

**MARION TOWNSHIP PLANNING COMMISSION  
AGENDA**

**REGULAR MEETING  
October 24, 2023  
7:30 PM**

*Virtual access instructions to participate in the meeting are posted on [www.mariontownship.com](http://www.mariontownship.com)*

Call to Order:

Pledge of Allegiance:

Introduction of Members:

Approval of Agenda for: October 24, 2023 Regular Meeting

Approval of Minutes from: September 26, 2023 Regular Meeting

Call for Public Comment:

Public Hearing:

New Business:

Unfinished Business:

- 1) RZN#01-23 Mitch Harris Rezoning 4710-02-400-014,016,017,018.
- 2) TXT#01-23 Crypto Ordinance Data Processing Industrial District (Pending)
- 3) Wellhead protection ordinance and map (Pending)

Special Orders:

- 1) Questions for the Attorney. Please forward to me ASAP so I can get them to the Attorney before the meeting.
- 2) Discuss role commissioners are expecting from Zach

Announcements:

Call for Public Comment:

Adjournment:

**MARION TOWNSHIP  
PLANNING COMMISSION  
REGULAR MEETING  
SEPTEMBER 26, 2023 / 7:30PM**

**PC MEMBERS PRESENT:** LARRY GRUNN - *CHAIRPERSON*  
CHERYL RANGE - *SECRETARY*  
BOB HANVEY  
BRUCE POWELSON

**PC MEMBERS ABSENT:** JIM ANDERSON - *VICE CHAIRPERSON*

**OTHERS PRESENT:** DAVID HAMANN - *MARION TWP. ZONING ADMINISTRATOR*

**CALL TO ORDER**

Larry Grunn called the meeting to order at 7:30 pm.

**APPROVAL OF AGENDA**

Bruce Powelson made a motion to approve the September 28, 2023 agenda as presented. Bob Hanvey seconded.

**MOTION CARRIED**

**APPROVAL OF MINUTES**

Cheryl Range made a motion to approve the August 22, 2023 Planning Commission minutes as presented. Bruce Powelson seconded. **MOTION CARRIED**

**CALL TO PUBLIC**

None.

**PUBLIC HEARING:**

**SUP# 02-23 ALAN ASP HOME-BASED BUSINESS**

Alan Asp presented his plans for a home-based business at 2607 Mason Road. He still plans to keep his corporate office in Waterford, which is where most activities will continue to take place. Alan Asp has been in business for seven years now. The Mason Road location will be used as a satellite location. He plans to only park up to four trucks at the Mason Road location and will only have two employees. Most of his drivers bring their trucks home at the end of the day. The Mason Road parcel is a 7 ½ acre lot. Mr. Asp plans to have two dumpsters on the parcel but plans to put them in a location that will not be visible to the neighbors.

Robert and Chelsea Rodriguez reside at 2655 Mason Road. They live next door to Alan Asp's parcel and wanted to know what Alan's plans were with his property. They wanted to make sure that there will not be several trucks coming and going throughout the day. There is currently a very small fence separating their properties but it does not currently provide any screening.

Alan Asp stated that he will plant some trees near the fence to provide some screening between his property and the Rodriguez's property.

Dave Hamann asked Alan Asp if he planned on living at 2607 Mason Road. Alan Asp stated that he does plan on living there.

**CLOSE CALL TO PUBLIC AT 7:48pm.**

**NEW BUSINESS:**

**SUP# 02-23 ALAN ASP HOME-BASED BUSINESS**

Cheryl Range made a motion to recommend approval to the Township Board of Trustees for Alan Asp's Home-Based Business Special Use Permit (SUP# 02-23) with the following conditions.

- Mr. Asp will provide some landscape screening near the fence.
- Mr. Asp will place the dumpsters in a location that do no impact the neighbors.
- Mr. Asp will not have more than four trucks on the property at one time.

# DRAFT

Bruce Powelson seconded. **MOTION CARRIED**

## UNFINISHED BUSINESS:

### **TXT# 01-23 CRYPTO ORDINANCE DATA PROCESSING INDUSTRIAL DISTRICT**

Dave Hamann explained that Zach Michels presented this language to Bob and made all of the changes previously discussed and it will be presented to the Board at the next meeting on 09/28/2023.

## UNFINISHED BUSINESS:

### **WELLHEAD PROTECTION ORDINANCE AND MAP**

This topic is still pending.

## ANNOUNCEMENTS

Cheryl Range discussed the Ford Plant in Milan and does not understand why the Solar companies will not use this facility for their projects.

Bob Hanvey provided an update with the ongoing wedding barn case. As of right now, the due process count is pending.

## SPECIAL ORDERS

Dave Hamann told Commissioners to start thinking about a our "to-do" list.

Larry Grunn asked if the Township Attorney is able to attend one of our Planning Commission meetings. Bob Hanvey will check the Planning Commission budget.

Bruce asked how many years is our Master Plan good for?

## CALL TO PUBLIC

Les Andersen make a comment about bed and breakfast properties.

Katherine Dwyer made a comment about no telling property owners what to do.

## ADJOURNMENT

Cheryl Range made a motion to adjourn the meeting at 8:40pm. Larry Grunn seconded. **MOTION CARRIED**

## Dave Hamann

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**From:** Zach Michels <zmichels@gmail.com>  
**Sent:** Tuesday, October 17, 2023 12:06 AM  
**To:** za@mariontownship.com; jtimberlake@mariontownship.com  
**Subject:** Harris Zoning Map Amendment  
**Attachments:** Harris Zoning Map Amendment and Findings Report (10-16-2023).docx; Harris Zoning Map Amendment Resolution (10-16-2023) DRAFT.docx

Good evening/morning, Team Marion Township,

Please find attached a review and draft resolution for the Harris Zoning Map Amendment.

The draft resolution looks pretty intense, but it is designed to be relatively easy to amend at the meeting. I'll be able to help with getting it sorted out.

Give a shout if you have any questions or concerns.

I haven't prepared formal reports for the revisions to the wellhead and the crypto mining. The draft revisions appear pretty reasonable. I will make some notes and be prepared to discuss them at the meeting.

Give a shout if there's anything else you'd like for me to provide for this meeting.

Thanks,  
Zach

*(My next email should be from new, fancy-pants email. I haven't been able to figure it out tonight, and the hour is growing later. Tomorrow I'll get my wife to sort it out.)*

# Zoning Map Amendment Review/ Findings of Fact for Marion Township Planning Commission

## INTRODUCTION

Petition Number	RZN 01-23
Applicant	Mitch Harris on behalf of Mitch Harris Building Company
Request	Zoning map amendment
Location	West side of Pinckney/D-19, south of I-96
Parcel Numbers	10-02-400-014/016/017/018

## PETITION SUMMARY

The applicant is requesting a zoning map amendment (*also known as rezoning*) for all or a portion of 4 properties from the Highway Service (HS) and Suburban Residential (SR) districts to the Urban Residential (UR) district.

The zoning map amendment is in anticipation of development of the site for residential uses in the future.

The zoning map amendment has been submitted without conditions proposed by the applicant.

The proposed Urban Residential (UR) district would significantly increase the potential number of residential uses and significantly reduce the potential number of commercial or personal service uses.

Minimum lot area, minimum frontage, and minimum setbacks (*excluding setback from the Pinckney right-of-way*) would be significantly reduced. Maximum lot coverage would be slightly reduced. There would be no change to maximum building height.

For zoning map amendments, the Planning Commission makes a recommendation that is forwarded to the Livingston County Planning Commission for review and comment and to the Township Board for final action.

The properties have been within the current zoning districts since 2002, following approval of zoning map amendments to facilitate proposed developments. The properties had previously been within the Urban Residential (UR) district.

This review provides a brief summary of the requested zoning map amendment and provides guidance for adoption of findings of fact, including a draft resolution or the Planning Commission's consideration.

## PROPERTY INFORMATION

Address n/a

Location	West side of Pinckney/D-19, south of I-96
Parcel Numbers	10-02-400-014/016/017/018
Lot Areas	90.92 acres ( <i>area of all properties</i> ) 74.44 acres ( <i>area to be rezoned</i> )
Parcel Numbers	10-02-400-014/016/017/018 ~1,075 feet ( <i>all properties along Pinckney/D-19</i> )
Frontage	~186 feet ( <i>area to be rezoned along Pinckney/D-19</i> ) Access points on the west from Peavy and Spirea
Current Zoning	Highway Service (HS) and Suburban Residential (SR)
Proposed Zoning	Urban Residential (UR)
Existing Uses	Vacant/undeveloped Natural gas gate station
Future Land Use Map	Commercial

### PETITION TIMELINE

The application was submitted to the Township on January 31, 2023.

The Planning Commission held a public hearing for this petition at its February 28, 2023, meeting. Action was postponed to allow the applicant an opportunity to provide additional information.

The Planning Commission considered this petition again at its March 28, 2023, meeting. It was forwarded to the Livingston County Planning Commission and the Township Board with a favorable recommendation by a 4-1 vote.

The Township Board considered this petition its September 28, 2023 meeting. The petition was remanded to the Planning Commission in order to provide a finding of fact describing why the favorable recommendation had been made.

### DECISION CONSIDERATIONS

The zoning map amendment process is briefly described in MCL 125.3502, which outlines the notice process and provides authority for local governments to define the process for changing district boundaries (*zoning map amendments*) by ordinance.

The process and criteria for changing the zoning text or zoning map are outlined in Article XX Amendments of Zoning Ordinance. The Planning Commission holds a public hearing and makes a recommendation. This recommendation is forwarded to the Livingston County Planning Commission for review and comment and to the Township Board for action.

Considerations for zoning map amendments, defined in §20.05(2), are examined below. While these considerations are intended to provide guidance for zoning map amendments, they are different from criteria used when evaluating site plans, special land uses, or variances. In those cases, all of the criteria must be determined to be true. For zoning map amendments, a finding that one of the considerations is true or not may be adequate to make a recommendation.

The comments below are based on the original planning report. Additional information may be shared or discovered.

- a) What, if any, identifiable conditions related to the application have changed which justify the proposed rezoning?

*We are unaware of specific conditions that have changed relative to the area proposed for the zoning map amendment.*

*Other development of more-intensive residential projects in the area has demonstrated a demand for that type of housing project.*

*Changes in consumer trends and working conditions, especially following Covid-19, have reduced the demand for commercial space in general.*

*To the best of our knowledge, a market analysis has not been provided.*

- b) What is the impact of the rezoning on the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed rezoning is approved?

*The impact of the development of the site with the requested Urban Residential (UR) district rather than the current Highway Service (HS) and Suburban Residential (SR) district appears likely to have a negligible impact on some services and facilities, such as roads, water, and sanitary sewer.*

*Residential uses, that would be allowed, generally tend to require more public services, such as police and fire, compared with commercial uses. Additional comments on police and fire service capacity are deferred to those agencies.*

*Development of the site with the requested Urban Residential (UR) district would place a greater demand on the public schools. However, additional students also mean additional financial support for public schools. Additional comments on school capacity are deferred to the schools.*

*Commercial uses generally tend to generate more revenues for local government than residential uses. This site represents a significant portion of the area designated as Commercial in the Future Land Use Map.*

- c) Does the requested rezoning adversely affect environmental conditions or the value of the surrounding property?

*The requested Urban Residential (UR) district does not appear to create adversely affect environmental conditions or value of surrounding property more than development using the current Highway Service (HS) district.*

*The requested zoning map amendment would significantly reduce the potential number of commercial uses, which would likely create a greater impact on the environment and values than residential uses.*

*The requested Urban Residential (UR) district would likely create a greater impact on the environment and value of surrounding properties than other less-intensive residential districts.*

d) Does the petitioned district change generally comply with the adopted Township Master Plan?

*The requested Urban Residential (UR) district would represent a deviation from the Future Land use, which calls for the site to be within the Highway Service (HS) district, based on its location along I-96 and proximity to the interchange.*

*This site represents a significant portion of the area in the Future Land Use Map designated for Commercial in the Township.*

*The Master Plan generally envisions more-intensive uses and districts, such as the Urban Residential (UR), being located near the City of Howell.*

e) Can the property in question be put to a reasonable economic use in the zoning district in which it is presently located?

*Because of the proximity of this site to Howell and the I-96 interchange, it should be possible to reasonably use the property in the Highway Service (HS) district.*

*We have not conducted or received a commercial market analysis.*

## SUMMARY

The requested zoning map amendment deviates from the Future Land Use Map, which includes this site within the commercial area, corresponding with the current Highway Service (HS) district. It is consistent with the Master Plans' vision of locating more-intensive uses closer to the City of Howell.

Because the petition has not been submitted as a conditional zoning map amendment, the Township cannot place any conditions on approval. The site could be developed in a manner consistent with plans submitted by the applicant or in a different manner.

The attached draft resolution/finding of fact is intended to assist the Planning Commission's deliberation. Potential findings from this report have been added. The Planning Commission may use these findings, replace them with other findings, or adopt additional findings.

We look forward to helping facilitate this process at the meeting.



RZN 01-23 Mitch Harris Building Company  
Zoning Map Amendment Review/Findings of Fact  
October 16, 2023

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-Zach Michels  
*Quality Zoning*  
*Dexter, MI*

# MARION TOWNSHIP PLANNING COMMISSION

## **DRAFT** Resolution for a Zoning Map Amendment from Highway Service (HS) and Suburban Residential (SR) to Urban Residential (UR)

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A resolution to recommend **APPROVAL/DENIAL** of an application submitted by Mitch Harris for properties owned by Mitch Harris Building Company, located west of Pinckney/D-19 and south of I-96, Section 2 of Marion Township (10-02-400-014/016/017/018).

- 10) WHEREAS, the above properties have been zoned Highway Service (HS) and Suburban Residential (SR) since at least 2002; and
- 20) WHEREAS, THE APPLICANT, pursuant to the provisions of the Marion Township Zoning Ordinance (*Zoning Ordinance*), submitted a complete application for a zoning map amendment on January 31, 2023, for a zoning map amendment from Highway Service (HS) and Suburban Residential (SR) to Urban Residential (UR); and
- 30) WHEREAS, Article XX Amendments of the Zoning Ordinance outlines the zoning map amendment process; and
- 40) WHEREAS, the Planning Commission has received reports from Zach Michels (*Marion Township Planning Consultant, Carlisle Wortman Associates/Quality Zoning*) dated February 14, 2023, and October 16, 2023; and
- 50) WHEREAS, the property owner has indicated a desire to develop the property for residential uses; and
- 60) WHEREAS, the Planning Commission, at its February 28, 2023, meeting, held a duly-noticed public hearing on the zoning map amendment RZN 01-23 Mitch Harris Building Company and received the following public input: *concerns about traffic generation, concerns about access to the site, concerns about water and sewer capacity, and concerns about stormwater management*; and
- 70) WHEREAS, the Planning Commission, at its February 28, 2023, meeting, voted to postpone action on the zoning map amendment petition in order to allow the applicant an opportunity to provide additional information; and

# MARION TOWNSHIP PLANNING COMMISSION

## **DRAFT** Resolution for a Zoning Map Amendment from

### **Highway Service (HS) and Suburban Residential (SR) to Urban Residential (UR)**

80) WHEREAS, the Planning Commission, at its March 28, 2023, meeting, voted (4 to 1) to forward the zoning map amendment petition to the Livingston County Planning Commission and the Township Board with a favorable recommendation; and

90) WHEREAS, the Township Board, at its September 28, 2023, meeting, voted to return the zoning map amendment petition back to the Planning Commission to provide a detailed findings of fact; and

100) WHEREAS, the following conditions **HAVE/HAVE NOT** changed, which **JUSTIFY/DO NOT JUSTIFY** the proposed zoning map amendment;

- A) *There is less general demand for commercial land than anticipated in previous Master Plans;*
- B) *REASON; and*
- C) *REASON; and*

110) WHEREAS, the requested zoning map amendment **WOULD/WOULD NOT** impact the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs reasonably required in the future if the proposed zoning map amendment is approved;

- A) *Permitted uses in the requested zoning district are likely to create a similar or lesser demand on roads, water, and sanitary sewer;*
- B) *Site plan review provides the Township with the ability to mitigate potential infrastructure demands from development of the site;*
- C) *SCHOOL CAPACITY;*
- D) *REASON; and*
- E) *REASON; and*

120) WHEREAS, the requested zoning map amendment **DOES/DOES NOT** adversely affect environmental conditions because:

- A) *The potential number of commercial uses that could impact the environmental conditions would be significantly reduced;*

# MARION TOWNSHIP PLANNING COMMISSION

## **DRAFT** Resolution for a Zoning Map Amendment from

### **Highway Service (HS) and Suburban Residential (SR) to Urban Residential (UR)**

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B) *The potential residential development is likely to generate similar or lesser environmental impacts than commercial development or use of the properties;*

C) *REASON; and*

D) *REASON; and*

130) WHEREAS, the requested zoning map amendment **DOES/DOES NOT** adversely affect the value of surrounding property:

A) *Development of the site for residential uses with the zoning map amendment is likely to have less impact on the value of surrounding properties than if the site were developed for commercial uses in the current district;*

B) *REASON; and*

C) *REASON; and*

140) WHEREAS, the petitioned zoning map amendment **DOES/DOES NOT** generally comply with the adopted Master Plan because:

A) *Although it represents a deviation from the Future Land Use Map, the greater intensity of use within the Urban Residential (UR) district is consistent with the goal of locating more-intensive uses closer to the City of Howell;*

B) *REASON; and*

C) *REASON; and*

150) WHEREAS, the property in question **CAN/CANNOT** be put to a reasonable economic use in the Highway Service (HS) zoning district, because:

A) *REASON; and*

B) *REASON; and*

160) **OTHER CONSIDERATION;**

170) NOW, THEREFORE, BE IT RESOLVED, the Marion Planning Commission, by a majority vote at a regularly-scheduled and duly-noticed meeting, held this 24<sup>th</sup> day of October 2023, adopts this finding of facts recommending **APPROVAL/DENIAL** of the Zoning Map Amendment petition RNZ

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# MARION TOWNSHIP PLANNING COMMISSION

## **DRAFT** Resolution for a Zoning Map Amendment from

### **Highway Service (HS) and Suburban Residential (SR) to Urban Residential (UR)**

01-23 Mitch Harris Building Company, Section 2 of Marion Township, (10-02-400-

014/016/017/018), to Mitch Harris Building Company, for a zoning map amendment from Highway Service (HS) and Suburban Residential (SR) to Urban Residential (UR) for an area measuring roughly 74.4 acres; and

180) BE IT FURTHER RESOLVED, the Planning Commission directs the Zoning Administrator to forward this Resolution/Findings-of-Facts, a summary of comments received at the public hearing, and its **FAVORABLE/UNFAVORABLE RECOMMENDATION** to the Township Board within sixty (60) days; and

Resolution offered by Planning Commissioner NAME.

Resolution supported by Planning Commissioner NAME.

YES = # (Anderson, Grunn, Hanvey, Powelson, Range, *NONE*)

NO = # (Anderson, Grunn, Hanvey, Powelson, Range, *NONE*)

ABSENT = # (Anderson, Grunn, Hanvey, Powelson, Range, *NONE*)

ABSTAIN = # (Anderson, Grunn, Hanvey, Powelson, Range, *NONE*)

The Chair declared the Resolution **ADOPTED/NOT ADOPTED**.

Date: 26 October 2023

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Larry Grunn, Chair

Date

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Cheryl Range, Secretary

Date

# MARION TOWNSHIP

## DATA PROCESSING FACILITY ZONING ORDINANCE AMENDMENT

An amendment to the Marion Township Zoning Ordinance to amend and add definitions related to data processing facilities.

Marion Township Ordains:

### SECTION 1. DEFINITIONS

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Section 3.02 Definitions of the Zoning Ordinance is hereby amended to add the following definition for a "Data Processing Facility" which shall read, in its entirety, as follows:

**Data Processing Facility:** A building, dedicated space within a building, or group of structures located on one or more acres of land used to house a large group of computer systems and associated components, such as telecommunications and data processing systems, to be used for the remote storage, processing, or distribution of large amounts of data. Examples of such data include, but are not limited to, computationally intensive applications such as blockchain technology, cryptocurrency mining, weather modeling, genome sequencing, etc. Such facilities may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations.

### SECTION 2. AMENDMENT OF ARTICLE X: INDUSTRIAL

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#### ARTICLE X: INDUSTRIAL DISTRICTS

Section 10.01 LI: Light Industrial District

- A. **Intent:** It is the intent of the Light Industrial District (LI) to provide for a variety of light industrial uses, including manufacturing, processing, assembling, packaging, or treatment of products from previously prepared materials, as well as commercial establishments not engaging primarily in retail sales. Such industrial areas should be free of incompatible uses, and designed to avoid negatively impacting adjacent conforming uses.

B. **Uses Permitted By Right:**

In the Light Industrial District, no building or land shall be used and no building or structure erected except for one or more of the following specified uses, unless otherwise provided for in this Ordinance. All uses permitted in this district are subject

to the requirements and standards of Article XVIII, Site Plan Requirements prior to initiation of the use or structure.

The following are uses permitted by right when conducted in a permanent fully enclosed building:

1. Light industrial establishments that perform assembly, fabrication, compounding, manufacture, or treatment of materials, goods, and products, including, but not limited to:
  - a. Jobbing and machine shops.
  - b. Fabricated metal products.
  - c. Plastic products, forming and molding.
  - d. Processing of machine parts.
  - e. Monument and art stone production.
  - f. Industrial laundry operations.
  - g. Wood products processing facility.
  - h. Printing and publishing.
2. Storage facilities for building materials, sand, gravel, stone, lumber, and contractor's equipment.
3. Grain and feed elevators, bulk blending plants and/or handling of liquid nitrogen fertilizer and anhydrous ammonia.
4. Commercial uses not primarily involved in retail sales as a primary use, including but not limited to building material suppliers (excluding concrete mixing), retail lumber yards including incidental millwork, farm implement dealers and repair.
5. The manufacturing, compounding, processing and packaging of perfumes, pharmaceuticals, toiletries, and condiments (except fish, meat, fowl, vegetables, vinegar, and yeast).
6. The manufacturing, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, zinc and aluminum pressure die casting, shell,

- textiles, tobacco, wood (excluding planing mill), yarns and paint not requiring a boiling process.
7. Distribution plants, parcel delivery service, ice and cold storage plants.
  8. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts, such as condensers, transformers, crystal holders, transistor and computer boards, and the like.
  9. Laboratories, experimental or testing.
  10. Public utility service yard or electrical receiving transforming station.
  11. Coal yards.
  12. Freighting or trucking terminals.
  13. Freight yards.
  14. Painting, upholstering, rebuilding, conditioning, body and fender work, repairing, tire recapping or retreading, and battery manufacture.
  15. Industrial park, subject to the following conditions:
    - a. Permitted uses shall include all uses permitted by right within this district. Special uses identified in Section 10.01 D may be permitted, subject to the special use provisions of Article XVI.
    - b. The minimum required land area for an industrial park shall be twenty (20) contiguous acres.
    - c. The development of an industrial park shall be in accordance to an overall plan for development of the park, which plan shall be approved by the Township Planning Commission.
    - d. The developer shall provide within the industrial park a sanitary sewage system that shall be of sufficient size and design to collect all sewage from structures within the industrial park.
    - e. The developer shall provide within the industrial park a storm drainage system which shall be of sufficient size and design as will, in the opinion of the Township Engineer, collect, carry off and dispose of all predictable surface water runoff within and draining into the industrial park, and shall be so constructed as to conform with the statutes, ordinances and regulations of the



- State of Michigan, the Livingston County Drain Commissioner and the Township.
- f. If a public water system is not available, the developer shall provide within the industrial park a potable water system that shall be of sufficient size and design to supply potable water to each of the structures to be erected in the development.
  - i. The developer shall also provide a fire hydrant within four hundred (400) feet of each structure.
  - ii. Such water system shall conform to the statutes, ordinances, and regulations of the State of Michigan, the Livingston County Health Department, the Livingston County Drain Commissioner and the Township.
  - g. All industrial parks shall have direct access to a paved street or major thoroughfare.
  - h. Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the industrial park without undue congestion or interference with normal traffic flow.
  - i. All points of vehicular access to and from public streets shall be located not less than seventy-five (75) feet from the intersection of any public street lines with each other.
    - ii. No part of any parking access and/or service area may be located closer than one hundred fifty (150) feet to any residential property line.
  - j. Parking, loading, or service areas used by motor vehicles shall be located entirely within the boundary lines of the industrial park.
  - k. Any industrial park adjoining any residential development shall be provided with a buffer zone of at least sixty (60) feet that shall be provided adjacent to the property line. Such buffer shall be planted with evergreen and other suitable plantings and used for no other purposes as provided in Section 6.13. A landscaped planting area shall also be provided along all street frontages that shall not be less than sixty (60) feet in width.
  - l. Lighting facilities shall be required where deemed necessary for the safety and convenience of employees and visitors. These

facilities will be arranged in such a manner so as to protect abutting streets and adjacent properties from unreasonable glare or hazardous interference of any kind.

- m. Maximum building coverage on any lot within the industrial park shall not exceed forty (40) percent.
- n. Minimum lot sizes within an industrial park shall be one (1) acre.
- o. Minimum lot width within an industrial park shall be one hundred twenty (120) feet.
- p. Minimum yard setbacks within an industrial park shall be:
  - 1) **Front yard:** Forty (40) feet.
  - 2) **Side yard:** Thirty (30) feet.
  - 3) **Rear yard:** Forty (40) feet.

Minimum yard setbacks for lots, which abut property outside an industrial park, shall be as required for other uses in the district.

- 16. Landscape contractor's building, offices and yards as a use permitted by right.

**C. Permitted Accessory Uses:**

- 1. Accessory uses clearly appurtenant to the main use of the lot and customary to and commonly associated with the main use, such as:
  - a. Incidental offices for management and materials control.
  - b. Restaurant or cafeteria facilities for employees working on the premises.

**D. Uses Permitted By Special Use Permit:**

- 1. Asphalt and concrete batching facilities.
- 2. Billboards.
- 3. Communication towers.
- 4. Junkyards.
- 5. Data Processing Facility

- E. **Site Development Requirements:** The following minimum and maximum standards shall apply to all uses and structures in the LI: Light Industrial District unless they are specifically modified by the provisions of Article VI: General Provisions or Article XVII: Standards for Specific Special Land Uses; or as varied pursuant to Article V: Zoning Board of Appeals.
1. **Minimum Lot Area:** No building or structure shall be established on any parcel less than four (4) acres except in an approved industrial park where minimum lot sizes shall be one (1) acre.
  2. **Minimum Frontage:** Each parcel of land shall have continuous frontage of not less than three hundred thirty (330) feet, except in an approved industrial park where each lot shall have continuous frontage of not less than one hundred twenty (120) feet.
  3. **Yard and Setback Requirements:**
    - a. **Front yard:** One hundred (100) feet.
    - b. **Side yard:** Eighty (80) feet, except in the case where a side yard abuts a residential zoning district, in which case the minimum required side yard shall be one hundred fifty (150) feet.
    - c. **Rear yard:** Eighty (80) feet, except in the case where a rear yard abuts a residential zoning district, in which case the minimum required rear yard shall be one hundred fifty (150) feet.
    - d. See Section 10.01 B 15 o for the minimum yard and setback requirements in a planned industrial park.
  4. **Maximum Lot Coverage:** Forty (40) percent.
  5. **Maximum Height:** Unless otherwise provided in this Ordinance, no principal building shall exceed a height of forty (40) feet measured from the finished grade.
  6. **Performance Standards:**
    - a. External areas for storage shall be screened on all sides by an opaque fence of not less than five (5) feet in height.
    - b. When a side or rear lot line abuts or is adjacent to property located within a residential district, a berm or buffer zone shall be required in addition to the minimum yard requirements,

specific driveways and plantings of which shall be determined through the site plan review process. (See Section 6.13.)

- c. **Sound:**
  - i. **Non-Residential.** The intensity level of sounds shall not exceed the following decibel levels when adjacent to the following types of non-residential uses:

Decibels	Adjacent Use	Where Measured
65	Commercial	Common Lot Line
70	Industrial and Other	Common Lot Line

- ii. **Residential.** The intensity level of sounds shall not exceed the following decibel levels when directly adjacent to residential uses, measured at the common lot line:

Residential Noise Level Limits		
Daytime (7 am–7 pm)	Evening (7-11 pm)	Night (11 pm-7 am)
45 dB(A)	35 dB(A)	30 dB(A)

The sound levels shall be measured with a type of audio output meter approved by the Bureau of Standards. Objectionable noises due to intermittence, beat frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent uses.

- d. **Vibration:** All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of .003 of one inch measured at any lot line of its source.

- e. **Odor:** The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one volume of odorous air to four or more volumes of clean air so as to produce a public nuisance or hazard beyond lot lines, is prohibited.

- f. **Gases:** The escape of or emission of any gas, which is injurious, destructive, or explosive, shall be unlawful and may be summarily caused to be abated.

- g. **Glare and Heat:** Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line except during the period of construction of the facilities to be used and occupied.
- h. **Light:** Exterior lighting shall be so installed that the source of light shall not be visible and shall be so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one (1) foot-candle power of light cross a lot line five (5) feet above the ground in a residential district.
- i. **Electromagnetic Radiation:** Applicable rules and regulations of the Federal Communications Commission, in regard to propagation of electromagnetic radiation, shall be used as standards for this Ordinance.
- j. **Smoke, Dust, Dirt and Fly Ash:** Any atmospheric discharge requiring a permit from the Michigan Department of Environmental Quality or federal government shall have said permit(s) as a condition of approval for any use in this District.
- k. **Drifted and Blown Material:** The drifting or airborne transmission beyond the lot line of dust, particles, or debris from any open stock pile shall be unlawful and may be summarily caused to be abated.
- l. **Radioactive Materials:** Radioactive materials shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, as amended from time to time.
- m. **Other Forms of Air Pollution:** It shall be unlawful to discharge into the atmosphere any substance not covered in parts C, D, and H and in excess of standards approved by the Michigan Department of Environmental Quality.
- n. **Liquid or Solid Wastes:** It shall be unlawful to discharge at any point any materials in such a way or of such nature or temperature as can contaminate any surface waters, land or aquifers, or otherwise cause the emission of dangerous or objectionable elements, except in accord with standards approved by the Michigan Department of Environmental Quality.

- o. **Hazardous Wastes:** Hazardous wastes as defined by the Michigan Department of Environmental Quality shall be disposed of by methods approved by the Michigan Department of Environmental Quality.
    - i. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.
    - ii. Material which normally and reasonably is discarded from industrial uses of property may be stored outside of an enclosed building for a reasonable time provided that such storage areas are completely screened by an opaque fence of not less than five (5) feet in height.
  - p. Any complaint alleging a violation of any of the following performance standards shall be accompanied by evidence which supports that allegation.
- 7. **Provisions of Article XIV:** Parking and Loading Requirements.
  - 8. **Provisions of Article XV:** Signs.
  - 9. **Provisions of Article XVIII:** Site Plan Review.
  - 10. **Provisions of Section 6.16:** Environmental Protection Standards.

### **SECTION 3. SPECIAL USE STANDARDS**

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A new section entitled "Section 17.34 Data Processing Facility" is hereby added to the Zoning Ordinance which shall read, in its entirety, as follows:

The primary intent of the data mining ordinance is to establish guidelines and safeguards for the collection, storage, and use of data within our rural community. By implementing this ordinance, we aim to protect the privacy of our residents, ensure data security, and foster trust and transparency in data-driven practices.

Data Processing Facilities are considered special uses and are therefore are subject to the provisions of Article XVI, Special Use Permits, and other applicable provisions of the Ordinance. A Special Use Permit, and any conditions attached thereto, may be approved by the Township Board if all the criteria listed hereof are met.

- A. Locational Requirements:** Data Processing Facilities are permitted in the Light Industrial Districts with a minimum lot size of four (4) acres.
- B. Performance Standards:**

- a. Data Processing Facilities are considered a principal use and shall be the only principal use on a property at any one time.
- b. Shall not be located within an industrial park;
- c. At all times, sound levels at the property boundary may not exceed thirty (30) dB(A);
- d. A fence shall be installed around the perimeter with a minimum height of six (6) feet;
- e. Additional screening, such as a vegetative buffer, may be required at the discretion of the Planning Commission, per standards in Section 6.13.

DRAFT (MAY 2023)

**ARTICLE XXXX**

**WELLHEAD PROTECTION OVERLAY DISTRICT**

**Marion Township Zoning Ordinance**

**Livingston County, Michigan**

**Insert Date Here**

DRAFT



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# ARTICLE XXXX

## WELLHEAD PROTECTION OVERLAY DISTRICT

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### Section 1 – STATEMENT OF PURPOSE

The purpose of the Wellhead Protection Overlay District is to provide supplemental developmental regulations in the designated wellhead protection zone so as to protect and preserve the surface and groundwater resources of Marion Township and the region from any use of land or buildings that may reduce the quality and/or quantity of water resources. This Wellhead Protection Overlay District has been created in accordance with both the City of Howell's and Marion, Howell, Oceola & Genoa Sewer and Water Authority's (MHOG) **Wellhead Protection Plans** drafted by Wood Environment & Infrastructure Solutions, Inc. (Wood). This Wellhead Protection Overlay District was also created in conjunction with the City of Howell and Howell Township.

### Section 2 – DEFINITIONS

As used in this Article, the following words and terms shall have the meaning specified, unless the context clearly indicates otherwise.

**Aquifer.** A geologic formation composed of rock or sand and gravel that contain significant amounts of potentially recoverable potable water.

**Discharge.** Discharge includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying or dumping of any pollutants prohibited by law or regulation, which affects surface water and/or groundwater.

**Impervious Surface.** Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

**Overlay District.** That area of the Township in which special requirements and restrictions are applied to land uses and activities to eliminate or minimize contamination of the aquifers supplying the City of Howell's and MHOG's municipal water wells.

**Regulated Substances** shall include: 1. Substances for which there is a material safety data sheet (MSDS), as established by the United States Occupational Safety and Health Administration, and the MSDS cites possible health hazards for said substance; 2. Hazardous Waste, as defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended; 3. Hazardous Substance, as defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) when the hazardous substance is the focus of remedial or removal action being conducted under CERCLA in accordance with the U.S. EPA regulations; 4. Radiological materials; and 5. Biohazards.

**Wellhead Protection Area.** The surface and subsurface area surrounding a public water supply well or well field through which contaminants, if discharged, are reasonably likely to move toward and reach the well or the well field. This area is also known as the zone of contribution (ZOC) which contributes groundwater to the well or well field. Wellhead Protection Areas for both the City of Howell and MHOG are present in areas of the Township.

### **Section 3 – SCOPE OF AUTHORITY**

The Wellhead Protection Overlay District is a mapped zoning district that imposes a set of requirements in addition to those of the underlying zoning district. In an area where an overlay district is established, the property is placed simultaneously in the two districts, and the property may be developed only under the applicable conditions and requirements of both districts. In the event there is a conflict between the requirements of the two districts, the requirements of the Wellhead Protection Overlay District shall prevail.

### **Section 4 – CREATION OF OVERLAY DISTRICT BOUNDARIES**

The Wellhead Protection Overlay District boundaries shall be established on the official Township Zoning Map. The Overlay District boundaries may be amended according to the Zoning Ordinance procedures in Article YYYY.

### **Section 5 – DISTRICT DELINEATION**

- A. The Wellhead Protection Overlay District is hereby established to include all lands within the Marion Township, lying within the City of Howell's of MHOG's Wellhead Protection Areas, including recharge areas of groundwater aquifers and watershed areas that lie within the wellhead protection area which now or may in the future provide public water supply. If the wellhead protection area includes a portion of the parcel, the entire parcel shall be considered to be within the wellhead protection area.
- B. Where the boundaries delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show whether the property should be located in the District. At the request of the owner(s), the Township may engage the services of a qualified professional to determine more accurately the location and extent of an aquifer within the wellhead protection area. The Township shall charge the owner(s) for all or a part of the investigation. The Owner shall place the funds necessary into an escrow account at the Township to cover the necessary fees of the qualified professional.

### **Section 6 – SITE PLAN REVIEW REQUIREMENTS**

- A. **New or Expanded Uses and Structures.** All proposed new or expanded structures or uses within in the Wellhead Protection Overlay District, except single family uses, shall be subject to site plan review, pursuant to Article WWWW.
- B. **Existing Uses and Structures.** All land uses and activities existing prior to approval the Wellhead Protection Overlay District must conform to the site plan review standards in this Article within 365 days after adoption of the Wellhead Protection Overlay Ordinance.

### **Section 7 – DATA REQUIREMENTS**

The following data are required for site plan review in the Wellhead Protection Overlay District, in addition to the information required by Article WWWW, Section WWWW of the Zoning Ordinance.

- A. **List of Regulated Substances.** A complete list of chemicals, pesticides, fuels and other Regulated Substances to be used or stored on the premises. Businesses that use or store such Regulated Substances shall file a management plan with the Fire Chief. The management plan shall include the following, at minimum:

1. Provisions to protect against the discharge of Regulated Substances or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures.
  2. Provisions for indoor, secured storage of Regulated Substances and wastes with impervious floor surfaces.
  3. Evidence of compliance with the rules and regulations of the Michigan Department of Environmental Quality.
  4. Drainage recharge features and provisions to prevent loss of recharge.
  5. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.
- B. Service Facilities and Structures.** Location of existing and proposed service facilities and structures, above and below ground, including:
1. General location of the site within the Wellhead Protection Overlay District.
  2. Areas to be used for the storage, loading/unloading, recycling, or disposal of Regulated Substances, including interior and exterior areas.
  3. Underground storage tank locations.
  4. Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pips shall be specified on the site plan.
- C. Water Resources.** Location of existing wetlands and watercourses, including ponds and streams on or within a quarter mile of the site.
- D. Soils.** Soil characteristics of the site, at least to the detail provided by the Natural Resources Conservation Service.
- E. Topography.** Existing topography of the site, with a maximum contour interval of two (2) feet.
- F. Existing Contamination.** Delineation of areas on the site that are known or suspected to be contaminated, together with a report on the status of site clean-up.
- G. MDEQ Checklist.** Completion of a Michigan Department of Environmental Quality (MDEQ) checklist, indicating the types of environmental permits and approvals that may be needed for the project.

## **Section 8 – PERMITTED PRINCIPAL USES**

The following uses shall be permitted in the Wellhead Protection Overlay District, provided they comply with all applicable restrictions and standards specified in this Article:

- A. Single family residential uses.
- B. Residential accessory uses, including garages, driveways, private roads, utility rights-of-way, and on-site wastewater disposal systems (i.e., septic systems).
- C. Agricultural uses such as farming, grazing, and horticulture.
- D. Forestry and nursery uses.
- E. Outdoor recreation uses, including fishing, boating, and play areas.
- F. Conservation of water, plants, and wildlife, including wildlife management areas.

## **Section 9 – CONDITIONAL USES**

The following uses may be permitted subject to conditions specified for each use, review and recommendation by the Planning Commission and approval by the Township Board, and subject further to any special conditions that are necessary to fulfill the purposes of this Ordinance, and the provisions set forth in Article UUUU:

- A. Commercial, industrial, governmental or education uses which are allowed in the underlying district, and which are not prohibited in Section 11.
- B. Any enlargement, intensification, alteration, or change of use of an existing commercial, industrial, governmental or education use.
- C. The rendering impervious of more than fifteen percent (15%) or 2,500 sq. ft. of any parcel, whichever is less, provided that a system for artificial recharge of precipitation to groundwater is developed, which shall not result in degradation of the groundwater.
- D. The mining or excavation for removal of earth, loam, sand, gravel and other soils or mineral resources, provided that such excavation shall not extend closer than five (5) feet above the historical high groundwater table (as determined from on-site monitoring wells and historical water fluctuation data compiled by the United States Geological Survey). One (1) or more monitoring wells shall be installed by the property owner to verify groundwater elevations. This sub-section shall not apply to excavations incidental to permitted uses, including but not limited to installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal.
  - 1. Upon completion of earth removal operations, all altered areas shall be restored with topsoil and vegetative plantings suitable to control erosion on the site.
  - 2. All fine materials, such as clays and silts, removed as part of the earth removal operation and leftover as by-products, shall be disposed of off-site to prevent damage to aquifer recharge characteristics.

- E. The storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for removal of ice and snow on roads, provided such chemicals are covered and located on a paved surface with berms, or within a structure designed to prevent the generation and escape of contaminated run-off.
- F. Fertilizers, pesticides, herbicides, lawn care chemicals, or other leachable materials provide that such materials are stored in accordance with the manufacturer's label instructions approved by the United States Environmental Protection Agency or the Michigan Department of Agriculture and that they are used in routine agricultural operations and applied under the "Generally Accepted Agricultural Management Practices" and all other necessary precautions are taken to minimize adverse impact on surface and groundwater.
- G. The storage of commercial fertilizers and soil conditioners provided such storage shall be within structures designed to prevent the generation and escape of contaminated run-off or leachate.
- H. All liquid Regulated Substances, provided such materials must be stored either in a freestanding container within a building, or in a freestanding container above ground level with protection to contain a spill the size of the container's total storage capacity.

**Section 10 –CONDITIONS**

In addition to Section 9, Conditional Uses shall comply with the following:

- A. The Township Board may grant Conditional Use approval only upon finding that the proposed use meets to the following standards:
  - 1. In no way, during construction or thereafter, shall a project adversely affect the quality or quantity of water that is available in the Wellhead Protection Overlay District.
  - 2. The project shall be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and water-related natural characteristics of the site to be developed.
- B. The Township Board shall not approve a Conditional Use under this section unless the petitioner's application materials include, in the Board's opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards of this section.

**Section 11 – PROHIBITED USES**

The following uses are prohibited in the Wellhead Protection Overlay District:

- A. Business and industrial uses that generate, use, treat, process, store, or dispose of Regulated Substances, including but not limited to metal plating, chemical manufacturing, wood preserving, and dry cleaning factory, except for the following:
  - 1. Generators of a very small quantity of Regulated Substances (less than 20 kilograms or six (6) gallons per month), subject to Special Land Use review.
  - 2. Municipally-operated or sanctioned household waste collection stations.
  - 3. Waste oil retention facilities.

4. Treatment works designed for the treatment of contaminated ground or surface waters, provided the facilities have been approved by the Michigan Department of Environmental Quality.
- B. Business and industrial uses that dispose of process wastewater on-site.
  - C. Solid waste landfills, dumps, landfilling, spreading or storage of sludge or septage, with the exception of disposal of brush or stumps.
  - D. Storage of liquid petroleum products of any kind, except for the following:
    1. Storage that is incidental to:
      - a. Normal household use and outdoor maintenance or the heating of a structure.
      - b. Use of emergency generators.
      - c. Treatment works designed for the treatment of contaminated ground or surface waters, provided the facilities has been approved by the Michigan Department of Environmental Quality.
    2. Replacement of storage tanks and systems for the keeping, dispensing or storing of gasoline, which existed at the time of adoption of this Article, provided that:
      - a. All such replacement storage tanks or systems shall be located underground as required by the Michigan Department of Environmental Quality.
      - b. All such storage systems shall be protected by a secondary containment system as specified by the Michigan Department of Environmental Quality.
      - c. The Fire Chief may deny an application for tank replacement, or approve it subject to conditions if he/she determines that it would constitute a danger to public or private water supplies.
  - E. Outdoor storage of salt, de-icing materials, pesticides or herbicides.
  - F. Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including but not limited to septic systems cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane, or other household Regulated Substances.
  - G. Stockpiling and disposal of snow or ice removed from highways and streets located outside of the Wellhead Protection Overlay District that contains sodium chloride, calcium chloride, chemically treated abrasives, or other chemicals used for snow and ice removal.
  - H. Sewage disposal systems that are designed to receive more than 110 gallons of sewage per quarter acre per day or 440 gallons of sewage per acre per day, whichever is greater, provided that:
    1. The replacement or repair of an existing system shall be exempted if it does not result in an increase in design capacity above the original design.

2. In calculating the maximum sewage disposal system density, it shall be assumed that each single-family-residential home will generate 280 gallons of sewage per day.
3. The maximum sewage disposal system density may be computed using the following method:
  - a. On an individual per lot basis (i.e., a single-family home typically generates 280 gallons of sewage per day, creating the need for a minimum lot area of ¾ acre.

In addition to meeting the above standards, all lots shall conform to any applicable minimum lot size requirements specified in Article VVVV of the Zoning Ordinance.

- I. Wastewater treatment works, except the following:
  1. The replacement or repair of an existing system that will not result in a design capacity greater than the design capacity of the existing system.
  2. The replacement of an existing subsurface sewage disposal system with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system.
  3. Treatment works designed for the treatment of contaminated ground or surface waters.

## Section 12 – MISCELLANEOUS REQUIREMENTS

The following requirements shall apply to all uses in the Wellhead Protection Overlay District:

- A. **Drainage.** For commercial and industrial uses, run-off from impervious surfaces shall not be discharged directly to drains, streams, ponds, or other surface water bodies. Oil, grease and sediment traps shall be used to facilitate removal of contamination. Forebays/sediment basins and other requirements shall be adhered to per the Township Engineering Design Standards.
- B. **Discharge of Regulated Substances.** The property owner shall prevent the discharge of regulated substances.
  1. Upon discovery of a discharge within the Wellhead Protection Area, the owner of the property on which a discharge occurred, as well as the person responsible for the discharge if they are not the same, shall take appropriate reasonable actions to mitigate the potential impact of the discharge on the groundwater and remediate the discharge. Remediation shall be conducted in a timely manner and in accordance with applicable law. Wastes generated during remediation of a Regulated Substance discharge must be handled in accordance with all applicable legal requirements. Storage of these materials for a period of greater than ninety (90) days must be reported to, and approved obtained from, the Township Supervisor or his/her designee.
  2. All discharges shall be documented in writing and mailed to the Township Supervisor or his/her designee within ten (10) business days of said incident. Initial discharge notification shall include, at a minimum, the following:
    - i. Location of the discharge (name, address, and phone);
    - ii. Reporting party's name, address and phone (if different from above);
    - iii. Emergency contact and phone;



- iv. Description of the nature of the incident, including date, time, location, and cause of the incident; type, concentration, and volume of substance(s) discharged;
  - v. Map showing exact discharge location, and relevant site features (i.e. paved area, storm sewer catch basins/inlets, water features, etc.), scale, and north arrow;
  - vi. All measures taken to clean up the discharge; and
  - vii. All measures proposed to be taken to reduce and prevent any future discharge.
3. The Township Supervisor or his/her designee shall determine if and where any additional investigative work needs to be completed to assess the potential impact of the discharge. The owner or operator shall retain a copy of the written notice for at least three years.

### **Section 13 – ENFORCEMENT**

- A. Whenever the Township Supervisor or his/her designee determines that a person has violated a provision of this Ordinance, the Township Supervisor or his/her designee may order compliance by issuing a written Notice of Violation to the responsible person/facility.
- B. If the Township Supervisor or his/her designee requires abatement of a violation and/or restoration of affected property, the notice shall set forth a deadline by which such action must be completed. Said notice may further advise that, should the violator fail to remediate or restore within the established deadline, the work could be performed by the Township, with the resulting expense thereof charged to the violator and the expenses may be assessed onto the property if the property owner is also the violator.

### **Section 14 – VARIANCE/APPEAL RIGHTS**

- A. If an owner of property within a Wellhead Protection Area believes the requirements of this ordinance impose an unreasonable burden on the use of the owner's property, the owner may seek a variance from the Marion Township Zoning Board of Appeals ("ZBA") in any appeal to the ZBA, the Township Consulting Engineer shall assist the ZBA for purposes of a variance request or of appeal rights. Such a request must be in writing with enough detail to allow the Township Consulting Engineer shall assist the ZBA for purposes of a variance request or of appeal rights, to understand the situation and proposed variance. If the Township Consulting Engineer determines that additional information is needed, the request for additional information shall be made within 15 days of the owner's request. Within 30 days of the receipt of such additional information, or, if no such request is made, within 30 days of the owner's request a hearing in front of the ZBA. The ZBA shall grant, deny, or partially grant the request. A grant, partial or complete, may relieve the property owner from strict compliance of this Ordinance. Reasonable conditions may be imposed by the ZBA as part of such a grant. The ZBA shall be guided by the primary goal of protecting the Township's Wellhead Protection Area without creating undue hardship upon the property owners affected.
- B. Any person receiving a notice of violation may appeal the determination by submitting a written notice of appeal to the Marion Township Zoning Board of Appeals. The notice of appeal must be received by the Zoning Board of Appeals within 30 days from the date of the notice of violation, with enough detail to allow the Township's Consulting Engineer, as a staff representative to the ZBA to understand the situation. Within 30 days of the receipt of such an appeal, the Township Consulting Engineer shall issue a written response to the appeal to the applicant and to the ZBA unless the Township Consulting Engineer has requested additional information, in which case the Township Consulting Engineer's response shall be issued within 30 days of receipt of the information. The Zoning Board of Appeals shall affirm, reverse or modify the notice of violation being appealed.

- C. If the person who has made a variance request or an appeal of a notice of violation does not agree with the decision of the ZBA, said person may appeal the matter by filing an action in the Livingston County Circuit Court, which may affirm, reverse or modify the decision being appealed. Such an appeal must be filed within 30 days of the decision of the ZBA or within the time period required by Michigan General Court Rules, whichever has the shortest appeal period.

## **Section 15 – ABATEMENT/REMEDIAL ACTIVITIES BY THE TOWNSHIP**

- A. The Township is authorized to take or contract with others to take reasonable and necessary abatement or remedial activities whenever the Township determines a violation of this Ordinance has occurred and that the responsible party cannot or will not timely correct the violation, or when no known responsible party exists. The responsible party shall reimburse the Township for all expenses thus incurred by the Township.
- B. If the Township desires the responsible party to reimburse it for the abatement activity expenses, the Township shall within 90 days of the completion of such activities mail to that person a notice of claim outlining the expenses incurred, including reasonable administrative costs, and the amounts thereof. The person billed shall pay said sum in full within 30 days of receipt of the claim. If the person billed desires to object to all or some of the amount sought by the Township, said person may file, within the same 30-day period, a written objection so stating. The Township shall, within 30 days of its receipt of the objection, provide an opportunity for the objecting party to present facts or arguments supporting said objection. If the Township determines that some or the entire amount originally billed is appropriate, the person shall pay said sum within 30 days of receipt of that determination. If the amount due is not timely paid, the Township may cause the charges to become a special assessment against the property and shall constitute a lien on the property. In the alternative, the Township may attempt collection of the sum due by filing a civil lawsuit.

## **Section 16 – INJUNCTIVE RELIEF**

- A. If a person has violated or continues to violate the provisions of this Ordinance, the Township may petition the appropriate court for injunctive relief restraining the person from activities abatement or remediation.

## **Section 17 – VIOLATIONS DEEMED A PUBLIC NUISANCE**

- A. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil infraction to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the Township.

## **Section 18 – CRIMINAL PROSECUTION**

- A. Any violation of this Ordinance shall be considered a misdemeanor, punishable by a fine of not more than \$500.00 or imprisonment of not more than 90 days. Each day a violation exists shall be deemed a separate violation. A citation charging such a misdemeanor may be issued by the Township Supervisor, his or her designee, the Township's Ordinance Enforcement Officer or the Sheriff's Department.

**Section 19 – REMEDIES NOT EXCLUSIVE**

- A. The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Department to seek cumulative remedies.

DRAFT

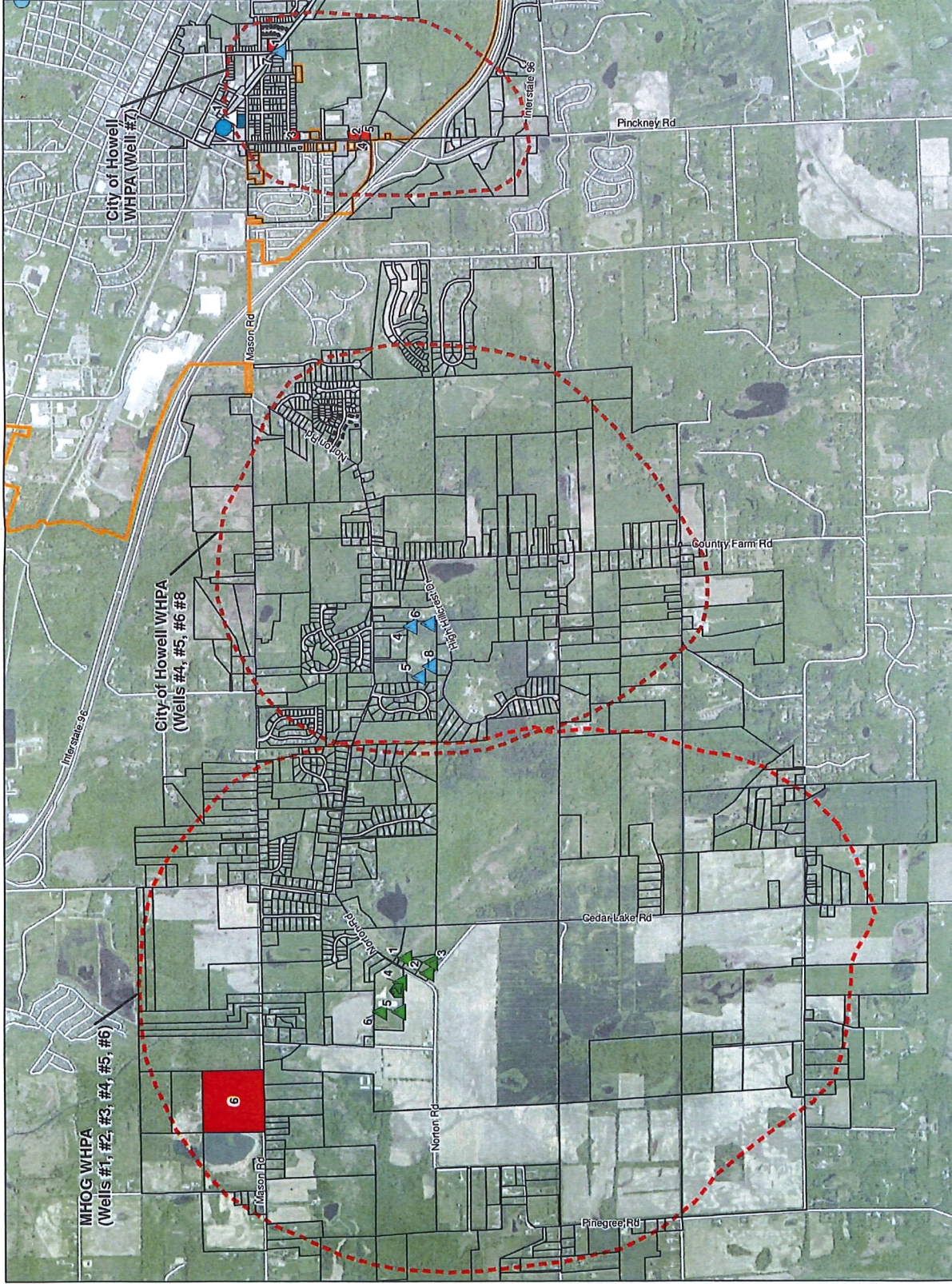


- MHOG Water Treatment Plant
- MHOG Municipal Well Location
- Howell Municipal Well Location
- Howell Emergency Well Location
- Howell Water Treatment Plant
- Howell Ground Storage Tank
- Howell Elevated Storage Tank
- Map ID #
- Parcel Boundary
- Parcel Inside (WHPAs)
- Known Properties of Contamination
- MHOG WHPAs
- City of Howell WHPAs
- Howell City Limits

Notes:  
 1) GIS data provided by MHOG and City of Howell in 2018  
 2) Parcel data provided by Livingston County  
 3) Refer to Table 5 for additional information regarding known sources of contamination



<b>Figure 1</b>	
<b>Known Sources of Contamination</b>	
City of Howell and MHOG Wellhead Protection Plans, Howell, Michigan	
Prepared By: MSC	Checked By: JA
Environmental & Infrastructure Engineering Mark H. Harty 2018-08-06	
Proj: 50015002.04	Date: 01/14/2023
50015002.04	



## Dave Hamann

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**From:** Larry Grunn <larrygrunn@yahoo.com>  
**Sent:** Wednesday, October 18, 2023 11:26 AM  
**To:** Dave Hamann  
**Subject:** Re: Next Weeks PC meeting

Dave,  
The main reason I asked for our attorney was for him to clarify the disagreement John Enos had with our past attorney. With new eyes on this, including Zack maybe we can get all of this cleared up once and for all.

Another question I have how can legally contact all the home run businesses we know of and make come in run it legally?

Have a great day,  
Larry Grunn

On Monday, October 16, 2023 at 12:02:29 PM EDT, Dave Hamann <za@mariontownship.com> wrote:

Commissioners, for next weeks meeting the Attorney will be present and I am adding an agenda item 'Questions for the Attorney'. I would like you all to please think about any Questions you have and send them to me so I can pull them together and send them to John prior to the meeting so that he can be prepared. Also I am adding an agenda item for discussion with Zach about how you would like him to provide feedback, reviews, format, etc. Get me your questions for the Attorney as soon as you can think of them. This does not mean you can't ask him during the meeting if you think of more.

Dave Hamann

Zoning Administrator

Marion Township

2877 W. Coon Lake Road

Howell, MI 48843

Phone (517) 546-1588

za@mariontownship.com

## Dave Hamann

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**From:** Cheryl Range <momrange@yahoo.com>  
**Sent:** Tuesday, October 17, 2023 11:26 AM  
**To:** Thank you for offering your time to these questions ...  
Dave Hamann  
**Subject:** Questions for Mr. Gormley  
**Attachments:** PC Questions.docx

- 1) The MIHI (Michigan High Speed Internet) possibly being brought to Marion Twp. ... are there any legal blocks to hinder our attaining this? Is the BEAD ( Broadband Equity Access Deployment) working more towards the urban areas of Wayne County etc vs. Livingston County ? Are there any legal stops or starts to help us spread this to homes in the township ?
  
- 2) How far can the state reach regarding eminent domain and solar/wind turbines/ large commercial or industrial land purchases, tiny homes (not being compatible with our language also in our ordinances as well as articles ) yet, will/can the state again with "NEED" vision vs. residential non interest (and/or stronger) cancel/ disregard our township's language for prohibiting here ?
  
- 3) Is it true that MI Public Service Commission (even though unelected, but governor appointed) has the authority to ignore or block our ordinances and Master Plan language legally as they feel right to do so?
  
- 4) When an enforcement issue goes into litigation, how long is it reasonable to keep delaying issues (the court case) until possible changes in laws do take a totally different outcome due to the consistent delays ? Aren't there any "timely to the point of present wrong" consideration for the case then decision?

## Dave Hamann

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**From:** James Anderson <mijanderson100@gmail.com>  
**Sent:** Wednesday, October 18, 2023 8:12 PM  
**To:** Dave Hamann  
**Cc:** Bruce Powelson; Cheryl Range; Larry Grunn; Bob Hanvey  
**Subject:** Re: Next Weeks PC meeting

Dave,

Here are a few questions for the attorney.

- 1) Zoning enforcement using the civil action process has been outlined by John and provided to the PC. Should this civil action process be reviewed by the BOT to ensure their agreement with this zoning enforcement stance prior to any ordinance work done by the PC? Does an ordinance need to be in place for civil action zoning enforcement by the township to occur? Should a civil action be initiated for a Zoning violation without approval by the BOT? Civil actions can result in higher costs than the current enforcement process and therefore a budget for civil action litigation would need to be developed.
- 2) Dave Hamann and Phil Westmoreland submitted a modified Development Standards to you that would not be included in Marion Township ordinance. What are your concerns with this move and what are your recommended next steps to resolve the issues.
- 3) With the State of Michigan aggressively pushing alternative methods for generation of electricity, our current solar zoning ordinance regulates only commercial solar farm installations, how do we handle the potential of community solar facilities? Is another solar ordinance needed to regulate community solar facilities?
- 4) Rezoning and how does the Master Plan impact these decisions from a legal perspective?  
How do the courts view a Township's Master Plan in a rezoning denial case?

Thanks,  
Jim

On Mon, Oct 16, 2023, 12:02 PM Dave Hamann <[za@mariontownship.com](mailto:za@mariontownship.com)> wrote:

Commissioners, for next weeks meeting the Attorney will be present and I am adding an agenda item 'Questions for the Attorney'. I would like you all to please think about any Questions you have and send them to me so I can pull them together and send them to John prior to the meeting so that he can be prepared. Also I am adding an agenda item for discussion with Zach about how you would like him to provide feedback, reviews, format, etc. Get me your questions for the Attorney as soon as you can think of them. This does not mean you can't ask him during the meeting if you think of more.

Dave Hamann

Zoning Administrator

Marion Township