



**This meeting will be held in person
In Public Meeting Room A
Delta Administration Building
7710 West Saginaw Highway
Lansing, MI 48917**

**TOWNSHIP BOARD REGULAR MEETING
AGENDA
Tuesday, September 7, 2021 - 6:00 PM**

**This meeting will be streamed live for viewing only at:
<https://us02web.zoom.us/j/81544091321?pwd=dlptazF3Uzd0bUY3OFgyOFJLZEN2dz09>**

**Meeting ID: 815 4409 1321
Passcode: 227775**

Please note all public comments must be made in person.

- I. CALL TO ORDER**
- II. OPENING CEREMONIES**
- III. ROLL CALL** – Members: Supervisor Kenneth R. Fletcher, Clerk Mary R. Clark, Treasurer Dennis R. Fedewa, Trustee Elizabeth (Beth) S. Bowen, Trustee Fonda J. Brewer, Trustee Andrea M. Cascarilla, and Trustee Karen J. Mojica
- IV. PRESENTATIONS AND PROCLAMATIONS**
- V. SET/ADJUST AGENDA**
- VI. PUBLIC HEARINGS** - Members of the public at the meeting shall not speak unless recognized by the chair. Members of the public shall be limited to speaking for a maximum of three (3) minutes during a public hearing. Prior to speaking, members of the public must also identify themselves with their name and address.
- VII. COMMUNICATIONS**
- VIII. PUBLIC COMMENTS (maximum three minutes)**
- IX. INTRODUCTION OF ORDINANCES**
- X. PASSAGE OF ORDINANCES**
- XI. CONSENT AGENDA** – Anyone may request item(s) to be pulled from the consent agenda for discussion. If left on the consent agenda, the items will be voted on by a roll call vote of the Board en masse. Then, the individual item(s) will be discussed and voted upon.
 - 1. Bills and Financial Transactions**
 - a. [\\$ 3,316120.03](#)
 - 2. Minutes**
 - a. [August 16, 2021](#)

3. **Approval of the Operating and Paramedic/Firefighter 2021 – Tax Rates for Form L-4029 for the Delta Township Winter Tax Roll and the City of Lansing Winter Tax Roll**
The Assessing Department recommends that the Delta Township Board adopt the millage rates to be used on the 2021 Tax Rate Request Form L-4029 and to levy said tax rates on the 2021 Delta Township Winter Tax Roll and the City of Lansing Winter Tax Roll.
4. **Distribution Operations Asphalt Repairs**
The Utilities Department recommends that the Delta Township Board accept the proposal from McKearney Asphalt & Sealing for the necessary asphalt repairs at the Utility Department Distribution Operations site in the amount of \$34,175.00.
5. **Menards Yard Expansion**
The Engineering Department recommends that the Delta Township Board approve the Municipal Utility Agreement submitted by Menard, Inc. for the relocation of the existing public sanitary sewer main to accommodate the proposed Menards Yard Expansion project.

XII. ITEMS REMOVED FROM CONSENT AGENDA FOR DISCUSSION

XIII. UNFINISHED BUSINESS

6. **Case No. 05-21-07: Special Land Use Permit Request for an Outdoor Commercial Recreational Facility (Drive-In Theatre) at 921 Mall Drive West, Lansing, MI 48917**
The Planning Department recommends that the Delta Township Board approve the Special Land Use Permit for an Outdoor Commercial Recreational Facility requested for the establishment of a drive-in movie complex as described in Case No. 05-21-07.

At the July 19, 2021, Board meeting a motion was made by Trustee Bowen and Second by Trustee Brewer to table the discussion until indefinitely.

XIV. ITEMS ADDED TO AGENDA UNDER SECTION V. SET/ADJUST AGENDA

XV. NEW ITEMS OF BUSINESS

7. **CIA Board Appointment**
The Township Supervisor recommends that the Delta Township Board appoint Calvin Jones to the Corridor Improvement Authority Board; and that the Clerk is hereby directed to send notification informing him of his appointment.
8. **Introduction of West Lansing Retail West Lansing Retail Development III, LLC Rezoning Request in Case No. 07-21-09**
The Planning Department recommends that the Delta Township Board introduce the West Lansing Retail Development III, LLC rezoning request, Case No. 07-21-09, to rezone 6.41 acres from AG2, Agricultural/Residential, to RM, Multiple Family Residential.
9. **Final Approval of Preliminary Plat for Echo Valley East**
The Planning Department recommends that the Delta Township Board grant final approval of the preliminary plat of the Echo Valley East subdivision.
10. **Case No. 07-21-10: Special Land Use Permit Request for a Place of Worship at the northwest corner of Standard Drive and North Waverly Road**
The Planning Department recommends that the Delta Township Board approve the Special Land Use Permit for a Place of Worship requested by Shekhinah International Church to allow for construction of a 6,864 house of worship on the site as described in Case No. 07-21-10.

11. Designation of a Delegate and Alternate Delegate for the Michigan Municipal League Annual Business Meeting

The Township Supervisor recommends that the Delta Township designate Manager Brian Reed as the delegate and Delta Township's official representative to vote on issues at the Michigan Municipal League Annual Business Meeting and Convention and that Treasurer Dennis Fedewa be designated as the alternate delegate.

XVI. MANAGER'S REPORT

XVI. COMMITTEE OF THE WHOLE

12. Discussion on Small Cell Wireless Facilities Ordinance

XVII. CLOSED SESSION

XVIII. PUBLIC COMMENTS (maximum three minutes)

XIX. ADJOURNMENT

CHARTER TOWNSHIP OF DELTA

MARY R. CLARK, TOWNSHIP CLERK
Phone (517) 323-8500

Individuals with disabilities attending Township meetings or hearings and requiring auxiliary aids or services should contact Township Manager and ADA Coordinator Brian T. Reed by email at manager@deltami.gov or calling (517) 323-8590 to inform him of the date of the meeting or hearing that will be attended. Copies of minutes may be purchased or viewed in the Clerk's Office from 8 a.m. to 5 p.m., Monday through Friday.

**DELTA CHARTER TOWNSHIP
FINANCE REPORT
FOR TOWNSHIP BOARD MEETING
9/7/2021**

Disbursement requests listed on the following pages, totaling \$3,316,120.03 have been received and reviewed by the Manager, Finance Director, and Clerk. It is recommended that all listed vouchers be approved for payment.

Payroll & Related	375,539.21
Refunds	13,062.16
Tax Distributions	1,713,352.31
Vendor Claims	<u>1,214,166.35</u>
Total	<u><u>\$ 3,316,120.03</u></u>

Kenneth R. Fletcher, Township Supervisor

Mary R. Clark, Township Clerk

Dennis R. Fedewa, Township Treasurer

**PAYABLES FOR DELTA CHARTER TOWNSHIP
BOARD AGENDA DATE 9/7/2021**

CHECK DATE	CHECK #	VENDOR NAME	DESCRIPTION	AMOUNT
08/18/2021	320674	CAPITAL AREA UNITED WAY	PAYROLL WITHHOLDING	34.23
08/18/2021	320675	CONSUMERS ENERGY	SERVICE @ MULTIPLE LOCATIONS	1,466.53
08/18/2021	320676	TIM TIDEY	REFUND OVERPYMNT AMBULANCE FEES	107.95
08/18/2021	320677	MUNSHAW, DIANE	REFUND MACKINAC ISLAND TRIP	425.00
08/18/2021	320678	MUNSHAW, LYNN	REFUND MACKINAC ISLAND TRIP	425.00
08/18/2021	320679	LEBLANC, MAGGIE	REFUND UMPIRE FEES	180.00
08/18/2021	320680	HEYDEN, JAMES	REFUND MACKINAC ISLAND TRIP	425.00
08/18/2021	320681	HOWE, PATRICIA	REFUND MACKINAC ISLAND TRIP	425.00
08/18/2021	320682	3HM LANSING LLC	REFUND 2021 STAX 040-014-200-030-00	3,019.58
08/18/2021	320683	BLANCHARD, JUDY	REFUND 2021 STAX 040-056-002-360-00	132.63
08/18/2021	320684	FIDELITY NATIONAL TITLE CO	REFUND 2021 STAX 040-070-100-110-00	2,000.00
08/18/2021	320685	CASE CREDIT UNION	REFUND 2021 STAX 040-043-600-191-00	965.96
08/18/2021	EFT	EATON COUNTY TREASURER	TAX DISTRIBUTIONS	679,799.14
08/18/2021	EFT	EATON RESA	TAX DISTRIBUTIONS	74,378.10
08/18/2021	EFT	GRAND LEDGE PUBLIC SCHOOLS	TAX DISTRIBUTIONS	331,688.32
08/18/2021	EFT	INGHAM INTERMEDIATE SCHOOLS	TAX DISTRIBUTIONS	151,320.44
08/18/2021	EFT	LANSING COMMUNITY COLLEGE	TAX DISTRIBUTIONS	241,939.58
08/18/2021	EFT	LANSING PUBLIC SCHOOLS	TAX DISTRIBUTIONS	3,096.16
08/18/2021	EFT	WAVERLY COMMUNITY SCHOOLS	TAX DISTRIBUTIONS	211,239.13
08/19/2021	EFT	EATON COUNTY TREASURER	DLQ PP TAX DISTRIBUTION	7,581.24
08/19/2021	EFT	EATON RESA	DLQ PP TAX DISTRIBUTIONS	664.59
08/19/2021	EFT	GRAND LEDGE PUBLIC SCHOOLS	DLQ PP TAX DISTRIBUTIONS	1,991.29
08/19/2021	EFT	INGHAM INTERMEDIATE SCHOOLS	DLQ PP TAX DISTRIBUTIONS	2,153.23
08/19/2021	EFT	LANSING COMMUNITY COLLEGE	DLQ PP TAX DISTRIBUTIONS	2,020.90
08/19/2021	EFT	WAVERLY COMMUNITY SCHOOLS	DLQ PP TAX DISTRIBUTIONS	5,480.19
08/25/2021	320695	AT&T	PHONE SERVICE @ RECYCLING CENTER	95.48
08/25/2021	320696	AT&T MOBILITY	WIRELESS MODEM - ENGINEERING	36.24
08/25/2021	320697	CONSUMERS ENERGY	SERVICE @ MULTIPLE LOCATIONS	296.17
08/25/2021	320698	LANSING BOARD OF WATER & LIGHT	WHOLESALE WATER & ELECTRIC	274,266.80

08/25/2021	320699	LOWES BUSINESS ACCOUNT	SUPPLIES FOR MULTIPLE DEPTS	3,214.67
08/25/2021	320700	EMMAUS CORP	REFUND - LANDSCAPE SURETY	2,250.00
08/25/2021	320701	CANON SOLUTIONS AMERICA, INC.	COPIER MAINTENANCE	354.83
08/25/2021	320702	ANNIS, JOAN	REFUND P&R RENTAL DEPOSIT	250.00
08/25/2021	320703	DEMYERS, PATRICE	REFUND P&R RENTAL DEPOSIT	250.00
08/25/2021	320704	KAPP, GERALD	REFUND MACKINAC ISLAND TRIP	425.00
08/25/2021	320705	ALBAREZ, ANDREA	REFUND P&R RENTAL DEPOSIT	80.00
08/25/2021	320706	ROMERO, RENATA	REFUND P&R RENTAL DEPOSIT	250.00
08/25/2021	320707	EQUITY TRUST CO.	REFUND STAX 040-001-100-061-00	287.25
08/25/2021	320708	FAURECIA INTERIOR SYSTEMS	REFUND STAX 040-090-026-231-00	692.53
08/25/2021	320709	WILSON, IRVIN W & TAMARA J	REFUND STAX 040-061-500-300-00	20.00
08/25/2021	320710	REALTY INCOME PROPERTIES 28 LLC	REFUND STAX 040-058-000-062-00	41.60
08/25/2021	320711	EASTBROOK HOMES	REFUND WATER/SEWER OVERPAYMENT	11.00
08/25/2021	320712	ABSTRACT TITLE AGENCY	REFUND WATER/SEWER OVERPAYMENT	6.66
08/25/2021	320713	PERRON, JOE	REFUND WATER/SEWER OVERPAYMENT	97.50
08/25/2021	320714	STEADMAN, ALFRED	REFUND WATER/SEWER OVERPAYMENT	14.90
08/25/2021	320715	BLASIUS, GARY	REFUND WATER/SEWER OVERPAYMENT	22.14
08/25/2021	320716	DIVERSIFIED NATIONAL TITLE AGENCY	REFUND WATER/SEWER OVERPAYMENT	28.64
08/25/2021	320717	QURA, GHASSAN	REFUND WATER/SEWER OVERPAYMENT	58.81
08/25/2021	320718	DELANEY, STEVE	REFUND WATER/SEWER OVERPAYMENT	59.06
08/25/2021	320719	TRI COUNTY TITLE AGENCY	REFUND WATER/SEWER OVERPAYMENT	30.95
08/25/2021	320720	VOYANT COMMUNICATIONS	PHONE & INTERNET SERVICE	3,986.05
8/31/2021	EFT	INSIGHT NORTH AMERICA, LLC	INVESTMENT SERVICES - JULY 2021	1,885.50
09/01/2021	320727	SYNCB/AMAZON	STMNT FOR OFFICE & EQUIP SUPPLIES	665.22
09/01/2021	320728	BLUE CROSS BLUE SHIELD OF MI	HEALTH INSURANCE - SEPT 2021	130,045.16
09/01/2021	320729	CAPITAL AREA UNITED WAY	PAYROLL WITHHOLDING PE 8/21/21	34.23
09/01/2021	320730	CONSUMERS ENERGY	SERVICE @ MULTIPLE LOCATIONS	825.59
09/01/2021	320731	DELTA DENTAL PLAN OF MICHIGAN	DENTAL INSURANCE - SEPT 2021	15,665.37
09/01/2021	320732	HUMANA INSURANCE CO.	RETIREES MEDICAL INS - SEPT 2021	16,750.65
09/01/2021	320733	LANSING BOARD OF WATER & LIGHT	SERVICE @ MULTIPLE LOCATIONS	10,173.82
09/01/2021	320735	SPARKY'S ELECTRIC	REFUND BUILDING FEES	30.00
09/01/2021	320736	TROWHILL, TRINA	REFUND OF NOISE WAIVER FEE	50.00
09/01/2021	320737	SUN LIFE FINANCIAL	ACCIDENT & CRITICAL ILLNESS INS	1,544.46
09/01/2021	320738	VERIZON	TWP TABLETS,AIR CARDS & PHONES	2,457.77

09/08/2021	320739	ABRAHAM'S TROPHY & GIFT SHOP	2X8 NAME SIGNS (2)	35.00
09/08/2021	320740	ACCIDENT FUND INSURANCE	WORKERS COMP FINAL INSTALLMENT	19,978.00
09/08/2021	320741	AIRGAS USA, LLC	AIR CYLINDER RENTAL, OXYGEN	980.66
09/08/2021	320742	ALLEGRA PRINT & IMAGING	DELTA FALL & DELTA NOW! MAGAZINE	9,758.10
09/08/2021	320743	ALRO STEEL	ALUMINUM	78.77
09/08/2021	320744	ALTOGAS	FORKTRUCK PROPANE	23.34
09/08/2021	320745	AMBS MESSAGE CENTER	ANSWERING SERVICE	98.31
09/08/2021	320746	AMERICAN RENTALS, INC.	PORTABLE TOILETS	683.00
09/08/2021	320747	AT&T	PHONE LINE DAMAGE(WATER MAIN BK)	3,134.69
09/08/2021	320748	AUTO VALUE PARTS STORE	VEHICLE PARTS	506.98
09/08/2021	320749	AUTO ZONE	TRANSMISSION FLUID	93.40
09/08/2021	320750	BARYAMES CLEANERS, INC.	CHIEF UNIFORMS - LAUNDRY	102.30
09/08/2021	320751	BDI	WWTP BARSCREEN CHAIN	1,555.46
09/08/2021	320752	BEARSTONE CONTRUCTION, LLC	2021 SIDEWALK REPLACEMENT	75,446.67
09/08/2021	320753	BERGMANN	ENG FEES DELTA CROSSING PH2	2,450.00
09/08/2021	320754	BOUND TREE MEDICAL, LLC	MEDICAL SUPPLIES	9,404.63
09/08/2021	320756	BOYNTON FIRE SAFETY SERVICE	FIRE EXTINGUISHER MAINTENANCE	764.00
09/08/2021	320757	BRD PRINTING, INC.	ENVELOPES	1,004.90
09/08/2021	320758	BLUE WATER MANAGEMENT	K HERMAN & P HURST - COURSES	330.00
09/08/2021	320759	CANON FINANCIAL SERVICES, INC.	MONTHLY COPIER CONTRACT CHARGE	1,064.00
09/08/2021	320760	CAPITAL ASPHALT LLC	UPM/COLD PATCH	658.80
09/08/2021	320761	CARLSON APPRAISAL	APPRAISAL FOR N CANAL LAND	2,500.00
09/08/2021	320762	CDW GOVERNMENT, INC.	TECHNOLOGY PARTS	2,944.44
09/08/2021	320763	CINTAS CORPORATION #725	MATS FOR SUBSTATION	105.00
09/08/2021	320764	CITY OF LANSING	GM SANITARY SEWER 425 AGREEMENT	55,775.83
09/08/2021	320765	DARLING INGREDIENTS, INC.	OUTDOOR GREASE	75.00
09/08/2021	320766	DELAU FIRE SERVICES	SCOTT/SCUBA HYDRO,TEST,O-RING	49.00
09/08/2021	320767	DIESEL EQUIPMENT SALES & SERVICE	THOMAS L GENERATOR	667.49
09/08/2021	320768	DORNBOS SIGN & SAFETY, INC.	CUSTOM DELTA FIRE SIGNS, MAGNETS	595.70
09/08/2021	320769	DVT ELECTRIC, INC.	CREYTS RD BOOSTER STATION UPGRADE	29,744.75
09/08/2021	320770	EATON COUNTY	WORK CREW SERVICES,SECURITY	4,970.00
09/08/2021	320771	EATON COUNTY TREASURER	SHERIFF CONTRACTUAL - AUGUST 2021	266,044.00
09/08/2021	320772	EATON COUNTY TREASURER	DISTRIBUTION OF SPACE TAX JUNE 2021	505.00
09/08/2021	320773	EATON COUNTY TREASURER	DISTRICT COURT FEES JULY 2021	1,828.50

09/08/2021	320774	ENVIRONMENTAL RESOURCE ASSOC.	WW COLIFORMS	306.97
09/08/2021	320775	ETNA SUPPLY COMPANY	WATER METERS, HYDRANT EXTENSIONS	14,485.00
09/08/2021	320776	FACILITY SOLUTIONS, INC.	DOG WASTE BAGS, TOILET TISSUE, SOAP	1,133.27
09/08/2021	320777	JOHN DEERE FINANCIAL	EQUIPMENT PARTS/MATERIALS	1,945.23
09/08/2021	320778	FIBERTEC ENVIRONMENTAL SERVICES	PFAS, HG & BIOSOLID MONITORING	1,301.00
09/08/2021	320779	O'REILLY AUTO PARTS	WIPER BLADES (2)	44.06
09/08/2021	320780	FLEETPRIDE	FILTERS,ELBOW,LAPJOINT	97.52
09/08/2021	320781	NATE FOLTZ	REIMBURSEMENT-INSPECTOR LIC FEE	375.00
09/08/2021	320782	FREDRICKSON SUPPLY, LLC	ROLLER, BOWL, 3" W/ BUSHING	53.16
09/08/2021	320783	USA TODAY NETWORK	NOTARIZED ADVERTISING JULY 2021	728.00
09/08/2021	320784	GENERAL CODE	LASERFICHE SW ASSURANCE PLAN	5,090.50
09/08/2021	320785	GLOBAL ENVIRONMENTAL	CHRONIC TOXICITY TESTS AUGUST 2021	700.00
09/08/2021	320786	GRAINGER	WATER & WWTP MATERIALS	655.53
09/08/2021	320787	GRAND LEDGE FORD	VEHICLE PARTS	491.41
09/08/2021	320788	GREAT LAKES EXPRESS SERVICE, INC.	MONTHLY MAIL SERVICE	300.00
09/08/2021	320789	H&H WELDING & REPAIR LLC	CHECK VALVE FOR PRESS	279.00
09/08/2021	320790	HAMMOND FARMS	LAWN & GARDEN MATERIALS	844.50
09/08/2021	320791	BRIAN HATFIELD	REIMBURSE-IMAGETREND TRAINING	597.89
09/08/2021	320792	HEDLUND PLUMBING	TOILET & KITCHEN DRAIN REPAIR	389.70
09/08/2021	320793	HOFFMAN PHOTOGRAPHY	PHOTOS FOR PARKS DANCE EVENTS	486.00
09/08/2021	320794	HOLLAND SUPPLY, INC.	LOT OF 3 SAFEGUARD URN VAULT	404.98
09/08/2021	320795	HOWELL RESCUE SYSTEMS, INC.	SUPERVAC FAN & CHARGER	5,700.00
09/08/2021	320796	INGSTRUP GARAGE DOOR & CONSTR.	COMMERCIAL DOOR INSTALLATIONS	6,823.85
09/08/2021	320797	ERIN INMAN	INSTRUCTOR PAY-KNIT/CROCHET	168.00
09/08/2021	320798	INTERNATIONAL MINUTE PRESS	W/S BILLS, VACATE NOTICES	4,839.05
09/08/2021	320799	I/O SOLUTIONS, INC.	NEXT GENERATION FIRE/EMT EXAMS	88.00
09/08/2021	320800	NATIONAL BRANDING SIGN	NAME PLATES	72.95
09/08/2021	320801	K&H CONCRETE CUTTING OF LANSING	18300 WILLOW WOODS, TLP/SAGINAW	400.00
09/08/2021	320802	K & K TRUCKING	10 YARDS TOPSOIL	150.00
09/08/2021	320803	KANAZEH LAWN SERVICE	MOWING NOXIOUS WEEDS	690.00
09/08/2021	320804	KENDALL ELECTRIC INC.	CONDUITS, VINYL TAPE, CORD REEL	159.72
09/08/2021	320805	KEUSCH TIRE AND TOWING	TIRES & LABOR	378.00
09/08/2021	320806	KIMBALL MIDWEST	PARTS/TOOLS	590.89
09/08/2021	320807	RICK KINSMAN	REIMBURSEMENT-INSPECTOR LIC FEE	225.00

09/08/2021	320808	MATT LEACH	REIMBURSEMENT-INSPECTOR LIC FEE	225.00
09/08/2021	320809	LYDEN OIL COMPANY	COMPRESSOR OIL	1,411.90
09/08/2021	320810	MARK'S LOCK SHOP, INC.	MORTISE CYLINDER,KEYS	38.00
09/08/2021	320811	USA SOFTBALL OF MICHIGAN	SLOWPITCH SOFTBALLS (12 DOZ)	640.25
09/08/2021	320812	MCKEARNEY ASPHALT & SEALING, INC.	WATER MAIN BREAK	5,500.00
09/08/2021	320813	MCNAMARA'S HEATING & COOLING	A/C MAINT-COMMUNITY CENTER	84.00
09/08/2021	320814	MEDLER ELECTRIC CO.	PARTS FOR STATION PANEL	100.00
09/08/2021	320815	MENARDS	PIPE SEAL & MATERIALS	122.84
09/08/2021	320816	MERIT LABORATORIES, INC.	SAMPLES: AMR - FINAL AFFLUENT	592.00
09/08/2021	320817	MICHIGAN COMPANY, INC.	CLEANING SUPPLIES,TOILET PAPER	345.47
09/08/2021	320818	MPARKS	GRAND HOTEL ROOMS - 39'ERS TRIP	23,585.00
09/08/2021	320819	LEIBY, KELBY	REIMBURSEMENT FOR EMS IC LICENSE	349.00
09/08/2021	320820	PAWLEY, JILL	REIMBURSEMENT - DELTA APPAREL	98.00
09/08/2021	320821	MW WATERMARK LLC	PRESS FILTER PLATE	4,659.28
09/08/2021	320822	NORTH GRAND RIVER COOPERATIVE	DELTA FIRE MEDICAL LINENS JULY 2021	169.64
09/08/2021	320823	NYE UNIFORM	APPAREL WITH EMBROIDERY	1,116.00
09/08/2021	320824	OHM ADVISORS	PROFESSIONAL SERVICES	2,903.50
09/08/2021	320825	PINNACLE LOCK & KEY	INSTALL DEADBOLTS MENS SHOWER	220.00
09/08/2021	320826	PROGRESSIVE AE	PROFESSIONAL SERVICES	5,915.00
09/08/2021	320827	PROVIDENCE CONSULTING COMPANY	OFFICE 365 BUSINESS ESSENTIALS	1,854.30
09/08/2021	320828	PVS TECHNOLOGIES, INC.	FERRIC CHLORIDE SOLUTION	6,180.06
09/08/2021	320829	RETROFOAM OF MICHIGAN, INC.	ROOF INSULATION @ PARKS	8,689.00
09/08/2021	320830	RIVER ROCK PROPERTY MANAGEMENT	LANDSCAPE @ WAVERLY/ST JOE	3,800.00
09/08/2021	320831	ROOFING INNOVATIONS, LLC	FIRE STATION #1 ROOF REPLACEMENT	101,792.75
09/08/2021	320832	ROSE PEST SOLUTIONS	MONTHLY PEST CONTROL	84.00
09/08/2021	320833	SAFETY SERVICES, INC.	N95 MASKS (2 BOXES)	55.94
09/08/2021	320834	SHERWIN-WILLIAMS	PAINT & SUPPLIES	226.82
09/08/2021	320835	THE SHYFT GROUP USA, INC.	REPAIRS TO TRUCK#1C038801	635.00
09/08/2021	320836	SPICER GROUP	TESTING FOR MS4 PERMIT PROGRAM	2,035.25
09/08/2021	320837	STAMBAUGH MASONRY EQUIPMENT	WWTP IMPROVEMENTS	6,500.00
09/08/2021	320838	STATE OF MICHIGAN	RENEWAL WATER COURSES	250.00
09/08/2021	320839	SUNDANCE CHEVROLET	VEHICLE PARTS	448.21
09/08/2021	320840	TARGETSOLUTIONS LEARNING, LLC	PREMIER MEMBERSHIP	14,221.63
09/08/2021	320841	THRUN LAW FIRM P.C.	LEGAL SERVICES - JULY 2021	7,182.00

09/08/2021	320842	TRACTOR SUPPLY CREDIT PLAN	SUPPLIES & MATERIALS - AUGUST 2021	423.80
09/08/2021	320843	WEST SHORE FIRE, INC.	NOMEX HOODS, SIREN SERVICE CALL	2,514.50
09/08/2021	320844	WINDER POLICE EQUIPMENT	FLASHLIGHTS FOR USE IN FIRES	<u>518.00</u>
			PAYABLES TOTAL	\$ 2,940,649.28
			PAYROLL PAY ENDING 8/21/2021	\$ 375,470.75
			GRAND TOTAL	<u>\$ 3,316,120.03</u>

CHARTER TOWNSHIP OF DELTA
Public Meeting Room A
Delta Township Administration Building
7710 West Saginaw Highway
Lansing, MI 48917

**TOWNSHIP BOARD REGULAR MEETING MINUTES FOR
MONDAY, AUGUST 16, 2021**

I. CALL TO ORDER

Supervisor Fletcher called the meeting to order at 6:00 PM.

II. OPENING CEREMONIES – Pledge of Allegiance

III. ROLL CALL

Members Present: Supervisor Kenneth R. Fletcher, Treasurer Dennis R. Fedewa, Clerk Mary R. Clark, Trustee Andrea M. Cascarilla, Trustee Karen J. Mojica, Trustee Fonda J Brewer, and Trustee Elizabeth S. Bowen

Members Absent:

Others Present: Assistant Manager Alannah Doak, Lt. Ross Tyrell, Fire Chief Ginebaugh, Assistant Fire Chief John Kahler, Utilities Director Rick Kane, Township Engineer Ernie West, Parks, Recreation, & Cemeteries Director Marcus Kirkpatrick, Finance Director Courtney Nicholls, Building Director Matt Leach, and IT Director Dave Marquette

IV. PRESENTATIONS AND PROCLAMATIONS

V. SET/ADJUST AGENDA

TRUSTEE BREWER MOVED TO APPROVE THE AGENDA AS PRESENTED.

TRUSTEE CASCARILLA SUPPORTED THE MOTION. THE MOTION PASSED 7-0.

VI. PUBLIC HEARINGS

1. Hearing of Necessity for Stoll Road Streetlight District

STOLL ROAD RESIDENTS IN FAVOR OF AND OPPOSED TO THE NEW STREET LIGHT DISTRICT SPOKE TO THE BOARD.

BARB POMA - 433 STOLL RD
CHERYL FARHAT – 419 STOLL RD
KRISTINA & ANDREW PAVLIK – 331 STOLL RD
JENNIFER ADAMS - 518 STOLL RD
SHIRLEY FANDRICK – 333 STOLL RD
ANDREW BAILEY – 512 STOLL RD

CLERK CLARK MOVED THAT THE DELTA TOWNSHIP BOARD DECLARE ITS INTENT TO PROCEED WITH THE INSTALLATION OF STREET LIGHTS IN THE DISTRICT KNOWN AS STOLL ROAD.

FURTHER, THE BOARD DECLARES THAT SUFFICIENT PETITIONS WERE SUBMITTED TO PROCEED WITH SAID IMPROVEMENTS.

FURTHER, THAT THE BOARD APPROVE THE PLANS AND ESTIMATE OF COSTS FOR THE PROPOSED PROJECT.

FURTHER, THE BOARD OF TRUSTEES HEREBY APPROVES THE SAID SPECIAL ASSESSMENT DISTRICT AND DETERMINES THAT THE TERM OF ITS EXISTENCE SHALL BE IN PERPUTITY.

FURTHER, THE SUPERVISOR IS DIRECTED TO PREPARE A SPECIAL ASSESSMENT ROLL FOR THE SAID SPECIAL ASSESSMENT DISTRICT WHICH SHALL BE FILED WITH THE TOWNSHIP CLERK.

FURTHER, THAT THE PUBLIC HEARING FOR OBJECTIONS TO THE SPECIAL ASSESSMENT ROLL IS SET FOR SEPTEMBER 20, 2021 AT 6 P.M. AT THE DELTA TOWNSHIP ADMINISTRATION BUILDING.

FURTHER, COSTS MAY BE INCREASED BY THE UTILITY COMPANY OVER TIME TO REFLECT INCREASES IN ELECTRICAL RATES.

FURTHER, THE CLERK IS DIRECTED TO PUBLISH NOTICE OF THE PUBLIC HEARING IN THE NEWSPAPER AND NOTIFY THE AFFECTED PROPERTY OWNERS. THE CLERK SHALL NOTIFY ALL PROPERTY OWNERS THAT THEY MUST APPEAL AT THE PUBLIC HEARING OR FILE A WRITTEN PROTEST OBJECTING TO SAID SPECIAL ASSESSMENT IN ORDER TO FURTHER APPEAL TO THE MICHIGAN TAX TRIBUNAL.

TRUSTEE BOWEN SUPPORTED THE MOTION. THE MOTION PASSED 7-0.

VII. COMMUNICATIONS

2. Wastewater Treatment Plant Update

VIII. PUBLIC COMMENTS *(maximum three minutes)*

IX. INTRODUCTION OF ORDINANCES

X. PASSAGE OF ORDINANCES

XI. CONSENT AGENDA

TRUSTEE CASCARILLA MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED.

TREASURER FEDEWA SUPPORTED THE MOTION.

ROLL CALL:

AYES: SUPERVISOR FLETCHER, CLERK CLARK, TREASURER FEDEWA, TRUSTEE CASCARILLA, TRUSTEE MOJICA, TRUSTEE BREWER, AND TRUSTEE BOWEN

NAYS: NONE

ABSENT:

THE MOTION PASSED 7-0.

3. Bills and Financial Transactions

Payroll & Related	\$	374,761.21
Refunds	\$	877.97
Tax Distributions	\$	1,995,621.09
Vendor Claims	\$	419,468.87
Total	\$	2,790,729.14

TRUSTEE CASCARILLA MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED.

TREASURER FEDEWA SUPPORTED THE MOTION. THE MOTION PASSED 7-0.

4. Minutes

a. August 2, 2021

b. August 9, 2021

TRUSTEE CASCARILLA MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED.

TREASURER FEDEWA SUPPORTED THE MOTION. THE MOTION PASSED 7-0.

5. Wind Trace Phase 2 Final Close Out

TRUSTEE CASCARILLA MOVED THAT THE DELTA TOWNSHIP BOARD ACCEPT THE WAIVER OF LIEN AND DEED OF GRANT FOR THE SANITARY SEWER AND WATER MAIN FACILITIES INSTALLED TO SERVE THE WIND TRACE PHASE II SUBDIVISION PROJECT LOCATED IN THE SOUTHEAST 1/4 OF SECTION 18 OF DELTA TOWNSHIP, AND

IT WAS FURTHER MOVED THAT SAID SANITARY SEWER AND WATER MAIN FACILITIES BE ACCEPTED INTO THE DELTA TOWNSHIP SANITARY SEWER AND WATER MAIN SYSTEMS.

TREASURER FEDEWA SUPPORTED THE MOTION. THE MOTION PASSED 7-0.

6. St. Joe Pathway Watermain Easement Proposal Contract Award

TRUSTEE CASCARILLA MOVED THAT THE DELTA TOWNSHIP BOARD ACCEPT THE PROPOSED CONTRACT MODIFICATION FROM TETRATECH, FOR THE PURPOSE OF PROVIDING PROFESSIONAL EASEMENT ACQUISITION SERVICES FOR THE ST. JOE HIGHWAY WATER MAIN AND PATHWAY PROJECT IN AN AMOUNT NOT TO EXCEED \$184,800.00.

IT WAS FURTHER MOVED THAT THE TOWNSHIP MANAGER IS HEREBY AUTHORIZED TO SIGN AND EXECUTE AN AGREEMENT FOR SAID SERVICES ON BEHALF OF DELTA TOWNSHIP.

TREASURER FEDEWA SUPPORTED THE MOTION. THE MOTION PASSED 7-0.

7. Out of Service Portable Radios

TRUSTEE CASCARILLA MOVED THAT THE DELTA TOWNSHIP BOARD ACCEPT THE RECOMMENDATION FROM THE FIRE CHIEF TO DONATE APPROXIMATELY 70 OBSOLETE VEHICLE AND HAND-HELD RADIOS TO FIRE DEPARTMENTS IN MICHIGAN'S UPPER PENINSULA IN ACCORDANCE

WITH THE SURPLUS PROPERTY POLICY.

TREASURER FEDEWA SUPPORTED THE MOTION. THE MOTION PASSED 7-0.

8. Quit Claim Deed – Gettysburg Farms Land Donation

TRUSTEE CASCARILLA MOVED THAT THE DELTA TOWNSHIP BOARD ACCEPT THE QUIT CLAIM DEED FOR THE GETTYSBURG FARMS PARK OF GETTYSBURG FARMS NO. 3 AS A DONATION TO DELTA TOWNSHIP.

TREASURER FEDEWA SUPPORTED THE MOTION. THE MOTION PASSED 7-0.

XII. ITEMS REMOVED FROM CONSENT AGENDA FOR DISCUSSION

XIII. UNFINISHED BUSINESS

9. Case No. 05-21-07: Special Land Use Permit Request for an Outdoor Commercial Recreational Facility (Drive-In Theatre) at 921 Mall Drive West, Lansing, MI 48917

No action taken. Trustee Bowen requested staff provide an update on this item at the next Committee of the Whole meeting.

XIV. ITEMS ADDED TO AGENDA UNDER SECTION V. SET/ADJUST AGENDA

XV. NEW ITEMS OF BUSINESS

10. Contract Awards for Sheriff Substation Project

TRUSTEE CASCARILLA MOVED THAT THE DELTA TOWNSHIP BOARD CONTRACT WITH CHRISTMAN FOR THE PURPOSE OF PROVIDING DESIGN-BUILD SERVICES FOR PHASE 1 OF THE DELTA TOWNSHIP SHERIFF SUBSTATION PROJECT AT A COST NOT TO EXCEED \$100,850.00. FURTHER, THE TOWNSHIP MANAGER IS HEREBY AUTHORIZED TO SIGN AND EXECUTE AN AGREEMENT FOR SAID SERVICES ON BEHALF OF DELTA TOWNSHIP.

TRUSTEE BREWER SUPPORTED THE MOTION. THE MOTION PASSED 7-0.

11. Delta Township Saginaw Highway CIA Bylaws

SUPERVISOR FLETCHER MOVED THAT THE DELTA TOWNSHIP BOARD IS

ASKED TO APPROVE THE BYLAWS AS WRITTEN FOR THE DELTA TOWNSHIP CORRIDOR IMPROVEMENT AUTHORITY. APPROVAL OF THE BYLAWS WILL ALLOW THE AUTHORITY BOARD TO ELECT OFFICERS AND TO TAKE OFFICIAL ACTION ON MATTERS BEFORE THEM.

TRUSTEE MOJICA SUPPORTED THE MOTION.

The Board of Trustees discussed the item.

TREASURER FEDEWA MOVED TO ADOPT THE TWO AMENDMENTS TO THE PROPOSED BYLAWS AS FOLLOWS:

Amend Article II (C) (8) by inserting the following language indicated in italics:
“*KNOWINGLY VOTING OR VIOLATING ARTICLE II (D) (2) ON ANY MATTER IN WHICH A MEMBER HAS A CONFLICT OF INTEREST SHALL CONSTITUTE MALFEASANCE OF OFFICE*”

Amend Article II (D) (1) by adding:
“THE EXECUTIVE COMMITTEE SHALL REPORT TO THE TOWNSHIP BOARD AT ITS NEXT REGULARLY SCHEDULED MEETING, THE REASONS FOR THE EXECUTIVE COMMITTEE’S REVIEW OF THE ALLEGATIONS OF A CONFLICT OF INTEREST AND ITS CONCLUSIONS. UNLESS IT IS FOUND THAT ALLEGATIONS ARE VALID, THE RESULT OF THE EXECUTIVE COMMITTEES FINDINGS NEED NOT IDENTIFY THE AUTHORITY BOARD MEMBER IN QUESTION.”

TRUSTEE BREWER SUPPORTED THE MOTION TO AMEND. THE MOTION PASSED 7-0.

The Board of Trustees continued with additional discussion.

THE MOTION PASSED 7-0.

XVI. MANAGERS REPORT

Assistant Manager Doak presented updates to the Township Board:

- Last week, the area received heavy rain over a very short period. The highest of our 5 rain gauges around town recorded 5.04 inches at the Snow Road Booster Station. The Wastewater Treatment Plant experienced high flows, but staff was able to avoid any major problems.

- Manager Reed has been checking in with Representative Witwer, they are hoping to have the state budget completed in mid-September.
- GM is expected to resume production beginning next Monday, August 23.
- Michael Armitage is leaving his position as Director of Eaton County Central Dispatch August 30th to Join Calhoun County Central Dispatch.
- Last week we reported that we did not receive green money in our SRF award. Staff checked with EGLE and found that it was a statewide decision to use up all of its allotted principal forgiveness for disadvantaged communities, which Delta Twp does not qualify for. Staff will continue to watch the federal infrastructure bill as that could potentially have some principal forgiveness in it.
- New Assistant Fire Chief John Kahler was introduced to the Board of Trustees.

XVII. COMMITTEE OF THE WHOLE

XVIII. PUBLIC COMMENTS *(Maximum Three Minutes)*

XIX. CLOSED SESSION

XX. ADJOURNMENT

Supervisor Fletcher adjourned the meeting at 7:30 PM.

CHARTER TOWNSHIP OF DELTA

KENNETH R. FLETCHER, SUPERVISOR

MARY R. CLARK, TOWNSHIP CLERK



MEMO

TO: Kenneth R. Fletcher and the Delta Township Board

FROM: Brian Thelen Deputy Assessing Director

DATE: August 10, 2021

SUBJECT: Approval of the Operating and Paramedic/Firefighter 2021
Tax Rates for form L-4029 for the Delta Township Winter Tax Roll and the City of Lansing
Winter Tax Roll

I have prepared the 2021 Tax Rate Request form L-4029 using the projected tax rates in the 2022 preliminary budget. They are 4.9287 mills for the charter tax levy and 0.9896 mills for the Paramedic/Firefighter tax levy. The purpose of the L-4029 is to ensure that legal authority exists for a taxing entity to levy its requested tax rate.

The above-mentioned tax rates are the same rates that were used for the 2020 tax levy and the "Headlee Amendment" or the "Truth in Taxation" provisions will not impact the maximum tax rates for either of the Delta Township's operating millages for 2021. Since the taxable value after adjusting the current tax base for losses and additions from the previous year did not increase faster than the rate of inflation, Delta is not required to permanently reduce the maximum operating tax rates for 2021 and beyond. A vote of the citizens is the only way to override a "Headlee Amendment" rollback.

The 2021 Tax Rate Request form L-4029 must be filed with Eaton County who will then include Delta Township's millage rates on their apportionment report and will give Delta Township the full authority to levy these tax rates on the 2021 Delta Township Winter Tax Roll and the Paramedic/Firefighter tax levy on the 2021 City of Lansing Winter Tax Roll.

I offer the following motion:

"I move the Delta Township Board adopt the following millage rates to be used on the 2021 Tax Rate Request form L-4029 and to levy said tax rates on the 2021 Delta Township Winter Tax Roll and levy the Paramedic/Firefighter tax rate on the 2021 City of Lansing Winter Tax Roll:

- ***4.9287 mills for the charter tax levy***
- ***0.9896 mills for the Paramedic/Firefighter tax levy***

I further move that the Township Supervisor and Clerk are authorized to sign the 2021 Tax Rate Request Form L-4029 to be filed with Eaton County Clerk."

2021 Tax Rate Request (This form must be completed and submitted on or before September 30, 2021)

MILLAGE REQUEST REPORT TO COUNTY BOARD OF COMMISSIONERS

Carefully read the instructions on page 2.

This form is issued under authority of MCL Sections 211.24e, 211.34 and 211.34d. Filing is mandatory; Penalty applies.

County(ies) Where the Local Government Unit Levies Taxes Eaton County	2021 Taxable Value of ALL Properties in the Unit as of 5-24-2021 1,594,234,942
Local Government Unit Requesting Millage Levy Charter Township of Delta	For LOCAL School Districts: 2021 Taxable Value excluding Principal Residence, Qualified Agricultural, Qualified Forest, Industrial Personal and Commercial Personal Properties.

This form must be completed for each unit of government for which a property tax is levied. Penalty for non-filing is provided under MCL Sec 211.119. The following tax rates have been authorized for levy on the 2021 tax roll.

(1) Source	(2) Purpose of Millage	(3) Date of Election	(4) Original Millage Authorized by Election Charter, etc.	(5)** 2020 Millage Rate Permanently Reduced by MCL 211.34d "Headlee"	(6) 2021 Current Year "Headlee" Millage Reduction Fraction	(7) 2021 Millage Rate Permanently Reduced by MCL 211.34d "Headlee"	(8) Sec. 211.34 Truth in Assessing or Equalization Millage Rollback Fraction	(9) Maximum Allowable Millage Levy *	(10) Millage Requested to be Levied July 1	(11) Millage Requested to be Levied Dec. 1	(12) Expiration Date of Millage Authorized
Charter	Operating	08/07/62	5.0000	4.9287	1.0000	4.9287	1.0000	4.9287		4.9287	NA
Voted	PM/FF	08/07/18	0.9896	0.9896	1.0000	0.9896	1.0000	0.9896		0.9896	12/2028

Prepared by Brian Thelen	Telephone Number 517-323-8520	Title of Preparer Deputy Director of Assessing	Date 8/10/2021
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CERTIFICATION: As the representatives for the local government unit named above, we certify that these requested tax levy rates have been reduced, if necessary to comply with the state constitution (Article 9, Section 31), and that the requested levy rates have also been reduced, if necessary to comply with MCL Sections 211.24e, 211.34 and, for LOCAL school districts which levy a Supplemental (Hold Harmless) Millage, 380.1211(3).

Local School District Use Only. Complete if requesting millage to be levied. See STC Bulletin 2 of 2021 for instructions on completing this section.

<input checked="" type="checkbox"/> Clerk	Signature	Print Name	Date
<input type="checkbox"/> Secretary		Mary R. Clark, Delta Township Clerk	
<input checked="" type="checkbox"/> Chairperson	Signature	Print Name	Date
<input type="checkbox"/> President		Kenneth R. Fletcher, Twp. Supervisor	

Total School District Operating Rates to be Levied (HH/Supp and NH Oper ONLY)	Rate
For Principal Residence, Qualified Ag, Qualified Forest and Industrial Personal	
For Commercial Personal	
For all Other	

* Under Truth in Taxation, MCL Section 211.24e, the governing body may decide to levy a rate which will not exceed the maximum authorized rate allowed in column 9. The requirements of MCL 211.24e must be met prior to levying an operating levy which is larger than the base tax rate but not larger than the rate in column 9.

** **IMPORTANT:** See instructions on page 2 regarding where to find the millage rate used in column (5).

2021 Tax Rate Request (This form must be completed and submitted on or before September 30, 2021)

MILLAGE REQUEST REPORT TO COUNTY BOARD OF COMMISSIONERS

Carefully read the instructions on page 2.

This form is issued under authority of MCL Sections 211.24e, 211.34 and 211.34d. Filing is mandatory; Penalty applies.

County(ies) Where the Local Government Unit Levies Taxes Eaton County	2021 Taxable Value of ALL Properties in the Unit as of 5-24-2021 134,105,400
Local Government Unit Requesting Millage Levy Charter Township of Delta *For City of Lansing Winter Tax*	For LOCAL School Districts: 2021 Taxable Value excluding Principal Residence, Qualified Agricultural, Qualified Forest, Industrial Personal and Commercial Personal Properties.

This form must be completed for each unit of government for which a property tax is levied. Penalty for non-filing is provided under MCL Sec 211.119. The following tax rates have been authorized for levy on the 2021 tax roll.

(1) Source	(2) Purpose of Millage	(3) Date of Election	(4) Original Millage Authorized by Election Charter, etc.	(5)** 2020 Millage Rate Permanently Reduced by MCL 211.34d "Headlee"	(6) 2021 Current Year "Headlee" Millage Reduction Fraction	(7) 2021 Millage Rate Permanently Reduced by MCL 211.34d "Headlee"	(8) Sec. 211.34 Truth in Assessing or Equalization Millage Rollback Fraction	(9) Maximum Allowable Millage Levy *	(10) Millage Requested to be Levied July 1	(11) Millage Requested to be Levied Dec. 1	(12) Expiration Date of Millage Authorized
Voted	PM/FF	08/07/18	0.9896	0.9896	1.0000	0.9896	1.0000	0.9896		0.9896	12/2028

Prepared by Brian Thelen	Telephone Number 517-323-8520	Title of Preparer Deputy Director of Assessing	Date 8/10/2021
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Local School District Use Only. Complete if requesting millage to be levied. See STC Bulletin 2 of 2021 for instructions on completing this section.	
Total School District Operating Rates to be Levied (HH/Supp and NH Oper ONLY)	Rate
For Principal Residence, Qualified Ag, Qualified Forest and Industrial Personal	
For Commercial Personal	
For all Other	

<input checked="" type="checkbox"/> Clerk	Signature	Print Name	Date
<input type="checkbox"/> Secretary		Mary R. Clark, Delta Township Clerk	
<input checked="" type="checkbox"/> Chairperson	Signature	Print Name	Date
<input type="checkbox"/> President		Kenneth R. Fletcher, Twp. Supervisor	

* Under Truth in Taxation, MCL Section 211.24e, the governing body may decide to levy a rate which will not exceed the maximum authorized rate allowed in column 9. The requirements of MCL 211.24e must be met prior to levying an operating levy which is larger than the base tax rate but not larger than the rate in column 9.

**** IMPORTANT:** See instructions on page 2 regarding where to find the millage rate used in column (5).

Supervisor Kenneth R. Fletcher
Clerk Mary R. Clark
Treasurer Dennis R. Fedewa
Manager Brian T. Reed



Trustee Elizabeth S. Bowen
Trustee Fonda J. Brewer
Trustee Andrea M. Cascarilla
Trustee Karen J. Mojica

Utilities Department

(517) 323-8570

To: Supervisor Kenneth R. Fletcher and the Delta Township Board

From: Rick Kane, Utility Director

Date: September 7, 2021

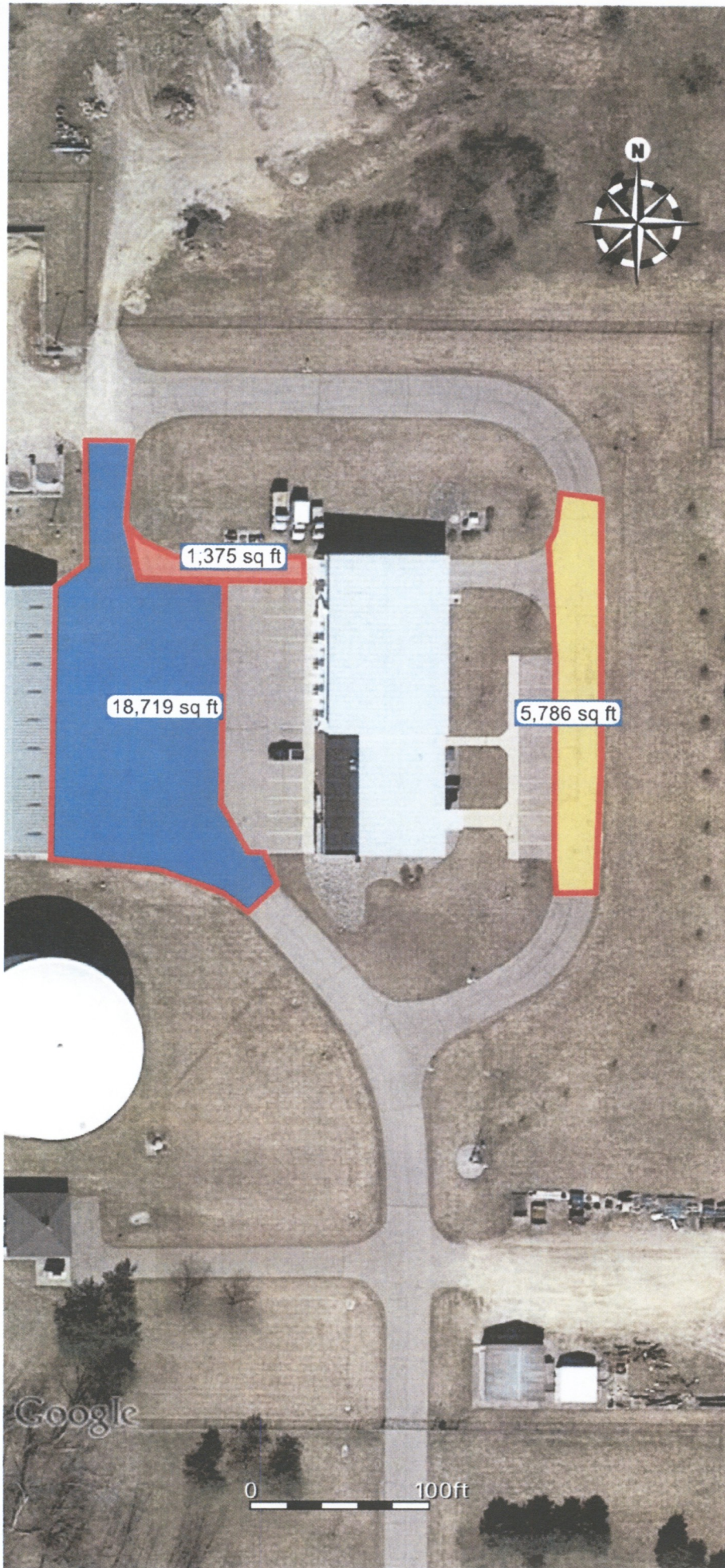
Re: Distribution Operations asphalt repairs

In the 2021 budget, funds were approved to perform asphalt repairs at our Distribution Operations site. We requested quotes from several companies to perform the work, and McKearney Asphalt & Sealing submitted the best cost and proposal of \$34,175.00. McKearney Asphalt & Sealing has completed several jobs for the Utility Department over the past few years, and they have always done an excellent job.

Please see the attached map that shows the area to be completed, highlighted in blue and red.

I offer the following motion:

“I move that the Delta Township Board accept the proposal from McKearney Asphalt & Sealing for the necessary asphalt repairs at the Utility Department Distribution Operations site in the amount of \$34,175.00. I further move that the Township Board authorize the Township Manager to sign the authorization forms.”



1,375 sq ft

18,719 sq ft

5,786 sq ft

Google

0 100ft

McKearney Asphalt & Sealing Inc

P O Box 22083 Lansing MI 48909
16501 OLD US 27 Lansing, MI 48906

Phone: (517) 484-3188 Fax: (517) 484-3171
www.mckearneyasphalt.com

Proposal submitted to DELTA TOWNSHIP	Phone 517.323.8570 EMAIL: rkane@deltami.gov
Street 7710 W SAGINAW HWY	Date August 2, 2021
city, state, and zip code LANSING, MI 48917	Job location 7812 W WILLOW HWY, GRAND LEDGE, MI 48837
Contact RICK KANE – DIRECTOR UTILITY DEPT 517.816.8180	Saved As DELTA TOWNSHIP – 7812 W WILLOW HWY

We hereby submit specifications and estimates for:

JOB LOCATION: 7812 W WILLOW HWY, GRAND LEDGE, MI 48837

- REMOVE AND REPLACE RED SECTION OF EXISTING PARKING LOT APPROX: 1,375 SQ/FT @ \$3.48 = \$4,785.00**
 SAW CUT AS NEEDED AND REMOVE ASPHALT AND HAUL TO A DNR APPROVED SITE
 FINE GRADE AND COMPACT EXISTING BASE WITH VIBRATORY ROLLER
 FURNISH AND INSTALL 2" OF MDOT 13A BITUMINOUS AGGREGATE
 APPLY SS1H BOND COAT
 FURNISH AND INSTALL 2" OF MDOT 13A BITUMINOUS AGGREGATE

-NOTE UNDERCUTS MAY BE NEEDED IF UNSTABLE SUB-BASE IS ENCOUNTERED FOR AN ADDITIONAL \$45.00 PER YARD WITH 21AA CRUSHED CONCRETE INSTALLED AND SPOILS HAULED OFFSITE

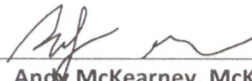
- ROTOMILL EXISTING BLUE SECTION OF PARKING LOT APPROX: 18,720 SQ/FT @ \$1.57 = \$29,390.40**
 ROTOMILL SECTION OF EXISTING PARKING LOT AND HAUL MILLINGS OFFSITE
 CLEAN PARKING LOT WITH POWER BROOM
 APPLY SS1H BOND COAT, WEDGE LOW AREAS
 FURNISH AND INSTALL 2" OF MDOT 13A BITUMINOUS AGGREGATE

***FOR THE SUM OF: \$34,175.40**

-NOTE: CRACKS WILL REFLECT AT SOME POINT IN TIME.

We propose hereby to furnish material and labor - complete in accordance with above specifications

Payment to be made as follows: ½ Deposit and Balance due upon completion, net 10 days. A time price difference of 1.5% per month will be charged on all accounts not paid when due. Should McKearney Asphalt & Sealing Inc. initiate any actions to force collection of any sums due, McKearney Asphalt & Sealing Inc. shall receive all cost incurred by McKearney Asphalt & Sealing Inc. including actual reasonable attorney fees. Quote good for 30 days.



Andy McKearney, McKearney Asphalt

Acceptance of Proposal

We hereby accept this proposal. The specifications and prices are approved and satisfactory. The general conditions are understood and accepted on the back of this proposal. Payment will be made in accordance with the terms offered. I further represent that I am authorized to sign this contract.

Accepted:

Date: _____

By: _____

Authorized Representative

If accepted, please sign and return one copy to our office. Keep one copy for your records.



Quality workmanship at a fair price
Serving Mid-Michigan for more than 35 years

August 12, 2021



TOMCO ASPHALT, INC.

Proposal submitted to:
Delta Twp

Job Number:G15801

Contact:
Dave Swink

7812 Willow Hwy

Job Location:

We hereby submit specification and estimates for:

Option 1- Blue Area 18,719 square feet 2" Mill and Pave

1. Mill area and haul away mill tailings
2. Broom clean surface
3. Apply SS-1h bond coat
4. Place and compact 2" Hot Mix Asphalt (13A) Wearing Course

Total Cost: \$ 36,760.00

Option 2- Red Area 1,375 square feet 5"

1. Remove asphalt and haul away
2. Place and compact 3" Hot Mix Asphalt (13A) Leveling Course
3. Place and compact 2" Hot Mix Asphalt (13A) Wearing Course

Total Cost: \$ 7,200.00

Final sum \$ 43960.00

Option 3- Yellow 5,786 square feet 2" Mill and Pave

1. Mill area and haul away mill tailings
2. Broom clean surface
3. Apply SS-1h bond coat
4. Place and compact 2" Hot Mix Asphalt (13A) Wearing Course

Total Cost: \$ 11,572.00

Option 4- Crack Fill 12,700 linear feet

1. Clean and fill cracks with Dura Fill PL hot rubber

Total Cost: \$ 9,525.00



PROPOSAL

Rieth-Riley Construction Co., Inc. - Lansing
 4150 S. Creyts, Lansing, MI 48917
 P. 517.721.0103 - F. 517.721.0105
jtranger@rieth-riley.com

Date: 8/16/2021

Job Name: Delta Township Water Plant		Job Location: Delta Township	
Proposal Submitted To		Owner Information	
Name: Dave	Name:	Company: Delta Township	Company:
Address: 7812 W. Willow Highway	Address:	City/St/Zip: Grand Ledge, MI 48837	City/St/Zip:
Phone: 517-323-8570 Fax: 517-323-1771	Phone:	Fax:	Fax:
Mobile:	Email: dswink@deltami.gov	Mobile:	Email:

Rieth-Riley Construction Co., Inc. ("Contractor") submits to Owner/General Contractor ("Customer") this Proposal based on plans and specifications prepared by _____ and dated _____ and the following addenda, if any: _____.

Item	Description	Quantity	Unit Price	Extension
Back Lot				
1	2" Milling	2,200.00 SYD	\$4.25 SYD	\$9,350.00
2	Back Lot HMA Paving 2"	270.00 Ton	\$105.00 Ton	\$28,350.00
3	Structure Adjustment	2.00 EA	\$560.00 EA	\$1,120.00
4	Aggregate Base	50.00 Ton	\$50.00 Ton	\$2,500.00
Front Lot				
1	2" Milling	575.00 SYD	\$4.25 SYD	\$2,443.75
2	Front Lot HMA Paving 2"	65.00 Ton	\$115.00 Ton	\$7,475.00
Total:				\$51,238.75

Final sum \$41320.

Conditions

- 1) Dues, bonds, permits, special insurance and inspection fees by others.
- 2) Traffic Control devices to be provided by others.
- 3) Pavement marking not included.
- 4) Final payment based on quantity placed.
- 5) Please be advised reflective cracking can occur when overlaying existing pavements.
- 6) Aggregate base placed as needed after milling

THIS PROPOSAL SHALL REMAIN VALID ONLY FOR 15 DAYS FROM THE ABOVE PROPOSAL DATE.		SALES TAX INCLUDED	
THIS PROPOSAL INCLUDES ALL OF THE STANDARD TERMS & CONDITIONS SET FORTH ON THE REVERSE SIDE OF THIS DOCUMENT		By: <u><i>Jacob T. Ranger</i></u> Jake Ranger, Project Manager	
ACCEPTANCE OF PROPOSAL			
I (we) have read the above Proposal, INCLUDING THE STANDARD TERMS & CONDITIONS ON THE REVERSE SIDE, and hereby accept this Proposal. You are hereby authorized to begin the work as proposed.			
_____ (Company Name)		_____ (Date Signed)	
By: _____ (Authorized Signature)		_____ (Printed Name & Title)	

A 100% Employee Owned Company



Supervisor Kenneth R. Fletcher
Clerk Mary R. Clark
Treasurer Dennis R. Fedewa
Manager Brian T. Reed



Trustee Elizabeth S. Bowen
Trustee Fonda J. Brewer
Trustee Andrea M. Cascarilla
Trustee Karen J. Mojica

Engineering Department

(517) 323-8540

TO: Supervisor Fletcher and the Delta Township Board

FROM: Ernest A. West, P.E.
Township Engineer

DATE: August 30, 2021

SUBJECT: Menards Yard Expansion
8505 Delta Market Drive, Lansing, MI 48917
Utility Agreement

Attached, please find an executed Municipal Utility Agreement for relocation of existing public sanitary sewer main to accommodate the construction of the Menards Yard Expansion project located in Section 16 of Delta Township at 8505 Delta Market Drive, Lansing, MI.

This agreement is the standard form that is currently used by the Township Engineering Department and has been executed by the Developer. The agreement requires that all costs for construction of the utilities are to be paid by the Developer.

Staff will attend the September 7, 2021 Board meeting to answer any questions or address any concerns the Board may have. If there any questions in the interim, please let us know. Thank you.

The following motion is offered for your consideration:

"I move that the Delta Township Board approve the Municipal Utility Agreement submitted by Menard, Inc. for the relocation of the existing public sanitary sewer main to accommodate the proposed Menards Yard Expansion project. I further move that the Township Supervisor and Clerk be authorized and directed to sign the agreement on behalf of the Township."

**CHARTER TOWNSHIP OF DELTA
MUNICIPAL UTILITY AGREEMENT
FOR
MENARDS YARD EXPANSION STORE #3157
8505 DELTA MARKET DRIVE, LANSING MI, 48917 - SECTION 16**

THIS AGREEMENT, made this _____ day of _____, **2021**, by and between **MENARD, INC.**, whose address is 5101 Menard Drive, Eau Claire, Wisconsin 54703, hereinafter referred to as “Developer” and the **CHARTER TOWNSHIP OF DELTA**, a Michigan Municipal Corporation, whose address is 7710 West Saginaw Highway, Lansing, Michigan 48917, hereinafter referred to as “Delta”.

WITNESSETH:

WHEREAS, Developer is desirous of relocating a portion of the Municipal Sanitary Sewer Main Facilities to accommodate its proposed development in accordance with Chapter 40 of the Township’s Code of Ordinances, as amended, and

WHEREAS, The parties hereto intend by this Agreement to aid in the administration of the extension and/or relocation of the Municipal Sanitary Sewer Main Facilities for the proposed development:

NOW, THEREFORE, IT IS HEREBY AGREED by and between the parties heretofore and in consideration of the foregoing and the mutual promises hereinafter contained as follows:

1. This Agreement concerns the approved final Site and Construction Civil Engineering & Site Plans for the Menards Yard Expansion, as prepared by Exxel Engineering, dated _____, 2021, and sealed by Jon Male, P.E., a Michigan licensed professional engineer; which will serve as the drawings of record as to Sanitary Sewer Main Facilities to be built and/or relocated; and which may be revised to incorporate changes in the development of the site that is the subject of the site plan drawings and/or any new phases thereof, subject to prior written approval of the Township Engineer and the revising of the site plan drawings. Issuances of sewer permits for connecting individual buildings to the Sanitary Sewer Main Facilities are subject to satisfactory completion of the Sanitary Sewer Main Facilities as set forth in this Agreement.

2. Developer shall arrange for the procurement of the necessary materials, labor and equipment to cause the construction of the Sanitary Sewer Main Facilities on private and public properties.

Certain of these facilities, upon completion, shall be owned by Delta, in a manner consistent with this Agreement, the plans and specifications, and all applicable statutes, ordinances and rules, and regulations. Developer shall pay all costs of installation and construction of the Sanitary Sewer Main Facilities to be owned by Delta upon completion thereof. Developer shall pay all charges incurred by Delta for engineering services as later herein delineated. Developer shall be responsible for contractors retained to perform the work, and shall condition final payments to said contractors upon certification of the completed work by the Township Engineer. Safety in the construction of the Sanitary Sewer Main Facilities shall be the sole responsibility of the Developer and its contractors. The contractors shall comply with the current applicable requirements of Federal and State of Michigan Occupational Health and Safety regulations during construction of the Sanitary Sewer Main Facilities.

3. That the parties agree the facilities indicated herein to be built may be phased or staged. Developer agrees that it will supply Delta with construction plans and specifications for any current phase of the work covered by this Agreement, which plans shall be prepared by a Registered Professional Engineer, licensed to practice in the State of Michigan, to show the proposed utility facilities to become the property of Delta. The plans and specifications shall be consistent with the **DELTA MUNICIPAL UTILITY STANDARDS**. All construction plans and specifications in connection therewith shall be subject to approval by the Township Engineer. The Township Engineer shall forward all such plans for approval of the appropriate State agency and the issuance of the necessary permits, as applicable. When a permit is granted by the appropriate State agency, same shall constitute approval by said agency and the Township Engineer. Developer shall furnish Delta a reproducible copy of the plans and specifications for the Township Engineer's use during construction.

4. That the parties agree a commitment is hereby made on the part of the Developer to build the Sanitary Sewer Main Facilities herein indicated within two years of the issuance of the State permits, and on the part of Delta, to own, operate and maintain the public portion of the Municipal Sanitary Sewer Main Facilities, being the public sewer main and associated manholes and the public water mains and associated valves and hydrants. The sewer stubs, the building sewer main connecting the buildings to the public sewer main shall be maintained by the owners of the buildings which are connected.

5. That all resident engineering, layout staking and detailed construction inspection, including compaction of trench backfill material, shall be performed by qualified personnel retained by the Developer.

6. That Developer shall determine, by field survey, vertical and horizontal locations of each sanitary sewer manhole, sanitary sewer service stub-end, corporation stops, curb stops and all other related appurtenances, after installation of the facilities, for incorporation into as-built drawings, easement exhibits and Township's mapping system.

7. The Township Engineer shall perform the following activities in assessing general compliance with the requirements of Delta's **MUNICIPAL UTILITY STANDARDS** as applicable:

SANITARY SEWER FACILITIES:

Spot check materials, general construction methods and procedures, subgrade and sand bedding of the mains.

Observe subgrade for each manhole.

Observe any and all concrete encasement of risers.

Check out all manholes upon completion of a substantial portion of the project.

Observe air test of system.

Prepare easement grants based upon legal descriptions and easement exhibit drawings provided by Developer, as required.

Township Engineer shall not supervise construction, perform any staking, or necessarily observe all the construction work. Developer shall pay the actual hourly rate of Delta personnel employed to perform engineering services plus time and one-half for overtime and double time for Sunday or Holiday work, plus 70% to cover fringes, transportation, equipment and administrative overhead costs. If the Township Engineer uses a consultant to perform engineering services, the Developer shall pay the actual rate of the consultant. Above said work by the Township Engineer is estimated to cost \$3,000; as much as 20% increase is estimated if part of the work is performed during the period of November through April.

8. That the construction shall not commence until the Township Engineer shall have given written authorization to the Developer. Prior to starting construction work Developer shall have:

- A. Caused his contractor to furnish certificates of insurance noting Delta as an additional insured (see General Conditions of Municipal Utility Standards). Should the Township Engineer use a consultant to perform engineering services as outlined in this Utility Agreement, the Developer shall also include the consultant as an additional insured.

- B. Bulkhead the existing sanitary sewer main at a location and in the manner approved by the Township Engineer to preclude storm water getting into the sanitary sewer system.
 - C. Conducted the pre-construction meeting (See General Specifications of Municipal Utility Standards).
 - D. Caused his contractor to have obtained proper permits from the Road Commission and the other governmental agencies as may be applicable, and to have notified the **MISS DIG** program.
9. That the Township Engineer shall certify the satisfactory completion of the work provided for hereunder; said certificate shall be filed with the Township Clerk. The following items, as applicable, shall be completed before final certification can be made:
- A. A satisfactory air test, deflection tests and CCTV inspection of the Sanitary Sewer mains shall be completed.
 - B. Developer shall complete clean-up of construction site within the road right-of-way.
 - C. Developer shall execute and deliver a deed of grant from Developer to the Township covering all utility installation which is to be owned by Delta.
 - D. Final construction Waivers of Lien on the project shall be filed with the Township Engineering Department.
 - E. Easement grants, suitable for recording, granting to Delta access to the utility mains and appurtenances to be owned by Delta for construction, operation and maintenance purposes, including the right to make future hook-ups or connections to any of said lines shall have been delivered for such mains not constructed in public rights-of-way. The easement grants shall hold Developer responsible for costs of repair to any landscaping or other improvements that may exist within the easements and may become damaged or destroyed in the initial construction of the utilities. Upon acceptance of the utility by the Township, the Township shall be responsible for returning all seeded surface area, driveways and parking areas to substantially the same condition after repairs and/or maintenance are completed by the Township. Developer's Surveyor/Engineer shall prepare legal description(s) and easement exhibit drawing(s) based upon the final installed location of the Sanitary Sewer Main Facilities. Easements shall require timely (30 minute) response for access to manholes located within secured perimeter of grantee.
 - F. The Developer's Engineer shall prepare as-built drawings for the Sanitary Sewer Facilities Main Facilities. As-built drawings shall be provided electronically in CAD and .pdf formats. As-built drawings shall update the construction drawings to accurately reflect the installed location, elevation and conditions of final utility installation based upon field measurements incorporated into the CAD file(s). CAD files shall be based upon Michigan South Zone (2113) State Plane Coordinate System NAD83 (2011) Epoch 2010.00 realization and the 1988 North American Vertical Datum (NAVD88) to an accuracy of +/- 0.01 feet vertically and +/- 0.1 feet horizontally.

10. That no permits for the use of any utilities shall be either requested or issued until after the facilities which are to become the property of Delta have been certified as satisfactorily complete by the Township Engineer and the proper deeds of grant, waivers of lien and easement agreements are provided to the Township in accordance with the requirements of Paragraph 8 of this Agreement. In the event of a violation of this paragraph, the Township may without notice or liability to the Developer, disconnect the facilities and/or take any other action necessary to prevent the flowage of sanitary sewage into the public sewer system pursuant to this Agreement. The Developer shall pay all costs, including actual attorneys' fees, which the Township incurs in enforcing the provisions of this paragraph.

11. Delta agrees that when certification of final approval has been made by the Township Engineer, subject to a final financial accounting and any other applicable considerations which may arise, the Board of Delta shall accept the certain facilities which are to be a part of Delta's Municipal Sanitary Sewer Main Facilities.

12. That Developer guarantees the materials and workmanship in the facilities for a period of not more than two (2) years from the date of partial utilization, but at least one (1) year from the date of final acceptance of said facilities by the Township Board.

13. Developer shall, upon completion of construction of the Sanitary Sewer Main Facilities, certify as to the costs of materials, labor, equipment, engineering and administrative overhead to the Township Engineer so that Delta may capitalize donated assets.

14. To the fullest extent permitted by law, the Developer shall indemnify and hold harmless Delta and its agents and employees from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or in any way related to construction, installation and/or hook-up operations, or the duties or obligations of this Agreement, caused in whole or in part by any acts or omissions of the Developer, a contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. The Developer's indemnification responsibility shall be to the fullest degree of the Developer' fault (or the fault of any others for whom the Contractor is responsible), except that the Developer shall not be obligated to indemnify to the extent of the Delta's sole negligence. The Developer shall be responsible to Delta and its agents and employees from and against all amounts such parties may be required to pay in attorneys' fees in order to pursue enforcement of this provision against the Developer or otherwise obtain indemnification from the Developer provided under the terms of this Paragraph 16. Such obligations shall not be construed to negate, abridge or reduce any other rights or

obligations of indemnity which would otherwise exist as to any party or person set forth in this Paragraph 14.

15. This Agreement shall expire upon the earlier of 1) the expiration of the warranty period or 2) two (2) years after the date of this Agreement if Developer has not commenced construction and may be amended or extended at any time upon mutual consent of the parties.

16. Partial Invalidity. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable in any manner, the remaining provisions of the Agreement shall nonetheless continue in full force and effect without being impaired or invalidated in any way. In addition, if any provision of this Agreement may be modified by a court of competent jurisdiction such that it may be enforced, then said provision shall be modified and, as modified, shall be fully enforced.

17. Applicable Law. This Agreement, together with the right, duties and obligations hereunder, shall be construed in accordance with the laws of the State of Michigan.

18. Conflict. In the event of a conflict between the terms of this Agreement and the Township Code of Ordinances, the provisions contained in the Township Code of Ordinances shall govern.

19. Entire Agreement. Except as otherwise stated herein, this Agreement contains the entire understanding of the parties hereto with respect to the subject matter contained herein, supersedes all prior agreements, understandings and negotiations; and no parole evidence of prior or contemporaneous agreements, understanding and negotiations shall govern or be used to construe or modify this Agreement. No modification or alteration hereof shall be deemed effective unless in writing and signed by all parties to this Agreement.

20. Code of Ordinances. The Developer shall comply with the provisions of the Township Code of Ordinances which are in effect at the time when the work is performed under this Agreement, even though there may be changes to these Ordinances after the date that this Agreement is signed by the Developer.

21. Termination. In the event that the Developer breaches any of the terms, covenants or conditions contained in this Agreement, the Township, at its option and after providing written notice thereof to the Developer and Developer's failure to cure the same within thirty (30) calendar days after Developer's receipt thereof, may terminate this Agreement and all of the rights of Developer hereunder shall cease. The Township shall be entitled to all costs, including actual attorneys' fees, which the Township incurs because of the Developer's breach of this Agreement.

22. Time. Time is of the essence to this Agreement and each and all of its provisions.

IN WITNESS WHEREOF, the parties have hereunto set their hand and seal the day and year first above written.

IN THE PRESENCE OF:

MENARD, INC

Nick B
Witness #1: Nick Brenner
(Printed Name)

[Signature]
(Signature)

Theron J. Berg
(Printed Name)

Its: Real Estate Manager
(Title)

[Signature]
Witness #2: Patrick Wend
(Printed Name)

STATE OF Wisconsin }
 } SS
COUNTY OF Eau Claire }

On this 25th day of August, 2021, before me, appeared Theron J. Berg, to me personally known, who being by me duly sworn did say that he was the Real Estate Manager of Menard, Inc., executed the within instrument and did acknowledge same to be free act and deed of Menard, Inc.



[Signature]
Notary Public Eau Claire County, WI

My Commission Expires: is permanent

IN THE PRESENCE OF:

**CHARTER TOWNSHIP OF DELTA, a
Municipal Corporation**

Witness #1: _____
(Printed Name)

Kenneth R. Fletcher, Supervisor
(per authorization contained in the Board
Resolution attached as "Exhibit A")

Witness #2: _____
(Printed Name)

Mary R. Clark, Clerk
(per authorization contained in the Board
Resolution attached as "Exhibit A")

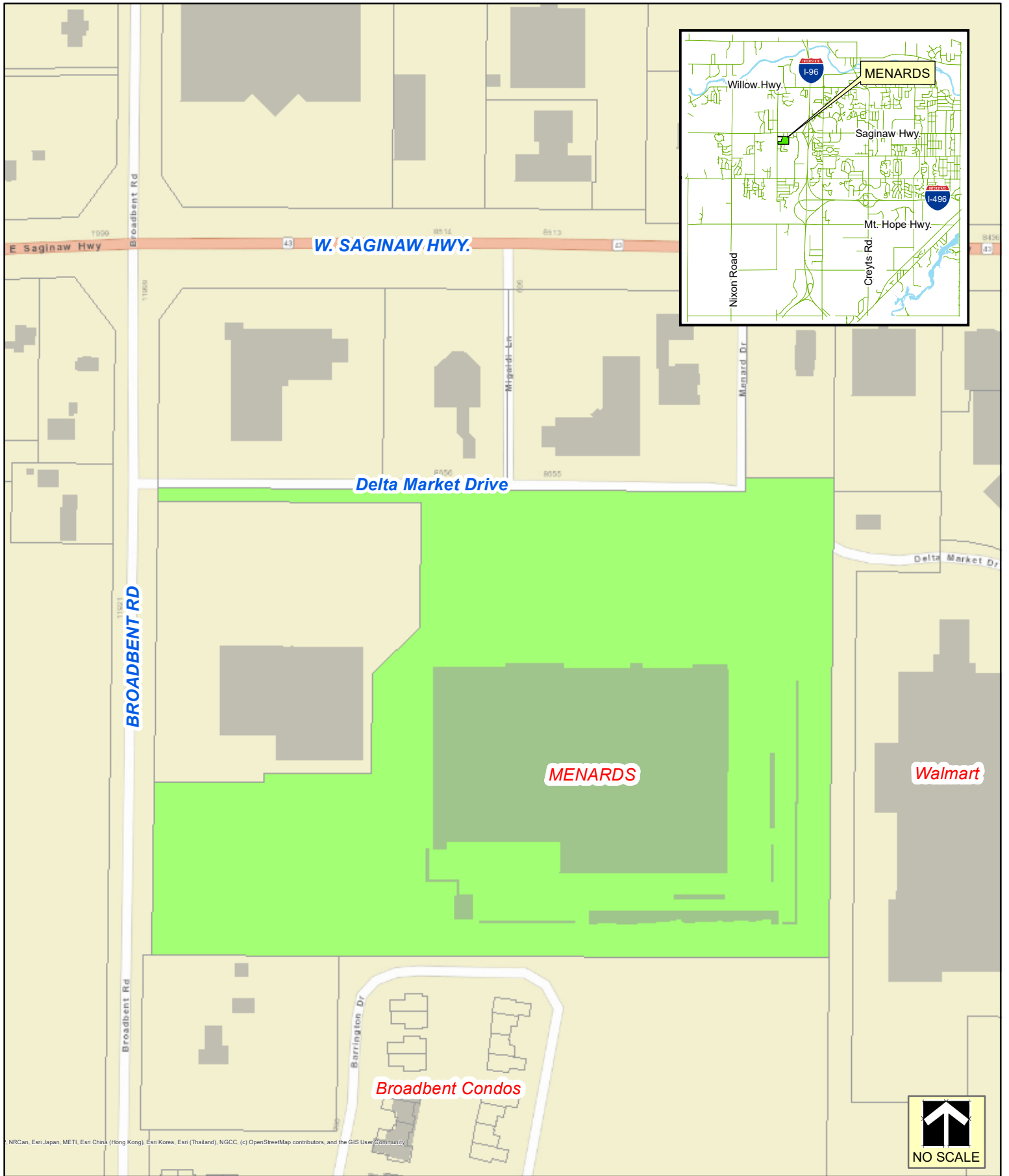
STATE OF MICHIGAN }
 }
 } ss
COUNTY OF EATON }

On this _____ day of _____, 2021 before me appeared Kenneth R. Fletcher and Mary R. Clark, to me personally known, who being by me duly sworn, did say that they are the Supervisor and Clerk, respectively of the Charter Township of Delta, who executed the within instrument and acknowledged said instrument to be a free act and deed of said Township.

Notary Public _____ County, MI

My Commission Expires: _____

DRAFTED BY:
Jennifer Bernardin
Engineering Department
Delta Township
7710 West Saginaw Highway
Lansing, Michigan 48917



NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

DELTA CHARTER TOWNSHIP

7710 W. SAGINAW HIGHWAY
 LANSING, MI 48917
 517.323.8555



**MENARDS YARD
 EXPANSION
 LOCATION MAP**



Planning Department

(517) 323-8560

MEMO

TO: Supervisor Kenneth R. Fletcher & Township Board
Delta Charter Township

FROM: Gary Bozek
Planning Director

DATE: September 3, 2021

SUBJECT: Withdrawal of Special Land Use Permit Request in Case No. 5-21-07 for an Outdoor Commercial Recreation Facility, being a Drive-In Theatre, from Greenwood Studios c/o of Mr. Amaru Lewis

We are in receipt of an email (see attached) from Mr. Lewis withdrawing his Special Land Use Permit (SLUP) application for his location at 921 Mall Drive West in the Township. Mr. Lewis makes reference to “rezoning”, in his email but his only pending application is for SLUP in Case No. 5-21-07 for an Outdoor Commercial Recreation Facility, being a Drive-In Theatre.

The Board is required to take no formal action. Staff recommends taking the item off of the table and simply acknowledge the receipt of Mr. Lewis’ request for withdrawal of the application. In withdrawing the application, Mr. Lewis does relinquish any rights to return to the Township with a similar SLUP application in the future.

The withdrawal also does not affect any of the indoor activities that Mr. Lewis has planned for the interior of the former theatre building as long as the appropriate occupancy permits are maintained.

Feel free to contact me if you have any questions.



Gary Bozek

From: Collin Mays
Sent: Monday, August 30, 2021 2:37 PM
To: Brian Reed; Gary Bozek
Subject: FW: Drive in

Brian and Gary,

FYI. Please see below.

With appreciation,

Collin Mays

Community and Economic Development Coordinator
Delta Charter Twp | 7710 W Saginaw Hwy | Lansing, MI 48917
www.deltami.gov | Ph: 517.816.8275: Cell: 517.763.7723.



From: Amaru <therealamaru@therealamaru.com>
Sent: Monday, August 30, 2021 2:33 PM
To: Collin Mays <CMays@deltami.gov>
Subject: Re: Drive in

To whom it may concern,

From the desk of Amaru at Greenwood District Studios. We are withdrawing out application for rezoning for the time being for the location at 921 Mall Drive W Lansing Michigan 48917. If you have any further questions or concerns please contact our office at 517-449-3866

Regards

Amaru

A business card for Amaru. The card is dark green with gold and white text. On the left, there is a photo of three people in yellow graduation gowns. The text on the card reads "Amaru" in large white letters, followed by "CEO - Executive Producer / Content Creat..." in smaller white letters. On the right, there is a logo for Greenwood District Studios with the tagline "Planning the world where real estate finds life". At the bottom of the card, there is a row of social media icons: a smartphone, a telephone, an envelope, a globe, a location pin, a mail icon, Facebook, Twitter, LinkedIn, YouTube, Vimeo, Instagram, TikTok, and a shopping cart.

[Click for my contact details](#)



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On Mon, Aug 30, 2021 at 2:13 PM Collin Mays <CMays@deltami.gov> wrote:

Hi Amaru,

I hope this email finds you well. Circling back to see if we can get a status update regarding your plans for the drive-in theater? As of today, it is in the boards hands to determine next steps. Please advise on if you would like the board to proceed or if you would like to withdraw the application and reconvene at another time. Thank you.

With appreciation,

Collin Mays

Community and Economic Development Coordinator

Delta Charter Twp | 7710 W Saginaw Hwy | Lansing, MI 48917

www.deltami.gov | Ph: 517.816.8275; Cell: 517.763.7723.



CAUTION: This email originated from outside of the Delta Township organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



Manager's Office

(517) 323-8590

DATE: September 7, 2021
TO: The Delta Township Board
FROM: Kenneth R. Fletcher, Township Supervisor
SUBJECT: Delta Township Saginaw Highway Corridor Improvement Authority Appointment

I respectfully submit for your consideration the following individual to be appointed to the Delta Township Saginaw Highway Corridor Improvement Authority:

- **Calvin Jones to replace Percy Bean with a term to expire June 30, 2025.**

Therefore, I offer the following motion for your consideration:

“I move that the aforementioned person be appointed to the Delta Township Saginaw Highway Corridor Improvement Authority Board; and that the Clerk is hereby directed to send notification informing him of his appointment.”

Supervisor Kenneth R. Fletcher
Clerk Mary R. Clark
Treasurer Dennis R. Fedewa
Manager Brian T. Reed

Trustee Elizabeth S. Bowen
Trustee Fonda J. Brewer
Trustee Andrea M. Cascarilla
Trustee Karen J. Mojica



Manager's Office

(517) 323-8590

**CHARTER TOWNSHIP OF DELTA
WEST SAGINAW HIGHWAY CORRIDOR IMPROVEMENT AUTHORITY (CIA)
BOARD APPOINTMENT APPLICATION**

Delta Charter Township is creating a Corridor Improvement Authority (CIA) for West Saginaw Highway. Business owners, residents, and property owners can apply to be members of this important new board. CIA Board members will help create a vision for the corridor and develop strategies to guide investment and growth. Members should be passionate about creating change and placemaking. Ideal candidates understand the value of collaboration between members of the CIA, the community, public entities, and private interests. This is an unpaid position. Members are appointed for four-year terms, except for those appointed at the initiation of the CIA who shall be appointed to staggered terms. Appointments may be renewed.

Please provide the following information, please print.

Name: Calvin L. Jones Email Address: Calvin.Jones@lbwl.com

Mailing Address: 5518 River Ridge Street Lansing MI 48917
Street City State Zip

Residence Address: 5518 River Ridge Street Lansing MI 48917
Street City State Zip

Cell Phone: (517) 388-6377 Alt Phone: NA

Are you a resident of the Delta Township? Yes No of the CIA Development Area? Yes No

Do you have an ownership or business interest in property within the CIA Development Area? Yes No

If so, what is the address of the property: _____

What is your interest in the property? (i.e. owner, officer, trustee, principal, or employee) _____

Why would you like to serve on this Board?

Chair Lansing Economic Development, Brownfield Authority & Tax Finance & Increment Authority.

Educational Background: Lansing Community College & MSU - Political Leadership

Occupational Background: Director Governmental Affairs & Community Relations, Lansing Board of Water

Signature: Calvin L. Jones Digitally signed by Calvin L. Jones
Date: 2021.06.02 13:58:47 -04'00' Date: _____

**Please Return Application to: Delta Township Manager, 7710 West Saginaw Highway, Lansing, MI 48917
or email to manager@deltami.gov.**



MEMO

TO: Supervisor Kenneth R. Fletcher & Township Board
Delta Charter Township

FROM: David Waligora, AICP
Assistant Planning Director

DATE: September 1, 2021

SUBJECT: Introduction of West Lansing Retail West Lansing Retail Development III, LLC Rezoning Request in Case No. 07-21-09

The Township is in receipt of an application submitted by West Lansing Retail Development III, LLC (aka K2 – Delta Crossings) to rezone PPN: **040-009-300-025-00**, a vacant 6.41 acre parcel in Section 9 of the Township from AG2, Agricultural/Residential, to RM, Multiple Family Residential, to accommodate a slightly expanded proposed Residential Phase 3, allowing for better alignment of the Carlson Road extension.

A specific development concept for Phase 3 has not yet been provided. In early discussions with the Township the developer did provide a “*Master Site Plan*” illustrating an overall development concept of the 200 acres under their consideration.



Application History

- August 2, 2021: Referral
 - The Board referred the case to the Planning Commission for the purposes of holding a public hearing and making a recommendation to the Township Board.
 -
- August 23, 2021: Public Hearing
 - Public Notice was placed in the Lansing State Journal and mailed via USPS to all property owners within 300 feet of the subject property, as required by the State Law.
 - Staff received one e-mail in opposition to the rezoning request.
 - **After the public hearing, the Planning Commission recommended approval of the rezoning request by a vote of 6 - 0.**
- The case is now being placed on the Board’s September 7, 2021 for formal introduction.

Next Steps:

- Staff is suggesting the date for final consideration be set for September 20, 2021.

Further Reading Provided:

Staff has included an article distributed by the Michigan State University Extension office. It provides supplemental statutory information pertaining to the differences between a Zoning Ordinance and a Master Plan. This is to provide the board with more general information related to this specific application, if needed.

The following motion is offered for the Board's consideration:

"I move that the Delta Township Board introduce the West Lansing Retail Development III, LLC request to rezone 6.41 acres in Section 9 of the Township from AG2, Agricultural/Residential, to RM, Multiple Family Residential, as described in Case No. 07-21-09.

I further move that the application be considered for final action by the Township Board at the September 20, 2021 regular meeting.

The Clerk is hereby directed to publish notice of said meeting in the local newspapers as is required."

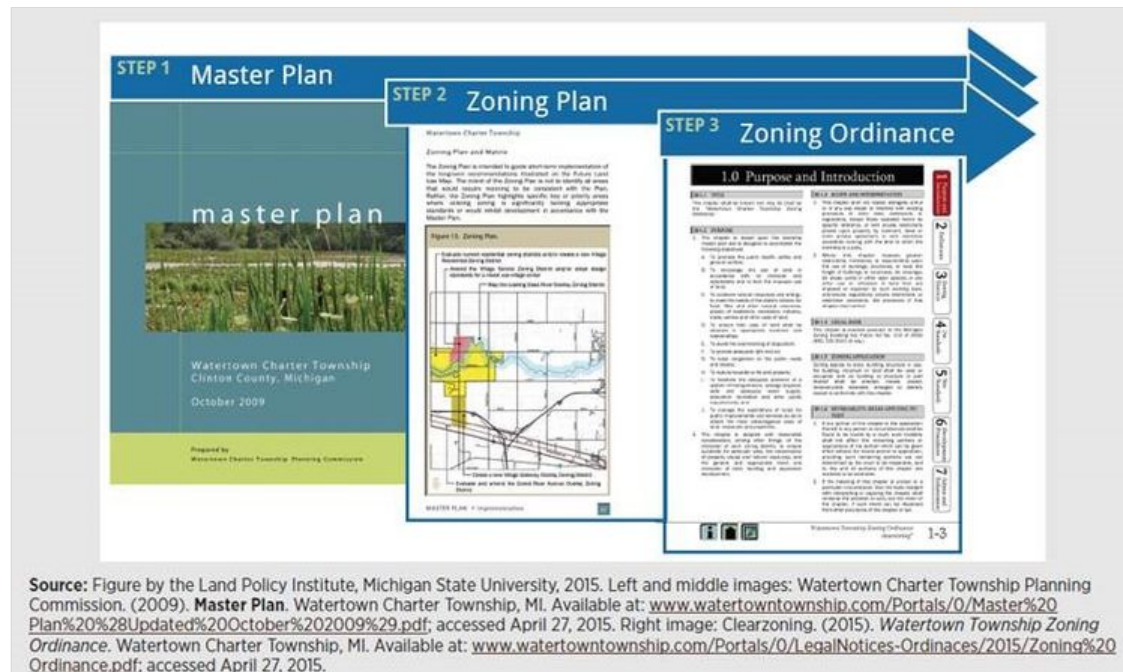
Difference between a zoning ordinance and a master plan

Lindsey Gardner , Michigan State University Extension - October 10, 2019

Updated from an original article written by Kurt H. Schindler.

Share Save Tweet LinkedIn Print Email

The zoning ordinance is a law with penalties and consequence for not following it. A master plan is a policy document that expresses intent. It is not an enforceable document and is not law.



Source: Figure by the Land Policy Institute, Michigan State University, 2015. Left and middle images: Watertown Charter Township Planning Commission. (2009). **Master Plan**. Watertown Charter Township, MI. Available at: www.watertowntownship.com/Portals/0/Master%20Plan%20%28Updated%20October%202009%29.pdf; accessed April 27, 2015. Right image: Clearzoning. (2015). **Watertown Township Zoning Ordinance**. Watertown Charter Township, MI. Available at: www.watertowntownship.com/Portals/0/LegalNotices-Ordinances/2015/Zoning%20Ordinance.pdf; accessed April 27, 2015.

Source: Figure by the Land Policy Institute, Michigan State University 2015.

A zoning ordinance and a master plan are not the same thing. A master plan is not enforceable, and attempting to do so can get a community in trouble.

Once I was asked to provide education to a community that was trying to turn down a site plan review, because it did not comply with the community's master plan. The community even had a site plan review standard in its zoning ordinance that read "the application request satisfies the goals and objectives of the ... [town name] master plan."

In Michigan, a master plan can be adopted by the municipality's planning commission – an appointed administrative body. A planning commission has no authority to adopt an ordinance or any other document that could be enforced with penalties. The planning commission can only recommend a zoning ordinance or zoning amendment to its legislative body. Michigan statutes delegate ordinance-making authority only to the following elected legislative bodies: township board of trustees (MCL 41.181 *et seq.*), city council (MCL 117.3 *et seq.*), general law village council (MCL 67.1 *et seq.*), home rule village council (MCL 78.1 *et seq.*) and very limited ordinance making authority to county boards of commissioners.

A master plan is a policy document that guides the physical development of a community. Think of it like the homework -- the compendium of facts, research, record of public support and participation, and reasoning behind what would become local ordinances. This would include the zoning ordinance, which the Michigan Zoning Enabling Act requires "shall be based on a plan..." (MCL 125.3203(1)).

A zoning ordinance is the law. It regulates things including land use; building form, placement, size, spacing, parcel area, width, depth; types of land uses allowed in a district. Because an ordinance is law, it includes consequences for violations. Consequences can be a civil infraction ticket, fines, criminal charges, injunctions, and so on.

In order for a zoning ordinance to be based on a plan, the plan should be written first. The zoning ordinance will come next and will implement parts of the master plan. Often, the plan zoning is based upon something called a "zoning plan." The zoning plan can be a chapter in the master plan, a separate document of the master plan or integrated throughout the master plan. A "master plan" is defined in the Michigan Planning Enabling Act (MCL 125.3803(g)) to include the zoning plan from the Zoning Enabling Act's section 203(1) (MCL 125.3203(1)).

Typically, the zoning plan part of a master plan, in addition to the rest of the plan, will include:

- A proposed schedule of regulation by district that includes at least building height, lot area, bulk and setbacks.
- Standards or criteria to be used to consider rezoning consistent with the master plan.
- A description of each zoning district and proposed zoning map.
- An explanation of how the land use categories on the future land use map relate to the districts on the zoning map.
- A description of each zoning district, general purpose of each district and the general locations for those types of districts.

To demonstrate how the master plan serves as a basis for zoning and is not itself an enforceable document, look at this generic example of master plan language: "Goal No X: Preserve and enhance the YYY corridor as a safe, efficient, and visually attractive..." First, it is a "goal," not a directive. Then, the plan says there is more work to do before specific actions can be taken for this goal. How does a zoning permit or site plan review applicant "satisfy" a goal when they are beholden to actions being undertaken by a different entity?

The master plan is not a regulation and should not be expected to do double duty as a law. Statute gives ordinance-making authority only to legislative bodies not planning commissions. Master plans are not written in regulatory fashion. They lack language with clear directives or requirements. Many master plans are written with goals that are often best-case scenarios of the future. Many times, the purpose of the goal is to set a direction, but not a definitive expected outcome. Finally, master plans are often written with objectives (measurable progress points) and strategies (policy, tasks and methods) to be carried out by various agencies of the local government, not property owners or zoning permit applicants.

Those in [Michigan State University Extension](#) that focus on [land use](#) provide various training programs on planning and zoning, which are available to be presented in your county. Contact your [local land use educator](#) for more information.

This article was published by [Michigan State University Extension](#). For more information, visit <https://extension.msu.edu>. To have a digest of information delivered straight to your email inbox, visit <https://extension.msu.edu/newsletters>. To contact an expert in your area, visit <https://extension.msu.edu/experts>, or call 888-MSUE4MI (888-678-3464).

extension.msu.edu

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We comply with the Federal Trade Commission [1998 Children's Online Privacy Protection Act \(COPPA\)](https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/childrens-online-privacy-protection-rule) (<https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/childrens-online-privacy-protection-rule>).

TO: Supervisor Kenneth R. Fletcher & Delta Charter Township Board

FROM: Matt McKernan, Planner
Planning Department

DATE: August 31, 2021

SUBJECT: Final Approval of Preliminary Plat for Echo Valley East

Overview

Please find attached the Final Preliminary Plat for the proposed 71 lot Echo Valley East subdivision. The drawings were prepared by Rowe Professional Services Company and are dated August 6, 2021. The Echo Valley East Subdivision is situated at the northeast corner of Canal Road and Mt. Hope Highway in Section 22 of the Township. The plat drawing shows the first phase connecting to Blue Ridge Drive and Whispering Pine Drive in the existing Echo Valley subdivision. The second phase will connect to Sandpiper Lane.



The Tentative Preliminary Plat for Wind Trace was approved by the Township Board on April 26, 2021. Final Preliminary Plat review consists of evaluation of engineering and construction plans by The Township Engineer and confirmation of preliminary approval of the plat by MDOT, EGLE, ECRC, and the ECDC. Approval of the Final Preliminary Plat by the Board would allow the developer to proceed with the installation of the necessary roads and utilities.

State of Michigan Subdivision Platting Process

Step 1 - Tentative Approval of Preliminary Plat: Both the Planning Commission and Township Board review the existing conditions of the site and the proposed preliminary plat layout. The Township's Subdivision Regulations, require the proposed plat to include the layout of the streets and the layout of the lots within the proposed subdivision. Tentative approval of the preliminary plat by the Township Board is valid for one (1) year, and serves as general approval of lot sizes, lot orientation and street layout. Tentative preliminary plat approval may be extended by the Township Board if applied for by the applicant prior to expiration. The Planning Commission only reviews the plat for Tentative Approval of the Preliminary Plat, not the later stages identified as final approvals. As noted above, the Township Board approved the tentative preliminary plat on July 10, 2016.

Step 2 – Final Approval of the Preliminary Plat: The Township Board reviews and approves the final preliminary plat. The final preliminary plat application requires the applicant to submit the preliminary plat along with a grading plan, street construction plan, utility engineering plan, utility agreements, street light installation agreement, title insurance, survey closure statement and all other bonds, deposits, fees or legal documents required by law or other applicable governmental regulations. Upon issuance of final preliminary plat approval, the applicant may secure the necessary utility construction permits and begin construction of the development. Final approval of the preliminary plat is valid for two (2) years. This approval may be extended by the Township Board if applied for by the applicant prior to expiration. This step is where Wind Trace No. 1 is currently in the process.

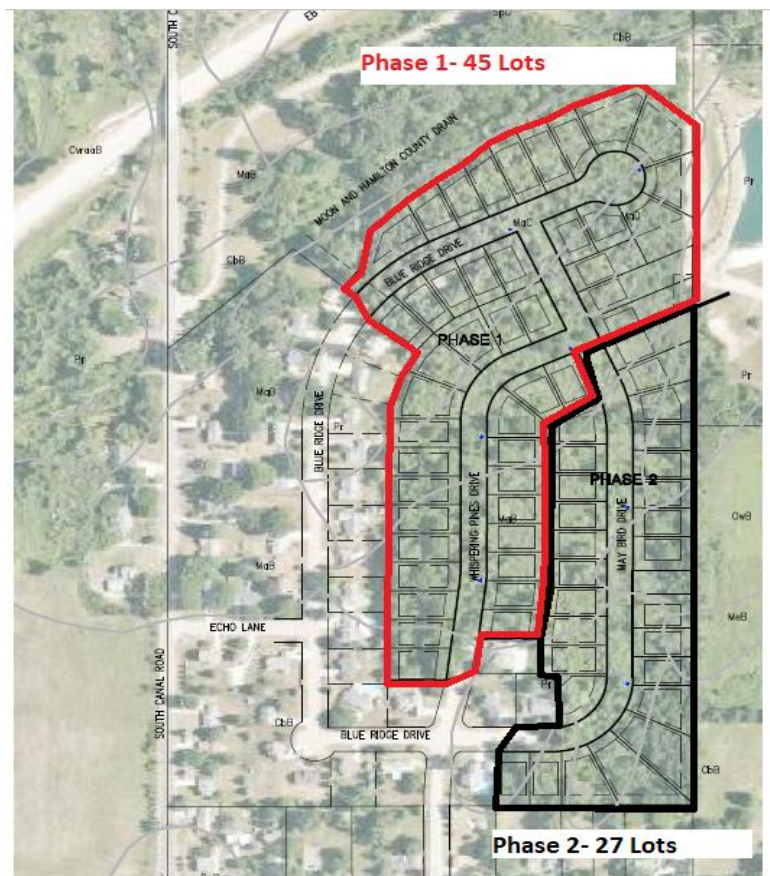
Step 3 – Final Plat: The Engineering Department and Planning Department review and inspect the final plat and make a recommendation to the Township Board. If approved, the Board instructs the Clerk to sign the Municipal Certificate and to transmit the final plat to the Eaton County Plat Board.

Phasing

The developer for Echo Valley East is Allen Edwin Homes. There are 71 proposed lots in the plat, which will be built in two phases. The first phase will feature 46 lots and an additional 25 lots will be added in Phase 2.

Lot Sizes and Configurations

All of the proposed lots meet or exceed the Zoning Ordinance's 12,000 square foot minimum lot size and 80-foot lot-width requirement for the RB zoning district. The minimum lot width and frontage requirements for the



RB zoning district are 80 feet for interior lots, 95 feet for corner lots, and 64 feet for cul-de-sac lots.

Engineering, Utility, Fire Department Comments

Public water and sanitary sewer mains will be extended from the adjacent Echo Valley Subdivision. For more information, please see the attached memo by Township Engineer, Ernie West, and dated August 17, 2021.

The Fire Department has reviewed and approved the plat.

A Utility Agreement must be executed with the Township for the installation of the public water and sanitary sewer facilities. The Township Board will be reviewing the Utility Agreement concurrent with the review of the final preliminary plat.

Streets & Access

All streets within the subdivision will be public and will be under the jurisdiction of the Eaton County Road Commission (ECRC). Lots 1 – 46 ingress/egress will be provided through the existing Blue Ridge and Whispering Pine Drives. Lots 47-71 will be accessed through a connection to the existing Sandpiper Lane and May Bird Drive, which will be created as part of Phase 1.

The Eaton County Road Commission has granted tentative approval to the plat.

Sidewalks

5-foot-wide sidewalks will be required on both sides of all public streets within the Echo Valley East development, as per the requirements of the Township's Sidewalk Ordinance.

Storm Drainage

The Eaton County Drain Commissioner has granted tentative approval to the stormwater management plan for Echo Valley East. Final approval of the storm drainage system will be required as part of Final Plat approval.

Staff Recommendation:

The following motion is offered for the Board's consideration:

"I move that the Delta Township Board grant final approval of the preliminary plat of the Echo Valley East subdivision as illustrated on drawings prepared by Rowe Professional Services Company, and dated August 6, 2021, subject to the following stipulations:

- 1. The developer shall execute a Utility Agreement with the Township for the installation of the public water and sanitary sewer facilities.**
- 2. Receipt of final approval of the storm drainage system from the Eaton County Drain Commissioner's Office.**

- 3. Receipt of final approval of the layout, engineering, and construction of the public streets within the subdivision from the Eaton County Road Commission.**
- 4. The developer shall execute a “Waiver of Notice and Waiver of Hearings for the Establishment of a Special Assessment District” for streetlights.”**

Westview Capital, LLC
795 Clyde Ct
Byron Center, MI 49315

August 5, 2021

Mr. Gary Bozek, Planning Director
Delta Township Planning Department
7710 West Saginaw Highway
Lansing, Michigan 48917

Re: Echo Valley East, Blue Ridge Drive – Final Preliminary Plat Application

Dear Mr. Bozek,

Attached please find the Final Preliminary Plat Application for the Echo Valley East single family residential subdivision on Parcel #040-022-300-083-00. The Final Preliminary Plat has been designed consistent with the Tentative Preliminary Plat which was approved by the Delta Township Board on May 17, 2021. Included with this cover letter are the following documents:

- Signed Application for Final Preliminary Plat
- Letter of Authorization from Echo 45, LLC
- Regulatory agency approval letters (ECRC, ECDC, MDOT, EGLE, ECRD)
- Four (4) copies of the Final Preliminary Plat (24" x 36")
- Review Fee checks for \$830 (Final Preliminary Plat – 71 lots)

If you have any questions or require additional information, please contact me at your earliest convenience.

Sincerely,



Michael West, AICP
Land Planning Project Manager
Westview Capital, LLC
795 Clyde Court SW
Byron Center, Michigan 49315
(269) 365-8548
mwest@allenedwin.com



Clerk's Department

DELTA CHARTER TOWNSHIP

Delta Administration Building
7710 West Saginaw Highway
Lansing, MI 48917
Phone: (517) 323-8500

APPLICATION FOR FINAL PRELIMINARY PLAT

1. APPLICANT: Name: Westview Capital, LLC (Mike West)
 (Last) (First) (M.I.)
 Address: 795 Clyde Ct. SW Byron Center, MI 49315
 (Street & No.) (City) (State) (Zip)
 Telephone: (269) 365-8548 mwest@allenedwin.com
 (Home) (Office)
2. OWNER: Name: Echo 45, LLC (William Costello)
 (Last) (First) (M.I.)
 Address: 2415 Showtime Drive Lansing, MI 48912
 (Street & No.) (City) (State) (Zip)
 Telephone: (517) 333-1600 jrcostellocpa@gmail.com
 (Home) (Office)

3. NAMES & ADDRESSES OF ALL OTHER PERSONS, FIRMS, OR CORPORATIONS HAVING A LEGAL INTEREST IN THE PROPERTY:
- see attached letter of authorization -

4. GENERAL INFORMATION:
 Plat Name: Echo Valley East Section # _____ # of lots 71
 5. FINAL PRELIMINARY PLAT FEE: (\$830.00)
 The fee for filing a final preliminary plat is \$120, plus \$10 for each lot.

6. APPLICANT'S SIGNATURE:
[Signature] Date: 8-2-21
 Applicant (Michael West)

7. OWNER'S SIGNATURE
- see attached letter of authorization - Date: _____
 Owner _____

OFFICE USE ONLY

Filing Date: _____
 Received By: _____
 Amt. of Fee: _____
 Receipt No. _____
 Date of Tent. Pre. Plat Approval _____
 Twp. Bd. Action _____ Date _____
 Final Pre. Plat _____ Date _____

Check List
 Reproducible Copy _____
 Restrictive Covenants _____
 Proof of Ownership _____
 Pre. Engineering Plans _____
 Attached Agency Approvals:
 ECRC _____ MDNR _____
 ECDC _____ BEDHD _____
 MDOT _____ MDPH _____

March 19, 2021

Gary Bozek, Planning Director
Delta Township
7710 West Saginaw Highway
Lansing, Michigan 48917

Re: Echo Valley East Development

Dear Mr. Bozek,

Echo 45, LLC owns the parcel described as APN 040-022-300-083-00 (approximately 30 acres) in Delta Township, Michigan. Echo 45, LLC confirms that Westview Capital, LLC has authorized consent to submit for municipal (township and county) plat review applications and permits that may be required for the development of the parcel described.

Feel free to contact me with questions or concerns.

Very truly yours,

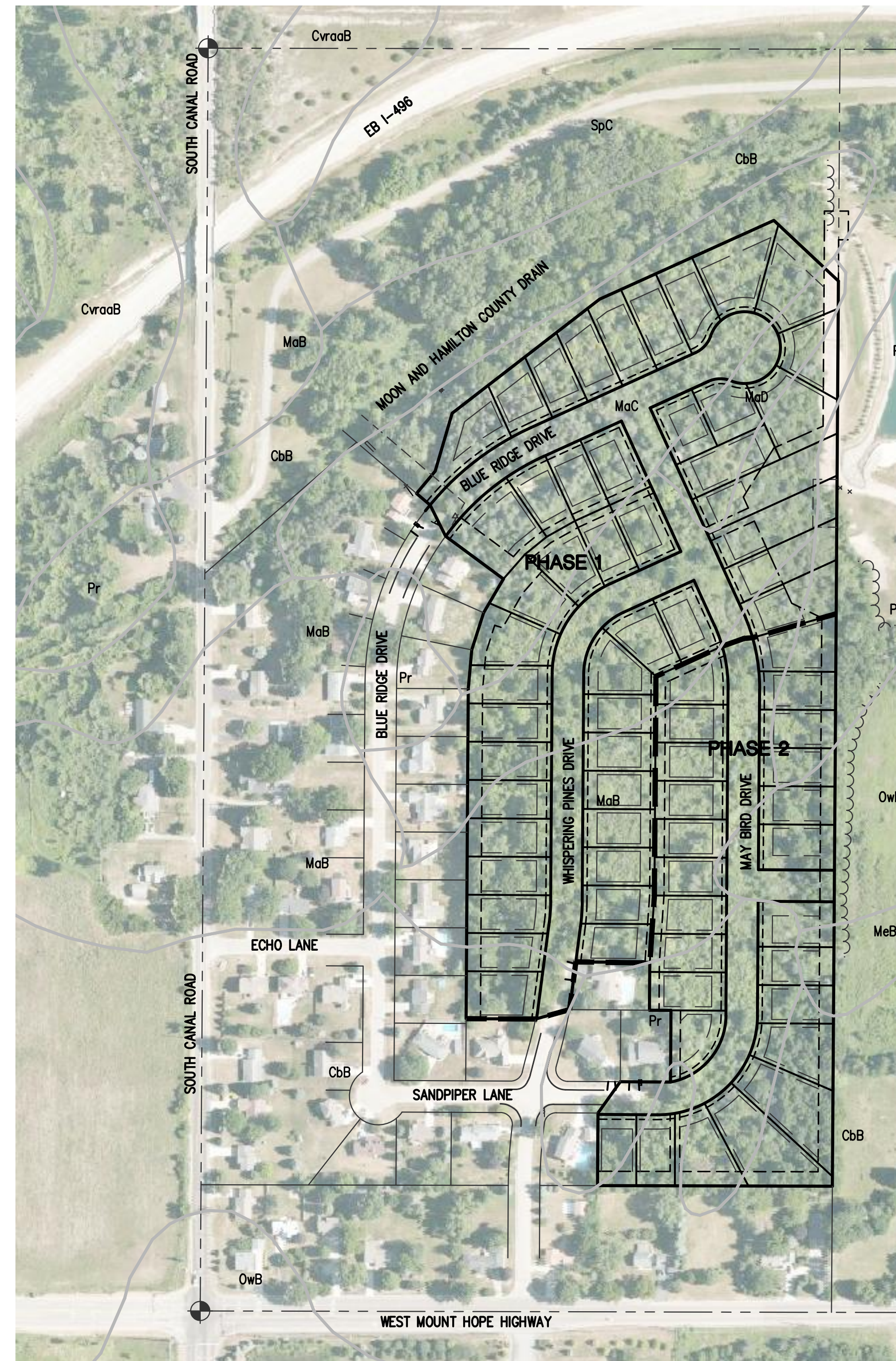
 *William Joseph Costello, Manager*
3/19/2021 3:33:58 PM EDT
William Joseph Costello, Manager
Echo 45, LLC
2415 Showtime Drive
Lansing, MI 48912
(517) 333-1600
joecostellocpa@gmail.com

FINAL PRELIMINARY PLAT PLAN FOR WESTVIEW CAPITAL, LLC ECHO VALLEY EAST T. 4 N. - R. 3 W., SECTION 22 EATON COUNTY, MICHIGAN

PHASING PLAN		
PHASE	LOT RANGE	NUMBER OF LOTS
PHASE 1	1-46	46 LOTS
PHASE 2	47-71	25 LOTS

SOILS LEGEND	
MAP SYMBOL	SYMBOL NAME
CbB	CAPAC-MARLETTE LOAMS, 1 TO 6 PERCENT SLOPES
CvraaB	CONOVER LOAM, 0 TO 4 PERCENT SLOPES
MaB	MARLETTE LOAM, 2 TO 6 PERCENT SLOPES
MaC	FILER LOAM, 6 TO 12 PERCENT SLOPES
MaD	FILER LOAM, 12 TO 18 PERCENT SLOPES
MeA	METAMORA-CAPAC SANDY LOAMS, 0 TO 4 PERCENT SLOPES
OwB	OWOSSO-MARLETTE SANDY LOAMS, 1 TO 6 PERCENT SLOPES
Pr	PARKHILL LOAM, NON DENSE TILL SUBSOIL, 0 TO 2 PERCENT SLOPES
SpC	SPINKS LOAMY SAND, 6 TO 12 PERCENT SLOPES

DATA SOURCE: USDA WEB SOIL SURVEY
NATIONAL COOPERATIVE SOIL SURVEY



LOCATION MAP

PROJECT DESCRIPTION

ECHO VALLEY EAST SHALL BE A SINGLE-FAMILY RESIDENTIAL PLAT.
ALL DEVELOPMENT WILL BE SERVICED BY PUBLIC ROADS AND PUBLIC UTILITIES (WATER AND SEWER).
THE PROJECT WILL BE DEVELOPED IN CONFORMANCE WITH THE DELTA CHARTER TOWNSHIP ORDINANCES FOR LOW DENSITY RESIDENTIAL DISTRICT (RB).

DEVELOPER

WESTVIEW CAPITAL LLC
ATTN - DAN LARABEL
795 CLYDE PARK COURT SW
BYRON CENTER, MI 49315
P - 616.878.1748

SHEET INDEX

CS COVER
C1.0 SITE PLAN
C1.1 GRADING PLAN

UTILITY CONTACTS

WATER & SEWER DELTA CHARTER TOWNSHIP
7710 WEST SAGINAW HWY, LANSING, MI 48917
P- 517.323.8500

ROADWAY EATON COUNTY ROAD COMMISSION
1112 REYNOLDS ROAD, CHARLOTTE, MI 48813
P- 877.883.2866

STORM EATON COUNTY DRAIN COMMISSION
1045 INDEPENDENCE BLVD, CHARLOTTE, MI 48813
P- 517.543.3809

ELECTRIC CONSUMERS ENERGY
TELEPHONE COMCAST
CABLE TV COMCAST
GAS CONSUMERS ENERGY

MATERIALS AND WORKMANSHIP FOR SANITARY SEWER, WATER MAIN, AND SIDEWALKS SHALL BE IN ACCORDANCE WITH DELTA CHARTER TOWNSHIP STANDARD CONSTRUCTION REQUIREMENTS, MARCH 2020.

MATERIALS AND WORKMANSHIP FOR DRAINAGE AND STORM SEWER SHALL BE IN ACCORDANCE WITH THE EATON COUNTY DRAIN COMMISSION STANDARD CONSTRUCTION SPECIFICATIONS, CURRENT EDITIONS.

MATERIALS AND WORKMANSHIP FOR STREET CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE EATON COUNTY ROAD COMMISSION STANDARD CONSTRUCTION SPECIFICATIONS, CURRENT EDITIONS.



Know what's below.
Call before you dig.

PLAN SUBMITTALS AND CHANGES

PRELIMINARY PLANS - **NOT FOR CONSTRUCTION**	
DATE	DESCRIPTION
8-6-21	FINAL PRELIMINARY PLAT

REV:

SHT# **CS**
JOB No: 21W0012

PLAN DATE: AUGUST 2021
PROJECT MGR: AJW
REVIEWER: KAB
SCALE: NO SCALE

ROWE PROFESSIONAL SERVICES COMPANY

O: (616) 272-7125
F: (800) 974-1704
www.rowepsc.com

4345 44th Street SE, Suite A
Kentwood, MI 49512

PREPARED FOR
WESTVIEW CAPITAL, LLC
ECHO VALLEY EAST
FINAL PRELIMINARY PLAT
COVER

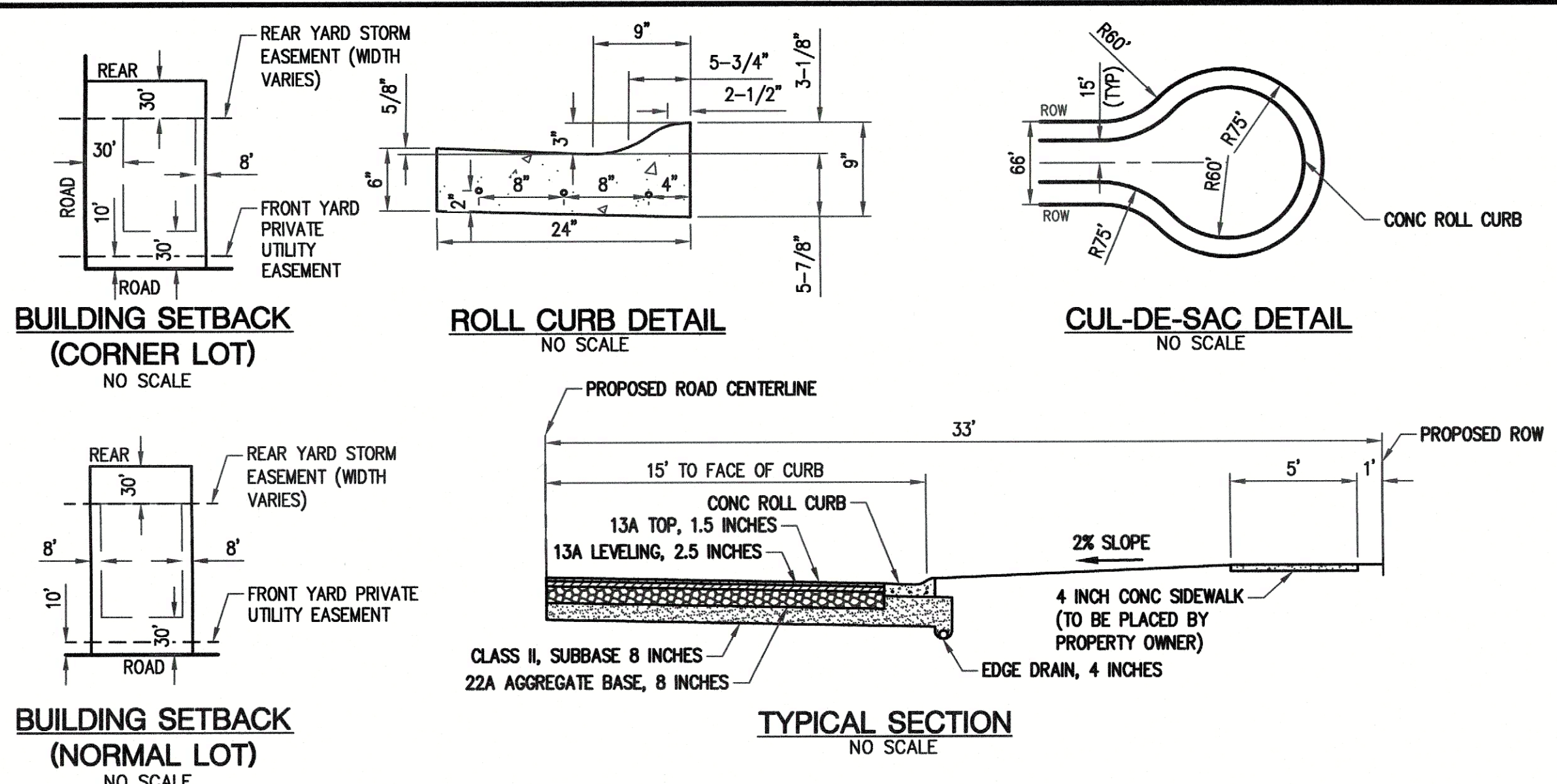
SITE PLAN NOTES - ECHO VALLEY EAST

- APPLICANT**
WESTVIEW CAPITAL LLC
ATIN - DAN LARABEL
795 CLYDE PARK COURT SW
BYRON CENTER, MI 49315
P - 616.878.1748
- PROJECT STATISTICS**
71 LOTS
SMALLEST LOT IS 12,005 SFT
MIN. FRONTAGE IS 57.1 LFT
MIN. FRONTAGE AT SETBACK IS 80 LFT
TOTAL ACREAGE IS 30.15
DENSITY 2.35 UNITS/ACRES
- PARCELS**
TBD BLUE RIDGE DR, LANSING, MI
040-022-300-083-00
AREA: 30.2 ACRES
- EXISTING LAND**
LOW DENSITY RESIDENTIAL DISTRICT (RB)
VACANT
- PROPOSED LAND USE**
LOW DENSITY RESIDENTIAL DISTRICT (RB)
SINGLE FAMILY RESIDENTIAL
- SITE ACCESS**
THE DEVELOPMENT WILL BE SERVED BY PUBLIC ROADS MEETING THE REQUIREMENTS OF THE EATON COUNTY ROAD COMMISSION.
- UTILITIES**
PROPOSED PROJECT WILL BE SERVED BY PUBLIC SEWER AND PUBLIC WATER.
PRIVATE UTILITIES (GAS, ELECTRIC, PHONE) SHALL BE UNDERGROUND.
- ZONING REQUIREMENTS**
LOT AREA (MINIMUM) 12,000 SFT
LOT WIDTH (MINIMUM) 80 FT
LOT COVERAGE (MAXIMUM) 30%
FLOOR AREA (MINIMUM) 1,200 SFT
BUILDING HEIGHT (MAXIMUM) 2.0 STORIES
SETBACKS:
FRONT 30 FT
SIDE 8 FT MINIMUM; 16 FEET TOTAL FOR BOTH SIDES
REAR 30 FT
PARKING:
REQUIRED SPACES 2 SPACES FOR EACH DWELLING UNIT
PROPOSED SPACE 2 SPACES IN THE DRIVEWAY; 2 SPACES IN THE GARAGE
- STORM WATER MANAGEMENT**
STORM WATER RUNOFF WILL BE COLLECTED IN THE STORM SEWER SYSTEM AND DETAINED IN ACCORDANCE WITH THE EATON COUNTY DRAIN COMMISSION STORM WATER ORDINANCE. WETLANDS ARE NOT PRESENT ON THE SITE.
- SITE LIGHTING**
ALL PROPOSED SITE LIGHTING WILL BE IN ACCORDANCE WITH TOWNSHIP ORDINANCE SEC. 18-193.
- ROADWAY**
THE PROPOSED ROADWAY WILL BE PUBLIC IN ACCORDANCE WITH THE REQUIREMENTS OF THE EATON COUNTY ROAD COMMISSION; ROAD LENGTH TOTAL IS 3,630 FEET
- SIDEWALKS**
SIDEWALKS WILL BE INSTALLED ALONG THE FRONTAGE OF ALL NEW LOTS IN ACCORDANCE WITH DELTA TOWNSHIP'S SIDEWALK ORDINANCE.
- FLOODPLAIN**
THE SITE IS NOT AFFECTED BY A REGULATED 100-YEAR FLOODPLAIN.

LEGAL DESCRIPTION

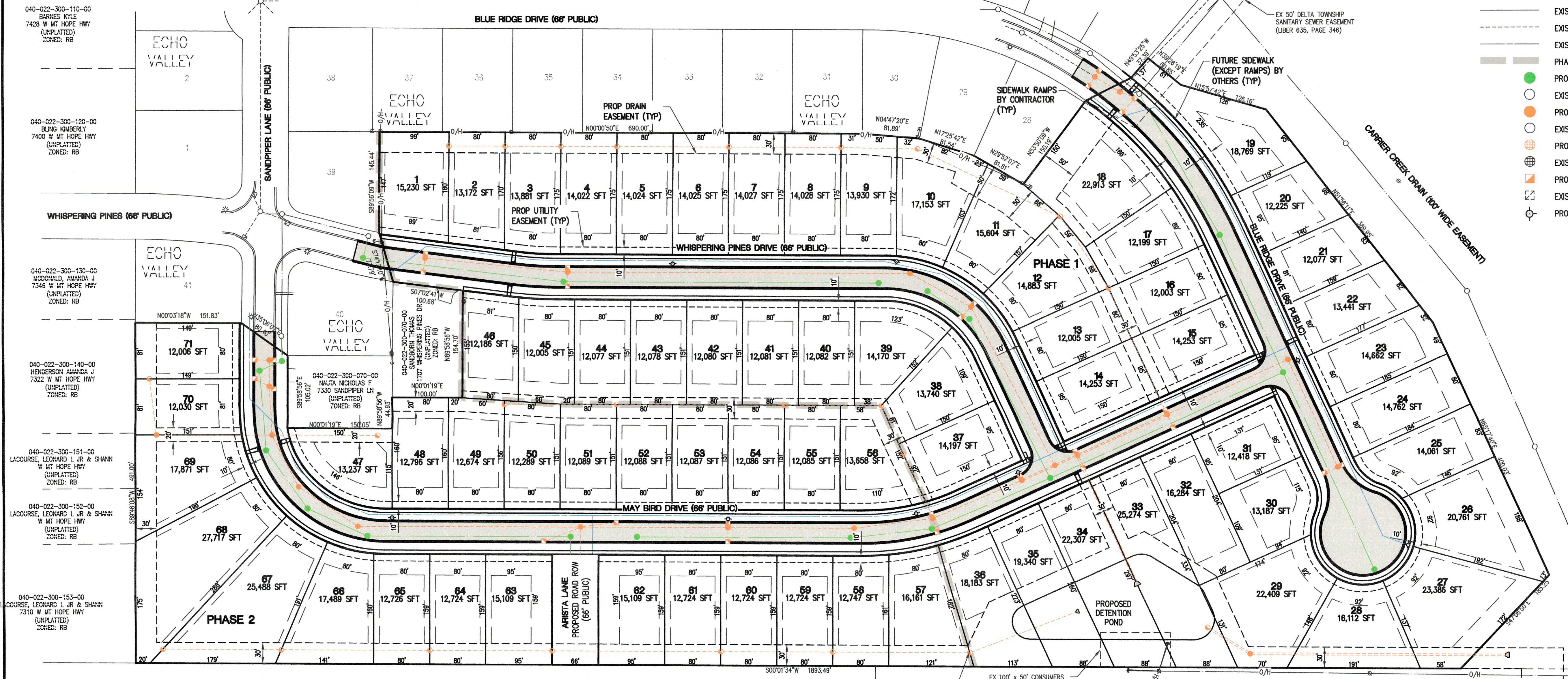
(PER DIVERSIFIED NATIONAL TITLE AGENCY, COMMITMENT NUMBER: 21-1096, COMMITMENT DATE 2-11-21)
PROPOSED ECHO VALLEY EAST
The West 1/2 of the Southwest 1/4 lying Southerly of Highway I-496, EXCEPT Echo Valley Subdivision and EXCEPT the South 264 feet and EXCEPT commencing at the Northwest corner of Lot 40; thence East 106.93 feet; thence South 150 feet; thence East 105 feet; thence North 150 feet; thence West 44.93 feet; thence North 100 feet; thence West 154.7 feet; thence Southwesterly 100.79 feet to the point of beginning. ALSO EXCEPT land lying North of the following described line: Beginning on the Northeast lot line of Lot 27 of Echo Valley Subdivision at a point 165 feet Southwesterly of the North corner of Lot 27; thence North 39°25'15" East 61 feet; thence North 15°57'15" East 126 feet; thence North 51°56'15" East 390 feet; thence North 65°18'15" East 400 feet; thence South 47°38'45" East 185 feet to a point on the East line of said West 1/2 of the Southwest 1/4 of Section 22, said point lying 485 feet South from the East-West 1/4 line Section 22, said point also being the point of ending of Section 22, T4N, R3W, Delta Township, Eaton County, Michigan.

LOT MINIMUMS	
NUMBER OF LOTS	71
ANTICIPATED SQUARE FOOTAGE OF THE SMALLEST LOT	12,000 SFT
MINIMUM LOT FRONTAGE (NON CURVED LOT)	80 FT
MINIMUM FRONTAGE AT THE BUILDING SETBACK LINE (CURVED LOT)	80 FT



LEGEND

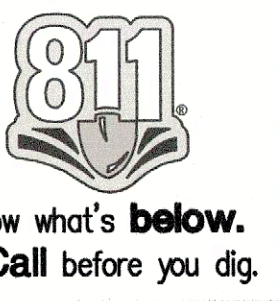
- Parcel Line / Lot Line
- Proposed Setback Line
- Proposed Easement
- Existing Lot Line
- Existing Right of Way
- Proposed Face of Curb
- Proposed Sanitary Sewer (8" SDR 26)
- Proposed Storm Sewer
- Proposed Water Main (8" DI CL 52)
- Proposed Right of Way
- Existing Sanitary Sewer
- Existing Storm Sewer
- Existing Water Main
- Phase Limits
- Proposed Sanitary Manhole
- Existing Sanitary Manhole
- Proposed Storm Manhole
- Existing Storm Manhole
- Proposed Catch Basin in Green Space
- Existing Catch Basin in Green Space
- Proposed Catch Basin in Curb Line
- Existing Catch Basin in Curb Line
- Proposed Fire Hydrant



PLAN DATE: AUGUST 2021
PROJECT MGR: AJW
REVIEWER: KAB
SCALE: 1"=80'

ROWE PROFESSIONAL SERVICES COMPANY
O: (616) 272-7125
F: (800) 974-1704
www.rowepsc.com
4345 44th Street SE, Suite A
Kentwood, MI 49512

PREPARED FOR
WESTVIEW CAPITAL, LLC
ECHO VALLEY EAST
FINAL PRELIMINARY PLAT
SITE PLAN



PLAN SUBMITTALS AND CHANGES

PRELIMINARY PLANS - **NOT FOR CONSTRUCTION**

DATE	DESCRIPTION
8-6-21	FINAL PRELIMINARY PLAT

REV: _____
SHT# **C1.0**
JOB No: 21W0012

Project: 21W0012 (Day Construction) Drawings: Final Preliminary Plat (SHT-21W002-Final Preliminary Plat-SITE PLAN)

BENCHMARK DATA TABLE

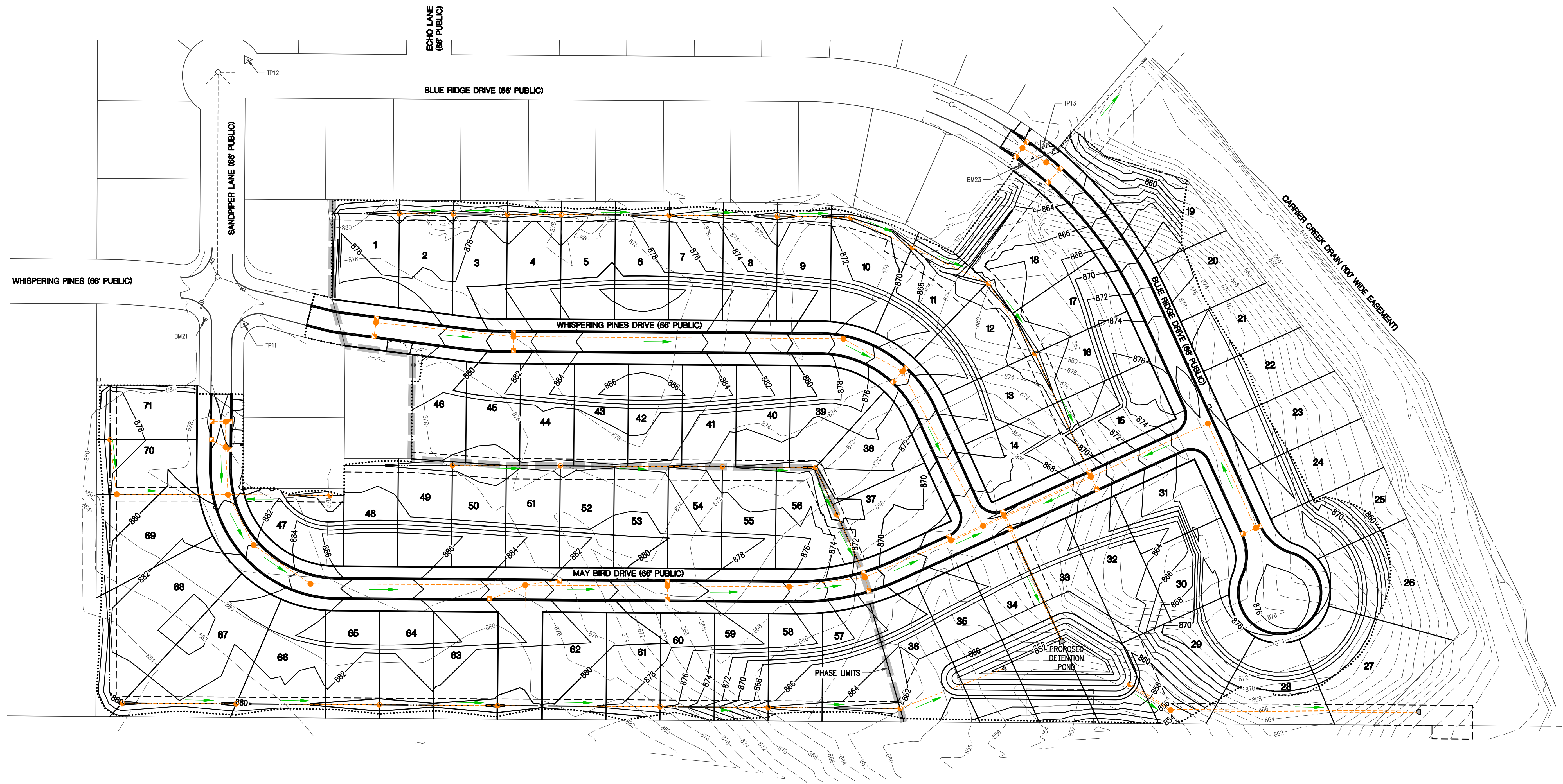
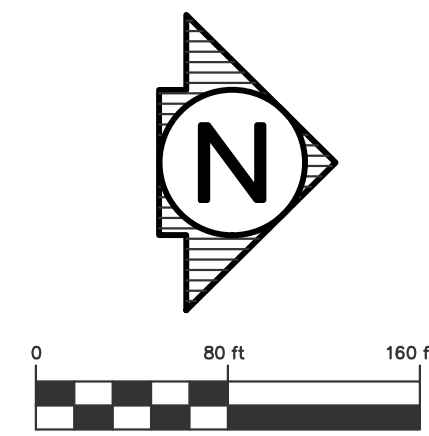
NUMBER	NORTHING	EASTING	ELEVATION	DESCRIPTION
BM 21	442264	13044707	880.51	SSW FLANGE BOLT ON HYDRANT SE QUADRANT OF WHISPERING PINES DRIVE AND SANDPIPER LANE
BM 23	443471	13044478	864.54	ESE FLANGE BOLT ON HYDRANT EAST SIDE OF BLUE RIDGE DRIVE AT STUB END OF ROAD

TRAVERSE POINT DATA TABLE

NUMBER	NORTHING	EASTING	DESCRIPTION
TP 11	442322.454	13044713.661	SET 1/2" X 18" REROD W/ ROWE TRAV CAP NE QUADRANT OF WHISPERING PINES DRIVE AND SANDPIPER LANE, N22W 29.40' ± TO LIGHT POLE AND S20W 68.16' ± TO STREET SIGN
TP 12	442327.622	13044321.942	SET 1/2" X 18" REROD W/ ROWE TRAV CAP SOUTH OF DRIVE TO HOUSE #1718, EAST 22' ± TO CENTERLINE BLUE RIDGE DRIVE AND N70E 5' ± TO BOC AT S. EDGE OF CONCRETE DRIVE
TP 13	443507.050	13044447.517	SET 1/2" X 18" REROD W/ ROWE TRAV CAP AT NW END OF BLUE RIDGE DRIVE, S41E 46' ± TO HYDRANT AND N49W 40.2' ± TO NE CORNER HOUSE #1504

LEGEND

- PIPE FLOW DIRECTION
- PROPOSED STORM SEWER



PLAN DATE: AUGUST 2021
 PROJECT MGR: AJW
 REVIEWER: KAB
 SCALE: 1"=60'

ROWE PROFESSIONAL SERVICES COMPANY

O: (616) 272-7125
 F: (800) 974-1704
 www.rowepsc.com

4345 44th Street SE, Suite A
 Kentwood, MI 49512

PREPARED FOR
WESTVIEW CAPITAL, LLC
ECHO VALLEY EAST
 FINAL PRELIMINARY PLAT
 GRADING PLAN



PLAN SUBMITTALS AND CHANGES	
PRELIMINARY PLANS - **NOT FOR CONSTRUCTION**	
DATE	DESCRIPTION
8-6-21	FINAL PRELIMINARY PLAT

REV: _____
 SHT# **C1.1**
 JOB No: 21W0012

R:\Projects\21W0012\Drawings\Final Preliminary Plat\SP-21W0012-Final Preliminary Plat-C1.1.dwg PLOTTED: 8/3/2021 10:22 AM

MEMO

TO: Matt McKernan
Delta Township Planner

FROM: Ernie West, P.E.
Township Engineer

DATE: August 17, 2021

SUBJECT: Echo Valley East
Preliminary Construction Plans – 7/27/21
Review Comments



I have reviewed preliminary construction plans, dated 7/27/21, for the subject project and offer the following comments.

We will proceed with drafting the utility agreement. We will need revised water and sanitary sewer drawings (4 sets, sealed) for EGLE permitting. We will finalize these permit applications once the drawings are received and found to be acceptable.

C4.1

1. Better show and label the existing 6-inch water main valve located on the end of the existing 6-inch water main at the point of connection to the proposed main.

C4.3

2. There is an existing hydrant located on the end of the existing 6" water main. This hydrant will remain. Field verify if it is installed on a tee or not. Install a tee if not currently on a tee. Install a new 8-inch valve after increasing to 8-inch main at this location.

C4.4

3. Move the valve on the east side of the water main tee at the intersection to the east side of the hydrant tee, such that hydrant is located between the three valves.

C4.5

4. Better show and label the existing 6-inch water main valve located on the end of the existing 6-inch water main at the point of connection to the proposed main.

5. Eliminate the sanitary sewer stub out of sanitary manhole O.
6. End the water stub in the future road right-of-way between the curb and sidewalk and install a reducer and hydrant assembly on the end of the stub.
7. Developer shall construct the sidewalk in the future road right-of-way, so that this does not become a gap in the sidewalk network.

C4.6

8. Eliminate tee for temporary hydrant at phase line. Install on main, after 8-inch valve.
9. Sanitary sewer shall stop at a manhole between phases. Do not stub out of manhole P in Phase 1.

If there are any questions on the above, please let me know. Thank you.

Aaron Wendzel

From: Mattson, Christopher B. <chrism@spicergroup.com>
Sent: Wednesday, May 5, 2021 9:52 AM
To: Aaron Wendzel; Eric Deibel
Cc: Dan Larabel; Mike West; Williams, June C.; Protasiewicz, Larry J.
Subject: [EXTERNAL]: RE: Echo Valley East TPP

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Aaron,

Our initial comments are still in play for this project and it appears that you will have the ability to address all of them in the final plat and eventual design. I will list the items here that will be important going forward:

1. First flush (runoff from first 1" of rain), bankfull (2yr 24hr), and 100-year storm volumes need to be routed through and detained onsite before release to the Carrier Creek Drain. Release rates shall be per the Carrier Creek basis of design.
2. Back lot drainage must be provided to collect runoff from behind homes.
3. All storm sewer will need to become jurisdiction of the Eaton County Drain Commissioner via 433 Agreement. Legal coordination will need to take place on said agreement and exhibits will need to be drafted by the developer.
4. All storm sewer under roadways shall be reinforced concrete pipe.
5. All easements shown on the plat for storm water drainage shall be held by the Drainage District and recorded at the register of deeds.

This preliminary plat is approved. Once final plat and engineering design has been performed, please submit to ECDC for review and approval.

Regards,

Chris B. Mattson, P.E. | Project Manager
SPICER GROUP, INC.
Office: 989-224-2355 | Cell: 989-213-6365
www.spicergroup.com
Stronger. Safer. Smarter. *Spicer.*

From: Aaron Wendzel <AWendzel@rowepsc.com>
Sent: Wednesday, May 5, 2021 8:01 AM
To: Eric Deibel <EDeibel@eatoncounty.org>; Mattson, Christopher B. <chrism@spicergroup.com>
Cc: Dan Larabel <dlarabel@allenedwin.com>; Mike West <mwest@allenedwin.com>
Subject: RE: Echo Valley East TPP

Good Morning Eric and Chris,

I don't believe we have received comments from the drain commission regarding the Tentative Preliminary Plat Submtial on 3-24-21 for Echo Valley East. If I am mistaken and have overlooked them, I apologize. I believe AEH provided a review fee of \$400 in mid to late March. Could you please provide an update as to when you believe comments will be made available?

Thank you,

Aaron J. Wendzel, PE | Senior Project Engineer



ROWE PROFESSIONAL
SERVICES COMPANY

4345 44th Street SE, Suite A | Kentwood, MI 49512

O: (616) 272-7125 | F: (800) 974-1704 | C: (989) 763-3431

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From: Aaron Wendzel

Sent: Friday, April 23, 2021 5:14 PM

To: Eric Deibel <EDeibel@eatoncounty.org>; Mattson, Christopher B. <chrism@spicergroup.com>

Subject: Echo Valley East TPP

Good Afternoon,

I wanted to follow up on our Tentative Preliminary Plat Submtial on 3-24-21 for Echo Valley East. If you have any questions or concerns, please let me know.

Have a great weekend,

Aaron J. Wendzel, PE | Project Engineer



ROWE PROFESSIONAL
SERVICES COMPANY

4345 44th Street SE, Suite A | Kentwood, MI 49512

O: (616) 272-7125 | F: (800) 974-1704 | C: (989) 763-3431

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Planning Department

(517) 323-8560

TO: Supervisor Kenneth R. Fletcher & Township Board
Delta Charter Township

FROM: Matt McKernan, Planner

DATE: August 31, 2021

SUBJECT: Case No. 07-21-10: Special Land Use Permit Request for a Place of Worship at the northwest corner of Standard Drive and North Waverly Road.



The Township is in receipt of a Special Land Use Permit application submitted by Shekinah International Church requesting a Special Land Use Permit to allow for construction of a 6,864 house of worship on the site. The subject parcel is located at the northwest corner of Standard Drive and North Waverly Road in Section 1 of Delta Township.

The Planning Commission held a public hearing on August 23, 2021, and subsequently recommended approval of the request to the Township Board by a vote of 6-0.

The draft minutes for the August 23 public hearing are attached to this memo. Also attached to this memo are the Staff report dated

August 18, 2021, and the site plan prepared by LSG Engineering & Surveyors, dated July 12, 2021.

The following motion, consistent with the Planning Commission's recommendation, is offered for the Board's consideration:

"I move that the Delta Township Board approve the Special Land Use Permit for a Place of Worship requested by Shekhinah International Church as described in Case No. 07-21-10 for the following reasons:"

1. Final site plans for Shekhinah International Church will require Planning Commission approval.
2. Failure of the applicant to comply with any of the provisions required by the Delta Township Zoning Ordinance, or any stipulations required by the Delta Township Board, shall constitute grounds for termination of these Special Land Use Permit by the Township Board

Summary Record of Public Hearing for Case No. 7-21-10: Special Land Use Permit Request for a 4.25-acre parcel located on the northwest corner of Standard Drive and North Waverly Road in Section 1 of Delta Township. Request is for a Special Land Use Permit for a Place of Worship. Petitioner is Shekhinah International Church, 4625 Bristol Street, Lansing, Michigan 48910.

Members in attendance: Bradley, Mudry, McConnell, Elsinga, Schweitzer, and Hunt-Proctor

Members absent: Kosinski, Meddaugh, and Weinfeld

Planner Matt McKernan informed the Commission that Places of Worship within the RB, Low Density Residential, zoning district required a Special Land Use Permit. The applicant wishes to construct a 6,864 square foot building at the northwest corner of Standard Drive and Waverly Road. Mr. McKernan noted that if the Special Land Use Permit is granted, the applicant will be required to submit a site plan illustrating a sidewalk along Standard Drive. The Township's Engineer did not recommend the installation of a sidewalk along Waverly Road currently due to non-connectivity to other sidewalks. The site plan will also include a landscaping plan and a rendering of the building. Mr. McKernan noted that after the Township Engineer's tentative review of the site plan, he did not raise any concerns and he felt all of the Township's requirements could be met.

Mr. McKernan provided a brief review of the General Review Standards for Special Land Use Permits by indicating that Places of Worship are required to have a primary access on a primary road which would minimize traffic concerns for the adjacent residential neighborhood. The applicant had indicated that their services will include live music, but the building design would eliminate 80% of the noise and that the applicant intended to install additional soundproofing measures. Mr. McKernan pointed out that the nearest occupied structure is located approximately 350 feet away from the proposed church building on the east side of Waverly Road and that staff did not anticipate noise being an issue. He noted that site plans were sent to the Ingham County Road Commission, who had jurisdiction over Waverly Road, but staff had not received any comments back at this time. If the Ingham County Road Commission denied access on Waverly Road, access would have to be provided via Standard Drive which would require a variance from the Township's Zoning Board of Appeals.

Mr. McKernan read the following correspondence from Nancy and Bob Chapman of 3124 Preakness Way into the record that was received by staff pertaining to the request this evening:

"As residents of the neighborhood, just a block or so away from the parcel Shekhinah would like to build on, we wanted to express our support for the SUP. It seems like a very good use for that parcel which in many ways represents the entrance to our subdivision. There are not a lot of good options for that particular parcel, but we think Shekhinah would be a welcome addition to the neighborhood. Having a well-maintained church and grounds there would also improve the visual entrance to the subdivision."

Mr. McKernan pointed out that his staff report indicated that the church would hold "bi-weekly"

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AUGUST 23, 2021
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services and that the staff report should be corrected to read “twice weekly” services.

Laurie McMatre, 2001 West Mt. Hope Avenue, Apt. 106, Lansing, Michigan, said she is an elder for Shekhinah International Church and she wanted to thank staff for the work they had put into their request. Ms. McMatre noted that the church was in the process of purchasing the property contingent upon receiving approval for the Special Land Use Permit.

Stephanie Buckwick from Shekhinah International Church provided the Commission with a PowerPoint presentation that provided an overview of the churches' mission and outreach programs.

Mr. McConnell questioned if the church had a current facility.

Ms. Buckwick said approximately five years ago, they partnered with an African American church in Lansing but now that the building will be paid off this year, there was no reason to partner with them anymore which was why they were looking to build their own facility.

Mr. Schweitzer asked if there was anyone in the audience who would like to speak on the request this evening.

Henderson Bodiford, 3232 Pinto Circle, said he and his wife had been residents of the Saratoga Woods subdivision for 24+ years. He questioned what type of structure would be constructed and whether a real-estate analysis had been done in regard to property values in the neighborhood.

Ms. Buckwick said it was their goal to construct a one-story building that would be very appealing to the neighbors and add to the value of the adjacent neighborhoods.

Mr. McKernan said churches were a common use in residential areas and he didn't anticipate them impacting property values.

Dave Evans, 4525 Arabian Circle, Lansing, Michigan, said he and his wife had lived in the Saratoga subdivision for 25 years and he questioned if there was a drainage issue to the north.

Mr. McKernan said the subject parcel had been mistakenly designated as a wetland and that storm drainage would be directed to the north where the property experienced wetness.

Mr. Evans questioned if Franette Street was the applicant's northern property line.

Mr. McKernan said that was correct.

Mr. Evans questioned if notices about the meeting this evening were sent out.

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Mr. McKernan said meeting notices were sent to all property owners within 300 feet of the subject parcel.

Mr. Evans questioned how many parking spaces the church would have.

Mr. McKernan said there would be approximately 50 parking spaces. He noted that the church would be required to go through site plan review before the Planning Commission, but residents would not be given notice of the meeting. He encouraged Mr. Evans to contact the Planning Department for updates on meeting dates.

Mr. Evans noted that he had concerns about property care and appearance.

Ms. Buckwick noted that the church would take into consideration any suggestions the residents may have on landscaping preference.

Mr. Schweitzer pointed out that there were Township landscaping standards that the applicant would be required to meet.

MOTION BY MCCONNELL, SECONDED BY MUDRY, THAT THE PUBLIC HEARING BE CLOSED. VOICE VOTE. CARRIED 6-0.

MOTION BY BRADLEY, SECONDED BY MUDRY, THAT THE DELTA TOWNSHIP PLANNING COMMISSION RECOMMEND TO THE DELTA TOWNSHIP BOARD APPROVAL OF THE SPECIAL LAND USE PERMIT FOR A PLACE OF WORSHIP REQUESTED BY SHEKHINAH INTERNATIONAL CHURCH AS DESCRIBED IN CASE NO. 7-21-10 FOR THE FOLLOWING REASONS:

- 1. THE SPECIFIC USE STANDARDS IN SECTION 8.19 HAVE BEEN MET.**
- 2. THE SPECIAL LAND USE STANDARDS SET FORTH IN SECTION 7.03 OF THE DELTA TOWNSHIP ZONING ORDINANCE HAVE BEEN MET.**

CONDITIONS OF APPROVAL:

- 1. PRELIMINARY SITE PLANS REVIEW FOR SHEKHINAH INTERNATIONAL CHURCH SHALL BE CONDUCTED BY THE PLANNING COMMISSION.**
- 2. FAILURE OF THE APPLICANT TO COMPLY WITH ANY OF THE PROVISIONS REQUIRED BY THE DELTA TOWNSHIP ZONING ORDINANCE, OR ANY STIPULATIONS REQUIRED BY THE DELTA TOWNSHIP BOARD, SHALL CONSTITUTE GROUNDS FOR**

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**TERMINATION OF THE SPECIAL LAND USE PERMIT BY THE
DELTA TOWNSHIP BOARD.**

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ROLL CALL VOTE. CARRIED 6-0.

Respectfully submitted,

Merritta Hunt-Proctor, Secretary

<https://deltami2.sharepoint.com/sites/DELTAPlanningDepartment/Shared Documents/General/Anne Swink/MIN/2021 PC/Shekhinah Church.doc>

Planning Commission

Special Use Permit-Place of Worship Shekhinah International Church Section 1

Meeting Date:
August 23, 2021

Report Date:
August 18, 2021

Case No: 07-21-10

Applicant:
Shekhinah International Church, 4625 Bristol St., Lansing, MI 48910

Location
4.25-acre parcel on northwest corner of Standard Dr. & N. Waverly Rd.

Parcel Number:
040-001-200-068-00

Current Zoning District:
RB-Low Density Residential

Proposed Request:
Special Land Use Permit for a Place of Worship

Report Prepared by:
Matt McKernan,
Planner



Overview

A request for a Place of Worship Special Land Use Permit at the northwest corner of Standard Dr and North Waverly Road. Shekhinah International Church would like to construct a 6,864 house of worship on the site.

Related Documents

- Application for Case No. 07-21-10
- Site Plan dated 7/12/21



Existing Land Use:

The site is currently undeveloped.

Surrounding Zoning and Land Use:

North: RB-Low Density Residential- Paradise Missionary Baptist Church

East: DM-1: Multi-Family Residential (City of Lansing)

South: RB-Low Density Residential-Undeveloped

West: RB-Low Density Residential-Single-family dwellings

Zoning History:

1970: E-Agricultural

1974: A2-Limited Agricultural

1990: RB-Low Density Residential

2010: On October 18, 2010, in Case No. 8-10-17, the Delta Township Board approved a Special Land Use Permit (valid for 2 years or until construction was commenced) for an Adult Foster Care Group Home (Joshua's Place) on the subject parcel. The permit approval was extended by the Board for one year in September of 2012. Construction of the project was never commenced, and the permit is expired.

2017: RB-Low Density Residential

Overview:

The applicant, Shekhinah International Church, is requesting a Special Land Use Permit to establish and operate a place of worship at the northwest corner of North Waverly Rd and Standard Drive. Shekhinah International Church will hold services on Sundays and Tuesdays. The applicant has indicated that the building will host occasional (2 to 3 per year) gatherings of state and local religious officials. The applicant is in the process of purchasing the property.

Standards of Review

The Planning Commission and Township Board must review and discuss the *General Review Standards for all Special Land Uses (Section 7.03)* and *Section 8.45 Places of Worship*.

Section 7.03 General Review Standards for all Special Land Uses

- 1. The proposed Special Land Use shall be compatible and in accordance with the goals, objectives and policies of the Delta Charter Township Comprehensive Plan and any associated sub-area and corridor plans.**

The subject parcel is planned and zoned for "low density residential." Places of worship are allowed by special land use permit in the RB-Low Density Residential district, provided the standards of Sections 7.03 and 8.45 are met.

- 2. Be constructed, operated, and maintained so as to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed. A Special Land Use shall be designed and constructed as to not create a significant detrimental impact, as compared to the impacts of permitted uses.**

The applicant has indicated that the final design of their building will complement the aesthetics of the adjacent neighborhoods. The applicant will be required to provide renderings of the building and a full landscape plan as part of site plan review that will be conducted by the Planning Commission at a later date.

- 3. Be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, water, and sewage facilities. Such services shall be provided and accommodated without an unreasonable public burden.**

The subject parcel can be served by public utilities. The Township Engineer provided the following comments:

- a) Sidewalk shall be extended along Standard Drive to Waverly Rd. An extension north on Waverly to the north likely does not make sense at this time, however a pedestrian crossing and curb ramps to align with sidewalks on the east side of Waverly probably does. This should be reviewed with Ingham County Road Department.
- b) The Ingham County Road Department should review the proposed drive entrance due to the location on curve and proximity to Standard Drive. A second drive entrance to Standard Drive should be considered.
- c) Water main shall be extended to the Waverly Road west right-of-way line. Provide 500' hydrant spacing.
- d) Fire Department requires a second hydrant located near the entrance drive, which will require water main extension north along Waverly Road.
- e) Illustrate the water service connection for the building. Identify size and curb stop location
- f) Preferred sanitary option is Option #1. Use HDPE thermal butt-welded force main. Sanitary sewer would be a privately owned service line in a private easement.
- g) If a private sanitary easement cannot be secured, Option 2 is allowable. Add force main cleanouts at the ROW line. Force main becomes public at the ROW. This option requires a Utility Agreement and EGLE permit.
- h) On Option 2 of the sanitary sewer, run force main on north side of road, 10' off water main. Extension of gravity sewer should be revised to run to NE from existing manhole.

4. **Not involve uses, activities, processes, materials and equipment or condition of operation that will be detrimental to the natural environment, public health, safety, or welfare by reason of excessive production of traffic, noise, smoke, odors, or other such nuisance in comparison to the impacts associated with typical permitted uses.**

The applicant indicates that services will include live music. The applicant indicates that the building design eliminates 80% of noise pollution. The church intends to install additional padding which will further reduce noise pollution. The nearest occupied structure is approximately 350 feet away from the building. The church is not anticipated to create any nuisances to adjacent residential areas.

5. **The proposed Special Land Use shall be located and designed in a manner which will minimize the impact of traffic, taking into consideration: pedestrian access and safety; vehicle trip generation (i.e., volumes); types of traffic, access location and design, circulation, and parking design; street and bridge capacity; and traffic operations at nearby intersections and access points. Efforts shall be made to ensure that multiple transportation modes are safely and effectively accommodated in an effort to provide alternate modes of access and alleviate vehicular traffic congestion. The applicant shall comply with the Township's Complete Street Ordinance.**

- The parking lot can accommodate up to 50 cars. Regular services are during non-peak traffic hours on Sunday afternoons and Tuesday nights. The proposed use is not expected to create traffic concerns on North Waverly Road.
- The installation of sidewalk will be required along the Standard Drive frontage. This completes a connection between the Saratoga Woods subdivision and the neighborhoods on the east side of Waverly Road in the City of Lansing.
- The church will have a bike rack on the north side of the parking lot.

6. **The nature and character of the activities, processes, materials, equipment, or conditions of operation, either specifically or typically associated with the use shall be reviewed.**

The church will have services on Sunday afternoons and Tuesday nights. The services will involve live music. The building will be over 350 feet from the nearest occupied structure and is not anticipated to create noise disturbances. The church offers services during off-peak hours and is not anticipated to create traffic concerns on North Waverly Road.

7. Measures shall be taken to ensure that outdoor activity, storage, and work areas will be compatible with adjacent land uses.

The applicant has indicated that there will be no regular outdoor work areas or activities on the site. There is a dumpster enclosure on the west side of the parking lot, which shall be screened on all sides with an opaque fence or wall, and gate at least six (6) feet in height. The fence or wall shall be constructed of durable material, such as wood or masonry in accordance with Section 12.03 (B) of the zoning ordinance.

8. The proposed Special Land Use shall be designed, constructed, operated, and maintained to meet the stated intent of the zoning district and shall comply with all applicable ordinance standards.

The proposed building and parking lot meet the dimensional requirements of the Delta Township Zoning Ordinance. The applicant will be required to install sidewalk along the Standard Drive frontage and submit a landscaping plan as part of site plan review, which will be conducted by the Planning Commission at a later date.

9. The general standards and requirements of this Section are basic to all uses authorized by Special Land Use approval. The specific and detailed requirements relating to particular uses and area requirements must also be satisfied for those uses.

The specific and detailed requirements for Places of Worship are found in Section 8.45 Places of Worship, which are outlined below.

Section 8.45 Places of Worship

A. Access: *Primary access to the subject parcel shall be on a county primary road, as classified by the Eaton County Road Commission, or on a state trunk line under the jurisdiction of the Michigan Department of Transportation.*

Vehicular access to the subject parcel is proposed off North Waverly Rd, which is a county primary road. The plans have been sent to the Ingham County Road Department for review, but Staff has not received comment at this time. In the event that access point is denied, the church would need to change the entrance drive to Standard Drive, which would necessitate a variance from the Zoning Board of Appeals.

B. Incidental Facilities: *Facilities incidental to the main religious sanctuary must be used for church, worship, or religious education purposes in a manner which is compatible with adjacent residential uses. Associated uses on the subject parcel, such as: bookstores, recreation centers, retreat facilities, conference centers, health services, schools, convents, and other uses shall meet all requirements of this Ordinance for such uses.*

The applicant has indicated that the church will be utilized for bi-weekly church services and to host occasional (2-3 times a year) meetings for local/state religious officials. This type of use would be considered a "conference center", which does not have any specific use requirements in the zoning ordinance. Conference centers are required to provide 1 parking space per every 4 guests, meaning the church could accommodate up to 200 attendees for meetings.

C. Maximum Height: *Building heights of greater than the maximum allowed in the district in which a place of worship is located, may be allowed provided that the front, side, and rear yards are increased one (1)-foot for each foot of building height which exceeds the maximum height allowed. Structural*

appurtenances, such as steeples and domes, shall be permitted to exceed maximum building height requirements as per Section 4.17.F.1.

The maximum allowed height in the RB-Low Density Residential zoning district is 40 feet. The precise height of the proposed building will not be finalized until site plan review, but the applicant has indicated that the building will not have a second story.

- D. Setbacks: The minimum front setback for any principal or accessory building from a property line shall be fifty (50) feet, and the minimum side and rear setbacks shall be forty (40) feet. Parking areas shall provide a minimum setback of thirty (30) feet. Places of Worship located completely within the Office (O), or Commercial (C) zoning districts may be reduced to comply with the minimum required setbacks mandated for principal buildings, accessory buildings, and parking lots within these districts. Greater setbacks may be required when abutting or facing residentially zoned properties.**

The proposed building meets the setback standards for places of worship in the RB-Low Density Residential district. The site plan incorrectly lists the setback from Standard Drive as a side yard setback, but the building still meets the required 50’ setback for front yards.

	Required	Provided
Front (East)	50'	109'
Front (South)	50'	50'
Rear (West)	50'	224'
Side (North)	40'	305'

- E. Traffic Control: Traffic from events including worship services and other large assemblies, shall be controlled so as not to create congestion or unreasonable delays on adjacent streets.**

The church is not anticipated to create any traffic concerns on North Waverly Road. The plans have been sent to the Ingham County Road Commission for review, but Staff has not received comment at this time. In the event that access point is denied, the church would need to change the entrance drive to Standard Drive, which would necessitate a variance from the Zoning Board of Appeals.

Staff Recommendation

The following motion is offered if the Planning Commission is inclined to approve the Special Land Use Permit for Shekhinah International Church:

“I move that the Planning Commission recommend to the Delta Township Board, approval of the Special Land Use Permit for a Place of Worship requested by Shekhinah International Church as described in Case No. 07-21-10 for the following reasons:

1. The specific use standards in Section 8.19 have been met.
2. The Special Land Use standards set forth in Section 7.03 of the Delta Township Zoning Ordinance have been met.

Conditions of Approval:

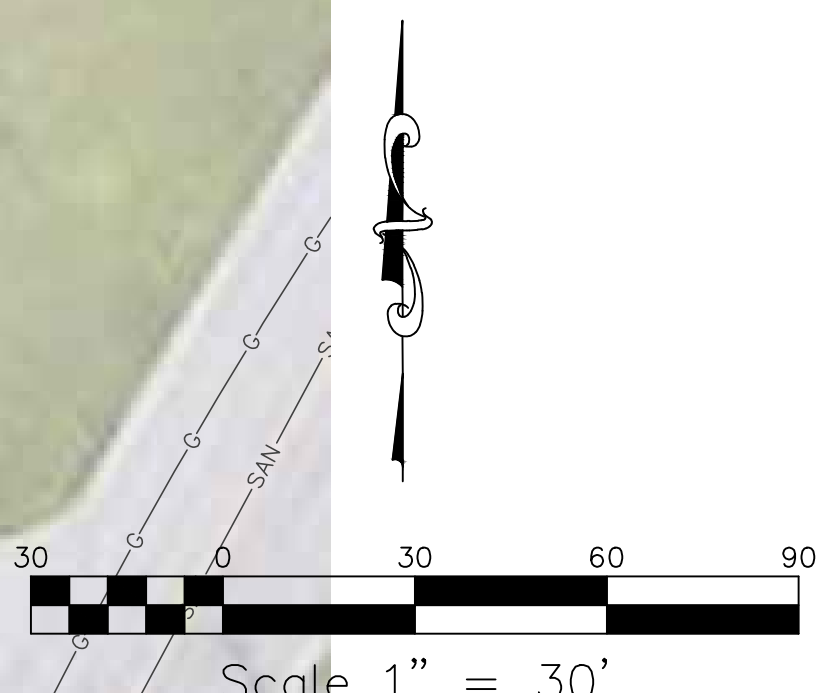
1. Preliminary Site Plans review for Shekhinah International Church shall be conducted by the Planning Commission.

2. Failure of the applicant to comply with any of the provisions required by the Delta Township Zoning Ordinance, or any stipulations required by the Delta Township Board, shall constitute grounds for termination of these Special Land Use Permit by the Township Board

SANITARY SEWER OPTIONS

FINISHED FLOOR ELEVATION ASSUMED 850
 INV ELEVATION SANITARY AT SEPTIC TANK 846
 INV ELEVATION SANITARY AT STREET OPTION 1 850.0
 OPTION 2 846.0

FILE: L:\2021 (SHEKHINAH INTERNATIONAL DELTA TWP)\C6 PLANS\C1-0.DWG - PLOT DATE: 7/12/2021 10:35 AM BY: Michelle Shumaker SCALE: 1:1



NOTES

- BENCHMARKS
 - #1. ---
 - #2. ---
- THE CONTRACTOR SHALL CALL "MISS DIG" AT 811 OR 1-800-482-7171 AT LEAST THREE (3) WORKING DAYS (EXCLUDING WEEKENDS AND HOLIDAYS) PRIOR TO CONSTRUCTION.
- LSG ENGINEERS & SURVEYORS WILL NOT BE RESPONSIBLE FOR FIELD DESIGN CHANGES MADE BY THE CONTRACTOR OR THE CONTRACTOR'S SURVEYOR WHERE THESE DESIGN CHANGES HAVE NOT BEEN APPROVED BY LSG ENGINEERS & SURVEYORS.
- UNLESS OTHERWISE NOTED, ALL DIMENSIONS ARE TO THE FACE OF CURB AND ALL BUILDING AND PAVEMENT LINES ARE PARALLEL AND/OR PERPENDICULAR TO THE PROPERTY LINE DENOTED WITH THE MEASURED BEARING OF X00°00'00\"/>

SITE DATA

ZONING:	SITE: RB - LOW DENSITY RESIDENTIAL
	NORTH: RB - LOW DENSITY RESIDENTIAL
	SOUTH: RB - LOW DENSITY RESIDENTIAL
	EAST: DM-1 - RESIDENTIAL - MULTIPLE (CITY OF LANSING)
	WEST: RB - LOW DENSITY RESIDENTIAL
LAND USE:	(EXISTING): VACANT CHURCH
	(PROPOSED): CHURCH
BUILDING HEIGHT:	--- (MAX. 40')
SETBACKS:	FRONT: 50' REQUIRED 109' PROPOSED
	REAR: 40' REQUIRED 224'± PROPOSED
	SIDE: 40' REQUIRED 50'± PROPOSED (SOUTH) 305'± PROPOSED (NORTH)
MINIMUM LOT WIDTH:	95' REQUIRED (CORNER LOT) 453'± PROPOSED
MINIMUM LOT AREA:	12,000 SQ.FT. REQUIRED 213,362 SQ.FT. PROPOSED
BUILDING COVERAGE RATIO:	30% ALLOWED 3% PROPOSED
OPEN SPACE:	---% PROPOSED
LOT AREA:	4.9± ACRES
PERVIOUS AREA:	3.85± ACRES
IMPERVIOUS AREA:	1.05± ACRES

PARKING DATA

PARKING REQUIREMENTS:

PARKING STALL SIZE
9'x18'

CALCULATION:

1 SPACE FOR EVERY 5 SEATS
 3 BARRIER-FREE SPACE FOR 51-75 SEATS
 MAXIMUM PARKING SHALL NOT EXCEED THE MINIMUM REQUIREMENT BY MORE THAN 20%

1 BICYCLE SPACE PER 20 PARKING SPACES

PARKING CALCULATION:

CHURCH: 50 SPACES (BASED ON 250 SEATS)
 TOTAL REQUIRED: 50 SPACES

BICYCLE: 3 BICYCLE PARKING SPACES

PARKING PROVIDED:

REGULAR: 47 SPACES
 BARRIER-FREE 3 SPACES

TOTAL PROVIDED: 50 SPACES

BICYCLE SPACES --- SPACES

NOTE:
 BARRIER-FREE SPACES SHALL BE INCLUDED IN THE TOTAL REQUIRED AND THE TOTAL PROVIDED.

MISS DIG

 Know what's below.
 Call before you dig.

NO.	DATE	DESCRIPTION	BY

LSG
 Engineers & Surveyors

3135 PINE TREE ROAD
 SUITE D
 LANSING, MI 48911
 PH. (517) 393-2902
 FAX (517) 393-2608
 www.lsg-es.com

PREPARED FOR:
SHEKHINAH INTERNATIONAL CHURCH
 719 EAST CESAR CHAVEZ
 LANSING, MI 48906
 PHONE: ---

PRELIMINARY SITE PLAN
 FOR
SHEKHINAH INTERNATIONAL CHURCH
 N. WAVERLY ROAD & STANDARD DRIVE
 LANSING, MI

FILE:	C1-0.DWG
DESIGNED BY:	X
DRAWN BY:	X
CHECKED BY:	X
DATE:	JULY 12, 2021
SCALE:	1" = 30'
VERT.:	N/A
PROJECT NO.:	2621
SHEET NO.:	C1-0



Manager's Office

(517) 323-8590

MEMO

TO: Delta Township Board

FROM: Supervisor Kenneth R. Fletcher

DATE: September 7, 2021

SUBJECT: Designation of a Delegate and Alternate Delegate for the Michigan Municipal League Annual Business Meeting

The MML Annual Business Meeting and Convention are held each fall. This year the convention will be held in Grand Rapids, MI, September 22-24, 2021.

It has been requested by the Michigan Municipal League that Delta Township appoint a delegate and alternate delegate as official representatives to vote on issues at the annual business meeting. I suggest that Manager Brian Reed be appointed as the voting delegate and Treasurer Dennis Fedewa as our alternate voting delegate.

Therefore, the following resolution is offered for your consideration:

“I move that the Delta Township Board designate Manager Brian Reed as the delegate and Delta Township’s official representative to cast the vote at the Michigan Municipal League Annual Business Meeting. I further move that Treasurer Dennis Fedewa be designated as the alternate delegate.”



Manager's Office

(517) 323-8590

MEMO

TO: Supervisor Kenneth R. Fletcher and the Delta Township Board

FROM: Alannah Doak, Assistant Township Manager

DATE: September 7, 2021

SUBJECT: Discussion Regarding Possible Ordinance Amendment Pertaining to Small Cell Wireless Facilities

Summary:

Discussion Concerning the Proposed Draft Ordinance Amendment Adding Article III to Chapter 36 of the Delta Township Code of Ordinances Pertaining to the Deployment of Small Cell Wireless Facilities to Reflect Changes in State and Federal Law.

Background:

In recent years, the telecommunications industry has been promoting the need to locate small cell wireless facilities within public right of way similar to electric and gas companies regarding the placement of infrastructure. Small cells are low-powered antenna nodes that are installed to relieve congestion for wireless users based on increasing demands from consumers. The term “small” refers to the footprint of the device but they are typically installed on an existing utility pole or light pole, or on newly installed poles in areas typically located alongside sidewalks and roadways.

On September 26, 2018, the [Federal Communications Commission](#) (FCC) issued a declaratory ruling and order which was intended to accelerate and encourage the rapid deployment of small cell wireless infrastructure in the public right of way across the country by eliminating regulatory impediments to bring advanced wireless services to the public. Following the FCC ruling, the State of Michigan approved the “[Small Wireless Communications Facilities Deployment Act](#)” or Act 365 of 2018. The legislation requires local government authorities to allow small cell wireless facilities in the public right of way and provides specific guidelines that both the municipalities and the small cell wireless providers must follow.

In response to the legislation, Township legal has drafted a proposed ordinance amendment containing a comprehensive set of regulations that are reflective to state law. While Act 365 of 2018 has stripped significant discretion from local government authorities to determine whether to permit the installation of small cell wireless facilities in public right of ways, the law does allow for a municipality to enforce aesthetic requirements that are reasonable and no more burdensome than those applied to other types of infrastructure deployments. However, in order to apply the regulations to providers, a municipality must have these requirements in their ordinances.



The proposed ordinance addresses a range of issues including the application process and requirements, permitting, protection of existing Township infrastructure, preferred installation options, non-obstruction of other infrastructure in the rights-of-way, ADA compliance, non-obstruction of vehicular and pedestrian sight lines, and aesthetic standards.

In addition to consideration of the ordinance amendment, the following application permit fees and rates for such facilities would be included in the annual fee schedule, consistent with Act 365 of 2018.

Application Permit Fees

Application fee for a permit shall not exceed the lesser of the following:

- (1) \$200.00 for each small cell wireless facility alone.
- (2) \$300.00 for each small cell wireless facility and a new utility pole to which it will be attached.

Annual Rate

- (1) \$20.00 annually for each existing pole unless *subdivision (2)* applies.
- (2) \$125.00 annually, if a new utility pole or wireless support structure was erected at a new site by or on behalf of the wireless provider on or after the effective date of Act 365 of 2018.

Authority Pole Rate

- (1) \$30 per year, per authority pole.

Review of Existing Ordinances in Other Municipalities:

A review of existing ordinances in other municipalities pertaining to small cell wireless facilities was completed. Due to Act 365 of 2018 standardizing permits, fees, and right-of-way use for local government authorities, ordinances from other local governments are quite similar. Below are examples of small cell wireless facility ordinances from other municipalities within the State of Michigan.

- [Allendale Township, MI](#)
- [Chikaming Township, MI](#)
- [Garfield Township, MI](#)
- [City of Clawson, MI](#)

Existing Small Cell Facilities in Delta Township:

In late 2014 and early 2015, the Township received an influx of electrical permit applications for the deployment of small cell facilities. In order to issue the electrical permits and track the locations for Township records, each small cell facility was given an address as close as possible to the actual site. Currently, the Township is aware of seven 4G small cell facilities that belong to ACD Technology who lease them out to Verizon near the following locations:

- 435 Elmwood Rd.
- 499 Mall Drive South
- 107 Elmwood Rd.
- 5211 Delta River Dr.
- 5698 Mall Dr. West
- 5890 Millett Hwy.
- 8003 Davis Hwy.

Next Steps:

If the consensus of the Board of Trustees is to move forward with the proposed ordinance amendment, the next step would be to move the ordinance amendment for first reading and introduction at the next regular board meeting.

Attachments:

- (1) Proposed Ordinance Amendment
- (2) Act 365 of 2018
- (3) Small Cell Images



DELTA CHARTER TOWNSHIP

7710 W. Saginaw Highway
Lansing, Michigan 48917
517-323-8500

ORDINANCE No. 20-____
CODE OF ORDINANCE

PREAMBLE

AN ORDINANCE OF THE CHARTER TOWNSHIP OF DELTA, EATON COUNTY, MICHIGAN, PROVIDING THAT THE CODE OF ORDINANCES BE AMENDED BY ADDING ARTICLE III (“DEPLOYMENT OF SMALL CELL WIRELESS FACILITIES”) TO CHAPTER 36 (“TELECOMMUNICATIONS”) TO PROVIDE FOR THE REGULATION OF SMALL CELL WIRELESS INFRASTRUCTURE, SPECIFICALLY THE ACTIVITIES OF WIRELESS INFRASTRUCTURE PROVIDERS AND WIRELESS SERVICE PROVIDERS REGARDING THE SITING OF CERTAIN WIRELESS FACILITIES; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

The Charter Township of Delta, Eaton County, Michigan ordains:

SECTION I

ADDITION OF CHAPTER 36, ARTICLE III. The Code of Ordinances is hereby amended by adding Article III to Chapter 36 and sections, to be numbered Sec. 36-39 through Sec. 36-52, which such article and sections read as follows:

Sec. 36-39. – 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:

Act means the small wireless facilities act, 2018 PA 365, MCL 460.1301, et seq., as amended.

Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicant means a wireless provider or wireless infrastructure provider that submits an application described in this ordinance.

Authority, unless the context implies otherwise, means the township, to the extent authorized by law to make legislative, quasi-judicial, or administrative decisions concerning an application described in this ordinance.

Authority pole means a utility pole owned or operated by the township and located in the ROW.

Colocate means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. *Collocation* has a corresponding meaning. Colocate does not include make-ready work or the installation of a new utility pole or new wireless support structure.

Fee means an authority one-time per small cell site charge for application processing.

Historic district means an officially designated historic district as defined by the Act.

Make-ready work means work necessary to enable an authority pole or utility pole to support collocation, which may include modification or replacement of utility poles or modification of lines.

Micro wireless facility means a small cell wireless facility that is not more than 24 inches in length, 15 inches in width, and 12 inches in height and that does not have an exterior antenna more than 11 inches in length.

Public right-of-way or *ROW* means the area on, below, or above a public roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses. Public right-of-way does not include any of the following: (i) A private right-of-way. (ii) A limited access highway. (iii) Land owned or controlled by a railroad as defined in section 109 of the railroad code of 1993, 1993 PA 354, MCL 462.109.

Rate means an authority's annual charge per site.

Small cell wireless facility means a wireless facility that meets both of the following requirements: (i) Each antenna is not more than 6 cubic feet in volume (ii) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. Except -The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Utility pole means a pole or similar structure that is or may be used to support small cell wireless facilities. Utility pole does not include a sign pole less than 15 feet in height above ground.

Wireless facility means wireless equipment, including, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable

equipment, regardless of technological configuration. Wireless facility does not include coaxial or fiber-optic cable between utility poles or wireless support structures.

Wireless provider is a regulated provider of telecommunications services and a *wireless infrastructure provider* is an installer of wireless equipment at small cell sites and, both terms are interchangeable terms for purposes of this ordinance.

Wireless services means any services, provided using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

Wireless support structure means a freestanding structure designed to support or capable of supporting small cell wireless facilities. Wireless support structure does not include a utility pole.

Wireline backhaul facility means a facility used to transport services by wire or fiber-optic cable from a wireless facility to a network.

All other terms used in this article shall have the same meaning as defined or as provided in the Act.

Sec. 36-40. – Scope of Authority.

- (a) Except as provided in this ordinance or the Act, the Authority shall not prohibit, regulate, or charge for the collocation of small cell wireless facilities.
- (b) The approval of a small cell wireless facility under this ordinance authorizes only the collocation of a small cell wireless facility and does not authorize either of the following:
 - (1) The provision of any services.
 - (2) The installation, placement, modification, maintenance, or operation of a wireline in the ROW.

Sec. 36-41. – Small Cell Row Access; Permitted Use; Height; Underground, Downtown, Residential and Historic Districts.

- (a) This section applies only to activities of a wireless provider within the public right-of-way for the deployment of small cell wireless facilities and associated new or modified utility poles.
- (b) The Authority shall not enter into an exclusive arrangement with any person for use of the ROW for the construction, operation, or maintenance of utility poles or the collocation of small cell wireless facilities.
- (c) The Authority shall not charge a wireless provider an annual rate more than:
 - (1) \$20.00 annually, unless subdivision (2) applies.
 - (2) \$125.00 annually, if a new utility pole or wireless support structure was erected at a new site by or on behalf of the wireless provider on or after the effective date of this act. This subdivision does not apply to the replacement of an existing utility pole.

- (d) All greater rates and fees in current agreements shall be modified within 90 days of application receipt, so as not to exceed the fees provided here, except for new small cell dedicated utility poles installed and operational in the ROW before the effective date of this ordinance or related agreements, which shall remain in effect for the duration of the ordinance or agreement.
- (e) Except as set forth in sections 36-42 or 36-43, and as limited in this section, small cell siting is a permitted use and not subject to zoning regulation if it complies with all other sections of this ordinance and if:
 - (1) A utility pole in the ROW installed or modified on or after the effective date of this ordinance shall not exceed 40 feet above ground level, unless a taller height is agreed to by the Authority.
 - (2) A small cell wireless facility in the ROW installed or modified after the effective date of this ordinance shall not extend more than 5 feet above a utility pole or wireless support structure on which the small cell wireless facility is colocated.
- (f) A proposed utility pole or other support structure that exceeds the height limits under subsection (e) above, is subject to zoning review.
- (g) Undergrounding: A wireless provider shall comply with reasonable and nondiscriminatory requirements, including concealment measures, that do not prohibit communications service providers from installing structures on or above ground in the ROW in an area designated solely for underground or buried cable and utility facilities, if:
 - (1) The Authority has required all cable and utility facilities, to place all their facilities underground, and
 - (2) The Authority does not prohibit replacement of the Authority's poles by a wireless provider in the designated area.
 - (3) A wireless provider may apply for a waiver of the undergrounding requirements.
- (h) Historic, Downtown and Residential Districts: A wireless provider shall comply with written, objective requirements for reasonable, technically feasible, nondiscriminatory, and technologically neutral designs or concealment measures in a historic district, downtown district, or residential zoning district. Such requirement shall not have the effect of prohibiting any wireless provider's technology. Any such design or concealment measures are not included in size restrictions in the definition of small wireless facility in section 36-39.
- (i) Aesthetics Requirements: Wireless Providers shall install, modify, collocate or otherwise provide all wireless facilities, equipment, poles, support structures and all other related wireless objects in a manner, size and appearance that is consistent and in conformity with the existing requirements and existing practices in fact, pertaining to such districts as defined by the applicable ordinances, rules and codes of this community and the applicable rules and laws of this State, in such fashion as to create the least negative impact on the district as possible. Such accommodations may include use of similar height, materials, color, design, number, and appearance of other similar structures utilized by other occupiers of the Rights of Way and public spaces.

(1) Collocation including replacement of existing poles or support structures is strongly encouraged over the installation of additional new poles or support structures in the ROW. This is due to travel safety concerns.

(2) Placement of all equipment inside the pole or support structure is favored over placement outside the pole, including ground mountings.

(3) Smallest equipment, antennas and poles and support structures feasible is preferred.

(4) Camouflaging, stealth or concealment elements are preferred.

(5) Installations generally are favored in the following districts in the following order of preference:

1st Preference: Industrial

2nd Preference: Commercial

3rd Preference: Residential

4th Preference: Underground commercial and then residential

5th Preference: Historic

- (j) All wireless providers shall repair all damage to the ROW caused by the activities of the wireless provider while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing small cell wireless facilities, utility poles, or wireless support structures in the ROW and, to return the ROW to its original condition. Following 60 days' written notice, the Authority may make those repairs and charge the wireless provider the cost of the repairs.

Sec. 36-42 – Provider and Authority Responsibilities; Application Information; Shot Clocks; Tolling; Deemed Approved; Basis for Denial; Resubmittal; Batch Applications; Application Fees; Micro Wireless Facility Exemption; Alternate Siting; Decommissioning Sites.

(a) This section applies to activities of a wireless provider within the public right-of-way.

(b) Except as otherwise provided in subsection (e) below, the provider/applicant shall seek an Authority ROW access permit to collocate a small cell wireless facility or install, modify, or replace a utility pole on which a small cell wireless facility will be collocated as required of all ROW users. The processing of an application for such a permit is subject to all of the following:

(1) In-kind contributions to the Authority are not permitted in lieu of rates and fees described above, unless all parties voluntarily agree in furtherance of the interests of both.

(2) The provider shall provide all the information and documentation required by the Authority to enable the Authority to make an informed decision with regard to its criteria for authorizing ROW access including the following:

(a.) A certificate of compliance with FCC rules related to radio frequency emissions from a small cell wireless facility.

(b.) Proof of notification to every other affected authority and all necessary permits, permit applications, or easements to ensure all necessary permissions for the proposed activity are obtained.

(c.) An attestation that the small cell wireless facilities will be operational for use by a wireless services provider within 1 year after the permit issuance date. Failure to abide by this term shall result in termination of any permit issued in reliance on such attestation.

(3) Within 25 days after receiving an initial application, the Authority shall notify the applicant in writing whether the application is complete. If incomplete, the notice will delineate all missing documents or information. The notice tolls the running of the time for approving or denying an application under subdivision (5) below.

(4) If the applicant makes a supplemental submission in response to the Authority's notice of incompleteness, the Authority will so notify the applicant in writing within 10 days, delineating the previously requested and missing documents or information. The time period for approval or denial is tolled in the case of second or subsequent notices under the procedures identified in subdivision (3) above.

(5) The Authority shall approve or deny the application and notify the applicant in writing within the following period of time after the application is received:

(a.) Collocation Shot Clock: For an application for the collocation of small cell wireless facilities on a utility pole, 60 days, subject to the following adjustments:

(i.) Add 15 days if an application from another wireless provider was received within 1 week of the application in question.

(ii.) Add 15 days if, a timely extension is requested.

(b.) New or Replacement 40' Pole and Limited Equipment: For an application for a new or replacement utility pole that meets the height requirements of section 36-41(e)(1) and associated small cell facility, 90 days, subject to the following adjustments:

(i.) Add 15 days if an application from another wireless provider was received within 1 week of the application in question.

(ii.) Add 15 days if, a timely extension is requested.

(iii.) Deemed Approved: A completed application is considered to be approved if not timely acted upon by the Authority and, if the Authority receives a notice not less than 7 days before, the applicant may proceed with the work pursuant to this automatic approval.

(6) Basis for Denial: The Authority may deny a completed application for a proposed collocation of a small cell wireless facility or installation, modification, or replacement of a utility pole if the proposed activity would do any of the following:

(a.) Materially interfere with the safe operation of traffic control equipment.

(b.) Materially interfere with sight lines or clear zones for transportation or pedestrians.

(c.) Materially interfere with compliance with the Americans with Disabilities Ordinance of 1990, Public Law 101- 336, or similar federal, state, or local standards regarding pedestrian access or movement.

(d.) Materially interfere with maintenance or full unobstructed use of public utility infrastructure under the jurisdiction of the Authority.

(e.) With respect to drainage infrastructure under the jurisdiction of the Authority, either of the following:

- (i.) Materially interfere with maintenance or full unobstructed use of the drainage infrastructure as it was originally designed.
 - (ii.) Not be located a reasonable distance from the drainage infrastructure to ensure maintenance under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, and access to the drainage infrastructure.
 - (f.) Fail to comply with reasonable, nondiscriminatory, written spacing requirements of general applicability adopted by ordinance or otherwise that apply to the location of ground-mounted equipment and new utility poles and that do not prevent a wireless provider from serving any location.
 - (g.) Fail to comply with all other applicable codes.
 - (h.) Fail to comply with sections 36-41(g) or (h).
 - (i.) Fail to meet reasonable, objective, written stealth or concealment criteria for small cell wireless facilities applicable in a historic district or other designated area, as specified in an ordinance or otherwise and nondiscriminatory applied to all other occupants of the ROW, including electric utilities, incumbent or competitive local exchange carriers, fiber providers, cable television operators, and the Authority.
- (7) Reasons for Denial; Resubmission and 30 Day Shot Clock: If the completed application is denied, the notice under subdivision (5) above shall explain the reasons for the denial and, if applicable, cite the specific provisions of applicable codes on which the denial is based. The applicant may cure the deficiencies identified by the Authority and resubmit the application within 30 days after the denial without paying an additional application fee. The Authority shall approve or deny the revised application within 30 days. The Authority shall limit its review of the revised application to the deficiencies cited in the denial.
- (8) Batch Applications: An applicant may file an application and receive a single permit for the collocation of up to 20 substantially similar small cell wireless installations. The Authority may approve or deny 1 or more small cell wireless facilities included in such consolidated application.
- (9) Approval of an application authorizes the wireless provider to undertake the installation, collocation and maintenance of such facilities.
- (10) The Authority shall not institute a moratorium on filing, receiving, or processing applications or issuing permits for the collocation of small cell wireless facilities or the installation, modification, or replacement of utility poles on which small cell wireless facilities will be colocated.
- (11) The Authority and applicant may extend a time period under this subsection by mutual agreement.
- (c) Application Fee for a permit under subsection (b) shall not exceed the lesser of the following:
- (1) \$200.00 for each small cell wireless facility alone.
 - (2) \$300.00 for each small cell wireless facility and a new utility pole to which it will be attached.
- (d) The Authority may revoke a permit, upon 30 days' notice and an opportunity to cure, if the permitted small cell wireless facilities and any associated utility pole fail to meet the requirements of this ordinance.

- (e) Micro Wireless Facility Exempt: The Authority shall not require a permit or any other approval or require fees or rates for ordinance compliant replacement, maintenance or operation of a small cell wireless facility or ordinance compliant installation, replacement, maintenance or operation of a micro wireless facility that is suspended on cables strung between utility poles or wireless support structures in compliance with applicable codes.
- (f) Alternate Siting: Upon receipt of an application to place a new utility pole, the Authority may propose and the applicant shall use an alternate location within the ROW or on property or structures owned or controlled by the Authority within 75 feet of the applicants proposed location if reasonably achievable.
- (g) Decommissioning Sites: A wireless provider shall notify the Authority in writing before discontinuing use of a small cell wireless facility, utility pole, or wireless support structure. The notice shall specify when and how the wireless provider intends to remove the small cell wireless facility, utility pole, or wireless support structure. The wireless provider shall return the property to its pre-installation condition. If the wireless provider does not complete the removal within 45 days after the discontinuance of use, the Authority may complete the removal and assess the costs of removal against the wireless provider. A permit under this section for a small cell wireless facility expires upon removal of the small cell wireless facility.
- (h) A wireless provider shall obtain a permit for any work that will affect traffic patterns or obstruct vehicular or pedestrian traffic in the ROW.

Sec. 36-43 – Authority Owned Poles: Rates; Terms.

- (a) The Authority shall not enter into an exclusive arrangement with any person for the right to attach to authority poles. A person who purchases, controls, or otherwise acquires an authority pole is subject to the requirements of this section.
- (b) Rate: The rate for the collocation of small cell wireless facilities on authority poles shall be nondiscriminatory regardless of the services provided by the collocating person. The rate shall not exceed \$30.00 per year per authority pole plus any rate charged for the use of the ROW under section 36-41.
- (c) All greater rates and fees in current agreements shall be modified within 90 days of application receipt, so as not to exceed the fees provided here, except with respect to wireless facilities on authority poles installed and operational before the effective date of this ordinance or any related agreement, which shall remain in effect for the duration of the ordinance or agreement.
- (d) Within 90 days after receiving the first request to collocate a small cell wireless facility on an authority pole, the Authority shall make available, through ordinance or otherwise, the rates, fees, and terms for the collocation of small cell wireless facilities on the authority poles. The rates, fees, and terms shall comply with all of the following:
 - (1) The rates, fees, and terms shall be nondiscriminatory, competitively neutral, and commercially reasonable and shall comply with this act.

- (2) The Authority shall provide a good-faith estimate for any make-ready work within 60 days after receipt of a complete application. Make-ready work shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant.
- (3) The person owning or controlling the authority pole shall not require more make-ready work than required to comply with law or industry standards.
- (4) Fees for make-ready work shall not do any of the following:
 - (a.) Include costs related to preexisting or prior damage or noncompliance unless the damage or noncompliance was caused by the applicant.
 - (b.) Include any unreasonable consultant fees or expenses.
 - (c.) Exceed actual costs imposed on a nondiscriminatory basis.
- (e) This section does not require the Authority to install or maintain any specific authority pole or to continue to install or maintain authority poles in any location if the Authority makes a nondiscriminatory decision to eliminate aboveground poles of a particular type generally, such as electric utility poles, in a designated area of its geographic jurisdiction. For authority poles with colocated small cell wireless facilities in place when the Authority makes a decision to eliminate aboveground poles of a particular type, the Authority shall do 1 of the following:
 - (1) Continue to maintain the authority pole.
 - (2) Install and maintain a reasonable alternative pole or wireless support structure for the collocation of the small cell wireless facility.
 - (3) Offer to sell the pole to the wireless provider at a reasonable cost.
 - (4) Allow the wireless provider to install its own utility pole so it can maintain service from that location.
 - (5) Proceed as provided by an agreement between the Authority and the wireless provider.

Sec. 36-44 – Higher Education Campus Exempt.

The Authority does not have jurisdiction over small cell wireless facilities located upon a campus of a higher education institution, other than to enforce applicable codes.

Sec. 36-45 – No Provider Requirement of Service.

This ordinance does not require wireless facility deployment nor does it regulate a wireless provider's actual services.

Sec. 36-46 – Appeals.

The applicant may appeal any Authority determinations related to this ordinance to the highest elected body of the Authority or the circuit court in which the Authority is located.

Sec. 36-47 – Defense, Indemnity and Insurance.

All applicant wireless providers shall:

- (1) Defend, indemnify, and hold harmless the Authority, its officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, wireless support structures, or utility poles to the extent caused by the applicant and all entities acting on its behalf including but not limited to its contractors, its subcontractors, and the officers, employees, or agents of any of these, except as to liabilities or losses due to or caused by the sole negligence of the Authority or its officers, agents, or employees.
- (2) Obtain insurance naming the Authority and those acting on its behalf including but not limited to its officers, agents, and employees as additional insureds against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees. A wireless provider may meet all or a portion of the Authority's insurance coverage and limit requirements by self-insurance, conditioned upon providing to the Authority, evidence demonstrating, to the Authority's satisfaction, the wireless provider's financial ability to meet the Authority's insurance coverage and limit requirements throughout the life of the provider's use of the ROW. To the extent it self-insures, a wireless provider is not required to name additional insureds under this section.

Sec. 36-48 – Reduced Fees.

The Authority may establish a fee or rate less than the maximum specified in sections 36-41(c), 36-42(c), or 36-43(b), subject to other requirements of this act.

Sec. 36-48 – Bonding.

- (a) As a condition of a permit described in this act, the wireless provider shall provide a \$1,000 bond per site, for the purpose of providing for the removal of abandoned or improperly maintained small cell wireless facilities, including those that the Authority determines should be removed to protect public health, safety, or welfare, to repair the ROW as provided under section 36-41(j) and, to recoup rates or fees that have not been paid by a wireless provider in more than 12 months, if the wireless provider has received 60-day advance notice from the Authority of the noncompliance.
- (b) The Authority shall not require a cash bond, unless the wireless provider has failed to obtain or maintain a bond required under this section or the surety has defaulted or failed to perform on a bond given to the Authority on behalf of a wireless provider.

Sec. 36-49 – Labeling.

A small cell wireless facility for which a permit is issued shall be labeled with the name of the wireless provider, emergency contact telephone number, and information that identifies the small cell wireless facility and its location.

Sec. 36-50 – Electric Costs.

A wireless provider is responsible for arranging and paying for the electricity used to operate a small cell wireless facility.

Sec. 36-51 – Investor-Owned Utilities.

- (a) This ordinance, except to the extent the Authority seeks to hold all utilities occupying the ROW to the same requirements and obligations as imposed upon wireless providers consistent with 2018 PA 365, does not add to, replace, or supersede any law regarding poles or conduits, similar structures, or equipment of any type owned or controlled by an investor-owned utility whose rates are regulated by the MPSC, an affiliated transmission company, or an independent transmission company.
- (b) This ordinance, except to the extent the Authority seeks to hold all utilities occupying the ROW to the same requirements and obligations as imposed upon wireless providers consistent with 2018 PA 365, does not impose or otherwise affect any rights, controls, or contractual obligations of an investor-owned utility whose rates are regulated by the MPSC, an affiliated transmission company, or an independent transmission company with respect to its poles or conduits, similar structures, or equipment of any type.
- (c) Except for purposes of a wireless provider obtaining a permit to occupy a right-of-way, and to the extent the Authority seeks to hold all utilities occupying the ROW to the same requirements and obligations as imposed upon wireless providers consistent with 2018 PA 365, this ordinance does not affect an investor-owned utility whose rates are regulated by the MPSC. Notwithstanding any other provision of this act, pursuant to and consistent with section 6g of 1980 PA 470, MCL 460.6g, the MPSC has sole jurisdiction over attachment of wireless facilities on the poles, conduits, and similar structures or equipment of any type or kind owned or controlled by an investor-owned utility whose rates are regulated by the MPSC.

Sec. 36-52 – Authority Reservation of Rights.

This ordinance is enacted in compliance with Michigan 2018 PA 365, MCL 460.1301, et seq.; and 2018 PA 366, MCL 125.3205(1)(c) as amended; and MCL 125.3514(10). However, the Authority takes specific note of inconsistencies between these State Acts and certain potentially preemptive FCC Rulings concerning "Small Cells" known as the "Moratoria Order"; FCC 3rd Report and Order and Declaratory Ruling of 8/13/2018 FCC 18-111 <https://docs.fcc.gov/public/attachments/FCC-18-111A1.pdf> and "Small Cell Order"; FCC Declaratory Ruling and 3rd Report and Order of 9/27/2018 FCC 18-133 <https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>.

The Authority also notes inconsistencies with the Michigan Constitution of 1963 including but not limited to Article VII Sections 22, 26, 29, 30, 31 and 34. Enacting this ordinance does not preclude the Authority from engaging in or otherwise supporting a

judicial or other challenge to either the State Acts or FCC rules referenced above. In the event of any interpretations, including Judicial, Legislative or Administrative, contrary to the Michigan Public Acts and/or FCC rules referenced above, the Authority specifically reserves the right to amend and or terminate this ordinance and all related agreements, policies and procedures undertaken in furtherance hereof.

SECTION II

SEVERABILITY. If any clause, sentence, paragraph or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

SECTION III

REPEAL. All ordinances or parts of ordinances of the Charter Township of Delta inconsistent herein are hereby repealed so far as they may inconsistent with the provisions of this Ordinance.

SECTION IV

EFFECTIVE DATE. This Ordinance shall take effect upon final publication as required by law.

Kenneth R. Fletcher, Supervisor

I, Mary R. Clark, Clerk of the Charter Township of Delta, Eaton County, Michigan, hereby certify that the foregoing is a complete ordinance adopted by the Township Board at its regular meeting on _____, 2021.

Mary R. Clark, Clerk

Introduced by Township Board

Published following first reading:

Adopted by Township Board

Published following final reading:

Effective Date

SMALL WIRELESS COMMUNICATIONS FACILITIES DEPLOYMENT ACT
Act 365 of 2018

AN ACT to provide for the regulation by state or local government authorities and municipally owned electric utilities of the activities of wireless infrastructure providers and wireless services providers and of wireless facilities, wireless support structures, and utility poles; to regulate rates and fees concerning wireless facilities, wireless support structures, communications service provider pole attachments, and utility poles charged by state or local government authorities and municipally owned electric utilities; to provide for collocation of wireless facilities and of communications service provider pole attachments; to provide for use of public rights-of-way; to regulate certain permitting processes and zoning reviews; to prohibit certain commercially discriminatory actions by state or local government authorities and municipally owned electric utilities; to prohibit state and local government authorities from entering into exclusive arrangements with any person for the right to attach to certain utility poles; to authorize indemnification and insurance requirements; to authorize certain bonding requirements; and to provide for charges for electricity to operate small cell wireless facilities.

History: 2018, Act 365, Eff. Mar. 12, 2019.

The People of the State of Michigan enact:

460.1301 Short title; purpose of act.

Sec. 1. (1) This act shall be known and may be cited as the "small wireless communications facilities deployment act".

(2) The purpose of the act is to do all of the following:

(a) Increase investment in wireless networks that will benefit the citizens of this state by providing better access to emergency services, advanced technology, and information.

(b) Increase investment in wireless networks that will enhance the competitiveness of this state in the global economy.

(c) Encourage the deployment of advanced wireless services by streamlining the process for the permitting, construction, modification, maintenance, and operation of wireless facilities in the public rights-of-way.

(d) Allow wireless services providers and wireless infrastructure providers access to the public rights-of-way and the ability to attach to poles and structures in the public rights-of-way to enhance their networks and provide next generation services.

(e) Ensure the reasonable and fair control and management of public rights-of-way by governmental authorities within this state.

(f) Address the timely design, engineering, permitting, construction, modification, maintenance, and operation of wireless facilities as matters of statewide concern and interest.

(g) Provide for the management of public rights-of-way in a safe and reliable manner that does all of the following:

(i) Supports new technology.

(ii) Avoids interference with right-of-way use by existing public utilities and cable communications providers.

(iii) Allows for a level playing field for competitive communications service providers.

(iv) Protects public health, safety, and welfare.

(h) Increase the connectivity for autonomous and connected vehicles through the deployment of small cell wireless facilities with full access and compatibility for connected and autonomous vehicles as determined and approved by the state transportation department, county road commissions, and authorities.

(i) Prioritize, as provided in this act, the use of existing utility poles and wireless support structures for collocation over the installation of new utility poles or wireless support structures.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1303 Definitions; A, B.

Sec. 3. As used in this act:

(a) "Affiliated transmission company" means that term as defined in section 2 of the electric transmission line certification act, 1995 PA 30, MCL 460.562.

(b) "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

(c) "Applicable codes" means uniform building, fire, electrical, plumbing, or mechanical codes adopted under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531,

or adopted by the United States Occupational Safety and Health Administration or by a state or national code organization, including, but not limited to, the "National Electrical Safety Code" published by the Institute of Electrical and Electronics Engineers.

(d) "Applicant" means a wireless provider that submits an application described in this act.

(e) "Attaching entity" means a public or private party or entity, other than the municipally owned electric utility, that, pursuant to an agreement with the municipally owned electric utility, places a wire or cable attachment on a nonauthority pole or related infrastructure within the communication space. Attaching entity includes, but is not limited to, both of the following:

(i) A telecommunication provider as that term is defined in section 102 of the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3102.

(ii) A video service provider as that term is defined in the uniform video services local franchise act, 2006 PA 480, MCL 484.3301.

(f) "Authority", unless the context implies otherwise, means this state, or a county, township, city, village, district, or subdivision thereof if authorized by law to make legislative, quasi-judicial, or administrative decisions concerning an application described in this act. Authority does not include any of the following:

(i) A municipally owned electric utility.

(ii) An investor-owned utility whose rates are regulated by the MPSC.

(iii) A state court having jurisdiction over an authority.

(g) "Authority pole" means a utility pole owned or operated by an authority and located in the ROW.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1305 Definitions; C to I.

Sec. 5. As used in this act:

(a) "Colocate" means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. "Collocation" has a corresponding meaning. Colocate does not include make-ready work or the installation of a new utility pole or new wireless support structure.

(b) "Communications facility" means the set of equipment and network components, including wires, cables, antennas, and associated facilities, used by a communications service provider to provide communications service.

(c) "Communication space" means that term as defined in the "National Electric Safety Code" published by the Institute of Electrical and Electronics Engineers.

(d) "Communications service" means service provided over a communications facility, including cable service as defined in 47 USC 522, information service as defined in 47 USC 153, telecommunications service as defined in 47 USC 153, or wireless service.

(e) "Communications service provider" means any entity that provides communications services.

(f) "FCC" means the Federal Communications Commission.

(g) "Fee" means a nonrecurring charge for services.

(h) "Historic district" means a historic district established under section 3 of the local historic districts act, 1970 PA 169, MCL 399.203, or a group of buildings, properties, or sites that are either listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, appendix C.

(i) "Independent transmission company" means that term as defined in section 2 of the electric transmission line certification act, 1995 PA 30, MCL 460.562.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1307 Definitions; L to S.

Sec. 7. As used in this act:

(a) "Law" means federal, state, or local law, including common law, a statute, a rule, a regulation, an order, or an ordinance.

(b) "Make-ready work" means work necessary to enable an authority pole or utility pole to support collocation, which may include modification or replacement of utility poles or modification of lines.

(c) "Micro wireless facility" means a small cell wireless facility that is not more than 24 inches in length, 15 inches in width, and 12 inches in height and that does not have an exterior antenna more than 11 inches in length.

(d) "MPSC" means the Michigan Public Service Commission created in section 1 of 1939 PA 3, MCL 460.1.

(e) "Municipally owned electric utility" means a system owned by a municipality or combination of municipalities to furnish power or light and includes a cooperative electric utility that, on or after the effective date of this act, acquired all or substantially all of the assets of a municipal electric utility, when applying this act to the former territory of the municipal electric utility.

(f) "Nonauthority pole" means a utility pole used for electric delivery service and controlled by the governing body of a municipally owned electric utility.

(g) "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

(h) "Public right-of-way" or "ROW" means the area on, below, or above a public roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses. Public right-of-way does not include any of the following:

(i) A private right-of-way.

(ii) A limited access highway.

(iii) Land owned or controlled by a railroad as defined in section 109 of the railroad code of 1993, 1993 PA 354, MCL 462.109.

(iv) Railroad infrastructure.

(i) "Rate" means a recurring charge.

(j) "Small cell wireless facility" means a wireless facility that meets both of the following requirements:

(i) Each antenna is located inside an enclosure of not more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than 6 cubic feet.

(ii) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1309 Definitions; U to W.

Sec 9. As used in this act:

(a) "Utility pole" means a pole or similar structure that is or may be used in whole or in part for cable or wireline communications service, electric distribution, lighting, traffic control, signage, or a similar function, or a pole or similar structure that meets the height requirements in section 13(5) and is designed to support small cell wireless facilities. Utility pole does not include a sign pole less than 15 feet in height above ground.

(b) "Wireless facility" means equipment at a fixed location that enables the provision of wireless services between user equipment and a communications network, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes a small cell wireless facility. Wireless facility does not include any of the following:

(i) The structure or improvements on, under, or within which the equipment is colocated.

(ii) A wireline backhaul facility.

(iii) Coaxial or fiber-optic cable between utility poles or wireless support structures or that otherwise is not immediately adjacent to or directly associated with a particular antenna.

(c) "Wireless infrastructure provider" means any person, including a person authorized to provide telecommunications services in this state but not including a wireless services provider, that builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures and who, when filing an application with an authority under this act, provides written authorization to perform the work on behalf of a wireless services provider.

(d) "Wireless provider" means a wireless infrastructure provider or a wireless services provider. Wireless provider does not include an investor-owned utility whose rates are regulated by the MPSC.

(e) "Wireless services" means any services, provided using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

(f) "Wireless services provider" means a person that provides wireless services.

(g) "Wireless support structure" means a freestanding structure designed to support or capable of supporting small cell wireless facilities. Wireless support structure does not include a utility pole.

(h) "Wireline backhaul facility" means a facility used to transport services by wire or fiber-optic cable from a wireless facility to a network.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1311 Collocation of small cell wireless facilities; prohibited authority.

Sec. 11. (1) Except as provided in this act, an authority shall not prohibit, regulate, or charge for the collocation of small cell wireless facilities.

(2) The approval of a small cell wireless facility under this act authorizes only the collocation of a small cell wireless facility and does not authorize either of the following:

(a) The provision of any particular services.

(b) The installation, placement, modification, maintenance, or operation of a wireline backhaul facility in the ROW.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1313 Activities of wireless provider in public right of way; exclusive arrangement prohibited; rates; ordinance compliance; installation and concealment requirements; waiver of undergrounding requirements; repair damage to right of way.

Sec. 13. (1) This section applies only to activities of a wireless provider within the public right-of-way for the deployment of small cell wireless facilities and associated new or modified utility poles.

(2) An authority shall not enter into an exclusive arrangement with any person for use of the ROW for the construction, operation, or maintenance of utility poles or the collocation of small cell wireless facilities.

(3) An authority shall not charge a wireless provider a rate for each utility pole or wireless support structure in the ROW in the authority's geographic jurisdiction on which the wireless provider has collocated a small cell wireless facility that exceeds the following:

(a) \$20.00 annually, unless subdivision (b) applies.

(b) \$125.00 annually, if the utility pole or wireless support structure was erected by or on behalf of the wireless provider on or after the effective date of this act. This subdivision does not apply to the replacement of a utility pole that was not designed to support small cell wireless facilities.

Every 5 years after the effective date of this act, the maximum rates then authorized under subdivisions (a) and (b) are increased by 10% and rounded to the nearest dollar.

(4) If, on the effective date of this act, an authority has a rate or fee in an ordinance or in an agreement with a wireless provider for the use of the ROW to collocate a small cell wireless facility or to construct, install, mount, maintain, modify, operate, or replace a utility pole, and the rate or fee does not comply with subsection (3), the authority shall, not later than 90 days after the effective date of this act, revise the rate or fee to comply with subsection (3). Both of the following apply:

(a) For installations of utility poles designed to support small cell wireless facilities or collocations of small cell wireless facilities installed and operational in the ROW before the effective date of this act, the fees, rates, and terms of an agreement or ordinance for use of the ROW remain in effect subject to the termination provisions contained in the agreement or ordinance.

(b) For installations of utility poles designed to support small cell wireless facilities or collocations of small cell wireless facilities installed and operational in the ROW after the effective date of this act, the fees, rates, and terms of an agreement or ordinance for use of the ROW shall comply with subsection (3).

(5) A wireless provider may, as a permitted use not subject to zoning review or approval, except that an application for a permitted use is still subject to approval by the authority under section 15, collocate small cell wireless facilities and construct, maintain, modify, operate, or replace utility poles in, along, across, upon, and under the ROW. Such structures and facilities shall be constructed and maintained so as not to obstruct or hinder the usual travel or public safety on the ROW or obstruct the legal use of the authority's ROW or uses of the ROW by other utilities and communications service providers. Both of the following apply:

(a) A utility pole in the ROW installed or modified on or after the effective date of this act shall not exceed 40 feet above ground level, unless a taller height is agreed to by the authority.

(b) A small cell wireless facility in the ROW installed or modified after the effective date of this act shall not extend more than 5 feet above a utility pole or wireless support structure on which the small cell wireless facility is collocated.

(6) Subject to this section, section 17, and applicable zoning regulations, a wireless provider may collocate a small cell wireless facility or install, construct, maintain, modify, operate, or replace a utility pole that exceeds the height limits under subsection (5), or a wireless support structure, in, along, across, upon, and under the ROW.

(7) A wireless provider shall comply with reasonable and nondiscriminatory requirements otherwise provided that prohibit communications service providers from installing structures on or above ground in the ROW in an area designated solely for underground or buried cable and utility facilities if all of the following apply:

(a) The authority has required all cable and utility facilities, other than authority poles, along with any attachments, or poles used for street lights, traffic signals, or other attachments necessary for public safety, to be placed underground by a date that is not less than 90 days before the submission of the application.

(b) The authority does not prohibit the replacement of authority poles by a wireless provider in the designated area.

(c) The authority allows wireless providers to apply for a waiver of the undergrounding requirements for the placement of a new utility pole to support small cell wireless facilities, and the waiver applications are addressed in a nondiscriminatory manner.

(8) Subject to section 15(2), and except for facilities excluded from evaluation for effects on historic properties under 47 CFR 1.1307(a)(4)(ii), an authority may adopt written, objective requirements for reasonable, technically feasible, nondiscriminatory, and technologically neutral design or concealment measures in a historic district, downtown district, or residential zoning district. Any such requirement shall not have the effect of prohibiting any wireless provider's technology. Any such design or concealment measures are not considered a part of the small wireless facility for purposes of the size restrictions in the definition of small wireless facility in section 7.

(9) An authority's administration and regulation of activities of wireless providers in the ROW shall be reasonable, nondiscriminatory, and competitively neutral and shall comply with applicable law.

(10) An authority may require a wireless provider to repair all damage to the ROW directly caused by the activities of the wireless provider while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing small cell wireless facilities, utility poles, or wireless support structures in the ROW and to return the ROW to its functional equivalent before the damage. If the wireless provider fails to make the repairs required by the authority within 60 days after written notice, the authority may make those repairs and charge the wireless provider the reasonable, documented cost of the repairs.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1315 Permitted activities of wireless provider in right of way; application; determination; notice; denial; consolidated application; extension; fees; revocation; moratorium prohibited; notice of discontinuance of use.

Sec. 15. (1) This section applies to activities of a wireless provider within the public right-of-way.

(2) Except as otherwise provided in subsection (5), an authority may require a permit to collocate a small cell wireless facility or install, modify, or replace a utility pole on which a small cell wireless facility will be collocated if the permit is of general applicability. The processing of an application for such a permit is subject to all of the following:

(a) The authority shall not directly or indirectly require an applicant to perform services unrelated to the collocation for which a permit is sought, such as reserving fiber, conduit, or pole space for the authority or making other in-kind contributions to the authority.

(b) An authority may require an applicant to provide information and documentation to enable the authority to make a decision with regard to the criteria in subdivision (i). An authority may also require a certificate of compliance with FCC rules related to radio frequency emissions from a small cell wireless facility.

(c) If the proposed activity will occur within a shared ROW or an ROW that overlaps another ROW, a wireless provider shall provide, to each affected authority to which an application for the activity is not submitted, notification of the wireless provider's intent to locate a small cell wireless facility within the ROW. An authority may require proof of other necessary permits, permit applications, or easements to ensure all necessary permissions for the proposed activity are obtained.

(d) Within 25 days after receiving an application, an authority shall notify the applicant in writing whether the application is complete. If the application is incomplete, the notice shall clearly and specifically delineate all missing documents or information. The notice tolls the running of the time for approving or denying an application under subdivision (h).

(e) The running of time period tolled under subdivision (d) resumes when the applicant makes a supplemental submission in response to the authority's notice of incompleteness. If a supplemental submission is inadequate, the authority shall notify the applicant in writing not later than 10 days after receiving the supplemental submission that the supplemental submission did not provide the information identified in the original notice delineating missing documents or information. The time period may be tolled in the case of second or subsequent notices under the procedures identified in subdivision (d). Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

(f) The authority may require an applicant to include an attestation that the small cell wireless facilities will

be operational for use by a wireless services provider within 1 year after the permit issuance date, unless the authority and the applicant agree to extend this period or delay is caused by lack of commercial power or communications transport facilities to the site.

(g) The application shall be processed on a nondiscriminatory basis.

(h) The authority shall approve or deny the application and notify the applicant in writing within the following period of time after the application is received:

(i) For an application for the collocation of small cell wireless facilities on a utility pole, 60 days, subject to the following adjustments:

(A) Add 15 days if an application from another wireless provider was received within 1 week of the application in question.

(B) Add 15 days if, before the otherwise applicable 60-day or 75-day time period under this subparagraph elapses, the authority notifies the applicant in writing that an extension is needed and the reasons for the extension.

(ii) For an application for a new or replacement utility pole that meets the height requirements of section 13(5)(a) and associated small cell facility, 90 days, subject to the following adjustments:

(A) Add 15 days if an application from another wireless provider was received within 1 week of the application in question.

(B) Add 15 days if, before the otherwise applicable 90-day or 105-day time period under this subparagraph elapses, the authority notifies the applicant in writing that an extension is needed and the reasons for the extension.

If the authority fails to comply with this subdivision, the completed application is considered to be approved subject to the condition that the applicant provide the authority not less than 7 days' advance written notice that the applicant will be proceeding with the work pursuant to this automatic approval.

(i) An authority may deny a completed application for a proposed collocation of a small cell wireless facility or installation, modification, or replacement of a utility pole that meets the height requirements in section 13(5)(a) only if the proposed activity would do any of the following:

(i) Materially interfere with the safe operation of traffic control equipment.

(ii) Materially interfere with sight lines or clear zones for transportation or pedestrians.

(iii) Materially interfere with compliance with the Americans with Disabilities Act of 1990, Public Law 101-336, or similar federal, state, or local standards regarding pedestrian access or movement.

(iv) Materially interfere with maintenance or full unobstructed use of public utility infrastructure under the jurisdiction of an authority.

(v) With respect to drainage infrastructure under the jurisdiction of an authority, either of the following:

(A) Materially interfere with maintenance or full unobstructed use of the drainage infrastructure as it was originally designed.

(B) Not be located a reasonable distance from the drainage infrastructure to ensure maintenance under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, and access to the drainage infrastructure.

(vi) Fail to comply with reasonable, nondiscriminatory, written spacing requirements of general applicability adopted by ordinance or otherwise that apply to the location of ground-mounted equipment and new utility poles and that do not prevent a wireless provider from serving any location.

(vii) Fail to comply with applicable codes.

(viii) Fail to comply with section 13(7) or (8).

(ix) Fail to meet reasonable, objective, written stealth or concealment criteria for small cell wireless facilities applicable in a historic district or other designated area, as specified in an ordinance or otherwise and nondiscriminatorily applied to all other occupants of the ROW, including electric utilities, incumbent or competitive local exchange carriers, fiber providers, cable television operators, and the authority.

(j) If the completed application is denied, the notice under subdivision (h) shall explain the reasons for the denial and, if applicable, cite the specific provisions of applicable codes on which the denial is based. The applicant may cure the deficiencies identified by the authority and resubmit the application within 30 days after the denial without paying an additional application fee. The authority shall approve or deny the revised application within 30 days. The authority shall limit its review of the revised application to the deficiencies cited in the denial.

(k) An applicant may at the applicant's discretion file a consolidated application and receive a single permit for the collocation of up to 20 small cell wireless facilities within the jurisdiction of a single authority or, in the case of the state transportation department, a single designated control section as identified on the department's website. The small cell wireless facilities within a consolidated application must consist of substantially similar equipment and be placed on similar types of utility poles or wireless support structures. An authority may approve a permit for 1 or more small cell wireless facilities included in a consolidated

application and deny a permit for the remaining small cell facilities. An authority shall not deny a permit for a small cell wireless facility included in a consolidated application on the basis that a permit is being denied for 1 or more other small cell facilities included in that application.

(l) Within 1 year after a permit is granted, a wireless provider shall complete collocation of a small cell wireless facility that is to be operational for use by a wireless services provider, unless the authority and the applicant agree to extend this period or the delay is caused by the lack of commercial power or communications facilities at the site. If the wireless provider fails to complete the collocation within the applicable time, the permit is void, and the wireless provider may reapply for a permit. A permittee may voluntarily request that a permit be terminated.

(m) Approval of an application authorizes the wireless provider to do both of the following:

(i) Undertake the installation or collocation.

(ii) Subject to relocation requirements that apply to similarly situated users of the ROW and the applicant's right to terminate at any time, maintain the small cell wireless facilities and any associated utility poles or wireless support structures covered by the permit for so long as the site is in use and in compliance with the initial permit under this act.

(n) An authority shall not institute a moratorium on filing, receiving, or processing applications or issuing permits for the collocation of small cell wireless facilities or the installation, modification, or replacement of utility poles on which small cell wireless facilities will be colocated.

(o) The authority and an applicant may extend a time period under this subsection by mutual agreement.

(3) An application fee for a permit under subsection (2) shall not exceed the lesser of the following:

(a) \$200.00 for each small cell wireless facility alone.

(b) \$300.00 for each small cell wireless facility and a new utility pole to which it will be attached.

Every 5 years after the effective date of this act, the maximum fees then authorized under this subsection are increased by 10% and rounded to the nearest dollar.

(4) An authority may revoke a permit, upon 30 days' notice and an opportunity to cure, if the permitted small cell wireless facilities and any associated utility pole fail to meet the requirements of subsection (2)(i).

(5) An authority shall not require a permit or any other approval or require fees or rates for any of the following:

(a) The replacement of a small cell wireless facility with a small cell wireless facility that is not larger or heavier, in compliance with applicable codes.

(b) Routine maintenance of a small cell wireless facility, utility pole, or wireless support structure.

(c) The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is suspended on cables strung between utility poles or wireless support structures in compliance with applicable codes.

(6) An authority that receives an application to place a new utility pole may propose an alternate location within the ROW or on property or structures owned or controlled by an authority within 75 feet of the proposed location to either place the new utility pole or colocate on an existing structure. The applicant shall use the alternate location if, as determined by the applicant, the applicant has the right to do so on reasonable terms and conditions and the alternate location does not impose unreasonable technical limits or significant additional costs.

(7) Before discontinuing its use of a small cell wireless facility, utility pole, or wireless support structure, a wireless provider shall notify an authority in writing. The notice shall specify when and how the wireless provider intends to remove the small cell wireless facility, utility pole, or wireless support structure. The authority may impose reasonable and nondiscriminatory requirements and specifications for the wireless provider to return the property to its preinstallation condition. If the wireless provider does not complete the removal within 45 days after the discontinuance of use, the authority may complete the removal and assess the costs of removal against the wireless provider. A permit under this section for a small cell wireless facility expires upon removal of the small cell wireless facility.

(8) This section does not prohibit an authority from requiring a permit for work that will unreasonably affect traffic patterns or obstruct vehicular or pedestrian traffic in the ROW.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1317 Zoning review and approval; application; approval or denial requirements; fees; moratorium prohibited; revocation.

Sec. 17. (1) The activities set forth in section 15(5) are exempt from zoning review. Subsections (2) to (4) apply to zoning reviews for the following activities that are subject to zoning review and approval, that are not a permitted use under section 13(5), and that take place within or outside the public right-of-way:

(a) The modification of existing or installation of new small cell wireless facilities.

(b) The modification of existing or installation of new wireless support structures used for such small cell wireless facilities.

(2) The processing of an application for a zoning approval is subject to all of the following requirements:

(a) Within 30 days after receiving an application under this section, an authority shall notify the applicant in writing whether the application is complete. If the application is incomplete, the notice shall clearly and specifically delineate all missing documents or information. The notice tolls the running of the 30-day period.

(b) The running of the time period tolled under subdivision (a) resumes when the applicant makes a supplemental submission in response to the authority's notice of incompleteness. If a supplemental submission is inadequate, the authority shall notify the applicant not later than 10 days after receiving the supplemental submission that the supplemental submission did not provide the information identified in the original notice delineating missing documents or information. The time period may be tolled in the case of second or subsequent notices under the procedures identified in subdivision (a). Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

(c) The application shall be processed on a nondiscriminatory basis.

(d) The authority shall approve or deny the application and notify the applicant in writing within 90 days after an application for a modification of a wireless support structure or installation of a small cell wireless facility is received or 150 days after an application for a new wireless support structure is received. The time period for approval may be extended by mutual agreement between the applicant and authority. If the authority fails to comply with this subdivision, the application is considered to be approved subject to the condition that the applicant provide the authority not less than 15 days' advance written notice that the applicant will be proceeding with the work pursuant to this automatic approval.

(e) An authority shall not deny an application unless all of the following apply:

(i) The denial is supported by substantial evidence contained in a written record that is publicly released contemporaneously.

(ii) There is a reasonable basis for the denial.

(iii) The denial would not discriminate against the applicant with respect to the placement of the facilities of other wireless providers.

(3) An authority's review of an application for a zoning approval is subject to all of the following requirements:

(a) An applicant's business decision on the type and location of small cell wireless facilities, wireless support structures, or technology to be used is presumed to be reasonable. This presumption does not apply with respect to the height of wireless facilities or wireless support structures. An authority may consider the height of such structures in its zoning review, but shall not discriminate between the applicant and other communications service providers.

(b) An authority shall not evaluate or require an applicant to submit information about an applicant's business decisions with respect to any of the following:

(i) The need for a wireless support structure or small cell wireless facilities.

(ii) The applicant's service, customer demand for the service, or the quality of service.

(c) Any requirements regarding the appearance of facilities, including those relating to materials used or arranging, screening, or landscaping, shall be reasonable.

(d) Any spacing, setback, or fall zone requirement shall be substantially similar to a spacing, setback, or fall zone requirement imposed on other types of commercial structures of a similar height.

(4) An application fee for a zoning approval shall not exceed the following:

(a) \$1,000.00 for a new wireless support structure or modification of an existing wireless support structure.

(b) \$500.00 for a new small cell wireless facility or modification of an existing small cell wireless facility.

(5) Within 1 year after a zoning approval is granted, a wireless provider shall commence construction of the approved structure or facilities that are to be operational for use by a wireless services provider, unless the authority and the applicant agree to extend this period or the delay is caused by a lack of commercial power or communications facilities at the site. If the wireless provider fails to commence the construction of the approved structure or facilities within the time required pursuant to section 15(2)(l), the zoning approval is void, and the wireless provider may reapply for a zoning approval. However, the wireless provider may voluntarily request that the zoning approval be terminated.

(6) An authority shall not institute a moratorium on either of the following:

(a) Filing, receiving, or processing applications for zoning approval.

(b) Issuing approvals for installations that are not a permitted use.

(7) An authority may revoke a zoning approval, upon 30 days' notice and an opportunity to cure, if the permitted small cell wireless facilities and any associated wireless support structure fail to meet the

requirements of the approval, applicable codes, or applicable zoning requirements.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1319 Authority poles; exclusive arrangement prohibited; limitation on rates, fees, and terms; elimination of aboveground poles.

Sec. 19. (1) An authority shall not enter into an exclusive arrangement with any person for the right to attach to authority poles. A person who purchases, controls, or otherwise acquires an authority pole is subject to the requirements of this section.

(2) The rate for the collocation of small cell wireless facilities on authority poles shall be nondiscriminatory regardless of the services provided by the collocating person. The rate shall not exceed \$30.00 per year per authority pole. Every 5 years after the effective date of this act, the maximum rate then authorized under this subsection is increased by 10% and rounded to the nearest dollar. This rate for the collocation of small cell wireless facilities on authority poles is in addition to any rate charged for the use of the ROW under section 13.

(3) If, on the effective date of this act, an authority has a rate, fee, or other term in an ordinance or in an agreement with a wireless provider that does not comply with this section, the authority shall, not later than 90 days after the effective date of this act, revise the rate, fee, or term to comply with this section. Both of the following apply:

(a) An ordinance or an agreement between an authority and a wireless provider that is in effect on the effective date of this act and that relates to the collocation on authority poles of small cell wireless facilities installed and operational before the effective date of this act remains in effect as it relates to those collocations, subject to termination provisions in the ordinance or agreement.

(b) The rates, fees, and terms established under this section apply to the collocation on authority poles of small cell wireless facilities that are installed and operational after the rates, fees, and terms take effect.

(4) Within 90 days after receiving the first request to colocate a small cell wireless facility on an authority pole, the authority shall make available, through ordinance or otherwise, the rates, fees, and terms for the collocation of small cell wireless facilities on the authority poles. The rates, fees, and terms shall comply with all of the following:

(a) The rates, fees, and terms shall be nondiscriminatory, competitively neutral, and commercially reasonable and shall comply with this act.

(b) The authority shall provide a good-faith estimate for any make-ready work within 60 days after receipt of a complete application. Make-ready work shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant.

(c) The person owning or controlling the authority pole shall not require more make-ready work than required to comply with law or industry standards.

(d) Fees for make-ready work shall not do any of the following:

(i) Include costs related to preexisting or prior damage or noncompliance unless the damage or noncompliance was caused by the applicant.

(ii) Include any unreasonable consultant fees or expenses.

(iii) Exceed actual costs imposed on a nondiscriminatory basis.

(5) This section does not require an authority to install or maintain any specific authority pole or to continue to install or maintain authority poles in any location if the authority makes a nondiscriminatory decision to eliminate aboveground poles of a particular type generally, such as electric utility poles, in a designated area of its geographic jurisdiction. For authority poles with colocated small cell wireless facilities in place when an authority makes a decision to eliminate aboveground poles of a particular type, the authority shall do 1 of the following:

(a) Continue to maintain the authority pole.

(b) Install and maintain a reasonable alternative pole or wireless support structure for the collocation of the small cell wireless facility.

(c) Offer to sell the pole to the wireless provider at a reasonable cost.

(d) Allow the wireless provider to install its own utility pole so it can maintain service from that location.

(e) Proceed as provided by an agreement between the authority and the wireless provider.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1321 Municipally owned electric utility; collocation on nonauthority poles; standards; application process; moratorium prohibited; rates; make-ready work.

Sec. 21. (1) The governing body of a municipally owned electric utility shall not enter into an exclusive arrangement with any person for the right to attach to nonauthority poles.

(2) The governing body of a municipally owned electric utility shall allow the collocation of small cell wireless facilities on nonauthority poles on a nondiscriminatory basis.

(3) The collocation of small cell wireless facilities on nonauthority poles by a wireless provider shall comply with the applicable, nondiscriminatory safety and reliability standards adopted by the governing body of a municipally owned electric utility and with the "National Electric Safety Code" published by the Institute of Electrical and Electronics Engineers. The governing body of a municipally owned electric utility may require a wireless provider to execute an agreement for nonauthority pole attachments if such an agreement is required of all other nonauthority pole attachments.

(4) The governing body of a municipally owned electric utility shall adopt a process for requests by wireless providers to collocate small cell wireless facilities on nonauthority poles that is nondiscriminatory and competitively neutral. If such a process has not been adopted within 90 days after the effective date of this act, the application process in section 15 applies to such requests. The governing body of a municipally owned electric utility shall not impose a moratorium on the processing of nonauthority pole collocation requests, or require a wireless provider to perform any service not directly related to the collocation. The governing body of a municipally owned electric utility may charge a fee not to exceed \$100.00 per nonauthority pole for processing the request. The governing body of a municipally owned electric utility may charge an additional fee not to exceed \$100.00 per nonauthority pole for processing the request, if a modification or maintenance of the collocation requires an engineering analysis. Every 5 years after the effective date of this act, the maximum fees then authorized under this subsection are increased by 10% and rounded to the nearest dollar.

(5) The rate for a wireless provider to collocate on a nonauthority pole in the ROW shall not exceed \$50.00 annually per nonauthority pole. Every 5 years after the effective date of this act, the maximum rate then authorized under this subsection is increased by 10% and rounded to the nearest dollar.

(6) A wireless provider shall comply with the process for make-ready work that the governing body of a municipally owned electric utility has adopted for other parties under the same or similar circumstances that attach facilities to nonauthority poles. If such a process has not been adopted, the wireless provider and the governing body of a municipally owned electric utility shall comply with the process for make-ready work under 47 USC 224 and implementing orders and regulations. A good-faith estimate established by the governing body of a municipally owned electric utility for any make-ready work for nonauthority poles shall include pole replacement if necessary. All make-ready costs shall be based on actual costs, with detailed documentation provided.

(7) If a wireless provider is required to relocate small cell wireless facilities collocated on a nonauthority pole, it shall do so in accordance with the nondiscriminatory terms adopted by the governing body of a municipally owned electric utility.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1323 Attaching entity; standards; compliance; rate; civil action.

Sec. 23. (1) An attaching entity, and all contractors or parties under its control, shall comply with reliability, safety, and engineering standards adopted by the governing body of a municipally owned electric utility, including, but not limited to, the following:

(a) Applicable engineering and safety standards governing installation, maintenance, and operation of facilities and the performance of work in or around the municipally owned electric utility nonauthority poles and facilities.

(b) The "National Electric Safety Code" published by the Institute of Electrical and Electronics Engineers.

(c) Regulations of the United States Occupational Safety and Health Administration.

(d) Other reasonable safety and engineering requirements to which municipally owned electric utility facilities are subject by law.

(2) The governing body of a municipally owned electric utility may require an attaching entity to execute an agreement for wire or cable attachments to nonauthority poles or related infrastructure.

(3) The governing body of a municipally owned electric utility shall not charge an attaching entity a rate for wire or cable pole attachments within the communication space on a nonauthority pole greater than the maximum allowable rate pursuant to 47 USC 224(d) and (e) as established in Federal Communications Commission Order on Reconsideration 15-151.

(4) Subject to section 27, an attaching entity may commence a civil action for injunctive relief for a violation of this section. The attaching entity shall not file an action under this subsection unless the attaching entity has first provided the municipally owned electric utility with a written notice of the intent to sue. Within 30 days after the municipally owned electric utility receives written notice of intent to sue, the municipally owned electric utility and the attaching entity shall meet and make a good-faith attempt to determine if there is a credible basis for the action. If the parties agree that there is a credible basis for the

action, the governing body of the municipally owned electric utility shall take all reasonable and prudent steps necessary to comply with the applicable requirements of this section within 90 days after the meeting.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1325 Jurisdiction; authority; certain interior structures, campuses, stadiums, and athletic facilities.

Sec. 25. An authority does not have jurisdiction or authority over the design, engineering, construction, installation, or operation of a small cell wireless facility located in an interior structure or upon a campus of an institution of higher education including any stadiums or athletic facilities associated with the institution of higher education, a professional stadium, or a professional athletic facility, other than to enforce applicable codes. This act does not authorize this state or any other authority to require wireless facility deployment or to regulate wireless services.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1327 Circuit courts; jurisdiction; right to appeal.

Sec. 27. The circuit court has jurisdiction to determine all disputes arising under this act. Venue lies in the judicial circuit where the authority or municipally owned electric utility is located. In addition to its right to appeal to the circuit court, an applicant may elect, at its sole discretion, to appeal a determination under the act to an authority, if the authority has an appeal process to render a decision expeditiously.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1329 Indemnification; insurance requirements.

Sec. 29. As part of the permit process under section 15, a zoning approval process under section 17, or a request process under section 21, an authority or the governing body of a municipally owned electric utility may require a wireless provider to do the following with respect to a small cell wireless facility, a wireless support structure, or a utility pole:

(a) Defend, indemnify, and hold harmless the authority or the governing body of a municipally owned electric utility and its officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, wireless support structures, or utility poles to the extent caused by the applicant, its contractors, its subcontractors, and the officers, employees, or agents of any of these. A wireless provider has no obligation to defend, indemnify, or hold harmless an authority or the governing body of a municipally owned electric utility, or the officers, agents, or employees of the authority or governing body against any liabilities or losses due to or caused by the sole negligence of the authority or the governing body of a municipally owned electric utility or its officers, agents, or employees.

(b) Obtain insurance naming the authority or the governing body of a municipally owned electric utility and its officers, agents, and employees as additional insureds against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees. A wireless provider may meet all or a portion of the authority's insurance coverage and limit requirements by self-insurance. To the extent it self-insures, a wireless provider is not required to name additional insureds under this section. To the extent a wireless provider elects to self-insure, the wireless provider shall provide to the authority evidence demonstrating, to the authority's satisfaction, the wireless provider's financial ability to meet the authority's insurance coverage and limit requirements.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1331 Fee and rate limitations.

Sec. 31. An authority may establish a fee or rate less than the maximum specified in section 13(3), 15(3), 17(4), or 19(2), subject to other requirements of this act.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1333 Bonding requirements; limitations.

Sec. 33. (1) As a condition of a permit described in this act, an authority may adopt bonding requirements for small cell wireless facilities if both of the following requirements are met:

(a) The authority imposes similar requirements in connection with permits issued for similarly situated users of the ROW.

(b) The purpose of the bonds is 1 or more of the following:

(i) To provide for the removal of abandoned or improperly maintained small cell wireless facilities, including those that an authority determines should be removed to protect public health, safety, or welfare.

(ii) To repair the ROW as provided under section 13(10).

(iii) To recoup rates or fees that have not been paid by a wireless provider in more than 12 months, if the wireless provider has received 60-day advance notice from the authority of the noncompliance.

(2) An authority shall not require either of the following under subsection (1):

(a) A cash bond, unless any of the following apply:

(i) The wireless provider has failed to obtain or maintain a bond required under this section.

(ii) The surety has defaulted or failed to perform on a bond given to the authority on behalf of the wireless provider.

(b) A bond in an amount exceeding \$1,000.00 per small cell wireless facility.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1335 Labeling requirement of small cell wireless facility.

Sec. 35. A small cell wireless facility for which a permit is issued shall be labeled with the name of the wireless provider, emergency contact telephone number, and information that identifies the small cell wireless facility and its location.

History: 2018, Act 365, Eff. Mar. 12, 2019.

460.1337 Payment of electricity to operate small cell wireless facility.

Sec. 37. A wireless provider is responsible for arranging and paying for the electricity used to operate a small cell wireless facility.

History: 2018, Act 365, Eff. Mar. 12, 2019.

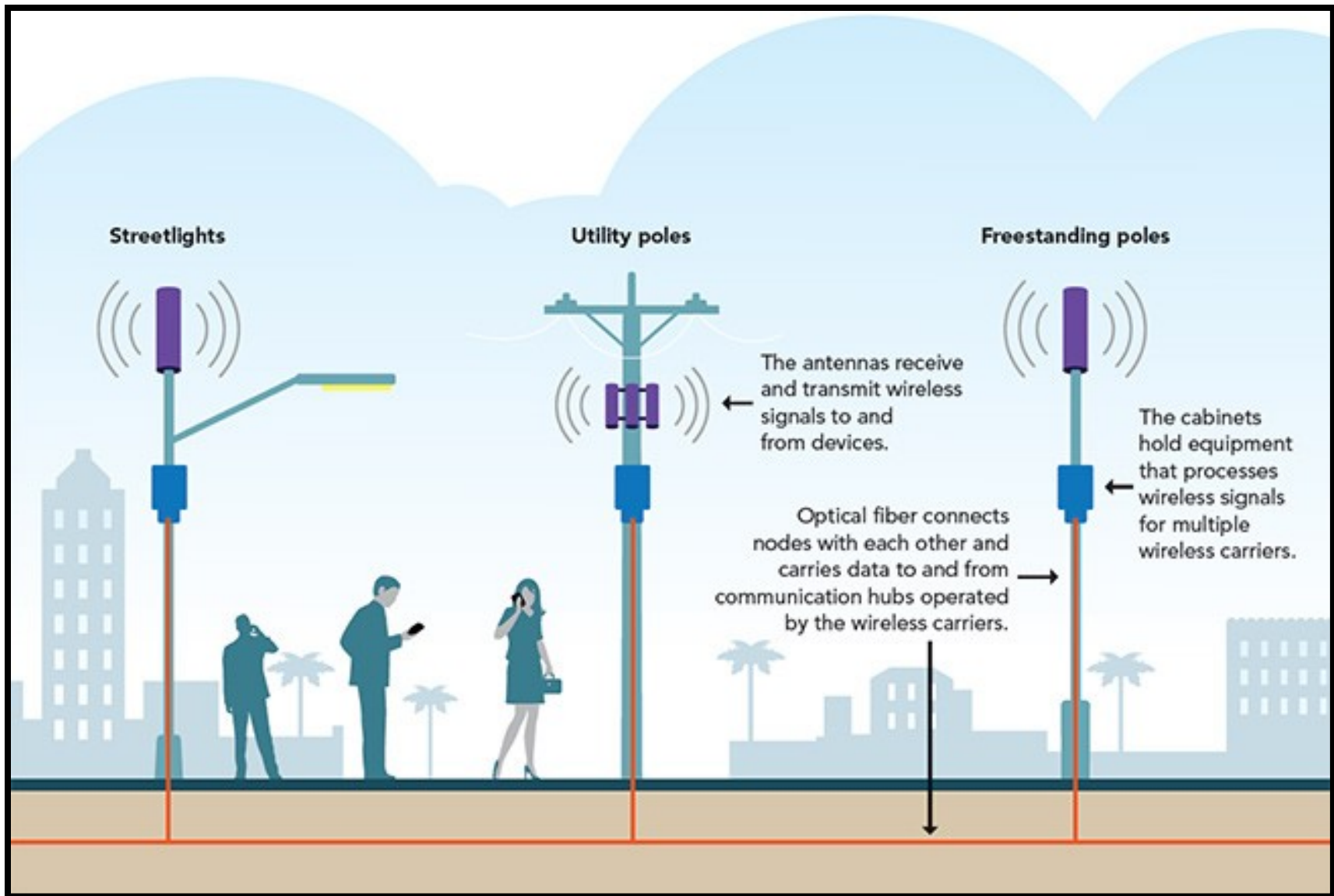
460.1339 Scope of act; application to and effect on certain electric utilities.

Sec. 39. (1) This act does not add to, replace, or supersede any law regarding poles or conduits, similar structures, or equipment of any type owned or controlled by an investor-owned utility whose rates are regulated by the MPSC, an affiliated transmission company, an independent transmission company, or, except as provided in section 7(e), a cooperative electric utility.

(2) This act does not impose or otherwise affect any rights, controls, or contractual obligations of an investor-owned utility whose rates are regulated by the MPSC, an affiliated transmission company, an independent transmission company or, except as provided in section 7(e), a cooperative electric utility with respect to its poles or conduits, similar structures, or equipment of any type.

(3) Except for purposes of a wireless provider obtaining a permit to occupy a right-of-way, this act does not affect an investor-owned utility whose rates are regulated by the MPSC. Notwithstanding any other provision of this act, pursuant to and consistent with section 6g of 1980 PA 470, MCL 460.6g, the MPSC has sole jurisdiction over attachment of wireless facilities on the poles, conduits, and similar structures or equipment of any type or kind owned or controlled by an investor-owned utility whose rates are regulated by the MPSC.

History: 2018, Act 365, Eff. Mar. 12, 2019.





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