



Troposphere Legal

To: Leland Township Planning Commission

From: Chris Bzdok and Sean Clark, for Fishtown Preservation Society

Date: Monday, February 9, 2026

Re: Apollos and Youth for Christ (YFC) Special Use Permit Application

Introduction

Please accept this memo about the Special Land Use Permit Application submitted by Apollos Properties for its tenant Youth for Christ (YFC).¹ YFC plans to use one of the two buildings at 101 N. Lake Street for unspecified programs and activities related to the organization's mission. On behalf of Fishtown Preservation Society (FPS), we appreciate the Planning Commission's thorough review of the application and your thoughtful consideration of all the comments you have received about it.

FPS expresses no opinion regarding YFC's mission. FPS' concerns are focused on the effect that the proposed use would have on the integrity of the downtown Leland commercial district and, consequently, on the operation of Fishtown.

In light of those concerns, this memo outlines two ways in which YFC's application does not comply with the Leland Township Zoning Ordinance. First, YFC's proposed use is *not* allowed in the Village Commercial District. Second, even if it was allowed, YFC's proposal does not meet several of the ordinance's discretionary special use standards.

YFC's proposed use is not allowed in the C-1 District for the following reasons:

1. *The type of club allowed in the C-1 Village Commercial District is not the type of club YFC proposes.* The C-1 District allows "clubs and other establishments which provide food or drink," and possibly entertainment. The 2009 amendment that authorized this use in C-1 makes clear that the Township's focus was adding restaurants and other food-serving commercial establishments to the C-1 Village Commercial and C-2 General Commercial Districts. What YFC claims it is proposing – a private club that is a non-profit organization for members with a shared interest – is allowed by right in C-2 but is not allowed in C-1. YFC relies on the general definition of clubs in Article 2 of the ordinance, but the 2009 amendment says if there is any conflict between the general provisions of the

¹ For brevity, we will refer to the applicant as YFC since YFC will be operating in the building and Apollos is the building owner.

ordinance and the specific terms of the 2009 amendment, the amendment controls.

2. *Even if private, non-profit clubs defined by Article 2 were allowed in the C-1 District, YFC does not meet that definition of a club.* The ordinance definition of a club requires that it be open only to “members.” YFC’s application provides no information about what a member of YFC is, how people become members, etc.
3. *YFC’s proposed use is not a club with members but it does meet the definition of “churches and religious institutions.”* These uses are allowed in many other districts but not in C-1.

To the extent the Planning Commission finds that the ordinance is unclear about what type of clubs are allowed as special uses in C-1, the ordinance is impermissibly vague and does not meet the legal requirement that special uses be defined with specificity.

Even if YFC’s proposed use was allowed in the Village Commercial District, YFC’s application does not meet several of the standards for approving special land uses. Contrary to statements in YFC’s legal memo, compliance with these standards is required for approval. Furthermore, determining whether these requirements have been met involves considerable discretion and judgment by the Planning Commission based on personal experience and knowledge of local conditions:

1. *The application does not demonstrate that YFC’s use meets several of the special use standards in Article 12.* Where information is requested regarding several of these standards, YFC’s application simply says “yes.”
2. *YFC’s use is not consistent with or in accordance with the intent of the C-1 Village Commercial District.*
3. *YFC’s use is not consistent with the character of the area in which it is proposed and conflicts with uses permitted by right in the Village Commercial District.*
4. *The proposed special approval will be detrimental to the economic well-being of the community.*

This memo discusses each of these reasons in detail below. At the end of this memo, we have included a set of suggested findings for your consideration as you work through these issues.

1. The type of club allowed in the Village Commercial District is one that provides food and drink and possibly entertainment – not a non-profit organization for members with a shared interest.

The C-1 Village Commercial District allows, as a special use, clubs and other establishments which provide food or drink, and may also provide dancing and entertainment. That is *not* the type of club that YFC proposes. YFC says it plans to have a private non-profit club, but the operation it describes, which is allowed in the C-2 District, is not permitted in C-1. Both the language of the ordinance and the amendment that authorized clubs and other food and drink establishments in the C-1 District demonstrate that the Township intended to allow something different in C-1 than what YFC proposes.

Section 12.01(C)(3), “Special Land Uses in the C-1 Village Commercial District,” allows:

Clubs and other establishments which provide food or drink for consumption by persons seated within a building that is not part of a drive-in, and may also provide dancing and entertainment.
(Emphasis added).

The phrase that begins “which provide food or drink . . .” is a dependent clause that modifies both subjects: “clubs” and “other establishments.” Therefore, section 12.01(C)(3) allows two similar uses:

- (1) Clubs which provide food or drink for consumption within a building and possibly dancing and entertainment; and
- (2) Other establishments which provide food or drink for consumption within a building and possibly dancing and entertainment.

Those uses are fundamentally different than the use contemplated in the Article 2 definition of the term “club.” Article 2 defines a club as:

Club: An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit and open only to members and not the general public.²

It makes no sense to interpret section 12.01(C)(3) to allow (1) organizations of persons for special purposes that are not operated for profit and (2) *other establishments*

² Leland Township Zoning Ordinance (LTZO), Section 2.02(A).

which provide food or drink for consumption within a building and possibly dancing and entertainment. The two categories have nothing to do with each other.

The legal rules for interpreting ordinances say: “Municipal ordinances are interpreted and reviewed in the same manner as statutes.”³ As with statutes, “Words and phrases must also be considered in context, and the ordinance read as whole; an ordinance should not be construed as to render any part of the ordinance ‘surplusage or nugatory.’”⁴ According to these rules, the word “clubs” in section 12.01(C)(3) must be interpreted in conjunction with the rest of the sentence – not in isolation.

In addition to the language in section 12.01(C)(3), the history of that section demonstrates that the Township intended to allow clubs or similar establishments that offer food and drink within a building and possibly entertainment within C-1 – *not* spaces for non-profit organizations comprised of members with a shared interest.

Amendment 2009-002 allowed clubs and other dining establishments in the Village Commercial District. We attach Amendment 2009-002 to this memo as **Exhibit 1**. The amendment plainly focuses on dining establishments – not non-profit organizations for members with a shared interest:

- The description at the top of the amendment says its purpose is to amend the ordinance to allow “standard restaurants” in both the C-1 and C-2 districts.
- The amendment added standard restaurants as a use by right in the C-1 and C-2 districts. It also added clubs and other establishments which offer food and drink within a building and possibly entertainment to the village and general commercial districts as a special use within the C-1 and C-2 districts. This history shows that the Township was addressing various types of dining establishments with the amendment.
- There is no definition of clubs in the amendment.

Thus, there is a conflict between the general definition of “club” in section 2.02(A) and the meaning of “clubs and other establishments” in section 12.01(C)(3). Amendment 2009-002 addresses potential conflicts and states:

³ *Grand Rapids v Brookstone Capital, LLC*, 334 Mich App 452, 457; 965 NW2d 232 (2020).

⁴ *Mich Props, LLC v Meridian Twp*, 491 Mich 518, 528; 817 NW2d 548 (2012).

If any provision of the Leland Township Zoning Ordinance conflicts with this Zoning Ordinance Amendment, then the provisions of this Zoning Ordinance Amendment shall control.

In other words, the amendment specifically states that where the two meanings are inconsistent, the meaning of “clubs and other establishments” in section 12.01(C)(3) supersedes the general definition of clubs in section 2.02(A) when determining which type of clubs are allowed in C-1. YFC’s use is not the type of club or other establishment which offers food and drink within a building and possibly entertainment – and is therefore not the type of club allowed by special use in the Village Commercial District.

The type of club YFC proposes *is* allowed as a use by right in the C-2 General Commercial District. Section 12.02(B)(7) allows “private clubs and meeting halls.” That is *exactly* what YFC’s legal memo calls its proposed use: “a private, non-profit club.”⁵

The general definition of club in section 2.02(A) applies to the clubs allowed in the C-2 District. Allowing non-profit associations for members with shared interests in C-2 but not in C-1 is consistent with the C-2 District’s stated intent to “accommodate commercial land uses which address retail and service needs of local, regional, and tourist populations and . . . do not significantly benefit from being located within a comparatively high level [of] pedestrian traffic area.”⁶

In summary, even if it meets the definition of a club in section 2.02(A), YFC’s proposed private club is not allowed as a special use in the C-1 district. Clubs and other food and drink establishments are allowed as a special use in C-1, while private clubs, like the one YFC proposes, are allowed as a use by right in C-2. Because YFC’s proposed use is not allowed in C-1, the Planning Commission should not approve it.

2. Even if private, non-profit clubs were allowed in the C-1 District, the application does not demonstrate that YFC’s use meets the definition of a club in Article 2 because it does not provide any information showing that the building will be open only to members.

While the applicant labels its use a “club,” the application does not provide any evidence of how and why it meets the definition in section 2.02(A). Clubs have specific characteristics, like charters or bylaws, elected officers, regular meetings, and

⁵ Memorandum in Support of Special Land Use Permit by Robert Parker (November 25, 2025) (“YFC legal memo”), p 5 (emphasis added).

⁶ LTZO, Section 12.02(A) (emphasis added).

membership dues.⁷ And under section 2.02(A), a club must be “open only to members and not the general public.”

According to the Britannica Dictionary, a “member” is “someone or something that belongs to or is a part of a group or an organization.”⁸ Notably, however, the application materials do not describe parameters for belonging to or becoming a part of the YFC organization. YFC’s legal memo attaches an Exhibit D and claims it is a “Club Membership Policy,” but a review of that document shows that it contains no information about how to become a member of YFC or what if anything is required of members. All it says is that *the facility* is open to high-school-age students from Leelanau County and surrounding areas. That statement does not establish that YFC will be open only to members.

YFC’s application likewise fails to establish that the proposed use would have the other key characteristics of a “club,” as that term is commonly understood. It does not describe a charter, bylaws, or other governing instrument; election of officers; collection of dues; regular meetings; membership; or a budget. From the application, it has no internal structure at all.

3. Alternatively, YFC’s proposed use is not a club of any kind but rather a place for religious assembly, which is not a use permitted within the C-1 zoning district.

As noted above, YFC’s proposed use is not the type of club or other establishment serving food and drink that is allowed in C-1, and YFC has not provided any information about membership that would allow it to meet the definition of a club under Article 2. By contrast, YFC’s proposal meets the definition of “churches and religious institutions” – which are allowed in several other districts – but not in C-1.⁹

The ordinance defines a “church” as:

A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.¹⁰

⁷ *Social clubs*, IRS, <https://www.irs.gov/charities-non-profits/other-non-profits/social-clubs> (last visited Feb. 8, 2026).

⁸ *Member*, The Britannica Dictionary, <https://www.britannica.com/dictionary/member> (last visited Jan. 29, 2026).

⁹ See LTZO, Section 12.01(B), (C); 11.01(C); 11.02(C); 11.03(C); 11.04(C); 11.05(C).

¹⁰ LTZO, Section 2.02(A).

The term “religious institution” is not separately defined, though its dictionary definition is informative.¹¹ According to the Oxford Reference, a religious institution is an organization “established for religious purposes or to promote religious beliefs, usually a not-for-profit” organization with “status as a charity.”¹² The Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA)¹³ – which applies to local land use regulations – provides additional guidance. Under RLUIPA, religious institutions include houses of worship, religious schools, religious retreat centers, cemeteries, and faith-based social services provided by religious entities.¹⁴

For purposes of zoning, it is the substance of the use, not the label, that controls and must be analyzed.¹⁵ While YFC labels its use “a club,” it is not – and to the extent the applicant’s proposed use has vestiges of a club, that is not the *principal* use.¹⁶ Based on YFC’s legal memo, the intended use is “to engage students as followers of Jesus Christ” – i.e., to promote religious beliefs. The activities described in YFC’s legal memo include “teaching, prayer, [and] worship” – activities that are characteristic of houses of worship, religious schools, and religious retreat centers – i.e., of churches and *religious institutions*. While such institutions are permitted throughout much of the Township,¹⁷ they are not permitted in the Village Commercial District – one of the Township’s *smallest* districts.¹⁸

¹¹ See LTZO, Section 2.01(J) (“[A]ny word or term not interpreted or defined by this Ordinance shall be used with a meaning of common or standard utilization. A dictionary may be consulted.”).

¹² *Religious Institution*, Oxford Reference, <https://www.oxfordreference.com> (last visited Jan. 29, 2026).

¹³ 42 USC § 2000cc *et seq.* The RLUIPA is a civil rights law that protects individuals and religious institutions from discriminatory and unduly burdensome land use regulations. Statement of the Department of Justice on the Land Use Provisions of the Religious Land Use and Institutionalized Persons Act (RLUIPA) available at: <https://www.justice.gov/crt/page/file/1071251/dl?inline>, p 1.

¹⁴ *Id.*

¹⁵ *Common v City of Pontiac*, 2009 Mich Cir LEXIS 304, at *29 (finding “the competent, material and substantial evidence on the record establishes that, regardless of the label attributed to the proposed use(s), its substance clearly and unambiguously falls within ‘permitted principal uses’ of the Ordinance”); see also *Common v City of Pontiac*, 2012 Mich App LEXIS 850, at *26 (2012) (affirming the circuit court’s decision and holding that it did not “misapply the substantial evidence standard of review when it determined that plaintiff’s proposed use of the property was a permitted principal use of the land”).

¹⁶ See LTZO, Section 2.02(D) (defining “principal use” as “[t]he main use to which the premises are devoted and the main purpose for which the premises exist”).

¹⁷ Churches and religious institutions are permitted in the following zoning districts: AR (Low Density Agricultural – Residential), R-1 (Medium Density Lakeshore and Inland Residential), R-2 (Medium Density Village Residential), and R-3 (High Density Residential). See LTZO, Sections 11.01-.05.

¹⁸ See Leland Township Master Plan (LTMP), p 41 (“Industrial and commercial uses take up little land in Leland Township – approximately 0.008% as of 2024.”).

According to the applicant, there are RLUIPA issues with denying a special use permit for the proposed “club” or “religious institution.”¹⁹ That is not correct. A person asserting a RLUIPA violation has the burden to prove that the RLUIPA is applicable and that the government has implemented a land use regulation that imposes a substantial burden on the exercise of religion.²⁰ According to the Michigan Supreme Court in *Greater Bible Way Temple v City of Jackson*, RLUIPA only applies in limited circumstances,²¹ including when: “the substantial burden is imposed in the implementation of a land use regulation...under which a government makes...individual assessments of the proposed uses for the property involved.”²² An individualized assessment, according to *Greater Bible*, is “an assessment based on one’s particular circumstances.”²³ In other words, individualized assessment involves “ad hoc” and “discretionary” – or subjective – decision-making.²⁴

In the C-1 district, there is no individualized assessment for religious institutions, just as there is no individualized assessment for day care facilities or any number of other uses.²⁵ While the zoning ordinance provides objective exceptions – i.e., a clearcut list of permitted special uses – many uses fall outside the exceptions, meaning the Township has no discretion to approve them.²⁶ Churches and religious institutions are among those uses that are not permitted within the C-1 district, and the Township lacks discretion to decide otherwise based on its individualized assessment. Therefore, RLUIPA does not apply to YFC’s application.

¹⁹ See YFC legal memo, p 4.

²⁰ 478 Mich 373, 384, 733 NW2d 734, 741 (2007) (citing 42 USC 2000cc-2(b)).

²¹ The RLUIPA also applies in any case in which (A) “the substantial burden is imposed in a program or activity that receives Federal financial assistance, even if the burden results from a rule of general applicability” and (B) “the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, even if the burden results from a rule of general applicability.” 42 USC 2000cc(a)(2). Neither clause is applicable in this case.

²² *Greater Bible Way Temple*, 478 Mich at 386 (citing 42 USC 2000cc(a)(2)).

²³ *Id.* at 388.

²⁴ See *Grace United Methodist Church v City of Cheyenne*, 451 F3d 643, 654 (10th Cir 2006).

²⁵ See LTZO, Section 12.01(A), (B).

²⁶ See *Grace United Methodist Church*, 451 F3d at 654 (“A regulation containing broad, objective exceptions does not establish a subjective system of individualized considerations.”).

4. Alternatively, if the ordinance is unclear about what type of clubs are allowed as special uses in C-1, then the ordinance does not meet the legal requirement to define special uses with specificity.

Under Michigan law, municipalities have no inherent power to regulate land use through the enactment of zoning legislation; instead, a local unit of government must be specifically authorized by the Legislature to exercise any zoning authority.²⁷ The Michigan Zoning Enabling Act (MZEA), MCL 125.3101 et seq., grants townships that authority – but “only to the limited extent authorized by that legislation.”²⁸ While the MZEA provides that “a local zoning ordinance may include provisions for special-use permits within a zoning district,” the statute imposes limits.²⁹

According to the Michigan Court of Appeals in *Whitman v Galien Twp*, the MZEA “mandate[s] that a zoning ordinance must set forth in explicit, precise, definite, and detailed language both the customary uses and the specific actions and functions that are eligible for special-use permits.”³⁰ By requiring that zoning ordinances “specifically identify the land uses and activities that are eligible for special-use status,” the MZEA encourages consistency within zoning districts and guards against undesirable spot zoning.³¹ Under *Whitman*, a zoning ordinance violates the MZEA if it does not adequately specify the special land uses eligible for approval – even if the ordinance contains “requirements and standards for approving a request for a special land use.”³²

If the Planning Commission decides it is unclear what kind of club is permitted in the C-1 District, then section 12.01(C)(3) lacks precision and definiteness. The ordinance cannot leave open the possibility that the Planning Commission could approve drastically different – and inconsistent – uses under the “clubs and other establishments” language in section 12.01(C)(3). That is precisely the kind of ad hoc, discretionary decision-making that the MZEA proscribes. A decision to approve this application as a special use under section 12.01(C)(3) would therefore violate the MZEA and exceed the Township’s authority under Michigan law.

²⁷ *Krajenke Buick Sales v Hamtramck City Engineer*, 322 Mich 250, 254; 33 NW2d 781 (1948).

²⁸ *Id.* at 254-255.

²⁹ See *Whitman v Galien Twp*, 288 Mich App 672, 680, 808 NW2d 9, 11-12 (2010) (citing MCL 125.3502(1)).

³⁰ 288 Mich App at 682 (emphasis added).

³¹ *Id.* at 683.

³² See *Id.* at 686 (“The fact that § 3.13 is specific and detailed regarding the ‘requirements and standards for approving a request for a special land use’ does not save § 2.4B(2) from noncompliance with the statute for failure to specify the special land uses and activities eligible for approval.”).

5. The application does not demonstrate that YFC's use meets several of the special use standards in Article 16.

Under the Township Zoning Ordinance, an applicant for a special use permit must complete the special application form provided by the Zoning Administrator.³³ Among other things, the application form requires applicants to establish that their special use is specifically permitted by the Zoning Ordinance and that it complies with the “general standards applicable to all special land uses.”³⁴ For the Township to approve the application and issue a special use permit, it must have “competent, material, and substantial evidence” that the applicant meets all eligibility requirements.³⁵

Section 16.01(A) provides the general requirements for a special use permit, including that the use be harmonious with the objectives of the Comprehensive Development Plan and the intent of the Leland Township Ordinance and that the use be compatible with adjacent land uses. The application form requires the applicant to outline how its use meets each of the requirements under section 16.01, yet YFC's application failed to provide any such detail. Application Exhibit C, which supposedly answers questions about YFC's compliance with section 16.01, only provides simple, conclusory responses:

Q. Will the use be harmonious with and in accordance with the general principles and objectives of the Comprehensive Development Plan of the Township?

A. Yes.

Q. Will the use be harmonious with and in accordance with the general objectives, intent, and purposes of the Leland Township Ordinance?

A. Yes.

That is not “competent” or “substantial” evidence, and without substantial evidence in the record detailing the applicant's proposal and establishing its eligibility for a special use permit, the Township cannot approve the application. Further, as described below, there are specific reasons why the YFC proposal does *not* meet several of these standards.

³³ LTZO, Section 7.02(A)(2).

³⁴ Section 16.01(A); Land Use Permit Application For A Special Land Use.

³⁵ See e.g., *Whitman v Galien Twp*, 288 Mich App 672, 678-79, 808 NW2d 9, 14 (2010).

6. YFC's use is not consistent with or in accordance with the intent of the C-1 Village Commercial District.

The second general standard applicable to all special uses is:

The proposal is consistent with and in accordance with the general objectives, intent and purposes of this Ordinance.³⁶

The ordinance plainly spells out the intent of the C-1 District, which focuses on contiguous pedestrian-oriented retail stores and prohibiting other uses:

Intent: The Village Commercial District is intended to provide for central business areas where the presence of retail stores and service establishments address the day-to-day retail and service needs of tourists and local residents. This District is intended to provide for a more pedestrian-oriented commercial area than provided for in other commercial districts and promote convenient pedestrian shopping and stability of retail development by encouraging a contiguous retail frontage and by prohibiting automotive related, highway service, and non-retail uses which tend to break up such continuity and the character intended for this District. The Village Commercial District is intended to implement, in part, the Mixed Use Area(s) component of the Leland Township Comprehensive Development Plan.³⁷

The YFC legal memo concedes that the intent of the Village Commercial District is to promote pedestrian-oriented retail stores and that “it would not be a strained reading of this language to conclude that only retail stores are permitted within the C-1 district.”³⁸ However, the memo argues that the intent section is “non-substantive and non-binding” and “the uses identified in paragraphs B and C supersede the language contained in paragraph A.”³⁹ There are four problems with that argument.

³⁶ LTZO, Section 16.01(A)(2) (emphasis added).

³⁷ LTZO, Section 12.01(A) (bold in original, other emphasis added).

³⁸ YFC legal memo, p 4.

³⁹ YFC legal memo, pp 4-5.

First, the statement of intent for the C-1 District *is* binding. The second special use standard requires that any special use be consistent with and in accordance with the intent of the ordinance.⁴⁰ That is a binding requirement.

Second, the fact that a given use is allowed in a district as a special use does not require that the Planning Commission approve it. Special use permit applications require “discretionary decision making – involving subjective, individualized assessments,” that the local government “is entrusted to exercise.”⁴¹ These kinds of discretionary standards “must necessarily mean more than technical compliance.”⁴²

Third, the memo discusses single-family dwellings in the C-1 District, but single-family dwellings are irrelevant to the issue in dispute. Single-family dwellings are permitted as a use by right in C-1. As a use by right, single-family dwellings do not have to meet the special use standards – including the standard that requires special uses to be consistent with and in accordance with the intent of the ordinance.⁴³

Fourth, as explained earlier, the kind of club YFC proposes is *not* allowed as a special use in the C-1 district. Clubs and other food and drink establishments are allowed as a special use in C-1, while private clubs like YFC proposes are allowed as a use by right in C-2. Therefore, even if it was true that listing a use as an allowed type of special use superseded the requirement that the special use be consistent with the intent of the ordinance, the use proposed by YFC is not the type of use that is listed in C-1. And even if the kind of club YFC proposes is allowed as a special use in C-1, as discussed above Amendment 2009-002 shows that was not the Township’s intent – the Township was focused on restaurants and other food and drink establishments. See **Exhibit 1**.

In summary, YFC’s legal memo concedes that its proposed use is not consistent with the intent of the Village Commercial District. Therefore, YFC’s use does not meet the

⁴⁰ LTZO, Section 16.01(A)(2).

⁴¹ *Augusta Charter Twp v Kasham*, unpublished per curiam opinion of the Court of Appeals, issued June 27, 2024, Docket No. 366699, 2024 Mich App LEXIS 4999; 2024 WL 3219150, p 23.

⁴² *Gordon v City of Bloomfield Hills*, 207 Mich App 231, 233; 523 NW2d 806 (1994).

⁴³ The YFC legal memo also discusses automobile and service repair stations, which are permitted as a special use in C-1, and argues that the inclusion of this use shows that the intent section of the ordinance should not be given any weight. YFC legal memo, p 4. To the contrary, automobile and service repair stations are the exception that proves the rule. It is obvious why this use is allowed in the C-1 District: because Van’s Garage is in that district. Van’s has been there for a century and is obviously grandfathered. Zoning law places strict restrictions on changes in buildings and uses that are grandfathered if they are non-conforming. It is likely that the ordinance allows automobile and service repair stations in the Village Commercial District to avoid placing undue restrictions on Van’s ability to make changes to its buildings and operations as needed.

second special use standard that requires special uses to be consistent with and in accordance with the intent of the ordinance. The fact that YFC's use does not meet the second special use standard is another reason why the Planning Commission should not approve it.

7. YFC's use is not consistent with the character of the area in which it is proposed and conflicts with uses permitted by right in the Village Commercial District.

The ordinance's third special use standard requires that "the proposal is designed, constructed, operated and maintained so as to be consistent, compatible and appropriate in appearance with the existing adjacent land uses, existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed."⁴⁴ The ordinance instructs the Planning Commission to consider several factors in making this determination, including that the "nature of the use will not be in conflict with any Use Permitted by Right of the district."⁴⁵

For reasons similar to those discussed in section 6, above, YFC's proposed use does not meet these standards. The foremost use permitted by right in the Village Commercial District is "any generally recognized retail business" that is not a drive-in.⁴⁶ As the intent section of the Village Commercial District recognizes, and as FPS' December 2, 2025 letter explains, small retail outlets depend on "a strong flow of pedestrian traffic," and "any erosion of the retail commercial operations" in Fishtown or on Main Street will be likely to adversely affect the other merchants, with the "tipping point" for such an outcome unknown."⁴⁷

YFC's legal memo argues that the MZEA only requires that special uses be compatible with adjacent uses – not with other uses in the same zoning district.⁴⁸ The MZEA's full direction on special use standards states:

The standards shall be consistent with and promote the intent and purpose of the zoning ordinance and shall insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The standards shall also insure

⁴⁴ LTZO, Section 16.01(A)(3) (emphasis added).

⁴⁵ Section 16.01(A)(3)(a)(1).

⁴⁶ Section 12.01(B)(1).

⁴⁷ Letter from David Burkhardt, Chair, FPS Board of Directors, to Leland Township Planning Commission, December 2, 2025.

⁴⁸ YFC legal memo, pp 5-6.

that the land use or activity is consistent with the public health, safety, and welfare of the local unit of government.⁴⁹

This is a very broad grant of authority and discretion, not a narrow one limited to adjacent land uses. The Michigan Court of Appeals, describing townships' authority over special permits, noted: "Part of that authority requires making discretionary decisions in an effort to promote the wellbeing of the locality as a whole."⁵⁰

8. The proposed special use would be detrimental to the economic well-being of the community.

Finally, the Zoning Ordinance requires all special uses to comply with the requirement that: "The proposed special approval shall not be detrimental to the economic well-being of those who will use the land or residents, businesses, landowners, and the community as a whole."⁵¹ Contrary to the applicant's claims, approving non-commercial use in the Village Commercial District would be detrimental to the economic well-being of the Village and the Township communities.

According to the Leland Township Master Plan, only a combined 0.008% of land was devoted to commercial and industrial uses in 2024, and much of the commercial use is confined to a small Village Commercial District.⁵² While acknowledging the importance of the limited commercial space within the Village, the Master Plan states that "[l]and devoted to commercial use should generally not be expanded within the Village beyond its current limits."⁵³ Any conversion of commercial space to non-commercial use within the C-1 district only erodes Leland's already-limited economic and commercial base. In the Village and in the Township, "tourism is the...primary economic anchor," and the continued vitality of that tourism depends on the continued existence of the amenities that tourists (and *residents*) enjoy – like tourist shops, restaurants, tasting rooms, and more. As discussed in FPS' December 2, 2025 letter, those businesses depend on a "strong flow of pedestrian traffic," which benefits from a contiguous commercial district, not one fragmented by non-commercial use. To "preserve Leland Township as a tourist-friendly

⁴⁹ MCL 125.3504(2).

⁵⁰ *Ida Twp v Southeast Mich Motorsports, LLC*, unpublished per curiam opinion of the Court of Appeals, issued October 3, 2013, Docket No. 303595, 2013 Mich App LEXIS 1561; 2013 WL 5495553, pp 43-44 (emphasis added).

⁵¹ LTZO, Section 16.01(A)(3)(e).

⁵² LTMP, p 41.

⁵³ LTMP, p 75.

community”⁵⁴ and protect its “primary economic anchor,” the Township should not approve YFC’s non-commercial use within one of its important, and scarce, commercial districts.

Conclusion

For the reasons discussed above, YFC’s proposed use does not meet the requirements of the ordinance, and therefore, its application should be denied. On behalf of FPS, we reiterate our appreciation for your careful review of the application and for taking the time to review this memo.

Suggested Findings

1. *The proposed use is not allowed in the C-1 Village Commercial District.*
 - a. YFC’s application states that its proposed use is a private, non-profit club for special purposes related to YFC’s mission.
 - b. The C-1 Village Commercial District allows, as a special use, clubs and other establishments which provide food or drink, and which may also provide dancing and entertainment.
 - c. Both the language of the ordinance and Amendment 2009-002 demonstrate that the type of club allowed in the C-1 district is a food and drink establishment.
 - d. While Article 2 of the ordinance defines a club in different manner (discussed in finding #2), Amendment 2009-002 states that with respect to its subject matter it controls over other terms in the zoning ordinance.
 - e. While YFC’s proposed use is not the type of club allowed in the C-1 District, reserving the issue of membership, addressed in finding #2, YFC’s proposed private, non-profit club use would be specifically allowed as a use by right in the C-2 District.

⁵⁴ The Master Plan lists “Preserve Leland Township as a tourist-friendly community” as one of the top economic goals. See LTMP, p 68.

2. *Even if private, non-profit clubs were allowed in the C-1 District, YFC's application does not demonstrate that the proposed use meets the definition of a club in Article 2 because it does not provide any information showing that the building will be open only to members.*
 - a. Under section 2.02(A), a club must be "open only to members and not the general public," among other requirements.
 - b. The application does not establish that YFC is open only to members.
 - c. The Planning Commission finds based on common and ordinary usage that a member is someone or something that belongs to or is a part of a group or an organization.
 - d. YFC's application does not describe parameters for belonging to or becoming a part of the YFC organization.
 - e. YFC's Club Membership Policy, submitted as Exhibit D to its legal memo, contains no information about how to become a member of YFC or what if anything is required of members.
 - f. Instead, the policy says that the facility is open to high-school-age students from Leelanau County and surrounding areas. That statement does not establish that YFC will be open only to members.
3. *Alternatively, the proposed use is not a club of any kind but rather a place for religious assembly, which is not a use allowed by right or special use in the C-1 District.*
 - a. The ordinance allows churches and religious institutions in the following zoning districts: AR (Low Density Agricultural – Residential), R-1 (Medium Density Lakeshore and Inland Residential), R-2 (Medium Density Village Residential), and R-3 (High Density Residential).
 - b. The ordinance defines a "church" as a building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

- c. The ordinance does not separately define religious institutions, but the Planning Commission finds based on common and ordinary usage that a religious institution is an organization established for religious purposes or to promote religious beliefs, usually a not-for-profit organization with status as a charity.
 - d. Based on this common and ordinary usage, YFC's proposed use is a religious institution, which is permitted in several districts listed above but not in C-1.
 - e. The Planning Commission also finds that the definition of religious institutions, and the permitting of religious institutions in the various districts listed above but not in C-1, are regulations of broad and general applicability and not individual assessments of a proposed use for the subject property.
4. *The proposed use is not consistent with or in accordance with the intent of the C-1 Village Commercial District under section 16.01(A)(2).*
- a. According to section 12.01(A), the intent of the C-1 District is to provide for contiguous pedestrian-oriented retail stores and, to the extent reasonable and practical, prohibiting other uses.
 - b. YFC's proposed use is not consistent with the intent of the C-1 District as described in section 12.01(A).
 - c. YFC's application provides no material information regarding the proposed use's compliance with section 16.01(A)(2). In answer to the question of whether the use will be harmonious with and in accordance with the general objectives, intent, and purposes of the Leland Township Ordinance, YFC's application responds "yes" but provides no supporting information or reasons.
 - d. YFC's legal memo states at page 4: "it would not be a strained reading of this language to conclude that only retail stores are permitted within the C-1 district."

5. *The proposed use is not consistent with the character of the area in which it is proposed and conflicts with uses permitted by right in the Village Commercial District.*
 - a. Section 16.01(A)(3) requires that “the proposal is designed, constructed, operated and maintained so as to be consistent, compatible and appropriate in appearance with the existing adjacent land uses, existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.”
 - b. Section 16.01(A)(3)(a)(1) instructs the Planning Commission to consider several factors in making this determination, including that the “nature of the use will not be in conflict with any Use Permitted by Right of the district.”
 - c. The foremost use permitted by right in the Village Commercial District is “any generally recognized retail business” that is not a drive-in.
 - d. As the intent section of the Village Commercial District recognizes, and as demonstrated by input from the public including but not limited to Fishtown Preservation Society’s (FPS’) December 2, 2025 letter, small retail outlets depend on a strong flow of pedestrian traffic and any erosion of the retail commercial operations in Fishtown or on Main Street will be likely to adversely affect the other merchants.
6. *The proposed special use would be detrimental to the economic well-being of residents, businesses, landowners, and the community as a whole under section 16.01(A)(3)(e).*
 - a. According to the Leland Township Master Plan, only a combined 0.008% of land was devoted to commercial and industrial uses in 2024, and much of the commercial use is confined to a small Village Commercial District.
 - b. The Master Plan states that “[l]and devoted to commercial use should generally not be expanded within the Village beyond its current limits.”
 - c. Any conversion of commercial space to non-commercial use within the C-1 district only erodes Leland’s already-limited economic and commercial base.
 - d. In the Village and in the Township, “tourism is the...primary economic anchor,” and the continued vitality of that tourism depends on the continued existence of the amenities that tourists (and residents) enjoy – like tourist shops, restaurants, tasting rooms, and more.

- e. As demonstrated by input from the public, including but not limited to FPS' December 2, 2025 letter, downtown businesses depend on a "strong flow of pedestrian traffic," which benefits from a contiguous commercial district, not one fragmented by non-commercial use.
- f. Approving a non-retail and non-pedestrian-oriented use in the Village Commercial District would be detrimental to the economic well-being of the Village area and the Township as a whole.

Exhibit 1

**Leland Township
Ordinance Number 2009-02**

An Ordinance to amend Article 12: Commercial Districts, Section 12.01, C-1: Village Commercial District and Section 12.02, C-2: General Commercial District pertaining to allowing Standard Restaurants as Use Permitted by Right in both the C-1, and C-2 Districts.

The Township of Leland Ordains:

Section 1. Amendment of Article 12, Section 12.01 (C-1: Village Commercial District), subsection B, Uses Permitted by Right.

Section 12.01.B of the Leland Township Zoning Ordinance is hereby amended to add item 7, read in its entirety as follows:

7. Standard Restaurants

Section 2. Amendment of Article 12, Section 12.01 (C-1: Village Commercial District), subsection C, Special Land Uses Permitted by Special Use Approval.

Section 12.01.C.3 of the Leland Township Zoning Ordinance is hereby amended to read in its entirety as follows:

3. Clubs and other establishments which provide food or drink for consumption by persons seated within a building that is not part of a drive-in, and may also provide dancing and entertainment.

Section 3. Amendment of Article 12, Section 12.02 (C-2: General Commercial District), subsection B, Uses Permitted by Right.

Section 12.02.B of the Leland Township Zoning Ordinance is hereby amended to add item 11 read in its entirety as follows:

11. Standard Restaurants

Section 4. Amendment of Article 12, Section 12.02 (C-2: General Commercial District), subsection C, Special Land Uses Permitted by Special Use Approval.

Section 12.02.C.4 of the Leland Township Zoning Ordinance is hereby amended to read in its entirety as follows:

4. Clubs and other establishments which provide food or drink for consumption by persons seated within a building that is not part of a drive-in, and may also provide dancing and entertainment.

Section 5. Severability.

If any section, clause, or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed each part, section, subsection, phrase, sentence, and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences, or clauses be declared invalid.

Section 6. Conflicts.

If any provision of the Leland Township Zoning Ordinance conflicts with this Zoning Ordinance Amendment, then the provisions of this Zoning Ordinance Amendment shall control.

Section 7. Effective Date.

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Township, unless later date is specified.

Township of Leland

By: _____

Harry R. Larkin, Supervisor

Adoption date: _____

1/12/09

By: _____

Jane M. Keen, Clerk

Effective date: _____

1/30/09