



Cass County Planning Commission

*Dan Stutsman
Richard Palmisano
Edwin Johnson III*

*David Kring
Annie File
Char Hiemstra*

*Jayne Bailey
Roseann Marchetti
Dianna McGrew*

Wednesday, April 26, 2023 at 4:00 PM

**Cass County Building
120 N. Broadway
Kincheloe Room (1st Floor)
Cassopolis, MI 49031**

Call to Order – 4:00 PM

Approval of Agenda

Approval of Minutes – March 22, 2023

Old Business:

New Business:

- 1. Milton Township – Rezoning – Colton Enterprises, LLC**
- 2. Howard Township – Zoning ordinance amendments**
- 3. Master Plan work continued**

Other Business:

Adjournment:

CASS COUNTY PLANNING COMMISSION

Meeting Minutes, March 22 2023

Meeting was called to order by Chair Dan Stutsman at 4:02 p.m.

Roll call: Dan Stutsman, Richard Palmisano, Jayne Bailey, Annie File, David Kring and Roseann Marchetti present.

Absent: Char Hiemstra, Diana McGrew and Edwin Johnson III.

Others: Bob Overmeyer, Doug Kuhlman, Carl Baxmeyer and Jerry Marchetti.

Approval of Agenda: David Kring moved to approve the agenda, seconded by Richard Palmisano and motion carried.

Approval of Minutes: Richard Palmisano moved to approve the February 22, 2023 minutes, seconded by Ann File and motion carried.

OLD BUSINESS: None.

NEW BUSINESS:

Calvin Township: There were two proposed text amendments from Calvin Township. Zoning Administrator Doug Kuhlman was present and answered questions on the crematory, which are licensed in Michigan by LARA. Ann File made a motion to approve the addition of a crematory as a special land use. Seconded by David Kring and motion carried. Roseann Marchetti made a motion to approve the new set back requirement language, seconded by Richard Palmisano and motion carried.

Master Plan: We have three townships, Volinia, Wayne, and Pokagon, and the Village of Vandalia joining to be a part of the County Master Plan. Discussion followed. Administrator Matt Newton entered meeting to introduce himself. There was discussion with Administrator Newton on how to charge the three townships and village. Richard Palmisano made a motion to accept the proposal that the County take the lead in the original proposal from Carl Baxmeyer of Wightman and charge each of the four entities \$1,500.00 plus the cost of mapping and printing. If further maps are desired, each entity can decide and any extra cost would be theirs. Jayne Bailey seconded the motion and motion passed

by roll call - File yes, Kring yes, Bailey yes, Stutsman yes, Palmisano yes, and Marchetti yes. Discussion followed. Carl was asked about doing a forward moving document, one that could guide the townships. Also discussed was how best to get out the surveys. As far as the public hearings go, each township will need to send out the information for their public hearings. Suggestions followed for getting out the surveys. There are county events where the surveys can be handed out and collected. Those events include the fair, courthouse events and any other events in Cassopolis.

Meeting adjourned at 5:05 p.m.

Respectfully submitted,

Roseann Marchetti



Cass County Planning Commission

Checklist



Dear Local Government Official:

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

WE NEED A MEMBER OF YOUR PLANNING COMMISSION TO ATTEND THE COUNTY PLANNING COMMISSION MEETING TO FURTHER EXPLAIN THE REQUEST AND TO ANSWER QUESTIONS.

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

Date: March 28, 2023

Signed: [Signature]



Milton Township

32097 Bertrand St., Niles, MI 49120 Phone (269)684-7262 Fax (269)684-1742
Email: milton@miltontwp.org Website: www.miltontwp.org

March 28, 2023

Cass County Planning Commission
120 N. Broadway, Suite 200
Cassopolis, MI 49031

Re: Map Amendments

Dear PC Members:

On March 7, 2023, the Milton Township Planning Commission held a Public Hearing for a rezoning request of parcel 14-070-007-009-00, located at 33381 U.S. 12, Niles, MI 49120, from Single Family Residential to Commercial. This is in our master plan and shown on our Future Land Use map as allowed.

We ask that you review this information at your next Planning Commission meeting and send us a letter giving your opinion on the subject matter.

Sincerely,

Eileen Glick
Zoning Administrator

Milton Township Planning Commission Meeting Minutes
March 7, 2023

Call to Order/Pledge of Allegiance:

1. The meeting was called to order at 7pm by Chairperson Shirk
2. Pledge of Allegiance was recited
3. Members Present: Clanton, Egert, Shirk, Kretchman, Kraft, Sokol (Member not present: JT McDonald)

Approval of Agenda:

- a. Kraft made a motion to approve the agenda
- b. Kretchman seconded the motion
- c. No discussion
- d. Motion carried

Approval of Previous Minutes: March 7, 2023

Clanton made a motion to accept the 2/7/23 meeting minutes as written

- a. Kraft seconded the motion
- b. No discussion
- c. Motion carried

Anyone wishing to Speak to the Planning Commission: (limited to 3 minutes per person and not related to public hearing topics)

NONE

Community Reports:

1. Zoning Administrator - 9 building permits pulled to date with a most recent new home permit for \$1,100,000. She stated that the owner of the junk yard on Hwy 12 stays in touch and continues to work on cleanup but pace has slowed a bit. Bell Rd property still full of vehicles though she has sited owner several times and stated that it's time to involve attorneys.
2. Township Board Representative - Discussion about Broderick Way & May St being resurfaced.
3. Zoning Board of Appeals Representative - NONE

Public Hearing:

Chairperson Shirk read aloud from the agenda the Chairperson comments regarding public hearing procedure. Chairperson calls to attention the rezoning of 33381 US 12, Niles MI 49120 (Parcel ID#14-070-007-009-00) and welcomes owner John Tiffany of 703 N. Eddy St., South Bend IN 46617. Mr. Tiffany requests that the property be rezoned from residential to commercial. He states that he plans to keep the existing house occupied with his current tenants and has no immediate plans to change anything on the property. Long term plans do include commercial development.

Chairperson Shirk asks if there are any comments in support or opposition of the proposal and there are none. Member Clanton motions to accept the proposal and Member Kraft seconds. The individual pole of members for acceptance is as follows:

Clanton yes
Kretchman yes
Shirk yes
Kraft yes
Sokol yes
Egert yes

Chairperson states that motion carries.

Old Business:

1. Solar farms zoning

Chairperson Shirk to soon make available to the PC printed copies of the proposed solar sample zoning from MI REDI project and the proposed solar zoning the had been previously sent to the BOT from the PC. Much continued discussion regarding the two MI REDI town hall meetings and the printed results and/or surveys of residents opinions from those two meetings. Chairperson Shirk to look into getting those results.

2. 2023 Road Projects - Shirk asked why Follmer St. didn't get done last year. Egert stated that Cass County Rd Commission ran out of season. The BOT is looking at having May and Broderick Way resurfaced.

New Business:

NONE

Board Member Comments:

NONE

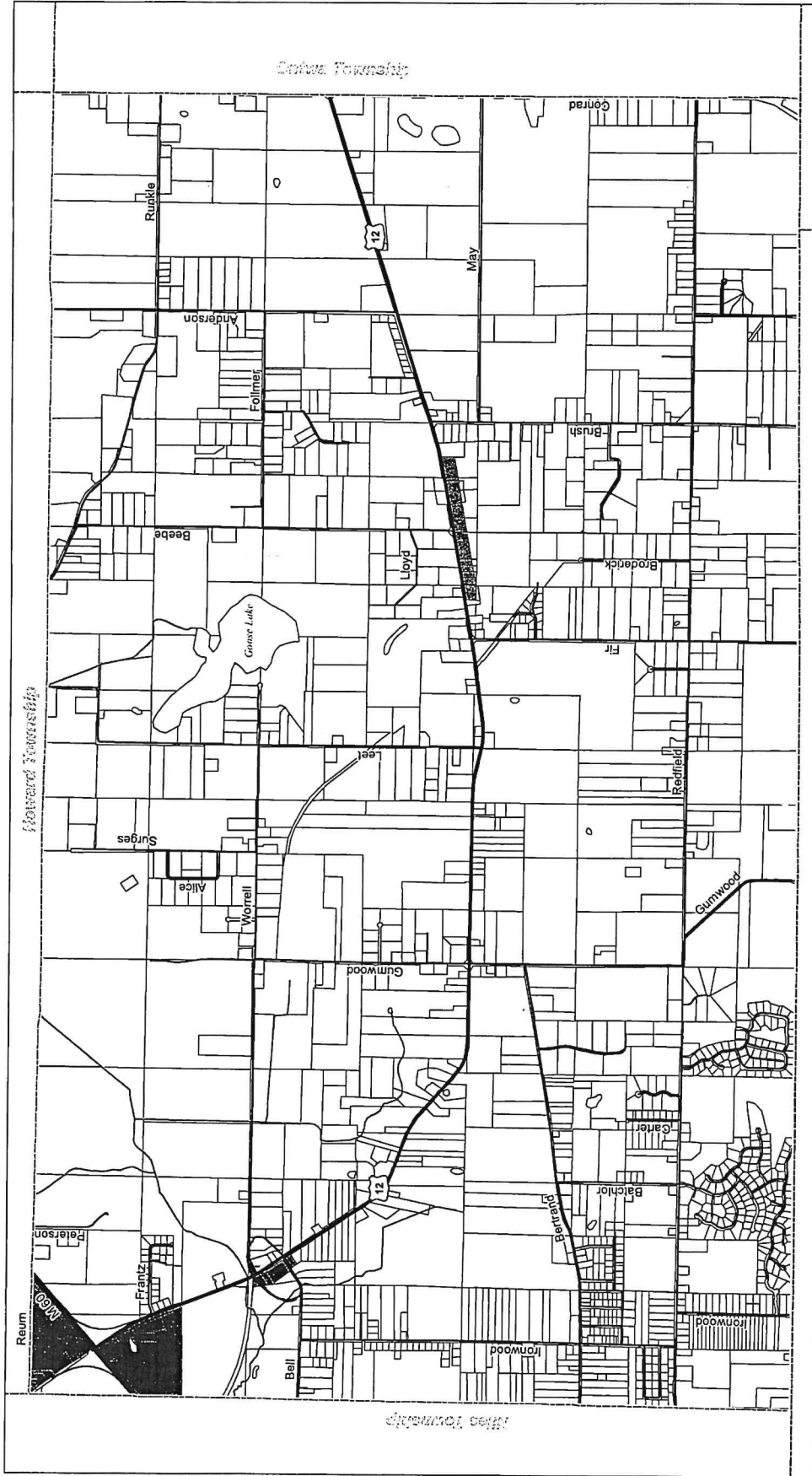
Announcements:

NONE

Adjournment:

1. Clanton made a motion to adjourn
2. Egert seconded the motion

Meeting adjourned at 8:05pm



Milton Township Master Plan

Cass County, Michigan

Map 11. Future Land Use

Future Land Use

- Agricultural Production
- Rural Residential
- Single Family Residential

Medium-Density / Multi-Family Residential

- Commercial
- Industrial

1 inch = 2,250 feet
0 2,250 4,500 Feet



Source Data:
State of Michigan Center for Geographic Information, Cass County

NOTICE OF PUBLIC HEARING Proposed Property Rezoning

MILTON TOWNSHIP, CASS COUNTY, MI
32097 Bertrand Street
Niles, MI 49120

To: The residents and property owners of Milton Township, Cass County Michigan and any other interested parties.

PLEASE TAKE NOTICE the Milton Township Planning Commission will hold a Public Hearing during its regular monthly meeting on Tuesday, March 7, 2023, at 7:00 p.m., at the Milton Township Hall, 32097 Bertrand Street, Niles, MI 49120, for the purpose of considering a rezoning of parcel 14-070-007-009-00, 33381 U.S. 12, Niles, MI, pursuant to Chapter 18, Section 18.06 (b) of the Milton Township Zoning Ordinance.

PLEASE TAKE FURTHER NOTICE that the items to be considered at said Public Hearing and Meeting location include, in brief, the following: The consideration, and taking of, Public Comments reference a rezoning application submitted by Colton Enterprises LLC Et AL, to rezone a 3.46 acre parcel from the Single Family Residential District to the Commercial District.

Legal Description:

Beg at a pt in the ctr of the hwy which is N 54° 08' E 483' frm the SW corner of the N ½ of the NE ¼ of Sec 7, T8S, R16W; th N 35° 52' W 480.7 ft; th N 56° 21' E 380 ft to the center of Michigan State Trunkline US-12; th Southeasterly on the hwy 466.7 ft; th S 54° 08' W 361.5 ft to the POB, being in the Township of Milton, Cass County, Michigan.

Excepting therefrom: that pt of the above described parcel which lies Northeasterly of a line described as: Comm at the NE corner of Sec 7, T8S, R16W, th N 89° 22' 30" W, along the N line of said Sec 7, a distance of 2498.20 ft; th S 21° 37' 30" E, along the survey line of HWY US-12, a distance of 72.60 ft; th continuing along said survey line of HWY US-12 S 33° 15' 30" E, a distance of 861.06 ft to the pt of intersection with Bell Road; the S 54° 31' 30" W, along the survey line of Bell Road and the Southeasterly line of the above parcel, a distance of 78.76 ft to the POB; th N 35° 28' 30" W, 33 ft; th N 13° 14' 44.6" E, 45.44 ft; th N 33° 15' 30" W, a distance of 500 ft to the POB.

PLEASE TAKE FURTHER NOTICE that written comments will be taken from any interested persons concerning these proposed map amendments, at the Milton Township Hall, at the address above, at any time during regular business hours up to the night of the meeting.

PLEASE TAKE FURTHER NOTICE that any persons interested in this rezoning are invited to attend the Public Hearing. Copies of the Application to Rezone and applicable maps are available for inspection at the Milton Township Hall during regular business hours. If you are planning to attend this hearing, and require auxiliary aids or services, should contact the Township Clerk by calling 269-684-7262 as soon as possible.

Milton Township Planning Commission

Milton Township
1829

Milton Township

32097 Bertrand St., Niles, MI 49120 Phone (269)684-7262 Fax (269)684-1742
Email: milton@miltontwp.org Website: www.miltontwp.org

Application for Rezoning

Property Location/Address: **33381 US 12, NILES, MI 490**

Parcel/Property ID#: **14-070-007-009-00**

Name of Owner: **Colton Enterprises LLC**

Name of Applicant: **John Tiffany; Joseph Tiffany; Dmitri Adams**

Phone: **John: 574-254-7653; Joe: 574-339-3964; Dmitri: 765-543-2852**

Address of Applicant: **706 N. Eddy St, South Bend, IN 46617**

Applicant's Interest in the Property if not the Owner: **rezone to build storage units**

Signature of Applicant: *John Tiffany* Date: **12/29/2022**
DocuSigned by: 1D1F0B4E568148D...

Reason for Rezoning Request, Including a Description of the Proposed Uses for the Property:

We would like to put Storage Lockers at this location.

Description of Sewage Disposal and Water Supply Facilities and Proposed Surface Drainage:

This property has a well and septic tank. This new business will have minimum water and sewage use. There should be no problem keeping it as is.

Please attach a legal description of the property and a site plan drawn to scale showing the dimensions of the property and the location of all existing improvements. (Note: Fees as listed on the Milton Township Schedule of Fees must accompany this application.)

For Office Use Only

Date of Review by Zoning Administrator/Application Complete: _____

Recommendations: _____

Date of Public Hearing: _____

Date of Planning Commission Review: _____

Recommendations: _____

Date of Board Action: _____

Reason for Board Action: _____

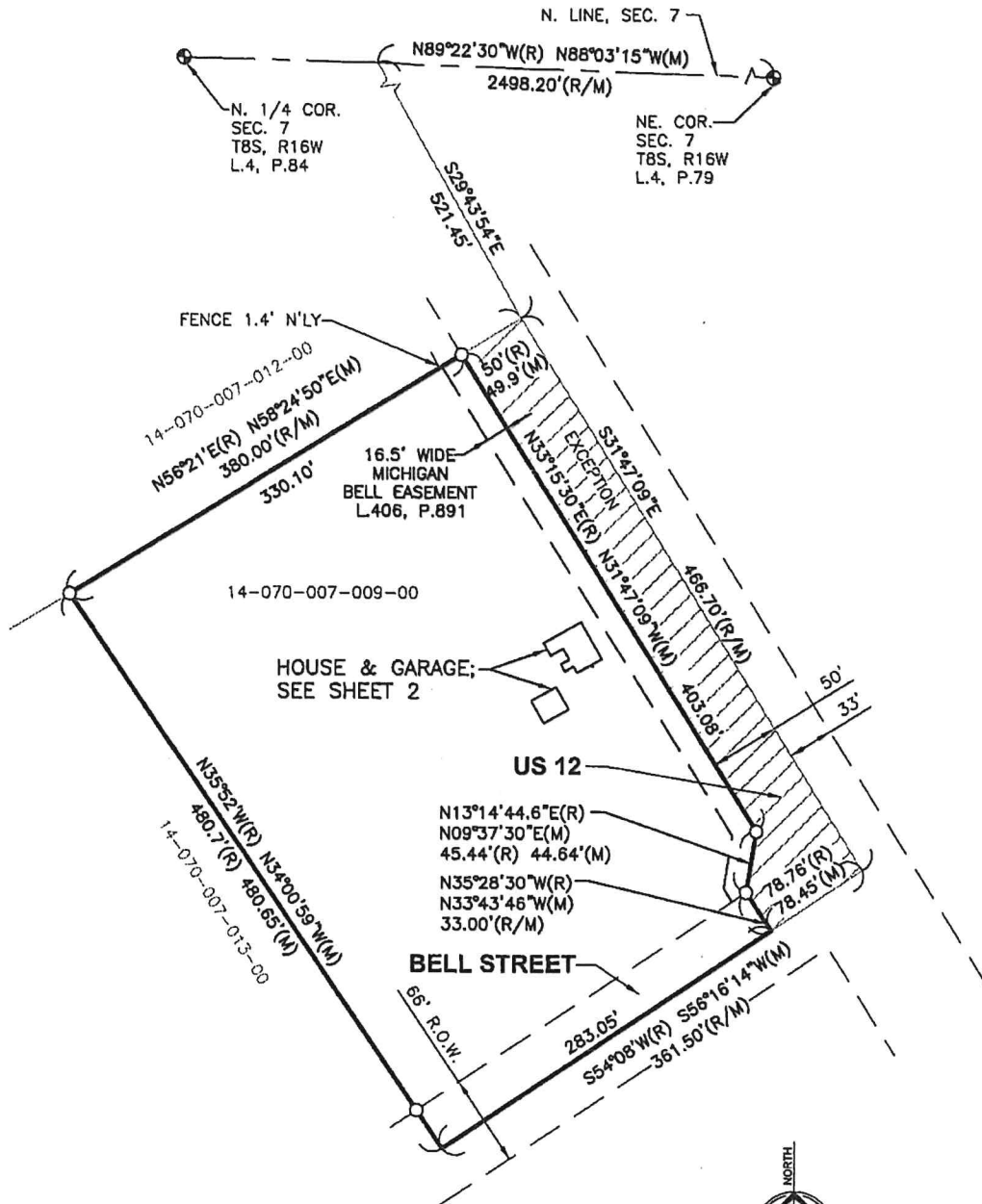
Approved/Denied and Date: _____





CERTIFICATE OF SURVEY

33381 US 12
MILTON TOWNSHIP, CASS COUNTY, MICHIGAN



LEGEND

- ⊕ - MONUMENT
- - FOUND IRON STAKE
- - SET IRON STAKE
- - SET WOOD STAKE
- M - MEASURED DIMENSION
- P - PLATTED DIMENSION
- R - RECORDED DIMENSION
- X-X- - FENCE

NOTE:

This survey was made from the description shown on page 2, provided by Meridian Title Corporation commitment no.:22-25784. The description should be compared with the Abstract of Title or Title Policy for accuracy, easements and exceptions. We certify that we have examined the premises described, that buildings and improvements are within the property lines, and that they do not encroach except as noted. All dimensions are as measured unless noted otherwise. Basis of Bearings: Michigan State Plane Coordinates, Michigan Zone South.



21213 Mile Rd. NW
Walker, MI 49544
Ph: 616-301-7888
www.LREMI.com

CLIENT:

TIFFANY REAL ESTATE ADVISORS

PROJECT NUMBER: 22-004.171

DATE: OCTOBER 24, 2022

SURVEYED BY: ADK

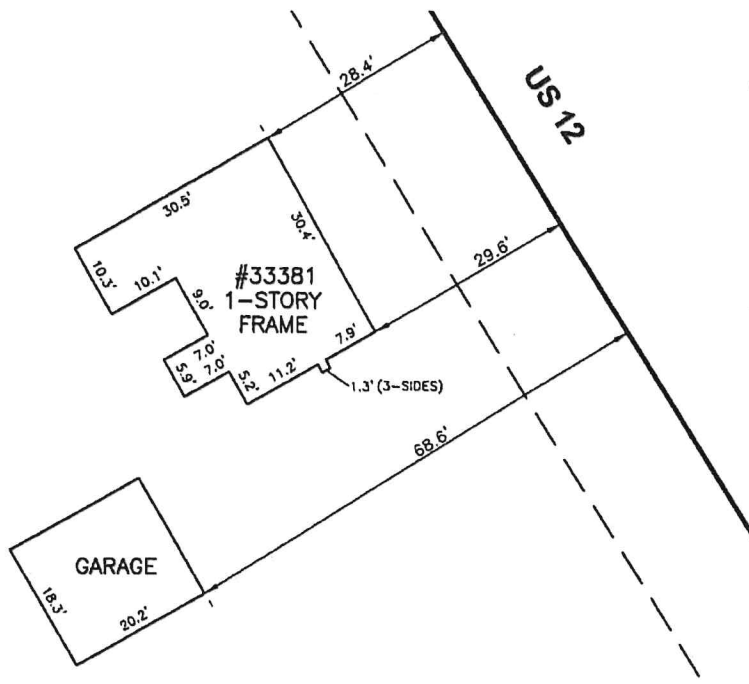
SHEET NUMBER:

CHECKED BY: RLB

DRAFTED BY: KJB

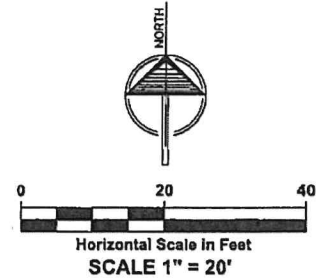
1 of 2

CERTIFICATE OF SURVEY
33381 US 12
MILTON TOWNSHIP, CASS COUNTY, MICHIGAN



LEGEND

- ⊕ - MONUMENT
- - FOUND IRON STAKE
- - SET IRON STAKE
- - SET WOOD STAKE
- M - MEASURED DIMENSION
- P - PLATTED DIMENSION
- R - RECORDED DIMENSION
- X-X-X- - FENCE



DESCRIPTION

The land referred to herein below is situated in Milton Township, Cass County, State of Michigan, and is described as follows:

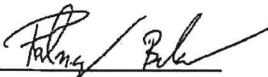
Beginning at a point in the center of the Highway which is North 54° 08' East 483 feet from the Southwest corner of the North Half of the Northeast Quarter of Section 7, Town 8 South, Range 16 West; thence North 35° 52' West 480.7 feet; thence North 56° 21' East 380 feet to the center of Michigan State Trunkline US-12; thence Southeasterly on the highway 466.7 feet; thence South 54° 08' West 361.5 feet to the place of beginning, being in the Township of Milton, Cass County, Michigan.

EXCEPTING THEREFROM: That part of the above described parcel which lies Northeasterly of a line described as: Commencing at the Northeast corner of Section 7, T8S, R16W, Township of Milton, Cass County, Michigan; thence North 89 degrees 22' 30" West, along the North line of said Section 7, a distance of 2498.20 feet; thence South 21 degrees 37' 30" East, along the survey line of Highway US-12, a distance of 72.60 feet; thence continuing along said survey line of Highway US-12 South 33 degrees 15' 30" East, a distance of 861.06 feet to the point of intersection with Bell Road; thence South 54 degrees 31' 30" West, along the survey line of Bell Road and the Southeasterly line of the above parcel, a distance of 78.76 feet to the point of beginning; thence North 35 degrees 28' 30" West, 33 feet; thence North 13 degrees 14' 44.6" East, 45.44 feet; thence North 33 degrees 15' 30" West, a distance of 500 feet to the point of ending.

Parcel ID: 14-070-007-009-00
Address: 33381 US 12, Niles
Contains: 3.46 Acres

CERTIFICATION

To: (I) Kamboj, Inc.
(II) Tiffany Group Real Estate Advisors

By: 
Rodney L. Bredeweg

Licensed Professional Surveyor No. 4001060788

I hereby certify that I have surveyed and mapped the following described parcel of land in accordance with ACT 132, P.A. 1970, as amended. And that the error in the relative position of points does not exceed one part in 5,000 or 0.15' where the total length of traverse is not greater than 750 feet.





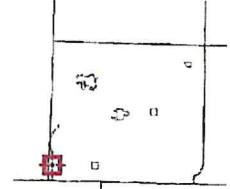
ENGINEERS & SURVEYORS

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

CLIENT: TIFFANY REAL ESTATE ADVISORS		
PROJECT NUMBER: 22-004.171	DATE: OCTOBER 24, 2022	
SURVEYED BY: ADK	SHEET NUMBER:	
CHECKED BY: RLB		
DRAFTED BY: KJB		
		2 of 2



Overview



Legend

-  Municipalities
-  Townships
- Roads**
 -  CITY/VILLAGE LOCAL
 -  CITY/VILLAGE MAJOR
 -  COUNTY LOCAL
 -  COUNTY PRIMARY
 -  FEDERAL TRUNKLINE
 -  STATE TRUNKLINE
 -  <all other values>
-  Parcels
-  Parcel Numbers

Parcel ID	14-070-007-009-00	Alternate ID	n/a	Owner Address	COLTON ENTERPRISES LLC ET AL
Sec/Twp/Rng	007-08S-16W	Class	401 - RESIDENTIAL-IMPROVED		706 N EDDY ST
Property Address	33381 US 12	Acreage	3.74		SOUTH BEND, IN 46617
	NILES				

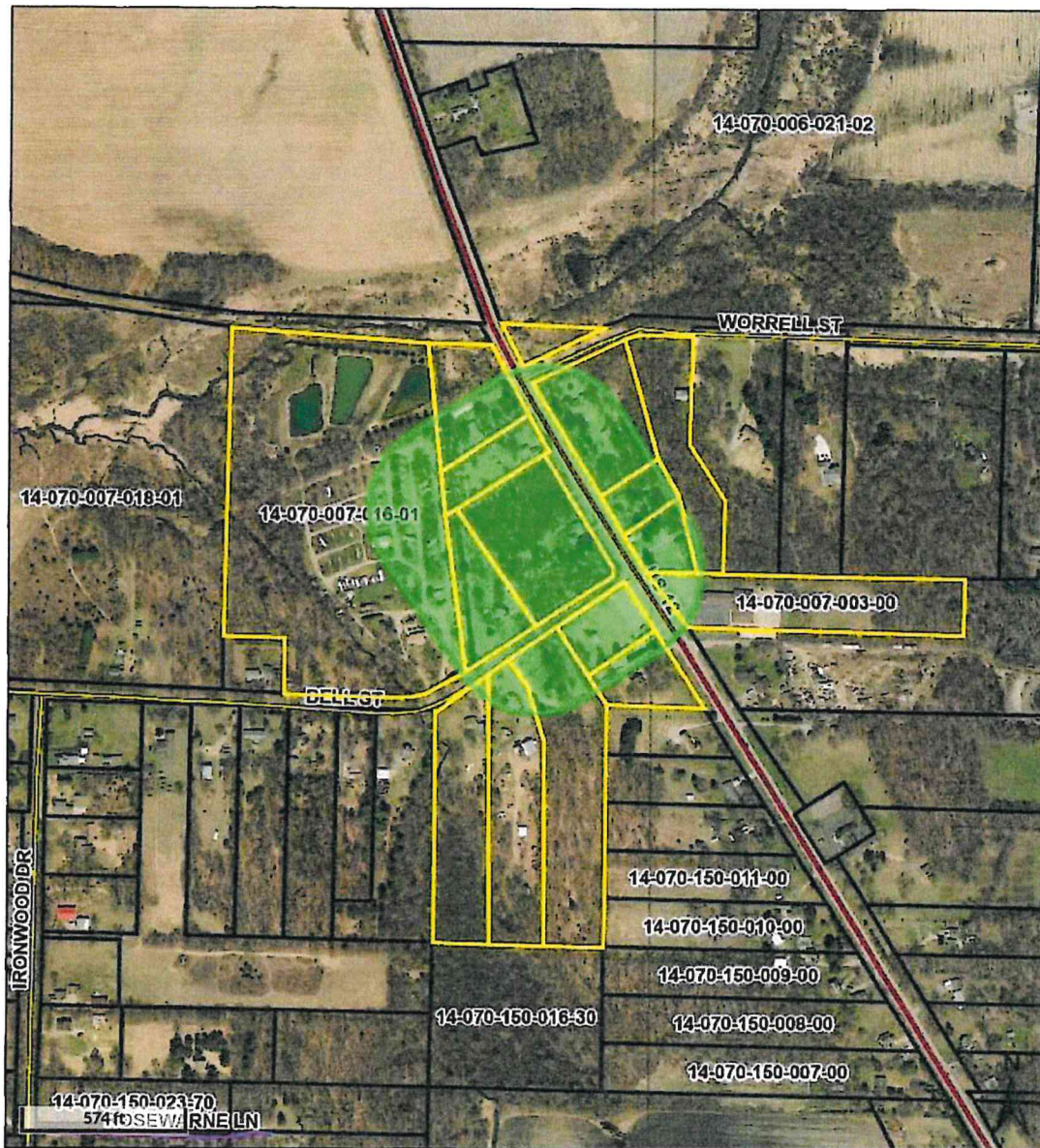
District 11210 BRANDYWINE PUBLIC SCH DIST

Brief Tax Description 385-1142, 361-552, 81, T8S R16W, COM N54°8'E 765.74 FT FRM SW COR N 1/2 NE 1/4, TH S54°18'W 282.74 FT, N35°52'W 480.7 FT, N56°21'E 380 FT, S33°15'30"E TO PT N35°28'30"W 33 FT & N13°14'44"E 45.44 FT FRM BEG, S13°14'44"W 45.44 FT, S35°28'30"E 33 FT TO BEG (

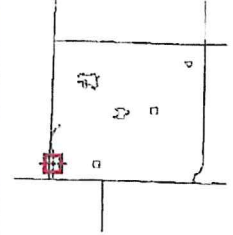
(Note: Not to be used on legal documents)

Date created: 2/2/2023
Last Data Uploaded: 2/2/2023 6:13:17 AM

Developed by  **Schneider**
GEOSPATIAL



Overview



Legend

-  Municipalities
-  Townships
- Roads**
 -  CITY/VILLAGE LOCAL
 -  CITY/VILLAGE MAJOR
 -  COUNTY LOCAL
 -  COUNTY PRIMAR
 -  FEDERAL TRUNKLINE
 -  STATE TRUNKLINE
 -  <all other values>
-  Parcels
- Parcel Numbers**

Date created: 2/2/2023
Last Data Uploaded: 2/2/2023 6:13:17 AM

Developed by  **Schneider**
GEOSPATIAL

Results

15 Results

Parcel ID	Owner	Property Address	City
14-070-007-001-00	FRUCCI DAVID J	33408 US 12	NILES
14-070-007-003-00	LAKE REGION CONFERENCE OF	33332 US 12	NILES
14-070-007-004-00	ZELLMER ERIC W	33374 US 12	NILES
14-070-007-005-00	KEETON REBEKAH M	33368 US 12	NILES
14-070-007-006-15	CARNES DEAN A & KAREN R	33301 WORRELL ST	NILES
14-070-007-009-00	COLTON ENTERPRISES LLC ET AL	33381 US 12	NILES
14-070-007-011-00	RIENKS JEFF A	33415 US 12	NILES
14-070-007-012-00	MATTHEWS SHAWN	33407 US 12	NILES
14-070-007-013-00	BATMAN DONNIE W	33438 BELL ST	NILES
14-070-007-016-01	BGRC LLC	33524 BELL ST	NILES
14-070-150-015-01	LIVENGOD LEE & RUTH	33321 US 12	NILES
14-070-150-015-10	S & S MILTON LLC	33331 US 12	NILES
14-070-150-016-00	POINTER ANTHONY	33465 BELL ST	NILES
14-070-150-016-60	KELEMS GREGORY & TAMMY	33471 BELL ST	NILES
14-070-150-016-90	NATELBORG STEVEN	33497 BELL ST	NILES

Field Export

15 Results

Select export file format:

Excel (.xlsx)



Download

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Developed by
 **Schneider**
 GEOSPATIAL



Milton Township

32097 Bertrand St., Niles, MI 49120 Phone (269)684-7262 Fax (269)684-1742
Email: milton@miltontwp.org Website: www.miltontwp.org

STAFF REPORT

33381 US 12 Rezoning Request

Colton Enterprises LLC, John Tiffany, Joseph Tiffany and Dimitri Adams, 702 N. Eddy St, South Bend, IN 46617, has submitted an application to rezone the property located at 33381 US 12 from the Single Family Residential zoning district to the Commercial zoning district. A map amendment (rezoning) is allowed in Section 18.06 b. of the Milton Township Zoning Ordinance.

Review Standards. When reviewing an application for rezoning, the following criteria must be considered by the Planning Commission pursuant to Section 18.06(b) of the Milton Township Zoning Ordinance. The standards are as follows:

1. Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the Milton Township Master Plan; or, if conditions have changed significantly since the Master Plan was adopted, the consistency with recent development trends in the area.

Remarks: The current Township Master Plan was recently updated in July of 2019. This plan establishes general land use patterns to guide future development of the township. The future land use map indicates that the property is within the Commercial zoning district.

2. Whether the proposed district and the uses allowed are compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.

Remarks: It depends on what commercial use is established there. All commercial plans and construction must be approved by the Planning Commission. It will be up to them, through the Site Plan Review process, to ensure compatibility.

3. Whether, if rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure including roads, sanitary sewers, storm sewer, water, sidewalks, and road lighting.

Remarks: Once again, it depends on what commercial use is established there. All commercial plans and construction must be approved by the Planning Commission. It will be up to them to ensure the site can accommodate any future use through our Site Plan Review process.

4. Other factors deemed appropriate by the Planning Commission.

Remarks: I have none.

Recommendation

At the March 7, 2023, Public Hearing, the Planning Commission should listen carefully to comments from the applicant and public, regarding the request. Subject to those comments, it is my recommendation that the Planning Commission recommend approval of the proposed rezoning to the Township Board. The Planning Commission may rely on the findings in this report as justification in making this recommendation.

Eileen Glick
Zoning Administrator



CASS COUNTY PLANNING COMMISSION

CHECKLIST ✓

Dear Local Government Official:

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

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

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

Date: 4/18/2023

Signed: [Signature]

Howard Charter Township

1345 Barron Lake Road, Niles, MI 49120

Ph: 269-684-0072

Fax: 269-684-6181

April 18, 2023

Planning Commission, Cass County
120 N. Broadway
Cassopolis, MI 49031

Re: Zoning Ordinance #192 Amendments

Planning Commission Chairman,

Enclosed you will find information in regards to amendments to Howard Charter Township Zoning Ordinance #192, for review by the Cass County Planning Commission.

Per the enclosed Howard Charter Township Planning Commission meeting minutes, you will find the following approved motion:

1. To amend Zoning Ordinance #192, Chapter 15 to amend Section 15.28 Medical Marihuana; Section 15.16 Home Occupations; and Section 15.08 Fence and Wall Regulations.

If at all possible, I would like to get this on the agenda for your April 26, 2023 meeting so that we can finalize at the Howard Charter Township Board meeting in May. I will be attending your PC meeting. Please contact me with any questions you might have.

Thank you.

Respectfully,

Linda J McGregor
Zoning Administrator
Howard Township
ph: (269) 684-0072
email: howardza@comcast.net

enclosures

HOWARD CHARTER TOWNSHIP
Planning Commission – Regular Meeting Minutes
April 5, 2023 7:00 p.m.

Call to Order/Pledge/Roll Call

Chairman Scott Miller called the regular meeting of the Howard Charter Township Planning Commission to order at 7:00 p.m. The meeting was held at the Howard Charter Township Office. Pledge to the Flag was given. Scott Miller, Phil Hurlbutt, Debbie Johnson, Tom Hable and Dawn Stanage answered roll call. Zoning Administrator, Linda McGregor, was also present.

Agenda

A motion was made by D. Johnson, supported by P. Hurlbutt to approve the Meeting Agenda, carried.

Minutes

A motion was made by T. Hable, supported by D. Johnson to approve the February 1, 2023 regular meeting minutes as written, carried.

Old Business

None.

New Business

L. McGregor read amendments to Zoning Ordinance #192 Section 15.08 Fence and Wall Regulations, Section 15.16 Home Occupations, and Section 15.28 Medical Marihuana. L. McGregor read the Public Hearing Rules. The Zoning Administrator had no correspondence. No board members had a conflict of interest.

Chairman S. Miller opened the public hearing at 7:08. L. McGregor explained how zoning ordinances are enforced and the process for amendments. Rebecca Medlin, 2555 Huntly and Debbie Bartak, 1422 Alman St. asked for clarification of Section 15.16 Home Occupations. L. McGregor explained that a sentence is being added to give the Zoning Administrator the ability to decide that if the home occupation is not produced on the premises it could still be similar in nature and therefore it could be approved.

Bruce Gescheidle, 2490 White St. brought up the question on how to be compliant with the ordinances if you don't know what they are. L. McGregor stated that the public is welcome to come to the township office and look at the ordinance book or she will send, by email, the ordinance in question. She stated the website is a work in progress and when amendments are done, we will try to get them on the website. John Medlin, 2555 Huntly indicated that he had to purchase a Zoning Ordinance book for \$30. Mr. Gescheidle stated he has a hard time reading anything on the computer and cannot get it big enough for him to see.

Mary Chapman, 1213 Thomson, asked about a vegetable stand and the Home Occupation ordinance. It was explained that a fruit stand is seasonal and does not fall under this ordinance.

Rebecca Medlin read a letter she wrote directed at L. McGregor regarding the vendor fair she had been holding which was given a citation. L. McGregor did not respond to the letter stating this was not the time and this public hearing was for amendments to the ordinance. Rebecca would like to know how to resolve the issues that she is having. L. McGregor stated that she was available to discuss the issue spoke with the township's attorney today about this issue and is working on what can be done according to the law to allow the event to take place.

Beth Pompeii, Zoning Solutions LLC, addressed a question about blight enforcement stating the Planning Commission meeting was not the time for this and it could be addressed at a Township Board meeting.

Sebastian Boling, 2723 Horton, expressed that he believes we can have these issues amicably resolved.

There was also a complaint about medical marihuana. L. McGregor discussed changes to the Medical Marihuana ordinance and explained that when a complaint is brought to her, she reviews the ordinance and updates as needed. It appears that residents are doing more than they are allowed to and restrictions need to be reviewed.

Todd Mokwa, 1110 Carberry Rd was had multiple comments on the ordinances and what we should be able to do with our own properties.

Jim Rohl, 2727 Horton Ct stated that he thought whomever complained should have to provide their name. It was explained that, by law, you can not force anyone to give their name.

Chairman Scott Miller closed the public hearing at 8:07 p.m.

D. Johnson, referring to Section 15.16 Home Occupation ordinance, asked how long this had been in place. L. McGregor indicated for at least 17 years. D. Johnson stated to make it clear that only the last sentence is being added which states "If not produced on the premises, the Home Occupation Application could be considered on an individual basis by the Zoning Administrator."

T. Hable made a Motion to accept Section 15.28 Medical Marihuana as amended, supported by P. Hurlbutt, carried.

T Hable made a Motion to accept Section 15.16 Home Occupations as amended, supported by P. Hurlbutt, carried.

T. Hable made a Motion to accept Section 15.08 Fence and Wall Regulations as amended, supported by D. Johnson, carried.

ZBA Representative Update/Comments

Nothing to report.

Public Comments

James Johnson, 1035 Bame, asked about the Home Occupation ordinance believing it was referring to the people that occupy a residence. It was explained that this ordinance is about home occupations not to the issuance of occupancy.

PC Board Comments

None.

Adjournment

A motion was made by P. Hurlbutt, supported by D. Johnson to adjourn the meeting at 8:16 p.m., carried.

Submitted by:

Dawn Stanage, PC Secretary

Section 15.28 Medical Marihuana

The medical use, growing, and processing of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008 and the Administrative Rules (Administrative Rules) of the Michigan Department of Community Health as they may be amended from time to time.

Nothing in this section or in any companion regulatory provision adopted in any other provision of this Ordinance is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the MMMA and the Administrative Rules. Also, since Federal law is not affected by the MMMA or the Administrative Rules, nothing in this section, or in any companion regulatory provision adopted in any other provision of this Ordinance, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. Neither this Ordinance nor the Michigan Medical Marihuana Act protects users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act.

It is not the intent of this section to broaden the strict interpretation of the MMMA to apply to activities not explicitly provided for therein nor is it the intent of this section to encourage or sanction the cultivation, processing, refinement, distribution, transfer or use of marihuana except as permitted by a strict application of the terms of the MMMA and any rules or regulations duly enacted.

The voters of the State of Michigan approved by initiative and referendum the use of marihuana by Qualifying Patients for certain medical conditions and established as a legitimate activity that individuals with appropriate credentials may assist Qualifying Patients in the use of marihuana under the provisions of the MMMA

Despite the provisions of the MMMA, marihuana remains a controlled substance under Michigan and Federal law and if its use is not carefully monitored and regulated, there exists significant potential for abuse and illegal conduct that can threaten the health, safety and welfare of the residents of Howard Township.

Howard Township neither supports nor opposes the legitimate medicinal use of marihuana by Qualifying Patients in compliance with the MMMA, but finds that it has an obligation to residents and property owners to effectively mitigate potential secondary impacts that could result from the Primary Caregiver activity.

Medical Marihuana use by a registered primary caregiver (caregiver) shall be a permitted use only in AR Agricultural Residential, R1 Low Density Residential, R4 Lake Residential, R3 Manufactured Housing Park and the residential portion of the C1 Mixed Use District pursuant to compliance with the Administrative Rules, the MMMA, and the requirements of this section.

The requirements for a primary caregiver shall be as follows.

- A. A caregiver must be located outside of a one thousand (1,000) foot radius from any real property as follows: a daycare facility, a place of religious worship, recreational facilities and any school or college. Measurements for purposes of this section shall be made from parcel/lot/site boundary to parcel/lot/site boundary.
- B. Not more than one (1) caregiver within a single-family dwelling shall be permitted to service qualifying patients who do not reside with the primary caregiver. A primary caregiver shall not operate within an apartment building, multi-family residential building or similar housing. **Only one (1) caregiver may**

reside in a single-family dwelling. The caregiver must reside within the same single-family dwelling where he or she is growing Medical Marihuana. Outdoor grow of Medical Marihuana is prohibited.

- C. No signage is permitted regarding medical marihuana.
- D. Growing operations shall be fully contained within a locked and secured building or in any other facility or manner as permitted by the MMMA.
- E. All necessary building, electrical, plumbing and mechanical permits shall be obtained in which, building, electrical wiring, lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana.
- F. If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 11 p.m. and 7 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.
- G. The primary caregiver shall deliver medical marihuana to their qualified patients. No dispensing or sale of medical marihuana shall occur on the premises of the primary caregiver.
- H. It shall be considered unlawful for any person or persons to establish or operate a profit or non-profit medical marihuana dispensary, collective, cooperative or smoke house within the Township.

Definitions – As used in this section

Marihuana, also known as Marijuana or Cannabis: This term shall have the meaning given to it in the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3 of the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, and MCL 333.26423.

Marihuana Collective or Cooperative: Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed that is formed by a group or individuals in a group acting together as a collective enterprise or by an organization owned collectively by members who share in the benefits owned as a cooperative or in any way structured like a collective or a cooperative.

Marihuana Dispensary or Dispensatory: Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two (2) or more of the following: a registered primary caregiver, a registered qualifying patient, or a person with an identification card or in possession of an application for an identification card. The term “dispensary” shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five (5) or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008; and the Administrative Rules of the Michigan Department of Community Health.

Medical Use of Marihuana: The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act, Initiated Law 1 of 2008.

Primary Caregiver: Primary caregiver or caregiver means a person as defined, and who has been issued and possesses a Registry Identification Card, under the, Michigan Medical Marihuana Act, Initiated Law 1 of 2008.

Qualifying Patient or Patient: Qualifying patient or patient means a person as defined, and who has been issued and possesses a Registry Identification Card, under the Michigan Medical Marihuana Act, Initiated Law 1 of 2008.

Registry Identification Card: Registry Identification Card means a document as defined under the Michigan Medical Marihuana Act, Initiated Law 1 of 2008.

Smoke House: Smoke house means a facility that allows multiple qualifying patients to consume or ingest medical marihuana upon the premises.

AMENDMENT TO SECTION 15.16
HOWARD TOWNSHIP ZONING ORDINANCE #192
(General Provisions and Exceptions)

Section 15.16 Home Occupations

Definition: Any occupation conducted within a dwelling unit or accessory building and carried on by the inhabitants thereof. Home occupations shall be clearly incidental and secondary to the use of the dwelling for living purposes, shall not change the character thereof, and shall not endanger the health, safety, and welfare of any other persons residing in that area by reason of, but not limited to, noise, noxious odors, unsanitary or unsightly conditions, fire hazards, traffic, and the like, involved in or resulting from such occupation, profession or hobby.

Purpose: The purpose of this section is to ensure that home occupations will not be a detriment to the character and livability of the surrounding neighborhood. The intent of this section is to establish standards for all home occupations and to ensure that home occupations remain subordinate to the residential use.

A home occupation may be permitted in a single family detached dwelling within a zoning district where such dwelling is permitted, subject to the following conditions:

- A. Home occupation applications shall be reviewed for compliance with the requirements of this section and approved by the Zoning Administrator. A zoning compliance application shall include the additional home occupation form and be accompanied by a letter indicating the nature of the home occupation with sufficient facts to indicate that the home occupation will comply with the requirements of this section, and a copy of the applicants' state license (if applicable). Such application shall incorporate an affidavit to be signed by the applicant acknowledging the requirements of this Section and agreeing to fully abide by them.
- B. The home occupation must be conducted entirely within a residential building or within not more than one (1) accessory building. The home occupation must not be evident in any way from the street or from any neighboring premises.
- C. The home occupation must be carried on only by the inhabitants of the building plus not more than one (1) non-resident employee.
- D. The use of the dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes and shall not exceed a total area greater than twenty five percent (25%) of the usable floor area of the dwelling unit.
- E. A home occupation conducted within an accessory building shall not occupy more than fifty percent (50%) of said building. Accessory buildings in excess of one thousand two hundred (1,200) square feet shall be limited to six hundred (600) square feet in which to conduct the permitted home occupation.

- F. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of conduct of such home occupation. There shall be no external or internal alterations not customary in residential areas including the expansion of off-street parking areas in excess of residential standards.
- G. A home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, wireless communication interference, fire hazard, increased traffic volume, or any other hazard or nuisance to any greater or more frequent extent than would normally be generated in a similarly zoned residential district.
- H. Signs not customarily found in residential areas shall be prohibited, however, that one (1) non-illuminated name plate, not more than two (2) square feet in area, may be attached to the building, and which sign shall contain only the name, occupation, and address of the premises. Freestanding signs not in excess of four (4) square feet in area may be placed on residential property in the AR district as an alternative but not in addition to a sign placed on the dwelling.
- I. No outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises.
- J. No retail or other sales of merchandise or products shall be conducted upon the premises except for those goods actually produced on the premises. ***If not produced on the premises, the Home Occupation Application could be considered on an individual basis by the Zoning Administrator.***

**AMENDMENT TO SECTION 15.08
HOWARD TOWNSHIP ZONING ORDINANCE #192
(General Provisions and Exceptions)**

Section 15.08 Fence ~~and Wall and Privacy Screen~~ Regulations

Fences ~~and~~ walls ~~and privacy screens~~ are permitted subject to the following:

- A. The erection, construction or alteration of any fence ~~or wall or privacy screen~~ as defined herein shall require zoning compliance. Fence ~~or wall or privacy screen~~ ~~are~~ **is** to be measured from the surface of the ground to the uppermost portion of the fence ~~or wall or privacy screen~~.
- B. Fence ~~or wall or privacy screen~~ shall not be taller than four (4) feet in a required front yard setback nor taller than six (6) feet outside the required front yard setback and in a side or rear yard on any residential property. However; fence ~~or wall or privacy screen~~ in R4, with lake frontage, shall not be taller than three (3) feet in a front yard nor taller than six (6) feet in a side or rear yard, with the rear yard having a minimum setback of ten (10) feet from right of way.
- C. A six (6) foot chain link fence shall surround all playgrounds associated with a children's day care facility.
- D. Fence ~~or wall or privacy screen~~ with barbed/razor wire (or similar type) and/or electrical current are prohibited on any residential property, with the exception of underground fencing.
- E. Fences used to enclose vacant land may be constructed using above regulations, provided that any fence over four (4) feet high shall not be less than seventy percent (70%) open.
- F. AR District shall be exempt from all fence restrictions as it pertains to containment of livestock.
- ~~G. Hedges and closely spaced shrubs, bushes or similar growing plants shall follow fence, wall and privacy screen regulations.~~
- G. All fences shall be constructed with any and all supporting structures or devices on the inside of the fence, leaving the decorative side facing the neighboring properties.
- H. Construction of a fence shall require the issuance of an approved Zoning Compliance Application from the Zoning Administrator.