



# CASS COUNTY PLANNING COMMISSION

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*Dan Stutsman • David Kring • Jayne Bailey • Richard Palmisano • Annie File  
Roseann Marchetti • Samuel Barrera • Char Hiemstra • Dianna McGrew • Tyler Augst*

**Wednesday, January 24 at 4:00 PM**

**Cass County Building  
120 N. Broadway  
2<sup>nd</sup> Floor Conference Room  
Cassopolis, MI 49031**

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes — November 29, 2023
4. Public Comment
5. New Business
  - a) Marcellus Updated Zoning Ordinance review
  - b) Eddies Market Park
6. Other Business
7. Adjournment

# CASS COUNTY PLANNING COMMISSION

## *November 29, 2023 Meeting Minutes*

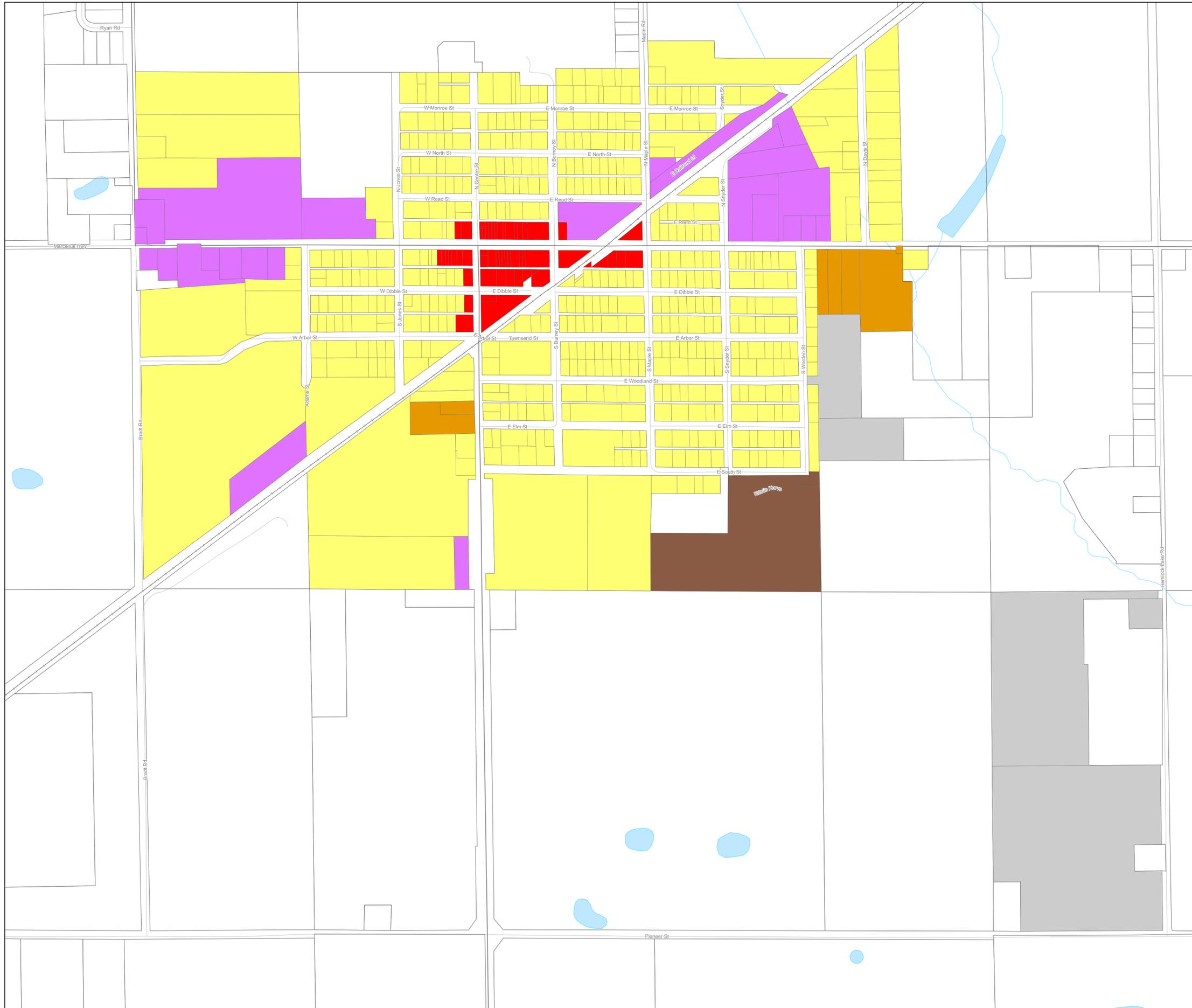
1. Present: Dan Stutsman, David Kring, Jayne Bailey, Richard Palmisano, Annie File, Samuel Barrera, Char Hiemstra, and Tyler Augst. Absent: Dianna McGrew
2. Meeting was called to order at 4 p.m. by Stutsman.
3. Jayne Bailey moved, R Palmisano seconded, to approve the agenda as presented. Motion carried.
4. Annie File moved, R Palmisano seconded, to approve minutes as presented. Motion carried.
5. No public comment was given.
6. Penn Twp ordinance change: Sara Senica presented the amendment to the ordinance and answered questions. Motion to approve R Palmisano 2nd by Annie File all were in favor.
7. Sara was thanked and appreciated.
8. Master Plan Consultant — McKenna: Rebecca Harvey from McKenna presented what had been shared with CC Administrator Matt Newton. Price would be same basically. We decided on Option 2 would be our preference but realize CC Board of Commissioners make the final decision. We would like to see Recycling, Fame Work, GIS, 2 forums. i.e.: Open house.
  - a. Roll Call: Stutsman yes, Kring yes, Bailey yes, Palmisano yes, File yes, Barrera yes, Hiemstra yes, Augst yes. All in favor. None opposed.
9. Rebecca was thanked and appreciated.
10. Meeting was adjourned at 4:43 p.m. by Stutsman.

Respectfully Submitted,  
Char Hiemstra

# Zoning Map

Village of Marcellus, Cass County, Michigan

November 28, 2023



## LEGEND

- I-1 Industrial
- E-1 Enterprise
- C-1 Commercial Corridor
- MHC Manufactured Housing
- RM-1 Multi-Family Residential
- R-1 Single & Two Family Residential
- Railroads
- Streams and Drains (1:150,000)
- Lakes and Rivers (1:750,000)

The lot lines of this map are representative of the actual lot lines and are not intended to be substituted for an official survey or used to resolve boundary or area issues. Secure a survey, consult County records or Village Hall for additional information pertaining to parcel boundaries.



Basemap Source: Michigan Center for Geographic Information, Version 17a.  
Data Source: Cass County 2023, Village of Marcellus 2023, McKenna 2023.





# Zoning Ordinance

Village of Marcellus, Michigan

ADOPTED · NOVEMBER 28, 2023

*Prepared with Assistance by:*



**MCKENNA**

151 South Rose Street, Suite 920  
Kalamazoo, MI 49007  
[mcka.com](http://mcka.com)



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# Article 1

# Title, Interpretation, and Enactment

## Section 1.01 Title

This Ordinance shall be known and may be cited as the Zoning Ordinance of Marcellus, Michigan.

## Section 1.02 Interpretation

The provisions of this Ordinance shall be in their interpretation and application, the minimum requirements for the promotion of public health, safety, comfort, convenience, and general welfare. Wherever other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants apply, the most restrictive or that imposing the higher standard shall govern.

## Section 1.03 Severability Clause

Should any title, section, or provision of this Ordinance be declared, by a court of competent jurisdiction, to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any portion thereof, other than the portion so declared to be invalid.

## Section 1.04 Repeal of Existing Ordinances, Effective Date

The existing Marcellus Village Zoning Ordinance adopted December 27, 2016, as amended is hereby repealed on the effective date of this Ordinance. Existing enforcement activities, prosecutions, and applications under the Zoning Ordinance herein repealed are preserved and may follow to their natural conclusion under any ordinance herein repealed.

This Ordinance shall become effective on December 14, 2023.

Passed by the Village Council of the Village of Marcellus, Michigan on the 28th day of November 2023.



# Article 2

# Definitions

## Section 2.01 Short Title

This Ordinance shall be known as the "Zoning Ordinance of the Village of Marcellus." Within the following text, it may be referred to as the "Ordinance" or the "Zoning Ordinance."

## Section 2.02 Rules of Construction

The following rules of construction apply to the text of this Ordinance:

- A) The particular shall control the general.
- B) Words used in the present tense shall include the future unless the context clearly indicates the contrary.
- C) Words used in the singular number shall include the plural; and words used in the plural shall include the singular, unless the context clearly indicates the contrary.
- D) The word **shall** is always mandatory and not discretionary; the word **may** is permissive and discretionary.
- E) The word **build** includes the words **erect** and **construct**.
- F) The word **building** includes the word **structure**. A **building** or **structure** includes any part thereof.
- G) The words include or including shall mean including but not limited to.
- H) The phrase such as shall mean such as but not limited to.
- I) The phrase used for includes arranged for, designed for, intended for, occupied for, and maintained for.
- J) The word **person** includes an individual, firm, association, organization, public or private corporation, partnership or co-partnership, limited liability company, incorporated or unincorporated association, trust, or any other entity recognizable as a person under the laws of the State of Michigan.
- K) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction **and**, **or**, or **either/or**, the conjunction shall be interpreted as follows:
  - 1) **And** indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2) **Or** indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.
  - 3) **Either/or** indicates that the connected items, conditions, provisions, or events shall apply singularly but not in combination.
- L) All measurements shall be to the nearest integer, unless otherwise specified herein.



- M) Unless otherwise stated, the word **day** shall mean a calendar day; **month** shall mean any consecutive period of 30 calendar days; and **year** shall mean any consecutive period of 365 calendar days.
- N) Unless the context clearly indicates the contrary, where an illustration accompanies any item within this Ordinance, the written text shall have precedence over said illustration.
- O) The term **residential districts** include the R-1, MHC, RM-1 districts, unless otherwise noted.

## Section 2.03 Definitions

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. Words or terms not herein defined shall have the meaning customarily assigned to them.

**A**

**Accessory Use, Accessory Building, or Accessory Structure:** A use, building, or structure which is clearly incidental to, customarily found in connection with, subordinate to, and located on the same zoning lot (unless otherwise specifically permitted) as the principal use to which it is related.

**Adult Foster Care Facility:** See State-licensed residential facility.

**Alley:** A dedicated public vehicular way usually between or behind buildings, which affords a secondary means of access to abutting property but is not intended for general traffic circulation.

**Alterations:** Any change, addition, or modification to a structure or type of occupancy, or any change in the structural members of a building, such as walls or partitions, columns, beams or girders, or any change which may be referred to herein as **altered** or **reconstructed**.

**Animal Hospital:** See *Clinic, Veterinary*.

**Apartment:** See Dwelling, Multiple-Family.

**Assisted Living Facility:** See *Dependent Living (for Seniors)*.

**Attached Wireless Communications Facilities: Wireless communication facilities** that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A **wireless communication support structure** proposed to be newly established is not included in this definition.

**Automobile:** Unless specifically indicated otherwise, 'automobile' shall mean any vehicle including by way of example, cars, trucks, vans, motorcycles, and the like.

**Automobile Filling Station:** A place used for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. 'Automobile filling stations' may also incorporate a convenience store operation as an accessory use, provided it is clearly incidental to the filling station use, but no auto repairs shall be permitted.

**Automobile Repair:** Major or minor repair of automobiles, defined as follows:

- A) **Minor Repair:** Engine tune-ups and servicing of brakes, air conditioning exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.
- B) **Major Repair:** Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision services such as body, frame or fender straightening or repair; steam cleaning, undercoating and rustproofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.

**Automobile Repair Garage:** An enclosed building where **minor** or **major automobile repair** services may be carried out.



**Automobile Service Station:** A place where gasoline or other vehicle engine fuel, kerosene, motor oil and lubricants, and grease are sold directly to the public on the premises for the purposes of operation of motor vehicles; including the sale of minor accessories (such as tires, batteries, brakes, shock absorbers, window glass) and the servicing of and **minor repair** of motor vehicles.

**Automobile Dealership or Vehicle Dealership:** A building or premises used primarily for the sale of new and used automobiles and other motor vehicles.

**Automobile Wash or Car Wash Establishment:** A commercial establishment contained within a building or premises or portion thereof where automobiles are washed.

## B

**Base Flood:** The flood having a one percent chance of being equaled or exceeded in any given year. Also known as the 100-year flood.

**Basement:** That portion of a building which is partially or totally below grade but is so located that the vertical distance from the average grade to the floor below is greater than the vertical distance from the average grade to the ceiling. This definition shall not apply to **earth-sheltered homes**. A 'basement' shall not be counted as a **story** (see illustration on p. 1-24).

**Bed-And-Breakfast Establishment:** A dwelling in which overnight accommodations are provided or offered for transient guests for compensation, including provisions for a morning meal for overnight guests only.

**Bedroom:** A room designed or used in whole or part for sleeping purposes.

**Berm:** See *Landscaping*.

**Block:** The property bounded by a street or by a combination of streets and public lands, rights-of-way, rivers or streams, boundary lines of the Village, or any other barrier to the continuity of development.

**Boarding House:** A building, other than a **hotel**, where for compensation or by prearrangement for definite periods of time, lodging or lodging and meals are provided for five (5) or more persons. A **rooming house** shall be deemed a 'boarding house' for the purposes of this Ordinance.

**Brewpub:** An eating or drinking establishment that includes the brewing of beer or ale as an accessory use for sale on the same premises of not more than five thousand (5,000) barrels per year. (A barrel is equivalent to thirty-one (31) U. S. gallons.)

**Buildable Area:** The area of a lot which is defined by the minimum setback requirements within which building construction is permitted by the terms of this Ordinance.

**Buildable Area, Net:** The net buildable area is that portion of a site that is not encumbered by regulated wetlands (except as specifically noted), steep slopes, road rights-of-way, easements, structures or lots, or other existing or proposed features that would prevent construction of a building or use of the site for a use permitted in the district in which the site is located.

**Building:** Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, or property or materials of any kind. A building shall not include such structures as signs, fences, or smokestacks, but shall include structures such as storage tanks, grain elevators, coal bunkers, or similar structures.

- A) **Building, Permanent:** A **building** which is permanently affixed to the ground with footings or a foundation and/or is permitted to exist for an indefinite period of time exceeding six (6) months.
- B) **Building, Temporary:** A **building** which is not permanently affixed to the ground and is permitted to exist for a specific reason for a specific period of time, such as during a construction project.

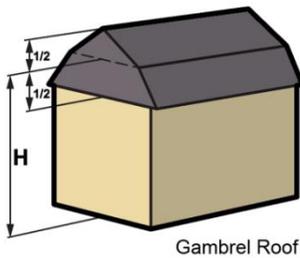
**Building, Accessory:** See Accessory use, building, or structure.

**Building, Principal:** A **permanent building** or, where the context so indicates, a group of permanent buildings (such as a school or office campus) which are built, used, designed, or intended for the shelter or enclosure of the **principal use** of the parcel.

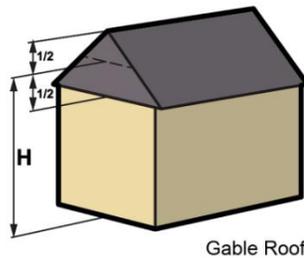
**Building Envelope:** See *Buildable area*.

**Building Height:** The vertical distance measured from the established grade to:

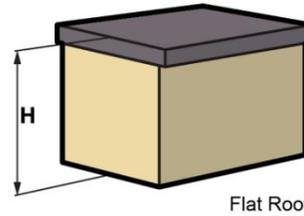
- A) The highest point of the coping of a flat roof;
- B) The deck line of a mansard roof; or,
- C) The average height between the eaves and the ridge for a gable, hip, studio (shed), or gambrel roof; or
- D) Seventy-five percent of the height of an A-frame.



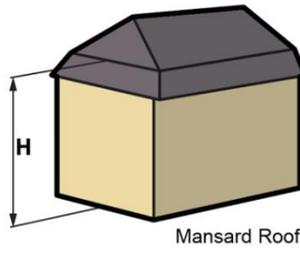
Gambrel Roof



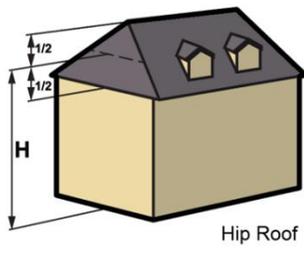
Gable Roof



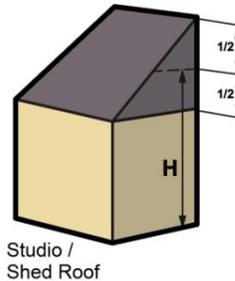
Flat Roof



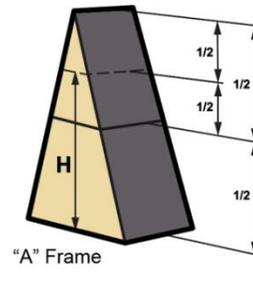
Mansard Roof



Hip Roof



Studio /  
Shed Roof



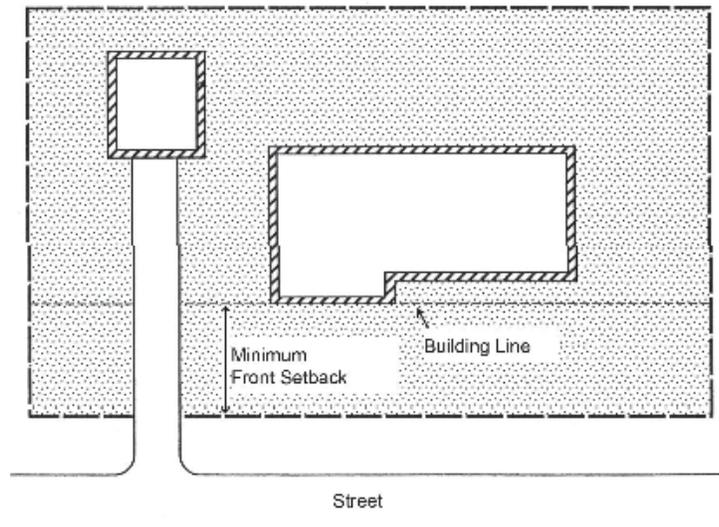
"A" Frame

## Building Height

H = Height of Building

**Building Line:** A line parallel to the front lot line at the minimum required front setback line.

**Building Official:** The officer or other authority designated by the Village to administer and enforce the Building Code.



**C**

**Carport, Private:** A shelter which has a roof with or without open sides with capacity for not more than three motor vehicles for storage only. Unless otherwise specifically set forth herein, the same regulations as apply to garages shall apply to carports.

**Cemetery:** Land used for the burial of the dead, including columbariums, crematories, and mausoleums.

**Child Care Center or Day Care Center:** A facility, other than a private residence, receiving more than twelve (12) preschool or school-age children for group care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility that provides care for not less than two (2) consecutive weeks regardless of the number of hours of care per day. The facility is generally described as a childcare center. "Child Care Center" or "Day Care Center" does not include instruction solely for religious purposes conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

**Church:** See Religious institution.

**Clinic, Medical:** An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A 'medical clinic' may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients but may not include facilities for overnight patient care or major surgery.

**Clinic, Veterinary:** An institution that is licensed by the Michigan Department of Health to provide for the care, diagnosis, and treatment of sick or injured animals, including those in need of medical or surgical attention. A 'veterinary clinic' may include customary pens or cages for the overnight boarding of animals and such related facilities as laboratories, testing services, and offices.

**Club or Fraternal Organization:** An organization of persons for special purposes or for the promulgation of sports, arts, science, agriculture, literature, politics, or similar activities, but not operated for profit or to espouse beliefs or further activity that is not in conformance with the Constitution of the United States or any laws or ordinances. Also, the facilities owned or used by such an organization.

**Colocation.** The location by two or more wireless communication providers of **wireless communication facilities** on a common structure, tower, or building, with the intent to reduce the total number of structures required to support wireless communication antennas in the Village.

**College or University:** A school of higher learning, consisting of a building or buildings and other facilities for teaching and research, and that grants associate's, bachelor's, master's, and doctorate degrees.

**Commercial Radio Tower:** A tower used to transmit or receive electromagnetic waves, where such activity is undertaken for the purpose of generating income.

**Commercial Use:** The use of property for retail sales or similar businesses where goods or services are sold or provided directly to the consumer. As used in this Ordinance, 'commercial use' shall not include industrial, manufacturing, or wholesale businesses.

**Commercial Vehicles and Equipment:** All vehicles and equipment constructed or used for transportation of goods, wares, materials, merchandise, and/or all other vehicles and equipment designed and used for drawing other vehicles or used in construction or landscaping, including dump truck, **stake truck**, tank truck, flatbed truck, step van, panel truck, wrecker, car hauler, **truck tractor**, construction and landscaping vehicles and equipment, sprayers, excavating equipment, logging vehicle, bulldozer, backhoe, front loader, bus, hearse, ambulance, or limousine. The determination whether other vehicles or equipment not specifically listed satisfy the definition of 'commercial vehicles and equipment' shall be made on a case-by-case basis by the Village Planning Commission.

**Composting:** The biological decomposition of organic material under specifically created conditions that are maintained and controlled by a person or entity for the purpose of generating usable by-products from the waste materials.



**Composting Facility:** A site where composting occurs as part of a private business, non-profit organization, or government service including, but not limited to, a site where compostable materials are received, processed, or stored for use in the composting process.

**Condominium:** A condominium is a system of separate ownership of individual units in multi-unit projects. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners. For the purposes of this Ordinance, condominium terms shall be defined as follows:

- A) **Condominium Act:** Shall mean Public Act 59 of 1978, as amended.
- B) **Condominium Lot:** That portion of a site condominium project designed and intended to function similar to a platted subdivision lot for purposes of determining minimum yard setback requirements and other requirements set forth in the Schedule of Regulations.
- C) **Condominium Subdivision Plan:** Drawings and information which show the size, location, area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.
- D) **Condominium Unit:** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed for the condominium project. A condominium unit is not a lot or condominium lot as those terms are used in this Ordinance.
- E) **Common Elements:** Portions of the condominium project other than the condominium units.
- F) **Detached Condominium:** A condominium project of detached units designed to be similar in appearance to a conventional single-family subdivision, except that limited common areas are not arranged in such a manner as to create clearly defined condominium lots.
- G) **General Common Elements:** Common elements other than the limited common elements, intended for the common use of all co-owners.
- H) **Limited Common Elements:** Portions of the common elements reserved in the master deed for the exclusive use of less than all co-owners.
- I) **Master Deed:** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan.
- J) **Site Condominium Project:** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Ordinance.
- K) **Contractor's Yard:** A site on which a building or construction contractor stores equipment, tools, vehicles, building materials, and other appurtenances used in or associated with building or construction. A contractor's yard may include outdoor or indoor storage, or a combination of both.

**Convalescent Home:** See *Nursing Home*.

**Convenience Store:** Any retail establishment offering for sale convenience goods, such as pre-packaged food items, tobacco, periodicals, limited grocery items, and other household goods.

**Co-Op (Cooperative) Housing:** A multiple-unit dwelling owned by a corporation that leases its units to stockholders on a proprietary lease arrangement.

**Curb Cut:** The entrance to or exit from a property provided for vehicular traffic to or from a public or private road or highway.

**D**

**Deck:** A raised platform, commonly constructed of wood, which is typically attached to a house and used for outdoor leisure activities.

**Density (Residential):** The number of dwelling units per acre of land.

- A) **Gross Density:** The number of units per acre of total land being developed.
- B) **Net Density:** The number of units per acre of land not encumbered by regulated wetlands (except as specifically noted), steep slopes, road rights-of-way, easements, structures, lots, or other existing or proposed features that would prevent construction of a building or use of the site for a residential dwelling.

**Dependent Living:** A multiple-family housing form with central dining facilities provided as a basic service to each dwelling unit. Each dwelling unit may or may not contain cooking facilities but must contain sanitary facilities. One type of dependent living facility is 'assisted living', which is a special combination of dependent housing, with personalized supportive services, and health care designed to meet the needs of those who need help with activities of daily living. Services provided in 'assisted living' residences may include:

- Three meals per day served in a common dining area
- Housekeeping services
- Transportation
- Assistance with eating, bathing, dressing, toileting, and/or walking
- Emergency call systems for each unit
- Health promotion and exercise programs
- Medication management
- Personal laundry services
- Social and recreational activities.

**Detention Basin:** A structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a controlled rate. A detention basin may drain completely after a storm event, or it may be a body of water with a fixed minimum and maximum water elevation between runoff events. See also **Retention Basin**.

**Development:** The construction of a new building, reconstruction of an existing building, or improvement of a structure on a parcel or lot, the relocation of an existing building to another lot, or the improvement of open land for a new use.

**Distilleries, Small:** A small distillery is an establishment licensed by the State of Michigan to manufacture spirits, not to exceed 60,000 gallons annually of all brands combined.

**Distribution Center:** A use which typically involves both warehouse and office/administration functions, where short and/or long-term storage takes place in connection with the distribution operations of a wholesale or retail supply business.

**District, Zoning:** A portion of the Village within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas, and other requirements are established.

**Donation Bin:** A donation bin is a closed container, typically constructed of metal, in which clothing, shoes, books, and/or other goods are placed by the public to be donated to charitable organizations or for recycling in other ways.

**Drive-In:** A business establishment so designed that its operation involves providing service to patrons while they are in their car, rather than within a building or structure.

**Driveway:** A private lane, designed primarily for use by vehicles, which connects a house, garage, or other buildings with the road.

**Dwelling:** Any building, or part thereof, containing sleeping, kitchen, and bathroom facilities designed for and occupied by a single **family**. In no case shall a detached or attached garage, travel trailer, motor home, **automobile**, tent, or other structure or vehicle not defined as a **recreational vehicle** be considered a 'dwelling'. In the case of a building occupied in part as a dwelling unit ("mixed occupancy"), the part so occupied shall be deemed a dwelling unit for the purposes of this Ordinance.



**Dwelling, Accessory Apartment:** A dwelling unit that is accessory to and contained within a principal single-family dwelling, and which is occupied by either persons related to the occupant of the principal residence by blood, marriage, or legal adoption; domestic servants; or gratuitous guests. An 'accessory apartment' commonly has its own kitchen, bath, living area, sleeping area, and usually a separate entrance.

**Dwelling, Manufactured:** A building or portion of a building designed for long-term residential use and characterized by all of the following:

- A) The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; *and*
- B) The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities; *and*
- C) The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on the site.

**Dwelling, Mobile Home:** A type of manufactured housing that is transportable in one or more sections, that is built upon a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes plumbing, heating, air-conditioning, and electrical systems contained in the structure. **Recreational vehicles** as regulated herein shall not be considered 'mobile homes' for the purposes of this Ordinance.

**Dwelling, Multiple-Family:** A building designed for and occupied by three or more **families** living independently, with separate housekeeping, cooking, and bathroom facilities for each. Examples of multiple-family dwellings include:

- A) **Apartment:** An attached **dwelling unit** with party walls contained in a building with other apartment units which are typically accessed from a common stair landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often may have a central heating system and other central utility connections. Apartments typically do not have their own yard space. Apartments may also be known as garden apartments or flats.
- B) **Efficiency Unit:** A type of **apartment** consisting of one principal room, plus bathroom and kitchen facilities, hallways, closets, and/or a dining alcove located directly off the principal room.

**Dwelling, One-Family or Single-Family:** A detached residential **dwelling** designed for and used or held ready for use by one **family** only.

**Dwelling, Two-Family or Duplex:** A detached building designed exclusively for and occupied by two **families** living independently of each other, with separate housekeeping, cooking, and bathroom facilities for each.

**Dwelling Unit:** One or more rooms, along with bathroom and kitchen facilities, designed as a self-contained unit for occupancy by a single **family** for living, cooking, and sleeping purposes.

**Dwelling Unit, Single-Family Attached or Townhouse:** An attached dwelling unit with party walls, designed as part of a series of three or more dwellings, each with its own front door which opens to the outdoors at ground level; its own basement; and typically, its own utility connections and front and rear yards. Townhouses are sometimes known as "row houses".

**Dwelling, Economy:** A dwelling that is more than 400 square feet and is built to all Michigan building codes and qualifies for a certificate of occupancy.

## E

**Easement:** A right, created by an express or implied agreement, of one owner of land to make lawful and beneficial use of the land of another. A public easement is any easement enjoyed by the public in general, e.g., the right of passage of the public over the surface of streets, alleys, highways, etc.

**Engineer, Village:** The Village Engineer is the person or firm designated by the Village to advise the Village administration, Village Council, and Planning Commission on drainage, grading, paving, stormwater management, and control utilities, and other related site engineering and civil engineering issues. The Village Engineer may be a consultant or an employee of the Village.



**Enforcement Official:** The Enforcement Official is the person or persons designated by the Village as being responsible for enforcing and administering requirements of this Zoning Ordinance. Throughout this Ordinance the Enforcement Official may be referred to as the Building Official, Village Planner, Public Safety Official, or their agents. Such titles do not necessarily refer to a specific individual, but generally the office or department most commonly associated with the administration of the regulation being referenced.

**Erected:** Any physical change on a site, including construction, reconstruction, or alteration of buildings or structures thereon. Excavation, fill, drainage, and the like shall be considered part of 'erection.'

**Essential Services:** The term "*Essential Services*" means the erection, construction, alteration or maintenance by public utilities or Village of Marcellus departments or commissions, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, telephone exchange and/or repeater buildings, electric substations and substation buildings, gas regulator stations and regulator buildings and other similar equipment and accessories in connection therewith (but not including any buildings *except those expressly referred to herein*), reasonably necessary for the furnishing of adequate service by such public utilities or Village of Marcellus departments or commissions or for the public health or safety or general welfare. This definition does not include towers or other buildings or structures intended specifically to service commercial wireless telecommunications such as cellular, personal communications services, specialized mobilized radio, enhanced, specialized mobile radio, paging and similar services. This definition also does not include sales or business offices and commercial buildings or activities.

**Excavation:** The removal or movement of soil, sand, stone, gravel, or fill dirt, except for common household gardening, farming, and general ground care.

**Exception:** An exclusion from the normal Zoning Ordinance rules and regulations for the purposes of permitting particular uses or structures which are considered essential or appropriate in certain locations or under certain conditions. A **variance** is not required for uses or structures which are permitted because of an exception.

## F

**Family:** This term shall mean "traditional family" or "functional family" as defined below:

- A) Traditional family-an individual or group of two or more persons related by blood, marriage, or adoption, together with foster children and domestic household employees of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single domestic housekeeping unit in a dwelling.
- B) Functional family-a collective number of individuals domiciled together in one dwelling whose relationship is of a permanent and distinct domestic character, with a demonstrable and recognizable bond characteristic of a cohesive unit, and who is in fact cooking and living as a single nonprofit housekeeping unit.

A "functional family" shall not include any of the following:

- 1) any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or other organization, which is not a recognized religious order.
- 2) any group of individuals whose domestic relationship is transitory, temporary, or resort/seasonal in nature or character.
- 3) any group of individuals whose association is essentially for convenience or economics, or for the limited duration of their education, training, or a similar determinate period of time.
- 4) Any person or group of persons seeking the rights and privileges of a "family" as defined in subparagraph a or b above in any administrative, judicial, or quasi-judicial proceeding, whether as the proponent or by way of defense, shall have the burden of proving that their domestic relationship satisfies the criteria in either subparagraph a or b above.

**Family Day Care Home:** See State-licensed residential facility.

**Fence:** An artificially constructed barrier constructed of durable materials, used to prevent or control entrance, confine within, or mark a boundary.

**Farmer's Market:** A farmers' market, as distinguished from a farm market, is a location established in accordance with Village ordinances and operated in compliance with Public Act 92 of 2000, where farmers may transport and sell to the public fruits, vegetables and other agricultural products. Farmers' market vendors may operate intermittently but for state licensing purposes are considered permanent operations. Vendors selling crafts are commonly found at farmers' markets.

**Fill, Filling:** The deposit or dumping of any matter onto or into the ground, except for common household gardening, farming, and general ground care.

**Flag Lot:** See *Lot, Flag*.

**Floodplain:** Any land area susceptible to being inundated by floodwaters when high amounts of precipitation are experienced or natural cyclic conditions raise the water levels.

**Floodway:** The channel of a **river** or other watercourse and the adjacent lands that must be reserved in order to discharge floodwaters without cumulatively increasing the water surface elevation by more than one foot.

**Floor Area, Gross:** The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

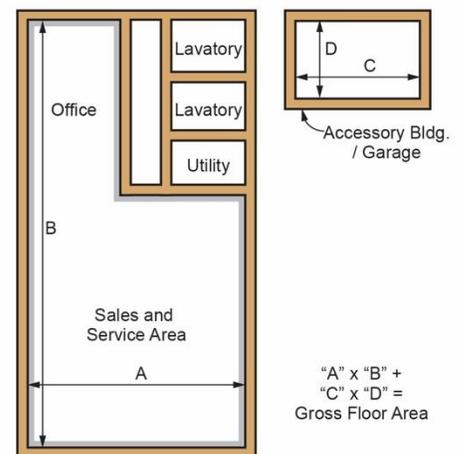
**Floor Area, Net:** See Floor Area, Usable Residential, and Floor Area, Usable Nonresidential.

**Floor Area, Usable Residential:** The gross floor area minus areas in basements, unfinished attics, attached garages, and enclosed or unenclosed porches.

**Floor Area, Usable Nonresidential:** The sum of the horizontal areas of each floor, measured from the interior faces of the exterior walls, including all areas used for, intended to be used for, and accessible for the sale of merchandise, provision of services, or service to patrons, clients, or customers. Floor area which is used for or intended to be used for the storage or processing of merchandise, or for utilities shall be excluded from the computations of Usable Nonresidential Floor Area (see illustration).

**Foster Family Home or Foster Family Group Home:** See *State-licensed residential facility*.

**Fraternal Organization:** See *Club*.



## Floor Area

 Usable Floor Area

**G**

**Garage, Private:** An accessory building for parking or storage of motor vehicles owned and used by the occupants of the building to which it is accessory. Private garages shall not have public repair facilities. A private garage may be either attached to or detached from the principal structure.

**Garage, Public:** See Automobile Repair Garage.

**Gas Station:** See Automobile Filling Station and Automobile Service Station.

**Grade:** The term 'grade' shall mean the ground elevation established for the purpose of regulating the number of stories or height of a building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

**Greenbelt:** See *Landscaping*.

**Group Day Care Home:** See State-licensed residential facility.

**H**

**Hazardous Uses:** Any activity which is or may become injurious to public health, safety, or welfare or the environment. Hazardous uses include but are not limited to all uses which involve the storage, sale, manufacture, or processing of materials which are dangerous or combustible and are likely to burn immediately, and from which either poisonous fumes or explosions are to be anticipated in the event of fire. These uses include all high hazard uses listed in the State Building Code, as amended.

**Health or Exercise Club or Spa:** A building or portion of a building designed and equipped for the conduct of sports, exercise, leisure time activities, or other customary and usual recreational activities that occur in an entirely enclosed building. Such uses are operated for profit or not-for-profit and can be open only to bona fide members and guests of the organization or open to the public for a fee. Such uses may also include massage services, saunas, locker rooms, showers, or personal services.

**Height of Building:** See *Building Height*.

**Highway:** See Road, Principal Arterial.

**Home for the Aged:** A facility, other than an **adult foster care facility, hotel, hospital, nursing home, or other state-licensed residential facility** that provides room, board, and supervised personal care to 21 or more unrelated, non-transient individuals 60 years of age or older.

**Home Occupation:** An occupation or profession undertaken entirely within a dwelling unit by one or more resident occupants of that dwelling unit. A 'home occupation' must be clearly secondary to the use of the dwelling unit for residential purposes.

**Hospital:** An institution that is licensed by the Michigan Department of Health to provide in-patient and out-patient medical and surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, central service facilities, and staff offices.

**Hospitality Facility:** A residential facility, typically associated with a hospital or other medical institution, for the purpose of housing patients' families.

**Hospital, Veterinary:** See *Clinic, Veterinary*.

**Hotel:** A building occupied as a more or less temporary abiding place for individuals who are lodged, with or without meals, in rooms consisting of a minimum of one bedroom and a bath, occupied for hire, and which typically provides hotel services such as maid service, the furnishing and laundering of linens, telephone and desk service, the use of furniture, a dining room and meeting rooms.

**Impervious Surface:** A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

**Independent Living (for Seniors):** An independent living setting for senior adults who lead an independent lifestyle that requires minimal or no extra assistance. Although minimal or no extra assistance may be required, some independent facilities may provide hospitality or supportive services, including meals served in a common dining area, transportation, and social and recreational activities.

**Indoor Recreation Center:** An establishment that provides indoor exercise facilities and indoor court sports facilities, and which may include spectator seating in conjunction with the sports facilities. A bowling establishment shall be considered a type of indoor recreation center.

**Industry, General:** A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.



**Industry, Light:** A use engaged in the manufacture, predominantly from previously prepared material of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing.

**Ingress and Egress:** As used in this Ordinance, 'ingress and egress' generally is used in reference to a driveway which allows vehicles to enter or leave a parcel of property, or to a sidewalk which allows pedestrians to enter or leave a parcel of property, a building, or another location.

**J**

**Junk Yard or Salvage Yard:** An area where waste and used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to **junk**, scrap iron, metals, paper, rags, tires, bottles, and automobiles. A 'junkyard' includes automobile wrecking yards and includes any open area of more than 200 square feet for the storage, keeping, or abandonment of **junk**.

**K**

**Kenel, Boarding:** Any lot or premises where three or more dogs or cats over six months of age are boarded and/or trained for compensation.

**Kenel, Breeding:** Any lot or premises where three or more dogs or cats are owned, kept, or harbored for the purpose of breeding for commercial gain.

**Kenel, Non-Commercial:** Any lot or premises where more than three dogs or cats are owned or kept for the personal enjoyment of the owner or occupants of the property, and for which commercial gain is not the primary objective.

**L**

**Landscaping:** The treatment of the ground surface with live plant materials such as, but not limited to, **grass, ground cover, trees, shrubs, vines**, and other live plant material. In addition, a landscape design may include decorative non-living materials, such as wood chips, crushed stone, boulders, or **mulch**. Structural features such as fountains, pools, statues, and benches shall also be considered a part of 'landscaping,' but only if provided in combination with live plant material. Artificial plant materials shall not be counted toward meeting the requirements for landscaping. Various landscaping-related terms are defined as follows:

- A) **Berm:** A continuous, raised earthen mound, with flattened top and sloped sides, capable of supporting live plant materials.
- B) **Caliper:** The trunk diameter of a nursery tree in inches, measured twelve (12) inches above grade.
- C) **Diameter at breast height (d.b.h.):** The trunk diameter of a mature tree in inches measured four and one-half (4 ½) feet above grade. Where a mature tree is on a slope, the 4 ½ foot measurement shall be made on the uphill side of the tree. On multi-stem trees, the largest diameter stem shall be measured.
- D) **Grass:** Any of a family of plants with narrow leaves normally grown as permanent lawns in Cass County, Michigan.
- E) **Greenbelt:** A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees, and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this Ordinance.
- F) **Ground Cover:** Low-growing plants that form a dense, extensive growth after one complete growing season and which tend to prevent weeds and soil erosion.
- G) **Hedge:** A row of closely planted shrubs or low-growing trees which commonly form a continuous visual screen, boundary, or fence.



- H) **Hydro-seeding:** A method of planting grass where a mixture of seed, water, and mulch is mechanically sprayed over the surface of the ground.
- I) **Interior Parking Lot Landscaping:** A landscaped area located in the interior of a parking lot with the objectives of improving pedestrian and vehicular traffic safety, guiding traffic movement, and enhancing the appearance of the parking lot.
- J) **Mulch:** A layer of wood chips, dry leaves, straw, hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, and/or aid plant growth.
- K) **Nurse Grass:** Any of a variety of rapidly growing annual or perennial rye grasses used to quickly establish ground cover to prevent dust or soil erosion.
- L) **Screen or Screening:** A wall, wood fencing, or combination of plantings of sufficient height, length, and opacity to form a visual barrier. If the screen is composed of non-living material, such material shall be compatible with materials used in construction of the main building.
- M) **Shrub:** A self-supporting, deciduous or evergreen, woody plant normally branched near the base, bushy, and less than 15 feet in height.
- N) **Sod:** An area of grass-covered surface soil held together by matted roots.
- O) **Tree:** A self-supporting, deciduous or evergreen woody plant with a well-defined central trunk or stem which normally grows to a mature height of 15 feet or more in Cass County, Michigan.
- 1) **Deciduous Tree:** A variety of tree that has foliage that is shed at the end of the growing season.
  - 2) **Evergreen Tree:** A variety of tree that has foliage that persists and remains green throughout the year.
  - 3) **Ornamental Tree:** A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of 25 feet or less.
  - 4) **Shade Tree:** For the purposes of this Ordinance, a shade tree is a deciduous tree which has a mature crown spread of 25 feet or greater in Cass County, Michigan, and has a trunk with at least five feet of clear stem at maturity.
- P) **Vine:** A plant with a flexible stem supported by climbing, twining, or creeping along a surface, and which may require physical support to reach maturity.

**Landscaping Contractor's Operation:** A business engaged in the practice of improving building sites or other grounds by contouring the land; planting flowers, shrubs, and trees; and lawn mowing. A 'landscaping contractor's operation' typically consists of equipment, tools, vehicles, and materials used in or associated with such a business.

**Live-Work Unit:** A building space that combines a person's workspace with his/her living quarters, with the workspace on the ground floor facing the street.

**Licensee** means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act., MCL 333.27101 et seq.

**Loading Space, Off-Street:** An off-street space which is safely and conveniently located on the same lot as the building or buildings being served, for the temporary parking of delivery vehicles while loading and unloading merchandise and materials.

**Lot:** A tract of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this Ordinance. A 'lot' may or may not be specifically designated as such on public records.

**Lot Area, Net:** The total horizontal area within the **lot lines** of a **lot**, exclusive of any abutting public road rights-of-way or private road easements, or the area of any **lake**. The 'net lot area' shall be used in determining compliance with Minimum Lot Area standards.

**Lot Area, Gross:** The **net lot area** plus one-half (1/2) of the area of any public right-of-way area or private road easement immediately adjacent to or abutting the lot.

**Lot, Contiguous:** Lots adjoining each other.

**Lot, Corner:** A lot abutting on and at the intersection of two or more streets, provided that the streets intersect at an angle of not more than 135 degrees.

- A) Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than 135 degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above (see illustration). A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner.
- B) For the purposes of this definition, the 'street lot line' shall be the line separating the lot from the street or road right-of-way.

**Lot Coverage:** The part or percent of a lot that is occupied by buildings and structures.

**Lot Depth:** The horizontal distance between the **front lot line** and the **rear lot line**, measured along the median between the side lot lines.

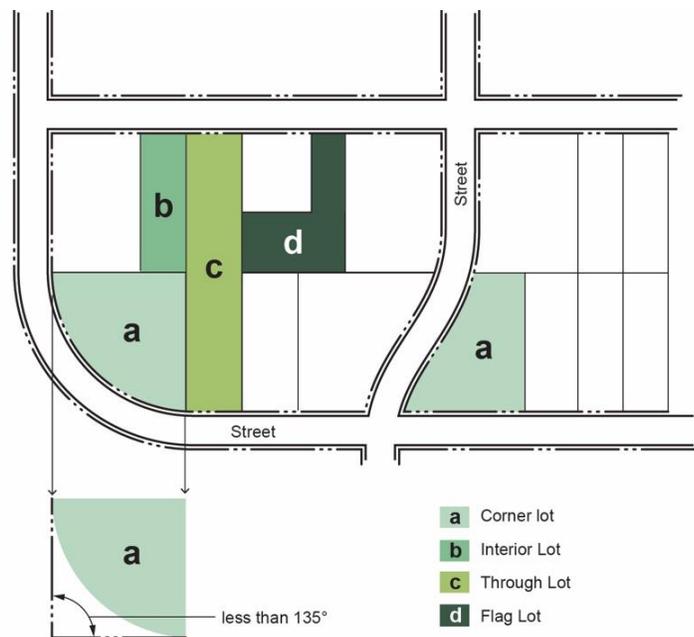
**Lot, Double Frontage (or Through Lot):** A lot, other than a **corner lot**, having frontage on two streets. In the case of a row of double frontage lots, one street shall be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where buildings presently front.

**Lot, Flag:** A lot located behind other parcels or lots fronting on a public road, but which has a narrow extension providing access to the public road. For the purposes of this Ordinance, the extension, which provides access to the buildable portion of the lot, shall comply with the lot width standards for the district in which the lot is located.

**Lot, Interior:** Any lot, other than a **corner lot**, with only one lot line fronting on a street.

**Lot Lines:** The lines bounding a lot as follows:

- A) **Front Lot Line:** The line separating said lot from the public or private road right-of-way. In the case of a corner lot or double frontage lot, the 'front lot line' shall be that line that separates said lot from the right-of-way for the road which is designated as the front on the plat, or which is designated as the front on the site plan review application or request for a building permit, subject to approval by the Planning Commission or Building Official. On a flag lot, the 'front lot line' shall be the interior lot line most parallel to and nearest the street from which access is obtained.
- B) **Rear Lot Line:** Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of irregular, triangular, wedge-shaped, or lots that are pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, 10 feet in length, lying farthest from the front lot line and wholly within the lot.
- C) **Side Lot Line:** Any lot line other than the front or rear lot lines. A side lot line separating a lot from a road right-of-way is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

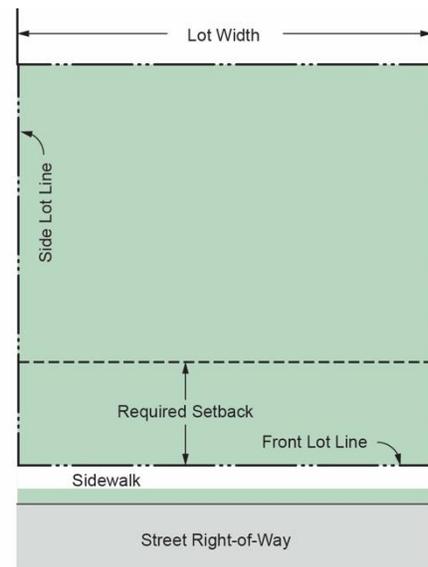


**Corner, Interior, and Through Lots**

**Lot of Record:** A parcel of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the Cass County Register of Deeds and Village Treasurer, or a **lot** or parcel described by metes and bounds, and accuracy of which is attested to by a land surveyor registered and licensed in the State of Michigan and is recorded with the Cass County Register of Deeds and Village Treasurer.

**Lot Width:** The straight-line distance between the **side lot lines**, measured at the two points where the minimum front yard setback line intersects the side lot lines (*see illustration*).

**Lot Split or Lot Consolidation:** The dividing or uniting of lots by virtue of changes in the deeds in the office of the Cass County Register of Deeds and the Village Treasurer.



## Lot Width

Frontage

## M

**Main Access Drive:** Any private street designed to provide access from a public street or road to a mobile home park, apartment or condominium complex, or other private property development.

**Marginal Access Road:** See *Service drive*.

**Massage Therapist:** A person trained in manipulation of the soft tissues of the body by rubbing, stroking, kneading, etc., for therapeutic or healing purposes.

**Master Plan:** A document prepared under the guidance of and adopted by the Planning Commission, consisting of graphic and written materials which indicate the general location for streets, parks, schools, public buildings, and all physical development of the Village.

**Mezzanine:** An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third (1/3) of the floor area of the story in which the level or levels are located.

**Microbrewery:** A brewery that produces less than thirty thousand (30,000) barrels of beer or ale per year, as allowed by state law. (A barrel is equivalent to thirty-one (31) U. S. gallons.)

**Mini-Warehouse:** A building or group of buildings, each of which contains several individual storage units, each with a separate door and lock, and which can be leased on an individual basis. Mini-warehouses are typically contained within a fenced, controlled-access compound. Also known as self-storage businesses.

**Mixed Use:** In the context of this Ordinance, mixed use refers to zoning districts in which a mixture of different types of land uses are permitted. For example, the RM-2 district is considered a mixed use district because it permits a combination of residential and commercial land uses.



**Mobile Home:** See Dwelling, Mobile Home.

**Mobile Home Park:** A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home, subject to conditions set forth in the Mobile Home Commission Rules and Michigan Public Act 96 of 1987, as amended.

**Mobile Home Site or Lot:** An area within a mobile home park which is designated for the exclusive use of a specific mobile home.

**Mortuary or Funeral Home:** An establishment where the dead are prepared for burial or cremation and where wakes or funerals may be held.

**Motel:** A building or group of buildings occupied as a more or less temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of a bedroom and bath, occupied for hire, in which provision is not usually made for cooking within the rooms, and which provides customary motel services such as maid service, linen service, telephone and/or desk service, and the use of furniture. Motels typically provide exterior entrances and on-site parking for each unit. A motel may also include conference rooms or banquet facilities, an attached dining room, and/or an unattached standard restaurant.

**Municipality:** Village of Marcellus, Cass County, Michigan.

## N

**Natural Area:** A land area or water body which is generally not occupied by structures, roads, or other artificial elements and which contains floral, faunal, geologic, or other similar features having scenic, educational, or scientific value to residents. An area may be considered 'natural' even though excavation, filling, or other similar activity may have previously occurred.

**Natural Resources:** Natural resources shall include land, soils, **wetlands, floodplains**, surface and groundwater, topography, trees and other types of vegetative cover, subsurface strata, geologic formations, animal life, and naturally occurring substances and living organisms that can be useful to people. Natural resources are of two types: renewable (e.g., plants and trees) and nonrenewable (e.g., mineral resources). Natural resources may also be referred to as 'natural features' in this Ordinance.

**Nonconformity:** Any structure, lot, or use of any lot, land or structure, which does not conform at the time of adoption of this Ordinance or any amendment thereto, to the regulations for the district in which it is located.

**Nuisance:** Any offensive, annoying, or disturbing practice or object which prevents the free use of one's property, or which renders its ordinary use or physical occupation uncomfortable. 'Nuisance' commonly involves continuous or recurrent acts which give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, or endanger life and health.

**Nursery, Day Nursery, or Nursery School:** See *Child Care Center*.

**Nursery, Plant Material:** A space, building, and/or structure, or combination thereof, where live trees, shrubs, and other plants used for gardening and landscaping are propagated, stored, and/or offered for sale on the premises, but not including any space, building or structure used principally for the sale of fruits, vegetables, or Christmas trees.

**Nursing Home:** A facility that provides organized nursing care and medical treatment to two or more unrelated individuals suffering or recovering from illness, injury, or infirmity. 'Nursing home' does not include a **hospital**, a veterans' facility, a correctional facility, a hospice, or a hospice residence.



## O

**Occupancy, Change of:** A discontinuance of an existing use and the substitution of a use of a different kind or class, or, the expansion of a use.

**Occupied:** Used in any way at the time in question.

**Office:** A room, suite of rooms, or building in which are located desks, chairs, tables, couches, bookcases (accounting, filing, recording, communication and/or stenographic) equipment for current use in the office business and personnel engaged in executive, administrative, professional, political, informative, research and/or clerical duties.

**Open Air Business:** Any **commercial use** that is conducted primarily out-of-doors. Unless otherwise specified herein, open air business shall include:

- A) Retail sales of garden supplies and equipment, including but not limited to trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture.
- B) **Roadside stands** for the sale of agricultural products.
- C) Various outdoor recreation uses, including but not limited to tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, and amusement parks.
- D) Outdoor display and sale of garages, swimming pools, playground equipment, and uses.

**Open Space:** Any **parcel** or area of land or water that is generally free of structures and that is set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. 'Open space' may be required for recreation, resource protection, aesthetics, or other purposes.

- A) **Open Space, Usable:** Open space that is accessible to a majority of residents in a development for recreation or leisure activities. Examples of 'usable open space' include, but are not limited to, open fields and woodlands. Swamps or marshes are not generally considered usable open space, except as specifically exempted elsewhere in this Ordinance.

**Outlot:** A parcel of land which is designated as an 'outlot' on the recorded plat, and which is usually not intended to be used for the same purposes as other lots in the plat.

## P

**Parcel:** A continuous area, tract, or acreage of land that has not been subdivided according to the provisions of the Subdivision Control Act and that has frontage on a public or private street.

**Parking Lot, Off-Street:** An area on private property that provides vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three vehicles.

**Parking Space:** An area of definite length and width as designated in this Ordinance for parking an automobile or other vehicle, and which is fully accessible for such purposes.

**Performance Guarantee:** A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the Ordinance, regulations, and approved plans and specifications of the development.

**Personal Fitness Center:** A facility which provides indoor exercise facilities, such as exercise machines and weight-lifting equipment, usually in a structured physical activity program supervised by professional physical fitness instructors. As defined herein, "personal fitness center" shall not include court sports facilities or spectator seating for sports events. A personal fitness center may or may not be enclosed within a gym.

**Pervious Surface:** A surface that permits full or partial absorption of stormwater.



**Pet:** A domesticated dog, cat, bird, gerbil, hamster, guinea pig, turtle, fish, rabbit, or other similar animal that is commonly available and customarily kept for pleasure or companionship.

**Planned Unit Development:** A planning or construction project involving the use of special zoning requirements and review procedures which are intended to provide design and regulatory flexibility, so as to encourage innovation in land use planning and design and thereby achieve a higher quality of development than might otherwise be possible.

**Planner, Village:** The Village Planner is the person or firm designated by the Village and Planning Commission to advise the Village administration, Village Council, Planning Commission, and Zoning Board of Appeals on planning, zoning, land use, housing, and other related planning and development issues. The Village Planner may be a consultant or an employee of the Village.

**Planning Commission:** The Planning Commission of the Village of Marcellus.

**Plat, Subdivision:** The division of a tract of land for the purpose of sale, lease or building development, in accordance with Subdivision Control Act, Michigan Public Act 288 of 1967, as amended, or any successor thereto, and subdivision control regulations as may be adopted by the Village.

**Plot Plan:** A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and all salient features required to adequately evaluate whether the approvals sought by an applicant are in compliance with this Ordinance.

**Principal Use:** See *Use, Principal*.

**Private Street or Private Road:** See *Road*.

**Professional:** A

**Property Line:** The line separating a piece of property from the street right-of-way and the lines separating a parcel of property from adjacent parcels. See also **Lot line**.

**Public Safety Official:** Public Safety Official refers generally to the departments or persons who perform police, fire fighting, and other public safety functions for the Village.

**Public Utility:** Any persons, firm, corporation, municipal department, or board, duly authorized to furnish under federal, state, or local regulations a service which is of public consequence and need. The principal distinctive characteristics of a public utility are that: (1) because of the nature of its business, it has characteristics of a natural monopoly, and (2) it provides a service to an indefinite public (or portion of the public) which has a legal right to demand and receive its services.

## Q

Reserved.

## R

**Real Property:** Includes the surface, whatever is attached to the surface (such as buildings or trees), whatever is beneath the surface (such as minerals), and the area above the surface, i.e., the sky.

**Reception Antenna:** An apparatus installed out-of-doors which is capable of receiving communications for radio and/or television purposes, including satellite reception antennas, but excluding such facilities that have been preempted from Village regulation by applicable state or federal laws or regulations.



**Recognizable and Substantial Benefit:** A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonably foreseeable detriments of the proposed development and uses. Such benefits may include long-term protection or preservation of **natural resources** and **natural features**, historical features, or architectural features; or, elimination of or reduction in the degree of nonconformity in a nonconforming use or structure.

**Recreation Land:** Any public or privately owned lot or land that is utilized for recreation activities such as, but not limited to, camping, swimming, picnicking, hiking, nature trails, boating, and fishing.

**Recreational Facilities:** Playgrounds, parks, picnic areas, golf courses, ball fields, camps, swimming pools, nature preserves or any other type of community space or equipment that is designed to provide the user with the opportunity to relax, engage in athletic activity, or engage in other leisure pursuits.

**Recreational Vehicle:** A class of vehicle which shall include the following:

- A) **Travel Trailer:** A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.
- B) **Pickup Camper:** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.
- C) **Motor Home:** A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.
- D) **Folding Tent Trailer:** A folding structure, mounted on wheels and designed for travel and vacation use.
- E) **Boats, Boat Trailers:** Boats, floats, rafts, canoes, etc., plus the normal equipment used to transport them on the highway.
- F) **Other Recreational Equipment:** Snowmobiles, all-terrain or special terrain vehicles, utility trailers, etc., plus the normal equipment to transport them on the highway.

**Recycling Center:** A facility at which used material is separated and processed prior to shipment to others who will use the materials to manufacture new products.

**Recycling Collection Station:** A facility for the collection and temporary storage of recoverable resources, prior to shipment to a recycling center for processing.

**Religious Institution:** Any structure primarily and regularly used for religious assembly and/or activity. Accessory uses and structures commonly associated with religious institutions include, but are not necessarily limited to parsonages, convents, and similar living arrangements; assembly halls; kitchens, food pantries, and similar food preparation facilities; classrooms; gyms; and playgrounds.

**Restaurant:** Any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

- A) **Restaurant, Carry-Out:** A restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises. Carry-out restaurants include, by way of example, cafes, delis, and coffee shops.
- B) **Restaurant, Drive-In:** A restaurant whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building.
- C) **Restaurant, Drive-Through:** A restaurant whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off of the premises.
- D) **Restaurant, Fast-Food:** A restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.



- E) **Restaurant, Standard:** A restaurant whose method of operation involves either:
- 1) The delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or
  - 2) The prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.
- F) **Bar/Lounge:** A type of restaurant operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

**Retention Basin:** A wet or dry stormwater holding area, either natural or artificial, which has no outlet other than an emergency spillway.

**Right-of-Way:** The strip of land over which an easement exists to allow facilities such as streets, roads, highways, and power lines to be built.

**Road or Street:** Any public or private thoroughfare or **right-of-way**, other than a public or private alley, dedicated to or designed for travel and access to any land, lot, or parcel whether designated as a thoroughfare, road, avenue, highway, boulevard, drive, lane, place, court, or any similar designation.

**Roadside Stand:** A temporary structure or use operated for the purpose of seasonally selling agricultural products, a portion of which is raised or produced on the same premises by the proprietor of the stand. A roadside stand shall not include small operations consisting of a portable table that is operated intermittently.

**Room:** For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room, or bedroom, equal to at least 80 square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways, and storage. Plans presented showing 1, 2, or 3 bedroom units and including a den, library, or other extra room shall count such extra room as a bedroom for the purpose of computing density.

**Rooming House:** See *Boarding House*.

## S

**Salon, Full-Service:** A personal service establishment offering a variety of health and beauty services including hair, nails, make-up, massage, and other related services.

**Semi-Trailer:** a trailer, which may or may not be enclosed, having wheels generally only at the rear and supported in front by a truck tractor or towing vehicle.

**Senior Housing:** Any multiple-unit housing development intended for adults aged 55 or older. 'Senior housing' does not include an adult foster care facility, home for the aged, hospital, hotel, nursing home, or other state-licensed residential facility.

- A) **Senior apartments:** A **senior housing** development with self-contained living units intended for adults who are able to care for themselves.
- B) **Senior congregate housing:** A **senior housing** development that may provide supportive services such as meals, housekeeping, social activities, and/or transportation, but not **adult foster care** or continuous medical or nursing care.

**Service Drive:** A road that is generally parallel to and adjacent to an arterial road or street and that is designed to provide access to abutting properties so that these properties are separated from the through traffic on the arterial road or street and so that the flow of traffic on the arterial road is not impeded by direct driveway access from a large number of abutting properties.

**Service Truck:** A pick-up truck or van that is used in conjunction with a repair or maintenance business, such as a plumbing, electrical, or carpentry business.

**Setback:** The horizontal distance between the front, side, or rear lot line and the nearest part of a structure on a lot. The 'minimum required setback' is the minimum distance between a front, side, or rear lot line and the nearest part of a structure in order to conform to the required yard setback provisions of this Ordinance (see **Yard**).



**Sign:** Any device, structure, fixture, or placard which uses words, numbers, figures, graphic designs, logos, or trademarks for the purpose of informing or attracting the attention of persons. Unless otherwise indicated, the definition of "sign" includes interior and exterior signs which are visible from any public street, sidewalk alley, park, or public property, but not signs which are primarily directed at persons within the premises upon which the sign is located.

**Solar:**

- A) **Solar Energy Systems:** A solar photovoltaic cell, panel or array, or series of cells, panels, or arrays that converts solar energy to usable thermal, mechanical, chemical, or electrical energy.
- B) **Small Solar Energy Systems:** A single residential or small business-scale solar energy conversion system consisting of building-mounted panels, ground-mounted solar arrays, or other solar energy fixtures, and associated control or conversion electronics that will be used exclusively for private, on-site purposes and not used for any commercial resale of any energy generated, except for the sale of surplus electrical energy back to the electrical grid.
- C) **Large Solar Energy Systems:** A utility-scale commercial facility that converts sunlight into electricity, whether by photovoltaics, concentrating solar thermal devices or any other various experimental or new solar technologies for the primary purpose of wholesale or retail sales of generated electric power off-site.
- D) **Rooftop Solar Panel Arrays:** Collection of solar panels mounted on the roof of a building and subject to building height limitations.
- E) **Solar Energy Equipment:** Ancillary equipment necessary for solar energy systems to function as intended.
- F) **Solar Panels:** Solar panels are flat panels that use arrays of photovoltaic cells to convert sunlight into electricity.
- G) **Solar Panel Height:** The height of a solar panel structure with a panel at the highest vertical point.
- H) **Community Solar Garden:** A type of non-commercial solar energy system which produces a net energy output for a group of farms or residences located within the Village for purposes of offsetting those farms' or residences' energy consumption. The power output of the system shall not exceed a rating of 1,000kWh per month.

**Special Housing:** Communities which have large campus-type land uses, such as colleges, universities, teaching hospitals, or other types of training facilities, often need to provide for unique types of housing to accommodate people who use these types of institutions. Unlike dormitories, apartments, lodging houses, bed and breakfast facilities, townhouses, or single-family dwellings, special housing exhibits the following characteristics:

- A) Either detached structures resembling large single family homes or townhouses;
- B) Three (3) or more bedrooms, each with its own bath (or, in some cases, a shared bath)
- C) Common cooking, dining, and lounging areas.
- D) Greater need for off-street parking than single family housing.

Given its unique characteristic and likely effects on neighborhood environments, special housing is most appropriately subject to a set of approval criteria that address these anticipated effects. It also must be in a zoning district that will help support it.

**Special Land Use/Special Use:** Special land uses are uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as a permitted use in a particular zoning district or districts. After due consideration of the impact of each such proposed use upon the neighboring land and of the public need for the particular use at the proposed location, such special land uses may be permitted following review and approval subject to the terms of this Ordinance.

**Special Use Permit:** See Special Land Use/Special Use.

**Spirits:** Any beverage that contains alcohol obtained by distillation, mixed with potable water or other substances, or both, in solution, including wine containing an alcoholic content of more than 21% by volume, except for sacramental wine and mixed spirit drink.

**Stable, Private:** An enclosed building intended for the keeping of not more than two (2) horses for the noncommercial use of the residents of the principal residential use on the site.



**Stable, Public:** An enclosed building intended for the keeping of more than two (2) in which any such animals are kept for

**Stake Truck:** A truck having a platform with stakes inserted along the outside edges to retain the load.

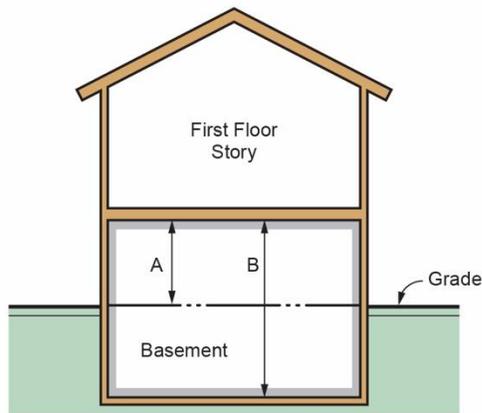
**State-licensed Residential Facility:** Any structure constructed for residential purposes and licensed by the State of Michigan pursuant to Michigan Public Act 116 of 1973 (the Child Care Licensing Act) or Michigan Public Act 218 of 1979 (the Adult Foster Care Facility Licensing Act), including **adult foster care facilities, foster family homes, foster family group homes, family day care homes, and group day care homes.**

- A) **Adult foster care:** The provision of supervision, personal care, and protection, in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.
- 1) **Adult foster care facility:** A residential structure that is licensed to provide adult foster care, but not continuous nursing care, for unrelated adults over the age of 17. An 'adult foster care facility' does not include any of the following: a licensed child caring institution, children's camp, foster family home, or foster family group home; an alcohol or substance abuse rehabilitation center; a residential facility for persons released from or assigned to adult correctional institutions; a maternity home; a hotel or rooming house that does not provide or offer to provide foster care; or a veterans' facility.
  - 2) **Adult foster care family home:** A private home with the approved capacity to receive not more than six adults to be provided with adult foster care.
  - 3) **Adult foster care small group home:** An adult foster care facility with the approved capacity to receive not more than 12 adults.
  - 4) **Adult foster care large group home:** An adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults.
  - 5) **Adult foster care congregate facility:** An adult foster care facility with the approved capacity to receive more than 20 adults.
- B) **Child day care:** The care and supervision for periods of less than 24 hours a day of minor children, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.
- 1) **Family day care home:** A private home in which one but not more than six children are received for child day care, including a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.
  - 2) **Group day care home:** A private home in which more than six but not more than 12 minor children are received for child day care, including a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.
- C) **Child foster care:** The care and supervision for 24 hours a day, for four or more days a week, and for two or more consecutive weeks, of minor children who are not related to an adult member of the household by blood or marriage, are not placed in the household under the Michigan adoption code and are unattended by a parent or legal guardian.
- 1) **Foster family home:** A private home in which one but not more than four children are provided with child foster care.
  - 2) **Foster family group home:** A private home in which more than four but not more than six children are provided with child foster care.
- D) **Private home:** For the limited purpose of defining a **state-licensed residential facility**, a 'private home' means a private residence in which the facility licensee or registrant permanently resides as a member of the household.

**Story:** That portion of a building, other than a **basement** or **mezzanine** as defined herein, included between the upper surface of any floor and the upper surface of the floor or roof next above it.

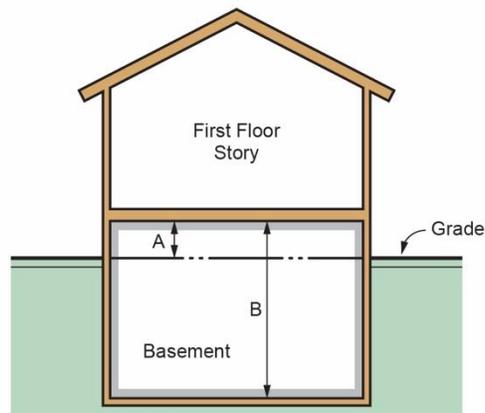
- A) A mezzanine shall be deemed a full story when it covers more than one-third of the area of the story underneath, or, if the vertical distance from the floor next below the mezzanine to the floor above it is 24 feet or more.
- B) A basement shall be deemed a full story when the vertical distance from the average grade to the floor below is less than the vertical distance from the average grade to the ceiling.

**Story, Half:** The uppermost **story** lying under a pitched roof, the usable floor area of which does not exceed two-thirds of the floor area of the uppermost full story. The usable floor area of a half story shall be at least 160 square feet with a minimum clear height of seven feet, six inches.



## Basement

If "A" is less than 1/2 of "B," then "B" is a basement.



## Basement

If "A" is less than 1/3 of "B," then "B" is a basement.

**Street:** See *Road*.

**Street Lot Line:** A dividing line between the street and a lot, also known as the right-of-way line.

**Structural Alteration:** Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

**Structure:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, privacy screens, walls, antennae, swimming pools, signs, and public roads.

**Subdivision Plat:** See *Plat, Subdivision*.

**Swimming Pool:** Any permanent, non-portable structure or container located either above or below grade designed to hold water to a depth of greater than 24 inches, intended for swimming or bathing. On a single-family parcel a swimming pool shall be considered an accessory structure for purposes of computing lot coverage.

## T

**Temporary Use or Building:** A use of a building permitted to exist for a limited period of time under conditions and procedures as provided for in this Ordinance.

**Thoroughfare:** See *Road*.

**Toxic or Hazardous Waste:** Waste or a combination of waste and other deposited, stored, or disposed material (including but not limited to solid, liquid, semisolid, or contained gaseous material) which because of its quantity, concentration, or physical-chemical or infectious characteristics may (if improperly treated, deposited, stored, transported, disposed or otherwise managed) cause or significantly contribute to the following conditions:

- A) an increase in mortality, or
- B) an increase in serious irreversible illness, or
- C) serious incapacitating, but reversible illness, or



- D) substantial present or potential hazard to human health or the environment.

**Trailer:** A vehicle without motive power that is designed to be drawn by a motor vehicle and used for carrying property or persons.

**Transition Zone:** A transition zone generally refers to a zoning district, an arrangement of lots or land uses, a landscaped area, or similar means of providing a buffer between land uses or districts.

**Truck Terminal:** A structure to which goods, except raw or unprocessed agricultural products, natural mineral or other resources, are delivered for immediate distribution or to be amalgamated or divided for delivery in larger or smaller units to other points, or for distribution, amalgamation, or division involving transfer to other modes of transportation.

## U

**Underlying Zoning:** The zoning classification and regulations applicable to the property immediately preceding the approval of an application to designate a parcel as a Planned Unit Development.

**Use:** The purpose for which land, lots, or buildings thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

- A) **Use, Accessory:** See Accessory Use, Building, or Structure.
- B) **Use, Permitted:** A use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such district.
- C) **Use, Principal:** The main use of land and buildings and the main purpose for which land and buildings exist.
- D) **Use, Special Land:** See *Special Land Use*.

**Utility:** A service provider, which may be a company or a governmental agency, which provides such services as electric power, natural gas, sanitary sewers, water, telephone, etc.

**Utility Trailer:** A small trailer that is designed to be pulled by an automobile, van, or pick-up truck.

## V

**Variance:** A modification of the literal provisions of the Zoning Ordinance granted by the Zoning Board of Appeals when strict enforcement of the Zoning Ordinance would cause practical difficulties owing to circumstances unique to the individual property on which the variance is granted.

**Veterinary Hospital:** See *Clinic, Veterinary*.

## W

**Wall, Obscuring:** A structure of definite height and location to serve as an opaque screen in carrying out the requirements of this Ordinance.

**Warehouse:** A building used primarily for storage of goods and materials. See also *Distribution Center*.

**Wetland:** Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and which is commonly referred to as a bog, swamp, or marsh. A wetland is further characterized by the presence of hydric soils and prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions. A wetland that exhibits these characteristics may be dry on the surface during part or all of the year)

**Wholesale Sales:** The sales of goods generally in large quantities and primarily to customers engaged in the business of reselling the goods.

**Wireless Communication Facility:** All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings, and commercial mobile radio service facilities. Not included within this definition are citizen band radio facilities; short wave facilities; ham, amateur radio facilities; satellite dishes; and, governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

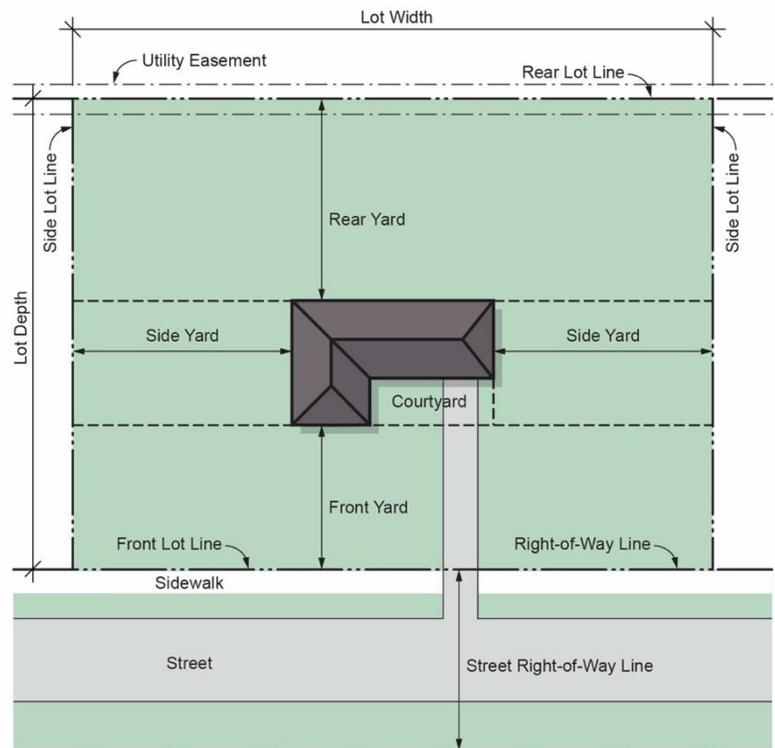
**Wireless Communication Support Structures:** Structures erected or modified to support wireless communication antennas, including but not limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

**Wind Energy System (WES):** A commercial wind energy system that converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.

**Y**

**Yard:** An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this Ordinance. The 'minimum required setback' is the minimum depth of a front, rear, or side yard necessary to conform to the required yard setback provisions of this ordinance (see illustrations).

- A) **Yard, Front:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the principal building. Unless otherwise specified, on corner lots and through lots there shall be maintained a front yard along each street frontage.
- B) **Yard, Rear:** An open space extending the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and the nearest line of the principal building. On corner lots, the rear yard may be opposite either street frontage, but there shall only be one rear yard.
- C) **Yard, Side:** An open space between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal building.
- D) **Yard, Interior Side:** A side yard that abuts an adjacent lot (in contrast to a 'street side yard', which abuts a street or road right-of-way).



**Yard Terms – Interior Lot**



**Yard Clippings:** Leaves, grass clippings, vegetable or other garden debris, shrubbery, or brush or tree trimmings, less than 4 feet in length and 2 inches in diameter, that can be converted to compost humus. Yard clippings do not include stumps, agricultural wastes, animal waste, roots, sewage sludge, or garbage. "Yard clippings" is defined in Section 324.11506 (7) of Public Act 212 of 2007, as amended.

**Z**

**Zoning Administrator:** The Zoning Administrator is the person or persons designated by the Village to administer the Zoning Ordinance on a day-to-day basis, including but not limited to processing applications, maintaining the minutes of the Planning Commission, sending notices of public hearings, and similar work. The duties of the Zoning Administrator may be filled by people holding other positions, such as the Building Official, Planning Commission Secretary, or Planner.

**Zoning Board of Appeals:** The Zoning Board of Appeals for the Village of Marcellus, as authorized by Michigan Public Act 110 of 2006, as amended.



# Article 3

# General Provisions— Specifications

## Section 3.01 Conformance of Use

No building or land shall be used and no building shall be erected, reconstructed, or structurally altered, which is arraigned, intended, or designed to be used for any purpose other than a use which is permitted and specified in the district in which such building or land is located.

## Section 3.02 Conformance of Height

No building shall be erected, reconstructed, or structurally altered to exceed in height the limits established and specified for the use and the district in which such building is located.

## Section 3.03 Conformance of Area and Building Size

No building shall be erected, reconstructed, or structurally altered in any manner which will encroach upon, or reduce in any manner, the yards, lot size, living area, of residential buildings, or lot coverage regulations established and specified for the use and the district in which such building is located.

## Section 3.04 Locations of Buildings

Except as otherwise provided for in this Ordinance, every building shall be constructed or erected upon a lot, or parcel of land as required in the zoning district of which the lot or parcel of land zoned.

## Section 3.05 Buildings Under Construction

Nothing in this Ordinance shall be deemed to require any change in the plans, construction, or designated use of any building upon which actual construction was lawfully begun prior to the adoption of this Ordinance and upon which building actual construction has been diligently carried on, and provided further, that such building shall be completed within one (1) year from the date of passage and publication of this Ordinance.

## Section 3.06 Buildings on a Zoning Lot

Every building hereafter erected or structurally altered to provide dwelling units shall be located on a zoning lot and shall follow the setbacks established in the zoning district for which the lot is zoned.



### **Section 3.07 Vehicle Parking**

Every building hereafter erected shall provide off-street parking spaces for motor vehicles, and loading and unloading berths as specified hereinafter for the use to which such building is to be devoted.



# Article 4

## Nonconformities

### Section 4.01 Intent

Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this Ordinance or a subsequent amendment, but which were lawfully established prior to the time of adoption of the Ordinance or amendment. Such nonconformities are not compatible with the current or intended use of land in the district in which they are located. Therefore, it is the intent of this Ordinance to permit such nonconformities to continue under certain conditions, but to discourage their expansion, enlargement, or extension. Accordingly, the purpose of this section is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.

The following table summarizes the nonconforming regulations contained in this Article:

#### A) Summary of Nonconformity Regulations

Issue	Requirements
Period of non-use before nonconformity must cease	Nonconforming use of open land: 180 days Nonconforming use of structure or building: 12 months
Establishment of new conforming use	Nonconforming use must cease
Change in ownership	No effect on nonconformity
Nonconforming single family use	May be enlarged, subject to conditions (see 3.03.J)
Substitution of one nonconformity for another	Permitted under certain conditions (see 3.03.K and 3.05)
Nonconforming contiguous lots under same ownership	Must be combined if vacant
Expansion of nonconforming use within building	Permitted subject to conditions
Expansion of nonconforming use beyond existing building	Not permitted
Enlargement of nonconforming structure	Not permitted
Maintenance; structural repairs	Generally permitted (see 3.05.C)
Renovation; modernization	Maximum value: 50% of assessed value
Rebuilding after catastrophe: <50%	Permitted if damage is less than 50% of pre-catastrophe fair market value (except as permitted in 4.03.J)
Rebuilding after catastrophe: >50%	Permitted to be replaced within two (2) years.

### Section 4.02 Definitions

For the purposes of this article, the following words and phrases shall have the meaning ascribed to them:



- A) **Effective Date.** Whenever this article refers to the "effective date," the reference shall be deemed to include the effective date of any amendments to this Ordinance if the amendments created a nonconforming situation.
- B) **Nonconforming Building or Nonconforming Structure.** A building, structure, or portion thereof that does not meet the limitations on building size, location on a lot, or other regulations for the district in which such building or structure is located.
- C) **Nonconforming Lot.** A lot existing at the effective date of this Ordinance, or amendments thereto, that does not meet the minimum area or dimensional requirements of the district in which the lot is located.
- D) **Nonconforming Sign.** A sign that on the effective date of this Ordinance does not conform to one or more regulations set forth in the Ordinance.
- E) **Nonconforming Use.** A use which was lawfully in existence at the effective date of this Ordinance, and which does not now conform to the use regulations of this Ordinance for the zoning district in which it is now located.
- F) **Structural Nonconformity.** A nonconformity that exists when the height, size, or minimum floor space of a structure, or the relationship between an existing building and other buildings or lot lines, does not conform to the standards of the district in which the property is located. Also sometimes referred to as a Dimensional Nonconformity.

### Section 4.03 General Requirements

The following regulations shall apply to all nonconforming uses, structures, and lots:

- A) **Continuation of Nonconforming Uses and Structures.**
  - 1) Any lawful nonconforming use existing on the effective date of this Ordinance or amendment thereto may be continued and shall not be considered to be in violation of this Ordinance, provided that (unless otherwise noted in this Article) the use shall not be enlarged or extended to occupy a greater area of land, nor moved in whole or in part to another portion of the lot.
  - 2) Any lawful building or structure existing on the effective date of this Ordinance or amendment thereto may be continued and shall not be considered in violation of this Ordinance, provided that (unless otherwise noted in this Article) the building or structure involved shall not be structurally altered, enlarged, or moved unless such modifications conform to the provisions of this Ordinance for the district in which it is located.
  - 3) Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.
- B) **Buildings Under Construction.** To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been diligently carried on. "Actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has begun preparatory to rebuilding, such work shall be deemed to be actual construction, provided that such work shall be diligently carried on until completion of the building involved.
- C) **Discontinuation of Nonconforming Uses.**
  - 1) **Nonconforming Uses of a Structure.** When a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for twelve (12) consecutive months without a present intention to reinstate the nonconforming use, the structure (or structure and land in combination) shall not thereafter be used except in conformance with the provisions of the district in which it is located.
- D) **Purchase or Condemnation.** In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the Village of Marcellus may acquire, by purchase, condemnation or otherwise, private property for the purpose of removal of nonconforming uses pursuant to Section 208(3) of Public Act 110 of 2006, as amended.



- E) **Recording of Nonconforming Uses and Structures.** The Village shall be responsible for maintaining records of nonconforming uses and structures as accurately as is feasible, and for determining legal nonconforming uses and structures in existence on the effective date of this Ordinance. Failure on the part of a property owner to provide the Village with necessary information to determine legal nonconforming status may result in denial of required or requested permits.
- F) **Establishment of a Conforming Use or Structure.** In the event that a nonconforming principal use or structure is superseded by a conforming principal use or structure on a site, the nonconforming use or structure shall be immediately and permanently removed.
- G) **Change of Tenancy or Ownership.** In the event there is a change in tenancy, ownership, or management, an existing nonconforming use or structure shall be allowed to continue provided there is no change in the nature or character of such nonconformity.
- H) **Variances.** Any dimensional use for which a variance has been granted as provided in this Ordinance shall not be deemed a nonconformity. Further, the Zoning Board of Appeals in its capacity shall not grant a variance to allow a use not permissible under the terms of this Ordinance.
- I) **Unlawful Nonconformities.** No building, structure, or use shall be permitted to continue in existence if it was unlawful at the time it was established.
- J) **Nonconforming Single-Family Uses.** Notwithstanding the limitations outlined in this article, any structure used for single family residential purposes and maintained as a nonconforming use may be replaced with a similar structure or of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements.
- K) **Substitution.** A nonconforming use may be changed to another nonconforming use upon approval of the Zoning Board of Appeals provided that no structural alterations are required to accommodate the new nonconforming use, and that the proposed use is equally or more appropriate in the district than the existing nonconformity. In permitting such a change, the Zoning Board of Appeals may require conditions to accomplish the purposes of this Ordinance.
- L) **Change of Location.** Should a nonconforming structure be moved to another parcel or to another location on the same parcel for any reason whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

#### Section 4.04 Nonconforming Lots of Record

The following regulations shall apply to any nonconforming lot of record or nonconforming lot described in a deed or land contract executed and delivered prior to the effective date of this Ordinance or amendment thereto:

- A) **Use of Nonconforming Lots.** Any nonconforming lot shall be used only for a use permitted in the district in which it is located. Notwithstanding limitations imposed by other provisions of this Ordinance, a permitted use may be erected on any single lot of record in existence at the effective date of adoption or amendment thereto. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, provided that the lot can be developed as proposed without any significant adverse impact on surrounding properties or the public health, safety, and welfare.
- B) **Variance from Area Requirements.** If the use of nonconforming lot requires a variance from the area requirements, then such use shall be permitted only if a variance is granted by the Zoning Board of Appeals.
- C) **Nonconforming Lots Under the Same Ownership.**
  - 1) If two or more lots or combination of lots with contiguous frontage in single ownership are of record at the time of adoption or amendment of this Ordinance, and if all or part of the individual lots do not meet the requirements established for lot width and area, the lots involved shall be considered to be an individual parcel for the purposes of this Ordinance. No portion of said parcel shall be used, occupied, or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of a parcel be made which creates a lot with width or area less than the requirements stated in this Ordinance. These provisions shall not apply to contiguous lots in single ownership where each of the lots is occupied by an existing home.



- 2) Any lot laid out in an approved plat or existing as an unplatted parcel which was lawful in size at the time it was created and which fails to comply with the minimum size requirements of a subsequent Village of Marcellus Zoning Ordinance may be used for the uses permitted in the zoning district in which it is located, provided all setback requirements are complied with.
- D) **Combination of Nonconforming Lots.** Village staff may permit the combination, in whole or in part, of nonconforming lots of record into building sites less than the size requirements established by this Ordinance, provided that the combination of lots reduces the degree of nonconformity and results in a parcel which is capable of accommodating a structure that is in conformance with the building area and setback requirements of this Ordinance.

## Section 4.05 Modification to Nonconforming Uses or Structures

No nonconforming use or structure shall be enlarged, extended, or structurally altered, nor shall any nonconformity be changed to a different nonconformity which increases the intensity of use or nonconformity, except as permitted in this Section.

- A) **Applicability.** The following regulations shall apply to any nonconforming use or structure, including:
  - 1) Nonconforming use of buildings designed for a conforming use.
  - 2) Nonconforming use of buildings specifically designed for the type of use that occupies them but not suitable for a conforming use.
  - 3) Buildings designed and used for a conforming use but not in conformance with area, parking, loading, or landscaping requirements.
  - 4) Nonconforming structures, such as fences and signs.
- B) **Enlargement, Extension, or Alteration.**
  - 1) **Increase in Nonconformity Prohibited:** Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of any nonconformity. For example, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:
    - (a) An increase in the total amount of space devoted to a nonconforming use, or
    - (b) Greater nonconformity with respect to dimensional restrictions, such as setback requirements, height limitations, density requirements, or other requirements in the district in which the property is located.
  - 2) **Permitted Extension:** Any nonconforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building. No nonconforming use of land shall be enlarged, increased, or extended to occupy a greater area of land, nor shall any such use be moved in whole or in part to any portion of the lot or parcel than was occupied on the effective date of this Ordinance or amendment thereto.
  - 3) **Alterations that Decrease Nonconformity:** Any nonconforming structure or any structure or portion thereof containing a nonconforming use, may be altered if such alteration serves to decrease the nonconforming nature of the structure or use.
  - 4) **Variance to Area Requirements:** If a proposed alteration is deemed reasonable by the Zoning Board of Appeals by virtue of the fact that it would decrease the nonconforming nature of a structure or use, but such alteration requires a variance from the area requirements, then such alteration shall be permitted only if a variance is granted by the Zoning Board of Appeals.

**C) Repairs, Improvements, and Modernization.**

- 1) **Required Repairs:** Repairs or maintenance deemed necessary by the Building Official to keep a nonconforming building structurally safe and sound are permitted. However, if a non-conforming structure or a structure containing a nonconforming use becomes physically unsafe and/or unlawful due to lack of maintenance and repairs and is declared as such by the Building Official, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.
- 2) **Additional Permitted Improvements:** Additional repairs, improvements, or modernization of nonconforming structures, beyond what is required to maintain the safety and soundness of the structure, shall be permitted provided such repairs or improvements do not exceed fifty percent (50%) of the assessed value of the structure during any period of twelve (12) consecutive months. Any such repairs, improvements, and modernization shall not result in enlargement of the cubic content of the nonconforming structure. The provisions in this paragraph shall apply to all structures except as otherwise provided in this Article for single-family residential uses and for reconstruction of structures damaged by fire or other catastrophe.
- 3) Should the additional repairs, improvements, or modernization of nonconforming structures, exceed fifty percent (50%) of the assessed value, replacement shall be undertaken within twelve (12) consecutive months from the date of destruction and diligently prosecuted to completion or such use shall lose its status as a legal nonconforming use and the nonconforming use and nonconforming structure shall be removed from the premise.

**D) Damage by Fire or Other Catastrophe.** Any nonconforming structure or structure housing a nonconforming use that is damaged by fire, flood, or other catastrophe in excess of fifty percent (50%) of the structure's pre-catastrophe fair market value (as determined by Village Staff) shall not be rebuilt, repaired, or reconstructed except in complete conformity with the provisions of this Ordinance.

Any nonconforming structure or structure housing a nonconforming use that is damaged by fire, flood, or other catastrophe by less than or equal to fifty percent (50%) of the structure's pre-catastrophe fair market value (as determined by the Village Assessor) may be restored to its pre-catastrophe status, provided that restoration is completed within a period of twelve (12) months from the data of such fire, flood, or other catastrophe. Restoration of structures located in the floodplain shall comply with all applicable building codes.

Proposals to rebuild, repair, reconstruct, or restore require appropriate Village Building Department approvals and permits.



# Article 5

# Administration

## Section 5.01 Purpose

It is the purpose of this article to provide the procedures for the administration of the Ordinance, issuance of permits, inspection of properties, collection of fees, handling of violators, and enforcement of the provisions of the Ordinance and amendments thereto.

## Section 5.02 Administration

The provisions of this Ordinance shall be administered by the Planning Commission and the Village Council of the Village of Marcellus in accordance with Act 33 of 2008, the Michigan Planning Enabling Act and Act 110 of 2006, the Michigan Zoning Enabling Act

The Village Council may appoint a Zoning Administrator in order to effect proper administration of this Ordinance. The terms of employment and the rate of compensation shall be established by the Village Council. In the absence of the Zoning Administrator, the Village Clerk or other Village Officer as designated by the Village Council shall act with the powers and duties vested in the Zoning Administrator in this Ordinance.

## Section 5.03 Duties of a Zoning Administrator

In addition to specific responsibilities outlined within this Ordinance and as established by Village Council, the Zoning Administrator or the duly authorized assistant(s) or agent(s) shall have the following responsibilities:

- A) Provide citizens and officials with information related to this Ordinance.
- B) Review permits, development, and zoning applications to determine compliance with the provisions of the Zoning Ordinance.
- C) Conduct field inspections, surveys, and investigations, prepare maps, charts, and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations; notify the applicant, in writing of any decision of the Zoning Administrator, Zoning Board of Appeals, Planning Commission or the Village Council.
- D) Review all applications for amendments to this Ordinance, conduct field inspections, surveys, and investigations, prepare maps, charts, and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations, report to the Planning Commission all such applications together with recommendations.
- E) Maintain an up-to-date Zoning Map and Zoning Ordinance text amendments.
- F) At the request of the Planning Commission or Village Council, draft amendments to the Zoning Ordinance and other ordinances to accomplish the planning objectives of the Village.
- G) Perform other related duties required to administer this Ordinance and further the goals and objectives of the Master Plan.



- H) Investigate alleged violations of this Ordinance and enforce appropriate corrective measures when required, including issuance of violation notices and any other action necessary to remedy the alleged violation.
- I) Maintain appropriate forms and procedures related to site plan review, rezoning requests, and other zoning matters.
- J) Other duties and responsibilities as described by the Village Council and Village staff.
- K) The police department, responsible for coverage of the Village of Marcellus, is authorized to enforce the provisions of this Ordinance in accordance with the general law enforcement powers under the statutes of the State of Michigan.

### Section 5.04 Violations

- A) Any person who violated, disobeys, neglects, or refuses to comply with any provision of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance. Any person responsible for a violation of this Ordinance whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.
- B) Any building or structure, including tents and mobile homes, which is erected, constructed, reconstructed, altered, converted, maintained, or used, or any use of land or premise which is begun, maintained, or changed in violation of any provision of this Ordinance, is hereby declared to be a nuisance per se.
- C) **Nuisance Per Se.** Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which is begun, continued, or changed in violation of any term or provision of this Ordinance, is hereby declared to be a nuisance per se subject to abatement pursuant to MCL 125.3407 and as otherwise provided by law.

### Section 5.05 Penalties

- A) **Municipal Civil Infraction.** A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined by Village Council Resolution.
- B) **Remedial Action.** Any violation of this Ordinance shall constitute a basis for injunctive relief or other appropriate remedy in any court of competent jurisdiction to compel compliance with this Ordinance and enforce the provisions thereof.



# Article 6

# Zoning Board of Appeals

## Section 6.01 Purpose

It is the purpose of this article to provide a means to alleviate undue hardship which may, in certain instances, be caused by the strict and literal interpretation and enforcement of the provisions of this Ordinance.

## Section 6.02 Board of Appeals Established

The Village Zoning Board of Appeals (ZBA) is created pursuant to Michigan Public Act 110 of 2006, as amended, and commonly referred to as the Michigan Zoning Enabling Act.

## Section 6.03 Appointments

- A) The Village Council shall act as the Zoning Board of Appeals.
- B) The Village Council may appoint two (2) alternate members to the Board of Appeals, each to be appointed for three (3) years. The Alternate shall be called on a rotating basis should a member of the Board of Appeals be absent. An alternate may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate shall have the same voting rights as a regular member of the Board of Appeals.

## Section 6.04 Powers and Duties

- A) The Board of Appeals shall have powers to interpret the provisions of this Ordinance and to grant variances from the strict application of any provisions of this Ordinance.
- B) The Board of Appeals, upon being established and organized, shall adopt rules governing its proceedings which shall be made available to applicants for appeal and to other members of the general public upon request. The Zoning Board of Appeals shall have the powers and duties authorized by the Michigan Zoning Enabling Act, Act 110 of 2006, as amended including the ability to interpret the provisions of this ordinance, to hear and decide appeals from the decision of the zoning administrator and the hearing of requests for variances.



## Section 6.05 Variance

A) **Intent.** The purpose of this Section is to provide guidelines and standards to be followed by the Zoning Board of Appeals (ZBA) to act on matters where this Ordinance or state law gives jurisdiction to the ZBA.

**B) Authority of the Zoning Board of Appeals.**

1) **General Authority.** The Zoning Board of Appeals (ZBA) shall have the authority to act on those matters where this Ordinance provides for administrative review/appeal, interpretation, or special approval/appeal, and shall have authority to authorize a variance as defined in this Ordinance and laws of the State of Michigan. Such authority shall be subject to the rules and standards in this Section. The ZBA shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this Ordinance. The ZBA has no authority to grant variances or overturn decisions involving special land uses or planned unit developments.

2) **Administrative Review.** The ZBA shall have authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made by an official, board or commission in carrying out or enforcing any provisions of this Ordinance. Such appeal shall be requested by the applicant within 30 days of the date of the order, refusal, requirement, or determination being appealed.

In hearing and deciding appeals under this sub-section, ZBA review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information which had not been presented to the administrative official, board or commission from whom the appeal is taken. The ZBA shall not substitute its judgment for that of the administrative official, board, or commission being appealed, and the appeal shall be limited to determining, based upon the record, whether the administrative official, board or commission breached a duty or discretion in carrying out this Ordinance.

3) **Interpretation.** The ZBA shall have authority to hear and decide requests for interpretation of the Zoning Ordinance, including the zoning map. The ZBA shall make such decisions so that the spirit and intent of this Ordinance shall be observed. Text interpretations shall be limited to the issues presented and shall be based upon a reading of the Ordinance as a whole, and shall not have the effect of amending the Ordinance. Map interpretations shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the Ordinance, the ZBA shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the Ordinance. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultants to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the Ordinance.

4) **Variances.** The ZBA shall have authority in specific cases to authorize one or more dimensional or "non-use" variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the Ordinance. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The ZBA is not authorized to grant use variances by this Ordinance. Such authority shall be exercised in accordance with the following standards.

The ZBA may grant a requested "non-use" variance only upon a finding that practical difficulties exist *and* that the need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district. In determining whether practical difficulties exist, the ZBA shall consider the following factors:

- (a) Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.
- (b) The variance will do substantial justice to the applicant, as well as to other property owners.
- (c) A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.



- (d) The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors. (For example, a variance needed for a proposed lot split would, by definition, be self-created, so such a variance typically would not be granted).
- 5) In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings. Administrative officials and other persons may, but shall not be required to, provide information, testimony and/or evidence on a variance request.
- 6) **Conditions.** The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation, or variance request. The conditions may include requirements necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet the following requirements:
  - (a) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - (b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
  - (c) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

Conditions imposed with respect to the approval of a variance shall be recorded as part of the ZBA minutes, and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case.

**C) Applications and Notices.**

- 1) **Application.** All applications to the ZBA shall be filed with the Village, on forms provided by the Village, and shall be accompanied by the applicable fee established by resolution of the Village Council. Applications shall include three (3) individually folded and one (1) digital copy of all plans, studies and other information and data to be relied upon by the applicant. These materials shall be submitted to the Village no later than thirty (30) days prior to the Zoning Board of Appeals meeting at which the review is requested in order to ensure compliance with any provisions outlined herein. The Zoning Administrator shall make the determination if the application is ready for a hearing before the ZBA prior to setting a public hearing.
- 2) **Plot Plan.** A plot plan shall be required with all variance requests. The plan, which shall accompany all variance requests, shall be based on a mortgage survey or land survey prepared by a licensed land surveyor. The plan shall be to scale and shall include all property lines and dimensions, setbacks, and all existing and proposed structures.
- 3) The Zoning Board of Appeals has the authority to require a land survey prepared by a licensed land surveyor when the ZBA determines it to be necessary to ensure accuracy of the plan.
- 4) The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed, including relevant plans, studies, and other information.
- 5) **Applications Involving an Appeal of Administrative Order.** In a case involving an appeal from an action of an administrative official or entity, the administrative official, or the clerk or secretary of the administrative entity, as the case may be, upon notice from the Planning Department, shall transmit to the ZBA copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.
- 6) **Consent of Property Owner Required.** Applications to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.



- 7) **Notice.** Notice of a public hearing concerning a request for a dimensional variance shall be given. Notice of a public hearing concerning a request for an interpretation of the zoning ordinance, or an appeal of an administrative decision shall be given as follows:
  - (a) A notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation in the Village and sent to the person requesting the interpretation not less than 15 days before the public hearing.
  - (b) If the request for interpretation or appeal involves a specific parcel, written notice stating the nature of the request and the time, date, and place of the public hearing shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.
- 8) **Stay of Proceedings.** An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed unless specifically determined by the ZBA, or by a court of competent jurisdiction.
- 9) **Decision by the Zoning Board of Appeals.** The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board or commission made in the administration of this ordinance, to decide in favor of an applicant on any matter upon which the ZBA is required to pass under this ordinance, or to grant a "non-use" variance from the terms of this ordinance.

**D) Disposition and Duration of Approval**

- 1) **ZBA Powers.** The ZBA may reverse, affirm, vary or modify any order, requirement, decision, or determination presented in a case within the ZBA's jurisdiction, and to that end, shall have all of the powers of the officer, board or commission from whom the appeal is taken, subject to the ZBA's scope of review, as specified in this Ordinance and/or by law. The ZBA may remand a case for further proceedings and decisions, with or without instructions.
- 2) **Decision Final.** A decision by the ZBA shall be considered final as of the meeting at which the decision has been made, and the date of such meeting shall be deemed to be the date of notice of the decision to the applicant. To the extent that decisions are requested or required to be in writing, the minutes of the ZBA meeting, and decision, as proposed under supervision of the secretary, shall constitute the written decision.
- 3) **Period of Validity.** Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decision are found to be correct, and the conditions upon which the decision was based are maintained. The relief granted by the ZBA shall be valid for a period not longer than one (1) year unless otherwise specified by the ZBA, and within such period of effectiveness, actual on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or the grant of relief shall be deemed void.
- 4) **Record of Proceedings.** The Village administrative staff, under the supervision of the secretary of the ZBA, shall prepare and keep minutes of the ZBA proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a member's absence or failure to vote. The minutes shall be within the ultimate authority, and shall be the responsibility, of the secretary of the ZBA, and shall be subject to approval of the ZBA. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the ZBA secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final ZBA approval.

The official records of the ZBA proceedings shall be filed in the Village Hall and shall be public records.

- E) **Appeal of a ZBA Decision.** Appeals of a ZBA decision shall be taken in the manner provided by law.
- F) **New Application for Variance.** If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to re-consideration for a period of one (1) year, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one-year period if conditions upon which their original decision was made change, or if information relating to their original decision is found to be incorrect or inaccurate.



# Article 7 **Reserved**



# Article 8

## Amendments

### Section 8.01 Initiating Amendments and Fees

The Village Council may from time to time, amend, modify, supplement, or revise the district boundaries or the provisions and regulations herein established whenever the public necessity and convenience and the general welfare require such amendment. Said amendment may be initiated by resolution of the Village Council, the Planning Commission, Zoning Administrator, or by petition of one or more owners of property to be affected by the proposed amendment.

A proposed change to the zoning district or Zoning Ordinance shall be presented on an application supplied by the Village of Marcellus. The application shall be reviewed by Village personnel for completeness and compliance with applicable regulations prior to consideration before the Planning Commission.

An application shall be subject to the Village of Marcellus fee schedule, as established by Resolution. If such application is made by a person other than the owner or a member of the Planning Commission, Village Council, or Zoning Administrator it shall be accompanied by a duly verified statement by the owner that the person making the application is authorized to make such application.

### Section 8.02 Minimum Requirements of Petition

All amendment petitions shall consist of at least the following:

- A) Name, address, signature, and telephone number of the petitioner, owner, and any person(s) holding options on the purchase of the property for intended use.
- B) Legal description and common address of the property being considered.
- C) Identification of the proposed amendment and identification of any intended use of property, with building square footage and height listed.
- D) Current zoning of property being considered.
- E) Surrounding zoning designations of adjacent properties.
- F) A site plan submitted in accordance with the Site Plan requirements of Article 20.

### Section 8.03 Amendment Procedure

The Marcellus Zoning Ordinance may be amended upon request from a Village property owner or interested party, or upon initiation by the Village Council, Planning Commission, or Zoning Administrator. The following procedures will be followed in receiving, reviewing, and approving amendments for changing the Zoning Ordinance.

- A) The applicant should submit to the Zoning Administrator an application for zoning amendment together with the required application fee and the following documentation:



- 1) Evidence that the applicant has interest in the property proposed to be rezoned. Legal description of the property proposed to be rezoned.
  - 2) Description of proposed use or uses, including access roadways and proposed off-street parking.
  - 3) Description of sewage disposal and water supply facilities and proposed surface drainage.
- B) The Zoning Administrator will review the rezoning application to ensure that the application is in order and all required documentation is included.
- C) The Zoning Administrator will transmit the application for rezoning to the Village Planning Commission.
- D) The Planning Commission will receive the rezoning application and conduct a background study to determine:
- 1) If the proposed rezoning is compatible with the goals and objectives of the most recently adopted Village of Marcellus Master Plan.
  - 2) Impact of the proposed use on surrounding properties and development.
  - 3) The effect on public facilities and services.
  - 4) The relationship of the proposed project to the intent of the Zoning Ordinance.
- E) The Planning Commission will establish a date for a public hearing on the proposed zoning amendment at its next regular meeting allowing for the requirements of notification. The Planning Commission Secretary will provide the Zoning Administrator all required material for publication and notification.
- F) The Zoning Administrator will publish a notice of the public hearing in the Marcellus Newspaper. The notice must be printed not less than fifteen (15) days before the hearing.
- G) The Zoning Administrator shall notify by mail, not less than fifteen (15) days prior to the public hearing, all property owners within 300 feet of the subject site. An affidavit of mailing shall be maintained. The notices shall include the places and times at which the tentative text and any maps of the Zoning Ordinance may be examined. The Zoning Administrator, or Village designee, shall also abide by public notifications as required by the Michigan Zoning Enabling Act (Act 110 of 2006) as amended.
- H) The Planning Commission will hold a public hearing on the requested rezoning. The hearing should represent an opportunity for all involved to present and rebut information concerning a rezoning request.
- I) The Planning Commission will complete its background study on the rezoning request and address the concerns raised at the public hearing.
- J) The Planning Commission will transmit the rezoning request together with its recommendation to the Village Council for final action. The transmittal to the Village Council will include a record of the comments received at the public hearing, background material developed by the Planning Commission on the rezoning request, and the findings of facts which support the Planning Commission's recommendations.
- K) The Village Council may adopt or reject the proposed amendment to the Zoning Ordinance, provided that:
- 1) If the Council decides to make a change to the proposed amendment, it must refer the amendment back to the Planning Commission for recommendation.
- L) If the Village Council holds additional public hearings, notice shall be published in a local newspaper not less than fifteen (15) days before the hearing.
- M) After completing its study and review, the Village Council may approve, reject, or approve with changes to the proposed rezoning amendment. If the Village Council approves the rezoning amendment with changes, the proposed amendment with changes will be referred back to the Planning Commission for further study and recommendations.



## Section 8.04 Review Considerations

The Planning Commission and Village Council shall, at a minimum, consider the following before taking action on any proposed amendment.

- A) Will the proposed amendment be in accordance with the basic intent and purpose of the Zoning Ordinance?
- B) Will the proposed amendment further the comprehensive planning goals of the Village as reflected in the Master Plan?
- C) Have conditions changed since the Zoning Ordinance was adopted or was there a mistake in the Zoning Ordinance that justifies the amendment?
- D) Will the amendment correct an inequitable situation created by the Zoning Ordinance, rather than merely grant special privileges?
- E) Will the amendment result in unlawful exclusionary zoning?
- F) Will the amendment set an inappropriate precedent, resulting in the need to correct future planning mistakes?
- G) If a rezoning is requested, is the proposed zoning consistent with the zoning classification of surrounding land?
- H) If a rezoning is requested, could all requirements in the proposed zoning classification be complied with on the subject parcel?
- I) If a rezoning is requested, is the proposed zoning consistent with the trends in land development in the general vicinity of the property in question?
- J) Will the proposed amendment be consistent with the purposes of this Ordinance and, in particular, will the proposed amendment promote the public health, safety, and welfare?

## Section 8.05 Effect of Annexations

On and after the effective date of this Ordinance, all parcels of land annexed to the Village of Marcellus shall be zoned as approved by the Village Council following the appropriate hearings, to be effective with the effective date of the annexation. The petitioner or the Planning Commission may initiate an amendment to establish any other zoning classification for the property according to the regulations of this Title.



# Article 9

# Special Land Uses and Conditional Rezoning

## Section 9.01 Purpose

The formulation and enactment of this Zoning Ordinance is based upon the division of the Village into districts, each of which is permitted specified uses which are mutually compatible. In addition to such permitted compatible uses, however, it is recognized that certain other uses which may be necessary or desirable in certain locations in certain districts but which, on account of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the Village. Such uses, on account of their particular location or need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

## Section 9.02 Authority to Grant Permits

The Village Council, with recommendations from the Planning Commission, shall have the authority to grant special land use and conditional rezone permits, subject to such conditions of design and operation, safeguards, and time limitations as it may determine for all special land uses and conditional rezones specified in the various district provisions of this Ordinance.

## Section 9.03 Application and Information Required

Written application shall be made to the Zoning Administrator. The application shall include the following:

- A) Name, address, signature, and telephone number of the owner of the property, and name, address, signature, and telephone number of any person(s) holding options on the purchase of the property for the intended conditional use.
- B) Legal description and common address of the property being considered.
- C) Identification of the proposed special land use or conditional rezone and all accessory uses or structures, with square footage and height listed.
- D) Current Zoning of the property.
- E) Surrounding zoning classification of adjacent properties.
- F) A site plan submitted in accordance with the Site Plan requirements of Article 20.
- G) **Contents of notice.** The notice of the request for special land use or conditional rezone shall include the following:
  - 1) Describe the nature of the request.
  - 2) Identify the property which is the subject of the request by street address. If more than one property is to be considered for the special address. If more than one property is to be considered for the special land use or conditional rezone, the notice shall include a listing of all existing street addresses within the scope of consideration for a special land use or conditional rezone.



- (a) The Village shall not be required to create a street address where one does not exist. If no street address is available, other means of identification may be used.
- 3) Indicate that a public hearing on the special land use or conditional rezone request may be requested by any property owner or the occupant of any structure located within 300 (three hundred) feet of the property being considered for a special land use or conditional rezone regardless of whether the property or occupant is located in the Village of Marcellus; and
- 4) Indicate when and where written comments will be received concerning the request.
- 5) Any additional provisions as required by the Michigan Zoning Enabling Act (Act 110 of 2006 as amended).

### Section 9.04 Public Hearing

A public hearing shall be conducted by the Village Planning Commission, notice of the date and time of the public hearing shall be published once in a newspaper of general circulation within the village not less than 15 (fifteen) days prior to said hearing. Notice of the date and time of the public hearing shall be mailed or personally delivered to the applicant, the property owner of the property for which the special land use or conditional rezone is being considered, to all owners of property within 300 (three hundred) feet of the property for which the special land use or conditional rezone is being considered and to the occupants of property within 300 (three hundred) feet, regardless of whether the 300-foot radius is within the Village of Marcellus.

### Section 9.05 Required Standards and Finding of Fact for Making Determinations

The Planning Commission shall review the particular circumstances and facts of each proposed use or rezone in terms of the following adequate data, information, and evidence showing that such use on a proposed site, lot, or parcel:

- A) Will be harmonious with and in accordance with the general objectives, intent, and purposes of this Ordinance.
- B) Will be designed, constructed, operated, maintained, and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
- C) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
- D) Will not be hazardous or disruptive to existing or future neighboring uses.
- E) Will not create excessive additional requirements at public cost for public facilities and services.
- F) Will comply with the Zoning District standards for the conditional use or conditional rezone.
- G) The Planning Commission may deny, approve, or approve with conditions a request for the special land use or conditional rezone approval.
- H) Following a public hearing a request for approval of a special land use or conditional rezone or activity shall be approved if the request is in compliance with the standards stated within this ordinance, the conditions imposed under this Zoning Ordinance, other applicable ordinances, and state and federal statutes.
- I) Following the public hearing the Planning Commission shall transmit its recommendation with respect to the special land use or conditional rezone to the Village Council, together with the record of proceedings at which the request was considered. The Village Council may, at its discretion, hold another public hearing on the request, with notice provided as established in Article IX of this Ordinance. The Village Council may approve the special land use or conditional rezone; deny the special land use or conditional rezone; approve the special land use or conditional rezone; or refer the request to the Village Planning Commission for additional information.
- J) The Village Zoning Board of Appeals (ZBA) shall have no authority to hear appeals from the Village Planning action on a special land use or conditional rezone.



# Article 10

## Districts and Zoning Maps

### Section 10.01 Districts

The Village of Marcellus is hereby divided in order to carry out the purpose of this ordinance. The districts shall be known and designated throughout this Ordinance as follows:

Name of District	Designation Hereafter
Single & Two-Family Residential District	R-1
Manufactured Housing Community	MHC
Multiple Family Residential District	RM-1
Commercial Corridor District	C-1
Enterprise District	E-1
Industrial District	I-1

### Section 10.02 Zoning Maps

The Official Zoning Map is hereby declared to be part of this Ordinance. The Zoning Map shows the area included in the above districts, and all items shown on the Zoning Map are as much a part of this Ordinance as if they were fully described in the text of the Ordinance. If the official Zoning Map becomes damaged, destroyed, lost, or illegible, the Village Council may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Zoning Map. The Official Zoning Map shall be kept in the office of the Zoning Administrator for public inspection. Questions of map boundaries and map determinations shall be heard by the Zoning Board of Appeals.

All changes to the district boundaries, as shown on the Zoning Map, shall be made promptly after the effective date of such change with notes added describing the changes, initialed by the Zoning Administrator or the Planning Commission.

### Section 10.03 Determination and Interpretation of District Boundaries

In determining the boundaries of a district, due and careful consideration has been given to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted, and the conservation of property values throughout the Village.

Where uncertainty exists as to the exact boundaries of any district as shown on the Zoning Map, the following rules shall apply:

- A) Where district boundaries are indicated as following railroad, street, alley, or lot lines, or approximately along such lines, the centerlines of these rights-of-way or exact lot line shall be construed to be the district boundaries.
- B) In un-subdivided areas, or where a district boundary subdivides a lot, the exact location of the boundary shall be determined by use of the scale of the Zoning Map.



- C) In the case of further uncertainty, the Board of Zoning Appeals shall interpret the intent of the Zoning Map as to the location of the boundary in question.

### **Section 10.04 Zoning of Streets, Alleys, Public Ways, and Railroad Right-Of-Way**

All street, alleys, public ways, and railroad rights-of-way, if not otherwise specifically designated shall be deemed to be in the same use district as the property immediately abutting upon such alleys, streets, public ways, and railroad right-of-way. Where the center line of a street, alley, public way, or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.



# Article 11

# "R-1" Single & Two Family Residential District

## Section 11.01 Intent of District

The Intent of the R-1, Single & Two Family Residential District is to provide neighborhoods of one-family detached and two-family attached dwellings that are developed consistent with the established or desired forms of the area, along with other associated uses and facilities that serve residents of the district.

It is further the intent of this district to prohibit or restrict land uses that would interfere with the development or maintenance of single-family neighborhoods.

## Section 11.02 Permitted Uses

- A) Accessory use(s).
- B) Home occupation
- C) Single-family detached dwelling unit.
- D) Two family attached dwelling units.
- E) Other uses determined to be similar to the above principal permitted uses and which are not listed as a special land use.

## Section 11.03 Permitted Uses with Specific Provisions

- A) Accessory Dwelling Units (ADU), subject to Section 19.16
- B) Economy Dwelling Unit, subject to Section 19.18
- C) Home Occupation., subject to Section 19.20
- D) Solar – Residential, subject to Section 19.19

## Section 11.04 Special Land Uses

- A) Antique or specialty shops only in existing buildings provided the lot, parcel, or building site has frontage on Main Street and provided that no change is made in the exterior character of the building.
- B) Cemeteries on a lot no smaller than five (5) acres, and provided that all graves be located a minimum of seventy-five (75) feet from the right-of-way line of any street.
- C) Child foster family homes, child foster family group homes, and adult foster family homes.



- D) Country clubs or golf courses, provided that a minimum of twenty (20) acres be utilized.
- E) Family day care homes.
- F) Municipal buildings and uses.
- G) Museum.
- H) Off-street parking facilities.
- I) Privately owned recreation or community center.
- J) Professional offices, provided the parcel has frontage along a main thoroughfare of the Village (such as, but not limited to M-40, M-216, Main Street).
- K) Publicly owned and operated libraries, parks, playgrounds, and recreational facilities.
- L) Religious institutions.
- M) Other uses determined to be similar to the above special land uses and which are not listed as a permitted land use.

### Section 11.05 District Regulations

- A) **Minimum lot or parcel area.** The minimum lot or parcel site shall be eight thousand five hundred (8,500) square feet.
- B) **Minimum lot or parcel width.** The minimum lot or parcel width shall be sixty-six (66) feet.
- C) **Maximum height of buildings.** The maximum height of buildings shall be thirty-five (35) feet and not over two and one half (2 ½) stories for principal buildings, eighteen (18) feet or one and one half (1 ½) stories for accessory buildings.
- D) **Front yard setbacks.** Twenty-five (25) feet, as measured from the front property line.
- E) **Side yard setbacks** Six (6) feet on each side, except that on a corner lot, the non-addressed side of the property shall not be less than 15 feet.
- F) **Rear yard setbacks** Thirty (30) feet, as measured from the property line.
- G) **Minimum ground floor area.** One thousand (1,000) square feet.
- H) **Maximum lot or parcel coverage:** Thirty (30) percent.



# Article 12

# "MHC" – Manufactured Housing Community

## Section 12.01 Intent of District

The MHC, Manufactured Housing Community District, which may also be referred to as mobile home parks, is intended to provide for the location and regulation of manufactured housing communities and ancillary facilities. MHC Districts should be located where they will be compatible with adjacent uses.

The regulations established by State law (Michigan Public Act 96 of 1987, as amended) and the Michigan Manufactured Housing Commission govern mobile home parks. When regulations in this article exceed the State law or the Michigan Manufactured Housing Commission Rules they are intended to ensure that mobile home parks in the Village meet the development and site standards established by this Ordinance for comparable residential development and to promote the health, safety, and welfare of residents.

## Section 12.02 Permitted Uses

- A) Essential services.
- B) Manufactured housing communities (mobile home parks).
- C) Single-family dwellings.
- D) Uses and structures accessory to the above, subject to the provisions in this article. Permitted accessory uses and structures include, but are not necessarily limited to parks, open space, recreation and service facilities for the use of residents and their guests; one office building for the exclusive purpose of mobile home park business; utility and storage buildings for use of residents; garages and carports; and, signs.

## Section 12.03 Special Land Uses

- A) Reserved for future use.

## Section 12.04 Additional Information Required by Petitioner

In addition to the requirements of Section 8.04, a petition for rezoning property to this zoning classification must include a site plan showing that the development standards of Section 12.05 will be met.

## Section 12.05 Development Standards

- A) **Standards and Requirements for Mobile Home Parks:** Mobile home parks shall conform to the requirements as promulgated by the Michigan Mobile Home Park Commission Rules as amended.



- B) **Site Plan Approval:** For all permitted uses a site plan shall be submitted in accordance with Article XIX, Section 19.13.
- C) **Regulations and Standards:**
- 1) **Parcel Size:** The minimum site size for a manufactured home park shall be 5 (five) acres with frontage along or having access to a major thoroughfare.
  - 2) **Roads:** Roads shall satisfy the minimum dimensional, design, and construction requirements in the Michigan Manufacturing Housing Commission Rules except as follows:
    - (a) All roads shall be hard surfaced.
  - 3) **Parking:** All home sites shall be provided with two parking spaces, per Michigan Manufacturing Housing Commission Rules.
  - 4) **Sidewalks:** Concrete sidewalks having a minimum width of five (5) feet shall be provided on at least one side of internal roads in the community.
  - 5) **Screening:** Manufactured Housing Communities shall be screened from existing adjacent land uses by one of the following:
    - (a) A six (6) foot wall, made up of masonry material that consists of face brick, decorative block, or poured concrete with a simulated brick or stone pattern.
    - (b) Densely planted landscape buffer. Such buffer shall consist of shrubs, hedges and/or deciduous or coniferous trees that provide a permanent visual screening between the land uses.
  - 6) **Water and Sanitary Sewer Service:** all manufactured housing communities shall be served by approved public water and sanitary sewer systems.
  - 7) **Storm Drainage:** all developed portions of the community shall be served by adequate storm drainage facilities, designed, and constructed in accordance with applicable local, county and state regulations.
  - 8) **Setbacks:**
    - (a) Mobile homes shall be set back a minimum of ten (10) feet from the edge of an internal road.
    - (b) All manufactured homes, accessory buildings and parking shall be set back not less than twenty (20) feet from any manufactured housing community park boundary.



# Article 13

## "RM-1" Multiple Family Residential District

### Section 13.01 Intent of District

It is the intent of this district to provide for the construction of new multiple-family residential units in areas that will not create serious problems of compatibility with other kinds of adjacent land use. No areas shall be zoned to this district unless such land is located along a major collector street as defined by the Village Council, and is provided with an adequate public water supply and sanitary sewer facilities.

### Section 13.02 Permitted Uses

- A) Home occupation, subject to Section 19.20
- B) Multiple family dwellings and accessory buildings.
- C) Single-family dwellings and accessory buildings.
- D) Two-family dwellings and accessory buildings.
- E) Other uses determined to be similar to the above principal permitted uses and which are not listed as a special land use.

### Section 13.03 Special Land Uses

- A) Adult foster care group homes.
- B) Family day care homes & facilities.
- C) Funeral home.
- D) Medical offices.
- E) Museum.
- F) Nursery school or day nursery, non-boarding, on a lot no less fifteen thousand (15,000) square feet.
- G) Nursing home or home for the aged or handicapped.
- H) Off-street parking facilities.
- I) Private park or recreation facility.
- J) Publicly owned and operated libraries, parks, playgrounds, and recreational facilities.
- K) Religious institutions.



## Section 13.04 District Regulations

- A) **Minimum lot or parcel area:** Sufficient lot area shall be provided to comply with the standards in this Article.
- B) **Minimum lot or parcel width:** One hundred (100) feet.
- C) **Maximum height of building:** Thirty-five (35) feet and not over two and one half (2-1/2) stories.
- D) **Front yard setback:** Thirty (30) feet as measured from the front property line.
- E) **Minimum ground floor area per residential building:**
  - 1) One- and two-family dwellings shall contain a minimum of 1,000 (one thousand) square feet of floor area for each family exclusive of garages and basements;
  - 2) Structures containing 3 (three) or more dwelling units shall contain a minimum of 850 (eight hundred fifty) square feet per dwelling unit exclusive of halls, stairways, basements, garages, or storage areas.
- F) **Maximum lot or parcel coverage:** Thirty (30) percent.
- G) **Rear yard setback:** Twenty-five (25) feet as measured from the rear property line.
- H) **Side yard setback:** Twenty-five (25) feet as measured from the side property line.
- I) The minimum distance between any two (2) multiple family residence buildings on the same lot shall be (30) feet, except where two (2) buildings are so situated that:
  - 1) Neither is visible from any window of entrance of the other or
  - 2) No line drawn perpendicular to any wall of either building intersects the other building, then the minimum distance between such buildings may be ten (10) feet less than indicated above.
- J) **Vision clearance on a corner lot:** Ten (10) feet from the intersection of property lines.



# Article 14

# "C-1", Commercial Corridor District

## Section 14.01 Intent of District

The C-1, Commercial Corridor District, is intended to provide for various types of office, convenience and comparison-shopping goods to meet the needs of the Village residents for durable goods, personal services, entertainment, shopping, and related activities.

## Section 14.02 Permitted Uses

- A) 2<sup>nd</sup> Story Residential Dwellings, subject to the provisions outlined in Section 19 – 2<sup>nd</sup> Story Residential Dwelling.
- B) Business and personal services including barber shops, beauty parlors, shoe repair shops, dry cleaning agencies, self-service laundries, printing shops, radio and television shops, real estate sales, insurance, and similar businesses and services.
- C) Food service establishments, including drive-ins, taverns, or night clubs.
- D) Motels and hotels.
- E) Professional offices, show rooms, banks, undertaking establishments, publicly owned buildings, and fraternal, civic, and social organization buildings.
- F) Retail stores and shops offering chiefly new merchandise, but not excluding antique shops, when conducted within a building having a roof and four (4) sides.
- G) Theaters, except drive-in theaters.
- H) Other uses determined to be similar to the above principal permitted uses and which are not listed as a special land use.

## Section 14.03 Special Land Uses

- A) Medical Marihuana, as established by Village Ordinance No. 241:
  - 1) Establishments: retailers, secure transporters, safety compliance establishments, microbusinesses, temporary marihuana events.
  - 2) Facilities: provisioning centers, secure transporters, safety compliance facilities.
  - 3) Marihuana establishments or medical marihuana facilities may not be closer than 350 feet from any pre-existing public or private school providing education in kindergarten or any grades 1 through 12 (see MCL 333.27959(3)(c)).



- 4) The distance shall be measured directly from the closest property boundary directly to the closest property boundary.
- B) Outdoor advertising media (if abuts a U.S. or state trunkline it must be approved under the Michigan Highway Advertising Act), and signs not pertaining exclusively to the business conducted within the building on the premises.
- C) Public utility facilities, i.e., filtration plant, water reservoir, or pumping station, heat or power plant, transformer station, and other similar facilities.

## Section 14.04 District Regulations

- A) **Minimum lot size:** No minimum lot size subject to meeting the applicable minimum lot width as required in this Section.
- B) **Minimum lot width:** Sixty-six (66) feet.
- C) **Minimum story levels:** two (2) stories.
- D) **Maximum height of building:** Forty-five (45) feet and not over three (3) stories in height.
- E) **Minimum ground floor transparency:** Each storefront shall have ground level window openings not less than 50% of the façade between two and eight feet from the ground.
- F) **Doorways:** Each storefront shall have front-facing doorways as the principal ingress/egress of the established use.
- G) **Build-To Line:** Each building shall be constructed up to the front property line.
- H) **Minimum rear yard:** Ten (10) feet as measured from the property line.
- I) **A side yard:** If provided, shall be ten (10) feet, except on a corner lot, the side yard facing the street shall be regulated as a front yard. A side yard of ten (10) feet shall be required when adjoining a lot in a residential district.
- J) **Vision clearance on a corner lot:** Ten (10) feet from the intersection of property lines.
- K) **Landscaping:** Landscaping as described in Article 19 of this Ordinance.



# Article 15

## "E-1", Enterprise District

### Section 15.01 Intent of District

It is the intent of this district to provide for automotive, service, free-standing commercial activities, and light industrial uses, which require limited comparison shopping and limited on-site customer interaction. Uses permitted in this district usually require larger sites and buildings and often provide services which are not compatible with other commercial or residential districts.

### Section 15.02 Permitted Uses

- A) Animal hospitals, animal boarding, or dog kennels.
- B) Automobile and other vehicle sales and service, new or used.
- C) Business and personal services including barber shops, beauty parlors, shoe repair shops, dry cleaning agencies, self-service laundries, printing shops, radio and television shops, real estate sales, insurance, and similar businesses and services.
- D) Contractors—air conditioning, plumbing, heating, and ventilating, electric, or distribution.
- E) Farm equipment sales and service.
- F) Food service establishments, including drive-ins, taverns, or night clubs.
- G) Light Fabrication, light manufacturing, and assembly of consumer goods.
- H) Machine shops.
- I) Milk distributing (retail-wholesale). No processing.
- J) Motels and hotels.
- K) Packaging services.
- L) Professional offices, show rooms, banks, undertaking establishments, publicly owned buildings, and fraternal, civic, and social organization buildings.
- M) Rental equipment and sales of used merchandise.
- N) Retail stores and shops offering chiefly new merchandise, but not excluding antique shops, when conducted within a building.
- O) Storage of products and goods excluding flammable or hazardous materials or chemicals.
- P) Theaters, except drive-in theaters.
- Q) Other uses determined to be similar to the above principal permitted uses and which are not listed as a special land use.



### Section 15.03 Special Land Uses

- A) Fabrication and assembly provided no noise or vibration is created outside the site.
- B) Medical Marihuana, as established by Village Ordinance No. 241:
  - 1) Establishments: retailers, secure transporters, safety compliance establishments, microbusinesses, temporary marihuana events.
  - 2) Facilities: provisioning centers, secure transporters, safety compliance facilities.
  - 3) Marihuana establishments or medical marihuana facilities may not be closer than 350 feet from any pre-existing public or private school providing education in kindergarten or any grades 1 through 12 (see MCL 333.27959(3)(c)).
  - 4) The distance shall be measured directly from the closest property boundary directly to the closest property boundary.
- C) Outdoor advertising media (if abuts a U.S. or state trunkline it must be approved under the Michigan Highway Advertising Act), and signs not pertaining exclusively to the business conducted within the building on the premises.
- D) Public utility facilities, i.e., filtration plant, water reservoir, or pumping station, heat or power plant, transformer station, and other similar facilities.

### Section 15.04 District Regulations

- A. **Minimum Building Site or Parcel Area:** 2 (two) acres.
- B. **Minimum Building Site or Parcel Width:** The minimum building site or parcel width shall be 100 (one hundred) feet along a public street.
- C. **Maximum height of building:** Forty-five (45) feet and not over three (3) stories in height.
- D. **Front yard setback:** Fifteen (15) feet as measured from the property line.
- E. **Maximum lot coverage:** Eighty (80) percent.
- F. **Rear yard setback:** Ten (10) feet as measured from the property line.
- G. **Side yard setback:** if provided, shall be ten (10) feet, except on a corner lot, the side yard facing the street shall be regulated as a front yard. A side yard of ten (10) feet shall be required when adjoining a lot in a residential district.
- H. **Vision clearance on a corner lot:** Ten (10) feet as measured from the intersection of property lines.
- I. **Landscaping:** Landscaping as described in Article 19 of this Ordinance.



# Article 16

## "I-1" INDUSTRIAL DISTRICT

### Section 16.01 Intent of District

The intent of the I-1, Industrial District, is to permit the use of land, buildings, and structures for the manufacturing, processing, fabricating, compounding, treatment, packaging, and/or assembly of materials or goods, warehousing or bulk storage of goods, and related accessory uses.

### Section 16.02 Permitted Uses

- A) Contractors' yards
- B) Equipment repair.
- C) Fabrication assembly and packaging.
- D) Food processing.
- E) Grinding, milling, and production.
- F) Material handling and equipment.
- G) Motor vehicle services.
- H) Off-street parking facilities as required under Article 17.
- I) Public utility facilities.
- J) Repair services.
- K) Warehousing, storage.
- L) Wholesaling.
- M) Other uses determined to be similar to the above principal permitted uses and which are not listed as a special land use.

### Section 16.03 Special Land Uses

- A) Blast furnace, smelters, foundries, coke ovens.
- B) Chemical, plastic, or rubber manufacturing.
- C) Fireworks, gunpowder, or explosive manufacturing or storage.
- D) Junk yard and automobile wrecking yard, provided a solid screen fence no less than eight (8) feet in height surrounded the use.
- E) Medical Marihuana, as established by Village Ordinance No. 241



- 1) Establishments: excess marihuana growers.
  - 2) Facilities: Class A, B, and C growers, processors, secure transporters.
  - 3) Marihuana establishments or medical marihuana facilities may not be closer than 350 feet from any pre-existing public or private school providing education in kindergarten or any grades 1 through 12 (see MCL 333.27959(3)(c)).
  - 4) The distance shall be measured directly from the closest property boundary directly to the closest property boundary.
- F) Outdoor advertising media (if abuts a U.S. highway or state trunkline highway it must be approved under the Highway Advertising Act), and signs not pertaining exclusively to the business conducted within the building on the premises.

### Section 16.04 District Regulations

- A) **Minimum lot size:** Two (2) acres, except for the buildings or structures in an industrial park, in which case the minimum building site or parcel area shall be one (1) acre.
- B) **Minimum lot width:** Three (300) hundred feet.
- C) **Maximum height of building:** forty-five (45) feet and not over three (3) stories in height.
- D) **Front yards:** shall be fifteen (15) feet from the property line.
- E) **Side yard:** if provided, shall be twenty (20) feet as measured from the property line, except on a corner lot, the side yard facing the street shall be regulated as a front yard. A side yard of fifty (50) feet shall be required when adjoining a lot in a residential district.
- F) **Rear yard:** shall be twenty (20) feet as measured from the property line. A rear yard of fifty (50) feet shall be required when adjoining a lot in a residential district.
- G) **Maximum lot coverage:** Eighty (80) percent.
- H) **Vision clearance on a corner lot:** ten (10) feet from the intersection of property lines.
- I) **Landscaping:** Landscaping as described in Article 19 of this Ordinance.



# Article 17

## Vehicle Parking and Loading

### Section 17.01 Off-Street Parking Scope of Requirements

- A) **General Applicability.** For all buildings and uses established after the effective date of this Ordinance, off-street parking shall be provided as required in this Article prior to issuance of a Certificate of Occupancy. However, where a building permit has been issued prior to the effective date of the Ordinance and construction has been diligently carried out, compliance with the parking requirements at the time of issuance of the building permit shall be required.
- B) **Change in Use or Intensity.** Whenever use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for the new use, regardless of any variance which may have been in effect prior to change of use. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, off-street parking shall be provided for such increase in intensity of use as regulated by this Article.
- C) **Off-Street Parking: Commercial Use Minimums.** In order to offer design flexibility and reduce potential urban heat island effects, the Village of Marcellus has removed the minimum parking requirements for commercial uses. Any use deemed to be that of commercial shall not be subject to providing the minimum number of parking spaces as outlined in this Article.
- D) **Off-Street Parking: Maximums.** Except for single & two-family residential uses, any person proposing the provision of greater than 125% of the minimum required off-street parking as specified in this Article shall demonstrate to the Planning Commission sufficient justification for the additional parking.
- E) **Planning Commission Modifications.** The Planning Commission may modify the numerical requirements for off-street parking, based on evidence that other standards would be more reasonable, because of the level of current or future employment and/or level of current or future patron traffic.

### Section 17.02 General Requirements

- A) **Submission Requirements.**
  - 1) Plans and specifications showing required off-street parking spaces, including the means of access and interior circulation shall be submitted to the Zoning Administrator for review at the time of application for approval.
- B) **Location.**
  - 1) Required off-street parking facilities shall be located on the same lot as the principal building or on a lot within three hundred (300) feet thereof, except that this distance shall not exceed one hundred and fifty (150) feet for dwellings. This distance specified shall be measured from the nearest point of the parking facility to the nearest point on the lot occupied by the building or use that such facility is required to serve.
  - 2) No parking area or parking space which exists for the purpose of complying with the provisions of this Ordinance shall thereafter be removed or reduced in any manner below the requirements established by this Ordinance.



- C) **Residential Parking.** Off-street parking spaces in single-family residential districts shall consist of a parking strip, driveway, garage, or combination thereof, and shall be located on the premises they are intended to serve. No parking shall be permitted on a regular basis on lawns or other unpaved areas on residential lots, with the exception of approved gravel parking areas.
- D) **Collective Use of Off-Street Parking (Shared Parking).** Off-street parking for separate buildings or uses may be provided collectively subject to the following:
  - 1) The total number of spaces provided collectively shall not be less than the sum of spaces calculated for each individual use.
  - 2) Each use served by collective off-street parking shall have direct access to the parking without crossing streets.
  - 3) The collective off-street parking shall not be located farther than three hundred (300) feet from the building or use being served.
  - 4) Written easements which provide for continued use and maintenance of the parking shall be submitted to the Village for review and approval before filing with the Cass County Register of Deeds.
- A. **Cross Access Agreements.** Common, shared parking facilities are encouraged in the Village. Wherever feasible, cross-access connections between adjacent parking lots (or a reserved connection when no adjacent parking lot exists but can reasonably be expected to be constructed at a future date) are required. Blanket cross-access easements across the entire parking lot area shall be provided for connected lots under separate ownership or management. The cross-access easements shall be without limitation and shall be recorded with the County Register of Deeds.
- B. **Storage and Repair Prohibited.** The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles are prohibited in required off-street parking lots or areas. Emergency service required for vehicles shall be permitted.

### Section 17.03 Off-Street Parking Standards

- A) Each off-street parking space for automobiles shall not be less than two hundred (200) square feet in area, exclusive of access drives or aisles, and shall be of usable shape and condition. There shall be provided a minimum access drive of ten (10) feet in width, and where a turning radius is necessary, it will be of such an arc as to reasonably allow an unobstructed flow of vehicles. Parking aisles for automobiles shall be of sufficient width to allow a minimum turning movement in and out of a parking space. The minimum width of such aisle shall be:
  - 1) For ninety (90) degree perpendicular parking, the aisle shall not be less than twenty-two (22) feet in width.
  - 2) For sixty (60) degree parking, the aisle shall not be less than eighteen (18) feet in width.
  - 3) For forty-five (45) degree parking, the aisle shall not be less than thirteen (13) feet in width.
  - 4) For parallel parking, the aisle shall not be less than ten (10) feet in width.
- B) Every parcel of land hereafter used as a public or private parking area shall be developed and maintained in accordance with the following requirements:
  - 1) All off-street parking spaces shall not be closer than five (5) feet to any property line, except where a wall, fence, or compact planting strip exists as a parking barrier along the property line.
  - 2) All off-street parking areas shall be drained so as to prevent drainage to abutting properties and shall be constructed of materials which have a dust-free surface resistant to erosion.
  - 3) Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the light away from any adjoining premises and streets.



- 4) Any off-street parking area providing space for five (5) or more vehicles shall effectively be screened on any side which adjoins, or faces property adjoining, a residential lot or institution, by a wall, opaque fence, or compact planting not less than for (4) feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property.
  - 5) All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas of one (1) or two (2) family dwellings.
  - 6) Combined parking facilities are allowed when two (2) or more uses occur on one (1) property or when a building or buildings on one (1) property contain two (2) or more uses provided that the permanent allocation of required number of parking spaces shall be the sum of the requirements for the various parking uses and computed in accordance with this Ordinance. Parking facilities for one (1) use shall not be considered as providing the required parking facilities for any other use, except churches.
- C) For the purpose of determining off-street parking requirements, the following units of measure shall apply:
- 1) **FLOOR AREA.** In the case of uses where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that such floor area need not include any area used for incidental service, storage, installation of mechanical equipment, penthouses, housing ventilators and heating systems, and similar uses.
  - 2) **PLACES OF ASSEMBLY.** In stadiums, sports arenas, churches, and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities, each eighteen (18) inches of such seating facilities shall be counted as one (1) seat. In cases where the place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.
  - 3) **FRACTIONS.** When units of measurement determining the number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half (1/2) shall require one (1) parking space.
- D) The minimum required off-street parking spaces shall be set forth as follows:
- 1) **Automobile, vehicle, or farm equipment sales and service:**
    - (a) Two (2) spaces for each service bay,
    - (b) One (1) space for every two (2) employees on maximum shift.
  - 2) **Churches, Temples or Synagogues:**
    - (a) One (1) space for each six (6) seats, or for each six persons permitted in such edifice as stated by the fire marshal.
  - 3) **Industrial uses, except as otherwise specified herein:**
    - (a) One (1) space for each three (3) employees at the largest working shift.
  - 4) **Multiple family dwellings:**
    - (a) Two (2) spaces per dwelling unit for developments of 1-24 units. 1 1/2 (one and one half) space for each dwelling unit for developments of more than 24 (twenty-four) units, to the next highest number of spaces.
  - 5) **Museum:**
    - (a) One (1) space for every 300 square feet of usable floor area (UFA);
    - (b) One (1) space for each two (2) employees at the largest working shift.
  - 6) **Nursery school, Day-care, and Pre-school:**
    - (a) One (1) space for each staff member;



- (b) Plus one (1) space for every five (5) children or one (1) space for every ten (10) children if adequate drop-off facilities are provided.

7) **Nursing home or home for the aged:**

- (a) One (1) space for each four (4) beds,
- (b) Plus one (1) space for each two (2) employees, including nurses per shift.

8) **Public utility facilities:**

- (a) One (1) space for each two (2) persons employed on the premises.

9) **Single and two (2) family dwellings:**

- (a) Two (2) spaces per each dwelling unit.

10) **Theaters, dance halls, assembly halls:**

- (a) One (1) space for each six (6) seats,
- (b) or for each six (6) persons permitted in such building as stated by the Fire Marshall.

**E) Banked Parking**

- 1) If the minimum number of required parking spaces exceeds the amount necessary to serve a proposed use, the Planning Commission may approve the construction of a lesser number of parking spaces, subject to the following:
  - (a) The banked parking shall be shown on the site plan and set aside as landscaped open space.
  - (b) Banked parking shall be located in areas suitable for future parking and that meet Ordinance requirements.
  - (c) The Village may require construction of the banked parking area upon finding that vehicles are regularly parked on unpaved surfaces, on the road or off-site.

**F) Bicycle Parking.** Parking facilities for short- and long-term bicycle parking shall be provided to meet the needs of the business or residential use. Bicycle parking facilities shall allow a cyclist to safely secure a bicycle from incidental damage or theft, while not hindering access for pedestrians or other vehicles. Bicycle parking facilities shall be located in highly visible and accessible areas.

- 1) Bicycle parking facilities shall be located at least 3 feet from adjacent walls, poles, landscaping, street furniture, drive aisles, and primary pedestrian routes and at least 6 feet from vehicle parking spaces.

**G) Barrier-Free Parking Requirements.** Each parking lot that serves a building, except single- and two-family dwelling units, shall have a number of level parking spaces, identified by an above-grade sign which indicates the spaces are reserved for physically handicapped persons. Barrier-free parking shall comply with the State of Michigan Barrier-Free Rules, Michigan Public Act No. 1 of 1966, as amended, the adopted Village Building Code, and the Federal Americans with Disabilities Act.

- (a) **Dimensions of Barrier-Free Parking Spaces.** Each barrier-free parking space shall have no more than a nominal three percent (3%) grade and shall be not less than eight (8) feet in width and be adjacent to an access aisle not less than five (5) feet in width. Required van-accessible barrier-free spaces must be eight (8) feet in width and be adjacent to an access aisle not less than eight (8) feet in width.
- (b) **Minimum Required Number of Barrier-Free Parking Spaces.** The number of barrier-free spaces required is as follows:



Total Number of Parking Spaces Provided in Lot	Minimum Number of Barrier-Free Spaces Required	Number of Van-Accessible Barrier-Free Spaces Required
Up to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 250	7	1
251 to 300	8	1
401 to 500	9	2
501 to 1000	2% of total parking provided	1/8 of total barrier-free spaces
1001 and over	20, plus 1 for each 100 over 100	1/8 of total barrier-free space

### Section 17.04 Loading/Unloading Requirements

In connection with every building or part thereof hereafter erected, except single and two (2) family dwelling unit structures, there shall be provided on the same lot with such buildings, off-street loading and unloading spaces for uses which customarily receive or distribute material or merchandise by vehicle.

- A) Plans and specifications showing required loading and unloading spaces including the means of ingress and egress and interior circulation shall be submitted to the Zoning Administrator for review at the time of application for a zoning permit for the erection or enlargement of a use of a building or structure.
- B) Each off-street loading/unloading space shall not be less than the following;
  - 1) In any commercial or industrial district, a loading/unloading space shall not be less than ten (10) feet in width and fifty-five (55) feet in length, and if it is a roofed space, not less than fifteen (15) feet in height.
- C) Subject to the limitations of the next paragraph, a loading/unloading space may occupy all or any part on any required side or rear yard, except the side yard along the street side in the case of a corner lot. In no event shall any part of a required front yard be occupied by such loading space.
- D) Any loading/unloading space shall not be any closer than fifty (50) feet to any other lot located in any residential district unless wholly within a completely enclosed building or unless enclosed on all sides by a wall, opaque fence, or compact planting not less than six (6) feet in height.
- E) In case of mixed uses, on one (1) lot or parcel, the total requirement for off-street loading/unloading facilities shall be the sum of the various uses computed separately.
- F) All off-street loading/unloading facilities that make it necessary to back out directly into a public road shall be prohibited.
- G) Off-street loading/unloading spaces and access drives shall be paved, drained, lighted, and shall have the appropriate bumper or wheel guards where needed and any light used for illumination shall be so arranged as to reflect the light away from the adjoining premises and streets.
- H) Off-street loading/unloading requirements for hotels, hospitals, mortuaries, public assembly, offices, retail, wholesale, industrial, or other uses similarly involving the receipt of distribution by vehicles, the uses having over five thousand (5,000) square feet of gross floor area shall be provided with at least one (1) off-street loading/unloading space, and for every additional twenty thousand (20,000) square feet of gross floor space, or such loading/unloading space subject to the provisions of this Ordinance.
- I) For uses not specifically mentioned herein, loading/unloading requirements shall be established by the Village Planning Commission from requirements for similar uses.



# Article 18

## Signs

### Section 18.01 Purpose and Intent

Signs may be erected or maintained in the Village of Marcellus only as permitted by this Article and subject to other restrictions contained in this Code. The sign regulations in this Article are intended to balance the public and private interests and to promote a safe, well-maintained, vibrant, and attractive community while accommodating the need for signs to inform, direct, identify, advertise, advocate, promote, endorse, and otherwise communicate information. The sign regulations of this Article are intended to ensure that signs are located, designed, sized, constructed, installed, and maintained in a way that protects and promotes safety, health, aesthetics, and public welfare while allowing adequate communication.

### Section 18.02 Definitions

- A) **Animated sign.** A sign that has any visible moving part either constantly or at intervals; flashing, scintillating, intermittent, or osculating lights; visible mechanical movement of any description; or other apparent visible movement achieved by any means that move, change, flash, osculate or visibly alters in appearance to depict action, create an image of a living creature or person, or create a special effect or scene. This definition does not include Changeable-Copy Signs that are in compliance with this Article.
- B) **Abandoned sign.** A sign which no longer identifies or advertises a currently operating business, lessee, service, owner, product or activity and/or which no legal owner can be found.
- C) **Bench sign.** A sign applied to or affixed to the seat or back of a bench.
- D) **Canopy sign.** A suspended covering, often movable, placed above a door, window, or other entranceway. Canopies can be constructed of cloth, metal, wood, or other materials.
- E) **Changeable-Copy sign.** A permanent sign or portion thereof on which the copy or symbols change either automatically through electrical or electronic means (e.g., time and temperature units), or manually through placement of copy and symbols on a panel mounted in or on a track system.
- F) **Flag.** A printed or painted on cloth, canvas, or other like material with distinctive colors, patterns, or symbols attached to a pole or staff affixed to the ground or a building and anchored along only one edge or supported or anchored at only two corners.
- G) **Freestanding sign.** A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of the sign.
- H) **Monument sign.** A base-mounted, freestanding sign placed in the ground and not attached to any building or other structure. A Monument Sign shall have a solid supporting base equal to or greater than the width of the sign face constructed of a decorative and durable material (e.g., masonry), and shall have no separations between the sign face and the base. The supporting base shall have a minimum 24-inch vertical height.
- I) **Pole sign.** A type of freestanding sign that is elevated above the ground on poles or braces.
- J) **Premises.** A lot as otherwise defined in this Ordinance.



- K) **Roof sign.** A sign that is erected, constructed, and maintained upon, against, or above the roof or parapet of a building or any portion thereof. A sign mounted upon a mansard fascia that does not project above the highest point of the roof or parapet shall be a "Wall Sign."
- L) **Temporary sign.** A sign not constructed or intended for long-term use. Examples of temporary signs include yard signs on metal poles, banners, A-frame business signs, and signs with wooden or metal supports that are pounded into the ground, rather than having a permanent foundation. Temporary signs shall not be displayed for a period longer than 90 days.
- M) **Wall sign.** A sign attached to a wall.
- N) **Window Sign.** A sign that is painted on or attached to a window or glass door that is intended to be viewed from the exterior, including signs located inside a building but visible primarily from the outside of the building.

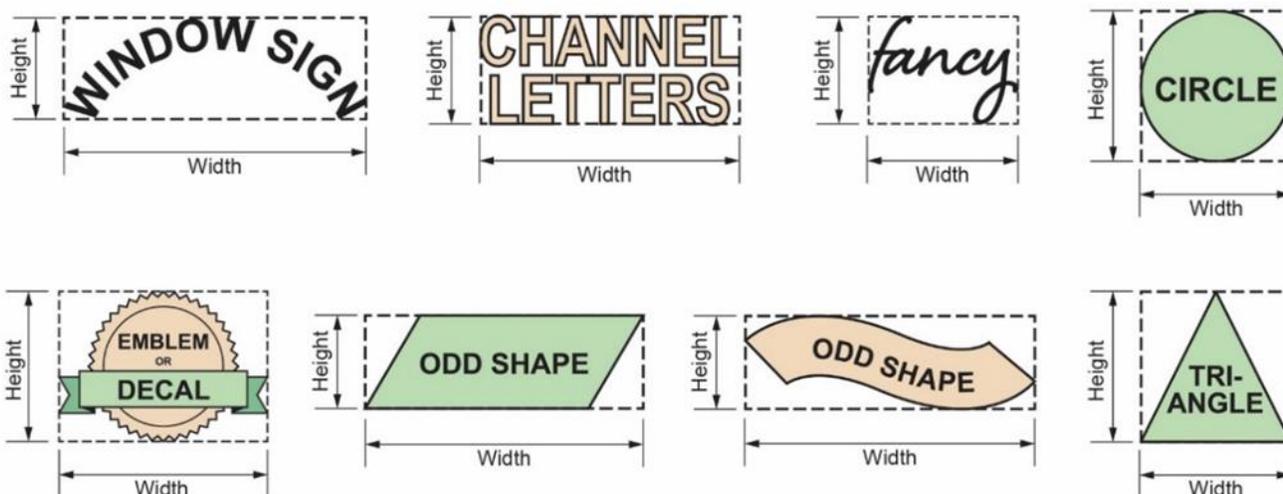
### Section 18.03 Substitution clause

Any lawful sign permitted under the provisions of this Ordinance may contain a non-commercial message.

### Section 18.04 Measurement of Sign Area and Height

The total sign area is to be expressed in square feet and shall be computed as herein set forth and permitted in the "Schedule of Sign Regulations" attached to and made a part of this code.

- A) **Single-Face Sign** total area shall be computed as the number of square feet within lines drawn at the outer perimeter forming any single and/or combination of geometric shapes, such as a square, rectangle, triangle, or circle encompassing the extreme limits of an individual letter(s), word(s), messages(s), representation, emblem or any similar figure, including open space(s), together with any frame or other material forming an integral part of display used to differentiate such sign from the background against which it is placed.
- B) **Double-face Signs** having two (2) faces of equal size arranged and/or positioned back-to-back and parallel or with the faces at an included angle of not more than thirty (30) degrees in the plan or vertical view; the area of the sign shall be computed as one-half (1/2) the total area of the two (2) faces. When the faces of such a sign are not of equal area, then the area of the sign shall be computed as the total area of the largest face.
- C) **Height** of a sign shall be measured from the sign grade. The maximum sign height shall be measured from the sign grade to the top of the sign. The minimum height, if applicable, shall be measured from the sign grade to the bottom of the sign.





## Section 18.05 Sign Permits

- A) **Permits.** It shall be unlawful for any person to erect, alter, or structurally change a sign or other advertising structure, unless specifically exempted in this Article, without first obtaining a permit in accordance with the provisions set forth herein. A permit shall require payment of a fee, which shall be established by the Village.
- B) **Applications.** Application for a sign permit shall be made upon forms provided by the Zoning Administrator. The following information shall be required:
- 1) Name, address, and telephone number of the applicant.
  - 2) Location of the building, structure, or lot on which the sign is to be attached or erected.
  - 3) Position of the sign in relation to nearby buildings, structures, and property lines.
  - 4) Plans showing the dimension, lettering style, color, materials, method of construction, method of illumination, and method of attachment to the building or in the ground.
  - 5) Written consent of the owner and/or lessee of the premises upon which the sign is to be erected.
  - 6) Other information required by the Zoning Administrator to make a determination that the sign is in compliance with applicable laws and regulations.
- C) **Review of Application.**
- 1) **Planning Commission Review.** Sign permit applications in conjunction with the proposed construction of a new building or addition to an existing building requiring site plan review shall be reviewed by the Planning Commission as part of the required site plan review. Proposed signs must be shown on the site plan.
  - 2) **Zoning Administrator Review.** Unless otherwise specified herein, the Zoning Administrator shall review the sign permit application for any sign proposed on a site or existing building where no other new construction is proposed.
- D) **Removal Agreement or Bond.** The Planning Commission or Zoning Administrator may require a performance guarantee to guarantee the future removal of a sign.
- E) **Permit Issuance.** Following a review of a sign application by the Planning Commission or the Zoning Administrator as appropriate, the Zoning Administrator shall have the authority to issue a sign permit.
- F) **Servicing.** A new permit shall not be required for ordinary servicing or repainting of an existing sign message, cleaning of a sign, or changing of the message on the sign where a sign is designed for such changes (such as lettering on a marquee or numbers on a gasoline price sign).

## Section 18.06 General Sign Provisions

- A) **Sign Location.**
- 1) **Public rights-of-way:** No sign (or any pole or support cable of any nature) except those established and maintained by the Village, County of Cass, State of Michigan, or Federal Government Agencies, shall be located in, project into, or overhang a public right-of-way or dedicated public easement, unless otherwise authorized in this chapter.
  - 2) **Clear Vision Triangle Area Prohibited.** No sign shall be located in the clear vision triangle, which is the area formed by the curb lines of two intersecting right-of-way and a third line connecting a full-view zone at corners of streets, alleys, and highways.
  - 3) **Projections.** No sign shall project beyond or overhang the wall or any permanent architectural feature (e.g., awning, canopy, or marquee) by more than twelve (12) inches and shall not project above or beyond the highest point in the roof or parapet.



- 4) **Safety.** No sign shall be permitted at any location that, in the sole discretion of the Building Inspector, creates any type of safety hazard or visual impediment to pedestrian or vehicular traffic. In making this determination, the Building Inspector shall cite any relevant building or electrical codes, provisions of this Ordinance or other Village ordinances, and/or findings or studies of the Public Safety Department and/or a traffic engineer.
- B) **Sign Height.** No sign otherwise permitted shall project above the maximum sign height limitation of the zoning district as specified in this Article.

### Section 18.07 Prohibited Signs in all Zoning Districts

The following signs are prohibited throughout the village, notwithstanding anything to the contrary elsewhere in this chapter.

- A) Any sign located in a public or private right-of-way, unless permitted by the road agency or explicitly permitted elsewhere in this Ordinance.
- B) Any sign that is deemed structurally or electrically unsafe by the Building Official.
- C) Any sign explicitly noted as prohibited in this Article.
- D) Abandoned signs.
- E) Bench signs.
- F) Roof signs.

### Section 18.08 Exempt Signs Permitted in All Zoning Districts

The following signs shall be permitted in all zoning districts according to the regulations of this Ordinance and subject to the following provisions. No permit shall be required for signs enumerated below otherwise stated. Such exemptions, however, shall not be construed to relieve the owner of the sign from responsibility for its proper location, erection, maintenance, and approval.

- A) Signs having an area of not more than four (4) square feet each.
- B) Up to four (4) flags on any given lot, provided that each flag is under twenty (20) square feet in area. Additional flags, or flags over twenty (20) square feet in area, shall be considered temporary freestanding signs, and shall be subject to the provisions of this Article.
- C) Up to six (6) temporary, freestanding signs on any given lot, provided that the total area of the signs does not exceed thirty-six (36) square feet and does not exceed the display period as noted in this Article. The signs must be set back at least ten (10) feet from all property lines.
- D) Signs located on motor vehicles or trailers bearing current license plates which are traveling or lawfully parked upon public highways, or lawfully parked upon any other premises where the primary purpose of such parking is not the display of any sign.
- E) Signs erected by governmental agencies on public property.
- F) Highway signs erected by the State of Michigan, County of Cass, or the Village.
- G) Historic signs recognized by the State Historical Commission.
- H) Any sign required to be erected by this Ordinance or any other municipality, County, State, or Federal regulation.
- I) Signs or tablets which are either cut into the face of a masonry surface or constructed of bronze or other incombustible material, when located flat on the face of a building and no greater than six (6) square feet in size.



## Section 18.09 Signs Permitted by Zoning District

The following signs are permitted in the districts:

Sign Type	Permitted Zoning Districts	Max Sign Area (sq. ft.)		Max Number	Max. Height (in feet)	Required Setback (in feet)	Notes
		Per Lot	Per Sign				
Temporary	All	36	4	6	4	10	
Free Standing	All	24	-	1	6	10	
Wall	C-1 E-1 I-1	-	32	1	-	-	<p>Wall signs shall not project more than 14 inches from the surface of which it is affixed.</p> <p>The number of wall signs shall be increased for buildings located on a corner so that there is one wall sign per public thoroughfare.</p> <p>A wall sign shall be mounted a minimum of 10 feet above grade and shall not exceed 25 feet above grade.</p>
Canopy	C-1		16	2	-	-	-
Monument	C-1 E-1 I-1	50	Regulated by lot frontage. <200 ft: 25 sq. ft. ≥200 ft: 50 sq. ft.	1	8	10	

## Section 18.10 Illumination and Changeable-copy

- A) **Electronic Message Center Copy Change.** The copy of an electronic message center sign must change instantaneously. Flashing, scrolling, fading, dissolving, osculating, spinning, twirling, video display, or other type of motion are prohibited.
- B) **External Illumination and Shielding.** No sign shall be externally illuminated by other than continuing white light in accordance with the requirements of the provision of this Article. Any external lighting for the illumination of signs shall be directed away from and shall be shielded from any adjacent lots and shall be so arranged as to not adversely affect driver visibility on adjacent public thoroughfares.
- C) **Illumination of Signs.**
  - 1) In no event shall any sign be permitted to rotate or oscillate.
  - 2) A sign shall not be illuminated in a manner which causes it to obscure or interfere with the effectiveness of an official traffic sign, device or signal. Nor shall any sign be illuminated in a manner which could be confusing to motorists or which, due to color of light or otherwise, could be misinterpreted for a traffic or danger signal.
  - 3) In no event shall there be awnings which feature backlit graphics or other kinds of interior illumination.



- 4) Signs with moving messages. Signs may utilize moving patterns of light to convey an illusion of motion or animation. However, in addition to time and temperature signs, electronic message boards, or changeable copy signs on which the copy consists of an array of light or are displayed on an interior non-illuminated but moveable surface shall be permitted, provided that the following conditions are satisfied:
- (a) The frequency of the copy on the message board is not less than 10 (ten) seconds in duration.
  - (b) All interior lights in the sign shall activate simultaneously, remain activated for a period of not less than 10 (ten) seconds, and deactivate simultaneously.
  - (c) The maximum brightness level for electronic signs and electronic message boards shall not exceed 5,000 (five thousand) nits (candela/square meter) when measured from the sign's face at its maximum brightness during daylight hours, and 500 (five hundred) nits when measured from the sign's face at its maximum brightness after sunset and before sunrise.
  - (d) Sign illumination shall be dimmed to 10% brightness level between the hours of 10:00 p.m. and 6:00 a.m. the following day. Further, between these hours, the electronic sign may not change the display message – a single message shall be displayed.

## Section 18.11 Zoning Compliance

Before the Zoning Administrator of the Village may issue a zoning permit as provided herein, they shall be satisfied that all zoning regulations have been complied with and that the advertising sign or billboard will be constructed in a safe, sturdy, and durable manner with proper bracing, anchorage, and foundation. Signs not being maintained in an attractive and neat manner, or which are not being maintained so as to be safe, sturdy, and durable, shall be deemed to be in violation of this Ordinance as determined by the Zoning Administrator.

## Section 18.12 Mounting

All signs requiring attachment to a wall or ground, except temporary signs, shall be reviewed and approved by the Village Building Official to ensure compliance with the State Building Code. The applicant shall furnish all applicable mounting details upon submission of a sign permit application.



# Article 19

## Special Provisions

### Section 19.01 Purpose

There are certain conditions concerning land uses that warrant specific regulations and standards in addition to the requirements of the zoning districts in which they are located.

### Section 19.02 Dwelling Per Lot, Parcel, or Building Site

Every dwelling hereafter erected shall be located on a lot, parcel, or building site or premises, the description of the boundaries of which are on record at the Register of Deeds Office, or in case of a Land Contract shall be on record with the Zoning Administrator and Village Assessor as adequately descriptive.

### Section 19.03 Accessory Building

- A) All accessory buildings not attached to the main building shall be located in the rear yard, and not less than three (3) feet from the sideline of the premises on which they are located. All accessory buildings attached to the main building, including breezeways, shall be considered a part of the main building in determining yard requirements.
- B) No accessory building shall project into any required front yard.
- C) No accessory building shall occupy more than thirty (30) percent of the rear yard, as measured from the rear of the principal building/structure to the rear property line.
- D) On a corner lot, no accessory building shall be located nearer to the side street lot line than the side yard setback of the principal building on said lot.
- E) If a rear yard abuts an alley then the rear setback shall be measured from the center of the alley line and shall not be less than 10 (ten) feet.

### Section 19.04 Substandard Dwellings

For the express purpose of promoting the health, safety, and general welfare of the inhabitants of the Village, and of reducing hazards to health, life, and property, no basement dwelling, or cellar dwelling, tent, garage-house, recreational vehicle or similar type, or other substandard structure shall hereinafter be erected or moved upon any premises and used for dwelling purposes.

### Section 19.05 Required Water Supply and Sanitary Sewer Facilities

In addition to the requirements established by the State and County Health Departments, no structure for human occupancy or use shall hereinafter be erected, enlarged, moved, or its kitchen or bathroom altered unless it shall be properly connected to the Village water and sanitary sewer systems.



### Section 19.06 Access to a Street

No lot, parcel, or building site shall be occupied except where access to a public street no less than twenty (20) feet in width. Public access to commercial, industrial, or recreational uses shall not be designed so as to pass through the residential neighborhoods.

### Section 19.07 Visibility at Intersections

No fence, wall, hedge, screen, sign, structure, vegetation, or planting shall be higher than two (2) feet above street grade on any corner lot, parcel, or building site in any zoning district requiring front and side yards within the triangular area formed by the intersecting street right-of-way lines and a (30) feet distant from the point of intersection, measured along the street right-of-way.

### Section 19.08 Street Vacations

Whenever any street, alley, or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of such vacation, and all area included therein shall henceforth be subject to all appropriate regulations of that district within which such area is located.

### Section 19.09 Height Regulations

The height requirements established by this Ordinance shall apply uniformly in each zoning district to every building and structure except that the following structures and appurtenances shall be exempt from the height requirements of this Ordinance; spires, belfries, penthouses, and domes not used for human occupancy, chimneys, ventilators, skylights, water tanks, utility poles, power lines, radio and television broadcasting and receiving antennas, silos, parapets, and other necessary mechanical appurtenances. Provided their location shall conform where applicable to the requirements of the Federal Communications Commission, the Civil Aeronautics Administration, and other public authorities having jurisdiction.

### Section 19.10 Fences, Walls, and Screens

Within the limits of a front yard space of a lot within a residential district, no fence, wall, other than necessary retaining wall, or other screening structure shall be higher than four (4) feet. No such fence or wall located within a side or rear yard shall exceed six (6) feet in height.

A) Approved enclosure shall mean a fenced in area which meets the following requirements:

- 1) The fenced-in area shall not exceed 4 (four) percent of the property area, or 8,000 (eight thousand) square feet, whichever is less.
- 2) The fenced-in area shall not be located in the front yard setback area required pursuant to the Village of Marcellus Zoning Ordinance.
- 3) The fence shall be no greater than 6 (six) feet in height.
- 4) The fence shall be constructed of durable exterior materials and shall be properly maintained.
- 5) The finished side of the fence shall face surrounding properties.
- 6) The Planning Commission may allow modifications to these requirements subject to site plan approval.



## Section 19.11 Essential Services

For purposes of this Ordinance, the following provisions shall apply:

- A) The surface of land used for pipeline rights-of-way shall be restored and maintained as near as possible to its original condition prior to the construction of the pipeline.
- B) Essential services shall be exempt from lot area requirements in the Commercial and Industrial Districts.

## Section 19.12 Swimming Pools

The following shall apply to all swimming pools located within the Village of Marcellus.

- A) **Permit.** No person shall construct, operate, or maintain or use a swimming pool without first obtaining a permit therefore from the Village of Marcellus. An application for such a permit shall be accompanied by a complete and detailed set of plans and specifications for the swimming pool, including the site plan, pool dimensions, location and type of disposal system, structural calculations, fence, and gate details deemed necessary by the Village.
- B) **Location.** Swimming pools must fulfill the property line setback requirements established in the applicable zoning district to which the pool will be located.
- C) **Construction Standards.**
  - 1) **Electrical Wiring:** All electrical wiring used on, in or about the premises upon which the pool is located shall conform in all respects to the Village of Marcellus adopted electrical code.
  - 2) **Drainage:** a drainage plan, showing existing topography of the subject site, shall be submitted for review by the Village.
  - 3) **Water supply:** swimming pools shall be provided with a potable water supply. The water supply line to the pool shall be protected against backflow of water by means of a fixed air gap of six inches or more above the highest possible water level, or by an approved vacuum breaker or other approved backflow prevention device installed in an approved manner. All filter pipe shall be located so as to prevent hazards to bathers.
  - 4) **Circulation:** swimming pools shall have adequate recirculation and filtration of pool water to prevent stagnation and organic growth.
- D) **Fences & Gates.**
  - 1) A fence, wall or other structure shall be at least five (5) feet in height above the finished grade level measured on the side of the barrier away from the pool.
  - 2) Gates and doors in such barriers shall be self-closing and self-latching.
  - 3) Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, the release mechanism shall be located on the pool side of the gate at least three inches below the top of the gate, and the gate and barrier shall have no openings greater than one-half inch within 18 inches of the release mechanism.
- E) **Maintenance & Operation.** The pool, its environs, and its operation shall be clean and sanitary at all times, and the pool shall be kept free of floating material, sediment, scum, and debris.

## Section 19.13 Keeping of Animals

A farm animal that is permitted in an area zoned for or being used as a residence shall be defined as follows: any horse, cow, calf, swine, sheep, goat, chickens, geese, ducks, donkeys, pigeons, pigs (including Vietnamese pot-bellied pigs), reptiles, wild, or hybrid (part domesticated and part wild) exotic animal, except domesticated dogs and cats, caged reptiles or insects commonly kept as pets, fish, caged rodents normally kept as pets, caged rabbits normally kept as pets, and caged birds normally kept as pets.

Such animals shall be permitted within the Village of Marcellus upon meeting the follow conditions:



- 1) Such animals shall only be allowed in the Single-Family Residential Zoning District and shall be considered an Accessory Use(s) in accordance to Section 11.02 (B). Such lot or parcel where the animals are located must consist of at least 2 acres (87,120 sq. ft.) in size. Such an area must be that of one parcel and not the combination of parcels.
- 2) Such lot or parcel must contain a principal dwelling where the owner of such animals resides.
- 3) Any pasturing or housing of such animals must be kept a minimum of 50 feet from any residential dwelling or water source.
- 4) Must prevent any animal waste or fluid runoff from leaving the parcel or lot unless for the purpose of proper disposal.
- 5) The keeping of such animals must be in compliance with the Michigan Department of Agriculture, which shall include GAAMPS (Generally Accepted Agricultural Management Practices) and any other applicable local, State or Federal regulations.
- 6) Such animals shall be prohibited in any area of the Village where the same become obnoxious by reason of odors, noise, or sanitary conditions. Such a determination shall be made by the Village of Marcellus Council. Such decision shall, be conclusive on the question of whether the same are so obnoxious only after a written complaint is filed by a property owner that has been directly affected by the presence of such animals. The Village Council for the Village of Marcellus shall issue a written decision to both the complaining party, and the owner of such animals. Such decision must also include any corrective actions that must be taken which may include the removal of such animal, and a timeframe to which such actions must be taken.
- 7) Any other animal that is not listed or defined as a farm animal above must be approved by the Zoning Administrator prior to such animal being allowed.
- 8) Prior to the placement of such animals, the property owner shall submit a plot application to the Zoning Administrator. Such plot plan shall include the type of animals being kept, the number of animals being kept, a diagram of where the animals will be located on the property, and any buildings or structures that will be associated with such animals.
- 9) In addition to the plot plan, a manure management plan shall also be submitted.
- 10) The keeping of such animals is not for commercial use, production. And shall be for personal use only.
- 11) No butchering or slaughtering of animals shall take place on the property.
- 12) Such regulations are not intended to supersede or interfere with any other agency which shall include the Cass County Animal Control, or the Cass County Public Health Department.

### **Section 19.14 Elevated Decks**

Uncovered decks elevated more than 3 (three) feet above grade may be located only in the rear yard and may not occupy more than 30 (thirty) percent of the rear yard or be located closer than 3 (three) feet to the side or rear lot lines.

### **Section 19.15 Satellite Disk/Dish**

Satellite disks are permitted in any zoning district. If any satellite disks or related item is located in a front or side yard of any lot or parcel, such disk or related equipment must be setback a minimum of 40 feet from the centerline of the roadway. Disks may be located in rear yards, attached to the ground and not closer than 3 (three) feet to the side or rear lot lines. Regardless of its location, no disk shall be located in any right of way, and shall not cause any vision obstructions for vehicle or foot traffic, or obstruct any utility or public works agency in the performance of their duties. The height of such disk shall not be a vision obstruction from any adjacent property owner from a clear view that they have been custom to.



## Section 19.16 Accessory Dwelling Units

- A) **Definition:** An Accessory Dwelling Unit (ADU) is a detached dwelling unit that is permitted only on properties with a single detached principal dwelling unit. ADUs are smaller in size than the principal dwelling unit. ADUs include a kitchen, sleeping area(s), bathroom facilities.
- B) **Permitted Districts:** ADUs are permitted in the R-1, Residential District and shall meet the standards of this section.
- C) **Application Process:** An application for an ADU shall be made to the Village of Marcellus, and shall include the following information:
- 1) **Scaled & Dimensioned Site Plan (Plot Plan) of the property showing:**
    - (a) Location of all structures on the subject property.
    - (b) Proposed location of the ADU.
    - (c) Setbacks of the proposed ADU from the property lines and all existing structures.
    - (d) Designated vehicle parking
  - 2) **Scaled and Dimensioned Floor Plan & Elevations of the ADU showing:**
    - (a) Kitchen facility.
    - (b) Bathroom facilities.
    - (c) Sleeping areas.
    - (d) Entrances, porches, windows, and other structural components.
    - (e) Total square footage of the ADU.
- D) **Review Process**
- 1) **Approving Agency:** The Village of Marcellus and their designated reviewing agents shall be the approving authority for Accessory Dwelling Units (ADU).
- E) **Standards for Approval**
- 1) **Number Allowed:** A maximum of one (1) ADU shall be permitted on a residential property.
  - 2) **Location and Setbacks**
    - (a) Front Yard: shall not be permitted in a required front setback.
    - (b) Side Yard: shall meet the minimum side yard setback requirements for principal structures in the R-1 District.
    - (c) Rear Yard: shall meet the minimum side yard setback requirements for principal structures in the R-1 District.
  - 3) **Height:** An ADU shall be subject to the height requirements stipulated within the R-1 District.
  - 4) **Occupancy:** The principal dwelling unit OR the accessory dwelling unit (ADU) shall be owner-occupied.
  - 5) **Property Requirements**
    - (a) An ADU shall only be constructed on a property with a single detached dwelling unit.
    - (b) An ADU shall count towards the maximum lot coverage as stipulated within the R-1 District.
    - (c) An ADU shall be connected to an approved water and sewer system.
    - (d) The utilities for the ADU shall not be metered separately.
    - (e) An ADU shall not be sold separately.



(f) An ADU shall receive a certificate of occupancy from the building official prior to occupancy.

6) **Impact**

(a) The ADU shall not result in an excessive increase in vehicular traffic, parking congestion, or noise.

(b) The placement, orientation, and location of windows and doors of the ADU shall not infringe on the privacy of the surrounding neighborhood.

### Section 19.17 2<sup>nd</sup> Story Residential Dwellings

It is the intent of this Section to permit 2<sup>nd</sup> Story residential dwellings above a principal commercial use within the C-1, Commercial Corridor District as a permitted use, subject to the following:

- A) No dwelling unit shall occupy any portion of the floor area of the building at grade level.
- B) Business uses may occupy any number of total floors in the building, but no business shall be located on the same floor as a residential use.
- C) No floor in the building may be used for business purposes that is located above a floor used for residential purposes.
- D) Each dwelling unit shall have a minimum of 750 square feet of floor area, excluding any hallway or common pathway to access each individual unit.

### Section 19.18 Economy Homes

It is the intent of this Section to permit economy homes (compact dwellings/tiny homes) within the R-1 District, subject to the following:

- A) Footprint: A minimum building footprint of 400 square feet.
- B) Parking: Minimum of 1.5 parking spaces per unit for personal vehicles.
- C) Setbacks: the minimum setback distance from property lines shall be as established in the R-1 District.
- D) Foundation: the economy home (compact home/tiny home) shall be constructed on a permanent foundation. For the intent of this provision, a wheel chassis, such as a vehicle tires, shall not be considered a permanent foundation.
- E) Meet all applicable Michigan Building Code regulations.

### Section 19.19 Residential Solar

A) **On-Site Use Solar Energy Panels (50kW or less).** The use of solar energy panels for on-site use may be permitted administratively as an accessory use provided it complies with applicable County, State and Federal regulations and safety requirements, including the Michigan Building Code and the following requirements. A building permit shall be required for the installation of any On-site Use Solar Energy Systems.

1) **Ground Mounted On-Site Use Solar Energy Panels**

- (a) Ground mounted Solar Energy Panels shall be permitted to be located on a residentially-used parcel as an accessory structure.
- (b) Up to 15% of the residential parcel may be permitted to be covered with ground mounted Solar Energy Panels.
- (c) A ground mounted Solar Energy Panel shall be located in the rear yard and shall be set back a minimum of 10 feet from all property lines.
- (d) No ground mounted Solar Energy Panel shall be permitted to exceed a height of fifteen (15) feet.



- (e) All power transmission or other lines, wires or conduits from a ground mounted Solar Energy Panel to any building or other structure shall be located underground. If batteries are used as part of the ground mounted Solar Energy Panel, they must be placed in a secured container or enclosure in compliance with manufacturer and building code requirements.
- (f) There shall be greenbelt screening around any ground mounted Solar Energy Panels and equipment associated with the system to obscure, to the greatest extent possible, the Solar Energy Panels from any adjacent residences. The greenbelt shall consist of shrubbery, trees, or other non-invasive, plant species that provide a visual screen. In lieu of a planting greenbelt, a decorative fence (meeting the requirements of this Ordinance applicable to fences) may be used.
- (g) In the event that a ground mounted Solar Energy Panel has been abandoned (meaning not having been in operation for a period of one (1) year, it shall be removed by the property owner within six (6) months from the date of abandonment.

2) **Roof or Building Mounted Private Solar Energy Panels**

- (a) Shall be considered an accessory use in all zoning districts subject to the requirements of this section.
- (b) Shall not project more than two (2) feet above the roof line. However, the solar panel when installed shall not exceed the maximum height allowed in the Zoning District. The use of flat mount solar panels or solar shingles is preferred.
- (c) May be constructed on any roof surface of an existing structure.
- (d) Shall meet all building and fire code regulations.
- (e) In the event that a roof or building mounted Solar Energy Panels have been abandoned (meaning not having been in operation for a period of one (1) year, it shall be removed by the property owner within six (6) months from the date of abandonment.

- 3) **Removal/Abandonment:** If a solar energy system ceases to perform its intended function (generating electricity) for more than twelve (12) consecutive months, the property owner shall remove the collectors, mounts, and associated equipment and facilities no later than ninety (90) days after the end of the twelve (12) month period. Where the removal has not been lawfully completed as required above, and after at least thirty (30) days written notice, the Village may remove or secure the removal of the solar energy system or portion thereof, with the Village's actual cost and reasonable administrative charges to be placed as a lien on the property. A lien on the property shall be superior to all other liens except taxes.

## Section 19.20 Home Occupation

It is the intent of this Section to permit home occupations within the residential districts, subject to the following:

- A) Such an occupation is clearly incidental to the use of a dwelling unit for residential purposes.
- B) Such an occupation shall be wholly within the principal dwelling or within an accessory building located on the property.
- C) No article shall be sold or offered for sale on the premises except such as is produced by the occupation on the premises.
- D) No mechanical or electrical equipment shall be installed or maintained other than such as is customarily incidental to domestic use.
- E) Exterior storage of materials shall not be permitted.
- F) No exterior indication of the home occupation or variation from the residential character of the principal building shall be permitted.
- G) Home occupations shall not produce noise, vibration, smoke, dust, odor, heat or glare that is not typically associated with residential use.
- H) Home occupations shall only be operated by members of the family occupying the premises.



## Section 19.21 Landscaping

It is the intent of this Section to regulate landscaping elements and design components, in order to reduce urban island heat effect, promote climate resiliency, protect existing natural features and create standards for new developments by requiring the following:

### A) Green Belts.

- 1) The intent of the green belt is to provide a consistent buffer along vehicular corridors. A green belt shall be planted within or adjacent to the right-of-way of any public street. If planting in the right-of-way is not permitted by the road agency with jurisdiction in the right-of-way, or is not acceptable to a utility company, the green belt plantings shall be planted within a required setback.
- 2) The green belt shall include only living materials and planting beds, except for approved sidewalks, signs, driveways and essential services.
- 3) Landscaping materials arrangement shall insure adequate site visibility for motorists, adequate clearance for pedestrians and vehicles, and accessibility to fire hydrants.
- 4) Green belts shall be a minimum of six (6) feet wide. The C-1 District shall be except from the green belt requirement due to the "build to" design regulations associated with said District.
- 5) Where such a planting is not feasible due to the potential for poor vegetation growth due to limited greenbelt widths, the Planning Commission shall have the ability to approve a deviation/waiver from Section 19.21.

### B) Street Trees.

- 1) Parcels that have frontage along a public right-of-way shall be landscaped with a minimum equivalent of one (1) canopy tree for every 75 linear feet, or fraction thereof.
- 2) Street trees shall have a minimum caliper size of two (2) inches, as measured in conformance with the American Standard for Nursery Stock.
- 3) Any tree species known to have structural weakness or excessive bearing of fruit or nuts shall not be used in areas of vehicular or pedestrian traffic.
- 4) Invasive species shall not be used for street tree planting requirements. Further, to protect species that are indigenous to the Village, the use of invasive species which naturalize are prohibited. Such invasive species not permitted may be referenced via the Midwest Invasive Species Information Network.

### C) Steep Slopes. For those properties that are found to have the presence of steep slopes, the following minimum standards shall apply:

- 1) Slopes between 12 and 18 percent, which have erodible soils at a K factor of 0.20 to 0.24, shall not be cleared or developed to an extent that is greater than 50% of the slope area.
- 2) Slopes between 12 and 18 percent with erodible soils at a K factor higher than 0.24, shall not be cleared or developed to an extent that is greater than 20% of the slope area.
- 3) Slopes greater than 18 percent are prohibited to be vegetatively cleared.

### D) Maintenance.

- 1) Green belts and plant materials required by this chapter shall be kept free from refuse and debris. Plant materials shall be maintained in a healthy growing condition, neat and orderly in appearance. If any plant material is required by this chapter dies or becomes diseased, such material shall be replaced within 30 days of written notice by the Village or within an extended time period as specified in such notice.

- E) **Required Plant Species.** A minimum of seventy-five (75%) percent of landscape plans must include native plants listed in the tables below. Native plants pose no threat of becoming invasive and provide a host of critical ecological benefits. Xeriscape design is highly encouraged.



*Xeriscape adjacent to parking lot*



*Residential Xeriscape*

All Master Deeds, Covenants, Bylaws, or other similar internal regulations of a condominium or site condominium shall encourage the use of the native species listed in this Section, in order to support the Village Master Plan's goals of conserving groundwater resources, reducing the need for irrigation and maintenance, drought and flooding resiliency, and overall cost savings.

**MICHIGAN NATIVE PLANTS – SOUTHERN LOWER PENINSULA**

Deciduous Trees		
Common Name	Scientific Name	Notes
American Hornbeam	<i>Ostrya Virginiana</i>	
Beech, American	<i>Fagus Grandifolia</i>	
Beech, Blue	<i>Carpinus Caroliniana</i>	
Birch	<i>Betula</i>	
Black Gum	<i>Nyssa Sylvatica</i>	
Black Walnut	<i>Juglans Nigra</i>	
Chestnut	<i>Castanea</i>	
Crabapple/Hawthorn	<i>Malus/Crataegus</i>	
Hickory	<i>Carya</i>	
Juneberry	<i>Amelanchier Arborea</i>	
Kentucky Coffeetree	<i>Gymnocladus Dioicus</i>	
Larch/Tamarack	<i>Larix</i>	
Maple	<i>Acer</i>	
Oak	<i>Quercus</i>	
Oak, Bur	<i>Quercus Macrocarpa</i>	LH



**Deciduous Trees**

Common Name	Scientific Name	Notes
Oak, Red	<i>Quercus Rubra</i>	LH
Oak, Swamp White	<i>Quercus Bicolor</i>	LH
Oak, White	<i>Quercus Alba</i>	LH, B
Redbud	<i>Cercis Canadensis</i>	LH, N
Sassafras	<i>Sassafras Albidum</i>	
Sycamore	<i>Platanus</i>	
Tulip Tree	<i>Liriodendron Tulipifera</i>	
Wild Cherry	<i>Prunus</i>	LH, N

**Coniferous/Evergreen Trees**

Arborvitae	<i>Thuja</i>	
Cedar, Red	<i>Juniperus Virginiana</i>	
Fir	<i>Abies</i>	
Hemlock	<i>Tsuga</i>	
Larch/Tamarack	<i>Larix</i>	Cannot be used for required screening.
White Pine	<i>Pinus Strobus</i>	

**Shrubs**

Arrowwood Viburnum	<i>Viburnum Dentatum</i>	
Blackhaw Viburnum	<i>Viburnum Prunifolium</i>	
Bush Honeysuckle	<i>Diervilla Lonicera</i>	
Buttonbush	<i>Cephalanthus Occidentalis</i>	
Dogwood, Alternate Leaved	<i>Cornus Alternifolia</i>	
Dogwood, Flowering	<i>Cornus Florida</i>	
Dogwood, Red-Osier	<i>Cornus Sericea or Stolonifera</i>	LH, B, N, S
Elderberry	<i>Sambucus Nigra or Canadensis</i>	B
Holly (Michigan)	<i>Ilex Verticillata</i>	B
Nannyberry	<i>Viburnum Lentago</i>	B, LH, N
New Jersey Tea	<i>Ceanothus Americanus</i>	LH, N
Ninebark	<i>Physocarpus Opulifolius</i>	N
Red Chokeberry	<i>Aronia Arbutifolia</i>	
Serviceberry	<i>Amelanchier</i>	B, LH
Shrubby Cenquefoil	<i>Potentilla Fruticose</i>	
Spicebush	<i>Lindera Benzoin</i>	LH
Witch-Hazel	<i>Hamamelis Virginiana</i>	

**B** = Provides food (fruit, seed, or nectar) or nesting habitat for birds  
**GC** = Groundcover  
**LH** = Larval host for butterflies  
**LS** = Well-suited for landscaping; not for gardens.

**N** = Provides nectar for butterflies.  
**NS** = Does not establish well from seed.  
**PP** = Attract pollinators and predatory insects  
**S** = Spreads by underground suckers



Ferns		
Common Name	Scientific Name	Notes
Lady Fern	<i>Athyrium Filix-Femina</i>	
Maidenhair Fern	<i>Adiantum Pedatum</i>	
Ostrich Fern	<i>Matteuccia Struthiopteris</i>	
Sensitive Fern	<i>Onoclea Sensibilis</i>	
Grasses, Sedges, Rushes		
Big Bluestem	<i>Andropogon Gerardii</i>	
Bottlebrush Grass	<i>Hystrix Patula</i>	LH
Indian Grass	<i>Sorghastrum Nutans</i>	LH
Little Bluestem	<i>Andropogon Scoparius</i>	LH
Pennsylvania Sedge	<i>Carex Pensylvanica</i>	GC
Soft-stemmed Rush	<i>Juncus Effuses</i>	
Switch Grass	<i>Panicum Virgatum</i>	LH
Tussock Sedge	<i>Carex Stricta</i>	LH, LS
Wildflowers		
Aster, New England	<i>Aster Novae-Angliae</i>	LH, N, PP
Aster, Smooth	<i>Aster Laevis</i>	LH, N, PP
Beardtongue, Foxglove	<i>Penstemon Digitalis</i>	B
Beardtongue, Hairy	<i>Penstemon Hirsutus</i>	B
Black-eyed Susan	<i>Rudbeckia Hirta</i>	LH, N
Blazing Star, Marsh	<i>Liatris Spicata</i>	N
Blazing Star, Rough	<i>Liatris Aspera</i>	N
Boneset, Common	<i>Eupatorium Perfoliatum</i>	N, PP
Cardinal Flower	<i>Lobelia Cardinalis</i>	B, N
Culver's Root	<i>Veronicastrum Virginicum</i>	N, PP
Golden Alexanders	<i>Zizia Aurea</i>	PP
Golden Ragwort	<i>Senecio Aureus</i>	
Goldenrod, Broad-Leaved	<i>Solidago Flexicaulis</i>	N
Goldenrod, Riddell's	<i>Solidago Riddellii</i>	N, PP
Goldenrod, Showy	<i>Solidago Speciose</i>	N, PP
Goldenrod, Stiff	<i>Solidago Rigida</i>	N
Great Blue Lobelia	<i>Lobelia Siphilitica</i>	PP
Meadow-rue, Early	<i>Thalictrum Dioicum</i>	
Meadow-rue, Purple	<i>Thalictrum Dasycarpum</i>	

**B** = Provides food (fruit, seed, or nectar) or nesting habitat for birds  
**GC** = Groundcover  
**LH** = Larval host for butterflies  
**LS** = Well-suited for landscaping; not for gardens.

**N** = Provides nectar for butterflies.  
**NS** = Does not establish well from seed.  
**PP** = Attract pollinators and predatory insects  
**S** = Spreads by underground suckers



Wildflowers		
Common Name	Common Name	Common Name
Milkweed, Butterfly	<i>Asclepias Tuberosa</i>	LH, N
Milkweed, Common	<i>Asclepias Syriaca</i>	LH
Milkweed, Poke	<i>Asclepias Exaltata</i>	LH
Milkweed, Swamp	<i>Asclepias Incarnata</i>	LH, N
Missouri Ironweed	<i>Vernonia Missurica</i>	N
Mountain Mint	<i>Pycnanthemum Virginianum</i>	N
Nodding Wild Onion	<i>Allium Cernuum</i>	
Prairie Dock	<i>Silphium Terebinthinaceum</i>	B, N
Sand Coreopsis	<i>Coreopsis Lanceolate</i>	B, N
Southern Blue Flag	<i>Iris Virginica</i>	
Spiderwort, Common	<i>Tradescantia Ohiensis</i>	
Spotted Joe-pye Weed	<i>Eupatorium Maculatum</i>	N
True Solomon's Seal	<i>Polygonatum Biflorum</i>	
Turtlehead	<i>Chelone Glabra</i>	LH
White Baneberry	<i>Actaea Pachypoda</i>	
Wild Bergamot	<i>Monarda Fistulosa</i>	N
Wild Columbine	<i>Aquilegia Canadensis</i>	LH, B
Wild Geranium	<i>Geranium Maculatum</i>	
Wild Ginger	<i>Asarum Canadense</i>	
Wild Lupine	<i>Lupinus Perennis</i>	LH, N
Wild Strawberry	<i>Fragaria Virginiana</i>	GC, LH, NS
Aster, New England	<i>Aster Novae-Angliae</i>	LH, N, PP
Aster, Smooth	<i>Aster Laevis</i>	LH, N, PP
Beardtongue, Foxglove	<i>Penstemon Digitalis</i>	B
Beardtongue, Hairy	<i>Penstemon Hirsutus</i>	B
Black-eyed Susan	<i>Rudbeckia Hirta</i>	LH, N
Blazing Star, Marsh	<i>Liatris Spicata</i>	N
Blazing Star, Rough	<i>Liatris Aspera</i>	N
Boneset, Common	<i>Eupatorium Perfoliatum</i>	N, PP
Cardinal Flower	<i>Lobelia Cardinalis</i>	B, N
Culver's Root	<i>Veronicastrum Virginicum</i>	N, PP
Golden Alexanders	<i>Zizia Aurea</i>	PP
Golden Ragwort	<i>Senecio Aureus</i>	

**B** = Provides food (fruit, seed, or nectar) or nesting habitat for birds  
**GC** = Groundcover  
**LH** = Larval host for butterflies  
**LS** = Well-suited for landscaping; not for gardens.

**N** = Provides nectar for butterflies.  
**NS** = Does not establish well from seed.  
**PP** = Attract pollinators and predatory insects  
**S** = Spreads by underground suckers



Wildflowers		
Common Name	Common Name	Notes
Goldenrod, Broad-Leaved	<i>Solidago Flexicaulis</i>	N
Goldenrod, Riddell's	<i>Solidago Riddellii</i>	N, PP
Goldenrod, Showy	<i>Solidago Speciose</i>	N, PP
Goldenrod, Stiff	<i>Solidago Rigida</i>	N
Great Blue Lobelia	<i>Lobelia Siphilitica</i>	PP
Meadow-rue, Early	<i>Thalictrum Dioicum</i>	
Meadow-rue, Purple	<i>Thalictrum Dasycarpum</i>	
Milkweed, Butterfly	<i>Asclepias Tuberosa</i>	LH, N
Milkweed, Common	<i>Asclepias Syriaca</i>	LH
Milkweed, Poke	<i>Asclepias Exaltata</i>	LH
Milkweed, Swamp	<i>Asclepias Incarnata</i>	LH, N
Missouri Ironweed	<i>Vernonia Missurica</i>	N
Mountain Mint	<i>Pycnanthemum Virginianum</i>	N
Nodding Wild Onion	<i>Allium Cernuum</i>	
Prairie Dock	<i>Silphium Terebinthinaceum</i>	B, N
Sand Coreopsis	<i>Coreopsis Lanceolate</i>	B, N
Southern Blue Flag	<i>Iris Virginica</i>	
Spiderwort, Common	<i>Tradescantia Ohiensis</i>	
Spotted Joe-pye Weed	<i>Eupatorium Maculatum</i>	N
True Solomon's Seal	<i>Polygonatum Biflorum</i>	
Turtlehead	<i>Chelone Glabra</i>	LH
White Baneberry	<i>Actaea Pachypoda</i>	
Wild Bergamot	<i>Monarda Fistulosa</i>	N
Wild Columbine	<i>Aquilegia Canadensis</i>	LH, B
Wild Geranium	<i>Geranium Maculatum</i>	
Wild Ginger	<i>Asarum Canadense</i>	
Wild Lupine	<i>Lupinus Perennis</i>	LH, N
Wild Strawberry	<i>Fragaria Virginiana</i>	GC, LH, NS

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# Article 20

## Site Plan Review

### Section 20.01 Purpose

The site plan review procedures, standards, and required information in this Section are intended to provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the regulations and standards contained within this Ordinance and other applicable ordinances and laws, to achieve efficient use of the land, to protect natural resources, and to prevent adverse impact on adjoining or nearby properties. \*State law reference-Site plans, MCL 125.3501.

### Section 20.02 General Policies and Requirements

- A) **Building permits.** Except as hereinafter set forth, the Village shall not issue a building permit for construction or enlargement of any buildings, structures or uses until a site plan, submitted in accordance with this Article, shall have been reviewed and approved by the Planning Commission.
- B) **Exceptions.** Site plans and site plan review shall be required for all uses except the following:
  - 1) Single- and two- family dwellings under separate ownership on an individual and separate lot for each home including driveways serving them.
  - 2) Residential and agricultural accessory buildings.
  - 3) Projects involving expansion, remodeling, or enlargement of existing buildings which comply fully with all requirements of this article and involve no new or additional means of access from adjoining public streets, roads, or highways.

### Section 20.03 Effective Period

An approved site plan shall be effective for a period of one (1) year, or the life of the building permit obtained pursuant to the approved site plan, whichever is longer. If construction is not commenced within the period that the site plan is effective, no construction shall take place unless an extension has been approved by the Planning Commission, providing that there is compliance with all applicable site plan requirements that are in effect at the time the extension is granted.

### Section 20.04 Procedures

- A) **Conceptual site plan review.** In order that developers may be better informed regarding the conformity and acceptability of their proposed plans prior to incurring extensive design, engineering, and other costs involved in preparing a final site plan, preliminary sketches (conceptual plans) of the proposed site and development plans may be submitted to the Planning Commission for preliminary review and discussion. Any preliminary guidance given by the Planning Commission at this stage is intended to be helpful to the applicant, but views expressed by commissioners at this stage are not to be construed as approvals binding on the Planning Commission. Such sketch plans should include, as a minimum, the following:



- 1) Names and addresses of the applicants and/or developers, including the appropriate officers of a corporation or members of a partnership, if applicable.
  - 2) A legal description of the property, its property number as used in the tax rolls, and its street address location.
  - 3) Sketch drawing showing proposed site and development plans, including planned dimensions, setbacks, etc.
- B) **Site plan review application procedure.** Requests for site plan review shall be made by filing with the Village Zoning Administrator, and shall include the following:
- 1) A completed site plan review application form obtainable from the Village Zoning Administrator, both in paper and digital format, and any additional copies as required for review by the Village.
  - 2) The submission of a site plan shall provide for the furnishing of the following information: names and addresses of applicants, street address, property number, and legal description of the land or property involved; area of the land in acres, or in square feet if less than two (2) acres; present zoning classification of the land; current ownership status; and a general description of the proposed development in specific terms.
  - 3) A site plan review fee according to the current schedule of fees as determined by the Village Council.
- C) **Site plan requirements.** All site plans submitted for approval shall show:
- 1) An appropriate descriptive legend, north arrow, scale, date of preparation, and the name and address of the individual and firm which prepared the plan. For property of 3 (three) acres or less, scale shall be no smaller than one-inch equals 20 (twenty) feet; for property of more than 3 (three) acres, scale shall be no smaller than one inch equals 50 (fifty) feet.
  - 2) All lot and/or property lines, properly dimensioned, including building set back lines and existing easements and rights-of-way, if any.
  - 3) The location and height of all existing and proposed structures on the property and on adjacent properties within 100 (one hundred) feet of the property line, to include dimensions of proposed buildings as well as gross and usable floor space in square feet for each.
  - 4) The locations and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, parking areas, (including a typical parking space) unloading areas, and recreation areas. (Parking provisions shall be in accordance with Article 17). Evidence of approval for curb openings and drives on a state highway or county road from the appropriate commission shall also be provided.
  - 5) The location of both pavement and right-of-way widths of all abutting roads, streets, and alleys.
  - 6) The name, address, and telephone number of the property owner(s) and/or applicant.
  - 7) The name, address, and telephone number of the licensed professional who produced the plan, including their seal of approval stamped on the submitted plans.
  - 8) The location and size of all existing and proposed utilities.
  - 9) The location, size, and capacity of all surface drainage facilities.
  - 10) Existing and proposed contours at a minimum interval of 2 (two) feet, unless otherwise prescribed by the Planning Commission.
  - 11) The location and type of all planned landscaping, green belts, or other required screening; location, height, and type of proposed fences and/or walls; location of all rubbish receptacles.
  - 12) The name and address of the professional individual responsible for preparing the site plan, together with the identification and seal of architect, engineer, land surveyor, or landscape architect who prepared the drawings.
  - 13) For multiple family developments, typical elevation views of the front and side of each type of proposed building, as well as dimensioned typical floor plans for each type.
  - 14) If applicable, a summary schedule which gives the following information:

- (a) The number of dwelling units proposed, to include the number, size, and location (by legend, if necessary) of one-bedroom units, two-bedroom units, mobile/manufactured home sites, etc.
  - (b) The residential area of the site in acres and in square feet, including breakdowns for any sub-areas or staging areas.
- D) **Site plan review.** In addition to review by its members, the Planning Commission shall routinely have proposed site plans reviewed by the Village Attorney, Fire Chief, Zoning Administrator, and Building Inspector. In cases where the Planning Commission deems it appropriate, it may engage the services of a suitably qualified professional engineer or engineering firm to review and comment upon the site plan, the expenses of such review to be borne by the applicant and as established by the Village Fee Schedule.
- E) **Site plan approval.** The Planning Commission shall have the function, duty, and power to approve or disapprove, or to approve subject to compliance with certain modifications or conditions, site plans in accordance with the purposes, intent, and provisions of this section.

### Section 20.05 Standards for Site Plan Review

The following criteria shall be used as a basis upon which site plans will be reviewed and approved:

- A) **Adequacy of Information:** The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses and structures.
- B) **Access:** That there is a proper relationship between the existing streets and highways in the vicinity of the proposed deceleration lanes, (if any) service drives, entrance and exit driveways, and parking areas to ensure the safety and convenience of both pedestrian and vehicular traffic.
- C) **Location:** That the buildings, structures, and entryways thereto proposed for the premises are situated so as to minimize the adverse effects upon owners and occupants of adjacent properties and the neighborhood in general.
- D) **Natural Features:** That as many natural features of the landscape as possible are retained where they furnish a barrier or buffer between the proposed development and any adjoining properties used for dissimilar purposes and/or where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of stormwater;
- E) **Screening:** That any adverse effects of the proposed development and future resulting activities upon adjoining residents or owners shall be minimized by appropriate screening, That all provisions of this Article are complied with, unless an appropriate variance has been granted by the Zoning Board of Appeals. Such screening shall be in the form of:
  - 1) A six (6) foot tall privacy fence, composed of wood or vinyl material or;
  - 2) Densely planted evergreen shrubs with a minimum height of six (6) feet at time of planting or;
  - 3) Evergreen trees, with a minimum height of six (6) feet at time of planting;
  - 4) Alternative screening, as approved by the Planning Commission.
- F) **Emergency Access:** That all buildings and structures are accessible to emergency vehicles;
- G) **Public Services:** That the site plan, as approved, is consistent with the intent and purpose of zoning to promote public health, safety, morals and general welfare; to encourage the use of land in accordance with its character and adaptability; to avoid overcrowding of population; to lessen congestion upon the public roads and streets; to reduce hazards to life and property; to facilitate adequate provision for systems of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; to conserve the expenditure of funds for public improvements and services; to conform with the most advantageous use of land, resources, and properties; to conserve property values and natural resources; and to give reasonable consideration to the character of a particular area, its peculiar suitability for particular uses, and the general and appropriate trend and character of land, building, and population development.



- H) **Exterior Lighting:** Exterior lighting shall be designed so that it is deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets. Such exterior lighting shall be shielded in order to prevent light trespass onto adjacent properties.

### Section 20.06 Modifications and Revisions

- A) **Modification.** Any modifications of a submitted site plan desired by the Planning Commission shall be stated in writing to the applicant. Site plan approval may be granted contingent upon the revision of the site plan by the applicant to the satisfaction of the Planning Commission. If any part of a site plan is in conflict with any section of this article in terms of area and bulk regulations, setbacks, parking maneuvering lanes, etc., a variance must be obtained from the Zoning Board of Appeals before the Planning Commission can approve the site plan.
- B) **Incomplete or repeatedly revised plans.** Applicants who submit incomplete plans or revise them repeatedly after submission will be charged an additional review fee if their actions require the Planning Commission to have more than 2 (two) meetings to review and approve their site plans. The optional sketch plan review procedure outlined in section 20.04(a), does not count as one (1) of the 2 (two) meetings.

### Section 20.07 Recording and Filing

Copies of the approved site plan, with modification, if any, shall be signed by the chairperson of the Planning Commission, and, if variances have been granted, by the chairperson of the Zoning Board of Appeals. Copies of the approved site plan will be retained per Village policy.

### Section 20.08 Amending a Site Plan

A proposed amendment, modification, alteration, or other change to a previously approved site plan shall be submitted via the Zoning Administrator to the Planning Commission for review and approval in the same manner as the original application. Such proposed revisions shall be clearly identified, numbered, dated, and referenced to site plans and revisions previously approved by the Planning Commission.

### Section 20.09 Performance Bond

The Planning Commission shall have the right and authority to require a developer to file with the Village, at the time of application for a building permit, a performance bond or bank letter of credit in such amount as may be determined by said Board to ensure the development of the site in accordance with the approved site plan, conditioned upon such proper construction and development. Such bond, if required, shall continue for the duration of the construction and development of the site and shall be in the face amount which is a reasonable percentage of the estimated total cost of construction and site development. The bond shall be for the purpose of securing the completion of improvements considered necessary to protect natural resources and/or health, safety, and welfare of the residents of the Village and adjacent residents and property owners. The Planning Commission shall provide for the rebate of any cash bond filed in this connection in reasonable proportion to the ratio of the work completed on the improvements for which the bond was required.

### Section 20.10 Appeals and Questions of Interpretation

Any persons considering themselves aggrieved by the decision of the Planning Commission in granting or denying site plan approval shall have the right to appeal said decision in the Village Zoning Board of Appeals. The appeal must be filed with the Village Clerk within 15 (fifteen) days of the decision of the Planning Commission. The ZBA can reverse or affirm, in whole or part, or may modify the prior decision made by the administrative body or official from whom the appeal is taken.

However, the authority of the ZBA during the appeal process is limited. The initial decision of the ZBA is whether the action taken was appropriate and related to the standards applicable to that decision.



If the ZBA finds that proper procedures and considerations were used in denying site plan approval, the appeal should be denied and the decision upheld. If, on the other hand, the ZBA finds an error in the manner in which the decision was reached, it may grant the appeal and reach another decision. However, granting the appeal does not automatically reverse the original decision. Rather, it simply means that the ZBA now decides the site plan approval, using the same review standards applicable to the original decision.

If either party is dissatisfied with the ZBA's decision, the recourse is an appeal to the county circuit court.



# Cass County Planning Commission

## Checklist



Dear Local Government Official:

When you send the Cass County Planning Commission material for their review, please use the attached checklist and include it with the other documents that you submit. Thank you.

- Signed cover letter requesting review and summarizing the process which has already occurred.
- Copy of the public hearing minutes.
- Copy of section of Township Land Use Plan that applies to/supports action.
- Copy of section of zoning ordinance, including amendments or supplements, which apply to/support action.
- For an initial zoning ordinance: 8 copies on loan with map(s).
- For text changes (amendments or supplements): those portions affected or a comprehensive summary of the changes and, if affected, the map.
- For petitions for rezoning, a copy of the petition with the map(s) showing: zoning of adjoining properties within 300 ft. for which action was taken and the parcel(s) of consideration and roads need to be clearly identified and labeled. If not included on the petition, the cover letter should indicate acreage, existing zoning, requested zoning, existing use and proposed use.
- Does the action taken by the Township concur with the Township Ordinance, Zoning Map and/or Land Use Master Plan for that property? If not, is the request eligible for Zoning Board of Appeals action?
- If any provision of public services is or will be involved, include correspondence from the affected unit expressing its awareness.

**IT IS RECOMMENDED THAT A MEMBER OF THE PLANNING COMMISSION ATTEND THE COUNTY PLANNING COMMISSION MEETING TO FURTHER EXPLAIN THE REQUEST AND TO ANSWER QUESTIONS.**

Date: 1/8/24

Signed: Dawn Bolock

# COVER LETTER

January 8, 2024

Cass County Planning Commission  
120 N Broadway  
Cassopolis, MI 49031

Dear Commission Members:

This letter requests your review and Ontwa Township Planning Commission recommendation regarding the Planning Commissions December 6<sup>th</sup>, 2023 review of the Conditional Zoning request for the Eddies Market proposal.

Attached please find the relevant document regarding the Eddie's Market December 6<sup>th</sup> 2023 Conditional Rezoning Request. Note that the original request was for a PUD in beginning in January 2022. Over the following months it became a rezoning request, and then a conditional zoning request. **Please add Ontwa Township to your January 26, 2023 Cass County Plan Commission meeting agenda.**

The following summarizes the events:

January 5 <sup>th</sup> , 2022	Eddie's Market discusses PUD proposal – no action
May 4 <sup>th</sup> , 2022	Eddie's Market general discussion - no action
February 1, 2023	Eddie's Market: Rezoning Public Hearing – 2 south parcels C2 north parcel Multi Family Residential (proposes 200 rental units) <u>Motion</u> : Table rezoning application until a traffic study/housing study is provided to the PC. Motion approved 5-1
April 5, 2023	Brian Shier – Eddie's Market schedule meeting then cancels – no action
May 3, 2023	Eddie's Market Attorney Palacous requests all action on the Eddie's Market be postponed by the PC indefinitely, but not to exceed 6 months. Her request is attached to the minutes on the Ontwa website.
August 2, 2023	Attorney proposes to provide the traffic and housing data PC requested 30 days prior to October 11, 2023 PC meeting she requested.
October 11, 2023	PC did not receive the traffic or housing data prior to the October 11, 2023 PC meeting as agreed. Attorney Palacous presented the information. The Plan Commission agreed to review the information at the December 6 <sup>th</sup> meeting.
December 6, 2023	The application for the conditional rezoning was denied 5 to 3.

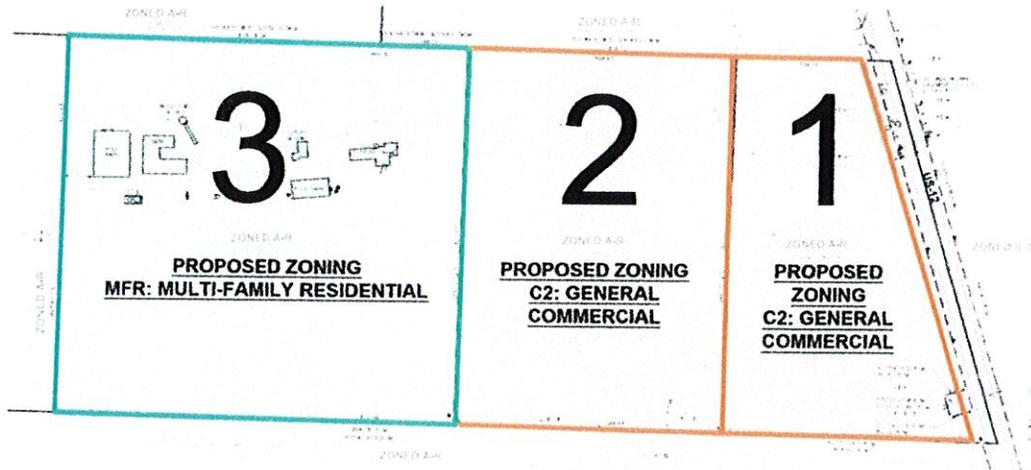
The complete text of the above listed minutes are available on the Ontwa website.

Thank you for your assistance,

Dawn Bolock, Ontwa Township Zoning Administrator

# MAPS/PARCEL DATA

approximately 36 acres. The rezoning is sought ostensibly to pursue a PUD that would contain commercial development and multi-family dwellings on the property.



The request is divided into three parts:

1. **Request 1** includes only the southerly 8.7-acre parcel (14-090-007-001-01) and the applicant is seeking to rezone this to C-2 General Commercial. (see "1" above)
2. **Request 2** includes the southerly 11.1 acres of the original 27-acre parcel located directly north of the first request. It is our understanding that this parcel has been split into its own property (14-090-006-015-04). The applicant is also seeking to rezone this land to C-2 General Commercial. (see "2" above)
3. **Request 3** includes the remaining 16.4 acres to the north of request 2 and is the rest of the original property (14-090-006-015-05). The applicant seeks to rezone this property to MFR. (see "3" above)

**Review Standards.** Section 22.04 (a-e) of the Ontwa Township Zoning Ordinance provides several criteria standards that must be evaluated by the Planning Commission when contemplating a proposed rezoning request. We reviewed these standards in our January 24 memorandum and our analysis of these standards has not changed substantively.

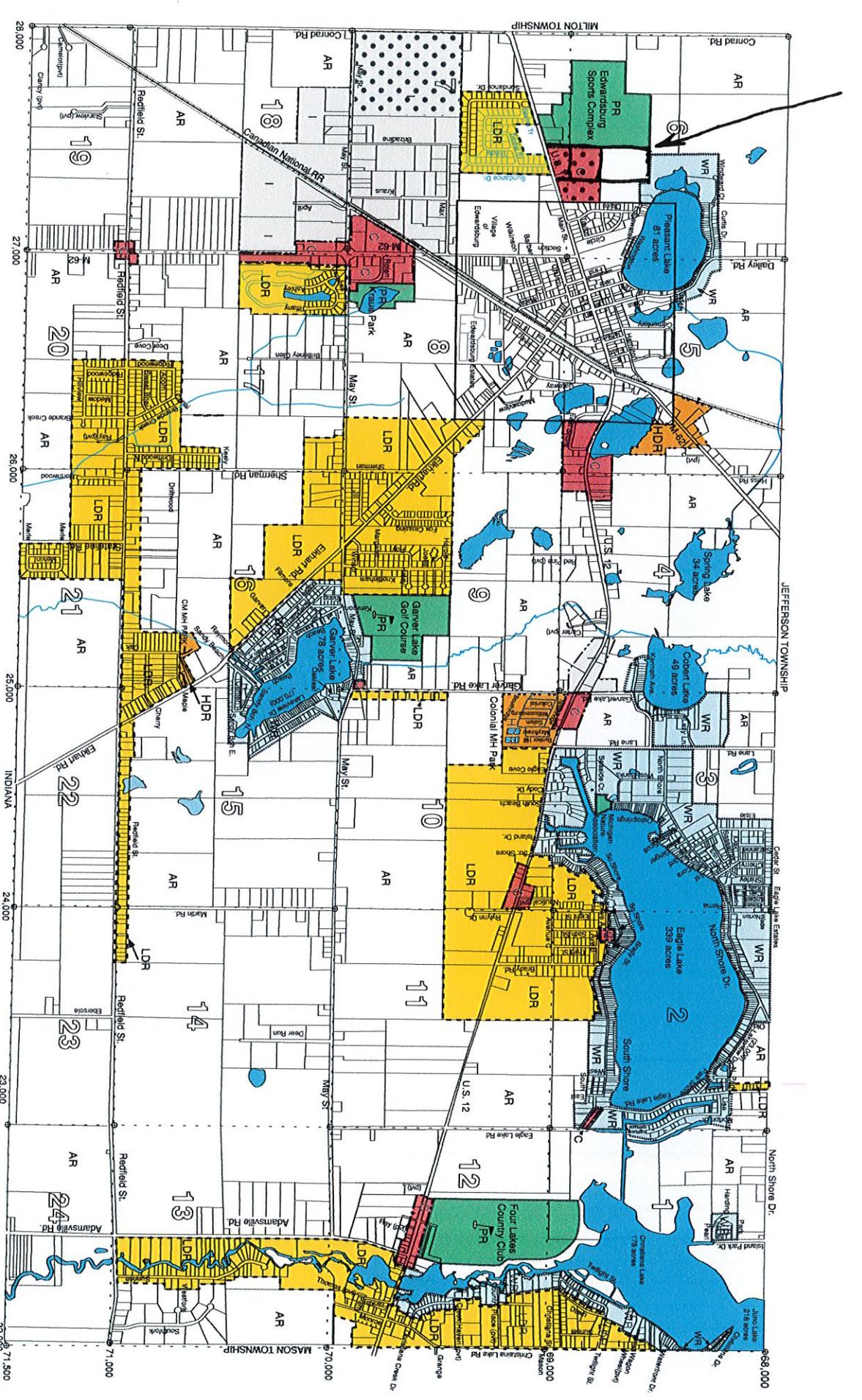
**Conditional Rezoning.** Conditional rezoning agreements (sometimes referred to as "contract zoning") are not specifically addressed in the Ontwa Township Zoning Ordinance. However, Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405) states as follows:

- (1) *An owner of land may voluntarily offer in writing, and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.*
- (2) *In approving the conditions under subsection (1), the local unit of government may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the*

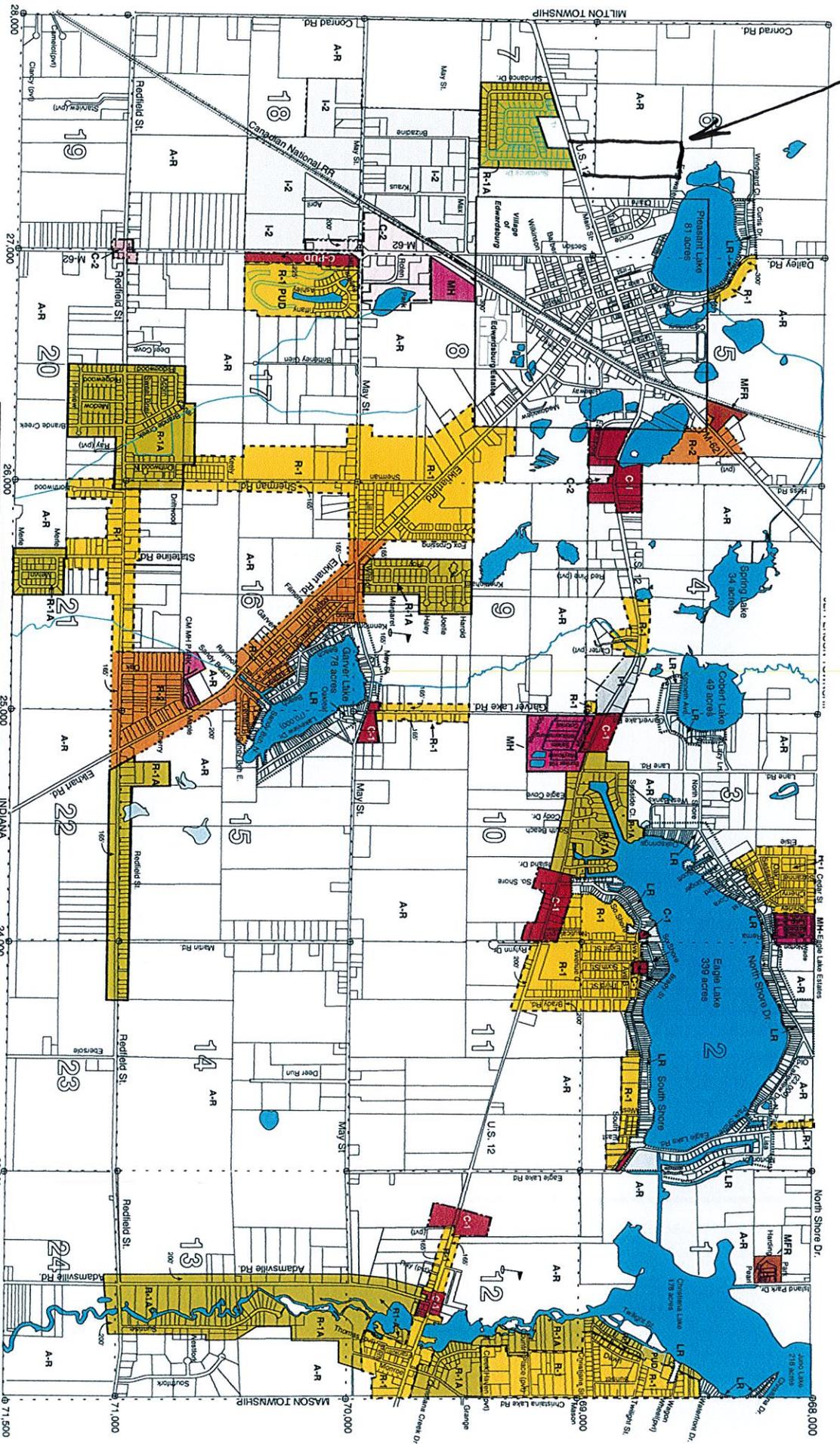
**FUTURE LAND USE PLAN**  
**ONTWA TOWNSHIP**  
**CASS COUNTY, MICHIGAN**

-  Agricultural Residential (AR)
-  Low-Density Residential (LDR)
-  High-Density Residential (HDR)
-  Waterfront Residential (WR)
-  Commercial (C)
-  Industrial (I)
-  Parks and Recreation (PR)

**ONTWA**  
**TOWNSHIP**



**ZONING MAP**  
**ONTWA TOWNSHIP**  
**CASS COUNTY, MICHIGAN**  
 ADOPTED DECEMBER 1996  
 LAST REVISED: AUGUST 2017



	Agricultural Residential A-R	Residential R-1A	Residential R-1	Lake Residential LR	MH Residential MH	MFR Multi-Family Residential	C-1 Commercial	C-2 Commercial	L-1 Light Industrial	L-2 Heavy Industrial
Minimum Lot Area	60,000	20,000	15,000	12,000	12,000	43,560	80	80	21,780	21,780
Minimum Lot Width	200	125	100	80	80	125	80	80	150	150
Minimum Side Yard	35	35	35	35	35	35	75	75	35	35
Minimum Rear Yard	30	30	30	30	30	20	20	20	20	20
Minimum Floor Area	1000	1500	1200	1000	1000	30	20	25	25	25

MAINTAIN THE PRECEDENCE - 9/26/02

**ONTWA**  
**TOWNSHIP**

Best practices may include bio-retention swales, rain gardens, vegetated rooftops, rain barrels, and permeable pavements; that process stormwater as a resource. New standards can require that natural features be preserved or recreated and impervious surfaces be minimized to the extent possible, to help ensure that runoff is reduced and processed naturally.

### **Planning Commission Work Program**

The Plan recommends that the Planning Commission prepare a work program in January of each year. This work program would set forth the tasks or goals which the Planning Commission determines to accomplish for the upcoming year. This will allow the Commission to stay focused on important tasks and help to implement the goals and objectives identified with this Plan.

The Planning Commission should also partake in a joint meeting with the Village of Edwardsburg Planning Commission on an annual basis to create a consistent means of communication and land use decisions.

### **Planning Education**

Planning commissioners should attend planning seminars to keep themselves informed of planning issues and learn how to better carry out their duties and responsibilities as Planning commissioners. These seminars are regularly sponsored by the Michigan Association of Planning and the Michigan Township Association (MTA) and are a valuable resource for Planning Commissions. There are also several planning publications which are a useful information tool for Planning commissioners. The main publications are Planning and Zoning News and Michigan Planner Magazine.

### **Adhere to the Future Land Use Plan**

The Township should strive to make decisions that are in harmony with the future land use plan. Nevertheless, the policies of this Master Plan should be viewed as flexible, and they should be revised as the character of the community changes over time. The Plan should be reviewed and periodically updated at least once every five years to remain current and to meet statutory provisions. As stated in the description of the Zoning Plan on page 48, proposed land uses should be consistent with the future land use designations. However, the Planning Commission may determine that a proposed land use would not be consistent with the applicable future land use designation, but would not be incompatible with the underlying policies of the Plan, and would represent a logical extension of land use. It may therefore be a preferred alternative to the Plan, and the Plan may be amended accordingly.

# ORIGINAL PUBLIC HEARING

**PLANNING COMMISSION  
ONTWA TOWNSHIP, CASS COUNTY MICHIGAN  
APPROVED MINUTES  
WEDNESDAY  
FEBRUARY 1, 2023 @ 7:00 PM**

Chairman Marbach called the meeting of the Ontwa Township Planning Commission to order at 7:02 pm

**Pledge of Allegiance:** All rose for the pledge of allegiance.

Chairman Marbach welcomed everyone, stating that there was a quorum present. He introduced the Ontwa Township Planner, Andy Moore from Wm and Works.

**Agenda:** Chairman Marbach asked if there were any changes, corrections or additions to the agenda as presented. Hearing none he asked for a motion to approve the agenda as presented. Motion made by Dawn Bolock and seconded by Dick Gates. He called for a vote and all were in favor.

**Election of Officers for 2023:** Chairman Marbach called for the Election of Officers. Sandra Seanor motioned to appoint Chris Marbach as Chairman, and Dawn Bolock as Vice Chairman. It was moved by Seanor and seconded by Mroczek. The Chairman called for a vote, all were in favor. Dawn Bolock motioned to nominate Sandra Seanor as Secretary. Bill Mahaney seconded the motion. The Chairman called for a vote; all were in favor, motion passed.

**Approval of the Public Hearing and the Regular Meeting Minutes of 12-7-2022:** Chairman Marbach asked for clerical corrections including dating the Public Hearing Minutes and adding a space to the Regular Minutes page. He called for other changes. There were none and he asked for a motion to approve the Public Hearing and Regular Minutes for 12-7-2022. Mike Mroczek motioned to approve, and Dick Gates seconded the motion. The Chairman called for a vote. All were in favor, motion passed.

**Land Divisions:** There were no Land Division requests.

**PUBLIC HEARING OPENS**

**New Business: Eddies Market Rezoning -** Chairman Marbach noted that the Eddies Market rezoning request is a Public Hearing duly advertised and noticed. He reviewed the process for the public hearing, which includes comments from the Zoning Administrator, our Planner and the Applicant. The applicant will have the opportunity to present his request. He noted the process will then allow questions of the applicant. The Chairman will call for those wishing to speak in favor of the project and then those wishing to oppose the project. The applicant will then have an opportunity to address any concerns from the audience or PC members. The

February 1, 2023 p2

Chairman will close the public hearing and the Planning Commission can discuss and make its decision regarding the rezoning. The Chairman suggested that participants keep their commentary to three minutes. In opening the public hearing, the Chairman read the parcel numbers for the rezoning request into the record: (1) 14-090-007-001-01, rezone to C2, (2) 14-090-006-015-04, rezone to C2 (3) 14-090-006-015-05, rezone to Multiple Family Residential (MFR).

Chairman Marbach called on Zoning Administrator Krempec for comments. He had none. Marbach called on Andy Moore the Ontwa Planner for his comments. Andy Moore noted that last year the applicant came before the Planning Commission with a request for PUD, that was not supported by the applicant's facts. It had a similar multifamily and commercial interest noting that the PUD request did not meet Ontwa Township Zoning requirements. Moore described the petition request. He further noted that the Planning Commission does not have to decide on the rezoning request this evening if it believes it needs additional information on the matter. He referred to the Wm and Works Memorandum dated January 24, 2023. Moore noted that after the PCs final recommendation regarding the rezoning it will be forwarded to the Ontwa Board of Trustees for a final decision. Chairman Marbach thanked Mr. Moore and called the applicant forward.

Brian Shier, applicant for Eddies Market rezoning request, stated that he resides at 27398 US12, Edwardsburg, MI. He introduced himself and proceeded to read from his application checklist nearly verbatim. A copy of the application is available at the Zoning Administrative Office. During his presentation he discussed the Master Plan, noting the future land use plan includes commercial development at that location. He also noted that the Multi-Family Residential (MFR) rezoning request did not meet the Master Plan at this time. He continued with his presentation saying he had discussions with school, church, and sports complex. Mr. Shier provide three letters of support from: The First Pentecostal Church (Robert Geans), Edwardsburg Public Schools (Jim Knolls, Ed.S), Market Van Buren (no signature).

Mr. Shier spent some time discussing the Edwardsburg School's need, as he perceives it for additional housing. He noted that he believed that the addition of housing units would support the commercial development he is planning. He concluded his presentation.

Sandra Seanor asked why he was requesting C2 vs C1? Shier noted that he thought that C2 aligns with uses on US-12 and C2 allows for drive through commercial activities. He noted that since covid, drive-thru facilities have become important for commercial properties. He said that he wanted any potential investor to have that option.

Shier went on to say that he thinks that the MFR is needed to support the proposed commercial property. He said that his plan prioritizes a safe walkable community between complementary land uses.

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Dawn Bolock asked about his address, which is different than the one listed in the application. Shier said that he now lives on the property proposed for rezoning and that 404 E Main in Niles (on the form) is the office address.

Sandra Seanor asked if he was still proposing 200 multifamily units? The applicant said they "don't have a good handle on units right now". He then stated that they would do whatever zoning permits them to do.

Seanor asked if they had completed a traffic impact study. Mr. Shier had said several times that he had been working with MDOT. She further noted that she felt that a traffic impact analysis with the concurrence on numbers by MDOT's Travel Demand staff was necessary for the PC to assess the appropriate rezoning. She continued asking if they had or are planning to do a housing market study to assess absorption rates, affordability etc.? Mr. Shier stated that he is not going to spend thousands of dollars on these studies and does not plan to do studies until the rezoning is approved. Mr. Shier asked, "why would I spend thousands of dollars on a traffic study to only get a no from the PC?"

Chris Marbach asked if there be a traffic light there at the property? Shier said he wanted one, but that MDOT would determine the traffic signal improvements. He noted that MDOT had already decided to install a traffic signal at Section St. which will be completed in the summer of 2023. There was more discussion of the 200 proposed units and what Mr. Shier perceives the school system needs.

Dawn Bolock asked about affordability and price point. Mr. Shier said they have research on this and are confident that the market need is there. He did not offer to share this information and did not provide information about unit price points.

Bill Mahaney noted that he believes that the applicant needs at least two driveways.

**Support:** Chairman Marbach asked for public comments in favor of the project. Hearing none he requested comments opposing the project.

**Opposition:** Ed Patzer 23353 Lakeview Dr., associated with the Edwardsburg Sports Complex ESC, said he has spoken to applicant a couple of times. Patzer indicated that he was concerned about security of the Sports Complex property. The ESC is planning to secure the front of the property soon and they don't want people to have access to the property during non-office hours. He had asked the applicant, Mr. Shier to construct a fence between the sports complex the applicant's property. He said that the applicant said no. Mr. Patzer went on to say that the sports complex is not a park, it is private non-profit property. Patzer felt that this would have a detrimental effect on the ESC property.

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Bob Runkle 27551 US 12 lives across from the proposed development. He said he thought that single family residential would be a better fit than apartments. He said he was surprised that they wouldn't consider single family residential instead.

**Applicant Responses:**

**Re: Runkle's comment:** Shier stated that he would not consider single family residential because of the Chicago Trails development since it had a second phase that never was never built. happened. Also cost of building single family is 3x higher that previously.

**Re: Sports Complex:** Shier said that he felt that the ESC board was receptive to the project, but Mr. Patzer wanted him to put a fence around the whole property and he said no. Shier said he was surprised that a fence would be a hangup on a multi-million-dollar development. He went on to say that he thought the ESC should have put up a fence when the sports complex was built.

**Additional public comments:**

Skip Kaspersak President of Sports Complex Board noted that people have referred to the ESC as a park, but it is not. She said that the ESC welcomes community but are not a public park and are not supported by tax dollars. She said that when the Board met with Mr. Shier, they had a lot of reservations. A major concern was about traffic impacts. Even their ESC events cause traffic problems, and the ESC continues to work to improve them. She noted that adding another 200 dwelling units plus commercial traffic, the impacts would be tremendous. She believes that a traffic study is appropriate and should be based on max buildout for residential and commercial. She asked that the Planning Commission make sure to have the facts before making a decision.

Todd Haberland 68656 W. Banks Drive, Edwardsburg. Asked "who absorbs the risk for the project?" He noted that the applicant doesn't want to invest in the studies, but he doesn't want the risk, so that puts the onus on the township. He questioned why the township would want to take that risk?

Mike Mroczek asked Mr. Shier if he would be willing to have the rezoning request broken into 2 or 3 parts since the MFR seems to be the more significant issue? Mr. Shier said no and stated that he would need approval on all three requests in order to move forward. The applicant said he wouldn't move forward with the project if they had to spend significantly more money just to get the rezoning.

**Planner's comments:** Chairman Marbach called on Andy Moore to review his report. Moore commented on the remarks made at the meeting regarding the traffic study and housing analysis and noted again that if PC had concerns about traffic or housing studies, they could table the action and ask for studies be provided before approving the rezonings.

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Chairman Marbach asked for a motion to close the public hearing, which was made by Sandra Seanor, seconded by Bill Mahaney. The vote was called for all were in favor and the public hearing was closed at 8:44 pm.

#### **PUBLIC MEETING CLOSES**

Sandra Seanor said that she wanted to make a motion. Chairman Marbach acknowledged the request. Seanor motioned that the rezoning application be tabled until such time that the applicant completes, and the Planning Commission receives a traffic impact study and a housing market analysis addressing the commercial and multifamily rezoning proposal. Both studies are to be completed by Michigan duly licensed traffic engineers and housing professionals. Second by Bill Mahaney. Chairman Marbach called for a voice vote. Secretary Seanor called for the voice vote: Bill Mahaney – Yes, Dawn Bolock – Yes, Mike Mroczek – Yes, Dick Gates – Y, Sandra Seanor – Yes, Chris Marbach – No. The motion passed 5 Yes, 1 No

**New Business: Planning Commission Annual Report** - Chairman Marbach presented the completed the 2022 Planning Commission Annual Report. PC members commented that it was very well written and comprehensive. A motion was made to approve the report by Dawn Bolock, seconded by Mike Mroczek. All voted in favor, motion passed.

**Old Business:** Chairman Marbach read a letter of support for the Elkhart Rd Trail project and asked for a motion to approve the letter. The motion to approve was made by Mike Mroczek seconded by Dick Gates, with all voting in favor and the motion passed.

**Committee Reports Zoning Ordinance Review Committee Report:** Andy Moore gave an update on the Master Plan stating that letters for the joint Township/Village project is underway. Letters will be going out to partner agencies shortly. It is estimated that the Plan update can be completed in between 9 months to a year. It will include both the Township and the Village. The additional of the Village will not extend the project completion time.

Seanor again noted that the Zoning Review Committee will meet February 14<sup>th</sup>. She again requested that any and changes or clarification regarding Site Plans, Site Condo, Subdivision, or PUD be sent by the members as soon as possible. Chairman Marbach further encouraged members to think about where in the Township MFR should or could be located as well as other changes that may be appropriate as the Mater Plan is updated.

**Announcements:** Roseanne Marchetti noted that she is the newest member of the County Planning Commission. She stated that the County Planning Commission had completed their interviews for a firm to update the County Master Plan.

Sandra Seanor noted that she had presented the ZO changes at the January 25th County Planning Commission meeting and John Hanson had forwarded all information to the Ontwa Clerk for the BOT February meeting.

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Chairman Marbach noted that the Michigan State Citizen Planner class is available beginning March 8<sup>th</sup> for 6 meetings. He noted that the Township pays for members. He then adjourned the meeting.

Cc: LeRoy Krempec – Zoning Administrator, Ontwa Township Planning Commission member

**EDDIE'S MARKET -  
CONDITIONAL ZONING REQUEST**



2121 3 Mile Rd. NW  
Walker, MI 49544  
Ph: 616-301-7888  
www.LREMI.com

February 21, 2023

Leroy Krempec  
Zoning Administrator  
26225 US 12  
P.O. Box 209  
Edwardsburg, MI 49112

**Re: Eddies Market Park  
Rezoning Petition – 27398 US-12, Ontwa Township, MI  
Amendment - Conditional Rezoning**

Dear Mr. Krempec:

We are writing on behalf of Eddies Market Park LLC and Brian Shier to request your review and consideration of an amendment to the Rezoning Petition for the property at 27398 US-12 in Ontwa Township, Cass County, Michigan. The Rezoning Petition was presented at the planning commission meeting on February 1, 2023.

The narrative below states the concerns and comments that were documented at the planning commission meeting and a proposed conditional rezoning amendment to the address each concern.

#### **Planning Commission Comments**

The planning commission approved a motion that the rezoning application be tabled until such time that the applicant completes, and the planning commission receives a traffic impact study and a housing market analysis addressing the commercial and multifamily rezoning proposal.

The planning commission reasoning behind the motion was due to concerns that a multi-family residential and commercial development of this size may have an adverse impact on the existing roadway infrastructure and verifying the demand for multi-family residential units.

#### **Conditional Rezoning**

The landowner proposes the following conditional amendments to the rezoning petition.

1. When rezoned to MFR-Multi Family Residential as requested in the initial petition, parcel 14-090-006-015-05 will be developed with a maximum of 48 residential units.
2. Parcel 14-090-006-015-05 will be allowed to exceed the 48 residential unit threshold up to the allowable density of units permitted in accordance with the applicable zoning ordinances upon the planning commission approval of a traffic impact study.

By voluntarily establishing the maximum number of residential units below the allowable density under the current zoning ordinances, the landowner is making a good faith effort to subside the concerns noted in the planning commission meeting. By voluntarily adding conditions to the rezoning request the landowner requests that the planning commission waive the traffic report and housing report requirements for the rezoning petition.

It is understood that a traffic impact study will likely be required at the time of a proposed improvement to the property but the landowner is not currently proposing any improvements and therefore does not have the site plan required to complete such a study.

Please review the enclosed information and contact our office if there are any questions or comments.

Sincerely,  
**Land & Resource Engineering**

A handwritten signature in black ink that reads "Dennis Chase". The signature is written in a cursive style with a large initial "D" and "C".

Dennis J. Chase, P.E.  
Senior Engineer

**MINUTES – DECEMBER 6<sup>TH</sup>**

**EDDIES MARKET-CONDITIONAL REZONING**

**PLANNING COMMISSION MINUTES**  
**WEDNESDAY DECEMBER 6<sup>TH</sup>, 2023 @ 7:00 PM**

**Members in Attendance:** Chris Marbach, Sandra Seanor, Don Delong, Meryl Christianson, William Mahaney, Todd Haberland. Mike Mroczek, Shane Szalai

**Members Absent:** Richard Gates

Chairman Marbach called the meeting of the Ontwa Township Planning Commission to order at 7:02pm

**Pledge of Allegiance:** All rose for the pledge of allegiance.

Chairman Marbach welcomed everyone, stating that there was a quorum present.

**Agenda:** Chairman Marbach asked if there were any changes, corrections or additions to the agenda as presented. Motion to approve – Mike Mroczek and Todd Haberland seconded. All were in favor, and the motion carried.

**Approval of October 11, 2023, Minutes:** Chairman Marbach asked for questions or corrections. He made a change to the 2<sup>nd</sup> page third paragraph adding to words “be a” after the word might. Hearing no other changes, he asked for a motion to approve. Todd Haberland mad the motion to approve and William Mahaey seconded. All were in favor, and the motion carried.

**Land Divisions:** The were no Land Divisions

**New Business:** There was no new business.

**Old Business: Eddies Market Rezoning:** Chairman Marbach noted that this meeting was a continuation of the past applicant’s presentation. He explained that the applicant and representatives would have an opportunity to address the Commission and the public. Chairman Marbach said he would open a public hearing opportunity to accept public comments.

Attorney Palacios representing Eddies Market rose to address the Planning Commission. She noted that they had provided the traffic and housing data and representatives from the reports were in attendance to answer the Commissions questions.

Sam Jablonowski, Abonmarche Consultants addressed the group and asked for questions. Questions were asked regarding the impact of traffic on the existing roads and highways. One member asked if the consultant had done actual traffic counts on the corridor or used MDOT or MACOG traffic data to generate the traffic estimates. Mr. Jablonowski said they had not completed counts and did not use the MDOT or MACOG count sites.

Seanor noted that the current traffic count data (annual average daily traffic - AADT) from MACOG and MDOT websites indicated that traffic presently ranged from 7524-8603 AADT for that location (2020 and 2022). The Abonmarche traffic projections for phase one of the proposed project, estimates an addition of 7349 daily trips. She noted that the phase one project would increase the daily traffic to more than 14,800 AADT and at the projects completion traffic could reach 18,000 AADT. Further, high traffic volumes are typical of 4-lane roads and would have a substantial impact on the area's road system. More discussion ensued with Mr. Jablonowski answering questions regarding the potential for traffic lights, turn lanes and a future requirement for a traffic impact analysis. Chris Marbach noted that MDOT would be responsible to develop traffic management of is roadway.

Attorney Palacios took the podium and introduced the representative from CIB Consultants, the author of the Housing opinion letter regarding the area's need for additional housing. Questions regarding the consultant's use of ACS (American Community Survey) data sited in his report showed an error rate of +/- 4.5% rendering his estimates moot in determining renter need for additional rental housing (Wm and Works memo 12/1/2023 p4 p1). Further, the consultant noted in his opinion letter that the State of Michigan's "Statewide Housing Plan" indicates that "3,000 for lease units" are needed in "the township, Edwardsburg and Dowagiac" within the next five years.

Seanor noted that she reviewed the State's Housing Plan and there is no mention of 3000 or any number of - lease housing units being needed for the township, Edwardsburg and Dowagiac area. (This is also confirmed in the Wm and Works Memo 12/1/23). The opinion letter's author when asked, confirmed that the numbers did not actually exist in the report. It was also discussed that Michigan's need for additional housing was in the southwest and upper peninsula areas of Michigan. Mike Mroczek asked about the Michigan Housing study which was published in 2022.

Chairman Marbach asked for a motion to open the public portion of the meeting, moved by Don Delong and seconded by Todd Haberland. All were in favor, motion past.

Opposing the Conditional Rezoning effort:

Mr. Charlie Fish: Noted he wants to preserve the small community, and any apartments/commercial development should be in the Village.

Loretta Miliken: Responded to a comment made by Attorney Palacios, that the agricultural parcels in question were not viable and difficult to farm. She noted that they successfully farm a variety of parcels sizes with many structures and impediments.

Brenda Beadenkopf: Expressed her views on 15 Minute Cities.

Jerry Duck: Said he has lived in Edwardsburg for 80years. He said the petitioner has shown little in the way of real plans. He contends that the applicant has never done a complicated project and has had many unsuccessful LLCs.

Lynn Schantz: Is a farmer and believes farmland is dwindling away. She noted the Governor has signed a solar zoning prohibition she is concerned with. She also opposes the project and rezoning.

Ed Patzer: Executive Director of the Edwardsburg Sports Complex, expressed his chagrin in that the applicant has been unwilling to cooperate with surrounding property owners. He recommends voting no to the applicant's request.

Lisa Smith: Stated her opposition to the rezoning and noted that in her opinion no one supports the applicants project.

Betsy Callahan: Has had exchange students and expressed concern over the traffic levels in an already congested area and for safety reasons. Further she is a farmer and does not support the rezoning.

Supporting the Conditional Rezoning effort:

Nick Yoder: Supports more development, bike and pedestrian walkways, the Elkhart Trail projects, more commercial and affordable housing opportunities. He noted that he supports the new library.

Mr. Brian Shier: Rose to note that the new Edwardsburg School's Superintendent had sent a letter supporting the project. He stated that the additional 200 family units proposed would help the school system get votes to pass a millage, which is highly desired by the School Corporation and thus would improve Edwardsburg schools.

Chairman Marbach asked for a motion to close public hearing comment. Motion to close was made by Mike Mroczek and seconded by Todd Haberland. Motion passed.

Planning Commission discussion ensued. It was noted that the Commission was in the middle of its Master Plan and Future Land Use Map update. It was reiterated that the two southern most parcels are currently proposed in the Master Plan for commercial rezoning. However, the northern most parcel (applicant proposing for multifamily residential) remains as an AR zone.

Attorney Palacios noted that in her opinion the Ontwa Township Master Plan could still allow the MFR rezoning even though it is not included in the Master Plan. Questions were asked regarding a PUD. Chairman Marbach noted that the only question before the Commission was whether to accept the conditional rezoning as proposed by the applicant, or to deny the conditional rezoning.

Chairman Marbach addressed the Commission members and the noted there were several reasons to consider the project for approval, including that it is a prime spot for development in that there is access to sewer, that there are few Multi-Family Residential areas in the Future Land Use Plan, the projects its proximity to the school and a state road. He cited additional reasons for a positive consideration.

Commissioner Seanor asked to make a motion. She motioned to deny the conditional zoning request as proposed for all three parcels.

Attorney Palacios stepped in and said she believed that conditional request was for each individual parcel. Chairman Marbach however, ruled that the conditional rezoning request was on the entire 3 parcels.

Seanor continued noting that the reasons under Section 22.04 a-e included but were not limited to: MFR not included in the current Master Plan, and that the community is in the middle of developing its update, the land is currently zoned for farming and is used as such, a move to multifamily is not consistent with of the surrounding parcels, traffic projects for the proposed project will have a substantially, negative impact on highway traffic. Finally, that given the community is in the middle of updating its Master Plan and Future Land Use Plan and that other MFR areas are currently available while other MFR zones may be identified through the Master Plan update process.

Seanor restated her motion, at the Chairs request: She said that the motion is to deny the conditional rezoning request as proposed for all three parcels. Bill Mahaney seconded the motion.

Chairman Marbach called for a roll call vote: William Mahaney: Yes - deny conditional rezoning, Don DeLong: No not to deny conditional rezoning, Meryl Christianson: No not to deny conditional rezoning, Mike Mroczek - Yes - deny conditional rezoning, Todd Haberland - Yes - deny conditional rezoning, Sandra Seanor - Yes - deny conditional rezoning, Shane Szalai - Yes – deny conditional rezoning, Chris Marbach - No not to deny conditional rezoning. The motion to deny the applicants conditional rezoning request is denied 5 yes to 3 no.

**Zoning Ordinance Review Committee Report:** There was no meeting of the Zoning Review Committee in November. Sandra Seanor provided the Commission members with a proposed schedule of meetings and information on an upcoming review update of the Ontwa Zoning Ordinance in April, 2024.

Commission members should forward their concerns or questions to the Zoning Administrator, Dawn Bolock.

**Master Plan Update:** The Master Plan update finalization and the Future Land Use map are listed on the Zoning Review Committee schedule provided. Seanor again encouraged all Commission members to review the Future Land Use map and make suggestions for changes. She noted that these should be sent to the Zoning Administrator, Dawn Bolock.

Dawn Bolock provided copies of the Chapter 7 of the proposed Goals and Objectives section of the Master Plan. She asked that all review and provide comments. Additionally, the Community Engagement Report was previously provided. Documents will be included in the attachments to the 12/6/2023 minutes for the public to review.

Chairman Marbach noted that the Brady Road project had received its EGLE permits allowing it to move forward.

**Adjourn Meeting:** Chairman Marbach adjourned the meeting 9:18pm.

**WM & WRKS – DECEMBER 1**

**EDDIES MARKET REVIEW**

## MEMORANDUM

**To:** Ontwa Township Planning Commission  
**Date:** December 1, 2023  
**From:** Andy Moore, AICP  
**RE:** **Eddies Market Park Proposed Conditional Rezoning**

Brian Shier on behalf of Eddies Market Park LLC has submitted three requests to rezone land located generally at 27398 US-12 from A-R Agricultural-Residential to C-2 General Commercial and MFR Multi-Family Residential. At the February Planning Commission meeting, the Commission held a public hearing and, after deliberation postponed a decision on the application until the applicant provided (1) a traffic study and (2) a market study.

On February 21, 2023, the applicant's civil engineer (LRE) provided a letter that amends the original application to rezone to include an offer of the following two conditions:

1. *When rezoned to MFR-Multi Family Residential as requested in the initial petition, parcel 14-090-006-015-05 will be developed with a maximum of 48 residential units.*
2. *Parcel 14-090-006-015-05 will be allowed to exceed the 48 residential unit threshold up to the allowable density of units permitted in accordance with the applicable zoning ordinances upon the planning commission approval of a traffic impact study.*

The applicant further states the following:

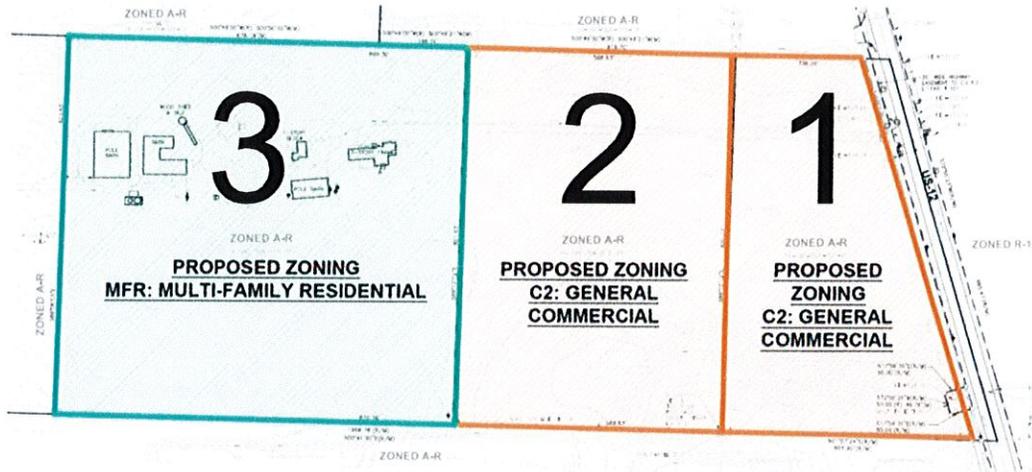
*"By voluntarily establishing the maximum number of residential units below the allowable density under the current zoning ordinances, the landowner is making a good faith effort to subside the concerns noted in the planning commission meeting. By voluntarily adding conditions to the rezoning request the landowner requests that the planning commission waive the traffic report and housing report requirements for the rezoning petition.*

*"It is understood that a traffic impact study will likely be required at the time of a proposed improvement to the property but the landowner is not currently proposing any improvements and therefore does not have the site plan required to complete such a study."*

A traffic study and housing report were provided in October 2023.

As you know, the property is located on the north side of US-12 just west of the Village of Edwardsburg, adjacent to the Edwardsburg Sports Complex. The area of the parcels involved is

approximately 36 acres. The rezoning is sought ostensibly to pursue a PUD that would contain commercial development and multi-family dwellings on the property.



The request is divided into three parts:

1. **Request 1** includes only the southerly 8.7-acre parcel (14-090-007-001-01) and the applicant is seeking to rezone this to C-2 General Commercial. (see “1” above)
2. **Request 2** includes the southerly 11.1 acres of the original 27-acre parcel located directly north of the first request. It is our understanding that this parcel has been split into its own property (14-090-006-015-04). The applicant is also seeking to rezone this land to C-2 General Commercial. (see “2” above)
3. **Request 3** includes the remaining 16.4 acres to the north of request 2 and is the rest of the original property (14-090-006-015-05). The applicant seeks to rezone this property to MFR. (see “3” above)

**Review Standards.** Section 22.04 (a-e) of the Ontwa Township Zoning Ordinance provides several criteria standards that must be evaluated by the Planning Commission when contemplating a proposed rezoning request. We reviewed these standards in our January 24 memorandum and our analysis of these standards has not changed substantively.

**Conditional Rezoning.** Conditional rezoning agreements (sometimes referred to as “contract zoning”) are not specifically addressed in the Ontwa Township Zoning Ordinance. However, Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405) states as follows:

- (1) *An owner of land may voluntarily offer in writing, and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.*
- (2) *In approving the conditions under subsection (1), the local unit of government may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the*

*time specified under this subsection, the land shall revert to its former zoning classification.*

- (3) The local government shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2) of this section.*
- (4) The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the local unit of government.*
- (5) A local unit of government shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the local unit of government, or any other laws of this state.*

The Planning Commission has exercised its discretion in requesting additional relevant information that will help it understand the potential traffic impacts of the development and gain a clearer picture of the local marketplace for commercial and multi-family development.

The applicant is seeking rezoning approval that would result in not more than 48 multi-family units. If/when the development proceeds to a point where more than 48 units are proposed, then a full traffic study will be performed. Based on our reading of the conditions, the application with the offered conditions would still result in essentially un-conditional approval of the commercial rezonings, as the conditions only refer to the northerly parcel that is proposed to be rezoned to MFR.

The Eddies Market Park PUD submitted in the summer of 2022 indicated one retail building of 12-14,000 square feet, and another ten office buildings ranging from 1,500 to 6,000 square feet (although the site plan appeared to show several drive-through facilities and other buildings). As noted previously, rezoning to commercial would open up these properties to any use permitted in the C-2 district, and local market conditions would dictate what those uses ultimately will be unless specified through the PUD process. The request for commercial zoning is consistent with the Master Plan for the portion of this property that has frontage on US-12. However, we note that if the Planning Commission is concerned about traffic, many commercial uses (such as restaurants or retail uses) will likely generate just as much (or likely more) traffic as multi-family uses. Thus, while the conditions offered may help address some of the concerns related to the multi-family development, if the Planning Commission has concerns about traffic, access, and other topics for the commercial portions of the site, this would warrant further deliberation.

**Housing Analysis.** An opinion letter concerning the need/demand for housing prepared by CIB Planning was received. CIB Planning is a reputable planning and design firm based in Fenton, Michigan. The letter provides relevant data from the 2017 Master Plan along with additional information from the American Community Survey (ACS) in an attempt to describe the need for housing in Ontwa Township, specifically rental and multi-family housing. We offer the following comments regarding the opinion letter.

1. On page 2, the letter states that the percentage of renter-occupied housing units in the Township has decreased from 18.5% of all housing units to 17% of all housing units. While the data is accurately reported, it is worth noting that the 2021 American Community Survey (ACS) estimate of 17% is an *estimate*, not a true count, and the margin of error with this estimate is +/- 4.5%. Since the margin of error is well within the stated decrease of 1.5%, there is no statistically valid or discernable trend upon which the Planning Commission could rely. It is more appropriate to interpret this result as there being little to no change in the proportion of renters to owners in the Township.
2. We verified the data shown in the housing unit vacancy table on page 2. This is also ACS data, which comes with a margin of error of +/- 10 units. Nevertheless, it is fair to conclude that there are very few housing units available for rent in the community.
3. Page 3 discusses the State of Michigan's "Statewide Housing Plan" and states that the plan indicates that 3,000 for-lease housing units are needed in the Ontwa Township area within the next five years. We reviewed the Statewide Housing Plan and have not been able to substantiate this number, although it is common knowledge that housing supply and affordability are serious issues in communities across the state (and nation).

**Traffic Study.** A "Traffic Analysis Memo" was provided by Abonmarche. The memo states that the analysis "...assumes a single access point per the direction of the Michigan Department of Transportation (MDOT). The access is anticipated to have dedicated right and left-turn lanes. The access point was analyzed to determine if a signal may be warranted based on existing roadway and generated site volumes. Per MDOT, a full Traffic Impact Study (TIS) with intersection improvement modeling will be required prior to the issuance of any permits to confirm that the recommended traffic management measures are appropriate."

The study also states "it is anticipated that all noted uses will have similar distributions of trips and therefore all uses were correlated to one distribution." The memo assumes that trips to the site will come equally from the east and west along US-12.

The report assumes that the development would be constructed in four phases, with phase 1 consisting of 32 apartment units, 12,000 sq. ft. of office, 12,000 square feet of high-turnover sit-down restaurant, and 12,000 square feet of fast food/drive-through restaurants. Phase 1 would add approximately 7,300 weekday trips, with 700 trips at the AM peak hour and 565 at the PM peak hour.

Phase 2 would consist of another 32 dwelling units, plus another 2,400 square feet of office and 14,000 square feet of retail. This results in another 1,445 weekday daily trips, with another 109 during the AM peak hour and 185 during the PM peak hour.

Phases 3 and 4 are 72 and 64 residential units, respectively, adding another 537 and 486 weekday daily trips. When fully built out, the entire development would generate approximately 9,800 trips per day, with 900 AM peak hour trips and 850 PM peak hour trips.

The report also appears to conclude that left turn lanes for both east and westbound traffic will be needed at the access point for the proposed development.

The assumptions made in the traffic analysis memo seem reasonable. They should be further borne out in the formal Traffic Impact Study to be conducted further into the design process.

**Conclusion and Recommendation.** Ultimately, it is not up to the Township Planning Commission to decide whether or not there is a sufficient market for the proposed development. In considering the conditional rezoning, the Planning Commission should be guided by the standards of the Zoning Ordinance and other relevant land use information. Information provided by the applicant helps attempt to evaluate the likely land use impacts the proposed rezoning could have on the community.

Some large-scale projects take years, even decades, to be fully completed, and the proposed project is not envisioned to be complete until 2031, so some of the traffic and land use impacts will be gradually experienced. The Planning Commission should carefully review the phasing plan to ensure that each phase can be built out as market forces demand and that each phase will be capable of fully standing on its own and functioning as a complete development before subsequent phases are approved. This could be addressed during the site plan review process (assuming that the project is approved).

At the December 6 meeting, the Planning Commission should listen carefully to comments from the applicant and the public. Therefore, the Planning Commission must determine if the conditions offered are acceptable and recommend either approval of the proposed conditional rezoning or denial to the Township Board. The Township cannot alter the conditions proposed by the applicant without the applicant's consent; it may only choose to accept them or not accept them and make a recommendation accordingly.

The applicant is seeking to amend the zoning map, so the final decision on these requests rests with the Township Board, after a recommendation by the Planning Commission and review by the Cass County Planning Commission. We have attached a rezoning ordinance for your consideration.

As always, feel free to contact us if there are further questions.

c: Catherine Kaufman, Ontwa Township Attorney

# CONSULTANT TRAFFIC/HOUSING REPORTS



October 9, 2023

Ms. Emily Palacios  
Miller Johnson  
500 Woodward Ave, Ste 2800  
Detroit, MI 48226

Subject: **Eddies Market Park**, proposed location on the north side of US-12, approximately 35 acres.

Dear Ms. Palacios:

At your request, we are providing this opinion letter concerning the need/demand for housing to be included in a proposed roughly 35-acre mixed-use development in Ontwa Township, Michigan, to be built in phases over the next several years. The development will include attached multi-family housing and also consist of a number of commercial land uses to be built in the first few phases.

Based on our understanding of the project, there is need for new housing which will help with the overall housing shortage and will also provide sustainable support for the proposed retail as a result of residential unit development. Additionally, we understand the Township's desire to maintain a rural character as well as minimize development impacts to the township as a result of population and traffic growth. For this letter, we will look at existing conditions in the area to determine the need and demand for new housing units in the community.

Please note that this is a professional planning opinion and does not determine the demand for specific housing types in the community. Instead, it reviews existing available housing information and renders an opinion regarding that data. Based upon our review of the proposed development, an analysis of surrounding land uses, review of the Ontwa Township Master Plan and relevant market data, we offer the following for your consideration:

#### **ANALYSIS OF REQUEST**

**Master Plan.** The Master Plan for Ontwa Township has a number of policy items related to housing within the township. One goal of the master plan is "Ontwa Township will feature stable, high-quality and welcoming neighborhoods that accommodate a variety of housing opportunities to maintain affordability for a wide range of income levels." According to the 2015 Master Plan, in 2000, renter-occupied homes accounted for 317 units or 13.3% and the rental vacancy rate

17195 Silver Parkway, #309  
Fenton, MI 48430

Phone: 810-734-0000  
Email: [sprague@cibplanning.com](mailto:sprague@cibplanning.com)

was 5.9%. The 2010 Census reveals a renter-occupied housing unit vacancy rate of 8.9%, a fairly substantial increase. The 2010 Census also indicates that there are 485 rented units in the Township, representing 18.5% of housing in the community. Owner-occupied homes accounted for 2,075 units or 86.7% in 2000; and the homeowner vacancy was only 2.2% at that time.

Since the information above was reported, the percentage of renter-occupied housing in the township according to the American Community Survey 2021 estimates is now 17%, a decrease of 1.5%. While this may seem like a small decrease, from the 2000 data, it is still indicative of the need for more housing options throughout the community as a result of declining housing options.

Additionally, it is important to understand the vacancy status of units in the township. The table below represents vacant units by type according to the 2021 ACS Census Estimates.

As of the 2021 census estimates, the total number of vacant, for-lease units in the township was zero. The predominant vacancies in the township are seasonal or temporary housing or short-term rentals such as AirBnB or VRBO housing units.

Housing Unit Vacancy	
Total:	334
For rent	0
Rented, not occupied	0
For sale only	21
Sold, not occupied	0
For seasonal, recreational, or occasional use	237
For migrant workers	0
Other vacant	76

The Master Plan also states that primary purpose of the high-density designation is to offer the potential for a variety of residential options for a variety of age and income levels. It also states a long-term objective for this designation is the creation of high-density areas that are designed and located to create human scale, walkable neighborhoods in close proximity to commercial services and recreational amenities with high-quality design that works with the area's natural features. Given the subject property's close proximity to the Village of Edwardsburg, the adjacent sports complex, access to US-12 and available water and sewer, this site seems to be an ideal fit for the high-density residential classification identified in the township's Master Plan.

Recognizing that there are vast rural areas throughout the township with natural features and a lack of public utilities, this request presents an opportunity to increase the amount of higher density housing with public utility service and have no impact on natural features.

### State-wide Housing Shortage

The State of Michigan is currently experiencing a state-wide housing shortage. This shortage is not specific to a certain type or format of housing such as one-unit detached or multi-unit styles as all formats of housing are needed at this time. As a result of the shortage, all costs related to housing – whether purchase prices or rents -- have increased significantly. As a measure to address and offset rising costs, the State of Michigan has prepared a state-wide housing plan which identifies market needs and gaps. For the Ontwa Township area which includes the township, Edwardsburg and Dowagiac, the plan has identified a need for over 3,000 for-lease housing units to become available over the next 5 years.

### CONCLUSION

Based upon our review of relevant data including the Master Plan, Zoning Ordinance along with additional housing data we have collected from Ontwa Township specific US Census data, we believe that there is a demand for new rental housing within Ontwa Township and that the current proposed housing will be a welcomed addition to the township as well as the nearby village.

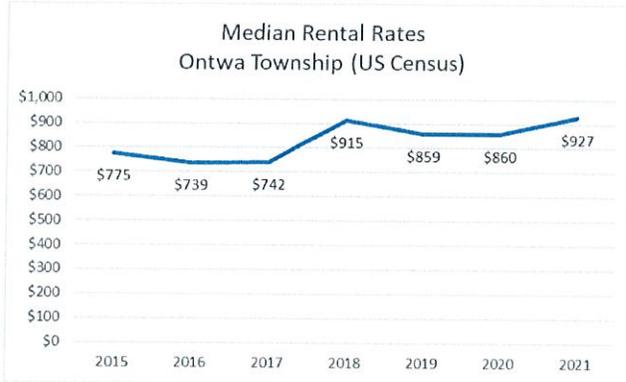
The multifamily housing demand in Ontwa Township, Michigan is expected to remain strong in the coming years. The township is located in a desirable area, with close proximity to both urban and rural amenities.

There are a number of factors that are contributing to the strong demand for multifamily housing in Ontwa Township. One factor is the rising cost of single-family homes. The median sales price of a single-family home in Ontwa Township is over \$256,500 per Rocket Homes mortgage and lending company, which is out of reach for many buyers. Multifamily housing offers a more affordable option to homeownership.

Another factor contributing to the demand for multifamily housing is the changing lifestyle preferences of residents. Many people are choosing to live in multifamily housing because they value the convenience and flexibility that it offers. Multifamily housing units are typically located in close proximity to shopping, dining, and entertainment options. They also offer amenities such as fitness centers, swimming pools, and laundry facilities. Looking at age profiles, we can get a better understanding of the size of the township population that could be seeking multi-family housing as an alternative to owning a single-family home. There are two large age blocks in the township currently that in similar communities are showing a shift in lifestyle patterns noted above. These age blocks can be seen in the adjacent figure.

AGE	
Under 5 years	488
5 to 9 years	298
10 to 14 years	516
15 to 19 years	408
20 to 24 years	160
25 to 29 years	337
30 to 34 years	371
35 to 39 years	409
40 to 44 years	353
45 to 49 years	511
50 to 54 years	488
55 to 59 years	592
60 to 64 years	604
65 to 69 years	443
70 to 74 years	363
75 to 79 years	221
80 to 84 years	162
85 years and over	144

The multifamily housing market in Ontwa Township is currently underserved. There is a shortage of multifamily housing units in the township. This shortage is driving up rents and making it difficult for people to find affordable housing.



Here are some specific data points that support the strong demand for multifamily housing in Ontwa Township:

- The population of Ontwa Township is expected to grow by 5% in the next five years according to Census estimates.
- The median household income in Ontwa Township is \$61,184, which is above

the state average of \$57,683.

- The vacancy rate for rental units in Ontwa Township is 0%, which is below the state average of 3%.
- The average rent for a two-bedroom apartment in Ontwa Township is \$1,300 per month.

Overall, the multifamily housing demand in Ontwa Township, Michigan is expected to remain strong in the coming years. There are a number of factors that are contributing to this demand, including the rising cost of single-family homes, the changing lifestyle preferences of residents, and the current shortage of multifamily housing units.

If you have any further questions, please contact us at 810-734-0000.

Sincerely,

**CIB Planning**

Justin Sprague,  
Vice President

**Eddies Market Park**  
**Traffic Analysis Memo**  
**Project #: 23-0835**

**September 20, 2023**

**Background and Development Summary**

Mr. Shier is seeking to rezone two parcels of land, totaling 35.73 acres, from Agricultural (A-R) to Commercial (C-2) and Multi-Family Residential (MFR). The land is in Ontwa Township, west of M-62 with frontage on US-12. The site is bounded by the Edwardsburg Sports Complex to the west, US-12 to the south, a church to the east, and farmland to the north. Mr. Shier is seeking to rezone parcel numbers 14-090-007-001-0 and 14-090-006-015-04 to C-2 and parcel number 14-090-006-015-05 to MFR.

This analysis is intended to satisfy the Planning Commission's initial request for traffic analysis to assess the impact of the proposed rezoning on US-12 and adjacent land uses. For the purposes of this analysis, the land Proposed for C-2 zoning is anticipated to contain a mix of sit-down restaurants, fast food restaurants (with drive-thru), small offices, and a retail plaza. The land proposed for MFR zoning is anticipated to contain multi-family dwellings. The trip generation associated with these uses is derived from ITE's Trip Generation Manual, 11<sup>th</sup> Edition as seen below in **Table 1**.

**Table 1: Anticipated Development Summary**

ITE Code	ITE Land Use	Unit	Quantity
220	Multifamily Housing (Low-Rise)	Dwelling Units	200
712	Small Office Building	1,000 Sft Gross Floor Area	36
822	Strip Retail Plaza (<40k)	1,000 Sft Gross Floor Area	14
932	High-Turnover (Sit-Down) Restaurant	1,000 Sft Gross Floor Area	12
934	Fast-Food Restaurant with Drive-Through Window	1,000 Sft Gross Floor Area	15

**Development Phasing**

This analysis assumes that the land is developed in phases and will be fully developed by 2031. The anticipated phasing for the development is as follows:

- Phase 1 (By End of 2025)
  - 12,000 SFT Fast Food Restaurants with Drive Thru
  - 12,000 SFT Sit-Down Restaurants
  - 12,000 SFT Office Buildings
  - 32 Dwelling Units of Multi-family Housing

- Phase 2 (By End of 2027)
  - 14,000 SFT Strip Retail Plaza
  - 24,000 SFT Office Buildings
  - 32 Dwelling Units of Multi-family Housing
- Phase 3 (By End of 2029)
  - 72 Dwelling Units of Multi-family Housing
- Phase 4 (By End of 2031)
  - 64 Dwelling Units of Multi-family Housing

### Analysis Locations

This analysis focuses on the US-12 corridor from M-62 to Conrad Road with select intersections reviewed. The intersections analyzed in the analysis are as follows:

- |                              |                  |
|------------------------------|------------------|
| • US-12 at M-62              | Signalized       |
| • US-12 at Development Drive | To Be Determined |
| • US-12 at Conrad Road       | Unsignalized     |

This analysis assumes a single access point per the direction of the Michigan Department of Transportation (MDOT). The access is anticipated to have dedicated right and left turn lanes. The access point was analyzed to determine if a signal may be warranted based on existing roadway and generated site volumes. Per MDOT, a full Traffic Impact Study (TIS) with intersection improvement modeling will be required prior to the issuance of any permits to confirm that the recommended traffic management measures are appropriate.

Additionally, US-12 was analyzed to determine the need for dedicated turn lanes at the anticipated access point. This analysis included the Phase 1 peak hour volumes along with the combined Phase 1 and 2 peak hour volumes. The analysis determined that an eastbound left-turn lane as well as a westbound right-turn lane are recommended.

### Proposed Development Trip Generation

As discussed previously, the rezoned land is anticipated to be built out in four (4) phases from 2025 to 2031. Anticipated traffic volumes generated by the anticipated land uses were estimated using ITE models. **Table 2** summarizes these projected traffic volumes by phase, by land use, and by direction of travel (into or out of the site). The total trips generated by the site are split into entering and exiting trips based on percentages developed from studies of similar land uses currently in operation. A summary of the anticipated use codes and corresponding trips are in **Table 2** on the following page. A fully detailed report of the trip generation is provided following this memo.



**Table 2: Development Trip Generation Summary**

Phase 1 Trip Generation Summary							
ITE Code	Land Use	AM Peak Hour			PM Peak Hour		
		<i>Trips</i>	<i>In</i>	<i>Out</i>	<i>Trips</i>	<i>In</i>	<i>Out</i>
220	Multifamily Housing (Low-Rise)	33	8	25	34	21	13
712	Small Office Building	20	16	4	16	9	17
932	High-Turnover (Sit-Down) Restaurant	115	63	52	109	66	43
934	Fast-Food Restaurant with Drive-Through Window	535	273	262	396	206	190
<b>Phase 1 Trip Totals:</b>		703	361	342	565	303	262
Phase 2 Trip Generation Summary							
ITE Code	Land Use	AM Peak Hour			PM Peak Hour		
		<i>Trips</i>	<i>In</i>	<i>Out</i>	<i>Trips</i>	<i>In</i>	<i>Out</i>
220	Multifamily Housing (Low-Rise)	33	8	25	34	21	13
712	Small Office Building	40	33	7	52	18	34
822	Strip Retail Plaza (<40k)	36	22	14	99	50	50
<b>Phase 2 Trip Totals:</b>		109	63	46	185	89	97
Phase 3 Trip Generation Summary							
ITE Code	Land Use	AM Peak Hour			PM Peak Hour		
		<i>Trips</i>	<i>In</i>	<i>Out</i>	<i>Trips</i>	<i>In</i>	<i>Out</i>
220	Multifamily Housing (Low-Rise)	45	11	34	52	33	19
<b>Phase 3 Trip Totals:</b>		45	11	34	52	33	19
Phase 4 Trip Generation Summary							
ITE Code	Land Use	AM Peak Hour			PM Peak Hour		
		<i>Trips</i>	<i>In</i>	<i>Out</i>	<i>Trips</i>	<i>In</i>	<i>Out</i>
220	Multifamily Housing (Low-Rise)	43	10	33	48	30	18
<b>Phase 4 Trip Totals:</b>		43	10	33	48	30	18
<b>Development Trip Total:</b>		900	444	456	850	455	396



### **Proposed Development Trip Distribution**

Once trips are generated for proposed land uses, they are then assigned origins and destinations to determine how they will travel through the analyzed intersections. Each specific land use has the potential to have varying distributions based upon the use of the site, location within a given development, and mix for anticipated vehicles that use the site. Due to the relative isolated nature of this site from other major localities and its placement on a significant roadway network it is anticipated that all noted uses will have similar distributions of trips and therefore all uses were correlated to one distribution.

Detailed routings through the analyzed intersection are provided following this memo but a summary is provided below describing the overall trip routing.

#### *All Land Uses: Trip Routing*

- 50% of trips come from west of the site
  - 40% come from US-12 via west of Conrad
  - 5% come from Conrad via northbound
  - 5% come from Conrad via southbound
- 50% of trips come from east of the site
  - 25% come from M-62 via northbound
  - 12.5% come from US-12 via east of M-62
  - 12.5% come from M-62 via southbound
  
- 100% of the trips leave via the Access Point
  - 60% leave via a southbound right
  - 40% leave via a southbound left

#### *Land Use 934: Fast-Food Restaurant with Drive Through Window Trip Routing*

- 50% of trips are pass-by trips
  - 25% come via eastbound on US-12
  - 25% come via westbound on US-12
  - 25% leave via a southbound right
  - 25% leave via a southbound left

Note that Land Use 934 has a 50 percent pass-by trip percentage which indicates that half of all trips generated by the site come from existing traffic on the roadway adjacent to the site. This means that vehicles that existed prior to any development are pulled from the network into the site and then exit the site and continue with their normal trip routing.



### **Summary of Analysis Findings**

Based on the information reviewed and analysis conducted to date, the findings about the site are presented for consideration:

- Development Volumes and US-12 Traffic Volumes are sufficient to Warrant a traffic signal installation at the site access point
- A single access point is desired by MDOT, and if combined with a traffic signal installation, has the potential to service vehicles utilizing the site and US-12  
A formal Traffic Impact Study (TIS) will validate these findings and signal design/timings will be coordinated with MDOT further into the design process

### **Attachments**

Trip Generation Summary  
Trip Distribution Summary  
Access Point Signal Warrant Summary  
US-12 Right and Left Turn Summary



## Appendix A Trip Generation Summary





85 West Main Street  
 P.O. Box 1088  
 Benton Harbor, MI 48023  
 T: (269) 927-2255  
 F: (269) 927-1017  
 www.abonmarche.com

### Eddies Market Park Trip Generation Summary

Project:	Eddies Market Park (404 East Main Street)	Project No.:	23-0835
Client:	Brian Shier	Client Project No.:	N/A
Description:	Trip Generation Summary	Project Stage:	Traffic Analysis
Prepared By:	Ryan Kafer, EIT	Date Prepared:	6/5/2023
Reviewed By:	Sam Jablonowski, PE	Date Reviewed:	6/6/2023

ITE Code	Land Use	Units	Quantity	Phase 1: Generated Trips														
				Weekday		AM Peak Hour		PM Peak Hour										
				Rate (Eq. 1)	Trips	In	Out	Rate (Eq. 2)	Trips	In	Out							
220	Multifamily Housing (Low-Rise)	Dwelling Units	32	280	280	140	140	50%	50%	1.67 (Eq. 2)	33	8	24%	76%	34	21	63%	37%
712	Small Office Building	1,000 SFT GFA	12	173	173	87	87	50%	50%	1.67	20	16	82%	18%	26	9	34%	66%
932	High-Turnover (Sit-Down) Restaurant	1,000 SFT GFA	12	1286	1286	643	643	50%	50%	9.57	115	63	55%	45%	109	66	61%	39%
934	Fast-Food Restaurant with Drive-Through Window	1,000 SFT GFA	12	5610	5610	2805	2805	50%	50%	44.61	535	273	51%	49%	396	206	52%	48%
<b>Trip Totals:</b>				<b>Weekday</b>	<b>7349</b>	<b>3675</b>	<b>3675</b>	<b>3675</b>	<b>3675</b>	<b>AM Peak</b>	<b>703</b>	<b>361</b>	<b>342</b>	<b>342</b>	<b>PM Peak</b>	<b>565</b>	<b>303</b>	<b>262</b>

ITE Code	Land Use	Units	Quantity	Phase 2: Generated Trips														
				Weekday		AM Peak Hour		PM Peak Hour										
				Rate (Eq. 1)	Trips	In	Out	Rate (Eq. 2)	Trips	In	Out							
220	Multifamily Housing (Low-Rise)	Dwelling Units	32	280	280	140	140	50%	50%	1.67 (Eq. 2)	33	8	24%	76%	34	21	63%	37%
712	Small Office Building	1,000 SFT GFA	24	345	345	173	173	50%	50%	1.67	40	33	82%	18%	52	18	34%	66%
822	Strip Retail Plaza (<40k) GFA	1,000 SFT GFA	14	820	820	410	410	50%	50%	(Eq. 5)	36	22	60%	40%	99	50	50%	50%
<b>Trip Totals:</b>				<b>Weekday</b>	<b>1445</b>	<b>723</b>	<b>723</b>	<b>723</b>	<b>723</b>	<b>AM Peak</b>	<b>109</b>	<b>63</b>	<b>46</b>	<b>46</b>	<b>PM Peak</b>	<b>185</b>	<b>89</b>	<b>97</b>

ITE Code	Land Use	Units	Quantity	Phase 3: Generated Trips														
				Weekday		AM Peak Hour		PM Peak Hour										
				Rate (Eq. 1)	Trips	In	Out	Rate (Eq. 2)	Trips	In	Out							
220	Multifamily Housing (Low-Rise)	Dwelling Units	72	537	537	269	269	50%	50%	1.67 (Eq. 2)	45	11	24%	76%	52	33	63%	37%
<b>Trip Totals:</b>				<b>Weekday</b>	<b>537</b>	<b>269</b>	<b>269</b>	<b>269</b>	<b>269</b>	<b>AM Peak</b>	<b>45</b>	<b>11</b>	<b>34</b>	<b>34</b>	<b>PM Peak</b>	<b>52</b>	<b>33</b>	<b>19</b>

ITE Code	Land Use	Units	Quantity	Phase 4: Generated Trips														
				Weekday		AM Peak Hour		PM Peak Hour										
				Rate (Eq. 1)	Trips	In	Out	Rate (Eq. 2)	Trips	In	Out							
220	Multifamily Housing (Low-Rise)	Dwelling Units	64	486	486	243	243	50%	50%	1.67 (Eq. 2)	43	10	24%	76%	48	30	63%	37%
<b>Trip Totals:</b>				<b>Weekday</b>	<b>486</b>	<b>243</b>	<b>243</b>	<b>243</b>	<b>243</b>	<b>AM Peak</b>	<b>43</b>	<b>10</b>	<b>33</b>	<b>33</b>	<b>PM Peak</b>	<b>48</b>	<b>30</b>	<b>18</b>



85 West Main Street  
 P.O. Box 1088  
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 www.abonmarcho.com

### Eddies Market Park Trip Generation Summary

<b>Project:</b>	Eddies Market Park (404 East Main Street)	<b>Project No.:</b>	23-0835
<b>Client:</b>	Brian Sher	<b>Client Project No.:</b>	N/A
<b>Description:</b>	Trip Generation Summary	<b>Project Stage:</b>	Traffic Analysis
<b>Prepared By:</b>	Ryan Kafer, EIT	<b>Date Prepared:</b>	6/5/2023
<b>Reviewed By:</b>	Sam Jablonowski, PE	<b>Date Reviewed:</b>	6/6/2023

Generated Trip Summary											
Trip Totals:		Weekday	Trips	In	Out	Trips	In	Out	Trips	In	Out
		9817	4909	4909	4909	900	444	456	850	455	396

Indicates no equation basis for rate calculation. Value based on land use specific rate value.

Land Use 220 Equations:  
 Land Use 822 Equations:

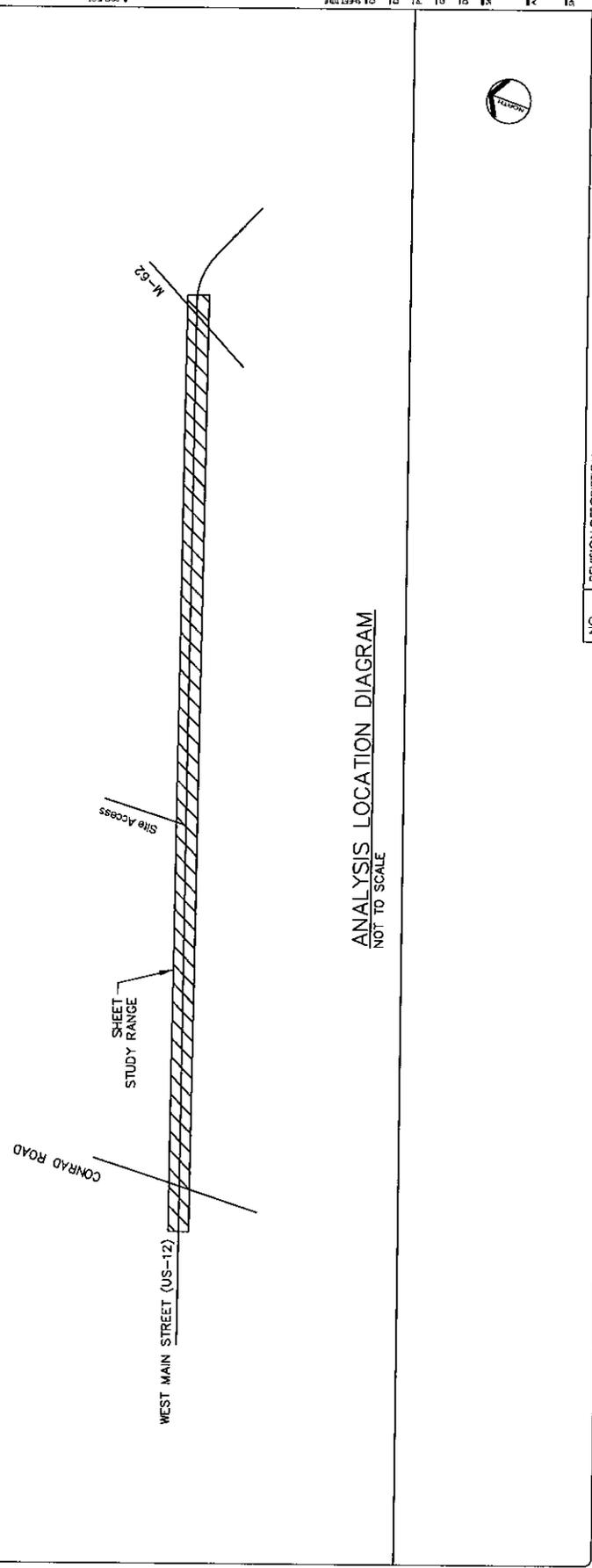
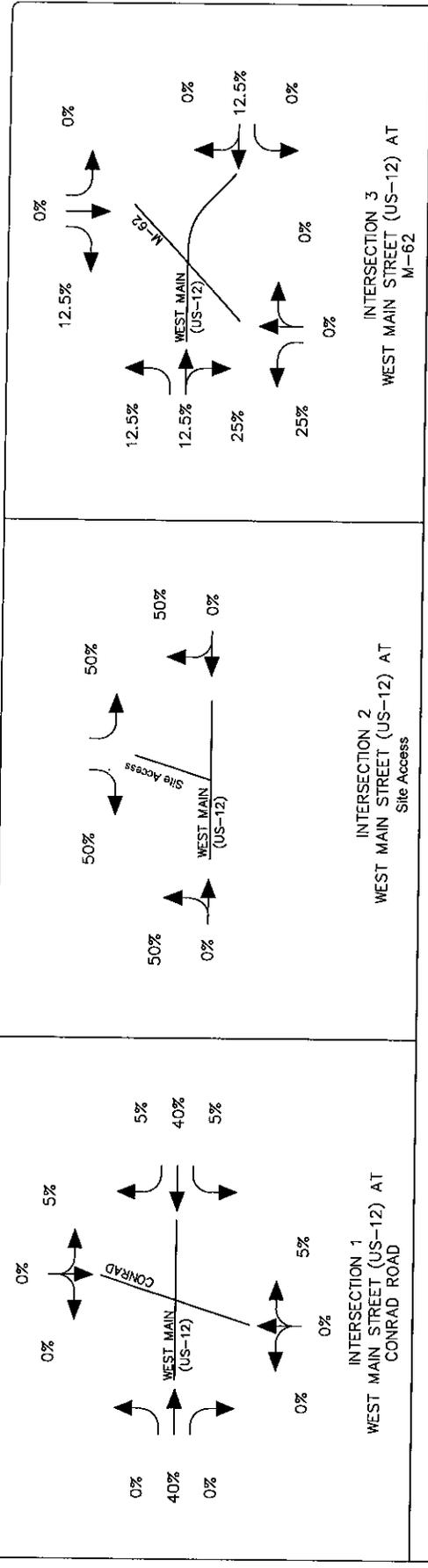
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 Eq. 4  $T = 42.20(X) + 229.68$

Eq. 2  $T = 0.31(X) + 22.85$   
 Eq. 5  $Ln(T) = 0.66 * Ln(X) + 1.84$

Eq. 3  $T = 0.43(X) + 20.55$   
 Eq. 6  $Ln(T) = 0.71 * Ln(X) + 2.72$

## Appendix B Trip Distribution Summary



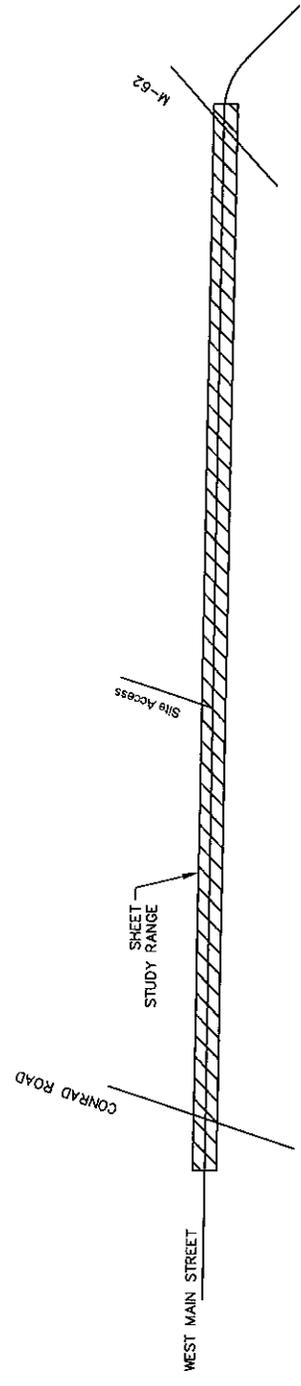
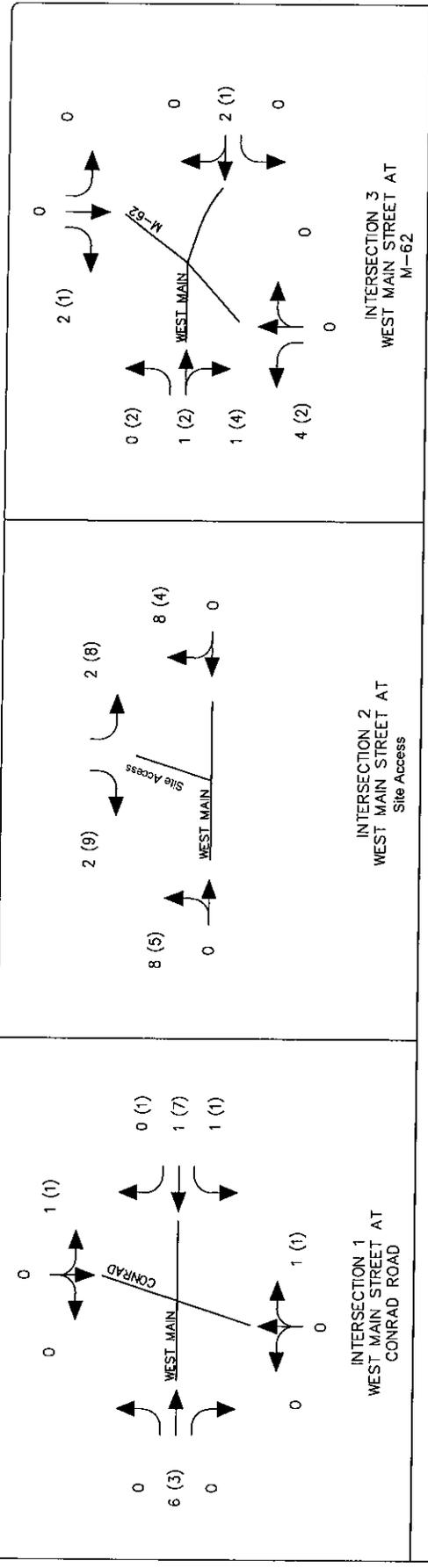


NO.	REVISION DESCRIPTION:	BY:	DATE:



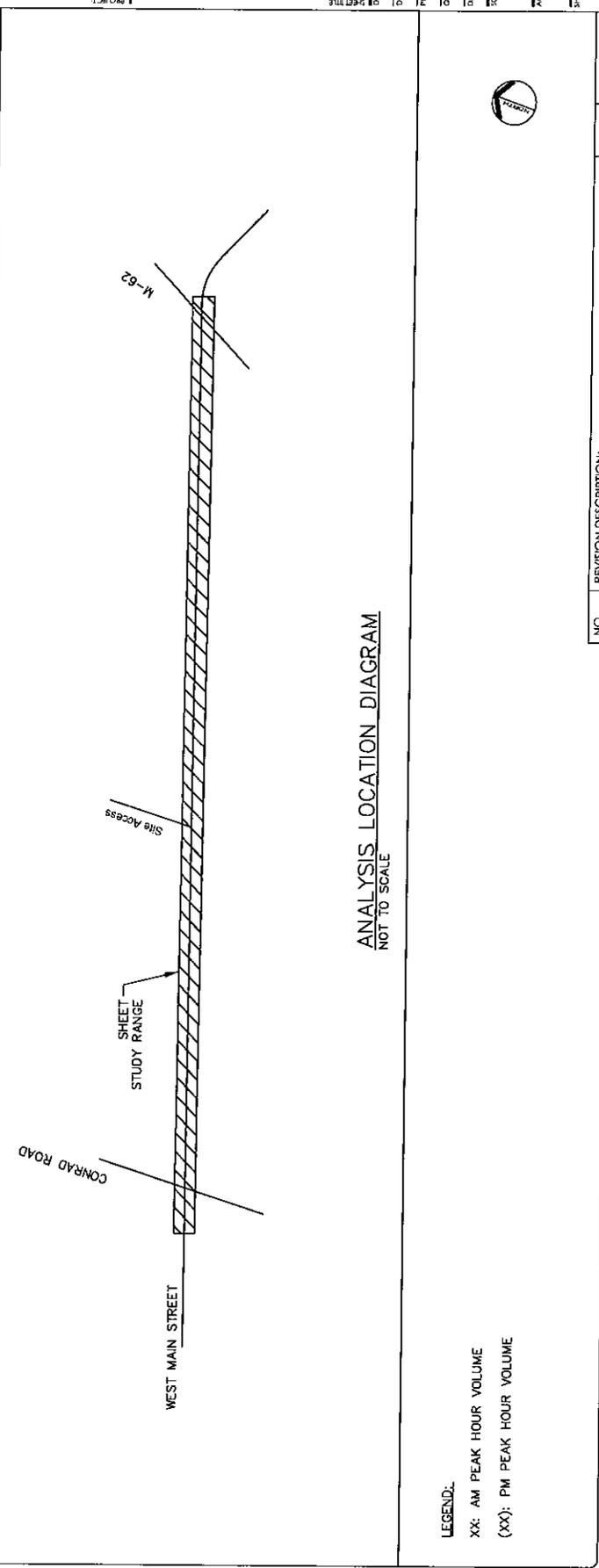
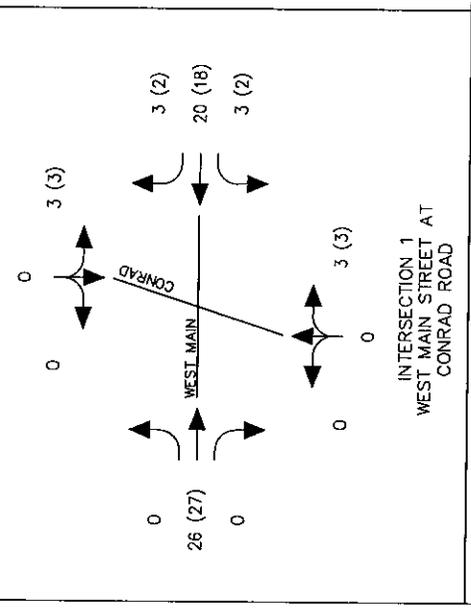
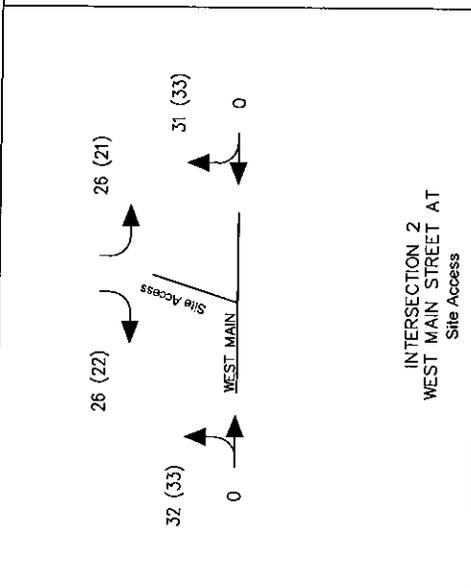
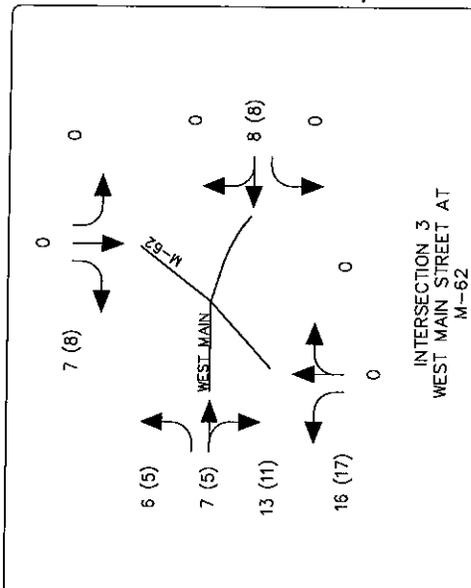


DRAWN BY:	BMK
DESIGNED BY:	BMK
PA REVIEW:	SPJ
DATE:	JUNE 2023
SCALE:	HORIZ: N/A VERT: N/A
PROJECT NO.:	23-0835
SHEET NO.:	3 of 12



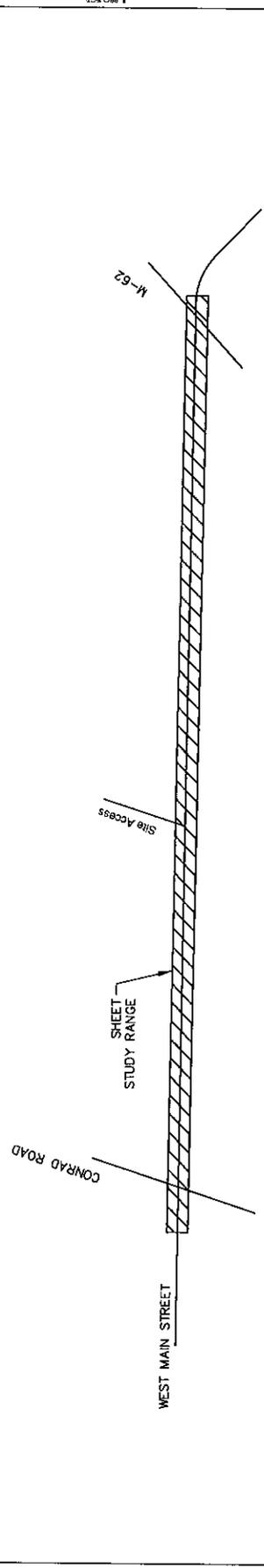
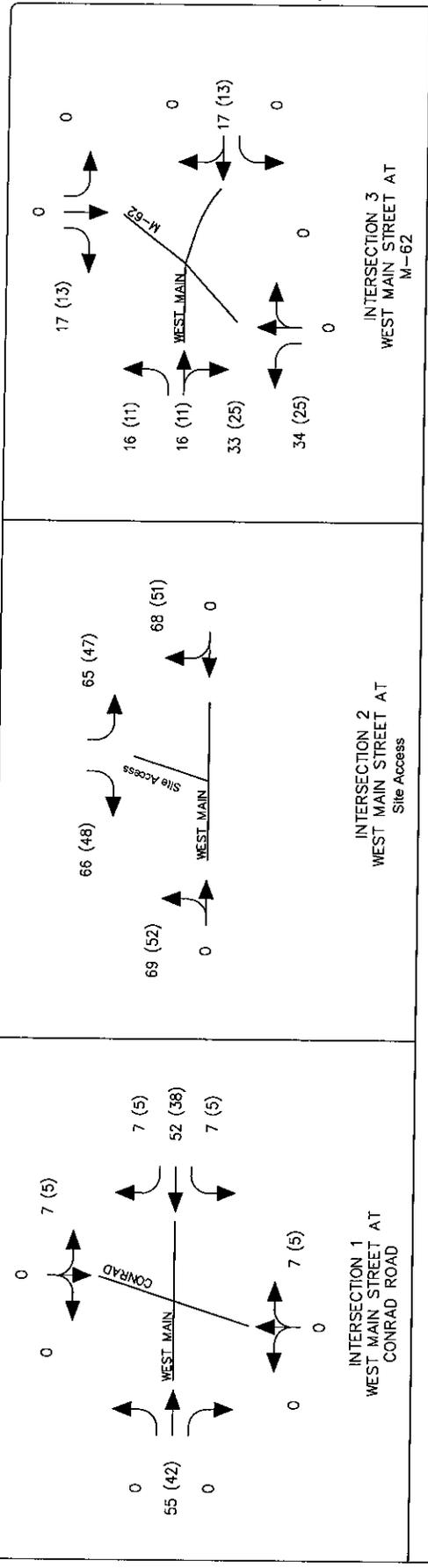
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 (XX): PM PEAK HOUR VOLUME

NO.	REVISION DESCRIPTION:	BY:	DATE:

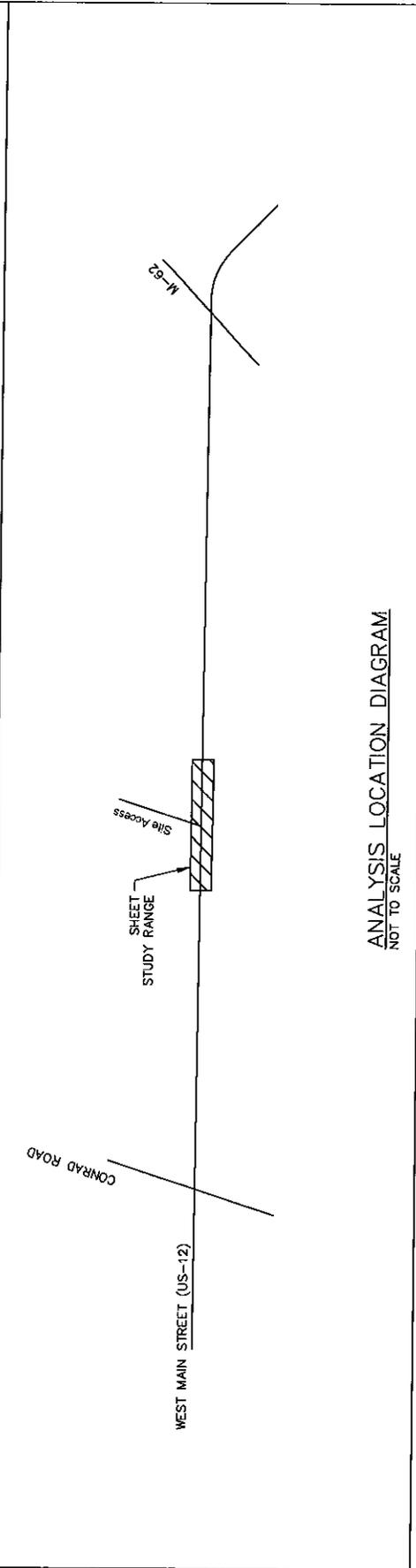
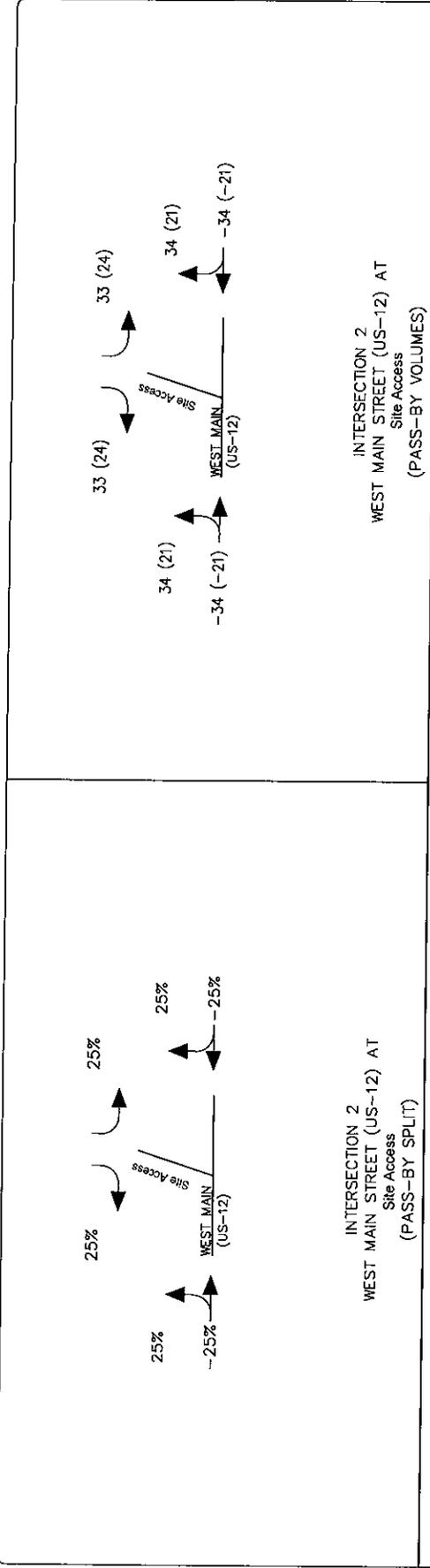


**ANALYSIS LOCATION DIAGRAM**  
 NOT TO SCALE

**LEGEND:**  
 XX: AM PEAK HOUR VOLUME  
 (XX): PM PEAK HOUR VOLUME

**NOTE:**  
 LAND USE 934 HAS AN AVERAGE "PASS-BY" TRIP RATE OF 50% TRIPS ON WEST MAIN (US-12) REDIRECT TO LAND USE, THEN CONTINUE BACK TO WEST MAIN (US-12).

NO.	REVISION DESCRIPTION	BY:	DATE:

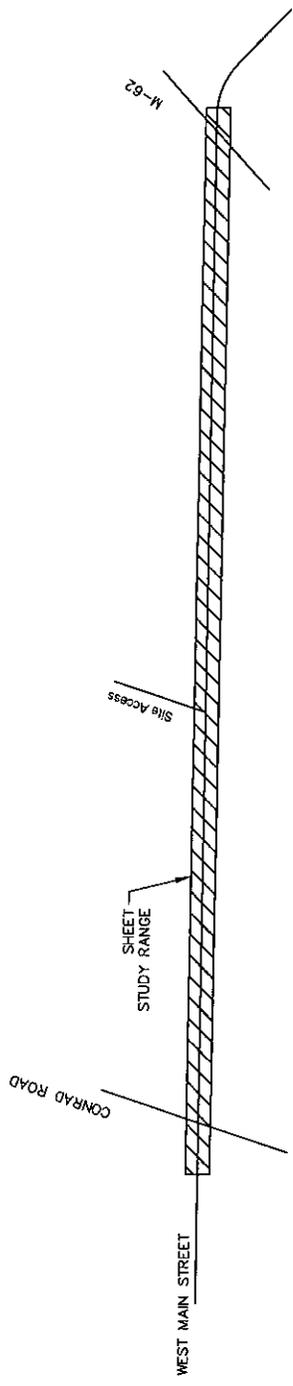
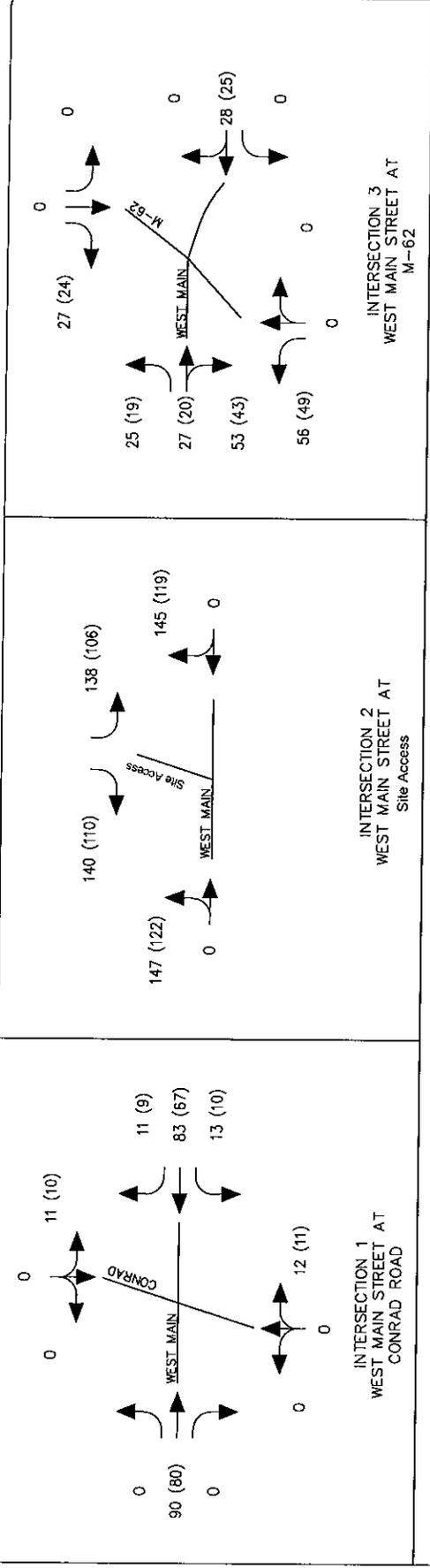


**LEGEND:**  
 XX: AM PEAK HOUR VOLUME  
 (XX): PM PEAK HOUR VOLUME

**NOTE:**  
 1. LAND USE 934 HAS AN AVERAGE "PASS-BY" TRIP RATE OF 50% TRIPS ON WEST MAIN (US-12) REDIRECT TO LAND USE, THEN CONTINUE BACK TO WEST MAIN (US-12).

NO. REVISION DESCRIPTION: BY: DATE:

DRAWN BY:	RMK
DESIGNED BY:	RMK
PA REVIEW:	SPJ
DATE:	JUNE 2023
SCALE:	HORIZ: N/A VERT: N/A
PROJECT NO.:	23-0835
SHEET NO.:	7 of 12

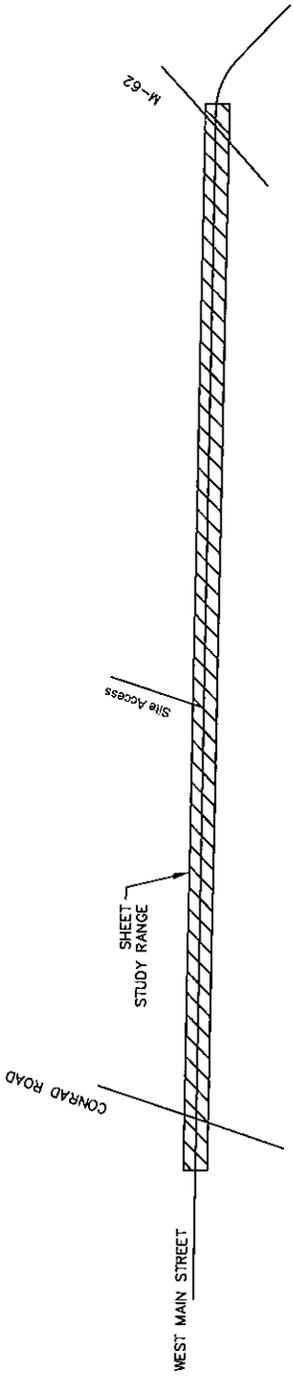
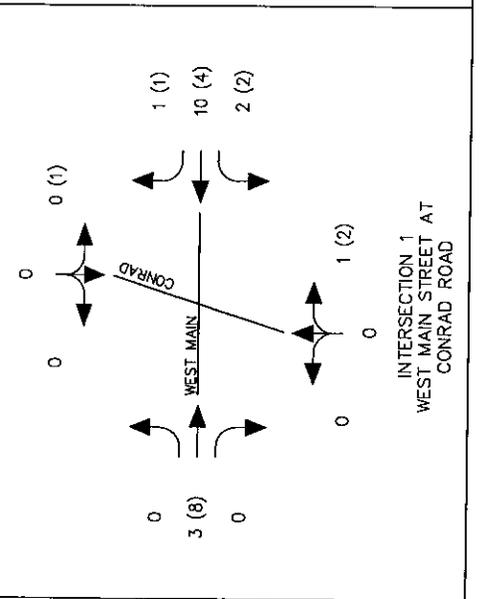
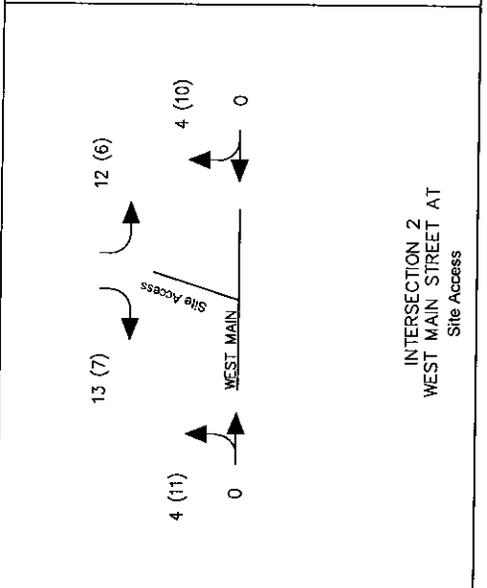
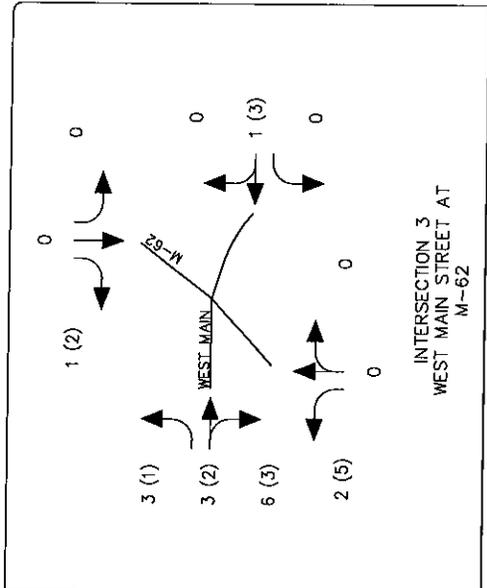


**LEGEND:**  
 XX: AM PEAK HOUR VOLUME  
 (XX): PM PEAK HOUR VOLUME



**NOTE:**  
 1. LAND USE 9.34 HAS AN AVERAGE "PASS-BY" TRIP RATE OF 50% TRIPS ON WEST MAIN (US-12) REDIRECT TO LAND USE, THEN CONTINUE BACK TO WEST MAIN (US-12).

NO.	REVISION DESCRIPTION:	BY:	DATE:
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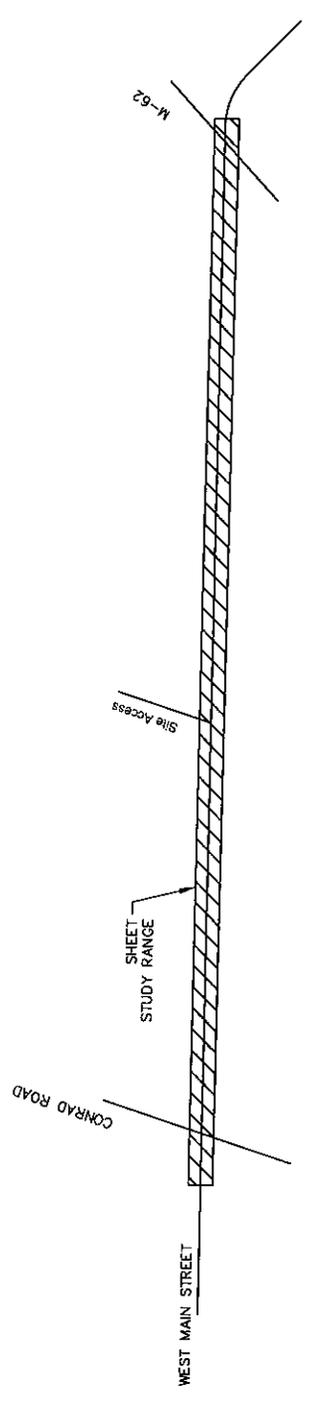
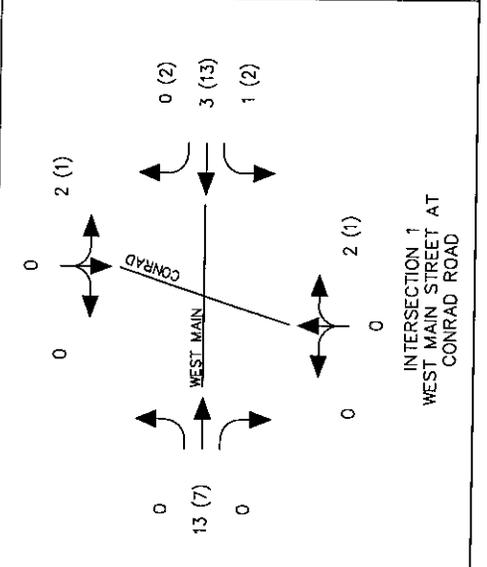
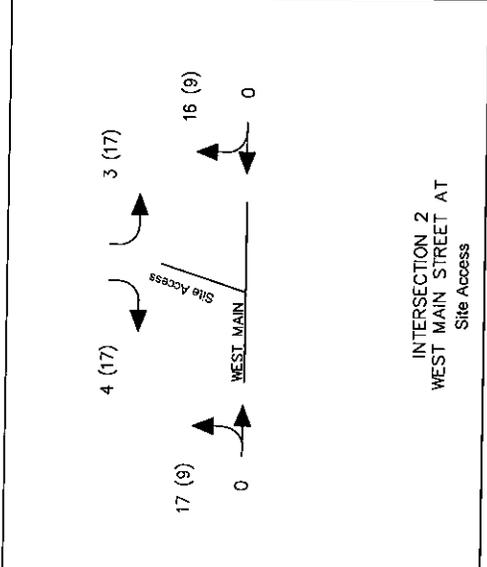
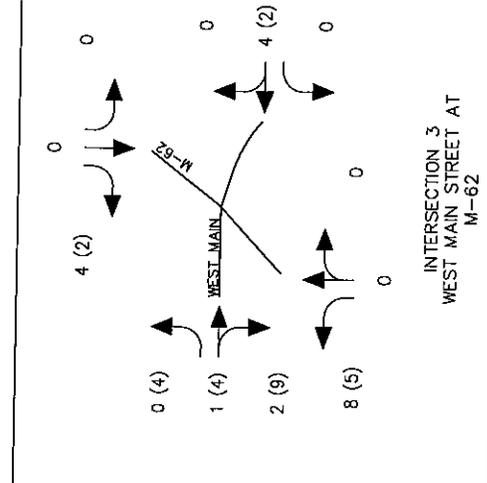


ANALYSIS LOCATION DIAGRAM  
 NOT TO SCALE

**LEGEND:**  
 XX: AM PEAK HOUR VOLUME  
 (XX): PM PEAK HOUR VOLUME

NO.	REVISION DESCRIPTION	BY:	DATE:

DRAWN BY:	BMK
DESIGNED BY:	BMK
PROJECT NO.:	SPJ
DATE:	JUNE 2023
SCALE:	HORIZ: N/A VERT: N/A
ADJ. PROJ. NO.:	23-0835
SHEET NO.:	9 of 12

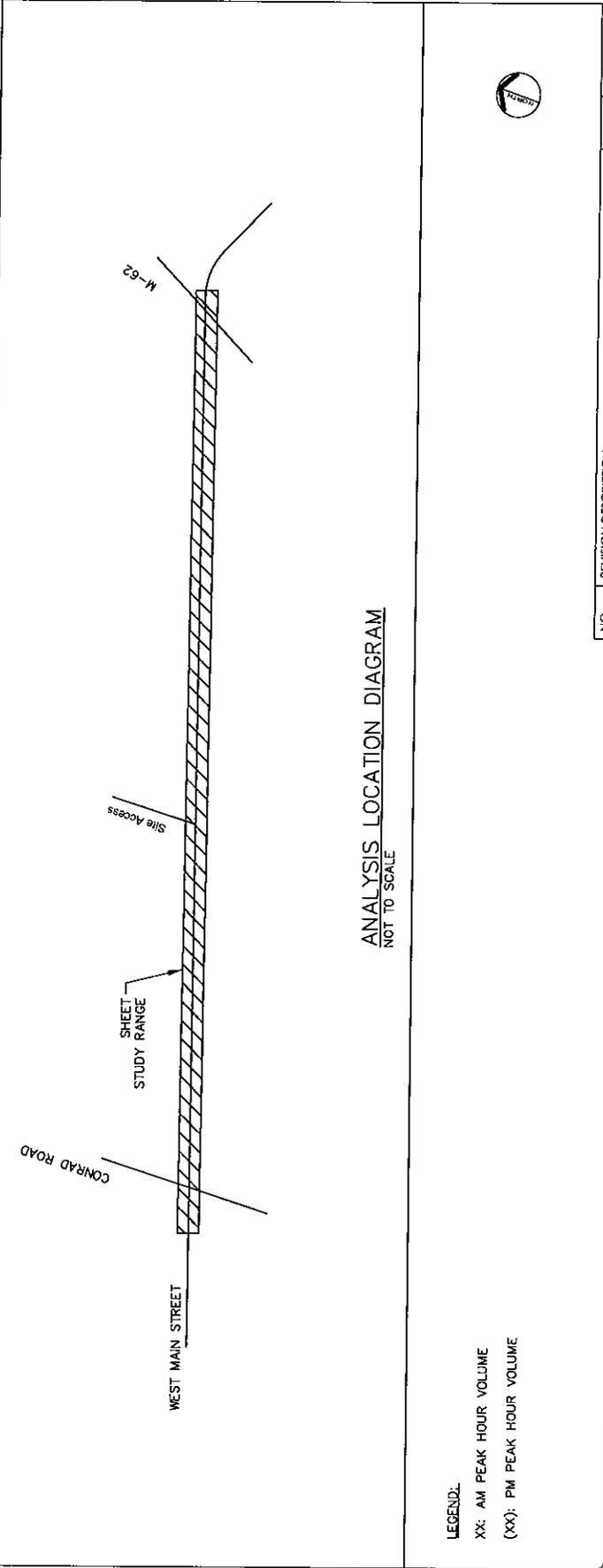
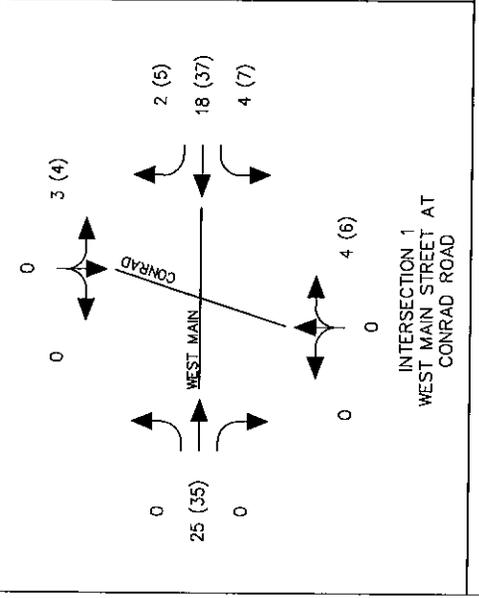
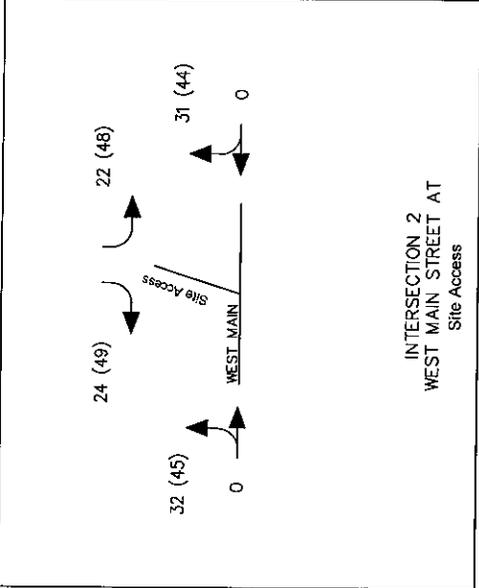
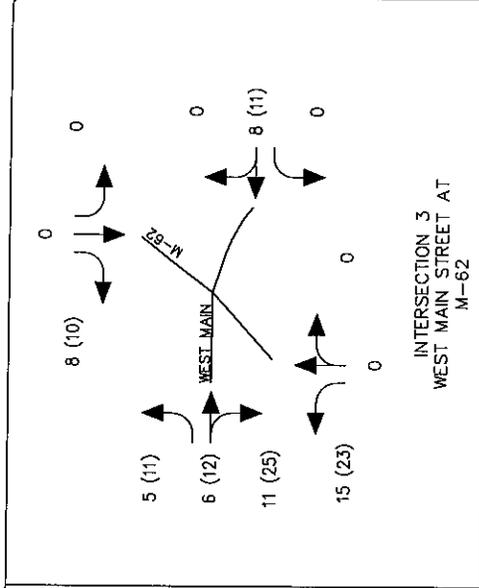


LEGEND:  
 XX: AM PEAK HOUR VOLUME  
 (XX): PM PEAK HOUR VOLUME

NO.	REVISION DESCRIPTION:	BY:	DATE:
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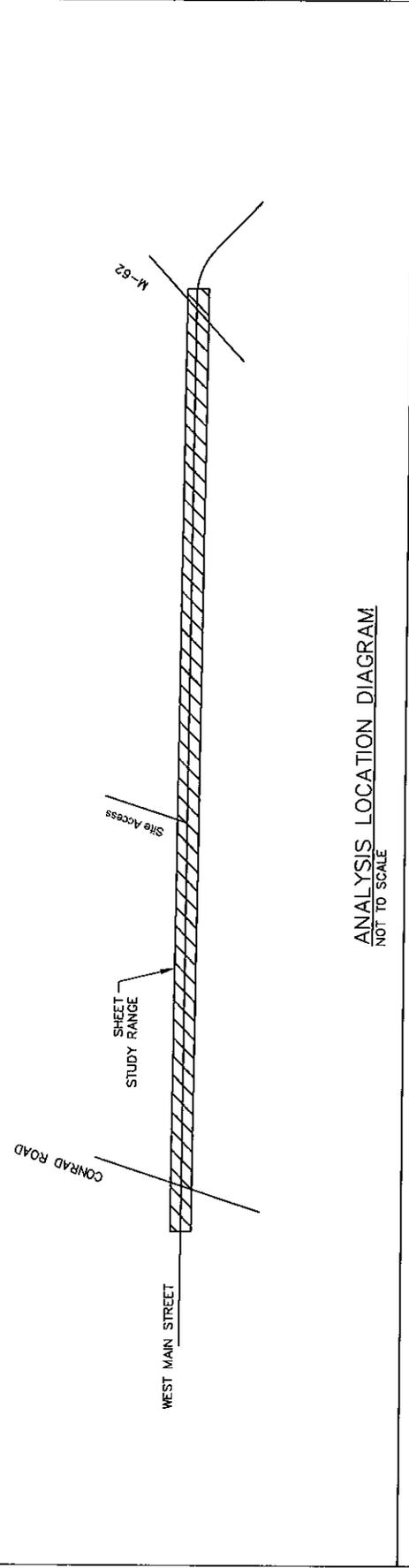
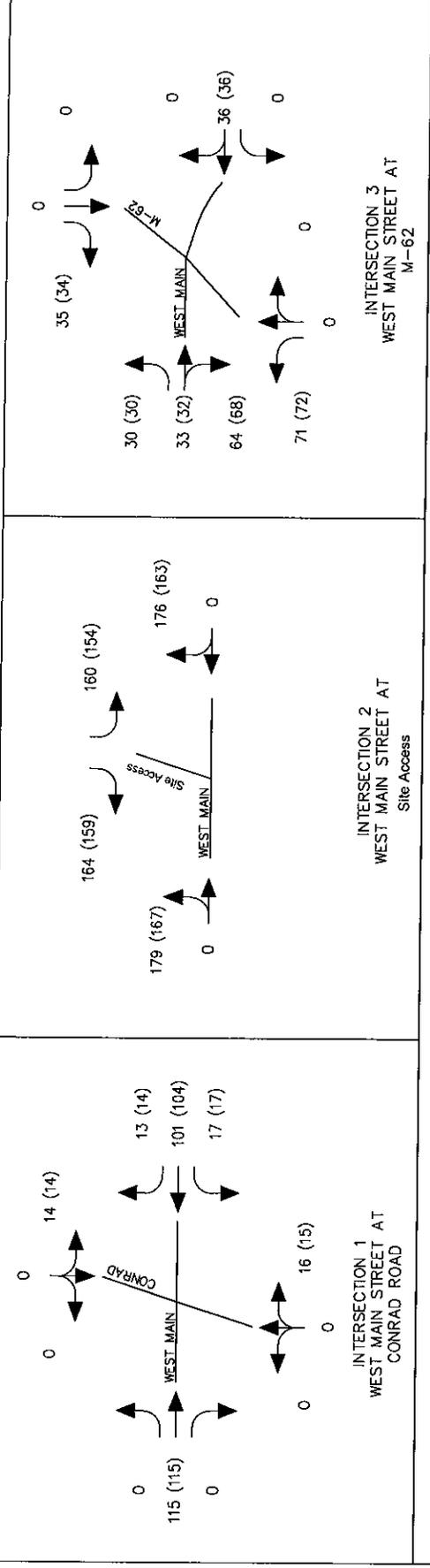
DRAWN BY:	BAK
DESIGNED BY:	BAK
PAVEMENT:	SFJ
GRADE REVIEW:	
DATE:	JUNE 2023
SCALE:	HORIZ: N/A VERT: N/A
TITLE:	23-0835
SHEET NO.	11 of 12



**LEGEND:**  
 XX: AM PEAK HOUR VOLUME  
 (XX): PM PEAK HOUR VOLUME

NO.	REVISION DESCRIPTION	BY:	DATE:
-----	----------------------	-----	-------

DATE	JUNE 2023
SCALE	HORIZ: N/A VERT: N/A
PROJECT NO.	23-0835
SHEET NO.	



**LEGEND:**  
 XX: AM PEAK HOUR VOLUME  
 (XX): PM PEAK HOUR VOLUME

NO.	REVISION DESCRIPTION:	BY:	DATE:
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# Appendix C

## Access Point Signal Warrant Summary



**Michigan Manual of Uniform Traffic Control Devices**  
**Volume Summary**  
 Prepared by MDOT for the 2011 Edition of the MMUTCD

Spot Number:	0		
Major Street:	US 12	Minor Street:	Access Point
Intersection:	US 12 @ Access Point		
City/Twp:	Edwardsburg		
Date Performed:	6/7/2023	Performed By:	Ryan Kafer
Date Volumes Collected:	6/7/2023		

	Minor		Major		Total	Highest		Total
	NB	SB	EB	WB		Major	Minor	
00:01 - 01:00	0	28	27	35	62	28	90	
01:00 - 02:00	0	17	18	10	28	17	45	
02:00 - 03:00	0	10	22	20	42	10	52	
03:00 - 04:00	0	12	66	19	85	12	97	
04:00 - 05:00	0	14	162	37	199	14	213	
05:00 - 06:00	0	28	174	79	253	28	281	
06:00 - 07:00	0	80	265	178	443	80	523	
07:00 - 08:00	0	139	474	309	783	139	922	
08:00 - 09:00	0	167	346	402	748	167	915	
09:00 - 10:00	0	164	278	293	571	164	735	
10:00 - 11:00	0	189	285	324	609	189	798	
11:00 - 12:00	0	332	415	449	864	332	1196	
12:00 - 13:00	0	489	488	481	969	489	1458	
13:00 - 14:00	0	373	419	407	826	373	1199	
14:00 - 15:00	0	279	459	473	932	279	1211	
15:00 - 16:00	0	260	372	580	952	260	1212	
16:00 - 17:00	0	238	281	535	816	238	1054	
17:00 - 18:00	0	326	291	540	831	326	1157	
18:00 - 19:00	0	326	347	364	711	326	1037	
19:00 - 20:00	0	292	268	275	543	292	835	
20:00 - 21:00	0	256	210	223	433	256	689	
21:00 - 22:00	0	195	161	145	306	195	501	
22:00 - 23:00	0	107	67	89	156	107	263	
23:00 - 00:00	0	63	43	42	85	63	148	
<b>Total</b>	<b>0</b>	<b>4384</b>	<b>5938</b>	<b>6309</b>	<b>12247</b>	<b>4384</b>	<b>16631</b>	

## Summary of Warrants

Spot Number:	0		
Major Street:	US 12	Minor Street:	Access Point
Intersection:	US 12 at Access Point		
City/Twp:	Edwardsburg		
Date Performed:	6/7/2023	Performed By:	Ryan Kafer
Date Volumes Collected:	6/7/2023		

Warrant	Condition	Is Warrant Met
<b>Data Validation Error</b>		<b>NO</b>
<b>WARRANT 1: Eight-Hour Vehicular Volume</b>		<b>YES</b>
	Condition A	YES
	Condition B	YES
	Condition A&B	YES
<b>WARRANT 2: Four-Hour Vehicular Volume</b>	(100%)	<b>YES</b>
<b>WARRANT 3: Peak-Hour Vehicular Volume</b>	(100%)	<b>YES</b>
	Condition A	N/A
	Condition B	YES
<b>WARRANT 4: Pedestrian Volume</b>	(100%)	<b>NO</b>
	Four Hour	NO
	Peak Hour	NO
	(Threshold) HAWK	NO
	(Threshold) RRFB	NO
<b>WARRANT 5: School Crossing</b>		<b>NO</b>
<b>WARRANT 6: Coordinated Signal System</b>		<b>NO</b>
<b>WARRANT 7: Crash Experience</b>		<b>NO</b>
	Condition A	NO
	Condition B	NO
<b>WARRANT 8: Roadway Network</b>		<b>NO</b>
<b>WARRANT 9: Intersection Near a Grade Crossing</b>		<b>#N/A</b>

**Issue to Be Addressed by Signalization:**

Ease the flow of traffic caused by the addition of trips that will be generated by potential development

**Michigan Manual of Uniform Traffic Control Devices  
Worksheet for Signal Warrants (Section 4C)  
WARRANT 1: Eight-Hour Vehicular Volume**

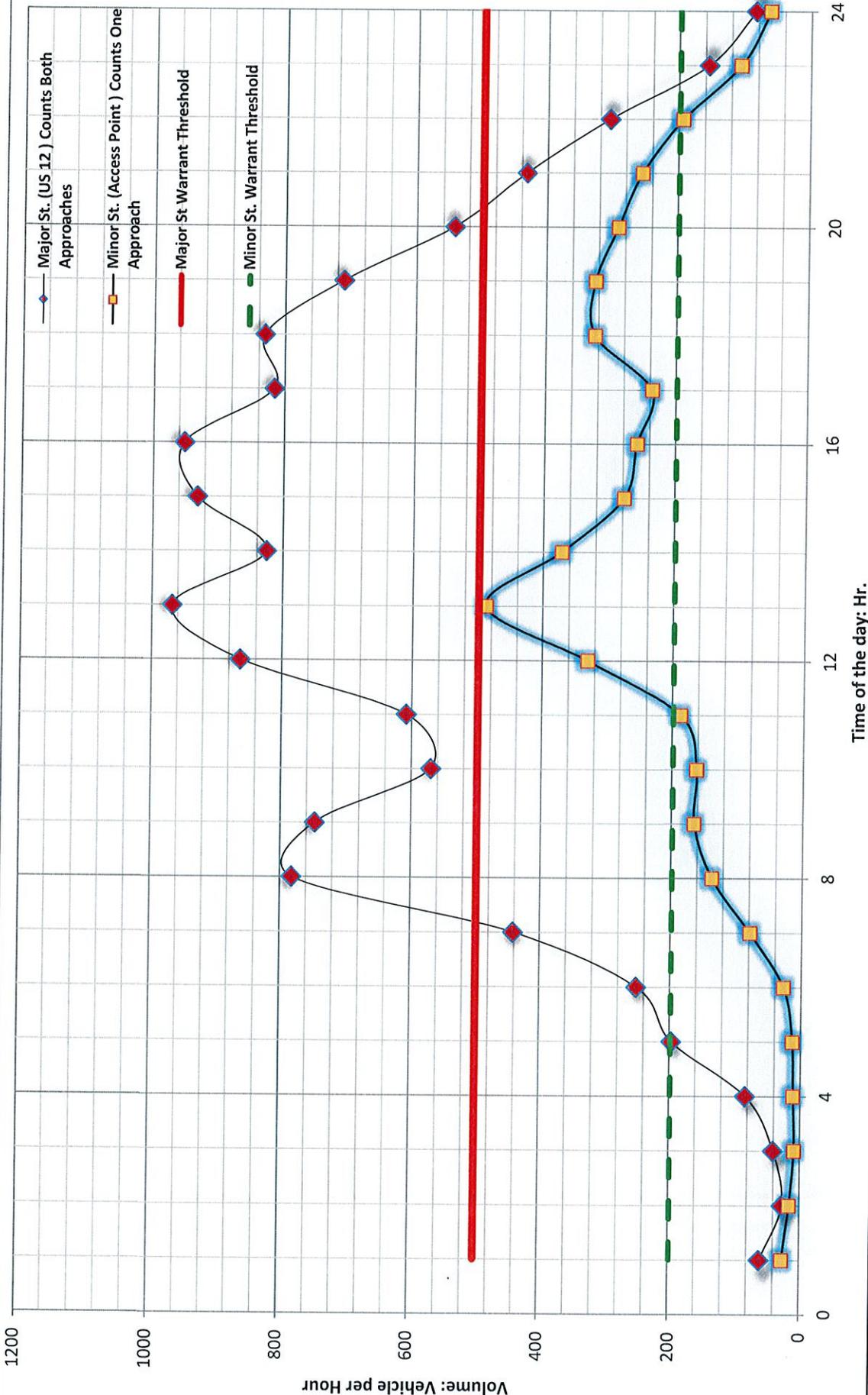
Intersection:	US 12 @ Access Point		
Date:	6/7/2023	By:	Ryan Kafer
1	: No. of Lanes on Major St?		
2	: No. of Lanes on Minor St?		
3	: Speed limit or 85th Percentile? (MPH)		
NO	: Is the intersection within an isolated community?		
0	: If answer 4 is Yes, then what is the of the population isolated community?		
YES	: Have other remedial measures been tried?		

USE 100% FOR WARRANTS 1A AND 1B. USE 80% FOR WARRANT 1A&B

Time	Major Volume (Both Apr.)	Minor Volume (One Apr.)	Condition A Major Volume	Condition A Minor Volume	Warrant Condition A Met?	Condition B Major Volume	Condition B Minor Volume	Warrant Condition B Met?	Combination Major A	Combination Minor A	Combination Major B	Combination Minor B	Warrant Condition A&B met?
00:01 - 01:00	52	N-S 28	500	200	NO	750	100	NO	400	160	600	80	NO
01:00 - 02:00	28	17	500	200	NO	750	100	NO	400	160	600	80	NO
02:00 - 03:00	42	10	500	200	NO	750	100	NO	400	160	600	80	NO
03:00 - 04:00	85	12	500	200	NO	750	100	NO	400	160	600	80	NO
04:00 - 05:00	199	14	500	200	NO	750	100	NO	400	160	600	80	NO
05:00 - 06:00	253	28	500	200	NO	750	100	NO	400	160	600	80	NO
06:00 - 07:00	443	80	500	200	NO	750	100	NO	400	160	600	80	NO
07:00 - 08:00	783	139	500	200	NO	750	100	YES	400	160	600	80	YES
08:00 - 09:00	748	187	500	200	NO	750	100	NO	400	160	600	80	NO
09:00 - 10:00	571	164	500	200	NO	750	100	NO	400	160	600	80	NO
10:00 - 11:00	609	189	500	200	NO	750	100	NO	400	160	600	80	YES
11:00 - 12:00	864	334	500	200	YES	750	100	YES	400	160	600	80	YES
12:00 - 13:00	969	493	500	200	YES	750	100	YES	400	160	600	80	YES
13:00 - 14:00	828	373	500	200	YES	750	100	YES	400	160	600	80	YES
14:00 - 15:00	932	279	500	200	YES	750	100	YES	400	160	600	80	YES
15:00 - 16:00	952	260	500	200	YES	750	100	YES	400	160	600	80	YES
16:00 - 17:00	816	238	500	200	YES	750	100	YES	400	160	600	80	YES
17:00 - 18:00	831	326	500	200	YES	750	100	YES	400	160	600	80	YES
18:00 - 19:00	711	326	500	200	YES	750	100	NO	400	160	600	80	YES
19:00 - 20:00	543	282	500	200	YES	750	100	NO	400	160	600	80	NO
20:00 - 21:00	433	256	500	200	NO	750	100	NO	400	160	600	80	NO
21:00 - 22:00	306	195	500	200	NO	750	100	NO	400	160	600	80	NO
22:00 - 23:00	156	107	500	200	NO	750	100	NO	400	160	600	80	NO
23:00 - 00:00	85	83	500	200	NO	750	100	NO	400	160	600	80	NO

Number of Hours that met the warrant 1A = 9  
 Number of Hours that met the warrant 1B = 8  
 Number of Hours that met the warrant 1 A & B = 10

A. Is the Minimum Vehicular Volume Warrant Met? (Condition A)	YES
B. Is the Interruption of Continuous Traffic Met? (Condition B)	YES
C. Combination of Warrants A and B Criteria Met?	YES



### FIGURE 1: WARRANT 1A

IS THERE A REDUCTION IN THE WARRANT THRESHOLDS TO 70% ...

1- DUE TO SPEED? NO

2- DUE TO ISOLATED COMMUNITY WITH POPULATION LESS THAN 10,000? NO

Spot Number:

US 12 @ Access Point

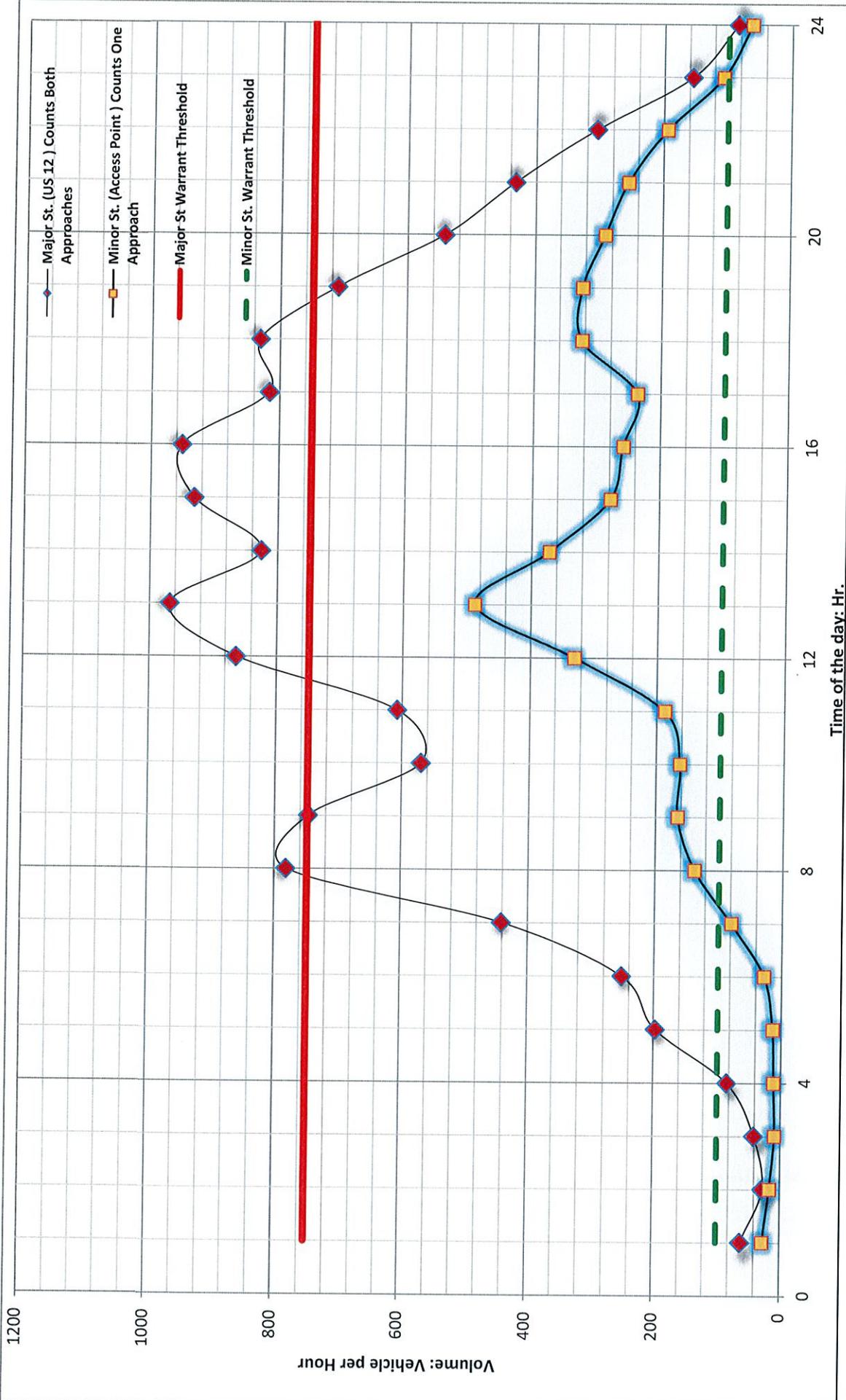
NO. OF LANES ON MAJOR ST.? 1

NO. OF LANES ON MINOR ST.? 2

Number of Hours that met the Warrant: 9

Does this intersection meet Warrant 1A for signal installation? YES

Data Collection Date: 6/7/2023



**FIGURE 1: WARRANT 1B**

IS THERE A REDUCTION IN THE WARRANT THRESHOLDS TO 70% ...

1- DUE TO SPEED? NO

2- DUE TO ISOLATED COMMUNITY WITH POPULATION LESS THAN 10,000? NO

Spot Number:

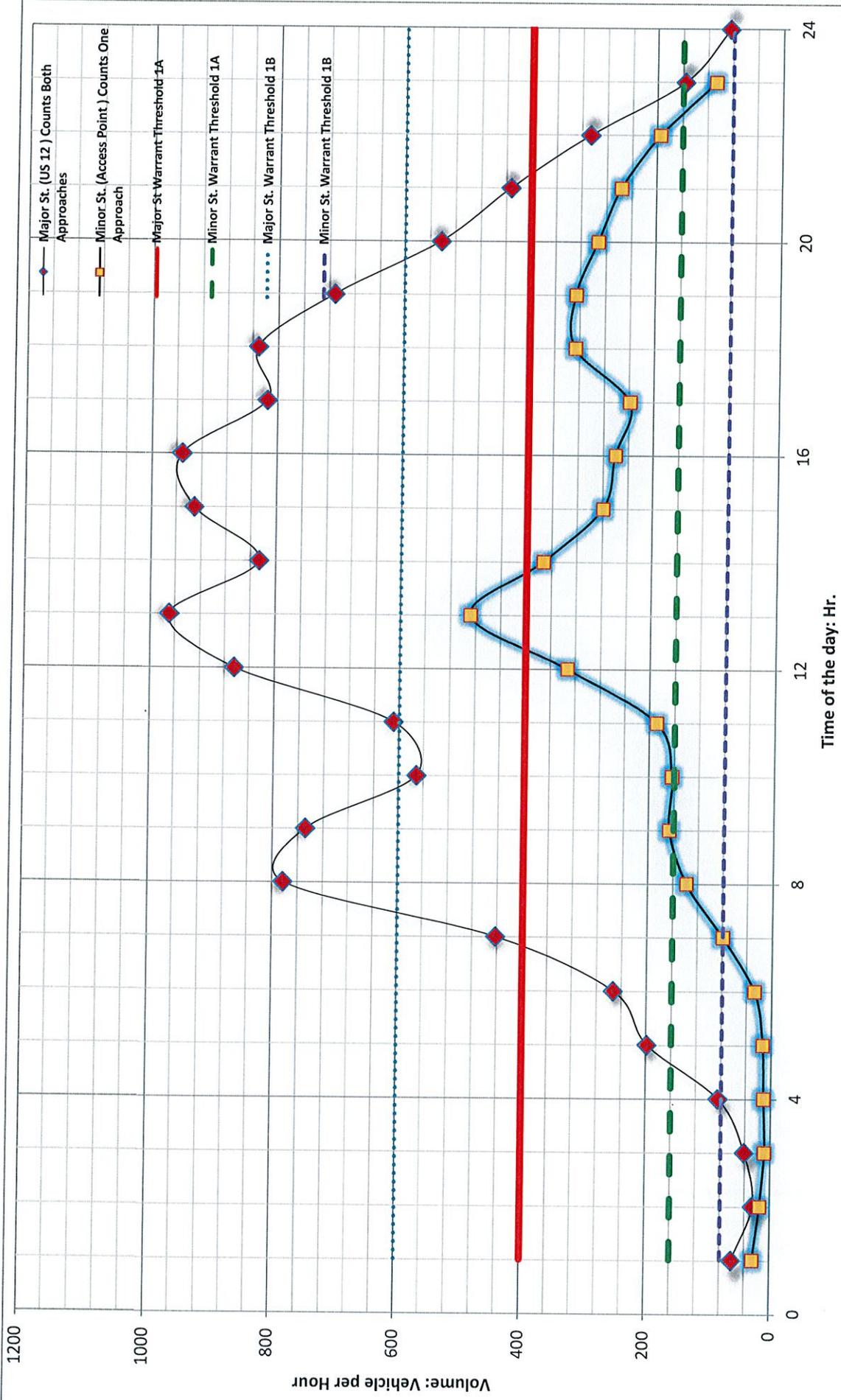
US 12 @ Access Point

NO. OF LANES ON MAJOR ST.? 1

NO. OF LANES ON MINOR ST.? 2

Number of Hours that met the Warrant: 8

Does this intersection meet Warrant 1B for signal installation? YES



**FIGURE 3: WARRANT 1A&B**

IS THERE A REDUCTION IN THE WARRANT THRESHOLDS TO 56% ...

1- DUE TO SPEED? NO

2- DUE TO ISOLATED COMMUNITY WITH POPULATION LESS THAN 10,000? NO

Spot Number:

US 12 @ Access Point

NO. OF LANES ON MAJOR ST.: 1

NO. OF LANES ON MINOR ST.: 2

Number of Hours that met the Warrant: 10

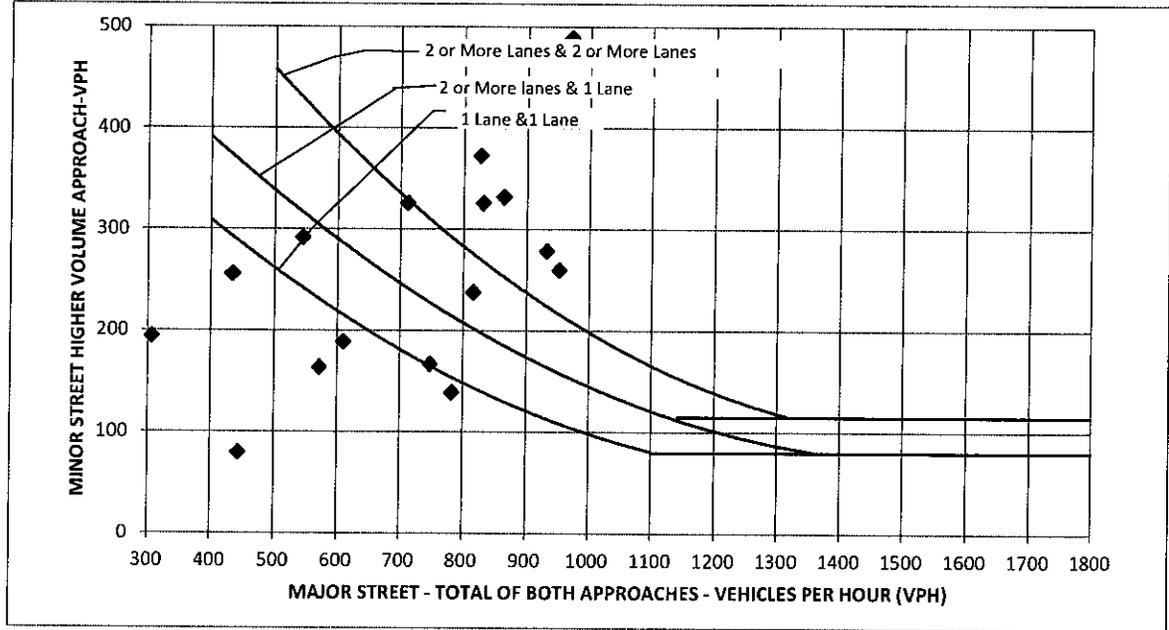
Does this intersection meet Warrant 1A&B for signal installation? YES

Data Collection Date: 6/7/2023

**Michigan Manual of Uniform Traffic Control Devices  
Worksheet for Signal Warrants (Section 4C)  
WARRANT 2: Four-Hour Vehicular Volume**

Spot Number:	0
Intersection:	US 12 @ Access Point
Date:	6/7/2023 by Ryan Kafer

1	: No. of Lanes on Major St.
2	: No. of Lanes on Minor St.
0	: Speed limit or 85th Percentile? (MPH)
NO	: Is the intersection within an isolated community?
0	: What is the of the population isolated community?

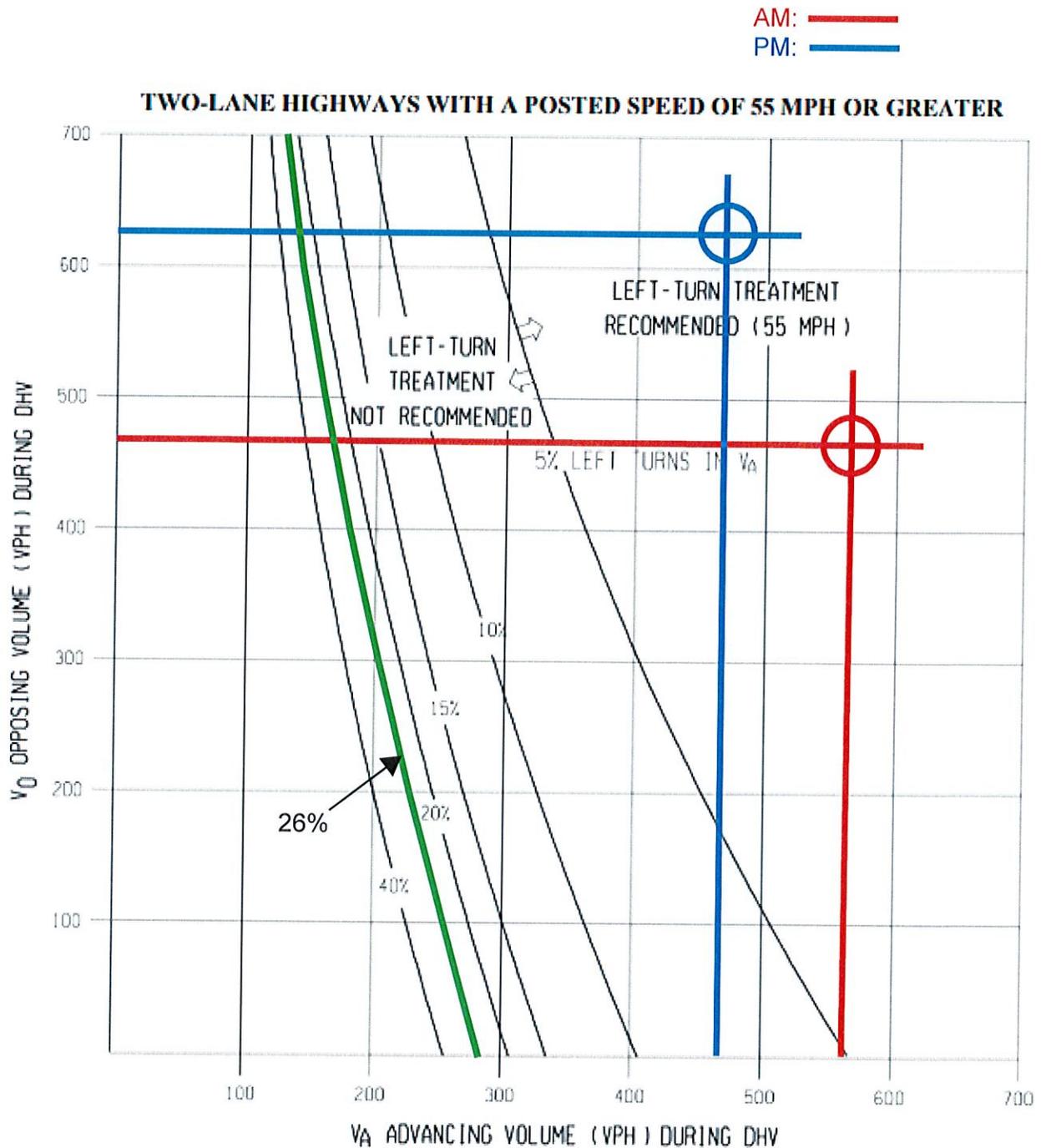


How Many Hours Are Met	8
Is Warrant 2 (100%) Met?	YES

## Appendix D US-12 Right and Left Turn Summary



## Phase 1 Eastbound Left-Turn

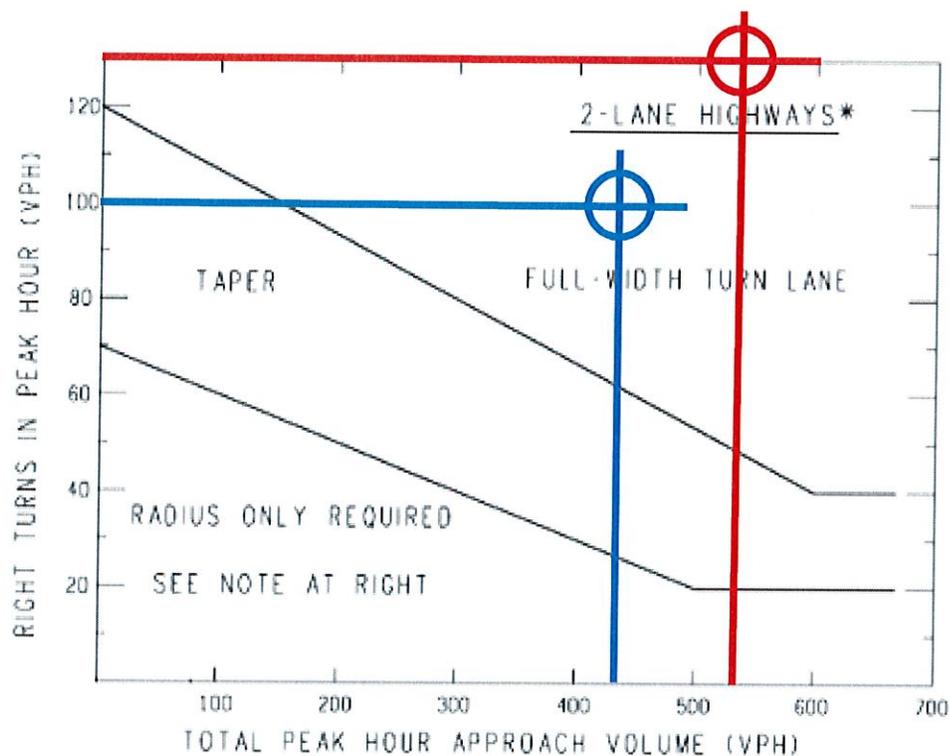


### Instructions:

1. The family of curves represent the percentage of left turns in advancing volume ( $V_A$ ). The designer should locate the curve for the actual percentage of left turns. When this is not an even increment of 5, the designer should estimate where the curve lies.
2. Read  $V_A$  and  $V_O$  into the chart and locate the intersection of the two volumes.
3. Note the location of the point in #2 relative to the line in #1. If the point is to the right of the line, then a left-turn lane is recommended. If the point is to the left of the line, then a left-turn is not recommended based on traffic volumes.

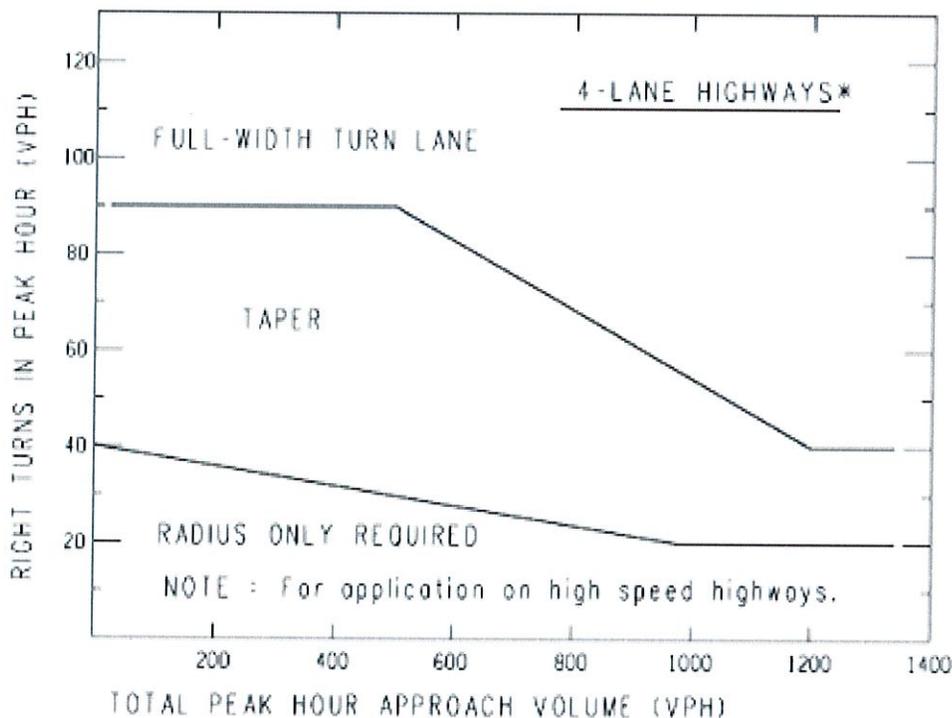
# Phase 1 Westbound Right-Turn

AM: —  
 PM: —



NOTE: For posted speeds at or under 45 mph, peak hour right turns greater than 40 vph, and total peak hour approach less than 300 vph, adjust right turn volumes.

Adjust peak hour  
 Right turns = Peak hour  
 Right turns - 20

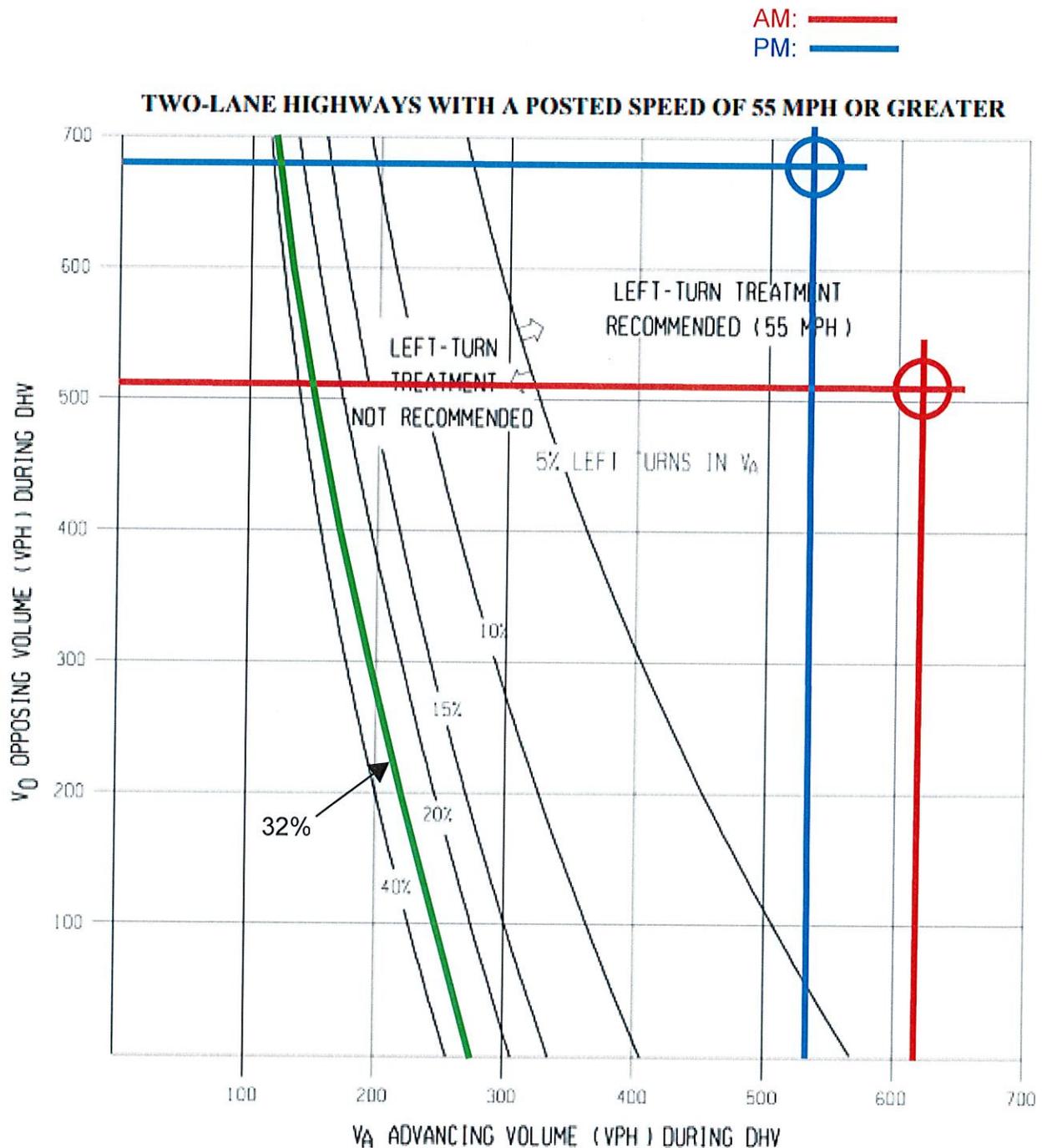


\*If a center left-turn lane exists (ie 3 or 5 lane roadway), subtract the number of left turns in approach volume from the total approach volume to get an adjusted total approach volume.

Sample Problem: The Design Speed is 55 mph. The Peak Hour Approach Volume is 300 vph. The Number of Right Turns in the Peak Hour is 100 vph. Determine if a right turn lane is recommended.

Solution: Figure indicates that the intersection of 300 vph and 100 vph is located above the upper trend line; thus, a right-turn lane may be recommended.

## Phase 1+2 Eastbound Left-Turn

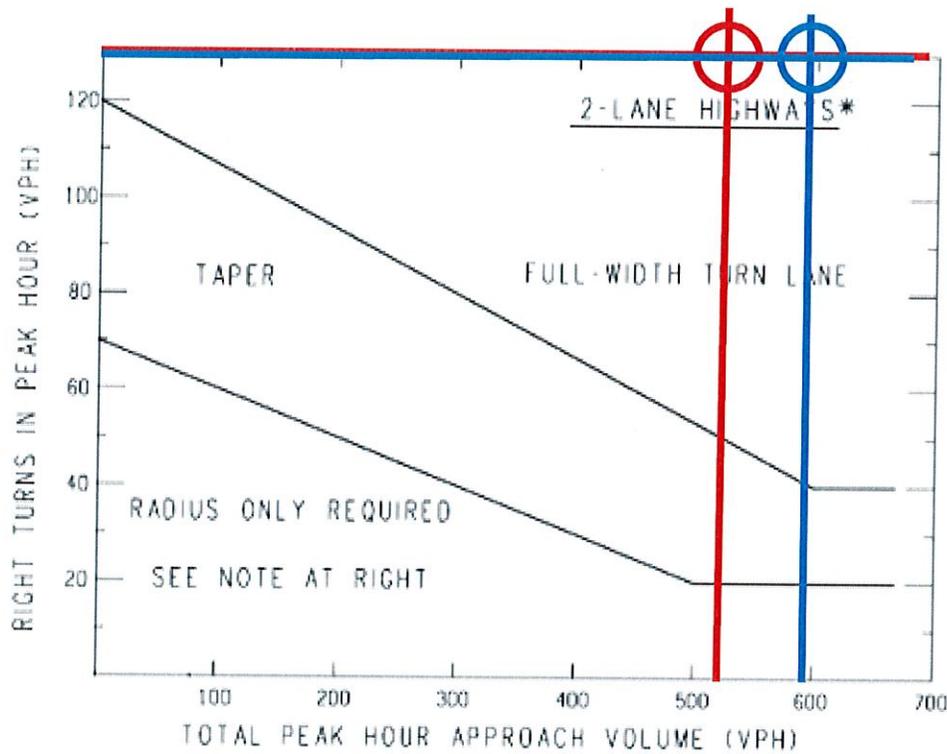


### Instructions:

1. The family of curves represent the percentage of left turns in advancing volume ( $V_A$ ). The designer should locate the curve for the actual percentage of left turns. When this is not an even increment of 5, the designer should estimate where the curve lies.
2. Read  $V_A$  and  $V_O$  into the chart and locate the intersection of the two volumes.
3. Note the location of the point in #2 relative to the line in #1. If the point is to the right of the line, then a left-turn lane is recommended. If the point is to the left of the line, then a left-turn is not recommended based on traffic volumes.

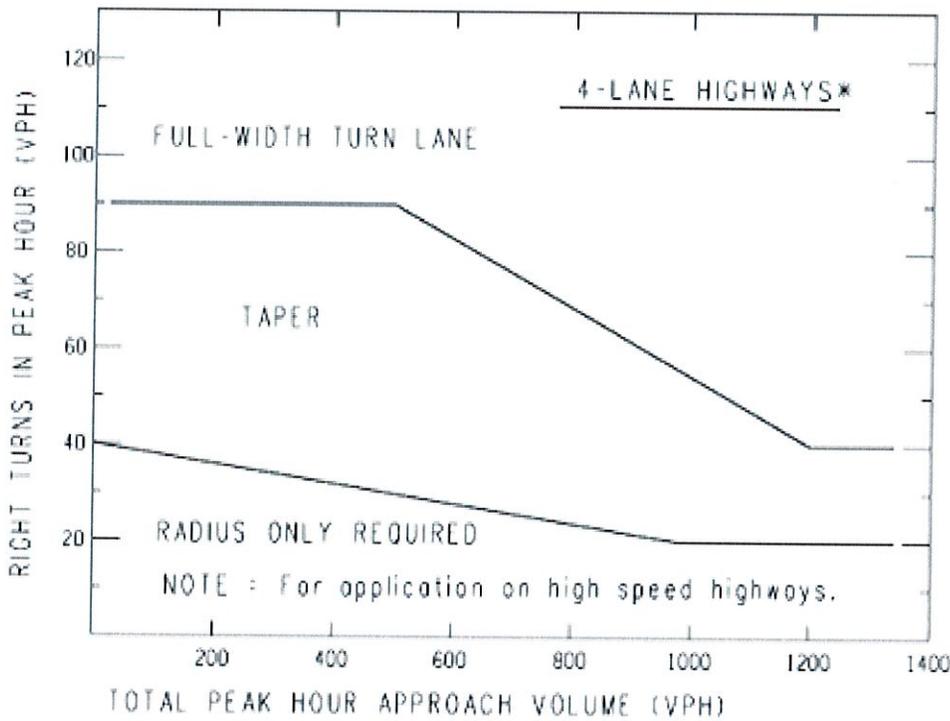
# Phase 1+2 Westbound Right-Turn

AM: —  
 PM: —



NOTE: For posted speeds at or under 45 mph, peak hour right turns greater than 40 vph, and total peak hour approach less than 300 vph, adjust right turn volumes.

Adjust peak hour Right turns = Peak hour Right turns - 20



\*If a center left-turn lane exists (ie 3 or 5 lane roadway), subtract the number of left turns in approach volume from the total approach volume to get an adjusted total approach volume.

**Sample Problem:** The Design Speed is 55 mph. The Peak Hour Approach Volume is 300 vph. The Number of Right Turns in the Peak Hous is 100 vph. Determine if a right turn lane is recommended.

**Solution:** Figure indicates that the intersection of 300 vph and 100 vph is located above the upper trend line; thus, a right-turn lane may be recommended.