May 12, 2021

Township Board
Charter Township of Waterford
5200 Civic Center Drive
Waterford, MI 48329

RE: Rezoning Request No. PZ 21-03-04 from PL (Public Lands) to R-1C (Single Family)
Offer of Conditions to Rezoning
Property: 15.2 Acres at Northeast Corner of Williams Lake and Hatchery Roads
Tax Parcel No.: 13-18-100-008

Dear Township Board Members:

Gary advised that this will be the first rezoning request where the owner of the property has offered conditions on the use and development of the land as a condition to the requested rezoning. While conditional rezoning is not provided for in the Township Zoning Ordinance, Section 405 of the Michigan Zoning Enabling Act, MCL 125.3405 does authorize the use of conditional rezoning. A copy of that Section is attached for reference. Also attached are letters from the Road Commission for Oakland County (Road Commission) as the owner of the property, and JLG Properties, Inc., the applicant for this rezoning.

As you can see from the letters, the Road Commission and JLG are each offering and agreeing that if you approve the rezoning, it will be conditioned on the property only being used and developed, without zoning ordinance variances, for a 66-unit, single-family development according to specified plans. The Preliminary Grading and Utility Plan and Site Plan received concept plan approval from the Planning Commission on March 23, 2021, subject to approval of this rezoning. On April 26, 2021, the Planning Commission gave similar approval to a prior version of the Landscape Plan. Mr. Polkowski, the Township Planner, is to confirm that the 4-29-21 version of the Landscape Plan includes additional landscaping, improvements, enhancements to what the Planning Commission approved.

While the conditional rezoning offers were only recently received, the statute does not restrict when conditions may be voluntarily offered by the owner of land. We would also note that the presentation to the Planning Commission was consistent with the conditional rezoning concept outlined in the statute. Therefore, it is our opinion that, based on the Road Commission letter as the owner of the property, if you approve the offered conditions and the rezoning, those conditions would be enforceable by the Township.
Although the statute is not lengthy, there are some important features to it to keep in mind. First, pursuant to subsection (5), you may not attempt to negotiate or require the Road Commission to offer different or modified conditions. Second, if for some reason you do not want to require the property to be used and developed according to the specified plans, you do not have to approve the conditional offer. If that was the case, a motion to reject the Road Commission’s offer of conditions would be the appropriate action, followed by a separate motion on the rezoning itself. If the rezoning was approved without the offered conditions, the property could then be used for any permitted principal or special approval use in the R-1C Zoning District. The Board could also deny the rezoning request entirely.

Since this matter will be on your agenda for possible introduction of an ordinance, the final attachments with this letter are ordinances to rezone the property with and without the conditions that have been offered.

With the above background, we suggest the following approach:

1. A motion to introduce the Conditional Zoning Ordinance Map Amendment Ordinance, and to approve the conditions offered by the Road Commission, as presented and schedule the Ordinance for possible adoption at the Board’s meeting on June 14, 2021.

2. If you do not want to approve the offered conditions, a motion to not introduce the Conditional Zoning Ordinance Map Amendment Ordinance and deny the conditional rezoning.

3. If the conditional rezoning is not introduced and denied, you should then decide whether to introduce an ordinance that simply rezones the property from PL to R-1C. That would be the Ordinance titled Zoning Ordinance Map Amendment. The options on that Ordinance would be to introduce and schedule for adoption at a designated meeting, or not introduce and deny the requested rezoning.

If you have any questions, please do not hesitate to call.

Very truly yours,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC

Joellen Shortley

Enclosures
125.3405 Use and development of land as condition to rezoning.

Sec. 405. (1) An owner of land may voluntarily offer in writing, and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.

(2) In approving the conditions under subsection (1), the local unit of government may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

(3) The local government shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2) of this section.

(4) The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the local unit of government.

(5) A local unit of government shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the local unit of government, or any other laws of this state.

May 4, 2021

Charter Township of Waterford
Attn: Board of Trustees
c/o Jeffrey Polkowski
Planning and Zoning Superintendent
5200 Civic Center Drive
Waterford, MI 48329

Re: Offer of Use and Development Conditions to Rezoning
Rezoning Request No. PZ 21-03-04 from PL to R-1C
Property: 15.2 acres at Northeast Corner of Williams Lake and Hatchery Roads
Tax Parcel # 13-18-100-008

Dear Board of Trustees:

This offer is submitted voluntarily by the Road Commission for Oakland County (Road Commission) as the owner of the above described Property and is made under Section 405 of the Michigan Zoning Enabling Act, MCL 125.3405.

This offer relates to the pending Application by JLG Properties, Inc., to rezone the Property from PL, Public Lands, to R-1C, Single-Family Residential. That Application was authorized on February 25, 2021, by the Road Commission’s Managing Director, Dennis G. Kolar, and was the subject of a public hearing by the Township Planning Commission on March 23, 2021. The Planning Commission recommended approval of the rezoning to the Township Board of Trustees by a vote of 6 members in favor and one member opposed.

The Road Commission is not currently, nor will it be, a partner or participant in any manner in the future development of the Property as contemplated by JLG. The Road Commission acquired the Property as part of a project to reconstruct and improve Williams Lake Road and seeks to sell the Property as a means to recover some of the cost of that project, and to reinvest those proceeds in the roads. The Road Commission supports the rezoning of the Property to facilitate this sale but does not take a position on how the Property will be developed after the sale, as this is a matter between JLG and Waterford Township.

The Road Commission hereby offers and agrees that if the rezoning applied for, as well as this offer, is approved by the Board of Trustees, the rezoning shall be conditioned on the Property only be used and developed, without zoning ordinance variances, for the single-family subdivision shown and described on the following plans that have been filed with the Township Planning and Zoning Superintendent:
May 4, 2021
Page 2 of 2

3. Color version of Landscape Plan - Richardson Ct. by Diffin Engineering & Surveying for Client, JLG Properties, LLC, and Job No. 210307, dated 3-11-21, revised 3-29-21 and 4-29-21, and marked as Sheet No. 1.
4. Black and white version of Landscape Plan - Richardson Ct. by Diffin Engineering & Surveying for Client, JLG Properties, LLC, and Job No. 210307, dated 3-11-21, revised 3-29-21 and 4-29-21 marked as Sheet No. 2.

The plans are subject to possible modification based upon review of the permitting agencies of the Township, Oakland County and the State of Michigan, however, the site plan will remain largely consistent as presented and in no event will the number of residential homesites exceed sixty-six (66).

The Road Commission also offers, agrees, and requests that if you approve the requested rezoning with the above conditions, that the following additional conditions be included:

- Upon the Township receiving written notice from the Road Commission that JLG has not purchased the property and no longer has a contract or agreement with the Road Commission to do so, the zoning of the property shall revert to PL, Public Lands.

BOARD OF COUNTY ROAD COMMISSIONERS
of the County of Oakland, State of Michigan,
a public body corporate

Sincerely,

[Signature]

Dennis G. Kolar
Managing Director

DGK/nc

Attachments
May 5, 2021

Charter Township of Waterford
Attn: Board of Trustees
C/O Jeffrey Polkowski
Planning and Zoning Superintendent
5200 Civic Center Drive
Waterford, MI 48329

Re: Offer of Use and Development Conditions to Rezoning
Rezoning Request No. PZ 21-03-04 from PL to R-1C
Property: 15.2 acres at Northeast Corner of Williams Lake and Hatchery Rds
Tax Parcel # 13-18-100-008, owned by the Road Commission for Oakland County, Michigan (RCOC)

Dear Board of Trustees,

This offer is submitted voluntarily by JLG Properties, Inc, and its successors or assigns (JLG), as contract Purchaser of the Property described above and is made under Section 405 of the Michigan Zoning Enabling Act, MCL 125.3405. This offer relates to the pending Application by JLG to rezone the Property from PL, Public Lands, to R-1C, Single-Family Residential. That Application was authorized on February 25, 2021, by the Road Commission’s Managing Director, Dennis G. Kolar, and was the subject of a public hearing by the Township Planning Commission on March 23, 2021. The Planning Commission recommended approval of the rezoning to the Township Board of Trustees by a vote of six members in favor and one member opposed.

JLG hereby offer and agree that if the rezoning applied for and this offer is approved by the Board of Trustees, the rezoning shall be conditioned on the Property only be used and developed, without zoning ordinance variances, for the single-family subdivision shown and described on the following plans that have been filed with the Township Planning and Zoning Superintendent:

3. Color version of Landscape Plan - Richardson Ct. by Diffin Engineering & Surveying for Client, JLG Properties, LLC, and Job No. 210307, dated 3-11-21, revised 3-29-21 and 4-29-21 and marked as Sheet No. 1.
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The plans are subject to possible modification based upon review of the permitting agencies of the Township, Oakland County and the State of Michigan, however, the site plan will remain largely consistent as presented and in no event will the number of residential homesites exceed sixty six (66).

JLG also offers, agrees, and requests that if you approve the requested rezoning with the above conditions, that the following additional conditions be included:

1. Upon the Township receiving written notice from the Road Commission that JLG has not purchased the property and no longer has a contract or agreement with the Road Commission to do so, the zoning of the property shall revert to PL, Public Lands.

Sincerely,
JLG Properties, Inc.

________________________________
Joseph Locricchio
Its: President
Date: 5-05-21
CONDITIONAL ZONING ORDINANCE MAP AMENDMENT

An ordinance to amend the Waterford Township Zoning Ordinance by rezoning a parcel of property with conditions on its use and development as authorized by MCL 125.3405, and amending the Zoning Map.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

The vacant 15.19 acre parcel of property at the Northeast corner of Williams Lake and Hatchery Roads that is assigned Tax Parcel No. 13-18-100-008 and legally described in the attachment to this Ordinance (“Property”), is rezoned, with the conditions in this Ordinance on the use and development of that property, from PL, Public Lands District, to R-1C, Single-Family Residential District, with the Zoning Map that is adopted by and made part of the Waterford Township Zoning Ordinance in Section 3-101, to be changed and amended to reflect this conditional rezoning.

Section 2 of Ordinance

The rezoning in Section 1 of this Ordinance is conditioned on the Property only be used and developed, without zoning ordinance variances, for the single-family subdivision shown and described on the following plans that have been filed with the Township Planning and Zoning Superintendent, subject to possible modification based upon review of the permitting agencies of the Township, Oakland County and the State of Michigan, provided the plans remain largely consistent as presented and the number of residential homesites does not exceed 66:


3. Color version of Landscape Plan - Richardson Ct. by Diffin Engineering & Surveying for Client, JLG Properties, LLC, and Job No. 210307, as last revised on 4-29-21, and marked as Sheet No. 1.
4. Black and white version of Landscape Plan - Richardson Ct. by Diffin Engineering & Surveying for Client, JLG Properties, LLC, and Job No. 210307, as last revised on 4-29-21, and marked as Sheet No. 1.

The rezoning in Section 1 is also subject to the condition that upon the Township receiving written notice from the Road Commission for Oakland County that JLG Properties, Inc. has not purchased the property and no longer has a contract or agreement with the Road Commission to do so, the zoning of the property shall revert to PL, Public Lands.

**Section 3 of Ordinance**

The effective date of this ordinance shall be on the 8th day after publication, or a later date as provided in the Michigan Zoning Enabling Act for when a petition for voter referendum on this Ordinance and/or a notice of intent to submit such a petition is timely filed with the Township Clerk.

**CERTIFICATION**

I certify that this Zoning Ordinance Map Amendment Ordinance was adopted by a majority vote of the members of the Board of Trustees of the Charter Township of Waterford at a meeting duly called and held on________________________.  

CHARTER TOWNSHIP OF WATERFORD

_________________________  
Date  

_________________________  
Kimberly Markee, Township Clerk
LEGAL DESCRIPTION ATTACHMENT TO ORDINANCE 2021-Z-010

A PART OF THE NORTHWEST ¼ OF SECTION 18, T-3-N, R-9-E, WATERFORD CHARTER TOWNSHIP, OAKLAND COUNTY, MICHIGAN, BEING MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE NORTH ¼ CORNER OF SAID SECTION 18; THENCE S 00°05’37” W 125.23 FEET; THENCE N 89°54’23” W 60.00 FEET TO THE POINT OF BEGINNING; THENCE S 00°05’37” W 1,357.11 FEET; THENCE N 89°57’13” W 547.95 FEET; THENCE N 00°06’38” E 736.11 FEET; THENCE ALONG A CURVE TO THE RIGHT 903.95 FEET, SAID CURVE HAVING A RADIUS OF 630.00 FEET, A CENTRAL ANGLE OF 82°12’39”, AND A LONG CHORD BEARING OF N 41°29’08” E 828.38 FEET TO THE POINT OF BEGINNING. CONTAINING 15.19 ACRES.
Approach 2

If you do not wish to approve the offered conditions the appropriate action would be:

Motion to not introduce the Conditional Zoning Ordinance Map Amendment Ordinance and to deny the conditional rezoning.
ZONING ORDINANCE MAP AMENDMENT

An ordinance to amend the Waterford Township Zoning Ordinance by rezoning a parcel of property and amending the Zoning Map.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

The vacant 15.19 acre parcel of property at the Northeast corner of Williams Lake and Hatchery Roads that is assigned Tax Parcel No. 13-18-100-008 and legally described in the attachment to this Ordinance, is rezoned from PL, Public Lands District, to R-1C, Single-Family Residential District, with the Zoning Map that is adopted by and made part of the Waterford Township Zoning Ordinance in Section 3-101, to be changed and amended to reflect this rezoning.

Section 2 of Ordinance

The effective date of this ordinance shall be on the 8th day after publication, or a later date as provided in the Michigan Zoning Enabling Act for when a petition for voter referendum on this Ordinance and/or a notice of intent to submit such a petition is timely filed with the Township Clerk.

CERTIFICATION

I certify that this Zoning Ordinance Map Amendment Ordinance was adopted by a majority vote of the members of the Board of Trustees of the Charter Township of Waterford at a meeting duly called and held on_________________________.

CHARTER TOWNSHIP OF WATERFORD

__________________________   ______________________________
Date       Kimberly Markee, Township Clerk
A PART OF THE NORTHWEST ¼ OF SECTION 18, T-3-N, R-9-E, WATERFORD CHARTER TOWNSHIP, OAKLAND COUNTY, MICHIGAN, BEING MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE NORTH ¼ CORNER OF SAID SECTION 18; THENCE S 00°05’37” W 125.23 FEET; THENCE N 89°54’23” W 60.00 FEET TO THE POINT OF BEGINNING; THENCE S 00°05’37” W 1,357.11 FEET; THENCE N 89°57’13” W 547.95 FEET; THENCE N 00°06’38” E 736.11 FEET; THENCE ALONG A CURVE TO THE RIGHT 903.95 FEET, SAID CURVE HAVING A RADIUS OF 630.00 FEET, A CENTRAL ANGLE OF 82°12’39”, AND A LONG CHORD BEARING OF N 41°29’08” E 828.38 FEET TO THE POINT OF BEGINNING. CONTAINING 15.19 ACRES.
Call before you dig.

PLANTING SCHEDULE FOR SITE LANDSCAPING

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