# City of Marquette, MI

## Meeting Agenda
## City Commission

**Monday, June 27, 2022**
**6:00 PM**
**Commission Chambers**

300 West Baraga Ave
Marquette, Michigan 49855

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**Call to Order, Pledge of Allegiance and Roll Call**

**Approval of the Agenda**

**Announcements**

**Boards and Committees**

**1.** Appointment

Madeline Arquette, Arts and Culture Advisory Committee, for an unexpired term ending 06-01-25
Amy Manning, Marquette County Solid Waste Management Authority, for a term ending 07-01-25

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

**Presentation(s)**

**2.** Innovation Marquette SmartZone's Digital Economy Initiative Update, by Leslie Hartman and Chief Executive Officer Joe Thiel

**Public Hearing(s)**

**3.** Conditional Rezoning of Parcel 0510156 on Forestville Basin Trail - Roll Call Vote

**4.** Rezoning of Property at 595 Forestville Basin Trail - Roll Call Vote

**5. Consent Agenda - Roll Call Vote**

**5.a.** Approve the minutes of the June 21, 2022 special Commission meeting

**5.b.** Approve the total bills payable in the amount of $1,489,656.23

**5.c.** Hiawatha Music Non-Profit Corporation - Special Event Permit

**5.d.** International Food Fest - Special Event Permit

**5.e.** Microsoft 365 Annual Renewal

**5.f.** New Liquor License Application - Roll Call Vote

**5.g.** Ore to Shore - Special Event Permit

**5.h.** Iron Ore Heritage Trail License Request for Use of Municipal Property at 301 S.

Lakeshore Blvd.

**5.i.** License Request for Use of Municipal Property at 1095 S. Lake Street for Little Free Library

**5.j.** Presque Isle Marina - Professional Services

**5.k.** Schedule Public Hearing - Land Development Code Amendments

**5.l.** Wastewater Plant Fire Alarm System

**New Business**

**6.** Camp Cannabis - Special Event Permit

**7.** Purchase of Used Fire Truck

**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.***

**Agenda Date:** 6/27/2022

## Public Hearing(s)

## Conditional Rezoning of Parcel 0510156 on Forestville Basin Trail - Roll Call Vote

## BACKGROUND:

The Planning Commission held a public hearing on May 10, 2022 for the consideration of rezoning parcel ID #0510156, a 27+ acre parcel that would be added to the Blue Heron Bluffs 2 Condominium Project if approved for rezoning from *Conservation and Recreation* to *Low Density Residential*. After conducting the hearing the following motion was made:

*It was moved by N. Frischkorn, seconded by A. Andres and carried 5-0 that after conducting a public hearing and review of the application and Staff Report for 02-REZ-05-22, the Planning Commission finds that the proposed rezoning is not consistent with the Community Master Plan and does not meet the requirements of the Land Development Code, Section 54.1405, and hereby recommends that the City Commission deny 02-REZ-05-22 for the following reasons:*

1. *It is inconsistent with the Community Master Plan and the Future Land Use map; and*
2. *The street system is inadequate; and*
3. *The utilities and services as provided are inadequate; and*
4. *The proposed rezoning could have negative impacts to surrounding land uses, specifically because of the density that could be allowed if this were to be rezoned.*

Prior to that vote to recommend denial of the rezoning application, several Planning Commissioners indicated support for a rezoning of this parcel, if the possible future land uses were able to be narrowed through an application for conditional rezoning.

Pursuant to Article 54.1405(H) of the Land Development Code, the property owner may apply for a conditional rezoning, and "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."

Since the May 10 Planning Commission meeting, the applicant's representative/attorney has provided a Conditional Rezoning Agreement, which meets the requirements of the Land Development Code and which is intended to address the concerns voiced by the Planning Commission.

Per Article IV of P.A. 110 of 2006 the City "shall not add to or alter the conditions" presented in the Conditional Rezoning Agreement presented, but it may "establish a time period during which the conditions apply to the land" [Sec. 405(2)], after which time the zoning would revert to its former classification if the conditions are not satisfied.

The request for a Conditional Rezoning of the parcel changes the "receiving" zoning district to *Low Density Residential with Conditional Rezoning*.

The City Commission scheduled this public hearing at the May 31, 2022 regular meeting.

## FISCAL EFFECT:

None.

## RECOMMENDATION:

Following the Public Hearing, adopt Ordinance 711, rezoning parcel 0510156 from Conservation and Recreation to Low Density Residential with Conditional Rezoning, approve the Conditional Rezoning Agreement and direct the Mayor and City Clerk to sign both.

## ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- Planning Case File 02-REZ-05-22
- May 10 Planning Commission Minutes
- Conditional Rezoning Agreement
- Ord 711

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

# MEMORANDUM

**TO:** Planning Commission
**FROM:** Andrea Landers, Zoning Official
**DATE:** May 5, 2022
**SUBJECT:** **02-REZ-05-22 – Forestville Basin Trail (PIN: 0510156)**

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The Planning Commission is being asked to make a recommendation to the City Commission regarding a request to rezone the property located at Forestville Basin Trail - PIN: 0510156 which is zoned **Conservation & Recreation (CR)** to be zoned **Low Density Residential (LDR)**.

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 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 02-REZ-05-22, 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) 02-REZ-05-22 (as presented / for the following reasons / with the following conditions).*

# STAFF FILE REPORT/ANALYSIS

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

**Case #:** 02-REZ-05-22

**Date:** May 5, 2022

**Project/Application:** Rezoning request from **Conservation & Recreation (CR)** to be zoned **Low Density Residential (LDR)**.

**Location:** Forestville Basin Trail

**Parcel ID:** 0510156

**Available Utilities:** There are no City utilities or services for this area, but there is electricity provided to the area by the Marquette Board of Light and Power.

**Year Built:** Vacant property (27.59 Acres)

**Current Zoning:** CR – Conservation and Recreation

**Surrounding Zoning:** North: CR – Conservation and Recreation & Marquette Township
South: BLP- Board of Light and Power
East: BLP- Board of Light and Power
West: CR – Conservation and Recreation & BLP- Board of Light and Power

**Zoning Districts and Standards:**

## Current Zoning

### Section 54.318 CR, Conservation and Recreation District

| (A) Intent |
|---|
| The intent of the CR district is to preserve the character of land in the city which have outstanding scenic and/or recreational qualities by restricting development not suited to this goal; to prevent development of land which has great ecological value or where there are natural hazards to development; to preserve open areas for forestry, agriculture and recreation; and to control the construction of structures along the shoreline of Lake Superior. One of the purposes of the CR district is to have an appropriate zoning district for municipal parks that meet these objectives. |

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Accessory Building or Structure<br>• Agriculture-Like Operation, including Forestry<br>• Food Production, Minor<br>• Outdoor Recreation<br>• Public or Governmental Building<br>• Recreational Use, Public<br>• Storage, Open | • Accessory Use, Non-Single Family Residential Lots<br>• Natural Resource Extraction Operations<br>• Outdoor Entertainment and Community Events (Principal or Accessory Use)<br>• Port Facilities and Docks<br>• Recreational Use, Land Intensive<br>• Structures between the shoreline of Lake Superior and the pavement of the nearest public street or highway.<br>• Wireless Telecommunications Facilities |
| 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.)* | None | *Front Yard (ft.)* | 15 |
| *Min. Lot Width (ft.)* | None | *Side Yard (one) (ft.)* | 50 |
| *Max. Impervious Surface Coverage (%)* | *(R)* | *Side Yard (total of 2) (ft.)* | 100 |
| *Max. Building Height of Primary Building (ft.) (O)* | 36.5 | *Rear Yard (ft.)* | 20 *(P)* |
| *Max. Building Height of Accessory Building* | 18 | | |
| *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

**(O) 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.

**(P) Increased Rear Yard Setbacks for Lots in the CR District.** Lots in the CR district must have a minimum rear yard setback of 50 feet from the ordinary high water mark of Lake Superior.

**(R) 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.

## Section 54.1003 Landscaping Design Requirements

(D) Buffer and Greenbelt Requirements.

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.

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 |
| CR | N.A. | N.A. | N.A. | N.A. | N.A. | N.A. | N.A. | N.A. |

# Proposed Zoning

## Section 54.307 LDR, Low Density Residential

| (A) Intent |
|---|
| The LDR district is intended to establish and preserve quiet, attractive neighborhoods of detached single-family dwellings with a low to medium density and compatible residential land uses. Some additional non-commercial, compatible uses may be allowed. It is also intended that developments in this district will be designed to preserve significant natural features, including woodlands, steep slopes, wetlands, and floodplains. |

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Accessory Building or Structure<br>• Accessory Use, Non-Single Family Residential Lots<br>• Accessory Use, Single-Family Residential Lots<br>• Adult Foster Care, Family Home<br>• Child or Day Care, Family Home<br>• Dwelling, Single-Family Detached<br>• Food Production, Minor<br>• Foster Family Home<br>• Home Occupation<br>• Home Office<br>• Homestays and Vacation Home<br>• Residential Limited Animal Keeping | • Adult Foster Care, Small Group Home<br>• Cemetery<br>• Child Care Center or Day Care Center<br>• Child or Day Care, Group Home<br>• Dwelling, Accessory Unit<br>• Dwelling, Intentional Community<br>• Dwelling, Two-Family (Duplex)<br>• Foster Family Group Home<br>• Public or Governmental Building<br>• Recreational Use, Public<br>• Religious Institution<br>• School, Primary or Secondary |
| 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.)* | 8,100 | *Front Yard (ft.)* | 20 *(B)* |
| *Min. Lot Width (ft.)* | 60 | *Side Yard (one) (ft.)* | 10 *(K)* |
| *Max. Impervious Surface Coverage (%)* | *(Q)* | *Side Yard (total of 2) (ft.)* | 20 *(K)* |
| *Max. Building Height of Primary Building (ft.) (O)* | 31.5 | *Rear Yard (ft.)* | 30 *(K)* |
| *Max. Building Height of Accessory Building* | *(K)* | | |
| *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

**(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.
**(K) 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*.
**(O) 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.
**(Q) Maximum Impervious Surface Coverage of a Lot in the LDR and MDR Districts:** The maximum impervious surface coverage of a lot in the LDR and MDR 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 |

### Section 54.1003 Landscaping Design Requirements

(D) Buffer and Greenbelt Requirements.

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.

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. |

**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 10, 2022.**

(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 10, 2022.**

(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.

**To be determined.**

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

**This property is designated for *Conservation and Recreation* on the *Future Land Use Map* and the *Proposed Zoning Map* of the Community Master Plan (CMP). The designations were adopted with the 2015 amendments to the CMP after careful consideration, and they remained unchanged as of the December 2018 update to the CMP.**

**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.

**There is no City street system adjacent to this parcel. The road access to the property is and would remain privately owned (by the homeowners association) – via Blue Heron Bluffs Rd. – which Marquette Township officials considered "substandard" at present.**

(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 City utilities or services for this area, but there is electricity provided to the area by the Marquette Board of Light and Power.**

(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 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.

**The proposed zoning is itself not incompatible with the environmental features, as much of the City of Marquette was built in similarly situated terrain. The uses allowed by the proposed zoning may or may not be compatible with site's physical, geological, hydrological and other environmental features, considering the relative remoteness of the property, thus the specific uses of the property would determine compatibility. This is the subject of the next standard.**

(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 surrounding zoning districts in the City of Marquette are Conservation and Recreation and Board of Light and Power. In Marquette Township the zoning of the adjacent property is *Scenic Residential*, which allows residences on 5+ acres of land as a permitted use and may allow detached single-family residences on lots of as little as 40,000 sq. ft. (nearly one acre) by approval of a Special Land Use Permit. This parcel does not adjoin a public street, and Marquette Township officials consider Blue Heron Bluffs road "substandard" for the existing use level, therefore there may be negative traffic and road maintenance impacts with the addition of residential uses if this were to be rezoned. Residential use of the property are not necessarily more incompatible here than at other locations that are occupied by homes in the City, but homes would increase impacts on the land for septic waste treatment and potentially by energy production, glare and aesthetics, and nuisances like noise. As well, for detached residential use at the maximum or near-maximum density allowed in an LDR district for detached single-family homes, the homes could be at substantial risk for wildfire unless the homesites are carefully designed. How these potential impacts affect existing or future property values is indeterminate with certainty, as property values are influenced in multiple ways.**

(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.

**In Marquette Township the zoning of the adjacent property is *Scenic Residential*, which allows residences on 5+ acres of land as a permitted use and may allow detached single-family residences on lots of as little as 40,000 sq. ft. (nearly one acre) by approval of a Special Land Use Permit. The surrounding zoning districts in the City are Conservation and Recreation and Board of Light and Power.**

**This parcel is +27 Acres, so there is abundant space to meet the LDR dimensional regulations for construction.**

(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.

**To be determined the Planning Commission. Per the Future Land Use Map in the Community Master Plan, the intent was for this to be used**

**and zoned as a Conservation and Recreation 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.

**Yes, rezoning would be preferable, as adding residential to the Conservation and Recreation zoning district land use options would not comply with the intent of the Conservation and Recreation districts.**

(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.

**To be determined by the Planning Commission.**

(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:

(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.**

(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 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.

**This section is not applicable, as this is not a rezoning with conditions request.**

## Additional Comments:

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

## Attachments:

1. Rezoning Application
2. Area Map
3. Block Map
4. Area Zoning Map
5. Future Land Use Map from the Master Plan
6. Proposed Zoning Map from the Master Plan
7. Photos of the site
8. Publication Notice
9. MQT Township Zoning Map
10. *Rezoning Information for Planning Commissions* document
11. *Spot Zoning Considerations*
12. Correspondence

Mail to:
Municipal Service Center
Community Development Office
1100 Wright St.
Marquette, MI 49855

# CITY OF MARQUETTE
# REZONING APPLICATION

**FEE $550**

**CITY STAFF USE**

Parcel ID#: 0510156 File #: 02-REZ-05-22 Date: 04-12-22

Hearing Date: 5-10-22 Application Deadline (including all support material): 4-12-22

Receipt #: 819544 Check #: 2083 Received by and date: 4-12-22 AC

**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:**

- Planning Commission page for filing deadline and meeting schedule
- 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: Cedar Point Family Trust

Address: 10670 NE Hwy 314

City, State, Zip: Silver Springs, FL 34488

Phone #: 906-360-3030

Email: brucepesola@yahoo.com

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

### APPLICANT/OWNERS REPRESENTATIVE

Name: Ironshore Development, LLC

Address: 137 W Michigan St

City, State, Zip: Marquette, MI 49855

Phone #: 231-420-1473

Email: jim.t.conlin@gmail.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: TBD Forestville Basin Trl Property Identification Number: 0510156

Size of property (frontage / depth / sq. ft. or acres): 27.59 acres

Surrounding Zoning Districts: North Condo & RP (Twp) East BLP South BLP West BLP

Legal Description: That part of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section 8, and that part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW1/4) of Section 9, Town 48 North, Range 25 West, City of Marquette, Marquette County, Michigan described as BEGINNING at the 1/4 corner common to said Sections 8 & 9; thense S89°56'00"E, 1314.85' along East-West 1/4 line of said Section 9 to a 1/16 corner; thence S49°09'13"W, 1146.45'; thence N89°49'45" W, 1749.91'; thence N00°10'15"E, 415.00'; thence N89*49'45"E, 1300.00' to a line common to said Secions 8&9; thence N00*10'59"E, 335 to the Point of Beginning.

## PROPOSAL

Current Zoning District: CR Proposed Zoning District: LDR

**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 is 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.

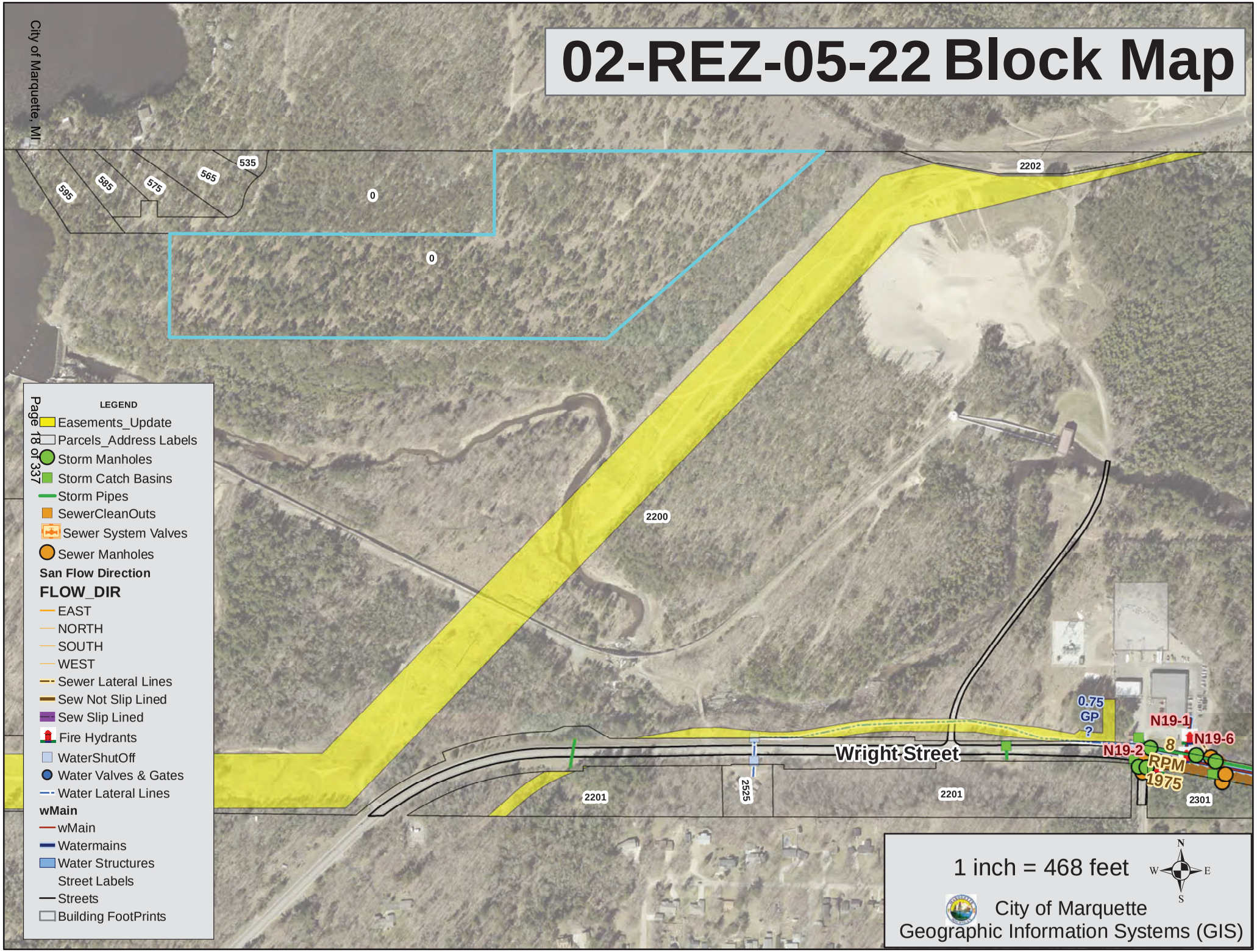
Property Owner Signature: Jim Conlin, IRONSHORE DEVELOPMENT Date: 3.23.22

JIM CONLIN ON BEHALF OF BRULE PESOLA

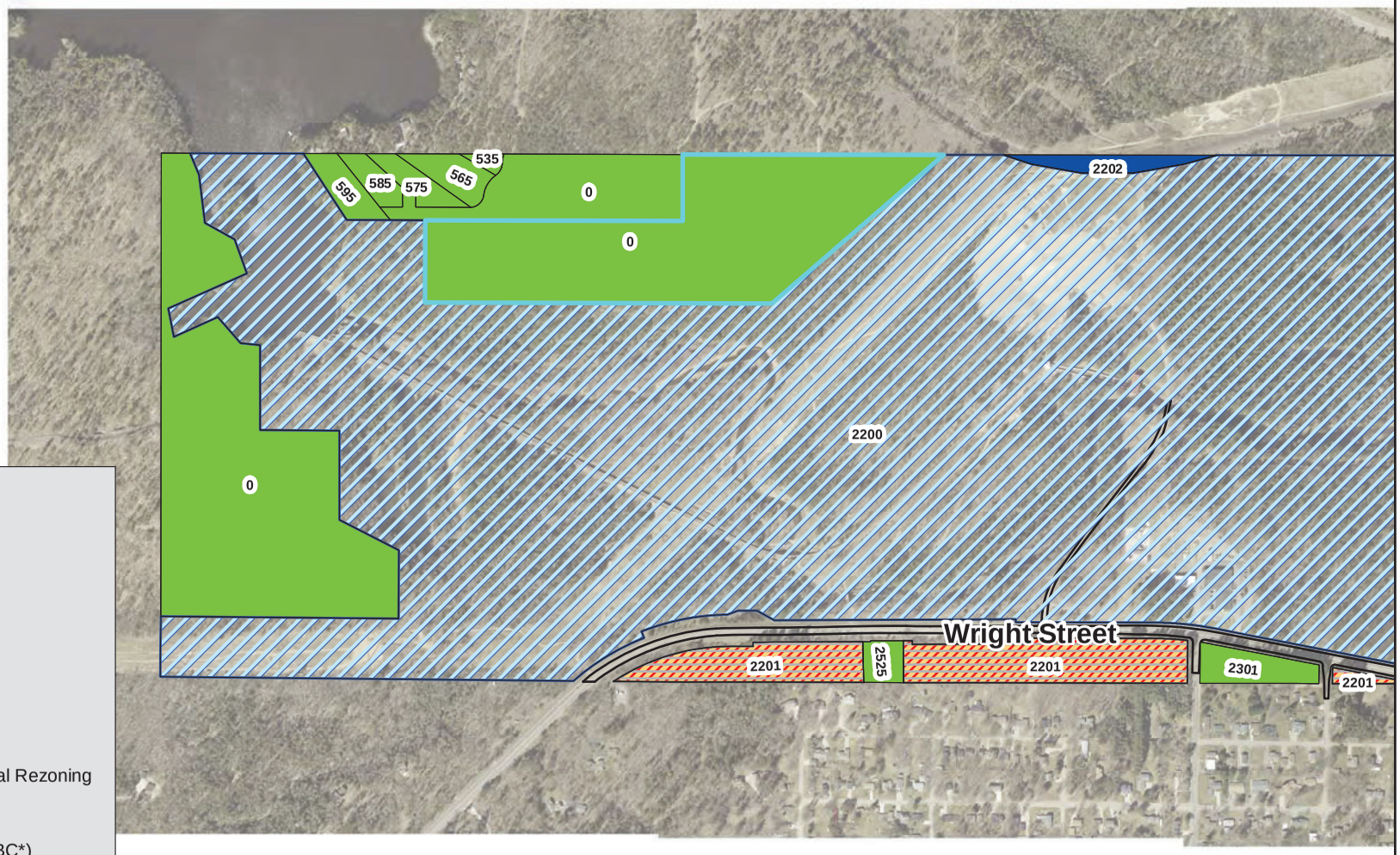
# 02-REZ-05-22 Area Map



# 02-REZ-05-22 Block Map



# 02-REZ-05-22 Zoning Map




LEGEND

- Parcels_Address Labels
- Street Labels
- Streets

**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
- Planned Unit Development
- Industrial/Manufacturing
- Municipal
- Conservation and Recreation
- Civic
- Board of Light & Power

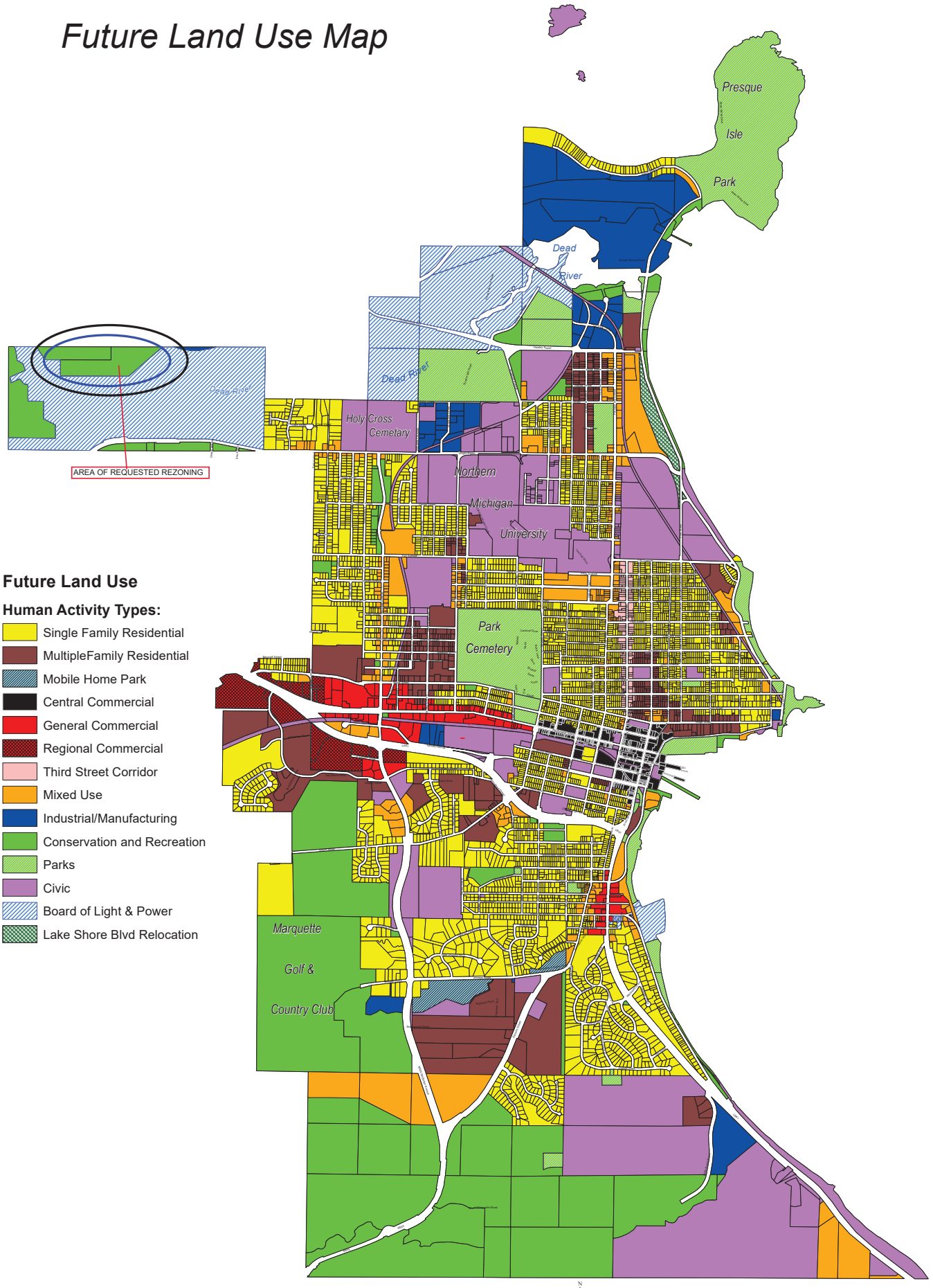
1 inch = 833 feet

N W E S

City of Marquette
Geographic Information Systems (GIS)

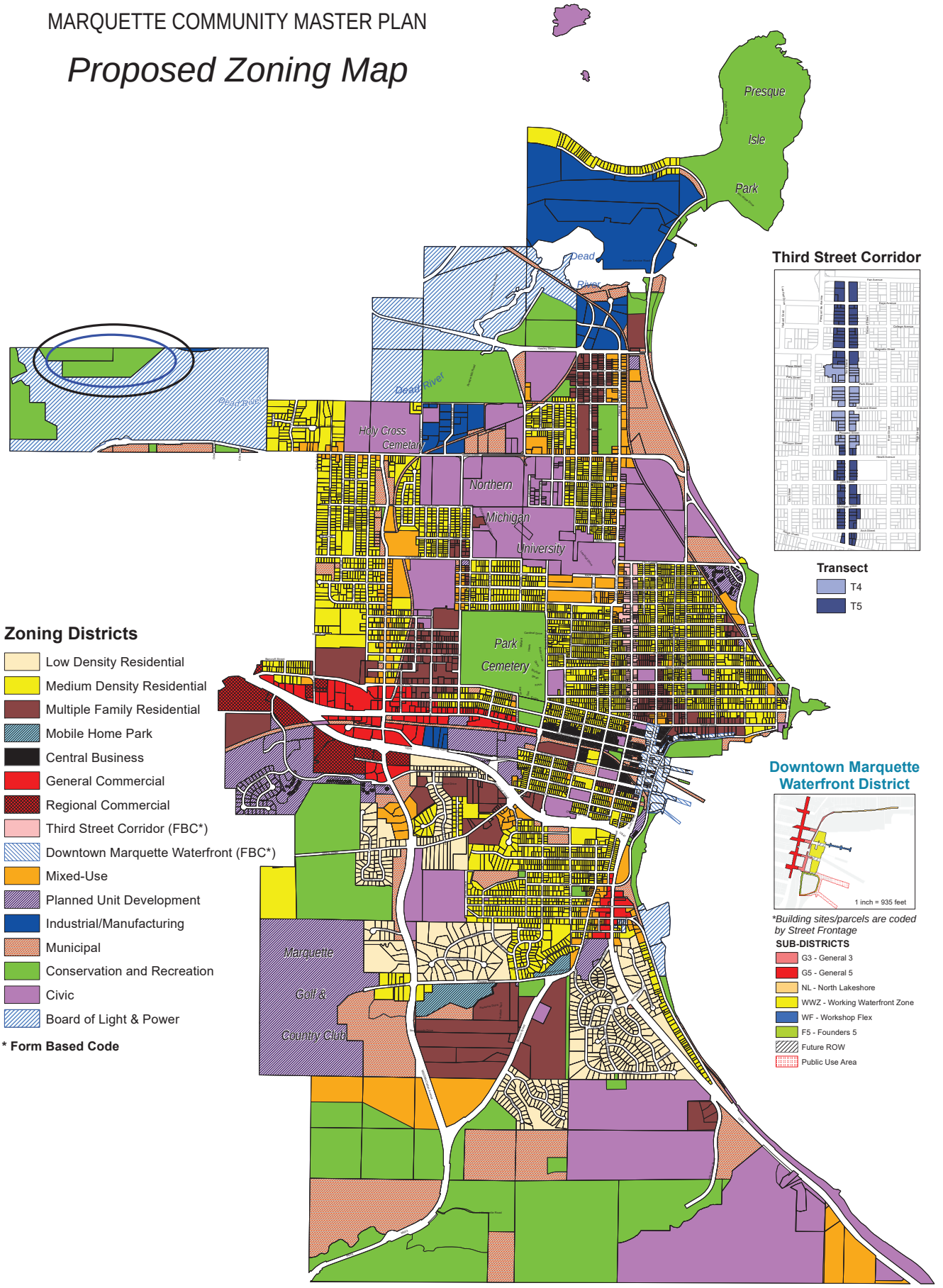
MARQUETTE COMMUNITY MASTER PLAN

# *Future Land Use Map*



MARQUETTE COMMUNITY MASTER PLAN

# *Proposed Zoning Map*




05/06/2022 09:05


05/06/2022 09:04


05/06/2022 09:04


05/06/2022 09:06


05/06/2022 09:06


05/06/2022 09:06


05/06/2022 09:05

# Region

tional anthem.

The orchestra is a "college-community hybrid," Neves said: about half are Tech students, while the other half are Tech faculty, community members and music educators.

"It's the cream of the crop of the Keweenaw and the U.P. and so they're very talented musicians and artists," Neves said. "What's most satisfying is their spirit. They're just wonderful human beings, and collaborating with them every week is a true joy."

During Tuesday's rehearsals, Neves acknowledged returning alumni, who were greeted with the sound of stomping feet. One performer, Gene Purdum, was an original member of the orchestra. He graduated from Tech in 1975 with a degree in nuclear physics and later

different sections as well."

The oldest orchestra in the Upper Peninsula, the KSO has toured and made numerous recordings. It's also won national acclaim, most recently winning second place for best orchestral performance by a small college last year in the American Prize in Orchestral Performance.

"We're very proud of that distinction, to be one of the best orchestras in the United States," Neves said. "Not bad for a place that's mostly engineers and STEM people, but we're able to combine our talents and create something special."

Tickets are $19 for adults, $6 for youth, and free for MTU students (and a guest) with Experience Tech Fee. They are available at events.mtu.edu or (906) 487-1906. The concert will also be livestreamed.

**CITY OF NEGAUNEE**
**INVITATION TO BID**
**DIVISION ST LIFT STATING BLASTING AND PAINTING**

The City of Negaunee is accepting bids for the blasting and painting of the Division Street lift station.
For bidding information and specs please see our website at: www.cityofnegaunee.com

**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-STR-05-22 – Petition to vacate a portion of Center Street.** The City of Marquette has received a petition to vacate a portion of the Center Street public right-of-way. The following is the legal description: Center Street located between lots 1through 3 of the Marquette Company's Addition No.2 and Lots 26 and 27 of Ayer's Addition

**02-REZ-05-22 – Forestville Basin Trail (PIN: 0510156):** Bruce Pesola and Cedar Point Family Trust are requesting to rezone the property located at Forestville Basin Trail - PIN: 0510156 which is zoned Conservation & Recreation (CR) to be zoned Low Density Residential (LDR)

**03-REZ-05-22 – 595 Forestville Basin Trail (PIN: 1170101):** Bruce Pesola and Cedar Point Family Trust are requesting to rezone the property located at 595 Forestville Basin Trail which is zoned Conservation & Recreation (CR) to be zoned Low Density Residential (LDR).

The public hearing for these requests will be at 6:00 P.M. on Tuesday, May 10, 2022, 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@marquettemi.gov. Written submissions will be accepted until 12:00 p.m. on May 10, 2022.

Materials pertaining to the requests are 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@marquettemi.gov. You can also view the Land Development Code on our website at www.marquettemi.gov.
If you have a disability and require assistance to participate, please provide advance notice.

Andrea M. Landers
Zoning Official
alanders@marquettemi.gov
225-8383

**DEPARTMENT OF HOMELAND SECURITY**

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

**Proposed Flood Hazard Determinations for Marquette County, Michigan (All Jurisdictions)**

The Department of Homeland Security's Federal Emergency Management Agency has issued a preliminary Flood Insurance Rate Map (FIRM), and where applicable, Flood Insurance Study (FIS) report, reflecting proposed flood hazard determinations within Marquette County, Michigan (All Jurisdictions). These flood hazard determinations may include the addition or modification of Base Flood Elevations, base flood depths, Special Flood Hazard Area boundaries or zone designations, or the regulatory floodway. Technical information or comments are solicited on the proposed flood hazard determinations shown on the preliminary FIRM and/or FIS report for Marquette County, Michigan (All Jurisdictions). These flood hazard determinations are the basis for the floodplain management measures that your community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program. However, before these determinations are effective for floodplain management purposes, you will be provided an opportunity to appeal the proposed information. For information on the statutory 90-day period provided for appeals, as well as a complete listing of the communities affected and the locations where copies of the FIRM are available for review, please visit FEMA's website at https://www.floodmaps.fema.gov/fhm/BFE_Status/bfe_main.asp, or call the FEMA Mapping and Insurance eXchange (FMIX) toll free at 1-877-FEMA MAP (1-877-336-2627).

**ADVERTISEMENT FOR BIDS**

The City of Munising Downtown Development Authority is seeking bids for the construction of the "Downtown Resurfacing Project" that includes the following major items of work:

HMA surface milling, paving, ADA sidewalk upgrades, concrete crosswalks and pavement markings.

The Contract Documents may be examined at the following locations:

City of Munising
301 E. Superior Street
Munising, MI 49862

Coleman Engineering Company
635 Circle Drive
Iron Mountain, MI 49801

The contract documents may be viewed and downloaded at www.coleman-engineering.com by selecting "Bid Information". Interested parties may view the contract documents at no cost on the website prior to becoming a plan holder. Downloading and printing the contract documents will require registering with QuestCDN online (www.questcdn.com). A non-refundable fee of $15.00 will be charged to download the contract documents.
Sealed bids marked "Downtown Resurfacing Project" are to be submitted to the office of:

Mr. Devin Olson, City Manager
City of Munising, City Hall
301 E. Superior Street
Munising, MI 49862

Bids must be received by 2:00 p.m. (local time) on May 9, 2022 at the City of Munising, City Hall. Bids will be publicly opened and read out loud at this time.

The City of Munising Downtown Development Authority reserves the right to accept or reject any and all bids at its discretion.

Volume 136, No. 93

THE MINING Journal
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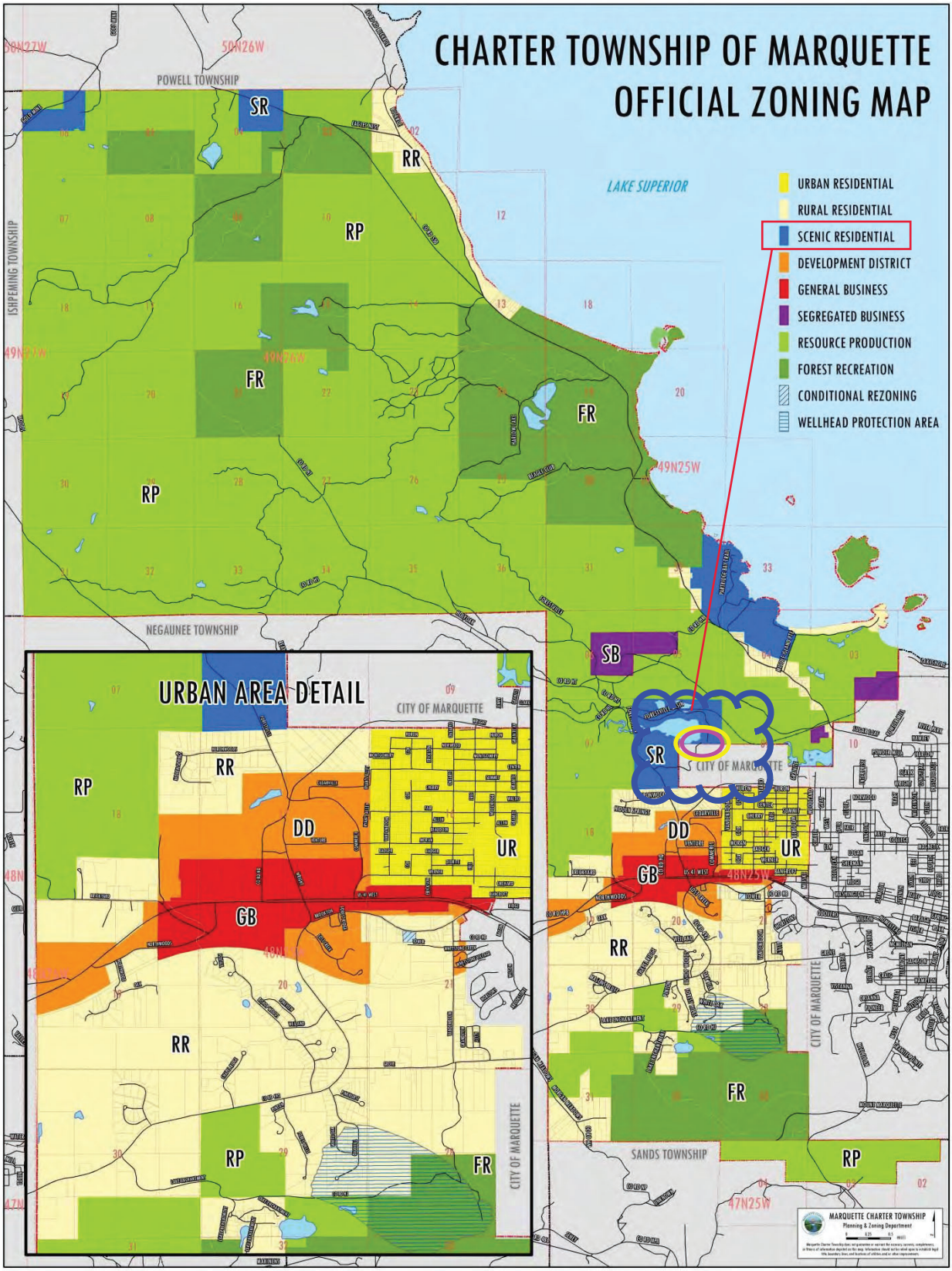
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**SECTION 3.08: OFFICIAL ZONING MAP**



# 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?




21

## 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?

22

## 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.

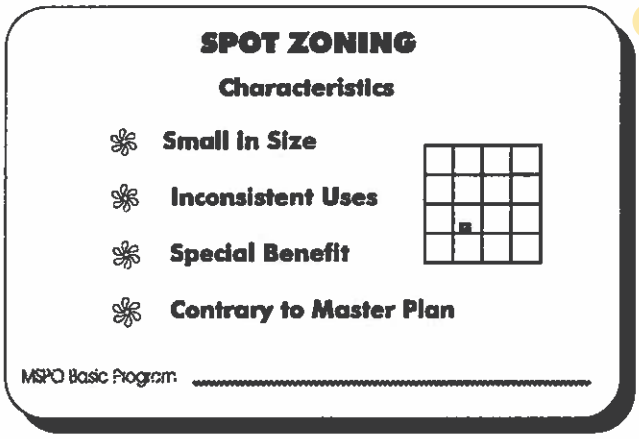
Result

- Typically ruled invalid if challenged in court.

23

## SPOT ZONING CONSIDERATIONS

The following is an excerpt from a Planning Commissioner training/resource manual that summarizes the four characteristics of a "spot zone" - and explains that all four must be found in the subject rezoning request to constitute an "unjustified spot zone". The Planning Commission needs to address each of the four characteristics and determine if there is a spot zone.




### What is a Spot Zone?

Public hearings for rezonings are often filled with comments about the creation of a "spot zone," and the dire results of such an approval. But spot zoning is a derogatory and often misused term.

Spot zoning has some specific characteristics. It is not simply the appearance of a "spot" on a zoning map. Many acceptable zone districts may be "islands," surrounded by other zone districts. But while some may disagree on whether or not a specific case is a spot zone, nearly everyone agrees that it is a poor zoning practice. A unjustified spot zone is, therefore, likely to be viewed by the courts as unlawful.

In order to qualify as a spot zone the property will meet each of four characteristics.

*Small in Size*

As the term "spot" implies, the location of a spot zone will be a relatively small parcel, particularly with respect to the sizes of the parcels in the vicinity. While there are no firm rules on what size a spot needs to be, the larger the area, the less likely is will be considered a "spot." If the property was large enough to accommodate buffers or transition areas, landscaping or open space could be used to soften the impact on surrounding properties or uses.

*Inconsistent Uses*

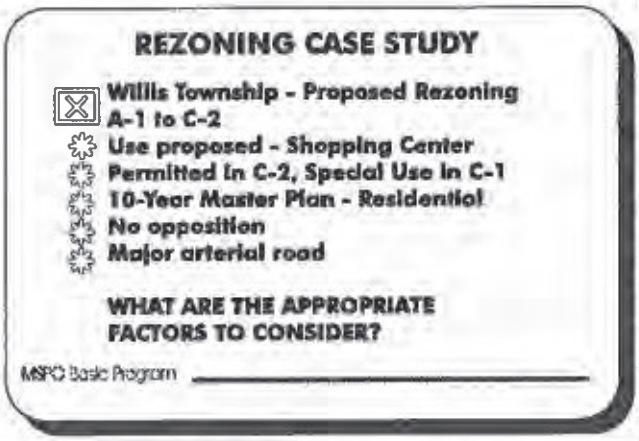
The second quality is that the spot zone will permit uses that are inconsistent with the uses already established or allowed in the vicinity. The inconsistent nature of the spot zone's uses should be clear, i.e. the uses should be very different. These uses, either by virtue of building design, traffic, or intensity will be incompatible with uses allowed in surrounding districts. For example, a proposed two-family district rezoning in a single family zoned area would not be an inconsistent use. A sporting goods store in the midst of a residential area, however, would be an entirely different use of land.

*Special Benefit*

Spot zoning also confers a "special benefit" on a single property owner which is not available to others in the area. Since the uses allowed by the spot zone are inconsistent with, and often more intense than, those allowed in surrounding districts, a special benefit is given to the holder of the spot zone, to the detriment of nearby properties.

*Contrary to the Master Plan*

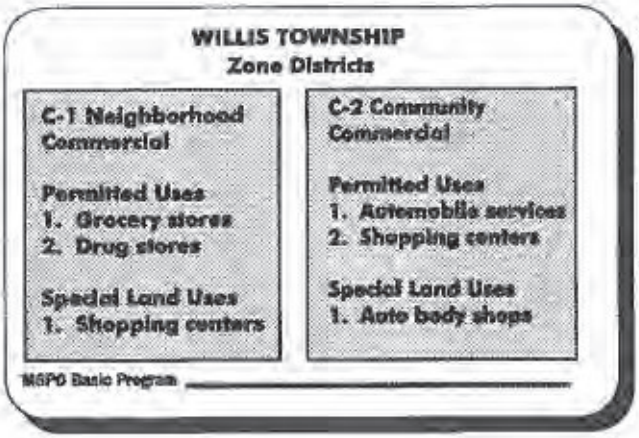
The final characteristic of a spot zone is the one that most distinguishes it as a poor zoning practice. If the Master Plan designates a small parcel in a rural or agricultural area for commercial use to serve residents in the general area, it may have the look of a classic spot zone. In fact, it may even meet the first three characteristics. But it is not a spot zone since the Master Plan planned for its creation. As a result, labeling a rezoning a "spot zone" simply because it is on a small parcel and the uses allowed are different from the other uses around it is not always correct.




**Rezoning Case Study**

*Willis Township - Proposed Rezoning A-1 to C-2*

The application states that two existing barns and an old farmhouse on a ten acre parcel are to be razed and a shopping center constructed on the property. The C-1 District requires that shopping centers be reviewed as a special land use; the C-2 District allows shopping centers as a Permitted Use. The applicant is requesting the C-2 District. A variance may also be required for a side yard setback.




- The 10-year old Master Plan designates the property and the surrounding area for Residential use.
- No neighborhood opposition is apparent.
- The road which serves the property is a major arterial, but no public sewer or water is available.

*WHAT ARE THE APPROPRIATE FACTORS TO CONSIDER?*

# Correspondence Received prior to posting the Agenda

# Blue Heron Bluffs II

Signatures of Support for Considerations of Re-zoning Blue Heron Bluffs

| Printed Name | Signature | Date |
|---|---|---|
| Nathan Loewen (225) | | 4/10/22 |
| Trevor Flynn (235) | | 4/10/22 |
| John Orticelli 275 | | 4/10/22 |
| Kristina Orticelli -275 | | 4/10/22 |
| Suzan Spaulding | Suzan Spaulding | 4-10-22 |
| Todd Masuga | | 4-20-22 |
| Katy Masuga | | 4/20/22 |
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# Blue Heron Bluffs Zoning

Blue Heron Bluffs I
Blue Heron Bluffs II
Forestville Basin Trail
Marquette, MI 49855

April 9, 2022

City of Marquette
Board of Zoning Appeals
1100 Wright St.
Marquette, MI 49855

Dear Marquette Zoning Appeals,

We are residents living on Forestville Basin Tr road in Marquette Township with an interest in the proposed zoning change by Bruce Pesola. This zoning change will effect access to that parcel by way of an easement through Forestville Basin Tr road which has shared use to all involved in this letter. We are, therefore, affected by any development at the end of our private road. We believe that the Commission should consider the following before recommending any change to zoning:

The access to the proposed development is from Forestville Rd through Forestville Basin Tr, which is a private road and maintained by residents along that road. The road is gravel and only part of the road is built to county standards. Development will add traffic for construction equipment, traffic for builders and traffic from families when lots are sold.

During the winter snowy months, sanding and plowing is at the discretion of the residents. It is often icy and slick. The road in the older development is very narrow with an average width of 18.8 feet in the summer. In the winter the average width reduces to 14 feet because of the snow banks and is reduced to 12 feet in some areas, which does not allow cars to pass in those areas.

During the spring the road has deep pot holes and cannot be graded until road restrictions are lifted. This will further be exacerbated with heavy equipment and added traffic on the road.

With summer the dust control on the road is a constant problem. More traffic will only deteriorate the road faster and increase the residents dust control problem.

# Blue Heron Bluffs Zoning (cont.)

Currently the school bus picks up children at the intersection of Forestville Rd and Forestville Basin Tr. Because the road is private children have to walk on the road from their homes to this intersection which can be very dangerous. This is especially problematic in the winter and early spring with snow and ice covered roads. With blind curves, narrow road and high snow banks a child could easily be killed. Children in the new development would need to walk 1.5 to 2 miles to the bus stop. While we do understand that the Township has grandfathered the existing older section of this road there is no reason to expand the risk to children by increasing the number of families at the end of this road.

Due to the road issues outlined above we are also concerned about services for fire, police, ambulance, and garbage being provided adequately and safely. These services are extremely valuable to our residents. However, the safety of the men and women who provide these services are also important to us.

We do understand the developer wishing to make money by developing residential lots However, when the new section of Forestville Basin Tr, was developed the developer was required to bring the road to a higher standard. We also understand that the older section of our trail road has been effectively grandfathered. It does not make sense to our community to add an additional development without the developer addressing the entire road. Therefore, we would propose that the zoning change not be approved or only be granted if the following takes place:

The first part of the road which includes the residents of Blue Heron Bluffs I & II Condominium Association should be paved by the developer in order to control dust, manage deterioriating conditions and handle the traffic for development. This would allow Marquette County to adopt that section and school buses to operate over that part of the road.

.

For the remaining part, the road should be improved by the developer to accommodate two way traffic in all seasons and handle the added construction and residential traffic. This would ensure access to emergency services and the safety of children.

Thank you for your consideration and addressing these concerns.

Sincerely,

Residence of Blue Heron Bluffs I&II
Nate Loewen, President BHBII

## Rezoning 0510156 Easement concerns.

MaryandGary Bourdeau <[redacted]>
Wed 5/4/2022 11:15 AM
To: Andrea Landers <alanders@marquettemi.gov>
Cc: David Staples <[redacted]>

Please include this information for Planning Commission consideration for the rezoning of 0510156.

He had presented an option to the Board of Blue Heron Bluffs in August of 2021.. Actually it was an option for the easement. A proposal, a promise, and an alternative if we didn't accept his location for the easement. We understand as the servient estate, we are to select the location of the easement within reason.

The "sandpit road" or "green gated road". access that existed when we bought the land in the township. This road would access Bruce's township parcel and the midpoint of the Marquette city parcel. He was not open to this as access. Instead, he presented us with two options for the easement he would prefer.

Option one. He requested easement for 4 driveways off of our road through our wooded parcel O510155. Each of the 4 drive ways then splitting off to 2 development sites. I will reference this as the "4-to-8 driveway option" He will use 16.67 acres (27 on his application) to develop 8 residential lots within parcel 0510156. These eight parcels run parallel to the southern border of 0510155.

Option 1 has two considerations. We need to 1) accept this driveway option with a nature conservancy and 2) approve the split of Unit 1 parcel 1170101. If we don't accept both considerations, we would face option 2. Option 2 is Cedar Pointe Family Trust would put the entire parcel up for sale to an outside developer. There would no guarantees on the extent or type of development.

We understand our obligation. However we don't appreciate his requirement to approve the split of unit one. That is intimidation. We are not willing to split unit one.

Bruce has not withdrawn these options. We have information from his representation that the green gated road is not acceptable. Our board is developing a proposal for an easement. His 4-to-8 driveway from his point of view would be the most lucrative for him. It is not acceptable to us, nor would it be to the city. The "sandpit road" easement came with the land. It gives him access to the township parcel and to the city parcel at midpoint. It is in within reason but unacceptable.

The easement location doesn't change the fact that we, as the servient estate, carry the burden of providing a safe passage to their property. This development access is not located on a road that meets county requirements. Their access becomes our responsibility and not Bruce's as the developer.

A housing development with an average of 2 vehicles, twice a day would quadruples traffic. The expectations of a housing development is a road that meets county standards. Also their expectation of emergency services, police and fire protection, garbage collection would be from the city. Their services would be from the township.
Their access will be along Forestville Basin Trail. This road though Blue Heron Bluffs II meets county specifications. When the road reaches Blue Heron Bluffs, it narrows and is lined with trees. The new subdivision passes through Blue Heron Bluffs and their access would be near the end of Forestville Basin

Trail.

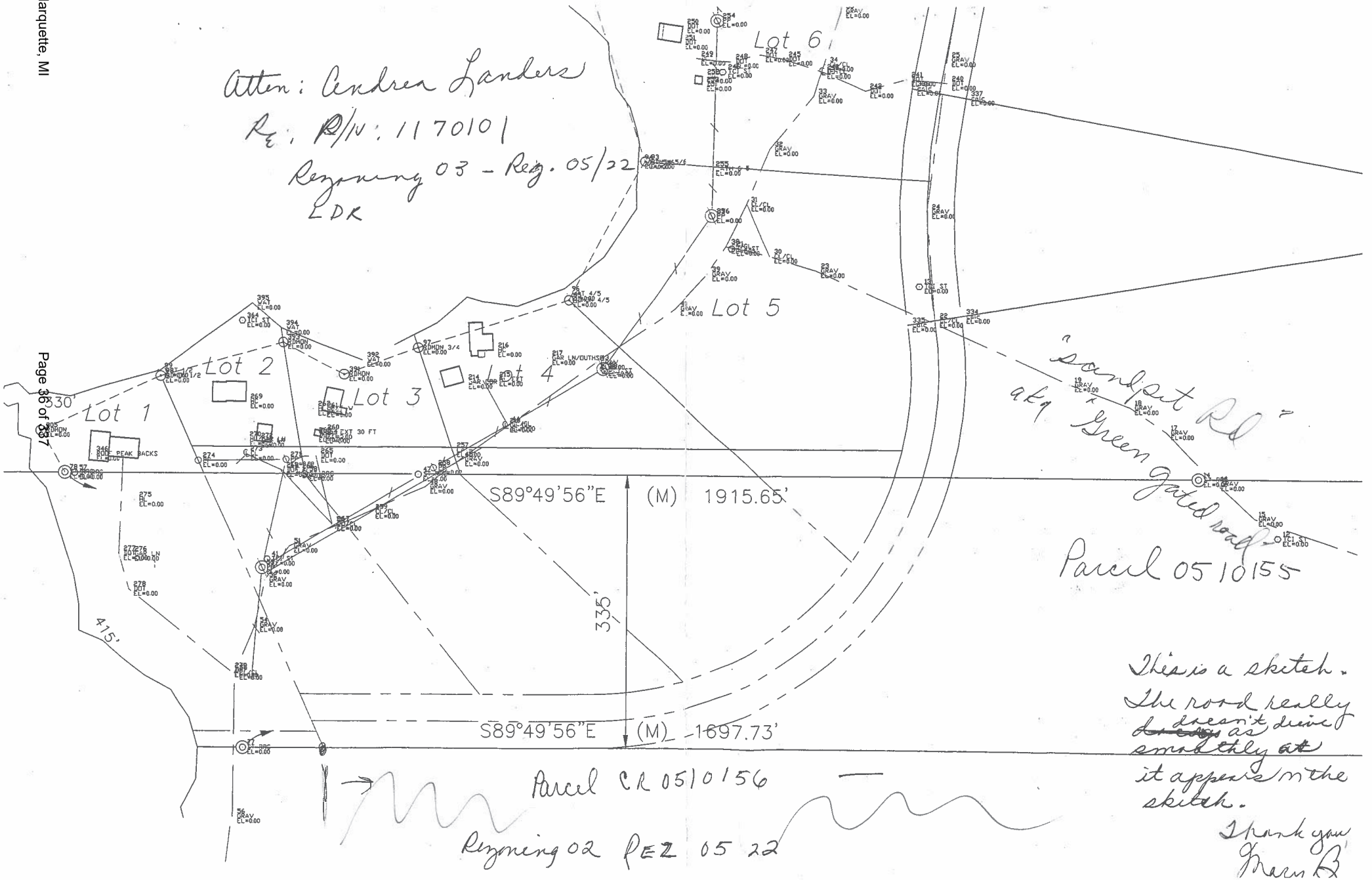
Our road is narrow, curvy, scenic and privately owned and maintained. We, as residents along the middle portion of Forestville Basin Trail, maintain the road west of us, our own section and, most likely will be expected to maintain the new subdivision.

Perhaps this information will elicit understanding of our situation. Perhaps even merit consideration in your rezoning decision. Whatever the outcome, we sincerely appreciate your time and the opportunity to present more of our concerns.

Thank you.
Mary Bourdeau
565 Forestville Basin Trail.

Please add this information for Planning Commission consideration for the rezoning of 0510156.

Once again your time is appreciated.
Mary B


Atten: Andrea Landers
Re: P/N: 1170101
Rezoning 03 - Req. 05/22
LDR
Lot 6
Lot 5
Lot 4
Lot 3
Lot 2
Lot 1
330'
415'
335'
S89°49'56"E (M) 1915.65'
S89°49'56"E (M) 1697.73'
Sandpit Rd
Green Gated road
Parcel 05 10155
Parcel CR 05 10156
Rezoning 02 PEZ 05 22
This is a sketch.
The road really doesn't curve as smoothly at it appears in the sketch.
Thank you
Mary B

April 13, 2022

Andrea Landers, Zoning Official
City of Marquette

Property Identification Number: 0510156

Dear Marquette City Planning Commission:

We are writing about Cedar Point Family Trust's (Bruce Pesola's) property where an application has been submitted for a Zoning Change. The property is zoned Conservation and Recreation. Mr. Pesola is requesting a zoning change as a necessity for his building 8 single family homes on his City of Marquette property.

We live on Forestville Basin Trail in Marquette Township. We have an interest in the proposed zoning change by Bruce Pesola since access to that parcel mentioned above is by way of an easement through Forestville Basin Trail. We are therefore affected by any development at the end of our private road. We believe that the Commission should consider the following before recommending any change to zoning:

Access to the proposed development is from Forestville Road through Forestville Basin Trail, which is a privately owned road maintained by the residents living along that road. Only part of the dirt and gravel road is built to county standards. Development will add traffic for construction equipment, traffic for builders, and traffic from families when lots are sold.

- During the winter the road is snow covered and sanding and plowing is at the discretion of the residents. It is often icy and slick. The road in the older development is very narrow with an average width of 18.8 feet in the summer. In the winter the average width reduces to 14 feet because of the snowbanks and is reduced to 12 feet in some areas, which does not allow cars to pass in those areas,

- During the spring the Forestville Basin Trail has deep potholes and cannot be graded until road restrictions are lifted. This problem is further exacerbated when heavy equipment uses our road and by added traffic in general.

- During the summer months, the dust control on the road is a constant problem. More traffic will only deteriorate the road faster and increase the dust control issue for residents.

Currently the school bus picks up children at the intersection of Forestville Road and Forestville Basin Trail. Because the road is private, children must walk on the roadway from their homes to

this intersection, which can be very dangerous. This is especially problematic in the winter and early spring with snow- and ice-covered roads. With blind curves, a narrow road, and high snowbanks, a child could easily be killed. Children in the new development would need to walk 1.5 to 2 miles to the bus stop. While we understand that the Township has grandfathered the existing older section of this road, there is no reason to expand the risk to children by increasing the number of families at the end of this road.

Due to the road issues outlined above we are also concerned about services for fire, police, ambulance, and garbage being provided adequately and safely. These services are extremely valuable to our residents. However, the safety of the men and women who provide these services are also important to us.

We realize the developer wants to make money by developing residential lots. However, when the new section of Forestville Basin Trail was developed, the developer was required to bring the road to a higher standard. We also understand that the older section of Forestville Basin Trail has been effectively grandfathered. It does not make sense to our community to add an additional development without the developer addressing the entire road. Therefore, we would propose that the zoning change **not be** approved or only be granted if the following takes place:

- The first part of Forestville Basin Trail, which includes the residents of Blue Heron Bluffs 2 Condominium Association, should be paved by the developer to deal with the severe pothole problem, to control dust, and to handle the traffic for development. This would allow Marquette County to adopt that section and school buses to operate over that part of the road.

- For the remaining older section of Forestville Basin Trail, owned by Blue Heron Bluffs Condominium Association, the road should be improved by the developer to accommodate two-way traffic in all seasons and to handle the added construction and residential traffic. This would ensure access to emergency services and the safety of children. A turnaround to accommodate fire and safety vehicles is also needed.

Thank you for your consideration and for addressing our concerns.

Sincerely,

Todd Carter
355 Forestville Basin Trail
Marquette, MI 49855

# Stephen Embree

395 Forestville Basin Tr , Marquette, MI 49855 [redacted]



RECEIVED
MAY 04 2022
Marquette City
Community Development Office


May 4, 2022

Andrea Landers
City of Marquette Zoning Official
1100 Wright St.
Marquette, MI 49855

Property Identification [redacted] 0510156

I do believe that the land adjoining our association will be developed. It is only a matter of when and what is developed on that property. Low density residential will be the least impactful compared to other land uses. Single family residential is consistent with the adjoining neighborhood and will not impact the property values negatively. Adding single family residents would be in line with the nature of our community. If there is going to be development on the property I hope it is residential.

There is no doubt that our road is an issue and added residents will add pressure on the road and road maintenance. However, in my opinion it is not correct that 8 additional residential units will materially affect the road, safety or ingress or egress by residents. Any new residents will be contributing money to our road for maintenance and we would likely have more money for improvements which will negate any adverse impacts on the private road. Also, it is unlikely that the added 8 lots will be developed in one year so the impact would be over several years with contributions to the road made as the lots are developed.

The road will see extra traffic with any development and low density residential would have lower impact on the road and be better than other types of development. Also, Bruce Pesola and Cedar Family Trust has stated their intent to donate the remaining acreage (approximately 40 acres) that is adjacent to the condominium association so it cannot be developed. This commitment would also reduce the future traffic on our road.

I am in support of the rezoning plan as outline at this time.

Respectfully,

Steve Embree



Ms. Andrea Landers
Zoning Official
Marquette City Planning Commission

May 3, 2022

Ref: Property Identification Numbers: 0510156 and 1170101

Dear Ms. Landers,

My husband and I purchased a home on Forestville Basin Trail in Marquette County in October, 2021. We recently learned about proposed zoning changes related to the property IDs listed above that has the potential to negatively impact our neighborhood. Our concerns center on two issues: 1) the impact of the proposed development at the end of the private Forestville Basin Trail Road that as members of the Blue Heron Bluff Condominium Association (BHBCA) we contribute to maintaining; and, 2) a precedent that could be set with the request to subdivide one of the lots in the BHBCA.

With regards to the first concern, the road was not meant to take on the significant wear and tear that would be created by an increase in traffic from construction vehicles and later from occupants of the proposed new development. This wear and tear would end up being shouldered unfairly by the members of our community and potentially contribute to a decrease in the quality of life in our area due to increased noise and dust pollution, as well as potential safety issues due to deterioration of road conditions, e.g in difficulty of emergency service vehicle access. We therefore respectfully ask that the Planning Commission please consider these impacts and only grant approval of the development if they can be resolved in such a way that the developer takes responsibility for the additional costs that may be associated with improving and maintaining the road to handle the increase in traffic, also taking into account community concerns and environmental considerations.

With regards to the second concern, according to our BHBCA Master Deed, members are not allowed to split their lots or build a second house on them. We entered into this condominium association with the understanding that its regulations indicated there would only be 19 parcels in our community (18 lots allowing one home on each lot and an additional lot that is our legally protected green space). This configuration permits plenty of forest and wilderness around our homes which was the draw of this neighborhood for our family. If this subdivision were allowed, it would set a precedent for others to ignore the Master Deed and do the same, violating the character of our neighborhood.

Thank you very much for your consideration of this request.

Sincerely,

Holly Ferrette, Ricardo Roca Steverlynck
415 Forestville Basin Trail
Marquette, MI 49855
[redacted]

## Property identification #: 0510156

Patrick St. Germain <[redacted]>

Mon 4/25/2022 7:43 AM

To: Andrea Landers <alanders@marquettemi.gov>

Reference: Property identification #: 0510156

Dear Ms. Landers and Planning Commission -

Please reference the attached map. As you can see from the map, parcel PIN 0510156 is a terrible place to put a house but a wonderful place for recreation trails.

PIN 0510156 sits in the middle of a plot of land that is uniquely important to recreation trails that connect the City of Marquette to the wild lands and popular hiking/biking trails that are just north of the Marquette City limits.

Hikers, runners, dog walkers, snowshoers, skiers and more recently, lots and lots of mountain bikers use the unnamed trails and well marked and maintained NTN trails to walk or peddle out of the City and into the wilderness north of the Dead River. They are heading for the spectacular wild forests and historic sites to be found in this area. There are also many races and running /walking fundraisers that utilize the land. The older unnamed trails ( black dash lines on the provided map )have been used by Marquette residents for many years for recreation because of easy access from the Marquette Board of Light and Power's protected wild lands in the City of Marquette. These areas have recently had a dramatic increase in non motorized traffic from Marquette with addition of mountain bike trails. Blue Heron Bluffs Condominium Association has encouraged and helped to maintain these trails. In the 20 years that I have lived here we have always allowed non-motorized traffic across our land. The Noquemanon Ski and bike race, the Ore to Shore bike race and Marquette General Hospital fundraisers have all crossed our property and with our enthusiastic approval. If the zoning on PIN 0510156 is changed from CR to LDR the city of Marquette will lose this valuable asset.

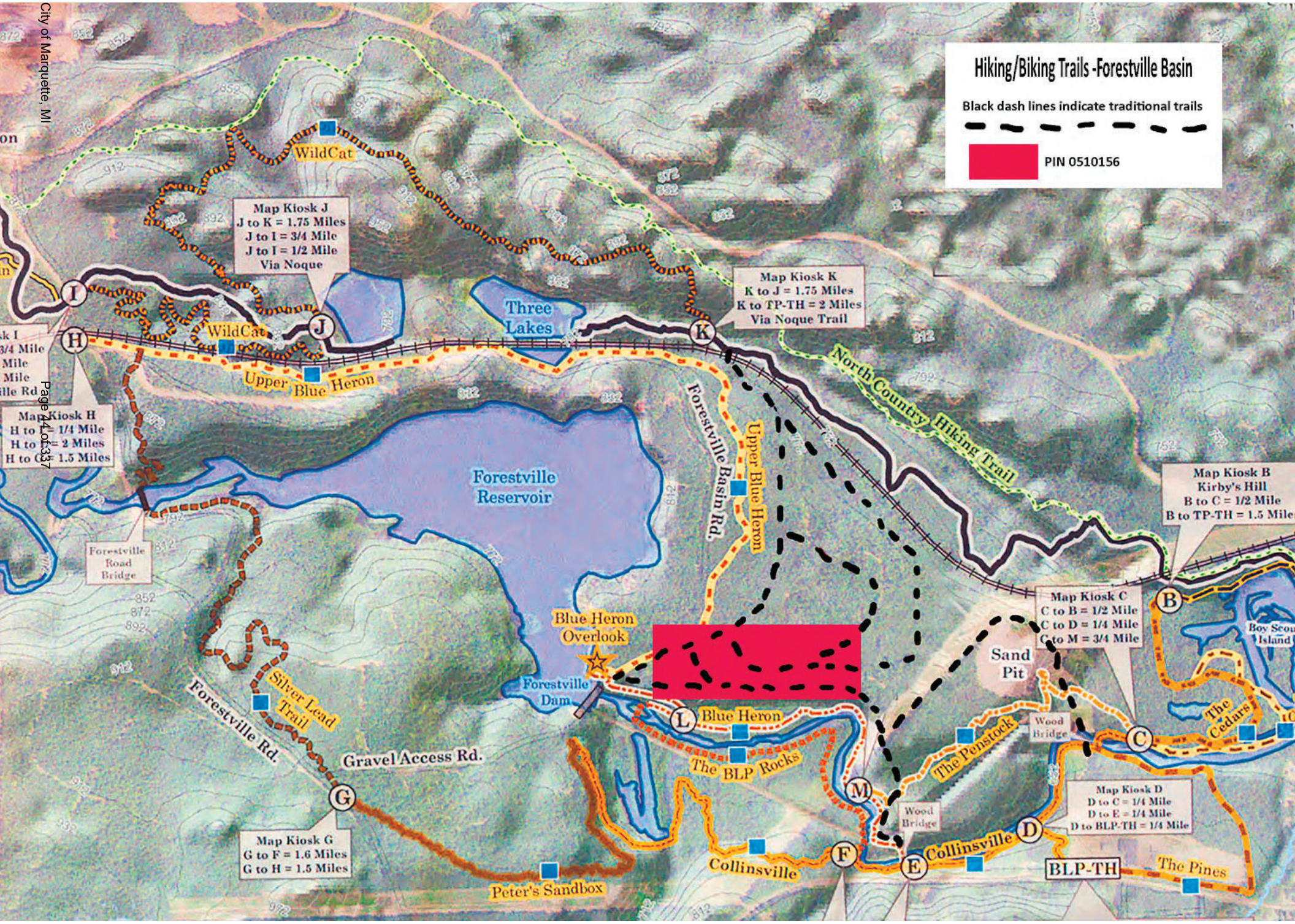
Northern Michigan University's Longyear Forest ( land north of the railroad track on the map) is one of Michigan's most unique and little known forests. The Forest is crossed by the North County Trail, The Noquemanon Trail and two NTN mountain bike trails. One of the main jump off points for these trails is marked on the map as Kiosk K. This is also the point where people hiking or biking the Noquemanon trail from Tourist Park can turn on to a different trail system to return to Marquette. The importance of keeping a southern access route to and from Kiosk K is easy to understand.

The Upper Blue Heron biking /hiking trail comes north from the Forestville Dam and then turns west through the narrow isthmus between the Forestville Basin and the ponds. After passing the ponds the trail breaks north to join up with other biking/hiking trails and south to the historic site of the Bancroft Furnace Location. The trail than connects up to trails that return the biker/ hikers back to the City of Marquette .

Not interfering with these recreational trail systems that have naturally developed over the years or have been designed by NTN would be the best long term strategy for the land in Northwest Marquette. Linking the protected lands of the Marquette Board of Light and Power to the protected lands of Northern Michigan University and a variety of trail systems is an obvious advantage for the people of Marquette and those who visit our area looking for a wilderness experience. The long turn best zoning for PIN 0510156 is CR.

Thank you.

Patrick St. Germain
505 Forestville Basin Trail


Hiking/Biking Trails -Forestville Basin
Black dash lines indicate traditional trails
PIN 0510156
Map Kiosk J
J to K = 1.75 Miles
J to I = 3/4 Mile
J to I = 1/2 Mile
Via Noque
Map Kiosk K
K to J = 1.75 Miles
K to TP-TH = 2 Miles
Via Noque Trail
Map Kiosk H
H to I = 1/4 Mile
H to G = 2 Miles
H to G = 1.5 Miles
Map Kiosk B
Kirby's Hill
B to C = 1/2 Mile
B to TP-TH = 1.5 Mile
Map Kiosk C
C to B = 1/2 Mile
C to D = 1/4 Mile
C to M = 3/4 Mile
Map Kiosk D
D to C = 1/4 Mile
D to E = 1/4 Mile
D to BLP-TH = 1/4 Mile
Map Kiosk G
G to F = 1.6 Miles
G to H = 1.5 Miles
WildCat
WildCat
Three Lakes
Upper Blue Heron
North Country Hiking Trail
Forestville Basin Rd.
Upper Blue Heron
Forestville Reservoir
Forestville Road Bridge
Blue Heron Overlook
Forestville Dam
Silver Lead Trail
Forestville Rd.
Gravel Access Rd.
Peter's Sandbox
Blue Heron
The BLP Rocks
Sand Pit
Wood Bridge
The Penstock
Wood Bridge
Collinsville
Collinsville
BLP-TH
The Pines
The Cedars
Boy Scou
Island
I
H
J
K
L
M
B
C
D
E
F
G

RECEIVED
APR 14 2022
Marquette City
Community Development Office

Andrea Landers
Zoning Official
City of Marquette
alanders@marquettemi.gov

Reference: Property Identification Number: 0510156 Dear Marquette City Planning Commission –

We are writing in regards to Cedar Point Family Trust's (Bruce Pesola's) property where an application has been submitted for a Zoning Change. The property is zoned Conservation and Recreation. Mr. Pesola is requesting a zoning change as a necessity for his building 8 single family homes on his City of Marquette property.

We are in the process of building on Forestville Basin Trail in Marquette Township. We have an interest in the proposed zoning change by Bruce Pesola since access to that parcel mentioned above is by way of an easement through Forestville Basin Trail. We are therefore affected by any development at the end of our private road. We believe that the Commission should consider the following before recommending any change to zoning:

Access to the proposed development is from Forestville Road through Forestville Basin Trail, which is a privately owned road maintained by the residents living along that road. Only part of the dirt and gravel road is built to county standards. Development will add traffic for construction equipment, traffic for builders, and traffic from families when lots are sold.

- During the winter the road is snow covered and sanding and plowing is at the discretion of the residents. It is often icy and slick. The road in the older development is very narrow with an average width of 18.8 feet in the summer. In the winter the average width reduces to 14 feet because of the snow banks and is reduced to 12 feet in some areas, which does not allow cars to pass in those areas.

- During the spring the Forestville Basin Trail has deep pot holes and cannot be graded until road restrictions are lifted. This problem is further exacerbated when heavy equipment uses our road and by added traffic in general.
- During the summer months, the dust control on the road is a constant problem. More traffic will only deteriorate the road faster and increase the dust control issue for residents.

Currently the school bus picks up children at the intersection of Forestville Road and Forestville Basin Trail. Because the road is private, children have to walk on the roadway from their homes to this intersection, which can be very dangerous. This is especially problematic in the winter and early spring with snow and ice covered roads. With blind curves, a narrow road, and high snow banks, a child could easily be killed. Children in the new development would need to walk 1.5 to 2 miles to the bus stop. While we understand that the Township has grandfathered the existing older section of this road, there is no reason to expand the risk to children by increasing the number of families at the end of this road.

Due to the road issues outlined above we are also concerned about services for fire, police, ambulance, and garbage being provided adequately and safely. These services are extremely valuable to our residents. However, the safety of the men and women who provide these services are also important to us.

We realize the developer wants to make money by developing residential lots. However, when the new section of Forestville Basin Trail was developed the developer was required to bring the road to a higher standard. We also understand that the older section of Forestville Basin Trail has been effectively grandfathered. It does not make sense to our community to add an additional development without the developer addressing the entire road. Therefore, we would propose that the zoning change not be approved or only be granted if the following takes place:

- The first part of Forestville Basin Trail which includes the residents of Blue Heron Bluffs 2 Condominium Association should be paved by the developer to deal with the severe pothole problem, control dust, and handle the traffic for development. This would allow Marquette County to adopt that section and school buses to operate over that part of the road.

- For the remaining older section of Forestville Basin Trail, owned by Blue Heron Bluffs Condominium Association, the road should be improved by the developer to accommodate two way traffic in all seasons and handle the added construction and residential traffic. This would ensure access to emergency services and the safety of children. A turnaround to accommodate fire and safety vehicles is also need.

Thank you for your consideration and addressing these concerns.

Sincerely,

Jesse & Lottie Kohtala

305 Brookton Rd.
Marquette, MI 49855

## zoning re: #0510156

bdmiller [redacted] <[redacted]>

Tue 4/19/2022 10:35 AM

To: Andrea Landers <alanders@marquettemi.gov>

We are writing to you in concern about requested re-zoning on property in our Blue Heron Bluff development, specifically #0510156 submitted by Bruce Pesola. Although we are required to give him easement to his property, easement should not cause harm to the persons granting it. We feel his plan to build 8 houses will cause us and other residents harm. The road to this property is a gravel, non-county conforming road, winding and narrow. It has blind corners and hills. In the winter this road is often wide enough for only one car in spots. We don't feel this road is safe to accomadate all the extra construction and resident traffic and is a danger. In addition these lots would be in the city and would need city garbage, fire, etc which would be difficult on current road. Also Mr. Pesola is requesting rezoning on his current lot to allow him to subdivide it and build another home there. This is in direct conflict with our Consolidated Master Deed, which allowed for only the properties as listed. Mr Pesola was involved in the creating of this Master Deed and knows fully well that this is not allowed. Thank you for your attention to this matter. Sincerely Bruce and Candy Miller 345 Forestville Basin Trail

Patricia Olson

435 Forestville Basin Trl , Marquette, MI 49855 ♦ [redacted]

May 4, 2022

Andrea Landers
City of Marquette Zoning Official
1100 Wright St.
Marquette, MI 49855

Property Identification: 0510156

I believe that development of the land adjoining our association is inevitable. It is only a matter of when and what is developed on that property. Low density residential will be the least impactful compared to other land uses. Single family residential is consistent with the adjoining neighborhood and will not impact the property values negatively. Adding single family residents would be in line with the nature of our community. If there is going to be development on the property, I prefer that it is residential.

There is no doubt that our road is an issue and added residents will add pressure on the road and road maintenance. However, in my opinion, it is not correct that 8 additional residential units will materially affect the road, safety or ingress or egress by residents. Any new residents will be contributing money to our road for maintenance so we will have more money for improvements which will negate any adverse impacts on the private road. Also, it is unlikely that the added 8 lots will be developed in one year so the impact would be over several years with contributions to the road made as the lots are developed.

The road will see extra traffic with any development and low density residential would have lower impact on the road and be better than other types of development – development that could result in heavier perpetual traffic. Bruce Pesola and Cedar Family Trust have stated their intent to donate the remaining acreage (approximately 40 acres) that is adjacent to the condominium association so it cannot be developed. This commitment would also reduce the future traffic on our road.

I am in support of the proposed rezoning plan.

Respectfully,

Patricia Olson

Andrea Landers
Zoning Official
City of Marquette
alanders@marquettemi.gov

Reference: Property Identification Number: 0510156

Dear Marquette City Planning Commission –

We are writing in regards to Cedar Point Family Trust's (Bruce Pesola's) property where an application has been submitted for a Zoning Change. The property is zoned Conservation and Recreation. Mr. Pesola is requesting a zoning change as a necessity for his building 8 single family homes on his City of Marquette property.

We live on Forestville Basin Trail in Marquette Township. We have an interest in the proposed zoning change by Bruce Pesola since access to that parcel mentioned above is by way of an easement through Forestville Basin Trail. We are therefore affected by any development at the end of our private road. We believe that the Commission should consider the following before recommending any change to zoning:

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1.5 to 2 miles to the bus stop. While we understand that the Township has grandfathered the existing older section of this road, there is no reason to expand the risk to children by increasing the number of families at the end of this road.

Due to the road issues outlined above we are also concerned about services for fire, police, ambulance, and garbage being provided adequately and safely. These services are extremely valuable to our residents. However, the safety of the men and women who provide these services are also important to us.

We realize the developer wants to make money by developing residential lots. However, when the new section of Forestville Basin Trail was developed the developer was required to bring the road to a higher standard. We also understand that the older section of Forestville Basin Trail has been effectively grandfathered. It does not make sense to our community to add an additional development without the developer addressing the entire road. Therefore, we would propose that the zoning change not be approved or only be granted if the following takes place:

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Thank you for your consideration and addressing these concerns.

Sincerely,

Kristina Orticelli

Kristina Orticelli
275 Forestville Basin Trail
Marquette, MI 9855

John Orticelli

John Orticelli
275 Forestville Basin Trail
MArquette, mi 49855

Community Development
Office received 4-13-22

April 13, 2022

Andrea Landers, Zoning Official
City of Marquette

Property Identification Number: 0510156

Dear Marquette City Planning Commission:

We are writing about Cedar Point Family Trust's (Bruce Pesola's) property where an application has been submitted for a Zoning Change. The property is zoned Conservation and Recreation. Mr. Pesola is requesting a zoning change as a necessity for his building 8 single family homes on his City of Marquette property.

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Thank you for your consideration and for addressing our concerns.

Sincerely,

Michaeleen OSullivan
355 Forestville Basin Trail
Marquette, MI 49855

Patrick MacDevitt
63 Colwill Road
Auckland, New Zealand
[redacted]

April 21, 2022

Andrea Landers
Zoning Official
City of Marquette
alanders@marquettemi.gov
Reference: Property ID #: 0510156

Dear Ms. Landers,

My name is Patrick MacDevitt. I am the son of Maggie MacDevitt and stepson of Patrick St. Germain, the residents of 505 Forestville Basin Trail in Marquette Township. My family stays with them one to three months a year.

I'm writing in regard to the proposed zoning change to a property (T 48 N, R 25 W sections 8 and 9) near Forestville Dam in the City of Marquette, which will be brought before the Zoning Board by Cedar Point Family Trust and Bruce Pesola. This proposal would allow a development which fails to take into account concerns about safety and service accessibility.

Forestville Basin Trail is a narrow dirt road. During the summer, some portions of the road are likely impossible for US Mail vehicles and school busses to use. In winter, most parts of the road will be completely impassable. Furthermore, building new units on the road will require children to walk miles on a narrow, curvy, often icy road with limited visibility, a serious safety risk. I'd like to know how the City of Marquette intends to deal with these challenges.

On a more self-centered note, My parents live on a dirt road can be difficult to access by even normal vehicles. As I understand the situation, there is a proposal to build a large number of dwellings near the end of the road. As there are very few people living on the road at present, this would represent a large percentage increase in the amount of traffic on the road, thereby be degrading the road much more quickly, both in summer and winter months.

I ask that you not approve the zoning change, which could negatively impact the ability of my daughter, wife, and me to visit our family.

Thank you for your time,



Patrick MacDevitt, PhD

## Development on Forestville Basin Trail

Matthew Pear <[redacted]>
Tue 4/19/2022 8:25 AM
To: Andrea Landers <alanders@marquettemi.gov>

Matthew MacDevitt Pear
1335 1st St.
Northbrook, IL
60062

Andrea Landers
Zoning Official
City of Marquette
alanders@marquettemi.gov

Reference: Property ID#: 0510156

Dear Ms. Landers,

My name is Matthew MacDevitt Pear. I am the son of Maggie MacDevitt and stepson of Patrick St. Germain, the residents of 505 Forestville Basin Trail in Marquette Township. I visit them nearly every month and stay at their house, often with my three children.

My parents live on a dirt road that is often nearly impassable. As I understand the situation, there is a proposal to rezone and build a development with 8 new homes near the end of the road. As there are very few people living on the road at present, this would represent a large percentage increase in the amount of traffic on the road, thereby degrading the road much more quickly, both in summer and winter months. The road is also narrow and increased traffic will make the road less safe for walking and driving.

I ask that you not approve rezoning which will result in this development, as it will increase the road dangers for all who use Forestville Basin Trail.

Respectfully,
Matthew MacDevitt Pear

P.I.N. 0510156

PHOTOGROPHS OF FORESTVILLE BASIN TRAIL
2021 - 2022

FROM

Patrick St Germain
505 Forestville Basin Trail
Marquette MI 49855
[redacted]

[redacted]

RECEIVED
APR 20 2022
Community Development Office

# Forestville Basin Trail - Fall 2021



# Forestville Basin Trail - Fall 2021



City of Marquette, MI

City of Marquette, MI
Page 38 of 337

# Forestville Basin Trail - Winter 2022



# Forestville Basin Trail - Winter 2022



# Forestville Basin Trail - Spring 2022



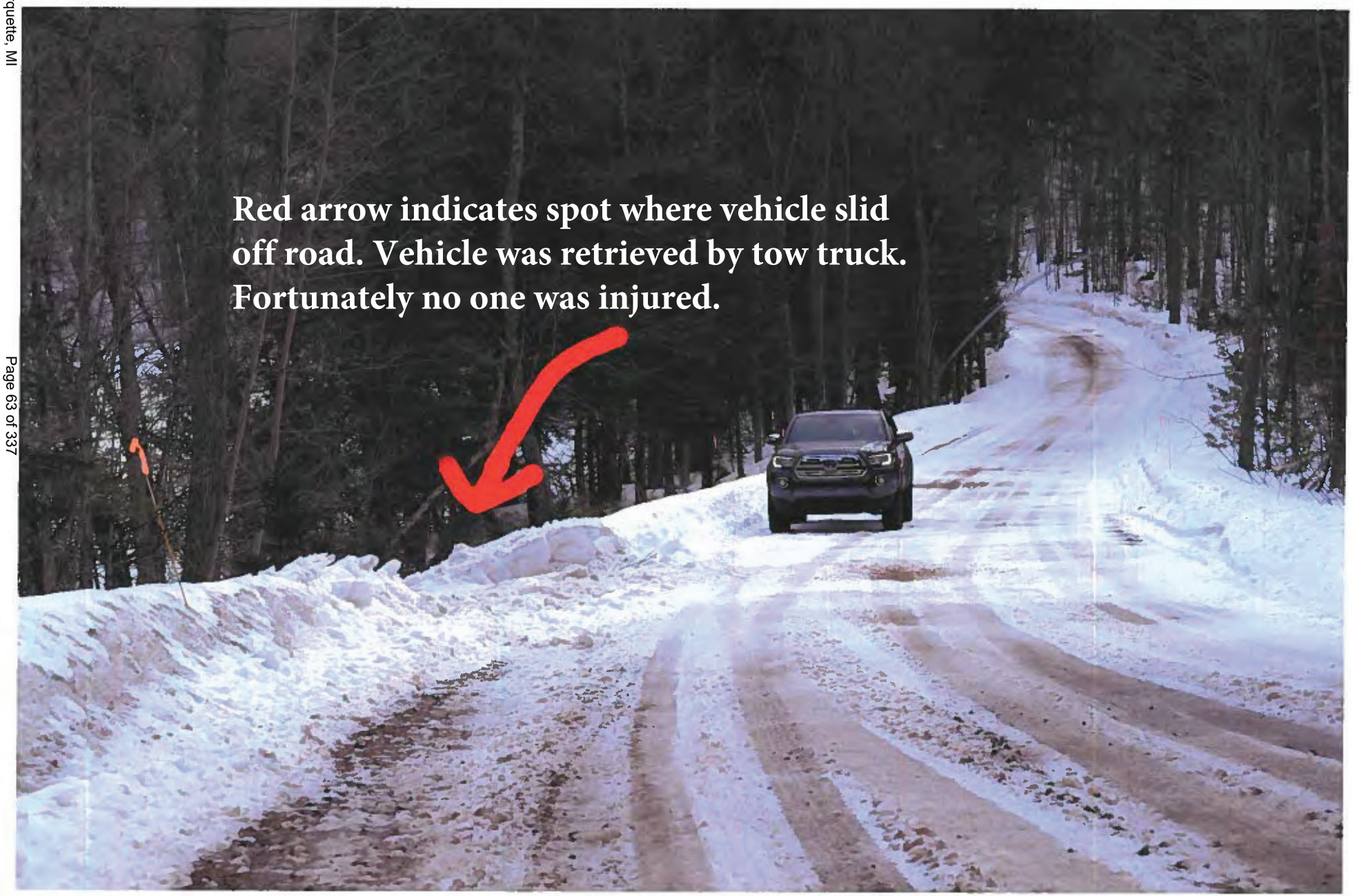
# Forestville Basin Trail - Spring 2022



# Forestville Basin Trail - Spring 2022



# Forestville Basin Trail - April 2022



Patrick St. Germain & Maggie MacDevitt
505 Forestville Basin Trail
Marquette, MI 49855
[redacted]

March 1, 2022

Suzanne Curry Larsen
City Attorney
City of Marquette
300 W. Baraga Ave.
Marquette, MI 49855-4712

Dear Ms. Larsen,

We are writing as residents of Blue Heron Bluffs Condominium Association on Forestville Basin Trail in Marquette Township. We have concerns about the ramifications of a proposed zoning change to a property in our neighborhood. We believe that a zoning modification for the intended development does not take into account safety issues and access for service limitations. The property we're referring to (T 48 N, R 25 W sections 8 and 9) is near Forestville Dam in the City of Marquette. The request for a zoning change will be brought before the Zoning Board by Cedar Point Family Trust and Bruce Pesola. We have included a map for clarification.

Forestville Basin Trail (FBT) is a 1.5 mile long private dirt and gravel road, with year round houses and seasonal dwellings. The first half of the road, owned by Blue Heron Bluffs Two Condominium Association, is new and meets County Road Commission Standards. The second half of the road is owned by Blue Heron Bluffs Condominium Association. This section of road is much older and doesn't meet current Road Commission Standards. A zoning change would allow development of eight single family homes on the property in question. Although the property is within Marquettte city limits, to access it by car, one must drive out of the city and through Marquette Township for 3.75 miles.

Using the last .75 mile of Forestville Basin Trail for access to this proposed development presents issues that need to be addressed. This section of roadway is very hilly and winding with trees and cut banks close to the shoulders of the road. In the summertime, the road is usually 18.8 feet wide. On February 23, 2022 we measured the road, and found it to be 14 feet wide in most places but as little as 12 feet wide in several spots. 14 feet of width will allow cars to pass each other on the road if they are careful, but at twelve feet of width, one vehicle has to pull into a driveway to let another other vehicle pass by. This becomes a serious problem when a service vehicle or large

truck is involved. U.S. Mail vehicles and school buses will not drive down this part of the road even in the summer. In addition, with 8 new families living at the end of this road, the children residing there will need to walk 1.5 miles to catch their school bus on the narrow curvy road where winter snowbanks are 4 to 5 feet high. This is obviously a safety hazard that needs to be addressed. (Photo included)

If the zoning is changed as Cedar Family Trust and Bruce Pesola propose, we have the following questions as to how the City of Marquette will provide services to the tax payers residing in those 8 new lots.

1. Will these lots have to be serviced by Township Fire Departments and County Law Enforcement, even though the lots are in the city of Marquette?

2. How will the residents of these new lots have access to city garbage collection?

3. Marquette city taxpayers have their streets maintained and plowed using city tax dollars. How would that work on a private road?

4. How would the city handle the school bus problem?

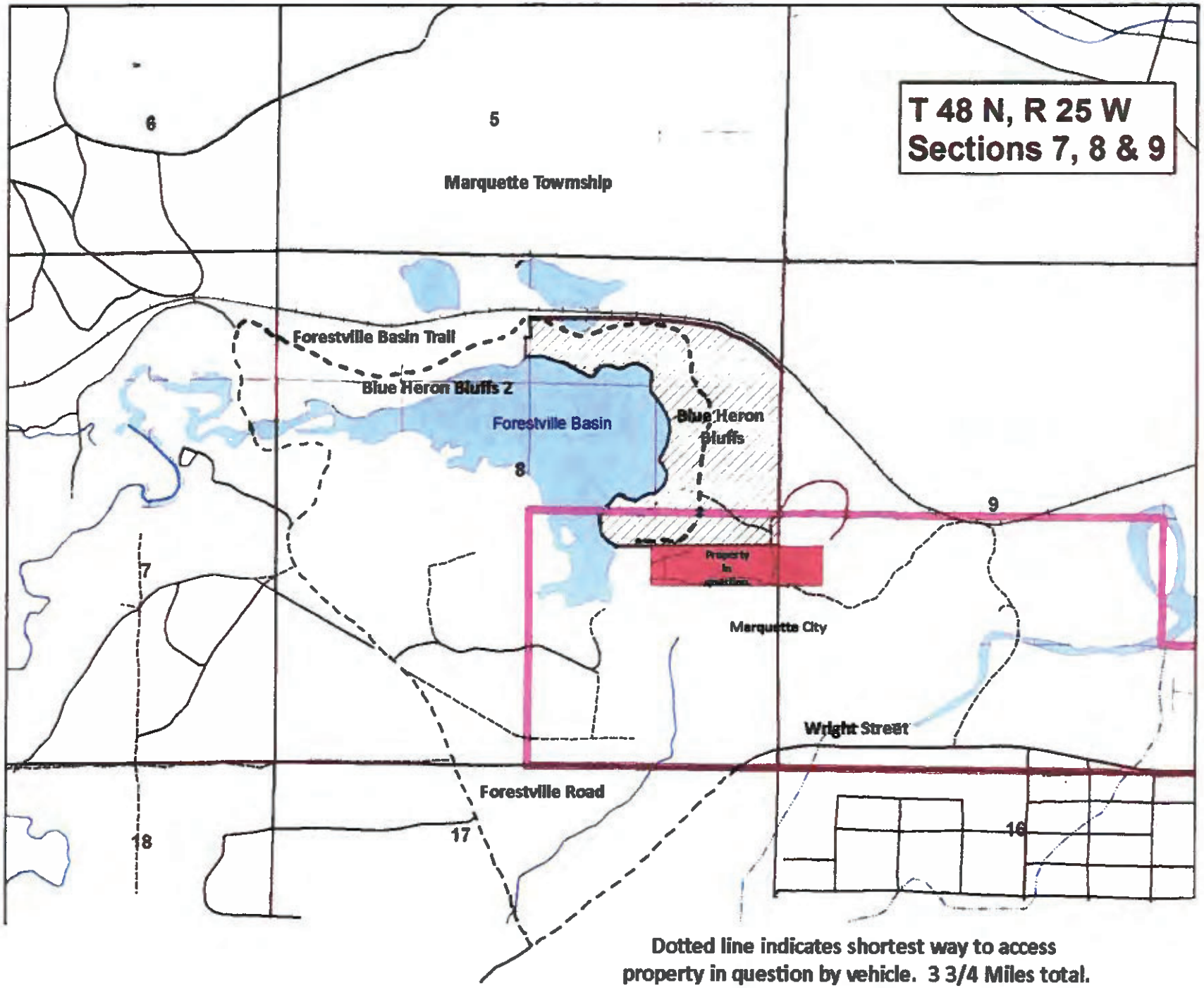
5. Would the arrangements made for servicing these lots via this private road have to be approved by the landowners of both associations that own the road? (It should be noted that the City of Marquette has been reluctant in the past to inspect Marquette City land in this area because they have been unsure about using a private road.)

We are asking the City of Marquette to resolve these problems before they allow eight families to build houses on the property in question. We would appreciate your letting us know if you have answers to our questions or if you know who we should address our concerns to.

Thank you for your time.

Sincerely,

Patrick St. Germain, Maggie MacDevitt




Dotted line indicates shortest way to access property in question by vehicle. 3 3/4 Miles total.
1 1/2 Miles on private road.
2 1/4 Miles on Marquette Township roads.



City of Marquette, MI

## Rezoning parcels Cedar Point Family Trust-Forestville Basin

David Staples <[redacted]>

Thu 5/5/2022 11:29 AM

To: Andrea Landers <alanders@marquettemi.gov>

As owners of lots 3 & 5 (575 & 535) of Blue Heron Bluffs Condominium Association we do not support the current plan and sequence for the rezoning request.
We feel there are too many unanswered questions regarding documented assurances from Bruce of Cedar Point Family Trust (CPFT).
Additionally, we would like to see a response from the Zoning Department as to what requirements have to be met before approval is granted. We understand that neighborhood support is one factor in the process.
Therefore we recommend that rezoning approval be delayed until more information is provided by Bruce of CPFT and the Zoning Board of Appeals.
Signed
David Staples, Sharon Staples (575)
Ryan Staples, Stephanie Whiton (535)

**OFFICIAL PROCEEDINGS OF THE**
**MARQUETTE CITY PLANNING COMMISSION**
**May 10, 2022**

A regular meeting of the Marquette City Planning Commission was duly called and held at 6:00 p.m. on Tuesday, May 10, 2022, in the Commission Chambers at City Hall.

**ROLL CALL**
Present: W. Premeau, A. Andres, Vice-Chair M. Larson, Chair J. Cardillo, and N. Frischkorn
Absent: S. Mittlefehldt and N. Williams (both excused)

**AGENDA**

*It was moved by A. Andres, seconded by M. Larson and carried 5-0 to approve the agenda with the removal of the April 19, 2022 minutes.*

**MINUTES**

*The minutes of April 12, 2022 were approved by consensus with the following change that J. Cardillo did not attend the City Commission meeting she watched it online after-the-fact.*

**CONFLICT OF INTEREST and EX-PARTE CONTACT**
None was stated.

**PUBLIC HEARIINGS**

**A. 01-STR-05-2022 – Request to Vacate a Portion of Center Street**

Zoning Official A. Landers stated petitioners have requested the vacation of the 64-ft. wide (approximate) Center Street right-of-way located between lots 1-3 of the Marquette Land Company's Addition No.2 and lots 26 and 27 of Ayer's Addition (see included plat map and photo-maps). She stated this portion of Center St. is the "dead end" that is almost perfectly aligned with the center of the Superior Dome on the NMU athletic campus, and Center St. thus provides a "terminal vista" of the Superior Dome, which is a classical design principal and may have been the reason for the exact build location of the Dome. She also stated in accordance with the procedures developed by the Community Development Department for street vacations, the petition has been circulated to all City departments for review and comment. She stated the petitioners own and manage property (own 1636 & 1700 Presque Isle, 251 Center St., and 201 W. Center Street) that is adjacent to the subject right-of-way. She also stated if vacated, adjoining property owners may take legal action to have the property included with their own property. She stated attached is the petition document, an area map showing water and sewer utilities, site photos, and said that she had not received any correspondence and asked D. Stensaas if he had.

City Planner and Zoning Administrator D. Stensaas stated that he had only received an e-mail message that he forwarded to the Planning Commission, from Jim Thams who was the applicant for NMU, which explained that they don't have any specific plans for that property but that they would probably make it a green space as they are planning to tear the adjacent Carpet Shop building down once the lease is up on that property. He stated that NMU now owns the property on all sides of the dead end of Center Street and their Campus Master Plan has this identified as a mixed-use area, but they don't have any plans for the area according to the message that was forwarded.

*Chair Cardillo opened the public hearing.*

*Brian Harsh, 1635 and 1639 Presque Isle and 1309 Center Street, stated what is going on and what does this mean when they say "vacate the property" and how does this affect the road and the people around there?*

*No one else wished to comment. Chair Cardillo closed the public hearing.*

*It was moved by M. Larson, seconded by A. Andres and carried 5-0 to suspend the rules for discussion.*

M. Larson stated that he would turn to staff for a brief explanation of street vacations and vacating that brief portion.

D. Stensaas stated that what we have with platted subdivisions is that there was a survey done of all of the parcels, and to the north and south of this right-of-way there are platted subdivision parcels. He stated that the streets in subdivisions are surveyed and laid out on the plat and designated as right-of-way, and the plat is a legal document that is approved through a process that the state oversees, so any right-of-way that was platted and approved by the state when it approves the plat – to terminate the use of it as a right-of-way it must go through this formal process we call street vacation. He stated that if it is vacated it will remain City property until adjacent landowners acquire it through a process established by state law through the courts, and so if it is vacated the City will be responsible for maintaining it until NMU acquires it. He also said that what will probably happen is that once this portion of the street is vacated and acquired by NMU it would be stricken from the plat as a right-of-way and it would be re-monumented as part of NMU's property in that area.

J. Cardillo stated this would still remain property of the City, but when the next step happens that is when it would change ownership.

M. Larson stated that his only other comment is that after reading through the materials it seems like everything is in order with agreements and it makes sense that this would become part of NMU's property since they've acquired all the property adjacent to this part of the street.

A. Andres stated that he agrees.

N. Frischkorn stated that just for clarification - Center Street would end at Presque Isle Ave. instead of nearer to the dome if this is approved. J. Cardillo stated yes.

W. Premeau asked if the alley that ran between Fair Ave. and Wright St., off of Center St., had been vacated. D. Stensaas stated that he isn't aware of it if there was a platted alley where the NMU property is now. W. Premeau stated that he walked that alley many times. He also stated that doesn't see anything wrong with this request.

*It was moved by M. Larson, seconded by A. Andres and carried 5-0 that after review of the background information for 01-STR-05-22, the "Portion of Center Street East of Presque Isle Avenue Vacation Request", the Planning Commission finds that the proposed street vacation would not conflict with any intended municipal uses of the right-of-way, and hereby recommends the City Commission approves the street vacation as presented.*

**B. 02-REZ-05-2022 – Request to Rezone from CR to LDR - PID 0515156**

A. Landers stated the Planning Commission is being asked to make a recommendation to the City Commission regarding a request to rezone the property located at Forestville Basin Trail - PIN: 0510156 which is zoned Conservation & Recreation (CR) to be zoned Low Density Residential (LDR). She referenced the staff report and visuals from the agenda packet were shown.

Four items of correspondence received after the agenda was posted were read. The first was from the Marquette Township Planning office on behalf of their Planning Commission; the others were from residents of the Blue Heron Bluffs Condominium projects, with lots in Marquette Township - Kristina and John Orticelli, David and Ryan Staples, and Steven Embree. The correspondence from Mr. Embree included a letter drafted by Adrianne Wolf, the attorney for the applicant, addressed to members of the two homeowner associations (Blue Heron Bluffs and Blue Heron Bluffs II).

Jim Conlin, of Iron Shore Development at 137 W. Michigan St., and representing the applicant, stated that he would like to point out a high-level view to limit future development of the residential lots which were

mentioned for single-family construction within the city boundaries. He stated that that is in the request for the rezoning of the 21 acres and then one residential lot for rezoning which was the 1.5 acre parcel. He stated that it was their humble opinion that approving the requests will benefit the city and neighborhood residences as it would control and limit the development of the property to the aforementioned number of lots and would fit within the low-density residential guidelines. He stated that he would like to reiterate the control and limitations pieces to that, as the current owners intend to have a minimal number of families able to build single-family residences. He stated that in addition, they further intend if the requests are approved, is the donation of land to the north of the township to be donated for no future development. He stated furthermore, that not to be doom and gloom, but there is always the possibility that a current owner offers for sale this entire property and the city and township parcels to an outside buyer. He stated at that point, with current zoning there is no control as to the request of any outside party, whether it be for documented rights or special land use requests in the future. He stated that yes, there would be issues raised about the road access condition in it's current state and the potential wear and tear to the roads due to the low density lots. He stated that in future planning, those concerns should be addressed by the private home owners and the public. He stated as to the future low density development housing, the planning will incorporate city guidelines for an access road and that they also need to develop the access points. He thanked the commission members for their time and consideration.

Adrianne Wolf of McDonald & Wolf, LLC, 115 S. Lakeshore Drive #A, attorney for the applicant, stated that this is a unique situation in the sense that this particular parcel borders property and is adjacent to condominium units and uses the same access as the condominium association which is located in Marquette Township. She stated therefore they have Blue Heron Bluffs 2 near the entrance of the development and then Blue Heron Bluffs 1, which is further down Forestville Basin Trail Road and most near to the proposed rezoned area. She stated in Blue Heron Bluffs, also known as BHB 1, which is the association that's closest to the potentially rezoned parcel, there are 18 units, single-family homes and then BHB 2 which is the near the entrance of the development, consisting of 11 units. She stated there are also 5 additional parcels which are single-family parcels, near the entrance to the development that also use Forestville Basin Trail. She stated currently the road Forestville Basin Trail is already used by 34 single family residences. She stated that they are proposing by developing this or rezoning this, they are proposing 8 additional residences to be served by the same road. She stated that the other thing that she thinks is important for the planning commission to recognize is that that particular parcel was listed as a potentially expandable area for both condominium associations. She stated that Blue Heron Bluffs 1 was the first development on Forestville Basin Trail and that it contains 18 units and is most adjacent to the proposed rezoned parcel. She stated that at that time, the property in question was listed as potential property to be added to that condominium. She stated that the time to do that has past, so the property in question cannot be now added to Blue Heron Bluffs 1. She stated that secondly though, it was also listed as an expandable area for Blue Heron Bluffs 2 and in the master deed, when all the owners of Blue Heron Bluffs 2 purchased, it was disclosed to them that if this expandable area is added to Blue Heron Bluffs 2, and there is still time to do that, up to 8 additional single-family lots could be created out of it. She stated that again, this is a condition which was known to all of the purchasers of property in Blue Heron Bluffs 2 and that it was stated in the Master Deed as well as the subdivision plan. She stated that this is a rezoning request, and that the primary focus in her opinion, is that they are requesting that the commission consider the zoning as LDR in order to be consistent with those adjoining areas. And she stated that also the property in question is accessed through the same road that the other two associations are accessed through. She stated that she does believe that LDR is more consistent actually than what the current zoning of CR. She stated that CR currently allows the developer to use the property for things such as forestry and agriculture. And she said and in fact, some of those uses the developers requests from surrounding owners specifically to not use it as it is currently zoned. She stated that they are asking for this rezoning to make it actually consistent with the other adjoining development. She stated that and in an effort to ensure these 8 are in fact compatible with the surrounding uses, that is what has prompted the developer to enter into or to provide the letter of intent that was read to the commission earlier, which according to her understanding has now been approved by Blue Heron Bluffs 1 as an association. She stated that the other factors that she would point out to the commission are to look at the trend of development in that particular area and whether LDR is actually a better use for the property. She stated that both current developments support rezoning as LDR rather than keeping it as CR as set forth in the materials provided to the commission during tonight's meeting. She stated that the most consistent concern that has been raised in correspondence by adjoining land owners as well as the township has

been the state of Forestville Basin Trail and can it handle and additional 8 homes on the road. She stated that again she would point out that there is already 35 single-family residences using it, so they are not incrementally increasing the traffic by very much. She stated secondly, the owners in BHB 1 and BHB 2, the two condominium associations, are actually the ones responsible for maintaining and improving that road. She stated that therefore those who are complaining to the commission about the state of the road in fact have the ability and the power to actually improve and maintain their road. She stated that both condominium associations have the authority to assessments as necessary to maintain and improve Forestville Basin Trail. She stated that in fact one of the conditions they agreed to as stated in their letter of intent is that the 8 parcels, once created, would also be required to pay assessments to maintain and improve the road, just as Blue Heroin Bluffs 1 is. She stated that therefore if that association determines that it is appropriate to pave the road or widen the road, the proposed new 8 units would also be bound by any particular assessment issued for that purpose. She stated therefore, that would add an additional 8 homes that are actually contributing to maintaining and improving the road, hopefully alleviating some of those concerns. She stated that there are a number of trails in the particular area in question which are maintained by MTM. She stated that the developer has been in discussions with MTM to continue to allow access to the MTMs. She stated that they accept that that has been a concern that has been raised by correspondence and that it was always with by grace of the landowner as most trails are and that it is less than fair to use that grace now against the developer. She stated that additionally the township has approved both of the condominium developments previously; BHB 1 and BHB 2. And she stated that she has also heard about the township expressing concerns about the state of Forestville Basin Trail and she stated that she believe that those comments focused primarily of the Forestville Basin Trail Road the goes through BHB 1, because it was prior to a requirement that the road to county specifications. She stated that the road in BHB 2 which is closer to the intersection with Forestville Road was in fact built to county specifications according to the township ordinance at the time which it was developed. She thanked the commissioners for their time.

*Chair Cardillo opened the public hearing.*

John Fagan and Donna Fagan, 585 Forestville, stated and he and his wife were in the Blue Heron Bluff Condo Association. Donna Fagan stated that they support the rezoning.

Steven Embree, 395 Forestville Basin, stated that he was a Blue Heron Bluff Condo Association as well. He stated that the condo association has met as a group and voted to support the rezoning application. He stated they had a minority of the group that does not support the rezoning application, but that the majority of the participants and members do support the rezoning application. He stated that one of the big considerations they have is certainly with development in that area. He stated that they have been blessed with not a whole lot of development for years and years and years. He stated that he much would rather have residential property on the property in question than any other type of development. Therefore, he is supporting the rezoning application for residential because it is beneficial to their members and the association supports that. He stated that the second piece is the initial 40 acres that had been referred to that the developer plans to basically give them, which adjacent to their property, in the township, so it cannot be developed. S. Embree went on to say that one of the big considerations they have is if that property goes to someone else, due to the current zoning classification they could end up with a camp site in there, campers. He added traffic on the road and the wear and tear on the road could be much worse than just 8 residential lots. He stated that they do understand the condition of the road and the need for improvement of the road, but they also understand that the developers want to give them money for such development and the 40 acres for nondevelopment; therefore, it will not be improved, nobody else will be back there and that would be the extent of the development in that area. S. Embree thanked the commission.

Tom Sundko, 475 Forestville Basin, stated that he and his wife Karen Sundko have lived at this address for 32 years. He stated they enjoy that environment and that they are not necessarily wanting to see more development; however, they definitely do support the approval and the rezoning request that's being asked of the committee. T. Sundko them thanked the commission.

Patricia Olson, 435 Forestville Basin, stated that she supports the proposed rezoning. She said as S. Embree mentioned, the trail systems out there are heavily used by them and all the members of the local

community and that she feels that preserving the 40 acres and just developing the targeted 8 lots preserves some of that for not only the residents but the larger community which also uses the trails that current exist. She stated that she thinks the other benefit of looking at this proposed development versus others which will be inevitable is with the residential home builds, she thinks the development would be more of a staged development. She stated that they would not be selling 8 lots in one year, so she thinks that the impact on the road would be incremental and that it will given a chance to recover from those builds, get it repairs and have a few more builds happen. She stated that that would preclude any other large development that might come in and really wreak havoc on their road. She stated that she does think that residential is more consistent with what they already have out there and that from a self-preservation perspective, everyone has made a large investment in their homes out there. She thinks that some of other potential uses could negatively impact their property value. She stated that placing other residential property out there would help to stabilize and perhaps improve their property values and that some of the other uses would work to the detriment of the people who have put significant investments in their properties out there.

*No one else wished to comment. Chair Cardillo closed the public hearing.*

> *It was moved by N. Frischkorn, seconded by M. Larson and carried 5-0 to suspend the rules for discussion.*

N. Frischkorn stated that he would start by addressing several of the things that were in the correspondence prior to the agenda. There was raised some issue of master deed, he stated that he does not think that that is something that they could address there in their session. He stated that that seems more of a contract issue between the parties than anything that the Planning Commission could consider. He stated that he also wanted to clarify that he does not believe that we can add any conditions to their decision, because this was not a conditional rezoning request, so they cannot add any conditions, they can only approve or deny.

J. Cardillo asked if N. Frischkorn was referring to the correspondence that was read earlier.

N. Frischkorn stated yes, he does not think that the issue of the master deed could be included and asked to be corrected if he was wrong about this fact.

D. Stensaas stated that he had that discussion with the City Attorney and that she would concur with that, that those are not issues. Those are issues between the homeowner's association and the developer.

J. Cardillo stated that they would be taking this at face value only and any conditions that the homeowner's association the wish to make among themselves has no pertinence to what they are doing.

N. Frischkorn stated that if it was a conditional zoning request then that would be a different matter. But as submitted, he does not feel they can attach conditions. He stated that there was a number of concerns that he had, the biggest one is that he does not feel that this request is consistent with the Master Plan. It is zoned Conservation & Recreation and it's marked CR on the Future Land Use Map. So he stated to him, the biggest thing is the fact that this is inconsistent with what's in the Master Plan. He stated also just king of going through the factors, factor number three, the street system. He stated that they have heard testimony, they have had a letter from the township that the street is substandard and does not meet specifications. He stated that factor number four is utilities and services and there is no utilities or services in that area. There is electricity from the BLP, but that's about it. Factor number eight, he stated, also gives him concern, the increase on septic treatment and possible nuisances, noise, traffic level and those types of things. He stated that he does not about their relationship with the surrounding zoning districts which, at least in-city, the BLP and the Board of Conservation & Recreation. He stated that rezoning the area as LDR would be consistent with the surrounding zoning districts. He stated and then he thought there could be an argument made on factor 12 as well, that they might be creating an encapsulated or incompatible zone if they approve the rezoning request. He stated that he knows that in the township, it's Scenic Residential. He stated that as far as city property goes, this would certainly be an isolated zone. He stated those were his concerns with the rezoning request as it is before them at that time.

M. Larson stated that he had a question for staff and that it relates to the township zoning as Scenic Residential and their relationship with the township and essential kind of planning principles as far as when their district is immediately adjacent to Scenic Residential. He asked how should that be kind of thinking about that. He stated that it is one thing to think about it in relation to the city's zoning and whether that creates an isolated zone, but what considerations as far as immediately adjacent to another municipal body's zoning.

W. Premeau stated that yes, in terms of the development standards, it is something to be considered. It's worthy in your consideration and your decision-making what their standards are. He stated it doesn't matter so much if there is concerns about the impacts, where those come from as much as the standards that are in place in that district and the Scenic Residential he said he thinks they explained that that's a got a 5-acre minimum lot size unless there are certain conditions met through a Special Land Use Permit that the lots can be as small as 40,000 square feet, he believes.

J. Cardillo clarified that it is just under an acre.

W. Premeau stated that he agreed and as far as other development standards, as they pointed out, there are no standards for utility services or street, the street map kind of a thing. He stated that this is rural development.

N. Frischkorn stated that as a follow-up question to that, and just kind of thinking about this as a unique or potentially unique parcel, he stated that the reason for Conservation & Recreation, was that partially just due to the remote location of it and it being outside of any of the City of Marquette's utility and street corridors that they may have. And so, he asked, did it get zones CR just because it had limited access?

W. Premeau stated that he could not answer that question authoritatively. He stated that this is not the BLP's property, this is really on the fringe of the city. He stated it's not owned by the BLP and he think that's a fair, as good as any other theory. He stated it's not easily accessible, it's forested property and not easily accessible. He states that developments which they've seen in that area and that the BLP's property, of course, has some specified uses and that it abuts that property and if the BLP owned it, it would be BLP zoning. So he stated that he thought that that was as good of a theory as any, that for a long time that has been out there not owned by anybody particular with any development proposals.

M. Larson stated his other thoughts when thinking through this. He stated that he knows the intent from the development or from the request was that this would be for only single-family homes. However, he said, the Low Density Residential Zoning District does allow for many more permitted uses other than just, you know, single family. He stated these included adult foster care, child daycare, dwelling, single-family detached, food production, foster family home, home occupation, home office, home stays, vacation homes, and residential limited animal keeping. He stated that then is also has a variety of special land uses as well that are permitted that include child care center, day care, accessory dwelling unit, foster family group home, recreations, religious institutions, schools, primary and secondary. He stated that right now just considering from a rezoning piece, it could be any of those uses could come to be. Now that is without any deed restrictions or anything that might be common land. He stated that as of right now, if they were just to change it there at the commission meeting and without any binding agreements in place, he said he thought that in theory he guessed the owner could change gears and put in some other multi-family dwelling that might be in there, duplex or otherwise. He stated that that is just something that they could think about while they are talking about this.

N. Frischkorn stated that another point that he would like to make is the developer on behalf of the applicant said that if it is sold there is no control over the future development. He stated that he just wanted to clarify that that is not accurate because it would still be zoned Conservation & Recreation and would only be for those permitted uses that are currently in that zoning.

J. Cardillo stated that she thinks that that is an interesting point and she guessed it sort of clarified to her that she thinks the people are always more concerned about that 40 acre parcel. She stated she did just want to clarify that that parcel was zoned for Scenic Residential. She asked if that was correct. It was

clarified to her that it was not and she asked would it be classified as agricultural.

M. Landers clarified that that would be horse stables, poultry sales, Christmas tree sales and such types of purposes including forestry both commercial and non-commercial, firewood sales, equipment storage, offices, yard work decking areas and emergency services centers, state or county recreation buildings, horse stables, marinas and other such uses.

J. Cardillo asked for the 40 acres to be clarified on the map.

M. Landers stated that as the City of Marquette that would not be something that would not have control over. He clarified that the 27 acre parcel even if sold could only be used for things in the CR district. He stated that the 40 acre parcel is in the township so it is not anything they would ever have control over.

J. Cardillo acknowledged this response.

W. Premeau stated that there are always so-called deals, such as with the 40 acres and all that, but resolving this has nothing to do with any of that stuff. He stated that that's the resident's problem to make sure that that is actually going to happen. He stated that if they rezone that piece of property, all other conditions that we're talking about do not have anything to do with them. He stated that if say, the owner stated that I'm not going to give you the 40 acres and I'm not going to do this or that, the only other problem's he's got is, how does the road go in there (addressing D. Stensaas).

D. Stensaas asked what W. Premeau meant.

W. Premeau stated that there has to be access to that road, the Forestville Basin Trail road.

D. Stensaas stated that yes, the Forestville Basin Trail road intersects.

W. Premeau asked if it was 180 feet. He stated that they have got to have a turn-around or the buyer's won't come. He stated that also they are supposed to improve the road, in theory. He stated that it still have to have a turn-around unless it goes out somewhere. He asked if that comes out to another intersection.

Ms. Wolf stated that the city and the township work together is their intention, and it is her guess that probably the township would be apt to improve these parcels than the city, because they township will take that road, but that the city might go up and do that, too. However, she said, they want to get there faster.

W. Premeau stated that rezoning the parcel would not necessarily mean that all of the other factors would automatically fall into place.

J. Cardillo asked about rezoning as it applied to the Master Plan.

W. Premeau stated that he thought that was in there, too, he thought.

N. Frischkorn stated that was correct and he guessed that to him the emergency falls under category four, also. It would be utilities and services. And he stated that services include things like police, fire, and access seems complicated at best.

M. Larson asked would he be correct to assume that once the rezoning is approved, those would be additional factors that would come into being which he assumed that fire department and such has not necessarily weighed in on a rezoning right now but once the site plans and things like that are submitted, they may have additional requirements or suggestions as conditions for those site plans move because those issues would still come before them.

A. Landers stated that if they become part of the site of the condominium, that would have to be reviewed by all the different departments and that is probably where the fire department would have comments.

J. Cardillo asked if this would be something that be suitable for PUD.

A. Landers stated that you cannot request a PUD when you are currently zoned Conservation & Recreation. It is the only zoning district that you can't.

J. Cardillo asked for a clarification from the applicant. She stated that she knows that this was stated earlier, but that it was really confusing. She asked if this were to be rezoned and be developed, would this be a part of either BHB 2 or BHB 1's covenant or whatever the language is. She asked if the applicant could just clarify that one more time.

Ms. Wolf stated that maybe is the answer. She stated that it is listed in BHB 2's Master Deed as a potentially expandable area.

J. Cardillo asked for the clarification of the location of BHB 2 on the map.

Ms. Wolf stated that location of BHB 1 and stated that it was developed first and that BHB 1 is the one most adjacent to the property in question.

J. Cardillo asked for clarification if BHB 2 was the one that come off the road first.

Ms. Wolf stated yes, that is correct.

J. Cardillo asked if this property in question would be part of BHB 1.

Ms. Wolf stated it would be part of BHB 2, because the problem is BHB 1 was developed so long ago, this was listed as an expandable area, but by law you only have six years to add anything after you record the Master Deed. Ms. Wolf stated that that time period has expired. She stated however, they still have that time left for BHB 2. She stated that they disclosed to all of the owners in BHB 2 and they thought hey, this is an expandable area and we can create up to 8 other units here.

J. Cardillo asked if that was the people who come straight off the road and so this property would be associated with the initial piece when you come off the road.

Ms. Wolf stated that yes, that was correct.

J. Cardillo asked if they would be governed by the same rules and conditions.

Ms. Wolf stated that yes, they would be subject to the same assessments and subject to the same restrictions.

J. Cardillo asked if it has to be part of that condominium or could the developer just develop it independent of it.

Ms. Wolf stated that yes, he has the ability and that there are divisions available here. She stated that therefore if they went through a site plan review and they divided the property into separate lots, they can do that. She stated that that was part of that Letter of Intent which, of course, you cannot enforce. She stated however that these lots would be pay assessments to BHB 1 because that is who they are adjacent to. She stated that therefore as part of this overall development, there are actually between four to six parcels. She stated that when you first go off of Forestville Road and you turn onto Forestville Basin Trail, there are four to six lots that are not part of either condominium association. She stated that those that have been sold off, and she thinks they are at four now, maybe five, those that have been sold off have restrictive covenants recorded against them where those lots pay assessments to BHB 2, because that's who they're next to. She said that in a similar type of arrangement, there would be for these 8 parcels. These eight would be adjacent to BHB 1, so they would have restrictive covenants. She stated that again, there is not a condition necessarily that you can put on this, but the intent is that those 8 would pay to BHB 1 because that is who they are adjacent to. So if BHB 1 decided to issue a special assessment for pavement of the road, those 8 would pay to it whether or not they were part of the condo association.

J. Cardillo asked for clarification that the choice to be part of the condo is not compulsory and that the property could be separate from the condo.

Ms. Wolf stated that that was correct.

J. Cardillo thanked Ms. Wolf and that that was what she was trying to understand.

M. Larson stated he thinks this is a unique situation that maybe Conservation & Recreation originally, whether that's on the future land use map or currently, only because of it's relatively rural nature and disconnect or kind of disconnection from the city. He stated that however, as far as rezoning goes it is clear that there is support for it but a very narrow support. He stated that it seems to him that maybe he would be more comfortable if there were a conditional rezoning request. He stated that again, he knows that that is not what this is, but it would make him more comfortable if it was a conditional rezoning request where you could strike essentially everything off of the proposed zoning for the LDR and only essential limit it to single-family residential and so you're having kind of a very narrow focus of what it is, and that ends the agreement. He stated again, that's not what they have come to the committee for and that he knows right now that that's not worth considering, but that's possible future action that could be done if this does not work out.

A. Andres stated that he concurs with M. Larson in that fact that it works out as a conditional use, but unfortunately that's not what they're there for. So he thinks for those reason he does not think that the commission can approve it, based on all of those factors that they do not know, in his opinion.

N. Frischkorn stated that he would like to echo that if it was a conditional rezoning request that he would feel like he could be more comfortable with it and that there would be more room to address some of these considerations. He stated however, that as Commissioners Larson and Andres have stated, he does not feel that he could support a rezoning request as it has been presented to them.

Ms. Wolf asked for permission to speak of the Chair, which was granted. Ms. Wolf then inquired if the ordinance would permit them to voluntarily make this a conditional rezoning request.

J. Cardillo stated that they would not be able to do it that very night, and that they would have to reapply.

Ms. Wolf acknowledged the answer.

D. Stensaas stated that the conditional rezoning has to have an agreement presented with it that specifies what the conditions you're offering are. He stated just to be clear, the Planning Commission can't add conditions once somebody proposes a conditional rezoning. You cannot negotiate those conditions if you're only going to be able to vote on the conditional rezoning. He stated that the city has only had conditional zoning as an option in the planned development program since 2019. He stated that the first time they did this, they let the applicant not present the agreement, because the way the program had said it could be presented at some point in the process. He stated so then they let it go to the city commission level and it wasn't presented there, and they voted to approve it without understanding that that agreement had to be there. He stated that therefore it ended up having to be approved through another process where they came back to the city commission later and it was just a mess. He stated that they want to make sure that, and he thinks they amended the code line, to stay that it has to be approved at the planning commission level.

A. Landers stated that it does say that such conditions, referring to conditional rezoning, may be proposed at the time the application for rezoning is filed or at a subsequent point in the process review of the proposed rezoning.

D. Stensaas stated that he agreed. He stated that the city attorney and he discussed that and they agreed that the planning commission should see that agreement and that it shouldn't be something that the planning commission passes on, because it is an important part of the process. He stated that it can be a simple statement of two or three conditions, but in some cases it is going to be multiple, perhaps 10 or 12

conditions depending on how complex the proposal is.

J. Cardillo asked if in the conditional rezoning, is it just a question of crossing out things or could they add different additional things like limit the lot size.

D. Stensaas stated that that was a good question. He stated that it would be really, he thinks, valuable at this state to state what you think conditions should reflect and what a good presentation of conditions should include. He stated that this is because yes, the number one thing is which land uses are you proposing to include and to exclude, so cross out all those conditions that aren't going to be ever considered and that would be part of the agreement, so you're limited to a certain set of land uses that are allowed in that district.

J. Cardillo asked if it could go beyond that.

D. Stensaas stated it could go very specifically beyond to lot size, usage and that kind of thing.

N. Frischkorn stated that he had two questions. The first question was is the applicant able to amend the application or would they have to submit a new conditional rezoning application. He asked if they could amend their rezoning application to a conditional rezoning or they have to resubmit entirely.

A. Landers stated that according to what she was looking at, it says they could amend because its says 'or at a subsequent point in the process.' So they could amend an application.

J. Cardillo asked if that could be done at tonight's meeting.

A. Landers stated that it was just a matter of if they have to put notices back out.

N. Frischkorn asked if the commission were to take action at tonight's meeting, if they would still be able to amend it.

A. Landers stated no, that would not be possible, depending on what their action is. A. Landers stated that if they were making a recommendation to deny then the City Commission may kind of close out the rezoning.

N. Frischkorn acknowledged this response. He stated that his other question was if they could submit as part of the conditional rezoning application, the table from Section 54.307 with things stricken out and could also submit the Letter of Intent as part of an agreement, and that package could be a conditional zoning request.

A. Landers stated that that might be in the land development regulations and things like that. She stated it spells out everything that needs to be shown in the agreement in that ordinance.

J. Cardillo asked if that is something that N. Frischkorn would be more included towards.

N. Frischkorn stated that yes, he thought that that would be more appropriate and something that would be more consistent. He stated that he thinks that Commission Larson said it very well, if the City Planning Commission rezones this, then any use in LDR can go there, any of those uses. He stated that he does think that in consistency with the Master Plan that there would still things that would need to be addressed such as utilities and services and the street system which would need to be addressed. He stated also he thinks that if there were to be an additional rezoning application in front of him, he would say with certain uses stricken out, with that kind of Letter of Intent that there was an agreement, he stated he thinks that that would be something that he would be a lot more likely to be able to support than what is currently in front of them. He stated that he also does not want to make a motion to deny that will prevent them from amending their application.

M. Larson stated that he guesses that the question would be, because this is a recommendation to the City Commission, are they able to able to recommend to allow to stop the process to allow an amendment.

J. Cardillo asked what would be the process. Would they postpone and they amend?

D. Stensaas stated that he believed that they could make a motion to postpone a decision on an amendment if the applicant wanted to resubmit this as a rezoning with conditions.

J. Cardillo acknowledged his response and asked that if it was correct that theoretically what they should do is what he stated, but they should also clarify what they would like to see that would make them feel comfortable going along with that.

Ms. Wolf stated that she would like to throw it out there that the commission would not be giving conditions but rather only making recommendation. She stated that if the applicant does not with to do a conditional rezoning then they would not have to.

J. Cardillo agreed that yes, they would not have to do anything. She stated that for herself, the concerns that she had are the density. She said she would really like that if they rezone this land as LDR, it would the highest zoning with that area and that makes her very uncomfortable. She stated that therefore if she felt confident that the density was going to fit the neighborhood, she would feel a lot more comfortable. She stated that she would love to know that there is some kind of organized thought to how the road is going to maintained that is more than just intention. And she stated that she also would like to understand is it going to be part of this condominium or is it not. She stated that those two things are the things that really impact the board and some of the other items do not, but those two things would make her feel a lot better as well as excluding it to residential only.

W. Premeau asked a question addressed to D. Stensaas. He asked once it is rezoned to residential if the owner could do whatever he wants.

D. Stensaas stated that he can do whatever is listed as a permitted use in the zoning district.

J. Cardillo explained that that was why they were considering the rezoning with conditions.

W. Premeau he stated that the point he was clarifying that all the other things that were promised, once it is rezoned that is not part of rezoning that would be something else that would have to be dealt with by the owners.

J. Cardillo stated that again, that is what she was saying, they need to discuss what matters to them as the City Planning Commission and not the other things that are going on between the condominium and the property owners. She stated that they are concerned with the welfare of the City of Marquette.

N. Frischkorn stated that the things that he would like to see is not only plans to maintain the road, but actually to improve the road and bring it up to standard. He stated that he would also want to see a plan for how utilities and services are going to be addressed and delivered before considering a conditional rezoning request. And he stated that the other thing that he would also want to see is something like the Table from 54.307 with what uses will actually be permitted if this is conditionally rezoned and what other special land uses are prohibited.

M. Larson stated that even though he knows the road is a concern, he stated whether or not that is a concern of the rezoning or not is what he is a little bit on the fence about. He stated that is because he thinks that will come into play once site plans are coming into being and it gets reviewed by additional parties at that point in time. He stated that even though he knows that the road is a bone of contention and sounds like it needs some improvement, he said it might be nice to understand what those might be. He stated that he does not know if it comes into play from his perspective, for this, the rezoning portion of it.

N. Frischkorn stated that his response to that would just be that factor three is the street system. He stated so he thought that that would be something would need to be addressed and at least have a plan put in place. He said maybe his clarification there is if it is a private road or a public road, he does not know how those or if they fall under that same standard and maybe that would be a question for staff. He asked that

as far as standard three, how the interaction with the road system, do they hold it to the same standards for a private road versus a canal [ph].

D. Stensaas stated that he thinks it's too messy to specify road standards in another jurisdiction. He stated that he does not think the Planning Commission should go there. He stated that he does not know if that would be something that they could reasonably expect to be followed. He stated that it is not in their jurisdiction, so whatever standards they decide the road is acceptable. He stated that even though they are saying parts of that road are substandard now, that is their issue.

W. Premeau stated there would be a portion of the road in the city, not in the township.

D. Stensaas stated that also the city's road standards, one of the things in the current LDC amendments are going to the City Commission at the end of the month and it has to do with that very issue of how far from a city street system a road has to be to have to be developed under the city's standards, the city's street standards. He stated that that draft amendment extends that to quite a extension.

A. Landers stated that her believe was that it was 1,500 feet.

D. Stensaas reiterated 1,500 feet. He stated that therefore, that particular issue is one that he would recommend avoiding. He also stated that his concern with this process at this point is their noticing of this and how if the commission is suggesting that so far they are not comfortable with the recommending approval of the zoning, and that is what he is hearing, he stated recommended that recommending another process is okay, but the Planning Commission's decision is to approve this or deny it and he thinks that they need to do one or the other. He stated that if it is to deny, you could add to your decision that you are not comfortable with all the potential uses of the property. He stated if they delay the decision on the issue, the noticing requirement for this changes, unless you're going to approve it or deny it as a rezoning request not as a rezoning request with conditions.

J. Cardillo stated that she thinks that the process would be cleaner if they deny it with the intent for them to come back as a conditional rezoning and then they just reapply separately for a conditional rezoning.

D. Stensaas stated that he thinks it's okay to discuss wanting another process, but that their decision is going to be to approve or deny this rezoning request, and he is concerned that to put anything about wanting certain conditions in your motion or postponing for conditions to be presented could be construed as requiring that from the applicant and you can't do that. He also stated that he has due process concerns, about whether they would be following the process correctly. He also stated that it is something for discussion after the meeting, but if this request is denied and the City Attorney finds that the applicant can – as the Code suggests – submit an [Conditional Rezoning] Agreement to the City Commission and they agree to schedule a public hearing, then the City Commission could possibly consider it as a Conditional Rezoning request at that point because the Code says the Agreement may be submitted with the application or at a subsequent point in the process. He said that his take on it is that would be okay for that to happen.

J. Cardillo stated that she wonders where they are at with the things that make them uncomfortable with the rezoning request in the state that it is. She said they've talked about the density. She stated that she honestly feels that because of number three feel like the road, whether or not it is something that is spelled out or just address in some way, she says she still personally feels that she has an issue with it. But it the applicant could come up with something that addresses that in a coordinated way it would be helpful. She asked if anybody else has anything regarding being uncomfortable. She stated that she would be comfortable with the issue of the street system as well as the Master Plan in terms of addressing the density in that area and the fact that in its current status, the LDR would be the densest zoning in the region and if there was some way to address that it would be good.

A. Andres stated that after what they've just heard, it would seem like it would be more apt for them to deny and have them come back than for them to postpone and go with some haphazard way.

J. Cardillo stated she agreed with that statement and that she just wants to be very clear about what things

are sticking points for them. She stated that therefore she would like everybody to just kind of speak to that, not that they are trying to tell the applicant what to do, but just so they understand clearly what are the sticking points for the Planning Commission as to why they don't want approve it at this time. She asked if that made sense.

M. Larson stated his biggest sticking point is the large number of permitted principle uses without any pretty clear agreement to Wayne's point saying that if the applicant were to say they were not bound by anything and that if it were rezoned to LDR it is open to all those uses at that time. He stated that however if it were to come back and very narrowly state that it would be such as single-family dwellings that would make more sense to him.

J. Cardillo asked staff if their motion to deny should state the reasons they are denying should be outlined.

D. Stensaas said stated that since it is being put in the record and in the minutes, he did not express an opinion at that point.

A. Landers stated that in their motion they need to state the reasons why it is being denied and why it feel like it does not meet the requirements that you are holden to.

D. Stensaas stated that that does not necessarily address all the sticking points that you're talking about.

A. Andres stated that he thinks they have covered the sticking points in their minutes.

J. Cardillo stated that she just wants the motion to be clear and that is it not just a denial with no clarification.

N. Frischkorn stated that he was ready to make a motion if there is no more discussion.

*It was moved by N. Frischkorn, seconded by A. Andres and carried 5-0 that after conducting a public hearing and review of the application and Staff Report for 02-REZ-05-22, the Planning Commission finds that the proposed rezoning is not consistent with the Community Master Plan and does not meet the requirements of the Land Development Code, Section 54.1405, and hereby recommends that the City Commission deny 02-REZ-05-22 for the following reasons:*

1. *It is inconsistent with the Community Master Plan and the Future Land Use map; and*
2. *The street system is inadequate; and*
3. *The utilities and services as provided are inadequate; and*
4. *The proposed rezoning could have negative impacts to surrounding land uses, specifically because of the density that could be allowed if this were to be rezoned.*

**C. 03-REZ-05-2022 – Request to Rezone from CR to LDR - PID 1170101**

A. Landers stated The Planning Commission is being asked to make a recommendation to the City Commission regarding a request to rezone the property located at 595 Forestville Basin Trail which is zoned Conservation & Recreation (CR) to be zoned Low Density Residential (LDR). She referenced the staff report and visuals from the agenda packet were shown.

Correspondence was read that was received after the agenda was posted from Mary Bordeau, Steven Embree, Marquette Township, and David Staples.

Adrianne Wolf, attorney for the applicant, stated that in this particular application, this property is different because it is already a plot or a unit in Blue Heron Bluffs 1. She stated that this particular parcel, a 1.5 acre parcel, is already submit to the Master Dee of Blue Heron Bluffs 1. She stated that BHB 1 was initially developed without any property in the city. She stated that this property was then later added to it and specifically the parts that they are asking to be rezoned as LDR was added to Unit 1. She stated, however, that it is important for the Planning Commission's purposes because of two issues. She stated that much of

the correspondence talked about the subdivision of Unit 1 and dividing Unit 1 into two separate units. She stated that that not the issue for the Planning Commission and that whether or not that requires an amendment of the Master Deed is something frankly that the condominium association and the applicant will need to figure out. She stated however, they do acknowledge and certainly have to acknowledge that this particular parcel is subject to the restrictions in the Master Deed, including the fact that in the Master Deed it states 'no condominium unit shall be used other than establishing and operating a single-family residence.' She stated that therefore they already have a restriction on what that particular person may use it for. She stated that therefore that unit, Unit 1, is in the township and a large portion of it is actually in the city which was later added. She stated that the portion in the township already has a home on it and is owned Scenic Residential, as part of this condominium. She stated that therefore they are simply asking that they take the city parcel that is adjacent and already part of Unit 1 and zone it similarly, which in the city the comparable zoning is LDR.

J. Cardillo asked about the location of the property as per the map and asked if that is where the house is now.

A. Wolf agreed that that is where the house is now and it is in the township portion.

J. Cardillo asked if so then they would just take those lines and extend them into the lake.

A. Wolf stated that that was exactly right. She stated that when this condominium was originally approved in 2002 by the township, it only included the township portion. She stated that it was later revealed that city property was intended to be added to it and then the property was deeded then to Longyear which is why she believes it to be currently zones as CR because that whole section was previously owned by Longyear before it was deeded to the developer and in this case Blue Heron Bluffs. She stated that therefore what that are asking is that 595 in the city, this application just makes it consistent with 595 in the township. A. Wolf thanked the commission members.

*Chair Cardillo opened the public hearing.*

Mary Bordeau, 565 Forestville Basin Trail, stated that she has concerns that zoning comes first and then you can decide to split. She stated that they have in their Consolidated Master Deed, restrictions on expansion of that particular parcel and that seems to be a lot of confusion right now and she is not sure that can be answered. She stated that it is going to be up to their panel and perhaps the next step to decide. She explained that that is why she is not for rezoning that particular parcel because there are so many unanswered questions. She stated that is would help if her concerns landed where they belong with someone that can make the decision. She stated that that's all she had and thanked the commission.

*No one else wished to comment. Chair Cardillo closed the public hearing.*

> *It was moved by N. Frischkorn, seconded by M. Larson and carried 4-1 that after conducting a public hearing and review of the application and Staff Report for 03-REZ-05-22, the Planning Commission finds that the proposed rezoning is consistent with the Community Master Plan and meets the requirements of the Land Development Code Section 54.1405 and hereby recommends that the City Commission approve 03-REZ-05-22 as presented.*
> *Yes: Vice-Chair M. Larson, N. Williams, N. Frischkorn A. Andres, J. Cardillo*
> *No: W. Premeau*

**NEW BUSINESS**

**A. Resolution of Approval for Community Master Plan Amendment approved 4-12-22**

D. Stensaas stated this Resolution should have been presented at the April 12, 2022 meeting, at which the Planning Commission held a public hearing and then voted to approve the Community Master Plan (CMP) amendments presented at the hearing. He said that it was an oversight that the Resolution was not prepared, staff simply forgot that it was a necessary part of the process to amend the CMP, but the

document states when the hearing was held and approving this now is going to formalize the PC's approval of the amendments that they voted on already.

J. Cardillo asked if we need to have a vote to approve the Resolution. A. Landers stated yes.

*It was moved by M. Larson, seconded by N. Frischkorn, and carried 5-0 to adopt the Community Master Plan -Amendment, Resolution of Adoption as Amended.*

**B. Review of the Draft Municipal Property Inventory and Map**

A. Landers stated the Planning Commission is being asked review the Draft City Municipal Property Inventory Book and Map. She stated the last property inventory book and map was approved in 2015. She also stated staff has made many changes from the previous book and map, which includes removing property that is not owned by the City anymore, adding new property owned by the City, and changing the map code numbers to accommodate those changes. She stated we have also made the document more interactive with the spreadsheets hyperlinked to bring you to the map location when you select the map code number. Visuals of the agenda packet were shown.

The Planning Commission and staff briefly discussed staff comments and the Planning Commission asked for this to be placed on the agenda for the May 17, 2022 meeting to give them more time for review before making any decisions.

**TRAINING**

**A. Article: *Herriges Rezoned: "Why Are Developers Only Building Luxury Housing?"***

D. Stensaas stated that the articles provided for training are up to the members to read and that he thought this article made some good points that we don't discuss often.

A. Andres asked if the training in June that was mentioned in email online or in-person. D. Stensaas stated that it was online.

N. Frischkorn stated that is was a good read.

**COMMISSION AND STAFF COMMENTS**

A. Andres stated that it was a good meeting and he was glad it went well.

W. Premeau stated that Center Street went down and there were company houses all the way to Wright St. and he lived back there, and he asked about the alley because there was water back there and NMU built a speed skating oval back there that was only used once. He said that they are working on a project now that shows the alley was vacated on the plan. He said the alley ran from Fair Ave. near the Palestra and went behind the houses on the west side of the street.

D. Stensaas stated that he would discuss the rezoning decisions tomorrow and he hopes that he is right about them being able to submit a Conditional Rezoning Agreement to the City Commission if they want to without going back to the start with a new application to the Planning Commission.

**ADJOURNMENT**
The meeting was adjourned by Chair J. Cardillo at 8:17 p.m.

Prepared by:

David Stensaas

David Stensaas, City Planner and Zoning Administrator
Planning Commission Staff Liaison
Transcribed by iMedat/Edited by D. Stensaas

## CONDITIONAL REZONING AGREEMENT

This Conditional Rezoning Agreement ("Agreement") is entered into regarding property located in the City of Marquette, Marquette County, Michigan and described on Exhibit A (the "Property") by and between Bruce Pesola, Trustee of the Cedar Pointe Family Trust (the "Owner") and the City of Marquette ("City"), the municipality with zoning authority over the Property (collectively, the Owner and City are referred to herein as the "Parties"). The City Commission approved the conditional rezoning of the Property from "Conservation & Recreation" to "Low Density Residential with Conditions" at its _____, 2022 meeting.

The Parties hereby agree and understand:

1. The Property is hereby rezoned "Low Density Residential with Conditions", the conditions of which are set forth on the Conditional Rezoning Plan attached hereto as Exhibit B.

2. The rezoning with conditions was proposed by the Owner 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 this Agreement; and, further, the Parties agree and acknowledge that the conditions and Agreement are authorized by all applicable state and federal law and constitution, and that the Agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the City.

3. The Property shall not be developed or used in a manner inconsistent with this Agreement.

4. This Agreement shall be binding upon and inure to the benefit of the Owner, City, and their respective heirs, successors, assigns, and transferees. This Agreement shall be appurtenant to the Property and run with the land.

5. Unless bona fide development of the Property pursuant to approved building and other permits required by the City has commenced, this Agreement becomes void on _____, 2024 pursuant to Section 54.1405(H)(3) of the City of Marquette Land Development Code, unless extended in accordance with such Code, in which case a new conditional rezoning agreement with the new expiration date shall be recorded. If this Agreement becomes void in the manner provided in Section 54.1405(H)(3), no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.

6. Each of the requirements and conditions in this 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.

7. The development regulations affected by the conditions of rezoning set forth herein are the Intent, Permitted Principal Uses, and Special Land Uses. Unless modified herein, all terms and conditions in the City of Marquette Land Development Code that apply to Low Density Residential districts apply to the Property, including (without limitation) setbacks and lot, coverage, and building height standards.

8. The City's approval of the Property's rezoning is conditioned on the Owner abiding by the terms and conditions of this Agreement. The City may revoke its rezoning approval, returning the Property to its zoning designation as Conservation & Recreation, if the Owner violates the terms of this Agreement.

IT IS HEREBY AGREED:

OWNER
Cedar Pointe Family Trust

_____
By: Bruce Pesola, Trustee

STATE OF MICHIGAN )
)ss
COUNTY OF MARQUETTE )

On this ____ day of _____, 2022 before me a Notary Public, in and for said County, personally appeared Bruce Pesola, Trustee of the Cedar Pointe Family Trust, to me known to be the same person described in and who executed the foregoing instrument, and who acknowledged the same to be the Trust's free act and deed.

_____
, Notary Public
Marquette County, Michigan
My Commission Expires:
Acting in Marquette County

CITY

_____
By: Jennifer A. Smith
Its: Mayor

_____
By: Kyle Whitney
Its: Clerk

STATE OF MICHIGAN )
)ss
COUNTY OF MARQUETTE )

On this ____ day of _____, 2022 before me a Notary Public, in and for said County, personally appeared Jennifer A. Smith, Mayor, and Kyle Whitney, Clerk, to me known to be the same persons described in and who executed the foregoing instrument, and who acknowledged the same to be the City's free act and deed.

_____
, Notary Public
Marquette County, Michigan
My Commission Expires:
Acting in Marquette County

APPROVED AS TO SUBSTANCE:

_____
Karen M. Kovacs, City Manager

APPROVED AS TO FORM:

_____
Suzanne Larsen, City Attorney

Prepared by:

Adrianne N. Wolf
McDonald & Wolf, PLLC
115 S. Lakeshore Blvd., Suite A
Marquette, MI 49855

# EXHIBIT A

## Legal Description

That part of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section 8, and that part of the Northwest Quarter (NW1/4) of Southwest Quarter (SW1/4) of Section 9, Town 48 North, Range 25 West, City of Marquette, Marquette County, Michigan described as BEGINNING at the ¼ corner common to said Sections 8 and 9; thence S89°56'00"E, 1314.85' along East-West ¼ line of said Section 9 to a 1/16 corner; thence S49°09'13"W, 1146.45'; thence N89°49'45"W, 1749.91'; thence N00°10'15"E, 415.00'; thence N89°49'45"E, 1300.00' to a line common to said Sections 8 and 9; thence N00°10'59"E, 335' to the POINT OF BEGINNING.

EXHIBIT B

Conditional Rezoning Plan

A. Intent. The Low Density Residential with Conditions district approved for the Property is intended to establish and preserve quiet, attractive neighborhoods of detached single-family dwellings with a low density and compatible residential land uses. It is also intended that developments in this district will be designed to preserve significant natural features, including woodlands, steep slopes, wetlands, and floodplains.

B. Permitted Principal Uses
    a. Dwelling, Single-Family Detached
    b. Accessory Use, Single-Family Residential Lots
    c. Accessory Building or Structure
    d. Adult Foster Care, Family Home
    e. Adult Foster Care, Small Group Home
    f. Child or Day Care, Family Home
    g. Foster Family Home
    h. Dwelling, Accessory Unit
    i. Home Office
    j. Home Occupation
    k. Food Production, Minor

# ORDINANCE #711
# AN ORDINANCE TO AMEND MARQUETTE CITY CODE CHAPTER 54, BY CHANGING THE ZONING DESIGNATION OF PARCEL ID 0510156

**The City of Marquette Ordains:**

**SECTION 1: Zoning Designation.**
The zoning of parcel #0510156 is hereby changed to *Low-Density Residential with Conditional Rezoning*, as detailed in the Conditional Rezoning Agreement approved by the City Commission at the regular meeting of June 27, 2022.

**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.

_____ _____
Jennifer A. Smith, Mayor Kyle Whitney, City Clerk

Date Adopted: _____

Date Published: _____

**Agenda Date:** 6/27/2022

## Public Hearing(s)
## Rezoning of Property at 595 Forestville Basin Trail - Roll Call Vote

## BACKGROUND:

The Planning Commission held a public hearing on May 10, 2022 for the consideration of a request for the rezoning of parcel #1170101, located at 595 Forestville Basin Trail, to be rezoned from Conservation and Recreation to Low Density Residential. After conducting a public hearing, the following motion was made:

> *It was moved by N. Frischkorn, seconded by M. Larson and carried 4-1 that after conducting a public hearing and review of the application and Staff Report for 03-REZ-05-22, the Planning Commission finds that the proposed rezoning is consistent with the Community Master Plan and meets the requirements of the Land Development Code Section 54.1405 and hereby recommends that the City Commission approve 03-REZ-05-22 as presented.*
>
> *Yes: Vice-Chair M. Larson, N. Williams, N. Frischkorn A. Andres, J. Cardillo*
> *No: W. Premeau*

In accordance with section 54.1405(C)(2) of the Land Development Code, the Planning Commission is recommending approval of this rezoning request to the City Commission.

The City Commission scheduled this public hearing at the May 31, 2022 regular meeting.

## FISCAL EFFECT:

None.

## RECOMMENDATION:

Following the Public Hearing, adopt Ordinance 712, rezoning parcel #1170101 from Conservation and Recreation to Low Density Residential as recommended by the Planning Commission, and direct the Mayor and City Clerk to sign the Ordinance.

## ALTERNATIVES:

Deny the rezoning request.

ATTACHMENTS:

Description

- Planning Case File 03-REZ-05-2022
- Late Correspondence - Received After Agenda Publication
- May 10 Planning Commission Minutes
- Ord 712

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

# MEMORANDUM

**TO:** Planning Commission
**FROM:** Andrea Landers, Zoning Official
**DATE:** May 5, 2022
**SUBJECT:** **03-REZ-05-22 – 595 Forestville Basin Trail (PIN: 1170101)**

---

The Planning Commission is being asked to make a recommendation to the City Commission regarding a request to rezone the property located at 595 Forestville Basin Trail which is zoned **Conservation & Recreation (CR)** to be zoned **Low Density Residential (LDR)**.

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 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 03-REZ-05-22, 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) 03-REZ-05-22 (as presented / for the following reasons / with the following conditions).*

# STAFF FILE REPORT/ANALYSIS

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

**Case #:** 03-REZ-05-22

**Date:** May 5, 2022

**Project/Application:** Rezoning request from **Conservation & Recreation (CR)** to be zoned **Low Density Residential (LDR)**.

**Location:** 595 Forestville Basin Trail

**Parcel ID:** 1170101

**Available Utilities:** There are no City utilities or services for this area, but there is electricity provided to the area by the Marquette Board of Light and Power.

**Year Built:** Vacant property (1.5 Acres)

**Current Zoning:** CR – Conservation and Recreation

**Surrounding Zoning:** North: Marquette Township
South: BLP- Board of Light and Power
East: CR – Conservation and Recreation
West: BLP- Board of Light and Power

**Zoning Districts and Standards:**

## Current Zoning

### Section 54.318 CR, Conservation and Recreation District

| (A) Intent |
|---|
| The intent of the CR district is to preserve the character of land in the city which have outstanding scenic and/or recreational qualities by restricting development not suited to this goal; to prevent development of land which has great ecological value or where there are natural hazards to development; to preserve open areas for forestry, agriculture and recreation; and to control the construction of structures along the shoreline of Lake Superior. One of the purposes of the CR district is to have an appropriate zoning district for municipal parks that meet these objectives. |

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Accessory Building or Structure<br>• Agriculture-Like Operation, including Forestry<br>• Food Production, Minor<br>• Outdoor Recreation<br>• Public or Governmental Building<br>• Recreational Use, Public<br>• Storage, Open | • Accessory Use, Non-Single Family Residential Lots<br>• Natural Resource Extraction Operations<br>• Outdoor Entertainment and Community Events (Principal or Accessory Use)<br>• Port Facilities and Docks<br>• Recreational Use, Land Intensive<br>• Structures between the shoreline of Lake Superior and the pavement of the nearest public street or highway.<br>• Wireless Telecommunications Facilities |
| 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.)* | None | *Front Yard (ft.)* | 15 |
| *Min. Lot Width (ft.)* | None | *Side Yard (one) (ft.)* | 50 |
| *Max. Impervious Surface Coverage (%)* | *(R)* | *Side Yard (total of 2) (ft.)* | 100 |
| *Max. Building Height of Primary Building (ft.) (O)* | 36.5 | *Rear Yard (ft.)* | 20 *(P)* |
| *Max. Building Height of Accessory Building* | 18 | | |
| *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

**(O) 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.

**(P) Increased Rear Yard Setbacks for Lots in the CR District.** Lots in the CR district must have a minimum rear yard setback of 50 feet from the ordinary high water mark of Lake Superior.

**(R) 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.

## Section 54.1003 Landscaping Design Requirements

(D) Buffer and Greenbelt Requirements.

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.

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 |
| CR | N.A. | N.A. | N.A. | N.A. | N.A. | N.A. | N.A. | N.A. |

# Proposed Zoning

## Section 54.307 LDR, Low Density Residential

| (A) Intent |
|---|
| The LDR district is intended to establish and preserve quiet, attractive neighborhoods of detached single-family dwellings with a low to medium density and compatible residential land uses. Some additional non-commercial, compatible uses may be allowed. It is also intended that developments in this district will be designed to preserve significant natural features, including woodlands, steep slopes, wetlands, and floodplains. |

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Accessory Building or Structure<br>• Accessory Use, Non-Single Family Residential Lots<br>• Accessory Use, Single-Family Residential Lots<br>• Adult Foster Care, Family Home<br>• Child or Day Care, Family Home<br>• Dwelling, Single-Family Detached<br>• Food Production, Minor<br>• Foster Family Home<br>• Home Occupation<br>• Home Office<br>• Homestays and Vacation Home<br>• Residential Limited Animal Keeping | • Adult Foster Care, Small Group Home<br>• Cemetery<br>• Child Care Center or Day Care Center<br>• Child or Day Care, Group Home<br>• Dwelling, Accessory Unit<br>• Dwelling, Intentional Community<br>• Dwelling, Two-Family (Duplex)<br>• Foster Family Group Home<br>• Public or Governmental Building<br>• Recreational Use, Public<br>• Religious Institution<br>• School, Primary or Secondary |
| 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.)* | 8,100 | *Front Yard (ft.)* | 20 *(B)* |
| *Min. Lot Width (ft.)* | 60 | *Side Yard (one) (ft.)* | 10 *(K)* |
| *Max. Impervious Surface Coverage (%)* | *(Q)* | *Side Yard (total of 2) (ft.)* | 20 *(K)* |
| *Max. Building Height of Primary Building (ft.) (O)* | 31.5 | *Rear Yard (ft.)* | 30 *(K)* |
| *Max. Building Height of Accessory Building* | *(K)* | | |
| *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

**(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.
**(K) 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*.
**(O) 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.
**(Q) Maximum Impervious Surface Coverage of a Lot in the LDR and MDR Districts:** The maximum impervious surface coverage of a lot in the LDR and MDR 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 |

### Section 54.1003 Landscaping Design Requirements

(D) Buffer and Greenbelt Requirements.

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.

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. |

**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 10, 2022.**

(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 10, 2022.**

(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.

**To be determined.**

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

**This property is designated for *Conservation and Recreation* on the *Future Land Use Map* and the *Proposed Zoning Map* of the Community Master Plan (CMP). The designations were adopted with the 2015 amendments to the CMP after careful consideration, and they remained unchanged as of the December 2018 update to the CMP.**

**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.

**There is no City street system adjacent to this parcel. The road access to the property is and would remain privately owned (by the homeowners association) – via Blue Heron Bluffs Rd. – which Marquette Township officials considered "substandard" at present.**

(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 City utilities or services for this area, but there is electricity provided to the area by the Marquette Board of Light and Power.**

(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 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.

**The proposed zoning is itself not incompatible with the environmental features, as much of the City of Marquette was built in similarly situated terrain. The uses allowed by the proposed zoning may or may not be compatible with site's physical, geological, hydrological and other environmental features, considering the relative remoteness of the property, thus the specific uses of the property would determine compatibility. This is the subject of the next standard.**

(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 surrounding zoning districts in the City of Marquette are Conservation and Recreation and Board of Light and Power. In Marquette Township the zoning of the adjacent property is *Scenic Residential*, which allows residences on 5+ acres of land as a permitted use and may allow detached single-family residences on lots of as little as 40,000 sq. ft. (nearly one acre) by approval of a Special Land Use Permit. This parcel does not adjoin a public street, and Marquette Township officials consider Blue Heron Bluffs road "substandard" for the existing use level, therefore there may be negative traffic and road maintenance impacts with the addition of residential uses if this were to be rezoned. Residential use of the property are not necessarily more incompatible here than at other locations that are occupied by homes in the City, but homes would increase impacts on the land for septic waste treatment and potentially by energy production, glare and aesthetics, and nuisances like noise. As well, for detached residential use at the maximum or near-maximum density allowed in an LDR district for detached single-family homes, the homes could be at substantial risk for wildfire unless the homesites are carefully designed. How these potential impacts affect existing or future property values is indeterminate with certainty, as property values are influenced in multiple ways.**

(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.

**In Marquette Township the zoning of the adjacent property is *Scenic Residential*, which allows residences on 5+ acres of land as a permitted use and may allow detached single-family residences on lots of as little as 40,000 sq. ft. (nearly one acre) by approval of a Special Land Use Permit. The surrounding zoning districts in the City are Conservation and Recreation and Board of Light and Power.**

**This parcel is 1.5 Acres, so there is adequate space to meet the LDR dimensional regulations for construction.**

(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.

**To be determined the Planning Commission. Per the Future Land Use Map in the Community Master Plan, the intent was for this to be used**

**and zoned as a Conservation and Recreation 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.

**Yes, rezoning would be preferable, as adding residential to the Conservation and Recreation zoning district land use options would not comply with the intent of the Conservation and Recreation districts.**

(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.

**To be determined by the Planning Commission.**

(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:

(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.**

(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 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.

**This section is not applicable, as this is not a rezoning with conditions request.**

## Additional Comments:

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

## Attachments:

1. Rezoning Application
2. Area Map
3. Block Map
4. Area Zoning Map
5. Future Land Use Map from the Master Plan
6. Proposed Zoning Map from the Master Plan
7. Photos of the site
8. Publication Notice
9. MQT Township Zoning Map
10. *Rezoning Information for Planning Commissions* document
11. *Spot Zoning Considerations*
12. Correspondence

Mail to:
Municipal Service Center
Community Development Office
1100 Wright St.
Marquette, MI 49855

# CITY OF MARQUETTE
# REZONING APPLICATION

**FEE $550**

**CITY STAFF USE**

Parcel ID#: 1170101 File #: 03-REZ-05-22 Date: 4-12-22

Hearing Date: 5-10-22 Application Deadline (including all support material): 4-12-22

Receipt #: 819544 Check #: 2083 Received by and date: 4-12-22 AC

**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:**

- Planning Commission page for filing deadline and meeting schedule
- 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: Cedar Point Family Trust

Address: 10670 NE Hwy 314

City, State, Zip: Silver Springs, FL 34488

Phone #: 906-360-3030

Email: brucepesola@yahoo.com

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

### APPLICANT/OWNERS REPRESENTATIVE

Name: Ironshore Development, LLC

Address: 137 W Michigan St

City, State, Zip: Marquette, MI 49855

Phone #: 231-420-1473

Email: jim.t.conlin@gmail.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: 595 Forestville Basin Trail Property Identification Number: 1170101

Size of property (frontage / depth / sq. ft. or acres): 1.5

Surrounding Zoning Districts: North Condo & RP (Twp) East Condo & RP (Twp) South BLP West BLP

Legal Description: Blue Heron Bluffs Condominium Unit 1 Portion in City of Marquette

## PROPOSAL

Current Zoning District: CR (in condo) Proposed Zoning District: LDR

**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 is 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: Jim Conlin, IRONSHORE DEVELOPMENT Date: 3.23.22

JIM CONLIN ON BEHALF OF BRULE PESOLA

# 03-REZ-05-22 Area Map

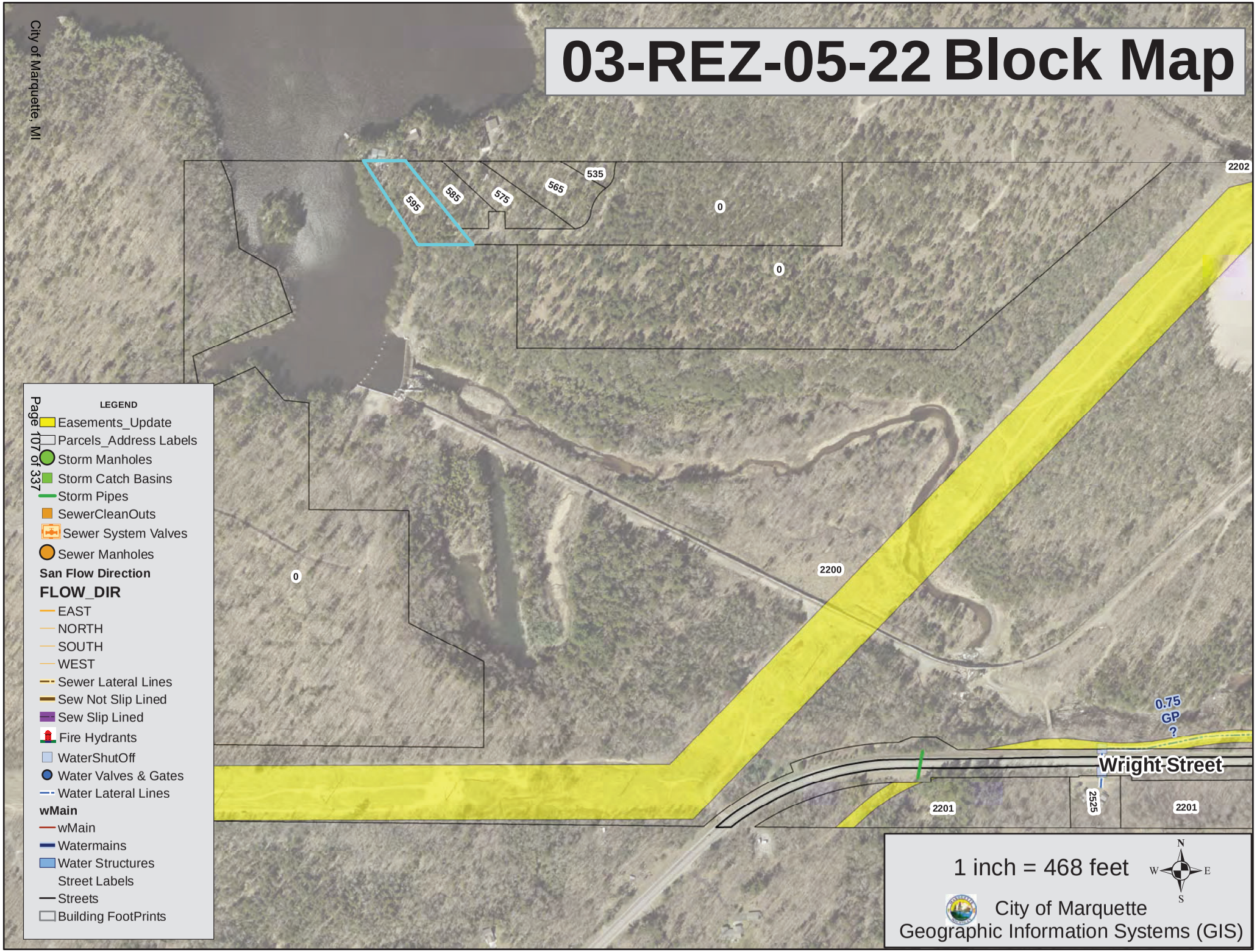



LEGEND
- Easements_Update
- Parcels_Address Labels
- Contours10FT
- Street Labels
- Streets
- Building FootPrints

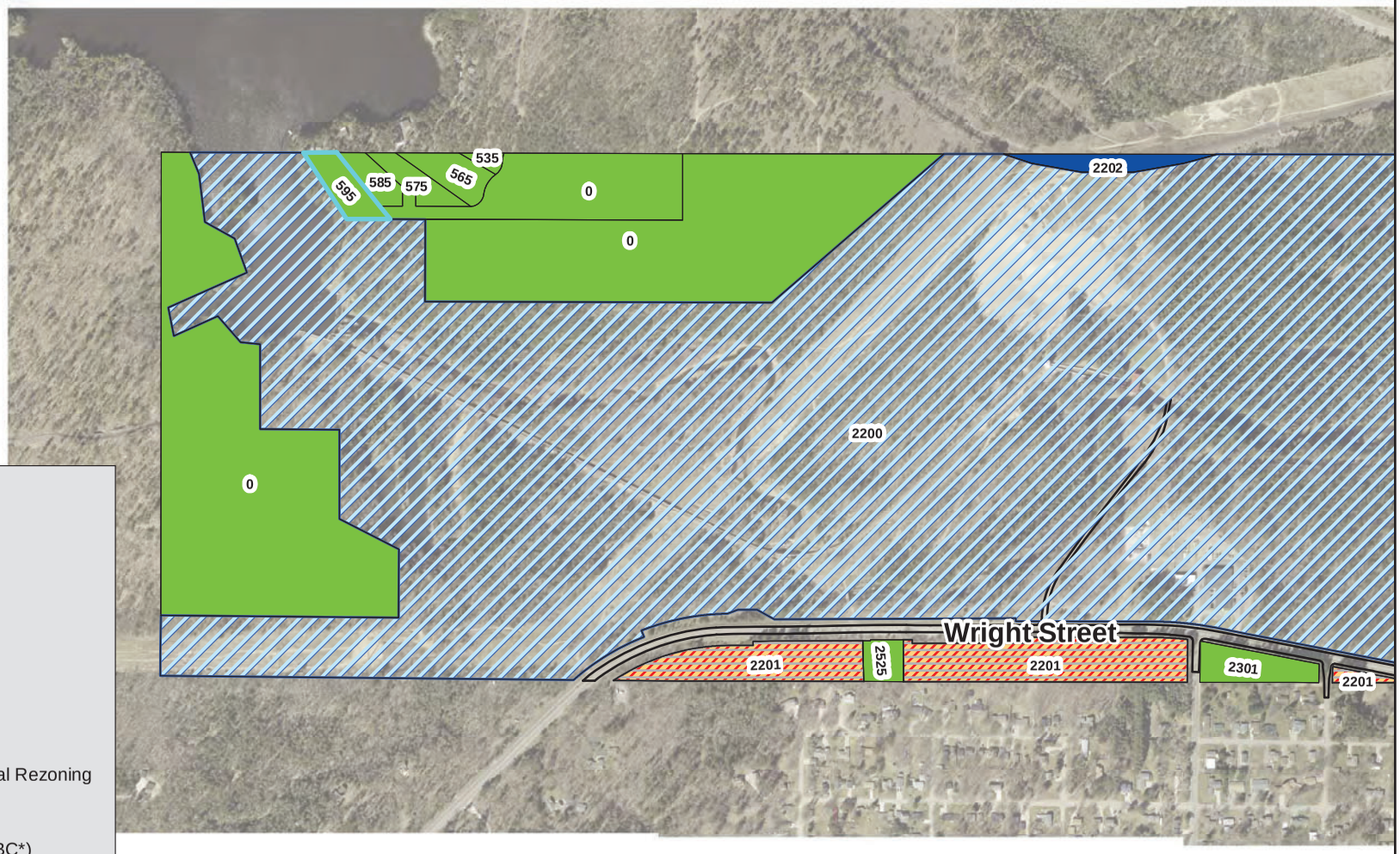
1 inch = 667 feet

N W E S

City of Marquette
Geographic Information Systems (GIS)


03-REZ-05-22 Block Map
City of Marquette, MI
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LEGEND
Easements_Update
Parcels_Address Labels
Storm Manholes
Storm Catch Basins
Storm Pipes
SewerCleanOuts
Sewer System Valves
Sewer Manholes
San Flow Direction
FLOW_DIR
EAST
NORTH
SOUTH
WEST
Sewer Lateral Lines
Sew Not Slip Lined
Sew Slip Lined
Fire Hydrants
WaterShutOff
Water Valves & Gates
Water Lateral Lines
wMain
wMain
Watermains
Water Structures
Street Labels
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Building FootPrints
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Wright Street
1 inch = 468 feet
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S
City of Marquette
Geographic Information Systems (GIS)

# 03-REZ-05-22 Zoning Map




LEGEND

- Parcels_Address Labels
- Street Labels
- Streets

**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
- Planned Unit Development
- Industrial/Manufacturing
- Municipal
- Conservation and Recreation
- Civic
- Board of Light & Power

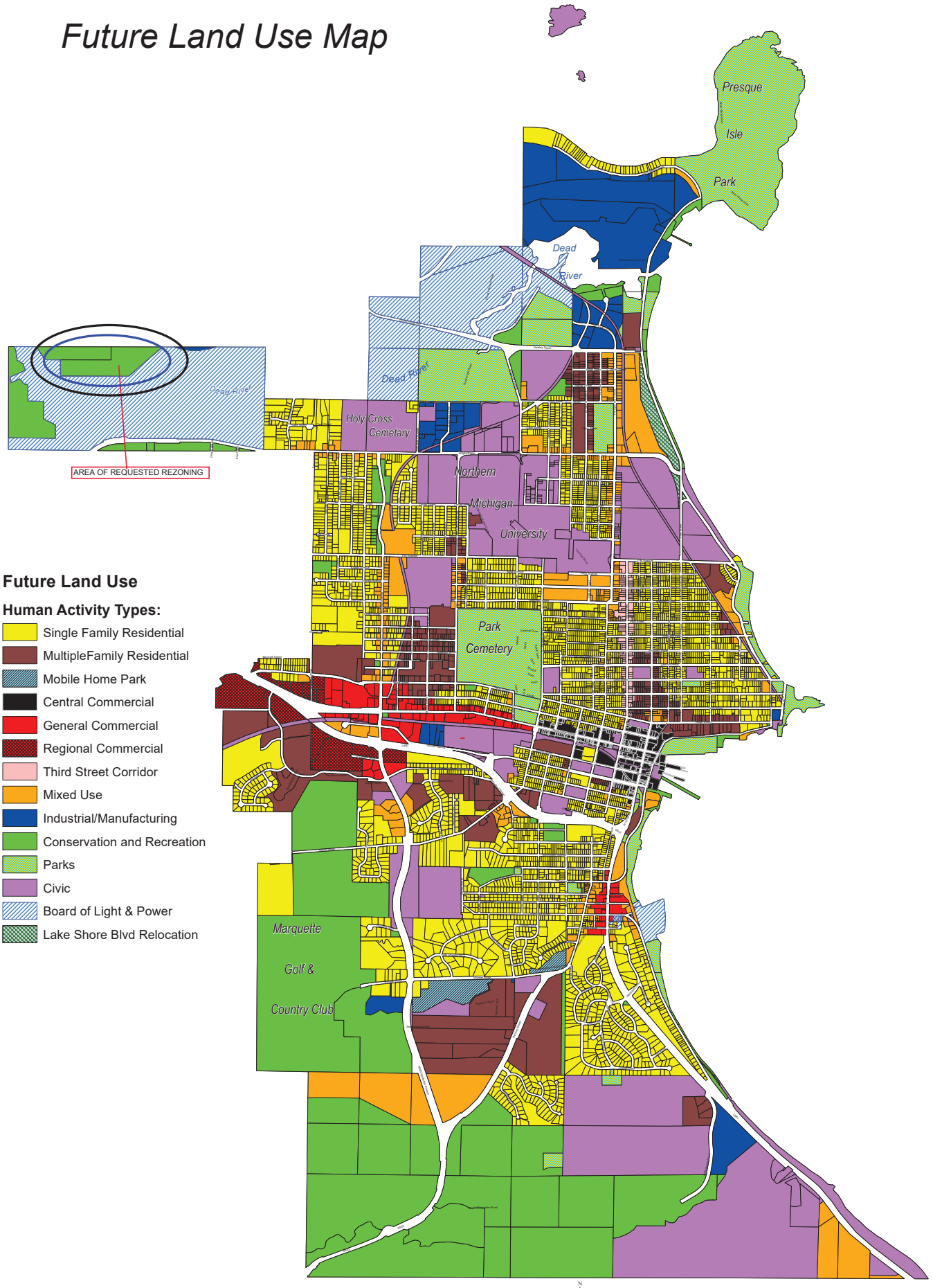
1 inch = 833 feet

N W E S

City of Marquette
Geographic Information Systems (GIS)

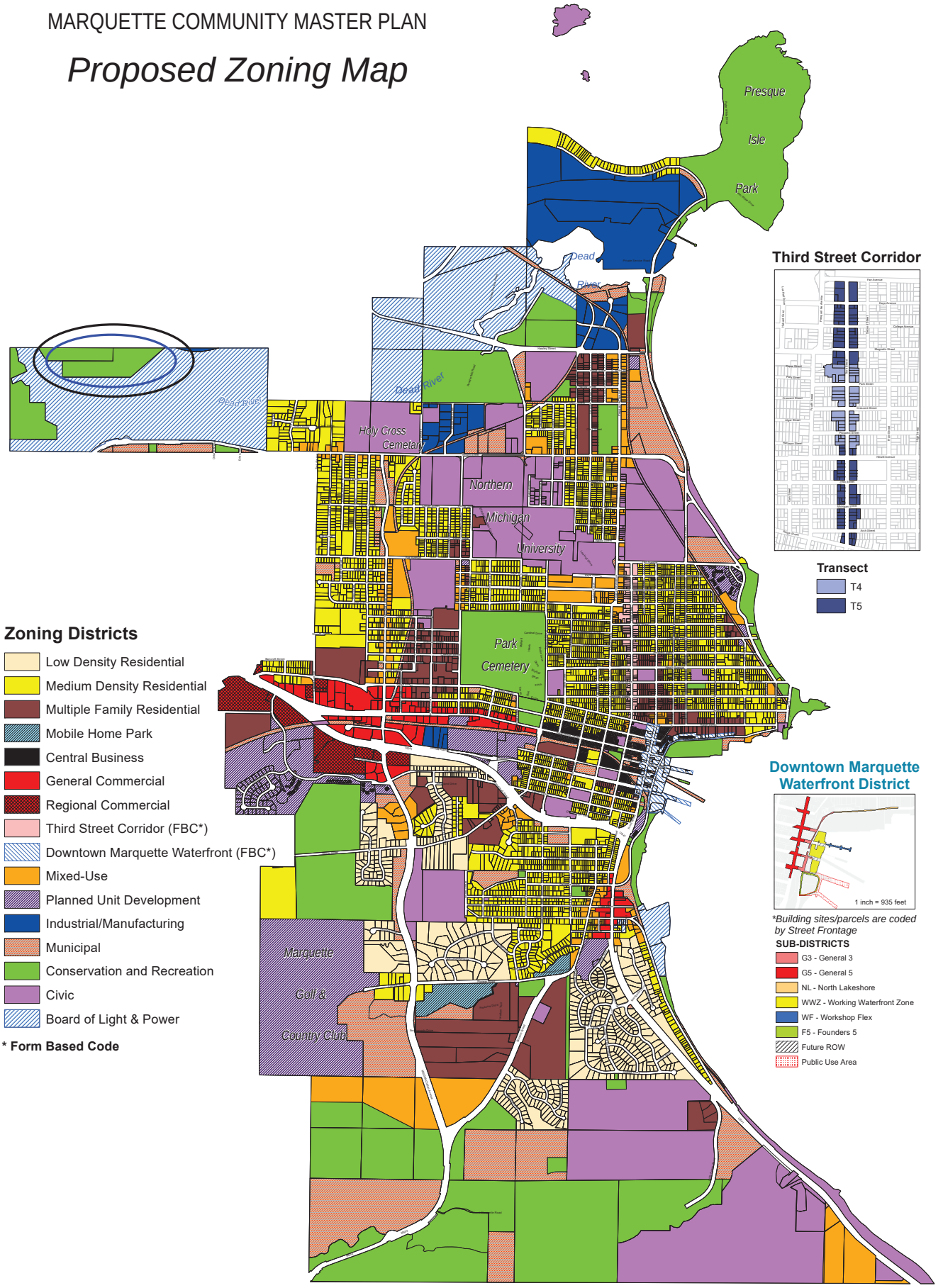
MARQUETTE COMMUNITY MASTER PLAN

# *Future Land Use Map*



MARQUETTE COMMUNITY MASTER PLAN

# *Proposed Zoning Map*




05/06/2022 09:00


05/06/2022 09:00


05/06/2022 09:00


05/06/2022 09:01

# Region

tional anthem.

The orchestra is a "college-community hybrid," Neves said: about half are Tech students, while the other half are Tech faculty, community members and music educators.

"It's the cream of the crop of the Keweenaw and the U.P. and so they're very talented musicians and artists," Neves said. "What's most satisfying is their spirit. They're just wonderful human beings, and collaborating with them every week is a true joy."

During Tuesday's rehearsals, Neves acknowledged returning alumni, who were greeted with the sound of stomping feet. One performer, Gene Purdum, was an original member of the orchestra. He graduated from Tech in 1975 with a degree in nuclear physics and later

different sections as well."

The oldest orchestra in the Upper Peninsula, the KSO has toured and made numerous recordings. It's also won national acclaim, most recently winning second place for best orchestral performance by a small college last year in the American Prize in Orchestral Performance.

"We're very proud of that distinction, to be one of the best orchestras in the United States," Neves said. "Not bad for a place that's mostly engineers and STEM people, but we're able to combine our talents and create something special."

Tickets are $19 for adults, $6 for youth, and free for MTU students (and a guest) with Experience Tech Fee. They are available at events.mtu.edu or (906) 487-1906. The concert will also be livestreamed.

**CITY OF NEGAUNEE**
**INVITATION TO BID**
**DIVISION ST LIFT STATING BLASTING AND PAINTING**

The City of Negaunee is accepting bids for the blasting and painting of the Division Street lift station.
For bidding information and specs please see our website at: www.cityofnegaunee.com

**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-STR-05-22 – Petition to vacate a portion of Center Street.** The City of Marquette has received a petition to vacate a portion of the Center Street public right-of-way. The following is the legal description: Center Street located between lots 1through 3 of the Marquette Company's Addition No.2 and Lots 26 and 27 of Ayer's Addition

**02-REZ-05-22 – Forestville Basin Trail (PIN: 0510156):** Bruce Pesola and Cedar Point Family Trust are requesting to rezone the property located at Forestville Basin Trail - PIN: 0510156 which is zoned Conservation & Recreation (CR) to be zoned Low Density Residential (LDR)

**03-REZ-05-22 – 595 Forestville Basin Trail (PIN: 1170101):** Bruce Pesola and Cedar Point Family Trust are requesting to rezone the property located at 595 Forestville Basin Trail which is zoned Conservation & Recreation (CR) to be zoned Low Density Residential (LDR).

The public hearing for these requests will be at 6:00 P.M. on Tuesday, May 10, 2022, 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@marquettemi.gov. Written submissions will be accepted until 12:00 p.m. on May 10, 2022.

Materials pertaining to the requests are 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@marquettemi.gov. You can also view the Land Development Code on our website at www.marquettemi.gov.
If you have a disability and require assistance to participate, please provide advance notice.

Andrea M. Landers
Zoning Official
alanders@marquettemi.gov
225-8383

**DEPARTMENT OF HOMELAND SECURITY**

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

**Proposed Flood Hazard Determinations for Marquette County, Michigan (All Jurisdictions)**

The Department of Homeland Security's Federal Emergency Management Agency has issued a preliminary Flood Insurance Rate Map (FIRM), and where applicable, Flood Insurance Study (FIS) report, reflecting proposed flood hazard determinations within Marquette County, Michigan (All Jurisdictions). These flood hazard determinations may include the addition or modification of Base Flood Elevations, base flood depths, Special Flood Hazard Area boundaries or zone designations, or the regulatory floodway. Technical information or comments are solicited on the proposed flood hazard determinations shown on the preliminary FIRM and/or FIS report for Marquette County, Michigan (All Jurisdictions). These flood hazard determinations are the basis for the floodplain management measures that your community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program. However, before these determinations are effective for floodplain management purposes, you will be provided an opportunity to appeal the proposed information. For information on the statutory 90-day period provided for appeals, as well as a complete listing of the communities affected and the locations where copies of the FIRM are available for review, please visit FEMA's website at https://www.floodmaps.fema.gov/fhm/BFE_Status/bfe_main.asp, or call the FEMA Mapping and Insurance eXchange (FMIX) toll free at 1-877-FEMA MAP (1-877-336-2627).

**ADVERTISEMENT FOR BIDS**

The City of Munising Downtown Development Authority is seeking bids for the construction of the "Downtown Resurfacing Project" that includes the following major items of work:

HMA surface milling, paving, ADA sidewalk upgrades, concrete crosswalks and pavement markings.

The Contract Documents may be examined at the following locations:

City of Munising
301 E. Superior Street
Munising, MI 49862

Coleman Engineering Company
635 Circle Drive
Iron Mountain, MI 49801

The contract documents may be viewed and downloaded at www.coleman-engineering.com by selecting "Bid Information". Interested parties may view the contract documents at no cost on the website prior to becoming a plan holder. Downloading and printing the contract documents will require registering with QuestCDN online (www.questcdn.com). A non-refundable fee of $15.00 will be charged to download the contract documents.
Sealed bids marked "Downtown Resurfacing Project" are to be submitted to the office of:

Mr. Devin Olson, City Manager
City of Munising, City Hall
301 E. Superior Street
Munising, MI 49862

Bids must be received by 2:00 p.m. (local time) on May 9, 2022 at the City of Munising, City Hall. Bids will be publicly opened and read out loud at this time.

The City of Munising Downtown Development Authority reserves the right to accept or reject any and all bids at its discretion.

Volume 136, No. 93

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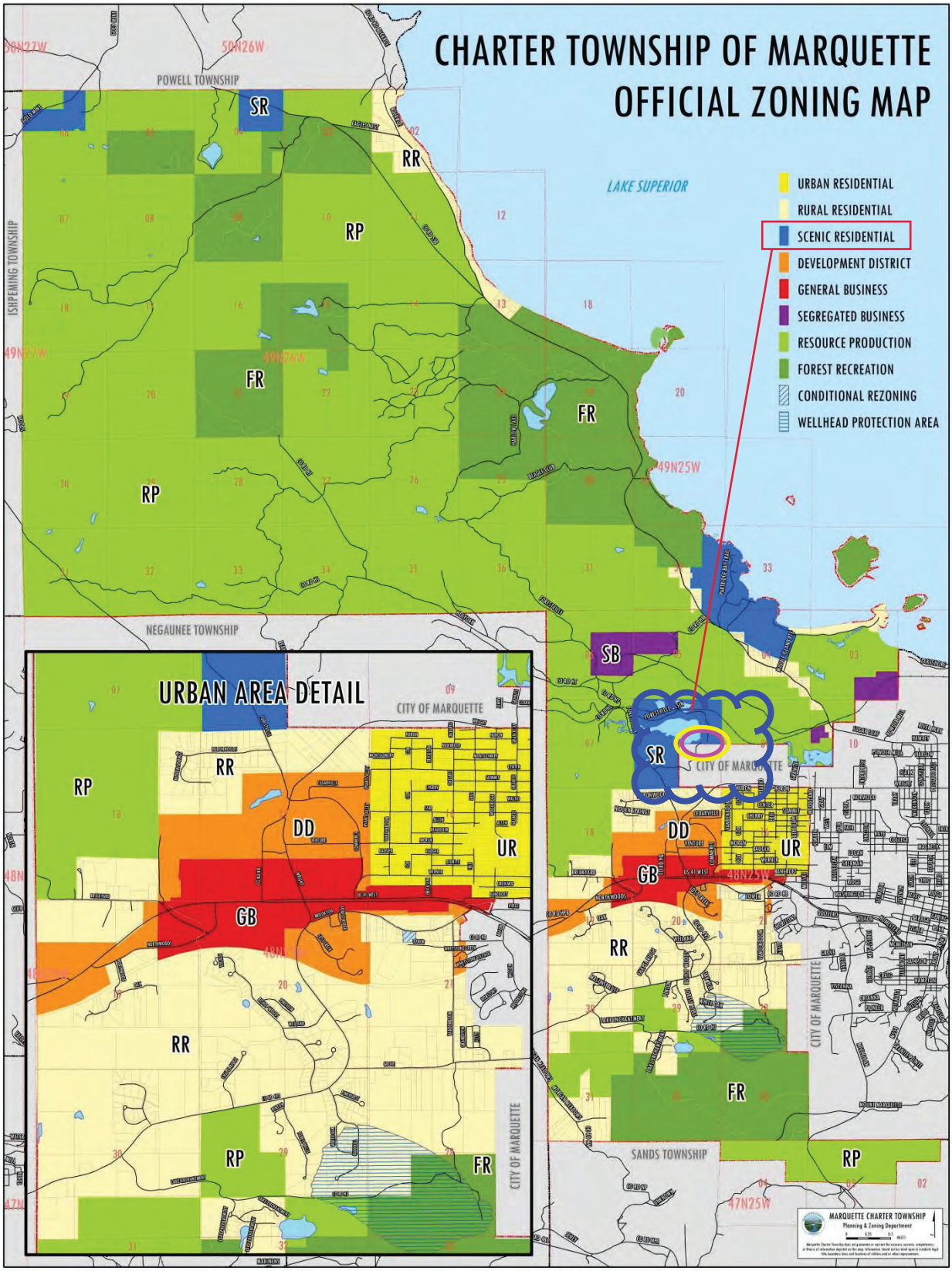
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**SECTION 3.08: OFFICIAL ZONING MAP**



# 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.

20

# 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?




21

## 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?

22

## 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.

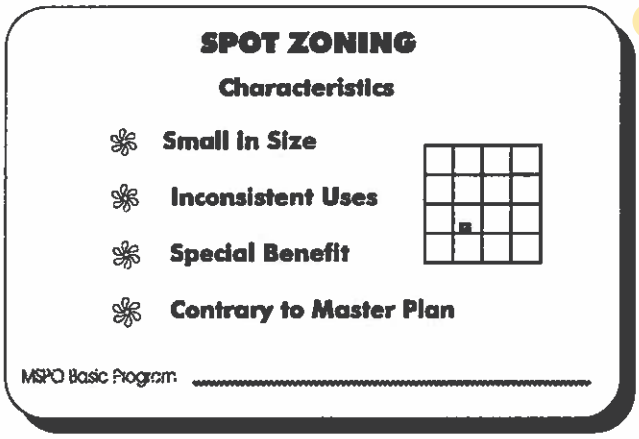
Result

- Typically ruled invalid if challenged in court.

23

## SPOT ZONING CONSIDERATIONS

The following is an excerpt from a Planning Commissioner training/resource manual that summarizes the four characteristics of a "spot zone" - and explains that all four must be found in the subject rezoning request to constitute an "unjustified spot zone". The Planning Commission needs to address each of the four characteristics and determine if there is a spot zone.




### What is a Spot Zone?

Public hearings for rezonings are often filled with comments about the creation of a "spot zone," and the dire results of such an approval. But spot zoning is a derogatory and often misused term.

Spot zoning has some specific characteristics. It is not simply the appearance of a "spot" on a zoning map. Many acceptable zone districts may be "islands," surrounded by other zone districts. But while some may disagree on whether or not a specific case is a spot zone, nearly everyone agrees that it is a poor zoning practice. A unjustified spot zone is, therefore, likely to be viewed by the courts as unlawful.

In order to qualify as a spot zone the property will meet each of four characteristics.

### *Small in Size*

As the term "spot" implies, the location of a spot zone will be a relatively small parcel, particularly with respect to the sizes of the parcels in the vicinity. While there are no firm rules on what size a spot needs to be, the larger the area, the less likely is will be considered a "spot." If the property was large enough to accommodate buffers or transition areas, landscaping or open space could be used to soften the impact on surrounding properties or uses.

### *Inconsistent Uses*

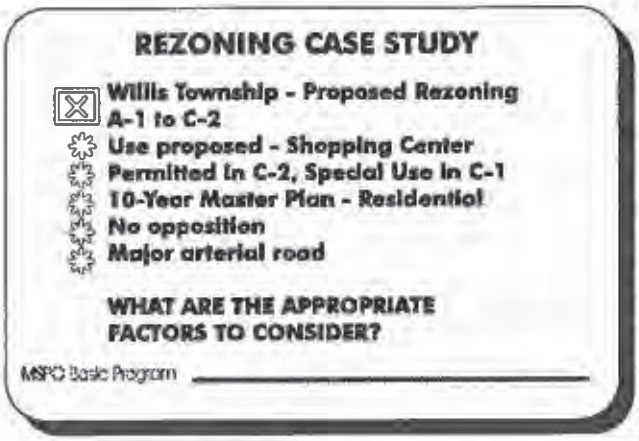
The second quality is that the spot zone will permit uses that are inconsistent with the uses already established or allowed in the vicinity. The inconsistent nature of the spot zone's uses should be clear, i.e. the uses should be very different. These uses, either by virtue of building design, traffic, or intensity will be incompatible with uses allowed in surrounding districts. For example, a proposed two-family district rezoning in a single family zoned area would not be an inconsistent use. A sporting goods store in the midst of a residential area, however, would be an entirely different use of land.

*Special Benefit*

Spot zoning also confers a "special benefit" on a single property owner which is not available to others in the area. Since the uses allowed by the spot zone are inconsistent with, and often more intense than, those allowed in surrounding districts, a special benefit is given to the holder of the spot zone, to the detriment of nearby properties.

*Contrary to the Master Plan*

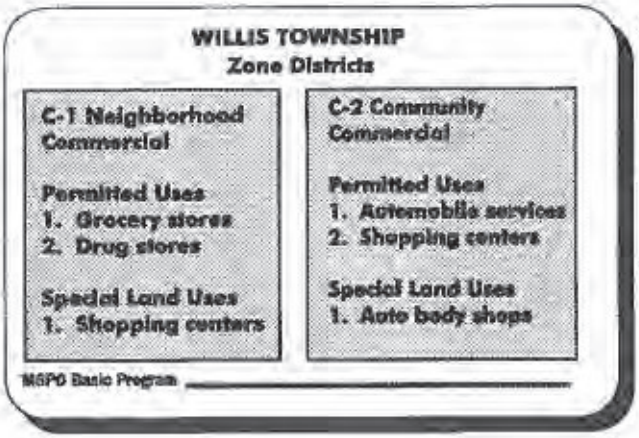
The final characteristic of a spot zone is the one that most distinguishes it as a poor zoning practice. If the Master Plan designates a small parcel in a rural or agricultural area for commercial use to serve residents in the general area, it may have the look of a classic spot zone. In fact, it may even meet the first three characteristics. But it is not a spot zone since the Master Plan planned for its creation. As a result, labeling a rezoning a "spot zone" simply because it is on a small parcel and the uses allowed are different from the other uses around it is not always correct.




**Rezoning Case Study**

*Willis Township - Proposed Rezoning A-1 to C-2*

The application states that two existing barns and an old farmhouse on a ten acre parcel are to be razed and a shopping center constructed on the property. The C-1 District requires that shopping centers be reviewed as a special land use; the C-2 District allows shopping centers as a Permitted Use. The applicant is requesting the C-2 District. A variance may also be required for a side yard setback.




- The 10-year old Master Plan designates the property and the surrounding area for Residential use.
- No neighborhood opposition is apparent.
- The road which serves the property is a major arterial, but no public sewer or water is available.

*WHAT ARE THE APPROPRIATE FACTORS TO CONSIDER?*

# Correspondence Received prior to posting the Agenda

# Blue Heron Bluffs II

Signatures of Support for Considerations of Re-zoning Blue Heron Bluffs

| Printed Name | Signature | Date |
|---|---|---|
| Nathan Loewen (225) | | 4/10/22 |
| Trevor Flynn (235) | | 4/10/22 |
| John Orticelli 275 | | 4/10/22 |
| Kristina Orticelli -275 | | 4/10/22 |
| Suzan Spaulding | Suzan Spaulding | 4-10-22 |
| Todd Masuga | | 4-20-22 |
| Katy Masuga | | 4/20/22 |
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# Blue Heron Bluffs Zoning

Blue Heron Bluffs I
Blue Heron Bluffs II
Forestville Basin Trail
Marquette, MI 49855

April 9, 2022

City of Marquette
Board of Zoning Appeals
1100 Wright St.
Marquette, MI 49855

Dear Marquette Zoning Appeals,

We are residents living on Forestville Basin Tr road in Marquette Township with an interest in the proposed zoning change by Bruce Pesola. This zoning change will effect access to that parcel by way of an easement through Forestville Basin Tr road which has shared use to all involved in this letter. We are, therefore, affected by any development at the end of our private road. We believe that the Commission should consider the following before recommending any change to zoning:

The access to the proposed development is from Forestville Rd through Forestville Basin Tr, which is a private road and maintained by residents along that road. The road is gravel and only part of the road is built to county standards. Development will add traffic for construction equipment, traffic for builders and traffic from families when lots are sold.

During the winter snowy months, sanding and plowing is at the discretion of the residents. It is often icy and slick. The road in the older development is very narrow with an average width of 18.8 feet in the summer. In the winter the average width reduces to 14 feet because of the snow banks and is reduced to 12 feet in some areas, which does not allow cars to pass in those areas.

During the spring the road has deep pot holes and cannot be graded until road restrictions are lifted. This will further be exacerbated with heavy equipment and added traffic on the road.

With summer the dust control on the road is a constant problem. More traffic will only deteriorate the road faster and increase the residents dust control problem.

# Blue Heron Bluffs Zoning (cont.)

Currently the school bus picks up children at the intersection of Forestville Rd and Forestville Basin Tr. Because the road is private children have to walk on the road from their homes to this intersection which can be very dangerous. This is especially problematic in the winter and early spring with snow and ice covered roads. With blind curves, narrow road and high snow banks a child could easily be killed. Children in the new development would need to walk 1.5 to 2 miles to the bus stop. While we do understand that the Township has grandfathered the existing older section of this road there is no reason to expand the risk to children by increasing the number of families at the end of this road.

Due to the road issues outlined above we are also concerned about services for fire, police, ambulance, and garbage being provided adequately and safely. These services are extremely valuable to our residents. However, the safety of the men and women who provide these services are also important to us.

We do understand the developer wishing to make money by developing residential lots However, when the new section of Forestville Basin Tr, was developed the developer was required to bring the road to a higher standard. We also understand that the older section of our trail road has been effectively grandfathered. It does not make sense to our community to add an additional development without the developer addressing the entire road. Therefore, we would propose that the zoning change not be approved or only be granted if the following takes place:

The first part of the road which includes the residents of Blue Heron Bluffs I & II Condominium Association should be paved by the developer in order to control dust, manage deterioriating conditions and handle the traffic for development. This would allow Marquette County to adopt that section and school buses to operate over that part of the road.

.

For the remaining part, the road should be improved by the developer to accommodate two way traffic in all seasons and handle the added construction and residential traffic. This would ensure access to emergency services and the safety of children.

Thank you for your consideration and addressing these concerns.

Sincerely,

Residence of Blue Heron Bluffs I&II
Nate Loewen, President BHBII

**Bruce Pesola of Cedar Point Family Trust requests LDR. This property identified as 1170101.**

MaryandGary Bourdeau <[redacted]>
Wed 4/13/2022 1:38 PM
To: Andrea Landers <alanders@marquettemi.gov>
Cc: David Staples <[redacted]>;Ryan Staples <[redacted]>;Tom Centko [redacted];John & Donna Fegan <[redacted]>;Steve Embree <[redacted]>;Maggie MacDevitt <[redacted]>

It has come to our attention that Bruce Pesola (Cedar Point Family Trust) has requested rezoning of Blue Heron Bluffs Condominium Unit 1. His portion in the city of Marquette split on 02/26/2008 from 0510154. There are five units in that split. Bruce Pesola, Unit 1; Don Seppanen (now John Fegan) Unit 2; Dave Staples, Unit 3; Gary Bourdeau, Unit 4; David Staples (now Ryan Staples), Unit 5. As well as a wooded area of common land.

Currently we were CR. Bruce Pesola of Cedar Point Family Trust requests LDR. This property identified as 1170101. As an owner of Unit 4, We have two concerns. First, there are deed restrictions and second, the possibility that the rezoning may be a blanket decision involving all five sites and the wooded area.

We acquired this property as a resolution to site depth and boundary issues. Upon receipt of our first summer tax bill of 2008, four of us involved in this boundary adjustment went into sticker shock. We appealed to the board of review and the S.E.V. was adjusted on all five sites. We were pleased with this outcome. We have been living with it since 2008. Bruce Pesola pleaded the most hardship or burden since his site involved the largest portion. Bruce was firm about devaluating the parcel because of the restrictions on expansion and development. We couldn't do anything with the property. That split was to adjust the depth of the sites Units 1 through 5 and providing room for a road.

Contrary to his arguments at the appeal in 2008, he soon began to build multiple auxiliary buildings. Ignoring the the zoning restriction and our by-laws. Now he is allowing mobile home residents as well as rent out his house as two apartments. Some time ago, years even, I called the zoning department of the city for advice. Unfortunately his property wasn't viewable from a city street. So no one could review the property regarding the zoning infractions. Even our board has been unsuccessful in stopping his activities.

Bruce Pesola continues to ignore our by laws and remains deaf to our concerns. Prior to this filing for rezoning, he requested the board of Blue Heron Bluffs Condominium Association to split Unit 1. Attorneys became involved. Our deed has restrictions on expansion, use of the property, and no additional residential units. We cannot split his unit into 2 sites. Regardless of receiving this information contained in our Master Deed, Mr. Pesola (Bruce) is adamant about splitting Unit 1. Thus his request for rezoning.

He may try to use this to force us to split his Unit. We will again deny his request because of our deed restrictions.

As the owner of Unit 4, I am concerned that it may be a blanket rezoning and include all within that portion in the city of Marquette split on 02/26/2008 from 0510154. After the rezone, Bruce still will not get his split of Unit 1 but if it is a blanket rezoning to LDR, our land valuation and taxes will still be affected. We want to remain as Conservation Recreation. Rezoning to LDR would be a hardship. We would have to appeal to rezone our sites back to CR. We don't want to go there. I am sure the Planning Board or zoning board wouldn't appreciate this either.

Since Bruce does what he pleases, if he were to get this rezoned, he just may build another residence regardless. He will disregard all of our efforts, objections, consolidated master deed, bylaws, MCL559.101 et sec. He will do what he wants.

We are appealing to the zoning board to take our concerns into consideration. We, as property owners and as condominium association members, hope you decide not to rezone property 1170101 to Low Density Residential.

On his application form, I noted two items that merit inclusion in my letter. Item 3. "The requested rezone does not violate any deed restriction etc. " On the contrary. Doesn't his request for Low Density Residential zoning indicate his total disregard of our consolidated master deed that clearly states no additional residences may be developed on any unit. Also Item 8. By application, he has given permission to inspect the site. Please do.

I look forward to appearing at the meeting when his zoning appeal is presented. If there are any questions on anything in my letter please call me at [redacted]

In the meantime, thank you for your attention.

It is sincerely appreciated,
Mary and Gary Bourdeau P/N 1170104
Unit 4 of Blue Heron Bluffs Condominium Associatiion.

565 Forestville Basin Trail, Marquette

Sent from my iPad

## Bruce Pesola of Cedar Point Family Trust requests LDR. This property identified as 1170101.

MaryandGary Bourdeau <[redacted]>

Tue 5/3/2022 2:21 PM

To: Andrea Landers <alanders@marquettemi.gov>

Cc: Maggie MacDevitt <[redacted]>;Mary Bourdeau <[redacted]>

Survey sketch will be delivered tomorrow.

It has come to our attention that Bruce Pesola (Cedar Point Family Trust) has requested rezoning of the back lot portion of Blue Heron Bluffs Condominium Unit 1. His portion in the city of Marquette split on 02/26/2008 from 0510154.

We acquired parcel O510155 because of the boundary issues for sites 1, 2, 3, 4 and 5 shown on the aerial map. I have included a copy of the surveyor sketch for the area that shows the shallow depth of the campsites in the township.

On that survey in 2001, the shallow campsites at the property nearest the dam became shockingly evident. The boundary issue was compounded by Bruce cutting of large pines from Unit 1 on the property belonging to Marquette Board of Light and Power (BLP). Longyear and BLP opened negations, and Longyear acquired both parcels 0510155 and 0510156 from Mqt. BLP.

Longyear then offered parcel 0510155 as an expansion property to us to resolve the boundary of 5 campsites and a wooded parcel as common land. We were very pleased and relieved with their offer. The parcel added depth to our shallow sites. With the added parcel, our individual units had an acceptable width to depth ratio for land development. Longyear made a consideration for the amounts we already paid as our share of the acreage for the site condominium and sold this parcel 0510155 for less than $100 to the Blue Heron Bluffs Condominium Association.

Contrary how this property was acquired. Bruce Pesola's request for rezoning of parcel 1170101. If it is granted, he will request that we split unit 1. For Bruce it's a matter of personal gain regardless of our associations restrictions. This entire issue of splitting unit one is disrespectful, bordering on unethical. It would be a mockery to the city of Marquette and to Longyear for their resolution to our boundary issue.

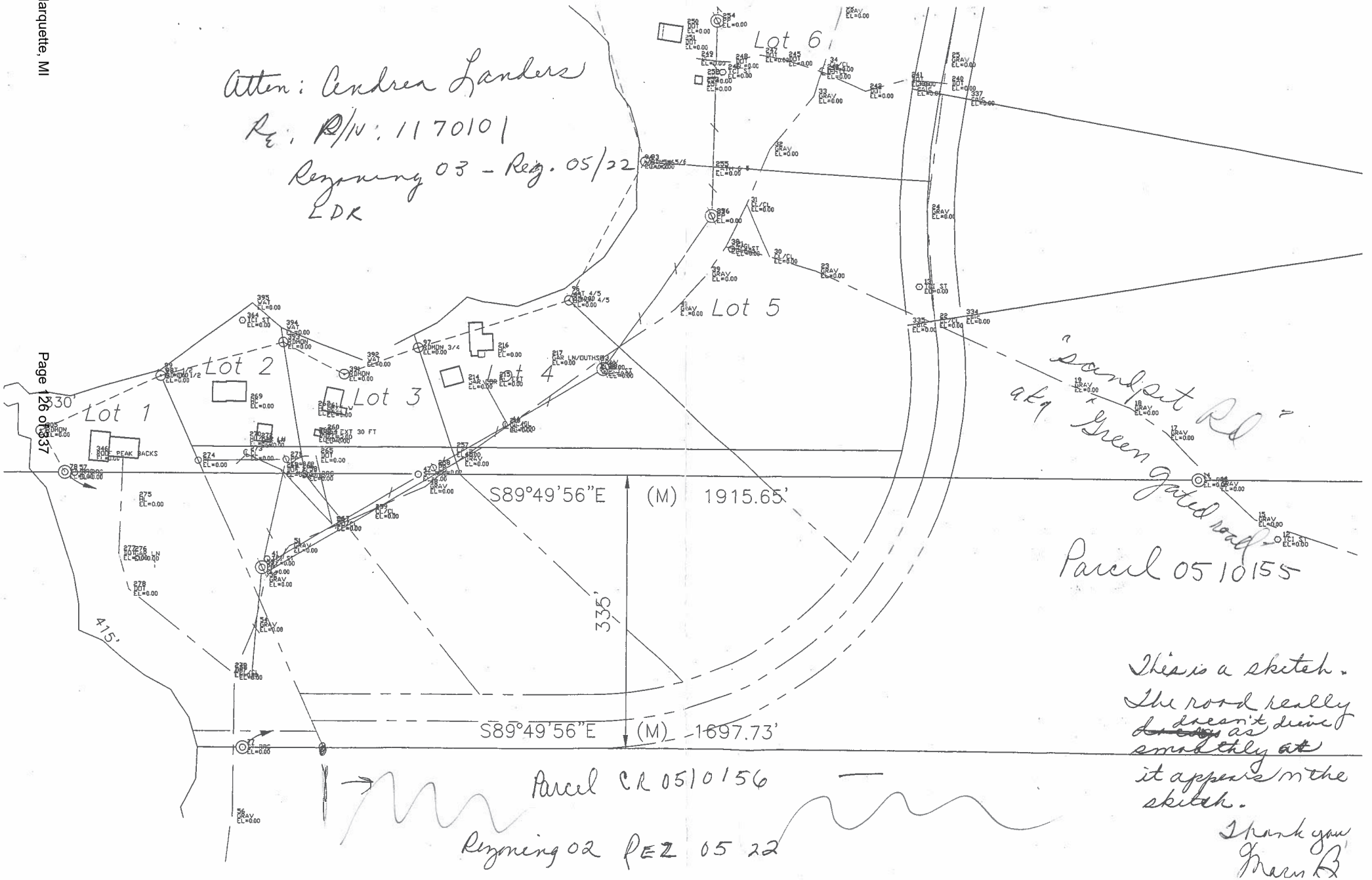
We respect Longyear's reasons for placing these restrictions upon this parcel. Our consolidated master deed includes the Grantor's (Longyear's) and specifically states this added parcel was strictly to resolve the boundary issue. It cannot be used to create a new unit. No additional residence are to built on any of the parcels. **Consolidated Master Deed, 2097R-00309 Recorded 01/10/2007. Ref. Pg 12 Restrictions on Expansion.**

We want this unit to remain as one unit and zoned as CR as are the other portions in this parcel. The residences are all in the township and zoned Scenic Residential. We are appealing to the zoning board to review our concerns. We hope they merit value when making your decision. We hope you decide not to rezone property 1170101 to Low Density Residential.

On his application form, I noted with interest that Item 3. "The requested rezone does not violate any deed restriction etc." On the contrary. His request for Low Density Residential zoning indicates his total disregard of our consolidated master deed.
Also Item 8. By application, he has given permission to inspect the site. Please do. I look forward to appearing at the meeting when his rezoning appeal is presented. If there are any questions on anything in my letter please call me at [redacted].

In the meantime, thank you for your attention.

It is sincerely appreciated,
Mary and Gary Bourdeau
P/N 1170104 Unit 4 of Blue Heron Bluffs Condominium Associatiion
565 Forestville Basin Trail, Marquette


Atten: Andrea Landers
Re: P/N: 1170101
Rezoning 03 - Reg. 05/22
LDR
Lot 1
Lot 2
Lot 3
Lot 4
Lot 5
Lot 6
330'
415'
335'
S89°49'56"E (M) 1915.65'
S89°49'56"E (M) 1697.73'
Sandpit Rd
Parcel 05 10155
Parcel CR 05 10156
Rezoning 02 PEZ 05 22
This is a sketch.
The road really doesn't curve as smoothly as it appears in the sketch.
Thank you
Mary B

# Stephen Embree

395 Forestville Basin Tr , Marquette, MI 49855 [redacted]



RECEIVED
MAY 04 2022
Marquette City
Community Development Office


**May 4, 2022**

Andrea Landers

City of Marquette Zoning Official
1100 Wright St.
Marquette, MI 49855

**Property Identification 1170101**

The zoning request for lot 1 in the Blue Heron Bluffs Condominium Association which would change the zoning to low density residential should be approved. Objections have been raised by individual noting issues with the condominium master deed. Zoning changes are not prohibited in the Master Deed and resolution of any future changes to unit 1 would have to be resolved with the condominium association. I do not believe that it is the work or responsibility of the Planning Commission or the City Council to negotiate, resolve or litigate the matter.

In addition, the zoning as low density residential is in line with the nature and activities of the surrounding area which is residential.

I am in support of the rezoning plan as outline at this time.

Respectfully,

Steve Embree



Ms. Andrea Landers
Zoning Official
Marquette City Planning Commission

May 3, 2022

Ref: Property Identification Numbers: 0510156 and 1170101

Dear Ms. Landers,

My husband and I purchased a home on Forestville Basin Trail in Marquette County in October, 2021. We recently learned about proposed zoning changes related to the property IDs listed above that has the potential to negatively impact our neighborhood. Our concerns center on two issues: 1) the impact of the proposed development at the end of the private Forestville Basin Trail Road that as members of the Blue Heron Bluff Condominium Association (BHBCA) we contribute to maintaining; and, 2) a precedent that could be set with the request to subdivide one of the lots in the BHBCA.

With regards to the first concern, the road was not meant to take on the significant wear and tear that would be created by an increase in traffic from construction vehicles and later from occupants of the proposed new development. This wear and tear would end up being shouldered unfairly by the members of our community and potentially contribute to a decrease in the quality of life in our area due to increased noise and dust pollution, as well as potential safety issues due to deterioration of road conditions, e.g in difficulty of emergency service vehicle access. We therefore respectfully ask that the Planning Commission please consider these impacts and only grant approval of the development if they can be resolved in such a way that the developer takes responsibility for the additional costs that may be associated with improving and maintaining the road to handle the increase in traffic, also taking into account community concerns and environmental considerations.

With regards to the second concern, according to our BHBCA Master Deed, members are not allowed to split their lots or build a second house on them. We entered into this condominium association with the understanding that its regulations indicated there would only be 19 parcels in our community (18 lots allowing one home on each lot and an additional lot that is our legally protected green space). This configuration permits plenty of forest and wilderness around our homes which was the draw of this neighborhood for our family. If this subdivision were allowed, it would set a precedent for others to ignore the Master Deed and do the same, violating the character of our neighborhood.

Thank you very much for your consideration of this request.

Sincerely,

Holly Ferrette, Ricardo Roca Steverlynck
415 Forestville Basin Trail
Marquette, MI 49855
[redacted]

May 2, 2022

To: Andrea Landers
Zoning Official
City of Marquette
alanders@marquettemi.gov

Reference: Property ID# 1170101

I understand that Bruce Pesola wants to change the zoning on his lot (595 Forestville Basin Trail) so he can build a second home on it. According to our Blue Heron Bluffs Condominium Association (BHBCA) Master Deeds, he is not allowed to split his lot or build a second house on it.

Bruce Pesola's efforts to build a second house on his lot violates our Master Deeds and also the common understanding that led to my building in this neighborhood. I entered into this Condominium Association with the idea that Association Regulations indicated there would only be 19 parcels in our community (18 lots allowing one home on each lot and an additional lot that is our legally protected Green Space). This configuration permits plenty of forest and wilderness around our homes which was the draw of this neighborhood.

When Longyear sold this land to BHBCA, they insisted that our Master Deed documented that we were only to divide the parcel we bought from them into 19 lots, to preserve the wild space in the neighborhood. The only purpose of Bruce Pesola rezoning his lot is to allow him to build and sell a second home. This sets a precedent for others to ignore the Master Deed and do the same, violating the character of our Association. Please help us maintain the history and beauty of this special area.

Sincerely,

Mary Hupfer
325 Forestville Basin Trail
Marquette, MI 49855

**Property id #: 1170101**

Maggie M <[redacted]>
Fri 4/15/2022 7:09 AM

To: Andrea Landers <alanders@marquettemi.gov>

Regarding Property Id #, 1170101

We all know Bruce Pesola wants to change the zoning on his lot (595 Forestville Basin Trail) so he can build a second home on it. He has been very upfront about that to several in our neighborhood. But according to our Blue Heron Bluffs Condominium Association (BHBCA) Master Deeds, he is not allowed to split his lot or build a second house on it.

Bruce Pesola's efforts to build a second house on his lot not only violates our Master Deeds, but also violates the common understanding that led to our building in this neighborhood. We entered into this Condominium Association with the appreciation that Association Regulations indicated there would only be 19 parcels in our community (18 lots allowing one home on each lot and an additional lot that is our legally protected Green Space). This configuration permits plenty of forest and wilderness around our homes which was the draw of this neighborhood.

When Longyear sold this land to BHBCA, they insisted that our Master Deed documented that we were only to divide the parcel we bought from them into 19 lots, to preserve the wild space in the neighborhood. The only purpose of Bruce Pesola rezoning his lot is to allow him to build and sell a second home. This sets a precedent for others to ignore the Master Deed and do the same, violating the character of our Association. Please help us maintain the history and beauty of this special area.

Sincerely,

Maggie MacDevitt
505 Forestville Basin Trail
Marquette, MI 49855

Patricia Olson

435 Forestville Basin Trl , Marquette, MI 49855 ♦ [redacted]

May 4, 2022

Andrea Landers
City of Marquette Zoning Official
1100 Wright St.
Marquette, MI 49855

Property Identification: 1170101

The zoning request for Lot 1 in the Blue Heron Bluffs Condominium Association which would change the zoning to low density residential should be approved. Objections have been raised by individual noting issues with the condominium master deed. Zoning changes are not prohibited in the Master Deed and resolution of any future changes to unit 1 would have to be resolved with the condominium association. I do not believe that it is the work or responsibility of the Planning Commission or the City Council to negotiate, resolve or litigate the matter.

In addition, the zoning as low density residential is in line with the nature and activities of the surrounding area which is residential.

I am in support of the proposed rezoning plan.

Respectfully,

Patricia Olson

April 22, 2022

Ms. Andrea Landers
Zoning Official
City of Marquette

Re: Property ID# 1170101

Dear Ms. Landers and City of Marquette:

We are writing you about the rezoning application regarding 595 Forestville Basin Trail, Unit 1 within Blue Heron Bluffs Condominium Association (BHBCA).

It is our understanding our BHBCA Master Deed prohibits splitting of lots and building more than one single-family home per lot.

The BHBCA Master Deed indicates there are 19 parcels in our community--18 lots allowing one home on each lot and an additional lot that is our legally protected shared Green Space.

Please help us maintain the integrity of our BHBCA Master Deed and Bylaws by denying this rezoning request.

Sincerely,

Michaeleen OSullivan and Todd Carter
355 Forestville Basin Trail
Marquette, MI 49855

## Bruce Pesola request for rezoning, 1170101

Patrick St. Germain <[redacted]>
Wed 4/13/2022 1:30 PM

To: Andrea Landers <alanders@marquettemi.gov>

Andrea Landers
Zoning Official
City of Marquette
alanders@marquettemi.gov

Property Identification #: 1170101

As a member of Blue Heron Bluffs Condominium Association, I am opposed to a proposed change in zoning to the part of our Association that is in the City of Marquette. The proposal is being put forth by one of our members, Bruce Pesola. I believe that Bruce wants this zoning to split his lot and build on it which is in direct violation of our Condominium Master Deeds. ( Refer to Master Deed quotes below.)

Bruce is already in violation of our Association Bylaws by renting out his house on Condominium property. This is a practice he promised to stop, but at the time of this writing Bruce has an advertisement for renting his condominium house on apartments.com.

It is very difficult for a small Association like ours to enforce our Bylaws and keep our Master Deeds from being violated. We think that a zoning change to our City of Marquette property will embolden Bruce Pesola to fly in the face of our Master Deed, knowing that we have very little power to stop him.

The Expansion Property referred to below is the property that Bruce Pesola wants to have rezoned.

*2002 BHBCA Master Deed, Liber 448 page 506, Restrictions Upon Expansion B 4 and B 6 which states:*

*"No additional units may be created. The Expansion Property shall only be utilized to revise the boundaries of Units 1-5 and 18" and*
*"There shall be no additional residential units located on any portions of the Expansion Property ".*

*This exact wording is also in the Consolidating Master Deed of 2007 under Article X Expansion of Condominium B 4 and B 6.*

Thank you for your consideration,

Patrick St. Germain
505 Forestville Basin Trail, Marquette, MI [redacted]

Patrick St. Germain & Maggie MacDevitt
505 Forestville Basin Trail
Marquette, MI 49855
[redacted]

March 1, 2022

Suzanne Curry Larsen
City Attorney
City of Marquette
300 W. Baraga Ave.
Marquette, MI 49855-4712

Dear Ms. Larsen,

We are writing as residents of Blue Heron Bluffs Condominium Association on Forestville Basin Trail in Marquette Township. We have concerns about the ramifications of a proposed zoning change to a property in our neighborhood. We believe that a zoning modification for the intended development does not take into account safety issues and access for service limitations. The property we're referring to (T 48 N, R 25 W sections 8 and 9) is near Forestville Dam in the City of Marquette. The request for a zoning change will be brought before the Zoning Board by Cedar Point Family Trust and Bruce Pesola. We have included a map for clarification.

Forestville Basin Trail (FBT) is a 1.5 mile long private dirt and gravel road, with year round houses and seasonal dwellings. The first half of the road, owned by Blue Heron Bluffs Two Condominium Association, is new and meets County Road Commission Standards. The second half of the road is owned by Blue Heron Bluffs Condominium Association. This section of road is much older and doesn't meet current Road Commission Standards. A zoning change would allow development of eight single family homes on the property in question. Although the property is within Marquettte city limits, to access it by car, one must drive out of the city and through Marquette Township for 3.75 miles.

Using the last .75 mile of Forestville Basin Trail for access to this proposed development presents issues that need to be addressed. This section of roadway is very hilly and winding with trees and cut banks close to the shoulders of the road. In the summertime, the road is usually 18.8 feet wide. On February 23, 2022 we measured the road, and found it to be 14 feet wide in most places but as little as 12 feet wide in several spots. 14 feet of width will allow cars to pass each other on the road if they are careful, but at twelve feet of width, one vehicle has to pull into a driveway to let another other vehicle pass by. This becomes a serious problem when a service vehicle or large

truck is involved. U.S. Mail vehicles and school buses will not drive down this part of the road even in the summer. In addition, with 8 new families living at the end of this road, the children residing there will need to walk 1.5 miles to catch their school bus on the narrow curvy road where winter snowbanks are 4 to 5 feet high. This is obviously a safety hazard that needs to be addressed. (Photo included)

If the zoning is changed as Cedar Family Trust and Bruce Pesola propose, we have the following questions as to how the City of Marquette will provide services to the tax payers residing in those 8 new lots.

1. Will these lots have to be serviced by Township Fire Departments and County Law Enforcement, even though the lots are in the city of Marquette?

2. How will the residents of these new lots have access to city garbage collection?

3. Marquette city taxpayers have their streets maintained and plowed using city tax dollars. How would that work on a private road?

4. How would the city handle the school bus problem?

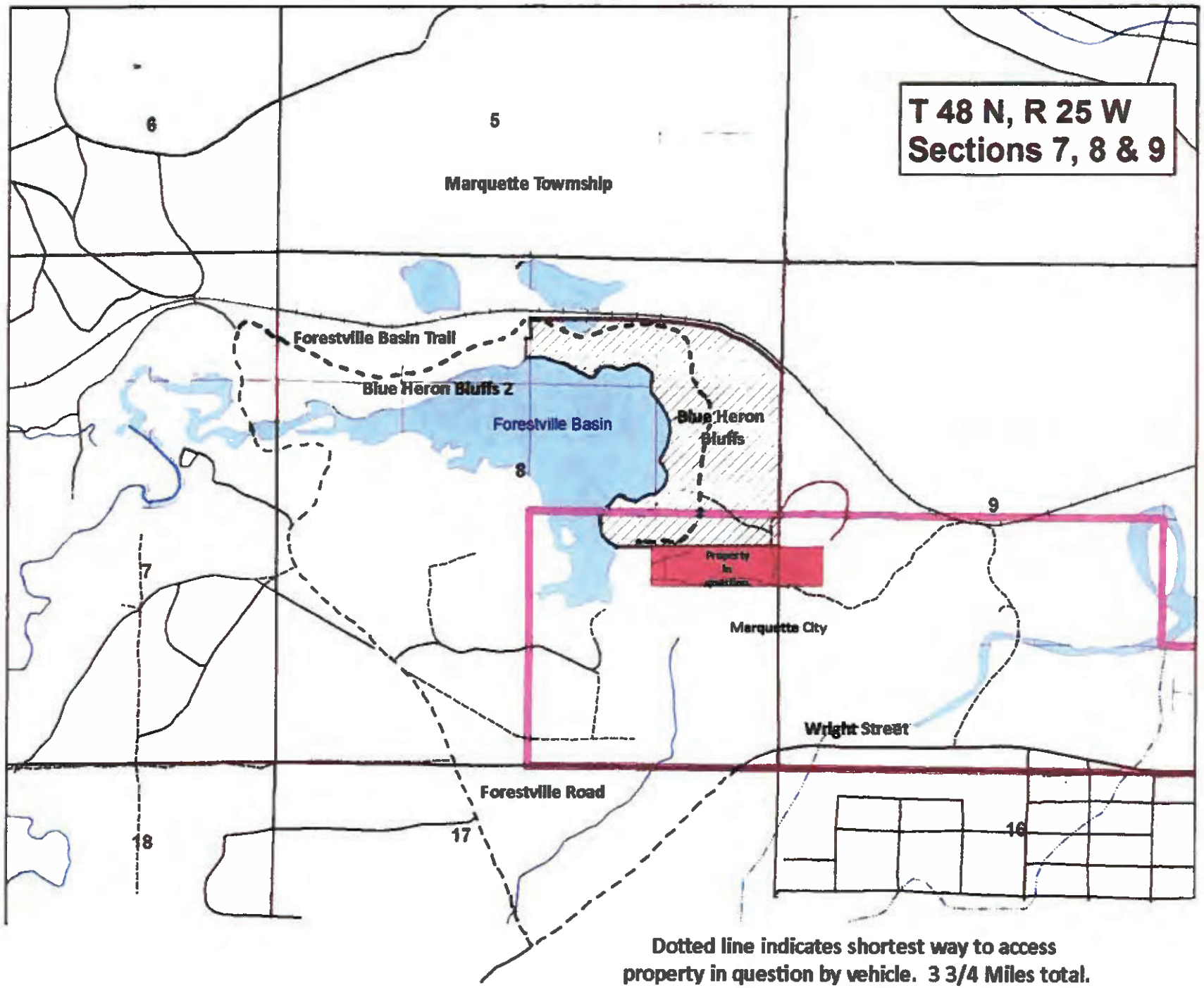
5. Would the arrangements made for servicing these lots via this private road have to be approved by the landowners of both associations that own the road? (It should be noted that the City of Marquette has been reluctant in the past to inspect Marquette City land in this area because they have been unsure about using a private road.)

We are asking the City of Marquette to resolve these problems before they allow eight families to build houses on the property in question. We would appreciate your letting us know if you have answers to our questions or if you know who we should address our concerns to.

Thank you for your time.

Sincerely,

Patrick St. Germain, Maggie MacDevitt




Dotted line indicates shortest way to access property in question by vehicle. 3 3/4 Miles total.
1 1/2 Miles on private road.
2 1/4 Miles on Marquette Township roads.



City of Marquette, MI

## Rezoning parcels Cedar Point Family Trust-Forestville Basin

David Staples <[redacted]>

Thu 5/5/2022 11:29 AM

To: Andrea Landers <alanders@marquettemi.gov>

As owners of lots 3 & 5 (575 & 535) of Blue Heron Bluffs Condominium Association we do not support the current plan and sequence for the rezoning request.
We feel there are too many unanswered questions regarding documented assurances from Bruce of Cedar Point Family Trust (CPFT).
Additionally, we would like to see a response from the Zoning Department as to what requirements have to be met before approval is granted. We understand that neighborhood support is one factor in the process.
Therefore we recommend that rezoning approval be delayed until more information is provided by Bruce of CPFT and the Zoning Board of Appeals.
Signed
David Staples, Sharon Staples (575)
Ryan Staples, Stephanie Whiton (535)

**MARQUETTE CHARTER TOWNSHIP**
1000 Commerce Drive
Marquette, Michigan 49855
Ph | 906.228.6220
Fx | 906.228.7337
www.marquettetownship.org

City of Marquette Planning Commission
Attn: Andrea Landers, Zoning Official
1100 Wright St.
Marquette, MI 49855

May 9, 2022

Re: 02-REZ-05-22/PID 0515156 and 03-REZ-05-22/PID 1170101 rezoning requests

Ms. Landers and Planning Commissioners,

On behalf of the Marquette Charter Township Planning Commission, please let this letter serve as acknowledgement and concern over the rezoning requests for PID 0515156 and PID 1170101. Township staff were made aware of the request through the city's notification process, and subsequently presented it to the Township Planning Commission who directed staff to submit a letter to the City Planning Commission at their April 27, 2022 regular meeting.

The Planning Commission and staff have reservations regarding the requests due to foreseeable issues with the access, infrastructure, and allocation of emergency and regular services to these parcels proposed to be rezoned. At present, the only access consists of Forestville Basin Trail, a private road of which the residents are responsible for and is substandard by Marquette County Road Commission specifications. At present, the road is noncompliant with *Article 3, Section 3:04: Standards for Approval (J)* of the *Charter Township of Marquette Access Control and Land Development Ordinance,* which states:

> *"J. All private roads must be constructed according to the current requirements of the Marquette County Road Commission paved road specifications if any of the following conditions occur:*
>
> 1. *The road serves three (3) or more residential lots.*
> 2. *The road provides access to any multiple family development(s).*
> 3. *The road provides connection between any two (2) public roads.*
> 4. *The road provides access to industrial or commercial property."*

Understandably, many current zoning provisions were enacted after the initial phase of the Blue Herron Bluffs Site Condominium development. However, future access to additional properties, by way of the existing private road, would certainly require additional review and potential improvements to bring the road into compliance with Marquette County Road Commission standards.

We ask that serious consideration is given to the potential effects that rezoning these

**MARQUETTE CHARTER TOWNSHIP**
1000 Commerce Drive
Marquette, Michigan 49855
Ph | 906.228.6220
Fx | 906.228.7337
www.marquettetownship.org

parcels would bring.

Should you have any questions, please contact the Township.

Sincerely,



Erik Powers on behalf of the Marquette Charter Township Planning Commission
Staff Planner
Marquette Charter Township
1000 Commerce Drive
Marquette, MI 49855
Ph | 906.228.6220 x108
Fx | 906.228.7337
erikpowers@marquettetownship.org

# Rescind the following email titled: Rezoning parcels Cedar Point Family Trust Forestville Basin

David Staples <[redacted]>
Mon 5/9/2022 12:27 PM

To: Andrea Landers <alanders@marquettemi.gov>
Cc: [redacted]

Upon receiving new information, we would like to rescind our vote of no support to one of supporting the rezoning of the two Cedar Point Family Trust parcels at Forestville.

Signed
David Staples
Ryan Staples

As owners of lots 3 & 5 (575 & 535) of Blue Heron Bluffs Condominium Association we do not support the current plan and sequence for the rezoning request.
We feel there are too many unanswered questions regarding documented assurances from Bruce of Cedar Point Family Trust (CPFT).
Additionally, we would like to see a response from the Zoning Department as to what requirements have to be met before approval is granted. We understand that neighborhood support is one factor in the process.
Therefore we recommend that rezoning approval be delayed until more information is provided by Bruce of CPFT and the Zoning Board of Appeals.
Signed
David Staples, Sharon Staples (575)
Ryan Staples, Stephanie Whiton (535)

# Planning Commsion meeting

Stephen Embree <srembree@yahoo.com>

Tue 5/10/2022 9:51 AM

To: Andrea Landers alanders@marquettemi.gov

Cc: [redacted]

2 attachments (135 KB)

Planning commission zoning consent.docx; Letter of Intent 5-6-22.pdf;

Zoning proposal 0510156 and 1170101

Please see attached from Blue Heron Bluffs Condominium Assocation

The following was adopted by a majority vote of the members:

Blue Heron Bluffs Condominium Association consents to zoning applications 0510156 and 1170101, but only to the extent that the Marquette City Planning Commission: (1) incorporates all conditions set forth in the Letter of Intent dated May 6, 2022, from Adrianne Wolf, attorney on behalf of Cedar Point Family Trust and Bruce Pesola to Blue Heron Bluffs Condominium Association, into the zoning applications (2) and requires that the applicants failure to comply with the foregoing conditions shall constitute a violation of the City zoning ordinance and result in the revocation of the rezoning

# McDONALD & WOLF, PLLC

*A Michigan Professional Limited Liability Company*

ATTORNEYS AT LAW
115 S. LAKESHORE BLVD., Suite A
MARQUETTE, MICHIGAN 49855-4615

Voice (906) 226-6537
Facsimile (906) 226-2823

WILLIAM I McDONALD
ADRIANNE N WOLF
MOLLY PHILLIPS OMBRELLO


May 6, 2022

Blue Heron Bluffs Condominium Association, Inc.
c/o John Fagan, Stephen Embree, and Patrick Greeley
*Sent via email*

Blue Heron Bluffs II Condominium Association, Inc.
c/o Patrick Greeley and Nathan Loewen
*Sent via email*

Re: Bruce Pesola/Cedar Pointe Family Trust Rezoning Requests to City of Marquette – Letter of Intent

Dear Sirs:

I am writing to you on behalf of Bruce Pesola and the Cedar Pointe Family Trust to memorialize our discussions to date regarding the following property currently owned by Bruce Pesola and the Cedar Pointe Family Trust:

a. Unit 1 in Blue Heron Bluffs Condominium, the City portion of which Mr. Pesola has requested be rezoned to Low Density Residential, and which he intends to sub-divide;
b. A parcel of approximately 17 acres in the City of Marquette, which Mr. Pesola has requested be rezoned to Low Density Residential, and which he intends to develop into 8 single family residential lots; and
c. A parcel of approximately 40 acres in the Charter Township of Marquette.

Mr. Pesola has requested that the two condominium associations support his applications to the City of Marquette to rezone a portion of Unit 1 and the 17 acre parcel to Low Density Residential. In order to do so, the condominium associations have requested certain conditions and concessions from Mr. Pesola.

To date, the following requests have been made by the condominium associations and are acceptable to Mr. Pesola if he is able to rezone and otherwise develop the 17 acre parcel into 8 single family residential lots and construct a second residence on Unit 1 by sub-dividing it:

1. The approximately 40 acre parcel in the Charter Township of Marquette will be donated to a non-profit organization with the purpose of conserving and maintaining that parcel in its undeveloped state. Such non-profit organization may be one of your condominium associations or a different non-profit organization, such as the Superior Watershed Partnership.

2. Upon the sale of each lot in the 17 acre parcel, Mr. Pesola will put $5,000 into escrow for the purpose of maintaining or improving Forestville Basin Trail to be used as determined by a committee composed of members of Blue Heron Bluffs Condominium Association, Inc.

3. Neither unit that results from sub-dividing the current Unit 1 will be leased. Nor will any public access to the Forestville Basin be granted over the current Unit 1.

4. Covenants and building restrictions comparable to those in the Blue Heron Bluffs Condominium Master Deed will encumber any lots created out of the 17 acre parcel, including (without limitation) a requirement that the lot not be used for any purpose other than a single family residence.

5. Each lot created out of the 17 acre parcel will pay the same amount to Blue Heron Bluffs Condominium Association, Inc. that the members of such association pay in general or special assessments related to Forestville Basin Trail maintenance.

6. Mr. Pesola will continue to discuss and negotiate a monetary contribution to Blue Heron Bluffs II Condominium Association, Inc. to improve the drainage of Forestville Basin Trail.

To be clear, this letter of intent sets forth the parties' current understandings, but this letter is a not a binding agreement or commitment. It is Mr. Pesola's hope and intention that these terms can be refined over the coming weeks with the condominium associations and memorialized in a binding agreement.

If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

McDONALD & WOLF, PLLC

*Adrianne N. Wolf*

Adrianne N. Wolf

ANW/sn
Enc.

## Re: Property Identification Number 0510156

Kristina Orticelli <[redacted]>
Tue 5/10/2022 9:39 AM

To: Andrea Landers alanders@marquettemi.gov

Hello,

We want to be clear that we are not in opposition to the development of land. However, we do want assurance that the road condition will not be made worse by construction equipment. The road will most likely require improvement prior to development of the land.

Thank you.

Kristina and John Orticelli
275 Forestville Basin Trail, Marquette, MI 49855

On Tue, Apr 19, 2022 at 9:24 AM Andrea Landers <alanders@marquettemi.gov> wrote:

> Hi,
>
> I have received your correspondence and it will be a part of the agenda packet.
>
> Sincerely,
> Andrea
>
> Andrea Landers
> Zoning Official
> City of Marquette
>
> ***Plea e note that we have a web portal for the Land Development Code and an interactive map located at http://online.encodeplus.com/regs/marquette-mi/index.aspx***
>
> Office Hours are 7:30 a.m. to 4:30 p.m.
> alander @marquettemi gov
> 906-225-8383
> www.marquettemi.gov
>
> ---
>
> **From:** Kristina Orticelli <[redacted]>
> **Sent:** Friday, April 15, 2022 8:18 AM
> **To:** Andrea Landers <alanders@marquettemi.gov>
> **Subject:** Property Identification Number 0510156
>
> Good morning, Ms. Landers. Please find attached our letter opposing the development of land at the end of Forestville Basin Trail. Our road needs further improvement for this development to take place.
>
> Thank you,
>
> Kris and John Orticelli

**OFFICIAL PROCEEDINGS OF THE**
**MARQUETTE CITY PLANNING COMMISSION**
**May 10, 2022**

A regular meeting of the Marquette City Planning Commission was duly called and held at 6:00 p.m. on Tuesday, May 10, 2022, in the Commission Chambers at City Hall.

**ROLL CALL**
Present: W. Premeau, A. Andres, Vice-Chair M. Larson, Chair J. Cardillo, and N. Frischkorn
Absent: S. Mittlefehldt and N. Williams (both excused)

**AGENDA**

*It was moved by A. Andres, seconded by M. Larson and carried 5-0 to approve the agenda with the removal of the April 19, 2022 minutes.*

**MINUTES**

*The minutes of April 12, 2022 were approved by consensus with the following change that J. Cardillo did not attend the City Commission meeting she watched it online after-the-fact.*

**CONFLICT OF INTEREST and EX-PARTE CONTACT**
None was stated.

**PUBLIC HEARIINGS**

**A. 01-STR-05-2022 – Request to Vacate a Portion of Center Street**

Zoning Official A. Landers stated petitioners have requested the vacation of the 64-ft. wide (approximate) Center Street right-of-way located between lots 1-3 of the Marquette Land Company's Addition No.2 and lots 26 and 27 of Ayer's Addition (see included plat map and photo-maps). She stated this portion of Center St. is the "dead end" that is almost perfectly aligned with the center of the Superior Dome on the NMU athletic campus, and Center St. thus provides a "terminal vista" of the Superior Dome, which is a classical design principal and may have been the reason for the exact build location of the Dome. She also stated in accordance with the procedures developed by the Community Development Department for street vacations, the petition has been circulated to all City departments for review and comment. She stated the petitioners own and manage property (own 1636 & 1700 Presque Isle, 251 Center St., and 201 W. Center Street) that is adjacent to the subject right-of-way. She also stated if vacated, adjoining property owners may take legal action to have the property included with their own property. She stated attached is the petition document, an area map showing water and sewer utilities, site photos, and said that she had not received any correspondence and asked D. Stensaas if he had.

City Planner and Zoning Administrator D. Stensaas stated that he had only received an e-mail message that he forwarded to the Planning Commission, from Jim Thams who was the applicant for NMU, which explained that they don't have any specific plans for that property but that they would probably make it a green space as they are planning to tear the adjacent Carpet Shop building down once the lease is up on that property. He stated that NMU now owns the property on all sides of the dead end of Center Street and their Campus Master Plan has this identified as a mixed-use area, but they don't have any plans for the area according to the message that was forwarded.

*Chair Cardillo opened the public hearing.*

*Brian Harsh, 1635 and 1639 Presque Isle and 1309 Center Street, stated what is going on and what does this mean when they say "vacate the property" and how does this affect the road and the people around there?*

*No one else wished to comment. Chair Cardillo closed the public hearing.*

*It was moved by M. Larson, seconded by A. Andres and carried 5-0 to suspend the rules for discussion.*

M. Larson stated that he would turn to staff for a brief explanation of street vacations and vacating that brief portion.

D. Stensaas stated that what we have with platted subdivisions is that there was a survey done of all of the parcels, and to the north and south of this right-of-way there are platted subdivision parcels. He stated that the streets in subdivisions are surveyed and laid out on the plat and designated as right-of-way, and the plat is a legal document that is approved through a process that the state oversees, so any right-of-way that was platted and approved by the state when it approves the plat – to terminate the use of it as a right-of-way it must go through this formal process we call street vacation. He stated that if it is vacated it will remain City property until adjacent landowners acquire it through a process established by state law through the courts, and so if it is vacated the City will be responsible for maintaining it until NMU acquires it. He also said that what will probably happen is that once this portion of the street is vacated and acquired by NMU it would be stricken from the plat as a right-of-way and it would be re-monumented as part of NMU's property in that area.

J. Cardillo stated this would still remain property of the City, but when the next step happens that is when it would change ownership.

M. Larson stated that his only other comment is that after reading through the materials it seems like everything is in order with agreements and it makes sense that this would become part of NMU's property since they've acquired all the property adjacent to this part of the street.

A. Andres stated that he agrees.

N. Frischkorn stated that just for clarification - Center Street would end at Presque Isle Ave. instead of nearer to the dome if this is approved. J. Cardillo stated yes.

W. Premeau asked if the alley that ran between Fair Ave. and Wright St., off of Center St., had been vacated. D. Stensaas stated that he isn't aware of it if there was a platted alley where the NMU property is now. W. Premeau stated that he walked that alley many times. He also stated that doesn't see anything wrong with this request.

*It was moved by M. Larson, seconded by A. Andres and carried 5-0 that after review of the background information for 01-STR-05-22, the "Portion of Center Street East of Presque Isle Avenue Vacation Request", the Planning Commission finds that the proposed street vacation would not conflict with any intended municipal uses of the right-of-way, and hereby recommends the City Commission approves the street vacation as presented.*

**B. 02-REZ-05-2022 – Request to Rezone from CR to LDR - PID 0515156**

A. Landers stated the Planning Commission is being asked to make a recommendation to the City Commission regarding a request to rezone the property located at Forestville Basin Trail - PIN: 0510156 which is zoned Conservation & Recreation (CR) to be zoned Low Density Residential (LDR). She referenced the staff report and visuals from the agenda packet were shown.

Four items of correspondence received after the agenda was posted were read. The first was from the Marquette Township Planning office on behalf of their Planning Commission; the others were from residents of the Blue Heron Bluffs Condominium projects, with lots in Marquette Township - Kristina and John Orticelli, David and Ryan Staples, and Steven Embree. The correspondence from Mr. Embree included a letter drafted by Adrianne Wolf, the attorney for the applicant, addressed to members of the two homeowner associations (Blue Heron Bluffs and Blue Heron Bluffs II).

Jim Conlin, of Iron Shore Development at 137 W. Michigan St., and representing the applicant, stated that he would like to point out a high-level view to limit future development of the residential lots which were

mentioned for single-family construction within the city boundaries. He stated that that is in the request for the rezoning of the 21 acres and then one residential lot for rezoning which was the 1.5 acre parcel. He stated that it was their humble opinion that approving the requests will benefit the city and neighborhood residences as it would control and limit the development of the property to the aforementioned number of lots and would fit within the low-density residential guidelines. He stated that he would like to reiterate the control and limitations pieces to that, as the current owners intend to have a minimal number of families able to build single-family residences. He stated that in addition, they further intend if the requests are approved, is the donation of land to the north of the township to be donated for no future development. He stated furthermore, that not to be doom and gloom, but there is always the possibility that a current owner offers for sale this entire property and the city and township parcels to an outside buyer. He stated at that point, with current zoning there is no control as to the request of any outside party, whether it be for documented rights or special land use requests in the future. He stated that yes, there would be issues raised about the road access condition in it's current state and the potential wear and tear to the roads due to the low density lots. He stated that in future planning, those concerns should be addressed by the private home owners and the public. He stated as to the future low density development housing, the planning will incorporate city guidelines for an access road and that they also need to develop the access points. He thanked the commission members for their time and consideration.

Adrianne Wolf of McDonald & Wolf, LLC, 115 S. Lakeshore Drive #A, attorney for the applicant, stated that this is a unique situation in the sense that this particular parcel borders property and is adjacent to condominium units and uses the same access as the condominium association which is located in Marquette Township. She stated therefore they have Blue Heron Bluffs 2 near the entrance of the development and then Blue Heron Bluffs 1, which is further down Forestville Basin Trail Road and most near to the proposed rezoned area. She stated in Blue Heron Bluffs, also known as BHB 1, which is the association that's closest to the potentially rezoned parcel, there are 18 units, single-family homes and then BHB 2 which is the near the entrance of the development, consisting of 11 units. She stated there are also 5 additional parcels which are single-family parcels, near the entrance to the development that also use Forestville Basin Trail. She stated currently the road Forestville Basin Trail is already used by 34 single family residences. She stated that they are proposing by developing this or rezoning this, they are proposing 8 additional residences to be served by the same road. She stated that the other thing that she thinks is important for the planning commission to recognize is that that particular parcel was listed as a potentially expandable area for both condominium associations. She stated that Blue Heron Bluffs 1 was the first development on Forestville Basin Trail and that it contains 18 units and is most adjacent to the proposed rezoned parcel. She stated that at that time, the property in question was listed as potential property to be added to that condominium. She stated that the time to do that has past, so the property in question cannot be now added to Blue Heron Bluffs 1. She stated that secondly though, it was also listed as an expandable area for Blue Heron Bluffs 2 and in the master deed, when all the owners of Blue Heron Bluffs 2 purchased, it was disclosed to them that if this expandable area is added to Blue Heron Bluffs 2, and there is still time to do that, up to 8 additional single-family lots could be created out of it. She stated that again, this is a condition which was known to all of the purchasers of property in Blue Heron Bluffs 2 and that it was stated in the Master Deed as well as the subdivision plan. She stated that this is a rezoning request, and that the primary focus in her opinion, is that they are requesting that the commission consider the zoning as LDR in order to be consistent with those adjoining areas. And she stated that also the property in question is accessed through the same road that the other two associations are accessed through. She stated that she does believe that LDR is more consistent actually than what the current zoning of CR. She stated that CR currently allows the developer to use the property for things such as forestry and agriculture. And she said and in fact, some of those uses the developers requests from surrounding owners specifically to not use it as it is currently zoned. She stated that they are asking for this rezoning to make it actually consistent with the other adjoining development. She stated that and in an effort to ensure these 8 are in fact compatible with the surrounding uses, that is what has prompted the developer to enter into or to provide the letter of intent that was read to the commission earlier, which according to her understanding has now been approved by Blue Heron Bluffs 1 as an association. She stated that the other factors that she would point out to the commission are to look at the trend of development in that particular area and whether LDR is actually a better use for the property. She stated that both current developments support rezoning as LDR rather than keeping it as CR as set forth in the materials provided to the commission during tonight's meeting. She stated that the most consistent concern that has been raised in correspondence by adjoining land owners as well as the township has

been the state of Forestville Basin Trail and can it handle and additional 8 homes on the road. She stated that again she would point out that there is already 35 single-family residences using it, so they are not incrementally increasing the traffic by very much. She stated secondly, the owners in BHB 1 and BHB 2, the two condominium associations, are actually the ones responsible for maintaining and improving that road. She stated that therefore those who are complaining to the commission about the state of the road in fact have the ability and the power to actually improve and maintain their road. She stated that both condominium associations have the authority to assessments as necessary to maintain and improve Forestville Basin Trail. She stated that in fact one of the conditions they agreed to as stated in their letter of intent is that the 8 parcels, once created, would also be required to pay assessments to maintain and improve the road, just as Blue Heroin Bluffs 1 is. She stated that therefore if that association determines that it is appropriate to pave the road or widen the road, the proposed new 8 units would also be bound by any particular assessment issued for that purpose. She stated therefore, that would add an additional 8 homes that are actually contributing to maintaining and improving the road, hopefully alleviating some of those concerns. She stated that there are a number of trails in the particular area in question which are maintained by MTM. She stated that the developer has been in discussions with MTM to continue to allow access to the MTMs. She stated that they accept that that has been a concern that has been raised by correspondence and that it was always with by grace of the landowner as most trails are and that it is less than fair to use that grace now against the developer. She stated that additionally the township has approved both of the condominium developments previously; BHB 1 and BHB 2. And she stated that she has also heard about the township expressing concerns about the state of Forestville Basin Trail and she stated that she believe that those comments focused primarily of the Forestville Basin Trail Road the goes through BHB 1, because it was prior to a requirement that the road to county specifications. She stated that the road in BHB 2 which is closer to the intersection with Forestville Road was in fact built to county specifications according to the township ordinance at the time which it was developed. She thanked the commissioners for their time.

*Chair Cardillo opened the public hearing.*

John Fagan and Donna Fagan, 585 Forestville, stated and he and his wife were in the Blue Heron Bluff Condo Association. Donna Fagan stated that they support the rezoning.

Steven Embree, 395 Forestville Basin, stated that he was a Blue Heron Bluff Condo Association as well. He stated that the condo association has met as a group and voted to support the rezoning application. He stated they had a minority of the group that does not support the rezoning application, but that the majority of the participants and members do support the rezoning application. He stated that one of the big considerations they have is certainly with development in that area. He stated that they have been blessed with not a whole lot of development for years and years and years. He stated that he much would rather have residential property on the property in question than any other type of development. Therefore, he is supporting the rezoning application for residential because it is beneficial to their members and the association supports that. He stated that the second piece is the initial 40 acres that had been referred to that the developer plans to basically give them, which adjacent to their property, in the township, so it cannot be developed. S. Embree went on to say that one of the big considerations they have is if that property goes to someone else, due to the current zoning classification they could end up with a camp site in there, campers. He added traffic on the road and the wear and tear on the road could be much worse than just 8 residential lots. He stated that they do understand the condition of the road and the need for improvement of the road, but they also understand that the developers want to give them money for such development and the 40 acres for nondevelopment; therefore, it will not be improved, nobody else will be back there and that would be the extent of the development in that area. S. Embree thanked the commission.

Tom Sundko, 475 Forestville Basin, stated that he and his wife Karen Sundko have lived at this address for 32 years. He stated they enjoy that environment and that they are not necessarily wanting to see more development; however, they definitely do support the approval and the rezoning request that's being asked of the committee. T. Sundko them thanked the commission.

Patricia Olson, 435 Forestville Basin, stated that she supports the proposed rezoning. She said as S. Embree mentioned, the trail systems out there are heavily used by them and all the members of the local

community and that she feels that preserving the 40 acres and just developing the targeted 8 lots preserves some of that for not only the residents but the larger community which also uses the trails that current exist. She stated that she thinks the other benefit of looking at this proposed development versus others which will be inevitable is with the residential home builds, she thinks the development would be more of a staged development. She stated that they would not be selling 8 lots in one year, so she thinks that the impact on the road would be incremental and that it will given a chance to recover from those builds, get it repairs and have a few more builds happen. She stated that that would preclude any other large development that might come in and really wreak havoc on their road. She stated that she does think that residential is more consistent with what they already have out there and that from a self-preservation perspective, everyone has made a large investment in their homes out there. She thinks that some of other potential uses could negatively impact their property value. She stated that placing other residential property out there would help to stabilize and perhaps improve their property values and that some of the other uses would work to the detriment of the people who have put significant investments in their properties out there.

*No one else wished to comment. Chair Cardillo closed the public hearing.*

> *It was moved by N. Frischkorn, seconded by M. Larson and carried 5-0 to suspend the rules for discussion.*

N. Frischkorn stated that he would start by addressing several of the things that were in the correspondence prior to the agenda. There was raised some issue of master deed, he stated that he does not think that that is something that they could address there in their session. He stated that that seems more of a contract issue between the parties than anything that the Planning Commission could consider. He stated that he also wanted to clarify that he does not believe that we can add any conditions to their decision, because this was not a conditional rezoning request, so they cannot add any conditions, they can only approve or deny.

J. Cardillo asked if N. Frischkorn was referring to the correspondence that was read earlier.

N. Frischkorn stated yes, he does not think that the issue of the master deed could be included and asked to be corrected if he was wrong about this fact.

D. Stensaas stated that he had that discussion with the City Attorney and that she would concur with that, that those are not issues. Those are issues between the homeowner's association and the developer.

J. Cardillo stated that they would be taking this at face value only and any conditions that the homeowner's association the wish to make among themselves has no pertinence to what they are doing.

N. Frischkorn stated that if it was a conditional zoning request then that would be a different matter. But as submitted, he does not feel they can attach conditions. He stated that there was a number of concerns that he had, the biggest one is that he does not feel that this request is consistent with the Master Plan. It is zoned Conservation & Recreation and it's marked CR on the Future Land Use Map. So he stated to him, the biggest thing is the fact that this is inconsistent with what's in the Master Plan. He stated also just king of going through the factors, factor number three, the street system. He stated that they have heard testimony, they have had a letter from the township that the street is substandard and does not meet specifications. He stated that factor number four is utilities and services and there is no utilities or services in that area. There is electricity from the BLP, but that's about it. Factor number eight, he stated, also gives him concern, the increase on septic treatment and possible nuisances, noise, traffic level and those types of things. He stated that he does not about their relationship with the surrounding zoning districts which, at least in-city, the BLP and the Board of Conservation & Recreation. He stated that rezoning the area as LDR would be consistent with the surrounding zoning districts. He stated and then he thought there could be an argument made on factor 12 as well, that they might be creating an encapsulated or incompatible zone if they approve the rezoning request. He stated that he knows that in the township, it's Scenic Residential. He stated that as far as city property goes, this would certainly be an isolated zone. He stated those were his concerns with the rezoning request as it is before them at that time.

M. Larson stated that he had a question for staff and that it relates to the township zoning as Scenic Residential and their relationship with the township and essential kind of planning principles as far as when their district is immediately adjacent to Scenic Residential. He asked how should that be kind of thinking about that. He stated that it is one thing to think about it in relation to the city's zoning and whether that creates an isolated zone, but what considerations as far as immediately adjacent to another municipal body's zoning.

W. Premeau stated that yes, in terms of the development standards, it is something to be considered. It's worthy in your consideration and your decision-making what their standards are. He stated it doesn't matter so much if there is concerns about the impacts, where those come from as much as the standards that are in place in that district and the Scenic Residential he said he thinks they explained that that's a got a 5-acre minimum lot size unless there are certain conditions met through a Special Land Use Permit that the lots can be as small as 40,000 square feet, he believes.

J. Cardillo clarified that it is just under an acre.

W. Premeau stated that he agreed and as far as other development standards, as they pointed out, there are no standards for utility services or street, the street map kind of a thing. He stated that this is rural development.

N. Frischkorn stated that as a follow-up question to that, and just kind of thinking about this as a unique or potentially unique parcel, he stated that the reason for Conservation & Recreation, was that partially just due to the remote location of it and it being outside of any of the City of Marquette's utility and street corridors that they may have. And so, he asked, did it get zones CR just because it had limited access?

W. Premeau stated that he could not answer that question authoritatively. He stated that this is not the BLP's property, this is really on the fringe of the city. He stated it's not owned by the BLP and he think that's a fair, as good as any other theory. He stated it's not easily accessible, it's forested property and not easily accessible. He states that developments which they've seen in that area and that the BLP's property, of course, has some specified uses and that it abuts that property and if the BLP owned it, it would be BLP zoning. So he stated that he thought that that was as good of a theory as any, that for a long time that has been out there not owned by anybody particular with any development proposals.

M. Larson stated his other thoughts when thinking through this. He stated that he knows the intent from the development or from the request was that this would be for only single-family homes. However, he said, the Low Density Residential Zoning District does allow for many more permitted uses other than just, you know, single family. He stated these included adult foster care, child daycare, dwelling, single-family detached, food production, foster family home, home occupation, home office, home stays, vacation homes, and residential limited animal keeping. He stated that then is also has a variety of special land uses as well that are permitted that include child care center, day care, accessory dwelling unit, foster family group home, recreations, religious institutions, schools, primary and secondary. He stated that right now just considering from a rezoning piece, it could be any of those uses could come to be. Now that is without any deed restrictions or anything that might be common land. He stated that as of right now, if they were just to change it there at the commission meeting and without any binding agreements in place, he said he thought that in theory he guessed the owner could change gears and put in some other multi-family dwelling that might be in there, duplex or otherwise. He stated that that is just something that they could think about while they are talking about this.

N. Frischkorn stated that another point that he would like to make is the developer on behalf of the applicant said that if it is sold there is no control over the future development. He stated that he just wanted to clarify that that is not accurate because it would still be zoned Conservation & Recreation and would only be for those permitted uses that are currently in that zoning.

J. Cardillo stated that she thinks that that is an interesting point and she guessed it sort of clarified to her that she thinks the people are always more concerned about that 40 acre parcel. She stated she did just want to clarify that that parcel was zoned for Scenic Residential. She asked if that was correct. It was

clarified to her that it was not and she asked would it be classified as agricultural.

M. Landers clarified that that would be horse stables, poultry sales, Christmas tree sales and such types of purposes including forestry both commercial and non-commercial, firewood sales, equipment storage, offices, yard work decking areas and emergency services centers, state or county recreation buildings, horse stables, marinas and other such uses.

J. Cardillo asked for the 40 acres to be clarified on the map.

M. Landers stated that as the City of Marquette that would not be something that would not have control over. He clarified that the 27 acre parcel even if sold could only be used for things in the CR district. He stated that the 40 acre parcel is in the township so it is not anything they would ever have control over.

J. Cardillo acknowledged this response.

W. Premeau stated that there are always so-called deals, such as with the 40 acres and all that, but resolving this has nothing to do with any of that stuff. He stated that that's the resident's problem to make sure that that is actually going to happen. He stated that if they rezone that piece of property, all other conditions that we're talking about do not have anything to do with them. He stated that if say, the owner stated that I'm not going to give you the 40 acres and I'm not going to do this or that, the only other problem's he's got is, how does the road go in there (addressing D. Stensaas).

D. Stensaas asked what W. Premeau meant.

W. Premeau stated that there has to be access to that road, the Forestville Basin Trail road.

D. Stensaas stated that yes, the Forestville Basin Trail road intersects.

W. Premeau asked if it was 180 feet. He stated that they have got to have a turn-around or the buyer's won't come. He stated that also they are supposed to improve the road, in theory. He stated that it still have to have a turn-around unless it goes out somewhere. He asked if that comes out to another intersection.

Ms. Wolf stated that the city and the township work together is their intention, and it is her guess that probably the township would be apt to improve these parcels than the city, because they township will take that road, but that the city might go up and do that, too. However, she said, they want to get there faster.

W. Premeau stated that rezoning the parcel would not necessarily mean that all of the other factors would automatically fall into place.

J. Cardillo asked about rezoning as it applied to the Master Plan.

W. Premeau stated that he thought that was in there, too, he thought.

N. Frischkorn stated that was correct and he guessed that to him the emergency falls under category four, also. It would be utilities and services. And he stated that services include things like police, fire, and access seems complicated at best.

M. Larson asked would he be correct to assume that once the rezoning is approved, those would be additional factors that would come into being which he assumed that fire department and such has not necessarily weighed in on a rezoning right now but once the site plans and things like that are submitted, they may have additional requirements or suggestions as conditions for those site plans move because those issues would still come before them.

A. Landers stated that if they become part of the site of the condominium, that would have to be reviewed by all the different departments and that is probably where the fire department would have comments.

J. Cardillo asked if this would be something that be suitable for PUD.

A. Landers stated that you cannot request a PUD when you are currently zoned Conservation & Recreation. It is the only zoning district that you can't.

J. Cardillo asked for a clarification from the applicant. She stated that she knows that this was stated earlier, but that it was really confusing. She asked if this were to be rezoned and be developed, would this be a part of either BHB 2 or BHB 1's covenant or whatever the language is. She asked if the applicant could just clarify that one more time.

Ms. Wolf stated that maybe is the answer. She stated that it is listed in BHB 2's Master Deed as a potentially expandable area.

J. Cardillo asked for the clarification of the location of BHB 2 on the map.

Ms. Wolf stated that location of BHB 1 and stated that it was developed first and that BHB 1 is the one most adjacent to the property in question.

J. Cardillo asked for clarification if BHB 2 was the one that come off the road first.

Ms. Wolf stated yes, that is correct.

J. Cardillo asked if this property in question would be part of BHB 1.

Ms. Wolf stated it would be part of BHB 2, because the problem is BHB 1 was developed so long ago, this was listed as an expandable area, but by law you only have six years to add anything after you record the Master Deed. Ms. Wolf stated that that time period has expired. She stated however, they still have that time left for BHB 2. She stated that they disclosed to all of the owners in BHB 2 and they thought hey, this is an expandable area and we can create up to 8 other units here.

J. Cardillo asked if that was the people who come straight off the road and so this property would be associated with the initial piece when you come off the road.

Ms. Wolf stated that yes, that was correct.

J. Cardillo asked if they would be governed by the same rules and conditions.

Ms. Wolf stated that yes, they would be subject to the same assessments and subject to the same restrictions.

J. Cardillo asked if it has to be part of that condominium or could the developer just develop it independent of it.

Ms. Wolf stated that yes, he has the ability and that there are divisions available here. She stated that therefore if they went through a site plan review and they divided the property into separate lots, they can do that. She stated that that was part of that Letter of Intent which, of course, you cannot enforce. She stated however that these lots would be pay assessments to BHB 1 because that is who they are adjacent to. She stated that therefore as part of this overall development, there are actually between four to six parcels. She stated that when you first go off of Forestville Road and you turn onto Forestville Basin Trail, there are four to six lots that are not part of either condominium association. She stated that those that have been sold off, and she thinks they are at four now, maybe five, those that have been sold off have restrictive covenants recorded against them where those lots pay assessments to BHB 2, because that's who they're next to. She said that in a similar type of arrangement, there would be for these 8 parcels. These eight would be adjacent to BHB 1, so they would have restrictive covenants. She stated that again, there is not a condition necessarily that you can put on this, but the intent is that those 8 would pay to BHB 1 because that is who they are adjacent to. So if BHB 1 decided to issue a special assessment for pavement of the road, those 8 would pay to it whether or not they were part of the condo association.

J. Cardillo asked for clarification that the choice to be part of the condo is not compulsory and that the property could be separate from the condo.

Ms. Wolf stated that that was correct.

J. Cardillo thanked Ms. Wolf and that that was what she was trying to understand.

M. Larson stated he thinks this is a unique situation that maybe Conservation & Recreation originally, whether that's on the future land use map or currently, only because of it's relatively rural nature and disconnect or kind of disconnection from the city. He stated that however, as far as rezoning goes it is clear that there is support for it but a very narrow support. He stated that it seems to him that maybe he would be more comfortable if there were a conditional rezoning request. He stated that again, he knows that that is not what this is, but it would make him more comfortable if it was a conditional rezoning request where you could strike essentially everything off of the proposed zoning for the LDR and only essential limit it to single-family residential and so you're having kind of a very narrow focus of what it is, and that ends the agreement. He stated again, that's not what they have come to the committee for and that he knows right now that that's not worth considering, but that's possible future action that could be done if this does not work out.

A. Andres stated that he concurs with M. Larson in that fact that it works out as a conditional use, but unfortunately that's not what they're there for. So he thinks for those reason he does not think that the commission can approve it, based on all of those factors that they do not know, in his opinion.

N. Frischkorn stated that he would like to echo that if it was a conditional rezoning request that he would feel like he could be more comfortable with it and that there would be more room to address some of these considerations. He stated however, that as Commissioners Larson and Andres have stated, he does not feel that he could support a rezoning request as it has been presented to them.

Ms. Wolf asked for permission to speak of the Chair, which was granted. Ms. Wolf then inquired if the ordinance would permit them to voluntarily make this a conditional rezoning request.

J. Cardillo stated that they would not be able to do it that very night, and that they would have to reapply.

Ms. Wolf acknowledged the answer.

D. Stensaas stated that the conditional rezoning has to have an agreement presented with it that specifies what the conditions you're offering are. He stated just to be clear, the Planning Commission can't add conditions once somebody proposes a conditional rezoning. You cannot negotiate those conditions if you're only going to be able to vote on the conditional rezoning. He stated that the city has only had conditional zoning as an option in the planned development program since 2019. He stated that the first time they did this, they let the applicant not present the agreement, because the way the program had said it could be presented at some point in the process. He stated so then they let it go to the city commission level and it wasn't presented there, and they voted to approve it without understanding that that agreement had to be there. He stated that therefore it ended up having to be approved through another process where they came back to the city commission later and it was just a mess. He stated that they want to make sure that, and he thinks they amended the code line, to stay that it has to be approved at the planning commission level.

A. Landers stated that it does say that such conditions, referring to conditional rezoning, may be proposed at the time the application for rezoning is filed or at a subsequent point in the process review of the proposed rezoning.

D. Stensaas stated that he agreed. He stated that the city attorney and he discussed that and they agreed that the planning commission should see that agreement and that it shouldn't be something that the planning commission passes on, because it is an important part of the process. He stated that it can be a simple statement of two or three conditions, but in some cases it is going to be multiple, perhaps 10 or 12

conditions depending on how complex the proposal is.

J. Cardillo asked if in the conditional rezoning, is it just a question of crossing out things or could they add different additional things like limit the lot size.

D. Stensaas stated that that was a good question. He stated that it would be really, he thinks, valuable at this state to state what you think conditions should reflect and what a good presentation of conditions should include. He stated that this is because yes, the number one thing is which land uses are you proposing to include and to exclude, so cross out all those conditions that aren't going to be ever considered and that would be part of the agreement, so you're limited to a certain set of land uses that are allowed in that district.

J. Cardillo asked if it could go beyond that.

D. Stensaas stated it could go very specifically beyond to lot size, usage and that kind of thing.

N. Frischkorn stated that he had two questions. The first question was is the applicant able to amend the application or would they have to submit a new conditional rezoning application. He asked if they could amend their rezoning application to a conditional rezoning or they have to resubmit entirely.

A. Landers stated that according to what she was looking at, it says they could amend because its says 'or at a subsequent point in the process.' So they could amend an application.

J. Cardillo asked if that could be done at tonight's meeting.

A. Landers stated that it was just a matter of if they have to put notices back out.

N. Frischkorn asked if the commission were to take action at tonight's meeting, if they would still be able to amend it.

A. Landers stated no, that would not be possible, depending on what their action is. A. Landers stated that if they were making a recommendation to deny then the City Commission may kind of close out the rezoning.

N. Frischkorn acknowledged this response. He stated that his other question was if they could submit as part of the conditional rezoning application, the table from Section 54.307 with things stricken out and could also submit the Letter of Intent as part of an agreement, and that package could be a conditional zoning request.

A. Landers stated that that might be in the land development regulations and things like that. She stated it spells out everything that needs to be shown in the agreement in that ordinance.

J. Cardillo asked if that is something that N. Frischkorn would be more included towards.

N. Frischkorn stated that yes, he thought that that would be more appropriate and something that would be more consistent. He stated that he thinks that Commission Larson said it very well, if the City Planning Commission rezones this, then any use in LDR can go there, any of those uses. He stated that he does think that in consistency with the Master Plan that there would still things that would need to be addressed such as utilities and services and the street system which would need to be addressed. He stated also he thinks that if there were to be an additional rezoning application in front of him, he would say with certain uses stricken out, with that kind of Letter of Intent that there was an agreement, he stated he thinks that that would be something that he would be a lot more likely to be able to support than what is currently in front of them. He stated that he also does not want to make a motion to deny that will prevent them from amending their application.

M. Larson stated that he guesses that the question would be, because this is a recommendation to the City Commission, are they able to able to recommend to allow to stop the process to allow an amendment.

J. Cardillo asked what would be the process. Would they postpone and they amend?

D. Stensaas stated that he believed that they could make a motion to postpone a decision on an amendment if the applicant wanted to resubmit this as a rezoning with conditions.

J. Cardillo acknowledged his response and asked that if it was correct that theoretically what they should do is what he stated, but they should also clarify what they would like to see that would make them feel comfortable going along with that.

Ms. Wolf stated that she would like to throw it out there that the commission would not be giving conditions but rather only making recommendation. She stated that if the applicant does not with to do a conditional rezoning then they would not have to.

J. Cardillo agreed that yes, they would not have to do anything. She stated that for herself, the concerns that she had are the density. She said she would really like that if they rezone this land as LDR, it would the highest zoning with that area and that makes her very uncomfortable. She stated that therefore if she felt confident that the density was going to fit the neighborhood, she would feel a lot more comfortable. She stated that she would love to know that there is some kind of organized thought to how the road is going to maintained that is more than just intention. And she stated that she also would like to understand is it going to be part of this condominium or is it not. She stated that those two things are the things that really impact the board and some of the other items do not, but those two things would make her feel a lot better as well as excluding it to residential only.

W. Premeau asked a question addressed to D. Stensaas. He asked once it is rezoned to residential if the owner could do whatever he wants.

D. Stensaas stated that he can do whatever is listed as a permitted use in the zoning district.

J. Cardillo explained that that was why they were considering the rezoning with conditions.

W. Premeau he stated that the point he was clarifying that all the other things that were promised, once it is rezoned that is not part of rezoning that would be something else that would have to be dealt with by the owners.

J. Cardillo stated that again, that is what she was saying, they need to discuss what matters to them as the City Planning Commission and not the other things that are going on between the condominium and the property owners. She stated that they are concerned with the welfare of the City of Marquette.

N. Frischkorn stated that the things that he would like to see is not only plans to maintain the road, but actually to improve the road and bring it up to standard. He stated that he would also want to see a plan for how utilities and services are going to be addressed and delivered before considering a conditional rezoning request. And he stated that the other thing that he would also want to see is something like the Table from 54.307 with what uses will actually be permitted if this is conditionally rezoned and what other special land uses are prohibited.

M. Larson stated that even though he knows the road is a concern, he stated whether or not that is a concern of the rezoning or not is what he is a little bit on the fence about. He stated that is because he thinks that will come into play once site plans are coming into being and it gets reviewed by additional parties at that point in time. He stated that even though he knows that the road is a bone of contention and sounds like it needs some improvement, he said it might be nice to understand what those might be. He stated that he does not know if it comes into play from his perspective, for this, the rezoning portion of it.

N. Frischkorn stated that his response to that would just be that factor three is the street system. He stated so he thought that that would be something would need to be addressed and at least have a plan put in place. He said maybe his clarification there is if it is a private road or a public road, he does not know how those or if they fall under that same standard and maybe that would be a question for staff. He asked that

as far as standard three, how the interaction with the road system, do they hold it to the same standards for a private road versus a canal [ph].

D. Stensaas stated that he thinks it's too messy to specify road standards in another jurisdiction. He stated that he does not think the Planning Commission should go there. He stated that he does not know if that would be something that they could reasonably expect to be followed. He stated that it is not in their jurisdiction, so whatever standards they decide the road is acceptable. He stated that even though they are saying parts of that road are substandard now, that is their issue.

W. Premeau stated there would be a portion of the road in the city, not in the township.

D. Stensaas stated that also the city's road standards, one of the things in the current LDC amendments are going to the City Commission at the end of the month and it has to do with that very issue of how far from a city street system a road has to be to have to be developed under the city's standards, the city's street standards. He stated that that draft amendment extends that to quite a extension.

A. Landers stated that her believe was that it was 1,500 feet.

D. Stensaas reiterated 1,500 feet. He stated that therefore, that particular issue is one that he would recommend avoiding. He also stated that his concern with this process at this point is their noticing of this and how if the commission is suggesting that so far they are not comfortable with the recommending approval of the zoning, and that is what he is hearing, he stated recommended that recommending another process is okay, but the Planning Commission's decision is to approve this or deny it and he thinks that they need to do one or the other. He stated that if it is to deny, you could add to your decision that you are not comfortable with all the potential uses of the property. He stated if they delay the decision on the issue, the noticing requirement for this changes, unless you're going to approve it or deny it as a rezoning request not as a rezoning request with conditions.

J. Cardillo stated that she thinks that the process would be cleaner if they deny it with the intent for them to come back as a conditional rezoning and then they just reapply separately for a conditional rezoning.

D. Stensaas stated that he thinks it's okay to discuss wanting another process, but that their decision is going to be to approve or deny this rezoning request, and he is concerned that to put anything about wanting certain conditions in your motion or postponing for conditions to be presented could be construed as requiring that from the applicant and you can't do that. He also stated that he has due process concerns, about whether they would be following the process correctly. He also stated that it is something for discussion after the meeting, but if this request is denied and the City Attorney finds that the applicant can – as the Code suggests – submit an [Conditional Rezoning] Agreement to the City Commission and they agree to schedule a public hearing, then the City Commission could possibly consider it as a Conditional Rezoning request at that point because the Code says the Agreement may be submitted with the application or at a subsequent point in the process. He said that his take on it is that would be okay for that to happen.

J. Cardillo stated that she wonders where they are at with the things that make them uncomfortable with the rezoning request in the state that it is. She said they've talked about the density. She stated that she honestly feels that because of number three feel like the road, whether or not it is something that is spelled out or just address in some way, she says she still personally feels that she has an issue with it. But it the applicant could come up with something that addresses that in a coordinated way it would be helpful. She asked if anybody else has anything regarding being uncomfortable. She stated that she would be comfortable with the issue of the street system as well as the Master Plan in terms of addressing the density in that area and the fact that in its current status, the LDR would be the densest zoning in the region and if there was some way to address that it would be good.

A. Andres stated that after what they've just heard, it would seem like it would be more apt for them to deny and have them come back than for them to postpone and go with some haphazard way.

J. Cardillo stated she agreed with that statement and that she just wants to be very clear about what things

are sticking points for them. She stated that therefore she would like everybody to just kind of speak to that, not that they are trying to tell the applicant what to do, but just so they understand clearly what are the sticking points for the Planning Commission as to why they don't want approve it at this time. She asked if that made sense.

M. Larson stated his biggest sticking point is the large number of permitted principle uses without any pretty clear agreement to Wayne's point saying that if the applicant were to say they were not bound by anything and that if it were rezoned to LDR it is open to all those uses at that time. He stated that however if it were to come back and very narrowly state that it would be such as single-family dwellings that would make more sense to him.

J. Cardillo asked staff if their motion to deny should state the reasons they are denying should be outlined.

D. Stensaas said stated that since it is being put in the record and in the minutes, he did not express an opinion at that point.

A. Landers stated that in their motion they need to state the reasons why it is being denied and why it feel like it does not meet the requirements that you are holden to.

D. Stensaas stated that that does not necessarily address all the sticking points that you're talking about.

A. Andres stated that he thinks they have covered the sticking points in their minutes.

J. Cardillo stated that she just wants the motion to be clear and that is it not just a denial with no clarification.

N. Frischkorn stated that he was ready to make a motion if there is no more discussion.

*It was moved by N. Frischkorn, seconded by A. Andres and carried 5-0 that after conducting a public hearing and review of the application and Staff Report for 02-REZ-05-22, the Planning Commission finds that the proposed rezoning is not consistent with the Community Master Plan and does not meet the requirements of the Land Development Code, Section 54.1405, and hereby recommends that the City Commission deny 02-REZ-05-22 for the following reasons:*

1. *It is inconsistent with the Community Master Plan and the Future Land Use map; and*
2. *The street system is inadequate; and*
3. *The utilities and services as provided are inadequate; and*
4. *The proposed rezoning could have negative impacts to surrounding land uses, specifically because of the density that could be allowed if this were to be rezoned.*

**C. 03-REZ-05-2022 – Request to Rezone from CR to LDR - PID 1170101**

A. Landers stated The Planning Commission is being asked to make a recommendation to the City Commission regarding a request to rezone the property located at 595 Forestville Basin Trail which is zoned Conservation & Recreation (CR) to be zoned Low Density Residential (LDR). She referenced the staff report and visuals from the agenda packet were shown.

Correspondence was read that was received after the agenda was posted from Mary Bordeau, Steven Embree, Marquette Township, and David Staples.

Adrianne Wolf, attorney for the applicant, stated that in this particular application, this property is different because it is already a plot or a unit in Blue Heron Bluffs 1. She stated that this particular parcel, a 1.5 acre parcel, is already submit to the Master Dee of Blue Heron Bluffs 1. She stated that BHB 1 was initially developed without any property in the city. She stated that this property was then later added to it and specifically the parts that they are asking to be rezoned as LDR was added to Unit 1. She stated, however, that it is important for the Planning Commission's purposes because of two issues. She stated that much of

the correspondence talked about the subdivision of Unit 1 and dividing Unit 1 into two separate units. She stated that that not the issue for the Planning Commission and that whether or not that requires an amendment of the Master Deed is something frankly that the condominium association and the applicant will need to figure out. She stated however, they do acknowledge and certainly have to acknowledge that this particular parcel is subject to the restrictions in the Master Deed, including the fact that in the Master Deed it states 'no condominium unit shall be used other than establishing and operating a single-family residence.' She stated that therefore they already have a restriction on what that particular person may use it for. She stated that therefore that unit, Unit 1, is in the township and a large portion of it is actually in the city which was later added. She stated that the portion in the township already has a home on it and is owned Scenic Residential, as part of this condominium. She stated that therefore they are simply asking that they take the city parcel that is adjacent and already part of Unit 1 and zone it similarly, which in the city the comparable zoning is LDR.

J. Cardillo asked about the location of the property as per the map and asked if that is where the house is now.

A. Wolf agreed that that is where the house is now and it is in the township portion.

J. Cardillo asked if so then they would just take those lines and extend them into the lake.

A. Wolf stated that that was exactly right. She stated that when this condominium was originally approved in 2002 by the township, it only included the township portion. She stated that it was later revealed that city property was intended to be added to it and then the property was deeded then to Longyear which is why she believes it to be currently zones as CR because that whole section was previously owned by Longyear before it was deeded to the developer and in this case Blue Heron Bluffs. She stated that therefore what that are asking is that 595 in the city, this application just makes it consistent with 595 in the township. A. Wolf thanked the commission members.

*Chair Cardillo opened the public hearing.*

Mary Bordeau, 565 Forestville Basin Trail, stated that she has concerns that zoning comes first and then you can decide to split. She stated that they have in their Consolidated Master Deed, restrictions on expansion of that particular parcel and that seems to be a lot of confusion right now and she is not sure that can be answered. She stated that it is going to be up to their panel and perhaps the next step to decide. She explained that that is why she is not for rezoning that particular parcel because there are so many unanswered questions. She stated that is would help if her concerns landed where they belong with someone that can make the decision. She stated that that's all she had and thanked the commission.

*No one else wished to comment. Chair Cardillo closed the public hearing.*

> *It was moved by N. Frischkorn, seconded by M. Larson and carried 4-1 that after conducting a public hearing and review of the application and Staff Report for 03-REZ-05-22, the Planning Commission finds that the proposed rezoning is consistent with the Community Master Plan and meets the requirements of the Land Development Code Section 54.1405 and hereby recommends that the City Commission approve 03-REZ-05-22 as presented.*
> *Yes: Vice-Chair M. Larson, N. Williams, N. Frischkorn A. Andres, J. Cardillo*
> *No: W. Premeau*

**NEW BUSINESS**

**A. Resolution of Approval for Community Master Plan Amendment approved 4-12-22**

D. Stensaas stated this Resolution should have been presented at the April 12, 2022 meeting, at which the Planning Commission held a public hearing and then voted to approve the Community Master Plan (CMP) amendments presented at the hearing. He said that it was an oversight that the Resolution was not prepared, staff simply forgot that it was a necessary part of the process to amend the CMP, but the

document states when the hearing was held and approving this now is going to formalize the PC's approval of the amendments that they voted on already.

J. Cardillo asked if we need to have a vote to approve the Resolution. A. Landers stated yes.

*It was moved by M. Larson, seconded by N. Frischkorn, and carried 5-0 to adopt the Community Master Plan -Amendment, Resolution of Adoption as Amended.*

**B. Review of the Draft Municipal Property Inventory and Map**

A. Landers stated the Planning Commission is being asked review the Draft City Municipal Property Inventory Book and Map. She stated the last property inventory book and map was approved in 2015. She also stated staff has made many changes from the previous book and map, which includes removing property that is not owned by the City anymore, adding new property owned by the City, and changing the map code numbers to accommodate those changes. She stated we have also made the document more interactive with the spreadsheets hyperlinked to bring you to the map location when you select the map code number. Visuals of the agenda packet were shown.

The Planning Commission and staff briefly discussed staff comments and the Planning Commission asked for this to be placed on the agenda for the May 17, 2022 meeting to give them more time for review before making any decisions.

**TRAINING**

**A. Article: *Herriges Rezoned: "Why Are Developers Only Building Luxury Housing?"***

D. Stensaas stated that the articles provided for training are up to the members to read and that he thought this article made some good points that we don't discuss often.

A. Andres asked if the training in June that was mentioned in email online or in-person. D. Stensaas stated that it was online.

N. Frischkorn stated that is was a good read.

**COMMISSION AND STAFF COMMENTS**

A. Andres stated that it was a good meeting and he was glad it went well.

W. Premeau stated that Center Street went down and there were company houses all the way to Wright St. and he lived back there, and he asked about the alley because there was water back there and NMU built a speed skating oval back there that was only used once. He said that they are working on a project now that shows the alley was vacated on the plan. He said the alley ran from Fair Ave. near the Palestra and went behind the houses on the west side of the street.

D. Stensaas stated that he would discuss the rezoning decisions tomorrow and he hopes that he is right about them being able to submit a Conditional Rezoning Agreement to the City Commission if they want to without going back to the start with a new application to the Planning Commission.

**ADJOURNMENT**
The meeting was adjourned by Chair J. Cardillo at 8:17 p.m.

Prepared by:

David Stensaas

David Stensaas, City Planner and Zoning Administrator
Planning Commission Staff Liaison
Transcribed by iMedat/Edited by D. Stensaas

# ORDINANCE #712
# AN ORDINANCE TO AMEND MARQUETTE CITY CODE CHAPTER 54, BY CHANGING THE ZONING DESIGNATION OF THE PROPERTY AT 595 FORESTVILLE BASIN TRAIL (PARCEL ID 1170101)

**The City of Marquette Ordains:**

**SECTION 1: Zoning Designation.**
The zoning of Parcel ID 1170101 is hereby changed to *Low-Density Residential*.

**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.

_____ _____
Jennifer A. Smith, Mayor Kyle Whitney, City Clerk

Date Adopted: _____

Date Published: _____

**Agenda Date:** 6/27/2022

## Consent Agenda - Roll Call Vote

## Approve the minutes of the June 21, 2022 special Commission meeting

## ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- June 21 special meeting minutes
- June 21 meeting minutes

# City of Marquette, MI

300 West Baraga Ave
Marquette, Michigan 49855

## Meeting Minutes
## City Commission

## SPECIAL MEETING MINUTES

**Tuesday, June 21, 2022**

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### Special Meeting

### Call to Order, Pledge of Allegiance and Roll Call

Present: Ayes: Bonsall, Davis, Hanley, Hill, Mayer, Smith, Stonehouse

### Approval of the Agenda

Commissioner Sally Davis moved to Approve the agenda, with the addition of a staff presentation to be conducted prior to the first public comment period, seconded by Commissioner Evan Bonsall and Carried Unanimously.

### Announcements

Mayor Smith had no announcements.

Budget Presentation

Mayor Smith said that staff had prepared a presentation regarding tonight's millage rate proposal. City Manager Karen Kovacs and Assistant City Manager Sean Hobbins then discussed the need for an increase in the city's operating millage, and shared an overview of the City's current revenues and expenditures, as well as a history of key budget components.

The presentation touched on the budgetary struggles caused by debt service and legacy costs, the impacts of inflation and the current economic uncertainty.

Staff then sought to provide context to some common community budget discussions, focusing on the narrow revenue options available to Michigan cities, the limited scope but broad positive impact of current brownfield plans, the unreliable nature of the state's marijuana excise tax and the role of tourism in the economics of municipal government.

Staff directed residents to the City's online millage FAQ (www.marquettemi.gov/millage) and told people how to determine their own taxable value. They said that if the millage increase is approved tonight, tax bills will be printed this week and will go out soon after. Tax payments would be due by September 14, but noted that payment options are available and that staff would work with residents when necessary.

Following the presentation, Mayor Smith opened the floor up for Commissioner questions regarding the presentation.

Commissioner Davis told people that if they had questions about this presentation to please voice them during the upcoming public comment. She said that people have asked if this could be done incrementally but that it has become clear that this is not a great option. She asked staff to explain what additional steps are being taken. City Manager Kovacs talked about a need for increasing efficiencies wherever possible and said there will likely be further conversations about the possibility of generating revenue through some fashion of voter-approved millage.

Commissioner Hanley said she has heard from people asking about cutting expenditures, and she said the City has been cutting anything and everything possible without impacting services too greatly. She noted that City Commissioners are paid less than $8,000 per year and that Department Heads and Middle Managers have taken no cost-of-living raises in two years, while union staff have accepted contracts with minimal raises.

Mayor Pro Tem Mayer thanked City Manager Kovacs and Assistant City Manager Hobbins, and asked, hypothetically, what it would look like to implement a portion of this increase now, with the rest coming later. Staff indicated that such a move would not do much to change the reality that fund balance will dip low enough to trigger state action within just a few years.

Commissioner Hill said that taxes are the price we pay for civilization. She stated that she appreciated the slide in the presentation that contained a word cloud representing the services provided by the City. She said the words reflect the best of our community, and that our taxes protect the quality of life that we enjoy here.

Commissioner Stonehouse said people ask him about cuts and he asked staff what would happen if the City cut, unilaterally, 10 percent. The City Manager said it wouldn't necessarily be feasible to cut like that, as everything ties together. Cutting one initiative could impact several departments and lead to a degradation across numerous services. Commissioner Stonehouse said he would support changes to state law to allow for municipalities to levy hotel or tourism taxes. He said this is a difficult conversation, but that sometimes you have to stand up and make a tough decision.

Commissioner Bonsall said most of his questions have been asked and answered and that he prepared a lengthy statement that he decided to skip. He said the Commissioners and staff have done a great job explaining this topic.

Mayor Smith talked about the things that have already been cut or reduced in the City and spoke about what any further impact to services may look like.

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

James Gallant discussed points of Robert's Rules and said the Commission should have a motion on the floor prior to discussing an item.

Sheryl Feldman complimented the presenters and said that for some people, this increase will be very difficult. She said something has to be done, and she hopes it will be as easy as possible for people.
Natalie Kretlow said the City Commission has recently discussed struggles with the economy and with local housing affordability. She said this is a terrible time to raise taxes, as people are facing rising costs in other areas of their lives. She said she is concerned that this move will lead to further increases in local housing prices.
Margaret Brumm said the word cloud is great but that it should include words related to recycling and wastewater treatment. She said this increase should not be a surprise to anyone who has been paying attention. She also challenged commissioners to give up their salaries.
Penny Perry said it is sometimes difficult for people to find the time to come to City meetings, and she suggested the Commission consider increasing the millage rate incrementally.

**1. Consent Agenda**

Commissioner Evan Bonsall moved to Approve the Consent Agenda, seconded by Mayor Pro Tem Cody Mayer and Carried Unanimously.

**1.a.** Approve the minutes of the June 15, 2022 special Commission meeting

**New Business**

**2.** City Operating Millage

Commissioner Hanley moved to approve the proposed recommendation to increase the City's operating millage to 17.5604 mills, and to direct the Mayor and City Clerk to sign the resolution and to execute the City's 2022 L-4029 form, seconded by Commissioner Bonsall. Discussion ensued.

Commissioner Hanley said this is necessary but that she will do everything she can do to bring this rate back down as soon as it is possible.

Commissioner Bonsall said he understands the issues being discussed -- the cost of housing, the rate of inflation, the price of gas. He said he understands the urge to wait on this move, but said the only effect of waiting longer will likely be to draw down the City's fund balance needlessly. The only other immediate alternative to this, he said, is to pick which valued City services will be eliminated.

Commissioner Davis said she will support the motion. She said that originally, she was adamantly against raising taxes, but that staff and the Commission spent a year testing, talking and seeking options; she said there are no other choices, and to not raise this millage rate now could devastate the viability of the City. She said she hopes to also see added efficiency and increased revenues and committed to working with Hanley to lower the rate in the future.

Commissioner Hill spoke about income inequality and issues related to housing costs. She said the viability of the City is key and she said she would commit to working with other commissioners to lower the rate in the future if possible.

Commissioner Stonehouse said this is not sudden, that it has been discussed all year and that it is not an easy decision. He again advocated for the state to allow municipalities to levy fees or taxes on hotels and lodging. He said that tonight's presentation illustrated how limited the City's ability to generate vital revenue really is.

Mayor Pro Tem Mayer said the last year has been an education for everyone and that he thinks there is no right vote here. Both have negative and positive consequences.

Mayor Smith said this is one of the tougher decisions the Commission has faced in her time here. She spoke about some of the other tough decisions the Commission has faced recently, and how they represent the trade-offs that exist when looking at the City budget.

The Commission then voted on the original motion, to increase the City's operating millage to 17.5604 mills, and to direct the Mayor and City Clerk to sign the resolution and to execute the City's 2022 L-4029 form. This motion carried unanimously by roll call vote.

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

James Gallant talked about Commission rules of procedure, the Open Meetings Act and the duties of the City Commission and Mayor. He also asked that the City consider cleaning up the fallen trees and brush on Presque Isle.
Barb Owdziej thanked everyone, said this was a tough decision for the Commission, and noted she will be making efforts to pay more attention to City issues.
Sheryl Feldman said the City Commission did what had to be done, but said that a lot of people will be upset.
Margaret Brumm said the littering issue in the City is growing. She talked about options for clearing brush and fallen trees in order to reduce fire risk.
Orville Dishno said the City Commission should not give up their salaries and that people should attend these meetings. He said that he lives on a fixed income, but that he values City services and knows people must pay for them. He said that when he has guests from out of town, he is always excited to show them what Marquette has to offer.
Geraldine Nault thanked everyone and said this was a tough discussion. She said that if people want Marquette to continue as it is, they will likely need to help through taxes. She thanked Police Chief Grim for stating recently that there will be enforcement during the 4th of July holiday of rules against smoking, drinking and having pets on City beaches.

**Comments from the Commission**

**Commissioner Hanley** thanked everyone for coming tonight and discussed the difficulty of tonight's decision. She talked about the idea of a City income tax and said she would like to explore the idea further. She discussions about the budget, taxes and brownfields can be complicated and occasionally difficult to understand at a glance, and she asked residents with questions or concerns to contact her for further discussion.
**Mayor Pro Tem Mayer** thanked everyone at tonight's meeting. He said he would be

very interested in having further discussions about an income tax, and has had similar thoughts to those voiced by Commissioner Hanley. He said he would commit to continually evaluating the millage rate and to bring it back down when possible.
**Commissioner Hill** said it's not always easy to find information on the City website and that the City could benefit from a communications officer. She reminded residents that the upcoming summer tax bill will be due in the fall and that payment plans are possible.
**Commissioner Stonehouse** said he wishes that Lansing would do something to help cities in Michigan. He said he has received a lot of feedback on a possible millage increase, and more than half have told him that it needs to be done and that the Commission should do it.
**Commissioner Bonsall** said decisions in Lansing have led to tough situations for local governments. He said residents can learn more about this increase and its impacts online at the city website and on his own website. He said he would be happy to talk to residents with questions or concerns.
**Commissioner Davis** said the Commission has received a lot of feedback from the public and they respect that and have tried to be responsive to residents. She said tonight's discussion illustrated the complexity of the City budget. Commissioner Davis said this is Art Week in Marquette and that people should get out and enjoy it.
**Mayor Smith** said there is a band playing at South Beach tonight as part of Art Week. She said she is also committed to revisiting this millage rate regularly, and to lower it if possible. She spoke briefly about the City Commission's Rules of Procedure.

### Comments from the City Manager

**City Manager Karen Kovacs** talked about the state revenue sharing and about possible future availability of funds for local government. She said this budget situation has been difficult but there has been a true collective effort by the Commission and City staff and she thanked everyone for their efforts.

### Adjournment

Mayor Smith adjourned the meeting at 7:37 p.m.

# City of Marquette, MI

300 West Baraga Ave
Marquette, Michigan 49855

## Meeting Minutes
## City Commission

## SPECIAL MEETING MINUTES

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Following the presentation, Mayor Smith opened the floor up for Commissioner questions regarding the presentation.

Commissioner Davis told people that if they had questions about this presentation to please voice them during the upcoming public comment. She said that people have asked if this could be done incrementally but that it has become clear that this is not a great option. She asked staff to explain what additional steps are being taken. City Manager Kovacs talked about a need for increasing efficiencies wherever possible and said there will likely be further conversations about the possibility of generating revenue through some fashion of voter-approved millage.

Commissioner Hanley said she has heard from people asking about cutting expenditures, and she said the City has been cutting anything and everything possible without impacting services too greatly. She noted that City Commissioners are paid less than $8,000 per year and that Department Heads and Middle Managers have taken no cost-of-living raises in two years, while union staff have accepted contracts with minimal raises.

Mayor Pro Tem Mayer thanked City Manager Kovacs and Assistant City Manager Hobbins, and asked, hypothetically, what it would look like to implement a portion of this increase now, with the rest coming later. Staff indicated that such a move would not do much to change the reality that fund balance will dip low enough to trigger state action within just a few years.

Commissioner Hill said that taxes are the price we pay for civilization. She stated that she appreciated the slide in the presentation that contained a word cloud representing the services provided by the City. She said the words reflect the best of our community, and that our taxes protect the quality of life that we enjoy here.

Commissioner Stonehouse said people ask him about cuts and he asked staff what would happen if the City cut, unilaterally, 10 percent. The City Manager said it wouldn't necessarily be feasible to cut like that, as everything ties together. Cutting one initiative could impact several departments and lead to a degradation across numerous services. Commissioner Stonehouse said he would support changes to state law to allow for municipalities to levy hotel or tourism taxes. He said this is a difficult conversation, but that sometimes you have to stand up and make a tough decision.

Commissioner Bonsall said most of his questions have been asked and answered and that he prepared a lengthy statement that he decided to skip. He said the Commissioners and staff have done a great job explaining this topic.

Mayor Smith talked about the things that have already been cut or reduced in the City and spoke about what any further impact to services may look like.

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

James Gallant discussed points of Robert's Rules and said the Commission should have a motion on the floor prior to discussing an item.

Sheryl Feldman complimented the presenters and said that for some people, this increase will be very difficult. She said something has to be done, and she hopes it will be as easy as possible for people.
Natalie Kretlow said the City Commission has recently discussed struggles with the economy and with local housing affordability. She said this is a terrible time to raise taxes, as people are facing rising costs in other areas of their lives. She said she is concerned that this move will lead to further increases in local housing prices.
Margaret Brumm said the word cloud is great but that it should include words related to recycling and wastewater treatment. She said this increase should not be a surprise to anyone who has been paying attention. She also challenged commissioners to give up their salaries.
Penny Perry said it is sometimes difficult for people to find the time to come to City meetings, and she suggested the Commission consider increasing the millage rate incrementally.

**1. Consent Agenda**

Commissioner Evan Bonsall moved to Approve the Consent Agenda, seconded by Mayor Pro Tem Cody Mayer and Carried Unanimously.

**1.a.** Approve the minutes of the June 15, 2022 special Commission meeting

**New Business**

**2.** City Operating Millage

Commissioner Hanley moved to approve the proposed recommendation to increase the City's operating millage to 17.5604 mills, and to direct the Mayor and City Clerk to sign the resolution and to execute the City's 2022 L-4029 form, seconded by Commissioner Bonsall. Discussion ensued.

Commissioner Hanley said this is necessary but that she will do everything she can do to bring this rate back down as soon as it is possible.

Commissioner Bonsall said he understands the issues being discussed -- the cost of housing, the rate of inflation, the price of gas. He said he understands the urge to wait on this move, but said the only effect of waiting longer will likely be to draw down the City's fund balance needlessly. The only other immediate alternative to this, he said, is to pick which valued City services will be eliminated.

Commissioner Davis said she will support the motion. She said that originally, she was adamantly against raising taxes, but that staff and the Commission spent a year testing, talking and seeking options; she said there are no other choices, and to not raise this millage rate now could devastate the viability of the City. She said she hopes to also see added efficiency and increased revenues and committed to working with Hanley to lower the rate in the future.

Commissioner Hill spoke about income inequality and issues related to housing costs. She said the viability of the City is key and she said she would commit to working with other commissioners to lower the rate in the future if possible.

Commissioner Stonehouse said this is not sudden, that it has been discussed all year and that it is not an easy decision. He again advocated for the state to allow municipalities to levy fees or taxes on hotels and lodging. He said that tonight's presentation illustrated how limited the City's ability to generate vital revenue really is.

Mayor Pro Tem Mayer said the last year has been an education for everyone and that he thinks there is no right vote here. Both have negative and positive consequences.

Mayor Smith said this is one of the tougher decisions the Commission has faced in her time here. She spoke about some of the other tough decisions the Commission has faced recently, and how they represent the trade-offs that exist when looking at the City budget.

The Commission then voted on the original motion, to increase the City's operating millage to 17.5604 mills, and to direct the Mayor and City Clerk to sign the resolution and to execute the City's 2022 L-4029 form. This motion carried unanimously by roll call vote.

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

James Gallant talked about Commission rules of procedure, the Open Meetings Act and the duties of the City Commission and Mayor. He also asked that the City consider cleaning up the fallen trees and brush on Presque Isle.
Barb Owdziej thanked everyone, said this was a tough decision for the Commission, and noted she will be making efforts to pay more attention to City issues.
Sheryl Feldman said the City Commission did what had to be done, but said that a lot of people will be upset.
Margaret Brumm said the littering issue in the City is growing. She talked about options for clearing brush and fallen trees in order to reduce fire risk.
Orville Dishno said the City Commission should not give up their salaries and that people should attend these meetings. He said that he lives on a fixed income, but that he values City services and knows people must pay for them. He said that when he has guests from out of town, he is always excited to show them what Marquette has to offer.
Geraldine Nault thanked everyone and said this was a tough discussion. She said that if people want Marquette to continue as it is, they will likely need to help through taxes. She thanked Police Chief Grim for stating recently that there will be enforcement during the 4th of July holiday of rules against smoking, drinking and having pets on City beaches.

**Comments from the Commission**

**Commissioner Hanley** thanked everyone for coming tonight and discussed the difficulty of tonight's decision. She talked about the idea of a City income tax and said she would like to explore the idea further. She spoke about the budget, taxes and brownfields can be complicated and occasionally difficult to understand at a glance, and she asked residents with questions or concerns to contact her for further discussion. **Mayor Pro Tem Mayer** thanked everyone at tonight's meeting. He said he would be

very interested in having further discussions about an income tax, and has had similar thoughts to those voiced by Commissioner Hanley. He said he would commit to continually evaluating the millage rate and to bring it back down when possible.
**Commissioner Hill** said it's not always easy to find information on the City website and that the City could benefit from a communications officer. She reminded residents that the upcoming summer tax bill will be due in the fall and that payment plans are possible.
**Commissioner Stonehouse** said he wishes that Lansing would do something to help cities in Michigan. He said he has received a lot of feedback on a possible millage increase, and more than half have told him that it needs to be done and that the Commission should do it.
**Commissioner Bonsall** said decisions in Lansing have led to tough situations for local governments. He said residents can learn more about this increase and its impacts online at the city website and on his own website. He said he would be happy to talk to residents with questions or concerns.
**Commissioner Davis** said the Commission has received a lot of feedback from the public and they respect that and have tried to be responsive to residents. She said tonight's discussion illustrated the complexity of the City budget. Commissioner Davis said this is Art Week in Marquette and that people should get out and enjoy it.
**Mayor Smith** said there is a band playing at South Beach tonight as part of Art Week. She said she is also committed to revisiting this millage rate regularly, and to lower it if possible. She spoke briefly about the City Commission's Rules of Procedure.

### Comments from the City Manager

**City Manager Karen Kovacs** talked about the state revenue sharing and about possible future availability of funds for local government. She said this budget situation has been difficult but there has been a true collective effort by the Commission and City staff and she thanked everyone for their efforts.

### Adjournment

Mayor Smith adjourned the meeting at 7:37 p.m.

**Agenda Date:** 6/27/2022

## Consent Agenda - Roll Call Vote
## Hiawatha Music Non-Profit Corporation - Special Event Permit

## BACKGROUND:

The Hiawatha Music Non-Profit Corporation is requesting a five-year Special Event Permit for City Parks, Streets, Buildings and Grounds to use Tourist Park Campground for the Hiawatha Traditional Music Festival. This first term of this permit is from July 21, 2022 through July 25, 2022. Staff worked with the City Attorney and the Hiawatha Music Non-Profit Corporation to develop the permit.

It should be noted camping fees shall not be increased by more than $7.50 per site and picnic area rental not more than $25.00 per site for the duration of the permit.

## FISCAL EFFECT:

The Tourist Park Campground fund will receive $16,940 plus miscellaneous in-kind reimbursements with the rental in FY 2022.

## RECOMMENDATION:

Approve the Special Event Permit for City Parks, Streets, Buildings and Grounds with the Hiawatha Music Non-Profit Corporation, and authorize the Mayor and Clerk to sign the agreement.

## ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- Permit and Insurance

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

THIS AGREEMENT, made this _____ day of _____, 2021 between CITY OF MARQUETTE, a Municipal Corporation, of 300 W. Baraga Avenue, Marquette, Michigan, 49855, hereinafter referred to as the "CITY", and HIAWATHA MUSIC NON-PROFIT CORPORATION, a Michigan corporation of 1015 N. Third Street, 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"]:

TOURIST PARK CAMPGROUND

■ (2) Term. The term of this Permit shall be for five years on the following dates:

Thursday July 21, 2022 from 3:00 p.m. until Monday July 25, 2022 at 12:00 p.m.
Thursday July 20, 2023 from 3:00 p.m. until Monday July 24, 2023 at 12:00 p.m.
Thursday July 18, 2024 from 3:00 p.m. until Monday July 22, 2024 at 12:00 p.m.
Thursday July 17, 2025 from 3:00 p.m. until Monday July 21, 2025 at 12:00 p.m.
Thursday July 16, 2026 from 3:00 p.m. until Monday July 20, 2026 at 12:00 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:

HIAWATHA TRADITIONAL MUSIC FESTIVAL

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:

| | |
|---|---|
| **11 tent sites @ $20/site** | **$ 880.00** |
| **61 electric sites @ $35/site** | **$ 8,540.00** |
| **38 full-service sites @ $40/site** | **$ 6,080.00** |
| **Picnic Areas 1, 2, 3 (4 days)** | **$ 1,440.00** |
| **Total fees** | **$16,940.00** |

| | |
|---|---|
| **Trash drum liners** | **per case @ current cost**** |
| **Labor** | **PERMITTEE shall pay costs for labor as set forth in paragraph (6) below.** |

**NOTE: PERMITTEE may pickup thirty (30) or more 55 gallon trash drums from the CITY for use during the event and must return the drums to the City by 5:00 p.m. on the Monday each term ends.

All fees will be increased to actual costs on an annual basis based on CITY's standard increases; however camping fees shall not be increased by more than $7.50 per site and picnic area rental fees shall not increase by more than $25.00 per site for the duration of this Permit. CITY shall provide information to PERMITTEE of the increase in fees prior to the event each year upon the request of PERMITTEE.

■ (6) Labor. PERMITTEE shall reimburse the CITY the then-standard wages for all employees for all hours worked beyond what the CITY would provide as standard staffing for the campground, during hours the CITY would normally provide staffing at the campground. The CITY intends to keep additional labor costs as low as possible. PERMITTEE may offer volunteer staff or other cost avoidance solutions to reduce the need for City staff; however the CITY reserves the right to judge the acceptability of any cost avoidance strategies. The additional labor costs will be calculated and billed to PERMITTEE following the event, with payment being due within 90 days of the billing.

The City shall provide the number of staff persons and scheduled hours for basic services. Upon request of PERMITTEE, CITY shall, for budgeting purposes, prepare a cost estimate of additional staffing and labor costs based on PERMITTEE's requested staffing coverage. This calculation is only an estimate, and is subject to changes as mandated by the CITY or Federal Labor Department between the date of the estimate and the actual event. The cost estimate will, whenever possible, include the type of employee, the number of employees, the hourly wage for each employee, including overtime, the estimated number of hours to be worked during the event, and an estimated total of all labor costs. If PERMITTEE objects to any portion of the estimate, the parties will negotiate the estimated amount prior to the event. No other changes to the estimate, except as set forth herein, shall be made without the agreement of PERMITTEE and the CITY.

■ (7) Reimbursement. CITY shall apply for a temporary campground license on behalf of PERMITTEE for the term of the event. PERMITTEE shall reimburse CITY for the ACTUAL

costs of securing the temporary campground license from the State of Michigan for 500 campsites each year. PERMITTEE is solely responsible for meeting all requirements of the temporary camping permit, as approved by the State of Michigan, including the payment of any fines assessed by any governmental body due to any violation of the permit or any other law.

(8) Payment of fees. PERMITTEE shall deposit with CITY 50% of the use fee in cash, certified check or bank cashier's check payable to the City of Marquette no later than the Monday prior to the event each year. The balance of the fees shall be due no later than 7 days following the event. PERMITTEE and CITY will work together to determine these amounts on an annual basis. All amounts not paid by PERMITTEE when due shall incur a late fee of 18% annually or 1.5% per month of the unpaid balance. Further, in the event CITY has reasonable cause to believe that any required payment will not be made when due, CITY shall have the first lien on all box office receipts up to the amount owed to CITY, and shall have the right to enforce that lien by taking physical possession of that portion of receipts necessary to cover the fees owed by PERMITTEE.

(9) 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 provide a covered trash dumpster between 25 and 45 cubic yard capacity or compactor unit of sufficient size for the event as directed by the CITY. 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.

(10) Clean-up and Damage Bond. PERMITTEE shall deposit with the Parks and Recreation Division a clean-up and damage bond in the form of cash or certified check payable to the CITY, in the amount of $500.00. 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 thirty (30) 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.

■ (11) Electrical Permits. For any event 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.

■ (12) 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. PERMITTEE shall install their own meter for electric utility services, and shall directly pay all cost of utilities directly to the provider.

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.

At such time that the City improves the electricity on the Day Use side of the premises, CITY will assume responsibility for the meter and will charge PERMITTEE a rate of $300.00 annual for use of all electric meters.

■ (13) Reimbursement of Utility Costs. PERMITTEE shall reimburse the CITY for the costs of electric, water and other utility services utilized by the PERMITTEE, its vendees and concessionaires.

■ (14) 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.

■ (15) Insurances. CERTIFICATES OR OTHER EVIDENCE OF ALL REQUIRED COVERAGES AND ENDORSEMENTS MUST BE FILED WITH THE COMMUNITY

SERVICES DEPARTMENT - PARKS & RECREATION DIVISION AT LEAST NINETY (90) DAYS BEFORE THE COMMENCEMENT OF 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, upon the issuance of this Permit, provide the CITY with a certificate or other evidence of all required coverages, including those set forth below. 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.

□ 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.

■ 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.

■ 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.

■ 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.

■ (16) 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.

■ (17) 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.

■ (18) 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.

■ (19) 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. Concessions shall abide by all City ordinances. PERMITTEE shall submit a list of all food concessionaires to the Fire Chief 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.

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

from _____ a.m. / p.m. until _____ a.m. / p.m. on _____ 20__;
from _____ a.m. / p.m. until _____ a.m. / p.m. on _____ 20__;
from _____ a.m. / p.m. until _____ a.m. / p.m. on _____ 20__;

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.

■ (21) Exclusive Use. PERMITTEE shall have the exclusive use of the premises during the term of this permit.

■ (22) 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.

■ (23) Police and Fire Protection. PERMITTEE shall fully reimburse the CITY at overtime 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.

■ (24) Parking and Traffic. PERMITTEE 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. PERMITTEE shall obtain a Right-of-Way permit, from the City Engineering Department at least ten (10) days prior to the event.

■ (25) 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.

■ (26) Compliance with PERMITTEE'S Representations. PERMITTEE shall fully comply with all representations and promises set forth in its Application for Special Events Permit

.□ (27) Equipment and Services. The CITY agrees to have the following equipment and services available during the term of this Permit:

_____

_____

■ (28) Security. It shall be PERMITTEE'S sole responsibility to provide security throughout the term of the event. The PERMITTEE shall work with the Chief of Police or designee to establish the number of security personnel required to be on the premises. The security shall be in identifiable uniforms.

■ (29) 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.

■ (30) 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.

■ (31) 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.

■ (32) Fire. Except for fire pits installed and designated by the CITY, the following shall apply:

(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.

■ (33) 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, it 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.

■ (34) Conditions/Requirements. Additional conditions and requirements of this permit are as follows:

(a) PERMITTEE shall have the exclusive right to rent campsites, display areas, etc. and to establish appropriate charges therefore.

(b) PERMITTEE and its vendors may be in the park beginning Thursday of the event weekend each year, or earlier upon written approval from the Community Services Director. Time shall be of the essence in this Agreement. All additional time shall be paid for according to the schedule of fees as established from time to time by the CITY.

(c) PERMITTEE must remove all equipment and restore the premises to its original condition by Monday following the event each year, turf conditions permitting. A storage fee of $150.00 per day per unit shall be assessed for each piece of equipment remaining in the park beyond this date. The stage, tent and low-boy trailer shall be exempt from this requirement and must be removed by the Friday following the event or a fee of $150.00 per day per unit shall be applied.

(d) PERMITTEE and CITY shall perform a site inspection walk-thru prior to and following the event each year. PERMITTEE and CITY will make every effort to provide the same representatives for each walk-thru in a given. The inspections shall note park conditions prior to and following the event.

(e) PERMITTEE shall submit to the Community Services Director an itemized audit of festival events within 90 days of the end of the event. CITY shall provide an itemized audit of expenses within 90 days of the end of the event. Each party has the right to examine further the records of the other relating to the event upon provide notice.

(f) PERMITTEE shall have the right to sell programs, novelties and/or souvenirs within the premises during the term of the event. Under no circumstances may PERMITTEE or any vendor participating in the event sell or distribute any pyrotechnic device or similar device for any reason whatsoever. Pyrotechnic device shall include, but not be limited to, firecrackers, sparklers, rockets, "snakes" and other similar products.

(g) PERMITTEE shall not allow vendors, customers, musicians or event attendees to import firewood into any portion of the premises. CITY will provide firewood for sale for use on the premises. PERMITTEE is responsible for informing all vendors, customers, musicians and event attendees of this requirement. PERMITTEE is further responsible for strictly enforcing this requirement.

■ (35) Cancellation or Modification.

(a) PERMITTEE may terminate this Agreement for the next year and all additional years remaining on this Agreement by providing written notice to CITY no later than October 1 of the year prior to the year in which the event will be cancelled. So long as this notice is provided, PERMITTEE will not be charged fees for the next year's event. PERMITTEE shall provide CITY with ten (10) days advance written notice of any other cancellation, reduction and/or material changes in the proposed agenda will be provided

to the Community Service Director, City of Marquette, 401 East Fair Avenue, Marquette, Michigan, 49855. Except for cancellations occurring prior to October 1 of each year for the following year's event, PERMITTEE shall still remain responsible for ALL fees due under this Agreement in the event of a cancellation.

(b) CITY may cancel this Agreement by providing written notice to PERMITTEE no later than October 1 of the year prior to the year in which the event will be cancelled, and only in the event that the CITY contracts the operations of the premises to another party or sells the premises to a third party. In the event CITY contracts the operations of the premises to a third party or sells the premises to a third party, the contract between CITY and the third party shall provide for the event to be held on the premises the following year at the fees set forth herein.

(c) CITY may cancel this Agreement at any point prior to the first day of the event each year, by providing at least 24 hours written notice. CITY agrees to use its best efforts to provide as much advance notice to PERMITTEE as possible. CITY may only cancel this Agreement under this provision if CITY is unable to provide the premises to PERMITTEE due to health, safety, legal, unforeseen weather or similar conditions that have either destroyed the premises or made the premises unusable for PERMITTEE's event.

(d) CITY shall provide reasonable notice to PERMITTEE of any modifications to the Premises which may impact PERMITTEE's use of the Premises for the Hiawatha Traditional Music Festival.

■ (36) 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.

■ (37) 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.

■ (38) 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.

■ (39) 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 CONCERING 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

Jennifer A. Smith, Mayor

Kyle Whitney, City Clerk

HIAWATHA MUSIC
NON-PROFIT CORPORATION

J. Foster-Lindquist
By: JULIE FOSTER-LINDQUIST
Its: BOARD PRESIDENT 2/8/22

Susan Divine
By: Susan Divine
Its: Executive Director

Approved as to Form:

Karen M. Kovacs, City Manager

Suzanne C. Larsen, City Attorney

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/24/2022

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 | CONTACT NAME: Penny Comment | |
|---|---|---|
| Gauthier Insurance<br>P.O. Box 376<br>219 S. Main Street<br>Ishpeming MI 49849 | PHONE (A/C, No, Ext): (906) 485-6391 | FAX (A/C, No): (906) 485-1277 |
| | E-MAIL ADDRESS: Penny@GauthierInsurance.com | |

| INSURED | INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|---|
| Hiawatha Music Non Profit Corporation<br>PO Box 414<br>Marquette MI 49855-0414 | INSURER A: West Bend Mutual Insurance Company | 15350 |
| | INSURER B: CompWest | 12177 |
| | INSURER C: NSI | |
| | INSURER D: | |
| | INSURER E: | |
| | INSURER F: | |

**COVERAGES** **CERTIFICATE NUMBER:** MASTER 22-23 **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 | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | [X] COMMERCIAL GENERAL LIABILITY<br>[ ] CLAIMS-MADE [X] OCCUR<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br>[ ] POLICY [ ] PRO-JECT [ ] LOC<br>[ ] OTHER: | Y | | A435912 | 04/09/2022 | 04/09/2023 | EACH OCCURRENCE | $ 1,000,000 |
| | | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ 100,000 |
| | | | | | | | 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 |
| | | | | | | | Additional Insured | $ |
| | AUTOMOBILE LIABILITY<br>[ ] ANY AUTO<br>[ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS<br>[ ] 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<br>[ ] EXCESS LIAB [ ] CLAIMS-MADE<br>[ ] DED [ ] RETENTION $ | | | | | | EACH OCCURRENCE | $ |
| | | | | | | | AGGREGATE | $ |
| | | | | | | | | $ |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [Y]<br>If yes, describe under DESCRIPTION OF OPERATIONS below | N/A | | WCV6199635 | 11/01/2021 | 11/01/2022 | [ ] PER STATUTE [ ] OTH-ER | |
| | | | | | | | E.L. EACH ACCIDENT | $ 100,000 |
| | | | | | | | E.L. DISEASE - EA EMPLOYEE | $ 100,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ 500,000 |
| C | | | | A43661204 | 04/09/2022 | 04/09/2023 | | |

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

Certificate Holder is listed as additional insured with regard to General Liability

**CERTIFICATE HOLDER**

City of Marquette
300 W Baraga Ave
Marquette MI 49855-4712

**CANCELLATION**

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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**Agenda Date:** 6/27/2022

## Consent Agenda - Roll Call Vote
## International Food Fest - Special Event Permit

## BACKGROUND:

The Exchange Club of Marquette is requesting a Special Event Permit for City Parks, Streets, Buildings and Grounds to use Mattson Lower Harbor Park for the purpose of the International Food Fest on July 2 until July 4, 2022. The terms are detailed in the permit. Staff has worked with the City Attorney and the Exchange Club of Marquette to develop the permit.

## FISCAL EFFECT:

The event is approved for $4,000 in Promotional Fund relief.

## RECOMMENDATION:

Approve the Special Event Permit for City Parks, Streets, Buildings and Grounds with the Exchange Club of Marquette, and authorize the Mayor and Clerk to sign the agreement.

## ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- Permit and Insurance

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

THIS AGREEMENT, made this _____ day of _____, 2022 between CITY OF MARQUETTE, a Municipal Corporation, of 300 W. Baraga Avenue, Marquette, Michigan, 49855, hereinafter referred to as the "CITY", and EXCHANGE CLUB OF MARQUETTE, aka MARQUETTE COUNTY EXCHANGE CLUB (MI), (an affiliated exchange club or district of the National Exchange Club of North America) of P.O. Box 395, 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 PARK

■ (2) Term. The term of this Permit shall be from July 2, 2022 at 9:00 a.m. until July 4, 2022 at 10:00 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:

"INTERNATIONAL FOOD FESTIVAL"

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** | **1st day: $775**<br>**2nd day: $665**<br>**3rd day: $575*** |
| **Alcohol permit fee** | **$50** |
| **55-gallon trash drums (30+)** | **based on Dept. Public Works charges**** |
| **Bench rental** | **$2.50/bench** |
| **Type 1 barricades, signage, trash drum liners & other needed items** | **based on Dept. of Pubic Works charges** |

*PERMITTEE will be charged $265.00 per day for each day beginning July 5, 2022 at 12:00 p.m. (noon) for each day until cleanup and removal of all items (equipment, trailer, vehicle(s), tent(s) and ALL other items) has been completed.

**PERMITTEE may pick up 55 gallon trash drums from the CITY for use during the event and must return the drums to the City by 5:00 p.m. no later than July 5, 2022.

■ (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 AT LEAST NINETY (90) DAYS BEFORE THE COMMENCEMENT OF 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, upon the issuance of this Permit, provide the CITY with a certificate or other evidence of all required coverages, including those set forth below. 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.

- 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.

- 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.

- 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.

- 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.

- (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 10:00 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:

from 12:00 p.m. (noon) until dusk on July 2, 2022;
from 12:00 p.m. (noon) until dusk on July 3, 2022; and
from 12:00 p.m. (noon) until dusk on July 4, 2022;

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 2 weeks prior to 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, except that CITY shall be responsible for booths located within the Arena.

■ (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, it 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 park its trailer in the park beginning June 28, 2021. PERMITTEE has access to Mattson Park and permission to begin setting up for the event at 8:00 a.m. on June 27, 2022. PERMITTEE shall have from the end of the event until 8:00 a.m. on July 5, 2022 to remove all equipment and restore Mattson Park to its original condition. PERMITTEE may enter Mattson Park for setting up for the event prior to 8:00 a.m. on June 27, 2022 if written permission is obtained from the Parks and Recreation Director. PERMITTE will be charged $265.00 for each day after 12:00 p.m. (noon) on July 6, 2022 that any equipment, trailer, vehicle, tent or other item remains in the Mattson

Park. Temporary Food Permit(s) through the Marquette County Health Department and Alcohol license(s) and permit(s) must be obtained by PERMITTEE prior to the event.

- (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 CONCERING 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

Jennifer A. Smith, Mayor

Kyle Whitney, City Clerk

Approved as to Substance:

Karen M. Kovacs, City Manager

Approved as to Form:

Suzanne C. Larsen, City Attorney

EXCHANGE CLUB OF MARQUETTE aka
MARQUETTE COUNTY EXCHANGE CLUB

Gene A Angeli
By:
Its: PRES + Co-CHAIR

By:
Its:

AFFIEXC-01 KSOUTHWARD

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/31/2022

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 | CONTACT NAME: | |
|---|---|---|
| Stapleton Insurance & Risk Mgt<br>P. O. Box 1118<br>Sylvania, OH 43560-0118 | PHONE (A/C, No, Ext): (419) 720-6446 | FAX (A/C, No): (419) 882-3911 |
| | E-MAIL ADDRESS: | |
| | INSURER(S) AFFORDING COVERAGE | NAIC # |
| | INSURER A : Philadelphia Insurance Company | 23850 |
| INSURED | INSURER B : | |
| Affiliated Exchange Clubs &<br>3050 W. Central Ave.<br>Toledo, OH 43606 | INSURER C : | |
| | INSURER D : | |
| | INSURER E : | |
| | INSURER F : | |

**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 | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | X COMMERCIAL GENERAL LIABILITY | | | | | | EACH OCCURRENCE | $ 1,000,000 |
| | CLAIMS-MADE X OCCUR | X | | PHPK2419068 | 7/1/2022 | 7/1/2023 | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ 100,000 |
| | | | | | | | MED EXP (Any one person) | $ 0 |
| | | | | | | | PERSONAL & ADV INJURY | $ 1,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ 2,000,000 |
| | POLICY PRO-JECT LOC | | | | | | PRODUCTS - COMP/OP AGG | $ 2,000,000 |
| | OTHER: | | | | | | | $ |
| A | AUTOMOBILE LIABILITY | | | | | | COMBINED SINGLE LIMIT (Ea accident) | $ 1,000,000 |
| | ANY AUTO | | | | | | BODILY INJURY (Per person) | $ |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | PHPK2419068 | 7/1/2022 | 7/1/2023 | BODILY INJURY (Per accident) | $ |
| | X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| A | X UMBRELLA LIAB OCCUR | | | | | | EACH OCCURRENCE | $ 2,000,000 |
| | EXCESS LIAB CLAIMS-MADE | | | PHUB816316 | 7/1/2022 | 7/1/2023 | AGGREGATE | $ 2,000,000 |
| | DED X RETENTION $ 10,000 | | | | | | | $ |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N | | | | | | PER STATUTE / OTH-ER | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) | N/A | | | | | E.L. EACH ACCIDENT | $ |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | 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)
EVENT & DATE: 4th of July International Food Fest 07-02-2022 thru 07-04-2022
CLUB: Marquette County Exchange Club, MI
The City of Marquette is included as an additional insured for general liability. Liquor Liability is Excluded

**CERTIFICATE HOLDER**

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

**CANCELLATION**

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
Kyle L. Southward


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**Agenda Date:** 6/27/2022

## Consent Agenda - Roll Call Vote
## Microsoft 365 Annual Renewal

## BACKGROUND:

In 2015 the City contracted with Softchoice to provide Microsoft suite software including Word, Excel, etc. In 2020, the City converted email services from Google to Microsoft Outlook. The entire Microsoft software package including email services is now renewed annually in June.

## FISCAL EFFECT:

The total cost of renewal is $40,080. Sufficient funds are available in the software budget to cover this cost.

## RECOMMENDATION:

Approve the renewal of Microsoft software and authorize the City Manager or her designee to sign an annual agreement to license the software for the total cost of $40,080.

## ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- Softchoice Quote

**Softchoice**
20 Mowat Avenue
Toronto, ON M6K 3E8

**Sales/Order desk**
Phone: (800) 268-7638
Fax: (800) 268-7639

| | |
|---|---|
| **Quote** | Q-1084678 |
| **Date** | 08-Jun-2022 |

# Budgetary Quote

Ship To :
Jennifer Lepage
City Of Marquette
300 W. BARAGA AVE.
MARQUETTE, MI 49855-4712

Bill To:
Jennifer Lepage
City Of Marquette
300 W. BARAGA AVE.
MARQUETTE MI
49855-4712

| | |
|---|---|
| **Quote Prepared For** | Jennifer Lepage<br>City Of Marquette<br>Phone: 9062280444<br>Email: jlepage@marquettemi.gov |
| **Quote Sent By** | Aakash Gulati<br>aakash.gulati@softchoice.com<br>Phone:<br>Fax: |
| **Comments** | |

**Microsoft NCE CSP – Upfront on Annual Commit**
**Legacy CSP to NCE CSP Transfer**
**Upfront Cost Shown on Annual Commitment**
**Quote only valid of June 2022 Purchase**
**DISCLAIMER: Cancellation requests must be submitted to Cloud Operations within 24 Hours of purchase**

| Item # | Mfg Sku # | Description | Qty | Billing Frequency | Start Date | End Date | Unit Price | Extended Price |
|---|---|---|---|---|---|---|---|---|
| 2000663915 | CFQ7TTC0LF8Q | OFFICE 365 E1 (NCE) - UPFRONT BILLING ON ANNUAL COMMIT | 40 | Annually | 14-Jun-2022 | 13-Jun-2023 | $106.00 | $4,240.00 |
| 2000663916 | CFQ7TTC0LF8R | OFFICE 365 E3 (NCE) - UPFRONT BILLING ON ANNUAL COMMIT | 140 | Annually | 14-Jun-2022 | 13-Jun-2023 | $256.00 | $35,840.00 |

# Budgetary Quote

| | | |
|---|---|---|
| | **GROUP TOTAL** | $40,080.00 |

| | | |
|---|---|---|
| | SUBTOTAL | $40,080.00 |
| | DELIVERY: Ground - 3 to 5 days | $0.00 |
| | State Tax | $0.00 |
| All currency in this quote is in (USD). | **TOTAL** | $40,080.00 |

Pricing, availability and special offers are subject to change at any time.

This purchase is subject to Softchoice's online terms of sale, unless you have a separate purchase agreement signed by both your company and Softchoice, in which case, that separate agreement will govern. Softchoice's terms of sale can be found at:

https://www.softchoice.com/softchoice-terms-and-conditions-for-products

**Agenda Date:** 6/27/2022

## Consent Agenda - Roll Call Vote
## New Liquor License Application - Roll Call Vote

## BACKGROUND:

Kognisjon Bryggeri, LLC (Cognition Brewery) is planning to apply to the Michigan Liquor Control Commission for an On-Premises Tasting Room Permit for Cognition Brewery, microbrew located at 1034 N. Third Street, commonly known as Third Street Marketplace.

Per MCL 436.1536(7)c, the State requires applicants for On-Premises Tasting Room Permits obtain an affirmative recommendation from the local legislative body prior to making application. The application has been reviewed and approved by the City Police, Fire, Community Development and Finance departments.

## FISCAL EFFECT:

The City will receive $200 for the processing of the liquor license application in accordance with the fee schedule.

## RECOMMENDATION:

Approve the attached resolution recommending Michigan Liquor Control Commission approval of a new On-Premises Tasting Room Permit for Kognisjon Bryggeri, LLC at 1034 N. Third Street.

## ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- MLCC Resolution

Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
Toll Free: 866-813-0011 • www.michigan.gov/lcc

Business ID: _____

Request ID: _____
(For MLCC use only)

# Local Government Approval For On-Premises Tasting Room Permit

(Authorized by MCL 436.1536)

**Instructions for Applicants:**

- You must obtain a recommendation from the local legislative body for a new On-Premises Tasting Room Permit application.

**Instructions for Local Legislative Body:**

- Complete this resolution or provide a resolution, along with certification from the clerk or adopted minutes from the meeting at which this request was considered.

At a Regular meeting of the Marquette City Commission council/board
(regular or special) (township, city, village)

called to order by Mayor Jenna Smith on June 27, 2022 at 6:00 p.m..
(date) (time)

the following resolution was offered:

Moved by _____ and supported by _____

that the application from Kognisjon Bryggeri, LLC
(name of applicant - if a corporation or limited liability company, please state the company name)

for a **NEW ON-PREMISES TASTING ROOM PERMIT**

to be located at: 1034 North 3rd Street, Marquette, MI 49855

It is the consensus of this body that it recommends this application be considered for
(recommends/does not recommend)

approval by the Michigan Liquor Control Commission.

If disapproved, the reasons for disapproval are _____

**Vote**

Yeas: _____

Nays: _____

Absent: _____

I hereby certify that the foregoing is true and is a complete copy of the resolution offered and adopted by the Marquette City
(township, city, village)

council/board at a Regular meeting held on June 27, 2022
(regular or special) (date)

| Rachel Quayle, Deputy Clerk | | June 27, 2022 |
|---|---|---|
| Print Name of Clerk | Signature of Clerk | Date |

Under Article IV, Section 40, of the Constitution of Michigan (1963), the Commission shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. Further, the Commission shall have the sole right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the licensure of businesses and individuals.

Please return this completed form along with any corresponding documents to:
Michigan Liquor Control Commission
Mailing address: P.O. Box 30005, Lansing, MI 48909
Hand deliveries or overnight packages: Constitution Hall - 525 W. Allegan, Lansing, MI 48933
Fax to: 517-763-0059

**Agenda Date:** 6/27/2022

## Consent Agenda - Roll Call Vote
## Ore to Shore - Special Event Permit

## BACKGROUND:

Ore to Shore, a Michigan corporation, has requested a Special Event Permit for Parks, Streets, Buildings and Grounds to use Lakeview Arena - Russell Arena for the Ore to Shore Mountain Bike Epic for the dates Aug. 12-13, 2022; Aug. 11-12, 2023; and Aug. 9-10, 2024. Staff has worked with the City Attorney and Ore to Shore to develop the permit.

## FISCAL EFFECT:

Fees for renting Lakeview Arena - Russell Arena total $2,625 plus miscellaneous charges for FY 2022. Ore to Shore was approved for a Promotional Fund Credit totaling $4,000.

## RECOMMENDATION:

Approve the Special Event Permit for City Parks, Streets, Buildings and Grounds with the Ore to Shore, and authorize the Mayor and Clerk to sign the agreement.

## ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- Permit
- Insurance

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

THIS AGREEMENT, made this _____ day of _____, 2022 between CITY OF MARQUETTE, a Municipal Corporation, of 300 W. Baraga Avenue, Marquette, Michigan, 49855, hereinafter referred to as the "CITY", and ORE TO SHORE, a Michigan corporation of 710 Cherry Creek Road, 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"]:

RUSSELL ARENA in LAKEVIEW ARENA

■ (2) Term. The term of this Permit shall be for:

August 12, 2022 from 12:00 p.m. (noon) until August 13, 2022 at 11:00 p.m.;
August 11, 2023 from 12:00 p.m. (noon) until August 12, 2023 at 11:00 p.m.; and
August 9, 2024 from 12:00 p.m. (noon) until August 10, 2024 at 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:

"ORE TO SHORE MOUNTAIN BIKE EPIC"

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:

| | |
|---|---|
| **Russell Arena: 1 ½ days** | **$2,625** |
| **Tables:** | **$8 staff set up** |
| | **$4 user set up** |
| **Chairs:** | **$4 staff set up** |
| | **$1.50 user set up** |
| **Pipes and Drape** | **$10/8 foot section** |
| **Staging** | **$20/section** |

■ (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 INSUARNCE. 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 10:00 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:

from 5:00 p.m. until 9:00 p.m. on August 12, 2022; and
from 12:00 p.m. (noon) until 8:00 p.m. on August 13, 2022.

from 5:00 p.m. until 9:00 p.m. on August 12, 2023; and
from 12:00 p.m. (noon) until 8:00 p.m. on August 12, 2023.

from 5:00 p.m. until 9:00 p.m. on August 9, 2024; and
from 12:00 p.m. (noon) until 8:00 p.m. on August 10, 2024.

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:

The Genie Boom will be available if prearranged by PERMITTEE at least 48 hours prior to the event.

■ (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, except that CITY shall be responsible for booths located within the Arena.

■ (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, it 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 and its vendors, if any, may be in the arena beginning at 12:00 p.m. (noon) on August 12, 2021 for set up. Additionally, PERMITTEE has until 11:00 p.m. on August 15, 2021 to remove all items and restore the condition of the arena.

■ (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 CONCERING 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

_____

Jennifer A. Smith, Mayor

ORE TO SHORE

_____

By: Scott Tuma

Its: Executive Race Director

_____

Kyle Whitney, City Clerk

_____

By:

Its:

Approved as to Substance:

_____

Karen M. Kovacs, City Manager

Approved as to Form:

_____

Suzanne C. Larsen, City Attorney

ACORD®

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 6/17/2022

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 | CONTACT NAME: Anthony Katona | |
|---|---|---|
| U.P. Insurance Agency, Inc.<br>400 U.S. HWY 41 E<br>Suite 103<br>Negaunee MI 49866 | PHONE (A/C, No, Ext): (906) 475-5410 | FAX (A/C, No): |
| | E-MAIL ADDRESS: akatona@upins.com | |
| | INSURER(S) AFFORDING COVERAGE | NAIC # |
| | INSURER A : West Bend | 15350 |
| INSURED<br>Ore to Shore<br>710 Cherry Creek Rd<br>Marquette MI 49855-8913 | INSURER B : | |
| | INSURER C : | |
| | INSURER D : | |
| | INSURER E : | |
| | INSURER F : | |

**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 | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | [X] COMMERCIAL GENERAL LIABILITY<br>[ ] CLAIMS-MADE [X] OCCUR<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br>[X] POLICY [ ] PRO-JECT [ ] LOC<br>[ ] OTHER: | | | A985413 | 12/13/2021 | 10/25/2022 | EACH OCCURRENCE | $ 1,000,000 |
| | | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ 100,000 |
| | | | | | | | MED EXP (Any one person) | $ |
| | | | | | | | PERSONAL & ADV INJURY | $ 1,000,000 |
| | | | | | | | GENERAL AGGREGATE | $ 2,000,000 |
| | | | | | | | PRODUCTS - COMP/OP AGG | $ 2,000,000 |
| | | | | | | | | $ |
| | AUTOMOBILE LIABILITY<br>[ ] ANY AUTO<br>[ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS<br>[ ] 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<br>[ ] EXCESS LIAB [ ] CLAIMS-MADE<br>[ ] DED [ ] RETENTION $ | | | | | | EACH OCCURRENCE | $ |
| | | | | | | | AGGREGATE | $ |
| | | | | | | | | $ |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N<br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] N / A<br>(Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | [ ] 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 is listed as an additional insured and premiums are paid to date

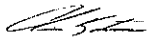
**CERTIFICATE HOLDER**

City of Marquette
300 Baraga Avenue
Marquette MI 49855

**CANCELLATION**

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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WEST BEND
A MUTUAL INSURANCE COMPANY
West Bend Mutual Insurance Company
1900 S 18th Ave | West Bend, WI 53095

New Business

## Commercial Lines Policy Declaration

**Customer Number:** 1000286194
**Policy Number:** A985413 00

**Policy Period:** 12/13/2021 to 10/25/2022
at 12:01 AM Standard Time at Your Mailing Address Shown Below

**Named Insured and Address:**
Ore to Shore
710 Cherry Creek Rd
Marquette, MI 49855

**Agency Name and Address:** 21918
U.P. INSURANCE AGENCY INC
400 U.S. 41 EAST, STE. 104
NEGAUNEE, MI 49866
906-475-5400

### Named Insured Schedule

Ore to Shore

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED 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, its officers and employees
300 W Baraga Ave
Marquette, MI 49855-4712

**Location(s) of Covered Operations:**
Various Locations

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:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

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.

If the name of the person or organization stated above includes any architect, engineer or surveyor, the following applies:

The insurance with respect to such architects, engineers, or surveyors does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

a. The preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; and

b. Supervisory, inspection, or engineering services.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or


Contains material copyrighted by ISO, with its permission.
West Bend Mutual Insurance Company
West Bend, Wisconsin 53095

2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. 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.

D. If a written contract between you and the additional insured specifically requires that this insurance be primary, then the insurance afforded by this endorsement is primary insurance and we will not seek contribution from any other insurance available to the additional insured named in this schedule unless the other insurance is provided by a contractor other than the named insured. Then we will share with that other insurance by the method described below.

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

If no contract between you and the additional insured requires that this insurance be primary, then the coverage granted to the additional insured under this endorsement shall be excess over any other valid and collectible insurance.



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West Bend Mutual Insurance Company
West Bend, Wisconsin 53095

**Agenda Date:** 6/27/2022

## Consent Agenda - Roll Call Vote
## Iron Ore Heritage Trail License Request for Use of Municipal Property at 301 S. Lakeshore Blvd.

## BACKGROUND:

The Iron Ore Heritage Trail Authority has submitted a request for the use of municipal property, along the multi-use path at 301 S. Lakeshore Blvd. (parcel 1100060). This parcel is adjacent to the Lower Harbor Ore Dock, a key feature of the Iron Ore Heritage Trail, and the organization plans to erect a new, two-sided, interpretive sign on the site, alongside an existing sign that has been at that location for about 12 years. The Authority will also improve the area around the signs through the installation of an aggregate stone base to prevent soil erosion and improve the aesthetics of the site.

## FISCAL EFFECT:

The fee for a license to use municipal property is a one-time fee of $255 and has been paid.

## RECOMMENDATION:

Approve the License, and direct the Mayor and Clerk to sign the Grant of License agreement.

## ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- 03-PRU-06-22 Application
- 03-PRU-06-22 Agmt

Mail to:
Municipal Service Center
Community Development Office
1100 Wright St.
Marquette, MI 49855

# CITY OF MARQUETTE
# APPLICATION FOR LICENSE/EASEMENT OF CITY OWNED PROPERTY

**FEE $255** ck# 1444

**CITY STAFF USE**

Date Submitted: 10-3-22 Parcel ID#: 1100060 File #: 03-PRU-07-2022

Property Address/Location: 301 S. Lakeshore Blvd.

Adequate Legal Description Submitted: (Y) / N - see Exhibit A Anticipated Hearing Date: 6-27-22

**INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED, ALL OF THE INFORMATION REQUIRED IS PRESENT AT THE TIME OF THE APPLICATION - NO EXCEPTIONS!**

## APPLICANT CONTACT INFORMATION

### APPLICANT

Name: Iron Ore Heritage Recreation Authority

Address: 102 w. Washington St., #232

City, State, Zip: Marquette MI 49855

Phone #: 906.235.2923

Fax #:

Email: ironoreheritage@gmail.com

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

### APPLICANT'S REPRESENTATIVE

Name: Carol Fulsher

Address: 102 W. Washington St. #232

City, State, Zip: Marquette MI 49855

Phone #: 906.235.2923

Fax #:

Email: ironoreheritage@gmail.com

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

What is the street address, or nearest street address, to the location of the requested license/easement?

Lakeshore Drive near intersection of Spring Street (see map attached)

Please describe the reason or necessity for the requested license/easement for use of the City property:

Erect one of the IOHT's interpretive signs. We have two panels on this sign which will tell the story of Lower Harbor transformation from industrial to recreation and the "end of the coal era" in mining. I've attached the proofs of the two signs.

You may attach sketches, maps, photos, or other items that may help to illustrate/visualize your request. Community Development staff will attach a photo-map of the area.

Attachments: Map, and panel proofs

## LEGAL DESCRIPTION

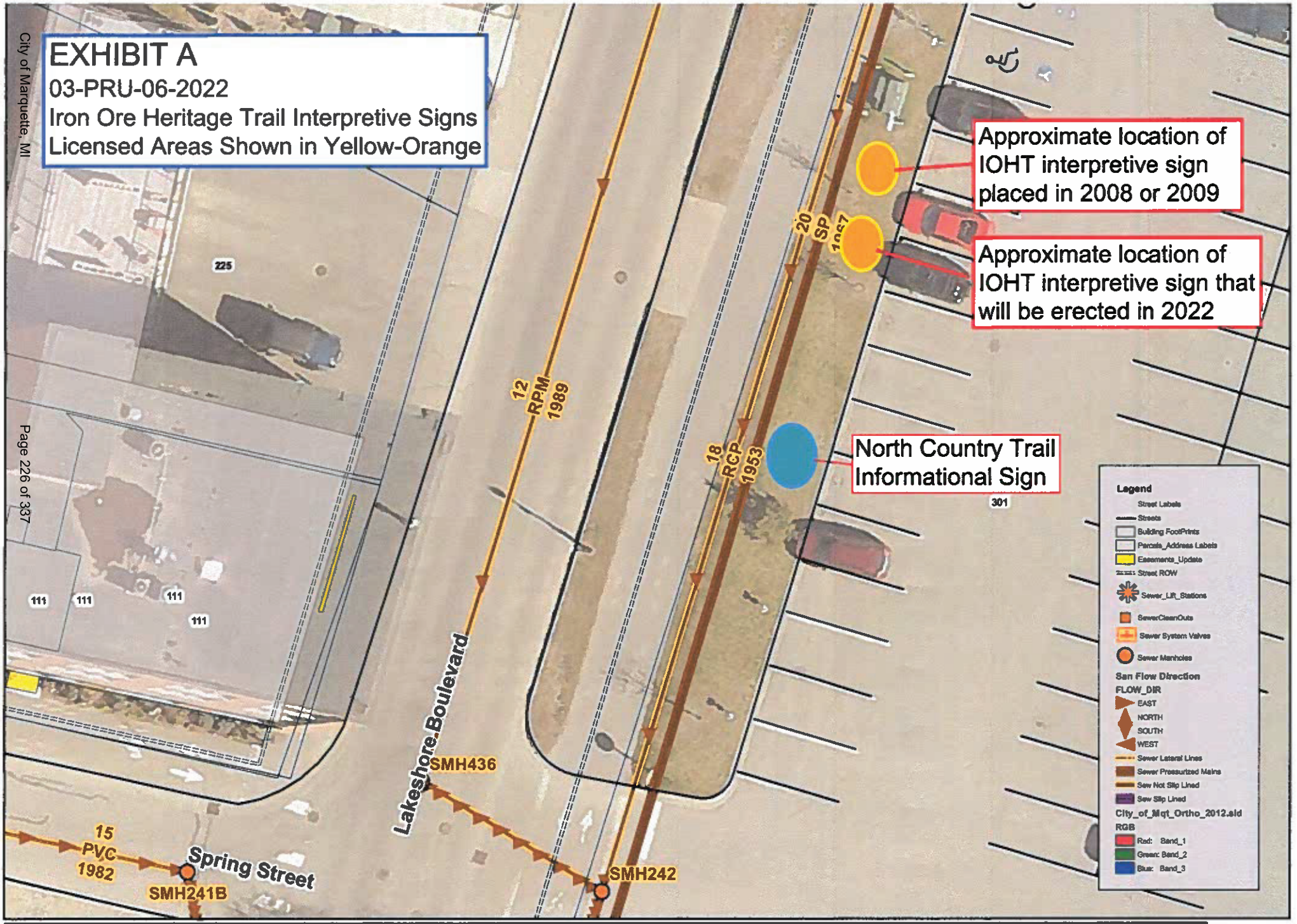
Legal description of the license/easement area:

see attached map

## SIGNATURE

I understand that this application itself is not considered an approval and only the Marquette City Commission has the authority to grant an approval for a license/easement for use of property owned by the City of Marquette.

Signature: Carol Luckhardt Date: 5/26/2022



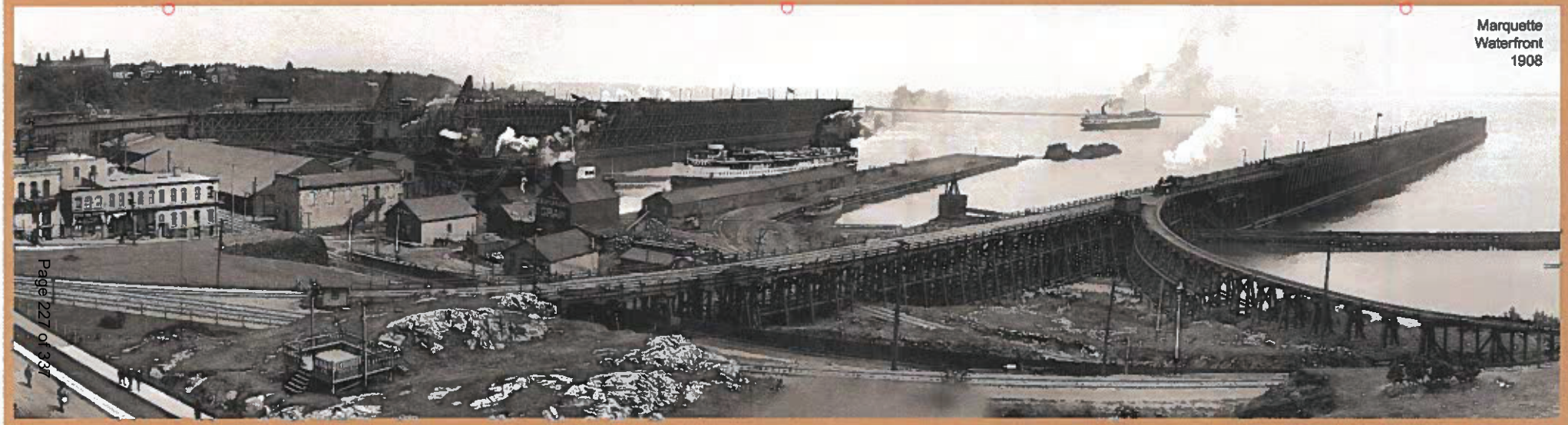

In regard to the map, the information contained on this map is believed to be accurate but accuracy is not guaranteed. Mapping information is a representation of various data sources and is not a substitute for information that would result from an accurate land survey. The information contained herein does not replace information that may be obtained by consulting the information's official source. In no event shall the City of Marquette be liable for any damages, direct or consequential, from the use of the information.

N W E S

1 inch = 20 fee

# Marquette's Waterfront Transformation

IRON ORE HERITAGE TRAIL



Marquette Waterfront 1908

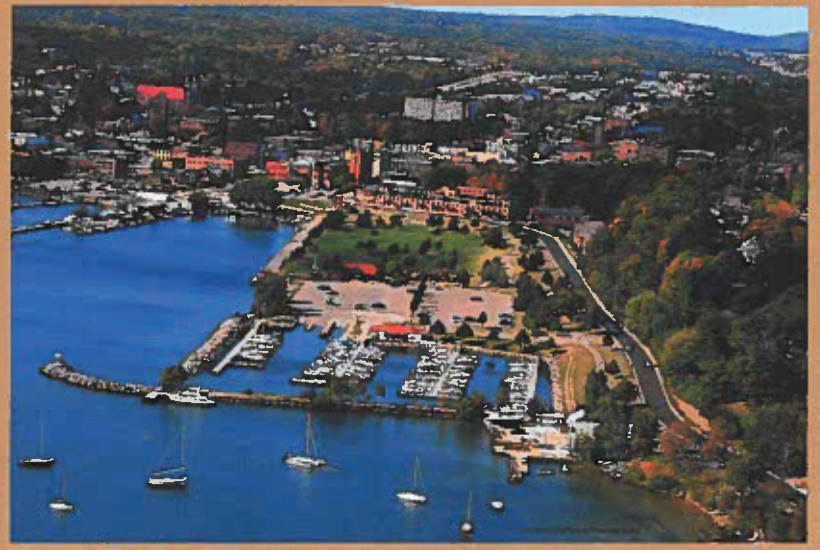




Early Marquette settlement Photo: Marquette Regional History Center



Waterfront Industry in 1870 Photo: Superior View



Marquette Waterfront 2010

The lower harbor reminds us of our industrial heritage. It also represents an area of transition to a gorgeous Great Lake recreation area.

City of Marquette, MI

# Coal and the Mining Range

IRON ORE HERITAGE TRAIL



An early view of the Spear Coal Dock

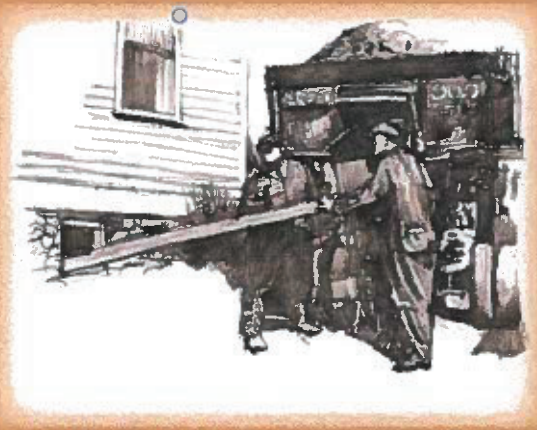
Photo: Superior View

## COAL POWERS THE IRON RANGE

Anthracite coal made its first appearance in Marquette in 1864 and played a major role in our energy supply for 160 years. Ships filled with coal unloaded at the *Spear Dock* in the *Lower Harbor*. A massive 75-foot tall gantry crane lowered its 8-ton bucket into the hold of the ship, scooped up the coal and dumped it into waiting train cars or stockpiles on the dock.

Locomotives carried the coal to blast funaces and electrical generation stations on the mining range. *Spear & Sons* trucks delivered coal to local homes and businesses for use in their furnaces. Coal fumes rose up through chimneys and out of smokestacks. Plumes of smoke hung over towns.

Slowly the use of coal diminished, replaced by other energy sources. With the decommissioning of the *Presque Isle* and *Shiras* power plants in 2019, the coal era ended on the Marquette Iron Range.



Home Coal Delivery at Marquette

Drawing: Mike Lempnen

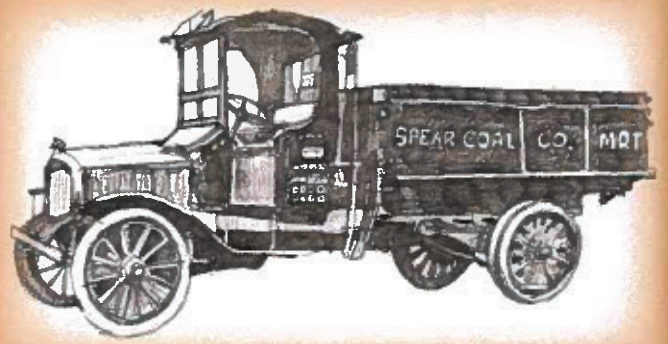


Spear Coal Dock

Photo: Superior View



Gantry crane at Spear Dock




Early F.B. Spear Coal Truck

Drawing: Mike Lempinen

Spear and Sons delivered coal to residences and businesses in Marquette. Houses had special coal chutes with access doors built into the foundation. The family owned company served the Marquette community for 125 years.

File #: 03-PRU-07-2022 Parcel ID#: 1100060

**STAFF REVIEW**

**- For a sign/object/structure/project encroaching into a public right-of-way or on City property -**

**Please fill out the form within 48 hours of receiving it.**

| Reviewing Department | Recommend Approval | Comments |
|---|---|---|
| **Planning & Zoning-Community Development**<br>Date Received: 06-07-22 | Yes | This license will cover the existing IOHT sign on the site and the one that is proposed to be added in the same general location (as shown on the Exhibit included in the app. packet). |
| **Engineering Division of CD**<br>Date Received: 6/10/22 | Yes | No comment |
| **Fire**<br>Date Received: 6/10/22 | N/A | No comment |
| **DPW**<br>Date Received: 6/8/22 | Yes | No comment |
| **Treasurer**<br>Date Received: 6/8/22 | Yes | Applicant has no outstanding payments due to the City at this time. |
| **Police**<br>Date Received: 6/10/22 | N/A | No comment |
| **Community Services** (Parks & Rec.)<br>Date Received: ---------- | N/A | |

# GRANT OF LICENSE

THE CITY OF MARQUETTE, a municipal corporation of 300 W. Baraga Ave., Marquette, MI 49855, ("City"), and IRON ORE HERITAGE TRAIL AUTHORITY of 102 W. Washington Street, Suite 232, Marquette, Michigan 49855, "IOHTA,", enter into this agreement on _____, 2022, subject to the following conditions:

1. Background. The City owns the multi-use corridor adjacent to S. Lakeshore Blvd, in the City of Marquette, and State of Michigan.
   IOHTA desires to construct one interpretive sign and maintain a second interpretive sign previously constructed by IOHTA ("Sign"), on the real estate and to the specifications set forth in Exhibit A.
2. Grant of the license. In consideration of $255.00, the City grants to IOHTA the right to construct and maintain the Sign on the real estate and to the specifications set forth in Exhibit A.
3. Construction and Maintenance. IOHTA shall construct, and at all times while this License is in effect, maintain the Sign in good repair. IOHTA shall be responsible for all fees and expenses related to the construction and maintenance of the Sign and real estate described in Exhibit A.
4. Use. The right to use the real estate described in Exhibit A is not exclusive, however as long as this License is in effect, the City shall not permit any use contrary to the Sign except as may be necessary to install, repair, remove or replace utilities. In the event the City repairs, removes or replaces utilities, IOHTA shall be responsible for any removal of, repair to or replacement of the Sign in connection with utility work. IOHTA shall not use the real estate for any purpose except as specifically allowed within this agreement, and shall not alter, injure or damage the City's real estate.
5. Reimbursement for damages. IOHTA shall reimburse the City for any physical damages to the City's real estate caused by IOHTA's use on the real estate. IOHTA, and any successor or assign shall indemnify, defend and hold harmless the City from and against any demand, claim, action or cause of action, assessment, loss, damage, liability cost and/or expense, including but not limited to, interest, penalties, consultants fees and expenses, and attorneys' fees and expenses, asserted against, imposed upon or incurred by the City due solely to IOHTA's use. IOHTA's obligations under this provision shall not extend to claims, losses, expenses or damages arising out of or in any way attributable to the negligence of the City or its agents, consultants, or employees. IOHTA reserves the right to control the defense and settlement of any claim for which IOHTA has an obligation to indemnify hereunder.
6. Revocation. This License may be revoked by either party at any time by providing at least 180 days' written notice of termination to the other party. On the termination date, all rights and obligations of the parties shall cease and on or before the termination date, IOHTA shall remove the Sign from the real estate, at its own expense. IOHTA shall not be entitled to a reimbursement for any portion of the fee previously paid to the City.
7. Entire Agreement. This Grant of License constitutes the entire agreement between the parties.

The said parties have caused this document to be executed the day and year first written above.

CITY OF MARQUETTE

_____
By: Jennifer A. Smith
Its: Mayor

_____
By: Kyle Whitney
Its: Clerk

STATE OF MICHIGAN )
)
COUNTY OF MARQUETTE )

Acknowledged before me in Marquette County, Michigan, on _____, 2022, by Jennifer A. Smith, Mayor and Kyle Whitney, Clerk, of the City of Marquette, a Michigan municipal corporation.

_____
_____, Notary Public
State of Michigan, County of Marquette
My Commission Expires: _____
Acting in the County of Marquette

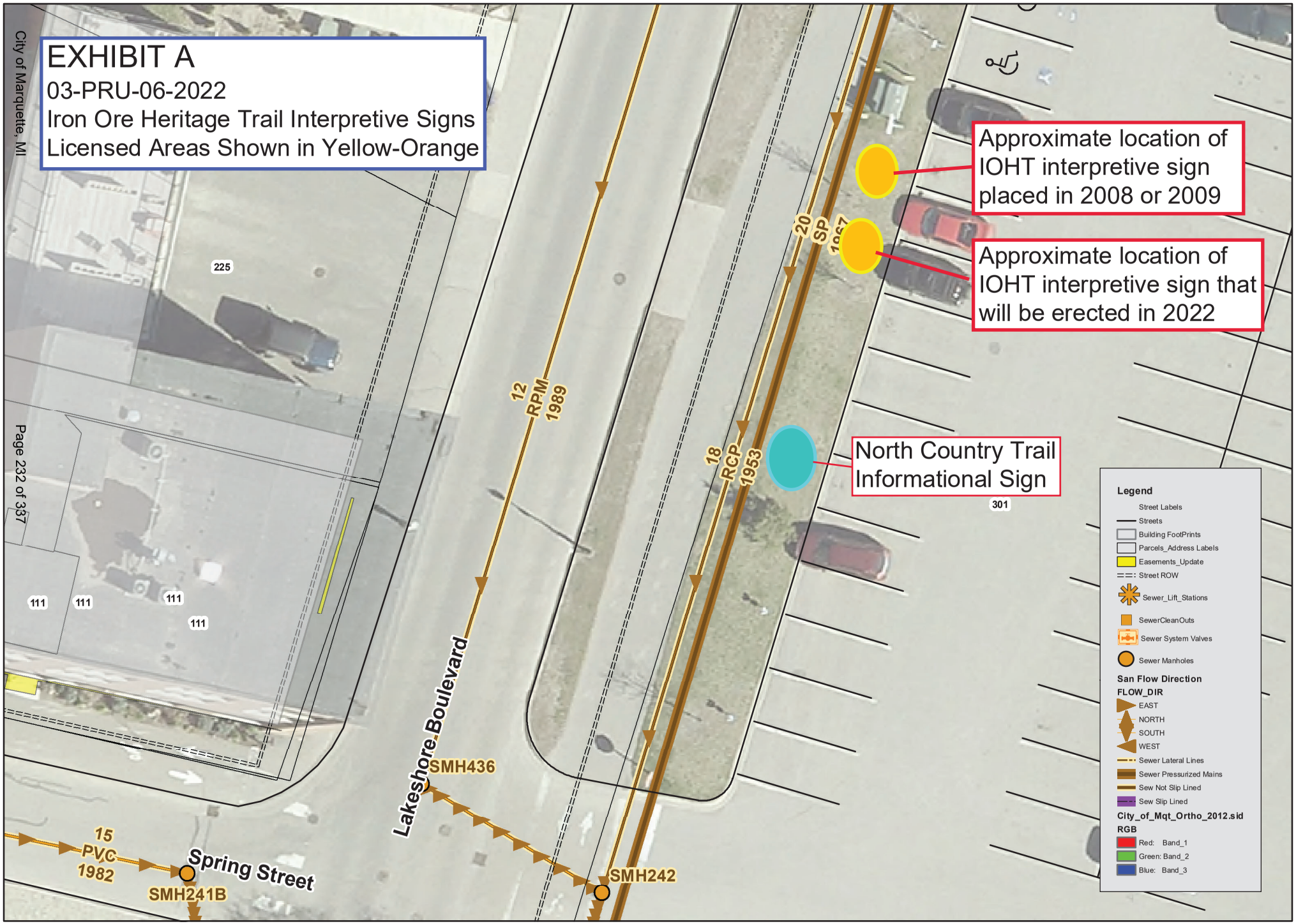
Iron Ore Heritage Trail Authority
Carol Fulscher
By: Carol Fulscher
Its: Administrator

STATE OF MICHIGAN )
)
COUNTY OF MARQUETTE )

Acknowledged before me in Marquette County, Michigan, on Friday June 17, 2022, by Carol Fulscher, Administrator, of Iron Ore Heritage Trail Authority.

Gabrielle Just
Gabrielle Just, Notary Public
State of Michigan, County of Marquette
My Commission Expires: February 24, 2028
Acting in the County of Marquette






In regard to the map, the information contained on this map is believed to be accurate but accuracy is not guaranteed. Mapping information is a representation of various data sources and is not a substitute for information that would result from an accurate land survey. The information contained herein does not replace information that may be obtained by consulting the information's official source. In no event shall the City of Marquette be liable for any damages, direct or consequential, from the use of the information.

N
W E
S

1 inch = 20 feet

**Agenda Date:** 6/27/2022

## Consent Agenda - Roll Call Vote
## License Request for Use of Municipal Property at 1095 S. Lake Street for Little Free Library

## BACKGROUND:

Staff has received, reviewed, and recommended approval for a request to use municipal property along the multi-use path (parcel 0010560), about 400 feet south of the Carp River, for the establishment of a "Little Free Library" next to a memorial bench that the same party had installed last summer. Staff was in the area on the morning of June 20, 2022, documented that the little library had already been installed, and learned that the work was done last week.

## FISCAL EFFECT:

The fee for a license to use municipal property is a one-time fee of $255 and has been paid.

## RECOMMENDATION:

Approve the License request, and authorize the Mayor to sign the Grant of License agreement.

## ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- 02-PRU-06-22 Application
- 02-PRU-06-22 Agreement

Mail to:
Municipal Service Center
Community Development Office
1100 Wright St.
Marquette, MI 49855

# CITY OF MARQUETTE
# APPLICATION FOR LICENSE/EASEMENT OF CITY OWNED PROPERTY

**Fee $245**

**CITY STAFF USE**

Date Submitted: 5-05-22 Parcel ID#: 0010560 File #: 02-PRU-06-2022

Property Address/Location: 1095 S. Lake St.

Adequate Legal Description Submitted: (Y)/N Anticipated Hearing Date: 06-13-22

NOTE- PLEASE MAKE A CASE FILE FOR THIS REQUEST AND INCLUDE A COPY OF THE APPLICATION, THEN ROUTE THE ORIGINAL FOR SIGNATURES.

**INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED, ALL OF THE INFORMATION REQUIRED IS PRESENT AT THE TIME OF THE APPLICATION - NO EXCEPTIONS!**

**APPLICANT CONTACT INFORMATION**

**APPLICANT**

Name: Donna Thackwray & Denise Coste

Address: 1395 M-28 EAST

City, State, Zip: MARQUETTE, MI 49855

Phone #: 906-249-1627, 301-706-1041 828-437-0755

Fax #: ~~~~

Email: yooper donna_t@yahoo.com

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

**APPLICANT'S REPRESENTATIVE**

Name: DONNA THACKWRAY

Address: 1395 M-28 EAST

City, State, Zip: MARQUETTE, MI 49855

Phone #: 906-249-1627, 828-437-0755

Fax #: ~~~~

Email: yooper donna_t@yahoo.com

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

What is the street address, or nearest street address, to the location of the requested license/easement?
1095 LAKE STREET, MARQUETTE, MI 49855

Please describe the reason or necessity for the requested license/easement for use of the City property:
WE WOULD LIKE TO PLACE A LITTLE FREE LIBRARY NEAR A MEMORIAL PARK BENCH THAT WILL BE INSTALLED IN APPROXIMATELY THIS LOCATION. THE BENCH HAS ALREADY BEEN APPROVED BY THE CITY OF MARQUETTE FOR INSTALLATION AT APPROXIMATELY THIS LOCATION THE LITTLE FREE LIBRARY, AND THE PARK BENCH, ARE INTENDED AS A MEMORIAL FOR OUR PARENTS

You may attach sketches, maps, photos, or other items that may help to illustrate/visualize your request. Community Development staff will attach a photo-map of the area. PLEASE SEE ATTACHMENT 1, WHICH INCLUDES EXAMPLES OF LITTLE FREE LIBRARIES, INCLUDING MATERIALS AND DIMENSIONS. Attachments: TWO EXAMPLES ARE IN MQT/HARVEY. ALSO INCLUDED ARE EXAMPLES OF POSTS THE LIBRARY SITS ON, AND SIGNS/PLAQUES THAT MAY BE ATTACHED TO THEM

## LEGAL DESCRIPTION

Legal description of the license/easement area:

PLEASE SEE ATTACHMENT 2

## SIGNATURE

I understand that this application itself is not considered an approval and only the Marquette City Commission has the authority to grant an approval for a license/easement for use of property owned by the City of Marquette.

Signature: Donna Thackeray Date: 2-24-20

Little Library Site – Approx. 450’ south of the Carp River Kiln

The Library was installed before license was issued, in mid-June 2022



ATTACHMENT 1




Little Free Library - EXAMPLE

Library will be APPROXIMATELY 20" wide, X 15" DEEP, X 18" HIGH. IT WILL BE CONSTRUCTED OF WOOD, USING SCREWS (RATHER THAN NAILS), WITH A PITCHED, SHINGLED, OVERHANGING ROOF, A PLEXIGLASS FRONT, AND A HOOK and EYE CLOSURE. IT WILL BE COATED WITH SEVERAL COATS OF PAINT, STAIN, OR SEALER

ATTACHMENT 1



LITTLE FREE LIBRARY IN HARVEY ON NORTH COUNTRY TRAIL

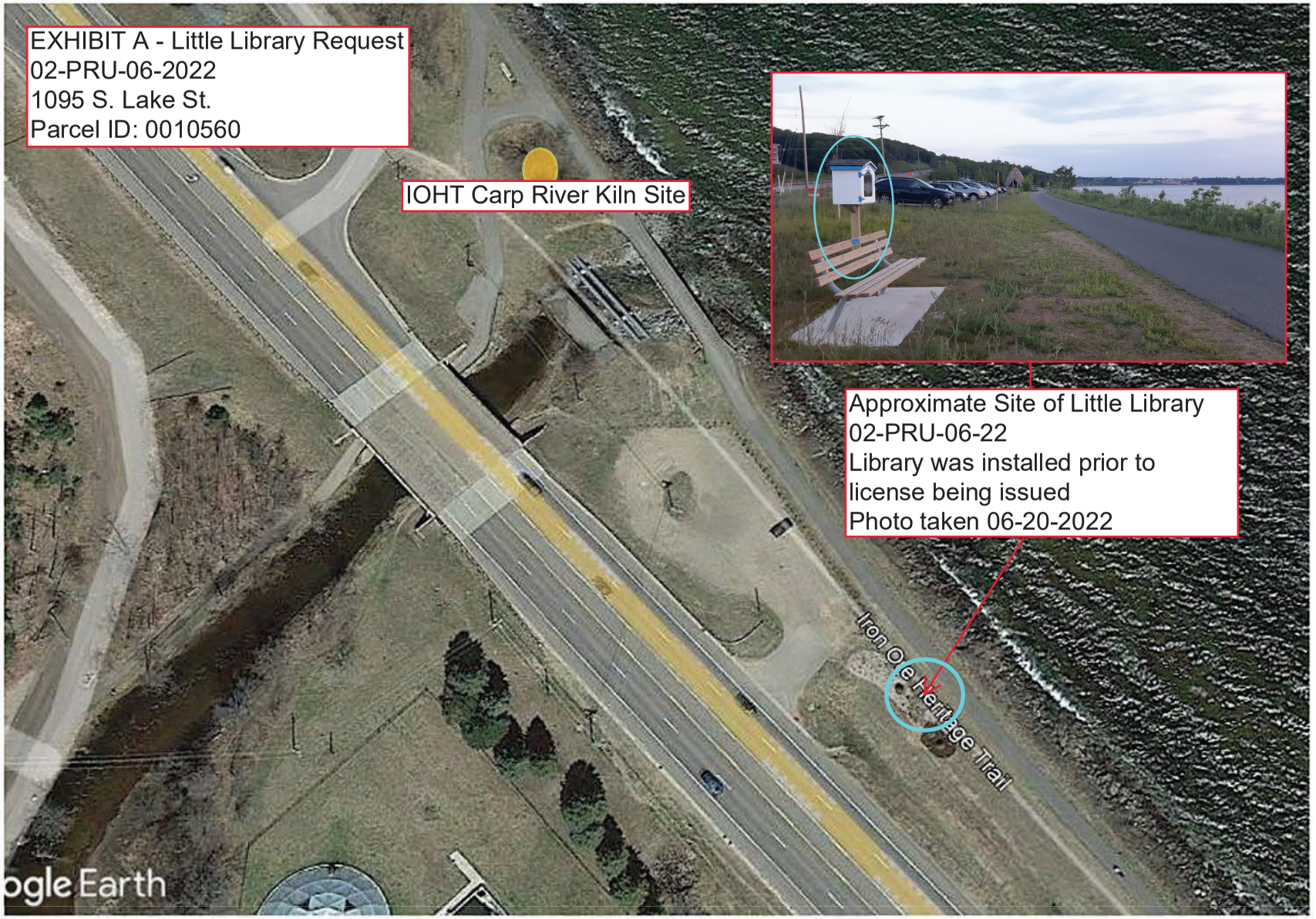
File #: 02-PRU-06-2022 Parcel ID#: 0010560

**STAFF REVIEW**

**- For a sign/object/structure/project encroaching into a public right-of-way or on City property -**

**Please fill out the form within 48 hours of receiving it.**

| Reviewing Department | Recommend Approval | Comments |
|---|---|---|
| **Planning & Zoning-Community Development**<br>Date Received: 5-9-22 | Yes | No significant concerns. |
| **Treasurer**<br>Date Received: ---- | N/A | |
| **Police**<br>Date Received: 5-26-22 | Yes | No Comment |
| **Engineering- Community Development**<br>Date Received: 5-10-22 | Yes | |
| **DPW**<br>Date Received: 5/10/22 | Yes | |
| **Fire**<br>Date Received: ---- | N/A | |
| **Community Services** (Parks & Rec.)<br>Date Received: ---- | N/A | |


EXHIBIT A - Little Library Request
02-PRU-06-2022
1095 S. Lake St.
Parcel ID: 0010560
IOHT Carp River Kiln Site
Approximate Site of Little Library
02-PRU-06-22
Library was installed prior to
license being issued
Photo taken 06-20-2022
Iron Ore Heritage Trail
ogle Earth

# GRANT OF LICENSE

THE CITY OF MARQUETTE, a municipal corporation of 300 W. Baraga Ave., Marquette, MI 49855, ("City"), and Donna Thackwray and Denise Coste, of 1395 M-28 East, Marquette, MI 49855, ("Thackwray/Coste") licensee, enter into this agreement on _____, 2022, subject to the following conditions:

1. Background. The City owns the multi-use corridor adjacent to Lake Street, in the City of Marquette, and State of Michigan.
   Thackwray/Coste desires to construct a little free library ("Library"), on the real estate and to the specifications set forth in Exhibit A.
2. Grant of the license. In consideration of $255.00, the City grants to Thackwray/Coste the right to construct the Library on the real estate and to the specifications set forth in Exhibit A.
3. Construction and Maintenance. Thackwray/Coste shall construct, and at all times while this License is in effect, maintain the Library in good repair. Thackwray/Coste shall be responsible for all fees and expenses related to the construction and maintenance of the Library and real estate described in Exhibit A.
4. Use. The right to use the real estate described in Exhibit A is not exclusive, however as long as this License is in effect, the City shall not permit any use contrary to the Library except as may be necessary to install, repair, remove or replace utilities. In the event the City repairs, removes or replaces utilities, Thackwray/Coste shall be responsible for any removal of, repair to or replacement of the Library in connection with utility work. Tackwray/Coste shall not use the real estate for any purpose except as specifically allowed within this agreement, and shall not alter, injure or damage the City's real estate.
5. Reimbursement for damages. Thackwray/Coste shall reimburse the City for any physical damages to the City's real estate caused by Thackwray/Coste's use on the real estate. Thackwray/Coste, and any successor or assign shall indemnify, defend and hold harmless the City from and against any demand, claim, action or cause of action, assessment, loss, damage, liability cost and/or expense, including but not limited to, interest, penalties, consultants fees and expenses, and attorneys' fees and expenses, asserted against, imposed upon or incurred by the City due solely to Thackwray/Coste's use. Thackwray/Coste's obligations under this provision shall not extend to claims, losses, expenses or damages arising out of or in any way attributable to the negligence of the City or its agents, consultants, or employees. Thackwray/Coste reserves the right to control the defense and settlement of any claim for which Thackwray/Coste has an obligation to indemnify hereunder.
6. Revocation. This License may be revoked by either party at any time by providing at least 180 days' written notice of termination to the other party. On the termination date, all rights and obligations of the parties shall cease and on or before the termination date, Thackwray/Coste shall remove the Library from the real estate, at their own expense. Thackwray/Coste shall not be entitled to a reimbursement for any portion of the fee previously paid to the City.
7. Entire Agreement. This Grant of License constitutes the entire agreement between the parties.

The said parties have caused this document to be executed the day and year first written above.

CITY OF MARQUETTE

_____
By: Jennifer A. Smith
Its: Mayor

_____
By: Kyle Whitney
Its: Clerk

STATE OF MICHIGAN )
)
COUNTY OF MARQUETTE )

Acknowledged before me in Marquette County, Michigan, on _____, 2022, by Jennifer A. Smith, Mayor and Kyle Whitney, Clerk, of the City of Marquette, a Michigan municipal corporation.

_____
_____, Notary Public
State of Michigan, County of Marquette
My Commission Expires: _____
Acting in the County of Marquette

Donna Thackwray
Donna Thackwray

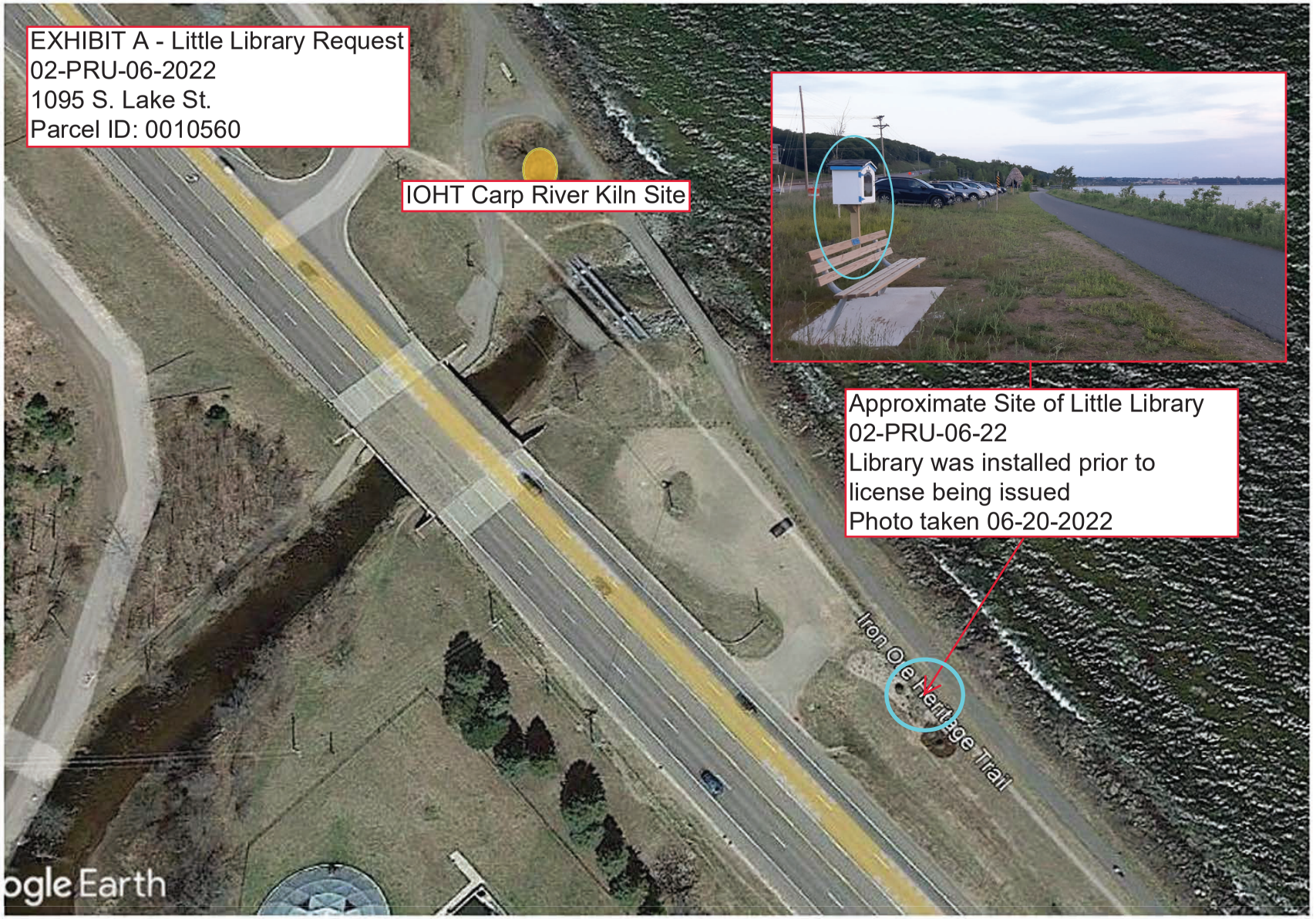
Denise Coste
Denise Coste

STATE OF MICHIGAN )
)
COUNTY OF MARQUETTE )

Acknowledged before me in Marquette County, Michigan, on June 9, 2022, by Donna Thackwray and Denise Coste.

Ann M. Cook
_____, Notary Public
State of Michigan, County of Marquette
My Commission Expires: 11-22-24
Acting in the County of Marquette

ANN M. COOK
Notary public, Marquette County, Michigan
My commission expires November 22, 2024.


EXHIBIT A - Little Library Request
02-PRU-06-2022
1095 S. Lake St.
Parcel ID: 0010560
IOHT Carp River Kiln Site
Approximate Site of Little Library
02-PRU-06-22
Library was installed prior to
license being issued
Photo taken 06-20-2022
Iron Ore Heritage Trail
ogle Earth

**Agenda Date:** 6/27/2022

## Consent Agenda - Roll Call Vote
## Presque Isle Marina - Professional Services

## BACKGROUND:

At its November 29, 2021 meeting, the City Commission approved a Waterways grant agreement for removal of the remaining pier, repaving the parking lot, dock anchorage and utility infrastructure at Presque Isle Marina. The project budget is $524,200, fifty percent of which is covered by the Waterways grant.

Staff advertised a request for proposals for engineering and construction oversight services from May 9, 2022 to May 26, 2022. No proposals were received. Staff then solicited a quote from Coleman Engineering Company. Coleman provided engineering services for the first portion of this project and is familiar with the site. Coleman completed a survey of the parking lot and bathymetric survey of the marina basin as part of the first potion of this project. City Code Section 2-503, Exception to Competitive Bidding, allows the Commission to waive competitive bidding when it is in the City's best interest to do so.

On June 6, 2022 Coleman submitted a quote for $36,000 for design and construction oversight services. This is within the project budget for professional services.

Staff has worked with the City Attorney to draft a Professional Services Contract to incorporate Coleman's proposal and the city's required terms.

## FISCAL EFFECT:

Matching funds for this project are included in the FY 2022 budget.

## RECOMMENDATION:

Waive the bidding process, select Coleman Engineering Company for professional services in the amount of $36,000, and direct the Mayor and City Clerk to sign the agreement.

## ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- Coleman Agreement
- Quote

- Insurance

# PROFESSIONAL SERVICES CONTRACT

**THIS AGREEMENT,** made this ____ day of _____, 2022 between the City of Marquette, hereinafter called the "City" and Coleman Engineering Company, a Michigan Corporation, hereinafter called "Consultant".

**WITNESSETH:** That for and in consideration of the payments and Agreements hereinafter mentioned the parties hereby agree as follows:

## Article 1

### Project Name

The name of the Project shall be Presque Isle Marina Rehabilitation.

## Article 2

### Scope of the Work

Consultant shall furnish all the material, services, supplies, tools, equipment, labor and other engineering services necessary to perform work as described in RFP – 22-04 and the Consultant's proposal to the City of Marquette dated June 6, 2022 (attached as Exhibit A).

## Article 3

### Time of Completion

The completion date of this project is June 30, 2023.

## Article 4

### Terms and Conditions

Consultant shall perform the services outlined in this Agreement for the stated fee arrangement.

**ACCESS TO SITE:**
City will arrange and provide access to each site upon which it will be necessary for Consultant to perform its work unless otherwise stated in the proposal. In the event work is required on any site not owned by the City, City represents and warrants to Consultant that City has obtained all necessary permission and authority, in writing, for Consultant to enter upon the site and conduct its work. City shall, upon request, provide Consultant with evidence of such permission as well as acceptance of the other terms and conditions set forth herein by the owner(s) and tenant(s), if applicable, of such site(s) in a form acceptable to Consultant, which Consultant also agrees to abide by. Any work performed by Consultant with respect to obtaining permission to enter upon and do work on the lands of others, as

well as any work performed by Consultant pursuant to this Agreement, shall be deemed as being done on behalf of City. Consultant shall take reasonable measures and precautions to minimize damage to each site and any improvements located thereon as the result of its work and the use of its equipment and shall reasonably restore the site to its prior condition.

**FEE:**
Services and reimbursable costs will be billed on a monthly basis as per the proposal requirements, but the total amount to be paid by City for such services and costs shall not exceed $36,000.00.

**BILLINGS/PAYMENTS:**
Consultant shall invoice for services rendered and reimbursable costs incurred on a monthly basis. Each invoice shall be due and payable within sixty (60) days of the date of the invoice. Invoices over sixty (60) days past due may be charged interest on the unpaid balance at the highest lawful rate as allowed under Michigan Law. Consultant may, after ten (10) days' written notice to the City, suspend performance of services until all past due amounts are paid.

**INDEMNITY:**
Consultant agrees, to the fullest extent permitted by law, to indemnify and hold the City harmless from any damage, liability or cost (including reasonable attorney fees and costs of defense) to the extent caused, in whole or in part, by Consultant's negligent acts, errors or omissions in the performance of professional services under this Agreement and those of consultants, sub-consultants, contractors, sub-contractors, employees or others that contract with the Consultant regarding this contract or anyone for whom Consultant is legally liable.

**INSURANCE:**
Without limiting any of its obligations and liabilities, Consultant, at its own expense, shall purchase and maintain the minimum insurance specified below with companies duly licensed or otherwise approved by the State of Michigan, and with forms reasonably satisfactory to the City. Each insurer shall have a current A.M. Best Company, Inc. rating of not less than A-VII. Use of alternative insurers requires prior approval from the City.

**A. General Clauses**

1. **Additional Insured.** The insurance coverage, except Workers' Compensation and Professional Liability, required by this Contract, shall name the City, its agents, representatives, directors, officials, and employees, as additional insured, and shall specify that insurance afforded the Consultant shall be primary insurance, and that any self insured retention and/or insurance coverage carried by the City or its employees shall be excess coverage, and not contributory coverage to that provided by the Consultant.

2. **Coverage Term.** All insurance required herein shall be maintained in full force and effect until Services required to be performed under the terms of this Contract are satisfactorily completed and formally accepted; failure to do so may constitute a material breach of this Contract, at the sole discretion of the City.

3. **Primary Coverage.** The Consultant's insurance shall be primary insurance as respects City and any insurance or self insurance maintained by City shall be excess of the Consultant's insurance and shall not contribute to it.

4. **Claim Reporting.** Consultant shall not fail to comply with the claim reporting provisions of the policies or cause any breach of a policy warranty that would affect coverage afforded under the policy to protect City.

5. **Waiver.** The policies for Workers' Compensation and General Liability, shall contain a waiver of transfer rights of recovery (subrogation) against City, its agents, representatives, directors, officers, and employees for any claims arising out of the work of the Consultant.

6. **Deductible/Retention.** The policies may provide coverage which contains deductibles or self-insured retentions. Such deductible or self-insured retentions shall not be applicable with respect to the coverage provided to City under such policies. The Consultant shall be solely responsible for deductible or self-insured retentions and the City may require the Consultant to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

7. **Policies and Endorsements.** City reserves the right to request and to receive, within ten (10) working days, information on any or all of the above policies or endorsements.

8. **Certificates of Insurance.** Prior to commencing services under this Contract, Consultant shall furnish City with Certificates of Insurance, or formal endorsements as required by the Contract, issued by Consultant's insurer(s), as evidence that policies providing the required coverages, conditions, and limits required by this Contract are in full force and effect. Such certificate shall identify this Contract by referencing the project name and/or project number and shall provide for not less than thirty (30) days advance written notice by Certified Mail of Cancellation or Termination.

9. **Sub-Consultants/Contractors.** Consultant shall include all sub-consultants and sub-contractors as insured under its policies or shall furnish separate certificates and endorsements for each sub-consultant and sub-contractor.

**B. Workers' Compensation**

The Consultant shall carry Workers' Compensation and Employer's Liability insurance coverage as required by law and deemed necessary for its own protection.

In case services are subcontracted, the Consultant will require the sub-consultant to provide Workers' Compensation and Employer's Liability to at least the same extent as provided by Consultant.

**C. Automobile Liability**

Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damages of not less than $1,000,000 each occurrence regarding any owned, hired, and non-owned vehicles assigned to or used in performance of the Consultant services.

**D. Commercial General Liability**
Commercial General Liability insurance with a combined single limit of not less than $1,000,000. The policy shall be primary and include coverage for bodily injury, property damage, personal injury, products, completed operations, and blanket contractual covering, but not limited to, the liability assumed under the indemnification provisions of this Contract.

In the event the general liability insurance policy is written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of the Services as evidenced by annual Certificates of Insurance.

**E. Professional Liability**
The Consultant retained by the City, to provide the engineering services required by the Contract will maintain Professional Liability insurance covering errors and omissions arising out of the services performed by the Consultant or any person employed by him, with an unimpaired limit of not less than $1,000,000 each claim. In the event the insurance policy is written on a "Claims made" basis, coverage shall extend for two (2) years past completion and acceptance of Services as evidence by annual Certificates of Insurance.

**F. Property Coverage - Valuable Papers**
Property coverage on all-risk, replacement cost, agreed amount form with Valuable Papers insurance sufficient to assure the restoration of any documents, memoranda, reports, or other similar data relating to the services of the Consultant used in the completion of this Contract.

**INDEPENDENT CONSULTANT:**
The relationship between the City and Consultant created under this Agreement is that of principal and independent contractor. Neither the terms of this Agreement nor the performance thereof is intended to directly or indirectly benefit any person or entity not a party hereto and/or such person or entity is not intended to be or shall be construed as being a third-party beneficiary of this Agreement unless specified by name herein or in an Amendment hereto, executed by a Consultant authorized representative.

**SEVERABILITY/SECTION HEADINGS/SURVIVAL/WAIVER:**
In the event that any provision herein shall be deemed invalid or unenforceable, the other provisions shall remain in full force and effect, and binding upon the parties hereto. The heading or title of a section is provided for convenience and information and shall not serve to alter or affect the provisions included herein. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the City and Consultant shall survive the completion of services and the termination of this Agreement. No waiver, discharge, or renunciation of any claim or right of Consultant arising out of breach of this Agreement by City shall be effective unless in writing signed by Consultant and supported by separate consideration.

**OWNERSHIP OF DOCUMENTS:**
All documents produced by the Consultant under this Agreement shall remain the property of the City and may be used by the City for any other endeavor without the written consent of the Consultant. Any use of Project Documents for purposes other than those for which they were explicitly prepared shall be at City's sole risk and liability.

**FORCE MAJEURE**

A. "Event of Force Majeure" means an event beyond the control of Consultant and City, which prevents either party from complying with any of its obligations under this Agreement, including but not limited to, acts of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods), war, hostilities, acts of terrorism, riot, commotion, strikes, go slows, lock outs or disorder, unless solely restricted to employees of Consultant or its subcontractors.

B. Neither City nor Consultant shall be considered in breach of this Agreement to the extent that performance of their respective obligations (excluding payment obligations) is prevented by an event of Force Majeure. Either City or Consultant shall give written notice to the other upon becoming aware that an Event of Force Majeure.

**TERMINATION AND SUSPENSION**

A. This Agreement may be terminated by City for any reason upon ten (10) days written notice to Consultant.

B. This Agreement may be terminated by Consultant for cause upon thirty (30) days written notice to City.

C. In the event that this Agreement is terminated for any reason, City agrees to remit just and equitable compensation to Consultant for services already performed in accordance with this Agreement, subject to the limitations below.

D. In the event City terminates this Agreement for cause, in determining just and equitable compensation to Consultant for work already performed, City may reduce amounts due to Consultant by amounts equal to additional costs incurred by City to complete the Agreement scope. Such additional costs incurred by City may include but are not limited to: (1) the additional costs incurred by City to engage another qualified consultant to complete the unfinished scope; and (2) City's labor costs and expenses to demobilize and remobilize its personnel to the site to coordinate with the new consultant.

E. Consultant may suspend any or all services under this Agreement if City fails to pay undisputed invoice amounts within sixty (60) days following invoice date, by providing written notice to City, until payments are restored to a current basis. In the event Consultant engages counsel to enforce overdue payments, City will reimburse Consultant for all reasonable attorney's fees and court costs related to enforcement of overdue payments, provided that City does not have a good faith dispute with the invoice.

**APPLICABLE LAWS:**

Unless otherwise specified, the Agreement shall be governed by the laws of the State of Michigan.

**PURCHASING AGENT DESIGNATION AND AUTHORITY:**

Jon Swenson is designated as Purchasing Agent of City and is authorized to order minor changes in the work not involving adjustment in the Contract Sum or Time of Completion and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Purchasing Agent and shall be binding on the City and Consultant.

IN WITNESS WHEREOF, the parties have made and executed this Agreement the day and year first above written.

Signed this _____ day of _____, 2022.

THE CITY OF MARQUETTE,
MICHIGAN, OWNER

_____
Witness

_____
Jennifer A. Smith, Mayor

_____
Witness

_____
Kyle Whitney, Clerk

COLEMAN ENGINEERING COMPANY
CONSULTANT

_____
Witness

_____
By: KEVIN TREVILLIAN

Its: VICE PRESIDENT
635 Circle Drive, Iron Mountain, MI 49801
906-774-3440

APPROVED AS TO SUBSTANCE:

_____
Karen K. Kovacs
City Manager

APPROVED AS TO FORM:

_____
Suzanne C. Larsen
City Attorney

COLEMAN ENGINEERING COMPANY
CIVIL ENGINEERING • ENVIRONMENTAL ENGINEERING • GEOTECHNICAL ENGINEERING • SURVEYING
635 CIRCLE DRIVE • IRON MOUNTAIN, MI 49801 • PHONE: 906-774-3440

June 6, 2022

Mr. Andrew MacIver
Assistant Director of Community Services
City of Marquette
300 W. Baraga Avenue
Marquette, MI 49855

Re: Design Engineering Services
Presque Isle Marina Rehabilitation Project – Phase III

Dear Mr. MacIver:

Coleman Engineering Company (CEC) appreciates the opportunity to provide our proposal for design engineering services for the Presque Isle Marina Rehabilitation Project – Phase III in the City of Marquette (City). The project will be funded in part by a Michigan Department of Natural Resources (MDNR) Waterways Program Grant.

It is our understanding that the City wishes to:

- Remove the existing south bin wall fixed pier and associated fill material;
- Mill and overlay the existing parking lot; and
- Install a new anchorage system on the existing floating pier system.

CEC will undertake the following tasks to complete this project:

Scope of Services:

*Plans and Specifications*

- Meet with City representatives to finalize the project scope and delivery schedule;
- Prepare plans and specifications for bidding and construction; and
- Submit plans and specifications to the City and MDNR Waterways for approval.

*Bidding Assistance & Pre-construction Conference*

- Advertise the project for bids through Quest CDN;
- Issue addenda as appropriate to clarify, correct or change bidding documents;
- Attend the bid opening if requested;
- Prepare a bid tabulation sheet and submit recommendation of award to the City and MDNR Waterways; and

- Prepare an agenda, coordinate and invite interested parties to, and participate in a preconstruction meeting prior to the commencement of work. Provide MDNR Waterways a copy of the preconstruction minutes.

*Site Construction Administration Services*

- Receive and review schedules, guarantees, bonds, certificates, evidence of insurance, tests, approvals, shop drawings and other data required by the contract documents;
- Provide part-time inspection during key construction times (up to seven site visits);
- Preparation of pay estimates, work orders and contract modifications;
- Conduct a final project inspection; and
- Provide the City with as-constructed drawings of the project.

Assumptions:

- Existing permits for the 2019 Presque Isle Marina Project are still valid for EGLE (8/28/24) and USACE (Docks 12/31/22) (Riprap 3/18/23).
- City will obtain a new County Soil Erosion and Sedimentation Control permit;
- No other permits will be required;
- No additional survey is required;
- Proposed dock anchorage system will utilize the Flotation Docking Systems plans dated 2/24/22. Contractor to provide engineering calculations of the anchorage system if required by the City;
- City will pay for newspaper advertising costs;
- City will complete MDNR Waterways contract administration; and
- No materials or compaction testing is included. Independent compaction testing will be a requirement of the Contractor.

Schedule:

CEC will strive to meet the delivery schedule outlined by the City.

Summary:

CEC proposes to provide the above referenced professional engineering services on a time and materials basis for an estimated fee of $36,000.

If you accept this proposal, please contact us and we will work with the City on making contractual arrangements. Once again, we would like to thank the City of Marquette for this opportunity.

Sincerely,
COLEMAN ENGINEERING COMPANY

Steven Friberg, P.E.
Project Manager

SF/grp

J:\Proposals\Marquette, City Of\2022\Presque Isle Marina Phase III\Proposal\Presque Isle III Proposal.Docx

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 6/23/2022

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 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 | CONTACT NAME: Theresa Falzetti |
|---|---|
| Professional Concepts Insurance Agency, Inc.<br>1127 South Old US Highway 23<br><br>Brighton MI 48114-9861 | PHONE (A/C, No, Ext): (800)969-4041 FAX (A/C, No): (800)969-4081<br>E-MAIL ADDRESS: certs@pciaonline.com |
| **INSURED** | **INSURER(S) AFFORDING COVERAGE / NAIC #** |
| Coleman Engineering Company<br>635 Circle Drive<br><br>Iron Mountain MI 49801 | INSURER A : Hanover Insurance Company 22292<br>INSURER B : XL Specialty Insurance Company 37885<br>INSURER C :<br>INSURER D :<br>INSURER E :<br>INSURER F : |

**COVERAGES** **CERTIFICATE NUMBER:** 21-22 ALL **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 | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | X COMMERCIAL GENERAL LIABILITY<br>CLAIMS-MADE / X OCCUR<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br>X POLICY / X PRO-JECT / LOC<br>OTHER: | X | Y | Z7W H735377 | 9/1/2021 | 9/1/2022 | EACH OCCURRENCE<br>DAMAGE TO RENTED PREMISES (Ea occurrence)<br>MED EXP (Any one person)<br>PERSONAL & ADV INJURY<br>GENERAL AGGREGATE<br>PRODUCTS - COMP/OP AGG | $ 1,000,000<br>$ 100,000<br>$ 5,000<br>$ 1,000,000<br>$ 2,000,000<br>$ 2,000,000 |
| A | AUTOMOBILE LIABILITY<br>X ANY AUTO<br>ALL OWNED AUTOS / SCHEDULED AUTOS<br>HIRED AUTOS / NON-OWNED AUTOS | X | | AWWH73492600 | 9/1/2021 | 9/1/2022 | COMBINED SINGLE LIMIT (Ea accident)<br>BODILY INJURY (Per person)<br>BODILY INJURY (Per accident)<br>PROPERTY DAMAGE (Per accident)<br>Underinsured motorist combined sir | $ 1,000,000<br>$<br>$<br>$<br>$ 1,000,000 |
| A | X UMBRELLA LIAB / X OCCUR<br>EXCESS LIAB / CLAIMS-MADE<br>DED / RETENTION $ | X | | U7W H735315 | 9/1/2021 | 9/1/2022 | EACH OCCURRENCE<br>AGGREGATE | $ 10,000,000<br>$ 10,000,000 |
| A | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: N / N/A<br>(Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below | N/A | Y | W7W H735267 00 | 9/1/2021 | 9/1/2022 | X PER STATUTE / OTH-ER<br>E.L. EACH ACCIDENT<br>E.L. DISEASE - EA EMPLOYEE<br>E.L. DISEASE - POLICY LIMIT | <br>$ 1,000,000<br>$ 1,000,000<br>$ 1,000,000 |
| B | Professional/Pollution Liabilit | | | DPR9982818 | 9/1/2021 | 9/1/2022 | Per Claim<br>Annual Aggregate | $5,000,000<br>$5,000,000 |

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

Re: CEC Job #220533.
Project Name: Presque Isle Marina Rehabilitation.
City of Marquette, its agents, representatives, directors, officials, and employees are considered additional insured's with respects to general and auto liability coverages as long as required within a written contract. Waiver of subrogation in favor of certificate holder and additional insured's as long as required within a written contract. Coverage is considered primary and non-contributory on the general liability coverage. 30 day written notice provided to certificate holder and additional insured's for

**CERTIFICATE HOLDER**

City of Marquette
300 W Baraga Ave
Marquette, MI 49855

**CANCELLATION**

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

Mike Cosgrove/THERES

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# COMMENTS/REMARKS

cancellation of coverages listed. 10 day notice for nonpayment of listed policies.


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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# COMMERCIAL GENERAL LIABILITY ENHANCEMENT ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SUMMARY OF COVERAGES**

| | | |
|---|---|---|
| **1.** | Additional Insured – Broad Form Vendors | Included |
| **2.** | Aggregate Limit per Location | Included |
| **3.** | Alienated Premises | Included |
| **4.** | Broad Form Named Insured | Included |
| **5.** | Extended Property Damage | Included |
| **6.** | Incidental Malpractice (Employed nurses, EMT's & paramedics) | Included |
| **7.** | Mobile Equipment Redefined | Included |
| **8.** | Personal Injury – Broad Form | Included |
| **9.** | Product Recall Expense | |
| | - Product Recall Expense Each Occurrence Limit | $25,000 |
| | - Product Recall Expense Aggregate Limit | $50,000 |
| | - Product Recall Deductible | $500 |
| **10.** | Property Damage Legal Liability – Broad Form<br>- Fire, Lightning, Explosion, Smoke and Leakage from Fire Protective Systems Damage Limit | $1,000,000 |

This endorsement amends coverages provided under the Commercial General Liability Coverage Part through new coverages, higher limits and broader coverage grants.

**1. Additional Insured – Broad Form Vendors**

The following is added to **SECTION II – WHO IS AN INSURED**:

**Additional Insured – Broad Form Vendors**

**a.** Any person or organization that is a vendor with whom you agreed in a written contract or written agreement to include as an additional insured under this Coverage Part is an insured, but only with respect to liability for "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business.

**b.** The insurance afforded to such vendor described above:

**(1)** Only applies to the extent permitted by law;

**(2)** Will not be broader than the insurance which you are required by the contract or agreement to provide for such vendor;

**(3)** Will not be broader than coverage provided to any other insured; and

**(4)** Does not apply if the "bodily injury", "property damage" or "personal and advertising injury" is otherwise excluded from coverage under this Coverage Part, including any endorsements thereto

**c.** With respect to insurance afforded to such vendors, the following additional exclusions apply:

The insurance afforded to the vendor does not apply to:

**(1)** "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reasons of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement;

**(2)** Any express warranty unauthorized by you;

**(3)** Any physical or chemical change in the product made intentionally by the vendor;

**(4)** Repackaging, unless unpacked solely for the purpose of inspection, demonstration,

testing, or the substitution of parts under instruction from the manufacturer, and then repackaged in the original container;

**(5)** Any failure to make such inspection, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business in connection with the sale of the product;

**(6)** Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

**(7)** Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor;

**(8)** “Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

**(a)** The exceptions contained within the exclusion in subparagraphs **(4)** or **(6)** above; or

**(b)** Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

**(9)** “Bodily injury” or “property damage” arising out of an “occurrence” that took place before you have signed the contract or agreement with the vendor.

**(10)** To any person or organization included as an insured by another endorsement issued by us and made part of this Coverage Part.

**(11)** Any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

**d.** With respect to the insurance afforded to these vendors, the following is added to **SECTION III – LIMITS OF INSURANCE**:

The most we will pay on behalf of the vendor for a covered claim is the lesser of the amount of insurance:

**1.** Required by the contract or agreement described in Paragraph **a.;** or

**2.** Available under the applicable Limits of Insurance shown in the Declarations;

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

**2. Aggregate Limit Per Location**

**a. SECTION III – LIMITS OF INSURANCE,** the General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

**b.** For purpose of this coverage only, the following is added to **SECTION V – DEFINITIONS**:

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

**3. Alienated Premises**

**SECTION I – COVERAGES, COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY,** Paragraph **2. Exclusions,** subparagraph **j.(2)** is replaced by the following:

**(2)** Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises and occurred from hazards that were known by you, or should have reasonably been known by you, at the time the property was transferred or abandoned.

**4. Broad Form Named Insured**

If you are designated in the Declarations as anything other than an individual, then any organization:

**a.** Over which you maintained a combined ownership interest of more than 50% on the effective date of this policy;

**b.** That is not a partnership, joint venture or limited liability company; and

**c.** That is not excluded by any endorsement to this policy, will qualify as a Named Insured if there is no other similar insurance available to that organization, or that would be available but for exhaustion of its limits.

Any such organization will cease to qualify as a Named Insured as of the date during the policy period when the combined ownership interest of the Named Insureds in the organization equals or falls below 50%.

**5. Extended Property Damage**

**SECTION I – COVERAGES, COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY,** Paragraph **2. Exclusions,** subparagraph **a.** is replaced by the following:

**a. Expected Or Intended Injury**

Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

**6. Incidental Malpractice – Employed Nurses, EMT's and Paramedics**

**SECTION II – WHO IS AN INSURED,** paragraph **2.a.(1)(d)** does not apply to a nurse, emergency medical technician or paramedic employed by you if you are not engaged in the business or occupation of providing medical, paramedical, surgical, dental, x-ray or nursing services.

**7. Mobile Equipment Redefined**

**SECTION V – DEFINITIONS,** Definition **12.** "Mobile Equipment", paragraph **f.(1)** does not apply to self-propelled vehicles of less than 1,000 pounds gross vehicle weight.

**8. Personal Injury – Broad Form**

**a. SECTION I – COVERAGES, COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY,** Paragraph **2. Exclusions,** subparagraph **e.** is deleted.

**b. SECTION V – DEFINITIONS**, Definition **14**, "Personal and advertising injury" subparagraph **b.** is replaced by the following:

**b.** Malicious prosecution or abuse of process.

**c.** The following is added to **SECTION V – DEFINITIONS,** Definition **14.** "Personal and advertising injury":

"Discrimination" (unless insurance thereof is prohibited by law) that results in injury to the feelings or reputation of a natural person, but only if such "discrimination" is:

**(1)** Not done intentionally by or at the direction of:

**(a)** The insured;

**(b)** Any officer of the corporation, director, stockholder, partner or member of the insured; and

**(2)** Not directly or indirectly related to an "employee", not to the employment, prospective employment or termination of any person or persons by an insured.

**d.** The following is added to **SECTION V – DEFINITIONS:**

"Discrimination" means the unlawful treatment of individuals based upon race, color, ethnic origin, gender, religion, age, or sexual preference. "Discrimination" does not include the unlawful treatment of individuals based upon developmental, physical, cognitive, mental, sensory or emotional impairment or any combination of these.

**e.** This coverage does not apply if **COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY** is excluded either by the provisions of the Coverage Form or by endorsement.

**9. Product Recall Expense**

**a. SECTION I – COVERAGES, COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY,** Paragraph **2. Exclusions,** subparagraph **n.** is replaced by the following:

**n. Recall of Products, Work or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

**(1)** "Your product";

**(2)** "Your work"; or

**(3)** "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it, but this exclusion does not apply to "product recall expenses" that you incur for the "covered recall" of "your product".

However, this exception to the exclusion does not apply to "product recall expenses" resulting solely from:

**(4)** Failure of any products to accomplish their intended purpose;

**(5)** Breach of warranties of fitness, quality, durability or performance;

**(6)** Loss of customer approval, or any cost incurred to regain customer approval;

**(7)** Redistribution or replacement of "your product" which has been recalled by like products or substitutes;

**(8)** Caprice or whim of the insured;

**(9)** A condition likely to cause loss of which any insured knew or had reason to know at the inception of this insurance;

**(10)** Asbestos, including loss, damage or clean up resulting from asbestos or asbestos containing materials;

**(11)** Recall of "your products" that have no known or suspected defect solely because a known or suspected defect in another of "your products" has been found.

**b.** The following is added to **SECTION II – WHO IS AN INSURED,** Paragraph **3.**

**COVERAGE A** does not apply to "product recall expense" arising out of any withdrawal or recall that occurred before you acquired or formed the organization.

**c.** For the purposes of this endorsement only, the following is added to **SECTION III – LIMITS OF INSURANCE**:

**Product Recall Expense Limits of Insurance**

**a.** The Limits of Insurance shown in the SUMMARY OF COVERAGES of this endorsement and rules stated below fix the most we will pay under this Product Recall Expense Coverage regardless of the number of:

**(1)** Insureds:

**(2)** "Covered Recalls" initiated: or

**(3)** Number of "your products" withdrawn.

**b.** The Product Recall Expense Aggregate Limit is the most we will reimburse you for the sum of all "product recall expenses" incurred for all "covered recalls" initiated during the policy period.

**c.** The Product Recall Expense Each Occurrence Limit is the most we will pay in connection with any one defect or deficiency.

**d.** All "product recall expenses" in connection with substantially the same general harmful condition will be deemed to arise out of the same defect or deficiency and considered one "occurrence".

**e.** Any amount reimbursed for "product recall expenses" in connection with any one "occurrence" will reduce the amount of the Product Recall Expense Aggregate Limit available for reimbursement of "product recall expenses" in connection with any other defect or deficiency.

**f.** If the Product Recall Expense Aggregate Limit has been reduced by reimbursement of "product recall expenses" to an amount that is less than the Product Recall Expense Each Occurrence Limit, the remaining Product Recall Expense Aggregate Limit is the most that will be available for reimbursement of "product recall expenses" in connection with any other defect or deficiency.

**g. Product Recall Deductible**

We will only pay for the amount of "product recall expenses" which are in excess of the $500 Product Recall Deductible. The Product Recall Deductible applies separately to each "covered recall". The limits of insurance will not be reduced by the amount of this deductible.

We may, or will if required by law, pay all or any part of any deductible amount, if applicable. Upon notice of our payment of a deductible amount, you shall promptly reimburse us for the part of the deductible amount we paid.

The Product Recall Expense Limits of Insurance apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for the purposes of determining the Limits of Insurance.

**d.** The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS,** Paragraph **2. Duties in the Event of Occurrence, Offense, Claim or Suit:**

You must take the following actions in the event of an actual or anticipated "covered recall" that may result in "product recall expense":

**(1)** Give us prompt notice of any discovery or notification that "your product" must be withdrawn or recalled, including a description of "your product" and the reason for the withdrawal or recall; and

**(2)** Cease any further release, shipment, consignment or any other method of distribution of like or similar products until it has been determined that all such products are free from defects that could be a cause of loss under this insurance.

**e.** The following definitions are added to **SECTION V – DEFINITIONS**:

"Covered recall," means a recall made necessary because you or a government body has determined that a known or suspected defect, deficiency, inadequacy, or dangerous condition in "your product" has resulted or will result in "bodily injury" or "property damage".

"Product recall expense" means:

**a.** Necessary and reasonable expenses for:

**(1)** Communications, including radio or television announcements or printed advertisements including stationery, envelopes and postage;

**(2)** Shipping the recalled products from any purchaser, distributor or user to the place or places designated by you;

**(3)** Remuneration paid to your regular "employees" for necessary overtime;

**(4)** Hiring additional persons, other than your regular "employees";

**(5)** Expenses incurred by "employees" including transportation and accommodations;

**(6)** Expenses to rent additional warehouse or storage space;

**(7)** Disposal of "your product", but only to the extent that specific methods of destruction other than those employed for trash discarding or disposal are required to avoid "bodily injury" or "property damage" as a result of such disposal;

You incur exclusively for the purpose of recalling "your product"; and

**b.** Your lost profit resulting from such "covered recall".

**f.** This Product Recall Expense Coverage does not apply:

**(1)** If the "products – completed operations hazard" is excluded from coverage under this Coverage Part including any endorsement thereto; or

**(2)** To "product recall expense" arising out of any of "your products" that are otherwise excluded from coverage under this Coverage Part including endorsements thereto.

**10. Property Damage Legal Liability – Broad Form**

**a. SECTION I – COVERAGES, COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY,** the last paragraph (after the exclusions) is replaced by the following:

Exclusions **c.** through **n**. do not apply to damage by fire, lightning, explosion, smoke or leakage from fire protective systems to premises while rented to you or temporarily occupied by you with the permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III – LIMITS OF INSURANCE**.

**b. SECTION III – LIMITS OF INSURANCE,** Paragraph **6.** is replaced by the following:

**6.** Subject to Paragraph **5**. above, The Damage to Premises Rented to You Limit is the most we will pay under **COVERAGE A** for damages because of "property damage" to any one premises from fire, lightning, explosion, smoke and leakage from fire protective systems to premises, while rented to you or temporarily occupied by you with permission of the owner.

The Damage to Premises Rented to You Limit is the higher of:

**a.** $1,000,000; or

**b.** The Damage to Premises Rented to You Limit shown in the Declarations.

This limit will apply to all damage caused by the same event, whether such damage results from fire, lightning, explosion, smoke, leakage from fire protective systems or any combination of any of these.

**c. SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS,** Paragraph **4**. **Other Insurance,** subparagraph **b. Excess Insurance,** item **(a)(ii)** is replaced by the following:

**(ii)** That is fire, lightning, explosion, smoke or leakage from fire protective systems insurance for premises rented to you or temporarily occupied by you with permission of the owner; or

**d. SECTION V – DEFINITIONS,** Definition **9.** "Insured contract", Paragraph **a.** is replaced by the following:

**a.** A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke or leakage from fire protective systems to

premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract".

**e.** This coverage does not apply if Damage to Premises Rented to You is excluded either by the provisions of the Coverage Part or by endorsement.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# COMMERCIAL GENERAL LIABILITY BROADENING ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SUMMARY OF COVERAGES**

| | | |
|---|---|---|
| **1.** | Additional Insured by Contract, Agreement or Permit | Included |
| **2.** | Additional Insured – Primary and Non-Contributory | Included |
| **3.** | Blanket Waiver of Subrogation | Included |
| **4.** | Bodily Injury Redefined | Included |
| **5.** | Broad Form Property Damage – Borrowed Equipment, Customers Goods & Use of Elevators | Included |
| **6.** | Knowledge of Occurrence | Included |
| **7.** | Liberalization Clause | Included |
| **8.** | Medical Payments – Extended Reporting Period | Included |
| **9.** | Newly Acquired or Formed Organizations - Covered until end of policy period | Included |
| **10.** | Non-owned Watercraft | 51 ft. |
| **11.** | Supplementary Payments Increased Limits | |
| | - Bail Bonds | $2,500 |
| | - Loss of Earnings | $1000 |
| **12.** | Unintentional Failure to Disclose Hazards | Included |
| **13.** | Unintentional Failure to Notify | Included |

This endorsement amends coverages provided under the Commercial General Liability Coverage Part through new coverages, higher limits and broader coverage grants.

**1. Additional Insured by Contract, Agreement or Permit**

The following is added to **SECTION II – WHO IS AN INSURED**:

**Additional Insured by Contract, Agreement or Permit**

**a.** Any person or organization with whom you agreed in a written contract, written agreement or permit that such person or organization to add an additional insured on your policy is an additional insured 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, but only with respect to:

**(1)** "Your work" for the additional insured(s) designated in the contract, agreement or permit;

**(2)** Premises you own, rent, lease or occupy; or

**(3)** Your maintenance, operation or use of equipment leased to you.

**b.** The insurance afforded to such additional insured described above:

**(1)** Only applies to the extent permitted by law; and

**(2)** Will not be broader than the insurance which you are required by the contract, agreement or permit to provide for such additional insured.

**(3)** Applies on a primary basis if that is required by the written contract, written agreement or permit.

**(4)** Will not be broader than coverage provided to any other insured.

**(5)** Does not apply if the “bodily injury”, “property damage” or “personal and advertising injury” is otherwise excluded from coverage under this Coverage Part, including any endorsements thereto.

**c.** This provision does not apply:

**(1)** Unless the written contract or written agreement was executed or permit was issued prior to the "bodily injury”, “property damage", or "personal injury and advertising injury".

**(2)** To any person or organization included as an insured by another endorsement issued by us and made part of this Coverage Part.

**(3)** To any lessor of equipment:

**(a)** After the equipment lease expires; or

**(b)** If the “bodily injury”, “property damage”, “personal and advertising injury” arises out of sole negligence of the lessor

**(4)** To any:

**(a)** Owners or other interests from. whom land has been leased which takes place after the lease for the land expires; or

**(b)** Managers or lessors of premises if:

**(i)** The occurrence takes place after you cease to be a tenant in that premises; or

**(ii)** The "bodily injury", "property damage", "personal injury" or "advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor.

**(5)** To “bodily injury”, “property damage” or “personal and advertising injury” arising out of the rendering of or the failure to render any professional services.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the “occurrence” which caused the “bodily injury” or “property damage” or the offense which caused the “personal and advertising injury” involved the rendering of or failure to render any professional services by or for you.

**d.** With respect to the insurance afforded to these additional insureds, the following is added to **SECTION III – LIMITS OF INSURANCE**:

The most we will pay on behalf of the additional insured for a covered claim is the lesser of the amount of insurance:

**1.** Required by the contract, agreement or permit described in Paragraph **a.;** or

**2.** Available under the applicable Limits of Insurance shown in the Declarations.

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

**2. Additional Insured – Primary and Non-Contributory**

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS,** Paragraph **4. Other insurance:**

**Additional Insured – Primary and Non-Contributory**

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under **SECTION II – WHO IS AN INSURED**, is primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss covered under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

**a. Primary Insurance**

This insurance is primary to other insurance that is available to the Additional Insured which covers the

Additional Insured as a Named Insured. We will not seek contribution from any other insurance available to the Additional Insured except:

**(1)** For the sole negligence of the Additional Insured;

**(2)** When the Additional Insured is an Additional Insured under another primary liability policy; or

**(3)** when **b.** below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **c.** below.

**b. Excess Insurance**

**(1)** This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

**(a)** That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

**(b)** That is Fire insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;

**(c)** That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional with permission of the owner; or

**(d)** If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of **SECTION I – COVERAGE A – BODILY INURY AND PROPERTY DAMAGE LIABILITY**.

**(2)** When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

**(3)** When this insurance is excess over other Insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

**(a)** The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

**(b)** The total of all deductible and self insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers

**3. Blanket Waiver of Subrogation**

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS,** Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damage under this coverage form. The damage must arise out of your activities under a written contract with that person or organization. This waiver applies only to the extent that subrogation is waived under a written contract executed prior to the "occurrence" or offense giving rise to such payments.

**4. Bodily Injury Redefined**

**SECTION V – DEFINITIONS**, Definition **3.** "bodily injury" is replaced by the following:

**3.** "Bodily injury" means bodily injury, sickness or disease sustained by a person including death resulting from any of these at any time. "Bodily injury" includes mental anguish or other mental injury resulting from "bodily injury".

**5. Broad Form Property Damage – Borrowed Equipment, Customers Goods, Use of Elevators**

**a. SECTION I – COVERAGES, COVERAGE A – BODILIY INJURY AND PROPERTY DAMAGE LIABILITY,** Paragraph **2. Exclusions** subparagraph **j.** is amended as follows:

Paragraph **(4)** does not apply to "property damage" to borrowed equipment while at a jobsite and not being used to perform operations.

Paragraphs **(3), (4)** and **(6)** do not apply to "property damage" to "customers goods" while on your premises nor do they apply to the use of elevators at premises you own, rent, lease or occupy.

**b.** The following is added to **SECTION V – DEFINTIONS:**

**24.** "Customers goods" means property of your customer on your premises for the purpose of being:

**a.** worked on; or

**b.** used in your manufacturing process.

**c.** The insurance afforded under this provision is excess over any other valid and collectible property insurance (including deductible) available to the insured whether primary, excess, contingent

**6. Knowledge of Occurrence**

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS,** Paragraph **2. Duties in the Event of Occurrence, Offense, Claim or Suit:**

**e.** Notice of an "occurrence", offense, claim or "suit" will be considered knowledge of the insured if reported to an individual named insured, partner, executive officer or an "employee" designated by you to give us such a notice.

**7. Liberalization Clause**

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

**Liberalization Clause**

If we adopt any revision that would broaden the coverage under this Coverage Form without additional premium, within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this Coverage Part.

**8. Medical Payments – Extended Reporting Period**

**a. SECTION I – COVERAGES, COVERAGE C – MEDICAL PAYMENTS,** Paragraph **1. Insuring Agreement,** subparagraph **a.(3)(b)** is replaced by the following:

**(b)** The expenses are incurred and reported to us within three years of the date of the accident; and

**b.** This coverage does not apply if **COVERAGE C – MEDICAL PAYMENTS** is excluded either by the provisions of the Coverage Part or by endorsement.

**9. Newly Acquired Or Formed Organizations**

**SECTION II – WHO IS AN INSURED,** Paragraph **3.a.** is replaced by the following:

**a.** Coverage under this provision is afforded until the end of the policy period.

**10. Non-Owned Watercraft**

**SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY,** Paragraph **2. Exclusions,** subparagraph **g.(2)** is replaced by the following:

**g. Aircraft, Auto Or Watercraft**

**(2)** A watercraft you do not own that is:

**(a)** Less than 51 feet long; and

**(b)** Not being used to carry persons or property for a charge;

This provision applies to any person who, with your consent, either uses or is responsible for the use of a watercraft.

**11. Supplementary Payments Increased Limits**

**SECTION I – SUPPLEMENTARY PAYMENTS COVERAGES A AND B,** Paragraphs **1.b.** and **1.d.** are replaced by the following:

**1.b.** Up to $2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

**1.d.** All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or “suit", including actual loss of earnings up to $1000 a day because of time off from work.

**12. Unintentional Failure to Disclose Hazards**

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS,** Paragraph **6. Representations:**

We will not disclaim coverage under this Coverage Part if you fail to disclose all hazards existing as of the inception date of the policy provided such failure is not intentional.

**13. Unintentional Failure to Notify**

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS,** Paragraph **2. Duties in the Event of Occurrence, Offense, Claim or Suit:**

Your rights afforded under this policy shall not be prejudiced if you fail to give us notice of an "occurrence", offense, claim or "suit", solely due to your reasonable and documented belief that the "bodily injury" or "property damage" is not covered under this policy.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

## WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

MI, WI

THIS ENDORSEMENT APPLIES AS A BLANKET WAIVER
OF SUBROGATION FOR THOSE PARTIES HAVING A WRITTEN
CONTRACT WITH THE POLICYHOLDER REQUIRING A WAIVER
OF SUBROGATION FOR WORKERS COMPENSATION COVERAGE OF THE
POLICYHOLDERS EMPLOYEES.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

**(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)**

Endorsement Effective Policy No. Endorsement No.
Insured Premium

Insurance Company Countersigned by _____


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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# BLANKET ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE PART

**A.** The following is added to **SECTION II - LIABILITY COVERAGE,** Paragraph **A.1. Who Is An Insured:**

**Additional Insured if Required by Contract**

If you agree in a written contract, written agreement or written permit that a person or organization be added as an additional "insured" under this Coverage Part, such person or organization is an "insured"; but only to the extent that such person or organization qualifies as an "insured" under paragraph **A.1.c.** of this Section.

If you agree in a written contract, written agreement or written permit that a person or organization be added as an additional "insured" under this Coverage Part, the most we will pay on behalf of such additional "insured" is the lesser of:

**(1)** The Limits of Insurance for liability coverage specified in the written contract, written agreement or written permit; or

**(2)** The Limits of Insurance for Liability Coverage shown in the Declarations applicable to this Coverage Part.

Such amount shall be part of and not in addition to the Limits of Insurance shown in the Declarations applicable to this Coverage Part. Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined resulting from any one "accident" is the Limit of Insurance for Liability Coverage shown in the Declarations.

**B.** The following is added to **SECTION IV - BUSINESS AUTO CONDITIONS,** Paragraph **B. General Conditions,** subparagraph **5. Other Insurance:**

**Primary and Non-Contributory**

If you agree in a written contract, written agreement or written permit that the insurance provided to a person or organization who qualifies as an additional "insured" under **SECTION II - LIABILITY COVERAGE,** Paragraph **A.1. Who Is An Insured,** subparagraph **Additional Insured if Required by Contract** is primary and non-contributory, the following applies:

The liability coverage provided by this Coverage Part is primary to any other insurance available to the additional "insured" as a Named Insured. We will not seek contribution from any other insurance available to the additional "insured" except:

**(1)** For the sole negligence of the additional "insured"; or

**(2)** For negligence arising out of the ownership, maintenance or use of any "auto" not owned by the additional "insured" or by you, unless that "auto" is a "trailer" connected to an "auto" owned by the additional "insured" or by you; or

**(3)** When the additional "insured" is also an additional "insured" under another liability policy.

**C.** This endorsement will apply only if the "accident" occurs:

**1.** During the policy period;

**2.** Subsequent to the execution of the written contract or written agreement or the issuance of the written permit; and

**3.** Prior to the expiration of the period of time that the written contract, written agreement or written permit requires such insurance to be provided to the additional "insured".

**D.** Coverage provided to an additional "insured" will not be broader than coverage provided to any other "insured" under this Coverage Part.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.


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**Agenda Date:** 6/27/2022

## Consent Agenda - Roll Call Vote
## Schedule Public Hearing - Land Development Code Amendments

## BACKGROUND:

On April 12, 2022, the Planning Commission conducted a Public Hearing for the consideration of a comprehensive set of amendments to the Land Development Code that had been the subject of several months of work and refinement before this meeting. After considering the proposed amendments and conducting a Public Hearing, the Planning Commission approved the following motion:

*It was moved by S. Mittlefehldt, seconded by M. Dunn and carried 8-0 that after review of the draft Land Development Code (LDC) amendments presented as case 01-ZOA-04-2022, and after conducting a Public Hearing and careful consideration of the contents of the draft LDC amendments, the Planning Commission finds that the draft LDC amendments are consistent with the recommendations, goals, and policy objectives of the Community Master Plan, comply with section 54.1405 of the Land Development Code and therefore are justified and appropriate and therefore should be approved by the City Commission as presented.*

These amendments were approved by the City Commission at the May 31 regular meeting, however a clerical error led to the exclusion of two paragraphs, which should have been included in the proposal. These two paragraphs cover amendments to sections 54.1107 and 54.1109 within the Land Development Code's Article 11 - Signs.

In the attached draft ordinance, strikethroughs indicate repealed content, while yellow highlights indicate newly added material.

## FISCAL EFFECT:

None.

## RECOMMENDATION:

Schedule a Public Hearing for the July 25, 2022 City Commission meeting to consider approval of the draft amendments to the Land Development Code.

## ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- Planning Commission case file for 01-ZOA-04-22
- LDC Draft Ordinance

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

# MEMORANDUM

**TO:** Planning Commission
**FROM:** David Stensaas, City Planner and Zoning Administrator
**DATE:** March 3, 2022
**SUBJECT:** **Public Hearing – 01-ZOA-04-2022 Land Development Code Amendments**

---

The proposed amendments are the product of several months of effort by staff and the Planning Commission and have been developed, discussed, and refined during several work sessions in late 2021 and early 2022.

The draft amendments to the LDC document are attached, and they will be available to the public as part of the agenda packet that is posted on the City's website, and in the Planning-Zoning division offices prior to the meeting.

**Recommended Action:**

The Planning Commission should conduct a public hearing to receive comments from the public regarding the draft amendments to the Land Development Code (LDC), review and discuss the proposed amendments and any concerns that may exist, and take appropriate action in the form of a motion to either:

A. recommend approval of the draft LDC amendments to the City Commission, or
B. request that staff facilitates further amendments of the LDC document.

It is highly recommended that any motion regarding this request include a statement such as:

> After review of the draft Land Development Code (LDC) amendments presented as case 01-ZOA-04-2022, and after conducting a public hearing and careful consideration of the contents of the draft LDC amendments, the Planning Commission finds that the draft LDC amendments (**are / are not**) consistent with the recommendations, goals, and policy objectives of the Community Master Plan, comply with section 54.1405 of the Land Development Code and therefore (**are / are not**) justified and appropriate and therefore (**should / should not**) be approved by the City Commission (**as presented / and revised with the following amendments…**).

The proposed amendments to the **Land Development Code** are formatted in the following way:

1. New subsections and/or language is shown underlined and highlighted, as the example below indicates:

   Example) H. Light Manufacturing

2. A subsection or language that is to be eliminated is indicated by strikethrough lines in the font, as the example below indicates:

   Example) ~~F. Dwelling units must be located above the first floor.~~

Other text that is neither highlighted or lined-through is included for context.

Some text is highlighted in blue to explain features of the amended text.

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# Article 2 Definitions

## Section 54.202 Specific Terms

~~**Bed and Breakfast:** An owner-occupied dwelling where no more than 5 (five) guest rooms are made available for the temporary accommodation of the traveling or vacationing public. Such an establishment may offer meals only to those persons temporarily residing at the establishment. See also definition of "Bed and Breakfast Inn" and "Homestay."~~

**Bed and Breakfast:** An owner-occupied residential dwelling where no more than 10 (ten) guest rooms are made available for lodgers' sleeping accommodations. Such an establishment offers breakfast and possibly other meals or food to lodgers at no extra cost. See also definition of "Bed and Breakfast Inn" and "Homestay."

~~**Bed and Breakfast Inn:** A structure primarily used for lodging purposes where the use as a residence is clearly secondary. A structure where more than 5 (five) but not more than 30 (thirty) guest rooms are made available for the temporary accommodation of the traveling or vacationing public. Such an establishment may offer meals to the public and persons temporarily residing at the establishment. See also definition of "Bed and Breakfast" and "Homestay."~~

**Bed and Breakfast Inn:** A private residence constructed as a hotel and used for lodging purposes, in which more than 10 (ten) but not more than 14 (fourteen) guest rooms are made available for the lodgers' sleeping accommodations. The innkeeper resides at the Inn and offers breakfast and possibly other meals or food to lodgers. See also definition of "Bed and Breakfast" and "Homestay."

**Block:** A parcel or adjoining parcels of land that are bounded by local, collector, and arterial roads. Usually a block has a perimeter of roads, with roads on three or four sides of the contiguous parcels, but there may be exceptions, such as where a lake or a railroad forms a boundary.

**Block Face:** A block face is the area between intersections of the bounding/perimeter roads of contiguous parcels. A street may traverse one or two block faces, depending on if either one or two sides of the street is a parcel of land or not (e.g. undeveloped lakeshore may not constitute a block face).

**Dwelling Unit:** One (1) or more rooms, in a building, with a bathroom and usually containing ~~principal~~ kitchen facilities, designed or used as a self-contained unit for residential occupancy by one (1) family for such purposes as cooking, bathing, gathering, entertainment, and sleeping. A dwelling unit may be established by use in a structure or a portion of a structure that has neither a typical kitchen nor a typical bathroom, which are not always present when a person or persons are occupying space independently as renters or guests; therefore the design of the structure alone is not limiting regarding space being used as a dwelling unit. Tents, recreational vehicles (RVs) and other structures designed for temporary occupancy (14 days or less) are not to be used as dwelling units in the City of Marquette, with the exception of areas where they are specifically allowed, such as Tourist Park, commercial establishments approved for RVs, or other areas where camping may be authorized during emergencies or otherwise. See also the definition of "Occupancy, Temporary."

**Hard Parking Surface:** For one- and two-family dwellings a hard parking surface shall comprise of compacted gravel at least six (6) inches in depth, concrete or asphalt pavement, pavers (pervious or impervious) or other products designed for parking. For all other uses, a hard parking surface shall exclude gravel with the exception that compacted gravel parking lots are allowed for *Land Intensive Recreational Uses*. The City Engineer may require minimum standards for hard parking surface (e.g., material depth, material specifications, construction techniques, etc.)

**Halfway House:** A house licensed by a State Agency for the continued care, treatment and counseling of individuals who have successfully completed institutional treatment or that have a treatment plan established with a relevant institution/agency and who will benefit from a controlled atmosphere in a residential setting. This type of home will have a manager that tracks the treatment and progress of all residents and arranges for the various health care and other needs that individual residents require to achieve their best possible health. Also known as a Sober Living House.

**Indoor Recreation:** Indoor commercial or non-commercial amusement services such as bowling alleys, skating rinks, billiard halls, stadium and sports arenas, movie theaters (excluding drive-in theaters), dance halls, event venues, reception halls, recreation assembly uses, archery ranges, and other indoor recreational facilities. "Indoor Recreation" excludes "Adult Entertainment Uses."

**Lot Types:** Lot Types are as follows (See *Figure 4. Lot Types*)

> **(d) Lot, Through or Double-Frontage:** An interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. All sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required. Properties that share a property line with a city street on one side and limited access highway on the other side are not "Through Lots." The frontage facing the limited access highway is either a side or rear yard depending on the lot layout.

**Open Structure:** An open structure is a building, or structural amenity, having the total of all walls at least eighty (80) percent open. An open building, such as a pergola, may have a roof, but the percent of walls in the building envelope shall not exceed twenty (20) percent. An open structure is considered pervious only if it has no roof.

**Open Space:** Open space is the part of a parcel (which includes required yards) that is open and unobstructed from its lowest level to the sky, except for specific permitted obstructions and access ways, and that is accessible to and usable by all persons that have rights to use the property.

**Outdoor Food and Non-Alcoholic Beverage Service:** An establishment where food and/or non-alcoholic beverages are prepared and served for consumption outdoors in a designated dining area which excludes drive-through restaurants. See definitions of "Restaurant, Indoor Service."

**Outdoor Alcoholic Beverage Service:** A service conducted by a private establishment, in a designated outdoors area, where alcoholic beverages are served or permitted to be consumed.
See definitions of "Bar" and "Restaurant, Indoor Service."

**Outdoor Livability Space:** Any area of a site which is not covered by an enclosed structure, is not included in required parking area, and is available for use by residents and visitors.

**Shooting Range, Indoor:** Indoor Shooting Range means an indoor area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

**Structure:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, ~~except driveways and pavement, but~~ including but not limited to retaining walls, driveways, and pavement for patios, sidewalks, porches, etc.

**Supportive Housing Facility, Transitional and/or Permanent:** A residential facility that provides housing and supportive services to homeless persons or families for periods up to two years (transitional) and/or beyond two years (permanent) and that has as its purpose facilitating the movement of homeless persons and families into independent living. Such facility may support those transitioning from rehabilitation or corrections facilities, and provides appropriate supportive services to persons with special need conditions (homelessness, domestic violence survivors, mental health challenges, drug addiction, etc.) intended to facilitate their eventual movement to maintaining permanent independent living within 24 months.

# Article 3 Zoning Districts and Map

## Section 54.306 Permitted Uses by District

**Figure 8. Table of Permitted Land Uses and Special Land Uses by Zoning District**

**Key: P=Permitted S=Special Land Use [blank]=Use Not Permitted**

| Land Use | LDR | MDR | MFR | MHP | MU | CBD | GC | RC | M | C | I-M | CR | BLP | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Residential Uses** | | | | | | | | | | | | | | |
| Adult Foster Care, Family Home | P | P | P | P | P | P | | | | | | | | |
| Adult Foster Care, Large Group Home | | | S | | | | | | | | | | | Section 54.602 |
| Adult Foster Care, Small Group Home | ~~S~~ P | ~~S~~ P | ~~S~~ P | | ~~S~~ P | | | | | | | | | Section 54.602 |
| Child or Day Care, Family Home | P | P | P | P | P | P | | | | | | | | |
| Child or Day Care, Group Home | S | S | S | | S | | | | | | | | | Section 54.608 |
| Dwelling, Accessory Unit | ~~S~~ P | ~~S~~ P | ~~S~~ P | | ~~S~~ P | ~~S~~ P | | | | | | | | Section 54.612 |
| Dwelling, Intentional Community | S | S | S | | S | S | | | | | | | | Section 54.614 |
| Dwelling, Live/Work | | | | | P | P | | | | | | | | Section 54.615 |
| Dwelling, Multiple-Family | | | P | | P | P ~~S~~ | | | | | | | | Section 54.616 |
| Dwelling, Single-Family Attached | | | P | | P | S | | | | | | | | |
| Dwelling, Single-Family Detached | P | P | P | | P | S | | | | | | | | Section 54.617 |
| Dwelling, Two-Family (Duplex) | S | S | P | | P | P | | | | | | | | Section 54.613 |
| Foster Family Group Home | S | S | S | | S | S | | | | | | | | |
| Foster Family Home | P | P | P | | P | P | | | | | | | | |
| Home Occupation | P | P | P | | P | P | | | | | | | | Section 54.621 |
| Home Office | P | P | P | | P | P | | | | | | | | Section 54.622 |
| Mobile Home Park | | | | P | | | | | | | | | | Section 54.630 |
| Nursing Home, Convalescent Home, Extended Care Facility, Assisted Living Facility | | | S | | S | S | | | | | | | | Section 54.632 |
| Residential Limited Animal Keeping | P | P | | | | | | | | | | | | Section 54.641~~1~~2 |
| **Lodging Uses** | | | | | | | | | | | | | | |
| Bed and Breakfast | | | S | | S | S | | | | | | | | Section 54.603 |
| Bed and Breakfast Inn | | | | | S | S | | | | | | | | Section 54.604 |
| Domestic Violence Abuse Shelter | | | S | | S | S | | | | | | | | Section 54.610 |
| Fraternity or Sorority House | | | S | | S | S | | | | | | | | |
| Halfway House | | | S | | S | | | | | | | | | Section 54.620 |
| Homeless Shelter | | | | | S | S | | | | | | | | Section 54.623 |
| Homestays and Vacation Home Rentals | P | P | P | | P | P | | | | | | | | Section 54.624 |
| Hospital Hospitality House | | S | | | S | S | | | | | | | | Section 54.626 |
| Hotel or Motel | | | | | S | S | P | P | | | | | | |
| Rooming House | | | S | | S | S | | | | | | | | Section 54.642~~1~~3 |
| Supportive Housing Facility, Transitional and/or Permanent | S | S | P | | S | S | | | | | | | | Section 54.646 |

**Key:** **P=Permitted** **S=Special Land Use** **[blank]=Use Not Permitted**

| | LDR | MDR | MFR | MHP | MU | CBD | GC | RC | M | C | I-M | CR | BLP | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Medical Uses** | | | | | | | | | | | | | | |
| Emergency Services | | | | | P | P | P | P | | | | | | |
| Health Services | | | | | P | P | P | P | | | | | | |
| Hospice | | | | | P | P | P | P | | | | | | |
| Hospital | | | S | | S | S | S | S | | | | | | Section 54.625 |
| Medical Hospital Related Accessory Uses | | | | | P | P | P | P | | | | | | |
| Medical Hospital Related Office | | | | | P | P | P | P | | | | | | |
| Medical Hospital Related Uses | | | | | P | P | P | P | | | | | | |
| Office, Medical | | | | | P | P | P | P | | | P | | | Section 54.633 |
| Veterinary Clinic (Domestic Animals Only) | | | | | P | P | P | P | | | P | | | |
| **Public and Quasi-Public Uses** | | | | | | | | | | | | | | |
| Cemetery | S | S | S | | | | | | P | P | | | | Section 54.606 |
| Public or Governmental Building | S | S | S | | P | P | P | P | P | P | P | P | P | |
| Recreational Use, Land Intensive | | | | | | | | | | | | S | S | Section 54.6~~39~~40 |
| Recreational Use, Public | S | S | S | | S | S | S | S | P | P | | P | P | |
| Religious Institution | S | S | S | | P | S | P | P | | | P | | | Section 54.640~~1~~1 |
| School, Primary or Secondary | S | S | S | | S | S | | | P | P | | | | Section 54.643~~4~~4 |
| School, University | | S | S | | S | S | | | P | P | | | | Section 54.607 |
| **Commercial and Retail Uses** | | | | | | | | | | | | | | |
| Adult Entertainment Uses | | | | | | | | | | | S | | | Section 54.601 |
| Bar | | | | | S | P | P | P | | | | | | |
| Child Care Center or Day Care Center | S | S | | | P | S | P | P | | | | | | Section 54.609 |
| Drive-Through Uses | | | | | P | ~~S~~ P | P | P | | | | | | Section 54.611 |
| Farmers' Markets | | | | | P | P | P | P | P | P | | | | Section 54.618 |
| Gasoline Service Stations | | | | | | S | P | P | | | P | | | |
| Indoor Recreation | | | | | P | P | P | P | P | P | P | | | |
| Office, Professional | | | | | P | P | P | P | P | P | P | | | Section 54.633 |
| Outdoor Entertainment and Community Events (Principal Use or Accessory Use) | | | | | S | P | S | S | P | P | | P ~~S~~ | | Section 54.635(C) or (D) |
| Outdoor Entertainment and Community Events (Temporary Use) | P | P | P | P | P | P | P | P | P | P | P | P | P | Section 54.635(B) |
| Outdoor Alcoholic ~~Food and~~ Beverage Service | | | | | S | P | P | P | | | | P | | Section 54.636 |
| Outdoor Food and Non-Alcoholic Beverage Service | | | | | P | P | P | P | | | | P | | Section 54.637 |
| Outdoor Recreation | | | S | | P | P | P | P | P | P | | P | P | |
| Pet Boarding Facility | | | | | | | S | S | | | S | | | |
| Restaurant, Indoor Service | | | | | P | P | P | P | | | | | | |
| Retail Business, Indoor | | | | | P | P | P | P | | | P | | | |
| Retail Business, Outdoor Permanent | | | | | | | S | S | | | S | | | |
| Retail Sales, Outdoor Temporary | | | | | P | P | P | P | | | | | | Section 54.637~~8~~8 |
| Service Establishment | | | | | P | P | P | P | | | P | | | |
| Shooting Range, Indoor | | | | | | | P | P | | | P | | | Section 54.645 |
| Storage, Open | | | | | | | P | P | P | P | P | P | P | Section 54.634 |
| Vehicle Repair and Service | | | | | S | S | S | P | | | P | | | Section 54.627 |

| Land Use | LDR | MDR | MFR | MHP | MU | CBD | GC | RC | M | C | I-M | CR | BLP | Use Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Industrial Uses** | | | | | | | | | | | | | | |
| Major Repair and Maintenance Operations | | | | | | | | | | | S | | P | Section 54.627 |
| Manufacturing, Heavy | | | | | | | | | | | S | | | Section 54.627 |
| Manufacturing, Light | | | | | S | S | S | S | | | P | | | Section 54.627 |
| Natural Resource Extraction Operations | | | | | | | | | | | | S | | Section 54.631 |
| Port Facilities and Docks | | | | | | | | | S | S | | S | S | Section 54.6389 |
| Railroad Facilities | | | | | | | | | | | P | | | |
| Storage, Bulk | | | | | | | | S | | | S | | P | Section 54.605 |
| Utility Electrical Power Generation | | | | | | | | | | | | | P | |
| Warehousing | | | | | | | | S | | | P | | P | |
| Wholesale Trade Establishment | | | | | | | P | P | | | P | | | |
| Wholesaling Operations | | | | | | | | S | | | P | | | |
| **Other Uses** | | | | | | | | | | | | | | |
| Accessory Building or Structure | P | P | P | | P | P | P | P | P | P | P | P | P | Section 54.705 |
| Accessory Use, Non-Single Family Residential Lots | P | P | S | | S | S | S | S | S | S | S | S | S | |
| Accessory Use, Single-Family Residential Lots | P | P | P | | P | S | | | | | | | | |
| Agriculture-Like Operation, including Forestry | | | | | | | | | P | P | | P | P | |
| Food Production, Minor | P | P | P | P | P | P | P | P | P | P | P | P | P | Section 54.619 |
| Marihuana Designated Consumption Establishment | | | | | | S | S | | | | | | | Section 54.628 |
| Marihuana Grower – Class A | | | | | | S | S | S | | | S | | | Section 54.628 |
| Marihuana Grower – Class B | | | | | | | S | S | | | S | | | Section 54.628 |
| Marihuana Grower – Class C | | | | | | | S | S | | | S | | | Section 54.628 |
| Marihuana Grower _ Excess | | | | | | | S | S | | | S | | | Section 54.628 |
| Marihuana Microbusiness- Light Manufacturing | | | | | | S | S | S | | | S | | | Section 54.628 |
| Marihuana Microbusiness- Heavy Manufacturing | | | | | | | | | | | S | | | Section 54.628 |
| Marihuana Processor- Light Manufacturing | | | | | | S | S | S | | | S | | | Section 54.628 |
| Marihuana Processor – Heavy Manufacturing | | | | | | | | | | | S | | | Section 54.628 |
| Marihuana Retailer | | | | | | S | S | S | | | S | | | Section 54.628 |
| Marihuana Safety Compliance Facilities | | | | | S | S | S | S | | | S | | | Section 54.628 |
| Marihuana Secure Transporters | | | | | | | S | S | | | S | | | Section 54.628 |
| Recycling Collection and Transfer Stations | | | | | | | | | S | | | | | |
| Structures between the shoreline of Lake Superior and the pavement of the nearest public street or highway. | | | | | | | | | S | S | | S | | |
| Wireless Telecommunications Facilities | | | | | | S | S | S | P | P | P | S | P | Section 54.6447 |
| Marquette Downtown Waterfront District Form-Based Code (see Section 54.321) | | | | | | | | | | | | | | |
| Third Street Corridor Form-Based Code (see Section 54.322) | | | | | | | | | | | | | | |

## Section 54.307 LDR, Low Density Residential District

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Accessory Building or Structure<br>• Accessory Use, Non-Single Family Residential Lots<br>• Accessory Use, Single-Family Residential Lots<br>• Adult Foster Care, Family Home<br>• Adult Foster Care, Small Group Home<br>• Child or Day Care, Family Home<br>• Dwelling, Accessory Unit<br>• Dwelling, Single-Family Detached<br>• Food Production, Minor<br>• Foster Family Home<br>• Home Occupation<br>• Home Office<br>• Homestays and Vacation Home<br>• Outdoor Entertainment and Community Events (Temporary)<br>• Residential Limited Animal Keeping | • ~~Adult Foster Care, Small Group Home~~<br>• Cemetery<br>• Child Care Center or Day Care Center<br>• Child or Day Care, Group Home<br>• ~~Dwelling, Accessory Unit~~<br>• Dwelling, Intentional Community<br>• Dwelling, Two-Family (Duplex)<br>• Foster Family Group Home<br>• Public or Governmental Building<br>• Recreational Use, Public<br>• Religious Institution<br>• School, Primary or Secondary<br>• Supportive Housing Facility, Transitional and/or Permanent |
| Where there is a discrepancy between *Section 54.306* and this table, *Section 54.306* shall prevail. | |

**Note: (D) Dimensional Regulations will be updated to reflect the new footnotes in 54.403**

## Section 54.308 MDR, Medium Density Residential District

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Accessory Building or Structure<br>• Accessory Use, Non-Single Family Residential Lots<br>• Accessory Use, Single-Family Residential Lots<br>• Adult Foster Care, Family Home<br>• Adult Foster Care, Small Group Home<br>• Child or Day Care, Family Home<br>• Dwelling, Accessory Unit<br>• Dwelling, Single-Family Detached<br>• Food Production, Minor<br>• Foster Family Home<br>• Home Occupation<br>• Home Office<br>• Homestays and Vacation Home<br>• Outdoor Entertainment and Community Events (Temporary)<br>• Residential Limited Animal Keeping | • ~~Adult Foster Care, Small Group Home~~<br>• Cemetery<br>• Child Care Center or Day Care Center<br>• Child or Day Care, Group Home<br>• ~~Dwelling, Accessory Unit~~<br>• Dwelling, Intentional Community<br>• Dwelling, Two-Family (Duplex)<br>• Foster Family Group Home<br>• Hospital Hospitality House<br>• Public or Governmental Building<br>• Recreational Use, Public<br>• Religious Institution<br>• School, Primary or Secondary<br>• School, University<br>• Supportive Housing Facility, Transitional and/or Permanent |
| Where there is a discrepancy between *Section 54.306* and this table, *Section 54.306* shall prevail. | |

**Note: (D) Dimensional Regulations will be updated to reflect the new footnotes in 54.403**

## Section 54.309 MFR, Multiple Family Residential District

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Accessory Building or Structure<br>• Accessory Use, Single-Family Residential Lots<br>• Adult Foster Care, Family Home<br>• Adult Foster Care, Small Group Home<br>• Child or Day Care, Family Home<br>• Dwelling, Accessory Unit<br>• Dwelling, Multiple-Family<br>• Dwelling, Single-Family Attached<br>• Dwelling, Single-Family Detached<br>• Dwelling, Two-Family (Duplex)<br>• Food Production, Minor<br>• Foster Family Home<br>• Home Occupation<br>• Home Office<br>• Homestays and Vacation Home<br>• Outdoor Entertainment and Community Events (Temporary)<br>• Supportive Housing Facility, Transitional and/or Permanent | • Accessory Use, Non-Single Family Residential Lots<br>• Adult Foster Care, Large Group Home<br>• ~~Adult Foster Care, Small Group Home~~<br>• Bed and Breakfast<br>• Cemetery<br>• Child or Day Care, Group Home<br>• Domestic Violence Abuse Shelter<br>• ~~Dwelling, Accessory Unit~~<br>• Dwelling, Intentional Community<br>• Foster Family Group Home<br>• Fraternity or Sorority House<br>• Halfway House<br>• Hospital<br>• Nursing Home, Convalescent Home, Extended Care Facility, Assisted Living Facility<br>• Outdoor Recreation<br>• Public or Governmental Building<br>• Recreational Use, Public<br>• Religious Institution<br>• Rooming House<br>• School, Primary or Secondary<br>• School, University |
| Where there is a discrepancy between *Section 54.306* and this table, *Section 54.306* shall prevail. | |

| (D) Dimensional Regulations for 5+ Multiple Family Units | | | |
|---|---|---|---|
| ***Lot, Coverage, and Building Height Standards*** | | ***Minimum Setbacks*** | |
| *Min. Lot Area (sq. ft.)* | 15,000 *(C)* | *Front Yard (ft.)* | 15 *(A)* |
| *Min. Lot Width (ft.)* | 100 *(D)* | *Side Yard (one) (ft.)* | 15 *(H), (L), (M)* |
| *Max. Impervious Surface Coverage (%)* | *(S)* | *Side Yard (total of 2) (ft.)* | 30 *(H), (L), (M)* |
| *Max. Building Height of Primary Building (ft.) (P)* | 44 *(M & N)* | *Rear Yard (ft.)* | 30 *(H), (L), (M)* |
| *Max. Building Height of Accessory Building* | *(L)* | | |
| *Max. Building Height (stories)* | - | | |
| *Max. Lot Coverage/ Ground Coverage* | 0.20 | | |
| Where there is a discrepancy between *Article 4* and this table, *Article 4* shall prevail. | | | |

| (E) Dimensional Regulations for 1-4 Dwelling Units and other uses identified in Section 54.309 | | | |
|---|---|---|---|
| ***Lot, Coverage, and Building Height Standards*** | | ***Minimum Setbacks*** | |
| *Min. Lot Area (sq. ft.)* | 9,000 *(E)* | *Front Yard (ft.)* | 15 *(A)* |
| *Min. Lot Width (ft.)* | 75 *(E)* | *Side Yard (one) (ft.)* | 10 *(H), (L), (M)* |
| *Max. Impervious Surface Coverage (%)* | *(R or S)* | *Side Yard (total of 2) (ft.)* | 20 *(H), (L), (M)* |
| *Max. Building Height of Primary Building (ft.) (P)* | 44 *((M & N* | *Rear Yard (ft.)* | 30 *(H), (L), (M)* |
| *Max. Building Height of Accessory Building* | *(L)* | | |
| *Max. Building Height (stories)* | - | | |
| *Max. Lot Coverage/ Ground Coverage* | 0.20 | | |
| Where there is a discrepancy between *Article 4* and this table, *Article 4* shall prevail. | | | |

Note: The existing (E) will become (F) References to Additional Standards

## Section 54.310 MHP, Mobile Home Park District

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Adult Foster Care, Family Home<br>• Child or Day Care, Family Home<br>• Food Production, Minor<br>• Mobile Home Park<br>• Outdoor Entertainment and Community Events (Temporary) | |
| Where there is a discrepancy between *Section 54.306* and this table, *Section 54.306* shall prevail. | |

## Section 54.311 M-U, Mixed-Use District

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

**Note: (D) Dimensional Regulations will be updated to reflect the new footnotes in 54.403**

## Section 54.312 CBD, Central Business District

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

**Note: (D) Dimensional Regulations will be updated to reflect the new footnotes in 54.403**

## Section 54.313 GC, General Commercial District

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Accessory Building or Structure<br>• Bar<br>• Child Care Center or Day Care Center<br>• Drive-Through Uses<br>• Emergency Services<br>• Farmers' Markets<br>• Food Production, Minor<br>• Gasoline Service Stations<br>• Health Services<br>• Hospice<br>• Hotel or Motel<br>• Indoor Recreation<br>• Medical Hospital Related Accessory Uses<br>• Medical Hospital Related Office<br>• Medical Hospital Related Uses<br>• Office, Medical<br>• Office, Professional<br>• Outdoor Alcoholic ~~Food and~~ Beverage Service<br>• Outdoor Entertainment and Community Events (Temporary Use)<br>• Outdoor Food and Non-Alcoholic Beverage Service<br>• Outdoor Recreation<br>• Public or Governmental Building<br>• Religious Institution<br>• Restaurant, Indoor Service<br>• Retail Business, Indoor<br>• Retail Sales, Outdoor Temporary<br>• Service Establishment<br>• Shooting Range, Indoor<br>• Storage, Open<br>• Veterinary Clinic (Domestic Animals Only)<br>• Wholesale Trade Establishment | • Accessory Use, Non-Single Family Residential Lots<br>• Hospital<br>• Manufacturing, Light<br>• Marihuana Designated Consumption Establishment<br>• Marihuana Grower – Class A<br>• Marihuana Grower – Class B<br>• Marihuana Grower – Class C<br>• Marihuana Grower – Excess<br>• Marihuana Microbusiness Light Manufacturing<br>• Marihuana Processor – Light Manufacturing<br>• Marihuana Retailer<br>• Marihuana Safety Compliance Facility<br>• Marihuana Secure Transporters<br>• Outdoor Entertainment and Community Events (Principal & Accessory Use)<br>• Pet Boarding Facility<br>• Recreational Use, Public<br>• Retail Business, Outdoor Permanent<br>• Vehicle Repair and Service<br>• Wireless Telecommunications Facilities |

**Note: (D) Dimensional Regulations will be updated to reflect the new footnotes in 54.403**

## Section 54.314 RC, Regional Commercial District

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Accessory Building or Structure<br>• Bar<br>• Child Care Center or Day Care Center<br>• Drive-Through Uses<br>• Emergency Services<br>• Farmers' Markets<br>• Food Production, Minor<br>• Gasoline Service Stations<br>• Health Services<br>• Hospice<br>• Hotel or Motel<br>• Indoor Recreation<br>• Medical Hospital Related Accessory Uses<br>• Medical Hospital Related Office<br>• Medical Hospital Related Uses<br>• Office, Medical<br>• Office, Professional<br>• Outdoor Alcoholic ~~Food and~~ Beverage Service<br>• Outdoor Entertainment and Community Events (Temporary Use)<br>• Outdoor Food and Non-Alcoholic Beverage Service<br>• Outdoor Recreation<br>• Public or Governmental Building<br>• Religious Institution<br>• Restaurant, Indoor Service<br>• Retail Business, Indoor<br>• Retail Sales, Outdoor Temporary<br>• Service Establishment<br>• Shooting Range, Indoor<br>• Storage, Open<br>• Vehicle Repair and Service<br>• Veterinary Clinic (Domestic Animals Only)<br>• Wholesale Trade Establishment | • Accessory Use, Non-Single Family Residential Lots<br>• Hospital<br>• Manufacturing, Light<br>• Marihuana Grower – Class A<br>• Marihuana Grower – Class B<br>• Marihuana Grower – Class C<br>• Marihuana Grower – Excess<br>• Marihuana Microbusiness – Light Manufacturing<br>• Marihuana Processor – Light Manufacturing<br>• Marihuana Retailer<br>• Marihuana Safety Compliance Facility<br>• Marihuana Secure Transporters<br>• Outdoor Entertainment and Community Events (Principal & Accessory Use)<br>• Pet Boarding Facility<br>• Recreational Use, Public<br>• Retail Business, Outdoor Permanent<br>• Storage, Bulk<br>• Warehousing<br>• Wholesaling Operations<br>• Wireless Telecommunications Facilities |
| Where there is a discrepancy between *Section 54.306* and this table, *Section 54.306* shall prevail. | |

**Note: (D) Dimensional Regulations will be updated to reflect the new footnotes in 54.403**

## Section 54.315 M, Municipal District

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Accessory Building or Structure<br>• Agriculture-Like Operation, including Forestry<br>• Cemetery<br>• Farmers' Markets<br>• Food Production, Minor<br>• Indoor Recreation<br>• Office, Professional<br>• Outdoor Entertainment and Community Events (Principal, Temporary, or Accessory Use)<br>• Outdoor Recreation<br>• Public or Governmental Building<br>• Recreational Use, Public<br>• School, Primary or Secondary<br>• School, University<br>• Storage, Open<br>• Wireless Telecommunications Facilities | • Accessory Use, Non-Single Family Residential Lots<br>• Port Facilities and Docks<br>• Recycling Collection and Transfer Stations<br>• Structures between the shoreline of Lake Superior and the pavement of the nearest public street or highway. |
| Where there is a discrepancy between *Section 54.306* and this table, *Section 54.306* shall prevail. | |

**Note: (D) Dimensional Regulations will be updated to reflect the new footnotes in 54.403**

## Section 54.316 C, Civic District

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Accessory Building or Structure<br>• Agriculture-Like Operation, including Forestry<br>• Cemetery<br>• Farmers' Markets<br>• Food Production, Minor<br>• Indoor Recreation<br>• Office, Professional<br>• Outdoor Entertainment and Community Events (Principal, Temporary, or Accessory Use)<br>• Outdoor Recreation<br>• Public or Governmental Building<br>• Recreational Use, Public<br>• School, Primary or Secondary<br>• School, University<br>• Storage, Open<br>• Wireless Telecommunications Facilities | • Accessory Use, Non-Single Family Residential Lots<br>• Port Facilities and Docks<br>• Structures between the shoreline of Lake Superior and the pavement of the nearest public street or highway. |
| Where there is a discrepancy between *Section 54.306* and this table, *Section 54.306* shall prevail. | |

**Note: (D) Dimensional Regulations will be updated to reflect the new footnotes in 54.403**

## Section 54.317 IM, Industrial/Manufacturing District

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Accessory Building or Structure<br>• Food Production, Minor<br>• Gasoline Service Stations<br>• Indoor Recreation<br>• Manufacturing, Light<br>• Office, Medical<br>• Office, Professional<br>• Outdoor Entertainment and Community Events (Temporary)<br>• Public or Governmental Building<br>• Railroad Facilities<br>• Religious Institution<br>• Retail Business, Indoor<br>• Service Establishment<br>• Shooting Range, Indoor<br>• Storage, Open<br>• Vehicle Repair and Service<br>• Veterinary Clinic (Domestic Animals Only)<br>• Warehousing<br>• Wholesale Trade Establishment<br>• Wholesaling Operations<br>• Wireless Telecommunications Facilities | • Accessory Use, Non-Single Family Residential Lots<br>• Adult Entertainment Uses<br>• Major Repair and Maintenance Operations<br>• Marihuana Grower – Class A<br>• Marihuana Grower – Class B<br>• Marihuana Grower – Class C<br>• Marihuana Grower – Excess<br>• Marihuana Microbusiness – Light Manufacturing<br>• Marihuana Microbusiness – Heavy Manufacturing<br>• Marihuana Processor – Light Manufacturing<br>• Marihuana Processor – Heavy Manufacturing<br>• Marihuana Retailer<br>• Marihuana Safety Compliance Facility<br>• Marihuana Secure Transporters<br>• Manufacturing, Heavy<br>• Pet Boarding Facility<br>• Retail Business, Outdoor Permanent<br>• Storage, Bulk |
| Where there is a discrepancy between *Section 54.306* and this table, *Section 54.306* shall prevail. | |

**Note: (D) Dimensional Regulations will be updated to reflect the new footnotes in 54.403**

## Section 54.318 CR, Conservation and Recreation District

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Accessory Building or Structure<br>• Agriculture-Like Operation, including Forestry<br>• Food Production, Minor<br>• Outdoor Entertainment and Community Events (Accessory, Temporary, and Principal)<br>• Outdoor Alcoholic Beverage Service<br>• Outdoor Food and Non-Alcoholic Beverage Service<br>• Outdoor Recreation<br>• Public or Governmental Building<br>• Recreational Use, Public<br>• Storage, Open | • Accessory Use, Non-Single Family Residential Lots<br>• Natural Resource Extraction Operations<br>• ~~Outdoor Entertainment and Community Events (Principal or Accessory Use)~~<br>• Port Facilities and Docks<br>• Recreational Use, Land Intensive<br>• Structures between the shoreline of Lake Superior and the pavement of the nearest public street or highway.<br>• Wireless Telecommunications Facilities |
| Where there is a discrepancy between *Section 54.306* and this table, *Section 54.306* shall prevail. | |

**Note: (D) Dimensional Regulations will be updated to reflect the new footnotes in 54.403**

## Section 54.319 BLP, Board of Light and Power District

| (B) Permitted Principal Uses | (C) Special Land Uses |
|---|---|
| • Accessory Building or Structure<br>• Agriculture-Like Operation, including Forestry<br>• Food Production, Minor<br>• Major Repair and Maintenance Operations<br>• Outdoor Entertainment and Community Events (Temporary)<br>• Outdoor Recreation<br>• Public or Governmental Building<br>• Recreational Use, Public<br>• Storage, Bulk<br>• Storage, Open<br>• Utility Electrical Power Generation<br>• Warehousing<br>• Wireless Telecommunications Facilities | • Accessory Use, Non-Single Family Residential Lots<br>• Port Facilities and Docks<br>• Recreational Use, Land Intensive |
| Where there is a discrepancy between *Section 54.306* and this table, *Section 54.306* shall prevail. | |

**Note: (D) Dimensional Regulations will be updated to reflect the new footnotes in 54.403**

## Section 54.321 Marquette Downtown Waterfront District Form-Based Code

### (B) The Downtown Waterfront District Regulating Plan.

**(2) Rules for New Development.** New development in the Downtown Waterfront District shall integrate street (roadway) design and land development to create a complementary and connected pattern for growth and development. The rules below will establish/create a compact, mixed-use district and provide flexible opportunities for residential, employment, commerce, and recreational uses.

**(a) Streets~~,~~ and Blocks and Alleys**

**(v)** ~~Where designated on the REGULATING PLAN~~ In the case of an existing alley/access easement, except where lots are on a perimeter common to non-developable, lakeshore, or conservation lands:

**a.** ALLEYS shall provide access to the rear of all lots and are ~~. ALLEY construction is~~ required as part of the redevelopment project within the rear setback~~, unless an ALLEY already exists~~. ALLEYS shall be ~~constructed~~ reconstructed if existing, to meet the City construction standards in order to be suitable for emergency and service vehicle access.

**b.** ~~ALLEYS shown on the REGULATING PLAN represent suggested & approximate configurations.~~ Access through the BLOCK and to the rear of lots within the BLOCK is required to be maintained by existing alleys/access easements. The specific configuration may include shared parking areas and other uses so long as reasonable service access is relatively unimpeded.

~~**c.** Where an alley does not exist and is not feasible to construct at the time of redevelopment of any property, the applicant is required to maintain the area within the rear setback by, at a minimum:~~

~~**i.** Sodding and providing routine landscape maintenance to the area.~~

~~**ii.** Keeping the area clear of debris, stored materials, and vehicles.~~

**(~~vi~~ v)** Stub streets shown on the REGULATING PLAN are not considered to be established until the City of Marquette obtains the property. Until this occurs, the RBL/RBZ will be the current property line.

**(b)** Buildings

**(vi)** Cladding materials shall be of typical wood finish materials, typical masonry materials (e.g. brick, stone, concrete, cement, tile, stucco, granite, limestone, cast stone), and non-polished metals, unless otherwise designated by the individual building form standards. Glass curtain walls, reflective glass, and other materials of greater than 30% reflectance are prohibited due to the undesirable blinding effect compounded by snow. Metal cladding shall be limited to not more than 40% of the non-fenestrated façade area, except in the Working Waterfront and Workshop Flex subdistricts.

**(vii)** Cladding may consist of no more than fifty (50) percent white-grey-black coloration; at least fifty (50) percent of cladding coloration must be any primary, secondary, or tertiary colors, or combinations and hues of these colors.

**(~~vii~~ viii)** Mechanical and electrical equipment including, but not limited to, air

compressors, pumps, exterior water heaters, water softeners, private garbage cans (not including public sidewalk waste bins), and storage tanks must be screened in accordance with *Section 54.1003(F)* and *Section 54.1003(G)*.

**(d)** Parking

**(iii)** Achieving Parking:

**a.** Parking requirements may be met either on-site or within a ~~600~~ 2,000 foot radius of the development parcel.

**b.** Shared parking shall be designated by appropriate signage and markings as required by City policy.

**c.** Vehicular parking spaces may not be placed over a public utility easement without the approval of the City Engineer and the Zoning Administrator, except where Planning Commission approval is required.

**(C) Building Form Standards.**

**(3) Limited and Prohibited Uses (within the Downtown Waterfront District).** The items below have been placed into Figure 10, which is shown on the following page.

~~**(a) Uses Permitted By Right.** See the individual Building Form Standard pages.~~

~~**(b) SPECIAL LAND USES (RESIDENTIAL USE areas – see definitions):**~~

~~**(i)** Group Day Care Home (*Section 54.608*)~~

~~**(ii)** Foster Family Group Home~~

~~**(iii)** Halfway House (*Section 54.620*)~~

~~**(iv)** Homeless Shelter (*Section 54.623*)~~

~~**(c) SPECIAL LAND USES (COMMERCE and Other)**~~

~~**(i)** Wireless Telecommunications Facilities (*Section 54.644*)~~

~~**(ii)** Outdoor Entertainment and Community Events (*Section 54.635*)~~

~~**(iii)** Recreation Use, Public~~

~~**(iv)** Marihuana Microbusiness – Light Manufacturing (*Section 54.628*)~~

~~**(v)** Marihuana Retailer (*Section 54.628*)~~

~~**(vi)** Marihuana Processor – Light Manufacturing (*Section 54.628*)~~

~~**(vii)** Marihuana Safety Compliance Facility (*Section 54.628*)~~

~~**(d) SPECIAL LAND USES in the G3 and G5 sub-districts**~~

~~**(i)** Marihuana Designated Consumption Establishment (*Section 54.628*)~~

**Figure 10. Downtown Marquette Waterfront District Table of Permitted and Special Uses**

**Key: P=Permitted S=Special Land Use [blank]=Use Not Permitted**

| USE | G3 | G5 | NL | WWZ | WF | F5 |
|---|---|---|---|---|---|---|
| **A. RESIDENTIAL** | | | | | | |
| Dwelling Units (see *Article 6*) | P | P | P | P | P | P |
| Bed and Breakfasts (see *Section 54.603*) | P | P | P | P | P | P |
| Bed and Breakfast Inns (see *Section 54.604*) | P | P | P | P | P | P |
| Adult Foster Care Family Home | P | P | P | P | P | P |
| Family Day Care Homes | P | P | P | P | P | P |
| Foster Family Homes | P | P | P | P | P | P |
| Domestic Violence Shelter (see *Section 54.610*) | P | P | P | P | P | P |
| Homestays (see *Section 54.624*) | P | P | P | P | P | P |
| Vacation Home Rentals (see *Section 54.624*) | P | P | P | P | P | P |
| Home Office (see *Section 54.622*) | P | P | P | P | P | P |
| Home Occupation (see *Section 54.621*) | P | P | P | P | P | P |
| Group Day Care Home (*Section 54.608*) | S | S | S | S | S | S |
| Foster Family Group Home | S | S | S | S | S | S |
| Halfway House (*Section 54.620*) | S | S | S | S | S | S |
| Homeless Shelter (*Section 54.623*) | S | S | S | S | S | S |
| **B. RETAIL** | | | | | | |
| Retail Service | P | P | | P | P | P |
| Retail Specialty | P | P | | P | P | P |
| Retail Trade | P | P | | P | P | P |
| **C. CIVIC** | | | | | | |
| Community uses open to the public including: meeting halls; libraries; schools; police and fire stations; post offices (retail operations only, no primary distribution facilities); places of worship; museums; cultural, visual and performing art centers; and government functions open to the public. | P | P | | P | P | P |
| **D. COMMERCE** | | | | | | |
| Executive, Administrative, and Professional Offices (See *Section 54.633*) | P | P | | P | P | P |
| Medical and Dental Offices, and Clinics (See *Section 54.633*) | P | P | | P | P | P |
| Day Care Centers (See *Section 54.609*) | P | P | | P | P | P |
| On-premise Alcohol Sales | P | P | | P | P | P |
| Outdoor Alcoholic Beverage Service (See *Section 54.636*) | P | P | | P | P | P |
| Outdoor Food and Non-Alcoholic Beverage Service (See *Section 54.637*) | P | P | | P | P | P |
| All of the Civic Use Categories Except Passenger Terminals | P | P | | P | P | P |
| All of the Retail Use Categories | P | P | | P | P | P |
| Parking Facilities and Structures, including a parking lot attendant shelter. | P | P | | P | P | P |
| **E. LIGHT INDUSTRIAL** | | | | | | |
| Light Manufacturing (See *Section 54.627*) | P | P | | P | P | P |
| Waterfront Related Repair and Maintenance | P | P | | P | P | P |
| Mooring and Docking of Boats | P | P | | P | P | P |
| Winter Storage of Watercraft Between the Dates of October 1st and May 30th | P | P | | P | P | P |
| **F. OTHER** | | | | | | |
| Wireless Telecommunications Facilities (See *Section 54.647*) | S | S | | S | S | S |
| Outdoor Entertainment and Community Events (See *Section 54.635*) | ~~S~~ P | ~~S~~ P | | S | S | S |
| Recreation Use, Public | S | S | | S | S | S |
| Marihuana Microbusiness – Light Manufacturing (See *Section 54.628*) | S | S | | S | S | S |
| Marihuana Retailer (See *Section 54.628*) | S | S | | S | S | S |
| Marihuana Processor – Light Manufacturing (See *Section 54.628*) | S | S | | S | S | S |
| Marihuana Safety Compliance Facility (See *Section 54.628*) | S | S | | S | S | S |
| Marihuana Designated Consumption Establishment (See *Section 54.628*) | S | S | | | | |

| **(D) Marquette Waterfront – General 3** |
|---|
| **(4) GROUND STORY Height: Residential Units (General 3)** |
| **(a)** The finished floor elevation shall be no more than 7 feet above the exterior sidewalk elevation at the REQUIRED BUILDING LINE.<br>**(b)** The first STORY shall have an interior clear height (floor to ceiling) of at least 8 feet and a maximum floor to ceiling or mezzanine floor height of 12 feet. |
| **(6) Mezzanines (General 3)** |
| Mezzanines having a floor area greater than 1/3 of the floor area of the story in which the mezzanine is situated shall be counted as full stories. |

| **(E) Marquette Waterfront – General 5** |
|---|
| **(4) GROUND STORY Height: Residential Units (General 5)** |
| **(b)** The first STORY shall have an interior clear height (floor to ceiling) of at least 8 feet and a maximum floor to ceiling or mezzanine floor ~~STORY HEIGHT~~ height of 12 feet. |

| **(I) Marquette Waterfront - Founders 5** |
|---|
| **(4) GROUND STORY HEIGHT: RESIDENTIAL Units (Founders 5)** |
| **(b)** The first STORY shall have an interior clear height (floor to ceiling) of at least 8 feet and a maximum floor to ceiling or mezzanine floor ~~STORY HEIGHT~~ height of 12 feet. |

## Section 54.322 Third Street Corridor District Form-Based Code

**(A) Third Street Corridor District Form-Based Code Introduction.**

**(1) Intent.**

**(2) Conflicting Ordinances.**

**(3) Pre-Existing Conditions.** (moved up from item B.2 for greater clarity)

**~~(3)~~(4) Transect Districts.**

**~~(4)~~(5)Approval Process.**

**~~(5) Appeals.~~**

**(6) Third Street Corridor Form-Based Code General Standards.**

**(1) Instructions.** (moved up from item B.1 for greater clarity)

**~~(6)~~(7) The Third Street Regulating Plan.**

**(d) Parking and access:**

**~~(iii)~~** ~~Where designated on the regulating plan:~~

~~a. Alleys shall provide access to the rear of all lots. Alley construction within the rear setback is required as part of a redevelopment project. Alleys shall be constructed to meet the City construction standards in order to be suitable for emergency and service vehicle access.~~

~~b. Alleys shown on the regulating plan represent suggested & approximate configurations. Access through the block and to the rear of lots within the block is required. The specific configuration should include shared parking areas and other uses so long as reasonable service access is unimpeded.~~

**(f) Civic Spaces (CS)** (moved up from item B.3 for greater clarity)

~~**(7)**~~**(8) How to Use this Section.**

~~**(8)**~~**(9)Definitions**

~~**(5)**~~**(10) Appeals.**

~~**(B) Third Street Corridor Form-Based Code General Standards.**~~

~~**(1) Instructions.**~~ (Moved to item A.6 for greater clarity)

~~**(a)** Site and buildings plans submitted under this Section require administrative approval by the Planning Department.~~

~~**(b)** Building and site plans submitted under this Section shall show the following, in compliance with the standards described in this Section:~~

~~**(i)** For site and building approval:~~

~~**a.** Building Placement~~

~~**b.** Building Specifications~~

~~**c.** Building Use~~

~~**d.** Parking Standards~~

~~**e.** Fencing Standards~~

~~**f.** Landscape Standards~~

~~**g.** Signage Standards~~

~~**(2) Pre-Existing Conditions.**~~ (Moved to item A.3 for greater clarity)

~~**(a)** Existing buildings and appurtenances that do not conform to the provisions of this Section may continue in use as they are until a *substantial modification* is requested.~~

~~**(b)** The modification of existing buildings is permitted by right if such changes result in greater conformance with the specifications of this Section.~~

~~**(3)** **Civic Spaces (CS)**~~ (Moved to item A.7 for greater clarity)

**(a)** *Civic spaces* shall be generally designed as described in *Figure 1~~0~~2. Civic Space*.

**(C) Third Street Corridor Form-Based Code Parcel Standards**

**(4) Fencing Standards.**

**(c)** No single *frontage* fence horizontal panel shall exceed 42 inches in height along a *frontage* lot line. *Frontage* fence horizontal panels must be of open construction.

**(d)** Private lot line fences, fences in the front or side yard, as well as fences completely on private property, must be of fifty-percent open construction (see examples in *Figure ~~19~~21*), with the following conditions and exceptions:

**(i)** A fence in a front yard serves as a decorative landscape element, and must have at least 50% of the area of its vertical plane open to light and air from both sides. Picket fences, wrought iron fences, wood lattice, and combinations thereof are appropriate. Split-rail, wire-woven, mesh-like and other similar appearing fences, including those commonly referred to as cyclone and chain- link fences, and mesh-like fences commonly used to contain farm animals are prohibited.

**(ii)** Private lot line fences in the side yard shall not exceed 48 inches in height; in a rear yard private lot line fences shall be between 48 and

72 inches in height and may be of open or closed construction. See *Figure 2~~1~~3. Fence Locations*.

**(iii)** A fence and/or wall in the side or rear yard for an approved commercial Outdoor ~~Food and~~ Alcoholic Beverage Service Use, and for Outdoor Entertainment and Community Events uses approved by a Special Land Use permit, may be up to eight (8) feet in height and of solid/opaque construction for the purposes of visual and noise screening of that particular use.

**(iv)** A solid/screening fence is allowed along the lot line that has a commercial off-street parking lot abutting a residential use,

**(3) Building Specifications: Frontage Requirements**

**(c)** Where building façades do not occupy the entire frontage length in T5, a *street screen* may be erected as follows, provided it meets Section 54.704 Clear Vision Triangle:

**(i)** *Street screens* shall be between 3 and 6 feet in height.

**(ii)** Openings in the *street screen* for vehicular access may be no wider than 24 feet.

**(6) Architectural Standards.** This section does not apply to single-family and two-family edge yard and side yard residential unit building types.

**(a) *Façade* Standards:**

**(ii)** The *shopfront private frontage* shall be no less than ~~70%~~ 30% glazing (i.e., windows).

**(v)** Exterior building materials shall be masonry, concrete, tile, stone, and wood, unless otherwise designated by the individual building form standards; glass curtain walls and reflective glass of greater than 30% reflectance are prohibited due to the undesirable blinding effect compounded by snow.

**(viii)** Cladding may consist of no more than fifty (50) percent white-grey-black coloration; at least fifty (50) percent of cladding coloration must be any primary, secondary, or tertiary colors, or combinations and hues of these colors.

**(7) Use.** Buildings, as the primary element of town planning, are subject to variations in use, placement and configuration.

**(d)** General to all sub-districts:

**(i)** All buildings in each transect district shall conform to the use and types on *Figure 2~~2~~4. ~~Use~~ Table of Permitted Land Uses and Special Land Uses in the TSC Districts*

**(ii)** No commercial use is permitted above a residential use.

## Figure ~~22. Use~~ 24. Table of Permitted Land Uses and Special Land Uses in the TSC District

**Key: P=Permitted S=Special Land Use [blank]=Use Not Permitted**

| USE | T4 | T5 | USE | T4 | T5 |
|---|---|---|---|---|---|
| **A. RESIDENTIAL** | | | **E. INSTITUTIONAL** | | |
| Mixed-use building | P | P | Conference center | | P |
| Multi-family dwelling (*Section 54.616*) | P | P | Live theater | S | P |
| *Live-work* unit (*Section 54.615*) | P | P | Movie theater | S | P |
| Two-family dwelling (*Sections 54.613 & 54.403(C & D)*) | P | P | Museum | P | P |
| Townhouse | P | P | Religious assembly (*Section 54.640*) | P | P |
| Mixed-use building | P | P | **F. AUTOMOTIVE** | | |
| Multi-family dwelling (*Sections 54.616 & 54.403(E)*) | P | P | Gasoline | P | P |
| *Live-work* unit (*Section 54.615*) | P | P | Service | P | P |
| Two-family dwelling (*Section 54.613*) | P | P | Sales | P | P |
| Townhouse | P | P | Truck maintenance (*Section 54.627*) | | |
| Single-family dwelling (*Section 54.617*) | P | P | Drive-through facility (*Section 54.611*) | P | P |
| Group day care home (*Section 54.608*) | S | S | **G. CIVIL SUPPORT** | | |
| Foster family home | S | S | Funeral home | P | P |
| Halfway house (*Section 54.620*) | S | S | Hospital (*Section 54.625*) | | S |
| Home occupation (*Section 54.621*) | P | P | Medical clinic | P | P |
| Home office (*Section 54.622*) | P | P | Veterinary clinic | P | P |
| Dwelling, Intentional Community (*Section 54.614*) | S | S | Pet boarding facility | S | S |
| Family Day Care Home | P | P | Cemetery (*Section 54.606*) | S | S |
| Adult Foster Care Family Home | P | P | Public or Governmental Building | P | P |
| Domestic Violence Shelter (*Section 54.610*) | S | S | Recreational Use, Public | S | S |
| **B. LODGING** | | | **H. EDUCATION** | | |
| Hotel or Motel | S | P | High school | S | S |
| Bed & Breakfast Inn (up to 12 rooms) (*Section 54.604*) | P | P | Elementary school | P | P |
| Bed & Breakfast (up to 6 rooms) (*Section 54.603*) | P | P | Day care center | P | P |
| Rooming Houses (*Section 54.6423*) | S | S | **I. INDUSTRIAL** | | |
| Hospital Hospitality Houses (*Section 54.626*) | S | S | Heavy industrial facility (*Section 54.627*) | | |
| Homestays and Vacation Home Rentals (*Section 54.624*) | P | P | Light industrial facility (*Section 54.627*) | S | S |
| **C. OFFICE** | | | Laboratory facility | S | S |
| Office building (*Section 54.633*) | P | P | Warehouse | S | S |
| Mixed-use building | P | P | Mini-storage | | S |
| *Live-work* unit (*Section 54.615*) | P | P | Marihuana Safety Compliance Facility (*Section 54.628*) | S | S |
| **D. RETAIL** | | | **J. OTHER USES** | | |
| Outdoor Entertainment and Community Events(Temporary Use) (*Section 54.635(B)*) | P | P | Accessory Building or Structure (See *Figure 134*, *Figure 135*, and ,as applicable, *Section 54.705*) | P | P |
| Outdoor Entertainment and Community Events (Accessory or Principal Use) (*Section 54.635(C) or (D)*) | S | S | Accessory Use, Non-Single Family ResidentialLots | S | S |
| Retail building | P | P | Accessory Use, Single-Family Residential Lots | P | P |
| Gallery | P | P | Commercial Service Establishment | P | P |
| Restaurant, Indoor Service and with or without Outdoor Food and Non-Alcoholic Beverage Service (*Section 54.637*) | P | P | Food Production, Minor | P | P |
| Restaurant, with Outdoor ~~Food and~~ Alcoholic Beverage Service (*Section 54.636*) | S | S | Outdoor Recreation | P | P |
| Mixed-use building | P | P | Wireless Telecom Facilities (*Section 54.6447*) | S | S |
| Open/outdoor market building | P | P | | | |
| Retail Sales, Outdoor Temporary (*Section 54.638*) | P | P | | | |
| Indoor Recreation | P | P | | | |
| Farmers' Markets (*Section 54.618*) | P | P | | | |
| Kiosk | P | P | | | |
| Push cart | P | P | Permitted Use | | P |
| Marihuana Retailer (*Section 54.628*) | | S | Special Land Use | | S |

**(8) Parking Location and Access.**

**(a)** Parking shall not be located within ~~25~~ 20 feet of the primary *frontage*.

**(b)** Required parking may be fulfilled in the following locations:

**(i)** Parking spaces provided within the lot.

**(ii)** Parking spaces provided along a parking lane (on-street) corresponding to lot *frontages*.

**(iii)** Parking spaces may be leased from a private or public parking facility within ~~500~~ 2,000 feet of the lot.

# Article 4 Schedule of Regulations

## Section 54.402 Schedule of Regulations

| Zoning District | Minimum Lot Dimensions | | Minimum Setback Requirements (T) | | | | Maximum Height of Structures (P) | | Maximum Impervious Surface Coverage of the Lot |
|---|---|---|---|---|---|---|---|---|---|
| | Size (sq. ft.) | Width (feet) | Front Yard (feet) | Side Yards (feet) | | Rear Yard (feet) | Primary Building (feet) | Accessory Building (feet) | |
| | | | | Smallest Side | Total of Two Sides | | | | |
| LDR, Low Density Residential | 8,100 | 60 | 20, (B) | 10 (L) | 20 (L) | 30 (L) | 31.5 | (L) | (R) |
| MDR, Medium Density Residential | 4,500 (C) | 37.5 (D) | 15 (A), (B) | 5 (L) | 13 (L) | 20 (L) | 31.5 | (L) | (R) |
| MFR, Multi-Family Residential (J K)<br>5+ Multiple Family Units<br>MFR,1-4 Units and other uses identified in 54.309 (K) | 15,000 (C)<br>9,000 (E) | 100 (D)<br>75 (E) | 15 (A)<br>15 (A) | 15 (H), (L), (M)<br>10 (H, L, M) | 30((H), (L), (M)<br>20 (H, L, M) | 30 (H), (L), (M)<br>30 (H, L, M) | 44 (M)(N)<br>~~36.5~~ | (L) | (R or S) |
| MHP, Mobile Home District | See Section 54.630 | | | | | | | | |
| M-U, Mixed-Use | 4,800 (C)(E) | 40 (D)(E) | 0 (E), (F), (G) | 5 (I), (L), (N) | 13 (I), (L), (N) | 20 (I), (L), (N) | 44 (N) | (L) | (R or S) |
| CBD, Central Business District | None | None | 0 | 5 (I) | 10 (I) | 10 (J) | 60 | 18 | (R or S) |
| GC, General Commercial | None | None | 0 (F) (G) | 15 (I) | 30 (I) | 20 | 40 | 18 | (S) |
| RC, Regional Commercial | None | None | 30 | 15 | 30 | 20 | 40 | 18 | (S) |
| M, Municipal | None | None | None | None | None | None | None | None | (S) |
| C, Civic | None | None | None | 5 | 10 | 20 | 60 | 24 | (S) |
| IM, Industrial/Manufacturing | None | None | 40 | 20 | 40 | 40 | 80 (O) | 60 (O) | (S) |
| CR, Conservation/Recreation | None | None | 15 | 50 | 100 | 20 (Q) | 36.5 | 18 | (S) |
| BLP, Board of Light and Power | None | None | 40 | 20 | 40 | 40 | None | None | (S) |
| Marquette Downtown Waterfront District Form-Based Code (see Section 54.321) | | | | | | | | | |
| Third Street Corridor Form-Based Code (see Section 54.322) | | | | | | | | | |

## Section 54.403 Footnotes to Schedule of Regulations

**(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~~ on the same block 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.

~~(1) 6,000 sq. ft. for lots created prior to the adoption of this Ordinance.~~
~~(2) 9,000 sq. ft. for lots created after the adoption of this Ordinance.~~

**(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.

~~(1) 50 feet for lots created prior to the adoption of this Ordinance.~~
~~(2) 75 feet for lots created after the adoption of this Ordinance.~~

**(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.

Existing items E-S would need to be moved up one letter place if item (E) above, which would become (F), is adopted. The item below is currently item E.

**(~~E~~ 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.

**(~~M~~ 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.

**(~~O~~ 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.

# Article 5 Supplemental Zoning District Standards

## Section 54.503 Condominium Developments

**(G) Design and Engineering Standards and Required Improvements for Condominium Developments.** The design and engineering standards for condominium developments, as well as required improvements for condominium developments, shall be the same as those required for subdivisions in *Section 54.501(E)*.

**(1) Exception:** If there are no other public streets within 1,500 feet of the nearest site condominium parcel line, then the site condominium parcel can have private road frontage and any of the street development standards do not have to be met in Section 54.501(E) (1), (2), (6), (7), and (8) items. The standards in Section 54.401(E) (3), (4), (5), and (6) do have to be met, however any reference to "street" will be replaced with "private road".

# Article 6 Standards Applicable to Specific Land Uses

## Section 54.603 Bed and Breakfast Home

**(A) Room Size**. A minimum room size of 70 Sq. Ft. for the first occupant and an additional 50 Sq. Ft. for each occupant thereafter shall be provided.

**(B) Length of Stay.** No one guest's stay is to exceed 14 consecutive days.

**(C) Parking.** In Residential Districts and the M-U District, there must be at least one (1) space per room, plus two (2) spaces for the owner. In Commercial Districts, parking shall be provided in accordance with the requirements provided in the Zoning Ordinance for hotels and motels.

**(D) Signage.** A Bed and Breakfast Home licensed under the ordinance shall be allowed one additional sign on the property. The sign shall be non- illuminated, mounted flush against the building, with a maximum size of five (5) square feet. Other signage shall be regulated by *Article 11*.

**(E) Proximity.** In Residential Districts, a Bed and Breakfast Home shall not be located within 300 lineal feet measured along the street right-of-way of another Bed and Breakfast Home or Bed and Breakfast Inn.

**(F) Transferability.** Special land use permits for Bed and Breakfast Homes in a Residential District may not be transferred from owner to owner without Planning Commission approval.

**(G) Code Compliance.** A Bed and Breakfast Home shall not commence or continue to operate without compliance with all applicable code requirements. Owners shall submit to inspections of both the exterior and interior of the dwelling to ensure compliance with health, safety, and welfare regulations pursuant to all applicable city code requirements.

**(H) Structure.** Building modifications or additions shall be architecturally designed to blend with the character of the existing structure and neighborhood.

**(I) Site Plans.** A site plan meeting the specifications of the Land Development Code shall be submitted with the application prior to a public hearing for a Bed and Breakfast Establishment.

**(J) Review Considerations.** The Planning Commission shall be guided by the standards set forth in *Section 54.1402(E)*.

**(K)** **Serving Full Breakfast.** If the bed and breakfast has 8 or fewer rooms (including owner and family rooms), a full breakfast can be served without a food service license as long as it is a packaged deal. A bed and breakfast that has 9 or more rooms should be licensed with the County health Department, when serving a full breakfast. (changed to conform with state health department standards)

## Section 54.604 Bed and Breakfast Inn

**(A)** **Room Size.** A minimum room size of 70 sq. ft. for the first occupant and an additional 50 sq. ft. for each occupant thereafter shall be provided.

**(B)** **Length of Stay.** No one guest's stay is to exceed 14 consecutive days.

**(C)** **Parking.** In non-Commercial Districts, one space per room, plus two (2) spaces for the owner. In Commercial Districts, parking shall be provided in accordance with the requirements provided in the Zoning Ordinance for hotels and motels.

**(D)** **Signage.** Signage regulated by *Article 11*.

**(E)** **Proximity.** In Residential Districts, Bed and Breakfast Inns shall not be located within 300 lineal feet measured along the street right-of-way of another Bed and Breakfast Inn or Bed and Breakfast Home.

**(F)** **Transferability.** Special land use permits for Bed and Breakfast Inns in a Residential District may not be transferred from owner to owner without Planning Commission approval.

**(G)** **Code Compliance.** A Bed and Breakfast Inn shall not commence or continue to operate without compliance with all applicable code requirements. Owners shall submit to inspections of both the exterior and interior of the dwelling to ensure compliance with health, safety, and welfare regulations pursuant to all applicable city code requirements.

**(H)** **Structure.** No main building shall be removed in order to allow for a Bed and Breakfast Inn in residential districts nor shall such a structure be removed in order to provide parking for such an establishment. Building modifications or additions shall be architecturally designed to blend with the character of the existing structure and neighborhood in residential districts.

**(I)** **Site Plans.** A site plan meeting the specifications of the Land Development Code shall be submitted with the application prior to a public hearing for a Bed and Breakfast Establishment.

**(J)** **Review Considerations.** The Planning Commission shall be guided by the standards set forth in *Section 54.1402(E)* and, if applicable, *Section 54.1403(C)* if the Bed and Breakfast Inn is a special land use.

**(K)** **Serving Full Breakfast.** If the bed and breakfast has 8 or fewer rooms (including owner and family rooms), a full breakfast can be served without a food service license as long as it is a packaged deal. A bed and breakfast that has 9 or more rooms should be licensed with the County health Department, when serving a full breakfast. (changed to conform with state health department standards)

## Section 54.611 Drive-Through Uses

**(A)** **Building Design.** Drive-through uses must be built as an integral architectural element of the primary structure and use. Building materials shall be the same as those used in the primary structure. Drive through facilities and structures separate from the primary structure are prohibited.

**(B)** **Drive-Through Setback.** Drive-through uses, including the drive-through window and any canopies, must be located to the rear or side of the primary structure, except that corner parcels may use one (1) frontage of the building for drive-through window service. All drive- through service windows must be set back a minimum of eight (8) feet from the front building wall of the primary structure.

**(C)** **Traffic and Pedestrian Safety.** A curb opening for a driveway is prohibited where the driveway would create a safety or traffic hazard because of its location in relation to pedestrian entrances or crossings.

**(D)** **Stacking Lane Location.** Stacking lanes may not be located in a required front yard setback and must not create hazardous conditions for pedestrians or other users on the site or in any adjacent right-of-way.

**(1)** For new construction, the payment or pickup window must be at least 40 feet from the closest point of the sidewalk vehicles were required to cross to access the window in order to accommodate two waiting motor vehicles.

**(2)** Existing sidewalk shall not be replaced with a driveway apron in new construction.

**(3)** Customers on foot, bicycle, in a wheelchair, etc. may not be prohibited from use.

**(E)** **Headlight Glare.** Drive-through uses must be designed and configured and screened such that glare from the headlights of vehicles waiting in the stacking lane is obstructed from shining into neighboring residential or commercial uses, and so that glare does not create a driving hazard on streets or roads abutting the drive-through use.

**(F)** **Landscaping.** A landscape buffer meeting the requirements of *Section 54.1003* shall be provided along rear and side lot lines of a drive-through use located adjacent to a residentially zoned or used property

**(G)** **Screening.** Where a drive-through/stacking lane is adjacent to a residential zoning district or a property being used primarily for residential dwelling a six-foot (6') screening fence shall be placed on the commercial property for the length of the drive-through/stacking lane and to the end wall of the building in which the pick-up window resides.

## Section 54.612 Dwelling, Accessory Unit

Accessory dwelling units (ADU) shall comply with all of the following standards:

**(H) Attachment Options.** The ADU may be attached to the single-family dwelling ~~or~~ and constructed on ~~the second~~ any story of a conforming detached accessory building on the site, including the basement level. If the ADU is attached to the single-family dwelling, the ADU may be located within the existing footprint or added to the existing footprint, provided all of the requirements of this Ordinance are met.

## Section 54.635 Outdoor Entertainment and Community Events

**(B) Outdoor Entertainment and Community Event as a Temporary Use Requiring a Permit.**

**(3) Development Standards.** The following must be addressed to the satisfaction of the Zoning Administrator or Planning Commission, as applicable:

**(a)** Adequate access and off-street parking must be provided. Vehicle circulation and traffic control may be subject to Police Department approval. Parking space requirements may be reduced per section 54.902(I).

## Section 54.636 Outdoor ~~Food and~~ Alcoholic Beverage Service

**(A) Outdoor Food and/or Alcoholic Beverage Service on Public Property.** Outdoor food and beverage service (including alcoholic beverages) on public property is subject to the requirements of Chapter 12 (Business), Article 6 (Sidewalk Café Permits) of the City Code of Ordinances.

**(B) Outdoor ~~Food and~~ Alcoholic Beverage Service on Private Property.** Outdoor ~~food and~~ alcoholic beverage service on private property is subject to the following requirements:

**(1) Accessibility.** Outdoor ~~food and~~ alcoholic beverage service on private property shall be located in a manner that will not interfere with vehicular or pedestrian mobility or access, and shall meet Michigan barrier-free requirements. Outdoor ~~food and~~ alcoholic beverage service areas shall not obstruct the entrance to any building or sidewalk, nor shall they obstruct any barrier-free ramp or access aisle. If outdoor ~~food and~~ alcoholic beverage service areas are located on a private sidewalk, a minimum five (5) foot wide unobstructed pathway shall be maintained on the sidewalk, for pedestrian traffic.

**(3) Location of Outdoor ~~Food and~~ Alcoholic Beverage Service Areas.** Tables and chairs must remain within a well-defined and clearly marked area. The City may require enclosures consisting of metal railing, brick walls, landscape planters or other suitable materials using decorative, wrought iron fencing, or other suitable materials. The City may permit temporary enclosure structures, provided the temporary enclosure structures meet the requirements of *Section 54.705(F)*.

**(D) Vehicle Parking Requirements.** Parking space requirements may be reduced per section 54.902(I).

## Section 54.637 Outdoor Food and Non-Alcoholic Beverage Service

**(A) Outdoor Food and Non-Alcoholic Beverage Service on Public Property.** Outdoor food and non-alcoholic beverage service on public property is subject to the requirements of Chapter 12 (Business), Article 6 (Sidewalk Café Permits) of the City Code of Ordinances.

**(B) Outdoor Food and Non-Alcoholic Beverage Service on Private Property.** Outdoor food and non-alcoholic beverage service on private property is subject to the following requirements:

**(1) Accessibility.** Outdoor food and beverage non-alcoholic service on private property shall be located in a manner that will not interfere with vehicular or pedestrian mobility or access, and shall meet Michigan barrier-free requirements. Outdoor food and non-alcoholic beverage service areas shall not obstruct the entrance to any building or sidewalk, nor shall they obstruct any barrier- free ramp or access aisle. If outdoor food and non-alcoholic beverage service areas are located on a private sidewalk, a minimum five (5) foot wide unobstructed pathway shall be maintained on the sidewalk, for pedestrian traffic.

**(2) Mobile Food Vending Units.** Mobile Food Vending Units per Chapter 35 of the City Code are not considered Outdoor Food and Beverage Service.

**(3) Location of Outdoor Food and Non-Alcoholic Beverage Service Areas.** Tables and chairs must remain within a well-defined and clearly marked area. The City may require enclosures consisting of metal railing, brick walls, landscape planters or other suitable materials using decorative, wrought iron fencing, or other suitable materials. The City may permit temporary enclosure structures, provided the temporary enclosure structures meet the requirements of *Section 54.705(F)*.

**(C) Outdoor Entertainment and Community Events.** See *Section 54.635*.

**(D) Vehicle Parking Requirements.** Parking space requirements may be reduced per section 54.902(I).

## Section 54.637~~7~~8 Outdoor Temporary Retail Sales

**(A)** Temporary retail sales areas, for approved commercial land uses, may be permitted to occupy not more than twenty-five percent (25%) of the existing or required parking spaces on the site, for a total of not more than 90 days in any 12-month period. The location of sales merchandise and/or temporary structures shall not interfere with pedestrian accessibility, traffic patterns, or access to remaining parking spaces. Prior to placement of merchandise or erection of temporary structures, the Zoning Administrator must be notified of the date of removal. The location and construction of all temporary structures (including tents) erected in association with the temporary sale of merchandise shall require the approval of the Zoning Administrator and the Fire Administrator. It is the responsibility of the business owner to contact the Building Code Administrator to determine if a building permit is required.

**(B)** Mobile Food Vending Units per Chapter 35 of the City Code are exempt from *Section 54.637(A)*.

**(C)** Temporary sales areas that require a person to obtain a license from the City Clerk's Office are exempt from obtaining a Zoning Compliance Permit, but must meet the requirements of *Section 54.637(A)*.

**(D)** Temporary outdoor sales and display of merchandise in conjunction with Marquette Downtown Development Authority sanctioned events are exempt from *Section 54.637(A)*

but must be removed at the conclusion of the event.

**(E)** Temporary outdoor sales for non-commercial land uses which are an accessory use of property, such as yard/garage sales and children's lemonade sales, are authorized with the permission of the property owner. Such sale events may occur on a singular property up to 10 times per year and no more than 4 times per month.

## Section 54.645 Shooting Range, Indoor

**(A) Indoor Shooting Ranges must comply with the following:**

**(1)** The building and method of operation shall comply with the "generally accepted operating practices" adopted Michigan Department of Natural Resources for Sport Shooting Ranges per P.A. 250 of 1994.

**(2)** No ammunition shall be used in the range that exceeds the certified design and construction specifications of the range.

**(3)** No range shall sell or dispense alcoholic beverages, marihuana, or other controlled substances, nor shall they be in a building which contains a business that sells or dispenses these substances. Alcoholic beverages, marihuana, or other controlled substances are not allowed on the premises of the range at any time.

**(4)** The range shall conform with all Federal, State and Local requirements related to the use, sale, rental, and transport of firearms.

**(5)** The structure must be constructed and maintained such that noise from the structure during use will not cause any disturbance to those across the real property boundary of the structure.

**(6)** The owner or operator of a commercial indoor range shall have on the premises at all times during range operation an individual certified as a firearm or range instructor.

## Section 54.646 Supportive Housing Facility, Permanent and Transitional

The applicant shall provide a narrative account of how the facility will comply with each of the following conditions for development and operation:

**(A)** On-site Facility Manager and Staffing, including accessory support services such as arrangements for resident counseling, physical and mental health care, child-care, employment assistance, job training, life-skills training, alcohol/drug abuse programs, case management, etc.

**(B)** Affiliation with a Charitable Organization or Governmental Agency. The facility must be associated with a charitable association such as a 501 (c) organization, or a governmental agency, and will preferably have internal oversight of finances and operations by a board of directors.

**(C)** Site Plan and Property Maintenance Requirements. Existing structures shall meet all the minimum , site plan and parking requirements for licensing. Applications for new building shall include a site plan, floor plan and elevations.

**(D)** How routine and irregular property maintenance will be conducted.

**(E)** Occupancy limits/capacity and sanitary facilities for residents.

**(F)** How many *transitional* (up to 2 years in residence) vs. *permanent* residents (more than two years in residence) the facility intends to house.

**(G)** Register. Operators shall keep a list of the names of all persons staying at the facility and the register shall be available for inspection by City Officials at any time.

**(H)** There shall be a minimum separation between similar facilities of five hundred feet (500').

**(I)** Pre-Application. Prior to application for zoning approval, the applicant must meet with the Planning Department to discuss the project and standards for development and is strongly encouraged to inform the neighbors of plans for the rooming house.

## Section 54.6447 Wireless Telecommunications Facilities

**(A) Purpose.** The purpose of this Ordinance is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this Ordinance are to:

**(1)** ~~Protect residential areas and land uses from potential adverse impacts of towers and antennas;~~
Encourage location of towers and antennas, to the extent possible, in areas where the adverse impact on the community is minimal.

**(2)** Encourage the location of towers in non-residential areas;

**(3)** Minimize the total number of towers throughout the community;

**(4)** Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

**~~(5)~~** ~~Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;~~

**(6)** Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

**(7)** Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

**~~(8)~~** ~~Consider the public health and safety of communication towers; and~~

**~~(9)~~ (8)** Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, City of Marquette shall give due consideration to the City's master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

**(E) Towers Requiring Special Land Use Permits.**

**(2)Towers**

**(b) Factors Considered in Granting Special Land Use Permits for Towers.** In addition to any standards for consideration of special land use permit applications pursuant to *Section 54.1403* of the Land Development Code, the Planning Commission shall consider the following factors in determining whether to issue a special land use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this Ordinance are better served thereby:

**(i)** Height of the proposed tower;

**(ii)** Proximity of the tower to residential structures and residential district boundaries;

**~~(iii)~~** ~~Nature of uses on adjacent and nearby properties;~~

**(~~iv~~ iii)** Surrounding topography;
**(~~v~~ iv)** Surrounding tree coverage and foliage;
**(~~vi~~ v)** Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
**(~~vii~~ vi)** Proposed ingress and egress; and
**(~~viii~~ vii)** Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in *Section 54.644(E)(2)(c)* of this Ordinance.

# Article 7 General Provisions

## Section 54.702 Permitted Encroachments into Required Yard Setbacks

The following features may be located within required yard setbacks to the extent indicated. Unless explicitly permitted, under no circumstances shall any structure or attachment to a structure protrude to within five (5) feet of a right-of-way line and/or rear property line, or closer than three (3) feet to the side yard property line.

**(A) Sidewalks and Landscaping.** Sidewalks and landscaping may be located in any yard setback.

**(B) Architectural Features.** Cornices, canopies, eaves, or similar architectural features may project into required yard setback areas to a maximum of two and one-half (2.5) feet from the property line.

**(C) Access Ways.** Unenclosed stairs, steps, fire escapes, and access ramps may project into yard setbacks, provided that they are set back at least ~~five (5) feet~~ twelve (12) inches from the front lot line, five (5) feet from the rear lot line~~s,~~ and three (3) feet from the side lot lines; ~~however, front yard setbacks are not required for barrier-free access ramps. Window wells, egress windows, and basement escape ladders required by fire codes may project into required yard setbacks the minimum amount necessary to meet the fire code requirement~~, with the following exceptions:

**(1)** Front yard setbacks are not required for barrier-free access ramps if resident requires ramp access
**(2)** due to a disability and there is not adequate space to locate the ramp elsewhere on the property. When such ramp is no longer required it shall be considered a legal, non-conforming encroachment.
**(3)** Window wells, egress windows, and basement escape ladders required by fire codes may project into required yard setbacks the minimum amount necessary to meet the fire code requirement.
**(4)** Existing step or walls that are located between the front property line and 12 inches into the private property may be maintained but not rebuilt, per Section 54. 1202 of the LDC. If existing steps or walls protrude into the public right-of-way and are in disrepair, a Grant of License to use public property must be sought for approval to conduct rebuilding work to restore the structure to like-new condition.

**(D) Unenclosed Balconies, ~~and~~ Open Porches, Decks, and Patios.** Unenclosed balconies, ~~and~~ open porches, decks, and patios may project into a required yard setback by up to ten (10) feet provided they are at least five (5) feet from the rear lot lines, at least three (3) feet from the side lot lines, and at least five (5) feet from the front lot lines unless a different front yard setback for unenclosed balconies, ~~and~~ open porches, decks, and patios is permitted or required by *Article 4*.

**(G) Structural Amenities.** A structural amenity, such as outdoor art, paintings, sculpture, fountains and similar water features, benches, arbors, doghouses, playsets, birdfeeders, clotheslines, air conditioners, detached open structures, and similar amenities as determined by the Zoning Administrator may be located a minimum of three (3) feet from a side lot line and a minimum of five (5) feet from a front or rear lot line, subject to the following requirements:

**(1) Clear Vision Triangle Area.** All structural amenities must meet traffic visibility regulations of *Section 54.704*.

**(2) Durable Materials and Construction.** Structural amenities must be composed of durable materials such as steel, bronze, stained glass, concrete, wood, ceramic tile, stone, or other similar material durable against weather and requiring a low level of maintenance.

**(3) Maintenance.** Structural amenities must be maintained in a safe, neat, and orderly manner acceptable to the City. The City may require the owner of the structural amenity to submit a maintenance plan for review. The City shall determine the acceptable maintenance of a structural amenity to prevent blight.

**(4) Secure Location.** Structural amenities must be properly secured to provide stability. The structural amenity may be attached or secured to the ground, or it may be attached to the principal structure or accessory structure (excluding roof attachment).

**(5)** ~~**Minimum Setback.** In addition to the minimum setbacks of *Section 54.702(G)*, structural amenities shall be set back from all lot lines a distance of one and one-half (1.5) times the height of the structural amenity. Basketball hoops, clotheslines, even statues.~~

**Maximum Height**: No attached or detached structural amenity shall exceed sixteen and one-half (16.5) feet in height.

**(6) Prohibitions.** The following are prohibited:

**(a)** Structural amenities that have deteriorated or are otherwise determined by the City to be blight.

**(b)** Structures that are beyond the scope of a structural amenity and should be regulated under a different section of this Ordinance, such as fences (*Section 54.706*), accessory structures (*Section 54.705*), or signs (*Article 11*).

**(7) Permit and Exemptions.** A permit is required for structural amenities unless it meets the following exemptions, and the structural amenities must meet the requirements of 54.702(G):

**(a)** Enclosed structural amenities less than ~~nine (9)~~ sixteen (16) square feet in floor area/footprint ~~are exempt from permit requirements.~~ Examples of such amenities include dog/bat/bird houses, ~~children's playsets,~~ treehouses, library boxes, and garden sheds.

**(b)** Open/Unenclosed structural amenities, such as children's playsets, and seasonal or collapsible temporary structures such as tents and similar shelters less than 160 square feet in floor area.

## Section 54.705 Accessory Buildings and Structures

**(A) Accessory Buildings and Structures in the Low Density Residential (LDR) District, Medium Density Residential (MDR) District, and Mixed-Use (M-U) District.**

**(1) Attached Accessory Buildings and Structures.** Where the accessory building or structure is structurally attached to a main building, it shall be subject to, and must conform to, all yard regulations of this Ordinance, applicable to main building.

**(2) Location.** Detached accessory buildings or structures shall not be located in any required yard setback except as permitted in *Section 54.705(A)(4)*.

**(3) Maximum Lot Coverage.** Detached accessory buildings or structures shall not occupy more than twenty-five percent (25%) of a rear yard area, provided that in no instance shall the total ground floor area of the detached accessory buildings exceed the ground floor area of the main building and provided the impervious surface coverage limits of the lot (see *Article 4*) are not exceeded.

**(4) Separation and Setback Distances.** No permanent accessory building or structure shall be located in a minimum front yard setback. No detached accessory building shall be located closer than five (5) feet to any main building nor closer than three (3) feet from a side or rear lot line, except swimming pools, which are regulated in *Section 54.707*. Non-building accessory structures (e.g., fences and steps) or open buildings (i.e., a shelter without walls including an open lean-to or open carports) are not subject to the minimum separation distance requirements unless a minimum separation distance is required by the Building Official.

**(5) Maximum Height.** Unless otherwise stated in this Ordinance, no attached or detached accessory building or structure in a the LDR, MDR, and M-U Districts shall exceed sixteen and one-half (16.5) feet in height. The height of Accessory Dwelling Units must comply with *Section 54.612*.

**(B) Accessory Buildings and Structures in the Multiple Family Residential (MFR) District.** In the MFR District, accessory buildings and structures for multiple-family buildings and apartments must meet the requirements of *Section 54.616(C)*. For all other uses in the MFR District, the following requirements apply:

**(1) Detached Accessory Buildings and Structures.**

**(a) Maximum Height.** No detached accessory building or structure may exceed 16.5 feet in height.

**(b) Minimum Side and Rear Yard Setbacks.** Detached accessory buildings or structure shall be located at least ten (10) feet from the side and rear property lines.

**(c) Front Yard Location Prohibited.** No detached accessory building or structure shall be located in a front yard.

**(d) Maximum Lot Coverage.** Detached accessory buildings or structures shall not occupy more than twenty-five percent (25%) of a rear yard area, provided that in no instance shall the total ground floor area of the detached accessory buildings exceed the ground floor area of the main building and provided the impervious surface coverage limits of the lot (see *Article 4*) are not exceeded.

**(e) Separation and Setback Distances.** No detached accessory building or structure shall be located closer than five (5) feet to any main building. Non-building accessory structures (e.g., fences and steps) or open buildings (i.e., a shelter without walls including an open lean-to or open carports) are not subject to the minimum separation distance requirements unless a minimum separation distance is required by the Building Official.

**(2) Attached Accessory Buildings and Structures.** Attached accessory building or structures shall meet the yard requirements of the Schedule of Regulations (*Article 4*).

**(C) Accessory Buildings and Structures in the Central Business District (CBD), General Commercial (GC), Regional Commercial (RC), Municipal (M), Civic (C), Industrial/Manufacturing (I-M), Conservation and Recreation (CR), and Board of Light and Power (BLP) Districts.**

**(1) Maximum Lot Coverage.** No detached accessory building or structure in the CBD, GC, RC, C, I-M, CR, and BLP district may exceed the lot coverage of the principal building.

**(F) Temporary Structures in all Zoning Districts.** The City may permit temporary structures in any zoning district during the duration of a permitted temporary land use, subject to the following requirements:

**(6) Duration and Removal.** ~~Prior to the erection of a temporary structure, the Zoning Administrator must be notified of the date of removal.~~ The temporary structure must be removed when the associated temporary use has ceased. ~~In no case shall a~~ A temporary structure may be permitted for no more than ~~90~~ 120 days in a 12-month period, with the following exceptions:

(a) structures for outdoor food and beverage service, whether for indoor or outdoor dining

(b) structures erected via municipal or DDA authority for programmed outdoor summer or winter activities.

(c) structures that are being used in relation to and during the construction of permanent facilities that have been approved for zoning compliance and building permits.

The Zoning Administrator may extend the period of permission for up to 180 days in total during a 12-month period, in any of the above cases, upon request of the property/structure owner and based on the relevant circumstances (i.e. reason for request)

## Section 54.706 Fences and Walls

**(C) Requirements by Zoning District:**

**(1) LDR, MDR, and MFR Districts.**

**(a) Height.** Fences and walls shall not exceed six (6) feet in height, with the following exceptions:

**(i) Adjoining a Lot Containing a One- or Two-Family Dwelling or Adjoining a Vacant Lot that Could Contain a One- or Two-Family Dwelling.** Where a fence or wall is within ten (10) feet of an adjoining lot containing a one- or two-family dwelling or within ten (10) feet of an adjoining a vacant lot that could contain a one- or two-family dwelling; the fence or wall shall not exceed four (4) feet in height if it is located in the side or front yard (see *Section 54.706(C)(1)(a)(iii)* for additional front yard requirements), with the following exceptions ~~of~~:

**(1)** where the rearmost wall of the neighboring dwelling structure is between the front wall and rear wall of the subject home, a 6 ft. screening fence may be built to the rear of the neighboring dwelling's rearmost wall along that side of the subject property, and each side of the property is treated independently. Where the rearmost portion of the subject property is a shed/garage for vehicle or other storage, and not containing dwelling space, it shall not be counted as the rearmost portion of the dwelling.

**(2)** for required retaining walls.

**(2) M-U and CBD Districts.**

**(a) Height.** Fences and walls in the side or rear yard shall not exceed six (6) feet in height, except that a wall or fence in the side or rear yard of an approved commercial Outdoor

~~Food and~~ Alcoholic Beverage Service use (see *Section 54.634*) and for Outdoor Entertainment and Community Events (see *Section 54.635*) may be up to eight (8) feet in height for the purposes of visual and noise screening of that particular use ~~of screening the outdoor food and beverage service use~~. A fence in a front yard may not exceed four (4) feet in height. Walls are prohibited in a front yard except for retaining walls.

**(b) Construction.** Fences may not have more than 50% of the fence area of solid, opaque construction (See *Figure 35~~7~~* for examples of noncompliant fences), except the following:

**(i)** A solid/screening fence is allowed in the side yard or rear yard between abutting residential land uses.

**(ii)** A screening fence that is required for a Special Use Permit, by any City ordinance, or by State law may be of solid, opaque construction.

**(iii)** A wall or fence in the side or rear yard of an approved Marihuana Grower or Marihuana Microbusiness use (see Section 54.628) may be 100% of the fence area of solid opaque construction for the purpose of screening the outdoor growing area.

**(iv)** A wall or fence in the side or rear yard of an approved Outdoor Alcoholic Beverage Service (see Section 54.636) and Outdoor Entertainment and Community Events uses (see Section 54.635) may be 100% of the fence area of solid opaque construction for the purposes of visual and noise screening of that particular use.

**(v)** Retaining walls.

~~**Construction.** Fences may not have more than 50% of the fence area of solid, opaque construction (See *Figure 35* for examples of noncompliant fences), except that a wall or fence in the side or rear yard of an approved Marihuana Grower or Marihuana Microbusiness use (see *Section 54.628*) may be 100% of the fence area of solid opaque construction for the purpose pf screening the outdoor growing area.~~

~~**(vi) Exception.** A screening fence that is required for a Special Use Permit, by any City ordinance, or by State law may be of solid, opaque construction.~~

**(E) Special Purpose Fences.**

**(3) Temporary Fences.** Temporary fences, as defined herein, may be permitted by the City in conjunction with an approved temporary activity/purposes, such as construction, landscaping and grading erosion control, temporary sales areas, temporary events, or snow and garden fencing (as long as it is not permanently anchored and the use is temporary for the snow or growing season). The type of temporary fencing used must be appropriate for the temporary activity, and in most cases a temporary fence must be installed prior to the temporary activity and should be removed soon after the end of the temporary activity. Temporary fencing that does not meet these standards may be considered a violation of this section. Temporary fencing that is not permanently anchored and the use is temporary does not require a fence permit.

# Article 9 Parking, Loading, and Access Management

## Section 54.901 Intent

It is hereby determined that the provision of off-street vehicle parking spaces is necessary to reduce traffic hazards and the congestion of streets. It is also determined that regulation of location, design, maintenance, and other features of off-street parking lots is in the interest of public safety and welfare.

## Section 54.902 Parking Regulations

**(E) Parking Standards Applicable to Specific Zoning Districts.**
**LDR and MDR Districts and single-family and two-family structures in other zoning districts.**

**(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.

**(d) "Front Area" Parking Limitations.** Parking in the front area is permitted only on an approved hard surface parking space and/or driveway, or in a garage (see definition of "Hard Parking Surface" in *Section 54.202(A)(91)*). Parking spaces in the front yard area must be at least two (2) feet from the side lot line, at least two (2) feet from the inside edge of a sidewalk, and at least ten (10) feet from the edge of an established street. The encroaching driveways and parking spaces must be drained so as to dispose of all surface water accumulated in such a way as to preclude drainage of water onto adjacent property or toward adjacent buildings. New or expanded driveways must be separated from the side lot line by a minimum of 12 inches of pervious ~~unpaved land~~ surface (including but not limited to uncompacted pea gravel, cobbles, grass, etc.) to ensure a pervious buffer between driveways and the adjacent lot line, with the exception of the presence of a retaining wall along the subject lot line or other such difficulty. The Zoning Administrator may permit parking in a front area during the winter parking ban period for single-family or duplex dwelling units upon request for a Front Yard Parking Waiver for a limited time when the site cannot be altered without causing a hardship on the property owner, or indefinitely in rare cases that the site cannot be reasonably altered to create one (1) additional parking space or a widened driveway. Self-created difficulties, such as adding renters and vehicles, are not applicable to the consideration for a Front Yard Parking Waiver.

**(h) Application of Parking Development Standards.** All one- and two-family residential parking spaces shall be exempt from the standards of *Section 54.905*, except that site plans drawn to scale shall be submitted to the Zoning Administrator for review and approval for creation of driveways or parking spaces. Parking spaces may be on pavers or other hard parking surfaces that have an unpaved strip between the surfaces supporting the wheels. For purposes of providing required parking spaces onsite, the minimum dimensions for residential parking spaces shall be nine (9) feet wide by eighteen (18) feet long. Driveways in the front yard must be a full-width hard parking surface. Curb cut and driveway permits shall be obtained from the City Engineer when curb cuts are made or modified or if there is any work in the right-of- way for a driveway.

## Section 54.903 Minimum/Maximum Number of Parking Spaces

In all districts there shall be provided off-street parking for motor vehicles for specified land uses. When a public parking lot has been provided by special assessment, the minimum required parking may be reduced by the number of spaces in the public lot representing the same percentage as the property's participation in the special assessment district costs. The minimum/maximum number of spaces to be provided shall be based on the following schedule, which may only be increased in accordance with *Section 54.902(H)* and may only be reduced in accordance with the parking reduction standards of *Section 54.902(G)* or the shared parking standards of *Section 54.902(C)*:

| Land Use | Minimum/Maximum Parking Requirement |
|---|---|
| **(A) Residential and Lodging** | |
| **(1)** Single-Family and Two-Family units | Two (2) spaces per dwelling unit, except the M-U and CBD zoning districts require 1.125 spaces per dwelling unit. For parking spaces provided for residential dwelling units off-site, one (1) space per dwelling unit may be permitted off-site if proof of a lease arrangement for long-term parking is provided to the City with the application. |
| **(2)** Multiple-Family units with 3 or 4 dwelling units | One and a half (1.5) spaces per dwelling unit, except the M-U and CBD zoning districts require 1.125 spaces per dwelling unit. |
| **(3)** Multiple-Family units with 5 dwelling units, except subsidized (below market rate) and senior housing. | 1.125 spaces per dwelling unit, except the M-U and CBD zoning districts require 1 space per dwelling unit. |
| **(4)** Multiple-Family units with 20 or more dwelling units, subsidized housing units (including Section 8 and other programs) | ~~One~~ Two (2) spaces per each dwelling unit with more than one bedroom; one (1) parking space must be provided for each one-bedroom dwelling unit. 2 motor vehicle parking spaces per dwelling unit is the maximum allowed. |
| **(5)** Attached housing exclusively for senior citizens that is not congregate care. | One-half space per dwelling unit plus one space per employee on peak shift. |
| **(6)** Hotels and Motels | 1 space per rental unit, plus 1 space per employee on peak shift. A hotel or motel may provide parking spaces and power hookups for recreational vehicles (RVs). The maximum number of spaces for RVs shall be ten (10) percent of the number of rental units/rooms. |

| | |
|---|---|
| **(F) Industrial/Wholesaling/Warehousing** | |
| **(1)** Production or Processing of Materials, Goods, or Products | One (1) space per ~~1,000~~ 1,500 square feet of floor area plus one (1) space per 10,000 square feet of site area. |

| | (G) Retail Trade | |
|---|---|---|
| (1) | Establishments for the consumption of Food or Beverages on the Premises, excluding Drive-Through Restaurants | 1 space for every two (2) capacity occupants |
| (2) | Drive-Through Restaurants | 1 space for every two (2) capacity occupants plus ~~five (5)~~ two (2) stacking spaces between the pick-up window and the order station, where space exists. ~~and five (5)~~ Any other stacking spaces ~~that do~~ shall not conflict with access to required parking spaces or block right-of-way~~, per order station (e.g., menu board)~~. |

## Section 54.905 Parking Layout, Design, Construction, and Maintenance

All off-street parking shall be laid out, constructed, and maintained according to the following standards and regulations:

**(A) Required Parking Space Dimensions.** Unless otherwise stated in *Section 54.905(C)*, all parking spaces shall be laid out in the minimum dimensions of nine (9) feet wide by eighteen (18) feet long, exclusive of maneuvering lanes.

# Article 11 Signs

## Section 54.1103 Definitions

**Rules of Interpretation.** Refer to *Section 54.201* for rules of interpretation of terms and words in this Article.

**(A) Sign Definitions, Sign Types.** The following definitions apply to types of signs based on the characteristics of the sign without respect to the content of the message:

**(33) Permanent Sign:** A sign of durable construction and durable materials designed to remain in one location and position either through attachment to a building element or mounting on a standard secured to a below grade footing, or designed into building materials such as stonework.

**(45) Temporary Sign:** A sign intended to display either commercial or non-commercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

**(C) Sign Definitions, General.**

**(6) Building Entrance:** A building entrance that is clearly available as a public entrance, with the exception of businesses that for reasons related to privacy do not clearly indicate a public entrance.

### Section 54.1107 Exempt Signs Permitted in All Zoning Districts

Certificates of Zoning Compliance shall not be required for the following signs provided that said signs meet all other requirements of this Ordinance, including but not limited to those in *Section 54.1109*. Approval of the property owner is required prior to the erection of a sign. It is the responsibility of the party erecting the sign to determine if a building permit is required.

**(A)** Temporary signage in accordance with *Section 54.1109* and *Section 54.1105*, unless otherwise stated in this Ordinance. Commercial signs placed on construction sites for project information and/or associated contractors, and where home improvements are underway, are permitted for up to 14 days after the work is completed. These ground and yard signs must comply with the size requirements for permanent signs as stated in Section 54.1105.

**(K)** Permanent signs, where the use of the structure/property has changed and removing the sign would be an unreasonable burden (e.g. such as names carved into stone.

### Section 54.1109 General Sign Standards

**(E) Awning, Canopy, and Marquee Signs:**

**(1) Minimum Height.** Awnings, canopies, and marquees, and signs attached to them, shall not be placed less than ~~ten~~ eight (~~10~~ 8) feet above a public sidewalk or right-of-way, with the exception of the replacement of legally non-conforming historic signs (per the definition of *historic sign* in 54.1103).

## Article 14 Administrative Procedures

### Section 54.1402 Site Plan Review

**(B) Uses Subject to Site Plan Review, Minor/Administrative Site Plan Review, and Exemptions.** The required review process for uses and development is described in *Figure ~~49~~51*. All uses and development, regardless of whether site plan review is required, are subject to the Zoning Compliance review requirements of *Section 54.1401*. The Zoning Administrator may administratively approve or conditionally approve minor site plans as described in *Figure ~~49~~51* and *Section 54.1402(D)(1)*. All other site plans must be reviewed by the Planning Commission. Three levels of Site Plan Review are conducted by the Planning Commission – Sketch Plan Review, Preliminary Site Plan Review (PSPR), and Final Site Plan Review (FSPR).

In Fig. 51 change “Minor Site Plan Review” as below:

**Figure ~~49~~51. Required Review Process Based on Development Activity**

| Development Activity | Site Plan Review Required | Minor/Admin. Site Plan Review | Exempt From Site Plan Review |
|---|---|---|---|

**(C) Information Required for Site Plans and Sketch Plans.** The site plan review application materials shall include all the following information, unless the Zoning Administrator determines that some of the required information is not reasonably necessary for consideration of the plan.

**(3) Site Plan.** ~~Twelve (12)~~ Six (6) copies of plan sheet(s) providing the information listed below (*Figure ~~50~~52*). For minor site plans, three (3) copies of plan sheets are required. Sheet size of submitted drawings shall be at least 24-inches by 36-inches, with graphics at an engineer's scale of one (1) inch equals twenty (20) feet for sites of 20 acres or less; and one (1) inch equals fifty (50) feet for sites over 20 acres. One digital copy of the complete plan set must also be submitted. The surrounding area drawing may be in a scale of one (1) inch equals one-hundred (100). ~~Digital plans must also be submitted.~~

**(5) Sketch Plan.** A sketch plan must include the information listed below (*Figure ~~50~~52*). The number of plans submitted is determined by the Zoning Administrator, based upon whether or not the plans need to be reviewed by the Fire Dept., Police Dept., and/or Dept. of Public Works – in addition to the Engineering and Planning-Zoning functions of the Community Development Department.~~, and the Zoning Administrator may accept digital plans.~~ One digital copy of the complete plan set must also be submitted. The sheet size of submitted drawings shall be at a scale acceptable to the Zoning Administrator. Upon request of the applicant, the Zoning Administrator may waive individual sketch plan requirements if the requirements are found to be unnecessary or irrelevant to the intent of providing the information; however, the Planning Commission has the right to require all of the in information in *Figure ~~50~~52*.

**Figure ~~50~~52. Site Plan Information Required in the Site Plan Set**

| Site Plan Information Required | Sketch Plan | Preliminary Site Plan | Final Site Plan |
|---|---|---|---|
| **Identification of Project** | | | |
| The applicant's name. | ● | ● | ● |
| Name of the development. | ● | ● | ● |
| The preparer's name and professional seal of architect, engineer, or landscape architect indicating license in the State of Michigan. | | ● | ● |
| Small scale location sketch of sufficient size and scale. | ● | | |
| A survey of the property, sealed by a surveyor licensed in the State of Michigan. | | ● | ● |
| Date of preparation and any revisions. | ● | ● | ● |
| North arrow. | ● | ● | ● |
| Complete and current legal description and size of property in acres. | ● | ● | ● |
| **Existing Features** | | | |
| Property lines and dimensions drawn to scale. | ● | ● | ● |
| Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the site. | ● | ● | ● |
| Lot lines and all structures on the property and within 100 feet of the site's property lines. | | ● | ● |
| ~~Locations of all significant natural features, including Riparian Buffers (see *Section 54.804*), wetlands (see *Section 54.805*), steep slopes (see *Section 54.806*), woodlands and protected trees (see ***Error! Reference source not found.***), floodplains, etc.)~~ | ~~●~~ | ~~●~~ | ~~●~~ |
| Locations of all significant natural features – streams, wetlands and floodplains (see Section 54.805), steep slopes (see Section 54.806), woodlands and protected trees (see Section 54.807). | ● | ● | ● |
| Boundary of any Riparian Overlay Districts, per *Section 54.320(E)*. Applicable where streams and/or steep slopes, wetlands, and surface water bodies may be impacted by proposed development. Location of steep slopes (>12 percent), per Section 54.806 | | ● | ● |
| Any existing private or public easements. | | ● | ● |
| Location of any access points on both sides of the street within 100 feet of the site along streets where access to the site is proposed. | ● | ● | ● |
| Locations of existing utilities. | ● | ● | ● |
| Existing topography at a minimum of two (2) foot contour intervals. | | ● | ● |
| **Proposed Construction** | | | |
| Building footprints, setbacks, and elevations showing height for all proposed structures with the acreage allotted to each use. See *Article 3*, *Article 4*, and *Article 7*. | ● | ● | ● |
| Floor area and ground coverage ratios. See *Article 3* and *Article 4*. | ● | ● | ● |
| ~~Proposed locations of utility services (with sizes) and storm water management, including storm drainage, retention or detention ponds, fire hydrants, and any public or private easements. See *Section 54.803*.~~ | | ● | ● |

| Site Plan Information Required | Sketch Plan | Preliminary Site Plan | Final Site Plan |
|---|---|---|---|
| Schematic storm water management plan, including elements stated below for Final Site Plan requirements, as needed to show intended compliance with the requirements of the Land Development Code. | | ● | |
| Proposed topography with a site grading plan with topography at a minimum of two (2) foot contour intervals. | | ~~●~~ | ● |
| Boundary of any Riparian Overlay Districts, per *Section 54.320(E)*. Applicable where streams and/or steep slopes, wetlands, and surface water bodies may be impacted by proposed development. Location of steep slopes (>12 percent), per Section 54.806 | | ● | ● |
| Location and method of screening for all waste dumpsters. See *Section 54.1003(F)*. | | ~~●~~ | ● |
| Location and dimensions of parking spaces. See *Article 9*. | ● | ● | ● |
| General landscaping design concept acceptable to the Zoning Administrator. | ● | | |
| A landscaping plan indicating proposed plant locations with common plant name, number, and size at installation. Berms, retaining walls or fences shall be shown with elevations from the surrounding average grade. See *Article 10*. | | ● | ● |
| ~~Locations of exterior light fixtures.~~ | ~~●~~ | | |
| Details of exterior lighting including fixture and pole locations, height, and method of shielding. See *Section 54.802*. | | ~~●~~ | ● |
| The location of all permanent or temporary signs, existing or proposed, including their area, size, height, illumination, and the type of construction. See *Article 11*. | ● | ~~●~~ | ● |
| Locations of utility services (with sizes) and storm water management elements, including, storm drainage, retention or detention ponds and/or swales, rain gardens, riparian buffer vegetative strips, per *Section 54.803.* Any proposed public or private easements. | | | ● |
| Fire hydrant number and placement or other water supply, and standpipe connection type; Fire dept. connection location; Alarm panel location; Fire dept. access details. | | | ● |
| If the application is related to property scheduled for phased development, the proposed layout for the total projected development shall be indicated, and the projected scope and time period shall be estimated for each additional phase. The phasing plan must be acceptable to the City staff to ensure that each phase can function independently and is not reliant on future phases if they are not constructed. | ● | ● | ● |
| **Site Circulation Details and Access Design** | | | |
| General site circulation and access including: indication of street right-of-way and pavement widths; access points; and location of pedestrian paths. See *Section 54.907*. | ● | | |
| ~~Indication of street right-of-way and pavement widths and pavement type.~~ | | ~~●~~ | ~~●~~ |
| Street horizontal and vertical dimensions, including curve radii. | | ● | ● |
| Dimensions of access points including distance from adjacent driveways or intersecting streets, including those across a street. See *Section 54.907*. | | ● | ● |
| ~~Identification of width and material to be used for pedestrian paths. See *Section 54.907*.~~ | | ~~●~~ | ~~●~~ |
| ~~Name and location of abutting public streets, proposed access driveways and parking areas, and existing and proposed pedestrian/bicycle paths.~~ | | ~~●~~ | ~~●~~ |

| Site Plan Information Required | Sketch Plan | Preliminary Site Plan | Final Site Plan |
|---|---|---|---|
| Schematic location and names of abutting public streets and other right-of-ways, and schematic location of proposed streets/roads, driveways, parking areas, pedestrian and bicycle paths. | | ● | |
| Schematic of access points, including from adjacent driveways on intersecting streets, including those across a street. See *Section 54.907*. | | ● | |
| Locations, dimensions, and names of abutting public streets and other right-of-ways, and of proposed streets/roads, driveways, parking areas, pedestrian and bicycle paths. | | | ● |
| Pavement widths and pavement types for all streets/roads, pedestrian and bicycle paths. | | | ● |
| Written verification of access easements or agreements, if applicable. | | ● | ● |
| **Additional Information** | | | |
| Any other information necessary to establish compliance with this and other ordinances. | ● | ● | ● |

**(D) Site Plan Review Procedures.** No Zoning Compliance or Special Land Use Permit shall be issued for any uses subject to site plan review except in accordance with a site plan approved by the Planning Commission, or a Minor Site Plan approved by the Zoning Administrator, in accordance with the following procedures:

**(4) Preliminary Site Plan Review.**
The purpose of Preliminary Site Plan Review is to allow for the review and decision on most aspects of the site without the need for final detailed engineering unless required by the City Engineer. An applicant may submit some of the engineering elements in schematic/diagram form in the Preliminary site plan set per the requirements shown in *Figure 52*, and such items must be approved per the Final Site Plan Review (FSPR) requirements prior to staff completion of a Zoning Compliance Permit for the project. Applications for preliminary site plan review must be submitted to the Zoning Administrator at least twenty (20) business days prior to the meeting at which the review is to take place. The Planning Commission shall review the preliminary site plan, together with any reports and recommendations from staff, consultants and other reviewing agencies and any public comments. The Planning Commission shall then make a determination based on the requirements of this Ordinance and the standards of *Section 54.1402(E)*. The Planning Commission is authorized to postpone, approve, approve subject to conditions or deny the preliminary site plan as follows:

**(d) Approval Subject to Conditions**. The Planning Commission may approve a preliminary site plan, subject to one (1) or more conditions necessary to address minor modifications to the preliminary site plan, ensure that public services and facilities can accommodate the proposed use, protect significant natural features, ensure compatibility with adjacent land uses, or otherwise meet the intent and purpose of this Ordinance. Such conditions may include the need to obtain variances or approvals from other agencies. Upon approval of the preliminary site plan and the satisfaction of conditions, the applicant may apply for final site plan review.

**(e)** The Planning Commission may elect by an affirmative vote to be the approving authority of the Final Site Plan, otherwise the approving authority will be the Zoning Administrator. The scope of the proposal, the potential impact of the project, and/or or the estimated value of

public input or of conducting the approval in a public forum are all reasons that the Planning Commission may elect to be the review authority for the Final Site Plan. The Zoning Administrator may recommend that the Planning Commission be the approving authority in the staff report for the site plan review.

**(5) Final Site Plan Review**

**(d) Planning Commission and/or Administrative Action.** Except as noted in directly above, and as stated in Section 54.1402(D)(4)(c) for Preliminary Site Plan Review, the Planning Commission, or City Staff, shall approve, approve with conditions, or deny the site plan based on the compliance of the plan with City Ordinances and the review standards of this Ordinance. If conditional approval is granted, the conditions shall be stated specifically so that the Zoning Administrator or other reviewing departments can determine compliance with the conditions and grant approval following submission of revised plans; said review not to exceed ten business (10) days unless additional time is required by the Zoning Administrator or other reviewing departments to determine compliance with the conditions of site plan approval. A site plan shall be approved if it contains all of the information required by the ordinance and is in compliance with the standards of the Land Development Code (including *Section 54.1402(E)*), other City planning documents, City ordinances, and state and federal statutes.

**(F) Validity of Approved Site Plans and Expiration.**

**(1) Approval, including Conditions, Attached to the Property.** Approval of a site plan, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property.

**(2) Validity of Approved Site Plans.**

**(a) Extension.** The Planning Commission may grant two (2) one-time extensions to the expiration deadline, not to exceed one (1) year each, provided the request for an extension must be submitted at least 45 days prior to the expiration of the site plan approval and must meet the following standards. The Zoning Administrator may similarly grant extensions of administratively approved site plans.

i. The approved plan conforms to zoning at the time the extension is granted
ii. Any and all Federal and State approvals and permits are current.

**(b) Relevant LDC Amendment.** If the Land Development Code is amended within one year of site plan approval and approved work has not been completed, any less intensive standards provided by the amendment may be applied to the unfinished aspects of the site plan if a revised site plan is submitted before the one year site plan approval period expires.

**(c) Resubmission of Expired Plans.** Site plans whose approval has expired shall require resubmission as an initial application.

## Section 54.1403 Special Land Use Review

**(A) Intent.** This section of the ordinance governs permitting of special land uses which may be located in specific districts (see *Figure 8* for special land uses within each district) when the standards of special land use review have been met and the use and development comply with the standards of this Ordinance. It is the purpose of this section to maintain adequate provision for the security of the health, safety, convenience and general welfare of the inhabitants and uses of the zoning district and adjoining districts.

**(B) Procedures.** No special land use shall be established in any zoning district except upon permit issued by the Planning Commission. The Planning Commission shall be guided in making a decision by the standards set forth in this Ordinance in *Section 54.1403(C)*. The Planning Commission shall hear and decide only such special land uses as specifically authorized by district and by the terms of this Ordinance, but shall not hear a request for a Special Land Use Permit (SLUP) if the request is the same and for the same property, within a period of six months from the date of the public hearing in which the SLUP request was made initially, unless conditions have significantly changed (e.g. the subject and/or neighboring zoning districts have changed, to be determined by the Zoning Administrator). Special land use applications shall be submitted and reviewed according to the following procedures:

# ORDINANCE #713
# AN ORDINANCE TO AMEND MARQUETTE CITY CODE CHAPTER 54 – LAND DEVELOPMENT CODE, ARTICLE 11 – SIGNS

**SUMMARY. This ordinance is intended to update the Land Development Code, where the need for improvements has been identified by staff and the City Planning Commission.**

**SECTION 1. Article 11 – Signs**
**Chapter 54 – LAND DEVELOPMENT CODE, Article 11 – Signs is hereby amended as follows:**

## Article 11 Signs

### Section 54.1107 Exempt Signs Permitted in All Zoning Districts

Certificates of Zoning Compliance shall not be required for the following signs provided that said signs meet all other requirements of this Ordinance, including but not limited to those in *Section 54.1109*. Approval of the property owner is required prior to the erection of a sign. It is the responsibility of the party erecting the sign to determine if a building permit is required.

**(A)** Temporary signage in accordance with *Section 54.1109* and *Section 54.1105*, unless otherwise stated in this Ordinance. Commercial signs placed on construction sites for project information and/or associated contractors, and where home improvements are underway, are permitted for up to 14 days after the work is completed. These ground and yard signs must comply with the size requirements for permanent signs as stated in Section 54.1105.

**(K)** Permanent signs, where the use of the structure/property has changed and removing the sign would be an unreasonable burden (e.g. such as names carved into stone).

### Section 54.1109 General Sign Standards

**(E) Awning, Canopy, and Marquee Signs:**

**(1) Minimum Height.** Awnings, canopies, and marquees, and signs attached to them, shall not be placed less than ~~ten~~ eight (~~10~~ 8) feet above a public sidewalk or right-of-way, with the exception of the replacement of legally non-conforming historic signs (per the definition of *historic sign* in 54.1103).

**SECTION 2. Publication**

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

_____ _____
Jennifer A. Smith, Mayor Kyle Whitney, Clerk

Adopted: _____

Published: _____

**Agenda Date:** 6/27/2022

## Consent Agenda - Roll Call Vote
## Wastewater Plant Fire Alarm System

## BACKGROUND:

The fire alarm system at the Wastewater Plant is inoperable. It was planned to be upgraded during the Solids Handling Project but because of the delay of that project, the fire alarm component was bid separately.

The bid specified a preferred manufacturer along with two alternate manufacturers. Two bids were received, both bids included products from the preferred manufacturer along with an alternate. Staff recommends the Commission accept the low bid from S&T Electric for $267,797 as the base bid. Once the contract is signed, we will issue a change order to the alternate manufacturer bringing the project cost down to $174,601.

## FISCAL EFFECT:

The Wastewater replacement fund will be used to fund $174,601 for the project.

## RECOMMENDATION:

Approve the base bid for the Wastewater Fire Alarm System to S&T Electric in the amount not-to-exceed $267,797.

## ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- Bid Specs

# WWTP Fire Alarm Bid Specs

## BASE BID MATERIAL AND EQUIPMENT SCHEDULE

| | Supplier | Supplier's Price | Installed Cost |
|---|---|---|---|
| S&T Electric, Marquette MI | (A) Simplex-Grinnell LP (Johnson Controls) | $ 130,030.00 | $ 267,797.00 |
| | (B) Edward Systems Technology; General Signal Unit | $ 57,000.00 | $ 174,601.00 |
| | (C) Notifier Honeywell | - | - |

| | Supplier | Supplier's Price | Installed Cost |
|---|---|---|---|
| B&B Electric Iron Mt. MI | (A) Simplex-Grinnell LP (Johnson Controls) | $ 127,170.00 | $ 270,870.00 |
| | (B) Edward Systems Technology; General Signal Unit | $ 59,545.00 | $ 194,620.00 |
| | (C) Notifier Honeywell | - | - |

**Agenda Date:** 6/27/2022

## New Business
## Camp Cannabis - Special Event Permit

## BACKGROUND:

TFS Events, LLC is requesting a Special Event Permit for City Parks, Streets, Buildings and Grounds to use Tourist Park Campground for the Camp Cannabis event. The term of the permit is from Friday October 7, 2022 until Sunday October 9, 2022. Staff worked with the City Attorney and TFS Events, LLC to develop the permit. Several meetings between TFS Events, LLC and City staff from the Police and Fire departments, Community Development, the Clerks office, the City Manager's office, and Community Services have taken place, and all concerns derived from those meetings are reflected in the terms and conditions outlined in the permit.

Per City Commission Policy 2021-01, Guidelines for Public and Private Marihuana Events, which was adopted October 25, 2021, applicants must submit proof of adequate insurance no later than 30 days prior to the event.

## FISCAL EFFECT:

The Tourist Park Campground fund will receive $12,705.00 plus miscellaneous in-kind reimbursements with the rental in FY 2023.

## RECOMMENDATION:

Approve the Special Event Permit for City Parks, Streets, Buildings and Grounds with TFS Events, LLC, contingent upon the applicant submitting proof of adequate insurance no later than September 7, 2022, and authorize the Mayor and Clerk to sign the agreement following receipt of proof of adequate insurance.

## ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- Permit

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

THIS AGREEMENT, made this _____ day of _____, 2022 between CITY OF MARQUETTE, a Municipal Corporation, of 300 W. Baraga Avenue, Marquette, Michigan, 49855, hereinafter referred to as the "CITY", and TFS EVENTS, LLC, a Michigan limited liability company of 1440 W. Ridge Street, 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"]:

TOURIST PARK CAMPGROUND

■ (2) Term. The term of this Permit shall be for the following dates:

Friday October 7, 2022 from 12:00 p.m. (noon) until Sunday October 9, 2022 at 12:00 p.m. (noon).

■ (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:

CAMP CANNABIS

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:

| | |
|---|---|
| **11 tent sites @ $20/site** | **$ 660.00** |
| **61 electric sites @ $35/site** | **$ 6,405.00** |
| **38 full-service sites @ $40/site** | **$ 4,560.00** |
| **Picnic Areas 1, 2, 3 (4 days)** | **$ 1,080.00** |
| **Total fees** | **$12,705.00** |

| | |
|---|---|
| **Trash drum liners** | **per case @ current cost**** |
| **Labor** | **PERMITTEE shall pay costs for labor as set forth in paragraph (6) below.** |

**NOTE: PERMITTEE may pickup thirty (30) or more 55-gallon trash drums from the CITY for use during the event and must return the drums to the City by 5:00 p.m. on the Monday following the event.

■ (6) Labor. PERMITTEE shall reimburse the CITY the then-standard wages for all employees for all hours worked beyond what the CITY would provide as standard staffing for the campground, during hours the CITY would normally provide staffing at the campground. The CITY intends to keep additional labor costs as low as possible. PERMITTEE may offer volunteer staff or other cost avoidance solutions to reduce the need for City staff, however the CITY reserves the right to judge the acceptability of any cost avoidance strategies. The additional labor costs will be calculated and billed to PERMITTEE following the event, with payment being due within 90 days of the billing.

The City shall provide the number of staff persons and scheduled hours for basic services. Upon request of PERMITTEE, CITY shall, for budgeting purposes, prepare a cost estimate of additional staffing and labor costs based on PERMITTEE's requested staffing coverage. This calculation is only an estimate and is subject to changes as mandated by the CITY or Federal Labor Department between the date of the estimate and the actual event. The cost estimate will, whenever possible, include the type of employee, the number of employees, the hourly wage for each employee, including overtime, the estimated number of hours to be worked during the event, and an estimated total of all labor costs. If PERMITTEE objects to any portion of the estimate, the parties will negotiate the estimated amount prior to the event. No other changes to the estimate, except as set forth herein, shall be made without the agreement of PERMITTEE and the CITY.

□ (7) Reimbursement. CITY shall apply for a temporary campground license on behalf of PERMITTEE for the term of the event. PERMITTEE shall reimburse CITY for the ACTUAL costs of securing the temporary campground license from the State of Michigan for 500 campsites. PERMITTEE is solely responsible for meeting all requirements of the temporary camping permit, as approved by the State of Michigan, including the payment of any fines assessed by any governmental body due to any violation of the permit or any other law.

■ (8) Payment of fees. PERMITTEE shall deposit with CITY 50% of the use fee in cash, certified check or bank cashier's check payable to the City of Marquette no later than the Monday prior to the event. The balance of the fees shall be due no later than 7 days following the event. PERMITTEE and CITY will work together to determine these amounts. All amounts not paid by PERMITTEE when due shall incur a late fee of 18% annually or 1.5% per month of the unpaid balance. Further, in the event CITY has reasonable cause to believe that any required payment will not be made when due, CITY shall have the first lien on all box office receipts up to the amount owed to CITY, and

shall have the right to enforce that lien by taking physical possession of that portion of receipts necessary to cover the fees owed by PERMITTEE.

■ (9) 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 provide a covered trash dumpster between 25 and 45 cubic yard capacity or compactor unit of sufficient size for the event as directed by the CITY. 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.

■ (10) Clean-up and Damage Bond. PERMITTEE shall deposit with the Parks and Recreation Division a clean-up and damage bond in the form of cash or certified check payable to the CITY, in the amount of $500.00. 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 thirty (30) 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.

■ (11) Electrical Permits. For any event 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.

■ (12) 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.

At such time that the City improves the electricity on the Day Use side of the premises, CITY will assume responsibility for the meter and will charge PERMITTEE a rate of $300.00 for use of all electric meters.

■ (13) Reimbursement of Utility Costs. PERMITTEE shall reimburse the CITY for the costs of electric, water and other utility services utilized by the PERMITTEE, its vendees and concessionaires.

■ (14) 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.

■ (15) Insurances. CERTIFICATES OR OTHER EVIDENCE OF ALL REQUIRED COVERAGES AND ENDORSEMENTS MUST BE FILED WITH THE COMMUNITY SERVICES DEPARTMENT - PARKS & RECREATION DIVISION AT LEAST NINETY (90) DAYS BEFORE THE COMMENCEMENT OF 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, upon the issuance of this Permit, provide the CITY with a certificate or other evidence of all required coverages, including those set forth below. 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.

- Liquor Liability.

PERMITTEE or its designee 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.

- Marihuana Liability.

PERMITTEE or its designee shall carry marihuana 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 cannabis products on the premises.

- 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.

- 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.

- 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.

■ (16) 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.

■ (17) 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.

■ (18) 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.

■ (19) 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. Concessions shall abide by all City ordinances. PERMITTEE shall submit a list of all food concessionaires to the Fire Chief 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.

■ (20) Alcoholic Beverages and Cannabis Products.

(a) PERMITTEE or its designee shall be allowed to sell and/or furnish beer, wine in the designated spaces on the premises as follows:

from 12:00 p.m. (noon) until 10:30 p.m. on October 7, 2022; and
from 9:00 a.m. until 10:30 p.m. on October 8, 2022.

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 all insurance coverages as required in this Permit.

(b) PERMITTEE or its designee shall be allowed to sell and/or furnish cannabis products in the designated spaces on the premises as follows:

from 12:00 p.m. (noon) until 9:00 p.m. on October 7, 2022; and
from 9:00 a.m. until 9:00 p.m. on October 8, 2022.

The sale, furnishing and consumption of cannabis products is specifically conditioned upon PERMITTEE or its designee obtaining and maintaining the appropriate license or permit from the Michigan cannabis regulatory agency at all relevant times and on PERMITTEE or its designee obtaining and maintaining all insurance coverages as required in this Permit.

■ (21) Exclusive Use. PERMITTEE shall have the exclusive use of the premises during the term of this permit.

■ (22) Admission. PERMITTEE may charge admission to the general public to enter premises. In order to eliminate the risk of accidental sale or consumption of alcoholic beverages or cannabis products by persons under the age of 21, PERMITTEE may restrict admission to persons aged 21 and older, but otherwise entry shall not be denied to any individual base upon race, sex, creed, or national origin.

■ (23) Police and Fire Protection. PERMITTEE shall fully reimburse the CITY at overtime 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.

■ (24) Parking and Traffic. PERMITTEE 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. PERMITTEE shall obtain a Right-of-Way permit, from the City Engineering Department at least ten (10) days prior to the event.

■ (25) 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.

■ (26) Compliance with PERMITTEE'S Representations. PERMITTEE shall fully comply with all representations and promises set forth in its Application for Special Events Permit

□ (27) Equipment and Services. The CITY agrees to have the following equipment and services available during the term of this Permit:

_____

_____

■ (28) Security. It shall be PERMITTEE'S sole responsibility to provide security throughout the term of the event. The PERMITTEE shall work with the Chief of Police or designee to establish the number of security personnel required to be on the premises. The security shall be in identifiable uniforms.

■ (29) 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.

■ (30) 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.

■ (31) 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.

This provision specifically applies to PERMITTEE'S and vendors, and does not apply to camping tents utilized by patrons of the event.

■ (32) Fire. Except for fire pits installed and designated by the CITY, the following shall apply:

(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.

■ (33) 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, it 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.

■ (34) Conditions/Requirements. Additional conditions and requirements of this permit are as follows:

(a) PERMITTEE shall have the exclusive right to rent campsites, display areas, etc. and to establish appropriate charges therefore.

(b) PERMITTEE and its vendors may be in the common areas of the park beginning Monday of the event week, and otherwise in the park beginning Thursday of the event weekend, or earlier upon written approval from the Community Services Director. Time shall be of the essence in this Agreement. All additional time shall be paid for according to the schedule of fees as established from time to time by the CITY.

(c) PERMITTEE must remove all equipment and restore the premises to its original condition by Monday following the event, turf conditions permitting. A storage fee of $150.00 per day per unit shall be assessed for each piece of equipment remaining in the park beyond this date. The stage, tent and low-boy trailer shall be exempt from this requirement and must be removed by the Friday following the event or a fee of $150.00 per day per unit shall be applied.

(d) PERMITTEE and CITY shall perform a site inspection walk-thru prior to and following the event. PERMITTEE and CITY will make every effort to provide the same representatives for each walk-thru. The inspections shall note park conditions prior to and following the event.

(e) PERMITTEE shall submit to the Community Services Director an itemized audit of festival events within 90 days of the end of the event. CITY shall provide an itemized audit of expenses within 90 days of the end of the event. Each party has the right to examine further the records of the other relating to the event upon provide notice.

(f) PERMITTEE shall have the right to sell programs, novelties and/or souvenirs within the premises during the term of the event. Under no circumstances may PERMITTEE or any vendor participating in the event sell or distribute any pyrotechnic device or similar device for any reason whatsoever. Pyrotechnic device shall include, but not be limited to, firecrackers, sparklers, rockets, "snakes" and other similar products.

(g) PERMITTEE shall not allow vendors, customers, musicians or event attendees to import firewood into any portion of the premises. CITY will provide firewood for sale for use on the premises. PERMITTEE is responsible for informing all vendors, customers, musicians and event attendees of this requirement. PERMITTEE is further responsible for strictly enforcing this requirement.

■ (35) Cancellation or Modification.

(a) CITY may cancel this Agreement at any point prior to the first day of the event, by providing at least 24 hours written notice. CITY agrees to use its best efforts to provide as much advance notice to PERMITTEE as possible. CITY may only cancel this Agreement under this provision if CITY is unable to provide the premises to PERMITTEE due to health, safety, legal, unforeseen weather or similar conditions that have either destroyed the premises or made the premises unusable for PERMITTEE's event.

(b) CITY shall provide reasonable notice to PERMITTEE of any modifications to the premises which may impact PERMITTEE's use of the Premises for Camp Cannabis.

(c) PERMITTEE shall not responsible for fees under this Permit if CITY cancels this Agreement as provided in paragraph (a) or (b) above. PERMITTEE remains responsible for all fees if PERMITTEE cancels this Permit for any reason.

■ (36) 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.

■ (37) 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.

■ (38) 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.

■ (39) 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 CONCERING 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

_____
Jennifer A. Smith, Mayor

_____
Kyle Whitney, City Clerk

TFS EVENTS, LLC

DocuSigned by:
Logan Stauber
By: Logan Stauber
Its: CEO

_____
By:
Its:

Approved as to Content:

_____
Karen M. Kovacs, City Manager

Approved as to Form:

_____
Suzanne C. Larsen, City Attorney

**Agenda Date:** 6/27/2022

## New Business
## Purchase of Used Fire Truck

## BACKGROUND:

The Fire Department utilizes two 2004 Pierce Arrow XT fire trucks in their daily operations. Both trucks have exceeded their average useful life of 15 years and are experiencing frame corrosion issues. The trucks have been included in the Motor Pool Capital Outlay replacement schedule and were scheduled to be replaced in the 2023/24 and 2024/25 fiscal years. One new truck has already been ordered and is 22 months out. During a routine 90-day inspection on unit 2052 staff discovered that the truck's frame was missing a significant piece of material. Further inspection showed cracks running up the side of the frame. Motor Pool staff recommends the truck be taken out of service immediately and replaced with a used fire truck until a long-term solution is found.

Motor Pool and Fire Department personnel have been researching used fire trucks ranging in price from $25,000 to $150,000. Two replacement candidates were physically inspected in Wisconsin and one in Chocolay Township. A 1999 Pierce Sabre located in Pittsville, Wisconsin has been found to be the best option and will adequately meet the operational needs of Fire Department. Due to the extremely low mileage on the vehicle, staff estimates that the used truck will have a minimum useful life of 5 years. The cost to purchase the recommended truck is $39,000.

## FISCAL EFFECT:

The FY 2021-22 Fire Department operating budget contains sufficient funds for this purchase.

## RECOMMENDATION:

Approve the purchase of used 1999 Pierce Sabre from Pittsville Fire Department, Inc. of Pittsville, Wisconsin in an amount not to exceed $39,000.

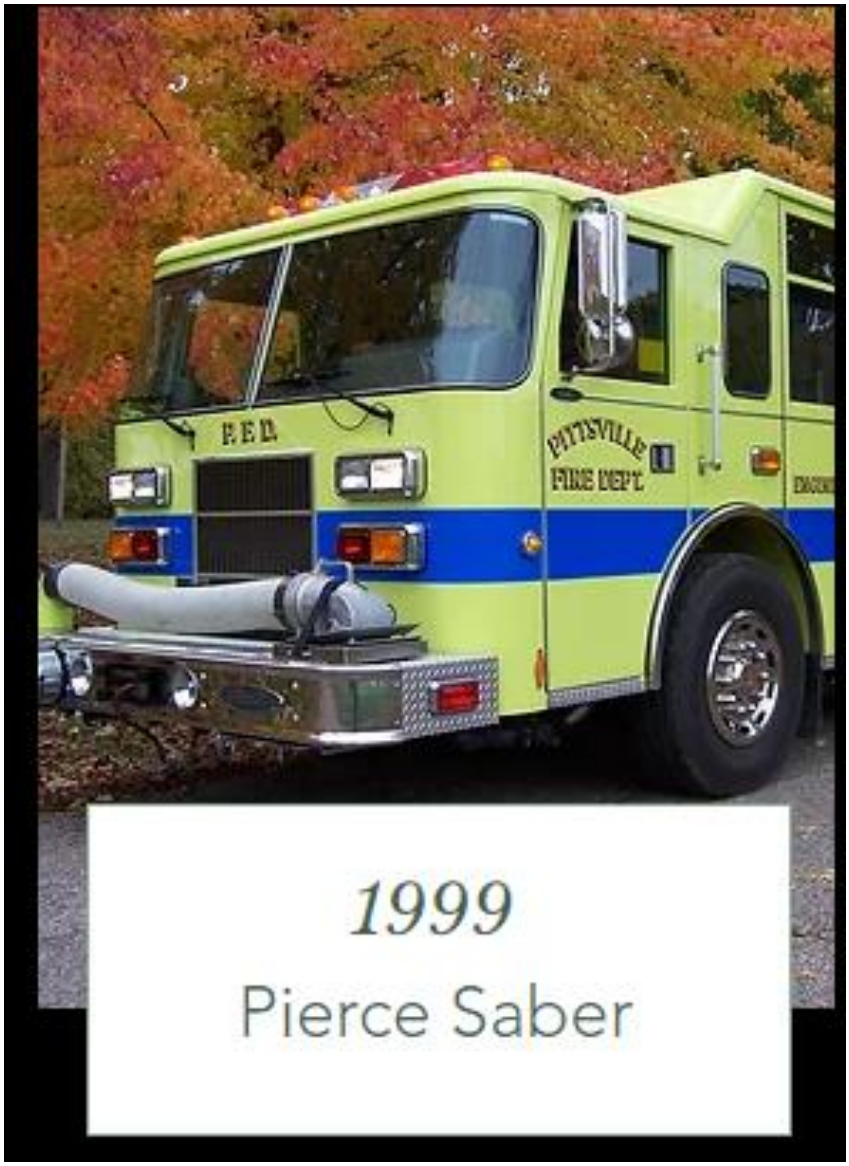
## ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- Used Fire Truck




1999 Pierce
Location – Pittsville, Wisconsin
19,985 Miles
Needs new tires, rear springs, scene lights, and medical cabinets/storage
Price $39,000