

STATE OF MICHIGAN

WASHTENAW COUNTY CIRCUIT COURT

HUMMANA, LLC and NYR82, LLC,
Michigan limited liability companies, jointly
and severally,

Plaintiffs,

v

File No: 08-07-CZ
Hon. ARCHIE C. BROWN

CHARTER TOWNSHIP OF SUPERIOR,
Defendant

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CONSENT JUDGMENT

At a session of said Court held in the City of
Ann Arbor, County of Washtenaw, State of
Michigan on _____

PRESENT: Honorable Archie C. Brown

P R E A M B L E

Plaintiffs, Hummana, LLC and NYR82, LLC, are Michigan limited liability companies and fee title owners of approximately 77.18 acres of land (hereinafter referred to as the "Subject Property") located at the northwest corner of the intersection of Prospect and Geddes Roads in defendant, Superior Township, Washtenaw County, Michigan. It is more fully described in attached Exhibit A and depicted in Exhibit B.

The Subject Property is located outside the Urban Services Area, as delineated by the Township's Growth Management Plan/Master Plan, as established by the

Superior Township Board of Trustees,

The Subject Property is zoned Agricultural (A-2) District, an Agricultural District under the Zoning Ordinances of the Township.

On April 4, 2007, plaintiffs filed an application to rezone the Subject Property from A-2 Secondary Agricultural to R-4 Single-Family Urban Residential. On August 22, 2007, the Township Planning Commission recommended denial of the application and on September 17, 2007, the Township Board voted to deny the rezoning request. Finally, on December 6, 2007 the Township Zoning Board of Appeals denied plaintiffs' dimensional and use variance requests.

Plaintiffs, thereafter, filed the above captioned proceedings seeking mandamus, superintending control, injunctive, rezoning and equitable and other relief, taking and damages.

The parties now desire to settle this lawsuit in accordance with the terms and conditions of this Consent Judgment, in order to avoid further cost and expense and the uncertainty of a trial, and to resolve their disputes relative to this matter, without any admission of liability.

BY CONSENT OF THE PARTIES IT IS HEREBY ORDERED:

1. Zoning.

The Subject Property shall remain zoned Agricultural (A-2) District pursuant to the Superior Township Zoning Ordinance and subject to the terms of this Consent Judgment, may be used for all purposes as set forth within such Ordinance. A copy of Agricultural (A-2) District from the Zoning Ordinance is attached as Exhibit C and the Use Standards from the Zoning Ordinance is

attached as Exhibit D. The Township has the right to apply the Open Space Preservation (OSP) Overlay District to any parcel of land covered by a Conservation Easement as hereafter described.

2. Township Acquisition of Firehouse Parcel.

- a. Plaintiffs shall convey to the Township by warranty deed, approximately 8.1 acres of the Subject Property, more fully described in Exhibit E, (hereafter the "Firehouse Parcel").
- b. The purchase price shall be two hundred thousand and 00/100 (\$200,000.00) dollars, which shall be paid to the plaintiff within 7 days of entry of this Consent Judgment.
- c. Title to the Firehouse Parcel shall be free and clear of all liens. Plaintiffs shall provide the township with evidence of title.

3. Conservation Easement.

- a. The Township shall purchase from plaintiffs a Conservation Easement over approximately 34 acres of the Subject Property, as more fully described in Exhibit F, (hereafter the "Conservation Parcel") for the sum of two hundred thousand and 00/100 (\$200,000.00) dollars, which shall be paid to the plaintiff within 7 days of entry of this Consent Judgment.
- b. Upon a Conservation Easement being granted upon the 34 acre parcel, the Township has the right to apply the Open Space Preservation (OSP) Overlay District to the parcel.
- c. The Conservation Easement, a copy of which is attached as Exhibit G, shall preserve and restrict the use of the Conservation Parcel.

- d. The Conservation Easement and this Consent Judgment shall establish the allowed uses and the type and size of building allowed to be erected on the Conservation Parcel. The Easement will limit uses to farming and other agricultural activities. Building will be limited to barns, storage buildings and animal shelters which involve a use related to agricultural activities that occur on the Conservation Parcel and have a maximum ground floor coverage of 15,000 square feet of total gross floor area. To the extent that the rights contained in this paragraph conflict with the Open Space Preservation (OSP) Overlay district use or requirements than this paragraph shall be controlling.
- e. The Conservation Easement shall run with the land.
- f. Prior to or at closing, plaintiffs shall obtain and deliver to the Township subordination agreements from all lien holders having an interest in the Conservation Parcel.
- g. Plaintiff shall provide the Township with evidence of a title free and clear of all interests other than those held by any mortgagee whose interest is to be subordinated to the Conservation Easement.

4. Permitted Uses for the Stables Parcel.

- a. Plaintiffs may utilize approximately 28.5 acres of the Subject Property, as more fully described in Exhibit H, (hereafter referred to as the “Stables Parcel”) for the following uses:
 - i. Agricultural service establishments as defined in Section 5.101[‡];
 - ii. Bulk feed farm supply stores as defined in Section 5.101[‡];

- iii. Private riding arena or boarding stable as defined in Section 5.107[‡];
- iv. Public or commercial riding stable as defined in Section 5.108[‡];
- v. All other permitted principal uses in the Agricultural (A-2) District, including all agricultural permitted business uses allowed by the Ordinance in existence at the time this Consent Judgment is entered, except that no intensive livestock operations of the type commonly referred to as “factory farms” shall be permitted.
- vi. Selling of supplies, products and equipment in conjunction and normally associated with a riding stable or equestrian facility, including without limitation, saddles, bridles, brushes, harness equipment, boots, clothing and associated accessories in conjunction with such use;
- vii. Feed and grain production, storage and sales;
- viii. Storage and sale of fertilizer and related products;
- ix. All other permitted conditional and accessory uses in the Agricultural (A-2) District, subject to the approval process set forth in the Township Zoning Ordinance in existence at the time this Consent Judgment is entered, which approval shall not be unreasonably withheld or denied.

[‡]All references to the Zoning Ordinance provisions are to the Township Zoning Ordinance in existence at the time this Consent Judgment is entered.

- b. All of the uses herein permitted shall be required to meet all of the

dimensional, setback and other requirements as set forth in the Township Zoning Ordinance in existence at the time this Consent Judgment is entered, except for any use which is for a riding stable, which may be continued as a legally permitted and conforming use.

- c. Plaintiffs may have structures on the Stables Parcel, but the square footage of all such structures, whether new or existing, not including that allowed within the Conservation Easement, shall not exceed a maximum ground floor coverage of sixty-one thousand (61,000) square feet which is 5% of the net acreage.
- d. Plaintiffs shall have eight (8) years from the date of the entry this Consent Judgment to erect any structures permitted herein by this Consent Judgment which are not principal permitted, conditional or accessory uses allowed in the Agricultural (A-2) District as contained in the Township's Zoning Ordinance in existence at the time this Consent Judgment is entered.
- e. In the event any structure now or hereafter existing on the Stables Parcel or the Conservation Parcel which is permitted by this Consent Judgment is for any reason destroyed such structure may be repaired, altered, or replaced at the same location and of no greater size.
- f. Attached to this Consent Judgment as Exhibit I is a Concept Plan showing basic features such as proposed building envelopes and access roads. This Concept Plan is subject to revision pursuant to the terms of this Consent Judgment.

- g. Eight (8) years after the date this Consent Judgment is entered any new structures erected on the Stables Parcel shall comply with all use, dimensional and procedural requirements (including but not limited to references in Sections 4(a)(v), 4(a)ix), 4(b) of this Consent Judgment) of the Township's Zoning Ordinance in existence at that time of construction.
- h. Use of property for residential homes shall be in accordance with the Zoning Ordinance at time of the Consent Judgment.

5. Sale to Schofield.

- a. Contemporaneously with the entry of this Consent Judgment plaintiffs are selling all of the Subject Property, less the Firehouse Parcel, to William J. Schofield Jr. ("Schofield") on land contract. The Township consents to the sale on the condition that the sale to Schofield shall be subject to all the restrictions and covenants that are contained in this Consent Judgment.
- b. If and when Schofield pays off the land contract, plaintiffs shall, at no additional cost to the Township, convey and grant to the Township a Conservation Easement, in the form identified in Exhibit G, for the six (6) acre parcel of land identified more fully in Exhibit J.
- c. If, for any reason, the conveyance and grant of the Conservation Easement for this 6 acre parcel does not occur within twenty-seven (27) months of the date of the entry of this Consent Judgment, plaintiff shall pay the Township the sum of \$40,000.00, this amount shall be payable at such time as Schofield's interest in the Subject Property is terminated or at the end of the twenty-seven (27) month period, which ever occurs first.

- d. Until such time as the Schofield pays off the land contract and/or Plaintiffs pay to the Township the amount identified above in subparagraph b, the six (6) acre parcel shall be used in a manner consistent with the terms of the Conservation Easement identified in Exhibit G.
- e. If a Conservation Easement is not conveyed to the Township within the time permitted, after plaintiffs have paid to the Township the above stated consideration, the six (6) acre parcel may be used for all purposes consistent with the Township Zoning Ordinance in existence at the time the payment is made to the Township
- f. Upon a Conservation Easement being granted to this 6 acre parcel, the Township has the right to apply the Open Space Preservation (OSP) Overlay District to the parcel.

6. Design Standards and Review Process.

- a. The front elevation of any new structures on the Stables Parcel must have a "country" look, which shall be subject to administrative approval.
- b. Any further development shall require buffering from the Donohue property, Tax ID Number 10-28-400-008, which is adjacent to the Subject Property. The location and length of the screening shall be as depicted on the Concept Plan (Exhibit I). Except as otherwise provided in this Consent Judgment, screening and buffering shall comply with Section 14.10 of the Township Zoning Ordinance and shall incorporate a combination of screening methods as outlined in Sections 14.10(D)(1), Greenbelt buffer; and 14.10(D)(5) ,Evergreen screen of the Township Zoning Ordinance

and shall be shown on the Preliminary and Final Site Plan and be subject to approval as outlined by this Consent Judgment.

- c. Except as otherwise provided for in this Consent Judgment and within this subsection, all development projects for the Stables and Conservation parcels shall be subject to all reviews, approvals and fees as indicated within all Ordinances and resolutions of the Township. Plaintiffs shall submit preliminary and final site plans for review by the Township's consultants, staff, and by the Township Planning Commission at their regularly scheduled meetings. At Plaintiffs' option, a combined preliminary and final site plan may be submitted in lieu of separate preliminary and final plans. The Township Planning Commission, consultants, and staff will provide comments and recommendations to the Township Board relating to the plans' compliance with the Township's Ordinances and standards. Upon receipt of the comments and recommendations of the Planning Commission's consultants and staff, the Township Board shall then approve the plans if they make the finding that the Ordinances, standards and the provisions of this Consent Judgment have been met. All plans shall receive approval of the Township Board prior to any construction or the issuance of any building permits.
- d. Except as otherwise provided herein, the time for such development shall be at the election of the plaintiffs.
- e. All road and utility improvements shall be subject to review by the Township's engineering department and/or consultants applying Township

ordinance standards in existence at the time this Consent Judgment is entered, unless eight (8) years have lapsed from the date the this Consent Judgment is entered, at which time it will be required to comply with the Township's Zoning Ordinance which is then in effect. All such improvements shall be subject to review and compliance with any applicable State, Federal or County codes and standards in existence at the time the improvement is requested. All required approvals and permits issued by the Township, consistent with this Consent Judgment, shall not be unreasonably delayed or withheld.

- f. Plaintiffs, their successors or assigns shall be responsible for the payment of all planning consultant, engineering consultant, attorney or any other fees related to the Township's review of all plans for the Stables Parcel and Conservation Parcel from and after entry of this Consent Judgment.

7. Running With The Land

The rights granted and the restrictions imposed by this Consent Judgment for the Subject Property shall be, except as otherwise provided herein, perpetual and shall run with the land.

8. Restrictions.

- a. Plaintiffs shall adhere to the uses and restrictions set forth in this Consent Judgment. However, it is recognized that there may be modifications of the plans that are dependent on practical needs and difficulties, topography and the like. Therefore, incidental modifications, including setbacks not inconsistent with the spirit of this Consent Judgment, shall be

made and administratively approved without the necessity of amending this Consent Judgment so long as plaintiffs and the Township consent in writing to such modifications. The Township will not unreasonably withhold or delay approval of those modifications; the parties recognizing that this is a living plan.

- b. This Consent Judgment is hereby deemed to include all exhibits attached hereto, said exhibits being incorporated herein and made a part hereof as fully and to the same extent as if the contents of the exhibits were set out in their entirety in the body of this Consent Judgment. All references to this Consent Judgment are deemed to be a reference to the body of this Consent Judgment and the exhibits. To the extent that this Consent Judgment or the attached exhibits conflict with Township ordinance requirements, the terms of this Consent Judgment and the attached Exhibits shall control.
- c. Plaintiffs shall adhere to all applicable county, state and federal regulations and statutes and shall comply with all applicable ordinances of the Township, except where specifically exempted by this Consent Judgment or otherwise provided or depicted within the Exhibits.
- d. Nothing herein shall be construed as restricting or limiting plaintiffs' right to seek dimensional variances and exceptions relating to sign standards, in the manner prescribed in the Township's Zoning Ordinance.
- e. The size, location and design of the sign(s) shall be subject to the Township ordinances except that they shall be subject to the same review

and approval process as the preliminary and final site plans.

- f. In the event that any easements are required for use of the Subject Property by plaintiffs or the Township, then each party shall grant to the other the necessary easements and cross-easements for purposes of egress/ingress, providing utilities, including the extension of storm drainage easements, telephone, electric, gas, and such other utilities, including on-site waste water facilities serving one or more of the Properties, and the right to go upon such Properties for servicing such utilities to the other. However, in no event shall any septic fields be constructed or placed on any portion of the Conservation Parcel.

9. Judgment and Enforcement.

- a. This Court shall retain jurisdiction in all matters relating to this case, including: to resolve all disputes and make such other orders and determinations as are necessary to effectuate the intent and spirit of this Consent Judgment; to insure development is in accordance with the terms and intent of this Consent Judgment; to accomplish the issuance of all necessary approvals and building and other permits which may be reasonably required for the development, installation and construction of any roads, utilities, structures of any kind and all other improvements as set forth on the attached exhibits, as said exhibits may be amended from time to time, with the approval of the parties; and to implement all amendments thereto and the Site Plans. In the event of a dispute the parties shall attempt to meet together with their consultants and advisors

in an effort to resolve such matters. If such cannot be resolved within ten (10) days, the parties may pursue all remedies available.

- b. In the event any party makes a determination that another party is not acting reasonably, the alleged aggrieved party may petition the Court to resolve the dispute and the parties shall make themselves immediately available for a hearing on a date set by the Court. If the Court finds that any party has not acted in good faith or in conformance with the Consent Judgment, then the Court may order reasonable costs and attorney fees paid to the prevailing party.

10. Miscellaneous

- a. As used in this Consent Judgment “plaintiffs” refers to Hummana, LLC and NYR82, LLC and their successors and assigns.
- b. This Consent Judgment resolves the entire dispute between the parties, including all issues set forth in plaintiffs' Complaint and all claims for damages, costs and attorney fees are dismissed with prejudice.
- c. Any amendments or modifications made to this Consent Judgment subsequent to the date hereof, including, without limitation, the exhibits attached hereto, shall be deemed a part of this Consent Judgment, shall be recorded with the Washtenaw County Register of Deeds and shall run with the land, be binding upon the parties and all successors. Any subsequent amendment hereto must be in writing, and either executed by the parties hereto, or other respective heirs, representatives, successors, successors-in-interest and assigns.

- d. In the event there is a conflict between the terms and conditions of this Consent Judgment and the "Recitals and Preambles" to this Judgment, or in the Township ordinances, the terms and conditions of this Consent Judgment shall control.
- e. Any clerical errors or mistakes in documents or exhibit descriptions contained in this Consent Judgment may be corrected by any of the parties and all parties agree to cooperate in making such corrections in order to effectuate the intent of the parties in entering into this Judgment.
- f. This Consent Judgment may be executed by the parties in counterparts; pages containing original signatures shall be attached to the original Consent Judgment filed with the Court; photocopies of pages bearing signatures of parties hereto shall be deemed duplicate originals.

CIRCUIT COURT JUDGE

Date signed: _____

[Signatures to Follow]

THE UNDERSIGNED PARTIES HAVE HEREBY READ, UNDERSTAND, AGREE AND CONSENT TO THE FOREGOING JUDGMENT AND ALL TERMS AND CONDITIONS STATED THEREIN. ALL SUCH PARTIES HEREBY REPRESENT THAT THEY HAVE OBTAINED ADVICE OF COUNSEL AND ARE CONSENTING TO THIS JUDGMENT FREELY AND VOLUNTARILY.

WITNESSES:

CHARTER TOWNSHIP OF SUPERIOR

By: William McFarlane
Its: Supervisor

WITNESSES:

By: David Phillips
Its: Clerk

STATE OF MICHIGAN)
COUNTY OF _____)

On _____, 2009, before me, a Notary Public, in and for said County, personally appeared before me William McFarlane, the supervisor of Superior Charter Township and David Phillips, the Clerk of Superior Charter Township, known to be the persons described in and who executed the above Judgment, and acknowledged the same on behalf of the Township.

Notary Public
County, Michigan
My Commission Expires:

WITNESSES:

HUMMANA, LLC
A Michigan Limited Liability Company

By:
Its:

STATE OF MICHIGAN)
COUNTY OF _____)

On _____, 2009, before me, a Notary Public, in and for said County, personally appeared before me _____, known to be the _____ of Hummana, LLC and who executed the above Consent Judgment, and acknowledged the same to be his free act and deed by authority given by the resolution of Hummana, LLC, a Michigan limited liability company.

Notary Public
County, Michigan
My Commission Expires:

WITNESSES:

NYR82, LLC, a Michigan limited liability company

By:
Its:

STATE OF MICHIGAN)
COUNTY OF _____)

On _____, 2009, before me, a Notary Public, in and for said County, personally appeared before me _____, known to be the _____ of NYR82, LLC and who executed the above Consent Judgment, and acknowledged the same to be his free act and deed by authority given by the resolution of NYR82, LLC, a Michigan limited liability company.

Notary Public
County, Michigan
My Commission Expires:

WITNESSES:

William Schofield

STATE OF MICHIGAN)
COUNTY OF _____)

On _____, 2009, before me, a Notary Public, in and for said County, personally appeared before me William Schofield known to be person who executed the above Consent Judgment, and acknowledged the same to be his free act and deed.

Notary Public
County, Michigan
My Commission Expires:

WE, THE UNDERSIGNED COUNSEL FOR THE PLAINTIFF AND DEFENDANTS, RESPECTIVELY, HEREBY STIPULATE TO THE ENTRY OF THE ABOVE JUDGMENT, NOTICE OF ENTRY WAIVED.

Robert A. Jacobs (P15402)
Attorney for Plaintiffs

Frederick Lucas (P29074)
Attorney for Defendant

ATTACHMENTS

EXHIBIT A:	Legal description of Subject Property
EXHIBIT B:	Map of Subject Property
EXHIBIT C:	A-2 Ordinance
EXHIBIT D:	Use Standards
EXHIBIT E:	Description of the Firehouse Parcel
EXHIBIT F:	Description of the Conservation Parcel
EXHIBIT G:	Conservation Easement
EXHIBIT H:	Description of Stables Parcel
EXHIBIT I:	Concept Plan
EXHIBIT J:	Description of 6 Acre Parcel

EXHIBIT A

Legal description of Subject Property

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 28, T.2S., R.7E., SUPERIOR TOWNSHIP, WASHTENAW COUNTY, MICHIGAN; THENCE S87°03'20"W 412.70 FEET ALONG THE SOUTH LINE OF SAID SECTION 28 AND THE CENTERLINE OF GEDDES ROAD (66 FEET WIDE); THENCE N02°56'20"W 222.00 FEET; THENCE S87°03'20"W 210.00 FEET; THENCE N02°56'20"W 204.70 FEET; THENCE S87°03'20"W 211.00 FEET; THENCE N02°56'20"W 160.33 FEET; THENCE S87°03'20"W 412.16 FEET; THENCE S02°56'40"E 332.99 FEET; THENCE N87°03'20"E 412.12 FEET; THENCE S02°56'20"E 254.05 FEET; THENCE S87°03'20"W 883.05 FEET ALONG THE SOUTH LINE OF SAID SECTION 28 AND THE CENTERLINE OF SAID GEDDES ROAD; THENCE N02°10'00"W 2160.44 FEET; THENCE N87°18'30"E 726.88 FEET; THENCE S63°50'17"E 103.61 FEET; THENCE N87°18'30"E 790.55 FEET; THENCE S02°10'00"E 175.00 FEET; THENCE N87°18'30"E 108.00 FEET; THENCE S02°10'00"E 1927.88 FEET ALONG THE EAST LINE OF SAID SECTION 28 AND THE CENTERLINE OF PROSPECT ROAD (66 FEET WIDE) TO THE POINT OF BEGINNING, BEING PART OF THE SOUTHEAST 1/4 OF SAID SECTION 28, CONTAINING 77.18 ACRES OF LAND, MORE OR LESS, BEING SUBJECT TO THE RIGHTS OF THE PUBLIC OVER THE EAST 33 FEET AND THE SOUTH 33 FEET THEREOF, AS OCCUPIED BY SAID PROSPECT ROAD AND SAID GEDDES ROAD, AND BEING SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

EXHIBIT B

Map of Subject Property

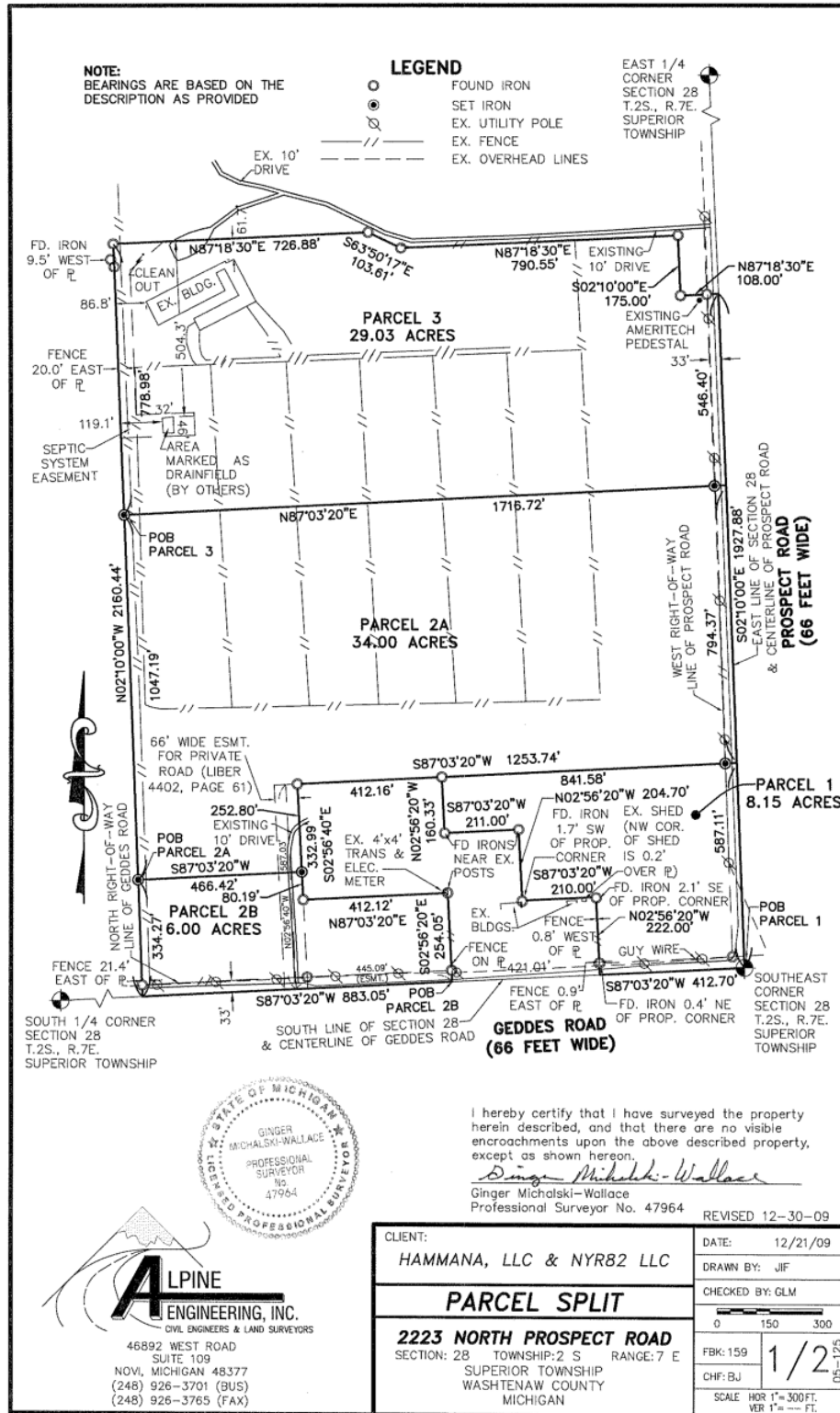


EXHIBIT C

A-2 Ordinance

Section 2.104 Agricultural (A-2) District

The public health and welfare of Superior Charter Township, Washtenaw County, the State of Michigan, and the United States are greatly dependent upon the sustenance and economic benefits provided by a viable agricultural industry. The Agricultural (A-2) District is hereby established as a Rural District to preserve lands that are agriculturally productive, and to allow use for specialized applications on land which, because of factors such as soil suitability, location, parcel size, and existing land uses, are not as suitable for production of staple crops as the lands included in the A-1 District. This district may serve as a buffer between A-1 lands and non-agricultural lands, thus serving to protect the integrity of the A-1 lands and to protect agricultural enterprises from encroachment by suburban and urban uses and developments. In addition, the A-2 District is intended to:

1. Preserve woodlands and wetlands associated with farms which because of their natural physical features, are useful as water retention, surface water purification and groundwater recharge areas, and as habitat for plant and animal life; and which have important aesthetic and scenic value that contributes to the unique character of the agricultural district;
2. Preserve existing drainage patterns and minimize erosion and flooding;
3. Provide the basis for land tax assessments that reflect its existing agricultural nature and, owing to these regulations, its limited use for other purposes;
4. Prevent the conversion of agricultural land to non-farm development which, when unregulated, unnecessarily increases the cost of public services to all citizens and results in the premature disinvestment in agriculture;
5. Protect farmland from speculative increases in land prices;
6. Prevent loss of farmland;
7. Prevent conflicts between agricultural activities and residences;
8. Prevent encroachment of urban and suburban services into agricultural areas;
9. Encourage long-term investment in improvements needed to maintain and expand agricultural production by creating a stable environment for such production;

10. Reduce the amount of land consumed in rural areas for nonagricultural use;
11. Prevent intrusion of uses into farm areas which are incompatible with general farming activities; and
12. Permit services and uses which are necessary to support farming activities. The A-2 District provides for land uses that are of permanent importance. Extension of public water and sanitary sewer service into this district shall be prohibited unless such service is necessary to address public

EXHIBIT D

Use Standards

SECTION 5.100 RURAL USES

Section 5.101 Agricultural Services and Farm Supply Stores.

Agricultural service establishments, bulk feed and fertilizer supply outlets, farm supply stores, and similar uses shall be subject to the following:

1. Any retail store component of such uses shall conform with all parking, loading, screening, and other site development standards that apply to COMMERCIAL USES.
2. Farm products offered for sale shall include those grown or produced on land in Michigan, or made from products grown or produced on land in Michigan.
3. Any outdoor sales or display areas shall be conform to the standards of Section 5.410 (Outdoor Sales or Display Areas).
4. Outdoor storage areas shall be adequately contained, and shall be screened from adjacent lots and road rights-of-way per Section 14.10D (Methods of Screening).
5. Storage, distribution, and processing of farm products as part of a permitted agricultural service establishment shall comply with the following:
 - a. Such uses shall not create a health or safety hazard, a nuisance, or have deleterious impact on the surrounding area either due to appearance or operation.
 - b. Such uses shall be maintained so that odor, dust, or noise shall not constitute a nuisance or hazard to adjoining lots and uses.
 - c. The storage of loose materials shall be contained and covered to prevent it from blowing onto adjacent properties and from access by small animals.
6. A site plan, drawn to scale, showing all intended site uses, shall be submitted for review and approval per Article 10.0 (Site Plan Review).

Section 5.102 Farm-Based Tourism/Entertainment Activities.

Farms providing tourism or entertainment-oriented facilities or activities for promotion

of agriculture, rural lifestyle or farm product sales shall be subject to the following:

1. A site plan, drawn to scale, showing all intended site uses, shall be submitted for review and approval per Article 10.0 (Site Plan Review). Such plan shall show the intended use and location of all structures, growing areas, parking facilities, roads and drives to be utilized by the public, pedestrian circulation, location of necessary sanitary facilities and service areas, and transition plantings or screening devices.
2. Screening shall be provided per Section 14.10D (Methods of Screening) where off-site abutting residential properties are occupied with dwelling structures within 200 feet of any area on the site occupied with sales or entertainment facilities. Crop growing areas of a depth of not less than 300 feet may be permitted to satisfy this requirement.
3. All facilities and improvements for permitted farm-based tourism or entertainment activities shall be located outside of all road rights-of-way and required yard setback areas.
4. Noise levels shall not exceed 65 decibels at any lot boundary or road right-of-way.
5. All exterior lighting for permitted farm-based tourism or entertainment activities shall be fully-shielded and directed downward to minimize off-site glare and light pollution. Such lighting shall not exceed 0.5 footcandles in intensity as measured at any lot boundary or road right-of-way.
6. The hours of operation of any outdoor entertainment facilities shall be subject to Planning Commission approval.
7. Farm-based tourism or entertainment activities shall conform to the applicable requirements of the Township's Outdoor Assemblies Ordinance (Ord. No. 23).

Section 5.103 Farm Products Direct Marketing Business.

Where farm products direct marketing businesses are listed in Article 4.0 (Land Use Table) as a permitted accessory use, such uses shall be accessory to an active farm operation. Such businesses shall include "U-Pick" commercial agriculture operations, direct sales to area restaurants, residents, and retail stores, Internet-based sales of farm products, and similar businesses.

Section 5.104 Greenhouse, Nursery, or Tree Farm.

The following shall apply to greenhouses, nurseries, and tree farms:

1. Storage, sales, and display areas shall comply with the minimum setback requirements for the zoning district in which the establishment is located.
2. Plant growing areas shall be located outside of all road rights-of-way and corner

clearance areas as defined in Section 3.208 (Corner Clearance Zones).

3. The storage of loose materials shall be contained and covered to prevent it from blowing onto adjacent properties and from access by small animals.
4. Where greenhouses, nurseries, and tree farms are listed in Article 4.0 (Land Use Table) as a permitted accessory use, such uses shall be accessory to an active farm operation.
5. Retail sales of greenhouse and nursery products shall be permitted as an accessory use, subject to site plan approval per Article 10.0 (Site Plan Review) and compliance with all parking, loading, screening, and other site development standards that apply to COMMERCIAL USES.

Section 5.105 Keeping of Animals, Non-Farm.

The standards of this Section shall not apply to keeping of animals as part of an active farm operation maintained in conformance with the Right to Farm Act (P.A. 93 of 1981, as amended) and Generally Accepted Agricultural Management Practices (GAAMPS) established by the Michigan Department of Agriculture. Non-farm raising and keeping of domesticated animals and livestock shall be subject to the following:

1. Non-farm raising and keeping of such animals shall be clearly incidental to a single-family dwelling and not for income generation or remuneration.
2. The raising and keeping of fowl, rabbits, and similar small domesticated animals shall require a minimum lot area of one (1) acre. Structures or fenced areas for keeping of small domesticated animals shall be located not less than five (5) feet from adjacent lots and road rights-of-way.
3. The raising and keeping of horses, cows, sheep, goats, llamas and similar domesticated livestock shall require a minimum lot area of four (4) acres, and shall be subject to the following:
 - a. Lots between four (4) and five (5) acres in gross land area shall be limited to a maximum of three (3) such animals. Raising and keeping of such animals on lots five (5) acres and larger shall conform to Generally Accepted Agricultural Management Practices (GAAMPS) established by the Michigan Department of Agriculture.
 - b. Structures for keeping such animals shall be located not less than 75 feet from adjacent properties.
4. All animals shall be properly housed and fenced so as not to be a public nuisance.
5. All animal wastes shall be properly disposed of so as not to jeopardize the public health, safety, or welfare, or create a detrimental effect on the environment or on

neighboring properties.

6. Stables, barns, pens, and pastures shall be kept clean, and wastes shall be treated and handled in such a manner as to control flies and odor.

Section 5.106 Kennel.

The standards of this Section shall not apply to the keeping, or raising of fewer than four (4) animals of the same species that are more than six (6) months old (such as dogs, cats, outdoor fowl, or other domestic animals) for pets, breeding, showing, boarding, training, competition, or hunting purposes. Kennels shall be licensed as required by Washtenaw County or any other governmental agency with jurisdiction, and shall be subject to the following additional standards:

1. Kennels shall have a minimum lot area of ten (10) acres.
2. Structures or pens where animals are kept, outdoor runs, and exercise areas shall not be located in any required yard setback areas.
 - a. Such facilities shall be set back a minimum of 300 feet from road right-of-way, 100 feet from side and rear lot boundaries, and 50 feet from any watercourse.
 - b. Structures where animals are kept, outdoor runs and exercise areas shall be screened in accordance with Section 14.10D (Methods of Screening).
3. The facility shall be so constructed and maintained that odors, dust, noise, and drainage shall not constitute a nuisance or hazard to adjoining lots and uses.
4. The kennel shall be established and maintained in accordance with applicable sanitation regulations.
5. Animals shall be adequately housed, fenced, and maintained so as not to be or become a public or private nuisance.
6. All animals shall be enclosed within a building at night.
7. All outdoor animal pens shall be enclosed with a six (6) foot high safety fence. Animal pen surfaces shall be of concrete pitched to contain and drain run-off from cleaning to a septic tank or other County approved system.
8. Preliminary and final site plans shall be required in accordance with Article 10.0 (Site Plan Review). The Planning Commission may impose other conditions and limitations deemed necessary to prevent or mitigate possible nuisances related to noise or odor.

Section 5.107 Private Riding Arenas and Boarding Stables.

All stables and facilities for the private rearing, schooling and housing of horses, mules, ponies and similar equine riding animals shall be subject to the following:

1. A dwelling in a principal building for the property owner or operator of the private stable shall be located on the same or an adjoining lot.
2. Stables and facilities for the private rearing, schooling and housing of horses, mules, ponies and similar equine riding animals shall require a minimum lot area of four (4) acres, and shall be subject to the following:
 - a. Lots between four (4) and five (5) acres in gross land area shall be limited to a maximum of three (3) such animals. Private rearing, schooling and housing of such animals on lots five (5) acres and larger shall conform to Generally Accepted Agricultural Management Practices (GAAMPS) established by the Michigan Department of Agriculture.
 - b. All stable and arena buildings, corrals, and similar structures shall be located not less than 75 feet from adjacent properties.
3. Stable and arena buildings, corrals, and similar structures shall not be located within any required front yard setback, and shall be located no closer to any road rights-of-way than rear building line of any dwelling on the subject lot.
4. A fenced area for pasturing, exercising or riding such animals may extend to the front, rear or side lot boundaries. All such animals shall be kept confined within a fenced area when not being ridden, under harness, or when not in their stable and arena building, corral or similar structure.
5. The facility shall be so constructed and maintained that odors, dust, noise, and drainage shall not constitute a nuisance or hazard to adjoining lots and uses.
6. There shall be no commercial activity, other than incidental sales not unusual for permitted RURAL USES or RESIDENTIAL USES.
7. Establishment or enlargement of such a facility shall be subject to approval of a certificate of zoning compliance per Section 1.07 (Certificates of Zoning Compliance). Approval of a building permit may be required if the facility is open to the public.

Section 5.108 Public or Commercial Riding Stables.

Public or commercial riding stables and academies for the rearing, schooling and housing of horses, mules, ponies and similar equine riding animals available or intended for use by the public or for hire on a per diem, hourly, or weekly basis shall be subject to the following:

1. An accessory dwelling in a principal building for the property owner or operator of the facility shall be permitted per Section 5.201 (Accessory Dwelling).

2. The lot area shall not be less than 20 contiguous acres under single ownership.
3. Such public or commercial riding stables and academies shall conform to Generally Accepted Agricultural Management Practices (GAAMPS) established by the Michigan Department of Agriculture.
4. Stable and arena buildings, corrals, and similar structures for public or commercial riding stables and academies shall be located not less than 75 feet from adjacent properties.
5. Stable and arena buildings, corrals, and similar structures for public or commercial riding stables and academies shall not be located within any required front yard setback, and shall be located no closer to any road rights-of-way than rear building line of any dwelling on the subject lot.
6. Fenced areas for pasturing, exercising or riding such animals may extend to the front, rear or side lot lines. All such animals shall be kept confined within a fenced area when not being ridden, under harness, or when not in their stable and arena building, corral or similar structure.
7. The facility shall be so constructed and maintained that odors, dust, noise, and drainage shall not constitute a nuisance or hazard to adjoining lots and uses.
8. Parking for patrons and employees shall be provided in compliance with Article 8.0 (Off-Street Parking and Loading Regulations). Such areas shall be screened per Section 14.10D (Methods of Screening).
9. Such uses shall be subject to site plan approval per Article 10.0 (Site Plan Review).

Section 5.109 Roadside Stands.

Roadside stands up to 400 square feet in gross floor area shall be permitted accessory to any RURAL USES, subject to the following:

1. Suitable trash containers shall be placed on the premises for public use.
2. The roadside stand structure(s) shall be set back outside of all road right-of-way. Such stands shall be removed from the roadside location during seasons when not in use.
3. Any roadside stand shall have at least five (5) off-street parking spaces, which need not be paved with asphalt or concrete. Parking spaces shall be located outside of road rights-of-way.
4. All signs used in connection with the use shall be temporary, and shall comply with the requirements of Article 9.0 (Signs). Such signs shall be removed when the stand is not in use.

5. Any roadside stand exceeding the limitations of this Section shall be subject to Conditional Use Permit approval as a farm-based tourism or entertainment facility per Section 5.102 (Farm-Based Tourism/Entertainment Activities).

Section 5.110 Veterinary Clinics and Hospitals.

Veterinary clinics and hospitals shall comply with the following:

1. All activities shall be conducted within a completely enclosed building, except that an outdoor exercise area shall be permitted, subject to the following:
 - a. Such areas shall be enclosed by a six (6) foot high safety fence.
 - b. Such exercise areas shall not be located in any required yard setback areas, and shall be set back a minimum of 50 feet from road rightsof- way, side and rear lot boundaries, and any watercourse.
 - c. Such areas shall be screened in accordance with Section 14.10D (Methods of Screening).
2. The facility shall be so constructed and maintained that odors, dust, noise, exterior lighting, and drainage shall not constitute a nuisance or hazard to adjoining lots and uses.
3. Keeping of animals for overnight care shall be limited to the interior of the principal building. Treatment of non-domesticated animals shall be permitted.
4. Operation shall include proper control of animal waste, odor, and noise.
5. A site plan, drawn to scale, showing all intended site uses, shall be submitted for review and approval per Article 10.0 (Site Plan Review).

EXHIBIT E

Description of the Firehouse Parcel

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 28, T.2S., R.7E., SUPERIOR TOWNSHIP, WASHTENAW COUNTY, MICHIGAN; THENCE S87°03'20"W 412.70 FEET ALONG THE SOUTH LINE OF SAID SECTION 28 AND THE CENTERLINE OF GEDDES ROAD (66 FEET WIDE); THENCE N02°56'20"W 222.00 FEET; THENCE S87°03'20"W 210.00 FEET; THENCE N02°56'20"W 204.70 FEET; THENCE S87°03'20"W 211.00 FEET; THENCE N02°56'20"W 160.33 FEET; THENCE N87°03'20"E 841.58 FEET; THENCE S02°10'00"E 587.11 FEET ALONG THE EAST LINE OF SAID SECTION 28 AND THE CENTERLINE OF PROSPECT ROAD (66 FEET WIDE) TO THE POINT OF BEGINNING, BEING PART OF THE SOUTHEAST 1/4 OF SAID SECTION 28, CONTAINING 8.15 ACRES OF LAND, MORE OR LESS, BEING SUBJECT TO THE RIGHTS OF THE PUBLIC OVER THE EAST 33 FEET AND THE SOUTH 33 FEET THEREOF, AS OCCUPIED BY SAID PROSPECT ROAD AND SAID GEDDES ROAD, AND BEING SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

EXHIBIT F

Description of the Conservation Parcel

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 28, T.2S., R.7E., SUPERIOR TOWNSHIP, WASHTENAW COUNTY, MICHIGAN; THENCE S87°03'20"W 1716.76 FEET ALONG THE SOUTH LINE OF SAID SECTION 28 AND THE CENTERLINE OF GEDDES ROAD (66' WIDE); THENCE N02°10'00"W 334.27 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N02°10'00"W 1047.19 FEET; THENCE N87°03'20"E 1716.72 FEET; THENCE S02°10'00"E 794.37 FEET ALONG THE EAST LINE OF SAID SECTION 28 AND THE CENTERLINE OF PROSPECT ROAD (66 FEET WIDE); THENCE S87°03'20"W 1253.74 FEET; THENCE S02°56'40"E 252.80 FEET; THENCE S87°03'20"W 466.42 FEET TO THE POINT OF BEGINNING, BEING PART OF THE SOUTHEAST 1/4 OF SAID SECTION 28, CONTAINING 34.00 ACRES OF LAND, MORE OR LESS, BEING SUBJECT TO THE RIGHTS OF THE PUBLIC OVER THE EAST 33 FEET THEREOF, AS OCCUPIED BY SAID PROSPECT ROAD, AND BEING SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

EXHIBIT G

Conservation Easement

Conservation Easement

DATE: January 19, 2010

GRANTOR: HUMMANA, LLC and NYR82, LLC,
Michigan limited liability companies
28800 Orchard Lake Road, Suite 200
Farmington Hills, MI 48334

GRANTEE: CHARTER TOWNSHIP OF SUPERIOR
A Michigan municipal corporation
3040 N. Prospect
Ypsilanti, Michigan 48198

For purposes of this Conservation Easement, the Grantor, who is the current owner of the Subject Property, and all subsequent owners of the Subject Property, will be referred to as the "Grantor" throughout this Conservation Easement. The Township will be referred to as the "Township" throughout this Conservation Easement.

PROPERTY: (INSERT COMPLETE LEGAL DESCRIPTION)

CONVEYANCE: The Grantor conveys and warrants to the Township a perpetual Conservation Easement over the Property. The scope of this Conservation Easement is set forth in this agreement.

THE GRANTOR AND THE TOWNSHIP AGREE TO THE FOLLOWING:

- 1. PURPOSES OF THIS CONSERVATION EASEMENT AND COMMITMENTS OF THE GRANTOR AND THE TOWNSHIP.**
 - a. This Conservation Easement assures that the Property will be perpetually preserved in its predominately natural, agricultural, and open space condition. The Purposes of this Conservation Easement are to protect the Property's natural resource and watershed values; to maintain and enhance biodiversity; to retain quality habitat for native plants and animals, and to maintain and enhance the natural features of the Property.
 - b. The Grantor of the Property has committed to preserve the Conservation Values of the Property. The Grantor agrees to confine use of the Property to activities consistent with the Purposes of this Easement and the preservation of the conservation values in accordance with and subject to

the terms of a certain Consent Judgment as set forth herein.

- c. The Township is a qualified Recipient of this Conservation Easement, is committed to preserving the Conservation Values of the Property, and is committed to upholding the terms of this Conservation Easement. The Township protects natural habitats of fish, wildlife, plants, and the ecosystems that support them. The Township also preserves open spaces, including farms and forests, where such preservation is for the scenic enjoyment of the general public or pursuant to clearly delineated governmental conservation policies and where it will yield a significant public benefit.

2. CONSERVATION VALUES. The Property possesses natural, scenic, historic, open space, scientific, biological, and ecological values of prominent importance to the Grantor, the Township, and the public. These values are referred to as the "Conservation Values" in this Easement. The Conservation Values include the following:

a. **Open Space and Scenic:**

- i. A scenic landscape and natural character which would be impaired by modification of the Property.
- ii. Relief from urban closeness.
- iii. Maintain the rural character of the area.
- iv. Biological integrity of other land in the vicinity has been modified by intense urbanization, and the trend is expected to continue.

b. **Public Policy:**

- i. The State of Michigan has recognized the importance of protecting our natural resources as delineated in the 1963 Michigan Constitution, Article IV, Section 52, "The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety, and general welfare of the people. The legislature shall provide for the protection of the air, water, and other natural resources of the state from pollution, impairment, and destruction."
- ii. The Property is preserved pursuant to a clearly delineated federal, state, or local conservation policy and yields a significant public benefit. The following legislation, regulations, and policy statements establish relevant public policy:

- (1) Conservation and Historic Preservation Easement, Sub part 11 of Part 21 of the Michigan Natural Resources and

Environmental Protection Act - MCL §§ 324.2140 et seq.;

- (2) Biological Diversity Conservation, Part 355 of the Michigan Natural Resources and Environmental Protection Act - MCL §§ 324.35501 et seq.; (Legislative Findings § 324.35502);
- (3) Wetland Protection, Part 303 of the Michigan Natural Resources and Environmental Act - MCL §§ 324.30301 et seq.; (Legislative Findings MCL § 324.30302);
- (4) Water Pollution Control Act of 1972, 33 USC §§ 1251 - 1387 (§1251 Goals & Policy; § 1344 Wetlands permitting, aka "Section 404" Clean Water Act.);
- (5) Coastal Zone Management Act, 16 USC §§ 1451 et seq.; (§§ 1451, 1452 Congressional Findings and Policy.);
- (6) Shorelands Protection and Management, Part 323 of the Michigan Natural Resources and Environmental Protection Act - MCL §§ 324.32301 et seq.;
- (7) Inland Lakes and Streams, Part 301 of the Michigan Natural Resources and Environmental Protection Act - MCL §§ 324.30101 et seq.;
- (8) Great Lakes Submerged Lands, Part 325 of the Michigan Natural Resources and Environmental Protection Act - MCL §§ 324.32501 et seq.;
- (9) Farmland and Open Space Preservation, Part 361 of the Michigan Natural Resources and Environmental Protection Act - MCL §§ 324.36101 et seq.;
- (10) Soil Conservation, Erosion, and Sedimentation Control, Parts 91 & 93 of the Michigan Natural Resources and Environmental Protection Act - MCL §§ 324.9101 et seq.; 324.9301 et seq.; (Legislative Policy § 324.9302).

c. **Farmland:**

- i. The Property has a history of agricultural usage.
- ii. The Property is located within Superior Township, a community presently experiencing rapid development, including the subdivision of prime farmland.

3. **BASELINE DOCUMENTATION.** Specific Conservation Values of the Property have been documented. This "Baseline Documentation" consists of maps, a

depiction of existing human-made modifications, prominent vegetation, identification of flora and fauna, land use history, distinct natural features, and photographs.

4. **PROHIBITED ACTIONS.** Any activity on, or use of, the Property which is inconsistent with the permitted uses and activities set forth herein or in the Consent Judgment entered in the case of *Hummana et al. v Superior Township*, Washtenaw County Circuit Court file number: 08-07-CZ, (hereafter the "Consent Judgment"), a copy of which is filed with the Washtenaw County Register of Deeds at Liber ____, Page ____, is expressly prohibited.

5. **PERMITTED USES.** The Grantor retains ownership rights which are not expressly restricted by this Conservation Easement. In particular, the following rights are reserved:

a. **Agriculture.** Grantor retains the right to continue agricultural use. For purposes of this Conservation Easement agricultural use means substantially undeveloped land devoted to:

i. The production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including the breeding and grazing of cattle, swine, captive cervidae, horses and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities, including road side stands for sale of Michigan produced farm and dairy products.

ii. Riding trails for horses.

iii. Pasturing of horses.

iv. The use of farm machinery, rider mowers and all-terrain vehicles is permitted solely for agricultural purposes so long as their use remains consistent with the Conservation Values, as well as motorized maintenance and emergency vehicles.

v. Grantor shall have the right to do the following in accordance with the plans approved by the Grantor and as permitted by the Consent Judgment:

(1) Create paths, trails or roads for access and equestrian use.

(2) Plow, till or cultivate the soils or vegetation.

(3) Construct or place authorized utility lines.

(4) Store or dispose of vegetative debris such as grass

clippings, leaves, yard waste or other material collected and deposited from areas outside of the Easement Premises.

- (5) Cut down, destroy, or otherwise alter or remove trees, tree limbs, shrubs, or other vegetation, whether living or dead within the Easement Premises expressly for the removal of trees or limbs to eliminate danger to health and safety; to reduce a threat of infestation posed by diseased vegetation; to control invasive non-native plant species that endanger the health of native species or as otherwise required or provided for farming and agricultural use or to build permitted agricultural structures, is permitted.
 - b. **Structures.** Building will be limited to barns, storage buildings and animal shelters which involve a use related to agricultural activities that occur on the Conservation Parcel and have a maximum ground floor coverage of 15,000 square feet of total gross floor area and use of roadway stands for sale of Michigan produced farm and dairy products. Subject to the Michigan Right to Farm Act, buildings shall comply with the dimensional requirements contained in the Zoning Ordinance in effect at the time of applying for a Building Permit or Zoning Certificate of Compliance. To the extent that the rights contained in this paragraph conflict with the Open Space Preservation (OSP) Overlay district use or requirements than this paragraph shall be controlling.
 - c. **Right to Maintain and Replace Existing Structures and Roads.** The Grantor retains the right to maintain, renovate and replace the existing structures, including fences and roads.
 - d. **Right to Convey.** The Grantor retains the right to sell, mortgage, bequeath, or donate the Property. Any conveyance will remain subject to the terms of the Conservation Easement and the subsequent Grantor will be bound by all obligations in this agreement.
 - e. **Consent Judgment.** Anything contained herein, notwithstanding, those uses and activities identified in the Consent Judgment, including this Conservation Easement, shall dictate all allowed uses and the type and size of building allowed to be erected on the Conservation Parcel. Grantor may perform activities within the Easement Premises consistent with the Consent Judgment. Any activities shall be performed in a manner to minimize the adverse impacts to the Easement Area.
6. **RIGHTS OF THE TOWNSHIP.** The Grantor confers the following rights upon the Township to perpetually maintain the Conservation Values of the Property:
- a. **Right to Enter.** The Township, or its designated representative, has the right, upon prior notice, to enter the Property at reasonable times to

monitor and enforce compliance with, or otherwise exercise its rights under, this Conservation Easement, the Consent Judgment and all other applicable Township Ordinances. The Township may not, however, unreasonably interfere with the Grantor's use and quiet enjoyment of the Property and the Township has no right to enter or permit others to enter the Property for purposes other than those set forth in this paragraph. The general public is not granted access to or use of the Property under this Conservation Easement.

- b. **Right to Preserve.** The Township has the right to prevent any activity on or use of the Property that is inconsistent with the Purposes of this Conservation Easement or detrimental to the Conservation Values of the Property.
- c. **Right to Require Restoration.** The Township has the right to require the Grantor to restore the areas or features of the Property which are damaged by any activity inconsistent with this Conservation Easement.
- d. **Signs.** The Township has the right to place signs on the Property which identify the land as protected by this Conservation Easement. The number and location of any signs are subject to the Grantor's approval.

7. **TOWNSHIP'S REMEDIES.** This section addresses cumulative remedies of the Township and limitations on these remedies.

- a. **Delay in Enforcement.** A delay in enforcement shall not be construed as a waiver of the Township's right to eventually enforce the terms of this Conservation Easement.
- b. **Acts Beyond Grantor's Control.** The Township may not bring an action against the Grantor for modifications to the Property resulting from causes beyond the Grantors' control, including, but not limited to, unauthorized actions by third parties, natural disasters such as unintentional fires, floods, storms, natural earth movement, or even an Grantor's well-intentioned action in response to an emergency resulting in changes to the Property. The Grantor has no responsibility under this Conservation Easement for such unintended modifications.
- c. **Notice and Demand.**
 - i. If the Township determines that the Grantor is in violation of this Conservation Easement, or that a violation is threatened, the Township shall provide written notice to the Grantor. The written notice will identify the violation and request corrective action to cure the violation and, where the Property has been injured, to restore the Property.
 - ii. The Grantor shall have fourteen (14) after the notice is issued to

reply to the notice of violation by serving on the Township a written statement either:

- (1) Acknowledging the violation and providing the Township with a statement of corrective action to be taken together with a timetable for taking action; or
 - (2) Disputing the violation and requesting a hearing.
- iii. If the Grantor acknowledges the violation and the plan of corrective action is acceptable, the Township shall provide the Grantor with written notice of its approval within 7 days of receiving Grantor's reply.

d. **Hearing on Violation.**

- i. If the Grantor disputes the violation or if the plan of corrective action is for any reason unacceptable to the Township, a hearing on the violation shall be held before the Township Board or such other body as is designated by the Township to conduct the hearing no later than 21 days after the date the Grantor's written reply is received by the Township.
- ii. If a hearing is held because the Grantor disputes the violation, the Grantor shall present evidence as to why there is no violation and after being given an opportunity to be heard, the Township shall determine whether the Grantor is in violation and if so, establish a plan of action and a timetable for compliance.
- iii. If the hearing is held because the Township objects to the Grantor's plan of corrective action, the Grantor shall present evidence as to why its plan of corrective action is reasonable and after being given an opportunity to be heard, the Township may approve the Grantor's plan or modify as it deems appropriate.

e. **Failure to Act.**

- i. The Township may bring an action in law or in equity to enforce the terms of the Conservation Easement If the Grantor fails to:
 - (1) Reply within the permitted time to the notice of violation, or
 - (2) Implement corrective measures in the manner and within the time permitted in the approved plan of correction action.
- ii. The Township is entitled to seek an injunction to enjoin the violation through temporary or permanent injunctive relief and to seek specific performance, declaratory relief, restitution, reimbursement

of expenses, and/or an order compelling the Grantor to restore the Property. If the court determines that the Grantor has failed to comply with this Conservation Easement, the Grantor shall also reimburse the Township for all reasonable litigation costs and reasonable attorney's fees, and all costs of corrective action or Property restoration incurred by the Township.

- f. **Immediate and Irreparable Harm.** Notwithstanding the foregoing, if the Township determines, at its sole discretion, that the violation constitutes immediate and irreparable harm, no written notice is required. The Township may then immediately pursue its remedies to prevent or limit harm to the Conservation Values of the Property.
 - g. **Unreasonable Litigation.** If the Township initiates litigation against the Grantor to enforce this Conservation Easement, and if the court determines that the litigation was initiated without reasonable cause or in bad faith, then the court may require the Township to reimburse the Grantor's reasonable costs and reasonable attorney's fees in defending the action and all incidental damages.
 - h. **Actual or Threatened Non-Compliance.** The Township's rights under this Section, Township Remedies, apply equally in the event of either actual or threatened violations of the terms of this Easement. The Township shall be entitled to seek injunctive relief and/or specific performance.
 - i. **Cumulative Remedies.** The preceding remedies of the Township are cumulative. Any, or all, of the remedies may be invoked by the Township if there is an actual or threatened violation of this Conservation Easement.
8. **CONSERVATION EASEMENT REQUIREMENTS UNDER MICHIGAN LAW AND UNITED STATES TREASURY REGULATIONS.** This Conservation Easement is created pursuant to the Conservation and Historic Preservation Easement, Sub part 11 of Part 21 of the Michigan Natural Resources and Environmental Protection Act (NREPA) - MCL §§ 324.2140 et seq. And the Township is qualified to hold conservation easements pursuant to this statute.
9. **OWNERSHIP COSTS AND LIABILITIES.** In accepting this Conservation Easement, the Township shall have no liability or other obligation for costs, liabilities, taxes, or insurance of any kind related to the Property. The Township's rights do not include the right, in absence of a judicial decree, to enter the Property for the purpose of becoming an operator of the Property within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act. The Township, its members, trustees or directors, officers, employees, and agents have no liability arising from injury or death to any person or physical damage to any property on the Property. The Grantor agrees to defend and hold the Township harmless against such claims.

10. **HAZARDOUS MATERIALS.** The Grantor has no knowledge of a release of hazardous substances or hazardous waste on the Property.
11. **CESSATION OF EXISTENCE.** If the Township shall cease to exist or if it fails to be a "qualified organization" for purposes of Internal Revenue Code Section 170(h)(3), or if the Township is no longer authorized to acquire and hold conservation easements, then this Conservation Easement shall become vested in another entity. This entity shall be a "qualified organization" for purposes of Internal Revenue Code Section 170(h)(3). The Township's rights and responsibilities shall be assigned to any entity having similar conservation purposes to which such right may be awarded under the cy pres doctrine.
12. **LIBERAL CONSTRUCTION.** This Conservation Easement shall be liberally construed in favor of maintaining the Conservation Values of the Property and in accordance with the Conservation and Historic Preservation Easement, Sub part 11 of Part 21 of the Michigan Natural Resources and Environmental Code MCL 324.2140 et seq.
13. **NOTICES.** For purposes of this agreement, notices may be provided to either party by personal delivery or by mailing a written notice to the party by Overnight Delivery or First Class mail to the address first written above. Any party may change its address, by providing the other party notice of the new address in the manner provided herein.
14. **SEVERABILITY.** If any portion of this Conservation Easement is determined to be invalid, the remaining provisions will remain in force.
15. **SUCCESSORS.** This Conservation Easement is binding upon, and inures to the benefit of, the Grantor's and the Township's successors in interest. All subsequent Grantors of the Property are bound to all provisions of this Conservation Easement to the same extent as the Grantor.
16. **TERMINATION OF RIGHTS AND OBLIGATIONS.** A party's future rights and obligations under this Conservation Easement terminate upon transfer of that party's interest in the Property. Liability for acts or omissions occurring prior to transfer will survive the transfer.
17. **MICHIGAN LAW.** This Conservation Easement will be construed in accordance with Michigan Law.
18. **ENTIRE AGREEMENT.** This Conservation Easement sets forth the entire agreement of the parties. It is intended to supersede all prior discussions or understandings.

Signatures Page to Follow

WITNESSES:

Dated: January ____, 2010

Dated: January ____, 2010

STATE OF MICHIGAN)
)§
COUNTY OF OAKLAND)

Subscribed and sworn to (or affirmed) before me this ____ day of January 2010, by _____, an authorized member of Hummana, LLC, a Michigan limited liability company.

GRANTOR:

HUMMANA, LLC, a Michigan limited liability company

By:
Its:

NYR82, LLC, a Michigan limited liability company

By:
Its:

Notary Public, County of _____
State of Michigan
My commission expires:_____

STATE OF MICHIGAN)
)§
COUNTY OF OAKLAND)

Subscribed and sworn to (or affirmed) before me this ____ day of January, 2010, by _____, an authorized member of NYR82, LLC, a Michigan limited liability company.

Notary Public, County of _____
State of Michigan
My commission expires:_____

ACCEPTANCE OF CONSERVATION EASEMENT

The acceptance of the Conservation Easement has been approved by the Charter Township of Superior on January ____, 2010; Grantee accepts the grant and agrees to its terms.

WITNESSES:

GRANTEE:
CHARTER TOWNSHIP OF SUPERIOR, a Michigan municipal corporation

By:
Its:

Dated: January ____, 2010

STATE OF MICHIGAN)
)§
COUNTY OF SUPERIOR)

Subscribed and sworn to (or affirmed) before me this ____ day of January, 2010, by _____, the _____ of the Charter Township of Superior, a Michigan municipal corporation.

Notary Public, County of _____
State of Michigan
My commission expires:_____

EXHIBIT H

Description of Stables Parcel

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 28, T.2S., R.7E., SUPERIOR TOWNSHIP, WASHTENAW COUNTY, MICHIGAN; THENCE S87°03'20"W 1716.76 FEET ALONG THE SOUTH LINE OF SAID SECTION 28 AND THE CENTERLINE OF GEDDES ROAD (66' WIDE); THENCE N02°10'00"W 1381.46 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N02°10'00"W 778.98 FEET; THENCE N87°18'30"E 726.88 FEET; THENCE S63°50'17"E 103.61 FEET; THENCE N87°18'30"E 790.55 FEET; THENCE S02°10'00"E 175.00 FEET; THENCE N87°18'30"E 108.00 FEET; THENCE S02°10'00"E 546.40 FEET ALONG THE EAST LINE OF SAID SECTION 28 AND THE CENTERLINE OF PROSPECT ROAD (66 FEET WIDE); THENCE S87°03'20"W 1716.72 FEET TO THE POINT OF BEGINNING, BEING PART OF THE SOUTHEAST 1/4 OF SAID SECTION 28, CONTAINING 29.03 ACRES OF LAND, MORE OR LESS, BEING SUBJECT TO THE RIGHTS OF THE PUBLIC OVER THE EAST 33 FEET THEREOF, AS OCCUPIED BY SAID PROSPECT ROAD, AND BEING SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

EXHIBIT I
Concept Plan

DRAFT

EXHIBIT J

Description of 6 Acre Parcel

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 28, T.2S., R.7E., SUPERIOR TOWNSHIP, WASHTENAW COUNTY, MICHIGAN; THENCE S87°03'20"W 833.71 FEET ALONG THE SOUTH LINE OF SAID SECTION 28 AND THE CENTERLINE OF GEDDES ROAD (66' WIDE) TO THE POINT OF BEGINNING; THENCE CONTINUING S87°03'20"W 883.05 FEET ALONG SAID CENTERLINE AND SAID SOUTH SECTION LINE; THENCE N02°10'00"W 334.27 FEET; THENCE N87°03'20"E 466.42 FEET; THENCE S02°56'40"E 80.19 FEET; THENCE N87°03'20"E 412.12 FEET; THENCE S02°56'20"E 254.05 FEET TO THE POINT OF BEGINNING, BEING PART OF THE SOUTHEAST 1/4 OF SAID SECTION 28, CONTAINING 6.00 ACRES OF LAND, MORE OR LESS, BEING SUBJECT TO THE RIGHTS OF THE PUBLIC OVER THE SOUTH 33 FEET THEREOF, AS OCCUPIED BY SAID GEDDES ROAD, AND BEING SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.