



Livingston County Department of Planning

LIVINGSTON COUNTY PLANNING COMMISSION MEETING

Wednesday, December 17, 2025 – 6:30 p.m.

Administration Building, Board of Commissioners Chambers
304 East Grand River, Howell, MI 48843

Agenda

Scott Barb
AICP, PEM
Director

Robert A. Stanford
AICP
Principal Planner

Martha Haglund
AICP
Principal Planner

1. Call to Order
2. Pledge of Allegiance to the Flag
3. Roll and Introduction of Guests
4. Approval of Agenda – December 17, 2025
5. Approval of Meeting Minutes – November 19, 2025
6. Call to the Public
7. Zoning Reviews
 - A. PA-02-25 Handy Township PA 116 Agreement, R&D Hamlin LLC, Sections 19 & 28
 - B. PA-03-25 Handy Township PA 116 Agreement, Hamlin Farms LLC, Section 31
 - C. Z-40-25 Howell Township Rezoning, Section 22, RSC to IFZ
 - D. Z-41-25 Howell Township Rezoning, Section 22, AR to IFZ
 - E. Z-42-25 Brighton Township Rezoning, Section 18, R-2 to PUD Residential
 - F. Z-43-25 Tyrone Township Text Amendments, Section 21.55 Medical Marijuana Caregiver Operations
 - G. Z-44-25 Hamburg Township Rezoning, Section 26 RA to PPRF
 - H. Z-45-25 Conway Township Text Amendments, Section 6.23 Airports, Camping as Accessory Use
 - I. Z-46-25 Marion Township Text Amendments, Various Sections, Assorted Private Road Amendments
8. Old Business:
9. New Business:
 - A. Department presentation
10. Reports
11. Commissioners Heard and Call to the Public
12. Adjournment

Department Information

Administration Building
304 E. Grand River Avenue
Suite 206
Howell, MI 48843-2323

●
(517) 546-7555
Fax (517) 552-2347

●
Web Site
<https://milivcounty.gov/planning/>

DRAFT
LIVINGSTON COUNTY PLANNING COMMISSION
MEETING MINUTES
Howell High School
Rod Bushey Performing Arts Center
Howell, Michigan
NOVEMBER 19, 2025
6:30 p.m.

PLANNING COMMISSION		
COMMISSIONERS PRESENT:	Matt Ikle Bill Call Dennis Bowdoin Paul Funk	Margaret Burkholder Kevin Galbraith Chuck Wright
COMMISSIONERS ABSENT:		
STAFF PRESENT:	Scott Barb Rob Stanford Martha Haglund Abby Carrigan	
OTHERS PRESENT:	Various members of the public spoke, and names have been attached on the sign in sheet.	

1. **CALL TO ORDER:** Meeting was called to order by Planning Commissioner Ikle at 6:30 PM.
2. **PLEDGE OF ALLEGIANCE TO THE FLAG**
3. **ROLL AND INTRODUCTION OF GUESTS:** None.
4. **APPROVAL OF AGENDA:**

Commissioner Action: IT WAS MOVED BY COMMISSIONER BOWDOIN TO APPROVE THE AGENDA, DATED NOVEMBER 19, 2025, SECONDED BY COMMISSIONER BURKHOLDER.
All in favor, motion passed 7-0

5. **APPROVAL OF PLANNING COMMISSION MEETING MINUTES:**

Commissioner Action: IT WAS MOVED BY COMMISSIONER FUNK TO APPROVE THE MINUTES DATED OCTOBER 15, 2025, SECONDED BY COMMISSIONER CALL.
Motion passed 6-0
(ABSTAIN: WRIGHT)

6. **CALL TO THE PUBLIC:** Mary Hayak from Howell Township spoke about a previous zoning case in Howell Township and supports the planning commission's recommendation on that case. Charles Smith from Howell Township spoke in opposition to the data center project and said the data center should first use superfund sites. A resident said she would support renewable energy projects but not data centers.

7. ZONING REVIEWS:

A. Z-34-25: HOWELL TOWNSHIP TEXT AMENDMENTS SECTION 2.02 DEFINITIONS

The Howell Township Planning Commission is proposing to amend the definitions in the Township Ordinance with the addition of 'Data Processing'. Staff have reviewed the proposed amendments for accuracy and compatibility with the existing ordinance language.

Township Recommendation: Disapproval. The proposed definition was denied at the September 23, 2025, public hearing on the proposed amendment.

Staff Recommendation: The definition is incorrect as noted in staff comments. The Planning Commission should consider the error as stated in staff comments and offer their recommendation to the Howell Township Board.

Commissioner Discussion: None.

Public Comments: None.

Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER CALL TO RECOMMEND DISAPPROVAL, SECONDED BY COMMISSIONER FUNK.

Motion passed: 7-0

B. Z-35-25: HOWELL TOWNSHIP CONDITIONAL REZONING AGRICULTURAL RESIDENTIAL (AR), NEIGHBORHOOD SERVICE COMMERCIAL (NSC), AND SINGLE FAMILY RESIDENTIAL (SFR) TO RESEARCH AND TECHNOLOGY (RT) SECTIONS 7 & 18.

Current Zoning: Agricultural Residential (AR), Single Family Residential (SFR), and Neighborhood Service Commercial

Proposed Zoning: Research and Technology (RT)
Sections: 7 and 18

Township Recommendation: The proposed conditional rezoning was Denied at the September 23, 2025, public hearing. Minutes of the meeting demonstrate a few proponents of the project with an overwhelming majority of attendees voicing their opposition to the proposed data center conditional rezoning.

Staff Recommendation: The proposed rezoning from AR (Agricultural Residential), SFR (Single Family Residential), and NSC (Neighborhood Service Commercial) to RT (Research & Technology) is not consistent with the overall goals, objectives, and future land use intentions of the Howell Township Master Plan. The Planning Commission should review the facts presented in this review and offer their recommendation to the Howell Township Board.

Commissioner Discussion: None.

Public Comments: Various members of the public spoke, and names have been attached on the sign in sheet.

Commissioner Action: IT WAS MOVED BY COMMISSIONER CALL TO RECOMMEND DISAPPROVAL, SECONDED BY COMMISSIONER BOWDOIN.

ROLL CALL VOTE REQUESTED BY COMMISSIONER IKLE: BURKHOLDER: YES; BOWDOIN: YES; GALBRAITH: YES; CALL: YES; FUNK: YES; WRIGHT: YES; IKLE: YES

Motion passed: 7-0

Planning Commission Recessed for a break at 8:38 PM

Planning Commission Reconvened at 8:47 PM

C. Z-36-25: OCEOLA TOWNSHIP TEXT AMENDMENTS
SECTION 12.31 WASTE RECEPTACLES AND MANAGEMENT

The Oceola Township Planning Commission proposes to add an entirely new section to **Article 12 General Provisions** of the Oceola Township Zoning Ordinance dealing with screening of solid waste receptacle areas.

Township Recommendation: Approval. The Oceola Township Planning Commission recommended Approval of this zoning amendment at its October 14, 2025, public hearing. According to the meeting minutes supplied for this case, there were no public comments.

Staff Recommendation: Based on the information provided by Oceola Township for this case, the proposed new provisions related to the management of waste receptacles appear to be suitable and reasonable.

Commissioner Discussion: Commissioner Call inquired if this is only for residential land uses.

Public Comments: None.

Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER BOWDOIN TO RECOMMEND APPROVAL, SECONDED BY COMMISSIONER BURKHOLDER

Motion passed: 7-0

D. Z-37-25: OCEOLA TOWNSHIP TEXT AMENDMENTS
SECTION 15.02 (2) and (6) PROCEDURES FOR MAKING APPLICATION

The Oceola Township Planning Commission proposes adding two entirely new sections to Article 15 Special Permits of the Oceola Township Zoning Ordinance dealing with the making of special use permit application.

Township Recommendation: Approval. The Oceola Township Planning Commission recommended Approval of this zoning amendment at its October 14, 2025, public hearing. According to the meeting minutes supplied for this case, there were no public comments.

Staff Recommendation: Based on the information provided by Oceola Township regarding this case, the proposed new provisions related to the administrative site plan approvals for special uses appear to be suitable and reasonable. The proposed provisions should help to streamline the administrative process when and where necessary for the township going forward.

Commissioner Discussion: Commissioner Bowdoin would like the Township to reconsider using sketch plans.

Public Comments: None.

Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER BOWDOIN TO RECOMMEND APPROVAL WITH CONDITIONS, SECONDED BY COMMISSIONER BURKHOLDER.

Motion passed: 7-0

**E. Z-38-25: OCEOLA TOWNSHIP TEXT AMENDMENTS
SECTION 16.11 SKETCH PLAN REVIEW STANDARDS**

The Oceola Township Planning Commission proposes to add an entirely new section to **Article 16 Site Plan Approval** of the Oceola Township Zoning Ordinance dealing with sketch plan review standards.

Township Recommendation: Approval. The Oceola Township Planning Commission recommended Approval of this zoning amendment at its October 14, 2025, public hearing. According to the meeting minutes supplied for this case, there were no public comments.

Staff Recommendation: Based on the information provided by Oceola Township regarding this case, the proposed new provisions related to the administrative site plan approvals and the allowance for sketch plan approval for certain special uses, appear to be straightforward, suitable and reasonable. The proposed provisions, connected appropriately with the newly proposed provisions in **Article 15 Special Permits, Section 15.02(6) Procedures for Making Application – Site Plan Approval** (County Case Z-37-25), should help to streamline the administrative process when and where necessary for the township going forward.

Commissioner Discussion: None.

Public Comments: None.

Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER CALL TO RECOMMEND APPROVAL, SECONDED BY COMMISSIONER GALBRAITH.

Motion passed: 6-1, NAY BOWDOIN

**F. Z-39-25: COHOCTAH TOWNSHIP TEXT AMENDMENTS
SECTION 13.29 MORATORIUMS**

The Cohoctah Township Planning Commission is proposing to amend their Zoning Ordinance to include standards for Moratoriums including stating the purpose of the moratorium and adding language regarding deadline and extension guidelines.

Township Recommendation: APPROVAL. The Cohoctah Township Planning Commission recommended approval at their November 6, 2025, meeting. During the public hearing one person spoke in favor of the proposed ordinance.

Staff Recommendation: The proposed ordinance amendment has been thoroughly reviewed by staff and the Township Attorney. The proposed amendments are appropriate and consistent with zoning ordinance language.

Commissioner Discussion: None.

Public Comments: None.

Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER BOWDOIN TO RECOMMEND APPROVAL, SECONDED BY COMMISSIONER BURKHOLDER
Motion passed: 6-1, NAY IKLE

8. OLD BUSINESS:

9. NEW BUSINESS:

10. REPORTS:

A. Welcome New Planning Commissioner Chuck Wright

B. Annual Meeting to Follow Regular Meeting Adjournment.

11. COMMISSIONERS HEARD AND CALL TO THE PUBLIC: None.

12. ADJOURNMENT:

Commissioner Action: IT WAS MOVED BY COMMISSIONER BOWDOIN TO ADJOURN THE MEETING AT 9:11 PM, SECONDED BY COMMISSIONER CALL.

Motion passed: 7-0

	LIVINGSTON COUNTY PLANNING DEPARTMENT REZONING REQUEST		CASE NUMBER:
			Z-40-25


COUNTY CASE NUMBER:	Z-40-25	TOWNSHIP:	Howell Township
REPORT DATE:	December 10, 2025	SECTION NUMBER:	Section 22
STAFF ANALYSIS BY:	Scott Barb	TOTAL ACREAGE:	7.03 acres

APPLICANT / OWNER:	William McCrie
LOCATION:	Vacant lot on Tooley Road
LAND USE:	Current site is vacant

CURRENT ZONING:	REQUESTED ZONING:
RSC – Regional Service Commercial	IFZ - Industrial Flex Zone
PERMITTED/SPECIAL USES (Not all inclusive):	PERMITTED/SPECIAL USES (Not all inclusive):
<u>Permitted:</u> RSC: Retail and service establishments such as supermarkets, department stores, home appliances, real estate, medical clinics, clubs, fraternal organizations, vehicle sales, assembly halls, clothing stores, drug stores, indoor recreation facilities, restaurants, churches, hotels; mini warehouses.	<u>Permitted:</u> IFZ: General office buildings; Educational and training facilities; Warehouses; Retail sales; Car dealerships; Product development; Testing laboratories; Service establishments; Tool & die shops; Machine shops; Light assembly; Other similar uses.
<u>Special:</u> RSC: Automotive gasoline and service stations; drive-in retail; regional shopping centers; commercial kennels.	<u>Special:</u> IFZ: Indoor/outdoor recreation facilities; Water parks; Commercial kennels; Veterinary clinics; Open air businesses; Storage of RV's; Metal products; Professional and scientific instruments and goods; Electrical machinery and components; Supplies for such uses.
Minimum Lot Areas: RSC: 2 acres, 40,000 sq. ft. with water and sewer; IFZ: 2 acres or 40,000 sq. ft with water and sewer.	

TOWNSHIP PLANNING COMMISSION RECOMMENDATION AND PUBLIC COMMENTS:	ESSENTIAL FACILITIES AND ACCESS:
Action on the proposed rezoning failed at the November 18, 2025, public hearing after a 2-2 tie, with 2 township commissioners abstaining from the vote. Comments for and against the proposed rezoning were heard at the public hearing.	Water: Well
	Sewer: Septic
	Access: Property will be accessed via Tooley Road

EXISTING LAND USE, ZONING AND MASTER PLAN DESIGNATION:

		Land Use:	Zoning:	Master Plan:
	Subject Site:	Vacant Land	Regional Service Com.	Industrial Flex
	To the North:	Residential	Single Family Residential	Medium Density Residential
	To the East:	Residential	Agricultural Residential	Low Density Residential
	To the South:	Vacant	Agricultural Residential	Industrial Flex
	To the West:	Industrial	Research & Technology	Airport

ENVIRONMENTAL CONDITIONS:

Soils / Topography:	The site is composed of Conover loams with 0 – 2% slopes and Miami loams with 2 – 6% slopes. These soils are considered prime farmland type soils with stability and are not highly erodible.
Wetlands:	The MIDEQ map tool shows no wetlands on the site.
Vegetation:	The parcel is in its natural, undeveloped state.
County Priority Natural Areas:	There are no priority natural areas on the site of the proposed rezoning.

TOWNSHIP MASTER PLAN DESIGNATION:

The Howell Township Future Land Use Map (2022) designates the subject parcel as **Industrial Flex**. The Township Master Plan states the following regarding the Industrial Flex future land use classification:

'This area is intended to be flexible with regard to specific used that might be permitted while being more prescriptive with regard to design and quality of development. It is recognized that some of the uses permitted in the industrial and commercial districts could be compatible land uses. The flexibility of the district is intended to foster economic development, create employment opportunities, and increase tax base by promoting development or redevelopment of land that is adjacent to existing industrial and commercial uses....'

The property is located on Tooley Road, east of the Livingston County Public Safety complex and County Airport. This area of the township is varied with residential to the north and east of the subject site with airport related uses to the west and office/retail located to the south of the proposed rezoning. While existing RSC zoning would provide retail and potential commercial to the area, the township master plan designation of industrial flex would provide a broader range of uses while still complimenting some uses that are prevalent in the RSC District. The Township Master Plan has indicated that industrial flex is the prevalent land use choice for the parcels that lie near the airport related properties to the west. We would concur with the Township's Master Plan designation of Industrial Flex as it complies with the goals and objectives stated in the Howell Township Master Plan and the Howell Township Future Land Use Map.

COUNTY COMPREHENSIVE PLAN:

The 2026 Livingston County Master Plan is currently being drafted. While the document will not direct parcel specific land use decisions, it will define policies that Townships should consider when amending their own future land use maps and plans. An overwhelming theme as the 2026 plan is being drafted was the concern over rural character and how to maintain that character for generations to come. We encourage local governments to make wise land use decisions that will mitigate potential land use conflicts while promoting good governance and land management.

COUNTY PLANNING STAFF COMMENTS:

The applicant is proposing a rezoning from RSC (Regional Service Commercial) to IFZ (Industrial Flex Zone) for the purpose of master plan alignment, and due to the proximity of the parcel, to make it more accommodating for uses found in the IFZ District.

Article 23 of the Howell Township Zoning Ordinance establishes the criteria and factors that are to be considered by the Planning Commission and Township Board when consideration is given to a potential rezoning of land. These four factors are the following (Section 23.02 (D) (5):

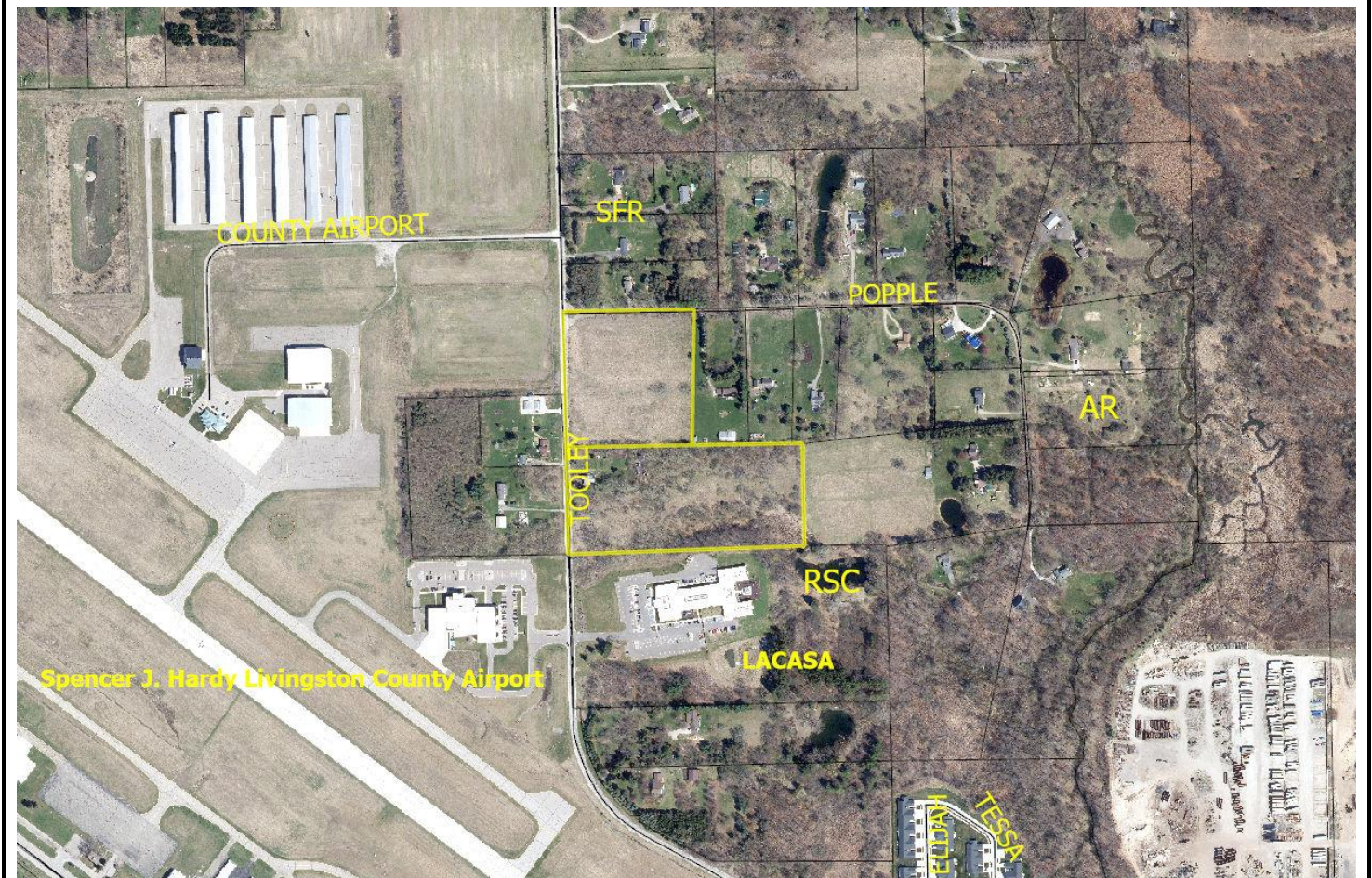
1. **Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan.** The Howell Township Master Plan designates the subject parcel as Industrial Flex and is consistent with the Future Land Use map for the Township.
2. **Whether all the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area.** The proposed rezoning is compatible with surrounding uses in the area. Uses allowed in the industrial flex zone would not necessarily be more intense than those uses found in regional service commercial. Any future development plans on the parcel should be cognizant of the residential uses to the north and east of the subject property.
3. **Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning.** The proposed use would not adversely affect any public services or facilities that we are aware of.
4. **Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.** The Industrial Flex Zone designation is intended to foster development and redevelopment of land that considers similar uses that would be found in both industrial and commercial zoning designations. As such, we believe the request is equally or better suited as industrial flex rather than regional service commercial.

The subject parcel is master planned as Industrial Flex and shares many of the same development characteristics as other more intense uses found in an RSC zoning district. The Industrial Flex Zone is intended to be compatible with a wide range of uses that include general office, educational facilities, retail and service-related sales, and other lighter industrial uses. We believe the request to rezone to IFZ is appropriate given the proximity to the existing airport related uses and current development trends throughout Howell Township. The proposed rezoning also aligns with the intentions of the Howell Township Master Plan and the Livingston County Master Plan.

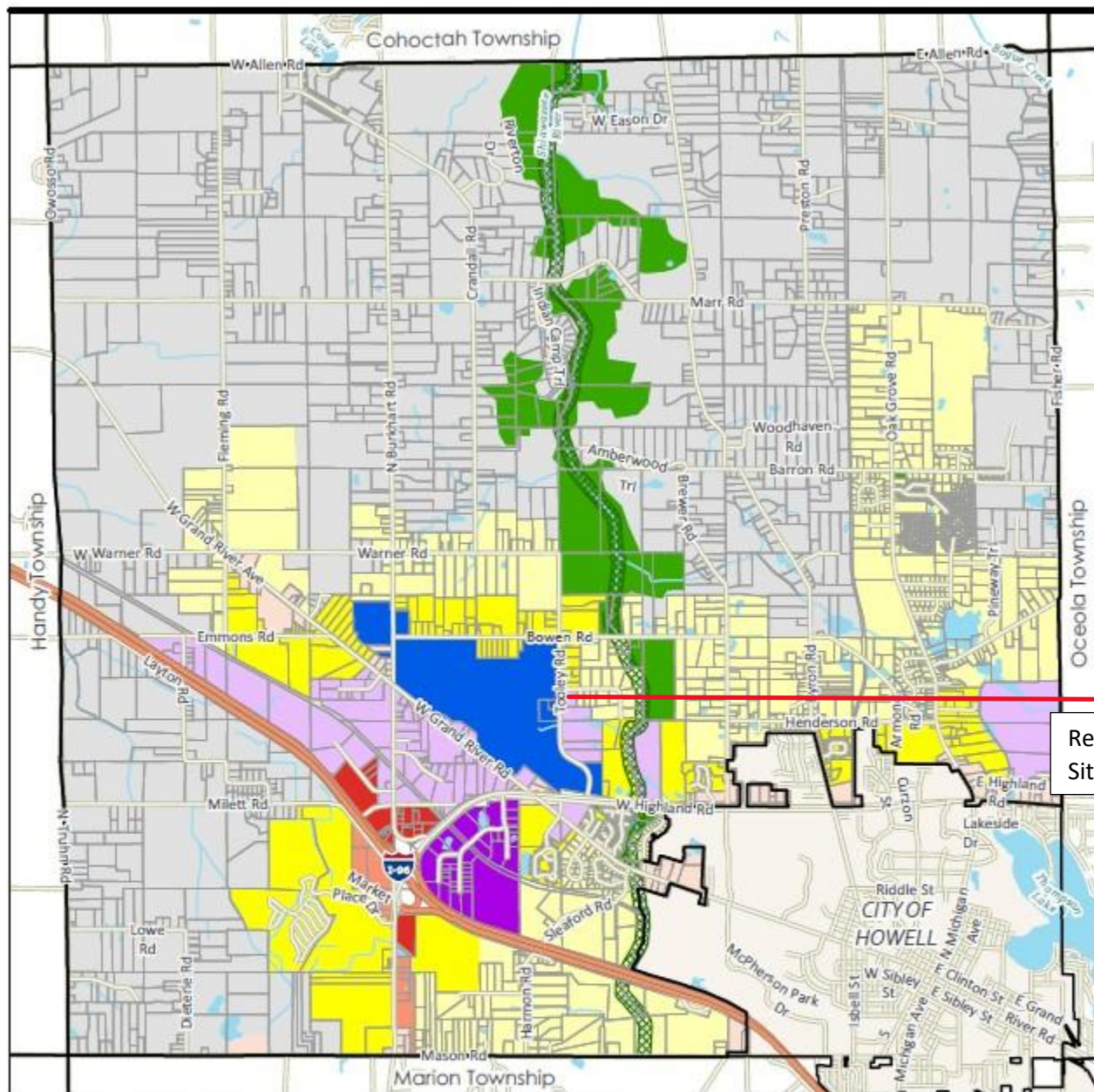
We do recognize the current residential properties to the north and east of the subject sites and recognize that any development of the sites should be carefully evaluated to mitigate any negative effects to nearby homeowners. The Township should consider this factor when evaluating future site plans for the properties.

COUNTY PLANNING STAFF RECOMMENDATION:

The proposed rezoning from RSC (Regional Service Commercial) to IFZ (Industrial Flex Zone) is consistent with the overall goals and objectives of the 2022 Howell Township Master Plan and the Livingston County Comprehensive Plan. Future development of the parcel should include mitigation efforts due to the nearby residential land uses.

SUBJECT PARCEL AND SURROUNDING AREA

TOWNSHIP FUTURE LAND USE MAP



Rezoning
Site

Future Land Use

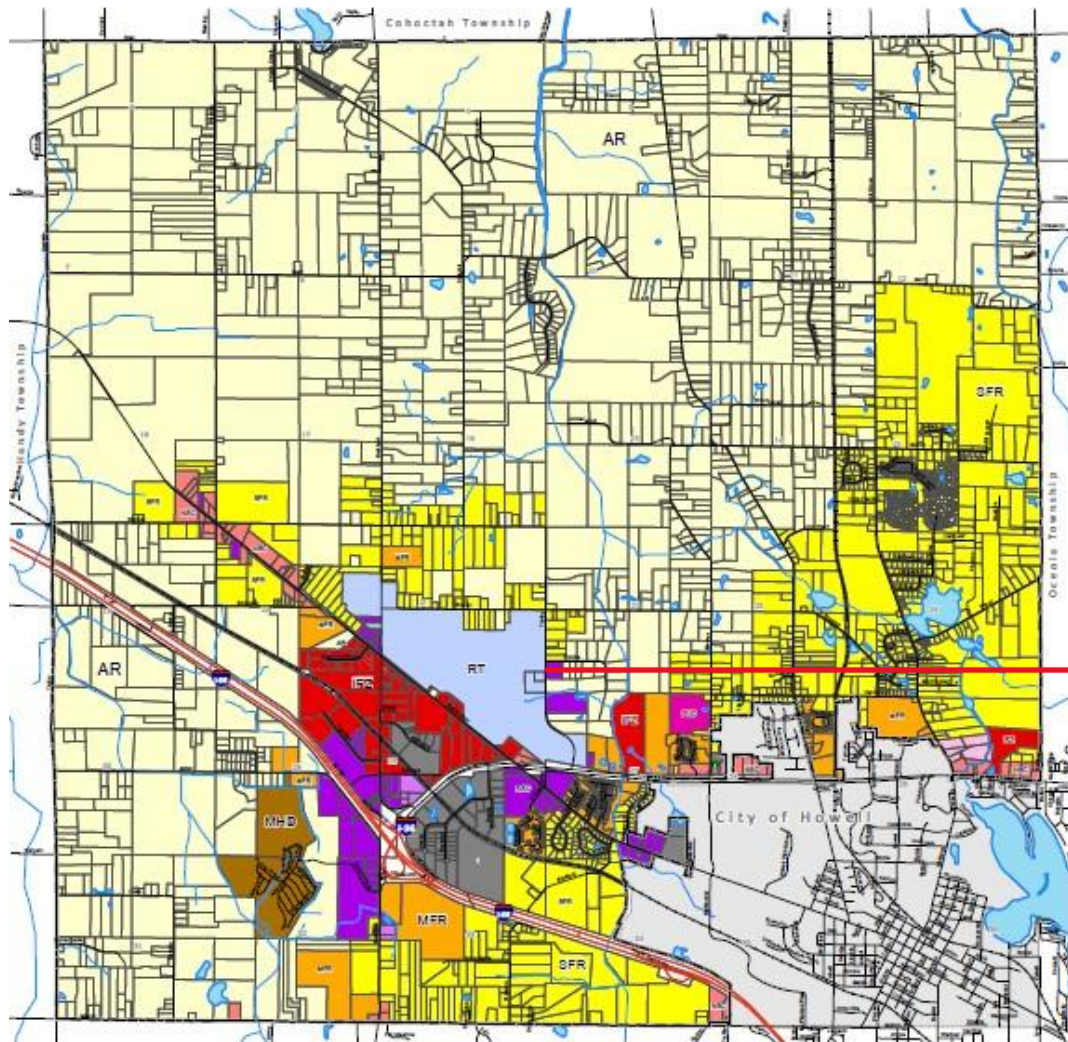
Howell Township
Livingston County, Michigan

0 0.5 1 Miles

Data: Livingston County, State of Michigan
Prepared by: Carlisle/Wortman Associates, Inc.
Date: December 7, 2022



TOWNSHIP ZONING MAP



Rezoning
Site

Zoning Designation	
Conditional Rezoning	NSC - Neighborhood Service Commercial
PUD - Planned Unit Development	HSC - Highway Service Commercial
AR - Agricultural Residential	RSC - Regional Service Commercial
SFR - Single Family Residential	IFZ - Industrial Flex Zone
MFR - Multiple Family Residential	I - Industrial
MHD - Manufactured Housing District	RT - Research & Technology
OS - Office Service	

CERTIFICATION
This is to certify that this is the official Zoning Map referred to in the Zoning Ordinance of Howell Township, Livingston, Michigan.
Township Supervisor: *Mike Coughlin* Date: *7-14-2021*
Township Clerk: *Joan G. Gorman* Date: *7-13-2021*

ZONING DISTRICTS MAP

Howell Township
Livingston County

0 0.5 1 2 Miles



1/30/2021
Cartelle/McGowan Associates, Inc.
Ann Arbor, Michigan

	LIVINGSTON COUNTY PLANNING DEPARTMENT REZONING REQUEST		CASE NUMBER:
			Z-41-25


COUNTY CASE NUMBER:	Z-41-25	TOWNSHIP:	Howell Township
REPORT DATE:	December 10, 2025	SECTION NUMBER:	Section 22
STAFF ANALYSIS BY:	Scott Barb	TOTAL ACREAGE:	10 acres

APPLICANT / OWNER:	William McCrie/Irene Bailey
LOCATION:	Vacant lot on Tooley Road
LAND USE:	Current site is vacant

CURRENT ZONING:	REQUESTED ZONING:
AR – Agricultural Residential	IFZ - Industrial Flex Zone
PERMITTED/SPECIAL USES (Not all inclusive):	PERMITTED/SPECIAL USES (Not all inclusive):
<u>Permitted:</u> AR: General agriculture; Field crops and livestock production; Greenhouse production; State licensed day care and foster care; Single family farms; Churches; Stables; Other similar uses.	<u>Permitted:</u> IFZ: General office buildings; Educational and training facilities; Warehouses; Retail sales; Car dealerships; Product development; Testing laboratories; Service establishments; Tool & die shops; Machine shops; Light assembly; Other similar uses.
<u>Special:</u> AR: Confined animal feedlots on a minimum of 40 acres; Airports and landing fields; Campgrounds and day camps; Agribusiness; Public and private cemeteries; Other similar special uses.	<u>Special:</u> IFZ: Indoor/outdoor recreation facilities; Water parks; Commercial kennels; Veterinary clinics; Open air businesses; Storage of RV's; Metal products; Professional and scientific instruments and goods; Electrical machinery and components; Supplies for such uses.
Minimum Lot Areas: AR: 1 acre; IFZ: 2 acres or 40,000 sq. ft with water and sewer.	

TOWNSHIP PLANNING COMMISSION RECOMMENDATION AND PUBLIC COMMENTS:	ESSENTIAL FACILITIES AND ACCESS:
Action on the proposed rezoning failed at the November 18, 2025, public hearing due to a 2-2 tie, with 2 township commissioners abstaining to vote. Public comments for and against the proposed rezoning are noted in the township meeting minutes.	Water: Well
	Sewer: Septic
	Access: Property will be accessed via Tooley Road

EXISTING LAND USE, ZONING AND MASTER PLAN DESIGNATION:

		Land Use:	Zoning:	Master Plan:
	Subject Site:	Vacant Land	Agricultural Residential	Industrial Flex
	To the North:	Vacant/Agriculture	Regional Service Commercial	Industrial Flex
	To the East:	Agriculture	Agricultural Residential	Low Density Residential
	To the South:	LACASA	Regional Service Commercial	Industrial Flex
	To the West:	Livingston County Airport	Research & Technology	Airport

ENVIRONMENTAL CONDITIONS:

Soils / Topography:	The site is composed of Conover loams with 0 – 2% slopes and Miami loams with 2 – 6% slopes. These soils are considered prime farmland type soils with stability and are not highly erodible.
Wetlands:	The MIDEQ map tool illustrates no significant wetlands on the site.
Vegetation:	The parcel is in its natural, undeveloped state.
County Priority Natural Areas:	There are no priority natural areas on the site of the proposed rezoning.

TOWNSHIP MASTER PLAN DESIGNATION:

The Howell Township Future Land Use Map (2022) designates the subject parcel as **Industrial Flex**. The Township Master Plan states the following regarding the Industrial Flex future land use classification:

'This area is intended to be flexible with regard to specific used that might be permitted while being more prescriptive with regard to design and quality of development. It is recognized that some of the uses permitted in the industrial and commercial districts could be compatible land uses. The flexibility of the district is intended to foster economic development, create employment opportunities, and increase tax base by promoting development or redevelopment of land that is adjacent to existing industrial and commercial uses....'

This second parcel for rezoning is also located on Tooley Road, east of the Livingston County Airport and Public Safety Complex properties. As mentioned previously with Z-40-25, this is an area that is poised for development of potential industrial flex and service-related uses that could be both regional service and lighter industrial in nature. The Township's Future Land Use Map designates the area as Industrial Flex and the proposed rezoning application mirrors the township master plan's intended goals for this parcel to be rezoned as such. As mentioned during review of Z-40-25, we are cognizant of nearby residential land uses and hope that the Township considers this when future development plans are brought forward in the form of site plan reviews for any proposed developments on the parcel(s).

COUNTY COMPREHENSIVE PLAN:

The 2026 Livingston County Master Plan is currently being drafted. While the document will not direct parcel specific land use decisions, it will define policies that Townships should consider when amending their own future land use maps and plans. An overwhelming theme as the 2026 plan is being drafted was the concern over rural character and how to maintain that character for generations to come. We encourage local governments to make wise land use decisions that will mitigate potential land use conflicts while promoting good governance and land management.

COUNTY PLANNING STAFF COMMENTS:

The applicant is proposing a rezoning from AR (Agricultural Residential) to IFZ (Industrial Flex Zone) for the purpose of aligning the parcel with the future land use intentions of the township. Industrial Flex zoning allows for a broader range of uses for the parcel and provides compatibility with the Future Land Use Map.

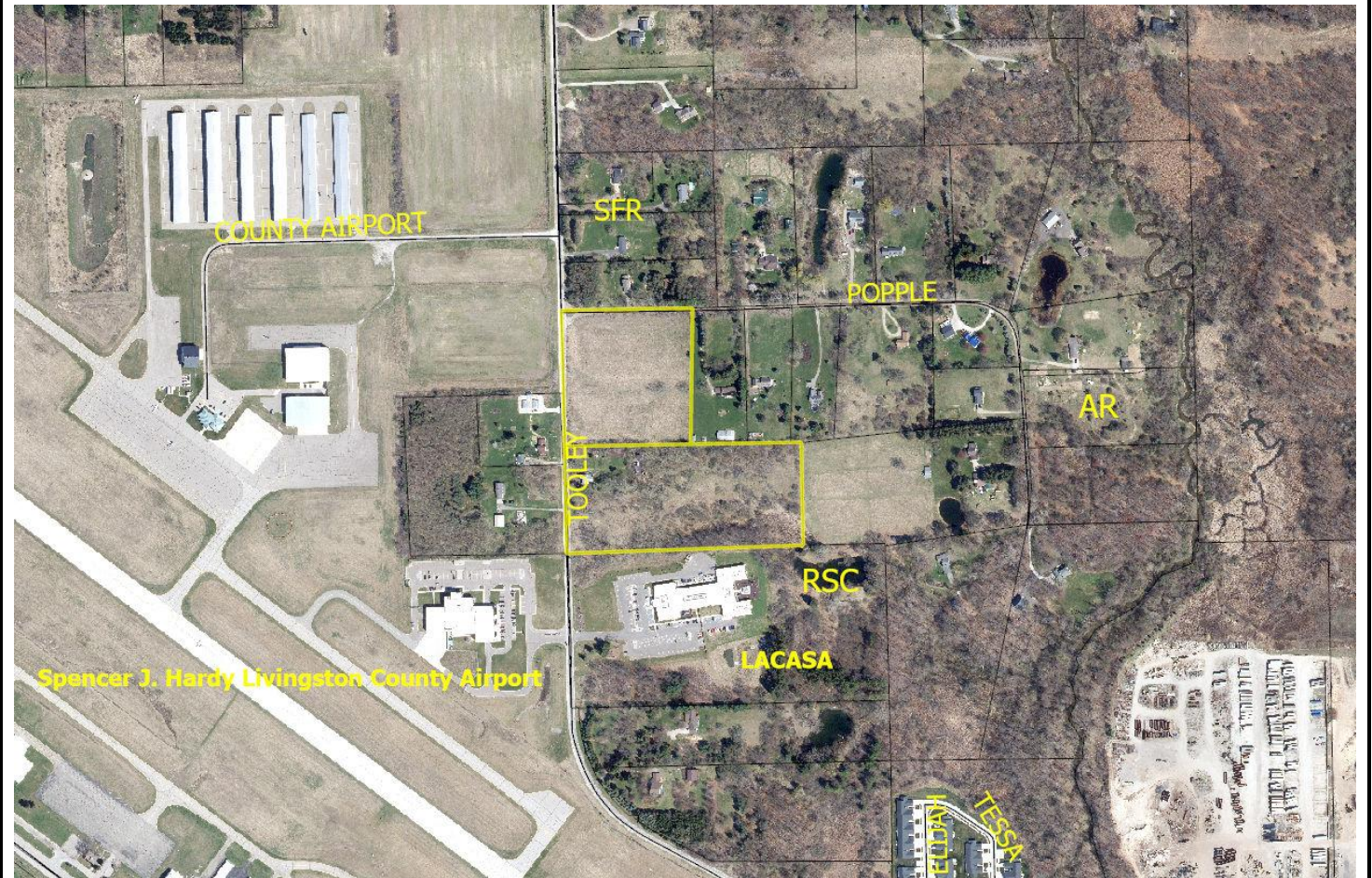
Article 23 of the Howell Township Zoning Ordinance establishes the criteria and factors that are to be considered by the Planning Commission and Township Board when consideration is given to a potential rezoning of land. These four factors are the following (Section 23.02 (D) (5):

1. **Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan.** The Howell Township Master Plan designates the subject parcel as Industrial Flex and is consistent with the Future Land Use map for the Township.
2. **Whether all the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area.** The proposed rezoning is compatible with surrounding uses in the area. The uses that are allowed in industrial flex zoning would encourage proper development with a wider range of potential uses that would complement existing zoning.
3. **Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning.** The proposed use would not adversely affect any public services or facilities that we are aware of.
4. **Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.** The Industrial Flex Zone designation is intended to foster development and redevelopment of land that considers similar uses that would be found in areas that are influenced heavily by the Livingston County Airport.

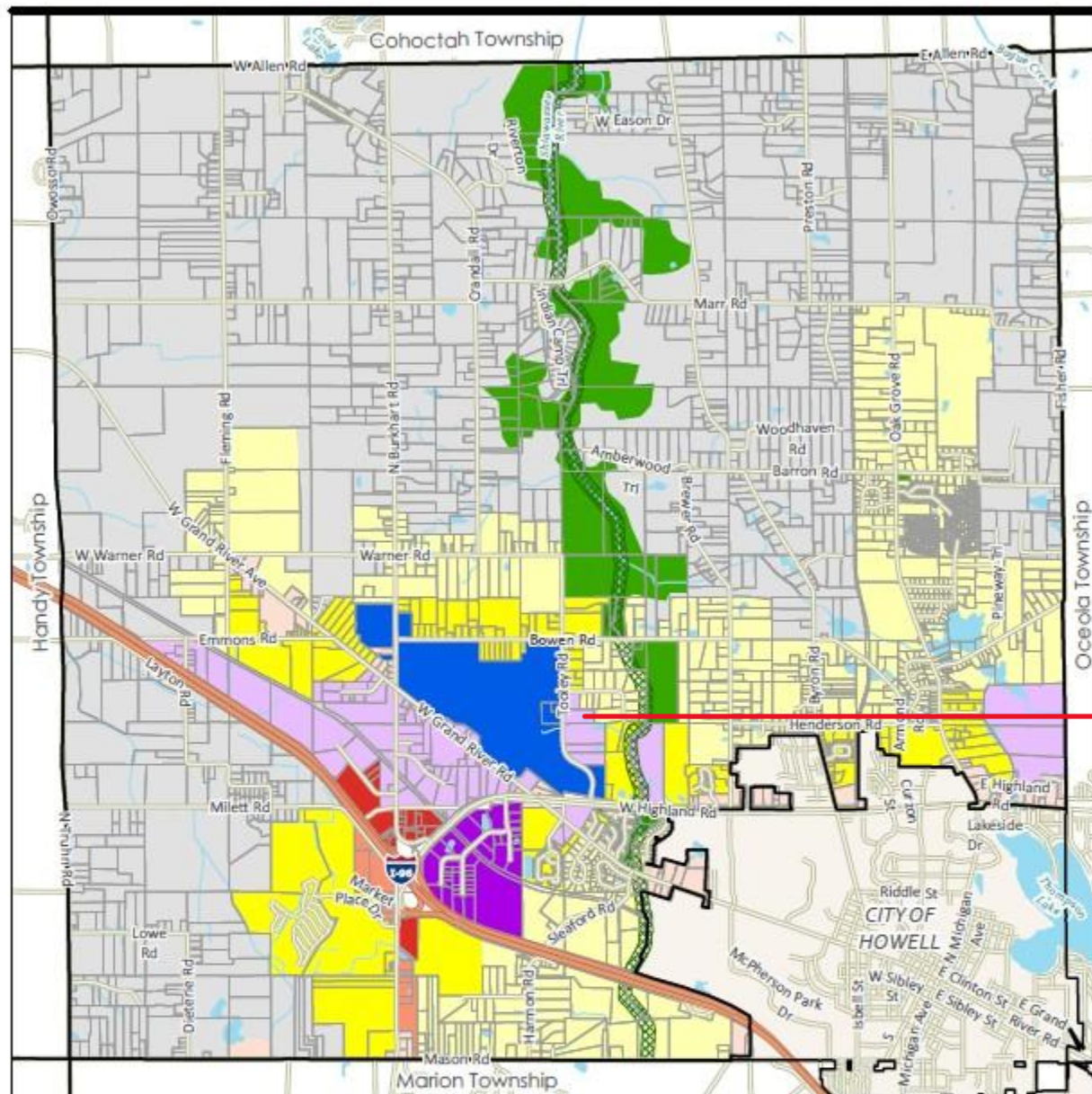
The subject parcel is master planned as Industrial Flex and shares many of the same development characteristics as other more intense uses found in the general area. The Industrial Flex Zone is designed to be compatible for a wide range of uses including outdoor storage, general office, educational, outdoor sales and display, warehousing, contractor buildings and associated storage. The requested rezoning from Agricultural Residential to Industrial Flex is compatible with both the Howell Township Master Plan and the Livingston County Comprehensive Plan. As we mentioned with Z-40-25, it is imperative that the Township carefully evaluate any future development on the parcel and ensure compatibility with nearby residential homes and uses.

COUNTY PLANNING STAFF RECOMMENDATION:

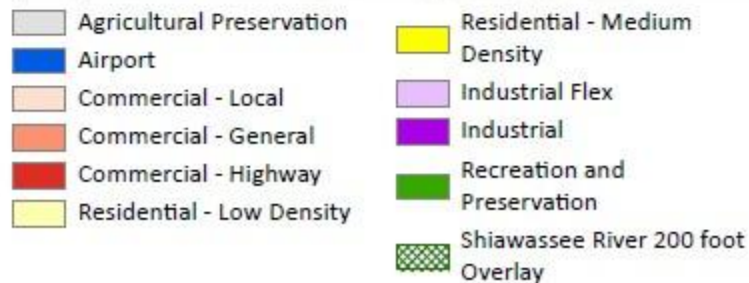
The proposed rezoning from AR (Agricultural Residential) to IFZ (Industrial Flex Zone) is consistent with the overall goals and objectives of the 2022 Howell Township Master Plan and the Livingston County Comprehensive Plan. Howell Township should consider mitigating any potential land use conflicts of the proposed rezoning with the nearby residential land uses when development of the parcel is implemented.

SUBJECT PARCEL AND SURROUNDING AREA

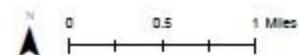
TOWNSHIP FUTURE LAND USE MAP



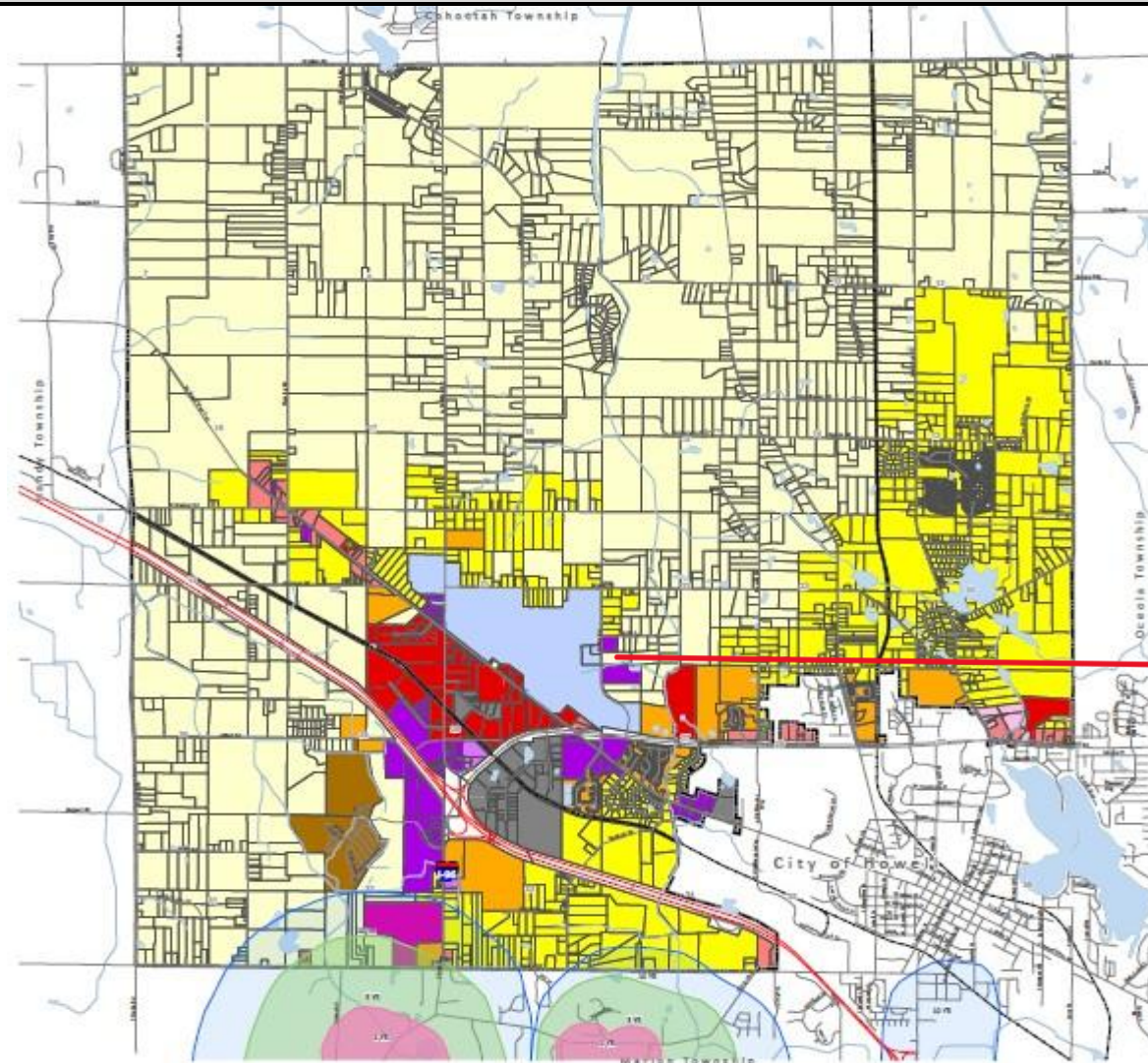
SITE



Future Land Use

Howell Township
Livingston County, Michigan

TOWNSHIP ZONING MAP



SITE

Zoning Designation		
Conditional Zoning	CS - Office Service	RT - Research & Technology
PUD - Planned Unit Development	RDC - Neighborhood Service Commercial	Wetland Protection Areas
AR - Agricultural Residential	RBC - Highway Service Commercial	
SRS - Single Family Residential	RSC - Regional Service Commercial	
MRR - Multiple Family Residential	I-2 - Industrial High Zone	
MRE - Manufactured Housing District	I - Industrial	1 FR
		2 FR
		3 FR

CERTIFICATION

This is to certify that this is the official Zoning Map referred to in the Zoning Ordinance of Howell Township, Livingston County, Michigan.

Township Supervisor Mike Pelt Date: 6/2/25
Township Clerk Sharon Adams Date: 6/11/2025

ZONING DISTRICTS MAP

Howell Township
Livingston County

0 0.5 1 2 Miles





LIVINGSTON COUNTY PLANNING DEPARTMENT
REZONING REQUEST - | -
STAFF REPORT

CASE NUMBER:
Z-42-25


COUNTY CASE NUMBER:	Z-42-25	TOWNSHIP:	Brighton Charter Township
REPORT DATE:	December 1, 2025	SECTION NUMBER:	12
STAFF ANALYSIS BY:	Robert Stanford	TOTAL ACREAGE:	42.8 Acres

APPLICANT / OWNER:	Mitch Harris Building Company
LOCATION / PARCEL ID:	12-18-300-011 and 12-18-400-027
LAND USE:	Vacant

CURRENT ZONING:	REQUESTED ZONING:
R2 Residential Single Family	RPUD – Residential Open Space Planned Unit Development
PERMITTED/SPECIAL USES (Not all inclusive):	PERMITTED
Permitted: Single family dwellings, Home Occupations, Farms, Adult Foster Care Family Home (1-6 adults), Foster Family Home (1-4 children 24 hrs), Foster Family Group Home (5-6 Children 24 hrs.), Family Day Care Home (1-6 Children < 24 hrs.), Parks & Public Recreation Facilities, Essential Public Services, Governmental Administrative Offices, Libraries, Police and Fire Stations, Schools, Primary including Charter, Montessori.	Permitted: Taken from Table 12-03 (page 12-4) of the Township Zoning Ordinance: <i>Permitted Uses – The Planning Commission shall establish a list of permitted uses as part of the PUD agreement, based upon the following:</i> <i>Open space residential projects may be permitted with recreational uses. Residential types permitted in the pre-PUD zoning district shall be permitted with additional uses as provided for herein.</i> Requirements: Section 12-04 Residential Open Space PUD
Special: Adult Foster Care Small Group Home (7-12 Adults), Group Day Care Home (7-12 Children < 24 hrs.), Golf Courses, Swimming Pool Clubs & Recreation Clubs, Churches, Temples, & other Places of Worship or Public Assembly, Event Barns.	
Minimum Lot Area: 40,000 square feet (0.91 acres)	Minimum Lot Area: Parallel plan must be submitted under the underlying residential zoning district. Ordinance requires fifty percent (50%) open space for residential PUD. As proposed, lots sizes to be 16,000 square feet (0.37 acres)

TOWNSHIP PLANNING COMMISSION RECOMMENDATION AND PUBLIC COMMENTS:	ESSENTIAL FACILITIES AND ACCESS:
<p>The Brighton Charter Township Planning Commission recommended APPROVAL of this rezoning at its November 10, 2025, Regular Planning Commission Meeting.</p> <p>From the draft PC minutes provided for the November 10th PC meeting, there were a number of public comments noted regarding this proposed rezoning.</p>	<p>Water: The site is serviced by public water</p> <p>Sewer: The site is serviced by public sewer</p> <p>Ingress/Egress Access: The latest PUD proposal (as of November 2025) is that all 40 units are proposed to use a single primary exit on Christine/Dann Drives. There is also a proposed emergency access point on Vista View Drive, for which the establishment of a legitimate traffic easement right is under legal contention at the present time (See also Page 5 under "Proposed Use Details"). This overall access arrangement is subject to approval by the township Planning Commission and Township Board and will become part of the PUD agreement.</p>

EXISTING LAND USE, ZONING AND MASTER PLAN DESIGNATION:

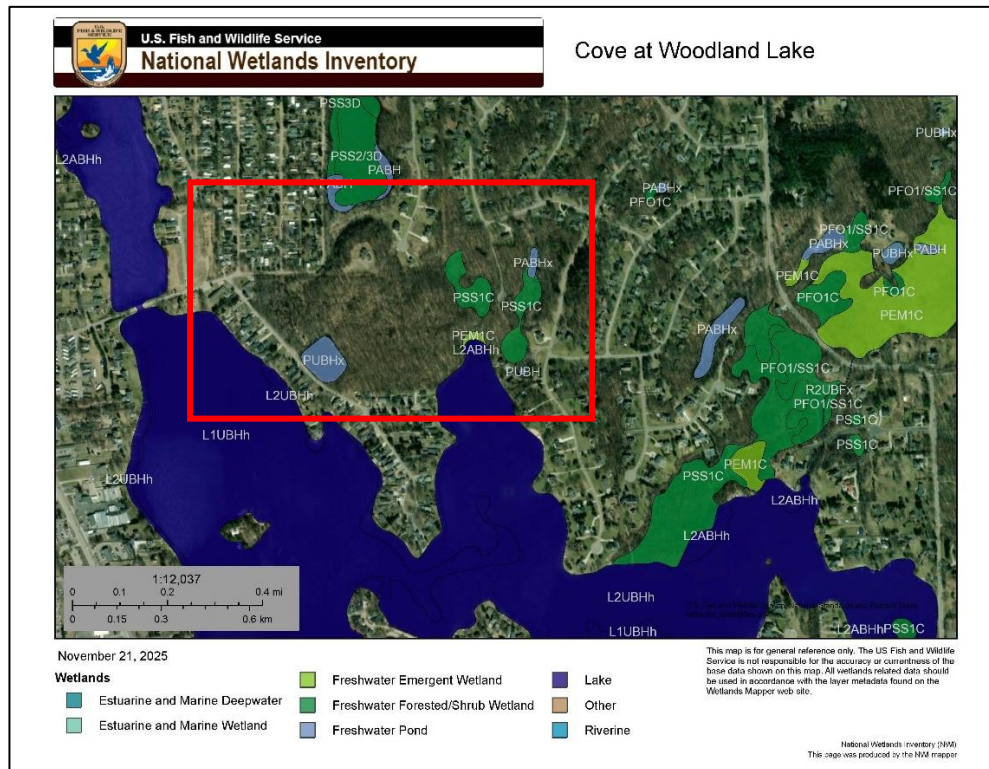
		Land Use:	Zoning (Minimum Lot Area):	Future Land Use / Master Plan:
Subject Site:		Vacant	R-2 (40,000 sq. ft.)	Low Density Residential
	To the North:	Single Family Residences	R-2 and R-5 (40,000 sq. ft. & 11,000 sq. ft.)	Medium Density and Low Density Residential
	To the East:	Single Family Residences	R-2 (40,000 sq. ft.)	Low Density Residential
	To the South:	Single Family Residences	R-5 (11,000 sq. ft.)	Medium Density Residential
	To the West:	Single Family Residences	R-5 (11,000 sq. ft.)	Medium Density Residential

ENVIRONMENTAL CONDITIONS:**Soils / Topography:**

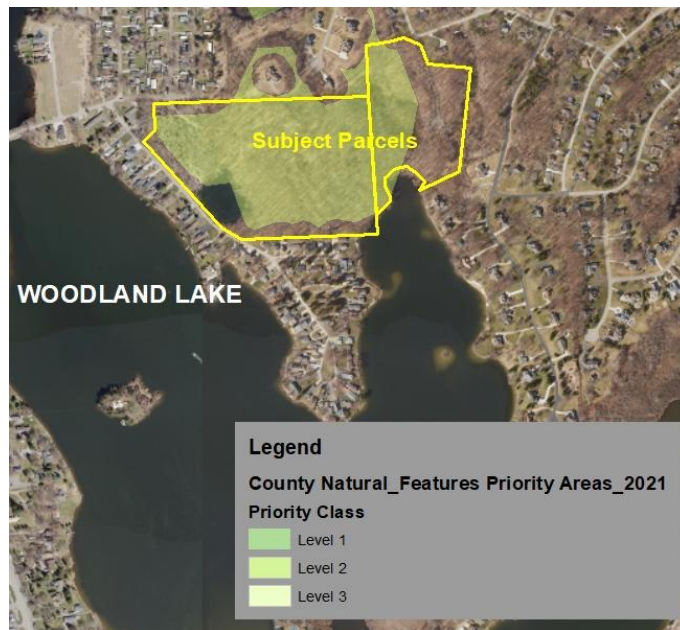
The entire central-most parcel (18-300-011) consists of Hillsdale sandy loam soils, 18-25 percent slopes, with Fox-Boyer and Boyer-Osherno complex soils occupying the northern and western boundaries of this parcel. The eastern-most parcel (18-400-027) consists mainly of Carlisle Muck soils on the western portion of this site and Fox-Boyer complex, 18-25 percent slopes, on the eastern portions of this subject site.

Wetlands:

The National Wetland Inventory (NWI) indicates three (3) wetland areas near the cul-de-sac in the eastern and northeastern portions of the subject sites and the surrounding area of the on-site pond (~ 4.5 acres), adjacent to Woodland Shore Drive. Disturbances in this area would require MDEQ permit. Refer to map below:

**County Priority Natural Areas:**

According to the Livingston County Planning Department produced map and document entitled: "Livingston County's High-Quality Natural Areas" (2021), The entire subject site of the central-most parcel (18-300-011) is a Priority Level 3 Natural Area. The boundaries of this area extend further east about mid-way into the adjoining subject parcel (18-400-027). Total acreage of this Natural Area is 32 acres. This area scores very high on the vegetative quality scale (4 points out of 4 points). Refer to map on the following page:



TOWNSHIP MASTER PLAN DESIGNATION:

The Future Land Use plan and map of Brighton Charter Township (2020) designates the site as *Low Density Residential*. The Township Master Plan further describes these areas in the following manner (p.17).

These areas are designated for single-family residences, located between the rural residential and more urbanized areas of the Township. This designation encompasses the majority of land planned for future residential use, and generally includes areas that do not have access to municipal water and sewers. Because public water and sewer service is not planned to be expanded to these areas in the near future, the lot sizes proposed must be adequate to accommodate onsite well and septic facilities. Many areas have already been developed where fewer environmental constraints are found. However, the land immediately surrounding many of the lakes is designated for residential land uses. These areas will need to be monitored to ensure the environmental integrity is maintained and water quality remains satisfactory. Public sewer services have been extended to some of the low-density residential areas that surround School and Lyons Lakes, while the remaining lakes within this designation are currently served by on-site facilities. The primary type of development within this classification is expected to be single-family residences on lots that are roughly one acre in size.

The two proposed sites also lie within the Township's designated Natural Features Protected Area (Map page 55) in the Township Master Plan. Within these areas, the Master Plan calls for the following recommendations to ensure the preservation of existing vegetation and other valuable natural features. Any newly planned development located within a township Natural Features Protected Area should be required to address compliance with these recommendations to ensure environmental viability is continually maintained in these vital areas. The elements listed below that are highlighted are of critical importance with regard to this specific rezoning request, but all are important.

Clustered Open Space Development

Utilizing clustered development is one of the most effective means of preserving existing vegetation and other valuable natural features. Specific standards were adopted to encourage preservation of open space, vegetative cover and natural topography during site plan review. The Township should strongly encourage developers to use this mechanism for both residential and commercial developments.

Low Impact Development

Low Impact Development (LID) is an approach to development aimed at conserving natural resources and protecting the environment by strategically managing rainfall close to its source, minimizing impervious coverage, using native plant species, and conserving and restoring natural areas during site development or redevelopment. Design techniques are focused on the use of applications that are modeled after nature, rather than building costly infrastructure and water quality restoration systems.

Storm Water Management

Increased development activity places additional burden on existing natural drainage systems. The overtaxing of drainage systems leads to localized flooding, environmental damage and costly storm drainage improvements to be borne by taxpayers. Storm water drainage can be managed by installation and improvements to storm water drainage systems and by requiring on-site detention of storm water, which Brighton Township currently does. Another way to manage storm water is through preservation of natural

drainage ways and providing onsite storm water detention with controlled discharge. Through these approaches, the impact of development on drainage systems can be minimized. Acknowledging that some impacts must be anticipated, a comprehensive approach to storm water management using Low Impact Design recommendations is encouraged. These types of measures will be much more effective in pre-treatment of storm water before it enters the ground or surface waters. Storm water protection can be achieved through many of the other recommendations in this chapter. Some additional policies not discussed include:

- Private road standards should allow shorter streets to reduce the amount of pervious coverage. Narrower roads may be considered if allowed by the Brighton Area Fire Authority.
- Minimize use of long cul-de-sacs in favor of connected street patterns.
- Encourage clustering of homes to minimize total impervious area, reduce total construction costs, conserve natural areas, provide community recreational space, and promote watershed protection.
- Promote more flexible design standards for residential subdivision sidewalks. Where practical, consider locating sidewalks on one side of the street and providing common walkways linking pedestrian areas.
- Minimize clearing and grading of forests and native vegetation, except where necessary to accommodate development.
- Conserve vegetation by clustering tree areas, promoting the use of native plants, and planting additional vegetation.

Watershed Planning

Watersheds and the sub-basins within them can be identified using GIS mapping technology that considers topography to locate changes in drainage direction and establish the watershed boundary. Studies have shown that over-development, typically defined as over 10% impervious coverage, within a given sub-basin or watershed can contribute to overall water quality degradation. By requiring minimum vegetated buffers, maintaining riparian corridors, and limiting impervious surface coverage can all help mitigate the impacts of development.

Protection of Lakes

Protecting the integrity of the local lakes is vital to maintaining the current quality of life in Brighton Township. Most lakes are surrounded by residential development, which means that impacts to those lakes will also affect the residents that live there. These impacts can be both ecological and recreational, as overpopulation of the lakes can contribute to water quality degradation. Various lake associations are active in preservation efforts, including participation in an on-going water quality monitoring program. The testing program involves volunteers from various homeowner associations to collect water samples and submit them to a biologist who prepares detailed analysis and reports.

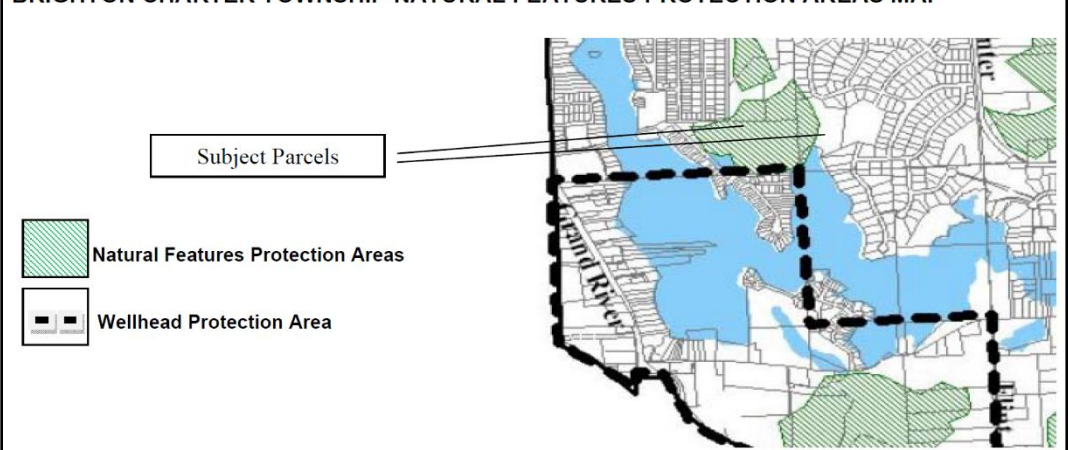
STAFF COMMENT: Ensuring the development is done in a responsible way to assure that the environmental integrity is maintained and water quality is not impacted seems the better choice rather than relying on “enforcement and monitoring”.

Woodland Protection

The preservation of woodlands as part of any development is vital to maintaining the natural community character. Brighton Township uses the environmental impact assessment and natural features overlay district regulations to identify woodlands as part of the site plan review process, which essentially protects land within the non-residential zoning districts. Consideration of bonuses or other incentives should be made to encourage woodland preservation. Site inspections and other methods of enforcement from the Township are also necessary to ensure compliance with regulations and appropriate implementation. Significant woodlands need to continue to be protected including:

- Forested areas that create significant woodlands.
- Linkage strips where rows of trees create linear corridors and buffers between uses.
- Trees along roads, which help preserve the community character.
- Significant individual landmark trees.

BRIGHTON CHARTER TOWNSHIP NATURAL FEATURES PROTECTION AREAS MAP



ANALYSIS BY: Stanford	DATE: December 1, 2025	CASE NUMBER: Z-42-25	PAGE: 5
-----------------------	------------------------	----------------------	---------

COUNTY COMPREHENSIVE PLAN:

The 2026 Livingston County Master Plan is currently being drafted. While the document will not direct parcel specific land use decisions, it will define policies that Townships should consider when amending their own future land use maps and plans. An overwhelming theme as the 2026 plan is being drafted was the concern over preservation of open space, natural areas and rural character, and how to maintain that character for generations to come. We encourage local governments to make wise land use decisions that will mitigate potential land use conflicts while promoting good governance and land management.

COUNTY PLANNING STAFF COMMENTS:

COUNTY PLANNING REVIEW

Rezoning Background Information

This application is for a request to rezone two contiguous parcels totaling 42.8 acres in the R-2 zoning designation, east of Woodland Shore, north of Carols Drive, south of Christine and Dann, and west of Hunter on Woodland Lake. The application for rezoning from R-2 (Residential Single Family) to Residential PUD (Planned Unit Development) submitted by Mitch Harris Building Company. The subject site is located east of Woodland Shore, north of Carols Drive, south of Christine and Dann, and west of Hunter on Woodland Lake.

According to the township rezoning application materials, the applicant is proposing a residential planned unit development (PUD). The applicant has provided a parallel plan under the underlying R-2 zoning district and has provided the proposed PUD development plan. Essentially, the PUD allows both the Township and developer flexibility in zoning to allow for innovative design that would not be permitted under conventional zoning requirements which is what this developer is proposing through this PUD proposal.

The applicant plans on developing thirty-two (32) single family lots and eight (8) detached condominiums. Eight (8) waterfront lots are proposed on the single-family side and two (2) detached condominium units on the lake. After the PUD rezoning, the applicant will follow the procedures for condominium developments in accordance with *Article 20 Condominiums* chapter of the township zoning ordinance.

According to township maps, the property is located in an area designated as a **natural features protection area** therefore, the project needs to be reviewed under *Article 10 Natural Features Overlay* chapter of the township zoning ordinance. According to a township planning review of this rezoning, the developer has prepared a general environmental assessment of the property which is required in *Section 10-04 Environmental Impact Assessment* of the zoning ordinance. The township planner in their review has stated that the conceptual site plan is approved as part of the rezoning process and that the developer would be bound to that conceptual plan.

Proposed Use Details (Excerpts taken from Township Planner Review letter – November 10, 2025)

The applicant has indicated that the proposed use for the approximately 42.8 acres to be rezoned from R-2 to PUD would be for thirty-two (32) lots of a minimum size of 16,000 sq. ft. Additionally, eight (8) detached condominiums are proposed. A total of forty (40) homes are proposed. One private road is proposed for access to the site which connects into N. Christine and Dann Drives, which are public roads. Per *Section 16-08 Bikepaths and Sidewalks* of the township zoning ordinance, a five (5) ft. concrete sidewalk is required along one side of the internal private road which is being proposed.

The applicant has proposed a twenty-eight (28) ft. wide road within a fifty (50) ft. private road R.O.W. Additionally, there is approximately twenty (20) ft. wide ingress/egress easement shown off of Bayfront Drive extending into Vista View Drive for emergency access.

STAFF COMMENT: It is Staff's understanding that as of yet, the applicant has not shown proof of ROW permission for this access point, and the legality of this access point is still being litigated.

The Planning Commission and Township Board will have to discuss this proposal for a private road with a smaller R.O.W. and road width. If this is acceptable, that will become part of the planned unit development agreement. The proposal is for eight (8) lakefront lots and two (2) detached condominium lakefront units.

The applicant has depicted a parallel plan for the R-2 zoning district depicting thirty-one (31) lots; it depicts natural buffer areas of less than the one hundred (100) ft. requirement per *Article 10: Natural Features Overlay District* of the township zoning ordinance; however, the Planning Commission can approve a smaller natural buffer area.

STAFF COMMENT: Staff questions why the Planning Commission would allow this reduction. It seems extreme and not aligned with assuring environmental integrity and maintaining water quality (per earlier reference to the township Natural Features Protected Area criteria – See Pages 3-4).

The lot sizes required in the R-2 zoning district are approximately 40,000 sq. ft. (.91 acre) lots. The lot widths required in the R-2 district are 160 ft. The lot coverage in the R-2 district is fifteen (15%) percent. The setbacks required in the R-2 zoning district are thirty-five (35) ft. front yard, twelve (12) ft. side yard, thirty-five (35) ft. rear yard, and twenty-five (25) ft. minimum with the average of 300 ft. along the lake required for the natural feature setback (Woodland Lake). The proposal is for thirty-two (32) lots of a minimum size of 16,000 sq. ft. and eight (8) detached condominiums. The developer has depicted the open space calculations regarding the open space. As depicted on the conceptual plan, most of the site will remain undisturbed and will be protected through a conservation easement.

Most of the property is designated as natural features on the township *Natural Features Protection Area* map. As part of the site plan review, the applicant has to comply with the requirements outlined in Article 10 of the Zoning Ordinance which includes an environmental impact assessment which has been conducted. Additionally, many wetlands are located on the property which is assumed to be under EGLE's jurisdiction. The applicant has provided a general environmental assessment.

STAFF COMMENT: The Township's Natural Features Overlay District provides requirements for mitigation of disturbance of natural features protection areas. To County Planning Staff's knowledge, no mitigation efforts have been indicated by the applicant. The project would greatly disturb state regulated wetlands onsite. Any project that impacts State regulated wetlands is required to apply for a wetlands permit from EGLE (Michigan Department of Environment, Great Lakes and Energy).

The Township Board should require the applicant to secure this permit prior to any recommendation for approval. In addition, the extreme slopes found on the subject site pose significant concerns regarding the likelihood of runoff erosion issues to Woodland Lake. The applicant should provide assurances to the Township that such erosion will be prevented, with something well beyond standard erosion control methods. The project will also impact a unique geological area that is currently woodland. The area may have endangered or threatened species that will need to be protected.

In addition to being located in the Townships Natural Features Overlay District, and being a Priority Level 3 Natural Area as designated by the Livingston County Natural Features Assessment (2021), the property is also located in one of the Huron River Watershed Council's "Bioreserve Areas" (specifically #1396). The Council's Bioreserve project has identified several hundred unique natural areas in and around Livingston and Washtenaw Counties that aid in the natural filtration of rainwater as well as provided natural habitat for a wide variety of plant and animal species and unique places for people to relax and enjoy nature.

A ten percent (10%) density bonus may be allowed for developing under a PUD; an additional ten percent (10%) may be allowed for connecting into the sewer system; and another ten percent (10%) may be allowed for connecting into the water system. Assuming a thirty percent (30%) increase over the thirty-one (31) units allowable under the R-2 zoning would be forty (40) units.

TOWNSHIP ZONING ORDINANCE REVIEW CONSIDERATIONS

Rezoning Request (Township Planner comments taken from "The Cove at Woodland Lake PUD Rezoning "review letter – November 10, 2025)

The rezoning request was reviewed based on the following six (6) review considerations listed in *Article 23: Administration and Enforcement, Section 23-10: Amendments of the Zoning Ordinance* and the Charter Township of Brighton Master Plan.

1. Consistency with the goals, policies, and future land use map of the Brighton Township Master Plan including any sub area or corridor studies. If conditions have changed since the last Master Plan was adopted, the consistency with recent development trends in the area.

Township Planner Comment: This project is located in the low-density residential area of the future land use map which is typically the R-1 and R-2 zoning districts. These areas are designated for single-family residences, located between the rural residential and more urbanized areas of the Township. This designation encompasses the majority of land planned for future residential use, and generally includes areas that do not have access to municipal water and sewer. Many areas have already been developed where fewer environmental constraints are found. However, the land immediately surrounding many of the lakes is designated for residential land use. These areas will need to be monitored to ensure the environmental integrity is maintained and water quality remains satisfactory. The primary type of development within this classification is expected to be single-family residences on lots that are roughly one acre in size.

COUNTY PLANNING STAFF COMMENTS:

As proposed, the PUD option incorporates a higher level of impervious surface area with the development boundaries in comparison with the current R-2 zoning arrangement, as is proposed by the required PUD parallel plan. R-2 zoning equates better with the Master Plan designation of low-density residential development than the PUD as proposed.

2. Compatibility of the site's physical, geological, hydrological and other environmental features with the potential uses permitted in the proposed zoning district.

Township Planner Comment: Evidence has not been provided that the site could not develop under the current R-2 zoning designation. However, the developer has a proposal for denser development but keeping many of the natural features of the site preserved.

Since the applicant is proposing the project as a PUD, the Township will have much more control of the entire site and the preservation of natural features on the site. The conceptual plan depicts forty (40) units. Since this is proposed to be a PUD rezoning, the proposed conceptual site plan and the preservation of the natural features would be what the Township would attain as part of the rezoning since the site plan will become the contract for the site, along with the planned unit development agreement. At this time, we only have a conceptual plan but the entire site plan and all details of the site would be reviewed as part of the subsequent steps in the site plan process.

COUNTY PLANNING STAFF COMMENTS:

County Planning Staff agrees with the Township Planner response that from the information supplied for this case, no evidence was provided to indicate that the site could not develop under the current R-2 zoning designation.

While the proposed PUD plan clusters the site development pattern and individual lot sizes (from 40,000 sq. ft. to 16,000 sq. ft.), it consequentially increases the percent allowable building area per site (from 15%-R-2 to 40%-PUD). This increases the overall percentage of impervious surface area which ultimately reaches Woodland Lake and leads to further degradation of the lake's water quality). The major environmental concern with any future development of this site must be the long-term viability and water quality of Woodland Lake.

3. Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential impact on property values.

Township Planner Comment: The types of uses permitted within the single-family residential districts are mainly the same; the difference is in density. The applicant has depicted how many units could be developed in the R-2 designation. The soils in the area are part of the Fox-Boyer-Oshtemo Association which includes steep or hilly, well drained, moderately coarse to coarse textured soils on moraines.

COUNTY PLANNING STAFF COMMENTS:

County Planning Staff agrees with the Township Planner response that the types of uses permitted within the single-family residential districts are mainly the same. Environmental compatibility, especially associated with the water quality of Woodland Lake is of utmost importance. County Planning Staff has prepared a summarized traffic impact analysis which indicates an increase of ~350 new vehicle trips per day associated with the purposed development.

4. The capacity of Township infrastructure, utilities, and services is sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the Township.

Township Planner Comment: Township sewer and public water are proposed. The capacity of the Township's sewer can accommodate the uses in both the current R-2 (Residential Single Family) district and the proposed PUD. The water capacity has been confirmed by the City of Brighton, and the water service agreement area will be revised.

COUNTY PLANNING STAFF COMMENTS:

County Planning Staff agrees with the Township Planner's response.

5. The apparent demand for the types of uses permitted in the requested zoning district in the Township in relation to the amount of land in the Township currently zoned to accommodate the demand.

Township Planner Comment: All of the properties to the north, south, east, and west of the site are developed for single family residential uses of varying sizes. This property is located in a Natural Features Protection Area as designated on the Charter Township of Brighton's Map. As part of the site plan review, the applicant will have to comply with the requirements outlined in Article 10 of the Zoning Ordinance including an environmental impact assessment. The applicant has provided a general environmental impact assessment. The applicant has proposed lot sizes that he feels are consistent with the neighboring properties. Fairly large buffer areas will be provided along the perimeter of the site which will help shield the views from neighboring properties. The applicant has submitted a traffic impact study (TIS) depicting the traffic from the proposed development. The Township Engineer has reviewed and commented on the TIS.

COUNTY PLANNING STAFF COMMENTS:

County Planning Staff understands that there is a desperate need in the county for affordable residential housing. Nothing provided by the township for this case indicates that the types of residential housing planned for this proposed development will address this need. It appears that the housing type planned for this development would be characteristic with higher-cost housing examples.

6. If a rezoning is reasonable given the above criteria, a determination shall be made that the requested rezoning is more appropriate than another zoning district.

Township Planner Comment: The proposed PUD rezoning offers a benefit to the Township in terms of open space and protection of natural resources for the Township because the site plan becomes the contract for the site.

COUNTY PLANNING STAFF COMMENTS:

County Planning Staff agrees that clustering the development on site does allow for there to be the opportunity to set aside a certain percentage of the wooded natural areas (~ 20 acre) of the site to the benefit of both the township and its residents. However, the amount of impervious surface area created within the PUD development counterbalances this open space benefit, as it contributes to the further degradation of Woodland Lake, which is by far the most significant and important natural feature associated with this development and the immediately residential neighborhood on the whole. There is very little natural area protection for the lands along the lakeshore, those that act as a natural filtration system, as is occurring presently without any development.

PUD ELIGIBILITY

The Zoning Ordinance requires that the applicant must demonstrate that the site qualifies for a PUD. Based on *Section 12-02 Eligibility Criteria* section of the township zoning ordinance.

To be eligible for PUD approval, the applicant must demonstrate that each of the following five (5) criteria will be met:

(a) Demonstrated Benefit. The PUD shall provide one (1) or more of the following benefits not possible under the requirements of another zoning district, as determined by the Planning Commission:

- (1) Preservation of significant natural or historic features.
- (2) A complementary mixture of uses or a variety of housing types.
- (3) Common open space for passive or active recreational use.
- (4) Mitigation to offset community impacts.
- (5) Redevelopment of a nonconforming site where creative design can address unique site constraints.

Township Planner Comments: The PUD ordinance requires fifty (50%) percent open space for residential PUD's; a calculation has been provided which is 58.9%. The proposed open space is mainly consisting of preserving the large wooded areas. A five (5) ft. concrete sidewalk is being proposed on one side of the private roadway, Bay Front Drive, as required by the zoning ordinance. The roadway is proposed as fifty (50) ft. R.O.W. instead of the required sixty-six (66) ft. R.O.W. with twenty-eight (28) ft. roadways.

The site is currently very wooded, is designated as a natural features area, and has steep and varying slopes. The developer plans to preserve many of the trees in the development; especially on the northerly side of the property. A buffer area (wooded area) will also be preserved on the southerly side. Additionally, there are quite a few wetland areas on the site which are regulated by EGLE. The proposal is to utilize one of the natural wet areas (pond) as a retention basin and create two (2) retention basins/forebays for the single-family lot side and an expanded wetlands and forebay area for the detached condominium side. *Article 10, Natural Features Overlay*, requires natural feature buffer areas of one hundred (100) ft. which can be reduced to twenty-five (25) ft. if allowed by the Planning Commission. A minimum fifty (50) ft. setback from the wetlands is proposed and 100 ft. from the lake on the single-family side and fifty (50) ft. on the detached condominium side.

COUNTY PLANNING STAFF COMMENTS:

While there has been planned a large open space set aside for those areas that lie in the higher elevation areas, north of the planned PUD residential portion of the development, very little preservation has been planned for the natural lands that lie directly adjacent to Woodland Lake, save for a small portion of an onsite wetland that has been set aside for storm water retention/detention. Of most concern are the lots that front directly on and have access to Woodland Lake (8 lots). There have been no open space dedications planned in these critical areas, which allow for the natural filtration of the entire subject property which empties directly into the lake. There must be more thought and planning directed to those areas that have the most critical and important function for the long-term viability and quality of the waters of Woodland Lake.

As it relates to the listing of the five (5) demonstrated benefits above, County Planning Staff responds with the following:

1) Preservation of significant natural or historic features.

The development proposes to preserve at least fifty (50) percent of the overall combined lot area of the two subject sites as open space. As a related question, Staff would again inquire as to what the demonstrated benefit would be by allowing a smaller percentage natural features buffer and why the Planning Commission would allow this reduction. It seems extreme and not aligned with assuring environmental integrity and maintaining water quality not only for this potential development site, but for the entire Woodland Lake residential community.

(2) A complementary mixture of uses or a variety of housing types.

This project proposes two distinct housing types within the development package, one being a thirty-two (32) unit single family residential neighborhood and the other an eight (8) unit detached condominium neighborhood. Eight (8) waterfront lots are proposed on the single-family side and two (2) detached condominium units on the lake. This demonstrated benefit appears to have been at least planned for by the applicant.

(3) Common open space for passive or active recreational use.

The development proposes to preserve at least fifty (50) percent of the overall combined lot area of the two subject sites as open space. However, other than preservation of existing woodlands, it is not readily apparent from the information provided to County Planning Staff for this review the type of activities proposed for these preserved open space areas. The ordinance requires both passive and active recreational areas to be planned as part of a PUD project. As such, it does not appear that this provision has been adequately met.

(4) Mitigation to offset community impacts.

It is not clear from the information provided for this review that any onsite mitigation activities are planned. As such, it appears that is provision has not been adequately met.

(5) Redevelopment of a nonconforming site where creative design can address unique site constraints.

From the information provided for this review it appears this provision may not be directly applicable for this particular PUD project.

STAFF CONCLUSION: From the information provided for this review, it does not appear that there is a clear and concise demonstrated benefit as required by the provisions above. Staff would encourage the applicant to make the necessary changes to the proposed project so that a more robust-level of compliance with this provision can be confirmed.

(b) Availability and Capacity of Public Services. The proposed type and density of use shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.

Township Planner Comments: The homes will be served by public sewer and a planned extension of public water.

COUNTY PLANNING STAFF COMMENTS:

The Township Planner review states that Township sewer and water are proposed. The review goes on to state that the Township's sewer capacity can accommodate the uses in both the current R-2 zoned district and the proposed PUD.

(c) Compatibility with the Master Plan. The proposed development shall not have an adverse impact on future development as proposed in the Master Plan of the Township.

Township Planner Comments: This project is located in the low-density residential area of the master plan which is typically the R-1 and R-2 zoning districts. These areas are designated for single-family residences, located between the rural residential and more urbanized areas of the Township. This designation encompasses the majority of land planned for future residential use, and generally includes areas that do not have access to municipal water and sewer. Many areas have already been developed where fewer environmental constraints are found. However, the land immediately surrounding many of the lakes is designated for residential land uses. These areas will need to be monitored to ensure the environmental integrity is maintained and water quality remains satisfactory.

The primary type of development within this classification is expected to be single-family residences on lots that are roughly one acre in size. The proposal is for thirty-two (32) lots of a minimum size of 16,000 sq. ft. The proposed setbacks are twenty-five (25) ft. front yard, thirty (30) ft. rear yard, and ten (10) ft. side yards. Setbacks from all wetlands must be a minimum of twenty-five (25) ft.

The other part of the development is eight (8) detached condominiums. The lot sizes required in the R-2 zoning district are approximately 40,000 sq. ft. (.91 acre). The lot widths required in the R-2 district are 160 ft. The lot coverage in the R-2 district is fifteen (15%) percent. The setbacks required in the R-2 zoning district are thirty-five (35) ft. front yard, twelve (12) ft. side yard, thirty-five (35) ft. rear yard, and twenty-five (25) ft. minimum with the average of 300 ft. along the lake required for the natural feature setback (Woodland Lake). The parallel plan for the R-2 zoning district meets all Zoning Ordinance requirements.

COUNTY PLANNING STAFF COMMENTS:

As has been pointed out throughout this review, County Planning Staff agrees that clustering the development on site does allow for there to be the opportunity to set aside a certain percentage of the wooded natural areas (~ 20 acre) of the site to the benefit of both the township and its residents. However, the amount of impervious surface area created within the PUD development counterbalances this open space benefit, as it contributes to the further degradation of Woodland Lake, which is by far the most significant and important natural feature associated with this development and the immediately residential neighborhood on the whole.

Therefore, R-2 is more compatible with the Master Plan, due to the larger lot sizes attributable to the Low-Density residential development patterned desired at this location. However, considering this further, even developing under the R-2 zoning for any type of development at this location should also include incorporating serious natural features protection measure, not only for the woodland present, but also for the main natural feature element present, which is Woodland Lake. Generous setbacks from the lake should be of utmost importance for the reasons already stated in this review.

(d) Compatibility with the Planned Unit Development Intent. The proposed development shall be consistent with the intent and spirit of this Ordinance.

Township Planner Comments: The proposed plan allows for innovation in land use planning, coordinated development, protects significant natural features, and includes a sidewalk along one side of the roadways as required by the zoning ordinance. Other amenities could be considered to provide additional benefits for the project.

COUNTY PLANNING STAFF COMMENTS:

According to the Township Zoning Ordinance, **Article 12 Planned Unit Development Districts (PUDs), Section 12-01** provides the intent of the Planned Unit Development (PUD):

(a) The intent of this Article is to permit the coordinated development on larger sites, protect significant natural features present which the property owner and 10 Township wish to preserve, to provide the opportunity to mix compatible uses or residential types, or allow clustering of residential units to preserve common open space and natural features.

Subitem (b) states that the PUD standards are provided to:

- (1) Permit flexibility in the regulation of land development allowing for higher quality of design through innovation in land use, variety in design, layout, and type of structures constructed.
- (2) Ensure compatibility of design and function between neighboring properties.
- (3) Protect and preserve natural resources, natural features, open space, and historical or significant architectural features.
- (4) Promote efficient provision of public services, utilities and transportation facilities.
- (5) Provide convenient vehicular access throughout the development and minimizing adverse traffic impacts.
- (6) Provide complete non-motorized circulation to, from, and within developments.
- (7) Provide adequate housing and employment.
- (8) Encourage development of convenient recreational facilities as an integral part of residential developments.
- (9) Ensure various land uses and building bulk will relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.
- (10) Encourage development that is consistent with the goals stated within the Township's Master Plan.
- (11) Eliminate or reduce the degree of nonconforming uses or structures.

Subitem (c) within this Section concludes the PUD "Intent" section with the following:

(c) These PUD regulations are not intended to be used for circumventing the more specific standards in the Zoning Ordinance, or the planning upon which the standards are based. Rather, these provisions are intended to result in development which is substantially consistent with the zoning standards as generally applied to the proposed uses, but with specific modifications to the general standards that, in the judgment of the Township, assure a superior quality of development. If this improved quality is not clearly apparent upon Township review, a site shall not qualify for the modifications allowable under this Article.

Given the information provided for this case, it appears that this proposed development does not satisfactorily meet the overall intent of the PUD provisions of the Township Zoning Ordinance nor most of the eleven (11) standards established for the PUD designation above. Many of the provisions are not addressed in the proposal.

For example, as to subitem (b)(5) in the PUD listing above, Staff conducted a quick review of trip generation standards for a similar development utilizing standards found in the manual *Trip Generation - Institute of Transportation Engineers (ITE)*. The *ITE* manual is one of five transportation standards development organizations designated by the U.S. Department of Transportation (U.S. DOT). According to the *ITE* manual:

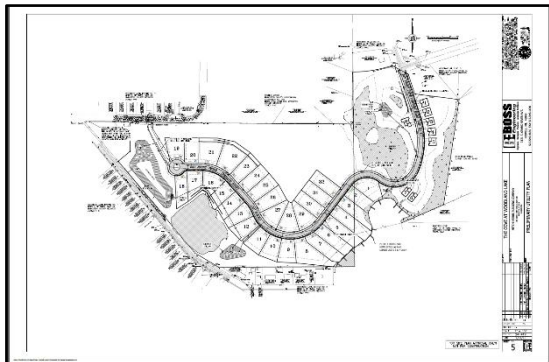
- Average vehicle trips generated by dwelling unit (single-family detached residential – weekday trips) is 9.57 trips.
- Average vehicle trips generated by dwelling unit (single-family detached condominium – weekday trips) is 5.86 trips.

Using these figures as basis and calculating the total number of potential additional trips associated with this proposed development are as follows:

- 32 detached single-family lots * 9.44 trips per dwelling unit = 302 additional new trips within the neighborhood
- 8 detached condominium/townhouse lots * 5.86 trips per dwelling unit = 46 additional new trips within the neighborhood

TOTAL NEW TRIPS = 348 new trips associated with proposed project

Source: ITE Trip Generation, 10th Edition (2020)



(e) Development Impact. The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in this Ordinance.

Township Planner Comments: The site is surrounded by single-family homes.

COUNTY PLANNING STAFF COMMENTS:

The PUD open-space style development typically minimizes the normal detrimental developmental impacts to surrounding properties that often result from traditional “cookie-cutter” style development. However, there is a looming question of the impact and/or impediment the development will have resulting from increased percent of lot coverage in the proposed PUD (going from Existing R2 of 15% maximum lot coverage to a proposed PUD maximum lot coverage of 40% - even though lot sizes have been reduced) regarding adequate stormwater management, vastly increased runoff potential and adequate preservation.

Calculation of Maximum Impervious Building Footprint
Proposed PUD — 16,000 sq ft lots @ 40% max building area

$$16,000 \times 0.40 = 6,400 \text{ sq ft}$$

Existing R-2 — 40,000 sq ft lots @ 15% max building area

$$40,000 \times 0.15 = 6,000 \text{ sq ft}$$

400 square feet

Even though the larger lot for R-2 is 2.5× bigger, its lower maximum building area percentage allows 400 sq ft less impervious footprint.

Michigan has experienced intense residential and commercial development pressure in the last 20 years and Brighton Township is no different. The loss of vegetative cover, increased impervious surface ratio area and commensurate increased recreational use remain a threat to many of Michigan's lakes and streams. EGLE, EPA, MSU, USGS, Michigan Lakes and Streams all agree that overdevelopment of inland lakes are our biggest threat to water quality/clarity. Impervious surfaces, such as roads, roofing, sidewalks, patios create rapid runoff of nutrients and contaminants, instead of being absorbed into the ground and filtered into the plants.

	Percent Impervious Surface	Percent Going to Runoff
Current	10%	10%
	15%	15%
R-2 Zoning	20%	20%
	35%	30%
Proposed PUD	50%	45%
	75%	55%

The PUD as proposed, versus R-2 current zoning, creates 50% impervious surfaces over 40 acres, instead of the 15% impervious required by R-2 designation. Runoff must be contained in Basins designed for 100-year rain event capacity

The 40 acres being discussed, has as much as 80 feet elevation above Woodland Lake.

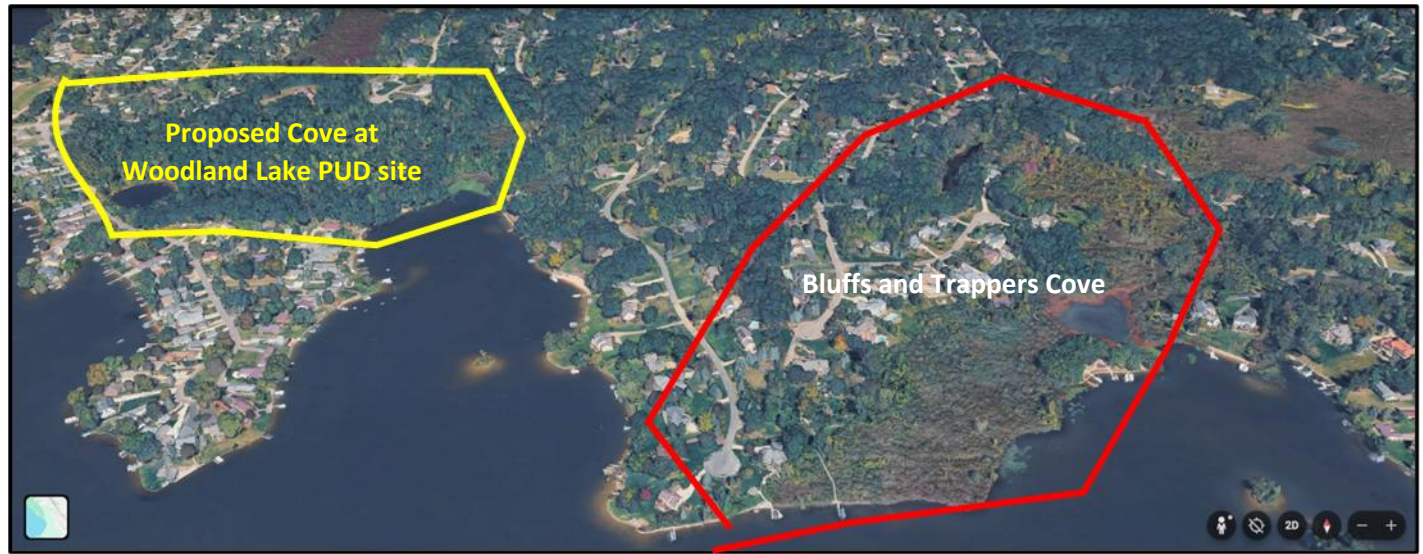
Each inch of rain adds 27,154 gallons of water to an acre.

Runoff from this 40 ~acre site will be increased. Instead of 15% runoff with 15% impervious surface, new runoff will be at 45% for 50% impervious surface. The Engineered basins would have to accommodate

$27,154 * 45\% * 3.5 \text{ inches/hour} = 42,768 \text{ gallons/hr.}$ versus $27,154 * 15\% * 3.5 \text{ inches/hour} = 14,256 \text{ gallons/hr.} = 3 \text{ times the runoff}$

Sources: Center for Watershed Protection, supported by over 200 studies, Woodland Lake Shore Homeowners Association (WLSAH)

Woodland Lake has been overbuilt, much the same as many lakes in Michigan and across the U.S.A that are having similar struggles Michigan Lake and stream, USGS, DNR, EPA, MSU and other sources define high levels of impervious surfaces, instead of vegetation and wetlands, are the key issue in the reduced inland lake water quality.



At the time of development, the Brighton Township Planning Commission did a nice job of ensuring the Bluffs and Trappers Cove Wetlands were protected 25 years ago. Built between 959 to 970 feet above sea level. Bluffs built up high with plenty of wetland and vegetation (buffer zone) to take care of runoff from the neighborhood. Staff would encourage the township and the applicant work to create a better development site plan layout which significantly reduces the amount of impervious surface runoff into Woodland Lake.

Wetlands and current woodlands, foliage and vegetation absorb nutrients and contamination from rainwater. As proposed, the steep slopes (20-30 feet across the entire build line) will require extensive work to protect Woodland Lake during construction and through full occupancy. The current proposed R-2 parallel plan (required as part of the PUD application), is also largely unacceptable due to the lake's current environmental situation. It does not offer an acceptable amount of environmental protection for Woodland Lake. There is a need for increased buffering. Any proposed site plan at this location will need to define mitigation for the loss of vegetation being replaced by home, roads, and parking lots. Vegetative buffer zones greatly aid the proper function of man-made retention and detention ponds.

The bottom line is, the only remaining large area of wetlands and vegetation left around Woodland Lake to take up nutrients is where the new PUD development is planned.

(f) Unified Control of Property

Township Planner Comments: The site must be developed as one project/owner.

COUNTY PLANNING STAFF COMMENTS:

At the time of this review, Staff did not possess enough information to confirm compliance with this provision.

NATURAL FEATURES OVERLAY DISTRICT COMPLIANCE

As both of the subject properties are nearly entirely located within a township Natural Features Overlay District, the applicant must comply with the Township Natural Features Overlay District Ordinance, Article 10.

ARTICLE 10 NATURAL FEATURES OVERLAY DISTRICT (NFOD)**Sec. 10-01 Description and Purpose**

The purpose of this Article is to ensure that property is developed in a manner consistent with its zoning designation, and the proposed physical elements are designed and arranged to protect the priority resource protection areas both on the site and in the vicinity of the site as identified by Brighton Township and Livingston County. The Overlay District establishes procedures to enable the applicant and Planning Commission to achieve the mutually compatible objectives of reasonable use of land and protection of vital natural resources. It is the intent of this Article to allow for development in a creative fashion that protects vital natural features of a site while preserving the property owner's right for reasonable use of their land. The use of a PUD option to achieve this purpose is encouraged.

In summary, to be compliant with the provisions of the NFOD, an applicant must, at a minimum, undertake field investigations and subsequently map the provide the following:

- o Delineate wetlands (wetland delineation) and streams (if any).
- o Tree inventory (specimen/mature trees).
- o Topography, soils, floodplain and drainage boundaries.
- o Identify habitat features (rare species, contiguous woodlands, significant wildlife corridors) as required or discovered.

The Township may require certified wetland delineations and/or a qualified arborist report.

Compliance with the NFOD also requires the preparation and submission of an Environmental Impact Assessment (EIA). The Article describes what is required:

1. **Preparation of an Environmental Impact Assessment (EIA).** The EIA should include:
 - o Project description and alternatives (including a no-build/less-impact alternative).
 - o Existing natural features inventory & maps (wetlands, streams, woodlands, steep slopes, habitat).
 - o Quantified impacts (acres of wetland/woodland to be disturbed, trees removed by caliper, changes to hydrology).
 - o Measures to avoid and minimize impacts (layout choices, reduced footprints, clustering, low-impact drive alignment).
 - o Mitigation strategy for unavoidable impacts (on-site preservation, restoration, off-site mitigation, plantings, sequencing).
 - o Stormwater and erosion-control measures and how they protect remaining features.

Long-term management plan (maintenance, monitoring, easements, legal protections).

STAFF COMMENT: The notes supplied by the township for this case indicate that the applicant has provided a "GENERAL" EIA." Staff questions whether this fulfills the requirement or is another more formal assessment planned and if so, when?

FINAL COUNTY PLANNING STAFF COMMENTS:

As part of the review process for this case, County Planning Staff met with leadership members of the Woodland Lake Shores Homeowners Association at their request. A number of questions and concerns were raised. The main focus of the majority of questions centered around the effect that this development will potentially have on the long-term viability of Woodland Lake and the quality of its waters.

Staff has supplied a few of the questions that were raised to give the County Planning Commissioners a sense of the concerns posed by the residents who presently live in proximity to the planned PUD, and who have spent countless hours and large sums of money conducting water quality tests on Woodland Lake for several decades.

- There is an overall elevation drop of 70 feet from highest elevation within the parcel to the lake! Coupled with reported slopes as high as 38 % and these combine to make this parcel extremely challenging from a grading and water management standpoint. *(See page 7 of the November 10 Brighton Township PC packet (BTPC), Pond on WSD at 934; wetlands at 955 and 938, woodland lake at 933 ft; Dann/Christine at 966, highest point of elevation 1002. See page 29 of Brighton Township PC packet for 38% slope reference).*
- The PUD has the potential for the addition of another 40 watercraft to Woodland Lake that is already at 420% of recommended boat density. *(See page 9 of the November 10 BTPC packet, assumes 10 lakefront parcels and that each elect to own 2 boats and 2 PWC's.)*
- While the report indicates on page 29 of the November 10 BTPC packet that "...there is no evidence of unusually high counts of animals or unusual or rare species", there are routinely bald eagle sightings in the PUD area and surrounding natural habitat.

- Page 140 of the *November 10 BTPC packet* references Article 10, Natural Features Overlay, which "requires natural feature buffer areas of one hundred (100) ft. which can be reduced to twenty-five (25) ft. if allowed by the Planning Commission" While they may be technically allowed to reduce that to as little as 25 feet (and they are requesting changes down to 50 feet) we believe that deviating from the 100 foot buffer is not an environmentally-conscience decision given the valuable role natural features play in minimizing environmental and water quality impacts.
- Page 147-149 of the *November 10 BTPC packet* offers an engineering review by Geric Rose representing FLEIS & VANDENBRINK. Within those pages:
 1. Under item 2 ,while they describe the "proposed storm water management", they simply reiterate what it is – they do not comment on its "acceptability or suitability." One might have assumed that they would apply their engineering expertise to formulate an opinion on it – even though it is preliminary? What neutral 3rd party ensures the safety factors for long term retention, forebay, pretreatment, detention and sedimentation systems? (Rain levels are increasing) Who manages sedimentation cleanout for forebays and maintenance of the wet retention ponds, etc.? Are there fines for overflow occurrences back to the developer?
 2. Item 6 seems to foreshadow the likely flooding of Woodland Shore Drive and surrounding properties yet there is no proposed "remedy" for that. Bottom of retention basin is at lake level, limiting the ground infiltration. How is it ensured that 1.3 million gallons per day of runoff to retention pond is protected from overflow? (Boss Calculations, 100-year rain, 24 hours).

COUNTY PLANNING STAFF RECOMMENDATION:

Disapproval/ Denial

As proposed, this rezoning to PUD does not enhance the quality of development to a satisfactory level of difference as compared to the current zoning designation, which should always be the result when utilizing this planning tool, as intended by the township PUD Ordinance. A number of deficiencies have been identified as to the areas of concern with the proposed rezoning, mainly focusing on the long-term viability and protection of the key existing natural feature associated with this development, that being the quality of the waters of Woodland Lake.

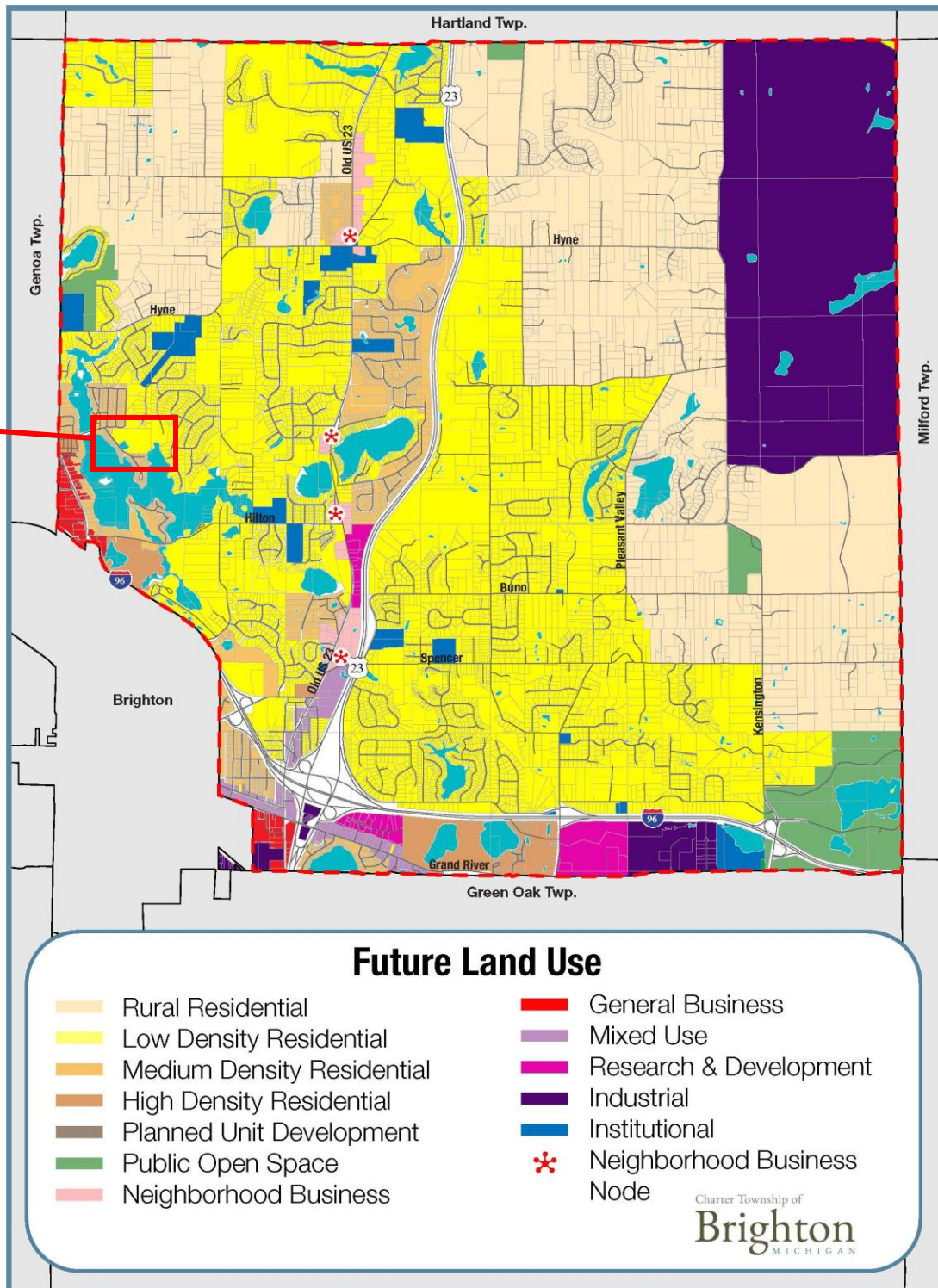
It is suggested and encouraged that the township reconsider the approval of this rezoning as proposed, and in turn, continue to work with the applicant to revise the proposed development plan in a manner that both satisfies both the intended nature of the underlying zoning district (R-2) which is intended to provide predominantly for low-density, single family detached dwellings along with better alignment with the Charter Township's Future Land Use designation of Low-Density Residential development, while incorporating an improved site plan design which allows for more shoreline protection along Woodland Lake (greater buffering) and which significantly reduces impervious surface areas within the development to a level that does not contribute further to the degradation of Woodland Lake. As proposed, the level of planned impervious surface associated with the development counterbalances and nearly completely nullifies the expected beneficial result of any planned open space/natural feature set asides.

EXISTING LAND USE:

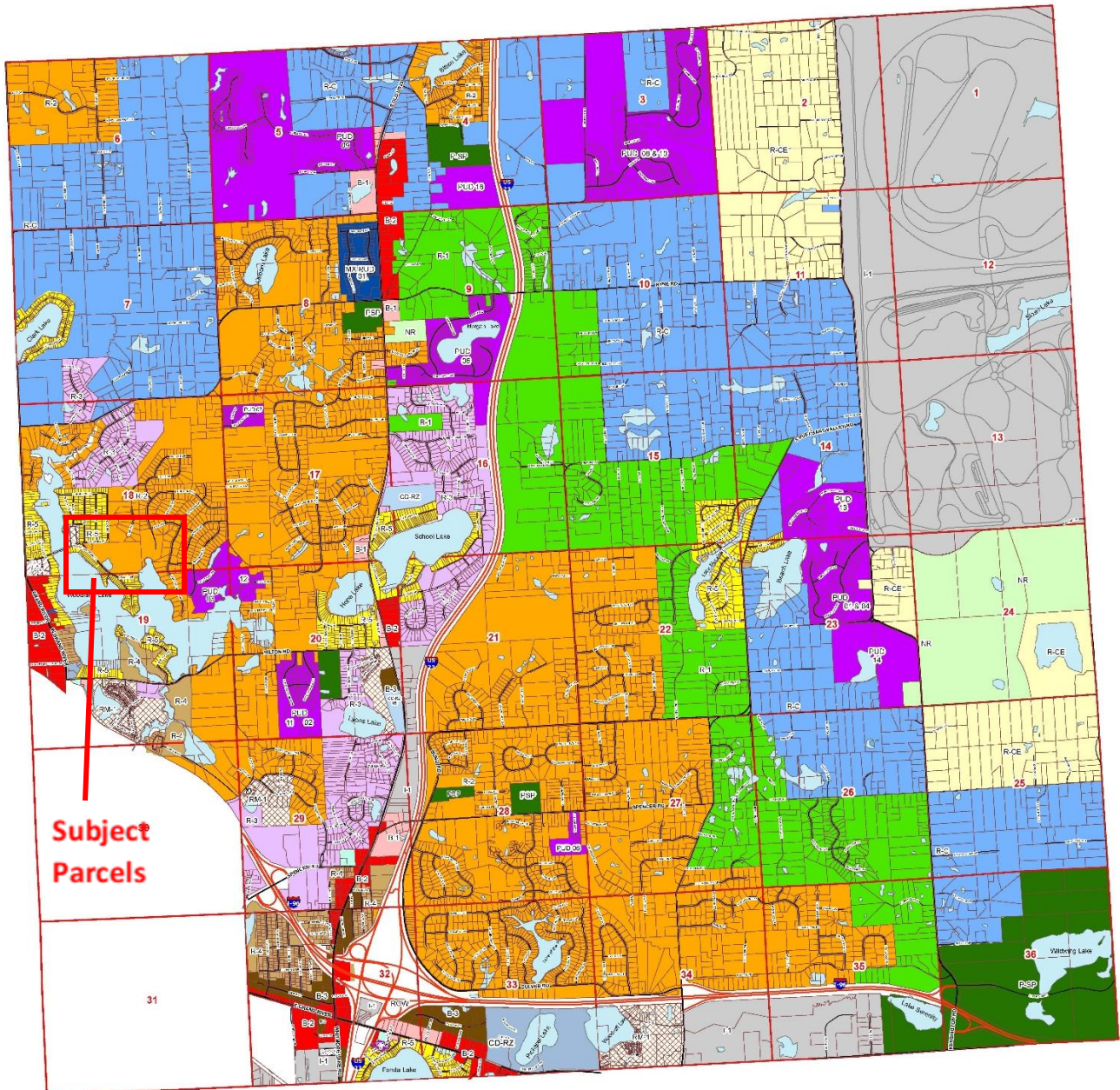


FUTURE LAND USE:

Subject
Parcels



ZONING:

CHARTER TOWNSHIP OF BRIGHTON
ZONING DISTRICT MAP

N



Livingston County Department of Planning

MEMORANDUM

TO: Livingston County Planning Commissioners and the Tyrone Township Board of Trustees

FROM: Robert Stanford, Principal Planner, AICP

SUBJECT: Z-43-25 Amendments to Zoning Ordinance Article
Article 21 Supplemental District Regulations
Section 21.55 Medical Marijuana Caregiver Operations

Scott Barb
AICP, PEM
Director

Robert A. Stanford
AICP
Principal Planner

Martha Haglund
AICP
Principal Planner

Abby Carrigan
Planning Intern

The Tyrone Township Planning Commission proposes to revise **Section 21.55 Medical Marijuana Caregiver Operations** of the township zoning ordinance.

Staff offers the following comments and recommendation for your review. Proposed additions to existing text are noted in red underline. Text proposed for removal is in ~~strikethrough~~.

BACKGROUND INFORMATION FOR THIS CASE

According to the township, the following text amendment is proposed to focus the township's regulations on zoning specific aspects of a medical marijuana caregiver use, to add new regulations for specific characteristics of marijuana uses and to create new location requirements and other ways to make the ordinance language more succinct. According to the township Planning and Zoning Department, the zoning amendments presented here, as well as the associated Medical Marijuana Caregiver Operations Regulatory and Licensing Ordinance that has been revised concurrently with these amendments (not under County review), have been thoroughly vetted by township special legal counsel.

INITIAL STAFF COMMENT:

This proposed draft ordinance contains multiple provisions that may possibly be unenforceable, and in some cases clearly conflict with the MMMA and Michigan case law. County Planning Staff thoroughly reviewed the amendments and relied upon the following pertinent case law and other important and relevant resources as a guideline, that have been used by other municipalities that have *survived legal challenge or match court-upheld structures*:

- *DeRuiter v. Byron Twp* (2020).
- *Ter Beek v. Wyoming* (2014).
- Common elements from Byron Twp, Oshtemo Twp, Gaines Twp, Ada Twp ordinances.
- Model MMMA language from MSU Extension and Michigan Association of Townships (MTA) legal briefs.

Department Information

Administration Building
304 E. Grand River Avenue
Suite 206
Howell, MI 48843-2323

• (517) 546-7555

Fax (517) 552-2347

• Web Site

milivcounty.gov/planning/



The following review highlights the most significant problems County Planning Staff could identify. At the conclusion of each Section, there is provided a synopsis of the critical issues Staff was concerned with regarding compliance with the aforementioned case law and relevant resources.

Additionally, and as a professional courtesy, County Planning Staff has provided the following documents as reference materials to further assist the township in revising and bringing the proposed ordinance more into compliance with the aforementioned legal and relevant resources as well:

- **Caregiver Ordinance Template (Used Successfully by MI Municipalities)**
- **Side-by-Side Redline of Ordinance (Original vs. Compliant Version)**
- **Fully Revised Proposed Ordinance (Clean Version). NOTE: This version complies with MMMA, aligns with DeRuiter, avoids unconstitutional search clauses, avoids functional bans, and preserves zoning, nuisance, safety, odor, and building control in a manner legally upheld by Michigan courts**

COUNTY PLANNING STAFF REVIEW

Tyrone Township proposes to revise **Section 21.55 Medical Marijuana Caregiver Operations**, to read as follows:

ARTICLE 21 SUPPLEMENTAL DISTRICT REGULATIONS

Sec. 21.55 MEDICAL MARIJUANA USES CAREGIVER OPERATIONS

~~A. **Findings.** These requirements for Medical Marijuana Uses are based on the following findings of fact:~~

- ~~1. **Voter Approved.** Voters in the State of Michigan approved Initiated Law 1 of 2008 authorizing the use of marijuana for certain medical conditions, resulting in the passage of the Michigan Medical Marihuana Act, MCL 333.26421 et seq., as amended (“the Act”).~~
- ~~2. **Legislative Amendments.** PA 460 of 2012, PA 512 of 2012, PA 281 of 2016, PA 283 of 2016.~~
- ~~3. **Intent.** The intent of the Initiated Law was to enable certain persons specified in the Act who comply with the registration provisions of the Act to legally obtain, possess, cultivate/grow, use, and distribute marijuana, and to assist specific registered individuals identified in the Act without fear of State law criminal prosecution under limited, specific circumstances set forth in the Act.~~
- ~~4. **Controlled Substance.** Despite the specifics of the Act and the permitted activities set forth therein, marijuana remains a controlled substance under Michigan and Federal law. Obtaining, possession, cultivation/growth, use, and distribution of controlled substances has a potential for abuse that should be closely monitored and regulated, to the extent permissible under the Act, by local authorities. Given the effect of the Act on municipalities, it is in the best interest of municipalities to use their zoning authority to adopt reasonable~~



~~regulations to mitigate and/or prevent harmful secondary effects that could negatively affect health, safety, welfare, and quality of life of their residents.~~

BA. Purpose. It is the purpose of this Section to impose specific requirements for any facility where those individuals registering with the State of Michigan as a “qualifying patient” or a “primary caregiver” as those terms are defined in the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended ~~the Act, and to regulate the conduct of activity pursuant thereto~~ related to the authorized medical use of marijuana in the Township so as to protect the health, safety and welfare of the general public. Tyrone Township is not legalizing or permitting the use of controlled substances within its borders, whether that substance is medical marijuana or any other identified as a controlled substance. Rather, Tyrone Township is establishing locations and regulations for uses set forth in the Act to comply with the Act. If after adoption, any portion of the Act is repealed, or any portion of the Act is deemed unconstitutional by the Michigan Supreme Court or a lower Michigan court decision chosen not to be heard by the Michigan Supreme Court, any activities or uses within this Ordinance applicable to the repealed or unconstitutional portion of the Act are immediately repealed as well. At the time of adoption, the Michigan Supreme Court and Michigan Attorney General had ruled or opined collectives, dispensaries, or cooperative establishments existing to allow primary caregivers or qualifying patients to share or transfer medical marijuana between primary caregivers or between qualifying patients, or which allow contact with or access to medical marijuana by those not registered with the State of Michigan as primary caregivers or qualifying patients, are not permitted by the Act.

It is further intended that nothing in this Section be construed to allow persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, possession or control of marijuana for nonmedical purposes or allow activity relating to cultivation/growing, distribution or consumption of marijuana that is otherwise illegal under State law.

STAFF COMMENT:

“Section A — Purpose”

Providing this initial section of an MMA ordinance is generally acceptable, but: Stating that the township “is not legalizing or permitting” marijuana is likely unnecessary and may confuse courts. MMA already legalizes medical use. The language establishing immediate repeal of ordinance sections upon court decisions is unusual and unnecessary, but not illegal.

C. Prior Use. Any use which purports to have engaged in the medical use or distribution of marijuana prior to the enactment of this Section shall be deemed not to have been a legally established use under the provisions of the Zoning Ordinance, and such use shall not be entitled to claim legal nonconforming status.

D.B. Definitions. For purposes of this Ordinance section, the words and phrases contained herein shall have the meanings set forth in the Act Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended (hereafter referred to in this section as “the Act”) and the regulations adopted by the State of Michigan, Department of Community Health, pursuant to authority conferred by Section 5 of the Act, inclusive of all amendments to the Act. For the



purposes of this Ordinance, the terms “marijuana” and “marihuana” as used here, in the Act, and elsewhere, shall be synonymous.

1. **Drug Paraphernalia** means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, prepackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance as defined in Section 7104 of the Michigan Public Health Code (Act 368 of the MI Public Acts of 1978, as amended) in violation of the laws of the State of Michigan **Department of Licensing and Regulatory Affairs or LARA** means the State of Michigan Department of Licensing and Regulatory Affairs cited in the Act and responsible for the registration of primary caregivers and qualifying patients. This term shall also refer to any successor department, agency or bureau that is subsequently assigned the duties and responsibilities specified in the Act.
2. **Marijuana**, also known as **Marihuana**, also known as **Cannabis** has the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106.
2. **3. Medical Marijuana Caregiver Operation or Caregiver Operation** means any parcel, lot or facility where a registered primary caregiver who cultivates, produces, sells, manufactures, extracts, distributes, or possesses, transports, or makes available marijuana, marijuana infused products or paraphernalia in any form to for a qualifying patient to whom they are connected through LARA’s registration process for medical use. The term “caregiver operation” shall not include the private cultivation, manufacture, extraction or possession; production, or medical use of marijuana for medical use by a registered qualifying patient in compliance with the restrictions of this ordinance the Act.
3. **Medical Marijuana Collective, Cooperative, or Dispensary** means any facility, structure, dwelling, or other location where medical marijuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver, or registered qualifying patient. The term “collective” or “cooperative” or “dispensary” shall not apply to a registered primary caregiver that provides necessary care and marijuana for medical use exclusively to his/her five or fewer designated qualifying patients in strict accordance with the Act, the Administrative Rules of the Michigan Department of Community Health, and this Ordinance. A marijuana collective, cooperative, or dispensary shall not include the following uses that are in compliance with this Ordinance and all laws and rules of the State of Michigan and intended for on-site patient use only: a State-licensed health care facility, a state-licensed residential care facility for the elderly or infirm, or a residential hospice care facility.
4. **Medical Use of Marijuana**, also known as **Marihuana**, also known as **Cannabis** has the meaning given to it in Section 7601 of the Michigan Public Health Code, as it is referred to in Section 3(d) of the Act. Any other term pertaining to marijuana used in this Section shall have the meaning given to it in the Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with the Act means the acquisition, possession, cultivation, manufacture, extraction, use, internal possession, delivery, transfer, or transportation of marijuana, marijuana-infused products, or paraphernalia relating to the



administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

5. **Primary Caregiver or Registered Primary Caregiver** is defined as set forth in the Act.

6. **Qualifying Patient or Registered Qualifying Patient** is defined as set forth in the Act.

STAFF COMMENT:

"Section B — Definitions"

Staff finds this section mostly compliant. The definition of "Caregiver Operation" includes: "manufactures, extracts...". Caregivers cannot legally manufacture concentrates except certain basic forms; "extraction" using flammable chemicals may violate state law. Staff would encourage the township to check this provision with township legal counsel.

C. Compliance Required. "Qualifying patients" or "primary caregivers" as those terms are defined in the Act, shall comply with the requirements of Section 21.55.G for qualifying patients, and the requirements of Section 21.55.H for primary caregivers. The medical use of marijuana shall comply at all times and in all circumstances with the Act and the General Rules of the Michigan Department of Community Health. Caregiver operations shall be available for inspection, during business hours, by the Township Supervisor or his designee, to confirm the operation is operating in accordance with State laws and Township ordinances **Permitted Uses. A caregiver operation shall only be conducted under the following standards:**

- 1. The primary caregiver shall only cultivate, manufacture, extract, possess or transfer marijuana, marijuana-infused products or paraphernalia for medical use for no more than five (5) qualifying patients to whom they are connected through LARA's registration process.**
- E. 2. Only one (1) primary caregiver shall operate within and/or upon the caregiver operation parcel, lot or facility.**

STAFF COMMENT:

"Section C — Permitted Uses"

Subitem C.1 (5 patients max) — This is correct per MMMA.

Subitem C.2 (only one caregiver per parcel) — Potentially legally risky. Staff would encourage the township to check this provision with township legal counsel.

There is no MMMA requirement limiting caregivers per parcel. Municipalities can regulate intensity, but using a blanket rule may be considered excessive. County Planning Staff found that this often functions as another form of exclusionary zoning and is legally risky unless:

- The township can demonstrate a substantial health/safety rationale, and**
- The ordinance leaves realistic locations where caregivers can actually operate.**



F.D. Prohibited Uses and/or Activities. ~~It shall be unlawful to establish or operate a for-profit or nonprofit Medical Marijuana Collective, Cooperative, or Dispensary in Tyrone Township. Marijuana Facilities, inclusive of growers, processors, secure transporters, provisioning centers, and safety compliance facilities, are also prohibited~~ Any use which is not specifically listed in Sec. 21.55.D is explicitly prohibited.

Requirements for Qualifying Patients. ~~Any person who has been issued and possesses a valid registry identification card as a qualifying patient as set forth in the Act shall comply with the following requirements:~~

- ~~1. **Consumption.** Consumption of marijuana by a qualifying patient shall not occur at a medical marijuana caregiver operation, and, as set forth by the Act, shall not consume marihuana on any form of public transportation, or in any public place, except that a qualifying patient who resides in the same dwelling unit as his/her caregiver may consume at that dwelling unit.~~

Requirements for Caregiver Operations. ~~Any person who has been issued and possesses a valid registry identification card as a primary caregiver as set forth in the Act is a “medical marijuana caregiver operation” for the purposes of this Ordinance and shall comply with the requirements below.~~

STAFF COMMENT:

“Section D — Prohibited Uses”

Staff find this section to be unclear as to what is intended. The section says “Any use not listed in Sec. 21.55.D is prohibited,” but Section D is the Prohibited Uses section. Possibly a drafting error.

E.Location ~~Where permitted. A caregiver operation shall comply with the following location requirements:~~

- ~~1. **Permitted Districts.** Caregiver operations shall only be located in the B-2, M-1 or M-2 zoning districts.~~
- ~~2. **Separation from other operations.** Caregiver operations shall not be directly adjacent to another parcel or lot where a caregiver operation has been approved to operate.~~
- ~~3. **Residential Setback.** All parcels or lots containing a caregiver operation shall be located at least 500 feet from a residentially zoned district. The setback distance shall be measured from the outermost property line boundaries of the lot or parcel upon which the caregiver operation will be situated to the nearest point of residential zoning district boundary.~~

~~1.4. **School and Child Care Setback.** Caregiver operations shall be located at least 500 feet from the nearest lot line of any child care center, licensed day care facility, preschool program center, primary, intermediate or secondary school, or like facility, established pursuant to and in accordance with the Revised School Code, P.A. 451 of 1976, being M.C.L.A. §§ 380.1 through 380.1853, as amended, and/or the State School Aid Act of 1979, P.A. 94 of 1979, being M.C.L.A. §§ 388.1601 through 388.1772, as amended. Measurement of the 500 foot setback shall be made~~



from the outermost property line boundaries of the lot or parcel upon which the caregiver operation will be situated to the nearest point on a property line of the lot or parcel which the buffered use is located.

STAFF COMMENT:

“Section E — Location Requirements”

Subitem E.1 — Only allowed in B-2, M-1, M-2 districts

This provision has potential for high legal risk. This is the center of the probable conflict with MMMA.

Subitem E.2 — Separation between caregiver parcels

According to County Planning Staff research, this provision could potentially carry some legal risk, but it would be less severe if locations remain reasonably available.

Subitems E.3 / E.4 — 500-foot setbacks

Combined with industrial-only zoning → functional ban → likely unenforceable.

Restricting caregiver operations only to commercial/industrial zoning (B-2, M-1, M-2)

According to County Planning Staff research, this is the biggest potential legal risk.

- **The Michigan Supreme Court in DeRuiter (2020) allowed municipalities to direct caregiver operations to certain zoning districts, but only if they remain allowed somewhere in the township and the ordinance does not function as a ban.**
- **However, forcing caregivers out of residential zones is high-risk if:**
 - **the zoning districts allow very little land,**
 - **the setback requirements make parcels impossible to use,**
 - **the required commercial/industrial environment imposes cost or impracticality for a residential caregiver program.**

Under MMMA, caregiver cultivation is presumptively a residential use. Michigan courts repeatedly note that caregiver activity arises from *patients in homes* — not commercial settings.

2.F. Property Control. The site for a caregiver operation must be under the control, through written lease, contract, or deed, in favor of the primary caregiver or a registered qualifying patient associated with that facility to whom the primary caregiver is connected through LARA’s registration process.

~~3. If the registered qualifying patient has site control, only the primary caregiver for that qualifying patient shall access the growing portion of the structure, and if the structure is a residence, only those qualifying patients residing in the residence may be supported by that primary caregiver.~~



~~4. Qualifying Patients, unless residing in the single family structure, are prohibited from entering the structure where growing is occurring. Those Qualifying Patients residing in the single family structure must comply with Section 21.55.H.2;~~

~~a. There shall be no outward appearance of a caregiver operation.~~

~~5. **One Caregiver per Approved Caregiver Operation.** The structure and location from which a primary caregiver grows, cultivates, or otherwise provides services to his or her qualifying patients shall not be used by more than one primary caregiver for that primary caregiver's services as allowed under the Act.~~

~~6. **Delivery Required.** Transfers of medical marijuana from the primary caregiver to his or her qualifying patient(s) shall be accomplished only by the delivery of medical marijuana by the primary caregiver to the home of the qualifying patient. No onsite transfer to a qualifying patient is permitted.~~

~~7. **Sales of Paraphernalia Prohibited.** No sales of drug paraphernalia as defined herein are permitted, except to the qualifying patients of that caregiver.~~

~~8. **Signage.** A primary caregiver operation shall not bear any sign or emblem that would indicate the presence of the MMMA related activity.~~

~~9. **Consumption.** Consumption of marijuana by a qualifying patient shall not occur at a caregiver operation, and, as set forth by the Act, shall not consume marihuana on any form of public transportation, or in any public place, or at a primary caregiver's dwelling unit. In the case where a registered caregiver is also a registered qualifying patient, consumption exclusively by the caregiver/patient at the caregiver/patient's dwelling unit is permitted. Also, a qualifying patient who resides in the same dwelling unit as his/her caregiver may consume at the same dwelling unit.~~

STAFF COMMENT:

"Section F — Property Control"

According to County Planning Staff research, this provision is likely acceptable and compliant.

I.G. Growing of Medical Marijuana Enclosed Locked Facility. Growing of marijuana shall only be allowed as set forth in the Act, including the requirement that plants must be located within an enclosed, locked facility. For each registered qualifying patient to whom a primary caregiver is connected through LARA's registration process and who has specified that the primary caregiver will be allowed under state law to cultivate marijuana for the qualifying patient, no more than twelve (12) marijuana plants shall be kept in an enclosed locked facility at the caregiver operation.
An enclosed locked facility means:

1. **For marijuana grown indoors,** a closet, room, or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices that permit



access only by the registered primary caregiver or registered qualifying patient associated with that facility.

2. For marijuana grown outdoors:

- a. An area that is not visible to the unaided eye from an adjacent property when viewed by an individual standing at ground level or from a permanent structure; and
- b. Plants are grown in a stationary structure that is enclosed on all sides, except for the base, by six foot high chain link fencing, wooden slats, or similar fencing/wall material that prevents access by the general public and that is anchored, attached or affixed to the ground; and
- c. Located on land that is owned, leased, or rented by either a registered primary caregiver or the registered qualifying patient for whom the marijuana plants are grown; and
- d. Equipped with functioning locks and other security devices that restrict access to only the associated qualifying patient or caregiver.
- e. The required fencing or wall shall be of new, high quality material, shall meet all County and Township Code requirements, and is subject to Township inspection at any time to insure that it remains in proper and functioning condition.

STAFF COMMENT:

"Section G — Enclosed Locked Facility"

This provision as proposed is consistent with MMMA.

Regarding G.2. Allowing outdoor grows in industrial/commercial zones.

Outdoor caregiver grows are already extremely restricted under MMMA; requiring fencing, visibility shielding, etc. is allowed — but the question is why would outdoor growing be banned in residential but allowed in B-2/M-1/M-2?. This looks internally inconsistent and not rationally tied to legitimate zoning objectives.

A Note of Caution: Municipalities cannot impose more restrictions than MMMA; some of the fencing material requirements (new material, township inspection anytime) may overstep.

H. Lighting. If a room with windows is utilized as a growing location, any lighting between 10 PM and 7 AM shall be shielded to prevent ambient light spillage onto adjacent residential properties.

STAFF COMMENT:

"Section H — Lighting"

As proposed, provision appears to be fine if it mirrors general nuisance/light-spill rules.



I. Signage. A primary caregiver operation shall not have any signage.

STAFF COMMENT:

“Section I — Signage”

This section as proposed appears to be OK. MMMA caregivers should not advertise; Planning Staff found that courts accept this.

J. Wastewater. The site and caregiver operation shall be designed and operated so as to minimize the amount of pesticides, fertilizers, nutrients, marijuana, and any other potential contaminants discharged into the public wastewater and/or stormwater systems. *The applicant shall provide a list of all chemicals used on site including, but not limited to, all cleaners, solvents, nutrients and any other product used to clean, treat and grow the facility and products created on site. Any proposed site intending to utilize a septic field system for wastewater treatment shall provide a report from the County Health Department indicating that a medical marijuana grow operation and all associated chemicals and nutrients will be in compliance with all applicable health codes, rules and statutes.*

STAFF COMMENT:

“Section J — Wastewater / Chemical List”

As the provision is written:

- **Requires disclosure of private cultivation inputs**
- **Targets caregivers uniquely**
- **Goes beyond typical environmental regulation**

According to County Planning Staff research, this could potentially leave the township legally vulnerable. The township may regulate hazardous materials, but not only for MMMA caregivers. Staff would encourage the township to check this provision with township legal counsel.

K. Odor. Caregiver operations which grow marijuana within a building shall be equipped with an operable filtration, ventilation, and exhaust system that effectively confines odors to the interior of the building from which the odor is generated. Caregiver operations which grow marijuana outdoors shall be required to locate the marijuana such that no odor is discernable at any property line.

STAFF COMMENT:

“Section K — Odor”

The provision as written is generally permissible. In general, it is allowed if applied as part of general nuisance control and not uniquely burdensome. The township may want to reexamine this section to ensure it does not set a unique standard stricter than industrial or agricultural odor controls.

L. Security. Caregiver operations shall be designed to comply with the requirements for an enclosed, locked facility and shall consistently maintain this standard to effectively prohibit unauthorized access. Caregiver operations shall be available for inspection by any authorized law



enforcement officer, State inspector, the Township Supervisor or their designee, to confirm the operation is operating in accordance with State laws and Township ordinances.

STAFF COMMENT:

"Section L — Security / Inspections"

According to County Planning Staff research, this provision may present a major constitutional problem for the township. Staff would encourage the township to recheck this provision with township legal counsel.

As written, the provision says: "shall be available for inspection... at any time..."
Municipalities cannot compel warrantless inspections.

- **MMMA does *not* require caregivers to waive Fourth Amendment rights.**
- **Municipalities *cannot* impose inspection access conditions as a prerequisite to exercising MMMA rights.**
- **Courts have struck down similar provisions as unconstitutional "search conditions."**

The township may enforce building, fire, and electrical codes, but only with the same warrant/inspection standards applied to all other properties.

J.M. Site Plan Application and Review. Caregiver operations shall be required to apply for site plan approval in compliance with Article 23. At the time of application for site plan review, the primary caregiver must provide a copy of their valid primary caregiver registration. Applicant agrees to verification through LARA the number of registered qualifying patients the primary caregiver is associated with and providing services.

STAFF COMMENT:

"Section M — Site Plan Review"

According to County Planning Staff research, this provision as written may present Very high risk to the township. Staff would encourage the township to recheck this provision with township legal counsel. MMMA caregivers cannot be required to undergo:

- **Site plan approval**
- **Special land use approval**
- **Local registration**
- **CRA/LARA verification**

Site plan approval under Article 23 is intended for commercial site development, not residential agricultural use. Courts have held:

- **When municipalities impose permitting, approval, registration, or disclosure requirements specific to MMMA activity, those requirements often conflict with the MMMA immunity provisions.**
- **A municipality may require building permits, zoning permits, and safety compliance, but not a special use/site plan review simply because a person is a caregiver.**

In County Planning Staff research, there was found to be terrible case law history for municipalities on this point. Again, Staff would highly recommend and encourage the township to recheck this provision with township legal counsel.



Regarding caregivers providing caregiver registration cards to the township, the MMMA protects patient and caregiver medical information; Michigan courts have ruled that municipalities cannot require:

- **Registration documents**
- **Identity disclosure**
- **Patient counts**
- **Verification of caregiver status**

County Planning Staff has the understanding that LARA verification cannot be required at the local level. As written, this requirement potentially violates medical privacy and likely exceeds municipal authority in this instance. Staff would highly recommend that the township consult with township legal counsel on this matter.

K. Building Approvals. Any building or structure used for cultivation of marijuana shall obtain all necessary building, plumbing, electrical, and any other necessary permits and approvals to ensure the facility meets current code standards. In addition, the facility shall be subject to inspection to ensure compliance with applicable fire code and the security requirements of the Act.

L. MMMA Amendments / SEVERABILITY. The regulations herein pertaining to Medical Marijuana use shall at all times refer to and comply with Initiated Law 1 of 2008, inclusive of any and all amendments to the Act, and any and all related regulations and their amendments. If any section of these regulations is found to be inconsistent with or in violation of the Act, only that section shall cease to have effect; all other sections shall remain in full force and effect.

STAFF COMMENT: Because much of the detailed, regulatory specifics that answer most of the day-to-day procedures of a medical marijuana caregiver operation are contained in the township's newly revised Medical Marijuana Caregiver Operations Regulatory and Licensing Ordinance, which has been updated concurrently with this set of zoning ordinance amendments, Staff has included this document as an addendum to this review, for county planning commissioners review and reference. It should be noted that, as per normal practice, the Livingston County Planning Commission does not undertake a formal review of general law ordinances.

Further Considerations: County Planning Staff would highly recommend and encourage the township to revisit the following provision, in consultation with township legal counsel and change the following list of items:

1. Remove industrial-only zoning restriction. Allow caregiver operations in at least one residential district, consistent with *DeRuiter*.

2. Remove warrantless inspection language. Replace with:
"Subject to standard building, electrical, fire, and safety inspections applicable to all structures, performed with consent or a warrant."

3. Replace site plan review with a simple zoning compliance/building permit process. Do NOT require caregiver registration cards.

4. Eliminate chemical lists / special wastewater reporting targeting caregivers only



5.Reduce setbacks or allow alternatives.
500 feet from residential + industrial-only = functional ban.

6. Remove or justify the “one caregiver per parcel” rule

Township Recommendation: Approval. The Tyrone Township Planning Commission heard public comment and recommended Approval of these zoning amendments at its November 11, 2025, Planning Commission Public Hearing.

Staff Recommendation: Disapproval

As noted, the proposed amendments have been thoroughly vetted by township special legal counsel. However, as highlighted in Staff’s review, there are several provisions that warrant serious reexamination by the township before any formal approval by the Township Board.

There are many questionable provisions that have been found to be largely inconsistent with the guidelines for regulating Medical Marijuana Caregiver Operations as set forth in the State of Michigan *Cannabis Regulatory Agency (CRA) Municipal Guide* and the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended, as well as foundational State of Michigan case law as cited in the review, including *DeRuiter v. Byron Twp* (2020) and *Ter Beek v. Wyoming* (2014).



ADDENDUM ITEM 1: Caregiver Ordinance Template (Used Successfully by MI Municipalities)

This template is modeled after municipalities that have *survived legal challenge or match court-upheld structures*, including language based on:

- **DeRuiter v. Byron Twp (2020)**
- **Ter Beek v. Wyoming (2014)**
- **Common elements from Byron Twp, Oshtemo Twp, Gaines Twp, Ada Twp ordinances**
- **Model language from MSU Extension + MTA legal briefs**

1. Statement of Authority

This ordinance is adopted under the Township's police powers to regulate land use, building safety, and nuisances, and shall not prohibit conduct protected under the MMMA.

2. Where Caregiver Uses May Occur

- As a **home occupation** within residential zoning districts.
- As an optional use in certain commercial/industrial districts.
- Residential locations must be the caregiver's **primary residence**, as upheld in *DeRuiter*.

3. What Municipalities May Regulate

- ✓ Odor
- ✓ Noise
- ✓ Lighting
- ✓ Electrical load and fire safety
- ✓ Building code compliance
- ✓ Setbacks from incompatible uses (reasonable distances)
- ✓ Number of caregivers per parcel (reasonable limits)
- ✓ Exterior appearance and visibility
- ✓ Hours of operation (optional but must be reasonable)

4. What Municipalities May NOT Regulate

- X Submission of patient or caregiver registry information
- X Special municipal licensure (site plans, SUPs, conditional permits)
- X Demand for LARA verification
- X Warrantless or anytime inspections
- X Plant or possession limits below MMMA
- X Requiring caregivers to relocate exclusively to industrial districts
- X Any rule that creates a "functional ban"

5. Enforcement

Enforced only through general nuisance/zoning provisions.
MMMA-protected conduct cannot be penalized.

This template structure has been used in municipalities whose ordinances have **not been overturned**, and which follow the boundaries established by the Michigan Supreme Court.



ADDENDUM ITEM 2: SIDE-BY-SIDE REDLINE: PROPOSED ORDINANCE vs. COMPLIANT ORDINANCE

Below is a structured comparison (not every word, but every legally significant change).

Original Language	Revised / Compliant Language	Reason for Change
Only allowed in B-2, M-1, M-2	Allowed in residential (R-1, R-2, R-3) + optional B-2, M-1, M-2	Industrial-only zoning = functional ban (violates <i>DeRuiter</i>).
500 ft setback from residential	100 ft setback	500 ft + industrial-only = total exclusion.
500 ft setback from schools	200 ft setback	Excessive setback impermissibly restricts MMMA rights.
One caregiver per parcel	Two caregivers permitted	One-per-parcel often invalidated as unreasonable.
Required detailed chemical list	Removed	Singling out caregivers violates MMMA & equal protection principles.
Township inspections "at any time"	Inspections only like any other property; consent/warrant required	Prevents unconstitutional warrantless searches.
Site plan approval under Article 23	Zoning compliance review only for residential; simple sketch for non-residential	Site plan = illegal local licensure under MMMA.
Require caregiver registration card & LARA verification	Removed entirely	MMMA prohibits local registration or identity disclosure.
Odor must not be detectable anywhere	Retained but clarified to "parcel boundary"	Matches nuisance standards.
Lighting restrictions unclear	Adopted typical nighttime shielding standard	Standardized nuisance provisions.



ADDENDUM ITEM 3: FULLY REVISED ORDINANCE (CLEAN VERSION)

This version **complies with MMMA, aligns with DeRuiter, avoids unconstitutional search clauses, avoids functional bans, and preserves zoning, nuisance, safety, odor, and building control** in a manner legally upheld by Michigan courts.

REVISED ORDINANCE – CLEAN VERSION

Sec. 21.55 – Medical Marihuana Caregiver Operations

A. Purpose

The purpose of this Section is to establish zoning, safety, and nuisance regulations applicable to the medical use of marihuana as authorized under the Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008, MCL 333.26421 et seq., in order to protect the public health, safety, and welfare of Township residents. Nothing in this Section shall be interpreted to prohibit or penalize the medical use of marihuana as permitted under the MMMA, nor to conflict with rights granted to registered qualifying patients and registered primary caregivers under State law.

This Section is intended to regulate the **time, place, and manner** of caregiver cultivation consistent with *DeRuiter v. Byron Township* and shall not be interpreted as a local licensure or registration requirement.

B. Definitions

Terms used in this Section shall have the meanings given in the MMMA and its administrative rules. For purposes of this Section:

1. “Medical Marihuana Caregiver Operation” or “Caregiver Operation.”

A lawful location where a registered primary caregiver cultivates, dries, trims, or stores marihuana exclusively for the registered qualifying patients to whom the caregiver is connected through the State registration system.

This term does **not** include the private cultivation or possession by a qualifying patient for personal medical use.

2. “Enclosed, Locked Facility.”

Has the meaning provided in the MMMA and relevant administrative rules.

C. Permitted Districts and Locations

To comply with *DeRuiter* and avoid creating a functional ban, caregiver operations are permitted as follows:

1. Primary Location – Residential Districts

A caregiver operation is permitted as a **home occupation–medical**, in the following districts, subject to the regulations of this Section:

- R-1, R-2, R-3 residential districts.

2. Alternative Location – Commercial/Industrial

A caregiver may elect to operate in the following districts if desired:

- B-2 General Business
- M-1 Light Industrial
- M-2 General Industrial

3. Setbacks

When located *outside* a residence:

- Minimum 100 ft from property in residential zoning.
- Minimum 200 ft from a school, child care center, or day care. These distances are **reduced from 500 ft** to avoid creating a functional ban.

4. Number of Caregivers Per Parcel

Not more than **two (2)** registered primary caregivers may operate on a single parcel.

(This avoids the unconstitutional “one per parcel” restriction while still controlling intensity.)



D. Use Standards for All Caregiver Operations

1. **Plant Limits**
A caregiver may cultivate **no more than 12 plants per qualifying patient**, and no more than **72 plants total**, consistent with the MMMA.
2. **Enclosed, Locked Facility**
All cultivation shall occur within an enclosed, locked facility as defined by the MMMA. Outdoor cultivation is permitted only when compliant with MMMA requirements and screened from adjacent property.
3. **Visibility**
Marihuana plants shall not be visible to the unaided eye from any public or private property.
4. **Sales and Transfers**
No sales or transfers may occur other than those permitted by the MMMA between a caregiver and their registered qualifying patients.

E. Nuisance, Odor, Ventilation, and Lighting

1. **Odor Control**
Indoor cultivation must employ carbon filtration or equivalent odor-control systems such that **no detectable odor** is present at the parcel boundary.
Outdoor grows must similarly ensure odor does not constitute a nuisance.
2. **Noise**
Fans, HVAC, or equipment shall not exceed 60 dBA at the property line.
3. **Lighting**
Grow lighting shall be fully shielded to prevent light spill onto adjacent residential properties between 10 PM and 7 AM.
4. **Wastewater / Chemical Use**
Discharge of fertilizers, nutrients, or other materials shall comply with applicable state and county regulations.
No caregiver-specific chemical lists shall be required; however, the operation must comply with all general environmental and hazardous materials laws.

F. Security

1. An enclosed, locked facility must remain secured against unauthorized access.
2. No signage relating to marihuana is permitted.

G. Inspections

To avoid unconstitutional searches, the following shall apply:

1. The Township may conduct **building, electrical, mechanical, and fire-safety inspections**, but **only to the same extent and under the same conditions** as apply to any other property in the Township.
2. No inspection may occur without notice, consent, or a warrant as required by law.
3. No inspection may require disclosure of patient identities or State registry information.

H. Application and Zoning Compliance

1. A caregiver operation within a residence is processed as a **zoning compliance review**, not a special land use or site plan.
 2. Caregiver registration cards or patient information **may not** be submitted or requested.
 3. For operations in commercial/industrial districts, a **basic site sketch** showing the building, safety features, and compliance with setbacks may be required, but **no LARA/CRA verification** or MMFLA-style review is permitted.
-



I. Penalties

Violations of this Section shall be subject to the same enforcement procedures applicable to zoning or nuisance violations generally.

Violations shall not include penalties for conduct that is lawful under the MMMA.



**LIVINGSTON COUNTY PLANNING DEPARTMENT
REZONING REQUEST - | -
STAFF REPORT**

**CASE NUMBER:
Z-44-25**


COUNTY CASE NUMBER:	Z-44-25	TOWNSHIP:	HAMBURG TOWNSHIP
REPORT DATE:	12/05/2025	SECTION NUMBER:	26
STAFF ANALYSIS BY:	MARTHA HAGLUND	TOTAL ACREAGE:	295

APPLICANT / OWNER:	Hamburg Township
LOCATION:	10405 Merrill Rd (4715-26-100-028) & (4715-26-100-023)
LAND USE:	Recreation & Parkland

CURRENT ZONING:	REQUESTED ZONING:
EAST AREA-Medium Density Residential (RA) (114 ac.) WEST AREA- Medium Density Residential (RA)/Natural Rivers (NR) and Waterfront Residential (WFR) (181 ac.)	Public & Private Recreational Facilities District (PPRF)
PERMITTED/SPECIAL USES (Not all inclusive):	PERMITTED/SPECIAL USES (Not all inclusive):
RA Permitted: Retail businesses that supply commodities such as groceries, baked goods, drugs, or hardware; personal service establishments, such as repair shops, Laundry and dry-cleaning pickup, professional offices, financial and business service establishments, post offices and other governmental offices. NR Permitted: Single family dwelling, accessory dwelling units, accessory short-term units, essential services, home occupations, licensed day cares.	Permitted: Single-family dwelling, public education institutions, stables, farm operations and roadside stands, public parks and recreation areas.
RA Special: Eating and drinking establishments, indoor and outdoor recreation, shops providing merchandise to be sold on the premises, planned shopping centers, mini-storage, child day care centers NR Special: Government buildings, schools, public and private golf courses and recreation clubs, raising horses or poultry.	Special: Churches, private schools, municipal buildings and utility buildings, private non-commercial recreation, hospitals, golf courses and country clubs, day care facilities, museums, cemeteries
Minimum Lot Area: RA: 43,560 Sq Ft. NR: 43,560 Sq. Ft.	Minimum Lot Area: 1,742,400 Sq. Ft. (40 ac.)

TOWNSHIP PLANNING COMMISSION RECOMMENDATION AND PUBLIC COMMENTS:	ESSENTIAL FACILITIES AND ACCESS:
The Hamburg Township Planning Commission recommended approval at their November 19, 2025, meeting. There were no public comments.	Water: Well Sewer: Septic Access: Merrill Rd.

EXISTING LAND USE, ZONING AND MASTER PLAN DESIGNATION:

		Land Use:	Zoning:	Master Plan:
Subject Site:		Recreation	Medium Density Residential (RA)	Public/Quasi-Public
	To the North:	Vacant & Commerical	Community Service (CS)	Public/Quasi-Public & Village Gateway
	To the East:	Vacant & Residential	Village Residential (VR)	Conservation District
	To the South:	Residential	Medium Density Residential (RA)	Medium Density Residential & Low Density Residential
	To the West:	Wetlands & Waterfront Residential	Natural River (NR) & Waterfront Residential (WFR)	Natural River Residential

ENVIRONMENTAL CONDITIONS:

Soils / Topography:	(23.5%) Carlisle Muck, (17.7%) Boyer-Oshtemo loamy sands, (11.1%) Boyer-Oshtemo loamy sands 12-18% slopes, (9.6%) Boyer-Oshtemo loamy sands 18-25% slopes, (10.4%) Houghton Muck
Wetlands:	East Parkland: There are 41 acres of wetlands (36% of the parcel). West Parkland: There are 93 acres of wetlands (51% of the parcel).
Vegetation:	The majority of the area is turf grass with active recreation areas, i.e. soccer fields and junior softball/baseball fields. There is a natural area with a disc golf course located on the west parcel.
County Priority Natural Areas:	The wetland area on the west parcel is designated as a Priority 1 Natural Area and is part of a 124-acre Natural Area. Additionally, the wetland area on the east parcel is considered a Priority 2 Natural Area and is part of a 94-acre Natural Area.

TOWNSHIP MASTER PLAN DESIGNATION:

Hamburg Township's Master Plan designate the subject area as Public/Quasi-Public described below.

Public/Quasi-Public (40-acre lot size): *Public and private recreational land provides an exclusive area for specified government, civic and private recreational facilities. This will assist in protecting the Brighton State Recreation Area and private recreational facilities from intrusion by more intense suburban development that would otherwise detract from the natural amenities and resources of this area. These types of land uses will also limit the need for extensive public services such as public water, sanitary sewer, and additional schools. This area of the Township is largely in a natural state and contains large areas of woodlands, wetland and wildlife habitat.*

A portion of the east parcel is also designated as Conservation District. The Township Master Plan does not offer a description, but the intent appears to be to the preservation of wetlands.

COUNTY COMPREHENSIVE PLAN:

The 2018 Livingston County Master Plan does not direct future land use patterns, or development within Livingston County. Alternatively, it offers a county-wide land use perspective when reviewing potential rezoning amendments. The Land Use & Growth Management chapter of the plan includes decision-making recommendations regarding potential land use conflicts and promoting good land governance.

COUNTY PLANNING STAFF COMMENTS:

Hamburg Township received a grant from the Michigan Department of Natural Resources (MDNR) for the township parkland in 2013. One of the requirements of the award was for the area to remain public parkland in perpetuity. It appears the rezoning of the property was overlooked when the grant was first approved. Since 2022 the township has

been working to ensure accuracy of their obligations including; completing a professional survey to confirm the precise dimensions of the property. The township is now seeking to rezoning the property to PPRF District. The Township Hall and other government buildings are located on the two parcels near the rezoning that will maintain their classification as medium-density residential. Government buildings and essential services are recognized as a permissible use within the existing district. Additionally, these parcels are inadequate in size, falling short of the 40-acre minimum requirement for the PPRF District. In the future, the township may consider revising the minimum lot size for the PPRF District, as park and recreation areas often do not require 40 acres yet can still effectively serve their intended purposes.

By clearly defining the two parcels as parkland, the township can fulfill their obligations for the grant award and enhance prospects for future recreation grants while maintaining flexibility for the parcels with the government facilities.

Section 36-402 C.1 Outlines the procedures for a zoning map amendment. *All proposals for amendment shall be referred to the planning commission for their review and recommendation. The planning commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal, the most likely effect on the community's physical development, and conformance with the Township master plan. The planning commission may recommend any additions or modifications to the original amendment proposal.*

Township staff used the criteria listed below to review rezoning cases and county staff also utilized these criteria.

1. The zoning map amendment should be compatible with the goals, policies, and future land use map of the Master Plan.

The Hamburg Township Master Plan designate the subject areas as Public/Quasi-Public and Conservation District. The rezoning would be compatible with the Township Master Plan.

2. Compatibility of the site's physical, geological, hydrological, and other environmental features with all uses permitted in the proposed zoning district compared to uses permitted under current zoning.

The site contains key natural features that will be preserved while the remaining areas can accommodate active recreation activities. No additional infrastructure needs are being proposed. The rezoning would be compatible with the physical features of the site.

3. If the request is for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.

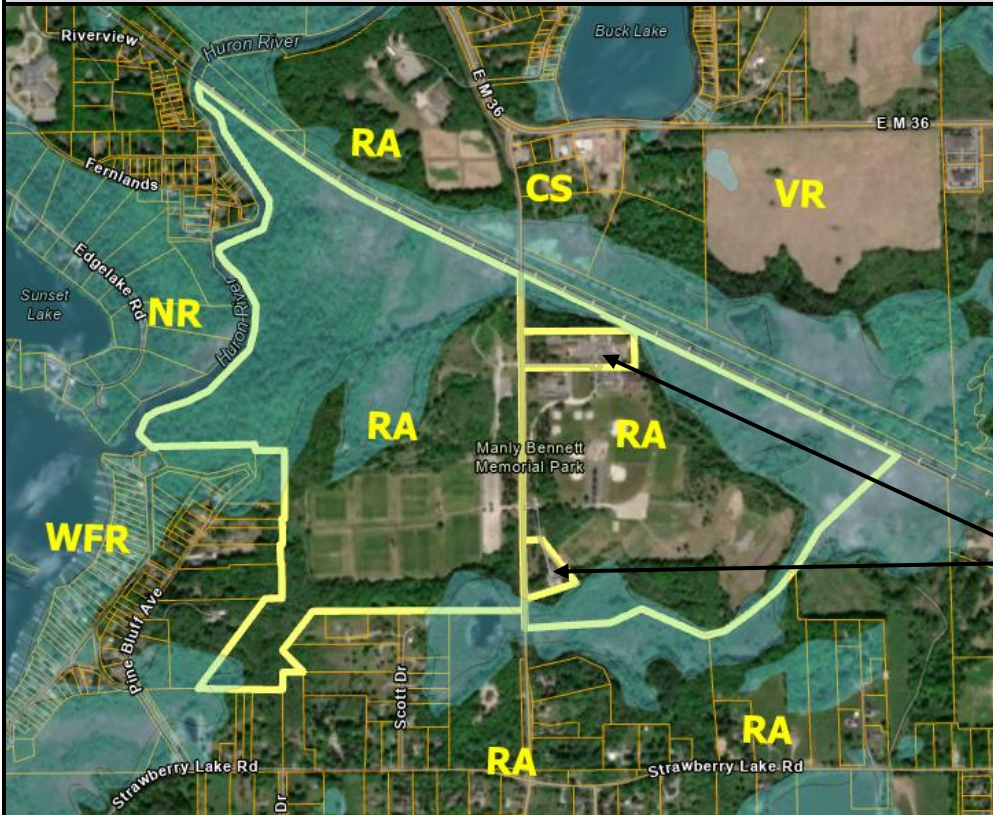
The proposed rezoning would be considered more appropriate than amending the list of permitted or special land uses in the Medium Density Residential District.

4. The parcel can meet the requirements of the proposed zoning district.

The parcels both meet the standards for the proposed zoning district.

COUNTY PLANNING STAFF RECOMMENDATION:

APPROVAL: The rezoning has been thoroughly reviewed. The proposed rezoning from Single Family Medium-Density Residential to Public & Private Recreational Facilities District is consistent with Hamburg Township Master Plan.

AERIAL AND SURROUNDING ZONING MAP:

RA: Single Family, Medium Density Residential

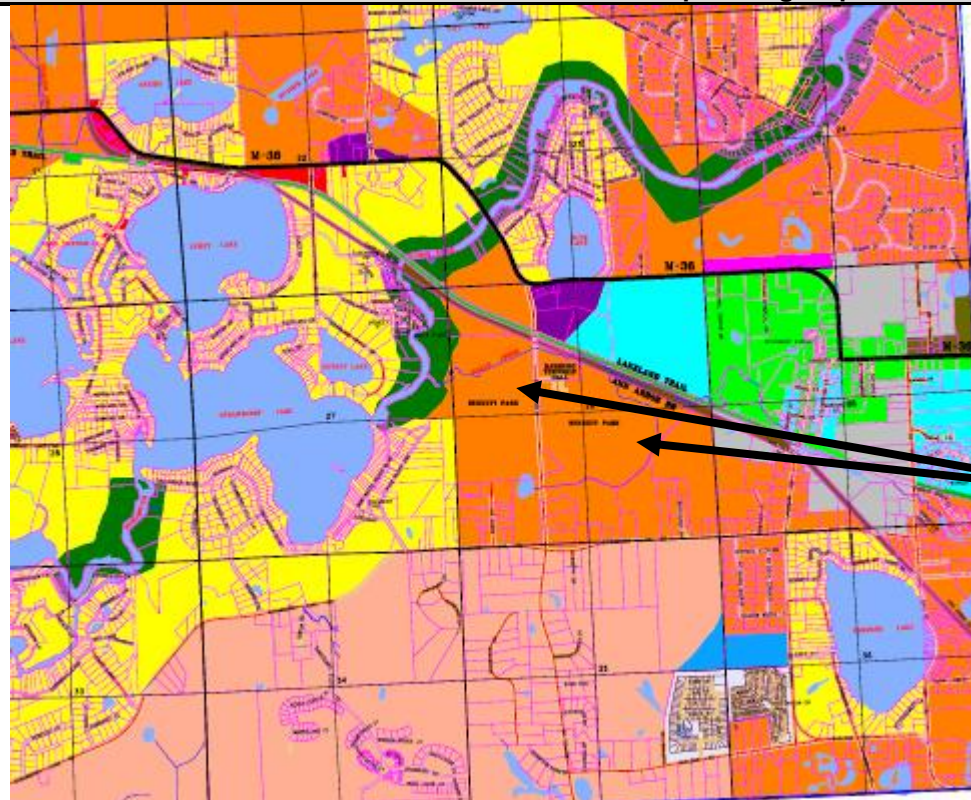
NR: Natural River

WFR: Waterfront Residential

CS: Community Service

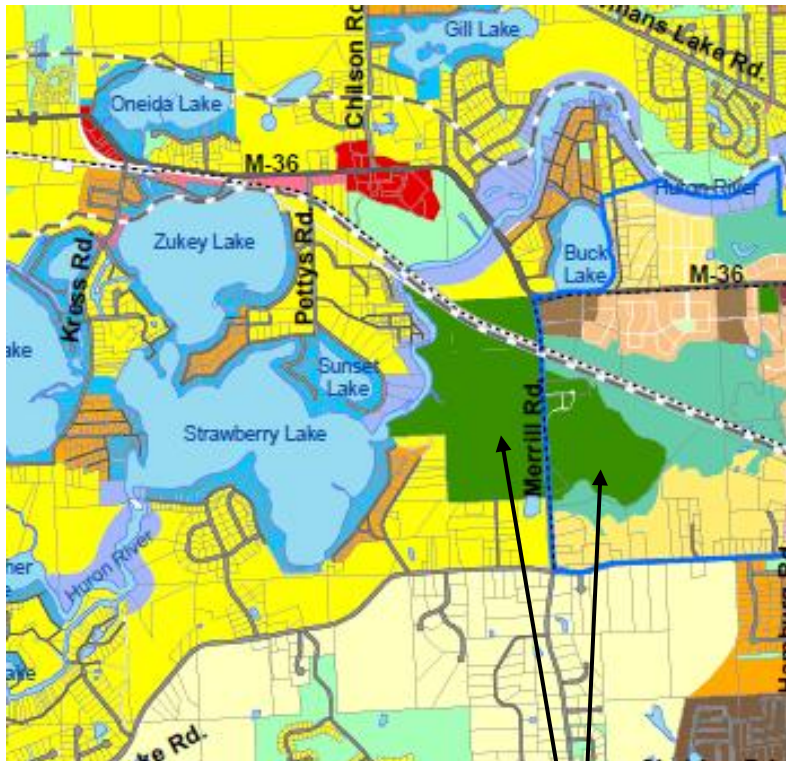
VR: Village Residential

Parcels to remain RA

Township Zoning Map

Subject Site

FUTURE LAND USE MAP:



Future Land Use

Hamburg Township, Livingston County, Michigan

- High Density Residential
- Medium Density Residential
- Low Density Residential
- Multiple Family Residential
- Waterfront Residential
- Natural River Residential
- Neighborhood Commercial
- General Commercial
- Conserved Open Space
- Public and Private Recreational Facilities
- Public/Quasi-Public
- Water Bodies

Subject Property



Livingston County Department of Planning

MEMORANDUM

Scott Barb
AICP, PEM
Director

TO: Livingston County Planning Commissioners and the
Conway Township Board of Trustees

FROM: Robert Stanford, Principal Planner, AICP

SUBJECT: Z-45-25 Amendments to Zoning Ordinance Article
Article 6 General and Supplementary Regulations
Section 6.23 Airport, Heliports and Related Uses

Robert A. Stanford
AICP
Principal Planner

The Conway Township Planning Commission proposes to add a new subsection to **Article 6 General and Supplementary Regulations, Section 6.23 Airport, Heliports and Related Uses, as Subsection (E) Accessory Uses**, which pertains to the regulation of short-term airport camping of the township zoning ordinance.

Staff offers the following comments and recommendation for your review. Proposed additions to existing text are noted in red underline. Text proposed for removal is in ~~strikethrough~~.

Martha Haglund
AICP
Principal Planner

Abby Carrigan
Planning Intern

Conway Township proposes to add a new subsection to **Article 6 General and Supplementary Regulations, Section 6.23 Airport, Heliports and Related Uses, as Subsection (E) Accessory Uses**, which pertains to the regulation of short-term airport camping, to read as follows:

E. Accessory Uses.

1. Purpose. Allow for limited camping activity by pilots, their passengers, or individuals for aviation related visits, directly associated with aviation tourism, while maintaining public safety and land use compatibility.
2. Applicability. Permitted only on parcels with a legally established airport, and only for pilots, aircraft passengers, or individuals accompanying pilots for aviation-related events.
3. Definition.
 - i. Aircraft camping. Temporary camping in a tent by aircraft pilots, their passengers, or individuals accompanying pilots, occurring on the same parcel as the airfield where the aircraft is parked. Aircraft camping is not considered a campground.
 - ii. Recreational Aviation Activities: Aviation activities where the use, operation, or enjoyment of aircraft is the primary purpose, including, without limitation, skydiving, gliding, scenic or recreational flights, flight training events, fly-ins, and aviation-themed events.

Department Information

Administration Building
304 E. Grand River Avenue
Suite 206
Howell, MI 48843-2323

•
(517) 546-7555
Fax (517) 552-2347

•
Web Site
milivcounty.gov/planning/



4. Standards

a. Eligibility

- i. All campers must be pilots, passengers of aircraft using the associated airfield, or individuals accompanying pilots for recreational aviation activities.
- ii. Camping is only permitted in connection with recreational aviation activities.

b. Tent Camping

- i. Tents shall be placed within twenty-five (25) feet of the aircraft or within a designated camping area approved by the Zoning Administrator.
- ii. Tent camping is limited to a maximum of three (3) consecutive nights or the duration of a recreational aviation activity.
- iii. Tent campers must register with the airport manager upon arrival.
- iv. Tent campers shall use bathroom facilities provided in the terminal or designated building.

c. RV Camping

- i. Recreational vehicles must be fully self-contained. No utility hookups shall be provided.
- iii. RV camping is limited to three (3) consecutive nights or the duration of a recreational aviation activity.
- iv. RVs must park in designated camping areas only.

d. Fire Safety

- i. Fires are permitted only in designated fire rings located more than one hundred (100) feet from any aircraft, and at least two hundred (200) feet from any fuel farm.

STAFF COMMENT: The **International Fire Code (IFC) 2021, Section 2006 (Aircraft Fueling, Subitem 2006.10 Sources of Ignition** states the following:

2006.10 Sources of Ignition

Smoking and producing open flames within 50 feet (15 240 mm) of a point where fuel is being transferred shall be prohibited. Electrical and motor-driven devices shall not be connected to or disconnected from an aircraft at any time fueling operations are in progress on such aircraft.

e. General Requirements

- i. Camping must not interfere with airport operations or aviation safety.
- ii. No commercial campground use or public rental of campsites is permitted. Only activities defined as airport camping in this Section are permitted.

f. Review and Approval

- i. Airport camping shall require approval as a Special Land Use by the Planning Commission.
-



Township Recommendation: Approval. The Conway Township Planning Commission heard public comment and recommended Approval of these zoning amendments at its November 10, 2025, Planning Commission Public Hearing.

Staff Recommendation: Approval With Conditions.

In general, it appears that the amendment as proposed does provide a satisfactory amount of regulatory control over aviation-related camping activities. It checks the necessary boxes related to ensuring public health, welfare and safety concerns.

However, as an alternative and for sake of consistency with the current organizational format of the township ordinance, it would be recommended that the township:

- 1) Allow "Aviation-Related Camping" as an accessory use in the Industrial District, to the permitted use of Airports, heliports, and related uses in this district (refer to Section 6.23), as well as a special use as proposed.

In addition, as a condition for County Planning Commission approval, and directly related to the special use aspect specifically:

- 2) Relocate this language within Article 13, "Special Land Uses", Section 13.10 "Site Design Conditions" as a newly added use within this Section (Listed as Subitem "U" in this section).

Thus, not only does this require the potential applicant (in this case the airport/heliport owner/operator, rather than an individual pilot and their associates, as this text could be misinterpreted to mean as proposed) to comply with all provisions of Article 13 (most specifically Section 13.05 "Required Planning Standards and Findings" and Site Plan Review Standards of Article 14, which is required of all special uses), as well as providing the township the opportunity to regulate this unique and special land use activity with consistency as it does so with other unique and special land use activities currently listed in this section, such as "Ag Service Establishments", "Bed and Breakfast Homestays", "Home Occupations", "Child Care Centers", and "Commercial Recreation", among others.

This would be a much more logical location for this language and would be more consistent with the process of special use application, review, and decision making in accordance with the current organizational format of the entire township zoning ordinance.



Livingston County Department of Planning

MEMORANDUM

TO: Livingston County Planning Commissioners and the
Marion Township Board of Trustees

FROM: Robert Stanford, Principal Planner, AICP

SUBJECT: Z-46-25 Amendments to Zoning Ordinance Article
Article VI GENERAL PROVISIONS
Section 6.17 Infrastructure and Concurrency Standards
Section 6.18 Condominium Projects
Section 6.20 Private Roads

Article XIII PLANNED UNIT DEVELOPMENT OVERLAY
DISTRICT
Section 13.03 Planned Unit Developments

Article XVI SPECIAL USE PERMITS
Section 16.04 Planning Commission Action

Article XVII STANDARDS FOR SPECIAL LAND USES
Section 17.21 Multi-Family Site Condominiums

Scott Barb
AICP, PEM
Director

Robert A. Stanford
AICP
Principal Planner

Martha Haglund
AICP
Principal Planner

Abby Carrigan
Planning Intern

The Tyrone Township Planning Commission proposes to revise the above referenced sections of the township zoning ordinance, regarding private roads, special use permits and special land uses.

Staff offers the following comments and recommendations for your review. Proposed additions to existing text are noted in red underline. Text proposed for removal is in ~~strike through~~.

BACKGROUND INFORMATION FOR THIS CASE

According to the township, the following text amendments are being proposed as the result of planning related activities associated with a newly proposed development called "Meadows North" on a parcel located between Peavy and D19. Initially, our Planning Commission gave preliminary approval. That was challenged by a resident in a ZBA case in May. The ZBA overturned the approval and recommended changes to the ZO for clarity. The Board of Trustees then issued a moratorium on Site plan reviews and charged the PC to suggest changes to the ZO to make the process clearer.

Department Information

Administration Building
304 E. Grand River Avenue
Suite 206
Howell, MI 48843-2323

•
(517) 546-7555

Fax (517) 552-2347

•
Web Site
milivcounty.gov/planning/



COUNTY PLANNING STAFF REVIEW

Marion Township proposes to revise the following four (4) articles and their associated sections as referenced above regarding private roads, special use permits and special land uses, to read as follows:

ITEM 1a – Article VI GENERAL PROVISIONS, Section 6.17 Infrastructure and Concurrency Standards - Revision of Subitems (A) through (C)

Article VI GENERAL PROVISIONS

Section 6.17 Infrastructure and Concurrency Standards

A. Roadway Network:

1. No new land uses, except for unplatted single-family homes, or development requiring site plan review under this Ordinance shall be permitted which will reduce the level of service on adjacent roadways below the level of service (LOS) C as indicated by a complete traffic impact study, as identified in the Marion Township Master Plan, until the roadway has been improved to avoid such a decrease in the level of service.
2. All developments for multiple-family Site Condominium and Plan Urban dwellings shall have direct access to the following Livingston County public paved or unpaved portion roads in the Urban Residential, Suburban Residential, and Highway Service Districts: ~~2. All site plans and land uses shall comply with driveway and traffic safety standards of the Michigan Department of Transportation and the Livingston County Road Commission.~~
 - a) Howell Pinckney Road, D19
 - b) Howell Mason Road
 - c) State Road M-155
3. Provisions shall be made for safe and efficient egress and ingress to public streets and highways serving any development, which shall be designed to minimize congestion and interference with normal traffic flow.

B. Traffic Impact Study.

1. Traffic impact studies shall be required as follows:
 - a) A Traffic Impact Assessment that evaluates current and future traffic operations at site access points shall be required for projects which could generate 50-99 directional trips during a peak hour.
 - b) A traffic Impact Statement that evaluates current and future traffic operations at site access points and major signalized or non-signalized intersections in proximity to the site shall be required for any proposed development which would be expected to generate over one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over seven hundred fifty (750) trips in an average day. The exact study area of a Traffic Impact Statement shall be established by the Township Engineer.
2. Traffic Impact Statement or Assessment shall also be required where a traffic study is more than two (2) years old and roadway conditions have changed significantly (volumes increasing more than 2 percent annually); or for a change or expansion at an existing site where the increased land use intensity is expected to increase traffic by at least fifty (50) directional trips in a peak hour or result in at least 750 vehicle trips per day for the entire project.



3. The contents of the traffic impact study shall include:

- a) Illustrations and a narrative which describes the characteristics of the site and adjacent roadway system (right-of-way, functional classification, lane configuration, speed limits, any sight distances limitations, current traffic conflicts, etc.) This description should include surrounding land uses, expected development in the vicinity which could influence future traffic conditions, special site features and a description of any committed roadway improvements. The study should define and justify the study area selected for analysis.
- b) For a rezoning, a description of the potential uses which would be allowed, compared to this allowed under current zoning. For a site plan review, mobile home park, condominium project, a subdivision tentative preliminary plat, or specified Special Land Uses; a description of factors such as the number and types of dwelling units, the gross and usable floor area, the number of employees and shift change factors. Intended phasing or future expansion should also be noted.
- c) Existing traffic conditions including existing peak-hour traffic volumes (and daily volumes if applicable) on street(s) adjacent to the site. Existing counts and levels of service for intersections in the vicinity which are expected to be impacted, as identified by the Planning Commission or its staff/consultants shall be provided for projects requiring a Traffic Impact Statement. Traffic count data shall be collected using accepted practices and shall not be over one (1) year old.
- d) The traffic study shall include traffic generated by other projects in the vicinity which have been approved or are under construction.
- e) For any project with a completion date beyond one (1) year at the time of the traffic study, the analysis shall also include a scenario analyzing forecast traffic at date of completion along the adjacent street network using a forecast based on a network traffic assignment model (if available), historic annual percentage increases and/or future development in the area which has been approved.
- f) Forecasted trip generation of the proposed use for the a.m. (if applicable) and p.m. peak hour and average day. The forecasts shall be based on the data and procedures outlined in the most recent edition of Trip Generation published by the Institute of Transportation Engineers (ITE). The applicant may use other commonly accepted sources of data or supplement the standard data with data from at least three (3) similar projects in Michigan, including actual trip generation data (a.m. and p.m. peak hour and average day, in the form of actual hourly directional driveway counts, hourly transaction data, or other method deemed acceptable by the Township) for local or national chains and franchises. The Township may require inclusion of actual data for local or national chains and franchises in the study.
- g) Any trip reduction for pass-by trips, transit, ride sharing, other modes, internal capture rates, etc. shall be based both on Internal Traffic Engineers findings and documented survey results acceptable to the Township and applicable road agency. The community may elect to reduce the trip reduction rates used.
- h) For projects intended to be developed in phases, the trip generation by phase shall be described.
- i) Trip Distribution. The projected traffic generated shall be distributed (inbound v. outbound, left turn v. right turn) onto the existing street network to project turning movements at site access points, and nearby intersections where required. Projected turning movements shall be illustrated in the report. A description of the application of standards engineering procedures for determining the distribution should be provided (trip distribution model, market studies, counts at existing driveways, etc.).



- j) Level of service or "capacity" analysis at the proposed access points using the procedures outlined in the most recent edition of the Highway Capacity Manual published by the Transportation Research Board. For projects requiring a Traffic Impact Statement or Regional Traffic Analysis, before and after capacity analyses shall also be performed for all street intersections where the expected traffic generated at the site will comprise at least five percent (5%) of the existing intersection capacity, unless other intersections are identified by the Township. Gap studies for unsignalized intersections shall be provided where applicable.
- 4. Qualifications of Preparer. The person responsible for the preparation of the study shall have a degree or specific professional training in the preparation of traffic impact studies. The preparer shall have at least three (3) years of recent experience in the preparation of traffic impact studies, provide evidence of ongoing experience and familiarity with the Highway Capacity Manual and other traffic operation evaluation techniques.
- 5. The requirement for a traffic impact study, or the specific study elements required may be waived or modified by the Planning Commission based on input from Township staff and consultants or a representative of the applicable road agency. Reasons for the waiver or modification shall be documented. Factors to be considered include:
 - a) Roadway improvements that are scheduled which are expected to mitigate any impacts associated with the proposed project.
 - b) The existing level of service along the roadway is not expected to drop below C due to the proposed project.
 - c) The existing level of service is not expected to be significantly impacted by the proposed project due to specific conditions at this location.
 - d) A similar traffic study was previously prepared for the site and is still considered applicable.

~~B. Potable Water and Sewage Disposal:~~

- ~~1. Any structure for human occupancy after the effective date of this Ordinance and used for dwelling, business, industrial, recreational, institutional, mercantile or storage purposes shall not be used or occupied unless said structure shall be provided with a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of human, commercial, and industrial wastes.~~
- ~~2. All on-site sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the Livingston County Public Health Department as well as those of other applicable local, county, state, or federal agencies.~~
- ~~3. All new land uses and land development projects within the Urban Services District or Partial Services District, as delineated in the Marion Township Comprehensive Plan, must be serviced by a municipal sewerage treatment and water supply if the infrastructure is present and abuts the property in question.~~



C. Potable Water and Sewage Disposal:

1. Any structure for human occupancy after the effective date of this Ordinance and used for dwelling, business, industrial, recreational, institutional, mercantile or storage purposes shall not be used or occupied unless said structure shall be provided with a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of human, commercial, and industrial wastes.
2. All on-site sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the Livingston County Public Health Department as well as those of other applicable local, county, state, or federal agencies.
3. All new land uses and land development projects within the Urban Residential District or Partial Services District, as delineated in the Marion Township Master Plan, must be serviced by a municipal sewerage treatment and water supply if the infrastructure is present and abuts the property in question.

C. Storm Water Management:

1. ~~All development requiring site plan review shall retain storm water runoff, or detain it, so as to allow discharge without any increased impact on adjacent lands, streams or water bodies above the predevelopment runoff impact.~~
2. ~~All development shall conform to the soil erosion and sedimentation requirements of Livingston County and the State of Michigan.~~
3. ~~All storm water management facilities shall meet or exceed the criteria of the Livingston County Drain Commissioner.~~
4. ~~No land improvements shall be constructed which will reduce the service currently being provided by existing storm water management infrastructure or existing drainage patterns unless necessary improvements to such infrastructure or natural drainage patterns are first made.~~
5. ~~All drainage system reports, peak flow rates and runoff volume calculations, safety requirements and the grading plans shall be certified by a licensed professional engineer authorized by the State of Michigan to perform such functions.~~
6. ~~All requirements set forth in the Marion Township Storm Water Management General Ordinance shall be met. For systems proposed to be privately maintained, a longterm private storm water management system maintenance plan and agreement shall be submitted to the township for approval. A maintenance agreement shall be signed by the Owner or Operator and shall be included as an obligation in the Master Deed, Easement documents, or in another recordable form and recorded with the Livingston County Register of Deeds. For systems that are proposed to have a drainage district (i.e., publicly maintained drainage system), evidence of a recorded agreement with the Drain Commissioner shall be submitted to the township.~~

D. Storm Water Management:

1. All development requiring site plan review shall retain storm water runoff, or detain it, so as to allow discharge without any increased impact on adjacent lands, streams or water bodies greater than the predevelopment runoff impact rate.



2. All developments shall conform to the soil erosion and sedimentation requirements of Livingston County and the State of Michigan.
3. All storm water management facilities shall meet or exceed the criteria of the Livingston County Drain Commissioner.
4. No land improvements shall be constructed which will reduce the service currently being provided by existing storm water management infrastructure or existing drainage patterns unless necessary improvements to such infrastructure or natural drainage patterns are first made.
5. All drainage system reports, peak flow rates and runoff volume calculations, safety requirements and the grading plans shall be certified by a licensed professional engineer authorized by the State of Michigan to perform such functions.
6. Additional requirements may be necessary through the Livingston County Drain Commission.

ITEM 1b – Article 6 General Provisions, Section 6.18, Condominium Projects - Revision of Subitems (A) through (G)

Section 6.18 Condominium Projects

All condominium projects shall conform to the following general provisions in addition to all other applicable district regulations.

- A. Master Deed Review and Approval: Before recording the master deed and exhibits for a condominium project, the developer shall submit the master deed and exhibits to the Township for review and approval. These documents shall be reviewed by the Township Attorney, Township Engineer and Township Planner to verify compliance with local Ordinances and state law. The Planning Commission shall review these documents and comments and make a recommendation. The Board of Trustees shall have the authority to grant approval of the master deed and exhibits, according to the requirements of Article XVIII: Site Plan Requirements. Planning Commission with final approval being granted by the Township Board according to the requirements of Article XVIII: Site Plan Requirements. Prior to the recording of a master deed and exhibits for the conversion or expansion of an existing condominium project, the developer shall submit the master deed and exhibits for review and recommended approval by the Planning Commission with final approval being granted by the Township Board according to the requirements of Article XVIII: Site Plan Requirements. Further, these submittals shall be reviewed for approval by the Township Attorney, Township Engineer and Township Planner to verify compliance with local Ordinances and state law.

Before issuance of a certificate of zoning compliance, the developer shall submit the following information to the Zoning Administrator for review and approval: two (2) copies of the recorded master deed and any exhibits; and a survey of improvements labeled as “must be built.” The survey shall be provided in a format acceptable to the Township. Prior to the recording of a master deed and exhibits for a new condominium project, the developer shall submit the master deed and exhibits for review and recommended approval by the Prior to the issuance of a certificate of zoning compliance, the condominium developer shall submit the following information to the Zoning Administrator for review and approval: two (2) copies of the recorded master deed and any exhibits, and a survey of improvements labeled as “must be built.” The survey shall be provided on a mylar sheet of at least thirteen (13) inches by sixteen (16) inches.



- B. Developmental Standards: All buildings and structures within a condominium project shall comply, to the extent applicable, with the site development standards contained in Section 7.10 Schedule of Regulations and Articles IV and V of the Subdivision Control Ordinance, except that private roads shall be permitted. All principal buildings and/or accessory structures within a condominium project shall comply, to the extent applicable, with the site development standards contained in Section 7.10, Schedule of Regulations and Articles IV and V of the Marion Township Subdivision Control Ordinance, except that private roads shall be permitted.
- C. Infrastructure: Condominium projects shall comply with Section 6.17 Infrastructure and Concurrency Standards. A condominium project shall comply with the provisions in Sections 6.17.B. and 6.17.C. pertaining to potable water and sewage disposal and storm water management, respectively.
- D. Easement Dedication: Easements must be dedicated to the appropriate public agencies for the purpose of construction, operation, maintenance, inspection, repair, alteration, replacement, or removal of pipelines, conduits, mains, and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water, or storm water runoff across, through or under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations. Easements dedication documentation shall be reviewed by the Township Attorney and Township Engineer. The condominium project shall provide for the dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and storm water runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations. Easements dedication documentation shall be reviewed by the Township Attorney and Township Engineer.
- E. Monuments: Condominium projects that consist in whole or in part of condominium units that are building envelopes shall be marked with monuments as required in Section 125 of the Land Division Act (MCL 560.125). E. All condominium projects which consist in whole or in part of condominium units that are building envelopes shall be marked with monuments as provided below:
1. — Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.
 2. — All monuments used shall be made of solid iron or steel bars at least one half ($\frac{1}{2}$) inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
 3. Monuments shall be located in the ground at all angles in the boundaries of the condominium project; at the intersection lines of streets with the boundaries of the condominium project and at the intersection of alleys with the boundaries of the condominium project; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.



- ~~4. If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the condominium project and referenced to the true point.~~
- ~~5. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one half (1/2) inch in diameter, shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.~~
- ~~6. All required monuments should be placed flush with the ground where practicable.~~
- ~~7. All building envelope corners shall be monumented in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one half (1/2) inch in diameter or other approved markers.~~
- ~~8. The Township Board may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one (1) year, on condition that the proprietor deposits with the Township Clerk cash, a certified check or irrevocable bank letter of credit, whichever the proprietor selects, naming the municipality, in an amount sufficient to cover any cost associated with the monumentation. The performance guarantee shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.~~

F. Private Roads: Private roads within a condominium project shall meet the standards of Section 6.20 Private Roads Serving Single-Family, Multiple-Family and Commercial Developments of this Ordinance. ~~E. All public streets within a condominium project shall be constructed to the minimum requirements of the Livingston County Road Commission's construction standards. All private roads within a condominium project shall be constructed to the standards of Section 6.20 of this Ordinance. 1. No lots or units shall be permitted driveway access from a road that is not an interior private road of the plat, condominium or development.~~

1. Access. All lots or units must have driveway access from a road that is an interior private road of the project. Driveway access for lots or units to exterior roads is prohibited.

G. Greenbelt Buffer: A landscaped greenbelt buffer that shall consist of, but not be limited to, trees, shrubs, grasses, and herbaceous vegetation, exclusive of noxious weeds, is required upon finding by the Planning Commission that the proposed development may have a negative impact on an abutting parcel or parcels. If such a greenbelt is required, it shall be at least twenty-five (25) foot wide along and between the boundaries of the proposed development and any abutting parcels the Planning Commission determines could be negatively impacted by the proposed development. A fifty (50) foot wide greenbelt shall be established adjacent to any public road right-of-way that is not within the project. Required greenbelts shall not be within the boundaries of a lot or unit. ~~F. The Planning Commission may require a landscaped, greenbelt buffer that shall consist of, but not be limited to, trees, shrubs, grasses and herbaceous vegetation, exclusive of noxious weeds, where the impact of a proposed development will have a negative impact on an existing, abutting parcel or parcels. If such a greenbelt is required, it shall be a twenty-five (25) foot wide landscaped greenbelt buffer established alongside and between the boundaries of the proposed development and any existing abutting parcels the Planning Commission determines could be negatively affected by the proposed development. A fifty (50) foot~~



~~wide greenbelt shall be established adjacent to any public road right of way which is not located within the project. The area of the required greenbelt, which lies within the boundaries of a lot or unit, applies to the area calculation for that lot or unit. The required greenbelt areas shall be maintained perpetually in natural vegetation or landscaping, as provided above, to provide a visual buffer. The Planning Commission may modify this requirement at the end of stub streets and along phasing boundaries, provided that the intent of this Section is maintained.~~

1. Character: The required greenbelt buffer areas shall be maintained in perpetuity in a natural vegetation or landscaped state, as provided above, to provide a visual buffer. The greenbelt shall not be mowed or altered in any manner unless approved by the township zoning administrator and the homeowners' association. In no case shall any item, including, but not limited to, sheds, play structures, play area, lawn ornaments, lawn furniture, patios, automobiles, trucks, tractors, trailers, brush piles, or refuse piles be placed within the required greenbelt. If landscaping maintenance needs to be done within the designated greenbelt area such as trimming or pruning of trees, removal of dead vegetation, or other related activities, the Zoning Administrator and the homeowners' association must approve of the maintenance activity. The cost of such maintenance activity is to be paid for by the lot owners as defined above and/or the Home Owners Association.
2. Maintenance Responsibility. The homeowners' association shall be responsible for maintenance, including cost, of the greenbelt buffers. The Township is not responsible for any maintenance of the greenbelt buffer.
3. Modification: The Planning Commission may modify this standard for the end of stub streets and along phasing boundaries, upon finding that the intent of this Section is maintained.

ITEM 1c – Article VI: General Provisions, Section 6.20 Private Roads - All New Section

STAFF COMMENT: Private roads are used across the Township to provide access to residential, commercial, and industrial properties. Over time, inconsistent construction practices and varying levels of maintenance have resulted in emergency-access challenges, drainage failures, and resident disputes regarding responsibility for upkeep. Section 6.20 consolidates and updates Township requirements in coordination with:

- The Livingston County Road Commission (LCRC)
- AASHTO roadway design standards
- The Michigan Manual of Uniform Traffic Control Devices (MMUTCD)
- Township Development Standards (July 2020)

The proposed framework distinguishes between new minor private roads, new major private roads, commercial and industrial private roads, and pre-existing nonconforming roads.

Article VI: General Provisions Section 6.20 Private Roads

- A. Intent and Purpose: The intent and purpose of this Section is to: protect and promote the public health, safety, comfort, and convenience; establish minimum standards and specifications for the design and construction of private roads; ensure private roads remain passable in all weather



conditions; ensure access by fire, police, and other public and emergency vehicles; and ensure a functional road transportation network.

B. General Private Road Requirements: All private roads shall meet the general standards below.

1. Livingston County and Township: Private roads shall meet the requirements for roads in effect with the Livingston County Road Commission at the time of application, except where Township ordinance specify different standards and all applicable Township ordinances.

STAFF COMMENT: As proposed, this appears to be legally acceptable, but one caveat:

LCRC regulates only:

- Intersections with public roads
- Drainage entering public ROW
- Work in or affecting the public road ROW

LCRC does not regulate private-road internal geometry, widths, or paving depth.

The language could be misinterpreted to mean LCRC standards govern the entire private road. It might be clearer to say:

"...shall meet LCRC regulations where applicable (intersections, drainage, and work affecting the public ROW)."

2. Deviations: Deviations from the standards of this Section for pre-existing, legally nonconforming private roads may be allowed by the Board of Trustees based on the recommendations of the Township Engineer as outlined in this Section.
3. Intersections: Intersections shall be as close to ninety (90) degrees as possible, but shall not be less than eighty (80) degrees or greater than one hundred (100) degrees.
4. Intersections with Public Roads: Intersections of private roads with public roads shall meet the applicable requirement of the Livingston County Road Commission in effect at the time of application.

STAFF COMMENT: Subitems B.3–4 Intersections with public roads are fully compliant with LCRC standards. These correctly reference LCRC geometric and sight-distance requirements.

5. Surface: The road surface shall be shown on the plans and shall be in accordance with the requirements outlined herein.
6. Road Location: Private roads shall be located in the center of the right-of-way to the greatest extent practical.
7. Number of Dwelling Units: Private roads with a single access shall provide access to a maximum of thirty (30) dwelling units. Private roads with more than one (1) point of access shall provide access to a maximum of seventy-five (75) dwelling units. For the purposes of this requirement, access is defined as an intersection from another private or public road.
 - a. Number of Dwelling Units: All dwelling units whose only means of access is by the private road shall be considered in the number of dwelling units allowed.
 - b. Extension: If a private road is an extension of a dead-end public road, the number of dwelling units along the public road shall be considered in the number of dwelling units allowed. This limit shall apply to any type of road surface.



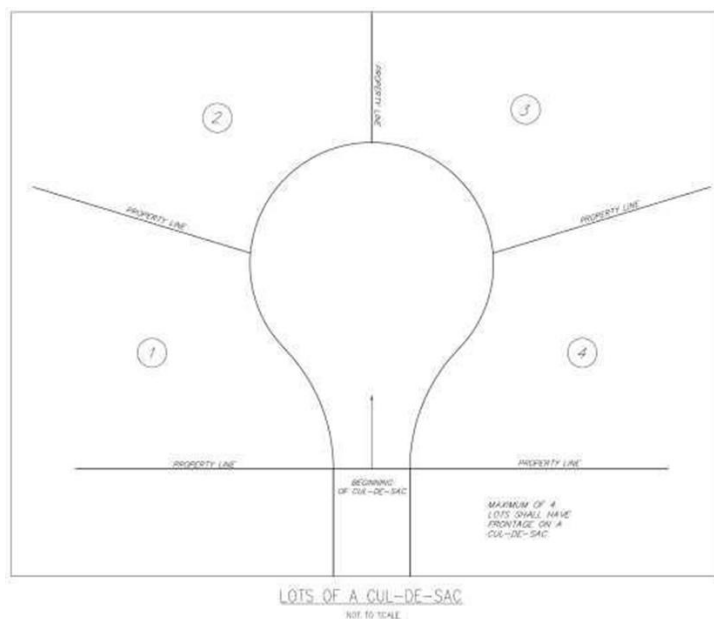
8. Length: Private roads with only one (1) point of access shall have a maximum length of two thousand (2,000) feet.

STAFF COMMENT: Subitems "B.7-8 Dwelling-unit limits & maximum length" are compliant with Township standards. LCRC does not regulate the number of dwellings served or maximum lengths of private roads, so no conflict exists with that regulating body.

9. Dead Ends: Dead end roads shall terminate with a cul-de-sac, subject to the standards outlined below.

10. Cul-De-Sac General Requirements

- a. Property Line: Cul-de-sac shall terminate at the property line except when precluded by a natural barrier or when the cul-de-sac terminates at the last available building envelope, lot, or parcel within the development and that building envelope, lot, or parcel fronts upon the cul-de-sac.
- b. Frontage Measurements: Frontage measurements along a cul-de-sac shall be measured tangent to the front setback line and at right angles to the side lot lines (See Figure 6.20.1)
- c. Access: A maximum of (4) principal buildings or lots shall have frontage on a cul-de-sac. Any lot located on a cul-de-sac shall have its side lot lines designed to be radial to the front property line or right-of-way line on either public or private roads, except where such lot lines would create unusual, inconvenient, or irregular lot shapes.



11. Curb Cuts: Curb cuts and driveways are subject to the requirements in 6.19 Access Controls.
12. Nonconformities: Private roads that create or increase nonconformities on any lot or parcel shall not be approved.



13. Road Names: Road names that might cause confusion with names of existing roads in or near the Township are prohibited. Roads that are extensions of existing roads shall be called the same name. All names shall be approved by the Township.
14. Land Use Permit: A land use permit shall not be issued for a structure with access from a private road until such private road is given final approval by the Board of Trustees. Street signs must be installed before construction of buildings can commence.
15. Regulatory Signs: Regulatory signs shall be positioned and installed in accordance with the Michigan Manual of Uniform Traffic Control Devices on all private roads where such private roads intersect public streets. All other signs with the private road shall be identified on the site plan and be in accordance with the Michigan Manual of Uniform Traffic Control Devices, unless the Planning Commission approves another type of design for consistency with the character of the development. Street name signs shall be provided at all intersections. Private road name signs shall contrast with public street name signs and shall clearly indicate the private road is private. The sign shall be paid for, posted, and thereafter maintained by the homeowners' association or developer.

STAFF COMMENT: Subitem "B.15 Regulatory Signs" complies with MUTCD requirements. MUTCD requirements match both Township and LCRC policy.

16. All purchasers of property where a private road provides access to the premises shall, prior to closing of the sale, receive from the seller a notice of easement, in recordable form, substantially conforming to the following:
 - a. "This parcel of land has private road access across a permanent sixty-six (66) foot easement which is a matter of record and a part of the deed. This notice is to make Purchaser aware that this parcel of land has egress and ingress over this easement only. Neither the County nor Township has any responsibility for maintenance or upkeep of any improvement across this easement. This is the responsibility of the owners of record. The United States mail service and the local school district are not required to traverse this private improvement and may provide service only to the closest public access. (Maintenance of Private Roads Act, PA 139 of 1972, as amended.)"
17. The Board of Trustees shall establish by resolution a fee schedule to defray costs, which may include but not be limited to inspection, plan review, administration, and enforcement of this section. Before final approval, any costs incurred by the Township shall be paid by the applicant.
18. Additional requirements for private roads are included in the Marion Township Development Standards, July 2020.



STAFF COMMENTS:

B. General Requirements (Applicable to All Private Roads)

Key provisions include:

- **Compliance with LCRC standards except where Township standards differ.**
- **Allowance for deviations on legally nonconforming roads subject to Township Engineer recommendation.**
- **Intersection design requirements (generally 80–100 degrees).**
- **Road surface and alignment standards.**
- **Limits on dwelling units served:**
 - **Up to 30 units for roads with a single access.**
 - **Up to 75 units for roads with multiple access points.**
- **Maximum length for dead-end roads: 2,000 feet.**
- **Cul-de-sac design standards and limitations on the number of lots fronting.**
- **Requirements for road names, signage, and land-use permit issuance.**
- **Mandatory disclosure notice to purchasers regarding private-road maintenance responsibilities.**
- **Fee schedule authority for inspection, plan review, and enforcement.**

C. New Minor Private Roads: New private roads serving between two (2) and five (5) dwelling units shall meet the additional specific standards below.

1. Easement Width: Right-of-way or easements shall have sufficient width to encompass the entire cross section of the road, including any ditches or drainage systems.
2. Roadway width should be at least sixteen (16) feet whether paved or gravel. A one (1) foot grass shoulder should be provided on both sides of the road.
3. Roadway Cross Section: Roadway cross sections shall conform to the standards below.
 - a. Gravel Roads: Gravel roads shall have six (6) inches of MDOT 22A limestone aggregate placed in two (2) courses.
 - b. Paved Roads: Paved roads shall have eight (8) inches of MDOT 21 AA limestone aggregate base and four (4) inches of bituminous surface placed in two (2) courses with a maximum course or lift of two (2) inches.
 - c. Crown: All roadways should be sufficiently crowned for drainage.
 - d. Vertical alignment should conform to the following guidelines:
 - i. Site distances at all intersections should be verified and shall meet the requirements of the Livingston County Road Commission's Procedures and Regulations for Developing Public Roads, effective July 1, 2024, Section 3.6 and the Livingston County Road Commission's Procedures and Regulations for Permitted Activities, Section 3.2.
 - ii. Roadway grades should be minimized and provide safe emergency vehicle access.
 - e. A system to adequately collect and discharge tributary roadway runoff is required. Either open ditch or enclosed storm sewer systems are acceptable and shall be sized reasonably for the anticipated run-off. Generally, a 10- year storm event shall be used to determine run-off.



STAFF COMMENTS:

C. New Minor Private Roads (2–5 dwelling units)

Key Provisions include:

- **Minimum roadway width: 16 feet plus 1-foot shoulders.**
- **Specific cross-section standards for gravel and paved roads.**
- **Sight-distance verification required.**
- **10-year design storm required for drainage sizing.**

D. New Major Private Roads: New private roads serving more than five (5) dwelling units shall meet the additional specific standards below.

1. Right-of-way or Easements: Rights-of-way or easements shall meet the standards below.
 - a. Stormwater Drainage: Rights-of-way or easements shall have sufficient width to encompass any ditches, swales, or drainage systems to convey stormwater from the road surface.
 - b. Width: The right-of-way or easement shall have a width of at least sixty (60) feet. A wider width may be required upon finding that it is necessary to accommodate drainage, utilities, topography, or other unique conditions.
2. Landscape Buffer: A landscape buffer may be required upon finding that a landscape buffer is necessary to reduce the impact of the private road upon existing abutting parcels.
3. Roadway width shall meet the following requirements:
 - a. Gravel road:
 - i. Gravel road: thirty (30) feet edge of gravel to edge of gravel.
 - b. Paved road:
 - i. Residential streets without curb shall be a minimum of twenty two (22) feet edge of pavement to edge of pavement, with a four (4) foot wide paved or gravel shoulder on both sides of roadway edge.
 - ii. Residential streets with curb and gutter: a minimum of twenty-seven (27) feet back of curb to back of curb, with a minimum lane width of twelve (12) feet. Either a 2-½ foot wide curb and gutter or a 1-½ foot wide curb and gutter are acceptable.
 - iii. In areas where on-street parking is allowed, the minimum width of the road shall be increased by eight (8) feet. Including the gutter pan in the width extension for parking is not permitted.
 - iv. Roadway recovery areas, (clear zones) shall be a minimum of seven (7) feet for straight- line sections and inside diameter curves. A minimum of fifteen (15) feet is required for outside diameter curves. Recovery areas shall be considered the distance between a permanent structure and edge of gravel shoulder or back of curb.
4. Roadway cross sections shall conform to the following criteria. Alternate cross sections may be considered if the alternate section has been demonstrated to have equivalency to the required section via the AASHTO (American Association of State Highway and Transportation Officials) Guide for the Design of Pavement Structures. Geotechnical analysis may be required by the Township Engineer:



5. Residential roads or streets shall have a minimum of four (4) inches bituminous surface placed in two (2) courses (no course or lift shall exceed 2" in depth), with eight (8) inches of aggregate base (MDOT 21AA limestone). Gravel roads, if permitted by the Township, shall consist of a minimum of eight (8) inches of aggregate base (MDOT 22A) and six (6) inches of sand sub- base meeting the requirements of MDOT Class II.
 - a. Shoulder pavement sections shall match the section of the road.
 - b. The pavement shall have transverse slope (crown) of 2% each way of the pavement centerline. Super elevated sections are prohibited in any development having a proposed operating speed of less than fifty-five (55) miles per hour. Where the design speed for a proposed street or road is less than fifty-five (55) mph and super elevation would otherwise be required as determined in the latest edition of the AASHTO Policy on Geometric Design for Streets and Highways, the horizontal curve shall be designed with a radius long enough to counter the need for super elevation.
 - c. Edge drain is required on all streets with curb and gutter. The trench must be filled with pea stone to the level of the base material, and the entire trench wrapped with geotextile fabric.
 - d. Proposed sections utilizing an open ditch section shall have a ditch depth of not less than two (2) feet relative to the shoulder hinge point and two (2) feet wide rounded at the bottom. The depth shall be increased if warranted by drainage discharge calculations.
 - e. The maximum slope within the proposed right-of-way shall be 1:4 (rise/distance). The use of slopes steeper than 1:4 outside of the proposed right-of-way draining toward the roadway should be avoided.
 - f. Curb Cuts and Driveways:
 - i. See Marion Township Ordinance Article VI, Section 6.19.
 - g. Pavement sections for residential driveways shall meet the following:
 - i. Gravel – six (6) inches of MDOT 21AA limestone or MDOT 22A.
 - ii. Asphalt – three (3) inches of bituminous surface over six (6) inches of MDOT 1AA limestone.
 - iii. Concrete – six (6) inches of concrete over four (4) inches of MDOT Class II.
6. Horizontal alignment shall conform to the following guidelines. All horizontal alignment and intersection design shall follow the latest edition of the AASHTO Policy on Geometric Design for Streets and Highways.
7. The design speed shall be twenty-five (25) mph for interior subdivision streets unless otherwise directed by the Township or Road Commission.
 - a. Minimum center-line radius for a horizontal curve shall be 230 feet.
 - b. Minimum cul-de-sac radius at the outside edge of the pavement shall be fifty (50) feet, not including any curb.



- c. The fillet radius from cul-de-sac to tangent sections shall be a minimum of fifty (50) feet.
 - d. Intersection shall be at right angles and shall be designed such that the first sixty-five (65) feet in any direction shall be straight line sections.
 - e. Boulevard intersections or entrances shall have concrete curb and gutter around the island.
 - f. MDOT Detail M openings shall be used for all commercial or industrial drives or approaches. All commercial or industrial approaches shall be curbed regardless of the road cross section.
 - g. Drive approaches shall be contained within the property lines, including radii and any acceleration/ deceleration tapers, if required.
 - h. Drive approaches shall be a minimum of one hundred and twenty-five (125) feet from any intersection, measured from the centerline of the drive approach to centerline of the road.
- 8. Vertical alignment shall conform to the following guidelines. All vertical alignment design shall follow the latest edition of the AASHTO Policy on Geometric Design for Streets and Highways. The design speed shall be twenty-five (25) mph for interior subdivision streets unless otherwise directed by the Township or Road Commission.
 - a. The percent of grade on a road with an open ditch cross section shall be no less than 1.0% or more than 5.0% where ditch grades are centerline dependent.
 - b. The percent of grade on a road with a curb and gutter cross section shall be no less than 0.50% or more than 6.0%.
 - c. A vertical curve shall be required where the algebraic difference in slopes of the tangent sections exceeds 1.0%. The minimum length of the vertical curve shall be one hundred (100) feet.
 - d. Road grades within one hundred (100) feet of an intersection shall not exceed a slope of three (3) percent regardless of the surface type.
- 9. A drainage system to adequately collect and discharge tributary roadway runoff is required. Either an open ditch or enclosed storm sewer system per the Township requirements is acceptable.
 - a. All paved roads with curb and gutter shall have an enclosed storm sewer system unless otherwise approved by the Township.
 - b. The maximum allowable storm water runoff tributary area conveyed overland in drainage ditches shall be no more than six (6) acres. When the tributary area is more than six (6) acres or the amount of flow in the ditch exceeds 8.0 cubic feet per second, an enclosed storm sewer system and curb and gutter will be required.
 - c. The percent of grade in an open ditch shall not be less than 1.0% or greater than 5.0%.
 - d. Any open ditch that exceeds 3.0% shall have a sodded ditch bottom. Sod in these areas shall extend from the ditch bottom up either side of the ditch to a point one foot above the flow line of the ditch.



10. Roadway signage shall meet the requirements of the Livingston County Road Commission and the Michigan Department of Transportation's Manual of Uniform Traffic Control Devices.

STAFF COMMENT: Subitem "D. Major Private Roads" is generally compatible with LCRC standards. The cross-sections (8" 21AA, 6" subbase), ditch requirements, and stormwater standards exceed or match LCRC standards for comparable rural local roads. There are a couple of potential areas of misalignment with LCRC:

- **Recovery areas (clear zones) of 7 ft / 15 ft are not present in LCRC rules. Not a compliance issue, but they exceed LCRC standards.**
- **Cul-de-sac radii (50 ft)**

LCRC cul-de-sac minimums vary by classification; 50 ft paved is consistent with many LCRC Engineering expectations.

Key provisions include:

- **Minimum right-of-way: 60 feet.**
- **Potential landscape buffer.**
- **Detailed geometric design requirements, including:**
 - **Paved road minimum widths.**
 - **Shoulder and clear-zone requirements.**
 - **Road base, pavement depth, and crown requirements.**
 - **Horizontal and vertical alignment consistent with AASHTO.**
 - **Cul-de-sac radii of 50 feet minimum.**
 - **Drainage design requirements and limits on ditch tributary areas.**

E. New Commercial and Industrial Private Roads

1. All commercial and industrial roadways that are to be private shall meet the requirements of the Livingston County Road Commission's Procedures and Regulations for Developing Public Roads, effective July 1, 2024, the Marion Township Zoning Ordinance and the standards outlined below. If a conflict exists between the Road Commission and Township standards, the stricter requirements shall govern.
2. All private commercial and industrial roads shall be paved.
3. Right-of-way or easements shall have sufficient width to encompass the entire cross section of the road, including any ditches or drainage systems.
 - a. Depending on the location of the private road easement in relation to adjacent parcels, a landscape buffer as provided in the Township Zoning Ordinance may be required by the Township to reduce the impact of the private road upon existing abutting parcels.
 - b. Width: The right-of-way or easement shall have a width of at least sixty (60) feet. A wider width may be required upon finding that it is necessary to accommodate drainage, utilities, topography, or other unique conditions.
4. Commercial and industrial private road width shall meet the following requirements:
 - a. A minimum of twenty-seven (27) feet back of curb to back of curb, with a minimum lane width of twelve (12) feet. Either a 2-½ foot wide curb and gutter or a 1-½ foot wide curb and gutter are acceptable.



- b. In areas where on-street parking is allowed, the minimum width of the road shall be increased by eight (8) feet. Including the gutter pan in the width extension for parking is not permitted.
 - c. Roadway recovery areas, (clear zones) shall be a minimum of seven (7) feet for straight- line sections and inside diameter curves. A minimum of fifteen (15) feet is required for outside diameter curves. Recovery areas shall be considered the distance between a permanent structure and edge of gravel shoulder or back of curb.
- 5. Roadway cross sections shall conform to the following criteria. Alternate cross sections may be considered if the alternate section has been demonstrated to have equivalency to the required section via the AASHTO Guide for the Design of Pavement Structures. Geotechnical analysis may be required by the Township Engineer:
 - a. Commercial private roads shall have a minimum four (4) inches of bituminous surface placed in two (2) courses (no course or lift shall exceed 2” in depth), with eight (8) inches of aggregate base (MDOT 21AA limestone), and six (6) inches of sand sub-base meeting the requirements of MDOT Class II. An open graded drainage course may be substituted for sand sub-base.
 - b. Industrial roads shall have a minimum of nine (9) inches of nonreinforced concrete pavement, four (4) inches of aggregate base (MDOT 21AA limestone), and four (4) inches of sand sub-base meeting the requirements of MDOT Class II.
 - c. Shoulder pavement sections shall match the section of the road.
 - d. The pavement shall have transverse slope (crown) of 2% each way of the pavement centerline. Super elevated sections are prohibited in any development having a proposed operating speed of less than fifty-five (55) miles per hour. Where the design speed for a proposed street or road is less than fifty-five (55) mph and super elevation would otherwise be required as determined in the latest edition of the AASHTO Policy on Geometric Design for Streets and Highways, the horizontal curve shall be designed with a radius long enough to counter the need for super elevation.
 - e. Edge drain is required on all streets with curb and gutter.
 - f. Proposed sections utilizing an open ditch section shall have a ditch depth of not less than two (2) feet relative to the shoulder hinge point and two (2) feet wide rounded at the bottom. The depth shall be increased if warranted by drainage discharge calculations.
 - g. The maximum slope within the proposed right-of-way shall be 1:4 (rise/distance). The use of slopes steeper than 1:4 outside of the proposed right-of-way draining toward the roadway should be avoided.
 - h. Driveway slopes or lot access areas shall have a slope not greater than 1:10 within the right-of-way. Driveways beyond the right-of-way shall generally not exceed 12% slope without significant topographical limitations. Additional information about driveways may be found in Article XI section 6.19 Access Controls



- i. Pavement sections for commercial and industrial driveways shall meet the following:
 - i. Asphalt – three (3) inches of bituminous surface over six (6) inches of MDOT 1AA limestone.
 - ii. Concrete – six (6) inches of concrete over four (4) inches of MDOT Class II
- 6. Horizontal alignment shall conform to the following guidelines. All horizontal alignment and intersection design shall follow the latest edition of the AASHTO Policy on Geometric Design for Streets and Highways.
- 7. The design speed for commercial and industrial private roads shall be twenty-five (25) mph for interior roads unless otherwise directed by the Township or Road Commission.
 - a. Minimum center-line radius for a horizontal curve shall be 230 feet.
 - b. Minimum cul-de-sac radius at the outside edge of the pavement shall be fifty (50) feet, not including any curb.
 - c. The fillet radius from cul-de-sac to tangent sections shall be a minimum of fifty (50) feet.
 - d. Intersection shall be at right angles and shall be designed such that the first sixty-five (65) feet in any direction shall be straight line sections.
 - e. Boulevard intersections or entrances shall have concrete curb and gutter around the island.
 - f. MDOT Detail M openings shall be used for all commercial and industrial drives or approaches. All commercial or industrial approaches shall be curbed regardless of the road cross section.
 - g. Commercial and industrial drive approaches shall have a minimum forty-five (45) foot radius.
 - h. Drive approaches shall be contained within the property lines, including radii and any acceleration/deceleration tapers, if required.
 - i. Drive approaches shall be a minimum of one hundred and twenty-five (125) feet from any intersection, measured from the centerline of the drive approach to centerline of the road.
- 8. Vertical alignment shall conform to the following guidelines. All vertical alignment design shall follow the latest edition of the AASHTO Policy on Geometric Design for Streets and Highways. The design speed shall be twenty-five (25) mph for interior subdivision streets unless otherwise directed by the Township or Road Commission.
 - a. The percent of grade on a road with an open ditch cross section shall be no less than 1.0% or more than 5.0% where ditch grades are centerline dependent.
 - b. The percent of grade on a road with a curb and gutter cross section shall be no less than 0.50% or more than 6.0%.
 - c. A vertical curve shall be required where the algebraic difference in slopes of the tangent sections exceeds 1.0%. The minimum length of the vertical curve shall be one hundred (100) feet.



- d. Road grades within one hundred (100) feet of an intersection shall not exceed a slope of three (3) percent regardless of the surface type.
9. A drainage system to adequately collect and discharge tributary roadway runoff is required. Either an open ditch or enclosed storm sewer system per the Township requirements is acceptable.
 - a. All commercial and industrial private roads with curb and gutter shall have an enclosed storm sewer system unless otherwise approved by the Township.
 - b. The maximum allowable storm water runoff tributary area conveyed overland in drainage ditches shall be no more than six (6) acres. When the tributary area is more than six (6) acres or the amount of flow in the ditch exceeds 8.0 cfs, an enclosed storm sewer system and curb and gutter will be required.
 - c. The percent of grade in an open ditch shall not be less than 1.0% or greater than 5.0%.
 - d. There shall be no open ditches along commercial private

STAFF COMMENT: Subitem "E. Commercial & Industrial Private Roads" is highly consistent with LCRC standards. The pavement sections match or exceed LCRC commercial approach standards.

There may be- one area of conflict. Where the proposed text reads:

"There shall be no open ditches along commercial private roads."

LCRC does allow ditch cross-sections for commercial private roads where drainage patterns require it, though curb-and-gutter is preferred. Not a "conflict" but it is stricter than LCRC—allowed unless it prevents necessary drainage at a public-road intersection.

Key provisions of Subitem "E" include:

- **All such roads must be paved.**
- **Right-of-way minimum: 60 feet.**
- **Heavier structural pavement sections required (e.g., 9" concrete for industrial).**
- **Horizontal/vertical geometry per AASHTO.**
- **Larger driveway radii and spacing standards.**
- **Enclosed storm sewer systems required with limited exceptions.**

F. Pre-existing, Legally Nonconforming Private Roads

1. Existing: Private roads in existence prior to the adoption of this ordinance will not be subject to the requirements listed in 6.20 provided there is no change in the number of dwellings or commercial/industrial facilities utilizing the private road.
2. If the number of dwellings or commercial/industrial facilities using the private road increases and causes the private road to change classification, the private road must be brought up to the current private road standards outlined in 6.20.
3. If a private road is classified as a non-conforming private road, no land use permits will be granted new construction unless the parcel in question was in existence prior to the adoption date of this ordinance.



- a. A parcel that is created because of a split from a parcel that was a lot of record at the time of the adoption of this ordinance shall be classified as a new parcel for the purposes of this section.
 - b. An additional new dwelling unit or parcel where the number of dwelling units or parcels is greater than 5 will require the private road to be brought up to the current private road standards outlined in 6.20.E, New, Conforming Private Roads serving more than 5 dwelling units.
4. Non-Conforming roads can be brought into compliance to allow the issuance of land-use permits in the future. A permit will be required as described in Section 6.20 A (9).

STAFF COMMENT: Subitem "F. Legally Nonconforming Roads" employs an acceptable approach. The triggers for upgrading (increase in dwelling units causing classification change) are consistent with LCRC expectations.

Key provisions of Subitem "F" include:

- Existing private roads may remain as-is unless dwelling or facility counts increase.
- Increases that change the classification trigger full compliance with current standards.
- Parcels created after ordinance adoption must comply.
- Nonconforming roads may be improved voluntarily to allow future land-use permits.

G. Improvements or Changes of a Conforming Pre-Existing Private Road Serving More than 1 Dwelling Unit

1. Submission requirements shall be sufficient to determine the nature and extent of the existing conditions and any proposed improvements. The extent of the information provided shall be at the discretion of the Township, township Engineer and Township Planner. In general:
 - a. Minor changes in the physical characteristics of the road will require a sketch of the proposed improvements. The sketch shall be legible and clearly identify all improvements. The sketch should utilize current aerial information but does not need to be drawn to scale. Aerial information is available at the Livingston County GIS Management Department, 304 E. Grand River Ave., Suite 101, Howell, MI 48843.
 - i. Minor changes shall include:
 - a. Installation or changes of signage
 - b. Adding reflectors or rumble strips
 - c. Installation of speed bumps
 - b. Major changes in the physical characteristics of the road will require detailed plans. The level of detail shall meet the requirements of a full, complete construction plan submittal.
 - i. Major changes shall include:
 - a. Widening the road
 - b. Changing the alignment of the road



2. Curb Cuts and Driveways:

- i. See Marion Township Ordinance Article VI, Section 6.19

H. Improvements or Changes of a Conforming Pre-Existing Commercial or Industrial Private Road

1. Submission requirements shall be sufficient to determine the nature and extent of the existing conditions and any proposed improvements. The extent of the information provided shall be at the discretion of the Township, Township Engineer and Township Planner.
2. In general:
 - a. Minor changes in the physical characteristics of the road will require a sketch of the proposed improvements. The sketch shall be legible and clearly identify all improvements. The sketch should utilize current aerial information but does not need to be drawn to scale. Aerial information is available at the Livingston County GIS Management Department, 304 E. Grand River Ave., Suite 101, Howell, MI 48843.
 - i. Minor changes shall include:
 1. Installation or changes of signage
 2. Adding reflectors or rumble strips
 3. Installation of speed bumps
 - b. Major changes in the physical characteristics of the road will require detailed plans. The level of detail shall meet the requirements of a full, complete construction plan submittal.
 - ii. Major changes shall include:
 1. Widening the road
 2. Changing the alignment of the road
 3. Addition of a new commercial or industrial facility
 4. Addition of a new driveway for an existing commercial or industrial facility
 5. Increasing the length of the private road

STAFF COMMENT: Subitems "G.–H. Improvements or Changes" are fully compliant with LCRC standards. LCRC does not regulate private-road improvements except at intersections.

Key provisions of Subitems G. and H. include:

- Minor changes require only a sketch (e.g., signage, rumble strips, speed bumps).**
- Major changes require full construction plans (e.g., widening, realignment, new facility access).**
- Driveways and curb cuts must comply with Section 6.19.**

I. Soil Erosion and Sediment Control

1. A soil erosion and sediment control plan are required for all sites that require a permit. This can be made a part of the plan documents. Itemized on this plan shall be step-by-step requirements for controlling erosion (sequence of construction). No work, including site clearing, will be allowed until approved soil erosion and sediment control measures are in place.



2. Accelerated erosion and sedimentation must be prevented during all phases of construction including:
 - a. Initial site clearing.
 - b. Utility construction.
 - c. Building construction.
 - d. Site paving.
 - e. Final site approval.
3. When land is exposed during development, the exposure should be kept to the shortest possible period of time, as deemed by the Township.
4. Temporary vegetation or mulching may be required to protect areas exposed during development, particularly if an unexpected erosion problem becomes evident. The developer will be required to assign this activity top priority upon notification by the Township. Failure to act after a second notification will be grounds for the Township to take necessary action to address the problem and charge the owner/developer accordingly.
5. Sediment basins or temporary basin outlet standpipe filters shall be maintained during construction to ensure that sediment within runoff is not being discharged onto neighboring properties.
6. Erosion protection shall be provided in the public roadway for all drainage structures receiving road runoff to the low point.
7. The developer shall clean all structures impacted during construction along with any other erosion control items prior to occupancy.

STAFF COMMENT: Subitem "I. Soil Erosion & Sediment Control" complies with Part 91 requirements. This is independent of LCRC requirements and is lawful.

Key provisions of Subitem "I" include:

- **A soil erosion plan is required for all permitted projects.**
- **Erosion must be controlled throughout all phases of construction.**
- **Land exposure must be minimized.**
- **Temporary vegetation or equivalent measures must be provided.**

J. Review and Approval Process: Private roads shall be reviewed as outlined below.

1. Submittal Requirements: Private road applications shall include all of the information outlined below.
 - a. Survey and Legal Description of Parcel: Survey that provides the legal description(s) of all the parcel(s) and any and all easements that exist on the subject property, and the names and addresses of all the lot or parcel owners of the property the private road will be built on.
 - b. Legal Description of Area Served: A legal description of all lots or parcels to be served by the private road and the names and addresses of all persons owning an interest in title to the property.
 - c. Vicinity Map: A vicinity map of a minimum scale of one-inch equals two thousand feet (1" = 2,000'), showing the location of the private road in the Township, any access roads and cross streets, road names, a scale, and a north arrow.



- d. Topography: Existing topography at two (2) foot contour intervals for the portions of the site sufficient to determine drainage from the private road easement to a suitable stormwater outlet.
- e. Proposed improvements (including but not limited to, roads, sewers, and ditches) shown in plan and profile indicating all materials, grades, dimensions, and bearings. The plans shall also show all existing and proposed grades, the location of all existing and proposed drainage facilities, the location of existing and/or proposed utilities and structures, other structures, physical or natural conditions existing adjacent to such improvements, and any connections to existing public and private roads.
- f. Soil Borings: Soil borings within the proposed route of the private road.
- g. Trees and Wetlands: Tree coverage and wetland areas within one hundred (100) feet of either side of the proposed route.
- h. Existing Buildings: Location of existing buildings on the lots or parcels being served or intended to be served by the private road, as well as any existing buildings or structures in or adjacent to any proposed road easement.
- i. Utilities: Plans shall show the existing or proposed location of private utilities and easements, such as gas, telephone, and electric.
- j. Division Confirmation: Document from Township Assessor verifying two or more land divisions are available.
- k. Maintenance and Easement Agreement: A complete copy of the road maintenance agreement(s) and road easement agreement(s) regarding the maintenance and improvements of the right-of-way and roadway. The road maintenance agreement shall, at a minimum, provide for:
 - i. A method of initiating and financing of such road in order to keep the road up to Township specifications as set forth in this ordinance.
 - ii. A workable method of apportioning the costs of maintenance and improvements to current and future users.
 - iii. A notice that if repairs and maintenance are not made, the Marion Board of Trustees may bring the road up to established Township standards as set forth in this amendment and assess owners of parcels on the private road for the improvements, plus an administrative fee.
 - iv. A notice that no public funds of the Township of Marion are to be used to build, repair, or maintain the private road.
 - v. Furthermore, said road maintenance agreements shall be in such form as to be recordable with the County Register of Deeds and shall specifically address the liability and responsibility of the parties to said agreement to maintain the private road pursuant to the specifications of this section, including, but not limited to, the responsibility of removing snow from said private roads. The recorded road easement and maintenance agreement, which shall run with the land, shall also inform subsequent purchasers that the road is private and may never be maintained or accepted by the Livingston County Road Commission.



2. A complete statement of all the terms and conditions of the proposed road easement and road maintenance agreement, which shall also provide for:
 - a. Easements to the public for purposes of emergency and other public vehicles and for whatever public utility services are necessary.
 - b. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, vendors, tradesman, delivery persons, and others bound to or returning from any of the properties and having a need to use the road.
3. Appropriate deed restrictions and/or master deed provisions shall provide for free and clear vehicular access for emergency service vehicles on all private roads.
4. Upon approval of the road easement and road maintenance agreement, it shall be recorded at the Livingston County Register of Deeds and a copy of the recorded agreement shall be filed with the Township Clerk. The Township shall not issue a land use permit for any dwelling unit until it has received a copy of the recorded, approved agreement.
 - a. While not required to be dedicated to the public, no structure or land use activity shall be established within approved rights-of- way or easements. All plans, as submitted for approval, must show the private road easement including a legal description.
 - b. Construction authorization from the Livingston County Road Commission is required for connection to County roads. When applicable, a permit is also required from the County under the Soil Erosion and Sedimentation Control Act, PA 347 of 1972. At the discretion of the Board of Trustees, a proposed private road that otherwise meets the requirements of this Ordinance may be disapproved unless it connects to another private road or a county road when necessary to provide safe traffic flow and emergency vehicle access. No lots or units shall be permitted driveway access from a road that is not an interior road of the plat, condominium, or development.
 - c. Application for road construction shall not be made without evidence of an approved land division. The applicant shall prepare and provide twelve (12) sets of a plot plan, site plan, or construction plan, pursuant to the application and design requirements of this Ordinance. All of the required information shall also be submitted twenty-one (21) days prior to the meeting date to which the applicant requests consideration by the Marion Township Zoning Administrator. The Zoning Administrator shall submit the private road site plan to the Livingston County Road Commission and Township Engineer for review and comment as necessary. The proposed road maintenance agreement and road easement agreement shall be sent to the Zoning Administrator who shall then forward to the Township Attorney for review and comment.
5. Application Review and Approval or Rejection
 - a. The reports of the Livingston County Road Commission, Township Attorney, Township Engineer, the application, and all supporting data shall be forwarded to and reviewed by the Planning Commission which shall make a recommendation to the Board of Trustees who shall be responsible for granting final approval for the private road.



- b. If the private road application is approved, construction authorization will be issued by the Zoning Administrator. Following approval of a private road application no new private road construction permit(s) will be issued without an approved amendment to the site plan or the private road application, as the case may be, in compliance with the zoning ordinance in effect at the time the land use permit is requested. If the private road application is rejected, the reasons for the rejection as well as any requirements that must be met in order to obtain approval shall be given in writing to the applicant.
- c. The Zoning Administrator will arrange for inspections by the Township Engineer during construction of, and upon completion of the private road. The costs of inspection, including the compensation of the Marion Township Engineer or designated official shall be paid by the applicant prior to the issuance of the certificate of completion.
- d. Private Road Certification. The Board of Trustees, by resolution, upon receipt of the Township Engineer's final inspection report, will certify the private road in question as conforming to the standards of Marion Township, and accepted as an approved private road.
- 6. Variances to private road requirements will be handled by the Zoning Board of Appeals as outlined in Article V of this ordinance.
- 7. Failure by the applicant to begin construction of the private road according to approved plans on file with the Township within one (1) year from the date of approval shall void the approval and a new plan shall be required by the Township subject to any changes made herein or subject to any changes made by the Livingston County Road Commission or the design requirements set forth in the current Livingston County Road Commission Plat & Street Development Specifications

K. Inspection

- 1. Inspection will be made periodically throughout construction on the maintenance and effectiveness of soil erosion control methods by designated consultants or personnel from Marion Township and Livingston County.
- 2. If inspection reveals that the controls are not being implemented, a cease and desist order on all site construction may be issued.

STAFF COMMENTS: The proposed Section 6.20 is largely compliant and in many places stricter than the current LCRC standards. In general:

- **Areas that are clearly compliant:**
 - **Intersections with public roads require LCRC compliance.**
 - **Sight distance references to LCRC Sec. 3.6 & 3.2.**
 - **Required conformance with AASHTO - matches LCRC.**
 - **Stormwater requirements - generally consistent with LCRC.**
 - **Driveway spacing, approach design, MDOT Detail M references.**
 - **Nonconforming private-road upgrading triggered by increases in dwellings - LCRC practice.**
 - **Design speed: 25 mph interior roads—acceptable to LCRC.**
 - **General cross-section components (aggregate bases, ditch depth, crown) consistent with LCRC.**



**Areas where the Township may enforce stricter standards than LCRC -
(and this is allowed because private roads are not under LCRC jurisdiction except at intersections):**

- **DWELLING UNIT limits per access point.**
- **Maximum length of dead-end private roads (2,000 ft).**
- **Cul-de-sac geometry differences (Township uses 50 ft radii, which exceeds many LCRC minimums).**
- **Shoulder widths on major and minor private roads.**
- **Required roadway recovery areas (not an LCRC requirement for private roads).**

These are legally permissible because townships may adopt standards beyond LCRC minimums as long as intersections and public-road impacts still meet LCRC regulations.

Key Findings/Recommendations:

Section B.1 should clarify where LCRC rules apply, so no one misinterprets the Ordinance to mean LCRC governs internal private roads.

Suggested language:

"Private roads shall comply with all applicable LCRC regulations for intersections, driveway permits, drainage entering public rights-of-way, and any activity within county right-of-way."

Ensure no internal conflicts with LCRC intersection rules, i.e., anything mentioning:

- **sight distance**
- **driveway spacing**
- **cul-de-sac placed near public roads**
must defer to LCRC at the public-road connection. Your draft already does this in most places.

Additionally, Commercial ditch prohibition. This is stricter than LCRC practice. It is legally fine, but the township should be aware that it may limit engineering flexibility

Other Key Observances:

With regard to the proposed amendment consistency with the provisions of the current Township Zoning Ordinance, Staff identified a few areas that warrant further consideration:

Issues:

1. **"Private Road" definition is not repeated in Section 6.20, and the ordinance relies heavily on it.**
2. **"Minor road", "major road", "commercial private road," and "industrial private road" are not defined in Article II.**

Section 6.20 uses these terms extensively.

Result: Internal inconsistency due to undefined terminology.

Recommendation:

Add definitions:

- **Minor Private Road (2–5 dwellings)**
- **Major Private Road (>5 dwellings)**
- **Commercial Private Road**
- **Industrial Private Road**
- **Private Road Easement**
- **Legal Nonconforming Private Road**



ITEM 2 – Article XIII: Planned Unit Development Overlay District Revised and New Section 13.03, Subitem “L” Private Roads in Planned Unit Developments

Article XIII PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT Section 13.03 Planned Unit Developments

L. Private Roads in a Planned Unit Development:

1. Multiple-family Site Condominiums shall have direct access to the following Livingston County public paved roads or paved portions in the Urban Residential and Suburban Residential zoning districts:
 - a. Howell Pinckney Road, D19
 - b. Howell Mason Road
 - c. State Road M-155

Provisions shall be made for safe and efficient egress and ingress to public streets and highways serving any development, which shall be designed to minimize congestion and interference with normal traffic flow.
2. All developments for multiple-family PUDs shall have a secondary entrance for emergency vehicle access to the development if the primary entrance to the development is blocked. The secondary entrance shall be either a private road to a Livingston County public road or a gated emergency access private road constructed to Marion Township construction specifications and approved by the Howell Area Fire Marshall. This gated emergency access private road may access either a private road of another development or a Livingston County public road.
3. The Planning Commission may recommend modification of the requirements found in Section 6.20, provided the applicant can demonstrate that the project’s proposed internal road system provides adequate public safety measures for the residents. For PUDs with only one (1) means of ingress, such private road ingress and egress shall be developed as a boulevard from the public road to the first internal private road intersection within the development. Said boulevard entrance shall contain one (1) ingress drive and one (1) egress drive, each containing a minimum twenty-four (24) feet wide pavement area measured from the front of the curb to front of curb with a landscaped island between said ingress and egress drives measuring not less than thirty (30) feet in width. Also, a private road shall meet the paved road construction specifications of the Livingston County Road Commission for the actual roadway, including curb and gutter. The Planning Commission may modify the width of a private road easement to a minimum of sixty (60) feet providing the project met the application qualifying criteria found under Section 13.02 C 8 of the Ordinance.

ITEM 3 –Article XVI Special Use Permits, Revised Section 16.04 Planning Commission Action

Article XVI SPECIAL USE PERMITS Section 16.04 Planning Commission Action

After review of the application for the special land use, required county, state, or federal permits pursuant to the requirements of Section 6.16.B.2, and the public hearing, the Planning Commission shall recommend approval, denial, or approval with conditions to the Board of Trustees. The Planning Commission recommendation shall be incorporated in a statement of conclusions relative to the special land use under consideration, and shall specify the basis for the recommendation and any conditions. The Board of Trustees shall consider the application at their next regular meeting or if requested by the applicant, the Board of Trustees may schedule a special meeting.



STAFF COMMENT: This revision essentially amounts to minor a housekeeping revision, adding a needed connection between special use application processes at this location of the township ordinance and the current provisions of Section 6.16.B.2., which has similar language regarding county, state or federal permits.

Section 6.16.B.2 is the Environmental Performance Standards section from Article VI: General Provisions. Specifically, Subitem B.2. states the following:

B. Sensitive Lands:

3. *The Township shall not approve any land use that requires a county, state, or federal permit, until such permit has been obtained and satisfactory evidence has been submitted verifying the acquisition of the necessary permits.*

The proposed change clears up the present omission between the two section of the zoning ordinance.

ITEM 4 – Article XVII Standards for Special Uses, Revised Subitems (A), (B) and (D)

**Article XVII STANDARDS FOR SPECIAL LAND USES
Section 17.21 Multi-Family Site Condominiums**

A. Locational Requirements: Multiple-family Site Condominium dwellings are permitted by special use permit in the Urban Residential and Suburban Residential. ~~A. Locational Requirements: Multiple-family dwellings are permitted by special use permit in the Urban Residential District.~~

B. Site Area Requirements: All Multiple-family dwelling units shall be permitted at a density no greater than ten (10) units per acre. ~~B. Site Requirements: Multiple-family dwelling units shall be permitted at a density no greater than ten (10) units per acre.~~

C. Buffering Requirements: Any multiple-family development adjoining any single-family residential district or any developed non-residential district shall be provided with a buffer zone planted pursuant to the requirements of Section 6.13.C.

D. Performance Standards:

1. All developments for multiple-family Site Condominium dwellings shall have direct access to the following Livingston County public paved roads in the Urban Residential, Suburban Residential, and Highway Service Districts: ~~1. All developments for multiple-family dwellings shall have direct access to major thoroughfare.~~

- a. Howell Pinckney Road, D19
- b. Howell Mason Road
- c. State Road M-155

Provisions shall be made for safe and efficient egress and ingress to public streets and highways serving any development, which shall be designed to minimize congestion and interference with normal traffic flow.



2. All streets in the development shall be constructed in accordance with Private Roads, Article VI, Section 6.20. ~~2. Provisions shall be made for safe and efficient egress and ingress to public streets and highways serving any development, which shall be designed to minimize congestion and interference with normal traffic flow.~~
3. All driveways and parking areas in the development shall be constructed and maintained with an all-weather road surface consisting of either asphalt or concrete. Driveways shall have a minimum paved width of ten (10) feet. ~~3. All streets and driveways in the development shall be constructed and maintained with an all-weather road surface~~
4. All dwelling units shall have its principal access no more than one hundred fifty (150) feet from either an access drive or a public street and the required off-street parking area. ~~4. No dwelling unit shall have its principal access more than one hundred fifty (150) feet from either an access drive or a public street and the required off-street parking area.~~
5. The distance between any two (2) residential structures that occupy the same lot shall not be less than thirty (30) feet, if both of the walls facing each other contain windows or other openings, and not less than twenty (20) feet for all other situations; provided, however, a greater separation may be required where any structure exceeds thirty (30) feet in height and the location of such structure will tend to obstruct light to adjacent residential structures. ~~5. The distance between any two (2) residential structures that occupy the same lot shall not be less than thirty (30) feet, if both of the walls facing each other contain windows or other openings, and not less than twenty (20) feet for all other situations; provided, however, a greater separation may be required where any structure exceeds thirty (30) feet in height and the location of such structure will tend to obstruct light to adjacent residential structures.~~
6. Maximum lot coverage is thirty (30) percent. For purposes of this section, lot area shall include the property boundaries of the development site excluding rights-of-way or dedicated access easements. ~~6. Maximum lot coverage for a multiple-family development shall cover no more than thirty (30) percent of the parcel~~
7. All developments shall be served with public sewer and water facilities. ~~7. All developments shall be served with public sewer facilities~~
8. The site shall be developed and facilities shall be provided in such a manner so as to insure adequate drainage. ~~8. The site shall be developed and facilities shall be provided in such a manner so as to insure adequate drainage.~~
9. There shall be provided easily accessible and useable open space in the development in an amount of ten (10) percent of the site area or two thousand (2,000) square feet per four (4) dwelling units, whichever is greater. ~~9. There shall be provided easily accessible and useable open space in the development in an amount of ten (10) percent of the site area or two thousand (2,000) square feet per four (4) dwelling units, whichever is greater.~~
10. All off-street, community parking areas shall be adequately lit during hours of darkness. ~~10. All off-street parking areas shall be adequately lighted during hours of darkness.~~
11. All developments shall provide for underground installation of all utilities including electrical, natural gas, communication, and cable. ~~11. All streets and roadways shall have a minimum pavement width of thirteen (13) feet for one-way streets, and twenty-four (24) feet for two-way streets. Driveways shall have a minimum paved width of ten (10) feet.~~



12. Only non-residential land and/or building uses shall be permitted: ~~12. All developments shall provide for underground installation of all utilities.~~
- a. One (1) office space for conducting the business of the development.
 - b. Utility areas for laundry facilities and auxiliary storage for tenants.
 - c. Recreation area such as community buildings, playgrounds, swimming pools, and open space for tenants.
13. Where firefighting capability is documented and confirmed to be adequate to permit a structure taller than thirty-five (35) feet, the Planning Commission may so permit the greater height, provided the setback of the structure from any lot line is not less than the height of the structure and no other nuisance would befall abutting properties because of the greater height. ~~13. Only the following land and/or building uses shall be permitted:~~
- ~~a. One (1) office space for conducting the business of the development.~~
 - ~~b. Utility areas for laundry facilities and auxiliary storage for tenants.~~
 - ~~c. Recreation area such as community buildings, playgrounds, and open space for tenants.~~
14. All developments for multiple-family Site Condominium shall have a secondary entrance for emergency vehicle access to the development if the primary entrance to the development is blocked. The secondary entrance shall be either a private road to a Livingston County public road or a gated emergency access private road constructed to Marion Township construction specifications and approved by the Howell Area Fire Marshall. The emergency secondary entrance location and construction shall meet the requirements of the current International Fire Code adopted by the Board of Trustees. This gated emergency access private road may access either a private road of another development or a Livingston County public road. ~~14. Where firefighting capability is documented and confirmed to be adequate to permit a structure taller than thirty-five (35) feet, the Planning Commission may so permit the greater height, provided the setback of the structure from any lot line is not less than the height of the structure and no other nuisance would befall abutting properties because of the greater height.~~

STAFF COMMENT: the language in 17.21 is more restrictive than the general single-family housing; it's limiting these types of developments to only certain areas because of infrastructure and proximity to the City of Howell.

Township Recommendation: Approval. The Marion Township Planning Commission heard public comment and recommended Approval of these zoning amendments at its November 25, 2025, Planning Commission Public Hearing.

Staff Recommendation: Approval with Conditions

County Planning Staff would recommend Approval with Conditions. There are a number of key elements highlighted in the review that need to be fully addressed before the township Board considers final approval. In general, the proposed amendments appear to be reasonable and appropriate. Staff has reviewed the draft standards and confirms the following:

- Requirements align with LCRC and AASHTO best practices.
- The section provides clear applicability rules, reducing interpretation disputes.
- Emergency access requirements are strengthened.
- Drainage, slope, and structural requirements reflect current engineering practice.



In particular, it appears that the newly proposed Section 6.20 Private Roads amendments are consistent with the Livingston County Road Commission (LCRC) private road standards, where applicable. Livingston County Road Commission (LCRC) private road standards focus on safety, emergency access, and proper identification, requiring specific sign posts at intersections with public roads, reflective lettering, and adherence to county-wide address/naming policies. While LCRC sets rules for signs and intersections, local townships (are permitted to develop their own individual specific construction standards (width, drainage, etc.) and maintenance agreements, as private roads usually aren't accepted into public maintenance. Staff would encourage the township to consider implementing all suggested recommendations prior to final approval by the Township Board.

Additionally, if this hasn't occurred already, Staff would encourage and recommend that the township provide these amendments to the Township Engineer for their review and recommendation prior to final approval by the Township Board.