

**MARION TOWNSHIP PLANNING COMMISSION
AGENDA**

REGULAR MEETING
October 22, 2019
7:30 p.m.

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

INTRODUCTION OF MEMBERS:

APPROVAL OF AGENDA FOR: October 22, 2019 Regular Meeting

APPROVAL OF MINUTES FROM: September 24, 2019 Regular Meeting

CALL TO THE PUBLIC:

PUBLIC HEARING:

- 1) TXT#04-17 Landscape Contractor and Nursery Operations

New BUSINESS:

- 1) TXT#04-17 Landscape Contractor and Nursery Operations (Redo)

Old BUSINESS:

- 1) TXT#03-18 Section 6.14 and 17.32 Home Occupation/ Home-based Business LCPD review
- 2) TXT#07-17 proposed changes Lots – move thru other issues. (Bring info from past meetings)
- 3) Wellhead Protection Overlay District replacing 6.27 review comments for change requirements.

Correspondence and Updates and Discussion:

- Clarification on front yard encroachments (McKay)
- Clarification on determination of front yard for lakefront properties
- Clarification of front yard setbacks (Esper/Wolf)
- Clarification on multi-pole flag lots

November is Annual meeting/election and no meeting scheduled for December

CALL TO THE PUBLIC:

ADJOURNMENT:

DRAFT

*Approved by: _____

Larry Grunn, Chairperson

Date: _____

MARION TOWNSHIP PLANNING COMMISSION
REGULAR MEETING MINUTES
SEPTEMBER 24, 2019 / 7:30PM

MEMBERS PRESENT:

LARRY GRUNN – CHAIRPERSON
BOB HANVEY
CHERYL RANGE – SECRETARY
BRUCE POWELSON – VICE CHAIR
JAMES ANDERSON

OTHERS PRESENT:

DAVE HAMANN – ZONING ADMINISTRATOR
JOHN ENOS – PLANNER WITH CARLISLE WORTMAN

MEMBERS ABSENT:

CALL TO ORDER:

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

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA:

Regular Meeting Agenda for September 24, 2019

Bruce Powelson motioned to approve the agenda. Cheryl Range seconded. **Motion carried.**

APPROVAL OF MINUTES:

Approval of the Regular Meeting Minutes for August 27, 2019

Cheryl Range motioned to approve the minutes from the August 27, 2019 meeting with the grammar and spelling changes. Larry Grunn seconded. **Motion carried.**

CALL TO THE PUBLIC:

NEW BUSINESS:

NONE

OLD BUSINESS:

1) TXT #03-18 Section 6.14 and 17.32 Home Occupation / Home-Based Business

Dave explained that the task at hand is to discuss the content from the previous email and decide if you, as the commissioners, are happy with this language and if it's ready to be sent to the County for review.

Larry Grunn asked how we planned on enforcing this language. For example, Stamper's has really grown over the years. Larry spoke with some of Stamper's neighbors about the business activities that have been taking place and many of them are very unhappy with what has been going on. However, none of them wanted to file a complaint but agree that what Stamper is doing is not right. Trucks are coming and going all of the time and because of the auto repair, there are trucks and cars everywhere. Larry asked how the township allowed this to happen. How are we going to enforce this new language going forward?

John Enos responded that this is good language that you all came up with. It is never going to fit every situation and it will never be perfect. We should move forward with this by sending it to the county planners for review and input. They could give some good insight that could be very helpful and useful. We will be able to add conditions to each Special Use as they come in, depending on the circumstances.

Cheryl Range asked how many cars does the Home Occupation language allow. Larry Grunn responded "eight".

John Enos appreciates all of the responses made by Jim Anderson regarding Cheryl's concerns throughout the email.

Jim Anderson asked if any of this is enforceable. Would John Enos be able to enforce those that violate this language? John Enos said that he would absolutely be able to enforce this language. The language is pretty strict but it is enforceable.

Bruce Powelson asked about the pre-existing businesses that have been in existence prior to this language.

John Enos said that if it is a general ordinance, it would also affect the pre-existing business. If it is a zoning ordinance, it only affects from the date of adoption. Bruce said what about the businesses that were given certain rules and regulations in the past, do they still have to follow the new rules and regulations list in this language. Jim Anderson said that we would have to review the previous resolutions and see if they are still compliant. If they are not, then their Special Use Permit could be revoked if they don't comply. Then a new Special Use Permit would have to be applied for and they would then have to follow the current ordinances.

Dave Hamann said that people are hesitant scared to come forward because it costs a lot of money to prepare and present site plans. That is why it was changed to plot plans, which are basically plans that are not engineered.

Bob Hanvey said that this language is not perfect and probably never will be. Bob thinks it is ready to move forward to the county for review and input.

Larry Grunn would like to review the county's recommendations after review, before it is sent to the Board.

Cheryl Range asked about the people who reside on Hawthorne, who were never notified of their neighbor's business. Dave Hamann said that they were declared a Class One Home Occupation, which does not require notification to the neighbors.

All Commissioners agreed to send this home occupation and home-based business language to the Livingston County planners for review and then return back to the township Planning Commission for review of the county's recommendations and input.

2) TXT# 04-17 Create Special Use for Nursery and Make Changes Requested by BOT

Dave Hamann said that he attend the board meeting two weeks ago and brought a “strawman” piece of language that he created to get the board’s opinion and direction. “Section 17.44 Landscape Nursery Special Use”. The board sent this language back to the Planning Commission to make some changes. Dave also spoke with Kathleen Kline-Hudson at the county about this language and the definition changes and she said that we would have to start the process all over again and go through the Public Hearing process again and then send it back to the county for review.

Bob Hanvey said that he thinks we should take the word “Landscaping” out of the definition. Dave asked if we would then be calling it “Nursery Operation” instead.

Cheryl Range asked if the definition would stop at “decorations.” She also wanted to confirm that they would not be allowed to have piles of mulch, only bagged mulch.

Bob Hanvey said that we did not address whether or not the business owner would have to live on site. Should we add that somewhere in this language?

Jim Anderson asked about a person that plants a dozen seedlings to grow Christmas trees to sell at Christmas time.

John Enos said that we can address things like that if/when it happens. We can also add conditions to each Special Use Permit to prevent things from evolving too quickly.

Jim Anderson asked what happens when they start growing bushes, other plants, etc. Wouldn’t they now be considered a home-based business?

Dave Hamann said according to the new definition, you are not allowed to have have these items but agrees with Jim Anderson. Where do you draw the line?

Les Andersen said that he just wanted to convey that a landscaping business is NOT covered by Right-to-Farm. Mulch and many landscaping materials are not included in Right-to-Farm. We are trying to get away from things like that.

John Enos said that we can add a few more conditions to this and put it to bed. We can allow Nursery Operations but NOT Landscaping Operations.

Bob Hanvey asked if we could work on the conditions right now during the meeting.

John said yes.

Dave Hamann asked if we are going to require a site plan or a plot plan.

John Enos said that if they are building a retail building, they need a site plan. If they are doing it out of their home, then a plot plan would suffice.

Jim Anderson said that essentially, someone could purchase a bunch of property, plant a bunch of trees and plants and start selling them to consumers.

Dave Hamann said that would be considered under Right-to-Farm.

Jim Anderson asked what happens if they buy their trees from somewhere else and bring them to their property to sell at their nursery. Are they still growing on site?

Dave asked if we could go back to a “use by right” for nurseries. Also, for Right-to-Farm, do they even need a SUP?

Les Andersen said that if they grow the trees on site, then they would be covered under Right-to-Farm and would not need a SUP.

Cheryl Range suggested adding something as general as “Do not effect neighboring communities”.

John Enos said yes, we could add something like that.

Bob Hanvey asked if this new language for Nursery Operations would override the existing language that the ZBA created.

John Enos said yes, it would replace the existing language. John also stated that if they are covered by Right-to-Farm, then they don't even need a SUP. They can do it in any district.

Bob Hanvey asked if this would override our marijuana prohibition.

John Enos said no way, that language is solid. A person can grow marijuana inside their home for themselves as long as no one else can see it or purchase it from them. Marion Township's prohibition is strong and opts the township out of allowing sale of marijuana within the township.

Bob Hanvey said that he would still prefer to have a Public Hearing notifying the community about the new language.

Jim Anderson suggested taking out the phrases "but not limited to..." along with "but not exclusively...".

Cheryl Range made a motion to schedule a Public Hearing for October 22, 2019 for Section 8.01.E.22 Nursery Operations in Marion Township. Bob Hanvey seconded. **Motion carried.**

Cheryl Range also motioned to remove the "Strawman" language, *Section 17.44 Landscape Nursery Special Use*, created by Dave.

3) TXT# 07-17 Proposed Changes Lots

Bob Hanvey passed out copies of a map to the other commissioners. Bob asked the commissioners what Dave should do if a resident wanted to split their property where the black line indicated.

Larry Grunn said that the residents wouldn't be able to because there is no access point.

Bob said that our general ordinance states a split can occur if there is a place for an easement to go even if there is no road frontage. However, according to our zoning ordinance, they cannot split this unless there is frontage on the road. These two are very contradicting.

Dave Hamann said that there are a lot of situations like this throughout the township where zoning ordinances are conflicting with general ordinances. This was sent to the board at one point and they did not want to make any changes, even though they conflict each other.

Bob said that we need to pick which one of these ordinances we want to keep in effect.

Dave said that the Planning Commission cannot fix this, only the Board can.

Bob said that the Planning Commission can make a recommendation to the Board so they can make this correction.

Dave asked the commissioners what their actual recommendation to the board is going to be. We just need to make sure that our general ordinance helps support our zoning ordinance.

Cheryl Range motioned to recommend to the BOT to remove Section III Accessibility #2 Easements. Jim Anderson seconded. **Motion carried.**

4) Wellhead Protection Overlay District replacing 6.27

John Enos met with Tim Schmidt and discussed some different items concerning the Wellhead Protection Overlay District. John will call Tim and see if he has looked at everything yet so they can continue discussion.

Cheryl Range motioned to postpone discussion on this until John Enos speaks with Tim. Bob Hanvey seconded. **Motion carried.**

CORRESPONDENCE AND UPDATES:

BOARD OF TRUSTEES DID NOT APPROVE MASTER PLAN FOR DISTRIBUTION

John Enos said he plans on minimizing some of the first few chapters to get rid of some maps (that can now be found online) and also become more descriptive with certain things throughout the master plan. He plans on having this done by the next Planning Commission meeting on October 22.

CALL TO THE PUBLIC:

Les Andersen wanted to remind the commissioners that someone could be allowed to build three huge pole barns on their property but because of what Dave did when he created the waiver affidavit, that person will no longer be allowed to use those barns for their personal belongings. All items in these barns would have to be related to the business. Remember, these buildings could potentially be HUGE buildings.

Also, the Board budgeted for \$50,000 to be spent on enforcement. Should we hire someone to enforce one day a week and patrol the township looking for violations? This would leave Dave Hamann out of the enforcement side of things.

John Enos said that a better and more cost-effective idea would be to hire, train and help a new individual that would work with Dave and John.

Les Anderson also made a comment regarding Wedding Barns.

ADJOURNMENT:

Larry Grunn made a motion to adjourn the meeting at 9:41pm. Bruce Powelson seconded. **Motion carried.**

LANDSCAPE/NURSERY OPERATIONS IN MARION TOWNSHIP

Step #1

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

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

3.02 Definitions Add

Nursery Operations(AG Based): A parcel, area, space, building or structure, or combination thereof, used chiefly for the storage, or retail sale, of live trees, shrubs

Step #2

Section 10.01.B.16 Add

Amend LI Light Industrial District to allow landscape contractors buildings, offices and yards as a use permitted by right. See definitions as suggested by the Township Attorney below:

3.02 Definitions Add

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

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



Livingston County Department of Planning

MEMORANDUM

TO: Livingston County Planning Commissioners and the
Marion Township Board of Trustees

FROM: Robert Stanford, Principal Planner

DATE: October 1, 2019

SUBJECT: Z-48-19 Amendments to Zoning Ordinance Article -

Kathleen J. Kline-Hudson
AICP, PEM
Director

Robert A. Stanford
AICP, PEM
Principal Planner

- Article VI: General Provisions, Section 6.14 Home Occupation
- Article XVII: Standards for Specific Special Land Uses, Section 17.32 Home-Based Business

Scott Barb
PEM
Principal Planner

The Marion Township Planning Commission proposes to update the following Articles/Sections with a completely new set of regulations and provisions regarding home occupations and home-based businesses:

- **Article VI: General Provisions, Section 6.14 Home Occupation**
- **Article XVII: Standards for Specific Special Land Uses, Section 17.32 Home-Based Business**

NOTE: When existing (current) text are utilized in this review for illustrative purposes, additions (or newly proposed text) are noted in **underlined bold** font while deletions to existing text are noted in ~~striketrough~~ font (Times New Roman). Planning Staff comments are noted in **bold italic underline** fashion (Arial).

Department Information

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304 E. Grand River Avenue
Suite 206
Howell, MI 48843-2323

• (517) 546-7555
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The Marion Township Planning Commission proposes to update the township zoning ordinance with a completely new set of regulations and provisions regarding home occupations and home-based businesses in the following manner:

ARTICLE VI: GENERAL PROVISIONS

Section 6.14 Home Occupation

The regulation of home occupations as provided herein is intended to secure flexibility in the application of the requirements of this ordinance. Home occupation is permitted as an accessory use to the principal residential use of a lot; a zoning permit for such an occupation is not required. Such flexibility is not intended to allow the essential residential character of residential districts.



in terms of use and appearance, to be changed by the occurrence of non-residential activities. Home occupations shall satisfy the following conditions (these regulations do not apply to farms):

- A. The home occupation shall be clearly secondary and incidental to the use of the dwelling as a place of residence, and shall not result in a change to the essential character of the premises including both the dwelling and yard areas. Home occupations shall be conducted in such a manner that, except as otherwise allowed by the provisions of this section, there is no external evidence of the home occupation operation except for the occasional visits by customers or clients numbering no more than ten (10) visits every seven (7) days.
- B. Accessory structures used for business purposes shall conform to Section 6.07 Accessory Buildings and Structures.
- C. Refuse generated by the home occupation shall be safely and properly disposed of in a manner in full compliance with all federal, state and other governmental requirements of any such materials.
- D. Home occupations shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the township as a whole. Any machinery, mechanical devices, or equipment employed in the conduct of a home occupation shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other conditions not typically associated with the use of the dwelling for residential purposes.
- E. A resident of the dwelling on the lot shall be actively and personally engaged in and responsible for all home occupation operations. No employees shall be permitted, other than members of the immediate family residing in the dwelling unit.
- F. All of the activities on the property related to the occupation, except horticultural, shall be carried on indoors including the storage of materials, goods, supplies, refuse and waste materials, equipment, vehicles, trailers or products related to the occupation.
- G. Traffic generated by the combined home and home occupation shall be no greater in volume than would normally be expected in a residential district, and such traffic shall be limited to passenger vehicles, delivery vans and similarly-sized vehicles. Any need for parking used by such home occupation shall be met off the street and motor vehicles may be parked in an existing driveway if it is of sufficient size. No additional off-street parking demand shall be created.
- H. The home occupation shall be conducted within the dwelling unit, attached garage, or accessory building.
- I. The home occupation shall not occupy more than twenty-five (25%) percent of the total gross floor area of said residential dwelling including the basement.
- J. Storage of combustible, toxic or hazardous material associated with the home occupation shall be done in a manner in full compliance with all federal, state and other governmental



requirements concerning the use, handling, transport, storage and disposal of any such materials.

K. The home occupation shall comply with all applicable federal, state and local laws, including, but not limited to, laws regarding licensing, occupational health and safety, and the environment.

L. Home occupation approval is not transferable with the sale, rental or lease of the dwelling unit.

M. Home occupations are not allowed occupation related signs.

STAFF COMMENTS:

The sentence structure here for item “M” is confusing. Also, if the intent is to not allow signs for home occupations, it appears this is in conflict with current regulations for signs in Residential Districts, in Sections 15.05 and 15.06, as provided below:

Section 15.05 Schedule of Sign Regulations The schedule provided below summarizes the quantity, maximum area, maximum height, and minimum setback from existing road rights-of-way permitted for signage requiring a permit under this Section. Detailed requirements for the signs listed below are provided under subsections 15.06 and 15.07. Wherever conflict exists between the following schedule and the standards of those subsections, those subsections shall prevail.

Sign	Number	Max. Area	Max. Height	Min. Setback
<i>Signs in Residential Districts (Sec. 15.06)</i>				
Home Occupation Wall Sign, or	1	4 s.f.	4 ft.	n/a
Home Occupation Freestanding Sign	1	6 s.f.	4 ft. ^{1,7}	½ required front setback

1. If sign is free-standing

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

Section 15.06 Signs in Residential Districts The following signs shall be allowed in the RR, SR, UR, ERS#1, and ERS#2 zoning districts, subject to permit approval in accordance with Section 4.03 and the following standards. Such signs shall only pertain to permitted or special land uses or a legally nonconforming non-residential use, and shall be located upon the same property to which the sign relates, unless otherwise provided herein.

C. Home Occupation Signs: one (1) wall sign per parcel containing a permitted home occupation, not exceeding four (4) square feet in area. Such signs may not be illuminated, and must be consistent with the residential character of the neighborhood in which they are to be located. Within



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

- N. Art and music instruction shall be classified as a permitted home occupation subject to the standards of this ordinance.
- O. Prohibited home occupations include but not limited to: service, repair or painting of any motorized vehicle, motor vehicles, trailers, boats, personal watercraft, recreation vehicles and snowmobiles; small engine repair; lawn equipment repair; and equipment repair.

ARTICLE XVII: STANDARDS FOR SPECIFIC SPECIAL LAND USES

Section 17.32 Home-based Business

Home Occupation regulations are provided in Section 6.14. Home-based businesses are considered special uses and are therefore subject to the provisions of Article XVI, Special Use Permits, and other applicable provisions of the ordinance. A Special Use Permit, and any conditions attached thereto, may be approved by the Township Board if all the criteria listed are met.

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

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

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

Site Requirements:

- A. A home-based business may be permitted in both the dwelling unit and accessory structure. The home-based business shall not occupy more than twenty-five (25%) percent of the total gross floor area of said dwelling including the basement; however, it may encompass the entire accessory structure. Accessory structures used for business purposes shall conform to Section 6.07 Accessory Buildings and Structures.



- B. The residential appearance of the dwelling shall not be altered in order to conduct the homebased business.
- C. The home-based business shall be clearly secondary and incidental to the use of the dwelling as a place of residence, and shall not result in a change to the essential character of the premises including both the dwelling and yard areas.
- D. All of the activities on the property related to equipment and vehicle repair, cleaning, painting and maintenance associated with the home-based business shall be carried on indoors.
- E. Storage and use of combustible, toxic or hazardous material associated with the home-based business shall be done in a manner in full compliance with all federal, state and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials.
- F. Solid or liquid refuse or waste or hazardous waste generated by the home-based business shall be safely and properly disposed of in a manner in full compliance with all federal, state and other governmental requirements of any such materials.
- G. In no case will radioactive, medical, or biomedical chemicals or materials waste be received, used, processed or stored on the site of the home-based business.
- H. No equipment or process shall be used in such home-based business that creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal human senses off the subject site. In addition, in regard to electrical interference, no equipment or process shall be used that creates visual, audible, or noticeable interference in any radio or television receivers off the site or that causes fluctuation in line voltage off the site.
- I. The home-based business shall be conducted so it does not constitute a nuisance or annoyance to the residents of adjoining properties due to noise, smoke, odor, electrical disturbance or night lighting, or the creation of unreasonable traffic to the premises.
- J. A resident of the dwelling on the lot shall be actively and personally engaged in and responsible for all home occupation operations. The number of non-resident employees who can be employed by a home-based business shall be regulated by the size of the parcel containing the business as follows:

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



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

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

- K. Outdoor storage of materials and equipment involved in the business is permitted provided it is adequately screened so it is not visible from adjoining roads and properties. Measures to screen such material or equipment are subject to the approval of the Planning Commission and shall include, but are not limited to, one or more of the following: a solid fence no more than six feet in height; plantings that are at least five feet in height at planting and will provide an adequate year-round screen; the topography of the site; existing vegetation on the site; or the screening is provided by existing buildings.
- L. The home-based business shall comply with all applicable federal, state and local laws, including, but not limited to, laws regarding licensing, occupational health and safety, and the environment.
- M. Home-based business approval is not transferable with the sale, rental or lease of the dwelling unit.
- N. Home-based businesses are allowed signage. See Article XV Signage.

STAFF COMMENTS:

As currently exists, there are no township zoning ordinance regulations governing signs for "home-based businesses", only for "home-occupations" (See page 7). Staff would suggest that the township develop a set of sign standards that coincidences with the intended nature and characteristics of home-based businesses in residential districts before commencing with final approval of these proposed set of amendments.



Section 15.05 Schedule of Sign Regulations The schedule provided below summarizes the quantity, maximum area, maximum height, and minimum setback from existing road rights-of-way permitted for signage requiring a permit under this Section. Detailed requirements for the signs listed below are provided under subsections 15.06 and 15.07. Wherever conflict exists between the following schedule and the standards of those subsections, those subsections shall prevail.

Sign	Number	Max. Area	Max. Height	Min. Setback
<i>Signs in Residential Districts (Sec. 15.06)</i>				
Home Occupation Wall Sign, or	1	4 s.f.	4 ft.	n/a
Home Occupation Freestanding Sign	1	6 s.f.	4 ft. ^{1,7}	½ required front setback

1. If sign is free-standing.

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

Section 15.06 Signs in Residential Districts The following signs shall be allowed in the RR, SR, UR, ERS#1, and ERS#2 zoning districts, subject to permit approval in accordance with Section 4.03 and the following standards. Such signs shall only pertain to permitted or special land uses or a legally nonconforming non-residential use, and shall be located upon the same property to which the sign relates, unless otherwise provided herein.

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

O. Visitors, customers and deliveries shall not exceed a total of twelve (12) during a single day. The Planning Commission or the Township Board may modify this standard in the case where the Planning Commission or the Township Board determines that the operation of the home-based business will unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. No traffic shall be generated by the home-based business in volumes in excess of that which is normally associated with a single-family dwelling, and such traffic shall be limited to passenger vehicles, delivery vans, and similarly-sized vehicles. The Township Board may relax this requirement upon a finding that the allowance of a specified increase in traffic, including truck traffic, will not undermine the public safety and welfare based on such factors as the size of the lot, the proximity of nearby residences, and road and dust conditions, nor unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of



the area. Nothing in this subsection shall be interpreted to allow outdoor parking in excess of that regulated by subsection below.

STAFF COMMENT: For item "O" above, how will the type of trip and number of visitors, customers and deliveries be regulated by the Township? Will the owner home-based business be required to keep a log for recording this activity, so that compliance can be determined? Also, how was the total number of twelve (12) trips to the site in a day determined (arbitrary or based on a recognized industry standard)? Lastly, what are the permissible hours for allowing these visits, and what hours or length of time defines or constitutes "...a single day"?

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

STAFF COMMENT: For item "P" above, how was the number of eight (8) motor vehicles to be allowed on-site determined (arbitrary or based on a recognized industry standard)? How will the township regulate this provision?

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

- A. For a home-based business, an informal site plan (does not need to comply with the requirements found in Article XVIII Site Plan Review) or plot plan must be submitted for review and recommendation by the Marion Township Planning Commission. The site plan shall be to scale and need only illustrate the following:

- 1) Owner's name, parcel identification (tax ID#) and address
- 2) An 11 x 17 inch color aerial photograph of the site area and surrounding areas showing overlaying property lines and the proposed site layout with dimensions. (available at Livingston County GIS)
- 3) Existing and proposed structures with dimensions indicating the location(s) and square footages to be occupied by the home-based business
- 4) Location of driveways, off-street parking areas & delivery and storage areas



- 5) Proposed landscaping/screening in association with any parking to minimize negative impacts on nearby properties.
- 6) The location, character, and dimensions of any structural additions or modifications to an existing dwelling or accessory structure to accommodate the home-based business.

STAFF COMMENT: It may be helpful to also require the site plan to include subject property setbacks as well as distances from the proposed home-based business location on-site to adjacent property lines.

- B. In addition to the information required in Section 17.32 and the site plan described above, the applicant shall submit a detailed description of the nature of the home-based business, which shall clearly specify the following minimum features:**
- 1) A detailed description of the character of the home-based business including but not limited to the service or product offered and the typical daily schedule of activities of such business.
 - 2) The type and frequency of vehicular traffic to be generated by the home-based business. The maximum number of vehicles to be parked or otherwise located outdoors including vehicles owned or used by residents of the dwelling and employees of the home-based business.
 - 3) The number of full-time and part-time employees of the business and the frequency at which such employees will be present at the site.
- C. The Planning Commission may require additional information if it determines the character of the project, site or surrounding conditions necessitates further investigation, allowing it to make a sound decision on the application.**
- D. Any approval of a home-based business, and any permit issued for such occupation, shall clearly delineate any conditions upon which such approval is granted including any conditions pertaining to the number of employees, outdoor parking of vehicles, and related operational features.**

Township Recommendation: Approval. The Marion Township Planning Commission recommended **Approval** of the text amendments at their September 24, 2019 planning commission meeting. The Marion Township Planning Commission held a public hearing regarding the amendments on August 27, 2019, where it was noted that there were several public comments and much discussion amongst planning commission members on the proposed amendments.

Staff Recommendation: Approval with Conditions. The proposed text amendments are fairly reasonable and appropriate. Staff would encourage the township to consider all of Staff comments as presented in the review and make suggested revisions prior to final approval of this set of amendments.

LIVINGSTON COUNTY PLANNING COMMISSION MEETING MINUTES

October 16, 2019

6:30 p.m.

304 E. Grand River Ave., Howell, Michigan

PLANNING COMMISSION		
COMMISSIONERS PRESENT:	BRIAN PROKUDA JEANNE CLUM MATT IKLE BILL CALL	LAURA ABRAMSON BILL ANDERSON DENNIS BOWDOIN
COMMISSIONERS ABSENT:	NONE	
STAFF PRESENT:	KATHLEEN KLINE-HUDSON ROB STANFORD SCOTT BARB	
OTHERS PRESENT:	BRUCE POWELSON – MARION TOWNSHIP PLANNING COMMISSION BOB HANVEY – MARION TOWNSHIP SUPERVISOR	

1. **CALL TO ORDER:** Meeting was called to order by Commissioner Prokuda at 6:30 PM.
2. **PLEDGE OF ALLEGIANCE TO THE FLAG**
3. **ROLL AND INTRODUCTION OF GUESTS:** None.
4. **APPROVAL OF AGENDA**

Commissioner Action: IT WAS MOVED BY COMMISSIONER IKLE TO APPROVE THE AGENDA DATED OCTOBER 16, 2019, SECONDED BY COMMISSIONER CLUM.

All in favor, motion passed.

5. **APPROVAL OF PLANNING COMMISSION MEETING MINUTES**

Commissioner Action: IT WAS MOVED BY COMMISSIONER ANDERSON TO APPROVE THE MINUTES OF THE PLANNING COMMISSION MEETING DATED SEPTEMBER 18, 2019, SECONDED BY COMMISSIONER IKLE.

All in favor, motion passed.

6. **CALL TO THE PUBLIC:** None.

7. ZONING REVIEWS:

A. Z-48-19: BRIGHTON CHARTER TOWNSHIP, ZONING ORDINANCE AMENDMENTS - ARTICLE 3 RESIDENTIAL DISTRICTS, SECTION 3-02 USES PERMITTED AND SECTION 3-04 ACCESSORY BUILDINGS.

The Marion Township Planning Commission proposes to update the following Articles/Sections with a completely new set of regulations and provisions regarding home occupations and home-based businesses:

- Article VI: General Provisions, Section 6.14 Home Occupation
- Article XVII: Standards for Specific Special Land Uses, Section 17.32 Home-Based Business.

Township Planning Commission Recommendation: Approval. The Marion Township Planning Commission recommended **Approval** of the text amendments at their September 24, 2019 planning commission meeting. The Marion Township Planning Commission held a public hearing regarding the amendments on August 27, 2019, where it was noted that there were several public comments and much discussion amongst planning commission members on the proposed amendments.

Staff Recommendation: Approval with Conditions. The proposed text amendments are fairly reasonable and appropriate. Staff would encourage the township to consider all of Staff comments as presented in the review and make suggested revisions prior to final approval of this set of amendments.

Commission Discussion: Commissioner Bowdoin asked why the amendments require going to the planning commission when the zoning administrator should be able to handle it. Bob Hanvey, Marion Township Supervisor, responded that placing the standards before the planning commission allows community involvement and input prior to when the home occupation is implemented.

Public Comment: None.

Commissioner Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER CLUM TO RECOMMEND APPROVAL PER STAFF CONDITIONS AND RECOMMENDATIONS SECONDED BY COMMISSIONER CALL.

Motion passed: 7-0

B. PA-03-19: CONWAY TOWNSHIP PA 116 FARMLAND AGREEMENT: Section 17, 68 ACRES, JOHN AND TRACY KNOCH.

Commission Discussion: None.

Commission Comment: None.

Public Comment: No public comment.

Commissioner Action:

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

Motion passed: 7-0

8. OLD BUSINESS:

- A. **Planning Department Visits:** Staff and Planning Commissioners discussed the recent visit to Hartland Township Planning Commission and decided who would attend upcoming visits to Genoa, Howell and Unadilla Townships.

9. NEW BUSINESS:

- A. **Upcoming Planning Department Presentations of Master Plan:** Director Kline-Hudson explained that staff has been presenting elements of the Livingston County Master Plan in various community presentations and this is a part of implementing the plan. She spoke of past presentations for the Livingston County Association of Realtors and upcoming presentations to the Home Builders Association and the Michigan Economic Developers Association.

10. REPORTS:

A. Staff Reports:

- A review of items in the meeting packet – upcoming Brown Bag Lunch at Noon on October 30 and State of the County Address at 6:00 p.m. on October 30.
- Consultant RFP's have been reviewed and ranked for the Livingston County Trail Network Plan and the contract is currently being reviewed.
- A new Planning Commission roster from the Board of Commissioners Office was distributed and reviewed.
- A table comparing Planning Commission training options was distributed and discussed. Planning Commissioners would like to hold a training in January at the Public Safety Complex and invite other local planning commissions to attend.
- Handouts from the Michigan State University Extension "Michigan and Marijuana" webinar series that staff have been viewing, will be emailed to Planning Commissioners.
- Name plaques for new Planning Commissioners will be completed for the November meeting.

- 11. COMMISSIONERS HEARD AND CALL TO THE PUBLIC:** Bruce Powelson stated that the Marion Township Planning Commission and Township Board are having a joint meeting next week with their planning consultant. He invited County Planning Commissioners to attend.

12. ADJOURNMENT:

Commissioner Action: IT WAS MOVED BY COMMISSIONER IKLE TO ADJOURN THE MEETING AT 7:15 P.M., SECONDED BY COMMISSIONER ANDERSON.

Motion passed: 7-0

ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE "LOTS"

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

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

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

The Zoning Ordinance on the township website:

mariontownship.com

Links

Planning & Zoning

Zoning Ordinance

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

ATTACHMENT PAGE 1

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

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

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

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

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

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

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

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

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

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

These two need to be reconciled.

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

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

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

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

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

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

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

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

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

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

"Parcel" we don't include condo units.

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

This is most likely not an exhaustive list of issues.

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

From: Marion Township Zoning Ordinance

ARTICLE III: DEFINITIONS

Section 3.01 Construction of Language

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

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

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

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

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

Condominium Subdivision: A division of land on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act of 1967, Public Act 288 of 1967, as amended, MGL 508.101 et seq.

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

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

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

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

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

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

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

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

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

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

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

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

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

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

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

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

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

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

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

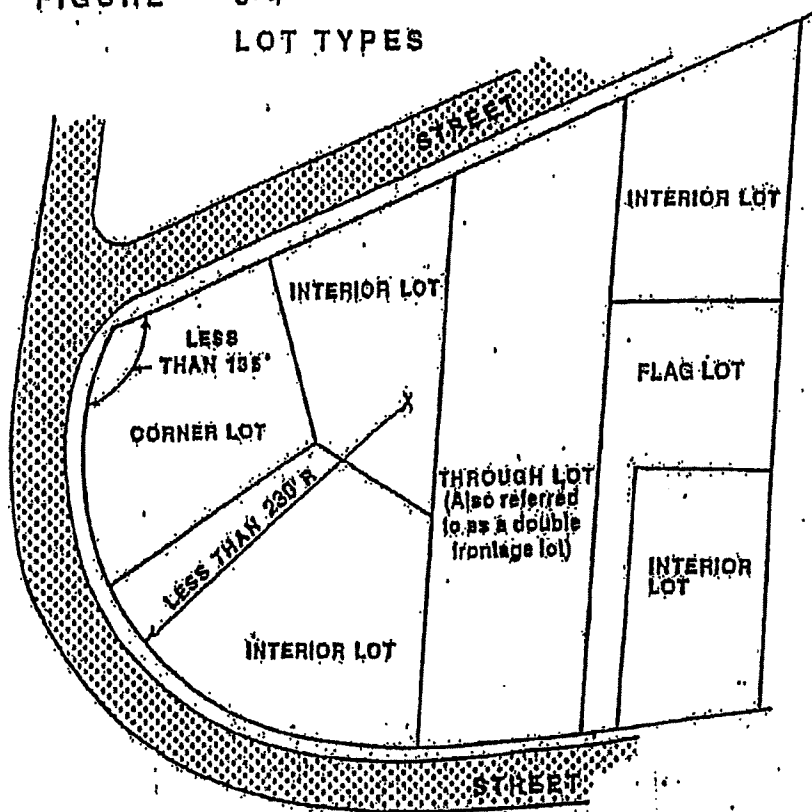
Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location on the ground including, but not limited to, all buildings, independently supported decks, satellite dishes and free-standing signs; excepting anything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

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

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

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

FIGURE 3-4
LOT TYPES



ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

FIGURE 3-5
LOT DEPTH

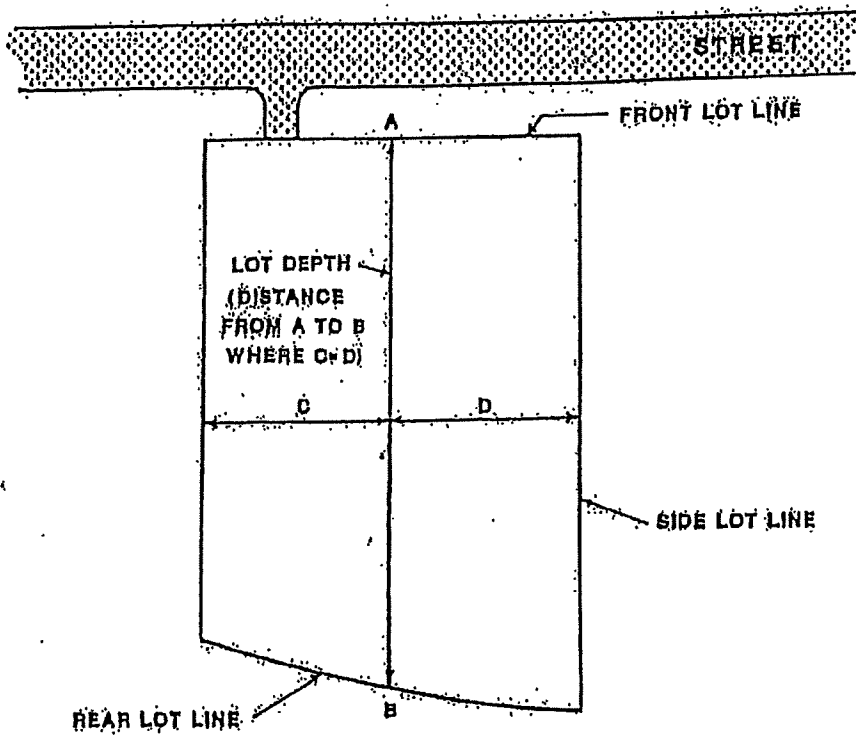
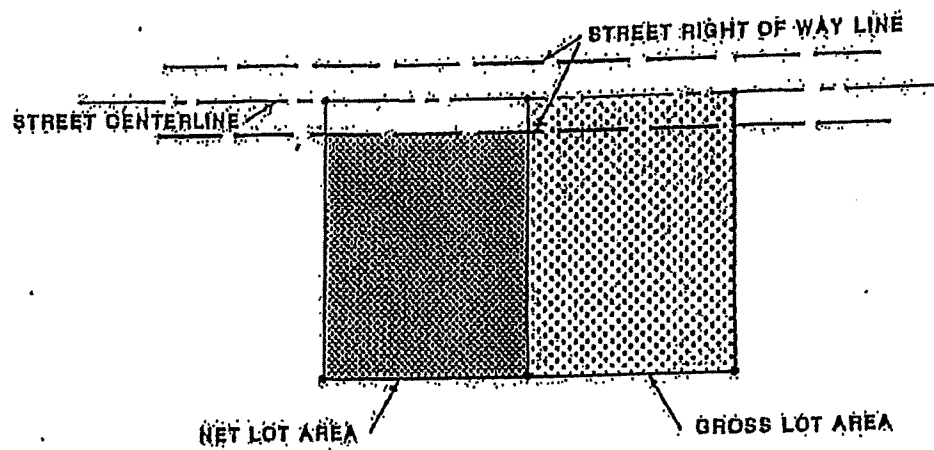
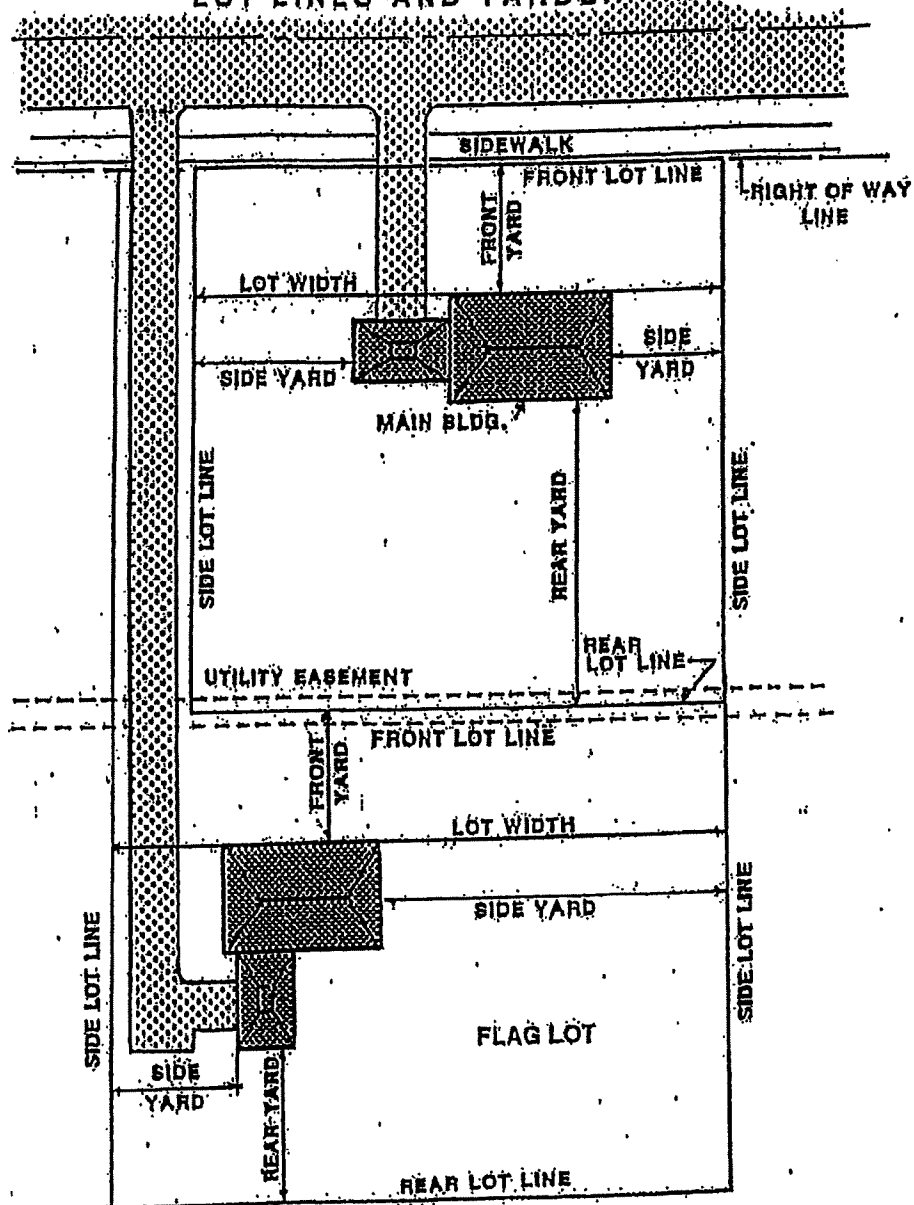


FIGURE 3-6
NET AND GROSS LOT AREA



LOT LINES AND YARDS.



ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

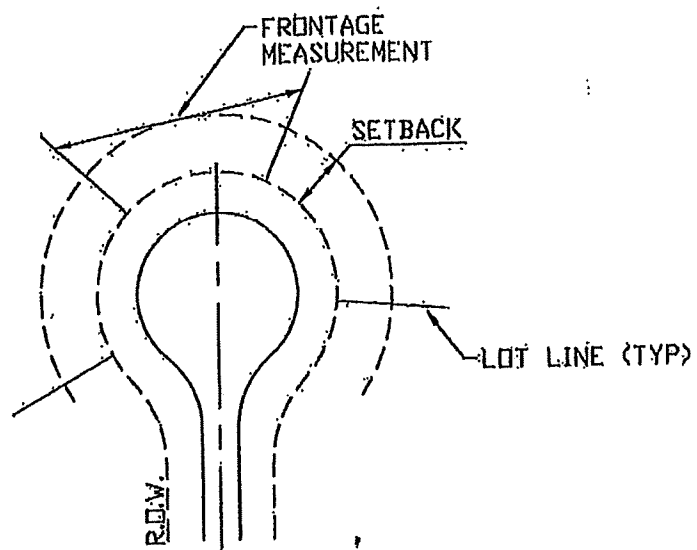


FIGURE 3-8

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

Section 6.19

Access Controls

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

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

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

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

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

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

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

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

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

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

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

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

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

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

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

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

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

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

**TOWNSHIP OF MARION
LIVINGSTON COUNTY, MICHIGAN**

PRIVATE ROAD ORDINANCE NO. 07-03

SECTION I: INTENT AND PURPOSE

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

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

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

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

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

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

SECTION II: PROCEDURE

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

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

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

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

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

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

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

SECTION III: SEVERABILITY

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

SECTION IV: EFFECTIVE DATE

This ordinance shall take effect thirty days after publication.

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

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

Tammy L. Beal, Township Clerk

Date

Moved by:

Supported by:

Yeas:

Nays:

Abstentions:

Absent:

Hanyey, Lowe, Andersen, Beal, Wyckoff, Hodge

Hamañin

None

None

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

Tammy L. Beal, Township Clerk

Date

ATTACHMENT TO "ISSUES WITH MARION TOWNSHIP ZONING ORDINANCE"

From:

The Michigan Community Association Law Blog

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

ARTICLE XXXX

WELLHEAD PROTECTION OVERLAY DISTRICT

Marion Township Zoning Ordinance
Livingston County, Michigan

Insert Date Here

DRAFT

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ARTICLE XXXX

WELLHEAD PROTECTION OVERLAY DISTRICT

Section 1 – STATEMENT OF PURPOSE

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

Section 2 – DEFINITIONS

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

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

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

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

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

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

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

Section 3 – SCOPE OF AUTHORITY

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

Section 4 – CREATION OF OVERLAY DISTRICT BOUNDARIES

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

Section 5 – DISTRICT DELINEATION

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

Section 6 – SITE PLAN REVIEW REQUIREMENTS

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

Section 7 – DATA REQUIREMENTS

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

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

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

Section 8 – PERMITTED PRINCIPAL USES

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

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

Section 9 – CONDITIONAL USES

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

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

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

Section 10 – CONDITIONS

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

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

Section 11 – PROHIBITED USES

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

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

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

2. In calculating the maximum sewage disposal system density, it shall be assumed that each single-family-residential home will generate 280 gallons of sewage per day.
3. The maximum sewage disposal system density may be computed using the following method:
 - a. On an individual per lot basis (i.e., a single-family home typically generates 280 gallons of sewage per day, creating the need for a minimum lot area of $\frac{1}{4}$ acre.

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

I. Wastewater treatment works, except the following:

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

Section 12 – MISCELLANEOUS REQUIREMENTS

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

- A. **Drainage.** For commercial and industrial uses, run-off from impervious surfaces shall not be discharged directly to drains, streams, ponds, or other surface water bodies. Oil, grease and sediment traps shall be used to facilitate removal of contamination. Forebays/sediment basins and other requirements shall be adhered to per the Township Engineering Design Standards.
- B. **Discharge of Regulated Substances.** The property owner shall prevent the discharge of regulated substances.

1. Upon discovery of a discharge within the Wellhead Protection Area, the owner of the property on which a discharge occurred, as well as the person responsible for the discharge if they are not the same, shall take appropriate reasonable actions to mitigate the potential impact of the discharge on the groundwater and remediate the discharge. Remediation shall be conducted in a timely manner and in accordance with applicable law. Wastes generated during remediation of a Regulated Substance discharge must be handled in accordance with all applicable legal requirements. Storage of these materials for a period of greater than ninety (90) days must be reported to, and approved obtained from, the Township Supervisor or his/her designee.
2. All discharges shall be documented in writing and mailed to the Township Supervisor or his/her designee within ten (10) business days of said incident. Initial discharge notification shall include, at a minimum, the following:
 - i. Location of the discharge (name, address, and phone);
 - ii. Reporting party's name, address and phone (if different from above);
 - iii. Emergency contact and phone;

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

Section 13 – ENFORCEMENT

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

Section 14 – VARIANCE/APPEAL RIGHTS

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

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

Section 15 – ABATEMENT/REMEDIAL ACTIVITIES BY THE TOWNSHIP

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

Section 16 – INJUNCTIVE RELIEF

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

Section 17 – VIOLATIONS DEEMED A PUBLIC NUISANCE

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

Section 18 – CRIMINAL PROSECUTION

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

Section 19 – REMEDIES NOT EXCLUSIVE

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

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Article VI: General Provisions

12. Accessory structures shall have a minimum 4:12 roof pitch, except engineered steel structures may have minimum 3:12.

Section 6.08 Relationship of Buildings to Lots

No more than one principal building may be permanently established on a single lot or parcel, unless otherwise specifically provided for elsewhere in this Ordinance as in the case of a hospital, condominium project, planned unit development or multiple-family development. More than one principal building on a lot or parcel may also be allowed in the Highway Service and/or Light Industrial Districts, subject to compliance with other applicable provisions in this Ordinance. A principal building and/or accessory building or structure may not straddle the property line of two or more lots or parcels even though under single ownership.

Section 6.09 Permitted Yard Encroachments

The minimum yard size and setback requirements of this Ordinance are subject to the following permitted encroachments.

- A. Architectural elements of existing buildings such as cornices, eaves, gutters, chimneys, pilasters, outside stairways, fire escapes, and similar features that are necessary to the integrity of the building or the health and safety of the occupants shall be permitted to encroach upon a required yard no more than five (5) feet.
- B. Attached terraces, patios, porches, and decks that are not covered with a roof shall be permitted to encroach upon a required yard provided that the deck or paved area is no closer than ten (10) feet from a side or rear lot line. However, if the yard proposed to be encroached upon abuts a public street or approved private road the principal structure setback shall be observed and no encroachment is permitted.
- C. Awnings may project into a required yard no more than five (5) feet.

Section 6.10 Front Setback Reductions

Any required front setback in any residential district may be reduced below the minimum requirements when the average front setback of existing principal buildings within two hundred (200) feet of a proposed principal building are less than the minimum required, in which case the required minimum front setback shall be based on the established average.

Section 6.11 Allocation of Lot Area and Configuration of Lots

- A. No portion of a lot can be applied more than once in complying with the provisions for lot area and setbacks.
- B. The depth of lots created after the effective date of this Ordinance shall not be more than four (4) times longer than their width, excluding flag lots. The 4:1 maximum lot depth to width ratio shall apply to the flag portion of a flag lot only in the case when the flag lot has less than one hundred (100) feet of road frontage. When a flag lot has one hundred (100) feet or more of road frontage, the maximum 4:1 lot depth to width ratio standard shall apply to the entire lot.
- C. After the effective date of this Ordinance, no flag lots shall be created except for residential lots as provided below:
 1. Only one (1) flag lot is allowed per parent parcel, in existence as of March 14, 1996, of four (4) acres or greater.

Article VIII: Residential Districts

Lots having lake frontage shall provide the required front yard along the lakeside of the property. Lots having lake frontage shall provide the required rear yard along the road right-of-way. The yard on the lake side shall be maintained as an undeveloped yard. Accessory structures shall not be permitted within the required setback between the abutting road right-of-way and the principal building. (See Article III Definitions, Figure 3-9)

a. **ERS-1:**

- 1) **Front yard:** Fifty (50) feet.
- 2) **Side yard:** Ten (10) feet.
- 3) **Rear yard:** Twenty-five (25) feet.

b. **ERS-2:**

- 1) **Front yard:** One hundred (100) feet.
- 2) **Side yard:** Fifteen (15) feet.
- 3) **Rear yard:** Twenty-five (25) feet.

5. **Maximum Height:** Unless otherwise provided in this Ordinance, no principal building shall exceed a height of thirty-five (35) feet measured from the finished grade.
6. **Maximum Lot Coverage:** Thirty-five (35) percent.

Section 8.05 MHP, Manufactured Home Park District

- A. **Intent:** The purpose of the Manufactured Home Park District is to encourage a suitable environment for persons and families that choose to live in a manufactured home rather than a site-built one-family residence. Development is limited to mobile homes when located in and designed for the purpose of a manufactured home park with recreational facilities and necessary public utility buildings.
- B. **Principal Uses Permitted:** The following uses of land and structures shall be permitted by right in the MHP, Manufactured Home Park District:
 1. Mobile home parks subject to the requirements of the Mobile Home Commission Act, Act 96 of Public Acts of 1987, as amended, and the rules of the Mobile Home Commission.
 2. Manufactured home subdivision subject to the Subdivision Control Act, Act 288 of the Public Acts of 1967, The Marion Township Subdivision Control Ordinance and all other applicable acts, rules, and regulations.
 3. Family child care homes.
 4. Adult foster care family homes.
 5. Home Occupation Class I in accordance with Section 6.14.
- C. **Manufactured Home Park Regulations:** The development of a manufactured home park shall meet

MARION MARCH 2019



DETAIL OF AREA WITH EXISTING BUILDINGS



EAST 1/4 CORNER SECTION 9
T2N, R4E, MARION TOWNSHIP
LIVINGSTON COUNTY, MICHIGAN
FOUND REMON PIPE IN MON
BOX PER LSC 0061

EAST LINE SECTION 9
T2N, R4E, MARION TOWNSHIP

S 03°13'57" E
2192.37'

℄ JEWELL ROAD

PARCEL A-1
26.10 ACRES

PARCEL A-2
1.44 ACRES
PER LC L.1120
PGS.762-765

EAST-WEST 1/4 LINE SEC.9
AS PREVIOUSLY SURVEYED
AND MONUMENTED

℄ JEWELL ROAD

○ WELL

4710-09-400-013

LEGEND

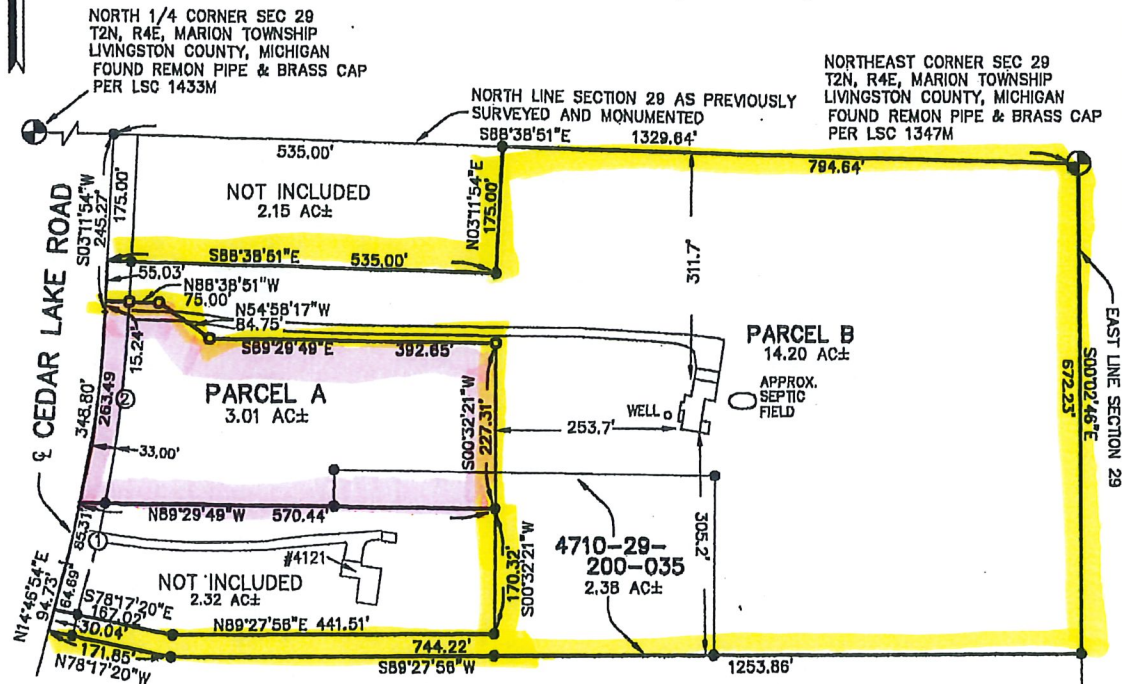
- = SET 1/2" STEEL REROD WITH
CAP : JKS 35999
- = FOUND CORNER MARKER

RECONFIGURATION OF PARCELS 4710-29-200-035 AND 037

LEGEND

- = SET 1/2" STEEL REROD WITH
 CAP ; JKS 35989
 ● = FOUND CORNER MARKER

NOTE: EXTERIOR BOUNDARY IS BASED ON A PREVIOUS
SURVEY BY CHARLES GARLOCK (REF: 167-78)



CURVE DATA

①	②
$\Delta = 02^{\circ}49'59''$	$\Delta = 08^{\circ}45'01''$
$R = 1725.33'$	$R = 1725.33'$
$L = 85.31'$	$L = 283.49'$
$CH = N13^{\circ}21'55''E$	$CH = N07^{\circ}34'25''E$
$85.30'$	$283.24'$

COPY

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE SURVEYED AND MAPPED THE LAND HEREIN PLATTED AND/OR DESCRIBED ON 10/04/2019, AND THAT THE RATIO OF CLOSURE ON THE UNADJUSTED FIELD OBSERVATIONS OF SUCH SURVEY WAS 1/5,000 OR BETTER, AND THAT ALL OF THE REQUIREMENTS OF ACT NO. 132, P.A. 1970 (AS AMENDED) HAVE BEEN COMPLIED WITH.
NOTE: BEARINGS ARE BASED ON A PREVIOUS SURVEY

CLIENT: **MIKE MARKARIAN**

SCALE: 1" = 200'

SECTION: 29 TOWN: 2 NORTH RANGE: 4 EAST

MARION TOWNSHIP
LIVINGSTON COUNTY, MICHIGAN

JACK K. SMITH
PROFESSIONAL SURVEYOR No. 35999

GARLOCK-SMITH
PROFESSIONAL SURVEYORS
516 EAST GRAND RIVER
HOWELL, MICHIGAN 48843
(517) 546 - 3340
FAX: (517) 546 - 2941

DATE: 10-07-2019	CREW: JKS/DJS
BOOK NO. : 2147B_3	COMP: JKS
	DRAWN: JKS
SHEET 1 OF 2	REV:



MARION MARCH 2019

