

**MARION TOWNSHIP PLANNING COMMISSION
AGENDA**

REGULAR MEETING
January 28, 2020
7:30 p.m.

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

INTRODUCTION OF MEMBERS:

APPROVAL OF AGENDA FOR: January 28, 2020 Regular Meeting

APPROVAL OF MINUTES FROM: November 26, 2019 Regular Meeting

CALL TO THE PUBLIC:

PUBLIC HEARING: NONE

New BUSINESS:

- 1) Rob Stanford Livingston County Planning annual visit.
- 2) Renew SUP#01-03 Majestic Oaks Stable do to change in ownership
- 3) Annual meeting and election of officers

Old BUSINESS:

- 1) TXT#3-18 section 17.32 back from BOT with minutes
- 2) TXT#04-17 review comments from LCPD then send to BOT
- 3) Discuss signs Section 15.05,06 relating to Home Occupation and Home Based Business.
- 4) TXT#07-17 proposed changes Lots – move thru other issues. (Bring info from past meetings)
- 5) TXT#01-19 Short Term Rentals discussion continued

Correspondence and Updates and Discussion:

CALL TO THE PUBLIC:

ADJOURNMENT:

DRAFT

*Approved by: _____

Larry Grunn, *Chairperson*

Date: _____

**MARION TOWNSHIP PLANNING COMMISSION
REGULAR MEETING MINUTES
November 26, 2019 / 7:30PM**

MEMBERS PRESENT: LARRY GRUNN – *CHAIRPERSON*
BOB HANVEY
CHERYL RANGE – *SECRETARY*
BRUCE POWELSON – *VICE CHAIR*

OTHERS PRESENT: DAVE HAMANN – ZONING ADMINISTRATOR
JOHN ENOS – PLANNER, CARLISLE WORTMAN

MEMBERS ABSENT: JAMES ANDERSON

CALL TO ORDER:

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

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA:

Regular Meeting Agenda for November 26, 2019

Bob Hanvey motioned to approve the agenda as presented. Cheryl Range seconded. **MOTION CARRIED.**

APPROVAL OF MINUTES:

Approval of the Regular Meeting Minutes for October 24, 2019

Bob Hanvey motioned to approve the minutes from the October 24, 2019 meeting. Cheryl Range seconded. **MOTION CARRIED.**

Bob Hanvey motioned to approve the grammar and spelling changes for the minutes from the October 24, 2019 meeting. Jim Anderson seconded. **MOTION CARRIED.**

CALL TO THE PUBLIC:

Tim Ryan, 459 E. Davis, stated that his comments from the last Planning Commission meeting appear to have been misinterpreted, according to page 2 of the minutes. Tim Ryan read the following statement.

"I did not say that Howell Landscaping was discharging into the wrong drain. In my comment regarding drainage at Howell Landscaping, I indicated that the surface water from that site is discharged into Marion #3 drain and is covered by a State of Michigan permit. An NPDES permit was issued to Howell Landscape identifying the type of business as "Trucking, no outside storage".

Susan Schooley, 459 E. Davis, discussed the various requests and required maps and documentation for other site plans. She feels that the same requests and requirements have not been applied to Howell Landscaping. Nothing seems to have changed over at Howell Landscaping and she doesn't understand why the township has not moved forward with anything prohibiting the activity taking place there.

Jeff Hanson, 100 Lucy Road, explained that the vacant lot next to him has recently been purchased by LoRea Topsoil and Aggregate. There is currently not a greenbelt between his property and LoRea; however, he feels that because of this new business, the traffic on Lucy Road is going to increase, along with the activity taking place on the parcel. Jeff would like to see a greenbelt put in to help with screening.

NEW BUSINESS:

1) *SPR# 02-19 Evergreen Landscape 386 Lucy Road SS Real Estate Holdings LLC*

Dan Brockway owns and operates Evergreen Landscape located at 386 Lucy Road. Dan attended a ZBA meeting to request a variance for the minimum setback from the road. He asked for 50 feet instead of the required 75 feet. He also requested that the side yard buffer fencing requirement be waived, but he agreed to build a fence if needed. This request was approved. Dan Brockway discussed all the reviews from outside agencies. He will need to apply for a commercial waiver or permit.

John Enos said that he believes that Dan Brockway has spent a lot of time on this site plan and believes that he is in the right location for a landscape operation. John's only request is that he meet the rear setback requirement, along with some clarification on the parking spots.

Dan said that Phil Westmoreland expressed that he would like the fuel tank located in the back of the property. However, Dan would like to leave the fuel tank in the front, due to easy access and limited space in the back.

John Enos said that he appreciates all the work that he has done on this plan and is happy with everything. Dan has complied with all of our requests and John recommends approval of this site plan. Dave Hamann would like this approval contingent on all the requests from outside agencies being fulfilled. He would like the board to see the same plan that we are seeing today with a list of all the requirements/reviews and would like documentation of what has been completed and what still needs to be completed. Dave said that putting the fuel tank in the back of the property would make it very difficult for it to be filled.

Bob Hanvey asked if Dave would be the one to make sure that Dan completes everything being requested by the other agencies. Dave said yes. Bob asked if Phil's recommendation about the fuel tank was in the ordinance. Dave said that it's not in the ordinance, it is just a recommendation.

Cheryl Range made a motion to recommend approval and send the site plan for SPR# 02-19 Evergreen Landscape on 386 Lucy Road to the Board of Trustees with all of the reviews and recommendations from outside agencies. Bruce Powelson seconded. **MOTION CARRIED**

Bob Hanvey asked if we could send a list of all of the recommendations to the Board of Trustees as well. Dan Brockway agreed to send that list to Dave.

2) SPR# 03-19 LoRea Topsoil and Aggregate on Lucy Road. (Paul Marie Properties)

David LeClair works for Livingston Engineering and is representing Matt Peevey who purchased a 4.55 acre property on Lucy Road from Frank Lover. This was originally approved when it belonged to Frank Lover, along with three variances regarding the setbacks, the loading area, and the paving. This new site plan is very similar to what was previously approved. The purpose of this site is to sell landscape supplies. There is no dumpster, no lighting at the entrance and ten evergreen trees along the front for landscaping.

John Enos said that this is a nice plan. This is an unusual site, but it is a highway district use and in the correct location for a contractor/landscaping yard. The canvas storage structure is in the back of the site. John likes the evergreen trees. John would prefer that they use wall packs for the lighting and that they face down out of respect to the neighbors.

Bob Hanvey said that in the general notes, #4 states that there should be "No buildings on site." Bob thinks this needs to be removed.

Larry Grunn asked about the fencing. David LeClair said that they have repaired the fence. Dave Hamann explained that the privacy fence must be able to be maintained from both sides.

David LeClair said that previously Frank Lover wanted semi-trucks but that is currently not happening on this property.

Matt Peevey said that his property is located in a Highway Service district and none of this should be a problem. Bob Hanvey reminded Matt that even though it is in an Industrial district, the adjacent properties are residential. Bob also wanted Jeff Hansen's (Jeff Hansen resides at 100 Lucy Road) request for a greenbelt mentioned to the Board of Trustees. Bob then asked about the guide wires. David LeClair said that DTE came out and spoke with Matt Peevey and told him that they might decide to put a concrete cone or barrier around the guide wires.

John Enos said that this would not have to be on the plan because it is not something that Mr. Peevey has control over. It is something that may or may not be handled by DTE.

Bob Hanvey said that Mr. Peevey would have to get a water tap for the water usage and for the sewer, he would need to get a four party agreement between LoRea, Genoa Township, Marion Township and Genoa-Oceola Sewer Authority. Matt Peevey said that he would get these things to Dave Hamann as soon as possible. Matt then asked Bob if the REU was paid for by the previous owner. Bob Hanvey said that it had NOT been paid for yet and to check with MHOG on the REU requirements.

Cheryl Range made a motion to recommend approval and to send the site plan for SPR# 03-19 LoRea Topsoil and Aggregate on Lucy Road to the Board of Trustees with all of the reviews and recommendations from outside agencies. Bob Hanvey seconded. **MOTION CARRIED**

Larry Grunn asked if Jeff Hansen's request for a greenbelt would be sent to the Board of Trustees, along with the other reviews and comments from outside agencies. Dave Hamann said that Mr. Hansen's request would be sent with the rest of the comments and reviews.

3) TXT #01-19 Short Term Rental Special Use

John Enos explained that because of the lakes throughout Marion Township, we are going to continue to see this problem occur. Lakes can be a prime location for rentals, which can then turn into a party house. John explained that we could allow them under a special use while enforcing a minimum rental time frame, such as no rentals less than 30 days. We can also list other requirements that have to be met or we can revoke their permit.

Dave Hamann said that we currently don't even allow one to have a "Bed and Breakfast" within the ERS Districts. However, we currently have four "short term rentals" in the township. One of them is a true B&B because the owner actually lives in the home being rented. Another one being rented out is the one on Triangle Lake, which happens to come with several deed restrictions. There is currently a Senate Bill that could allow rentals in residential properties. We need to restrict this type of use or find a way to control/regulate this before it gets out of hand.

Cheryl Range said that Grand Rapids thinks property owners should be allowed to do what they want with their own property. There are other communities are also allowing rentals in residential areas. John Enos said that this sounds like a business/commercial use; therefore, we should prohibit this in residential areas. Bob Hanvey thinks that we shouldn't offer this in every district but maybe we should at least offer this in some parts of the township. Bruce Powelson asked if we could prohibit this from happening on the lake properties, which might help eliminate the more common rentals from happening. John Enos said that might be an option and is not opposed to that. Bob Hanvey likes the idea that involves a list of regulations that the property owners and renters have to abide by.

Les Andersen, 4500 Jewell Road, said that this happened up north near his vacation home. It ruined the feel of the community and he doesn't think we should allow this anywhere in Marion Township.

John Enos said that regulating this would be a lot of work. Limiting the rental time frame would be the more efficient way to go. John said that he would get some information together and gather some more research. Larry Grunn suggested that we get Mike Kehoe's opinion on this topic as well.

Cheryl Range made a motion to postpone further action on this until the next meeting scheduled for January 28, 2020. At that time, we can review Mike Kehoe's opinions and John Enos recommendations. Bob Hanvey seconded. **MOTION CARRIED.**

OLD BUSINESS:

1) TXT #04-17 LCPD Review

Dave Hamann is still waiting for the county. The Marion Township Board of Trustees did not make a decision on Section 17.32 Home Based Business. However, they did decide to remove the language in 6.14 Home Occupation prohibiting occupation signs.

Bob Hanvey made a motion to postpone further action and discussion on this until we get some feedback from Livingston County. Larry Grunn seconded. **MOTION CARRIED.**

2) TXT #07-17 Proposed Changes on Lots

Bob Hanvey made a motion to postpone action and discussion on this until the next meeting scheduled for January 28, 2020. Bruce Powelson seconded. **MOTION CARRIED.**

CORRESPONDENCE AND UPDATES:

▪ Notice from Hamburg Township about Pre-Draft Master Plan Review.

Bob Hanvey asked if we had to do a Pre-Draft Review for our Master Plan. John Enos said NO. John also said that he would have the changes to our Master Plan for the January 28, 2020 meeting.

▪ Notice from City of Howell Public Hearing for 645 Lucy Road for Scrap Processing Facility.

Dan Brockway (owns Evergreen Landscaping on Lucy Road) shared that he is glad that they are planning doing something with that land on Lucy Road. It was zoned for this type of business and he is glad that they are finally doing something with it.

▪ Annual Meeting/Election will be held in January 2020.

CALL TO THE PUBLIC:

Les Andersen, 4500 Jewell Road, told John Enos and Dave Hamann that Home Occupations shouldn't be visible to the public eye. However, the Board of Trustees approved the removal of the language stating "No Signs" for Home Occupations. Should we at least have some stipulations for signs? Dave Hamann explained that it does have to be attached to the house, along with being discrete and meeting the stated size requirements, etc. Mike Peevey asked if Marion Township received two offers for the property on Lucy Road: \$250k and \$275k. Bob Hanvey said YES. Mike Peevey asked if they plan on putting in more housing on that property. Bob Hanvey said that the interested buyers did not say whether or not it would be for housing. The township is not sure if we even want to sell that piece of property. We are getting an appraisal and will go from there.

ADJOURNMENT:

Cheryl Range made a motion to adjourn the meeting at 9:36pm. Bruce Powelson seconded. **MOTION CARRIED.**

CONDITIONS OF
SPECIAL USE PERMIT

 ORIGINAL

At a meeting of the Marion Township Board of Trustees held on the 11th day of September, 2003, pursuant to the application of Cheryl Carsley and Charles Carsley, and a recommendation from the Marion Township Planning Commission that Section 16.05 A, Basis for Determination items 1 through 11, has been met, the Board of Trustees by motion duly made and passed granted a Special Use Permit to Cheryl Carsley and Charles Carsley to operate a Commercial Stable to be located at 2699 Cedar Lake Road, Howell, MI, Tax I.D. # 4710-17-200-012 subject to the following conditions.

The use of the property and Commercial Stable shall be in accordance with the following terms, and the provisions of the Marion Township Zoning Ordinance that are not in conflict with this Special Use Permit.

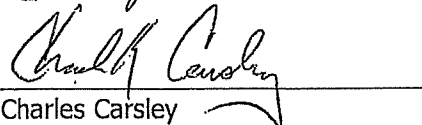
1. All fencing to meet all township ordinances/standards.
2. The use of the property shall at all times comply with Article XVII Standards for Specific Land Uses, Section 17.28 Stables (Commercial), with the exception of 17.28.D.7 – a variance to relax the 200' set back requirement and allow a 161' set back for the south property line was granted by the Zoning Board of Appeals on September 6, 2003 (ZBA #04-03.)
3. Hours of operation shall be from 9 a.m. to 9 p.m.
4. The required ten (10) off-street parking spaces must meet the requirements for off-street parking site development standards as per Section 14.04 of the Township's Zoning Ordinance.
5. Every two years the Zoning Administrator will administratively recertify the Special Use Permit to insure the conditions of this Special Use are being complied with. The first recertification will be on or about September 11, 2005.
6. In the event the property is sold the new owner must apply for an amendment to the Special Use Permit and agree to be bound by the terms.

We, the undersigned, Cheryl Carsley and Charles Carsley, agree to abide by the terms of the Special Use Permit as above described. Further, we understand that said permit may be revoked by the Marion Township Board of Trustees if a violation of any of these conditions occurs.

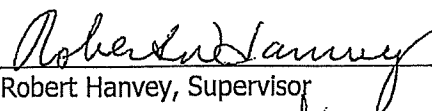
DATED: 10-28, 2003


Cheryl Carsley

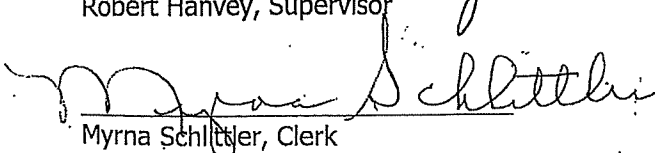
DATED: 10-28, 2003

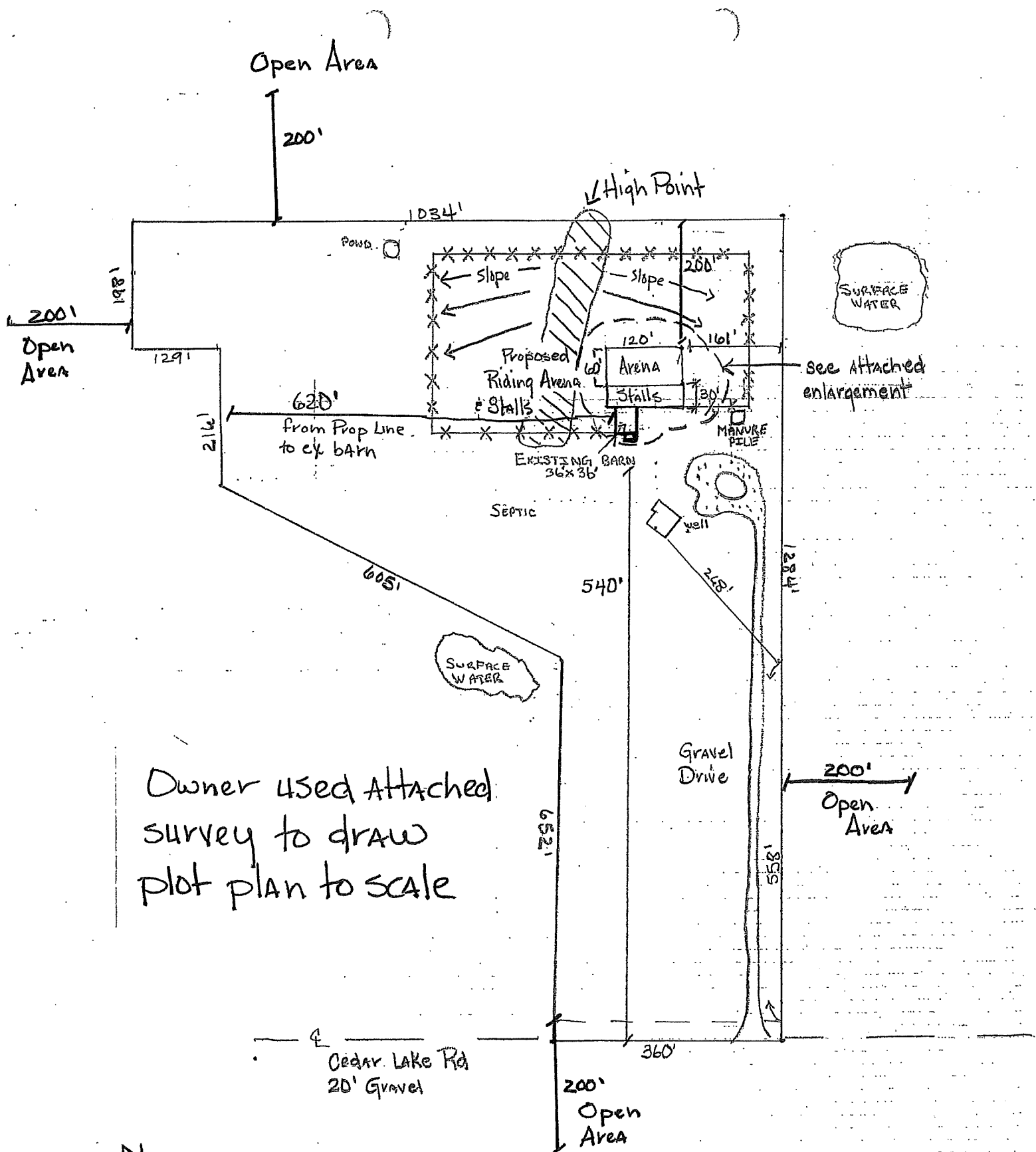

Charles Carsley

DATED: 10-14, 2003


Robert Harvey, Supervisor


DATED: 10-14, 2003


Myrna Schlittler, Clerk



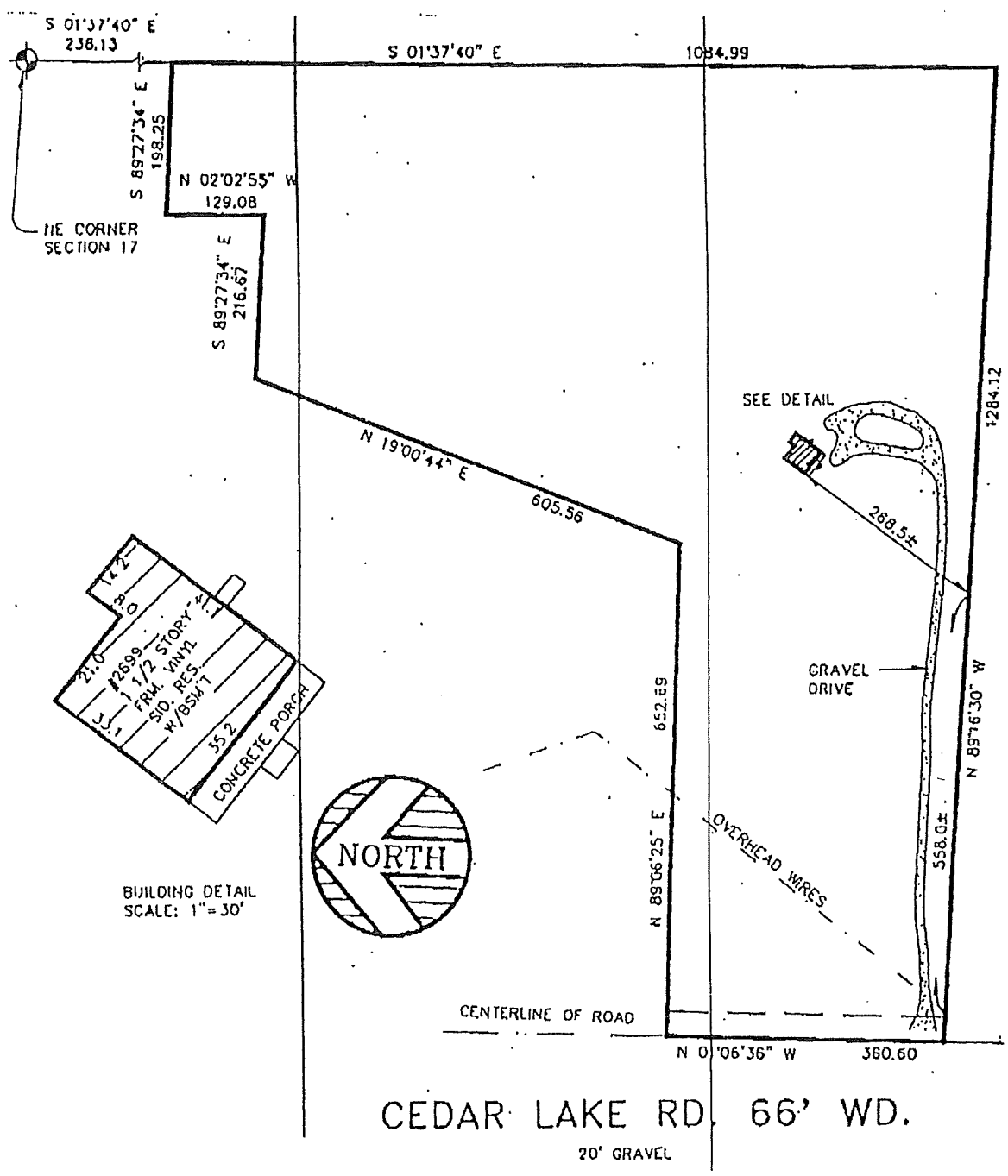
Owner used Attached survey to draw plot plan to scale

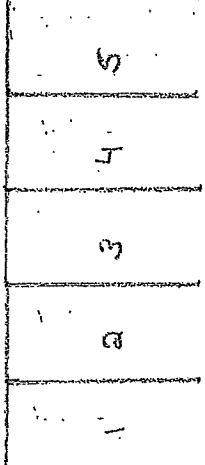
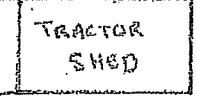
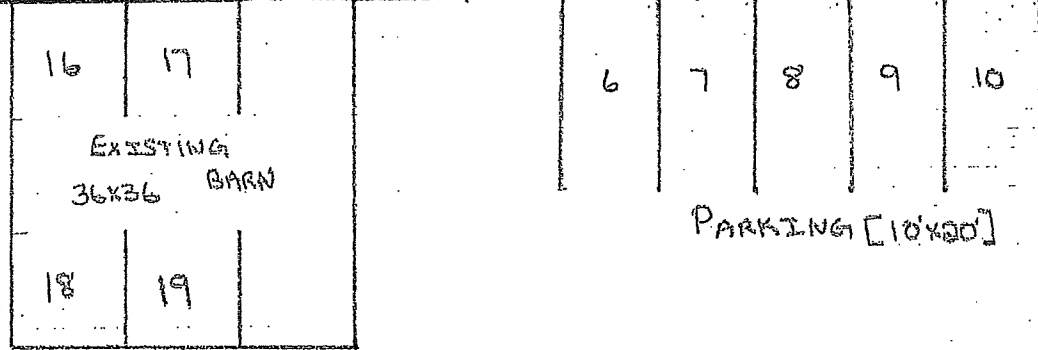
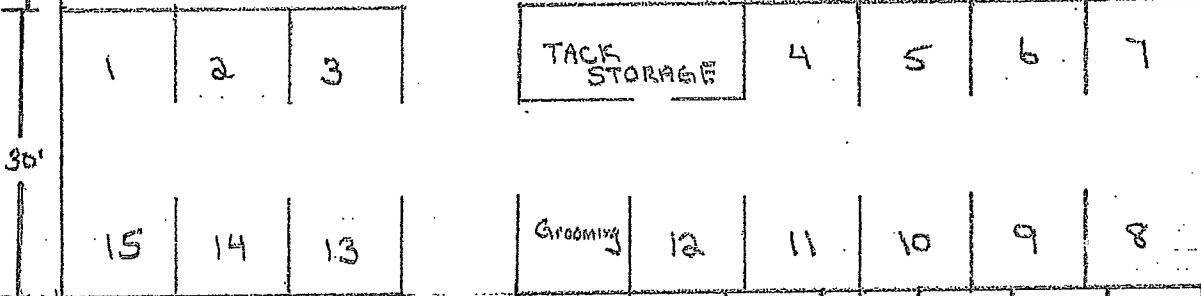
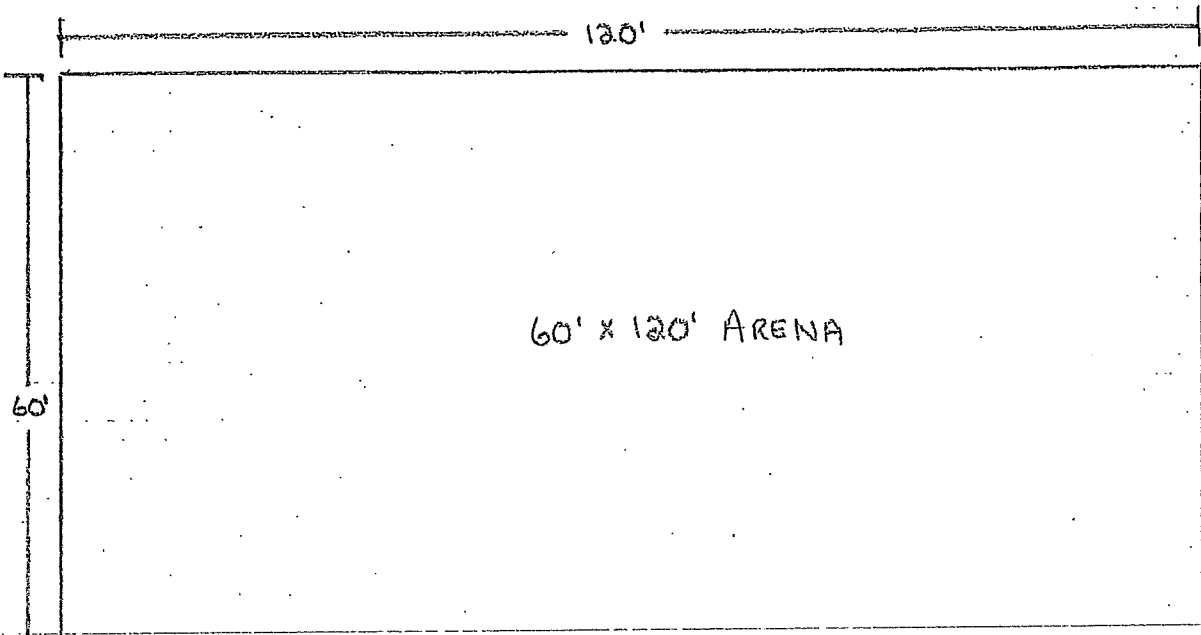
← N
Scale
1" = 200'

*** FENCE
 High point
 ← slope — down slope

Mr & Mrs. Carstley
 2699 Cedar Lake Rd
 617-545-9559
 4710-17-200-012
 Rural Residential - 18.5 acres

SEC 17 T2N R4E BI) AT A PT ON E SEC LN) 37°40'E
 238.13 FT FROM NE COR, TH S1°37'40"E 1084.99 FT,
 TH N89°16'30"W 1284.12 FT, TH N1°06'36"W 360.60 FT
 ALG C/L CEDAR LAKE RD, TH N89°06'25"E 652.69 FT,
 TH N19°44'E 605.56 FT, TH S89°27'34"E 216.67 FT,
 TH N2°02'55"W 129.08 FT, TH S89°27'34"E 198.25 FT
 TO POB 18.482 AC SPLIT 4/80 FROM 002 DECS CHANGED
 5/94





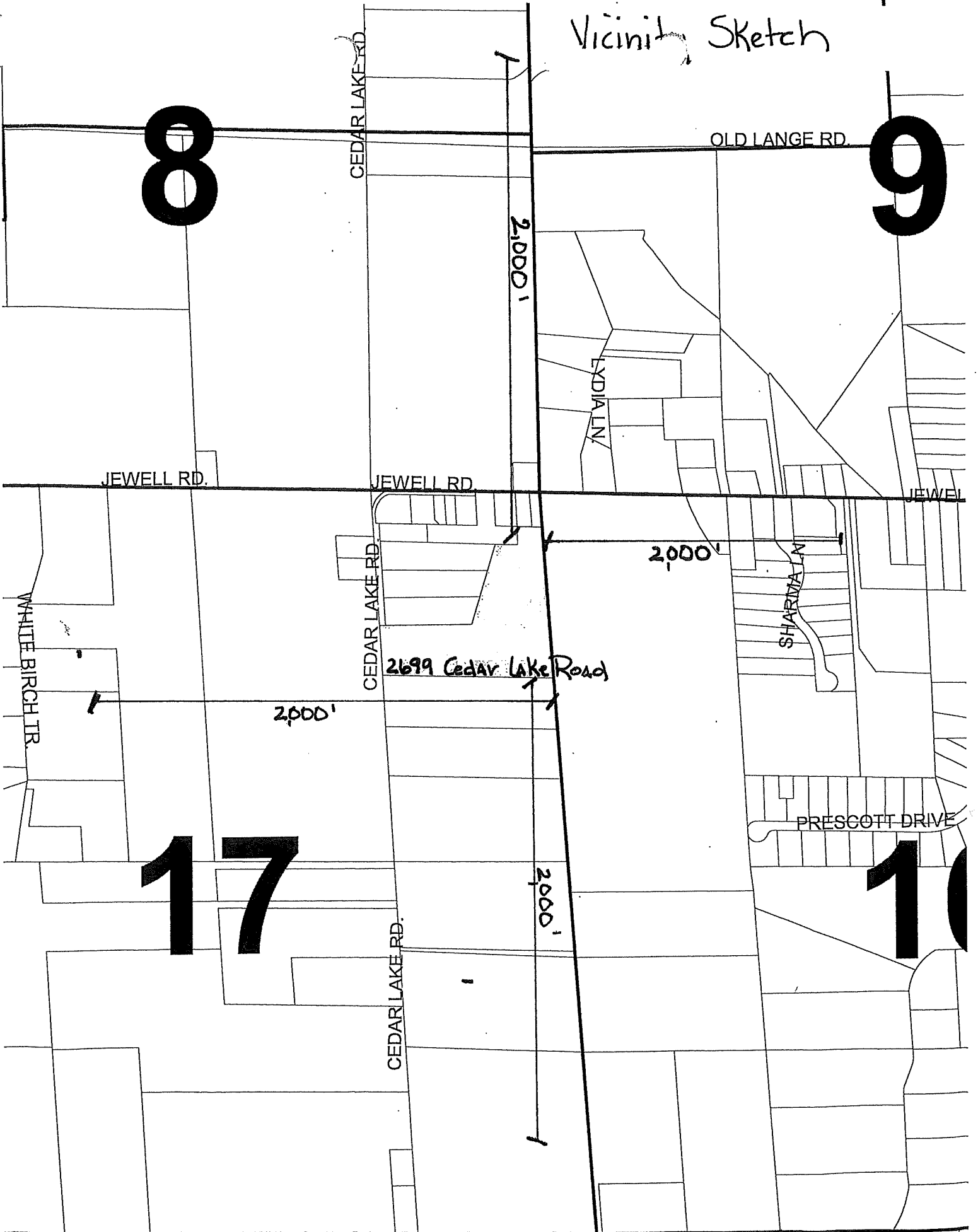
PARKING [10'x20']

REVISED FOR PARKING COMPLIANCE

Mr. & Mrs. CARSLY
 2699 CEDAR LAKE RD
 517-545-9559

SCALE
 1" = 20'

Vicinity Sketch



8

9

17

10

From Planning Commission August 26, 2003

OLD BUSINESS

Special Use Permit #01-03 Commercial Stable - Mr. & Mrs. Carsley

John Ambrose summarized his July 16, 2003 letter of recommendation. Debra Wiedman-Clawson questioned the Carsleys regarding

the proposed location of the manure pile and whether it will be enclosed and how it will impact drainage into wetlands. The Carsleys

stated they will spread it in their hayfield. Debra Wiedman-Clawson also questioned how close to the property line the red barn is on

the adjacent property. John Lowe commented it is close to the 15' minimum side yard setback. This poses a possible scenario of a

home being built in the future and still maintaining the isolation distance required for a commercial stable. John Ambrose stated that

would not apply. Jean Root questioned the status of the Special Use Permit (SUP) if property sold. Annette McNamara stated that

the Planning Commission can place conditions on the SUP. **If the property sells, the new owners are required to come to the Planning**

Commission for review and approval. John Ambrose commented if landowners who received SUP **altered the site plan, by law they**

are required to go before the township before doing so. The Carsleys have concerns regarding future neighbors and complaints.

Ambrose responded that as long as landowner meets all criteria of the ordinance, new neighbors would have no standing with complaints,

and they would have to verify a violation of the ordinance. Otherwise it will be handled administratively.

Jean Root made a motion that the Planning Commission grant **conditional approval** of the site plan for Majestic Oak Commercial Stable,

Tax Code 4710-17-200-012, and Special Use Permit #01-03 based on following conditions:

1. All issues addressed in July 16, 2003 letter from John Ambrose be addressed with three subheadings:
 - **Permit must be administratively recertified every two years**
 - **If problems arise, applicant must come to Planning Commission for resolution**

- **The SUP does not transfer upon the sale of the property**

The Carsleys want to know what date will administrative review be held? The date of the Township Board of Trustees' approval.

Dave Hamann seconded. **Motion carried 5-0.**

From BOT September 11, 2003

Majestic Oaks Stable

Annette McNamara presented the Board with the information regarding an application from Chuck and Cheryl Carsley

requesting a Special Use Permit for a commercial stable on Cedar Lake Road. In addition to site plan review by the

Planning Commission and a public hearing, a variance was required for the side yard. The Planning Commission

recommended approval contingent on the variance being granted. The variance was granted by the ZBA. They have met

all of the criteria for the commercial stable special use permit. The Zoning Administrator will create a draft of the

Special Use Permit and send to the attorney. The Planning Commission asked for a two-year administrative review.

Any change in ownership would require review by the Planning Commission. Dave Hamann motioned to approve the

Special Use Permit for Majestic Oaks Stable. Myrna Schlittler seconded. **Motion carried 5-0.**

ACKNOWLEDGEMENT AND EXTENSION OF CONDITIONS OF SPECIAL USE PERMIT

THE UNDERSIGNED, Brian K. Jessie and Angela M. Jessie, his wife, hereby acknowledge and agree they are the successors in interest to Cheryl Carsley and Charles Carsley, who were granted a Special Use Permit for the property described on the attached Exhibit A by the Marion Township Board as provided below:

At a meeting of the Marion Township Board of Trustees held on the 11th day of September, 2003, pursuant to the application of Cheryl Carsley and Charles Carsley, and a recommendation from the Marion Township Planning Commission that Section 16.05 A, Basis for Determination items 1 through 11, has been met, the Board of Trustees by motion duly made and passed granted a Special Use Permit to Cheryl Carsley and Charles Carsley to operate a Commercial Stable to be located at 2699 Cedar Lake Road, Howell, MI, Tax I.D. # 4710-17-200-012 subject to the following conditions.

The use of the property and Commercial Stable shall be in accordance with the following terms, and the provisions of the Marion Township Zoning Ordinance that are not in conflict with this Special Use Permit.

1. All fencing to meet all township ordinances/standards.
2. The use of the property shall at all times comply with Article XVII Standards for Specific Land Uses, Section 17.28 Stables (Commercial), with the exception of 17.28.D.7, a variance to relax the 200' setback requirement and allow a 161' setback for the south property line was granted by the Zoning Board of Appeals on September 6, 2003 (ZBA #04-03.)
3. Hours of operation shall be from 9 a.m. to 9 p.m.
4. The required ten (10) off-street parking spaces must meet the requirements for off-street parking site development standards as per Section 14.04 of the Township's Zoning Ordinance.
5. Every two years the Zoning Administrator will administratively recertify the Special Use Permit to insure the conditions of this Special Use are being complied with. The first recertification will be on or about September 11, 2005
6. In the event the property is sold the new owner must apply for an amendment to the Special Use Permit and agree to be bound by the terms.

We, the undersigned, Brian K. Jessie and Angela M. Jessie, his wife, hereby request an amendment to the Special Use Permit to allow us to continue to operate the Special Use and we agree to abide by the terms of the Special Use Permit as above described and the Marion Township Zoning Ordinance. Further, we understand that said permit may be revoked by the Marion Township Board of Trustees if a violation of any of these conditions occurs in accordance with the Marion Township Zoning Ordinance and Michigan law.

Dated: _____

Brian K. Jessie

Dated: _____

Angela M. Jessie, his wife

Dated: _____

Robert W. Hanvey
Marion Township Supervisor

Dated: _____

Tammy M. Beal, CMC
Marion Township Clerk

STATE OF MICHIGAN)

COUNTY OF LIVINGSTON)

The foregoing Acknowledgement and Extension of Conditions of Special Use Permit were subscribed and sworn to before me on this _____ day of _____, 2020 by Brian K. Jessie and Angela M. Jessie, his wife, Robert W. Hanvey, Supervisor and Tammy L. Beal, CMC who declared the same to be their free act and deed.

Notary Public
County, Michigan

My Commission Expires:

Prepared by :

Michael J. Kehoe, attorney
710 E. Grand River Ave.
Howell, MI 48843
(517) 546-4570

When recorded return to:

Marion Township
2877 W. Coon Lake Road
Howell, MI 48843

EXHIBIT A

Legal Description of Property Covered by Special Use Permit:

Land in Marion Township, Livingston County, Michigan, to wit: SEC 17 T2N R4E BEG AT A PT ON E SEC LN S1*37'40"E 238.13 FT FROM NE COR, TH S1*37'40"E 1084.99 FT, TH N89*16'30"W 1284.12 FT, TH N1*06'36"W 360.60 FT ALG C/L CEDAR LAKE RD, TH N89*06'25"E 652.69 FT, TH N19*44'E 605.56 FT, TH S89*27'34"E 216.67 FT, TH N2*02'55"W 129.08 FT, TH S89*27'34"E 198.25 FT TO POB 18.482 AC SPLIT 4/80 FROM 002 DECS CHANGED 5/94

Tax Code No.: 4710-17-200-012

Owner: Brian K. Jessie and Angela M. Jessie, his wife

Property Address: 2699 Cedar Lake Road, Howell, MI 48843

Section 17.32 Home-based Business

Home Occupation regulations are provided in Section 6.14. Home-based businesses are considered special uses and are therefore 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 are met.

A home-based business is an occupation, business, commercial activity, company or profession carried on by family members residing on the premises that is clearly incidental and secondary to the principal single-family residential use and has one or more of the following characteristics and is not a farm operation as defined herein:

1. The business has one or more employees who do not reside on the premises, but who work on the premises or travel to the premises to pick up business vehicles or equipment for use off the premises.
2. The business has outside storage of materials or equipment solely related to the business within a designated and screened area; and/or
3. Has vehicles related solely to the home or business.

Locational Requirements: Home-based businesses are permitted by Special Use Permit in the Rural Residential and Suburban Residential Districts.

Site Requirements:

- A. A home-based business may be permitted in both the dwelling unit and accessory structure. The home-based business shall not occupy more than twenty-five (25%) percent of the total gross floor area of said dwelling including the basement; however, it may encompass the entire accessory structure. Accessory structures used for business purposes shall conform to Section 6.07 Accessory Buildings and Structures.
- B. The residential appearance of the dwelling shall not be altered in order to conduct the home-based business.
- C. The home-based business shall be clearly secondary and incidental to the use of the dwelling as a place of residence, and shall not result in a change to the essential character of the premises including both the dwelling and yard areas.
- D. All of the activities on the property related to equipment and vehicle repair, cleaning, painting and maintenance associated with the home-based business shall be carried on indoors.
- E. Storage and use of combustible, toxic or hazardous material associated with the home-based business shall be done in a manner in full compliance with all federal, state and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials.
- F. Solid or liquid refuse or waste or hazardous waste generated by the home-based business shall be safely and properly disposed of in a manner in full compliance with all federal, state and other governmental requirements of any such materials.
- G. In no case will radioactive, medical, or biomedical chemicals or materials waste be received, used, processed or stored on the site of the home-based business.

- H. No equipment or process shall be used in such home-based business that creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal human senses off the subject site. In addition, in regard to electrical interference, no equipment or process shall be used that creates visual, audible, or noticeable interference in any radio or television receivers off the site or that causes fluctuation in line voltage off the site.
- I. The home-based business shall be conducted so it does not constitute a nuisance or annoyance to the residents of adjoining properties due to noise, smoke, odor, electrical disturbance or night lighting, or the creation of unreasonable traffic to the premises.
- J. A resident of the dwelling on the **parcel** shall be actively and personally engaged in and responsible for all home occupation operations. The number of non-resident employees who can be employed by a home-based business shall be regulated by the size of the parcel containing the business as follows:

<u>Minimum Parcel Size</u>	<u>Maximum Number of Non-Resident Employees</u>
2 or more acres and less than 6 acres	1
6 acres and less than 10 acres	2
10 acres and less than 12 acres	3
12 or more acres	4

The Planning Commission or the Township Board may, in its discretion, allow a greater number of non-resident employees than those shown in the table above, where the operator of the business can provide clear and convincing evidence that doing so will not interfere with the principal single-family residential use of the premises and also the surrounding area, and further, only where the non-resident employees travel to the premises to pick up business vehicles or equipment for use off the premises.

In the event the home-based business premises are split or otherwise reduced in acreage, the operator will immediately be limited to the number of non-resident employees allowed on the remaining home-based business premises as shown in the table above, unless the operator seeks a new Special Use Permit on the remaining premises within 90 days of the split or reduction in acreage. In the new Special Use Permit, the Planning Commission or the Township Board may in its discretion reduce the number of non-resident employees allowed on the remaining premises.

- K. Outdoor storage of materials and equipment involved in the business is permitted provided it is adequately screened so it is not visible from adjoining roads and properties. Measures to screen such material or equipment are subject to the approval of the Planning Commission and shall include, but are not limited to, one or more of the following: a solid fence no more than six feet in height; plantings that are at least five feet in height at planting and will provide an adequate year-round screen; the topography of the site; existing vegetation on the site; or the screening is provided by existing buildings.
- L. The home-based business shall comply with all applicable federal, state and local laws, including, but not limited to, laws regarding licensing, occupational health and safety, and the environment.
- M. Home-based business approval is not transferable with the sale, rental or lease of the dwelling unit.
- N. Home-based businesses are allowed signage. See Article XV Signage.
- O. Visitors, customers and deliveries shall not exceed a total of twelve (12) during a single day, **7am – 7pm**. The Planning Commission or the Township Board may modify this standard in the case where the Planning Commission or the Township Board determines that the operation of the

home-based business will unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. No traffic shall be generated by the home-based business in volumes in excess of that which is normally associated with a single-family dwelling, and such traffic shall be limited to passenger vehicles, delivery vans, and similarly-sized vehicles. **The home based business will record all customer, visitor and delivery activity that occurs during each and every business day.** The Township Board may relax this requirement upon a finding that the allowance of a specified increase in traffic, including truck traffic, will not undermine the public safety and welfare based on such factors as the size of the parcel, the proximity of nearby residences, and road and dust conditions, nor unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. Nothing in this subsection shall be interpreted to allow outdoor parking in excess of that regulated by subsection below.

- P. In no case shall more than eight (8) motor vehicles be temporarily or permanently parked or located outdoors, including vehicles owned or used by residents of the dwelling and employees of the business. The Township Board may decrease the above standard in the case where the Township Board determines that, without such reduction in the standard, the operation of the home-based business will unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. The Township Board may require screening of parking areas to minimize negative impacts on neighboring properties.

Performance Standards: Prior to recommending approval, the Planning Commission shall determine that the proposed home-based business is not incompatible with existing land uses in the area and would not be detrimental to the safety or convenience of vehicular or pedestrian traffic.

- A. For a home-based business, an informal site plan (does not need to comply with the requirements found in Article XVIII Site Plan Review) or plot plan must be submitted for review and recommendation by the Marion Township Planning Commission. The site plan shall be to scale and need only illustrate the following:
- 1) Owner's name, parcel identification (tax ID#) and address.
 - 2) An 11 x 17 inch color aerial photograph of the site area and surrounding areas showing overlaying property lines **with contour lines** and the proposed site layout with dimensions. (available at Livingston County GIS).
 - 3) Existing and proposed structures with dimensions indicating the location(s) and square footages to be occupied by the home-based business, **subject property setbacks as well as distances from the proposed home-based business location on-site to adjacent property lines.**
 - 4) Location of driveways, off-street parking areas & delivery and storage areas.
 - 5) Proposed landscaping/screening in association with any parking to minimize negative impacts on nearby properties,
 - 6) The location, character, and dimensions of any structural additions or modifications to an existing dwelling or accessory structure to accommodate the home-based business.
- B. In addition to the information required in Section 17.32 and the site plan described above, the applicant shall submit a detailed description of the nature of the home-based business, which shall clearly specify the following minimum features:
- 1) A detailed description of the character of the home-based business including but not limited to the service or product offered and the typical daily schedule of activities of such business.
 - 2) The type and frequency of vehicular traffic to be generated by the home-based business. The maximum number of vehicles to be parked or otherwise located outdoors including

vehicles owned or used by residents of the dwelling and employees of the home-based business.

- 3) The number of full-time and part-time employees of the business and the frequency at which such employees will be present at the site.
-
- C. The Planning Commission may require additional information if it determines the character of the project, site or surrounding conditions necessitates further investigation, allowing it to make a sound decision on the application.
 - D. Any approval of a home-based business, and any permit issued for such occupation, shall clearly delineate any conditions upon which such approval is granted including any conditions pertaining to the number of employees, outdoor parking of vehicles, and related operational features.

LOREA SITE PLAN #03-19

David LeClair from Livingston Engineering was present on behalf of this project. This is a landscape supply yard with a retail operation. Tammy Beal motioned to accept the final site plan for SPR #03-19—LoRea Topsoil & Aggregate, as presented, and provided all revisions are on the final site plan and that the intergovernmental agreement is approved. Les Andersen seconded. **Motion carried.**

PAUL MARIE INTERGOVERNMENTAL AGREEMENT

Greg Durbin motioned to approve the intergovernmental agreement for sewer service on Lucy Road, Parcel #4710-01-200-024, between Marion Township, Genoa Charter Township, Genoa-Oceola Sewer and Water Authority, and Paul Marie Properties LLC, as presented, and authorize the clerk to supervisor to sign. Les Andersen seconded. **Motion carried.**

HOWELL SCHOOLS 2020 SUMMER TAX COLLECTION RESOLUTION

Tammy Beal motioned to adopt a resolution for collection of Howell Public Schools summer school property taxes, as presented. Scott Lloyd seconded. Roll call vote: Lowe, Durbin, Lloyd, Stokes, Andersen, Beal, Hanvey—all yes. **Resolution passed 7-0.**

DARAKJIAN PROPERTY

Duane Stokes motioned to postpone action on this item. Les Andersen seconded. **Motion carried.**

FINAL REVIEW OF TXT #03-18—SECTION 17.32 HOME-BASED BUSINESS SPECIAL USE

Greg Durbin said he would like to see language included for parcels less than two acres. Bob Hanvey suggested changing the language to “up to 6 acres” instead of “2 or more acres and less than 6 acres.” The board members discussed the number of employees, number of daily trips, number of visitors. Les Andersen said the Planning Commission should be a recommending body, and the Township Board would grant or deny approval.

Greg Durbin motioned to send these items back to the Planning Commission. Les Andersen seconded. **Motion carried.**

NUISANCE ORDINANCE

Bob Hanvey passed out comments from the attorney regarding enforcement.

Les Andersen motioned to adopt the Marion Township Nuisance Ordinance 19-01, as presented. Greg Durbin seconded. **Motion carried.**

PLANNING COMMISSION APPOINTMENT

Bob Hanvey recommended reappointing Larry Grunn to the Planning Commission. Greg Durbin motioned to approve that recommendation. Les Andersen seconded. **Motion carried.**

CORRESPONDENCE & UPDATES

The township has received a \$50,000 letter of credit for the Meadows West project.

Development standards comments are welcome; this will be on an agenda in January.

An Active Shooter seminar from Livingston County MTA is scheduled for Wednesday, January 29, 6 pm at Genoa Township Hall; let the clerk's office know if you'd like to attend.

NURSERY OPERATIONS / RIGHT TO FARM IN MARION TOWNSHIP

Step #1

Section 8.01.B.3 Change to 'Nursery Operation of retail sales of nursery stock grown on the site'

Section 8.02.B.6 Add 'Nursery Operation of retail sales of nursery stock grown on the site' as use by right

3.02 Definitions **Add**

Nursery Operations (Right to Farm): A parcel, area, space, building or structure, or combination thereof, used chiefly for the storage of live trees, shrubs, and plants; natural growing in the ground or temporarily balled or potted or packaged for retail sale.

Step #2

Section 10.01.B.16 **Add**

Amend LI Light Industrial District to allow landscape contractors buildings, offices and yards as a use permitted by right.

3.02 Definitions **Add**

Landscape Contractor's Buildings, Offices and Yards: A space, building or structure, or combination thereof, used primarily for the storage of equipment, tools, vehicles, and materials used in or associated with a landscape contracting business.

Landscape Contractor/Contracting. The sale, storage or transportation of fertilizers, mulch, groundcovers, boulders, and similar products used for landscaping or gardening and could include the sale of live trees, shrubs or plants grown or not grown on the property.

G. Z-55-19: MARION TOWNSHIP, ZONING ORDINANCE AMENDMENTS - ARTICLE III DEFINITIONS, ARTICLE VIII RESIDENTIAL DISTRICTS: SECTION 8.01 RR RURAL RESIDENTIAL DISTRICT, AND ARTICLE X INDUSTRIAL DISTRICTS: SECTION 10.01 LI LIGHT INDUSTRIAL DISTRICT.

The Marion Township Planning Commission proposes to update the following Articles/Sections with a completely new set of definitions and regulations regarding nurseries and landscape contractors.

Township Planning Commission Recommendation: Approval. The Marion Township Planning Commission recommended **Approval** of the text amendments at their October 22, 2019 public hearing and planning commission meeting. There were a few general public comments noted in the meeting minutes regarding these new provisions, mainly about trucking and exhaust fumes and the definition of "nuisance" in relation to these amendments.

Staff Recommendation: Approval. The proposed text amendments are reasonable and appropriate. It appears that these provisions better distinguish differences between landscape contractor businesses and nursery operations and should aid the Township in the future with regards to regulating these two different land use types as so desired.

Commission Discussion: None.

Public Comment: None.

Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER IKLE TO RECOMMEND APPROVAL. SECONDED BY COMMISSIONER CLUM.

Motion passed: 7-0

8. OLD BUSINESS:

A. Planning Department Visits: ~~Scheduled~~ added visits through December 2019.

9. NEW BUSINESS: None.

10. REPORTS:

A. Staff Reports:

- A series of potential dates for an MSU Extension Planning Commission training were discussed. January 29, 2020 was selected as the date of the training at the Livingston County Public Safety Complex. Local Planning Commissioners will be invited to participate in the training opportunity.
- Upcoming Brown Bag Lunch at Noon on December 4 at Genoa Township Hall. SEMCOG will be leading a public input session for the update of the regional Economic Development Strategy for Southeast Michigan. An event flyer was distributed.
- A new Planning Commission roster from the Board of Commissioners Office was distributed.
- Staff reported that the trail consultant hired for the Livingston County Trail Network Plan inquired as to how involved County Planning Commissioners would like to be in the process. Planning Commissioners indicated that they would like to receive emails about upcoming meetings and they will participate if able.
- Staff are currently applying for national APA division awards for the 2018 Livingston County Master Plan.
- A new rezoning amendment form is being developed and it will be utilized for December 2019 cases. Staff would like feedback from Planning Commissioners on the format.

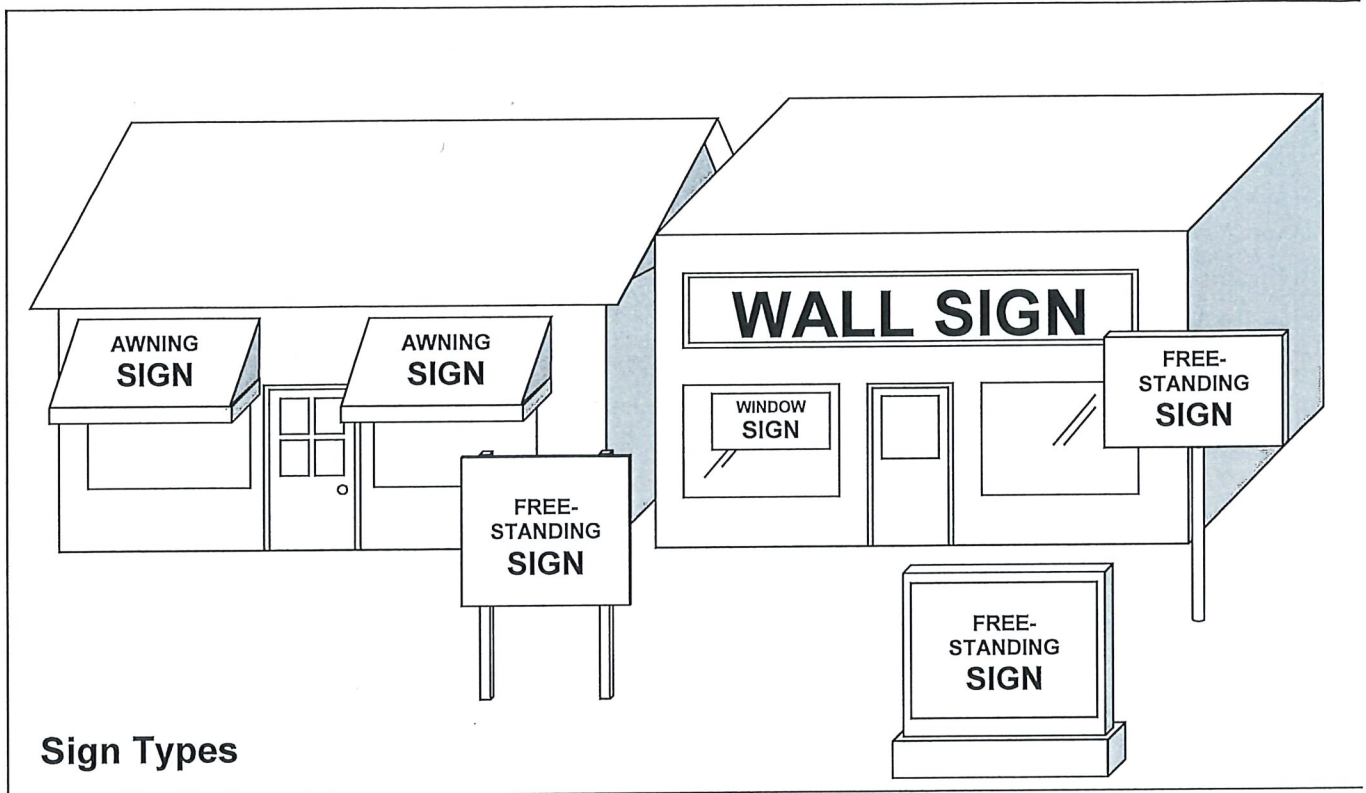
Section 15.05 Schedule of Sign Regulations

The schedule provided below summarizes the quantity, maximum area, maximum height, and minimum setback from existing road rights-of-way permitted for signage requiring a permit under this Section. Detailed requirements for the signs listed below are provided under subsections 15.06 and 15.07. Wherever conflict exists between the following schedule and the standards of those subsections, those subsections shall prevail.

Sign	Number	Max. Area	Max. Height	Min. Setback
Signs in Residential Districts (Sec. 15.06)				
Agricultural Product Signs	1	20 s.f.	4 ft.	15 ft.
Farm Signs	1	32 s.f.	6 ft. ¹	15 ft.
Home Occupation Wall Sign, or Home Occupation Freestanding Sign	1	4 s.f.	4 ft.	n/a
	1	6 s.f.	4 ft. ^{1,7}	½ required front setback
Non-Profit Organization Signs	1	32 s.f.	6 ft.	15 ft.
Residential Development Entranceway Signs	2/entrance	20 s.f.	6 ft.	15 ft.
Temporary Construction Signs	1/frontage	32 s.f.	6 ft.	15 ft.
Signs in Non-residential Districts (Section 15.07)				
Awning and Canopy Signs	N/A	25% of surface ²	n/a	per district
Free-Standing Signs	1/frontage	½ s.f. per foot of frontage ³	6 ft.	15 ft.
Gasoline Price Signs	1	20 s.f.	6 ft.	15 ft.
Marquee Signs	1/frontage	1½ s.f. per foot of building frontage	per district	per district
Menu Board Signs	2	60 s.f.	6 ft.	15 ft.
Office or Industrial Development Entranceway Signs	2/entrance	36 s.f.	6 ft.	15 ft.
Temporary Construction Signs	1/frontage	32 s.f.	6 ft.	15 ft.
Time/Temperature/Stock Market Signs	1/frontage	N/A ⁴	6 ft. ¹	15 ft. ¹
Wall Signs	1/frontage ⁵	1 s.f. per foot of building frontage ⁶	see below	n/a
Window Signs	N/A	25% of window area	n/a	n/a

1. If sign is free-standing.
2. Such signs shall be counted in determining compliance with maximum permitted area of wall signage.
3. Not to exceed 32 s.f., unless premises contains multiple tenants, in which case 4 s.f. may be added per additional tenant, up to a maximum of 64 s.f.
4. Such signs shall not be counted in determining compliance with wall or free-standing sign area requirements.
5. Or one per tenant having individual public access.
6. Not to exceed 60 s.f., unless such signs are set back at least 150 ft., in which case such signs shall not exceed 200 s.f.

7. If substituted for wall sign in Rural Residential District.



Section 15.06 Signs in Residential Districts

The following signs shall be allowed in the RR, SR, UR, ERS#1, and ERS#2 zoning districts, subject to permit approval in accordance with Section 4.03 and the following standards. Such signs shall only pertain to permitted or special land uses or a legally nonconforming non residential use, and shall be located upon the same property to which the sign relates, unless otherwise provided herein.

A. **Agricultural Product Signs:** In the RR district, one sign advertising agricultural and/or horticultural products grown on the premises shall be permitted in conjunction with a temporary roadside stand. The sign shall not exceed twenty (20) square feet in area, four (4) feet in height nor be located closer than fifteen (15) feet to any property line. The sign shall be erected not more than two weeks prior to opening of sales and removed within one (1) week of the end of sales.

B. **Farm Signs:** Signs in the RR district displaying the name of farm, not to exceed thirty-two (32) square feet in area and six (6) feet in height if freestanding. One (1) such sign shall be permitted per farm, in addition to the home occupation sign permitted under item C below. Such a sign may be indirectly illuminated, provided that all lighting equipment for these signs shall be designed to illuminate the sign only and shall not interfere with driver visibility or cause glare on adjoining properties.

C. Home Occupation Signs: one (1) wall sign per parcel containing a permitted home occupation, not exceeding four (4) square feet in

area. Such signs may not be illuminated, and must be consistent with the residential character of the neighborhood in which they are to be located. Within the Rural Residential (RR) district, one (1) freestanding sign may be substituted for a wall sign. Such sign shall not exceed six (6) square feet in area or four (4) feet in height and shall be located no closer to the right-of-way (ROW) line than one-half (1/2) the required front yard.

D. Non-Profit Organization Signs: Permanent, free-standing signs identifying churches, schools, museums, libraries or other non-profit institutions, at a rate of one (1) sign per parcel, with a minimum setback from the street right-of-way of fifteen (15) feet, which does not exceed thirty-two (32) square feet in area and six (6) feet in height.

E. Residential Development Entranceway Signs: Permanent freestanding signs or signs affixed to decorative walls or fences identifying the entrances of residential developments such as subdivisions, apartment complexes, condominium communities, senior housing complexes, mobile home parks and similar residential uses, at a rate of two (2) per entranceway not to exceed a total of two (2), with a minimum setback from the street right-of-way of fifteen (15) feet, and not exceeding twenty (20) square feet in area and six (6) feet in height. Where such sign is placed upon a decorative wall or fence, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering, graphics and border, if any, not the entire decorative wall or fence.

F. Temporary Construction Signs: Temporary signs which advertise the construction of new residential subdivisions or similar permitted development, not to exceed thirty-two (32) square feet in area and six (6) feet in height. Such signs shall be removed immediately after the last available lot, home site or parcel is sold.

ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE "LOTS"

This began as an attempt to reconcile the usage of the terms "lot" and "parcel" but as I looked for places that needed attention it has grown into more of an overall (but incomplete) review of things that may be candidates for change throughout the ordinance.

I'm not sure that everything referenced needs to be changed but I would like the Planning Commission and Zoning Administrator to review my comments. I don't think all these comments can be addressed quickly and I prefer that we take some time to think about the implications and applications in the day-to-day use of the zoning ordinance.

The attached document contains excerpts from our ordinances, state statutes, and The Michigan Community Association Law Blog. It has page numbers for reference. Some of these things seem trivial but I prefer not to rely on "you know what I meant" for interpretations.

The Zoning Ordinance on the township website:

mariontownship.com

Links

Planning & Zoning

Zoning Ordinance

Has the entire zoning ordinance and is searchable to help finding things.

ATTACHMENT PAGE 1

3.01 B Maybe we should include multiple individuals. See the definition of "Single Ownership" on page 3 that specifically includes "one or more persons."

3.01 C It says "building" includes "structure" which implies that "structure" is a subset of "building." The definition of "building" is any structure. The definition of "structure" includes "all buildings." That seems inconsistent or maybe circular. Throughout the ordinance the terms are used in a variety of ways. In 35 places the phrase "building or structure" is used. Sometimes it is "building and/or structure" sometimes it is "building, structure." There are many more places where building is used by itself. There are some places where it is "building or premises" or "building or use." We need to determine if there is value in standardizing the text.

3.01 D These are the words that started this project. We say the word "lot" includes "plot" and "tract" but they are not included in our definitions.

Plot plan is referenced in Site Plan and 4.03 D but in 5.06 A there is the implication that a "plot plan" is different from a "site plan" but we don't say what a "plot plan" is.

"Tract" is referenced in lot of record and Lot, Zoning, mobile home park, subdivision, and PUD.

"lot," "parcel," and "tract" are defined in the Michigan Land Division Act on page 10 of the attachment.

Not included in 3.01 D is the word "unit" which is usually associated with condominiums. "Units" in "site condos" are very similar to "lots" in a subdivision with the exception of attached condos (Meadows, Woodberry, etc.). See attachment page 2 (condominium unit) and page 14. I can't find anywhere in our ordinance where there is a distinction made between "site condos" (detached single family homes) and "condos" (attached multi-family homes) other than talking about building envelopes. I can't find the term "site condo" in the state condominium act even though it is a frequently used term in planning.

The definitions that include the word "condominium" are not consistent with the definitions in the Condominium Act but for now let's concentrate on "lots" and "units."

On page 2 is our definition of "lot" which seems to include our definition of "parcel" on page 3.

In this definition we have the requirement for frontage on an approved road which is also a requirement in section 6.19 B, page 9 of the attachment, but conflicts with our Land Division Ordinance, Item 2 on page 11 of the attachment. The Land Division Ordinance allows access over an easement.

These two need to be reconciled.

Item 4 under Lot describes "through lots" which we do not allow. We should say so in the definition or leave it out.

Also on page 2, lot area gross, lot area net, and lot coverage are defined. Lot area net specifies "public street right(s)-of-way" but gross only says "street right-of-way." Lot coverage does not specify whether to use gross or net to calculate coverage. In Marion most lots in subs or site condos do not include any ownership of the road. Attached condos don't include any ownership outside the building walls. This should be cleaned up.

Also on page 2, Lot Depth should probably use the word "measured" same as lot frontage.

Page 3, Front Lot Line (1.) refers to "access easement" which is not allowed in the zoning ordinance. In Marlon we have many lots that have the legal description going to the center line of the road, so there is no line separating the lot from the street right-of-way.

Figure 3 - 7 (page 7) shows a front lot line for a flag lot that does not front on a road in conflict with the definition of "Front Lot Line."

Also on page 3, "Rear Lot Line" will not work for many of our lots but Item 4 allows the ZA to make the choices but does not specify who decides "not sufficient."

"Side Lot Line" specifies right angles to the road, we have many lots that are not at right angle to the road.

"Lot of Record" does not include Condo Units. The last phrase "prior to the adoption or amendment" should probably have a date certain, like "Parent Parcel" otherwise every lot could become a lot of record.

"Lot, Zoning" implies that a single parcel can have several tracts within it which is contrary to the definition in the Land Division Act. This is where things get confused with assessing. We have many tax parcels that are made up of multiple, often fractional, platted subdivision lots. The tax code is what we use to identify property on the land use application and other planning documents.

"Lot Width" uses the word "horizontal" but "Lot Depth" does not.

"Parcel" we don't include condo units.

"Parent Parcel" this definition is similar to the Plat Act "Tract." We allow only one flag lot per parent parcel. I'm not sure we enforce that properly.

This is most likely not an exhaustive list of issues.

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

From: Marion Township Zoning Ordinance

ARTICLE III: DEFINITIONS

Section 3.01 Construction of Language

For the purpose of this Ordinance, certain rules of construction apply to the text as follows:

- A. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- B. The word "person" includes a corporation, association, partnership, trust, firm, or similar activity as well as an individual.
- C. The word "building" includes the word "structure" and each term applies to any part thereof.
- D. The word "lot" includes the word "plot", "tract", or "parcel".
- E. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- F. The word "used" or "occupied" as applied to any land or building shall be construed to include the words intended, arranged, maintained for or designed to be used or occupied.
- G. The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, schedules as included or attached as enacted or subsequently amended.
- H. 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," "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 the connected items, conditions, provisions or events may apply singly or in any combination.
 - 3. "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.
- I. Any word or term not interpreted or defined by this Ordinance shall be used with a meaning of common or standard utilization. A dictionary may be consulted.
- J. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

Building: Any structure, either temporary or permanent, having a roof supported by columns, walls, or any other supports, which is used for the purpose of housing, sheltering, storing, or enclosing persons, animals, or personal property, or carrying on business activities. This definition includes, but is not limited to: mobile homes, tents, sheds, garages, greenhouses, lean to and other principal or accessory structures.

Condominium Project: A plan or project consisting of not less than two condominium units established and approved in conformance with the provisions of the Condominium Act, PA 59 of 1978, MCL 559.101 et seq.

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

Condominium Subdivision: A division of land on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act of 1967, Public Act 288 of 1967, as amended, MCL 506.101 et seq.

Condominium Plan: The drawings and information attached to the master deed including, but not limited to, a survey plan, floodplain plan, site plan, utility plan, floor plans, description of the size, location, area, and horizontal boundaries of each unit, number assigned to each unit, vertical boundaries and volume of each unit, building sections, and description of the nature, location, and size of common elements. For the purpose of this Ordinance, a condominium plan shall be equivalent to the term "condominium subdivision plan" as defined by MCL 559.104.

Condominium Unit: That portion of a condominium project which is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. In condominium projects where a condominium unit(s) will consist of a building envelope, the term "condominium unit" shall be equivalent to the term "lot", for purposes of determining compliance with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage, and the like.

Lot: Land described in a recorded plat or by metes and bounds description, occupied, or to be occupied by, a building, group of buildings, or use, having sufficient size to comply with the frontage, area, width-to-depth ratio, setbacks, yards, coverage and buildable area requirements of this Ordinance, and having its principal frontage on a public street or a private road approved by the Township. (See also Condominium Unit.)

1. **Corner Lot:** A lot that has at least two contiguous sides abutting upon a public street and/or private road for their full length.
2. **Flag Lot:** A lot whose access to a public street or private road is by a narrow, private right-of-way that is part of the lot. (See also Figure 3-7.)
3. **Interior Lot:** A lot other than a corner lot.
4. **Through Lot:** An interior lot having frontage on two, more or less, parallel public streets and/or private roads.

Lot Area, Gross: The area contained within the lot lines or property boundary including street right-of-way. (See Figure 3-6.)

Lot Area, Net: The area within the lot lines of a lot, exclusive of any public street rights-of-way abutting any side of the lot. (See Figure 3-6.)

Lot Coverage: The amount of a lot, stated in terms of percentage, which is covered by all buildings, located thereon, including roofed porches, arbors, breezeways, patio roofs, whether open box types and/or lath roofs, or fully roofed, but not including fences, walls, or hedges used as fences, unroofed decks or patios or swimming pools. Lot coverage shall be measured from the drip line of the roof or from the wall or foundation if there is no projecting portion of the roof.

Lot Depth: The average distance measure from the front lot line to the rear lot line.

Lot Frontage: The length of the front lot line measured at the road right-of-way line, except as provided for flag lots. (See Section 6.11.)

Lot Line: The line(s) bounding a lot or parcel. (See Figure 3-7.)

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

1. **Front Lot Line:** The line separating the lot from any street right-of-way, private road or other access easement.
2. **Rear Lot Line:** The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line at least ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line.
3. **Side Lot Line:** Any lot line other than a front or rear lot line, which shall be at right angles to straight streets and radial to curved streets and cul-de-sacs on either public or private roads, except where such lot lines would create unusual, inconvenient, or irregular lot shapes.
4. In the case where the above definitions are not sufficient to designate lot lines, the Zoning Administrator shall designate the front, rear and side lot lines in consideration of the orientation of the building(s) on the lot, the address of the lot, the orientation of other building(s) along the road frontage, and natural features affecting site design.

Lot of Record: A lot which is part of a subdivision, the plat of which has been recorded in the Office of the County Register of Deeds, or a tract, parcel or lot described by metes and bounds, the deed to which has been recorded by the County Register of Deeds, or a Tax Code Number has been issued, prior to the adoption or amendment of this Ordinance.

Lot Width: The horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback line. (See Figure 3-7.)

Lot, Zoning: A single tract of land, located within a single parcel, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot therefore, may not coincide with a lot of record as filed with the County Register of Deeds, but may include one or more lots of record. *(Amended 6-03)*

Parcel: A lot described by metes and bounds or described in a recorded plat.

Parent Parcel: An existing parcel or contiguous parcels of land under the same ownership at the time this Ordinance became effective (March 14, 1996.)

Plat: A map of a subdivision of land recorded with the Register of Deeds pursuant to the Subdivision Control Act, PA 288 of 1967, MCL 501.101 et seq., or a prior statute.

Single Ownership: One or more parcels of land held entirely in the same ownership, which may include one or more persons and may be in any form.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location on the ground including, but not limited to, all buildings, independently supported decks, satellite dishes and free-standing signs; excepting anything lawfully in a public right-of-way including, but not limited to, utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities defined as essential public services.

Subdivision: The division of a lot, tract, or parcel of land into five or more lots, tracts, or parcels of land for the purpose, whether immediate or future, of sale or of building development. The meaning of the term

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

subdivision shall not, however, apply to the partitioning or dividing of land into tracts or parcels of land of more than ten acres.

FIGURE 3-4
LOT TYPES

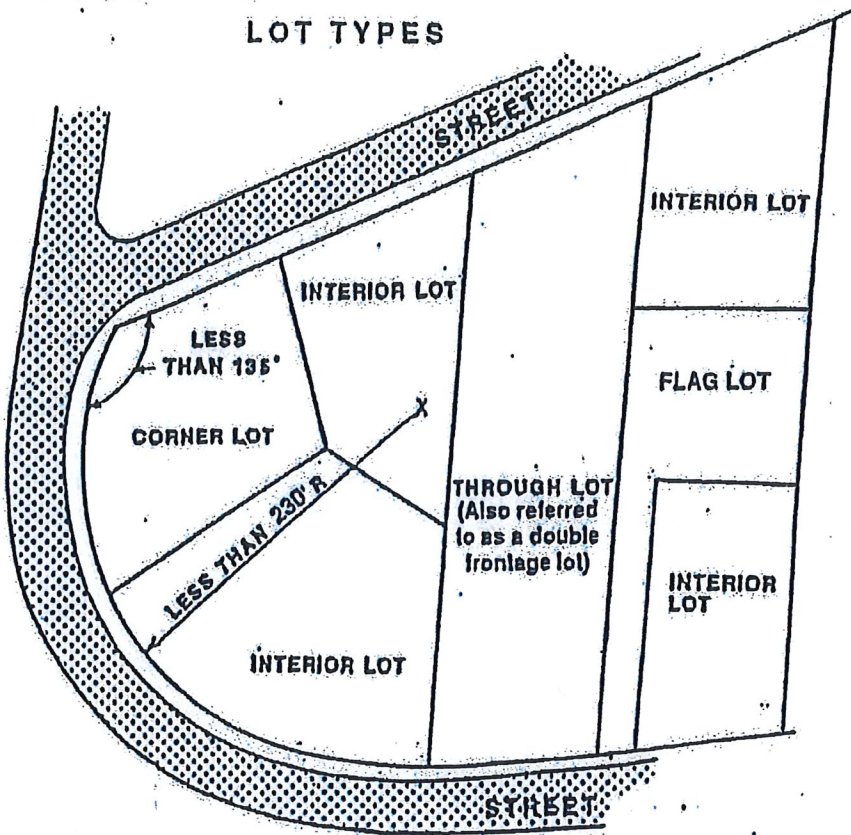


FIGURE 3-5
LOT DEPTH

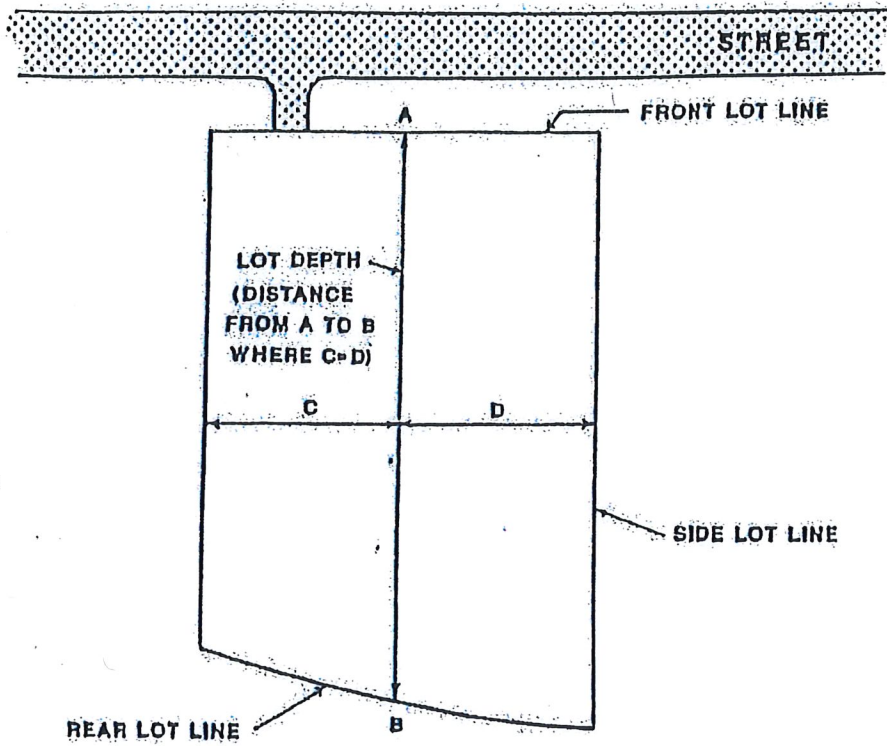


FIGURE 3-6
NET AND GROSS LOT AREA

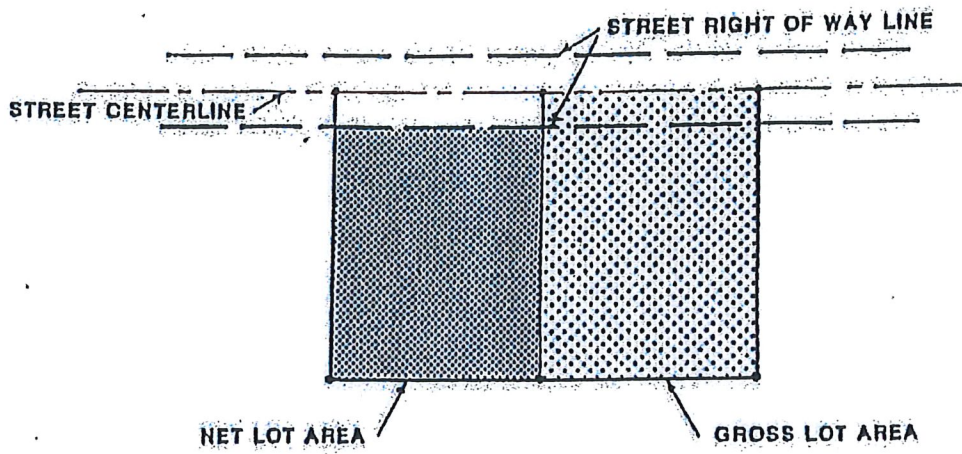
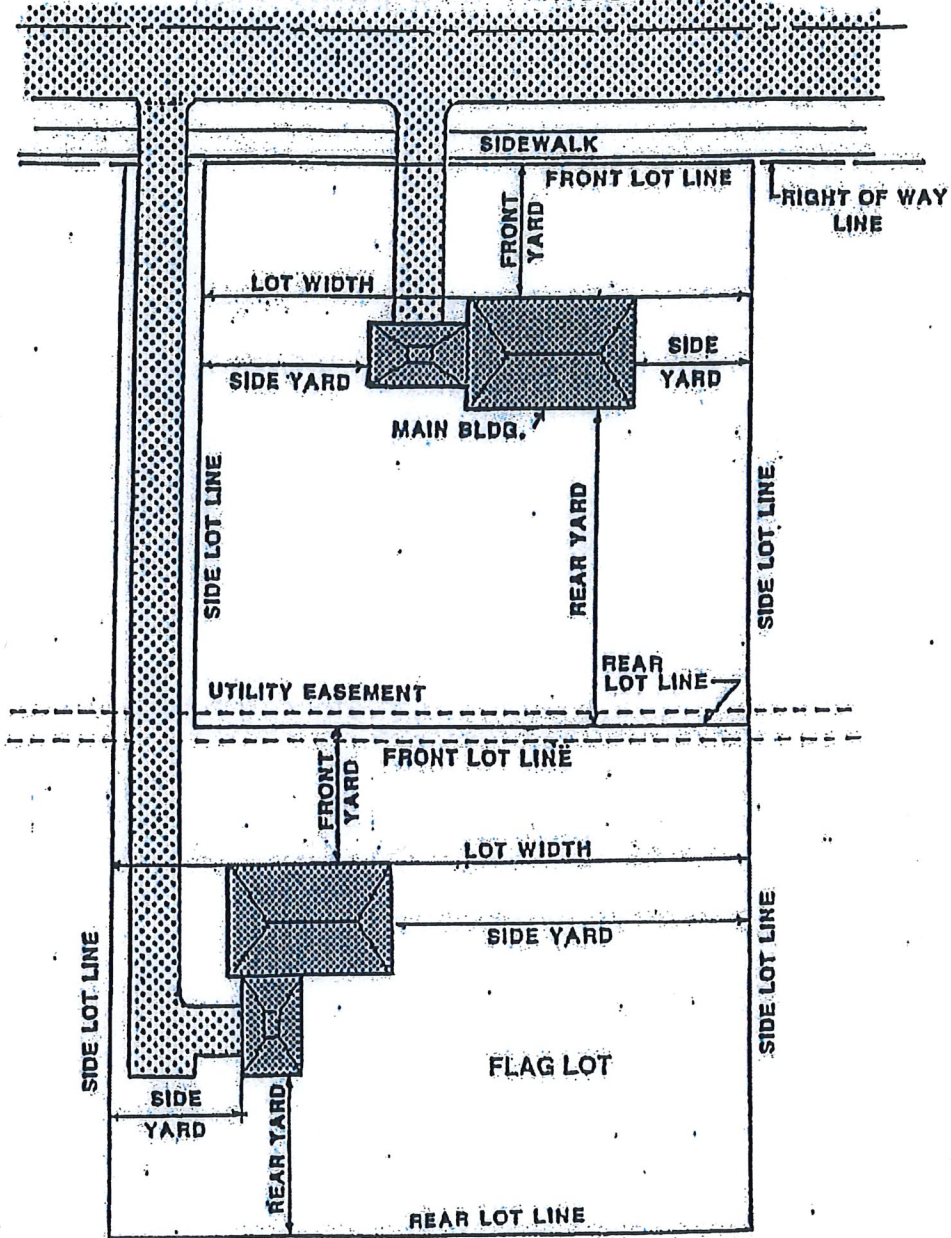


FIGURE 3-7
LOT LINES AND YARDS



ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

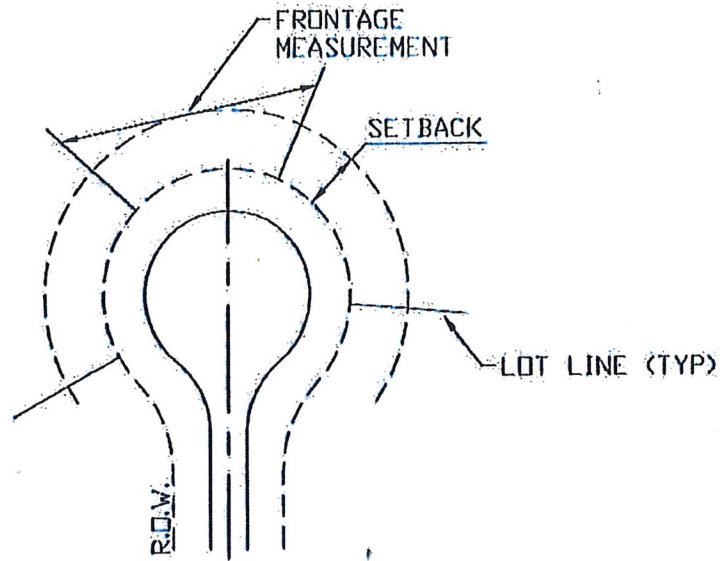


FIGURE 3-8

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

Section 6.19

Access Controls

2. No more than one (1) driveway shall be allowed per parcel.
5. No driveway shall serve more than one (1) dwelling.

B. Lots to Have Access: All parcels or lots hereinafter created in the Township shall have frontage on a public street, or an approved private road, and take their lot access from such frontage so as to provide safe, convenient access for fire protection, other emergency vehicles, and any required off-street parking. Except that corner lots shall take their access from an approved private road or approved public street in a platted subdivision or condominium project. Wherever a corner lot exists at the intersection of two (2) major thoroughfares, then access shall be taken from the thoroughfare presenting the least hazard in the opinion of the Livingston County Road Commission.

Prior to obtaining a land use permit for a new parcel or lot created on a private road that was in existence prior to the effective date of this ordinance, the Township may initiate an inspection of the private road in accordance with General Ordinance No. 07-03, Pre-existing, Non-conforming Private Roads.

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

Definitions from Michigan Land Division Act, Act 288 of 1967 as amended

"Accessible", in reference to a parcel, means that the parcel meets 1 or both of the following requirements:

- (i) Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or county road commission under 1969 PA 200, MCL 247.321 to 247.329, and of the city or village, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.
- (ii) Is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the state transportation department or county road commission under 1969 PA 200, MCL 247.321 to 247.329, and of the city or village, or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.

"Lot" means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.

"Parcel" means a continuous area or acreage of land which can be described as provided for in this act.

"Parent parcel" or "parent tract" means a parcel or tract, respectively, lawfully in existence on the effective date of the amendatory act that added this subdivision.

"Plat" means a map or chart of a subdivision of land.

"Tract" means 2 or more parcels that share a common property line and are under the same ownership.

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

From: STATE OF MICHIGAN, COUNTY OF LIVINGSTON, TOWNSHIP OF MARION
LAND DIVISION ORDINANCE NO. G-11-97

Section III: Definitions. For the purpose of this ordinance, certain terms and words shall have the following meaning:

Accessibility: in reference to a parcel, means the parcel meets one or both of the following requirements:

1. Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or county road commission under Act No. 200 of the Public Acts of 1969, being sections 247.321 to 247.329 of the Michigan Compiled Laws, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.

2. Is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the state transportation department or county road commission under Act No. 200 of the Public Acts of 1969 or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.

TOWNSHIP OF MARION
LIVINGSTON COUNTY, MICHIGAN
PRIVATE ROAD ORDINANCE NO. 07-03

SECTION I: INTENT AND PURPOSE

There are many private roads in the township that are not maintained by any government agency. Some of these roads are covered by an agreement of the owners that is part of their condominium documents, Planned Unit Development Agreement or a township approved Private Road Maintenance Agreement. This ordinance is intended for private roads that are not covered by any provision for maintenance approved by the township and these roads are referred to as unapproved roads.

A list of private roads is maintained by the township for reference. An approved private road maintenance agreement contains provisions for township intervention in the event that repairs and maintenance are not performed.

The Township realizes that at the time the private road was constructed, the developer voluntarily chose not to dedicate the road to the public and therefore maintenance became the responsibility of the owners.

This ordinance is enacted because of the Township's concern for the health, safety and welfare of township residents and others who may use private roads in the township. There are two situations that will trigger the township's involvement with private road maintenance on unapproved private roads:

1. A request for a land division that will create parcels with frontage on the road.
2. A written complaint about the road condition signed by the record owners of land constituting more than 50% of the total frontage upon the road.

It is the Marion Township Board of Trustees' goal to try to help owners of property on unapproved private roads that do not have a private road maintenance agreement approved by the Township, to establish a township approved road maintenance agreement and encourage the future care and maintenance of each private road.

SECTION II: PROCEDURE

Under this General Ordinance, the Board of Trustees can initiate an inspection of an unapproved private road when there is an application for a land division that results in a new parcel with frontage on an unapproved private road or the township receives a written complaint about the condition of the unapproved private road as described in Section I of this ordinance.

The zoning administrator, along with the township engineer, will perform an inspection and evaluate the condition of the unapproved private road to determine if the private road is acceptable. The guidelines for acceptability will be the specifications for new private roads taking into consideration the characteristics of the existing conditions. Items to be evaluated include but are not limited to: subbase, base, surface, drainage, length, width, shape, and traffic. Following the inspection, a written report of the road's condition will be provided to the Township Board. The report will include a cost estimate, if required, to address any perceived unacceptable condition of the road.

The Board of Trustees will review the engineer's report and estimates, if applicable, and decide if it is in the best interest of the property owners to facilitate the establishment of a road maintenance agreement to help provide for improvement and maintenance of the road. If the Township Board determines a road maintenance agreement would be in the best interest of the property owners, or upon request by a property owner, the township zoning administrator will provide a sample private road maintenance agreement to the property owners. An acceptable road maintenance agreement shall contain a provision that indemnifies and holds harmless the township from any liability. The sample maintenance agreement may be modified if necessary. All property owners on the road must sign the maintenance agreement.

After the signature of every property owner is obtained, the maintenance agreement is then submitted to the Township Board for its review to determine thoroughness and to allow the Township Board to decide if the agreement adequately addresses road improvement and maintenance needs of the road and the property owners on the road. After this review and approval by the township board, the maintenance agreement shall then be filed with the Livingston County Register of Deeds for

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

recording to insure future participation by new owners. A copy of the recorded maintenance agreement shall be provided to the Township. A non-profit corporation of property owners can be formed under PA 162 of 1982 for the funding of maintenance for the private road under the specifications of the road maintenance agreement.

If all property owners do not wish to agree to participate in the private road maintenance agreement and the Board of Trustees feels there is a serious concern for health, safety and welfare of residents and others that use the road, a Special Assessment District can be created to fund the maintenance of the road. The Board of Trustees will then follow PA 188 of 1954 and if the residents vote down the Special Assessment then the road will be reclassified as an Unapproved Private Road and no further land divisions will be allowed until some means of maintaining the road has been provided by the owners of the road that is approved by the Township.

SECTION III: SEVERABILITY

Should any provision or part of this ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, such finding shall not affect the validity of enforceability of the remainder of this ordinance.

SECTION IV: EFFECTIVE DATE

This ordinance shall take effect thirty days after publication.

This ordinance was adopted by the Marion Township Board on October 11, 2007, and shall have an effective date thirty days after publication.

The Marion Township Private Road General Ordinance No. 07-03 can be purchased, examined or inspected at the Marion Township Hall, 2877 W. Coon Lake Road, Howell, MI 48843, between the hours of 9 am to 5 pm, Monday through Thursday.

Tammy L. Beal, Township Clerk Date

Moved by:
Supported by:
Yeas: Hanvey, Lowe, Andersen, Beal, Wyckoff, Hodge
Nays: Hamann
Abstentions: None
Absent: None

I hereby affirm and certify that this is a true and correct copy of the Marion Township Private Road General Ordinance No. 07-03, duly adopted by the Marion Township Board at its regular meeting held on the 11th day of October 2007, to which I add my signature this 15th day of October 2007.

Tammy L. Beal, Township Clerk Date

From:

The Michigan Community Association Law Blog

Nature and Extent of Property Ownership – An individual homesite building in a platted subdivision is called a "lot". In a site condominium, each separate building site or homesite is referred to by the Condominium Act as a "unit". Each unit is surrounded by "limited common area", which is defined as common elements reserved in the master deed for the exclusive use of less than all of the co-owners". The remaining area in the site condominium is "general common area", defined as the common elements reserved in the master deed for the use of all of the co-owners. The nature and extent of ownership of a platted lot and a condominium unit, with the associated limited common area, are essentially equivalent from both a practical and legal standpoint.

MICHAEL J. KEHOE, P.C.
ATTORNEY AT LAW
710 E. GRAND RIVER
HOWELL, MI 48843



Michael J. Kehoe

517-546-4570
Fax No. 517-546-7651

January 13, 2020

Mr. Larry Grunn, Chairperson
Marion Township Planning Commission
2877 W. Coon Lake Rd.
Howell, MI 48843

By email only

Re: Short-term Rentals

Dear Mr. Grunn:

This is in response to the Planning Commission's request for my input regarding the issue of short-term rentals and the many homes located in subdivisions on lakes in the Township. I have reviewed the zoning ordinance, including certain definitions that I think are relevant and the Ordinance is not very clear on this topic, certainly not as clear as it could be. I think the Township can take the position that this use isn't permitted for the reasons that follow in this letter. If the Township wishes to prohibit this use, or if it wishes to regulate them, then the issues I've outlined in this letter should be considered.

I reviewed the intent of the ERS: Existing Residential Subdivision District which is the district that would probably see the most potential for short term rentals. The Intent section of this District states: "It is the intent of the Existing Residential Subdivision District (ERS) to recognize the existence of existing platted residential subdivisions, developed prior to the adoption of this Ordinance, and to protect the character of these existing residential developments and hence the investment in them by current owners." The intent does discuss the issue of non-conforming lot sizes but then also states: "It is the intent of this District to recognize these residential developments as legitimate and conforming uses and provide for the continuance of these uses and their current character." (Emphasis added) It is my opinion that this can be taken to mean that this district is meant to allow for them to be used in a manner that maintains their essential character. Short-term rentals would/could be considered as being contrary to, or in conflict with, the intended character of this district. This purpose language could either be refined to more clearly state short term rentals are inconsistent with this purpose and not permitted or, if you want to allow them, then I suggest a brief reference to them in this section while also including them as a specific use with regulations accordingly. I will also say that I agree with John Enos that regulating these would present some significant issues and challenges.

I also have reviewed the following definitions from the zoning ordinance:

1. Dwelling, Single-Family: A building containing one dwelling unit and that is not attached to any other Dwelling;
2. Dwelling Unit: One or more rooms intended for occupancy as a separate living unit, with bathroom, kitchen facilities, and bedrooms provided in the unit for the exclusive use of a single family; (Emphasis added)
3. Family: A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit and having an intentionally structured relationship providing organization and stability; (Emphasis added)
4. Principal Use: The main use to which the premises are devoted and the main purpose for which the premises exist;
5. Use: The purpose for which land or a building is arranged, designed or intended, or for which land or a building may be occupied;

In considering these definitions, a single-family dwelling is a dwelling unit and, by definition, a dwelling unit is for the exclusive use of a single family. In the case of a dwelling that is being used for short term rentals, I doubt that it is being used for the exclusive use of a single family. It is, instead, being used by a succession of random occupants and often times used by groups of individuals, couples, etc. who do not meet the definition of family as defined in the ordinance and as I've underlined above.

I also question whether the short term rental use of the dwelling meets either the definition of principal use or use as spelled out in the ordinance. The dwelling was built to be a single-family dwelling, and, being used as a short-term rental property, I think, is inconsistent with those definitions.

I believe that each of the above definitions should be "tweaked" accordingly depending on whether the decision is to allow and regulate short term rentals or if the decision is to more clearly prohibit them. I'm not certain Principal Use or Use necessarily need to be amended depending on the ultimate decision that is made regarding short term rental.

If you have any questions or desire any further information, please contact me.

Yours truly,

MICHAEL J. KEHOE, P.C.

Michael J. Kehoe
Attorney at Law

Apply for farmland preservation funding

TWENTY-FOUR OF MICHIGAN'S counties and townships with qualified farmland preservation programs can apply for funding through a new grant opportunity offered by the Michigan Department of Agriculture and Rural Development and

GRANTS AVAILABLE: Awarded funds may be used by the local unit of government to purchase development rights from landowners who agree to place their farmland into a permanent conservation easement.

the Agricultural Preservation Fund Board.

Awarded funds may be used by the local unit of government to purchase development rights from landowners who agree to place their farmland into a permanent conservation easement. All grant applications require a minimum 25% fund match. The maximum amount paid from the Agricultural Preservation Fund toward the purchase price of the farmland development rights is \$7,500 per acre.

Those interested in applying can view the application, eligibility criteria and scoring system at the MDARD website, michigan.gov/mdard.

The grant application cycle for fiscal 2020 closes at 4 p.m. Dec. 23. All applications must be submitted via email to mdard-pdr@michigan.gov.

Applications will be reviewed through a competitive process. If you do not receive a confirmation email within three days of submission, call 517-284-5663 to confirm. Incomplete applications and applications received after the deadline will not be considered for a grant. Grant awards will be announced in the spring.

To qualify for an Agricultural Preservation Fund Board grant, a county or township must have zoning authority and be covered under a master plan that includes farmland preservation. Counties and townships interested in becoming qualified for future APFB grants should call Elizabeth Brost at 517-243-7949.

APFB is a seven-member, governor-appointed board that oversees the fund and was established to develop grant selection criteria and award grants to local units of government for the purchase of development rights on farmland.

SOURCE: MDARD, WHICH IS SOLELY RESPONSIBLE FOR THE INFORMATION PROVIDED AND IS WHOLLY OWNED BY THE SOURCE. INFORMA BUSINESS MEDIA AND ALL ITS SUBSIDIARIES ARE NOT RESPONSIBLE FOR ANY OF THE CONTENT CONTAINED IN THIS INFORMATION ASSET.