

**MARION TOWNSHIP PLANNING COMMISSION  
AGENDA**

**REGULAR MEETING  
November 26, 2024  
7:30 PM**

*Virtual access instructions to participate in the meeting are posted on [www.mariontownship.com](http://www.mariontownship.com)*  
**MEETING WILL BE HELD IN MAIN HALL**

Call to Order:

Pledge of Allegiance:

Introduction of Members:

Approval of Agenda for: November 26, 2024 Regular Meeting

Approval of Minutes from: October 22, 2024 Regular Meeting

Call for Public Comment:

Public Hearing:

New Business:

1) SPR#03-24 SUP#02-24 Meadows North Preliminary Site Plan review (new site plan)

2) TXT#03-24 Renewable energy review documents

Unfinished Business:

Special Orders:

Announcements:

Call for Public Comment:

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  
OCTOBER 22, 2024 / 7:30PM**

Date: \_\_\_\_\_

**PC MEMBERS PRESENT:**

**LARRY GRUNN – CHAIRPERSON  
JIM ANDERSON – VICE-CHAIRPERSON  
CHERYL RANGE – SECRETARY  
BOB HANVEY  
BRUCE POWELSON**

**PC MEMBERS ABSENT:**

**NONE**

**OTHERS PRESENT:**

**DAVID HAMANN – MARION TWP. ZONING ADMINISTRATOR  
ZACH MICHELS – TOWNSHIP PLANNER**

**CALL TO ORDER**

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

**APPROVAL OF AGENDA**

Larry Grun requested to move “Special Orders Item, Renewable Energy” to the top of the agenda.

Bruce Powelson made a motion to approve the October 22, 2024 agenda as amended. Cheryl Range seconded. **5-0**

**MOTION CARRIED**

**APPROVAL OF MINUTES**

Cheryl Range made a motion to approve the September 24, 2024 Planning Commission minutes as presented. Jim Andersen seconded. **5-0 MOTION CARRIED**

**CALL TO PUBLIC FOR COMMENT**

No comment.

**NEW BUSINESS**

**1) DISCUSSION ON RENEWABLE ENERGY**

Bob Hanvey explained that the Board of Trustees had a special meeting on Monday, October 21<sup>st</sup>, as requested by several residents. At this special meeting, the Trustees voted to join other jurisdictions in the appeal against the State of Michigan and also create trigger language for a renewable energy ordinance. Bob sent this request to the Attorney, Foster & Swift and we are still waiting for a response.

Bob Hanvey handed out the confidential document from Attorney Michael Homier and told the Commissioners they were not allowed to distribute this document to anyone per the Attorney.

Cheryl Range made a motion to schedule a Public Hearing to update our Solar Ordinance on November 26, 2024. Bob Hanvey seconded. **5-0 MOTION CARRIED**

**UNFINISHED BUSINESS**

**1) SPR# 01-24 SIGNS**

The Commissioners and Planner discussed the changes made to the Sign ordinance and also added some additional changes.

Zach Michels stated that he would bring some language on regulating people holding signs near a road.

# DRAFT

Cheryl Range made a motion to send our updated sign ordinance to the Township Attorney for review and comment. Jim Anderson seconded. **5-0 MOTION CARRIED**

## UNFINISHED BUSINESS

### 2) LOTS: NEW INFORMATION

Zach Michels discussed the different terms that are used to describe a property throughout various ordinances. Zach said that he can clean up some of these terms throughout our ordinance and bring back his changes to the next Planning Commission meeting on November 26, 2024.

## UNFINISHED BUSINESS

### 3) FEE STRUCTURE AND ESCROW ACT. DISCUSSION

Jessica Timberlake and Dave Hamann discussed the Township's escrow accounts and fees. Jessica explained that we need to be cautious when spending the applicant's money. We have to try to make all of the recommendations during the first review so we do not have to charge the applicant for multiple reviews. Jim Anderson suggested that we start being very specific with the recommendation list so there is no confusion between the applicant, commissioners and consultants.

Cheryl Range made a motion to extend the Marion Township Planning Commission meeting past 9:30pm. Jim Anderson seconded. **5-0 MOTION CARRIED**

## UNFINISHED BUSINESS

### 4) TXT# 02-24 SENT TO ATTORNEY FOR COMMENT 09/30/2024

Dave Hamann sent this ordinance to the Township Attorney for review on 09/30/2024 and has not heard back yet.

## ANNOUNCEMENTS

Dave Hamann stated that this was Bob Hanvey's last Planning Commission meeting as the Township Supervisor. Dave and the Commissioners thanked Bob for all of his hard work and dedication over the years.

## CALL FOR PUBLIC COMMENT

Les Andersen resides at 4500 Jewell Road. Les stated that the Board of Trustees were unaware of these issues with the Escrow accounts. If this information is shared with the Trustees, they may be willing to adjust some of the amounts on the fee schedule. Les also made some comments on renewable energy and battery storage facilities.

## ADJOURNMENT:

Larry Grunn made a motion to adjourn the Planning Commission meeting at 9:50pm. Jim Anderson seconded. **5-0 MOTION CARRIED**

MINUTES TAKEN BY: Jessica S. Timberlake





ACE  
CIVIL ENGINEERING, LLC

November 11, 2024

Marion Township Planning Commission  
2877 W. Coon Lake Road  
Howell, Mi. 48843

Re: Proposed Special Use and Preliminary Site Plan Review for The Meadows North Project

Dear Planning Commission Members:

Attached is a set of Preliminary Site Plan Drawings for The Meadows North project with the following revisions made based on input we received at the September 24, 2024 planning commission meeting.

- #1 Questions were raised regarding the traffic impact created along Peavy Road and the Peavy Road-Mason Road intersection due to build out of the proposed Meadows North project along with 144 proposed residential units anticipated from the recently approved Tamarack Place development. A traffic impact signal analysis was performed by Fleis and Vandenbrink for the Peavy Road-Mason Road intersection dated August 24, 2023. The analysis was based on an estimated 294 residential units from the proposed Meadows North project and an estimated area growth rate of 1% through the year 2050. The report did not specifically call out the 144 proposed units from the Tamarack Place project. However it can be assumed that at least some of the traffic generated from the Tamarack Place development would be accounted for in the 1% rate factor used in the study. Also The Meadows North project is now only proposing 167 residential units (127 less residential units less than the original study). As a result we believe the 167 proposed residential units from the Meadows North project plus the 144 proposed residential units from the Tamarack Place project plus the 1% estimated growth rate used in the original study is consistent with the general parameters of original study and a signal is not warranted at the Peavy Road-Mason Road intersection. We are in the process of requesting an updated traffic study from Fleis and Vandebrink to account for the updated details but are expecting the same recommended outcome.

- #2 We have been in contact with the Livingston County Drain Commission to discuss ownership and maintenance of the drains within the project. It is the intent of the owner to enter into an agreement with the Livingston County Drain Commission for them to design, construct, maintain and incorporate the two crossings of the Marion Genoa Drain. The remainder of the drains within the project will be privately owned and maintained through The Meadows North Home Owners Association. (See general note #4 on sheet #1 of the plans).
- #3 The site plan has been revised based on comments from the September 24, 2024 planning commission. Revisions include adjusting the sidewalks to be on one side of the roadway, providing a minimum 30 feet setback from either the sidewalk edge or back of curb to the front of the building and providing a minimum of 30 feet separation between all buildings.
- #4 A 16' wide gravel emergency access with lockable gate has been added to the plans from the South cul-de-sac within The Meadows North project to the existing road within the original Meadows project. The gravel roadway will provide a secondary access for emergency vehicles to address a comment raised by the Howell Fire Authority.
- #5 Floodplain locations and elevations have been added to the plans to show the proposed detention basins will all fall outside floodplain limits.
- #6 Existing tree lines and notes have been added to the plans to state existing trees will be saved to the extent possible.

We believe the revised set of drawings address all the concerns raised at the September 24, 2024 planning commission meeting regarding preliminary site plan requirements. Further detail will be provided as part of the final site plan process. We look forward to discussing these items at the upcoming planning commission meeting on November 26, 2024.

Sincerely,

ACE CIVIL ENGINEERING, LLC

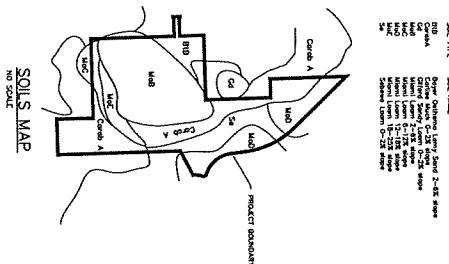
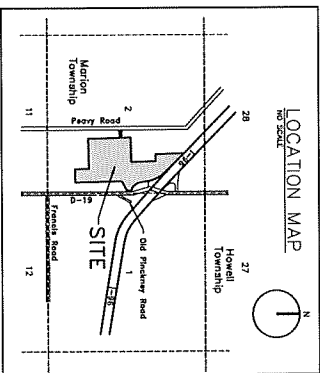
Patrick C. Keough, P.E.  
President

MARION TOWNSHIP  
SECTION 2, T2N-R4E MARION TOWNSHIP  
LIVINGSTON COUNTY, MICHIGAN

[illegible]

ADJUNCT:	PERMIT:
MARION TOWNSHIP	SITE PLAN
LUNGSTON COUNTY DRAIN COMMISSION	SOIL EROSION CONTROL
LUNGSTON COUNTY DRAIN COMMISSION	WORK WITHIN COUNTY DRAIN
LUNGSTON COUNTY BUILDING DEPARTMENT	BUILDING PERMIT
LUNGSTON COUNTY ROAD COMMISSION	PEAVY ROAD WORK
MOHC	SEWER AND WATER
TITLE	WETLAND CROSSING PERMIT

NO.	TITLE
1	COVER SHEET
2	EXISTING CONDITIONS
3	COMPOSITE PLAN
4	SITE PLAN-1
5	SITE PLAN-2
6	SITE PLAN-3
7	SITE PLAN-4
8	GRADING PLAN-1
9	GRADING PLAN-2
10	GRADING PLAN-3
11	DRAINAGE AREA PLANS
12	THREE UNIT ELEVATIONS
13	THREE UNIT FLOOR PLANS
14	TWO & FOUR UNIT ELEVATIONS
15	TWO & FOUR UNIT FLOOR PLANS



SITE DATA TABLE

PROPERTY AREA -	74.44 ACRES
REQUIRED - URBAN RESIDENTIAL,	
REQUIRED SETBACKS:	
FRONT -	30 FEET
REAR -	10 FEET
REAR -	35 FEET
0-10 -	100 FEET
MAXIMUM LOT COVERAGE -	35 %
PROPOSED LOT COVERAGE -	32.428,064 = 10.0%
PROPOSED SETBACKS:	
FRONT -	30 FEET
REAR -	35 FEET
PROPOSED BUILDING HEIGHT -	22'-6"
ALLOWED DENSITY for (UR) = 5.0 U/LU @ 74.44 ACRES =	372.2 units
ALLOWED DENSITY = 10% SINGLE FAMILY @ 74.44 ACRES	

[illegible]

[illegible]



SITE DATA TABLE

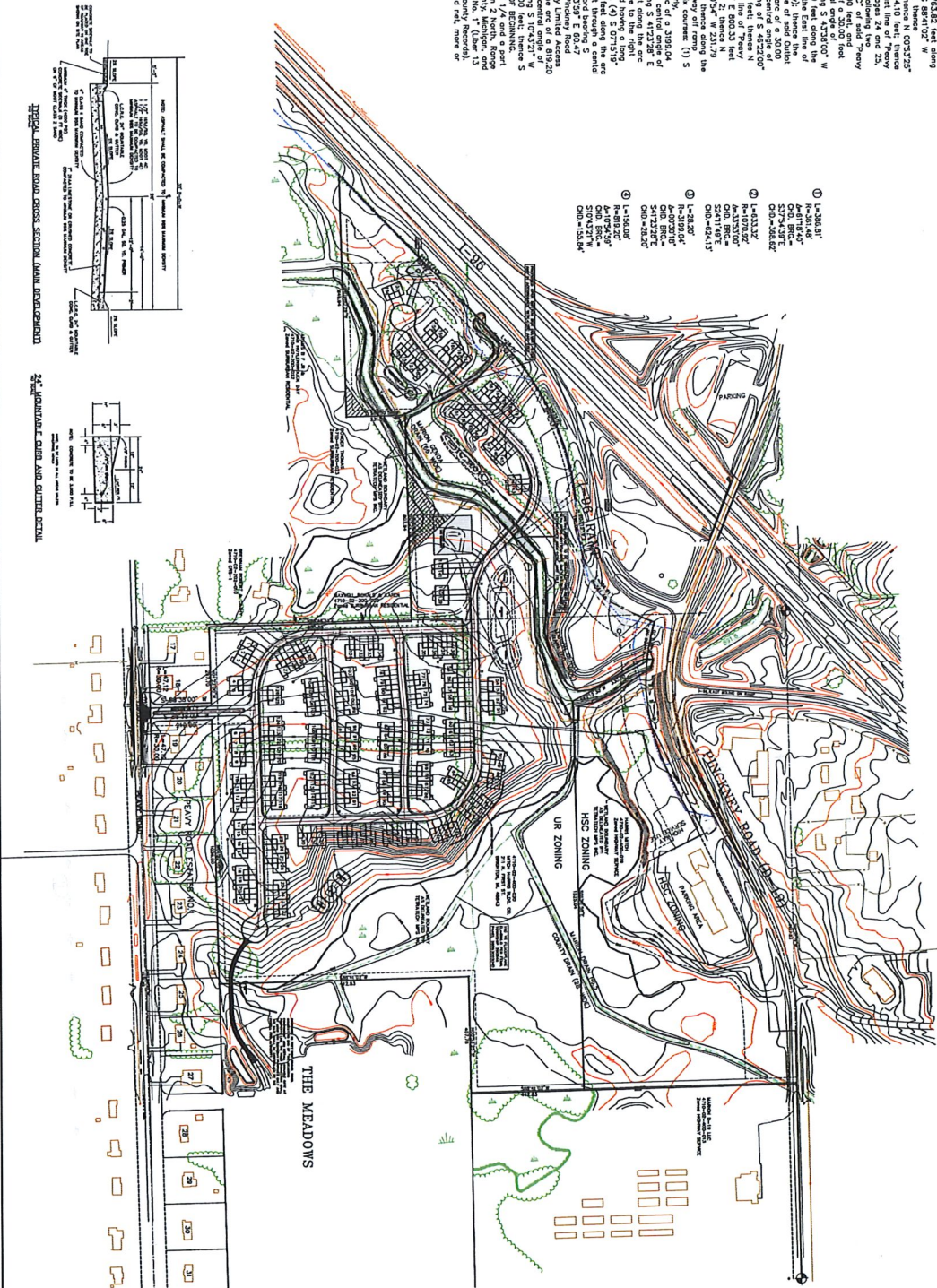
PROPERTY AREA = 7444 ACRES
ZONED = URBAN RESIDENTIAL
REQUIRED SETBACKS:
FRONT = 30 FEET
REAR = 15 FEET
SIDE = 15 FEET
D-19 = 100 FEET
MAINTAIN LOT COVERAGE = 35 %
PROPOSED LOT COVERAGE = 35.1317 / 32,428.044 = 10.8%
PROPOSED BUILDING HEIGHT = 32'-4"
PROPOSED LOTTING HEIGHT = 32'-4"
ALLOWED DENSITY (per UIR) 3 DU/AC @ 7444 ACRES = 3722 units/acre
PROPOSED DENSITY = 167 SINGLE FAMILY HOMES

**GAL DESCRIPTION: AREA OF PROPOSED REZONING TO URBAN RESIDENTIAL**

[illegible]

COMPOSITE SITE PLAN  
MEADOWS NORTH

MARION TOWNSHIP  
SECTION 2, T2N-R4E MARION TOWNSHIP  
LIVINGSTON COUNTY, MICHIGAN

[illegible]

OWNER/DEVELOPER:  
MITCH HARRIS BUILDING CO.  
211 N. FIRST ST.  
BRIGHTON, MI 48116  
(810) 229-7838

MEADOWS NORTH  
MARION TOWNSHIP  
COMPOSITE SITE PLAN



ACE  
CIVIL  
ENGINEERING, LLC

DATE	06-08-24
DEATH BY	POK
CHIEF OF POLICE	POK
JOB No.	22032
DEATH No.	

3

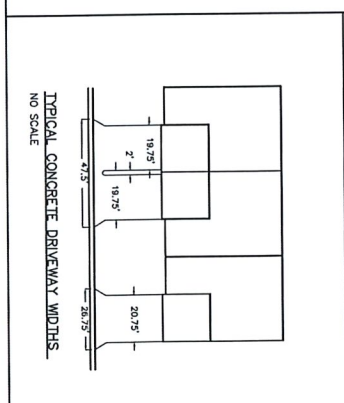
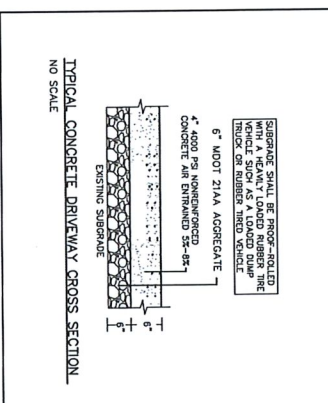
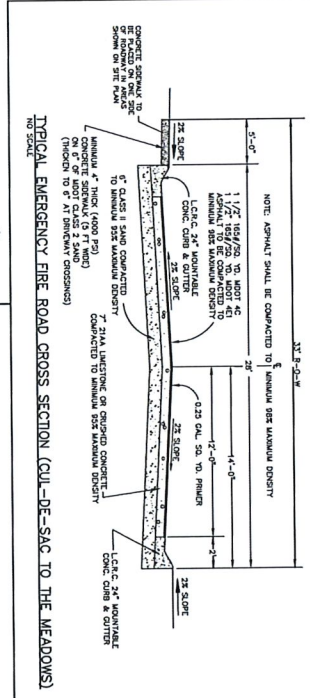
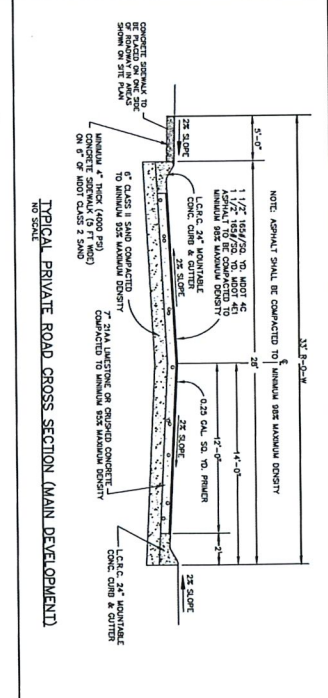
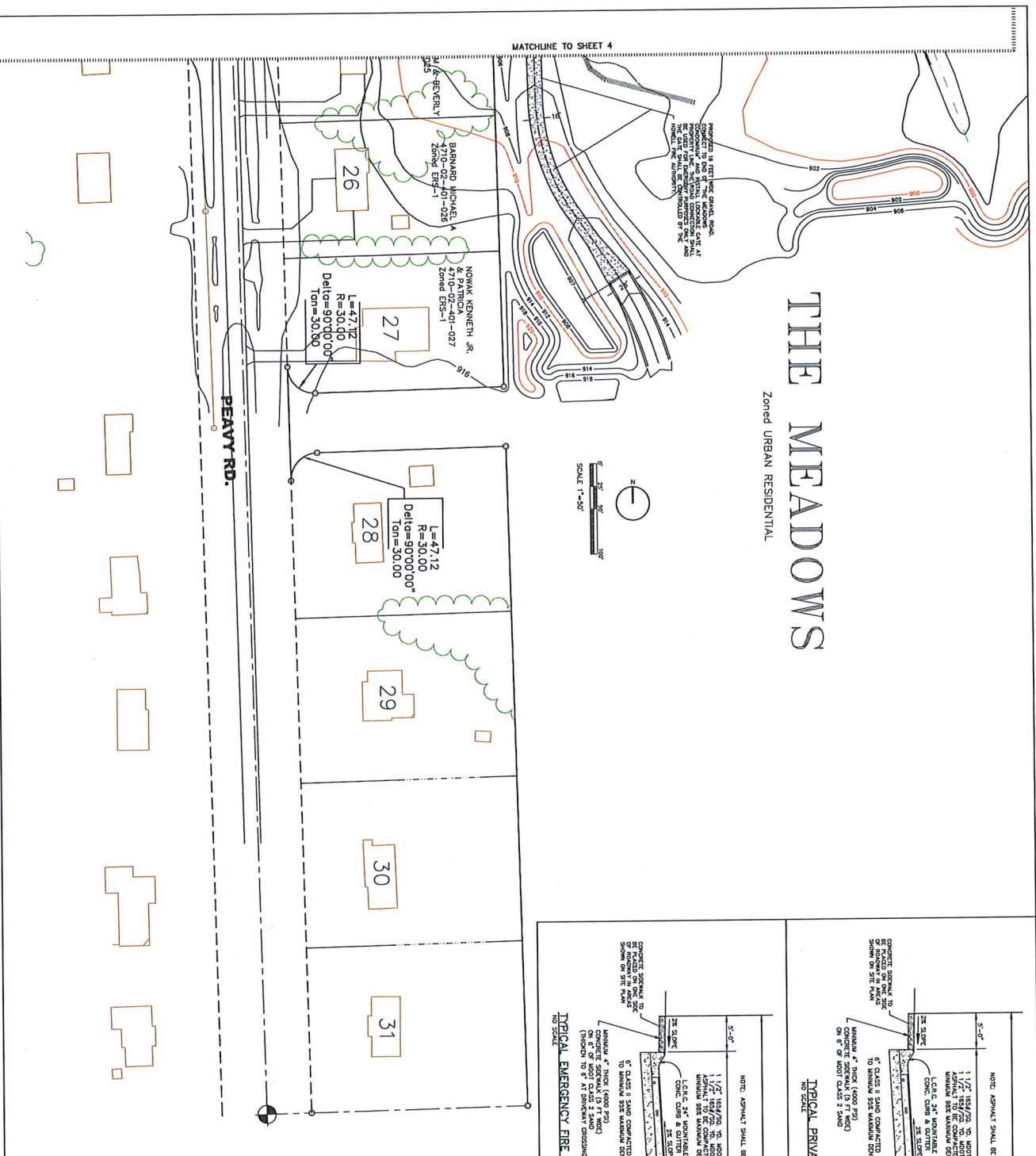






# THE MEADOWS

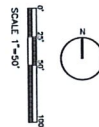
Zoned URBAN RESIDENTIAL



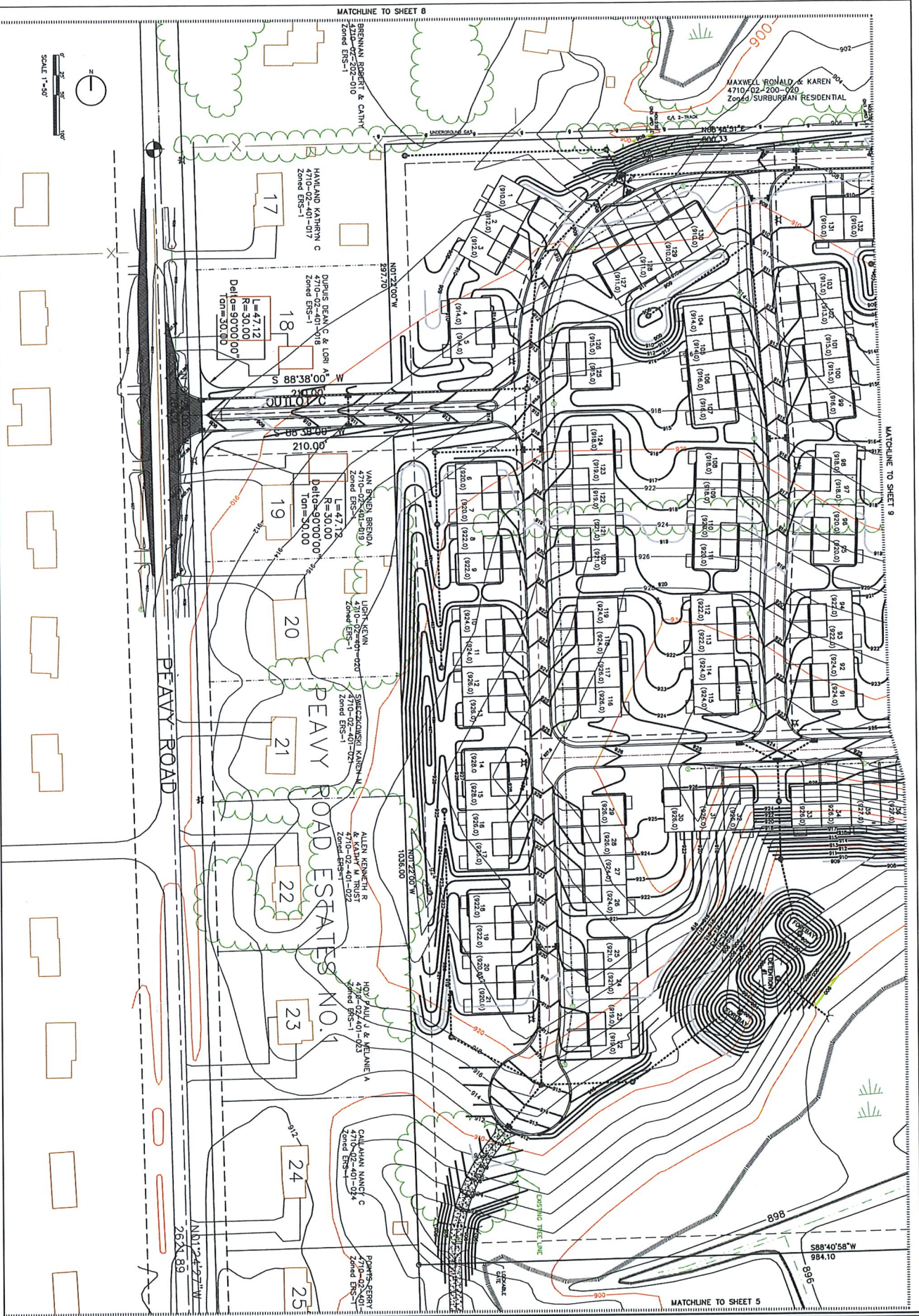




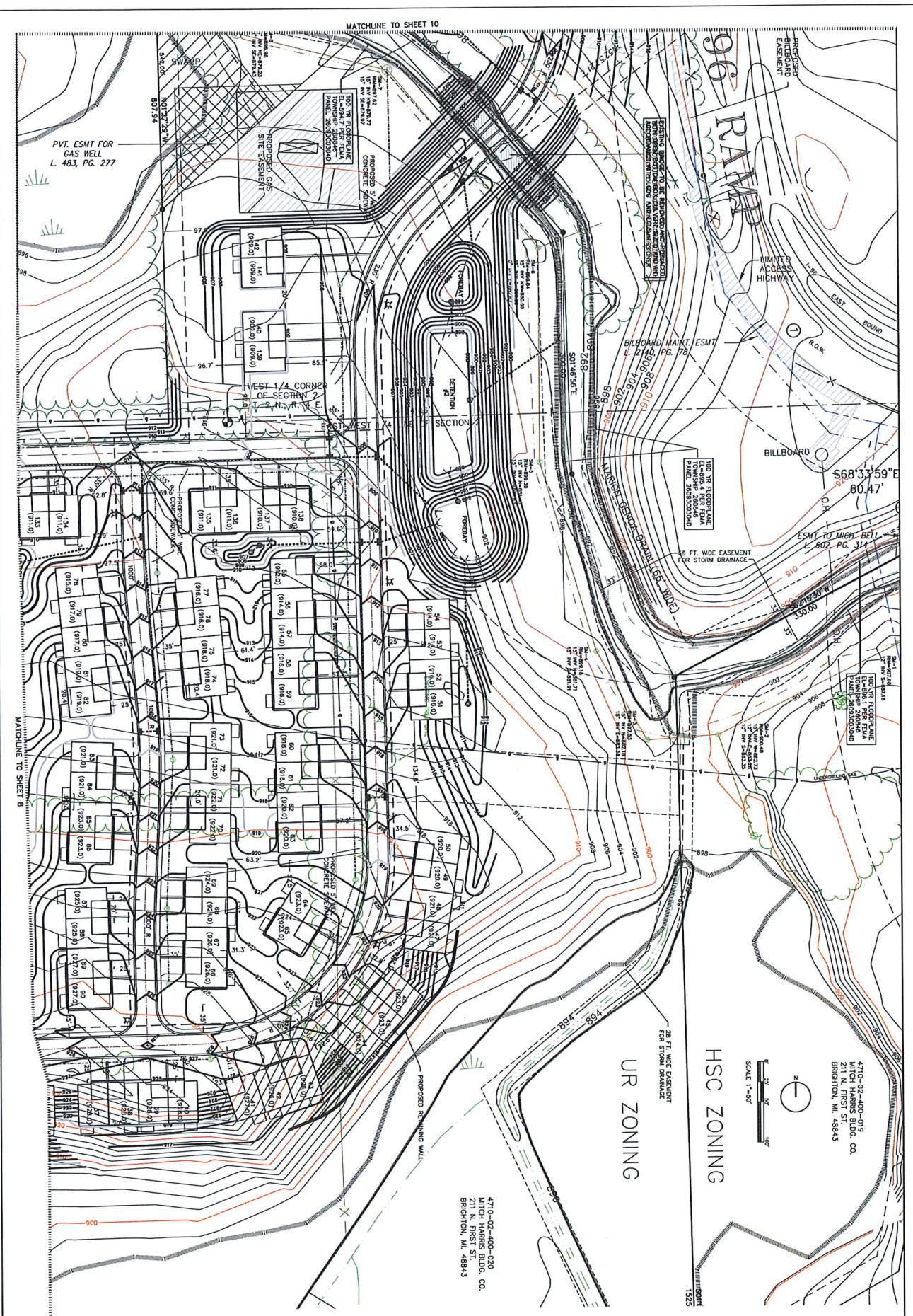




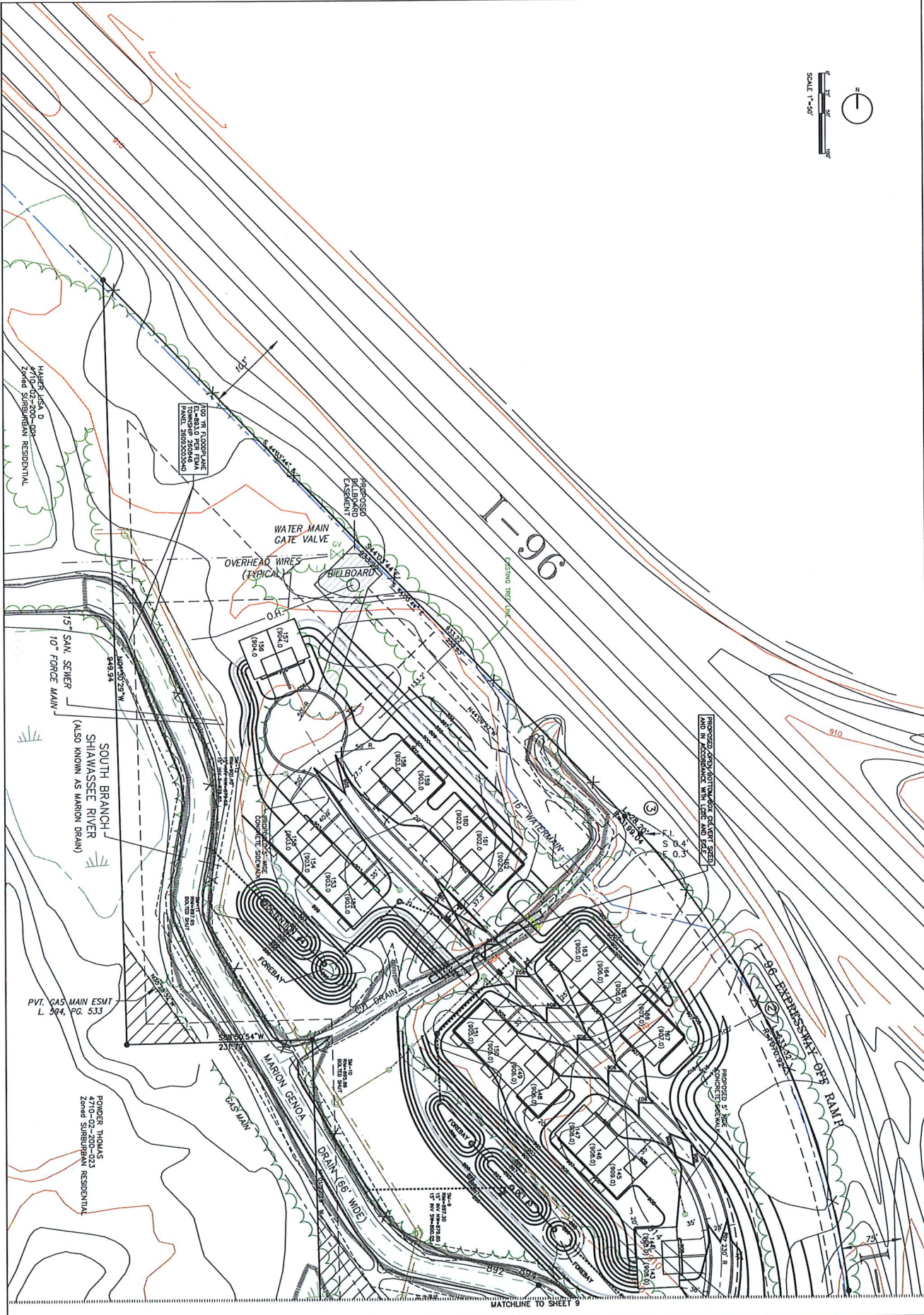
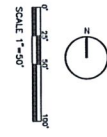













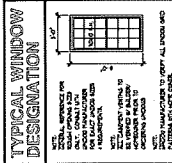
MATCHLINE TO SHEET 9

10	DATE: 08-09-24	 <div>ACE CIVIL ENGINEERING, LLC</div> <div>3008 Underway Dr., Frederick, MD 20838 301 540-1111 <a href="mailto:meadows@acecivil.com">meadows@acecivil.com</a></div>	MEADOWS NORTH MARION TOWNSHIP  GRADING PLAN 3	OWNER/DEVELOPER:	REVISIONS:	
	DRAWN BY: POK			MITCH HARRIS BUILDING CO.	11-11-24	REVISED PER AGENCY AND PC COMMENTS
	CHECKED BY: POK			211 N. FIRST ST.		
	DATE: 08-09-24			BRIGHTON, MI 48116		
	PROJECT: 22032			(810) 229-7838		

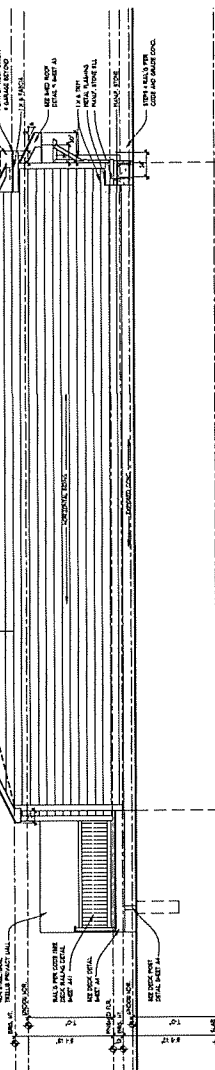
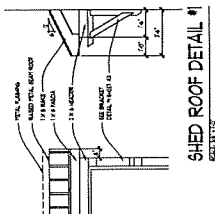
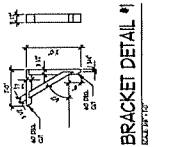




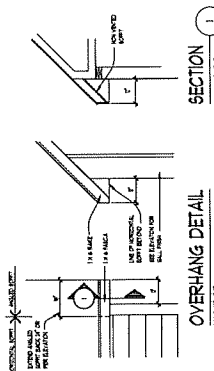
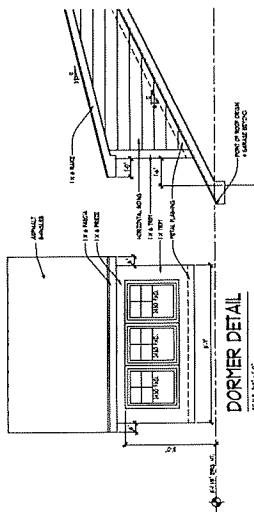
# THE MEADOWS WEST BUILDING #13



- ELEVATION NOTES**
1. PROVIDE GLASS PANEL WITH 1/4" OF OVERLAP.
  2. PROVIDE GLASS PANEL WITH 1/4" OF OVERLAP.
  3. PROVIDE GLASS PANEL WITH 1/4" OF OVERLAP.
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LEFT ELEVATION



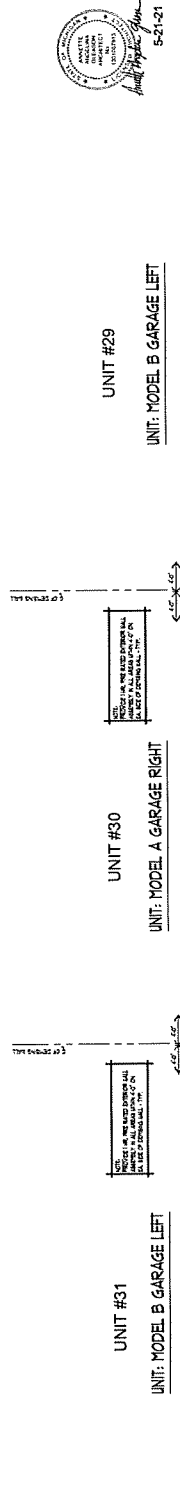
OVERHANG DETAIL

SECTION 1

DORMER DETAIL

SHED ROOF DETAIL

COLUMN DETAIL



UNIT #31  
UNIT: MODEL B GARAGE LEFT

UNIT #30  
UNIT: MODEL A GARAGE RIGHT

UNIT #29  
UNIT: MODEL B GARAGE LEFT

**TK DESIGN & ASSOCIATES**

10000 10TH AVENUE, SUITE 100  
DENVER, CO 80231  
TEL: 303.733.1000  
FAX: 303.733.1001  
WWW.TKDESIGN.COM

**CLIENT / PROJECT**

THE MEADOWS WEST BUILDING COMPANY  
THE MEADOWS WEST BUILDING COMPANY

**DATE**

5-21-21

NO.	DATE	DESCRIPTION
1	5-21-21	ISSUED FOR PERMIT
2	5-21-21	REVISION
3	5-21-21	REVISION
4	5-21-21	REVISION
5	5-21-21	REVISION
6	5-21-21	REVISION
7	5-21-21	REVISION
8	5-21-21	REVISION
9	5-21-21	REVISION
10	5-21-21	REVISION

FRONT ELEVATION

# THE MEADOWS WEST BUILDING #13

UNIT #29

UNIT: MODEL B GARAGE LEFT

UNIT #30

UNIT: MODEL A GARAGE RIGHT

UNIT #31

UNIT: MODEL B GARAGE LEFT

**FIRST FLOOR PLAN**

A-2 SHEET #

CLIENT / PROJECT	MITCH HARRIS BUILDING COMPANY THE MEADOWS WEST DUPLEX
------------------	--

TELETYPE  
UNIT  
4  
DISPATCH

[WWW.TMCHIBIZ.COM](http://WWW.TMCHIBIZ.COM)

24000 PONTIAC TRAIL,  
ROSELAND, N.J. 07068

**STANLEY  
CRAIG**

bioRxiv preprint doi: <https://doi.org/10.1101/000000>; this version posted January 1, 2016. The copyright holder for this preprint (which was not certified by peer review) is the author/funder, who has granted bioRxiv a license to display the preprint in perpetuity. It is made available under aCC-BY-NC-ND 4.0 International license.

the authors are not aware of any other studies that have examined the effects of a single session of a group-based, self-help program on the health-related quality of life of patients with chronic low back pain.

advice please log on to <http://pubs.bas.ac.uk> for a full discussion of the options available. A wide range of options are available for the various types of publications. For a full discussion of the options available, please log on to <http://pubs.bas.ac.uk>.

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 NEW YORK, NY 10019-6100

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**ITTC-08**

PER PLAN

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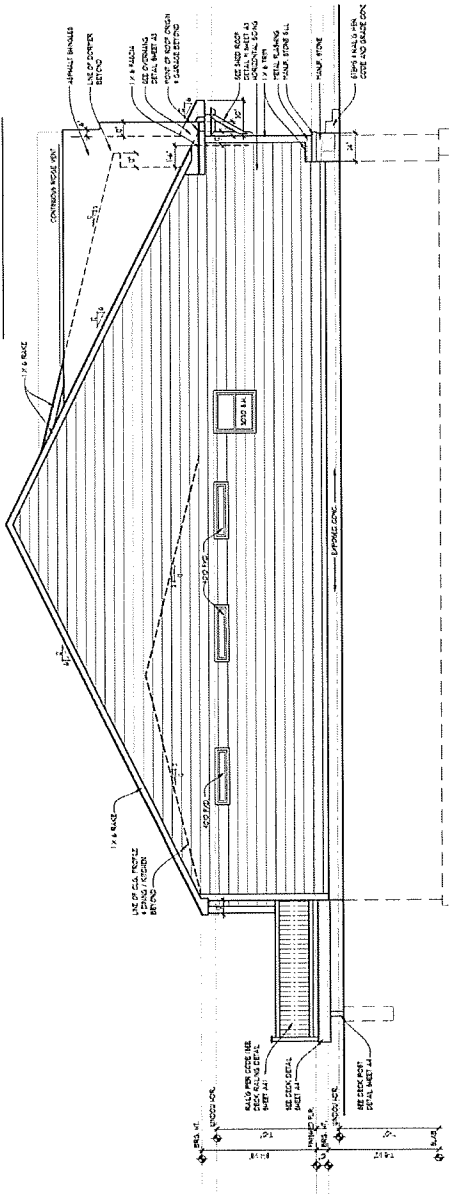
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A-2

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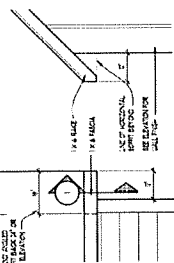
# UNIT: MODEL A GARAGE RIGHT



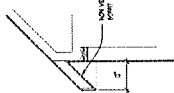
LEFT ELEVATION  
SCALE 1/4\"/>

SEE PAGES FB-1 & FB-2 FOR FINISHED BASEMENT  
SEE PAGE OPT-1 FOR DAYLIGHT BASEMENT

ORIENTAL UNIT  
SEE ELEVATION FOR  
UNIT ELEVATION

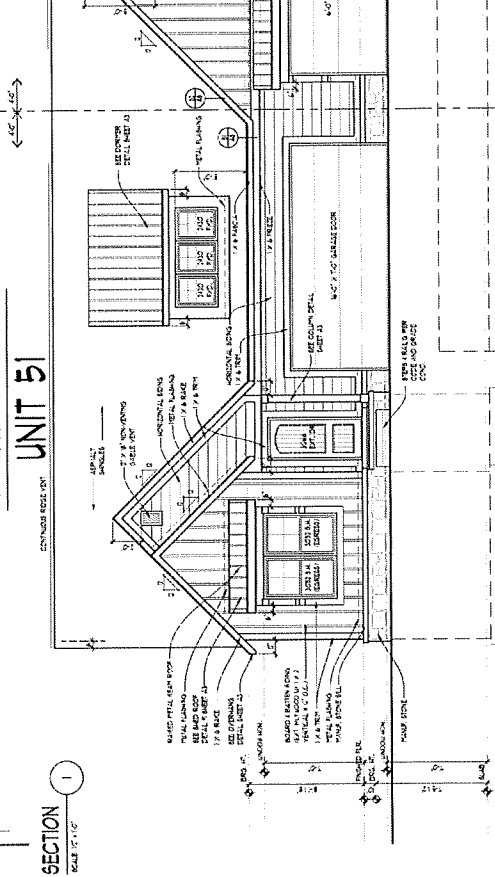


OVERHANG DETAIL  
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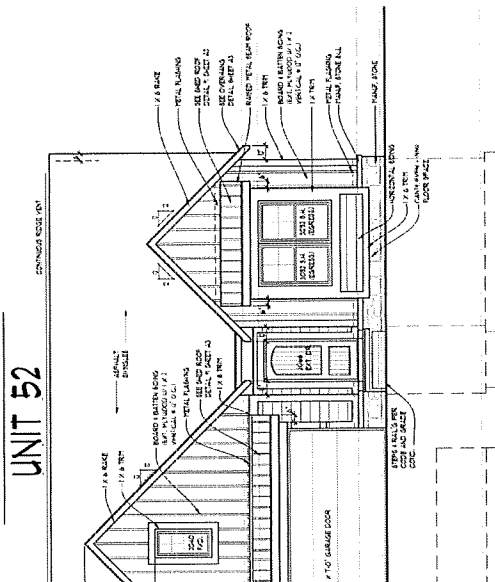
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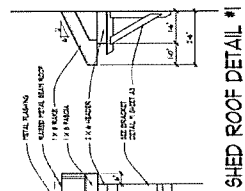
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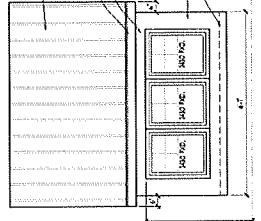


UNIT 52

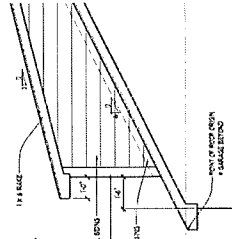
UNIT 51



SHED ROOF DETAIL #1  
SCALE 3/4\"/>



DORMER DETAIL  
SCALE 3/4\"/>



BRACKET DETAIL #1  
SCALE 3/4\"/>

THE MEADOWS WEST  
BUILDING #22



T.X. DESIGN  
ASSOCIATES

3000 S. 1000 E. SUITE 100  
SALT LAKE CITY, UT 84143  
PHONE: (801) 466-1000  
FAX: (801) 466-1001

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CLIENT / PROJECT  
THE MEADOWS WEST  
BUILDING COMPANY  
THE DUPLEX

DATE NO. 2012-01  
DRAWN BY: AJU  
CHECKED BY: BFT  
REVIEW: 12-3-2010  
REVISION:

SCALE:  
PLAN  
PER PLAN

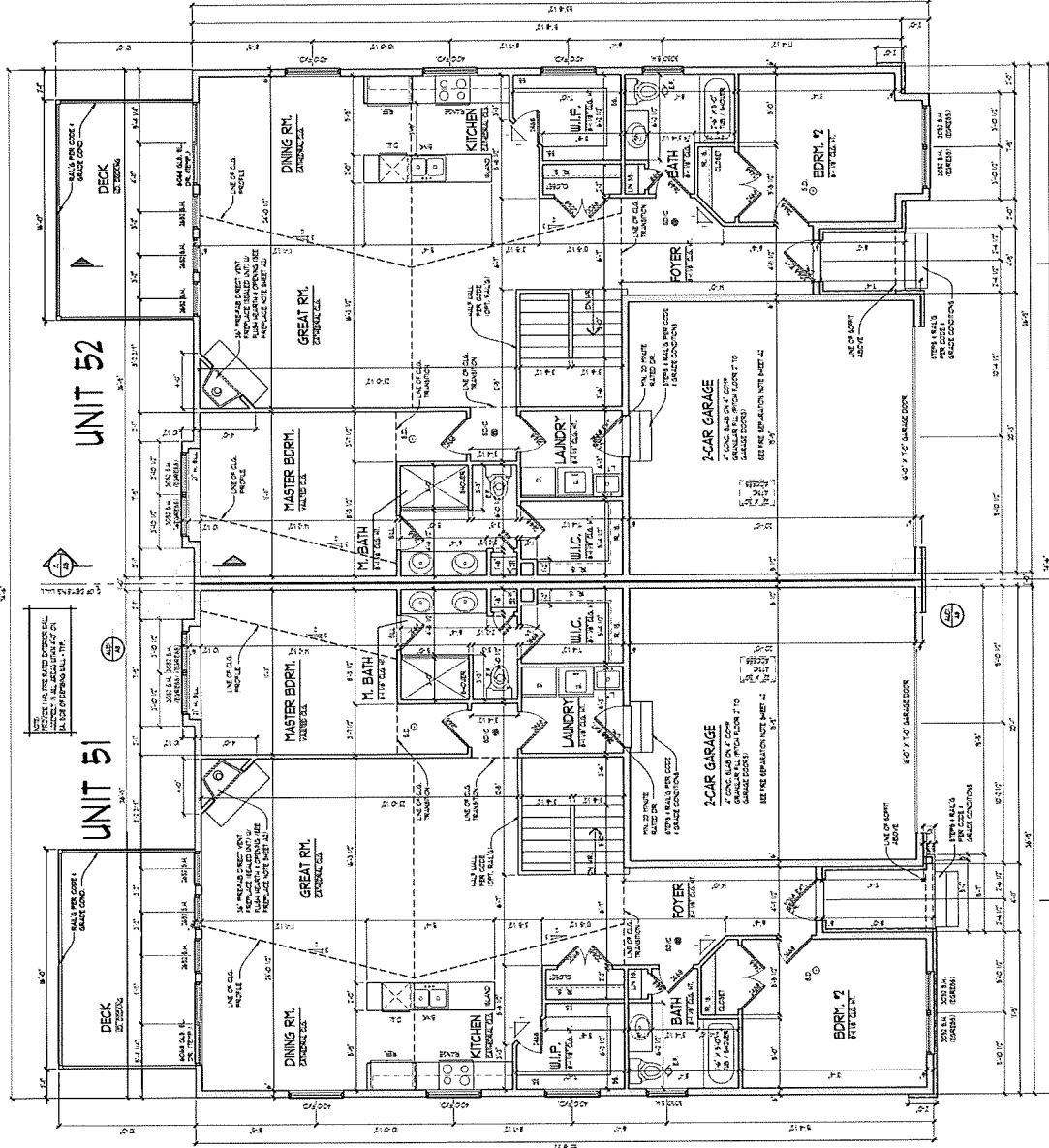
SHEET #  
A-3



SEE PAGES FB-1 & FB-2 FOR FINISHED BASEMENT  
SEE PAGE OPT-1 FOR DAYLIGHT BASEMENT

UNIT: MODEL A GARAGE RIGHT

UNIT: MODEL B GARAGE LEFT



FIRST FLOOR PLAN  
SCALE: 1/8" = 1'-0"

THE MEADOWS WEST  
BUILDING #22



T E D S I O N  
A S S O C I A T E S

WWW.TEDSIONDESIGN.COM  
10000 W. 10TH AVE. SUITE 100  
DENVER, CO 80231  
TEL: 303.733.4444  
FAX: 303.733.4444

CONTRACT NO. 10000-10000-0000  
PROJECT NO. 10000-10000-0000  
SHEET NO. 10000-10000-0000

CLIENT / PROJECT  
MITCH HARRIS  
THE MEADOWS WEST  
DUPLEX

FOR NO. 20-20-20  
DRAWN: AG  
CHECKED: BP  
REVIEW: DB  
DATE: 12.1.2020  
DIVISION

SCALE  
PER PLAN  
SHEET #  
A-2

**MARION TOWNSHIP  
LIVINGSTON COUNTY**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE REGARDING WIND  
ENERGY SYSTEMS IN ACCORDANCE WITH PA 233**

The Township of Marion ordains:

**Section 1. Addition of New Section 17.37, Wind Energy Systems.**

The Zoning Ordinance is amended by the addition of a new Section 17.37 titled "Wind Energy Systems." The new Section 17.37 reads in its entirety as follows:

**Section 17.37 Wind Energy Systems.**

**A. General Provisions.**

1. All Wind Energy Systems shall conform to all provisions of the Township's ordinances and all county, state, and federal regulations and safety requirements, including applicable building codes and applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriter Laboratory (UL), National Electrical Code (NEC), National Fire Protection Association (NFPA), and the most current Michigan Uniform Building Code adopted by the enforcing agencies.
2. If an applicant, operator, or landowner of a Wind Energy System fails to comply with Township ordinances, the Township, in addition to any other remedy provided by ordinance, may revoke any approvals after giving the applicant notice and an opportunity to be heard. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

**B. Special Use Permit Application Requirements.** In addition to the requirements of the underlying zoning district, an applicant for a special use permit for a Wind Energy System must provide the Township with the following:

1. Application fee in an amount set by resolution or fee schedule approved by the Township Board.
2. A deposit for an escrow account in an amount set by resolution or fee schedule approved by the Township Board. The escrow account is used to cover all costs and expenses associated with the special land use review and/or approval process, which costs can include, but are not limited to, review fees of the Township Attorney, Township Planner, and Township Engineer, as well as any reports or studies which the Township anticipates will be required during the

review and/or approval process for the application. At any point during the review process, the Township may require that the applicant place additional monies into escrow with the Township if the existing escrowed funds on account with the Township will be insufficient, in the determination of the Township, to cover any remaining costs or expenses with the review and/or approval process. If additional funds are required by the Township to be placed in escrow and the applicant refuses to do so within 14 days after receiving notice, the Township will cease the zoning review and/or approval process until and unless the applicant makes the required escrow deposit. Any escrow amounts in excess of actual cost will be returned to the applicant. An itemized billing of all expenses will be provided to the applicant upon request.

3. A list of all parcel numbers that the Wind Energy System will use; documentation establishing ownership of each parcel; and any and all lease or option agreements, easements, or purchase agreements for the subject parcels, together with any attachments to such agreements or easements.
4. An operations agreement setting forth the parameters of the operation, the name and contact information of the certified operator, the applicant's inspection protocol, emergency procedures, and general safety documentation.
5. A Federal Employer Identification Number for the current owner/operator is required at the time of application.
6. A written emergency response plan detailing the applicant's plan for responding to emergencies, including fire emergencies, and analyzing whether adequate resources exist to respond to fires and other emergencies. If adequate resources do not exist, the applicant shall identify its plan for providing those resources. The emergency plan shall include identification of potential hazards to adjacent properties, public roadways, and the community in general that may be created, as well as plans for immediate cleanup, long-term monitoring, and continued mitigation efforts following an emergency.
7. A written description of the fire suppression system that will be installed, which shall identify the manufacturer of the fire suppression system and generally describe its operations and capacity to extinguish fires.
8. A written description of specialized training and/or equipment necessary for handling fires and/or other emergencies at the Wind Energy System site. The training plan must include, at a minimum, annual emergency response training for local firefighters and other local emergency personnel at the site of the Wind Energy System.
9. A complete set of photographs, video, and topography maps at two-foot intervals of the entire participating property prior to construction.
10. A copy of any power purchase agreement or other written agreement that the applicant has with an electric utility or any agreement or approval for

interconnection between the proposed Wind Energy System and an electric utility or transmission company.

11. A written plan conforming to the requirements of this ordinance for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management.
12. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Wind Energy System, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Wind Energy System and restore the subject parcels to as near as possible to the condition the subject parcels were in before being used as a Wind Energy System.
13. Financial security that meets the requirements of this Section.
14. A plan for resolving complaints regarding but not limited to noise, glare, maintenance, and drainage from the public or other property owners concerning the construction and operation of the Wind Energy System.
15. Identification of and a plan for managing any hazardous waste.
16. A transportation plan for construction and operation phases, including any applicable agreements with the County Road Commission and Michigan Department of Transportation.
17. An attestation that the applicant and owner of the subject property will indemnify and hold the Township and its officials, elected or appointed, harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Wind Energy System.
18. A copy of the manufacturer's directions, instruction manual, and specification sheets including any unredacted safety manuals and Safety Data Sheets (SDS), for installing, maintaining, and using the Wind Energy System.
19. A ground cover vegetation establishment and management plan that complies with this ordinance.
20. Proof of environmental compliance, including compliance with:
  - a. Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.);
  - b. Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances;
  - c. Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.);



- d. Part 303, Wetlands (MCL 324.30301 et. seq.);
- e. Part 365, Endangered Species Protection (MCL 324.36501 et. seq.);
- f. and any other applicable laws and rules in force at the time the application is considered by the Township.

21. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.

22. Insurance. Proof of the owner/operator's public liability insurance shall be provided at the time of application. If the applicant is approved, proof of insurance shall be provided to the Township annually thereafter. The policy shall provide for bodily injury and property damage and shall name the Township and each participating property owner as an additional insured. The owner/operator shall insure for liability for the Wind Energy System until removed for at least \$25,000,000.00 per occurrence to protect the owner/operator, Township, and participating property owner. Proof of a current policy is required annually and shall be provided each year to the Township prior to the anniversary date of the Conditional Use Permit.

23. Compliance with the Michigan Uniform Building Code and National Electric Safety Code: Construction of a Utility Wind Energy Facility shall comply with the most current version of the Michigan Uniform Building Code and National Electrical Code adopted by the enforcing agencies as a condition of any Conditional Use Permit under this Section.

24. Conceptual plan. A graphical computer-generated depiction of how the Wind Energy System will appear from all directions.

**C. Site Plan Requirements.** The information, plans, documents, and other items identified as site plan requirements in this Section are substantive requirements for obtaining a special use permit for a Wind Energy System. If the Township determines that the substance of any application item is insufficient to protect the public health, safety, and welfare, the special use permit shall be denied on that basis. In addition to the requirements for site plans for the underlying zoning district, a site plan for a Wind Energy System must include all the following:

1. Location of all proposed structures, turbines, equipment, transformers, and substations.
2. Location of all existing structures or dwellings on the parcel and location of all existing structures or dwelling on adjacent non-participating property within 1,000 feet of the property lines of any participating properties.
3. Depiction of all setbacks, property lines, fences, signs, greenbelts, screening, drain tiles, easements, flood plains, bodies of water, proposed access routes, and road rights of way.

4. Indication of how and where the Wind Energy System will be connected to the power grid.
5. Plan for any land clearing and grading required for the installation and operation of the system.
6. Plan for ground cover establishment and management.
7. Anticipated construction schedule and completion date. As a condition of any special land use or site plan approval, hours of construction shall be limited to Monday through Friday from 7:00 a.m. to 5:00 p.m. with no construction on Saturday, Sunday, or any federally recognized holiday.
8. Sound modeling study including sound isolines extending from the sound sources to the property lines.
9. Any additional studies requested by the Planning Commission, including but not limited to the following:
  - a. Visual Impact Assessment: A technical analysis by a third party qualified professional approved by the Township at applicant/owner's expense of the visual impacts of the proposed project, including a description of the project, the existing visual landscape, and important scenic resources, plus visual simulations that show what the project will look like (including proposed landscaping and other screening measures), a description of potential project impacts, and mitigation measures that would help to reduce the visual impacts created by the project.
  - b. Environmental Analysis: An analysis by a third-party qualified professional approved by the Township at applicant/owner's expense to identify and assess any potential impacts on the natural environment including, but not limited to, removal of trees, wetlands and other fragile ecosystems, wildlife, endangered and threatened species. If required, the analysis will identify all appropriate measures to minimize, eliminate or mitigate adverse impacts identified and show those measures on the site plan, where applicable.
  - c. Stormwater Study: An analysis by a third-party qualified professional approved by the Township at applicant/owner's expense studying the proposed layout of the Wind Energy System and how the spacing, row separation, and slope affects stormwater infiltration, including calculations for a 100-year rain event. Percolation tests or site-specific soil information shall be provided to demonstrate infiltration on-site without the use of engineered solutions.
  - d. Glare Study: An analysis by a third-party qualified professional approved by the Township at applicant/owner's expense to determine if

glare from the Wind Energy System will be visible from nearby airports, air strips, residences, and roadways. The analysis will consider the changing position of the sun throughout the day and year and its influences on the utility-scale wind energy system.

- e. Optional Conceptual Layout Plan. Applicants may submit an optional conceptual layout plan for review prior to submission of a formal site plan. The conceptual site plan shall be reviewed by the Planning Commission to allow for discussion and feedback.
- 10. Approvals from Other Agencies. Final site plan approval may be granted only after the applicant receives all required federal, state and local approvals, including any applicable approval by the state historic preservation office. Applicant shall provide copies of all review letters, final approved plans, and reports issued by any other governing agencies to the Township.
- 11. The site plan must show the existing topographical grades in two-foot intervals and conditions of all participating property at the time of application.
- 12. A baseline soil test including Cation Exchange Capacity (CEC) shall be provided to the Township prior to any construction.
- 13. A written description of how the applicant will address dust control during construction. Such plan shall, at a minimum, consist of water applications at least three times per day unless it has rained in the preceding three hours of the planned application.
- 14. Water Usage and Cleaning. The applicant shall detail the methodology planned for cleaning the wind turbines, frequency, and listing of any and all detergents, surfactants, chemical solutions used for each cleaning, and sources of water used to facilitate turbine restoration and maintenance.

#### **D. System and Location Requirements.**

- 1. Wind Energy Systems are to be located only in the Solar Farm Overlay District as a conditional use.
- 2. Setbacks. The minimum setback from any property line of a non-participating property or any road right-of-way is 3,000 feet or five times the tip height of each turbine in the Wind Energy System, whichever is greater. Additionally, each turbine must be located at least 0.5 miles from the nearest lake or body of water. If a single Wind Energy System is located on more than one lot, or if the adjacent parcel is owned by the same owner as the property on which the Wind Energy System is located, then the lot line setbacks of this subsection do not apply to the lot lines shared by those lots.
- 3. Height. The height of a Wind Energy System with the blade fully extended must not exceed 300 feet.

4. Ground Clearance. The clearance from ground level to the blade at its lowest point must be at least 100 feet.
5. Blade Arc Clearance. Blade arcs created by a Wind Energy System must have a minimum of 100 feet of clearance over and away from any structure.
6. Braking. Each Wind Energy System must be equipped with a braking or equivalent device, capable of stopping the Wind Energy System's operation in high winds with or without supervisory control and data acquisition ("SCADA") control. The braking system must be effective during complete grid power failure when the Wind Energy System is unable to communicate with SCADA control or receive power.
7. Deicing. All turbines must be equipped with technology that automatically deices the turbine blades. The system must detect ice and heat the blades, such as through the use of built-in carbon heating mats or through the circulation of hot air.
8. Appearance. All Wind Energy System turbines and towers must be painted a non-obtrusive, neutral color, such as beige, gray, or off-white and must be non-reflective. All turbines bases and blades must be the same color and must be consistent with the color of other Wind Energy System in the Township. No advertisements, graphics, or striping are permitted on the blades or towers. The applicant is encouraged to select anti-icing paint that prevents the formation of ice on the surface of the turbine's blades.
9. Lighting. Lighting of the Wind Energy System is limited to the minimum light necessary for safe operation. Towers may be lit only to the minimum extent required by the Federal Aviation Administration.
10. Security Fencing. The Township may require security fencing around all electrical equipment related to the Wind Energy System.
  - a. A containment system shall surround any transformers in case of hazardous waste or oil spills.
  - b. Appropriate warning signs shall be posted at safe intervals at the entrance and around the perimeter of the Wind Energy System.
  - c. Gate posts and corner posts shall have a concrete foundation.
  - d. Gates shall be the same height and constructed of the same material as the fencing. Access, such as Knox box, shall be provided for emergency responders.
  - e. The Township may allow or require a fence design to allow for the passage of wildlife upon a finding that adequate access control and visual screening will be preserved.



- f. Security fencing is subject to setback requirements. The security fence shall be locked, and a self-locking device shall be used. Lock boxes and keys (may be electronic such as keypad opener, if the passcode is provided to the Township and central dispatch for 911 service) shall be provided at locked entrances for emergency personnel access. Electric fencing is not permitted. A safety plan shall be in place and updated regularly with the local fire department having jurisdiction over the Wind Energy System.
- 11. Noise. All sound measurements are to be instantaneous and shall not be averaged. The noise generated by a Wind Energy System shall not exceed the following limits:
  - a. 40 dBA  $L_{MAX}$ , as measured at the property line, between the hours of 7:00 a.m. and 9:00 p.m.
  - b. 35 dBA  $L_{MAX}$ , as measured at the property line, between the hours of 9:00 p.m. and 7:00 a.m.
  - c. The owner/operator of the Wind Energy System shall annually provide for a sound analysis or modeling, conducted by an auditory expert chosen by the Township, at the expense of the applicant.
- 12. Underground Transmission. All power transmission, communication, or other lines, wires, or conduits from a Utility-Scale Wind Energy System to any building or other structure shall be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.
- 13. Drain Tile Inspections. The Wind Energy System shall be maintained in working condition at all times while in operation. The owner/operator shall hire, at its own expense, a third-party contractor approved by the Township to identify and inspect all drain tiles at least once every two years by means of a robotic camera, with the first inspection occurring post construction but before the Wind Energy System is in operation. The owner/operator shall submit proof of the inspection to the Township. The owner/operator shall repair any damage or failure of the drain tile within 60 days after discovery and submit proof of the repair to the Township. The Township is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.
- 14. Fire Suppression. The Wind Energy System shall include a fire suppression system that is specifically designed to immediately suppress and extinguish fires in any part of the Wind Energy System, including the turbines, electrical equipment, and transformers. The owner/operator shall provide documentation establishing the effectiveness of the fire suppression system and the results of a third-party independent inspection (approved by the Township) of the fire

suppression system. The fire suppression system shall also be reviewed and approved by local EMS.

15. Battery Storage. Commercial grid storage batteries or capacitor banks storing or returning supplemental power to the grid are only permitted subject to Section 801.
16. A Wind Energy System must not interfere with any radio, television, or other communication systems. If the Township or the applicant or operator of the Wind Energy System receive a complaint about communication interference, the applicant or operator must resolve the interference immediately and provide proof that the interference has been resolved within 90 days.
17. Stray Voltage Assessments. No stray voltage originating from a Wind Energy System may be detected on any participating or non-participating property. A preconstruction stray voltage test shall be conducted on all Michigan Department of Agriculture & Rural Development (MDARD) registered livestock facilities located within a one-mile radius of the participating properties. The tests shall be performed by an investigator approved by the Township at the applicant/owner's expense. A report of the tests shall be provided to the owners of all property included in the study area. The applicant/landowner shall seek written permission from the property owners prior to conducting testing on such owners' property. Applicants/landowners shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing. The owner of any participating property included in the list of project parcels shall not refuse the stray voltage testing if they have a MDARD registered livestock facility on the participating property.
18. Drainage. Drainage on the site shall be maintained in a manner consistent with, or improved upon, existing natural drainage patterns. Any disturbance to drainage or water management practices shall be managed within the property and on-site in order to not negatively impact surrounding properties as a result of the development. This shall be maintained for the duration of the operation and shall be able to be returned to pre-existing conditions following decommissioning. Any existing drainage tiles that are identified on the property shall be shown on the as-built drawings submitted following construction. Prior to the start of construction, any existing drain tile shall be inspected by a third-party contractor approved by the Township, at applicant/owner's expense by robotic camera and the imagery submitted to the Township for baseline documentation on tile condition. Any damage shall be repaired, and a report submitted to the landowner and Township. While the facility is in operation, the owner/operator shall reinspect the drain tiles every two years by robotic camera for any damage and shall repair any damage within 60 days of discovery. The owner/operator shall report the inspection, along with any damage and repair, to the Township within 90 days after each two-year deadline. The Township reserves the right to have the Building Inspector or other agent present at the



time of repair. Wind turbine support structures and/or foundations shall be constructed to preserve any drainage field tile or system.

19. Access Routes. Access drives are subject to the approval of the County Road Commission to the extent of the Road Commission's jurisdiction. All access drives and roads within the site shall be adequately maintained for emergency vehicle use, including winter maintenance.
20. The owner/operator shall submit an as-built drawing with dimensions relative to property lines of all new structures including turbines and buried cable both inside and outside fenced areas upon completion and before any power is supplied to the grid. The as-built drawing shall be a scale of 1" = 200 feet.
21. Signs. The participating property shall include at least one sign identifying the owner and providing a 24-hour emergency contact telephone number.
22. Emergency Action Plan and Training. Before the Wind Energy System is operational, the owner/operator shall provide the necessary training, equipment, or agreements specified in the application to the Township or other emergency personnel. All training must be consistent with current industry standards. The emergency plan will be a public record.
23. Decommissioning and/or Abandonment.
  - a. If a Wind Energy System is abandoned or otherwise non-operational for a period of six months, the owner/operator shall notify the Township and shall remove the system within six months after the date of abandonment. Removal requires receipt of a demolition permit and full restoration of the site in accordance with the provisions of this Ordinance and to the satisfaction of the Zoning Administrator. Decommissioning shall include the removal of each turbine, all buildings, electrical components, foundations, and roads, as well as any other associated facilities. The site shall be filled and covered with topsoil and restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Utility-Scale Wind Energy System that is never fully completed or operational if construction has been halted for a period six months.
  - b. The decommissioning plan shall be written to provide security to the Township for 125% of the cost to remove and dispose of all turbines, removal of all wiring, footings, and pilings, (regardless of depth), and restoration of the land to its original condition. The value of decommissioning shall be determined by a third-party financial consultant or engineer selected by the Township and paid for by the developer. The decommissioning security shall be paid in cash to the Township. Once the value of decommissioning is determined, it shall be updated on a periodic basis of not less than every 2 years and additional

security shall be required based on the average inflation rate of the preceding 2 years.

- c. All abandonment and decommissioning work shall be done when soil is dry as determined by a third-party soil expert approved by the Township at the applicant/owner's expense.
- d. The ground shall be restored to its original topography within three hundred sixty-five (365) days of abandonment or decommissioning. An extension may be granted if a good faith effort has been demonstrated and any delay is not the result of actions or inaction of the owner/operator. A baseline soil test including Cation Exchange Capacity (CEC) shall be conducted and provided to the township in the decommissioning process, and any negative variations from the pre-construction soil test must be remedied.
- e. If land balancing is required, all topsoil will be saved and spread evenly over balanced area according to the existing topography map provided at the time of application.
- f. An annual report shall be provided to the Zoning Administrator showing continuity of operation and shall notify the Zoning Administrator if the use is to cease, prior to decommissioning or abandonment.
- g. Continuing Obligations: Failure to keep any required financial security in full force and effect at all times while a Wind Energy System exists or is in place shall constitute a material and significant violation of the Conditional Use Permit and this Section, and will subject the Wind Energy System owner/operator (jointly and severally, if more there is more than one owner or operator) to all remedies available to the Township, including any enforcement action, civil action, request for injunctive relief, and revocation of the Conditional Use Permit.
- h. The Township shall have the right to seek injunctive relief to effect or complete decommissioning, as well as the right to seek reimbursement from the owner/operator or landowner for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real property owned by the owner/operator or landowner for the amount of the excess, and to take all steps allowed by law to enforce said lien.
- i. At the time of decommissioning, the Planning Commission may allow deviations from the above decommissioning requirements following notice and a public hearing in accordance with Section 103 of the Zoning Enabling Act.

24. Complaint Resolution. Wind Energy Systems shall provide a complaint resolution process, as described below:



- a. The site shall have signs posted with contact information to collect complaints related to the Wind Energy System.
- b. A log shall be kept by the owner/operator of all complaints received and shall be available to Township officials for review at the Township's request.
- c. The owner/operator shall respond to complainants within ten (10) business days and shall provide notification to the Zoning Administrator.
- d. Any resolution shall include lawful and reasonable solutions consistent with the Zoning Ordinance, which shall also be provided to the Zoning Administrator.
- e. The owner/operator or its assigns reserve the right to adjudicate any claims made against it, including residential claims, in a court of competent jurisdiction. An annual report shall be submitted to the Zoning Administrator and the Township Board that details all complaints received, the status of complaint resolution, and actions taken to mitigate complaints.

#### 25. Maintenance and Repair.

- a. Each Wind Energy System shall be kept and maintained in good repair and condition at all times and the site shall be neat, clean, and free of refuse, waste, or unsightly, hazardous, or unsanitary conditions. All wind turbines damaged beyond repair or use shall be replaced and removed from the project site within seven (7) days and shall be disposed of off-site in accordance with any state or federal requirements. Applicant/owner may request an extension of this seven-day requirement, in writing, which may be granted at the discretion of the Planning Commission.
- b. If the Township Board or Zoning Administrator determines that a Wind Energy System fails to meet the requirements of this Section or the Conditional Use Permit, the Zoning Administrator or Township Board shall provide notice to the owner/operator of the non-compliance, and the owner/operator has 14 days to cure the violation. If the violation is a safety hazard as determined by the Zoning Administrator or Township Board, then the owner and/or operator has 7 days to cure the violation. If the owner and/or operator has not remedied non-compliance issues in the aforementioned time periods, the owner/operator shall immediately shut down the Wind Energy System and shall not operate, start or restart the Wind Energy System until the issues have been resolved. If the owner/operator fails to bring the operation into compliance, the Township may seek relief at law or equity to abate the nuisance and may

also issue a municipal civil infraction citation. Each violation for which the owner/operator are deemed responsible shall result in a \$500.00 fine. Each day shall constitute a new violation.

- c. The owner/operator shall keep a maintenance log on the wind turbine(s), which shall be available for the Township's review within 48 hours of such request.
  - d. General Maintenance Bond. At the time of the Conditional Use application, the owner/operator shall submit two (2) third-party contractor bids for the construction of all fencing, landscaping, and drainage improvements associated with the Wind Energy System. A performance bond in the amount of 125% of the higher bid shall be provided to the Township in cash to ensure completion. The Township may use the bond to complete or repair any landscaping, fencing, or drainage infrastructure (including drain tiles).
26. Extraordinary Events. If the Wind Energy System experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the owner/operator shall notify the Township within 8 hours.
27. Annual Report. The owner/operator shall submit a report on or before November 1 of each year that includes all of the following:
- a. Amount of electric generation;
  - b. Current proof of insurance with the township and Participating Property owner(s) shown as named insured;
  - c. Verification of financial security; and
  - d. A summary of all complaints, complaint resolutions, and extraordinary events

Additionally, a representative of the owner/operator shall appear before the Planning Commission annually to report on the Wind Energy System and address questions or concerns from the Planning Commission.

28. Inspections. The Township may inspect a Wind Energy System at any time by providing 24-hour advance notice to the owner/operator.
29. Transferability. A conditional use permit for a Wind Energy System is transferable to a new owner. The new owner shall register its name, Federal Employer Identification Number, and business address 30 days before the transfer date with the Township and shall comply with this Section and all approvals and conditions issued by the Township. In the event of a sale or transfer of ownership and/or operation of the wind facility, the original escrow



shall be maintained throughout the entirety of the process and shall not be altered.

30. Remedies. If an owner/operator fails to comply with this Section, the Township, in addition to any other remedy under this Ordinance, may issue a “stop work” order until the owner/operator is in compliance with the Ordinance. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township’s actual attorney fees and costs.

**E. Wind Energy Systems under PA 233.** On or after November 29, 2024, once PA 233 of 2023 is in effect, then the following provisions apply to Wind Energy Systems with a nameplate capacity of 100 megawatts or more. To the extent these provisions conflict with the provisions in subsections (A)-(D), these provisions control as to such Wind Energy Systems. All provisions in subsections (A)-(D) that do not conflict with this subsection (E) remain in full force and effect. This subsection (E) does not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect and does not apply to Wind Energy Systems with a nameplate capacity of less than 100 megawatts.

1. Setbacks. Wind Energy Systems must comply with the following minimum setback requirements, with setback distances measured from the center of the base of the wind tower:

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	2.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Residences and other structures on participating properties	1.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Nonparticipating property lines	1.1 times the maximum blade tip height
Public road right-of-way	1.1 times the maximum blade tip height to the center line of the public road right-of-way
Overhead communication and electric transmission, not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height to the center line of the easement containing the overhead line

2. Shadow Flicker. Each wind tower must be sited such that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions as indicated by industry-standard computer modeling.
3. Height. Each wind tower blade tip must not exceed the height allowed under the Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR part 77.

4. Noise. The Wind Energy System must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.
5. Lighting. The Wind Energy System must be equipped with a functioning light-mitigating technology. To allow proper conspicuity of a wind turbine at night during construction, a turbine may be lighted with temporary lighting until the permanent lighting configuration, including the light-mitigating technology, is implemented. The Township may grant a temporary exemption from the requirements of this subparagraph if installation of appropriate light-mitigating technology is not feasible. A request for a temporary exemption must be in writing and state all of the following:
  - a. The purpose of the exemption.
  - b. The proposed length of the exemption.
  - c. A description of the light-mitigating technologies submitted to the Federal Aviation Administration.
  - d. The technical or economic reason a light-mitigating technology is not feasible.
  - e. Any other relevant information requested by the Township.
6. Radar Interference. The Wind Energy System must meet any standards concerning radar interference, lighting (subject to subparagraph (v)), or other relevant issues as determined by the Township.
7. Environmental Regulations. The Wind Energy System must comply with applicable state or federal environmental regulations.
8. Host community agreement. The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Wind Energy System owner must pay the Township \$2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or other projects as agreed to by the local unit and the applicant.

**Section 2. Addition of Definition of "Wind Energy System" to Section 3.02.**

The following definition is added in alphabetical order to the definitions in Section 3.02 of the Zoning Ordinance:

**Wind Energy System:** Any part of a system that collects or stores wind radiation or energy for the purpose of transforming it into any other form of usable energy, including the collection and transfer of heat created by wind energy to any other medium by any means.

**Section 3. Amendments to Section 12.01, Solar Farm Overlay District.**

- A. Section 12.01 of the Zoning Ordinance is amended by the addition of the following to subsection B:

Accessory uses or structures clearly incidental to the operation of an approved Wind Energy System.

- B. Section 12.01 of the Zoning Ordinance is amended by the addition of the following to subsection C:

Wind Energy Systems

**Section 4. Severability and Validity.**

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

**Section 5. Repealer.**

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

**Section 6. Effective Date.**

This Ordinance takes effect upon the expiration of 7 days after publication as required by MCL 125.3401(7).



**MARION TOWNSHIP  
LIVINGSTON COUNTY**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE REGARDING SOLAR  
ENERGY SYSTEMS IN ACCORDANCE WITH PA 233**

The Township of Marion ordains:

**Section 1. Amendment of Section 17.35.**

The Zoning Ordinance is amended by the addition of a new subsection (I) to Section 17.35. The new subsection 17.35(I) reads in its entirety as follows:

- I. Utility Solar Energy Facilities Under PA 233:** On or after November 29, 2024, once PA 233 of 2023 is in effect, the following provisions apply to any Utility Solar Energy Facility with a nameplate capacity of 50 megawatts or more. To the extent the following provisions conflict with the provisions in Sections 17.35(A)–(H), these provisions control as to any Utility Solar Energy Facility with a nameplate capacity of 50 megawatts or more. All provisions in Sections 17.35(A)–(H) that do not conflict with this subsection (I) remain in full force and effect. The following provisions do not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect, and do not apply to any Utility Solar Energy Facility with a nameplate capacity of less than 50 megawatts.

1. **Setbacks.** A Utility Solar Energy Facility must comply with the following minimum setback requirements, with setback distances measured from the nearest edge of the perimeter fencing of the facility:

<b>Setback Description</b>	<b>Setback Distance</b>
Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall
Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way
Nonparticipating parties	50 feet measured from the nearest shared property line

2. **Fencing.** Fencing for the Utility Solar Energy Facility must comply with the latest version of the National Electric Code as of November 29, 2024, or as subsequently amended.
3. **Height.** Solar panel components must not exceed a maximum height of 25 feet above ground when the arrays are at full tilt.
4. **Noise.** The Utility Solar Energy Facility must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest

dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.

5. Lighting. The Utility Solar Energy Facility must implement dark sky-friendly lighting solutions.
6. Environmental Regulations. The Utility Solar Energy Facility must comply with applicable state or federal environmental regulations.
7. Host Community Agreement. The applicant for a special land use permit for a Utility Solar Energy Facility shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Utility Solar Energy Facility owner must pay the Township \$2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or other projects as agreed to by the Township and the applicant.

#### **Section 2. Severability and Validity.**

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

#### **Section 3. Repealer.**

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

#### **Section 4. Effective Date.**

This Ordinance takes effect upon the expiration of 7 days after publication as required by MCL 125.3401(7).

**MARION TOWNSHIP  
LIVINGSTON COUNTY**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE REGARDING UTILITY-  
SCALE BATTERY ENERGY STORAGE SYSTEMS IN ACCORDANCE WITH PA 233**

The Township of Marion ordains:

**Section 1. Addition of New Section 17.38, Utility-Scale Battery Energy Storage Systems.**

The Zoning Ordinance is amended by the addition of a new Section 17.38 titled “Utility-Scale Battery Energy Storage Systems.” The new Section 17.38 reads in its entirety as follows:

**Section 17.38 Utility-Scale Battery Energy Storage Systems.**

**A. General Provisions.** All Utility-Scale Battery Energy Storage Systems are subject to the following requirements:

1. All Utility-Scale Battery Energy Storage Systems must conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes, applicable industry standards, and NFPA 855 “Standard for the Installation of Stationary Energy Storage Systems.”
2. The Township may enforce any remedy or enforcement, including but not limited to the removal of any Utility-Scale Battery Energy Storage System pursuant to the Zoning Ordinance or as otherwise authorized by law if the Utility-Scale Battery Energy Storage System does not comply with this Ordinance.
3. Utility-Scale Battery Energy Storage Systems are permitted in the Township as a special land use only in the Solar Farm Overlay District.

**B. Application Requirements.** The applicant for a Utility-Scale Battery Energy Storage System must provide the Township with all of the following:

1. Application fee in an amount set by resolution of the Township Board.
2. A list of all parcel numbers that will be used by the Utility-Scale Battery Energy Storage System; documentation establishing ownership of each parcel; and any lease agreements, easements, or purchase agreements for the subject parcels.
3. An operations agreement setting forth the operations parameters, the name and contact information of the operator, the applicant’s inspection protocol, emergency procedures, and general safety documentation.
4. Current photographs of the subject property.



5. A site plan that includes all proposed structures and the location of all equipment, as well as all setbacks, the location of property lines, signage, fences, greenbelts and screening, drain tiles, easements, floodplains, bodies of water, proposed access routes, and road right of ways. The site plan must be drawn to scale and must indicate how the Utility-Scale Battery Energy Storage System will be connected to the power grid.
6. A copy of the applicant's power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Utility-Scale Battery Energy Storage System.
7. A written plan for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management, which is subject to the Township's review and approval.
8. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Utility-Scale Battery Energy Storage System, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Utility-Scale Battery Energy Storage System and restore the subject parcels, which is subject to the Township's review and approval.
9. Financial security that meets the requirements of this Section, which is subject to the Township's review and approval.
10. A plan for resolving complaints from the public or other property owners concerning the construction and operation of the Utility-Scale Battery Energy Storage System, which is subject to the Township's review and approval.
11. A plan for managing any hazardous waste, which is subject to the Township's review and approval.
12. A fire protection plan, which identifies the fire risks associated with the Utility-Scale Battery Energy Storage System; describes the fire suppression system that will be implemented; describes what measures will be used to reduce the risk of fires re-igniting (i.e., implementing a "fire watch"); identifies the water sources that will be available for the local fire department to protect adjacent properties; identifies a system for continuous monitoring, early detection sensors, and appropriate venting; and explains all other measures that will be implemented to prevent, detect, control, and suppress fires and explosions.
13. A transportation plan for construction and operation phases, including any applicable agreements with the Muskegon County Road Commission and Michigan Department of Transportation, which is subject to the Township's review and approval.
14. An attestation that the applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction,

maintenance, use, repair, or removal of the Utility-Scale Battery Energy Storage System, which is subject to the Township's review and approval.

15. Proof of environmental compliance, including compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); Part 365, Endangered Species Protection (MCL 324.36501 et. seq.); and any other applicable laws and rules in force at the time the application is considered by the Township.
16. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.

**C. System and Location Requirements.** The site development requirements shall meet or exceed all of the requirements in the underlying district and all of the following:

1. Lighting. Lighting of the Utility-Scale Battery Energy Storage System is limited to the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the lot(s) used for the Utility-Scale Battery Energy Storage System. The Utility-Scale Battery Energy Storage System must not produce any glare that is visible to neighboring lots or to persons traveling on public or private roads.
2. Security Fencing. Security fencing must be installed around all electrical equipment related to the Utility-Scale Battery Energy Storage System. Appropriate warning signs must be posted at safe intervals at the entrance and around the perimeter of the Utility-Scale Battery Energy Storage System.
3. Noise. The noise generated by a Commercial Utility-Scale Battery Energy Storage System must not exceed 45 dBA  $L_{MAX}$ , as measured at the property line of any adjacent parcel.
4. Underground Transmission. All power transmission or other lines, wires, or conduits from a Utility-Scale Battery Energy Storage System to any building or other structure must be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.
5. Drain Tile Inspections. The Utility-Scale Battery Energy Storage System must be maintained in working condition at all times while in operation. The applicant or operator must inspect all drain tile at least once every three years by means of robotic camera, with the first inspection occurring before the Utility-Scale Battery Energy Storage System is in operation. The applicant or operator must submit proof of the inspection to the Township. The owner or operator must repair any damage or failure of the drain tile within sixty (60) days after discovery and submit proof

of the repair to the Township. The Township is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.

6. Fire Protection.

- a. Before any construction of the Utility-Scale Battery Energy Storage System begins, the Township's fire department (or fire department with which the Township contracts for fire service) will review the fire protection plan submitted with the application. The fire chief will determine whether the fire protection plan adequately protects the Township's residents and property and whether there is sufficient water supply to comply with the fire protection plan and to respond to fire or explosion incidents. If the fire chief determines that the plan is adequate, then the fire chief will notify the Township Supervisor or his or her designee of that determination. If the fire chief determines that the plan is inadequate, then the fire chief may propose modifications to the plan, which the applicant or operator of the Utility-Scale Battery Energy Storage System must implement. The fire chief's decision may be appealed to the Township Board, and the Township Board will hear the appeal at an open meeting. The Township Board may affirm, reverse, or modify the fire chief's determination. The Township Board's decision is final, subject to any appellate rights available under applicable law.
- b. The applicant or operator may amend the fire protection plan from time-to-time in light of changing technology or other factors. Any proposed amendment must be submitted to the fire department for review and approval under subsection (a).
- c. The Utility-Scale Battery Energy Storage System must comply with the fire protection plan as approved by the fire chief (or as approved by the Township Board in the event of an appeal).

7. Insurance. The applicant or operator will maintain property/casualty insurance and general commercial liability insurance in an amount of at least \$5 million per occurrence. Handy Township shall be listed as an additional insured on the policy at all times.
8. Permits. All required county, state, and federal permits must be obtained before the Utility-Scale Battery Energy Storage System begins operating. A building permit is required for construction of a Utility-Scale Battery Energy Storage System, regardless of whether the applicant or operator is otherwise exempt under state law.
9. Decommissioning. If a Utility-Scale Battery Energy Storage System is abandoned or otherwise nonoperational for a period of one year, the property owner or the operator must notify the Township and must remove the system within six (6) months after the date of abandonment. Removal requires receipt of a demolition permit from the Building Official and full restoration of the site to the satisfaction of the Zoning Administrator. The site must be filled and covered with top soil and



restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Utility-Scale Battery Energy Storage System that is never fully completed or operational if construction has been halted for a period of one (1) year.

10. Financial Security. To ensure proper decommissioning of a Commercial Utility-Scale Battery Energy Storage System upon abandonment, the applicant must post financial security in the form of a security bond or escrow payment in an amount equal to 125% of the total estimated cost of decommissioning, code enforcement, and reclamation, which cost estimate must be approved by the Township. The operator and the Township will review the amount of the financial security every two (2) years to ensure that the amount remains adequate. This financial security must be posted within fifteen (15) business days after approval of the special use application.
11. Extraordinary Events. If the Utility-Scale Battery Energy Storage System experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township within 24 hours.
12. Annual Report. The applicant or operator must submit a report on or before January 1 of each year that includes all of the following:
  - a. Current proof of insurance;
  - b. Verification of financial security; and
  - c. A summary of all complaints, complaint resolutions, and extraordinary events.
13. Inspections. The Township may inspect a Utility-Scale Battery Energy Storage System at any time by providing 24 hours advance notice to the applicant or operator.
14. Transferability. A special use permit for a Utility-Scale Battery Energy Storage System is transferable to a new owner. The new owner must register its name and business address with the Township and must comply with this Ordinance and all approvals and conditions issued by the Township.
15. Remedies. If an applicant or operator fails to comply with this Ordinance, the Township may pursue any remedy or enforcement, including but not limited to the removal of any Utility-Scale Battery Energy Storage System pursuant to the Zoning Ordinance or as otherwise authorized by law. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

**D. Utility-Scale Battery Energy Storage Systems under PA 233:** On or after November 29, 2024, once PA 233 of 2023 is in effect, the following provisions apply to Utility-

Scale Battery Energy Storage Systems with a nameplate capacity of 50 megawatts or more and an energy discharge capability of 200 megawatt hours of more. To the extent these provisions conflict with the provisions in subsections A–C above, these provisions control as to such Utility-Scale Battery Energy Storage Systems. This subsection does not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect, and does not apply to Battery Energy Storage Systems with a nameplate capacity of less than 50 megawatts or an energy discharge capability of fewer than 200 megawatt hours. All provisions in subsections A–C above that do not conflict with this subsection remain in full force and effect.

1. Setbacks. Utility-Scale Battery Energy Storage Systems must comply with the following minimum setback requirements, with setback distances measured from the nearest edge of the perimeter fencing of the facility:

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall
Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way
Nonparticipating parties	50 feet measured from the nearest shared property line

2. Installation. The Utility-Scale Battery Energy Storage System must comply with the version of NFPA 855 “Standard for the Installation of Stationary Energy Storage Systems” in effect on the effective date of the amendatory act that added this section or any applicable successor standard.
3. Noise. The Utility-Scale Battery Energy Storage System must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.
4. Lighting. The Utility-Scale Battery Energy Storage System must implement dark sky-friendly lighting solutions.
5. Environmental Regulations. The Utility-Scale Battery Energy Storage System must comply with applicable state or federal environmental regulations.
6. Host community agreement. The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Utility-Scale Battery Energy Storage

System owner must pay the Township \$2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or other projects as agreed to by the local unit and the applicant.

## **Section 2. Addition of Definitions to Section 3.02.**

The following definitions are added in alphabetical order to the definitions in Section 3.02 of the Zoning Ordinance:

**Battery Management System:** An electronic regulator that manages a Utility-Scale Battery Energy Storage System by monitoring individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and capable of shutting down the system before operating outside safe parameters.

**Utility-Scale Battery Energy Storage Facilities:** One or more devices, assembled together, capable of storing energy in order to supply electrical energy, including battery cells used for absorbing, storing, and discharging electrical energy in a Utility-Scale Battery Energy Storage System ("BESS") with a battery management system ("BMS").

**Utility-Scale Battery Energy Storage System:** A physical container providing secondary containment to battery cells that is equipped with cooling, ventilation, fire suppression, and a battery management system.

## **Section 3. Amendments to Section 12.01, Solar Farm Overlay District.**

- A. Section 12.01 of the Zoning Ordinance is amended by the addition of the following to subsection B:

Accessory uses or structures clearly incidental to the operation of an approved Utility-Scale Battery Energy Storage System.

- B. Section 12.01 of the Zoning Ordinance is amended by the addition of the following to subsection C:

Utility-Scale Battery Energy Storage Systems.

## **Section 4. Severability and Validity.**

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

## **Section 5. Repealer.**

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.



**Section 6. Effective Date.**

This Ordinance takes effect upon the expiration of 7 days after publication as required by MCL 125.3401(7).

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