opposite side of the Roadway.
- 2.11.2 LED Digital signs and faces. LED digital display faces on the Signs facing the same direction of oncoming traffic must be at least 1,500 feet from each other. However, if federal or state law or statutes (including the Highway Beautification Act and/or the Highway Advertising Act, Mich. Comp. Laws § 252.301 et seq.) are amended or revised to require a greater distance between LED digital display faces, Plaintiffs shall comply with such laws or statutes.
- 2.11.3 Plaintiffs may not relocate a Sign to comply with these spacing requirements without Township approval and amendment of this Consent Judgment.
- 2.12 Public Service/Township Event Messages. Plaintiffs, without charge to the Township, will display on the LED digital display faces messages for the Township. Plaintiffs will display messages selected by the Township on each LED digital display after it is operational during one eight-second slot for each rotation of messages for any two (2) weeks chosen by the Township in every calendar year. The Township must notify Plaintiffs of each selected week for displaying a Township message at least 60 days prior to its intent to display a message on a LED digital display face. The Township may request that Plaintiffs display the Township messages referenced above on a digital display face of Plaintiffs located at an alternative location elsewhere in Southeast

Michigan. If there is an available eight-second slot on the digital billboard at the requested alternative location, Plaintiffs will display the Township's message on that billboard.

- 2.13 Zoning Ordinance and Conflicts. The Township's Zoning Ordinance, as amended from time to time, shall apply to the Signs, structures and display faces. To the extent this Consent Judgment conflicts with any Township ordinance or regulation, the terms of this Consent Judgment shall control. To the extent the Consent Judgment is silent on issues regulated by Township ordinances and regulations, then the Township ordinances and regulations shall control.
- 2.14 Compliance With Other Laws, Codes, and Regulations. Plaintiffs agree to and shall comply with all other applicable federal, state and local laws, ordinances, codes, and regulations including, but not limited to, building codes, electrical codes, MDOT permitting and licensing requirements ("other laws"). In the event other laws are less stringent than the terms and conditions of this Consent Judgment, this Consent Judgment shall control. Nothing contained in this Consent Judgment shall be construed as a waiver of or to relieve each Plaintiff of the obligation to comply with all applicable provisions of federal, state and local laws, ordinances, codes and regulations, and Plaintiffs shall obtain all necessary approvals of other governmental or regulatory entities as needed.
- 2.15 Applications and Permits. Plaintiffs must comply with all applicable Township application, review, permitting, and inspection procedures and requirements related to the Signs (e.g., insurance, removal deposits, licenses, etc.). This requirement specifically applies to, but is not limited to, any conversion of existing vinyl faces to LED digital display faces. Plaintiffs shall also pay all applicable fees.
- 2.16 Construction. Plaintiffs agree to and shall comply with all applicable federal, state and local laws, ordinances, codes and regulations pertaining to the Sign structures and construction

and maintenance thereof (including the Michigan Building Code as amended, and other requirements pertaining to materials, maintenance, weight, wind loads, electrical requirements, permitting, plan details and submissions, etc.).

2.17 Maintenance and Repair. Plaintiffs may maintain and repair the Signs, structures and faces, and portions and components thereof, in a manner that does not materially change the Signs and subject to applicable Township permitting requirements and other governmental agency regulations. Plaintiffs each agree to maintain the Signs in compliance with all applicable federal, state and local laws, ordinances, codes and regulations.

2.18 Rebuild and Replacement.

- 2.18.1 Except as provided in Section 2.2.4, above, Plaintiffs may rebuild and replace the Signs, structures and faces, including portions and components thereof, consistent with the Sign as it existed and in compliance with the terms of this Consent Judgment, only to the extent they are damaged in whole, or in part, by exposure to weather, the act of a third party, or an act of nature.
- 2.18.2 If either Plaintiff is no longer able to maintain a Sign with a LED digital display face at its existing location for any reason (e.g., termination of the lease), that Plaintiff may convert an existing vinyl display face on another Sign it owns to a LED digital display face, which shall be subject to Township approval, the terms and conditions of this Consent Judgment, specifically including, but not limited to, the spacing restrictions, and an amendment to this Consent Judgment, as approved and ordered by the Court, reflecting such relocation.

2.19 Successors.

- 2.19.1 In addition to Section 1.1, Plaintiffs each agree and acknowledge that this Consent Judgment is intended to and shall apply to their respective successors who may own and/or operate or hold any interest in the Signs ("Successors") which are subject to this Consent Judgment.
- 2.19.2 In the event of a transfer of ownership or other interest in the Signs, the Township may request that a Successor provide written acknowledgment of the applicability of this Consent Judgment and require an amendment to this Consent Judgment reflecting the Successor's interest in the Signs and the applicability of this Consent Judgment.

3. Releases

3.1 Mutual Releases from Liability. CBS Outdoor and Lamar, for themselves, their officers, owners, shareholders, employees, affiliates, successors and assigns, and the Township, for its Board members, officers, trustees, elected officials, boards, commissions, employees, staff, consultants, independent contractors, attorneys and insurers, each release and forever discharge the others of and from any and all claims, demands, actions, causes of action, suits, debts, judgments, executions, damages and rights of whatever nature in law, equity or otherwise which now exist or which may subsequently accrue by reason of any acts, events, or facts existing on the date of this Consent Judgment, whether known or unknown on that date. This Mutual Release shall not bar claims brought to enforce the provisions of this Consent Judgment.

4. Representations and Warranties

In executing this Consent Judgment, the parties represent, warrant, and agree to one another:

- 4.1 The individuals signing this Consent Judgment are fully authorized to execute this document and bind their respective parties to the terms and conditions contained herein.
- 4.2 CBS Outdoor and Lamar, for themselves, their officers, owners, shareholders, employees, successors, assigns and affiliates, hereby represent, warrant and agree not to initiate, promote or participate in any actions, causes of action, suits, debts, covenants, contracts, controversies, agreements, promises, damages, judgments or demands whatsoever in law, equity, or of any type, whether known or unknown, disputed or undisputed, accrued or unaccrued, liquidated or contingent, foreseen, or unforeseen, asserted or unasserted, that relate to Plymouth Township's current sign regulations and current Article XXV of Plymouth Township's Zoning Ordinance.
- 4.3 CBS Outdoor and Lamar each acknowledge and agree that this Consent Judgment allows them each to fully exercise their respective First Amendment rights, and each agrees to refrain from filing any lawsuits or asserting any legal challenge against the Township in any state or federal court or challenging the constitutionality, validity or applicability of any provision of the current Article XXV of the Township's Zoning Ordinance, its current sign regulations, or this Consent Judgment in the future.
- 4.4 It is expressly understood and agreed that the Township's stipulation and agreement to this Consent Judgment shall not be deemed to constitute nor be construed as an admission of liability on the part of the Township, its Board of Trustees, its officers, elected officials, employees, staff, agents, independent contractors, representatives, successors, assigns and insurers for the purpose of this action, or for the purposes of any other action of whatever kind or nature.
- 4.5 The Township's stipulation and agreement to this Consent Judgment is not and shall not be deemed to be an admission that any part or the entirety of the Township Zoning Ordinance

or sign regulation is invalid or unconstitutional. This denial of any intent to admit invalidity and unconstitutionality shall apply to Township zoning ordinances and sign regulations and their amendments enacted in the past, those in existence now, and those which may be enacted in the future.

- 4.6 The parties acknowledge and agree that this Consent Judgment is a full, complete and final compromise and settlement of any and all claims Plaintiffs did or could have alleged or asserted in this lawsuit.
- 4.7 CBS Outdoor and Lamar each represent that the owners of the real property on which the Signs located at Existing Site Nos. 1 through 7 are prohibited and prevented, pursuant to their leases with CBS Outdoor or Lamar, from erecting any other or additional outdoor advertising signs. CBS Outdoor and Lamar agree to and shall maintain this prohibition in any leases, renewals, extensions, or options thereof related to the Signs or Existing Site Nos. 1 through 7.
- 4.8 CBS Outdoor and Lamar and the Township represent that each has fully investigated all matters pertaining to this Consent Judgment as they deem necessary, and neither is relying on any statements, promise or representation by any other party.

5. Additional Provisions

- 5.1 Good Faith. The parties and their respective successors shall cooperate with one another in good faith and shall neither take any action which is contrary to or interferes with the spirit of this Consent Judgment, nor omit any action which is necessary or convenient to or consistent with the spirit and intent of this Consent Judgment.
- 5.2 Amendments. The terms of this Consent Judgment may be amended, changed, or modified, but only by written agreement executed by the parties hereto and approved and ordered

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by this Court. Changes in technology for or technology upgrades to the Signs, and portions or

components thereof, may only be permitted after agreement of the Township and amendment of this

Consent Judgment.

5.3 Severability. Each provision, regulation, term and condition in this Consent

Judgment is intended to be severable and in the event that any of them are, for any reason, held to

be void, it shall not affect the validity of the remainder of this Consent Judgment.

- 5.4 Drafting. No provision of this Agreement shall be construed against or interpreted

to the disadvantage of one party against the other party by any court or other governmental authority

by reason of any determination or assertion that one party was chiefly or primarily responsible for

having drafted this Consent Judgment.

5.5 Enforcement Jurisdiction. This Court retains jurisdiction to assure compliance with

the terms of this Consent Judgment. In the event of a proceeding to enforce this Consent Judgment,

any party may seek to recover costs and attorney fees in addition to any other applicable and

available relief.

5.6 Dismissal With Prejudice/Merger. All claims and causes of action alleged and

asserted by Plaintiffs and pending in this matter, including all claims for declaratory relief, injunctive

relief, equitable relief, money damages, and attorneys fees and costs, are hereby DISMISSED

WITH PREJUDICE and without costs, fees or interest to any party and are otherwise merged into

this Consent Judgment and are forever barred.

s/David M. Lawson

DAVID M. LAWSON

United States District Judge

Dated: October 29, 2013

-16-

Consented to by:

s/James J. Walsh
Attorney for the Plaintiffs
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734-930-0237
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s/Timothy S. Wilhelm
Attorney for the Defendant
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Raymond Nowak, EVP, CFO, CAO For CBS Outdoor, Inc. (see following signature page)

Richard Rickert, Vice President / General Manager For Lamar Advertising of Michigan, Inc. (see following signature page)

Richard Reaume, Supervisor For Charter Township of Plymouth (see following signature page)

Nancy Conzelman, Clerk For Charter Township of Plymouth (see following signature page) CBS OUTDOOR, INC.

Name: Paymow Nowo

LAMAR ADVERTISING OF MICHIGAN, INC.

Title:

By:______Name:

CHARTER TOWNSHIP OF PLYMOUTH

By: Kinkal M Resum 10-22-2013

Richard Reaume, Supervisor

By: / huce / (swell)
Nancy Conzelman, Clerk

James J. Walsh (P27454) BODMAN, PLC Attorney for Plaintiffs 201 South Division Street Suite 400 Ann Arbor, MI 48104 (734) 761-3780 Timothy S. Wilhelm (P67675)
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CBS OUTDOOR, INC.

CHARTER TOWNSHIP
OF PLYMOUTH

By:_____Name:

Title:

LAMAR ADVERTISING OF MICHIGAN, INC.

By: Place AHLET Name: Richard Rickert Title: Vice President/ General Manager By: Janey Manuel.
Nancy Conzelman, Clerk

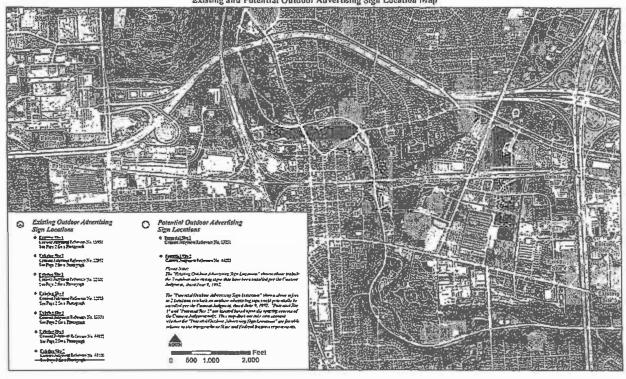
By: Linkul M Resume 10-22-2013
Richard Reaume, Supervisor

James J. Walsh (P27454) BODMAN, PLC Attorney for Plaintiffs 201 South Division Street Suite 400 Ann Arbor, MI 48104 (734) 761-3780 Timothy S. Wilhelm (P67675)
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EXHIBIT 1

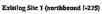
CBS Outdoor and Lamar Advertising v Charter Township of Plymouth
USDC Case No. 12-cv-11628-DML-PJK
Existing and Potential Outdoor Advertising Sign Location Map



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EXHIBIT 1 CBS Outdoor and Lamar Advertising v Charter Township of Plymouth USDC Case No. 12-ev-11628-DML-PJK Outdoor Advertising Sign Photographs Photographs taken in Jame 3010



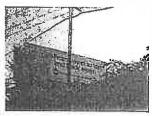




Existing Site 2 (northbound 1-275)

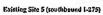


Existing Site 3 (northbound 1-275, facing south



xisting Site 4 (southbound 1-275)







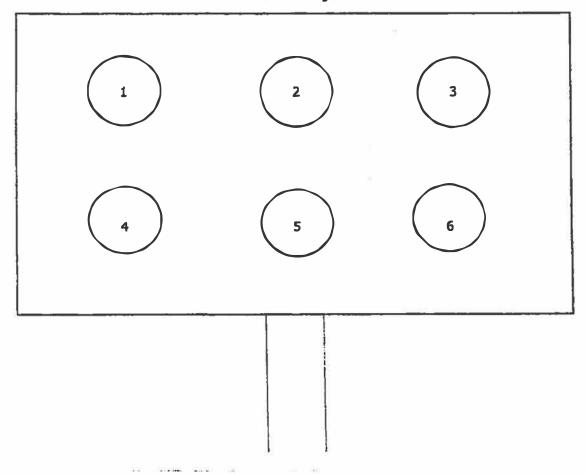
Existing Site 6 (routh of M-14)



Existing Site 7 (north of M-14)

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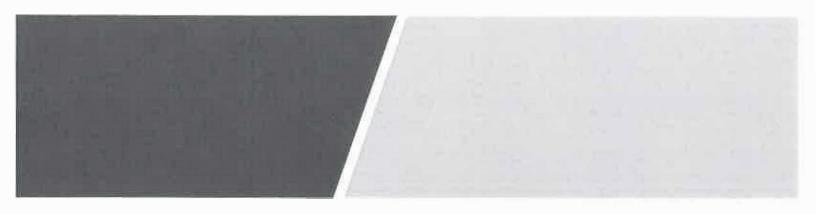
EXHIBIT 2 CBS Outdoor and Lamar Advertising v Charter Township of Plymouth USDC Case No. 12-cv-11628-DML-PJK Six Points for Determining Luminance



PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 29, 2013.

SHAWNIEL JACKSON



Halyard Dr & Ridge Rd – SIGNS

(Digital & Static Display Advanced Technology Signs)

Charter Township of Plymouth, MI property I.D. # R-78-007-01-0002-003

Supplement

Halyard Dr & Ridge Rd – SIGNS Supplement

(Digital & Static Display Advanced Technology Signs)

Charter Township of Plymouth, MI property I.D. # R-78-007-01-0002-003

International Outdoor Inc., supplements its presentation at the planning commission and seeks a permit to erect two technologically advanced 2-sided signs, with one side a digital display facing away from residential directed at traffic and the other a direct lighted Static display, on a vacant and undeveloped parcel of land zoned Technology And Research. This 9+ acre lot is one of a few undeveloped parcels and has been taxed as a viable industrial (TAR) parcel of land yet underutilized and remain undeveloped for over 34 years. This has been due to the many unique circumstances and hardships associated with the property. With the permits issued, we will be able to make use of such a property employing today's advanced technologies to provide a sustainable solution for a piece of property that can only feasibly be used for digital display signs. Digital display signs of this type falls within the spirit and intent of a TAR District and further compliments the surrounding districts.

In the best interest of being a good community partner, concerns have been addressed with modifications. To mitigate any/all potential concerns regarding lighting directed toward residential we have repositioned the two digital unit faces to face each other. (See the three lighting studies) The East sign will have a static face on the right-hand-read and a digital face on the cross-read. The West sign will have a Digital face on the right-hand-read and a Static face on the cross-read. (See lighting study and overview map)

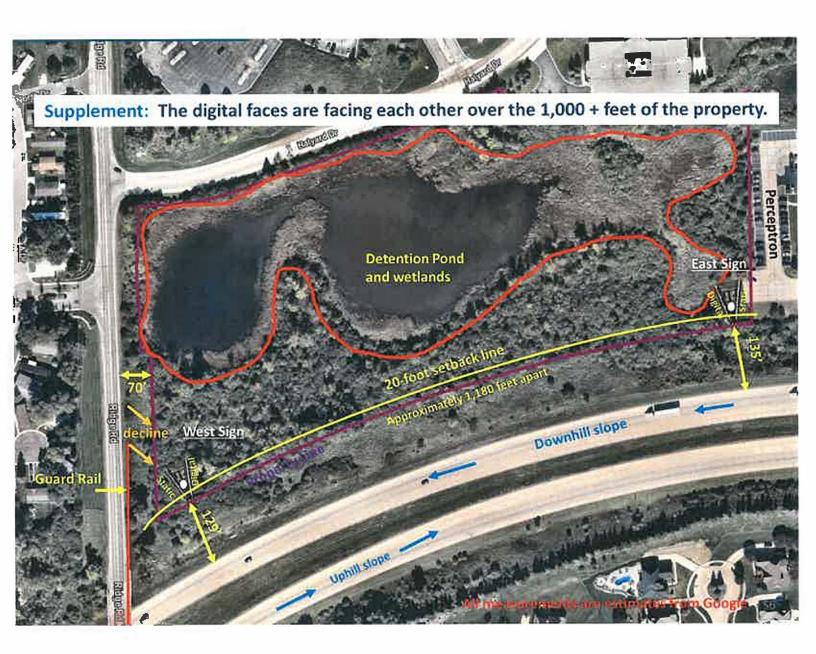
An explanation of Lumens is attached. The lighting study notes less than 0.01 lumens at the residential homes across M-14. Taking into account the existing berm, existing vegetation, and our willingness to reduce the height from 70 foot to 60 foot if necessary (enclosed is a letter that shows that the height reduction from 70 foot proposed to 60 feet would have no difference in lighting impact on residential areas over 400 feet away from the sign), we believe we have addressed any concern.

Halyard Dr & Ridge Rd – SIGNS Supplement

(Digital & Static Display Advanced Technology Signs)

Charter Township of Plymouth, MI property I.D. # R-78-007-01-0002-003

Changing the sign appearance from a standard pole to a monument is not recommended. Moisture, bird droppings and mold due to the proximity to the wetlands will be a continuous problem. A regular pole is best in this circumstance that can be power washed easily. If necessary, we are willing to accommodate. See attached sign depictions. We have made the necessary changes suggested by the planning commission to our application in this supplement.



What Today's Consumers Need To Know About Lumens

The term lumen is a measurement of light output which consumers have a need to become more and more aware of.

Back in the day, we went to the store and bought light bulbs. We had become used to what a 60 watt or 100 watt light bulb looked like and how much light they provided. We weren't concerned with lumens and didn't need to be.

Things began to change with lower wattage incandescent lamps which provided the same light output, but with a bit less power consumption. It was a pretty easy adjustment to make from a 75 watt flood light to a 65 watt energy miser. Both were still incandescent bulbs and we got the idea that it's better to consume less energy. This is when lumen output was introduced to the consumer. Light bulb producers wanted to let us know that we were getting just as much light as we did before.

Incandescent Watts	Lumen Output		
40 watt	450-500		
60 watt	800-900		
75 watt	1100		
100 watt	1600		
150 watt	2200		

Fluorescent tubes have been around for a long time, but when they were introduced in a form that could be used in a table lamp, we saw even lower watt consumption levels for equivalent light output. Consumers became more and more conscious of lumens vs. watts. The 'ice cream cone' fluorescent lamps consumed even less than energy miser incandescent bulbs and produce the same amount of usable light.

LED light bulbs are brighter than ever, with excellent coverage and color rendering. Best of all, they've come way down in price.

At last, the <u>LED light bulb</u> arrived on the scene. Now we are talking even lower power consumption for a comparable light output and those watt consumption numbers continue to go down. "Wattage" is no longer a valid reference point. "Lumens" is however, a valid reference point. That is a stable measurement of light output that will not vary as LED light bulbs continue to get brighter and more efficient. Lumens per watt is even more important.

FACT

How much light output are you getting from a product and how many energy dollars (watts paid for on your electric bill) do you need to spend to get that light output? So here are some numbers for you to keep in mind when shopping for LED light bulbs. It won't be long before referencing incandescent bulbs is totally a thing of the past, so learn your lumen numbers now. The higher the number, the brighter the bulb.

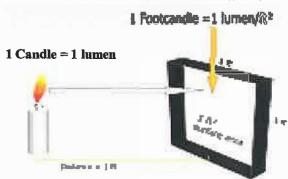
For those of you who want to delve into the definition of lumens in a more detailed, technical manor, here is an article written for us some time ago by a professor, Robert (Doc) Bryant. It's entertaining while still very informative.

Lumens, Illuminance, Foot-candles and bright shiny beads

In defining how bright something is, we have three things to consider.

- 1. How bright it is at the source
- 2. How Bright is that light?
- 3. How much light is falling on something a certain distance away from the light.

Lets' do some definitions now......



Foot Candles

Foot-Candles - We're in America, so we are going to talk about units of measurement that concern distance in feet and inches. So, we will use some terms that folks in Europe don't use. We're going to talk about "foot-candles". This one's simple. Get a birthday cake candle. Get a ruler. Stick the candle on one end of the ruler.

Light the candle. Turn out the lights. Sing Happy Birthday to Doc. It was his 47th on the 23rd. OK, quiet down. Enough of that nonsense. One foot-candle of light is the amount of light that birthday cake candle generates one foot away. That's a neat unit of measurement. Why? Say you have a lamp. You are told it produces 100 foot candles of light. That means at one foot from the lamp, you will receive 100 foot candles of light.

But here's where it gets tricky. The further away you move the light from what you want to illuminate, the less bright the light seems! If you measure it at the light, it's just as bright. But when you measure at the object you want illuminated, there is less light! A Physics teacher is going to tell you that light measured on an object is INVERSELY PROPORTIONAL to the distance the object is from the light source. That's a very scientific and math rich way of saying, the closer you are to the light bulb, the brighter that bulb is. Or, think of it this way. You can't change how much light comes out of your light bulb. So, to make more light on an object, you have to either move the light closer, or add more lights.

Now, lets get to LUMENS.

A LUMEN is a unit of measurement of light. It measures light much the same way. Remember, a foot-candle is how bright the light is one foot away from the source. A lumen is a way of measuring how much light gets to what you want to light! A LUMEN is equal to one foot-candle falling on one square foot of area.

So, if we take your candle and ruler, lets place a book at the opposite end from the candle. We'd have a bit of a light up if we put the book right next to the candle, you know. If that book happens to be one foot by one foot, it's one square foot. OK, got the math done there. Now, all the light falling on that book, one foot away from your candle equals both......1 foot candle AND one LUMEN!

1 foot

1 motors

ig 14 recents



RADIANCE is another way of saying how much energy is released from that light source. Again, you measure it at the source. Unless you're talking about measuring the radiance of something intensely hot, like the Sun. Then you might want to measure it at night, when it's off.

ILLUMINANCE is what results from the use of light. You turn your flashlight on in a dark room, and you light something up. That's ILLUMINANCE. Turning on a light in a dark room to make the burglar visible gives you ILLUMINANCE. It also gives you another problem when you note the burglar is pointing your duck gun at your bellybutton.

Illuminance is the intensity or degree to which something is illuminated and is therefore not the amount of light produced by the light source. This is measured in foot-candles again! And when people talk about LUX, it's illuminance measured in metric units rather than English units of measure. To reinforce that, LUX is the measurement of actual light available at a given distance. A lux equals one lumen incident per square meter of illuminated surface area. They're measuring the same thing, just using different measurement units.



Pretend you're an old photographer, like O. Winston Link, or Ansel Adams. These two gods of black and white photography (and a print made by either can fetch quite a hefty sum of money these days) used a device called a light meter to help them judge their exposure. (There is another way of judging exposure-that's when someone whispers in our ear at a cocktail party, "You silly twit, your fly's come undone!").

These light meters were nifty devices. You could use it to show how much light was falling on an object, light from the sun, and reflected light energy from every thing else. Or vou could use it to show how much light energy was reflected off the object itself.

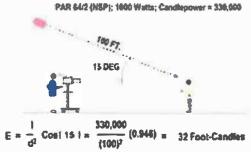


Diagram Bustrating Use of Carollepower to Calculate Foot-Carolles

We've measured two different things. We have a unit of measure for how much light is produced. We Yankees express that as a foot-candle. Being lazy, we use it all over the place. More Confusion! Candlepower! Candlepower is a way of measuring how much light is produced by a light bulb, LED or by striking an arc in a Carbon-Arc spotlight. Is it a measure of how much light falls upon an object some distance away? No. That's illuminance. Is it a measure of how well we see an object that is illuminated by that light source? No. That's something all together different, and we are not going there!

Nowadays we use the term CANDELA instead of candlepower. candlepower., or CANDELA is a measure of how much light the bulb produces, measured at the bulb, rather than how much falls upon the thing you want to light up. Further confusing the matter is beam focus. That's how much candlepower. can be focused using a reflector/lens assembly. Obviously, if you project all your light bulbs intensity at a given spot, or towards something, it will be more intense, and the illuminance will be higher.

And here comes the confusion! A candlepower, as a unit of measure is not the same as a foot-candle. A candlepower, is a measurement of the light at the source, not at the object you light up.

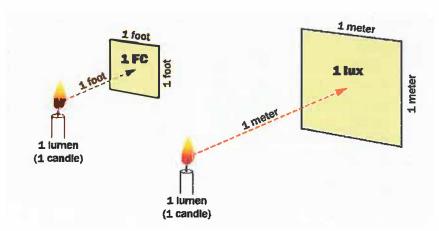
And a candela is the metric equivalent of the light output of that one candle, based on metric calculations. And since using a candle is rather imprecise, the definition was amended to replace a light source using carbon filaments with a very specific light source, see the following: The candela is the luminous intensity, in a given direction, of a source that emits monochromatic radiation of frequency 540 x 1012 hertz and that has a radiant intensity in that direction of 1/683 watt per steradian. The above from the National Institute of Standards Reference on Constants, Units, and Uncertainty.

Candlepower is a measure of light taken at the source-not at the target. Foot-candles tell us how much of that light is directed at an object we want to illuminate. Now, lets convert the lumens, a metric unit of light measurement, to candlepower.

We understand a candle radiates light equally in all directions, its output, in this consideration is not focused by any mechanical means (lenses or reflectors). Pretend for a moment that a transparent sphere one meter in radius surrounds your candle. We know that there are 12.57 square meters of surface area in such a sphere. Remember your Solid Geometry classes?

That one candle (1 Candlepower/Candela) is illuminating equally the entire surface of that sphere. The amount of light energy then reflected from that surface is defined thusly: The amount of energy emanating from one square meter of surface is one lumen. And if we decrease the size of the sphere to one foot radius, we increase the reflected energy 12.57 times of that which fell on the square meter area.

LUX is an abbreviation for Lumens per square meter. Foot-candles equal the amount of Lumens per square feet of area.



So, that one candlepower equivalent equals 12.57 lumens. And for you figuring out LED equivalents, first you must know how many lumens your LED's each produce. Then divide that value by 12.57 and you have candlepower of the LED. You don't have foot-candles, remember foot-candles are illuminance. And we are measuring radiance.

Summing it all up:

Candlepower is a rating of light output at the source, using English measurements.

Foot-candles are a measurement of light at an illuminated object.

Lumens are a metric equivalent to foot-candles in that they are measured at an object you want to illuminate.

Divide the number of **lumens** you have produced, or are capable of producing, by 12.57 and you get the **candlepower equivalent** of that light source. We've now converted a measurement taken some distance from the illuminated object, converted it from a metric standard to an English unit of measure, and further converted it from a measure of **illumination** to a measure of **radiation!**.

This has been an ideal proof of the superiority of the metric system. Then again, the metric system is a product of those wonderful folks that brought us:

TheLEDLight.com.

80 i Dipatronios Dr. POBox 512

11 800 325-7446 605-692-0200 12 605-692-0381

www. sikit/intus.com

July 28, 2021

Re: Plymouth Township Memorandum International Outdoor

Randy,

In regard to a 10-foot reduction in height of the billboard structure, the overall impact would not be measurable. Daktronics utilizes a slightly downward angled LED that directs light in an out and downward fashion. Because of this display height, a change in 10 feet in either direction would change values in very close proximity by a small amount in the range of .01 to .02 footcandles, but anything beyond 250' would not see a change in light impact.

To put into comparison a value of .01 fc, we need to imagine what 1.0% of a single wax candle would project on a surface 1 foot away. To put that into perspective, residential streetlights and low-lit parking lots are anywhere from 0.5 to 1.0 foot candles and greater depending on the size of roadway. The presence of ambient light producing elements at night including, but not limited to, roadway and traffic lighting, commercial lighting from nearby commercial properties, the moon, etc., will further diminish the impact of the light output from the display in question.

Daktronics takes very conservative approach to light analysis and uses worst case scenarios, meaning that the values show in the analysis are producing an all-white image, so every LED, Red, Green and Blue are illuminated producing an all-white test pattern, not your typical message content. Typical content runs at 25-35% of the brightness of all-white content, therefore, the actual levels of illumination will nearly always be markedly lower than that shown in the graph. To put his into further perspective a maximum value of .01 on the graph would then on average product .0035 fc, a number under most circumstance is not able to be reliably measured by tradition meters. As such, the light from the digital billboard will likely have no material effect on the surrounding residential community.

Thanks,

Eric Johnson Applications Engineer

605-692-0200





Light Analysis for DB-6600 14' x 48' @2 International Outdoor Combined Values

Date: 7/13/2021
Prepared by: Eric Johnson



aytine: Brightness(8,500) t an overali Billboard height of 84' physical blockage is not shown in calculations

*Calculations are based on Red, Green, and Blue LEDs (White Co to their maximum potential for nighttime viewing, Values are stx



Light Analysis for D8 14'x48 International Outdoor -Plymouth, MI 42.381248, -83.528919

Values expressed are specific to Daktronics product only

Date: 7/12/2021 Prepared by: Eric Johnson

West Sign Digital

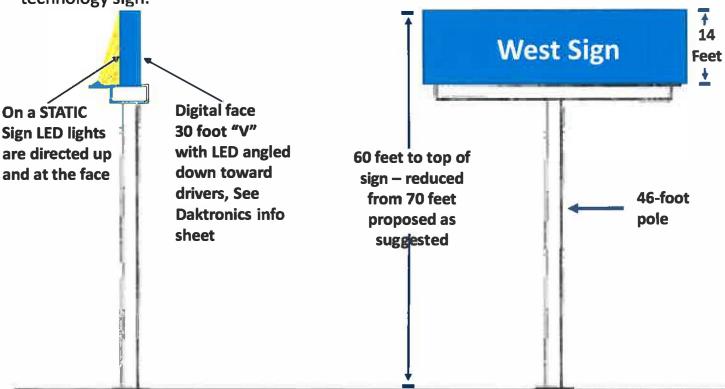


-Display at 3% of Maximum Daytime Brightness(8,500) -Calculations take into account an overall height of 84" -Any rise or fall in elevation or physical blockage is not shown in calculations *Calculations are based on Red, Green, and Blue LEDs (White Content) powered to their maximum potential for nighttime viewing. Values are shown in footbandles (fc).

\$16

West Sign Supplement

Lighting is often a concern not always addressed. We want you to know that we will be using the most current LED lighting available for our Static sign face and the newest in technology and remote communications for our proposed digital display advanced technology sign.



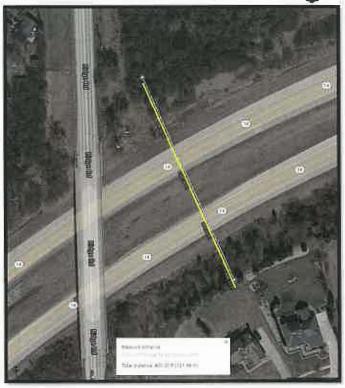
This industry-leading technology will light only the static sign face and prevent light from projecting outside of the static sign face.

*Static = a traditional billboard that is not digital

2T

West Sign Supplement

West Board: You can not see the residences on the south side of M-14 because of the existing berm and vegetation.



Aerial showing 400+ foot distance from center of sign to grass area of residential



View from sign facing South toward Residential. Note – line of sight looking up from grade and distance $_{\S18}$

West Sign Supplement



Note: You can barely see the second floors of the residences from the top of Ridge Rd standing over the M-14 west bound lane. Line of sight is approx. 25 – 30 feet up looking across and down.



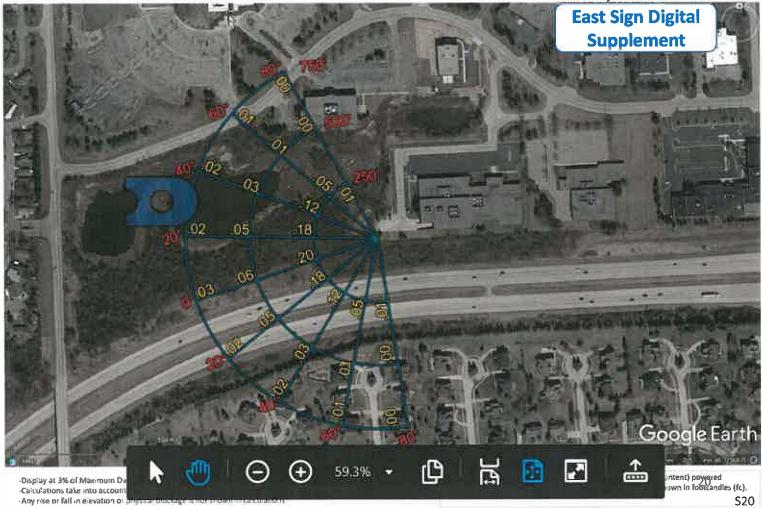
Early Spring View from Ridge Road looking down on Residential on South Side of M-14



Light Analysis for DB-6600 14' x 48' International Outdoor 42.382316, -83.524684

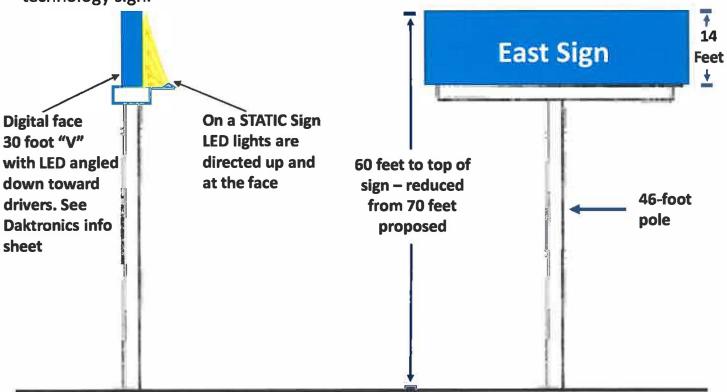
Values expressed are specific to Daktronics product only

Date: 4/6/2021
Prepared by: Eric Johnson



East Sign Supplement

Lighting is often a concern not always addressed. We want you to know that we will be using the most current LED lighting available for our Static sign face and the newest in technology and remote communications for our proposed digital display advanced technology sign.

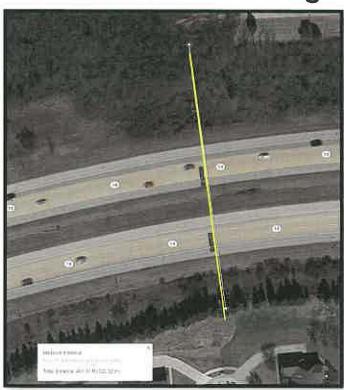


This industry-leading technology will light only the static sign face and prevent light from projecting outside of the static sign face.

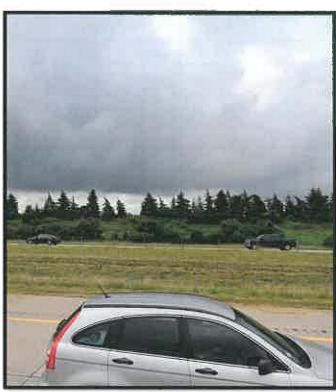
*Static = a traditional billboard that is not digital

East Sign Supplement

East Board: You can not see the residences on the south side of M-14 because of the existing berm and vegetation.



Aerial showing 400+ foot distance from center of sign to grass area of residential



View from sign facing South toward Residential.

Note – line of sight looking up from grade and distance

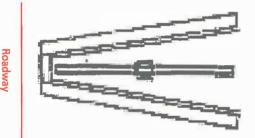
Get anywhere from here.

Regular Pole



Billboard Sign Styles

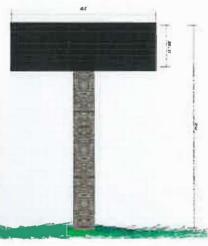
Overhead view



30 foot "V" style structure allows for the technologically advanced angled digital LED's to be focused on drivers allowing for better visibility, less power consumption, less light outside of preferred visibility area.

A Monument in this sign style will be difficult to maintain due to the high amount of moisture, wetlands and bird droppings in the area

All versions would be a 30 foot "V" style sign to look as square as possible to a viewer/traveler



Pole as Monument



Billboard as Monument

Halyard Dr & Ridge Rd – SIGNS Supplement

(Static & Digital Display Advanced Technology Signs)

Charter Township of Plymouth, MI property I.D. # R-78-007-01-0002-003 SUMMARY

The inability to develop the property, the existing width of the right-of-way, the topography, unique circumstances, hardships and other factors as defined and explained in this presentation justify any and all permits requested. What little land may be developable can be put to use and also continue to contribute to the Plymouth Township tax rolls.

Uses for the property are vastly limited.

- The permits requested is the only use to remedy the current unique hardships and circumstances;
 lacking land use options available for the property and much more issues to make the sign meet its
 true purpose and value as outlined in the City's Ordinance.
- Granting the permit does not impair the intent or purposes of this ordinance because the signs will face M-14 only. Granting the permits compliments the spirit, intent and purpose of the TAR District
- The height and viewing side of the digital signs have been modified to eliminate any lighting concerns on the part of residential or neighboring businesses and are designed intentionally for ease of visibility to the driver in the safest way possible. (note: the height reduction will not make a difference in the lighting visibility based on follow up letter from the digital sign manufacturer, Daktronics.

Halyard Dr & Ridge Rd – SIGNS Supplement

(Static & Digital Display Advanced Technology Signs)

Charter Township of Plymouth, MI property I.D. # R-78-007-01-0002-003 SUMMARY

International Outdoor, Inc. has taken into considered the interest of both the city and its residents and has proactively worked to mitigate any and all potential negative circumstances.

- 1) Switching the digital faces around to eliminate lighting concerns with residential,
- 2) Reducing the overall height to 60 feet, and
- 3) Offering to add a monument style sign look to the structure.

We hope and pray for your approvals. We look forward to being a part of your community in a private and public partnership.



Community Land Ethics
Dean Hay, MLA, Board Certified Master Arborist MI-3743BM
1855 Woodslde Dearborn MI 48124
www.communitylandethics.com
communitylandethics@gmail.com
313.303.3263

July 20, 2021

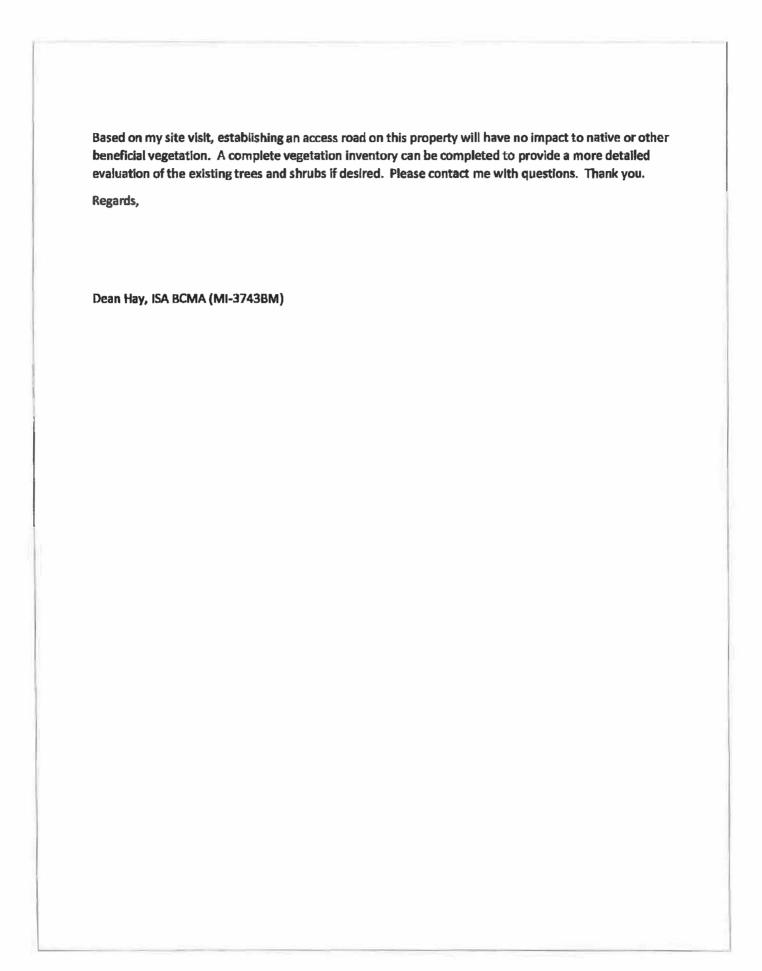
Randy Oram
Outdoor International, Inc.
28423 Orchard Lake Road Ste 200
Farmington Hills MI 48334

Dear Mr. Oram,

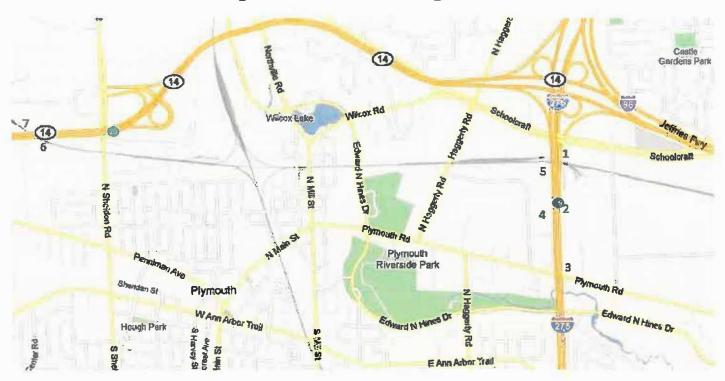
I was able to visit the proposed billboard sign site at Halyard Drive and Ridge Road (property ID #R-78-007-01-0002-003) in Plymouth Township today and offer this letter as a summary description of the site vegetation.

The existing, natural vegetation on the site had been cleared in the past leaving only volunteer (not planted by humans) trees and shrubs. This vegetation can be characterized as a dense growth of aggressive, invasive trees and shrubs that provide little to no ecosystem services or other value to the community. Furthermore, the trees and shrubs that exist on the site, in effect, can have a negative impact on the surrounding landscapes through the prolific production of seeds that can be spread to other surrounding properties and increase maintenance costs. Below is a list of the tree and shrub species that were found in this cursory inspection. All of these trees were presumably not planted and were spread by birds to this location from the surrounding landscape:

- Populus deltoides (Cottonwood)-Cottonwood is a fast growing tree with negative human respiratory impacts from seed production and is listed as not desirable in the Plymouth Township landscape ordinance;
- Rhamnus cathartica (Common Buckthorn)- Buckthorn is a fast growing, invasive tree that grows in dense thickets and restricts beneficial plants that provide food and habitat to local fauna;
- Acer negundo (Box Elder)-Box Elder is a fast growing, invasive tree that is listed as not desirable
 in the Plymouth Township landscape ordinance;
- Pyrus calleryana (Callery Pear)-Ornamental Pear was previously thought to be sterile. Recent research has shown that this tree can readily reproduce and become invasive. Nearly all states south of Michigan have declared this tree as an Invasive species due to its prolific spread and high landscape maintenance costs; and
- Lonicera tartarica (Tartarian Honeysuckle)-This invasive honeysuckle shrub grows in large, dense thickets and restricts beneficial plants that provide food and habitat to local fauna.



Location Map of Billboards along M-14 and I-275



Existing Site 1: DMC, on Exit 29

Existing Site 2: Mastercraft, just before M-14 exit

Existing Site 3: GMC, at Plymouth Road

Existing Site 4: McDonalds, 1/2 mile from Plymouth Road

Existing Site 5: South of M-14 railroad tracks

Existing Site 6: at bridge of M-14 over railroad tracks, south side Existing Site 7: at bridge of M-14 over railroad tracks, north side

STATE OF MICHIGAN IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

International Outdoor, Inc, a Michigan

Case No. -AV

corporation,

Hon.

Appellant,

٧.

CLAIM OF APPEAL

Charter Township of Plymouth, a Michigan municipal corporation,

Appellee.

BODMAN PLC

By: J. Adam Behrendt (P58607) 201 W. Big Beaver Road, Suite 500 Troy, MI 48084 (248) 743-6000 Attorney for Appellant jbehrendt@bodmanlaw.com

> There is no other civil action between these parties arising out of the same transactions as alleged in this appeal pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge

> > RECEIVED

JAN 27 2022

PLYMOUTH TWP CLERK'S OFFICE

Bodman_18287520_1

CLAIM OF APPEAL

Appellant International Outdoor, Inc. ("IO") claims an appeal from the decision on November 4, 2021 by the Charter Township of Plymouth Zoning Board of Appeals ("Board"). In support of its claim of appeal, IO states as follows:

- 1. IO appeal arises from the Board's denial of IO's request for dimensional and non-dimensional variances to erect two outdoor advertising displays/billboards located on the parcel known as R-78-007-01-0002-003 ("Property"). The Board held a hearing on IO's request on November 4, 2021, at which time it denied IO's variance requests. The minutes are attached. See Exhibit A. On information and belief, there was no transcript of the meeting.
- The Board approved the minutes from its November 4, 2021 hearing on January
 2022.
- 3. MCL 125,3603, MCL 125.3604, and MCL 125,3605 authorize the Board's interpretation and determination of the Charter Township of Plymouth's zoning ordinance.
- 4. IO asserts its claim of appeal under MCL 125.3605, MCL 125.3606, MCL 125.3607, and MCR 7.122,
- 5. MCL 125.3606 provides that "[a] party aggrieved by the decision may appeal to the circuit court for the county in which the property is located as provided under [MCL 125.3606]." The Property is located in Wayne County.
 - 6. IO's claim of appeal is timely under MCL 125.3606(3)(b).
- 7. IO appeals the Board's decision on the grounds that it did not comply with MCL 125.3604(1), was not supported by competent, material and substantial evidence on the record,

did not comply with Michigan law, did not represent the reasonable exercise of discretion granted by law to the Board because the board did not apply any variance review standard to IO's petition, and IO's requests for a variance are consistent with other similar uses in in the Charter Township of Plymouth and necessary here because of the unique circumstances affecting the Property, among other reasons.

8. IO respectfully requests that the Court reverse the Board's decision as provided under MCL 125.3606(4) and grant such further relief as the Court deems appropriate.

Respectfully submitted, BODMAN PLC

By: /s/ J. Adam Behrendt (P58607)
J. Adam Behrendt (P58607)
201 W. Big Beaver Road, Suite 500
Troy, MI 48084
(248) 743-6000
Attorney for Appellant
jbehrendt@bodmanlaw.com

January 26, 2022



MEETING CALLED TO ORDER AT 6:02 P.M. BY CHAIRMAN MICHAEL CARLIN.

ROLL CALL:

Michael Carlin, Chair

Steven Bassett Timothy Boyd Paul Fessler

Don Schnettler

EXCUSED:

Mark Clinton

ALSO ATTENDING:

Kenneth MacDonald, Chief Building Official

Kevin Bennett, Township Attorney Denisa Terrell, Recording Secretary

3 Community Members

ITEM NO. 1 - APPROVAL OF MINUTES

1. Regular Meeting -

October 7, 2021

Moved by D. Schnettler and supported by S. Bassett to approve the Zoning Board of Appeals minutes for the meeting on October 7, 2021.

All Ayes, Motion Approved.

ITEM NO. 2 - NEW BUSINESS

Application No. 1637 West Billboard Sign Latif Oram (Representing)

International Outdoor INC

28423 Orchard Lake RD #200 Farmington Hills MI 48334

ranningion rims ivi 405

Location ~

Vacant parcel East of Ridge/South of Halyard

Tax I.D.

Tax I.D. #78-007-01-0002-003

TAR Zoning District

Page 1 ace



RE: Zoning Ordinance No. 99, Article 25 Sec 25. 2 (2) (b) & Sec 25.8 (1) (2) (4) & Sec 25.9 (1) (b) (c) (d) (g) (6) (a) (b) (d) Sign Regulations; Area, Height and Placement, Ground/Monument Signs

Varianca No.	Zoning Ordinance Section/Standard	Losadon	signs rrombilea In all Districts	Proposed West Billboard Sign	Kalances Requires
1637	Ordinance 99, Article XXV Sec 25.8 (1) (2) (4)	West Sign 78-007-01-0002- 003	Expressly prohibited: flashing lights/intermittent lights & scrolling message, moving parts	1 West Billboard Sign with scrolling messages, lights and moving parts	1 West Billboard Sign with scrolling messages, lights and moving parts
Karlance No.	Zoning Ordinance Section/Standard	Location	Ground Sign Greater than 200: Feet of Econoge 201 from Setback	Proposed West Billboard Sigil	Karjance Regioned
1637	Ordinance 99, Article XXV Sec 25.9 (1) (b)	West Sign 78-007-01-0002- 003	Maximum of 10° high & Maximum of 57° square feet of signage	Super 70' pole base with 672' square feet of signage which is 2 sided (static 7 digital)	60' in height and 615' square feet of sign face area for a 2-sided sign
Variança No	Zöning Ordinance Section/Standard	Location	Pole Sign may be permitted by Planning Commission	Propased Profession	Variance Required
1637	Ordinance 99, Article XXV Sec 25.9 (c)	West Sign 78-007-01-0002- 003	Pole sign may be permitted by Planning Commission	To be allowed on the West end of the vacant parcel	To allow I pole sign on the West end of the parcel
Variance No.	Zoning Ordinance Section/Standard	Location	Number of S Ground Signs on a Parcel	Proposed Ground Signs	Variance Registros
1637	Ordinance 99, Article XXV Sec 25.9 (d)	West Sign 78-007-01-0002- 003	i Ground sign per parcel	2 Ground signs on the same parcel, 1 at the West end the other at the East end	To allow 2 ground signs on the same parcel
Variance No.	Zoning Ordinance Section/Standard	Location	Ground Sign shall have Brick/masonry Base	Proposed West Billboard Sign	Variance Required

huo 2014



1637	Ordinance 99, Article XXV Sec 25.9 (g)	West Sign 78-007-01-0002- 003	Ground aigns shall have a brick or masonry base	Super 70° pole base with no brick/masonry base	Super 70' pole base with no brick/masonry base
Variance No.	Zojing Ordinance Section/Standard	Contract of the second second	Changeable Copy	Proposed Ground Styns	Variance Required
. 1637	Ordinance 99, Article XXV Sec 25.9 (6) (a)(b)(d)	West Sign 78-007-01-0002- 003	Letter height not to exceed 4" & Changeable monument sign prohibited	Will have digital changeable copy	To allow West billboard sign to have a digital copy
Variance No	Zoning Ordinance Section/Standard	Location	: Utomination	Proposed Ground Signs	Variance Required s
1637	Ordinance 99, Article XXV Sec 25.2 (2) (b)	West Sign 78-007-01-0002- 003	Signs shall not be illuminated between 11 PM and 7 AM	West billboard sign will be illuminated 24 hours a day, 364 days a year	West billboard sign to be illuminated 24 hours a day, 364 days a year
		5 7 18 1	AL.	Carlo de la Comp	Assessment Section 18

Randy "Latif" Oran of International Outdoor presented signs are V-style structures directed towards drivers that are visible from M14 and Ridge Road overpass. He also presented letters from businesses expressing the benefits of outdoor signs. He also indicated he has a pending purchase agreement based upon approval of variances. Mr. Oran referenced best use of the property, and no intrusion to the retention pond or wetland as reasons to grant variances. He also shared that a review of twenty studies found that digital highway signs are not a reason for vehicle accidents. MDOT approved the height and locations of the signs,

Attorney J. Behrendt representing the International Outdoor sign provided the context of hardship if the variances requested were to be denied as well criteria that would allow the ZBA to approve the variances. He also advised that Mr. Oran is flexible and will change hours of operation from 24/7.

Application No. 1638
East Billboard Sign

Latif Oram (Representing) International Outdoor INC 28423 Orchard Lake RD #200 Farmington Hills MI 48334

Location -

Vacant parcel Ridge/Halyard

Page 3 of 4



Tax I.D.

Tax I.D. #78-007-01-0002-003 TAR Zoning District

RE: Zoning Ordinance No. 99, Article 25 Sec 25. 2 (2) (b) & Sec 25.8 (1) (2) (4) & Sec 25.9 (1) (b) (c) (d) (g) (6) (a) (b) (d) Sign Regulations; Area, Height and Placement, Ground/Monument Signs

Variance No.2	Zoning Ordinance Section/Standard 2	Location	Signs Prohibited in all Districts	Broposed East Billboard Sign	, Varlänce Regulrei
1638	Ordinance 99, Article XXV Sec 25.8 (1) (2) (4)	Bast Sign 78-007-01-0002- 003	Expressly prohibited & flashing lights/intermittent lights & scrolling message, moving parts etc	I East Billboard Sign with scrolling messages, lights and moving parts	1 East Billboard Sign with scrolling messages, lights and moving parts
Variance No.	Zonling Ordinance Section/Standard is a	Location	Ground Sign: Grenier than 200 Reet of Frontage 20: from Setback	Proposed Rost Billboard Sign	Vorigues Regulped
1638	Ordinance 99, Article XXV Sec 25.9 (1) (b)	East Sign 78-007-01-0002- 003	Maximum of 10° high & Maximum of 57° square feet of signage	Super 70' pole based with 672' square foot of signage which is 2 sided (static 7 dipital)	60' in height and 615' square feet of sign face area for a 2-sided sign
Variance No.	Zoning Ordinances: Section/Standard	Location	Pole Sign may be permitted by Planning Commission	Proposed 1 Pole Sign	Fürlähee Raguirad
1638	Ordinance 99, Article XXV Sec 25.9 (c)	East Sign 78-007-01-0002- 003	Pole sign may be permitted by Planning Commission	To be allowed on the East and of the vacant parcel	To allow I pole sign on the East end of the parcel
Varianca No.	Zoning Ordinance Section/Standard	Location	Ground Sign shall have Brick/masonry Base	Proposed East Billboard Sign	Yariunce Required
1638	Ordinance 99, Article XXV Sec 25.9 (g)	East Sign 78-007-01-0002- 003	Ground signs shall have a brick or masonry base	Super 70° pole base with no brick/masonry	Super 70' pole base with no brick/masonry

Inpt 4016



				base	base
Variance No.	Zoning Ordinance Section/Standard	Location	Changeable Copy , Signs	Proposed Ground Signs	Variance Required
1638	Ordinance 99, Article XXV Sec 25.9 (6) (a)(b)(d)	East Sign 78-007-01-0002- 003	Letter height not to exceed 4" & Changeable monument sign prohibited & Base shall be brick	Will have digital changeable copy with no brick base	To allow West billboard sign to have digital copy with no brick base
	Zoning Ordinance Section/Standard	Location	Illumination	Proposed Ground Signs	Required
1638	Ordinance 99, Article XXV Sec 25.2 (2) (b)	East Sign 78-007-01-0002- 003	Signs shall not be illuminated between 11 PM and 7 AM	Bast billboard sign will be illuminated 24 hours a day, 364 days a year	East billboard sign to be illuminated 24 hours a day, 364 days a year

Public Hearing Opened at 7:40 p.m.

Linda Anivers is a teacher that lives in the community, she indicated that residents did not have an opportunity to submit letters to be reviewed by the ZBA. She indicated she is opposed to the signs.

Donna Duprie is a resident from Plymouth Hills who expressed concern about the sign running 24/7.

Mark Magee also lives at Plymouth Hills and indicated he too opposes the sign due to light and sound that would disturb wetlands and animals.

Public Hearing Closed at 7:55 p.m.

The Township Attorney, Kevin Bennett reviewed the criteria for the Zoning Board of Appeal's consideration of granting variance requests as set forth in Section 31.11.3 of the Zoning Ordinance. He indicated a minimum of four board members would be necessary to approve a variance and ZBA may grant a lesser variance. He also indicated increased financial return shall not of itself be deemed sufficient to warrant a variance.

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Moved by D Schnettler and supported by S. Bassett to deny application # 1637 variances requested to construct a pole billboard sign that will be 2 sided, illuminated with digital copy and 70' tall at the West end of the property.

All Ayes to Deny Application # 1637.

Moved by D. Schnettler and supported by S. Bassett to deny application # 1638 requested variances to construct a pole billboard sign that will be 2 sided, illuminated with digital copy and 70' tall at the East end of the property.

All Ayes to Deny Application # 1638.

Moved by D. Schnettler and supported by S. Bassett to adjourn the Zoning Board of Appeals meeting at 8:05 p.m.

All Ayes.

Steven Bassett, Secretary Zoning Board of Appeals

If denied, the applicant may amount to Circuit Court.

The Charter Township of Plymouth will provide accessary reasonable aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon two weeks' notice to the Charter Township of Plymouth. Individuals with disabilities requiring auxiliary aids or services should contact the Charter Township of Plymouth by writing or calling the Supervisor's Office, Charter Township of Plymouth, 9955 N. Haggerty Rd, Plymouth, Michigan, 48170, (734) 354-3211, TDD users: 1-800-649-3777 (Michigan Relay Service)

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November 3, 2021

Via Electronic Mail
Laura Haw, Planner
Charter Township of Plymouth
9955 N. Haggerty Road
Plymouth, MI 48170

Re: Billboard Sign Application #2396

Zoning Board of Appeals

Dear Ms. Haw:

Please allow this to act as my Attorney Opinion Letter for the Zoning Board of Appeals for the public hearing on November 4, 2021. Please forward this Opinion Letter to the ZBA Members.

The East and West Sign Packages, respectively, indicate that the proposed digital billboards are to be installed in undeveloped areas of the TAR zoning district, and will be supported by a 56' pole.

State Statute: the Highway Advertising Act of 1972

First, the Highway Advertising Act of 1972, MCL 252.301 et seq., contains the following pertinent provisions.

- A charter township may enact ordinances to regulate and control the operation, size, lighting, and spacing of signs and sign structures but shall not permit a sign or sign structure that is otherwise prohibited by the Act. MCL 252.304(a).
- A charter township may impose regulations regarding the operation, size, lighting, or spacing
 of signs and sign structures and that are more stringent than regulations under state law.
 MCL 252,304(a).
- A sign owner must apply for and receive an "interim permit" from the Michigan Department of Transportation for any off-premises sign, including a billboard. MCL 252.306(1).

Page 9 of the West and East Billboard Sign Packages respectively are letters of approval from MDOT. It appears that the applicant has complied with the requirements of the Highway Advertising Act of 1972.

Applicable Zoning Ordinance Provisions

From a zoning standpoint, the proposed digital billboards are to be located in the TAR district. TAR district regulations are set forth in Article 18 of the Zoning Ordinance.

Section 18.4 and 29.4 of the Zoning Ordinance provide that site plan approval by the Planning Commission is required for this application.

Section 18.4 of the Zoning Ordinance provides:

All principal permitted uses and special land uses shall comply with all applicable provisions of the Zoning Ordinance, including, but not limited to the following:

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- 5. Signs for all uses as specified in Article 25 of this Ordinance, except that pole signs shall not be permitted, and except that the Planning Commission may consider alternative materials for the base and/or sign, provided the sign:
 - (a) Is in keeping with the architecture and character of the principal building and/or established company logo;
 - (b) Does not constitute a traffic hazard; and
 - (c) Is constructed with durable and weather resistant materials.

(Emphasis supplied.) The proposed billboards fall within the definition of a "pole sign" as defined in Article 25 of the Zoning Ordinance. As such, section 18.4 prohibits the proposed billboards in the TAR Districts, which are the proposed locations for the billboards.

Article 25 of the Zoning Ordinance provides for sign regulations. The following sections are applicable to the referenced Billboard Sign Application.

- Section 25.8.1: if a sign is not expressly permitted by the Zoning Ordinance, it is prohibited.
- Section 25.1: definitions: the proposed billboards constitute a "ground sign," an "outdoor advertising sign," and a "pole sign" for purposes of the Zoning Ordinance. "Pole sign" is defined as "[a] ground sign mounted on a freestanding pole(s) or other support(s) with a clear space between the bottom of the sign face and the grade." Section 25.1.30.
- Section 25.7: outdoor advertising signs are prohibited in TAR districts, but this will be unenforceable as a content-based classification under the U.S. Supreme Court's ruling in Reed v Gilbert, 576 US 155 (2015). The Zoning Board of Appeals must not deny the variance request for noncompliance with Section 25.7.

- Section 25.9.1: "Except as specifically noted, ground signs shall be monument-type signs¹..."

 Thus, unless pole signs are specifically permitted, they are disallowed.
- Section 25.9.1(c): Pole signs may be permitted by the Planning Commission upon finding that one of the following conditions exist:
 - 1. A monument sign would block the vision of drivers (see Section 28.25 of ZoningOrdinance).
 - 2. A wall or projecting sign could not be legally established on a side facing a street.

In permitting a pole sign, the Planning Commission shall permit the minimum height necessary to achieve visibility, provided it does not exceed the height of the building to which it is accessory.

- Section 25.9.1(d): Except where provided for in Section 25.10, a maximum of one (1) ground sign shall be permitted per development parcel or premises.
- Section 25.8.2: Signs which incorporate in any manner any flashing or intermittent lights are prohibited.

The proposed digital billboards in this case fall within the definition of "pole signs," and are permissible only by approval of the Planning Commission under the certain criteria set forth in section 25.9.1(c). The criteria in section 25.9.1(c) are 1) a monument sign would block the vision of drivers; or 2) a wall or projecting sign could not be legally established on a side facing the street. Neither of these criteria appear applicable to the proposed digital billboards.

Thus, the provisions of sections 18.4 and 25.9.1 preclude the placement of billboards in the TAR district. Neither of these provisions use content-based classifications.

Attorney Behrendt's Position

The applicant is represented by Attorney Adam Behrendt. Attorney Behrendt has opined that the Zoning Ordinance does allow for the installation of billboards in the TAR District.

First, Mr. Behrendt argues that the Planning Commission has the power to grant or deny the proposed site plan:

Under the Township's Zoning Ordinance, the Planning Commission has authority to review International Outdoor's site plan and to grant development approval. See Ordinance, Section 18.4; see also Section 29.4. The Township requires such approval "to determine compliance with its Ordinance and Township standards and specifications." See Ordinance, Section 29.1(1); see also Section 29.8.

¹ The 10 feet height limitation referenced in Section 25.9.1(b) that we discussed applies to monument signs, not to pole signs.

Mr. Behrendt is correct on this assertion – the Planning Commission has the power and duty to review the site plan for compliance with the Zoning Ordinance.

Mr. Behrendt then argues that Section 25.9.1(c) allows the Planning Commission to approve the proposed billboards site plan. Again, Section 25.9.1(c) provides:

Pole signs may be permitted by the Planning Commission upon finding that one of the following conditions exist:

- 1. A monument sign would block the vision of drivers (see Section 28.25 of ZoningOrdinance).
- 2. A wall or projecting sign could not be legally established on a side facing a street.

In permitting a pole sign, the Planning Commission shall permit the minimum height necessary to achieve visibility, provided it does not exceed the height of the building to which it is accessory.

Mr. Behrendt argues that the second criterion authorizes the Planning Commission to approve the proposed billboards site plan because "International Outdoor cannot establish a wall or projecting sign on a side facing a street because there is no building or other structure on the real property at issue."

Response to Mr. Behrendt's Position

However, a closer examination of the definitions section of Chapter 25 of the Zoning Ordinance shows that "a wall or projecting sign" contemplates the existence of a building to which the sign is an accessory. Section 25.1.33 defines a "projecting sign" as "[a] sign that is attached to and projects from a building wall at an angle of up to 90° (not including a marquee, canopy or awning sign)." Clearly, a projecting sign contemplates the existence of a building.

Similarly, Section 25.1.49 defines a "wall sign" as:

A sign which is attached directly to or painted upon a building wall and does not extend above the height of the wall to which it is attached, nor more than twelve (12) inches therefrom, with the exposed face of the sign in a plane parallel to the building wall. Included in the definition of wall signs are signs mounted flat against the building fascia, provided the sign does not protrude beyond any boundary of the fascia.

A wall sign thus also contemplates the existence of a building.

Third, the last sentence of Section 25.9.1(c) ("... provided it does not exceed the height of the building to which it is accessory" also contemplates the existence of a building as a prerequisite to invocation of one of the two listed exceptions to pole signs.

Thus, when considering the definitions of "projecting sign" and "wall sign," and including the last sentence of Section 25.9.1(c), it clearly appears that the criteria for allowing a pole sign applies only when a projecting sign or wall sign is not feasible for the reasons stated in the exceptions criteria.

The final consideration is that pole signs are specifically disallowed in TAR Districts. Section 18.4(5) provides: "[s]igns for all uses as specified in Article 25 of this Ordinance, except that pole signs shall not be permitted"

From all of this, it appears that the proposed billboards are not permitted as a principal permitted use or special land use in the TAR District. Ultimately, the Planning Commission denied the application.

Zoning Board of Appeals Considerations

Article 25 provides for the procedure and criteria for an appeal by an aggrieved applicant. Section 25.13 provides:

The Township Zoning Board of Appeals shall have the authority to vary the restrictions contained in this Article upon finding that a genuine hardship exists and that the strict application of this Ordinance would place the applicant at a substantial and significant disadvantage with respect to other signs controlled by this Ordinance. Any alleged disadvantage resulting from comparison of applicant's sign to any nonconforming sign shall not constitute a hardship within the meaning of this Ordinance.

Thus, an aggrieved applicant must first appeal the denial of a permit application to the ZBA to exhaust its <u>administrative</u> remedies. The standard for the ZBA's review of a denial of a billboard permit application is that the denial must place the applicant at a substantial and significant disadvantage with respect to other signs (not necessarily limited to billboards).

The criteria for granting or denying a variance request are set forth in Section 31.11 of the Zoning Ordinance,² and the following are important points contained therein:

- The appellant has the burden of proving sufficient justification and/or evidence to find that the request meets the criteria for granting variances as specified in Section 31.11.3.
- The ZBA may grant a lesser variance than the requested variance if it would provide substantial relief to the appellant.

The criteria for the consideration of a variance request are set forth in Section 31.11.3:

• Practical Difficulties. Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would create practical difficulties, unreasonably prevent the use of the property for a permitted purpose, or

² Please note that this application involves a normal variance, and not a use variance. The criteria for granting a use variance are much more stringent, and require a showing of unnecessary hardship.

- render conformity with such restrictions unnecessarily burdensome. The showing of mere inconvenience is insufficient to justify a variance.
- Substantial Justice. Granting of a requested variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity, and would provide substantial justice to the applicant as well as to other property owners in the district.
- Public Safety and Welfare. The variance will not endanger public safety or create a public nuisance, be of substantial detriment to adjacent property, or materially impair the intent and purpose of this Ordinance or the public interest.
- Exceptional Circumstances. There are exceptional or extraordinary circumstances or conditions applying to the property in question, as or to the intended use of the property that do not apply generally to other properties or other similar uses in the same zoning district.
- Not a General or Recurrent Nature. The condition, situation or intended use of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of general regulations for such conditions or situations.
- The conditions resulting in a variance request are not self-created.
- The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

Applying these criteria to the facts involved in the application at issue is a discretionary consideration for the Zoning Board of Appeals.

Please contact me if you have any questions or comments.

Respectfully,

Kevin L. Bennett

for organist

cc: Kurt Heise, Supervisor (via electronic mail)