



CASS COUNTY PLANNING COMMISSION

*Dan Stutsman • David Kring • Jayne Bailey • Richard Palmisano • Annie File
Roseann Marchetti • Edwin Johnson III • Char Hiemstra • Dianna McGrew*

Monday, July 24, 2023 at 3:00 PM

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

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes — July 5, 2023
4. Old Business
 - a) Master Plan continued
5. New Business
 - a) **Ontwa Township** — Zoning Ordinance Amendments
 - b) **Howard Township** — Zoning Ordinance Amendments
 - c) **Marcellus Township** — Rezoning — Reed Family Farms
 - d) **Wayne Township** — Short-term Rental Ordinance
6. Correspondence
 - a) **Volinia Township** — gravel pits
7. Other Business
8. Adjournment

CASS COUNTY PLANNING COMMISSION

July 5, 2023 Meeting Minutes

1. The meeting called to order 4:03 p.m. by Dan Stutsman.
2. **Members present:** Dan Stutsman, Roseann Marchetti, Jayne Bailey, Richard Palmisano, Char Hiemstra. **Members absent:** David Kring, Annie File, Edwin Johnson III, Dianna McGrew. **Others present:** Doug Kuhlman and Carl Baxmeyer.
3. Marchetti moved, Palmisano seconded, CARRIED, to have new business proceed old business on the agenda. All were in favor.
4. Marchetti moved, Bailey seconded, CARRIED, to approve the minutes for April 26, 2023 meeting as presented, May 24, 2023 meeting as presented, and June 7, 2023 meeting as amended to show Edwin Johnson III was absent.
5. Doug Kuhlman presented two Zoning Ordinances for Calvin Township advising that Solar Energy is coming to Michigan. Some solar panels make noise.
 - a. Section I: Marchetti moved, Palmisano seconded, CARRIED, to amend text regarding solar regulations.
 - b. Section II: Bailey moved, Marchetti seconded, CARRIED, to approve suggested amendments to Keeping of Animals and Kennel Regulations ordinance.
6. Master Plan Update
 - a. Carl Baxmeyer, Master Plan Coordinator, passed out the suggested changes the group made at previous meetings for MP goals, objectives, and actions.
 - b. Another suggestion to be added was in regard to Brownfield Sites (real property, the expansion, redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant).
 - c. Other actions and objectives: county expanded Internet services. MEC received a ROBIN grant for this purpose.
 - d. Natural Resources, Open Spaces and Environment: Dumps and marijuana processing odor were discussed.
7. Marchetti moved, Bailey seconded, CARRIED, to adjourn the meeting at 5:19pm.

Respectfully Submitted,

Char Hiemstra



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.
- N/A 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.
- N/A 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.
- N/A 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.
- N/A 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?
- N/A If any provision of public services is or will be involved, include correspondence from the affected unit expressing its awareness.

Date: 7/7/2023

Signed: [Signature]

July 7, 2023

Cass County Planning Commission
120 North Broadway, Suite 116
Cassopolis, MI 49031

RE: Amendments to the Ontwa Township Zoning Ordinance

Dear Cass County Planning Commission,

In accordance with Section 307 of the Michigan Zoning Enabling Act, we are forwarding amendments to our Zoning Ordinance which were approved by our Planning Commission during a Public Hearing held on July 5 at 1900 hours. The Ontwa Planning Commission followed Article XXII (Ordinance Amendment) in our Zoning Ordinance throughout the process.

All the requested information should be attached with this packet. If anything is missing or needs clarification, please feel free to contact the Township Offices at (269) 663-2347.

Sincerely,



John M. Hanson
Deputy of Zoning and Planning

**ONTWA TOWNSHIP SPECIAL PUBLIC HEARING
TOWNSHIP OF ONTWA – COUNTY OF CASS**

**WEDNESDAY
JULY 5, 2023 @ 7:00 PM**

1. Pledge of Allegiance
2. Roll Call
3. Approval of Agenda
4. Public Comment – 3 minutes
5. Open Public Hearing on Amending the Ontwa Township Zoning Ordinance
6. Close Public Hearing
7. Adjourn Meeting

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

**PLANNING COMMISSION
TOWNSHIP OF ONTWA – COUNTY OF CASS**

**AGENDA FOR PLANNING COMMISSION HELD ON
WEDNESDAY
JULY 5, 2023 @ 7:15 PM**

1. Pledge of Allegiance
2. Agenda Approval
3. Reading Approval of Past Minutes
 - a. Regular Meeting 6-7-2023
4. Land Divisions
 - a. Davis Land Division (14-090-009-003-00)
5. New Business
 - a. Amending the Zoning Ordinance
6. Old Business
7. Committee Reports
 - a. Zoning Ordinance Review Committee Report
 - b. Master Plan Update
8. Public Comments
9. Announcements
10. Adjourn Meeting

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

**PLANNING COMMISSION
TOWNSHIP OF ONTWA – COUNTY OF CASS
DRAFT
MINUTES FOR PLANNING COMMISSION HELD
ON WEDNESDAY
JULY 5, 2023 @ 7:00 PM**

Members in Attendance: Chris Marbach, Sandra Seanor, Don Delong, Dawn Bolock, Richard Gates, William Mahaney, Shane Szalai

Members Absent: Todd Haberlund, Mike Mroczek

Chairman Marbach called the meeting of the Ontwa Township Planning Commission to order at 7:03 pm

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

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

PUBLIC HEARING:

Agenda: Chairman Marbach announced the Public Hearing and asked if there were any changes, corrections or additions to the agenda as presented. Hearing none he asked for a motion to approve. Don Delong moved to approve the public hearing agenda; William Mahaney seconded the motion. All were in favor, and the motion carried.

PUBLIC COMMENT:

Chairman Marbach called for public comment on the Zoning Ordinance amendments before the group.

Neil Bowman 22030 Twilight, Edwardsburg, MI, who originally requested the change to the Zoning Ordinance regarding the keeping of small 4-H animals, requested changes. He asked that rabbits, ducks and chickens be allowed and requested that they be allowed all year round. He agreed that the best way to implement the change was through an annual permit process. His daughter Kate Bowman also spoke in favor of the changes. Another attendee Lisawho lives on Conrad Rd., spoke up for the small animal changes.

Chairman Marbach asked for any other comments both for or against the zoning ordinance changes, hearing none he asked for a motion to close the public hearing. Bill Mahaney made a motion to close the public hearing seconded by Dick Gates. All were in favor, motion passed.

REGULAR MEETING:

Chairman Marbach noted that the group had already aid the Pledge of Allegiance and moved to the approval of the Agenda.

Agenda: Chairman Marbach asked for any changes, corrections or additions to the agenda as presented. Hearing none he called for approval. Don Delong moved to approve with William

Mahaney seconding the approval. All were in favor, the motion passed.

Approval of June 6, 2023, Minutes: Chairman Marbach asked for questions or corrections. He asked that the roll of attendees be added to the minutes. William Mahney moved to approve the minutes, seconded by Dawn Bolock. Chairman Marbach called for a vote, all were in favor, none opposed. Motion passed.

Land Divisions: Chairman Marbach introduced the Davis Land Division (14-090-009-003-00) application, which was tabled from last month. The applicant, Mr. Davis, re-sumitted the land division application which now meets the 4 to 1 requirement in the Land Division Act.

Chairman Marbach asked the Deputy Zoning Administrator about the Assessor's comments. John Hanson noted that the changes meet the requirements. Dawn Bolock motioned to approve the Land Division as submitted, Sandra Seanor seconded the motion, all were in favor, none opposed. Motion passed.

New Business: Amending the Zoning Ordinance

Chairman Marbach opened the Commission's discussion for the Zoning Ordinance amendment. The discussions centered around the small animal and 4H amendment. Sandra Seanor previewed some of the changes and provided a synopsis of the change before the meeting.

Sandra Seanor made a motion to allow up to 15 total small animals, either rabbits, chickens, and/or ducks, to require that all participants obtain an annual permit from the Zoning Department, which allows for the keeping of said animals 12 months a year. Dawn Bolock seconded the motion. Some discussion ensued. Chairman Marbach called for a vote. All were in favor, motion passed.

Old Business: There was no Old Business.

Committee Reports:

Zoning Ordinance Review Committee Report: Chairman Marbach noted that changes to the Site Condominium and Subdivision Ordinances both passed by the Board of Trustees at the June 12th, 2023 meeting. Seanor noted they both have language addressing greenspace and other clarifications.

Master Plan Update: Seanor noted that she expected to get dates for a proposed Open House and a community survey. She said that she would send the potential dates once received.

Public Comments: One person asked about the Eddie's Market project. Chairman Marbach explained that they have until the August meeting to address the Planning Commission with their original request.

Announcements: Don DeLong noted that there are several volunteer opportunities coming up, all needing volunteer help. The Sports Complex will be host to a large La Crosse Tournament mid-July. Additionally, the Eagle Lake Triathlon is planned for the later part of July.

Adjourn Meeting: Chairman Marbach adjourned the meeting.

ONTWA TOWNSHIP
CASS COUNTY, MICHIGAN

Ordinance No. _____

AN ORDINANCE TO AMEND THE ONTWA TOWNSHIP ZONING ORDINANCE (ORDINANCE 80-2, AS AMENDED); TO AMEND VARIOUS SECTIONS AS SPECIFIED HEREIN; AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

ONTWA TOWNSHIP, CASS COUNTY MICHIGAN, ORDAINS:

Section 1. Amendment of Section 3.17. Section 3.17 of the Ontwa Township Zoning Ordinance is amended to include a new subsection (c) which reads as follows:

(c) This Section shall not prohibit the keeping of not more than fifteen (15) chickens, rabbits, and/or ducks in total, which are small container animals. In order to qualify the property owner must annually obtain a permit from the Zoning Department, which will only be issued for supervised youth agricultural experiences sponsored by an organization that is exempt from taxation under Section 501(c)(3) of the IRS Code of 1986, or by any subsequent corresponding IRS code of the United States, as amended, provided that the following standards are met:

- 1) All such land areas used by said non-household animals shall be properly fenced in such a manner to prevent the animals from leaving the property and all such animals shall be maintained and accommodated in a fashion that prevents them from becoming a nuisance to adjoining property or a hazard to public health, safety, and welfare. Complaints may prevent the issuance of permits.
- 2) The keeping of roosters is prohibited.
- 3) No building or other structure sheltering or housing non-household animals shall be located closer than fifty (50) feet to a right-of-way line and fifty (50) feet from any side or rear property line.

Comes from a request by a resident wishing to allow the raising of small animals for 4 H purposes. Originally said up to six chickens, rabbits...PC changes to 15 total, now requires an annual Zoning Department permit for 4 H participation only.

Section 2. Amendment of Section 3.21. Section 3.21 of the Ontwa Township Zoning Ordinance is amended to read in its entirety as follows:

SECTION 3.21. ACCESSORY BUILDINGS AND STRUCTURES. *(amended 6/13/16)* In any Residential Zoning District an accessory building or structure may be erected, either detached from the permitted principal building or as an integral part of the permitted principal building. Such accessory building or structure shall comply in all respects with the yard requirements of this Ordinance applicable to the permitted principal building and the following requirements:

- (a) Except as permitted by Section 3.21 (c), no accessory buildings may be built or placed on any lot on which there is no principal building. No accessory building may be used as a residence or living quarters unless authorized as an accessory dwelling unit (ADU) pursuant to Section 3.37 of this ordinance. *(amended 8/14/17) (amended 7/12/21)*

- (b) An accessory building may not be placed on a lot with no principal building unless (1) the lot containing the principal building is contiguous to the lot containing the accessory building, (2) the lots are in common ownership, and (3) the applicant provides the Township with a copy of a recorded deed restriction or similar instrument that ensures that the two lots cannot be sold separately. No Certificates of Zoning Compliance or permits shall be issued until these requirements are met. ~~Adjoining lots in a single ownership shall be considered as one lot.~~

Does not change the current accessory building requirements or regulations. Clarifies Section 3.21 (a), which prevents the sale of a separate lot with no principal building that has only an accessory building and includes the same language as in 3.21(c). Does not allow the issuance of certificate of zoning compliance until deed restriction is submitted.

In addition to the foregoing, in the Lake Residential Zone where an owner has acquired a lot directly across a street right-of-way from his principal building lot, an accessory building or accessory use may be erected, provided all yard requirements for a principal building are maintained, and further provided that the applicant provides the Township with a copy of a deed restriction or similar instrument that ensures that the two lots cannot be sold or transferred separately ~~prior to the issuance of any permit or notice to proceed~~ No Certificates of Zoning Compliance or permits shall be issued until these requirements are met. Existing language as it exists and includes: Does not allow the issuance of certificate of zoning compliance until deed restriction is submitted.

- (c) Detached garages and other accessory buildings shall not be erected in the first 100 feet of any front yard, unless, in the opinion of the Zoning Administrator, there exists substantial vegetation or other natural features that effectively screen the view of the building from the street. In instances where it is unclear or if there is a dispute regarding if this standard is met, the Zoning Administrator may refer the matter to the Planning Commission.
- (d) Pump houses may be erected under the provisions of Section 8.2(d) (Article VIII, Section 2(c)). In all zoning districts, accessory buildings over one hundred forty four (144) square feet shall be at least ten (10) feet from any dwelling and at least ten (10) feet from any other building on the lot. *(amended 12/10/18)*
- (e) Trailers, shipping containers, RVs, and similar non-permanent structures shall not be used as accessory buildings in any residential district unless (1) the lot or parcel exceeds 2.5 acres and (2) in the opinion of the Zoning Administrator, there exists substantial vegetation or other natural features that effectively screen the view of the structure from the street and from adjacent properties. In instances where it is unclear or if there is a dispute regarding if this standard is met, the Zoning Administrator may refer the matter to the Planning Commission.
- (f) Accessory buildings one hundred twenty (120) square feet or less, in the rear yard, are permitted not less than ten (10) feet from lot lines. Larger buildings require not less than ten (10) feet in "LR" and "R-2", not less than ten (10) feet in "R-1A", "R-1" and not less than twenty (20) feet in "AR." *(As amended June 11, 2007)*
- (g) Where a corner lot adjoins the side or rear lot line of another corner lot, a detached accessory building one hundred twenty (120) square feet or less may be erected five (5) feet from such common side or rear lot line, provided the side street setback is maintained.

Buildings larger than 120 square feet shall meet the setback requirements for the district in which they are located.

- (h) A lot or parcel shall contain no more than one (1) garden shed one hundred twenty (120) square feet or less and one (1) larger detached garage or accessory building. (As amended June 11, 2007)
- (i) HEIGHT (*amended 12/10/18*) – For all accessory buildings, except for accessory buildings used for farming purposes as defined by the Michigan Right to Farm Act (MCL 286.470 *et. seq.*):
1. In the “AR”, “L-R”, “R-1A”, “R-1” districts, the sidewall of an accessory building shall not exceed fourteen (14) feet, and the total height of the accessory building shall not exceed twenty-two (22) feet. *See Section 2.13 for definition of building height.*
- (j) SIZE (*amended 12/10/18*) – The following standards apply to accessory buildings in the “L-R”, “R-1A”, “R-1”, and “A-R” districts, except for accessory buildings used for farming purposes as defined by the Michigan Right to Farm Act (MCL 286.470 *et. seq.*).
- (k) In the “L-R”, “R-1A”, “R-1” and “AR” districts, an accessory building not exceeding 768 square feet may be placed on any lot subject to the lot coverage and other requirements of this Ordinance. Accessory buildings where the cumulative area of all accessory buildings exceeds 768 square feet may be permitted in the following circumstances:
- ~~1.a. The cumulative area of all accessory buildings shall not exceed 2.5% of the lot area, excluding public or private street rights of way, with the following exceptions.:~~
 - ~~a. An accessory building up to 768 square feet may be permitted on any lot in the “L-R”, “R-1A”, “R-1” and “AR” districts, subject to the provisions of this section.~~
 - b. The cumulative area of all aAccessory buildings shall not exceed 3,500 square feet, unless a special land use permit is obtained from the Planning Commission.
 - e. An attached accessory building, such as an attached garage or attached storage area, structure attached to a principal building shall not exceed the square footage of the main floor square footage of the principal building.

Does not change the current accessory building requirements or regulations. Reorders the language and clarifies the current language.

For purposes of determining square footage of accessory buildings, the measurement shall be length multiplied by the width of the exterior of the building measured from the outside corners of the building frame.

Section 3. Amendment of Section 3.22. Section 3.22 of the Ontwa Township Zoning Ordinance is amended to read as follows:

SECTION 3.22. PRIVATE SWIMMING POOLS. Private swimming pools are permitted in all Districts, provided that a Certificate of Zoning Compliance is first obtained from the Zoning Administrator prior to a building permit being issued by the Building Administrator.~~permit shall first be obtained from the Building Administrator.~~ The application for Zoning Compliance such permit shall be accompanied by plans and specifications for the proposed swimming pool and the same documentation must be approved by the Building Administrator and County Health Officer before issuance of the permit. All private swimming pools shall comply with the following regulations: (As Amended 8/12/02)

Does not change the regulation but requires the Zoning Administrator to first issue a Certificate of Zoning Compliance.

- (a) The pool shall be maintained in a clean and healthful condition in accordance with County Health Regulations.
- (b) No swimming pool shall be emptied in any manner that will cause water to flow upon another lot, or be emptied on any land if a storm drain is readily accessible to the premises.
- (c) Every swimming pool, the top of which is less than four (4) feet above ground level shall be completely enclosed with a permanent substantial fence of at least four (4) feet in height with gates of a self-closing and latching type with the latch on the inside of the gate so that access to the pool is prevented except under the supervision of the possessor or by permission. (As Amended 8/12/02)
- (d) Swimming pools which are five or more feet above ground level shall be equipped with removable steps or other pool entry device which is capable of preventing entry to the pool by children. (As Amended 8/12/02)
- (e) Deleted. (As Amended 8/12/02)
- (f) No swimming pool including filtering system shall be closer than ten (10) feet to any side or rear lot line and no part of any pool or its required fencing shall be constructed within the front yard or a required side street yard on a corner lot. (As Amended 8/12/02)

Section 4. Amendment of Section 3.29. Section 3.29 of the Ontwa Township Zoning Ordinance is amended to read in its entirety as follows:

SECTION 3.29. LOT DIMENSIONS AND ACCESS.

- (a) The width of a lot shall not be less than sixty-five (65) feet at the street lot line. The required minimum lot width shall be achieved at the front setback line. The depth of a lot shall not be less than one hundred (100) feet, and the depth to- width ratio of the lot shall not be greater than four (4) to one (1).
 - 1. The Planning Commission may require any development having forty (40) or more dwelling units to have a minimum of two (2) points of access to a secondary or a major road as designated in the Master Plan, in order to protect the future residents and existing residents of the Township in the event of an emergency, or in the event of the blockage of an access point and to promote safer traffic flow. In making such a requirement, the Planning Commission shall consider the following:
 - a. The size and area of the proposed development, and the size of any of any adjacent existing, proposed, or potential developments.
 - b. The number of dwelling units in the proposed development, and the number of dwelling units in any adjacent existing, proposed, or potential plans.
 - c. The number of existing or proposed access points to the proposed development, and to a any existing, proposed, or potential plans.
 - d. The distance between existing access point(s) to the proposed development and to adjacent existing, proposed, or potential plans.

- e. The number of available potential access points to the proposed development to the area within the proposed plan and to a series of adjacent, existing, proposed, or potential plans.
- f. The volume of traffic that is expected to be generated by the proposed development, and any proposed mixed uses that may impact the amount of traffic placed upon any street within a proposed development or and adjacent existing, proposed, or potential development.

This is the same language as is now in the Subdivision and Site Condo Ordinances, which was passed by the Board of Trustees in June. Requires 2 points of access when 40 or more lots in a development.

Section 5. Amendment of Section 20.02(b). Section 20.02(b) of the Ontwa Township Zoning Ordinance is amended to read in its entirety as follows:

- (b) An application for a Certificate of Zoning Compliance shall be filed by the Owner or his or her agent and it shall state the intended use of the land, structure, or building. In order to determine whether a proposed use, building, or structure complies with the requirements of this Ordinance, the Zoning Administrator shall require, at a minimum, the following information as applicable be submitted with the application. *(amended 6/13/16)*

- (1) Proof of ownership of the lot or premises.

- (2) Location, dimensions, and size of the lot or premises.

- (3) A drawing illustrating the location of the building or structure, the distance from all lot lines, the right-of-way of abutting streets, the location and number of parking spaces, and the location and type of use of buildings on adjacent land. This drawing shall also include the location of all building foundations, driveway locations, setback measurements, and lot dimensions. The applicant shall also provide building elevations and a grading plan for the property.

- Clarifies the items required for submission to the Zoning Administrator for decision making.

- (4) For a permit for buildings, a written notice of acceptance or hook up fee receipt is required if public sanitary sewer service is available or required by local or state law. If public sanitary sewer service is not available, a written report from the Cass County Health Department certifying the approval of a private septic system is required.

- (5) When a public or private water supply system is required by law or proposed by the applicant, either a written notice of acceptance from the Cass County Health Department or other approval from applicable agencies is required. When use of a public water supply is available or required by local ordinance or state law, a written notice of acceptance or hook-up fee receipt shall be required.

- (6) The Zoning Administrator may require additional materials to aid in determining whether a proposed use, building, or structure complies with this Ordinance.

Section 6. Severability. This Ordinance and the various parts, sections, subsections, sentences, phrases, and clauses thereof are hereby declared severable. If any part, section, subsection, sentence, phrase, or clause is adjudged unconstitutional or invalid by a court of competent

jurisdiction, the remainder of this Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

Section 7. Repealer. Any existing ordinance or resolution that is inconsistent or conflicts with this Ordinance is hereby repealed to the extent of any such conflict or inconsistency.

Section 8. Effective Date. This Ordinance is ordered to take effect seven (7) days following publication of adoption in a newspaper having general circulation in the Township, under the provisions of 2006 Public Act 110, except as may be extended under the provisions of such Act.

Tina VanBelle, Clerk
Ontwa Township

ARTICLE XXII

ORDINANCE AMENDMENT

SECTION 22.01 AMENDMENT PROCEDURE. The Planning Commission may initiate, or any interested person or public body may make, written request to the Planning Commission for initiating a zoning map change or amendment to this Zoning Ordinance. If such request shows just cause, or if the applicant specifically requests, the following procedure shall be followed:

- (a) The applicant shall submit a formal application to the Zoning Administrator, together with a fee as determined by the Township Board. Applications shall be submitted at least thirty (30) days prior to the next scheduled Planning Commission meeting.
- (b) The Zoning Administrator shall authorize the preparation of the proposed amendment to be considered.
- (c) The Township Clerk shall set a time and place for a public hearing and provide notice of the public hearing subject to Section 22.03, Publication and Delivery of Notice of Public Hearing, of this ordinance. Notice of the time and place of the public hearing shall also be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing. (As amended June 11, 2007)
- (d) At said hearing, the Planning Commission shall establish that the applicant has paid to the Township the fee established by the Township Board and that proper notices have been made.
- (e) The Planning Commission shall hold said public hearing, noting all comments and reports requested, or noting the absence of such.
- (f) The Planning Commission shall forward the amendment to the Township Board, and County Planning Commission pursuant to Section 307 of the Michigan Zoning Enabling Act, together with its recommendation for approval, denial or modification. Said recommendation shall be accompanied by a summary of the comments made at the public hearing and by written findings of fact in support of the Planning Commission's recommendation. (As amended June 11, 2007)
- (g) The County Planning Commission shall have thirty (30) days to review and comment upon the amendment prior to the Township Board taking a final action. The County function is merely advisory.

- (h) Prior to voted approval, the Planning Commission may make minor changes in the amendment to reflect objections raised at the hearing or to correct typographical or grammatical errors. The changed text shall be forwarded as above without further hearing.
- (i) If the Planning Commission desires to make major changes in the proposed amendment, it shall either adjourn the hearing, announcing at that time the time and place of the continuation thereof, or set a time and place for a new public hearing as called for above.
- (j) Following said hearing, the Township Board may adopt or deny said amendment with a concurring vote of a majority of its members, with or without any amendments that have been previously considered at a public hearing.
- (k) If the Township Board considers amendment changes, additions or departures advisable to the proposed text or Zoning Ordinance, it shall refer the same to the Planning Commission for a report thereon within a time specified by the Township Board. After review of such report, the Township Board may then proceed to consider the adoption of any such amendment.
- (l) An amendment to the zoning ordinance is subject to a petition for referenda under Section 402 of the Michigan Zoning Enabling Act. (As amended June 11, 2007)
- (m) An amendment for the purpose of conforming a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the notice of the adopted amendment published without referring the amendment to any other board or agency. (As amended June 11, 2007)

SECTION 22.02. AMENDMENT PETITION PROCEDURE. All petitions for amendment to this Ordinance shall be in writing, signed, and filed in triplicate with the Township Clerk for presentation to the Planning Commission. Such petitions shall include the following:

- (a) The petitioner's name, address, and interest in the petition, as well as the name, address, and interest of every person having a legal or equitable interest in any land which is to be rezoned;
- (b) The nature and effect of the proposed amendment;
- (c) If the proposed amendment would require a change in the Zoning Map, a fully dimensioned map showing the land which would be affected by the proposed amendment, a legal description of such land, the present zoning district of the land, the zoning district of all abutting lands, and all public and private rights-of-ways and easements bounding and intersecting the land to be rezoned;
- (d) The alleged error in the ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reason why the proposed amendment will correct the same;

- (e) The changed or changing conditions in the area or in the Township that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare;
- (f) All other circumstances, factors, and reasons which the petitioner offers in support of the proposed amendment.

SECTION 22.03. PUBLICATION AND DELIVERY OF NOTICE OF PUBLIC HEARING.

Except where expressly stated otherwise in this ordinance, whenever a public hearing on a zoning application is required by this Ordinance or the Michigan Zoning Enabling Act, notice of the public hearing shall be published and delivered in accordance with the requirements of this Section.

- (a) Notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Township.
- (b) For applications involving the rezoning of ten or fewer properties; for applications to the Zoning Board of Appeals involving a specific parcel, and for all Planned Unit Development and Special Land Use Applications, a notice of public hearing shall be mailed by way of first class mail or by personal delivery to the following persons, at least 15 days prior to the date of the public hearing:
 - (1) The owners of property for which approval is being considered.
 - (2) All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and
 - (3) The occupants of all structures within three hundred (300) feet regardless of whether the property or occupant is located in the Township.

If the above described 300 foot boundary extends outside of the Township's boundaries, then notice must be provided outside of the Township's boundaries, within the 300 foot radius, to all persons in the above stated categories.

- (c) The notice of public hearing shall include the following information:
 - (1) Description of the nature of the application/request;
 - (2) Identification/description of the property that is the subject of the application or request. The notice shall include a listing of all street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.
 - (3) State when and where the application will be considered, including the date, time, and location of the public hearing on the application; and,
 - (4) Identify when and where written comments will be received concerning the application or request.

SECTION 22.04. REZONING REVIEW CRITERIA. In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, factors that shall be considered by the Planning Commission and the Township Board include, but are not limited to, the following:

- (a) Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan;
- (b) Whether the land can be used as currently zoned;
- (c) Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
- (d) Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and
- (e) Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

Howard Charter Township

1345 Barron Lake Road, Niles, MI 49120

Ph: 269-684-0072

Fax: 269-684-6181

July 13, 2023

Planning Commission, Cass County
email: ambrosian@cassco.org
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, approved at our Planning Commission meeting last night, 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 3, Section 3.02; Chapter 4, Section 4.03; Chapter 5, Section 5.03; and Chapter 18, Section 18.02 MM.
2. The amendments/additions are highlighted with the exception of Section 18.02 MM, which is the addition of the sub-section as a whole.

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

Thank you.

Respectfully,
Linda J McGregor
Zoning Administrator
Howard Charter Township
ph: (269) 684-0072, option 3
email: howardza@comcast.net

enclosures

HOWARD CHARTER TOWNSHIP
Planning Commission – Special Meeting Minutes

July 12, 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 7:01 p.m. The meeting was held at the Howard Charter Township Office. Pledge to the Flag was given. Scott Miller, Debbie Johnson, Tom Hable and Dawn Stanage answered roll call. Phil Hurlbutt was absent. Zoning Administrator, Linda McGregor, was also present.

Agenda

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

Minutes

A motion was made by D. Johnson, supported by D. Stanage, to approve the April 5, 2023 regular meeting minutes as written, carried.

Old Business

None.

New Business

S. Miller opened the public hearing at 7:05 p.m. L. McGregor read Public Hearing Procedures. Comments for those in favor of the ordinance were heard first. L. McGregor shared that she had received one (1) email correspondence in favor of the ordinance. Debbie Bartak, 1422 Alman St., indicated she is in favor of the ordinance. Rebecca Medlin, 2555 Huntly, stated she would like to have events open for more than 2 days a month and suggested 12 shorter time slots within the month. The ordinance states operating hours of 9:00 a.m. to 5:00 p.m. and Rebecca would like to utilize the 16 hours at her discretion. Sebastian Boling, 2723 Horton Ct., stated that we do not force a business to open and close at certain times, so why are we stating open and close times for pop-up events. John Medlin, 2555 Huntly, would like to see more clarity and detail in the ordinance. For instance, are the vendors responsible for getting permits or is that up to the homeowner. He also is wondering why events without vendors is limited to 2 days per month. He does not have a problem with the hours.

There were no comments opposed to the ordinance.

S. Miller closed the public hearing at 7:14 p.m.

Discussion of ordinance by board members took place. D. Johnson asked R. Medlin what is being sold. She answered with women's clothing and gifts. D. Johnson reiterated that this is in a residential neighborhood. L. McGregor stated this is an ordinance for the zoning districts within Howard Township not an individual parcel. D. Johnson stated she is in favor of the 9-5 hours. S. Miller stated that the township attorney helped put this together to help protect the township and we are responsible for the health, welfare, and safety of Howard Township residents. T. Hable stated that this is in a residential area vs a commercial business area. T. Hable also stated that he agrees with the hours of 9-5 considering it is a residential area. D. Stanage is also in agreement with the hours of operation and number of days allowed.

T. Hable made a Motion, supported by D. Stanage, to accept amendments/additions to Chapter 3, Section 3.02; Chapter 4, Section 4.03; Chapter 5, Section 5.03; and Chapter 18, Section 18.02 MM of Zoning Ordinance #192. Motion carried.

ZBA Representative Update/Comments

Nothing to report.

Public Comments

S. Boling stated he was disappointed that none of the board members attended any of R. Medlin's pop-up events since our last board meeting. D. Stanage asked R. Medlin how she advertises her events. R. Medlin listed several social media sites, the Niles Daily Star and a morning TV show. Jamie Boling, 2723 Horton Ct., stated that she believes the board members should be more involved in the community. She would like to see more promotion of meetings so there is more involvement from the community.

PC Board Comments

None.

Adjournment

A motion was made by D. Johnson, supported by S. Miller to adjourn the meeting at 7:33 p.m., carried.

Submitted by:

Dawn Stanage, PC Secretary

Chapter 4 AR Agricultural Residential District

Section 4.01 Description and Purpose

This zoning district is intended to accommodate land currently under cultivation, wetlands, woodlands, and other lands in an undisturbed state. Farming, crop cultivation, dairy and livestock operations, and rural estate single family dwellings are suitable uses in this district. Parcels within the AR District are restricted to a minimum of one (1) acre in size.

Section 4.02 Permitted Uses

Land, buildings and structures permitted in this Zoning District may be used for the following purposes only:

- A. Farms, together with farm dwellings, buildings and other installations necessary to such farms including temporary housing for migratory workers housing and its sanitary facilities, provided that such activities are in conformance with all requirements of the Cass County Health Department, the State of Michigan Right to Farm Act, MDEQ and/or any other Federal, State and/or local regulating agency having jurisdiction.
- B. Greenhouses, nurseries, orchards, vineyards, and apiaries.
- C. Private stables, in accordance with Section 15.12
- D. Single family dwelling.
- E. Publicly owned and operated parks, parkways, and recreational facilities.
- F. Family day care homes.
- G. Adult Foster Care family home.
- H. Adult Foster Care small group home.
- I. Home occupations, in accordance with Section 15.16.
- J. Keeping of livestock, in accordance with Section 15.12
- K. Two family dwelling.
- L. Medical Marihuana, in accordance with Section 15.28
- M. Wind Energy Conversion System (non-commercial), in accordance with Section 15.27
- N. Solar Energy Systems (small and medium), in accordance with Section 15.30 *(added 10/26/2019)*
- O. Accessory structures and uses customarily incidental to the above permitted uses, in accordance with Section 15.25

Section 4.03 Special Land Uses

The following uses may be permitted by the Planning Commission subject to the conditions specified for each use in Chapter 18; review and approval of the Planning Commission and the imposition of special conditions which, in the opinion of the Planning Commission, are necessary to fulfill the purposes of this Ordinance.

- A. Removal and/or processing of topsoil, organic material, sand, gravel or other such minerals.
- B. Kennels and Public Stables.
- C. Municipal, county, regional and state-owned buildings and service facilities (not including open storage) when in character with the surrounding residential and agricultural area.
- D. Private recreation areas, uses, and facilities including country clubs, golf courses, and swimming pools but not to include automobile and motorcycle raceways, race tracks, drag strips and related activities.
- E. Cemeteries and Crematories.
- F. Religious institutions and buildings customarily incidental thereto.
- G. Bed and Breakfast.
- H. Group day care home.
- I. Telecommunications towers and facilities.
- J. Planned Unit Development.
- K. Open Space Preservation Development.
- L. Site Condominium Development
- M. Shooting or Archery Range: Indoor/Outdoor
- N. Hunting Preserve
- O. Wind Energy Conversion System (commercial)
- P. Solar Energy Systems (large)

Q. Pop-Up Retail**Section 4.04 Development Standards**

No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following requirements:

- A. **Height:** No residential building or structure shall exceed thirty-five (35) feet in height. Agricultural structures such as storage silos, barns, grain elevators and similar structures are exempt from the maximum height requirements of this Ordinance.

- B. **Front Yard Setback:** There shall be a front yard setback of not less than forty (40) feet.
- C. **Side Yard Setback:** There shall be a side yard setback of not less than ten (10) feet.
- D. **Rear Yard Setback:** There shall be a rear yard setback of not less than fifty (50) feet.
- E. **Lot Area:** The minimum lot area, unless specified elsewhere, shall be one (1) acre.
- F. **Lot Width:** The minimum lot width, unless specified elsewhere, shall be one hundred fifty (150) feet. The lot width shall be measured at the front (address side) property line.
- G. **Frontage:** The minimum public street or private road frontage, unless specified elsewhere, shall be the same as the lot width of one hundred fifty (150) feet.
- H. **Floor Area:** Each dwelling unit, unless specified elsewhere, shall have a minimum of nine hundred sixty (960) square feet of livable floor area on the main floor.
- I. **Site Plan Review:** Site Plan Review and approval is required in accordance with Chapter 17 of this Ordinance.

Chapter 5 R1 Low Density (Rural) Residential District**Section 5.01 Description and Purpose**

This zoning district is intended for single family dwellings interspersed within tracts of agricultural uses and undeveloped open space for the purpose of maintaining rural atmosphere, preserving open space and low population density. Utilities are not encouraged for extension in this area and all homes may utilize onsite well and sanitary septic systems as permitted by the Cass County Health Department.

Section 5.02 Permitted Uses

Land, buildings and structures permitted in this Zoning District may be used for the following purposes only:

- A. Single family dwelling.
- B. Family day care home.
- C. Adult foster care family home.
- D. Home occupations in accordance with Section 15. 16.
- E. Two family dwelling
- F. Medical Marihuana, in accordance with Section 15.28
- G. Wind Energy Conversion System (non-commercial), in accordance with Section 15.27
- H. Solar Energy Systems (small and medium), in accordance with Section 15.30 *(added 10/26/2019)*
- I. Accessory structures and uses customarily incidental to the above permitted uses, in accordance with Section 15.25

Section 5.03 Special Land Uses

The following uses may be permitted by the Planning Commission subject to the conditions specified for each use in Chapter 18; review and approval of the Planning Commission and the imposition of special conditions which, in the opinion of the Planning Commission, are necessary to fulfill the purposes of this Ordinance.

- A. Municipal, county, regional and state owned buildings and service facilities (not including open storage) when in character with the surrounding residential area.
- B. Religious institutions and buildings customarily incidental thereto.
- C. Private, Charter or Parochial schools.
- D. Private recreation areas, uses, and facilities including country clubs, golf courses, and swimming pools but not to include automobile and motorcycle raceways, race tracks, drag strips and related activities.
- E. Site Condominium Development.
- F. Keeping of livestock.

- G. Privately owned and operated parks, parkways, and recreational facilities.
- H. Group day care home.
- I. Planned Unit Development.
- J. Open Space Preservation Development.

K. *Pop-Up Retail*

Section 5.04 Development Standards

No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following requirements:

- A. **Height:** No residential building or accessory structure shall exceed thirty-five (35) feet in height.
- B. **Front Yard Setback:** There shall be a front yard setback of not less than thirty-five (35) feet.
- C. **Side Yard Setback:** There shall be a side yard setback of not less than ten (10) feet.
- D. **Rear Yard Setback:** There shall be a rear yard setback of not less than twenty-five (25) feet.
- E. **Lot Area:** The minimum lot area, unless specified elsewhere, shall be twenty thousand ((20,000) square feet.
- F. **Lot Width:** The minimum lot width, unless specified elsewhere, shall be one hundred (100) feet. The lot width shall be measured at the front (address side) property line.
- G. **Frontage:** The minimum public street or private road frontage, unless specified elsewhere, shall be the same as the lot width of one hundred (100) feet.
- H. **Floor Area:** Each dwelling unit, unless specified elsewhere, shall have a minimum of nine hundred sixty (960) square feet of livable floor area on the main floor.
- I. **Site Plan Review:** Site Plan Review and approval is required in accordance with Chapter 17 of this Ordinance.

Charter Township of Howard, Cass County Michigan
Amendment to Chapter 3 (Definitions), Section 3.02 of Zoning Ordinance #192

Pop-Up Retail: a temporary retail sale of goods or products that are offered by a property owner and/or occupant, or offered for sale by vendors.

Porch: An exterior appendage to a building which has a separate roof or a roof integral with the building which forms a covered approach to a doorway or vestibule.

- A. **Porch, Enclosed:** A porch separated from the outside by an all-weather partition or a partition which renders the area inside the partition habitable.
- B. **Porch, Open:** A porch not separated from the outside by either an all weather partition or a partition rendering the area inside the partition habitable.

Principal Use: See “Use, Principal”.

Private Street or Road: See “Street”.

Property Line: The line separating a piece of property from the street right-of-way and the lines separating a parcel of property from the parcels next to it. See “Lot Line”.

Public Notice: A notice of the time, place, and purpose of a public hearing, which notice shall be posted in a manner and within a time frame as prescribed in this Ordinance or in applicable State law.

Public Utility: Any person, firm corporation, municipal department, or board, duly authorized to furnish to the public under government regulations any of the following; electricity, gas, steam, communications services, cable television services, transportation services, water, sewer service, or sewage treatment.

Rear Lot Line: See “Lot Line, Rear”.

Recreation Establishment, Indoor: A privately owned facility designed and equipped for the conduct of sports, amusement, or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as gymnasiums and fitness centers, bowling alleys, indoor soccer facilities, racquetball and tennis clubs, ice and roller skating rinks, curling centers, and firearm ranges.

Recreation Establishment, Outdoor: See “Open Air Business”.

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

Recreational Vehicle: A boat, snowmobile, off road vehicle, camper travel trailer, motor home, pick up camper, or trailer which is designed for private recreational or travel use and which is further defined as:

- A. **Travel Trailer:** A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a travel trailer by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.
- B. **Pick Up Camper:** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.

Charter Township of Howard, Cass County Michigan
Amendment/Addition to Chapter 18, Section 18.02 MM

Chapter 18, Section 18.02, titled, "Specific Standards for Special Land Use Approval" is hereby amended to add new sub-paragraph "MM. Pop-Up Retail" to read as follows:

"MM. Pop-Up Retail

- a. **Lot size.** The minimum lot size shall be one (1) acre.
- b. **Parking.** Must be restricted to the property that is holding the event. Parking area must be depicted on the site plan.
- c. **Setbacks.** Minimum setback to be ten (10) feet from property lines.
- d. **Hours of Operation.** A Pop-Up Retail event may operate from 9:00 a.m. to 5:00 p.m.
- e. **Days.** A property may not host a Pop-Up Retail event, with vendors, more than two (2) days per year. A property may not host a Pop-Up Retail event, without vendors, more than two (2) days per month.
- f. **Public Facilities.** A Pop-Up Retail event, with vendors, must provide a minimum of one (1) bathroom facility. Any available facilities including bathrooms, pavilions, food and beverage service must be depicted on the site plan.
- g. **Food and Beverage Service.** Any food or beverage sales must comply with all local and state laws, including obtaining any permits.
- h. **License and Permit.** Any licenses and permits must be included with the application.



FARMLAND AND OPEN SPACE PRESERVATION PROGRAM

Application for Farmland Agreement

Part 361 of the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, more commonly known as PA 116.

Please print or type. Attach additional sheets as needed. **Please read the Eligibility and Instructions document before filling out this form.**

OFFICIAL USE ONLY

Local Governing Body: _____

Date Received: _____

Application No: _____

State: _____

Date Received: _____

Application No: _____

Approved: _____ Rejected: _____

**ALL APPLICATIONS MUST BE APPROVED BY LOCAL GOVERNING BODY
ON OR BEFORE NOVEMBER 1 IN ORDER TO BE EFFECTIVE FOR THE CURRENT TAX YEAR**

I. Personal Information:

1. Name(s) of Applicant: Reed Family Farms LLC
Last First Initial

(If more than two see #15) _____

Last First Initial

Marital status of all individual men listed on application, if more than one, indicate status after each name:

☒ Married ☐ Single

2. Mailing Address: 55150 Miller Rd Marcellus MI 49067
Street City State Zip Code

3. Telephone Number: (Area Code) (269) 587-1002

4. Alternative Telephone Number (cell, work, etc.): (Area Code) () _____

5. E-mail address: EdReed62@comcast.net

II. Property Location (Can be taken from the Deed/Land Contract)

6. County: Cass 7. Township, City or Village: Marcellus

8. Section No. 2 Town No. South Range No. 13 west

III. Legal Information:

9. Attach a clear copy of the deed, land contract or memorandum of land contract. (See #14)

10. Attach a clear copy of the most recent tax assessment or tax bill with complete tax description of property.

11. Is there a tax lien against the land described above? ☐ Yes ☒ No

If "Yes", please explain circumstances: _____

12. Does the applicant own the mineral rights? ☒ Yes ☐ No

If owned by the applicant, are the mineral rights leased? ☐ Yes ☒ No

Indicate who owns or is leasing rights if other than the applicant: _____

Name the types of mineral(s) involved: _____

13. Is land cited in the application subject to a lease agreement (other than for mineral rights) permitting a use for something other than agricultural purposes: ☐ Yes ☒ No If "Yes", indicate to whom, for what purpose and the number of acres involved: _____

14. Is land being purchased under land contract ☐ Yes ☒ No: If "Yes", indicate vendor (seller):

Name: _____

Address: _____

Street

City

State

Zip Code

14a. Part 361 of the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, states that the vendor (seller) must agree to allow the land cited in the application to be enrolled in the program. Please have the land contract sellers sign below. (All sellers must sign).

Land Contract Vendor(s): I, the undersigned, understand and agree to permit the land cited in this application into the Farmland and Open Space Preservation Program.

Date

Signature of Land Contract Vendor(s) (Seller)

15. If the applicant is one of the following, please check the appropriate box and complete the following information (if the applicant is not one of the following – please leave blank):

☐ 2 or more persons having a joint or common interest in the land
☐ Corporation ☒ Limited Liability Company ☐ Partnership
☐ Estate ☐ Trust ☐ Association

If applicable, list the following: Individual Names if more than 2 Persons; or President, Vice President, Secretary, Treasurer; or Trustee(s); or Members; or Partners; or Estate Representative(s):

Name: Edward L Reed Title: member

Name: Kelly N Reed Title: member

Name: _____ Title: _____

Name: _____ Title: _____

(Additional names may be attached on a separate sheet.)

- IV. Land Eligibility Qualifications: Check one and fill out correct section(s)
This application is for:

☒ a. 40 acres or more _____ complete only Section 16 (a thru g);
☐ b. 5 acres or more but less than 40 acres _____ complete only Sections 16 and 17; or
☐ c. a specialty farm _____ complete only Sections 16 and 18.

16. a. Type of agricultural enterprise (e.g. livestock, cash crops, fruit, etc):

b. Total number of acres on this farm 80
 c. Total number of acres being applied for (if different than above): _____
 d. Acreage in cultivation: 75
 e. Acreage in cleared, fenced, improved pasture, or harvested grassland: _____
 f. All other acres (swamp, woods, etc.) 5
 g. Indicate any structures on the property: (If more than one building, indicate the number of buildings):

No. of Buildings 2 total Residence: 1 Barn: 2 Tool Shed: _____
 Silo: _____ Grain Storage Facility: 5 Grain Drying Facility: _____
 Poultry House: _____ Milking Parlor: _____ Milk House: _____
 Other: (Indicate) _____

17. To qualify as agricultural land of 5 acres or more but less than 40 acres, the land must produce a minimum average gross annual income of \$200.00 per acre from the sale of agricultural products.

Please provide the average gross annual income per acre of cleared and tillable land during 2 of the last 3 years immediately preceding this application from the sale of agricultural products (not from rental income):

\$ _____ : _____ = \$ _____ (per acre)
 total income total acres of tillable land

18. To qualify as a specialty farm, the land must be designated by MDARD, be 15 acres or more in size, and produce a gross annual income from an agricultural use of \$2,000.00 or more. If a specialty farm, indicate average gross annual income during 2 of the last 3 years immediately preceding application from the sale of agricultural products: \$ _____

Please note: specialty farm designation may require an on-the-farm site visit by an MDARD staff person.

19. What is the number of years you wish the agreement to run? (Minimum 10 years, maximum 90 years); 50

V. Signature(s):

20. The undersigned declare that this application, including any accompanying informational material, has been examined by them and to the best of their knowledge and belief is true and correct.

(Signature of Applicant)

(Corporate Name, If Applicable)

(Co-owner, If Applicable)

(Signature of Corporate Officer)

4-4-23

(Date)

Member

(Title)

**ALL APPLICATIONS MUST BE APPROVED BY LOCAL GOVERNING BODY
ON OR BEFORE NOVEMBER 1 IN ORDER TO BE EFFECTIVE FOR THE CURRENT TAX YEAR.**

RESERVED FOR LOCAL GOVERNMENT USE: CLERK PLEASE COMPLETE SECTIONS I & II

I. Date Application Received: June 20, 2023 (Note: Local Governing Body has 45 days to take action)

Action by Local Governing Body: Jurisdiction: Marcellus

☐ County ☒ Township ☐ City ☐ Village

This application is ☒ approved, ☐ rejected

Date of approval or rejection: June 20, 2023

(If rejected, please attach statement from Local Governing Body indicating reason(s) for rejection.)

Clerk's Signature: Dana Summer

Property Appraisal: \$ 627800 is the current fair market value of the real property in this application.

II. Please verify the following:

☐ Upon filing an application, clerk issues receipt to the landowner indicating date received.

☐ Clerk notifies reviewing agencies by forwarding a copy of the application and attachments

☐ If rejected, applicant is notified in writing within 10 days stating reason for rejection and the original application, attachments, etc. are returned to the applicant. Applicant then has 30 days to appeal to State Agency.

☐ If approved, applicant is notified and the original application, all supportive materials/attachments, and letters of review/comment from reviewing agencies (if provided) are sent to:

MDARD-Farmland and Open Space Program, PO Box 30449, Lansing 48909

***Please do not send multiple copies of applications and/or send additional attachments in separate mailings without first contacting the Farmland Preservation office.**

Please verify the following regarding Reviewing Agencies (Sending a copy to reviewing agencies is required):

COPY SENT TO:

☐ County or Regional Planning Commission

☐ Conservation District

☐ Township (if county has zoning authority)

**Before forwarding to State Agency,
FINAL APPLICATION SHOULD INCLUDE:**

☐ Copy of Deed or Land Contract (most recent showing current ownership)

☐ Copy of most recent Tax Bill (must include tax description of property)

☐ Map of Farm

☐ Copy of most recent appraisal record

☐ Copy of letters from review agencies (if available)

☐ Any other applicable documents

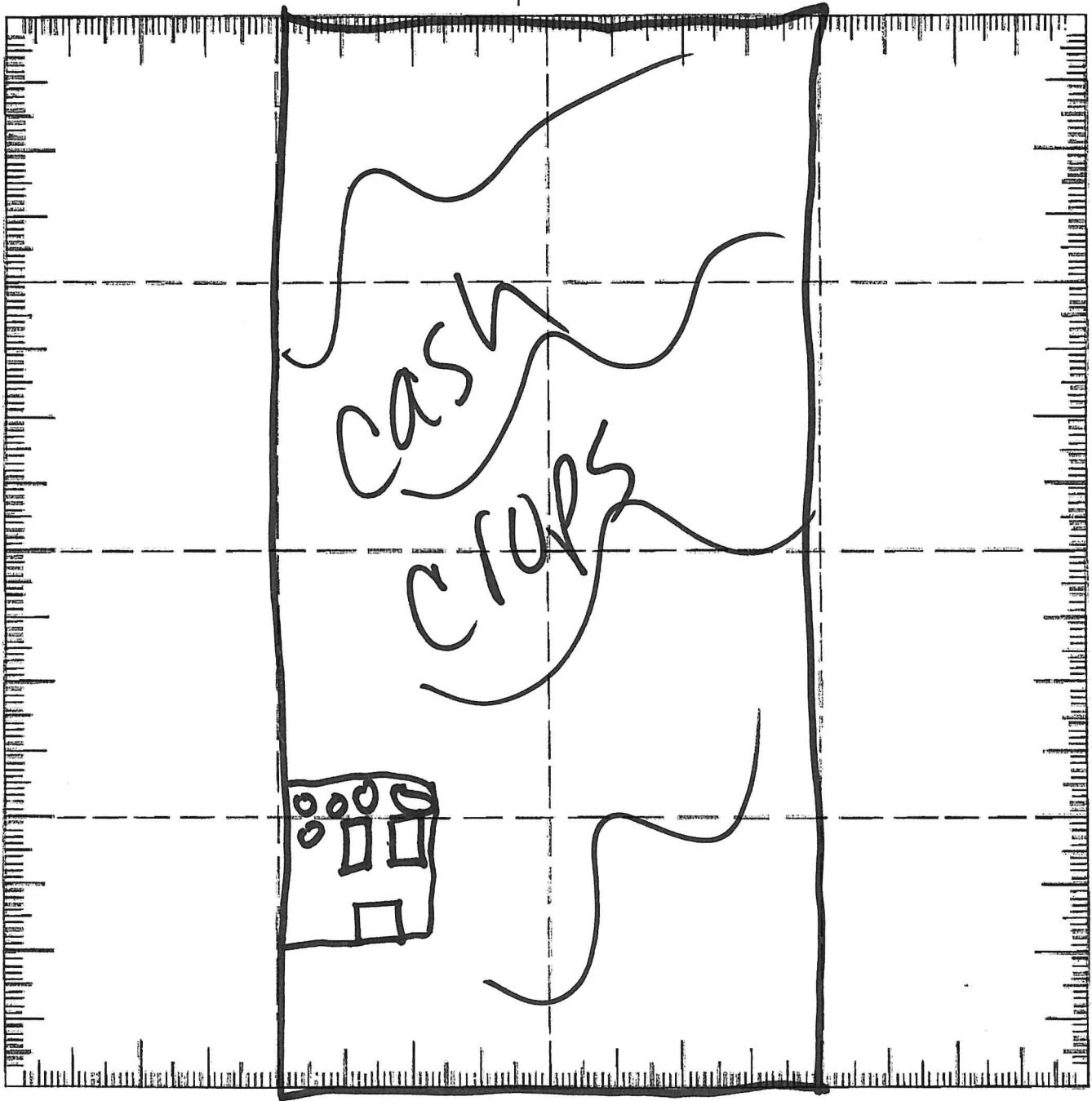
Map of Farm with Structures and Natural Features:

- A.** Show boundary of land cited in application. (Grid below is designed to represent a 5280 ft² (1 mile²) Section)
B. Show all buildings (house(s), barn(s), etc.); also label roads and other avenues of travel (i.e. utility access, etc.).
C. Outline and designate the current uses of the property (crops, pasture, forest, swamp, etc.).
D. Clear copies of map(s) provided by USDA Farm Service Agency are acceptable, but please label any roads visible on map, structures and their use, etc.

Note: Any residential structures housing persons not directly associated with the farm operation must be excluded from the application. Please indicate if a building falls in this category and provide the appropriate property description for its exclusion. Unless the appropriate description is included, your application cannot be processed.

County Cass
Township Marcellus
T 5S R 13W Section 2

↑ North



THIS IS NOT A TAX BILL

L-4400

Notice of Assessment, Taxable Valuation, and Property Classification

This form is issued under the authority of P.A. 206 of 1893, Sec. 211.24 (c) and Sec. 211.34c, as amended. This is a model assessment notice to be used by the local assessor.

FROM Marcellus Township Assessor Shalice Northrop 51951 M 40 Marcellus, Michigan 49067		PARCEL IDENTIFICATION PARCEL NUMBER: 14-050-002-005-00 PROPERTY ADDRESS: HEMLOCK LAKE RD MARCELLUS, MI 49067	
OWNER'S NAME & ADDRESS/PERSON NAMED ON ASSESSMENT ROLL: REED FAMILY FARMS LLC 55150 MILLER ROAD MARCELLUS MI 49067		PRINCIPAL RESIDENCE EXEMPTION % Exempt As "Homeowners Principal Residence": 100.00% % Exempt As "Qualified Agricultural Property": .00% % Exempt As "MBT Industrial Personal": .00% % Exempt As "MBT Commercial Personal": .00% Exempt As "Qualified Forest Property": ☐ Yes ☒ No Exempt As "Development Property": ☐ Yes ☒ No	
LEGAL DESCRIPTION: 14 SEC 2 T5S R13W E 1/2 SW 1/4. 80 A.			
ACCORDING TO MCL 211.34c THIS PROPERTY IS CLASSIFIED AS: 101 (AGRICULTURAL-IMPROVED)			
PRIOR YEAR'S CLASSIFICATION: 101 (AGRICULTURAL-IMPROVED)			
The change in taxable value will increase/decrease your tax bill for the 2023 year by approximately: \$385		PRIOR AMOUNT YEAR: 2022	CURRENT TENTATIVE AMOUNT YEAR: 2023
1. TAXABLE VALUE:		301,100	313,900
2. ASSESSED VALUE:		301,100	313,900
3. TENTATIVE EQUALIZATION FACTOR: 1.000			
4. STATE EQUALIZED VALUE (SEV):		301,100	313,900
5. There WAS or WAS NOT a transfer of ownership on this property in 2022		WAS NOT	
6. Assessor Change Reason(s):			

The 2023 Inflation rate Multiplier is: 1.05

Questions regarding the Notice of Assessment, Taxable Valuation, and Property Classification may be directed to the Following:

Name: Shalice Northrop	Phone: (269) 646-8020	Email Address: shalicen@gmail.com
----------------------------------	---------------------------------	---

March Board of Review Appeal Information:

The Marcellus Board of Review will meet Monday, March 13th from 9:00 am - 3:00 pm at the Marcellus Township Hall, 13163 Marcellus Highway, Marcellus, Michigan and Monday, March 20th, from 3:00 pm - 9:00 pm at the Decatur Township Hall, 103 Delaware Street, Decatur, Michigan. All property owners can appeal by mail. If you would like to appeal by mail, mail to 51951 M 40, Marcellus, MI 49067 or email to shalicen@gmail.com. Letters of appeal must be received by noon March 20th. If you have any questions, call 269-587-0208.

180477 L: 1199 P: 403 DTR

07/01/2021 03:03:53 PM Total Pages: 2 Fees: AFF

Monica McMichael, Register of Deeds - Cass County, MI



I certify that, as to the lands herein described, neither the state nor any person holds a tax title or lien, and that all taxes levied for the five calendar years preceding the date of this instrument have been paid, except that if checked here ☒ This certificate does not cover taxes for the most recent year because the delinquent tax roll for same is not available.

AFFIDAVIT FILED

Hope M. Anderson Jul 01, 2021 BC
CASS COUNTY TREASURER Dated

TRUSTEE'S DEED

Cass County Title Office, Inc.
120 West Main Street; P.O. Box 187
Marcellus, MI 49067
(269) 646-5511/(269) 646-2051
1442009

The Grantor(s), **Ann B. Frymier, Trustee of Robert D. Bainbridge Trust dated October 8, 1993**, whose address is 1551 Franklin St, SE, Apt 4036, Grand Rapids, MI 49506 convey(s) and warrant(s) to Grantee(s), **Reed Family Farms, LLC, a Michigan Limited Liability Company**, whose address is 55150 Miller Rd., Marcellus, MI 49067

the following described premises:

Situated in the Township of Marcellus, County of Cass, State of Michigan, and is described as follows:

The West one-half of the Southeast quarter of Section 2, Township 5 South, Range 13 West.

Tax ID No. 14-050-002-009-00 TM

The East one-half of the Southwest quarter of Section 2, Township 5 South, Range 13 West.

Tax ID No. 14-050-002-005-00 TM

Also known as property address: Hemlock Lake Rd, Vacant, Marcellus, MI 49067

The Grantor grants to the Grantee the right to make 100% of the available divisions under Section 108 of the Land Division Act, Act No. 288 of Public Acts of 1967.

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act.

for the sum indicated on the valuation affidavit filed herewith.

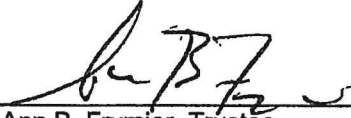
Subject to easements, reservations and restrictions of record

TRUSTEE REPRESENTS THAT THE ABOVE-REFERENCED TRUST AGREEMENT IS IN FULL FORCE AND EFFECT, UNREVOKED AND UNAMENDED, AND THAT ON THE DATE HEREOF, TRUSTEE IS FULLY QUALIFIED TO EXECUTE THIS TRUSTEE'S DEED.

Dated: June 28, 2021

Signed by:

Robert D. Bainbridge Trust dated October 8, 1993

By: 
Ann B. Frymier, Trustee

STATE OF MICHIGAN
COUNTY OF CASS

Acknowledged by Ann B. Frymier, Trustee of Robert D. Bainbridge Trust dated October 8, 1993 before me on 28th day of June, 2021.


Jamie E. Kastman, Notary Public
State of Michigan, COUNTY OF CASS
My Commission Expires: ~~3-13-2023~~
Acting in the County of Cass

When Recorded Return To: Reed Family Farms, LLC 55150 Miller Rd, Marcellus, MI 49067	Send Subsequent Tax Bills To: Grantee	Drafted By: Attorney Garrett T. McNally Jones Law Office 120 W. Main St; P.O. Box 187 Marcellus, MI 49067 (269)646-5511; (269)646-2051 Fax NO OPINION OF TITLE RENDERED
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Tax Parcel # 14-050-002-009-00 & 14-050-002-005-00

20310 McKenzie Street
Cassopolis, MI 49031

July 12, 2023

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

Dear Commissioners:

I am writing in opposition to the proposed gravel pit in Volinia Township. I want to call to your attention some of the considerations that count against the proposed pit.

Russ Forest Park

We are fortunate to have a large tract of land owned by Michigan State University in the Cass County that can be used as a park. County residents as well as people from farther afield come to enjoy this park. One reason is the large areas of old growth beech forest within the park. Another is that it is one of the few public spaces available for horseback riding.

Allow me to mention just two things that indicate the special nature of this natural space. (1) My wife and I once met two professional foresters in the park on the weekend—one from the Huron-Manistee National Forest, the other from Massachusetts. They had studied satellite images and had come a long way on a day off to inspect the exceptionally tall trees they had identified from these images. (2) The Cornell Ornithology Lab has created an app called Merlin that very accurately identifies bird songs. My wife and I have been using Merlin while walking in Russ Forest for the last couple of months. We have identified 90 species of birds in the forest, many rare or uncommon. (See attached list.) This provides one good indication of just how rich this forest habitat is.

The proposed pit is less than one half mile from the northern boundary of the park. The noise and dust from the pit would without question diminish the recreational value of the park. It is typically quiet in this area so sound travels. Our property is on the south side of the park and we sometimes clearly hear the railroad; the nearest crossing is about 3.5 miles away. A gravel pit operating so close to the park would add a constant background din to the park whenever it was operating. Such noise would make the park a much less enjoyable, rejuvenating place to spend time.

In addition to the pit itself there is the increased heavy gravel truck traffic to consider. Many trucks would be going along and *through* the park on Decatur Road or Marcellus Highway. As you are no doubt aware, one of the park's two picnic areas and the children's playground are right along Marcellus highway with no foliage to serve as a buffer. The noise from heavy gravel

ones now making commitments. Can you trust that an executive not now on the scene who has inherited a gravel pit that is no longer turning a profit is going to lay out the money to meet the commitments regarding remediation that other people made many years ago? Or will future residents be left with a perpetual eyesore like the acres and acres of barren mine tailings that I remember from my childhood?

Property Values

One very important mandate for Planning Commissions and Zoning Boards is to protect property values. The proposed gravel pit will have a significant negative impact on property values in the area.

Representatives of the gravel miners might claim otherwise—one did at the last meeting—but common sense are so strongly against them as to make such claims absurd. It is hard to imagine a person looking to buy a residential property who would not view a working gravel pit nearby as a significant negative. For very many potential buyers a nearby gravel pit will be a flat out deal breaker. The people with residential property that is adjacent or very close to the proposed pit must be panicking at the thought of ever trying to sell. They know full well that they will have a very hard time finding any buyer at all, which means that their property will sell for a fraction of what it would be worth without the pit.

But if common sense is not enough, I have attached a report by the Upjohn Institute regarding the effects of a proposed gravel pit on property values in Richland Township Michigan. In drawing their conclusions for Richland Township they cite research by economist Diane Hite of Auburn University who worked extensively on how amenities, e.g., parks, and “disamenities,” e.g., landfills or gravel pits, influence property values. The results are nicely summarized by a graph on page 5 that shows how the negative impact of a gravel pit on property value varies by distance from the pit. Adjacent properties lose a whopping one third of their value; at a half mile, properties lose 20%; at a mile away the expected loss is just under 15% percent, and even at three miles away properties lose %5. The entire township is only six miles square, so if the proposed gravel pit were centrally located, most residents of the township would experience a significant decrease in property values. With the proposed pit towards the western boundary of the township, maybe less than half of the township residents will lose equity, but of course that means many residents in eastern Wayne Township will suffer a loss.

This is not a wealthy area. For many residents, their home is their largest investment. They count on it for retirement or the legacy that they plan to pass on to children and grandchildren. It is unreasonable to take so much from so many people, many of whom are not in a good position to cover the loss.

I believe other considerations count strongly against the proposed pit, such as the negative effects of dust on health and quality of life, the effects of the pit on ground water quality and

Russ Forest Birds

1. Acadian Flycatcher (rare)
2. American Crow
3. American Goldfinch
4. American Redstart (uncommon)
5. American Robin
6. Baltimore Oriole
7. Barn Swallow
8. Bay-breasted Warbler (rare)
9. Belted Kingfisher
10. Black-and-white Warbler
11. Black-billed Cuckoo (rare)
12. Black-capped Chickadee
13. Black-throated Green Warbler
14. Blackburnian Warbler (uncommon)
15. Blackpool Warbler (uncommon)
16. Blue Jay
17. Blue-gray Gnatcatcher
18. Blue-headed Vireo (rare)
19. Blue-winged Warbler
20. Broad-winged Hawk (rare)
21. Brown Thrasher (rare)
22. Brown-headed Cowbird
23. Canada Goose
24. Canada Warbler (rare)
25. Carolina Wren (uncommon)
26. Cedar Waxwing
27. Chestnut-sided Warbler (rare)
28. Chipping Sparrow
29. Common Yellowthroat
30. Downy Woodpecker
40. Eastern Bluebird
41. Eastern Kingbird
42. Eastern Phoebe
43. Eastern Screech Owl
44. Eastern Towhee
45. Eastern Wood-Pewee (uncommon)
46. Field Sparrow
47. Gray Catbird
48. Great Blue Heron
49. Great Crested Flycatcher
50. Great Horned Owl
51. Green Heron (uncommon)
52. Hairy Woodpecker (uncommon)
53. Hermit Thrush (rare)
54. Hooded Warbler (rare)
55. House Wren
56. Indigo Bunting
57. Louisiana Waterthrush (rare)
58. Nashville Warbler (uncommon)
59. Northern Cardinal
60. Northern Flicker
61. Northern Parula (uncommon)
62. Northern Waterthrush (rare)
63. Osprey (rare)
64. Ovenbird (uncommon)
65. Philadelphia Vireo
66. Pileated Woodpecker
67. Pine Siskin (uncommon)
68. Red-bellied Woodpecker
69. Red-eyed Vireo
70. Red-tailed Hawk
71. Red-winged Blackbird
72. Rose-breasted Grosbeak
73. Ruby-crowned Kinglet (rare)
74. Scarlet Tanager
75. Song Sparrow
76. Summer Tanager
77. Swamp Sparrow (uncommon)
78. Tennessee Warbler (uncommon)
79. Tufted Titmouse
80. Veery (uncommon)
81. Warbling Vireo
82. White-breasted Nuthatch
83. White-crowned Sparrow
84. White-throated Sparrow
85. Wild Turkey
86. Wood Duck
87. Wood Thrush
88. Yellow-billed Cuckoo (uncommon)
89. Yellow-rumped Warbler
90. Yellow-throated Vireo (uncommon)



The Salt Lake Tribune

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Can gravel mining and world-class cherry orchards coexist in Utah?



(Leah Hogsten | The Salt Lake Tribune) Hopper trucks leave the Keigley Quarry near acres of tart cherry orchards, Sept. 29, 2020. Residents and fruit growers living and working in close proximity to multiple sand and gravel quarries on West Mountain are concerned about their air quality and fruit production in this bucolic area near Payson.

By Brian Maffly | Oct. 4, 2020, 9:00 a.m. | Updated: 10:08 a.m.

The dust is a testament to a mounting conflict in this still-bucolic corner of [ever-sprawling Utah County](#) where sand and gravel quarries extract aggregates to feed a boom in real estate development and road building, pitting important Utah industries against one another. While the farmers complain the state is favoring the construction industry, quarry operators say they are heavily regulated by multiple agencies and their impacts are “minimal.”

“We have limited access to these materials to support the growing economy of Utah, so there is a lot of debate over how do we go forward. Those issues are in so many places in the state. A lot of it is driven by demand,” Stewart Lamb, director of business development with the [Kilgore Cos.](#), said a recent hearing over an expansion of its Benjamin quarry. “If there was no growth in Utah County, there wouldn’t be seven or eight mines on West Mountain. How we go forward as a state? There is some really difficult discussions going on and some sincere attempts to make it so we can be sustainable as an industry.”

A few miles north of Rowley’s orchards, Benjamin residents are fighting Kilgore’s expansion, arguing increased truck traffic and fugitive dust emissions are disrupting their lives and threatening their health.

“There is nothing that addresses cumulative effects. When is it too many mines?” asks Benjamin resident Julie Sainsbury. She alleges the pit’s dust emissions are unacceptable, made worse by trucks that trail dust even when they are empty.

Seven quarries, covering about 600 acres, operate on West Mountain. Rowley’s orchards are near the entrances to the Keigley Quarry operated by [Staker Parson](#) and another called the Cherry Pit.

That the latter quarry’s name riffs on the Rowley clan’s singular product is a source of annoyance for Ryan Rowley, who fears the fugitive dust from the pits and passing trucks could doom cherry growing there.

(Leah Hogsten | The Salt Lake Tribune) Hopper trucks leave the Keigley Quarry near acres of tart cherry orchards, Sept. 29, 2020. Residents and fruit growers living and working in close proximity to multiple sand and gravel quarries on West Mountain are concerned about their air quality and fruit production in this bucolic area near Payson.

move farther afield, but they cost more. There is a real tension over how we do this and do it right.”

Still, West Mountain growers argue, aggregate producers can tap suitable sand and gravel deposits elsewhere; good luck, they say, finding other places in Utah where tart cherries can be grown economically.

“They say they can’t go out anywhere else to get it. To that I say BS. They want to go only three minutes off the freeway. Well, I cannot grow fruit in Nephi [about 25 miles to the south]. It’s too cold,” says Genola fruit grower Cheryl Fowers. “You can do what you want on your property, but if you do something that harms your neighbor, you had better knock it off. It’s in their own handbook. We have big issues and they want to keep expanding and expanding.”

Aggregates come in two major forms: Sand and gravel are extracted from unconsolidated deposits that are screened and sorted into various grain sizes. Crushed stone is blasted and pulverized from bedrock usually dolomite and limestone. West Mountain yields both types.

Conflicts abound

The tensions at West Mountain are hardly unique. Up and down the Wasatch Front, most visibly at the [Geneva Rock quarry at Point of the Mountain](#), gravel operations are stirring up oppositions from neighbors concerned about dust, noise and truck traffic.

State law limits the opacity of quarries’ dust plumes to 20%, or 10% off-site, but this standard is difficult to enforce and some critics call it “absurd.”

“It’s about as unscientific as anything you could apply to this situation,” says Brian Moench, president of [Utah Physicians for a Healthy Environment](#). “The whole thing is slanted toward allowing these operators to do whatever they want.”

To reduce dust emissions, his group urges operators to use natural gas-powered trucks instead of diesel, to cover their loads, to clean trucks between trips, and to relocate mines to less windy and populous sites. Sand and gravel deposits can be found along 2,000 miles of Lake Bonneville’s ancient shorelines rimming the valleys of northern Utah, says [John Macfarlane](#), a neurosurgeon on Moench’s board.

existing footprints, but that ordinance does not apply to federal land, which predominates West Mountain.

The grassroots group contested the Kilgore expansion before the Board of Oil, Gas and Mining, but that industry-centric panel rejected the challenge on procedural grounds last month, enabling Kilgore to move forward.

"We have become saturated with mining activity, and it is negatively impacting our community," Sainsbury said at a recent hearing refereed by DOGM Director John Baza. She showed pictures of the quarry releasing dense dust clouds in apparent violation of opacity standards.

(Photo courtesy of Julie Sainsbury) Benjamin residents say fugitive dust emissions at Kilgore Cos.' quarry, like the plume pictured here on May 31, are polluting the air and undermining the quality of life.

"Having a dust-mitigation plan and implementing a plan are two different matters," she said. "There is inadequate dust suppression going on."

While conceding they could do more to monitor emissions, Kilgore officials said the quarry is meeting DEQ's environmental safeguards.

"We follow and are in compliance with [the permits we have](#)," Kilgore's lawyer Graden Jackson said at the hearing. "We pledge to you we will continue to be in compliance. We are a large operation. We have no desire to be out of compliance. We live in these communities we serve."

Those assertions mean little to growers and residents who say dust is coating their orchards and neighborhoods and that haulers operate unsafely without consequence.

Gravel quarries could take steps to better control and monitor dust emissions, but operators opt not to, and no agencies are requiring such measures, says Kylara Papenfuss, a field adviser for a fruit-growing cooperative.

"They can treat the loads to keep the dust down. They can put up sensors," she says. "We have examples where they automatically report dust levels and if they are not within the permit, they can get fined."

So the Rowley growers established new orchards in Payson, where they discovered ideal fruit-growing conditions under West Mountain. Today, several of these growers' children and grandchildren are still in the fruit business here and hope to remain.

"This is more valuable to me than a stack of town homes and cookie-cutter houses," says Ryan Rowley, gazing over the orchards fanning out from the mountain. "This is a livelihood. This is food on the table. This is the opportunity for us to give back to the community as well as to hire kids and schoolteachers during the summer to help us harvest."

The orchards' survival is under pressure by [foreign competition](#), food-safety regulations, drought, and now gravel quarries and dust emissions pushing up costs and reducing yields.

"It's just a madhouse around here. I just want to see them have some regulation and follow [the rules] that keep everybody safe," Rowley says. "I understand that we need the dirt and the rocks and the gravel to grow, but as we lose this green space around here, we're never going to get it back. And the quality of life around here is going to go down."



Ryan's 160-acre operation, called Rowley's Fruit Farms, yields about 1 million pounds a year and supports three families.

"This has been the most blessed way to live ever, to work the land, be out here. I love my office," he says. "I want to be able to pay that forward to my kids and their future generations. Utah County needs to decide whether or not this industry is important to them. I feel like we've been overlooked. We haven't been heard."



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An Assessment of the Economic Impact of the Proposed Stoneco Gravel Mine Operation on Richland Township

August 15, 2006

**George A. Erickcek
Senior Regional Analyst
W.E. Upjohn Institute for Employment Research**

An Activity of the W.E. Upjohn Unemployment Trustee Corporation

W.E. Upjohn Institute for Employment Research

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An Assessment of the Economic Impact of the Proposed Stoneco Gravel Mine Operation on Richland Township

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Executive Summary/Introduction

This report, which was completed at the request of the Richland Township Planning Commission, provides an estimation of the economic impact of the proposed Stoneco Gravel Mine Operation on Richland Township.¹ The following impacts are assessed in this study:

1. The potential impact on residential property values in Richland Township.
2. The potential employment impact of the proposed gravel mine on the area's economy.

In addition, we carefully reviewed the economic impact reports provided by Stoneco for consideration.

In the preparation of this impact analysis we used nationally-recognized modeling techniques that are the standard for academic research.

We estimate that the proposed gravel mine will have a significant negative impact on housing values in Richland Township. Once in full operation, the gravel mine will reduce residential property values in Richland and Richland Township by \$31.5 million dollars, adversely impacting the values of over 1,400 homes, which represent over 60 percent of the Richland residences.

In addition, the mining operation will have an insignificant impact on area employment and personal income. At most, we estimate that only 2 additional jobs will be created in Kalamazoo County due to the mining operation. The mining operation serves the local

¹ The report was completed without charge as part of the W.E. Upjohn Institute's community service commitment. The Institute has prepared requested reports and analyses for the City of Kalamazoo, the City of Hastings, the City of Battle Creek, the City of Grand Rapids as well as other local governmental units and school districts.

Methodological Approach to Estimating the Impact on Housing Values of the Proposed Gravel Mine

Many factors influence housing prices. These include, of course, the characteristics of the house or dwelling unit, such as size, age, lot size, number of bedrooms and bathrooms, as well as its upkeep. In addition, the house's proximity to amenities such as a lake or pleasing neighborhood or "disamenities" (e.g. landfills, pollution sites) can have a substantial impact on its price.²

Economists have found that "hedonic pricing models" are extremely useful in isolating the contribution of specific factors on the price of housing, as well as other goods. First developed by University of Chicago economist Sherwin Rosen in 1974, hedonic pricing models use a statistical regression technique that allows the researcher to estimate the impact of one factor, e.g. the proximity of a neighborhood park, on the value of a house while holding all of the other factors impacting the house's value constant. There is an extensive literature applying hedonic pricing models to study the effects of environmental disamenities on residential property values. These studies generally show that proximity to landfills, hazardous waste sites, and the like has a significant negative effect on the price of a residential property.³

Professor Diane Hite, an economist who has published widely in the area of property value impact analysis, has recently applied hedonic pricing methodology to study the effects of a gravel mine on nearby residential values. This appears to be the only rigorous study to date of gravel mine impacts on property values.⁴ Her study is based on detailed data from Delaware County, Ohio that were collected by the Ohio State University for the purposes of studying land use planning.

Hite examines the effects of distance from a 250-acre gravel mine on the sale price of 2,552 residential properties from 1996 to 1998. Her model controls for a large set of other factors that determine a house's sale price, including number of rooms, number of bathrooms, square footage, lot size, age of home, sale date, and other factors specific to the locality, so that she can focus solely on the effect of proximity to the gravel mine on house values. She finds a large, statistically significant effect of distance from a gravel mine on home sale price: controlling for other determinants of residential value, proximity to a gravel mine reduces sale price. Specifically, Hite reports that the elasticity of house price with respect to distance from a gravel mine is .097, implying that a 10 percent increase in distance from the gravel mine is associated with slightly less than a 1

² In a recent study of the impact of housing programs in the City of Kalamazoo, we found that moving a house from one neighborhood to another can add or subtract as much as \$20,000 from its value.

³ For reviews of some of this literature, see Arthur C. Nelson, John Genereux, and Michelle Genereux, "Price Effects of Landfills on House Values," *Land Economics*, 1992 68(4): 359-365 and Diane Hite, Wen Chern, Fred Hitzhusen, and Alan Randall, "Property-Value Impacts of an Environmental Disamenity: The Case of Landfills," *The Journal of Real Estate Finance and Economics* 22, no. 2/3 (2001): 185-202.

⁴ Diane Hite, 2006. "Summary Analysis: Impact of Operational Gravel Pit on House Values, Delaware County, Ohio," Auburn University.

The loss in property value results from the negative consequences of the mining operation and reflects the deterioration in the area's quality of life due solely to the operation of the gravel mine. In other words, the loss in house value is a way to quantify in dollars the deterioration in quality of life, as capitalized in the price of the house. It captures the price reduction the homeowner would have to offer to induce a new buyer to purchase the property. Even if homeowners do not move as a result of the gravel mine, they will lose homeowner equity as the potential sale price of their house is less.⁶ Therefore, regardless of whether or not a person actually sells their property, it measures the adverse effects in their quality of life in being subjected to the disamenities introduced into the area by the gravel mine.

The policy implications of Hite's study are clear: because property value losses are higher the closer to the gravel mine, all else the same, new sites should be located far from existing residences so as to minimize adverse consequences for homeowners.

Simulation of Gravel Mine on Residential Property Values in Richland

Utilizing the estimates from the Hite study and data on 2006 assessed values provided by Richland Township, the Upjohn Institute simulated the effects of the proposed gravel mine on residential property values in Richland Village and Richland Township. Our analysis is based on 2005 assessed values of single-family homes in Richland Township and Richland Village obtained from the Township's assessor office in June and July. In total 2,319 single-family homes, 88.7 percent of all single-family residences in the township and village, were geo-coded using the ArcView© mapping program, manually matched using Yahoo© maps and, finally, through drive-by inspection of addresses. Once all of the homes were mapped, the distance between each of the residences and the closest boundary of proposal Stoneco gravel mine was determined.

As shown in Table 1, more than 1,400 homes will be negatively impacted by the proposed gravel mine with the total cost reaching \$31.5 million dollars.

⁶ Only those owning property at the time of the establishment of the gravel mine would experience a loss in equity. Those purchasing property near an established mine would not experience an equity loss because any negative effects from the mine's operation would have been incorporated into the purchase price. By implication, few property owners near long-established mines could claim loss of property value from the mine because few would have owned the properties at the time the mine went into operation.

Employment and Personal Income Impact

Stoneco estimates that 5 to 10 permanent jobs will be created at the proposed mine. In addition, truck drivers will be required for the 115 to 120 truck loads of gravel that will be hauled from the mine daily.

To measure the potential employment and income impact of the gravel mine, we used the Institute's econometric regional model of the Kalamazoo area.⁸ Because of its weight and low-value, gravel is hauled for only short distances. It is not a part of the area's economic base that brings new monies into the area. Therefore, it is an activity that does not generate any significant new income or employment opportunities. We estimate that only 2 additional new jobs will be created in Kalamazoo County due to the gravel mine and personal income in the county will increase by only \$58,000. In short, the jobs created at the gravel mine will displace jobs elsewhere in Kalamazoo County or the immediate region. The proposed mine would not result in any significant net benefit to the area from job or income creation.

Need for the Proposed Mine

Adverse economic effects of the proposed gravel mine to the Richland community must be balanced against the county's broader needs for aggregate material for road construction. Currently, 15 gravel mines operate in Kalamazoo County according to the Kalamazoo County Planning Department (Table 2). Stoneco's application materials do not provide any evidence for the need for additional capacity. Statistics were cited on projected needs, but no evidence was presented as to whether existing capacity could cover anticipated needs.

The need for additional capacity of gravel production is not supported by current and projected population or employment trends in Kalamazoo County. Population growth in Kalamazoo County has been modest during the past five years, and well below the national rate. From 2000 to 2005, population in the county increased annually at a rate of below 0.2 percent, compared to 0.9 percent nationwide.⁹ An analysis of the individual components of population change—births, deaths, net migration—shows that individuals and households, on net, are leaving the county. From 2000 to 2005, the county's population increased by 6,342 individuals due to number of births surpassing the number of deaths. However, on net, 4,150 individuals moved out of the county.¹⁰

⁸ The Upjohn Institute maintains a regional economic impact and forecasting model for the Kalamazoo metropolitan area which was built by Regional Economic Models Incorporated (REMI) especially for the Upjohn Institute. The REMI modeling approach, which incorporates an input-output model with a forecasting model and a relative cost of production model, has been repeatedly reviewed and upheld as the industry standard.

⁹ U.S. Census Bureau.

¹⁰ U.S. Census Bureau. Furthermore, Internal Revenue Service (IRS) data from 2000 to 2004 shows that the majority of the individuals leaving the county are moving outside the greater Kalamazoo region.

1. "Impacts of Aggregate Mine Operations: Perception or Reality?" Anthony Bauer, 2001.¹²
2. "Social, Economic, and Legal Consequences of Blasting in Strip Mines and Quarries," Bureau of Mines, 1981.
3. "Impact of Rock Quarry Operations on Value of Nearby Housing," Joseph Rabianski and Neil Carn, 1987.
4. "Impacts of Rock Quarries on Residential Property Values, Jefferson County, Colorado," Banks and Gesso, 1998.
5. "Proposed Fuquay-Varina Quarry: Analysis of Effect on Real Estate Values," Shlaes & Co., 1998.

These reports, in fact, fail to show that mining operations have no adverse impact on property values. None uses the standard methodology (the hedonic pricing model, described above) for evaluating property value impacts. Four of the five reports are based on flawed logic (as explained below) and hence cannot be used to draw any conclusions about property value effects. Only one report, commissioned by the U.S. Bureau of Mines, used a defensible methodology, although this report also suffers from serious limitations. Notably, this study found some evidence of adverse impacts of gravel mining operations on property values in six out of the seven sites examined.

The Bauer, Rabianski and Carn, Banks and Gesso, and Shlaes & Co. reports rely on one or both of the following types of observations to argue that gravel mining operations have minimal adverse impact on nearby property values:

- Over time, housing and commercial developments have moved closer to and sometimes adjacent to aggregate mine operations.
- For property values in the vicinity of mining operations that have existed for many decades, the rate of growth in property values does not increase with distance from the mining site.

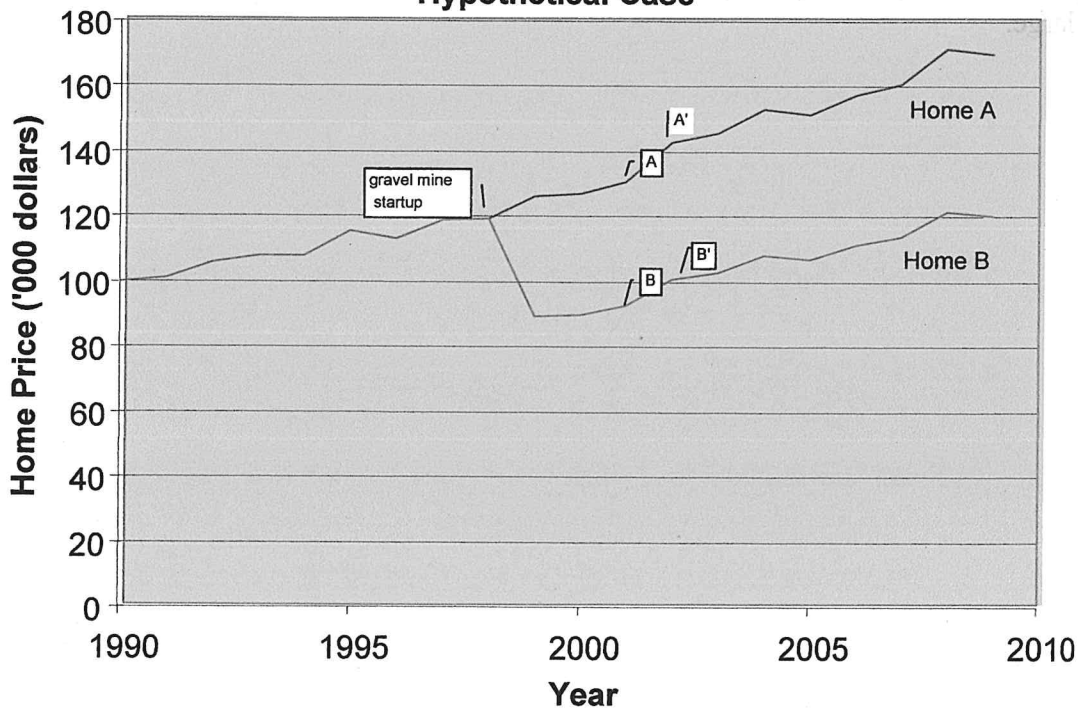
In neither case do such observations have any bearing on the impact of aggregate mine operations on nearby property values.

1. Residential and commercial developments have located closer to and sometimes adjacent to mines over time.
Economic or real estate analysis does not predict that properties near mines have no value or no development potential. Rather, one would expect that nearby property values would be lower to compensate for any costs (e.g. noise, pollution, unsightly landscapes, and traffic congestion) associated with the mine. This reflects the

¹²Bauer (2001) is a two-page statement that in large part summarizes the results of a 1984 study by a Michigan State University student.

But even with adverse property value effects, these percentage differences should be approximately equal. To capture any adverse impact, one must measure the difference in values of otherwise comparable properties close to and farther from the gravel mine at a point in time. In Figure 2, the difference between points A and B or between A' and B' measure the true property value impact, which conceptually is what is measured in the hedonic pricing model used in the analysis reported above.

Figure 2: Methodology for Evaluating Gravel Mine Impact on House Prices: Hypothetical Case



Only the study commissioned by the U.S. Bureau of Mines attempted to assess how the value of comparable homes varied with distance from the mine. However, the Bureau of Mines study suffered from several serious shortcomings:

- The sample size at each of seven sites was very small, and hence no statistically valid conclusions could be drawn.
- Homes were classified into rough typologies, and hence controls for other factors affecting home prices were crude.
- The study was based on assessed values rather than on more accurate sale price data.
- The study only examined potential property value impacts within approximately a half mile of the mine site. More recent research shows that property value effects