

---

**STATE OF MICHIGAN**  
**IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW**

---

RD Michigan Property Owner I LLC, a  
Delaware limited liability company, Feldkamp  
Siblings, LLC, a Michigan limited liability  
company, Dennis Finkbeiner, an individual, Lynn  
Ellen Finkbeiner, an individual, Wilkin Farm  
Properties I, LLC, a Michigan limited liability  
company, Dennis C. Wilkin, an individual,  
and Alice M. Wilkin, an individual,

Plaintiffs,

v.

Saline Township, a Michigan municipal  
corporation,

Defendant,

Kathryn Elizabeth Haushalter  
Proposed Intervening Co-  
Defendant/Cross-Claimant

v.

Saline Township, a Michigan municipal  
corporation,

Proposed Cross-Claim Defendant

---

DYKEMA GOSSETT PLLC  
J Alan M. Greene (P31984)  
Krista L. Lenart (P59601)  
Samuel Kilberg (P82188)  
39577 Woodward Avenue  
Bloomfield Hills, Michigan 48304  
(248) 203-0700  
agreene@dykema.com  
klenart@dykema.com  
skilberg@dykema.com

*Counsel for Plaintiffs*

Civil Action No. 25-001577-CZ  
Hon JULIA B. OWDZIEJ  
Date filed: 9-12-25

**CORRECTED  
PROPOSED INTERVENING CO-  
DEFENDANT AND CROSS-  
CLAIMANT'S REPLY BRIEF TO  
PLAINTIFFS RD MICHIGAN  
PROPERTY OWNER I LLC ET AL.  
IN SUPPORT OF MOTION TO  
INTERVENE**

CASTLEBERRY & LUCAS  
Frederick Lucas (P29074)  
7577 US Highway 12  
Onstead, MI 49265-9834  
(517) 467-4000  
fred@castleberrylucas.com

LANDRY MAZZEO DEMBINSKI &  
STEVENS PC  
David Landry  
37000 Grand River Ave.  
Farmington Hills, MI 48325  
(248) 476-6900  
dlandry@lmdlaw.com

*Counsel for Defendant*

Ellis Boal (P10913)  
9330 Woods Rd.  
Charlevoix, MI 49720-1698  
(231) 547-2626  
[ellisboal@voyager.net](mailto:ellisboal@voyager.net)

ECKLAND & BLANDO LLP  
Robert T. Dube Jr.\*  
100 Washington Ave. South  
Minneapolis, MN 55401  
(612) 236-0160  
[rdube@ecklandblando.com](mailto:rdube@ecklandblando.com)

\**Pro Hac Vice*

*Counsel for Proposed Intervening Co-Defendant/Cross-Claimant*

**NOW COMES** Proposed Intervening Co-Defendant and Cross-Claimant Kathryn Elizabeth Haushalter, by and through her attorneys, who submits this Reply Brief to Plaintiffs in Support of Motion to Intervene.

## FACTS

RD Michigan Property Owner 1 LLC (“RD”) submitted a request for Conditional Rezoning to Saline Township on July 10, 2025. (Exhibit 1 - Affidavit of LuAnne Kozma, Bates Pages 002-047) Saline Township’s Zoning Ordinance *categorically bans* conditional rezoning and mandates returning a conditional rezoning application without action. (*Id.*, Ex. C - Saline Township Zoning Ordinance § 12.04(A)) (“Conditional rezoning, as authorized by Section 405 of the Michigan Zoning Enabling Act, shall be prohibited in Saline Township. Any application for a rezoning amendment to the Official Zoning Map that includes proposed conditions or voluntary use or development limitations shall be returned to the applicant without Township review or consideration.”) Township Planner Mike Auerbach, of Carlisle Wortman, did not do this. Instead, he relied on a never-adopted version of the Saline Township Zoning Ordinance from 2013 to evaluate the conditional rezoning application. (Affidavit of L. Kozma, Ex. D Bates Pages 081-90) The Saline Township Board denied the conditional rezoning application on other grounds. (*Id.*, Ex. E at Bates Pages 091-094) Despite having no right to a conditional rezoning, RD sued Saline Township and ultimately this Court authorized a consent judgment permitting a conditional rezoning that the Saline Township ordinance categorically bans. (*Id.*, Ex. C at Bates page 075 (Saline Township Zoning Ordinance § 12.04(A)))

The Consent Judgment ¶3(k) requires monitoring wells to be established prior to construction; construction is ongoing, but the Township engineer confirmed at a January 28, 2026 Board meeting that monitoring wells have not been installed. (Affidavit of Ashley

Haushalter ¶¶ 7-10). On January 14, 2026, Saline Township voted to rezone RD's land to I-1, then “reversed” that decision on January 28, 2026.

## ARGUMENT

### **I. Neither Haushalter’s Motion to Intervene nor her Subsequent MCR 2.612 Motion, if Intervention is Granted, Are Collateral Attacks.**

Intervention is not an attack on the Consent Judgment; it is simply the procedural mechanism for Haushalter to become a party to this action. MCR 2.209(A). When this Court grants intervention, then RD can attack any motion filed by Haushalter to vacate the judgment. But that motion would not be a collateral attack. Rather, it would be a traditional motion to vacate or set aside a final judgment. *See* MCR 2.612 (“Relief from a final judgment is proper when there is “[m]istake, inadvertence, surprise or excusable neglect.”); MCR 2.612(C)(1)(f) (authorizing relief from judgment for “[a]ny other reason justifying relief.”).

Specifically, Haushalter would assert this Court made a mistake through no fault of its own in approving a Consent Judgment that authorized conditional rezoning specifically banned by Saline Township’s Zoning Ordinance, and made a mistake in approving a consent judgment not properly authorized by Saline Township under the Open Meetings Act. *Jostock v Mayfield Twp*, 513 Mich 360, 371, 376 (2024) (“Conditional rezoning is a type of rezoning; therefore, conditional rezoning is a legislative function, just as zoning and traditional rezoning are . . . A conditional rezoning is invalid under MCL 125.3405(1) if the proposed use is not a permitted use—either by right or after special approval—within the proposed zoning district.”); *Fisher v Belcher*, 713 NW2d 6, 15 (Mich App 2005) (affirming setting aside judgment where court “had not adequately examined the issue.”). Alternatively, Haushalter would argue the failure to disclose this legal bar to the Court is a surprise that mandates vacatur. Such a motion is not a collateral attack.

When Haushalter brings such a motion, it will be in the same action where the judgment was entered, less than 1 year after said judgment was entered. If intervention is granted, it will be a permissible MCR 2.612 motion, not a collateral attack. *In re Application of Indiana Mich. Power Co*, 329 Mich App 397, 406 (2019) (“A collateral attack occurs when a party uses a second proceeding to attack a tribunal’s decision in a previous proceeding.”) (emphasis added, internal quotations omitted); *Cuson v Tallmadge Charter Twp*, No. 234157, unpublished decision of the Court of Appeals issued May 15, 2003 (“Most importantly, the intervenors in *Vestevich*, injected the issue of the validity of the consent judgment into the original action in which the consent judgment was designed to settle.”).

That is exactly why Haushalter is seeking to intervene in this action, rather than filing and initiating her own action. *Farm Bureau Mut Ins Co of Mich v Buckallew*, 471 Mich 940 (2004) (*Buckallew II*) (requiring plaintiff to seek relief under MCR 2.612, not through a new action); *see also VanDeventer v Michigan Nat Bank*, 172 Mich App 456, 463 (1988) (“Collateral estoppel bars the relitigation of issues previously decided when such issues are raised in a subsequent suit by the same parties based on a different cause of action.”). As such, any concern regarding collateral attack should not weigh on intervention.

## **II. RD’s Attacks Against Haushalter’s Motion to Intervene Go Against the Merits of the Case, Not to the Merits of Intervention Which Haushalter Meets.**

RD asserts that Haushalter is not an adjoining or abutting landowner, that her claims of concerns about water impacts and development harms on her agricultural activities are factually invalid, that she lacks standing to bring her declaratory judgment action and that her OMA claim is untimely. (RD Br at 18-20) “There will be a time and place for those arguments to be heard, but it’s not on the motion to intervene.” *JA Bloch & Co v Ann Arbor Twp*, No. 359265, unpublished decision of the Court of Appeals issued on December 22, 2022. Further, Haushalter

is not required to “prove a ‘meritorious claim’ at the intervention stage[,]” rather, she need only “claim an interest relating to the property.” *Id.* (citing *Hill v LF Transp, Inc*, 277 Mich App 500, 508 (2008)).

She has done so, claiming that the developments at the data center will affect her water, her agricultural activities, and her quality of life as a nearby landowner. (Proposed Cross-Claim ¶ 2); *see also Sakorafos v Charter Twp of Lyon*, 349 Mich App 176, 191–92 (2023) (“Plaintiffs’ damages need not be singular to confer standing to bring a nuisance claim; the fact that other nearby residents also may have suffered ill effects from the dog kennel does not defeat plaintiffs’ standing to bring a suit alleging nuisance. Moreover, plaintiffs’ status as an adjacent property owner lends support to the finding that plaintiffs have demonstrated special damages different from injury suffered by others in the community generally.”). While RD disparages *Vestevich*, its holding remains undisturbed:

This applies not only to abutting landowners, but also those in nearby neighborhoods. There is no dispute that the more distant of the intervening homeowners were close enough to the subject property to be concerned that their interests would be affected by the commercial development of the residentially zoned parcel, by way of neighborhood character, property values, traffic patterns, and the like nearby landowners had an interest sufficient to support intervention in a land-use dispute when they were concerned that their interests would be affected by the commercial development of the residentially zoned parcel, by way of neighborhood character, property values, traffic patterns, and the like.

*Vestevich v W Bloomfield Twp*, 245 Mich App 759, 762 (2001); *see also JA Bloch & Co* (permitting intervention for nearby landowners in reliance on *Vestevich*). Also, RD claims there are well monitors in place to monitor water, but during the January 28, 2026 Board meeting, the Township engineer confirmed that the monitors are not installed, despite construction occurring on the property. RD’s handwaving of Haushalter’s legitimate concerns as a property owner are neither properly considered at this stage, nor factually valid.

As to standing to bring a declaratory judgment action, if Haushalter is granted intervention, she will be a party to the case, which permits this Court to “declare the rights and other legal relations of an interested party seeking a declaratory judgment.” *Lansing Sch Ed Ass ’n v Lansing Bd of Ed*, 487 Mich 349, 355; 792 NW2d 686 (2010) (citing MCR 2.605(A)(1)). Thus, because declaratory judgment is intended to “settle a matter before it ripens into a violation of the law or a breach of contract,” *United Auto, Aerospace & Agricultural Implement Workers of America v Central Mich Univ Trustees*, 295 Mich App 486, 495 (2012), and because an amendment enacted in violation of the MZEA “is invalid” and unenforceable, *Korash v City of Livonia*, 388 Mich 737, 746 (1972), Haushalter would have standing to obtain declaratory judgment on whether this Court’s Consent Judgment mandates rezoning RD’s land.<sup>1</sup> *Montrief v Macon Twp Bd of Trs*, No. 360437, unpublished decision of the Court of Appeals issued April 27, 2023 (Mich Ct. App Apr 27, 2023) (standing where “plaintiffs pleaded the need for future clarification and guidance in relation to the validity of the Solar Ordinance.”).

## CONCLUSION

Whether this Court grants Haushalter the ultimate relief she seeks is immaterial to motion to intervene and a motion to intervene is not a collateral attack. Haushalter has timely brought a motion to intervene as a Saline resident whose OMA rights were violated and asserting specialized harms as a nearby landowner whose interest is not adequately represented by RD or Saline Township.<sup>2</sup> Under the liberal standards for intervention, her Motion should be granted.

---

<sup>1</sup> The Township’s attorney on January 28, 2026, said the Consent Judgment cannot rezone and suggested that part would need to be severed, reversing his stated position to the Board on October 1, 2025. The only other option would leave the Consent Judgment a use variance but Saline Township Zoning Ordinance § 17.11 bars use variances.

<sup>2</sup> Haushalter addresses timeliness and the arguments regarding reliance on the Consent Judgment in her reply brief to Saline Township incorporates by reference the same.

Respectfully submitted,

Dated: February 11, 2026

/s/ Robert T. Dube Jr.  
Ellis Boal (P10913)  
9330 Woods Rd  
Charlevoix, MI 49720-1698  
(231) 547-2626  
*ellisboal@voyager.net*

Robert T. Dube Jr.\*  
**Eckland & Blando LLP**  
100 Washington Avenue South  
Suite 1500  
Minneapolis, MN 55401  
(612) 236-0160  
*rdube@ecklandblando.com*

*\*Pro hac vice*

Counsel for Proposed Intervening  
Defendant and Cross-Claimant

**INDEX OF EXHIBITS**  
PROPOSED INTERVENING CODEFENDANT  
AND CROSSCLAIMANT'S  
REPLY BRIEF TO  
PLAINTIFFS RD MICHIGAN  
PROPERTY OWNER I LLC ET AL. IN  
SUPPORT OF MOTION TO  
INTERVENE

|           |  |         |
|-----------|--|---------|
| EXHIBIT 1 | Affidavit of LuAnne Kozma.....                           | 001-135 |
| EXHIBIT 2 | Affidavit of Ashley Haushalter.....                      | 136-142 |
| EXHIBIT 3 | Cusonv. Tallmadge Charter Tp (2003).....                 | 143-148 |
| EXHIBIT 4 | Montrief v. Macon Township Board (2005).....             | 149-157 |
| EXHIBIT 5 | J.A. Bloch and Company v. Ann Arbor Township (2022)..... | 158-172 |

# **EXHIBIT 1**

## Affidavit of LuAnne Kozma

1. I am a para-legal in the office of attorney Ellis Boal in Charlevoix.
2. I earned a para-legal certificate from Oakland County Community College in 2012. Prior to that I worked informally as a para-legal for another attorney in a Sixth Circuit federal case.
3. Prior to my para-legal work I had a 25-year academic career with Michigan State University Museum and MSU Extension.
4. I have completed MSU Extension's Land Use certificates in Citizen Planner and Zoning Board of Appeals, and attained the credential of Master Citizen Planner.
5. In preparation of briefs and pleadings in the present case, I became interested in the subject of "conditional rezoning" as highlighted in RD Michigan Property Owner 1 LLC's initial application and proposed Conditional Rezoning Agreement (**attached as Exhibit A**) to Saline Township for conditional rezoning of several agriculturally-zoned parcels to I-1 industrial zoning for a "data center" on July 10, 2025 and in its various pleadings, briefs, papers, and presentations since then.
6. I noticed in the July application document, the applicant's attorney offered the use as a data center as the condition of the rezoning:

"This is a project specific rezoning. Under Section 405 of the Michigan Zoning Enabling Act, MCL125.3405, certain conditions voluntarily offered by the owner of land, including an agreement between the Township and the developer, may become a condition of the rezoning of property. The conditions run with the land. We are prepared to offer the following conditions, as more specifically described

in the accompany draft Conditional Rezoning Agreement, as part of this rezoning request for the Township's consideration: 1.The only uses permitted under the industrial-research zoning classification shall be the data center and any accessory uses thereto. All other uses permitted by right or special approval in the industrial-research zoning shall be prohibited. Uses permitted in the agricultural zone may continue at the discretion of Developer on lands not used for the data center buildings and accessory uses. “ (Alan Greene cover letter, Bates Page 003).

And in answers to various questions on the application, the applicant, who signed their name only with an “S” (Bates Page 007) and no name on the application, stated:

- “A “data center” is a new form of land use that was not specifically considered or addressed in the Township’s Master Plan or Zoning Ordinance.” (Bates Page 025)
- “As described in detail in response to item 1 above, the use is so new and unique there is really no zoning classification of property or master plan discussion in the Township or any surrounding or nearby community that specifically addresses the use.” (Bates Page 027)
- “As previously stated, data center operations are relatively new uses that are the product of the explosion in data use and data storage needs by all people and businesses throughout the country. Thus, these specific uses were simply not addressed or discussed in the Zoning Ordinance or Zoning Map.” (Bates Page 027)
- “The use is so unique and different from other uses in the zoning classification sought that it will have no precedential impact on other uses. It is not a manufacturing or assembly use or other warehousing or trucking operation typically found in the industrial-research district. Moreover, applicant is proposing a conditional rezoning that restricts the uses on the property to a data center and accessory uses and if such a data center is not developed, the zoning will revert back to the agricultural zoning designation.” (Bates Page 028)

7. I obtained RD Michigan Property Owner 1 LLC’s filing of an application for “certificate of authority to transact business in Michigan for a foreign limited

liability company” with the Michigan Licensing and Regulatory Affairs office, dated August 25, 2025, showing the resident agent, James Kraus, was not authorized to conduct business in Michigan until that date. There is no other person listed on the paperwork, and none whose name begins with “S.” **Exhibit B.** (Bates Pages 049-050)

8. I downloaded the current Saline Township Zoning Ordinance (adopted in 2008 and amended through September 2017) from the Township website at [www.salinetownship.org](http://www.salinetownship.org) and noted that Section 12.04(A) reads: “Conditional Rezoning Prohibited. Conditional rezoning, as authorized by Section 405 of the Michigan Zoning Enabling Act, shall be prohibited in Saline Township. Any application for a rezoning amendment to the Official Zoning Map that includes proposed conditions or voluntary use or development limitations shall be returned to the applicant without Township review or consideration.” **Saline Township Zoning Ordinance Article 12 attached as Exhibit C.** (§ 12.04(A) is on Bates Page 075)

9. I read the “Conditional Rezoning Review for Saline Township” by Carlisle Wortman Associates planner Mike Auerbach, AICP, who is the Saline Township Planner, dated August 4, 2025, analyzing the “Data Center Conditional Rezoning” application by RD Michigan Property Owner 1 LLC submitted to the Township on July 10, 2025. The Carlisle Report states “ Specific conditional rezoning standards are established in Section 12.04(A)(2) of the Zoning Ordinance. Those standards, and our comments on the proposal according to those standards are as follows” and then quotes from what it claims is “§12.04(A)(2)” of the Saline Township Zoning Ordinance that has completely

different language, obviously allowing conditional rezoning, than the actual Saline Township Zoning Ordinance § 12.04(A), which prohibits it. **Attached as Exhibit D.** See yellow highlight on Bates Pages 084-086 for purported “Section 12.04(A)(2)” language.

10. I could not understand why Planner Auerbach would review the conditional rezoning application using completely different language and review criteria allowing conditional rezoning, when the only evidence on the Township website about conditional rezoning is § 12.04(A) that outright **prohibits conditional rezoning** in Saline Township.

11. I reviewed the August 12, 2025 Saline Township Planning Commission meeting minutes, **attached as Exhibit E**, (notably still prior to RD Michigan Property Owner 1 LLC receiving permission to do business in Michigan, see Exhibit B), the agenda item under Old Business “Conditional rezoning — Agricultural to Industrial/Research,” reads in part: “Mike from Carlisle/Wortman explained on the table today is to decide to rezone the land or not. Fred Lucas commented on the funding that the township will be receiving from the project . . .” and other points. The minutes do not reflect any township official stating that § 12.04(A) prohibits conditional rezoning.

12. To confirm that prohibiting “conditional rezoning” was allowable under the Michigan Zoning Enabling Act, I consulted a Michigan State University Extension Land Use publication titled “All zoning does not have to include everything in the Michigan Zoning Enabling Act.” **Attached as Exhibit F.** I also found examples of other Michigan

municipalities (such as Bridgewater, Lodi, Superior and York Townships in Washtenaw County) that also prohibit conditional rezoning in their respective zoning ordinances.

13. To find any possible subsequent amendment to § 12.04(A), I downloaded all of the separately-posted amendments to the Saline Township Zoning Ordinance from the township website. None amended § 12.04(A) Conditional Rezoning Prohibited.

14. The Township publishes the Board's regular and special meeting minutes on the website at <https://salinetownship.org/meeting-minutes.php>. I downloaded and have reviewed all of the Board meeting minutes for an 11-year period from January 2013 through October 2025 to find any minutes in which the Board amended the Ordinance §12.04(A) to allow for conditional zoning, and I found none.

15. I noticed that Board meeting minutes for Aug 11, 2014; Oct 12, 2015; Dec 14, 2015; July 8, 2019; and Dec 8, 2021 were not published on the website. Through the Freedom of Information Act, I requested and received those minutes from the Township Clerk. The Clerk has now uploaded these to the Township website. These additional minutes also show no Board action adopting an amendment to the Zoning Ordinance that changed § 12.04(A) to allow for conditional rezoning.

16. Doing research at the Saline Public Library in December, I found a public notice published in the Saline Reporter newspaper for a public hearing that was held by the Planning Commission on December 3, 2013 with the possibility of amending § 12.04(A) Conditional Rezoning Prohibited. (**Exhibit G**)

17. The Planning Commission meeting minutes for Dec 3, 2013 were not

available on the website, but the December 9, 2013 Board minutes were, and they state: “Planning Commission- At this time Saline Ventures has not addressed the Planning Commission any further. A MOTION was made by Mrs. J Gordon and supported by Ms. Kelly Marion to table the decision on an ordinance change (conditional rezoning ordinance amendment) until the board has a chance to review the Planning Commissions minutes/request. Ayes 5 Nays 0.” (Bates Page 121)

18. From reading minutes in that period, I learned that the reason for the 2013 hearing was for a proposed housing subdivision by Saline Ventures. Eventually that subdivision was called Andelina Farms, approved by the Board as a Planned Unit Development at its July 8, 2019 meeting, according to those minutes.

19. According to the February 5, 2019 Planning Commission minutes (**attached as Exhibit H**), Andelina Farms was discussed by the Carlisle Wortman planner at the time, Doug Lewan, for a Planned Unit Development rezoning, (not Conditional Rezoning). The minutes reveal Angelina Farms was represented by attorney Alan Greene, the same attorney that now represents RD Michigan Property Owner 1 LLC, and that the Township was represented by attorney Fred Lucas, as it still is today.

20. Separately, § 12.04(F) of the Zoning Ordinance (Bates Page 079) requires that any amendment to the Ordinance must be published in a newspaper of general circulation, and that such publication determines the effective date of any amendment. Such potential newspapers in the Saline area are, or since the date of 2013 have been the *Saline Reporter* and the *Sun Times News* (online).

21. At various libraries and on various websites, I have searched but have found no published public notice of the Saline Township Board's adoption of any amendment of § 12.04(A) of the Saline Zoning Ordinance.

22. To get a definitive answer from the Township itself, on January 8, 2026, I requested of the Clerk, Kelly Marion, a Freedom of Information Act request for:

1. Ordinance Amendment showing the full text of any amendment to Section 12.04(A) that the Board of Trustees adopted after the 2007 Zoning Ordinance was adopted. The Zoning Ordinance Article 12 that downloads from the [salinetownship.org](http://salinetownship.org) website under Forms---> "Saline Township New Zoning Ordinance September 2007" has Section 12.04(A) with the following text:

A. Conditional Rezoning Prohibited.

Conditional rezoning, as authorized by Section 405 of the Michigan Zoning Enabling Act, shall be prohibited in Saline Township. Any application for a rezoning amendment to the Official Zoning Map that includes proposed conditions or voluntary use or development limitations shall be returned to the applicant without Township review or consideration.

I'm asking for documentation of any subsequent amendment that changed that ordinance text. If there are versions that are signed and dated, or not signed and not dated, I would like both versions.

2. Published public notices in a newspaper(s) for a Township public hearing for considering an amendment to Zoning Ordinance Section 12.04(A), beginning in January 2013, to today.

3. Any published public notice in the newspaper noticing the Board's adoption of any Zoning Ordinance amendment amending 12.04(A) "Conditional Rezoning Prohibited" with its effective date.

4. The approved Board of Trustees meeting minutes adopting any amendment of 12.04(A) "Conditional Rezoning Prohibited."

5. Documents (such as a receipt or invoice showing "paid") showing the Township's payment for the published newspaper public notices for the public hearing and amendment adoption.

23. On January 26, I received the results (**attached as Exhibit I**) from the Clerk with four attached documents: a) the December 3, 2013 Planning Commission meeting minutes; b) the December 9, 2013 Board meeting minutes; c) the published newspaper public notice of the Planning Commission's Dec 3, 2013 public hearing, and; d) a draft of a Conditional Rezoning Ordinance Amendment labeled "DRAFT 7-22-13" at the bottom, with crossed-out 12.04(A) language and proposed, draft language underlined.

24. The Clerk's initial emailed response stated only "Please see the attached documents, which include the information the Township is able to provide in response to your request." She amended it to respond to each itemization in the FOIA request.

25. The December 3, 2013 Planning Commission minutes indicate that it voted to recommend that the Board adopt the draft. The December 9, 2013 Board of Trustees minutes, however, indicate that the Board tabled any decision on adopting the draft. The Clerk was unable to provide any Board minutes indicating the Board voted to adopt the any amendment to §12.04(A), was unable to provide any public notice published in the newspaper proving its adoption, provided no receipts indicating the Township paid for any such notice, and provided no final version of the amendment. Indeed, no amendment was ever approved.

26. Comparing the draft language dated 7-22-13 (**in Exhibit I on Bates Pages 123-125**) provided by the Clerk with the August 4, 2025 Carlisle "Conditional Rezoning Review for Saline Township" report by Mike Auerbach—the highlighted parts in yellow (**Exhibit D on Bates Pages 084-086**)—I can see that they match, word for word. I

conclude that Auerbach did not use the actual Saline Township Zoning Ordinance § 12.04(A) which required him to return a conditional rezoning application to the applicant without Township review or consideration, and instead used a 12-year old draft that was never approved by Saline Township, and never became law, to put forward recommendations to Planning Commissioners that it was acceptable to consider the data center conditional rezoning application.

27. The Saline Township Zoning Ordinance was available on the Township website to Board members, Planning Commissioners, Township Planner Mike Auerbach, Zoning Administrator Tom Hammond, Township attorney Fred Lucas, Township attorney David Landry, and the Developer's attorney Alan Greene alike, in July 2025 and since, for anyone to have immediately known that Section 12.04(A) "Conditional Rezoning Prohibited" was the law. Anyone with familiarity with, and whose job it was to know the Zoning Ordinance, would have known that the Data Center application should have been a dead letter as soon as it arrived at the Township's doorstep.

LuAnne Kozma  
LuAnne Kozma

Subscribed and sworn to before me, this  
30<sup>th</sup> day of January, 2026.

Brian D Wagner  
Notary public, Charlevoix County  
Michigan  
My commission expires: 12-16-2030



**Exhibit A**  
RD Michigan Property Owner 1 LLC  
Conditional Rezoning Application  
To Saline Township  
July 10, 2025



**Dykema Gossett PLLC**  
39577 Woodward Avenue  
Suite 300  
Bloomfield Hills, MI 48304  
WWW.DYKEMA.COM  
Tel: (248) 203-0700  
Fax: (248) 203-0763

**Alan M. Greene**  
Direct Dial: (248) 203-0757  
Direct Fax: (855) 236-1206  
Email: AGreene@dykema.com

July 10, 2025

**Via Hand Delivery and Overnight Delivery**

Kelly Marion  
Township Clerk  
Saline Township  
5731 Braun Rd.  
Saline, Michigan 48176  
-and-  
4254 Arkona Road  
Saline, Michigan 48176

Re: Application for Conditional Rezoning--Agricultural to Industrial/Research

Dear Ms. Marion:

I am enclosing an Application to rezone approximately 575 acres of land (the "Property") located on Michigan Ave just east of the Rustic Glen Golf Club from the A-1 (agricultural) designation to the I-1 (industrial-research) zoning classification on behalf of the applicant, RD Michigan Property Owner I LLC ("Applicant" or "Developer"). I am legal counsel to the Applicant. The Property is more particularly described and depicted on **Attachment 2** and authorizations from the Property owners to pursue this rezoning request are included in **Attachment 1**. The purpose of the rezoning is for the development, construction, use and operation of a data center project (the "Project" or "Data Center").

A data center is a fairly new land use involving sophisticated technologies instrumental to functioning in this age of information. It is best described as a physical location that stores computing machines and their related hardware equipment. It contains the computing infrastructure that information technology systems require, such as computers, data storage drives, and network equipment. It is the physical facility that stores any company's digital data. Thus, a data center is a low impact facility with limited employees and traffic impacts. The buildings have large footprints, but, as in this case, the height shall align with zoning district I-1.

While the total land area included here is approximately 575 acres, a majority of the acreage will be left as natural open space and agricultural lands with no detrimental impacts on surrounding agricultural activities. The Project currently contemplates the construction of three separate large buildings and one small computer building plus accessory structures containing approximately 2,200,000 square feet of buildings in total, as conceptually depicted on **Attachment 7**. The total development, including electrical infrastructure, roads, and parking is estimated to be

approximately 250 acres, less than 50% of the Property. It is a one-of-a-kind facility in the State of Michigan, which has bipartisan support from State officials.

While the Project will reduce active farmland in the Township (by approximately 3.5% of the 16,631 acres of agriculturally zoning area), it will be transformative in providing the Township with sufficient resources that will enable the Township to maintain its agricultural heritage for generations without the need or pressure for additional revenue from development, even as the continued preservation and economic success of smaller, family farms remains an ongoing challenge. As a graphic illustration--based on preliminary plans and projections, the Project will be built on approximately 250 acres (with the balance of the site left open as natural space), or roughly 1.1% of the land in the Township, but, based on preliminary analysis of annual tax revenue, would nearly double its total current tax revenue.

Furthermore, it should be noted that this particular data center Project has special features that will mitigate against any perceived negative impacts associated with data centers. As a brief summary: i) this Project will not evaporate water for cooling so minimal amount of water will be needed; ii) the siting of the Project and landscaped buffers will create significant visual buffer which will preserve the character and culture of the Township; iii) there will be only a handful of emergency generators (about 1% of the power) thus minimizing any emissions or noise; and iv) there will be no onsite power generation.

This is a project specific rezoning. Under Section 405 of the Michigan Zoning Enabling Act, MCL125.3405, certain conditions voluntarily offered by the owner of land, including an agreement between the Township and the developer, may become a condition of the rezoning of property. The conditions run with the land. We are prepared to offer the following conditions, as more specifically described in the accompany draft Conditional Rezoning Agreement, as part of this rezoning request for the Township's consideration:

1. The only uses permitted under the industrial-research zoning classification shall be the data center and any accessory uses thereto. All other uses permitted by right or special approval in the industrial-research zoning shall be prohibited. Uses permitted in the agricultural zone may continue at the discretion of Developer on lands not used for the data center buildings and accessory uses.
2. Conservation easements will be placed on certain existing regulated and preserved wetlands and on certain agricultural lands not developed for the Project on the Property. The Project shall be designed to minimize any impact on regulated wetlands.
3. Any on-site water and sewer utilities constructed on the Property shall be designed to serve only the Project and not be expandable to provide urban services to any other property. If an on-site water system is developed on the Property and, if desired by the Township, the system will be dedicated to the Township as a public system with the commitment that all costs to construct, operate, repair and maintain the system will be the responsibility of the Project.

Kelly Marion  
July 10, 2025  
Page 3

4. Primary access to and from the Property in Saline Township shall be off Michigan Avenue, a State highway.
5. Setbacks from any building or other operation from neighboring lands shall be at least 75 feet and development shall be screened by berms or other landscape features along Michigan Avenue.
6. In addition to the substantial increase in property tax revenue to the Township described above, Developer is prepared to: (a) provide the Township with a \$2,000,000 investment for local fire and other emergency services and improvements; (b) will establish a \$1,000,000 community investment fund to be administered by the Township; and (c) contribute \$100,000 to the Township for maintenance of its historic cemetaries.
7. If the Project is not developed, the rezoning would revert back to the agricultural zoning classification.

I am enclosing as **Attachment 8**, a proposed form of Conditional Rezoning Agreement for review and discussion. The attached form is not cast in stone and we would work with the Township and its legal counsel on agreed upon language if the Township would approve the conditional rezoning.

The Project is very time sensitive. The Developer acknowledges that despite the large net positive impacts to the Township, this is a significant project that will need to be carefully considered by the Planning Commission and the Board. However, for full visibility, this opportunity has a very small window to move forward since the development has to commence in October 2025 and be completed in 2027. There are other potential sites and if conditional rezoning is not approved quickly, this Project will divert to other sites and this opportunity for Saline Township will no longer be available. The Developer commits to doing its best to provide whatever information the Township requires as quickly as possible so that the Township can make a fully informed decision in the short time frame inherent with this Project.

Finally, the enclosed Application includes all of the attachments identified on page 1 of the Application in **Attachments 1-5** and the narrative responses to the rezoning questions set forth on page 2 of the Application in **Attachment 6**. Also, included is a check to cover the filing and review fees required.

Kelly Marion  
July 10, 2025  
Page 4

We look forward to working collaboratively with the Township on this unique and transformative development opportunity.

Sincerely,

**Dykema Gossett PLLC**



Alan M. Greene

Enclosures

cc: James Marion, Township Supervisor (Overnight Mail)  
Tom Hammond (via Email)  
Mike Auerbach, Carlisle/ Wortman (via Email)

127051.000001 4914-4358-9972.1

**TOWNSHIP OF SALINE  
REZONING AMENDMENT APPLICATION**

Date of Application: July 10th, 2025

**1. Applicant Information:**

Applicant Name RD Michigan Property Owner I LLC

Street Address or P.O. Box No. 30 Hudson Yards

City/State/Zip New York, NY 10001

Telephone: 212-801-1000 Fax: \_\_\_\_\_

Individual Person (s)       Firm       Corporation

If a business, please describe: Developer

**2. Property Information:**

Applicant's Interest in the Property Purchaser under Purchase Agreement

1) Feldkamp Siblings LLC

2) Dennis & Lynn Finkbeiner

Property Owner(s) 3) Wilkin Farm Properties I, LLC

Property Address See Attachment 2 Existing Zoning District(s) A-1

Property Tax ID No. See Attachment 2 Proposed Zoning District(s) I-1

Property location by nearest crossroads West Michigan Ave & Willow Rd

Current use(s) of the subject property: Agricultural

**Attachments:**

1. If the applicant is not the owner of record, attach a signed statement from the owner(s) of record that the applicant is acting on the owner's behalf, and include the name, address, and phone number of all owner(s) of record.
2. Attach a legal description of the subject parcel(s).
3. Attach a location map and scaled survey of the subject property showing all property lines, dimensions, bearings or angles correlated with the legal description; all existing and proposed structures and uses on premises; dimensions of such structures and distance or setback measurements from other structures and lot boundaries; road rights-of-way and other easements; gross and net lot area; and any other information relevant to the request.
4. Attach a vicinity map showing the location of the subject property, and adjacent land uses and zoning classifications.
5. Attach a general description of the natural resources and features, including wetlands, streams and other waterbodies, steep slopes, woodlands, and floodplains, depicted on scaled drawings.

**3. Purpose of Change:**

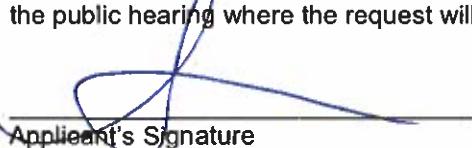
Purpose of the proposed zoning change(s): Proposed data center development

**Attachments:**

Attach a written description of how the request meets the criteria for rezoning listed in Section 12.04E (Findings of Fact Required) of the Zoning Ordinance (see attached).

**4. Certification:**

The applicant agrees and certifies that the information supplied as part of this application is accurate and true, including additional material submitted to the Planning Commission and Township Board prior to recommendation and final action on the request. The applicant also agrees to permit a physical on-site visit on the subject property by members of the Planning Commission and the Township Planner prior to the public hearing where the request will be considered.

  
\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date  
7/10/25

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

**NOTES:**

**FOR OFFICE USE ONLY**

**Required Fee: \$ \_\_\_\_\_ Date Received by the Township: \_\_\_\_\_**

**Application Received by:** \_\_\_\_\_  
Name \_\_\_\_\_ Position \_\_\_\_\_

**Date Received by the Township:** \_\_\_\_\_

## Section 12.04 Amendments.

### E. Findings of Fact Required.

In reviewing any application for a rezoning amendment to the Official Zoning Map, the Planning Commission shall identify and evaluate all factors relevant to the application, and shall report its findings and recommendations to the Township Board. The facts to be considered shall include, but shall not be limited to the following:

1. Compatibility of the proposed rezoning with the General Development Plan's goals, policies, and future land use map, including planned timing or sequence of development. If conditions have changed since the General Development Plan was adopted, the consistency with recent development trends in the area shall be considered.

**See Attachment 6**

---

---

---

---

2. Compatibility of all the potential uses allowed in the proposed zoning district(s) with the site's physical, geological, hydrological, and other environmental features, and with surrounding uses and zoning districts.

**See Attachment 6**

---

---

---

---

3. Capacity of available utilities, roads, and public services to accommodate the uses permitted in the district(s) without compromising the health, safety, and welfare of Township residents or burdening the Township or Washtenaw County with unplanned capital improvement costs or other unplanned public expenses.

**See Attachment 6**

---

---

---

---

4. The apparent demand for the types of uses permitted in the district(s) in relation to the amount of land currently zoned and available in the Township and surrounding communities to accommodate the demand.

**See Attachment 6**

---

- 
- 
- 
5. Whether the requested rezoning is justified by a change in conditions since the Zoning Ordinance or Official Zoning Map was adopted, or by an error in the Ordinance or Map.

**See Attachment 6**

---

---

---

---

6. The precedents or possible effects of such precedents that might result from approval or denial of the proposed rezoning.

**See Attachment 6**

---

---

---

---

7. Impacts or effects of approval of the rezoning on the condition, character or value of property in the Township or adjacent municipalities.

**See Attachment 6**

---

---

---

---

8. Consistency of the proposed rezoning with the applicable development policies of abutting municipalities or other governmental agencies with jurisdiction.

**See Attachment 6**

---

---

---

---

# Attachment 1

**PROPERTY OWNER AUTHORIZATION**

Applications for Zoning/Land Use/Building Permits  
(Feldkamp)

**FELDKAMP SIBLINGS, LLC**, a Michigan limited liability company, being the owner of record ("Owner") of the properties described in attached Exhibit A (the "Property), located in the Township of Saline, County of Washtenaw, State of Michigan hereby authorize **RD MICHIGAN PROPERTY OWNER I LLC**, a Delaware limited liability company ("Developer"), to act on the Owner's behalf and submit, execute and pursue in the Owner's name and/or its name, applications for zoning and/or other land use entitlements, including but not limited to, all rezoning and site plan applications, licenses, permits, EGLE applications, building permits, requests for tax and other incentives, development agreements, any other agreements with municipalities or State and County agencies regarding the use and/or development of the Property for Developer's intended use including by executing without unreasonable delay all land use and permit applications as required by the applicable municipality or regulatory agency.

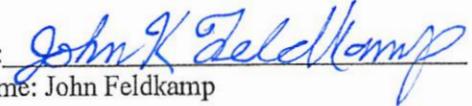
WITNESS:

By:   
Luke A. Schumacher

Name: Luke A. Schumacher

PROPERTY OWNER:

**FELDKAMP SIBLINGS, LLC**,  
a Michigan limited liability company

By:   
Name: John Feldkamp  
Its: Member

Dated: 07/02/2025

127051.000001 4919-3083-7328.1

174030230

Bates 011

## **PROPERTY OWNER AUTHORIZATION**

Applications for Zoning/Land Use/Building Permits  
(Finkbeiner)

**DENNIS FINKBEINER** and **LYNN ELLEN FINKBEINER**, being the owners of record ("Owner") of the properties described as tax parcels R-18-19-200-002; R018-19-200-001; R-18-19-100-001 (collectively, the "Property), located in the Township of Saline, County of Washtenaw, State of Michigan hereby authorize **RD MICHIGAN PROPERTY OWNER I LLC**, a Delaware limited liability company ("Developer"), to act on the Owner's behalf and submit, execute and pursue in the Owner's name and/or its name, applications for zoning and/or other land use entitlements, including but not limited to, all rezoning and site plan applications, licenses, permits, EGLE applications, building permits, requests for tax and other incentives, development agreements, any other agreements with municipalities or State and County agencies regarding the use and/or development of the Property for Developer's intended use including by executing without unreasonable delay all land use and permit applications as required by the applicable municipality or regulatory agency. The Owner has the power to revoke this Authorization whereupon the Property will be removed from any applications before the Township of Saline.

WITNESS:

By: Martin J. Bodnar  
Name: Martin J. Bodnar

PROPERTY OWNER:

Lynn Ellen Finkbeiner  
**Lynn Ellen Finkbeiner**

Dennis Finkbeiner  
**DENNIS Finkbeiner**

Dated: 7/3/2025

## **PROPERTY OWNER AUTHORIZATION**

Applications for Zoning/Land Use/Building Permits

(Wilkin)

**WILKIN FARM PROPERTIES I, LLC**, a Michigan limited liability company, **DENNIS C.** and **ALICE M. WILKIN** being the owners of record ("Owner") of the properties described in the attached Exhibit A (the "Property"), located in the Township of Saline, County of Washtenaw, State of Michigan hereby authorize **RD MICHIGAN PROPERTY OWNER I LLC**, a Delaware limited liability company ("Developer"), to act on the Owner's behalf and submit, execute and pursue in the Owner's name and/or its name, applications for zoning and/or other land use entitlements, including but not limited to, all rezoning and site plan applications, licenses, permits, EGLE applications, building permits, requests for tax and other incentives, development agreements, any other agreements with municipalities or State and County agencies regarding the use and/or development of the Property for Developer's intended use including by executing without unreasonable delay all land use and permit applications as required by the applicable municipality or regulatory agency.

WITNESS:

By: Jean M. O'Brien  
Name: Jean M O'Brien

PROPERTY OWNER:

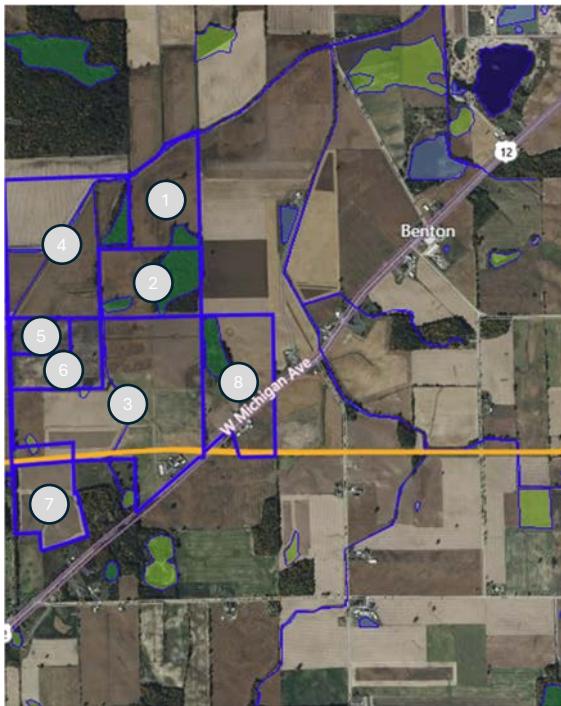
**WILKIN FARM PROPERTIES I, LLC**  
a Michigan limited liability company

By: Dennis Wilkin  
Name: Dennis Wilkin  
Its: Single member

DENNIS C. WILKIN

Alice M. Wilkin  
ALICE M. WILKIN

# Attachment 2



| #            | APN             | Owner      | Municipality | AC            |
|--------------|-----------------|------------|--------------|---------------|
| 1            | R-18-18-400-002 | Feldkamp   | Saline Twp   | 52.55         |
| 2            | R-18-18-400-003 | Feldkamp   | Saline Twp   | 57.60         |
| 3            | R-18-19-100-002 | Feldkamp   | Saline Twp   | 171.38        |
| 4            | R-18-18-300-002 | Wilkin     | Saline Twp   | 126.94        |
| 5            | R-18-19-200-002 | Finkbeiner | Saline Twp   | 17.06         |
| 6            | R-18-19-200-001 | Finkbeiner | Saline Twp   | 34.61         |
| 7            | R-18-19-300-002 | Feldkamp   | Saline Twp   | 40.00         |
| 8            | R-18-19-100-001 | Finkbeiner | Saline Twp   | 75.05         |
| <b>Total</b> |                 |            |              | <b>575.19</b> |

# Attachment 3



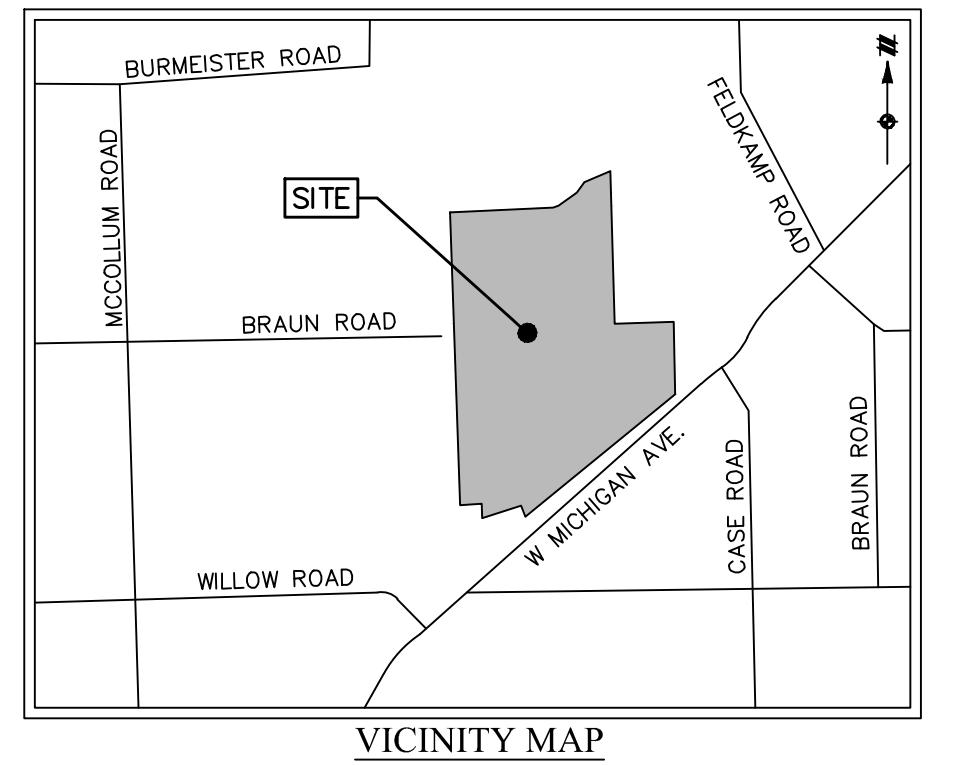
Know what's below.  
Call before you dig.

The locations of existing underground utilities are shown in an approximate way only and have not been independently verified by the owner or its representative. It is the responsibility of the contractor to determine the exact location of all existing utilities before construction begins and agrees to be fully responsible for any damage that might be occasioned by the contractor's failure to exactly locate and preserve any and all underground utilities.

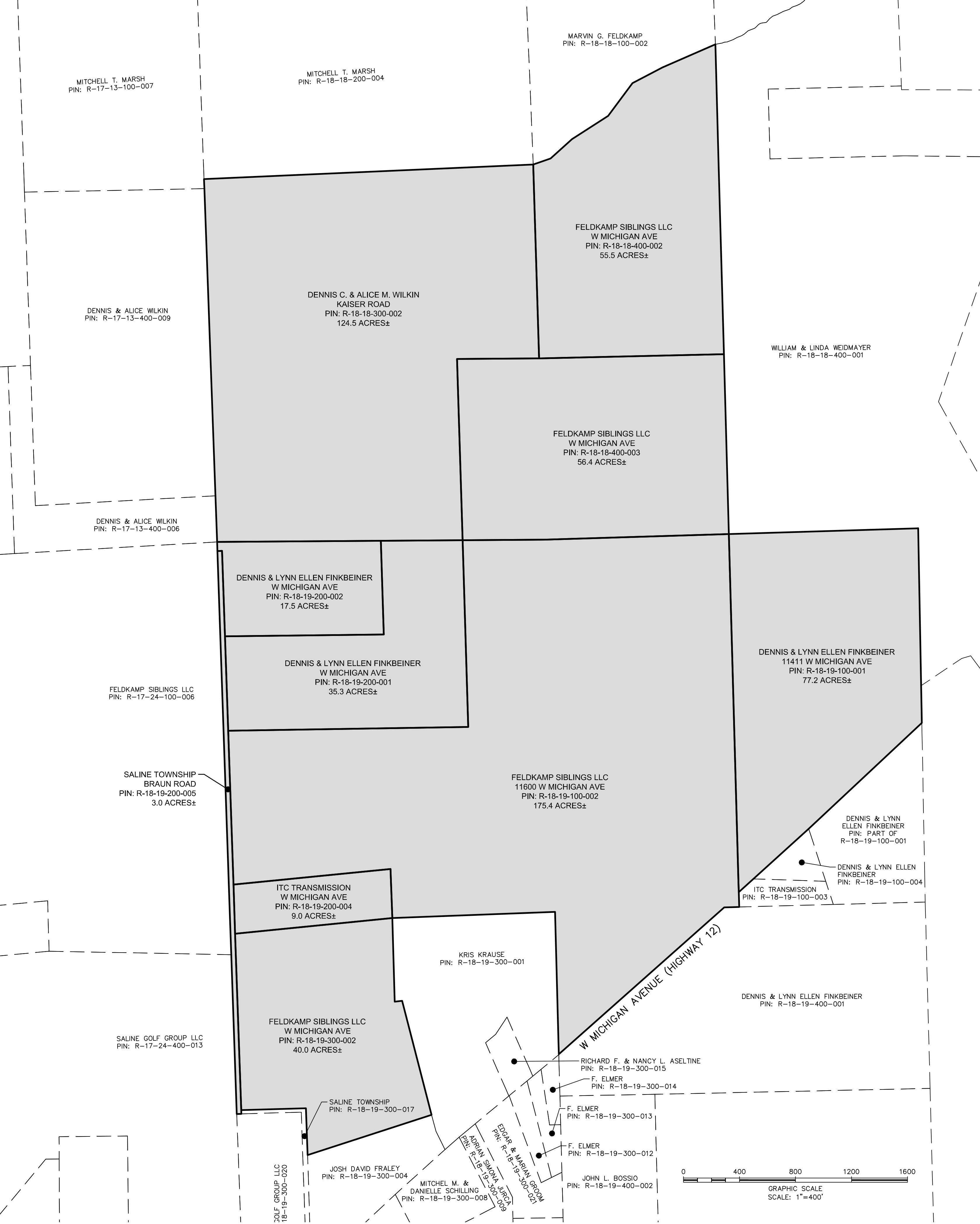
NOTICE:  
CONSTRUCTION SITE SAFETY IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR. NEITHER THE OWNER NOR THE ENGINEER SHALL BE EXPLAINED TO ASSUME ANY RESPONSIBILITY FOR THE SAFETY OF THE WORK, OF ANY NEARBY STRUCTURES, OR OF ANY OTHER PERSONS.

© 2025 ATWELL LLC NO REPRODUCTION SHALL BE MADE WITHOUT THE WRITTEN CONSENT OF ATWELL LLC.

# REZONING EXHIBIT



## LEGEND



## DESCRIPTION OF TAX PARCEL NUMBER R-18-18-300-002 PER WASHTENAW COUNTY TAX RECORDS:

TRF 04-10-96 REWRITE / DEED W.D. L3246 P772 \*\*FROM 1818200003 06/29/94 \*\*FROM 1818300001 06/29/94 SA 18-4B BEG AT W 1/4 COR SEC 18, TH S 87-37-42 E 2353.51 FT, TH S 01-42-53 W 1339.54 FT, TH N 87-51-12 W 587.70 FT, TH S 01-41-04 W 1341.86 FT, TH N 88-04-44 W 1760.90 FT, TH N 01-35-12 E 2697.69 FT TO POB. PT OF SW 1/4 SEC 18, T4S-R5E. 126.94 AC

## DESCRIPTION OF TAX PARCEL NUMBER R-18-18-400-002 PER WASHTENAW COUNTY TAX RECORDS:

\*OLD SID - R 18-018-011-00 SA 18-11 PA 116 01-1983 NW 1/4 OF SE 1/4, ALSO BEG AT THE CENT OF SEC, TH N IN N & S 1/4 LINE TO A POINT INCENT OF SALINE RIVER, WHICH POINT IS 1355 FT N OF THE SW COR OF NW 1/4 OF SE 1/4, TH NELY ALONG THE CENTER OF THE SALINE RIVER TO A POINT IN THE E LINE OF W 1/2 OF NE 1/4, TH S 793.50 FT TO THE SE COR OF W 1/2 OF NE 1/4, TH W IN E & W 1/4 LINE TO THE PL OF BEG. SEC. 18 T4S R5E 52.55 AC.

## DESCRIPTION OF TAX PARCEL NUMBER R-18-18-400-003 PER WASHTENAW COUNTY TAX RECORDS:

\*OLD SID - R 18-018-010-00 SA 18-10 PA 116 01-1983 E FRL 1/2 OF SE 1/4 OF SW FRL 1/4 ALSO SW 1/4 OF SE 1/4 SEC. 18 T4S R5E 57.60 AC.

## DESCRIPTION OF TAX PARCEL NUMBER R-18-19-100-001 PER WASHTENAW COUNTY TAX RECORDS:

\*OLD SID - R 18-019-001-00 SA 19-1 E 1/2 OF NE 1/4 EXC COM AT E 1/4 COR TH WLY 656.92 FT ON EW 1/4 LN TO POB TH N 16 DEG 24' W 568.21 FT TH S 49 DEG 25' W 674.02 FT ON C/L MICH AVE TH S 0 DEG 1' 30" W105.63 FT TH ELY 672.37 FT ON EW 1/4 LN TO POB PART NE 1/4 SEC 19 T4S R5E 75.05 AC.

## DESCRIPTION OF TAX PARCEL NUMBER R-18-19-100-002 PER WASHTENAW COUNTY TAX RECORDS:

\*OLD SID - R 18-019-003-00 SA 19-3 PA 116 01-1983 BEG AT N 1/4 COR OF SEC 19, TH E ON N LN OF SEC TO NE COR OF W 1/2 OF NE 1/4, TH S2547.9 FT, TH SWLY ON C/L US112 TO NS 1/4 LN, TH N 1010.97 FT TO CEN SEC, TH W ON EW 1/4 LN TO SW COR OF SEFRL 1/4 OF NW FRL 1/4, TH N 350.02 FT, TH SWLY 1126.53 FT, TH N 1093.49 FT, TH E TOSW COR OF E FRL 1/2 OF NE FRL 1/4 OF NW FRL 1/4, TH N TO NW COR OF SAID E FRL 1/2, TH E ON N LN OF SEC TO POB PART SEC 19 T4S R5E 171.38 AC

## DESCRIPTION OF TAX PARCEL NUMBER R-18-19-200-001 PER WASHTENAW COUNTY TAX RECORDS:

\*OLD SID - R 18-019-005-00 SA 19-5 W FRL 1/2 OF NE FRL 1/4 OF NW FRL 1/4 ALSO S FRL 1/2 OF NW FRL 1/4 OF NW FRL 1/4 EXC THE W 2 RDS IN WIDTH OF S FRL 1/2 OF NW FRL 1/4 OF NW FRL 1/4 SEC. 19 T4S R5E 34.61 AC.

## DESCRIPTION OF TAX PARCEL NUMBER R-18-19-200-002 PER WASHTENAW COUNTY TAX RECORDS:

\*OLD SID - R 18-019-006-00 SA 19-6 N FRL 1/2 OF NW FRL 1/4 OF NW FRL 1/4 EXC THE W 2 RDS IN WIDTH THEREOF SEC. 19 T4S R5E 17.06 AC.

## DESCRIPTION OF TAX PARCEL NUMBER R-18-19-200-004 PER WASHTENAW COUNTY TAX RECORDS:

\*OLD SID - R 18-019-008-10 SA 19-8A-2 COM AT W 1/4 COR OF SEC 19, TH S 0-8-15 E 83.25 FT ON WLN SEC 19 TH N 86-5-15 E 33.07 FT TO POB, TH N 0-8-15 W 350.76 FT, TH N 86-5-34 E 1126.53 FT, TH S 0-18 E 350.02 FT, TH S 86-5-34 W 1127.57 FT TO POB PART NW & SW 1/4 SEC 19 T4S R5E 9.05 AC

## DESCRIPTION OF TAX PARCEL NUMBER R-18-19-300-001 PER WASHTENAW COUNTY TAX RECORDS:

\*OLD SID - R 18-019-009-00 SA 19-8B-1 BEG AT CEN OF SEC, TH SLY ONNS 1/4 LN TO C/L MICH. AVE., TH DEF1 51 DEG 55' 5" RT 241.04 FT, TH DEF1 100 DEG 0' 45" RT 459.63 FT, TH DEF1 123 DEG 7' 30" LFT 146.95 FT, TH DEF1 17 DEG 51' 7" RT 93.86 FT, TH DEF1 73 DEG 57' 45" LFT 414.71 FT, TH DEF1 73 DEG 59' 15" RT 542.77 FT, TH SWLY 55.18 FT ON ARC OF CURV-RADIUS 5208.71 FT-CHORD S 53 DEG 8'W 55.18 FT, TH N 23 DEG 55' W 147.29 FT, TH N 11 DEG 25' W 964.07 FT, TH S 86 DEG39' W 53.45 FT, TH N 1 DEG 23' E 597.07 FT, TH S 88 DEG31' 45" E 1156.24 FT ON E

## DESCRIPTION OF TAX PARCEL NUMBER R-18-19-300-002 PER WASHTENAW COUNTY TAX RECORDS:

\*OLD SID - R 18-019-008-20 SA 19-8A-3 PA 116 01-1983 COM AT SW COR OF SEC 19, TH N 0-8-15 W 1320.0 FT, TH S 89-43-25 E 33.00 FT TO POB, TH S 89-43-25 E 462.0 FT, TH S 0-8-15 E 334.15 FT, TH N 73-55-27 E 930.54 FT, TH N 12-35-37 W 841.09 FT, TH S 85-28-23 W 53.45 FT, TH N 0-13-25 E 597.07 FT, TH S 86-09-52 W 1128.16 FT, TH S 0-8-15 E 1259.54 FT TO POB, PART SW 1/4 SEC 19 T4S R5E 40.00 AC

## DESCRIPTION OF TAX PARCEL NUMBER R-18-19-200-005 PER WASHTENAW COUNTY TAX RECORDS:

W.D. L3840 P913 SA 30-12B THE W 2 RDS IN WIDTH OF THE ENTIRE SEC 19. EXC BEG AT SW COR SEC 19, TH N 00-33-27 W 1231.81 FT, TH N 89-50-45 E 33.00 FT, TH S 00-33-27 E 1231.81 FT, TH S 00-34-21 E 316.21 FT TO C/L U.S. 12, TH ALNG C/L 42.80 FT ALNG ARC-CURV-RT RAD=7000.46 FT CH=S 49-52-05 W 42.80 FT TO W LN SEC 30, TH N 00-34-21 W 282.09 FT TO POB, 2.82 AC. SPLIT ON 12/15/1998 FROM R 18-30-200-004R - 18-19-200-003;

CLIENT RD MICHIGAN PROPERTY OWNER I LLC  
REZONING EXHIBIT

PROJECT MITTEN

DATE  
06/30/2025

REVISIONS  
07/07/2025 REV PER CLIENT CANTS

|               |          |
|---------------|----------|
| DR. JEP       | CH. CPK  |
| P.M. C. KELLY |          |
| JOB           | 25004650 |
| SHEET NO.     |          |

1 OF 1

Bates 017

# Attachment 4

# VICINITY MAP

SCALE: 1" = 500'



# Attachment 5



## **Project Mitten - Natural Resources and Features Summary**

### **Site Location and General Description**

The site is located north of Michigan Avenue, approximately six miles southwest of the City of Saline, in Saline Township, Michigan. The Site consists primarily of active agricultural fields and undeveloped land including upland forest, hedgerows, and multiple wetlands. The site is bounded by Michigan Avenue, the Saline River, and adjacent active agricultural land.

Topography ranges from a high point of approximately 874 feet in the south, near Michigan Avenue, sloping to a low point of 813 feet at the Saline River.

Surrounding land use consists of agriculture, minimal residential parcels, and a golf course.

Atwell is currently conducting a wetland delineation and threatened and endangered species review and identified several wetlands on site.

---

### **Natural Features**

#### **Active Agricultural Fields**

The Site is predominantly composed of active cropland. Identified crops consist of corn, soybean, and rye. Historic aerial review indicates these fields have been under cultivation for at least 80 years. These fields offer limited seasonal habitat for wildlife and provide little cover or ecological value post-harvest.

---

#### **Woodlands**

Three woodland areas, totaling approximately 43 acres, remain on-site. They contain a mixture of upland and wetland. The canopy consists primarily black cherry, black walnut, burr oak, basswood, hackberry, american elm, silver maple, and swamp white oak.



---

Habitat quality is constrained by fragmentation. This area may provide some value for nesting or cover but is limited as a functional corridor.

---

## **Hedgerows**

Hedgerows are limited but exist throughout the site.

---

## **Wetlands and Watercourses**

Wetlands are currently being delineated. Several depressional areas within the agricultural fields may exhibit the characteristics of a wetland defined by EGLE. The site also contains multiple agricultural ditches that will be considered linear wetlands.

Two watercourses were observed onsite. The Saline River and an agricultural ditch that exhibited characteristics of bed, bank, and flow to be considered a stream by EGLE.

## **State Regulated Floodplains**

Regulated floodplains are currently being identified. It appears one watercourse on-site has a drainage area greater than two square miles upstream of the project site. Requests to EGLE for additional information have been made.

---

## **Threatened and Endangered Species (TES) Review**

Atwell reviewed species listed by the USFWS and MNFI for Washtenaw County. Based on site characteristics, it is unlikely that habitat suitable is found on-site.

---

## **Wildlife Usage and Habitat**

Wildlife observed or expected are typical of agricultural and rural-suburban habitats, such as white tailed deer, coyote, fox, raccoons, possums, squirrels, rabbits, skunks, and various birds such as sparrows, robins, bluejays, migratory songbirds, and red tailed hawks.



---

## Steep Slopes

Some areas near or exceeding 20% slope were identified near Michigan Avenue. These areas are being incorporated around the development layout to minimize erosion and maintain natural contours.

Shelby Township, MI

# Attachment 6

## **Findings of Fact Required.**

In reviewing any application for a rezoning amendment to the Official Zoning Map, the Planning Commission shall identify and evaluate all factors relevant to the application, and shall report its findings and recommendations to the Township Board. The facts to be considered shall include, but shall not be limited to the following:

1. Compatibility of the proposed rezoning with the General Development Plan's goals, policies, and future land use map, including planned timing or sequence of development. If conditions have changed since the General Development Plan was adopted, the consistency with recent development trends in the area shall be considered.

### **ANSWER:**

A “data center” is a new form of land use that was not specifically considered or addressed in the Township’s Master Plan or Zoning Ordinance. It is a product of the information age and is a critical part of the infrastructure we all rely upon for daily living, business activities and security. As a result, we compare the nature of the data center development, both the site requirements and the potential impacts of the development, with the property at issue here and the general objectives and goals of the Master Plan.

What is a “data center”? One definition pulled from the internet says it all—"A data center is a physical location that stores computing machines and their related hardware equipment. It contains the computing infrastructure that IT systems require, such as servers, data storage drives, and network equipment. It is the physical facility that stores any company's digital data." Thus, a data center is a low impact facility with limited employees and traffic impacts. The buildings have large footprints, but, as in this case, only one story. Here we are looking at a total of approximately 575 acres, but a majority of the acreage will be left as natural open space.

Data centers must be reasonably close to transportation hubs, particularly airports, and located on land large enough to ensure proper security measures. Such sites are typically found in rural communities within the inner rings surrounding urban centers, where contiguous parcels of land are more readily available. The property here in Saline Township fits the locational requirements. Access is directly onto Michigan Avenue (the only “principal arterial” road in the Township), a State Highway with direct links to several urban areas. Sufficient contiguous land is available to provide visual buffering and screening allowing the property to blend in to the surrounding area while leaving enough space for security.

The key is that the facility will have no detrimental impact on surrounding agricultural activities. Preservation of agricultural activities is a key objective of the Master Plan. As the Master Plan states: “The continuance of agricultural activity is a critical component to the Township’s overall land use strategy.” (Plan at p. 5-2.) The Master Plan goes on to explain the danger from residential

encroachment to long-term preservation of agricultural activity. The data center use will not interfere with surrounding agricultural operations nor will such agricultural operations interfere with the data center. The tension between agricultural uses and encroaching residential development will not exist and the existence of the low-employment data center will not promote encroaching residential development. It is a unique, isolated, high technology use that could help provide the resources for the Township to maintain its existing character. It is not a stimulus for urban sprawl, but an isolated use that will not materially increase traffic or population growth in communities that wish to limit growth and maintain low density land uses. On the other hand, it can generate significant tax revenues that would support the community's police, fire and other modern services, and provide resources for the Township to resist the development pressure from neighboring urban areas along Michigan Avenue, a concern that is expressed in the Master Plan. (Master Plan, at p. 3-12.)

The Master Plan indicates that there are 16,631 acres of agricultural zoned property in the Township. (Master Plan, at p. 3-12.) This Project will only develop on 250 acres of that 16,631 acres, or approximately 1.5% .

Finally, the Master Plan is a flexible planning document and recognizes that unique or desirable land uses might occur that are not otherwise considered in the zoning or master-planning and provides the Township with the necessary discretion and direction to evaluate and accommodate those land uses: "However, sometimes a desirable land use is proposed which conflicts with a Master Plan; this may be due to a change in site conditions or infrastructure, among other factors. If the Planning Commission determines that the proposed land use would not be inconsistent with the goals and objectives of the Master Plan, and therefore, a desirable alternative to the Plan, the Plan can be amended accordingly, concurrent with the rezoning or at a later date." (Master Plan, at p. 6-7.) The data center is such a use.

2. Compatibility of all the potential uses allowed in the proposed zoning district(s) with the site's physical, geological, hydrological, and other environmental features, and with surrounding uses and zoning districts.

**ANSWER:**

See answer to criterion 1 above. The data center use is a low impact, low employment use that will have no adverse impact or conflicts with surrounding agricultural uses, nor will surrounding agricultural uses interfere with or cause any conflicts with the data center, unlike encroaching residential land uses. The structures are expected to be one-story and will be extensively screened and buffered from surrounding land uses. Traffic impacts are expected to be minimal. The site design of the data center buildings are specifically planned to avoid or minimize any impact to any wetlands on the property. The property is relatively flat and has been largely graded and farmed for many years.

3. Capacity of available utilities, roads, and public services to accommodate the uses permitted in the district(s) without compromising the health, safety, and welfare of Township residents or burdening the Township or Washtenaw County with unplanned capital improvement costs or other unplanned public expenses.

ANSWER

As explained above, the data center will have its primary access directly on Michigan Avenue, a State trunkline and designated in the Township's Master Plan as the only principal arterial road in the Township. It is located along the far west side of the Township adjacent to Bridgewater Township and will not burden the Township with any capital improvements or public expenses, planned or unplanned. With respect to utilities, sanitary sewer requirements, which are minimal based on the number of employees present on the property, are proposed to be accommodated on site. Water requirements are also minimal since water will not be evaporated to provide cooling and is only needed for uses associated with restrooms, sinks, humidity control and landscaping. A water system is likely to be developed on-site with the intent to turn the water system over to the Township as a public system, if so desired by the Township (with all construction, maintenance, repair and operational costs being the responsibility of the data center.) Unless desired otherwise by the Township, all utilities developed on site will be designed to serve only the Project. We are also exploring extension of public utilities, particularly water service, from neighboring communities, including the City of Saline.

4. The apparent demand for the types of uses permitted in the district(s) in relation to the amount of land currently zoned and available in the Township and surrounding communities to accommodate the demand.

ANSWER

Data centers are in extreme demand to serve communities in the surrounding area and beyond. As described in detail in response to item 1 above, the use is so new and unique there is really no zoning classification of property or master plan discussion in the Township or any surrounding or nearby community that specifically addresses the use. Also, to be clear, this use does not require local demand (like residential, retail, office, etc.) to be feasible.

5. Whether the requested rezoning is justified by a change in conditions since the Zoning Ordinance or Official Zoning Map was adopted, or by an error in the Ordinance or Map.

ANSWER:

As previously stated, data center operations are relatively new uses that are the product of the explosion in data use and data storage needs by all people and businesses throughout the country. Thus, these specific uses were simply not addressed or discussed in the Zoning Ordinance or Zoning Map.

6. The precedents or possible effects of such precedents that might result from approval or denial of the proposed rezoning.

ANSWER:

The use is so unique and different from other uses in the zoning classification sought that it will have no precedential impact on other uses. It is not a manufacturing or assembly use or other warehousing or trucking operation typically found in the industrial-research district. Moreover, applicant is proposing a conditional rezoning that restricts the uses on the property to a data center and accessory uses and if such a data center is not developed, the zoning will revert back to the agricultural zoning designation.

7. Impacts or effects of approval of the rezoning on the condition, character or value of property in the Township or adjacent municipalities.

ANSWER:

As explained in detail above, the Project should have no negative impact on the condition, character or value of property in the Township because of its limited impact and isolation of the operations and lack of promotion of urban sprawl. The use does not require nor stimulate satellite developments. However, the large investment will significantly increase the property tax base, which will provide the Township and Washtenaw County with dramatically more tax revenue. The 575 proposed for conditional rezoning represents approximately 2.6% of land in the Township but, may contribute 40-50% of its tax revenues. This dramatic increase in tax revenues will allow the Township to increase the quality of services, thus increasing property values, as well as allow the Township to avoid future development and maintain its character for the indefinite future.

8. Consistency of the proposed rezoning with the applicable development policies of abutting municipalities or other governmental agencies with jurisdiction.

ANSWER:

The property abuts Bridgewater Township and applicant is proposing to acquire adjacent properties from the same property owners that extend into Bridgewater. The property in Bridgwater is also primarily zoned for agricultural uses. Bridgewater, like Saline Township, does not address or deal with a data center project thus there are no applicable development policies that address this proposed rezoning. However, there should be no negative impact to Bridgewater Township. We will also own the adjacent property in Bridgewater Township.

There are no known applicable development policies of Washtenaw County that would be in conflict with this rezoning, and the County will benefit significantly

from additional tax revenue with minimal other impacts. The State of Michigan is intimately aware of the Project and is in strong support and working cooperatively with the applicant to help make it a reality.

127051.000001 4938-1723-8100.1

# Attachment 7



# Attachment 8

## **CONDITIONAL REZONING AND DEVELOPMENT AGREEMENT**

This Conditional Rezoning And Development Agreement (the "Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2025 (the "Effective Date"), by and between the Township of Saline, a Michigan Municipal Corporation, with its offices located at 5731 Braun Rd., Saline, Michigan 48176 (the "Township"), and RD Michigan Property Owner I LLC, a Delaware limited liability company (the "Developer"), with its principal offices located at 30 Hudson Yards, 72<sup>nd</sup> Floor, New York, NY 10001.

### **THE PARTIES RECITE THAT:**

**WHEREAS**, the Township is organized and existing under and pursuant to the laws of the State of Michigan, and exercising all of the powers provided for therein and pursuant to State law;

**WHEREAS**, the Developer is a Delaware limited liability company organized and existing in good standing under and pursuant to Delaware law, and exercising all of the powers provided therein;

**WHEREAS**, the Developer has contracts to acquire certain parcels of real property located within the Township, which are currently zoned A-1 (or agricultural), and consist of approximately 575 acres (as depicted and legally described on **Exhibit A**) (collectively, the "Property"). The Property is located on the north side of Michigan Avenue (US-10),

between Case and Willow Roads. As part of the development of the Project, the Property may be subdivided into multiple distinct tax lots fully in compliance with local, county and state regulations;

**WHEREAS**, under and pursuant to Section 405 of the Michigan Zoning Enabling Act, 2008 PA 110, as amended (codified at MCL §125.3405 *et seq.*), certain conditions voluntarily offered by the owner of land, including an agreement between the Township and the Developer, may become a condition of rezoning of land;

**WHEREAS**, on July 10, 2025, the Developer submitted an Application for Conditional Rezoning, voluntarily offering, in writing, certain conditions to rezone the Property from the A-1 District to the I-1 (Industrial-Research) District, in order to develop, construct, use and operate a data center project (the “Project” or “Data Center”) as generally depicted in the Concept Plan (the “Concept Plan”) prepared by Corgan Architects, Inc attached hereto as **Exhibit B** and as more specifically described and limited by the terms and conditions set forth herein;

**WHEREAS**, the Project and Conditional Rezoning Request by the Developer described herein, was not required by the Township; rather it was offered voluntarily by the Developer and the offered conditions, intended acts and forbearances are deemed necessary by Developer to preserve and enhance the character of the area and, in general, is consistent with the Township’s Master Plan and other policies to protect and preserve farmland throughout the Township by providing the Township with the resources for long-term preservation of agricultural lands through low intensity high-tech development limited to the Property at issue;

**WHEREAS**, Developer has not alleged or demonstrated that the existing zoning is invalid for any reason, but rather the proposed conditional rezoning of the Property with

the conditions offered was determined by Developer, and confirmed by the Township, to be compatible with the surrounding agricultural land uses and the goals of preserving the character of the Township while promoting limited and desirable economic development, public safety and welfare;

**WHEREAS**, the Township has relied on Developer's representations that it will act in conformance with the conditions of rezoning as set forth herein and the preliminary Concept Plan attached as **Exhibit B** (subject to change in accordance with conditions of rezoning), so that the development of the Property will accomplish the above-stated goals and objectives of the Township;

**WHEREAS**, the Township Planning Commission, on \_\_\_\_\_, 2025, held a Public Hearing on the request for Conditional Rezoning and proposed amendment to the Township's Zoning Map and thereafter voted to recommend approval of the request for Conditional Rezoning to the Township Board; and

**WHEREAS**, the Township Board, on \_\_\_\_\_, 2025, voted to approve the request for Conditional Rezoning based upon the conditions set forth in this Agreement and the attached Exhibits;

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises hereinafter set forth, the Township and the Developer agree as follows:

1. **CONDITIONS OF REZONING.** If the Property is developed under the I-1 District, the Property shall be developed, used and operated in a manner consistent with the following conditions of rezoning:

a. **Use Restrictions.** Notwithstanding the provisions of the I-1 Zoning District, the only uses permitted under the I-1 Zoning shall be the data center and any accessory uses thereto. All other uses permitted by right or special approval in the

I-1 Zoning District shall be prohibited. Uses permitted in the agricultural zone may continue at the discretion of Developer on lands not used for the data center buildings and accessory uses.

b. **Conservation Easements.** Over 200 acres of wetlands, open space and agricultural land as conceptually depicted in the Conservation Plan attached as **Exhibit C**, shall be preserved and protected from building or development activities in a manner similar to certain Farmland Development Rights Agreements (or in accordance with such Farmland Development Rights Agreements to the extent any remain in effect in whole or in part) affecting some of the Property (the "Conservation Areas"). Developer may use the Conservation Areas for agricultural and other uses authorized in the A-1 Zoning, as well as for access, installation of utilities, grading and storm drainage to the extent reasonably required for development and operation of the Project. Any disturbance to the Conservation Areas shall be restored in a manner acceptable to the Township administration in the exercise of reasonable discretion.

c. **Building and Parking Setbacks.** The minimum setback for any building constructed on the Property shall be: 75' from any abutting property boundary adjacent to the Property and 75' from the Michigan Avenue right-of way. The minimum setback for any parking lot serving the buildings that be: 75' from any abutting property boundary adjacent to the Property and 75' from the Michigan Avenue right-of-way.

d. **Buffering/Screening.** Landscaped berms shall be constructed along Michigan Avenue and other landscaping shall be included to buffer visible impacts of new buildings.

e. **Access Limitations.** Primary ingress and egress access to the Project shall be off of Michigan Avenue. This limitation does not apply to secondary site access for agricultural and farming activities.

f. **Utilities.** Any on-site water and sewer utilities constructed or extended to serve the Project shall be designed to only serve the Project and not be expandable to provide urban services to any other property. If an on-site water system is developed on the Property it will, at the discretion of the Township, be dedicated to the Township as a public system with the commitment that all costs to construct, operate, repair and maintain the system will be the responsibility of the Developer.

g. **Public Benefit Contributions.** In order to reimburse the Township for police and fire and other municipal services and to provide other public benefits to the community, the Developer agrees that, after the issuance of all permits necessary to commence construction of the Project but within thirty (30) days of commencement of construction of the Project, it will: (A) contribute to the Township the sum of Two Million (\$2,000,000) Dollars for investment and use for fire and other emergency services; (B) contribute One Million (\$1,000,000) Dollars to establish a community investment fund to be administered by the Township in the exercise of its reasonable discretion; and (C) contribute One Hundred (\$100,000) Dollars for the repair and maintenance of the Township's historic cemetaries.

2. **PERMITTED USE AND DEVELOPMENT OF PROPERTY.** Subject to Developer obtaining all other required state and local permits and approvals for the development of

the Property and compliance with Township final site plan and engineering requirements, and Developer or its designee closing on the acquisition of the Property, the Township agrees that Developer shall be permitted to develop, construct, use and operate the Property for the data center project. The Township agrees to issue all engineering and other approvals in a timely manner to the extent the requests for same are consistent with this Agreement, the Concept Plan and other applicable Township ordinances not inconsistent with this Agreement. Modifications to the configuration, number, location and size of the structures, the location of utility services and access and other accessory uses of the Project as depicted in the Concept Plan shall be permitted in connection with final site planning and engineering, provided that the other conditions of this Agreement are satisfied and the modifications are generally consistent with the terms and Conditions of this Agreement.

3. **EFFECTIVE DATE OF REZONING.** The rezoning shall take effect as of the date the Township Board approves the Conditional Rezoning request.

4. **AGREEMENT CONSISTENT WITH POLICE POWERS.** The action of the Township in entering into this Agreement is based upon the understanding that many of the land use and environmental objectives of the Township are reflected in the design of the Project as proposed and the Township is thus achieving its police power objectives and has not, by this Agreement, bargained away or otherwise compromised any of its police power objectives.

5. **DEFAULT.** In the event that the Developer fails to obtain the necessary approvals set forth above, or otherwise fails to acquire the Property within three (3) years of the Effective Date, then, by written notice given by the Township to the Developer, or from the Developer to the Township, within three (3) months following such failure by the

Developer, the Township, or Developer, may, at their option and within their sole discretion, terminate this Agreement. In the event that this Agreement is so terminated, the Township Board, at its sole discretion may rezone the Property back to the A-1 Zoning Classification.

6. **DURATION.** This Agreement shall be binding upon and inure to the benefit of the Developer and the Township, and also their respective heirs, tenants, successors, assigns, receivers and transferees. Provided that all development and/or use of the Property is in compliance with this Agreement, a use and/or development hereby authorized may continue indefinitely, provided that all terms of this Agreement continue to be met.

7. **ENTIRE AGREEMENT.** This Agreement, the exhibits attached hereto, if any, and the instruments which are to be executed in accordance with the requirements hereof set forth all the covenants, agreements, stipulations, promises, conditions, and understandings between the Township and the Developer concerning the Project as of the date hereof, and there are no covenants, agreements, stipulations, promises, conditions or understandings, either oral or written, between them other than as set forth herein.

8. **RELATIONSHIP OF THE PARTIES.** The relationship of the Township and the Developer shall be defined solely by the expressed terms of this Agreement, including the implementing documents described or contemplated herein, and neither the cooperation of the parties hereunder nor anything expressly or implicitly contained herein shall be deemed or construed to create a partnership, limited or general, or joint venture between the Township and the Developer, nor shall any party or their agent be deemed to be the agent or employee of any other party to this Agreement.

9. **MODIFICATION.** This Agreement can be modified or amended only by a written instrument expressly referring hereto and executed by the Township and the Developer.

10. **MICHIGAN LAW TO CONTROL.** This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with Michigan law.

11. **DUE AUTHORIZATION.** The Township and the Developer each warrant and represent to the other that this Agreement and the terms and conditions thereof have been duly authorized and approved by, in the case of the Township, its Board of Trustees, and all other governmental agencies whose approval may be required as a precondition to the effectiveness hereof, and as to the Developer, by the appropriate manager/members, and that the persons who have executed this Agreement below have been duly authorized to do so.

12. **NO PERSONAL LIABILITY.** The obligations hereunder of the Township and the Developer shall constitute solely the obligations of the respective entities to be satisfied solely from their respective assets, and no officer, Trustee, Supervisor, agent, employee, or partner or member of any of said entities shall have any personal obligation, responsibility, or liability for the performance of the terms of this Agreement.

13. **AGREEMENT TO RUN WITH THE LAND; RECORDING.** This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective heirs, successors, assigns and transferees, and shall run with the Property. This Agreement shall be recorded by Developer at its expense with the office of the Wayne County Register of Deeds and a copy provided to the Township.

14. **COUNTERPARTS.** This Agreement may be signed in counterparts.

**IN WITNESS WHEREOF,** the parties hereto have executed this Agreement on the date first set forth above.

Township of Saline

---

By:  
Its: Supervisor

---

By:  
Its: Clerk

State of Michigan      )  
                        ) ss  
County of Washtenaw) )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me personally appeared \_\_\_\_\_, Supervisor of the Saline Township, and \_\_\_\_\_, Clerk of Saline Township, to me known to be the persons described in and who executed the foregoing Conditional Rezoning Agreement and acknowledged before me that they executed the same as their free act and deed.

\_\_\_\_\_, Notary Public  
\_\_\_\_\_, County, Michigan  
Acting in \_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_

Developer:

RD Michigan Property Owner I LLC, a Delaware limited liability company  
By:

Its: Manager

State of \_\_\_\_\_ )  
                        ) ss  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me personally appeared \_\_\_\_\_, on behalf of RD Michigan Property Owner I LLC, to me known to be the person described in and who executed the foregoing Conditional Rezoning Agreement and acknowledged before me that they executed the same as their free act and deed.

\_\_\_\_\_, Notary Public  
\_\_\_\_\_, County, Michigan  
Acting in \_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_

**Drafted by:**

**After recording return to:**

EXHIBIT A  
TO CONDITIONAL REZONING AND DEVELOPMENT AGREEMENT  
(Legal Description)

EXHIBIT B  
TO CONDITIONAL REZONING AND DEVELOPMENT AGREEMENT  
( Concept Plan)

EXHIBIT C  
TO CONDITIONAL REZONING AND DEVELOPMENT AGREEMENT  
(Conservation Easement Area)

127051.000001 4921-4928-1364.1

**Exhibit B**  
RD Michigan Property Owner 1 LLC's  
LARA Application for Certificate of Authority  
To Transact Business in Michigan  
for Foreign Limited Liability Company  
August 25, 2025



27415363



**STATE OF MICHIGAN**  
**CSCL/CD- 760 - APPLICATION FOR CERTIFICATE**  
**OF AUTHORITY TO TRANSACT BUSINESS IN**  
**MICHIGAN FOR FOREIGN LIMITED LIABILITY**  
**COMPANY**

Corporations Division Administrator

**FILED**

Entity #: 900084041

Filed Date: 8/25/2025

C0536-7660 08/25/2025 Received by Michigan Corporations Division

Application for Certificate of Authority to Transact Business in Michigan

*Pursuant to the provisions of Act 23, Public Acts of 1993, the undersigned execute the following Application:*

|  |   |
|--|---|
| Name of Foreign Limited Liability Company<br>Foreign Limited Liability Company Name  | RD MICHIGAN PROPERTY OWNER I LLC              |
| Formation Jurisdiction<br>State  | Delaware                                      |
| Date of Organization   | 06/11/2025                                    |
| Term of Duration<br>Duration of the Company  | Perpetual / Ongoing                           |
| Office Address<br>Office Address   | 30 HUDSON YARD<br>FL 83<br>NEW YORK, NY 10001 |
| Resident Agent and Registered Office<br><b>The name of the resident agent at the registered office is:</b><br>CSC-LAWYERS INCORPORATING SERVICE (COMPANY)<br>Address<br>3410 BELLE CHASE WAY STE 600, LANSING, MI 48911<br>Mailing Address<br><input checked="" type="checkbox"/> I certify the above individual/company has agreed to serve as the Resident Agent for service of process for this entity.   |   |
| The name and address of a member or manager or other person to whom the administrator is to send copies of any process served on the administrator is ( <b>Must be different than the resident agent</b> ):<br>Name of individual or organization<br>JAMES KRAUS<br>Address<br>30 HUDSON YARD<br>FL 83<br>NEW YORK, NY 10001   |   |
| Business to be Transacted<br>The specific business which the limited liability company is to transact in Michigan is as follows:<br><input checked="" type="checkbox"/> I certify the limited liability company is authorized to transact such business in the jurisdiction of its organization.   |   |
| Filing Effective Date<br>The filing will be effective: when filed by the Corporations Division Administrator.  |   |
| Attestations<br><input checked="" type="checkbox"/> I understand that the information I enter into the online system is public information and will appear online and on copy requests exactly as I enter it into the system.<br><input checked="" type="checkbox"/> I have been authorized by the business entity to file this document online.<br><input checked="" type="checkbox"/> I, HEREBY SWEAR AND/OR AFFIRM, under penalty of law, including criminal prosecution, that the facts contained in this document are true. I certify that I am signing this document as the person(s) whose signature is required, or as an agent of the person(s) whose signature is required, who has authorized me to place his/her signature on this document. |   |

|                         |   |                    |
|-------------------------|---|--------------------|
| Signature(s)            |   |                    |
| <i>Authorized Agent</i> | <i>RD MICHIGAN PROPERTY OWNER I LLC</i> | <i>JAMES KRAUS</i> |
| Signer's Capacity       | On behalf of                            | Sign Here          |
| 08/25/2025              |   |                    |
| Date                    |   |                    |

# Delaware

The First State

Page 1

I, CHARUNI PATIBANDA-SANCHEZ, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "RD MICHIGAN PROPERTY OWNER I LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTIETH DAY OF AUGUST, A.D. 2025.

AND I DO HEREBY FURTHER CERTIFY THAT THE SAID "RD MICHIGAN PROPERTY OWNER I LLC" WAS FORMED ON THE ELEVENTH DAY OF JUNE, A.D. 2025.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE BEEN ASSESSED TO DATE.

10224731 8300

SR# 20253728779

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)



*C. B. Sanchez*

Charuni Patibanda-Sanchez, Secretary of State

Authentication: 204524497

Date: 08-20-25

Bates 051

**Exhibit C**  
Saline Township Zoning Ordinance  
Article 12- Procedures and Standards

## ARTICLE 12

### PROCEDURES AND STANDARDS

#### **Section 12.01 Site Plan Review.**

##### **A. Purpose.**

The purpose of this Section is to establish procedures and standards that provide a consistent method for review of site plans, and to ensure full compliance with the standards contained in this Ordinance and other applicable Codes and Ordinances.

Flexible review standards have been established to ensure that the type of review and amount of required information is directly proportional to the project's scale and use intensity. It is the further purpose of this Section to protect natural, cultural and civic resources, minimize adverse impacts on adjoining or nearby properties, encourage cooperation and consultation between the Township and the applicant, and facilitate development in accordance with the Township's General Development Plan.

##### **B. Site Plan Approval Required.**

Two separate review processes have been established in accordance with the purpose of this Section, as follows:

1. **Planning Commission approval.** The following development projects and uses shall require review and approval of a detailed final site plan by the Planning Commission prior to establishment, construction, expansion or structural alteration of any structure or use. Exceptions listed below shall not be subject to plan review, but shall be subject to zoning permit approval per Section 1.07 (Zoning Permits):
  - a. All special approval uses, subject to the provisions of Section 12.02 (Special Uses).
  - b. All RURAL USES, as specified in Article 4 (Land Use Table), except farming and active agricultural uses and designated rural accessory uses.
  - c. All RESIDENTIAL USES, as specified in Article 4 (Land Use Table), except the following:
    - (1) One (1) single-family, two-family or duplex dwelling and customary accessory structures on a single residential lot of record.

- (2) Family and group day care homes, and adult foster care family homes, as licensed by the State of Michigan.
  - (3) Establishment of a home occupation listed in Section 5.204 (Home Occupations) as a permitted accessory use.
- d. All OFFICE, SERVICE, AND COMMUNITY USES, COMMERCIAL USES, and INDUSTRIAL, RESEARCH, AND LABORATORY USES, as specified in Article 4 (Land Use Table).
- e. All OTHER USES, as specified in Article 4 (Land Use Table), except accessory structures and uses specified in Section 6.101 (Accessory Structures and Uses), temporary construction buildings and uses, and essential service and public utility facilities.
- f. Construction, expansion or alteration of a manufactured housing park, as defined in Section 18.02 (Definitions), shall be subject to preliminary plan approval in accordance with the procedures and standards of Section 5.205 (Manufactured Housing Parks).
- g. Construction, expansion or alteration of a condominium development, as defined in Section 18.02 (Definitions), shall be subject to condominium site plan approval in accordance with the procedures and standards of Article 13 (Condominium Regulations).
- h. Construction, expansion or alteration of a planned unit development (PUD) project shall be subject to development plan approval in accordance with the procedures and standards of Article 14 (Planned Unit Developments).
- i. Construction, expansion or alteration of a wireless communications facility, as defined in Section 18.02 (Definitions), shall be subject to approval in accordance with the procedures and standards of Section 11.02 (Wireless Communication Facilities).
2. **Projects eligible for administrative approval.** The following development projects, uses, and activities have been determined to be appropriate for an administrative site plan review and approval by the Township Planner and Zoning Inspector. The Zoning Inspector or applicant shall have the option to request Planning Commission consideration of a project otherwise eligible for administrative site plan approval:
- a. Minor changes during construction due to unanticipated site constraints or outside agency requirements, and minor landscaping changes or species substitutions, consistent with an approved final site plan.
  - b. Minor building modifications that do not significantly alter the facade, height or floor area of a multiple-family or non-residential building.

- c. Construction of accessory structures or fences, or installation of screening around a waste receptacle, mechanical unit or similar equipment for a multiple-family or non-residential use.
- d. Changes to a site required by Washtenaw County to comply with State Construction Code requirements.
- e. Sidewalk or pedestrian pathway construction or relocation, or barrier-free access improvements.
- f. Construction of an addition to an existing building or expansion of an existing, conforming use, subject to the following:
  - (1) No variances to the requirements of this Ordinance are required.
  - (2) The proposed addition or expansion would not increase the total square footage of the building or area occupied by the use by more than twenty percent (20%) or 2,000 square feet, whichever is less.
- g. Re-occupancy of an existing building that has been vacant for more than 30 days, subject to the following:
  - (1) No variances to the requirements of this Ordinance are required.
  - (2) The proposed use will be conducted within a completely enclosed building.
  - (3) The proposed use will not require significant additional parking demands, access changes or other substantial modifications to the existing site.

**C. Pre-Application Conference.**

Applicants are encouraged to request a pre-application conference with the Township Planner and designated Township consultants to discuss a conceptual site plan, site issues, and application of Ordinance standards, prior to submitting a preliminary site plan application for formal review.

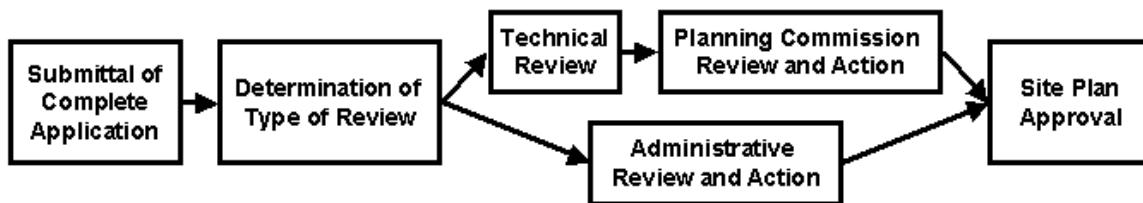
- 1. Conceptual plans shall include sufficient detail to determine relationships of the site to nearby land, intensity of intended uses, layout of proposed structures and site improvements, and adequacy of access, parking, and other facilities.
- 2. Any person may also request that a conceptual site plan be placed on a regular Planning Commission meeting agenda as a discussion item. Conceptual plans submitted for Planning Commission discussion shall include all information required by Section 12.01F (Required Information for Site Plans).
- 3. The Township may require payment of a fee or escrow deposit to cover the costs of a pre-application conference.

4. Comments or suggestions regarding a conceptual site plan shall constitute neither approval nor a disapproval of the plan, nor shall the Township be bound by such comments or suggestions during any subsequent site plan review.

**D. Preliminary and Final Site Plan Approval Required.**

In accordance with the requirements of this Section, site plan approval by the Planning Commission shall require approval of both a preliminary site plan and a final site plan. The applicant may, with approval of the Planning Commission, combine preliminary and final site plan review in a single application for approval. The petitioner shall pay the usual fees for both preliminary and final review. Preliminary and final site plan review shall not be combined for any development consisting of two (2) or more phases.

The Planning Commission shall have the authority to require submittal of a preliminary site plan separate from a final site plan, where, in its opinion, the complexity or size of the proposed development so warrants separate reviews.



## Preliminary and Final Site Plan Approval Process

**E. Preliminary and Final Site Plan Review Procedures.**

Preliminary and final site plans shall be reviewed in accordance with the following:

1. **Application.** Any person with a legal interest in a lot may apply for site plan approval. If the petitioner is not the fee simple owner of the property, the petitioner shall submit a statement signed by all of the owners consenting to the petition for preliminary site plan approval.
  - a. Any application or site plan that does not satisfy the information requirements of this Section shall be considered incomplete, and shall be returned to the applicant.
  - b. A complete application shall include all fully completed forms, the required review fee or escrow deposit, and 15 full-size copies of the site plan drawing(s).

- c. Required review fees and escrow deposits shall be paid in full at the time of the filing of the application. No part of any nonrefundable fee shall be returnable to the petitioner.
2. **Technical review.** Prior to Planning Commission consideration, copies of the site plan and application shall be distributed to designated Township officials, the Township Planner, and other designated Township consultants for review and comment. The Zoning Inspector or Planning Commission may also request comments from outside agencies with jurisdiction.
3. **Planning Commission consideration of the site plan.** The Planning Commission shall review the site plan at a public meeting, together with any reports and recommendations from Township officials, the Township Planner, other designated Township consultants, and any outside agencies with jurisdiction.
4. **Planning Commission action.** The Planning Commission shall make a determination based on the requirements of this Ordinance and the standards of Section 12.01G (Standards for Site Plan Approval). The Planning Commission is authorized to table, approve, approve subject to conditions or deny the preliminary or final site plan as follows:
  - a. **Tabling.** Upon determination by the Planning Commission that a preliminary or final site plan is not sufficiently complete for approval or denial, failure of the applicant to attend the meeting, or upon request by the applicant, the Planning Commission may postpone consideration until a later meeting.
  - b. **Denial.** Upon determination that a preliminary or final site plan does not comply with the standards and regulations set forth in this Ordinance, or would require extensive revisions to comply with said standards and regulations, the site plan shall be denied.
    - (1) If a preliminary or final site plan is denied, a written record shall be provided to the applicant listing the findings of fact and conclusions or reasons for such denial.
    - (2) Failure of the applicant or agent to attend two (2) or more meetings shall be grounds for the Planning Commission to deny site plan approval.
  - c. **Approval.** Upon determination that a preliminary or final site plan is in compliance with the standards of this Ordinance, the site plan shall be approved.
  - d. **Approval subject to conditions.** The Planning Commission may approve a preliminary or final site plan, subject to any conditions necessary to address necessary modifications; ensure that public services and facilities can accommodate the proposed use; protect significant site

features; ensure compatibility with adjacent land uses; or otherwise meet the intent and purpose of this Ordinance.

5. **Recording of site plan action.** Planning Commission action on the preliminary or final site plan shall be recorded in the Planning Commission meeting minutes, stating the name and location of the project, most recent plan revision date, the findings of fact and conclusions or grounds for the Planning Commission's action, and any conditions of approval.
  - a. After the Planning Commission has taken action on a preliminary or final site plan, the Chair or Secretary shall clearly mark at least one (1) copy of the site plan APPROVED or DENIED as appropriate, with the date that action was taken and a list of any conditions of approval.
  - b. The Planning Commission shall advise the petitioner in writing of its actions on a preliminary or final site plan. The minutes of the meeting at which action was taken may constitute the written notification.
  - c. One (1) marked copy of the site plan and written record shall be placed on file at the Township offices per State of Michigan retention guidelines.

#### F. Required Information for Site Plans

The following minimum information shall be included with all applications for site plan approval, except where the Planning Commission determines that it is not applicable to the project or necessary for complete review of the proposed site plan, based upon a written request by the applicant:

| Minimum Site Plan Information  | Concept Plan | Preliminary Site Plan | Final Site Plan |
|--|--------------|-----------------------|-----------------|
| <b>SITE PLAN DESCRIPTIVE INFORMATION</b>   |              |                       |                 |
| Name, address, and telephone number of the property owner; name, address, telephone, and facsimile numbers of the applicant; the applicant's interest in the property; and the owner's signed consent if the applicant is not the owner.   | ●            | ●                     | ●               |
| The name, address, telephone, and facsimile numbers of the firm or individual preparing the site plan. Site plans prepared by an architect, engineer, landscape architect or land surveyor registered or licensed in the State of Michigan shall bear the individual's professional seal.  |              | ●                     | ●               |
| Address(es) and tax identification number(s) of the subject parcel(s) and lot area.  |              | ●                     | ●               |
| Legal description of the parcel(s), dimensions, and the gross and net land area. For metes and bounds descriptions, angles or bearings shall be indicated on the plan. Lot line dimensions and angles or bearings shall be based upon a boundary survey prepared by a registered surveyor and correlated with the legal description. |              |                       | ●               |

| <b>Minimum Site Plan Information</b>  | Concept Plan | Preliminary Site Plan | Final Site Plan |
|---|--------------|-----------------------|-----------------|
| Description of deed restrictions, if any.   |              |                       | ●               |
| A detailed use statement describing the proposed use(s), including floor areas to be occupied, number of units, number of anticipated employees, and other information necessary to verify compliance with this Ordinance.  | ●            | ●                     |                 |
| <b>SITE PLAN DATA AND NOTES</b>   |              |                       |                 |
| Site plans shall be drawn to an engineer's scale not greater than 1:100 and appropriate for the sheet size. If a large development is shown in sections on multiple sheets, then one overall composite sheet shall be provided for clarity.   |              | ●                     | ●               |
| Vicinity map, scale, north arrow, date of plan, and date of revisions thereto.  | ●            | ●                     | ●               |
| Existing use(s) and existing zoning classification(s) for the subject parcel(s) and surrounding parcels (including across road rights-of-way).  |              | ●                     | ●               |
| Dimensions of all property boundaries and interior lot lines.   | ●            | ●                     | ●               |
| Percentage of lot coverage, total ground floor area, and floor area ratio.  |              | ●                     | ●               |
| Net dwelling unit density for residential projects.   |              | ●                     | ●               |
| Calculations for parking, gross and net residential density of development, and other Ordinance requirements.   |              | ●                     | ●               |
| <b>EXISTING CONDITIONS</b>  |              |                       |                 |
| General topography and soil information, including identification of areas with slopes from 12% to 18%; from 18% to 25%; and 25% and above.   |              | ●                     | ●               |
| Delineation of the 100-year floodplain, and all lakes, ponds, stream courses, and wetlands, including the on-site watershed for such on-site water features.  |              | ●                     | ●               |
| Delineation of all vegetation within 25 feet of all on-site and off-site surface water features, including wetlands.  |              | ●                     | ●               |
| Description of groundwater recharge areas located on the subject parcel(s), and a rough delineation of their borders.   |              | ●                     | ●               |
| General delineation of existing vegetation on the subject property to be preserved or removed, including trees, upland brush, hedgerows, woodlands, prairies, and meadows.  |              | ●                     | ●               |
| Details of the location, size, and species of all existing tree species present on the site, including landmark trees, individual deciduous trees six (6) inches or larger in diameter and individual evergreen trees six (6) feet or more in height indicated by species, location, and size; and groups of trees shown by an approximate outline of the total canopy. |              |                       | ●               |

| Minimum Site Plan Information  | Concept Plan | Preliminary Site Plan | Final Site Plan |
|--|--------------|-----------------------|-----------------|
| The location and height of all existing structures, driveways, fences, walls, signs, utility poles and towers, easements, pipelines, excavations, bridges, culverts, and other site features on the subject property, with notes regarding their preservation or alteration. | ●            | ●                     |                 |
| <b>SITE PLAN DETAILS</b>   |              |                       |                 |
| Delineation of required yards and setback areas.   | ●            | ●                     |                 |
| Identification of the general location(s) and area(s) of each development phase.   | ●            | ●                     |                 |
| Planned construction program and projected phasing schedule for each development phase.  |              |                       | ●               |
| Locations and descriptions of all existing and proposed easements and rights-of-way for utilities, access, and drainage.   |              |                       | ●               |
| An exterior lighting plan with all existing and proposed lighting locations, heights from grade, specifications, lamps types, and methods of shielding.  |              |                       | ●               |
| Outdoor sales, display or storage locations and method of screening, if applicable.  | ●            | ●                     |                 |
| <b>BUILDING DESIGN AND ORIENTATION</b>   |              |                       |                 |
| Location, outline, number of floors, height, and a complete schedule of the number, size, and type of dwelling units where applicable.   | ●            | ●                     |                 |
| Building dimensions, and gross and net floor area.   | ●            | ●                     |                 |
| Separation distances from adjacent structures.   |              |                       | ●               |
| Building façade elevations for any proposed principal building, drawn to an appropriate scale and indicating type and color of building materials.   | ●            | ●                     |                 |
| Location and exterior dimensions of proposed structures referenced to property lines or to a common base point; and finished floor elevations and contact grade elevations.  |              |                       | ●               |
| <b>ACCESS AND CIRCULATION</b>  |              |                       |                 |
| Dimensions and centerlines of existing and proposed rights-of-way and access drives, names of abutting roads, and indication whether proposed roads are to be public or private.   | ●            | ●                     | ●               |
| Dimensions and type of paving materials for all roads, parking lots, curbs, sidewalks, and other paved surfaces.   | ●            | ●                     |                 |
| Locations and dimensions of vehicle access points, and distances between adjacent or opposing driveways and road intersections.  | ●            | ●                     |                 |
| Parking space and maneuvering aisle dimensions, pavement markings, traffic control signage, angle of spaces, surface type, designation of fire lanes, and location of loading areas.   |              |                       | ●               |

| <b>Minimum Site Plan Information</b>   | Concept Plan | Preliminary Site Plan | Final Site Plan |
|--|--------------|-----------------------|-----------------|
| Spot elevations of the road surface for existing roads on and adjacent to the subject parcel(s), including elevations at intersections with the internal roads and drives serving the proposed development.  |              |                       | ●               |
| <b>SCREENING, NATURAL FEATURES, AND OPEN SPACE AREAS</b>   |              |                       |                 |
| Location and size of required transition and landscape strips, if applicable.  |              | ●                     | ●               |
| Location, area, and dimensions of open areas and recreation areas within the proposed development.   |              | ●                     | ●               |
| Landscape plan, including location, size, quantity and type of proposed plant materials and any existing plant materials to be preserved.  |              |                       | ●               |
| Planting list for proposed landscape materials, with the method of installation, botanical and common name, quantity, size, and height at planting.  |              |                       | ●               |
| Landscape maintenance plan, including notes regarding replacement of dead or diseased plant materials.   |              |                       | ●               |
| Proposed fences, walls or other screening devices, including typical cross-section, materials and height above grade.  |              | ●                     | ●               |
| Locations and methods of screening for any waste receptacles; ground-mounted generators, transformers, and mechanical (HVAC) units; and similar devices.   |              | ●                     | ●               |
| <b>UTILITIES, STORMWATER MANAGEMENT, AND GRADING</b>   |              |                       |                 |
| General description of existing and proposed public water supply, sanitary sewerage, and storm drainage systems.   |              | ●                     | ●               |
| Location and size of water lines and hydrants; location, size, and inverts for sanitary sewer and storm sewer lines; location of manholes, catch basins, and any surface-mounted equipment; and location and size of wells, septic tanks, and drain fields, where applicable.  |              |                       | ●               |
| Location and size of retention ponds and degrees of slopes of sides of ponds; calculations for size of storm drainage facilities; and location and size of underground tanks where applicable.   |              |                       | ●               |
| Grading plan, with areas of intended filling or cutting, existing and proposed topography at a minimum of two (2) foot contour levels, stormwater runoff drainage patterns, and a general description of grades within 100 feet of the site. All finished contour lines are to be connected to existing contour lines at the property lines. |              |                       | ●               |
| Location and size of existing and proposed telephone, gas, electric, and similar utility lines and surface-mounted equipment.  |              |                       | ●               |

| <b>Minimum Site Plan Information</b>   | Concept Plan | Preliminary Site Plan | Final Site Plan |
|--|--------------|-----------------------|-----------------|
| <b>ADDITIONAL REQUIRED INFORMATION</b>   |              |                       |                 |
| Other information as requested by the Township Planner or Planning Commission to verify that the site and use are in accordance with the purpose and intent of this Ordinance and the Township's General Development Plan. | ●            | ●                     | ●               |

#### **G. Standards for Site Plan Approval.**

The following criteria shall be used as a basis upon which preliminary and final site plans will be reviewed.

1. **Standards for preliminary site plan approval.** The following criteria shall be used as a basis upon which preliminary site plans will be reviewed and approved, approved with conditions or denied:
  - a. **Adequacy of information.** The applicant is legally authorized to apply for site plan review, and the site plan includes all required information in a complete and understandable form.
  - b. **Conformance with this Ordinance and the General Development Plan.** The site plan provides an accurate description of the proposed uses, complies with all applicable Ordinance requirements, and is compatible with the adopted General Development Plan.
  - c. **Site appearance and coordination.** The site is designed to promote the normal and orderly development and use of surrounding lands; and all site design elements are harmoniously organized in relation to topography, adjacent facilities, building orientation, and improvements serving existing and future uses in the area.
  - d. **Preservation of natural features.** The site design preserves and conserves natural features to the maximum feasible extent, minimizes the amount and extent of cutting and filling required, and will not cause soil erosion or sedimentation.
  - e. **Access and circulation.** Roads, drives, and vehicular access elements are designed to minimize traffic conflicts and promote safe and efficient traffic circulation; and pedestrian facilities comply with applicable barrier-free access regulations and are insulated as completely as possible from the vehicular circulation system.
  - f. **Parking and loading.** Off-street parking lots and loading areas are arranged and located to accommodate the intensity of proposed uses,

- minimize conflicts with adjacent uses, and promote shared-use of common facilities where feasible.
- g. **Screening.** Landscaping and screening are provided in a manner that adequately buffers adjacent land uses and screens off-street parking, mechanical appurtenances, loading and unloading areas and storage areas from adjacent residential areas and public rights-of-way.
  - h. **Phasing.** The phases of development are in logical sequence so that any phase will not depend upon a subsequent phase for adequate access, public utility service, drainage, or erosion control.
2. **Standards for final site plan approval.** The following criteria shall be used as a basis upon which final site plans will be reviewed and approved, approved with conditions or denied:
- a. **Adequacy of information.** The applicant is legally authorized to apply for site plan review, and the site plan includes all required information in a complete and understandable form.
  - b. **Conformance with this Ordinance and the General Development Plan.** The site plan provides an accurate description of the proposed uses, complies with all applicable Ordinance requirements, and is compatible with the adopted General Development Plan.
  - c. **Compatibility with the preliminary site plan.** The final site plan is compatible with the overall site layout and improvements shown on the approved preliminary site plan.
  - d. **Building design and orientation.** The proposed building design, architecture, and orientation relate to and are harmonious with the surrounding area with regard to location, scale, mass, proportion, and materials.
  - e. **Exterior lighting.** All exterior lighting fixtures are designed arranged and shielded to minimize glare and light trespass, prevent night blindness and vision impairments, and maximize security.
  - f. **Impact upon public services.** The impact upon available public services (including utilities, roads, police and fire protection, and pedestrian facilities) will not exceed the existing or planned capacity of such services.
  - g. **Drainage and soil erosion.** Adjoining land and uses, public rights-of-way and the capacity of stormwater management facilities and drainage systems will not be adversely impacted by stormwater runoff, soil erosion or sedimentation during and after construction.

- h. **Grading and filling.** Grading or filling will not destroy the character of the property or the surrounding area, and will not adversely affect the adjacent or neighboring property.
- i. **Emergency access and vulnerability to hazards.** All sites and buildings are designed to allow convenient and direct emergency access, and the level of vulnerability to injury or loss from incidents involving hazardous materials or processes will not exceed existing or planned emergency response capabilities.
- j. **Compliance with outside agency standards.** The plan meets the standards of other government agencies, where applicable, and that the approval of these agencies has been obtained or is assured.

#### **H. Outside Agency Permits or Approvals.**

The applicant shall be responsible for obtaining all necessary permits or approvals from applicable outside agencies, prior to the start of development or construction on the site. Copies of all written approvals shall be provided to the Zoning Inspector for the official Township record.

#### **I. As Built Plans.**

As built plans for all site improvements shall be submitted to the Zoning Inspector and approved by the Township Planner and other designated Township consultants prior to issuance of any zoning compliance for occupancy permits or release of performance guarantees.

- 1. The as-built drawings shall show, but shall not be limited to, such information as the exact size, type, and location of utilities and fire hydrants; and the depth and slopes of retention basins. The drawings shall show plan and profile views of any sanitary and storm sewer lines and plan views of all water lines.
- 2. The as-built drawings shall show all work as actually installed and as field-verified by a professional engineer or a representative thereof. The drawings shall be identified as "As-Built Drawings" in the title block of each drawing, shall be signed and dated by the owner of the development or the owner's legal representative, and shall bear the seal of a professional engineer.

#### **J. Approval of Phased Developments.**

The Planning Commission may grant approval for site plans with multiple phases, subject to the following:

- 1. The site design and layout for all phases and outlots shall be shown on the approved preliminary site plan to ensure proper development of the overall site.
- 2. Improvements associated with each phase shall be clearly identified on the approved preliminary site plan, along with a timetable for development.

Development phases shall be designed so that each phase will function independently of any improvements planned for later phases, and shall be capable of substantial occupancy, operation, and maintenance upon completion of construction and development.

3. Each future phase shall be subject to a separate final site plan review by the Planning Commission, and shall be required to meet all applicable Ordinance standards effective at the time of such review.
4. The Planning Commission may require the applicant to post a performance guarantee in accordance with Section 1.08C (Performance Guarantees) to ensure that site improvements, amenities, and infrastructure planned for later phases of the development are completed in a timely fashion.

## K. Amendments to Approved Site Plans

Amendments to an approved preliminary or final site plan shall be subject to the following:

1. **Amendment request.** The applicant shall make an amendment request in writing to the Planning Commission, clearly stating the reasons for the request. Such reasons may include changing social or economic conditions, potential improvements in layout or design features, unforeseen difficulties, changes in applicable regulations, or advantages mutually affecting the interest of the Township and the developer. The burden shall be on the petitioner to show good cause for any requested change, subject to the standards of this Section.
  - a. The request shall be filed with the Township Clerk. The Clerk shall transmit the request to the Planning Commission for review and action.
  - b. All required review fees and escrow deposits shall be paid to the Township Treasurer at the time the request is filed with the Clerk. A request submitted without the required fees and escrow deposits shall be considered incomplete, and shall be returned to the petitioner.
2. **Determination of major/minor change.** The Planning Commission shall have the authority to determine whether the proposed change is major or minor in accordance with this subsection. The Planning Commission shall record its determination and reasons therefore in the minutes at the meeting at which the action is taken.
  - a. **Major changes.** Major changes shall require reapplication for a new preliminary or final site plan approval in accordance with the procedures and requirements of Section 12.01E (Preliminary and Final Site Plan Review Procedures). Changes to be considered major shall include, but shall not be limited to the following:
    - (1) Change in concept of the development.

- (2) Change in use or character of the development.
  - (3) Change in type of dwelling unit or other structure as identified on the approved site plan.
  - (4) Increase in the number of dwelling units or other structures.
  - (5) Increase in non-residential floor area of over five percent (5%).
  - (6) Increase in GFC or FAR of more than one percent (1%).
  - (7) Rearrangement of lots, blocks or building tracts.
  - (8) Reduction in land area set aside for common area open space or the relocation of such area(s).
  - (9) Increase in building height.
  - (10) Any change that will have an adverse impact on neighboring properties or uses.
- b. **Minor changes.** Minor changes may be incorporated into a final site plan without an amendment to the approved preliminary site plan, at the discretion of the Planning Commission. The Planning Commission shall have the authority to require that a revised preliminary or final site plan be submitted for purposes of the official Township record. Changes to be considered minor shall include, but shall not be limited to the following:
- (1) A change in residential floor area.
  - (2) An increase in non-residential floor area of five percent (5%) or less.
  - (3) Minor variations in layout that do not constitute major changes.
  - (4) An increase in GFC and FAR of one percent (1%) or less.
  - (5) A decrease in the number of approved dwelling units.
3. The Township Planner shall have the authority to approve minor revisions to an approved final site plan that do not materially alter the approved site design, intensity of use or demand for public services.

**L. Site Plan Resubmission.**

A site plan that has been denied may be revised by the applicant to address the reasons for the denial and then resubmitted for further consideration. The resubmitted site plan shall be subject to the same requirements, review fees, and approval procedures as a new application for site plan approval.

**M. Expiration of Site Plan Approval.**

Site plans shall expire 365 days after the date of approval. Upon written request received by the Township prior to the expiration date, the Planning Commission may grant an extension of preliminary or final site plan approval for up to 365 days, provided that site conditions have not changed in a way that would affect the character, design or use of the site, and that the approved site plan remains in conformance with all applicable provisions of this Ordinance.

**N. Rescinding Final Site Plan Approval.**

Final site plan approval may be rescinded by the Planning Commission upon determination that the site has not been improved, constructed or maintained in compliance with approved permits, site plans, or conditions of final site plan or special use approval. Such action shall be subject to the following:

1. **Public hearing.** Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in Section 12.03 (Public Hearing Procedures), at which time the owner of an interest in land for which site plan approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.
2. **Determination.** Subsequent to the hearing, the decision of the Planning Commission with regard to the rescission shall be made and written notification provided to said owner or designated agent.

**O. Compliance with an Approved Final Site Plan.**

It shall be the responsibility of the property owner, and the owner or operator of the use(s) for which final site plan approval has been granted, to develop, improve and maintain the site, including the use, structures and all site elements in accordance with the approved final site plan and all conditions of approval, until the property is razed, or a new final site plan is approved. Failure to comply with the provisions of this Section shall be a violation of this Ordinance and shall be subject to the same penalties appropriate for a use violation.

1. To ensure compliance with this Ordinance, the approved final site plan, and any conditions of site plan approval, the Township may require that a performance guarantee be deposited with the Township Treasurer, subject to the standards of Section 1.08C (Performance Guarantees). The amount of the performance guarantee shall be sufficient to ensure faithful completion of the improvements associated with a project for which site plan approval is sought, as determined by the Township Planner.
2. The Zoning Inspector, Township Planner or other Township designee shall make periodic investigations of developments for which site plans have been approved. Noncompliance with the requirements and conditions of the approved site plan shall be considered a violation of this Ordinance, and shall constitute grounds for the Planning Commission to rescind site plan approval.

## Section 12.02 Special Uses.

### A. Purpose.

This Section provides a set of procedures and standards for special uses of land or structures, which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent land, uses, and residents; and the community as a whole. Special uses include those uses that:

1. Serve an area, interest or purpose that extends beyond the borders of the Township;
2. Create particular problems of control in relation to adjoining uses or districts;
3. Have detrimental effects upon public health, safety or welfare; or
4. Possess other unique characteristics that prevent such uses from being permitted without special approval in a particular zoning district.

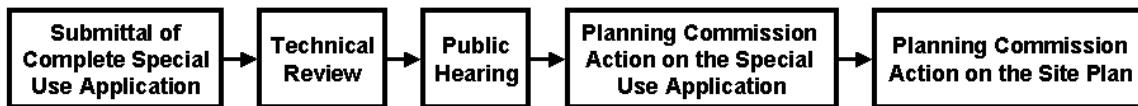
This Section is intended to provide a consistent and uniform method for review of special use applications, ensure full compliance with the standards contained in this Ordinance, achieve efficient use of land, prevent adverse impacts on neighboring properties and districts, and facilitate development in accordance with the objectives of the General Development Plan.

### B. Application Requirements.

Special use applications shall be submitted in accordance with the following:

1. **Eligibility.** The application shall be submitted by the operator of the use or owner of an interest in the land or structure(s) for which special use approval is sought, or by the owner's designated agent. The applicant or agent shall be present at all scheduled review meetings. Applications that are found by the Township Planner to be incomplete or inaccurate shall be returned to the applicant without further review or consideration.
2. **Application.** Special use applications submitted to the Township shall include the following information:
  - a. Names, addresses and telephone numbers for the applicant and property owner, and proof of ownership.
  - b. The applicant's interest in the subject property. If the applicant is not the owner in fee simple title, the name and address of the owner(s) and the signed consent of the owner(s) to the special use application.
  - c. Address, location, legal description, and tax identification number of the parcel.

- d. A detailed description of the proposed use.
- e. A certified survey drawing of the subject parcel, and a complete site plan per Section 12.01 (Site Plan Review).
- f. Appropriate review fees or escrow deposit, as determined by Township Board.
- g. Supporting statements, evidence, data, information, and exhibits that address the standards and requirements of this Section and Ordinance that apply to the proposed use, including Section 12.02H (Standards for Special Use Approval).
- h. Any other information deemed necessary by the Township Planner or Planning Commission to determine compliance with this Ordinance.



## Special Use Review Process

### C. Special Use Review Procedure.

Special use applications shall be reviewed in accordance with following procedures:

1. **Coordination with site plan review.** A site plan associated with a special use shall not be approved unless the special use has first been approved. The Planning Commission may, at its discretion, consider special use and site plan applications at the same meeting.
2. **Technical review.** Prior to Planning Commission consideration, the application materials shall be distributed to appropriate Township officials and the Township Planner for review and comment. The Zoning Inspector or Planning Commission may also request comments from other designated Township consultants, local agencies or departments with jurisdiction.
3. **Public hearing.** A public hearing shall be held for all special uses in accordance with Section 12.03 (Public Hearing Procedures).
4. **Planning Commission consideration.** Subsequent to the hearing, the Planning Commission shall review the application for special use approval, together with any reports and recommendations from Township officials, the Township Planner, other designated Township consultants, and any local agencies or departments with jurisdiction, along with any public comments. The Planning Commission shall then make a determination based on the

requirements of this Ordinance and the standards contained in Section 12.02H (Standards for Special Use Approval).

5. **Planning Commission action.** The Planning Commission is authorized to table, approve, approve subject to conditions or deny the special use as follows:
  - a. **Tabling.** Upon determination by the Planning Commission that a special use application is not sufficiently complete for approval or denial, failure of the applicant to attend the meeting, or upon request by the applicant, the Planning Commission may postpone consideration until a later meeting.
  - b. **Denial.** Upon determination that a special use application is not in compliance with the provisions of this Ordinance, including Section 12.02H (Standards for Special Use Approval), or would require extensive modifications to comply with said standards and regulations, the special use shall be denied. If a special use is denied, a written record shall be provided to the applicant listing the findings of fact and conclusions or reasons for such denial. Failure of the applicant to attend two (2) or more meetings shall be grounds for the Planning Commission to deny the special use.
  - c. **Approval.** The special use may be approved by the Planning Commission upon determination that it is in compliance with the provisions of this Ordinance, including Section 12.02H (Standards for Special Use Approval). Upon approval, the special use shall be deemed a conforming use permitted in the district in which it is proposed, subject to site plan approval, and any conditions imposed on the use. Such approval shall affect only the lot or area thereof upon which the use is located.
  - d. **Approval subject to conditions.** The Planning Commission may approve a special use subject to reasonable conditions:
    - (1) Designed to protect natural resources, the health, safety, welfare, and social and economic well-being of users or patrons of the use under consideration, residents and landowners immediately adjacent to the proposed use, or the community as a whole;
    - (2) Related to the valid exercise of the police power, and the impacts of the proposed use; or
    - (3) Necessary to meet the intent and purpose of this Ordinance, related to the standards established in this Ordinance for the special use under consideration, and necessary for compliance with those standards.

Conditions of approval shall remain unchanged except upon mutual consent of the Planning Commission and the landowner. Any such

changes shall be entered into Township records and recorded in the minutes of the Planning Commission meeting at which the action occurred.

- e. **Recording of special use action.** Planning Commission action on the special use shall be recorded in the Planning Commission meeting minutes, stating the name, description, and location of the proposed use; address and tax identification number of the parcel; the findings of fact and conclusions or grounds for the Planning Commission's action, and any conditions of approval. The Secretary or Chair shall file one (1) copy of the written record with the Township Clerk for the permanent Township record, and shall forward one (1) copy to the applicant as evidence of special use approval.

**D. Resubmission after Denial.**

A special use application that has been denied shall not be resubmitted for a period of 365 days from the date of denial, except on grounds of new evidence or proof of changed conditions found by the Planning Commission to be valid.

**E. Appeals of Special Use Decisions.**

The Zoning Board of Appeals shall not have the authority to consider appeals of special use determinations by the Planning Commission.

**F. Expiration of Special Use Approval.**

Special use approval shall expire 365 days after the date of approval, unless the use has been established on the site, or the construction plan associated with the special use has been submitted for review. Special use approval shall also expire upon expiration of the approved construction plan associated with a special use.

Upon written request received by the Township prior to the expiration date, the Planning Commission may grant one (1) extension of up to 180 days, provided that the approved special use conforms to current Zoning Ordinance standards.

**G. Rescinding Special Use Approval.**

Approval of a special use may be rescinded by the Planning Commission upon determination that the use has not been improved, constructed or maintained in compliance with this Ordinance, approved permits, site plans or conditions of site plan or special use approval. Such action shall be subject to the following:

1. **Public hearing.** Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in Section 12.03 (Public Hearing Procedures), at which time the operator of the use or owner of an interest in the land or structure(s) for which special use approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.

2. **Determination.** Subsequent to the hearing, the decision of the Planning Commission with regard to the rescission shall be made and written notification provided to said owner, operator or designated agent.

#### H. Standards for Special Use Approval.

Approval of a special use shall be based upon the determination that the proposed use complies with all applicable requirements of this Ordinance, and all of the following standards as deemed applicable to the use by the Planning Commission:

1. **Compatibility with adjacent uses.** The special use is compatible with adjacent uses and the existing or intended character of the zoning district and area. The use will not be detrimental, hazardous or disturbing to existing or future neighboring uses, persons, property or the public welfare.
2. **Compatibility with the General Development Plan.** The special use location and character is consistent with the general principles, goals, objectives, and policies of the adopted General Development Plan.
3. **Compliance with applicable regulations.** The proposed special use is in compliance with all applicable Ordinance provisions.
4. **Impact upon public and utility services.** The impact of the special use upon public services will not exceed the existing or planned capacity of such services; including utilities, roads, police and fire protection services, area drinking water wells, and drainage structures. The proposed use will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.
5. **Environmental and public health, safety, welfare impacts.** The location, design, activities, processes, materials, equipment, and operational conditions of the special use will not be detrimental or injurious to the environment or the public health, safety, and welfare by reason of traffic, noise, vibration, smoke, fumes, odors, dust, glare, light, drainage, pollution or other adverse impacts.
6. **A documented need exists for the proposed use.** A documented need exists for the proposed use within the community.
7. **Isolation of existing uses.** Approval of the special use location will not result in a small residential or non-residential area being substantially surrounded by incompatible uses.

#### I. Compliance with Special Use Approval.

It shall be the responsibility of the owner of the property and the operator of the use for which special use approval has been granted to develop, improve, operate and maintain the use, including the site, structures and all site elements, in accordance with the provisions of this Ordinance and all conditions of special use approval until the use is discontinued. Failure to comply with the provisions of this Section shall be a violation of

the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a use violation.

The Zoning Inspector, Township Planner or other Township designee may make periodic investigations of developments for which a special use has been approved. Noncompliance with Ordinance requirements or conditions of approval shall constitute grounds for the Planning Commission to rescind special use approval.

## **Section 12.03 Public Hearing Procedures.**

Upon receipt of a complete and accurate application, a reasonable time and place shall be established for any public hearing required by or held under provisions of this Ordinance. A public hearing date, time, and location may be set by the Township Clerk or the body charged with conducting the hearing. Such hearings shall be held in accordance with the Michigan Zoning Enabling Act and the following:

### **A. Public Notice.**

Notice of the public hearing shall be required in accordance with the following:

1. **Minimum notice contents.** The notice shall include the time and place of the hearing, the name of the body charged with conducting the hearing, a summary of the subject and purpose of the hearing, and a listing of the methods by which questions can be addressed and comments provided to the body charged with conducting the hearing.
2. **Address of the property.** The notice shall indicate the property that is the subject of the request, and shall include a listing of all existing street addresses for the subject property.
  - a. Street addresses do not need to be created and listed if no such addresses currently exist for the subject property. If there are no street addresses, other means of property identification may be used.
  - b. If eleven (11) or more adjacent lots or parcels are proposed for rezoning, individual addresses shall not be required to be listed on the notice.
3. **Posting and publication.** The notice shall be posted at the location where the hearing will be held and published once in a newspaper of general circulation in the Township.
4. **Notification of the applicant and property owner.** The notice shall be sent by mail or personal delivery to the applicant and owner(s) of property for which approval is being considered.
5. **Delivery of public notices.** The notice shall be sent by mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the subject property, and to all occupants of structures within 300

feet of the boundary of the subject property, regardless of whether the property or occupant is located in the zoning jurisdiction.

- a. If the name of the occupant is not known, the term "occupant" may be used in making notification.
  - b. Delivery of public notices shall not be required for amendments to or interpretations of the text of this Ordinance, appeals of administrative decisions, and if eleven (11) or more adjacent lots or parcels are proposed for rezoning.
  - c. For any proposed amendment to the zoning map within 300 feet of the boundary of any adjacent municipality, written notice of the public hearing shall be sent by regular U.S. mail to the Clerk or the zoning or planning agency of said municipality.
  - d. If the notice is delivered by mail, an affidavit of mailing shall be filed with the body charged with conducting the hearing.
6. **Timing of notice posting, publication, and mailing.** The notice shall be posted, published, and mailed or personally delivered in accordance with the requirements of this Section not less than 15 days before the hearing date when the application will be considered.

**B. Discretionary Notice.**

The Township may, at its discretion, post this notice at other public-accessible locations, including the Township Hall, community bulletin boards or the Internet. The Township Board may also establish a policy to consistently send this notice by mail to persons located more than 300 feet from the boundary of the property in question, provided that the applicant shall not be required to pay for the additional mailing expenses.

**C. Pre-Hearing Examination.**

Upon reasonable request, any person may examine the application and all other documents on file with the Township pertaining to the subject and purpose of the hearing. Any person shall be entitled to copies of such application and documents upon reasonable request and payment of fees as established by the Township Board to cover the cost of making such copies.

**D. Right to Submit Written Statements.**

Any person may submit written comments about the subject and purpose of the hearing prior to a hearing, or following such hearing within such time as the hearing body may allow. Such statements shall be made a part of the public record of the hearing.

**E. Timeframe for Hearings.**

The public hearing shall be scheduled for a date not more than 90 calendar days after receipt of a complete and accurate application by the body charged with conducting the hearing, unless a further time is agreed upon by the parties concerned.

**F. Rights of All Persons.**

Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney. Documentary evidence may be submitted for consideration, provided that the hearing body shall exclude such evidence deemed irrelevant, immaterial or unduly repetitious.

**G. Adjournment.**

The body conducting the hearing may at any time, on its own motion or at the request of any person, adjourn the hearing to a reasonable and fixed future date, time, and place for the purpose of giving further notice, accumulating further evidence or information or for such other reasons that the body finds to be sufficient.

**H. Governance.**

All other matters pertaining to the conduct of hearings shall be governed by applicable provisions of this Ordinance, and the rules and procedures adopted by the body conducting the hearing.

## **Section 12.04 Amendments.**

The Township Board may amend, supplement or revise the provisions of this Ordinance or Official Zoning Map. Such actions shall be in accordance with the provisions of the Michigan Zoning Enabling Act and the following:

**A. Conditional Rezoning Prohibited.**

Conditional rezoning, as authorized by Section 405 of the Michigan Zoning Enabling Act, shall be prohibited in Saline Township. Any application for a rezoning amendment to the Official Zoning Map that includes proposed conditions or voluntary use or development limitations shall be returned to the applicant without Township review or consideration.

**B. Initiation of Amendment.**

Amendments to the provisions of this Ordinance may be initiated by the Township Board, Planning Commission, or Zoning Inspector, or by petition from one (1) or more residents or property owners of the Township. A rezoning amendment to the official Zoning Map may be initiated by the Township Board, Planning Commission, or Zoning Inspector; or by the titleholder for the property subject to the proposed amendment.

1. All proposed amendments shall first be referred to the Planning Commission for review and recommendation, prior to any final action by the Township Board.

2. No fee shall be charged for amendments initiated by the Township Board, Planning Commission or Zoning Inspector.

**C. Application.**

An amendment to this Ordinance (except those initiated by the Township Board, Planning Commission or Zoning Inspector) shall be initiated by submission of a complete and accurate application to the Township, along with the required review fees or escrow deposit established by Township Board.

1. **Rezoning application.** In the case of an amendment to the official Zoning Map, the following information shall accompany the application and fee:
  - a. A legal description, street address(es), and property tax identification number(s) of the subject property.
  - b. A scaled survey and location map identifying the subject property in relation to surrounding parcels, roads, and other area features.
  - c. A vicinity map showing the location of the subject property, and adjacent land uses and zoning classifications.
  - d. The name and address of the applicant.
  - e. The applicant's interest in the subject property. If the applicant is not the owner in fee simple title, the name and address of the owner(s) and the signed consent of the owner(s) to the rezoning application. In the case of a rezoning amendment initiated by the Township Board, Planning Commission or Zoning Inspector, the signed consent of the owner(s) shall not be required.
  - f. Signature(s) of the applicant and owner(s) certifying the accuracy of the application information. In the case of a rezoning amendment initiated by the Township Board, Planning Commission or Zoning Inspector, such certification shall not be required.
  - g. The existing and proposed zoning district designation of the subject property and surrounding properties.
  - h. A general description of the natural resources and features, including wetlands, streams and other waterbodies, steep slopes, woodlands, and floodplains depicted on scaled drawings. In the case of a rezoning amendment initiated by the Township Board, Planning Commission or Zoning Inspector, such information shall not be required.
  - i. A written description of how the requested amendment meets the criteria stated in this Section.

2. **Zoning Ordinance text amendments.** In the case of an amendment to the text of the Zoning Ordinance, the petitioner shall submit the following information:
- a. A detailed statement of the petition, clearly and completely setting forth all proposed provisions and regulations, including all changes in the Zoning Ordinance necessary to accommodate the proposed amendment.
  - b. Reasons for the proposed amendment.
  - c. The name and address of the petitioner.



## Amendment Review Process

### D. Amendment Review Procedure.

Proposed amendments to this Ordinance or Official Zoning Map shall be reviewed in accordance with the following:

1. **Technical review.** Prior to Planning Commission consideration, the proposed amendment and application materials shall be distributed to appropriate Township officials and the Township Planner for review and comment. The Zoning Inspector or Planning Commission may also request comments from other designated Township consultants, local agencies or departments with jurisdiction.
2. **Public hearing.** A public hearing shall be held for all proposed amendments in accordance with Section 12.03 (Public Hearing Procedures).
3. **Planning Commission consideration and recommendation.** Subsequent to the hearing, the Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies and any public comments. The Planning Commission shall identify and evaluate all relevant factors, and shall report its findings and recommendation to the Township Board.
4. **Township Board action.** The Zoning Inspector shall forward a copy of the proposed amendment and report and recommendation from the Planning Commission to the Township Board for consideration and final action.

- a. The Township Board may adopt or reject the proposed amendment, or may refer the amendment back to the Planning Commission for revision or further consideration.
- b. If the Township Board requests revisions to the proposed amendment, the amendment and requested revisions shall be referred back to the Planning Commission for further consideration.
- c. The Township Board may, at its discretion, hold additional public hearings on the proposed amendment, provided that notice of the hearing shall be published once in a newspaper of general circulation in the Township not less than five (5) and not more than 15 days before the hearing date.

**E. Findings of Fact Required.**

In reviewing any application for a rezoning amendment to the Official Zoning Map, the Planning Commission shall identify and evaluate all factors relevant to the application, and shall report its findings and recommendations to the Township Board. The facts to be considered shall include, but shall not be limited to the following:

1. Compatibility of the proposed rezoning with the General Development Plan's goals, policies, and future land use map, including planned timing or sequence of development. If conditions have changed since the General Development Plan was adopted, the consistency with recent development trends in the area shall be considered.
2. Compatibility of all the potential uses allowed in the proposed zoning district(s) with the site's physical, geological, hydrological, and other environmental features, and with surrounding uses and zoning districts.
3. Capacity of available utilities, roads, and public services to accommodate the uses permitted in the district(s) without compromising the health, safety, and welfare of Township residents or burdening the Township or Washtenaw County with unplanned capital improvement costs or other unplanned public expenses.
4. The apparent demand for the types of uses permitted in the district(s) in relation to the amount of land currently zoned and available in the Township and surrounding communities to accommodate the demand.
5. Whether the requested rezoning is justified by a change in conditions since the Zoning Ordinance or Official Zoning Map was adopted, or by an error in the Ordinance or Map.
6. The precedents or possible effects of such precedents that might result from approval or denial of the proposed rezoning.
7. Impacts or effects of approval of the rezoning on the condition, character or value of property in the Township or adjacent municipalities.

8. Consistency of the proposed rezoning with the applicable development policies of abutting municipalities or other governmental agencies with jurisdiction.

**F. Notice of Adoption.**

Following Township Board adoption of an amendment to the Zoning Ordinance or Official Zoning Map, the amendment shall be published within 15 calendar days of such adoption in a newspaper of general circulation in the Township. The amendment shall take effect seven (7) calendar days after the date of publication of the notice of adoption, unless a later date is specified by the Township Board. The notice of adoption shall include the following information:

1. The article(s) and section(s) affected, in the case of a text amendment.
2. Either a summary of the regulatory effect of the amendment, including any geographic area affected, or the text of the amendment.
3. The effective date of the amendment.
4. The place and time where a copy of the amended Zoning Ordinance or Official Zoning Map may be inspected or purchased.

**G. Referendum.**

Within seven (7) calendar days after publication of the notice of adoption for an amendment to the Zoning Ordinance or Official Zoning Map, a registered elector residing in the unincorporated portion of the Township may file with the Township Clerk a notice of intent to file a petition for referendum under this Section.

1. If a notice of intent is filed, then within 30 calendar days after publication of the notice of adoption for an amendment to the Zoning Ordinance or Official Zoning Map, a petition may be filed with the Township Clerk requesting therein for the submission of the amendment to the electors residing in the unincorporated portion of the Township for their approval. To qualify, the petition shall be signed by a number of qualified and registered voters residing in the unincorporated portion of Saline Township equal to not less than fifteen percent (15%) of the total votes cast in the Township for all candidates for Governor of the State of Michigan at the last preceding general election at which the Governor was elected.
2. Upon the filing of a notice of intent, the approved amendment shall not take effect until one (1) of the following occurs:
  - a. The expiration of 30 calendar days after publication of the notice of adoption for the amendment to the Zoning Ordinance or Official Zoning Map, if the petition is not filed within that time period.

- b. The Township Clerk finds that the petition, if filed within 30 calendar days after publication of the notice of adoption for the amendment to the Zoning Ordinance or Official Zoning Map, is inadequate.
- c. If a petition is filed within 30 calendar days after publication of the notice of adoption for the amendment to the Zoning Ordinance or Official Zoning Map, the Township Clerk finds that the petition is adequate, and the amendment is approved by a majority of the registered electors residing in the unincorporated portion of the Township. The referendum shall be held at the next regular election date that provides sufficient time for proper notices and printing of ballots, as determined by the Township Clerk. The Township Board shall provide the manner of submitting the amendment to the electors for their approval or rejection, and determining the result of the election.

**H. Conformance to Court Decree.**

Any amendment for the purpose of conforming to a provision of a decree of a court of competent jurisdiction shall be adopted by the Township Board and the amendment published without referral to any other board, commission or agency.

**I. Re-Application.**

Whenever an application for an amendment to this Ordinance has been rejected by the Township Board, a new application for the same amendment shall not be accepted by the Township for a period of 365 calendar days unless the Zoning Inspector determines that one or more of the following conditions has been met:

1. There is a substantial change in circumstances relevant to the issues or facts considered during review of the application.
2. New or additional information is available that was not available at the time of the review.
3. The new application is materially different from the prior application.

**Exhibit D**  
“Carlisle Report”  
“Conditional Rezoning Review for Saline Township”  
By Mike Auerbach, AICP  
Carlisle Wortman Associates, Inc.  
August 4, 2025  
With yellow highlights



## Carlisle | Wortman ASSOCIATES, INC.

117 NORTH FIRST STREET   SUITE 70   ANN ARBOR, MI 48104   734.662.2200   734.662.1935 FAX

Date: August 4, 2025

# Conditional Rezoning Review for Saline Township

|                          |  |
|--------------------------|--|
| <b>Applicant:</b>        | RD Michigan Property Owner 1 LLC                                     |
| <b>Project Name:</b>     | Data Center Conditional Rezoning                                     |
| <b>Plan Date:</b>        | July 10, 2025 (application date)                                     |
| <b>Zoning:</b>           | A-1, Agricultural-Conservation                                       |
| <b>Action Requested:</b> | Rezoning to I-1, Industrial-Research District subject to conditions. |

### REQUEST SUMMARY

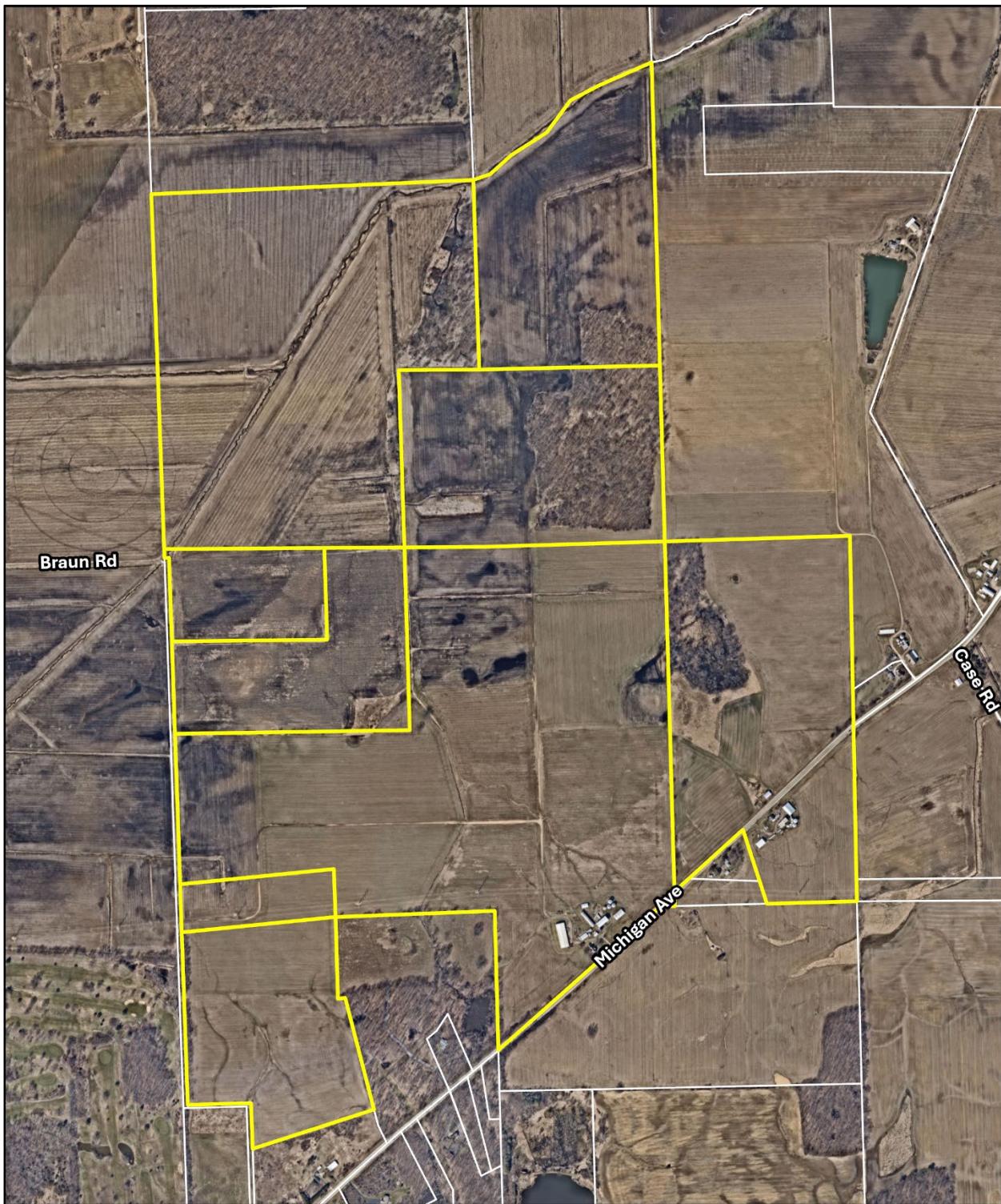
The Planning Commission is scheduled to hold a public hearing in order to take comment on a proposal to conditional rezone 8 properties located on the north side of Michigan Avenue between Case Road and Willow Road. A small portion of one of the properties extends south of Michigan Avenue.

The applicants are requesting to rezone the properties to I-1, Industrial-Research District in order to develop a data center facility, and are offering conditions as part of the request. If the rezoning is approved, the applicants will need to prepare a site plan for the Planning Commission's review and approval in order for the data center to be permitted.

The subject properties, shown in Figure 1, are approximately 575 acres in total area and are currently zoned A-1, Agricultural-Conservation. They are predominantly farmland. Existing structures on the properties include 2 single family dwellings on the north and south side of Michigan Avenue. Agricultural structures are adjacent to each dwelling. The site's natural features include 3 separate woodland areas, which the applicants have indicated are a combined 43 acres. The northern portion of the site is bounded by the Saline River, which splits into the Bridgewater #1 and #2 drains according to Washtenaw County's online mapping service (MapWashtenaw). Multiple wetland areas are also located on site. The applicants have indicated that they are in the process of delineating the wetland areas.

Benjamin R. Carlisle, President John L. Enos, Vice President Douglas J. Lewan, Principal  
David Scurto, Principal Sally M. Elmiger, Principal R. Donald Wortman, Principal Craig Strong, Principal  
Paul Montagno, Principal Megan Masson-Minock, Principal Laura Kreps, Principal  
Richard K. Carlisle, Past President/Senior Principal

**Figure 1. Aerial Photo of Subject Site and Approximate Property Lines**



The data center facility will include multiple buildings arranged in the approximate center of the site. The facility will have 3 principal buildings that are approximately 540,000 square feet each. Banks of outdoor cooling equipment are proposed on the sides of each building. The applicants have indicated that the

facility will not evaporate water for cooling, and that its only water needs will be for restrooms, humidity control, and landscaping. Several accessory buildings will provide space for computational equipment, warehousing, and other facility activities. Two substations are proposed along the southern portion of the facility, which will provide electricity via existing overhead electrical transmission lines. The facility will have 1 entrance located on Michigan Avenue. Several berms and rows of vegetation are proposed along the facility's southern perimeter to screen the facility from view.

The applicants are proposing to construct a water well, treatment, and storage tank adjacent to the existing agricultural buildings on the property. The applicants are offering to dedicate the water system to the Township if desired.

## REVIEW PROCEDURE

The procedure for reviewing conditional rezoning proposals is established in Section 12.04 of the Zoning Ordinance. As with traditional rezonings, the Planning Commission must hold a public hearing to take comment on the proposal. Notice for the public hearing must be given in accordance with Section 12.04 of the Zoning Ordinance and the Michigan Zoning Enabling Act (Act 110 of 2006, as amended). After the public hearing, the Planning Commission shall review the proposed rezoning according to the criteria listed in Section 12.04(E) along with reports and recommendations from staff, consultants, other reviewing agencies and any public comments. The Commission shall report its findings and recommendation to the Township Board for final action.

The Township Board may adopt or reject the proposed rezoning, or refer the request back to the Planning Commission for further consideration. The Board may hold additional public hearings at its discretion provided that notice is published not less than 5 days and not more than 15 days before the hearing date.

## SPECIFIC CONDITIONAL REZONING STANDARDS

Specific conditional rezoning standards are established in Section 12.04(A)(2) of the Zoning Ordinance. Those standards, and our comments on the proposal according to those standards are as follows:

- a. A conditional rezoning request must be voluntarily offered by an owner of land within the Township. All offers must be made in writing and must provide the specific conditions to be considered by the Township as a part of the rezoning request. All offers shall be in the form of a written agreement approvable by the Township and property owner, incorporating the conditional rezoning site plan and setting forth any conditions and terms mutually agreed upon by the parties relative to the land for which the conditional rezoning is sought.

**CWA Comments:** The applicants have voluntarily offered conditions as part of their rezoning request. The conditions are outlined in a draft conditional rezoning and development agreement document, which is in a recordable format.

In summary, the applicant is offering conditions to restrict the permitted uses of the property to the proposed data center and its' associated accessory uses. No other I-1 District uses would be allowed. Agricultural uses may also be permitted. The applicants are also offering conditions to increase all yard setbacks to a minimum of 75 feet, and to screen the development along Michigan Avenue with berms and landscape features. They will also conserve approximately 200 acres of wetlands, open space, and farmlands through Farmland Development Rights Agreements or similar mechanisms.

- b. Conditional rezoning shall not allow a use or activity that would not otherwise be allowed in the proposed zoning district.

**CWA Comments:** *It is our opinion that the proposed data center may be permitted in the I-1 District under the Research and Development (R&D) Facility and Testing Laboratory land use category. R&D Facilities and Testing Laboratories are permitted by right in the I-1 District according to the Zoning Ordinance's Section 4.02 Table of Permitted Uses by District. Both the land use category and the I-1 District are meant to accommodate a wide variety of light industrial activity. According to Section 2.111, the intent of the I-1 District is to permit "...certain operations and facilities of an office, research, laboratory, warehousing, wholesaling, and light manufacturing character."*

*R&D Facilities and Testing Laboratories are not defined in Article 18 of the Zoning Ordinance. The federal Office of Management and Budget (OMB) defines R&D activity as "creative and systematic work undertaken in order to increase the stock of knowledge—including knowledge of people, culture, and society—and to devise new applications using available knowledge."<sup>1</sup> The OMB further defines R&D facilities and assets as those that are "...necessary for the execution of an R&D program. This may include land, major fixed equipment, and supporting infrastructure such as a sewer line, or housing at a remote location. Many laboratory buildings will include a mixture of R&D facilities and office space."*

*Data centers provide internet technology (IT) infrastructure for a wide variety of applications, many of which qualify as R&D. Over the last decade, data centers have facilitated the growth of cloud computing services that rely on special-purpose processing, high performance computing (HPC), and other similar systems that require significant IT resources. R&D activities that rely on these resources include big data analytics, artificial intelligence (AI), and machine learning (ML). Data centers are also used to host enterprise software deployments and data storage, which do not necessarily qualify as R&D. Data centers provide these resources in a single facility or through a network of facilities that aggregate resources across a more-capable virtual environment.*

*While some data center operations do not qualify as R&D, their land use characteristics are functionally comparable regardless of whether the data center is engaged in R&D or not. Data centers typically consist of a building or buildings with advanced IT infrastructure, an uninterrupted power supply (UPS), dedicated cooling systems, and security systems.*

- c. Conditional rezoning shall not alter any of the various zoning requirements for the uses in question, i.e. parking, landscaping, lot area, lot width, building height, setbacks, lot area coverage, etc. Conditional rezoning shall not grant zoning variances of any kind. Any zoning variance must follow the provisions of Section 17.07.

**CWA Comments:** *The applicants are proposing restrictions in addition to the I-1 District zoning requirements, but are not altering any requirements. An applicant may propose additional zoning restrictions as long as they do not permit something that would not otherwise be allowed in the district.*

- d. Conditional rezoning shall not grant special land use approval. The process for review and approval of conditional land uses must follow the provisions of Section 12.02.

<sup>1</sup> Office of Management and Budget Circular A-11, Part 2, Section 84. Retrieved from <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf>

**CWA Comments:** The applicants are not proposing any special land uses. The applicants have indicated that the facility will include lithium-ion batteries to provide backup electrical power that qualify as "Type 1" or accessory battery energy storage systems (BESS) as defined in Section 11.10 of the Zoning Ordinance.

- e. All conditions offered by a land owner in relation to a rezoning request must have a direct relationship to the rezoning itself. The provisions to allow conditional rezoning shall not be construed to allow rezoning by exaction.

**CWA Comments:** The proposed use restriction, 75-foot setbacks, and screening along Michigan Avenue are directly related to the proposed rezoning. Limiting the permitted uses to the applicant's proposed facility will prevent other industrial uses that may be less compatible with the surrounding area from being permitted in the future. The berms and landscaping will provide a buffer between the facility and adjacent properties, and will screen the proposed facility from view.

The applicants are also offering to provide the Township with a \$2,000,000 investment for local fire and other emergency services and improvements, to establish a \$1,000,000 community investment fund to be administered by the Township, and contribute \$100,000 to the Township for maintenance of its historic cemeteries.

The investment in emergency services appears to be directly related to the rezoning. We expect that the Saline Area Fire Department (SAFD) and other emergency response agencies will need additional training and/or equipment to respond to an incident at the proposed facility. The applicants or the SAFD would need to provide more information about these needs and what their associated costs will be. Otherwise, we do not recommend that the Township consider the financial offers as a factor in determining whether the rezoning should be approved.

- f. In addition to the informational requirements provided in subsection C. herein, the applicant must provide a conditional rezoning site plan prepared by a licensed professional allowed to prepare such plans under this chapter, that may show the location, size, height or other measures for and/or of buildings, structures, improvements, and features, including natural features on, and in some cases adjacent to, the property that is the subject of the conditional rezoning of land. The details to be offered for inclusion in the conditional rezoning site plan shall be determined by the applicant, subject to approval of the Township. A conditional rezoning site plan shall not replace the requirement under this Ordinance for plan review and approval, or subdivision or site condominium approval, as the case may be.

**CWA Comments:** The applicants have provided a conceptual rendering of their proposed development. The plan is not offered as a condition, so the plan itself will not establish any restrictions on the properties if the rezoning is approved.

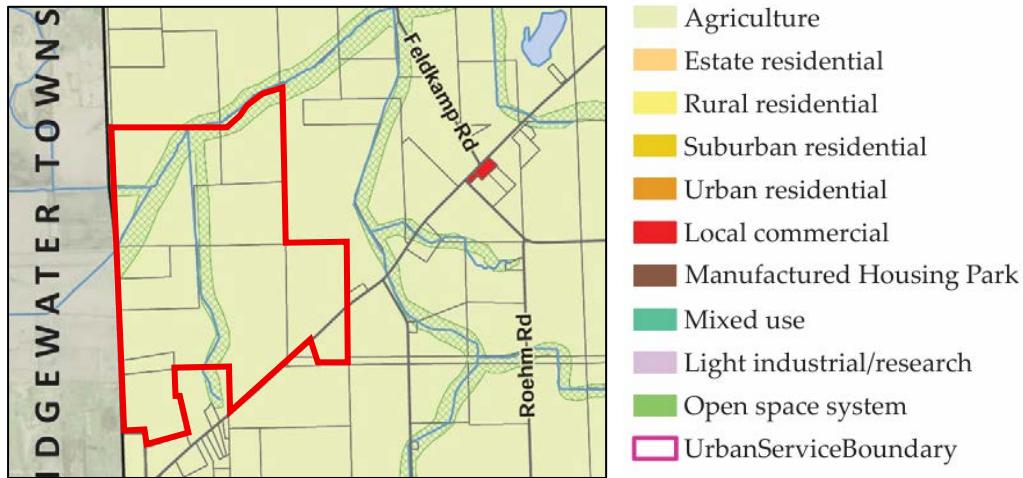
## REZONING STANDARDS

The Planning Commission shall identify and evaluate all factors relevant to the rezoning application according to the standards established in Section 12.04(E), and shall report its findings and recommendations to the Township Board. The Section 12.04(E) standards, and our comments on the proposal according to those standards are as follows:

1. Compatibility of the proposed rezoning with the General Development Plan's goals, policies, and future land use map, including planned timing or sequence of development. If conditions have changed since the General Development Plan was adopted, the consistency with recent development trends in the area shall be considered.

**CWA Comments:** The subject site and adjacent properties are categorized as "Agriculture" in the Township Master Plan's Future Land Use Map, which is shown in Figure 2.

**Figure 2. Future Land Use Map and Subject Properties**



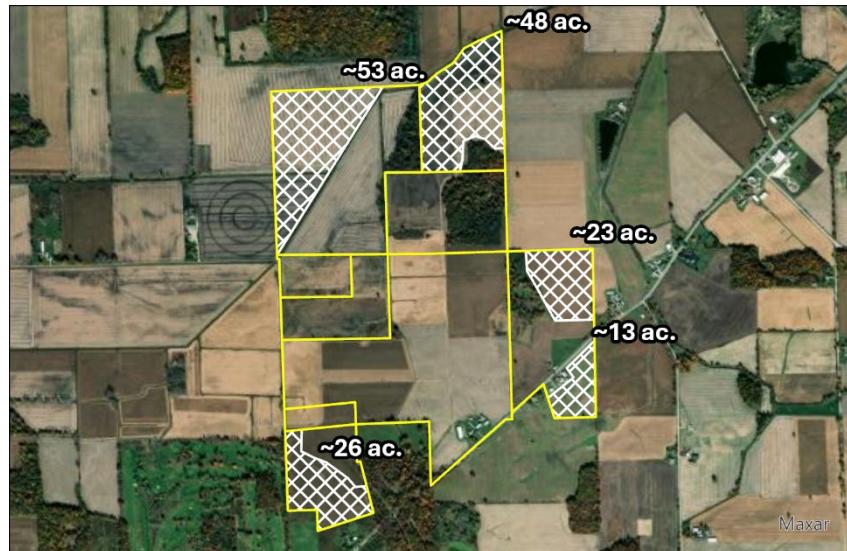
The primary objectives of the Agriculture designation are to "maintain existing and promote additional agricultural activities in designated areas of the Township" and to "limit the intrusion of non-agricultural uses into agricultural areas." According to the Master Plan, agricultural land uses comprise approximately 16,631 acres within the Township, which represents 75 percent of the Township's total land area.

Approval will result in the loss of existing farmland. The applicants have indicated that the subject properties are approximately 575 acres in total area, and the facility would have a footprint of approximately 250 acres. The applicants have also indicated that they may allow agricultural activity to continue on portions of the site. Excluding the proposed facility, site improvements, and the existing wetlands on the properties, we estimate that 5 separate areas of existing farmland would remain available for potential cultivation if the facility was built as proposed. These locations are shown in Figure 3 on the following page. They range from approximately 13 to 53 acres in area, and are approximately 163 acres in total area. As previously discussed, the applicants are offering to ensure long-term farmland conservation through Farmland Development Rights Agreements or similar mechanisms.

While the proposed rezoning will allow a non-agricultural use in an agricultural area, the Commission may determine that the rezoning is appropriate based on conditions that have changed since the Master Plan was adopted. It is our understanding that a P.A. 116 agreement that limited the use of a portion of the subject site is no longer in effect. Additional research will be necessary to confirm. While Township zoning still controls the uses that may be permitted on the properties, agricultural preservation also requires commitments by private property owners to continue farm operations and to ensure long-term conservation through P.A. 116 agreements,

deed restrictions, or easements. Agricultural conservation on these properties may be less viable if the property owners are not using or conserving the properties as farmland.

**Figure 3. Estimate of Farmland to Remain Undeveloped**



There has also been recent demand for data center development in the region which was not contemplated when the Master Plan was last reviewed. Data center development has been driven in part by amendments to the General Sales Tax Act and Use Tax Act, which were approved by the governor on December 30, 2024. The amendments extend sales tax exemptions for data center equipment purchases by qualified data centers and related businesses through December 31, 2050. As a result, multiple data center developments have been proposed in Washtenaw County and the surrounding counties over the last year alone.

The Commission may determine that the subject site is a more appropriate location for industrial zoning and this specific use than other areas in the Township. The Master Plan envisions industrial zoning for properties within the Township's urban service boundary. However, ongoing residential development within the urban service boundary makes that area less compatible with larger scale industrial uses.

2. Compatibility of all the potential uses allowed in the proposed zoning district(s) with the site's physical, geological, hydrological, and other environmental features, and with surrounding uses and zoning districts.

**CWA Comments:** To evaluate this criterion, the Commission should consider the subject site's potential agricultural capability and how it compares to other farmland in the Township, and whether the rezoning poses any potential environmental impacts.

The US Department of Agriculture's (USDA) Soil Survey Geographic Database (SSURGO) provides general data about the subject site's soil composition and properties. The SSURGO data indicate that most of the subject site's soils are silt or loam/clay, especially the northern portion along the Saline River and Bridgewater #2 Drain. The USDA has developed a taxonomy to describe soil characteristics. The northern portion of the subject site is generally classified as Mollisols, which

*the USDA describes as soils that have a dark colored surface horizon relatively high in content of organic matter. These soils are exceptionally fertile, but the SSURGO data also indicate that most of the site is poorly drained. The southern portion of the site's agricultural capability is limited by shallow root zones, stones, low moisture holding capacity, low fertility that is difficult to correct, and salinity or sodium content.*

*The applicants have indicated that the data center will not draw or discharge large quantities of water. The facility will not use evaporated water cooling systems, and will only require water for restrooms, humidity control, and landscaping. As previously discussed, the subject site is also physically separated from residential land uses, and will be visually screened.*

3. Capacity of available utilities, roads, and public services to accommodate the uses permitted in the district(s) without compromising the health, safety, and welfare of Township residents or burdening the Township or Washtenaw County with unplanned capital improvement costs or other unplanned public expenses.

**CWA Comments:** *The proposed rezoning and land use will not impose any unplanned capital improvement costs on the Township. The facility is sited to be able to access existing electrical transmission lines.*

4. The apparent demand for the types of uses permitted in the district(s) in relation to the amount of land currently zoned and available in the Township and surrounding communities to accommodate the demand.

**CWA Comments:** *As previously discussed, there has been recent demand in the region for data center development. There are no other locations in the Township that are industrially zoned.*

5. Whether the requested rezoning is justified by a change in conditions since the Zoning Ordinance or Official Zoning Map was adopted, or by an error in the Ordinance or Map.

**CWA Comments:** *As previously discussed, the Commission may determine that the rezoning is warranted due to recent demand for data center development and the discontinuation of farm operations on the subject site.*

6. The precedents or possible effects of such precedents that might result from approval or denial of the proposed rezoning.

**CWA Comments:** *The Commission must cite findings as the basis for approval or denial in order to set appropriate precedent.*

7. Impacts or effects of approval of the rezoning on the condition, character or value of property in the Township or adjacent municipalities.

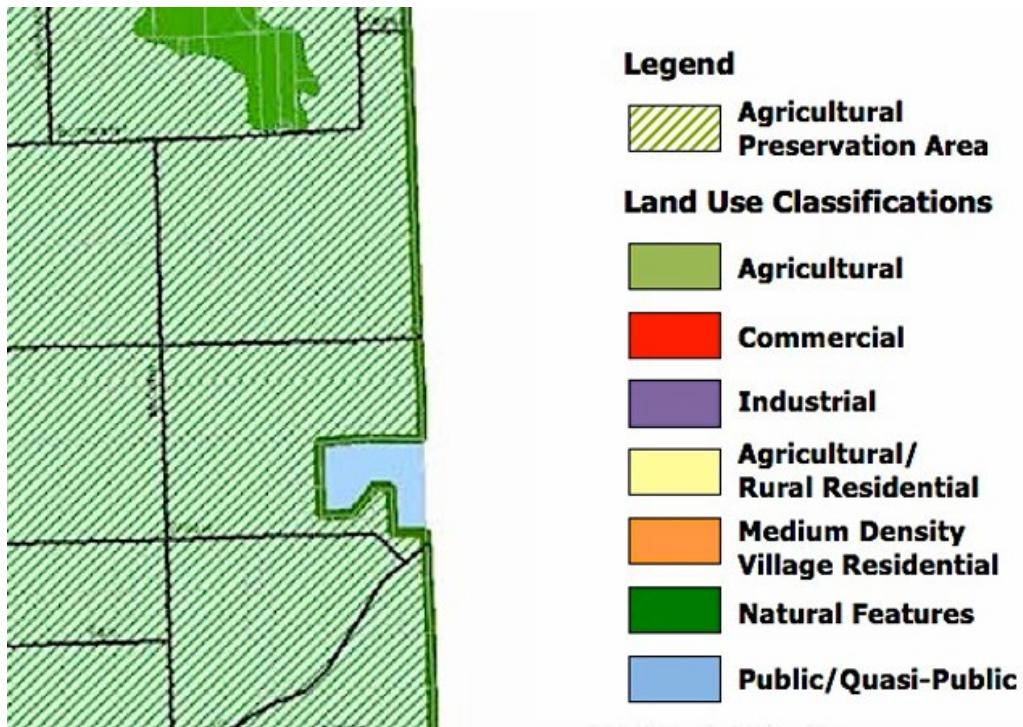
**CWA Comments:** *Based on the information that the applicants have provided, the rezoning will have a negligible impact on the character or value of adjacent properties.*

8. Consistency of the proposed rezoning with the applicable development policies of abutting municipalities or other governmental agencies with jurisdiction.

**CWA Comments:** The western portion of the subject site abuts Bridgewater Township. The Bridgewater Township Master Plan's future land use map designates the properties along the shared boundary as "Agricultural Preservation Area" and "Public/Quasi Public." Existing land uses include a golf course and farmland.

We expect that the proposed rezoning and data center will have a minimal impact on the adjacent existing and planned land uses. The applicant's proposed conditions of approval will also ensure that an incompatible industrial land use is not developed on the properties in the future.

**Figure 1. Bridgewater Township Master Plan Land Use Map**



## RECOMMENDATIONS

The Commission must make a recommendation to the Township Board to approve or deny the rezoning according to the standards established in Section 12.04(E) of the Zoning Ordinance. The Commission may also postpone action so that the Township's planners, engineers, or applicants may provide additional information to inform the Commission's decision.

We encourage the Planning Commission to review the above findings and reference them in their recommendation to the Township Board.

CARLISLE/WORTMAN ASSOC., INC.  
Mike Auerbach  
Associate Planner, AICP

**Exhibit E**  
Saline Township Planning Commission  
Meeting Minutes  
August 12, 2025

**Saline Township Planning Commission  
Regular Meeting Minutes, August 12th 2025**

**Members Present:**

Tom Hammond, Darryl Zink, Stephen Rothfuss, Neil Bohnett, Ronnie Kohler, Levi Smith, Gary Luckhardt

**Members Absent:**

None

**Others Present:**

About 38 others

*Meeting* was called to order at 7:02 p.m.

*Roll* was taken; quorum was established

*Pledge of Allegiance* led by Rothfuss

*Approval of Agenda*, For August 12<sup>th</sup> 2025: Motion by Rothfuss to approve, support by Bohnett, vote; agenda approved unanimously.

**Announcements**

None.

**Call to the Public**

None.

**Old Business**

A. Conditional rezoning – Agricultural to Industrial/Research.

Brent with Related Digital gave a recap of the data center project. The total development of the project will be 250 acres the rest of the acreage will be put in

some kind of conservation. The commission had questions at the last meeting about traffic, lumination ,noise, and flooding.

-Traffic during construction will be coming from the east to the west in the morning when most normal traffic in the morning is headed west to east.

-Lumination- Lights will be shaded and turned down to 50% at night.

-Noise- Sound levels on the property now are at 68-70 decibels, The facility will be around 65 decibels.

-Flooding- They will put in retention ponds on the site to control the flow of storm water to the river they think this will help with the flooding.

Mike from Carlisle/Wortman explained on the table today is to decide to rezone the land or not. Fred Lucas commented on the funding that the township will be receiving from the project. The extra funding won't necessarily protect the township from all other development like solar or residential it might put the township in a better position to push back on some developments but definetly not bullet proof. In the current zoning of the property if it were to be developed they could put 1housing development/acre theirs no well or septic there so well and septic would have to align with that.

-David Jedele of Saline Township has questions about the tax revenues that Related Digital has presented he's asking if they can be reviewed or audited for accuracy.

- Eugene Heasul of Saline Township asked what happens if the U of M or any government agency or any tax-exempt company used the facility would it effect the revenue the township would receive.

-Stephen Rothfuss of Saline Township asked if there is any possibility of the facility being sold.

Answer: Yes

-Jeff Oliver of Bridgewater Township is questioning the hypothetical tax revenues promised to the township he doesn't believe they are accurate. He's also questioning the traffic study that was completed in a week says its not accurate. Also has issues with the timeline of the project he says its to aggressive and doesn't give the township time to review the project.

-Candy Rothfuss of Saline Township has researched other data centers says there are differences between what Related Digital is telling the township and the truth.

-Jessica Rothfuss of Saline Township asked when they first presented the project to the township and when they plan on starting construction. She thinks the timeline of the project is unrealistic.

Answer: Info about the project was given to the township on July 10<sup>th</sup> and they would like to start construction Oct. 2025.

-Linda Weidmayer of Saline Township has concerns about the construction traffic worsening the road conditions.

A motion was made by Kohler to not rezone the property (see attached) support by Bohnett. Motion passed 5-2.

**Public Comments**

None.

**Adjournment**

Motion made by Rothfuss at 9:02 p.m. support by Smith.

Darryl Zink

Saline Township Planning Commission, Secretary

**Exhibit F**  
MSU Extension Article  
“All Zoning Does Not Have to Include  
Everything in Michigan Zoning Enabling Act”  
Kurt H. Schindler

# All zoning does not have to include everything in the Michigan Zoning Enabling Act

Questions about this information? [Contact us](#). August 19, 2015

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

Local governments are provided with several zoning tools and techniques. But they all do not have to be used in every zoning ordinance. Local governments can choose to use certain tools, or not.

Just because the zoning technique is referenced in the [Michigan Zoning Enabling Act](#) (MZEA) (MCL 125.125.3101 *et seq.*) does not mean that tool or technique has to be a part of a local government's zoning ordinance.

In several (not all) cases the statute is permissive, providing the option for a local government to include the zoning technique in the zoning ordinance. In other cases it is not, and the local zoning ordinance has to address what is required by statute.

For example [conditional rezoning](#) (MCL 125.3405) is permissive, providing an option for local government to make this tool available for applicants, or not. The statute also makes it clear conditional rezoning is the applicant's option also, not allowing local government to initiate use of the zoning tool. Conditional rezoning is where an applicant wishes to petition to change zoning of a parcel(s). To reduce controversy or concerns the applicant might volunteer to condition the zoning amendment to restrict the use of the parcel(s) to only a specific certain land use. For example an ice cream store rather than all the possible land uses in a commercial district. If the zoning amendment is approved something like a deed restriction is placed on the parcel so that only the restricted uses of the parcel are possible.



Reviewing a zoning permit application site plan. MSU Extension Kurt H. Schindler.

The statute provides very broad concepts as to how such a rezoning is done. But it is extremely important to have additional detail (in local ordinance) concerning due process and other process and procedure before doing this. As a result it is often strongly advised a local unit of government do one of two things before considering a conditional rezoning:

1. Adopt as part of one's zoning ordinance much more detailed language as to process and procedures for handling conditional rezoning (as can be found at the [Michigan Townships Association](#) member's web page, where they prepared excellent sample language for this), or
2. Adopt as part of one's zoning ordinance language to the effect that the local unit of government does not approve or consider conditional rezoning.

This is one example where a local government has the option not to use, or to use, the tool provided in statute. There are other zoning tools, or techniques which are also optional for local government to use in their zoning ordinance. So a local government can have or not have:

- Possible special use permits (and this article) in one or more zoning districts,
- Planned Unit Developments (PUDs) (and this article),
- Zoning board of appeals (ZBA) hearing PUD or special use permit cases;
- Requirement of site plans (and this article) for things other than special use permits and PUDs,
- Open space zoning in a local government (limited transfer of development rights) with less than 1,800 population (must do so if 1,800 or more population),
- Purchase of development rights program,
- Performance guarantee requirement,
- Conditional rezoning,
- Various enforcement options (e.g., civil infraction), and for that matter
- Adopting a zoning ordinance in the first place.

But with each of these, the adopted zoning ordinance has to be specific as to which are, or are not, intended for use.

There are other things which ***shall*** be required if there is a zoning ordinance, including (but not listing all of them):

- A Planning Commission;
- A ZBA (and this article) and variances;
- Site plans for special use permits (and this article) and PUDs (and this article);
- Administrative and enforcement system/program (usually a zoning administrator (see also and this));
- Process for amending the zoning ordinance, (including protest petition (city, village) or referenda petition (county, township));
- Notice/notice requirements, hearings, and protocols;
- Zoning ordinance text and map;
- Open space zoning in a local government (limited transfer of development rights) if 1,800 or

more population;

- Accommodation of nonconforming uses (and this article);
- Due process; . . . .

Michigan State University Extension has training programs on many of these topics, as well as an intensive introductory training on planning and zoning. These programs are a couple of many MSU (Michigan State University) Extension offerings for local government and community, economic development officials. Contact your local government and public policy Educator to sponsor such training in your county.

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](https://extension.msu.edu)

Issued in furtherance of MSU Extension work, acts of May 8 and June 30, 1914, in cooperation with the U.S. Department of Agriculture. Quentin Tyler, Director, MSU Extension, East Lansing, MI 48824. This information is for educational purposes only. Reference to commercial products or trade names does not imply endorsement by MSU Extension or bias against those not mentioned.

The 4-H Name and Emblem have special protections from Congress, protected by code 18 USC 707.

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>).

**Exhibit G**  
“Notice of Public Hearing-  
Township of Saline, Planning Commission”  
For December 3, 2013  
Published November 14, 2013  
in *Saline Reporter*

## **NOTICE OF PUBLIC HEARING TOWNSHIP OF SALINE PLANNING COMMISSION**

NOTICE IS HEREBY GIVEN that a public meeting of the Saline Township Planning Commission will be held at the Saline Township Hall, on Tuesday, December 3, 2013, at 7:30 p.m., Saline Township Hall 5731 Braun Road Saline, MI 48176. During this meeting the Planning Commission will hold a public hearing to obtain public input and consider the following additions to the Saline Township Zoning Ordinance. The following is a summary only for the purposes of publication.

Amend the following (Summary Format):

### **Section 12.04 Amendments:**

To delete the current section of Amendments (Conditional Rezoning Prohibited) and replace with the following:

Conditional Rezoning - The Township may allow conditional rezoning to help ensure the proper use of land and natural resources and to allow for a more flexible approach to the rezoning process in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.). It is recognized that, in certain instances, it would be an advantage to both the Township and petitioners seeking rezoning of land if a site plan, along with conditions and limitations that may be relied upon by the Township, could be proposed as part of a petition for rezoning. Conditional rezoning of land must follow the standards and procedures as noted below.

- 1) The amendment procedure for a conditional rezoning shall follow the same procedure as a traditional rezoning amendment pursuant to this Section.
- 2) In addition to the procedures as noted in subsections B. through I., the specific procedures, standards, and requirements apply to all proposed conditional rezoning requests, including:
  - a. the request must be voluntarily offered;
  - b. shall not allow a use or activity that would not otherwise be allowed in the proposed zoning district;
  - c. shall not alter any of the various zoning requirements nor grant zoning variances;
  - d. shall not grant special land use approval.
- 3) Time limits and reversion of land to previous district. Requirements are itemized.
- 4) Review Procedures. The factors found in subsection E. must be considered in any Conditional Rezoning request.

As noted above, this is a summary only of the proposed changes. The full amended sections may be examined by contacting Trudy Feldkamp (Saline Township Planning Commission secretary, 734-883-3838), any other Planning Commission member, or the Saline Township clerk, by interested persons, 734-429-9968.

Any person having interest in said Hearing or their duly appointed representatives shall there and then be heard at the above described meetings or adjournment thereof relative to any matters that should come before the Planning Commission.

Saline Township will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon ten (10) days notice to Saline Township. Individuals with disabilities requiring auxiliary aids or services should contact Saline Township by writing or calling the Saline Township Clerk at 734-429-9968.

Written comments regarding the conditional use application should be directed to the Saline Township Clerk at Saline Township 4254 Arkona Road, Saline, MI 48176.

**Kelly Marion  
Saline Township  
Saline Reporter**

Publish November 14, 2013

**Exhibit H**  
Saline Township Planning Commission  
Meeting Minutes  
February 5, 2019

## **Saline Township Planning Commission** **Regular Meeting, February 5, 2019**

### **Members Present:**

Neil Bohnett, Trudy Feldkamp, Tom Hammond, Laurie Leinbach,  
Gary Luckhardt, Stephen Rothfuss

### **Members Absent:**

Robert Prehn

### **Others Present:**

James Marion, Robert Marion, Doug Lewan, Dan Cabage, William Anderson, Alan Greene, Brian Marl, approximately 25 others

*Meeting was called to order at 7:03 pm.*

*Roll was taken; quorum established.*

*Pledge of Allegiance led by Bohnett.*

*Approval of Minutes: Regular Meeting of December 4, 2018:* Motion by Bohnett, support by Leinbach; to approve minutes; vote; minutes approved unanimously.

*Approval of Agenda, February 5, 2019:* Motion by Rothfuss, to approve as presented, support by Luckhardt; vote; agenda approved unanimously.

### **Announcements**

Robert Prehn absent due to illness.

### **Call to the Public**

- 1) G. Roubal, City of Saline, supt/engineer, would like to see better traffic flow, mentioned memo.
- 2) B. Marl, City of Saline, mayor, City is concerned about sewage/water plant and discharge.

### **New Business**

- A. Items from the Board (James Marion), very quiet
- B. Other  
Nothing.

### **Old Business**

- A. Andelina Farms – Nikki Jeffries, M/I Homes of Michigan, provided updates. Revised plans were submitted in December. There was an engineering meeting in January. DEQ, test well has been dug and being tested. There will be a public meeting with the DEQ, in Saline at 2:00 pm (assume location at City Hall). There will be a public hearing soon after.

Water and waste water design, final plans to be submitted to DEQ next week (week of February 11), looking for approval by June. Plant will be owned by the developer; maintenance schedule, escrow account for maintenance.

Washtenaw County Road Commission, comments on traffic study. MDOT permit for roads. Wetland permit from DEQ is expected soon. Soil erosion study is pending. Fire and Police comments are pending.

Showed a rendering of storage tank, should be blocked from US12 view by trees. No open lagoon. Concrete tank. Biological treatment. Surface discharge. Plan for screening on the resident side. Discussed pricing of units near plant and tanks.

Easement with Austin Commons II has been obtained.

Doug Lewan – Public meeting with DEQ, should hear many of these same comments. Explained the PUD process. Area plan approval, then Preliminary PUD plan submitted, Final site plan review. High points – 1) unified control; 2) traffic impact study (referred to page 9 and 10 of his review memo dated January 31, 2019), is a multiphase project. Phase II and III will go through same process; 3) roads dead ending, need turnaround sufficient for fire, etc; 4) fire department review. Referred to item (7), additional detail for bus area; item (9), some information provided at this meeting. Tanks should be well-screened. Would like more detail. Tank is 20 feet high; item (14), need fire and police reports for service; items (19-20), what we have needs to be for this project specific; item (23), Master Deed and Bylaws needed.

Dan Cabage – will be maintained similar to River Ridge. (Atty. Lucas stated Township has no liability in this situation.) discharge is treated, Michigan DEQ sets the parameters for discharge. Need more final plan (current still has preliminary items). Washtenaw County standards for storm water, will have two ponds. Need building material and sidewalk details. More detail for outlet of discharge, more topography. MDOT is fine with layout, but needs more information on traffic impact study. Would like a secondary entrance. Watch speed limit changes.

Christen Mitchell, Saline City Council – If DEQ can't say where the plant sits, why go to the meeting?

D. Cabage – DEQ sets parameters for plant.

Alan Greene, attorney for Andelina, summarized history of

project and water treatment.

M. Hess, Saline resident – request public hearing be local.

Lots of traffic on Austin Road.

J. Marion – no traffic permits issued to date.

Township resident – single access; church traffic is heavy; shortage of commercial on west end of Saline; odor issue from River Ridge.

Motion to postpone decision until issues, are addressed by Leinbach; support by Luckhardt; unanimous in favor or motion.

B. Zoning Ordinance. Discussion at April 2 meeting

C. Other.

None.

**Public Comments**

None.

Bohnert moved for adjournment, Luckhardt support; vote unanimous; meeting adjourned, 8:35 p.m. Next regular meeting will be April 2, 2019, 7:00 p.m.

Trudy Feldkamp  
Saline Township Planning Commission, Secretary

**Exhibit I**

Freedom of Information Act Request  
By LuAnne Kozma  
To Saline Township Clerk Kelly Marion  
And  
Clerk Kelly Marion's responses  
Including four documents fulfilling the Request:

1. "Notice of Public Hearing-Township of Saline, Planning Commission" For December 3, 2013 Published November 14, 2013 in *Saline Reporter*
2. Saline Township Planning Commission Meeting Minutes from December 3, 2013
3. Saline Township Board of Trustees Meeting Minutes from December 9, 2013
4. "Section 12.04" Draft dated 7-22-13 of Conditional Rezoning zoning ordinance § 12.04(A) crossed out and proposed language underlined.

---

## FOIA request re Zoning Ordinance § 12.04(A)

---

LuAnne Kozma <luannekozma@gmail.com>  
To: Kelly Marion <salinetownship@gmail.com>

Thu, Jan 8, 2026 at 4:03 PM

Hi Kelly,

I have one more request.

This new Freedom of Information Act request is for copies of the following:

1. Ordinance Amendment showing the full text of any amendment to Section 12.04(A) that the Board of Trustees adopted after the 2007 Zoning Ordinance was adopted. The Zoning Ordinance Article 12 that downloads from the [salinetownship.org](http://salinetownship.org) website under Forms---> "Saline Township New Zoning Ordinance September 2007" has Section 12.04(A) with the following text:

A. **Conditional Rezoning Prohibited.**

**Conditional rezoning, as authorized by Section 405 of the Michigan Zoning Enabling Act, shall be prohibited in Saline Township. Any application for a rezoning amendment to the Official Zoning Map that includes proposed conditions or voluntary use or development limitations shall be returned to the applicant without Township review or consideration.**

I'm asking for documentation of any subsequent amendment that changed that ordinance text. If there are versions that are signed and dated, or not signed and not dated, I would like both versions.

Attached is Article 12 from your website, for your reference.

2. Published public notices in a newspaper(s) for a Township public hearing for considering an amendment to Zoning Ordinance Section 12.04(A), beginning in January 2013, to today.
3. Any published public notice in the newspaper noticing the Board's adoption of any Zoning Ordinance amendment amending 12.04(A) "Conditional Rezoning Prohibited" with its effective date.
4. The approved Board of Trustees meeting minutes adopting any amendment of 12.04(A) "Conditional Rezoning Prohibited."

5. Documents (such as a receipt or invoice showing "paid") showing the Township's payment for the published newspaper public notices for the public hearing and amendment adoption.

Thank you very much. Please let me know if you have any questions or need clarification.

Please let me know which of the above items you are denying due to no such document existing.

Sincerely yours,

LuAnne Kozma  
9330 Woods Road  
Charlevoix MI 49720  
231-547-2828  
[luannekozma@gmail.com](mailto:luannekozma@gmail.com)

---

 Article 12 - Procedures and Standards.pdf  
820K

---

## FOIA request re Zoning Ordinance § 12.04(A)

---

Kelly Marion <salinetownship@gmail.com>  
To: LuAnne Kozma <luannekozma@gmail.com>

Mon, Jan 26, 2026 at 7:09 PM

Hi LuAnne,

Please see the attached documents, which include the information the Township is able to provide in response to your request.

Thank you,

Kelly Marion  
Saline Township Clerk  
734-216-6462

[Quoted text hidden]

---

### 4 attachments

 **Notice Saline Reporter.pdf**  
462K

 **December 3.pdf**  
3002K

 **December 9.pdf**  
385K

 **Section 12.04.pdf**  
90K

---

## FOIA request re Zoning Ordinance § 12.04(A)

---

Kelly Marion <salinetownship@gmail.com>  
To: LuAnne Kozma <luannekozma@gmail.com>

Tue, Jan 27, 2026 at 4:38 PM

See below in bold blue.

1. Ordinance Amendment showing the full text of any amendment to Section 12.04(A) that the Board of Trustees adopted after the 2007 Zoning Ordinance was adopted. The Zoning Ordinance Article 12 that downloads from the [salinetownship.org](http://salinetownship.org) website under Forms---> "Saline Township New Zoning Ordinance September 2007" has Section 12.04(A) with the following text:

A. **Conditional Rezoning Prohibited.**

**Conditional rezoning, as authorized by Section 405 of the Michigan Zoning Enabling Act, shall be prohibited in Saline Township. Any application for a rezoning amendment to the Official Zoning Map that includes proposed conditions or voluntary use or development limitations shall be returned to the applicant without Township review or consideration. Response: This item does not exist under the name provided in your request or by another name reasonably known to the Township.**

I'm asking for documentation of any subsequent amendment that changed that ordinance text. If there are versions that are signed and dated, or not signed and not dated, I would like both versions.

Attached is Article 12 from your website, for your reference. **Response: All available public records related to amending Section 12.04(A) were provided with the previous FOIA request.**

2. Published public notices in a newspaper(s) for a Township public hearing for considering an amendment to Zoning Ordinance Section 12.04(A), beginning in January 2013, to today. **Response: All available public records were provided with the previous FOIA request.**

3. Any published public notice in the newspaper noticing the Board's adoption of any Zoning Ordinance amendment amending 12.04(A) "Conditional Rezoning Prohibited" with its effective date. **Response: This item does not exist under the name provided in your request or by another name reasonably known to the Township**

4. The approved Board of Trustees meeting minutes adopting any amendment of 12.04(A) "Conditional Rezoning Prohibited." **Response: This item does not exist under the name provided in your request or by another name reasonably known to the Township.**

5. Documents (such as a receipt or invoice showing "paid") showing the Township's payment for the published newspaper public notices for the public hearing and amendment adoption. **Response: This item does not exist under the name provided in your request or by another name reasonably known to the Township.**

Kelly Marion  
Saline Township Clerk  
734-216-6462

On Mon, Jan 26, 2026 at 7:59 PM LuAnne Kozma <luannekozma@gmail.com> wrote:

Could you please send me a reply letter that repeats the list of documents I requested, and then one by one, answer whether you are fulfilling that request or denying that request because no document exists?

It would just be more clear as to what was provided and what the Township was not able to provide because it does not exist.

LuAnne

On Mon, Jan 26, 2026 at 7:49 PM LuAnne Kozma <luannekozma@gmail.com> wrote:

Thank you Kelly. I see four documents here, all from 2013 including a draft ordinance in July 2013, a public hearing in Dec 2013, Planning Commission meeting minutes of Dec 3, 2013 with a vote to recommend, and then Dec 9, 2013 Board minutes to table any decision.

Is that correct?

LuAnne Kozma

On Mon, Jan 26, 2026 at 7:09 PM Kelly Marion <salinetownship@gmail.com> wrote:

Hi LuAnne,

Please see the attached documents, which include the information the Township is able to provide in response to your request.

Thank you,

Kelly Marion  
Saline Township Clerk  
734-216-6462

On Sat, Jan 10, 2026 at 5:42 PM LuAnne Kozma <luannekozma@gmail.com> wrote:

Thanks for the email, received.

LuAnne

On Sat, Jan 10, 2026 at 5:20 PM Kelly Marion <salinetownship@gmail.com> wrote:

Your request was received on January 9.

I will need the 5 business days and the additional 10 business days extension for a total of 15 business days.

Thank you,  
Kelly Marion  
Saline Township Clerk  
734-216-6462

On Thu, Jan 8, 2026 at 4:03 PM LuAnne Kozma <[luannekozma@gmail.com](mailto:luannekozma@gmail.com)> wrote:

Hi Kelly,

I have one more request.

This new Freedom of Information Act request is for copies of the following:

1. Ordinance Amendment showing the full text of any amendment to Section 12.04(A) that the Board of Trustees adopted after the 2007 Zoning Ordinance was adopted. The Zoning Ordinance Article 12 that downloads from the [salinetownship.org](http://salinetownship.org) website under Forms---> "Saline Township New Zoning Ordinance September 2007" has Section 12.04(A) with the following text:

A. **Conditional Rezoning Prohibited.**

**Conditional rezoning, as authorized by Section 405 of the Michigan Zoning Enabling Act, shall be prohibited in Saline Township. Any application for a rezoning amendment to the Official Zoning Map that includes proposed conditions or voluntary use or development limitations shall be returned to the applicant without Township review or consideration.**

I'm asking for documentation of any subsequent amendment that changed that ordinance text. If there are versions that are signed and dated, or not signed and not dated, I would like both versions.

Attached is Article 12 from your website, for your reference.

2. Published public notices in a newspaper(s) for a Township public hearing for considering an amendment to Zoning Ordinance Section 12.04(A), beginning in January 2013, to today.
3. Any published public notice in the newspaper noticing the Board's adoption of any Zoning Ordinance amendment amending 12.04(A) "Conditional Rezoning Prohibited" with its effective date.
4. The approved Board of Trustees meeting minutes adopting any amendment of 12.04(A) "Conditional Rezoning Prohibited."

5. Documents (such as a receipt or invoice showing "paid") showing the Township's payment for the published newspaper public notices for the public hearing and amendment adoption.

Thank you very much. Please let me know if you have any questions or need clarification.

Please let me know which of the above items you are denying due to no such document existing.

Sincerely yours,

LuAnne Kozma  
9330 Woods Road  
Charlevoix MI 49720  
231-547-2828  
[luannekozma@gmail.com](mailto:luannekozma@gmail.com)

# Colorful outfits, Hawaiian music and prizes at Rotary Club dinner

By Martha Churchill  
For Heritage Media.

MILAN — About 200 people wearing flowered outfits converged on the Father Joe center in Milan Nov. 2 for the festive Hawaiian Dinner to support the Milan Rotary Club.

Richard Massey operated sound equipment, supplying Hawaiian luau music. Meanwhile Rotarian Kirk Straub announced the various games and prizes, including a pineapple for winning the hula hoop contest, all the way up to a pair

of diamond earrings and a caribbean cruise.

Plenty of beverages were available while admiring the artworks, household goods, vacations, and jewelry available by bidding.

The party warmed up as Back In The Day Catering served a elaborate buffet dinner, followed by coffee and deserts.

Straub had a small swimming pool on the stage, filled with toy sailboats. He had a few of them taken out at various times during the evening. Each time a boat came out of the water, he

announced "Boat number 39 is not going to win the caribbean cruise!"

Fifty people had invested \$50 each in the cruise raffle. The kiddie pool started out with 50 boats floating in it. All through the evening, more and more boats were taken out of the water at random, until finally one boat was left, the winner of the cruise raffle.

The winner was Ashley Barker of Monroe. Hopefully she will keep her flowered outfit from the Rotary dinner and wear it while visiting Cozumel or



Photos by Martha Churchill

**Martin Ritchie** of the Milan Area Fire Department enjoys the Hawaiian theme with his wife, Carrie. She is the branch manager for Monroe Bank & Trust in Milan, and President of the Milan Area Chamber of Commerce.



After dinner, people flocked up to the front to play the heads-or-tails game. Lisa Straub, left, in a grass skirt, indicates her choice is "tails" while Gwen Hodges decides on "heads." Every time the coin is tossed, about half the people have to sit down, until finally one winner remains. This game was so popular, there were four rounds of it.

Isla Roatan.

The party goers smiled as they greeted their friends and made new friends. At the same time, the Rotary Club was raising money for good causes in the Milan area and around the world.

Dr. Burt Hodges, a long-time Rotarian, estimated

the dinner would take in roughly \$20,000 to be applied to important needs locally and worldwide.

Kirk Straub announced the Milan Rotary Club has contributed almost \$40,000 to charity this past year: \$500 for Christmas baskets to needy families in the Milan area; \$2,500

for Seniors for Healthy Living; \$2,500 for Aid in Milan; \$1,000 for Milan police equipment; \$1,500 for the Hack House museum; \$500 to help residents of Haiti with dental needs; and \$5,000 for Polio Plus, a program to end polio worldwide, among others.

## COMMUNITY CALENDAR

**SALINE**  
Fridays  
Still Waters Counseling, 137 Keveling Drive, Saline, hosts a weekly Meditation Group starting at noon on Fridays. Meditation is like exercise for the brain, just as many health benefits. Come join the group to learn and practice meditation skills that will help you keep your brain healthy for years to come. No experience needed. Drop-ins are welcome.

The group is led by Smita Nagpal, Ph.D., Licensed Psychologist. For more information call 734-944-3446 or email smita@still-waters-counseling.com.

**Nov. 27 through Dec. 18**  
Mail Your Letter to Santa, mailbox is located in front of Mac's Acadian Seafood Shack. Include your address so Santa can respond. For more information, contact Saline Area Chamber of Commerce at 429-4494.

**Friday, Dec. 6**  
Saline's annual Christmas Tree Lighting Ceremony will be held at the corner of Michigan Ave and N. Ann Arbor Street starting at 7p.m. on Dec. 6. There will be refreshments and entertainment. For more information contact Saline Area Chamber of Commerce at 429-4494.

**Saturday, Dec. 7**  
The Saline Holiday/Christmas Parade set for 5:30 p.m. Dec. 7 will start at Davenport Street and East Michigan Avenue and continue west down Michigan to Lewis Street. The 38th Annual Parade theme is "A Charlie Brown Christmas" with floats, bands, baton twirlers, unicyclists, hot air balloon, a train boxcar, Dance Alliance, Mrs. Claus, horses, dogs, and Santa arriving in his sleigh with his chief elf. For more information contact Saline Area Chamber of Commerce at 429-4494.

**Saturday, Dec. 7**  
Following the Dec. 7 Holiday/  
Publish November 13 & 14, 2013

Treasure Trail to Santa in the Saline Shopping Center from 10 a.m. to 1:30 p.m. Kids pick up your treasure map at Physical Therapy in Motion, 505 E. Michigan Ave., and follow the trail to Santa. Fun Family Holiday Event, also includes Carriage Ride, petting animals, refreshments. For more information contact Saline Area Chamber of Commerce at 429-4494.

**MILAN**

Milan Free Methodist Church announces additional morning worship time at 9:30 a.m. each Sunday with Sunday school running concurrently and another service at 11:00 a.m. The church is located at 950 E. Arkona Rd. Call 439-2414 for information. All are welcome.

## WASHTENAW COUNTY

**Saturday, Dec. 14**  
Ann Arbor's 20th Annual Cookie Walk is set from 9 to 11 a.m.

### THE CITY OF SALINE NOTICE

The annual loose leaf collection program is scheduled for Oct. 31-Dec. 3, 2013, weather permitting. Residential curbside yard waste collection is scheduled to end Nov. 30, 2013. For more information on the loose leaf collection program or curbside yard waste collection, visit [www.cityofs saline.org](http://www.cityofs saline.org).

**THE CITY OF SALINE**

**Jeff Fordice, DPW Director**

Publish November 14, 2013

Dec. 14 at the First United Methodist Church, 120 S. State St., Ann Arbor.

Pre-packaged or "select your own" homemade cookies for sale. Choose from an array of decorated sugar cookies, Russian tea cakes, chocolate crinkles, peanut blossoms and many more varieties. Proceeds benefit local, national and international missions. For more information, call 734-662-4536.

### City of Milan Parks and Recreation Master Plan Public Notice

Notice of Availability of Draft Plan for Public Review  
The City of Milan has prepared a draft 5-Year Parks and Recreation Master Plan to guide the future development of parks and recreation in Milan.

The public is welcome to view a copy of the draft plan for review and comments. The plan is available at City Hall (147 Wabash Street), the Milan Senior & Community Center (45 Neckel Court), the Milan Library (151 Wabash St.), the Police Department (35 Neckel Court), and on the City's website at [www.milanmich.org](http://www.milanmich.org).

The City will accept any comments on the plan until December 16, 2013. Please address your comments to Ellen Bell, Interim Parks and Recreation Director, via mail at 45 Neckel Court, Milan, MI 48160 or via email at [ellen.bell@ci.milan.mi.us](mailto:ellen.bell@ci.milan.mi.us).

For further information please call:  
**Ellen Bell, (734) 439-4307**

Publish November 14, 2013

### NOTICE OF PUBLIC HEARING TOWNSHIP OF SALINE PLANNING COMMISSION

NOTICE IS HEREBY GIVEN that a public meeting of the Saline Township Planning Commission will be held at the Saline Township Hall (147 Wabash St.), Saline, MI 48176. During this meeting the Planning Commission will hold a public hearing to obtain public input and consider the following additions to the Saline Township Zoning Ordinance. The following is a summary only for the purposes of publication.

Amend the following (Summary Format):

**Section 12.04 Amendments**

To delete the current section of Amendments (Conditional Rezoning Prohibited) and replace with the following:

**Conditional Rezoning** - The Township may allow conditional rezoning to help ensure the proper use of land and natural resources and to allow for a more flexible approach to the rezoning process in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.). It is recognized that, in certain instances, it would be an appropriate condition to rezone land or properties seeking rezoning if a site plan, along with conditions and limitations that me be relied upon by the Township, could be proposed as part of a petition for rezoning. Conditional rezoning of land must follow the standards and procedures as noted below.

1. The amendment procedure for a conditional rezoning shall follow the same procedure as a traditional rezoning amendment pursuant to this Section.

2. In addition to the procedures as noted in subsections B. through L, the specific procedures, standards, and requirements apply to all proposed conditional rezoning requests, including:

a. the request must be voluntary;

b. shall not allow a use or activity that would not otherwise be allowed in the proposed zoning district;

c. shall not alter any of the various zoning requirements nor grant zoning variances;

d. shall not grant special land use approval.

3. The proposed conditional rezoning of land to previous district Requirements are itemized.

4. Review Procedures. The factors found in subsection E. must be considered in any Conditional Rezoning request.

As noted above, this is a summary only of the proposed changes. The full amended sections may be examined by contacting the Saline Township Planning Commission secretary, 734-993-0838, any other Planning Commission member, or the Saline Township clerk, or interested persons, 734-429-9968.

Any person having interest in said Hearing or their duly appointed representatives shall there and then be heard at the above described meetings or adjournment thereof relative to any matters that should come before the Planning Commission.

Saline Township will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon ten (10) days notice to Saline Township individuals with disabilities requiring auxiliary aids or services should contact Saline Township by writing or calling the Saline Township Clerk at 734-429-9968.

Written comments regarding the conditional use application should be directed to the Saline Township Clerk at Saline Township 4254 Arkona Road, Saline, MI 48176.

**Kelly Marion  
Saline Township  
Saline Reporter**

Publish November 14, 2013

## CITY OF SALINE WASHTENAW COUNTY, MICHIGAN ORDINANCE NO. 752

AN ORDINANCE TO AMEND SECTION 94-2 OF THE SALINE CITY CODE TO PROVIDE CLARIFICATION ON UTILITY BILLING LATE FEES AND INTEREST CHARGES

The City of Saline Ordains:

**Section 1. Amendment.** Section 94-2 of the City of Saline Code of Ordinances is amended to read:

**Sec. 94-2. Billing: when charges due; delinquency penalty.**

(a) Billing for water and sewer charges shall be made on or before the first day of the month quarterly, bimonthly, or monthly as determined from time to time by resolution of the City Council and shall be due and payable on the first day of the month following month.

(b) For all bills not paid when due, a penalty shall be added thereto, as specified by resolution or policy of the City Council.

(c) In addition to the penalty authorized by subsection (b) above, interest, as specified by resolution or policy of the City Council shall be imposed one month after penalty is assessed and collected on all delinquent water and sewer bills until paid or until transferred to the county.

(d) In addition to the penalty and interest authorized by this section, administrative fees, as specified by resolution or policy of the City Council, shall be imposed and added to all such delinquent bills which are transferred to the county for collection by addition to the tax roll.

**Section 2. Effective date.** This ordinance shall become effective 20 days after its adoption or upon its publication, whichever occurs later.

MOVED BY Councilmember Rhoads SECONDED BY Councilmember Roth that the foregoing Ordinance No. 752 be adopted.

YEAS: TerHaar, Roth, Rhoads, Marl, Bourquin, Peters, Girbach

NAYS: ABSTAIN: \_\_\_\_\_

### CERTIFICATION

Ordinance No. 752 declared adopted at a Regular Meeting of the Saline City Council held on November 4, 2013, subject to the receipt of written acceptance of the Grantee filed with the City Clerk.

**Brian Marl, Mayor**

**Terri Royal, City Clerk**

Introduced: November 4, 2013

Adopted: November 4, 2013

Published: November 14, 2013

Effective: December 4, 2013

**For Sale**

**CITY OF MILAN NOTICE**

**REQUEST FOR SEALED BIDS**

The City of Milan is accepting sealed bids for the sale of the following used vehicles & equipment:

Item #1 — One 1984 Ford F-8000 Dump Truck — Minimum bid \$2,000

Item #2 — One 1995 Ford F-250 Club Cab Pick-up with Boss V-Blade Plow — Minimum bid \$2,500

Item #3 — One 1998 Ford Street Sweeper — Minimum bid \$3,000

Item #4 — One 2000 Ford Taurus — Minimum bid \$1,500

Item #5 — One 2001 Dodge 1500 Club Cab Pick-up — Minimum bid \$1,000

Item #6 — One 2005 Dodge Durango — Minimum bid \$2,000

Item #7 — One Insert Salt Spreader — Minimum bid \$500

Item #8 — One (Set of 2) Firestone Turf Tires — No Minimum

Sale items may be viewed at the City of Milan City Hall parking lot, 147 Wabash St., Milan, MI 48160. Photos & additional information available on the City of Milan website: [www.milanmich.org](http://www.milanmich.org)

All vehicles and equipment will be sold "as is / where is". The City of Milan reserves the right to reject any or all bids, or select the bid that may be in the best interest of the City of Milan. Sealed bids must be addressed to the Clerk/Treasurer, must be clearly labeled "MOTORPOOL EQUIPMENT BID", and will be received at the Milan City Hall, 147 Wabash, Milan, MI 48160 until Tuesday November 26, 2013 at 11:00 am, at which time bids will be opened and read aloud.

Publish November 14, 2013

## Saline Township Planning Commission Regular Meeting/Public Hearing, December 3, 2013

### Members Present:

Neil Bohnett, Trudy Feldkamp, Laurie Leinbach, Gary Luckhardt,  
Robert Prehn, Richard Zahn

### Members Absent:

Chuck Rankin

### Others Present:

Jim Marion, Dan Cabage

Meeting was called to order at 7:30 pm., Richard Zahn presiding.

Roll was taken; quorum established.

Pledge of Allegiance led by Luckhardt.

Approval of Minutes: Regular Meeting of August 6, 2013, Motion by Bohnett; support by Prehn, to approve minutes of meeting; vote; minutes approved unanimously.

Approval of Agenda, December 3, 2013: Motion by Prehn to approve as presented, support by Bohnett; vote; agenda approved unanimously.

### Announcements

Zahn, Rankin is unable to attend.

J. Marion, road mileage passed, but we will miss a year in funding. Shouldn't be an issue as the township general fund is in good shape.

Feldkamp, Feldkamp Road is a mess; scraped by the County as it was raining.

Bohnert, some roads are good but there are others that are not.

Marion, there has been discussion with John Stanowski (York Township supervisor) and Saline Township will share the maintenance of Maple Road with York Township. Saline Township will be responsible for the south side of the road; York will be responsible for the north side.

Prehn, the Board reaffirmed the marijuana ordinance.

### Call to the Public

No comments.

### Public Hearing

To discuss the proposed ordinance change, section 12.04 Amendments (conditional rezoning ordinance amendment). Called to order at 7:43. Reviewed the proposed change. Discussion. Prehn, motion to accept the revision as presented and recommends adoption of the amendment to the Township board. Leinbach support. Vote: Bohnett-yes; Feldkamp-yes; Leinbach-yes; Luckhardt-yes; Prehn-yes; Zahn-yes. Nays-none. Motion passed unanimously.

Motion by Prehn to close the public hearing; support by Bohnett; vote unanimous to close the public hearing.

**New Business**

- A. Items from the Board (J. Marion)
  - 1 Bridgewater Carpentry has repaired the handicapped ramp at the Township Hall. The repairs were completed prior to the November election.
  - 2. Other items discussed during announcements.
  
- B. Any Other
  - 1. Dan Cabage will begin setting up annual gravel pit inspections. He will try for December inspections.
  - 2. J. Marion, there will be a Board of Review meeting on December 10, at 10:00 a.m.

**Old Business**

- A. Saline Ventures. J. Marion has been in contact with their representatives. He will suggest an informal meeting with himself, Todd Campbell (City of Saline) and Doug Lewan for some time in January to discuss the sewer/water issue.

Prehn, why not a 425 agreement? Discussion. For our purposes, this issue is on hold. Need to have a response from the applicant.

- B. Any Other.

None.

**Public Comments**

Charles Rankin is no longer living in the Township. J. Marion consulted with the Michigan Township Association, and one member of the Planning Commission can be a qualified elector of another local unit of government. [Note: Taken from the Michigan Planning Enabling Act, Act 33 of 2008] Meaning, Rankin may remain on the Planning Commission.

Meeting for 2014 will be:

February 4  
April 1  
June 3  
August 5  
October 7  
December 2

We were reminded by J. Marion that we are required to have a minimum

of four meetings a year.

Bohnert moved for adjournment, Prehn support; vote; meeting adjourned, 8:05 p.m. Next regular meeting will be on February 4, 2014, 7:30 p.m.

Trudy Feldkamp  
Saline Township Planning Commission, Secretary

Saline Township  
Conditional Rezoning Ordinance Amendment

## Section 12.04 Amendments.

The Township Board may amend, supplement or revise the provisions of this Ordinance or Official Zoning Map. Such actions shall be in accordance with the provisions of the Michigan Zoning Enabling Act and the following:

### A. Conditional Rezoning.

As an alternative to a rezoning amendment as described in subsection B., the Township may allow conditional rezoning to help ensure the proper use of land and natural resources and to allow for a more flexible approach to the rezoning process in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.). It is recognized that, in certain instances, it would be an advantage to both the Township and petitioners seeking rezoning of land if a site plan, along with conditions and limitations that may be relied upon by the Township, could be proposed as part of a petition for rezoning. Conditional rezoning of land must follow the standards and procedures as noted below.

**Formatted:** List Paragraph, Indent: Hanging: 0.5", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

**Formatted:** List Paragraph

1. The amendment procedure for a conditional rezoning shall follow the same procedure as a traditional rezoning amendment pursuant to this Section.

**Formatted:** List Paragraph, Space Before: 12 pt, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

2. In addition to the procedures as noted in subsections B. through I., the following specific procedures, standards, and requirements apply to all proposed conditional rezoning requests.

a. A conditional rezoning request must be voluntarily offered by an owner of land within the Township. All offers must be made in writing and must provide the specific conditions to be considered by the Township as a part of the rezoning request. All offers shall be in the form of a written agreement approvable by the Township and property owner, incorporating the conditional rezoning site plan and setting forth any conditions and terms mutually agreed upon by the parties relative to the land for which the conditional rezoning is sought.

**Formatted:** List Paragraph, Space Before: 12 pt, Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1" + Indent at: 1.25"

b. Conditional rezoning shall not allow a use or activity that would not otherwise be allowed in the proposed zoning district.

c. Conditional rezoning shall not alter any of the various zoning requirements for the uses in question, i.e. parking, landscaping, lot area, lot width, building height, setbacks, lot area coverage, etc. Conditional rezoning shall not grant zoning variances of any kind. Any zoning variance must follow the provisions of Section 17.07.

Saline Township  
Conditional Rezoning Ordinance Amendment

- d. Conditional rezoning shall not grant special land use approval. The process for review and approval of conditional land uses must follow the provisions of Section 12.02.
- e. All conditions offered by a land owner in relation to a rezoning request must have a direct relationship to the rezoning itself. The provisions to allow conditional rezoning shall not be construed to allow rezoning by exaction.
- f. In addition to the informational requirements provided in subsection C, herein, the applicant must provide a conditional rezoning site plan prepared by a licensed professional allowed to prepare such plans under this chapter, that may show the location, size, height or other measures for and/or of buildings, structures, improvements, and features, including natural features on, and in some cases adjacent to, the property that is the subject of the conditional rezoning of land. The details to be offered for inclusion in the conditional rezoning site plan shall be determined by the applicant, subject to approval of the Township. A conditional rezoning site plan shall not replace the requirement under this Ordinance for plan review and approval, or subdivision or site condominium approval, as the case may be.

3. Time limits and reversion of land to previous district.

- a. If the proposed conditions of rezoning are acceptable to the Township, the Township may establish a time period during which the conditions apply to the property and must be met. If the conditions are not satisfied within the time specified under this section, the property shall revert to its former zoning classification unless an extension is granted as noted below. Reversion of a property back to its former classification must follow the rezoning amendment provisions as provided in subsection D, below.
- b. Unless a reversion of the zoning takes place as described in the section above, the approved conditional rezoning shall be binding upon the subject property owner, his heirs, successors, assigns, and transferees.
- c. Upon approval of a conditional rezoning, a copy of the written agreement between the property owner and township shall be filed with the County Register of Deeds, which shall act to provide notice to all subsequent owners of the property of the conditions approved and agreed to by the Township.
- d. The Township may not add to or alter any conditions approved as a part of the rezoning during the time period specified above.
- e. The time limits specified and approved by the Township may be extended upon the application of the landowner and approval of the Township.

**Formatted:** List Paragraph, Space Before: 12 pt, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

**Formatted:** List Paragraph, Space Before: 12 pt, Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1" + Indent at: 1.25"

Saline Township  
Conditional Rezoning Ordinance Amendment

4. Review Procedures. The factors found in subsection E. must be considered in any  
Conditional Rezoning request.

**Formatted:** List Paragraph, Space Before: 12 pt, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

**Formatted:** Font: 12 pt

# TOWNSHIP OF SALINE

COUNTY OF WASHTENAW

SALINE, MICHIGAN 48176

JAMES C. MARION \* SUPERVISOR  
KELLY L. MARION \* CLERK  
JUDY M. GORDON \* TREASURER

ROBERT L. PREHN \* TRUSTEE  
ROBERT J. MARION \* TRUSTEE

Regular Meeting  
December 9, 2013  
Page 1 of 2

1. The Regular Meeting of the Saline Township Board was called to order by Supervisor Marion on December 9, 2013 at 7:30PM at the Saline Town Hall, 5731 Braun Road, Saline, MI 48176.
2. Members present: Supervisor Marion, Clerk Marion Treasurer Gordon, Trustee R. Marion and Trustee R. Prehn. Two other citizens were present.
3. Mr. R. Prehn led the Pledge of Allegiance.
4. Mr. R. Marion moved, supported by Mrs. Gordon that the agenda be approved as presented.
5. Mr. Robert. Marion moved, supported by Mr. Robert Prehn, that the consent agenda be approved as presented.
  - a. Approve minutes from November 11th regular meeting
  - b. Receive Clerk's budget, Financial Report
  - c. Approve accounts payable for November in the amount of \$4,462.72
  - d. Approve November payroll in the amount \$5,311.48
  - e. Approve final payment to Washtenaw County Road Commission for brine/lime stone project in the amount of \$25,084
6. Citizens were offered a chance to address the Board regarding items not already on the agenda. Dan Cabage, township engineer stated that the gravel pit inspections should be completed by January.
7. Supervisor's Report
  - a. Planning Commission- At this time Saline Ventures has not addressed the Planning Commission any further. A **MOTION** was made by Mrs. J Gordon and supported by Ms. Kelly Marion to table the decision on an ordinance change (conditional rezoning ordinance amendment) until the board has a chance to review the Planning Commissions minutes/request. Ayes 5 Nays 0
  - b. Sheriff's Report- Several traffic violation however no major incidences.
  - c. Feldkamp Bridge – A **MOTION** was made by Mr. R. Prehn and supported by Mr. R. Marion to table the signing of the Feldkamp Bridge contract with Washtenaw County Road Commission until the Board has a better understanding of the bid that was presented. Ayes 5 Nays 0

Regular Meeting  
December 9, 2013  
Page 2 of 2

8. No Trustee Report
9. No Zoning/Building Administrator Report
10. Fireboard reported that a new at large member was voted in.
11. No Township Hall Manager Report
12. No Board Member Comments
13. The meeting adjourned at 8:05 pm.

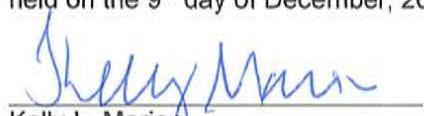


Kelly L. Marion  
Saline Township Clerk



James C. Marion  
Saline Township Supervisor  
**CERTIFICATION**

I, the undersigned, Kelly L. Marion, the duly qualified and elected Clerk for the Township of Saline, Washtenaw County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of the proceedings taken by the Township Board of said Township at a regular board meeting held on the 9<sup>th</sup> day of December, 2013.



Kelly L. Marion  
Saline Township Clerk

## Section 12.04 Amendments.

The Township Board may amend, supplement or revise the provisions of this Ordinance or Official Zoning Map. Such actions shall be in accordance with the provisions of the Michigan Zoning Enabling Act and the following:

### A. Conditional Rezoning Prohibited.

~~Conditional rezoning, as authorized by Section 405 of the Michigan Zoning Enabling Act, shall be prohibited in Saline Township. Any application for a rezoning amendment to the Official Zoning Map that includes proposed conditions or voluntary use or development limitations shall be returned to the applicant without Township review or consideration.~~

### A. Conditional Rezoning.

As an alternative to a rezoning amendment as described in subsection B., the Township may allow conditional rezoning to help ensure the proper use of land and natural resources and to allow for a more flexible approach to the rezoning process in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.). It is recognized that, in certain instances, it would be an advantage to both the Township and petitioners seeking rezoning of land if a site plan, along with conditions and limitations that may be relied upon by the Township, could be proposed as part of a petition for rezoning. Conditional rezoning of land must follow the standards and procedures as noted below.

1. The amendment procedure for a conditional rezoning shall follow the same procedure as a traditional rezoning amendment pursuant to this Section.
2. In addition to the procedures as noted in subsections B. through I., the following specific procedures, standards, and requirements apply to all proposed conditional rezoning requests.
  - a. A conditional rezoning request must be voluntarily offered by an owner of land within the Township. All offers must be made in writing and must provide the specific conditions to be considered by the Township as a part of the rezoning request. All offers shall be in the form of a written agreement approvable by the Township and property owner, incorporating the conditional rezoning site plan and setting forth any conditions and terms mutually agreed upon by the parties relative to the land for which the conditional rezoning is sought.
  - b. Conditional rezoning shall not allow a use or activity that would not otherwise be allowed in the proposed zoning district.

- c. Conditional rezoning shall not alter any of the various zoning requirements for the uses in question, i.e. parking, landscaping, lot area, lot width, building height, setbacks, lot area coverage, etc. Conditional rezoning shall not grant zoning variances of any kind. Any zoning variance must follow the provisions of Section 17.07.
- d. Conditional rezoning shall not grant special land use approval. The process for review and approval of conditional land uses must follow the provisions of Section 12.02.
- e. All conditions offered by a land owner in relation to a rezoning request must have a direct relationship to the rezoning itself. The provisions to allow conditional rezoning shall not be construed to allow rezoning by exaction.
- f. In addition to the informational requirements provided in subsection C. herein, the applicant must provide a conditional rezoning site plan prepared by a licensed professional allowed to prepare such plans under this chapter, that may show the location, size, height or other measures for and/or of buildings, structures, improvements, and features, including natural features on, and in some cases adjacent to, the property that is the subject of the conditional rezoning of land. The details to be offered for inclusion in the conditional rezoning site plan shall be determined by the applicant, subject to approval of the Township. A conditional rezoning site plan shall not replace the requirement under this Ordinance for plan review and approval, or subdivision or site condominium approval, as the case may be.

3. Time limits and reversion of land to previous district.

- a. If the proposed conditions of rezoning are acceptable to the Township, the Township may establish a time period during which the conditions apply to the property and must be met. If the conditions are not satisfied within the time specified under this section, the property shall revert to its former zoning classification unless an extension is granted as noted below. Reversion of a property back to its former classification must follow the rezoning amendment provisions as provided in subsection D. below.
- b. Unless a reversion of the zoning takes place as described in the section above, the approved conditional rezoning shall be binding upon the subject property owner, his heirs, successors, assigns, and transferees.
- c. Upon approval of a conditional rezoning, a copy of the written agreement between the property owner and township shall be filed with the County Register of Deeds, which shall act to provide notice to all subsequent owners of the property of the conditions approved and agreed to by the Township.

Saline Township  
Conditional Rezoning Ordinance Amendment

- d. The Township may not add to or alter any conditions approved as a part of the rezoning during the time period specified above.
  - e. The time limits specified and approved by the Township may be extended upon the application of the landowner and approval of the Township.
4. Review Procedures. The factors found in subsection E. must be considered in any Conditional Rezoning request.

# **EXHIBIT 2**

**State of Michigan  
Washtenaw County Circuit Court**

RD Michigan Property Owner I LLC, et al  
Plaintiffs,

Case # 2025-001577-CZ

v

Honorable Julia B. Owdziej

Date filed: September 12, 2025

Saline Township,  
Defendant,

/

Kathryn Elizabeth Haushalter  
Proposed Intervening Co-  
Defendant/Cross-Claimant

v

Saline Township,  
Proposed Cross-Claim  
Defendant

/

**Affidavit of Ashley Haushalter**

1. I am the husband of Proposed Intervenor Kathryn Elizabeth Haushalter. We live at 7760 Willow Road in Saline Township.
2. We are within earshot of the site of the proposed Data Center, and can see the property's lights from our home. For example, here is a phone shot:



8:26

5G 57



Dec 29, 2025  
5:32 AM



Share



Edit



Add to



Trash



3. Also we and our children can hear the noisy construction, which is expected to last two years, and which is way above the noise limit in ¶ 3(t) of the Consent Judgment. The noise is also way above the reasonable expectations of any rural landowner.

4. I have viewed the video of the Township Board meeting on October 1, 2025, and heard Township attorney David Landry say twice that monitoring wells for water would be installed “immediately,” that is, “before construction starts” for the Data Center. The Consent Agreement says the same thing in ¶ 3(k).

5. I attended a Township meeting on January 28, 2026. Many RD and Township Board members and other officials and lawyers were in the room as well as many citizens. One of the officials was Township Engineer Dan Cabage.

6. Prior to that date I observed hundreds of trucks going in and out of the site every day.

7. The issue of monitoring wells was raised at the meeting on January 28. In front of the crowd Engineer Cabage answered that the company's equipment was broken and monitoring wells had not been installed.

8. Cabbage had also said at the December Board meeting that the monitor wells had not been installed.

9. The fact of ongoing construction without monitoring wells was a violation of what Landry said on October 1, as well as of the Consent Judgment.

10. No one in the room contradicted Cabage.

11. Officials present likely included members of the advisory committee established in ¶ 3(r) of the Consent Judgment, whose job was to “identify any ongoing issues or complaints and discuss in good faith reasonable steps to address such issues and complaints.” If none of that committee was actually present, certainly the officials present should have reported Cabage's admission to it.

12. Corroborating my observations, on February 4 Mlive published an article which included aerial drone video and photos of the Data Center construction site. It is visible now at <https://www.mlive.com/news/ann-arbor/2026/02/see-aerial-footage-of-massive-data-center-under-construction-near-saline.html>

13. As can be seen in the broadcast, and as the article states:

“Work has already begun on a massive, controversial data center north of Michigan Avenue in Saline Township. A parade of trucks could be seen hauling earth away from the 575-acre site Wednesday morning, where heavy equipment was leveling several swaths of land. “

Subscribed and sworn to before me, this  
11 day of February, 2026.

Ashley Haushalter



---

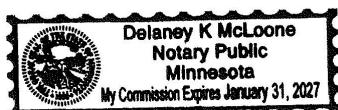
Ashley Haushalter

Delaney McLoone



Notary public, Washtenaw County  
Michigan

My commission expires: 1/31/2027



Online Notary Public. This notarial act involved the use of  
online audio/video communication technology.  
Notarization facilitated by SIGNiX®

# **EXHIBIT 3**

2003 WL 21108470

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK  
COURT RULES BEFORE CITING.

Court of Appeals of Michigan.

Dennis L. CUSON, Kevin C. Heinig, Michael J. Barron, and Jay Fisher, Plaintiffs-Appellants,

v.

TALLMADGE CHARTER TOWNSHIP and Land Acquisition, LLC., Defendants-Appellees,

and

PANDA TALLMADGE POWER,  
L.P., Intervening Defendant-Appellee.

No. 234157.

|

May 15, 2003.

Before: WILDER, P.J., and GRIFFIN and SMOLENSKI, JJ.

[UNPUBLISHED]

PER CURIAM.

\*<sup>1</sup> Plaintiffs appeal as of right an order and opinion of the circuit court granting defendants' motions for summary disposition.<sup>1</sup> We affirm.

I

In court II of their complaint, plaintiffs seek to vacate a consent judgment entered in a previous case, *Land Acquisition, LLC v. Tallmadge Charter Twp* (Ottawa Circuit Court file No. 99-32939-CZ). In this collateral attack,<sup>2</sup> plaintiffs claim that the judgment entered by the Ottawa Circuit Court in settlement of File No. 99-32939-CZ violates the township rural zoning act (TRZA), M.C.L. § 125.271 *et seq.*, and public policy. In count I of their amended complaint, plaintiffs allege defendant Tallmadge Charter Township (township) violated Michigan's Open Meetings Act (OMA), M.C.L. § 15.261, when it approved the proposed consent judgment.

The relevant facts not in dispute are summarized in the well-reasoned written opinion by the Honorable Calvin L. Bosman: Defendant [Land] owns property located in the township (the Land parcel). Part of the Land parcel is zoned "RP" (rural preserve) and part is zoned "C-2" (general commercial). The township's master plan indicates that, in the future, the Land parcel should be used for industrial purposes. Defendant Panda also owns property located in the township (Panda parcel # 1). Panda parcel # 1 is zoned "RP" (rural preservation). The township's master plan indicates that, in the future, Panda parcel # 1 should be used for rural preservation.

Land wished to build a 750-unit multi-family residential housing development on the Land parcel. However, multi-family residential housing is not permitted on property zoned RP or C-2. Land requested that the township rezone the parcel. The Township denied Land's request.

Panda wished to build a power plant on Panda parcel # 1. Power plants are not permitted on property zoned RP, so Panda asked that the Township rezone Panda parcel # 1. Panda's application met with resistance from some of the citizens of the Township, who felt that power plants should be located on property designated for industrial use rather than on property designated for rural preservation. The Township denied Panda's request for rezoning.

Dissatisfied with the Township's denial of its request for rezoning, Land filed a lawsuit against the Township accusing the Township of exclusionary zoning.... After a year and a half of litigation, Land and the Township decided to settle the case. The parties drafted terms of a proposed consent judgment. The proposed consent judgment provided that Land would sell part of the Land parcel to Panda (Panda parcel # 2) and that Panda would build a power plant on Panda parcel # 2. However, Panda parcel # 2 is zoned RP and power plants are not permitted on property zoned RP. Therefore, in the proposed consent judgment, the Township agreed it would treat Panda parcel # 2 as if it were zoned "I-1" (industrial). Power plants are permitted on property zoned I-1. For its part, Panda agreed to abide by all the regulations that apply to property zoned I-1 and that it would comply with all applicable state and federal laws and regulations. In addition, over time, Panda agreed to pay the Township more than \$5,000,000.00.

\*2 The proposed consent judgment required the approval of the Tallmadge Township Board of Supervisors (Board). Four members of the Board constitute a quorum. Prior to voting on the proposed consent judgment, Board members gathered together informally in private homes in sub-quorum groups of two or three to review and discuss the terms of the proposed consent judgment.

On October 25, 2000, the Board held a special meeting to vote on the proposed consent judgment. At the meeting, the Township Supervisor informed the members of the public who were present at the meeting that the meeting was not a public meeting and that no one would be permitted to comment on the terms of the proposed consent judgment until after the Board had voted to approve or reject it. At the meeting, the Board enacted resolutions approving the proposed consent judgment. Following the vote, the Board permitted members of the public who were present to comment on the terms of the consent judgment. The next day, the consent judgment was presented to Judge Post. Judge Post signed the consent judgment in the absence of the undersigned judge, who was on vacation at the time.

On February 13, 2001, the Board held a second meeting to discuss the consent judgment. At this meeting, the Board permitted public comment on the consent judgment prior to voting on the matter. After entertaining comments on the terms of the consent judgment from the members of the public who were present at the meeting, the Board voted to re-enact the resolutions approving the consent judgment that the Board had previously enacted on October 25, 2000.

On February 14, 2001, the Board presented the re-enacted consent judgment to the undersigned judge, and he signed it.

Plaintiffs, who are residential property owners that live near Panda parcel # 2, oppose the construction of the power plant and bring this action to vacate the consent judgment.

In count I, plaintiffs allege that by meeting informally in sub-quorum groups of two or three at private residences to review and discuss the terms of the consent judgment, the Board ran afoul of the OMA. Plaintiffs make two claims in count I. First, plaintiffs claim that the informal sub-quorum gatherings constitute a violation of the OMA. Second, plaintiffs claim that the Board's refusal to permit public comment at the October 26, 2000, meeting prior to voting on the resolutions approving the consent judgment is also a violation of the OMA.

Nevertheless, on February 19, 2001, the parties entered into the following stipulation and order:

“... the parties ... hereby agree and stipulate that Plaintiffs ... dismiss with prejudice that portion of the relief requested under Count I ... which seeks to invalidate the decision ... by the ... Board .. to approve the ... Consent Judgment ... without prejudice to Plaintiffs' other claims for relief under the Open Meetings Act....”

Count II alleges that the consent judgment violates the TRZA.

## II

\*3 This Court reviews de novo the grant or denial of a motion for summary disposition. *Maiden v. Rozwood*, 461 Mich. 109, 118; 597 NW2d 817 (1999). Further, A motion under MCR 2.116(C)(8) tests the legal sufficiency of the complaint. All well-pleaded factual allegations are accepted as true and construed in a light most favorable to the nonmovant. *Wade v. Dep't of Corrections*, 439 Mich. 158, 162; 483 NW2d 26 (1992). A motion under MCR 2.116(C)(8) may be granted only where the claims alleged are “so clearly unenforceable as a matter of law that no factual development could possibly justify recovery.” *Id.* at 163. When deciding a motion brought under this section, a court considers only the pleadings. MCR 2.116(G)(5). [*Id.* at 119-120.]

A motion brought under MCR 2.116(C)(10) tests the factual support of a claim. *Smith v. Globe Life Ins Co*, 460 Mich. 446, 454; 597 NW2d 28 (1999). In doing so,

a trial court considers affidavits, pleadings, depositions, admissions, and documentary evidence filed in the action or submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion. A trial

court may grant a motion for summary disposition under [MCR 2.116\(C\)\(10\)](#) if the affidavits or other documentary evidence show that there is no genuine issue in respect to any material fact, and the moving party is entitled to judgment as a matter of law. [MCR 2.116\(C\)\(10\), \(G\)\(4\).](#) [*Quinto v. Cross & Peters Co*, 451 Mich. 358, 362-363; 547 NW2d 314 (1996).]

\***4** In addition, we note that under the standing requirements adopted by our Supreme Court in *Lee v. Macomb Co Bd of Comm'rs*, 464 Mich. 726; 629 NW2d 900 (2001), plaintiffs do not have standing in regard to the issuance of an injunction for future acts. In order for plaintiffs to have standing, they must have suffered an injury in fact, and an invasion of a legally protected interest, which is concrete, particularized, and actual or imminent, not conjectural or hypothetical. *Id.* Here, plaintiffs have not established standing for the issuance of an injunction for potential future violations.

### III

First, in regard to the OMA violation alleged in count I, in view of the parties' partial stipulation for dismissal,<sup>3</sup> the only relief remaining at issue is the request for injunctive relief to prohibit *future* violations of the act by defendant township. In addressing defendant township's motion for summary disposition, the lower court ruled that the equitable relief requested for potential future violations is "too speculative and hypothetical to be justiciable." We agree.

In general, the equitable relief of injunction is an extraordinary remedy that should be granted only "if a plaintiff has a right but is without an effective remedy at law he may resort to equity for the enforcement of such right." Injunctive relief is an extraordinary remedy that is granted only when (1) justice requires it, (2) there is no adequate remedy at law, and (3) there exists a real and imminent danger of irreparable injury. *In re Martin*, 200 Mich.App 703, 723; 504 NW2d 917 (1993). [*ETT Ambulance Service Corp v. Rockford Ambulance, Inc.*, 204 Mich.App 392, 400; 516 NW2d 498 (1994), quoting *Kefgen v. Coates*, 365 Mich. 56, 63; 111 NW2d 813 (1961).

See also *Wexford Co Prosecutor v. Pranger*, 83 Mich.App 197, 205; 268 NW2d 344 (1978).

After applying the above standards, we agree with the trial judge that plaintiffs have failed to sustain their burden of establishing sufficient facts for the issuance of the extraordinary remedy of injunction. *Id.* The possibility for additional violations of the OMA by defendant township is purely hypothetical and speculative.

### IV

Plaintiffs' main issue on appeal is their collateral attack claiming that the consent judgment entered in the previous action violated the statutory procedures in the township rural zoning act, [M.C.L. § 125.271, et seq.](#) and the public policy of the state of Michigan. We disagree.

Recently in *Green Oak Twp v. Munzel*, 255 Mich.App 235; \_\_\_ NW2d \_\_\_ (2003), this Court rejected a similar argument that a consent judgment entered in settlement of a zoning lawsuit constitutes de facto rezoning in violation of the TRZA. In Green Oak Township, the township was sued by a developer when it refused to grant a use variance for a proposed mobile home park. After the case was settled with the entry of a judgment, a property owner near the proposed mobile home park filed a subsequent action claiming that the consent judgment, which allowed the mobile home park to proceed, was a de facto amendment of the township's zoning ordinance in violation of the TRZA. We rejected the defendant's argument and held:

[T]he consent judgment was neither the promulgation of a zoning ordinance nor an amendment of a zoning ordinance as contemplated by [M.C.L. § 125.282](#). Therefore, a determination that [M.C.L. § 125.282](#) is applicable to a consent judgment would be contrary to the plain language of the statute. [*Id.* at 241.]

In ruling that the consent judgment was not an amendment to the zoning ordinance, we stated:

We suggest that the effect of the consent judgment is more akin to a use variance, which our Supreme Court has determined is allowable. *Mitchell v. Grewal*, 338 Mich. 81, 87; 61 NW2d 3 (1953). Specifically, a zoning board has the authority to allow a use in a zoning district that would not otherwise be allowed under an ordinance. *Paragon Properties Co v. Novi*, 452 Mich. 568, 575; 550 NW2d 772 (1996); 25 Mich. Civ Jur, zoning § 36, pp 669-670 (2001). Essentially, when a variance is granted, the ordinance - and zoning pursuant to the ordinance - is left unchanged. However, a particularized exception to the provision of the ordinance is permitted. *Mich Civ Jur, zoning* § 37, pp 670-673 (2001); *Mitchell, supra* at 88. Accordingly, a variance is distinct from an ordinance or an amendment of an ordinance as contemplated by the TRZA. [*Id.* at 242-243.]

Finally, in *Green Oak Twp* we rejected similar public policy arguments and suggested that plaintiffs' remedies were political in nature against their township board members or through the timely intervention in prior proceedings:

\*5 Amici curiae argue that our holding today will encourage townships to routinely use consent judgments to effect zoning changes by circumventing the enactment procedure and the citizen's right to referendum. We do not agree. A consent judgment by its nature is a settlement reached by two opposing parties to a court proceeding. To reach a consent judgment allowing a zoning change, the township would have to file suit against or be sued by a developer. That is, the township's position would necessarily be opposing that of the developer. Putting aside the fact that the citizens could intervene at this point in the proceedings, it strikes us as uncertain and illogical that a township would engage in the fiction of advocating against a zoning change initially only to successfully procure a settlement with the opposing party allowing the zoning change.

The proper remedies in this case were: (1) citizen intervention in the trial court proceedings below, which was done too late here and therefore denied, see *Vestevich v. West Bloomfield Twp*, 245 Mich.App 759, 762; 630 NW2d 646 (2001) (property owners could intervene to challenge a township's continued enforcement of a zoning ordinance where the township had entered into a consent judgment allowing development, suggesting that township's representation of property owners was inadequate), citing MCR 2.209; and (2) recalling the offending township officials, see M.C.L. § 168.960(1). Further, the township could have reserved the right to appeal the consent judgment, but chose not to. See *Travelers Ins v. U-Haul of Michigan, Inc*, 235 Mich.App 273, 278, n 4; 597 NW2d 235 (1999) (appeal of right is available from a consent judgment where reserved); 7 Martin, Dean & Webster, Michigan Court Rules Practice, Rule 7.203, p 139 (an appeal by right is generally lost on agreeing to a consent judgment; leave to appeal may be requested). *We believe that it is within the township's discretionary authority to settle a legal matter or appeal an adverse judicial decision.* [*Id.* at 242 ns 6 and 7 (emphasis added).]

In the present case, plaintiffs' reliance on dicta contained in *Vestevich v. West Bloomfield Twp, supra*, and *Sloban v. Shelby Twp*, 67 Mich.App 371; 241 NW2d 211 (1976), is misplaced and unpersuasive. Both cases are factually distinguishable from the facts of the instant case. Most importantly, the intervenors in *Vestevich*, injected the issue of the validity of the consent judgment into the original action in which the consent judgment was designed to settle. In contrast, this Court is presented in the instant case with a *collateral attack* to the validity of a prior judgment entered in a different action. "Collateral attacks, as opposed to direct appeals, require consideration of the interests of finality and of administrative consequences." *People v. Ingram*, 439 Mich. 288, 291; 484 NW2d 241 (1992). For these reasons, collateral attacks on prior judgments are disfavored. *Id.*; *In re Hatcher*, 443 Mich. 426; 505 NW2d 834 (1993).

\*6 Plaintiffs' argument that a consent judgment entered by the circuit court should be treated differently from a litigated judgment is not the law of this jurisdiction. As we held in *Trendell v. Solomon*, 178 Mich.App 365; 443 NW2d 509 (1989), a consent judgment is a judicial act that possesses the same force and character as a judgment rendered following a contested trial. See also *System Federation No. 91 Railway Employees' Dep't v Wright*, 364 U.S. 642, 651; 81 S Ct 368; 5 L.Ed.2d 349 (1961), and *Siebring v Charles W Hansen*

& Afsco, Inc, 346 F.2d 474, 477 (CA 8, 1965). Plaintiffs' arguments to the contrary are without merit. *Madison v. Detroit*, 182 Mich.App 696, 701; 452 NW2d 883 (1990).

Affirmed.

**All Citations**

Not Reported in N.W.2d, 2003 WL 21108470

---

### Footnotes

- 1 Defendant township's motion was granted on the basis of both [MCR 2.116\(C\)\(8\) and \(10\)](#). Defendants Land Acquisition's and Panda's motions in regard to count II were granted pursuant to [MCR 2.116\(C\)\(8\)](#).
- 2 "Collateral attacks encompass those challenges raised other than by initial appeal of the [judgment] in question." *People v. Ingram*, 439 Mich. 288, 291 n1; [484 NW2d 241 \(1992\)](#).
- 3 In an effort to cure the claimed OMA violation, defendant township convened a second meeting at which the proposed consent judgment was reapproved. The partial stipulation for dismissal was apparently in response to the second meeting.

---

End of Document

© 2025 Thomson Reuters. No claim to original U.S. Government Works.

# **EXHIBIT 4**

2025 WL 2835173

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK  
COURT RULES BEFORE CITING.

UNPUBLISHED  
Court of Appeals of Michigan.

Lisa MONTRIEF, Dean T. Montrief, Steve Bailey, Daniel Mills, Janet M. Mills, Colin Roehm, Anjlia Maslak, Truman Carrico, Kimberly Sellers Carrico, Joseph R. Rine, Leesa R. Rine, Michael Rine, Joseph Downard, Martha Drow, Victoria L. Roberts, Chip Roberts, Darwin Schoeff, Joanne Schoeff, David Squires, Helen Squires, Ronald G. Johnson, William A. Bedell, Donald Schroeder, Marjorie Monagin, Barbara Korican, Keith Price, Judith Bailey, William Bailey, Joe E. O'Neal, Karen Koykka O'Neal, and [Tecumseh Mills Airport, LLC](#), Plaintiffs-Appellants,

v.

MACON TOWNSHIP BOARD OF TRUSTEES,  
Mustang Mile Solar Energy, LLC, and [Consumers  
Energy Company](#), Defendants-Appellees.

No. 368603

|

October 6, 2025, 10:09 AM

Lenawee Circuit Court, LC No. 2021-006726-CZ

Before: [Gadola](#), C.J., and [Rick](#) and [Mariani](#), JJ.

**Opinion**

Per Curiam.

\***1** Plaintiffs appeal as of right the trial court's order granting defendants summary disposition under [MCR 2.116\(C\)\(8\) and \(10\)](#) of plaintiffs' complaint seeking a declaratory judgment and injunctive relief. We affirm.

I. FACTS

This case involves plaintiffs' challenge to the validity of an amendment to the Macon Township Zoning Ordinance. Plaintiffs contend that when amending the zoning ordinance, the Macon Township Board of Trustees (Township Board)

failed to comply with the notice provisions of the Michigan Zoning Enabling Act (MZE), [MCL 125.3101 et seq.](#), and the notice provision of § 18.12(2) of the township's zoning ordinance. Plaintiffs assert that as a result, the amendment to the zoning ordinance, and any actions taken pursuant to the amended ordinance, are invalid.

Plaintiffs are landowners in Macon Township, which is a rural, agricultural township in southeastern Michigan. Defendant Mustang Mile Solar Energy, LLC (Mustang) is a subsidiary of Invenergy, a Chicago-based multi-national power generation company. In 2017, Invenergy persuaded the Township Board to amend the township's zoning ordinance to facilitate Invenergy's installation of an industrial-scale solar panel facility anticipated to occupy 2,777 acres in the township. At that time, the township's ordinance did not provide for permitting a large-scale solar panel facility, and it appears that the township's population largely was unaware of the proposed amendment to allow that use.

This case was before this Court in a prior appeal, and at that time this Court summarized the facts and procedural history as follows, in pertinent part:

Sometime in 2017, Invenergy, LLC – a multinational power generation company – approached individuals in Macon Township about amending the Macon Township Zoning Ordinances to include industrial-size solar farms as a special land use in districts zoned industrial or agricultural. In January 2018, the matter went before the Macon Township Planning Commission, which recommended that the Macon Township Zoning Ordinances be so amended. The Township approved the amendments on April 2, 2018. The preamble to the amendment, which was codified as Ordinance No. 2018-01, provides:

An ordinance to amend Article VII of the Macon Township Zoning Ordinance by replacing Section 7.03 regarding solar energy facilities within the Township; adding large solar energy facilities (Solar Farms) to the listing of special land uses in the Agricultural (AG) and Industrial (I) Districts; and the replacement, deletion, and addition of associated definitions to Article XX [Emphasis deleted.]

A copy of Ordinance 2018-01, i.e., the Solar Ordinance, was attached to the April 2, 2018 Township Board's meeting minutes.

Following the 2018 amendment, a representative from Invenergy regularly attended meetings of the Planning Commission and the Township Board. The representative kept both the Planning Commission and the Township Board up-to-date on matters such as its efforts at securing leases for a planned solar project, obtaining environmental and engineering studies, preparing the SLUP [special land use permit], the timeline for submitting the SLUP, and the possibility of selling the completed solar project to a utility. The Invenergy representative raised questions before the Board that led to the Board determining that amendments needed to be made to the Solar Ordinance.

\*2 To be sure, the Township Board twice voted to amend the Solar Ordinance. First, on December 2, 2019, the Board voted to approve an amendment to the fee schedule set forth in the Macon Township Zoning Ordinance, and a copy of that amendment was attached to the meeting minutes as Resolution 2019-03. Second, ostensibly because Invenergy needed additional time to complete the solar project once it was started, the Planning Commission recommended that Macon Township Ordinance, Art XVI, § 16.09 be amended to allow additional time for the completion of the project. On November 12, 2020, the Township Board voted to approve that amendment. Thereafter, on December 7, 2020, the Township Board approved an ordinance “amending and readopting Article VII of the Macon Township Zoning Ordinance.” That amendment is codified as Ordinance No. 2020.

On October 28, 2020, Invenergy, acting through its subsidiary, Mustang Mile, submitted its SLUP to the Township. The Planning Commission recommended that the SLUP application be denied. However, on May 10, 2021, the Township Board voted 3-2 to approve the SLUP. As stated above, plaintiffs challenged the Board's action on two fronts: first, they filed a notice of appeal of the decision to grant the SLUP, and second, they filed the instant action seeking a declaratory judgment that the Solar Ordinance was invalid and unenforceable because it was passed in violation of the notice provisions in the MZEA and the Township's Zoning Ordinances. Thereafter, defendants each filed motions for summary disposition, alleging – as relevant to this appeal – that plaintiffs lacked standing to pursue their action for declaratory relief. The trial court found that plaintiffs lacked standing and summarily dismissed their claim for declaratory and injunctive relief. [*Montrief v Macon Twp Board of Trustees*, unpublished per

curiam opinion of the Court of Appeals, issued April 27, 2023 (Docket No. 360437); p. 2-3 (footnotes omitted).]

Plaintiffs' complaint in this case alleged that when amending the township ordinance to include the Solar Ordinance and its subsequent amendments, the Township Board violated the notice provisions of the MZEA and § 18.12(2) of the township ordinance, as well as the due process provisions of the United States and Michigan Constitutions, [U.S. Const., Am. XIV](#); [Const. 1963, art. 1, § 17](#). Plaintiffs appealed the trial court's order granting defendants summary disposition to this Court, which reversed the trial court's order and remanded to the trial court for further proceedings. This Court held that plaintiffs had standing to maintain their suit for declaratory judgment because they have a sufficient personal stake in the outcome of the litigation differing from that of the general public, and because Macon Township Zoning Ordinance, Art XXI, § 21.06 provides plaintiffs with a legal cause of action to challenge the alleged violation of the notice provisions of the Macon Township Zoning Ordinance. *Montrief*, unpub. op. at 8.

On remand, the trial court again granted defendants summary disposition of plaintiffs' complaint under [MCR 2.116\(C\)\(8\) and \(10\)](#). The trial court held that the Township Board had complied with the proper procedures for amending its zoning ordinance, including all notice requirements, and that plaintiffs were not entitled to personal notice as they contended. The trial court concluded that as a result, plaintiffs' contention that the amended ordinance and the special land use permit issued to Mustang pursuant to the amended ordinance were invalid was without merit. Plaintiffs now appeal.

## II. DISCUSSION

Plaintiffs contend that the trial court erred by granting defendants summary disposition under [MCR 2.116\(C\)\(8\) and \(10\)](#), thereby improperly dismissing their claim that the Township Board violated the notice provisions of the MZEA and the township zoning ordinance by failing to provide plaintiffs with proper notice when adopting the Solar Ordinance and its subsequent amendments to facilitate Mustang's industrial-scale solar installation. To answer this question requires us to determine the notice requirements of the MZEA and the township zoning ordinance when, as here, the Township Board exercised its legislative authority<sup>1</sup> to alter the restrictions on use and development assigned

to property within the township through a change in the applicable zoning regulations.

#### A. STANDARD OF REVIEW

**\*3** We review de novo the trial court's decision to grant or deny summary disposition. *Jostock v Mayfield Twp*, 513 Mich 360, 368; 15 NW3d 552 (2024). We also review de novo the interpretation and application of statutes, as well as the interpretation of municipal ordinances. *Id.* We similarly review de novo the trial court's application of the court rules and whether a plaintiff has been denied due process of law. *Sandstone Creek Solar, LLC v Twp of Benton*, 335 Mich App 683, 712; 967 NW2d 890 (2021).

A motion for summary disposition under MCR 2.116(C)(8) tests the legal sufficiency of the claim. *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159; 934 NW2d 665 (2019). When reviewing the trial court's decision to grant or deny summary disposition under MCR 2.116(C)(8), we consider the pleadings alone, accepting all factual allegations as true. *Id.* at 160. Summary disposition under MCR 2.116(C)(8) is warranted when the claim is so unenforceable that no factual development could justify recovery. *Id.*

A motion for summary disposition under MCR 2.116(C)(10) tests the factual sufficiency of the claim; summary disposition under MCR 2.116(C)(10) is properly granted when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *El-Khalil*, 504 Mich at 160. A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds might disagree. *Id.* When reviewing the trial court's decision to grant or deny summary disposition under MCR 2.116(C)(10), we consider the documentary evidence submitted by the parties in the light most favorable to the nonmoving party. *Id.*

#### B. MZEA

Municipalities have no inherent power to regulate land use. *Saugatuck Dunes Coastal Alliance v Saugatuck Twp*, 509 Mich 561, 577; 983 NW2d 798 (2022). Our state's Legislature, however, may authorize municipalities to regulate land use through zoning. *Sandstone Creek Solar, LLC*, 335 Mich App at 697. In 2006, our Legislature enacted the MZEA, thereby consolidating three previous zoning-enabling acts. *Id.* The MZEA grants local units of government

authority to regulate land use and development through zoning "for the broad purposes identified in" the MZEA. *Saugatuck Dunes Coastal Alliance*, 509 Mich at 577. Section 201(1) of the MZEA provides:

A local unit of government may provide by zoning ordinance for the regulation of land development and the establishment of 1 or more districts within its zoning jurisdiction which regulate the use of land and structures to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare. [MCL 125.3201(1).]

Under the MZEA, a municipality may regulate land use by adopting a zoning ordinance and by amending an existing zoning ordinance. See MCL 125.3201(1); MCL 125.3202. The MZEA also provides for the rezoning of land through ordinances. *Wickman v Norway Twp Clerk*, \_\_\_ Mich App \_\_\_, \_\_\_; \_\_\_ NW3d \_\_\_ (2024) (Docket No. 367743); slip op. at 4, citing MCL 125.3401 and MCL 125.3402. Section 202 of the MZEA, MCL 125.3202, provides in relevant part:

**\*4** (1) The legislative body of a local unit of government may provide by ordinance for the manner in which the regulations and boundaries of districts or zones shall be determined and enforced or amended or supplemented. Amendments or supplements to the zoning ordinance shall be adopted in the same manner as provided under this act for the adoption of the original ordinance.

(2) Except as provided in subsection (3), the zoning commission shall give a notice of a proposed rezoning in the same manner as required under section 103 [[MCL 125.3103](#)]....

[MCL 125.3202\(1\)](#) thus provides that an amendment of the zoning ordinance is to be adopted in the same manner as the original ordinance, which requires notice by publication. See [MCL 125.3401\(7\)](#). [MCL 125.3202\(2\)](#) directs that a township planning commission<sup>2</sup> provide notice of a proposed rezoning in the manner required by [MCL 125.3103](#), which requires personal notice to certain property owners. *Connell v Lima Twp*, 336 Mich App 263, 293-294; 970 NW2d 354 (2021). [MCL 125.3103](#) provides, in relevant part:

(1) Except as otherwise provided in this act, if a local unit of government conducts a public hearing required under this act, the local unit of government shall publish notice of the hearing in a newspaper of general circulation in the local unit of government not less than 15 days before the date of the hearing.

(2) Notice required under this act shall be given as provided under subsection (3) to the owners of property that is the subject of the request. Notice shall also be given as provided under subsection (3) to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction....

(3) The notice under subsection (2) is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered....

In this case, plaintiffs contend that the Township Board rezoned properties within the township that were classified as agricultural or industrial to permit a previously unpermitted use on those properties, but did not give personal notice as required under [MCL 125.3103\(3\)](#). Defendants contend that they did not rezone the properties in question, but instead amended the text of the township's zoning ordinance to change the special uses permitted within the classifications of the properties in question, and provided notice of the amendments by publication. The question therefore concerns

the meaning of "rezoning" as used in the MZEA, specifically [MCL 125.3202\(2\)](#).

When determining the meaning of a statute, we focus on the text of the statute. *Jostock*, 513 Mich at 372, citing *Clam Lake Twp v Dep't of Licensing & Regulatory Affairs*, 500 Mich 362, 373; 902 NW2d 293 (2017). When the words of a statute or ordinance are clear and unambiguous, the language expresses the intent of the legislative body and must be enforced as written. *Sau-Tuk Indus, Inc v Allegan Co*, 316 Mich App 122, 137; 892 NW2d 33 (2016). Here, the text of [MCL 125.3202](#) is clear that "the zoning commission shall give a notice of a proposed rezoning" by personal notice as directed by [MCL 125.3103](#), but the adoption of amendments and supplements of an ordinance require the Township Board to follow the process applicable to the initial adoption of an ordinance, i.e., by providing notice by publication. Because the language of these provisions of the MZEA is clear and unambiguous, we need not engage in statutory interpretation to ascertain their meaning. See *Clam Lake Twp*, 500 Mich at 373. We do, however, need to ascertain the meaning of the word "rezoning" as used in the statute.

\*5 The term "rezoning" is not defined in the MZEA. We presume undefined words to have their ordinary meaning, unless they have "acquired a peculiar and appropriate meaning in the law, in which case we accord them that meaning." *Jostock*, 513 Mich at 372, quoting *Clam Lake Twp*, 500 Mich at 373. We consult lay dictionaries to ascertain the ordinary meaning of common words and phrases. *In re Certified Question from United States Court of Appeals for the Ninth Circuit*, 499 Mich 477, 484; 885 NW2d 628 (2016). The ordinary meaning of "rezone" is "to change the use of an area of land, or the types of structures that can be built on it,"<sup>3</sup> and "to designate (a zone or zones in a city, town, or borough) for a new purpose or use through a change in the applicable zoning regulations."<sup>4</sup> To rezone is "to reclassify (a property, neighborhood, etc.) as belonging to a different zone or being subject to different zoning restrictions."<sup>5</sup>

The events in this case fall within these definitions of "rezone;" the Township Board changed the zoning regulations applicable to the specific properties sought by Mustang for development by changing the zoning regulations applicable to the classifications to which those properties belonged. That is, the Township Board amended the township ordinance to allow solar facilities as a new specially-permitted use within certain classifications as a means of changing the zoning regulations on the properties that Mustang had identified to

the Township Board as the properties desired for their solar facility.

However, as noted, when a term has “acquired a peculiar and appropriate meaning in the law,” we accord the term that meaning. *Jostock*, 513 Mich at 372, quoting *Clam Lake Twp*, 500 Mich at 373. In *Jostock*, the Supreme Court in dicta stated that “[b]oth the ‘rezoning of the land’ and ‘an amendment to a zoning map’ involve changing the zoning classification for a specific property or properties,” *Jostock*, 513 Mich at 372, citing *Connell*, 336 Mich App at 267, suggesting that when used in the context of Michigan zoning law, the term “rezoning” has acquired a specific meaning, namely, the changing of the zoning classification of a specific property or properties.<sup>6</sup> Similarly, in *Grand/Sakwa of Northfield, LLC v Northfield Twp*, 304 Mich App 137, 140, 142, 153-154; 851 NW2d 574 (2014), this Court referred to the changing of the classification of a specific property as “rezoning,” contrasting that action with amendment of a zoning classification itself to alter the uses permitted within that classification.

A review of Michigan case law supports that the term rezoning has been used consistently in Michigan law to refer to the changing of the zoning classification of a property. See, e.g., *Paragon Properties Co v City of Novi*, 452 Mich 568, 572; 550 NW2d 772 (1996) (observing that the plaintiff sought to have its property rezoned to a different classification); *id.* at 584 (CAVANAGH, J., dissenting) (agreeing that the plaintiff’s request was correctly understood as a rezoning); *Committee for Marshall-Not the Megasite v City of Marshall*, \_\_\_ Mich App \_\_\_, \_\_\_; \_\_\_ NW3d \_\_\_ (2024) (Docket No. 369603); slip op. at 21, vacated on other grounds, \_\_\_ Mich \_\_\_ (2025) (Docket No. 167553) (referring to changing the zoning of a specific property as “rezoning”); *Connell*, 336 Mich App at 267 (in the context of conditional rezoning, referring to rezoning as property being assigned a new use classification); *City of Detroit v City of Detroit Board of Zoning Appeals*, 326 Mich App 248, 266; 926 NW2d 311 (2018) (referring to property being assigned a new classification to allow a different use as rezoning).

<sup>6</sup> In this case, the parties do not dispute that the Township Board did not change the classification of the properties in question; rather, the Township Board changed the special uses permitted within the existing classifications to facilitate Mustang’s obtaining a special use permit to install an industrial-scale solar facility on the properties in question, a use that was not permitted on the specific properties in question before the Township Board’s action. We observe that

although the Township Board did not change the classification of the properties in question, the Township Board so altered the special uses permitted within the classifications to which the properties belonged as to subject the properties in question to a use far different from the uses previously permitted on those properties.

Defendants assert that the mechanism used by the Township Board to achieve this change was not rezoning, but merely a text amendment to the township’s existing zoning ordinance. We note, however, that amending a zoning ordinance and rezoning are not mutually exclusive actions. Rather, “[r]ezoning is accomplished by amending the zoning ordinance.” *Jostock*, 513 Mich at 369-370. Defendants also argue that rezoning refers to a change in the permitted use of a specific property or properties rather than an entire classification of properties. Defendants are correct that rezoning typically refers to the reclassification of a specific property. See *Jostock*, 513 Mich at 372. We observe, however, that although the amendment in this case affected the zoning regulations applicable to all properties within two classifications, the entire effort to amend the zoning ordinance was to enable the township to deliver to Mustang special use permits to build its massive solar project on specific properties within those classifications. Neighboring properties will be affected to the same extent as if those specific properties had been placed in a different zoning classification. The Township Board, however, did not reclassify the specific properties to a new zoning classification, and as a result the properties were not rezoned as that term is applied in Michigan zoning law. See *Jostock*, 513 Mich at 372; see also, e.g., *Benesh v Frenchtown Twp*, 58 Mich App 553; 228 NW2d 459 (1975).<sup>7</sup> Because rezoning did not occur in this case, the trial court did not err by concluding that the Township Board did not fail to comply with the notice provisions of the MZEA by failing to provide plaintiffs with personal notice of the amendments.

## C. THE AIRPORT

Plaintiff Tecumseh Mills Airport LLC contends that it was entitled to mailed notice of the Township Board’s adoption of the Solar Ordinance pursuant to MCL 125.3401(7) and (8). In addition, the airport asserts that the Township Board failed to provide it with proper notice of a meeting of the Township Board on December 7, 2020, which the airport contends was a public hearing entitling the airport to personal notice under

[MCL 125.3401](#). That statutory section provides, in relevant part:

(1) After receiving a zoning ordinance under section 308(1) or an amendment under sections 202 and 308(1), the legislative body may hold a public hearing if it considers it necessary or if otherwise required.

\*7 (2) Notice of a public hearing to be held by the legislative body shall be given in the same manner as required under section 103(1) for the initial adoption of a zoning ordinance or section 202 for any zoning text or map amendments.

\* \* \*

(7) Following adoption of a zoning ordinance or any subsequent amendments by the legislative body, the zoning ordinance or subsequent amendments shall be filed with the clerk of the legislative body, and a notice of ordinance adoption shall be published in a newspaper or general circulation in the local unit of government within 15 days after adoption.

(8) A copy of the notice required under subsection (7) shall be mailed to the airport manager of an airport entitled to notice under section 306.

[MCL 125.3306\(2\)](#) provides:

Notice of the time and place of the public hearing shall also be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the clerk of the legislative body for the purpose of receiving the notice of public hearing. [[MCL 125.3306\(2\)](#).]

The airport, however, points to no evidence in the record that the meeting of the Township Board in question was a public hearing, nor that the airport manager was registered and entitled to notice under [MCL 125.3306](#). Because the airport made no factual allegations and presented no evidence

to establish these assertions, the trial court did not err by concluding that further discovery would not stand a fair chance of uncovering factual support for the airport's position. See *Glorycrest Carpenter Rd, Inc v Adams Outdoor Advertising Ltd Partnership*, \_\_\_ Mich App \_\_\_, \_\_\_; \_\_\_ NW3d \_\_\_ (2024) (Docket No. 366261); slip op. at 11 (summary disposition before the completion of discovery may be appropriate if further discovery does not stand a reasonable chance of uncovering factual support for the opposing party's position). The trial court correctly ruled that defendants were entitled to summary disposition of this issue.

#### D. § 18.12(2)

Plaintiffs also contend that they were entitled to personal mailed notice under § 18.12 of the Macon Township Zoning Ordinance. Section 18.12(2)(d) states, in relevant part, “[w]here an individual parcel of property has to be rezoned, notice of public hearing shall be given by first class mail to all property owners and occupants of property, any part of which lies within three hundred (300) feet from the boundary of the property to be rezoned....” Regarding the construction of language within the ordinance, the ordinance provides that “[t]erms not herein defined shall have the meaning customarily assigned to them.” Macon Township Zoning Ordinance, Art II, § 2.01(9). As discussed, the Township Board's amendment to the township's zoning ordinance did not “rezone” any property, when applying that term as used in Michigan law, because it did not change the zoning classification of any property. Therefore, the requirement of personal mailed notice set forth in § 18.12(2) of the township's zoning ordinance did not apply.<sup>8</sup>

\*8 Affirmed.

[Mariani, J.](#) (concurring).

I concur in full with the majority's conclusion, and write separately to explain why, in my view, a different one is not required by *Greater Bible Way Temple of Jackson v City of Jackson*, 478 Mich 373; 733 NW2d 734 (2007). As the majority notes, that decision from our Supreme Court contains the following sentence: “A decision whether to rezone property does not involve consideration of only a particular or specific user or only a particular or specific project; rather, it involves the enactment of a new rule of general applicability, a new rule that governs all persons and all projects.” *Id.* at 389. Taken in isolation, that statement

could be read to suggest that “rezoning” might comprise matters beyond the reclassification of specific property—an understanding of the term that, as the majority opinion aptly details, would be broader than the “peculiar and appropriate meaning” elsewhere reflected in Michigan zoning law. *Jostock v Mayfield Twp*, 513 Mich 360, 372; 15 NW3d 552 (2024) (quotation marks and citation omitted). When the statement is taken in due context, however, such a reading of it does not hold up.

The Court in *Greater Bible Way* made the above-quoted statement in the course of explaining why the rezoning of the plaintiff’s specific property did not constitute an “individualized assessment” of the plaintiff for purposes of the Religious Land Use and Institutionalized Persons Act of 2000, 42 USC 2000cc et seq. *Greater Bible Way*, 478 Mich at 389-390. This was so, the Court reasoned, because the

decision to rezone the plaintiff’s property would necessarily impact the rest of the community (which would be bound by the decision and its consequences) and would apply to any future owners of the property and whatever plans they might have for it. *Id.* In that sense, then, the rezoning decision was one of “general applicability” rather than one limited to the “plaintiff’s particular circumstances … or particular project.” *Id.* This surrounding discussion is fully consistent with the “peculiar and appropriate meaning” of rezoning as a reclassification of specific property, *Jostock*, 513 Mich at 372 (quotation marks and citation omitted), and makes clear to me that the above-quoted statement should not be taken to suggest any change in or departure from that meaning.

#### All Citations

Not Reported in N.W. Rptr., 2025 WL 2835173

#### Footnotes

- 1 Zoning and rezoning are legislative acts, *Saugatuck Dunes Coastal Alliance v Saugatuck Twp*, 509 Mich 561, 590 n 18; 983 NW2d 798 (2022), while the approval of a special use permit is essentially an administrative act, *Connell v Lima Twp*, 336 Mich App 263, 270, 283; 970 NW2d 354 (2021).
- 2 A township planning commission falls within the term “zoning commission” under the MZEA. *Connell*, 336 Mich App at 292.
- 3 Cambridge English Dictionary <<https://dictionary.cambridge.org/us/dictionary/English/rezone>> (accessed July 2, 2025).
- 4 Merriam-Webster <<https://www.merriam-webster.com/dictionary/rezone>> (accessed July 2, 2025).
- 5 Random House Webster’s College Dictionary (2000).
- 6 We note, however, that our Supreme Court also has stated that “[a] decision whether to rezone property does not involve consideration of only a particular or specific user or only a particular or specific project; rather, it involves the enactment of a new rule of general applicability, a new rule that governs all persons and all projects.” *Greater Bible Way Temple of Jackson v City of Jackson*, 478 Mich 373, 389; 733 NW2d 734 (2007). In that case, the city denied the plaintiff’s request that the city rezone his property to a different classification. In concluding that the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 USC 2000cc et seq. did not apply in that case, the Court seemingly extended the definition of rezoning beyond a classification change for a specific property to include the enactment of a new rule generally applicable in the municipality.
- 7 In *Benesh*, this Court held that under a precursor statute to the MZEA, when a township amended its ordinance in a manner that affected numerous properties within the township, the notice provisions applicable to rezoning did not apply. The statute then in effect required particularized notice when an individual parcel was proposed for rezoning, but when a new ordinance affecting the entire township was to be discussed,

notice by general publication was sufficient. *Id.* at 555, citing former [MCL 125.284](#). Because the defendant township in that case undertook to amend its zoning ordinance to affect numerous properties, it was not required to comply with the notice provisions applicable to rezoning a single property.

- 8 Plaintiffs also contend that § 20.01.70 of the Macon Township Zoning Ordinance required newspaper publication between 5 and 15 days before the date of the public hearing and that the newspaper notice was published more than 15 days before the November 12, 2020 public hearing. Defendants assert that plaintiffs rely on a 2004 version of the township zoning ordinance no longer in effect. We decline to reach this issue because it was not raised in plaintiffs' complaint and the trial court did not have opportunity to rule upon it in the first instance. See [Jawad A. Shah, MD, PC v State Farm Mut Auto Ins Co](#), 324 Mich App 182, 193, 210; 920 NW2d 148 (2018).

# **EXHIBIT 5**

2022 WL 17876842

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK  
COURT RULES BEFORE CITING.

UNPUBLISHED  
Court of Appeals of Michigan.

J.A. BLOCH AND COMPANY and  
Sun ACQ, LLC, Plaintiffs-Appellants,  
v.  
ANN ARBOR TOWNSHIP, Defendant-Appellee,  
and  
Village of Barton Hills and Barton Hills  
Maintenance Corporation, Intervenors.

No. 359265

|

December 22, 2022

Washtenaw Circuit Court, LC No. 21-000173-CZ

Before: [Shapiro](#), P.J., and [Borrello](#) and [Yates](#), JJ.

**Opinion**

Per Curiam.

\*1 The present case arises from a dispute over a proposed manufactured-home development in Ann Arbor Township and, more specifically, the continued validity of a 1975 court order authorizing a development on the site in question. Plaintiffs appeal as of right an order denying plaintiffs' motion for summary disposition and instead entering judgment in favor of defendant, Ann Arbor Township, under [MCR 2.116\(I\)\(2\)](#). For the reasons set forth in this opinion, we affirm in part, reverse in part, and remand for further.

**I. BASIC FACTS AND PROCEDURAL HISTORY**

As previously stated, this dispute relates to a proposed mobile-home or manufactured-home development in Ann Arbor Township. The property at issue consists of three parcels, totaling approximately 139 acres. In the 1970s, plaintiffs' predecessors—Herman Doletsky, Mary Doletsky, Mort Levin, Harry Nayer, Robert Warren, and Penz Development Company (collectively, the Doletsky plaintiffs)—filed suit against the township, seeking an injunction

directing the township to allow use of the property as a mobile-home park under the R-5 classification, which governed mobile-home-park districts in the township at that time. At the time, the township had *no* areas in the township zoned as R-5. Following a bench trial, the trial court entered an opinion, a supplemental opinion, and ultimately a judgment in favor of the Doletsky plaintiffs. Specifically, the final judgment of the trial court entered on April 25, 1975. In relevant part, the final judgment stated:

IT IS ORDERED and adjudged that the present zoning of the [Doletsky] plaintiffs' 139 acres of real estate in Ann Arbor Township [as described with a metes and bounds description and references to deeds recorded with the Register of Deeds for Washtenaw County]

\* \* \*

is invalid because it bears no substantial relationship to the public health, safety and welfare; and that [the Doletsky] Plaintiffs are entitled to a permit for the development of such property as a mobile home park in accordance with the terms and conditions of the R-5 zoning classification contained in Ann Arbor Township's Zoning Ordinance and in compliance with public health regulations.

IT SHALL BE AND HEREBY IS ORDERED that the above described property shall for all purposes be deemed to be zoned in the said R-5 zoning classification.

It is adjudged that Plaintiffs or any of them or their successors, if any, are entitled to develop the above described real property as a mobile home park in accordance with the terms and conditions of the R-5 zoning classification contained in Ann Arbor Township's Zoning Ordinance and in compliance with public health and regulations.

It is further ordered that [the township] shall issue such permits as may be necessary under its ordinances for development of the above-described real property as a mobile home park in accordance with the terms of this judgment.

The township appealed to this Court, and a panel of this Court affirmed the trial court's judgment, reasoning, in part:

\*2 The township has provided a mobile home zoning district, but has failed to so zone any property in the

township. [The township's] argument that there has been no previous request for rezoning to R-5 is inapposite. Mobile home parks have been totally excluded from the township. The ordinance is invalid as applied to the [Doletsky] plaintiff's use of their land. *[Doletsky v Ann Arbor Twp*, unpublished per curiam opinion of the Court of Appeals, issued May 20, 1976 (Docket No. 24056), p. 3.]

The township then sought delayed leave to appeal in the Michigan Supreme Court, which the Supreme Court denied. *Doletsky v Ann Arbor Twp*, 399 Mich 834 (1977).

Following the original lawsuit, the property was transferred in its entirety to J.A. Bloch, which was formerly known as Penz Development. In the late 1980s, J.A. Bloch made some efforts toward development of a mobile-home park, including submitting a site plan to the township and requesting the rezoning of one parcel, totaling 80 acres, to R-6, which was and is the current township zoning ordinance for mobile-home parks. Although the 80-acre parcel was rezoned to R-6, the other two parcels remained zoned as A-1 for general agriculture. The development was ultimately not completed in the 1980s.

In 2008, and again in 2015, the township adopted new Master Plans, which referred to the previous litigation from the 1970s. Both Master Plans stated:

In Area C, in 1977, Ann Arbor Township accepted a court ordered mobile home park zoning on the north side of Warren Road, east of US-23. The Township will permit the mobile home park to develop as directed by the court's decision. Other areas of the Master Plan have been structured with this planning decision in place.

Nevertheless, in 2020, Sun ACQ, LLC, submitted a preliminary site plan to the township, seeking approvals for a 499-unit, mobile-home park, which would be served by an

on-site "community well and private wastewater treatment plan." The township rejected the preliminary site plan for a development—known as Arbor Oaks Manufactured Home Park—on the property in question. In rejecting the site plan, and indeed refusing to consider the site plan, the township noted that one parcel was zoned R-6, but the other two parcels were zoned A-1, and the township asserted that plaintiffs needed to seek rezoning before a site plan would be considered. Notably, for the first time, the township also disavowed the continued validity of the 1975 Judgment, stating that it was now the township's position that "the 1975 Judgment is not valid and is unenforceable." In 2020, the township also amended its zoning ordinances with regard to mobile-home parks and the site-plan approvals required for mobile-home parks.

In February 2021, plaintiffs filed suit against the township, seeking declaratory and injunctive relief. Specifically, their complaint alleged three counts: (1) a request for declaratory relief to the effect that the 1975 Judgment remained valid and that the township should be estopped from claiming the judgment was not enforceable; (2) a due-process claim involving the assertion that the 2020 revisions to the township's ordinance violated the procedures for approval of mobile-home parks as set forth in The Mobile Home Commission Act (MHCA), [MCL 125.2301 et seq.](#), and constituted part of a "long-term pattern and practice" by the township in discriminating against mobile-home parks; and (3) a claim that the township's refusal to comply with the 1975 Judgment amounted to contempt of court.

\***3** Over plaintiffs' objections, the trial court allowed intervenors—the Village of Barton Hills and the Barton Hills Maintenance Corporation—to intervene in the case. Intervenors maintained that they had a right to intervene because they owned and operated a nearby municipal water supply system, which drew water from an aquifer under plaintiffs' property, and the township would not adequately protect their interests. Alternatively, intervenors asserted that their interest in their water supply provided a basis for permissive intervention, which they asserted would not unduly delay proceedings or prejudice the rights of the original parties. In allowing intervention, the trial court concluded that intervenors had an interest that may not be adequately protected by the township.

Plaintiffs moved the trial court for partial summary disposition under [MCR 2.116\(C\)\(9\)](#) and [\(C\)\(10\)](#). In particular, plaintiffs contended that they were entitled to

summary disposition to the effect (1) that the 1975 Judgment remained in full force and effect and (2) that the 2020 amendments to the township's zoning ordinance were unenforceable because the amendment violated the MHCA. In asserting that the 1975 Judgment remained valid, plaintiffs more specifically argued (1) that the judgment did not expire, (2) that the township waived any claim regarding the validity of the judgment, (3) that laches did not bar plaintiffs from seeking to enforce the judgment because there was no inexcusable delay and no prejudice to the township, (4) that the judgment was not an impermissible exercise of legislative authority by the judiciary, and (5) that collateral estoppel and res judicata precluded the township from attacking the validity of the 1975 Judgment.

In response, the township asserted that plaintiffs' motion for summary disposition should be denied and that the trial court should instead enter judgment in favor of the township under [MCR 2.116\(I\)\(2\)](#). Most relevant to the issues on appeal, the township asserted that laches applied to bar enforcement of the 1975 Judgment or that a statute of limitations barred plaintiffs' attempt to enforce the judgment. Relating to plaintiffs' challenges to the 2020 zoning amendments, the township also asserted that plaintiffs' claim in Count II related to the MHCA should be dismissed because plaintiffs lacked standing and they were effectively seeking an advisory opinion to which they were not entitled. Intervenors filed a brief supporting the township's position regarding summary disposition.

The trial court denied plaintiffs' motion for summary disposition, and instead granted summary disposition to the township under [MCR 2.116\(I\)\(2\)](#). Regarding the 1975 Judgment, the trial court concluded that laches barred plaintiffs' attempts to enforce the judgment at this time. The trial court reasoned:

The Township's laches argument and I'll say further and I don't agree that every declaratory judgment would be subject to laches. If this were a quiet title action where you had an adverse possession issue and we were talking about a judgment in favor of someone on adverse possession of a piece of property, then I would agree that that runs forever or until it's modified in some other way.

This is a particular request to—or the earlier case, the 1970 something case, sought to build a mobile home park on property that wasn't zoned for that. The argument was that—or one of the arguments was that the Township had effectively zoned out mobile home parks and the judge

ruled that that was unconstitutional and gave permission to the extent that he could or beyond the extent that he could evidently, to build a mobile home park on these three parcels of property and directed that the property would be zoned or would be considered as zoned R-5 or otherwise as would permit a mobile home park.

\*4 And following that in 1975 the developer did not build the mobile home park. The Township 10 years later in 1985 rezoned one third of the property or one of the three parcels to permit a mobile home park and still nothing else happened until the past couple of years when the Plaintiff and or Plaintiffs' would-be successor in interest sought to build a mobile home park on all three parcels and the Township said no.

There is zoning in the Township that permits mobile home parks. [ 1 ] The basis for the earlier decision of the judge—of the earlier judge, 1975, no longer exists and that name I don't even recognize, Vander something, I don't know.

But in any event as I said I think that permission such as this doesn't, last forever. I couldn't say when it expired. I would say it would have been suspect within a couple of years after 1985 when the one parcel was rezoned and the two others were not.

And after that the property owner is at his peril to either seek permission to build it or follow through with the township to ensure that the entire—or that the other two parcels are rezoned to permit a mobile home park. But failing one of those two actions, my ruling is that he's barred—that the property owner is barred by laches from now acting in that 1975 judgment.

In comparison, with regard to plaintiffs' Count II, the trial court also agreed with the township that plaintiffs were essentially requesting an "advisory opinion" and that the claim was not yet ripe for judicial review. Plaintiffs now appeal to this Court as of right.

## II. SUMMARY DISPOSITION RELATED TO THE 1975 JUDGMENT

On appeal, plaintiffs first argue that the trial court erred by granting summary disposition to the township on the basis that laches barred enforcement of the 1975 Judgment. According to plaintiffs, summary disposition should have instead been granted to plaintiffs on the basis of res judicata,

collateral estoppel, or waiver. In response, the township asserts that the trial court correctly applied laches to the facts of this case. As an alternate basis to affirm, the township also argues that a statute of limitations bars plaintiffs' enforcement of the 1975 order, and in the context of its statute-of-limitations argument, the township argues that summary disposition was properly granted because the 1975 Judgment was an injunction, which is always modifiable.

#### A. STANDARDS OF REVIEW

This Court reviews de novo a trial court's ruling on a motion for summary disposition. *Penrose v McCullough*, 308 Mich App 145, 147; 862 NW2d 674 (2014). "A circuit court properly grants summary disposition to the opposing party under MCR 2.116(I)(2) if the court determines that the opposing party, rather than the moving party, is entitled to judgment as a matter of law." *Connell v Lima Twp*, 336 Mich App 263, 281; 970 NW2d 354 (2021).

Absent a factual dispute, whether a claim is barred by a statutory limitations period presents a question of law, which this Court reviews de novo. *In re Gerald L Pollack Trust*, 309 Mich App 125, 134; 867 NW2d 884 (2015). Likewise, with respect to laches, "this Court reviews a trial court's equitable decisions de novo, but the findings of fact supporting an equitable decision are reviewed for clear error." *Tenneco Inc v Amerisure Mut Ins Co*, 281 Mich App 429, 444; 761 NW2d 846 (2008). In the context of summary disposition, laches can be decided as a matter of law if the facts are undisputed. See *Johnson Family Ltd Partnership v White Pine Wireless, LLC*, 281 Mich App 364, 394-395; 761 NW2d 353 (2008).

#### B. LACHES

\*5 Following review of the record evidence in this matter, we conclude that laches does not apply on the undisputed facts of this case, thus, the trial court erred by granting summary disposition to the township on the basis of laches. This Court has explained:

Laches is an affirmative defense based primarily on circumstances that render it inequitable to grant relief to a dilatory plaintiff. The doctrine of laches arose from the requirement that

a complainant in equity must come to the court with a clean conscience, in good faith, and after acting with reasonable diligence. If a plaintiff has not exercised reasonable diligence in vindicating his or her rights, a court sitting in equity may withhold relief on the ground that the plaintiff is chargeable with laches. Although timing is important, laches is not triggered by the passage of time alone; rather, it is the prejudice occasioned by the delay that justifies application of the doctrine to bar a claim. The defendant bears the burden of proving that the plaintiff's lack of diligence prejudiced the defendant sufficiently to warrant application of the doctrine of laches. [*Bayberry Group, Inc v Crystal Beach Condo Ass'n*, 334 Mich App 385, 410; 964 NW2d 846 (2020) (quotation marks and citations omitted).]

Hence, this Court has stated there are two basic requirements to the application of the doctrine of laches. There must be both a lack of diligence by the plaintiff and resulting prejudice to the defendant. See *id.*; *Knight v Northpointe Bank*, 300 Mich App 109, 114-115; 832 NW2d 439 (2013).

Here, with regard to plaintiffs' diligence, the trial court concluded that plaintiffs delayed in bringing the action, reasoning that the 1975 Judgment should have been considered "suspect" in the 1980s after the township's rezoning of one parcel, representing approximately 80 acres, without rezoning all three parcels, totaling 139 acres. However, the trial court's conclusion that this rezoning in the 1980s should have prompted a lawsuit or other action by plaintiffs is not supported by the record. First, the record is devoid of any evidence as to *why*, or under what circumstances, the township rezoned only one parcel in the 1980s. No evidence exists in the record to demonstrate or even infer that plaintiffs sought to use the entire 139 acres in the 1980s and that their request was rejected or that the township otherwise informed plaintiffs' predecessor that it would not honor the 1975 Judgment in its entirety.<sup>2</sup> Absent more information about the rezoning events in the 1980s, there is no reason to suppose that plaintiffs' rights under the

judgment were abridged by the township in 1987, and there is no basis to conclude that plaintiffs slept on their rights. See *Sylvan Twp v City Of Chelsea*, 313 Mich App 305, 327-328; 882 NW2d 545 (2015) (concluding that laches did not apply when it could not be determined from the available record when it was practicable for the plaintiff to assert the right at issue).

\*6 Moreover, the trial court's suggestion that suit should have been instituted within a couple years of the 1987 zoning decision is resoundingly undermined by the 2008 and 2015 Master Plans. The township's Master Plans for both 2008 and 2015, acknowledged the prior judgment and expressly stated that the township would abide by that judgment. The 2008 Master Plan stated:

In Area C, in 1977, Ann Arbor Township accepted a court ordered mobile home park zoning on the north side of Warren Road, east of US-23. *The Township will permit the mobile home park to develop as directed by the court's decision.* Other areas of the Master Plan have been structured with this planning decision in place.

The township's most recent Master Plan, from 2015, contains identical language regarding the mobile-home lawsuit from the 1970s. The township's express recognition of the judgment—and the unequivocal statement of its intent to “permit the mobile home park to develop as directed by the court's decision”—clearly supports that plaintiffs had no reason to doubt the township's continued willingness to comply with the 1975 Judgment.<sup>3</sup> From this record there was no basis for the trial court to conclude that plaintiffs' sat on their rights as the township's continued recognition of plaintiffs' rights under the 1975 Judgment provided sound reason for any delay by plaintiffs in bringing suit. See *Angeloff v Smith*, 254 Mich 99, 101; 235 NW 823 (1931) (“[The defendant's] recognition of [the plaintiff's] title obviated the necessity of her asserting it against him by action.”); *Backus v Backus*, 207 Mich 690, 695; 175 NW 400 (1919) (concluding that laches did not apply because, among other reasons, the defendant had “faithfully promised [the plaintiff] to transfer the Dime Bank stock to him from time to time”).<sup>4</sup>

Indeed, it was not until the township refused to consider plaintiffs' site plan in November 2020 and for the first time disavowed the validity of the 1975 Judgment that would have triggered a suit by plaintiffs. See generally *Dorko v Dorko*, 504 Mich 68, 77; 934 NW2d 644 (2019) (“When a party breaches a substantive obligation arising out of a legal judgment, that breach gives rise to an independent cause of action. The harmed party then acquires the right to bring an action to enforce the judgment.”). Hence, defendants made plaintiffs aware of their intent not to honor the 1975 judgment in November of 2020 and approximately three months later, plaintiffs filed this lawsuit. Three months to file suit does not constitute an unreasonable delay. See *Penrose v McCullough*, 308 Mich App 145, 154; 862 NW2d 674 (2014). Accordingly, the trial court clearly erred by finding unreasonable delay by plaintiffs in bringing suit.

\*7 Additionally, even if plaintiffs unreasonably delayed, the township must also make a showing of prejudice. See *Sylvan Twp*, 313 Mich App at 327 (“[T]he primary inquiry when applying the doctrine of laches is whether the plaintiff's failure to earlier assert his or her claim prejudiced the defendant.”). Here, considering the trial court's laches ruling, it is not clear to us that the trial court addressed prejudice, and by applying laches without a showing of prejudice, the trial court clearly erred. See *Bayberry Group, Inc*, 334 Mich App at 411-412. We also note that, typically, laches requires fact-finding. See *id.* In this case, however, the township sought to apply laches at the summary disposition stage, asserting that the facts relevant to laches were undisputed. In these circumstances, on the undisputed facts, this Court can address laches as a matter of law. See *Johnson Family Ltd Partnership, LLC*, 281 Mich App at 395. Specifically, on appeal, in arguing for affirmance of the trial court's laches decision, the township offers two bases on appeal on which prejudice should be found in this case: loss of evidence from the 1970s and changed circumstances. These arguments lack merit.

First, regarding the loss of evidence, prejudice to support a laches defense can arise from a loss of evidence, such as when important witnesses have died or material evidence has otherwise become unavailable. See *Knight*, 300 Mich App at 119-120. See, e.g., *Henderson v Connolly's Estate*, 294 Mich 1, 18; 292 NW 543 (1940). Here, plaintiffs' claim is quite narrow and rests on rights set forth in a court order. “[A] court speaks through its written orders and judgment.” *In re Contempt of Henry*, 282 Mich App 656, 678; 765 NW2d 44 (2009). And the interpretation of a trial court's order is

a question of law, *Silberstein v Pro-Golf of America, Inc*, 278 Mich App 446, 460; 750 NW2d 615 (2008), which involves enforcing unambiguous judgments as written. See *AFT v State*, 334 Mich App 215, 236; 964 NW2d 113 (2020) (holding that judgments should be interpreted using basic contract-interpretation principles). The 1975 Judgment—which represents the trial court's ruling and which represents the entire basis for plaintiffs' rights—still exists, and there is no ambiguity, nor has the township attempted to identify an ambiguity, that would require extrinsic evidence to resolve.

In their attempt to demonstrate prejudice from lost evidence, the township claims that the 1975 Judgment on its own is not enough because evidence relating to the original site plan no longer exists.<sup>5</sup> However, the 1975 Judgment did not incorporate the original site plan or otherwise order the implementation of a specific development plan. Instead, the 1975 Judgment unequivocally stated, in relevant part, that the zoning for the property—all 139 acres—was “invalid” and that plaintiffs, “or their successors,” were “entitled to develop” the property “as a mobile home park in accordance with the terms and conditions of the ... [mobile-home] zoning classification contained in Ann Arbor Township's Zoning Ordinance and in compliance with public health and regulations.” Given that the 1975 Judgment did not order implementation of a specific mobile-home-park plan, and given that the township has not otherwise identified any lost evidence material to the issues in this case, the township's lost-evidence argument lacks merit, and does not support the township's assertion of prejudice. See *In re Runco*, 463 Mich 517, 523; 620 NW2d 844 (2001) (rejecting laches defense when “the materials that had become unavailable over time did not include any that were necessary for resolution of the central issues”).

\*8 The township's change-of-circumstance argument is equally unsupported. In this regard, laches will apply when there is an unexcused delay in commencing the action and “a corresponding change of material condition that results in prejudice to a party.” *Wayne Co v Wayne Co Retirement Comm*, 267 Mich App 230, 252; 704 NW2d 117 (2005) (quotation marks and citation omitted). In contrast, when “the situation of neither party has changed materially, and the delay of one has not put the other in a worse condition, the defense of laches cannot ... be recognized.” *Id.* In this case, the township claims that there has been a change in circumstances because the township is now committed to “farmland preservation.” This argument lacks merit for two reasons.

First, the record does not support the township's assertion of a *newfound* commitment to farmland preservation.<sup>6</sup> The township's Master Plan from 1971—as detailed in the township's brief on appeal to the Michigan Supreme Court in the previous lawsuit—included in its goals and objectives recognizing

that good agricultural land is a vital natural resource and should be protected insofar as possible, recommending that the use of the most productive soils in the Township for other than agricultural purposes should be discouraged except when planned and orderly neighborhood concentrations are needed to meet the pressures of urban growth. [Emphasis added.]

In short, farmland preservation does not appear to be a novel goal for the township, and it does not constitute a change in circumstances supporting the invocation of laches to prevent the enforcement of the 1975 Judgment.

Second, the 2008 and 2015 Master Plans wholly undermine the township's claims of prejudice stemming from a change in circumstances. Again, both plans expressly state: “The Township will permit the mobile home park to develop as directed by the court's decision. *Other areas of the Master Plan have been structured with this planning decision in place.*” (Emphasis added.) Hence, the 1975 Judgment is not some long-forgotten judgment that had been overlooked by the township. Instead, as most recently stated in 2015, the township planned and structured its zoning decisions on the basis that a mobile-home park would be developed as directed in the 1975 Judgment.<sup>7</sup> Clearly, this is not a case in which the township made decisions or incurred expenses to its detriment on the basis that plaintiffs would *not* be enforcing their rights under the 1975 Judgment. See *Lyon Charter Twp v Petty*, 317 Mich App 482, 491; 896 NW2d 477 (2016) (compiling examples in which the party asserting laches demonstrated a substantial change in position or extensive obligations incurred as a result of the other party's inaction). The township did not want a mobile-home park in 1975, and it may not want a mobile-home park now, but it has

been expressly planning for one on plaintiffs' property for 45 years. The parties' situation has not materially changed, and any delay by plaintiffs has not put the township in a worse condition.<sup>8</sup> See *Wayne Co.*, 267 Mich App at 252. Accordingly, the township has not been harmed by plaintiffs' failure to file suit earlier, and there is no prejudice to the township in the enforcement of the 1975 Judgment. Absent prejudice to the township, laches does not apply. In sum, laches does not apply on the undisputed facts of this case, and the trial court erred by granting summary disposition to the township on the basis of laches.<sup>9</sup>

### C. STATUTES OF LIMITATIONS

**\*9** As an alternate basis to affirm the trial court's grant of summary disposition to the township, the township asserts that plaintiffs request to enforce the judgment is barred by a statute of limitations. “[T]he running of the statute of limitations is an affirmative defense.” *Stanke v State Farm Mut Auto Ins Co*, 200 Mich App 307, 312; 503 NW2d 758 (1993). The burden is on the defendant to raise the statute of limitations, see *id.*, and to ultimately “prove facts that bring the case within the statute,” *Kincaid v Cardwell*, 300 Mich App 513, 522; 834 NW2d 122 (2013). In this case, the township has not shown that plaintiffs' claim is barred by a statute of limitations.

#### 1. STATUTORY PROVISIONS

As an initial matter, the township appears somewhat uncertain about what specific statute of limitations, if any, should apply. The township begins with a broad argument that the “policies” underlying statutes of limitations should bar plaintiffs' claims. The township then mentions **MCL 600.5809**, but recognizes that there is caselaw stating that this provision only applies to the enforcement of a money judgment. If **MCL 600.5809** does not apply, the township suggests that **MCL 600.5801(4)** should bar plaintiffs' claim. Neither statute identified by the township bars plaintiffs' claims in this case.

First, **MCL 600.5809** expressly applies to “an action to enforce a noncontractual money obligation,” which can include a money judgment. See **MCL 600.5809(1), (3)**. A party seeking to enforce a money judgment or decree is subject to a 10-year period of limitations under **MCL 600.5809(3)**. However, when, as in this case, there is “no

money judgment” at issue, **MCL 600.5809(3)** is inapplicable. *Ins Comm'r v Aageson Thibo Agency*, 226 Mich App 336, 346; 573 NW2d 637 (1997). See also *Stabile v Gen Enterprises*, 70 Mich App 711, 716; 246 NW2d 375 (1976) (concluding that 10-year statute of limitations in **MCL 600.5809** applied only to the enforcement of *money judgments and decrees*). For these reasons, **MCL 600.5809** does not apply.

Second, **MCL 600.5801** governs actions “for the recovery or possession of any lands or to make any entry upon any lands.” In arguing that **MCL 600.5801** bars plaintiffs' claim relating to the 1975 Judgment, the township relies on *Stabile*, 70 Mich App at 711. In that case, the plaintiffs filed suit in 1957, seeking to enjoin the defendants from obstructing and diverting the normal flow of the Clinton River. *Id.* at 713. The lawsuit resulted in a consent decree, entered in 1959. *Id.* Among other provisions, the consent judgment provided that, within six months, the defendants had to erect a barrier to redirect 2/3 of the water back to the original bed of the Clinton River, and the parties—for themselves, their heirs, assigns, etc.—agreed to maintain the resulting division of water. *Id.* at 714. If the defendants failed to fulfill this requirement, the consent judgment provided that the plaintiffs could petition the court for an injunction. *Id.* at 715. The consent judgment also specified that it could be registered with the Office of the Register of Deeds in Macomb County. *Id.*

The defendants did not restore the water flow, and when the plaintiffs sought enforcement of the order, the trial court concluded that the plaintiffs' claim was barred by the 10-year period of limitations in **MCL 600.5809**. *Id.* at 715-716. On appeal, this Court found **MCL 600.5809** inapplicable, concluding, that it only applied to “the enforcement of money judgments and decrees.” *Id.* at 716. Instead, this Court concluded that the 15-year period of limitations in **MCL 600.5801(4)** applied. *Id.* This Court explained:

**\*10** We find the 15-year statute of limitations embodied in **MCL 600.5801(4)**; applicable in the instant case. The decree of September 10, 1959, *settled rights in land*. The parties by their express words intended it to operate as a grant of rights. Paragraph 6 of the judgment specifically provides that the decree instrument is recordable in the Macomb County Register of Deeds office. The property rights created by the decree, filed with the Register of Deeds, are what is sought to be enforced, not the underlying decree.

Were we to hold that the 10-year statute of limitations of [MCL 600.5809](#), applied, we would face the anomaly of the defendants *gaining prescriptive rights in 10 years*. We find no legislative intention that this occur. [*Id.* at 716-717 (emphasis added).]

In this case, the township's reliance on [MCL 600.5801](#) and *Stabile* is misplaced. Unlike the present case, *Stabile* involved an underlying property right—specifically flowage rights—that can be lost through prescription. See *Terlecki v Stewart*, 278 Mich App 644, 662; 754 NW2d 899 (2008) (applying [MCL 600.5801\(4\)](#) in the context for flowage easement dispute and explaining prescriptive easements and adverse possession in this context). The issue in *Stabile* was that, by their conduct, the defendants were engaging in acts that could result in them prescriptively obtaining property rights and at the same time extinguishing the plaintiffs' property right in that regard. In these circumstances, the plaintiffs in *Stabile* had 15 years to file suit or they faced the loss of property rights. In this case, however, the township fails to explain what underlying property rights are at issue. Further, the township has not explained what “open, notorious, continuous, and adverse use” it made of plaintiffs' property that would extinguish any of plaintiffs' property rights after 15 years. See *id.* To the contrary, as discussed, as recently as 2015, the township has recognized the continued validity of the 1975 Judgment, stating that it would allow a mobile-home development as required by the court's order. Accordingly, the township has failed to show that [MCL 600.5801](#) applies as a time bar to plaintiffs' claim.

The township appears to recognize that it has not presented evidence to support that [MCL 600.5809](#) or [MCL 600.5801\(4\)](#) bar the current action. Instead, the township provides a lengthy discussion of the policy rationales for statutes of limitations, and the township generally argues that *some* statute of limitations must bar plaintiffs' claim because 45 years is simply too long. However, the Legislature, not this Court, creates statutes of limitations, *Mair v Consumers Power Co*, 419 Mich 74, 85; 348 NW2d 256 (1984), and it is not the judiciary's role to create a new rule for the township simply because the township thinks it would be good policy. Moreover, it is ultimately the township's burden—as the party seeking to invoke a statute of limitations—to identify an applicable statute and to prove facts bringing this case within that statute. See *Kincaid*, 300 Mich App at 522. Having failed to establish that a statute of limitations barred plaintiffs' claim, the township was not entitled to summary disposition on this basis.

## 2. MODIFIABILITY OF INJUNCTIVE ORDERS

In the context of its statute-of-limitations argument, the township also contends that statutes of limitations should bar plaintiffs' claim because orders granting injunctive relief are always modifiable. However, we conclude that as a basis for dismissing a claim on statute-of-limitations grounds, the township's argument in this regard is without merit.

\*11 Arguably, the 1975 Judgment could be construed to grant injunctive relief to plaintiffs' predecessors. The 1975 Judgment declared the township's zoning of the property unconstitutional, and the trial court in 1975 concluded that the Doletsky plaintiffs should be allowed to use the property for a mobile-home park, and the township was effectively enjoined from interfering with that use. See *Schwartz v Flint*, 426 Mich 295, 329; 395 NW2d 678 (1986) (“After a zoning ordinance has been declared unconstitutional, in addition to that declaration, a judge may provide relief in the form of a declaration that the plaintiff's proposed use is reasonable, assuming the plaintiff's burden has been met, and an injunction preventing the defendant from interfering with that use.”). And, as emphasized by the township, “[a] continuing decree of injunction directed to events to come is subject always to adaptation as events may shape the need.” *First Protestant Reformed Church of Grand Rapids v De Wolf*, 358 Mich 489, 495; 100 NW2d 254 (1960), quoting *United States v Swift & Co*, 286 US 106, 114; 52 S Ct 460; 76 L Ed 999 (1932). See also [MCR 2.612\(C\)\(1\)\(e\)](#) (allowing a court to grant relief from judgment when it is no longer equitable for the judgment to have prospective application).

Even assuming arguendo that the 1975 Judgment constitutes an injunction subject to modification, it does not necessarily follow that a statute of limitations bars plaintiffs' claim. The township's argument in this regard is confusing and devoid of legal analysis. If anything, the township's assertion that the 1975 order is *always* modifiable is a tacit acknowledgment that the judgment is still valid and enforceable, otherwise there would be no need for modification. Additionally, even if the order is theoretically modifiable, the township would not have authority to unilaterally abrogate the 1975 Judgment. See *Troy v Holcomb*, 362 Mich 163, 169; 106 NW2d 762 (1961). Instead, the proper procedure would be for the township to apply to the court for modification of the decree, which the township has not done. See *id.*; see also [MCR 2.613\(B\)](#) (“A judgment or order may be set aside or vacated,

and a proceeding under a judgment or order may be stayed, only by the judge who entered the judgment or order, unless that judge is absent or unable to act.”). It would also be the township’s burden to show a change of circumstances warranting modification. See *Swift & Co*, 286 US at 119. Thus, contrary to the township’s arguments, modification of injunctions has nothing to do with the statute of limitations. For all these reasons, the township’s modification argument, as a basis for summary disposition, lacks merit. The trial court erred by granting summary disposition to the township on the basis of laches, and the township has not shown that plaintiffs’ claim related to the 1975 Judgment is barred by a statute of limitations. Accordingly, we reverse the grant of summary disposition to the township, and we remand for further proceedings.

#### D. RES JUDICATA, COLLATERAL ESTOPPEL, AND WAIVER

As noted, in addition to arguing that the trial court erred by granting summary disposition to the township, plaintiffs also argue that the trial court erred by denying plaintiffs’ motion for summary disposition on the basis of res judicata, collateral estoppel, and waiver. However, plaintiffs have failed to include these issues in their statement of the questions presented on appeal as required by MCR 7.212(C)(5). These issues have not been properly presented for appellate review, and we decline to consider these issues at this time. See *Bouverette v Westinghouse Electric Corp*, 245 Mich App 391, 404; 628 NW2d 86 (2001). We note that the trial court did not rule on these issues, and plaintiffs should be allowed to raise these issues again on remand.

#### III. SUMMARY DISPOSITION RELATED TO PLAINTIFFS’ COUNT II

Plaintiffs also argue that the trial court erred by dismissing their facial challenge to the 2020 zoning amendments on the basis that the claim was not ripe for judicial review. We concur that the trial court erred and we also reject the township’s assertion that plaintiffs lacked standing to pursue this claim. However, we decline to address the merits of plaintiffs’ claim at this time, and instead leave it to the trial court to address this issue on remand.

#### A. STANDARDS OF REVIEW

\*12 Whether a plaintiff must exhaust administrative remedies before seeking judicial review implicates questions of subject-matter jurisdiction. See *Bruley v Birmingham*, 259 Mich App 619, 623; 675 NW2d 910 (2003). Whether a trial court has subject-matter jurisdiction presents a question of law that this Court reviews de novo. *Id.* More generally, questions involving ripeness are reviewed de novo. *Van Buren Charter Twp v Visteon Corp*, 319 Mich App 538, 542; 904 NW2d 192 (2017). Whether a party has standing presents a question of law, which this Court reviews de novo. *Manuel v Gill*, 481 Mich 637, 642; 753 NW2d 48 (2008).

#### B. ANALYSIS

Generally, a litigant has standing “if the litigant has a special injury or right, or substantial interest, that will be detrimentally affected in a manner different from the citizenry at large or if the statutory scheme implies that the Legislature intended to confer standing on the litigant.” *Lansing Sch Ed Ass’n v Lansing Bd of Ed*, 487 Mich 349, 372; 792 NW2d 686 (2010). In the zoning context, a property owner, whose property is adversely affected by a zoning ordinance can be seen to have a special right or interest that will confer standing to challenge the facial validity of the ordinance. See *Randall v Twp Bd of Meridian Twp, Ingham Co*, 342 Mich 605, 607-608; 70 NW2d 728 (1955). See also 101A CJS, Zoning and Land Planning, § 26 (“[T]hose whose rights are or may be injuriously affected by the application or enforcement of a zoning regulation may attack its validity. Thus, the validity of an ordinance may be attacked by the owner of property affected ....”). However, property ownership is not necessarily required to confer standing to challenge a zoning ordinance. See generally *Sun Oil Co v Ferndale*, 6 Mich App 470, 472-473; 149 NW2d 485 (1967). For example, depending on the facts, a party who has contracted to purchase property may also have standing to challenge the constitutionality of a zoning ordinance. See *id.* (rejecting standing challenge when the plaintiff had a contractual relationship with the owner of the property and submitted a permit application for a gas station).

“The doctrine of ripeness is closely related to the standing doctrine in that it focuses on the timing of the action.” *Van Buren Charter Twp v Visteon Corp*, 319 Mich App 538, 553; 904 NW2d 192 (2017) (quotation marks and citation omitted).

“The ripeness doctrine requires that a party has sustained an actual injury to bring a claim. A party may not premise an action on a hypothetical controversy.” *Id.* (citations omitted).

In land use challenges, the doctrine of ripeness is intended to avoid premature adjudication or review of administrative action. It rests upon the idea that courts should not decide the impact of regulation until the full extent of the regulation has been finally fixed and the harm caused by it is measurable. [*Bruley*, 259 Mich App at 623 (quotation marks and citation omitted).]

Whether framed as a deprivation of due process or equal protection, or as takings claim, an “as applied” challenge to a zoning ordinance requires finality and an exhaustion of administrative remedies. *Paragon Props Co v Novi*, 452 Mich 568, 576; 550 NW2d 772 (1996); *Bruley*, 259 Mich App at 626-628.

[T]he finality requirement is concerned with whether the initial decisionmaker has arrived at a definitive position on the issue that inflicts an actual, concrete injury; the exhaustion requirement generally refers to administrative and judicial procedures by which an injured party may seek review of an adverse decision and obtain a remedy if the decision is found to be unlawful or otherwise inappropriate. [*Bruley*, 259 Mich App at 628 (quotation marks and citation omitted).]

\*13 Although an as-applied challenge requires finality and exhaustion of administrative remedies, a facial challenge may be brought in circuit court without first exhausting administrative remedies. *Id.* at 626-628. “Finality is not required for facial challenges because such challenges attack the very existence or enactment of an ordinance.” *Paragon*

*Props Co*, 452 Mich at 577. Further, when the issue involved is a constitutional challenge to the validity of the ordinance, exhaustion of the various administrative remedies can be considered “futile because [t]here is no sense in forcing a plaintiff to plod through the lengthy administrative process when only the courts have the authority to resolve the controlling constitutional issue.” *Bruley*, 259 Mich App at 627 (quotation marks and citation omitted; alteration in *Bruley*). The difference between as-applied and facial challenges has been explained by our Supreme Court as follows:

A facial challenge alleges that the mere existence and threatened enforcement of the ordinance materially and adversely affects values and curtails opportunities of all property regulated in the market. An “as applied” challenge alleges a present infringement or denial of a specific right or of a particular injury in process of actual execution. [*Paragon Props Co*, 452 Mich at 576 (citations omitted).]

Turning to the relevant claim in this case, in Count II of their complaint, plaintiffs alleged a facial challenge to the validity of the 2020 ordinance amendment. Briefly summarized, plaintiffs contend that the 2020 ordinance amendment—requiring final site-plan approval from the township—unconstitutionally conflicts with the requirements and procedures for approval of a mobile-home development as set forth in the MHCA. Relevant to plaintiffs’ claim, “local governments may control and regulate matters of local concern when such power is conferred by the state.” *DeRuiter v Byron Twp*, 505 Mich 130, 140; 949 NW2d 91 (2020). “State law, however, may preempt a local regulation either expressly or by implication. Implied preemption can occur when the state has occupied the entire field of regulation in a certain area (field preemption) or when a local regulation directly conflicts with state law (conflict preemption).” *Id.* (citations omitted). It would be unconstitutional for a township to attempt to regulate an issue preempted by state law. See *Walsh v River Rouge*, 385 Mich 623, 639; 189 NW2d 318 (1971).

Here, plaintiffs’ claim that the township’s ordinance is invalid because it conflicts with the MHCA is a constitutional

attack to the facial validity of the township's ordinances. See, e.g., *Jott, Inc v Clinton Charter Twp*, 224 Mich App 513, 544; 569 NW2d 841 (1997) (rejecting ripeness objections and considering constitutional challenges to disputed ordinance, including preemption). Plaintiffs—as the owner (J.A. Bloch) and proposed developer and purchaser of the property (Sun ACQ)<sup>10</sup>—have standing to litigate this question impacting the property and, more specifically, the proposed development. Moreover, because the claim involves a facial challenge, plaintiffs' failure to pursue additional administrative remedies does not prevent plaintiffs from seeking judicial review of the constitutional, facial challenge. See *Bruley*, 259 Mich App at 626-628. The trial court erred by concluding that the claim was not ripe. See *id.*

**\*14** On appeal, as in the trial court, the township contends that plaintiffs are impermissibly seeking an “advisory opinion.” Relying on caselaw involving the Michigan Supreme Court’s authority to issue advisory opinions under *Const. 1963, art. 3, § 8*, the township contends that an advisory opinion is not warranted on the facts of this case because neither the Legislature nor the governor have requested such an opinion. The township’s reliance on this body of law is wholly misplaced. *Const. 1963, art. 3, § 8*, states: “Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.” (Emphasis added). And Justice MARKMAN’s opinion on which the township relies—from *Woodman ex rel Woodman v Kera LLC*, 486 Mich 228; 785 NW2d 1 (2010)—involved the Supreme Court’s authority to issue an advisory opinion. These principles regarding advisory opinions by the Supreme Court simply have no applicability in this case. At best, in relying on *Woodman* and *Const. 1963, art. 3, § 8*, the township seems to be suggesting that there is no actual controversy and that the trial court should not address a hypothetical issue. However, for the reasons already discussed, there is an actual controversy regarding the validity of the 2020 ordinance that is ripe for judicial review, and plaintiffs have standing to litigate that question. Accordingly, the township’s “advisory opinion” argument lacks merit.

Relatedly, as part of its assertion that there is no controversy for a court to decide, the township asserts that the MHCA does not actually apply to plaintiffs’ property because there is a difference between “manufactured housing” and a “mobile home,” and according to the township, plaintiffs plan to

build a manufactured-housing development rather than a mobile-home park. This assertion lacks merit. Relevant to the township’s argument, under the MHCA:

“Mobile home” means a structure that is transportable in 1 or more sections, built on a chassis, and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. [MCL 125.2302(h).]

For purposes of the MHCA, this Court has recognized that the terms “manufactured house” and “mobile home” appear to be synonymous. *Mortgage Elec Registration Sys, Inc v Pickrell*, 271 Mich App 119, 121 n 3; 721 NW2d 276 (2006).<sup>11</sup> Moreover, even if there were an argument to be made that there is—or can be—a difference between manufactured homes and mobile homes, the township presented insufficient factual support for its contention that plaintiffs’ proposed development will contain housing that does not satisfy the MHCA’s definition of “mobile homes.” The township has not shown that the MHCA does not apply to this dispute.

With regard to plaintiffs’ Count II, we note that, on appeal, plaintiffs ask this Court to go further than addressing the threshold ripeness and standing issues to actually rule on the constitutionality of the township’s 2020 amendments. In our view, this issue has not yet been addressed by the trial court, and although the question is one of law that we could potentially decide in the first instance, there also exists a “general presumption” that this Court “will not reach constitutional issues that are not necessary to resolve a case.” *Booth Newspapers, Inc v Univ of Mich Bd of Regents*, 444 Mich 211, 234; 507 NW2d 422 (1993). At this point, there is still much to be addressed on remand, particularly with regard to the 1975 Judgment, and the case would not be resolved by addressing the constitutionality of the 2020 amendments. In these circumstances, we decline to address this issue at this time. See *id.* Instead, we leave the issue to be addressed on remand.

#### IV. INTERVENTION

\*15 Lastly, plaintiffs argue that the trial court abused its discretion by allowing intervenors to intervene. We review a trial court's decision on a motion to intervene for an abuse of discretion. *Auto-Owners Ins Co v Keizer-Morris, Inc*, 284 Mich App 610, 612; 773 NW2d 267 (2009). "An abuse of discretion occurs when the decision results in an outcome falling outside the principled range of outcomes." *Id.* (quotation marks and citations omitted). We conclude that the trial court did not abuse its discretion by granting intervenors' motion to intervene in this case.

"Intervention is an action where a third party becomes a party in a suit that is pending between others." *Hill v LF Transp, Inc*, 277 Mich App 500, 508; 746 NW2d 118 (2008). Intervenors moved to intervene as of right under MCR 2.209(A)(3) or permissively under MCR 2.209(B). These provisions state:

(A) Intervention of Right. On timely application a person has a right to intervene in an action:

\* \* \*

(3) when the applicant claims an interest relating to the property or transaction which is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(B) Permissive Intervention. On timely application a person may intervene in an action

\* \* \*

(2) when an applicant's claim or defense and the main action have a question of law or fact in common.

In exercising its discretion, the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties. [MCR 2.209.]

"The rule for intervention should be liberally construed to allow intervention where the applicant's interests may be inadequately represented." *Hill*, 277 Mich App at 508 (quotation marks and citation omitted). Intervention may be denied, however, when "it will have the effect of delaying the action or producing a multifariousness of parties and

causes of action." *Id.* (quotation marks and citation omitted). Although the court rule requires a proposed intervenor to claim an interest in the property, it is not necessary that a party seeking intervention prove a "meritorious claim" at the intervention stage. *Id.* at 508-509. Further, although intervention requires a possibility of inadequate representation, "the concern of inadequate representation of interests need only exist; inadequacy of representation need not be definitely established." *Vestevich v West Bloomfield Twp*, 245 Mich App 759, 762; 630 NW2d 646 (2001).

Here, whether the trial court granted intervention as of right or permissively is not entirely clear from the record, but the trial court's reasoning seems to support that the trial court concluded that intervenors were entitled to intervene as right under MCR 2.209(A)(3). Specifically, following a hearing and oral argument from the parties, the trial court granted intervenors' motion to intervene, reasoning:

All right. I am persuaded that the proposed Intervenors do have an interest in the outcome of this matter and also that their interest is while it might be aligned with that of the Township, it is different from that of the Township and greater or more specific or particular to the Village than either the Township's general interest in enforcing its zoning regulations. And I will therefore grant the motion to intervene.

I agree with the Intervenor that the arguments made against intervention primarily go to the merits of the case rather than to whether or not the Village of Barton Hills has an adequate interest justifying intervention in the case and there will be a time and place for those arguments to be heard, but it's not on the motion to intervene.

\*16 The intervenors' interest related to the property more specifically involved an aquifer under plaintiffs' property from which intervenors draw their municipal water supply, an interest which could be affected by a mobile-home development. Contrary to plaintiffs' arguments on appeal, the trial court did not abuse its discretion by concluding that intervenors claimed "an interest relating to the property" at issue in this case. Cf. *Vestevich*, 245 Mich App at 762 (concluding that nearby landowners had an interest sufficient to support intervention in a land-use dispute when they were concerned that "their interests would be affected by the commercial development of the residentially zoned parcel, by way of neighborhood character, property values, traffic patterns, and the like"). Whether intervenors' claim to an interest related to the property has any merit is not the

issue; it is enough that they are able to claim an interest related to the property. See *Hill*, 277 Mich App at 508. Further, although the township and proposed intervenors are aligned in opposition to a mobile-home development, there is a possibility that the township, which is mainly concerned with its overall zoning plan and which has not expressed any particular concern for the neighboring community's water supply, will not adequately represent intervenors' interests. See *D'Agostini v Roseville*, 396 Mich 185, 189, 240 NW2d 252 (1976). Consequently, the trial court did not abuse its discretion by granting intervenors' motion to intervene. See MCR 2.209(A)(3).

In sum, we reverse the grant of summary disposition to the township, affirm the trial court's decision to allow intervention, and remand for further proceedings consistent with this opinion. We do not retain jurisdiction. No costs are awarded. MCL 7.219(A).

#### All Citations

Not Reported in N.W. Rptr., 2022 WL 17876842

---

#### Footnotes

- 1 The zoning that permitted mobile-homes in the township at the time of the trial court's ruling was the R-6 zoning on one of plaintiffs' parcels. Since the trial court's ruling, the township has rezoned this parcel to R-2 for single-family suburban residential development.
- 2 Although not evidence, statements by the township's attorney at the summary disposition hearing on November 18, 2021, support the opposite—that the township fully honored the 1975 Judgment in the 1980s by granting J.A. Bloch's request in its entirety, which at that time only implicated 80 acres of the property. Specifically, the township's attorney explained his understanding of the 1987 zoning decision as follows: "It was in 1987 is my understanding which is when Mr. Bloch had asked at that time to put 500 mobile homes east of US-23 *on the 80 acres*. He started that process, the Township started working with him. He abandoned the project." The site plan review report related to the plans in the 1980s supports counsel's assertion that J.A. Bloch only planned to put mobile home on 80 acres (the parcel on the north side of Warren Road, east of US-23), and the report acknowledged that the site was zoned for mobile-home park use as a "result of a court order." Further, the meeting minutes for the zoning approval from November 1987 simply speak of approving a zoning request; there is no indication that a request to rezone the remaining two parcels was denied. If, as counsel's comments and the evidence suggest, the plan in 1987 was only to use 80 acres for mobile homes and the township fully honored this request consistent with the requirements of the 1975 Judgment, plaintiffs had no cause to complain and no reason to file suit at that time.
- 3 The township argues on appeal that it only intended to honor the mobile-home zoning north of Warren Road, east of US-23, meaning that it was not agreeing to honor the entire judgment, which allowed for development of 139 acres. However, that is not what the Master Plans stated. The Master Plans unequivocally stated that the township would permit development "as directed by the court's decision," which unambiguously applied to all 139 acres.
- 4 See also 30A CJS, *Equity*, § 168 ("The continued recognition or acknowledgment by the defendant of plaintiff's right is generally sufficient to account for delay in instituting suit to enforce it; thus, where the opposing party has continued to recognize the adverse right sought to be enforced, the period of prescription begins to run from the last recognition.").
- 5 Although trial court materials resulting in the 1975 Judgment have reportedly been lost, we note that the parties presented the trial court in this case with the Michigan Supreme Court's lengthy record from the 1970s,

which provides ample context for the trial court's ruling. And the 1975 Judgment is of course in addition to two written opinions by the trial court, both of which still exist.

- 6 This claim that a newfound commitment to farmland preservation supports disavowing the 1975 Judgment is also questionable sincerity given that, within months of the grant of summary disposition to the township in this case, the township undertook to rezone two of plaintiffs' parcels—including a parcel zoned A-1 for agriculture—to R-2, for single-family suburban residential. These rezoning efforts after the grant of summary disposition are part of the record before us because we granted plaintiffs' motion to expand the record. *J.A. Bloch and Co v Ann Arbor Township*, unpublished order of the Court of Appeals, entered October 10, 2022 (Docket No. 359265). Nevertheless, these materials are not necessary to our conclusion that the trial court erred by granting summary disposition to the township, and we instead limit our review to the evidence presented to the trial court at the time the motion was decided. See *Pena v Ingham Co Rd Comm*, 255 Mich App 299, 310, 313 n 4; 660 NW2d 351 (2003); see also MCR 2.116(G)(5).
- 7 Indeed, as supported by evidence submitted by plaintiffs in the trial court, the township has in fact denied other rezoning requests for mobile-home parks, including within the reasons for the denial the fact that another area of the township, i.e., plaintiffs' property, was zoned for a mobile-home park as a result of the prior judgment. In its summary disposition response brief in the trial court, and on appeal, the township claimed that it would have made different planning decisions if it had *not* been honoring the 1975 Judgment.
- 8 If anything, the passage of time has likely benefited the township insofar as there has been an increase in environmental regulations and other health and safety matters over the last 45 years that will govern plaintiffs' development today. Cf. *Great Lakes Gas Transmission Co v MacDonald*, 193 Mich App 571, 578; 485 NW2d 129 (1992) ("If anything, defendants may have benefited from the increased level of environmental regulation that has developed since the easement agreement was recorded in 1967.").
- 9 With regard to laches, we note that plaintiffs appear to argue that laches could *never* bar enforcement of a nonmoney judgment related to land use. Plaintiffs' cursory treatment of this issue constitutes abandonment. See *State Treasurer v Sprague*, 284 Mich App 235, 243; 772 NW2d 452 (2009) ("Failure to brief a question on appeal is tantamount to abandoning it."). Moreover, it is unnecessary to address this issue because it is readily apparent that laches does not apply to the facts of this case.
- 10 J.A. Bloch presented evidence to support that it owns the property. Plaintiffs also alleged in their complaint that, in July 2018, J.A. Bloch entered into an agreement to sell the property to Sun ACQ, an affiliate of Sun Communities, which operates numerous mobile-home parks in Michigan. There is also evidence that Sun ACQ submitted a preliminary site plan to the township related to the property. However, the purchase contract between J.A. Bloch and Sun ACQ does not appear in the lower court record, and accordingly the township questions Sun ACQ's involvement in this case. However, even if the failure to present the sale contract supported that Sun ACQ lacked standing, J.A. Bloch—as the property owner—would still have standing in this case.
- 11 See also *Bennett v CMH Homes, Inc*, 770 F3d 511, 517-518 (CA 6, 2014) (Stranch, J., dissenting) ("Until the late 1970's, manufactured homes were generally called 'mobile homes.' ... In response to a negative stigma against 'mobile homes,' the industry responded by coining the term 'manufactured home' that—though naming the same product—was intended to impart a better impression."); *Thiel v Goyings*, 504 Mich 484, 503 n 5; 939 NW2d 152 (2019) (distinguishing "mobile and manufactured home" from "modular homes" for purposes of a restrictive covenant and explaining that "[m]obile and manufactured homes are built on an automotive-type frame that incorporates an axle or metal chassis").