

City of Marquette, MI



Meeting Agenda City Commission

**Tuesday, October 11, 2022
6:00 PM
Commission Chambers**

300 West Baraga Ave
Marquette, Michigan 49855

Call to Order, Pledge of Allegiance and Roll Call

Approval of the Agenda

Announcements

Boards and Committees

1. Appointment(s)

Travis Gerhart, Arts and Culture Advisory Committee, for an unexpired term ending 06-01-24

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

Public Hearing(s)

2. Request to Rezone Parcel of NMU Owned Property - Roll Call Vote

3. Request to Rezone 221 and 225 W. Park Street - Roll Call Vote

4. Water Ordinance - Roll Call Vote

5. Consent Agenda - Roll Call Vote

5.a. Approve the minutes of the September 26, 2022 regular Commission meeting

5.b. Approve the total bills payable in the amount of \$8,700,627.59

5.c. Biogas Conditioning Skid Media and Testing

5.d. CDBG Environmental Review Forms - Roll Call Vote

5.e. Co-Generation Maintenance Services

5.f. Michigan Arts and Culture Council - Capital Grant Award

5.g. Michigan Arts and Culture Council - Grant Award

5.h. Fresh Coast Film Festival - Special Event Permit

5.i. Proclamation - Arbor Day Recognition 2022

New Business

6. Marquette Board of Light and Power – Lease Agreement

7. City Hall Labor Union Wages
8. DPW and Utilities Labor Union Wages
9. Supervisory Labor Union Wages
10. Community Master Plan Steering Committee

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

Comments from the Commission

Comments from the City Manager

Adjournment

Kyle Whitney, City Clerk

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

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

Public Hearing(s)

Rezoning Parcel of NMU Owned Property - Roll Call Vote

BACKGROUND:

The Planning Commission held a public hearing on September 6, 2022 to consider rezoning a 1.1-acre parcel of land with frontage on Center Street and which is owned by Northern Michigan University (NMU) and zoned as part of the Civic zoning district, which is appropriate for NMU property. This parcel includes the former "President's House" and was recently split from the parcel with an address of 1321 Wright Street. A new address will be assigned to this parcel in the near future. NMU wishes to sell the property as a residence and to accomplish this, NMU is requesting the zoning district be changed to Medium Density Residential (MDR).

The Planning Commission, after conducting a public hearing made the following motion:

It was moved by M. Larson, and seconded by S. Mittlefehldt, and carried 7-0 that after conducting a public hearing and review of the application and Staff Report for 05-REZ-09-22, 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 05-REZ-09-22 as presented.

Under the procedures of section 54.1405 of the Land Development Code, the City Commission, upon recommendation from the Planning Commission, has scheduled this public hearing to consider rezoning the parcel as part of the Medium Density Residential zoning district.

FISCAL EFFECT:

Upon approval of the rezoning, the property would be added to the tax roll.

RECOMMENDATION:

Following the Public Hearing, adopt Ordinance 715, rezoning the 1.1-acre NMU parcel as Medium Density Residential in accordance with Section 54.1405 of the Land Development Code.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▢ Planning Commission case file for 05-REZ-09-22
- ▢ 09-06-22 Planning Commission Minutes
- ▢ Ordinance 715



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: September 1, 2022
SUBJECT: 05-REZ-09-22 – 1.1225 Acres of 1321 Wright St. (PIN: portion of 0511530)

The Planning Commission is being asked to make a recommendation to the City Commission regarding a request to rezone 1.1225 Acres of the property located at **1321 Wright St.** which is zoned **Civic (C)** to be zoned **Medium Density Residential (MDR)**

In July of 2022, NMU had submitted a land division application to split out this 1.1225 Acre portion of the property, as they wish to sell it as a single-family home. During review of the land division application, Zoning staff reviewed the proposed split and verified it would meet the requirements if changed to the MDR zoning district.

In 2022, NMU submitted a right-of-way permit as the house was connected to the NMU private water and sewer system and they wanted this proposed split to have their own connections to the public City water and sewer mains. This work has been completed.

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 05-REZ-09-22, 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 - Zoning Ordinance Amendment Procedures, and hereby recommends that the City Commission (approve / deny) 05-REZ-09-22 (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 #: 05-REZ-09-22

Date: September 1, 2022

Project/Application: Rezoning request from zoned **Civic (C)** to be zoned **Medium Density Residential (MDR)**.

Location and Parcel ID: 1.12 Acres of 1321 Wright Street (PIN: portion of 0511530)

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

Year Built: Per Assessing records, the house was built in 1980.

Current Zoning: C- Civic

Surrounding Zoning:
 North: C – Civic
 South: MDR – Medium Density Residential
 East: C – Civic
 West: C – Civic & MDR – Medium Density Residential

Zoning Districts and Standards:

Current Zoning

Section 54.316

C, Civic District

(A) Intent
The intent of the Civic district is to permit flexible development and approval standards for properties used by non-City public institutions, including Marquette County, the State of Michigan, Northern Michigan University and other public education institutions, U.S. Coast Guard and other Federal agencies.

(B) Permitted Principal Uses	(C) Special Land Uses
• Accessory Building or Structure • Agriculture-Like Operation, including Forestry • Cemetery • Farmers' Markets • Food Production, Minor • Indoor Recreation • Office, Professional • Outdoor Entertainment and Community Events (Principal, Temporary, or Accessory Use) • Outdoor Recreation • Public or Governmental Building	• Accessory Use, Non-Single Family Residential Lots • Port Facilities and Docks • Structures between the shoreline of Lake Superior and the pavement of the nearest public street or highway.

STAFF FILE REPORT/ANALYSIS

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• Recreational Use, Public • School, Primary or Secondary • School, University • Storage, Open • Wireless Telecommunications Facilities	
Where there is a discrepancy between Section 54.306 and this table, Section 54.306 shall prevail.	

(D) Dimensional Regulations			
<i>Lot, Coverage, and Building Height Standards</i>		<i>Minimum Setbacks</i>	
<i>Min. Lot Area (sq. ft.)</i>	None	<i>Front Yard (ft.)</i>	None
<i>Min. Lot Width (ft.)</i>	None	<i>Side Yard (one) (ft.)</i>	5
<i>Max. Impervious Surface Coverage (%)</i>	(S)	<i>Side Yard (total of 2) (ft.)</i>	10
<i>Max. Building Height of Primary Building (ft.)</i> (P)	60	<i>Rear Yard (ft.)</i>	20
<i>Max. Building Height of Accessory Building</i>	24		
<i>Max. Building Height (stories)</i>	-		
Where there is a discrepancy between Article 4 and this table, Article 4 shall prevail.			

Footnotes to Schedule of Regulations

(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.

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

Section 54.1003 Landscaping Design Requirements

(D) Buffer and Greenbelt Requirements.

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

Figure 50 - Required Buffer and Greenbelt Specifications:

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

Proposed Zoning

Section 54.308 MDR, Medium Density Residential

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

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

54.403 Footnotes to Schedule of Regulations

- (A) Permitted Front Yard Setback Encroachments in the MDR and MFR Districts.** In the MDR and MFR districts, open front porches may encroach into the required front yard setback, provided the encroaching porch is for the first story only and is setback at least five (5) feet from the front lot line.

STAFF FILE REPORT/ANALYSIS

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- (B) Reduced Minimum Front Yard Setback in the LDR and MDR Districts.** If the average front yard setback of the principal buildings on the same block are less than the minimum front yard setback of the district, the minimum front yard setback of a subject lot in the LDR district or MDR district may be reduced to that average, provided the principal buildings used in the average are on the same side of the street and in the same zoning district as the subject lot.
- (C) Minimum Lot Area for Two-Family Dwellings (Duplexes) in the MDR, M-U, TSC, and MFR Districts.** In the MDR, M-U, TSC, and MFR District, the minimum lot area for a two-family dwelling (duplexes) is 6,000 sq. feet.
- (D) Minimum Lot Width for Two-Family Dwellings (Duplexes) in the MDR M-U, TSC, and MFR Districts.** In the MDR, M-U, TSC, and the MFR District, the minimum lot width for a two-family dwelling (duplex) is 50 feet.
- (L) Accessory Buildings and Structures.** For accessory buildings and structures, additional requirements for side yard setbacks, rear yard setbacks, and height are in [Section 54.705](#).
- (P) Height Exemptions.** There shall be no height restriction on chimneys, flagpoles, public monuments, and wireless telecommunications facilities except when they are part of a special land use. Items attached to a building such as chimneys, weather vanes, lightning arrestors, etc. may be exempt as well.
- (R) Maximum Impervious Surface Coverage of a Lot in the LDR and MDR Districts, and single-family and two-family dwelling units in other zoning districts:** The maximum impervious surface coverage of a lot in the LDR and MDR Districts, and single-family and two-family uses in all other zoning districts shall be based on the lot areas as follows:

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

Section 54.1003 Landscaping Design Requirements

(D) Buffer and Greenbelt Requirements.

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

Figure 50 - Required Buffer and Greenbelt Specifications:

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

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.

The application was submitted by the property owner.

- (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.

The application was submitted, found complete, and 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, September 6, 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 September 6, 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 *Civic* on the *Future Land Use Map* of the *Community Master Plan (CMP)* and on the *Proposed Zoning Map*. These 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 as Northern Michigan University still owned the parcel. See p.3-12 of the CMP for description of the designation for Civic as a land use category. If NMU no longer owns this portion of the property, then it does not meet the Civic zoning intent anymore.



Please see pp.3-30, 3-31, 3-32 of the Community Master Plan (CMP), specifically the section titled “Using the Master Plan for Zoning Ordinance Amendment Review” and Figure 3-5 “Decision Tree for Planning Commission Review of a Proposed Rezoning.” The Planning Commission must review these portions of the CMP and all other

supporting information, this report in particular, and the attachment titled Rezoning Considerations for Planning Commissions, and hold a public hearing for community input prior to making a determination of whether to recommend approval or the request as presented or not.

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

Please see above - "Zoning District and Standards".

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

This portion of Center Street is classified as “Urban Local Street” per the Community Master Plan, therefore vehicular traffic volumes are low.

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

There are no problems anticipated.

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

The conditions have changed since NMU no longer wishes to own this portion of the property and they have submitted for a land division. They wish to sell the parcel to be used as a single-family residence. There was no 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 compatible with site’s physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

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

The proposed rezoning would be compatible with surrounding uses and zoning.

- (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.

Per the application the total square footage this proposed parcel split is 1.1225 Acres, and it has an existing residence on the property. During review of the land division application, Zoning staff reviewed the proposed split and verified it would meet the requirements if changed to the MDR zoning district.

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

The surrounding single-family parcels are zoned MDR.

- (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.

Since NMU would no longer own this parcel, it should not remain Civic.

- (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.

Per the application the total square footage this proposed parcel split is 1.1225 Acres.

- (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.

In July of 2022, NMU had submitted a land division application to split out this 1.1225 Acre portion of the property, as they wish to sell it as a single-family home. During review of the land division application, Zoning staff reviewed the proposed split and verified it would meet the requirements if changed to the MDR zoning district.

In 2022, NMU submitted a right-of-way permit as the house was connected to the NMU private water and sewer system and they wanted this proposed split to have their own connections to the public City water and sewer mains. This work has been completed.

Attachments:

1. Rezoning Application with survey
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 parcels
8. Publication Notice
9. *Rezoning Information for Planning Commissions* document
10. *Spot Zoning Considerations* document
11. *Decision Tree for PC review of Proposed Rezoning* from CH. 3 of the Master Plan

CITY OF MARQUETTE REZONING APPLICATION



CITY STAFF USE	
Parcel ID#: <u>Portion of 0511530</u>	File #: <u>05-REZ-09-22</u> Date: <u>7-26-22</u>
Hearing Date: <u>9-6-22</u>	Application Deadline (including all support material): <u>8-9-22</u>
Receipt #: <u>401513</u>	Check #: <u>00392201</u> Received by and date: <u>Any 7-26-22</u>

FEE \$550 (We can only accept Cash or Check (written to the City of Marquette))

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

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

- 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	APPLICANT/OWNERS REPRESENTATIVE
Name: <u>Northern Michigan University</u>	Name: <u>Jim Thams</u>
Address: <u>1401 Presque Isle</u>	Address: <u>1401 Presque Isle</u>
City, State, Zip: <u>Marquette, Michigan 49855</u>	City, State, Zip: <u>Marquette, Michigan 49855</u>
Phone #: <u>906 227 2475</u>	Phone #: <u>906 227 2475</u>
Email: <u>jthams@nmu.edu</u>	Email: <u>jthams@nmu.edu</u>
APPLICANTS OR REPRESENTATIVES ARE STRONGLY ENCOURAGED TO BE PRESENT AT THE MEETING	**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.

1321 Wright St

PROPERTY INFORMATION

Property Address: 1440 Center St. Property Identification Number: 0511530 / TBD

Size of property (frontage / depth / sq. ft. or acres): 240' x 200' / 1.12 Acres

Surrounding Zoning Districts: North Civic East Civic South MDR West Civic

Legal Description: See Attached

PROPOSAL

Current Zoning District: Civic

Proposed Zoning District: MDR

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

SIGNATURE

I hereby certify the following:

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

Property Owner Signature:  Date: 7-26-2022



FACILITIES
1401 Presque Isle Avenue
Marquette, MI 49855-5301
906-227-2292 | FAX: 906-227-2467
nmu.edu/facilities

July 26, 2022

Andrea Landers, Zoning Official
City of Marquette, Michigan

Re: Rezoning Request (1440 Center Street mailing address) portion of 1321 Wright St

Dear Ms. Landers,

Northern Michigan University is in the process of splitting and selling the single-family residence located at 1440 Center Street.

The property will be sold as a single-family home and will no longer be associated with NMU. As such, we are requesting a change in zoning from Civic to MDR. Attached is the application along with a copy of the certificate of survey and the application fee. In conjunction with this application, but under a separate request, NMU is requesting the parcel be split from its parent parcel.

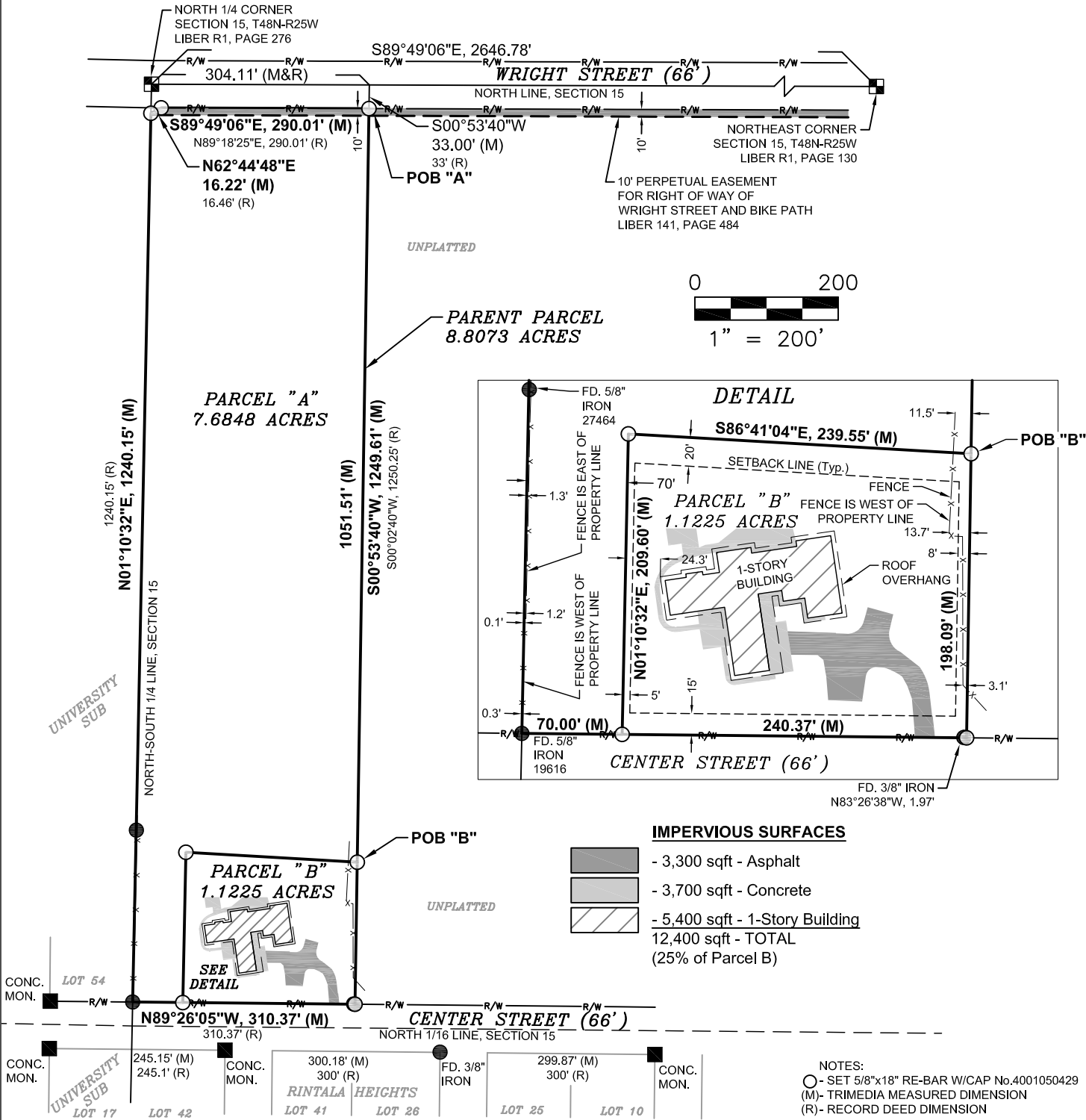
Any questions or concerns please feel free to contact me at 227-2475.

Sincerely,

Jim Thams, Director of Facilities and Campus Planning
Northern Michigan University
1401 Presque Isle Avenue
Marquette, MI 49855
(906) 227-2475

CERTIFICATE OF SURVEY

PART OF THE NW 1/4 OF NE 1/4, SECTION 15, T48N-R25W,
CITY OF MARQUETTE, MARQUETTE COUNTY, MICHIGAN



830 WEST WASHINGTON STREET
MARQUETTE, MICHIGAN 49855
(906)228-5125

ESCANABA, MICHIGAN PHOENIX, ARIZONA MARSHALL, MICHIGAN SUPERIOR, WISCONSIN

SURVEYORS CERTIFICATE: I hereby certify that I have surveyed and mapped the hereon described parcel of land and that the relative positional precision of each corner is within the limits accepted by the practice of professional surveying; and that this survey complies with the requirements of Public Act No. 132, of 1970 as amended.

SCALE: 1"= 200'	CLIENT: NMU
APPROVED BY: CLC	JOB NO.: 2022-1370
DRAWN BY: SJD	DATE: 07/13/2022

NORTH

BEARING BASIS:
NAD 83 (2011)
MICHIGAN STATE
PLANE NORTH (2111)

SEC. TWP. RANGE
15 48N 25W

MUNICIPALITY:
CITY OF
MARQUETTE

ENCROACHMENTS:
NONE

SHEET 1 OF 2

TRIMEDIA ENVIRONMENTAL AND ENGINEERING, LLC

BY:
Stacey J. Bluse, P.S. No. 4001050429

DATE: 07/13/2022

STATE OF MICHIGAN

STACEY JAMES BLUSE

License No. 4001050429

LICENSED PROFESSIONAL SURVEYOR

Page 18 of 209

CERTIFICATE OF SURVEY

PART OF THE NW 1/4 OF NE 1/4, SECTION 15, T48N-R25W,
CITY OF MARQUETTE, MARQUETTE COUNTY, MICHIGAN

PARENT PARCEL - RECORD LEGAL DESCRIPTION - WARRANTY DEED

That certain piece or parcel of land situated and being in the Northwest Quarter of the Northeast Quarter (NW1/4 of NE1/4) of Section Fifteen (15), Township Forty-eight (48) North of Range Twenty-five (25) West, which is described as follows:
Beginning at a point thirty-three (33) feet south and three hundred four and eleven hundredths (304.11) feet east of the north quarter corner of said Section 15; thence south zero degrees, two minutes and forty seconds west (S 0°-02'-40" W) a distance of one thousand two hundred and fifty and twenty-five hundredths (1250.25) feet to the North right-of-way line of Center Street; thence Westerly a distance of three hundred ten and thirty-seven hundredths (310.37) feet along the said right-of-way line to a point located on the North-South quarter line of said Section 15; thence Northerly along the said North-South quarter line a distance of one thousand two hundred forty and fifteen hundredths (1240.15) feet to the Southeasterly right-of-way line of the Soo Line Railroad; thence Northeasterly along said right-of-way line a distance of sixteen and forty-six hundredths (16.46) feet; thence North eighty-nine degrees, eighteen minutes and twenty-five seconds East (N 89°-18'-25" E) a distance of two hundred ninety and one hundredth (290.01) feet to the point of beginning, enclosing an area containing eight and seventy-eight hundredths (8.78) acres more or less.

PARENT PARCEL - SURVEYED LEGAL DESCRIPTION

A parcel of land being part of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4), Section 15, T48N-R25W, City of Marquette, Marquette County, Michigan described as:
Commencing at the North 1/4 corner of Section 15; thence S89°49'06"E, 304.11 feet along the North line of Section 15; thence S00°53'40"W, 33.00 feet to the South right of way line of Wright Street and the **Point of Beginning "A"**; thence continuing **S00°53'40"W, 1249.61 feet** to the North right of way line of Center Street; thence **N89°26'05"W, 310.37 feet** along the North right of way line of Center Street to the North-South 1/4 line of Section 15; thence **N01°10'32"E, 1240.15 feet** along the North-South 1/4 line to the Southeasterly right of way line of the Soo Line Railroad; thence **N62°44'48"E, 16.22 feet** along the Southeasterly right of way line of the Soo Line Railroad to the South right of way line of Wright Street; thence **S89°49'06"E, 290.01 feet** along the South right of way line of Wright Street to the **Point of Beginning "A"** and containing **8.8073 acres**, subject to a 10 foot perpetual easement for right of way, recorded in Liber 141, Page 484, and subject to restrictions, reservations, rights of way and easements of record.

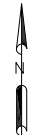
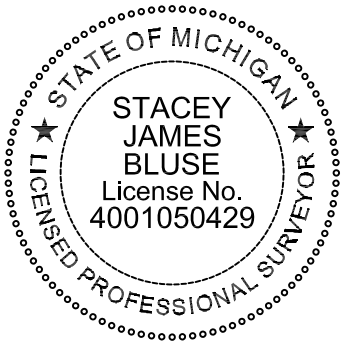
PARCEL "A" - SURVEYED LEGAL DESCRIPTION

A parcel of land being part of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4), Section 15, T48N-R25W, City of Marquette, Marquette County, Michigan described as:
Commencing at the North 1/4 corner of Section 15; thence S89°49'06"E, 304.11 feet along the North line of Section 21; thence S00°53'40"W, 33.00 feet to the South right of way line of Wright Street and the **Point of Beginning "A"**; thence continuing **S00°53'40"W, 1051.51 feet**; thence **N86°41'04"W, 239.55 feet**; thence **S01°10'32"W, 209.60 feet** to the North right of way line of Center Street; thence **N89°26'05"W, 70.00 feet** along the North right of way line of Center Street to the North-South 1/4 line of Section 15; thence **N01°10'32"E, 1240.15 feet** along the North-South 1/4 line to the Southeasterly right of way line of the Soo Line Railroad; thence **N62°44'48"E, 16.22 feet** along the Southeasterly right of way line of the Soo Line Railroad to the South right of way line of Wright Street; thence **S89°49'06"E, 290.01 feet** along the South right of way line of Wright Street to the **Point of Beginning "A"** and containing **7.6848 acres**, subject to a 10 foot perpetual easement for right of way, recorded in Liber 141, Page 484, and subject to restrictions, reservations, rights of way and easements of record.

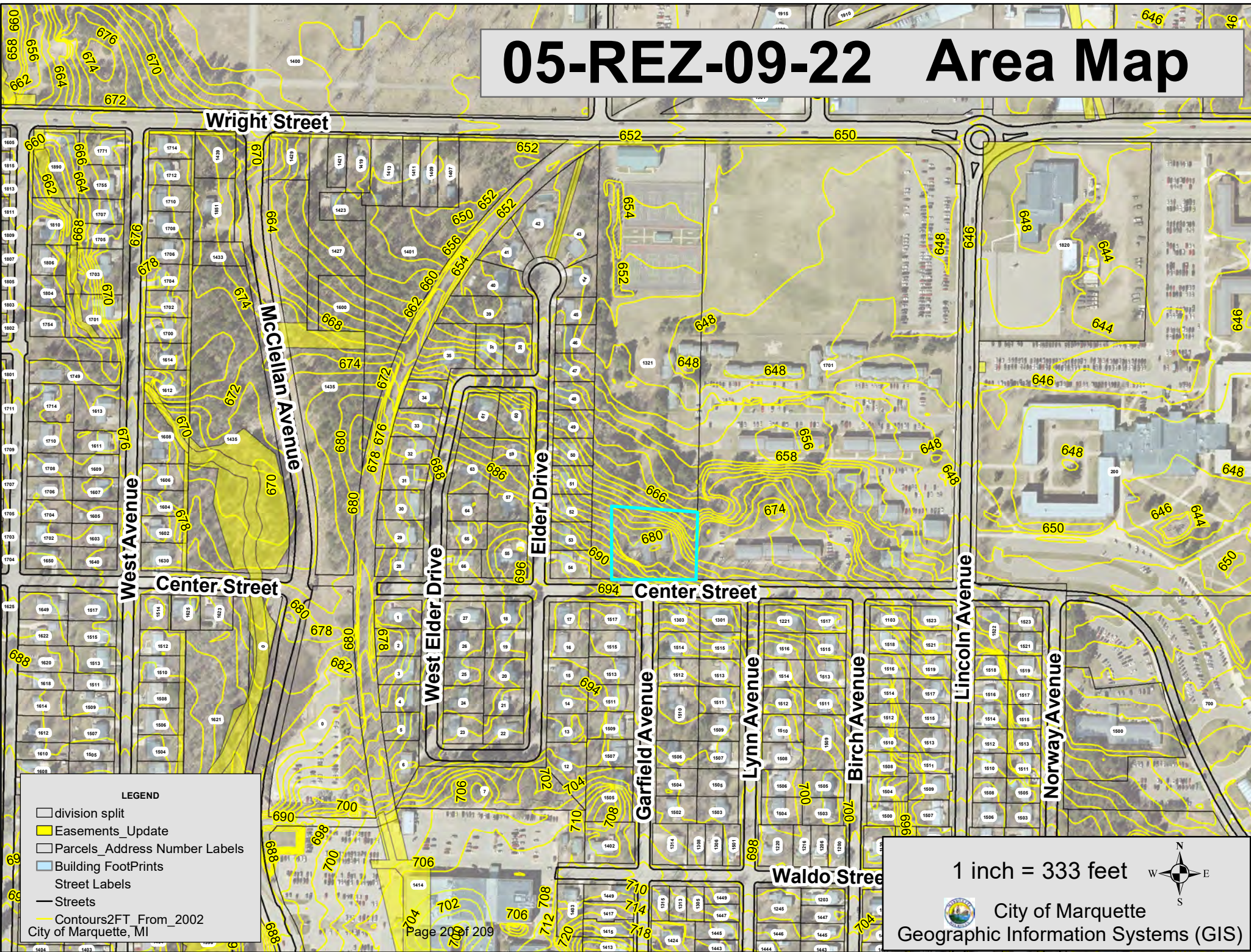
PARCEL "B" - SURVEYED LEGAL DESCRIPTION

A parcel of land being part of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4), Section 15, T48N-R25W, City of Marquette, Marquette County, Michigan described as:
Commencing at the North 1/4 corner of Section 15; thence S89°49'06"E, 304.11 feet along the North line of Section 21; thence S00°53'40"W, 33.00 feet to the South right of way line of Wright Street; thence continuing S00°53'40"W, 1051.51 feet to the **Point of Beginning "B"**; thence continuing **S00°53'40"W, 198.09 feet** to the North right of way line of Center Street; thence **N89°26'05"W, 240.37 feet** along the North right of way line of Wright Street; thence **N01°10'32"E, 209.60 feet**; thence **S86°41'04"E, 239.55 feet** to the **Point of Beginning "B"** and containing **1.1225 acres** and subject to restrictions, reservations, rights of way and easements of record.

P:\2022\2022-1370 NMU - Parcel Split\Drawings\2022-1370_NMU Certificate of Survey.dwg

 830 WEST WASHINGTON STREET MARQUETTE, MICHIGAN 49855 (906)228-5125 ESCANABA, MICHIGAN PHOENIX, ARIZONA MARSHALL, MICHIGAN SUPERIOR, WISCONSIN		 NORTH	TRIMEDIA ENVIRONMENTAL AND ENGINEERING, LLC
		BEARING BASIS: NAD 83 (2011) MICHIGAN STATE PLANE NORTH (2111)	BY:  Stacey J. Bluse, P.S. No. 4001050429
		SEC. TWP. RANGE 15 48N 25W	DATE: 07/13/2022
		MUNICIPALITY: CITY OF MARQUETTE	
		ENCROACHMENTS: n/a	
SCALE: n/a	CLIENT: NMU		
APPROVED BY: CLC	JOB NO.: 2022-1370		
DRAWN BY: SJB	DATE: 07/13/2022	PAGE 19 OF 209	SHEET 2 OF 2

05-REZ-09-22 Area Map



LEGEND

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

1 inch = 333 feet



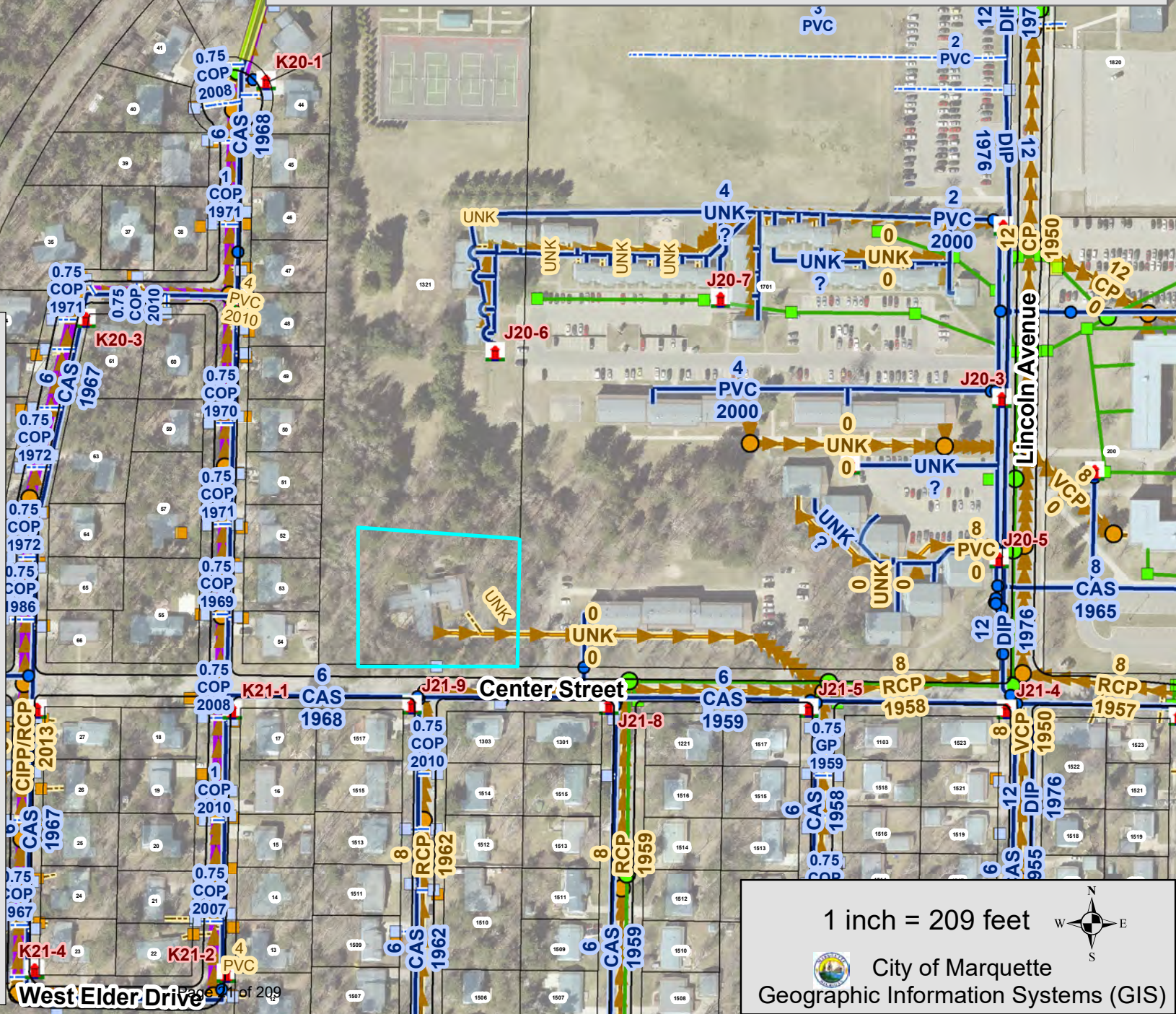
City of Marquette

Geographic Information Systems (GIS)



05-REZ-09-22 Block Map

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



05-REZ-09-22 Zoning Map

LEGEND

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

1 inch = 417 feet

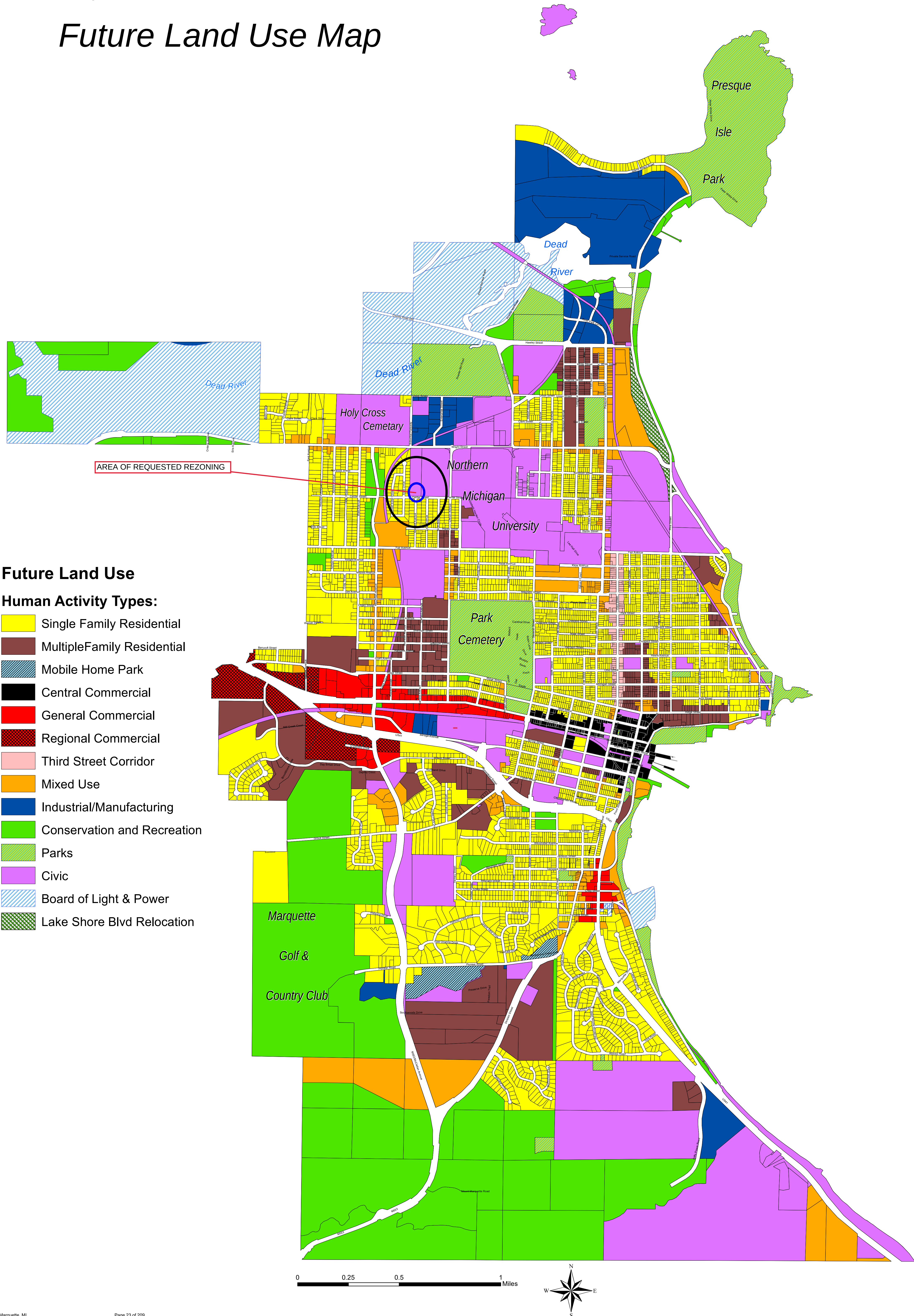


City of Marquette
Geographic Information Systems (GIS)



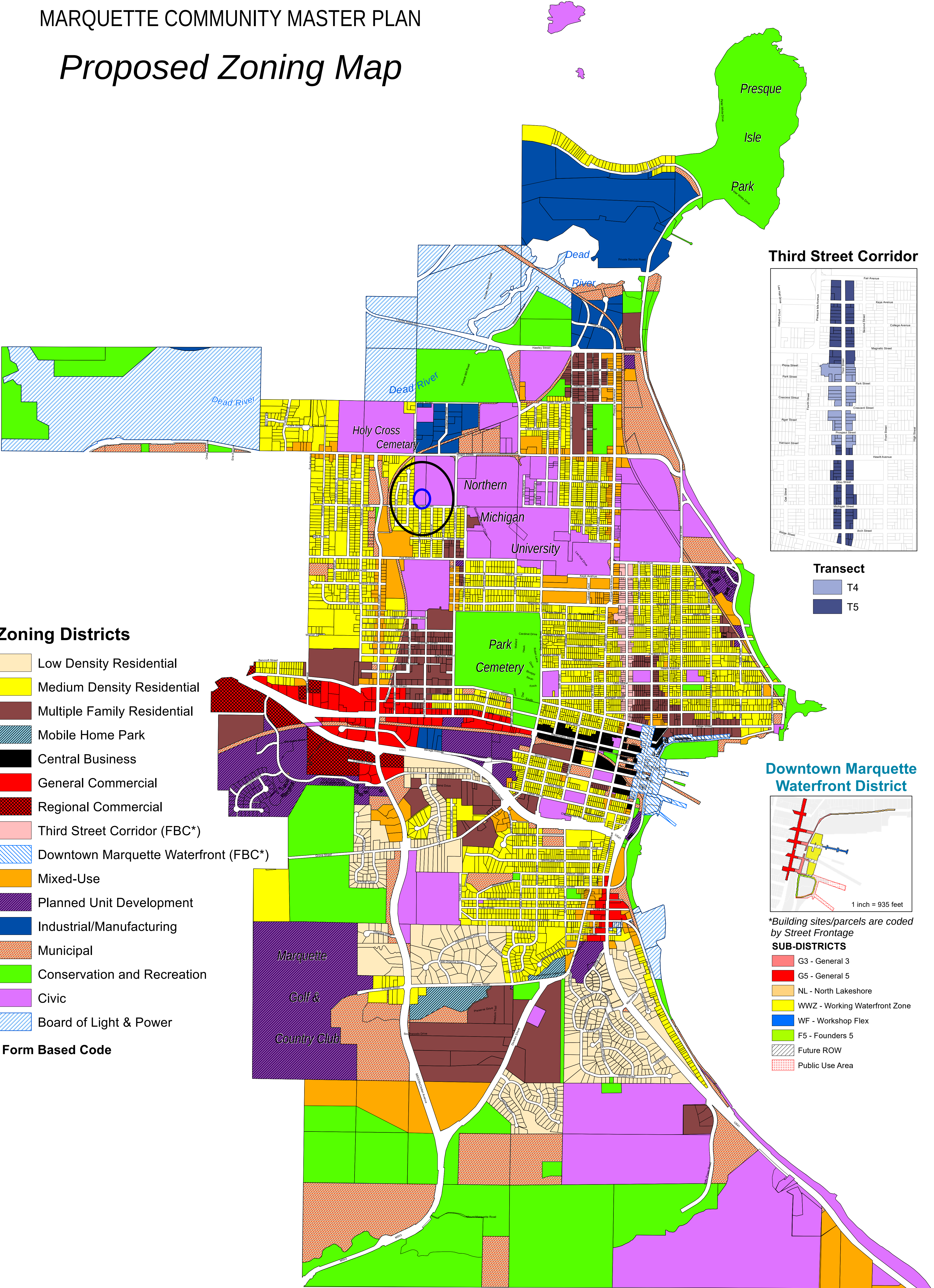
MARQUETTE COMMUNITY MASTER PLAN

Future Land Use Map



MARQUETTE COMMUNITY MASTER PLAN

Proposed Zoning Map

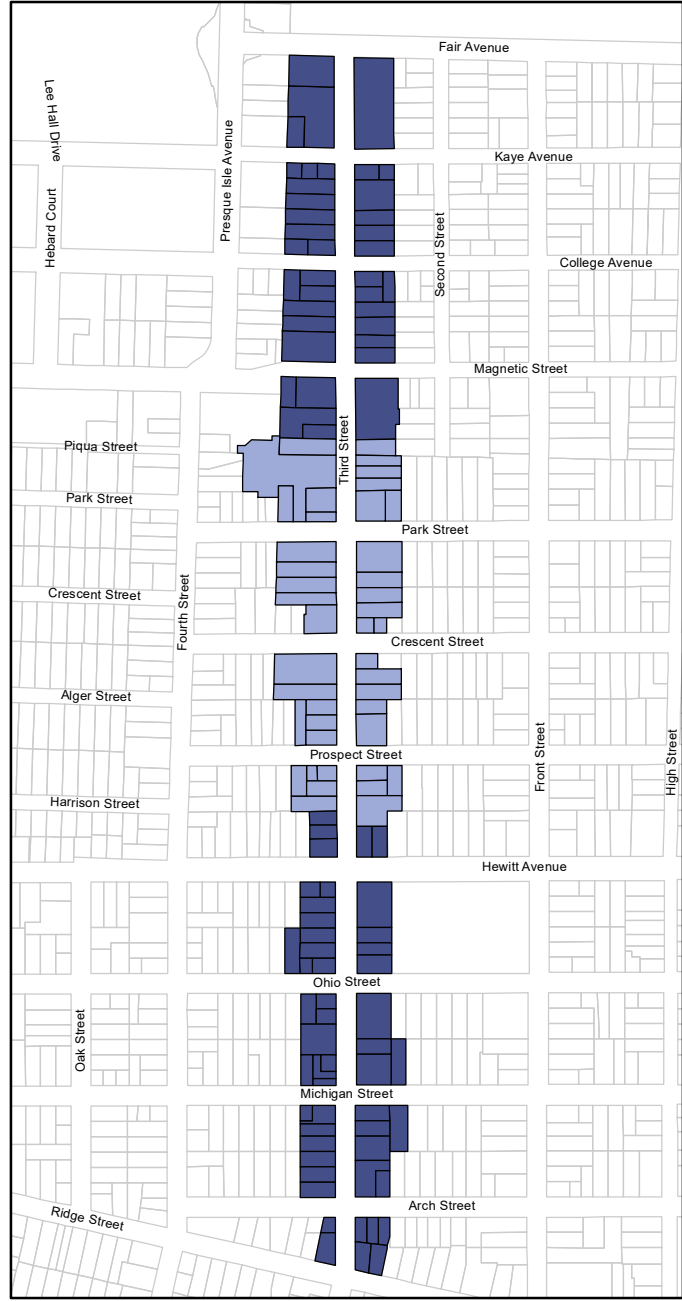


Zoning Districts

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

* Form Based Code

Third Street Corridor

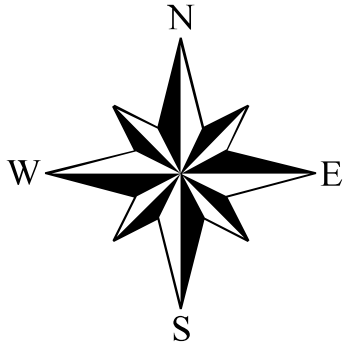
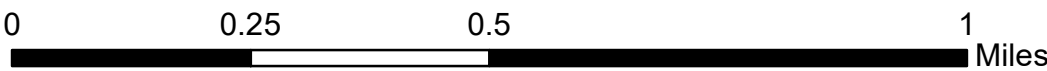


- Transect**
- T4
 - T5

Downtown Marquette Waterfront District



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





World

Major wildfire in Spain forces the evacuation of 1,500

MADRID (AP) — A large wildfire in northeast Spain grew rapidly overnight and was burning out of control Sunday, forcing the evacuation of eight villages and 1,500 people in Zaragoza province, firefighters said.

The head of the local Aragon government, Javier Lamban, said Sunday that the situation was critical in the town of A on de Moncayo and the priority for the 300 firefighters fighting the blaze was to protect human lives and villages.

The wildfire, which began Saturday, de-

veloped a 31-mile perimeter in less than 24 hours, the local forest chief said. It's estimated burned surface could be up to 20,000 acres, state news agency EFE reported.

Those who fled took shelter in three different sports centers in nearby towns.

Firefighters said the outlook for taming the blaze depends on the weather, but gusty winds up to 37 mph were predicted.

Drought and extremely high temperatures in the Mediterranean country are turning 2022 into the worst year of the century in terms of fires.

Please take notice that on July 28, 2022, the Forsyth Township Board adopted the following zoning map and text amendments as:

Zoning Map Amendment & Text Amendment

MIXED-USE CORRIDOR

MU **INTENT**

To provide a residential use and various neighborhood-serving retail and service uses.

Mixed-Use Zoning Map Amendment creates a Mixed-Use Corridor beginning at 128 N. Pine Street on North side of Pine going East to 246 E M-35. Also including Flagstar Bank parking lot on South side of Pine Street going East to 271 E. M-35. Also, to include Lots 1 to 9 in Block 5 of the Plat of Gwinn. Excepting School & Township properties be kept PA.

To Be come effective 7 days after publication.

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:

05-REZ-09-22 – 1.1225 Acres of 1321 Wright Street (PIN: portion of 0511530): Northern Michigan University is requesting to rezone 1.1225 Acres of the property located at 1321 Wright St. which is zoned Civic (C) to be zoned Medium Density Residential (MDR). The Legal Description of the 1.1225 Acres is as follows - A parcel of land being part of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4), Section 15, T 48N-R25W, City of Marquette, Marquette County, Michigan described as: Commencing at the North 1/4 corner of Section 15; thence S89°49'06"E, 304.11 feet along the North line of Section 21; thence S00°53'40"W, 33.00 feet to the South right of way line of Wright Street; thence continuing S00°53'40"W, 1051.51 feet to the Point of Beginning "B"; thence continuing S00°53'40"W, 198.09 feet to the North right of way line of Center Street; thence N89°26'05"W, 240.37 feet along the North right of way line of Wright Street; thence N01°10'32"E, 209.60 feet; thence S86°41'04"E, 239.55 feet to the Point of Beginning "B".

04-SUP-09-22 – 955 Lakeshore Blvd. (PIN: 0370073): Derek Parker and NJA Management Group LLC are seeking a Special Land Use permit for a Hotel Use to be located at 955 Lakeshore Boulevard.

The public hearing for these requests will be at 6:00 P.M. on Tuesday, **September 6, 2022**, in the Commission Chambers at City Hall located at 300 W. Baraga Ave. If you wish to comment on this matter, 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 September 6, 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
225-8363

Rezoning

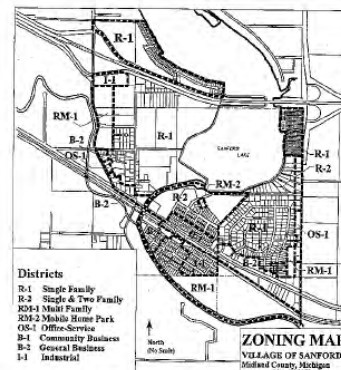
- The main question that must be answered when considering a rezoning is: *“Is that an appropriate location for that zone?”*
- The proposed use of land is not as important as is the fact that if the land is rezoned, any of the uses permitted in that zone may be established on that land.
- If a specific 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

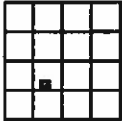
The following is an excerpt from a Planning Commissioner training/resource manual that summarizes the four characteristics of a "spot zone" - and explains that all four must be found in the subject rezoning request to constitute an "unjustified spot zone". The Planning Commission needs to address each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

SPOT ZONING

Characteristics

- * **Small in Size**
- * **Inconsistent Uses**
- * **Special Benefit**
- * **Contrary to Master Plan**

MSPO Basic Program: _____



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 it 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**

Use proposed - Shopping Center
Permitted in C-2, Special Use in C-1
10-Year Master Plan - Residential
No opposition
Major arterial road

**WHAT ARE THE APPROPRIATE
FACTORS TO CONSIDER?**

MSPO Basic Program

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.

WILLIS TOWNSHIP Zone Districts

C-1 Neighborhood Commercial

Permitted Uses

1. Grocery stores
2. Drug stores

Special Land Uses

1. Shopping centers

C-2 Community Commercial

Permitted Uses

1. Automobile services
2. Shopping centers

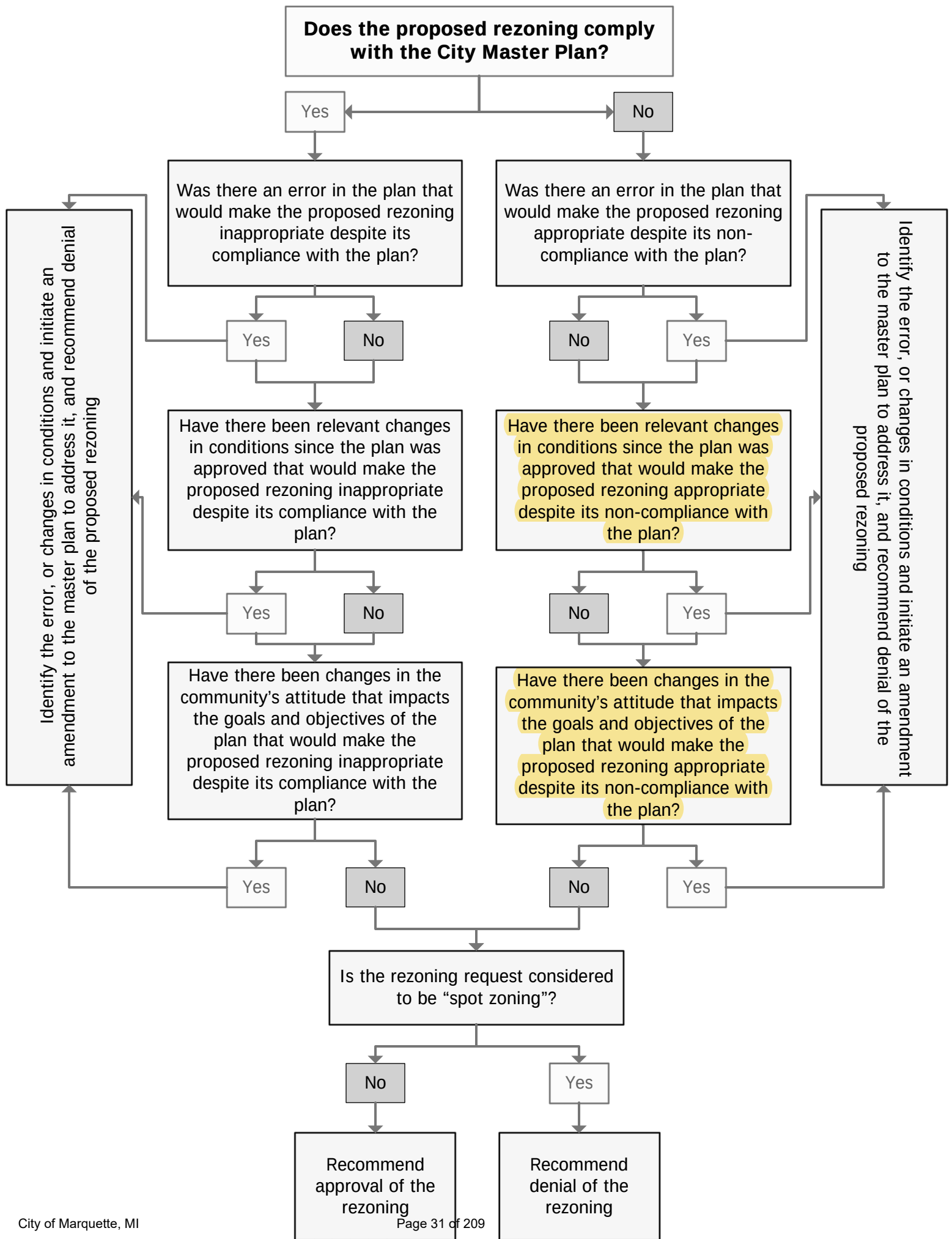
Special Land Uses

1. Auto body shops

MSPO Basic Program

- 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?



**OFFICIAL PROCEEDINGS OF THE
MARQUETTE CITY PLANNING COMMISSION
September 6, 2022**

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

ROLL CALL

Present: S. Mittlefehldt, N. Frischkorn, W. Premeau, Chair J. Cardillo, D. Fetter, Vice-Chair M. Larson, N. Williams

Absent: A. Andres (excused)

AGENDA

J. Cardillo stated:

Due to the large turnout this evening, and the fact that we received 51 items of correspondence after the point of publishing the agenda, which should be read, we are going to let the public hearing happen before the correspondence is read and then we will read the correspondence, but we will not read the letters received late from people that make a public comment, in order to avoid redundancy. The structure of the meeting is that staff and then the applicant will speak, and then we will hear public testimony, which will be the time for anyone who wishes to get up and talk for up to three minutes, stating your name and address and comments, and when the public hearing is closed there will be Commission discussion and that is not an open conversation. It is important that we are able to have a discussion amongst ourselves and at that point we have heard all of the public testimony, and I just ask that you respect our process as we have a lot of information to process this evening. We are going to take our time and listen to you all respectfully and so we just ask that you act respectfully during our discussion period. There may be questions asked directly to the consultant at that time and the answers should be directly in response to the question and not opening up to further debate.

It was moved by S. Mittlefehldt, seconded by M. Larson and carried 7-0 to approve the agenda as presented.

MINUTES

The minutes of 8-16-22 were approved by consent.

CONFLICT OF INTEREST

No conflicts were stated.

PUBLIC HEARINGS

A. 05-REZ-09-22 – 1.1225 Acres of 1321 Wright Street (PIN: portion of 0511530)

Zoning Official A. Landers read the memo for the case and presented visuals from the agenda packet including the application, the area and block map with the parcel outlined in blue, photos of the site, legal notices, rezoning considerations and spot zoning documents, and the rezoning “decision tree” from the Community Master Plan. She stated that no correspondence was received for this request.

J. Cardillo invited the applicant to come up and speak about the request.

Mr. Jim Thams, the applicant’s representative, stated I think, I’m not sure what I can add to what Andrea has stated. This is our former president’s house. It’s a residential, it will be a residential lot, a residential home. It’s located on, the home itself is located on Center Street just east of Lincoln Avenue, west of Lincoln Avenue,

excuse me, and we're just, we're looking to sell the house off, so that's, that's the reason for the request. I'm happy to answer any questions you may have.

No commissioners had any specific questions for Mr. Thams. No public correspondence.

J. Cardillo opened the public hearing. No one wished to comment. J. Cardillo closed the public hearing.

It was moved by S. Mittlefehldt, seconded by N. Frischkorn, and carried 7-0 to suspend the rules for discussion.

S. Mittlefehldt stated:

I have a question for Mr. Thams. I noticed just on the boundary there of the parcel that's being proposed for the rezoning doesn't like go fully west to the edge, so that it would be abutting the other residential area there, the Medium Density Residential. Is that little strip there going to remain Civic [zoning]?

Mr. Thams stated:

Yes, it will. That, that is not part of the split, so we'll retain ownership. It's about a 70 foot swath through there.

S. Mittlefehldt stated:

Okay, I haven't walked over there. Is it, is it just wooded?

Mr. Thams stated:

It's wooded, yeah. Everything west of the Kaye house to the first residential houses there, it's all wooded there.

S. Mittlefehldt stated:

Thanks. I just have another just general question too, it's not as much related to this. But when there is a public entity selling to a private homeowner potentially, does that money just go to the general fund for Northern or where does the money go?

Mr. Thams stated:

I'm not sure I know the answer to the question. I would assume it would go to the general fund.

J. Cardillo asked S. Mittlefehldt if she had anything else. S. Mittlefehldt had no other questions. J. Cardillo asked N. Frischkorn if he had anything.

N. Frischkorn stated:

No, I was curious about the same thing, about that little strip next to the lot.

J. Cardillo asked if anybody else wanted to talk. She stated:

Does anybody want to go through just to make sure we do our due diligence? Our spot zoning and our decision tree.

M. Larson stated:

I think it makes sense, it makes sense to do our due diligence, but you know, just looking at it, it has been used as residential property. I don't really see a whole lot at issue with this, moving through the rezoning, back from civic into residential.

J. Cardillo stated:

So, it's appropriate, it's consistent with other zones, and essentially it's going to be used for the same use as it has been. Correct? And then I guess just one other thing I kind of want to point out is if we go to the proposed *rezoning decision tree*, just so that it's on the record, does the proposed rezoning comply with the city Master Plan? No, it doesn't. The city Master Plans shows it as civic. So, then we're asked the question: "Was there an error in the plan that would make the proposed rezoning appropriate despite its noncompliance with the plan?" I would say that's no, there wasn't an error. And the last question is, "Have there been relevant changes in condition since the plan was approved that would make the proposed rezoning appropriate despite its noncompliance with the plan?" And so that's where I'd say based on the fact that the university no longer wishes to own the property, that is a change in the condition and so that would be a yes. Also, "Have there been changes in the community's attitude that impacts the goals and objectives of the plan that would make the proposed rezoning appropriate despite its noncompliance with the plan?" I would say that's yes. In which case, we want to recommend approval of the rezoning. So, I think having gone through that, doing our due diligence, if anybody wants to, if there's no other discussion, I think somebody can make a motion.

It was moved by M. Larson, seconded by S. Mittlefehldt, and carried 7-0 that after conducting a public hearing and review of the application and Staff Report for 05-REZ-09-22, 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 - Zoning Ordinance Amendment Procedures, and hereby recommends that the City Commission approve 05-REZ-09-22 as presented.

It was moved by M. Larson, seconded by S. Mittlefehldt, and carried 7-0 to take a 15-minute recess [to allow time for the meeting audio to be activated in the hallway speakers].

B. 04-SUP-09-22 – 955 Lakeshore Blvd. (PIN: 0370073)

J. Cardillo explained how the process of going through this case would proceed.

City Planner and Zoning Administrator D. Stensaas read the memo for the case and stated that after further review of the proposal the staff would like to suggest an additional condition of approval if this request is approved - for a Traffic Impact Statement modeling turning movements at Fair Ave./Lakeshore Blvd. after build-out, be performed and submitted, and that any improvements found to be necessary by the City Engineer, using standard design guidance and cost estimates from the Engineering Dept., are bonded for by the applicant prior to the issuance of a zoning compliance permit.

A. Landers presented visuals from the agenda packet including the application and staff comments, consultant replies to staff comments, the area and block map with the parcel outlined in blue, photos of the site, and correspondence received before the agenda was published to the City website on Friday [9/2/22].

J. Cardillo stated that the typical process is to now read correspondence received after the agenda was published, but since there are so many people here to speak, they will be allowed to make comments after the applicant has a chance to speak, and then after the public comment period staff will read the correspondence from those who did not have a chance to speak. She invited the applicant to come up and speak about the project.

Mr. Barry Polzin, 101 Lakeshore Blvd., stated I'm the architect for the project, representing the developer and I'm a long-time resident of Marquette, and I have some prepared remarks so I can keep it really brief so everyone can speak. And if there are questions, you can ask me after the hearing. Is that correct? But I'm here for any questions that come up at any time, when appropriate. Okay. We are here this evening to ask your consideration of this proposed Home2 Suites by Hilton on the former Lakeshore Foundry site. This is a site plan review and a special use request.

As for the site plan review, our proposed site plan is in full compliance with all of the LDC - Land Development Code, requirements for a mixed-use site, as it is zoned. In fact, we are proposing to use far less of the site and build a far smaller building than it could be per the code requirements. Buildings could be built per the LDC to cover 80% of the site, by right. We are proposing 14%. It's a very small footprint. We could be building up to the property line at Lakeshore Boulevard, but we're not, we're sitting it back 180 feet from the street. We could be building 5 feet from the Nestledown property line. We're 73 feet back. We could be 30 feet from the nearest condo building. We are 80 feet from that building. We could be building 8 feet from the city public trail. We're 78 feet back. We positioned the proposed building to minimize its impact on the public space of Lakeshore Boulevard and all of the surrounding neighbors. We set out from the beginning with the purpose to preserve the scenic corridor along Lakeshore Boulevard. The existing stand of oaks, the large spruce, and even the shape of the ground are indeed preserved along Lakeshore Boulevard. The proposed four-story, 44 foot high building is within the maximum height allowed by the LDC. The extra setbacks we have provided minimize the impact to the neighboring properties. The midday sun, this is a couple hours either side of solar noon, from the midday sun on February 21st to October 21st will not cast a shadow that leaves the property. That's within the property boundary, not on anyone else's. You know, between that there's not a lot of sun the rest of the year. The building will be barely visible from Lakeshore Boulevard and the streets to the west. It's shielded by Nestledown, which is two full stories plus a very steep roof. It will hide the proposed building and the condo buildings as well to the east and north and there's an existing thick tree line to the west shielding it from the, the streets to the west. A full arborvitae hedge along the east and north edges of the property will shield the parking areas from the Nestledown and the condos. You won't be seeing headlights. We have included a dedicated public pathway which will connect the city trail on the old railway to Lakeshore Boulevard and then to the paved bike path along City Beach. This will include the crosswalk that Dave had mentioned. This is a gift. And I will tell you as a child growing up in Marquette on W. Magnetic St., I would walk down by the foundry when it was in full operation and walk the path that we're proposing to give to the city to get to the beach. So, I, I'm very familiar with this area.

Okay. As to the special request, we are proposing a Home2 Suite by Hilton. Hilton is recognized as a leader in the hospitality industry. Hilton has strict standards for design, construction, and operations of all Hilton properties. Maintaining a peaceful, quiet atmosphere is one of them. This will be a quiet hotel. It is for guests only and does not include restaurant or bar that would be open to the public. Home2 Suites are an extended-stay property which is intended to provide an alternative for short-term housing needs. The average stay ranges from 7 to 30 days, some longer, with many repeat guests. Guests treat this as their home. The use of this site as an extended stay hotel in the configuration we are proposing will have far less impact than many of the uses permitted by a right in the mixed-use zone, such as multi-family housing, including purpose-built student housing. This site could include over 200 apartment units and over 500 beds of student housing. This, these uses, as permitted uses, would not require the special use we're requesting tonight and they could not be denied if in compliance with the dimensional LDC requirements. This quiet, extended-stay hotel is a much more gentle use of the property. We are open to all the suggested conditions outlined in the staff report and to any the Commission deems required tonight. This vacant former industrial property will be developed at some point if this request is denied. With what is unknown. We are offering appropriate and considerate design with the development of the site. Thank you.

J. Cardillo opened the public hearing.

The following persons spoke in opposition to the proposal:

Al Edgar, 1281 Lakeshore Park Place
Angela Rayhorn, 1025 Second St.
Bryan Fisher, 428 Fisher St.
Brian McVey, 1245 Lakeshore Park Place
Joseph Cline, 1247 Lakeshore Park Place

Carole Poggi, 1020 Spruce St.
Noah Bauer, 323 W College Ave.
Jan Cloutier, 1010 Pine St.
Tula Porterfield, 1937 Van Evera St.
Patricia Slotterback, 425 E Crescent St.
Daniel Labar, 3050 Island Beach Rd.
Joe Sabol, 316 Harrison St.
William Russneck, 909 N Third St.
Lisa Elzinga, 1010 Allouez Rd.
Kaye Payant, 1909 Bancroft St.
Steve Matt, 1008 Spruce St.
Gail Brayden, 3114 Island Beach Rd.
Steph Hyzie, 424 W. Baraga St.
Marly Wolf, 2214 Longyear St.
Carla McCord, 124? Lakeshore Park Place
Tracy Nyberg, 430 W Park St.
David Nyberg, 430 W Park St.
Vaughn Rodriquez, 426 Summit St.
Pat Olson, 122 E. Ohio St.
Jennifer Ray, 431 E. Ridge St.
Aaron McCafree, 1321 Second St.
Alyssa Padden, 118 W Arch St.
Scott Wanhala, 434 E Crescent St.
Ian Olmstead, 430 N Lakeshore St.
Nick Tooma, 430 N Lakeshore Blvd.
Molly Star, 710 Cherry Creek Rd., Harvey
Frank Meadow, 1279 Lakeshore Park Place
Elizabeth Stover, 1023 Spruce St.
Barb Owdziej, 1324 N Front St.
Deborah Vezzetti, 1251 Lakeshore Park Place
Jerry Tuoma, 710 Cherry Creek Rd., Harvey
Bruce Gustafson, 311 Albert St.
Roslyn McGrath, 516 W. Michigan St.
Kyle Kemppainen, 516 E. Hewitt Ave.
Brian Bouton, 115 W. Magnetic St.
Evalyn Stock, 327 W. Washington St.
John Archambeault, 901 Champion St.
Lynn Berry, 911 Champion St.
Margaret Brum, 404 E. Magnetic St.
Tim Scolara, 1023 Spruce St.
Kathy Horton, 417 E. Magnetic St.
Sue Schauland, 975 N. Lakeshore Blvd.
Priscilla Drury, 1107 N Front St.
Brenda Hershey, 1313 North Bay Ct.
David Brule, 1308 Picnic Rocks Pointe
Carl Morrison, 414 N. Front St., Apt. #2
Amanda Bonestead, 510 Harrison St.

J. Cardillo closed the public hearing.

Staff read 47 pieces of correspondence that were received after the meeting agenda was published to the City website.

It was moved by N. Frischkorn, seconded by M. Larson, and carried 7-0 to take a 10-minute recess.

J. Cardillo called the meeting to order, again, and stated so we have completed the public testimony and correspondence portion of the evening. Thank you, everybody, we greatly appreciate your input. So now we are at the point where somebody can propose to suspend the rules for commission discussion.

It was moved by N. Frischkorn, seconded by S. Mittlefehldt, and carried 7-0 to suspend the rules for discussion.

J. Cardillo stated we're going to start with Commissioner Frischkorn.

N. Frischkorn stated:

All right, so I guess first thing I want to say is it's awesome how many people came out and commented. I especially like the comments that specifically speak to the standards of the Land Development Code because that is what controls our decision. If this was a popularity contest, this would be the easiest decision that this Commission has ever made. But for better or for worse, our decision, the outcome is controlled completely by the standards in the Land Development Code. So, I want to start with that and just start at number one. Land Development Code section 54.1403C1 is Intent of the Zoning District. This is the first standard that must be met. The intent of the zoning district is met and the proposed use is in harmony with appropriate and orderly development of the district, and I'm just going to read a couple sections of that. The intent of this district is found in LDC 54.311(A), and I'm going to read parts 2 and 3. The Mixed-Use district will include areas of the city that are appropriate to many types of residential uses and compatible non-residential uses, including a mix of compatible uses in the same building and it includes an example of non-residential uses on the lower floor with residential uses above. Subsection 3 says the non-residential uses in the mixed-use district are intended to satisfy the needs for basic services of the surrounding residential areas, thus reducing the number of car trips required to these areas. Given that this is the intent of the zoning district as laid out in the Land Development Code, I am having a hard time figuring out how this Special Land Use would meet this standard and I would invite discussion from any of the other commissioners if maybe I'm missing something.

J. Cardillo stated:

So I think it's a great thing by starting with the Code and I think we should go through it. So why don't we, since you started with this one, we can sort have a discussion about this particular piece. So, if anybody, I think it was Commissioner Mittlefehldt that gave our second. So do you want to speak to this initial item?

S. Mittlefehldt stated:

I actually highlighted the exact sections of Section 54.311, the definition of a mixed-use district in addition to the two criteria that Commissioner Frischkorn pointed out, also number 4 on design, states that development must be of human scale through appropriate building location near the street to help create a pedestrian-oriented environment that does not conflict with organized traffic. And I think to me, one of the concerns I had when I first saw this project was about the safety of the increased traffic to this site, and that was something that we heard a lot from residents who know this area. So, I also share some concerns about how this might fit the standards for a mixed-use district, which is the first part of the process of determining the intent of the zoning district is under the rules for the Special Land Use permit needed.

J. Cardillo stated:

Can we get somebody else to speak to this standard number one, Intent of the Zoning District? Michael?

M. Larson stated:

I would concur. I really got hung up on "local services" in the intent of the mixed-use district, non-residential uses are intended to satisfy, I know you've already this, intended to satisfy the need for basic services of the surrounding residential areas, thus reducing the number of car trips required to those areas. That is the one that I'm most held up by. I think further discussion amongst ourselves on what is human scale and how that matters to the development of this area is something that needs to be considered. But I'd be open to more of what we think that interpretation actually means and then you know, with conflicting with motorized traffic, I think there's another portion - we talked about traffic a little bit more and the number of car trips that may be needed or justified you know, for that area and whether or not that 2014 traffic study is adequate to kind of look at that given the development across the community since that time.

J. Cardillo stated:

Okay. Can we get anybody else to speak? I think it would be really important that we get each commissioner to speak, even to say yea or nay. Commissioner Williams?

N. Williams stated I agree with everything said so far. One, perhaps it's far out, but one local service that could be determined by this use of this space, like people who live have visitors, they have people come stay at hotels. Lakeview Arena might have people and teams stay at the hotel there. Tourists who are on the lakeshore - and we all agree people come for Lakeshore Boulevard - a hotel in this space could lessen the burden of people traveling back and forth because they are situated at this hotel, but primarily a local service, a hotel does provide a service to the local area by giving people who are visiting family on the east side of Marquette or anywhere in Marquette, it gives them a place to stay. That's all.

J. Cardillo asked Commission Fetter if she had any comments.

D. Fetter stated:

I agree with everything I heard so far in trying to understand the basic need that's being satisfied here and how this would reduce the number of car trips to the area. I can see the use for the ice arena that's nearby and the university. I'm trying to also keep in mind the residential areas and how that could potentially increase traffic, not just along Lakeshore, but through the other small streets.

J. Cardillo stated Commissioner Mittlefehldt?

S. Mittlefehldt stated:

Again, the context for when we were planning, I'm really trying to think of what the purpose of the mixed-use district was when we were redoing the Land Development Code and I think I was quoted in one of the letters as pointing to actually a very close project here - the vet clinic - being a great example of what I think we were thinking about when we were thinking about mixed-use district where you have commercial activity that is at it states here you know, a nonresidential use, it's commercial use, in the mixed-use area and satisfying the basic services of surrounding residential areas. So it's something that people in that community use on a daily basis. Another great example, an east-side example, might be The Spot, the little neighborhood store - it's something that's like supplementary and really enhancing the value of the neighborhood. And, and I think there is in the comments, well there have been motels and hotels put in the other mixed-use areas. In the case of the Fairview Inn, I believe was approved before the condos that were built next door were approved and it's all a mixed-use area to begin with. The residential areas are across that four-lane section of Front Street. So it's a little bit different. I think some of the staff comments comparing those two, Fairview Inn, and the one on 3rd Street, which the 3rd Street corridor functions as a mixed-use district, but it really is its own zoning district that's different, and it also was historically the Beacon House, so it kind of was I think categorically different than what we're looking at here, which would be the third largest hotel in the county.

So I think, I think it is different and that's where I'm kind of hung up on, it doesn't really fit I think the idea that we had when we wanted to incorporate more commercial beneficial uses that would enhance the quality of the residential areas throughout our community. So that's why yeah, number 3, as Commissioner Frischkorn pointed out, I have a hard time thinking that this meets that criteria.

J. Cardillo stated:

One thing I kind of want to add is to that conversation, is that this zoning district was formulated during the 2015 Master Plan process and then it was implemented after that. And as it was discussed when I sort of first came on the board, it was intended to sort of meet a lot of different needs, right, like it's meant to fill in a lot between residential and uses like The Spot. It was meant to do these sort of longer corridors. And I guess the piece of language that keeps coming back to me and I think, it was written in here by the people who drafted this, to give us the flexibility to look at each of these sites and each of these areas on a case by case basis is where it says an M-U district, this is number one, "...be located in many areas of the city with each area unique based on the character of the area and objectives of the master plan." So it's going to be located in all different areas. And so, I think that sort of begs for interpretation, you know one of our speakers spoke to it - we have different mixed-use areas that serve different needs. This specific stretch of mixed-use stitches together our beachfront with all of our residential and I think to me the character of that is that it's a neighborhood and then we're talking about a use which is commercial. Like there's just no, there's no other interpretation of it for me, this is a commercial use at a scale that is intensive and, and a hotel use to me is not neighborhood. It does not promote neighborhood and so we have a neighborhood and so I think this for me would be injurious to the neighborhood by that definition, and I think it's kind of the most important for us to set a precedent about this stretch of land which has its own unique characteristics, so that developers of these properties kind of know what the intention is, so that's kind of the way I see it.

S. Mittlefehldt stated:

I don't want to monopolize the conversation, but it came up a lot in the public comment, and I think it's appropriate given your comments, Commissioner Cardillo. Because seeing what's happening along Lakeshore, we do know that this is our community's front porch. I actually read a great study from 1999, it was a Lakeshore Task Force that was talking about the changes, the value of our Lakeshore going from like our backyard, our, industrial waste pit basically, to being cleaned up throughout the 1990s and now becoming really the front porch of our community. So I think that's something we heard a lot of tonight, that it really is something special about this particular corridor and because of what we heard from community members and we saw the development on the horizon for this Lakeshore, we actually put in the amendments to our community Master Plan in 2017, if you look at Appendix J, the Planning Commission requested a Lakeshore Corridor Boulevard study. I have the language in here. So, and it states that we wanted to have more intensive, a deep dive into looking at the land and transportation development along the corridor between Elwood Mattson Park and Presque Isle, this area's been loved to death and we see that this is really an important place that we need to get right. And so, just because of other priorities the city doesn't have the money to invest in a corridor study, but I do think that it's important that that's right in our Master Plan and in the standards for Special Land Use review in Section 54.1403, the last one, number 14 is compliance with the Master Plan. And so because we have a call for a Lakeshore corridor study to address exactly this kind of issue, I also think that that might be grounds for reconsidering the approval of this.

J. Cardillo stated:

I think that's an interesting point. I just think it's important that we understand that the language of this district, that's what we're working with, and I think that it gives us the discretion based on these items right here to make, to make the decision we need to make. Okay. Does anybody else want to speak to the intent of the zoning district or do we want to move on to item number 2? Nathan, do you want to start?

N. Frischkorn stated:

So, 54.1403(C), subsection 2 is Use of Adjacent Lands. The current use of adjacent lands and neighborhood are compatible with the proposed use. The adjacent lands and adjacent neighborhood are primarily residential with some more neighborhood-focused commercial uses, like the veterinary clinic and the bed and breakfast, and then there is public land as well, but it's primarily residential. That is the overwhelming character of this neighborhood, and again I do not think this standard is met. I do not think a large hotel, the third largest hotel that would be in this county, is compatible with an overwhelmingly residential neighborhood, so I do not think this standard is met as well.

J. Cardillo stated does anybody else want to speak to that item?

M. Larson stated:

I would add, I think it's just restating what we've said is that we've got smaller uses that are in the particular area, including residential. We do have some condominiums and what not just down the road, but it's still primarily residential and so a larger commercial operation likely does not meet this section.

J. Cardillo stated:

This one really speaks to use, and again I just want to point out that a motel is not a neighborhood building commercial product. A veterinary clinic is, a bed and breakfast potentially can be, but...the intent of a hotel is not...(inaudible)...and that is what we have here. Commissioner Williams or Fetter, do you have anything you want to add anything on those items? No? Commissioner Premeau? No? Okay. We should take the next one.

N. Frischkorn stated:

Okay, standard 3 is Physical Appearance of Structures. Is the physical appearance of existing or proposed structure, such as location, height, bulk, as well as construction materials, meets the standards of this ordinance? From reviewing the materials, I think this standard is met. I think the physical appearance you know, it's people have opinions on the aesthetics of it, I think as far as the height, it's not the tallest building there. It's, I, I don't see a problem with this standard, so I do think this one is met.

J. Cardillo stated:

Okay. Any other comments? I guess my only comment on this one would be that I think you know, yes, it does meet the height and bulk as well as location within the site. As far as the construction materials are concerned, I do think this sort of represents the kind of corporate identity of this product, this commercial product more than it represents the identity of the local context. That's more subjective perhaps, but, but I do think it's true. Anybody else? Okay. You want to take standard 4?

N. Frischkorn stated:

All right, number 4 is Landscaping, "The suitability of the proposed landscaping in providing ground cover screening and decoration on the site." Again, based on reviewing the materials, the site plan, I didn't see any inadequacy with the landscaping itself. Beyond the comments that were reflected and then the applicant's response to that comment, I believe those were addressed.

J. Cardillo stated okay. Commissioner Mittlefehldt?

S. Mittlefehldt stated:

I actually have a question for the applicant. Can I ask that now?

J. Cardillo stated yes.

S. Mittlefehldt stated:

Because I think, I can't tell, I guess it's related to landscaping, but it also is related to standard 9 about the physical characteristics of the site. So, Section 54.902.E section 3 requires mixed-use districts kind of want to be closer up into the front street and so there was discussion between staff and the applicant about going from two rows of parking to kind of on the, well that would be the north side of the building to going to a single row of parking in the front yard which is the requirement in mixed-use districts, to which the developer said the balance of the parking, so one row of the parking could be moved quote to the east or side yard, so and we have, I don't think you know, there hasn't been time to like redraw this whole thing, but I guess I was curious if Mr. Polzin could speak a little bit to like where that parking is going to go and how that might affect the local landscaping as well as the physical characteristics of the site.

Mr. Polzin stated:

Yeah, and the, of course the process here is not to resubmit plans once you've submitted the original, so these would become conditions for the set that gets submitted for permit. Yes, there was an area directly east or that's kind of northeast here and on the side here. Can I point?

J. Cardillo stated you can, if you want to go back there.

Mr. Polzin stated:

Sure, I'll point. So, so this, talking about this could be expanded a little, couple more spots and then we're basically going to slide them in back here and cut down a little bit on that outdoor area. So basically it would all fit behind, if this is the front yard and then this becomes the side yard and parking is allowed up there, so we do get the required number.

S. Mittlefehldt stated:

Okay, so the, the additional parking would be kind of on that south side basically?

Mr. Polzin stated:

Well, this, this is oriented, north is up here, so....

S. Mittlefehldt stated right, right.

Mr. Polzin stated:

So it's along this line which runs northwest/southeast, so but basically in this area.

D. Stensaas stated Ms. Chairman, a comment here?

J. Cardillo stated yes.

D. Stensaas stated:

As an observer, this is very confusing, this discussion is very confusing about what the request of the developer was. Two rows of parking in the front is not acceptable in this zoning district, so one row, some of that parking would have to be moved for this to meet the code requirements. He can only have one row of parking in the front yard in a mixed-use district.

S. Mittlefehldt stated:

I guess that's where my, some of the same characteristics, like I really love that they preserve that big old oak tree in the front and the two, and I really appreciated that as well as the kind of natural features of this, of this place, so I was kind of curious is that parking going to interfere with some of those other landscaping elements that are being preserved?

Mr. Polzin stated:

No, I started looking at that as the sacred zone. I mean, it's just, it is visually, when you drive down Lakeshore, it's just what you see, that beautiful oak and that's just so, so such a natural element on the beaches in the north here, so, so it was really important to me that that be preserved. And even the fact that it dips down low, I thought if we just leave the ground alone. You can't save a tree if you touch the ground, so that was really very important to us. The parking we're talking about is behind that area, that's already an area that's been torn you know, so that little yellow stretch that we're kind of calling native ground, that's really the extent of that stand of trees right there, so that, that was our sort of preserve, all that, and work behind it with, with new material.

S. Mittlefehldt stated okay.

J. Cardillo stated and maybe shrink the patios up?

Mr. Polzin stated:

Yes, the patio got, it's a little smaller, the space is smaller, they do fit in there, it's, it really isn't, wasn't that much of a chore, but yeah, so. It, I don't know, I'm not supposed to address anything else, but the, the position of the building you know, the mixed-use is considering it more of an urban setting and really a lot of the mixed-use are like that where you are building to the front property line. It just seemed like a terrible idea in this case, so that's why we, we put the building back far from the road because there really is nothing else. It's on that, that's on the road. It's not really storefronts, it's not really that, what the mixed-use is sort of feeling is that sort of neighborhoody, more street front business sort of thing and none of, none of the businesses do that, so. Anyways, that's not to deviate from the question, sorry.

J. Cardillo stated:

Thank you. Okay. Does anybody else want to, we're on landscaping. Does anybody else have questions regarding landscaping or comments? No?

J. Cardillo stated:

Okay. Commissioner Frischkorn, do you want to take us onto number 5?

N. Frischkorn stated:

Yes, number 5 is Operations of Use, "The nature and intensity of operations involved in or conducted in connection with the proposed use is appropriate for this site and not in conflict with surrounding properties and uses." You know, I think there was a lot of public testimony that spoke to this. A hotel of this size that's going to be a fairly intense operation, both the comings and the goings and again this is a, located in a very quiet and predominantly residential neighborhood, so again I do not think that the nature and intensity of these operations with the proposed use would be appropriate for this site. And I do believe based on you know, that information and the materials and public testimony, I do believe that the operations of use would be in conflict with the surrounding properties and surrounding uses.

J. Cardillo stated:

What are the people's feelings on that item?

M. Larson stated:

One point I have, of course, being the former Iron Works, I think there was very intense work done of course, but I think that has certainly shifted you know, over the years and I think there is, I'd be in agreement with saying the intensity is certainly greater you know, than the surrounding areas, especially with the 24 hour operation.

J. Cardillo stated okay. Commissioner Mittlefehldt?

S. Mittlefehldt stated:

Yeah, I have another question actually for the applicant about maybe potential future uses, um, just so that this is a Special Land Use permit for the hotel operation, but you know, there is a patio and it looks like there's some kind of like breakfast area maybe or some kind of area, like that central zone where I think where the front desk must be. So I guess I'm curious, do the applicants plan to apply for a, like a permit to do food and beverage or outdoor beverage at some point, because there's a patio too, so just wondering.

Mr. Polzin stated well, because it is an extended stay, the, the guests tend to look for food, so the Home2 setup where they're done, having breakfast, they also have an evening kind of food, light food too, and then there is an outdoor grilling area on that patio, so, so guests could grill, and it has little kitchens in all the rooms too, so, but if you want to grill, the, the guests could take it out and grill. And it's just a, it's really the only outdoor area in the property. There is an indoor pool, but you know, it's a place for them to sit out. There are no balconies proposed for the hotel.

S. Mittlefehldt stated:

So is there food service then in...?

Mr. Polzin stated it's not, not like a restaurant. It's just like a typical hotel breakfast sort of thing, but there's also light food, other food that's delivered at different points in the day you know, like a little buffet kind of thing that's set up, so it's, it's just again, it's just guests only.

S. Mittlefehldt stated:

Are there plans to serve alcohol onsite or...?

Mr. Polzin stated it, that's, that's to be determined. I mean it could be, yes, some of these Home2 will have, like it's typically like the Fairfield Inn down here has a beer and wine license, that's it, so a guest can have a beer, but it's not open to the public, so I mean it would be on that scale. Just for the guests.

S. Mittlefehldt stated yeah, we recently had changed it so that the (inaudible), the Special Land Use permit also for alcoholic beverage service, is that something that...

Mr. Polzin stated and outdoor, outdoor alcohol service, right?

S. Mittlefehldt stated:

Yeah. Is that something that might be pursued in the future or that we could make as a condition of...

Mr. Polzin stated it's not the plan and, and I mean, just to be clear, this is, this is a, a prototyped Hilton property and they set the rules and I mean basically you follow what they want to do. In fact, much of the appearance is based upon that.

S. Mittlefehldt stated:

I've not stayed at one, so I'm not familiar with the basic services are.

J. Cardillo stated any other comments?

J. Cardillo stated:

I mean, I guess my feeling on this is that you know, I think there can be other uses on this property that might you know, it's residential, there would be potentially 24 hour use of it, so again for me it just goes back to the

actual nature of the use of this in a specific location.

N. Williams stated I have one comment.

J. Cardillo stated yes, Commissioner Williams.

N. Williams stated:

Although it would be more intense, a bed and breakfast also is 24 hour use in the same manner that a hotel is 24 hour use, directly next door.

J. Cardillo stated yes, I would argue that a bed and breakfast is also in-and-of its nature a mixed-use, because the resident lives on the premises. It's also something of a scale, it's in the case where we have in this, it is much more sensitive and integrated into the neighborhood. Commissioner Frischkorn.

N. Frischkorn stated:

Yeah, I guess I would just say you know, in the comparison to the bed and breakfast, it's you know, the intensity of the operations is orders of magnitude different. So just to flag that point.

J. Cardillo stated anything else, anybody else on operations of use? Point 6 then.

N. Frischkorn stated:

All right. Number 6 is Time of Use and Physical and Economic Relationship, "The proposed or estimated times of use and the physical and economic relationship of one type of use to another are not in conflict with each other or with surrounding properties and uses." I think we kind of touched on this a little bit in discussion of other factors, but again the proposed time of use, 24 hours, 365 days a year. You know, I think it does conflict with the surrounding properties and uses again being primarily residential.

J. Cardillo stated:

I think that makes, to me that's sort of where it does pull away because where it was a residential, you have yes, people use their homes 24 hours a day, but these people who are invested in the community and the neighborhood whereas the people who would be using this 24 hours a day are not part of this neighborhood and so their intentions (inaudible)...are quite different.

S. Mittlefehldt stated:

Yeah, I think, again going back to this patio space and the use of that space, people grilling and possibly drinking out there, and that is quite literally in the very close backyard to the bed and breakfast there, who are residents also, so that proximity and the juxtaposition of those two different uses, I do think is, gives us pause to, to think about whether or not that standard is met.

J. Cardillo stated okay.

N. Williams stated:

I do believe that the bed and breakfast also has an outside place to eat and drink as well.

J. Cardillo stated yeah. Okay. Anybody else or do you want to move on?

N. Frischkorn stated I'm ready. J. Cardillo stated okay.

N. Frischkorn stated:

Factor number 7, Number of Persons or Employees – "The proposed or estimated assembly of persons or

employees shall not be hazardous to the neighborhood or incongruous or conflict with normal traffic or could be in the vicinity." Again, if this is fully booked, this is 107 rooms, so that's at least 107 people anytime it's fully booked. If it's couples, it's 214 people. That's a lot of people in one area that's again located within a residential neighborhood, adjacent to residential uses, to houses, and there's traffic that comes with that, a lot of traffic, which we'll address in the next factor as well, but I do think that this proposed use would be hazardous to the neighborhood or at least potentially hazardous, and I do think it would be incongruous and conflict with normal traffic or it could be in the vicinity just by the nature and intensity of the use that has been proposed.

M. Larson stated:

I think the place that I got hung up on number 7 was what is normal, thinking about normal traffic and you know, any additional use in this area would certainly increase it from normal traffic and so there's a little bit of a you know, a hold up you know, for me just kind of thinking about this, this particular item, whether or not you put a multi-family in that location or otherwise you know, maybe there's not as many, I mean, I'm not a traffic expert, so I mean I don't know if there's going to be as many trips you know, with an apartment complex you know, as there would be you know, with hotel use. However, you know, if you're going strictly by what it says you know, normal traffic, this would indeed cause an increase you know, to that neighborhood.

J. Cardillo stated - Commissioner Frischkorn?

N. Frischkorn stated:

Just to go off that, you know, I think when people are staying in a hotel, whether it's extended stay or otherwise, I think there tends to be a lot more coming and going than there is in multi-family usage. I think you know, whenever I've gone somewhere and stayed at hotels, I tend to leave and come back a lot more. I don't just stay there, so I think you know, 107 apartments may not have the same amount of traffic as this use, so I do think it's significant over the normal, or you know, the current traffic in the vicinity.

J. Cardillo stated:

All right, just one other thing. I kind of wanted to point out is that if we compare that this to any of the other hotels in the mixed-use district, this is the largest, so this would be the largest intensity. So the Fairfield Inn, I believe has 92 rooms and that's in a very different district, neighborhood and district with a different characteristic. The Birchmont Hotel has 29 rooms and the Superior Stay on 3rd Street has 39 rooms, so this is, this is a product of a very different scale than the other hotels within our mixed-use districts. Anybody else? Commissioner Williams, Commissioner, Commissioner Premeau? Okay. Next.

W. Premeau stated we're talking about 107 people? But...

J. Cardillo stated 107 units.

W. Premeau stated:

Yeah, so there could be a lot more people, but the point is what's the occupancy rate, the average occupancy rate in our area, and I think it's much lower than 100%.

J. Cardillo stated do we know...

W. Premeau stated I don't know what it is.

Mr. Polzin stated yeah, it's, it's around 60% of, if you look at the entire year and all the properties, which is actually healthy you know, but that's a true, a lot more hotels are a lot of times (inaudible).

J. Cardillo stated Commissioner Frischkorn?

N. Frischkorn stated:

I guess I just want to go off that you know, if we're talking about occupancy you know, it's not, even if it is 100%, it's, it fluctuates a lot throughout the year. Occupancy in a hotel will be much higher in the summer typically than it is in the winter typically. You know, I think that's a, everyone recognizes that it's kind of a pattern of this area.

J. Cardillo stated okay. Commissioner Mittlefehldt.

S. Mittlefehldt stated:

Just to point out that we did get data from Travel Marquette about hotel occupancy. It was a question I had just to try to get my head around the context for the, for this project and, and so we had that data sent to the Planning Commissioners, which shows the average occupancy hotel rate, as Commissioner Frischkorn pointed out, is very seasonal, ranging from I think the lowest is actually in April you know, I won't report the 2020 numbers because that was the pandemic year, but it looks like it ranges anywhere from like the 38% to, and that's in April, low month, to the high being 86% in July of last year. Last year was a big, major year for them and Travel Marquette said this year you know, the occupancy rates have started to come down a little bit and kind of I think a lot of the hotels in the area kind of appreciated just a little bit of a breath of fresh air because it really, last year in 2021, the numbers were a lot higher. But it is, it's, there's a seasonality to it, so it's hard to say like on a given day what the specific numbers, trips in and out of that are going to be, but it'll be, it'll be very high you know, and then other areas not as much of a traffic issue.

M. Larson stated:

I think it's just one more, and I, I'm probably jumping ahead because I mean, I think thinking about whether normal traffic and you know, it comes into the next one and maybe we want to go onto that where we talk about you know, the estimate of 400 trips per day and you know, is that a normal thing or not. I think that's something...that's the next piece that we will consider.

J. Cardillo stated:

Yes. Is that the next item? Vehicular and Pedestrian Circulation. So yeah, so do you want to expand on that?

M. Larson stated:

So, number 8, Vehicular and Pedestrian Circulation..."Proposed or estimated vehicular and pedestrian traffic volumes and patterns, particularly of children as well as vehicular turning movements do not negatively impact traffic flows, intersections, sight distances, and safety." It has been estimated that there's going to be some 400 trips per day and it's just going to, it's a scenic corridor is how it's classified and traffic volumes are already moderate. And so, being moderate traffic volume, does an additional 400 move the needle on that and has that moderate level, as it is based off of 2014 traffic study, has that changed in the more recent years, and I think that's part of that corridor study, just kind of thinking how that has been used given the changing use pattern in the city. I know that's kind of a non-answer, it's just kind of a discussion.

N. Frischkorn stated:

Yeah, and I will say you know, I think that 2014 traffic study, I'm not sure how accurate that is anymore. I feel like there's been a significant growth in tourism since 2014, there's been a lot more development on the southern end of Lakeshore which has increased traffic. So you know, I'm hesitant to pin too much on that study, but yeah, I think 400 trips a day is significant and another part of that is the traffic flows right, where is the access point for this, if they're turning left off of Lakeshore into the hotel or left out of the hotel onto

Lakeshore, what impact does that have on the traffic flows themselves, not just the number of trips, but the turning and the ingress and the egress.

S. Mittlefehldt stated:

Yeah, I also read carefully the traffic study from 2014 and had questions about it. It didn't address the seasonality of traffic, particularly on Lakeshore, it really was focused on traffic volumes you know, pointing out that there were arteries like McClellan where you have a lot of cars on that road and that's a problem just because of the number of cars, and I think a lot of the issues that we see on Lakeshore Boulevard have less to do with maybe the number of cars, but like how that corridor is used in terms of illegal parking that we've heard comments about today, and especially as stated in the standard number 8, vehicular turning movements. So how people kind of come in and out of the flow of traffic along Lakeshore Boulevard. I don't think the traffic study from 2014 really addresses that at all. One of the things also from the traffic study that I did think was interesting and relevant for our discussion tonight was that it said "along Lakeshore Boulevard generally has the highest bicycle volumes than other areas of the city", so again there's not just the vehicular traffic, but now you know, the bicycle traffic, the e-bike traffic, pedestrians, all of the comments we're hearing about kids you know, running across that street. So I think this area has some particular like unique maybe challenges associated not just with the volume of traffic, but the nature of parking, flows, and turning in and out of different establishments along the corridor there. So again, that's why I keep going back to the Lakeshore corridor study that we, we need some traffic expertise, people who have some real understanding around the sort of systemic issues around different forms of transportation to look at this corridor and I don't see how this project would reduce any of those challenges.

J. Cardillo stated:

Can I ask just one question? Dave, you had mentioned I think that there might be the addition, sorry, I caught this at the last minute, but of a turning lane potentially or you want to, the city might want to leave open, and that was something you might want to add as a condition, can you explain that a little bit? And I guess the one question I had was if that is the case, would that require widening the road.

D. Stensaas stated:

Yeah, I think that there's plenty of right of way to add a two-way center turn lane, somewhere between Hewett and Fair Avenue, and that's probably what's going to happen eventually I would estimate. From a traffic engineering standpoint, 400 trips a day added to this, don't throw stuff at me, but it's insignificant, it really is and as that traffic study pointed out, just to be objective, the 2030 no-build scenario - with no changes to Lakeshore Boulevard - was still a level of service A, of A through F just like a grade school report card, with no changes. They estimated it would be A. We're very spoiled in Marquette. We get a 5 second delay, we start to get frustrated, 10 seconds, 20 seconds is unacceptable. And I get that way too, but you know, for people have been to big cities, or the I-95 corridor, or the I-15 corridor through Salt Lake valley, there are traffic delays in many places. Marquette doesn't have many traffic delays, except on busy summer nights. Lakeshore Boulevard is one place where we get some delays. But just from a traffic engineering standpoint, adding 400 trips a day to a road that has 20,000 daily trips isn't that great of an impact and it's not going to reduce the level of service, which is your amount of delay at intersections, very much. I mean, that's just a fact, but we recommended a traffic study. This doesn't look like it's going to get approved, let's all face it, and if it were heading that way though, we'd want to see a traffic study done at the intersection of Fair and Lakeshore to confirm whether or not there's any improvements needed there based on more recent traffic counts, some updated 48-hour traffic counts to see what the average trips per day would look like. But yeah, I could go on, but you're, I don't know what the point is because I think we're beyond, that single issue is not going to make a difference here.

J. Cardillo stated okay. Commissioner Frischkorn.

N. Frischkorn stated:

Yeah, I guess one thing I also wanted to point out is 400 is an average per day, how is that average calculated, is that an annual average?

Mr. Polzin stated may I answer that?

J. Cardillo stated briefly.

Mr. Polzin stated:

This is just industry standard. There's 100 rooms, a guest arrives, that's one trip. They go out for dinner, that's another trip. They come back, that's a third trip. They leave in the morning whenever, that's the fourth trip. So that's the 400 a day. It's simply the guests coming, assuming they're leaving what, now of course you know, it's all averaged, but this is, that's where that came from.

N. Frischkorn stated thank you.

J. Cardillo stated do you want to go on to nine?

N. Frischkorn stated:

Yes. Physical Characteristics of the Site - "The current and proposed physical characteristics of the site such as area, drainage, topography, open space, landscaping, and access to minor and/or major streets will meet the requirements of this ordinance and all other city standards. The use and development shall consider the natural environment and help conserve natural resources." I know there were some concerns raised during testimony as to the drainage. I don't know that a study on that has been done, but that's something you know, that would need to be addressed.

J. Cardillo stated:

Well, I think it has to meet the staff review of the engineer and it did, right, Dave?

D. Stensaas stated:

Yeah, our hydrology engineer reviews all these applications to make sure that the proposed civil infrastructure would meet the standard that there's no more storm water leaving the site than there currently would be, which is a very high standard, considering this is a vacant site.

J. Cardillo stated so it, it meets the standards as they currently exist, whether, whether we think that the Lakeshore should have different standards based on proximity to the lake, that's, that's irrelevant. It's not a non-concern, but it's irrelevant in this argument I would say. So I think, so that would cover the hydrology piece of it, drainage. Any other thoughts on the site?

J. Cardillo stated okay. Public services.

N. Frischkorn stated:

All right, number 10 is Public Services, the "Proposed or estimated demands upon public services such as electricity, water, sewer, police, and fire protection, schools and refuse disposal shall not be overly burdensome based on the readily available information." It's my understanding that there's no issue with this whatsoever, so then this standard would be met.

J. Cardillo stated yeah. Anybody...

J. Cardillo stated no comments, okay. So let's move on to the next one.

N. Frischkorn stated Environmental factors, "The type and amount of litter, waste, noise, dust, traffic, fumes, glare, and vibration which may be generated by such use shall be minimized and/or properly mitigated." I don't want to spend a lot of time on this personally. I feel like we've touched on a lot of these aspects with, in discussion of other factors.

J. Cardillo stated okay. Commissioner Mittlefehldt?

S. Mittlefehldt stated:

Sorry, guys. I want to dive into this one because I actually reached out to Steve Harrington because I'd done research on some of the historical you know, industrial use of the corridor and I had had the study from 1992 that I saw that you know, indicated some waste pits like pretty much right near where the site's going to go, so I know that they have done remediation work on there, on the site. So I was wondering if maybe the applicant could talk a little bit about the status of remediation and you know, we know that EGLE has their own requirements. I was told by the staff at EGLE that there was a 2020 baseline environmental assessment that was submitted. I submitted my FOIA request to get that information and it's in the mail, but I just thought maybe you could tell us kind of a basic, what's going on on the site.

Mr. Polzin stated:

Yeah, there was a baseline done. We didn't take it to the next level you know, the phase two investigation, because we had to go through this step, so we thought well let's do this first. You did hear the letter from Mark Petri, former Eagle or DEQ back then, explaining what the site really is, and it's really heavy metals and fortunately it's not vaporous, it's not like some of the areas like down at the Fairfield. There we actually had petroleum in the ground and we had to have a vapor intrusion system installed underneath the whole hotel. So, this didn't sound too bad and the few little things that are identified were just spots where there was a tank or spots where, it sounds like that was cleaned up. I know the, the entire condo site was completely, all the dirt was moved and shaped around before they started, so there's still contaminants there, but it's a very simple process in this case from what we know so far. But we wouldn't go forward without a phase two, where we're actually doing new borings, new testing, let's find out exactly what's going on.

S. Mittlefehldt stated:

Yeah, that was great. I had read in one report that there, they did mostly heavy metals, no PCVs which was great, but there were some volatile organic compounds, so that's what I was wondering what their plan was for that. And I guess what a related question is, what kind of excavation work would this require, like how deep is the foundation. There's a pool, so presumably there's going to be some digging. Like how deep are we...

Mr. Polzin stated actually the biggest problem with the site is when the, the billings were tore out and they didn't dig the foundations out, so the first order of business is to actually remove all the foundations and in the original historic foundry building which really I thought was a great building, why'd you tear it down. I want to put a hotel in there. No, that building would have had stone foundations which are not too big a deal to get out. But the, there were buildings built to the east of it that were large metal buildings and they, I'm sure there's lots of concrete, but all that stuff is still down there, so all that has to be excavated out you know, sifted out and then you know, new material brought in, so it's quite an operation to do it. But again, we, we haven't taken that further steps to find out what really has to be done, so.

S. Mittlefehldt stated okay, thanks.

D. Stensaas stated:

I've heard a that the anecdotally concrete there is something on the order of 20 feet thick in places because

the lathes at the engine works building were making fine metal parts that had to be very precision made and the vibration from these lathes, they were so heavy that they had to pour just an extremely deep concrete foundation, so it may be a blessing if this ends up getting denied, because 20 feet of concrete over the span of the area of those buildings is just incredibly massive.

J. Cardillo stated interesting. So that brings us to, where are we at now?

N. Frischkorn stated I think we're on to 12 now.

J. Cardillo stated we're on to 12. Go ahead.

N. Frischkorn stated:

All right. So, number 12 is Site area and Potential Future Expansion Areas, "That the planning commission has determined that there is sufficient site area for the proposed use to prevent nuisances to neighboring uses and that there is a potential for reasonable anticipated expansion of the use without nuisances to neighboring uses." We've already talked a bit about the nuisances of this proposed use. I mean, any future expansion, there'd have to be another hearing.

J. Cardillo stated:

Yeah, I think that's what everybody always gets concerned about with, with a Special Land Use. You can't do anything else unless they come back before the Planning Commission, so it's not like the Wild West where we give you a permit and then you do whatever you want. You have to do what you say you're going to do in the plans presented to us, so that's not really an issue. Okay, next one, 13.

N. Frischkorn stated:

Okay, number 13 is Additional Neighborhood Factors, "Other factors shall be considered as necessary to maintain property values in the neighborhood and guarantee safety, light, air, and privacy to the principal uses in the district." I think safety we've touched on in terms of traffic considerations. There was some testimony about property values, I'm not sure how accurate that is, but there has been testimony that this would affect property values for the homes that are in the vicinity of the hotel. And then there are also concerns raised about light, I don't know if the 16-foot light poles, I don't know how shielded they are, if they just go directly down or what.

J. Cardillo stated I think they have to, they have to down, right, that's the code.

Mr. Polzin stated yeah, right. And 16-feet are very short lights, and it is what the code requires, so we keep it low, we don't mind.

J. Cardillo stated:

But it is on 24 hours a day, correct? The lights.

Mr. Polzin stated well, in the dark.

J. Cardillo stated:

Right, that's true. I do think lights on all night long for a hotel in a residential district is a consideration.

S. Mittlefehldt stated:

Certainly the privacy also, I think was something that we heard in public comment too.

J. Cardillo stated okay. Do we want to move on?

N. Frischkorn stated:

stated okay, factor 14 is Conformance and Harmony with the Master Plan, which Commissioner Mittlefehldt already kind of touched on. So I'll turn it over to Commissioner Mittlefehldt if she wants to continue that comment.

S. Mittlefehldt stated:

Just again going back to the call for a Lakeshore corridor study, I mean that is something we very intentionally added in the update to the Master Plan in 2017. And I think it's something that when we're moving ahead this next year with community master planning process, I'm sure we'll hear more of the conversation we've heard tonight as part of that, so, but you know, we think about Appendix J and that call for a Lakeshore Corridor study and I don't think this project necessarily, we don't really know because the purpose of the study was determined, you know, what development should look like and none of us are, I mean, we all want development, we want to see good development along our Lakeshore, but we really want more public input to say what that should look like and expertise on people on around traffic and you know, other dimensions of development, have that really carefully looked at, so in that sense I don't think it's in harmony with that portion of the Master Plan and other people in the public comments also mentioned other sections of the Community Master Plan that it might not be in harmony with also.

J. Cardillo stated:

I think this item on the Waterfront Activity from Chapter 9, there's something, item number 5, again where it says foster distinctive attractive communities with a strong sense of place that capitalize on the waterfront's heritage. To me again this reinforces the intention of mixed-use which is to have different distinct areas that have different distinct characters with a sense of place, and again this is why I just think that protecting the neighborhood, the existing neighborhood, the character of these residences and commercial uses that serve the local needs and are at a scale that is closer to the residential properties - is in conflict with a hotel use of this scale.

M. Larson stated:

And I think one more thing from the Master Plan, there in chapter 10, I believe there's a section about smart growth where "mix land uses" is you know, advocating for the taking advantage of compact building design to strengthen and direct development towards existing communities and foster distinctive attractive communities with a strong sense of place. And so, I think within that portion, talking about smart growth, compact buildings and structures you know, within mixed land uses, are something that the Master Plan speaks towards.

J. Cardillo stated:

Okay. So, does that complete our 14 items for the standards for the SLU? Yes, it does. So then we additionally have the relationship to site plan review standards and so I guess my question is, do we, should we go through all of these in addition.

D. Stensaas stated you have to determine, if somebody's ready to make a motion or not. You don't necessarily have to.

J. Cardillo stated:

So I think a lot of this is much more of the sort of like nuts and bolts things that relate to you know, what the city has to make sure that these things are being met, so it's, it's definitely not as discretionary as the Special Land Use. So, where are we at, guys? What do we want to do now? We have, is there any additional items we want to review from the agenda? Does somebody want to make a motion?

M. Larson stated:

You know, Barry [Polzin] is certainly right in where he says that you know, other uses can come of this that are not under the Special Land Use. You know, they have taken, trying to take a thoughtful approach to minimize the size on this site, so I mean that's certainly something...they are meeting height requirements and so on. And so the Special Land Use, there is a little bit of you know, I don't want to say interpretation...by the planning commission of what the code says. But you know, I just wanted to point that out, that there could be other land uses that you know, come out of this you know, if this does get voted this may not be the last for this. It could still be apartments, it could be something, something else along those lines. So I mean, that's just a comment you know, more than anything in that it meets dimensional standards and so on.

J. Cardillo stated understood.

N. Frischkorn stated I would be prepared to make a motion, if there was no further discussion.

J. Cardillo stated okay. Is it going to include lots of detailed information?

N. Frischkorn stated it can.

D. Strensaas stated so findings of fact.

J. Cardillo stated findings of fact.

It was moved by N. Frischkorn, seconded by S. Mittlefehldt, and carried 5-2 that after holding a public hearing and review of the site plan set dated August 8, 2022, with supplemental documentation and the Staff Report/Analysis for 04-SUP-09-22, the Planning Commission finds that the request does not meet the intent and requirements of the Land Development Code Special Land Use Standards in Section 54.1403 and hereby denies 04-SUP-09-22 for the following reasons:

- 1. The Planning Commission finds that the proposed land use does not meet the intent of the zoning district.*
- 2. The Planning Commission finds that the proposed land use is incompatible with the adjacent lands.*
- 3. The Planning Commission finds that the operations of use are incompatible.*
- 4. The Planning Commission finds that the type of use and physical and economic relationship incompatible with adjacent lands.*
- 5. The Planning Commission finds that the vehicular and pedestrian circulation would be hazardous to adjoining neighborhoods.*
- 6. The Planning Commission finds that the proposed land use is not in harmony and conformance with the Master Plan.*

Yes: S. Mittlefehldt, N. Frischkorn, J. Cardillo, M. Larson, and D. Fetter.

No: W. Premeau and N. Williams.

CITIZENS WISHING TO ADDRESS THE COMMISSION ON AGENDA ITEMS

There were none.

CITIZENS WISHING TO ADDRESS THE COMMISSION ON NON-AGENDA ITEMS

Priscilla Drury, 1107 N. Front St., stated I just wanted to, you made several allusions to going over the city Master Plan and looking at that again, and when are the meetings for that?

J. Cardillo stated it's happening soon. It's starting, I think they're in the process of selecting their consultant

who will run the process and I believe it's starting in October.

D. Stensaas stated I think in October.

J. Cardillo stated but we haven't, the consultant hasn't been chosen yet.

D. Stensaas stated by the end of the week we'll know.

Ms. Drury stated is that like a criteria thing or is that just interviewer thing or...?

D. Stensaas stated yes, we did a process where we created criteria, questions for the consultants to address and interviewed them with those questions and listened to their proposals and so we're down to two, but by the end of the week we'll have a consultant selected.

Ms. Drury stated thank you.

COMMISSION AND STAFF COMMENTS

S. Mittlefehldt stated just thanks to the members of the public who came out to make, help us make an informed decision and for those of you who stayed to the very end here, kudos to you, so thanks for coming out.

N. Frischkorn stated all right. I would just like to say, seeing as how there's people here, there's not usually anyone here at this point in the meeting, so I would like to say volunteer for commissions. There's a whole bunch of city commissions, and if you want to be involved in local government you know, volunteer for those. I know there's openings on probably every single one of them.

M. Larson stated no comment.

D. Fetter stated well, thank you. I appreciate the nice welcome. Yeah, thank you for having me here and I wanted to be able to serve this community and I'm really happy to see the turnout today, it looks like a lot of people really care about this and what happens in the city and I'm excited to see the future.

N. Williams stated no comment.

J. Cardillo stated I don't really have any comment other than thank you, everybody, for your attendance and this was a hard one. But I, I think we, I think we did a good diligent job. Dave?

D. Stensaas stated he would echo the same on the great turnout, lots of fantastic comments and good information shared.

A. Landers stated just about the next meeting – we will have one on September 20th.

ADJOURNMENT

The meeting was adjourned by Chair J. Cardillo at 11:10 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 #715
AN ORDINANCE TO AMEND MARQUETTE CITY CODE CHAPTER
54 – ZONING, BY CHANGING THE ZONING DESIGNATION
OF PROPERTY LOCATED AT 1321 WRIGHT ST.

The City of Marquette Ordains:

SECTION 1. Zoning Designation.

The zoning of 1.1225 Acres of the property located at 1321 Wright St. (PIN: portion of 0511530) is hereby changed from Civic (C) to Medium Density Residential (MDR).

The Legal Description of the 1.1225 Acres is as follows: A parcel of land being part of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4), Section 15, T 48N-R25W, City of Marquette, Marquette County, Michigan described as: Commencing at the North 1/4 corner of Section 15; thence S89°49'06"E, 304.11 feet along the North line of Section 21; thence S00°53'40"W, 33.00 feet to the South right of way line of Wright Street; thence continuing S00°53'40"W, 1051.51 feet to the Point of Beginning "B"; thence continuing S00°53'40"W, 198.09 feet to the North right of way line of Center Street; thence N89°26'05"W, 240.37 feet along the North right of way line of Wright Street; thence N01°10'32"E, 209.60 feet; thence S86°41'04"E, 239.55 feet to the Point of Beginning "B".

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: _____

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

Public Hearing(s)

Request to Rezone 221 and 225 W. Park Street - Roll Call Vote

BACKGROUND:

On August 16, 2022, the Planning Commission conducted a public hearing for the proposed rezoning of two parcels of land, owned by one party, addressed as 221 and 225 W. Park Street - from Medium Density Residential zoning districts to Third Street Corridor District zoning. After the presentation of the Staff File Review and Analysis, applicant testimony, and a public hearing, the Planning Commission made the following motion:

It was moved by N. Frischkorn, seconded by A. Andres, and carried 4-1 that after conducting a public hearing and review of the application and Staff Report with attachments for 04-REZ-08-22, 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 04-REZ-08-22 because it is inconsistent with the Community Master Plan.

Yes: A. Andres, N. Williams, N. Frischkorn, M. Larson

No: W. Premeau

Under the procedures of section 54.1405 of the Land Development Code, this public hearing was scheduled to consider rezoning the parcel to Third Street Corridor zoning districts.

FISCAL EFFECT:

None.

RECOMMENDATION:

Following the Public Hearing, deny the request to rezone the 221 and 225 W. Park Street parcels as recommended by the Planning Commission because such rezoning is not consistent with the Community Master Plan and does not meet the requirements of the Land Development Code.

ALTERNATIVES:

Adopt Ordinance 716, rezoning the properties.

ATTACHMENTS:

Description

- ▢ Planning Commission case file 04-REZ-08-22

- ▢ 8-16-22_Planning Commission Meeting Minutes
- ▢ Ordinance 716



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: August 10, 2022
SUBJECT: **04-REZ-08-22 – 221 W. Park St. & 225 W. Park St. (PIN: 0320010 & 0320020)**

The Planning Commission is being asked to make a recommendation to the City Commission regarding a request to rezone the properties located at **221 W. Park St. & 225 W. Park St.** which are zoned **Medium Density Residential (MDR)** to be zoned **Third Street Corridor – Transect 4 General Urban (TSC-T4)**.

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 with attachments for 04-REZ-08-22, 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) 04-REZ-08-22 (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 #: 04-REZ-08-22

Date: August 10, 2022

Project/Application: Rezoning request from **Medium Density Residential (MDR)** to be zoned **Third Street Corridor – Transect 4 General Urban (TSC-T4)**.

Location: 221 W. Park St. & 225 W. Park St.

Parcel ID: 0320010 & 0320020

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

Year Built: 221 W. Park Street's Single-Family Home was built in 1890.
225 W. Park Street's Single-Family Home was built in 1880.

Current Zoning: Medium Density Residential (MDR)

Surrounding Zoning: North: M-U - Mixed-Use
South: Medium Density Residential (MDR)
East: Third Street Corridor – Transect 4 General Urban (TSC-T4)
West: Medium Density Residential (MDR)

Zoning Districts and Standards:

Current Zoning

Section 54.308 MDR, Medium Density Residential

(A) Intent	
The MDR district is intended to establish and preserve medium density residential neighborhoods that present an environment acceptable to a range of users, including families of all types. Some additional non-residential compatible uses may be allowed. It is important to the community to preserve and enhance the pedestrian-friendly, compact neighborhood types where homes and buildings are of similar scale and character	
(B) Permitted Principal Uses	(C) Special Land Uses
• Accessory Building or Structure • Accessory Use, Non-Single Family Residential Lots • Accessory Use, Single-Family Residential Lots • Adult Foster Care, Family Home • Adult Foster Care, Small Group Home	• Cemetery • Child Care Center or Day Care Center • Child or Day Care, Group Home • Dwelling, Intentional Community • Dwelling, Two-Family (Duplex) • Foster Family Group Home • Hospital Hospitality House

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• Child or Day Care, Family Home • Dwelling, Accessory Unit • Dwelling, Single-Family Detached • Food Production, Minor • Foster Family Home • Home Occupation • Home Office • Homestays and Vacation Home • Residential Limited Animal Keeping	• Public or Governmental Building • Recreational Use, Public • Religious Institution • School, Primary or Secondary • School, University • Supportive Housing Facility, Transitional and/or Permanent
Where there is a discrepancy between Section 54.306 and this table, Section 54.306 shall prevail.	

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

54.403 Footnotes to Schedule of Regulations

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

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

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

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

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

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

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

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

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

Section 54.1003 Landscaping Design Requirements

(D) Buffer and Greenbelt Requirements.

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

Figure 50 - Required Buffer and Greenbelt Specifications:

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

Proposed Zoning

Section 54.322 Third Street Corridor District Form-Based Code

(A) Third Street Corridor District Form-Based Code Introduction.

(1) Intent.

- (a) The Third Street Corridor District Form-Based Code is designed to foster infill redevelopment in a sustainable *mixed-use* pattern as part of a vibrant, diverse, urban corridor.
- (b) This Section is intended to promote traditional urban form and a lively mix of uses, allowing for *shopfronts*, sidewalk cafes, and other commercial uses at the street level, with wide sidewalks and shade trees, overlooked by upper *story* residences and offices.
- (c) Physical access and a sense of connection to the historic downtown, the university, and the adjacent neighborhoods are very important to the future of the corridor.
- (d) A range of open spaces including *plazas*, *squares*, and playgrounds should be distributed within neighborhoods and along *mixed-use* corridors.

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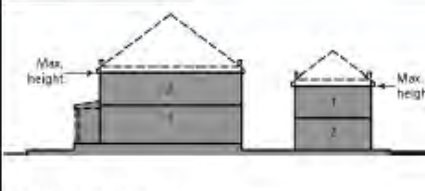
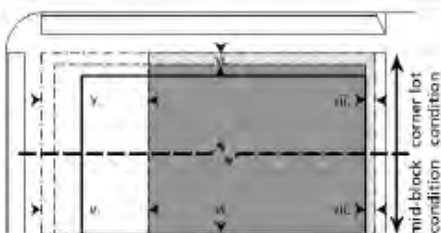
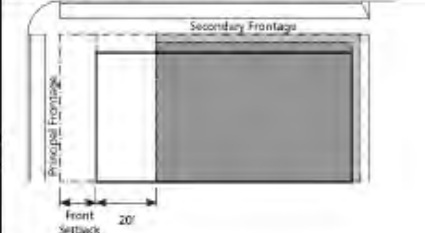
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- (e) Buildings and landscaping should contribute to the physical definition of thoroughfares as civic places.
- (f) The Transect District descriptions in [Section 54.322\(A\)\(3\)](#) Transect Districts shall constitute the intent of this Section with regard to the general character of both of these environments.

(4) **Transect Districts.** Zoning districts under this Section are limited to the following Transect District designations:

- (b) **T4 General Urban (T4):** This district includes a mix of uses but is primarily in the form of medium intensity residential structures. It may have a wide range of building types: houses, townhouses, duplexes, small apartment buildings, *live-work* units, and small commercial buildings. Setbacks and landscaping are variable. Commercial uses are freely permitted although the form is more residential in character than the T5 District.

Figure 14. T4 Standards

A. BUILDING PLACEMENT		B. BUILDING FORM	
PRINCIPAL BUILDING		HEIGHT	
			
i. Front Setback (Principal)	5 ft. – 18 ft.	PRINCIPAL BUILDING	
ii. Front Setback (Secondary)	10 ft. max.	Stories	2
iii. Side Setback	0 ft. if attached to a neighboring structure; otherwise 3 ft.	To eave / parapet	30 ft. max.
iv. Rear Setback	3 ft. min.	OUTBUILDING	
Abutting MDR Principal Bldg.	15 ft. min.	Stories	2
OUTBUILDING		To eave / parapet	30 ft. max.
		MASS	
v. Front Setback (Principal)	20 ft. min.	Lot width	14 ft. min.
vi. Side Setback	0 ft. if attached to a neighboring structure; otherwise 3 ft.	Lot coverage	70% max.
vii. Rear Setback	3 ft. min.	Facade buildout at setback	60% min.
Abutting MDR Outbuilding	10 ft. min.	PARKING AND STORAGE LOCATION	
		ENCROACHMENTS	
i. Setback encroachments		PARKING	
Open porch	May encroach to within no more than 5 feet of the front lot line	Principal Frontage setback	Not permitted
Balcony and/or bay window	80% max. (distance between facade and front lot line)	20 ft. behind front setback	Not permitted
Stoop, Terrace	80% max. (distance between facade and front lot line)	Rear of lot	Permitted
ii. Sidewalk encroachments		TRASH & STORAGE* LOCATION	
Awning	Determined by City process for use of right-of-way	Front setback	Not permitted
Rooftop Patio	To the property line but not over a public sidewalk	20 ft. behind front setback	Not permitted
		Rear of lot	Permitted
		* Storage includes boats and recreational vehicles.	

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Figure 24. TSC Table of Permitted Land Uses and Special Land Uses in the TSC District

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 54.641)	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 54.643)	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 Use) (Section 54.635(B))	P	P	Accessory Building or Structure (See Figure 14 , Figure 15 , 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 Residential Lots	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 Alcoholic Beverage Service (Section 54.636)	S	S	Outdoor Recreation	S	S
Mixed-use building	P	P	Wireless Telecommunications Facilities (Section 54.647)	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

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, August 16, 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 August 16, 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 *Single Family Residential* on the *Future Land Use Map* and for *Medium Density Residential* on 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.

This portion of W. Park Street is classified as "*Urban Local Street*" per the Community Master Plan, therefore vehicular traffic volumes are low.

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

There are no problems anticipated.

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

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

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

The proposal will not result in 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 compatible with site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

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

The proposed rezoning would be compatible with the adjacent parcels to the east and within the TSC district. Compatibility of the TSC district with the MDR residential district to the west depends largely on the use of the TSC property.

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

The proposed zoning is the same as the surrounding zoning to the east. Expanding the TSC zoning to these parcels will expand the TSC district farther from Third St. than any other part of the district, with the exception of the large "Village Shopping Center" parcel in the center of the block directly north of this block. The dimensional regulations would be met and the parcel could be legally used for residences and commercial parking if rezoned to TSC.

- (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 as Single Family Residential and zoned as a Medium Density Residential 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 commercial uses to the Medium Density Residential (MDR) zoning district land use options would not comply with the intent of the MDR 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

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proposed rezoning.

This is not being presented to the Planning Commission as a rezoning with conditions request, but the applicant may propose conditions per section 54.1405(H) to the City Commission if the City Commission schedules a public hearing to consider the 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. Photos of the site
6. Future Land Use Map from the Master Plan
7. Proposed Zoning Map from the Master Plan
8. Publication Notice
9. *Rezoning Information for Planning Commissions* document
10. *Spot Zoning Considerations*
11. Correspondence

CITY OF MARQUETTE REZONING APPLICATION



0320010		CITY STAFF USE			
Parcel ID#:	0320020	File #:	04-REZ-08-22	Date:	7-19-22
Hearing Date:	8-16-22	Application Deadline (including all support material): 7-19-22			
Receipt #:	401506	Check #:	Cash	Received by and date: AM 7-19-22	

FEE \$550 (We can only accept Cash or Check (written to the City of Marquette))

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

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

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

Please review the attached excerpt from the Land Development Code.

APPLICANT CONTACT INFORMATION

PROPERTY OWNER	APPLICANT/OWNERS REPRESENTATIVE
Name: <u>Park-Third Inc</u>	Name: <u>Michele Butler</u>
Address: <u>927 N. Third</u>	Address: <u>3132 Island Beach Rd</u>
City, State, Zip: <u>Marquette, MI 49855</u>	City, State, Zip: <u>Marquette, MI 49855</u>
Phone #: <u>906-360-7900</u>	Phone #: <u>906-228-7945</u>
Email: <u>mob49855@aol.com</u>	Email: <u>mob49855@aol.com</u>
APPLICANTS OR REPRESENTATIVES ARE STRONGLY ENCOURAGED TO BE PRESENT AT THE MEETING	**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.

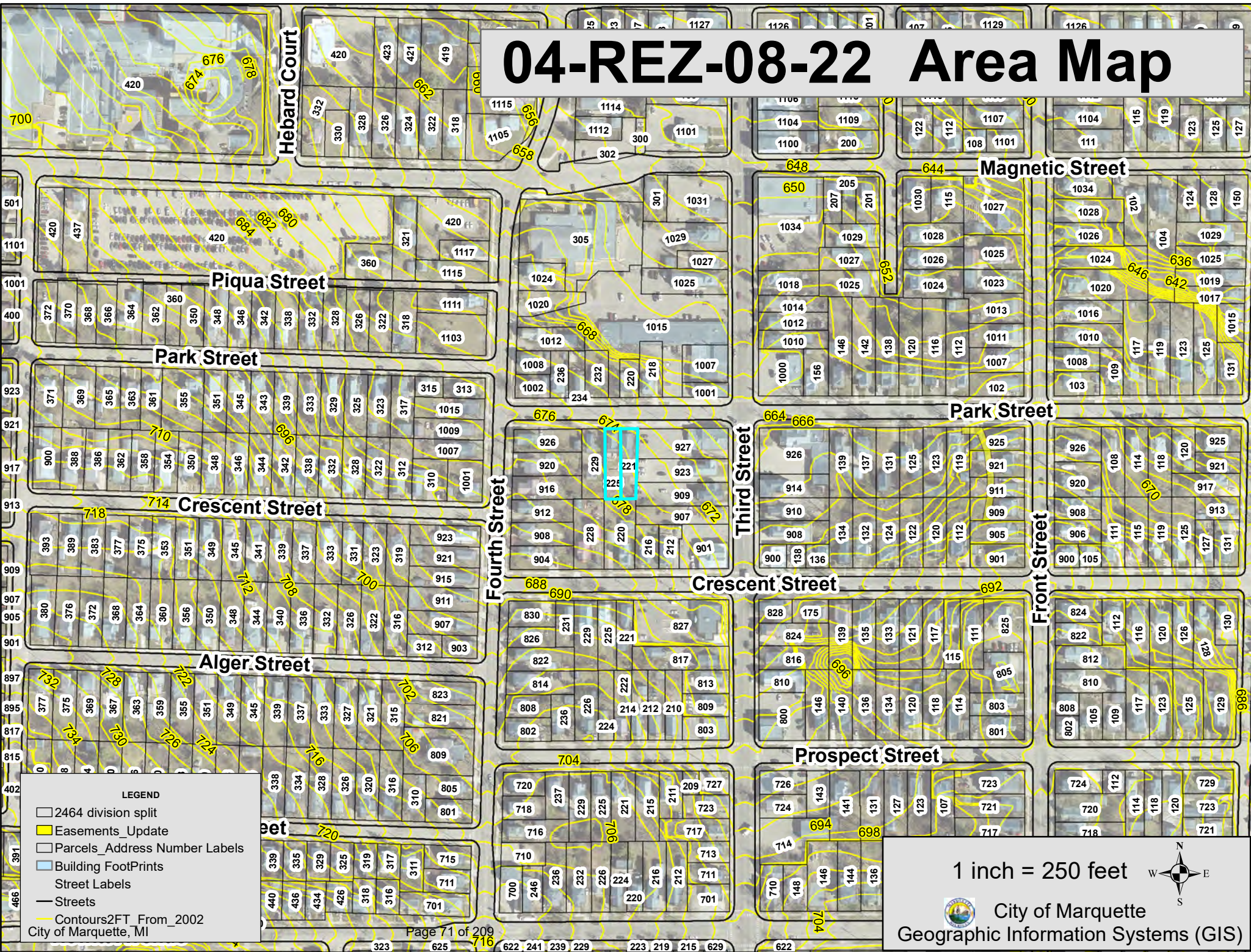
11

PROPERTY INFORMATION	
Property Address: <u>225 W. Park St</u> <u>221 W. Park St</u>	Property Identification Number: <u>0320020</u> <u>0320010</u>
Size of property (frontage / depth / sq. ft. or acres): <u>221 - 36.4' x 150' x 32' x 150'; 225 - 33' x 150'</u>	
Surrounding Zoning Districts: North <u>MU</u> East <u>TSC-T4</u> South <u>MOR</u> West <u>MOR</u>	
Legal Description: <u>221 W Park - Palmer's Add # 3 - Lot 201</u> <u>225 W Park - Palmer's Add. # 3 - Lot 202</u>	

PROPOSAL	
Current Zoning District: <u>MOR</u>	Proposed Zoning District: <u>TSC-T4</u>
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).	

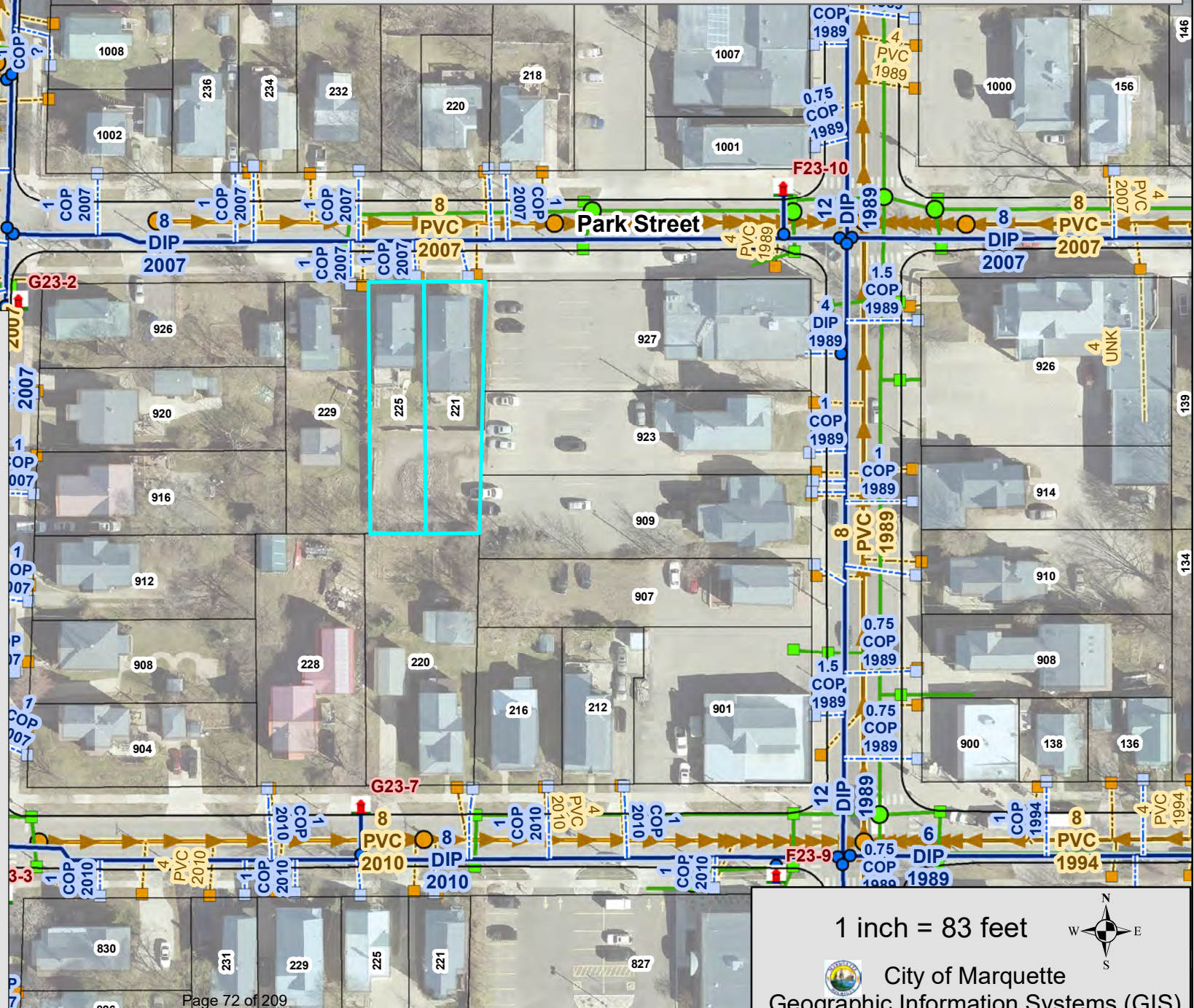
SIGNATURE
I hereby certify the following: 1. I am the legal owner of the property for which this application is being submitted, or I have submitted a written statement by the property owner that allows me to apply on their behalf. 2. I desire to apply for a rezoning of the property indicated in this 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: <u>Michelle Butler</u> Date: <u>7/19/22</u>

04-REZ-08-22 Area Map



04-REZ-08-22 Block Map

- LEGEND**
- 2464 division split
 - Easements_Update
 - Parcels_Address Number Labels
 - Building FootPrints
 - Street Labels
 - Streets
 - Fire Hydrants
 - WaterShutOff
 - Water Valves & Gates
 - Water Lateral Lines
 - Water Mains
 - Water Structures
 - Storm Manholes
 - Storm Catch Basins
 - Storm Pipes
 - Sewer_Lift_Stations
 - SewerCleanOuts
 - Sewer System Valves
 - Sewer Manholes
- San Flow Direction**
- FLOW_DIR**
- EAST
 - NORTH
 - SOUTH
 - WEST
 - Sewer Lateral Lines
 - Sewer Pressurized Mains
 - Sew Not Slip Lined
 - Sew Slip Lined
- City of Marquette, MI



04-REZ-08-22 Zoning Map

Magnetic Street

Piqua Street

Second Street

Third Street

Park Street

Crescent Street

Fourth Street

- LEGEND**
- 2464 division split
 - Easements_Update
 - Parcels_Address Number Labels
 - Building FootPrints
- Zoning_9_24_2021_aml_REZ_Update_For_Web**
- Zoning Districts**
- Low Density Residential
 - Medium Density Residential
 - Multiple Family Residential
 - Mobile Home Park
 - Central Business District
 - General Commercial
 - General Commercial with Conditional Rezoning
 - Regional Commercial
 - Third Street Corridor (FBC*)
 - Downtown Marquette Waterfront (FBC*)
 - Mixed-Use
 - Mixed Use with Conditional Rezoning
 - Planned Unit Development
 - Industrial/Manufacturing
 - Municipal
 - Conservation and Recreation
 - Civic
 - Board of Light & Power
- Third_Street_Corridor_FBC**
- Transect**
- T4
 - T5
- Street Labels
- Streets
- Contours2FT_From_2002
- City of Marquette, MI

1 inch = 167 feet



City of Marquette
Geographic Information Systems (GIS)



Photos of the Relevant Properties and Area



Panoramic view of the south side of the 200-block of W. Park Street, with 221 and 225 W. Park in the center



Back yards of 225 (left, middle) and 221 W. Park St. homes



Cleared, graveled area at rear of 221 and 225 W. Park St., which is approx. 65' x 60' (3,900 sq. feet)

Photos of the Relevant Properties and Area



221 and 225 W. Park Street



Looking west at the rearmost area of the back yards of 221 and 225 W. Park, beyond the curb stops and cones in the foreground.



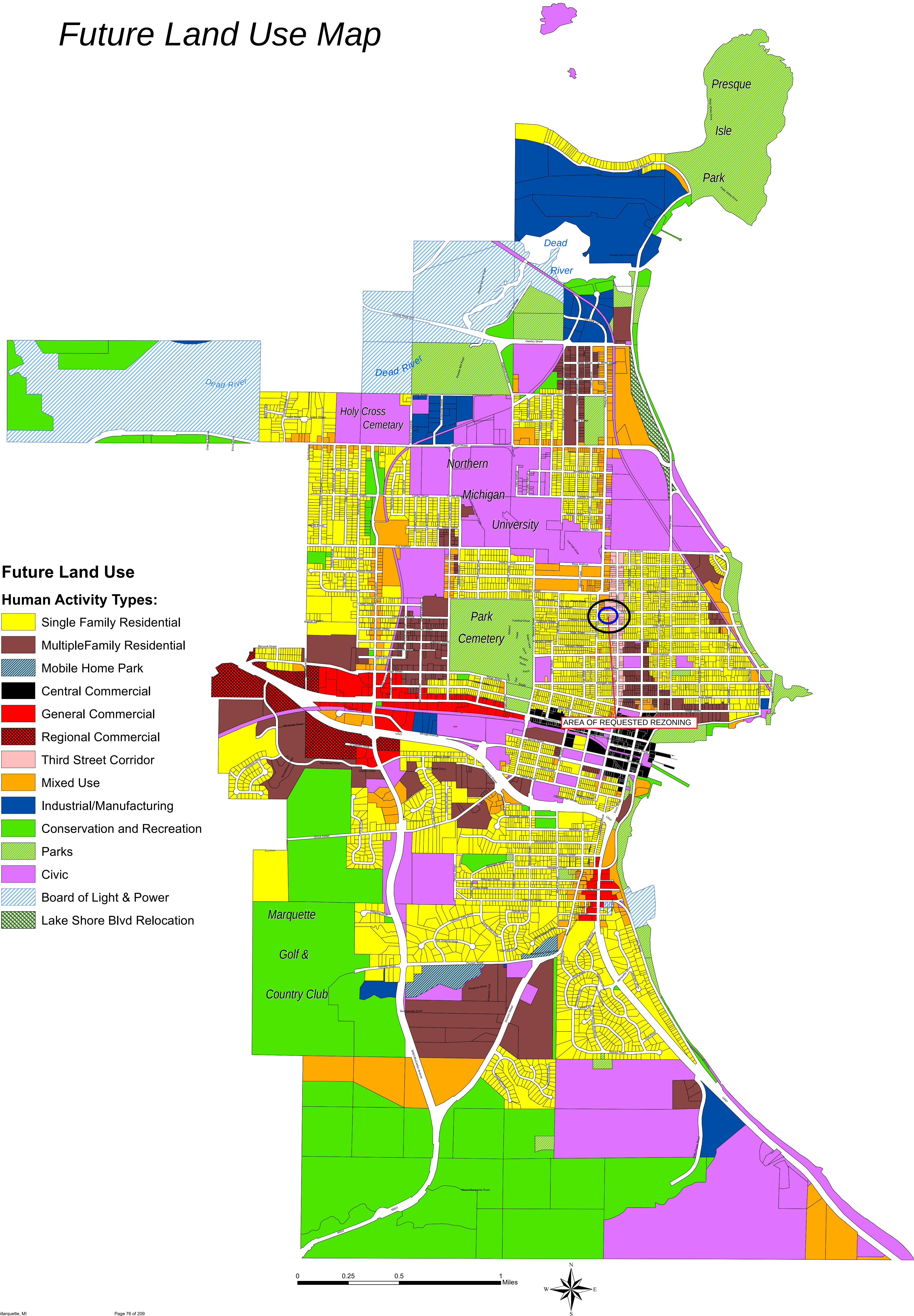
View across the parking lots of 909, 923, and 927 N. Third St. to the back yard and southeast sides of the 221 and 225 W. Park St. parcels and some of the surrounding residential properties and buildings.



View looking east in front of 221 and 225 W. Park St., with Vangos restaurant (927 N. Third St.) and the buildings at 923 and 909 N. Third St.

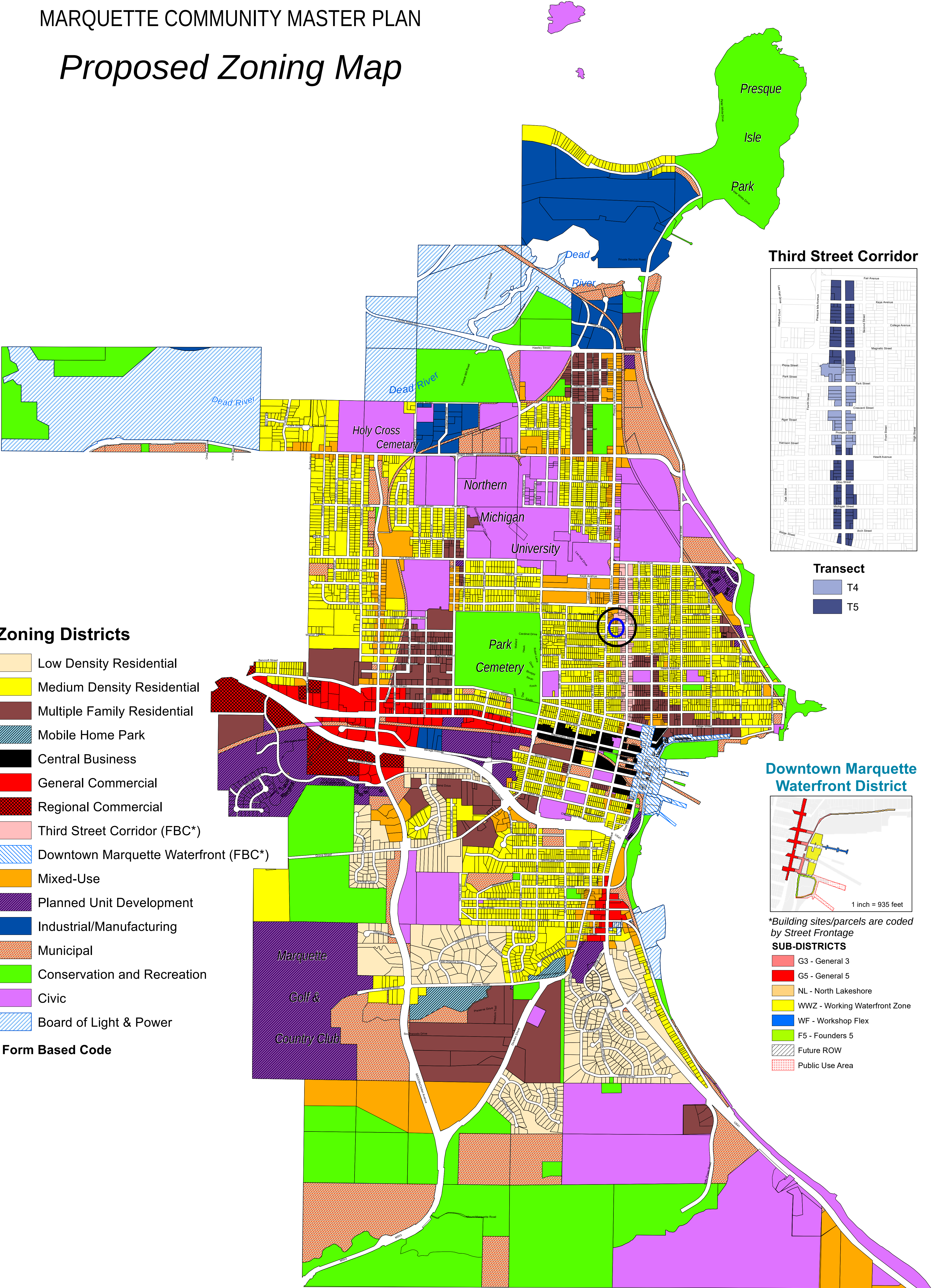
MARQUETTE COMMUNITY MASTER PLAN

Future Land Use Map



MARQUETTE COMMUNITY MASTER PLAN

Proposed Zoning Map

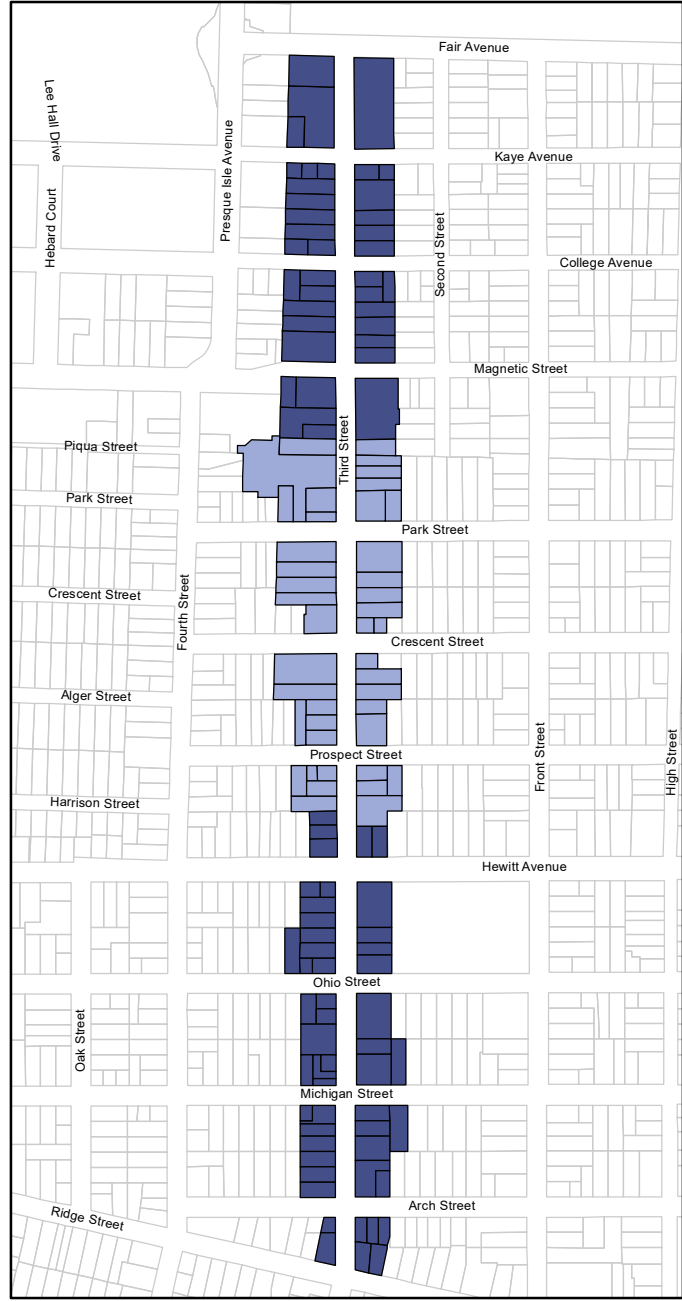


Zoning Districts

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

* Form Based Code

Third Street Corridor

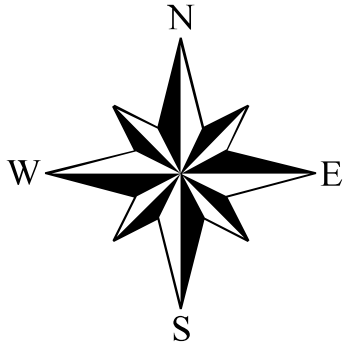
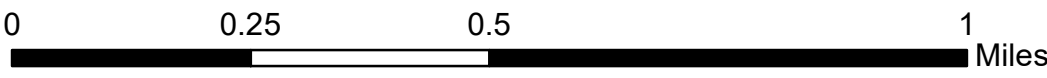


- Transect**
- T4
 - T5

Downtown Marquette Waterfront District



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





Amazing weekend

bsargent@miningjournal.net
 JUSTIN MARIETTI, news editor
 jmarie@miningjournal.net
 LISA BOWERS, city editor
 lbowers@miningjournal.net

Friday, July 29, 2022

Local

The Mining Journal **3A**

Volume 138, No. 174

THE MINING Journal

228-2500

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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:

04-REZ-08-22 - 221 W. Park St. & 225 W. Park St. (PIN: 0320010 & 0320020): Park Third Inc and Michele Butler are requesting to rezone the properties located at 221 W. Park St. & 225 W. Park St. which are zoned **Medium Density Residential (MDR)** to be zoned **Third Street Corridor - Transect 4 General Urban (TSC-T4)**.

The public hearing for this request will be at 6:00 P.M. on Tuesday, **August 16, 2022**, in the Commission Chambers at City Hall located at 300 W. Baraga Ave. If you wish to comment on this matter 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 August 16, 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

Rezoning

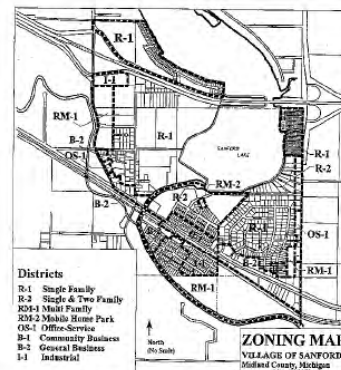
- The main question that must be answered when considering a rezoning is: *“Is that an appropriate location for that zone?”*
- The proposed use of land is not as important as is the fact that if the land is rezoned, any of the uses permitted in that zone may be established on that land.
- If a specific 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

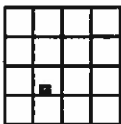
The following is an excerpt from a Planning Commissioner training/resource manual that summarizes the four characteristics of a "spot zone" - and explains that all four must be found in the subject rezoning request to constitute an "unjustified spot zone". The Planning Commission needs to address each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

SPOT ZONING

Characteristics

- * **Small in Size**
- * **Inconsistent Uses**
- * **Special Benefit**
- * **Contrary to Master Plan**

MSPO Basic Program: _____



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 it 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**

Use proposed - Shopping Center
Permitted in C-2, Special Use in C-1
10-Year Master Plan - Residential
No opposition
Major arterial road

**WHAT ARE THE APPROPRIATE
FACTORS TO CONSIDER?**

MSPO Basic Program

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.

WILLIS TOWNSHIP Zone Districts

C-1 Neighborhood Commercial

Permitted Uses

1. Grocery stores
2. Drug stores

Special Land Uses

1. Shopping centers

C-2 Community Commercial

Permitted Uses

1. Automobile services
2. Shopping centers

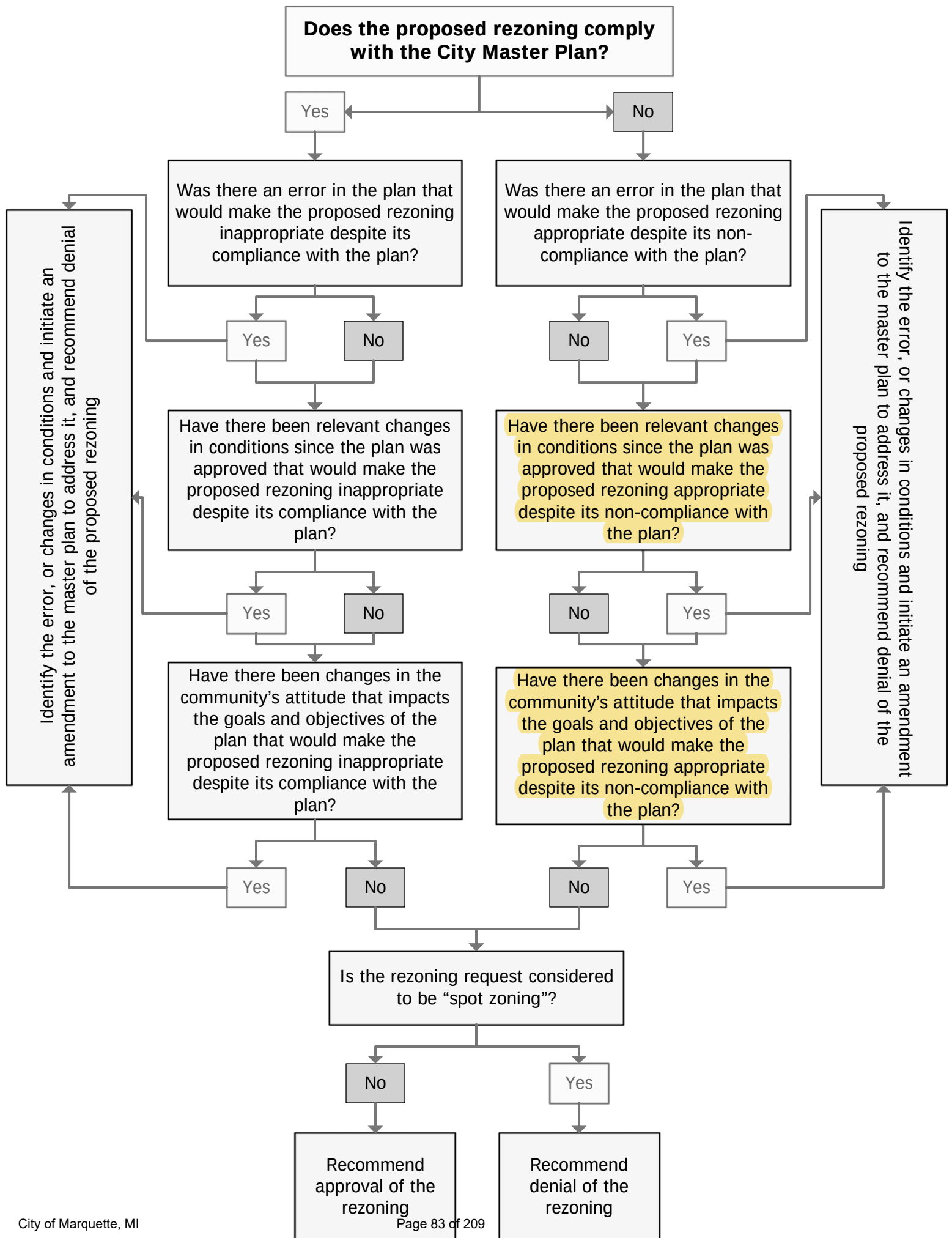
Special Land Uses

1. Auto body shops

MSPO Basic Program

- 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?



Re: Sending pictures for documentation

Andrea Landers <alanders@marquettemi.gov>

Thu 8/4/2022 10:38 AM

To: Eric Paupore <erpaupore@marquettemi.gov> [REDACTED]

Hi,

I have received your correspondence with attachments and it will be added to the agenda packet for this case.

Sincerely,
Andrea

Andrea Landers
Zoning Official
City of Marquette

*****Please 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. Monday thru Thursday, and 7:30 a.m. to 11:30 a.m. Friday.

alanders@marquettemi.gov

906-225-8383

www.marquettemi.gov

From: Eric Paupore <erpaupore@marquettemi.gov>

Sent: Thursday, August 4, 2022 10:33 AM

To: Andrea Landers <alanders@marquettemi.gov>

Subject: Fw: Sending pictures for documentation

From: [REDACTED]

Sent: Wednesday, August 3, 2022 5:17 PM

To: Eric Paupore <erpaupore@marquettemi.gov>

Subject: Sending pictures for documentation

Hi Eric,

I'm sending these pictures to you to be added for documentation. I plan on speaking August 16th 2022 in Commission City Hall in response to Michele Butler's request for a rezone of her back parking lot.

These are damages done to our property (fence) because they're misuse of they're (back parking lot) by piling dirt up against our fence for years.

If you need to, please forward any pictures to whom it may concern.

Sincerely
Jeff Kallery
229 W. Park St.
Marquette Michigan

From: Amanda Marie Specker
Sent: Monday, August 15, 2022 12:24 PM
To: 'alanders@marquettemi.gov' <alanders@marquettemi.gov>
Subject: RE: Specker support re: 04-REZ-08-22

15.Aug.2022
RE: 04-REZ-08-22 – 221 W. Park & 225 W. Park

Dear Community Development Department, Andrea,

I am writing in support of the rezoning request made by Michele Butler.

My husband and I have lived on adjacent property for many years and never experienced an issue with Vango's overflow parking on the north side of our lot. Parking in Marquette is an issue, especially on 3rd Street, so additional off-street parking will help our community and support our local small businesses.

If more insight from my husband or myself would further support the rezoning request, please contact us at 920.737.6867.

Thank you for your time and attention.
Best regards,
Amanda Specker

PS - @alanders@marquettemi.gov would appreciate your reply a confirmation my letter of support is received. Many thanks!

Best Regards,

Amanda Specker
Client Program Manager
A.P. Moller Maersk – SCM

Mobile: +1.920.737.6867
amanda.specker@lns.maersk.com

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04-REZ-08-22 221 & 225 W Park St

Jamie Strand - [REDACTED]

Wed 8/10/2022 4:12 PM

To: Andrea Landers <alanders@marquettemi.gov>

Cc: David Stensaas <dstensaas@marquettemi.gov>

Zoning Officials,

I received a letter regarding a rezoning hearing for 04-REZ-08-22 221 & 225 W Park St. I will be out of town during the hearing, but wanted to submit a statement of support regarding this issue.

I fully support the rezoning of these properties from MDR to TSC-T4. Without this official rezoning, this block of W. Park between N. Third and Fourth poses a tremendous parking problem. Drivers park all over the place near this intersection, frequently right up to the stop signs, which directly creates a dangerous intersection. The parking associated with the properties in question alleviates a *great deal* of congestion at this very busy corner. Without rezoning, this will no doubt translate into a much larger problem during the winter months.

Please consider this rezoning as a solution to both parking (overflow) in this busy urban area of the city as well as improving driver safety at this increasingly busy intersection.

Thank you,
Jamie Strand
1001 N. Third Street, Marquette
[REDACTED]



Exceptrs of Third St. Corridor SDP
Appendix G of Comm. Master Plan

WHY PLAN THIRD STREET?

The *Third Street Corridor Sustainable Development Plan* will enhance and support Placemaking efforts for the creation of a vibrant, resilient, mixed-use corridor that links downtown Marquette with Northern Michigan University and surrounding neighborhoods.

The goals for Third Street Corridor Sustainable Development Plan Project are:

Provide more Transportation Choices

Promote Equitable, Affordable Housing

Enhance Economic Competitiveness

Support Existing Community and Neighborhoods

Leverage Investment

This comprehensive process and plan leads to recommendations for action, one of which is a draft Form-Based Code embodying the Vision that Marquette citizens crafted during the charrette workshop.

It is clear that, in spite of major efforts and success of the last 10 years in redeveloping Marquette, the existing zoning codes are working at cross-purposes with the desire for sustainable, mixed-use, pedestrian oriented urbanism in the Third Street Corridor. There are many strategies for fixing this undesirable condition, from trying to repair the existing code, to new design standards, to the many varieties of Form-Based Codes. This process allowed the community explore these alternatives and then find the best solutions for Marquette and its Third Street Corridor.

A fundamental part of reforming zoning is to have a strategic Vision Plan, and the Charrette enabled citizens and consultants to explore in three dimensions the implications of any changes, as well as confirming Marquette's Vision for the future of the Third Street Corridor. The Vision identified by the community led to a concise and achievable set of implementation strategies that ensures the plan becomes a reality.

ISSUES EXPLORED



DEFINING STREET SPACE

Very few people can 'see' planning through maps and words. During the charrette and in this booklet care was taken to show photos, models, and sketches that described the space between buildings, blocks, and streets. This makes it evident where buildings and street walls need to be in order to define the spaces that make walking interesting, safe, and convenient. Many times it is as simple as adding a fence or hedge.



KEEPING AND ENHANCING CHARACTER

Third Street has developed a character over time that is a mix of pitched-roof houses and flat roof commercial buildings. The plan and Form Based Code encourages keeping this character and enhancing it where possible with both easy to do Tactical Urbanism strategies, i.e., paint, parklets, and a zoning code that places new buildings and additions in the right place and with the right form.



CREATING AND INTEGRATING VIABLE CIVIC SPACES

Northern Michigan University with the Superior Dome sits at one end of the Third Street Corridor, but residents must go to the downtown for the next important civic open space, like that in front of the County Courthouse, and there are few other non-eroded public spaces to enhance commercial and residential activity along Third Street. This plans proposes to integrate passive or active recreational activity through well located and designed quasi-civic spaces, such as the lot next to Frosty Treats, provided public-private partnerships can be accomplished.



TAMING THE CAR, ENCOURAGING WALKING, BIKING

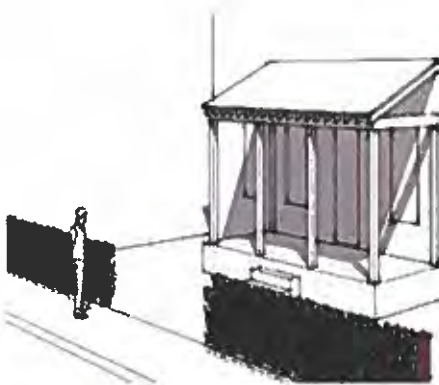
Traffic and parking are usually at the top of citizen's concerns in any town. Along the Third Street Corridor, this is evident in the desire to manage the amount and speed of through traffic, allow for the peaceful coexistence of pedestrians, bikes, public transit and vehicles, and create the unachievable utopia of a parking space for everyone right in front of where they wish to go. The plan makes realistic recommendations about bike lanes, bike corrals, parklets, additional parking through re-stripping, and a shared parking strategy.

ISSUES EXPLORED

HOUSING, RETAIL AND BUILDING TYPES

The Third Street Corridor plan shows possible locations for both new buildings and types of buildings (live/work, apartment, etc). This will increase the diversity of housing types as well as retail spaces on the street.

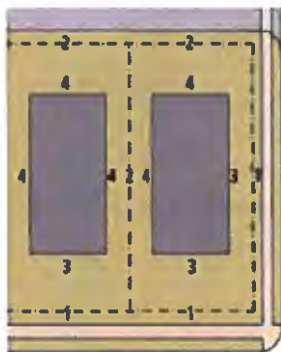
The retail occupancy is strong, with few vacancies. There is an opportunity to continue to market new spaces to retail that supports the character of Third Street, and avoid the destructive nature of suburban-style retail.



FORM-BASED CODES

Marquette has experience in Form-Based Code in its Downtown. Form-Based Codes should not be one-size-fits-all, but rather calibrated to the character of each neighborhood and location along the Corridor. The charrette provided a forum for discovering the several characters of Third Street, and to get feedback on proposed height, build-to lines, use and other elements that are appropriate.

Section E presents the draft Form-Based Code.



- 1 - Frontage Line
- 2 - Lot Line
- 3 - Facades
- 4 - Elevations

TACTICAL URBANISM

It can be difficult in today's economy to get funding for private and public initiatives, creating actual gaps in the urban fabric that go unfilled. Tactical urbanism is a set of strategies for doing what is possible now, with limited funds, to increase urban life and definition.

This can be as simple as using a fence or elaborate as a dining deck / parklet. The plan indicates locations where this seems useful; however, this is a set of tools that can be used all along the Third Street Corridor.

Seeing things happen immediately after planning maintains enthusiasm.



OVERALL VISION PLAN

THIRD STREET CORRIDOR

The plan to the left represents the ideas developed during the charrette. The following pages will detail this plan block-by-block.

The ovals indicate the general areas that local residents felt could have distinct character, which led to the development of the draft Form-Based Code in Section E.

LOCATION OF VANGO'S and SUBJECT LOTS

VISION FOR
TRANSIT ALTERNATIVES,
TACTICAL URBANISM &
FORM BASED CODE BEGINS
ON PAGE C 70

NORTHERN SECTION OF THIRD STREET CORRIDOR

This area goes from just north of West Park Street to West Fair Avenue. It was discussed that this area could be more dense with slightly taller buildings, especially to the north next to the university.

There is the greatest amount of vacant land and excess parking in this area, indicating the greatest potential for new development.



Approx. location of 221 and 225 W. Park St.

OVERALL VISION PLAN

MIDDLE SECTION OF THIRD STREET CORRIDOR

This section to the left was felt to have a mixed character, with a greater number of existing house type buildings. Therefore, it is believed that the development should be no higher than what is existing.

The density of new buildings could come from additions to the rear and possibly front, as well as renovations to the existing buildings.

The character in this area is more relaxed, more like a 'village' rather than a Main Street.

LOWER SECTION OF THIRD STREET CORRIDOR

The section to the right is similar to the northern section in that greater density and height could be allowed to take advantage of its proximity to downtown.

However, the character is still small town Main Street, not Downtown Marquette, and should not be as tall as downtown or have as many attached buildings.

There is a charming, hip character to this area that should be encouraged.

City of Marquette - Community Master Plan

THIRD STREET CORRIDOR SUSTAINABLE DEVELOPMENT PLAN PROJECT

DESIGN VISION

FOR
BLOCK BETWEEN WEST
CRESCENT STREET &
WEST PARK STREET

- 1 Seats under trees - possible pub to side.
- 2 Outdoor dining deck for Vango's.
- 3 New artistic handicap railing and larger 3D signage suggested.
- 4 Fences, hedges and trees at edge of sidewalk in front yards. Vibrant paint and signage.
- 5 Parklet in front of drycleaners. A new vestibule to the side could shield parking, along with adding a tree. Over time 2-3 story building.
- 6 Increase outdoor seating for Stucko's and add trees and signage and colorful umbrellas.
- 7 Consolidate parking to rear of lots over time - remove driveways from Third Street - plant evergreen trees and instal 6' fence along lot lines to residential zone.



GENERAL CHARACTER & STRATEGY

Another typical Third Street block, with flat roofed one and two story building at the corners, and converted gable roof houses in between.

The third funeral home and its parking lot occupies the northeast corner of this street. The landscaping on the corner and especially its mature trees prove a natural green, framed by the classic building. Seating around the trees would be welcome, and perhaps the addition of a pub to the side or back (a tradition in Ireland) could be considered to allow for nighttime use.

The middle historic gabled houses can have additions in the front or rear, with space gained by sharing parking. The Marquette Embroidery & Lettering store has a flat roof addition that does not particularly match the house behind, but is a candidate for vibrant paint, awnings and signage. A mural on the side could highlight the art of engraving.

Stucko's on the southeast corner is a venerable institution that has recently converted part of its front parking to fenced outdoor seating. This should be encourage to expand, with the addition of a more substantial fence (maybe with a built-in standup bar rail) and the addition of trees, planting and colorful signage.

The southwest corner is the home of Dallas Cleaners (since 1921!). All effort should be made to support this long time survivor, and enhance with a new mural that shows the history (the dark grey color is actually very good for the simple block building). Additional expansion or fencing would be welcome along Third Street to shield the parking lot.

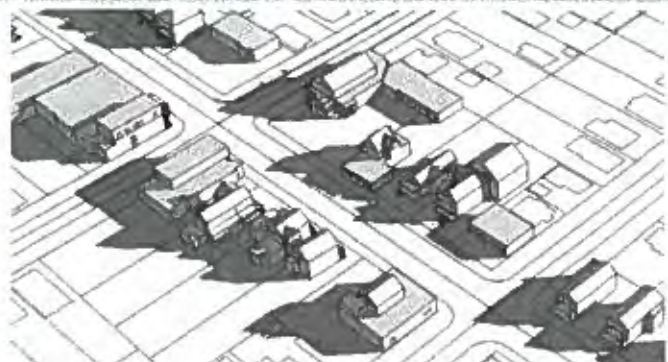
Specific recommendations
for the Vango's parcel

Another longtime favorite, Vango's, is on the northwest corner. The color of the building is appropriately vibrant and the crowds that come would enjoy the dining deck in front. All of the sidewalk and frontage improvements, along with a shared parking strategy would make fuller use of parking further away on Third Street, while taking the pressure off creating more parking into the neighborhood.

W. Park St., between 3rd and 4th streets



Aerial view looking north from West Crescent Street



Aerial view of existing building forms for this block

City of Marquette - Community Master Plan

C 49

CITY OF MARQUETTE MICHIGAN

David Stensaas

From: Andrea Landers
Sent: Tuesday, August 16, 2022 9:45 AM
To: David Stensaas
Subject: Fw: Sending pictures for documentation
Attachments: 73379765-CB8E-4DB3-98E7-BCF017DEF436.jpeg; 86A166E6-FF6B-4B18-90E2-B2C402826AFD.jpeg; 97260A63-BDE0-4770-9AA3-E2C558978498.jpeg

Andrea Landers
Zoning Official
City of Marquette

*****Please 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. Monday thru Thursday, and 7:30 a.m. to 11:30 a.m. Friday.
alanders@marquettemi.gov
906-225-8383
www.marquettemi.gov

From: wndybarber@aol.com <wndybarber@aol.com>
Sent: Sunday, August 14, 2022 2:17 PM
To: Andrea Landers <alanders@marquettemi.gov>
Subject: Re: Sending pictures for documentation

Thank You,

I have some more pictures for documentation. These were from a winter a few years back. Just showing how long we have been dealing with Vango's and they're disregard for their neighbors property.

Sincerely
Jeff Kallery

-----Original Message-----

From: Andrea Landers <alanders@marquettemi.gov>
To: Eric Paupore <erpaupore@marquettemi.gov>; wndybarber@aol.com <wndybarber@aol.com>
Sent: Thu, Aug 4, 2022 10:37 am
Subject: Re: Sending pictures for documentation

Hi,

I have received your correspondence with attachments and it will be added to the agenda packet for this case.

Sincerely,

Andrea

Andrea Landers
Zoning Official
City of Marquette

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alanders@marquettemi.gov
906-225-8383
www.marquettemi.gov

From: Eric Paupore <erpaupore@marquettemi.gov>
Sent: Thursday, August 4, 2022 10:33 AM
To: Andrea Landers <alanders@marquettemi.gov>
Subject: Fw: Sending pictures for documentation

From: wndybarber@aol.com <wndybarber@aol.com>
Sent: Wednesday, August 3, 2022 5:17 PM
To: Eric Paupore <erpaupore@marquettemi.gov>
Subject: Sending pictures for documentation

Hi Eric,

I'm sending these pictures to you to be added for documentation. I plan on speaking August 16th 2022 in Commission City Hall

in response to Michele Butler's request for a rezone of her back parking lot.

These are damages done to our property (fence) because they're misuse of they're (back parking lot) by piling dirt up against our fence for years.

If you need to, please forward any pictures to whom it may concern.

Sincerely
Jeff Kallery
229 W. Park St.
Marquette Michigan





**OFFICIAL PROCEEDINGS OF THE
MARQUETTE CITY PLANNING COMMISSION
August 16, 2022**

A regular meeting of the Marquette City Planning Commission was duly called and held at 6:00 p.m. on Tuesday, August 16, 2022, in the Commission Chambers at City Hall.

ROLL CALL

Present: W. Premeau, A. Andres, Vice-Chair M. Larson, N. Williams, N. Frischkorn

Absent: S. Mittlefehldt, Chair J. Cardillo (both excused)

AGENDA

It was moved by N. Frischkorn, seconded by A. Andres and carried 5-0 to approve the agenda with the addition of an excerpt of the 3rd St. Corridor Sustainable Development Plan, the decision tree from p.3-32 of the Community Master Plan, and two items of correspondence received after the agenda was published.

CONFLICT OF INTEREST and EX-PARTE CONTACT

No conflicts were stated.

CITIZENS WISHING TO ADDRESS THE COMMISSION ON AGENDA ITEMS

Jeff Kallery, 229 W. Park St., stated:

My property is to the west, the lot that is to the west of 225 W. Park Street, which is in the proposed zoning. He stated that lot runs right down his side yard to the end, and so he is talking that his whole side is here under the proposal. In the end it is all about four or five parking spots, so I don't see how someone should wreck the neighborhood for four or five parking spots. I am very well aware of the potential proposed uses. If something is made 3rd Street Corridor that opens up a can of worms, especially when dealing with the Vango's people, who like to do things their way. It is really just asking for problems because there are so many different potential uses that could be done, and that although not all of them would be done there, there are lots of potentials. It would open that up to be totally paved and commercial buildings put on it and I would not put it past her to level all buildings on those two properties, 221 and 225; and either A) put up a parking lot; or B) put a commercial business now that she's given free reign, and with the 3rd Street Corridor, that is basically commercial. I'm concerned about that extending into our neighborhood and about the use of it, no matter what. These people have shown no concern for anyone else's property. My fence and personal property have been damaged as a result of their use of that illegal parking lot. I know that that is not anything you are dealing with, but I'm saying that it been a total disregard for other peoples' property and that giving Ms. Butler free reign I don't expect that to change. With all that being said, the city does not benefit from these permits, and that the neighborhood does not benefit, and I certainly don't benefit from this and in fact I see it as a detriment. Michele Butler is the only one who would benefit from this. Thank you.

PUBLIC HEARINGS

A. 04-REZ-08-22 – 221 W. Park St. (PIN 0320010) and 225 W. Park St. (PIN 0320020)

City Planner and Zoning Administrator D. Stensaas read the memo for the case and presented visuals from the agenda packet including the application and staff comments, consultant replies to staff comments, the area and block map with the parcel outlined in blue, photos of the vacant site, excerpts from the Third St. Sustainable Corridor Development Plan that were added to the agenda during the agenda approval item of the agenda, and the Rezoning "decision tree" from the Community Master Plan that was added to the

agenda during the agenda approval item of the agenda. He also read two items of correspondence that were received earlier the same day and showed two of the photos that were included in one of the items of correspondence.

M. Larson invited the applicant to come up and speak about the project.

Ms. Michele Butler, 3132 Island Beach Rd., the applicant, stated:

I am representing Park-Third Inc., which is not just Michele Butler, but also Robert Caron and John Christianson, they are my partners in this. Well, first of all, just to clarify, we've always done everything we possibly can to create parking on 3rd Street, going way back into the 90s, when we moved a house, when the parking restrictions were really, really strict. Before that was all switched over, we did everything we could to have the ample amount of parking that was needed for the restaurant and/or our apartments at that place. This area has been used for parking in excess of probably 18 years, and we literally were not aware, short of correspondence that was shown to me back in 2005, that it was only supposed to be for tenant parking. But there was nothing written, nothing sent to us, we didn't have anything. So it's always just been just overflowing in the summer when it's very, very busy. When 3rd Street did their restructuring of the parking, we did not want to have the spaces in front of Vango's occupied because of the site distance coming out, so they didn't put one space there, but we also have a space in the back. We worked for years to creating and help 3rd Street. We joined the DDA because part of that process back when this was going on, was to help with parking situations on 3rd Street.

We own both parcels adjacent to Vango's, 221, 225 W. Park. We have no intent of taking those houses down. We have no intent of creating any additional commercial use there. But when I met with Mr. Stensaas and Ms. Landers, the only way that we could approve or have that use of that parcel for parking was to request that it be zoned so that it could be used as parking. We have limited our seating capacity within the restaurant to also help with parking issues. We have our employees work to park over in the Village Shopping Center, because we also own that parcel, which I do have one question and then I'll follow up with that just shortly. We hired a surveyor to lay out all of our parcels and stake them off so that we know exactly where our corner points are and what property is ours. We have spoken with Mr. Kallery, who brought it to our attention this spring, in regard to his issues and we said we would work on it, and we've spent about \$1,500 already getting the area cleared out around his fence to verify what damage is there and what we could do to take care of that for him. In regard to blocking his back yard, I don't buy that as a viable argument, because he's got a huge barn back there and that takes up his whole back yard. So it's not really affecting his yard in that regard.

We're the oldest restaurant in town, we support the community, we really believe in everything that we can do, not only for 3rd Street, but wherever parking's an issue. And, you know, there was talk that they were going to put in a parking structure where the old Jack's IGA is, and that never happened, and instead, all that parking has been eliminated. So we don't have any other recourse but to hope that we can get this passed so that we can have the additional parking necessary, not only for ourselves, but all of our neighbors, too. And part of the issue will be very difficult for White's and other areas, because right now because Ms. Strand has no place for her snow to go, so we let her snow to be plowed onto the back part of the lot behind White's, which is our property. We have a good neighbor policy with all of the businesses in that area and we all work together. I don't know if you have any questions or anything else that I can help with.

M. Larson asked if any Commissioner had question for Ms. Butler now. He also stated that they could bring Ms. Butler back up later if there are questions.

Ms. Butler stated that she did have one question. She stated:

On the map that you showed - can you bring that up to where it shows the corridor? because it doesn't show the Village Shopping Center going all the way to 4th Street.

D. Stensaas showed the portion of the map and stated that the property does go all the way to 4th Street.

Ms. Butler stated that so does the egress and the rest of it. She also stated that that whole area, which abuts the neighbors, is zoned in regard to...this was just similar situation with regards with how parking is and how ingress and egress is, et cetera. She stated that there are several other parcels, if people were to really take the time to go up and down through the street, where it can be seen that there is an extended area of parking in that area. She referred to an overlay map that they had.

D. Stensaas displayed the parcel using the online interactive Land Development Code map and stated that he can't explain right now why the portion of the parcel [abutting Fourth St.] is shown as Mixed Use, but some parcels have split zoning.

Ms. Butler stated that her point is that there are other areas where this situation is taking place and that they are not an exception to the rule in what they are requesting on today. She stated that she hoped that the Planning Commission would give them that consideration to help alleviate parking issues on 3rd Street. She thanked the commission members.

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

A. Andres stated that he was wondering that for the first step, how deep does the other parcels go back. He asked if they ever found that out.

D. Stensaas used the interactive mapping program again and showed the entirety of the Third St. Corridor District and the parcels on each block.

W. Premeau stated that the only thing he thinks is as the Village Shopping Center goes back, you also have a church right there, and he inquired where the church attendees parked.

Ms. Butler stated that she lets them park there, but it is actually their parking.

W. Premeau stated that the problem that he sees is that Ms. Butler may not always own these parcels and that similar problems that have been going on down the street could arise in that situation. He stated that those houses could be turned into any business that the owners wanted to, but that he would not foresee any problems with parking if there was a way to do that.

M. Larson stated that they needed to go through the interim step of whether this was spot zoning or not. He stated that this was necessary to ensure that they feel comfortable discussing it further and then afterwards they could talk to W. Premeau's point regarding if we rezone that it opens up those lots for a variety of other uses that go beyond just the current owner, and that if it gets sold at some point in time it could turn into another use in which maybe the community wouldn't see as the best, or the Master Plan does not lay out as an opportunity.

M. Larson stated that the characteristics of a spot zone are that number one – is it small in size? He asked D. Stensaas if they would consider each of these lots separately. D. Stensaas stated no, this is a request for the two lots and they are owned by the same party and contiguous, so you can consider this as one request. M. Larson stated thank you.

M. Larson stated that next, "does it grant a right that is not enjoyed by similar adjacent parcels?" He said I don't think it does, the adjacent parcel is currently a parking lot and has the applicability of those uses.

M. Larson stated that “is it dissimilar from the zoning that is around it?” He stated only on one side, it all depends on which side you are on.

M. Larson stated “is it inconsistent with the Future Land Use Plan and policies of the Community Master Plan?” He stated he thinks this is the one where discussion of this request lies, because currently in the Future Land Use Map it is shown as residential, and in policy of the Master Plan for the Third St. Corridor it is recommended to remain as a residential lot.

N. Frischkorn stated that he concurs that it is inconsistent with the Master Plan, but for this to be spot zoning it would have to meet all of those characteristics and it does not meet all of the characteristics.

M. Larson stated that is correct and so this would not qualify as a spot zone, however there are still some questions that we need to discuss, mostly around the concerns of the Future Land Use Map and the current Master Plan and Third St. Corridor planning.

N. Williams stated that one comment about whether it is consistent with the Master Plan, in Appendix G in the Master Plan, on page C 50, it reads “Another longtime favorite, Vango’s, is on the northwest corner. The color of the building is appropriately vibrant and the crowds that come would enjoy the dining deck in front. All of the sidewalk frontage improvements, along with a shared parking strategy would make fuller use of parking further away on Third Street, while taking pressure off creating more parking into the neighborhood.” He stated that it specifically mentions creating more parking around Vango’s.

M. Larson stated right, and “while taking pressure off creating more parking into the neighborhood.’

M. Larson asked Ms. Butler if she could speak to the shared parking strategy in the Plan.

Ms. Butler stated that she thinks that a lot of that discussion came out of when they had the gentleman come up and they were talking about the whole plan and then getting involved with the DDA, and they were all in it together. She stated that basically they were together now, like she had stated, with White’s, with Stucko’s – they have no parking at all, they use part of our parking. She stated that when Jeremy has a funeral, they use our parking, and vice-versa - if Jeremy does not have anything going on, he’s amendable to someone pulling into his parking lot. She stated that she thinks that that is generally how they all operate together. She stated that they have never called anybody out for pulling into their parking lot and running into White’s Party Store to get their product or vice-versa.

M. Larson asked Ms. Butler if she could you speak about the possibility of connecting the existing parking lots at 927, 923, and 909 to the 907 N. Third St. property.

Ms. Butler stated that 907 N. Third St. is not really wide enough to warrant the additional parking that could be created, and also they are in the process of turning that property over to their grandson.

A. Andres stated that his only concern if this is granted, they do not have any control over what comes after it, and is that going to be harmonious with the Master Plan or not. He stated that that is something they do not know and that this would be taking a chance. He stated that although Ms. Butler may be the greatest owner there is, but somebody else could come in and build whatever they wanted to. A. Andres stated do they want to take the chance that we could make one party happy now but possibly making the whole community worse down the road. He stated for him, he did not really want to take that chance.

N. Frischkorn stated that they are not just being asked to rezone a parking lot, but rather those entire parcels, which included the houses and it is not just the area in the back. He stated that if you go to Page

11 of the agenda, there is a table that shows of the uses that will be permitted uses. N. Frischkorn then stated that if they do rezone this it would be more or less permanent and that his concern is that all of those uses become permitted uses, not just for this owner but for all future owners of the property. He stated that there are a lot of uses that are not currently permitted in the zone, and that would be his concern - that commercial development would encroach further into the neighborhoods, which we have seen issues with that recently, and that is my concern at this time.

M. Larson asked for any further thoughts from any of the other Commissioners.

N. Williams stated that he didn't have any.

W. Premeau stated that he didn't have any.

M. Larson stated that he certainly has some things he would like to address concerning this. He stated that the lot has been used for a very long time as far as parking goes. He stated that he thinks that there are other things that, if they were to recommend it to be rezoned, it could become any of the items on the list. He stated that despite good intentions, it could become those uses on that list some time down the line and that that is what the issue is here. M. Larson stated that he did not know what alternatives there are in allowing parking and retaining residential.

Ms. Butler stated that when she discussed the issue with staff my questions were "what can we do" – can we split that lot out so only that section is zoned for parking.

D. Stensaas stated that if this was rezoned, the lots could be split, because there is no minimum lot size. He stated that it could be split into three lots, but you still have the 3rd Street Corridor district zoning on all three of those lots. He stated that again, there is no minimum lot size for the 3rd St. Corridor, so this would be the only solution.

D. Stensaas also stated:

There are Mixed-Use parcels across the street, but the minimum lot size for a Mixed-Use parcel is 4,800 square feet, and these two parcels are each very small...each parcel is roughly 5,000 square feet, one is a bit over and one is a bit under, and if you take even a few hundred square feet out of them they would not be large enough to be viable Mixed-Use parcels. Third St. Corridor is the only viable zoning for a lot that small, which is what is being discussed here – subdividing the two parcels into three and dedicating one to commercial parking. But there is also no way to establish that commercial parking is a use in itself that will only be applicable to that lot because if you look in the use table for the district there is no use classification for commercial parking. It is a retail or restaurant use, or one of the other uses here [in the table of Permitted Uses that was shown on the screen] and what would make sense is that this would be restaurant use. So that leaves open all restaurant uses, not just parking.

M. Larson stated asked whether it would be possible to state that the use remain parking, or to place that condition.

D. Stensaas stated:

If it was your recommendation to the City Commission that you would approve with the condition that parking was the only thing to be allowed, you can do that, but I don't think it would be a reasonable condition that the owner applies for a land division. You could, but I don't know if it would legally supportable to say that you will only support it if the owner goes through a land division and has the lot subdivided for parking. He stated that that would be a discussion for the City Commission to have with the City Attorney.

N. Frischkorn stated that even if they did that, the houses would still be part of 3rd Street corridor.

M. Larson stated:

You would probably have to enter into some sort of conditional rezoning and I'm not aware if you would even be able to do something like that; if you were to do a land split and enter into some sort of conditional zone where you just uncheck all of the other boxes and just leave them as residential units, but it starts to get really complicated really fast. If it's true that it has been used for parking for 18 years, I believe that's what had been stated, that those back lots had been used that long, that is a long use, even if it was in violation of current zoning for those parcels. And I certainly have concerns for the homeowner if there has been fence damage and things along those lines. On the surface I don't think it meets the conditions for rezoning. I think there could be a convoluted answer to it, I just did not know how to solve for "X" on that and because we're making a recommendation to the City Commission, I don't not know how to put that convoluted answer to them on how it might work. It doesn't make a lot of sense, but asked Mr. Stensaas if he understood what he was getting at.

D. Stensaas stated:

Whether you vote to deny this outright or vote to approve it with a limited set of conditions, the City Commission is going to have to discuss those scenarios probably before it holds a hearing. Even if they were to deny it, the City Commission can still hold a hearing to consider it and to consider the same thing that the Planning Commission is considering - is there a limited set of conditions that we can approve, because they can do the same thing. They can say we approve this but only with these conditions that will allow this to be used this way. He stated that he thought that the City Manager and City Attorney and a delegation from the Commission would probably need to have a discussion about any legally viable options. I've tried to have a discussion with the Attorney lately, but she has not been available. But, again that gets really complicated and I don't know if anybody can require a property owner to subdivide their property, that is an at-will kind of thing and then you are getting into contract law which is going to get very complex.

M. Larson stated that that is why he does not know if they can make a motion and pass that information along within that motion if they are going to make it, to say that the Planning Commission after discussion of scenarios...

D. Stensaas stated that he would say the first thing is to decide if there is any scenario that they think is a good idea, because I don't see that that has been done.

M. Larson stated that he thought that came back to Commissioner Premeau's point that is - is there any scenario that is a reasonable idea of where this remains, that the whole piece gets zoned.

W. Premeau stated that I think we've got to go with what we've got and gamble on it, but you might have every business on Third Street buying a house behind them and wanting to add parking, whatever, which is probably not a bad thing, but Third Street [zoning] would go all the way from High St. to Fourth St. eventually. Is it a good thing or bad thing, I don't know. He stated at this point he would make a motion, and you can't find a better citizen.

N. Frischkorn asked D. Stensaas – hypothetically, if all the residents of 225 and 221 Park St., and 923, 909, and 907 Third St. all parked in that area would that comport with zoning, even though they are tenants from different parcels.

D. Stensaas stated that if there was an agreement from the property owner that would allow people to park there.

Ms. Butler stated:

I know what he means, and I asked them that too, can all the tenants park back there instead, how do you know whose cars they are and how are you monitoring? I own the property and was told that I can't park there, and I said why can't I? We were remodeling and trying to get everything fixed up. We're willing to do whatever, we'll put an addendum on the title. All we want is to secure the parking for my partners and for the community. We're not going to tear the houses down.

D. Stensaas stated that the Code allows people to seek parking within 2,000 ft. of their property if you provide an agreement with another property owner for that parking. He stated that this area is part of a yard and you can park in your yard, but that parking is only supposed to be for residents.

N. Williams asked about residential areas in the Third St. Corridor district. D. Stensaas stated it is the same.

N. Frischkorn stated that the parking for the residential parking for these houses on Third St. is part of the same parking lot for the restaurant, its all one big parking lot. M. Larson stated minus the 907 parking, which isn't connected. N. Frischkorn stated right, but 909 and 923 basically shuffling all their residential parking to this lot so they aren't rezoned and then all the parking in the rest of the lot would be commercial. He stated I don't know if that would work or not, but if it would work it seems that would be a better solution than rezoning these parcels.

M. Larson stated that is certainly an idea that applicant can look into, but as it stands I don't think it meets how the Code is written and I think we need to decide on that and if it is a motion to deny then encourage the City Commission or City staff to consider other solutions. Maybe there are some clever solutions.

N. Frischkorn stated that is why he wanted to discuss some clever solutions, because I don't think its consistent with the Master Plan and as we've discussed there are a number of problems with this kind of rezoning.

N. Williams asked if anyone know how the Third St. Village Shopping Center lot got zoned Third St. Corridor all the way through to Fourth St.

M. Larson stated that its one large parcel.

D. Stensaas stated :

It was the Community Business District before the Third. St. Corridor and that was a similar type of mixed-use district without all of the form-based code language and requirements. The zoning district hasn't changed much in its extent, it's just changed in the type of code we have. There is nothing conflicting in the codes. He stated that to go back a bit, it's the Master Plan that doesn't comport with the request. The Future Land Use Map and the proposed Zoning map for these parcels doesn't jive.

M. Larson asked if anyone wanted to make a motion.

It was moved by W. Premeau, seconded by N. Williams, and not carried 2-3 that after conducting a public hearing and review of the application and Staff Report with attachments for 04-REZ-08-22, 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 04-REZ-08-22 as presented.

Vice-Chair M. Larson stated the above motion failed and inquired if there was anyone else who would like to make a motion.

N. Frischkorn stated that he would make a motion.

It was moved by N. Frischkorn, seconded by A. Andres, and carried 4-1 that after conducting a public hearing and review of the application and Staff Report with attachments for 04-REZ-08-22, 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 04-REZ-08-22 because it is inconsistent with the Community Master Plan.

N. Williams, during discussion on the motion, stated that there is a lot of talk within the Master Plan about the need for parking and there are projects going on all over the city to increase parking, so here is private property that is proposed to be used for parking.

W. Premeau stated that Master Plan is a guide, it's not a bible, and if we followed the Master Plan the city would look entirely different.

N. Frischkorn stated that in response to Commissioner Williams' comments, if this were just parking, if that was it, I think that I'd be inclined differently, but these parcels aren't just parking, there are two houses and they could become different things down the line.

A. Andres stated that he concurs with the last statement.

D. Stensaas stated that he just wanted to point out the Future Land Use Map, and this is where the inconsistency lies. He showed the map on the screen, zoomed in on the property and said that these two parcels are designated as single-family residential. He stated that the Michigan Planning and Enabling Act, state law, says that if your Future Land Use Map is inconsistent with the rezoning request, it is an inconsistent request. He stated, so if you voted to approve something that is inconsistent with the Community Master Plan, you are really in violation of the state law. He stated that the City Commission, our elected officials, can do that, but appointed officials are supposed to follow the state law, although you can make recommendations, following the decision tree in the Plan, that there is an error in the Master Plan or a change in community attitudes or conditions that would make the proposed rezoning appropriate despite non-compliance with the Plan, and that is the exercise you should go through when you see there is an inconsistency with the Plan. He stated the decision tree walks you through this in a dichotomous – yes/no way. He also stated that this is all based on process at the Planning Commission level, but the City Commission can doesn't have to follow the process in the same way, and they aren't liable to be sued for approving an inconsistent request like this. He said that it is okay for them to say the request is inconsistent, but we still are going to approve it, but its not okay for the Planning Commission to do that. He said that all of this is to say that the process is backed by state law, so its not just a guide.

TRAINING

A. Article: *How Did We Get Here* (Michigan Planner May/June 2022)

Staff and the Planning Commission discussed the article.

COMMISSION AND STAFF COMMENTS

W. Premeau stated:

I'm not trying to raise hell, I'm just trying to get things moving, we need something to say no and something to say yes instead of just sitting here for hours throwing things back and forth. He also stated that we are unique up here. He also stated that I heard the VA is pulling out of here.

A. Andres stated:

September 10th is the SAIL cornhole tournament and if you're interested you could put a team together and I'd like to encourage everyone to come out to support the disabled community.

D. Stensaas stated:

There is a rezoning request on the docket for the next meeting, a request to add parcels to the Third St. Corridor District.

ADJOURNMENT

The meeting was adjourned by Vice-Chair M. Larson at 7:20 p.m.

Prepared by:

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

ORDINANCE #716
AN ORDINANCE TO AMEND MARQUETTE CITY CODE CHAPTER
54 – ZONING, BY CHANGING THE ZONING DESIGNATION
OF THE PROPERTIES AT 221 AND 225 W. PARK ST.

The City of Marquette Ordains:

SECTION 1. Zoning Designation.

The zoning of the properties located at 221 and 225 W. Park St. 301 W. Baraga Ave. (PIN: 0320010 & 0320020) is hereby changed from Medium Density Residential (MDR) to be zoned Third Street Corridor – Transect 4 General Urban (TSC-T4).

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: _____

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

Public Hearing(s) **Water Ordinance - Roll Call Vote**

BACKGROUND:

The City Commission in 2021 approved a contract with Davis & Davis Law Offices PLC, to review and update the City's water ordinance. The current water use ordinance has not recently been updated and was in need of a legal and technical review. During the review of the water ordinance, it was also noted a clarification is needed in the sewer use ordinance related to the timeline required for connecting to the public sewer.

Tonight's Public Hearing was scheduled during the Commission's regular meeting of September 26, 2022.

FISCAL EFFECT:

None.

RECOMMENDATION:

Following the Public Hearing, adopt Ordinance 714, which amends City Code Chapter 48 - Utilities.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Ordinance 714

ORDINANCE NO. 714

AN ORDINANCE TO AMEND EXISTING SECTION 48-72.4 (“REQUIRED CONNECTION TO AVAILABLE SANITARY SEWER”) OF ARTICLE III (“SEWERS”) OF CHAPTER 48 (“UTILITIES”) OF THE CITY OF MARQUETTE CODE OF ORDINANCES; TO REPEAL EXISTING ARTICLE II (“WATER”) OF CHAPTER 48 (“UTILITIES”) OF THE CITY OF MARQUETTE CODE OF ORDINANCES; AND TO ENACT A NEW ARTICLE II (“WATER”) OF CHAPTER 48 (“UTILITIES”) OF THE CITY OF MARQUETTE CODE OF ORDINANCES, TO REGULATE THE USE OF AND CONNECTION TO THE CITY WATER SUPPLY SYSTEM, TO PROVIDE FOR THE SPECIAL ASSESSMENT OF WATER MAINS, TO CONTROL CROSS CONNECTIONS TO THE CITY WATER SUPPLY SYSTEM, TO PROVIDE FOR WATER USE RESTRICTIONS, TO PROVIDE FOR ENFORCEMENT, PENALTIES, AND OTHER RELIEF FOR VIOLATIONS AND GOVERN OTHER MATTERS REGARDING THE CITY WATER SUPPLY SYSTEM.

The City of Marquette Ordains:

SECTION 1. Repeal.

Chapter 48 – Utilities, Article III. – Sewer Use and Pretreatment, Section 48-72.4 – Required connection to available sanitary sewer is hereby repealed.

SECTION 2. Adoption.

New Chapter 48 – Utilities, Article III. – Sewer Use and Pretreatment, Section 48-72.4 Required connection to available sanitary sewer is hereby adopted as follows.

Sec. 48-72.4. -Required connection to available sanitary sewer

The owner of any house, building, structure, property, or premises used for human occupancy, employment, recreation or other purposes, situated within the city, and abutting on any street, alley, easement, or right-of-way, in which there is located, or may in the future be located, a public sanitary sewer that is or will be within 200 feet of the nearest property line of such house, building, structure, property, or premises, is hereby required, at the owner’s expense, to install suitable toilet and plumbing facilities therein, and to connect such facilities directly with the proper public sanitary sewer, in

accordance with the provisions of this Article. This subsection shall be complied with and connection with the public sanitary sewer shall be completed by the owner not later than 18 months after the city's written notice to the property owner to do so. This subsection shall not apply to any persons served by a privately constructed, owned, operated, and maintained wastewater sewer and wastewater treatment facility which discharges directly to a natural outlet in accordance with the provisions of this Article and all other applicable state and federal laws.

SECTION 3. Repeal.

Chapter 48 – Utilities, Article II – Water is hereby repealed.

SECTION 4. ADOPTION

New Chapter 48 – Utilities, Article II – Water is hereby adopted as follows:

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CHAPTER 48

ARTICLE II

WATER

DIVISION 1. GENERALLY

Sec. 48-19. - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Advanced Metering Infrastructure or *AMI* means the automated system installed by the City on a customer's premises that is used by the City to measure, collect, and analyze water usage. The AMI system remotely communicates with a customer's water meter, either on request or on a schedule.

As amended means "as amended from time to time."

ASSE means the American Society of Sanitary Engineering or its successors.

Backflow means water of questionable quality, wastes, pollutants, or other contaminants entering a public water supply system due to a reversal of flow, as determined by the city.

City means the City of Marquette, Michigan, and its authorized representatives and designees.

City Manager means the City Manager of the City of Marquette, Michigan, and the City Manager's authorized representatives and designees.

City water means water supplied by the city water distribution system.

City water distribution system (or *public water system*) means the entire system of water mains, sub-mains, pipes, valves, pumps, storage facilities, and other water distribution components and accessories owned by the city that are used to transport water from the city's water filtration plant to city water users, city premises, and fire hydrants, up to and including the curb stop.

Common service means a pipe or conduit lying on private property, not within a public right-of-way or easement, which supplies water to more than one customer and which is considered to be the common property and responsibility of the customers who are being served.

Corporation stop means the buried valve directly attached to the water main or sub-main and is owned by the city. (A corporation stop is sometimes also referred to as a "corporation cock.")

Cross connection means a temporary or permanent connection or arrangement of piping or other conveyance, appurtenances, or means through which a backflow could occur.

Curb box means (sometimes also referred to as "stop box") means the box or metal housing placed over the curb stop to enclose, protect, and allow ready access to the curb stop by the city. The curb box is owned by the city.

Curb stop means a valve typically located on the supply pipe at the right of way line for the purpose of enabling the city to turn on or shut off the supply of water to a user or premises. The curb stop is owned by the city. (A curb stop is sometimes also referred to as a "curb cock" or a "stop cock.")

Engineering Department means the Engineering Department of the city, including the City Engineer and the department's authorized representatives and designees.

Gate valve means a linear motion valve used to regulate or stop the flow of water in a pipe by partially or fully obstructing the flow. These valves are typically located on water mains or service lines that are greater than 4" in diameter.

Indirect service means a water service line that is not connected directly to a water main or sub-main located in a right-of-way or easement immediately fronting the customer's property. Customers connected to a common service or private service are considered to be indirectly connected to the water distribution system since their water service lines are connected to pipes located on private property and not owned by the city.

Main or sub-main means any pipe other than a supply pipe or service line used by the city water distribution system for conveying or distributing city water.

Occupant means any person in possession of a premises other than the owner of the premises being supplied with city water.

Owner means any person owning property or premises (sometimes also referred to as the "property owner") supplied or prospectively to be supplied with city water and includes the owner's authorized agents.

Person means any individual, partnership, co-partnership, firm, company, association, society, corporation, joint stock company, trust, estate, governmental entity, or any other legal entity or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

Premises means a lot, tract, parcel, or plot of land; or a building, structure, facility, or installation, or any part thereof (including, but not limited to, a single dwelling, condominium unit, apartment unit, or a single room or building occupied for business or other purposes by one person or entity, together with any outbuildings and the land connected therewith).

Private service means a water pipe or line built or installed by a water customer on property not under the control or ownership of the city, and for which ownership and responsibility for maintenance of the pipe rests with the customer. Common services and indirect services are considered to be private services.

Public Works Department means the Public Works Department of the city, including the Director of Public Works and the department's authorized representatives and designees.

Secondary water supply means a water supply system maintained in addition to a public water supply including, but not limited to, water systems from ground or surface sources not meeting the requirements of Act No. 399 of the Public Acts of 1976, being section 325.1001 to 325.1023 of the Michigan Compiled Laws, as amended, or water from a public water supply which in any way has been treated, processed, or exposed to any possible contaminant or stored in other than an approved storage facility. A private water storage tank supplied from a public water supply system shall be deemed a secondary water supply unless the tank is designated as, and is approved for, potable water storage and usage.

Submerged inlet means a water pipe or extension thereto from a public water supply terminating in a tank, vessel, fixture, or appliance which may contain water of questionable quality, waste, or other contaminant and which is unprotected against backflow.

Service line or *water service line* means a pipe or conduit, connected to a water main or sub-main, which is intended to deliver water from the public water supply system onto the customer's property for the customer's own consumption or use. Normally, the service line shall be provided with a shutoff valve, or curb stop, located at the customer's property line. The portion of the service line lying within the public right-of-way or easement to the city shall be considered to be the property of the city. The portion of the service line lying on private property without an easement to the city shall be considered the property of and responsibility of the customer.

Sub-main means a pipe or conduit smaller than four inches in diameter, located in a public right-of-way or easement, and which is intended to provide public water supply to a block or group of customers, but which is not meant to provide water for public fire protection.

Supply pipe means a pipe tapped into the water main and extending from the main to and including the curb stop. The supply pipe and the curb stop are owned by the city.

Tapping permit means a permit, as provided for in this article, issued by the Engineering Department, allowing an individual or firm to connect a water service line to the city water distribution system for the purpose of supplying water to a single premises.

Water of questionable quality means and includes, but is not limited to, any of the following, as determined by the city: Any water that is currently not subject to the public water supply system's control or water from a pipe, conveyance, tank, vessel, fixture, or appliance not subject to the city's control; any water that the city has reason to believe may contain waste, pollutants, or other contaminants; or any other water that the city believes may create a hazard to the city water distribution system or may otherwise adversely affect the public health, safety and welfare.

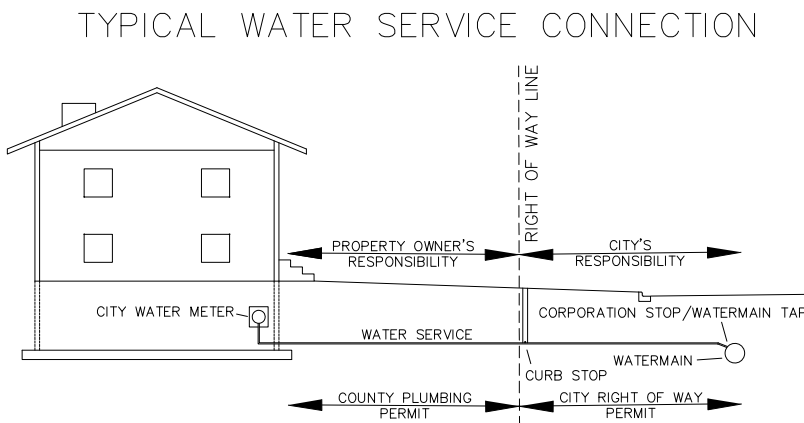
Water main means a pipe or conduit four inches or larger in diameter intended for the conveyance of water from a source of supply to the various parts of the city. Water mains are parts of the city's water distribution system located in public rights-of-way or easements and are intended to furnish water to the customers of the system and to provide for fire protection. Water mains are not to be confused with large diameter (greater than four inches in diameter) pipes which are intended to be service lines for one large volume water user/customer.

Water service means the water provided by the city water distribution system to any premises.

Water tap means a device, such as a corporation stop or tapping valve, which is installed on a water main or sub-main by the Public Works Department or qualified authorized contractor pursuant to a tapping permit and providing a point of connection for a customer's water service line.

Sec. 48-20 – Diagram of Typical Water Service Connection.

The following diagram of a typical water service connection (“Typical Water Service Connection”) shows the basic layout and components and respective public and private responsibilities for those components as provided by this Article. The diagram is provided solely for purposes of illustration of a typical connection and the applicable provisions of this Article shall govern in any particular situation, as determined by the city.



Sec. 48-21 - City control of city water supply system; city’s duties; rules and regulations.

1. The city water distribution system shall be controlled, operated, maintained, supervised, and managed exclusively by the city.
2. The city’s duties shall include, but shall not be limited to, supervision of the city water distribution system facilities, including, but not limited to, pumping stations, grounds, mains, extensions, wells, tanks, supply pipes, and other sources of water supply; administration of the cross-connection control program; and such other duties as provided by this article or other applicable laws and regulations.
3. The city is authorized on behalf of the city to develop, administer, and enforce any rules and regulations as determined necessary by the city for the management and control of the city water distribution system, consistent with other applicable laws and regulations. The rules and regulations may govern matters, such as, but not limited to, the type and quality of materials and accessories to be used for connection to the system, construction methods for connection to the system, and other operations and maintenance matters

pertaining to the system. A copy of the rules and regulations, as developed by the city from time to time, shall be kept at the city clerk's office and shall be available for public inspection during normal business hours.

Sec. 48-22. - Connection to the public city water distribution system required; exceptions.

1. Except as otherwise expressly provided by this section, the owner or occupant of each lot or parcel of land which abuts upon or is adjacent to a street or other public way containing a water main or a water system upon which lot or parcel a building has been, is, or will be constructed for residential, commercial, or industrial use in the city who has an existing domestic supply or source of potable water (including, but not limited to, a well or spring) shall be required to connect the lot or parcel and any buildings thereon to the city water distribution system and shall cease to use any such other supply or source of water for any purpose.
2. Any such owner or occupant of a lot or parcel of land in the city along a water main constructed prior to January 1, 1997, who has an existing domestic supply or source of potable water shall be exempt from the requirements of this section to connect the lot or parcel to the city water distribution system. However, when the existing water source for the lot or parcel becomes insufficient or requires maintenance or upgrade, the owner or occupant shall immediately connect the lot or parcel and any buildings located thereon to the city water distribution system.
3. Any such owner or occupant of a lot or parcel of land in the city who has an existing domestic supply or source of potable water who is exempted from the provisions of this section as provided by this section shall be subject to all fees normally charged for non-users of the public water system for fire protection services.
4. All costs and expenses incidental to the installation and connection of the water service line to the city water distribution system shall be borne by the property owner. The owner shall indemnify the city from any loss, damage, or restoration costs that may be occasioned by the installation of the water service line.
5. The materials of construction of a water service line and the methods to be used in excavation, placing of the pipe, testing, disinfection, and backfilling the trench shall all conform to the requirements the city engineering standards, rules, and regulations, the building code, and applicable state rules and regulations. Unless otherwise approved in advance by the city engineer, all excavations required for the water service line shall be open trench work. No backfill shall be placed until the work has been inspected by the city in accordance with this section.
6. Exceptions and exemptions.
 - a. Nothing contained in this article shall restrict the use of existing wells, springs, or other supplies or sources of water for outside irrigation use, provided that there shall be no interconnection between such other sources of water supply and the city water distribution system.

- b. The city commission, acting pursuant to rules, regulations, and guidelines adopted by the city, may grant additional exceptions to the requirements of this article based on unique circumstances existing in a particular case with regard to a particular lot or parcel and where strict application of the requirements would result in unnecessary hardship not self-created by the property owner or the owner's predecessors in interest.
- c. Buildings built before July 1, 2008, that are located more than 350 feet from a public water service line are exempt from this section.

Sec. 48-23. – City authorization and permits required for service connections and disconnections.

- 1. Before any service connection shall be made to any part of the city water distribution system, or any work performed upon old or new connections, a permit shall be obtained from the Engineering Department. Such permit shall be issued upon written application on forms prepared for that purpose obtainable from the Engineering Department. The applicant shall sign the form and certify that the applicant accepts all provisions on the form, all applicable provisions of this article that apply to water service, and all rules and regulations applicable to water service made by the city.
- 2. The application for authorization to connect or perform work on a connection shall be accompanied by the tapping fee as provided by this article and any other fees or charges determined by the city to be applicable under the city's rules and regulations.
- 3. Upon receipt of an application to connect or perform work, the city may make or cause to be made an inspection of the premises. Unless the request to connect or perform work is rejected, the applicant may be required to deposit with the city a sum of money that will be sufficient to cover the costs of the connection or work, as determined by the city. After the water deposit has been paid, the city shall install the pipes and equipment and keep or cause to be kept a detailed cost of the installation, including all labor and material. The cost to the applicant for such installation shall be specified by the city and may include the labor and material together with an allocation of costs of employee fringe benefits and administrative overhead and other indirect costs. If the total cost of the installation of water service pipes and equipment exceeds the deposit required under this subsection, the water shall not be turned on until the difference is fully paid. In no case shall water be turned on while any sums due to the city remain unpaid for the installation of service pipes and equipment specified in this subsection.
- 4. Applicants for water service shall furnish and lay and install all that portion of the water service not provided by the Public Works Department, at the applicant's own expense, subject, however, to the supervision and inspection of the Engineering Department and Public Works Department. A city water tap shall not be issued unless the applicant has also secured the appropriate county or state

plumbing permit, if such is required, and related inspections have either occurred or been scheduled.

5. All persons shall comply with all local and state cross connection backflow regulations as determined applicable by the city.
6. No person shall tap any water main or distribution pipe of the city water distribution system, or insert therein any corporation stop, curb stop, or any other fixture or appliance, or alter or disturb any service pipe, corporation stop, curb stop, gate valve, hydrant, water meter or any other attachment belonging to the city water distribution system without the express written prior approval of an authorized city representative.
7. No person shall install any water service pipe or connect or disconnect any such service pipe with or from the mains or distribution pipes of the city water distribution system, nor with or from any other service pipe now or hereafter connected with said system, nor make any repairs, additions to, or alterations of any such service pipe, tap, curb stop, or any other fixture of attachments connected with any such service pipe, without first obtaining from the city a proper permit for same and the city's prior written authorization as otherwise provided by this article.

Sec. 48-24. – Fees.

Upon filing the application for a permit to connect with any water main or distribution pipe of the city water distribution system, there shall be paid to the Public Works Department such tapping fee as shall be prescribed by the rules and regulations governing the city water distribution system. Such fees to include all the costs of tapping the main if the tap is 4 inches or greater in diameter. The fees shall be as established from time to time by the city.

Sec. 48-25. - Subconnections.

The owner or occupant of any building or premises entitled to the use of water from the city water distribution system shall not supply water to other buildings, premises, persons, businesses, or other entities except upon the prior written permission of the city.

Sec. 48-26. – City authorization required for water flow to service pipes.

1. No person shall cause water from any main or distribution pipe to flow into any service pipe without first obtaining a permit in writing from the Engineering Department as provided by this article.
2. When new service pipes are put into any premises, the curb stop shall be left closed, and shall thereafter be opened by the city only upon the request of the owner or the owner's agent and at the property owner's expense.
3. It shall be a violation of this article for curb stops to be opened or closed by any person who is not an authorized agent or employee of the city, except that a

licensed plumber may open a curb stop for the purpose of testing their plumbing work. If used by a licensed plumber to test the work, the curb stop shall be left in the same condition and position as the plumber found it prior to the test.

Sec. 48-27. - Service pipes.

4. City water shall be taken and used only through supply and service pipes established by or under the supervision of the city.
5. All service pipe connections with the distribution mains of the city water distribution system, from the city main to the curb stop at the right of way, shall be installed and laid under the supervision of the Engineering Department and/or Public Works Department and in accordance with the provisions of the rules and regulations governing the city water distribution system.
6. Service pipes and/or meters likely to be exposed to freezing temperatures shall be effectively protected by the property owner from freezing in a manner determined sufficient by the city.
7. If any owner refuses or neglects to make any repairs or replacements on any portion of the service pipe that the owner is required to maintain, within a reasonable time under the particular circumstances but in no case exceeding 14 days after the owner has received notice from the city, then the city may shut off the water to the premises, or may cause such repairs or replacements to be made and charge the cost thereof to such owner and against the property served, which charge shall be due immediately. The charges provided for in this section shall be a lien against the property served and all provisions of this article in relation to penalties and to the enforcement of water charges shall be applicable to charges for repairs and replacements made by the city.
8. No person shall use a service pipe to supply water in any manner to any premises or for any purpose that the service pipe was not intended by the city to serve or supply. If this section is violated, the city may shut off the water from the service pipe or disconnect the water service at the property owner's sole expense.

Sec. 48-28. – Installation of supply pipes; obstruction of or interference with curb stops, valves, or fixtures.

1. Supply pipes, including curb stops, shall be installed only by the city, and shall be under the exclusive control of the city.
2. No person shall obstruct or interfere in any way with any curb stop, curb box, valve, or fixture that is part of or connected with the city water distribution system, including, but not limited to, obstruction or interference by placing (or allowing the placement) in, on, or about it any building materials, rubbish, soil, snow, or any other objects or substances that hinder free and easy access by the city to the

curb stop, curb box, valve, or fixture. Any such obstruction when discovered by the city may be removed at once by the city at the expense of the person responsible for the obstruction.

Sec. 48-29. – Disconnection by city.

1. The city shall have the right to shut off and discontinue supplying water to any and all owners, occupants, property, or premises for any violation of or noncompliance with any requirement of this article or of any rule or regulation adopted by the city pursuant to this article after giving 30 days' written notice by leaving a copy of the notice at the place where the water is used; provided, however, that the city shall have the right to immediately shut off and discontinue supplying water to any owner, occupant, property, or premises in cases determined by the city to be an emergency without any notice whatsoever. The disconnection shall be solely at the property owner's expense.
2. Whenever the water is turned off from any premises because of any such violations or noncompliance, the water shall not be turned on again without the city's prior written authorization and not until the property owner has paid the disconnection fee, any other applicable charges or penalties, and all other delinquent charges on the associated account.
3. If water service is discontinued under the authority of this section, or as otherwise authorized by this article, neither the city nor its officials, employees, and/or authorized representatives shall be liable in any way whatsoever for any damage or losses caused by such the discontinuance of water service.

Sec. 48-30. - Stoppages.

The city shall not be liable under any circumstances for any failure or deficiency in the supply of water to any person whether occasioned by shutting off the water to make necessary repairs of connections or any other cause or reason.

Sec. 48-31. - Multiple customers; branches; curb stops; sub-metering.

1. In all cases where a water service line is intended to supply more than one dwelling unit, shop, store, or building it shall be the duty of the person making such service connection, or causing the same to be made, at that person's sole cost, to install a branch with a curb stop for each branch outside the line of each such premises to be so supplied, with each branch and curb stop suitably protected and marked so that they can be easily located by the city.
2. If a building, originally built as a single building or premises and fitted with one service line, but capable of being divided by sale or otherwise, has been subdivided, the separate division shall be connected to the main by separate service lines with accompanying curb stops at the property owner's sole cost. Each separate service line shall be metered in accordance with this article.
3. In no case shall one service line with a master meter supply more than one city lot unless occupied by a single building occupying more than one lot used for a

single industry, enterprise, or entity as determined by the city, and subject to the city's prior written approval.

4. There shall only be one billing account per tap. In all cases, sub-metering shall be at the sole cost and responsibility of the property owner (including situations such as, but not limited to, sub-meters for condominium units).

Sec. 48-32. - Lawn sprinkling.

The use of water from the city water distribution system for sprinkling lawns and gardens, and the hours for such use, shall be prescribed by the rules and regulations adopted the city from time to time.

Sec. 48-33. - Private fire hydrants.

Commercial and industrial premises and facilities, apartment buildings, schools, and other similar private or public buildings that would like to install large pipes with hydrant and hose coupling, to be used only in case of fire, may be permitted to connect with the water system at their own expense and subject to conditions and requirements determined appropriate by the city upon application to the Engineering Department. If approved, the owner of such a premise or facility shall pay for such connections with an additional fee in an amount to be determined from time-to-time by the city.

Sec. 48-34. - Access to premises and inspections; in general.

1. City inspectors; credentials. Authorized representatives of the city whose duty it may be to enter upon private premises to make inspections and examination of the pipes, backflow devices, meters or attachments used in connection with the city water distribution system may be provided with a badge or such other credentials as the city may deem proper to identify them as authorized representatives of the city. Except in the case of an emergency, no representative of the city shall be entitled to enter upon any private premises for purposes of implementing this article unless the representative carries and exhibits the badge or credentials provided under this section. No person not an authorized officer, inspector, foreman, agent, or employee of the city shall have, wear, or exhibit any badge or credential of the city. It shall be the duty of every such person, upon termination of such authorized status, to immediately surrender and deliver to the city all badges and credentials of the city.
2. Access to premises; refusal; discontinuance of service.
 - a. Any person that is supplied or whose property or premises is supplied with water by the city water distribution system shall be deemed to have accepted and agreed, as a condition to service, to full and timely compliance with the provisions of this article and other applicable laws and regulations, including, but not limited to, the authority of all authorized representatives of the city to have access to the property or premises as provided by and for the purposes stated by this article.

- b. Upon the presentation of the badge or other credentials provided for above in this section, any authorized representative of the city shall have free and unencumbered access at all reasonable hours to any premises supplied with city water for the purpose of making any inspection thereof, including the examination of the entire water supply and plumbing system upon the premises, and for the purposes of making repairs or installing or removing any or all appurtenances used to render service to the premises.
- c. It shall be a violation of this article for any person to refuse to admit an authorized representative of the city to any premises for the purpose of inspection and examination of the water supply or plumbing system thereof or to make repairs or install or remove any appurtenances used to render service to the premises as determined necessary by the city. If any authorized person is refused admittance to any premises, or once admitted, is hindered or prevented in making such inspection, examination, repairs, installation, or removal, the city may shut off the water to the premises. Water service shall not be restored to the premises until the inspection, examination, repair, installation, and/or removal is allowed to be completed in the manner and to the extent determined necessary by the authorized city representative. The expense of turning off and turning on the water shall be paid by the owner.

Sec. 48-35. - Water meters.

- 1. Meters required. Water meters shall be installed upon any premises supplied with water by the city water distribution system.
- 2. Replacement costs. Any cost to replace or repair the meter due to damage to said meter resulting from the carelessness of the owner or occupant through neglect to properly protect same shall be assessed to such owner or occupant.
- 3. Meter installation; location and placement; obstruction. Water meters shall be installed by the city and set in an accessible location and in a manner satisfactory to the city. Where the premises contain no basement or other place suitable for meter installation, the meter shall be installed outside in a meter pit or box, the location of which shall be approved by the city. Where it is necessary to set the meter in a pit or box, such pit or box shall be built at the expense of the property owner as directed by the city. There shall be a suitable place provided on all connections for a meter, easily accessible and free from all danger of frost. No person shall place any obstruction of any kind over or around the meter that will interfere with the reading or the repair of the meter. All meters shall be otherwise installed in compliance with all city standards, rules, and regulations.
- 4. Meter acquisition. All water meters required to be installed by the city shall be acquired from the city.
- 5. City ownership and control of meters. All required meters shall be maintained by the city and shall remain the property of and at all times be under the ownership and control of the city; provided that the plumbing and valves associated with water meters shall be the responsibility of the property owner.

6. Meters to be sealed. All meters and valves on meter bypasses shall be sealed by the city. No person except an authorized agent or employee of the city shall break, injure, or tamper with such seals.
7. Injury, tampering, relocating, disconnection, interference, etc., prohibited. No person other than an authorized agent or employee of the city or a licensed plumber shall change the location of, alter, disconnect, remove, tamper with, or interfere in any way with any meter. The city is authorized to shut off water service to any premises without notice if the city determines that a meter's seal has been broken, injured, or tampered with; or that a meter has been relocated, altered, disconnected, removed, or interfered with, as prohibited by this article. If the water is shut off as provided by this section, it shall not be turned on until the noncompliance with the applicable requirements of this article have been corrected to the city's satisfaction. The expense of turning off and turning on the water shall be paid by the property owner.
8. Damage to meters. Any damage which a meter may sustain resulting from carelessness of the owner or occupant, or from neglect of the owner or occupant to properly secure and protect the meter, as well as any damage which may be caused by frost, hot water, or steam backing from a boiler, and/or any intentional damage to a meter, shall be paid by the property owner to the city on presentation of a bill therefor. If the bill is not fully and timely paid, the water may be shut off and not be turned on until all charges have been paid to the city. The expense of turning off and turning on the water shall be paid by the property owner.
9. Responsibilities of property owner. The owner of any premises where a meter is installed shall be held responsible for its care and protection from freezing and from injury or interference by any person. In case of any injury to the meter or in case of its stoppage or imperfect working, the owner of the affected premises shall give immediate notice by telephone to the Public Works Department.
10. Meter failure, inaccuracy, or inoperability; repairs; billing. If the water meter fails or is inaccurate, is suspected to have failed become inaccurate, or becomes inoperable, the property owner shall notify the City within 5 calendar days of becoming aware of the failure or inaccuracy. If a meter is damaged or rendered inoperable due to action or neglect of the property owner, the repairs to the meter (and all costs associated with the repairs) shall be the responsibility of the property owner and shall be completed within 30 calendar days. If repairs cannot be completed within 30 calendar days, a timetable for completion of repairs must be submitted to the City prior to the end of the 30-day period. If a meter has failed, is determined to be inaccurate, or is otherwise inoperable, billing will be based on the average monthly use on the account for the premises for the prior twelve (12) months during which accurate and representative water meter readings were obtained. Once the meter has been repaired and determined to be accurate, the account will be trued up based on 3 months of accurate monthly readings.

11. Access to read, inspect, replace, or test. The city shall be provided access to any premises as determined necessary by the city to read, inspect, replace, or test a meter. Such access shall be provided without prior notice during normal working hours or at any time in an emergency situation. No person shall interfere with the authorized representative of the city in accessing a premises to conduct the activities consistent with the purposes and requirements of this article.
12. Refusal of access. The city is authorized to terminate water service to any premises without notice if access has been refused or prevented by any person as prohibited by this article. If the water is shut off as provided by this section, it shall not be turned on until access has been provided as determined necessary by the city to conduct the inspection, replacement, or test of the meter. The expense of turning off and turning on the water shall be paid by the property owner.
13. Bypass prohibited; exception; strainer. All water supplied by the city water distribution system that is used on any premises shall pass through an approved meter. No connection between the meter and the main shall be made or maintained. A bypass shall be installed only for meters 3 inches and greater, with a sealed valve placed on the bypass. Meters sized 3 inches and larger shall have an approved strainer.
14. Secondary water meter. At the option of the property owner, an additional water meter, referred to as a secondary water meter, may be installed following city rules and regulations. The secondary water meter shall allow for the metering of water that is directed exclusively to a sprinkler system or outside spigot or connection such as, but not limited to, a swimming pool, which water would not enter a sanitary sewer system and will not be applied to the calculation of the sewage disposal bill for the property. The provisions of this article regarding the installation, use, and other requirements applicable to a single water meter shall also apply to the secondary water meter.
15. Advanced metering infrastructure (AMI). The city uses an automated AMI system to remotely communicate with water meters, and to measure, collect, and analyze a customer's water usage. If a water customer does not allow the city to install the necessary AMI equipment on the customer's premises, the property owner shall be subject to a monthly service fee to cover the costs for a city technician to go to the premises to manually read the water meter. The amount of the monthly service fee shall be as established from time to time by the city.

Sec. 48-36. – Liens.

The city shall secure, as security for the collection of any water rates or any assessments, charges or rentals due or to become due for the use of consumption of water supplied hereunder to any house or other building or any premises, on lots, or parcels of land, a lien upon such house or other building and upon the premises or lots, or parcels upon which such house or other building shall be situated or to which such water was supplied. Such lien shall become effective immediately upon the distribution of the water to the premises or property supplied as aforesaid, but shall not be

enforceable for more than three years. Such lien may be enforced by the city in the manner prescribed by the general laws of this state providing for the enforcement of tax liens, provided that the provisions of this section shall not be constructed as preventing the city from suing such owner by action in the name of the city for the amount so due to it, or as preventing the city from cutting off such water services from the premises at any time such water charges are in default.

Sec. 48-37. - Payment of assessment or fee after water main installation.

In any case where a property has not paid an assessment for water main construction, but a water main has, in fact, already been installed in the same block, then the owner of that property, at such time as the owner shall make application to connect to the city water distribution system, shall be required to pay a per-foot assessment as provided for in section 48-56(4) or a connection fee per the fee schedule. Such assessment shall be in addition to the customary tapping and permit fees. The treasurer, upon receipt of payment, shall forward a record of such payment to the city assessor who will make it a permanent part of the records of special assessments paid by property owners within the city.

Sec. 48-38. – Contamination of water supply prohibited; protection from contamination.

No person shall do any act, permit any act to be done, or fail or neglect to take any action, which may, or may tend to, contaminate, or pollute the city water distribution system, as determined by the city. Violation of this section may result in the water being shut off or disconnected by the city at the property owner's expense as otherwise provided by this article.

Sec. 48-39. – Waste of water prohibited.

Excessive or unnecessary use or waste of water by any person, whether intentional, or whether caused by carelessness or by defective or leaky plumbing or fixtures, is strictly prohibited, even if the service is metered. For disregard of or repeated violation of this section, the water may be shut off or disconnected by the city at the property owner's expense as otherwise provided by this article.

Sec. 48-40. – Interference with water mains.

The water mains of the city, whether within or outside of the city, are under the exclusive control of the city. No person other than authorized agents or employees of the city shall disturb, tap, change, obstruct access to, or interfere with the water mains in any way.

Sec. 48-41. – Opening city fire hydrants; obstruction.

1. City fire hydrants are provided for the sole purpose of extinguishing fires and are to be opened and used only by the city and the fire department or by persons authorized by the city.

2. No person shall in any manner obstruct or prevent free access to, or place or store, temporarily or otherwise, any object, material, snow, debris, or structures of any kind within a distance of 15 feet of any fire hydrant. Any such obstruction when discovered by the city may be removed at once by the city or the fire department at the expense of the person responsible for the obstruction.

Sec. 48-42. – Prohibited uses of water.

1. No person shall take or use city water from premises other than the person's own premises without the city's prior authorization.
2. No person shall sell or give away water supplied by the city water distribution system to the person's own premises for any purpose.
3. Water supplied by the city water distribution system shall not be used for any purposes other than those specified in the original application under which the supply was granted, or as may otherwise be permitted by the city under this article.
4. If connections are provided for fire suppression on any premises, no water shall be taken or used through such connections for any purpose other than extinguishing fires and testing of fire equipment.

Sec. 48-43. -State Highway M-553 water main.

Persons making connection to the water main in County Road 553 from a point 950 feet south of Pioneer Road to the south line of section 27, T48N, R25W, who have not been assessed for the construction of said water main, shall be charged a connection fee which is the sum of the tapping fee which is in effect at the time of connection and the rate of \$12.23 per front foot of said County Road 553 frontage. The parcels of land for which this will apply are tax codes 51-5810, 51-5271 and 51-5170.

Sec. 48-44. - Water service lines.

1. *Ownership.*
 - a. All service lines or portions thereof, located within public rights-of-way or easements granted to the city are, and shall be, the exclusive property of the city. All service lines, or portions thereof, located on private property, easements granted to parties other than the city, or other land not under the ownership or control of the city, are and shall be owned by the property owner.
 - b. The intent of the term easement in this case is to give room to city personnel to operate and maintain the utilities in private developments such as site condominium projects where mains are located in the easement. It is not intended to transfer ownership responsibilities in cases where the service cuts across adjacent private property.

2. *Operation and maintenance.* The city and its Public Works Department shall be solely responsible for operations and maintenance of all service lines and appurtenances which are the property of the city. No other person shall operate valves, adjust boxes, or change, modify or operate any other item appurtenances to or connect to said service lines.
3. *Location of curb stop.* Each water service line shall be provided with a curb stop. The curb stop shall be located at the nearest property line of the premises (and or right of way) being served with water, and in a location accessible to the Public Works Department. In addition, the curb stop shall be the property of the city, to be used by the city in controlling the flow of water into the premises served.
4. *Service line connections.* It is the intention of this article that all service lines be connected by the shortest, most direct route possible between a premises and a water main lying within an adjacent or abutting right-of-way. Therefore, the provisions cited in this section shall not prevent the city from requiring that a property owner relocate the property owner's portion of service line to a location determined more appropriate by the city.
5. *Replacement of service lines by the city.* The city and its water utility shall be liable for all costs associated with the eventual replacement of service lines, or portions thereof, within rights-of-way or easements under the control of the city, up to and including the curb stop. Such replacements shall be undertaken due to any of the following circumstances:
 - a. Deterioration of the pipe due to age or material failures.
 - b. Damage caused to the pipe by any external agent or force, whether of natural origin or under the control of the city.
 - c. Replacement or relocation of service lines for the convenience of the utility, as when water mains are replaced or relocated, or similar activities requiring the relocation of the service line.
6. *Replacement of service lines by the property owner.* The owner of the premises served shall be liable for all costs associated with eventual replacement of those portions of the service line located on premises (i.e., from the curb stop to the meter). Such replacements shall remain the responsibility of the property owner regardless of whether they are occasioned by deterioration of the pipe, damage, or for the convenience of the customer or the city.
7. *Obsolete services.* When a property owner requires that the water service for the property be replaced in order to meet additional water demands beyond what the original service was intended to provide, or to relocate service lines for property owner's own convenience, the original existing service shall be considered to be obsolete. The property owner shall then be obligated to pay for the abandonment of obsolete service, new water tap, and service line from the city water main to the meter location on the property at the water main, sub-main or common indirect service. Installation of, and payment for, the new service shall be as provided elsewhere in this article. Abandonment of obsolete service shall include

all work and restoration to excavate for and turn off corporation stop located at the main or sub-main.

8. *Replacement of common services.* The city will not undertake replacement of a common service with another common service. All users of a common service, at such time as replacement is required, shall connect an individual service by the shortest, most direct route available, to a water main located within a street right-of-way or easement abutting their property. If no water main exists within a right-of-way or easement abutting said property, the property owner shall request the city commission to study the advisability of installing a water main or sub-main, the cost of installation of which shall be assessed against the property involved.
9. *Liability for costs of common service replacements.* The city and its water utility shall be liable for the cost of those portions of replacement service lines located between the water main or sub-main and the curb stop. The property owner shall be liable for all costs of replacement of those portions of service lines as described in subsection (6) of this section, as well as all assessments for new water mains necessitated by the replacement of the common service.

DIVISION 2. - SPECIAL ASSESSMENT OF WATER MAINS

Sec. 48-53. - Content.

This division shall pertain to the special assessment of water mains.

Sec. 48-54. - Purpose.

The purpose of this division is to provide a uniform method of assessing the costs of constructing water mains in those parts of the city which are not presently served by water mains, and which, in general, depend upon a system of common, indirect, or private service lines to supply water to the individual properties. It is the intent of this division to provide equity in the distribution of costs of refurbishing or improving the city water distribution system by recognizing that while all properties within the city have paid the same rates to the water utility, some for a considerable number of years, not all have enjoyed the full benefits of an adequately sized or engineered system of water mains.

Sec. 48-55. - Applicability.

This division shall apply to those properties and customers within the city which meet the following criteria:

1. The property shall not have previously been specially assessed, directly or indirectly, for the construction of a water main in a public right-of-way or easement immediately adjacent thereto, including the purchase of a lot in a subdivision built after the year 1957 in which the developer of the subdivision was required to construct water mains in accordance with applicable city standards.

2. The property owner shall have been legally permitted to connect the property to a city water main, either directly or indirectly, as evidenced by a tapping permit issued by the city.

Sec. 48-56. - Determination of costs and assessment rates.

The city engineer shall annually determine the cost of constructing a typical block of water main, using the latest bid unit prices for similar types of work, and adjusting said costs for inflation or other factors as necessary. The costs so determined shall then be reported to the city assessor, who shall calculate an assessment rate and provide that rate to the city commission for inclusion in its annual fee schedule. Additional assessments shall be made for dewatering, rock excavation, unsuitable material removal and installation of a service on an individual basis. These costs will be in addition to the per-front-foot assessment rate.

1. *Definition of a typical block.* The calculation of costs shall consider a typical block to mean a subdivision block, of 400 feet in length, bounded by streets with 66-foot-wide rights-of-way. It shall be assumed for the purposes of this calculation that there will be 400 feet of frontage on both sides of the typical street which will be assessed for water main construction. It shall also be assumed that an eight-inch diameter water main is to be constructed the entire length of the block, and that two fire hydrants, and two connections to the existing city water distribution system will be required. The costs of constructing those improvements, in accordance with current engineering standards, are to be used in the calculation of the current fiscal year's assessment rate.
2. *Included costs.* The items of work and the quantities required enumerated in the following table, and such other items and quantities as the city commission may deem to be appropriate and determined from time to time, shall be used by the Engineering Department in the Department's annual calculation of typical construction costs:

Item	Quantity
8" water main	466 lineal feet (400' + 66' to connect to the system)
6" water main	30 lineal feet (hydrant lead)
Fire hydrant assembly	2 each
6" gate valves	2 each
6" anchoring coupling	2 each
8" gate valves	2 each
8" tees	2 each

8" 45-degree bends	4 each
8" cutting-in sleeve	2 each
8" mechanical joint cap	1 each
Connection to existing system	2 each
Trench undercut and backfill	165 cubic yards
8" aggregate base course	660 square yards
Bituminous paving mixture (HMA)	115 tons
Contractor mobilization and incidentals	20% of the above costs

3. *Excluded costs.* In making a determination of the cost of a typical water main, the Engineering Department shall not include the additional cost of larger size water mains, the cost of looping the system, any special fittings, or devices needed to control flows or pressures. However, if high water tables or rock in the trench is encountered, these costs shall be divided equally amongst the adjacent property owners subject to this assessment. The cost of installing a service line to a property not currently being served shall be assessed the actual cost to the property owner on an individual basis. The costs of replacing or restoring service lines or the land above them shall be excluded, the responsibility for which is specified in other sections of this article. Also excluded are costs for pavement widening, utility relocations and other related work which might under other circumstances be considered incidental to the project.
4. *Calculation of per-front-foot assessment rate.* Upon receipt of the Engineering Department's determination of the typical cost of water main construction, the city assessor shall calculate the assessment rate to be used in the forthcoming year's projects by dividing the engineer's typical cost by 800 feet of frontage. The city assessor shall then multiply that result by a percentage for administration and engineering fees, that rate being the same as the rate normally included in the city commission's annual fee schedule. The project shall then be included by the city assessor in the assessor's annual submittal to the city commission for the commission's consideration in setting the budget and rate schedules for the city.
5. *Per-lot assessment basis.* The city assessor may also include in assessor's submittal an alternate rate for assessments, on a per-lot or per-tap basis, for those instances when it is not deemed equitable to assess costs by front foot. The city assessor shall determine the per-lot or per-tap rate by multiplying the rate arrived at in subsection (4) of this section by 50 feet, that number representing the assumed average width of a lot in the areas targeted for special consideration under this article.

6. *Extension of water main.* Parcels proposed for development which are not presently serviced by a public water system shall require extension of the water main. Water main extensions in this instance shall be at the cost of the developer. Water main extensions and all the appurtenances shall be extended to the far lot line on public rights-of-way or easements. If the parcel does not front a public right-of-way or an easement the point of termination will be determined by the Director of Public Works and the City Engineer.

Sec. 48-57. - Conflict with other ordinances.

This division is not intended to conflict with, nor supersede, those provisions of chapter 40 pertaining to special assessments. To the extent there is an apparent conflict, the provisions of chapter 40 shall control, as determined by the city.

DIVISION 3. – CROSS CONNECTION CONTROL PROGRAM

Sec. 48-60. – Purpose; authority.

1. The purpose of this division is to promote and protect the public health, safety and welfare by the identification, prevention, and elimination of cross connections which have been recognized as the cause of public health problems due to the hazard caused to drinking water quality; and by reducing the risk of cross connection contamination of the city water distribution system. This division shall control all matters concerning the inspection, detection, testing, prevention, and elimination of cross connections in new and existing residential, commercial, and industrial premises and facilities.
2. The city acting through the Public Works Department and other authorized city representatives shall have the authority to implement the cross connection control program established by this division with respect to any property or premises receiving water from the city water distribution system.

Sec. 48-61. – Compliance with laws, ordinances, codes, rules, and regulations.

All connections with the city water distribution system shall comply with all applicable laws, ordinances, codes, regulations, and rules, including, but not limited to, the following (referred to collectively in this division as “applicable cross connection laws and regulations”):

1. The Michigan Safe Drinking Water Act, Act 399 of the Public Acts of 1976, as amended; and the associated Water Supply Cross Connections rules, Michigan Administrative Code, R 325.11401 - R 325.11407, as amended (the “State Water Supply Cross Connection Rules”). (The city hereby adopts by reference the State Water Supply Cross Connection Rules.)

2. The Marquette Code of Ordinances including this article and all other sections of the Code of Ordinances pertaining to water supply or plumbing matters, as amended.
3. The latest editions of the Michigan Plumbing Code, the Michigan Building Code, and the Michigan Residential Code, as adopted by the city, as amended.
4. Any rules or regulations adopted by the city pertaining to water supply or plumbing matters, as amended.

This division does not supersede any law, ordinance, code, rule, or regulation, but is supplementary to them. Except as otherwise determined and directed by the city, the most stringent or restrictive provisions applicable to cross connections shall control, whether established by this division or by such other applicable law, ordinance, code, rule, or regulation. Further, if there is any conflict or inconsistency between the provisions of this division with respect to cross connections and the provisions of any other law, ordinance, code, rule, or regulation regarding cross connections, the provisions of this division shall control; and if there is a question or ambiguity with regard to whether or not there is a conflict or inconsistency between the provisions of this division and the provisions of any other law, ordinance, code, rule, or regulation, the question or ambiguity shall be resolved by the city.

Sec. 48-62. - Cross connections prohibited; unlawful connections.

1. A cross connection to the city water distribution system is prohibited.
2. It shall be unlawful for any person to create, maintain, or to cause or allow the creation or maintenance of, any cross connection (direct or indirect) of a public water supply system (including, but not limited to, the city water distribution system) and any other water supply system or source, including, but not limited to, a connection between the public water supply system and any of the following:
 - a. A secondary water supply.
 - b. Any source of water by submerged inlet.
 - c. A lawn sprinkler system.
 - d. Piping which may contain sanitary waste or a chemical contaminant, including self-contained hydronic boiler systems.
 - e. A fire suppression system.
 - f. Any other source of potential contaminant (regardless of the source or means of connection).

Sec. 48-63. - Cross connection inspections.

1. It shall be the duty of the city to inspect and re-inspect all premises served by the city water distribution system where cross connections to the system are deemed possible by the city and as otherwise required by applicable cross connection laws and regulations. In conducting such inspections, the city shall also conform to the general requirements for inspections as provided by division 1 of this article.
2. The frequency of inspections and re-inspections for cross connections shall be established by the city based on potential health hazards to the city water distribution system and other factors as determined relevant and appropriate by the city.

Sec. 48-64. - Access to premises; right of entry.

1. Notwithstanding any other provision or requirement of this article or any other applicable law or regulation, the city shall have the right to enter any premises, property, or facility for the sole purpose to inspect and examine for cross connections.
2. The city shall be granted access to all premises, properties, or facilities at all reasonable hours to determine or confirm the possible presence of a cross connection. The city shall be granted such access to all areas of a premises, property, or facility where the city believes that there may be piping or other conveyances that could ultimately be connected to the city water distribution system.
3. Upon the city's request, the owner or occupant shall furnish the city any information regarding the piping system of the premises, as determined pertinent by the city.
4. The owner or occupant's refusal to supply the access or information as provided by this division, at the time requested by the city, shall be a violation of this division.
5. Further, the owner or occupant's refusal to grant access or to supply such information when requested shall be deemed evidence of the presence of a cross connection and a violation of this division, subject to such further steps and enforcement as determined necessary and appropriate by the city and as provided by applicable cross connection laws and regulations, including, but not limited to, discontinuance of service.

Sec. 48-65. - Discontinuance of service.

1. The city is authorized to disconnect water service to a premises, property, or facility, after reasonable notice, for violation of any of applicable cross connection laws and regulations and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the city water distribution system from cross connections or to otherwise prevent or mitigate a hazard to the public health, safety, or welfare.
2. If the city determines that there is an existing or potential threat to the public health, safety, or welfare, including but not limited to, poisoning, the spread of disease, or contamination of the public water supply of any kind and from any source, the water service may be terminated immediately.
3. If water service is disconnected as provided by this section, such service shall not be restored until the cross connection has been removed and any other deficiencies or potential hazards have been corrected as required by the city in accordance with applicable cross connection laws and regulations.
4. The expense of disconnecting, connecting, and turning off and turning on the water shall be paid by the property owner.

Sec. 48-66. - Correction of violations.

Upon notification by the city of a violation of this division, the property owner shall promptly correct the violation in compliance with the schedule required and specified by the city, including any conditions imposed by the city. The total time allowed for completion of the necessary corrections shall be contingent upon the degree of hazard involved and include the time required to obtain and install any required equipment. The use and installation of any such equipment shall be subject to the city's prior written approval as otherwise required by this division for use and installation of protective devices. A person's failure to timely complete required corrections as required and specified by the city is a violation of this division.

Sec. 48-67. - Protective devices.

The city's written approval shall be obtained for any proposed backflow prevention corrective action or protective device before use or installation. All testable backflow prevention devices shall be tested upon installation and at specified periodic intervals thereafter. The city may require the filing of a backflow device test report for any installed device on a periodic basis or at such frequency as required by the city. All

testing and maintenance of backflow prevention devices shall be at the owner or occupant's sole expense and shall be performed by a person or entity approved by the city. The failure to file any required report is a violation of this division and may be deemed evidence of a cross connection subject to an enforcement response by the city as otherwise provided by this article.

Sec. 48-68. - Fire suppression systems.

1. All fire suppression systems that are connected to the city water distribution system on the property side of the water service shall be isolated with an ASSE approved backflow prevention detector assembly approved by the city. A single check or single check detector check shall not be considered an approved backflow prevention detector assembly. The level of backflow protection required shall be commensurate with the degree of potential hazard, as determined by the city.
2. Any fire suppression system that contains any additives will be required to be protected by an ASSE approved reduced pressure backflow prevention detector assembly.
3. If a fire suppression system does not currently have an ASSE approved backflow prevention detector assembly, the owner of the premises shall cause an ASSE approved backflow prevention detector assembly to be installed within the shortest time feasible as required and specified by the city.
4. If a fire suppression system has a backflow prevention device, but the device does not meet the latest backflow protection standards as provided by applicable cross connection laws and regulations or is otherwise determined inadequate by the city, the owner of the premises shall cause the fire suppression system to be upgraded to meet the latest standards in compliance with the schedule required and specified by the city.
5. A person's failure to timely complete the installation of an ASSE approved backflow prevention detector assembly or upgrade an existing backflow prevention device for a fire suppression system as provided by this section is a violation of this division.

Sec. 48-69. - Piping identification.

When a secondary water source is used in addition to a public water supply system, exposed public water and secondary water piping shall be identified by distinguishing colors or tags and so maintained that each pipe may be traced readily in its entirety. If piping is so installed that it is impossible to trace it in its entirety, it will be necessary to

protect the public water supply at the service connection in a manner acceptable to the city and state as required by applicable cross connection laws and regulations.

Sec. 48-70. - Protection of potable water supply.

The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination, as specified by this division and by the state and city plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system shall be labeled in a conspicuous manner as "Water Unsafe for Drinking."

Sec. 48-71. - Charges for inspection.

Inspection charges established from time to time by the city may be included in the water service rates.

DIVISION 4. – PLUMBERS

Sec. 48-72. – License required.

No person who is not an authorized agent or employee of the city shall do any plumbing work in connection with the city water distribution system or make any attachments, connections, alterations, or repairs to any service pipes, fixtures, or plumbing work connected therewith, unless the person has been duly licensed to do such work by all appropriate licensing entities.

Sec. 48-73. – Workmanlike performance required.

Licensed plumbers engaging in work connected with any aspect of the city water distribution system shall do all work properly and in conformance with acceptable industry standards of work quality. All parts, attachments, and fixtures supplied or used by plumbers shall be of a kind and quality approved by the city and required by applicable rules and regulations.

DIVISION 5. – OWNER REQUESTED WATER SHUTOFFS

Sec. 48-74. – Request to permanently discontinue water service.

If a property owner desires to permanently discontinue the use of city water on the property owner's premises, a written request to that effect, stating the reasons therefor,

shall be made in writing by the property owner to the city. The city shall then disconnect the water at the main at the property owner's expense. The charges for supplying city water to the premises shall thereafter be abated unless or until use of city water is thereafter resumed at the property owner's expense.

Sec. 48-75. – Turnoff during temporary vacancy.

1. In case of the temporary vacancy of any premises, the water will be turned off at the curb stop by the city upon the written request by the owner of the premises to the city and will be turned on again upon the date specified by the owner in such request.
2. During a temporary vacancy where water service has been shut off by the city, minimum charges will not be billed when service is off for less than half of the billing cycle provided no water is used during that period. If no water is used but service is available for at least half of the billing cycle or greater, the minimum billing will be charged. In the billing cycle where service is restored, the minimum charges will be billed if service is available for half of that billing cycle or greater.
3. If metered premises are left unoccupied, with the water not shut off by the city, no rebate will be allowed for water registered by the meter that may leak or waste through the plumbing or fixtures.
4. The expense of turning off and turning on the water shall be paid by the owner.

DIVISION 6. – WATER USE RESTRICTIONS

Sec. 48-76. – Purpose; conditions warranting declaration of emergency.

1. It is recognized that conditions may arise as a result of a prolonged drought, or a prolonged period of heavy water demand, or as a result of damage or breakdown of an element of the city water distribution system, or a combination of such factors, that could result in a water supply emergency that would negatively affect operating flows and residual water pressures in substantial portions of the water distribution system, with no apparent means immediately available to adequately maintain flows and pressures throughout the system.
2. If such a situation arises, it may be in the interests of public health, safety, and welfare to limit the nonessential use of water (including, but not limited to, lawn sprinkling) to preserve, to the extent possible, sufficient water pressure and flow for drinking and other essential domestic uses, and for fire safety, and essential industrial uses.

3. The purpose of this division is to provide authority for the city to declare an emergency and limit the nonessential uses of water if determined necessary by the city.

Sec. 48-77. – Temporary emergency sprinkling regulations.

1. Whenever the city receives notification from the Michigan Department of Environment, Great Lakes, and Energy that the supply or pressure demand for water cannot be accommodated and general welfare is likely to be endangered, or conditions within the water system of the city are likely to endanger the general welfare of the city, the city shall determine that a state of emergency exists and prescribe the following emergency regulations which shall apply in the city for all properties connected to the city water system:

“Sprinkling of lawns and landscaping and all outdoor water use shall only be allowed for properties with even-numbered addresses on even-numbered dates and for properties with odd-numbered addresses on odd-numbered dates.”

2. Whenever the city receives notification from the Michigan Department of Environment, Great Lakes, and Energy that provisions in subsection (a) of this section are not sufficient, or conditions within the water system of the city are likely to endanger the general welfare of the city, the following emergency regulations shall apply in the city for all properties connected to the city water system:

“Sprinkling of lawns and landscaping and all outdoor water use shall not be allowed.”

3. The city shall, within 24 hours of notification, cause these regulations to be posted at the city office and publicly announced by means of broadcasts or telecasts by the stations with a normal operating range covering the city, or other means.
4. The emergency regulations shall become effective immediately after being posted and publicly announced as provided by this section.
5. Upon notification from the Michigan Department of Environment, Great Lakes, and Energy that the emergency regulations are no longer necessary, the city shall cause a public announcement lifting the water restrictions.

DIVISION 7. – ENFORCEMENT

Sec. 48-80. – Municipal civil infractions.

1. Violation; Municipal Civil Infraction. Except as provided by section 48-81, and notwithstanding any other provision of the city's laws, ordinances and regulations to the contrary, a person who violates or fails to comply with any provision of this article (including, without limitation, any notice, order, decision or determination promulgated, issued or made by the city under this article) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$1,000.00 per day for each infraction and not more than \$10,000.00 per day for each infraction, plus costs and other sanctions.
2. Repeat Offenses; Increased Fines. Increased fines may be imposed for repeat offenses. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this article (i) committed by a person within any one-year period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this article shall be as follows:
 - a. The fine for any offense that is a first repeat offense shall be not less than \$2,500.00, plus costs and other sanctions.
 - b. The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$5,000.00, plus costs and other sanctions.
3. Amount of Fines. Subject to the minimum fine amounts specified in sections 48-80(1) and 48-80(2), the following factors shall be considered by the City and/or court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this article: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.
4. Authorized Local Official. Notwithstanding any other provision of the city's laws, ordinances and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations directing alleged violators to appear in district court for violations of this article (or, if applicable, to issue municipal civil infraction notices directing alleged

violators to appear at a municipal ordinance violations bureau): the City Manager; any sworn law enforcement officer, and any other persons so designated by the city.

5. Additional remedies. In addition to ordering the defendant to pay a civil fine, costs, and damages and expenses, the city may ask the District Court to issue and enforce any judgment, writ, or order, including injunctive or other equitable relief, necessary to enforce this article, as authorized by state law.
6. Other Requirements and Procedures. Except as otherwise provided by this section, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court-ordered fines, costs and expenses; appearances and payment of fines and costs; failure to answer, appear or pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in article II ("Municipal Civil Infractions") of chapter 30 ("Law Enforcement") of the Marquette Code of Ordinances and Act No. 236 of the Public Acts of 1961, as amended.
7. This section shall not affect the sections provided for by any state or local law for a violator's failure to comply with a judgment of the District Court, nor shall this section in any way limit or restrict the authority of the court to enforce its orders by appropriate sanctions or actions. This section shall not restrict, limit, or bar any action permitted under any other provision of law.

Sec. 48-81. – Criminal penalties; imprisonment.

Any person who (1) at the time of a violation knew or should have known that water of questionable quality, wastes, or other contaminants or pollutants were discharged or introduced by the person to the city water distribution system contrary to any provision of this article, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the city under this article; or (2) intentionally makes a false statement, representation, or certification to the city in any form, notice, report, or record required by this article, or in any other correspondence or communication, written or oral, with the city regarding matters regulated by this article; or (3) intentionally falsifies, tampers with, or renders inaccurate any meter, protective device or water supply equipment or appurtenances required by this article; or (4) commits any other act that is punishable under state law by imprisonment for more than ninety (90) days; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to ninety (90) days, or both in the discretion of the court.

Sec. 48-82. – Continuing violations.

Each act of violation, and each day or portion of a day that a violation of this article (or of any notice, order, decision, or determination promulgated, issued, or made by the city under this article) exists, occurs, or continues constitutes a separate and distinct violation subject to the fines, penalties and other sanctions and remedies as provided by this article.

Sec. 48-83. – Nuisance.

A violation of this article (or of any notice, order, decision, or determination promulgated, issued, or made by the city under this article) is deemed to be a public nuisance and shall be corrected or abated as directed by the city. In addition to any other legal or equitable remedies available under the law, any person creating a public nuisance shall be subject to the provisions of state law, this article, or other ordinance of the city governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying the nuisance, as applicable.

Sec. 48-84. – Judicial relief.

The city (in conjunction with the city's legal counsel) may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this article or of any notice, order, decision, or determination promulgated, issued, or made by the city under this article. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity, that a court may order. The city may also seek collection of fines, penalties, and any other amounts due to the city, that a person has not paid.

Sec. 48-85. – Cumulative remedies.

The imposition of a single penalty, fine, notice, or order upon any person for a violation of this article, or of any notice, order, decision or determination promulgated, issued or made by the city under this article, shall not preclude (or be a prerequisite for) the imposition by the city, or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under state or federal laws or regulations. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon and need not be held in abeyance during any civil, judicial, or administrative proceeding, conference, or hearing regarding the person.

SECTION 5. Severability.

Sections of this Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION 6. Saving Clause.

The amendment or repeal by this Ordinance of any ordinance or ordinance provision shall have no effect upon prosecutions commenced prior to the effective date of this Ordinance or prosecutions based upon actions taken by any person prior to the effective date of this Ordinance. Those prosecutions shall be conducted under the ordinance provisions in effect prior to the effective date of this Ordinance.

SECTION 7. Conflict.

Except as otherwise expressly provided, the provisions of this Ordinance shall control in the event of any inconsistency or conflict between this Ordinance and any other provision of any other ordinance of the city.

SECTION 8. Publication.

This Ordinance shall be published by publishing a summary of the Ordinance in a newspaper of general circulation in the City of Marquette, including the designation in the publication of the location in the city where a true copy of the Ordinance can be inspected or obtained, as authorized by State law.

SECTION 9. Effective Date.

This Ordinance shall become effective upon the date of publication of the notice of its adoption as provided in Section 8, above, and as certified by the Clerk, below.

Jennifer A. Smith, Mayor

Kyle Whitney, Clerk

Adopted: _____

Published: _____

Adopted this 11th day of October, 2022, by the City Commission, City of Marquette, Michigan.

On roll call, the vote was:

Yeas:

Nays:

By: Kyle Whitney, City Clerk

Certification

I, Kyle Whitney, Clerk of the City of Marquette, Michigan, do hereby certify that the foregoing is a true copy of the ordinance adopted by the City of Marquette City Commission at a regular meeting held on October 11, 2022, at Marquette City Hall, and that it was published in the Marquette Mining Journal on _____, 2022.

Kyle Whitney, City Clerk

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

Consent Agenda - Roll Call Vote

Approve the minutes of the September 26, 2022 regular Commission meeting

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Sep. 26 minutes



City of Marquette, MI

300 West Baraga Ave
Marquette, Michigan 49855

Meeting Minutes City Commission

Monday, September 26, 2022
6:00 PM
Commission Chambers

Call to Order, Pledge of Allegiance and Roll Call

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

Approval of the Agenda

Commissioner Fred Stonehouse moved to Approve the agenda as presented, seconded by Mayor Pro Tem Cody Mayer and Carried Unanimously.

Announcements

Mayor Smith asked City Clerk Kyle Whitney for an update on the election prep for the November midterm election. The Clerk stated that ballots would be mailed out this week to voters that have requested one. He said residents looking to register to vote or request an absentee ballot can begin the process by contacting the clerk or by going online to www.mi.gov/vote.

Boards and Committees

1. Appointment(s)

George Patrick Jr., Board of Zoning Appeals, for an unexpired term ending 02-15-24
James Breitenbach, Traffic-Parking Advisory Committee, for an unexpired term ending 05-30-25

Commissioner Sally Davis moved to Approve the appointments as listed, seconded by Commissioner Evan Bonsall and Carried Unanimously.

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

Alesia Braund, Taylor Ruotsala, Shilpa Jhobalia, Abrielle Londo, Christine Stearn, Ryan Stock, Britta Carlson and Angela Rayhorn spoke about local struggles with the cost and availability of childcare and voiced a desire to find solutions. They also shared concerns with recent Marquette County Board decisions related to allocation of ARPA money.

Johanna Worley spoke about a recent Constitution Day event that the League of Women Voters of Marquette county was involved in and read a letter, addressed to the Mayor and City Manager, written by students who attended the event.

Presentation(s)

2. Arts and Culture Advisory Committee, by Madeline Arquette

Madeline Arquette presented on behalf of the City's Arts and Culture Advisory Committee, sharing information about the board, the City's Arts and Culture division and the plans for the future.

Public Hearing(s)

3. Budget and General Appropriations Act - FY 2023 - Roll Call Vote

Shilpa Jhobalia spoke about local childcare struggles. She said she doesn't think there is much money available at the City level, but that they would accept any aid.

Commissioner Sally Davis moved to Approve the the Fiscal Year 2023 Budget and General Appropriations Act, seconded by Mayor Pro Tem Cody Mayer.

Commissioner Davis said this budget process has been tough. She thanked staff for the work that went into this.

Mayor Pro Team Mayer agreed, and said the only real ARPA funding received by the City has been used to help offset costs of basic services.

Commissioners spoke about the possibility of being able to help in the near future with the childcare issue, if only in a small way.

Mayor Smith talked about the budget and the issues with local childcare costs and availability. She said she has been trying to help in this sphere for a decade and is willing to help wherever possible.

The Commission then voted on the motion, which carried unanimously by Roll Call Vote.

4. Consent Agenda

Commissioner Evan Bonsall moved to Approve the Consent Agenda as presented, seconded by Mayor Pro Tem Cody Mayer and Carried Unanimously.

4.a. Approve the minutes of the September 12, 2022 special Commission meeting

4.b. Approve the minutes of the September 12, 2022 regular Commission meeting

4.c. Approve the total bills payable in the amount of \$ 2,745,501.61

4.d. 2022 Fire Prevention Week Proclamation

4.e. Community Development Block Grant Consultant

4.f. Fire Department Turnout Gear

- 4.g. KBIC Funding for the YMCA
- 4.h. Marquette Board of Light and Power – Lease Agreement
- 4.i. Presque Isle Dredging Project - MOU
- 4.j. Presque Isle Marina - Construction Services
- 4.k. Purchase of 96-gallon Recycling Carts
- 4.l. Sault Ste. Marie Tribe of Chippewa Indians Funding for the YMCA
- 4.m. Schedule Public Hearing - Water Ordinance
- 4.n. Wastewater and Water Treatment Chemicals

New Business

5. Budget Adjustment - Fiscal Year End 2022

Commissioner Evan Bonsall moved to Approve the budget adjustments for Fiscal Year 2022, and authorize the Chief Financial Officer to make the necessary adjustments to balance the budgets, seconded by Commissioner Jenn Hill and Carried Unanimously.

6. City Attorney Evaluation

Commissioner Jenn Hill moved to Approve the City Attorney's annual performance evaluation and extend the term of the Attorney's contract by two years to Sept. 30, 2024 at the existing compensation level, seconded by Mayor Pro Tem Cody Mayer and Carried Unanimously.

7. City Manager Evaluation

Commissioner Jessica Hanley moved to Approve the City Manager's evaluation and extend the term of the Manager's contract by two years to Sept. 30, 2024 at the existing compensation level, seconded by Commissioner Evan Bonsall and Carried Unanimously.

8. Contract for Community Master Plan Update

Commissioner Fred Stonehouse moved to Approve the recommendation to hire Beckett and Raeder as the primary consultant to assist with the Community Master Plan update, and direct the City Manager to execute the contract, seconded by Commissioner Sally Davis and Carried Unanimously.

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

Taylor Ruotsala, Britta Carlson, Barb Owdziej, Shilpa Jhobalia and Gwen Storm offered additional comments about local childcare struggles.

Angela Rayhorn discussed City efforts related to pedestrian safety and about how to make a difference in a budget-friendly way.

Orville Dishno said the City Commission should not forget about the City's surplus property list when making budgeting plans.

Comments from the Commission

Commissioner Hill asked the City Manager to share some of the recent discussions surrounding childcare in the city. **City Manager Karen Kovacs** provided an update on some local discussions, and shared background, plans and concerns. **Community Development Director Dennis Stachewicz** shared zoning information, and said basic in-home daycares are permitted in most districts, but said the state requirements and inspections are often burdensome for providers.

Commissioner Stonehouse said people concerned about childcare struggles in the area need data to work with, and they don't have it. He said there is a significant need, but that he wants solid data to work from.

Commissioner Bonsall said he attended the County board meeting where these childcare concerns were discussed and said he is encouraged to see the same people today. The most important job of local government, he said, is to provide a livable community and as housing and childcare are issues that impact the wellbeing of kids and families, people should expect elected officials to try to help. He said availability of childcare is a problem, but Marquette County is also one of the most expensive in the state for childcare.

Commissioner Davis said the Commissioners and staff understand this issue on a personal level and thanked the commenters from tonight's meeting. She said that homelessness is also a major issue impacting families, and both should be focused on.

Commissioner Hanley said she has experienced the issues with local childcare first-hand and talked about possible roads to countywide solutions. She noted the City's current budget constraints and said the City Master Planning process will be very important.

Mayor Pro Tem Mayer thanked the public for their comments. He said he understands the issues being discussed and wishes the City could do more to help.

Mayor Smith said she was thankful to have heard the individual stories shared tonight and that they illustrate important needs in the community. She praised the City Manager and Attorney on the work they've done in the past year.

Comments from the City Manager

City Manager Karen Kovacs thanked the City Commission.

Adjournment

Mayor Smith adjourned the meeting at 7:56 p.m.

Jennifer A. Smith, Mayor

Kyle Whitney, City Clerk

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

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

Consent Agenda - Roll Call Vote **Biogas Conditioning Skid Media and Testing**

BACKGROUND:

The co-generation units at the Wastewater Treatment Plant require the biogas to be treated before being burned in the units. Two compounds, Hydrogen Sulfide (H₂S) and siloxanes, must be reduced to protect the engines. Specially formulated media is used to remove the compounds from the biogas. Over time that media is used up and must be replaced. The life of the media is dependent on the amount of H₂S and siloxanes in the raw gas.

Because this compound is variable, we can only give an estimate of how many media changeouts will be needed. Staff has estimated \$35,000 will be required to cover the annual cost of the media changeouts and required gas testing. Because the media is specially formulated and supplied by the equipment manufacturer, Unison Solutions, competitive bidding provides no advantage to the City.

FISCAL EFFECT:

Sufficient funds are available in the FY 2022/2023 Wastewater budget.

RECOMMENDATION:

Waive competitive bidding and approve the expenditure in the amount not to exceed \$35,000 to Unison Solutions for media replacement and gas testing.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

No Attachments Available

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

Consent Agenda - Roll Call Vote **CDBG Environmental Review Forms - Roll Call Vote**

BACKGROUND:

The City of Marquette is currently working with the Michigan Economic Development Corporation (MEDC) to obtain a Community Development Block Grant (CDBG) in the amount of \$8 million for the demolition of a portion of the former Marquette General Hospital, owned by the Northern Michigan University Foundation. The City has received a letter of intent from the MEDC for these funds and is in the process of completing the extensive application.

A component of the CDBG application is an Environmental Assessment that requires a demonstration of compliance in multiple categories. As a component of this assessment, several forms are required to be authorized by a Certifying Officer as approved by the City Commission. These forms are as follows:

- ER-Form 5-A Determination of Level of Environmental Review – Determines that an Environmental Assessment is the level of environmental review under the federal National Environmental Policy Act (NEPA).
- ER-Form 5-B Finding of Exempt Activity – Identifies the Exempt Activities that may be conducted prior to the completion of the Environmental Assessment and Release of Funds and subsequently reimbursed by the CDBG Grant.
- ER-Form 5-C Finding of Categorical Exclusion – Identifies activities that can be conducted prior to the completion of the Environmental Assessment that will not impact the CDBG project.

FISCAL EFFECT:

None by this action.

RECOMMENDATION:

Approve the Resolution authorizing the City Manager as the Certifying Officer for the attached forms.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▢ ER Form 5-A
- ▢ ER Form 5-B
- ▢ ER Form 5-C
- ▢ Resolution

DETERMINATION OF LEVEL OF ENVIRONMENTAL REVIEW

CERTIFYING OFFICER, Karen Kovac, City Manager, is designated as the environmental certifying officer for the CDBG project described below. I certify that:

PROJECT INFORMATION

Grantee (UGLG)	City of Marquette
Grantee Address	300 W. Baraga Avenue, Marquette, Michigan 49855
Grantee Contact	Karen Kovacs, City Manager , phone 906.225.8102
Other Project Contact	Sean Hobbins, Assistant City Manager , phone 906.225.8104
Grant Number	
Project Title	Former Marquette General Hospital Demolition

The project description is a clear, concise overview of the project that enables the reader to understand the scale, scope, and extent of the project, and supports the reasons for determination of level of environmental review. The description should include information on all the proposed activities (listed by funding source), describe the existing environment at and around the project site(s), and include any relevant maps, photos or other supporting documentation necessary to describe the project.

Project Description The Northern Michigan University Foundation has acquired the former Marquette General Hospital at 420 Magnetic Street in Marquette and intends to demolish the existing buildings with future plans for redevelopment into mixed use commercial and residential development.

Project activities include lead and asbestos abatement, Universal Waste Disposal, and demolition. Total costs for project activities is estimated at \$20 million, with \$8 million from CDBG, \$8 million from Blight Elimination allocation, and \$4 million from other sources.

The property, colloquially known as the former Marquette General Hospital is a collection of 11 buildings spread over 17.05 acres that served as the regional hospital for the central Upper Peninsula until 2019 and has been vacant since use was discontinued by the hospital. The property is located within a residential neighborhood and south of the Northern Michigan University Campus.

The Environmental Assessment under NEPA and in accordance with MEDC requirements, pre-demolition inspection services, engineering services for asbestos abatement and demolition, and grant administration are considered exempt activities under this component of the project.

An Environmental Assessment will be conducted for the asbestos abatement and demolition activities.

PROJECT DETERMINATION (completed by the Environmental Review Officer)

All project activities have been reviewed and the project meets the following environmental determination:

- ☒ Exempt
- ☒ Categorically Excluded Not Subject To §58.5
- ☒ Categorically Excluded Subject To §58.5
- ☒ Environmental Assessment
- ☐ Environmental Impact Statement

Certifying Officer Signature
Karen Kovacs, City Manager

Date

FINDING OF EXEMPT ACTIVITY

24 CFR 58.34

Grantee City of Marquette
 Grant No. _____

I hereby certify that the following activities comprising the Former Marquette General Hospital Demolition Project have been reviewed and determined to be an Exempt Activity per 24 CFR 58.34(a) as follows:

- ☒ (1) Environmental and other studies, resource identification and the development of plans and strategies.
- ☐ (2) Information and financial services.
- ☒ (3) Administrative and management activities.
- ☐ (4) Public services that will not have a physical impact or result in any physical change, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs.
- ☒ (5) Inspections and testing of properties for hazards or defects.
- ☐ (6) Purchase of insurance.
- ☐ (7) Purchase of tools.
- ☒ (8) Engineering or design costs.
- ☐ (9) Technical assistance and training.
- ☐ (10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary only to control or arrest the effects from disasters, imminent threats or physical deterioration.
- ☐ (11) Payment of principal and interest on loans made or obligations guaranteed by HUD.
- ☐ (12) Any of the categorical exclusions listed in 58.35(a) provided that there are no circumstances which require compliance with any other Federal laws and authorities cited in 58.5. Such activities are documented as exempt by the Statutory Checklist.
- ☐ (13) Planning grant (not associated with an imminent project under 7 CFR § 1970.53).

FLOOD INSURANCE/FLOOD DISASTER PROTECTION ACT

1. Does the project involve the acquisition, construction, or rehabilitation of structures, buildings, or mobile homes?

- ☒ No. Flood insurance is not required. The review of this factor is completed.
- ☐ Yes. Continue Review.

2. Is the structure or part of the structure located in a Federal Emergency Management Agency (FEMA) designated Special Flood Hazard Area?

- ☒ No. Cite Source Documentation:
Proceed with project.
- ☐ Yes. Cite Source Documentation:
Continue Review.

3. Is the community participating in the National Flood Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

- ☐ Yes. Flood insurance under the National Flood Insurance Program must be obtained and maintained for the economic life of the project, in the amount of the total project cost. A copy of the flood insurance policy declaration must be maintained in this Environmental Review Record.
- ☒ No. **Federal assistance may not be used in the Special Flood Hazard Area.**

Coastal Barriers Resources Act

1. Is the project located in a coastal barrier resource area?

- ☒ No. Cite Source Documentation:
☐ Yes. **Federal assistance may not be used in such an area.**

AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES DISCLOSURES

1. Does the project involve the sale or acquisition of existing property within a Civil Airport's Runway Clear Zone, Approach Protection Zone or a Military Installation's Clear Zone?

- ☒ No. Cite Source Documentation:
☐ Yes. **Disclosure statement must be provided** and a copy of the signed disclosure statement must be maintained in this Environmental Review Record.

In accordance with 24 CFR 58.34(b), no further environmental approval form from HUD or the State is necessary for the drawdown of funds to implement this program.

Name and Title of Certifying Officer

Signature of Certifying Officer

Date

Name of person preparing this form

Phone #

For State Use Only	Reviewed	Date
Compliance Specialist		

FINDING OF CATEGORICAL EXCLUSION
(not subject to 58.5)
24 CFR 58.35(b)

Grantee City of Marquette
 Grant No. _____

I hereby certify that the following activity(ies) comprising the Former Marquette General Hospital Demolition Project have been reviewed and determined to be Categorically Excluded per 24 CFR 58.35(b) as follows:

- ☐ (1) Tenant-based rental assistance;
- ☐ (2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, Federal government benefits and services;
- ☒ (3) Operation costs, including but not limited to, equipment purchases, inventory financing, interest subsidy, operation expenses, and similar costs not associated with construction or expansion of existing operations;
- ☐ (4) Economic development activities, including but not limited to, equipment purchases, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
- ☐ (5) Activities to assist home ownership of existing dwelling units including closing costs and down payment assistance to home buyers, and similar activities that result in the transfer of title to a property;
- ☐ (6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

FLOOD INSURANCE/FLOOD DISASTER PROTECTION ACT

1. Does the project involve the acquisition, construction, or rehabilitation of structures, buildings, or mobile homes?

- ☒ No. Flood insurance is not required. The review of this factor is completed.
☐ Yes. Continue Review.

2. Is the structure or part of the structure located in a Federal Emergency Management Agency (FEMA) designated Special Flood Hazard Area?

- ☒ No. Cite Source Documentation: **FEMA Flood Map Service Center**
 Proceed with project.
☐ Yes. Cite Source Documentation:
 Continue Review.

3. Is the community participating in the National Flood Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

- ☐ Yes. Flood insurance under the National Flood Insurance Program must be obtained and maintained for the economic life of the project, in the amount of the total project cost. A copy of the flood insurance policy declaration must be maintained in this Environmental Review Record.
☒ No. **Federal assistance may not be used in the Special Flood Hazard Area.**

COASTAL BARRIERS RESOURCES ACT

1. Is the project located in a coastal barrier resource area?

- ☒ No. Cite Source Documentation: **Coastal Barrier Resources System Mapper**
☐ Yes. **Federal assistance may not be used in such an area.**

AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES DISCLOSURES

1. Does the project involve the sale or acquisition of existing property within a Civil Airport's Runway Clear Zone, Approach Protection Zone or a Military Installation's Clear Zone?

- ☒ No. Cite Source Documentation: **Sawyer International Airport**
☐ Yes. **Disclosure statement must be provided** and a copy of the signed disclosure statement must be maintained in this Environmental Review Record.

In accordance with 24 CFR 58.35(b), no further environmental approval form from HUD or the State is necessary for the drawdown of funds to implement this program.

Karen Kovacs, City Manager

 Name and Title of Certifying Officer

 Signature of Certifying Officer

 Date

Michael (Mac) McClelland

 231.633.6303

 Name of person preparing this form

 Phone #

For State Use Only	Reviewed	Date
Compliance Specialist,		



Resolution Designating Certifying Officer

WHEREAS, the City of Marquette is applying for a Community Development Block Grant (CDBG) through the Michigan Economic Development Corporation in order to obtain State and Federal funds for the demolition of the former Marquette General Hospital; and,

WHEREAS, a component of the CDBG application is an Environmental Review that ensures compliance in multiple categories; and,

WHEREAS, the Environmental Review has multiple associated forms that requires the designation of a Certifying Officer, through formal resolution, by the governing body.

NOW, THEREFORE, be it resolved that the City Commission of the City of Marquette designates City Manager Karen Kovacs as the Certifying Officer for the CDBG application and Environmental Review.

Dated this 11th day of October, 2022.

Jennifer A. Smith
Mayor

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

Consent Agenda - Roll Call Vote **Co-Generation Maintenance Services**

BACKGROUND:

The Wastewater Treatment Plant has biogas co-generation units that provide heat and electricity. The units are designed to run 24/7 and require specialized annual maintenance. Because Kraft Power is the manufacturer of the units and has specialized expertise in servicing the units, seeking competitive bids for these services provides no advantage to the City. The company has a service center in Gaylord, Michigan.

FISCAL EFFECT:

There are sufficient funds in the Wastewater 2022/23 budget.

RECOMMENDATION:

Waive competitive bidding and approve an expenditure of up to \$45,000 to Kraft Power for repair and maintenance on the co-generation units.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

No Attachments Available

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

Consent Agenda - Roll Call Vote

Michigan Arts and Culture Council - Capital Grant Award

BACKGROUND:

Community Services - Arts and Culture Division staff were successful in obtaining a 2022 Michigan Arts and Culture Council (MACC) capital grant for the replacement of the majority of staging at Lakeview Arena.

The existing staging at Lakeview has exceeded its useful life, is extremely heavy leading to injuries during transport and set-up, is not weatherproof, is not accessible and is not adjustable for uneven surfaces. New staging will solve these challenges and be an asset to cultural events within the City while providing Lakeview Arena additional revenue.

The grant award of \$28,759 will require City's match of \$28,759 that has not been included in the budget. Staff recommends using the remaining Hockeyville proceeds to cover the match.

FISCAL EFFECT:

The MACC grant will reimburse the City for half of the stage purchase with Hockeyville proceeds covering the other half, or \$28,759, as the required grant match. The 2023 budget will need to be amended to account for both the revenue and expenditure.

RECOMMENDATION:

Approve the grant award for the Michigan Arts and Culture Council Capital Grant, and authorize the City Manager or her designee to sign the Grant Agreement, and approve the use of \$28,759 in Hockeyville funds for the City match.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Grant Narrative
- ▣ Grant Agreement

Program Detail

The City of Marquette's Office of Arts and Culture (Office) is requesting funding from the Michigan Arts and Culture Council (MACC) to purchase new staging. Quality, reliable, all weather staging is required for performing arts events in City facilities. Including parks, pavilions, bandshell, arena, farmer's market, and downtown street festivals. The City hosts outstanding arts and culture events and festivals year round and produces its own weeklong arts festival. All support the region's quality of life, economy, and tourism, attracting thousands of spectators and performers. At almost 45 years old, the cumbersome staging is not ADA accessible and deemed unsafe due to deteriorating supports and brackets, splintered wood, and sheer weight. Installation has caused several on-the-job injuries. In addition, staging height is not adjustable and must be leveled using shims on each individual support. Most cultural events that take place within Marquette facilities require some form of staging to showcase the talent. This capital project is necessary to update existing infrastructure to accommodate the growing number of cultural festivals, events, and opportunities throughout City facilities. In addition, to ensure all City facilities are safe and accessible. Funding for new staging will not only be safer for our performers but also encourage existing and attract new events.

The Office of Arts and Culture operates under the Community Services Department which also includes Parks and Recreation and Senior Services. The three Offices collaborate, ensuring quality of life experiences for City residents. The City's Arts and Culture Master Plan and Parks and Recreation Master Plan have identified the new staging as critical to our long term facilities plan. The condition of current staging makes project a priority to ensure the continuation of robust events for our community. The Arts and Culture Master Plan outlined the importance of supporting festivals that integrate the outdoors. *Ninety-two percent (92%) of respondent households have visited parks in the City of Marquette during the past 12 months. (62%) attend live theater/concert performance. From the list of 25 recreation programs and activities available within the City of Marquette respondents were asked to select the four that they and members of their household would participate in more often if more programming were available. Attending live theater/concert performances (29%) had the highest percentage of respondents. Action items included assessing City facilities for arts and culture in Marquette and develop a long-term facilities plan for City of Marquette - what needs refurbishing, replacement, newly developed. Review capacity levels on an annual basis keeping an eye on if new facilities may be needed. Staging was identified as critical to City event facilities both indoors and outdoors.*

The purchase of new and improved staging directly relates to the missions of the Office and Community Services Department which the Office functions under. The Office of Arts and Culture works to support, facilitate, and grow an empowered and vital arts, culture, and creative community. The Office is a bridge between the arts community and City resources and services, actively building partnerships between the arts community and region-wide organizations. The mission of the entire Community Services Department is to encourage, develop, and facilitate services and resources that enhance the quality of life and well-being of our entire community.

We are requesting funding for aluminum staging. The Manufacturer does not state that this product but it will be easily recycled when it reaches its life capacity. This system is much lighter than a steel system and reduce maintenance costs.

Accessibility, quality of life, economic growth, cultural tourism will be impacted by this project. With every project, the City seeks ways to incorporate universal design that goes beyond ADA accessibility. Universal design makes facilities seamlessly for all people regardless of ability. The Office is committed to ensuring arts is accessible to all our residents and visitors but also our creative community. The current staging is not accessible. This new staging will include a state of the art streamlined accessibility ramp to be easily installed and safely used by all. We have a significant demographic of seniors who perform in our local City Band, Blues Festival and Symphony. Mobility is an issue for many, and the accessibility and safety features are needed. In addition, we must offer safe access to the stage for any individual with mixed abilities both seen and unseen that may require assistance. Accessibility also includes access to arts and culture regardless of economic demographic. Most events that occur in Marquette Parks or recreation facilities are open to the public. This allows for low or no cost events that expose citizens and visitors to a variety of cultural experiences. By offering low cost outdoor festivals the City can provide greater access to all and greater opportunities within the parks for arts and cultural experiences.

The Office engages and learns from artists and audiences through ongoing strategic planning efforts, surveys, community partnerships, and day-to-day contact. Our direction is guided by a comprehensive 10-Year [Arts and Culture Master Plan](#), created in 2014. The Plan confirmed that the arts is integral to our quality of life in Marquette. The Plan outlined the importance of supporting existing performing arts experiences, festivals and events and but also creating new. It also calls for integrating arts and culture with City parks. New staging is needed to support this vision, it allows the Office to support our local arts and culture organizations and individual creatives that utilize City staging but also attract new talent. Over 30 festivals take place throughout City facilities. Many longstanding and have become tradition and a part of our community's cultural fabric. Two of these include [Hiawatha Music Cooperative](#) and [Marquette City Band](#).

This project directly impacts tourism and our economy. According to visitor reports by Travel Marquette, the City averages 19,000 visitors through downtown during the summer festival season, a large percentage of which is directly due to arts and culture activities within City facilities. Even more encouraging is that a large number of these visitors come from 50+ miles away, cementing local arts and culture as a driver for tourism which translates to greater investment in and support of the arts, local retail, food, and drink establishments, and outdoor recreation opportunities. According to Travel Marquette's statistics and the Office's participant calculations, over 150,000 people attend park festivals during the summer. In a City of 21,000 this says volumes about the impact of arts and culture. This year the City has contracted with American's for the Arts Economic Prosperity Study to determine the economic impact of festivals and non-for profit arts and organizations in our community. Staging will be used in most events being surveyed. Findings from this study will make it easier to advocate for other arts and culture capital improvement and programming.

New staging will greatly assist sustaining and enhancing the future operations, stability, and capabilities. As the average age of participants who volunteer in presenting organizations to set up staging is over 65. Any effort the City can make to ensure set up for events is easier and safer enhances the longevity of existing annual events and encourages groups to start new events. New staging that is lightweight, modular and safe for both outdoor and indoor use will fuel the events of Marquette's future.

City of Marquette Capital Improvement Grant

The Office was hit hard during the pandemic through the cancellation of arts and culture events. Revenue from increase rental opportunities to arts and culture groups but also other organizations and events such as graduations, weddings, and recreational award ceremonies. All will contribute to greatly to on-going arts and culture facility upgrades.

Planning and Implementation.

Office is guided by an Arts and Culture Advisory Committee and comprehensive 10-Year [Arts and Culture Master Plan](#). Both inform direction and help to identify capital projects. The proposed budget goes before the City Commission who makes the final approval. The Office works closely with all the arts and culture presenters to assist and offer resources such as grant writing, promotion, festival development, coordination, permitting and more. This provides additional insight into the needs of the creative community.

This budget is supported by the City's general fund. The City understand the need for new staging and the opportunities and revenue it will provide the community. They will provide the direct cash match for this project. The Office will purchase the staging and work with Parks and Department of Public Works to store and assist groups with transporting and installing staging. The Office works closely with Parks and Recreation to ensure groups understand the rental process and fees.

The Office staff and other essential City staff from Parks and Recreation have decades of experience coordinating and marketing large community events. Office staff are not only experienced administrators but artists themselves, musician, dancer and visual artist. All three are involved in the arts and culture community outside the Office and serve on several boards of directors. This is also shown in the Bio Attachment. Staff is instrumental in assisting arts and culture partners through the City processes for facility rental and staging rental. Our intent is to ensure success. The Office has been an important part of implementation of arts and culture events within City facilities and provides resources needed to ensure successful festivals and events.

This project is extremely straightforward. If funded the staging will be purchased this fall and stored at the City's Arena. A fee structure will be recommended by Office staff and confirmed by the City Commission. Once the fee structure is place, the staging will be promoted and marketed to all the City's user groups and arts and culture community. Details will be available on the City's website and MQT Compass, which can be found [here](#). Any repairs will be handled by the Department of Public Works. Staging will be assessed by Office staff and Advisory Committee annually to ensure safety. This is an investment in our community. We have selected a high quality and reputable manufacturer. Estimates and details are included in the grant proposal attachment.

Community Impact

This project has broad based community support via the Master Plan but also the arts and culture stakeholders who use the existing staging. Several of their letters are attached in this grant proposal.

The City Commission understands the impact of the arts on our community and has funded and maintained the Office of Arts and Culture and its staff for over 20 years and is committed to maintaining all City parks and facilities.

City of Marquette Capital Improvement Grant

The City and the Office of Arts and Culture have a long history working closely with community groups and local artists and arts and culture organizations to plan and present programs of the highest artistic merit our community has to offer. The Office has developed strong working relationships with these presenting partners, establishing a framework for year-round collaboration on other events and initiatives. Including [Marquette Symphony Orchestra](#), [Hiawatha Music Cooperative](#), [Marquette City Band](#), [Lake Superior Art Association](#), [Marquette Maritime Museum](#), Harbor Fest, International Food Festival, Pine Mountain Music Festival, Plein Air Painting Festival, Marquette Art Week, Blueberry Dance Festival, Blueberry Festival, Marquette Area Blues Fest, UP Rainbow Pride, Juneteenth, Fresh Coast Film Festival, Art on the Rocks. Most of the festivals whose primary focus is not arts and culture, still have a strong arts and culture component. For example, Fourth of July, Ore to Shore, Way Up, Beer Fest, Downtown Blueberry Festival, and others all feature live music. The majority of these groups/event are locally recognized organizations with a long track record of community support and highly-experienced leadership.

This project directly affects audiences because of the sheer amount of use the staging will receive. Recently several of these groups rented staging outside the region simply because City staging is not ADA or easily installed. New staging will make it easier for groups to focus on their productions and save money and time by not relying on staging outside the region. Audiences will directly benefit from proper viewing. Groups have recently used flat-bed trailer or in some cases selected to have no staging at all. This makes it very difficult to the performance for very large groups. The project will also provide a sense of pride to local performers and show visiting performers that we can provide adequate amenities. This investment shows the City's commitment to the performing arts and to maintaining our facilities. Residents, visitors, and tourists will notice a dramatic difference between old and new staging. Presentation means very much to the arts and culture community and performers and local audiences can have pride that City festivals and events are treated with respect and offer safe, accessible, and professional facilities they deserve.

The Office of Arts and Culture will provide a survey upon all staging rentals. To ensure that the rental process and the staging itself met all their needs. These surveys will be reviewed each spring by Staff and the Arts and Culture Advisory Committee. The staging will also be discussed during the springtime event planning meetings attended by several of the groups. This assessment will also assist in the annual review for the rental fee structure to ensure it is appropriate.

The Arts and Culture scene in Marquette is growing steadily and receiving more attention as a destination not only for outdoor recreation but as a cultural destination. The City will continue to support its development and ensure that City facilities are accessible, well maintained and offer a quality experiences for both performers and audiences.

GRANT AGREEMENT FOR ARTS SERVICES

Control Number: 23CI6799

The Michigan Arts & Culture Council, (the 'Council') and CITY OF MARQUETTE, (the 'Grantee') enter this Grant Agreement for Arts Services ('Grant Agreement') on October 06, 2022 and mutually agree as follows:

1. Authority

This Grant Agreement is executed under authority of Sec. 11(6) of the History, Arts and Libraries Act, 2001 PA 63, MCL 399.711 and Sec. 1035 of 2015 PA 84.

2. Grant Agreement Period

The period of this Grant Agreement shall be from October 01, 2022 to March 31, 2023 ("Term"), unless prior termination is effectuated by the Council pursuant to Section 7.

3. Project(s) Funded

Beginning on October 01, 2022, Grantee shall:

To purchase accessible staging, as more specifically set forth in the grant application or revised 'grantee information form', which is incorporated herein and made part of this Grant Agreement by reference.

The project shall be completed before the last date listed in Section 2. If the Grantee is delayed in completing the project by an event beyond its control, the Council has the sole discretion to extend the date for completing the project. A time extension shall be the only remedy for a delay.

The Grantee expressly warrants and guarantees to the Council that the project will conform to the specifications for the project and will not be defective. The Grantee's obligations for correction of the project work are in addition to any warranties or guarantees required by the Grantee's contractors or by law. Nothing contained in this Grant Agreement shall be construed to establish a period of limitations for the Grantee to warrant and guarantee that the project work will not be defective.

During the construction of the project, the Grantee may request changes to the project as originally set forth in the grant application. The Grantee shall submit a complete description and itemized cost estimate to the Council before performing the work required by the requested change. The Council has the sole discretion whether to accept or reject the proposed changes. If the Council accepts the changes, the parties must execute a written instrument amending this Grant Agreement before the Grantee may perform the change work.

The project shall comply with Michigan barrier free design requirements set forth in the Utilization of Public Facilities by Physically Limited Act, 1966 PA 1, MCL 125.1351 et seq., and related rules; the Americans with Disabilities Act of 1990, 42 USC 12101, et seq.

Grantee shall comply with all financial and other requirements as outlined in the 2022 MACC Grant Program Guidelines, which are incorporated herein and are made part of this Grant Agreement by reference.

Grantee understands and agrees that:

- a. Artistic excellence and artistic merit are criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the people of Michigan.
- b. Obscenity is without artistic merit, is not protected speech, and will not be funded by a grant awarded by the Council and supported with State appropriations.

Grantee understands that the Council shall withhold undistributed grant payments from Grantee if Grantee violates any of the requirements for funding listed in the preceding paragraph, and further, that if Grantee violates any of the requirements, Grantee may be disqualified from awards of future grants for a period of up to three (3) years.

4. Category Specification

The Grantee is eligible for this grant in the Capital Improvement category.

5. Terms and Conditions of Payment

The Council shall pay the Grantee an amount not to exceed \$28,759 on the following dates and in the following amounts, subject to the Grantee's compliance with this Grant Agreement. The Council, in its sole discretion, shall determine whether the Grantee has fulfilled all Grant Agreement terms and conditions. If the Council determines that the Grantee has failed to comply with any term or condition, the Grantee shall not be entitled to any payment listed below:

Amount:	Date:	Stipulation:
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\$24,445	02/17/2023	Upon processing of signed agreement and copies of Governor and Legislative notifications
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\$4,314	05/30/2023	Upon council approval of final report due on 05/01/2022
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The Grantee shall meet the above listed conditions at least 30 days prior to the indicated payment date, so that the Council will have adequate time to process scheduled payments. Failure to comply with any deadlines will delay payment or may cause termination of this Grant Agreement pursuant to Section 7. In the event this Grant Agreement needs to be approved by the State Administrative Board, it shall be contingent upon such approval and no grant payments shall be made until this contingency is satisfied. Further, Grantee acknowledges that Council's performance of its payment obligation is dependent upon the continued receipt of government funding. In the event that the State Legislature or any State official, commission, authority, body, or employee, or the federal government (a) takes any legislative or administrative action, which fails to provide, terminates or reduces the funding necessary for this Grant Agreement, or (b) takes any legislative or administrative action, which is unrelated to the source of funding for this Grant Agreement, but which affects the Council's ability to fund and administer this Grant Agreement, and other Council programs, then the Council may terminate this Grant Agreement by providing notice to the Grantee of termination.

The payment amounts set forth in this section shall, at a minimum, be matched on a dollar-for-dollar basis from local and/or private sources. The match may include new manufactured materials as allowed under the Federal Internal Revenue Code for charitable contributions, subject also to the pre-approval of such a match by the Council. The Council shall receive proof of the entire amount of the matching funds and/or new manufactured materials by the end of the award period.

No member of the State Legislature or any individual employed by the State may share in the awarded grant or any benefit that arises from the grant.

The Council requires that payments under this Agreement be processed by electronic funds transfer (EFT). Grantee is required to receive payments by EFT at the State Integrated Governmental Management Applications (SIGMA) Vendor Self Service (VSS) website (www.michigan.gov/VSSLogin).

6. Redistribution Prohibition

The Grantee may not redistribute any grant awarded under this Grant Agreement or the matching funds which conferred eligibility for the grant to any other entity, unless specifically provided for in this Grant Agreement.

7. Termination of Grant Agreement

The Council may terminate this Grant Agreement for any reason by giving five (5) days written notice to the Grantee. Upon termination, the Council shall have no further obligation to make the payments described in Section 5.

8. Grantee's Liability

The Grantee will furnish and maintain during the term of this Grant Agreement public liability, property damage, and workers' compensation insurance or self-insurance insuring, as they may appear, the interests of the parties to this Grant Agreement. The Grantee is responsible for ensuring that all precautions are exercised at all times for the protection of all persons and property. The Grantee shall secure all necessary certificates and permits from municipal or other public authorities and comply with all national, state, and municipal laws, ordinances, and regulations as may be required in connection with the performance of this Grant Agreement.

9. Limitation of Liability

The State of Michigan, the Michigan Strategic Fund and the Council, and their organizational units, officers, agents, and employees shall not be liable to the Grantee, nor to any individuals or entity with whom the Grantee contracts, for any direct, indirect, incidental, consequential or other damages incurred as a result of activities, actions or inactions on the part of the Grantee for services rendered pursuant to this Grant Agreement resulting in litigation; from the Council's decision not to make payment to the Grantee pursuant to Section 5; or from termination of this Grant Agreement pursuant to Section 7.

Any liability resulting from activities, actions or inactions engaged in by the Grantee under this Grant Agreement shall be the sole responsibility of the Grantee. Any liability resulting from activities, actions or inactions engaged by the individuals or entities with whom the Grantee contracts shall be the sole responsibility of the subgrantee or as otherwise specified in a subgrant agreement between the Grantee and the subgrantee; however, under no circumstances shall the State, the Michigan Strategic Fund or the Council, and their organizational units, officers, agents and employees be liable for the activities of the Grantee or any subgrantee. Neither party will indemnify the other party in any litigation that may arise from the performance of the Grant Agreement or any subgrant agreement executed to fulfill this Grant Agreement. This section shall not be construed as a waiver of governmental immunity.

10. Third Party Beneficiary

This Grant Agreement is not intended to make any person or entity not a party to this Grant Agreement a third-party beneficiary of this Grant Agreement or to confer on a third party any rights or obligations enforceable in their favor.

11. Support Credit

The Grantee shall prominently display the Council's name and logo in printed materials associated with the grant and include support credit in each broadcast promotion as follows:

'This activity is supported in part by an award from the Michigan Arts & Culture Council'

When no printed material is used, verbal acknowledgment shall be given prior to or at the beginning of each presentation. The Grantee shall transmit copies of printing, photographs, advertising and program materials prepared for this activity to the Council.

12. Accounting and Administrative Requirements

The Grantee shall maintain appropriate documents, journals, ledgers, and statements in accordance with generally accepted accounting practices, retain these records for a period of not less than five (5) years from the date of completion of the final report prepared pursuant to Section 15, and make these documents available for examination and audit by appropriate agents of the State and/or Federal Government. Grantee shall comply with the applicable administrative requirements for grants-in-aid and use cost accounting principles which comply with Federal requirements as set forth in 2 CFR Chapter I, Chapter II part 200 Uniform Administrative Requirements, Cost, Principals, and Audit Requirements for Federal Awards.

13. Equal Opportunity

Grantee certifies compliance with Executive Order 79-4, the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 372.101 et seq., and all other pertinent federal, state and local fair employment practices and equal opportunity laws. The Grantee covenants not to discriminate against any employee or applicant for employment, to be employed when services under this Grant Agreement are undertaken, with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, on the grounds of race, color, religion, national origin, age, sex or disability, or to exclude any person from participation in, deny any person the benefits of, or discriminate any person due to the above-listed grounds with respect to any program or activity funded in whole or part under this Grant Agreement. The Grantee agrees to include the aforementioned covenant in every contract or subgrant entered into by the Grantee to effectuate this Grant Agreement. Grantee certifies that the Grantee has an established policy to provide equal opportunity to participate in and benefit from all programs, activities and services and equal employment opportunities; and agrees to state in all promotional materials, advertisements, and recruiting materials its equal opportunity policies.

14. Fair Labor Standards

All professional performers and related or supporting professionals employed on projects or in productions which are financed in whole or in part under this Grant Agreement will be paid, without deduction or rebate on any account, not less than the minimum compensation determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities. Furthermore, no part of any project or production which is financed in whole or in part under this Grant Agreement will be implemented under working conditions which are unsanitary, hazardous or dangerous to the health and safety of those involved. Compliance with the safety and sanitary laws of the state in which the activity or part thereof takes place shall be prima facie evidence of compliance. The Council may terminate this Grant Agreement if the name of the Grantee or any contractor, manufacturer or supplier of the Grantee appears in the register compiled by the Michigan Department of Licensing and Regulatory Affairs pursuant to the State Contracts with Certain Employers Prohibited Act, 1980 PA 278, MCL 423.321 et seq., or Grantee fails to comply with subpart C of 2 CFR 180, as adopted by the Arts Endowment in 2 CFR 32.3254.

15. Reports

The Grantee shall furnish the following report or reports to the Council:

- a. A final report covering the grant period, which is due within 30 days after the end of the grant period. The final report shall indicate at least the following:
 - i. Project revenues and expenditures, including grant matching fund amounts;
 - ii. Number of individuals attending or engaged during the grant period; and
 - iii. A narrative summary of the project and its outcome.

Failure to submit the above-described reports in a timely manner may void Grantee's claim to funds or cause repayment of funds already distributed under this Grant Agreement.

16. Reviews and Evaluations

In order to provide members of the Council, appropriate Council evaluators and staff an opportunity to appraise the nature and caliber of activities supported by Council funds, Grantee agrees to admit those individuals to activities without charge and to cooperate with in-depth reviews and evaluations as may be required.

During the Term, and for five (5) years after the Term, Grantee shall maintain reasonable records including evidence that the project was actually performed and the identity of all individuals paid for the project, and shall allow access to those records by the Council or its authorized representative at any time during this period.

17. Other Certifications

The Grantee certifies, by signature to this Grant Agreement, that neither he/she/it nor any principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the grant by any federal department or agency. If the Grantee is unable to certify to any portion of this statement, the Grantee shall attach to this Grant Agreement an explanation of the reason.

18. Governance

This Grant Agreement is governed by the laws of the State of Michigan and supersedes all prior agreements, documents and representations related to this Grant Agreement between the Council and the Grantee, whether expressed, implied, oral or otherwise. This Grant Agreement constitutes the entire agreement between the parties and may not be amended, except by written instrument executed by both parties prior to the termination date set forth in Section 2. No party to this Grant Agreement may assign this Grant Agreement or any of his/her/its rights, interest or obligations hereunder without prior consent of the other party. The Grantee agrees to inform the Council in writing immediately of any proposed changes of dates, budget or services indicated in this Grant Agreement, as well as changes of address or personnel affecting this Grant Agreement. Changes in dates, budget or services are subject to the Council's approval. If any provision of this Grant Agreement is deemed void or unenforceable, the remainder of the Grant Agreement

shall remain valid.

19. Compliance with Laws

The Grantee shall otherwise be in compliance at all times with all applicable federal laws, regulations, rules and orders including, but not limited to Title VI of the Civil Rights Act of 1964, 42 USC 2000d et seq.; Executive Order 13166; Title IX of the Education Amendments of 1972, 20 USC 1681 et seq.; Section 504 of the Rehabilitation Act of 1973, 29 USC 701 et seq.; the Age Discrimination Act of 1975, 42 USC 6101 et seq.; the National Environmental Policy Act (NEPA) of 1969, 42 USC 4321 et seq.; the National Historic Preservation Act (NHPA) of 1966, 16 USC 470 et seq.; the Drug Free Workplace Act of 1988, 41 USC 701 et seq.; Lobbying restrictions, 18 USC 1913, 2 CFR 200.450, and 31 USC 1352; Davis-Bacon and Related Acts; the Native American Graves Protection and Repatriation Act of 1990, 25 USC 3001 et seq.; the U.S. Constitution Education Program, P.L. 108-447, Division J, Sec. 111(b); and the prohibition on funding to ACORN, P.L. 111-88, Sec. 427.

20. Counterparts

This Grant Agreement may be executed in one or more counterparts and transmitted by facsimile, email, pdf or other electronic means, each of which shall constitute an original, and all of which together shall constitute one and the same instrument.

21. Survivability

The terms and conditions of sections 6, 8, 9, 10, 11, 12, 15, 16, 18 shall survive termination of this Grant Agreement.

MICHIGAN STRATEGIC FUND
MI COUNCIL FOR ARTS AND CULTURAL AFFAIRS

CITY OF MARQUETTE



Alison Watson
Director

Jonathon Swenson
Community Services Director

October 06, 2022

Date

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

Consent Agenda - Roll Call Vote **Michigan Arts and Culture Council - Grant Award**

BACKGROUND:

Community Services, Arts and Culture Division has been awarded a Program Grant totaling \$19,680 by the Michigan Arts and Culture Council (MACC) for Art Week. Art Week is a free week-long celebration of arts and culture featuring concerts, theatrical and dance performances, demonstrations, workshops, community art projects, public art installations, street performers, exhibits, pop-up art shows, a downtown art stroll, studio tours, a plein air painting festival, a chalk art festival and more. Now in its eighth year, Art Week has become the kickoff to Marquette's summer event season. MACC funding will be used to strengthen current programming and add additional community art projects and performances scheduled for June 18-24, 2023.

Arts and Culture staff coordinates and promotes the event, a collaborative effort with over 60 local arts and culture organizations and work by over 200 artists. Two dozen featured events and many independent pop-up events are attended by over 2,000 people each year, and attendance is growing. Additional funding will be used to strengthen current programming and add additional community art projects and performances.

Art Week 2023 will focus on the theme of "Home". The week will center on activities and experiences that define home in our community.

FISCAL EFFECT:

The grant match is \$19,680 and is included in the FY 2023 budget.

RECOMMENDATION:

Approve the grant award for the Michigan Arts and Culture Council Program Grant, and authorize the City Manager or her designee to sign the Grant Agreement.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Grant Narrative
- ▣ Grant Agreement

Artistic/Cultural Merit

The City of Marquette's Office of Arts and Culture (Office) serves to encourage, develop, and facilitate a rich environment of artistic, creative, and cultural activity in Marquette. The Office provides civic engagement, education, economic development, planning, and resources to the community and the creative sector. It accomplishes this through overseeing the City's Arts and Culture Center, assisting with local festivals and special events, providing arts advocacy, and building partnerships between Marquette and regional and statewide organizations and resources. The Office also provides support services to local artists and arts and culture organizations through grant writing, technical assistance, and marketing and promotions. The Office's mission is encapsulated through Art Week, an annual celebration of local arts and culture. This free festival builds community through discovery and play via concerts, theatrical and dance performances, demonstrations, workshops, community art projects, public art installations, street performance, exhibits and demonstrations, artist markets, poetry readings, studio tours, a plein air painting festival, and more. Art Week has become an unofficial kickoff to Marquette's summer event season and a true coming together of the creative community to collaborate, explore, and connect. The Office requests funding from the MACC for Art Week 2023 to directly support event coordinators, participating artists and organizations, and staff, as well as enhance our marketing and promotions to provide greater engagement and audience development through events other opportunities for local creatives to share their craft.

Art Week began in 2015, and has since grown organically not only in terms of number of events offered and partners involved, but also intention and direction. The mission of Art Week is to connect our community through the arts by: (1) building partnerships and collaboration between artists and organizations through networking, workshops, and encouraging cross-disciplinary experiences; (2) growing and empowering artists and organizations through professional development opportunities such as event planning, sponsorship solicitation, and grant-writing; (3) increasing audience engagement by removing barriers to participate and collective marketing and promotions; (4) promoting art appreciation and education through prioritizing artistic excellence, sharing creative processes, and offering opportunities for direct artist-audience interaction; and (5) ensuring accessibility and appropriateness for all ages and abilities.

Art Week partners with the finest local artists and arts and culture organizations to plan and present programs of the highest artistic merit our community has to offer. Over almost a decade of Art Week planning, the Office has developed strong working relationships with these presenting partners, establishing a framework for year-round collaboration on other events and initiatives. Some examples of annual partners include the [Marquette Symphony Orchestra](#), [Hiawatha Music Cooperative](#), [Marquette Poets Circle](#), [Peter White Public Library](#), [Marquette City Band](#), [Lake Superior Art Association](#), [TaMaMa Dance Company](#), [Liberty Children's Art Project](#), and [Marquette Maritime Museum](#). These are long-standing, locally recognized organizations with a long track record of community support and highly-experienced leadership. Individual artists of note include [U.P. Poet Laureate M. Bartley Seigel](#), [Michael Waite](#), [Janeen Pergin Rastall](#), [Martin Achatz](#), [Gordon Gearhart](#), and members of local visual art galleries and cooperatives such as [Zero Degrees Gallery](#) and [The Gallery – Marquette](#).

In an effort to create a deeper connection between our partners and audiences as well as inspire inventive and intentional programming, the Office recently began implementing an annual Art

Week theme. In 2021, our theme was *Reconnecting Through the Arts*, celebrating our community opening back up and coming together following the advent of the COVID-19 pandemic. Our 2022 theme is *Water*, honoring Lake Superior while encouraging our community to reflect upon what water means to them and how we can better protect and cherish our environment. Our theme for Art Week 2023 will be *Home*, showcasing the sights and sounds that make Marquette feel like home while casting a light on issues such as rising housing costs, residential and commercial development, and efforts to preserve the Marquette that we love.

Art Week engages artists by encouraging them to premiere new work, often inspired by the year's theme. Engagement happens when there is a specific invitation or challenge; by selecting a theme that is relatable and ubiquitous, yet simple – such as *Reconnecting*, *Water*, and *Home* – participation in Art Week is appealing and comfortable, while leaving room for creativity and new collaborations across artistic disciplines. For example, in response to this year's theme of *Water*, contemporary dance company TaMaMa and jazz saxophonist Patrick Booth will premiere a brand new large work, *Sanctuary*, performed on the beach and in the water near Marquette's Harbor Lighthouse, and the Marquette City Band will welcome [Dr. James Bicigo](#), a professional trombonist, music educator, and composer from Alberta, Canada to guest conduct the premiere of *Mers d'eau douce*, a composition of his inspired by his time spent around the Great Lakes.

Community Impact

The Office engages and learns from artists and audiences through ongoing strategic planning efforts, surveys, community partnerships, and day-to-day contact. Our direction is guided by a comprehensive 10-Year [Arts and Culture Master Plan](#), created in 2014. The Plan outlined the importance of creating new festivals that integrate the outdoors, support the creative economy, and increase arts education for all ages, a call that Art Week has answered year after year. Art Week also provides the City with a platform for officials and residents to engage on community issues. For example, this year's theme of *Water* honors our lakeshore, but is also inspired by the City's upcoming public art and interpretive trail project that explores our community's deeper personal and cultural connections to Lake Superior. Art Week is a great opportunity to start important conversations and use the arts as a tool to share ideas for the future.

During Art Week, Office and City Arts & Culture Advisory Committee members fully participate in every event. This provides opportunities to build relationships and receive firsthand feedback from artists, organizations, and the public alike about ways to improve and expand the event to ensure it is wholly inclusive. For example, after Art Week 2019 local artists requested more opportunities to sell their work which led to the creation of three artist markets at different locations in 2021, and after Art Week 2021, feedback from coordinators of the Plein Air Painting Festival inspired new events in 2022 to increase participation, including two workshops, a demonstration, and youth activities that precede the main Festival competitions. This year, we will also begin inviting City Commissioners and Management to have a more active role throughout Art Week in a variety of ways including volunteering, working informational tables, and welcoming the public at events, further reinforcing Art Week as a City-wide effort to spotlight and celebrate our arts and culture community.

Community impact is best demonstrated by the sheer number of Art Week events and partnering organizations and artists. Art Week 2022 will involve over 200 artists and 60 businesses and organizations hosting over four dozen major, unique events and experiences, numbers bound to

increase in 2023 as they have over each of the past eight years. Impact is also seen in the amount of funding provided by community sponsors and private donors; in 2021, Art Week leveraged over \$51,000 in additional support for presenters. Office and MACC funding is essential to leveraging additional funding and investment from other community partners.

Marquette has a population of less than 21,000. According to visitor reports by local visitors' bureau Travel Marquette, the City averages an astounding 19,000 visitors through downtown during Art Week, a large percentage of which is directly due to Art Week activities. Even more encouraging is that a large number of these visitors come from 50+ miles away, cementing Art Week as a driver for tourism which translates to greater investment in and support of the arts, local retail, food, and drink establishments, and outdoor recreation opportunities. According to Travel Marquette's statistics and the Office's audience counts, we regularly expect a total attendance of 15,000 throughout Art Week. This summer, Travel Marquette will be working with a consultant to collect data from large festivals including Art Week, the results of which will help us draw even more effective participant data and year-to-year comparisons.

Both artists and audiences are surveyed to obtain feedback. Surveys are distributed via email blasts, social media platforms, and the Office's [Marquette Compass](#) website, as well as made available to audiences following events. Consistently high attendance during Art Week is a very good sign of success, as are reported increases in artist sales at local galleries and businesses.

Art Week inspires self-expression, inviting passersby to stop, enjoy, and spend as little or as much time as they would like at any given event. The relaxed environment is welcoming and encourages authentic participation, and pre-registration is not required for events, making it especially easy to get involved. Removing these barriers, coupled with the sheer number of events and experiences offered, affords active participants the opportunity to craft their own "must-see" schedule of events, while also engaging passive participants by curating events in unexpected public spaces, such as along the City's well-traveled bike path which runs the length of the Lake Superior shoreline. Involvement in Art Week is not limited to presenting artists and organizations; new this year are enhanced opportunities for the general public to share their own artwork through open exhibits and demonstration and busking opportunities.

Accessibility is a priority. Art Week is intentionally held primarily outdoors in obvious public spaces, and all events are kept free to attend. Despite these points of access, enticing artist and audience engagement can be challenging. The Office and its partners further the welcoming nature and ease of participation by speaking to University and public school groups, distributing an expansive, full-color Art Week magazine in both print and electronic forms community-wide (a draft of this year's magazine is attached as *Supplement 3*; a final version may be found on the [Art Week homepage](#) on the Marquette Compass), and sending posters and flyers to assisted living facilities, low-income housing, group homes, and advocacy groups for the disabled. The City of Marquette Senior Center is an active partner, hosting dance and visual art classes that involve the over 120 participants in their [Senior Arts Program](#). Art Week also consults with groups such as the [Superior Alliance for Independent Living](#) and [Michigan Arts Access](#) to ensure event sites and activities are ADA compliant.

Implementation and Management

Office staff coordinates and promotes over three dozen unique Art Week events in collaboration with over 60 local businesses and arts and culture organizations as well as over 200 artists. Art Week takes place annually during the last full week of June; Art Week 2023 is scheduled for June 19-24. Events begin as early as 5:30am (as with our annual Art Week sunrise opening ceremony) and end as late as 11:00pm, though primarily take place between 12:00pm-9:00pm each day. Staff works overtime to attend each program, count attendance, and work with program leaders and volunteers to ensure sites are set up, taken down, and cleaned.

Planning begins seven months prior to Art Week. In November, a PSA is sent out announcing event dates and theme, after which the Office hosts regular meetings and work sessions with partners to begin event ideation. In January, partners are sent an online form to formally propose event ideas and funding requests (see *Supplement 2*), which are reviewed in March by the City's Arts & Culture Advisory Committee and other stakeholders. These proposals are scored based on a rubric (*Supplement 2*), judged on a variety of criteria including the quality of the proposal, artistic and cultural merit, audience engagement, and accessibility. These scores dictate whether an event is included in the week's schedule as well as the level of funding regranted to projects that request it. Meetings with partners continue through April to solidify event details and logistics. Once a schedule is solidified, marketing and promotions begin in May. In June, staff arranges for print, radio, television, and social media advertisements and interviews, and the print and digital Art Week magazine is distributed throughout the community. All events are posted on the City's online community calendar, the [Marquette Compass](#). Travel Marquette and the Marquette Downtown Development Authority are essential to the distribution of marketing materials. An informational table is set at the popular Downtown Marquette Farmers Market during the weekends leading up to the event, as well as a traveling table during Art Week, manned all day to offer event listings, maps, directions, and answer any questions.

Staff must apply for all City permits necessary to transform our downtown district, parks, and other public property into pop-up venues. Closure of sidewalks, pocket parks, and streets must also be permitted. Staff work closely with the fire and police departments, public works, parks and recreation, and local businesses so they have clear expectations for every event. Art can be messy, loud, and unexpected, so staff works closely to resolve any concerns or complaints.

Staff and essential partners have decades of combined experience coordinating and marketing large community events. Staff are not only experienced administrators, but artists themselves: a dancer, a musician, and a visual artist. All three are involved in the arts and culture community beyond the Office and serve on several boards and committees, as outlined in the biographies attachment. Staff is instrumental in assisting partners through funding, grant writing, and sponsorship requests, but also technical assistance with websites, promotion, and graphic design.

Art Week is evaluated during and afterwards through surveys, attendance counts, and observations of audience engagement. This year, we will also be distributing a separate survey as part of an economic impact study being conducted through Americans for the Arts, as we seek to help organizations advocate for themselves year-round, not only through Art Week. Debrief meetings are held with every major partner following the event, essential for evaluation and brainstorming of ideas for improvement in the future.

GRANT AGREEMENT FOR ARTS SERVICES

Control Number: 23PS6479

The Michigan Arts & Culture Council, (the 'Council') and CITY OF MARQUETTE, (the 'Grantee') enter this Grant Agreement for Arts Services ('Grant Agreement') on September 19, 2022 and mutually agree as follows:

1. Authority

This Grant Agreement is executed under authority of Sec. 11(6) of the History, Arts and Libraries Act, 2001 PA 63, MCL 399.711 and Sec. 1035 of 2015 PA 84.

2. Grant Agreement Period

The period of this Grant Agreement shall be from October 01, 2022 to June 30, 2023 ("Term"), unless prior termination is effectuated by the Council pursuant to Section 7.

3. Project(s) Funded

Beginning on October 01, 2022, Grantee shall:

Support Art Week, a week-long community celebration of arts and culture in Marquette, by investing in participating artists, performers, coordinators, tech support, and marketing and promotions, as more specifically set forth in the grant application or revised 'grantee information form', which is incorporated herein and made part of this Grant Agreement by reference.

Grantee shall comply with all financial and other requirements as outlined in the 2022 MACC Grant Program Guidelines, which are incorporated herein and are made part of this Grant Agreement by reference.

Grantee understands and agrees that:

- a. Artistic excellence and artistic merit are criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the people of Michigan.
- b. Obscenity is without artistic merit, is not protected speech, and will not be funded by a grant awarded by the Council and supported with State appropriations.

Grantee understands that the Council shall withhold undistributed grant payments from Grantee if Grantee violates any of the requirements for funding listed in the preceding paragraph, and further, that if Grantee violates any of the requirements, Grantee may be disqualified from awards of future grants for a period of up to three (3) years.

4. Category Specification

The Grantee is eligible for this grant in the Project Support category.

5. Terms and Conditions of Payment

The Council shall pay the Grantee an amount not to exceed \$19,680 on the following dates and in the following amounts, subject to the Grantee's compliance with this Grant Agreement. The Council, in its sole discretion, shall determine whether the Grantee has fulfilled all Grant Agreement terms and conditions. If the Council determines that the Grantee has failed to comply with any term or condition, the Grantee shall not be entitled to any payment listed below:

Amount:	Date:	Stipulation:
\$16,728	02/17/2023	Upon processing of signed agreement and copies of Governor and Legislative notifications
\$2,952	08/30/2023	Upon council approval of final report due on 07/30/2023

Additionally, the Council may demand full repayment of distributed grant proceeds in such event.

The Grantee shall meet the above listed conditions at least 30 days prior to the indicated payment date, so that the Council will have adequate time to process scheduled payments. Failure to comply with any deadlines will delay payment or may cause termination of this Grant Agreement pursuant to Section 7. In the event this Grant Agreement needs to be approved by the State Administrative Board or OFM, it shall be contingent upon such approval and no grant payments shall be made until this contingency is satisfied. Further, Grantee acknowledges that Council's performance of its payment obligation is dependent upon the continued receipt of government funding. In the event that the State Legislature or any State official, commission, authority, body, or employee, or the federal government (a) takes any legislative or administrative action, which fails to provide, terminates, or reduces the funding necessary for this Grant Agreement, or (b) takes any legislative or administrative action, which is unrelated to the source of funding for this Grant Agreement, but which affects the Council's ability to fund and administer this Grant Agreement, and other Council programs, then the Council may terminate this Grant Agreement by providing notice to the Grantee of termination.

The payment amounts set forth in this section shall, at a minimum, be matched on a dollar-for-dollar basis from local and/or private sources. The match may include the reasonable value of services, materials, and equipment as allowed under the Federal Internal Revenue Code for charitable contributions, subject also to the pre-approval of such a match by the Council.

from the grant.

The Council requires the payments under this Agreement be processed by electronic funds transfer (EFT). Grantee is required to register to receive payments by EFT at the State Integrated Governmental Management Applications (SIGMA) Vendor Self Service (VSS) website (www.michigan.gov/VSSLogin).

6. Redistribution Prohibition

The Grantee may not redistribute any grant awarded under this Grant Agreement or the matching funds which conferred eligibility for the grant to any other entity, unless specifically provided for in this Grant Agreement.

7. Termination of Grant Agreement

The Council may terminate this Grant Agreement for any reason by giving five (5) days written notice to the Grantee. Upon termination, the Council shall have no further obligation to make the payments described in Section 5.

8. Grantee's Liability

The Grantee will furnish and maintain during the term of this Grant Agreement public liability, property damage, and workers' compensation insurance insuring, as they may appear, the interests of the parties to this Grant Agreement. The Grantee is responsible for ensuring that all precautions are exercised at all times for the protection of all persons and property. The Grantee shall secure all necessary certificates and permits from municipal or other public authorities and comply with all national, state, and municipal laws, ordinances, and regulations as may be required in connection with the performance of this Grant Agreement.

9. Limitation of Liability

The State of Michigan, the Michigan Strategic Fund and the Council, and their organizational units, officers, agents, and employees shall not be liable to the Grantee, nor to any individuals or entity with whom the Grantee contracts, for any direct, indirect, incidental, consequential or other damages incurred as a result of activities, actions or inactions on the part of the Grantee for services rendered pursuant to this Grant Agreement resulting in litigation; from the Council's decision not to make payment to the Grantee pursuant to Section 5; or from termination of this Grant Agreement pursuant to Section 7.

Any liability resulting from activities, actions or inactions engaged in by the Grantee under this Grant Agreement shall be the sole responsibility of the Grantee. Any liability resulting from activities, actions or inactions engaged in by individuals or entities with whom the Grantee contracts shall be the sole responsibility of the subgrantee or as otherwise specified in a subgrant agreement between the Grantee and the subgrantee; however, under no circumstances shall the State, the Michigan Strategic Fund or the Council, and their organizational units, officers, agents and employees be liable for the activities of the Grantee or any subgrantee. Neither party will indemnify the other party in any litigation that may arise from the performance of this Grant Agreement or any subgrant agreement executed to fulfill this Grant Agreement. This section shall not be construed as a waiver of governmental immunity.

10. Third Party Beneficiary

This Grant Agreement is not intended to make any person or entity not a party to this Grant Agreement a third-party beneficiary of this Grant Agreement or to confer on a third party any rights or obligations enforceable in their favor.

11. Support Credit

The Grantee shall prominently display the Council's name and logo in printed materials associated with the grant and include support credit in each broadcast promotion as follows:

'This activity is supported in part by an award from the Michigan Arts & Culture Council and the NATIONAL ENDOWMENT FOR THE ARTS'

When no printed material is used, verbal acknowledgment shall be given prior to or at the beginning of each presentation. The Grantee shall transmit copies of printing, photographs, advertising and program materials prepared for this activity to the Council.

12. Accounting and Administrative Requirements

The Grantee shall maintain appropriate documents, journals, ledgers, and statements in accordance with generally accepted accounting practices, retain these records for a period of not less than five (5) years from the date of completion of the final report prepared pursuant to Section 15, and make these documents available for examination and audit by appropriate agents of the State and/or Federal Government. Grantee shall comply with the applicable administrative requirements for grants-in-aid and use cost accounting principles which comply with Federal requirements as set forth in 2 CFR Chapter I, Chapter II part 200 Uniform Administrative Requirements, Cost, Principals, and Audit Requirements for Federal Awards.

13. Equal Opportunity

Grantee certifies compliance with Executive Order 79-4, the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 372.101 et seq., and all other pertinent federal, state and local fair employment practices and equal opportunity laws. The Grantee covenants not to discriminate against any employee or applicant for employment, to be employed when services under this Grant Agreement are undertaken, with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, on the grounds of race, color, religion, national origin, age, sex or disability, or to exclude any person from participation in, deny any person the benefits of, or discriminate any person due to the above-listed grounds with respect to any program or activity funded in whole or part under this Grant Agreement. The Grantee agrees to include the aforementioned covenant in every contract or subgrant entered into by the Grantee to effectuate this Grant Agreement. Grantee certifies that the Grantee has an established policy to provide equal opportunity to participate in and benefit from all programs, activities and services and equal employment opportunities; and agrees to state in all promotional materials, advertisements, and recruiting materials its equal opportunity policies.

14. Fair Labor Standards

All professional performers and related or supporting professionals employed on projects or in productions which are financed in whole or in part under this Grant Agreement will be paid, without deduction or rebate on any account, not less than the minimum compensation determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities. Furthermore, no part of any project or production which is financed in whole or in part under this Grant Agreement will be implemented under working conditions which are unsanitary, hazardous or evidence of compliance. The Council may terminate this Grant Agreement if the name of the Grantee or any contractor, manufacturer or supplier of the Grantee appears in the register compiled by the Michigan Department of Licensing and Regulatory Affairs pursuant to the State Contracts with Certain Employers Prohibited Act, 1980 PA 278, MCL 423.321 et seq., or Grantee fails to comply with subpart C of 2 CFR 180, as adopted by the Arts Endowment in 2 CFR 32.3254.

15. Reports

The Grantee shall furnish the following report or reports to the Council:

- a. A final report covering the grant period, which is due within 30 days after the end of the grant period. The final report shall indicate at least the following:
 - i. Project revenues and expenditures, including grant matching fund amounts;
 - ii. Number of individuals attending or engaged during the grant period; and
 - iii. A narrative summary of the project and its outcome.

Failure to submit the above-described reports in a timely manner may void Grantee's claim to funds or cause repayment of funds already distributed under this Grant Agreement.

16. Reviews and Evaluations

In order to provide members of the Council, appropriate Council evaluators and staff an opportunity to appraise the nature and caliber of activities supported by Council funds, Grantee agrees to admit those individuals to activities without charge and to cooperate with in-depth reviews and evaluations as may be required.

During the Term, and for five (5) years after the Term, Grantee shall maintain reasonable records including evidence that the project was actually performed and the identity of all individuals paid for the project, and shall allow access to those records by the Council or its authorized representative at any time during this period.

17. Other Certifications

The Grantee certifies, by signature to this Grant Agreement, that neither he/she/it nor any principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the grant by any federal department or agency. If the Grantee is unable to certify to any portion of this statement, the Grantee shall attach to this Grant Agreement an explanation of the reason.

18. Governance

This Grant Agreement is governed by the laws of the State of Michigan and supersedes all prior agreements, documents and representations related to this Grant Agreement between the Council and the Grantee, whether expressed, implied, oral or otherwise. This Grant Agreement constitutes the entire agreement between the parties and may not be amended, except by written instrument executed by both parties prior to the termination date set forth in Section 2. No party to this Grant Agreement may assign this Grant Agreement or any of his/her/its rights, interest or obligations hereunder without prior consent of the other party. The Grantee agrees to inform the Council in writing immediately of any proposed changes of dates, budget or services indicated in this Grant Agreement, as well as changes of address or personnel affecting this Grant Agreement. Changes in dates, budget or services are subject to the Council's approval. If any provision of this Grant Agreement is deemed void or unenforceable, the remainder of the Grant Agreement shall remain valid.

19. Compliance with Laws

The Grantee shall otherwise be in compliance at all times with all applicable federal laws, regulations, rules and orders including, but not limited to Title VI of the Civil Rights Act of 1964, 42 USC 2000d et seq.; Executive Order 13166; Title IX of the Education Amendments of 1972, 20 USC 1681 et seq.; Section 504 of the Rehabilitation Act of 1973, 29 USC 701 et seq.; the Age Discrimination Act of 1975, 42 USC 6101 et seq.; the National Environmental Policy Act (NEPA) of 1969, 42 USC 4321 et seq.; the National Historic Preservation Act (NHPA) of 1966, 16 USC 470 et seq.; the Drug Free Workplace Act of 1988, 41 USC 701 et seq.; Lobbying restrictions, 18 USC 1913, 2 CFR 200.450, and 31 USC 1352; Davis-Bacon and Related Acts; the Native American Graves Protection and Repatriation Act of 1990, 25 USC 3001 et seq.; the U.S. Constitution Education Program, P.L. 108-447, Division J, Sec. 111(b); and the prohibition on funding to ACORN, P.L. 111-88, Sec. 427.

20. Counterparts

This Grant Agreement may be executed in one or more counterparts and transmitted by facsimile, email, pdf or other electronic means, each of which shall constitute an original, and all of which together shall constitute one and the same instrument.

21. Survivability

The terms and conditions of sections 6, 8, 9, 10, 11, 12, 15, 16, 18 shall survive termination of this Grant Agreement.

MICHIGAN STRATEGIC FUND
MI COUNCIL FOR ARTS AND CULTURAL AFFAIRS

CITY OF MARQUETTE



Alison Watson
Director

Jonathon Swenson
Community Services Director

September 19, 2022

Date

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

Consent Agenda - Roll Call Vote
Fresh Coast Film Festival - Special Event Permit

BACKGROUND:

Fresh Coast Film Festival is requesting the City Commission enter into a Special Event Permit for City Parks, Streets, Buildings and Grounds to use Mattson Lower Harbor Park for the purposes of the Fresh Coast Film Festival on October 13, 2022 until October 15, 2022 and Presque Isle Pavilion on October 14, 2022 from 2:00 pm until 7:00 pm. Staff has worked with the City Attorney and festival organizers to develop the permit.

FISCAL EFFECT:

Fresh Coast Film Festival was approved for Promotional Funds credit totaling \$440 resulting in \$1,600 in general fund revenue plus miscellaneous charges.

RECOMMENDATION:

Approve the Special Event Permit for City Parks, Streets, Buildings and Grounds with Fresh Coast Film Festival, 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 FRESH COAST FILM FESTIVAL, a Michigan corporation of 132 West Washington 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"):

**MATTSON LOWER HARBOR PARK and
PRESQUE ISLE PAVILION**

- (2) **Term.** The term of this Permit shall be:

Mattson Lower Harbor Park: from October 13, 2022 from 8:00 a.m. until October 15, 2022 11:00 p.m.; and

Presque Isle Pavilion: October 14, 2022 from 2:00 p.m. until 7:00 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:

"FRESH COAST FILM 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	\$800 1st day
	\$690 2nd day
Presque Isle Pavillion	\$110/hour, and
	\$250 refundable deposit
Staging/stairs	\$20/section
Trash drum liners (@ current cost)	\$ _____ **

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

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

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

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

- (a) PERMITTEE has complied with all terms of this Permit, including completely vacating the premises by the required time period.**

- (b) the term of the Permit has expired;
- (c) PERMITTEE has fully performed the restoration and clean-up of the premises to an "as-is" or better condition as prior to the event; and
- (d) PERMITTEE has paid all fees set forth herein.

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

- (8) **Electrical Permits.** For any event, carnival or fair connecting to or modifying an existing electrical source or service, PERMITTEE covenants and agrees to designate a licensed electrical contractor and secure an electrical permit in compliance under Article 525 of the current National Electric Code. An electrical permit shall be obtained two (2) weeks prior to the event and a copy shall be provided to the Community Services Department - Parks & Recreation Division office at least one (1) week prior to the event. Inspections shall be requested by the electrical contractor prior to the opening of the event, or use of the electrical service.

- (9) **All Utilities.** The CITY agrees to allow PERMITTEE to use existing electrical and water services for food and beverage concessions, lighting and audio equipment. However, the CITY shall not be responsible for any damages whatsoever due to any interruption in electrical, water or other services.

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

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

■ **General Liability**

PERMITTEE shall carry comprehensive general liability insurance, including premises and all operations, through companies licensed and admitted to do business in Michigan, which shall provide protection from all claims of damage or injury, including death, to persons and property which may arise out of, result from or be caused by PERMITTEE'S use or occupancy of the premises or its operations conducted thereon, with occurrence and aggregate limits of not less \$1,000,000, per occurrence.

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

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

■ **Liquor Liability.**

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

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

□ **Motor Vehicle Liability**

PERMITTEE shall also obtain and maintain vehicle liability coverage for all owned, non-owned and hired motor vehicles which may be operated,

maintained or used on the premises. Minimum combined limits of \$500,000 shall be maintained.

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

■ **Food**

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

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

■ **Other insurance.**

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

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

- **(13) Indemnity. PERMITTEE covenants and agrees to indemnify, protect, defend and save the CITY, its officers and employees harmless from any claim,**

action or suit for any loss, liability and damages that may be asserted or levied against the premises or the CITY, its officers or employees, in whole or in part by reason of PERMITTEE'S acts or omissions, or by its use or occupancy of or its operations on the premises or by reason of any other person on the premises by contract, invitation or license, including any expenses, costs and attorney fees incurred in connection with any such claim, action or suit. In the event of any incident occurring on the premises resulting in any personal injury, including death, to any person, PERMITTEE shall give notice to the CITY within twelve (12) hours after the occurrence thereof or after PERMITTEE learns of such occurrence.

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

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

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

(iii) The extinguisher shall be tagged with the date and service provider.

(iv) If the fire extinguisher was purchased within the last year, a sales slip must be provided.

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

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

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

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

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

from 5:00 p.m. until 10:00 p.m. on October 14, 2022; and
from 5:00 p.m. until 10:00 p.m. on October 15, 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 7 days prior to the event. Failure to abide by this provision will result in the prohibition of the sale, furnishing, giving, distribution or consumption of alcohol beverages at the event.

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

- (18) Exclusive Use. PERMITTEE shall have the exclusive use of the premises during the term of this permit.
- (19) Admission. PERMITTEE may charge admission to the general public to enter premises. Entry shall not be denied to any individual based upon race, sex, age, creed, or national origin.

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

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

fees at landfills. City staff is readily accessible to discuss out-of-pocket cost estimates and ways to reduce these costs. All City of Marquette invoices sent to organizations for reimbursement of out-of-pocket costs are due within thirty (30) days.

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

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

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

- (29) Fire.
 - (a) No open flames or explosives shall be permitted for decoration, display or use without permission from the Fire Department.
 - (b) The use of paper or fabric for coverings or decoration shall not be permitted unless proof is submitted to the Fire Department that such materials are flame proof.
 - (c) All seating capacity and room arrangements shall be approved by the Fire Department.

(d) An access lane, a minimum of eighteen (18) feet wide, shall be maintained leading into and out of the event so that emergency vehicles can enter in case of an emergency.

(e) Barricades or any type of obstruction which could impede or interfere with fire suppression forces shall not be erected.

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

- (31) **Conditions/Requirements.** Additional conditions and requirements of this permit are as follows:

PERMITTEE has permission to begin setting up on October 13, 2022 at 8:00 a.m. and must have all items removed from the park by 10:00 p.m. on October 16, 2022.

- (32) **Cancellation or Modification.** It is understood and agreed that ten (10) days advance written notice of any cancellation, reduction and/or material changes in the proposed agenda will be provided to the Community Services Director, City of Marquette, 401 East Fair Avenue, Marquette, Michigan, 49855.

- (33) **Duplicate Original Copies.** This Permit is executed in triplicate original copies, two of which shall be retained by the CITY and one by PERMITTEE, each of which shall be deemed to be an original, but all of which shall be construed as one and the same document.

- (34) **Governing Law.** This Permit and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Michigan.

- (35) **Paragraph Headings.** The paragraph headings appearing in the Permit have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit or extend the scope or intent of the paragraphs to which they appertain.

- (36) **Entire Agreement.** This Permit represents the entire agreement of the parties and shall be deemed to be an integrated agreement containing all prior and contemporaneous oral and written agreement between the parties, and shall not be modified in any part, except in a writing signed by all parties.

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

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

CITY OF MARQUETTE

FRESH COAST FILM FESTIVAL

Jennifer A. Smith, Mayor


By: Lizzie Corser, Coordinator
Its:

Kyle Whitney, City Clerk

By:
Its:

Approved as to Substance:

Karen M. Kovacs, City Manager

Approved as to Form:

Suzanne C. Larsen, City Attorney



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

09/07/2022

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 VAST 300 South Front Street Marquette MI 49855	CONTACT NAME: Adam Ely PHONE (A/C, No, Ext): (906) 228-7500 FAX (A/C, No): (906) 228-5385 EMAIL ADDRESS: adame@vastsolution.com INSURER(S) AFFORDING COVERAGE INSURER A: West Bend Mutual NAIC # 15350 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
INSURED Fresh Coast Film Festival 514 N. Third Street Marquette MI 49855	

COVERAGES

CERTIFICATE NUMBER: CL229720433

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.

USER LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER ☐ POLICY ☐ PRO. JECT ☐ LOC ☐ OTHER: AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED. ☐ RETENTION \$ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☐ N/A	Y	B116867	10/13/2022	10/17/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ 2,000,000 COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ EACH OCCURRENCE \$ AGGREGATE \$ PER STATUTE ☐ OTH-ER ☐ E L EACH ACCIDENT \$ E L DISEASE - EA EMPLOYEE \$ E L DISEASE - POLICY LIMIT \$
A	Liquor Liability		8141042	10/13/2022	10/17/2022	Each Occurrence 1,000,000 General Aggregate 1,000,000

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

CERTIFICATE HOLDER

CANCELLATION

City of Marquette 300 W. Baraga Avenue Marquette MI 49855	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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ACORD 25 (2016/03)

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City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

Consent Agenda - Roll Call Vote
Proclamation - Arbor Day Recognition 2022

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Proclamation - Arbor Day Recognition 2022



PROCLAMATION ARBOR DAY RECOGNITION 2022

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

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

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

WHEREAS, because of Marquette's efforts to improve our community forest, the city has been named a TREE CITY USA for 41 consecutive years; and,

WHEREAS, the American Transmission Company has provided a \$350 grant for 2022 to fund an Arbor Day tree planting in Marquette; and,

WHEREAS, representatives from the cemetery volunteer group MSU Extension Master Gardeners, along with arborist family members, will assist City personnel with the planting of two Autumn Blaze maple trees in the Park Cemetery located at 455 N. Seventh Street at 1:00 pm on Friday, October 14th;

NOW, THEREFORE I, Jennifer A. Smith, Mayor of the City of Marquette, do hereby proclaim Friday, October 14, 2022, as the City of Marquette's official recognition of Arbor Day, and I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

DATED this 11th day of October, 2022.

Jennifer A. Smith, Mayor

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

New Business

Marquette Board of Light and Power – Lease Agreement

BACKGROUND:

The Marquette Board of Light and Power (BLP) has approached the City to request the use of City property for the installation of electric vehicle charging stations. If approved, the first installation site will be at the Lower Harbor Parking Lot. The lease also contains options for expansion to Lakeview Arena, Shiras Park, and Clark Lambros' Park.

The term of the lease will be for three years and specifies that the installation, operation, maintenance, repair, and liability of the leased property and charging units is the responsibility of the BLP. The rental rate is \$375 per year per charging station, based on usage of five square feet of property, a rate of \$6.25/square foot per month.

The first read for this item was on September 26, 2022.

FISCAL EFFECT:

The City of Marquette will receive \$31.25 per month (\$375 annually) per charging station during the term of the lease agreement.

RECOMMENDATION:

Approve the lease agreement with the Marquette Board of Light and Power for the installation of electric vehicle charging stations.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

▣ Lease

LEASE AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2022, by and between **THE CITY OF MARQUETTE**, a Michigan municipal corporation, of 300 W. Baraga Avenue, Marquette, Michigan 49855, hereinafter “Lessor”, and **THE MARQUETTE BOARD OF LIGHT AND POWER.**, a Michigan municipal electrical utility, of 2200 Wright Street, Marquette, Michigan 49855, hereinafter “Lessee”.

Recitals

- A. Lessor is the owner of the real property and improvements commonly known as the Lower Harbor Parking Lot in the City of Marquette, located 200 Lakeshore Boulevard, described on Exhibit A and shown on the sketch attached as Exhibit B (the “Premises”).
- B. Lessee desires to lease and Lessor is willing to lease to Lessee a portion of the Premises in accordance with the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual promises of the parties and other good and valuable consideration, the receipt of which is hereby acknowledged, it is agreed as follows:

1. Leased Premises

- 1.1 Lessor leases to Lessee space as described in Exhibit A and as shown in Exhibit B, hereinafter “Premises”.
- 1.2 Lessor agrees to lease additional space to Lessee at specific locations to be mutually agreed upon by the parties at Lakeview Arena, Clark Lambros Park and Shiras Park at such time as Lessee desires to install and operate additional electric vehicle charging stations at said locations.
- 1.3 Each charging station will require 5 square feet of leased space (“Space”) for the installation and operation of an electric vehicle charging station.

2. Term of Lease

The term of this lease shall be for three years from the date of execution and may, upon expiration of the original term, be renewed by written mutual consent of the parties for additional three (3) year terms upon terms and conditions as agreed upon by the parties. This lease may be terminated by either party upon 180 days written notice of termination to the other party. Upon termination of this lease, Lessee shall return the Premises to Lessor in its original condition at Lessee’s sole cost.

3. Rent

- 3.1 The rent shall be \$31.25 per month for each Space commencing upon the start of installation of each respective electric vehicle charging station, due in advance to Lessor at the address set forth herein on the first day of each month. Any partial first month shall be prorated. Any payment not received by the first day of the month will be charged a late fee of 1.5% per month or the highest rate permitted by law, whichever is higher.

- 3.2 Lessee shall be responsible for directly paying all utilities that are metered separately for the Premises.

4. Use of Premises

- 4.1 Lessee shall use the Premises only for the installation and operation of an electric vehicle charging station. Lessee shall not use the Premises for any purpose that would:
- a) be deemed hazardous to the public or adjoining premises including, but not necessarily limited to, fire, and environmental type hazards;
 - b) constitute a violation of any public law or requirement;
 - c) cause damage or injury to the Premises, or any part of it (ordinary wear and tear excepted);
 - d) constitute a public or private nuisance;
 - e) interfere with other uses of the Premises; or
 - f) permit refuse to accumulate in or around Premises.

5. Exclusive Use of Premises

Lessee shall have exclusive use of the Premises, but acknowledges that its use of the common areas surround the Premises, including ingress and egress to and from a public street, is not exclusive and that Lessee and its invitees shall have the right in common with Lessor, its invitees, and others to use the common areas.

6. Maintenance and Repair

- 6.1 Lessee shall be solely responsible for the maintenance and repair of all of Lessee's tangible personal property located on the Premises and shall keep them in a safe condition and good repair. Lessee is solely responsible for all repairs, except normal wear and tear, necessary due to Lessee's negligence or intentional acts causing the need for repair.
- 6.2 Lessee shall be solely responsible for its own maintenance service to maintain the Premises in a neat and clean condition.
- 6.3 Lessee shall be solely responsible for the construction, installation, maintenance and/or replacement of all signs on the exterior of the Premises or in any common area; however no sign may be installed without prior written approval from Lessor. All signs must meet the requirements of local rules, regulations and laws.
- 6.4 Lessor shall provide snow plowing services to the Premises. Lessor shall not be responsible for shoveling walkways and related areas pertaining to pedestrian access to the Premises and this responsibility shall remain with Lessee.

7. Insurance and Indemnity

- 7.1 Lessee shall not permit any activity on the Premises which would invalidate or be in conflict with Lessor's insurance policies covering the Premises.
- 7.2 Lessee shall not permit any activity on the Premises which would cause Lessor's rate for the insurance described herein to be increased.
- 7.3 Lessee at its sole expense shall be responsible for insuring its own tangible personal property, equipment, and fixtures from loss from fire and other casualty and shall at all times provide Lessor with a certificate evidencing such coverage.
- 7.4 Lessee at its sole expense shall maintain liability insurance protecting and insuring Lessee and Lessor from all claims for injury or damage to persons or property arising out of the use of the Premises by Lessee, its employees, agents, invitees, and licensees. The amount of the insurance shall be not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence for accident, bodily injury, or death and not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00) for property damage. Lessee shall at all times provide Lessor with a current copy of said policies with proof of payment of premium thereon. The insurance policies shall bear endorsements to the effect that the insurer agrees to notify Lessor not less than thirty (30) days in advance of any modification or cancellation thereof. Lessor shall be named as an additional insured on all insurance policies required by this lease.
- 7.5 Lessee will indemnify and hold Lessor harmless from and against all loss, cost, expense and liability whatsoever (including Lessor's cost of defending against the foregoing, such cost to include attorneys' fees) resulting or occurring by reason of Lessee's use and occupancy of the Premises.

8. Assignment/Subletting

- 8.1 Lessee shall not assign or sublet the Premises or any part thereof without the express prior written consent of the Lessor.
- 8.2 Lessor may freely assign its rights and obligations under this Lease Agreement to any third party pursuant to a Purchase and Sale Agreement, Land Contract or similar instrument.

9. Use of Premises by Lessor

Lessor reserves for itself and its contractors and agents the right to enter the Premises at reasonable times for the purpose of inspecting, maintaining, installation, operation and repair services of the Premises or adjacent real property.

10. Covenant of Quiet Enjoyment

Lessor warrants and represents that it has full authority to execute this lease for the above term. Lessor covenants that upon Lessee paying the rents and performing its covenants

and duties prescribed herein, Lessee may, except as otherwise described herein, have the non-exclusive and reasonable right to have, hold and enjoy the Premises.

11. Lessor's Right to Perform Lessee's Obligation

If Lessee defaults in the observance or performance of any term or covenant of this lease, Lessor may, without thereby waiving the default, remedy the default at Lessee's expense. If, in connection therewith, Lessor makes any expenditure or incurs any obligation for the payment of money or in instituting, prosecuting, or defending any action or proceeding commenced before or during the term of this lease, or after the expiration or termination of this lease including, but not necessarily limited to, legal expenses and attorneys' fees, Lessee shall pay to Lessor on demand the sums paid or obligations incurred together with legal fees and costs.

12. Default by Lessee

- 12.1 If the Lessee fails to perform any obligation under this agreement within 30 days after receiving written notice of the default from the Lessor; the Lessor may terminate this lease.
- 12.2 In addition to the Lessor's other rights and remedies as stated in this lease, and without waiving any of those rights, if the Lessor deems necessary any repairs that the Lessee is required to make or if the Lessee defaults in the performance of any of its obligations under this lease, the Lessor may make repairs or cure defaults and shall not be responsible to the Lessee for any loss or damage that is caused by that action. The Lessee shall immediately pay to the Lessor, on demand, the Lessor's costs for curing any defaults, as additional rent under this lease.
- 12.3 The rights and remedies of Lessor shall be cumulative as more particularly provided by law or in equity pursuant to the laws of the State of Michigan.

13. Surrender of Leasehold Upon Termination of Lease

If upon termination of the lease, Lessee has failed to remove its tangible personal property, equipment, vehicles or other items, Lessor reserves the right to deem them abandoned and shall have the legal right to dispose of same, and costs incurred in disposing of same shall be the financial responsibility of Lessee.

14. Miscellaneous

- 14.1 This agreement shall be binding on the parties and inure to the benefit of the Lessor and Lessee and their respective successors and assigns.
- 14.2 This agreement shall be governed by and construed in accordance with the laws of the State of Michigan.
- 14.3 This agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated herein.

- 14.4 Any modification of this agreement or additional obligations assumed by either party in connection with this agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.
- 14.5 Waiver by Lessor of any breach of any covenant of duty of Lessee under this lease is not a waiver of a breach of any other covenant of duty of Lessee or any subsequent breach of the same covenant or duty.
- 14.6 The invalidity of any portion of this agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.
- 14.7 All notices to be given under this lease shall be in writing and mailed, postage prepaid, or by certified or registered mail, return receipt requested, or delivered personally or by courier delivery, or sent by telecopy (immediately followed by one of the preceding methods) to Lessor's address and Lessee's address as above stated or any other place that Lessor or Lessee may designate in a written notice given to the other parties. Notices shall be deemed served on the earlier of receipt or three (3) working days after the date of mailing.

The parties have set their hands on the day and year first above written.

LESSOR
CITY OF MARQUETTE

LESSEE
MARQUETTE BOARD OF LIGHT AND POWER

Jennifer A Smith, Mayor

Tom Carpenter, Executive Director

Kyle Whitney, City Clerk

Approved as to Substance:

Karen Kovacs, City Manager

Approved as to Form:

Suzanne Larsen, City Attorney

EXHIBIT A

LEGAL DESCRIPTION

THAT PART OF THE N.E. 1/4 OF SECTION 23 T48N R25W LYING S. AND E. OF LAKESHORE BLVD. AND W. OF A PT. 1,605' W. OF THE W. FACE OF THE U.S. CORPS OF ENGINEERS BREAKWATER. (CONTAINING 600,000 SQ. FT. / 13.77 ACRES (CITY ACCT. # 101-445-920.1555))



Transformer Location

Charger with Bollards in front of and Parking Locations

Conductor in Conduit

Meter Socket and Panel Location

03142

08089

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

New Business **City Hall Labor Union Wages**

BACKGROUND:

On October 25, 2021, the City Commission approved a new three-year agreement with the City Hall Employees' Chapter of AFSCME Local #1852. The agreement included a 2% wage increase for year one and wage reopeners in 2022 and 2023. The parties have now agreed upon a 2% wage increase for year two (2022) with a one-time \$250 payment to each bargaining unit member.

The City's bargaining team commends the City Hall unit of AFSCME for their willingness to work with us to negotiate a wage increase that is fair to the employees and the City.

FISCAL EFFECT:

A 2% increase to wages in addition to a one-time \$250 payment to each bargaining unit member equates to a cost of roughly \$35,000. This will require a budget amendment.

RECOMMENDATION:

Approve the City Hall Employees' 2% wage increase effective October 11, 2022, with a one-time payment to each bargaining unit member of \$250.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

No Attachments Available

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

New Business **DPW and Utilities Labor Union Wages**

BACKGROUND:

On December 13, 2021, the City Commission approved a new three-year agreement with the Department of Public Works and Utilities Employees' Chapter of AFSCME Local #1852. The agreement included a 2% wage increase for year one and wage reopeners in 2022 and 2023. The parties have now agreed upon a 2% wage increase for year two (2022) with a one-time \$250 payment to each bargaining unit member.

The City's bargaining team commends the DPW and Utilities unit of AFSCME for their willingness to work with us to negotiate a wage increase that is fair to the employees and the City.

FISCAL EFFECT:

A 2% increase to wages in addition to a one-time \$250 payment to each bargaining unit member equates to a cost of roughly \$72,000. This will require a budget amendment.

RECOMMENDATION:

Approve the Department of Public Works and Utilities Employees' 2% wage increase effective October 11, 2022, with a one-time payment to each bargaining unit member of \$250.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

No Attachments Available

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

New Business **Supervisory Labor Union Wages**

BACKGROUND:

On October 25, 2021, the City Commission approved a new two-year agreement with the Supervisory Employees' Chapter of AFSCME Local #1852. The agreement included a 2% wage increase for year one and a wage reopener in 2022. The parties have now agreed upon a 2% wage increase for year two (2022) with a one-time \$250 payment to each bargaining unit member.

The City's bargaining team commends the Supervisory unit of AFSCME for their willingness to work with us to negotiate a wage increase that is fair to the employees and the City.

FISCAL EFFECT:

A 2% increase to wages in addition to a one-time \$250 payment to each bargaining unit member equates to a cost of roughly \$13,300. This will require a budget amendment.

RECOMMENDATION:

Approve the Supervisory Employees' 2% wage increase effective October 11, 2022, with a one-time payment to each bargaining unit member of \$250.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

No Attachments Available

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 10/11/2022

New Business

Community Master Plan Steering Committee

BACKGROUND:

As part of the Community Master Plan process, the appointment of a Steering Committee is considered to be of vital importance to ensure that there is project oversight and participation from a broad representation of the community.

The Steering Committee is recommended to be comprised of the community members on the attached roster.

It is recommended that the Steering Committee be appointed for a period ending October 11, 2023. This will allow contingency time and time to market the plan after it is completed.

FISCAL EFFECT:

None by this action.

RECOMMENDATION:

Establish a Master Plan Steering Committee for the purpose of community representation and project oversight. The Committee shall be in place from today's date until October 11, 2023. The membership of the Committee shall be those community members on the attached roster.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- ▣ Community Master Plan Steering Committee

2022-23 Community Master Plan Steering Committee
10/11/2022

City Commission

- Mayor Pro-tem Cody Mayer
- Commissioner Sally Davis

Planning Commission

- Joy Cardillo - Chair
- Dallas Fetter

Downtown Development Authority

- Tara Laase-McKinney - Executive Director

Environment

- Carl Lindquist – Executive Director, Superior Watershed Partnership
- Emily Leach – Senior Planner, Marquette County (and Chair for Marquette County Climate Adaption Task Force)

Economic Development

- Marty Fittante – Chief Executive Officer, InvestUP
- Christopher Germaine – Chief Executive Officer, Lake Superior Community Partnership
- Jen Tucker – Community Assistance Team Specialist, Michigan Economic Development Corporation

Tourism

- Susan Estler – President and Chief Executive Officer, Travel Marquette

Real Estate/Housing

- Stephanie Jones – Local Realtor

Health Care

- Gar Atchison – Chief Executive Officer, UP Health System Marquette

University

- Jim Thams – Director of Facilities and Campus Planning, Northern Michigan University
- David Nyberg – Executive Director of Business Engagement and Economic Development, Northern Michigan University

Marquette Area Public Schools

- Zack Sedgwick, Superintendent

Resident at-large

- Jim Koski

Staff

- Karen Kovacs – City Manager, City of Marquette
- Dennis Stachewicz – Director of Community Development, City of Marquette
- Jon Swenson – Director of Community Services, City of Marquette
- Scott Cambensy – Director of Public Works, City of Marquette
- Tom Carpenter – Executive Director, Marquette Board of Light and Power