



CITY OF BURTON

BURTON PLANNING COMMISSION MEETING

JUNE 11, 2019

AGENDA

Council Chambers

Regular Meeting

5:00 PM

**4303 S. CENTER ROAD
BURTON, MI 48519**

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

C. STAFF PRESENT

D. APPROVAL OF MINUTES

1. Planning Commission - Regular Meeting - May 14, 2019 5:00 PM

E. SITE PLAN REVIEW

1. SPR #19-22

By: James Cokley c/o Genesee Ceramic Tile
1307 N. Belsay Rd.
Burton, MI 48509

Re: 1307 N. Belsay Rd. Burton, MI 48509
59-11-526-019, M-1 Zoned

For: Construction of a 60' x 120' storage building

F. ADMINISTRATIVE SITE PLAN REVIEW

1. SPR #19-18

By: Theresa Conner
6280 Seymour Rd.
Swartz Creek, MI

Re: 3266 S. Dort Hwy. Burton, MI 48529

For: CRC Appliance, Inc.

2. SPR #19-19

By: Jake Hernandez-Pellerito
1470 James
Burton, MI 48529

Re: 3492 S. Saginaw St. Burton, MI 48529

For: RFJ Design Studio, LLC.

3. SPR #19-20

By: Tony Cronkright
1128 S. Vassar Rd.
Burton, MI 48509

Re: 5460 Lapeer Rd. Burton, MI 48509

For: Mid-Michigan Muffler & Brakes

4. SPR #19-21

By: Baru Belin
5419 Ledgewood Creek Ave.
Las Vegas, NV 89141

Re: 1146 Hemphill Rd. Burton, MI 48529

For: Janitorial and supplies

G. AUDIENCE PARTICIPATION

Now is the time set-aside for members of the audience to address the Burton Planning Commission. I would ask each individual to give their name and address for the record and to limit their comments to three (3) minutes and to speak on the topics germane to City business.

H. BOARD DISCUSSION

1. Recreational Marijuana Discussion

***THE NEXT REGULAR SCHEDULED PLANNING MEETING WILL BE HELD
ON JULY 9, 2019 @ 5:00 PM***

Agendas and minutes may be found at www.burtonmi.gov



CITY OF BURTON

BURTON PLANNING COMMISSION MEETING

MAY 14, 2019

MINUTES

Council Chambers

Regular Meeting

5:00 PM

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by Chairperson Deb Walton at 5:00 PM.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Vaughn Smith	Councilman	Present	
Kevin Burge	Vice Chair	Present	
Mary Ann White	Commissioner	Present	
Tom Gorang	Commissioner	Present	
Deb Walton	Chairperson	Present	
John Benthall	Commissioner	Present	
Kris Johns	Commissioner	Present	
Robert Johnson	Commissioner	Absent	

C. STAFF PRESENT

Amber Abbey, Planning/Zoning Superintendent
Racheal Boggs, Deputy Clerk

D. APPROVAL OF MINUTES

1. Planning Commission - Regular Meeting - Apr 9, 2019 5:00 PM

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Kevin Burge, Vice Chair
SECONDER: John Benthall, Commissioner
AYES: Smith, Burge, White, Gorang, Walton, Benthall, Johns
ABSENT: Johnson

E. SITE PLAN REVIEW

1. SPR #19-17

By: Siwek Construction
5020 Pilgram Rd.
Flint, MI 48507

Re: 2123 S. Center Rd. Burton, MI 48509
59-22-100-045, C-2 Zoned

For: Construction of a new building and parking lot

Rudy Quaderer with Griggs Quaderer, Inc. of Grand Blanc stated he is the site engineer for this project. We are seeking approval for a new 4100 square foot building for Lagarda Security. This will be behind the existing building and will require removal and replacement of the current parking lot.

Dave McLane with Asselin McLane Architectural Group (AMAC) of Flint stated he is the architect for this project for Largarda. This is an increase in office space, a new conference room, a break room and garage. There will be awning on the front windows and metal siding on the back for a possible future addition.

Mrs. Abbey stated it is nice when a growing business decides to stay and rebuild instead of leaving Burton. We have gone over the project and the Fire Department and the Water and Sewer Department have both reviewed it. We recommend approval.

Mr. Burge asked if the old building will be torn down.

Mr. Quaderer said, yes.

Mr. Burge asked about the storm drainage.

Mr. Quaderer stated currently there is direct discharge into the road. We are going to detain it. There is a detention basin that will be going in.

Mr. Burge asked if the gas meter will remain in the front yard or attached to the building.

Mr. Quaderer said, it will be underground.

Ms. White stated the front facade is very nice.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	John Benthall, Commissioner
SECONDER:	Tom Gorang, Commissioner
AYES:	Smith, Burge, White, Gorang, Walton, Benthall, Johns
ABSENT:	Johnson

F. ADMINISTRATIVE SITE PLAN REVIEW

1. SPR #19-06

By: Andrew Johnson
5125 E. Court St.
Burton, MI 48509

Re: 5053 E. Court St. Burton, MI 48509

59-11-300-001

For: Parking Lot Addition

Mr. Burge asked if this is a parking lot for the new building.

Mrs. Abbey said, no. They went in front of the ZBA for this. It is gravel and is for cars only.

2. SPR #19-08

By: US Auto Lane Inc.
5053 E. Court St. Suite G
Burton, MI 48509

Re: 5053 E. Court St. Suite G, Burton, MI 48509

For: Additional tenant for wholesale vehicles

3. SPR #19-09

By: JL Real Estate
1170 E. Hemphill Rd.
Burton, MI 48529

Re: 1170 E. Hemphill Rd. Burton, MI 48529

For: Change of Ownership – Vet Clinic

4. SPR #19-10

By: Brian Jacques
4309 Red Arrow Rd.
Flint, MI

Re: 4232 S. Dort Hwy #4 Burton, MI 48529

For: Window Tinting

5. SPR #19-11

By: Jason Primeau
4227 Fenton Rd.
Burton, MI 48529

Re: 4227 Fenton Rd. Burton, MI 48529

For: Office and Warehouse

6. SPR #19-12

By: Greg Munger
4104 Carmanwood Dr.
Flint, MI 48507

Re: 4507 Fenton Rd. Burton, MI 48529

For: Tax office

7. SPR #19-13

By: Kristen McNeal
921 Voorheris St.
Pontiac, MI 48341

Re: 4235 Davison Rd. Burton, MI 48509

For: Salon

8. SPR #19-14

By: Robert & Amber Gray
2379 Belmont Court
Troy, MI 48098

Re: 3300 S. Center Rd. Burton, MI 48519

For: Office for Janitorial Service

9. SPR #19-15

By: Li Yong Dong
4045 Aviara Oaks Pkwy
Jackson, MI 49201

Re: 4190 E. Court St. Ste 801 Burton, MI 48509

For: Flaming Grill & Buffet

Mr. Burge asked if this is the Old Country Buffet building.

Minutes Acceptance: Minutes of May 14, 2019 5:00 PM (Approval of Minutes)

Mrs. Abbey said, yes. The new restaurant is called Flaming Grill & Buffet; a large chain restaurant specializing in sushi.

10. SPR #19-16

By: Maria Burnash
5046 Way St.
Burton, MI 48509

Re: 4251 Davison Rd. Burton, MI 48509

For: Yoga Classes

G. AUDIENCE PARTICIPATION

Ms. Boggs stated on Sunday, May 19th from 9AM - 3PM, there will be a clean-up event at Water Tower Park located next to Fire Station #1 on Bristol Road. You are all invited. The Parks & Recreation, Boy Scouts and County Commissioner Ellen Ellenburg will be there. The DDA is involved and there is a Facebook event and fliers in the lobby at City Hall.

Mr. Smith asked for the Water Tower event flier to send to the Chamber of Commerce.

Ms. Boggs stated she will email it to Mr. Smith.

Mrs. Walton stated she will put it on the I Grew Up in Burton Facebook page as well.

Mr. Benthall stated tomorrow is Police Officer's Memorial Day. There is a service at 11:00 AM at Flint Memorial Park. There will be a number of speakers, bag pipes, drill team and refreshments.

H. BOARD DISCUSSION

Mrs. Abbey stated American Legal Publishing has updated the ordinances on our website. It is very user friendly because you can use the key word search. Those seeking a physical copy of the replacement pages can bring their big book into the Clerk's Office. Recreational/Adult Use Marijuana update: Workshops must be recorded and open to public for discussion because it is an action item the Planning Commission is developing. We will also need to have a Public Hearing. We will need to do this in June and July so we can get it to City Council by August. The State of Michigan stated they could be ready as early as September and we want to have ours ready and in place before they start to accept applications.

Board discussion on different types of workshops and dates.

The Planning Commission decided to have Mrs. Abbey create a draft for the Recreational/Adult Use Marijuana Ordinance. The Planning Commission will contact Mrs. Abbey with questions, ideas and requested changes to the ordinance over the next couple of weeks. This information will be shared and discussed at the Public Hearing.

The following concerns were discussed by members:

- Mr. Smith/Mrs. Abbey: disadvantages of picking a number of facilities to allow in a municipality with no statistical information, disadvantages of a competitive process

- Mr. Johns: issues arising in other municipalities who are using a competitive process after deciding on a limited number of facilities
- Ms. White: increasing the distance requirement from the facility to churches, schools and other facilities and requiring a stand-alone facility.
- Mr. Gorang: asking the proper questions during our application process
- Mr. Burge: regulating hours of operation

Mrs. Abbey will check on the new law regarding the distance requirement and report back the Planning Commission.

Mrs. Walton would like to know about the Family Video selling CBD oil.

Mrs. Abbey stated the Code Enforcement Officer visited the location and there is no THC in the oil. We will keep an eye on it. Family Video is a large company, it would be bad for them to sell marijuana without a proper license. I can't imagine they would take that risk.

Mrs. Walton asked about the cost for a permit.

Mrs. Abbey stated it is \$5,000 per business.

Mr. Johns asked if there is a published summary of the state language regarding Recreational Marijuana that we can use during this process to make it easier for people to understand.

Mrs. Abbey stated there are some different summaries provided by the MML and the State of Michigan. She will provide the Planning Commission with a copies of these.

THE NEXT REGULAR SCHEDULED PLANNING MEETING WILL BE HELD ON JUNE 11, 2019 @ 5:00 PM

Agendas and minutes may be found at www.burtonmi.gov

Meeting was adjourned at 5:44 PM.

Minutes Acceptance: Minutes of May 14, 2019 5:00 PM (Approval of Minutes)



Burton Planning Commission

4303 S. Center Road
Burton, MI 48519

SCHEDULED

AGENDA ITEM (ID # 4410)

Meeting: 06/11/19 05:00 PM

Department: Department of Public Works

Category: Site Plan Review

Prepared By: Amber Abbey

Department Head: Bette Bigsby

E.1

DOC ID: 4410

SPR #19-22

By: James Cokley c/o Genesee Ceramic Tile
1307 N. Belsay Rd.
Burton, MI 48509

Re: 1307 N. Belsay Rd. Burton, MI 48509
59-11-526-019, M-1 Zoned

For: Construction of a 60' x 120' storage building

ATTACHMENTS:

- Back up 19-22 (PDF)



City of Burton
 Department of Public Works
 4093 Manor Drive
 Genesee County, Burton, Michigan 48519
 (810) 742-9230



APPLICATION FOR SITE PLAN REVIEW

DATE FILED: 5-28-19
 FEE: \$ 200.00
 RECEIPT NO: _____
 CHECK NO: 1375.

SPR #: 19-22

PLEASE PRINT

DATE OF PLANNING COMMISSION MEETING: June 11, 2019
 APPLICANTS NAME: James Cokley c/o Genesee Ceramic Tile
 APPLICANTS ADDRESS: 1307 N. Belsay Road, Burton, MI 48509
 APPLICANTS PHONE NO: 810-249-4213
 PROPOSED NAME OF BUSINESS: Genesee Ceramic Tile
 SITE ADDRESS: 1307 N. Belsay Road, Burton, MI 48509
 SUBDIVISION & LOT # OR PARCEL NUMBER: 59-11-526-019

 RE: Proposed 60' x 120' storage building at existing business

APPLICANT: IT IS TO YOUR ADVANTAGE TO ATTEND THE ABOVE SCHEDULED MEETING. THE PLANNING COMMISSION MAY HAVE QUESTIONS THAT DIRECTLY AFFECT APPROVAL, DENIAL, OR POSTPONING UNTIL THESE QUESTIONS CAN BE ANSWERED.

APPLICANTS SIGNATURE: _____

NOTE: All site plans must be filed at least two (2) weeks prior to the Planning Commission hearing and **MUST** comply with the procedures set forth in Section 157.092 of Codified Ordinance as attached. Must include **twelve (12) sets** of prints in order to process the application.

Attachment: Back up 19-22 (4410 : SPR #19-22)

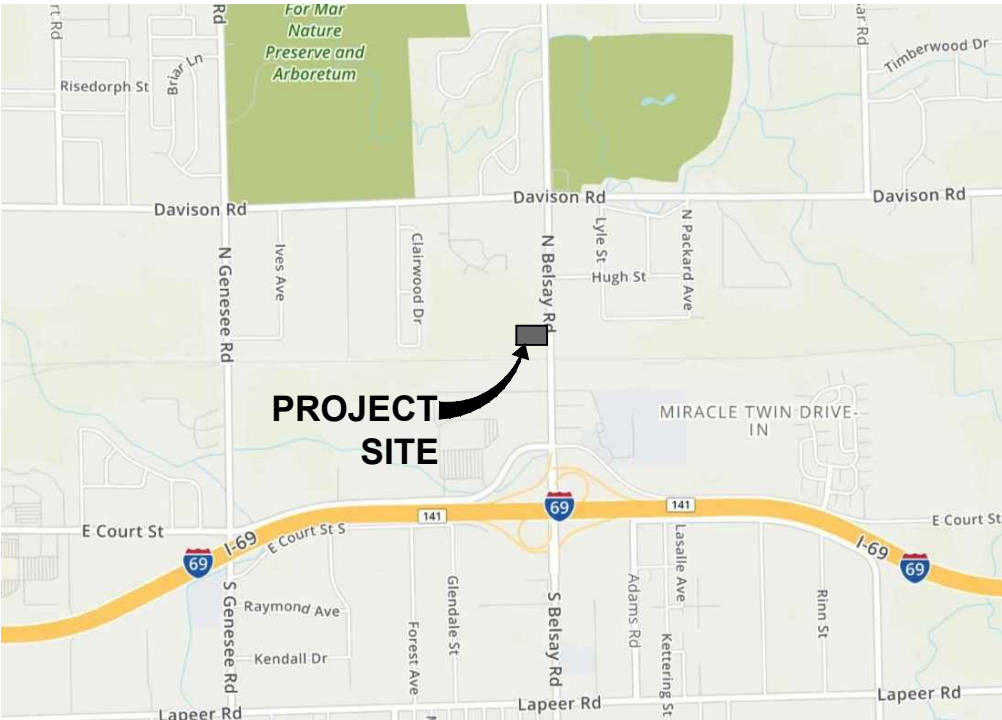
SITE PLAN FOR GENESEE CERAMIC TILE PURPOSED STORAGE BUILDING

CITY OF BURTON, GENESEE COUNTY, MI

MAY 28, 2019

FLEIS & VANDENBRINK
DESIGN, BUILD, OPERATE

9475 Holly Rd, Suite 201
Grand Blanc, MI 48439
P: 810.743.9120
F: 810.743.1797



LOCATION MAP

NOT TO SCALE

PROPERTY DESCRIPTION

LOTS 18 AND 19, DALY RANCH-HOMESTES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT LIBER 24, PAGE 7, GENESEE COUNTY RECORDS, AND ALSO INCLUDING THE FOLLOWING DESCRIBED PARCEL OF LAND, PART OF THE NORTHEAST 1/4 OF SECTION 11, T7N-R7E, CITY OF BURTON, GENESEE COUNTY, MICHIGAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING 00°00'00"E, ALONG THE EAST LINE OF SAID SECTION 11, A DISTANCE OF 303.21 FEET FROM THE EAST 1/4 CORNER OF SAID SECTION 11; THENCE N89°31'23"W, A DISTANCE OF 310.62 FEET; THENCE 00°00'00"E, PARALLEL TO THE EAST LINE OF SAID SECTION 11, A DISTANCE OF 310.62 FEET; THENCE S90°00'00"E, A DISTANCE OF 300.00 FEET TO THE NORTHWEST CORNER OF LOT 18 OF "DALY RANCH HOMESTES" AS RECORDED IN LIBER 24, PAGE 7 OF GENESEE COUNTY PLAT RECORDS; THENCE S00°00'00"W, ALONG THE WEST LINE OF SAID "DALY RANCH HOMESTES", A DISTANCE OF 253.75 FEET TO THE SOUTHWEST CORNER OF SAID "DALY RANCH HOMESTES"; THENCE S88°41'01"E, ALONG THE SOUTH LINE OF SAID "DALY RANCH HOMESTES", A DISTANCE OF 300.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 11; THENCE S00°00'00"W, ALONG THE EAST LINE OF SAID SECTION 11, A DISTANCE OF 60.21 FEET TO THE POINT OF BEGINNING, CONTAINING 4.02 ACRES OF LAND, MORE OR LESS AND SUBJECT TO THE USE OF THE EASTERLY 50.00 FEET THEREOF AS BELSAY ROAD. ALSO SUBJECT TO ALL OTHER EASEMENTS AND RESTRICTIONS OF RECORD.

GENERAL SITE DATA:

CURRENT ZONING	M-1 (LIGHT INDUSTRIAL)
PARCEL NUMBER	59-11-526-019
TOTAL PARCEL ACRES	4.02± Gross Acres (3.95 Net Acres)
PROPOSED PROJECT AREA	1.7± Acres

AREA OF EXISTING BUILDING	18,050± Sq Ft
PROP. STORAGE BUILDING	7,200 Sq Ft
TOTAL OF ALL BUILDINGS	25,250 Sq Ft

MAX. BUILDING HEIGHT ALLOWED	2.5 STORIES (OR 35')
MAX. BUILDING HEIGHT PROVIDED	1 STORY @ 20' HIGH (BOTH BUILDINGS)
MAX. PARCEL COVER ALLOWED	50%
MAX. PARCEL COVER PROVIDED	15%

SETBACK REQUIREMENTS:

	MIN. REQUIRED	PROVIDED
FRONT:	35'	N/A
SIDE:	20' (40' TOTAL)	45.5'
REAR:	35'	176.7'

PARKING DATA:

SIZE STANDARDS	
SPACE WIDTH	9'
SPACE LENGTH	19'
ACCESS ISLE WIDTH	25'

REQUIREMENT FOR BUSINESS & COMMERCIAL WITH SHOWROOM:
1 SPACE FOR EACH 1,000 SQ. FT. OF FLOOR AREA

CALCULATION:
TOTAL BUILDING SQ FT = 25,250 / 1,000 = 30 SPACES

PROVIDED:
TOTAL EXISTING = 32 SPACES

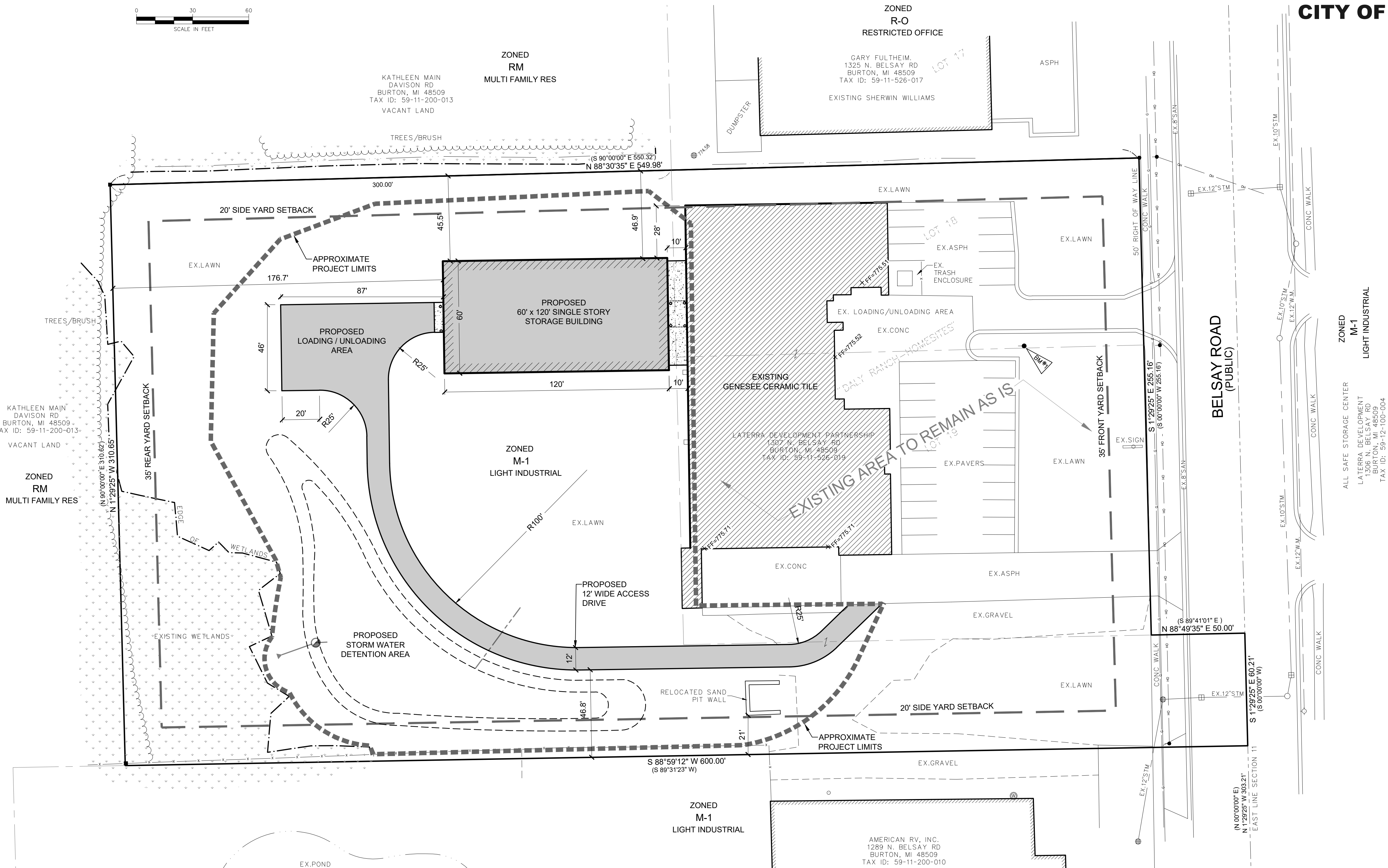
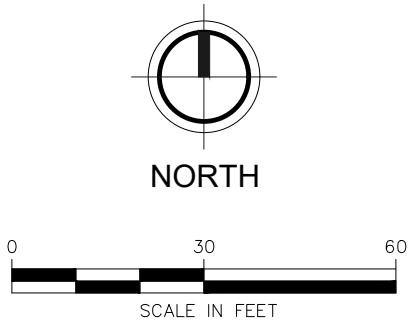
NOTE: EXISTING PARKING WILL REMAIN AS IS. NO ADDITIONAL PARKING IS PROPOSED FOR THE ACCESSORY STORAGE STRUCTURE

SHEET INDEX

NO.	TITLE
C-1)	OVERALL SITE LAYOUT AND PROJECT DATA
C-2)	EXISTING SITE CONDITIONS AND REMOVALS
C-3)	GRADING AND STORM WATER MANAGEMENT PLAN
C-4)	SESC AND LANDSCAPE PLAN

ATTACHMENTS:
• G.C.D.C. - WWS SOIL EROSION KEY SHEET

NOTE: TOTAL NUMBER OF SHEETS IN THIS SET OF PLANS = 4
ARCHITECTURAL, STRUCTURAL, AND ELECTRICAL PLANS
FOR THIS PROJECT ARE NOT INCLUDED IN THIS SET OF
PLANS. THIS INFORMATION HAS BEEN PREPARED BY OTHERS.



GENERAL NOTES:

- ALL EXISTING ON-SITE UTILITIES ARE PRIVATELY OWNED. NO PUBLIC UTILITIES ARE PROPOSED FOR THIS PROJECT. THE PROPOSED BUILDING WILL REQUIRE ELECTRIC SERVICE ONLY. SANITARY OR WATER SERVICES ARE NOT PROPOSED FOR THIS PROJECT.
- FLEIS & VANDENBRINK ENGINEERING, INC. HAS NOT REVIEWED THIS PROJECT FOR SOIL CONTENT. WE SUGGEST THAT THE CONTRACTOR CONTACT A SOILS ENGINEER WITH REGARD TO THE SOIL CONDITIONS. SOIL BEARING SUPPORT FOR THE FOUNDATION AND SLAB WORK SHALL BE TESTED BY AN INDEPENDENT TESTING SERVICE, LICENSED TO PROVIDE SUCH SERVICE, PRIOR TO PLACING SUCH FOUNDATION AND SLAB WORK. TESTING IS THE RESPONSIBILITY OF THE CONTRACTOR.
- THE TOPOGRAPHIC INFORMATION SHOWN WAS TAKEN FROM THE TOPOGRAPHIC SURVEY COMPLETED BY FLEIS & VANDENBRINK ENGINEERING, INC. ON MAY 13, 2019. SOME OF THE EXISTING FEATURES SHOWN OUTSIDE THE PROJECT LIMITS ARE SHOWN FROM AVAILABLE RECORDS.
- THE WETLAND LIMITS SHOWN WERE FLAGGED BY ASTI ENVIRONMENTAL ON MAY 7, 2019. ACCORDING TO FEMA FLOODPLAIN PANEL NUMBER 839750, THERE ARE NO FLOODPLAIN AREAS WITHIN THE PROJECT SITE.
- NPDES-NOTICE OF COVERAGE STATEMENT: THE TOTAL DISTURBED AREA OF THIS PROJECT IS APPROXIMATELY 1.7 ACRES. AN NPDES-NOTICE OF COVERAGE IS NOT REQUIRED FOR THIS PROJECT. ALSO SEE THE SOIL EROSION AND SEDIMENTATION CONTROL PLAN. AN SESC PERMIT FROM THE CITY OF BURTON IS REQUIRED PRIOR TO CONSTRUCTION.
- EXISTING UTILITIES HAVE NOT BEEN EXPOSED FOR VERIFICATION OF LOCATION AND ELEVATION AT THIS TIME. THE EXISTING UTILITIES DEPICTED ON THIS DRAWING WERE DETERMINED FROM ON-SITE OBSERVATIONS AND FROM AVAILABLE RECORDS AS PROVIDED BY THE UTILITY OWNERS. FLEIS & VANDENBRINK ENGINEERING, INC. IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED OR THE LOCATIONS AT WHICH SERVICE WILL BE PROVIDED.
- ALL BUSINESS SIGNS SHOWN ARE EXISTING. NO PROPOSED SIGNS ARE SHOWN AT THIS TIME. PLACEMENT OF ANY ADDITIONAL BUSINESS SIGNS REQUIRES A SEPARATE SIGN PERMIT APPLICATION THAT MUST BE PROCESSED THROUGH THE CITY UPON RECEIVING SITE PLAN APPROVAL.
- STATEMENT OF ADVERSE EFFECTS: THE OWNER/DEVELOPER OF THIS PROJECT DOES NOT ANTICIPATE THAT CONSTRUCTION OF THIS PROJECT WILL CREATE ANY ADVERSE EFFECTS TO THE SURROUNDING AREA.

REVIEWING AGENCY / UTILITY COMPANY LIST

AGENCY/UTILITY COMPANY	DATE SUBMITTED	CONTACT PERSON	TELEPHONE NUM.
CITY OF BURTON - PLANNING DEPARTMENT	MAY 28, 2019	AMBER ABBEY	(810) 742-9230
GENESEE CO. DRAIN COMMISSIONER - SWM	MAY 28, 2019	TOM JONES, PE	(810) 732-1590
CONSUMERS ENERGY	EXISTING GAS	MATT COX	(810) 760-3488
	EXISTING ELECTRIC	TRACY MAHAR	(989) 729-3250
	NEW SERVICES	JEREMY HALL	(810) 760-3309
AT&T	MAY 28, 2019	DIANE ROEHM	(248) 456-0829
COMCAST CABLEVISION	MAY 28, 2019	TOM DICKINSON	(586) 883-7412

MUNICIPAL REVIEWS AND APPROVALS

TYPE OF REVIEW	SUBMITTED	PLANNING COMMISSION	CITY COUNCIL
SITE PLAN APPROVAL	MAY 28, 2019		N/A

APPLICANT/OWNER

GENESEE CERAMIC TILE
C/O JAMES COKLEY
1307 N BELSAY ROAD
BURTON, MI 48509
PHONE: 810-249-4213



Know what's below.
Call before you dig.

REVISION:

GENESEE CERAMIC TILE
CITY OF BURTON, GENESEE CO.
PROPOSED STORAGE BUILDING
PROPOSED SITE LAYOUT AND ZONING DATA

DESIGN TEAM:
LME
CHECK BY:
DRAWING INFORMATION:
839750, C-1 SITE
052419 Issue

NOT FOR CONSTRUCTION

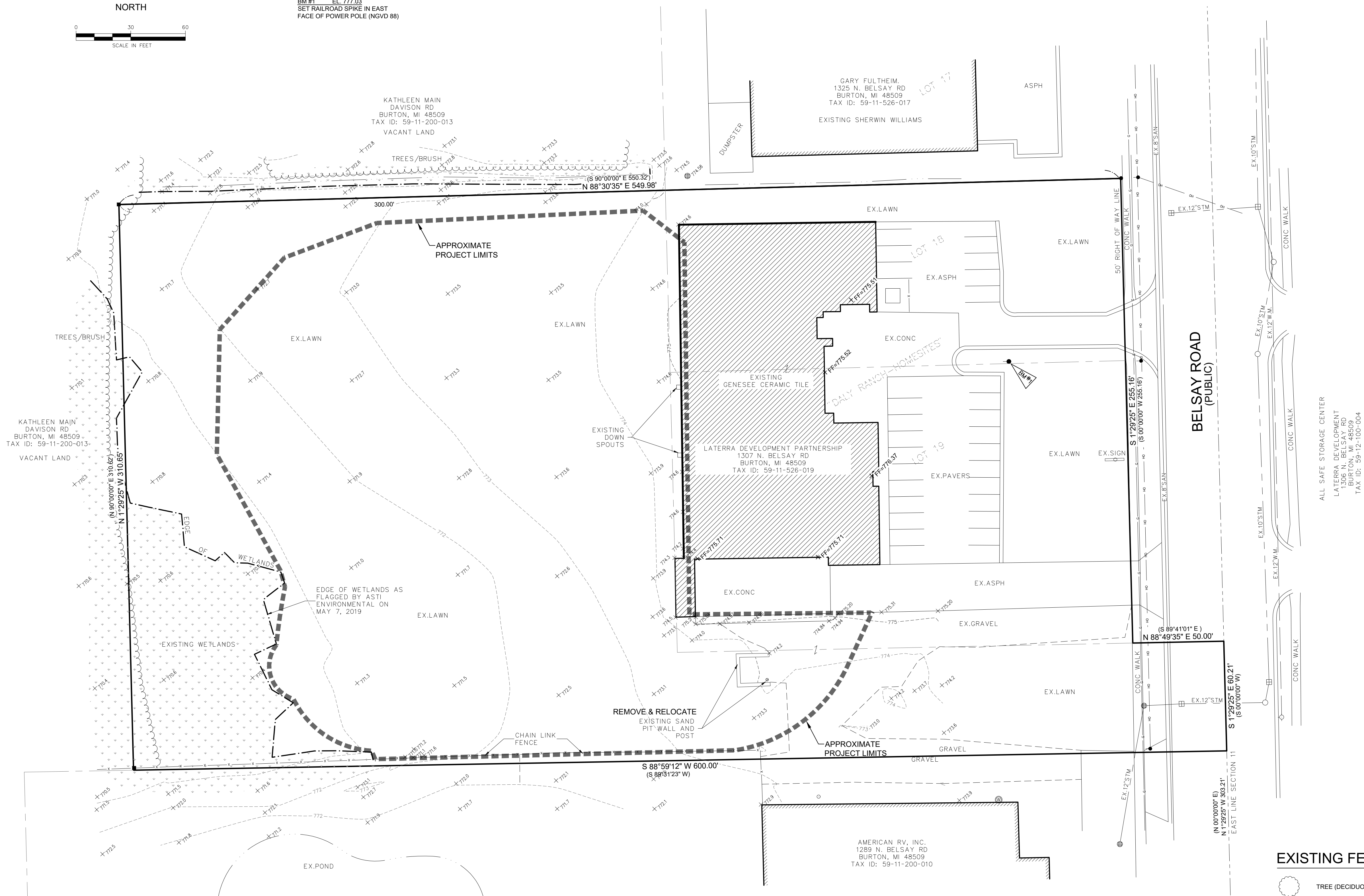
MAY 28 2019
F&V PROJECT NO.
839750

C-1

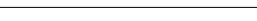
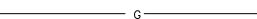
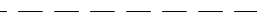
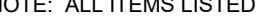


BENCHMARK

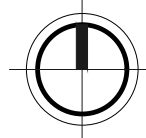
BM #1 EL. 777.03
SET RAILROAD SPIKE IN EAST
FACE OF POWER POLE (NGVD 88)



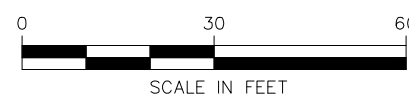
EXISTING FEATURES LEGEND

	TREE (DECIDUOUS)		GAS METER		WATERMAIN
	WOODS/BRUSH LINE		AC UNIT		SANITARY SEWER
	TREE (CONIFEROUS)		GUARD POST		STORM SEWER
	BUSH		ELEC RISER/TRANSFORMER		TELEPHONE
	MANHOLE		CABLE BOX		ELECTRIC
	RD. CATCH BASIN		TELEPHONE RISER		GAS
	SQ. CATCH BASIN		TELEPHONE MANHOLE		OVERHEAD LINES
	FIRE HYDRANT		POWER POLE		CABLE T.V.
	WATER VALVE		LIGHT POLE		FIBER OPTICS
	CURB STOP & BOX		GUY ANCHOR		CULVERT
	WATER METER		YARD LIGHT		GRAVEL
	WELL		SIGN		DITCH / SWALE
	DOWN SPOUT		MAILBOX		GUARDRAIL
	 BENCHMARK	NOTE: ALL ITEMS LISTED ON THE LEGEND MAY NOT BE PRESENT ON DRAWING.			





NORTH

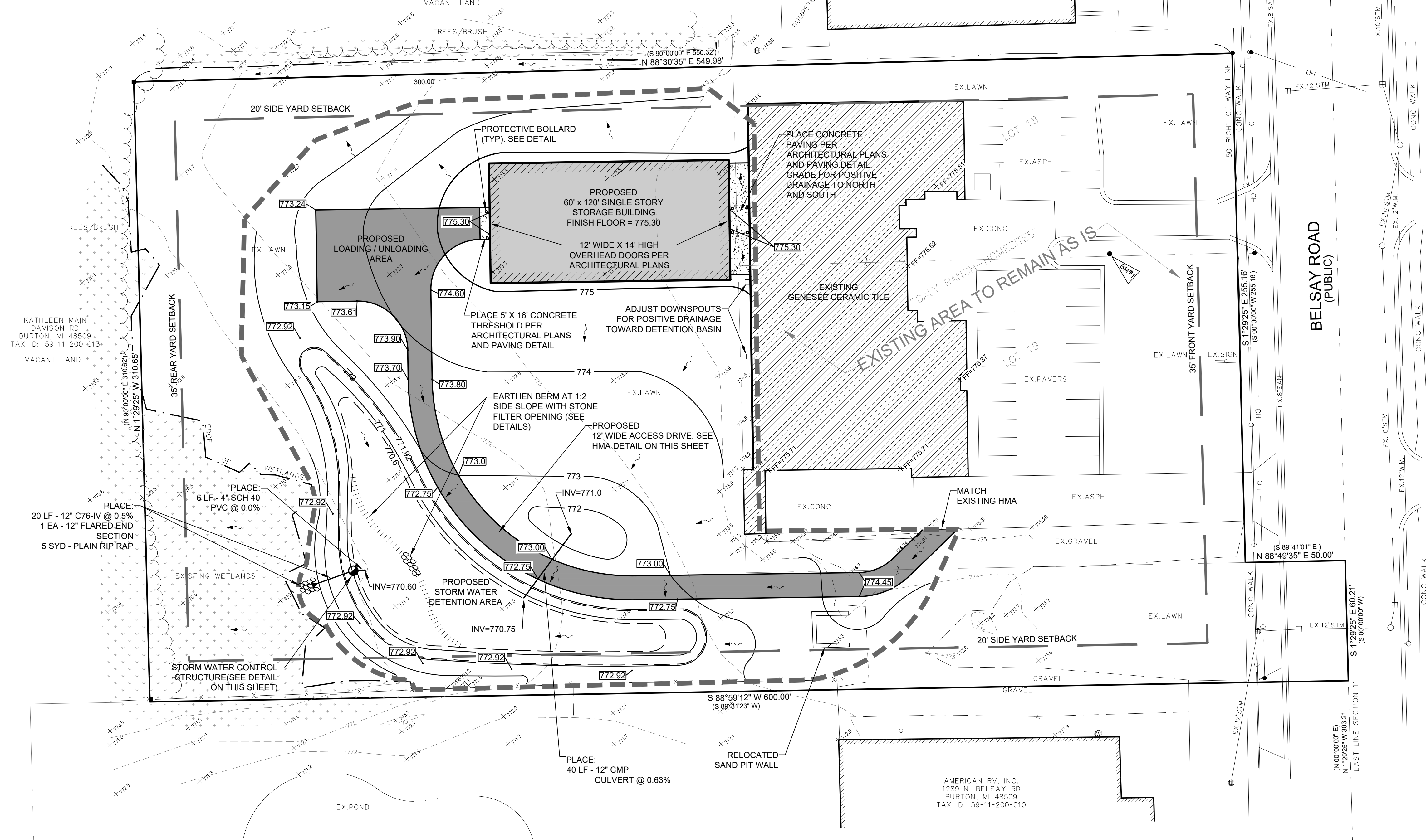


BENCHMARK

BM #1 EL 777.03
SET RAILROAD SPIKE IN EAST
FACE OF POWER POLE (NGVD 88)

KATHLEEN MAIN
DAVISON RD
BURTON, MI 48509
TAX ID: 59-11-200-013
VACANT LAND

GARY FULTHEIM,
1325 N. BELSAY RD
BURTON, MI 48509
TAX ID: 59-11-526-017
EXISTING SHERWIN WILLIAMS



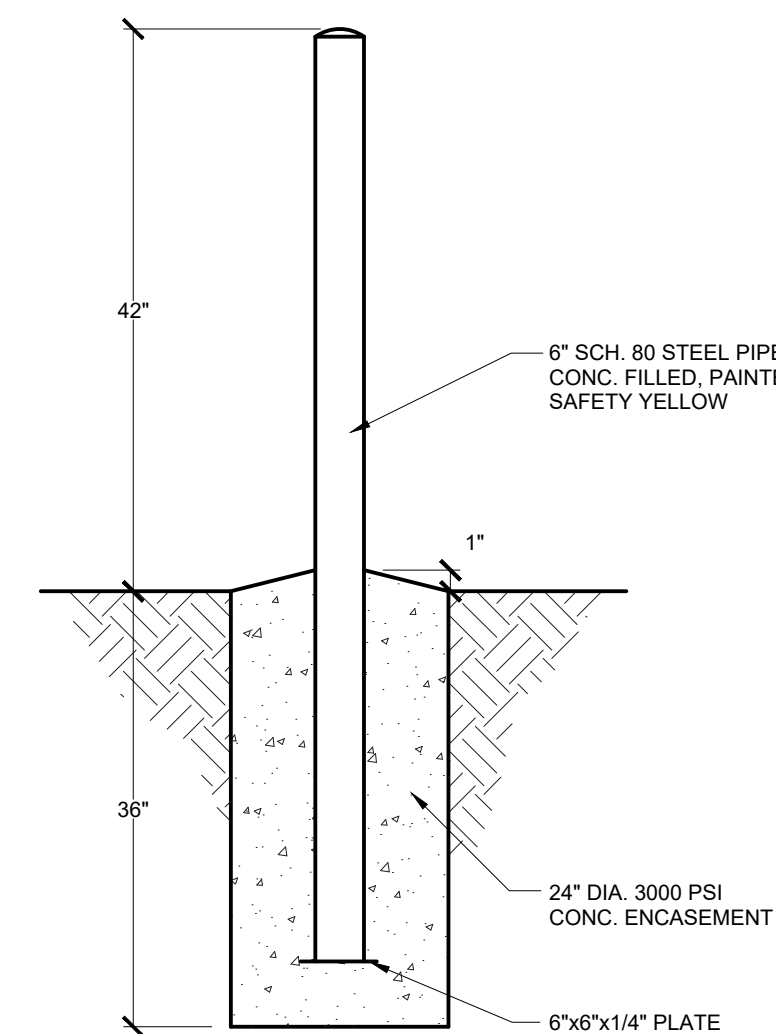
EXISTING FEATURES LEGEND

	TREE (DECIDUOUS)		GAS METER		WATERMAIN
	WOODS/BRUSH LINE		AC UNIT		SANITARY SEWER
	TREE (CONIFEROUS)		GUARD POST		STORM SEWER
	BUSH		ELEC RISER/TRANSFORMER		TELEPHONE
	MANHOLE		CABLE BOX		ELECTRIC
	RD. CATCH BASIN		TELEPHONE RISER		GAS
	SQ. CATCH BASIN		TELEPHONE MANHOLE		OVERHEAD LINES
	FIRE HYDRANT		POWER POLE		CABLE T.V.
	WATER VALVE		LIGHT POLE		FIBER OPTICS
	CURB STOP & BOX		GUY ANCHOR		FENCE
	WATER METER		YARD LIGHT		CULVERT
	WELL		SIGN		GRAVEL
	DOWN SPOUT		MAILBOX		DITCH / SWALE
			BENCHMARK		GUARDRAIL

NOTE: ALL ITEMS LISTED ON THE LEGEND
MAY NOT BE PRESENT ON DRAWING.

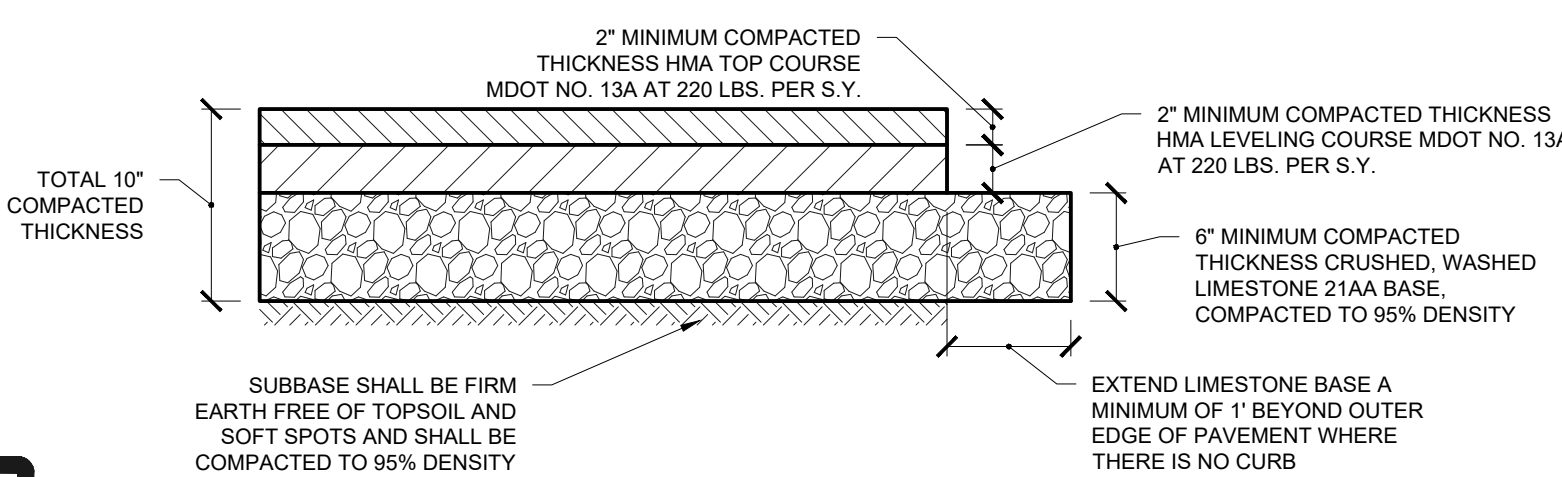
PROPOSED FEATURES LEGEND

	PAVEMENT OR GRADE ELEV
	CONTOURS
	HMA PAVEMENT - HEAVY DUTY
	CONCRETE PAVEMENT
	CATCHBASIN
	STORM SEWER
	PIPE END SECTION
	RIP RAP
	SURFACE FLOW ARROWS
	BOLLARDS
	APPROXIMATE LIMITS OF DISTURBANCE



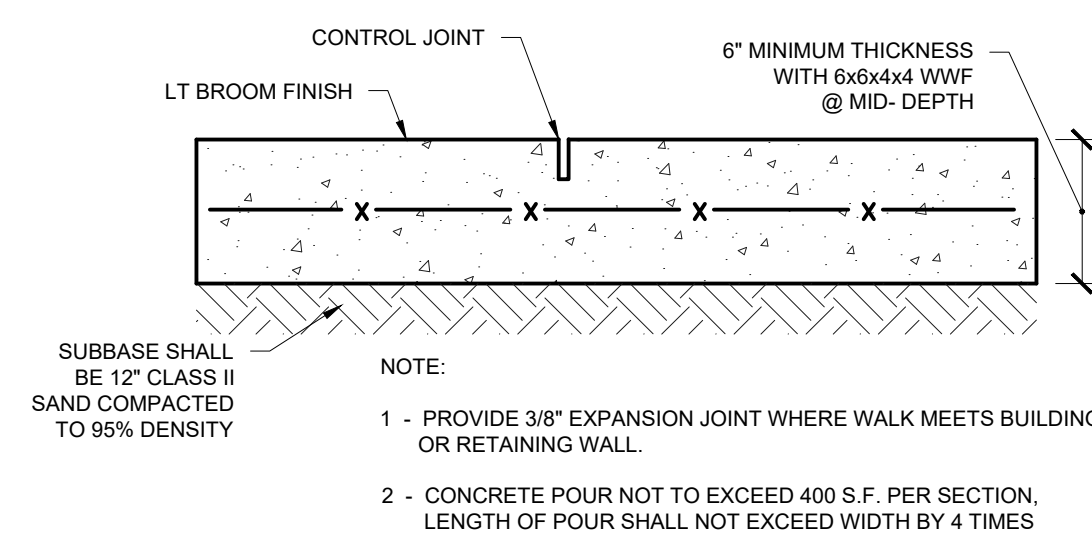
PIPE BOLLARD DETAIL

NOT TO SCALE



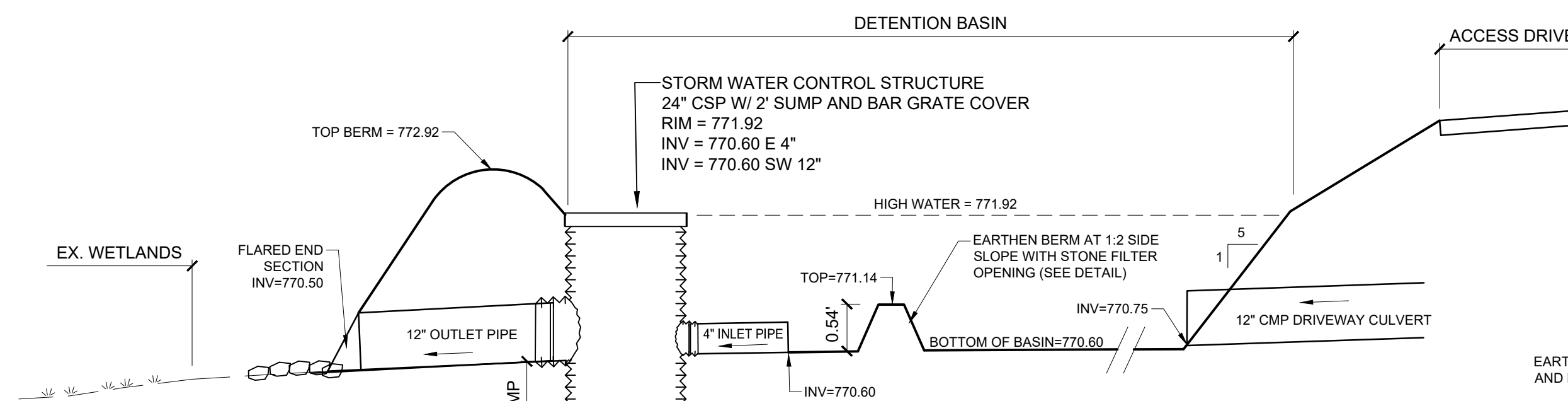
HMA CROSS SECTION - LIMESTONE BASE WITH HMA SURFACE

NOT TO SCALE



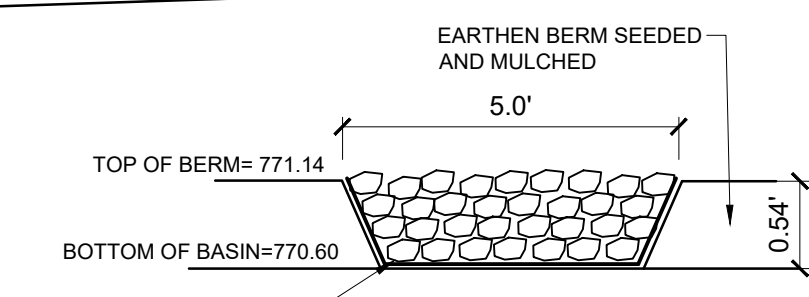
CONCRETE PAVEMENT CROSS SECTION

NOT TO SCALE



DETENTION AREA CROSS SECTION

NOT TO SCALE



STONE FILTER DETAIL

NOT TO SCALE

REVISION:

GENESEE CERAMIC TILE
CITY OF BURTON, GENESEE CO.
PROPOSED STORAGE BUILDING
GRADING AND STORM WATER MANAGEMENT PLAN

DESIGN TEAM:
LIME
CHECK BY:
DRAWING INFORMATION:
839750_C-3 GRADING
052419 Issue

NOT FOR
CONSTRUCTION

MAY 28 2019

P&V PROJECT NO.
839750

C-3



Know what's below.
Call before you dig.

9475 Holly Rd, Suite 201
Grand Blanc, MI 48439
P: 810.743.9120
F: 810.743.1797

REVISION:

GENESEE CERAMIC TILE
CITY OF BURTON, GENESEE CO.
PROPOSED STORAGE BUILDING
SESC AND LANDSCAPE PLAN

Attachment: Back up 19-22 (4410 : SPR #19-22)

DESIGN TEAM:
LME
CHECK BY:
DRAWING INFORMATION:
839750_C4_SESC
052419 Issue

NOT FOR
CONSTRUCTION

MAY 28 2019
F&V PROJECT NO.
839750

C-4



LOCATION MAP
NOT TO SCALE

PROPERTY DESCRIPTION

LOTS 18 AND 19, DALY RANCH-HOMESITES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT LIBER 24, PAGE 7, GENESEE COUNTY RECORDS, AND ALSO INCLUDING THE FOLLOWING DESCRIBED PARCEL OF LAND, PART OF THE NORTHEAST 1/4 OF SECTION 11, T7N-R7E, CITY OF BURTON, GENESEE COUNTY, MICHIGAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING 000'00"00"E, ALONG THE EAST LINE OF SAID SECTION 11, A DISTANCE OF 303.21 FEET FROM THE EAST 1/4 CORNER OF SAID SECTION 11; THENCE N89°31'23"W, A DISTANCE OF 630.00 FEET; THENCE N00°00'00"E, PARALLEL TO THE EAST LINE OF SAID SECTION 11; A DISTANCE OF 310.62 FEET; THENCE S90°00'00"E, A DISTANCE OF 300.00 FEET TO THE NORTHWEST CORNER OF LOT 18 OF "DALY RANCH HOMESITES" AS RECORDED IN LIBER 24, PAGE 7 OF GENESEE COUNTY PLAT RECORDS; THENCE S00°00'00"W, ALONG THE WEST LINE OF SAID "DALY RANCH HOMESITES", A DISTANCE OF 233.75 FEET TO THE SOUTHWEST CORNER OF SAID "DALY RANCH HOMESITES"; THENCE S89°41'01"E, ALONG THE SOUTH LINE OF SAID "DALY RANCH HOMESITES", A DISTANCE OF 300.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 11; THENCE S00°00'00"W, ALONG THE EAST LINE OF SAID SECTION 11, A DISTANCE OF 60.21 FEET TO THE POINT OF BEGINNING, CONTAINING 4.02 ACRES OF LAND, MORE OR LESS AND SUBJECT TO THE USE OF THE EASTERLY 50.00 FEET THEREOF AS BELSAY ROAD. ALSO SUBJECT TO ALL OTHER EASEMENTS AND RESTRICTIONS OF RECORD.

SESC NOTES:

1. SEE SOIL EROSION CONTROL NOTES AND UNIFIED KEYING SYSTEM ON ATTACHMENT SHEET OF THESE PLANS.
2. TOTAL PROPERTY BOUNDARY = 3.95 NET ACRES
TOTAL DISTURBED AREA = 1.7± ACRES (APPROX. GRADING LIMITS)
3. THE CONTRACTOR IS RESPONSIBLE FOR SUBMITTING A SESC PERMIT APPLICATION TO AND OBTAINING A PERMIT FROM THE CITY OF BURTON PRIOR TO THE START OF CONSTRUCTION.
4. THE SOIL EROSION AND SEDIMENTATION CONTROL PERMIT COVERS ONLY THE AREA BOUNDED BY THE PROJECT CUT/FILL LIMITS INCLUDING THE TOPSOIL STOCKPILE AREAS. IF THE CONTRACTOR DISTURBS AREAS OUTSIDE THESE CUT/FILL LIMITS THE CONTRACTOR WILL BE REQUIRED TO EITHER AMEND THE EXISTING SOIL EROSION AND SEDIMENTATION CONTROL PERMIT AND BOND OR ACQUIRE AN ADDITIONAL PERMIT TO COVER THE ADDITIONAL DISTURBED AREAS.
5. AN NPDES - NOTICE OF COVERAGE WILL NOT BE REQUIRED FOR THIS PROJECT AS THE PROJECT AREA IS LESS THAN 5 ACRES.
6. THE PROJECT GRADING LIMITS ARE APPROXIMATELY 3,300' SOUTHEAST OF THE KEARSLEY CREEK AND APPROXIMATELY 2800' SOUTHWEST OF THE COCHRAN DRAIN.
7. AFTER THE PROJECT IS COMPLETED AND ACCEPTED BY AGENCIES, THE OWNER OF THE DRAINAGE SYSTEM IS RESPONSIBLE FOR CLEANING AND MAINTAINING THE DETENTION AREA TO MAINTAIN FUNCTIONALITY OF THE DRAINAGE SYSTEM.

LANDSCAPE NOTES

1. ALL DISTURBED LAWN AREAS ARE TO BE SEEDED AND MULCHED UPON FINAL SITE GRADING. LAWN AREAS ARE TO BE IRRIGATED REGULARLY UNTIL MATURE GROWTH HAS BEEN FULLY ESTABLISHED.
2. ALL LANDSCAPED AND LAWN AREAS SHALL BE KEPT FREE OF REFUSE AND DEBRIS AND KEPT IN A HEALTHY GROWING CONDITION.
3. SEEDING OF PROPOSED LAWN AREAS INCLUDING SITE PREPARATION, SEEDING, AND WATERING SHALL BE IN ACCORDANCE WITH THE AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS.

APPLICANT/OWNER

GENESEE CERAMIC TILE
C/O JAMES COKLEY
1307 N BELSAY ROAD
BURTON, MI 48509
PHONE: 810-249-4213

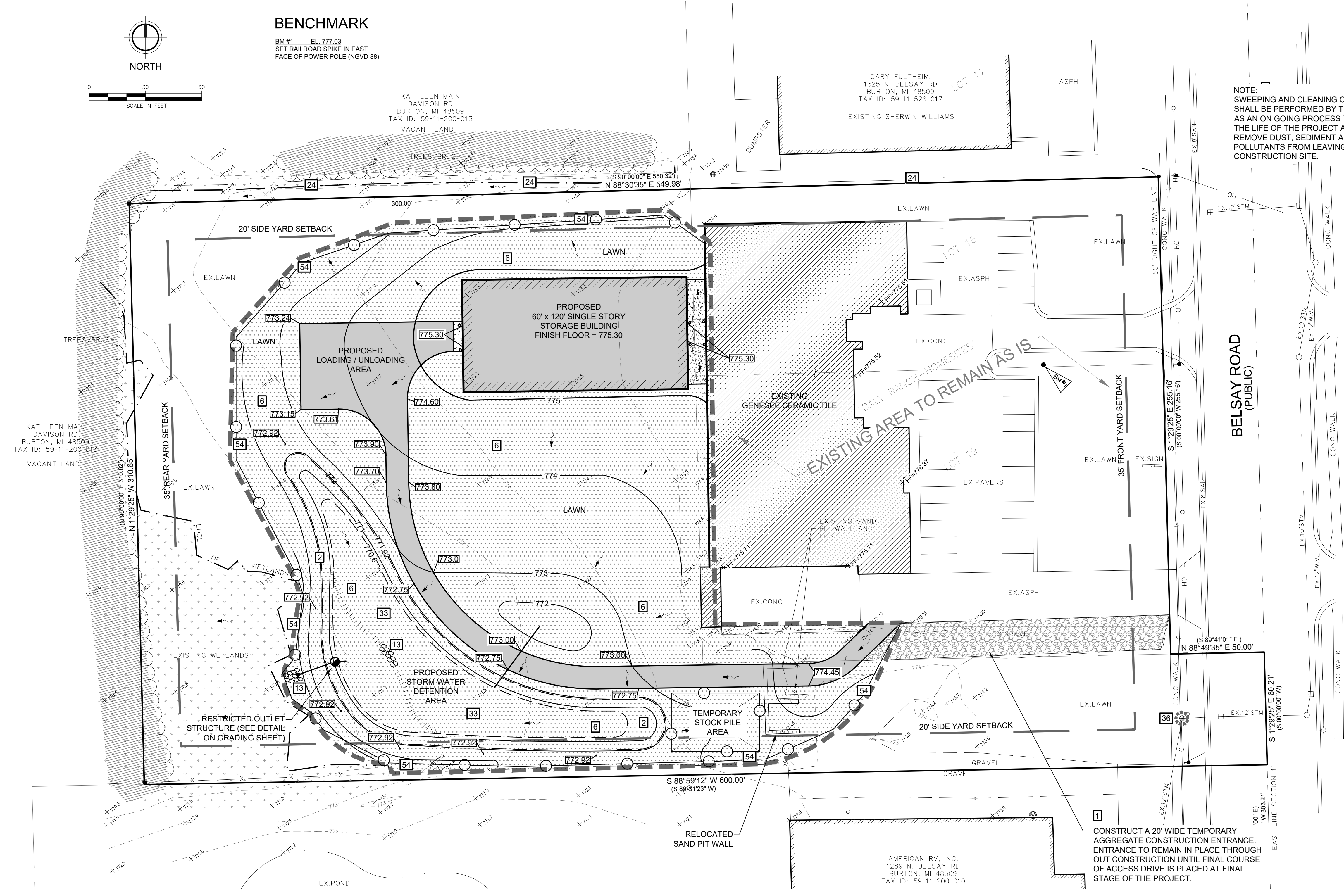
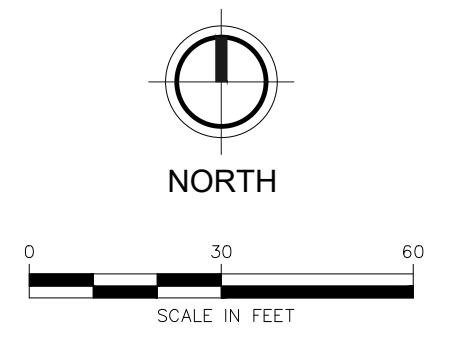
SOIL EROSION/SEDIMENTATION CONTROL OPERATION TIME SCHEDULE		JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
CONSTRUCTION SEQUENCE													
STRIP AND STOCKPILE TOPSOIL													
ROUGH GRADE/ SEDIMENT CONTROL													
TEMP CONTROL MEASURES													
STORM FACILITIES													
TEMP CONSTRUCTION ROADS													
FOUNDATION/ BLDG. CONSTRUCTION													
SITE CONSTRUCTION													
PERM CONTROL MEASURES													
FINISH GRADING													
LANDSCAPING													



Know what's below.
Call before you dig.

BENCHMARK

BM #1 EL. 777.03
SET RAILROAD SPIKE IN EAST
FACE OF POWER POLE (NGVD 88)



NOTE:
SWEEPING AND CLEANING OF BELSAY ROAD SHALL BE PERFORMED BY THE CONTRACTOR AS AN ON GOING PROCESS THROUGHOUT THE LIFE OF THE PROJECT AS NECESSARY TO REMOVE DUST, SEDIMENT AND ATTACHED POLLUTANTS FROM LEAVING THE CONSTRUCTION SITE.

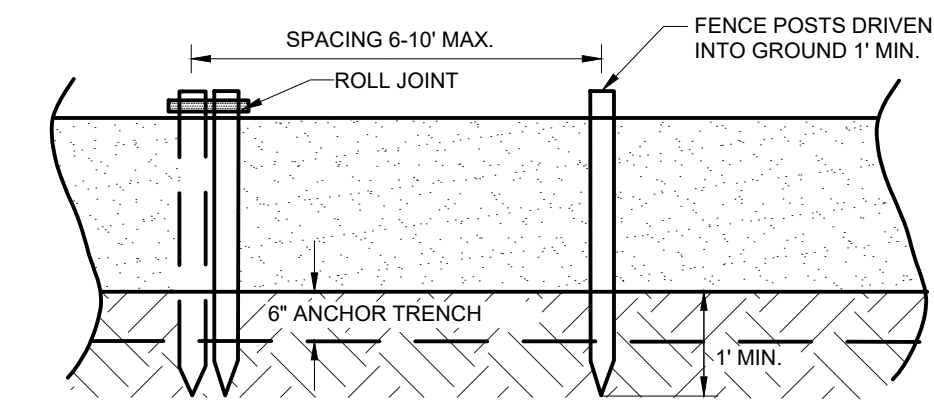
SOIL EROSION KEY DESCRIPTIONS

- 1 DUST CONTROL
- 2 SELECTIVE GRADING AND SHAPING
- 8 SEEDING AND MULCH
- 13 RIP RAP
- 24 GRASSED WATERWAY
- 33 SEDIMENT TRAP
- 36 CATCHBASIN INLET PROTECTION
- 54 GEOTEXTILE SILT FENCE

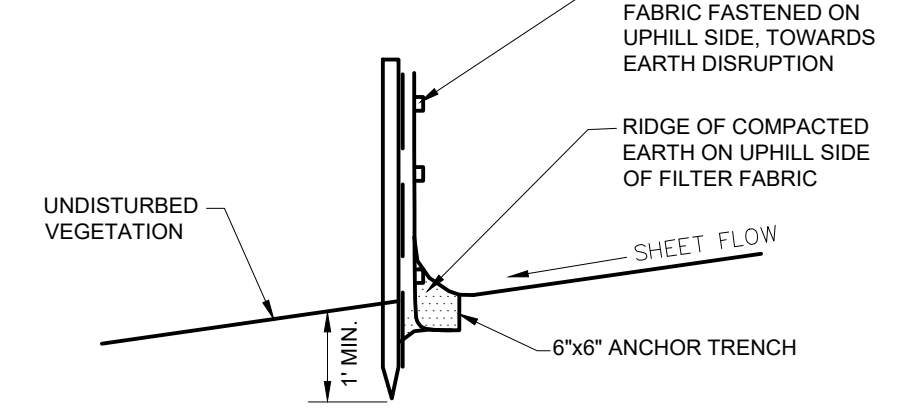
PROPOSED FEATURES LEGEND

- PAVEMENT OR GRADE ELEV
- CONTOURS
- HMA PAVEMENT - HEAVY DUTY
- CONCRETE PAVEMENT
- CATCHBASIN
- PIPE END SECTION
- RIP RAP
- SURFACE FLOW ARROWS
- BOLLARDS
- APPROXIMATE LIMITS OF DISTURBANCE
- LAWN AREA
- EXISTING TREES AND BRUSH TO REMAIN

INLET PROTECTION FABRIC DROP
(SILT SACK)
USE AT STORM WATER INLETS



ROLL JOINTS



SILT FENCE DETAILS

- TREE (DECIDUOUS)
- WOODS/BRUSH LINE
- TREE (CONIFEROUS)
- BUSH
- MANHOLE
- RD. CATCH BASIN
- SQ. CATCH BASIN
- FIRE HYDRANT
- WATER VALVE
- CURB STOP & BOX
- WATER METER
- WELL
- DOWN SPOUT
- GAS METER
- AC UNIT
- GUARD POST
- ELEC RISER/TRANSFORMER
- CABLE BOX
- TELEPHONE RISER
- TELEPHONE MANHOLE
- POWER POLE
- LIGHT POLE
- GUY ANCHOR
- YARD LIGHT
- SIGN
- MAILBOX
- BENCHMARK
- WATERMAIN
- SANITARY SEWER
- STORM SEWER
- TELEPHONE
- ELECTRIC
- GAS
- OVERHEAD LINES
- CABLE T.V.
- FIBER OPTICS
- FENCE
- CULVERT
- GRAVEL
- DITCH / SWALE
- GUARDRAIL

NOTE: ALL ITEMS LISTED ON THE LEGEND MAY NOT BE PRESENT ON DRAWING.

michigan unified keying system (modified)

* indicates applicability of a specific control measure to one or more of the seven problem areas

KEY	DETAIL	CHARACTERISTICS	A	B	C	D	E	F	G
1	Dust Control - No Detail -	DUST CONTROL APPLICATIONS CAN INCLUDE WATERING, CHEMICAL DUST SUPPRESSION, GRAVEL OR ASPHALT SURFACING, TEMPORARY AGGREGATE COVER AND TRAIL TRUCK COVERS	*				*	*	
2	Selective Grading & Shaping	WATER CAN BE DIVERTED TO MINIMIZE EROSION FLATTER SLOPES EASE EROSION PROBLEMS	*				*	*	*
3	Grubbing & Onsetting	SAVES COST OF GRUBBING, PROVIDES NEW SPROUTS RETAINS EXISTING ROOT MAT SYSTEM, REDUCES WIND FALL AT NEW FOREST EDGE... DISCOURAGES EQUIPMENT ENTRANCE	*				*		*
4	Negative Stabilization	MAY UTILIZE A VARIETY OF PLANT MATERIAL STABILIZES SOIL SLOWS RUNOFF VELOCITY FILTERS SEDIMENT FROM RUNOFF	*	*	*		*	*	*
5	AVAILABLE DETAIL								
6	Seeding with Blank Barel and/or Mats	FACILITATES ESTABLISHMENT OF VEGETATIVE COVER EFFECTIVE FOR DRAINAGEWAYS WITH LOW VELOCITY EASILY PLACED IN SMALL QUANTITIES BY INEXPERIENCED PERSONNEL SHOULD INCLUDE PREPARED TOPSOIL BED	*		*			*	*
7	AVAILABLE DETAIL								
8	Sodding	PROVIDES IMMEDIATE PROTECTION CAN BE USED ON STEEP SLOPES WHERE SEED MAY BE DIFFICULT TO ESTABLISH, EASY TO PLANT, MAY BE REPAIRED IF DAMAGED SHOULD INCLUDE PREPARED TOPSOIL BED	*		*		*	*	*
9	Vegetative Buffer Strip	SLOWS RUNOFF VELOCITY FILTERS SEDIMENT FROM RUNOFF REDUCES VOLUME OF RUNOFF ON SLOPES	*	*					*
10	Mulching	USED ALONE TO PROTECT EXPOSED AREAS FOR SHORT PERIODS PROTECTS SOIL FROM IMPACT OF FALLING RAIN PRESERVES SOIL MOISTURE AND PROTECTS GERMINATING SEED FROM TEMPERATURE EXTREMES	*				*	*	
11	Roughened Surface	REDUCES VELOCITY AND INCREASES INFILTRATION RATES COLLECTS SEDIMENT HOLDS WATER, SAND AND MULCH BETTER THAN SMOOTH SURFACES	*				*		
12	AVAILABLE DETAIL								
13	Riprap, Rubble, Gabions	USED WHERE VEGETATION IS NOT EASILY ESTABLISHED EFFECTIVE FOR HIGH VELOCITIES OR HIGH CONCENTRATIONS PERMITS RETENTION OF EXISTING VEGETATION, KEEPING SOIL STABLE IN CRITICAL AREAS, MINIMIZES MAINTENANCE	*	*	*				
14	AVAILABLE DETAIL								
15	AVAILABLE DETAIL								
16	AVAILABLE DETAIL								
17	Berms	REDUCES RUNOFF VELOCITY BY REDUCING EFFECTIVE SLOPE LENGTH COLLECTS SEDIMENT, PROVIDES ACCESS TO SLOPES FOR SEEDING, MULCHING AND MAINTENANCE	*					*	
18	Earth Diversion Berm	DIVERTS WATER FROM VULNERABLE AREAS COLLECTS AND DIRECTS WATER TO PREPARED DRAINAGEWAYS MAY BE PLACED AS PART OF NORMAL CONSTRUCTION OPERATION	*					*	*
18A	Earth Diversion Berm with Stone Outlet	DIVERTS WATER FROM VULNERABLE AREAS COLLECTS AND DIRECTS WATER TO PREPARED DRAINAGEWAYS MAY BE PLACED AS PART OF NORMAL CONSTRUCTION OPERATION	*					*	*
19	Diversion Ditch	COLLECTS AND DIVERTS WATER TO REDUCE EROSION POTENTIAL MAY BE INCORPORATED IN PERMANENT PROJECT DRAINAGE SYSTEMS	*					*	*
20	Diversion Berm & Ditch	DIVERTS WATER TO A PREPARED DRAINAGEWAY MAY BE USED AT INTERVALS ACROSS SLOPE FACE TO REDUCE EFFECTIVE SLOPE LENGTH	*					*	*
21	Stone Filter Berm	CONSTRUCTED OF GRAVEL OR STONE INTERCEPTS AND DIVERTS RUNOFF TO STABILIZED AREAS OR PREPARED DRAINAGE SYSTEMS SLOWS RUNOFF AND COLLECTS SEDIMENT	*	*					*
21A	Stone Filter Berm with Silt Fence	CONSTRUCTED OF GRAVEL OR STONE INTERCEPTS AND DIVERTS RUNOFF TO STABILIZED AREAS OR PREPARED DRAINAGE SYSTEMS SLOWS RUNOFF AND COLLECTS SEDIMENT - SILT FENCE PREVENTS EROSION AROUND SPILLWAY	*	*					*
22	AVAILABLE DETAIL								
23	AVAILABLE DETAIL								
24	Grassed Waterway	MUCH MORE STABLE FORM OF DRAINAGEWAY THAN BARE CHANNEL GRASS TENDS TO SLOW RUNOFF AND FILTER OUT SEDIMENT USED WHERE BARE CHANNEL WOULD BE ERODED			*				
25	Slope Drain (Surface Pipe)	PREVENTS EROSION ON SLOPES WHEN RUNOFF CANNOT BE DIVERTED TO EDGE OF SLOPE AREA... USUALLY TEMPORARY CAN BE CONSTRUCTED OR EXTENDED AS GRADING PROGRESSES	*						
26	Slope Drain - Paved Chute/Flume	PREVENTS EROSION ON SLOPES WHEN RUNOFF CANNOT BE DIVERTED TO EDGE OF SLOPE AREA... USUALLY PERMANENT CAN BE CONSTRUCTED OR EXTENDED AS GRADING PROGRESSES	*						
27	Slope Drain (Subsurface Pipe)	PREVENTS EROSION ON SLOPES WHEN RUNOFF CANNOT BE DIVERTED TO EDGE OF SLOPE AREA... USUALLY PERMANENT CAN BE CONSTRUCTED AS GRADING PROGRESSES	*						
28	Drop Spillway	SLOWS VELOCITY OF FLOW, REDUCING EROSION CAPACITY		*	*				
29	Pipe Drop	REDUCES RUNOFF VELOCITY REMOVES SEDIMENT AND TURBIDITY CAN BE DESIGNED TO HANDLE LARGE VOLUMES OF FLOW			*				
30	Pipe Spillway	REMOVES SEDIMENT AND TURBIDITY FROM RUNOFF MAY BE PART OF PERMANENT EROSION CONTROL PLAN			*				
31	Energy Dissipater	SLOWS RUNOFF VELOCITY TO NON-EROSIVE LEVEL PERMITS SEDIMENT COLLECTION FROM RUNOFF	*		*	*			
32	Level Spreader	CONVERTS COLLECTED CHANNEL OR PIPE FLOW BACK TO SHEET FLOW AVOIDS CHANNEL, EASEMENTS AND CONSTRUCTION OFF PROJECT SITE UNABLE TO CONSTRUCT			*				
33	Sediment Trap	MAY BE CONSTRUCTED OF A VARIETY OF MATERIALS TRAPS SEDIMENT AND REDUCES VELOCITY OF FLOW CAN BE CLEANED AND EXPANDED AS NEEDED		*	*				
34	Sediment Basin	TRAPS SEDIMENT CLEARS RUNOFF AT NON-EROSIVE RATES CONTROLS RUNOFF AT SYSTEM OUTLETS CAN BE VISUAL, MENTIES		*	*	*			
35	AVAILABLE DETAIL								
36	Catch Basin Inlet Protection	COLLECTS HIGH VELOCITY CONCENTRATED RUNOFF MAY USE FILTER CLOTH OVER INLET					*		*
37	Silt Filter	INEXPENSIVE AND EASY TO CONSTRUCT PROVIDES IMMEDIATE PROTECTION PROTECTS AREAS AROUND INLETS FROM EROSION				*			
38	AVAILABLE DETAIL								

* indicates applicability of a specific control measure to one or more of the seven problem areas

KEY	DETAIL	CHARACTERISTICS	A	B	C	D	E	F	G
39	Fabric Filter Cloth Inlet Protection	CAN UTILIZE MATERIAL FOUND ON SITE EASY TO CONSTRUCT FILTERS SEDIMENT FROM RUNOFF				*			*
40	Inlet Sediment Trap	EASY TO SHAPE COLLECTS SEDIMENT MAY BE CLEANED AND EXPANDED AS NEEDED				*			
41	Stone and Rock Ford Crossing	MAY BE ROCK OR CLEAN RUBBLE MINIMIZES STREAM TURBIDITY INEXPENSIVE MAY ALSO SERVE AS DITCH CHECK OR SEDIMENT TRAP		*					
42	Temporary Culvert	ELIMINATES STREAM TURBULENCE AND TURBIDITY PROVIDES UNOBSTRUCTED PASSAGE FOR FISH AND OTHER WATER LIFE CAPACITY FOR NORMAL FLOW CAN BE PROVIDED WITH STORM WATER FLOWING OVER ROADWAY		*					
43	Culvert Sediment Trap	EAST TO INSTALL AT INLET KEEPS CULVERT CLEAN AND FREE FLOWING MAY BE CONSTRUCTED OF LUMBER OR LOGS		*					*
44	AVAILABLE DETAIL								
45	Temporary Stream Channel Change	NEW CHANNEL KEEPS NORMAL FLOWS AWAY FROM CONSTRUCTION REQUIRES STATE PERMIT		*					
46	AVAILABLE DETAIL								
47	Cofferdam	WORK CAN BE CONTINUED DURING MOST ANTICIPATED STREAM CONDITIONS CLEAR WATER CAN BE PUMPED DIRECTLY BACK INTO STREAM		*					
48	AVAILABLE DETAIL								
49	Check Dam	REDUCES FLOW VELOCITY CATCHES SEDIMENT CAN BE CONSTRUCTED OF LOGS, STRAW, HAY, ROCK, LUMBER, MASONRY, OR SAND BAGS		*	*				
50	AVAILABLE DETAIL								
51	Retaining Wall	REDUCES GRADIENT WHERE SLOPES ARE EXTREMELY STEEP PERMITS RETENTION OF EXISTING VEGETATION, KEEPING SOIL STABLE IN CRITICAL AREAS, MINIMIZES MAINTENANCE	*						*
52	AVAILABLE DETAIL								
53	Windbreak	MINIMIZES WIND EROSION MAY BE SNOW FENCE				*			
54	Silt Fence	USES GEOTEXTILE FABRIC AND POSTS OR POLES EASY TO CONSTRUCT AND LOCATE AS NECESSARY	*		*		*		*
55	Stone Filter-Before Paving	STONE FILTER TO PROVIDE INEXPENSIVE AND EASILY CONSTRUCTED SEDIMENT CONTROL PRIOR TO PAVING SEE DETAIL AT LEFT			*	*			
55A	Stone Filter-After Paving	STONE FILTER TO PROVIDE INEXPENSIVE AND EASILY CONSTRUCTED SEDIMENT CONTROL AFTER PAVING SEE DETAIL AT LEFT			*	*			
56	AVAILABLE DETAIL								
57	Stream - Liner	MAY BE 6A TYPE STONE, SMALL ROCKS OR SIMILAR-SIZED CLEAN CONCRETE-MASONRY RUBBLE, MINIMIZES STREAM TURBIDITY RELATIVELY INEXPENSIVE MAY BE USED AS DITCH CHECK OR SEDIMENT TRAP		*	*				
58	Sediment Sump	CONTROLS SEDIMENTATION IN LARGE STREAMS, CONSIST OF OVER EXCAVATING THE DRAIN BY ONE TO TWO FEET, THE SUMP WILL BE AT LEAST 200 FEET LONG, SEDIMENTS ACCUMULATED DURING CONSTRUCTION WILL BE REMOVED UPON PROJECT COMPLETION		*	*				
59	AVAILABLE DETAIL								
60	Temporary Construction Entrapment	ASSISTS IN REMOVING SOIL FROM THE TIRES OF CONSTRUCTION EQUIPMENT/VEHICLES WHEN EXITING THE CONSTRUCTION SITE, THIS REDUCES TRACKING EXCESSIVE SEDIMENT/SOIL ONTO THE ADJACENT ROAD							*

SOIL EROSION AND SEDIMENTATION CONTROL

- CONSTRUCTION OPERATIONS SHALL BE SCHEDULED AND PERFORMED SO THAT PREVENTATIVE EROSION CONTROL MEASURES ARE IN PLACE PRIOR TO EXCAVATION AND TEMPORARY STABILIZATION MEASURES ARE IN PLACE IMMEDIATELY FOLLOWING BACKFILLING AND/OR GRADING OPERATIONS.
- SPECIAL PRECAUTIONS WILL BE TAKEN IN THE USE OF CONSTRUCTION EQUIPMENT TO PREVENT SITUATIONS THAT PROMOTE EROSION.
- CLEANUP WILL BE DONE IN A MANNER TO INSURE THAT EROSION CONTROL MEASURES ARE NOT DISTURBED.
- THE PROJECT WILL CONTINUALLY BE INSPECTED FOR SOIL EROSION AND SEDIMENT CONTROL COMPLIANCE. DEFICIENCIES WILL BE CORRECTED BY THE CONTRACTOR WITHIN 24 HOURS.
- TEMPORARY EROSION CONTROL MEASURES SHALL BE COMPLETELY REMOVED BY THE CONTRACTOR UPON ESTABLISHMENT OF PERMANENT CONTROL MEASURES.

CONSTRUCTION SEQUENCE

- EXCAVATION AND STOCKPILING OF SOIL.
- IMPLEMENTATION OF TEMPORARY EROSION CONTROL MEASURES; SELECTIVE GRADING, DIVERSIONS AS REQUIRED IN FIELD, PROTECTION OF STORM SEWER FACILITIES.
- PERIODIC MAINTENANCE OF AFFECTED EROSION CONTROL MEASURES.
- PERMANENT MEASURES; FINAL GRADING, SEEDING AND MULCHING.

SEE UNIFIED KEYING SYSTEM FOR EROSION CONTROL KEY NUMBERS

MDEQ STREAM CROSSING NOTES

CONSTRUCTION OF STREAM CROSSINGS SHALL BE SUBJECT TO THE SPECIFICATIONS FOR PROTECTION OF NATURAL RESOURCES AT UTILITY CROSSINGS AS GIVEN IN THE ADMINISTRATIVE RULES OF PART NO. 301 OF PUBLIC ACT 451, AS AMENDED, 1994.

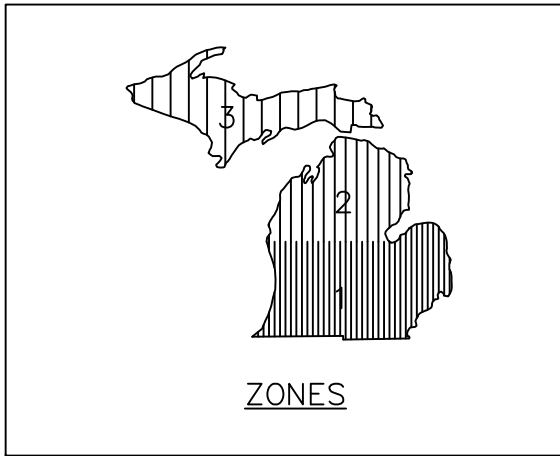
A SILTATION BARRIER SHALL BE CONSTRUCTED IMMEDIATELY DOWNSTREAM OF THE CONSTRUCTION SITE PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES. (SEE MICHIGAN UNIFIED KEYING SYSTEM FOR SPECIFIED BARRIER) THE SILTATION BARRIER SHALL BE MAINTAINED IN GOOD WORKING ORDER THROUGHOUT THE DURATION OF THE PROJECT.

BACKFILL SHALL CONSIST OF INERT MATERIALS WHICH WILL NOT CAUSE SILTATION NOR CONTAIN SOLUBLE CHEMICALS OR ORGANIC MATTER WHICH IS BIODEGRADABLE. ALL FILL SHALL BE CONTAINED IN SUCH A MANNER SO AS NOT TO ERODE INTO ANY WATERCOURSE.

ALL RAW BANKS SHALL BE STABILIZED WITH RIPRAP TO THREE FEET ABOVE THE ORDINARY HIGH WATER WATER MARK, THEN SEEDED, FERTILIZED AND MULCHED, OR SODDED TO PREVENT EROSION.

UPON PROJECT COMPLETION THE EXCESS SPOILS SHALL BE REMOVED AND DISPOSED OF IN AN APPROVED UPLAND SITE.

SILTATION BARRIER MAY BE REMOVED UPON PLACEMENT OF PERMANENT EROSION CONTROL MEASURES.



ZONE 1

TYPE OF SEED	APRIL	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	RATE OF APPLICATION *	
								PER/1000 S.F.	PER ACRE
GRASS / BARELY ANNUAL RYE								2 LBS. 3/4 LB.	3 BUSHELS 25 LBS.
LEGUMINOSAE								1 LB.	35 LBS.
CEREAL RYE								1.5 LBS.	2 BU.
WINTER WHEAT								1.5 LBS.	2 BU.

TEMPORARY SEEDING GUIDE



* RATE OF APPLICATION APPLIES TO ALL ZONES

ZONE	TYPE OF IRRIGATION	APRIL	MAY	JUNE	JULY	AUG.	SEPT.	OCT.
ZONE 1	IRRIGATED and/or MULCHED without IRRIGATION or MULCH							
ZONE 2	IRRIGATED and/or MULCHED without IRRIGATION or MULCH							
ZONE 3	IRRIGATED and/or MULCHED without IRRIGATION or MULCH							



PERMANENT SEEDING GUIDE

TO BE COMPLETED BY CONTRACTOR FOR PERMIT

SOIL EROSION / SEDIMENTATION CONTROL OPERATION TIME SCHEDULE	JAN	FEB	MAR	APR	MAY	JUN	JULY	AUG	SEP	OCT	NOV	DEC
CONSTRUCTION SEQUENCE												
STRIP & STOCKPILE TOPSOIL												
ROUGH GRADE / SEDIMENT CONTROL												
TEMP. CONTROL MEASURES												
STORM FACILITIES												
TEMP. CONSTRUCTION ROADS												
FOUNDATION / BLDG. CONSTRUCTION												
SITE CONSTRUCTION												
PERM. CONTROL MEASURES												
FINISH GRADING												
LANDSCAPING												

GENESEE COUNTY DRAIN COMMISSIONER
DIVISION OF WATER & WASTE SERVICES
G-4610 BEECHER ROAD FLINT, MI 48532
PHONE: 810-732-7870 FAX: 810-732-9773

SOIL EROSION KEY SHEET

JEFFREY WRIGHT
GENESEE COUNTY
DRAIN COMMISSIONER

GENESEE COUNTY
WWS
DRAIN COMMISSIONER

DRAWN: LMM
APPROVED: MTR
SCALE: NONE
DATE: 2013

XX



Burton Planning Commission

4303 S. Center Road
Burton, MI 48519

SCHEDULED

AGENDA ITEM (ID # 4406)

Meeting: 06/11/19 05:00 PM

Department: Department of Public Works

Category: Administrative Site Plan Review

Prepared By: Amber Abbey

Department Head: Bette Bigsby

F.1

DOC ID: 4406

SPR #19-18

By: Theresa Conner
6280 Seymour Rd.
Swartz Creek, MI

Re: 3266 S. Dort Hwy. Burton, MI 48529

For: CRC Appliance, Inc.

ATTACHMENTS:

- Back up 19-18 (PDF)



City of Burton
Department of Public Works
4093 Manor Drive
Genesee County, Burton, Michigan 48519
(810) 742-9230



APPLICATION FOR ADMINISTRATIVE SITE PLAN REVIEW

DATE FILED: 5-15-19

FEE: \$75.00

RECEIPT NO: _____

CHECK NO: _____

SPR #: 19-18

PLEASE PRINT

DATE: 5-13-19

APPLICANTS NAME: Theresa Connor

APPLICANTS ADDRESS: 6280 Seymour Rd, SWARTZ creek

APPLICANTS PHONE NO: 8109654343

PROPOSED NAME OF BUSINESS: CRC Appliance Inc

SITE ADDRESS: G 3266 S. Dort Hwy, Burton mich

SUBDIVISION & LOT # OR PARCEL NUMBER: _____

TYPE: ☒ CHANGE OF OWNERSHIP/USE ☐ CONSTRUCTION LESS THAN 2%

USE OF STRUCTURE: office space / sales / appliance
Repair

SQ FOOTAGE OF PROPERTY: _____

SQ FOOTAGE OF STRUCTURE: _____

NUMBER OF EMPLOYEES/SEATS: 10

APPLICANTS SIGNATURE: Theresa Connor

*** ALSO ATTACH A FLOOR PLAN OF THE PROPOSED BUSINESS.

Attachment: Back up 19-18 (4406 : SPR #19-18)



Burton Planning Commission

4303 S. Center Road
Burton, MI 48519

SCHEDULED

AGENDA ITEM (ID # 4407)

Meeting: 06/11/19 05:00 PM

Department: Department of Public Works

Category: Administrative Site Plan Review

Prepared By: Amber Abbey

Department Head: Bette Bigsby

F.2

DOC ID: 4407

SPR #19-19

By: Jake Hernandez-Pellerito
1470 James
Burton, MI 48529

Re: 3492 S. Saginaw St. Burton, MI 48529

For: RFJ Design Studio, LLC.

ATTACHMENTS:

- Back up 19-19 (PDF)



City of Burton
Department of Public Works
4093 Manor Drive
Genesee County, Burton, Michigan 48519
(810) 742-9230



APPLICATION FOR ZONING REVIEW

DATE FILED: 5-20-19

FEE: \$40.00

RECEIPT NO: _____

CHECK NO: CC

SPR #: 19-19

PLEASE PRINT

DATE: 5/20/2019

APPLICANTS NAME: JAKE HERNANDEZ-PELLERITO, MICHAEL PELLERITO

APPLICANTS ADDRESS: 1470 JAMES STREET BURTON, MI 48529-1234

APPLICANTS PHONE NO: 810 513-1982 810-399-8529

PROPOSED NAME OF BUSINESS: RFJ DESIGN STUDIO LLC

PROPOSED TYPE OF BUSINESS: FURNITURE REFURBISHMENT, REPAIR

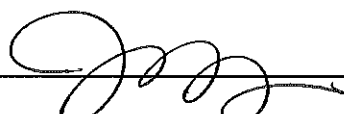
SITE ADDRESS: G-3492 SOUTH SAGINAW STREET BURTON, MI 48529

USE OF STRUCTURE: RESALE

SQ FOOTAGE OF PROPERTY: 6000

SQ FOOTAGE OF STRUCTURE: 1500

NUMBER OF EMPLOYEES/SEATS: 2

APPLICANTS SIGNATURE:  Michael Pellerito

*** ALSO ATTACH A FLOOR PLAN OF THE EXISTING AND PROPOSED BUSINESS.

Attachment: Back up 19-19 (4407 : SPR #19-19)



Burton Planning Commission

4303 S. Center Road
Burton, MI 48519

SCHEDULED

AGENDA ITEM (ID # 4408)

Meeting: 06/11/19 05:00 PM

Department: Department of Public Works

Category: Administrative Site Plan Review

Prepared By: Amber Abbey

Department Head: Bette Bigsby

F.3

DOC ID: 4408

SPR #19-20

By: Tony Cronkright
1128 S. Vassar Rd.
Burton, MI 48509

Re: 5460 Lapeer Rd. Burton, MI 48509

For: Mid-Michigan Muffler & Brakes

ATTACHMENTS:

- Back up 19-20 (PDF)



City of Burton
 Department of Public Works
 4093 Manor Drive
 Genesee County, Burton, Michigan 48519
 (810) 742-9230



APPLICATION FOR ADMINISTRATIVE SITE PLAN REVIEW

DATE FILED: 5-21-19

FEE: \$75.00

RECEIPT NO: —

CHECK NO: 3217

SPR #: 19-20

PLEASE PRINT

DATE: 5-

APPLICANTS NAME: Tony Cronkright

APPLICANTS ADDRESS: 1128 S. Cassar Rd. Burton, MI 48519

APPLICANTS PHONE NO: 810-965-8491

PROPOSED NAME OF BUSINESS: Mid Michigan Muffler + Brakes

SITE ADDRESS: 5460 Lapeer Rd

SUBDIVISION & LOT # OR PARCEL NUMBER: _____

TYPE: ☒ CHANGE OF OWNERSHIP/USE ☐ CONSTRUCTION LESS THAN 2%

USE OF STRUCTURE: Repair Garage

SQ FOOTAGE OF PROPERTY: _____

SQ FOOTAGE OF STRUCTURE: 7,125

NUMBER OF EMPLOYEES/SEATS: 2

APPLICANTS SIGNATURE: [Signature]

*** ALSO ATTACH A FLOOR PLAN OF THE PROPOSED BUSINESS.

Attachment: Back up 19-20 (4408 : SPR #19-20)



Burton Planning Commission

4303 S. Center Road
Burton, MI 48519

SCHEDULED

AGENDA ITEM (ID # 4409)

Meeting: 06/11/19 05:00 PM

Department: Department of Public Works

Category: Administrative Site Plan Review

Prepared By: Amber Abbey

Department Head: Bette Bigsby

F.4

DOC ID: 4409

SPR #19-21

By: Baru Belin
5419 Ledgewood Creek Ave.
Las Vegas, NV 89141

Re: 1146 Hemphill Rd. Burton, MI 48529

For: Janitorial and supplies

ATTACHMENTS:

- Back up 19-21 (PDF)



City of Burton
Department of Public Works
4093 Manor Drive
Genesee County, Burton, Michigan 48519
(810) 742-9230



APPLICATION FOR ADMINISTRATIVE SITE PLAN REVIEW

DATE FILED: 5-22-19

FEE: \$75.00

RECEIPT NO: _____

CHECK NO: 5764

SPR #: 19-21.

PLEASE PRINT

DATE: May 22, 2019

APPLICANTS NAME: Baru K. Belin

APPLICANTS ADDRESS: 5419 Ledgewood creek Ave Las Vegas NV 8914

APPLICANTS PHONE NO: 702-786-2969

PROPOSED NAME OF BUSINESS: 61146 Hemphill Rd Great Lakes facu

SITE ADDRESS: 6-1146 Hemphill Rd Burton MI 48529

SUBDIVISION & LOT # OR PARCEL NUMBER: _____

TYPE: ☒ CHANGE OF OWNERSHIP/USE ☐ CONSTRUCTION LESS THAN 2%

USE OF STRUCTURE: Janitorial and supplies

SQ FOOTAGE OF PROPERTY: ~~2600~~

SQ FOOTAGE OF STRUCTURE: 2600

NUMBER OF EMPLOYEES/SEATS: 6 to 8

APPLICANTS SIGNATURE: [Signature]

*** ALSO ATTACH A FLOOR PLAN OF THE PROPOSED BUSINESS.

Attachment: Back up 19-21 (4409 : SPR #19-21)



Burton Planning Commission
4303 S. Center Road
Burton, MI 48519

Meeting: 06/11/19 05:00 PM
Department: Department of Public Works
Category: Discussion
Prepared By: Amber Abbey
Department Head: Bette Bigsby

H.1

SCHEDULED

AGENDA ITEM (ID # 4411)

DOC ID: 4411

Recreational Marijuana Discussion

ATTACHMENTS:

- Marijuana Ord. (PDF)
- Medical Marijuana License (PDF)
- MML info (PDF)

CITY OF BURTON
GENESEE COUNTY, MICHIGAN

ORDINANCE NO. 2017-7-157

AN ORDINANCE TO AMEND CHAPTER 157, the ZONING ORDINANCE, OF THE CODE OF ORDINANCES OF THE CITY OF BURTON TO REGULATE COMMERCIAL MEDICAL MARIJUANA TRANSACTION FACILITIES

THE CITY OF BURTON ORDAINS:

SECTION I

Section 157.006 of Chapter 157 of the Code of ordinances of the City of Burton shall be amended by the removal and addition of the following:

§157.006 DEFINITIONS.

MEDICAL MARIJUANA PROVISIONING CENTER. A medical marijuana provisioning center ("Provisioning Center") shall mean a commercial facility that purchases marijuana from a grower or processor and sells, supplies, or provides to registered qualifying patients directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marijuana is sold at retail to registered qualifying patients or registered primary caregivers.

MEDICAL MARIJUANA GROWING FACILITY. A medical marijuana growing facility ("Grow Facility" or "Growing Facility") shall mean an industrial facility that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center

MEDICAL MARIJUANA PROCESSING FACILITY. A medical marijuana processing facility ("Processing Facility") shall mean an industrial facility that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana infused products for sale and transfer in packaged form to a provisioning center.

MEDICAL MARIJUANA SAFETY COMPLIANCE FACILITY. A medical marijuana safety compliance facility ("Safety compliance facility" or "compliance facility") shall mean an industrial facility that received marijuana from a marijuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marijuana to the marijuana facility.

MEDICAL MARIJUANA SECURE TRANSPORTER FACILITY. A medical marijuana secure transporter facility ("Secure Transporter Facility" or "Transporter Facility") shall mean an industrial facility stores marijuana for the purpose of transporting marijuana between commercial medical marijuana transaction facilities.

SECTION II

Section 157.043 of Chapter 157 of the Code of Ordinances of the City of. Burton shall be amended by the removal and addition of the following:

§ 157.043 GENERAL BUSINESS DISTRICT, C-2

(C)(7) Medical Marijuana Provisioning Center, Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the provisioning center shall not be permitted:

- (a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility;
- (b) Within two hundred (200) feet of a residential district or use;
- (c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;
- (d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and
- (e) Within one thousand (1000) feet of any public or municipal park.

SECTION III

Section 157.046 of Chapter 157 of the Code of Ordinances of the City of Burton, shall be amended by the removal and addition of the following:

§157.046 LIGHT INDUSTRIAL DISTRICT, M-1.

(B) (5) Medical Marijuana Provisioning Center, Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the provisioning center shall not be permitted:

- (a) within five hundred (500) feet of any other commercial medical marijuana transaction facility; if the same applicant has one parcel of land in which they have the ability to co-locate a provisioning center, a grow facility and/or processing center, there may be an exception given to permit these uses on that one parcel of land. Each facility will provide separate applications and will be given separate consideration along with individual annual fees.
- (b) Within two hundred (200) feet of a residential district Or use;
- (c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;
- (d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and
- (e) Within one thousand (1000) feet of any public or municipal park.

(B)(6) Medical Marijuana Growing Facility Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the grow facility shall not be permitted:

- (a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility; if the same applicant has one parcel of land in which they have the ability to co-locate a provisioning center, a grow facility and/or processing center, there may be an exception given to permit these uses on that one parcel of land. Each facility will provide separate applications and will be given separate consideration along with individual annual fees.
- (b) Within two hundred (200) feet of a residential district or use;
- (c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;
- (d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and
- (e) Within one thousand (1000) feet of any public or municipal park.

(B)(7) Medical Marijuana Processing Facility: Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the processing facility shall not be permitted:

(a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility; if the same applicant has one parcel of land in which they have the ability to co-locate a provisioning center, a grow facility and/or processing center, there may be an exception given to permit these uses on that one parcel of land. Each facility will provide separate applications and will be given separate consideration along with individual annual fees.

(b) Within two hundred (200) feet of a residential district or use;

(c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;

(d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and

(e) within one thousand (1000) feet of any public or municipal park.

(B)(8) Medical Marijuana Safety Compliance Facility: Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the safety compliance facility shall not be permitted:

(a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility;

(b) Within two hundred (200) feet of a residential district or use;

(c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;

(d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and

(e) within one thousand (1000) feet of any public or municipal park.

(B)(9) Medical Marijuana Secure Transporter Facility: Shall be subject to all requirements as set forth in section 157.092 of this Code for site plan review provided that the secure transporter facility shall not be permitted:

(a) Within five hundred (500) feet of any other commercial medical marijuana transaction facility;

(b) Within two hundred (200) feet of a residential district or use;

(c) Within one thousand (1000) feet of any school, nursery, licensed day care center or other building used for the care or instruction of children under 18 years of age;

(d) Within one thousand (1000) feet of any church, house of worship or other religious facility or institution; and

(e) within one thousand (1000) feet of any public or municipal park.

SECTION IV

Chapter 157 of the Code of Ordinances of the City of Burton shall be amended by the deletion and addition of Section 157.099 to provide as follows:

§157.099 COMMERCIAL MEDICAL MARIJUANA TRANSACTION FACILITIES

It is the intent of this section to regulate any commercial medical marijuana transaction facilities by the following requirements:

(A) Operational Limitations.

(1) A commercial medical marijuana transaction facility shall only operate between 8:00 a.m. and 8:00 p.m. Monday through Saturday and 12:00 noon and 6:00 p.m. Sunday.

(2) A commercial medical marijuana transaction facility shall comply at all times with each and every provision of the State of Michigan Medical Marijuana Act of 2008 (MCL 333.26421, et seq.) and House Bill 4209, 4210 and 4827.

(3) Any permitted activities conducted by a commercial medical marijuana transaction facility must be done inside a fully enclosed structure or building that is kept secured with locks to prevent unintended or uninvited access.

(4) Persons under the age of eighteen (18) years of age are not permitted to be on the property of any commercial medical marijuana transaction facility unless they possess a valid Medical Marijuana Registry Card issued by the State of Michigan or other state.

(5) Advertising and/or marketing for a commercial medical marijuana transaction facility, viewed from the exterior, shall not appeal to or have the effect of appealing to minors, this shall include but is not limited to signage, flyers, banners, etc. as permitted in Chapter 153.10 of the City Code of Ordinances.

(6) Any owners and/or operators of any commercial medical marijuana transaction facility who violates these sections shall be liable for all costs associated with the investigation, prosecution and enforcement of that violation.

(B) Site Plan Requirements.

(1) Any person who wished to operate any commercial medical marijuana transaction facility shall submit an application for site plan review to the City of Burton as set forth in Section 157.092, consistent with the zoning of the property, showing required locational limitations as set forth in Section 157.043(C)(7), Section 157.046 (B)(5), (B)(6), (B)(7), (B)(9), and (B)(10) as they apply, shall pay a nonrefundable fee as shall be established, and from time to time be amended by resolution of the Burton City Council, and which shall include the following:

(a) Security system details which shall include, at the minimum, audible and silent alarms and video surveillance cameras.

(b) Details regarding the building electrical system, power demands of specialized lighting and other necessary equipment, and method proposed to prevent excessive heat build-up and risk of fire within the building.

(c) Ventilation equipment details, including fresh air intake and filtration of exhaust air to prevent offensive odors from leaving the site.

(d) Proposed methods for controlling insects within the building and preventing insects from becoming a nuisance or health hazard, off the site.

(e) A description of the operation of the commercial medical marijuana transaction facility in sufficient detail to permit the City to determine if the operation, as described would be lawful and fully compliant with. The State of Michigan Medical Marijuana Act of 2008 (MCL 333.26421, et seq.) and House Bill 4209, 4210 and 4827.

(2) Once the application is approved and within 30 days, the applicant must then submit any further documentation necessary to receive a certificate of occupancy which shall include but is not limited to building permits, inspections, and audits as deemed necessary by the Department of Public Works. At this time the applicant must also pay an annual, nonrefundable license fee as shall be established, and from time to time be amended by resolution of the Burton City Council.

(3) Annual renewal of the application is required for any commercial medical marijuana transaction facility and must comply with 157.099 (E).

(4) All applicants must provide a copy of the State of Michigan approved operating license before certificate of occupancy can be issued.

(5) Any change of ownership of the property and/or facility or change of use will be considered a new application for all purposes of this ordinance, with the exception of 157.099 (F). In the case in which the existing facility has not vacated the new application will be secured from any new locational limitation.

(C) Periodic Inspections. All approved commercial medical marijuana transaction facilities shall submit and allow authorized City zoning and building inspection and/or law enforcement personnel to make unannounced, periodic inspections for purposes of verifying compliance with all requirements of this Ordinance and Section, and any reasonable conditions placed upon any special land use approval.

(D) Existing Facilities. Commercial medical marijuana transaction facilities (also known as “medical marijuana dispensaries” and “medical marijuana grow facilities”) that have been approved to operate prior to the enactment of this ordinance shall remain approved provided that the facility comply with the following:

(1) Within 90 days of the enactment of this Ordinance, the applicant shall submit an application for site plan review to the City of Burton as set forth in Section 157.099 (B)(1) – (B)(3) and the applicant must pay an annual, nonrefundable license fee as shall be established, and from time to time be amended by resolution of the Burton City Council

(2) Within 90 days of the acceptance of State operating licenses in accordance with MCL 333.27101, the applicant must apply to the State for an operating license as appropriate for the use.

(a) Medical Marijuana Dispensary – must apply for a Medical Marijuana Provisioning Center and;

(b) Medical Marijuana Growing Facility – must apply for a Medical Marijuana Growing Facility

(3) Once the State of Michigan operating licensed is secured, a copy must be submitted to the Department of Public Works and a new certificate of occupancy may be issued.

(4) Any change of ownership of the property and/or facility or change of use will be considered a new application.

(E) Annual Renewal. A site plan approval shall be issued for a 1-year period and is renewable annually.

(1) Except as set forth in this Ordinance, the Department of Public Works shall renew a license if all of the following requirements are met:

(a) The applicant submits a renewal application provided by the City of Burton and pay the an annual, nonrefundable license fee as shall be established, and from time to time be amended by resolution of the Burton City Council; and

(b) The application is received by the City on or before the expiration date of the current approval.

(2) It is the sole responsibility of the applicant to apply for renewal prior to the expiration. Upon or after the date of expiration the City of Burton shall notify the applicant at the last known address on file advising them they have 30 days to apply for renewal and pay any applicable late fees and the annual non-refundable fee. Failure to renew 30 days from date noticed mailed will revoke the facilities certificate of occupancy and require any future application to be considered new.

(3) Renewal shall be considered 1-year from the date in which the annual fee is paid and the site plan is approved.

(4) In its decision on an application for renewal, the City of Burton shall consider any input from the building official, code enforcement officer, fire department and/or police department.

(F) Securing locational limitations. Applications are considered on a first come basis for purpose of required locational limitations as set forth in Section 157.043(C)(7), Section 157.046 (B)(5).(B)(6), (B) (7), and (B) (8). Consideration is only taken when the complete application is submitted to the City of Burton and any required fees are paid in full. Consideration may be taken when there is a pending application to the Zoning Board of Appeals or Planning Commission, as appropriate. Application for a State operating license does not secure any position for locational limitations.

SECTION V

All other provisions of Chapter 157 shall be and are hereby ratified.

SECTION VI

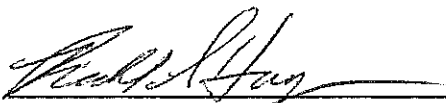
This Ordinance shall be published in a newspaper of general circulation within the City of Burton, Genesee County, Michigan, and shall become effective upon publication.

SECTION VII

A copy of this Ordinance may be inspected at the City Clerk's office at the Burton City Hall, 4303 S. Center Road, Burton, Michigan, during regular business hours.

CITY OF BURTON


 BY: PAULA ZELENKO, MAYOR


 BY: RICHARD HAYMAN, ACTING CITY CLERK

Ordinance introduced on: November 14, 2017

Enacted: December 4, 2017

Effective date: December 14, 2017



City of Burton
 Department of Public Works
 4093 Manor Drive, Burton, MI 48519
 (810) 742-9230

DATE FILED: _____

FEE: \$50.00

Medical Marijuana Facility License Application

Property Address: _____ Parcel ID#: _____

Zoning of the Property: _____

Business Owner: *Name _____

Address _____

City, State, Zip _____

Phone _____ Cell _____

Fax _____ Email _____

*Name must be the same as listed on the State of Michigan approval

Property Owner (if different from above):

Name _____ Phone _____

Address _____ City, State, Zip _____

Type of facility: Only circle one, if permitted for co-location each facility will require a separate license.
 Co-location is not permitted for safety compliance or secure transporter facilities.

Provisioning Center**Growing Facility****Processing Facility****Safety Compliance Facility****Secure Transporter Facility**

I have reviewed the locational limitations listed in the Zoning Ordinance and I believe that the property listed above meets the locational limitations as required. I also understand that applications are considered on a first come basis for purpose of required locational limitations. Consideration is only taken when the complete application is submitted to the City of Burton and any required fees are paid in full. Application for a State operating license does not secure any position for locational limitations.

Signature_____
Date

Office use only – Locational Limitation Review

Initial Review Date: _____ Zoning District: _____ Use: _____

☐ Meets the required locational limitations.

☐ Denied, does not meets the required locational limitations: _____

City of Burton Official

Date: _____

Operation information

Hours of operation:

Mon: ___ a.m. to ___ p.m. Tues: ___ a.m. to ___ p.m. Wed: ___ a.m. to ___ p.m.

Thur: ___ a.m. to ___ p.m. Fri: ___ a.m. to ___ p.m. Sat: ___ a.m. to ___ p.m. Sun: ___ a.m. to ___ p.m.

Checklist, initial to verify acceptance of the following:

- _____ Shall comply at all times with each and every provision of the State of Michigan Medical Marijuana Act of 2008 (MCL 333.26421, et seq.) and House Bill 4209, 4210 and 4827
- _____ Any permitted activities conducted will be done inside a fully enclosed structure or building that is kept secured with locks to prevent unintended or uninvited access
- _____ Persons under the age of eighteen (18) years of age will not be permitted to be on the property unless they possess a valid Medical Marijuana Registry Card issued by the State of Michigan or other state.
- _____ Advertising and/or marketing for a commercial medical marijuana transaction facility, viewed from the exterior, shall not appeal to or have the effect of appealing to minors, this shall include but is not limited to signage, flyers, banners, etc. as permitted in Chapter 153.10 of the City Code of Ordinances
- _____ Any owners and/or operators of any commercial medical marijuana transaction facility who violates any ordinance within the City of Burton pertaining to medical marijuana shall be liable for all costs associated with the investigation, prosecution and enforcement of that violation.

Are hazardous materials stored on site? **Yes** **No**

If yes,

Type of materials

Exact location where materials are stored

BUSINESS EMERGENCY CONTACT INFORMATION:

Name _____

Home Address _____ City _____ State _____ Zip _____

Home Phone (_____) _____ Cell Phone (_____) _____

I have **attached** the following information as required: (initial or reply N/A for items that do not apply to your use)

1. Security system details which shall include, at the minimum, audible and silent alarms and video surveillance cameras. _____
2. Details regarding the building electrical system, power demands of specialized lighting and other necessary equipment, and method proposed to prevent excessive heat build-up and risk of fire within the building. ____ Or _____
3. Ventilation equipment details, including fresh air intake and filtration of exhaust air to prevent offensive odors from leaving the site. _____ Or _____
4. Proposed methods for controlling insects within the building and preventing insects from becoming a nuisance or health hazard, off the site. _____ Or _____
5. A description of the operation in sufficient detail that would be lawful and fully compliant with applicable sections of the City of Burton Zoning Ordinance, the State of Michigan Building Code, International Fire Codes (IFC) National Fire protection agency (NSPA), City of Burton fire prevention ordinance, and the State of Michigan Medical Marijuana Act of 2008 (MCL333.26421, et. Seq) and House Bill 4209, 4210 and 4827. _____

Office use only – Operation Information Review

Hours of operation: ☐ Approved ☐ Denied _____

Application is complete: ☐ Approved ☐ Denied _____

City of Burton Official

Date: _____

License Information:

Checklist, initial to verify acceptance of the following:

_____ If the application is approved, and within 30 days, the applicant must then submit any further documentation necessary to receive a certificate of occupancy which shall include but is not limited to building permits, inspections, and audits as deemed necessary by the Department of Public Works. At this time the applicant must also pay an annual, nonrefundable license fee of \$5,000.00.

_____ Annual renewal of the application is required. As summarized below:

- The application must be received by the City on or before 1-year from the date in which the licensed was approved.
- It is the sole responsibility of the applicant to apply for renewal prior to the expiration.
- Failure to renew 30 days from date notice mailed will revoke the facilities certificate of occupancy and require any future application to be considered new.

_____ All applicants must provide a copy of the State of Michigan approved operating license before certificate of occupancy can be issued.

I hereby certify that the proposed use is authorized by the owner of record and that I have been authorized by the owner to make this application. I agree the statements made on the attached application are true, and if found not to be true, any license that may be issued may be void. Further, I agree to comply with the conditions and regulations provided with any license that may be issued. Further, I agree to give permission to officials of the City of Burton to enter the property subject to this license for the purposes of inspections. Finally, I understand this is a license application (not a license) and that a license, if issued, conveys only uses to be completed as shown, and does not include any representation or conveyance of rights in any other manner.

Signature

Date

Office use only – License Review

SPR Number: _____ Issue Date: _____ License Fee: \$5,000.00

Special Use Date: _____ Renewal Required Date: _____

Use: ☐ **Provisioning Center** ☐ **Growing Facility** ☐ **Processing Facility**
☐ **Secure Transport** ☐ **Safety Testing Facility**

Approved by City of Burton Official

Date:

Attachment: Medical Marijuana License (4411 : Recreational Marijuana)

MICHIGAN MUNICIPAL LEAGUE WHITE PAPER RE: RECREATIONAL MARIHUANA PROPOSITION

Introduction

This paper is intended to provide municipal attorneys and their clients an idea of what to expect and the issues to be addressed should Michigan voters approve a proposal to legalize marihuana on November 6, 2018. The scope of this paper will outline the provisions of the initiated proposal and address some of the practical consequences for municipalities while raising concerns that local governmental officials should be prepared to confront in the event the proposal is adopted. It is assumed that the reader has a working knowledge of both the Michigan Medical Marihuana Act (MMMA), MCL 333.26421 *et seq.*, and in particular the Michigan Marihuana Facilities Licensing Act (MMFLA), MCL 333.27101 *et seq.*

While the proposed initiated law, titled the Michigan Regulation and Taxation of Marihuana Act (MRTMA), uses some of the same terms found in the MMFLA, the language between the two acts is not consistent. This circumstance alone, as well as other features of the initiated proposal, requires a thoughtful and thorough review of the language being proposed for adoption by Michigan voters and its potential impact at the local municipal level.

At its core, the MRTMA authorizes the possession and nonmedical use of marihuana by individuals 21 years of age and older while establishing a regulatory framework to control the commercial production and distribution of marihuana outside of the medical context. While the regulatory scheme of the proposed statute is similar to that of the MMFLA, it also differs in significant ways.

When would the proposed law become effective if approved?

Under the provisions of Article II, § 9 of the Michigan Constitution, an initiated law takes effect 10 days after the official declaration of the vote. Assuming the State Board of Canvassers declares the result of the November 6 election within a week after the election, the effective date of the law would be just before Thanksgiving of this year. Given this relatively short period to adjust to the change in the legal status of marihuana in Michigan, law enforcement officers should be provided training in advance of the possible change so as to avoid claims of false arrest and allegations of Fourth Amendment unlawful search violations.

Another constitutional feature of a voter-initiated law is that it can only be amended by a vote of the electors or by $\frac{3}{4}$ vote of each house of the legislature. This likely makes amending the statute difficult, but not impossible, as the MMMA has been amended at least twice since its adoption by the voters in 2008.

As for the actual licensure of business authorized to grow, process, and sell recreational marihuana, the proposed act requires that the Michigan Department of Licensing and Regulatory Affairs (LARA) begin to issue licenses no later than a year after the effective date of the law. There is no specific licensing board created to review and grant recreational marihuana establishment licenses. Given the deliberate speed of LARA and the Medical Marihuana Licensing Board in processing and authorizing licenses under the MMFLA, it is an open question whether this deadline can be met. If it can't, then the burden of licensing will fall to local municipalities, because the MRTMA specifically provides that if LARA does not timely promulgate rules or accept or process applications, "beginning one year after the effective date of this act", an applicant may seek licensure directly from the municipality where the marihuana business will be located.

Under this scenario, a municipality has 90 days to after receipt of an application to issue a license or deny licensure. Grounds for denial of a license are limited to an applicant not being in compliance with an ordinance whose provisions are not "unreasonably impracticable" or a LARA rule issued pursuant to the MRTMA. If a municipality issues a license under these circumstances, it must notify LARA that a municipal license has been issued. The holder of a municipally-issued license is not subject to LARA regulation during the term of the license; in other words, the municipality becomes the licensing and regulatory body for recreational marihuana businesses in the community.

What does the proposed initiated statute seek to do?

The purposes actually stated in the MRTMA are many and varied. In addition to legalizing the recreational use of marihuana by persons 21 years and older, the proposed statute at Section 2 seeks to 1) legalize industrial hemp (cannabis with a THC concentration not exceeding 0.3%), and 2) license, regulate, and tax the businesses involved in the commercial production and distribution of nonmedical marihuana. According to the text of the proposal the intent of the law is to:

- prevent arrest and penalty for personal possession and cultivation of marihuana by adults 21 years of age and older;
- remove the commercial production and distribution of marihuana from the illicit market;
- prevent revenue generated from commerce and marihuana from going to criminal enterprises or gangs;
- prevent the distribution of marihuana to persons under 21 years of age;
- prevent the diversion of marihuana to illicit markets;
- ensure the safety of marihuana and marihuana infused products; and

- ensure the security of marihuana establishments.

Whether the proposal will actually live up to all of these intentions is open to question as many of the areas mentioned are not directly addressed in the proposed law. For instance, since the establishments that will be authorized to grow, process, and sell recreational marihuana may not receive licensure for another year, how is it that individuals can lawfully obtain and possess marihuana upon the effective date of the proposed act?

What the proposed statute permits

Under Section 5 of the MRTMA, persons 21 years of age and older are specifically permitted to:

- possess, use, consume, purchase, transport, or process 2.5 ounces or less of marihuana, of which not more than 15 grams (0.53 oz.) may be in the form of marihuana concentrate;
- within a person's residence, possess, store, and process not more than a) 10 ounces of marihuana; b) any marihuana produced by marihuana plants cultivated on the premises; and c) for one's personal use, cultivate up to 12 plants at any one time, on one's premises;
- give away or otherwise transfer, without remuneration, up to 2.5 ounces of marihuana except that not more than 15 g of marihuana may be in the form of marihuana concentrate, to a person 21 years of age or older as long as the transfer is not advertised or promoted to the public
- assist another person who is 21 years of age or more in any of the acts described above
- use, manufacture, possess, and purchase marihuana accessories and distribute or sell marihuana accessories to persons who are 21 years of age and older.

Although not a direct concern of municipalities, law enforcement and social service agencies need to be cognizant that the act specifically provides that "a person shall not be denied custody of or visitation with the minor for conduct that is permitted by the act, unless the person's behavior such that it creates an unreasonable danger to the minor they can be clearly articulated and substantiated." MRTMA § 5. Exactly what this phrase means will likely be a source of litigation in the family division of the circuit courts.

The possession limits under the MRTMA would be the most generous in the nation. Most other states that have legalized marihuana permit possession of only 1 ounce, limit the number of plants to 4-6, and do not permit possession of an extra amount within one's residence. An additional concern arises as to how these limits will be applied. It will be argued

that the limits are “per every individual age 21 or older who resides at the premises”. So these amounts are ostensibly doubled for a married couple, and perhaps quadrupled or more for a group of college students or an extended family sharing a residence. While this same concern is also present under the MMMA, the quantity of marihuana permitted to be possessed under the MMMA is significantly less than under the MRTMA, and lawful possessors (patients and caregivers) are required to be registered with the State.

Further the MRTMA does not neatly fit with the MMMA. It only says at Section 4.2 that it “does not limit any privileges, rights, immunities or defenses of a person as provided” by the MMMA. This raises the question whether registered patients and caregivers may lawfully possess marihuana exceeding the amounts permitted under the MMMA. However, this may become a moot point, since in all probability, if the MRTMA is adopted, the number of registered patients and caregivers under the MMMA could reasonably be expected to drop significantly, as its practical application would largely be limited to registered patients under the age of 21 and their caregivers.

What is “Not Authorized” under the proposed statute

The proposed initiated law does not set forth outright prohibitions, but instead cleverly explains what is not authorized. Specifically, under the terms of Section 4 of the proposal, one is not authorized to:

- operate while under the influence of marihuana or consume marihuana while operating a motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat, or smoke marihuana while in the passenger area of the vehicle on a public way
- transfer marihuana or marihuana accessories to a person under the age of 21
- process, consume, purchase, or otherwise obtain, cultivate, process, transport, or sell marihuana if under the age 21
- separation of plant resin by butane extraction or other method that utilizes a substance with the flashpoint below 100° Fahrenheit in any public place motor vehicle or within the curtilage of any residential structure (This prohibition is actually broader than the one limited solely to butane extraction found in the MMMA.)
- consume marihuana in a public place or smoke marihuana where prohibited by a person who owns occupies or manages property; however, a public place does not include an area designated for consumption within the municipality that has authorized consumption in a designated area not accessible to persons under 21 years of age

- cultivate marihuana plants if plants are visible from a public place without the use of binoculars aircraft or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access
- possess marihuana accessories or possess or consume marihuana on the grounds of a public or private school where children attend preschool, kindergarten, or grades one through 12; in a school bus; or on the grounds of any correctional facility
- possess more than 2.5 ounces of marihuana within a person's place of residence unless any excess marihuana is stored in a container or area equipped with locks or other functioning security devices that restrict access to the contents of the container or area

MRTMA § 4.5 then provides that “All other laws inconsistent with this act do not apply to conduct that is permitted by this act.” This general statement does not provide for a total repeal of existing marihuana laws, but its lack of specificity to other statutes being impacted, something that the Legislative Service Bureau helps the Legislature avoid, may portend problems in its application.

Differences in Terminology

The lack of consistency between those statutes addressing medical marihuana and the proposed recreational marihuana statute were alluded to at the beginning of this article; the following chart points out some of those differences.

Key Differences between Medical Marihuana & Proposed Recreational Marihuana Statutes			
	MMFLA	MMMA	Proposed MRTMA
Grower Limits			
Class A	500 plant limit		100 plant limit (limited to Michigan residents for first 2 years)
Class B	1000 plant limit		500 plant limit
Class C	1500 plant limit; stackable		2000 plant limit; not clear if stackable
Microbusiness	-----		150 plant limit (limited to Michigan residents for first 2 years)
Secure Transporter	Required to move marihuana between licensed facilities; may move money		No specific requirement to use; no authority to transport money
Compliance with	Required		No reference or

Marihuana Tracking Act			requirement
Plant Resin Separation	-----	Butane extraction prohibited in a public place, motor vehicle or inside a residence or within curtilage of a residential structure or in a reckless manner	Butane extraction or another method that utilizes a substance with a flashpoint below 100° F prohibited in a public place, motor vehicle or within curtilage of any residential structure
Possession Limits			
Registered Patient (18 years and older, but can be less than 18)		2.5 oz. useable marihuana & 12 plants*	
Registered Caregiver (5 patient limit)		2.5 oz. useable marihuana & 12 plants per patient*	
Other Persons (21 years and older under MRTMA)		Not permitted	(a) 2.5 oz. of marihuana, of which not more than 15 grams may be concentrate; (b) 10 oz. within one's residence; (c) any amount produced by plants cultivated on the premises; and (d) 12 plants
Inconsistent Terms			
Licensed marihuana businesses	marihuana facility		marihuana establishment
Equipment to grow, process or use marihuana	paraphernalia		marihuana accessories
Business that sells marihuana	provisioning center		marihuana retailer
Certain parts of marihuana plant	Usable marihuana and usable marihuana equivalencies		Term not used
Marihuana-infused products	Excludes products consumed by smoking; exempts products from food law		Does not exclude products consumed by smoking or provide

Enclosed, locked facility		Specifically defined to address a structure, an outdoor grow area, and motor vehicles	food law exemption Container or area with a person's residence equipped with locks or other functioning security device that restricts access to the area or container's contents.
Limitations on scope of local regulation	Purity, pricing or conflict with MMFLA or LARA rules		"Unreasonably Impracticable"
Zoning	Municipalities specifically authorized to zone, but growers limited to industrial, agricultural or unzoned areas	Municipalities may not limit caregiver operations to residential districts as a "home occupation" <i>Deruiter v Byron Twp. (2018)</i>	Municipal regulation limited to: (a) reasonable sign restrictions; (b) time, place & manner of operation of marihuana establishments and the production, manufacture, sale and display of marihuana accessories; and (c) authorizing sale of marihuana for consumption in designated areas or at special events
Taxation	3% on gross retail receipts of provisioning centers		10% on sales price for marihuana sold or transferred by marihuana retailers & micro businesses

*Under § 8 of the MMMA a patient and patient's caregiver may also collectively possess a quantity of marihuana that is not more than reasonably necessary to ensure an uninterrupted availability of marihuana for the purpose of treatment.

What may a Municipality do?

Unlike the MMFLA, where municipalities must "opt in", under the MRTMA, a municipality must "opt out". The proposed statute permits a municipality to "completely prohibit" or "limit the number of marihuana establishments". Given the language used in

Section 6, a municipality should not rely upon prior ordinances or resolutions adopted in response to the MMFLA, but should affirmatively opt-out of the MRTMA or set limits by ordinance, not by resolution. Further, by petition signatures of qualified electors of the municipality in an amount greater than 5% of votes cast for governor in the most recent gubernatorial election, may initiate an ordinance to completely prohibit or provide for the number of marihuana establishments within the municipality.

The initiative language in the MRTMA is problematic. Given the wording, it cannot be assumed that voters can initiate an ordinance to "opt in" should the local governing body choose to exempt the municipality from the act. Rather, the initiative options are either to "completely prohibit" or "limit the number" of marihuana establishments. It is an open question whether the initiative authority to provide for the number of establishments could be an avenue for voters to override a governing body's action, by ordinance or resolution, to "opt out" of the statute. Additionally, the vague wording of the statute leaves it open to question as to whether an initiative providing for the number of marihuana establishments must (or should) set forth proposed numbers or limits for each separate type of marihuana establishment.

An opt-out for recreational marihuana will impact existing medical marihuana facilities in a municipality because for the first 24 months of the act, only persons holding a MMFLA license may apply for a recreational retailer, class B or C grower, or secure transporter license under the MRTMA unless after the first 12 months of accepting applications LARA determines that additional recreational marihuana establishment licenses are needed. MRTMA §9.6.

A municipality may adopt certain other ordinances addressing recreational marihuana and recreational marihuana establishments provided that they "are not unreasonably impractical" and do not conflict with the proposed act or any rule promulgated pursuant to the act. The statutory definition of the redundant term "unreasonably impracticable" found at Section 3(u) almost begs to be litigated. As defined by the proposal the term means:

"that the measures necessary to comply with the rules or ordinances adopted pursuant to this act subject licensees to unreasonable risk or require such a high investment of money, time, or any other resource or asset that a reasonably prudent business person would not operate the marihuana establishment."

Presumably "unreasonably impracticable" regulations would pass judicial muster. Unfortunately, given that the possession, cultivation, processing, and sale of marihuana remains a crime under federal law, how does one assess an "unreasonable risk" or determine what constitutes such a high investment of time or money so as to deter a reasonably prudent

to business person from going forward? Further, does this definition remove the judicial deference and presumption of reasonableness that accompanies ordinances?

Specifically, an ordinance may establish reasonable restrictions on public signs related to marihuana establishments, regulate the time place and manner of operation of marihuana establishments as well as the production manufacture sale or display of marihuana accessories and authorize the sale of marihuana for consumption in designated areas that are not accessible to persons under 21 years of age or special events in limited areas and for a limited time. A violation of ordinances regulating marihuana establishments is limited to a civil fine of not more than \$500. MRTMA § 6.

However, some of these regulations are problematic. The ability to establish reasonable restrictions on public signs related to recreational marihuana, being content-based, likely runs afoul of the holding in *Reed v. Town of Gilbert*, 135 S.Ct. 2218 (2015). Further, MRTMA does not, unlike the MMFLA, specifically authorize a municipality to exercise its zoning powers to regulate the location of marihuana establishments. Rather, the MRTMA authorizes ordinances that "regulate the time, place, and manner of operation of marihuana establishments".

The use of the time, place, and manner First Amendment test on the ability of government to regulate speech is ill suited and inappropriate to the licensure and regulation of local businesses. One cannot help but believe that the choice of the time, place and manner language was an intentional effort so as to permit marihuana establishments to heavily borrow from established legal precedent that largely circumscribes the ability of governmental authorities to restrict speech. Specifically, valid time, place, and manner type of restrictions must:

- 1) be content neutral;
- 2) be narrowly tailored to serve a significant governmental interest; and
- 3) leave open ample alternative channels for communication.

Ward v. Rock Against Racism, 491 U.S. 781, 791 (1989) citing *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984)

The above formulation is not consistent with Michigan zoning law doctrine, which, although subject to the due process and equal protection guarantees of the Fourteenth Amendment, generally requires that there be a reasonable governmental interest being advanced by the regulation. See *Charter Township of Delta v Dinolfo*, 419 Mich 253, 268 (1984). To this end, the only clear reference to the zoning power is the grant to municipalities to reduce

the separation distance between marihuana establishments and pre-existing public and private schools providing K-12 education from 1000' to a lesser distance.

A municipality's authority to authorize designated areas and special events for the consumption marihuana holds the potential to give rise to specialty businesses such as in California where restaurants make marihuana-infused food and drinks available to diners.

At Section 6.5, the MRTMA specifically precludes a municipality from prohibiting the transportation of marihuana through the municipality or prohibiting the co-location of a grower, processor, or retailer from operating within a single facility or a shared location with a facility holding a license under the MMFLA. This latter prohibition raises the question whether communities that have opted-in to the MMFLA, and where a medical marihuana facility is operating, may opt-out of the MRTMA, since the proposed act at Section 17 provides that it is to be "broadly construed to accomplish" the purposes set forth under the act.

If a municipality limits the number of establishments that may be licensed and such limitation prevents LARA from issuing a state license to all applicants who otherwise meet the requirements for the issuance of a license, the MRTMA provides that "the municipality shall decide among the competing applications by competitive process intended to select applicants who are best suited to operate in compliance with the act within the municipality". MRTMA § 9.4. This provision raises the Pandora's Box that confronted municipalities that attempted to cap the number of licenses issued under the MMFLA. Any competitive process that seeks to determine who is best suited inherently has a subjective component that may expose the municipality to legal challenges based on alleged due process violations by the municipality from unsuccessful applicants asserting that the process employed was unfair on its face or unfairly administered. While there may be good reasons to limit the number of recreational marihuana establishments, any community that chooses to do so should be prepared to defend itself from challenges by unsuccessful applicants.

A municipality may adopt an ordinance requiring that marihuana establishments located within its boundaries obtain a municipally-issued marihuana establishment license; but the annual fee for such a license is limited to \$5000 and any qualifications for licensure may not conflict with the MRTMA or rules promulgated by LARA pursuant to the act.

What limitations on the State are applicable to Municipalities?

According to the proposal, a State rule may not be unreasonably impracticable, or limit the number of any of the various types of license that may be granted, or require a customer to provide a retailer with identifying information other than to determine a customer's age or acquire personal information other than that typically required in a retail transaction. MRTMA §8.3.

The State is required to issue a license under the act if the municipality does not notify LARA that the proposed establishment is not in compliance with a local ordinance and if the proposed location is not within an area “zoned exclusively for residential use and not within 1000 feet of a pre-existing public or private school providing K-12 education.” A municipality is authorized to reduce the 1000’ separation from a school requirement. MRTMA §9.3.

Additionally, the grounds for disqualifying a license applicant based on a prior controlled substance conviction is much reduced under the MRTMA than under the MMFLA. An applicant for a medical marijuana facilities license is disqualified if they have any of the following:

- a felony conviction or release from incarceration for a felony within the past 10 years;
- a controlled substance-related felony conviction within the past 10 years; or
- a misdemeanor conviction involving a controlled substance, theft, dishonesty, or fraud within the past 5 years.

In contrast, under the MRTMA any prior conviction solely for a marijuana offense does not disqualify or affect eligibility for licensure unless the offense involved distribution to a minor. Thus, persons convicted of trafficking in large amounts of marijuana would be eligible for a municipal marijuana establishment license. MRTMA §8.1(c).

Additionally, LARA is precluded from issuing a rule and municipalities may not adopt an ordinance requiring a customer to provide a marijuana retailer with any information other than identification to determine the customer’s age. MRTMA §8.3(b). In this regard, the MRTMA provides an affirmative defense to marijuana retailers who sell or otherwise transfer marijuana to a person under 21 years of age if the retailer reasonably verified that the recipient appeared to be 21 years of age or older by means of government issued photographic identification containing a date of birth. MRTMA §10.2.

There are also limitations on holding ownership interests in different types of facilities. Owners of a safety compliance facility or secure transporter may not hold an ownership interest in a grower or processor or retailer or microbusiness establishment. The owner of a microbusiness may not hold an interest in a grower or processor or retailer safety compliance for secure transporter establishment. And a person may not hold an interest in more than 5 marijuana growers or more than one microbusiness, unless after January 1, 2023 LARA issues a rule permitting otherwise. MRTMA §9.3.

Finally, for the first 24 months after LARA begins accepting applications for licensure, only persons who are residents of Michigan may apply for a Class A grower or microbusiness

license and to be eligible for all other licenses, persons must hold a State operating license pursuant to the MMFLA. MRTMA §9.6.

What if the State fails to does not act in a timely fashion?

If the State does not timely promulgate rules, despite the act not providing when those must be issued, or accept or process applications within 12 months after the effective date of the act, an applicant may submit an application for establishment directly to the municipality where the business will be located. MRTMA §16. A municipality must issue a license to the applicant within 90 days after receipt of the application unless the municipality determines that the applicant is not a compliance with an ordinance or rule adopted pursuant to the act. If a municipality issues a license, it must notify the department that the license has been issued. That municipal license will have the same force and effect as a State license but the holder will not be subject to regulation or enforcement by the State during the municipal license term. It is unclear whether, if the State puts in place a licensing system during the term of a municipal license, the establishment can be required to seek State licensure or is merely required to renew the license with the municipality.

Municipality as an employer or landlord

The MRTMA does not require that an employer permit or accommodate conduct otherwise allowed by the act in the workplace or on the employer's property. The act does not prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while under the influence of marihuana. Nor does the act prevent an employer from refusing to hire a person because of that person's violation of a workplace drug policy. MRTMA §4.3. In this regard, the statute appears to codify the holding of *Casias v. Wal-Mart Stores, Inc.*, 764 F Supp 2d 914 (WD Mich 2011) *aff'd*, 695 F3d 428 (6th Cir 2012) permitting an employer to discharge an employee who as a registered patient under the MMA used marihuana outside of work hours, was not under the influence while at work, but tested positive after suffering an injury while at work.

To the degree that a municipality provides housing and therefore acts as a landlord, the MRTMA permits the lessor of property to prohibit or otherwise regulate the consumption, cultivation, distribution, processing, sale, or display of marihuana and marihuana accessories on leased property, except that a lease agreement may not prohibit a tenant from lawfully possessing and consuming marihuana by means other than smoking. MRTMA §4.4.

Municipal share of Marihuana Excise Tax Fund

Under the terms of the MMFLA, municipalities (cities, villages, and townships) in which a medical marihuana facility is located get a *pro rata* share of 25% of a medical marihuana excise

fund created by the imposition of a 3% tax on gross retail sales at provisioning centers. However, under the terms of the MMFLA, if a law authorizing the recreational or nonmedical use of marihuana is enacted, the tax on medical marihuana sales sunsets 90 days following the effective date of the new law. MCL 333.27601.

The MRTMA seeks to fill the gap created by the loss of the 3% excise tax under the MMFLA by creating marihuana regulation fund through the imposition of a 10% excise tax (which would be in addition to the 6% sales tax) on the sales price of marihuana sold or otherwise transferred by a marihuana retailer or microbusiness to anyone other than another marihuana establishment. However, the sale to be allocated to municipalities is reduced to 15% and before any money is provided to cities, villages, and townships in which a marihuana retail store or microbusiness is located, the State is made whole for its implementation, administration, and enforcement of the act—and until 2022 or for at least 2 years, \$20 million from the fund must be annually provided to one or more clinical trials approved by the FDA that are researching the efficacy of marihuana in the treatment of U.S. armed services veterans and preventing veteran suicide. MRTMA §14.

The net effect for municipalities could result in more money under the MRTMA than under the MMFLA. This is because: a) the tax rate levied is over 3 times higher under the MRTMA (10% v. 3%); b) there is a larger pool of potential consumers (registered patients and caregivers v. all persons aged 21 and older); and c) the allocation to municipalities under the MRTMA is based on the number of marihuana retail stores and micro businesses as opposed to all types of marihuana facilities under the MMFLA. However this this not take into account that if a municipality does not permit recreational marihuana retail establishments, it will not receive any revenue under the either the MMFLA or MRTMA, but will still have to deal with the social consequences of marihuana use that it may not prohibit under the new law.

The following table illustrates the differences between the two statutory approaches based on assumption of \$1 billion in sales, State expenses being recouped by applicable fees, a municipality having one percent of the total number of medical marihuana facilities or recreational retail businesses.

	MMFLA	MRTMA
Total Annual Retail Sales	\$1,000,000,000	\$1,000,000,000
Applicable Excise Tax Rate	3%	10%
Amount of Excise Tax Fund	\$30,000,000	\$100,000,000
Less Allocation for Veterans' Health Research	0 \$30,000,000	-\$20,000,000 \$80,000,000
Percentage Allocated to Municipalities	25%	15%
Amount Available for	\$7,500,000	\$12,000,000

Municipalities		
1% of facilities or retail establishments in municipality	\$75,000	\$120,000

In what appears to be a blatant attempt to convince voters to approve the MRTMA, 35% of the marihuana regulation fund will be allocated to the school aid fund for K-12 education and another 35% to the Michigan transportation fund for the repair and maintenance of roads and bridges. Unlike the MMFLA, which allocated 15% split equally (5% each) between county sheriffs where a marihuana facility was located, the Commission on Law Enforcement Standards for Officer Training, and to the State Police, there is no allocation directly to law enforcement purposes under the MRTMA.

Conclusion

As challenging as it was for municipalities to come to grips with medical marihuana regulation under the MMFLA, the difficulties posed by the proposed MRTMA regarding recreational marihuana are likely to be significantly greater. Under the MMFLA many municipalities took a "wait and see" position on the issue of broad commercialization of medical marihuana, and in doing so only required that the governing body of the municipality do nothing. And for those municipalities that chose to "opt in", the MMFLA granted them a great deal of regulatory discretion, which some representatives of the marihuana industry have called "onerous" [Langwith, "Local Overreach", 97 Mich B J 36, 37 (August 2018)], so as to reasonably safeguard the public safety health and welfare.

The MRTMA on the other hand, requires a municipality to affirmatively take legislative action to "opt out" of regulating recreational marijuana commercial enterprises. For those municipalities that choose to permit recreational marijuana establishments to exist in the community, the regulatory framework is much more circumscribed than under the MMFLA, and is certainly more likely to raise legal issues. Fortunately, commercialization of recreational marijuana is at least a year away should the ballot proposal to legalize marihuana be adopted and by that time the State regulatory framework for medical marihuana will have been in place for nearly two years.

Apart from the commercialization of recreational marihuana, municipal law enforcement officials and officers may be required to know the new rules surrounding "legalized" marihuana within days of the election. At a minimum, county and municipal prosecutors should be ready to provide training on the law in early November. It is also likely that defendants who committed marihuana offenses prior to November 6 will seek dismissal of those charges should voters approve the ballot proposal.

In the meantime, municipal attorneys would be well-advised to read through the initiated statute more than once and be prepared to advise their clients of the significant ramifications of legalized marijuana on local governmental and social services.

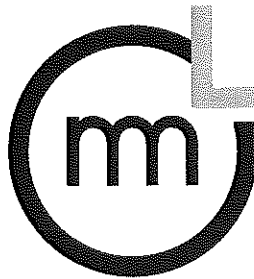
-Submitted by Clyde J. Robinson, Kalamazoo City Attorney

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Recreational Marihuana Proposition

Attachment: MML info (4411 : Recreational Marijuana)



michigan municipal league

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This paper is being provided by the Michigan Municipal League (MML) to assist its member communities.

The MML Legal Defense Fund authorized its preparation by Kalamazoo City Attorney Clyde Robinson. The document does not constitute legal advice and the material is provided as information only. All references should be independently confirmed.

The spelling of “marihuana” in this paper is the one used in the Michigan statutes and is the equivalent of “marijuana.”

Other resources

The Michigan Municipal League has compiled numerous resource materials on medical marihuana and is building its resources on recreational marihuana. They are available via the MML web site at:
www.mml.org/resources/information/mi-med-marihuana.html

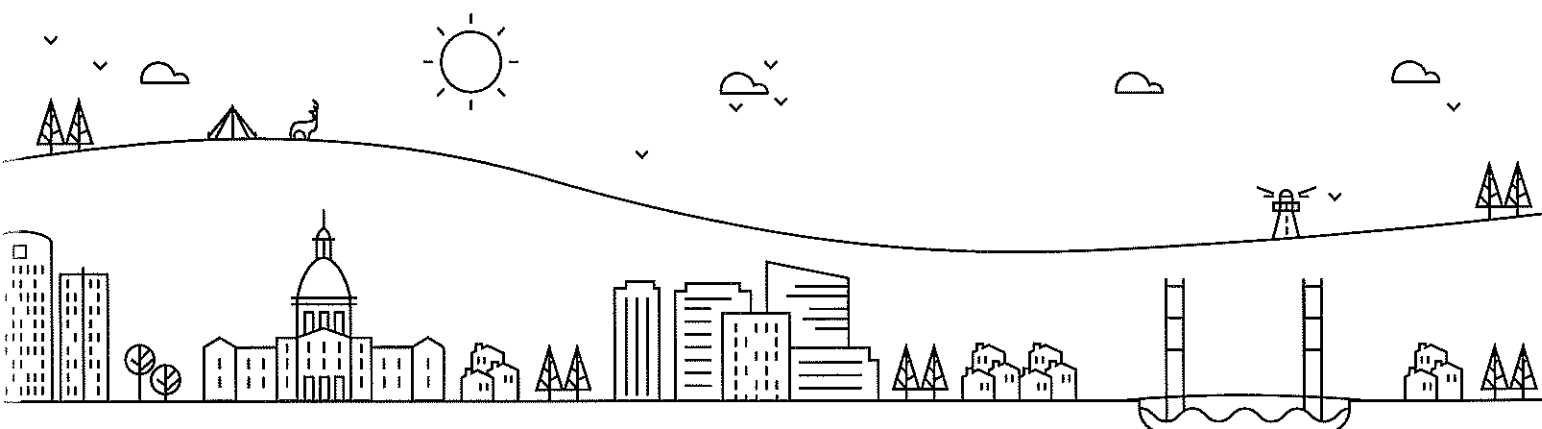
Introduction

This paper is intended to provide municipal attorneys and their clients an idea of what to expect and the issues to be addressed, given the adoption by Michigan voters of Initiated Law 1 of 2018 generally legalizing marihuana on November 6, 2018. The scope of this paper will outline the provisions of the initiated statute and address some of the practical consequences for municipalities while raising concerns that local governmental officials should be prepared to confront. It is assumed that the reader has a working knowledge of both the Michigan Medical Marihuana Act (MMMA), MCL 333.26421 *et seq.*, and in particular the Michigan Marihuana Facilities Licensing Act (MMFLA), MCL 333.27101 *et seq.*

While the initiated law, titled the Michigan Regulation and Taxation of Marihuana Act (MRTMA), uses some of the same terms found in the MMFLA, the language between the two Acts is not consistent. This circumstance alone, as well as other features of the initiated statute, requires a thoughtful and thorough review of the language adopted by Michigan voters and its potential impact at the local municipal level.

At its core, the MRTMA authorizes the possession and nonmedical use of marihuana by individuals 21 years of age and older, while establishing a regulatory framework to control the commercial production and distribution of marihuana outside of the medical context. While the regulatory scheme of the MRTMA is similar to that of the MMFLA, it also differs in significant ways.

Attachment: MML info (4411 : Recreational Marijuana)



When would the proposed law become effective if approved?

Under the provisions of Article II, § 9 of the Michigan Constitution, an initiated law takes effect 10 days after the official declaration of the vote. The State Board of Canvassers met on November 26 and certified the November 6 election results, so the effective date of the law will be December 6, 2018. The immediate effect of the law authorizes individuals age 21 and older to openly possess a small amount of marihuana and marihuana concentrate on their person, and possess and grow a larger amount of marihuana at their residence. Given the relatively short period to adjust to the change in the legal status of marihuana in Michigan, law enforcement officers should be provided training in advance of this change in the law so as to avoid claims of false arrest and allegations of Fourth Amendment unlawful search violations. This becomes particularly acute for law enforcement agencies that use drug-sniffing dogs that were trained to detect marihuana. Those animals will likely have to be retired from service as they cannot be relied upon to provide probable cause to support a search. Additionally, officers will have to deal with how to handle marihuana discovered in the course of a search incident to an arrest for another offense.

Another constitutional feature of a voter-initiated law is that it can only be amended by a vote of the electors or by $\frac{3}{4}$ vote of each house of the Legislature. This likely makes amending the statute difficult, but not impossible, as the MMMA has been amended at least twice since its adoption by the voters in 2008.

As for the actual licensure of businesses authorized to grow, process, and sell recreational marihuana, the Act requires that the Michigan Department of Licensing and Regulatory Affairs (LARA) begin accepting applications for state-issued licenses no later than a year after the effective date of the law and issue the appropriate license or notice of rejection within 90 days. (MRTMA § 9) Unlike the MMFLA, there is not a specific licensing board created to review and grant recreational marihuana establishment licenses. Given the deliberate speed of LARA and the Medical Marihuana Licensing Board in processing and authorizing licenses under the MMFLA, it is an open question whether the statutory deadline will be met. If it can't, then

the burden of licensing recreational marihuana establishments will fall to local municipalities, because the MRTMA specifically provides that if LARA does not timely promulgate rules or accept or process applications, "beginning one year after the effective date of this act," an applicant may seek licensure directly from the municipality where the marihuana business will be located. (MRTMA § 16)

Under this scenario, a municipality has 90 days after receipt of an application to issue a license or deny licensure. Grounds for denial of a license are limited to an applicant not being in compliance with an ordinance whose provisions are not "unreasonably impracticable," or a LARA rule issued pursuant to the MRTMA. If a municipality issues a license under these circumstances, it must notify LARA that a municipal license has been issued. The holder of a municipally-issued license is not subject to LARA regulation during the one-year term of the license; in other words, the municipality becomes the sole licensing and regulatory body for recreational marihuana businesses in the community in this circumstance. Any ordinance seeking to regulate recreational marihuana businesses should be drafted with the potential for this circumstance in mind.

What does the initiated statute seek to do?

The purposes actually stated in the MRTMA are many and varied. In addition to legalizing the recreational use of marihuana by persons 21 years and older, the statute 1) legalizes industrial hemp (cannabis with a THC concentration not exceeding 0.3 percent), and 2) licenses, regulates, and taxes the businesses involved in the commercial production and distribution of nonmedical marihuana. According to Section 2 of the statute, the intent of the law is to:

- prevent arrest and penalty for personal possession and cultivation of marihuana by adults 21 years of age and older;
- remove the commercial production and distribution of marihuana from the illicit market;
- prevent revenue generated from commerce and marihuana from going to criminal enterprises or gangs;
- prevent the distribution of marihuana to persons under 21 years of age;

- prevent the diversion of marihuana to illicit markets;
- ensure the safety of marihuana and marihuana infused products; and
- ensure the security of marihuana establishments.

Whether the MRTMA will actually live up to all of these intentions is open to question as many of the areas mentioned are not directly addressed in the law. For instance, since the establishments that will be authorized to grow, process, and sell recreational marihuana will not be licensed until early 2020, how is it that individuals can lawfully obtain and possess marihuana upon the effective date of the Act?

What the statute permits

Under Section 5 of the MRTMA, persons 21 years of age and older are specifically permitted to:

- possess, use, consume, purchase, transport, or process 2.5 ounces or less of marihuana, of which not more than 15 grams (0.53 oz.) may be in the form of marihuana concentrate;
- within a person's residence, possess, store, and process not more than a) 10 ounces of marihuana; b) any marihuana produced by marihuana plants cultivated on the premises; and c) for one's personal use, cultivate up to 12 plants at any one time, on one's premises;
- give away or otherwise transfer, without remuneration, up to 2.5 ounces of marihuana except that not more than 15 g of marihuana may be in the form of marihuana concentrate, to a person 21 years of age or older as long as the transfer is not advertised or promoted to the public (registered medical marihuana caregivers and patients will be able to "give away" marihuana to non-patients);
- assist another person who is 21 years of age or more in any of the acts described above; and
- use, manufacture, possess, and purchase marihuana accessories and distribute or sell marihuana accessories to persons who are 21 years of age and older.

Although not a direct concern of municipalities, law enforcement and social service agencies need to be cognizant that the Act specifically provides that "a person shall not be denied custody of or visitation with the minor for conduct that is permitted by the Act, unless the person's behavior such that it creates an unreasonable danger to the minor they can be clearly articulated and substantiated." MRTMA § 5. Exactly what this phrase means will likely be a source of litigation in the family division of the circuit courts.

The possession limits under the MRTMA are the most generous in the nation. Most other states that have legalized marihuana permit possession of only one ounce of usable marihuana, 3.5g to 7g of concentrate, limit the number of plants to six, and do not permit possession of an extra amount within one's residence. An additional concern arises as to how these limits will be applied. It will be asserted that the limits are per every individual age 21 or older who resides at the premises. So, the statutory permissible possessory amounts are ostensibly doubled for a married couple and quadrupled or more for a group of college students or an extended family sharing a residence. While this same concern is also present under the MMMA, the quantity of marihuana permitted to be possessed under the MMMA is significantly less than under the MRTMA, and lawful possessors (patients and caregivers) are required to be registered with the State.

What is "Not Authorized" under the statute

The initiated law does not set forth outright prohibitions, but instead cleverly explains what the "act does not authorize." Specifically, under the terms of Section 4 of the MRTMA, one is not authorized to:

- operate while under the influence of marihuana or consume marihuana while operating a motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat, or smoke marihuana while in the passenger area of the vehicle on a public way;
- transfer marihuana or marihuana accessories to a person under the age of 21;

- process, consume, purchase, or otherwise obtain, cultivate, process, transport, or sell marihuana if under the age of 21;
- separate plant resin by butane extraction or other method that utilizes a substance with the flashpoint below 100° Fahrenheit in any public place motor vehicle or within the curtilage of any residential structure (This prohibition is broader than the one limited solely to butane extraction found in the MMMA.);
- consume marihuana in a public place or smoke marihuana where prohibited by a person who owns occupies or manages property; however, a public place does not include an area designated for consumption within the municipality that has authorized consumption in a designated area not accessible to persons under 21 years of age;
- cultivate marihuana plants if plants are visible from a public place without the use of binoculars, aircraft, or other optical aids; or; outside of an enclosed area equipped with locks or other functioning security devices that restrict access;
- possess marihuana accessories or possess or consume marihuana on the grounds of a public or private school where children attend preschool, kindergarten, or grades one through 12; in a school bus; or on the grounds of any correctional facility; and
- possess more than 2.5 ounces of marihuana within a person's place of residence unless any excess marihuana is stored in a container or area equipped with locks or other functioning security devices that restrict access to the contents of the container or area.

MRTMA § 4.5 then provides that “All other laws inconsistent with this act do not apply to conduct that is permitted by this act.” This general statement does not provide for a total repeal of existing marihuana laws, but its lack of specificity to other statutes being impacted, something that the Legislative Service Bureau helps the Legislature avoid, may portend problems in its application.

Differences in terminology between statutes addressing medical and recreational marihuana

The MRTMA does not neatly fit with the MMMA. It provides at Section 4.2 that it “does not limit any privileges, rights, immunities or defenses of a person as provided” by the MMMA. This raises the question whether registered patients and caregivers may lawfully possess marihuana exceeding the amounts permitted under the MMMA. However, this may become a moot point, since in all probability, once the commercial provisions of the MRTMA are fully in operation, the number of registered patients and caregivers under the MMMA could reasonably be expected to drop significantly, as its practical application would largely be limited to registered patients under the age of 21 and their caregivers.

Additionally, the MRTMA references the MMFLA at several places. In addition to the “does not limit” language referenced above, the statute at § 9.6 provides that for the first 24 months after LARA begins accepting applications for marihuana establishment licenses, only those persons holding a MMFLA license may apply for a retailer, processor, class B or class C grower, or secure transporter license issued under the MRTMA. And § 8.3(c), is broadly worded so as to preclude LARA from promulgating rules which prohibit a recreational marihuana establishment from operating at a shared location with a licensed medical marihuana facility.

The lack of consistency between the statute addressing medical marihuana and the recreational marihuana statute is reflected in the following chart.

Key Differences between Medical Marihuana and Proposed Recreational Marihuana Statutes

	MMFLA	MMMA	Proposed MRTMA
Grower Limits			
Class A	500 plant limit		100 plant limit (limited to Michigan residents for first two years)
Class B	1000 plant limit		500 plant limit
Class C	1500 plant limit; stackable		2000 plant limit; not clear if stackable
Microbusiness	-----		150 plant limit (limited to Michigan residents for first two years)
Secure Transporter	Required to move marihuana between licensed facilities; may move money		No specific requirement to use; no authority to transport money
Compliance with Marihuana Tracking Act	Required		No reference or requirement
Plant Resin Separation	-----	Butane extraction prohibited in a public place, motor vehicle, or inside a residence or within curtilage of a residential structure or in a reckless manner	Butane extraction or another method that utilizes a substance with a flashpoint below 100° F prohibited in a public place, motor vehicle, or within curtilage of any residential structure
Possession Limits			
Registered Patient (18 years and older, but can be less than 18)		2.5 oz. useable marihuana and 12 plants*	
Registered Caregiver (five patient limit)		2.5 oz. useable marihuana and 12 plants per patient*	

Key Differences between Medical Marihuana and Proposed Recreational Marihuana Statutes

	MMFLA	MMMA	Proposed MRTMA
Possession Limits			
Other Persons (21 years and older under MRTMA)		Not permitted	(a) 2.5 oz. of marihuana, of which not more than 15 grams may be concentrate; (b) 10 oz. secured within one's residence; (c) any amount produced by plants cultivated on the premises; and (d) 12 plants
Inconsistent Terms			
Licensed marihuana businesses	marihuana facility		marihuana establishment
Equipment to grow, process or use marihuana	paraphernalia		marihuana accessories
Business that sells marihuana	provisioning center		marihuana retailer
Certain parts of marihuana plant	Usable marihuana and usable marihuana equivalencies		Term not used
Marihuana-infused products	Excludes products consumed by smoking; exempts products from food law		Does not exclude products consumed by smoking or provide food law exemption
Enclosed, locked facility		Specifically defined to address a structure, an outdoor grow area, and motor vehicles	Container or area within a person's residence equipped with locks or other functioning security device that restricts access to the area or container's contents
Limitations on scope of local regulation	Purity, pricing or conflict with MMFLA or LARA rules		"Unreasonably Impracticable" or conflict with MRTMA or LARA rules

Attachment: MML info (4411 : Recreational Marijuana)

Key Differences between Medical Marihuana and Proposed Recreational Marihuana Statutes

	MMFLA	MMMA	Proposed MRTMA
Inconsistent Terms			
Property rights	License is a revocable privilege, not a property right; facilities subject to inspection and examination without a warrant		Not addressed
Zoning	Municipalities specifically authorized to zone, but growers limited to industrial, agricultural or unzoned areas	Municipalities may not limit caregiver operations to residential districts as a "home occupation" <i>Deruiter v Byron Twp.</i> (July 2018) and <i>Ypsilanti Twp. v. Pontius</i> (Oct. 2018)	Municipal regulation limited to: (a) reasonable sign restrictions; (b) time, place and manner of operation of marihuana establishments and the production, manufacture, sale and display of marihuana accessories; and (c) authorizing sale of marihuana for consumption in designated areas or at special events
License eligibility			
Elected officials and governmental employees	Not eligible		Not addressed
Felony or controlled substance felony within past 10 years or misdemeanor conviction for controlled substance violation or dishonesty theft or fraud within past five years	Not eligible		A prior conviction for a marihuana-related offense does not disqualify an individual unless offense involved distribution of a controlled substance to a minor
Taxation	3 percent on gross retail receipts of provisioning centers		10 percent on sales price for marihuana sold or transferred by marihuana retailers and micro businesses

*Under § 8 of the MMMA a patient and patient's caregiver may also collectively possess a quantity of marihuana that is not more than reasonably necessary to ensure an uninterrupted availability of marihuana for the purpose of treatment.

There also appears to be some inconsistency within the MRTMA itself. Section 6.1 permits a municipality to "completely prohibit or limit the number of (recreational) marihuana establishments within its boundaries." However, §6.5 provides that a municipality may not prohibit a recreational marihuana grower, processor, and retailer from: 1) operating within a single facility; or 2) *"operating at a location shared with a marihuana facility operating pursuant to the (MMFLA)."* (Emphasis supplied) The italicized phrase has been interpreted by some marihuana advocates as precluding a community that opted in to the MMFLA from opting out of the MRTMA since to do so would prevent recreational establishments from co-locating in a medical marihuana facility, which is prohibited. However, this argument overlooks the clear grant of authority at §6.1 permitting a municipality by either legislative action or initiative ballot from completely prohibiting recreational marihuana establishments. The real concern with §6 is for those communities that permit both recreational and medical marihuana businesses. The plain language at §6.5 seemingly permits the more intensive grower (which under the MMFLA is restricted to industrial, agricultural or unzoned areas) and processing operations to share a location with marihuana businesses more conducive to being located in commercial or office zoning districts. A legislative fix may be needed to clarify that only analogous medical and recreational marihuana businesses can be co-located.

What may a municipality do?

Unlike the MMFLA, where municipalities must "opt in," under the MRTMA, a municipality must "opt out." The proposed statute permits a municipality to "completely prohibit" or "limit the number of marihuana establishments." Given the language used in Section 6 of the MRTMA, a municipality should not rely upon prior ordinances or resolutions adopted in response to the MMFLA, but should affirmatively opt out of the MRTMA or limit the number of marihuana establishments by ordinance, not by resolution. Further, petitions containing the signatures of qualified electors of the municipality in an amount greater than five percent of votes cast for governor in the most recent gubernatorial election, may initiate an ordinance to completely prohibit or provide for the number of marihuana establishments within the municipality.

The initiative language in the MRTMA is problematic. Given the wording, it cannot be assumed that voters can initiate an ordinance to "opt in" should the local governing body choose to exempt the municipality from the Act. Rather, the initiative options are either to "completely prohibit" or "limit the number" of marihuana establishments. It is an open question whether the initiative authority to provide for the number of establishments could be an avenue for voters to override the local governing body's action to "opt out" of the statute. Additionally, the vague wording of the statute leaves it open to question as to whether an initiative providing for the number of marihuana establishments must (or should) set forth proposed numbers or limits for each separate type of marihuana establishment or whether the limit on establishments is collective in nature. Logic would favor the former, but the statute is not precise.

Not opting out of the recreational marihuana statute will impact existing medical marihuana facilities in a municipality because for the first 24 months of the Act, only persons holding a MMFLA license (in any community where such is permitted) may apply for a recreational retailer, class B or C grower, or secure transporter license under the MRTMA unless after the first 12 months of accepting applications LARA determines that additional recreational marihuana establishment licenses are needed. MRTMA §9.6.

Attachment: MML info (4411 : Recreational Marijuana)

A municipality choosing not to opt out of the MRTMA may adopt certain other ordinances addressing recreational marihuana and recreational marihuana establishments provided that they “are not unreasonably impractical” and do not conflict with the Act or any rule promulgated pursuant to the Act. The statutory definition of the redundant term “unreasonably impracticable,” found at Section 3(u), almost begs to be litigated. As defined by the initiated statute, the term means:

“that the measures necessary to comply with the rules or ordinances adopted pursuant to this act subject licensees to unreasonable risk or require such a high investment of money, time, or any other resource or asset that a reasonably prudent business person would not operate the marihuana establishment.”

Unfortunately, given that the possession, cultivation, processing, and sale of marihuana remains a crime under federal law, how does one assess an “unreasonable risk” or determine what constitutes such a high investment of time or money so as to deter a reasonably prudent business person from going forward? Further, does this definition remove the judicial deference and presumption of reasonableness that accompanies ordinances? The term “unreasonably impractical” was taken directly from Colorado law, and as of this writing, it does not appear to have been construed by an appellate court in that State. As an aside, would “reasonably impracticable” regulations be acceptable?

Specifically, an ordinance may establish reasonable restrictions on public signs related to marihuana establishments; regulate the time, place, and manner of operation of marihuana establishments, as well as the production, manufacture, sale, or display of marihuana accessories; and, authorize the sale of marihuana for consumption in designated areas that are not accessible to persons under 21 years of age or special events in limited areas and for a limited time. A violation of ordinances regulating marihuana establishments is limited to a civil fine of not more than \$500. MRTMA § 6.2.

However, some of these regulatory authorizations are problematic. For instance, the ability to establish reasonable restrictions on public signs related to recreational marihuana, being content-based, likely runs afoul of the holding in *Reed v. Town of Gilbert*, 135 S.Ct. 2218 (2015). Further, the MRTMA does not, unlike the MMFLA, specifically authorize a municipality to exercise its zoning powers to

regulate the location of marihuana establishments. Rather, the MRTMA authorizes ordinances that “regulate the time, place, and manner of operation of marihuana establishments.”

The use of the time, place, and manner First Amendment test on the ability of government to regulate speech is ill-suited and inappropriate to the licensure and regulation of local businesses. One cannot help but believe that the choice of the time, place, and manner language was an intentional effort so as to permit marihuana establishments to heavily borrow from established legal precedent that largely circumscribes the ability of governmental authorities to restrict speech. Specifically, valid time, place, and manner type of restrictions must:

1. be content neutral;
2. be narrowly tailored to serve a significant governmental interest; and
3. leave open ample alternative channels for communication.

Ward v. Rock Against Racism, 491 U.S. 781, 791 (1989) citing *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984)

The above formulation is not consistent with Michigan zoning law doctrine, which, although subject to the due process and equal protection guarantees of the Fourteenth Amendment, generally requires that there be a reasonable governmental interest being advanced by the regulation. See *Charter Township of Delta v. Dinolfo*, 419 Mich 253, 268 (1984). To this end, the only clear reference to the zoning power in the MRTMA is the grant to municipalities to reduce the separation distance between marihuana establishments and pre-existing public and private schools providing K-12 education from 1000’ to a lesser distance.

A municipality’s ability to authorize designated areas and special events for the consumption marihuana holds the potential to give rise to specialty businesses such as in California where restaurants make marihuana-infused food and drinks available to diners.

Section 6.5 of the MRTMA specifically precludes a municipality from prohibiting the transportation of marihuana through the municipality, even though it has otherwise opted out.

If a municipality limits the number of establishments that may be licensed, and such limitation prevents LARA from issuing a state license to all applicants who otherwise meet the requirements for the issuance of a license, the MRTMA provides that “the municipality shall decide among the competing applications by competitive process intended to select applicants who are best suited to operate in compliance with the act within the municipality.” MRTMA § 9.4. This provision presents the Pandora’s Box which confronted municipalities that attempted to cap the number of licenses issued under the MMFLA. Any competitive process that seeks to determine who is “best suited” inherently has a subjective component that may expose the municipality to legal challenges based on alleged due process violations by the municipality from unsuccessful applicants asserting that the process employed was unfair on its face or unfairly administered. While there may be good reasons to limit the number of recreational marijuana establishments, any community that chooses to do so should be prepared to defend itself from challenges by unsuccessful applicants.

A municipality may adopt an ordinance requiring that marijuana establishments located within its boundaries obtain a municipally-issued marijuana establishment license; but, the annual fee for such a license is limited to \$5,000 and any qualifications for licensure may not conflict with the MRTMA or rules promulgated by LARA pursuant to the Act.

What limitations on the State are applicable to municipalities?

According to the statute, a State rule may not be unreasonably impracticable, or limit the number of any of the various types of license that may be granted, or require a customer to provide a retailer with identifying information other than to determine a customer’s age or acquire personal information other than that typically required in a retail transaction or preclude the co-location of a marijuana establishment with a licensed medical facility. MRTMA §8.3.

The State is required to issue a license under the Act if the municipality does not notify LARA that the proposed establishment is not in compliance with a local ordinance and if the proposed location is not within an area “zoned exclusively for residential use and not within 1000 feet of a pre-existing public or private school providing K-12 education.” A municipality is authorized to reduce the 1000’ separation from a school requirement. MRTMA §9.3.

Additionally, the grounds for disqualifying a license applicant based on a prior controlled substance conviction is much reduced under the MRTMA than under the MMFLA. An applicant for a medical marijuana facilities license is disqualified if they have any of the following:

- a felony conviction or release from incarceration for a felony within the past 10 years;
- a controlled substance-related felony conviction within the past 10 years; or
- a misdemeanor conviction involving a controlled substance, theft, dishonesty, or fraud within the past five years.

In contrast, under the MRTMA any prior conviction solely for a marijuana offense does not disqualify or affect eligibility for licensure unless the offense involved distribution to a minor. Thus, persons convicted of trafficking in large amounts of marijuana would be eligible for a municipal marijuana establishment license. MRTMA §8.1(c).

Additionally, LARA is precluded from issuing a rule and municipalities may not adopt an ordinance requiring a customer to provide a marijuana retailer with any information other than identification to determine the customer’s age. MRTMA §8.3(b). In this regard, the MRTMA provides an affirmative defense to marijuana retailers who sell or otherwise transfer marijuana to a person under 21 years of age if the retailer reasonably verified that the recipient appeared to be 21 years of age or older by means of government issued photographic identification containing a date of birth. MRTMA §10.2.

There are also limitations on holding ownership interests in different types of facilities. Owners of a safety compliance facility or secure transporter may not hold an ownership interest in a grower, or processor, or retailer, or microbusiness establishment. The owner of a microbusiness may not hold an interest in a grower, or processor, or retailer, safety compliance, or secure transporter

establishment. And a person may not hold an interest in more than five marihuana growers or more than one microbusiness, unless after January 1, 2023 LARA issues a rule permitting otherwise. MRTMA §9.3.

Finally, for the first 24 months after LARA begins accepting applications for licensure, only persons who are residents of Michigan may apply for a Class A grower or microbusiness license and to be eligible for all other licenses, persons must hold a State operating license pursuant to the MMFLA. MRTMA §9.6.

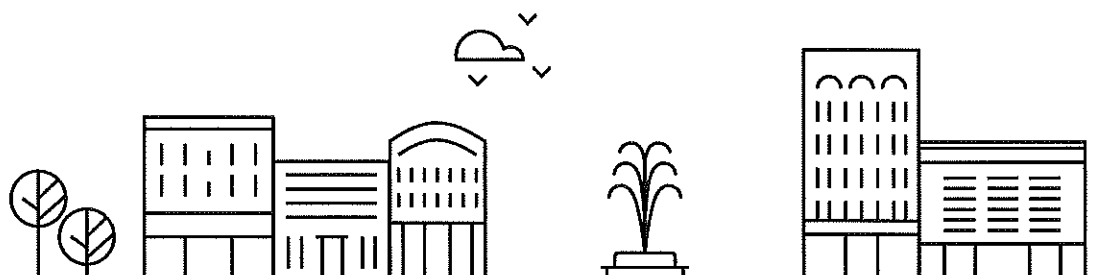
What if the State fails to act in a timely fashion?

If the State does not timely promulgate rules (despite the Act not providing when those must be issued) or accept or process applications within 12 months after the effective date of the Act, an applicant may submit an application for a recreational marihuana establishment directly to the municipality where the business will be located. MRTMA §16. A municipality must issue a license to the applicant within 90 days after receipt of the application unless the municipality determines that the applicant is not in compliance with an ordinance or rule adopted pursuant to the Act. If a municipality issues a license, it must notify the department that the license has been issued. That municipal license will have the same force and effect as a State license but the holder will not be subject to regulation or enforcement by the State during the municipal license term. It is unclear whether, if the State puts in place a licensing system during the term of a municipal license, the establishment can be required to seek State licensure or is merely required to renew the license with the municipality.

Municipality as an employer or landlord

The MRTMA does not require that an employer permit or accommodate conduct otherwise allowed by the Act in the workplace or on the employer's property. The Act does not prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while under the influence of marihuana. Nor does the Act prevent an employer from refusing to hire a person because of that person's violation of a workplace drug policy. MRTMA §4.3. In this regard, the statute appears to codify the holding of *Casias v. Wal-Mart Stores, Inc.*, 764 F Supp 2d 914 (WD Mich 2011) *aff'd*, 695 F3d 428 (6th Cir 2012) permitting a private employer to discharge an employee who as a registered patient under the MMMA used marihuana outside of work hours, was not under the influence while at work, but tested positive after suffering an injury while at work. However, note should be taken that in *Braska v. Challenge Manufacturing Co.*, 307 Mich App 340; 861 NW2d 289 (2014) the Court determined that under the terms of the MMMA, employees discharged from employment solely on the basis of positive drug tests for marihuana were not disqualified from receiving unemployment benefits.

In the event that a municipality has created a housing commission, or otherwise provides housing or otherwise leases property and therefore acts as a landlord, the MRTMA permits the lessor of property to prohibit or otherwise regulate the consumption, cultivation, distribution, processing, sale, or display of marihuana and marihuana accessories on leased property, except that a lease agreement may not prohibit a tenant from lawfully possessing and consuming marihuana by means other than smoking. MRTMA §4.4.



Municipal share of Marihuana Excise Tax Fund

Under the terms of the MMFLA, municipalities (cities, villages, and townships) in which a medical marihuana facility is located get a *pro rata* share of 25 percent of a medical marihuana excise fund created by the imposition of a 3 percent tax on gross retail sales at provisioning centers. However, under the terms of the MMFLA, if a law authorizing the recreational or nonmedical use of marihuana is enacted, the tax on medical marihuana sales sunsets 90 days following the effective date of the new law. MCL 333.27601. Thus by early March 2019, the excise tax just beginning to be collected by provisioning centers under the MMFLA will be repealed.

The MRTMA seeks to fill the gap created by the loss of the 3 percent excise tax under the MMFLA by creating marihuana regulation fund through the imposition of a 10 percent excise tax (which would be in addition to the 6 percent sales tax) on the sales price of marihuana sold or otherwise transferred by a marihuana retailer or microbusiness to anyone other than another marihuana establishment. However, the sale to be allocated to municipalities is reduced to 15 percent and before any money is provided to cities, villages, and townships in which a marihuana retail store or microbusiness is located, the State is made whole for its implementation, administration, and enforcement of the Act—and until 2022 or for at least two years, \$20 million from the fund must be annually provided to one or more clinical trials approved by the FDA that are researching the efficacy of marihuana in the treatment of U.S. armed services veterans and preventing veteran suicide. MRTMA §14.

The net effect for municipalities could result in more money under the MRTMA than under the MMFLA. This is because: a) the tax rate levied is over three times higher under the MRTMA (10 percent v. 3 percent); b) there is a larger pool of potential consumers (registered patients and caregivers v. all persons aged 21 and older); and c) the allocation to municipalities under the MRTMA is based on the number of marihuana retail stores and micro businesses as opposed to all types of marihuana facilities under the MMFLA. However, if a municipality does not permit recreational

marihuana retail establishments, it will not receive any revenue under the MRTMA, but will still have to deal with the social consequences of marihuana use.

The following table illustrates the differences between the two statutory approaches based on assumption of \$1 billion in annual gross sales, State regulatory expenses being recouped by applicable fees, and a municipality having one percent of the total number of medical marihuana facilities or recreational retail businesses.

	MMFLA	MRTMA
Annual Gross Retail Sales	\$1,000,000,000	\$1,000,000,000
Applicable Excise Tax Rate	3 percent	10 percent
Amount of Excise Tax Fund	\$30,000,000	\$100,000,000
Less Allocation for Veterans' Health Research until 2022	$\begin{array}{r} 0 \\ \hline \$30,000,000 \end{array}$	$\begin{array}{r} -\$20,000,000 \\ \hline \$80,000,000 \end{array}$
Percentage Allocated to Municipalities	25 percent	15 percent
Amount Available for Municipalities	\$7,500,000	\$12,000,000
1 percent of facilities or retail establishments in municipality	\$75,000	\$120,000

Attachment: MML info (4411 : Recreational Marijuana)

Seemingly to convince voters to approve the MRTMA, 35 percent of the marihuana regulation fund will be allocated to the school aid fund for K-12 education and another 35 percent to the Michigan transportation fund for the repair and maintenance of roads and bridges. Unlike the MMFLA, which allocated 15 percent split equally (5 percent each) between county sheriffs where a marihuana facility was located, the Commission on Law Enforcement Standards for Officer Training, and to the State Police, there is no allocation directly to law enforcement purposes under the MRTMA.

Conclusion

As challenging as it was for municipalities to come to grips with medical marihuana regulation under the MMFLA, the difficulties posed by the proposed MRTMA regarding recreational marihuana are likely to be significantly greater. Under the MMFLA, many municipalities took a “wait and see” position on the issue of broad commercialization of medical marihuana, which only required that the governing body of the municipality do nothing. And for those municipalities that chose to “opt in,” the MMFLA granted them a great deal of regulatory discretion, which some representatives of the marihuana industry have called “onerous” [Langwith, “Local Overreach”, 97 Mich B J 36, 37 (August 2018)], so as to reasonably safeguard the public safety, health, and welfare.

The MRTMA on the other hand, requires a municipality to affirmatively take legislative action to “opt out” of regulating recreational marihuana commercial enterprises. For those municipalities that choose to permit recreational marihuana establishments to exist in the community, the regulatory framework is much more circumscribed than under the MMFLA, and is certainly more likely to raise legal issues. Fortunately, commercialization of recreational marihuana is at least a year away, and by that time the State regulatory framework for medical marihuana will have been in place for nearly two years.

Apart from the commercialization of recreational marihuana, municipal law enforcement officials and officers will be required to know the new rules surrounding “legalized” marihuana within days of the election. At a minimum, county and municipal prosecutors should be ready to provide training on the law in early November. It is also likely that defendants who committed marihuana offenses prior to November 6 will seek dismissal of those charges given the approval of the ballot proposal. Several county prosecutors have been reported as being willing to dismiss pending marihuana possession charges issued before the election if the alleged conduct falls within the scope of the initiated law.

In the meantime, municipal attorneys would be well-advised to read through the initiated statute more than once and be prepared to advise their clients of the significant ramifications of legalized marihuana on local governmental and social services.

