

**MARION TOWNSHIP PLANNING COMMISSION
AGENDA**

**REGULAR MEETING
Tuesday – July 22nd, 2025
7:30 pm**

Virtual access instructions to participate in the meeting are posted on www.mariontownship.com
MEETING WILL BE HELD IN MAIN HALL

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

MEMBERS' PRESENT:

CALL TO PUBLIC:

APPROVAL OF AGENDA: *July 22, 2025 Regular Meeting*

APPROVAL OF MINUTES FOR: *June 24, 2025 Regular Meeting*

NEW BUSINESS:

1. Review of list of suggested items regarding land-use moratorium

CALL TO PUBLIC:

ADJOURNMENT:

Marion Township Public Participation Policy at Township Planning Commission Meetings

The Public shall be given an opportunity to be heard at every Township Planning Commission Meeting following the adoption of this Policy.

The Planning Commission Chairperson is the moderator of the meeting. In the absence of the Chairperson, the Planning Commission VICE-Chairperson shall be the moderator of the meeting.

The Public attending the meeting either in-person or on-line may speak during the "Call to the Public" part of the meeting agenda. To preserve order, those attending in-person will speak first. When all in-person attendees have been heard, the moderator will ask if any on-line attendee wishes to speak.

When recognized by the moderator, in-person attendees shall come to the podium. The moderator will request that they give their name and address before they begin their comments. When all in-person attendees have finished speaking, the moderator will ask if anyone attending the meeting on-line wishes to speak. On-line attendees may unmute themselves and when recognized by the moderator may speak. On-line attendees will also be asked for their name and address.

All comments shall be addressed to the Township Planning Commission members. The "Call to the Public" is for attendees to provide information or opinions to the Township Planning Commission and is not intended to be a dialogue. Anyone needing a response should contact officials or staff during normal office hours.

The Public attending the meeting either in-person or on-line will be allowed to ask questions and make comments about NEW and UNFINISHED agenda items. These questions and comments must be made during the discussion of that agenda item. Anyone that would like to speak will raise their hand indicating their desire to speak.

When recognized by the moderator, in-person attendees shall come to the podium. The moderator will request that they give their name and address before they begin their comments. When all in-person attendees have finished speaking, the moderator will ask if anyone attending the meeting on-line wishes to speak about the NEW or UNFINISHED agenda item. On-line attendees may unmute themselves and when recognized by the moderator may speak. On-line attendees will also be asked for their name and address.

The moderator can close the questions and comments session about a NEW and UNFINISHED agenda item at his/her discretion.

To preserve efficiency, at any time during the meeting, each speaker, whether in-person or online will be limited to THREE MINUTES.

**MARION TOWNSHIP
PLANNING COMMISSION
REGULAR MEETING MINUTES
JUNE 24, 2025 / 7:30PM**

Date: _____

PC MEMBERS PRESENT: LARRY GRUNN – *CHAIRPERSON*
JIM ANDERSON – *VICE-CHAIRPERSON*
CHERYL RANGE – *SECRETARY*
BILL FENTON

PC MEMBERS ABSENT: BRUCE POWELSON

OTHERS PRESENT: SCOTT RICHARDSON – *MARION TWP. ZONING ADMINISTRATOR*
ZACH MICHELS – *TOWNSHIP PLANNER*
JOHN GORMLEY – *TOWNSHIP ATTORNEY*
PHIL WESTMORELAND – *TOWNSHIP ENGINEER / SPICERS GROUP*

CALL TO ORDER:

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

CALL TO PUBLIC:

No comment made by the public.

APPROVAL OF JUNE 24, 2025 AGENDA:

Jim Anderson made a motion to approve the June 24, 2025 agenda as presented. Bill Fenton seconded. **4-0 MOTION CARRIED**

APPROVAL OF MAY 27, 2025 MINUTES:

Cheryl Range made a motion to approve the May 27, 2025 Planning Commission minutes as presented. Larry Grunn seconded. **4-0 MOTION CARRIED**

NEW BUSINESS:

1) REVIEW AND DISCUSSION OF MORATORIUM APPROVED AT THE LAST TOWNSHIP BOARD MEETING

Bill Fenton explained that at the June 12, 2025 Board Meeting, the Board adopted a resolution that establishes a temporary moratorium on special use permits, condominium developments and/or planned unit developments for the next 120 days. Fenton also explained that the ordinance language regarding private roads conflicts with the County Road standards.

Phil Westmoreland stated that in 2020, the Development Standards were created to ensure the proposed use of a development is compatible with the surrounding area and doesn't negatively impact public health, safety, or welfare. These standards address things like site design, traffic, noise, environmental impacts, and the accessibility of public services. The Township's Development Standards are not currently part of their Zoning Ordinance. Keeping them separate makes it easier for outside agencies to ensure compliance without having to look through the entire Zoning Ordinance.

John Gormley suggested that we combine the Township's Developments Standards with the Zoning Ordinance language, to make it more defensible in court. Gormley also shared that private roads need to be regulated somehow because the County will not regulate them.

Bill Fenton will speak with Genoa Township about their traffic study requirements for new developments.

DRAFT

John Gormley and Scott Richardson will put together a to-do list of items that need to be reviewed and/or updated in our existing Zoning Ordinance. Once the list is established, Bill Fenton, Scott Richardson, Zach Mickels, John Gormley and Jim Anderson will work on incorporating the changes that need to be made. These changes will be discussed at one of the upcoming Planning Commission meetings and Commissioners will make a recommendation to the Board. Once the final changes are approved by the Board, these changes will be given to Sandi Longstreet so she can update the Zoning ordinance.

Bill Fenton is also asking for everyone to send him any other suggested changes that need to be made in our ordinance. He would like these changes emailed to him.

CORRESPONDENCE:

Jim Anderson inquired about the new Sign ordinance language that was created by the Planning Commission. John Gormley said that he will review it after we get the Moratorium handled.

CALL TO PUBLIC:

Les Andersen resides at 4500 Jewell Road. Les Andersen talked about deed restrictions and parcel splits within the Township. Les would like to see the County Road Standards applied to all private roads in the Township.

Gormley stated that if we made the County Road Standards apply to private roads, then there are always variances that can be granted by the ZBA if necessary.

Zach Michels said that it is a fine line because you don't want to make it impossible for people to do things on their property.

There are ways to improve the standards for private roads, like creating a maintenance agreement if you didn't want to apply the County Road Standards.

ADJOURNMENT:

Bill Fenton made a motion to adjourn the Planning Commission meeting at 9:16pm. Cheryl Range seconded.

4-0 MOTION CARRIED

MINUTES TAKEN BY: Jessica S. Timberlake

Items for Discussion
Planning Commission Meeting July 22, 2025

1. Where in the process should the Special Use Permit be placed?
2. Review sections 6.18 and 6.20 and possibly placing the development standards directly into the ordinance
 - a. Define a Traffic Study process and its use in decision making
 - b. Should condos be subject to all of 6.17?
 - c. Should the ordinance address multifamily PUDS accesses a secondary road, but multifamily condos cannot?
3. Draft language to address any impact on existing private roads.
4. Discuss the removal of the state Fire Marshall from the approval process
5. Discuss the issue of boulevard disparity between PUD and Condo developments

**STATE OF MICHIGAN
MARION TOWNSHIP ZONING BOARD OF APPEALS**

**Resolution No. _____
(ENACTED MAY 29, 2025)**

**RESOLUTION OF DETERMINATION OF THE MARION TOWNSHIP
ZONING BOARD OF APPEALS CASE NO. 02-25
DATED MARCH 26, 2025**

WHEREAS, Meadows North proposes to build a residential condominium development consisting of approximately 167 condominium units on the re-zoned Parcel ID#'s 4710-02-400-020:

- a. The proposed residential condominium development consists of everything from duplex condominium units to five-plex condominium units, which deems it multifamily under the Marion Township Zoning Ordinance because the Zoning Ordinance in Section 3.02 defines a Dwelling as:
 - ii. any building, or portion thereof, which is designed or used exclusively for residential purposes.
 - iii. Dwelling, Multiple-Family: A building containing three or more dwelling units;
- b. Multifamily dwelling units are only permitted by special use permit in the Urban Residential District, per Section 17.21 (A);

WHEREAS, based upon the multifamily use proposed, the Meadows North Condominium Development requires a) a special use permit to build a multi-family condominium development on the site, b) preliminary site plan approval, and c) final site plan approval.

WHEREAS, after Meadows North submitted for Special Use Permit approval and Preliminary Site Plan approval, the Marion Township Planning Commission ultimately recommended:

- a. Preliminary Site Plan Approval with conditions on November 26, 2024 to the Marion Township Board;
- b. Special Use Permit Approval with conditions on December 17, 2024 to the Marion Township Board;

WHEREAS, the Preliminary Site Plan recommended for approval by the Planning Commission to the Marion Township Board only has one ingress and egress point for residents of the Township onto Peavy Road, plus a limited emergency access point through Meadows West, a neighboring development, for fire, police, ambulance and other emergency type vehicles only.

WHEREAS, the Township Board considered the Preliminary Site Plan recommendation from the Planning Commission at more than one Township Board Meeting in early 2025, and there was disagreement between the Board members as to the meaning of the various criteria for approval of this type of proposed development, and as to both preliminary site plan and special use permit, under the Zoning Ordinance;

WHEREAS, the Township Board asked the Zoning Administrator to issue a written opinion on the meaning and/or application of various sections of the Zoning Ordinance in relation to the Meadows North Condominium Development and the criteria upon which the Board must apply in ruling upon Meadows North's request for approval of the proposed preliminary site plan and special use permit;

WHEREAS, the Zoning Administrator issued his Opinion on March 13, 2025;

WHEREAS, on March 26, 2025, Applicant Ms. Acker filed an appeal alleging specific violations of the Zoning Ordinance as it relates to the Meadows North Condominium Development, specifically she is seeking a review of 1) decisions or orders of the planning commission under Section 5.05 (A) and a review of the Zoning Administrator's interpretation of the Zoning Ordinance under Section 5.05 (B), as such they are both related to the Zoning Board of Appeals (hereinafter the "ZBA") in Case #02-25;

WHEREAS, the ZBA conducted a properly noticed and scheduled Public Hearing before the ZBA regarding tis Appeal on May 5, 2025, wherein the Appellant spoke, the Township Supervisor spoke, the Township Zoning Administrator spoke, and the public at large was permitted to speak, all while the ZBA members and their attorney listened to the public comment and questioned the speakers on specific points related to this Appeal.

WHEREAS, after public comment was concluded the ZBA voted to go into closed session to discuss the written legal opinion of the ZBA Attorney and invited the Township Supervisor and the Township Zoning Administrator into that closed session;

WHEREAS, after going into closed session the ZBA returned to open session and voted to grant itself an extension of time to rule on the appeal, as the ZBA found it was necessary to review information pertinent to making the decision before rendering a final decision, per Section 5.06 (E).

WHEREAS, after receiving the written legal opinion from the Zoning Board Appeals Attorney, the Zoning Administrator's Opinion, the Appeal from the Applicant, and taking into account the Public Comment from May 5, 2025, the Zoning Board of Appeals is prepared to render an opinion on the Appeal dated May 29, 2025;

IT IS RESOLVED THAT IN REGARD TO THE APPLICANT'S MARCH 26, 2025 APPEAL:

1. IS THE APPLICANT AN AGGRIEVED PERSON ABLE TO BRING THIS APPEAL?

At the public Appeal hearing held on Monday, May 5, 2025 at 7:30 pm, representatives of Meadows North alleged that Ms. Acker was not an "aggrieved person" under the law and could not bring this Appeal. Under MCL 125.3604 (2), an appeal to the zoning board of appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of

the state or local unit of government. This language is supported by Section 5.06 (A) of the Zoning Ordinance. Pursuant to *Saugatuck Dunes Coastal Alliance v Saugatuck Township*, 509 Mich 561 (2022), the Michigan Supreme Court has deemed an "aggrieved person" as someone who has suffered special damages or a specific injury due to a zoning board of appeals decision. Factors that can be relevant in determining if a party is aggrieved include:

- A. the type and scope of the change or activity proposed, approved, or denied.
- B. The nature and importance of the protected right or interest asserted.
- C. The immediacy and degree of the alleged injury or burden and its connection to the challenged decision as compared to others in the local community.
- D. If the complaining party is a real-property owner or lessee, the proximity of the property to the site of the proposed development or approval and the nature and degree of the alleged effect on that real property.

The ZBA finds that the Applicant Ms. Ackers, a Marion Township Resident, is an aggrieved person under the law who is able to bring this appeal before the zoning board of appeals, because:

First, the Applicant owns real property, the back yard of which borders upon the proposed Meadows North Condominium Development. Therefore, there is a greater immediacy and degree of the alleged injury or burden to her as compared to others generally located in Marion Township, if this multi-family development were to proceed in violation of one or more sections of the existing Zoning Ordinance. The nature of this high-intensity (up to 5-plex) multi-family residential development next to Ms. Acker's single-family home creates a greater degree or burden to her property than the ordinary Marion Township resident. (See Factors C & D above)

Second, Ms. Acker accesses her property from Peavy Road, one driveway north of the only proposed entrance to the Meadows North Condominium Development. Peavy Road is a local county road. The nature of the burden upon this road being proposed by the developer with 167 multi-family units is of a greater proximity to Ms. Acker and thus the injury or burden to her if this development does not follow all existing zoning regulations is greater compared to other residents of Marion Township who do not live on or utilize Peavy Road generally. (See Factors C & D above)

Third, the nature of Ms. Acker's right to protect Peavy Road and her own back yard from overburdened residential uses that may be inflicted by the potentially improper approval of Meadows North Condominium Development in contravention of one or more Zoning Ordinance provisions is grounds to find her an Aggrieved Person, because of the utilization of Peavy Road generally for ingress and egress and her specific proximity to the ingress/egress point of the Meadows North Condominium Development specifically to Peavy Road and the general proximity of her home to the development. (See Factor B above)

2. IS THE APPLICANT'S APPEAL TIMELY?

At the Public Hearing on this Appeal on May 5, 2025, representatives of Meadows North alleged that Ms. Acker's appeal was 1) time barred, 2) barred by laches, and/or 3) otherwise not timely. The ZBA finds that Ms. Acker's appeal is timely for the following reasons:

First, ZBA Appeals under Section 5.05 (B) deal with appeals of interpretations of the Zoning Ordinance by the Zoning Administrator. These are arguably rulings of the Zoning Administrator concerning the enforcement of provisions of this Zoning Ordinance and thus any appeal must be filed under Section 5.06 (A) from such a decision within thirty (30) days of the ruling. While the Township Board was considering action on the Preliminary Site Plan, it became apparent there was a substantial disagreement as to the criteria upon which the Township Board should render a decision on the merits regarding the Planning Commission's recommendation for approval of Meadows North's proposed Preliminary Site Plan and the Special Use Permit. The Township Board requested the Zoning Administrator issue an opinion on some of those issues to clarify the criteria to be applied by the Marion Township Board in rendering a decision on the merits of these two recommendations from the Planning Commission.

The Zoning Administrator issued an interpretation on various provisions of the Ordinance on March 13, 2025 and the Applicant appealed on March 26, 2025 to some or all of those interpretations, along with other actions of the Planning Commission the Appellant alleges were taken in violation of the Zoning Ordinance. Therefore, the Applicant's appeal under Section 5.05 (B) was filed well within the thirty (30) day threshold on those issues.

Second, the Planning Commission issued recommendations to the Township on the Preliminary Site Plan on November 26, 2024 and the Special Use Permit on December 17, 2024. The Applicant filed her appeal asking for administrative review of those Planning Commission decisions on March 26, 2025, or approximately 90 days after those two (2) decisions were rendered by the Planning Commission. The Appeal was received well before the Township Board issued a final decision on the merits of either recommendation. There is no specific provision in the Zoning Ordinance setting a timeframe for an Appeal to the ZBA for an Administrative Review under Section 5.05 (A). Further, while MCL 125.3606 (3) of the Zoning Enabling Act proscribed specific timelines to appeal a decision of the Zoning Board of Appeals to the Circuit Court, nowhere in the Act nor the Ordinance does it proscribe a specific time period for an Aggrieved Party to file an Appeal of an Administrative Decision to the ZBA.

Finally, the Marion Township Board has yet to act upon either recommendation from the Planning Commission. Also, a determination from the ZBA on the merits of these appeals will provide clarity for the Marion Township Board on a number of procedural issues and the criteria upon which that decision should be based, long before a final decision on the merits of either issue is rendered. The Planning Commission recommendations are guidance and/or

interim decisions, and the final decision on the merits rests with the Marion Township Board. Therefore, the ZBA determines the Applicant's appeal on this basis is not time barred under laches and/or any other reason, as Marion Township Board had not acted before the Appeal to render any final decision.

3. IS THERE MERIT TO THE APPELLANT'S ALLEGED VIOLATION # 1 REGARDING SPECIAL LAND USE REQUIREMENTS?

This application for appeal appears to be an administrative review appeal under Section 5.05 (A). The Appellant's written Appeal on this issue is somewhat disjointed. Some of the language allegedly quoted by the Applicant in her first paragraph does not tie to her only Zoning Ordinance cite to Section 6.15 (B) (1), which reads:

- B. Requirements for Valid Conditions: Conditions imposed shall meet all of the following requirements:*
 - 1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.*

The Appellant appears to be arguing that the creation of a deceleration lane between two existing homes [1163 and 1175 Peavy Road] on a public right-of-way is detrimental to the existing property owners social and economic wellbeing in that area. This point was questioned during the public hearing with the Appellant on May 5, 2025 and the Appellant, again, argued similarly. There is no factual dispute that Peavy Road, as expanded for the proposed deceleration lane, will still be 100% contained within the existing Peavy Road right-of-way. No condemnation of private property is required for the improvements to Peavy Road necessitated by an approval of the Meadows North Condominium Development. The ZBA does not find the private property owners have any special rights or privileges or whose social or economic wellbeing will be detrimentally affected by the utilization or expansion of an existing public road within its existing public right-of-way under this appeal. For the above reasons, the ZBA does not find that the Appellant has met her burden under this alleged reason to appeal the administrative decision of the Planning Commission under Section 5.05 (A) and this appeal on this ground is denied.

4. IS THERE MERIT TO THE APPELLANT'S ALLEGED VIOLATION # 2 REGARDING A TRAFFIC IMPACT STUDY?

The Appellant filed this administrative appeal under Section 5.05 (A) alleging the Meadows North Preliminary Site Plan project could not be recommended for approval by the Planning

Commission without a traffic study¹. Specifically, the Appellant addresses issues under Sections 6.15 (A) & (B)(1). Section 6.15 (A) reads:

A. Conditional Approvals Criteria for Discretionary Decisions: The Planning Commission, Zoning Board of Appeals, and Township Board may attach conditions to the approval of a site plan, special land use, planned unit development, variance or other discretionary approval. Such conditions shall be based upon standards in this Ordinance and may be imposed to:

- 1. Ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.*
- 2. Protect the natural environment and conserve natural resources and energy.*
- 3. Ensure compatibility with adjacent uses of land.*
- 4. Promote the use of land in a socially and economically desirable manner.*

The writing of the Appellant that accompanies the appeal makes it clear that the reference to 6.15 (A) is in relation to a requirement she believes should have been attached to the approval of either the preliminary site plan and/or the special use permit for a traffic study. Further, Appellant alleges that there is no proof that the Meadows North Condominium Development will not reduce the level of service on adjoining public roads below a "Level C." Beyond the mention of 6.15 (B) (1) on the Appellant's Application for Zoning Board of Appeals, Section 1 on Zoning Ordinances, there is no specific mention in the written appeal of what a specific Board or individual official of the Township has done to violate this section of the Zoning Ordinance and/or misinterpret it. A review of the November 26, 2024 minutes of the Planning Commission shows the following motion:

Jim Anderson made a motion to recommend approval to the Board of Trustees for SPR# 03-24 SUP# 02-24 MEADOWS NORTH PRELIMINARY SITE PLAN, with the following recommendations.

- Include the complete traffic study on the final site plan.*
- Include the maintenance agreement for the Fire Department emergency access from the Meadows, in the homeowner's agreement.*
- Include the maintenance agreement for billboard easements and the gas storage valve easements, in the homeowner's agreement.*
- Require the street lights to be LED.*
- Include the review from the Drain Commission.*

Bill Fenton seconded. 5-0 MOTION CARRIED

¹ The Appellant does take issue with the Zoning Administrator's decision as it relates to the traffic study and what the evidence shows, but the ZBA finds this appeal more fully fits the form of an Administrative Review under Section 5.05 (A) than an interpretation of the Ordinance under Section 5.05 (B).

Based on the argument put forth in this Appeal and the clear condition contained regarding a traffic study in the Planning Commission motion from November 26, 2024, the ZBA finds that the Planning Commission did recommend to the Marion Township Board that the Preliminary Site Plan be approved conditioned on Meadows North presenting a “complete traffic study” as part of their final site plan approval. This appears to be a condition the Planning Commission imposed on the Applicant under Section 6.15 (A) (1). Based on this Planning Commission motion, the final site plan is still conditioned on a “complete traffic study” that will satisfactorily insure that public roads affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity. The ZBA denies the Applicant’s appeal on this grounds, as the Appellant has failed to meet her burden to demonstrate a decision and/or order of the Planning Commission on the grounds was improper, as required under Section 5.05 (A).

However, the Applicant also alleged in this portion of the appeal that the Zoning Ordinance required that the public road serving as the ingress and egress point for a condominium project not fall below a “Level C.” This language is not part of Section 6.15 (A) (1), instead that language is derived from Section 6.17 (A), which reads:

Section 6.17 Infrastructure and Concurrency Standards:

A. Roadway Network:

1. *No new land uses, except for unplatted single-family homes, or development requiring site plan review under this Ordinance shall be permitted which will reduce the level of service on adjacent roadways below the level of service (LOS) C, as identified in the Marion Township Comprehensive Plan, until the roadway has been improved to avoid such a decrease in the level of service*

This triggers the need for a ZBA interpretation of the language under Section 5.05 (B). In interpreting the Ordinance, the ZBA must insure that every word of the Ordinance is read to give it meaning, and so the ZBA must avoid an interpretation that renders words unnecessary or meaningless, please see *In re MCI Communications*, 460 Mich 396 (1999). Further, Ordinances are to be read as a whole to ascertain the intent of the Legislature, and any provisions that are apparently inconsistent are interpreted to produce a harmonious whole, if reasonably possible, please see *Macomb County Prosecutor v Murphy*, 464 Mich 149 (2001).

It is the opinion of the ZBA that the specific requirements for Condominium Development’s infrastructure under Section 6.18 control over the general requirements of Section 6.15 for infrastructure and concurrency. Section 6.18 regulates condominium developments in Marion Township regardless of what zoning district those Condos are located in. Section 6.18 (C) is specifically relevant to this appealed issue and reads:

- A. *A condominium project shall comply with the provisions in Sections 6.17.B. and 6.17.C. pertaining to potable water and sewage disposal and storm water management, respectively.*

The ZBA rationalizes that it is inappropriate for the Planning Commission and/or the Township Board to enforce Section 6.17 (A) upon a condominium project, based on the clear written language of this Ordinance as it is currently drafted, because to do so would render the language of Section 6.18 (C) "unnecessary or meaningless," which is not permitted under *MCI Communications, supra*. If the Township Board in adopting this Ordinance desired condominium projects to comply with Section 6.17 (A), then it would not have included Section 6.18 (C) in the Ordinance². These two competing sections of the Ordinance must be harmonized under *Macomb County Prosecutor v Murphy, supra*. It is the opinion of the ZBA that the only logical way to harmonize the language of Section 6.18 (C) with Section 6.17 generally is to hold that under its Section 5.05 (B) authority the requirements of Section 6.17 (A) are not applicable to Condominium projects in Marion Township as any other reading would make Section 6.18 (C) meaningless.

Alternatively, had the Township Board desired condominium projects to comply with Sections 6.17 (A), (B), and (C), then it would have said so in Section 6.18 (C) or since there are only three subsections to 6.17 it may have not included Section 6.18 (C) at all. Instead, the Ordinance makes clear that Condominium Developments **shall** only need to comply with Section 6.17 (B) & (C). Section 3.01 (E) & (H) supports this argument, which reads:

- E. *The term "shall" is always mandatory and not discretionary; the word "may" is permissive.*
- 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.*

The Condominium Section 6.18 makes clear that condominium developments **shall** comply with Section 6.17 (B) & (C). This interpretation is further supported by the Michigan Court of Appeals decision in *Wayne County v State Treasurer*, 105 Mich App 249, 252 (1981), wherein the Court held that the word "shall" refers to a mandatory duty or requirement. There would be no reason to include the cited language in Section 6.18 (C) if the Zoning Ordinance otherwise required Condominium Developments to comply with all of Section 6.17. Further, under 3.01 (H) the conjunction of "and" means the Condominium Development need only comply with the connected items, i.e., Section 6.17 (B) and (C). For these reasons, the ZBA holds that under its Section 5.05 (B) power to interpret the Ordinance the requirements of Section 6.17 (A) do not

² Section 6.17 only has three subsections (A) (B) (C). If all three were to be applied to condominium developments in Marion Township, then there would be no need for Section 6.18 (C).

apply to condominium projects in Marion Township, as the Ordinance is currently written. This decision should provide the Township Board with some clarity as to the criteria upon which it must weigh the merits of the Meadows North Condominium Development project when ruling upon the Planning Commission's recommendations to approve both preliminary site plan and special use permit.

5. IS THERE MERIT TO THE APPELLANT'S ALLEGED VIOLATION # 3 REGARDING A ROAD DESIGN AND USE?

As stated above, Meadows North is considered a multi-family condominium development, because it proposes to construct everything from duplexes to five-unit buildings in the development. All multi-family developments in the Urban Residential Zoning District are permitted only by special use permit, please see Section 8.03 (D) (12). On December 17, 2024, the Planning Commission approved a motion by Cheryl Range to recommend approval to the Board of Trustees for SUP# 02-24 MEADOWS NORTH SPECIAL USE PERMIT, with the following recommendations:

- a. Applicant must receive final site plan approval.
- b. Additional buffering beyond what is required along adjacent properties to the north and south side of the access road.
- c. Additional screening on properties to the west of the access road, if agreed to by the property owners.

Jim Anderson seconded.

ROLL CALL: Powelson YES; Range YES; Grunn YES; Fenton YES; Anderson YES. 5-0 MOTION CARRIED

The Appellant's Violation # 3 is an administrative review under Section 5.05 (A) of the Planning Commission's decision centered around the appropriateness of the above motion, given the requirements for approving a special use permit for multi-family housing under Section 17.21. Specifically, the Zoning Ordinance spells out the standard Special Use Permits for multi-family development, including Section 17.21 (D) (1), which reads:

D. Performance Standards:

1. *All developments for multiple-family dwellings shall have direct access to major thoroughfare.*

The Appellant alleges that a multi-family condominium development cannot be approved for Meadows North, based on the fact that its sole public source of ingress and egress is Peavy Road, which the Appellant alleges under MDOT standards is not a major thoroughfare.

The ZBA determines that Appellant's reliance on MDOT determination of the road to meet the standard for a "major thoroughfare" is misplaced, because the Zoning Ordinance specifically defines a major thoroughfare in Section 3.02 on page 24:

***Major Thoroughfare:** A public street, the principal use or function of which is to provide an arterial route for through traffic, with its secondary function the provision of access to abutting property and which has been classified as a County Primary, State Trunkline, or U.S. Trunkline*

The correct determination of a major thoroughfare for the purpose of implementing this condition of approval of a special use permit is whether Livingston County, not MDOT, has classified Peavy Road as a County Primary, State Trunkline, or US Trunkline. This is one of the reasons why the ZBA adjourned the meeting after public comment on May 6, 2025, as it needed more information before rendering a decision on this point, which is permitted under Section 5.06 (E).

The ZBA has been in touch with the Livingston County Road Commission and there are only four (4) primary roads in Marion Township and none of them are Peavy Road. Peavy Road is designed by the Livingston County Road Commission as a local road. (Exhibit A). Therefore, the ZBA determines that the Planning Commission's motion to recommend approval to the Township Board of the Meadows North Special Use Permit was an administrative decision or order made in error, pursuant to Section 5.05 (A) and must be reversed. The ZBA Order's that the Planning Commission's decision to recommend special use permit approval to Meadows North is null and void in light of the requirements of Section 17.21 (D) (1), Exhibit A attached hereto, is Meadows North's preliminary site plan which shows the sole public ingress and egress point for this proposed multi-family development in Meadows North. Again, this decision should assist the Township Board in determining the criteria upon which to render a decision on the merits of whether or not to grant preliminary site plan approval and/or approve the issuance of a special use permit for a multi-family condominium project at this location.

6. IS THERE MERIT TO THE APPELLANT'S ALLEGED VIOLATION # 4 REGARDING A DOUBLE BOULEVARD ENTRANCE?

The Appellant's Violation # 4 appears to be an administrative review appeal under Section 5.05 (A), regarding the Planning Commission's decision centered around the appropriateness of the preliminary site plan approval, given the alleged requirements by the Appellant for a "double boulevard" at the entrance into the development. The ZBA cannot locate any specific Zoning Ordinance provision requiring multi-family residential condominium developments to install a double boulevard entrance into the development. This question was specifically presented to the Appellant at the May 6, 2025 public hearing and the Appellant could not cite a specific Zoning Ordinance Section that required same. The Ordinance does require a double boulevard for Planned Unit Developments under Section 13.03 (L), but not for Condo projects under Section 6.18 nor Special Use Permits for Multi-Family Residential under Section 17.21. Therefore, the ZBA denies the Applicant's appeal on these grounds, as the Appellant has not met her burden of proof..

7. IS THERE MERIT TO THE APPELLANT'S ALLEGED VIOLATION # 5 REGARDING A FIRE MARSHAL APPROVAL LETTER?

The Appellant is relying on Section 6.16 (A) (2) for her appeal of the Planning Commission's administrative decision under Section 5.05 (A) to recommend approval to the Marion Township Board of both the preliminary site plan and/or the special use permit. Section 6.16 reads:

Environmental Performance Standards

- A. *Site Plans, Special Land Uses, and Construction Activities: All site plans, special land uses, and construction activities shall conform to the provisions of this Ordinance and the regulations and standards of the following:*
 - 2. *Applicable fire safety and emergency vehicle access requirements of the State Construction Code, State Fire Marshall and Local Fire Code.*

Section 6.16 (A) applies equally to preliminary site plan approval and special land use permits. The Appellant has argued that Section D 104-3 of the International Fire Code Remoteness Clause is violated by the Planning Commission recommending approval of this Preliminary Site Plan and/or the Special Use Permit and believes the Planning Commission must obtain the written approval of an unspecified "Fire Marshal" to confirm if it is a violation. When a ZBA determines the legislative intent of the Township Board in adopting a Zoning Ordinance, it must look first to the specific language of the Ordinance, in this case Section 6.16 (A) (2). No where in this section does it require any adherence to the International Fire Code³, only the State Construction Code, the State Fire Marshal, and Local Fire Code. The local Fire Marshal has approved the preliminary Site Plan in writing. However, the ZBA sees no evidence that the Planning Commission received a separate written approval from the "State Fire Marshal" before moving to recommend approval of both the Site Plan and/or the Special Use Permit to the Township Board. The ZBA has already determined that the Planning Commission's motion to recommend approval of the Special Use Permit was in error as the Special Use Permit cannot meet the standards of direct access to a Major Thoroughfare under Section 17.21 (D) (1). The ZBA now determines under Section 5.05 (A) that the Planning Commission was in error in recommending approval of both the Preliminary Site Plan and the Special Use Permit before it obtained written confirmation from both the State Fire Marshal and the local Fire Marshal that the proposed site plan would satisfy both of them. For this reason, the ZBA sets aside the Order or Decision of the Planning Commission to recommend approval to the Township Board of both the Preliminary Site Plan and the Special Use Permit, per Section 5.05 (A) and refers that matter back to the

³ There has been some oral argument that the local fire authority has adopted the International Fire Code, but evidence of same was never presented independently to the ZBA and the local Fire Marshal (who is also the local deputy fire chief) issued a written opinion that was later clarified in an e-mail the combined implication of which was the approval of the project as laid out in the Preliminary Site Plan. The Planning Commission is not a super fire marshal that can override the written opinion of the local Fire Marshal in this regard and the ZBA finds no issue with the Planning Commission relying upon the written opinion of the local Fire Marshal if this regarding. If the Applicant or others have issue with that opinion, the appropriate place to address it is with the local fire authority.

Planning Commission to collect both the required opinions and consider them before rendering a final decision on a recommendation to the Township Board on either Preliminary Site Plan approval and/or Special Use Permit approval.

8. IS THERE MERIT TO THE APPELLANT'S ALLEGED VIOLATION # 6 REGARDING THE CUL DE SAC LENGTH?

The Appellant relies upon Section 6.20 (A) for her allegation that Meadows North must meet the requirements of public roads in Livingston County, and the Planning Commission disagreed. The Township Board referred this issue to the Zoning Administrator to issue an Opinion on the applicability of Section 6.20 (A) to private roads and that opinion was issued on March 13, 2025. The Appellant timely filed her appeal on March 26, 2025 alleging a error in the decision of the Zoning Administrator's interpretation of the Zoning Ordinance under Section 5.05 (B). The Appellant draws her conclusion from first Section 6.18 (E), regarding the requirements for condominium projects in the Township which reads:

- E. All public streets within a condominium project shall be constructed to the minimum requirements of the Livingston County Road Commission's construction standards. All private roads within a condominium project shall be constructed to the standards of Section 6.20 of this Ordinance.

In this case, the developer is proposing all private roads within its multi-family condominium project, so the last sentence is relevant to this analysis. The last sentence says that private roads must comply with the entire Section 6.20 of the Ordinance, not just 6.20 (A). Section 6.20 generally is a section that deals with private roads that service amongst other things multi-family developments in Marion Township. The question evolves around whether Section 6.20 (A) can be read to require all private roads in Marion Township to be constructed to the Livingston County Public Road Standards, as the Appellant appears to argue. The ZBA considers this argument under Section 5.05 (B) as an interpretation of the Ordinance.

Again, when interpreting the Ordinance, the ZBA must insure that every word of the Ordinance is read to give it meaning, and so the ZBA must avoid an interpretation that renders words or entire Sections of the Zoning Ordinance unnecessary or meaningless, please see *In re MCI Communications*, 460 Mich 396 (1999). Further, Ordinances are to be read as a whole to ascertain the intent of the Legislature, and any provisions that are apparently inconsistent are interpreted to produce a harmonious whole, if reasonably possible, please see *Macomb County Prosecutor v Murphy*, 464 Mich 149 (2001). The ZBA does not find that the language of Section 6.20 (A) requires that all private roads in Marion Township be constructed to the Livingston County standards for public roads, because the relevant portion of the language of Section 6.20 (A) reads "Marion Township requires that all new private roads meet the Livingston County Road Commission Standards. Marion Township does not guarantee that the roads may become public at a later date. The decision to accept roads as public will be made by the Livingston County Road Commission." When Section 6.18 was added to the Zoning Ordinance, the

Livingston County Road Standards were those that had been adopted in 1991 and were referred to as the “**Specifications for Plat Development.**” Those May 23, 1991 Livingston County Road Commission standards had provisions regarding how site condominiums private roads could (at that time) become public roads at a later date which read in relevant part:

3. *Site Condominiums*

Mr. Crain reviewed details with the Board concerning site condominium development activities throughout the County, which continue to increase and require the need to clarify the status of construction criteria for streets in this type of development.

A brief discussion followed. A Resolution was prepared for the Board to Review and approve on the subject matter.

ACTION Moved by Commissioner Slayton, Supported by Commissioner Dunleavy.

WHEREAS, the Board of the County Road Commissioners of the County of Livingston is asked from time to time to accept the dedication of new public roads outside of platted subdivisions, and

WHEREAS, THE Board has adopted a policy statement on July 13, 1989 for purpose of clarifying the Road Dedication Acceptance Criteria, now therefore be it

RESOLVED, that the Board of County Road Commissioners of the County of Livingston hereby confirms and adopts the Road Dedication Acceptance Criteria first adopted July 13, 1989, and be it further

RESOLVED, that Board hereby requires that the construction standards and procedures outlined in its Specifications for Plat Developments are hereby adopted for use in the Construction of proposed public roads located outside of platted subdivisions.

Motion Carried.

This brings into focus the reason for the second and third line of Section 6.20 (A) “Marion Township does not guarantee that the roads may become public at a later date. The decision to accept roads as public will be made by the Livingston County Road Commission.” The Livingston County Road Commission used to have a July 13, 1989 policy that permitted private roads in condominium projects built to a certain standard to be considered for admittance as public roads. Again, words have meaning and had the Township Board wanted to limit application of the Zoning Ordinance to those specific 1991 standards or more importantly the July 13, 1989 policy of the Road Commission, then it should have said so. It did not instead just adopting by reference whatever standard or policy the Livingston County Road Commission promulgated.

Thus, when the Road Commission replaced those 1991 standards on June 27, 2024, the meaning of the Township Ordinance likewise was altered. Livingston County adopted new Road Commission **Procedures and Regulations for Developing Public Road** on June 27, 2024. The Ordinance language in question says all new private roads in Marion Township must meet the “Livingston County Road Commission Standards” not the “Livingston County Road Commission’s “Procedures or Regulations for Developing Public Road” Standards,” as some members of the public and the Appellant would appear to have everyone conclude. Those are two vastly different and distinct things. The ZBA is not a super Planning Commission with the authority to change the Zoning Ordinance meaning, even if that change might be a good public policy. Instead, the ZBA must render an opinion on the language presently in the Ordinance. In the ZBA’s opinion, the Appellant cannot reasonably argue that the language of the Zoning Ordinance should be read to require that all private roads in Marion Township be constructed to the Livingston County Procedures and Regulations for Developing Public Road Standards. That is a bridge too far under the ZBA’s duty to interpret the Zoning Ordinance under Section 5.05 (B) based upon the following:

First, only the Township Board can amend the Ordinance to include such additional language, after a public hearing and other statutory steps are fulfilled. The ZBA is left with the language as written in the Ordinance that Marion Township only requires that all new private roads meet the Livingston County Road Commission’s Standards. There is no clarifications in this Ordinance language as to what standards of the Livingston County Road Commission the Ordinance is referring, but Section 6.20(A) is titled a Section on private roads so it is presumed by the ZBA that the reference is to Livingston County private road standards, which obviously existed when this Ordinance was originally approved and was later removed by the Livingston County Road Commission on June 27, 2024. Unfortunately, Livingston County has not adopted any standards for private roads in their June 27, 2024 **Procedures and Regulations for Developing Public Road**, as demonstrated by Page 5, which is labeled “Introduction” and reads in relevant part:

The Livingston County Road Commission (LCRC) will only approve for acceptance those proposed public roads which are included in a proposed platted subdivision. Site Condominiums and land division projects such as lot splits shall be developed using private roads.

Again, on page 6, the Livingston County Road Commission’s **Procedures and Regulations for Developing Public Road** Standards clearly state they do not apply to private roads in Section 1: General Provisions when the Road Commission state:

As previously stated, land division and site condominium projects must be developed using private roads.

A reading of these two statements in contrast to the 1991 Standards in conjunction with the July 13, 1989 policy of the Road Commission, leads the ZBA to conclude the Road Commission has moved away from its prior policy of permitting private roads in condominium developments

built to a standard set by a prior policy of the Road Commission to later be considered for conversion to public roads. Thus, in 1) reading these two statements in the June 27, 2024 **Procedures and Regulations for Developing Public Road** Standards adopted by the Livingston County Road Commission, 2) reviewing those entire standards to confirm no requirements for private roads are contained therein, and 3) reviewing the prior 1991 Road Commission Standards for historical context⁴, it is the ZBA's determination that the June 2024 standards no longer provide a mechanism for turning private roads in Marion Township Site Condominiums into public roads and Livingston County Road Commission has not otherwise developed any standards for private roads construction that must be applied to condominium developments under Section 6.20 (A).

Second, why would the Township Board include the private road design requirements in Section 6.20 (C), if the Zoning Ordinance required all private roads to meet the **Procedures and Regulations for Developing Public Road** Standards established by the Livingston County Road Commission under Section 6.20 (A)? Meadows North, as a condominium development, must be developed using private roads according to the new Standards of the County Road Commission. The County Road Commission proscribes no standards for those private roads within its June 27, 2024 Standards beyond these two references to all condominium roads now being private roads. The Township is left with its existing requirements for private roads, as contained in Section 6.20 (B), (C), (D), and (E). Again, when interpreting the Ordinance, the ZBA must insure that every word of the Ordinance is read to give it meaning, and so the ZBA must avoid an interpretation that renders words unnecessary or meaningless, please see *In re MCI Communications*, 460 Mich 396 (1999). The ZBA holds that to do as the Appellant insists and determines that 6.20 (A) requires every site condominium to construct its private roads to the Livingston County Public Road standards would be to ignore or make meaningless Paragraphs 6.20 (B), (C), and (E), which is against its duty of statutory construction. To harmonize the meaning of 6.20 (A) with the specific private road standards approved by Marion Township in Section 6.20 (B), (C), and (E) and render an Ordinance interpretation under Section 5.05 (B), the ZBA holds that Section 6.20 generally must be read as Section 6.20 (A) only requiring an Applicant to comply with any standards for private roads published by the Livingston County Road Commission⁵. The Livingston County Road Commission changed its standards on June 27, 2024 and no longer makes it possible for private roads in condominium developments to be public under any circumstances.

For all the reasons above, the ZBA determines under Section 5.05 (B) that the Appellant's appeal on these grounds is denied as Section 6.20 (A) does not require a condominium developer to

⁴ The ZBA may look at legislative history, including the journals chronicling legislative history and changes to bills in interpreting the Ordinance, please see *MCI Telecommunications Complaint*, 460 Mich 396 (1999) and *Jenks v Brown*, 219 Mich App 415 (2000).

⁵ Like there was under the July 13, 1989 policy of the road commission before it was replaced and superseded by the June 27, 2024 standards of the Road Commission.

construct its private roadway system to the Livingston County **Procedures and Regulations for Developing Public Road Standards**, as the Ordinance is currently written.

**9. IS THERE MERIT TO THE APPELLANT'S ALLEGED VIOLATION # 7
REGARDING COUNTY, STATE OR FEDERAL PERMITS?**

The Appellant appeals the administrative decision or order of the Planning Commission to recommend to the Township Board that it grant a special use permit to Meadows North for a multi-family development in the Urban Residential District before all the necessary County, State, and Federal permits for said development have been obtained by the Developer. Appellant correctly relies upon Section 6.16 (B) (2) for her appeal, which reads:

A. Sensitive Lands:

2. *The Township shall not approve any land use that requires a county, state, or federal permit, until such permit has been obtained and satisfactory evidence has been submitted verifying the acquisition of the necessary permits.*

The Township Board has not taken up the recommendation from the Planning Commission yet to approve the special use permit for Meadows North. The Township Board has only dealt to date with the Planning Commission's recommendation to approve the Preliminary Site Plan with conditions and has taken no definitive action on that preliminary site plan. The ZBA finds that Meadows North, like most developers, prefers preliminary site plan approval before spending the time and financial resources applying to the required permitting agencies for permits necessary to further its development.

Otherwise, how would the developer and those permitting agencies know what the Township is approving subject to the developer's ability to obtain the required and necessary permits; and thus, be in a position to judge if that approval would violate any rules or regulations of their agency? Meadows North cannot go to these agencies with a blank piece of paper and ask for permits, best practice dictates that it needs a preliminary site plan for those agencies to review. If those permits are approved by the required Federal, State, or local agencies, based on the approved preliminary site plan, then Meadows North will return to the Township for final site plan approval. At the time of final site plan approval, the Township will require that Meadows North demonstrate approved permits, likely including from: 1) MHOG, 2) Livingston County Drain Commission, 3) City of Howell/Marion Township for Sanitary Sewer, and 4) EGLE. Therefore, the Appellant's appeal on this administrative review issue under Section 5.05 (A) is granted in part and denied in part. First, the appeal is granted on the issue of the Planning Commission's recommendation for special use permit and the issue is returned to the Planning Commission with instruction to condition its recommendation for special use permit approval to the Township Board based upon the developer obtaining all necessary permits for county, state, and federal agencies. It is denied in part, as it relates to the issuance of the preliminary site plan, as the ZBA holds under Section 5.05 (A) that the requirements of Section 6.16 (B) (2) only apply to land use permit approvals, not preliminary and/or final site plan approvals.

During the ZBA public hearing, it was further pointed out that Section 16.04 conflicts with Section 6.16 (B) (2), in that Section 16.04 requires that the Board of Trustees shall consider the application for a special use permit at their next regular meeting or if requested by the applicant, the Board of Trustees may schedule a special meeting. This conflicts with Section 6.16 (B) (2) in that under that section the Board of Trustees does not consider a recommendation for any land use [a special use permit is a form of a land use permit] until the applicant has obtained all the necessary permits from the county, state, and/or federal government. The Township also has adopted a flow chart that backs up the Section 6.16 (B) (2) version of this conflict between the two Sections of the Zoning Ordinance. (Exhibit B)⁶ This raises a classic zoning interpretation question under Section 5.05 (B).

Under Section 3.02 the Zoning Ordinance defines the following relevant terms:

Land Use Permit: A permit signifying compliance with the provisions of this Ordinance as to **use**, activity, bulk, setback, and density. {emphasis added in bold, underline, and italics}

Special Land Use: A **use of land** whose characteristics may create nuisance-like impacts on adjoining lands unless carefully sited according to standards established in this Ordinance. Approval for establishing a special land use is indicated by issuance of a Special Use Permit. {emphasis added in bold, underline, and italics}

Therefore, a special use permit, issued under Section 16.04, involves a permit for the use of land that is also controlled by Section 6.16 (B) (2) of this Ordinance. The ZBA holds that under the text of this Ordinance that the Township cannot grant approval of a special use permit involving issues of wetland development until the issue of any required federal, state, or local wetland permits have been satisfied by the developer being granted said permits. Statutes are to be read as a whole to ascertain the intent of the Legislature, and any provisions that are apparently inconsistent are interpreted to produce a harmonious whole, if reasonably possible, please see *Macomb County Prosecutor v Murphy*, 464 Mich 149, 160 (2001); *Bailey v Oakwood Hosp. and Medical Center*, 472 Mich 685, 693 (2005); and *Nowell v Titan Ins. Co.*, 466 Mich 478, 482 (2002). It is not proper, based on the text of this Ordinance, to simply approve the special land use conditioned on the developer later obtaining those permits, even though Section 16.04 states that the Planning Commission may recommend special use permit approval with conditions. The text of Section 6.16 (B) (2) makes clear that the wetland permits must be obtained before any land use permit is granted by the Township and that would include a special land use permit. It is a principle of statutory interpretation that the more specific trumps the more general and that principle must be applied in this instance. This principle of statutory construction has been confirmed by the Michigan Supreme Court, which held that when a statute contains both a

⁶ Interpretations of statutes by agencies that administer it are given great deference, please see *Adrian Schools Dist v Michigan Public Schools Employees Retirement Systems*, 458 Mich 326 (1998). In this case the agencies that interpret the zoning ordinance adopted a flow chart and that chart should be given deference.

specific provision and a more general related statement. Finally, Section 16.04 requires the Township Board to consider the Application, but not act upon it as in Section 6.16 (B) (2), specific county, state, or federal permits may be required before final action can take place.

Therefore, the ZBA issues an Ordinance Interpretation pursuant to Section 5.05 (B) to harmonize the interaction between Section 6.16 (B) (2) and Section 16.05. The ZBA holds that the Marion Township Board of Trustees shall continue not acting upon the approval of the special use permit, until Meadows North demonstrates its ability to obtain those required permits from the county, state or federal level, including the MDEQ and the Drain Commissioner, for the reasons set forth herein. All future special use permits are ordered to follow this same procedure by the ZBA in an attempt to harmonize the competing requirements of Sections 16.04 and 6.16 (B) (2).

10. SHOULD THE APPELLANT BE REFUNDED THEIR APPEAL FEE?

The Appellant has asked that her appeal fee be refunded. The ZBA has no authority to refund the appeal fee under the terms of the Zoning Ordinance. However, this appeal by the Appellant clearly had merit on several points and the ZBA recommends the Township Board consider refunding the appeal fee to this Appellant for that reason.

CONCLUSION

In rendering this Opinion on Appeal, the ZBA has analyzed both 1) the questions raised on appeal and 2) the Ordinance interpretation issues that arose because of those questions raised on appeal, based on the specific language of the Zoning Ordinance. The ZBA is not a super Planning Commission that is able to write an Ordinance out of thin air and/or craft the best planning policy for the Township moving forward. Instead the ZBA is charged with solely rendering its opinion on the meaning of the existing Ordinance as written. The ZBA realizes in some instances the language of the Township Ordinance has contradictory sections, and it has tried to harmonize those sections not just for this Appeal case, but for future cases until and unless the Ordinance is changed. If the Township Board desires to amend the language of the Zoning Ordinance to provide its own clarity as to its "true" intent or change the language to give it new meaning and thus in effect reverse this opinion of the ZBA on one or more points in this Opinion, it is free to do so. The ZBA has formed its opinion in this matter and performed its duties based on the existing language.

Motion By: Linda Manson-Dempsey

Seconded By: _____

YEAS: _____

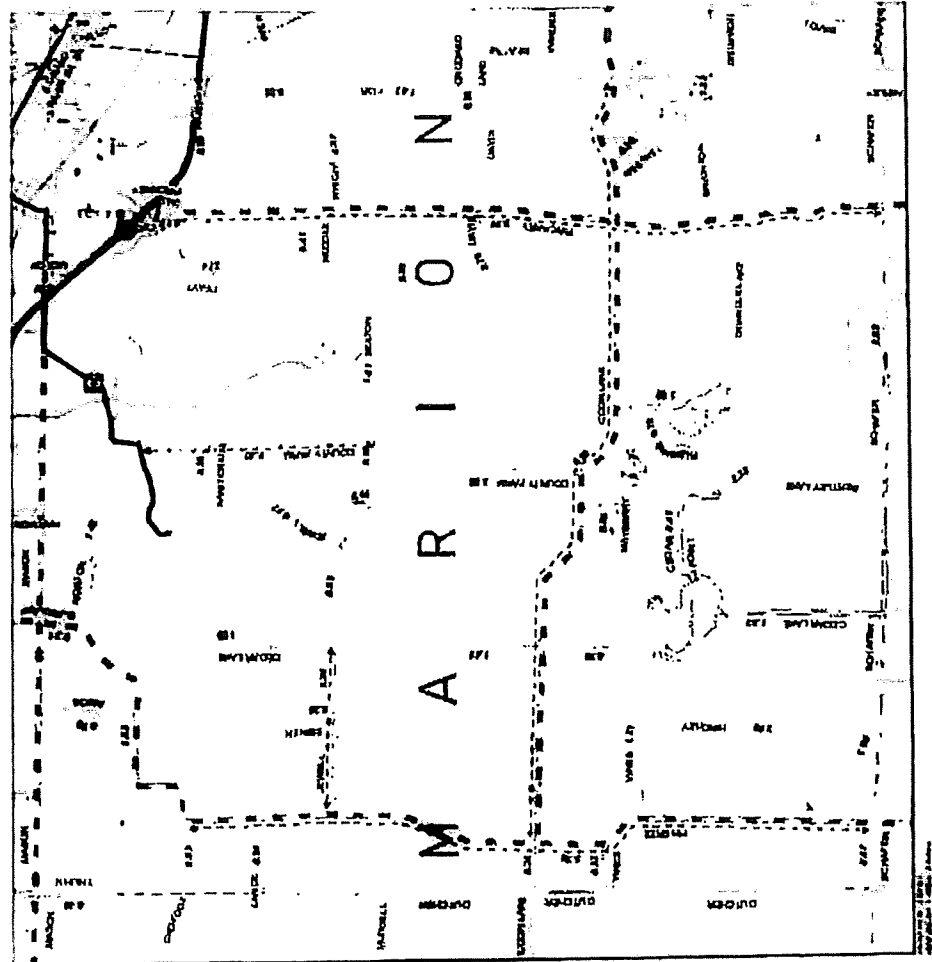
NAYES: _____

ABSENT: _____

The Resolution is declared adopted May 29, 2025.

Larry Fillinger, Zoning Board Chairperson

**EXHIBIT A TO
ZBA RESOLUTION RESOLVING
APPEAL CASE NO. 02-25**

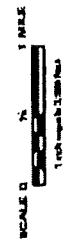


MARION TOWNSHIP

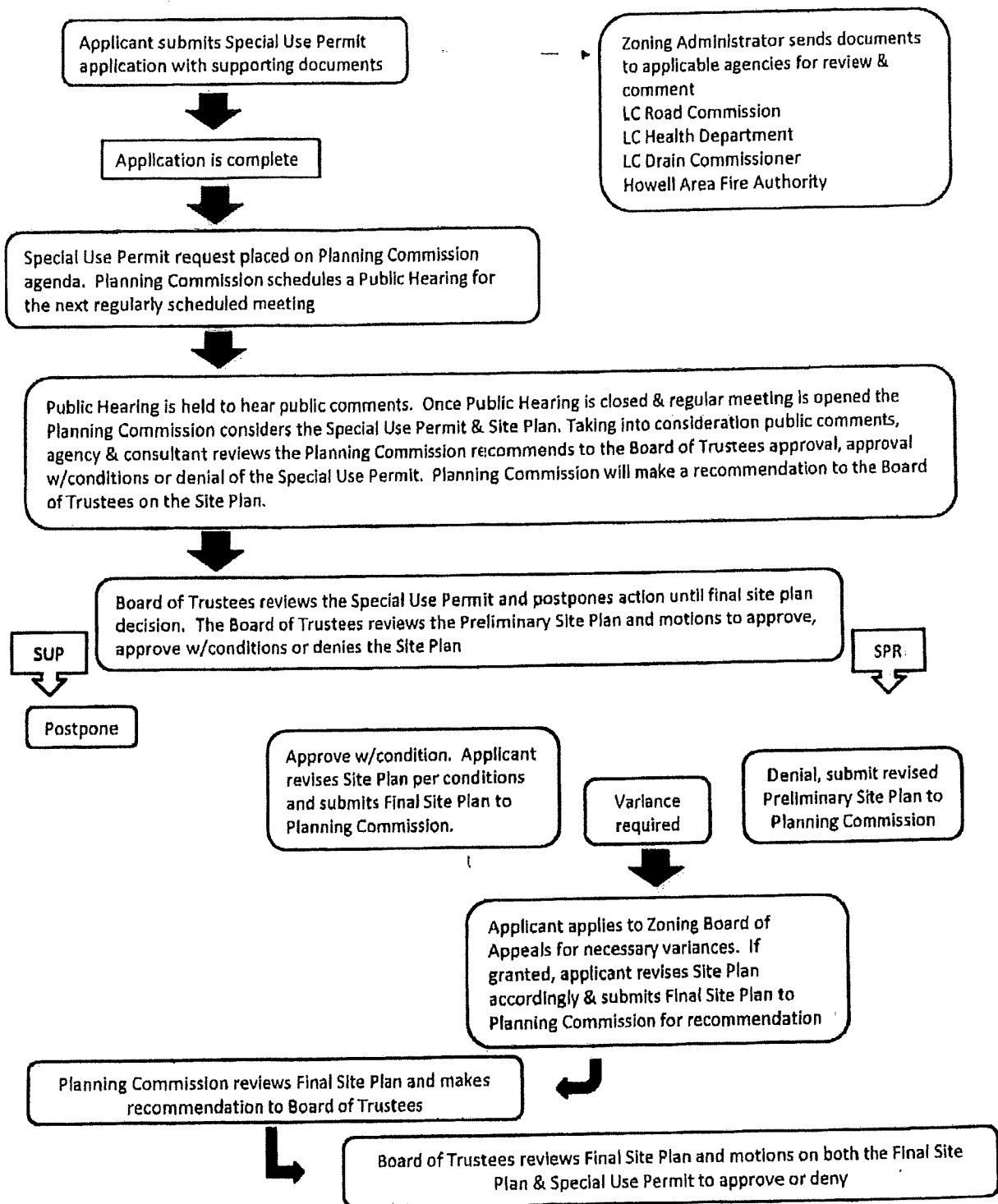
LYNNSTON COUNTY - 27 T. 2N. R. 4E

PRIMARY ROAD SYSTEM 4.1412 MILES
LOCAL ROAD SYSTEM 46.48 MILES

- LEGEND**
- COUNTY LINE
 - COMPOSITE LIMITS
 - STATE TRAILWAYS
 - COUNTY PRIMARY
 - COUNTY LOCAL
 - ADJACENT COUNTY
 - CITY OR VILLAGE
 - STREET



**EXHIBIT B TO
ZBA RESOLUTION RESOLVING
APPEAL CASE NO. 02-25**



STATE OF MICHIGAN
COUNTY OF LIVINGSTON

MARION TOWNSHIP ORDINANCE ESTABLISHING A TEMPORARY
MORATORIUM ON SPECIAL USE PERMITS, CONDOMINIUM
DEVELOPMENTS AND/OR
PLANNED UNIT DEVELOPMENTS

ORDINANCE NO. 25- _____
(Enacted June 12, 2025)

Section 1: Title

This ordinance shall be known and cited as the Marion Township Temporary Moratorium on Condominium Developments and/or Planned Unit Developments Ordinance.

Section 2: Purpose

The Township of Marion has the authority under Section 201 of the Michigan Zoning Enabling Act (MZEA) to approve a zoning moratorium, which grants local governments the authority to "...provide by zoning ordinance for the regulation of land development ... to ensure that use of the land is situated in appropriate locations and relationships ... and to promote public health, safety and welfare." The purpose of this ordinance is to establish a temporary moratorium on the application for, processing of, and construction of condominium and planned unit developments, to provide time to further determine the extent such developments impact the public health, safety and general welfare of the residents of the Township, and to evaluate the regulation of such developments under the Township's Zoning Ordinance in light of the ZBA's decision in Appeal 02-25 and the County Road Commission's newly adopted public road standards as of June 27, 2024.

Section 3: Definition

In this Ordinance, the term "condominium development" singularly or plural, is used to refer to any residential and/or commercial condominium regulated under Article VI, Section 6.18 of this Ordinance.

In this Ordinance, the term "planned unit development" singularly or plural, is used to refer to any residential and/or commercial development regulated under Article XIII, Section 13.01 – 13.06.

Section 4: Need for Study

Whereas the Township previously addressed in its duly adopted Zoning Ordinance issues related to the approval of: 1) special use permits, 2) condominium developments, and/or 3) planned unit developments, which included regulations regarding private roads in Article VI, Sections 6.17 (A) and 6.20. Subsequently, the Livingston County Road Commission replaced its 1991 **Specifications for Plat Development** with its June 27, 2024 **Procedures and Regulations for Developing Public Roads**, which potentially affected the design of both Condominium Developments and/or Planned Unit Developments. Likewise, the Marion Township Zoning Board of Appeals rendered a decision in Appeal 02-2025 that affected the approval process for: 1) special use permits, 2) condominium developments, and/or 3) planned unit developments. The Township desires additional time to study the community impact, existing zoning, and regulation and placement of such developments in the Township, based on these two recent changes. Further, the Township needs to explore what if any new or modified zoning regulations or design standards should be implemented regarding the existence, placement, or construction of such developments in light of these two significant changes.

Section 5: Application and Term

This moratorium is immediately placed on the filing, submission, processing, acceptance, review, or any determinations as to any pending or future applications seeking the review, approval, construction, or installation of any: 1) special use permits, 2) condominium developments, and/or 3) planned unit developments. The acceptance or processing of any pending or future applications by the Township would cause unnecessary confusion for any applicants and/or the Township. This moratorium shall last for one-hundred twenty (120) days from the date of the adoption of this Ordinance, unless modified, extended or terminated by the Township. The Township shall review

this moratorium and the issues of 1) special use permits, 2) condominium developments, and/or 3) planned unit developments at its regular meeting September 25, 2025 to determine if the goals of the moratorium have been satisfied and/or if an extension of the moratorium is in order.

Section 6: Referral to the Planning Commission

During this moratorium, the Township Board refers the following issues to the Planning Commission for the development of a recommendation on Zoning Ordinance adoption and/or Amendment regarding:

- 6.1 Upon what standards should private roads in Marion Township be constructed too?
 - 6.1.1 the same standards as public roads as set forth currently in Livingston County Road Commission's June 27, 2024 **Procedures and Regulations for Developing Public Road**; or
 - 6.1.2 the standards of Article VI Section 6.20 (C), (D), and (E), in which case should Article VI, Section 6.20 (A) be eliminated; and if so;
 - 6.1.3 Should there be any additions to the requirements of Article VI, Section 6.20 (C)?
 - 6.1.4 Should the Planning Commission and the Township Board be able to approve the Developer's proposal to modify the requirements under Article VI, Section 6.20, provided the Developer can demonstrate that the projects proposed internal road system provides adequate public safety measures for the residents? If so, should the Developer of a condominium development have the same privileges included in Article VI, Section 6.18?
- 6.2 Should a "road study" be required before approving every special use permit and/or preliminary site plan for a condominium development and/or planned unit development in Marion Township.
 - 6.2.1 How should the township define a "traffic impact study" and should that definition be added to Section 3.02;
 - 6.2.2 Should the requirements of Article VI, Section 6.17 (A) apply to both Condominium Developments and Planned Unit Developments;
 - 6.2.3 Should Planned Unit Developments for multi-family residential housing be required to provide access through a major thoroughfare, like similarly situated condominium developments; and
 - 6.2.4 Should the requirements of Article VI, Section 6.17 (A) be modified or clarified?
- 6.3 Should the requirements of Article VI, Section 6.16 (b) (2) and Article XVI, Section 16.04 be amended to change the approval process confirmed by the Zoning Board of Appeals in 02-2025?
 - 6.3.1 If so, should a new flow chart be issued?

Section 7: Publication

This Ordinance and its related rules, regulation, provision, requirements, orders, and matters established shall take effect immediately upon publication, except any penalty provision shall take effect thirty (30) days after the Ordinance is first published, pursuant to MCL 41.184 (2) (a).

Section 8: Repealer

All Ordinances, or parts of Ordinances, in conflict with this Ordinance are repealed only to the extent necessary to give all provisions of this Ordinance full effect.

Section 9: Validity of Ordinance

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Township of Marion declares that it would have passed this Ordinance and each section, subsection, clause, or phrase hereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 10: Purchase of Copy of Ordinance

This Marion Township Ordinance No. 25-_____ can be purchased, examined, or inspected at the Marion Township Hall, 2877 W. Coon Lake Road, Howell, MI 48843, Monday through Thursday between the hours of 9am and 5pm.

Motioned by: _____

Supported by: _____

Roll call vote:

Yeas: _____

Nays: _____

Abstain: _____

Absent: _____

Tammy L. Beal, MMC
Marion Township Clerk

Date adopted by the Township board: June 12, 2025
Date published by the newspaper: _____, 2026
Name of the newspaper: Fowlerville News & Views
Effective date: _____, 2025
Date filed with Livingston County Clerk: _____, 2025
Date recorded in township's ordinance book: _____, 2025