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Morton Township Planning Commission

c/o Cory Zandstra, Building Inspector

290 W. Main Street

PO Box 2

Mecosta, MI 49332

Re: Bollman Investment Properties  
Application for Conditional Rezoning

Dear Planning Commissioners:

This law firm represents the Morton Township Residents for Responsible Development in connection with the Application for Condition Rezoning submitted by Bollman Investment Properties (the "Applicant"). The Morton Township Residents for Responsible Development consist of property owners in Morton Township who face the negative impacts of the proposed project. Their personal and property interests will be detrimentally affected in the event Morton Township approves its conditional rezoning.

The Applicant's conditional rezoning application fails to satisfy the standards set forth in Article V, Section 5.1(3) of the Morton Township Zoning Ordinance (the "Ordinance") and Michigan law. The Planning Commission should therefore recommend a denial of the application. Section 5.1(3) of the Ordinance directs the Planning Commission to consider the following in its review of the Applicant's conditional rezoning request:

- A. Uses permitted in the existing zoning district in which the land is located;
- B. The uses permitted in the zoning district requested by rezoning;
- C. The use(s) proposed to be excluded, limited, or prohibited as a condition of the requested zoning;
- D. The compatibility or incompatibility of the uses or development that will be allowed by the requested rezoning with existing uses and development on properties within fifteen hundred (1500) feet of the parcel(s) requested to be rezoned;
- E. Whether the requested rezoning with conditions is consistent with the Morton Township Master Plan, or contrary to it;
- F. Whether the uses or development proposed for the parcel(s) requested to be rezoned are likely to increase or decrease surrounding property values;
- G. Whether the infrastructure in the form of roads and utilities in the area suggested for rezoning will support the proposed uses or development, or if significant upgrades or changes will be necessary;
- H. Whether the proposed conditions will provide adequate safeguards for surrounding uses and properties if the requested rezoning is granted;

- I. Whether the proposed conditions provide terms by which the conditions can be enforced or accomplished after rezoning occurs;
- J. Whether any of the proposed conditions need to be recorded and reflected in the chain of title to be effective;
- K. Whether the requested rezoning will allow and encourage "the proper use of land and natural resources" as specified in Section 1.0 of the Morton Township Zoning Ordinance.

Pursuant to the Michigan Zoning Enabling Act (the "MZEA") "[a]n 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." MCL 125.3405(1). A principle of zoning is that like uses should be grouped and incompatible uses kept separate in order to ensure uniformity within districts having in fact the same general characteristics, without areas for peculiar uses. The Applicant's conditional rezoning application asks this Planning Commission to conditionally rezone four parcels from Agricultural 2 to Campground and one parcel from Residential 1 to Campground. Such a rezoning will result in the lack of uniformity and permit a use contrary to the declared purpose of the existing and future land use in the surrounding area. The Applicant owns five parcels comprising approximately 45.42 acres. Those parcels include:

- 11-020-002-000 consisting of approximately 21 acres (Zoned Agricultural 2);
- 11-020-002-100 consisting of approximately 10 acres (Zoned Agricultural 2);
- 11-020-002-500 consisting of approximately 9 acres (Zoned Agricultural 2);
- 11-020-003-500 consisting of approximately 4.36 acres (Zoned Agricultural 2); and
- 11-020-003-000 consisting of approximately 1.06 acres (Zoned Residential 1).

The Applicant offers to rezone four parcels from Agricultural 2 to Campground and one parcel from Residential 1 to Campground. The Township's Ordinance defines "Campground" as "a parcel or tract of land under the control of a person or organization in which sites are offered for the use of the public or members of an organization, either free or for a fee, for temporary living quarters." There is only one permitted use in the Campground District, which is recreational camping. The Ordinance declares that the intent of the Campground district is "[t]o provide areas for recreational use that conform with environmental health and site guidelines." The expressed intent of the Campground District is plainly not a residential use, but rather a commercial use. Further, residential uses are not permitted in the Campground District even through a special land use request.

The Applicant's proposed restrictions, contingent upon approval of its rezoning, are as follows:

- a. Owner will use the Property for (i) the Use; **and** (ii) any use permitted in the Existing District<sup>1</sup>, but for no other use without the permission of the Township.

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<sup>1</sup> The Applicant defines "Existing District" as the Residential 1 and Agricultural 2 Districts.

- b. Owner will use the Property in compliance with the site layout as submitted during their prior Rezoning Application (the "Layout")<sup>2</sup>.
- c. Minimum campsite size shall be 2100 square feet (modern) or 1400 square feet (primitive), and minimum width for each campsite shall be 35 feet.
- d. Owner will use the Property in compliance with all other restrictions applicable to the New District as provided in the Ordinance.
- e. Within ninety (90) days after the Effective Date, Owner shall pursue site plan approval pursuant to Section 6.3 of the Ordinance and in accordance with the Layout.
- f. Construction of the Use shall commence within one year of receiving site plan approval and shall be completed no later than thirty (36) months following receipt of site plan approval.

Conditions "a" and "b" of the Applicant's restrictions completely negates its ostensible rezoning to Campground for at least two reasons. First, it expressly allows all uses permitted in the Agricultural 2 and Residential 1 zoning districts. However, none of the uses in either the Agricultural 2 or Residential 1 zoning districts are permitted in the Campground District. Second, it constitutes approval of the Site Plan dated January 22, 2024, permitting 246 total units. The minimum lot size in the Campground District is 20 acres, and the Overall gross ratio **shall not exceed** as follows:

- Modern campgrounds: 3 camping sites/acre.
- Primitive campgrounds: 5 camping sites/acre.

Assuming the Applicant dedicated the entirety of its five parcels to modern campsites, the total density is limited to 136.26 campsites. Assuming the Applicant dedicated the entirety of its five parcels to primitive campsites, the total density is limited 227.10 campsites. The Applicant's conditions for rezoning materially depart from the express restrictions in the Ordinance. Of the 45.42 total acres, the Site Plan identifies 16.309 acres as common area. In addition, the Applicant identifies 82 parking spots for regular, ADA, and golf cart parking. The Applicant's conditions allow 246 units for a mere 29.11 acres. The Campground District expressly prohibits such density.

When a proposed conditional rezoning anticipates a use excluded by the zoning district in question, it is fatal to the operation of the conditional zoning agreement. *Jostock v Mayfield Twp*, 2023 WL 3261566, at \*4; \_\_\_ NW3d \_\_\_ (Approved for Publication June 1, 2023). The Applicant's conditions not only fails to limit the uses in the Campground District, but expressly allows uses that are prohibited in such a district. The Applicant's conditional rezoning application is completely contrary to conditional rezoning under the Ordinance and Michigan law. The proposed conditional zoning amendment serves no purpose and advances no reasonable governmental interest, and this Planning Commission should therefore recommend a denial. Rather than satisfying the standards set forth in Section 5.1(3) of the Ordinance, the Applicant's proposed conditions completely fail to provide adequate safeguards for surrounding uses and properties. The existing and future land use in the area is dedicated to quiet single family residential. The proposed

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<sup>2</sup> The Applicant defines "Layout" as the Site Plan dated January 22, 2024.

rezoning permits a use incompatible with that use and offers no conditions to protect the permitted uses.

The request for rezoning to Campground is also inconsistent with the goals and objectives of the Township's Master Plan. The current Future Land Use Map identifies the majority of the Applicant's property, and the surrounding area, as Residential 1. The declared intent of the Residential 1 District is to "establish and preserve quiet, single family home neighborhoods as desired by large numbers of people, free from other uses except those which are both compatible with and convenient to the residents of such a district." The proposed use identified by the Applicant is commercial, and is completely contrary to the establishment of quiet enjoyment of single family homes. The Applicant's proposed commercial use would be surrounded by the permitted residential uses. The excessive density of the proposed development together with the increased traffic will decrease surrounding property values. For these reasons, the Planning Commission should recommend a denial of the Applicant's proposed conditional rezoning.

Given that the Applicant's conditional rezoning application fails to satisfy the requirements set forth in the Ordinance, and is otherwise contrary to Michigan law, we respectfully request that the Planning Commission recommend a denial of the conditional rezoning request.

Sincerely,

RHOADES McKEE PC

Patrick R. Druke

cc: Morton Township Residents for Responsible Development  
Mark R. Klumpp, Supervisor Morton Township ([supervisor@mortontownship.org](mailto:supervisor@mortontownship.org))  
Morton Township Planning Commission ([planningcommission@mortontownship.org](mailto:planningcommission@mortontownship.org))