



# Jackson County Planning Commission

Staffed by the Region 2 Planning Commission (R2PC)  
120 W. Michigan Avenue • Jackson, MI 49201  
Phone (517) 788-4426 • Fax (517) 788-4635

## MEETING NOTICE

FOR FURTHER INFORMATION CONTACT:

Grant E. Bauman  
R2PC Principal Planner  
(517) 768-6711  
[gbauman@co.jackson.mi.us](mailto:gbauman@co.jackson.mi.us)

DATE: September 10, 2020

TIME: 6:00 p.m.

PLACE: **zoom**  
(see the back for login information)

## MEETING AGENDA

1. Call to order and pledge of allegiance
2. Public comment [**3 MINUTE LIMIT**]
3. Approval of minutes  
Approval of the July 9, 2020, meeting minutes [**ACTION**] ..... 3
4. Approval of agenda  
Approval of the September 10, 2020, meeting agenda [**ACTION**]
5. Request(s) for review, comment, and recommendation
  - a. Consideration of township zoning amendment(s)
    - (1) CZ | #20-09 | Grass Lake Charter Township Amendment [**ACTION**] ..... 7
    - (2) CZ | #20-11 | Summit Township Rezoning [**ACTION**] ..... 59
    - (3) CZ | #20-12 | Leoni Township Rezoning [**ACTION**] ..... 75
  - b. Consideration of master plan(s) – *None*
  - c. Farmland and Open Space Preservation Program (PA 116) application(s) – *None*
    - (1) FA | #20-02 | Pulaski Township [**ACTION**] ..... 95
6. Other business
  - a. Unfinished business  
*Jackson County Master Plan [discussion]* ..... 107
  - b. New business – *None*
7. Public comment [**2 MINUTE LIMIT**]
8. Commissioner comment
9. Adjournment

*The next scheduled meeting of the Jackson County Planning Commission is October 8, 2020*

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Grant Bauman is inviting you to a scheduled JCPC Zoom meeting.

Join Zoom Meeting

<https://zoom.us/j/92836021594?pwd=NXFobXFRUHQRszJ5QU16SERTemVmUT09>

Meeting ID: 928 3602 1594

Passcode: 409396

One tap mobile

+16468769923,,92836021594#,,,,,0#,,409396# US (New York)

+13017158592,,92836021594#,,,,,0#,,409396# US (Germantown)

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Meeting ID: 928 3602 1594

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Find your local number: <https://zoom.us/j/92836021594?pwd=NXFobXFRUHQRszJ5QU16SERTemVmUT09>



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## MEETING MINUTES

July 9, 2020

5<sup>th</sup> Floor Commission Chambers • Jackson County Tower Building • Jackson, Michigan

**Members Present:** Mr. Eric Beda, Industry and Economics; Mr. Timothy Burns, At Large; Mr. Roger Gaede, Environment; Mr. Russ Jennings, At Large; Mr. Corey Kennedy, Jackson County Board of Commissioners; Ms. Nancy Hawley, At Large; and Ms. Jennifer Morris, At Large

**Members Absent:** Mr. Ted Hilleary, Education, and Mr. Jim Videto, Agriculture

**Liaisons Present:** Mr. Grant Bauman, Principal Planner

**Others Present:** None.

Item 1. **Call to Order and Pledge of Allegiance.** The meeting was called to order at 6:01 p.m. by Chair Morris. Those in attendance rose and joined in the Pledge of Allegiance.

Staff introduced Commissioner Beda to his fellow Commissioners who then introduced themselves to him.

Item 2. **Public Comment.** There was no public comment.

Item 3. **Approval of Minutes.** A motion was made by Comm. Kennedy, and seconded by Comm. Burns, to **approve** the March 12, 2020, meeting minutes as presented. *The motion was approved unanimously.*

Item 4. **Approval of the Agenda.** A motion was made by Comm. Hawley, and seconded by Comm. Gaede, to **approve** the July 9, 2020, meeting agenda as presented. *The motion was approved unanimously.*

Item 5. **Request(s) for Review, Comment, and Recommendation.**

a. **Consideration of Township Zoning Amendment(s).** None.

b. **Consideration of Master Plan(s).** None.

c. **Farmland & Open Space Preservation Program (PA 116) application(s).** None.

Item 6. **Other Business.**

a. **Unfinished Business.**

**Jackson County Master Plan.** Staff summarized his memos regarding urban and rural areas, farmland preservation, and social vulnerability and suggested that they be incorporated into Chapter 2 of the Master Plan. There was consensus among the Commissioners for this proposal. Staff will incorporate the information regarding urban and rural areas and social vulnerability immediately. Incorporation of the Farmland Preservation information will be delayed until staff receives the GIS data from the American Farmland Trust.

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Commissioners then discussed the proposed goals and actions, using the suggestions provided by Comm. Hawley as a starting point. Comm. Morris went through the suggestions and provided her comments. There was consensus among the Commissioners for the suggestions provided by Comm. Hawley, as modified by Comm. Morris, and staff summarized them:

- **Non-Motorized Facilities**

Action: Promotes Natural Beauty Roads.

Note: The goal of the Natural Beauty Road program is to preserve in a natural, essentially undisturbed condition, certain county local roads having outstanding or unusual natural beauty by virtue of native vegetation and/or natural features within or associated with the right of way. These roads can be shared by both non-motorized and motorized transportation modes, offer connections between trail systems, and save county road maintenance dollars.

Action: Recognize and promote the need to preserve and/or restore the Greenways system (diverse wetland areas, drainage ways, and forest lands) that helps assure high quality surface water, native species, wildlife habitat and movement along non-motorized routes.

- **Natural Resources**

Goal: Preserve the community's scenic and rural character by minimizing the impacts of development on environmental features such as wetlands, woodlands, steep slopes, habitats, wildlife corridors, night sky, ridgelines, and scenic views.

Action: Promote municipal planning commissions to protect the surface, groundwater resources and important habitat against the impacts of the adjacent land uses with natural buffer, and greenbelts along lakes and streams.

Note: Shoreline protection measures that restore natural vegetation reduce polluted runoff and overuse near shorelines can improve water quality as much as a costly municipal sewer system.

- **Form-Based Codes**

Action: Promote the use of form-based codes in developed areas to foster predictable built results and a high-quality public realm by using physical form (rather than separation of uses) as the organizing principle for the code. Form-based codes offer an alternative to conventional zoning regulation.

Example: Sutton's Bay and Traverse City use form-based codes.

- **Dark Skies**

Goal: Discourage the use of poorly designed outdoor lighting that creates glare and unnecessary up-light pollution of the night sky.

Action: Promote public facility's outdoor lighting to be changed to fully shielded LED 3,000K or less color temperature lights that meets the standards set by the International Dark-Sky Association. -Develop educational programs about the adverse effects that artificial lighting has on our environment, safety, energy consumption and our health. Example: In January 2020, Michigan's 2nd Dr. Lawless Dark Sky Park located nine miles east of Cassopolis on Monkey Run Street,



was open. Breathtaking views of the night sky are not the same today as in the past. We now strain to see a few stars visible to the naked eye. This is due to light pollution caused by poorly designed outdoor lights that not only mask the beauty of the night sky, but also cause negative effects to environmental and human health.

- **Renewable Energy**

Goal: Encourage the development of alternative or renewable energy sources such as solar, wind, and geothermal.

Actions: Promote municipal planning commissions to protect adjacent properties and natural resources from potential adverse effects of large alternative energy systems. -Support future studies that may utilize less productive agricultural lands in the development of alternative or renewable energy sources.

Comm. Kennedy suggested that a goal and actions be added concerning commercial marijuana facilities. He proposed that the JCPC should map the locations of those facilities in order to assess their impact on communities (i.e., the costs associated with roads, utilities, police protection, social services, etc.). In 5-10 years, the JCPC can then use that data when making recommendations on future rezoning requests associated with commercial marijuana facilities.

Staff will incorporate his memos and the agreed upon goals and actions into the master plan. The Commission now has the information it needs to develop a future land use map. Staff will arrange a workshop for the next time the Commission is able to meet in public.

b. **New Business.**

**Special Meetings.** Staff informed Commissioners of a request for a special meeting regarding a proposed rezoning in Leoni Township. It was discussed that although Section 106(B) of the bylaws provides a procedure for calling a special meeting, the Commission has never employed that prerogative and the Chair will not call for one. Either staff or Chair Morris will inform the applicant that a special meeting will not be held if he contacts them.

Item 7. **Public Comment.** None.

Item 8. **Commissioner Comment.** None.

Comm. Gaede voiced his initial concern regarding meeting in person, but appreciated what staff did to prepare the meeting space. Comm. Kennedy thanked Comm. Beda for joining the JCPC.

Item 9. **Adjournment.** The meeting was adjourned by Chair Morris at 7:55 p.m.

Respectfully submitted by:  
Grant Bauman, Recording Secretary

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### COORDINATED ZONING REPORT | #20-09

**To:** County Planning Commissioners  
**From:** Grant E. Bauman  
**Date:** August 13, 2020

#### **Proposal: Mining and Extraction Operations in Grass Lake Charter Township**

#### **Background Information**

Proposed amendments to the *Grass Lake Charter Township Zoning Ordinance* would regulate Mining and Extraction Operations by:

- Adding a definition regarding 'Mining and Extraction Operations' to Section 2.13 (Definitions "M") of Chapter 2 (Definitions and Illustrations of Terms) and
- Replacing the current Subsection HH (Removal and Processing of Topsoil, Stone, Rock, Water, Sand, Gravel, Lime or Other Soil or Mineral Resources) of Section 14.07 (Special Land Use Specific Requirements) of Chapter 14 (Special Land Uses) with a new Subsection HH (Mining and Extraction Operations).

#### **Staff Analysis and Advisement**

##### ***Michigan Zoning Enabling Act (MZEA)***

Currently, the *Grass Lake Charter Township Zoning Ordinance* only allows the "Removal and Processing of Topsoil, Stone, Rock, Water, Sand, Gravel, Lime or Other Soil or Mineral Resources" as a special land use in the Agricultural (AG) and Single-Family Residential (R-1) districts. The proposed amendments do not alter this limitation. However, the MZEA limits the ability of local governments to regulate the extraction of valuable natural resources (i.e., mining and extraction). Specifically, Section 205 (MCL 125.3205) states:

##### **Sec. 205.**

...

- (2) A county or township shall not regulate or control the drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes and shall not have jurisdiction with reference to the issuance of permits for the location, drilling, completion, operation, or abandonment of such wells.
- (3) An ordinance shall not prevent the extraction, by mining, of valuable natural resources from any property unless very serious consequences would result from the extraction

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of those natural resources. Natural resources shall be considered valuable for the purposes of this section if a person, by extracting the natural resources, can receive revenue and reasonably expect to operate at a profit.

- (4) A person challenging a zoning decision under subsection (3) has the initial burden of showing that there are valuable natural resources located on the relevant property, that there is a need for the natural resources by the person or in the market served by the person, and that no very serious consequences would result from the extraction, by mining, of the natural resources.
- (5) In determining under this section whether very serious consequences would result from the extraction, by mining, of natural resources, the standards set forth in *Silva v Ada Township*, 416 Mich 153 (1982), shall be applied and all of the following factors may be considered, if applicable:
  - (a) The relationship of extraction and associated activities with existing land uses.
  - (b) The impact on existing land uses in the vicinity of the property.
  - (c) The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
  - (d) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
  - (e) The impact on other identifiable health, safety, and welfare interests in the local unit of government.
  - (f) The overall public interest in the extraction of the specific natural resources on the property.
- (6) Subsections (3) to (5) do not limit a local unit of government's reasonable regulation of hours of operation, blasting hours, noise levels, dust control measures, and traffic, not preempted by part 632 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.63201 to 324.63223. However, such regulation shall be reasonable in accommodating customary mining operations.

JCPC staff interprets that those MZEA regulations do not allow local governments to prohibit mining/extraction in any zoning district but that making it a special/conditional use or requiring site plan review is still permissible.\* Consequently, staff advises that that Grass Lake Township also amend Chapters 5-12 of the *Grass Lake Charter Township Zoning Ordinance* to make 'Mining and Extraction Operations' a special land use in all zoning districts.

#### **Proposed Amendments**

This report displays the proposed amendments of Section 2.13 and Section 14.07(HH) as they will (generally) appear in the zoning ordinance (if adopted), and provides comments aimed at strengthening the regulations:

**Commented [GB21]:** Comments will be provided in this fashion.

\* See the attached MSU-E *Land Use Series* report for examples of other 'Restrictions on Zoning Authority'.

## CHAPTER 2 DEFINITIONS AND ILLUSTRATIONS OF TERMS

...

### Section 2.13      DEFINITIONS "M"

...

**Mining and Extraction Operations.** Any excavation operation for the purpose of searching for, removing, or processing peat, gravel, sand, clay, earth, or other soils, or marble, stone, slate, or other valuable natural resource in excess of five-hundred (500) cubic yards in any calendar year, including the overburdening, storage or transporting of such items on a mining and extraction site, or the reclamation of the site after removal or excavation of such items, but not including an oil or gas well. The following activities are not mining and extraction operations and are exempt from the special land use permit requirements of this Ordinance:

- A. Excavation approved by a governmental body of competent jurisdiction in conjunction with the installation or maintenance of publicly owned or operated utilities, drainage facilities, roads, or other publicly owned or operated improvements, where the excavation is limited to the site of the public utility or improvement.
- B. The ordinary and necessary grading of land for the tilling and cultivation of soils to grow crops or excavation in conjunction with a farming operation conducted following generally accepted agricultural management practices.
- C. Normal lawn and landscaping installation and maintenance provided that the existing natural grade is not raised or lowered by more than twelve (12) inches over an area encompassing twenty-five percent (25%) or more of a parcel.
- D. Any excavation of material that will not involve transporting the materials outside the property where they were extracted.
- E. Excavations for ponds constructed for private use of property owners provided the pond will not be larger than five acres and material will not be removed from the site.
- F. Excavation within a public right-of-way, within public roads or drainage easements.
- G. Excavation that by its nature is of limited scope and duration and that is undertaken primarily for the immediate use and development of the land excavated, such as for purposes of building construction, access way construction, septic tanks, swimming pools, graves, and other approved uses under this Ordinance.

...

## CHAPTER 14 SPECIAL LAND USES

...

### Section 14.07      SPECIAL LAND USE SPECIFIC REQUIREMENTS

**Commented [GB22]:** Consider citing/referring to Section 205 of the MZEA (MCL 125.3205), which pertains to mining/extraction and the concept of 'vary serious consequences.

...

**HH. MINING AND EXTRACTION OPERATIONS**

1. **Purpose:** The Township recognizes that sand, gravel, and other valuable natural resources within the Township have beneficial uses when extracted from the earth. The Township further understands that mining and extraction operations have the potential to impose very serious consequences, as the term is used in Section 205 of the Michigan Zoning Enabling Act, on township residents and visitors if not appropriately regulated. This section regulates mining and extraction operations to promote utilization of these resources in a manner that is compatible with surrounding land uses and to prevent very serious consequences related to impacts on property values, pedestrian and traffic safety, the environment, other land uses, and other identifiable health, safety, and welfare interests.

**Commented [GB23]:** Consider providing the MCL citation (MCL 125.3205)

2. **Permitting**

a. **Permit Required.** It is unlawful to conduct a mining and extraction operation without obtaining a special land use permit and meeting all requirements of the Township Zoning Ordinance.

b. **Length of Permit.** A mining and extraction operation special land use permit shall be issued for five (5) years. The Planning Commission must annually review special land use permits for mining and extraction operations according to the Annual Compliance Review described below. No renewal of any special land use permit for a mining and extraction operation shall allow such use to continue for more than five (5) years without submission of a new special land use permit application containing all information required by Township Zoning Ordinance.

c. **Annual Compliance Review.** As a condition of a special land use permit for a mining and extraction operation, the Township shall annually inspect the operation for compliance with the Township Zoning Ordinance and conditions of a special land use permit before renewing a special land use permit. This review shall consider, but is not limited to, (1) permit holder disclosure of all violations of local, state, and federal laws and regulations by a mining and extraction operation and (2) a physical inspection of a mining and extraction operation for compliance with Township Ordinances, special land use permits, site plans, zoning permits, and local, state, and federal laws and regulations by the Township Zoning Enforcement Officer or any other individual designated to inspect a site by the Township. Any existing Special Land Use permit may be invalidated, revoked or terminated early based on findings of non-compliance uncovered during the Annual Compliance Review pursuant to the Zoning Ordinance.

**Commented [GB24]:** This provision is great as long as the Township has the resources and inclination to follow through with the annual requirement. If not, consider removing the 'Annual Compliance Review' and the associated annual 'Renewal Report'.

d. **Renewal Report.** Before renewing a special land use permit for a mining and extraction operation, and 60 days prior to each annual anniversary of a special land use permit, a permit holder must submit to the Planning Commission for approval

a report of the land use's operations necessary for the Annual Compliance Review. This Renewal Report shall include:

- i. Materials related to all complaints received by the permit holder and all permit holder actions to resolve such complaints;
  - ii. Copies of all permits obtained and renewed during the past year from local, state, and federal governmental entities related to the operation of a mining and extraction operation;
  - iii. Materials related to all inspection reports conducted on a mining and extraction operation;
  - iv. Information outlining all materials, including aggregates, imported to a mining and extraction operation;
  - v. A description of the expected future extraction operations and locations of future extraction operations;
  - vi. A description of restoration and reclamation activities performed to date and plans for reclamation activities in the future;
  - vii. Proof of a financial guarantee and liability insurance compliant with this Ordinance;
  - viii. Information related to any changes in or withdrawal of any permits required by this Ordinance; and
  - ix. Any information reasonably requested by the Planning Commission to determine if a permit shall be renewed.
- e. **Inspections.** Mining and extraction operations are subject to site inspections as determined by the Township. As a condition of obtaining a special land use permit, applicants and permit holders are deemed to have authorized these inspections and will cooperate fully in making the mining and extraction operations available for inspections. If violations of the conditions of the Special Land Use permit are determined based on the inspection, the Special Land Use permit may be invalidated, revoked or terminated pursuant to the Zoning Ordinance.
- f. **Lot Size.** Mining and extractions operations shall occur on a parcel of with a minimum lot size of 10 acres.

**Commented [GB25]:** Consider removing the unnecessary 'of'.

### 3. Application for Special Land Use Permit for Mining and Extraction Operation

- a. Applicants who apply for a special land use permit for a mining and extraction operation must, in addition to all the information required for a special land use permit application (12 copies of the full application shall be provided), include the following information:
  - i. **Site Plan:** Applicants must submit a preliminary and final site plan under the Zoning Ordinance. Site plans for mining and extraction operations include the

following information in addition to the information requirements in Chapter 15 of the Zoning Ordinance:

1. The proposed excavation area;
2. A list of any deed restrictions and easements of record appearing in the chain of title;
3. The location and size of sediment ponds, drainage diversions, and offsite discharge points; and
4. The location of permanent site equipment.

**ii. Hydrogeological Report:**

1. A Hydrogeological Report is required if an applicant plans on creating a lake greater than five (5) acres after extraction operations or in cases where a proposed mining and extraction operation plans to extract material from below the water table and requires the use of dewatering. If required, applicants must submit a Hydrogeological Report by a registered professional engineer, certified geologist, or other qualified individual selected and/or approved by the Planning Commission, regarding hydrogeological impacts from a proposed mining and extraction operation. This report shall include the items listed below:
  - a. Evidence that shows an applicant will obtain all necessary permits required by local, state, and/or federal governmental agencies including all permits required by the Michigan Department of Environment, Great Lakes, and Energy or its successor agency.
  - b. Test pumping data at the proposed site and computations used to assess any potential site dewatering impacts;
  - c. Information regarding the direction and rate of groundwater movement and how this movement will be impacted by a proposed mining and extraction operation;
  - d. Information identifying the water up-gradient and down-gradient;
  - e. Information identifying aquifer characteristics when an applicant plans to use soil dewatering or plans to extend extraction operations within 20 feet of the highest recorded groundwater level;
  - f. Information discussing any impacts on surrounding water supply wells;
  - g. Identification and locations of any proposed monitoring wells that are consistent with all local, state, and federal laws and regulations;
  - h. Information documenting the effect of the proposed operation on the surrounding area's watershed;
  - i. Information documenting the operation's effect on any wetlands;

**Commented [GB26]:** Consider defining 'dewatering'.



- j. Should an applicant create any water bodies; information outlining the life-span of such bodies of water, the depth of such bodies, and any impacts they will have on surrounding land used; and
  - k. Any other information requested by the Planning Commission reasonably related to whether to grant a special land use permit.
- iii. **Extraction Master Plan:** Applicants must submit an extraction master plan that assesses the operation's impact on natural features of the property and outlines their proposed operation by including:
- 1. A statement outlining compatibility with surrounding land uses;
  - 2. Information describing proposed excavation methods, including projected depths and drainage methods;
  - 3. A plan to control the impacts of dust from the operation;
  - 4. Information regarding the amount of material and types of material to be taken from the site;
  - 5. Information regarding the market's demand for the materials to be extracted from the site;
  - 6. Information regarding proposed clearance methods and debris clean-up;
  - 7. Information regarding how an applicant plans to control erosion;
  - 8. Information regarding the control or storage of ponded or surface water;
  - 9. A statement outlining the type of mobile and nonmobile equipment to be used at the site, including, but not limited to, available manufacturer specifications regarding noise levels, size, height, and operational characteristics;
  - 10. The location of the proposed haul routes including where traffic will enter and exit the proposed mining and extraction operation;
  - 11. A vertical aerial photograph enlarged to a scale equal to one (1) inch equal two hundred (200) feet, which identifies site boundaries, land uses within one half (1/2) mile of the parcel, and proposed locations of all extraction activities and phases;
  - 12. Proposed plans regarding fencing and signage;
  - 13. Information relating to the time, duration, phasing, and proposed work schedule of the total project;
  - 14. Identification of all materials, including fill imported to the site and its necessity to a mining and extraction operation;
  - 15. Information discussing necessary permits from any local, state, and/or federal governmental entity necessary to conduct the proposed operation

and how the applicant intends to obtain or has obtained the necessary permits. An applicant must provide a sworn affidavit that they will obtain and comply with all necessary permits from governmental agencies and provide a copy of the permits to the Planning Commission for review, before operating a mining and extraction operation;

16. Information related to proposed drainage systems, settling ponds, and retention ponds as appropriate;

17. A description of the area from which extraction will take place in the first year of operation and likewise for each successive year to completion; and

18. Topography information based on United States Geological Survey (USGS) or North American Vertical Datum (NAVD) data for the site and 100 feet of adjoining property showing:

- a. Existing and Proposed Contours at two (2) foot intervals for property 5 acres and greater;
- b. Existing and Proposed Contours at one (1) foot intervals for property 1 to 5 acres; and
- c. Existing and Proposed Contours at one (1) foot intervals and spot elevations for property under 1 acre.

19. Any other information deemed reasonably required by the Planning Commission to determine whether a permit should be issued or not.

iv. Land Reclamation Plan: Applicants must include a land reclamation plan prepared by a professional engineer or other qualified professional, selected and/or approved by the Planning Commission, that identifies, at the minimum, the following:

- 1. The anticipated future use of the restored land;
- 2. Steps to be taken to preserve topsoil;
- 3. The placement of a three (3) inch layer of arable topsoil over the excavated area, except exposed rock surfaces or areas lying below natural water level, in accordance with the proposed reclamation use;
- 4. Identification of all structures and equipment that must be removed from the premises upon completion of the extraction activity other than those necessary for reclamation;
- 5. The restoration of the site topography so that no gradients in the disturbed area are steeper than a slope of 1:4;
- 6. Identification of fill and soils to be used. Fill and soils must be of sufficient quality to be well-drained and non-swelling and cannot be overly compacted. To the extent the reclamation plan involves the construction or

**Commented [GB27]:** Are these the only acceptable data sources. Jackson County GIS also has a topo layer at 2-ft contour intervals.

**Commented [GB28]:** Should the requirement be limited to spot elevations? As written, more is required of lots under 1 acre than lots 1-5 acres in size. What is the justification for requiring 1-foot contour intervals on smaller lots?

**Commented [GB29]:** Consider adding a registered landscape architect to the listing of preapproved professionals.

development of buildings, fill and soils must be of proper bearing capacity to support foundations and waste disposal systems.

7. Location and extent of all natural features to be retained after extraction operations, including but not limited to wetlands, streams, and wooded areas;
8. The slope of all restored areas;
9. Proposed completed topography at contour intervals of not more than five feet;
10. A schedule describing the phases of reclamation. All areas shall be progressively restored to mitigate hazards and to blend with the general surrounding environment to appear reasonably natural. Applicants must restore land as soon as reasonably practical once extraction activities cease on a portion of a mining and extraction operation;
11. Proposed ground cover and other plants to stabilize the soil surface and to restore the area;
12. A description of the methods and materials to be utilized restoring the site;
13. A sketch plan of the proposed use of the restored site when restored;
14. An estimate of the costs to restore land impacted by the mining and extraction operation in compliance with the Township Zoning Ordinance including an itemized list of how the applicant calculated such costs; and
15. Any other information deemed reasonably required by the Planning Commission to determine whether a permit should be issued or not.

#### **4. Financial Guarantee**

- a. **Guarantee.** To ensure successful restoration of a mining and extraction operation, an applicant must deposit with the Township cash, a certified check, irrevocable bank letter of credit, or a performance bond acceptable ("Financial Guarantee") to the Township before issuance of a special land use permit. The Planning Commission will review and determine the amount required in the Financial Guarantee so it can sufficiently restore the disturbed area of the site. In determining the amount of such security, the Planning Commission shall take into account the size and scope of the proposed excavation, probable cost of reclamation of the site upon default of operator, recommendation of appropriate consultants, estimated expenses, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application. The costs of restorations will include the administrative costs to the township for performing restoration. In addition to the Financial Guarantee, ap-

plicants must enter into a Restoration Agreement with the Township to the satisfaction of the Township that outlines when the Township may draw from the Financial Guarantee to restore a disturbed site.

b. The Financial Guarantee shall be submitted by applicant prior to the issuance of any permit and shall be held by the Township until restoration is completed and has been approved by the Township. At no time shall any excavation be undertaken or continued unless, and until the Township receives an acceptable Financial Guarantee and an executed Restoration Agreement.

c. **Insurance.** The applicant shall maintain liability insurance (for property damage and bodily harm specific to proposed site) in an amount determined reasonable by the Planning Commission, shall name the Township as an additional insured, and provide the Township with a copy of the insurance policy to be kept on file with the Township Clerk.

#### 5. Specific Operating Requirements

A mining and extraction operation is subject to all the Specific Operating Requirements below.

##### a. Setbacks

<u>Activity</u>	<u>Setbacks<sup>1</sup> (ft.)</u>		
	<u>From Adjoining Property Line</u>		<u>From Public Streets</u>
	<u>Adjoining Property With Residence</u>	<u>Adjoining Property Without Residence</u>	
<u>Mining/Excavation</u>	<u>200</u>	<u>100</u>	<u>100</u>
<u>Loading and Weighing<sup>2</sup></u>	<u>200</u>	<u>100</u>	<u>300</u>
<b><u>Processing:</u></b>			
<u>Stationary Plant<sup>3</sup>: Screening and Washing</u>	<u>500</u>	<u>300</u>	<u>300</u>
<u>Portable Plant<sup>4</sup>: Screening and Washing</u>	<u>200</u>	<u>100</u>	<u>100</u>
<b><u>Stockpiling</u></b>	<u>200</u>	<u>150</u>	<u>150</u>
<b><u>Landscaping Berm<sup>5</sup></u></b>	<u>10</u>	<u>10</u>	<u>10</u>
<u>Natural Features<sup>6</sup></u>	<u>--</u>	<u>--</u>	<u>--</u>

<sup>1</sup>Setback: defined as the distance from the property line or edge of the public street. The setback for mining operations may not be used for any use related to an extraction operation, except access roads, berms, fencing, and public notice signs identifying the use as an excavation.

<sup>2</sup>Weighing via on-board scales

<sup>3</sup>Stationary Plant: immobile mining equipment/machines that are fixed in place.

**Commented [GB210]:** Consider modifying the cell to read "Adjoining Residential Districts and Properties With a Residence".

**Commented [GB211]:** Consider modifying the cell to read "Other Adjoining Properties Without a Residence".

<sup>4</sup>Portable Plant: mining equipment/machines that are easily moved and transported.

<sup>5</sup>Landscaping Berm: the berm shall be located within the mining operation setbacks listed in the table above. Refer to this Ordinance for further discussion regarding landscaping berm.

<sup>6</sup>Natural Features: 50 foot natural feature setback shall be maintained from the ordinary high water mark (shoreline) of any lake, pond, or stream and to the edge of any drainageway or regulated wetland.

- b. The setback areas shall not be used for any use related to an extraction operation, except access roads, berms, fencing, and public notice signs identifying the use as an excavation. All physical limits on the extent of extraction shall be clearly identified on the site plan and restoration plan approved by the Planning Commission.
- c. **Complaint Resolution.** Mining and extraction operations must provide and post on an area accessible to the public a sign that notes a telephone number to call with any complaints related to a mining and extraction operation. Permit holders must keep a log of all complaints received from the number referenced above and detail: (1) all complaints received and a description of each complaint; (2) action taken to resolve each complaint; and (3) any action taken to prevent future similar complaints.
- d. **Building Line for Operation Structure.** To reduce effects of airborne dust, dirt, and noise, all equipment and structures for sorting, crushing, and loading, excluding scales, shall not be built or located closer than five hundred (500) feet from any public street right-of-way or from any adjoining property line.
- e. **Access/Road Maintenance Agreement.** All means of access to the property shall only be from roads designated by the Jackson County Department of Transportation and shall not be from private roads unless authorized by the Planning Commission. The Planning Commission shall have the discretion to review and approve all proposed haul routes. The first 150 feet of access into a mining and extraction operation from the edge of a public road may not be gravel and must be paved (e.g. by asphalt concrete or Portland cement concrete). Permit holders must enter into a road maintenance agreement with the Jackson County Department of Transportation or other applicable governmental entity to maintain roads utilized as part of an operation's haul route in a well-maintained manner that ensures pedestrian and traffic safety.
- f. **Gates and Fences.** All access points to a mining and extraction operation must include a lockable gate. Said gates shall be closed and locked at all times except during the permitted hours of operation. The perimeter of the operation where excavation has occurred or is being conducted shall be fenced with a six (6) foot high woven wire fence. The fence shall always be well-maintained and in good

**Commented [GB212]:** Consider checking with JCDOT concerning the terminology it prefers.

- repair. All required gates and fencing must be installed before any mining or extraction operation commences unless waived by the Planning Commission.
- g. **Signs.** Mining and extraction operations must post warning signs at 200-foot intervals along the perimeter of the property that inform the public to keep out of the property.
- h. **Noise, Vibration, and Air Pollution.** Any noise, odors, smoke, fumes, or dust generated on said property by any digging, excavating, loading or processing operation borne, or able to be borne, by the wind shall be controlled so as not to cause a nuisance or hazard to any adjoining property or road.
- i. **Pollution of Waters.** The removal or storage of materials shall not cause unauthorized contamination by any material to any body of water.
- j. **Access Roads.** All private access roads shall be treated to minimize dust creation.
- k. **Slopes.** Finished and restored slopes of the banks of the excavation shall in no event exceed a minimum of four (4) feet to one (1) foot (four feet to one foot vertical). Where ponded water results from the operations, slopes must be maintained and extended into the water to a depth of five (5) feet.
- l. **Elevation of Plant Site.** Wherever practical, all aggregate processing plants shall be located within the excavation area, at a point lower than the general level of the surrounding terrain, in order to reduce the visual and noise of the plant structure.
- m. **Stockpiles.** There shall be no stockpiling or equipment storage or repair on the site outside of any required screening berms or closer than two hundred (200) feet from any property line or any public highway right of way. Stockpiles of stripped topsoil shall be seeded with grass or other materials so to prevent erosion.
- n. **Water and Sewage Disposal.** On-site domestic water supply and domestic sewage disposal systems shall be approved, if required, by the Jackson County Health Department.
- o. **Survey Markers.** Permanent and readily visible markers shall be placed and maintained which show where surveyed lines of road right of ways, property lines, and setback lines exist. The markers shall be a minimum of five (5) feet in height and be placed along the required locations around the site. Such shall be placed at a distance, not to exceed three hundred fifty (350) feet for each marker. The markers shall be placed at intervals so that the line of sight from one marker to two adjacent markers is visible.
- p. **Material Importation.** Mining and extraction operations may not import any materials, including aggregates or soils, unless disclosed in an approved Extraction Master Plan or Land Reclamation Plan.
- q. **Crushing.** Crushing of non-native or imported material is prohibited.

**Commented [GB213]:** Consider changing to "rights-of-way".

## **6. Hours of Operation**

- a. Mining and extraction operations may only occur between the hours of 7:00 A.M. and 6:00 P.M., Monday through Friday, and between 7:00 A.M. and 2:00 P.M. on Saturday. Operations on Saturday shall be for load out only, no extraction or processing.
- b. Transporting and Loading. No transporting or loading of aggregates from the site shall be permitted prior to 7:00 A.M. and after 6:00 P.M., Monday through Friday, and prior to 7:00 A.M. and after 2:00 P.M. on Saturday.
- c. Repair of Equipment. Repair and maintenance of equipment site shall be permitted only during the hours of 6:00 A.M. through 9:00 P.M. Monday through Friday and 6:30 A.M. through 5:00 P.M. on Saturdays.
- d. Sunday Operations. No operations may occur on Sundays.
- e. Operations on Holidays. No operations may occur on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve Day, and Christmas Day.

## **7. Landscaping**

- a. **Landscaping Plan Required:** A separate detailed landscape plan must be submitted as part of a special land use permit for a mining and extraction operation to minimize negative impacts on adjacent properties. The landscape plan shall be prepared at a minimum scale of 1"= 100' and identify all berms. The landscape plan shall include the following items:
  - i. Proposed plant location, spacing, and size and descriptions for each plant type proposed for use to meet the requirements of this Ordinance.
  - ii. Identification of grass and other proposed ground cover and method of planting.
  - iii. Identification of existing trees and vegetative cover to be preserved.
    - 1. Berm plantings include at a minimum, one coniferous tree of at least six feet in height per forty linear feet of berm where the Planning Commission finds such screening is necessary to minimize negative visual or audio impacts upon abutting roads and parcels. The trees shall be located between the berm and the property but not in any right of way. All plantings proposed along berms or otherwise in setback areas shall be of an informal character, rely on native species, and include a combination of coniferous and deciduous plant material.
- b. **Berms.** The construction of a screening berm shall be initiated immediately upon the initiation of extraction operations on a site and shall be completed within three months of the of such extraction operations. Berms serve to visually screen the operations on the site as well as reduce noise and dust from properties. Berms

**Commented [GB214]:** Consider specifying that plantings are allowed on the berms as well. Consider adding shrubbery and ornamental grasses. Consider moving the subsection under Section 7(b)vi.

shall be located as indicated on the approved site and landscaping plans and shall meet the following requirements.

- i. Berms shall be located along all sides of active extractive or processing operations that abut a public or private road or a parcel requiring a 200-foot setback under this Ordinance and on which a dwelling is currently.
- ii. Berms shall be of a slope of one foot of vertical rise for each two feet of horizontal run. The location and height of berms must be adequate to visually screen the operation.
- iii. Berms must be designed to prohibit changes in drainage patterns on abutting properties and rights-of-way.
- iv. Berms must be seeded or otherwise planted maintained with vegetative character of the area. Trees may be included in the landscaping to enhance the screening function.
- v. Berms may be removed in the process of reclamation when the operations that were being screened have moved or have been completed.
- c. **Quality of Plant Material.** Plant material and grasses shall be of acceptable varieties and species, free of insects or diseases, and hardy to the climate. Plant species that are generally considered undesirable due to limited disease tolerance, low wood strength, and/ or high tendencies toward splitting of wood, such as box elder, mulberry, and willows, are not permitted unless authorized by the Planning Commission. Plant material shall be maintained in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within (1) year of or death or the next appropriate planting period, whichever comes first.
- d. **Unexcavated Areas.** Unexcavated areas shall be left in such a condition to ensure growth of vegetation, soil stabilization and erosion control. Topsoil of a quality equal to that occurring naturally in the area shall be replaced, if necessary, to a depth of four (4) inches on unexcavated areas that have been disturbed.

**Commented [GB215]:** Consider requiring that the annual Renewal Report address plant replacement.

Based upon this analysis, staff advises the Jackson County Planning Commission to recommend **APPROVAL WITH COMMENTS** of the zoning ordinance amendments regarding 'Mining and Extraction Operations' to the Grass Lake Charter Township Board. This advisement including the need to make such operations a special land use in all zoning districts as well as the suggested changes to the proposed text (see the staff report).

**Suggested Actions:**

- (1) Recommend **APPROVAL**
- (2) Recommend **DISAPPROVAL**
- (3) Recommend **APPROVAL WITH COMMENTS**
- (4) Take **NO ACTION**

**Staff Report Attachments:**

- Background information provided by Grass Lake Charter Township and the MSU-E Land Use Series report for examples of other 'Restrictions on Zoning Authority'



## ZONING AMENDMENT FORM



### JACKSON COUNTY PLANNING COMMISSION (COORDINATING ZONING)

Return to: Jackson County Planning Commission • c/o Region 2 Planning Commission • 120 W. Michigan Avenue • Jackson, Michigan 49201

Please submit the Planning Commission meeting minutes and any reports/exhibits the Commission used to make its recommendation with this form. Use a separate form for each proposed zoning change. Please include a legal description/survey with rezoning requests in addition to the Parcel ID Number.

A copy of this form with the JCPC recommendation will be mailed back to the Clerk, who will return a copy to the JCPC with the Township Board Action.

THE Grass Lake Charter Township TOWNSHIP PLANNING COMMISSION submits the following proposed zoning change to the Jackson County Planning Commission for its review, comment, and recommendation:

(ANSWER EITHER A or B)

**A. DISTRICT BOUNDARY CHANGE (REZONING):**

(Provide the legal and popular property descriptions, the Parcel ID Number(s), the number of acres, and the section(s) in which the property is located. Attach additional sheets if more space is needed. Attach a map showing all changes and additions.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1. The above described property has a proposed zoning change FROM \_\_\_\_\_ ( \_\_\_\_\_ )  
ZONE TO \_\_\_\_\_ ( \_\_\_\_\_ ) ZONE.

2. PURPOSE OF PROPOSED CHANGE: \_\_\_\_\_  
\_\_\_\_\_

**B. ZONING ORDINANCE TEXT AMENDMENT:**

The following Article(s) and Section(s) is amended or altered: ARTICLE \_\_\_\_\_ SECTION 14.07 (HH)

The NEW SECTION reads as follows: (Attach additional sheets if more space is needed.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. **PUBLIC HEARING** on the above amendment was held on: month July day 9 year 2020

D. **NOTICE OF PUBLIC HEARING** was published/mailed on the following date: month June day 16 year 2020

(Notice must be provided at least fifteen days prior to the public hearing.)

E. **THE NEWSPAPER** (having general circulation in Township) carrying the NOTICE: Exponent

The PROPOSED ZONING AMENDMENT described herein was duly considered by the Township Planning Commission and will be forwarded to the Township Board with a recommendation to ☒ APPROVE or ☐ DISAPPROVE.

Jere Hinkle ☒ Chair or ☐ Secretary July / 9 / 2020 (enter date)

**JACKSON COUNTY PLANNING COMMISSION (JCPC) ACTION:**

1. Date of Meeting: month \_\_\_\_\_ day \_\_\_\_\_ year \_\_\_\_\_

2. The JCPC herewith certifies receipt of the proposed amendment on the above date and:

☐ Recommends APPROVAL of the zoning change

☐ Recommends DISAPPROVAL of the zoning change for the reasons stated in the attached letter.

☐ Recommends APPROVAL of the zoning change with comments, as stated in the attached letter.

☐ Takes NO ACTION.

\_\_\_\_\_, Recording Secretary \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (enter date)

**TOWNSHIP BOARD ACTION:**

1. Date of Meeting: month \_\_\_\_\_ day \_\_\_\_\_ year \_\_\_\_\_

2. The \_\_\_\_\_ Township Board herewith certifies that a legally constituted meeting held on the above date and that the proposed amendment ☐ PASSED, ☐ DID NOT PASS, or was ☐ REFERRED ANEW to the Township Planning Commission.

**GRASS LAKE CHARTER TOWNSHIP  
JACKSON COUNTY, MICHIGAN  
ZONING ORDINANCE AMENDMENT  
ORDINANCE NO. \_\_**

At a meeting of the Township Board of Grass Lake Charter Township, Jackson County, Michigan, held at the Grass Lake Charter Township Hall on \_\_\_\_\_, 20\_\_\_\_, at \_\_:\_\_\_\_ \_\_.m., Township Board Member \_\_\_\_\_ moved to adopt the following ordinance, which motion was seconded by Township Board Member \_\_\_\_\_:

*An Ordinance to amend the Grass Lake Charter Township Zoning Ordinance, as amended, to among other things, regulate mining and extraction operations within the Township in order to maintain the public health, safety, and welfare of the residents of and visitors to Grass Lake Charter Township.*

THE CHARTER TOWNSHIP OF GRASS LAKE ORDAINS:

**SECTION 1. Amendment of Chapter 2, Section 2.13, Definitions “M”:** The Grass Lake Charter Township Zoning Ordinance, Chapter 2, Section 2.13 shall be amended to include the definition of Mining and Extraction Operations below. All other Ordinance definitions shall remain the same.

**Mining and Extraction Operations.** Any excavation operation for the purpose of searching for, removing, or processing peat, gravel, sand, clay, earth, or other soils, or marble, stone, slate, or other valuable natural resource in excess of five-hundred (500) cubic yards in any calendar year, including the overburdening, storage or transporting of such items on a mining and extraction site, or the reclamation of the site after removal or excavation of such items, but not including an oil or gas well. The following activities are not mining and extraction operations and are exempt from the special land use permit requirements of this Ordinance:

- A. Excavation approved by a governmental body of competent jurisdiction in conjunction with the installation or maintenance of publicly owned or operated utilities, drainage facilities, roads, or other publicly owned or operated improvements, where the excavation is limited to the site of the public utility or improvement.
- B. The ordinary and necessary grading of land for the tilling and cultivation of soils to grow crops or excavation in conjunction with a farming operation conducted following generally accepted agricultural management practices.
- C. Normal lawn and landscaping installation and maintenance provided that the existing natural grade is not raised or lowered by more than twelve (12) inches over an area encompassing twenty-five percent (25%) or more of a parcel.

- D. Any excavation of material that will not involve transporting the materials outside the property where they were extracted.
- E. Excavations for ponds constructed for private use of property owners provided the pond will not be larger than five acres and material will not be removed from the site.
- F. Excavation within a public right-of-way, within public roads or drainage easements.
- G. Excavation that by its nature is of limited scope and duration and that is undertaken primarily for the immediate use and development of the land excavated, such as for purposes of building construction, access way construction, septic tanks, swimming pools, graves, and other approved uses under this Ordinance.

**SECTION 2. Amendment of Chapter 14, Section 14.07(HH), Removal and Processing of Topsoil, Stone, Rock, Water, Sand, Gravel, Lime or Other Soil or Mineral Resources:** The Grass Lake Charter Township Zoning Ordinance, Chapter 14, Section 14.07(HH) shall be renamed to “Mining and Extraction Operations” and amended to read as follows:

1. **Purpose:** The Township recognizes that sand, gravel, and other valuable natural resources within the Township have beneficial uses when extracted from the earth. The Township further understands that mining and extraction operations have the potential to impose very serious consequences, as the term is used in Section 205 of the Michigan Zoning Enabling Act, on township residents and visitors if not appropriately regulated. This section regulates mining and extraction operations to promote utilization of these resources in a manner that is compatible with surrounding land uses and to prevent very serious consequences related to impacts on property values, pedestrian and traffic safety, the environment, other land uses, and other identifiable health, safety, and welfare interests.

## 2. **Permitting**

- a. Permit Required. It is unlawful to conduct a mining and extraction operation without obtaining a special land use permit and meeting all requirements of the Township Zoning Ordinance.
- b. Length of Permit. A mining and extraction operation special land use permit shall be issued for five (5) years. The Planning Commission must annually review special land use permits for mining and extraction operations according to the Annual Compliance Review described below. No renewal of any special land use permit for a mining and extraction operation shall allow such use to continue for

more than five (5) years without submission of a new special land use permit application containing all information required by Township Zoning Ordinance.

- c. Annual Compliance Review. As a condition of a special land use permit for a mining and extraction operation, the Township shall annually inspect the operation for compliance with the Township Zoning Ordinance and conditions of a special land use permit before renewing a special land use permit. This review shall consider, but is not limited to, (1) permit holder disclosure of all violations of local, state, and federal laws and regulations by a mining and extraction operation and (2) a physical inspection of a mining and extraction operation for compliance with Township Ordinances, special land use permits, site plans, zoning permits, and local, state, and federal laws and regulations by the Township Zoning Enforcement Officer or any other individual designated to inspect a site by the Township. Any existing Special Land Use permit may be invalidated, revoked or terminated early based on findings of non-compliance uncovered during the Annual Compliance Review pursuant to the Zoning Ordinance.
- d. Renewal Report. Before renewing a special land use permit for a mining and extraction operation, and 60 days prior to each annual anniversary of a special land use permit, a permit holder must submit to the Planning Commission for approval a report of the land use's operations necessary for the Annual Compliance Review. This Renewal Report shall include:
  - i. Materials related to all complaints received by the permit holder and all permit holder actions to resolve such complaints;
  - ii. Copies of all permits obtained and renewed during the past year from local, state, and federal governmental entities related to the operation of a mining and extraction operation;
  - iii. Materials related to all inspection reports conducted on a mining and extraction operation;
  - iv. Information outlining all materials, including aggregates, imported to a mining and extraction operation;
  - v. A description of the expected future extraction operations and locations of future extraction operations;
  - vi. A description of restoration and reclamation activities performed to date and plans for reclamation activities in the future;

- vii. Proof of a financial guarantee and liability insurance compliant with this Ordinance;
  - viii. Information related to any changes in or withdrawal of any permits required by this Ordinance; and
  - ix. Any information reasonably requested by the Planning Commission to determine if a permit shall be renewed.
- e. Inspections. Mining and extraction operations are subject to site inspections as determined by the Township. As a condition of obtaining a special land use permit, applicants and permit holders are deemed to have authorized these inspections and will cooperate fully in making the mining and extraction operations available for inspections. If violations of the conditions of the Special Land Use permit are determined based on the inspection, the Special Land Use permit may be invalidated, revoked or terminated pursuant to the Zoning Ordinance.
  - f. Lot Size. Mining and extractions operations shall occur on a parcel of with a minimum lot size of 10 acres.

### 3. **Application for Special Land Use Permit for Mining and Extraction Operation**

- a. Applicants who apply for a special land use permit for a mining and extraction operation must, in addition to all the information required for a special land use permit application (12 copies of the full application shall be provided), include the following information:
  - i. **Site Plan:** Applicants must submit a preliminary and final site plan under the Zoning Ordinance. Site plans for mining and extraction operations include the following information in addition to the information requirements in Chapter 15 of the Zoning Ordinance:
    - 1. The proposed excavation area;
    - 2. A list of any deed restrictions and easements of record appearing in the chain of title;
    - 3. The location and size of sediment ponds, drainage diversions, and offsite discharge points; and

4. The location of permanent site equipment.

**ii. Hydrogeological Report:**

1. A Hydrogeological Report is required if an applicant plans on creating a lake greater than five (5) acres after extraction operations or in cases where a proposed mining and extraction operation plans to extract material from below the water table and requires the use of dewatering. If required, applicants must submit a Hydrogeological Report by a registered professional engineer, certified geologist, or other qualified individual selected and/or approved by the Planning Commission, regarding hydrogeological impacts from a proposed mining and extraction operation. This report shall include the items listed below:
  - a. Evidence that shows an applicant will obtain all necessary permits required by local, state, and/or federal governmental agencies including all permits required by the Michigan Department of Environment, Great Lakes, and Energy or its successor agency.
  - b. Test pumping data at the proposed site and computations used to assess any potential site dewatering impacts;
  - c. Information regarding the direction and rate of groundwater movement and how this movement will be impacted by a proposed mining and extraction operation;
  - d. Information identifying the water up-gradient and down-gradient;
  - e. Information identifying aquifer characteristics when an applicant plans to use soil dewatering or plans to extend extraction operations within 20 feet of the highest recorded groundwater level;
  - f. Information discussing any impacts on surrounding water supply wells;
  - g. Identification and locations of any proposed monitoring wells that are consistent with all local, state, and federal laws and regulations;

- h. Information documenting the effect of the proposed operation on the surrounding area's watershed;
  - i. Information documenting the operation's effect on any wetlands;
  - j. Should an applicant create any water bodies; information outlining the life-span of such bodies of water, the depth of such bodies, and any impacts they will have on surrounding land used; and
  - k. Any other information requested by the Planning Commission reasonably related to whether to grant a special land use permit.
- iii. **Extraction Master Plan:** Applicants must submit an extraction master plan that assesses the operation's impact on natural features of the property and outlines their proposed operation by including:
- 1. A statement outlining compatibility with surrounding land uses;
  - 2. Information describing proposed excavation methods, including projected depths and drainage methods;
  - 3. A plan to control the impacts of dust from the operation;
  - 4. Information regarding the amount of material and types of material to be taken from the site;
  - 5. Information regarding the market's demand for the materials to be extracted from the site;
  - 6. Information regarding proposed clearance methods and debris clean-up;
  - 7. Information regarding how an applicant plans to control erosion;
  - 8. Information regarding the control or storage of ponded or surface water;

9. A statement outlining the type of mobile and nonmobile equipment to be used at the site, including, but not limited to, available manufacturer specifications regarding noise levels, size, height, and operational characteristics;
10. The location of the proposed haul routes including where traffic will enter and exit the proposed mining and extraction operation;
11. A vertical aerial photograph enlarged to a scale equal to one (1) inch equal two hundred (200) feet, which identifies site boundaries, land uses within one half (1/2) mile of the parcel, and proposed locations of all extraction activities and phases;
12. Proposed plans regarding fencing and signage;
13. Information relating to the time, duration, phasing, and proposed work schedule of the total project;
14. Identification of all materials, including fill imported to the site and its necessity to a mining and extraction operation;
15. Information discussing necessary permits from any local, state, and/or federal governmental entity necessary to conduct the proposed operation and how the applicant intends to obtain or has obtained the necessary permits. An applicant must provide a sworn affidavit that they will obtain and comply with all necessary permits from governmental agencies and provide a copy of the permits to the Planning Commission for review, before operating a mining and extraction operation;
16. Information related to proposed drainage systems, settling ponds, and retention ponds as appropriate;
17. A description of the area from which extraction will take place in the first year of operation and likewise for each successive year to completion; and
18. Topography information based on United States Geological Survey (USGS) or North American Vertical Datum (NAVD) data for the site and 100 feet of adjoining property showing:



- a. Existing and Proposed Contours at two (2) foot intervals for property 5 acres and greater;
- b. Existing and Proposed Contours at one (1) foot intervals for property 1 to 5 acres; and
- c. Existing and Proposed Contours at one (1) foot intervals and spot elevations for property under 1 acre.

19. Any other information deemed reasonably required by the Planning Commission to determine whether a permit should be issued or not.

iv. **Land Reclamation Plan:** Applicants must include a land reclamation plan prepared by a professional engineer or other qualified professional, selected and/or approved by the Planning Commission, that identifies, at the minimum, the following:

- 1. The anticipated future use of the restored land;
- 2. Steps to be taken to preserve topsoil;
- 3. The placement of a three (3) inch layer of arable topsoil over the excavated area, except exposed rock surfaces or areas lying below natural water level, in accordance with the proposed reclamation use;
- 4. Identification of all structures and equipment that must be removed from the premises upon completion of the extraction activity other than those necessary for reclamation;
- 5. The restoration of the site topography so that no gradients in the disturbed area are steeper than a slope of 1:4;
- 6. Identification of fill and soils to be used. Fill and soils must be of sufficient quality to be well-drained and non-swelling and cannot be overly compacted. To the extent the reclamation plan involves the construction or development of buildings, fill and soils must be of proper bearing capacity to support foundations and waste disposal systems.

7. Location and extent of all natural features to be retained after extraction operations, including but not limited to wetlands, streams, and wooded areas;
8. The slope of all restored areas;
9. Proposed completed topography at contour intervals of not more than five feet;
10. A schedule describing the phases of reclamation. All areas shall be progressively restored to mitigate hazards and to blend with the general surrounding environment to appear reasonably natural. Applicants must restore land as soon as reasonably practical once extraction activities cease on a portion of a mining and extraction operation;
11. Proposed ground cover and other plants to stabilize the soil surface and to restore the area;
12. A description of the methods and materials to be utilized restoring the site;
13. A sketch plan of the proposed use of the restored site when restored;
14. An estimate of the costs to restore land impacted by the mining and extraction operation in compliance with the Township Zoning Ordinance including an itemized list of how the applicant calculated such costs; and
15. Any other information deemed reasonably required by the Planning Commission to determine whether a permit should be issued or not.

#### **4. Financial Guarantee**

- a. Guarantee. To ensure successful restoration of a mining and extraction operation, an applicant must deposit with the Township cash, a certified check, irrevocable bank letter of credit, or a performance bond acceptable (“Financial Guarantee”) to the Township before issuance of a special land use permit. The Planning Commission will review and determine the amount required in the Financial

Guarantee so it can sufficiently restore the disturbed area of the site. In determining the amount of such security, the Planning Commission shall take into account the size and scope of the proposed excavation, probable cost of reclamation of the site upon default of operator, recommendation of appropriate consultants, estimated expenses, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application. The costs of restorations will include the administrative costs to the township for performing restoration. In addition to the Financial Guarantee, applicants must enter into a Restoration Agreement with the Township to the satisfaction of the Township that outlines when the Township may draw from the Financial Guarantee to restore a disturbed site.

- b. The Financial Guarantee shall be submitted by applicant prior to the issuance of any permit and shall be held by the Township until restoration is completed and has been approved by the Township. At no time shall any excavation be undertaken or continued unless, and until the Township receives an acceptable Financial Guarantee and an executed Restoration Agreement.
- c. Insurance. The applicant shall maintain liability insurance (for property damage and bodily harm specific to proposed site) in an amount determined reasonable by the Planning Commission, shall name the Township as an additional insured, and provide the Township with a copy of the insurance policy to be kept on file with the Township Clerk.

## 5. Specific Operating Requirements

A mining and extraction operation is subject to all the Specific Operating Requirements below.

### a. Setbacks.

Activity	Setbacks <sup>1</sup> (ft.)		
	From Adjoining Property Line		From Public Streets
	Adjoining Property With Residence	Adjoining Property Without Residence	
Mining/Excavation	200	100	100
Loading and Weighing <sup>2</sup>	200	100	300
<b>Processing:</b>			
<u>Stationary Plant</u> <sup>3</sup> : Screening and Washing	500	300	300
<u>Portable Plant</u> <sup>4</sup> : Screening and Washing	200	100	100
<b>Stockpiling</b>			
<b>Landscaping Berm</b> <sup>5</sup>	200	150	150
	10	10	10
Natural Features <sup>6</sup>	--	--	--
<sup>1</sup> Setback: defined as the distance from the property line or edge of the public street. The setback for mining operations may not be used for any use related to an extraction operation, except access roads, berms, fencing, and public notice signs identifying the use as an excavation. <sup>2</sup> Weighing via on-board scales <sup>3</sup> Stationary Plant: immobile mining equipment/machines that are fixed in place. <sup>4</sup> Portable Plant: mining equipment/machines that are easily moved and transported. <sup>5</sup> Landscaping Berm: the berm shall be located within the mining operation setbacks listed in the table above. Refer to this Ordinance for further discussion regarding landscaping berm. <sup>6</sup> Natural Features: 50 foot natural feature setback shall be maintained from the ordinary high water mark (shoreline) of any lake, pond, or stream and to the edge of any drainageway or regulated wetland.			

- b. The setback areas shall not be used for any use related to an extraction operation, except access roads, berms, fencing, and public notice signs identifying the use as an excavation. All physical limits on the extent of extraction shall be clearly identified on the site plan and restoration plan approved by the Planning Commission.
- c. Complaint Resolution. Mining and extraction operations must provide and post on an area accessible to the public a sign that notes a telephone number to call with any complaints related to a mining and extraction operation. Permit holders must keep a log of all complaints received from the number referenced above and detail: (1) all complaints received and a description of each complaint; (2) action

taken to resolve each complaint; and (3) any action taken to prevent future similar complaints.

- d. Building Line for Operation Structure. To reduce effects of airborne dust, dirt, and noise, all equipment and structures for sorting, crushing, and loading, excluding scales, shall not be built or located closer than five hundred (500) feet from any public street right-of-way or from any adjoining property line.
- e. Access/Road Maintenance Agreement. All means of access to the property shall only be from roads designated by the Jackson County Department of Transportation and shall not be from private roads unless authorized by the Planning Commission. The Planning Commission shall have the discretion to review and approve all proposed haul routes. The first 150 feet of access into a mining and extraction operation from the edge of a public road may not be gravel and must be paved (e.g. by asphalt concrete or Portland cement concrete). Permit holders must enter into a road maintenance agreement with the Jackson County Department of Transportation or other applicable governmental entity to maintain roads utilized as part of an operation's haul route in a well-maintained manner that ensures pedestrian and traffic safety.
- f. Gates and Fences. All access points to a mining and extraction operation must include a lockable gate. Said gates shall be closed and locked at all times except during the permitted hours of operation. The perimeter of the operation where excavation has occurred or is being conducted shall be fenced with a six (6) foot high woven wire fence. The fence shall always be well-maintained and in good repair. All required gates and fencing must be installed before any mining or extraction operation commences unless waived by the Planning Commission.
- g. Signs. Mining and extraction operations must post warning signs at 200-foot intervals along the perimeter of the property that inform the public to keep out of the property.
- h. Noise, Vibration, and Air Pollution. Any noise, odors, smoke, fumes, or dust generated on said property by any digging, excavating, loading or processing operation borne, or able to be borne, by the wind shall be controlled so as not to cause a nuisance or hazard to any adjoining property or road.
- i. Pollution of Waters. The removal or storage of materials shall not cause unauthorized contamination by any material to any body of water.
- j. Access Roads. All private access roads shall be treated to minimize dust creation.

- k. Slopes. Finished and restored slopes of the banks of the excavation shall in no event exceed a minimum of four (4) feet to one (1) foot (four feet to one foot vertical). Where ponded water results from the operations, slopes must be maintained and extended into the water to a depth of five (5) feet.
- l. Elevation of Plant Site. Wherever practical, all aggregate processing plants shall be located within the excavation area, at a point lower than the general level of the surrounding terrain, in order to reduce the visual and noise of the plant structure.
- m. Stockpiles. There shall be no stockpiling or equipment storage or repair on the site outside of any required screening berms or closer than two hundred (200) feet from any property line or any public highway right of way. Stockpiles of stripped topsoil shall be seeded with grass or other materials so to prevent erosion.
- n. Water and Sewage Disposal. On-site domestic water supply and domestic sewage disposal systems shall be approved, if required, by the Jackson County Health Department.
- o. Survey Markers. Permanent and readily visible markers shall be placed and maintained which show where surveyed lines of road right of ways, property lines, and setback lines exist. The markers shall be a minimum of five (5) feet in height and be placed along the required locations around the site. Such shall be placed at a distance, not to exceed three hundred fifty (350) feet for each marker. The markers shall be placed at intervals so that the line of sight from one marker to two adjacent markers is visible.
- p. Material Importation. Mining and extraction operations may not import any materials, including aggregates or soils, unless disclosed in an approved Extraction Master Plan or Land Reclamation Plan.
- q. Crushing. Crushing of non-native or imported material is prohibited.

## **6. Hours of Operation**

- a. Mining and extraction operations may only occur between the hours of 7:00 A.M. and 6:00 P.M., Monday through Friday, and between 7:00 A.M. and 2:00 P.M. on Saturday. Operations on Saturday shall be for load out only, no extraction or processing.

- b. Transporting and Loading. No transporting or loading of aggregates from the site shall be permitted prior to 7:00 A.M. and after 6:00 P.M., Monday through Friday, and prior to 7:00 A.M. and after 2:00 P.M. on Saturday.
- c. Repair of Equipment. Repair and maintenance of equipment site shall be permitted only during the hours of 6:00 A.M. through 9:00 P.M. Monday through Friday and 6:30 A.M. through 5:00 P.M. on Saturdays.
- d. Sunday Operations. No operations may occur on Sundays.
- e. Operations on Holidays. No operations may occur on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve Day, and Christmas Day.

## 7. **Landscaping**

- a. Landscaping Plan Required: A separate detailed landscape plan must be submitted as part of a special land use permit for a mining and extraction operation to minimize negative impacts on adjacent properties. The landscape plan shall be prepared at a minimum scale of 1"= 100' and identify all berms. The landscape plan shall include the following items:
  - i. Proposed plant location, spacing, and size and descriptions for each plant type proposed for use to meet the requirements of this Ordinance.
  - ii. Identification of grass and other proposed ground cover and method of planting.
  - iii. Identification of existing trees and vegetative cover to be preserved.
    - 1. Berm plantings include at a minimum, one coniferous tree of at least six feet in height per forty linear feet of berm where the Planning Commission finds such screening is necessary to minimize negative visual or audio impacts upon abutting roads and parcels. The trees shall be located between the berm and the property but not in any right of way. All plantings proposed along berms or otherwise in setback areas shall be of an informal character, rely on native species, and include a combination of coniferous and deciduous plant material.
- b. Berms. The construction of a screening berm shall be initiated immediately upon the initiation of extraction operations on a site and shall be completed within three

months of the of such extraction operations. Berms serve to visually screen the operations on the site as well as reduce noise and dust from properties. Berms shall be located as indicated on the approved site and landscaping plans and shall meet the following requirements.

- i. Berms shall be located along all sides of active extractive or processing operations that abut a public or private road or a parcel requiring a 200-foot setback under this Ordinance and on which a dwelling is currently.
  - ii. Berms shall be of a slope of one foot of vertical rise for each two feet of horizontal run. The location and height of berms must be adequate to visually screen the operation.
  - iii. Berms must be designed to prohibit changes in drainage patterns on abutting properties and rights-of-way.
  - iv. Berms must be seeded or otherwise planted maintained with vegetative character of the area. Trees may be included in the landscaping to enhance the screening function.
  - v. Berms may be removed in the process of reclamation when the operations that were being screened have moved or have been completed.
- c. Quality of Plant Material. Plant material and grasses shall be of acceptable varieties and species, free of insects or diseases, and hardy to the climate. Plant species that are generally considered undesirable due to limited disease tolerance, low wood strength, and/ or high tendencies toward splitting of wood, such as box elder, mulberry, and willows, are not permitted unless authorized by the Planning Commission. Plant material shall be maintained in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within (1) year of or death or the next appropriate planting period, whichever comes first.
- d. Unexcavated Areas. Unexcavated areas shall be left in such a condition to ensure growth of vegetation, soil stabilization and erosion control. Topsoil of a quality equal to that occurring naturally in the area shall be replaced, if necessary, to a depth of four (4) inches on unexcavated areas that have been disturbed.

## **8. Waiver and Modification**



- a. Permit holders must notify the Township of any changes of operations contrary to any application materials submitted as part of a special land use permit for a mining and extraction operation. The Township Planning Commission must approve these changes in writing.
- b. The Planning Commission reserves the rights to waive requirements in this section if it determines that some requirements are not necessary or do not apply to a proposed mining and extraction operation.

**SECTION 3. Severability:** The provisions of this Ordinance are declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

**SECTION 4. Repeal:** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**SECTION 5. Form:** A compilation the Grass Lake Charter Township Zoning Ordinance after the amendment above is attached and incorporated herein as the revised Grass Lake Charter Zoning Ordinance. The attached document shall serve as the Grass Lake Charter Township Zoning Ordinance.

**SECTION 6. Effective Date:** This Ordinance shall become effective seven (7) days after publication of a notice of adoption of this Ordinance, unless referendum procedures are initiated under MCL 125.3402. If referendum procedures are initiated, this Ordinance will take effect in accordance with MCL 125.3402.

YEAS: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT/ABSTAIN: \_\_\_\_\_

ORDINANCE DECLARED ADOPTED.

\_\_\_\_\_  
James Stormont, Grass Lake Charter Township Supervisor

### **CERTIFICATION**

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Grass Lake Charter Township Board at a duly scheduled public meeting of the Township Board held on \_\_\_\_\_, 20\_\_\_\_, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the \_\_\_\_\_ newspaper, a newspaper that circulates within Grass Lake Charter Township, on \_\_\_\_\_, 20\_\_.
3. Within 1 week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.
4. I filed an attested copy of the above Ordinance with the Jackson County Clerk on \_\_\_\_\_, 20\_\_\_\_\_.

ATTESTED:

\_\_\_\_\_  
Catherine Zenz, Grass Lake Charter Township Clerk



Grass Lake Township Planning Commission

**07092020 unapproved PC minutes**

Grass Lake Charter Township Hall  
373 Lakeside Dr. Grass Lake Mi 49240

1. Call to Order at 7:06 pm

Meeting was held using Zoom PC Video Conferencing Facilities

2. Pledge of Allegiance

3. Roll Call

P\_ Tom Brennan, \_P\_ Jim Ducey, \_P\_ Jere Hinkle, \_P\_ Mark Jewell, \_P\_ Dale Lucas, \_P\_ Nancy Prindle, \_P\_ Jim Warbritton also in attendance Doug Lammers – Township Zoning Administrator and John Enos – Township Planner

Representatives from S Power including Frank Krawczel - Project Manager, Ali Rodrian - Permitting Manager, Mackenzie Meinhold - Internal Counsel, Daniel Wang - Interconnection Manager, Cat Mosley - Community Relations Director, Patricia Haslam - Real Estate Manager and Drew Demos - Land Acquisition Manager.

Approximately 35 citizens were also signed in on this virtual meeting..

4. Approval of Agenda

A motion by Chairman Hinkle was made to modify the agenda by placement of board discussion/actions of each subject Public Meeting immediately after its close. As such, Case #20-05-0008 - New business Item 8a (discussion/action for the Letts Creek Solar Farm Special Land Use request) would be relocated and designated as Item 6d. Similarly for Case #20-02-0005, New business Item 8b (discussion/action for the Proposed Text Amendment for Mining Ordinance, Section 14.07 HH) would be relocated and designated as Item 7c. The motion was supported by Ducey. All ayes. Motion carried.

5. Approval of Minutes

It was moved by Brennan and supported by Lucas that the May 21, 2020 Meeting Minutes be approved as presented. All ayes. Motion carried.

The meeting was then closed by Chairman Hinkle.

6. Public hearing Case #20-05-0008

Preliminary Site Plan and Special Use Permit (SLUP) request for a Large Solar Energy System by Letts Creek Solar, LLC.

A. The project

The hearing was opened with an introduction of the proposed project by John Enos, the Commission's Consultant Planner. The project is a 109-acre commercial solar farm in eastern Grass Lake Township at the Washtenaw County border. Mr. Enos presented an overview of the project status to date. He related the planning activities that had been performed that has culminated with a Site Plan and Special Land Use Permit under review and consideration at this Public Hearing. Mr. Enos was very complimentary regarding the thoroughness of the Site Plan and information that had been provided by S-power, the developer, in demonstration of the proposed project's compliance with the Township's Large Solar Energy Systems Ordinance and Site Plan requirements. He recommended that plan be approved, with conditions.

The hearing continued with a presentation by Frank Krawczel, S Power Project Manager. It centered around a 28- slide presentation covering the following main points:

- a. Who is S-Power and their history: Headquarters in Salt Lake City, Utah, - an Independent Power Producer (IPP), specializing in developing, owning and operating renewable energy projects, Operate 155+ Projects in 12 States with 1,600 + MW, and 15 GW of projects under development
- b. S-Power is owned by a joint venture partnership between The AES Corporation (NYSE:AES) - a Fortune 500 global power company, and the Alberta Investment Management Corporation (AIMCo), one of Canada's largest and most diversified institutional investment managers.
- c. Project Overview of Letts Creek Solar Project
  - Location - Grass Lake Charter Township in Jackson County
  - Project Plan - 15 MW single-axis tracker solar project
  - Construction Timing - Spring 2021 through end of Year 2021
  - PPA Offtake - Electricity will be sold to Consumers Energy, IT will produce 28,323 MWh/year, enough to power 2,400 residences.
  - Offsets - 20,029 tons of CO2 reduction, equivalent to the annual amount of carbon sequestered by 23,570 acres of forest.

- **Physical Description** - The project will utilize pole mounted photovoltaic (PV) panel technology. The pole mounting will be secured on steel driven piles which obviates the need for concrete foundations. This will result in lower project grading requirements and minimize long-term impacts to the project site. The PV panels will be approximately 5 – 8 feet in height. The project will have a minimum 40 foot setback from all property lines. The site will be secured with an eight-foot chain-link fence along North Francisco Road and 7' chain-link fence topped with one foot of barbed wire on all other sides. □ Overhead poles will be constructed at the southern edge of site property will connect the solar array to the Consumer Powers distribution grid.
- **Site conditions** – The site is in a rural setting, currently farmed and zoned Agricultural. It is bounded by North Francisco Road on the west, the NS Railroad on the north and privately-owned farmed properties on the east and south. There is no unique farmland soil present on the site. A landscaping plan has been prepared depicting how the solar farm will be integrated into the existing agricultural setting.
- A summary of projected selected economic/fiscal impacts is contained in the following:



The slide presentation is attached.

Two co-owners of the property that is proposed for development, Mr. and Mrs. David & Ann Moore spoke relating their perspective of the project development history and their expectations of the project. They stated that the solar farm would be developed and operated in such a manner that the site would provide positive benefits to all concerned.

**B. Public Comment**

We had five public comments all supportive of the project. Eight letters had been received, also supporting the project. The letters are attached. We did not have any negative comments on this project.

**C. Close Public Hearing**

It was moved by Ducey and supported by Brennan to close the Public Hearing. All ayes. Motion carried.

**7. New Business (Item 6d in revised Agenda)**

Case #20-05-0008 -- Preliminary Site Plan and Special Use Permit (SLUP) request for a Large Solar Energy System by Letts Creek Solar, LLC.

Discussion ensued regarding minor alterations of proposed Pre operating and Operating Conditions. A resolution was proposed by Hinkle and supported by Ducey to conditionally approve the project Site Plan and SLUP. All ayes. Motion carried. A copy of this resolution is attached.

The meeting was then closed by Chairman Hinkle.

**8. Public Hearing, Case #20-02-0005**

**Proposed Text Amendment to the Mining Ordinance, Section 14.07 HH Version 7 Draft.**

**A. The Draft Amendment Status**

Text Amendment - version 7 has been available for review since May 22, 2020. The proposed text is attached.

**B. Public Comment**

Five letters have been received regarding the Version 7 draft. These letters are attached.

The subjects focused primarily on the following:

- Surface and ground water considerations and the necessity of the conduction, and type, of hydrologic surface and ground water survey/analyses before issuance of a Special Land Use Permit (SLUP).
- Potential health impacts of mining operations.

- Operations monitoring including enforcement of Special Land Use Permit conditions.
- Comparison of procedures/metrics (site size, offsets, financial, insurance enforcement, SLUP length) contained the draft with those of Waterloo Township's Mining ordinance.

The authors of four of the above noted letters spoke reiterating the comments presented in their letters. A representative of the Michigan Aggregate Association, Doug Needham, addressed issues associated with the hydrogeologic requirements of the proposed amendment.

#### C. Close Public Hearing.

It was moved by Ducey and supported by Brennan to close the Public Hearing. All ayes. Motion carried.

#### 9. New Business (Item 7c in revised agenda)

Case #20-02-0005 Proposed Text Amendment to the Mining Ordinance, Section 14.07 HH Version 7 Draft.

Members of the Planning commission discussed the comments received regarding the Version 7 of Zoning Ordinance amendment. It was concluded that in light of these comments no further revisions at this time were necessary before submission to the Jackson County Planning Commission for review. Future actions in the ordinance implementation could result in further revisions needed.

A motion was made by Hinkle and supported by Ducey to approve the draft of proposed text amendment to the Grass Lake Charter Township Zoning Ordinance regulating mining and extraction operations within the Township in order to maintain the public health, safety and welfare of the residents of and visitors to Grass Lake Charter Township. All ayes. Motion carried.

A copy of the draft amendment is attached.

#### 10. Citizens Wishing to Address the Commission-non agenda items

Richard Murphy asked if any action had been taken regarding information regarding Township regulations on marijuana production/distribution. Mr. Murphy was informed that the Township Board is addressing this issue.

#### 11. Old Business

The necessity to initiate the updating of the Township Master Plan was noted. This updating should be completed in 2021. It was felt that a subcommittee should be established to develop the updating process.

#### 12. Township Board Report

A proposed tax millage to support rehabilitation of Township local public roads will be placed on the November ballot.

13. Proposed Business for Next Regular Meeting - on August 20, 2020.

A. Possible review of a SLUP application for the Bohne Road gravel pit. (if timely submitted to the Township)

14. General Discussion

None

15. Adjournment

Motion to Adjourn by Ducey and supported by Brennan at 8:59 pm . All ayes.  
Motion carried.

Respectfully submitted.

Jim Ducey, Secretary

Attachments

1. Solar Farm Slide presentation
2. Eight Solar Polar Public Comment Letters
3. Solar Power Conditional Approval Resolution
4. Gravel Pit Text Amendment Version
5. Five Gravel Pit Letters



# Land Use Series

May 16, 2002

Last revised January 3, 2013

Bringing  
Knowledge  
to Life!

*"Thirty seven million  
acres is all the Michigan  
we will ever have."*

Former Governor  
William G. Milliken

Michigan State University  
Extension,  
Greening Michigan Institute,  
Land Use Team

MSU is an affirmative-action, equal-  
opportunity institution. Michigan State  
University Extension programs and materials  
are open to all without regard to race, color,  
national origin, gender, religion, age,  
disability, political beliefs, sexual  
orientation, marital status or family status.

## Restrictions on Zoning Authority

This publication summarizes the state and federal limitations on zoning in Michigan. Local governments receive power, including authorization for planning and zoning, from the state. The authority to adopt and enforce zoning is granted to local governments through the zoning enabling acts.<sup>1</sup> When authority is granted to a local government, it often comes with strings attached which may require the task to be done a certain way or within certain limitations. In addition, various court cases, other state statutes and the federal code often limit what local governments can do with zoning.

Limits placed on zoning can change. This document attempts to outline restrictions on zoning as they currently exist. Limitations described here are categorized as outlined below. For the limitations on zoning listed here, detailed footnotes are included to help the reader find the source of the limitation.

This list, starting on the next page, is divided into the following categories:

1. General Rules (page 2).
2. Outright Preemption (page 2).
3. Preemption, sort of (page 7).
4. If one use is permitted, others must be, also (page 9).
5. Can regulate but not prohibit (page 10).
6. Can regulate but not less strictly than the state (page 10).

Appendix A, on page 11, lists a few commonly believed things to be exempt from zoning, but they are subject to zoning. Appendix B, on page 12, reproduces the Michigan Supreme Court and Michigan Appeals Court guidelines to aid courts to determine if state statute preempts zoning. Appendix C, on page 13, reports the history of this *Land Use Series* updates over time.

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P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.). (This footnote used to cite the following acts, each repealed as of July 1, 2006: P.A. 183 of 1943, as amended (the County Zoning Act, M.C.L. 125.201 et seq.); P.A. 184 of 1943, as amended (the Township Zoning Act, M.C.L. 125.271 et seq.); P.A. 207 of 1921, as amended (the City and Village Zoning Act, M.C.L. 125.581 et seq.).)

## 1. General rules

- A. The zoning enabling acts require consideration of all legitimate land uses: “A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.”<sup>2</sup>
- B. Local zoning must allow the continuation of a nonconforming use<sup>3</sup> and expansion of a nonconforming use<sup>4</sup> (existing building or use of land that lawfully existed prior to zoning or prior to the zoning amendment). However, the ordinance can provide for reasonable terms for restoration, reconstruction, extension, substitution, and acquiring of nonconforming uses that may limit their life span.
- C. Local zoning cannot constitute a taking, which occurs if a regulation requires or permits physical invasion by others onto private property or is so sweeping that it, in effect, takes away all economically viable

use of land<sup>5</sup>

- D. Zoning must provide for due process of law and must provide equal protection of all persons affected by the laws.<sup>6</sup>

## 2. Outright preemption

Outright preemption occurs if the regulation of a particular land use is reserved to the state – that is, it “occupies the field.” The Michigan Supreme Court set forth four guidelines to aid courts in determining whether a statute occupies the field of regulation.<sup>7</sup> See Appendix B, on page 12, for more detail on this.

- A. Local zoning cannot regulate the location or operation of hazardous waste disposal and/or storage facilities.<sup>8</sup> (It is probably acceptable to regulate fencing and haul routes if approved by the state siting board.)
- B. Local zoning cannot regulate the location or operation of solid waste facilities such as

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<sup>2</sup>Section 207 of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3207). (This footnote used to cite the following acts, each repealed as of July 1, 2006: Section 27a. of P.A. 183 of 1943, as amended (the County Zoning Act, M.C.L. 125.227a); section 27a of P.A. 184 of 1943, as amended (the Township Zoning Act, M.C.L. 125.297a); and section 12 of P.A. 207 of 1921, as amended (the City and Village Zoning Act, M.C.L. 125.592).)

<sup>3</sup>Section 208 of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3208). (This footnote used to cite the following acts, each repealed as of July 1, 2006: Section 16 of P.A. 183 of 1943, as amended (the County Zoning Act, M.C.L. 125.216); section 16 of P.A. 184 of 1943, as amended (the Township Zoning Act, M.C.L. 125.286.); and section 3a of P.A. 207 of 1921, as amended (the City and Village Zoning Act, M.C.L. 125.583a).)

<sup>4</sup>*Century Cellunet of Southern Michigan v. Summit Township et al.*, 250 Mich.App. 543 (2002), Jackson Circuit Court LC No. 99-096108-AA.

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<sup>5</sup>Both state and federal constitutions prohibit taking of private property for public use without just compensation – U.S. Constitution, Amendment V, and Michigan Constitution 1963, Article 10 §2. The U.S. Supreme Court has recognized that the government effectively “takes” a person’s property by overburdening that property with regulations. *Pennsylvania Coal Co. v. Mahon*, 260 US 393, 415; 43 S Ct 158; 67 L Ed 2d 322 (1922). See also *K & K Construction, Inc. v. Department of Natural Resources*, 456 Mich 570, 576; 575 NW2d 531 (1998); *Lucas v. South Carolina Coastal Council*, 505 US 1003, 1015; 112 S Ct 2886; 120 L Ed 2d 798 (1992); *Penn Central Transportation Co. v. New York City*, 438 US 104; 98 S Ct 2646; 57 L Ed 2d 631 (1978); *Adams Outdoor Advertising v. City of East Lansing* (after remand), 463 Mich 17, 23-24; 614 NW2d 634 (2000); *Palazzolo v. Rhode Island*, 533 US 606; 121 S Ct 2448, 2457; 150 L Ed 2d 592 (2001); *Loveladies Harbor Inc. v. United States*, 28 F3d 1171 (1994); *Creppel v. United States*, 41 F3d 627 (1994); *Good v. United States*, 189 F3d 1355 (1999); *Lingle v. Chevron USA, Inc.*, 125 S.Ct. 2074 (2005).

<sup>6</sup>U.S. Constitution, Amendment IV.

<sup>7</sup>*People v. Llewellyn*, 401 Mich 314, 257 NW2d 902 (1977).

<sup>8</sup>Section 11122 of Part III of Act 451 of 1994, as amended (the hazardous waste part of Natural Resources and Environmental Protection Act, M.C.L. 324.11121). See also M.C.L. 324.11122.

- landfills and incinerators.<sup>9</sup> (It is probably acceptable to regulate fencing and haul routes if included in the county solid waste management plan.)
- C. Local zoning cannot regulate utility (power) lines.<sup>10</sup>
  - D. Local zoning cannot regulate wind energy power transmission lines<sup>11</sup> within Primary and other Wind Energy Resource Zones established by order of the Michigan Public Service Commission, if a Expedited Siting Certificate for a transmission line is issued to a public utility by the Public Service Commission. Wind Energy Resource Zones do not include areas zoned residential at the time of the designation.
  - E. Local zoning cannot regulate pipelines that are regulated by the Michigan Public Service Commission.<sup>12</sup>

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<sup>9</sup>Section 11538 of Part 115 of Act 451 of 1994, as amended (the solid waste part of Natural Resources and Environmental Protection Act M.C.L. 324.11538(8)).

<sup>10</sup>Section 205(1) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3205(1)); and section 10 of Act 30 of 1955, as amended (the Electric Transmission Line Certification Act, M.C.L. 460.570). (This footnote used to cite the following acts, each repealed as of July 1, 2006: Section 1(2) of P.A. 183 of 1943, as amended (the County Zoning Act, M.C.L. 125.201(2)); and section 1(2) of P.A. 184 of 1943, as amended (the Township Zoning Act, M.C.L. 125.271(2)); section 1(3) of P.A. 207 of 1921, as amended (the City and Village Zoning Act, M.C.L. 125.581(2)).)

<sup>11</sup>P.A. 295 of 2008, as amended, (being the Clean, Renewable, and Efficient Energy Act, M.C.L. 460.1001 *et seq.*). In particular see sections 143, 145(4), 147(1), 149(1), and 153(4) in Part 4 of the act.

<sup>12</sup>The public service commission has the power and jurisdiction to hear and pass upon all matters pertaining to, necessary, or incident to the regulation of public utilities, except for railroads and railroad companies. (Some additional (non-zoning) regulatory powers rest with cities.) Section 4 and 6 of P.A. 3 of 1939, as amended, (being the Michigan Public Service Commission Act, M.C.L. 460.4 and 460.6). P.A. 3 of 1895, as amended, (being the General Law Village Act, M.C.L. 67.1a). P.A. 278 of 1909, as amended, (being the Home Rule Village Act, M.C.L. 78.26a). P.A. 215 of 1895, as amended, (Being the Fourth Class City Act, M.C.L. 91.6). P.A. 270 of 1909, as amended, (being the Home Rule City Act, M.C.L. 117.5d).

- F. Local zoning (and state and local government) cannot regulate railroads.<sup>13</sup>
- G. Local zoning cannot regulate state prisons and public correctional facilities<sup>14</sup> including halfway houses.<sup>15</sup> Private facilities can be regulated.
- H. Township and county zoning cannot regulate oil and gas wells, exploration, and operation of the wellhead site<sup>16</sup> (but it can be regulated off-site.) An exception is that this regulation can occur if zoning is for a designated “natural river.”<sup>17</sup>
- I. Local zoning cannot regulate surface coal mining and reclamation operations.<sup>18</sup> (See also “mining” on page 13.) An exception is that this regulation can occur if zoning is

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<sup>13</sup>Interstate Commerce Commission Termination Act of 1995, 49 U.S.C. § 10101 *et seq.* P.A. 354 of 1993, as amended, (being the Railroad Code of 1993, M.C.L. 462.131) and *Wabash, St. L. & P.R. Co. v. Illinois*, 118 U.S. 557 (1886).

<sup>14</sup>Section 4 of Chapter I of Act 232 of 1953, as amended (Department of Corrections Act M.C.L. 791.204). Also M.C.L. 791.216. Noted exception is at 791.220g(7).

<sup>15</sup>*Dearden v. Detroit*; Supreme Court of Michigan, 403 Mich. 257; 269 N.W.2d 139; 1978 Mich., August 30, 1978, Decided.

<sup>16</sup>Section 205(2) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3205(2)); and part 615 of Act 451 of 1994, as amended (the supervisor of wells part of the Natural Resources and Environmental Protection Act, M.C.L. 324.61501 *et. seq.*). (This footnote used to cite the following acts, each repealed as of July 1, 2006: Section 1(1) of P.A. 183 of 1943, as amended (the County Zoning Act, M.C.L. 125.201(1)); section 1(1) P.A. 184 of 1943, as amended (the Township Zoning Act, M.C.L. 125.271(1)).)

<sup>17</sup>Section 30508 of Act 451 of 1994, as amended (the Natural Rivers part of the Natural Resources and Environmental Protection Act, M.C.L. 324.30508).

<sup>18</sup>Sec. 63504 of Act 451 of 1994, as amended (the surface and underground coal mine reclamation part of the Natural Resources and Environmental Protection Act, M.C.L. 324.63504). However, section 63505 reads, “This part shall not be construed as preempting a zoning ordinance enacted by a local unit of government or impairing a land use plan adopted pursuant to a law of this state by a local unit of government.”

for a designated natural river.<sup>19</sup>

- J. State water pollution regulations occupy the field for both point<sup>20</sup> and nonpoint<sup>21</sup> sources of pollution.
- K. Regulations about farms/farming<sup>22</sup> are severely restricted by the Right To Farm Act: There is debate as to if one can, or cannot restrict farming to certain zoning districts. Unpublished court rulings suggest farms/farming must be allowed anywhere. Others suggest those cases were dealing with nonconforming farm uses. Michigan Department of Agriculture takes the position a community can allow, or not allow farm/farming in various zoning districts. If farm/farming is allowed, then all types of farms must be allowed. A community cannot pick and choose what types of farms are allowed.

Local zoning of agriculture cannot extend, revise or conflict with provisions of the Right to Farm Act or any generally accepted agricultural and management practices (GAAMPs)<sup>23</sup>, including:

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<sup>19</sup>Section 30508 of Act 451 of 1994, as amended (the natural rivers part of the Natural Resources and Environmental Protection Act, M.C.L. 324.30508).

<sup>20</sup>Section 3133 of Part 31 of Act 451 of 1994, as amended (the water resources (point source) part of the Natural Resources and Environmental Protection Act, M.C.L. 324.3133(1)) and upheld by *City of Brighton and Department of Environmental Quality v. Township of Hamburg*, 260 Mich.App. 345 (2004), Livingston Circuit Court LC No. 00-017695-CH.

<sup>21</sup>Section 8328(1) of Part 83 of P.A. 451 of 1994, as amended (the general non-point source pollution control part of the Natural Resources and Environmental Protection Act, M.C.L. 324.8328(1)).

<sup>22</sup>Farm means any activity that produces a *farm product* via a *farm operation* which is *commercial*, as defined in the Right To Farm Act, M.C.L. 286.472. (There is no minimum amount of *commercial* required, and *farm operation* does not have to be within what one commonly thinks of as a traditional farm.)

<sup>23</sup>Section 4(6) of Act 93 of 1981, as amended (the Michigan Right to Farm Act, M.C.L. 286.474(6)) and respective Michigan Department of Agriculture adopted generally accepted (continued...)

- i. Manure management and utilization.
- ii. Pesticide utilization and pest control.
- iii. Nutrient utilization.
- iv. Care of farm animals.
- v. Cranberry production.
- vi. Site selection and odor control for new and expanding livestock production facilities.
- vii. Irrigation water use.
- viii. Farm Markets<sup>24</sup>

Basic rule of thumb is if the topic is covered in the Right to Farm Act or in a GAAMP, then that topic is off limits for local

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<sup>23</sup>(...continued)  
agricultural and management practices (GAAMPs).

<sup>24</sup>The GAAMP sets forth that a farm market is an "area" where transactions between a farm market operator and customers take place (not necessarily but might be a building). At least 50 percent of the products marketed/offered for sale (measured over a five year timeframe) must be from the affiliated farm. The "50 percent" is measured by use of floor space.

The farm market must be "affiliated" with a farm, meaning a farm under the same ownership or control (e.g. leased) as the farm market, but does not have to be located on the same property where the farm production occurs. The market must be located on land where local land use zoning allows for agriculture and its related activities.

Marketing is part of a farm market, and can include Community Supported Agriculture (CSA), U-Pick operations (also known as pick your own (PYO)), and associated activities and services to attract and entertain customers (e.g., cooking demonstrations, corn mazes, tours, fishing pond, hay rides, horseback riding, petting farms, picnic areas, etcetera (a much longer list is in the GAAMP)). Services to attract and entertain customers are subject to local zoning ordinances, state, federal laws, and associated rules and regulations.

If in a building/structure, the structure must comply with the Stille-Derosset-Hale Single State Construction Code Act (MCL 125.1501 *et seq.*) and placement of the structure shall comply with local zoning, including set-backs from property lines and right-of-ways. Parking may be on grass, gravel, or pavement; one vehicle parking space for every 200 sq. ft. of interior retail space or 1,000 sq. ft. of outdoor activity space. Driveways must have an Michigan Department of Transportation (MDOT), county road commission, or village/city street agency permits. Signs outside the farm market must comply with sign regulations of MDOT, and all applicable local regulations. External lighting must comply with all applicable local, state, and federal regulations for lighting outside the farm market.

All details in the GAAMP are not covered, above. See also Section 2(b)(i) of Act 93 of 1981, as amended, (the Michigan Right to Farm Act, M.C.L. 286.472(b)(i)).

regulation. See more detailed materials on this topic at [www.msu.edu/lu](http://www.msu.edu/lu).

If a local government submits its ordinance on farm/agriculture, showing that adverse effects on the environment or public health will exist within the local government without the ordinance, to the Michigan Department of Agriculture and the Michigan Agricultural Commission approves the ordinance then those local regulations may apply.<sup>25</sup>

- L. State fertilizer regulations occupy the field.<sup>26</sup>
- M. Local zoning cannot regulate uses on state-owned land on Mackinac Island under the control of the Mackinac Island Park Authority. (Furthermore, all buildings in the city of Mackinac Island are subject to design review and approval by the city architect.)<sup>27</sup>
- N. State Fairgrounds are under the jurisdiction of the State Exposition and Fairgrounds Council, one in Detroit and one in the Upper Peninsula.<sup>28</sup>
- O. Local zoning cannot regulate trails that have received Natural Resources Commission designation as a “Michigan trailway”<sup>29</sup> and snowmobile trails which

are subject to the Snowmobile Act.<sup>30</sup>

- P. Local zoning cannot regulate any part of the Michigan State Police radio communication system.<sup>31</sup>
- Q. Local zoning cannot regulate state-owned or leased armories and accessory buildings, military warehouses, arsenals and storage facilities for military equipment, and the land for military uses.<sup>32</sup>
- R. Local zoning cannot regulate U.S. nuclear power<sup>33</sup> facilities and military facilities.<sup>34</sup>
- S. Activities of a federally recognized Native American (Indian) tribal government within trust lands or within “Indian country” are not subject to local zoning. (Tribal zoning, if any, does have jurisdiction.)<sup>35</sup>

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<sup>29</sup>(...continued)

(2001). (See also part 721, section 72103 of P.A. 451 of 1994, as amended (the Michigan trailways part of the Natural Resources and Environmental Protection Act, M.C.L. 324.72103) and section 10 of P.A. 295 of 1976, as amended (the State Transportation Preservation Act of 1976, M.C.L. 474.60)).

<sup>30</sup>M.C.L. 324.82101 *et seq.* and *Chocoley Charter Township v Department of Natural Resources*, no. 246171 (Mich. App., October 28, 2003) (unpublished).

<sup>31</sup>P.A. 152 of 1929, as amended (the Michigan State Police Radio Broadcasting Stations Act, M.C.L. 28.281 *et. seq.*).

<sup>32</sup>Section 380 of chapter 6 of P.A. 150 of 1967, as amended (the armories and reservations chapter of the Michigan Military Act, M.C.L. 32.780).

<sup>33</sup>Title 42, Chapter 23 of the United States Code (42 USC Chap. 23); Atomic Energy Act of 1954, 68 Stat 919 (1954); 42 USC 2011; Michigan Attorney General Opinion No. 4073 (1962), No. 4979 (1976). According to Michigan Attorney General Opinion No. 5948 (1981), the state can regulate radioactive air pollution, including air pollution from nuclear power plants, but cannot prohibit nuclear power plants or nuclear waste disposal facilities within its boundaries.

<sup>34</sup>Title 40, Chapter 12, Section 619(h) of the United States Code (40 USC Sec. 619(h)).

<sup>35</sup>*Brendale v. Confederated Tribes and Bands of the Yakima Indian Nation et al.*, 492 US 408 (1989) addressed zoning jurisdiction in a checkerboarded ownership pattern area. This case was appealed. The U.S. Supreme Court combined the case (continued...)

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<sup>25</sup>Section 4(7) of Act 93 of 1981, as amended (the Michigan Right to Farm Act, M.C.L. 286.474(7)).

<sup>26</sup>Section 8517(1) of Part 85 of Act 451 of 1994, as amended (the fertilizer part of the Natural Resources and Environmental Protection Act, M.C.L. 324.8517).

<sup>27</sup>Section 76504(2) of Part 76 of Act 451 of 1994, as amended (Mackinac Island State Park part of Natural Resources and Environmental Protection Act, M.C.L.324.76504(2)).

<sup>28</sup>P.A. 361 of 1978, as amended (the Michigan Exposition and Fairgrounds Act, M.C.L. 285.161 *et. seq.*) and *City of Detroit v. State of Michigan*, 626 Mich.App. 542 (2004), Wayne Circuit Court LC No. 00-021062-CE.

<sup>29</sup>Section 82101 *et seq.* of Part 821 of Act 451 of 1994, as amended (Snowmobiles part of Natural Resources and Environmental Protection Act, M.C.L.. §§ 324.72101; *Township of Bingham v. RLTD Railroad Corp.*, 463 Mich. 634, 624 N.W.2d 725 (continued...)

- T. Public Schools under the jurisdiction of the Michigan superintendent of public instruction are not subject to local zoning.<sup>36</sup>
- U. Certain public colleges and universities are not subject to local zoning.<sup>37</sup>

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<sup>35</sup>(...continued)

with others before hearing it. The Supreme Court case, also involving the Crow Tribe in *Montana v. United States*, 450 US 544 (1981), further modified the *Brendale* decision to say "fee" lands and "trust" lands are different. Trust lands are zoned by the tribal Ogema (government).

The tribe also retains its zoning authority over non-Indian members in portions of a reservation where only a few, isolated parcels had been alienated and the tribe's power to determine that area's essential character remains intact. The tribe does not have zoning authority within a reservation in an area predominantly owned and populated by non-Indian members because such an area has lost its character as an exclusive tribal resource. The issue becomes where the lines --boundary-- for these areas are drawn. Thus resolution of where tribe or municipality jurisdiction exists is decided in court.

The court requires a case-by-case review to settle the issue of zoning jurisdiction, arguing it is impossible to articulate precise rules that will govern when tribal zoning or municipal/county zoning has jurisdiction.

<sup>36</sup>*Charter Township of Northville et al. v. Northville Public Schools* 469 Mich 285, 666 N.W.2d 213 (2003). Section 1263(3) of Act 451 of 1976, as amended (the Revised School Code, M.C.L. 380.1263(3)).

<sup>37</sup>Article VIII Section 5 of the 1963 Michigan Constitution; Article VIII Section 6 of the 1963 Michigan Constitution; Section 5 of Act 151 of 1851, as amended (the University of Michigan Act, M.C.L. 390.5); Sections 2 and 6 of Act 269 of 1909, as amended (the Michigan State University Act, M.C.L. 390.102 and 390.106); Section 5 of Act 183 of 1956, as amended (the Wayne State University Act, M.C.L. 390.645)); Section 4 of Act 35 of 1970, as amended (the Oakland University Act, M.C.L. 390.154); Section 2 of Act 70 of 1885, as amended (the Michigan Technological University Act, M.C.L. 390.352); Section 4 of Act 26 of 1969, as amended (the Lake Superior State University Act, M.C.L. 390.394); Section 3 of Act 72 of 1857, as amended (the Albion College Act, M.C.L. 390.703); Section 1 of Act 278 of 1965, as amended (the Saginaw Valley State University Act, M.C.L. 390.711); Section 2 of Act 95 of 1943, as amended (the Hillsdale College Act, M.C.L. 390.732); Sections 1 and 2 of Territorial Laws of 1833, Vol. III (the Kalamazoo College Act, M.C.L. 390.751 and 390.752); Section 3 of Act 114 of 1949, as amended (the Ferris State University Act, M.C.L. 390.803); Section 3 of Act 120 of 1960, as amended (the Grand Valley State University Act, M.C.L. 390.843); Section 3 of P.A. 48 of 1963 (2<sup>nd</sup> Ex. Sess.), as amended (the Central, Eastern, Northern and (continued...)

- V. A municipality that adopts a zoning ordinance need not follow its own ordinance.<sup>38</sup> The court case establishing this preemption is specifically interpreting the City and Village Zoning Act, but the language the court used suggests this concept might also apply to a township or county. This preemption is only for a government's own zoning ordinance. A city, township, and village government must comply with another government's zoning ordinance.<sup>39</sup>

- W. County buildings owned and built/located by a county board of commissioners is not subject to zoning<sup>40</sup> in so much as the county has the power to determine "the site of, remove, or to designate a new site for a county building," and to erect "the necessary buildings for jails, clerks' offices, and other county buildings...."<sup>41</sup> A county's power under the CCA "is limited to the siting of county buildings." The court case establishing this preemption involved a county building and township zoning, but the language used by the court suggests the county is exempt from city and village zoning as well. Ancillary land uses indispensable to the building's normal use (not other types of land uses) are also not

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<sup>37</sup>(...continued)

Western Michigan Universities Act, M.C.L. 390.553). See also *Marquette Co. v. Bd. of Control of Northern Michigan Univ.*, 111 Mich.App. 521, 314 N.W.2d 678 (1981).

<sup>38</sup>*Morrison et al. v. City of East Lansing*, 255 Mich. App. 505 (2003).

<sup>39</sup>Michigan Attorney General Opinion No. 6982 (1998).

<sup>40</sup>*Pittsfield Charter Township v. Washtenaw County and City of Ann Arbor*, 468 Mich 702, 664 N.W.2d 193 (2003).

<sup>41</sup>*Herman v. County of Berrien* (Published No. 134097, June 18, 2008) Michigan Supreme Court.

- subject to zoning.<sup>42</sup>
- X. A local unit of government shall not regulate underground storage tanks that is inconsistent with the state statute and rules, nor require a permit, license, approval, inspection, or the payment of a fee or tax for the installation, use, closure, or removal of an underground storage tank system.<sup>43</sup>
  - Y. A local unit of government shall not enact or enforce an ordinance that regulates a large quantity water withdrawal<sup>44</sup> (more than an average of 100,000 gallons of water per day).
  - Z. A local unit of government cannot regulate the ownership, registration, purchase, sale, transfer, or possession of pistols or other firearms.<sup>45</sup>

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<sup>42</sup>*Herman v. County of Berrien* (Published No. 134097, June 18, 2008) Michigan Supreme Court.

<sup>43</sup>Section 109, and 108(2) of Part 211 of P.A. 451 of 1994, as amended, (being the Underground Storage Tanks part of the Michigan Natural Resources and Environmental Protection Act, (M.C.L. 324.21109, M.C.L. 324.21108(2).) However the DEQ may delegate underground storage tanks to certain local governments, M.C.L. 324.21102(7). Note: these sections are repealed by act 451 of 1994, as amended, effective upon the expiration of 12 months after part 215 becomes invalid pursuant to section M.C.L. 324.21546 (3).

<sup>44</sup>Section 26 of Part 327 of P.A. 451 of 1994, as amended, (being the Great Lakes Preservation part of the Michigan Natural Resources and Environmental Protection Act, (M.C.L. 324.32726) reads: "Except as authorized by the public health code, 1978 PA 368, M.C.L. 333.1101 to 333.25211, a local unit of government shall not enact or enforce an ordinance that regulates a large quantity withdrawal. This section is not intended to diminish or create any existing authority of municipalities to require persons to connect to municipal water supply systems as authorized by law."

MCL 324.32701(p) defines "Large quantity withdrawal" to mean "1 or more cumulative total withdrawals of over 100,000 gallons of water per day average in any consecutive 30-day period that supply a common distribution system."

<sup>45</sup>MCL 123.1102 and *Michigan Coalition for Responsible Gun Owners v City of Ferndale* ( 256 Mich App 401, 409-410; 662 NW2d 864 (2003), lv den 469 Mich 880 (2003))

A local unit of government shall not . . . enact or enforce any ordinance or regulation pertaining to, or regulate in any  
(continued...)

AA. Southeast Michigan Regional Transit Authority public transit facilities and public transportation system are exempt from local zoning ordinances or regulations which conflict with a coordination directive issued by the Authority.<sup>46</sup>

### 3. Preemption, sort of

- A. Local governments cannot implement regulations that are more stringent than those of the state for the interior design of mobile (manufactured) home parks or standards related to the business, sales, and service practices of mobile home dealers, mobile home installers and repairers (unless the local regulation has been approved by the Michigan Manufactured Home Commission).<sup>47</sup>
- B. Local government cannot regulate activities of the U. S. government on land owned by the federal government (although privately-owned facilities leased by the federal government can be regulated). Federal government must "consider" local regulations and follow them to "the maximum extent feasible." It must also follow requirements for

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<sup>45</sup>(...continued)

other manner the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols or other firearms, ammunition for pistols or other firearms, or components of pistols or other firearms, except as otherwise provided by federal law or a law of this state. [MCL 123.1102; emphasis added.]

<sup>46</sup>Section 205(1)(b) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, MCL 125.3205(1)(b) (effective March 27, 2013 at noon) and section 8(12) and section 15 of the Regional Transit Authority Act, MCL \_ \_ 8(12) and \_ \_ 15 (P.A.387 of 2012).

<sup>47</sup>Section 7 of Act 96 of 1987, as amended (the Mobile Home Commission Act, M.C.L. 125.2307). Also, a local ordinance shall not be stricter than the manufacturer's recommended mobile home setup and installation specifications, or mobile home setup and installation standards promulgated by the federal Department of Housing and Urban Development pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 to 5426.

landscaping, open space, minimum distance, maximum height, historic preservation and esthetic qualities, but it is not required to obtain a permit.<sup>48</sup> A federal instrumentality (where a federal government function is being done by a private entity) is also immune from any state law or local regulation directly inhibiting the purpose (and only its purpose).<sup>49</sup>

- C. Local governments cannot implement regulations about nonferrous metallic mineral mining (nonferrous metallic sulfide deposits) that duplicate, contradict, or conflict with part 632 of the Natural Resources and Environmental Protection Act.<sup>50</sup> And such regulations (concerning

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<sup>48</sup>Title 40, Chapter 12, Section 619 of the United States Code (40 USC Sec. 619).

In carrying out its Federal functions, neither the United States nor its agencies are subject to state or local regulations absent a clear statutory waiver to the contrary. This concept is based upon the Supremacy Clause of the United States Constitution which states, in part, that it and the laws of the United States are the “supreme law of the land.” (U.S. Constitution, Article VI, cl.2.)

It is a “seminal principal” of law that the United States Constitution and the laws made pursuant to it are supreme. *Hancock v. Train*, 426 U.S. 167,178.

“(I)t is of the very essence of supremacy to remove all obstacles to its action within its own sphere, and so to modify every power vested in subordinate governments, as to exempt its own operations from their own influence.”

*Hancock*, 426 U.S. 167,178 (*McCulloch v. Maryland*, 4 *Wheat*. 316,426 (1819)). Sovereign immunity means that where “Congress does not affirmatively declare its instrumentalities or property subject to regulation,” “the federal function must be left free” of regulation. *Id.* (*Mayo v. United States*, 319 U.S. 441, 447-48).

<sup>49</sup>*City of Detroit v. Ambassador Bridge Co.* Michigan Supreme Court (No. 132329, May 7, 2008); *United States v. Michigan*; and *Name.Space, Inc. v. Network Solutions, Inc.* (2nd Cir.). See also *Commodities Exp. Co. v. Detroit Int'l Bridge*, U.S. Court of Appeals Sixth Circuit No. 11-1758, September 24, 2012.

<sup>50</sup>Part 632 of P.A. 451 of 1994, as amended, (being the Nonferrous Metallic Mineral Mining part of the Michigan Natural Resources and Environmental Protection Act, (M.C.L. 324.63203(4)).

See also Michigan Attorney General Opinion 7269, (continued...)

hours of operation and haul routes) shall be reasonable in accommodating customary nonferrous metallic mineral mining operations.

- D. Local zoning can regulate only certain specific aspects of extraction (mining) of natural resources (e.g., gravel, sand and similar pits).<sup>51</sup> Zoning can not prevent extraction of natural resources unless “very serious consequences”<sup>52</sup> would occur. Regulations can include government’s reasonable regulation of hours of operation, blasting hours, noise levels, dust control measures, and traffic (not preempted by the nonferrous metallic mineral mining part of the Natural Resources and Environmental Protection Act<sup>53</sup>). Such regulation shall be reasonable in accommodating customary mining operations. Extraction of minerals supercedes surface rights. (Oil and gas and coal mining can not be regulated, see 2H and 2I.) Further regulation of mineral extraction might be acceptable if the zoning is for a designated natural river.
- E. Wireless communication antenna and towers shall be a permitted use on any property on existing support structures, and in certain circumstances (larger support structure) shall be a special use permit (or the community may allow it as

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<sup>50</sup>(...continued)  
September 27, 2012.

<sup>51</sup>Section 205(3)-205(6) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3206(3)-125.3205(6)).

See also Michigan Attorney General Opinion 7269, September 27, 2012.

<sup>52</sup>See *Silva v Ada Township*, 416 Mich 153 (1982); *American Aggregates Corp v Highland Twp*, 151 Mich. App. 37; and MCL 125.3205(5).

<sup>53</sup>Part 632 of P.A. 451 of 1994, as amended, (being the Nonferrous Metallic Mineral Mining part of the Michigan Natural Resources and Environmental Protection Act, (M.C.L. 324.63203(4)).



- a permitted use).<sup>54</sup>
- F. A local unit of government is limited to regulate fireworks sale, display, storage, transportation or distribution which are regulated under the Michigan Fireworks Safety Act in a manner that is only incidental.<sup>55</sup> But the Fireworks Safety Act leaves open the door to limited regulation so long as that regulation does contravene the state law and the local ordinance is incidental because it applies its regulations to any and all retail operations, and fireworks sales are not treated any differently than all other retail enterprises. A local unit of government may enact an ordinance regulating the ignition, discharge, and use of consumer fireworks, but such ordinance cannot apply to the day preceding, the day of, or the day after a national holiday. It may also be that local ordinances cannot regulate novelties.<sup>56</sup>

#### 4. If one use is permitted, others must be, also

- A. If land is zoned “residential” of a specified density, then the ordinance must provide for a cluster (open space) type of development.<sup>57</sup>
- B. In zoning districts where dwellings are

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<sup>54</sup>Section 514 of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3514).

<sup>55</sup>Michigan Attorney General Opinion 7266 (June 12, 2012) and Section 7 of PA 256 of 2011 (being the Michigan Fireworks Safety Act, M.C.L. 28.457).

<sup>56</sup>Section 3 of PA 256 of 2011 (being the Michigan Fireworks Safety Act, M.C.L. 28.453). “Novelties” is defined in M.C.L. 28.452(t) as the same as defined under 2001 APA standard 87-1 (American Pyrotechnics Association of Bethesda, Maryland), and toy paper caps/pistols, flitter sparklers, toy noisemakers, toy snakes, etc.

<sup>57</sup>Section 506 of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3506). (This footnote used to cite the following acts, each repealed as of July 1, 2006: Section 16h of P.A. 183 of 1943, as amended (the County Zoning Act, M.C.L. 125.216h.); section 16h of P.A. 184 of 1943, as amended (the Township Zoning Act, M.C.L. 125.286h.); and section 4f of P.A. 207 of 1921, as amended (the City and Village Zoning Act, M.C.L. 125.584f).)

permitted, the ordinance must also allow:

- i. Mobile homes.<sup>58</sup>
  - ii. State-licensed residential facilities for six or fewer persons.<sup>59</sup>
  - iii. Home occupation for instruction in a craft or fine art (e.g., music lessons).<sup>60</sup>
  - iv. “Family day-care home” and “group day-care home” (e.g., child daycare facilities) in counties and townships.<sup>61</sup> (Cities and villages can regulate these by special use permit.<sup>62</sup>)
- C. If land is zoned to allow farms, or farms are allowed as a nonconforming use then a biofuel production facility that produces 100,000 or less gallons of biofuel shall be a permitted use on a farm subject to certain conditions. A biofuel production facility of more than 100,000 but not more than 500,000 gallons of biofuel shall be a possible special use on a farm subject to certain conditions.<sup>63</sup>

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<sup>58</sup>*Robinson Township v. Knoll*, 410 Mich 310 (1981) and Section 7(6) of Act 96 of 1987, as amended (the Mobile Home Commission Act, M.C.L. 125.2307(6)).

<sup>59</sup>Section 206 of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3206). (This footnote used to cite the following acts, each repealed as of July 1, 2006: Section 16a of P.A. 183 of 1943, as amended (the County Zoning Act, M.C.L. 125.216a); section 16a of P.A. 184 of 1943, as amended (the Township Zoning Act, M.C.L. 125.286a.); and section 3b of P.A. 207 of 1921, as amended (the City and Village Zoning Act, M.C.L. 125.583b).)

<sup>60</sup>Section 204 of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3204). (This footnote used to cite the following acts, each repealed as of July 1, 2006: Section 1a of P.A. 183 of 1943, as amended (the County Zoning Act, M.C.L. 125.201a); section 1a of P.A. 184 of 1943, as amended (the Township Zoning Act, M.C.L. 125.271a.); and section 3c of P.A. 207 of 1921, as amended (the City and Village Zoning Act, M.C.L. 125.583c).)

<sup>61</sup>Section 206(3) and 206(4) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3206(3) and 125.3206(4)). (This footnote used to cite the following acts, each repealed as of July 1, 2006: Section 16g of P.A. 183 of 1943, as amended (the County Zoning Act, M.C.L. 125.216g); and section 16g of P.A. 184 of 1943, as amended (the Township Zoning Act, M.C.L. 125.286g).)

<sup>62</sup>Section 206(5) of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3206(5)).

<sup>63</sup>Section 513 of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3513).

## 5. Can regulate but not prohibit

- A. Signs can be regulated so long as the regulation is not dependent on (does not regulate) the content of the sign.<sup>64</sup> Also, sign regulation just for aesthetic purposes can be problematic.<sup>65</sup>
- C. Local zoning cannot limit religious activities/land uses in any terms that differ from those for other assemblies and nonreligious activities/land uses, nor can they interfere with religious activity.<sup>66</sup>
- D. Adult entertainment or sexually oriented businesses can be regulated but not totally excluded.<sup>67</sup>
- E. Zoning cannot prohibit satellite dishes<sup>68</sup> or cellular telephone towers<sup>69</sup>, but it can

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<sup>64</sup>U.S. Constitution, Amendment I. Sign regulation for “commercial speech” (an ad to propose a commercial transaction): *Bolger v. Youngs Drug Products Corp.*, 463 US 60, 66 (1983).

Sign regulation for “noncommercial” speech (political or ideological speech): *Central Hudson Gas & Electric Corp. v. Public Service Commission*, 447 US 557 (1980).

Regulations that relate only to “time, place or manner” (e.g., regulations that are “content-neutral”) must meet court rules set down in *U.S. v. O’Brien*, 391 US 367 (1968): (1) furthers an important or substantial governmental interest, (2) is unrelated to the suppression of speech, and (3) limits speech no more than necessary to protect whatever 1<sup>st</sup> Amendment interests are involved.

<sup>65</sup>*St. Louis Gunning Advertising Co. v. City of St. Louis*, 137 SW 929 (1911), appeal dismissed 231 US 761 (1913). *City of Passaic v. Paterson Bill Posting, Advertising & Sign Co.*, 62 A. 267 (1905).

<sup>66</sup>Title 42, Chapter 21C of the United States Code, codification of Religious Land Use and Institutionalized Persons Act of 2000 (PL 106-274).

<sup>67</sup>*Young v. American Mini Theaters, Inc.*, 427 US 50, 71, 96 S Ct 2440, 49 L Ed 2d 310 (1976).

<sup>68</sup>Title 47, Chapter 5, Subchapter III, Section 303(v) of the United States Code (47 USC Sec. 303) and Federal Communications Commission administrative rules (47 USC Sec. 210(c)).

<sup>69</sup>Title 47, Chapter 5, Subchapter III, Section 332(c)(7) of the United States Code (47 USC Sec. 332(c)(7)). In particular, as amended by H.R. 952 and H.R. 2834 of the 106<sup>th</sup> Congress, 1<sup>st</sup> (continued...)

regulate location (to a limited extent), design, co-location, etc.

- F. Television reception antennas, multichannel multipoint distribution service, or direct broadcast satellite services which are or smaller than one meter (39.37 inches), are subject to very restricted regulation by local municipalities. Local zoning must comply with the act, and the FCC rules concerning Over-the-Air Reception Devices. Those rules prohibits most zoning restrictions that: (1) unreasonably delay or prevent installation, maintenance or use; (2) unreasonably increase the cost of installation, maintenance or use; or (3) preclude reception of an acceptable quality signal.<sup>70</sup>
- G. Existing shooting ranges (gun clubs) can continue after zoning is changed to prohibit or further regulate the range.<sup>71</sup>

## 6. Can regulate but not less strictly than the state

- A. Local air pollution regulations must be at least as strict as those of the state.<sup>72</sup>

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<sup>69</sup>(...continued)

session. (See also section 251 of P.A. 179 of 1991, as amended (the Michigan Telecommunications Act, M.C.L. 484.2251). Note that section 251 is repealed, effective December 31, 2005.)

<sup>70</sup>Section 207 of Public Law 104-104 (Title 47, Chapter 5, Subchapter III, Part I, Section 303 of the United States Code (47 USC Sec. 303), the Communications Act of 1934, as amended); and rules adopted by the Federal Communications Commission (rule 47 C.F.R. Section 1.4000) on Over-the-Air Reception Devices (“OTARD”).

See also U.S. Federal Communications Commission Information Sheet (Dec. 2007), <http://www.fcc.gov/mb/facts/otard.html>, and [http://www.hindmansanchez.com/docs/fcc\\_otard\\_rule\\_questions\\_and\\_answers\\_05240652.pdf](http://www.hindmansanchez.com/docs/fcc_otard_rule_questions_and_answers_05240652.pdf).

<sup>71</sup>Section 2a(1) of Act 269 of 1989, as amended (the Sport Shooting Ranges Act, M.C.L. 691.1542a(1)).

<sup>72</sup>Section 5542(1) of Part 55 of P.A. 451 of 1994, as amended (the air pollution control part of the Natural Resources (continued...))

- B. Local zoning can not conflict with adopted airport zoning.<sup>73</sup>
- C. Regulation of Great Lakes shoreline high-risk erosion areas is subject to approval and oversight by the Michigan Department of Environmental Quality.<sup>74</sup>
- D. Designated sand dunes protection is subject to approval and oversight by the Michigan Department of Environmental Quality.<sup>75</sup>
- E. State natural rivers protection is subject to approval and oversight by the Michigan

- Department of Natural Resources.<sup>76</sup>
- F. Local governments can regulate/protect wetlands, but the local regulations cannot deviate from the state's definition of a wetland, and the local parts of the zoning ordinance must be approved by the Michigan Department of Environmental Quality.<sup>77</sup>
- G. Local regulation of floodplains cannot be less strict than that of the state.<sup>78</sup>
- H. Local regulation of soil erosion and sedimentation cannot be less strict than that of the state (or of counties administering rules promulgated under state statute).<sup>79</sup>

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<sup>72</sup>(...continued)

and Environmental Protection Act, M.C.L. 324.5542(1)).

“(1) Nothing in this part or in any rule promulgated under this part invalidates any existing ordinance or regulation having requirements equal to or greater than the minimum applicable requirements of this part or prevents any political subdivision from adopting similar provisions if their requirements are equal to or greater than the minimum applicable requirements of this part.

(2) When a political subdivision or enforcing official of a political subdivision fails to enforce properly the provisions of the political subdivision's ordinances, laws, or regulations that afford equal protection to the public as provided in this part, the department, after consultation with the local official or governing body of the political subdivision, may take such appropriate action as may be necessary for enforcement of the applicable provisions of this part.

(3) The department shall counsel and advise local units of government on the administration of this part. The department shall cooperate in the enforcement of this part with local officials upon request.”

<sup>73</sup>Section 18 of P.A. 23 of 1950 Extra Session, as amended (the Airport Zoning Act, M.C.L. 259.448 *et seq.*). (Section 15 (M.C.L. 259.445) provides for airport zoning to be a part of local zoning.)

<sup>74</sup>Part 321 of P.A. 451 of 1994, as amended (the shorelands protection and management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.32301).

<sup>75</sup>Part 353 of P.A. 451 of 1994, as amended (the sand dunes protection and management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.35301).

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## Appendix A.

COMMONLY BELIEVED TO BE EXEMPT FROM ZONING

### Items subject to zoning

There are some prevailing misunderstandings which have lead some to believe the following activities are exempt, or not subject to zoning. However in fact these activities are subject to zoning:

1. Michigan Department of Natural Resources boat launches (and by extension other state park and state forest land uses).
2. Private schools and other schools which are not under the jurisdiction of the Michigan superintendent of public instruction.

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<sup>76</sup>Part 305 of P.A. 451 of 1994, as amended (the natural rivers part of the Natural Resources and Environmental Protection Act, M.C.L. 324.30501).

<sup>77</sup>Part 303 of P.A. 451 of 1994, as amended (the wetlands part of the Natural Resources and Environmental Protection Act, M.C.L. 324.30301) and Opinion of the Attorney General No. 6892 (March 5, 1996).

<sup>78</sup>Part 301 of P.A. 451 of 1994, as amended (the inland lakes and streams part of the Natural Resources and Environmental Protection Act, M.C.L. 324.30501).

<sup>79</sup>Part 91 of P.A. 451 of 1994, as amended (the soil erosion and sedimentation control part of the Natural Resources and Environmental Protection Act, M.C.L. 324.9101 *et seq.*).

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## Appendix B.

The following court case is instructive in determining if a state statute preempts local zoning.

Court: Michigan Court of Appeals (Unpublished No. 248702)

Case Name: *Salamey v. Dexter Twp. Zoning Bd. of*

*Appeals*

Based on the plain language of MCL 324.21109 and the ordinance, the court rejected plaintiff's argument the ordinance was preempted because it was in direct conflict with Natural Resources and Environmental Protection Act (NREPA), and the court further held NREPA did not preempt the ordinance by virtue of completely occupying the field the ordinance attempted to regulate.

Plaintiff appealed from the trial court's order affirming the zoning board of appeals' (ZBA) decision denying plaintiff's request for a conditional use permit to operate a gas station in an area zoned a "General Commercial District." Plaintiff contended NREPA preempted local regulation of the installation and use of underground storage tanks (UST) systems, and the ZBA's decision was not supported by competent, material, and substantial evidence. The court concluded MCL 324.21109 neither expressly permits, nor prohibits, operation of a gas station in a general commercial district and the ordinance did not strictly regulate USTs – rather, it promulgated rules for the operation of automobile service stations. NREPA also did not preempt municipal regulation under the facts presented when the record showed various factors other than the installation of the UST system were legitimate reasons for denial of the permit. In addition, the court held the record demonstrated there was competent, material, and substantial evidence supporting the denial of the permit. Affirmed.

### Quoting, on the issue of state law preemption:

"State law preempts a municipal ordinance where "1) the statute completely occupies the field that ordinance attempts to regulate, or 2) the ordinance directly conflicts with a state statute." *Michigan Coalition for Responsible Gun Owners, supra*, 256 Mich App 408, quoting *Rental Prop Owners Ass'n of Kent Co v Grand Rapids*, 455 Mich 246, 257; 566 NW2d 514 (1997). Regarding the second method of preemption set forth above, our Supreme Court has held that "[a] direct conflict exists . . . when the ordinance permits what the statute prohibits or the ordinance prohibits what the statute permits." *People v Llewellyn (City of East Detroit v Llewellyn)*, 401 Mich 314, 322 n 4; 257 NW2d 902 (1977).

"According to MCL 324.21109(3) of NREPA, a local unit of government "shall not enact or enforce a provision of an ordinance that requires a permit, . . . [or] approval . . . for the installation, use, closure, or removal of an underground storage tank system." The act further provides that a local unit of government "shall not enact or enforce a provision of an ordinance

that is inconsistent with this part or rules promulgated under this part." M.C.L. 324.21109(2). Under the township zoning ordinance at issue in the instant case, Section 13.01(D)(5), Art XIII of the Dexter Township zoning ordinance requires a special approval use permit in order for the ZBA to permit an "automobile service station" in a general commercial district.

"Plaintiff contends that, because the township zoning ordinance requires plaintiff to obtain a special approval use permit in order to operate a gas station, i.e., a facility with an underground storage tank system, NREPA preempts that section of the zoning ordinance. This argument is not persuasive in light of the plain language of MCL 324.21109 1 and the plain language of the ordinance. Clearly, M.C.L. 324.21109 of NREPA neither expressly permits nor prohibits the operation of a gas station in a general commercial district. And, Section 13.01(D)(5), Art XIII of the Dexter Township zoning ordinance does not strictly regulate underground storage tanks, but rather promulgates rules for the operation of an automobile service station.

....

"Our Supreme Court set forth four guidelines to aid courts in determining whether a statute occupies the field of regulation:

First, where the state law expressly provides that the state's authority to regulate in a specified area of the law is to be exclusive, there is no doubt that municipal regulation is preempted.

Second, preemption of a field of regulation may be implied upon an examination of legislative history.

Third, the pervasiveness of the state regulatory scheme may support a finding of preemption. While the pervasiveness of the state regulatory scheme is not generally sufficient by itself to infer preemption, it is a factor which should be considered as evidence of preemption.

Fourth, the nature of the regulated subject matter may demand exclusive state regulation to achieve the uniformity may demand exclusive state regulation to achieve the uniformity necessary to serve the state's purpose or interest."

[*Llewellyn, supra*, 401 Mich 323-324 (citations omitted).]

Full Text Opinion:

<http://www.michbar.org/opinions/appeals/2004/120204/25398.pdf>

See also Attorney General Opinion 7266 (June 12, 2012):

<http://www.ag.state.mi.us/opinion/datafiles/2010s/op10345.htm>

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## Appendix C.

Note. This *Land Use Series* is regularly updated. The first edition was prepared May 16, 2002. Subsequent updates include:

- June 23, 2003; July 14, 2003; August 5, 2003; January 21, 2004:
  - County buildings, *Pittsfield Charter Township v. Washtenaw County and City of Ann Arbor*, 468 Mich 702, 664 N.W.2d 193 (2003)
  - Follow one's own ordinance, *Morrison et al. v. City of East Lansing*, 255 Mich. App. 505 (2003).
  - Public schools, *Charter Township of Northville et al. v. Northville Public Schools* 469 Mich 285, 666 N.W.2d 213 (2003).
  - State fair, *City of Detroit v. State of Michigan*, 626 Mich.App. 542 (2004), Wayne Circuit Court LC No. 00-021062-CE.
- December 6, 2005:
  - Takings, *Lingle v. Chevron USA, Inc.*, 125 S.Ct. 2074 (2005), and
  - repeal of section 251 of the Michigan Telecommunications Act, M.C.L. 484.2251) effective December 31, 2005.
  - Water pollution, *City of Brighton and Department of Environmental Quality v. Township of Hamburg*, 260 Mich.App. 345 (2004), Livingston Circuit Court LC No. 00-017695-CH.
- April 24, 2006: P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 *et seq.*
- June 26, 2006: Section 109, and 108(2) of Part 211 of P.A. 451 of 1994, as amended, (being the Underground Storage Tanks part of the Michigan Natural Resources and Environmental Protection Act, (M.C.L. 324.21109, M.C.L. 324.21108(2).)
- January 8, 2007: Large quantity water withdrawal added: Section 26 of Part 327 of P.A. 451 of 1994, as amended, (being the Great Lakes Preservation part of the Michigan Natural Resources and Environmental Protection Act, (M.C.L. 324.32726), effective February 28, 2006.
- May 2, 2007: Added *Herman v. County of Berrien* ((Published No. 273021, April 26, 2007) \_\_\_ Mich \_\_\_, \_\_\_ N.W.2d \_\_\_ (2007)) to footnote on county building exception from zoning.
- June 28, 2007: Added information on zoning regulation of railroads.
- January 30, 2008: Added information on snowmobile trails.
- April 9, 2008: To remove:
  - ‘4.C. If a county zones an area “business,” “commercial,” “industrial,” “manufacturing,” “service” or similar (or the area is not zoned), then it must allow billboards along state highways.’as a result of P.A. 93 of 2008 amendment to P.A. 106 of 1972, as amended, (being the Highway Advertising Act of 1972, M.C.L. 252.301 *et seq.*) which provide counties the authority to regulate billboards.
- May 14, 2008: Added “Federal Instrumentality”; Case Name: *City of Detroit v. Ambassador Bridge Co.* Michigan Supreme Court (No. 132329, May 7, 2008); and added “*Kyser v. Kasson Twp.*, Michigan Court of Appeals (Published No. 272516 and No. 273964, May 6, 2008).” to the footnote on gravel/sand mining.
- June 26, 2008: Added more detail about county building exemption from zoning as a result of *Herman v. County of Berrien* (Published No. 134097, June 18, 2008) Michigan Supreme Court.
- October 8, 2008:
  - added further discussion on federal supremacy concerning zoning not having jurisdiction over federal activities.
  - added wind energy power transmission lines as a result of M.C.L. 460.1001 *et seq.*
- December 10, 2008:
  - added farm market discussion.
  - television reception antennas
  - Added Appendix A. List of items which are subject to zoning, but confusions results in some believing the land use is exempt from zoning.
- February 11, 2009: Added appendix B.
- April 3, 2009: Added halfway houses operated by the Michigan Department of Corrections.
- August 7, 2009: Moved “farming” from “Preemption, Sort of” to “Outright Preemption” and revised text.
- January 18, 2010: Added “farm market” to list of GAAMPs.
- July 19, 2010: Removed from “5. Can Regulate, but Not Prohibit” the following text:

Local zoning can regulate **extraction (mining) of natural resources** (e.g., gravel, sand and similar pits), but this does not include coal, oil and gas.<sup>80</sup> Zoning can not prevent extraction of natural resources unless “very serious consequences” would occur. Regulations can include time limits for mining and reclamation. Extraction of minerals supercedes surface rights. (Oil and gas and coal mining can not be regulated, see 2H and 2I.) Further regulation of mineral extraction might be acceptable if the zoning is for a designated natural river.<sup>81</sup>

This was removed as a result of *Kyser v. Kasson Twp.*, July 15, 2010.<sup>82</sup>
- July 14, 2011: Added nonferrous metallic mineral mining

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<sup>80</sup>*Certain Teed Products Corp. v. Paris Township*, 351 Mich 434 (1958); *Silva v. Ada Township and Ottawa Silica Company v. Brownstown Township*, 416 Mich 153, 330 NW2d 663 (1982); *Kyser v. Kasson Twp.*, Michigan Court of Appeals (Published No. 272516 and No. 273964, May 6, 2008).

<sup>81</sup>Section 30508 of Act 451 of 1994, as amended (the natural rivers part of the Natural Resources and Environmental Protection Act, M.C.L. 324.30508).

<sup>82</sup>Michigan Supreme Court (No. 136680, 278 Mich. App. 743, 755 N.W.2d 190, 2008 Mich. App. (2008), July 15, 2010)); *Kyser v. Kasson Twp.*

(nonferrous metallic sulfide deposits) to “Preempted, sort of.”

- July 20, 2011: Added to “Preemption, Sort of” mining of valuable natural resources which reinstates the *Silva v. Ada Township* “no serious consequences rule” along with additional specifics in statute (PA 113 of 2011).
- August 1, 2011: Added “Biofuel production facility” (PA 97 of 2011).
- December 21, 2011: Editing changes. Clarification of jurisdiction over farms concerning the Right to Farm Act.
- May 9, 2012: Added “fireworks” and “novelties” to “outright preemption.”
- May 29, 2012: Added “Wireless communications” to preemption, sort of.
- June 14, 2012:

- Added pistols and firearms.
- Relocated discussion on Fireworks to “Preempted, Sort of” reflecting A.G. Opinion 7266 (June 12, 2012).
- October 31, 2012:
  - Added Michigan Attorney General Opinion 7269, September 27, 2012, to footnotes on mining.
  - Added *Commodities Exp. Co. v. Detroit Int’l Bridge*, U.S. Court of Appeals Sixth Circuit No. 11-1758, September 24, 2012 to footnote on federal government preemption.
- January 3, 2013: Added the southeast Michigan Regional transit authority public transit facilities as exempt from zoning.
- xxx



# Jackson County Planning Commission

Staffed by the Region 2 Planning Commission (R2PC)

120 W. Michigan Avenue • Jackson, MI 49201

Phone (517) 788-4426 • Fax (517) 788-4635

## COORDINATED ZONING REPORT | #20-11

**To:** County Planning Commissioners

**From:** Grant E. Bauman

**Date:** September 2, 2020

**Proposal:** **A rezoning in Summit Township**

### Request

The applicant proposes rezoning the subject property to 'general commercial (C-2)' from 'planned commercial (PC-1)'.

### Purpose

Partially rezoning to 'C-2' will allow the division of the subject property "into at least four lots for commercial development" (see the Background Information).<sup>1</sup>

### Location and Size of the Property

The subject property (ID# 000-13-16-301-039-12) has an area of approximately 11 acres in Section 16 (T3S-R1W) of Summit Township (see Figure 1).

### Land Use and Zoning

**Current Land Use** – The subject property is vacant (see the Rezoning Worksheet Form). Surrounding properties contain a cell tower, commercial development, or are vacant (see Figure 2).

**Future Land Use** – The Township's master plan places the subject parcel and properties on the north side of Weatherwax Drive in an area recommended for 'commercial' uses (see Figure 3).

**Current Zoning** – The subject property is zoned 'planned commercial (PC-1)' and properties on the north side of Weatherwax Drive are zoned 'general commercial (C-2)' (see Figure 4).

### Public Facilities and Environmental Constraints

**Water and Sewer Availability** – Municipal water and sewer services are available (see the attached Zoning Worksheet Form).

**Public Road/Street Access** – Weatherwax Drive and Horton Road, paved county primaries, provide access to the subject property. Horton Road is a class A roadway

**Environmental Constraints** – The Township did not identify any environmental constraints (see the attached Zoning Worksheet Form).

### Analysis and Recommendation

**Township Planning Commission Recommendation** – The Summit Township Planning Commission recommends **approval** of the proposed rezoning to 'C-2' (see the attached Zoning Amendment Form

<sup>1</sup>Please note that staff lists the proposed use for informational purposes only. Commissioners should not utilize it in making the rezoning decision. Circumstances may change tomorrow which make the proposed use impractical. All of the uses that the proposed zoning designation would allow are pertinent to the rezoning request.

and other background information).

**Staff Analysis** – Summit Township has a Zoning Plan (an element of the Master Plan) which includes the following criteria upon which a rezoning request must be considered:

1. **Is the proposed rezoning consistent with the policies and uses proposed for that area in the Master Plan?**

**Yes.** The Master Plan recommends ‘commercial’ uses along that stretch of Weatherwax Drive (see Figure 2).

2. **Will all of the uses allowed under the proposed rezoning be compatible with other zones and uses in the surrounding area?**

**Yes.** Properties on the north side of Weatherwax Drive are zoned ‘C-2’.

3. **Will public services and facilities be significantly adversely impacted by a development or use allowed under the requested rezoning?**

**No.** The services provided in the general area should be sufficient to serve the area of the proposed rezoning.

4. **Will the uses allowed under the proposed rezoning be equally or better suited to the area than uses allowed under the current zoning district?**

**Yes.** The current zoning already allows for commercial development of the property

**JCPC Staff Advisement** – The proposed ‘general commercial (C-2)’ rezoning conforms to the Township’s future land use map and meets all of the criteria upon which a rezoning should be considered.

Based upon this analysis, staff advises the Jackson County Planning Commission to recommend **APPROVAL** of the ‘general commercial (C-2)’ rezoning request to the Summit Township Board (see the staff report).

**Staff Report Attachment(s):**

- *Background information provided by Summit Township*

**Suggested Actions:**

- (1) Recommend **APPROVAL**
- (2) Recommend **DISAPPROVAL**
- (3) Recommend **APPROVAL WITH COMMENTS**
- (4) Take **NO ACTION**



Figure 1  
Location

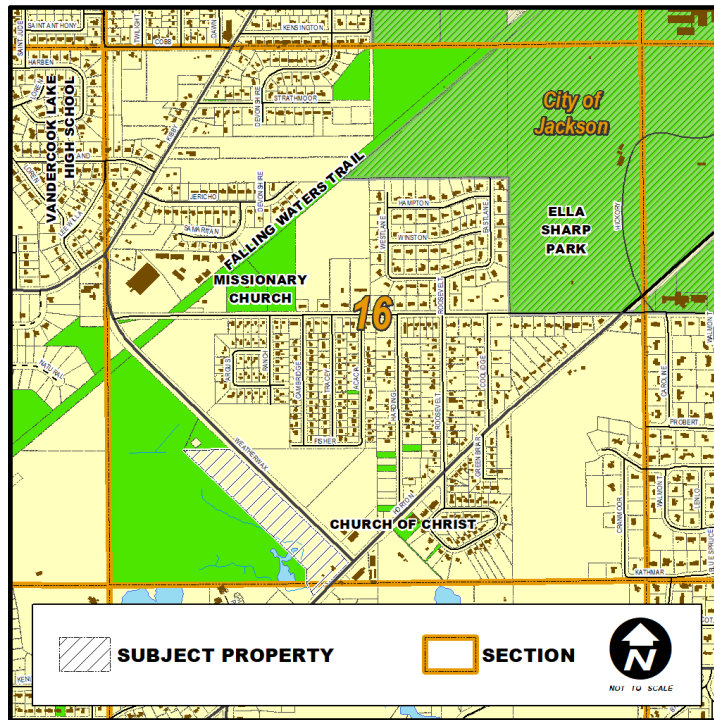
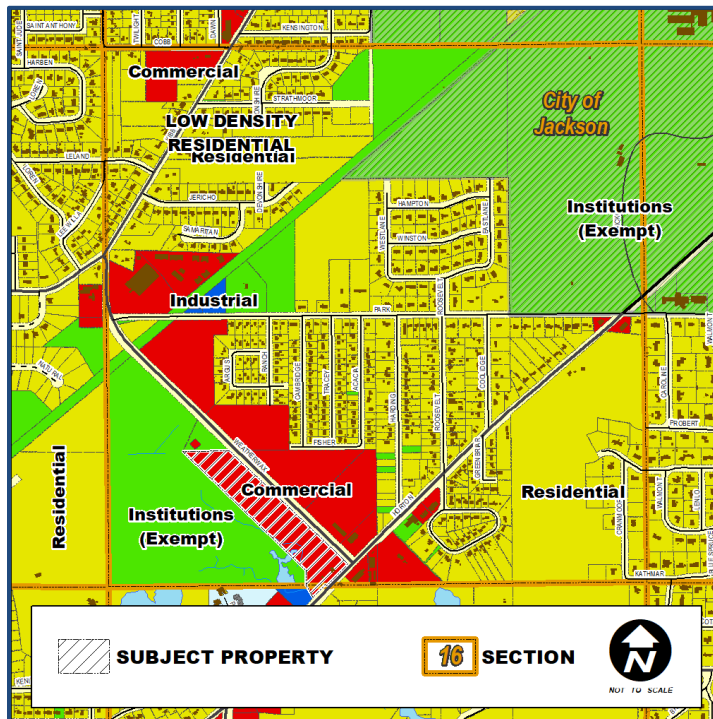
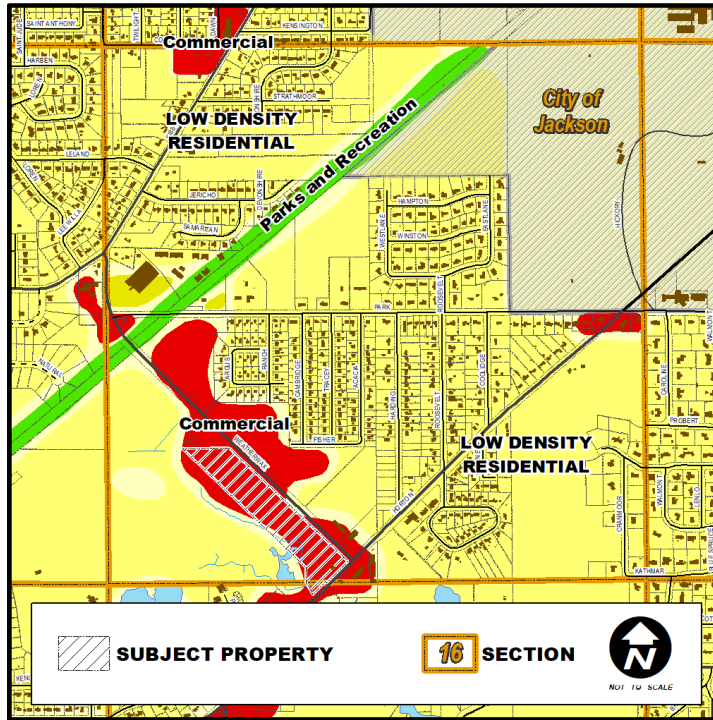


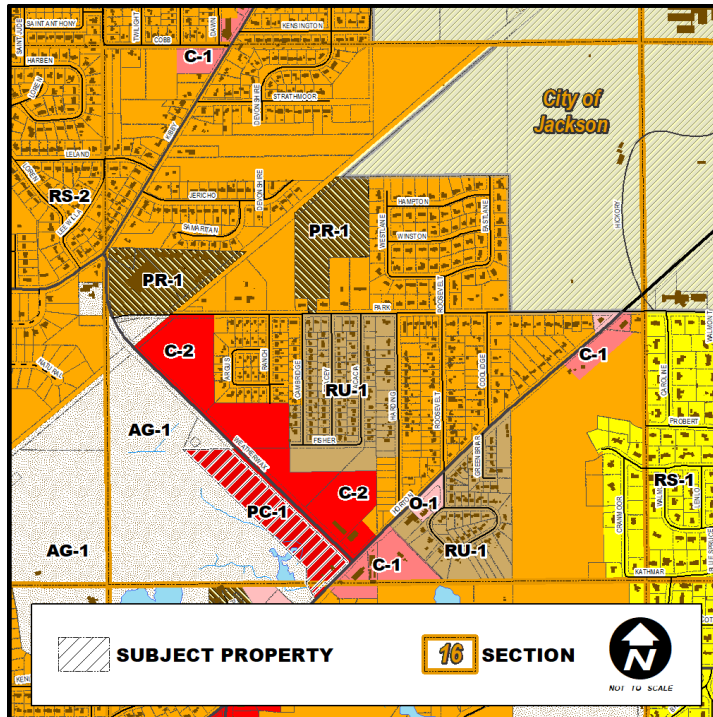
Figure 2  
Property Assessment



**Figure 3**  
**Municipal Future Land Use**

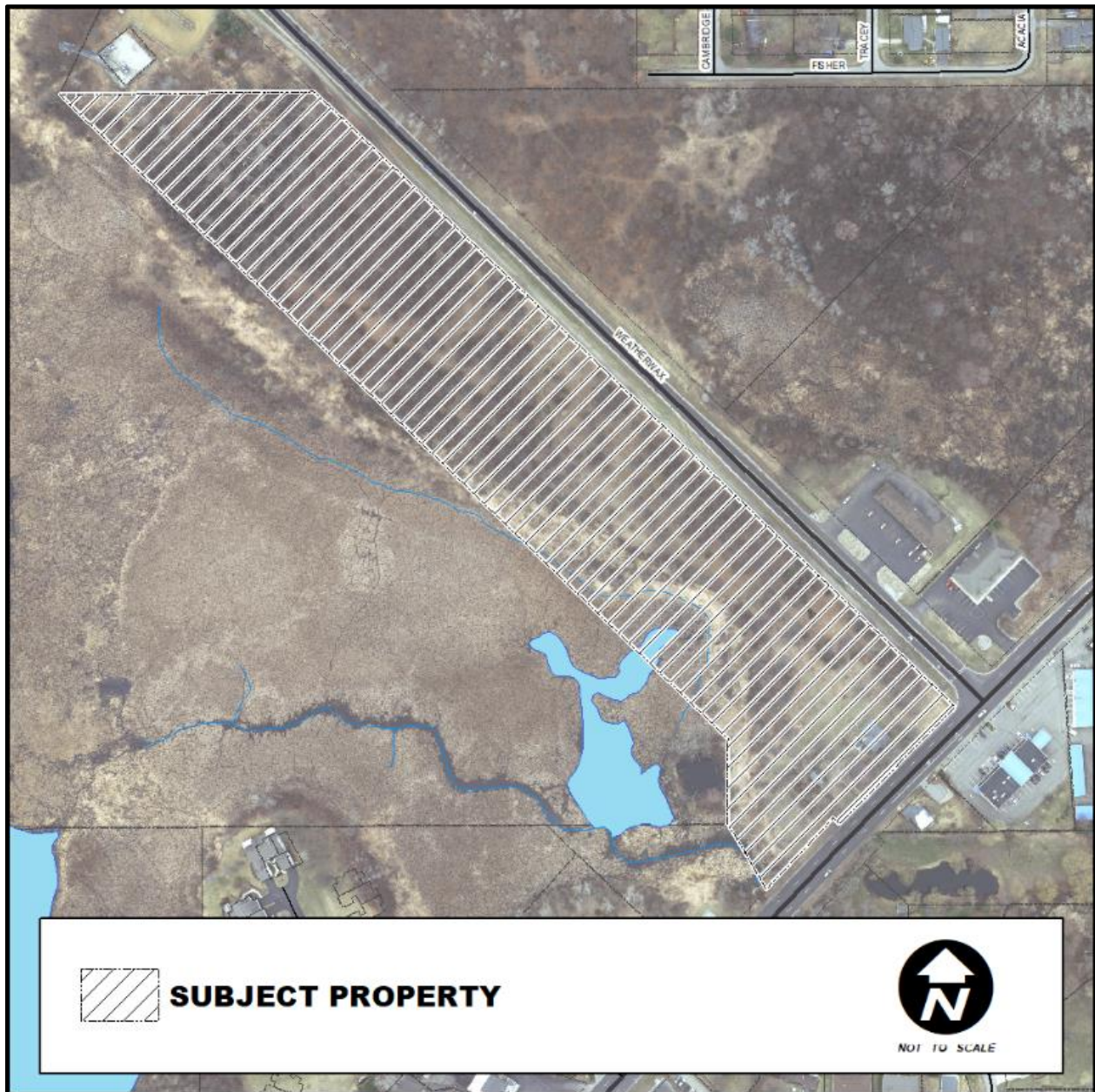


**Figure 4**  
**Municipal Zoning**





**Figure 5**  
**USDA Aerial Photo**



## REZONING WORKSHEET FORM



### JACKSON COUNTY PLANNING COMMISSION (COORDINATING ZONING)

Return to: Jackson County Planning Commission • c/o Region 2 Planning Commission • 120 W. Michigan Avenue • Jackson, Michigan 49201

Please submit with the "Zoning Amendment Form" for a district boundary change (rezoning), not a text amendment.

Township of: Summit Township Case #: 20-07-0009  
Township official we may contact: John Worden, Zoning Administrator Phone #: (     ) 788 - 4113  
Applicant: J. Jeffrey Anderson, attorney in fact Phone #: ( 517 ) 787 - 5151  
Rezoning Request: From: Planned Commercial ( PC-1 ) To: General Commercial ( C-2 )  
Property Location: Section(s): 16 Quarter Section(s): ☐ NW ☐ NE ☒ SW ☐ SE  
Legal Description and/or Survey Map/Tax Map (please attach) ☒ Yes ☐ No (Please do not use only the Parcel ID Number)  
Parcel Size (if more than one parcel, label "A" - "Z"): 11.11 acres

Please attach location map ☒ Yes ☐ No

What is the existing use of the site? vacant

What is the proposed use of the site? allow development of at least four commercial properties

What are the surrounding uses (e.g.: agriculture, single-family residential, highway commercial, etc.)?

North: Cell Tower and Vacant

South: Commercial

East: Commercial and Vacant

West: Vacant

What are the surrounding Zoning Districts?

North: ( AG-1 ) Agricultural

South: ( C-1 ) Commercial

East: ( C-2 ) General Commercial

West: ( AG-1 ) Agricultural

What is the suggested use of the site on the Township's Land Use Plan map? Commercial

Is municipal water currently available? ☒ Yes ☐ No Will it be made available? ☐ Yes ☐ No If yes, when? \_\_\_\_\_

Is municipal sewer currently available? ☒ Yes ☐ No Will it be made available? ☐ Yes ☐ No If yes, when? \_\_\_\_\_

Does the site have access to a public street or road? ☒ Yes ☐ No If yes, name Weatherwax Dr.

Are there any known environmental constraints on the site? ☐ Yes ☐ No

☒ Wetland(s) ☐ Floodplain(s) ☐ Brownfield(s) ☐ Soil(s) ☐ Other (please specify) \_\_\_\_\_

Please attach the minutes of the Planning Commission.

☒ Yes, the minutes are attached.

☐ No, the minutes are not attached.

Please attach copies of any reports, exhibits or other documented provided to the Planning Commission.

☒ Yes, copies of documentation are attached.

☐ No, copies of documentation are not attached.

Please attach any public comments, letters, or petitions.

☒ Yes, public comments are attached.

☐ No, public comments are not attached.

Please include any additional information or comments as an attachment.

## REZONING WORKSHEET FORM



### JACKSON COUNTY PLANNING COMMISSION (COORDINATING ZONING)

Return to: Jackson County Planning Commission • c/o Region 2 Planning Commission • 120 W. Michigan Avenue • Jackson, Michigan 49201

Please submit with the "Zoning Amendment Form" for a district boundary change (rezoning), not a text amendment.

Township of: Summit Township Case #: 20-07-0009  
Township official we may contact: John Worden, Zoning Administrator Phone #: (     ) 788 - 4113  
Applicant: J. Jeffrey Anderson, attorney in fact Phone #: ( 517 ) 787 - 5151  
Rezoning Request: From: Planned Commercial ( PC-1 ) To: General Commercial ( C-2 )  
Property Location: Section(s): 16 Quarter Section(s): ☐ NW ☐ NE ☒ SW ☐ SE  
Legal Description and/or Survey Map/Tax Map (please attach) ☒ Yes ☐ No (Please do not use only the Parcel ID Number)  
Parcel Size (if more than one parcel, label "A" - "Z"): 11.11 acres

Please attach location map ☒ Yes ☐ No

What is the existing use of the site? vacant

What is the proposed use of the site? allow development of at least four commercial properties

What are the surrounding uses (e.g.: agriculture, single-family residential, highway commercial, etc.)?

North: Cell Tower and Vacant

South: Commercial

East: Commercial and Vacant

West: Vacant

What are the surrounding Zoning Districts?

North: ( AG-1 ) Agricultural

South: ( C-1 ) Commercial

East: ( C-2 ) General Commercial

West: ( AG-1 ) Agricultural

What is the suggested use of the site on the Township's Land Use Plan map? Commercial

Is municipal water currently available? ☒ Yes ☐ No Will it be made available? ☐ Yes ☐ No If yes, when? \_\_\_\_\_

Is municipal sewer currently available? ☒ Yes ☐ No Will it be made available? ☐ Yes ☐ No If yes, when? \_\_\_\_\_

Does the site have access to a public street or road? ☒ Yes ☐ No If yes, name Weatherwax Dr.

Are there any known environmental constraints on the site? ☐ Yes ☐ No

☒ Wetland(s) ☐ Floodplain(s) ☐ Brownfield(s) ☐ Soil(s) ☐ Other (please specify) \_\_\_\_\_

Please attach the minutes of the Planning Commission.

☒ Yes, the minutes are attached.

☐ No, the minutes are not attached.

Please attach copies of any reports, exhibits or other documented provided to the Planning Commission.

☒ Yes, copies of documentation are attached.

☐ No, copies of documentation are not attached.

Please attach any public comments, letters, or petitions.

☒ Yes, public comments are attached.

☐ No, public comments are not attached.

Please include any additional information or comments as an attachment.

# ANDERSON & MAKULSKI, PC

ATTORNEYS AT LAW

404 SOUTH JACKSON STREET  
JACKSON, MICHIGAN 49201

J. JEFFREY ANDERSON  
STEVEN E. MAKULSKI

jeff@amlawyers.net  
steve@amlawyers.net

TELEPHONE (517) 787-5151

FACSIMILE (517) 784-7188

July 14, 2020

Township of Summit  
Attention: John Worden  
Zoning Coordinator  
2121 Ferguson Road  
Jackson, MI 49203

**Hand Delivered**

Re: Zoning change for 1528 Horton Rd. (Vacant Land)  
000-13-16-301-039-12

Dear John:

Enclosed is Zoning Application for subject property to change classification to C-2, to allow for land division splits of the parcel. Also enclosed is application fee of \$350.00. You may bill Anderson & Makulski, PC for additional charges.

Please proceed with the change process, publish, and schedule for hearing. If possible, I prefer not to attend a hearing. Advise if anything else is required. Thank you.

Sincerely,



J. Jeffrey Anderson

JJA:daw  
Enclosures



# SUMMIT TOWNSHIP ZONING APPLICATION

Print or Type

CASE # 20-07-0009

This application will not be processed if incomplete. \*\*All required materials must be submitted at least thirty (30) days prior to the next Planning Commission meeting. Site Plans with all documentation thirty (30) days prior to the next Planning Commission meeting. Special Use Site Plans forty-five (45) days prior to the next Planning Commission meeting.

◆ All required materials must be submitted at least thirty (30) days prior to the next Zoning Board of Appeals meeting.

## APPLICATION FOR

- ☒ Rezoning \*\*  
☐ Site Plan Review  
☐ Planned Developments  
☐ Special Land Use  
☐ Admendments
- ☐ Variance ◆  
☐ Conditional Use \*\*  
☐ Home Occupation \*\*  
☐ Site Plan Change/Renewal  
☐ Administrative Site Plan  
☐ Other

## APPLICANT INFORMATION (If different than owner, a letter of authorization from the owner must be attached)

Name(s) J. Jeffrey Anderson, attorney in fact Phone 517-787-5151  
Address 404 S. Jackson Street  
Jackson, MI 49201

## OWNER INFORMATION

Name(s) Truman B. Phillips Trust uad 11/5/13 Phone 517-787-5151  
Address 70206 Lakeview Drive  
Edwardsburg, MI 49112

## PROPERTY INFORMATION

Address or Location 1528 Horton, Jackson, MI (Southwest corner of Horton/Weatherwax)  
Permanent Parcel # 000-13-16-301-039-12  
Zone District (Current) Planned Commercial Property Size 11.11 acres  
Attach legal description-also a survey, site drawing and pictures may be required.

**NARRATIVE DESCRIPTION OF PROPOSED USE/REQUEST** (attach additional pages as needed) Current zoning requires 10 acre parcel under PC1; C2 will permit use of at least 4 or more permitted land divisions, or site condos for use by business or entity qualifying for development under C2, permitting sale of individual parcels.

I hereby attest that the information on this application form is, to the best of my knowledge, true and accurate.

J. Jeffrey Anderson, agent  
Signature of Applicant

\_\_\_\_\_  
Signature of Applicant

July 14, 2020  
Date

**I hereby grant permission for members of the Summit Township (Planning Commission) (Zoning Board of Appeals) (Township Board) to enter the above described property (or as described in the attached) for the purpose of gathering information related to this application. (Note to Applicant: This is optional and will not affect any decision on your application.)**

J. Jeffrey Anderson, agent  
Signature of Applicant

\_\_\_\_\_  
Signature of Applicant

July 14, 2020  
Date

## DO NOT WRITE BELOW THIS LINE

Date Received 7/14/20 Application ☒  
Submitted Materials: Site plan ☐ # of copies 24 x 36 ☒ 11 x 17 ☒ CD/PDF ☒  
Site plan checklist ☐ Environmental checklist ☐ Pictures\ Video ☐  
Survey: Stake ☐ Mortgage ☐  
Letters: JCRC ☐ JCDC ☐ JCHD ☐ DPW ☐ JCAP ☐ DEQ ☐ FIRE ☐  
Application Fee 350.00 Publication/Mailing Fee \_\_\_\_\_

Meeting Dates: PC 8/18/20  
ZBA X  
CNTY 9/10/20  
TWPBD 10/13/20  
Publication Dates #1 8/2/20  
WEB \_\_\_\_\_

APPLICATION ACCEPTED BY: J. E. Warden, Vice Mayor

NOTE: Please attach all documents as required for each type of request and as listed on the attached sheets.

Publication and postage cost charged accordingly over and above filing fees.

### **Limited Delegation of Trustee's Duties and Powers**

Pursuant to Paragraphs 5.6(H) and 6.1(H) of the Truman B. Phillips Grantor Trust u/a/d November 5, 2013 ("Trust"), I, Susan E. Phillips, Trustee, pursuant to my powers to act unilaterally and fully bind the Trust, hereby appoint J. Jeffrey Anderson of 404 S. Jackson St., Jackson, MI 49201, as true and lawful attorney-in-fact and delegate to him the following specific and limited powers and duties, which he is authorized to perform in the same manner and with the same effect as an absolute (or unmarried competent) owner over individually owned property: full and complete power and authority to act on behalf of the Trust (a) to negotiate the sale or lease of any Trust real property described on Exhibit A; (b) to sell, lease, mortgage, and convey any Trust real property described on Exhibit A; (c) to execute purchase agreements, deeds, other instruments of conveyance, closing statements, or any other document in connection with the sale, lease, or mortgage of Trust real property described on Exhibit A, for such amount, price, and upon such terms (including Seller financing) as he determines to be in the best interest of the Trust, and to such person, persons or corporate entity, as J. Jeffrey Anderson shall deem fit; and (d) to receive earnest money deposits and full payments of the purchase price for the Trust's benefit.

The attorney-in-fact or delegate appointed herein shall not incur any liability for acting or refraining from acting under this document, except for willful misconduct or gross negligence.



## Witness

Susan E. Phillips

Witness

STATE OF MICHIGAN }

} SS.

**COUNTY OF JACKSON**

The foregoing was acknowledged before me on February 7, 2018, by Susan E. Phillips, Trustee of the Truman B. Phillips Grantor Trust u/a/d November 5, 2013.

**DEBORAH A. WAHR**

NOTARY PUBLIC, Jackson County, MI

My Commission Expires: June 29, 2019

Deborah A. Wahr

Notary Public, Jackson County, Michigan

My commission expires: 6-29-2019

Prepared by:

Steven E. Makulski

Anderson & Makulski, PC

P. O. Box 55

Jackson, MI 49204-0055

# **SUMMIT TOWNSHIP**

## **PLANNING COMMISSION**

### **August 18, 2020- 6:00 P.M.**

**Via Teleconference – Go To Meeting –Access Code – 544-280-237**

**WWW.SUMMITTWP.COM**

1. Approval of the Agenda
2. Minutes – July 21, 2020
3. Case#20-07-0009-Rezoning PC-1 to C-2 –11.11 Acres – Southwest Corner of Horton and Weatherwax- J. Jeffery Anderson, Attorney in fact/Applicant- Truman B. Phillips Trust
4. Case#20-07-11- Site Plan-1301 East Mc Devitt-Big B Coffee-Fearsome Foursome LLC./Applicants-Mike Perry and Gerry Lobdell/Owners
5. Other Business
6. Public/Commission Members-Comments
7. Adjourn

Attachments:

## NOTICE

The Summit Township Planning Commission will hold a public hearing August 18, 2020 at 6:00 p.m. in the Township Hall, 2121 Ferguson Road.

At this time all interested parties will be heard on the request of J. Jeffrey Anderson, attorney in fact of

404 S. Jackson St., Jackson, MI 49201 to rezone 11.11 acres of property located on the Southwest Corner of Horton Rd. and Weatherwax from Planned Commercial (PC-1) to General Commercial (C-2), allowing the sale of individual parcels

The property and request are more particularly described and on display at the Township Offices.

Current Zoning for the property is Planned Commercial (PC-1)

Summit Township Office is open weekdays from 8:00 a.m. to 5:00 p.m. during which time the Zoning Ordinance/Zoning Map may be examined. Written comments regarding the above may be directed to the Township, or by calling (517) 788-4113 Extension 240. Summit Township will provide any necessary or reasonable auxiliary aids at the meeting for persons with disabilities, upon ten – (10) days written notice to the Township, 2121 Ferguson Rd., Jackson, MI 49203.

John Worden

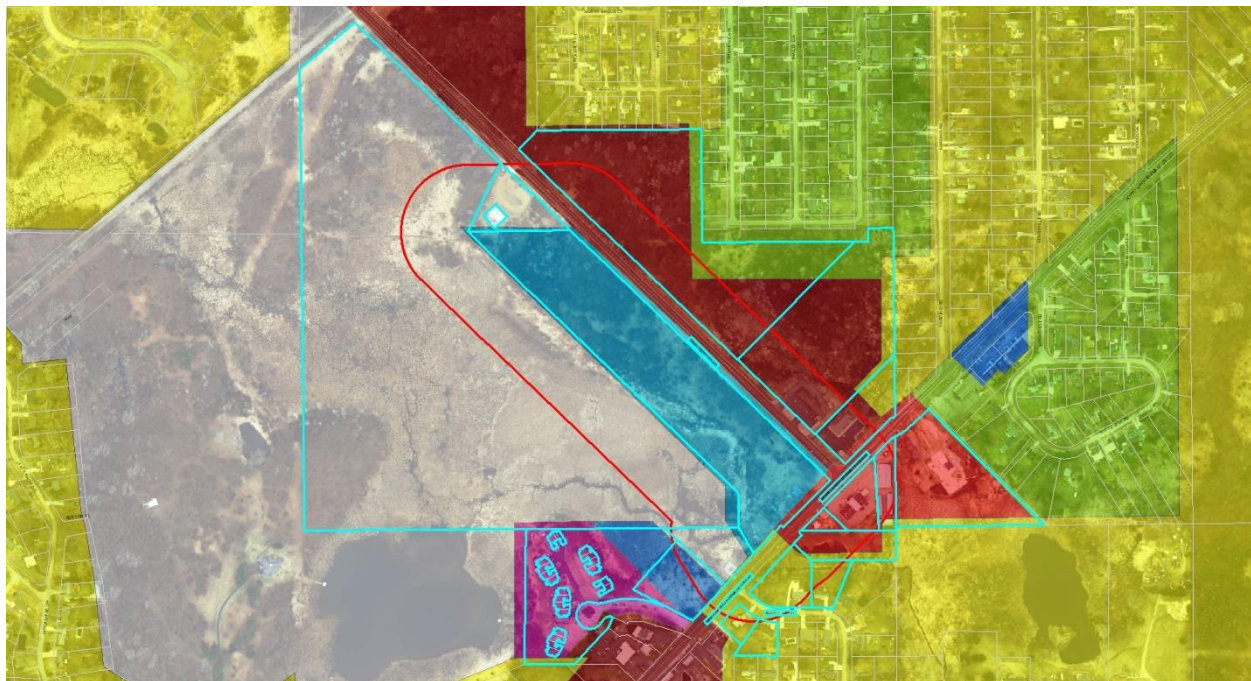
Zoning Administrator

Jackson Citizen Patriot

Insertion Date: August 2, 2020

Affidavit requested. Please call C. Brown at 788-4113 Ext. 221 with cost

Copy to Meghan Dobben, Clerk





Case#20-07-0009-Rezoning PC-1 to C-2 - 11.11 Acres  
Allow Individual Lots for Development



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# Jackson County Planning Commission

Staffed by the Region 2 Planning Commission (R2PC)

120 W. Michigan Avenue • Jackson, MI 49201

Phone (517) 788-4426 • Fax (517) 788-4635

## COORDINATED ZONING REPORT | #20-12

**To:** County Planning Commissioners

**From:** Grant E. Bauman

**Date:** September 2, 2020

**Proposal:** **A rezoning in Leoni Township**

### Request

The applicant proposes rezoning the subject property to 'light industrial (M)' from 'general business (B-4)'.

### Purpose

"Approved uses of Township Ordinance 2017-3 and 2019-7" (see the Background Information).<sup>1</sup>

### Location and Size of the Property

The subject property (ID# 000-14-04-451-011-00) has an area of approximately 2.9 acres in Section 4 (T3S-R1E) of Leoni Township (see Figure 1).

### Land Use and Zoning

**Current Land Use** – The current use of the subject property is 'commercial'. A mix of residential, commercial and industrial uses are located surrounding properties (see Figure 2).

**Future Land Use** – Although the Township's master plan recommends 'industrial' uses to the east and south, 'commercial' (as opposed to 'general commercial' or 'regional commercial') uses for the subject parcel (see Figure 3).

**Current Zoning** – The subject property is zoned 'general business (B-4)' (see Figure 4). The property to the east is zoned 'heavy industrial (M)' and properties to the south are zoned 'light industrial (ML)'.

### Public Facilities and Environmental Constraints

**Water and Sewer Availability** – Municipal water and sewer are available to the subject property (see the attached Zoning Worksheet Form).

**Public Road/Street Access** – Ballard Road and Page Avenue, paved county primaries, provides direct access to the subject property. Page Avenue is built to class-A standards.

**Environmental Constraints** – The Township did not identify any environmental constraints (see the attached Zoning Worksheet Form).

### Analysis and Recommendation

**Township Planning Commission Recommendation** – The Leoni Township Planning Commission motion to recommend **approval** of the proposed rezoning to 'ML' "failed without support" (see the attached background information).

<sup>1</sup>Please note that staff lists the proposed use for informational purposes only. Commissioners should not utilize it in making the rezoning decision. Circumstances may change tomorrow which make the proposed use impractical. All of the uses that the proposed zoning designation would allow are pertinent to the rezoning request.

**Staff Analysis** – Leoni Township has a Zoning Plan (an element of the Master Plan) which includes the following criteria upon which a rezoning request must be considered:

1. **Is the proposed rezoning consistent with the policies and uses proposed for that area in the Master Plan?**

**No.** The Master Plan recommends ‘commercial’ uses along that stretch of Ballard Road (see Figure 2).

2. **Will all of the uses allowed under the proposed rezoning be compatible with other zones and uses in the surrounding area?**

**Yes.** ‘Residential’ uses are located to the north and west.

3. **Will public services and facilities be significantly adversely impacted by a development or use allowed under the requested rezoning?**

**No.** Given that the roads are paved county primaries and Page Avenue is a class-A roadway, they should be able to handle the traffic associated with ‘ML’ uses.

4. **Will the uses allowed under the proposed rezoning be equally or better suited to the area than uses allowed under the current zoning district?**

**No.** Although the Township’s master plan recommends ‘industrial’ uses to the east and south, ‘commercial’ (as opposed to ‘general commercial’ or ‘regional commercial’) uses are recommended for the subject parcel.

**JCPC Staff Advisement** – The proposed ‘light manufacturing (ML)’ rezoning does not conform to the Township’s future land use map nor does it meets all of the criteria upon which a rezoning should be considered.

Based upon this analysis, staff advises the Jackson County Planning Commission to recommend **DISAPPROVAL** of the ‘light manufacturing (ML)’ rezoning request to the Leoni Township Board (see the staff report).

**Staff Report Attachment(s):**

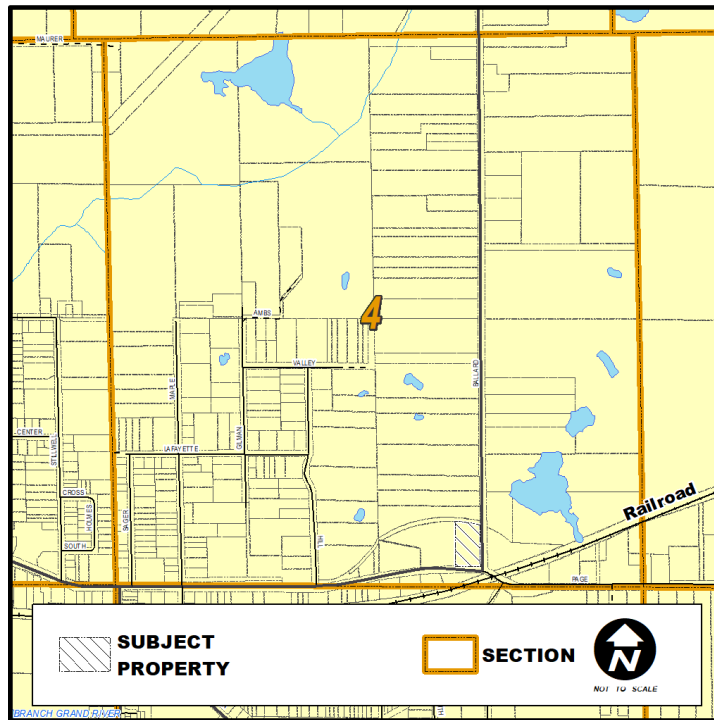
- Background information provided by Leoni Township

**Suggested Actions:**

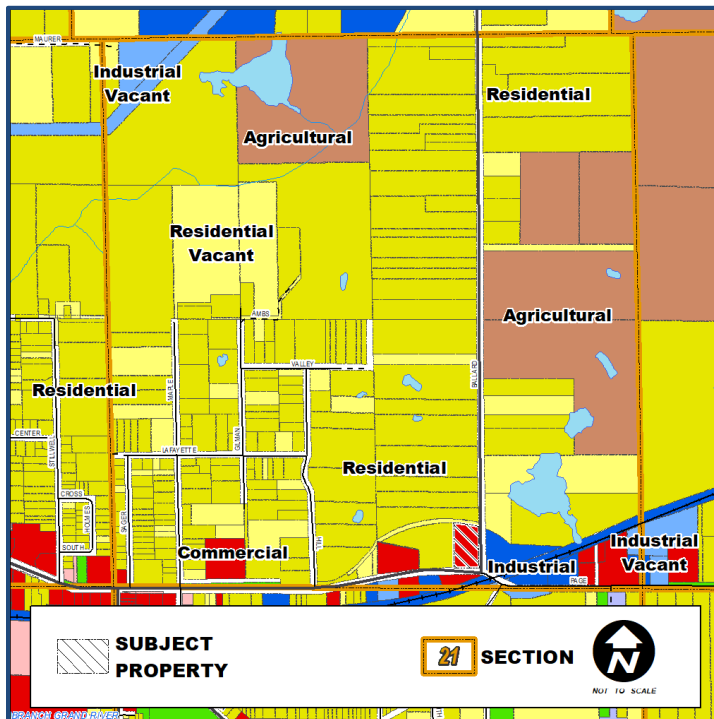
- (1) Recommend **APPROVAL**
- (2) Recommend **DISAPPROVAL**
- (3) Recommend **APPROVAL WITH COMMENTS**
- (4) Take **NO ACTION**



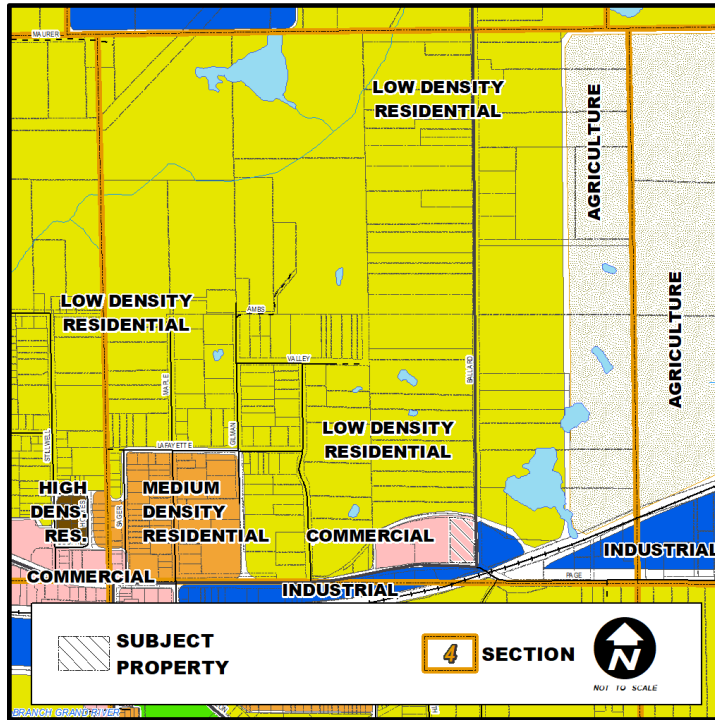
**Figure 1  
Location**



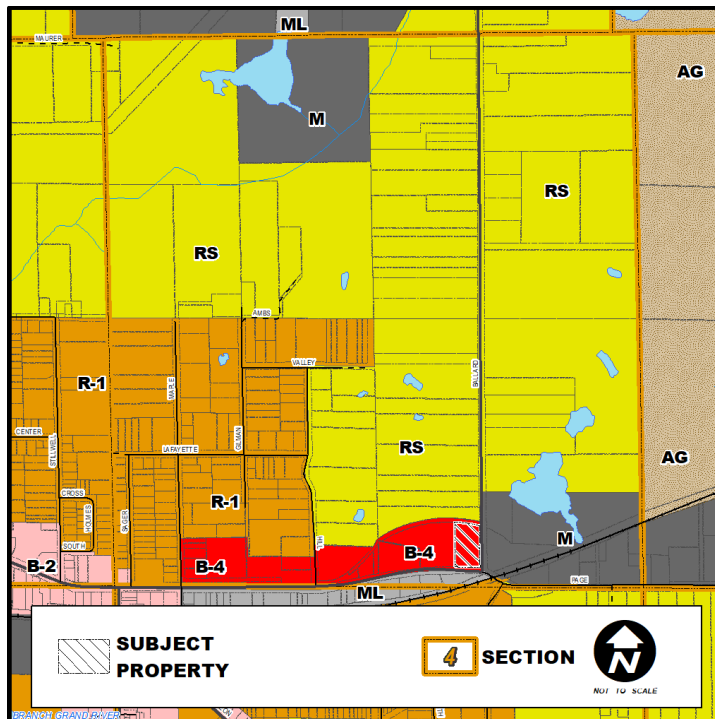
**Figure 2  
Property Assessment**



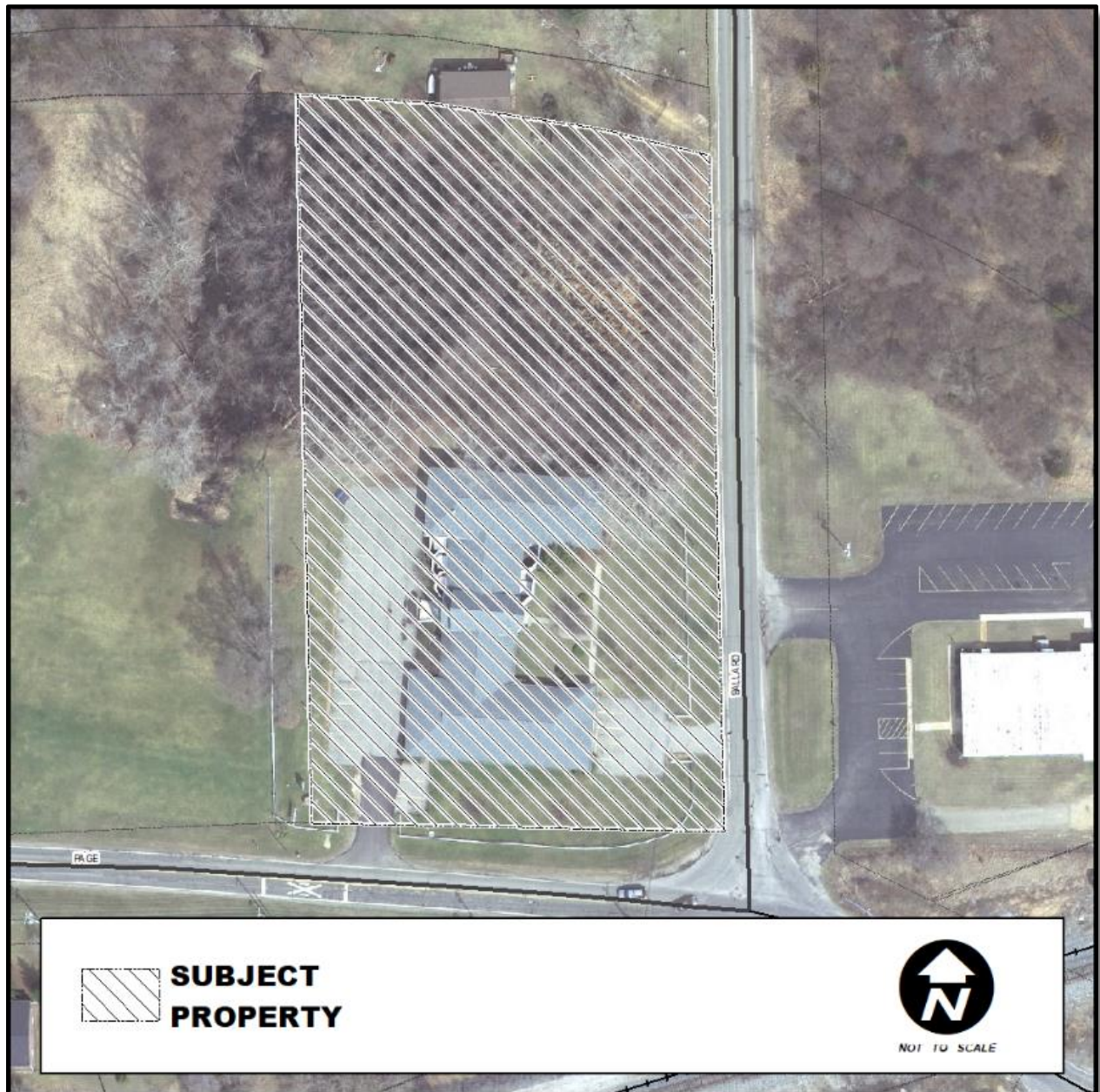
**Figure 3**  
**Municipal Future Land Use**



**Figure 4**  
**Municipal Zoning**



**Figure 5**  
**USDA Aerial Photo**





## ZONING AMENDMENT FORM



### JACKSON COUNTY PLANNING COMMISSION (COORDINATING ZONING)

Return to: Jackson County Planning Commission • c/o Region 2 Planning Commission • 120 W. Michigan Avenue • Jackson, Michigan 49201

Please submit the Planning Commission meeting minutes and any reports/exhibits the Commission used to make its recommendation with this form. Use a separate form for each proposed zoning change. Please include a legal description/survey with rezoning requests in addition to the Parcel ID Number.

A copy of this form with the JCPC recommendation will be mailed back to the Clerk, who will return a copy to the JCPC with the Township Board Action.

THE Leoni TOWNSHIP PLANNING COMMISSION submits the following proposed zoning change to the Jackson County Planning Commission for its review, comment, and recommendation:

(ANSWER EITHER A or B)

**A. DISTRICT BOUNDARY CHANGE (REZONING):**

(Provide the legal and popular property descriptions, the Parcel ID Number(s), the number of acres, and the section(s) in which the property is located. Attach additional sheets if more space is needed. Attach a map showing all changes and additions.)

2.86 acres

1. The above described property has a proposed zoning change FROM General Business (B4) ZONE TO Light Industrial (ML) ZONE.
2. PURPOSE OF PROPOSED CHANGE: Approved uses of Township Ordinance 2017-3 & 2019-7

**B. ZONING ORDINANCE TEXT AMENDMENT:**

The following Article(s) and Section(s) is amended or altered: ARTICLE \_\_\_\_\_ SECTION \_\_\_\_\_

The NEW SECTION reads as follows: (Attach additional sheets if more space is needed.) \_\_\_\_\_

- C. **PUBLIC HEARING** on the above amendment was held on: month August day 19 year 2020
- D. **NOTICE OF PUBLIC HEARING** was published/mailed on the following date: month August day 2 year 2020  
(Notice must be provided at least fifteen days prior to the public hearing.)
- E. **THE NEWSPAPER** (having general circulation in Township) carrying the NOTICE: The Salesman

The PROPOSED ZONING AMENDMENT described herein was duly considered by the Township Planning Commission and will be forwarded to the Township Board with a recommendation to ☐ APPROVE or ☐ DISAPPROVE.

Richard L. Beckwith ☒ Chair or ☐ Secretary \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (enter date)

**JACKSON COUNTY PLANNING COMMISSION (JCPC) ACTION:**

1. Date of Meeting: month \_\_\_\_\_ day \_\_\_\_\_ year \_\_\_\_\_
2. The JCPC herewith certifies receipt of the proposed amendment on the above date and:
- ☐ Recommends APPROVAL of the zoning change
- ☐ Recommends DISAPPROVAL of the zoning change for the reasons stated in the attached letter.
- ☐ Recommends APPROVAL of the zoning change with comments, as stated in the attached letter.
- ☐ Takes NO ACTION.

\_\_\_\_\_, Recording Secretary \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (enter date)

**TOWNSHIP BOARD ACTION:**

1. Date of Meeting: month \_\_\_\_\_ day \_\_\_\_\_ year \_\_\_\_\_
2. The \_\_\_\_\_ Township Board herewith certifies that a legally constituted meeting held on the above date and that the proposed amendment ☐ PASSED, ☐ DID NOT PASS, or was ☐ REFERRED ANEW to the Township Planning Commission.

\_\_\_\_\_  
Township Clerk

JCPC Case #: \_\_\_\_\_  
(For JCPC Use Only)

## REZONING WORKSHEET FORM



### JACKSON COUNTY PLANNING COMMISSION (COORDINATING ZONING)

Return to: Jackson County Planning Commission • c/o Region 2 Planning Commission • 120 W. Michigan Avenue • Jackson, Michigan 49201

Please submit with the "Zoning Amendment Form" for a district boundary change (rezoning), not a text amendment.

Township of: Leoni Township Case #: \_\_\_\_\_  
Township official we may contact: Kerry Dickett Phone #: (517) 936-2290  
Applicant: CS Investment Group LLC Phone #: (517) 783-0710  
Rezoning Request: From: B4 General Business (B4) To: Light Industrial (ML)  
Property Location: Section(s): \_\_\_\_\_ Quarter Section(s): ☐ NW ☐ NE ☐ SW ☐ SE  
Legal Description and/or Survey Map/Tax Map (please attach) ☒ Yes ☐ No (Please do not use only the Parcel ID Number)  
Parcel Size (if more than one parcel, label "A" - "Z"): 2.86 acres

Please attach location map ☒ Yes ☐ No  
What is the existing use of the site? B-4 General Business

What is the proposed use of the site? ML Light Industrial

What are the surrounding uses (e.g.: agriculture, single-family residential, highway commercial, etc.)?

North: Residential Vacant South: Commercial  
East: Industrial West: Residential

What are the surrounding Zoning Districts?

North: (RS) Residential South: (B4) Business  
East: (ML) Light Industrial West: (RS) Residential

What is the suggested use of the site on the Township's Land Use Plan map? \_\_\_\_\_

Is municipal water currently available? ☒ Yes ☐ No Will it be made available? ☐ Yes ☐ No If yes, when? \_\_\_\_\_

Is municipal sewer currently available? ☒ Yes ☐ No Will it be made available? ☐ Yes ☐ No If yes, when? \_\_\_\_\_

Does the site have access to a public street or road? ☒ Yes ☐ No If yes, name \_\_\_\_\_

Are there any known environmental constraints on the site? ☐ Yes ☒ No

☐ Wetland(s) ☐ Floodplain(s) ☐ Brownfield(s) ☐ Soil(s) ☐ Other (please specify) \_\_\_\_\_

Please attach the minutes of the Planning Commission.

☒ Yes, the minutes are attached. ☐ No, the minutes are not attached.

Please attach copies of any reports, exhibits or other documented provided to the Planning Commission.

☒ Yes, copies of documentation are attached. ☐ No, copies of documentation are not attached.

Please attach any public comments, letters, or petitions.

☐ Yes, public comments are attached. ☒ No, public comments are not attached.

Please include any additional information or comments as an attachment.



# Leoni Township Office

913 Fifth Street Michigan Center, Michigan 49254  
PHONE: (517) 764-4694 FAX: (517) 764-1106  
www.leonitownship.com

PAID  
JUL 30 2020  
Leoni Township

DATE OF APPLICATION: \_\_\_\_\_

APPLICATION #: \_\_\_\_\_

## APPLICATION FOR ZONING CHANGE or CONDITIONAL USE

TO: PLANNING COMMISSION, LEONI TOWNSHIP

I (We) Hereby make application with the Township of Leoni to:

- ☐ Add to or change the text of the Ordinance.
- ☐ Change the district boundaries.
- ☒ Re-Zone the property to another classification.
- ☐ Conditional Use.
- ☐ Home Occupation.
- ☐ Extending Residential Non-Conforming Use.

1. Applicants Name: CS Investment Group, LLC Phone: (517) 783-0710
2. Address of Property Involved: 4994 Page Ave. Jackson, MI 49201
3. Legal Description of Property: Parcel I.D. 000-14-04-451-011-00 (See Attached)
4. The above property is presently zoned: B-4, General Business District
5. I wish the zoning to be changed from: B-4, General Business District to: ML, Light Industrial District
6. I wish the boundaries to be changed from: N/A to: N/A
7. I wish the change in the text from section: N/A
8. The proposed use(s) and nature(s) of operation is/are: It is the intentions of the applicant to utilize the property in accordance with those approved uses as specified in the Townships Ordinances 2017-3 & 2019-7

**NOTE:** Attach an **ACCURATE SURVEY DRAWING** of said property drawn to scale showing existing and proposed building and structures, the type thereof and their uses, and the distances from property lines.

**I CERTIFY THAT THE ABOVE INFORMATION IS TRUE AND THAT I AM THE OWNER OF THE PROPERTY.**

I GRANT PERMISSION FOR MEMEBERS OF THE LEONI TOWNSHIP PLANNING COMMISSION AND/OR TOWNSHIP BOARD TO ENTER THE ABOVE PROPERTY FOR THE PURPOSE OF GATHERING INFORMATION RELATED TO THIS APPLICATION. (NOTE TO APPLICANT: This will not affect any decision on your application.)

**IN CASE OF CANCELLATION OR FAILURE TO APPEAR AT THE HEARING, I UNDERSTAND THAT ALL FEES WILL BE FORFEITED.**

FEE: \$350<sup>00</sup> CK#

[Signature]  
SIGNATURE OF OWNER APPLICANT

\*\*\*\*\*  
PLANNING COMMISSION RECOMMENDATION: Having review the submitted data, hereby recommend the Township Board  
( ) Approve ( ) Disapprove the Application for the following reasons (or with these restrictions) \_\_\_\_\_

DATE: \_\_\_\_\_

CHAIRMAN: \_\_\_\_\_  
SIGNATURE

\*\*\*\*\*  
TOWNSHIP BOARD OF TRUSTEES: Having reviewed the submitted data, hereby ( ) APPROVE ( ) DISAPPROVE the application for the following reasons: \_\_\_\_\_

DATE: \_\_\_\_\_

CLERK: \_\_\_\_\_  
SIGNATURE



**PURCHASE AGREEMENT**Property Address 4990/4994 Page Ave, Jackson, MI 49201Listing Office: ERA Reardon RealtySelling Office: Five Star Real Estate

Office License #: \_\_\_\_\_

Office License #: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Phone: 5177452654

Fax: \_\_\_\_\_

Listing Agent: Dana HowellSelling Agent: Tad French

Listing Agent License #: \_\_\_\_\_

Selling Agent License #: \_\_\_\_\_

Phone: 5177406098

Fax: \_\_\_\_\_

Phone: 5177452654

Fax: \_\_\_\_\_

Email: danahowell.dh@gmail.comEmail: TadFrench22@gmail.com☒ Seller's Agent ☐ Dual Agent ☐ Transaction Coord.☐ Seller's Agent ☒ Buyer's Agent ☐ Dual Agent ☐ Transaction Coord.

1. **THIS** offer made at AM/PM 07/17/2020 between (Buyer) CS Investment Group, LLC specify marital/legal status: \_\_\_\_\_ Address 250 Robinson Rd., Jackson, MI 49201 and Seller Urbaniak Estate
2. **FOR** the purchase of the property commonly known as 4990/4994 Page Ave City 4994 Page Ave Zip 49201 or described as 000-14-04-451-011-00 located in the Township \_\_\_\_\_ of Leoni \_\_\_\_\_, County of Jackson, State of Michigan; subject to all existing restrictions, easements, rights-of-way, zoning laws, the lien of taxes not yet due and payable at the time of closing, and land use regulations affecting the use of the property. **ALL** buildings, attached fixtures, improvements, built-in appliances, landscaping, and gas, oil and mineral rights owned by Seller are included in the purchase price.  
☐ Exceptions ☐ Additions: \_\_\_\_\_
3. **PURCHASE PRICE** Three Hundred Seventy Five Thousand Dollars \$ 375000
4. **PERSONAL PROPERTY** – The sale price includes items of personal property as follows: \_\_\_\_\_
5. **TERMS** of purchase to be indicated by "X" below (Other unmarked terms of purchase do not apply):
- ☒ **CASH:** The full purchase price upon execution and delivery of Warranty Deed. Buyer agrees to provide Buyer Agent/Dual Agent verification of funds within five (5) calendar days of the date this agreement is fully executed, and consents to the disclosure of such information to Seller and/or Seller's Agent.
- ☐ **NEW MORTGAGE:** The full purchase price upon the execution and delivery of a Warranty Deed, contingent upon Buyer's ability to obtain a \_\_\_\_\_ type mortgage for no less than \_\_\_\_\_ years, with a minimum down payment of \_\_\_\_\_ % of the purchase price at no more than \_\_\_\_\_ % interest per annum. Buyer will supply to Seller a pre-qualification letter within \_\_\_\_\_ calendar days from the acceptance. Buyer will make formal mortgage application and order appraisal through Buyer's lender within \_\_\_\_\_ days of the date of this acceptance.
- ☐ **LAND CONTRACT:** \$ \_\_\_\_\_ upon execution and delivery of a land contract with the balance payable in monthly principal and interest installments of \$ \_\_\_\_\_ or more. Interest at \_\_\_\_\_ % per annum. Interest to start on date of closing and first payment due 30 calendar days after closing date. Land contract due in full no later than \_\_\_\_\_ after date of closing. At time of payoff, Seller shall provide a warranty deed and pay all county/state transfer taxes. Payment ☐ will ☐ will not include taxes and insurance in the monthly payment. Said Contract ☐ will ☐ will not have a due on sale clause. **BUYER** ☐ does ☐ does not request a land contract memo at the Buyer's expense. Additional terms \_\_\_\_\_
6. **HOME SALE CONTINGENCY** This agreement is contingent upon: ☒ **NONE**  
☐ **SALE OF** ☐ **CLOSE OF:** \_\_\_\_\_ ADDRESS \_\_\_\_\_
7. **EARNEST MONEY** Buyer herewith deposits \$5000 in the form of Check upon acceptance as earnest money to be held by American Title Co. \_\_\_\_\_ as part of the purchase price or the down payment portion where applicable. If this agreement is not accepted, or the conditions, contingencies, and/or any inspections specified are not satisfied, the earnest money shall be refunded to the Buyer. If the Seller defaults in the performance of this agreement, Buyer may receive an immediate refund of all earnest money in full termination of this agreement or may pursue specific performance of this agreement. If Buyer defaults in the performance of this agreement, all deposits shall be forfeited to Seller in full termination of this agreement or may pursue specific performance of this agreement. If the sale is not closed, the REALTOR® may notify Buyer and Seller in writing, of REALTOR®'s intended disposition of the earnest money deposit. All parties shall be deemed to have agreed to the disposition of the earnest money deposit unless REALTOR® receives written objection from either party within ten (10) calendar days of receipt of notification. If a dispute occurs involving the deposit, in whole or in part, the non-prevailing party, as determined by the court, will reimburse the other party and Broker(s) for reasonable attorney's fees and expenses incurred in connection with the dispute, including interpleader actions. If a dispute exists between the Seller and Buyer, Seller and Buyer agree that the Selling Broker/Escrow Agent shall not release the Earnest Money Deposit without the written consent of both parties.



09/10/20 JCPA Agent Packet

Buyer initials

5:47 PM EDT  
data has been verified

Buyer initials

Seller initials

Seller initials

Rev 04/2017

Page 83





# PURCHASE AGREEMENT

Property Address 4990/4994 Page Ave, Jackson, MI 49201

## 8. FORM of Conveyance:

- A. Seller shall convey and transfer, by ☒ Warranty Deed or ☐ Land Contract, a marketable record title to the property and improvements as evidenced by Owner's Title Insurance Policy with standard exceptions dated in the amount of the purchase price, subsequent to this agreement, and pay all county/state transfer tax.
- B. When applicable, insert the number of divisions and include in deed/land contract: "The grantor grants to the grantee the right to make \_\_\_\_\_ (insert number) division(s) under Section 108 of the land division act, Act. No. 288 of the Public Acts of 1967."

## 9. CLOSE of sale shall be on or before 10/26/2020.

10. **PRORATIONS:** Rent and association fees, if any, are to be prorated as of the date of closing. Buyer will reimburse Seller for fuel oil/propane in the tank at possession. If possession is not at close, Buyer will escrow the sum of \$\_\_\_\_\_ for final reading with ☐ Listing Broker ☐ Title Company. Upon verification of remaining amounts at possession, written authorization for release of funds is required. Any excess funds will be returned to Buyer and Buyer will be responsible for any shortage.

☐ Seller will escrow the sum of \$\_\_\_\_\_ for final water and sewer bill with ☐ Listing Broker ☐ Title Company. Escrowed funds will be released to Seller upon verification that the final bill has been paid or will be used to pay the final bill upon receipt by the escrow agent. Any excess funds will be returned to Seller and Seller will be responsible for any shortage. Any unmetered Water and Sewer to be prorated to the date of closing.

11. **POSSESSION:** Seller will maintain the property in its present condition until the completion of the closing. Possession shall be delivered to Buyer, subject to rights of present tenants, if any: ☒ Immediate Possession at Time of Closing

☐ At \_\_\_\_\_ a.m. ☐ p.m. ☐ on the \_\_\_\_\_ day after completion of the closing, during which time Seller will have the privilege to occupy the property and hereby agrees to pay the Buyer \$\_\_\_\_\_ as an occupancy fee for this period, to be escrowed by title company at closing. If Seller occupies the property after closing, Seller will pay all utilities and be responsible for routine maintenance during such occupancy. Buyers will maintain the property structural components and mechanical systems during such occupancy. If any repairs or replacements necessitated by Seller's misuse, abuse, or neglect of the property, Seller will be responsible for the expense of such repairs and replacement. On the agreed possession date, Seller shall deliver the property free of trash and debris, in broom-clean condition, shall remove all personal property (unless otherwise agreed by the parties), make arrangements for final payment of all utilities, and shall deliver all keys and remote controls to Buyer. If Seller fails to deliver possession to Buyer on the agreed date, Buyer shall be entitled to immediate possession without any notice to Seller.

Exceptions: \_\_\_\_\_

12. **TAXES** are to be treated as if they cover the CALENDAR YEAR in which they are first billed. Taxes first billed in years prior to year of closing shall be paid by the SELLER. Taxes which are first billed in the year of closing shall be prorated so that SELLER shall pay taxes from the first of the year to closing date and BUYER shall pay taxes for the balance of the year, including the day of closing. If any bill for taxes is not issued as of the closing date, the current taxable value, homestead status and millage rate shall be used for proration purposes, plus collection fee, if any. **EXCEPT**, if taxes are unallocated as to the parcel being sold, Buyer and Seller agree that this split represents 100% of the total and this allocation will be used for proration purposes as well as for any reimbursements owed by either party for future bills that do not reflect the split.

13. **ASSESSMENTS:** Seller shall pay all installments of special assessments due as of the closing date. Installments of existing special assessments due after the closing date shall be paid by the Seller \_\_\_\_\_. (If the Buyer elects to assume existing special assessments and is obtaining a mortgage, Buyer should confirm with lender that the assessment can be assumed). Assessments levied after the closing date to be paid by Buyer. **Seller has no knowledge of any pending assessments and/or benefit charges that have not been disclosed in writing to the Buyer in this Agreement. Any exceptions shall be disclosed to Buyer in writing.**

## 14. ACKNOWLEDGEMENT OF DISCLOSURES:

**Lead Based Paint:** (For residential housing built prior to 1978 only): Buyer acknowledges that prior to signing this agreement, Buyer has received a copy of the *Lead-based Paint Sellers Disclosure Form* completed by the Seller on \_\_\_\_\_, the terms of which shall be part of this agreement.

☐ Buyer shall have 10 days after the date of this agreement to conduct an inspection of the property for the presence of lead-based paint and/or lead based paint hazards. (Federal regulations require a 10-day period or other mutually agreed upon period of time.) If Buyer is not satisfied with the results of this inspection, upon notice from Buyer to Seller within this period, this Agreement shall terminate and any deposit shall be refunded to Buyer.

☒ Buyer hereby waives his/her opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

### Seller's Disclosure:

☐ Buyer acknowledges that a Seller's Disclosure statement dated \_\_\_\_\_ has been provided to Buyer in compliance with the Michigan Seller Disclosure Act.

☐ Seller shall provide Buyer with a Seller's Disclosure Statement with Seller's acceptance of this offer. Pursuant to the Seller Disclosure Act, MCL 559.951, *et seq.*, Buyer will have 72 hours after hand-delivery of the disclosure statement (or 120 hours after delivery by registered mail) to terminate this agreement by delivery of a written notice to Seller or Seller's agent.

## 15. HOME WARRANTY

☐ Buyer has been advised of the availability of a Home Warranty program. Said Home Warranty plan to be provided by \_\_\_\_\_ at \_\_\_\_\_ expense. ☒ Buyer waives Home Warranty.





# PURCHASE AGREEMENT

Property Address 4990/4994 Page Ave, Jackson, MI 49201

16. **PROPERTY INSPECTIONS:** Buyer has personally inspected the property and accepts it in AS IS present condition and agrees that there are no additional written or oral understandings except as otherwise provided in this agreement.

☒ This offer is contingent upon satisfactory inspections of the property, at Buyer's choice and at Buyer's expense, no later than ~~10 calendar days~~ after the date of Acceptance. These inspections may include, but may not be limited to, mechanical, electrical and structural inspections, as well as inspections for radon, mold and/or asbestos. Buyer agrees to return the property to its prior condition after any inspections or tests. If Buyer is not satisfied with the results of any inspection, Buyer shall, within the 10 day period, provide written notice of Buyer's dissatisfaction to Seller that shall include proposed revisions to the purchase agreement that will resolve Buyer's dissatisfaction with the inspections. Seller shall then have 5 days to accept the proposed modifications to the purchase agreement or refuse to accept the proposed modifications. If Seller fails to respond within the 5 day period, Seller's failure to respond shall constitute a rejection of the proposed modification. If Seller agrees to the modification, the sale shall proceed to closing. If Seller refuses to respond or rejects the proposed modifications, Buyer may either withdraw its objections and proceed to closing or terminate the agreement, and have the earnest money deposit returned to Buyer. Buyer's failure to respond to Seller's rejection within 5 days from Seller's notice of rejection, shall constitute a termination of this agreement.

☐ Buyer acknowledges that Selling Broker/REALTOR® has recommended that Buyer obtain an inspection of the property by an inspector and/or licensed contractor. Buyer does not desire to obtain an inspection of the property.

17. **WELL AND SEPTIC INSPECTIONS – CONTINGENCY TO BE REMOVED WITHIN 10 DAYS OF ACCEPTANCE:**

☐ Connected to community water ☒ Connected to community sewer

☒ Buyer ☐ Seller to furnish a written report stating that the water is potable.

☐ by a certified inspector.

☒ Buyer ☐ Seller to furnish a written report that the well system is in good working order.

☐ by a certified inspector.

☐ Buyer ☐ Seller to furnish a written report stating that the septic system is in good working order.

☐ by a certified inspector.

☐ Buyer waives water/well/septic inspection.

If any of the above reports regarding well and septic are found deficient, the Seller and the Buyer agree to negotiate in good faith the cost of the correction. Any request by Buyer to modify this Agreement based on the results of an inspection shall terminate this Agreement unless: (a) the request is agreed to by Seller in writing, or (b) the Buyer removes the inspection contingency in writing after Seller rejects Buyer's modification request or Seller fails to respond within 5 days of receiving Buyer's request.

18. **WOOD DESTROYING INSECT INSPECTION:** ☐ Buyer ☐ Seller ☒ Buyer waives wood destroying insect inspection - shall furnish at his expense, within 10 days of acceptance, an inspection by a pest control company for termites, powder post beetles, carpenter ants and carpenter bees. If active infestation is found, or evidence of previous untreated termite infestation, it shall be the option of the Seller, within 5 days from inspection, to contract to treat and to contract to repair any ruined material resulting from termites, powder post beetles, carpenter ants, or carpenter bees. If the Seller does not contract to treat and repair, this agreement may be declared null and void by the Buyer.

19. **SURVEY/MORTGAGE REPORT/PROPERTY IMPROVEMENT REPORT:**

☐ **Mortgage Report** – Buyer shall provide, at Buyer's expense, a current mortgage report certified to Buyer's lender only if required by lender. This report shall identify any buildings and improvements on the property as described with no boundary lines established.

☐ **Property Improvement Report** – Buyer shall furnish at Buyer's expense a current property improvement report certified to the Buyer. This report shall identify any buildings and improvements on the property as described with no boundary lines established. (This document can be utilized in situations where the lender does not require a mortgage certificate.)

☒ **Boundary (Stake) Survey** - ☒ Buyer ☐ Seller shall furnish at their expense a current report identifying any buildings, encroachments and improvements within the boundaries of the described property. This survey shall show all boundaries and property shall be staked at all corners.

☐ Buyer waives stake survey, mortgage report and property improvement report.

20. **CONDITION OF PROPERTY:** BUYER HAS PERSONALLY EXAMINED THIS PROPERTY AND AGREES TO ACCEPT SAME IN ITS "AS IS" CONDITION AND SELLER AGREES NOT TO ADVERSELY ALTER THE PRESENT CONDITION. If said premises are damaged by fire or other casualty prior to closing, Buyer may elect to revoke this agreement and be reimbursed for all earnest money hereunder, or conclude the sale on the payment to Buyer of such insurance proceeds necessary to repair the property to its condition at the time of this agreement's acceptance. Buyer shall assume all risk of loss or damage not caused by acts of negligence of the Seller from date of closing. **WALK THROUGH INSPECTION:** Although the Buyer has the right to a walk-through inspection prior to closing, the sole purpose is to determine if it is in the same condition as when the Purchase Agreement was executed, and the included personal property remains on the premises.

21. **SELLER/BUYER HAS BEEN ADVISED TO SEEK LEGAL COUNSEL TO INSURE THAT:** 1) the details of the Purchase Agreement are being adhered to, 2) title is marketable, 3) Property complies with or is not affected by the Land Division Act, as amended, and 4) to determine how Buyer(s) will take title.



09/10/2016  
Buyer initials BPB Seller initials             
dotloop verified

Seller initials           

Seller initials           

Rev 04/2017



# PURCHASE AGREEMENT

Property Address 4990/4994 Page Ave, Jackson, MI 49201

22. **ARBITRATION:** Any dispute over the disposition of any earnest money deposits or claim arising out of or related to the physical condition of any property covered by this agreement, included without limitation, claims of fraud, misrepresentation, warranty and negligence, shall be settled in accordance with the rules, then in effect, adopted by the endorsed provider of arbitration services for the Michigan REALTORS®. This is a voluntary agreement between the Buyer and Seller. Failure to agree to arbitrate does not affect the validity of the agreement. A judgment of any circuit court shall be rendered on the award or determination made pursuant to this agreement. This agreement is specifically made subject to and incorporates the provisions of the Michigan Uniform Arbitration Act., MCL 691.1681, *et seq.* This agreement is enforceable only as to parties and brokers/agents who have agreed to arbitrate as acknowledged by their initials below. The terms of this paragraph shall survive the closing.

INITIAL IF YOU AGREE TO ARBITRATE:

Buyer           Seller          

23. **OTHER PROVISIONS:** Purchaser requests 90 days to complete due diligence. Purchaser will have building inspection, phase one environmental completed at purchaser's expense. Sale subject to township approval of property being re-zoned as light industrial. Purchaser will be responsible for cost and application for re-zoning.

24. **MISCELLANEOUS:** The parties agree that a) there are no additional written, any oral agreements or understandings, b) the agreement shall not be amended or modified unless both parties do so in writing, c) this agreement shall be governed and construed in accordance with the laws of the State of Michigan, d) invalidation of one or more terms shall not affect the validity of the remaining terms, e) this agreement shall survive the closing, the delivery of deeds, instruments or contracts and shall not merge into any such documents of conveyance provided for herein and f) information concerning the sale of property shall be reported for statistical and comparison purposes to the Jackson Area Association of REALTORS®. Parties waive any right to claim damage from the dissemination of such information.

25. **ELECTRONIC COMMUNICATION:** As an alternative to physical delivery, the parties agree that this agreement, any amendment or modification of this agreement and/or any written notice or communication in connection with this agreement may be delivered to the Seller in care of the listing REALTOR® and the Buyer in care of the Selling REALTOR® via electronic mail or by facsimile via the contact information set forth above. Any such communication shall be deemed delivered at the time it is sent or transmitted. Seller represents and warrants that an electronic email address has been provided to Listing REALTOR® from which Seller may receive electronic mail. Buyer represents and warrants that an electronic email address has been provided to Selling REALTOR® from which Buyer may receive electronic mail. The parties agree that the electronic signatures and initials shall be deemed to be valid and binding upon the parties as if the original signatures or initials were present in the documents in the handwriting of each party.

26. Buyer gives the Seller until 5:00 pm AM/PM 07/20/2020, for written acceptance of this agreement and agrees that this agreement, when accepted by Seller via original or facsimile signature, will constitute a binding agreement between Buyer and Seller.

Byron P Schroeder dotloop verified  
07/17/20 5:47 PM EDT  
QM84-9PFO-E7TL-TTUC

BUYER

BUYER

CS Investment Group, LLC

Print Buyer's Legal Name

Print Buyer's Legal Name

27. **Seller's Response:**

☐ ACCEPT ☐ REJECT ☐ ACCEPT AS FOLLOWS: \_\_\_\_\_ AM/PM

and Seller gives the Buyer until \_\_\_\_\_ AM/PM \_\_\_\_\_, to accept any changes. Receipt is acknowledged by Seller of a copy of this agreement.

SELLER

SELLER

SELLER MARITAL STATUS

28. **Buyer's Receipt and Acceptance of Changes:**

\_\_\_\_\_ AM/PM

Receipt is acknowledged by Buyer of the Seller's acceptance of offer. If acceptance is subject to changes, Buyer agrees to accept changes; all other terms and conditions remain unchanged.

☐ ACCEPT/ACKNOWLEDGEMENT ☐ REJECT ☐ EXCEPT: SEE ADDENDUM: \_\_\_\_\_

BUYER

BUYER

DISCLAIMER: This form is provided as a service of the Jackson Area Association of REALTORS®. Users of this form are expected to review the form and the details of the transaction to ensure that each section of the form is appropriate for the transaction. The Jackson Area Association of REALTORS® is not responsible for the use or misuse of this form, or for misrepresentations or warranties made in connection with this form.









# AUTOMATIC IMAGING COMPANY

\* SCANNING \* SHREDDING \* STORAGE \* MICROFILM \*

July 30, 2020,

To Whom it May Concern,

I, Bethany L. McCune, President, Automatic Imaging Company, daughter of David and Sally Urbaniak, and trustee of the David L. Urbaniak Revocable Living Trust and the Sally J. Urbaniak Revocable Living Trust, represent the property at 4994 Page Ave., Jackson, MI 49201. Under the purchase agreement with CS Investment Group, LLC a rezoning of this property is required. I, Bethany L. McCune, consent to CS Investment Group, LLC representing Bethany L. McCune on the rezoning of property located at 4994 Page Ave., Jackson, MI 49201 (Parcel ID: 000-14-04-451-011-00).

Sincerely,

  
Bethany L. McCune

Subscribed and sworn to before me,  
a Notary Public, this 30<sup>th</sup> day of July, 2020

/s Susan M. Womble

Susan M. Womble

Notary public, State of Michigan,  
County of Clinton

My commission expires: 04-01-2025

Notary located in Clinton County, MI

Person making acknowledgment located in Livingston, Michigan

**Notarized using electronic/remote technology.**

**LEONI TOWNSHIP OFFICE  
913 FIFTH ST  
MICHIGAN CENTER MI 49254  
517-764-4694 PHONE 517-764-1106 FAX**

# NOT I CE

The Leoni Township Planning Commission will hold a ZOOM Public Hearing, Wednesday, August 19, 2020 at 6:00 P.M. in the Leoni Township Meeting Hall, 913 Fifth St., Michigan Center, Michigan, 49254.

**“This meeting is being held by ZOOM because of the COVID-19 State of Emergency and in conformance with Executive Orders issued by the Governor of the State of Michigan.”**

**Please visit the Leoni Township website at <http://www.leonitownship.com> prior to the meeting for instructions regarding remote access and any updates that may be needed due to COVID-19 requirements.**

000-14-04-451-011-00

CS Investment Group, LLC - acting agent for Bethany McCune

Bethany McCune Trustee of David L. Urbaniak Revocable Living Trust  
4994 Page Ave., Jackson, MI 49201

Purpose of hearing: Rezone from B-4 General Business to ML, Light Industrial

**Legal Description:** BEG AT THE PT OF INTERSECTION OF CEN OF BALLARD RD WITH CEN OF PAGE AVE TH N84°W 280.5 FT ALG CEN OF PAGE AVE TH N PAR WITH CEN OF BALLARD RD 473.35 FT TO SLY R/W LN OF FORMER DJ&C ELECTRIC RY TH SELY ALG SD R/W LN 296.97 FT ON THE ARC OF A 870.A63 FT RADIUS CURVE TO THE RIGHT THE CHORD OF WH BEARS W70°44'56"E 295.53 FT CENTRAL ANGLE 19°32'36" TO CEN LN OF BALLARD RD TH S0°19'33"W 244.91 FT TO BEG. SEC 4 T3S R1E 2.86 A

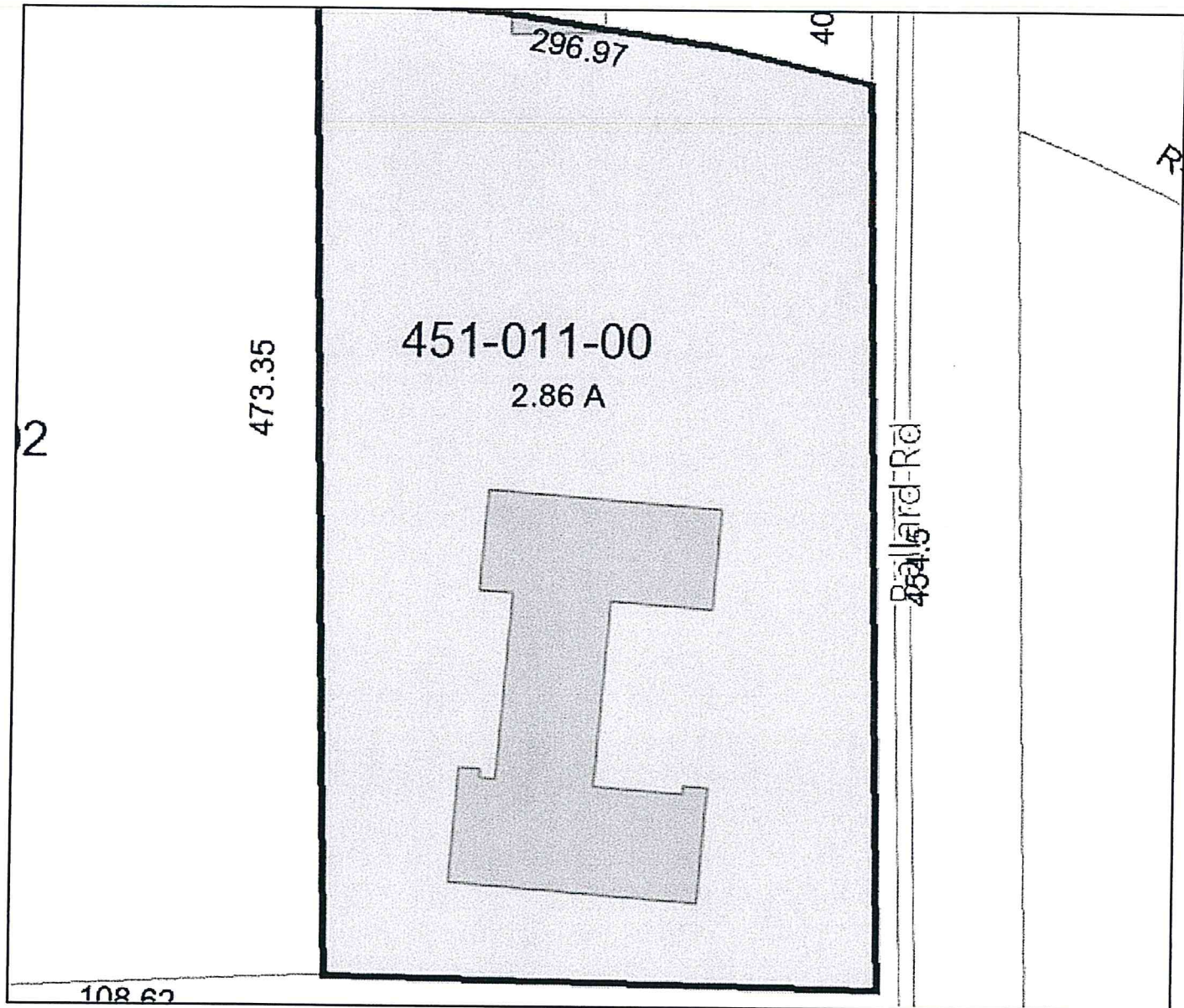
Kerry Pickett, Clerk





# Parcel Report - Parcel ID: 000-14-04-451-011-00

7/30/2020



**Owner Name** URBANIAK DAVID L TRUSTEE SALLY

**Owner Address** 2271 CRYSTAL CROSSING DR  
HOWELL, MI 48843

**Homestead** 0

**Parcel Address** 4994 PAGE AVE  
JACKSON, MI 49201

**Property Class** 201 - COMMERCIAL

**Status** Active

**Acreage** 2.86

**Gov't Unit** Leoni

**Tax Unit** Leoni

**School District** MICHIGAN CENTER SCHOOL

**Liber/Page** 2150-270

	2018	2019	2020
<b>Taxable Value</b>	\$211,704	\$216,784	\$220,902
<b>Assessed Value</b>	\$283,367	\$299,205	\$288,877

## Tax Description:

BEG AT THE PT OF INTERSECTION OF CEN OF BALLARD RD WITH CEN OF PAGE AVE TH N84°W 280.5 FT ALG CEN OF PAGE AVE TH N PAR WITH CEN OF BALLARD RD 473.35 FT TO SLY R/W LN OF FORMER DJ&C ELECTRIC RY TH SELY ALG SD R/W LN 296.97 FT ON THE ARC OF A 870.463 FT RADIUS CURVE TO THE RIGHT THE CHORD OF WH BEARS W70°44'56"E 295.53 FT CENTRAL ANGLE 19°32'36" TO CEN LN OF BALLARD RD TH S0°19'33"W 244.91 FT TO BEG. SEC 4 T3S R1E 2.86 A



WARNING: Displayed boundaries are NOT SURVEY GRADE and may not reflect legal property description. The intent of this map is to allow easy access and visual display of government information and services. Every reasonable effort is made to ensure the accuracy of this map and data; nevertheless, errors may occur.





THESE DRAWINGS AND CONCEPTS CONTAINED HERE ARE THE EXCLUSIVE PROPERTY OF AE DESIGN SOLUTIONS AND ARE NOT TO BE DUPLICATED WITHOUT WRITTEN PERMISSION OF AE DESIGN SOLUTIONS.



NORTH

**SURROUNDING ZONING MAP**

**CS INVESTMENT GROUP, LLC**  
4994 PAGE AVE  
JACKSON, MICHIGAN 49201

TITLE:		PROJECT:	
NO.	REVISION	DATE	
1		000000	

SCALE: 1" = 40'

DATE: 07/22/20

DESIGN BY: CEC

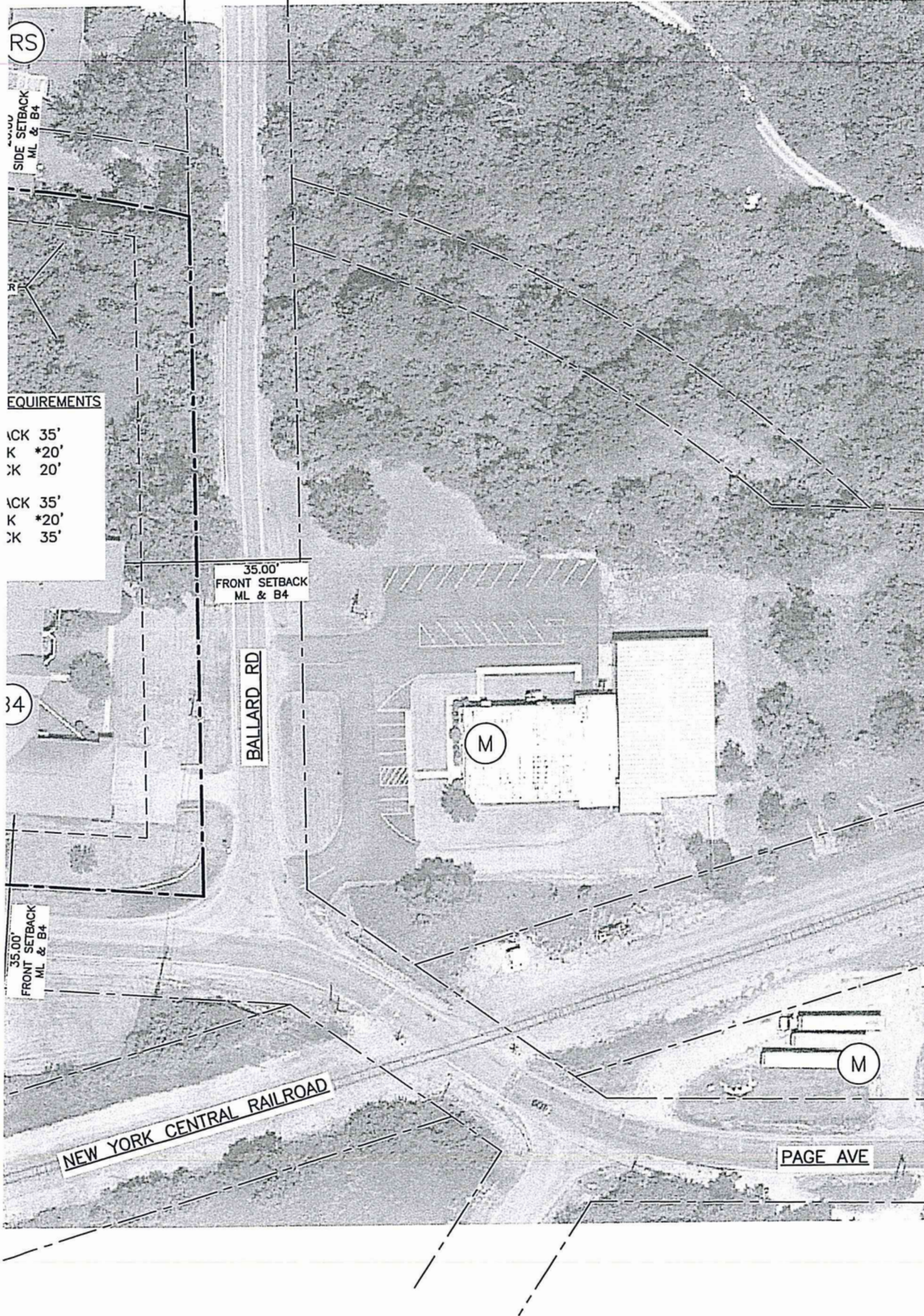
DRAWN BY: CEC

PROJECT: 2020-00277

DRAWING: 2020-00277\_PRE-001

SHEET

**C1.0**  
OF  
**1.0**





000-14-09-128-001-00  
HOUSER GERALD SR  
5001 PAGE AVE  
JACKSON, MI 49201

000-14-04-451-006-00  
FRANSTEAD RONALD L  
604 BALLARD RD  
JACKSON, MI 49201

000-14-04-452-001-06  
ADAMES PHILIP  
2880 FOX RD  
JACKSON, MI 49201

000-14-04-452-001-05  
WOJTYLKO FAMILY TRUST  
15979 PARDEE RD  
TAYLOR, MI 48180

000-14-09-226-001-00  
WEINHARDT GARY  
4263 KIBBY RD  
JACKSON, MI 49201

000-14-04-451-003-00  
OWEN PRESTON S  
560 BALLARD RD  
JACKSON, MI 49201

000-14-04-451-004-00  
WEBB CRYSTAL E  
345 OAK GROVE AVE APT A  
JACKSON, MI 49203

000-14-04-451-005-00  
FRANSTEAD RONALD L  
604 BALLARD RD  
JACKSON, MI 49201

000-14-04-451-010-02  
SMITH JANET I  
4960 PAGE AVE  
MICHIGAN CENTER, MI 49254

000-14-04-451-011-00  
URBANIAK DAVID L TRUSTEE SALLY EST  
2271 CRYSTAL CROSSING DR  
HOWELL, MI 48843

000-14-04-454-001-00  
WELLS ARLEN & LINDA  
4997 PAGE AVE PO BOX 936  
MICHIGAN CENTER, MI 49254

000-14-04-500-001-00  
MDOT  
425 W OTTAWA ST; PO BOX 30050  
LANSING, MI 48909

000-14-09-500-001-00  
MDOT  
425 W OTTAWA ST; PO BOX 30050  
LANSING, MI 48909

000-14-09-127-022-00  
WELLS LINDA L & WAYNE A  
PO BOX 936  
MICHIGAN CENTER, MI 49254-0936

000-14-04-476-001-04  
CYROCKI ADAM P  
4239 JANE DR  
JACKSON, MI 49201

000-14-04-453-001-00  
ST JOE HOLDING COMPANY LLC  
4248 W SAGINAW HEGY  
GRAND LEDGE, MI 48837

CS Investments - Byron Schroeder  
250 Robinson Rd.  
Tax 49203



*Leoni Township Office*  
913 Fifth Street  
Michigan Center, Michigan 49254  
PHONE: (517) 764-4694 FAX: (517) 764-1380  
Leonitownship.com

**PLANNING COMMISSION MINUTES**  
**August 19, 2020**

The Leoni Township Planning Commission held a meeting Wednesday, August 19th, 2020 @ 6:00pm via the Zoom.us conferencing suite.

Meeting opened to call of the Chair: 6:06pm

Members Present: J. Southworth, D. Helmlinger, V. Beckwith, K. Cole and B. Lester  
Members Present (Late): B. Carroll\*  
Members Absent: L. Maurer\*\*  
Persons in Attendance: 15 (count from Zoom)

\*B. Carroll received permission from the Chair before the meeting started to be excused to handle a work emergency and later rejoined the meeting.

\*\*L. Maurer was in the Zoom call but unable to communicate.

*Motion by D. Helmlinger, supported by J. Southworth to approve the agenda.*

**Voice vote**

**Ayes: D. Helmlinger, B. Lester, K. Cole, J. Southworth, and V. Beckwith**

**Nay:**

***Motion Carried via Roll Call***

*Motion by J. Southworth, supported by V. Beckwith to approve the minutes from 8/5/2020.*

**Voice vote**

**Ayes: D. Helmlinger, B. Lester, K. Cole, J. Southworth, and V. Beckwith**

**Nay:**

***Motion Carried via Roll Call***

**Public Comment:**

**Open at 6:11pm**  
**Closed at 6:13pm**

**NEW BUSINESS:**

000-14-04-451-011-00

Rezone from B-4 to ML

CS Investment Group LLC – acting agent for Bethany McCune Bethany McCune Trustee of David L. Urbaniak Revocable Living Trust 4994 Page Ave., Jackson, MI 49201

*Motion by K. Cole to approve the rezone of Parcel 000-14-04-451-011-00 from B-4 to ML Light Industrial.*

***Motion Failed without Support***

*\*B. Carroll rejoined the meeting at 6:19pm*

*Motion by D. Helmlinger, supported by V. Beckwith to adjourn the meeting.*

***Motion Withdrawn***

*Motion by D. Helmlinger, supported by J. Southworth to amend the agenda to include consideration of the 7/15/2020 meeting minutes.*

***Voice vote***

***Ayes: D. Helmlinger, J. Southworth, K. Cole, B. Lester, B. Carroll, and V. Beckwith***

***Nay:***

***Motion Carried via Roll Call***

*Motion by V. Beckwith, supported by J. Southworth to approve the minutes from 7/15/2020.*

***Voice vote***

***Ayes: D. Helmlinger, J. Southworth, K. Cole, B. Lester, B. Carroll, and V. Beckwith***

***Nay:***

***Motion Carried via Roll Call***

*Motion by D. Helmlinger, supported by J. Southworth to adjourn the meeting.*

***Motion Withdrawn***

**Public Comment:**

**Open at 6:34pm**

**Closed at 6:40pm**

*Motion by K. Cole, supported by D. Helmlinger to adjourn the meeting.*

***Ayes: D. Helmlinger, J. Southworth, K. Cole, B. Lester, B. Carroll, and V. Beckwith***

***Nay:***

***Motion Carried via Roll Call***

**Adjourned at 6:41pm**

**Next meeting: September 2<sup>nd</sup>, 2020**



# Jackson County Planning Commission

Staffed by the Region 2 Planning Commission (R2PC)

120 W. Michigan Avenue • Jackson, MI 49201

Phone (517) 788-4426 • Fax (517) 788-4635

## PA 116 FARMLAND AGREEMENT | #20-02

**Applicant:** Brandon Hotchkin  
10150 Hubbard Road  
Concord, MI 49237

**Date:** September 2, 2020

**Proposal:** **Application for Farmland Agreement in Pulaski Township**

**Location:** An application was filed for the subject property—Property ID #000-16-25-200-001-00—situated in Section 25 of the Township (T4S, R3W). It is located on the southwest corner of the intersection of Hanover and Grover Roads (see Map 1).

**Description:** The subject property has an area of approximately 80 acres of which 64 acres (approximately) are cultivated for cash crops. A residence and a detached garage are included in the application.

**Term:** A 30-year term is proposed on the application.

**Future Land Use:** The Jackson County Community Comprehensive Land Use Plan places the properties in areas recommended for "Agricultural Preservation", with a proposed "Greenway" along its western edge (Map 2). The property is also located in areas identified by the American Farmland Trust as among Michigan's best farmland and nationally significant farmland.

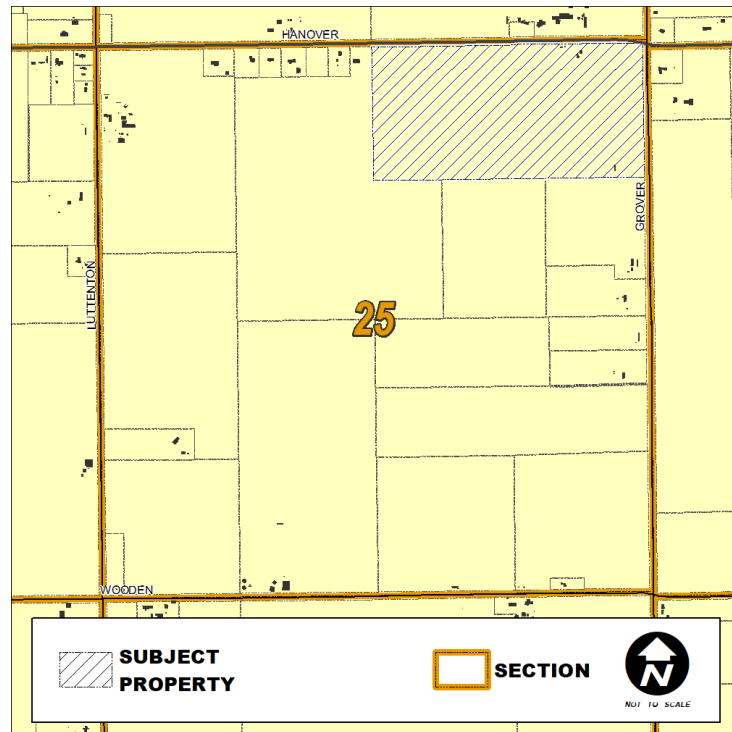
**Staff Comments:** Staff is unaware of any application errors/omissions that the applicant should consider addressing. However, the applicant should consider removing the residence and garage from the application; if the homestead is split off from the parcel and sold prior to the end of the proposed 30-year term, the applicant will have reimburse some of the funds saved through the agreement.

Based upon this analysis, staff advises the Jackson County Planning Commission to recommend **APPROVAL WITH COMMENTS** of the application the Pulaski Township Board if the applicant considers removal of the home and garage.

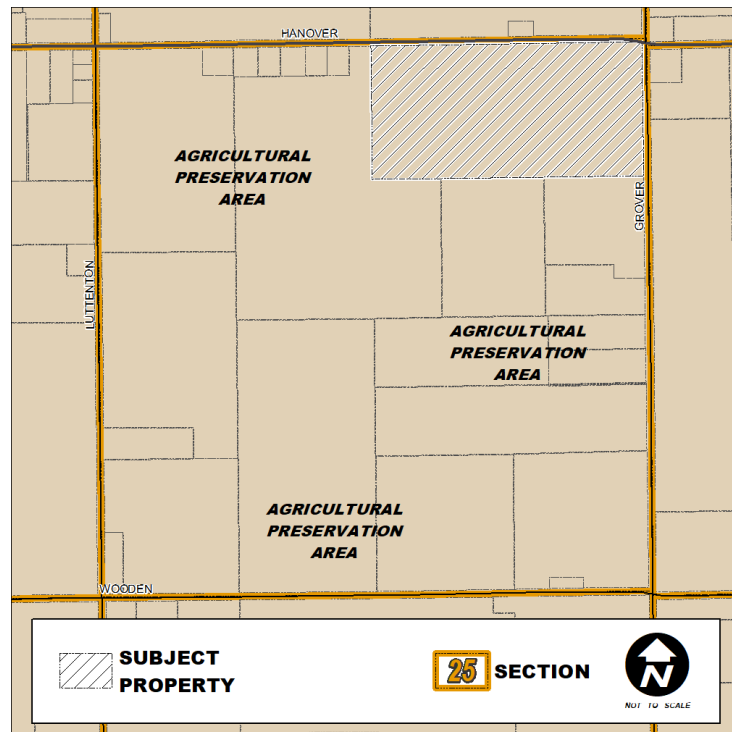
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[www.region2planning.com/jackson-county-planning-commission](http://www.region2planning.com/jackson-county-planning-commission)

**Map 1  
Location Map**

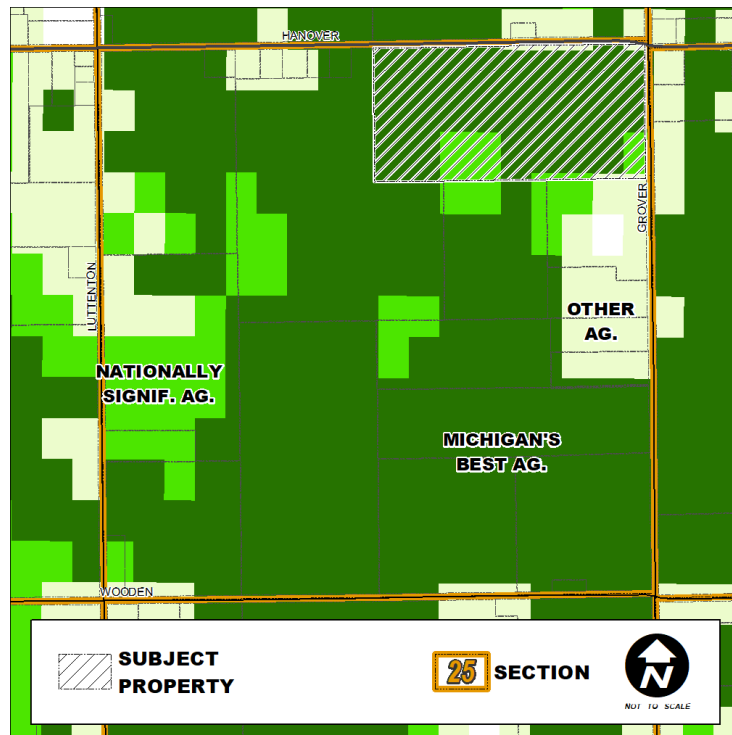


**Map 2  
County Future Land Use Map**

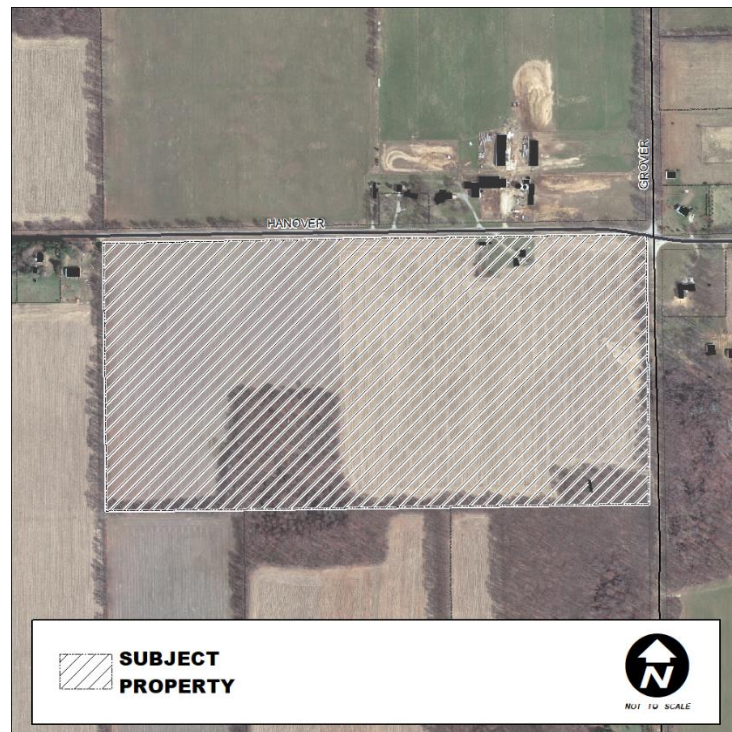




**Map 3a**  
**Aerial Photograph**



**Map 3b**  
**Aerial Photograph**

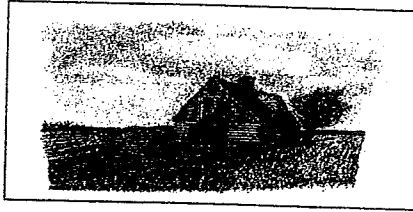


**TOWNSHIP BOARD:**

BOB JONES, SUPERVISOR  
KRIS RUNYON, CLERK  
THERESA RISKE, TREASURER  
CRAIG DAWSON, TRUSTEE  
BILL HAIRE, TRUSTEE

**Pulaski Township**

ESTABLISHED 1837



Email: [pulaskitwnshp@hotmail.com](mailto:pulaskitwnshp@hotmail.com)  
Website: [pulaskitownship.org](http://pulaskitownship.org)

**OFFICE HOURS:**

MONDAYS & TUESDAYS  
8:30 A.M. – 4:30 P.M.

PHONE (517) 524-6061  
FAX (517) 524-9038

AUG 28 2020

August 24, 2020

On August 24, 2020 Brandon Hotchkin submitted a PA116 Farmland and Open Space Preservation Form to Pulaski Township.



Robert Jones, Supervisor

**FARMLAND AND OPEN SPACE  
PRESERVATION PROGRAM**

**Application for Farmland Agreement**

Part 361 of the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, more commonly known as PA 116.

Please print or type. Attach additional sheets as needed. **Please read the Eligibility and Instructions document before filling out this form.**

**OFFICIAL USE ONLY**

Local Governing Body:

Date Received

8-24-20

Application No:

01

State:

Date Received

Application No:

Approved:

Rejected

**ALL APPLICATIONS MUST BE APPROVED BY LOCAL GOVERNING BODY  
ON OR BEFORE NOVEMBER 1 IN ORDER TO BE EFFECTIVE FOR THE CURRENT TAX YEAR**

**I. Personal Information:**

1. Name(s) of Applicant:

Hatchkin  
Last

Brandon  
First

T  
Initial

(If more than two see #15)

Last

First

Initial

Marital status of all individual men listed on application, if more than one, indicate status after each name:

☐ Married

☒ Single

2. Mailing Address:

10150 Hubbard Rd.  
Street

Concord  
City

Mich  
State

49237  
Zip Code

3. Telephone Number: (Area Code) (517) 914-1057

4. Alternative Telephone Number (cell, work, etc.): (Area Code) (517) 524-7466

5. E-mail address: brandonhatchkin@gmail.com

**II. Property Location (Can be taken from the Deed/Land Contract)**

6. County: Jackson

7. Township, City or Village: Tylar Township

8. Section No. 25

Town No. 45

Range No. 3W

**III. Legal Information:**

9. Attach a clear copy of the deed, land contract or memorandum of land contract. (See #14)

10. Attach a clear copy of the most recent tax assessment or tax bill with complete tax description of property.

11. Is there a tax lien against the land described above? ☐ Yes ☒ No

If "Yes", please explain circumstances:

12. Does the applicant own the mineral rights? ☒ Yes ☐ No

If owned by the applicant, are the mineral rights leased? ☐ Yes ☒ No

Indicate who owns or is leasing rights if other than the applicant:

Name the types of mineral(s) involved:

13. Is land cited in the application subject to a lease agreement (other than for mineral rights) permitting a use for something other than agricultural purposes: ☐ Yes ☒ No If "Yes", indicate to whom, for what purpose and the number of acres involved:

14. Is land being purchased under land contract ☐ Yes ☒ No: If "Yes", indicate vendor (seller):

Name:

Address:

Street

City

State

Zip Code

14a. Part 361 of the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, states that the vendor (seller) must agree to allow the land cited in the application to be enrolled in the program. Please have the land contract sellers sign below. (All sellers must sign).

Land Contract Vendor(s): I, the undersigned, understand and agree to permit the land cited in this application into the Farmland and Open Space Preservation Program.

Date

Signature of Land Contract Vendor(s) (Seller)

15. If the applicant is one of the following, please check the appropriate box and complete the following information (if the applicant is not one of the following – please leave blank):

☐ 2 or more persons having a joint or common interest in the land  
☐ Corporation ☐ Limited Liability Company ☐ Partnership  
☐ Estate ☐ Trust ☐ Association

If applicable, list the following: Individual Names if more than 2 Persons; or President, Vice President, Secretary, Treasurer; or Trustee(s); or Members; or Partners; or Estate Representative(s):

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

(Additional names may be attached on a separate sheet.)

IV. Land Eligibility Qualifications: Check one and fill out correct section(s)

This application is for:

- ☒ a. 40 acres or more → complete only Section 16 (a thru g);  
☐ b. 5 acres or more but less than 40 acres → complete only Sections 16 and 17; or  
☐ c. a specialty farm → complete only Sections 16 and 18.

16. a. Type of agricultural enterprise (e.g. livestock, cash crops, fruit, etc):

Cash Crop

b. Total number of acres on this farm 80

c. Total number of acres being applied for (if different than above): 80

d. Acreage in cultivation: 64 Ac

e. Acreage in cleared, fenced, improved pasture, or harvested grassland: \_\_\_\_\_

f. All other acres (swamp, woods, etc.) 16

g. Indicate any structures on the property: (If more than one building, indicate the number of buildings):

No. of Buildings 2 Residence: 1 Barn: \_\_\_\_\_ Tool Shed: \_\_\_\_\_

Silo: \_\_\_\_\_ Grain Storage Facility: \_\_\_\_\_ Grain Drying Facility: \_\_\_\_\_

Poultry House: \_\_\_\_\_ Milking Parlor: \_\_\_\_\_ Milk House: \_\_\_\_\_

Other: (Indicate) 2 Car garage

17. To qualify as agricultural land of 5 acres or more but less than 40 acres, the land must produce a minimum average gross annual income of \$200.00 per acre from the sale of agricultural products.

Please provide the average gross annual income per acre of cleared and tillable land during 2 of the last 3 years immediately preceding this application **from the sale of agricultural products (not from rental income):**

\$ \_\_\_\_\_ : \_\_\_\_\_ = \$ \_\_\_\_\_ (per acre)  
 total income total acres of tillable land

18. To qualify as a specialty farm, the land must be designated by MDARD, be 15 acres or more in size, and produce a gross annual income from an agricultural use of \$2,000.00 or more. If a specialty farm, indicate average gross annual income during 2 of the last 3 years immediately preceding application from the sale of agricultural products: \$ \_\_\_\_\_

Please note: specialty farm designation may require an on-the-farm site visit by an MDARD staff person.



19. What is the number of years you wish the agreement to run? (Minimum 10 years, maximum 90 years); 30

V. Signature(s):

20. The undersigned declare that this application, including any accompanying informational material, has been examined by them and to the best of their knowledge and belief is true and correct.

X [Signature]

(Signature of Applicant)

(Corporate Name, If Applicable)

(Co-owner, If Applicable)

(Signature of Corporate Officer)

8/21/2020

(Date)

(Title)

**ALL APPLICATIONS MUST BE APPROVED BY LOCAL GOVERNING BODY  
ON OR BEFORE NOVEMBER 1 IN ORDER TO BE EFFECTIVE FOR THE CURRENT TAX YEAR.**

**RESERVED FOR LOCAL GOVERNMENT USE: CLERK PLEASE COMPLETE SECTIONS I & II**

I. Date Application Received: 8-24-20 (Note: Local Governing Body has 45 days to take action)

Action by Local Governing Body: Jurisdiction: PULASKI

☐ County ☒ Township ☐ City ☐ Village

This application is ☐ approved, ☐ rejected

Date of approval or rejection: \_\_\_\_\_

(If rejected, please attach statement from Local Governing Body indicating reason(s) for rejection.)

Clerk's Signature: \_\_\_\_\_

Property Appraisal: \$ \_\_\_\_\_ is the current fair market value of the real property in this application.

II. Please verify the following:

8-24-20 Upon filing an application, clerk issues receipt to the landowner indicating date received.

8-24-20 Clerk notifies reviewing agencies by forwarding a copy of the application and attachments

\_\_\_\_ If rejected, applicant is notified in writing within 10 days stating reason for rejection and the original application, attachments, etc. are returned to the applicant. Applicant then has 30 days to appeal to State Agency.

\_\_\_\_ If approved, applicant is notified and the original application, all supportive materials/attachments, and letters of review/comment from reviewing agencies (if provided) are sent to:

**MDARD-Farmland and Open Space Program, PO Box 30449, Lansing 48909**

**\*Please do not send multiple copies of applications and/or send additional attachments in separate mailings without first contacting the Farmland Preservation office.**

Please verify the following regarding Reviewing Agencies (Sending a copy to reviewing agencies is required):

**COPY SENT TO:**

8/24 County or Regional Planning Commission

8/24 Conservation District

\_\_\_\_ Township (if county has zoning authority)

**Before forwarding to State Agency,  
FINAL APPLICATION SHOULD INCLUDE:**

\_\_\_\_ Copy of Deed or Land Contract (most recent showing current ownership)

\_\_\_\_ Copy of most recent Tax Bill (must include tax description of property)

\_\_\_\_ Map of Farm

\_\_\_\_ Copy of most recent appraisal record

\_\_\_\_ Copy of letters from review agencies (if available)

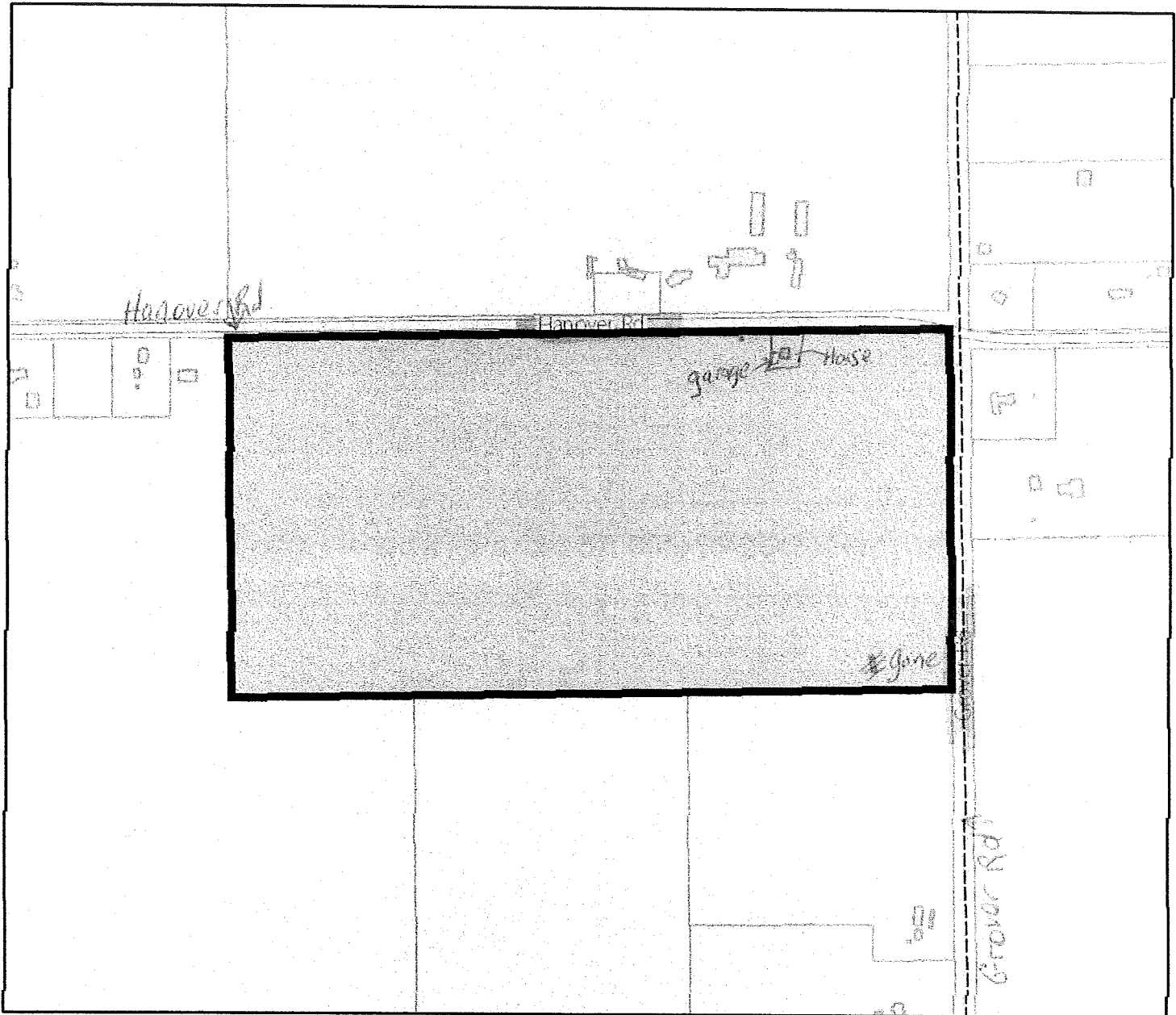
\_\_\_\_ Any other applicable documents

**Questions? Please call Farmland Preservation at 517-284-5663**



# Parcel Report - Parcel ID: 000-16-25-200-001-00

8/21/2020



**Owner Name** HOTCHKIN BRANDON T  
**Owner Address** 10150 HUBBARD  
CONCORD, MI 49237  
**Homestead** 73  
**Parcel Address** 10085 HANOVER RD  
HANOVER, MI 49241  
**Property Class** 101 - AGRICULTURAL  
**Status** Active  
**Acreage** 80  
**Gov't Unit** Pulaski  
**Tax Unit** Pulaski  
**School District** HANOVER-HORTON SCHOOL  
**Liber/Page** 2123-348

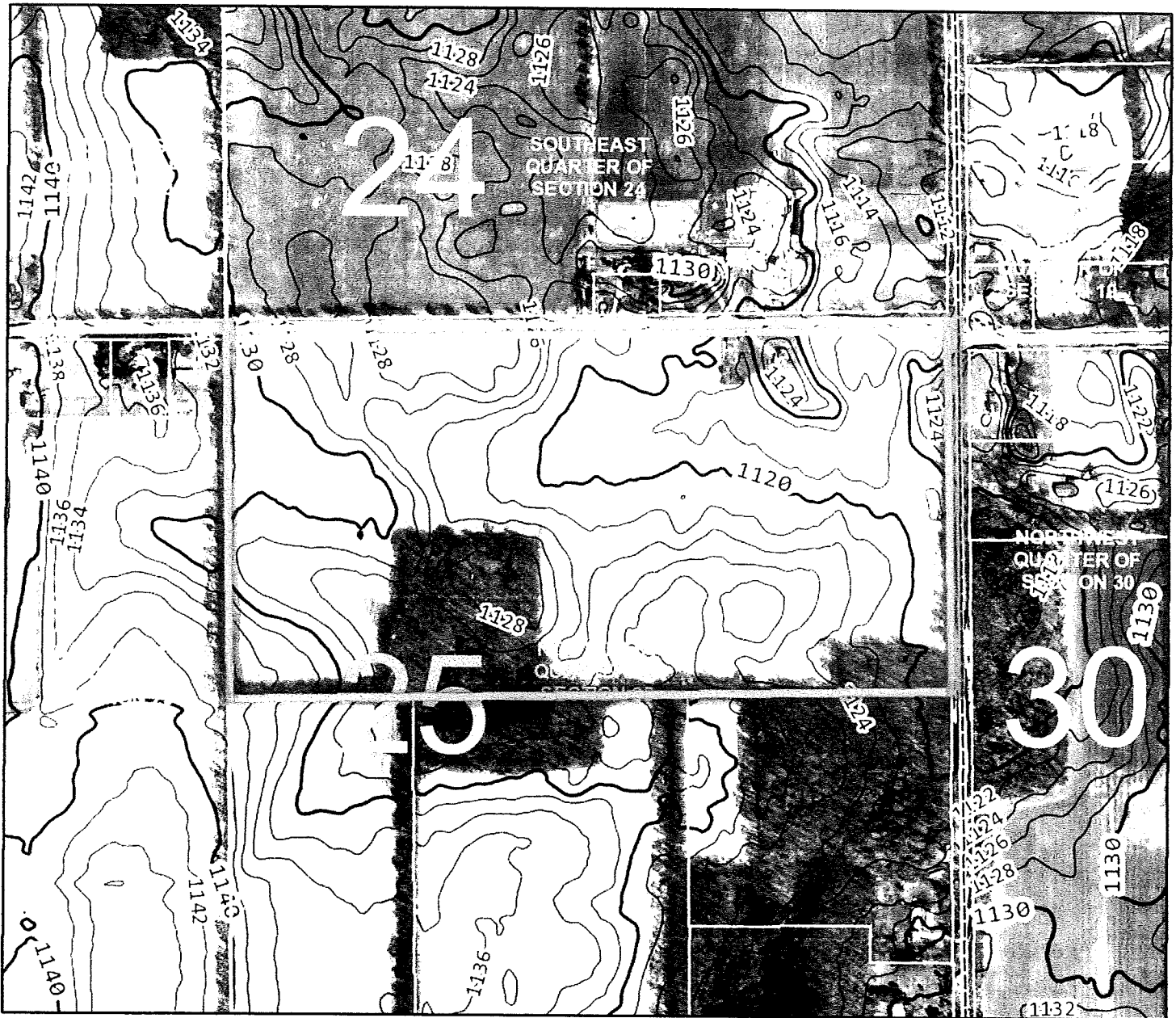
	2018	2019	2020
<b>Taxable Value</b>	\$54,960	\$56,230	\$57,298
<b>Assessed Value</b>	\$189,200	\$183,600	\$198,400

**Tax Description:**  
N 1/2 OF NE 1/4 SEC 25 T4S R3W 80.0000 A



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8/21/2020

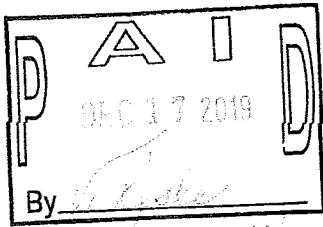


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**Tax Description:**  
 N 1/2 OF NE 1/4 SEC 25 T4S R3W 80.0000 A



<p align="center"><b>MESSAGE TO TAXPAYER</b></p> <p>TAXES ARE PAYABLE AT THE TOWNSHIP OFFICE OR BY MAIL. CREDIT CARDS ARE NOT ACCEPTED. A DROP BOX FOR NON-CASH PAYMENTS IS LOCATED AT THE OFFICE DOOR. TAX COLLECTION OFFICE HOURS:  <b>MONDAYS &amp; TUESDAYS: 8:30 A.M.- 4:30 P.M.</b>  <b>SEPTEMBER 16, 2019: 8:30 A.M.-5 P.M.</b>  <b>CLOSED LABOR DAY, SEPTEMBER 2, 2019</b></p>	<p align="center"><b>PAYMENT INFORMATION</b></p> <p align="center">This tax is due by: <b>09/16/2019</b></p> <p>Pay by mail to: PULASKI TOWNSHIP  12363 FOLKS RD.  HANOVER, MI 49241  517-524-6061</p> <p align="center">**See reverse side for additional information**</p>																																	
<p align="center"><b>PROPERTY INFORMATION</b></p> <p>Property Assessed To:  HOTCHKIN BRANDON THERON  10150 HUBBARD ROAD  CONCORD, MI 49237</p> <p>Prop #: 000-16-25-200-001-00 School: HANOVER HORTON  Prop Addr: 10085 HANOVER RD  Legal Description:  N 1/2 OF NE 1/4. SEC 25 T4S R3W 80.0000 A</p> <div style="text-align: center; margin-top: 20px;">  </div>	<p align="center"><b>TAX DETAIL</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Taxable Value:</td> <td style="width: 20%; text-align: right;">56,230</td> <td style="width: 20%;"></td> </tr> <tr> <td>State Equalized Value:</td> <td style="text-align: right;">183,600</td> <td>Class: 101</td> </tr> <tr> <td>PRE/MBT %:</td> <td style="text-align: right;">73.0000</td> <td></td> </tr> <tr> <td>Bill #</td> <td></td> <td>Mortgage Co:</td> </tr> </table> <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 60%;">DESCRIPTION</th> <th style="width: 20%;">MILLAGE</th> <th style="width: 20%;">AMOUNT</th> </tr> </thead> <tbody> <tr> <td>STATE ED</td> <td style="text-align: right;">6.00000</td> <td style="text-align: right;">337.38</td> </tr> <tr> <td>COUNTY</td> <td style="text-align: right;">5.11200</td> <td style="text-align: right;">287.44</td> </tr> </tbody> </table> <div style="margin-top: 20px; text-align: right;"> <p>656</p> <p>X 735</p> <hr style="width: 100px; margin: 0 auto;"/> <p>479</p> </div> <table style="width: 100%; border-collapse: collapse; margin-top: 20px;"> <tr> <td style="width: 60%;">Total Tax</td> <td style="width: 20%; text-align: right;">11.11200</td> <td style="width: 20%; text-align: right;">624.82</td> </tr> <tr> <td>Administration Fee</td> <td></td> <td style="text-align: right;">6.24</td> </tr> <tr> <td>Interest:</td> <td></td> <td style="text-align: right;">24.99</td> </tr> <tr> <td><b>TOTAL AMOUNT DUE</b></td> <td></td> <td style="text-align: right;"><b>656.05</b></td> </tr> </table>	Taxable Value:	56,230		State Equalized Value:	183,600	Class: 101	PRE/MBT %:	73.0000		Bill #		Mortgage Co:	DESCRIPTION	MILLAGE	AMOUNT	STATE ED	6.00000	337.38	COUNTY	5.11200	287.44	Total Tax	11.11200	624.82	Administration Fee		6.24	Interest:		24.99	<b>TOTAL AMOUNT DUE</b>		<b>656.05</b>
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<p align="center"><b>OPERATING FISCAL YEARS</b></p> <p>The taxes on bill will be used for governmental operations for the following fiscal year(s):</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">County:</td> <td>01/01/2019 - 12/31/2019</td> </tr> <tr> <td>Twn/Cty:</td> <td>04/01/2019 - 03/31/2020</td> </tr> <tr> <td>School:</td> <td>07/01/2019 - 06/30/2020</td> </tr> <tr> <td>State:</td> <td>10/01/2018 - 09/30/2019</td> </tr> </table> <p>Does NOT affect when the tax is due or its amount</p>	County:	01/01/2019 - 12/31/2019	Twn/Cty:	04/01/2019 - 03/31/2020	School:	07/01/2019 - 06/30/2020	State:	10/01/2018 - 09/30/2019	<p>ALL CURRENT PROPERTY TAXES MUST BE PAID AT THE TOWNSHIP OFFICE THROUGH MARCH 2, 2020. AS OF MARCH 3, 2020, ALL REAL ESTATE TAXES ARE PAYABLE TO THE JACKSON COUNTY TREASURER WITH A 4% ADMINISTRATIVE FEE AND A 1% PENALTY PER MONTH. JACKSON COUNTY TREASURER 120 W. MICHIGAN AVE. JACKSON, MI 49201 517-788-4418</p>																									
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Please detach along this line. Keep the top portion.

## WARRANTY DEED

The Grantor(s), Scott Lee Center, Cynthia Alene Hotchkin and Kimberly Ann Czmer, joint tenants with full rights of survivorship

whose address is

convey(s) and warrant(s) to Brandon Theron Hotchkin, a single man

whose address is 10150 Hubbard, Concord, Michigan 49237

the following described premises situated in the Township of Pulaski, County of Jackson, and State of Michigan:

The North ½ of the Northeast ¼ of Section 25, Town 4 South, Range 3 West, Pulaski Township, Jackson County, Michigan.

subject to reservations, easements, and restrictions of record, if any, and taxes and assessments which constitute a lien, but are not yet due and payable.

Reference: 10085 Hanover Road, Hanover, Michigan 49241

Tax Parcel #000-16-25-200-001-00

for the sum of Two Hundred Seventy-Nine Thousand & 00/100 (\$279,000.00) Dollars

The Grantor grants to the Grantee the right to make ALL division(s) under Section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967. Grantor makes no warranties or representations as to the availability of such divisions.

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

Dated this 14<sup>th</sup> day of June, 2018.

Signed by:

Scott Lee Center  
Scott Lee Center

Cynthia Alene Hotchkin  
Cynthia Alene Hotchkin

Kimberly Ann Czmer  
Kimberly Ann Czmer

STATE OF MICHIGAN     )  
  ) ss.  
COUNTY OF JACKSON    )

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of June, 2018, by Scott Lee Center, Cynthia Alene Hotchkin and Kimberly Ann Czmer.

Ronald J. Ellyson

Notary Public, \_\_\_\_\_ County,  
State of Michigan.  
My Commission Expires: \_\_\_\_\_  
Acting in Jackson County, Michigan

PREPARED BY: ROBERT D. FLACK  
Attorney at Law  
2720 Loraine Street  
Jackson, Michigan 49202  
✓ (517) 787-2730  
Hotchkin.wd.06.01.18

Please send future tax bills to:

After recording send to:



# Jackson County Planning Commission

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Staffed by the Region 2 Planning Commission (R2PC)  
120 W. Michigan Avenue • Jackson, MI 49201  
Phone (517) 788-4426 • Fax (517) 788-4635

## JACKSON COUNTY MASTER PLAN | 2020 EDITION

**To:** County Planning Commissioners

**From:** Grant E. Bauman

**Date:** August 13, 2020

**Proposal:** Chapter and Appendix Updates

Changes to [Chapter 2](#), [Chapter 3](#), and [Appendix C](#) are posted to the [Jackson County Master Plan webpage](#) on the [JCPC website](#). The proposed changes to Chapters 2 and 3 are highlighted and new/amended maps are included in Appendix C. Full-sized copies of the maps are also available on the webpage dedicated to the master plan.

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[www.region2planning.com/jackson-county-planning-commission](http://www.region2planning.com/jackson-county-planning-commission)