

City of Marquette, MI



Meeting Agenda City Commission

Tuesday, May 30, 2023

6:00 PM

Commission Chambers

300 West Baraga Ave
Marquette, Michigan 49855

Call to Order, Pledge of Allegiance and Roll Call

Approval of the Agenda

Announcements

Boards and Committees

1. Appointment(s)

Amy Stephens, Marquette Public Art Commission for an unexpired term ending 02-26-26

Public Comments - Comments may not exceed three minutes per person. Please state your name and physical address when making public comments.

Presentation(s)

2. Fiscal Year 2022 Audit by Mike Greutz, Anderson Tackman & Co.

3. Marquette Brownfield Redevelopment Authority, by Executive Director Sheri Davie

Public Hearing(s)

4. Public Hearing - Rezoning of 1501 Division St. - Roll Call Vote

5. Public Hearing - Single Lot Special Assessment Roll #590

6. Consent Agenda - Roll Call Vote

6.a. Approve the minutes of the May 8, 2023 regular Commission meeting

6.b. Approve the total bills payable in the amount of \$ 1,106,216.59

6.c. Arbor Day Proclamation 2023

6.d. Cruise Ship Fee Adoption - Roll Call Vote

6.e. Marquette Guts Frisbee Association Non-Profit Status - Roll Call Vote

6.f. Marquette Mountain Resort, LLC - Paddle Sports Concessionaire Permit

6.g. Pride Festival - Special Event Permit

6.h. Resolutions for Unpaid Stormwater and Unpaid Water and Wastewater - Roll Call Vote

New Business

7. City Health Insurance Renewal - Roll Call Vote

Public Comments - Comments may not exceed three minutes per person. Please state your name and physical address when making public comments.

Comments from the Commission

Comments from the City Manager

Adjournment

Kyle Whitney, City Clerk

If you require assistance to participate in any meeting, program or activity offered by the City of Marquette, please provide advanced notice to City of Marquette ADA Coordinator Eric Stemen at 906-225-8978 or via email at estemen@marquettemi.gov.

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 5/30/2023

Public Hearing(s)

Public Hearing - Rezoning of 1501 Division St. - Roll Call Vote

BACKGROUND:

The City has recently received a request to rezone 1501 Division St. from Medium Density Residential (MDR) to a Mixed-Use (M-U) zoning district.

On May 2, 2023, the Planning Commission conducted a public hearing and discussed the proposed rezoning, in accordance with procedures established in the Land Development Code for evaluating rezoning requests and in the administrative procedures for processing such a request. The following motion was made:

It was moved by C. Gottlieb, seconded by K. Clegg, and carried 7-0 that after conducting a public hearing and review of the application and Staff Report for 01-REZ-05-23, the Planning Commission finds that the proposed rezoning is inconsistent with the Future Land Use Map but consistent with the Recommendations for Land Use of Chapter 3 of the Community Master Plan and meets the requirements of the Land Development Code Section 54.1405 and hereby recommends that the City Commission approve 01-REZ-05-23 as presented.

This public hearing was scheduled at the Commission's regular meeting of May 8.

FISCAL EFFECT:

None.

RECOMMENDATION:

Adopt Ordinance 723 and rezone 1501 Division St. from the Medium Density Residential (MDR) to a Mixed-Use (M-U) zoning district.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Planning Commission Meeting Minutes_050223
- ▣ Staff Report/File_01-REZ-05-23_1501 Division St.
- ▣ Ordinance 723

**OFFICIAL PROCEEDINGS OF THE
MARQUETTE CITY PLANNING COMMISSION
May 02, 2023**

A regular meeting of the Marquette City Planning Commission was duly called and held at 6:00 p.m. on Tuesday, May 02, 2023, in the Commission Chambers at City Hall.

ROLL CALL

Present: W. Premeau, M. Rayner, K. Clegg, C. Gottlieb, S. Lawry, Chair S. Mittlefehldt, and Vice-Chair N. Williams

Absent: A. Andres, D. Fetter (both excused)

AGENDA

It was moved by S. Lawry, seconded by K. Clegg, and carried 7-0 to approve the agenda as presented.

MINUTES

The minutes of 04-18-23 were approved by consensus with the correction of an error pointed out by C. Gottlieb and a correction to a comment attributed to S. Mittlefehldt.

PUBLIC HEARING

A. 01-REZ-05-23 – 1501 Division St. (PIN: 0020470) – Rezoning Request

Zoning Official A. Landers stated:

The Planning Commission is being asked to make a recommendation to the City Commission regarding a request to rezone the property at 1501 Division St., which is currently zoned Medium Density Residential, to be rezoned to Mixed-Use.

She said that attached to the agenda is a staff report and referenced and showed on-screen the rezoning application; the area map, block map, and existing zoning map - all with the parcel outlined in blue; photos of the site; and proof of publication of this hearing as a legal advertisement. She also referenced in the staff report the Future Land Use Map from the Community Master Plan (CMP) outlining the parcel as single-family residential, and the Proposed Zoning Map from the CMP showing this parcel as Medium Density Residential (MDR). She said there were also rezoning items for the board to consider, and that the memo attached includes a history of the zoning of this property, which was General Business and then it became Traditional Neighborhood-Commercial Residential, then rezoned to MDR, but it has been a commercial use. She also said that at their April 18th meeting, the Planning Commission discussed potential changes to the Future Land Use Map and Proposed Zoning Map, and they discussed that this property be changed to Mixed-Use. She said that we did not receive any correspondence for this case.

S. Mittlefehldt stated that the applicant can now come up and speak to this, and you can come to the podium and give your name, address, and maybe give us a little explanation or context for your request.

Patty Barton, 260 Chapel Ridge Rd. (Marquette Township), stated:

She and Scott Knaffla are owners of the building, having bought it in 2015 and then opened a financial services office. She said that she has retired, and Mr. Knaffla has purchased the practice but had to move for more space, and when she put the building up for sale she learned that it had been rezoned to residential. When a potential buyer wanted to know if it would be guaranteed that he would be able to sell it as an office space, of course he talked to Andrea and there's no way they can guarantee it, so I

continued to run my LLC out of that which (inaudible) building. When it didn't sell I decided that since it was residential maybe I could turn it into a residence, but there were all kinds of costs like tearing out the parking lot. So, I decided to keep it and we put it into our LLC, which we own some properties and rentals – Method Real Estate Partners - and along the way we found a renter that wants to put a pie shop in there and it also affords me the opportunity to help someone with their business and cook at the same time. And that is where we're at right now, and now that its zoned residential that is why we're applying for the rezoning.

S. Mittlefehldt stated that the Planning Commission members may ask questions now.

K. Clegg asked if Ms. Barton had a lease agreement in place with Peace Pies.

Ms. Barton stated - yes.

K. Clegg stated:

Ms. Barton - as far as you know or can recall, has this been used as a residential building?

Ms. Barton said that she had been here a long time and that when she was in college it was King's Party Store, and then when the O'Neill's bought it Menze put an addition on, and the parking lot. She said she didn't know what it was after the party store.

S. Lawry said there was a hair salon there.

Ms. Barton said yes, it has always been commercial as far as she knew.

C. Gottlieb asked Ms. Barton - as long as you have owned the building it has never been used as a residence?

Ms. Barton stated - no.

S. Lawry asked Ms. Barton if she has had a business operating there continuously with your LLC?

Ms. Barton stated - yes.

K. Clegg asked Ms. Barton if she were aware in 2019 that the zoning was being updated?

Ms. Barton stated – no, and that she found out when she spoke with A. Landers about this.

A. Landers said that just so you know, there was a rezoning that covered the entire city in 2019.

City Planner and Zoning Administrator D. Stensaas stated that hundreds of parcels were rezoned and individual property owners were not necessarily notified, but the recommendation goes back to 2015, in the Community Master Plan – that is where this zoning recommendation came from.

S. Mittlefehldt opened the public hearing.

Mr. Rob Dendel, of 535 W. Ridge St., stated:

I'm a contractor, I've built many commercial kitchens, restaurants, wineries through the years. And I'm looking at that building and it, for me as a builder, I look at it as a commercial property, I don't see a

residence at all. I see handicapped access already there and I would like to support the future business and highly recommend that we move it into what the building already is. I mean it has professionally done accesses and you don't see that everywhere in businesses right now. And to keep it simple, it makes more sense to keep it commercial than to spend thousands of dollars to move it back to residential. There's not even a place for a garden or yard, it's all parking lot. It looks commercial and I would have never guessed it was residential. The business that's going in is something that will have quiet hours, its not going to be late-night like a liquor store or a pot shop...it's a quiet business. I want to say that I support your decision to make a proper change to a commercial property, and I don't think you're going to see they have to do a bunch of construction to make it a commercial property, I think its on the road to success already. Thanks.

Bryan Sromalski, 214 W. Hogan Alley, stated:

My property is not adjacent, but pretty close to this property. I was born and raised on Hampton St. and have been a resident of south Marquette my whole life. I fully support this even though it's going to be a pie company and I'm probably going to get really fat from it. Obviously that building is a commercial building and as long as I remember it always has been. I don't see any negative impacts on the neighborhood and believe that most of the properties on that stretch of Division St. would be better off as Mixed Use for businesses and the future development of Marquette. Thank you.

It was moved by K. Clegg, seconded by S. Lawry, and carried 7-0 to suspend the rules for discussion.

K. Clegg stated:

It seems to me it was an oversight on the Future Land Use Map, per our discussion two weeks ago, that we made a mistake when it was rezoned and that it has always been commercial. These people have been continuous in their use, as continuous it has been legal-nonconforming and now there is a good business slated to go in and it could become an anchor business in the S. Marquette community. I would like to fully support that. I'm not entirely certain how to go about that in our rules but I want to support that.

S. Lawry stated:

I was on the Commission in 2015 and can attest that it is an oversight because we were going through maps street by street and any of the major streets like this, basically we were trying to create Mixed Use districts. Following those streets, wherever there was existing business or had been a history of corner stores or other types of businesses like that it was an attempt to try to reestablish that type of neighborhood along just about all the major traffic corridors. And perhaps this was in a form-based district that allowed commercial at that time, maybe that is why it got overlooked. I don't know, but I wasn't around in 2019 when the rezoning finally happened, but I do know that the intent and all of the goals that we're supposed to be comparing it to in the Master Plan were to create Mixed Use in that type of neighborhood, including any parcels that were already in a mixed-use type of status.

S. Lawry said that he does have a question for staff. He stated that on the decision tree from page 3-32 of the Master Plan – is that a regulation or a guideline.

D. Stensaas stated:

Yes, that's more of a guideline. Inasmuch as the Community Master Plan itself is a guide, and we went over this before, but the recommendations of the Master Plan aren't binding in the state of Michigan. It's recommended that you follow it, but there's always going to be something that requires an appeal

process or a variation and that's why I included that phraseology in the memo that you got on this case to address this, because you're absolutely correct - that somehow this parcel fell through the cracks when we were reassigning, looking at the parcels back in 2015. There are only seven-thousand parcels in the city, so it's a shame that we missed one, but we did.

S. Mittlefehldt stated:

So just a point of procedure, Dave, do we need to go through the amendment procedures listed in section 1405 and get consensus on each one?

D. Stensaas stated:

I don't think you necessarily need to do that, but the spot zoning criteria are worth looking at.

S. Mittlefehldt stated:

Sure. And also maybe look at the Mixed-Use zoning - I think we're all excited about the pie shop - but maybe think about twenty years from now it's still Mixed Use and are we still okay with that? Maybe we should look at that just to make sure. Okay, so for the issue of spot zoning, there are the MSU Extension guidelines on the sheet in the packet that has factors to consider. I don't see this as a spot zoning issue, because it does have Mixed Use just to the north, and as Commissioner Lawry said, it was the intention in 2015 to create these nodes along (inaudible).

M. Rayner stated:

I didn't view it as spot zoning at all and don't think it meets the criteria.

D. Stensaas stated:

It would have to meet all four of the criteria to be a spot zone. But it's good to clarify this decision and get it on the record.

S. Lawry stated:

I believe this is an expansion of the existing district across the street.

S. Mittlefehldt stated:

The other main question is "Is it an appropriate location for the zone, for Mixed-Use". So, can we zoom up to the Mixed-Use [land use] standards in section 54.311 just to consider if there is anything listed as a principal use that as some future point in time that we would think is inconsistent with this site. Hopefully you've had a chance to look at this, and we have Mixed-Use districts in other areas so we are familiar, but just to dot our i's and cross our t's with this and make sure there is nothing here that would be of concern at some point. Anybody?

K. Clegg stated:

Nothing major jumps out to me as contradictory to that property as a Mixed-Use zone.

C. Gottlieb asked - Special Land Uses would have to come back to the Planning Commission?

S. Mittlefehldt stated:

Yes, and there would be a public hearing. If people are good with Mixed-Use as an appropriate district and are supportive of this zoning amendment process, unless there is more discussion does someone want to make a motion?

It was moved by C. Gottlieb, seconded by K. Clegg, and carried 7-0 that after conducting a public hearing and review of the application and Staff Report for 01-REZ-05-23, the Planning Commission finds that the proposed rezoning is inconsistent with the Future Land Use Map but consistent with the Recommendations for Land Use of Chapter 3 of the Community Master Plan and meets the requirements of the Land Development Code Section 54.1405 and hereby recommends that the City Commission approve 01-REZ-05-23 as presented.

NEW BUSINESS

A. 03-SUP-06-22 – 442 McMillan Street (PIN: 0514960) – Extension Request

Zoning Official A. Landers stated:

Attached in the agenda is correspondence from Geoffrey Murray, who owns 442 McMillan Street. He is requesting an extension to a previously approved new duplex dwelling. The project will currently expire on June 21st, 2023. And also attached are the June 21, 2022, Planning Commission meeting minutes. If action is not taken to implement a Special Land Use within a year it shall expire, so he is asking for a one-year extension, and the Commission may, at its discretion, schedule a public hearing, and not more than two extensions may be granted.

S. Lawry asked to clarify that a public hearing is discretionary and not required.

A. Landers said that is correct.

C. Gottlieb asked if anything has changed regulation-wise since last year when he first applied.

D. Stensaas stated:

That is a good question. There were some amendments to the Land Development Code that were just approved that will change some of the allowances for duplexes, such as now allowing parking spaces to be in the front on a driveway, but I don't think that those would have any impact on what is proposed in this particular spot, which is a 20,000 sq. foot undeveloped parcel with plenty of space for the driveways and everything.

C. Gottlieb asked if anything is now more stringent.

D. Stensaas said that if anything, the rules for duplexes are now more relaxed.

S. Lawry stated that the main objection from the neighbors seemed to be traffic-related and since all the children on the cul-de-sac are going to start driving at the same time – I think that is where the traffic problems are going to occur and not by the construction of the duplex.

S. Mittlefehldt asked if anybody had other thoughts on this or wanted to make a motion.

It was moved by S. Lawry, seconded by M. Rayner, and carried 7-0 to approve the request for an extension for case 03-SUP-06-22 with the expiration date to be 06-21-24 for the reasons laid out in the applicant's correspondence that the duplex would not be able to be owner-occupied until another year and a half.

WORK SESSION

A. Community Master Plan – Land Use Data

D. Stensaas stated:

A. Landers has been working hard to get this data compiled and she's going to show us what she has assembled and we are going to pass it off to our consultants, and while she is getting it on screen I'll share with you that Director Stachewicz and I will be meeting with Russ Soyring from our consulting team this Thursday for a tour of the sites that the community has identified as being possible transformative redevelopment sites. There are three sites that they want the community to weigh in on a bit more.

A. Landers said that they are looking at the "existing land activity" data and that she went through each and every parcel, but the parcel count doesn't add up correctly because we found that some of them were being double-counted. She said some condos were showing up as a unique parcel for each condo when there is only one parcel and so she had to fix those, and there are splits and combinations that have occurred over the years. The other thing you may have noticed is in the way that we've determined each category has been written out and explained so that it will be the same from going forward. She also said that many vacant and undeveloped parcels were listed as the same land use as the previous zoning, instead of vacant, and that is why we only showed 8 acres as undeveloped previously but it's actually 342 acres that are undeveloped. So, that's why you see a lower count now for some uses like commercial, and we don't have office as a land activity anymore, and I found a lot more Mixed-Use by going parcel by parcel and doing the research with it. She said that for the Open Space it includes the municipal land designated as park space, municipal and private land zoned as Conservation and Recreation, and BLP land used for recreation and city parks was not included in that since several of those places aren't approved parks yet. She then showed a map of existing land activity/uses with undeveloped land shown in gray.

The Planning Commission asked several questions about items of interest on the map and to identify specific businesses, proposals and ideas.

S. Lawry asked why the north and south Peninsula Medical Center parking lots were shown as different.

A. Landers said because the north is different than the south, which is a Mixed-Use zone.

D. Stensaas stated that he is reminded now of the parcel at the corner of Crescent St. and Lakeshore Blvd. that is bisected by the old railroad corridor, so it is on both sides of that corridor and is currently a PUD with a business in the building on Crescent. He said that the owner of that parcel has been inquiring about rezoning it to Mixed-Use, which is what is shown on our Future Land Use Map. He said he thinks that is a good idea if he wants to be able to also have residential in the building he owns. He said that the Zoning Map erroneously shows the eastern parcel as Mixed-Use. So, that is something to consider recommending to our consultants for the new FLUM and Proposed Rezoning Map.

M. Rayner asked how many acres of undeveloped land is there that could be used, is it 300 acres?

A. Landers stated it is 342 acres.

S. Lawry asked does that include the Heartwood Forestland?

A. Landers stated that is any of it that is undeveloped and owned by somebody else (not Municipal) and not in Conservation and Recreation zoning.

D. Stensaas stated that most of that land is in Conservation and Recreation zoning.

C. Gottlieb asked if any City-owned property is in the vacant category.

A. Landers stated that any vacant municipal, county, state and federal land that is vacant and not a park is in the Civic category for land activity. She said that the Conservation and Recreation [zoning] is within the Open Space category for land activity.

The Planning Commission and staff discussed some issues that the data revealed, including the large percentage of land area in the city that is non-taxable (about half) and of the taxable land area that single-family zoning districts take up about forty percent of that area.

D. Stensaas said that the large area dedicated to single-family housing brings us back to the discussion about should so much of the land area be dedicated to detached single-family housing when we need more missing-middle housing and building in greenfield areas is not economically viable at this time unless they are larger multi-family projects.

S. Lawry stated that from the minutes of the hearings last year on McMillan Street, that is pretty reflective of most single-family neighborhoods – they don't even want duplexes much less rentals or anything else and I think that's why people want to live in the city of Marquette. And, maybe it gets filled and maybe there isn't room for more, but housing changes hands all the time anyway. I know it's good for a city to grow, but it's also not good to build it in a way that residents don't want to live there anymore.

D. Stensaas said that we did see from the visual-preference survey results from the [Community Master Plan] open house that the majority of people that voted on those liked duplexes and triplexes, and that they didn't like townhomes. He also said that there are strategies we've talked about that can be used to chip away a little of the single-family zoning districts into allowing for some missing-middle housing.

S. Mittlefehldt stated that I have lived next to a pretty large multi-family apartment complex and it's been great, we've had friends that have lived there over the years and I think it's just, it's out of our purview, but the management of the multi-family structures, but they get a bad reputation when they aren't managed well. She said there is a fear of things that are different...but things are changing in other communities and change comes slowly to Marquette.

D. Stensaas stated that historically a lot of the single-family neighborhoods had a real mix of different types of housing, there weren't just single-family homes, and you can see that across Ridge Street, there are several buildings that were multi-family or duplexes when they were built.

S. Lawry stated that we must have lost a lot of duplexes to single-family homes or conversions into rentals for multiple students. He said both of his sets of grandparents lived in duplexes in the city, and had large families, and that he thinks it was fairly common to find duplexes on just about every block except E. Ridge St. before a lot of the big single-family lots existed. He also said that going back generations that people started out with – renting a duplex and then maybe owning a duplex, and I don't see them as bad like the minutes have reflected.

S. Mittlefehldt said that we had issues and some people don't want duplexes in their single-family neighborhood, it was very eye-opening.

S. Lawry said that duplexes were pretty consistently owner-occupied in the past too.

D. Stensaas said that he thinks since the expansion of NMU after the end of World War II there were more and more homes bought and turned into rentals and eventually a lot of students living off campus in duplexes, and there are still streets in Marquette where there are a lot of problems with poor property management. He said that it is also striking how much more property is being used for single-family than multi-family, it is unbalanced. He also said that there are a lot of housing units in the pipeline and in the next several months you'll be seeing site plans for some projects, but that still isn't necessarily going to meet the demand that is here once those units are built in a few years.

M. Rayner asked about vacant properties on the block of McClellan Ave. and Ridge St. Staff provided information on the developments that are in planning stages for the former Shunk's and Shopko sites.

D. Stensaas stated that we still have the zoning data to look at, and that staff will send this out to the board soon.

C. Gottlieb asked that a key be added to the chart for the zoning district acronyms.

Staff and the Planning Commission discussed the various subdistricts of the Downtown Marquette Waterfront form-based code district and the purposes of some of the subdistricts.

S. Mittlefehldt asked what staff needs the Planning Commission to do with this information.

A. Landers stated that tonight they just wanted to explain the data, but they will clean it up per the Commission's requests and Dave will send it out after he checks it. She also said that she included the 2014 data in the document for comparison and explanation, we don't have to include that with the revisions.

D. Stensaas said he thought it would be good to keep that 2014 data in the document to show the consultants for their analysis. He also stated that is all they have for this, and staff wanted to show the Commission the data and explain it and let them know they are almost done with it.

S. Mittlefehldt stated that's great, and if there are no other questions or comments we can move on to comments.

COMMISSION AND STAFF COMMENTS

K. Clegg stated that he was excited for the rezoning request tonight.

ADJOURNMENT

The meeting was adjourned by Chair S. Mittlefehldt at 7:10 p.m.

Prepared by: D.Stensaas, City Planner and Zoning Administrator, Planning Commission Staff Liaison



CITY OF MARQUETTE
PLANNING AND ZONING
1100 WRIGHT ST
MARQUETTE, MI 49855
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MEMORANDUM

TO: Planning Commission
FROM: Andrea Landers, Zoning Official
DATE: April 26, 2023
SUBJECT: 01-REZ-05-23 – 1501 Division St. (PIN: 0020470)

The Planning Commission is being asked to make a recommendation to the City Commission regarding a request to rezone the property located at 1501 Division Street which is zoned **Medium Density Residential (MDR)** to be zoned **Mixed-Use (M-U)**.

Please see the attached Staff Report for more specific information regarding the application.

RECOMMENDED ACTION:

The Planning Commission should review the application and support information provided in this packet, conduct a public hearing, and determine whether or not the proposed rezoning of the above property would be in harmony with considerations required by the Community Master Plan (CMP) and that the request is in accordance with Section 54.1405 of the Land Development Code - Zoning Ordinance Amendment Procedures, and make a recommendation to the City Commission.

It is also highly recommended that any motion regarding the request include the following or similar language:

After conducting a public hearing and review of the application and Staff Report for 01-REZ-05-23, the Planning Commission finds that the proposed rezoning is (consistent / not consistent) with the Community Master Plan and (meets / does not meet) the requirements of the Land Development Code Section 54.1405 and hereby recommends that the City Commission (approve / deny) 01-REZ-05-23 (as presented / for the following reasons / with the following conditions).

In cases in which the Planning Commission finds that the proposed rezoning is not consistent with the Future Land Use Map of the CMP due to a possible oversight or an apparent lack of attention to the features of the parcel in question, but that is consistent with most of the recommendations of the Plan, the Planning Commission may wish to recommend approval of the rezoning request as *inconsistent with the Future Land Use Map but consistent with the Recommendations for Land Use of Chapter 3 of the Community Master Plan*.

STAFF FILE REVIEW/ANALYSIS

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STAFF FILE REVIEW/ANALYSIS

Completed by Andrea M. Landers – Zoning Official
and David Stensaas – City Planner and Zoning Administrator



Case #: 01-REZ-05-23

Date: April 26, 2023

Project/Application: Rezoning request from Medium Density Residential (MDR) to be zoned Mixed-Use (M-U).

Location: 1501 Division St.

Parcel ID: 0020470

Available Utilities: Natural Gas, Electricity, City Water, City Sewer, and Garbage Collection.

Current Zoning: MDR – Medium Density Residential

Surrounding Zoning:
North: M-U – Mixed-Use
South: MDR – Medium Density Residential
East: MDR – Medium Density Residential
West: MDR – Medium Density Residential

Zoning Districts and Standards:**Current Zoning****Section 54.308 MDR, Medium Density Residential**

(A) Intent	
The MDR district is intended to establish and preserve medium density residential neighborhoods that present an environment acceptable to a range of users, including families of all types. Some additional non-residential compatible uses may be allowed. It is important to the community to preserve and enhance the pedestrian-friendly, compact neighborhood types where homes and buildings are of similar scale and character	
(B) Permitted Principal Uses	(C) Special Land Uses
• Accessory Building or Structure • Accessory Use, Non-Single Family Residential Lots • Accessory Use, Single-Family Residential Lots • Adult Foster Care, Family Home • Adult Foster Care, Small Group Home • Child or Day Care, Family Home • Dwelling, Accessory Unit • Dwelling, Single-Family Detached • Food Production, Minor • Foster Family Home • Home Occupation • Home Office • Homestays and Vacation Home • Outdoor Entertainment and Community Events (Temporary) • Residential Limited Animal Keeping	• Cemetery • Child Care Center or Day Care Center • Child or Day Care, Group Home • Dwelling, Intentional Community • Dwelling, Two-Family (Duplex) • Foster Family Group Home • Hospital Hospitality House • Public or Governmental Building • Recreational Use, Public • Religious Institution • School, Primary or Secondary • School, University • Supportive Housing Facility, Transitional and/or Permanent
Where there is a discrepancy between Section 54.306 and this table, Section 54.306 shall prevail.	

(D) Dimensional Regulations			
Lot, Coverage, and Building Height Standards		Minimum Setbacks	
Min. Lot Area (sq. ft.)	4,500 (C)	Front Yard (ft.)	15 (A) , (B)
Min. Lot Width (ft.)	37.5 (D)	Side Yard (one) (ft.)	5 (L)
Max. Impervious Surface Coverage (%)	(R)	Side Yard (total of 2) (ft.)	13 (L)
Max. Building Height of Primary Building (ft.) (P)	31.5	Rear Yard (ft.)	20 (L)
Max. Building Height of Accessory Building	(L)		
Max. Building Height (stories)	-		
Where there is a discrepancy between Article 4 and this table, Article 4 shall prevail.			

54.403 Footnotes to Schedule of Regulations

(A) Permitted Front Yard Setback Encroachments in the MDR and MFR Districts.

In the MDR and MFR districts, open front porches may encroach into the required front yard setback, provided the encroaching porch is for the first story only and is setback at least five (5) feet from the front lot line.

(B) Reduced Minimum Front Yard Setback in the LDR and MDR Districts. If the average front yard setback of the principal buildings on the same block are less than the minimum front yard setback of the district, the minimum front yard setback of a subject lot in the LDR district or MDR district may be reduced to that average, provided the principal buildings used in the average are on the same side of the street and in the same zoning district as the subject lot.

(C) Minimum Lot Area for Two-Family Dwellings (Duplexes) in the MDR, M-U, TSC, and MFR Districts. In the MDR, M-U, TSC, and MFR District, the minimum lot area for a two-family dwelling (duplexes) is 6,000 sq. feet.

(D) Minimum Lot Width for Two-Family Dwellings (Duplexes) in the MDR M-U, TSC, and MFR Districts. In the MDR, M-U, TSC, and the MFR District, the minimum lot width for a two-family dwelling (duplex) is 50 feet.

(L) Accessory Buildings and Structures. For accessory buildings and structures, additional requirements for side yard setbacks, rear yard setbacks, and height are in [Section 54.705](#).

(P) Height Exemptions. There shall be no height restriction on chimneys, flagpoles, public monuments, and wireless telecommunications facilities except when they are part of a special land use.

(R) Maximum Impervious Surface Coverage of a Lot in the LDR and MDR Districts, and single-family and two-family dwelling units in other zoning districts: The maximum impervious surface coverage of a lot in the LDR and MDR Districts, and single-family and two-family uses in all other zoning districts shall be based on the lot areas as follows:

Maximum Impervious Surface Coverage Based on Lot Area
60% of the lot area up to 8,712 sq. ft. (1/5 acre or less); plus
50% of the area of the lot between 8,713 sq. ft. and 21,780 sq. ft. (1/2 acre); plus
40% of the area of the lot between 21,781 sq. ft. and 43,560 sq. ft. (1 acre); plus
30% of the area of the lot over 1 acre

(T) Landscape Buffer and Greenbelt Requirements. The minimum setbacks may be increased in accordance with the landscape buffer and greenbelt standards of [Section 54.1003\(D\)](#).

Section 54.1003 Landscaping Design Requirements

(D) Buffer and Greenbelt Requirements.

- (1) Intent. It is the intent of this section to provide suitable transitional yards for the purpose of reducing the impact of and conflicts between incompatible land uses abutting district boundaries.
- (2) Buffer and Greenbelt Schedule. On any lot abutting a zoning district boundary, no structure, building or part thereof shall hereafter be erected, constructed, altered or maintained closer to the district boundary line than specified (in feet) in the following schedule (*Figure 50*). Where indicated, landscape planting is required.

Figure 50 - Required Buffer and Greenbelt Specifications:

DISTRICT IN WHICH BUFFER & GREENBELT IS REQUIRED	ABUTTING DISTRICT							
	LDR & MDR	MFR	MHP	M-U	CBD	GC & RC	C, M, & CR	I-M & BLP
LDR and MDR	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.

Proposed Zoning

Section 54.311 M-U, Mixed-Use District

(A) Intent
The M-U district is intended to encourage and facilitate redevelopment by implementing the following mixed-use policies of the Master Plan: 1. Locations. The M-U district will be located in many areas of the City, with each area unique based on the character of the area and the objectives of the Master Plan. Therefore, the M-U district may be located along strategic corridors or in a major or minor node, such as crucial neighborhood intersections (for example, corner stores in a residential neighborhood). The M-U district is the recommended zoning district in the following Future Land Uses of the 2015 Master Plan Future Land Use Map: Mixed Use and Neighborhood Commercial. 2. Mix Compatible Land Uses. The M-U district will include areas of the city that are appropriate for many types of residential uses and compatible non-residential uses, including a mix of compatible uses in the same building. Examples of mixed-use buildings include non-residential uses on the lower floors and residential uses on the upper floors. 3. Local Services. The non-residential uses in the M-U district are intended to satisfy the need for basic services of the surrounding residential areas, thus reducing the number of car trips required to these areas. 4. Design. Development must be human-scale through appropriate building location near the street to help create a pedestrian-oriented environment that does not conflict with motorized traffic.

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(B) Permitted Principal Uses	(C) Special Land Uses
• Accessory Building or Structure • Accessory Use, Single-Family Residential Lots • Adult Foster Care, Family Home • Adult Foster Care, Small Group Home • Child Care Center or Day Care Center • Child or Day Care, Family Home • Drive-Through Uses • Dwelling, Accessory Unit • Dwelling, Live/Work • Dwelling, Multiple-Family • Dwelling, Single-Family Attached • Dwelling, Single-Family Detached • Dwelling, Two-Family (Duplex) • Emergency Services • Farmers' Markets • Food Production, Minor • Foster Family Home • Health Services • Home Occupation • Home Office • Homestays and Vacation Home • Hospice • Indoor Recreation • Medical Hospital Related Accessory Uses • Medical Hospital Related Office • Medical Hospital Related Uses • Office, Medical • Office, Professional • Outdoor Entertainment and Community Events (Temporary) • Outdoor Food and Non-Alcoholic Beverage Service • Outdoor Recreation • Public or Governmental Building • Religious Institution • Restaurant, Indoor Service • Retail Business, Indoor • Retail Sales, Outdoor Temporary • Service Establishment • Veterinary Clinic (Domestic Animals Only)	• Accessory Use, Non-Single Family Residential Lots • Bar • Bed and Breakfast • Bed and Breakfast Inn • Child or Day Care, Group Home • Domestic Violence Abuse Shelter • Dwelling, Intentional Community • Foster Family Group Home • Fraternity or Sorority House • Halfway House • Homeless Shelter • Hospital • Hospital Hospitality House • Hotel or Motel • Manufacturing, Light • Marihuana Safety Compliance Facility • Nursing Home, Convalescent Home, Extended Care Facility, Assisted Living Facility • Outdoor Entertainment and Community Events (Principal or Accessory Use) • Outdoor Alcoholic Beverage Service • Recreational Use, Public • Rooming House • School, Primary or Secondary • School, University • Supportive Housing Facility, Transitional and/or Permanent • Vehicle Repair and Service
Where there is a discrepancy between Section 54.306 and this table, Section 54.306 shall prevail.	

(D) Dimensional Regulations			
<i>Lot, Coverage, and Building Height Standards</i>		<i>Minimum Setbacks</i>	
<i>Min. Lot Area (sq. ft.)</i>	4,800 (C) , (E)	<i>Front Yard (ft.)</i>	0 (E) , (F) , (G)
<i>Min. Lot Width (ft.)</i>	40 (D) , (E)	<i>Side Yard (one) (ft.)</i>	5 (I) , (L) , (N)
<i>Max. Impervious Surface Coverage (%)</i>	(R or S)	<i>Side Yard (total of 2) (ft.)</i>	13 (I) , (L) , (N)
<i>Max. Building Height of Primary Building (ft.)</i> (P)	44 (N)	<i>Rear Yard (ft.)</i>	20 (J) , (L) , (N)
<i>Max. Building Height of Accessory Building</i>	(L)		
<i>Max. Building Height (stories)</i>	-		
Where there is a discrepancy between Article 4 and this table, Article 4 shall prevail.			

54.403 Footnotes to Schedule of Regulations

(C) Minimum Lot Area for Two-Family Dwellings (Duplexes) in the MDR, M-U, TSC, and MFR Districts. In the MDR, M-U, TSC, and MFR District, the minimum lot area for a two-family dwelling (duplexes) is 6,000 sq. feet.

(D) Minimum Lot Width for Two-Family Dwellings (Duplexes) in the MDR M-U, TSC, and MFR Districts. In the MDR, M-U, TSC, and the MFR District, the minimum lot width for a two-family dwelling (duplex) is 50 feet.

(E) Minimum Lot Area and Width for Three Family and Four Family Dwellings in the M-U, TSC, and MFR Districts.

(1) In the MDR, M-U, TSC, and the MFR District, the minimum lot area for a three-family and four family dwellings is 9,000 sq. feet.

(2) In the MDR, M-U, TSC, and the MFR District, the minimum lot width for a three-family and four family dwellings is 75 feet.

(F) Minimum Front Yard Setback in the M-U and GC Districts. In the M-U and GC districts, the minimum front yard setback is 0 ft. if there is at least a 10-foot distance between the front lot line and the curb/edge of the street. If there is not at least a 10-foot distance between the front lot line and the curb/edge of the street in these districts, the minimum front yard setback shall be increased accordingly so that the minimum separation distance between a structure and the curb/edge of the street is at least ten (10) feet.

(G) Maximum Front Yard Parking in the M-U and GC Districts. Although there are no maximum front yard setbacks in the M-U and GC districts, refer to [Article 9](#) for the maximum allowable parking in the front yard of the M-U ([Section 54.902\(E\)\(3\)](#)) and GC ([Section 54.902\(E\)\(4\)](#)) districts.

(I) Reduced Side Yard Setbacks in the M-U, CBD, and GC Districts. In the M-U, CBD, and GC districts the side yards may be eliminated under the following conditions:

(1) The side walls are of fireproof construction and are wholly without opening.

(2) The zoning of the adjacent property is M-U, CBD, GC, Marquette Downtown Waterfront District, or Third Street Corridor District.

(J) Modified Rear Yard Setbacks in the M-U and CBD Districts. In the M-U and CBD districts the required rear yard may be measured from the center of an alley abutting the rear lot line, provided the structure is not located in the alley.

(N) Height Exceptions and Increased Setbacks for Principal Buildings in the MFR and M-U Districts. If the subject lot is adjacent to a lot zoned LDR, MDR, C, or CR, any portion of the building higher than 36.5 feet must be setback at least 8 feet from a minimum front yard setback line and at least 10 feet from any other minimum yard setback line.

(P) Height Exemptions. There shall be no height restriction on chimneys, flagpoles, public monuments, and wireless telecommunications facilities except when they are part of a special land use. Items attached to a building such as chimneys, weather vanes, lightning arrestors, etc. may be exempt as well.

(R) Maximum Impervious Surface Coverage of a Lot in the LDR and MDR Districts, and single-family and two-family dwelling units in other zoning districts: The maximum impervious surface coverage of a lot in the LDR and MDR Districts, and single-family and two-family uses in all other zoning districts shall be based on the lot areas as follows:

Maximum Impervious Surface Coverage Based on Lot Area
60% of the lot area up to 8,712 sq. ft. (1/5 acre or less); plus
50% of the area of the lot between 8,713 sq. ft. and 21,780 sq. ft. (1/2 acre); plus
40% of the area of the lot between 21,781 sq. ft. and 43,560 sq. ft. (1 acre); plus
30% of the area of the lot over 1 acre

(S) Storm Water Management. For all uses except Single-family and Two-family dwelling units, please refer to Section 54.803 Storm Water Management. For Single-family and Two-family dwelling units, please refer to item Q above.

(T) Landscape Buffer and Greenbelt Requirements. The minimum setbacks may be increased in accordance with the landscape buffer and greenbelt standards of [Section 54.1003\(D\)](#).

Section 54.1003 Landscaping Design Requirements

(D) Buffer and Greenbelt Requirements.

- (1) Intent. It is the intent of this section to provide suitable transitional yards for the purpose of reducing the impact of and conflicts between incompatible land uses abutting district boundaries.
- (2) Buffer and Greenbelt Schedule. On any lot abutting a zoning district boundary, no structure, building or part thereof shall hereafter be erected, constructed, altered or maintained closer to the district boundary line than specified (in feet) in the following schedule (*Figure 50*). Where indicated, landscape planting is required.

Figure 50 - Required Buffer and Greenbelt Specifications:

DISTRICT IN WHICH BUFFER & GREENBELT IS REQUIRED	ABUTTING DISTRICT							
	LDR & MDR	MFR	MHP	M-U	CBD	GC & RC	C, M, & CR	I-M & BLP
M-U	15 (a)	15 (a)	N.A.	N.A.	N.A.	N.A.	N.A.	20 (a)

(a) Within this buffer area, one (1) tree per 30 linear feet is required.

Relationship to Applicable Land Development Code Standards (staff comments in bold text):

Section 54.1405 Zoning Ordinance Amendment Procedures

- (A) Initiation of Amendments.** The City Commission, the Planning Commission, or the property owner (including a designated agent of the property owner) may at any time originate a petition to amend or change the zoning district boundaries pursuant to the authority and procedure established by Act 110 of Public Acts of 2006 as amended. Changes in the text of this Ordinance may be proposed by the City Commission, Planning Commission, or any interested person or

organization.

- (B) Application for Amendment. Each petition by one (1) or more persons for an amendment shall be submitted to the Zoning Administrator. Documents to support the application may be filed with the Zoning Administrator. A fee, as established by the City Commission shall accompany each petition, except those originated by the Planning Commission or City Commission.

Application accepted.

(C) Amendment Review Procedures.

- (1) Public Hearing. The staff liaison to the Planning Commission shall set a time and date for a public hearing, and the public hearing shall be noticed in accordance with [Section 54.1406](#). The Planning Commission may refuse to schedule a hearing on a petition for rezoning which includes any portion of a site considered for rezoning in the previous six (6) months.

The public hearing before the Planning Commission is scheduled for 6:00 p.m. on Tuesday, May 2, 2023.

- (2) Planning Commission Consideration of the Proposed Amendment. The Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies, and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this Section. Following the public hearing, the Planning Commission shall make a recommendation to the City Commission to either approve or deny the petition and report its findings to the City Commission.

The Planning Commission is being asked to make a recommendation at their meeting on May 2, 2023.

- (3) City Commission Consideration of the Proposed Amendment. The City Commission, upon recommendation from the Planning Commission, shall either schedule a public hearing or deny the petition. This hearing shall be advertised in accordance with [Section 54.1406](#). If determined to be necessary, the City Commission may refer the amendment back to the Planning Commission for further consideration. In the case of an amendment to the Official Zoning Map, the City Commission shall approve or deny the amendment, based upon its consideration of the criteria contained in this Ordinance.

TBD.

- (D) Standards of Review for Amendments. In considering any petition for an amendment to the text of this Ordinance or to the Official Zoning Map, the Planning Commission and City Commission shall consider the following criteria that apply to the application in making findings, recommendations, and a

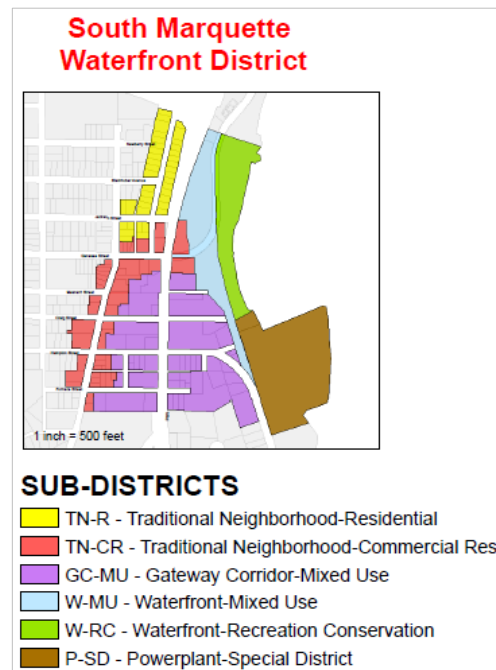
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decision. The Planning Commission and City Commission may also take into account other factors or considerations that are applicable to the application but are not listed below.

- (1) Master Plan. Consistency with the recommendations, goals, policies and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered.

This property is designated for *Single Family Residential* on the *Future Land Use Map* of the *Community Master Plan (CMP)* and is designated as a *Medium Density Residential* zoning district on the *Proposed Zoning Map*. These designations were adopted with the 2015 amendments to the CMP, but the zoning district for the property was a type of mixed-use district at that time (Traditional Neighborhood-Commercial Residential) and remained so until the Land Development Code (LDC) was adopted in 2019, when the South Marquette Form-based Code (SMFBC) was replaced with standard zoning districts. See the SMFBC map below.



In the view of staff, the designation of this property as strictly residential for land use and zoning was an oversight at the time of the CMP work and should have, like many of the neighboring properties in the Division St. and Hampton St. corridors, been designated as Mixed-Use at that time.

That would have resulted in the rezoning of the property to M-U at the time of the LDC adoption. The Planning Commission was presented with this information recently, during a work session (4-18-23) on the current update of the CMP in which potential changes to the Future Land Use Map and Proposed Zoning Map were discussed.

The Planning Commission will make recommendations for changes to those maps in the near future and this is among a short list of properties that would be addressed in those recommendations.

Please see p.3-31 and p.3-32 of the Community Master Plan (CMP), regarding Rezoning Requests. The Planning Commission must review all supporting information, this report in particular, and the attachment titled *Rezoning Considerations for Planning Commissions*, and hold a public hearing for community input prior to making a determination of whether to recommend approval or the request as presented or not.

- (2) Intent and Purpose of the Zoning Ordinance. Consistency with the basic intent and purpose of this Zoning Ordinance.

Please see above - "Zoning District and Standards".

- (3) Street System. The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

This portion of Division Street is classified as an “urban minor arterial” per the Community Master Plan (see p.6-6), therefore vehicular traffic volumes are moderate.

- (4) Utilities and Services. The capacity of the City’s utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.

There are no problems anticipated.

- (5) Changed Conditions Since the Zoning Ordinance Was Adopted or Errors to the Zoning Ordinance. That conditions have changed since the Zoning Ordinance was adopted or there was an error in the Zoning Ordinance that justifies the amendment.

No conditions have changed nor was there an error in the Zoning Ordinance.

- (6) No Exclusionary Zoning. That the amendment will not be expected to result in exclusionary zoning.

The proposal will not result in any substantial changes that would make exclusionary zoning more likely.

- (7) Environmental Features. If a rezoning is requested, compatibility of the site’s physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

The proposed zoning is compatible with site’s physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

- (8) Potential Land Uses and Impacts. If a rezoning is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

The proposed rezoning would allow all of the possible land uses for a Mixed-Use zoning district. The Planning Commission must determine the compatibility of the proposal in this location.

- (9) Relationship to Surrounding Zoning Districts and Compliance with the Proposed District. If a rezoning is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.

The proposed zoning is the same as the parcels north of this property. The existing structure does meet the existing MDR setback and rear yard parking coverage requirements, but the proposed rezoning would bring it more into compliance by meeting the setbacks and allowing for the parking lot in the rear. It does not meet the buffer requirement to the south for a 15-ft setback and trees, and does not meet the requirement to the east for the trees.

- (10) Alternative Zoning Districts. If a rezoning is requested, the requested zoning district is considered to be more appropriate from the City's perspective than another zoning district.

The adjacent uses to the west and south are all residential and zoning is MDR, and to the north and east are commercial uses and the North is M-U zoning and to the east is MDR zoning.

- (11) Rezoning Preferable to Text Amendment, Where Appropriate. If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.

A text amendment to add commercial uses to the MDR zoning district would not be appropriate due to the incompatibility to being a residential zoning district.

- (12) Isolated or Incompatible Zone Prohibited. If a rezoning is requested, the requested rezoning will not create an isolated or incompatible zone in the neighborhood.

The Planning Commission must determine if the proposed zoning would create an isolated or incompatible (see item #8 above) zone. There is another M-U zoning district to the north of this parcel.

- (E) Notice of Adoption of Amendment. Following adoption of an amendment by the City Commission, one (1) notice of adoption shall be filed with the City Clerk and one (1) notice shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption, in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. Amendments shall take effect eight (8) days after publication. A record of all amendments shall be maintained by the City Clerk. A Zoning Map shall be maintained by the City Clerk or his/her designee, which shall identify all map amendments. The required notice of adoption shall include all of the following information:

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- (1) In the case of a newly adopted Zoning Ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the City of Marquette."
- (2) In the case of an amendment(s) to the existing Zoning Ordinance, either a summary of the regulatory effect of the amendment(s), including the geographic area affected, or the text of the amendment(s).
- (3) The effective date of the ordinance or amendment.

If the proposed zoning amendment is adopted by the City Commission the requirements of this section will be met.

Additional Comments:

The Planning Commission should consider the request, and the information provided in this analysis, and provide a recommendation to the City Commission.

Attachments:

1. Application
2. Area Map
3. Block Map
4. Area Zoning Map
5. Photos
6. Publication Notice
7. Future Land Use and Proposed Zoning Map from the Master Plan
8. *Rezoning Information for Planning Commissions* document
9. History of parcel and existing Class B legal non-conforming information memo

CITY OF MARQUETTE REZONING APPLICATION



CITY STAFF USE

Parcel ID#: 0020470 File #: 01-REZ-05-23 Date: 4-4-23
Hearing Date: 5-2-23 Application Deadline (Including all support material): 4-4-23
Receipt #: 201346 Check #: 21152 Received by and date: DS 4-4-23

FEE \$1,235 (We can only accept Cash or Check (written to the City of Marquette))

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED, THE REZONING REQUEST WILL NOT BE SCHEDULED FOR A HEARING UNTIL IT HAS BEEN VERIFIED THAT ALL OF THE INFORMATION REQUIRED IS PRESENT AT THE TIME OF THE APPLICATION - NO EXCEPTIONS!

If you have any questions, please call 228-0425 or e-mail alanders@marquettemi.gov. Please refer to www.marquettemi.gov to find the following information:

- o Planning Commission page for filing deadline and meeting schedule
- o Section 54.1405 Zoning Ordinance Amendment Procedures from the Land Development Code

Please review the attached excerpt from the Land Development Code.

APPLICANT CONTACT INFORMATION

PROPERTY OWNER

Name: Method Real Estate Partners, LLC
Address: 1901 W Ridge St. Suite 5
City, State, Zip: Marquette, MI, 49855
Phone #: 906-251-0926
Email: palcat381@yahoo.com

****APPLICANTS OR REPRESENTATIVES ARE STRONGLY ENCOURAGED TO BE PRESENT AT THE MEETING****

APPLICANT/OWNERS REPRESENTATIVE

Name: Lisa Wrate Architect, PLLC
Address: PO box 879, 85 N Pine Street
City, State, Zip: Gwinn, MI 49841
Phone #: 906-346-2222
Email: lisa@wratearch.com

****APPLICANTS OR REPRESENTATIVES ARE STRONGLY ENCOURAGED TO BE PRESENT AT THE MEETING****

PRE-APPLICATION CONFERENCE

It is strongly encouraged that all applicants and their representatives meet with City of Marquette staff prior to submitting an application for a rezoning. A pre-application meeting with staff allows for a preliminary review of the application procedures, project timelines, compliance with the City Master Plan, and other project criteria, and prevents most situations that usually results in a project being postponed.

PHASING OF APPLICATION

Public hearings before the Planning Commission are held on the first meeting of the month only. Applications and support materials must be submitted twenty (20) business days prior to the public hearing date.

The Marquette City Commission is also required to hold a public hearing and take final action on a rezoning request. This usually takes two City Commission meetings, one to schedule the public hearing and one to hold the public hearing.

PROPERTY INFORMATION

Property Address: 1501 Division Street Property Identification Number: 0020470
Size of property (frontage / depth / sq. ft. or acres): F/D: 48' Division, 87.40 Hampton/ .096 acres
Surrounding Zoning Districts: North MU East MDR South MDR West MDR
Legal Description: The North 48' of Lots 74 and 75, John and William Burt's Addition,
City of Marquette, Marquette County, Michigan

PROPOSAL

Current Zoning District: MDR Proposed Zoning District: MU

Please note: If proposing a Rezoning with Conditions, please attach a separate sheet(s) with your proposed Conditional Rezoning Agreement that meets the Land Development Code Section 54.1405(H)(1).

SIGNATURE

I hereby certify the following:

1. I am the legal owner of the property for which this application is being submitted, or I have submitted a written statement by the property owner that allows me to apply on their behalf.
2. I desire to apply for a rezoning of the property indicated in this application with the attachments and the information contained herein is true and accurate to the best of my knowledge.
3. The requested rezoning would not violate any deed restrictions attached the property involved in the request.
4. I have read the attached excerpt and recommended sections of the Land Development Code and understand the necessary requirements that must be completed.
5. I understand that the payment of the application fee is nonrefundable and is to cover the costs associated with processing this application, and that it does not assure approval of the plan.
6. I acknowledge that this application is not considered filed and complete until all of the required information has been submitted and all required fees have been paid in full. Once my application is deemed complete, I will be assigned a date for a public hearing before the Planning Commission that may not necessarily be the next scheduled meeting due to notification requirements and Planning Commission Bylaws.
7. I acknowledge that this form is not in itself a rezoning but only an application for a rezoning and is valid only with procurement of applicable approvals.
8. I authorize City Staff, and the Planning Commission and City Commission members to inspect the site.

Property Owner Signature: Scott W. Freely Date: 4-3-23

EXCERPT FROM THE CITY LAND DEVELOPMENT CODE

Article 14: Administrative Procedures Section 54.1405: Zoning Ordinance Amendment Procedures

Section 54.1405 Zoning Ordinance Amendment Procedures

- (A) **Initiation of Amendments.** The City Commission, the Planning Commission, or the property owner (including a designated agent of the property owner) may at any time originate a petition to amend or change the zoning district boundaries pursuant to the authority and procedure established by Act 110 of Public Acts of 2006 as amended. Changes in the text of this Ordinance may be proposed by the City Commission, Planning Commission, or any interested person or organization.
- (B) **Application for Amendment.** Each petition by one (1) or more persons for an amendment shall be submitted to the Zoning Administrator. Documents to support the application may be filed with the Zoning Administrator. A fee, as established by the City Commission shall accompany each petition, except those originated by the Planning Commission or City Commission.
- (C) **Amendment Review Procedures.**
- (1) **Public Hearing.** The staff liaison to the Planning Commission shall set a time and date for a public hearing, and the public hearing shall be noticed in accordance with [Section 54.1406](#). The Planning Commission may refuse to schedule a hearing on a petition for rezoning which includes any portion of a site considered for rezoning in the previous six (6) months.
 - (2) **Planning Commission Consideration of the Proposed Amendment.** The Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies, and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this Section. Following the public hearing, the Planning Commission shall make a recommendation to the City Commission to either approve or deny the petition and report its findings to the City Commission.
 - (3) **City Commission Consideration of the Proposed Amendment.** The City Commission, upon recommendation from the Planning Commission, shall either schedule a public hearing or deny the petition. This hearing shall be advertised in accordance with [Section 54.1406](#). If determined to be necessary, the City Commission may refer the amendment back to the Planning Commission for further consideration. In the case of an amendment to the Official Zoning Map, the City Commission shall approve or deny the amendment, based upon its consideration of the criteria contained in this Ordinance.
- (D) **Standards of Review for Amendments.** In considering any petition for an amendment to the text of this Ordinance or to the Official Zoning Map, the Planning Commission and City Commission shall consider the following criteria that apply to the application in making findings, recommendations, and a decision. The Planning Commission and City Commission may also take into account other factors or considerations that are applicable to the application but are not listed below.
- (1) **Master Plan.** Consistency with the recommendations, goals, policies and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan

Article 14: Administrative Procedures
Section 54.1405: Zoning Ordinance Amendment Procedures

was adopted, consistency with recent development trends in the area shall be considered.

- (2) Intent and Purpose of the Zoning Ordinance.** Consistency with the basic intent and purpose of this Zoning Ordinance.
 - (3) Street System.** The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
 - (4) Utilities and Services.** The capacity of the City's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.
 - (5) Changed Conditions Since the Zoning Ordinance Was Adopted or Errors to the Zoning Ordinance.** That conditions have changed since the Zoning Ordinance was adopted or there was an error in the Zoning Ordinance that justifies the amendment.
 - (6) No Exclusionary Zoning.** That the amendment will not be expected to result in exclusionary zoning.
 - (7) Environmental Features.** If a rezoning is requested, compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.
 - (8) Potential Land Uses and Impacts.** If a rezoning is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
 - (9) Relationship to Surrounding Zoning Districts and Compliance with the Proposed District.** If a rezoning is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.
 - (10) Alternative Zoning Districts.** If a rezoning is requested, the requested zoning district is considered to be more appropriate from the City's perspective than another zoning district.
 - (11) Rezoning Preferable to Text Amendment, Where Appropriate.** If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.
 - (12) Isolated or Incompatible Zone Prohibited.** If a rezoning is requested, the requested rezoning will not create an isolated or incompatible zone in the neighborhood.
- (E) Notice of Adoption of Amendment.** Following adoption of an amendment by the City Commission, one (1) notice of adoption shall be filed with the City Clerk and one (1) notice

Article 14: Administrative Procedures
Section 54.1405: Zoning Ordinance Amendment Procedures

shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption, in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. Amendments shall take effect eight (8) days after publication. A record of all amendments shall be maintained by the City Clerk. A Zoning Map shall be maintained by the City Clerk or his/her designee, which shall identify all map amendments. The required notice of adoption shall include all of the following information:

- (1) In the case of a newly adopted Zoning Ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the City of Marquette."
 - (2) In the case of an amendment(s) to the existing Zoning Ordinance, either a summary of the regulatory effect of the amendment(s), including the geographic area affected, or the text of the amendment(s).
 - (3) The effective date of the ordinance or amendment.
- (F) **Protest Petition of Amendment.** An amendment under this Chapter is subject to a protest petition in accordance with Section 403 of the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended), summarized as follows:
- (1) **Petition Submittal Requirements.** The protest petition shall be presented to the City Commission before final legislative action on the amendment, and shall be signed by one (1) or more of the following:
 - (a) The owners of at least 20% of the area of land included in the proposed change. Publicly owned land shall be excluded in calculating the 20% land area.
 - (b) The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change. Publicly owned land shall be excluded in calculating the 20% land area.
 - (2) **Vote.** If a protest petition is filed, approval of the amendment to this Ordinance shall require a 2/3 vote of the City Commission.
- (G) **Referendum.** Within thirty (30) days following the passage of the Zoning Ordinance, a petition signed by a number of registered electors may be filed with the City Clerk requesting submission of this Ordinance or part of this Ordinance to the electors for their approval, in accordance with Section 402 of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended. Whenever there is a conflict between this section of the Zoning Ordinance or P.A. 110 of 2006, as amended, the provisions of P.A. 110 of 2006, as amended, shall govern.
- (H) **Rezoning (Zoning Map Amendment) with Conditions.** Pursuant to MCL 125.3405, the City Commission, following a public hearing and recommendation by the Planning Commission, may approve a petition for a rezoning with conditions requested by a property owner. The standards of this section shall grant a property owner the option of proposing conditions for the development and use of property in conjunction with an application for rezoning. Such

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Section 54.1405: Zoning Ordinance Amendment Procedures

conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.

- (1) **Conditional Rezoning Agreement.** The conditions attached to the rezoning shall be set forth by submitting a conditional rezoning agreement listing the proposed conditions. A conditional rezoning agreement shall contain the following information:
- (a) A statement acknowledging that the rezoning with conditions was proposed by the applicant to induce the City to grant the rezoning, and that the City relied upon such proposal and would not have granted the rezoning but for the terms spelled out in the conditional rezoning agreement; and, further agreement and acknowledgment that the conditions and conditional rezoning agreement are authorized by all applicable state and federal law and constitution, and that the Agreement is valid and was entered on a voluntary basis, and represents a permissible exercise of authority by the City.
 - (b) Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the conditional rezoning agreement.
 - (c) Agreement and understanding that the approval and conditional rezoning agreement shall be binding upon and inure to the benefit of the property owner and City, and their respective heirs, successors, assigns, and transferees.
 - (d) The date upon which the rezoning with conditions becomes void, as specified in Section 54.1405(H)(3), below. If an extension of approval is granted by the City Commission, a new conditional rezoning agreement with the new expiration date shall be recorded.
 - (e) Agreement and understanding that, if a rezoning with conditions becomes void in the manner provided in Section 54.1405(H)(3), below, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.
 - (f) Agreement and understanding that each of the requirements and conditions in the conditional rezoning agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved rezoning with conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.
 - (g) A legal description of the property affected by the rezoning with conditions.
 - (h) Development regulations affected by the conditions of rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, lighting, landscaping etc.
 - (i) Revocation of approval provisions returning the property to its original zoning designation if the developer violates the terms of the agreement.

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Section 54.1405: Zoning Ordinance Amendment Procedures

- (j) A conditional rezoning agreement may contain a conditional rezoning plan as an attachment, with such detail and inclusions proposed by the applicant and approved by the City Commission in accordance with this Section, following recommendation by the Planning Commission. Inclusion of a conditional rezoning plan as an attachment to a conditional rezoning agreement shall not replace the requirement for Preliminary and Final Site Plan, Subdivision, Condominium, or Special Land Use review and approval, as the case may be.
- (2) **Amendment to Conditional Rezoning Agreement.** A proposed amendment to a conditional rezoning agreement shall be reviewed and approved in the same manner as a new rezoning with conditions.
- (3) **Period of Approval.** Unless extended by the City Commission for good cause, the rezoning with conditions shall expire following a period of two (2) years from the effective date of the rezoning unless bona fide development of the property pursuant to approved building and other permits required by the City commences within the two (2) year period and proceeds diligently and in good faith as required by ordinance to completion.
 - (a) **Expiration or Extension.** In the event bona fide development has not commenced within two (2) years from the effective date of the rezoning, the rezoning with conditions and the conditional rezoning agreement shall be void and of no effect. The landowner may apply for a one (1) year extension one (1) time. The request must be submitted to the Zoning Administrator before the two (2) year time limit expires. The landowner must provide to the City Commission good cause as to why the extension should be granted. If an extension of approval is granted by the City Commission, a new conditional rezoning agreement with the new expiration date shall be recorded.
 - (b) **Effect of Expiration.** If the rezoning with conditions becomes void in the manner provided in this section, either or both of the following actions may be taken:
 - (i) The property owner may seek a new rezoning of the property; and/or
 - (ii) Pursuant to MCL 125.3405, the land shall revert to its former zoning classification following the process for approval of a rezoning with conditions.
- (4) **Zoning Map.** If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned accompanied by a reference to "CR Conditional Rezoning." The Zoning Map shall specify the new zoning district plus a reference to CR. By way of example, the zoning classification of the property may be "CBD Central Business District with CR Conditional Rezoning," with a Zoning Map designation of "CBD CR."
- (5) **Review and Approval Process.** An application for a rezoning with conditions shall be reviewed following the same process and procedures applicable to a rezoning set forth in [Section 54.1405\(C\)](#), with the exception that the conditional rezoning agreement shall be

Article 14: Administrative Procedures
Section 54.1406: Public Hearings

executed between the applicant and the City Commission at the time of City Commission approval of a rezoning with conditions.

- (6) **Recordation of a Conditional Rezoning Agreement.** A rezoning with conditions shall become effective following publication in the manner provided by law, and after the conditional rezoning agreement is recorded with the County Register of Deeds.

Section 54.1406 Public Hearings

- (A) **Public Hearings.** The staff liaison of the body charged with conducting a public hearing required by this Ordinance shall, upon receipt of a completed application, select a reasonable time and place for such hearing on behalf of the relevant body. Such hearings shall be subject to the procedures set forth in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, and the provisions of this Ordinance.

- (B) **General Public Hearing Procedures.** The following procedures are applicable to all public hearings except zoning ordinance text and map amendments, which are described in [Section 54.1406\(C\)](#), below.

- (1) **Publication in a Newspaper of General Circulation.** Notice of the request shall be published in a newspaper of general circulation not less than 15 days before the date the application will be considered for approval.

- (2) **Personal and Mailed Notice.**

- (a) Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
- (b) Notice shall be sent to all persons to whom real property is assessed within 300 feet of the property, regardless of municipal jurisdiction.
- (c) Notice shall be given to the occupants of all structures within 300 feet of the property regardless of municipal jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance(s) to the structure.
- (d) All notice delivered by mail or personal delivery must be given not less than 15 days before the date of the public hearing. Notice shall be deemed given when personally delivered or when deposited during normal business hours for delivery with the U.S. Postal Service or other public or private delivery service. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
- (e) The City shall prepare a list of property owners and occupants to whom notice was mailed.

Article 14: Administrative Procedures
Section 54.1406: Public Hearings

(3) Content. Any notice published in a newspaper and/or delivered by mail shall:

- (a)** Describe the nature of the request.
- (b)** Indicate the property that is the subject of the request.
- (c)** Include a listing of all existing street addresses within the property. If no such addresses exist, other means of identifying the property may be used.
- (d)** When and where the public hearing will occur.
- (e)** When and where written comments may be submitted concerning the request.

(C) Zoning Ordinance Amendment Public Hearing Procedures. Public hearings for Zoning Ordinance amendments, including both text and map amendments, shall be noticed as follows:

- (1) Map Amendments Affecting 10 or Fewer Adjacent Parcels.** If the proposed map amendment will impact 10 or fewer adjacent parcels, notice shall be given as specified in [Section 54.1406\(B\)](#).
- (2) Text Amendments or Map Amendments Affecting 11 or More Adjacent Parcels.** If a text amendment is proposed or map amendment is proposed that will impact 11 or more adjacent parcels, notice shall be given as specified in [Section 54.1406\(B\)](#), except that the requirements of [Section 54.1406\(B\)\(2\)](#) and [Section 54.1406\(B\)\(3\)\(c\)](#) do not apply.
- (3) Notice to Other Entities.** Notice of the time and place of the public hearing shall also be given by mail to any of the following entities that have registered their name with the City Clerk for the purposes of receiving public notice: any electric, gas, or pipeline public utility company; each telecommunication service provider; each railroad operating within the district or zone affected; and the airport manager of each airport.
- (4) Additional Information Required in Notice.** Any notice required under this section shall include the places and times at which the proposed text or map amendment may be examined.

01-REZ-05-23

Area Map

Mesnard Street

Craig Street

Craig Street (Vacated)

Hampton Street

Front Street

Hogan Alley

Furnace Street

Division Street

Brook Street

Altamont Street

LEGEND

- Parcels_Address Number Labels
- Building FootPrints
- Street Labels
- Streets
- Contours2FT_From_2002
- City of Marquette, MI

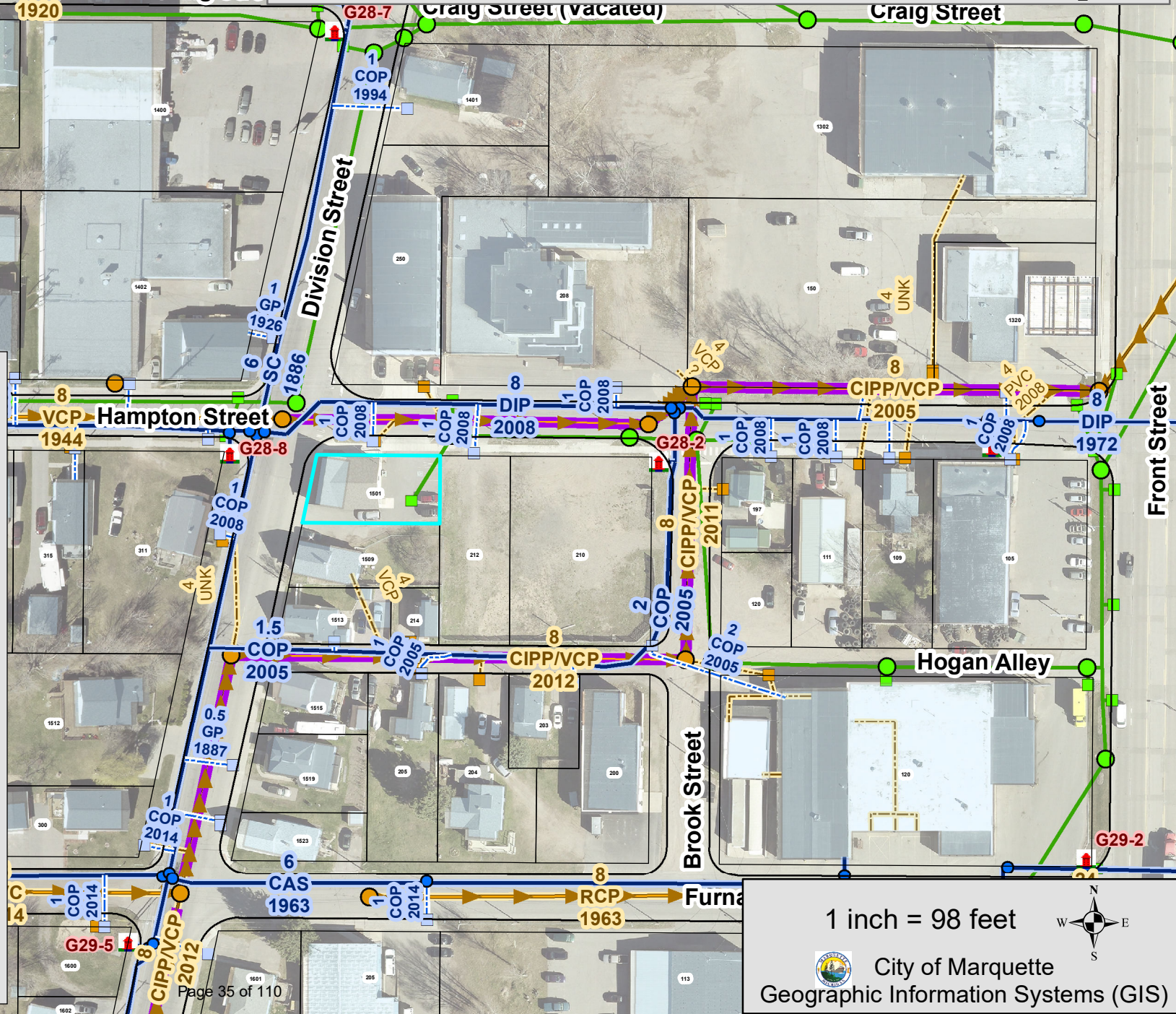
1 inch = 250 feet



City of Marquette
Geographic Information Systems (GIS)

01-REZ-05-23 Block Map

- LEGEND**
- Parcels_Address Number Labels
 - Building FootPrints
 - Street Labels
 - Streets
 - Fire Hydrants
 - WaterShutOff
 - Water Valves & Gates
 - Water Lateral Lines
 - Watermain
 - Water Structures
 - Storm Manholes
 - Storm Catch Basins
 - Storm Pipes
 - Sewer_Lift_Stations
 - SewerCleanOuts
 - Sewer System Valves
 - Sewer Manholes
- San Flow Direction**
- FLOW_DIR**
- EAST
 - NORTH
 - SOUTH
 - WEST
 - Sewer Lateral Lines
 - Sewer Pressurized Mains
 - Sew Not Slip Lined
 - Sew Slip Lined
- City of Marquette, MI



1 inch = 98 feet

City of Marquette
Geographic Information Systems (GIS)

01-REZ-05-23 Zoning Map

- LEGEND**
- Parcels_Address Number Labels
 - Zoning_9_24_2021_aml_REZ_Update_For_Web
 - Zoning Districts**
 - Low Density Residential
 - Medium Density Residential
 - Multiple Family Residential
 - Mobile Home Park
 - Central Business District
 - General Commercial
 - General Commercial with Conditional Rezoning
 - Regional Commercial
 - Third Street Corridor (FBC*)
 - Downtown Marquette Waterfront (FBC*)
 - Mixed-Use
 - Mixed Use with Conditional Rezoning
 - Planned Unit Development
 - Industrial/Manufacturing
 - Municipal
 - Conservation and Recreation
 - Civic
 - Board of Light & Power
 - Street Labels
 - Streets
- City of Marquette, MI

1 inch = 250 feet



City of Marquette
Geographic Information Systems (GIS)



Photos of 1501 Division St.



The front/west face of the building, with Division St. in the foreground.



The north face of the building, with Hampton St. in the foreground.



The east face/rear of the building. View from the building's parking lot.



Oblique view of the building, looking south-southeast from Division St.



The parking lot to the rear of the building, on the east side of the lot.



Oblique view of the building, looking north-northeast from Division St.

Friday, April 14, 2023

The Mining Journal 5A

Region

PUBLIC HEARING NOTICE MARQUETTE CITY PLANNING COMMISSION

Notice is hereby given that the Marquette City Planning Commission will hold a public hearing for the following **-01-REZ-05-23 - 1501 Division St. (PIN: 0020470)**: Method Real Estate Partners, LLC is requesting to rezone the property located at 1501 Division Street which is zoned **Medium Density Residential (MDR)** to be zoned **Mixed-Use (M-U)**.

The public hearing for this request will be at 6:00 P.M. on Tuesday, **May 2, 2023**, in the Commission Chambers at City Hall, 300 W. Baraga Ave. If you wish to comment on these matters you may do so at that time. Written comments may also be submitted to the Community Development Department located at 1100 Wright Street, Marquette, Michigan 49855 or e-mail alanders@marquettetmi.gov. Written submissions will be accepted until 12:00 p.m. on May 2, 2023.

Materials pertaining to the request is available for review at the Community Development Department's office at the Municipal Service Center during 7:30 a.m. to 4:30 p.m., Monday through Friday. Otherwise, you can request to have the materials e-mailed to you by e-mailing alanders@marquettetmi.gov. You can also view the Land Development Code on our website at www.marquettetmi.gov. If you have a disability and require assistance to participate, please provide advance notice.

Andrea Landers, Zoning Official, 225-8383

will also be accepted from date of publication until 5:00 p.m. on May 2, 2023, at the following address or e-mail address:

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing- Boards and Committees Section
P.O. Box 30670
Lansing, MI 48909-8170
Attention: Departmental Specialist Email: BPL-BoardSupport@michigan.gov

A copy of the proposed rules may be obtained by contacting Board Support at (517) 241-7500 or the email address noted above. Electronic copies also may be obtained at the following link:

Barber Examiners - General Rules

<https://ars.apps.lara.state.mi.us/Transaction/RFT/Transaction?TransactionID=1328>

Cosmetology - General Rules

<https://ars.apps.lara.state.mi.us/Transaction/RFT/Transaction?TransactionID=1379>

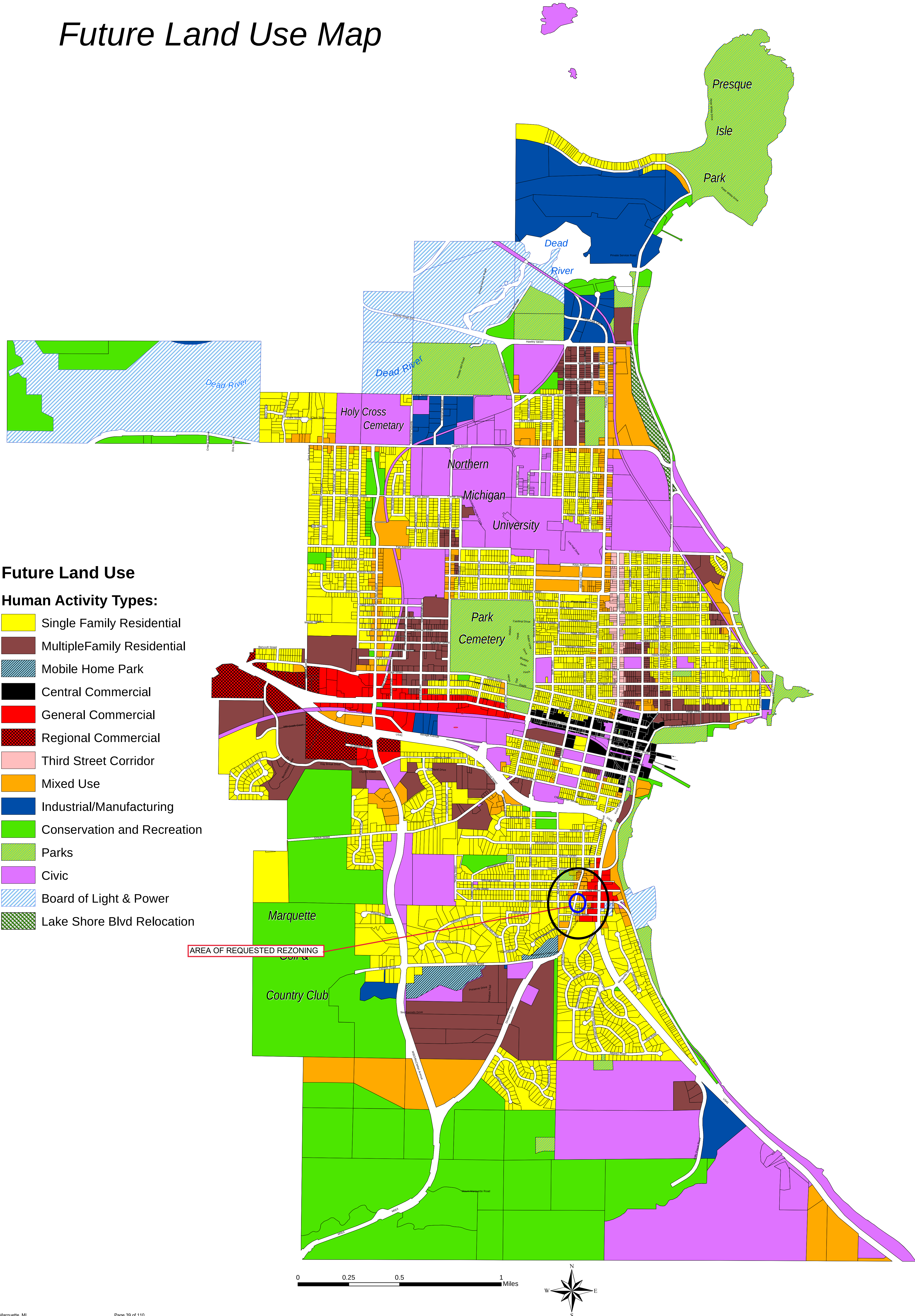
To allow for broad public attendance and participation, including for persons with disabilities, members of the public may access this meeting by both web and phone and provide either oral or written comments. Closed captioning will be provided, when available. Members of the public who are speech or hearing impaired may also attend and participate in this meeting by dialing 7-1-1 and using the Michigan Relay service. More information about this service may be found at <https://www.michigan.gov/mpsc/0,9535,7-395-93308,93325,93425,94040,94041---,00.html>.

People with disabilities requiring additional accommodations (such as materials in alternative format) to participate in the meeting, or those that have questions should contact the department at BPL-BoardSupport@michigan.gov.

Please call (517) 241-7500 or email BPL-BoardSupport@michigan.gov with any questions related to the hearing.

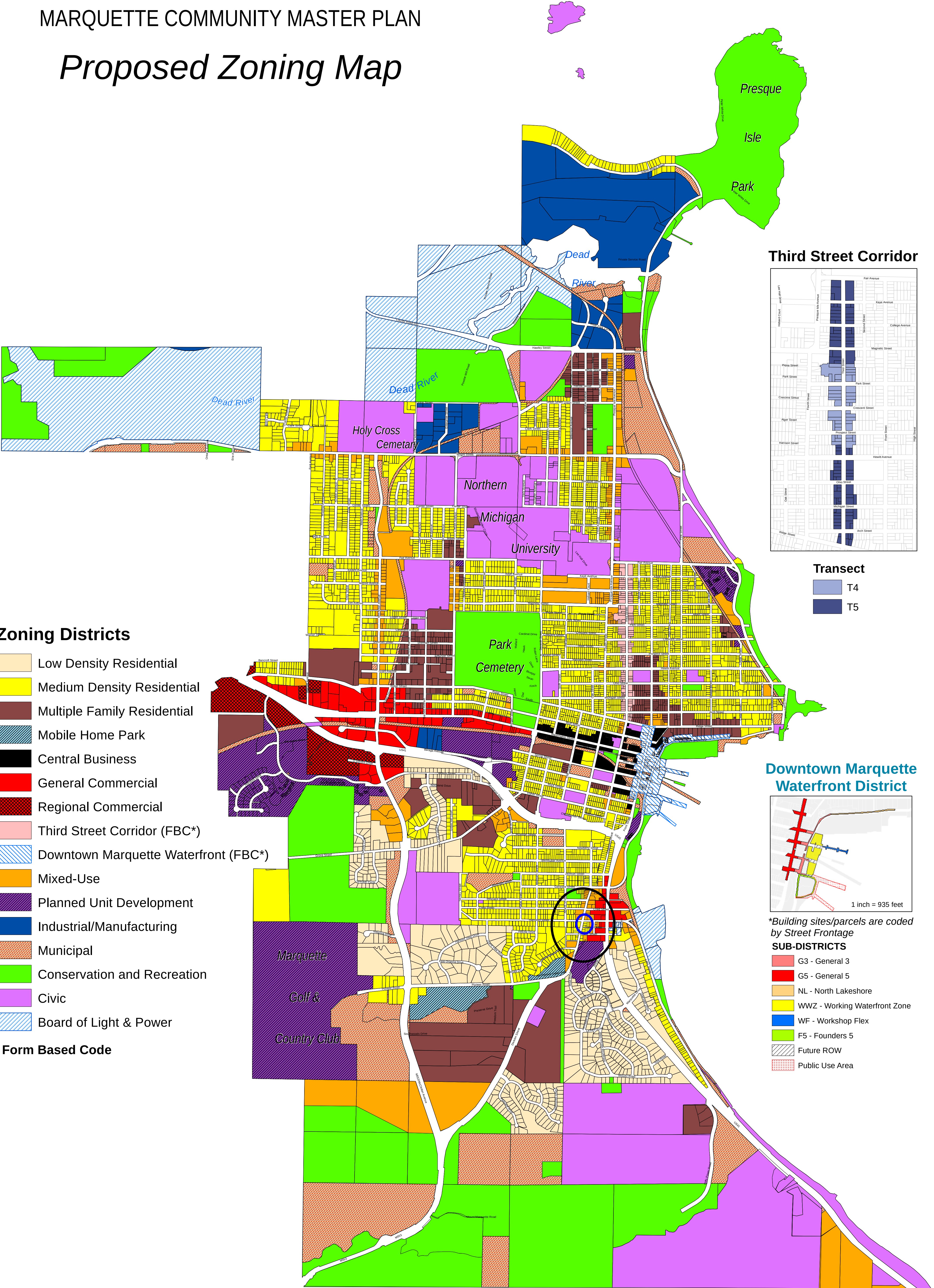
MARQUETTE COMMUNITY MASTER PLAN

Future Land Use Map



MARQUETTE COMMUNITY MASTER PLAN

Proposed Zoning Map

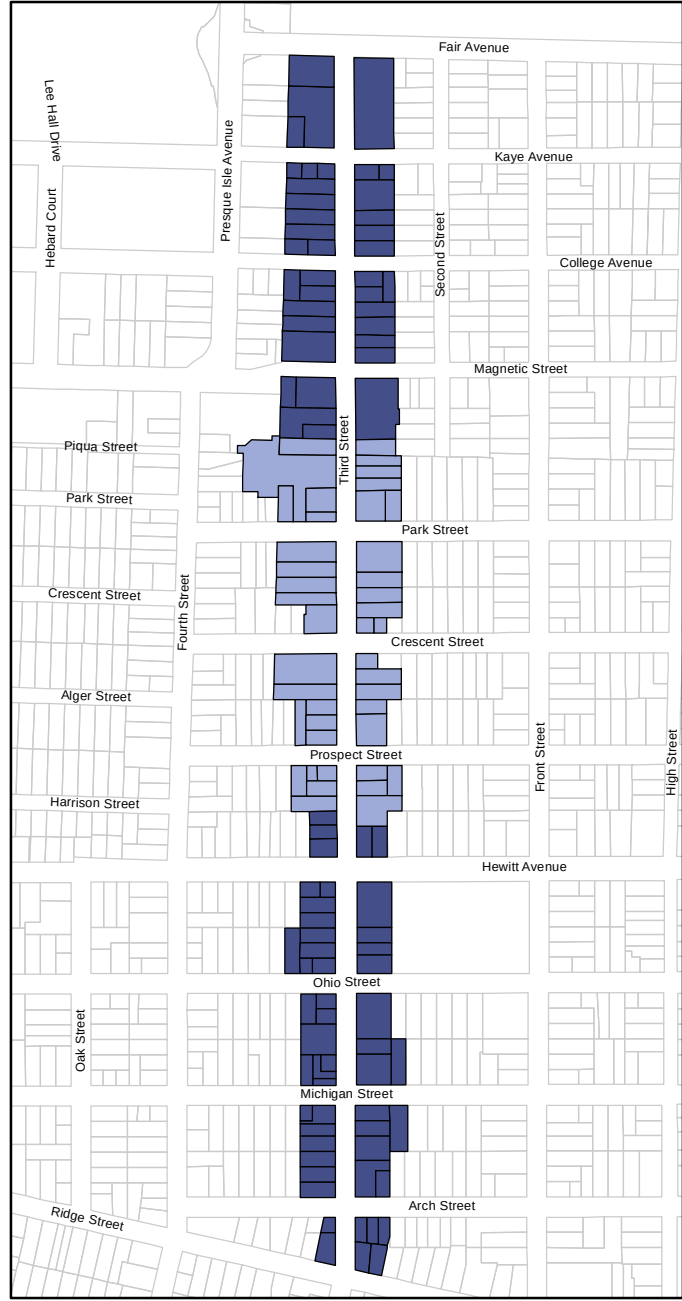


Zoning Districts

- Low Density Residential
- Medium Density Residential
- Multiple Family Residential
- Mobile Home Park
- Central Business
- General Commercial
- Regional Commercial
- Third Street Corridor (FBC*)
- Downtown Marquette Waterfront (FBC*)
- Mixed-Use
- Planned Unit Development
- Industrial/Manufacturing
- Municipal
- Conservation and Recreation
- Civic
- Board of Light & Power

* Form Based Code

Third Street Corridor

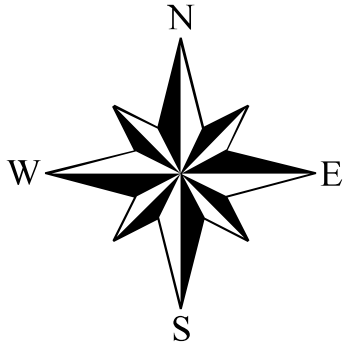
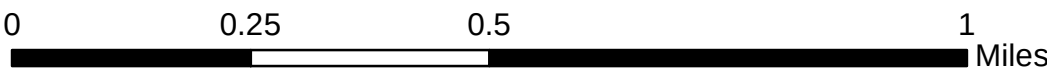


- Transect**
- T4
 - T5

Downtown Marquette Waterfront District



- *Building sites/parcels are coded by Street Frontage
- SUB-DISTRICTS**
- G3 - General 3
 - G5 - General 5
 - NL - North Lakeshore
 - WWZ - Working Waterfront Zone
 - WF - Workshop Flex
 - F5 - Founders 5
 - Future ROW
 - Public Use Area



Rezoning

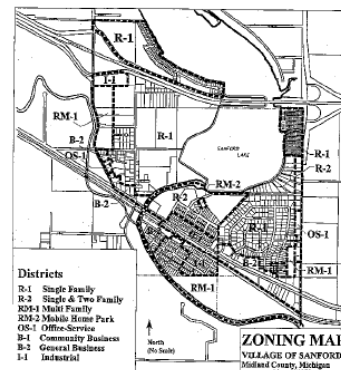
- The main question that must be answered when considering a rezoning is: *“Is that an appropriate location for that zone?”*
- The proposed use of land is not as important as is the fact that if the land is rezoned, any of the uses permitted in that zone may be established on that land.
- If a specific land use is proposed then an additional question must also be answered: *“Are the uses permitted in the existing zone reasonable?”*
- Failing to follow notice requirements may result in a Court invalidating the amendment.

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Rezoning Factors to Consider

RE: Question One (previous page)

- Would rezoning be consistent with other zones and land uses in the area?
- Is the proposed rezoning consistent with the trend of development in that area?
- Are uses in the proposed zone equally or better suited to the area than the current uses?
- Is the proposed rezoning consistent with both the policies and uses proposed for that area in the master plan?



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Rezoning Factors to Consider

RE: Question Two (previous page)

- Is the proposed use compatible with uses in the existing district? If so, would it be more appropriate to amend the text of the ordinance to add the proposed use to the existing district as a use permitted by right, or by special permit, or by planned unit development than to rezone?
- Is another district, different than the one requested, more appropriate in this location?

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SPOT ZONING



Characteristics

- Typically a single parcel zoned for uses that are quite dissimilar from the zoning of lands around it.
- Typically small in area.
- Typically grants a right to use land that is not enjoyed by similarly situated adjacent parcels.
- Most important, it is typically inconsistent with the future land use plan and the policies of the master plan.

Result

- Typically ruled invalid if challenged in court.

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**CITY OF MARQUETTE
PLANNING AND ZONING
1100 WRIGHT STREET
MARQUETTE, MI 49855
(906) 228-0425
www.marquettemi.gov**

MEMORANDUM

TO: Property File
FROM: Andrea Landers, Zoning Official
DATE: May 6, 2022, and revised August 10, 2022
SUBJECT: 1501 Division St. (PIN: 0020470) – Research regarding Class B Nonconforming Designation

Latest Previous Zoning was TN-CR from the South Marquette Form-based code, which allowed commercial and residential uses. The structure was approved for Office Use with a 30-in x 30-in wall sign and window signage. They received a zoning permit 77-ZCP-06-15 for Commercial interior remodeling from an open interior space to creating separate offices, and a sign permit 13-SGN-07-15 for two 12 in x 12 in window signs and one 30 in x 30 in wall sign.

As of 2019, the South Marquette Form-based code was eliminated, and new zoning categories were added for those properties. This property was assigned Medium Density Residential – MDR, which created this Office Use to be legal Class B non-conforming due to MDR Zoning not allowing office use anymore, and Office was a legal use prior to the Zoning District change (it was lawful at the time of its inception). Also, the signage was permitted, so they can have signage to meet the previously approved sign permit.

Excerpt from the Previous South Marquette Form-Based Code

5.2 Traditional Neighborhood-Commercial Residential (TN-CR)

Intent	Representative Precedent/Character	Permitted Uses
The intent of the TN-CR is to promote the establishment of a mix of neighborhood-serving activities that effectively integrates RETAIL, office, institutional, and other non-RESIDENTIAL uses within RESIDENTIAL neighborhoods while preserving traditional neighborhood character. This integration of uses will promote shopping and service opportunities within the neighborhoods, and will accommodate non-motorized forms of transportation, including public transit. Development in this SUB-DISTRICT will provide for COMMERCE at a scale that is appropriate for nearby RESIDENTIAL areas, while placing primary importance on a safe and pleasing pedestrian environment. New development will be compatible within the context of traditional neighborhood form. COMMERCE is closely integrated with residences so as to encourage vitality and safety as residents keep eyes on the streets. Trees and vegetation are necessary to improve the pedestrian landscape and provide buffers from activity.		1. The GROUND STORY shall house COMMERCIAL, LIGHT MANUFACTURING, or RESIDENTIAL USES as defined in this CODE. 2. The upper STORIES shall house RESIDENTIAL or COMMERCIAL USES as defined in this CODE. No restaurant or RETAIL sales USES shall be allowed in upper STORIES unless they are second STORY extensions equal to or less than the area of the GROUND STORY USE. 3. No COMMERCIAL or LIGHT MANUFACTURING USE is permitted above a RESIDENTIAL USE. 4. Additional habitable space is permitted within tower and attic stories.

Background of site for permits:

- 2006 added the off-street parking lot with an off-street parking lot permit.
- 2006 Zoning permit for commercial interior remodeling for retail use. The rear addition was built in 2006 as well. The original was 20-ft x 34-ft, and the addition is approximately 683.61 S.F. + 86.66 S.F.
- 2000 Building permit for hair salon.
- 1994 sign permit and building permit for hair salon.
- January 1994 letter from ZA stating change of use from Paint Store to Beauty Salon requires four 9-ft x 18-ft parking spaces. The zoning district at this time was BG- General Business.

Excerpts from the Current Land Development Code – 8-20-22

Section 54.308 MDR, Medium Density Residential

(A) Intent	
The MDR district is intended to establish and preserve medium density residential neighborhoods that present an environment acceptable to a range of users, including families of all types. Some additional non-residential compatible uses may be allowed. It is important to the community to preserve and enhance the pedestrian-friendly, compact neighborhood types where homes and buildings are of similar scale and character	
(B) Permitted Principal Uses	(C) Special Land Uses
• Accessory Building or Structure • Accessory Use, Non-Single Family Residential Lots • Accessory Use, Single-Family Residential Lots • Adult Foster Care, Family Home • Adult Foster Care, Small Group Home • Child or Day Care, Family Home • Dwelling, Accessory Unit • Dwelling, Single-Family Detached • Food Production, Minor • Foster Family Home • Home Occupation • Home Office • Homestays and Vacation Home • Outdoor Entertainment and Community Events (Temporary) • Residential Limited Animal Keeping	• Cemetery • Child Care Center or Day Care Center • Child or Day Care, Group Home • Dwelling, Intentional Community • Dwelling, Two-Family (Duplex) • Foster Family Group Home • Hospital Hospitality House • Public or Governmental Building • Recreational Use, Public • Religious Institution • School, Primary or Secondary • School, University • Supportive Housing Facility, Transitional and/or Permanent
Where there is a discrepancy between Section 54.306 and this table, Section 54.306 shall prevail.	

(D) Dimensional Regulations			
Lot, Coverage, and Building Height Standards		Minimum Setbacks	
Min. Lot Area (sq. ft.)	4,500 (C)	Front Yard (ft.)	15 (A), (B)
Min. Lot Width (ft.)	37.5 (D)	Side Yard (one) (ft.)	5 (L)
Max. Impervious Surface Coverage (%)	(R)	Side Yard (total of 2) (ft.)	13 (L)
Max. Building Height of Primary Building (ft.) (P)	31.5	Rear Yard (ft.)	20 (L)
Max. Building Height of Accessory Building	(L)		
Max. Building Height (stories)	-		
Where there is a discrepancy between Article 4 and this table, Article 4 shall prevail.			

Article 9 requirements Section 54.902(E)(1)

- **(c) Maximum Rear Yard Paving.** In the LDR and MDR districts, no more than 25% of the rear yard may be paved (including but not limited to asphalt or concrete, but with the exception of

compacted gravel) for parking provided the impervious surface coverage limits of the lot (see [Article 4](#)) are not exceeded.

- **(e) Maximum Driveway Width and Paved Area.** The maximum width of a driveway is 18 feet wide on a lot up to and including 50 feet in width and 24 feet wide on a lot 100 or more feet in width. The width of driveways on lot widths between 50 and 100 feet are prorated accordingly. A driveway may be widened beginning at a point two (2) feet from the inside edge of a sidewalk or ten (10) feet from the edge of an established street without sidewalks, provided the hard parking surface areas of the driveway or driveways and parking spaces utilize no more than 30% of the front area.

Section 54.1202 Nonconforming Uses and Structures

If a structure or the use of a structure or of the land is lawful at the time of enactment of this Ordinance or an amendment to this Ordinances, then that structure or use may be continued although the structure or use does not conform to the Ordinance or amendment. The following sub-sections contain provisions for: classifications of different nonconforming uses and structures; repairs; maintenance; discontinuance; substitutions; expansions; and reconstruction of nonconforming structures and uses:

(C) Regulations Pertaining to Class B Nonconforming Use or Structure Designation.

- (1) Class B Nonconforming Uses and Structures.** A Class B nonconforming use or structure is any nonconforming use or structure that is not a one- or two-family nonconforming use or structure (see [Section 54.1202\(B\)\(1\)\(a\)](#)) or has not been classified as a Class A nonconforming use or structure by the Board of Zoning Appeals pursuant to [Section 54.1202\(B\)](#).
- (2) Prohibited Continuance of Illegally Established Class B Nonconforming Uses and Structures.** No Class B nonconforming use or structure shall be permitted to continue in existence if it was unlawful at the time of its inception.
- (3) Purpose for Class B Nonconforming Uses and Structures.** It is a purpose of this Ordinance to eliminate Class B nonconforming uses and structures as rapidly as is permitted by law without payment of compensation.
- (4) Discontinuance of a Class B Nonconforming Use.** No Class B nonconforming use shall be resumed if it has been discontinued for a continuous period of six (6) months or if it has been changed to conforming use for any period of time. If the structure in which the use is housed or conducted is damaged by casualty or neglect to the point where the structure must be removed or reconstructed, the standards of [Section 54.1202\(C\)\(7\)](#) apply. If the Class B nonconforming use was legally in existence up until the time the structure in which the use is housed required removal or reconstruction, the owner shall have up to 24 months to re-establish the nonconforming use, provide such re-establishment shall not increase the nonconformity of the use, structure, or building.
- (5) Prohibited Substitutions and Expansions of Class B Nonconforming Uses.** No Class B nonconforming use shall be changed to a substantially different nonconforming use, nor enlarged so as to make use of more land area than used at the time of becoming nonconforming.

Non-conforming items regarding the structures, use, and parking lot in the MDR zoning district.

1. The building setbacks to the front property lines are currently legal non-conforming.
2. The current office use is legal non-conforming.
3. The off-street parking lot is currently legal non-conforming. The rear yard is completely paved. The north curb cut, and parking lot area does not meet the allowable driveway width and 30%. So, the rear yard would need to be revised so only 25% is paved, and the curb cut and driveway would have to meet the code to meet the MDR requirements.

ORDINANCE #723
AN ORDINANCE TO AMEND MARQUETTE CITY CODE CHAPTER
54 – ZONING, BY CHANGING THE ZONING DESIGNATION
OF THE PROPERTY AT 1501 DIVISION ST.

The City of Marquette Ordains:

SECTION 1. Zoning Designation.

The zoning of the property located at 1501 Division St. (PIN: 0020470) is hereby changed from Medium Density Residential (MDR) to be zoned Mixed-Use (M-U).

SECTION 2. Map Revision.

This change shall be shown on the Marquette City Zoning Map.

SECTION 3. Effective Date.

This ordinance shall take effect ten days after adoption but not before publication.

Cody O. Mayer, Mayor

Kyle Whitney, City Clerk

Date Adopted: _____

Date Published: _____

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 5/30/2023

Public Hearing(s)

Public Hearing - Single Lot Special Assessment Roll #590

BACKGROUND:

Chapter 40, Sec. 40-21 of the City Code requires that "When an improvement shall have been made by the City upon or in respect to any single premises, the expense of which is chargeable against such premises and the owner thereof under the provisions of this chapter and is not of that class required to be prorated among several lots and parcels of land in a special assessment district, an account of the cost to be charged to the owner shall be reported to the City Treasurer who shall immediately bill the owner, if known."

The City Code further requires that "When the City Treasurer determines that a number of properties have had outstanding bills for a sufficient time, the Treasurer shall notify the City Assessor who shall prepare a single lot assessment roll, and schedule a public hearing before the City Commission on that roll."

Impacted property owners have received notification of the time and place of the hearing in accordance with Section 40-21 of the City Code.

This public hearing was scheduled at the Commission's regular meeting of May 8.

FISCAL EFFECT:

\$128.16 plus accruing interest and penalties.

RECOMMENDATION:

Confirm Single Lot Assessment Roll #590, and authorize the Mayor to sign the Warrant.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Single Lot Special Assessment Roll #590
- ▣ Warrant

CITY OF MARQUETTE - SINGLE LOT SPECIAL ASSESSMENT

SINGLE LOT ASSESSMENT	\$	128.16
CITY SHARE OF ASSESSMENT	\$	-
TOTAL SINGLE LOT ASSESSMENT	\$	128.16

PROPERTY	LEGAL DESCRIPTION	SINGLE LOT SPECIAL ASSESSMENT	TOTAL	INVOICE #
#0230670 - 509 N Fourth St Taylor Freeman 509 N Fourth St Marquette, MI 49855		Unpaid charges for: Fire Rental Code Compliance Inspection plus interest, and special assessment fee	\$ 128.16	18215

WARRANT

FOR THE COLLECTION OF SPECIAL ASSESSMENT TAXES

To the Treasurer of the City of Marquette, Michigan:

The Commission of the City of Marquette, Michigan, having on the THIRTIETH day of MAY 2023 duly completed and confirmed Special Assessment Roll No. 590 hereto annexed, the same being for special assessment taxes covering the total cost of construction of the following described public improvement, to-wit:

2023 SINGLE LOT SPECIAL ASSESSMENT ROLL #590

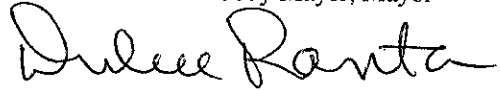
TOTAL ROLL \$128.16

You are Hereby Commanded to collect from the several persons named in said Special Assessment Roll the several sums mentioned in said roll opposite their respective names, together with lawful collection fees, interest and charges, and to hold the same subject to the order of the Commission of said City of Marquette. And in case any person or persons named in assessment roll shall neglect or refuse to pay his said assessment tax, you are hereby authorized and directed to levy said assessment tax and lawful fees, interest and charges, by distress and sale of the goods and chattels of such person or persons.

And you are further commanded to make due returns to the Commission of the said City of Marquette, and for so doing this shall be your sufficient warrant.

IN WITNESS WHEREOF, we have hereunto set our hands at the City of Marquette, Marquette County, Michigan this _____ day of _____, A.D. _____

Cody Mayer, Mayor



Dulcee Ranta
Assessor of the City of Marquette, Michigan

City of Marquette, MI

300 West Baraga Avenue

Marquette, MI 49855

Agenda Date: 5/30/2023

Consent Agenda - Roll Call Vote

Approve the minutes of the May 8, 2023 regular Commission meeting

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ May 8 Minutes



City of Marquette, MI

300 West Baraga Ave
Marquette, Michigan 49855

Meeting Minutes City Commission

**Monday, May 8, 2023
6:00 PM
Commission Chambers**

Call to Order, Pledge of Allegiance and Roll Call

Present: Davis, Hanley, Larson, Mayer, Ottaway, Smith, Stonehouse

Approval of the Agenda

Commissioner Jerney Ottaway moved to Approve the agenda as presented, seconded by Commissioner Jessica Hanley and Carried Unanimously.

Announcements

Mayor Mayer had no announcements this evening.

Public Comments - Comments may not exceed three minutes per person. Please state your name and physical address when making public comments.

Margaret Brumm spoke regarding the Lakeshore Boulevard property and said the historic use of that property should be taken into account. She also spoke about issues with off-leash dogs.

Valerie Olson spoke about her concerns with fluoridated water and spoke about a study that was released recently.

Ron Elberth said he lives in Ishpeming but that the City's water supply impacts those in neighboring communities, as well, since they visit, work or eat in the city.

Brittney Saultman also spoke about her concerns with fluoridated water.

Presentation(s)

1. Michigan History Day Finalist Recognition- Rena Sager and Amber Tschirgi

Mayor Mayer welcomed Rena Sager and Amber Tschirgi to the meeting, and recognized the two Bothwell Middle School students, who won the Michigan History Day State Competition, and will compete at the National Competition this year. The theme for this year's competition was "Frontiers in History: people, places, ideas" and Rena and Amber won in the Junior Group Performance category with their entry titled "The Underground Railroad Was a Frontier of Freedom."

2. Marquette Area Sister Cities Partnership, by Tristan Luoma

Tristan Luoma provided an update on the Marquette Area Sister Cities Partnership, including a summary of the group's activities in the last year. The partnership has

updated their website and logo. Luoma discussed a desire to start Sister Cities visits back up, and to plan a mayor meet-up, and shared information on a student exchange program between Marquette and Higashiomi. Commissioners thanked Mr. Luoma for the presentation, and highlighted the importance of the organization.

3. Consent Agenda - Roll Call Vote

Mayor Pro Tem Sally Davis moved to Approve the Consent Agenda as presented, seconded by Commissioner Jerney Ottaway and Carried Unanimously by Roll Call Vote.

3.a. Approve the minutes of the April 24, 2023 regular Commission meeting

3.b. Approve the total bills payable in the amount of \$369,378.10 which excludes \$1,272.28 in City Commission travel reimbursement,

3.c. 2023 Fireworks Display Permit

3.d. Former Marquette Mall Site - Utility Easements Approval

3.e. Presque Isle Marina - Establish 55-Foot Slip Rate

3.f. Proclamation - Innovation Week

3.g. Proclamation - Workers Memorial Day

3.h. Ordinance #722 - Solids Handling Project Revenue Bonds

3.i. Resolution - Protecting MI Pension Grant Program

3.j. Schedule Public Hearing - Rezoning of 1501 Division St.

3.k. Schedule Public Hearing - Single Lot Special Assessment Roll #590

3.l. Stage Purchase

3.m. Wastewater Solids Handling Construction Contract

New Business

4. Mayor Pro-tem Davis and Commissioner Hanley Travel Reimbursement

Commissioner Jennifer Smith moved to Approve the travel reimbursement for Mayor Pro-tem Davis in the amount of \$590.14 and Commissioner Hanley in the amount of \$590.14 for the Michigan Municipal League Conference, seconded by Commissioner Michael Larson and Passed.

The motion carried 5-0, with Commissioner Hanley and Mayor Pro Tem Davis abstaining from the vote.

5. Proclamation - National Public Works Week

Commissioner Jennifer Smith moved to Approve the proclamation as presented, seconded by Commissioner Jessica Hanley and Carried Unanimously.

Commissioner Hanley praised the public works department, and said the workers deserved recognition year-round.

City Manager Karen Kovacs said that it's important to note how important the Public Works staff is at all times, but even more so during extreme weather events like last week's major late-season snowstorm.

6. Resolution of Intent to Sell City Property - 601 S. Lakeshore Boulevard - Roll Call Vote

Commissioner Jerney Ottaway moved to adopt the Resolution of Intent to Sell and to direct the City Manager to negotiate a sale of the property to Marquette Opportunity, LLC subject to City Commission approval per the Municipal Property Sales Ordinance, seconded by Commissioner Fred Stonehouse. Commission discussion ensued.

The Commission asked architect Barry Polzin to speak briefly about the development being proposed at the Lakeshore site. He presented an image of the proposed development, and said the plan is to leave a wide vision corridor open from the highway. He said hotels are a vital part of a tourist economy, and that all downtown businesses benefit.

Mayor Pro Tem Davis asked about the elevation of the property, as well as the adjacent bike path; Mr. Polzin said the plan is to maintain a buffer from the bike path, and he said the hotel should be three stories high, with a similar height to the nearby Fairfield Inn.

Commissioner Smith said the Commission has promised to not sell property on the lake side of the road and that she thinks this project is a small step that could lead to a major shift in the character of Marquette. Commissioner Hanley said she doesn't think this is the best use for this property and that she has heard from no residents that support this project.

Responding to Commission questions, Community Development Director Dennis Stachewicz provided an in-depth history of the parcel, as well as history of the broader south railyard and lower harbor properties. He said this parcel was identified for development in the original plan after the properties were purchased by the City, and Assistant City Manager Sean Hobbins added context regarding existing brownfield plans and hopes for this property.

Mayor Pro Tem Davis said she has heard from both sides in the lead-up to this meeting and she has mixed feelings. This property is on the lakeside of the road, but is also along the highway. She said it's interesting to note that the Commission voted 6-0 last year to not sell this property, and then revisited the topic in February, voting 6-1 to have the City Manager return with options, which the Commission is now reviewing. She said she had originally imagined the development to be closer to Front Street and to closer match the heights of the buildings to the south.

Commissioner Larson said that in his view, this plan maintains public access and is a reasonable use of that specific parcel.

Commissioner Stonehouse said the tax revenue on this parcel could be \$70,000 per year, which is important at a time when the City just raised resident property taxes.

Mayor Mayer said he didn't originally view this as a lakeshore parcel, and that tax revenue is important, as is the ability to proceed with this development without creating a new brownfield. He said this could be an economic benefit to that whole area of the City.

The Commission then voted on the original motion, to adopt the Resolution of Intent to Sell and to direct the City Manager to negotiate a sale of the property. The motion carried 4-3 by roll call vote, with Mayor Pro Tem Davis and Commissioners Hanley and Smith voting against it.

Public Comments - Comments may not exceed three minutes per person. Please state your name and physical address when making public comments.

Margaret Brumm clarified her previous comments about the Lakeshore property and said she doesn't believe building anything on this property is going to stop the historical use of the site. She said this kind of decision is what happens when people don't show up to voice their opinions. She said this project, along with the Vault Marquette project, will limit public access to Lakeshore Boulevard for several years.

Orville Dishno thanked the Commission for approving the Resolution of Intent to Sell the property tonight. He said that as taxes continue to increase, he thinks it's important to find a way to increase revenues, including by selling surplus City land into taxable use. He added that there is only limited beach access in that area as it is, and that the shoreline north of there is very publicly accessible.

Comments from the Commission

Commissioner Larson said this was his first meeting as a Commissioner where there was a lot of discussion and varying opinions. He said he hopes City is able staff to negotiate effectively, while keeping those varying viewpoints in mind.

Commissioner Ottaway said he often hears from residents asking for their taxes to be lowered and to make the City as affordable as possible, but noted that items that could lead to that, such as property sales, are always going to be somewhat contentious. He said there were great discussions about this, and he applauded the City Manager, staff and Commission for reaching an outcome and for not pushing this topic off.

Mayor Pro Tem Davis had no comments.

Commissioner Smith said she agreed with Commissioner Ottaway that the Commission discussion on this issue really reflects the community's varied views. She said she will support the project, even though she voted against it, and will attempt to make it beneficial for everyone.

Commissioner Stonehouse said this was a tough decision tonight, but it was an

example of the Commission engaging in reasoned debate. He said the recent snowstorm was met with a magnificent effort by Public Works crews, and said the storm also highlighted excellent work by City engineers and stormwater technicians years in advance. He compared the storm to the one that hit Houghton County a few years ago and did significant damage to infrastructure.

Commissioner Hanley said it was nice to see the debate tonight. As the decision is made, she said, it's time to move forward in a way that benefits everyone.

Mayor Mayer said that tonight's vote allows for negotiation for the sale of the property, but that the Commission would need to vote again later to actually sell the parcel. He said it's important to recognize that the vote to sell property will require five affirmative votes.

Comments from the City Manager

City Manager Karen Kovacs praised the election workers who staffed last week's elections, as well as the staff of the Clerk's office, some of whom made accommodations to spend the night away from home to ensure that they would be able to get to work for Election Day. She said there is a great deal of staff dedication, from public works and public safety to the staff of City Hall and all the way down to City election workers.

Adjournment

Mayor Mayer adjourned the meeting at 7:24 p.m.

Cody O. Mayer, Mayor

Kyle Whitney, City Clerk

If you require assistance to participate in any meeting, program or activity offered by the City of Marquette, please provide advanced notice to City of Marquette ADA Coordinator Eric Stemen at 906-225-8978 or via email at estemen@marquettemi.gov.

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 5/30/2023

Consent Agenda - Roll Call Vote
Arbor Day Proclamation 2023

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Arbor Day Proclamation



PROCLAMATION ARBOR DAY 2023

WHEREAS, the first Arbor Day celebration was held on April 10, 1872, through the efforts of J. Sterling Morton, who realized that trees beautify the countryside and help reduce the erosion of precious topsoil; and,

WHEREAS, trees in our communities improve environmental quality, increase property values, enhance the economic vitality of business areas, and improve our quality of life; and,

WHEREAS, the City of Marquette has recognized the value of trees in our community and has adopted the U.S. Mayors Climate Protection Agreement, which promotes urban forest restoration projects; and,

WHEREAS, because of Marquette's efforts to improve our community forest, the city has been named a TREE CITY USA for 42 consecutive years; and,

WHEREAS, the American Transmission Company has provided a \$500 grant to fund an Arbor Day tree planting in Marquette; and,

WHEREAS, representatives from the Marquette DDA staff and board members will assist City personnel with the planting of seven Armstong Gold Columnar maple trees in the Rosewood Walkway located at 213 S. Front Street at 1:00 pm on Monday, June 12th;

NOW, THEREFORE I, Cody Mayer, Mayor of the City of Marquette, do hereby proclaim Monday, June 12, 2023, as Arbor Day in the city of Marquette and urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

DATED this 30th day of May, 2023.

Cody O. Mayer, Mayor

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 5/30/2023

Consent Agenda - Roll Call Vote **Cruise Ship Fee Adoption - Roll Call Vote**

BACKGROUND:

Cruise ship activity has dramatically increased on the Great Lakes since the establishment of Marquette as a destination last year. The City is expecting to see around ten ships this year and has been evaluating the physical and staff costs related to these visits in preparation for the season. In particular, the Harbor Master has determined additional officer set-up and attention is needed to fully comply with standards for international travel, the Public Works and Facilities Departments have additional costs related to the physical infrastructure, and Community Services Department requires additional resources to accommodate the cost of the visits. Cost recovery is needed to ensure that the burden is not solely on the City's budget and taxpayers.

In order to continue to provide a high level of service to this industry and to maintain marina and professional standards, it is recommended that the City Commission establish a fee structure specific to cruise ships. The proposed fees are \$2,500 fee for domestic visits and \$5,000 fee for international visits. These fees are in line with the comparable industry standards for Upper Peninsula ports.

FISCAL EFFECT:

The general fund would receive \$10,000 with current scheduled visits for 2023.

RECOMMENDATION:

Approve the cruise ship fees of \$2,500 for domestic visits and \$5,000 for international visits, and authorize the Mayor to sign the resolution.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

▣ Resolution



Resolution Establishing Fees for Cruise Ship Visits/Bulkhead Rental

WHEREAS, Great Lakes cruise ships are becoming more common and the City of Marquette is becoming a destination of choice; and

WHEREAS, City officials desire to make Marquette an attractive location for residents, as well as for all visitors; and

WHEREAS, City officials recognize that visits from such cruise ships place unusual strain upon the infrastructure of Mattson Lower Harbor Park and require the dedication of City resources to prepare in advance of, and often make repairs after, these visits; and

WHEREAS, staff also completed a review of operating practices and regional fee structures from similar communities and determined that the operational costs to host these ships are also increasing; this includes a law enforcement presence necessary to comply with standards for international travel, as well as the costs of park and bulkhead maintenance and marina staffing expenses;

NOW THEREFORE BE IT RESOLVED, that fees for Great Lakes cruise ship visits be established as follows, and be integrated into the City of Marquette fee schedule in future years:

Fee Schedule:

Cruise Ship (Domestic Origin): \$2,500

Cruise Ship (International Origin): \$5,000

This resolution will take immediate effect.

Duly adopted by the Marquette City Commission on May 30, 2023.

Cody O. Mayer, Mayor

Certified to be a true copy on May 30, 2023.

Kyle Whitney, City Clerk

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 5/30/2023

Consent Agenda - Roll Call Vote

Marquette Guts Frisbee Association Non-Profit Status - Roll Call Vote

BACKGROUND:

A representative of the Marquette Guts Frisbee Association recently contacted the City and requested the adoption of a resolution recognizing them as a local non-profit organization. They plan to conduct a fundraising raffle on August 5, 2023, and the Bureau of State Lottery requires the local governing body to first recognize their designation as a non-profit organization. The group has provided the City with a copy of the proposed resolution, a roster of their board of trustees, confirmation of their IRS 501(c)(3) designation, and articles of incorporation. Organizations supply this information when asking the Commission for this recognition, in accordance with City Commission Policy 2011-01.

FISCAL EFFECT:

None to the City.

RECOMMENDATION:

Adopt the resolution recognizing the Marquette Guts Frisbee Association as a non-profit organization operating in the community for the purpose of obtaining a charitable gaming license, and authorize the Clerk to sign the resolution.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ City Commission Policy 2011-01
- ▣ Resolution
- ▣ 501c3

CITY OF MARQUETTE, MICHIGAN

CITY COMMISSION POLICY

Policy Number: 2011 - 01	Revision Date:
Date Approved: 04-11-11 Administrative	

**SUBJECT: RECOGNITION OF NON-PROFIT ORGANIZATIONS
OPERATING IN THE CITY**

PURPOSE: To provide clear instructions to any non-profit organization in the City which may wish to obtain a charitable gaming license to conduct a fund-raising raffle. The Bureau of State Lottery requires the local governing body to first pass a resolution to recognize the group's designation as a non-profit agency before a license will be issued. This action requires action by the Marquette City Commission.

POLICY

When a non-profit group operating in the City of Marquette requests that the City Commission adopt a resolution to recognize them as holding this designation within the municipality, the group should contact the City Manager's office at least one full week prior to the City Commission meeting at which the resolution would be discussed. Before they do this, the organization needs to provide:

- A copy of the proposed resolution from the Bureau of State Lottery
- A roster of their board of directors
- Written confirmation of their IRS 501(c)(3) designation
- A copy of their bylaws
- A copy of their articles of incorporation
- The date of their proposed raffle drawing.



Charitable Gaming Division
Box 30023, Lansing, MI 48909
OVERNIGHT DELIVERY:
101 E. Hillsdale, Lansing MI 48933
(517) 335-5780
www.michigan.gov/cg

LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES

(Required by MCL 432.103(K)(ii))

At a _____ meeting of the _____
REGULAR OR SPECIAL TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD

called to order by _____ on _____
DATE

at _____ a.m./p.m. the following resolution was offered:
TIME

Moved by _____ and supported by _____

that the request from _____ of _____,
NAME OF ORGANIZATION CITY

county of _____, asking that they be recognized as a
COUNTY NAME

nonprofit organization operating in the community for the purpose of obtaining charitable

gaming licenses, be considered for _____.
APPROVAL/DISAPPROVAL

APPROVAL

Yeas: _____

Nays: _____

Absent: _____

DISAPPROVAL

Yeas: _____

Nays: _____

Absent: _____

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the _____ at a _____
TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD REGULAR OR SPECIAL

meeting held on _____
DATE

SIGNED: _____
TOWNSHIP, CITY, OR VILLAGE CLERK

PRINTED NAME AND TITLE

ADDRESS

COMPLETION: Required.
PENALTY: Possible denial of application.

BSL-CG-1153(R6/09)



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
P.O. Box 2508
Cincinnati, OH 45201

MARQUETTE GUTS FRISBEE ASSOCIATION
C/O KURT LAHTINEN
1905 MILDRED AVE
MARQUETTE, MI 49855

Date:
04/14/2022
Employer ID number:
88-1217274
Person to contact:
Name: Customer Service
ID number: 31954
Telephone: 877-829-5500
Accounting period ending:
December 31
Public charity status:
509(a)(2)
Form 990 / 990-EZ / 990-N required:
Yes
Effective date of exemption:
February 18, 2022
Contribution deductibility:
Yes
Addendum applies:
No
DLN:
26053495004202

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to www.irs.gov/charities. Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 5/30/2023

Consent Agenda - Roll Call Vote

Marquette Mountain Resort, LLC - Paddle Sports Concessionaire Permit

BACKGROUND:

The Presque Isle Park Advisory Committee voted at their November 9, 2016 meeting to recommend a sole concessionaire for paddle sport tours and rentals at Presque Isle Park. The Commission granted a lease to Superior Kayaking Company, LLC for the park from 2016 through 2021. The Parks and Recreation Advisory Board (PRAB) voted on August 16, 2021 to manage paddle sport tour opportunities, along the entire City waterfront, through one sole concessionaire request for proposals (RFP). The Harbor Advisory Committee supported PRAB's recommendation for a sole concessionaire at their September 21, 2021 meeting with suggestions for safety requirements to be included in the RFP. The City Commission approved a permit for Marquette Mountain Resort, LLC as the sole kayak concessionaire for Marquette for 2022 at their May 31, 2022 meeting.

Staff advertised an RFP on March 30, 2023 and received two proposals - Marquette Mountain Resort, LLC and Superior Kayaking Company, LLC. While both proposals offer similar estimates for revenue for the City, staff determined Marquette Mountain Resort, LLC's proposal was better for the community for two reasons. First, it offers the community several launch sites to choose from. Second, all participants will convene on private property and be transported to the launch site resulting in minimal congestion for the general public.

Marquette Mountain Resort, LLC has requested a permit for non-exclusive use of launch and takeout sites for paddle sport tours. The term of the permit is for three years ending in 2025 and allows for operation between May 15 through October 31 each year. Marquette Mountain Resort, LLC will pay the City .5 percent of total kayak tour and rental revenue through monthly payments.

Allowable launch/take-out sites include Presque Isle Middle Beach by the Superior Watershed Partnership building, McCarty's Cove, and Founders Landing Pier Kayak launch.

FISCAL EFFECT:

The general fund will receive .5 percent of total tour and rental revenues.

RECOMMENDATION:

Approve the permit with Marquette Mountain Resort, LLC, and authorize the Mayor and City Clerk to sign the agreement.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Permit, Exhibit A and Insurance

PADDLE SPORTS CONCESSIONAIRE PERMIT

The City of Marquette (City), a Michigan municipal corporation, of 300 W. Baraga Avenue, Marquette, MI 49855, grants Marquette Mountain Resort, LLC (Marquette Mountain), a Michigan limited liability company, of 4501 M-553, Marquette, MI 49855 permission to utilize certain real property as more specifically identified in Exhibit A (Premises) for launch and take-out sites for paddle sport tours, subject to the following terms and conditions:

1. Permission is granted for non-exclusive access to the Premises for launch and take-out sites for paddle sport tours only.
2. The City makes no warranty as to the condition of the Premises upon which access is granted pursuant to this Permit, and Marquette Mountain accepts the Premises "as is".
3. Marquette Mountain agrees to indemnify and hold harmless the City, its officials, officers, employees, agents and assigns from any and all liens, claims, charges, liabilities, and/or damages for acts of commission, omission, or negligence on the part of Marquette Mountain, or its guests, agents and employees, arising out of the use of the Premises.
4. Marquette Mountain specifically agrees to assume all risks associated with its use of the Premises.
5. Non-exclusive access is granted to the Premises noted on the attached Exhibit A.
6. Permission is granted for intermittent short-term, non-exclusive use of the Premises. No vehicles, equipment or structures may be stored on the Premises over night. Marquette Mountain may not alter the Premises in any way and shall repair any damage, or promptly reimburse the City for repairs performed by the City for damage created by Marquette Mountain, or its agents, employees or guests.
7. Marquette Mountain shall leave the Premises in the same or better condition as it was before using the Premises as allowed herein.
8. Marquette Mountain and/or its agents, employees or guests shall not interfere with any of the City's operations on the Premises or the use of others, including the general public, of the Premises. It is further agreed that access by the City to the Premises shall be maintained at all times.
9. The permission granted herein shall be from May 15, 2023 through October 31, 2023; may 15, 2024 through October 31, 2024 and May 15, 2025 through October 31, 2025. The City and the Marquette Mountain each have the right to terminate this agreement at any time and for any reason by providing at least 30 days written notice to the other; at which time all rights and obligations of the parties shall terminate.

10. As consideration for the rights detailed herein, Marquette Mountain shall pay the City 0.5% of their gross monthly kayak tour/rental revenues. Payment shall be made by the 15th of each month for the preceding month's tours/rentals. Marquette Mountain shall provide City sufficient information with each payment to verify the accuracy of the payment.

11. Marquette Mountain shall, in the use and occupancy of the Premises, comply with all laws, as well as all ordinances, rules and regulations of the City.

12. Marquette Mountain shall submit for review any publication referencing the City and the Premises. Marquette Mountain shall make all reasonable efforts to give favorable publicity to the City.

13. Marquette Mountain shall provide the City with certificates of insurance showing insurance coverage as noted below, stating that coverage afforded on their policies will not be cancelled, limited, or allowed to expire until after thirty (30) days written notice has been given to the City. Marquette Mountain shall maintain this coverage at all times during the performance of this agreement.

a. Workers Compensation coverage according to any applicable statute, including employer's liability coverage with \$1,000,000 limit per accident.

b. Comprehensive General Liability including contractual coverage with limits of at least \$1,000,000 per occurrence, \$1,000,000 aggregate bodily injury and \$1,000,000 aggregate property damage or \$1,000,000 Combined Single Limit.

c. Comprehensive Automobile Liability coverage, including owned, hired and nonowned vehicles with limits of \$1,000,000 per person, \$1,000,000 per accident bodily injury and \$1,000,000 property damage or \$1,000,000 Combined Single Limit.

The City shall be named as additional insured and loss payees on all Marquette Mountain's insurance policies named herein except workmen's compensation insurance, and Marquette Mountain's insurance policies will be on an "occurrence" and not on a "claims made" basis. Marquette Mountain will file with the City, on or before the commencement of this agreement and at least ten (10) days before the expiration date of expiring policies, such copies of either current policies or certificates or other proofs, as may reasonably be required to establish Marquette Mountain's insurance coverage in effect from time to time.

THE CITY OF MARQUETTE

Dated: _____

By: _____
Cody O. Mayer
Its: Mayor

Dated: _____

By: Kyle Whitney
Its: City Clerk

APPROVED AS TO CONTENT:

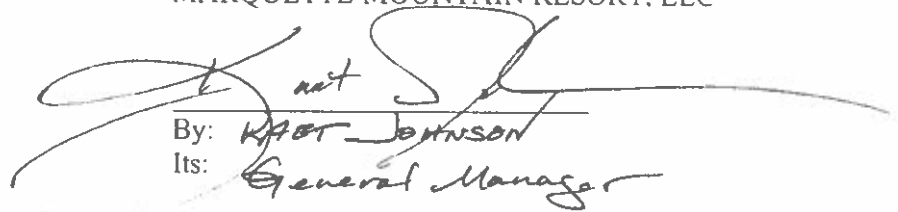
Karen M. Kovacs, City Manager

APPROVED AS TO FORM:

Suzanne C. Larsen, City Attorney

MARQUETTE MOUNTAIN RESORT, LLC

Dated: 5/11/2023


By: Robert Johnson
Its: General Manager





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
5/19/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Commercial Lines - 800-990-7465 (CA DOI # 0G13561) Safehold Special Risk, Inc. 230 Commerce Way, Suite 230 Portsmouth, NH 03801	CONTACT NAME: Ryan Patrick PHONE (A/C, No, Ext): 603.570.5218 E-MAIL ADDRESS: ryan.patrick@safehold.com		FAX (A/C, No): 855-529-7684
	INSURER(S) AFFORDING COVERAGE		NAIC #
INSURED Marquette Mountain Resort, LLC 4501 State Highway M553 Marquette, MI 49855	INSURER A: Arch Insurance Company		11150
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES **CERTIFICATE NUMBER: 15719045** **REVISION NUMBER: See below**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ \$25,000 SIR Occurrence ☒ \$75,000 SIR Aggregate GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:	X		SKCGL00005	04/01/2023	04/01/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ EXCLUDED PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 10,000,000 PRODUCTS - COMPI/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The City of Marquette, its agents, representatives, directors, officials, and employees, are included as additional insured, when required by written contract, agreement, lease or permit, solely as respects the liability arising out of the operations of the named insured in regards to Kayak Tours.

CERTIFICATE HOLDER

CANCELLATION

City of Marquette
300 W. Baraga Ave.
Marquette, MI 49855

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ACORD 25 (2016/03)

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 5/30/2023

Consent Agenda - Roll Call Vote
Pride Festival - Special Event Permit

BACKGROUND:

Upper Peninsula Rainbow Pride is requesting a Special Event Permit for City Parks, Streets, Buildings and Grounds to use Mattson Lower Harbor Park for the purposes of Pride Fest 2023 on June 10, 2023. Staff has worked with the City Attorney and Upper Peninsula Rainbow Pride to develop the permit.

FISCAL EFFECT:

The General Fund will receive \$1,100 for exclusive use of the Park and utilities, plus miscellaneous fees.

RECOMMENDATION:

Approve the Special Event Permit for City Parks, Streets, Buildings and Grounds with Upper Peninsula Rainbow Pride, and authorize the Mayor and Clerk to sign the agreement.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▢ Permit, Insurance and Exhibit A

SPECIAL EVENTS PERMIT FOR CITY PARKS,
STREETS, BUILDINGS AND GROUNDS

THIS AGREEMENT, made this _____ day of _____, 2023 between CITY OF MARQUETTE, a Municipal Corporation, of 300 W. Baraga Avenue, Marquette, Michigan, 49855, hereinafter referred to as the "CITY", and UPPER PENINSULA RAINBOW PRIDE, a Michigan corporation with a mailing address of P.O. Box 954, Marquette, Michigan 49855, hereinafter referred to as "PERMITTEE".

INSTRUCTIONS - PERMITTEE shall comply with all sections of this permit with a darkened box (■) .

WITNESSETH:

- (1) Description. The CITY in consideration of the terms, conditions, covenants and agreements to be performed by PERMITTEE, does hereby grant to PERMITTEE permission to use and occupy the following ["premises"]:

MATTSON LOWER HARBOR PARK

- (2) Term. The term of this Permit shall be for June 10, 2023 from 1:00 p.m. until 11:00 p.m.
- (3) Acceptance of Premises. PERMITTEE has examined and is satisfied with the physical condition of the premises, and accepts the premises in their "as is" condition.
- (4) Use. PERMITTEE may use and occupy the premises for:

"PRIDE FEST"

and for no other reason. The use and occupancy shall only be under PERMITTEE'S name or any assumed name of PERMITTEE. PERMITTEE shall not use or knowingly allow any part of the premises to be used for any unlawful purpose. In the event of any violation of this provision the CITY at its sole discretion may terminate this Permit and expel PERMITTEE from the premises. PERMITTEE waives, releases and relinquishes all claims of right or interest in the premises, other than as granted pursuant to this Permit.

- (5) Fees. PERMITTEE shall be responsible for paying the following fees in connection with the use of the PREMISES:

Mattson Park	\$800 1st day
Staging/stairs	\$20/section
Alcohol Permit	\$50
Trash drum liners (@ current cost)	\$_____**

****PERMITTEE** may pickup 55-gallon trash drums from the CITY for use during the event and must return the drums to the City no later than 5:00 p.m. the Monday immediately after the event ends.

- (6) Clean-up, Repairs, Maintenance and Damage. **PERMITTEE** shall be solely responsible for clean-up of the premises and the repair expense for any damage caused to the premises throughout the term of this Permit. **PERMITTEE** shall, at the direction of the CITY, provide a sufficient number of dumpsters and trash collection cans for the event. **PERMITTEE** will be responsible to reimburse the CITY for out-of-pocket costs (i.e. tipping fee) associated with trash removal and disposal. The CITY strongly encourages **PERMITTEE** to utilize volunteers for clean-up.

PERMITTEE shall take good care of and shall keep the premises, including its fixtures and furnishings, in a clean, safe, orderly and sanitary condition including, but not limited to, keeping all sidewalks, parking areas, alleys, roadways and facilities/areas which are a part of the premises, neat and clean; guarding all defects on the premises which may be a hazard to the general public and business invitees; and promptly removing all debris or any other material which may be a hazard to the general public and business invitees. **PERMITTEE** shall promptly make all repairs which are required to maintain the premises in the condition which existed upon the commencement of its actual use and occupancy. **PERMITTEE** shall not be required to repair plumbing and electrical components of the premises for damages which is not caused by the **PERMITTEE**, its guests or invitees. At the termination of this Permit, **PERMITTEE** shall yield and deliver up the premises in like condition, reasonable use and wear thereof and damage by the elements exempted.

- (7) Clean-up and Damage Bond. **PERMITTEE** shall deposit with the Parks and Recreation Department a clean-up and damage bond in the form of cash or certified check payable to the CITY, in the amount of \$250.00. This will correlate with the type of insurance required. The bond should be deposited with the Community Services Department - Parks and Recreation Division at the time the application is submitted, when possible, but is required prior to the permit being presented to the City Commission for approval. The bond shall be processed to be returned to **PERMITTEE**, without interest, within seven (7) days after all of the following have occurred:

- (a) **PERMITTEE** has complied with all terms of this Permit, including completely vacating the premises by the required time period.
- (b) the term of the Permit has expired;
- (c) **PERMITTEE** has fully performed the restoration and clean-up of the premises to an “as-is” or better condition as prior to the event; and
- (d) **PERMITTEE** has paid all fees set forth herein.

Should PERMITTEE fail to comply with any of these terms, the CITY may retain the clean-up and damage bond and if the amount thereof is insufficient, pursue all other remedies.

- (8) Electrical Permits. For any event, carnival or fair connecting to or modifying an existing electrical source or service, PERMITTEE covenants and agrees to designate a licensed electrical contractor and secure an electrical permit in compliance under Article 525 of the current National Electric Code. An electrical permit shall be obtained two (2) weeks prior to the event and a copy shall be provided to the Community Services Department - Parks & Recreation Division office at least one (1) week prior to the event. Inspections shall be requested by the electrical contractor prior to the opening of the event, or use of the electrical service.
- (9) All Utilities. The CITY agrees to allow PERMITTEE to use existing electrical and water services for food and beverage concessions, lighting and audio equipment. However, the CITY shall not be responsible for any damages whatsoever due to any interruption in electrical, water or other services.

There shall be no modification or alteration of the CITY's electrical supply boxes or other equipment, unless prior approval has been obtained from the CITY and any work is approved by the CITY's electrical inspector. All such work must be done by a licensed electrical contractor at PERMITTEE'S sole expense.

- (10) Reimbursement of Utility Costs. PERMITTEE shall reimburse the CITY the sum of \$300.00 for the costs of electric, water and other utility services utilized by the PERMITTEE, its vendees and concessionaires.
- (11) Signs. PERMITTEE shall be entitled, at PERMITTEE'S own expense, to install signs and banners along the premises. Signs shall comply with the Zoning Chapter of the Marquette Code of Ordinances.
- (12) Insurances. CERTIFICATES OR OTHER EVIDENCE OF ALL REQUIRED COVERAGES AND ENDORSEMENTS MUST BE FILED WITH THE COMMUNITY SERVICES DEPARTMENT - PARKS & RECREATION DIVISION NO LATER THAN THE DATES LISTED WITH EACH TYPE OF INSUARANCE. FAILURE TO ABIDE BY THE REQUIRED DATES WILL RESULT IN THE EVENT BEING CANCELLED OR RESTRICT THE TYPE OF ACTIVITY THAT MAY OCCUR AT THE EVENT.

■ General Liability

PERMITTEE shall carry comprehensive general liability insurance, including premises and all operations, through companies licensed and admitted to do business in Michigan, which shall provide protection from all claims of damage or injury, including death, to persons and property which may arise out of, result from or be caused by PERMITTEE'S use or

occupancy of the premises or its operations conducted thereon, with occurrence and aggregate limits of not less \$1,000,000, per occurrence.

THE CITY, ITS OFFICERS AND EMPLOYEES SHALL BE NAMED AN ADDITIONAL INSURED AND THIS COVERAGE SHALL BE ENDORSED ON THE CERTIFICATE AND POLICY "AS BEING PRIMARY TO THE CITY, AND NOT IN EXCESS OF ANY OTHER INSURANCE, SIMILAR PROTECTION (E.G. RISK MANAGEMENT ASSOCIATION) OR ANY OTHER VALID, APPLICABLE, OR COLLECTABLE INSURANCE OR SELF-INSURANCE WHICH IS OR MAY BE AVAILABLE TO OR CARRIED BY THE CITY."

PERMITTEE shall, no later than 30 days prior to the Event, provide the CITY with a certificate or other evidence of the required coverage. The certificate or other evidence of coverage shall provide a thirty (30) day written notice to the CITY in the event of cancellation or material changes in the coverage. Failure to abide by this provision will result in cancellation of the event.

■ Liquor Liability.

PERMITTEE or its designee (for example, a local service club) shall carry liquor liability insurance with combined limits of not less than \$500,000 insuring for any and all damage and liability which may be caused by, related to or arise out of the sale, furnishing, giving, distribution or consumption of alcoholic beverages on the premises.

PERMITTEE shall, no later than 7 days prior to the Event, provide the CITY with a certificate or other evidence of liquor liability insurance coverage. The certificate or other evidence of coverage shall provide a thirty (30) day written notice to the CITY in the event of cancellation or material changes in the coverage. Failure to abide by this provision will result in the prohibition of the sale, furnishing, giving, distribution or consumption of alcohol beverages at the event.

■ Motor Vehicle Liability

PERMITTEE shall also obtain and maintain vehicle liability coverage for all owned, non-owned and hired motor vehicles which may be operated, maintained or used on the premises. Minimum combined limits of \$500,000 shall be maintained.

PERMITTEE shall, no later than 30 days prior to the Event, provide the CITY with a certificate or other evidence of the required coverage. The certificate or other evidence of coverage shall provide a thirty (30) day written notice to the CITY in the event of cancellation or material changes

in the coverage. Failure to abide by this provision will result in the prohibition of use of any motor vehicle at the event.

■ Food

PERMITTEE or its designee shall carry products and completed operations coverage insurance with combined limits of not less than \$500,000 insuring for any and all damage and liability which may be caused by, related to or arise out of the sale, furnishing, giving, distribution or consumption of food on the premises.

PERMITTEE shall, no later than 30 days prior to the Event, provide the CITY with a certificate or other evidence of the required coverage. The certificate or other evidence of coverage shall provide a thirty (30) day written notice to the CITY in the event of cancellation or material changes in the coverage. Failure to abide by this provision will result in the prohibition of the sale, furnishing, giving, distribution or consumption of food at the event.

■ Other insurance.

If PERMITTEE employs any independent contractor or others for any purpose whatsoever in relation to its use or occupancy of the premises, or for any operations or maintenance connected therewith, PERMITTEE shall obtain and maintain, or cause said independent contractor to obtain and maintain, policies of workers compensation insurance and such other liability insurance of the types and in the amounts outlined above which will provide coverage to the CITY, its officer and employees for all claims which may arise out of, result from or be caused by that work.

PERMITTEE shall, no later than 30 days prior to the Event, provide the CITY with a certificate or other evidence of the required coverage. The certificate or other evidence of coverage shall provide a thirty (30) day written notice to the CITY in the event of cancellation or material changes in the coverage. Failure to abide by this provision will result in the prohibition of use of any independent contractor or other person or entity in connection with the event.

- (13) Indemnity. PERMITTEE covenants and agrees to indemnify, protect, defend and save the CITY, its officers and employees harmless from any claim, action or suit for any loss, liability and damages that may be asserted or levied against the premises or the CITY, its officers or employees, in whole or in part by reason of PERMITTEE'S acts or omissions, or by its use or occupancy of or its operations on the premises or by reason of any other person on the premises by contract, invitation or license, including any expenses, costs and attorney fees incurred in connection with any such claim, action or suit. In the event of any incident occurring on the premises resulting in any personal injury, including death,

to any person, PERMITTEE shall give notice to the CITY within twelve (12) hours after the occurrence thereof or after PERMITTEE learns of such occurrence.

The indemnity, defense and hold harmless requirements shall include and extend to bodily injury to any person or injury to any property of PERMITTEE, its employees and all persons on the premises by contract, invitation or consent.

All property kept, stored or maintained in the premises shall be so kept, stored or maintained at the risk of PERMITTEE only.

- (14) Right of Inspection and Access. The CITY may enter the premises at any time to examine, inspect and to do whatever the CITY may deem necessary or desirable to determine compliance with or to enforce the terms of the permit. Marquette police, fire and other enforcement personnel shall have unrestricted access to the premises at all times.
- (15) Compliance With Rules and Regulations. PERMITTEE shall abide by all laws, statutes, ordinances, governmental orders, rules and regulations which control or in any manner affect or relate to the use or occupancy of the premises, or operations conducted thereon.
- (16) Concessions. PERMITTEE or its designees shall be allowed to sell assorted food and beverage items and to run concession stands during the term of the Permit. PERMITTEE or its designee shall obtain all necessary licenses and/or permits from the appropriate state, county or city governmental authorities. All concessions will be closed by 11:00 p.m. each day. A copy of each license and/or permit obtained by PERMITTEE must be provided to the Parks & Recreation Department no later than 2 weeks prior to the event. PERMITTEE shall submit a list of all food concessionaires to the Fire Marshall's office one (1) week prior to the event. PERMITTEE shall notify and require the following of all food concessionaires:
 - (a) A fire extinguisher shall be provided in all tents and in all areas and enclosures used for cooking.
 - (i) The fire extinguisher shall be a 1A:20B: C type, a minimum of 5 pounds.
 - (ii) Proof that the fire extinguisher has been serviced within the last year is required.
 - (iii) The extinguisher shall be tagged with the date and service provider.
 - (iv) If the fire extinguisher was purchased within the last year, a sales slip must be provided.

(v) The unit shall be mounted on the center post of each tent, not more than five (5) feet of the ground and accessible for use in an emergency.

(b) All propane tanks used for cooking shall be secured so as to prevent tipping. The tanks shall be remote from congested areas.

(c) Only approved, heavy-duty extension cords shall be used and all electrical connections shall be protected.

If the vendor fails to comply with these requirements, they will not be permitted to participate in the event.

- (17) Alcoholic Beverages. PERMITTEE or its designee shall be allowed to sell and/or furnish beer and wine on the premises as follows:

June 10, 2023 from 1:00 p.m. until 10:00 p.m.

PERMITTEE is solely responsible for obtaining all necessary licenses and permits in order to sell and/or furnish alcohol products. A copy of each license and/or permit obtained by PERMITTEE must be provided to the Parks & Recreation Department no later than 7 days prior to the event. Failure to abide by this provision will result in the prohibition of the sale, furnishing, giving, distribution or consumption of alcohol beverages at the event.

If an additional day is needed for the event due to inclement weather, the time for selling and/or furnishing beer and wine on the premises shall be from _____ a.m. / p.m. until _____ a.m. / p.m. on _____, 20___. The sale, furnishing and consumption of alcoholic beverages is specifically conditioned upon PERMITTEE or its designee obtaining and maintaining the appropriate license or permit from the Michigan liquor control commission at all relevant times and on PERMITTEE or its designee obtaining and maintaining liquor liability insurance as required in this Permit.

- (18) Exclusive Use. PERMITTEE shall have the exclusive use of the premises during the term of this permit.
- (19) Admission. PERMITTEE may charge admission to the general public to enter premises. Entry shall not be denied to any individual based upon race, sex, age, creed, or national origin.
- (20) Police and Fire Protection. PERMITTEE shall fully reimburse the CITY at overtime and fringe benefit rates for all additional police and/or fire department officers who are assigned to the premises, or the vicinity thereof, because of the use or occupancy thereof by PERMITTEE.

- (21) **Parking and Traffic.** PERMITTEE shall prohibit all motor vehicles in or on the premises and shall cause all streets and alleys to be properly barricaded and signed. All motor vehicles shall be operated only on established roads and parked in designated areas. All fire lanes and no parking zones shall be maintained during the event.
- (22) **Health and Sanitation Facilities.** PERMITTEE shall furnish and maintain a sufficient number of portable bathrooms and washing facilities, at PERMITTEE'S expense. This number shall be determined by the Marquette County Health Department. Each bank or group of portable restrooms shall have a minimum of one (1) barrier free/ADA compliant restroom. A bank or group consists of ten (10) or less portable restrooms.
- (23) **Compliance with PERMITTEE'S Representations.** PERMITTEE shall fully comply with all representations and promises set forth in its Application for Special Events Permit
- ☐ (24) **Equipment and Services.** The CITY agrees to have the following equipment and services available during the term of this Permit:

_____.
- (25) **Security.** It shall be PERMITTEE'S sole responsibility to provide security throughout the term of the event. The Chief of Police or designee shall establish the number of security personnel whom PERMITTEE shall be required to have on the premises. The security shall be provided by a licensed and certified security agency, whose members shall be in identifiable uniforms.
- (26) **Bleachers, Booths, Fencing and Tents.** PERMITTEE shall be solely responsible for the construction and removal of any bleachers, booths, fencing, tents or structures used during the course of the event.
- (27) **Reimbursement of Other Costs.** PERMITTEE shall reimburse the CITY for all cost relating to the use of barricades, fencing, bleachers and other facilities and equipment provided by the CITY. PERMITTEE, on behalf of the organization, agrees to reimburse the City of Marquette for its "out-of-pocket" expenses which includes but is not limited to overtime of City employees and trash disposal tipping fees at landfills. City staff is readily accessible to discuss out-of-pocket cost estimates and ways to reduce these costs. All City of Marquette invoices sent to organizations for reimbursement of out-of-pocket costs are due within thirty (30) days.

- (28) Tents. All tents or air supported structures used during the term of the permit shall comply with Section 31 of the Michigan Building Code and Section 24 of the International Fire Code. Material of all tents shall be of non-combustible material or flame resistant material conforming to NFPA 701, treated in an approved manner to render the material flame resistant. Appropriate documentation must be presented to any Building Code Enforcement Officer, Fire Official or other Code Official upon request. A copy shall also be retained on the premises where the tent is located. The documentation must attest to the following information relative to the flame resistance of the fabric:

- (a) Name and address of the owners of the tent or air supported structure.
- (b) Date the fabric was last treated with flame resistant solution.
- (c) Trade name of kind of chemical used in treatment.
- (d) Name of person or firm treating the material.
- (e) Name of testing agency and test standard by which the fabric was treated.

If more than one tent or air supported structure is located on the premises a copy of all required documentation for each tent or structure shall be kept at a central location on the premises. The use of gasoline, gas, charcoal or any other cooking devices or any unapproved flame inside or within 20 feet of a tent or other air supported structure is strictly prohibited.

- (29) Fire.
 - (a) No open flames or explosives shall be permitted for decoration, display or use without permission from the Fire Department.
 - (b) The use of paper or fabric for coverings or decoration shall not be permitted unless proof is submitted to the Fire Department that such materials are flame proof.
 - (c) All seating capacity and room arrangements shall be approved by the Fire Department.
 - (d) An access lane, a minimum of eighteen (18) feet wide, shall be maintained leading into and out of the event so that emergency vehicles can enter in case of an emergency.
 - (e) Barricades or any type of obstruction which could impede or interfere with fire suppression forces shall not be erected.

- (30) Music. PERMITTEE shall be solely responsible for obtaining the appropriate license to present any music covered by copyright, whether by live performance, recorded music or retransmission of radio and/or television broadcast. The PERMITTEE covenants and agrees to indemnify, protect, defend and save the CITY, its officers and employees harmless from any claim, action or suit or for any loss, liability and damages that may be asserted or levied against the CITY, its officers or employees, based in whole or in part upon a claim of copyright infringement.
- (31) Conditions/Requirements. Additional conditions and requirements of this permit are as follows:

PERMITTEE has permission to begin setting up on June 9, 2023 at 8:00 a.m. and must have all items removed from the park by 10:00 a.m. on June 12, 2023.
- (32) Cancellation or Modification. It is understood and agreed that ten (10) days advance written notice of any cancellation, reduction and/or material changes in the proposed agenda will be provided to the Community Services Director, City of Marquette, 401 East Fair Avenue, Marquette, Michigan, 49855.
- (33) Duplicate Original Copies. This Permit is executed in triplicate original copies, two of which shall be retained by the CITY and one by PERMITTEE, each of which shall be deemed to be an original, but all of which shall be construed as one and the same document.
- (34) Governing Law. This Permit and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Michigan.
- (35) Paragraph Headings. The paragraph headings appearing in the Permit have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit or extend the scope or intent of the paragraphs to which they appertain.
- (36) Entire Agreement. This Permit represents the entire agreement of the parties and shall be deemed to be an integrated agreement containing all prior and contemporaneous oral and written agreement between the parties, and shall not be modified in any part, except in a writing signed by all parties.

IT SHALL BE THE RESPONSIBILITY OF THE PERMITTEE TO DESIGNATE A SPECIFIC LOCATION ON THE PREMISES AS ITS HEADQUARTERS AND TO HAVE AVAILABLE AT THAT LOCATION, AT ALL TIMES THE PREMISES ARE OPEN TO THE PUBLIC AND DURING SET UP OR CONSTRUCTION, AT LEAST ONE PERSON WHO HAS THE KNOWLEDGE AND AUTHORITY TO REPRESENT PERMITTEE CONCERNING ALL ACTIVITIES CONDUCTED UNDER THE TERMS OF THE PERMIT. FAILURE TO COMPLY WITH THIS SECTION OR ANY OTHER TERM OF

THE PERMIT SHALL BE CAUSE FOR THE CITY MANAGER, CHIEF OF POLICE, FIRE CHIEF, OR DESIGNEE TO IMMEDIATELY REVOKE THIS SPECIAL EVENTS PERMIT AND TO REQUIRE PERMITTEE TO VACATE THE PREMISES.

The parties hereto have hereunto set their hands and seals the day and year first above written.

CITY OF MARQUETTE
PRIDE

UPPER PENINSULA RAINBOW

Cody O. Mayer, Mayor

By: Alex Lento-Clark
Its: Secretary

Kyle Whitney, City Clerk

By: LINDSAY EXWORTHY
Its: President

Approved as to Substance:

Karen M. Kovacs, City Manager

Approved as to Form:

Suzanne C. Larsen, City Attorney

1) Facilities Utilizing:



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Special Event Information for UP Pride Fest
Mattson Lower Harbor Park
June 10th, 2023

3)Lighting Requirements:

No lighting requirements needed.

4)Communication Area/Facility:

An HQ or information table will be posted at the main entrance on the east side by the pavilion. Here will be programming, walkie station for communication with volunteer staff and a festival director to handle all attendees and volunteers. This is located at the center of the festival grounds seen on the site map above.

5)Noise Control and Abatement:

Festival will officially end at **11:00 PM** but entertainment will stop at **10:30 PM** with an announcement for everyone to begin clearing the park by 11:00 PM. Last call for alcohol will be at **10:00 PM** to assist in this transition to close.

6)Signs and Banners along the Premises:

There will be 3x5 flags on 4 foot conduits along the perimeter of the festival. Nothing will be in the right of way for pedestrians or traffic. There will be a sign near the parking area reserve space for emergency response closest to access to the park.

7)Insurance Arrangement:

Refer to the attached file with event liability through the Elder Agency. Previous year's insurance certification will be updated shortly.

Special Event Information for UP Pride Fest
Mattson Lower Harbor Park
June 10th, 2023

8) List of Contractors and Subcontractors:

Production: Double Trouble
Sanitation: Stennberg Sitter
Beer/Wine: Pikes Distribution

9) Fencing:

Fencing provided by the Marquette Blues Society will surround the entire festival grounds on the west side of Mattson Lower Harbor Park. Refer to the site map above for fence perimeter.

10) Concessions:

Beer/Wine provided by Pikes Distribution.
Other food vendors and food trucks coming later.

11) Permits Secured from other Departments:

Right of Way Permit for March from Harlow Park coming at a later date depending on volunteer acquisition.
Alcohol permit provided at a later date.

Special Event Information for UP Pride Fest
Mattson Lower Harbor Park
June 10th, 2023

12) Traffic Plan:

Not using any road systems but are marketing alternative parking prior to event and information available via marketing and on site for alternative parking sites.

13) Health and Sanitation Facilities:

9 regular bathrooms and 1 accessible unit provided by Stennberg Sitters on the East end of festival grounds with two hand washing stations and sanitation units in each bathroom.

14) Request for City Equipment:

Copy of city request form coming at a later date. Deadline for vendors is 5/6 to provide us with their needs.

15) Security:

A schedule of volunteers with security identifiable clothing will be available on site at all times to handle any situations requiring de-escalation. Volunteers will be directed to contact the festival directors to follow emergency plans and contact appropriate agencies to handle the emergency.

Special Event Information for UP Pride Fest
Mattson Lower Harbor Park
June 10th, 2023

16) Tents - Number, Placement and Miss Dig:

Refer to the site map above. Miss Dig will be performed Monday/Tuesday on the week of the event before set-up begins on Friday 6/10.

Information/ Activities Tent: 30x90

Beer/Wine Tent: 20x40

Pride HQ Tent: 10x20

Performer Tent: 10x20

Medical Tent: 10x10

Vendors Tents: 10x10 per vendor

17) Fire Protection:

Fire Extinguishers will be located at every major tent mounted on the center-most post.

18) Medical Facilities:

A medical tent will be on the premises with an approved medical kit and volunteers on site. Refer to the site map for location.

19) Emergency Action Plan:

At the event of an emergency, volunteer staff are expected to communicate the issue with festival director or co-director of an issue and the directors will be responsible for contacting either security or law enforcement. An evacuation route is available on both ends of the festival grounds. Refer to the site map above.

Special Event Information for UP Pride Fest
Mattson Lower Harbor Park
June 10th, 2023

20) Alternate Rain Plan:

Event will continue if it rains. However, if there is lightning the event will be delayed or canceled if it persists. No alternative date or location will be had.

21) Access Plan:

Access point on East end of festival grounds with a 12 foot wide entrance with a 42 foot turning radius. Refer to access point on the site map above.

22) Number of Volunteers and Placement:

We are still gathering our total number of volunteers but are currently at a projected requirement of 40 volunteers throughout the day.

23) Festival Contact Person:

Alex Lehto-Clark

(989) 289-8531

Available Friday, Saturday, and Sunday as point of contact



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

05/12/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Elder Agency Shelly Malay 500 S. Third St. Marquette MI 49855		CONTACT NAME: Shelly Malay PHONE (A/C, No, Ext): (906) 228-9292 FAX (A/C, No): E-MAIL ADDRESS: smalay@elderagency.com	
INSURED UP Rainbow Pride c/o Alex Lehto-Clark PO Box 954 Marquette MI 49855		INSURER(S) AFFORDING COVERAGE INSURER A: Lloyds Syndicate 2623 INSURER B: Lloyds Syndicate 623 INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # AA-1128623 AA-1126623	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD'L INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☒ CLAIMS-MADE ☐ OCCUR Host Liquor Liability ☒ Retail Liquor Liability GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y	N	EH-771323-L3445403	06/09/2023 12:01 AM	06/12/2023 12:01 AM	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (other than fire) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Deductible \$ 1,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB EXCESS LIAB ☐ DED ☐ RETENTION \$ ☐ OCCUR ☐ CLAIMS-MADE						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☐ N/A						PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder listed below is named as additional insured per attached CG 20 26 04 13. Attendance: 3000, Event Type: Festival & Cultural Event - Outdoor.

CERTIFICATE HOLDER**CANCELLATION**

City of Marquette 300 W Baraga Ave Marquette MI 49855	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Shelly Malay
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Schedule

Name of Additional Insured Person(s) or Organization(s):

City of Marquette
300 W Baraga Ave
Marquette, MI 49855

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. in the performance of your ongoing operations; or
2. in connection with your premises owned by or rented to you.

However:

1. the insurance afforded to such additional insured only applies to the extent permitted by law; and
2. if coverage provided to the Additional Insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these Additional Insureds, the following is added to **SECTION III - LIMITS OF INSURANCE**:

If coverage provided to the Additional Insured is required by a contract or agreement, the most we will pay on behalf of the Additional Insured is the amount of insurance:

1. required by the contract or agreement; or
2. available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

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(Page 1 of 1)

CG 20 26 (Ed. 04/13)

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 5/30/2023

Consent Agenda - Roll Call Vote

Resolutions for Unpaid Stormwater and Unpaid Water and Wastewater - Roll Call Vote

BACKGROUND:

Chapter 48-194 of the City Code states, "Unpaid stormwater service charges shall constitute a lien against the property affected from the date the charges were incurred. Charges which have remained unpaid for a period of three (3) months prior to April 1 of any year may, after notice to the owner, by resolution of the City Commission, be certified to the City Assessor who shall place the charges on the City Tax Roll."

Chapter 48-123 of the City Code states, "Charges for water and wastewater services shall constitute a lien against the property served, and if not paid within three (3) months after the same is due, the official in charge of the collection thereof shall, prior to April 1 and October 1, certify to the City Assessor the facts of such delinquency, whereupon the City Assessor shall enter such delinquent charges upon the next general City Tax Roll as a charge against such premises, and the lien thereof shall be enforced in the same manner as provided by law for delinquent and unpaid taxes."

FISCAL EFFECT:

\$483.57 plus accruing interest and penalty for delinquent stormwater, and \$9,707.53 plus accruing interest and penalty for delinquent water/sewer accounts.

RECOMMENDATION:

Accept the Resolutions to place unpaid stormwater, water and wastewater utility charges on the next City Tax Roll for collection, and authorize the City Clerk to sign the Resolutions.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Resolution for Unpaid Stormwater
- ▣ Resolution for Unpaid Water and Wastewater
- ▣ Delinquent Water and Wastewater Redacted
- ▣ Delinquent Stormwater Redacted

RESOLUTION FOR UNPAID STORMWATER

WHEREAS, the City of Marquette has adopted a Stormwater Utility Ordinance, Chapter 48 of the City Code; and,

WHEREAS, each parcel in the City of Marquette is assessed a proportionate share of the cost of the utility; and,

WHEREAS, the attached list of property owners have not paid their stormwater utility charges, which were delinquent three months prior to April 1, 2023, and have been so notified.

NOW, THEREFORE, IT IS RESOLVED, that the attached list of unpaid stormwater utility charges shall be certified to the Marquette City Assessor to be placed on the next city tax roll for collection.

The foregoing resolution offered by Commissioner _____ and supported by Commissioner _____.

AYES:

NAYS:

ABSENT:

ABSTENTION:

RESOLUTION DECLARED ADOPTED.

I hereby certify that the foregoing constitutes a true and complete copy of the resolution adopted by the City Commission of the City of Marquette, County of Marquette, Michigan, at a regular meeting held on May 30, 2023.

Kyle Whitney, Clerk

RESOLUTION FOR UNPAID WATER & WASTEWATER

WHEREAS, the City of Marquette has adopted a Water and Sewage Rates Ordinance, Chapter 48 of the City Code; and,

WHEREAS, each parcel in the City of Marquette is assessed a proportionate share of the cost of the utility; and,

WHEREAS, the attached list of property owners have not paid their water and wastewater charges, which were delinquent three months prior to April 1, 2023, and have been so notified.

NOW, THEREFORE, IT IS RESOLVED, that the attached list of unpaid water and wastewater charges shall be certified to the Marquette City Assessor to be placed on the next city tax roll for collection.

The foregoing resolution offered by Commissioner _____ and supported by Commissioner _____.

AYES:

NAYS:

ABSENT:

ABSTENTION:

RESOLUTION DECLARED ADOPTED.

I hereby certify that the foregoing constitutes a true and complete copy of the resolution adopted by the City Commission of the City of Marquette, County of Marquette, Michigan, at a regular meeting held on May 30, 2023.

Kyle Whitney, Clerk

Delinquent accounts for tax roll											
Monday, April 3, 2023											
Parcel	Amount	Account	Incurring by	Incurring by address	Incurring by city state zip	Service address	Owner	Owner c/o	Owner address	Owner city state zip	Status
90900	89.17	204067304	PASCOE DEBBIE		MARQUETTE, MI 49855-8510	252 BLEMHUBER AVE	PASCO, DANIEL / ANDEREGG, KATHERINE			PORTLAND, OR 97217	Inactive-Balance Due
330250	876.13	1022059004	Julie Harr		Pensacola FL 32506-3862	102 W HEWITT AVE	PETERSEN, CARL ALAN/ VICTORIA JAYNE			BIRMINGHAM, MI 48009	Inactive-Balance Due
330250	810.58	1022059005	PETERSEN VICTORIA/CARL		BIRMINGHAM, MI 48009-1705	102 W HEWITT AVE	PETERSEN, CARL ALAN/ VICTORIA JAYNE			BIRMINGHAM, MI 48009	Inactive-Balance Due
510734	60.41	6100400002	DHAWAN MANPREET/SONIA		MARQUETTE, MI 49855-5082	712 S LAKESHORE BLVD	DHAWAN, MANPREET / SONIA			MARQUETTE, MI 49855	Inactive-Balance Due
520340	342.01	6050066001	SCOTT DEBRA		GROVE, OK 74344-2932	800 LASALLE RD	SCOTT, DEBRA			MARQUETTE, MI 49855	Active
0440310	155.82	3846068004	Alexander Winkler		Marquette MI 49855	1834 Fitch Ave	Kai Gerster			MARQUETTE, MI 49855	Inactive-Balance Due
230690	385.82	5621142101	SELLE MARGUERITE		MUNISING, MI 49862-9202	316 W MICHIGAN ST	SELLE, MARGUERITE			MUNISING, MI 49862	Active
481020	50.51	8046140003	Alec Vanhorn		Marquette, MI 49855	2117 Fitch Ave	Kasaim Koonnala / Ruth Barry			MARQUETTE, MI 49855	Inactive-Balance Due
340130	127.87	3424038315	Harlee Davis		Marquette, MI 49855	310 W College Ave	Amy Marcotte			MARQUETTE, MI 49855	Inactive-Balance Due
191320	1,064.45	5614264507	STOLL BEN		MARQUETTE, MI 49855-4341	315 W RIDGE ST	315 LLC			MARQUETTE, MI 49855	Inactive-Balance Due
110980	324.42	4008014002	RICHER SR JOSEPH		OSHKOSH, WI 54902-6944	233 ROCK ST	BLONIAZ, DYLAN			MARQUETTE, MI 49855	Inactive-Balance Due
510510	32.49	2657025122	ILLIKAINEN DIANE		MARQUETTE, MI 49855-1861	1962 WRIGHT ST	ILLIKAINEN, DIANE / JOHN			MARQUETTE, MI 49855	Inactive-Balance Due
510390	4,823.26	2657053702	KUOPUS PROPERTIES LLC		ISHPEMING, MI 49849-9311	2050 WRIGHT SERVICE 1	KUOPUS PROPERTIES LLC			ISHPEMING, MI 49849	Active
510390	564.59	2657056702	KUOPUS PROPERTIES LLC		ISHPEMING, MI 49849-9311	2050 WRIGHT SERVICE 2	KUOPUS PROPERTIES LLC			ISHPEMING, MI 49849	Active
\$ 9,707.53											

Delinquent accounts for tax roll				Monday, April 3, 2023							
Parcel	Amount	Account	Incurred by	Incurred by address	Incurred by city state zip	Service address	Owner	Owner c/o	Owner address	Owner city state zip	Status
300080	59.61	1028142505	BLONDEAU PROPERTIES LLC		MARQUETTE, MI 49855-2314	710 N FOURTH ST	BLONDEAU PROPERTIES LLC			MARQUETTE, MI 49855	Active
1400270	79.72	2280204202	CALLANDER MATTHEW		MARQUETTE, MI 49855-4935	2009 NORTH CREEK DR	CALLANDER, MATTHEW			MARQUETTE, MI 49855	Active
110340	81.81	4008089103	MORLEY SHELLEY		MARQUETTE, MI 49855-3816	421 S THIRD ST	MAJORS RENTALS LLC			MARQUETTE, MI 49855	Active
90751	91.03	5561022002	GORSALITZ JOSH		Marquette, MI 49855-4914	231 NEWBERRY ST	GORSALITZ, JOSHUA / HEIDI			MARQUETTE, MI 49855	Active
271110	91.03	5561054001	VENETJOKI ARI		ROCKPORT, ME 04856-5732	1101 LOGAN ST	CAMILLI, MICHAEL A			MARQUETTE, MI 49855	Active
561350	80.37	8044109001	MAKI CHARLES H		Marquette, MI 49855-1861	2005 NEIDHART AVE	ILLIKAINEN, DIANE / MAKI, DAVID			MARQUETTE, MI 49855	ACTIVE

\$ 483.57

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 5/30/2023

New Business

City Health Insurance Renewal - Roll Call Vote

BACKGROUND:

The City's health insurance package for full-time employees and eligible retirees is renewed annually for a plan year beginning July 1. Renewal rates are obtained from our third party administrator and presented to a health committee comprised of one member from each of our five unions as well as management and Human Resources staff representation. This year rates were obtained from 44North as well as from the West Michigan Health Insurance Pool through Gallagher Benefit Services, Inc. The West Michigan Health Insurance Pool is a group of school districts, community colleges and municipalities working together to provide the most cost-effective health insurance for the families that participate in group health coverage through the employers in the Pool. The health committee unanimously agreed with the option to pursue moving to the Pool.

The City budgets for and pays the State of Michigan hard caps set by law annually for medical and pharmacy coverage for active employees along with the full cost of vision and dental insurances. Employees are responsible for paying the cost above the hard cap rate as the premium they see deducted per paycheck. The proposed coverage options for the City of Marquette include various Blue Cross Blue Shield of Michigan plan options that will save City employees significantly in premiums deducted from their paychecks. The cost to the City will remain neutral as the City pays the hard cap rates and there will be no change to vision and dental coverage or rates as Gallagher assumes the role of the City's agent of record for these plans.

FISCAL EFFECT:

The cost budgeted by the City will remain the same, and includes the hard cap rates set by Michigan law, as well as the cost of dental and vision coverage.

RECOMMENDATION:

Reaffirm the City of Marquette's commitment to paying the hard caps set by Michigan law for eligible active employees on the City's health and prescription drug coverage; approve the Resolution authorizing public entity membership in the West Michigan Health Insurance Pool for a minimum three-year period; and approve the Business Associate Agreement with Gallagher Benefit Services, Inc. to act as the City's agent for administration of health insurance and other related insurance services.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Resolution
- ▣ Business Associate Agreement

CITY OF MARQUETTE

**CITY COMMISSION
(the “Public Entity”)**

**RESOLUTION AUTHORIZING PUBLIC ENTITY MEMBERSHIP
IN THE WEST MICHIGAN HEALTH INSURANCE POOL (“WMHIP”) FOR A MINIMUM
THREE-YEAR PERIOD**

PREMISES

A. The Western Michigan Health Insurance Pool (“WMHIP”) is a Public Employer Pooled Plan (“PEPP”) that provides pooled self-funded health insurance coverage, as authorized by the Public Employees Health Benefit Act, Act 106 of 2007.

B. WMHIP has received from the Michigan Department of Insurance and Financial Services (“DIFS”) a certificate of registration authorizing establishment of the PEPP.

C. The Commission has had opportunity to consider the obligations of the City of Marquette to WMHIP and PEPP plans, and services available to the City of Marquette by WMHIP, and has carefully reviewed the WMHIP Amended Trust Agreement and Bylaws.

D. The Commission desires to authorize membership of the City of Marquette in the WMHIP for a minimum period of three years.

NOW, THEREFORE, the City Commission of the City of Marquette hereby resolves:

1. The Commission approves the WMHIP Amended Trust Agreement and bylaws, and accepts WMHIP provision of City of Marquette self-funded, pooled health insurance coverage under the PEPP plan.

2. The City Manager, or CFO of the City of Marquette or, with their approval, the person appointed by the Commission as WMHIP Trustee or Alternate Trustee, is hereby authorized

to execute all documents necessary for the City of Marquette to become a Member in the WMHIP PEPP plan.

3. The Commission hereby confirms its appointment of the following persons as Trustee and Alternate Trustee to serve as Trustee when the initial Trustee is not available or in attendance to carry out the Trustee's duties:

Jennifer LePage

[Insert Trustee's Name]

Karen Kovacs

[Insert Alternate Trustee's Name]

As required by law, neither the Trustee nor the Alternate Trustee is an owner, officer, or employee of any third-party administrator or any other third party providing services to WMHIP. The Trustee and Alternate Trustee shall serve until replaced by action of the Commission. Once appointments are made known to the WMHIP, the persons appointed shall remain in office until the WMHIP receives evidence of appointment of other persons. Evidence of proper appointment of the Trustee and Alternate Trustee shall be a certified copy of the resolution passed by the Commission, indicating the names of the designated Trustee and/or Alternate Trustee. Failure of the Public Entity to designate a Trustee, or the failure of that Trustee/Alternate Trustee to participate on the Board of Trustees, shall not affect the responsibilities or duties of the City of Marquette under the Amended Trust Agreement.

4. The City of Marquette shall continue participation in the WMHIP for a minimum of three full years under its PEPP plan.

5. All resolutions and parts of resolutions insofar as they conflict with the provisions of this Resolution be and the same are hereby rescinded.

CERTIFICATE

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Marquette, Marquette County, State of Michigan, at a _____ meeting held on _____, 20____, and that this meeting was conducted and public notice of this meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of this meeting were kept and will be or have been made available as required by this Act.

I further certify that the following Commissioners were present at this meeting:

_____ and that the following Commissioners were absent _____.

I further certify that the foregoing resolution was moved by Commissioner _____ and seconded by Commissioner _____.

I further certify that the following Commissioners voted for adoption of the foregoing resolution:

_____ and that the following Commissioners voted against adoption of this resolution:

_____.

Kyle Whitney, City Clerk

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("**Agreement**") is entered into on April 21, 2023 (the "**Effective Date**"), by and between City of Marquette on behalf of the Group Health and Welfare Plans of City of Marquette ("**Covered Entity**") and Gallagher Benefit Services, Inc. ("**Business Associate**").

RECITALS:

WHEREAS, Covered Entity and Business Associate mutually desire to outline their individual responsibilities with respect to the use and/or disclosure of Protected Health Information ("**PHI**") as mandated by the Privacy Rule promulgated under the Administrative Simplifications subtitle of the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**") including all pertinent regulations issued by the U.S. Department of Health and Human Services as outlined in 45 C.F.R. Parts 160, 162 and 164 ("**HIPAA Privacy Rules and/or Security Standards**"); and

WHEREAS, Covered Entity and Business Associate understand and agree that the HIPAA Privacy Rules and Security Standards requires the Covered Entity and Business Associate enter into a Business Associate Agreement which shall govern the use and/or disclosure of PHI and the security of PHI and ePHI.

NOW, THEREFORE, the parties hereto agree as follows:

1. Definitions. When used in this Agreement and capitalized, the following terms have the following meanings:

(a) "**Breach**" shall have the same meaning as the term "Breach" in 45 C.F.R. §164.402.

(b) "**Electronic Protected Health Information**" or "**ePHI**" shall mean Protected Health Information transmitted by electronic media or maintained in electronic media.

(c) "**Individual**" shall have the same meaning as the term "Individual" in 45 C.F.R. §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).

(d) "**Privacy Rule**" shall mean the Standards for Privacy of Individual Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164 Subparts A and E.

(e) "**Protected Health Information**" or "**PHI**" shall have the same meaning as the term "protected health information" in 45 C.F.R. §

160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

(f) **"Required by Law"** shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.

(g) **"Secretary"** shall mean the Secretary of the Department of Health and Human Services or his or her designee.

(h) **"Security Incident"** shall mean any attempted or successful unauthorized access, use, disclosure, modification or destruction of information or systems operations in an electronic information system.

(i) **"Security Rule"** shall mean the Standards for Security of PHI, including ePHI, as set forth at 45 C.F.R. Parts 160 and 164 Subparts A and C.

(j) **"Unsecured Protected Health Information"** shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary.

Terms used but not defined in this Agreement shall have the same meaning as those terms in the HIPAA regulations.

2. Obligations and Activities of Business Associate Regarding PHI.

(a) Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law.

(b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement.

(c) Business Associate agrees to ensure that any agents, including subcontractors (excluding entities that are merely conduits), to whom it provides PHI agree to the same restrictions and conditions that apply to Business Associate with respect to such information.

(d) Business Associate agrees to provide access, at the request of Covered Entity, and in a reasonable time and manner designated by Covered Entity, to PHI in a Designated Record Set that is not also in Covered Entity's possession, to Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.524.

(e) Business Associate agrees to make any amendment to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 in a reasonable time and manner designated by Covered Entity.

(f) Business Associate agrees to make internal practices books and records relating to the use and disclosure of PHI available to the Secretary, in a reasonable time and manner as designated by the Covered Entity or Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule. Business Associate shall immediately notify Covered Entity upon receipt or notice of any request by the Secretary to conduct an investigation with respect to PHI received from the Covered Entity.

(g) Business Associate agrees to document any disclosures of PHI that are not excepted under 45 C.F.R. § 164.528(a)(1) as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

(h) Business Associate agrees to provide to Covered Entity or an Individual, in a time and manner designated by Covered Entity, information collected in accordance with paragraph (g) above, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

(i) Business Associate agrees to use or disclose PHI pursuant to the request of Covered Entity; provided, however, that Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

3. Permitted Uses and Disclosures of PHI by Business Associate.

(a) Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, Covered Entity provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

(b) Business Associate may use PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate.

(c) Business Associate may disclose PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate if:

(i) such disclosure is Required by Law, or

(ii) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that such information will remain confidential and used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person agrees to notify Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

(d) Business Associate shall limit the PHI to the extent practicable, to the limited data set or if needed by the Business Associate, to the minimum necessary to accomplish the intended purpose of such use, disclosure or request subject to exceptions set forth in the Privacy Rule.

(e) Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

4. Obligations of Covered Entity Regarding PHI.

(a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. § 164.520, as well as any changes to such notice.

(b) Covered Entity shall provide Business Associate with any changes in, or revocation of, authorization by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, if such restrictions affect Business Associate's permitted or required uses and disclosures.

(d) Covered Entity shall require all of its employees, agents and representatives to be appropriately informed of its legal obligations pursuant to this Agreement and the Privacy Rule and Security Standards required by HIPAA and will reasonably cooperate with Business Associate in the performance of the mutual obligations under this Agreement.

5. Security of Protected Health Information.

(a) Business Associate has implemented policies and procedures to ensure that its receipt, maintenance, or transmission of all PHI, either electronic or otherwise, on behalf of Covered Entity complies with the applicable administrative, physical, and technical safeguards

required protecting the confidentiality, availability and integrity of PHI as required by the HIPAA Privacy Rules and Security Standards.

(b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality, availability and integrity of PHI as required by HIPAA Privacy Rules and Security Standards.

(c) Business Associate agrees to report to Covered Entity any Security Incident (as defined 45 C.F.R. Part 164.304) of which it becomes aware. Business Associate agrees to report the Security Incident to the Covered Entity as soon as reasonably practicable, but not later than 10 business days from the date the Business Associate becomes aware of the incident.

(d) Business Associate agrees to establish procedures to mitigate, to the extent possible, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement.

(e) Business Associate agrees to immediately notify Covered Entity upon discovery of any Breach of Unsecured Protected Health Information (as defined in 45 C.F.R. §§ 164.402 and 164.410) and provide to Covered Entity, to the extent available to Business Associate, all information required to permit Covered Entity to comply with the requirements of 45 C.F.R. Part 164 Subpart D.

(f) Covered Entity agrees and understands that the Covered Entity is independently responsible for the security of all PHI in its possession (electronic or otherwise), including all PHI that it receives from outside sources including the Business Associate.

6. Term and Termination.

(a) ***Term.*** This Agreement shall be effective as of the Effective Date and shall remain in effect until the Business Associate relationship with the Covered Entity is terminated and all PHI is returned, destroyed or is otherwise protected as set forth in Section 6(d).

(b) ***Termination for Cause by Covered Entity.*** Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall provide an opportunity for Business Associate to cure the breach. If Business Associate does not cure the breach within 30 days from the date that Covered Entity provides notice of such breach to Business Associate, Covered Entity shall have the right to immediately terminate this

Agreement and the underlying services agreement between Covered Entity and Business Associate.

(c) ***Termination by Business Associate.*** This Agreement may be terminated by Business Associate upon 30 days prior written notice to Covered Entity in the event that Business Associate, acting in good faith, believes that the requirements of any law, legislation, consent decree, judicial action, governmental regulation or agency opinion, enacted, issued, or otherwise effective after the date of this Agreement and applicable to PHI or to this Agreement, cannot be met by Business Associate in a commercially reasonable manner and without significant additional expense.

(d) ***Effect of Termination.*** Upon termination of this Agreement for any reason, at the request of Covered Entity, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall not retain any copies of the PHI unless return or destruction is deemed infeasible. If the return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. For purposes of illustration only and not to limit the set of circumstances that could potentially make return or destruction infeasible, it would be infeasible for Business Associate to return or destroy certain PHI that is part of work product that must be retained for document retention/archival purposes, as well as PHI that is stored as a result of backup e-mail systems that store e-mails for emergency backup purposes.

7. Amendment.

The parties may agree to amend this Agreement from time to time in any other respect that they deem appropriate. This Agreement shall not be amended except by written instrument executed by the parties.

8. Indemnification.

Business Associate shall indemnify and hold harmless Covered Entity from and against any and all costs, expenses, claims, demands, causes of action, damages, attorneys' fees and judgments that arise out of or that may be imposed upon, incurred by, or brought against Covered Entity to the extent directly resulting from a breach of this Agreement or any violation of the Privacy Rule or other applicable HIPAA regulations by Business Associate. The indemnification obligations provided for in this Section will commence on the effective date of this Agreement and will survive its termination.

9. Severability.

The parties intend this Agreement to be enforced as written. However, (i) if any portion or provision of this Agreement is to any extent declared illegal or unenforceable by a duly authorized court having jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, will not be affected thereby, and each portion and provision of this Agreement will be valid and enforceable to the fullest extent permitted by law; and (ii) if any provision, or part thereof, is held to be unenforceable because of the duration of such provision, the Covered Entity and the Business Associate agree that the court making such determination will have the power to modify such provision, and such modified provision will then be enforceable to the fullest extent permitted by law.

10. Notices.

All notices, requests, consents and other communications hereunder will be in writing, will be addressed to the receiving party's address set forth below or to such other address as a party may designate by notice hereunder, and will be either (i) delivered by hand, (ii) made facsimile transmission, (iii) sent by overnight courier, or (iv) sent by registered mail or certified mail, return receipt requested, postage prepaid.

If to the Covered Entity:

City of Marquette
Attn: Jennifer LePage
300 W Baraga Ave
Marquette MI 49855

If to the Business Associate:

Gallagher Benefit Services, Inc.
Mike Hagerty
300 Ottawa NW, Suite 301
Grand Rapids, MI 49503

11. Regulatory References.

A reference in this Agreement to a section in the Privacy Rule means the referenced section or its successor, and for which compliance is required.

12. Headings and Captions.

The headings and captions of the various subdivisions of the Agreement are for convenience of reference only and will in no way modify or affect the meaning or construction of any of the terms or provisions hereof.

13. Entire Agreement.

This Agreement sets forth the entire understanding of the parties with respect to the subject matter set forth herein and supersedes all prior agreements, arrangements and communications, whether oral or written, pertaining to the subject matter hereof.

14. Binding Effect.

The provisions of this Agreement shall be binding upon and shall inure to the benefit of both Parties and their respective successors and assigns.

15. No Waiver of Rights, Powers and Remedies.

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure therefrom granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

16. Governing Law.

This Agreement will be governed by and construed in accordance with the laws of the State of Michigan.

17. Interpretation.

It is the Parties' intent to comply strictly with all applicable laws, including without limitation, HIPAA, state statutes, or regulations (collectively, the "Regulatory Laws"), in connection with this Agreement. In the event there shall be a change in the Regulatory Laws, or in the reasoned interpretation of any of the Regulatory Laws or the adoption of new federal or state legislation, any of which are reasonably likely to materially and adversely affect the manner in which either Party may perform or be compensated under this Agreement or which shall make this Agreement unlawful, the Parties shall immediately enter into good faith negotiations regarding a new arrangement or basis for compensation pursuant to this Agreement that complies with the law, regulation or policy and that approximates as closely as possible the economic position of the Parties prior to the change. In addition, the Parties hereto have negotiated and prepared the terms of this Agreement in good faith with the intent that each and every one of the terms, covenants and conditions herein be binding upon and inure to the benefit of the respective Parties. To the extent this Agreement is in violation of applicable law, then the Parties agree to negotiate in good faith to amend this Agreement, to the extent possible consistent with its purposes, to conform to law.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

**BUSINESS ASSOCIATE:
GALLAGHER BENEFIT SERVICES, INC.**

By: _____
Name: Michael Hagerty
Title: Senior Area Vice President

**COVERED ENTITY:
CITY OF MARQUETTE**

By: _____
Name: Jennifer LePage
Title: Director of Administration