



CITY OF BURTON

ZONING BOARD OF APPEALS

SEPTEMBER 17, 2020

Virtual Meeting

Regular Meeting

5:00 PM

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

ATTENTION APPLICANT:

In order to prove you are entitled to a variance, you should be prepared to show how your property meets the conditions listed:

1. The difficulty must be unique to your property and not generally shared by others in the same zoning district, and would constitute a hardship.
2. The variance will not adversely affect the public health, safety and welfare, or be contrary to the spirit and intent of the Ordinance.

The burden of demonstrating that the above conditions exist on your property falls on you, the applicant. The Zoning Board of Appeals will not argue or present your case for you.

A. MEETING INFORMATION

Zoning Board of Appeals
Hosted by Racheal Boggs

Thursday, Sep 17, 2020 5:00 pm | 2 hours | (UTC-04:00) Eastern Time (US & Canada)

Meeting number: 126 991 5080

Password: gWRPg3kEU32 (49774353 from phones and video systems)

<https://cityofburton.my.webex.com/cityofburton.my/j.php?MTID=m981af7e8de1cc1b2283ae8ca11b821c0>

Join by video system

Dial 1269915080@webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone

+1-415-655-0001 US Toll

Access code: 126 991 5080

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

D. STAFF PRESENT

E. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Jul 16, 2020 5:00 PM

F. VARIANCE

1. ZBA #20-06

By: Matt Ovadek
1352 S. Oak Rd Davison MI 48423

Re: To be combined 59-29-551-028, 59-29-551-022, 59-29551-004, 59-29-551-006

For: 1. To conduct a marijuana use within 500 feet of an existing facility 2. To allow two marijuana licenses on one parcel of land.

2. ZBA #20-07

By: Matt Ovadek
1352 S Oak Rd Davison MI 48423

Re: 3302 Associates Dr. Burton MI
Parcel ID 59-29-551-017

For: To conduct a marijuana use within 500 feet of an existing facility

G. AUDIENCE PARTICIPATION

Now is the time set-aside for members of the audience to address the Zoning Board of Appeals. 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.

Public comment may be sent to: publiccomment@burtonmi.gov. Comments received prior to the meeting will be read into the record.

H. BOARD DISCUSSION

The next regularly scheduled meeting will be held on Thursday, October 15, 2020, at 5:00 p.m.



CITY OF BURTON

ZONING BOARD OF APPEALS

JULY 16, 2020

Council Chambers

Regular Meeting

5:00 PM

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

This meeting was opened by Chairman Steve Welch at 5:00 PM.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Don Jones	Alt. Commissioner	Excused	
Christina Conley	Council Representative	Present	
Scott Hynes	Commissioner	Present	
Tim Rapacz	Commissioner	Present	
Deb Walton	Commissioner	Present	
Michaeline Ward-Terry	Vice Chairperson	Excused	
Steve Welch	Chairman	Present	
Joey Richvalsky	Alt. Commissioner	Present	
Rick Fuhst	Commissioner	Present	

C. STAFF PRESENT

Amber Abbey, Deputy DPW Director
 Leandra Swayne, Record Tech DPW
 Lindsey Bice, Record Tech Clerk's Office
 Katie Malin, Election Clerk

D. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Feb 20, 2020 5:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Joey Richvalsky, Alt. Commissioner
SECONDER:	Tim Rapacz, Commissioner
AYES:	Conley, Hynes, Rapacz, Walton, Welch, Richvalsky, Fuhst
EXCUSED:	Jones, Ward-Terry

E. VARIANCE

5:00 PM

1. ZBA #20-02

By: Our Risen Lord Lutheran Church
 4040 Lapeer Rd

Burton MI 48529

Re: 4040 Lapeer Rd Burton, MI 48509 / 59-15-300-005 / R-O Zone

For: To conduct an M-1 Light Industrial Use in a R-O Restricted Office zone for an outdoor recreational use as a Dog Park.

Tim Callahan President of Our Risen Lord Church, 4040 Lapeer Road stated they are requesting a variance so they may put in a dog park for the community. They have taken a vote within their church congregation and have had an overwhelming amount of support for a dog park. They felt it was important within the community because they have a great piece of property that would be a safe place for people to bring their dog. They are hoping to reach people within the community that may not have the opportunity to have a pet because they don't have a place to take it. We have done our research and put plans together. We have a lot of support within the church community to help take care of it and maintain it. One of the reasons we felt this was important is because we want to reach out to our community and do things that are good within the community. This would be a great way to utilize this unused property.

Bob Johnson, 1124 Forest Ave stated we could use a dog park in our community. Cited great success at the Davison and Grand Blanc dog parks. This would be a great asset to that area of our community. Seniors and young adults would have a nice place to take their pets.

Steve Hatfield, 1446 Mallard Drive stated he would like to speak in favor of the dog park as well. I am a member of Our Risen Lord Congregation and was there for the vote that we had, they had an overwhelming amount of support for the dog park. I served on City Council in 2015, when I served they were looking for a suitable piece of property for a dog park. I also served on the Parks and Recreation Commission, we spent a number of years searching for a piece of property suitable for a dog park but were unable to locate one at that time. The idea of having a private entity and private property to maintain the park would take care of the hardship of finding the location for it within our city and eliminate the city employees from having to maintain it. One of the things that makes communities appealing for people to want to move into are parks, dog parks, bike trails, etc. This is one more check mark to make Burton a welcoming community for people to want to live in.

Mari Brooks, 2280 Kenneth Street and also represents the Humane Society of Genesee County stated having a dog park in Burton would be a fantastic thing. We wouldn't be seeing our residents going to Grand Blanc or Davison to utilize their Dog Parks if we had one of our own. It would be great for us to take a dog on a field trip for the day and possibly give the opportunity for a resident to see that dog that may not have necessarily come into the Humane Society, so it gives us good exposure as well. Being a Burton resident with a small dog that is not keen on walks, would benefit from having a dog park to go to. The Humane Society 100% supports this.

Vanessa Ferguson, 2267 Peartree stated her husband, Kris Johns and her built the dog park in Grand Blanc 10 years ago. Since then they have added new amenities to the park because of its popularity. Many neighboring cities have built dog parks since the one in Grand Blanc went up, it shows there is a growing need for this. It attracts people from all walks of life and attracts people to want to live in the cities. The Church has a good piece of property to accommodate this park that is flat. The Church has made this an excellent opportunity. I look forward to support from your board.

John Pemberton, 4202 Custer stated my wife and I are seniors. Our three kids also live in the City of Burton, we have spoke to a lot of people about the dog park since it has come up. I would like to elaborate on some of the reasons why there is so much support for the dog park based on the conversations we had with the community. As far as seniors go, we have a 10lb dog and a 100lb dog. The 10lb dog has all sorts of energy and will constantly run from one end of the house to the other, our 100lbs dog should not weight 100lbs, he should only weigh about 50lbs. Within the city there isn't anywhere for them to get exercise. To have some place for them to go and run off their energy and lose their excess weight would be beneficial. It also promotes families doing something together that is productive. It helps the families bond and helps the pets. It would help the people that normally wouldn't be able to have a pet because they don't have a place to take that dog after work. I hope you take this all into consideration when making your decision.

Susan Litums, Pastor at Our Risen Lord Lutheran Church, 4103 Lapeer Road stated our congregation engaged recently in a survey asking what our community needs. We have made connections with the Food Bank and Habitat for Humanity, the Humane Society. Among those connections we have discovered that we have more seniors in our community than any other family age group. The need to have a place to walk dogs, to have pets and not worry about their health and care makes this one of our concerns that matches the congregation. I have been pastor there for over 20 years, I know the members quite well and I hear solid support from the members to make this happen and happen well. I speak on behalf of the entire congregation that this is something well supported by them.

Kris Johns, 2267 Peartree stated I would like to address four key points that have been previously discussed. The first is insurance, the church has engaged in an insurance policy with Anton Thornquist through CTG Insurance, they have submitted a letter into public comment. There is an insurance policy in force at the church specifically for the dog park. Second, is noise. The entrance of this park is approximately 180 feet to the nearest edge of Burton Inn Suites. The nearest address is 533 feet from the entrance of the park to the front door. In terms of noise, there are 7,000 vehicles that travel on Lapeer Road alone, 35,000 that travel on Center Road, so there is almost constant road noise on this corridor. Third is maintenance, as part of this plan the church is mandating \$2,000 in a care fund. The property is already being mowed, and we will compensate the church. The church already has a plan in place for waste removal services and has a volunteer group from the church that will help maintain the park. The city adopted a master plan in 2008, in section nine part six of that master plan it mentions pocket parks, encouraging the city to have private partnerships to create public spaces. This meets the master plan that was adopted then. Finally, this will not be a burden on Burton tax payers. We are building and maintaining this with private money. We are building this on private property for the enjoyment of the public.

Mr. Welch read letters submitted for public comment into the record from the following individuals:

Lydia Tabat
Greg Hull
Krista Bauman
Amanda Oimas
Samantha Tate
Rochelle Donnelly
Mary Ann Woodruff
Ron James

Un-named Burton Resident
Jessica Lamb-Biggers
Debra Low
Melissa

Mrs. Abbey stated there is no argument on the administrations part that a dog park is a great addition to a community and that the support and need is there. However, as the enforcement agency of the City of Burton, we have to make sure that all the boxes are checked. There are a couple of unanswered questions. I appreciate that they have a perpetual care fund for the property, however, I still have yet to see a waste removal plan. Waste removal is a big concern. I am sure the patrons will pick up after their pets but once it is put into the can, how often will that be emptied? Where is it going once it is emptied? Another concern, will the gate be locked after hours and who will be responsible to keep it locked? What are the hours? Is there going to be lighting provided? This property backs up to a motel that is open after hours. We would hate to see somebody congregating into that area for whatever reason. I appreciate that the community group wants to do this, unfortunately people will still believe that the city is responsible. I want to make sure a sign gets posted at the park stating this is not an affiliation with the City of Burton Government Offices, if you have questions or concerns please call Our Risen Lord Church and have their phone number listed. That way, when people have concerns about maintenance or any other thing, they are calling the church. If we could get some of these answers and know what the plans are I think we could support the project.

Mr. Johns stated in terms of the waste, the gentleman we are paying for our lawn care service will be removing the waste as part of his contract. We have three barrels we will be putting inside of the park with liner that we remove. We will have a waste bag dispenser for people to pick up their waste. What we have seen from local parks is that the patrons pick up after their pets when these services are provided. In regards to the sign, definitely. Right now we have a Facebook page where we are communicating and getting the word out. It says 'Burton Dog Park at Our Lord Risen Church'. If you read our posts we are trying to make every indication that we are not affiliated with the City of Burton; that this is not paid for by Burton tax dollars. We will absolutely put up a sign. In regards to our hours, this will be a dawn to dusk park. We do not plan to put any inviting lighting up.

Mrs. Abbey stated I just wanted to make sure you were not going to put the lighting in there. So if you are closed at dusk that is kind of what I was asking.

Mrs. Conley asked if the fence has to be a certain height?

Mrs. Abbey stated that is up to you guys. There is no requirement in the ordinance about it.

Mrs. Conley asked if there will be bathrooms. You stated you talked about a plan, it would be nice if we could see that plan.

Mr. Johns stated there will not be bathrooms. We are putting up a fence and have a flat piece of property for people to enjoy.

Mrs. Conley asked if there will be a pavilion.

Mr. Johns said, no.

Mrs. Conley stated so you are basically just opening the property for people to go run their dog and they can bring a chair.

Mr. Johns stated we will have benches. I can see this being done in phases in terms of costs. This is all being done by private donations. What we saw happen in Grand Blanc was all the additions take away from what a dog park essentially is, which is a fence. That's all we are asking to do is to put up a fence on a private piece of property.

Mr. Welch asked at Grand Blanc, they lock the gates at dusk, will you be locking the gates at dusk?

Mr. Johns stated there will be deterrents but if people want to get in they will be able to.

Mr. Rapacz reiterated he's asking if you guys will be locking it.

Mr. Johns stated it will not be locked.

Mrs. Walton stated I saw on your site, you are asking for donations for fencing. Are you putting up new or used fence?

Mr. Johns stated the plan is to put new fencing where needed but we have taken in donations to put fence up as well.

Mrs. Walton asked if the park will be open in winter?

Mr. Johns stated it will be open in the winter but we don't expect many people to come when it is cold.

Mrs. Walton asked who will be responsible for removing the dog waste if people are still going in there in the winter?

Mr. Callahan apologized they did not provide a plan. We will be open in the winter and in the plan, they will have groups that will maintain the property at different times. In the winter, we will take care of it ourselves and understand that will be needed at certain times.

Mr. Hatfield stated Kris talked about how we are going to do things in phases. One of the phases is having organizations such as Boy Scouts do the fence building and different things like that. Our plan also calls for security cameras.

Mrs. Walton asked who will residents call after hours?

Mr. Johns stated if it's an issue of maintenance, they can call the church. If there is an interaction, the church will have a phone line available that they can call.

Mrs. Walton stated big and small dogs do not always get along. Will there be a separate area for smaller dogs or will they all be together?

Mr. Johns stated we are just going to let them go. What we have found is that people know their animals and responsible dog owners bring a prepared dog to the dog park.

Mr. Rapacz asked Mrs. Abbey if she was satisfied with the plan of waste removal?

Mrs. Abbey stated she is satisfied with the once a week plan. If we find it becomes a problem we will revisit it.

Mr. Rapacz asked in regards to the phone line, will there be someone who answers the phone or will it go to an answering service?

Mr. Callahan stated we will have the church phone number on there. We have an answering machine connected to that number where people can leave messages. Someone will be in the office everyday to check those messages and respond to them at that time.

Mr. Welch stated I do not want to have a gate opening on the property line of Walli's. If you have a gate opening on that side, people may use their parking lot to enter the park.

Mr. Johns stated there should have been a proposed sketch with the documents provided to you. We want this to be in the south east entrance of the tree line. The entrance would be as far away from that property and parking lot as possible.

Mr. Welch asked where will the entrance gate be located?

Mr. Johns stated the north side.

Mr. Hynes asked does a written plan exist?

Mr. Johns said, it does not.

Mr. Hynes stated can we get a written plan?

Mr. Johns stated you can.

Mr. Hynes stated I think that would be in everyone's best interest to make it a part of the variance that we have a written plan submitted.

Mr. Richvalsky asked what kind of written plan are you talking about?

Mr. Hynes stated the layout of what it is supposed to be, what are the rules, that they are going to put up the sign, waste disposal will be every week. Just so it is written down that they have agreed to do all of this.

Mr. Richvalsky stated I believe there is enough of that on record, isn't there?

Mrs. Abbey stated the record doesn't exactly cause for stipulation. It has to be a stipulation on the actual action item.

Mr. Johns stated whatever you ask would be done.

Mr. Hynes stated that is fine, we just want it in writing.

Mr. Johns stated it will be in writing on church letterhead.

Mr. Welch asked Mrs. Abbey if we would delay our decision?

Mrs. Abbey stated that is your choice, but it sounds like you are comfortable with their answers. As long as their answers match what they put in writing then we are covered.

Mr. Rapacz stated it seems like we are being asked to approve a dog park without knowing how they are going to run, set up or function said dog park.

Mr. Welch stated as the Zoning Board, we can go over any specifications and add it on there.

Mr. Rapacz stated if we are adding six stipulations to go with their variance, shouldn't they come back to get their variance? That way we already have everything.

Mr. Welch stated we can put those stipulations in the motion.

Mr. Rapacz stated let's hear what the stipulations are.

Mr. Welch stated the height of the fence.

Mr. Richvalsky stated I would like to see 5 feet.

Discussion ensued regarding the height of the fence.

Mr. Hynes stated I would like to see benches as part of the stipulation also.

Mr. Callahan stated the Vice President of Our Risen Lord has already volunteered to build benches.

Mr. Welch asked Mrs. Abbey for her suggestion on how to go about adding the stipulations and whether or not to delay the vote.

Mrs. Abbey stated that would depend on what your stipulations are. So far we have the installation of benches, that seems pretty simple. Do you have a specific number you expect them to install?

Mr. Hynes stated one on each side, four.

Mrs. Abbey stated four benches, okay. As far as the fence, if you want to put a stipulation on height then do it. They are proposing four feet, if you are okay with that height then don't even put a stipulation in on that. If there are things proposed that you are okay with, you don't have to add a stipulation, just put the stipulation that they submit the plan. Right now they are saying their plan is weekly waste removal and if you are okay with that then you don't have to put in a special stipulation for the waste removal. The only stipulation the administration is requesting is the sign. I would ask someone to put that into the motion.

Mrs. Walton stated I am not comfortable with them only cleaning the dog waste once a week.

Mr. Welch stated it could be once a week, once a day or once a month for all I am concerned. It just needs to be kept clean.

Mr. Callahan stated if we find that it needs to be picked up more than once a week, our committee will be there to do that. They will be there regularly to check that. We want this to be a good experience for the community.

Mrs. Walton asked if there will be a bag dispenser out there or if people will have to bring their own bags?

Mr. Callahan stated there will be a bag dispenser in the park. If someone doesn't clean up after their pet, we will be responsible for it. It would be a great thing if the park got used so much that we need waste picked up more than once a week and we had a need to expand the park. Those are things that we are more than happy to cross that bridge when we get there.

Mr. Welch asked Mrs. Abbey if she was given a copy of the plan.

Mrs. Abbey stated no. They will provide it, that is the plan.

Mr. Rapacz asked Mrs. Abbey, should we include the hours of operation in the variance request, from 8am to 8pm?

Mr. Richvalsky stated I thought it was from dawn to dusk.

Mrs. Conley stated it needs to be on the sign.

Mrs. Abbey stated I think what you are asking them to do is to submit that plan in writing. If it says anything other than from dawn to dusk I will kick the plan back. If they provide me with anything other than what you guys have all said you accept, that is where we will have a problem.

Discussion ensued regarding the verbiage of the sign that will be posted at the dog park.

Mrs. Walton asked about the sections of used fencing, will it be painted?

Mr. Johns stated it will be painted.

Mrs. Walton stated it is great that you are reusing fence, but I have been over to the church looking at the fence and I have taken pictures, it would just look nice if the fence was painted.

Mr. Johns stated we have already had conversations with Trio Paint about having the fence painted. To the administration, we do not have the money to do this tomorrow, the plan is to have this complete by the end of August. We have some fundraising events planned but have not been collecting money from the community until we have approval from this board. In terms of what the sign will say, we can submit that to the city for approval and let them know when we plan to put this up. We will address the plan immediately but we are not building this tomorrow. I am asking for a decision tonight.

Mr. Welch asked Ms. Abbey, do you have a problem with this at all as far as enforcement of the plan?

Mrs. Abbey stated no, I am comfortable and believe I understand what you all are expecting. If the plan gets submitted and it is anything other than what has been discussed I also have no problem kicking it back and telling them they have to go

back in front of the board to explain to them why you can't meet what they expected you to meet.

Mr. Welch stated is it too general to put the stipulation that the variance will be pending approval by city administrations of the site plan.

Mrs. Abbey stated that works. I would like the sign conversation as a stipulation of it as well. I am comfortable approving the written plan.

Mr. Hynes made a motion to approve #20-02 with the stipulation of the sign being added, a written plan, and added benches.

Mr. Rapacz added they will have until July 31st, 2020 to submit their written plan.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Scott Hynes, Commissioner
SECONDER:	Deb Walton, Commissioner
AYES:	Conley, Hynes, Rapacz, Walton, Welch, Richvalsky, Fuhst
EXCUSED:	Jones, Ward-Terry

5:30 PM

2. ZBA #20-03

By: Allen Automotive LLC
2447 E. Judd Rd.
Burton MI 48529

Re:2447 E. Judd Rd. Burton MI 48529/ 59-32-527-003 / M-1 Zone

For:1. To conduct a Marijuana establishment within 1,000 feet of a school. 2. To conduct a marijuana establishment within 500 feet of another marijuana use. David Allen, 2447 E. Judd Road stated I am here to represent my father, Mr. Allen who filed this. The unique aspect of this case is that this property is 960 feet to the school. It falls between a small grey area, the 960 feet is an impassable distance. As the crow fly's, the barriers would be impossible to get around. If you drive within the roads it is well over the 1000 feet so, it is in the spirit of the ordinance. The road all the way around, is over a mile. There are a number of facilities in the area that are already doing this, I believe the golf course across the street has approval. Their property backs up to the elementary, so how they got approval but we didn't, is beyond me.

John Ziska, 2417 E. Judd Road of Antcliff Window and Doors stated I am trying to find out if there is anything that has changed since the last time they filed because I don't think they moved the school. There are four different dispensaries or grow stores along the Dort Highway area. We have been in business since 1961 and do a lot to keep up on our property. To have a marijuana grow facility across the street is not ideal. They need to go to country areas for that.

Mr. Welch stated we can address that at the end, it is not the same application.

Mrs. Abbey stated I will start by addressing the question. Mr. Allen came before you a couple years ago asking for a Medical Marijuana facility. Tonight, he is asking for a

marijuana establishment which would be adult use or recreational. I would also like to address the applicants comments regarding the distance from the school. The applicant stated in his application it is 664 feet from the school, not 960 feet. I would take the applicants wording on his application here because that sounds right from the last time. Regardless, there is no grey area on this. When you talk about a distance requirement, the distance is what the distance is, from property line to property line. The Planning Commission has made that very clear. This board has even had an interpretation in front of them last year and made that very clear. I would recommend denial.

Mr. Richvalsky stated I would like to address the Southmoor Golf Course and the re-zoning of that which was in the newspaper. The only thing they did with this board was changed the zoning from what it was to an M-1.

Mrs. Abbey clarified the property at Southmoor has been split apart. The front property that fronts Dort Highway does have a license for marijuana and that front half is 1000 feet from the school. The property now has three parcels and the front parcel along Dort Highway is the only parcel where marijuana will ever be.

Mr. Welch stated I might add that each case is set individually and there isn't any precedence set on any case.

Mrs. Abbey stated there was no Zoning Board of Appeals request necessary, so you did not act on that case at all.

Mr. Rapacz asked which school is the applicant referring to?

Mrs. Abbey stated he was referring to Southmoor backing up to Bendle. That is the point I was making, the property is split.

Mrs. Walton asked as a representative from the Planning Commission, we took a lot of time with this to decide on the distance requirements and were very adamant with this. It is something we worked very hard on.

RESULT:	FAILED [0 TO 7]
MOVER:	Deb Walton, Commissioner
SECONDER:	Tim Rapacz, Commissioner
NAYS:	Conley, Hynes, Rapacz, Walton, Welch, Richvalsky, Fuhst
EXCUSED:	Jones, Ward-Terry

5:45 PM

3. ZBA #20-04

By: Top Shelf Burton LLC
6160 Dixie Hwy Suite 205
Clarkston MI 48346

Re: 4463 S Dort Hwy Burton, MI 48529 / 59-33-300-013 / M-1 Zone

For: To conduct a marijuana use within 200 feet of a residential house.
Attorney Bruce Leach, 1320 East Atherton Road stated he is a local Cannabis Attorney. The variance he is requesting is the Delduca property and it has a house

on it that is a preexisting, non-conformance use. That house is on an industrial lot where normal residential would not be permitted. Because it was prior to the ordinance, they have continued residential occupation of that building. One of the partners of this business has spoken with the Deluca's, and it is my understanding that they are not opposed to the location of the business here. At 4463, a large part of the parcel is industrial. We sectioned it off, the back half has already been approved as a medical marijuana grow facility. We are requesting to be able to use the front building, there is an office structure there, our request is to occupy that structure. Everything around there is industrial use except this house on the lot. Our request does not effect anyone because it is already all industrial use. The Governor has already deemed medical marijuana as an essential business. If they had proper use of that industrial lot, we wouldn't be here requesting this variance.

Todd Campbell, 4349 S. Dort Highway, Soroc Products read a letter he submitted to the board regarding Soroc Products being 100% against this zoning variance.

Mrs. Abbey stated you may recall several years ago, long before it was legal, this particular property did come before you. At that time, the person who lived in that house, which is the same people who still live in that house today did object to it. It is now legal, not the same applicant at the time. The property owner and owner of the house are the same but as you can see, they are not here tonight to object. That does not necessarily mean they support it but my opinion is, if they are not hear to object and they had before, they may have a different view on this now that it is legal. The City of Burton has accepted these facilities. The back part of the property can already be something, so the expansion and renovation of the front building in accordance with their plans is something we could get behind. The particular property that has the house on it does have its own industrial use. If it were to be put in today, that house would not be allowed. We would recommend approval.

Mr. Hynes stated I am concerned with the gentleman that spoke earlier about the proliferation of grow stores going up on Dort Highway and what kind of image that presents for our city.

Mr. Richvalsky asked about the kind of facility; what will it look like when you are done with it?

Mr. Leach stated it will look a lot sharper when we are done with it. We have plans to install brand new doors and overhead garage doors. We will do landscaping and put a nice sign out front. We can already have what we are asking for on the back, we are just asking for an expansion so we can use the front parcel as well.

Mr. Richvalsky asked, you aren't changing the foot print at all?

Mr. Leach stated no, we are not changing the foot print. We are just trying to avoid building another structure which would be very expensive to do. I would also like to state, I know Todd Campbell and his family, they are very biased against marijuana. Our business will have zero impact on anything they do, you have to consider the source. You cannot control what people do on their private time.

Mr. Rapasz asked by allowing this, what are we allowing them to do? Sell the recreational, sell medicinal, grow it, or all of that on the front part now?

Mrs. Abbey stated at that point it becomes your decision. It is a general marijuana facility. If you want to pick and choose which ones you allow to go in therer you can,

otherwise they will fall under the law and be able to do both uses, co-locate, provisioning, grow and processing on the same property.

Mr. Rapacz stated they could do the entire process of it in the front building as well as the back.

Mrs. Abbey stated I cannot say that their building would be equipped for all of that. But unless you say otherwise, all uses that are able to co-locate would be able to go in there and it wouldn't be limited.

Mr. Fuhst asked, how many facilities are on Dort Highway?

Mrs. Abbey stated there are two that are currently open on Dort Highway. I have a processing facility that is in the middle of construction. If we are talking provisioning centers, we have two that are open and one that is licensed but hasn't stated anything.

Mr. Fuhst stated so three, right?

Mrs. Abbey stated again, if we are talking about provisioning centers in the retail aspect of it, there are two that are open and three that are approved on Dort Highway.

Mrs. Walton stated I have an issue with this because of the business and the gentleman that spoke to us, I am not comfortable with it.

RESULT:	CARRIED [5 TO 2]
MOVER:	Scott Hynes, Commissioner
SECONDER:	Tim Rapacz, Commissioner
AYES:	Conley, Rapacz, Welch, Richvalsky, Fuhst
NAYS:	Hynes, Walton
EXCUSED:	Jones, Ward-Terry

F. AUDIENCE PARTICIPATION

None.

G. BOARD DISCUSSION

Mr. Welch thanked Mrs. Walton for her dedication to the Planning Commission as well as this board. We will miss you.

Mrs. Walton stated Tuesday night I made the announcement that I decided to not seek reappointment for the Planning Commission, it has been a pleasure to serve the City of Burton. I want to clarify that I did not resign, I am just not seeking reappointment.

Mrs. Conley stated Mrs. Walton has been an asset to our community and I don't want to see you leave.

The next regularly scheduled meeting will be held on Thursday, August 20, 2020 at 5:00 p.m.

Minutes Acceptance: Minutes of Jul 16, 2020 5:00 PM (Approval of Minutes)



Burton Zoning Board of Appeals

4303 S. Center Road
Burton, MI 48519

SCHEDULED

AGENDA ITEM (ID # 4870)

Meeting: 09/17/20 05:00 PM
Department: Department of Public Works
Category: Variance
Prepared By: Leandra Swayne
Department Head: Charles Abbey

F.1

DOC ID: 4870

ZBA #20-06

By: Matt Ovadek
1352 S. Oak Rd Davison MI 48423

Re: To be combined 59-29-551-028, 59-29-551-022, 59-29551-004, 59-29-551-006

For: 1. To conduct a marijuana use within 500 feet of an existing facility 2. To allow two marijuana licenses on one parcel of land.

ATTACHMENTS:

- Backup 20-06 (PDF)



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

F.1.a

Date Filed: 7/21/2020
Fee Paid: 450.00
Receipt #: _____
Check #: 2155
Received by: [Signature]
Date Mailed: _____

APPLICATION FOR ZONING BOARD OF APPEALS HEARING:

10#4870

ZBA Case #: 20-06 4 Votes Required

DATE OF ZONING BOARD OF APPEALS HEARING: AUGUST 20, 2020 AT _____ P.M.

PLEASE PRINT

APPLICANTS NAME: Matt Ovadek

APPLICANTS ADDRESS: 1352 S. Oak Rd

CITY: Davison

APPLICANTS PHONE: 810 625 9528

APPLICANTS EMAIL: MattOvadek@netzero.net

ADDRESS AND PARCEL OR LOT NUMBER: ~~15502~~ Associates Dr., 3309, 3323,

3327, 3333 and parky Lot parcel number 59-29-551-006

To be combined 59-29-551-028 / 59-29-551-022 / 59-29-551-004 / 59-29-551-006

NOTE: ZBA meets on the 3rd Thursday of each month. All applications and associated drawings must be on file at least six (6) weeks prior to the meeting. Notification of property within 300' must be postmarked at least 15 days prior to the meeting. Including publication in local newspaper.

VARIANCE REQUESTED: please see attached, Section III,
157.046

1. To conduct a marijuana facility and/or establishment that will be ^{within 500'} ~~too close~~ to an existing facility.

2. To allow two marijuana licenses on one parcel.

I hereby certify that the proposed application is authorized by the owner of record and that I have been authorized by the owner to make this application as his agent. I agree the statements made on the attached application are true, and if found not to be true, any permit that may be issued may be void. Further, I agree to give permission to officials of the City of Burton to enter the property subject to this permit application for the purposes of inspections. Further I understand that this is an application and any fees paid will not be refundable regardless of the decision of the Commission. Mandatory attendance at the above meeting is acknowledged.

APPLICANTS SIGNATURE: [Signature]

Attachment: Backup 20-06 (4870 : ZBA #20-06)

VARIANCE APPLICATION REQUEST SEC III 157.046

Matt Ovadek is a member of Syko Gardens LLC and is applying for a variance under 157.046. The applicant owns six properties on Associates Drive. The addresses are 3302, 3309, 3323, 3327, 3333, and a parking lot that is parcel number 59-29-551-006 but does not have a street address. The land is zoned M-1 for light industrial use. One of the locations, 3302, has been used as a warehouse for the pet food and treats business owned by the applicant, Matt Ovadek. This application seeks a variance from the requirements found in the local code section 157.046 that states "a marijuana grower, retailer, microbusiness, processor, Safety Compliance Facility, Secure transporter, or Designated Consumption Establishment "shall not be permitted within 500 feet of any other commercial marijuana transaction facility." As the property is zoned M-1 and not C-2, and in a situation where an applicant has "one parcel of land in which they have the ability to co-locate a provisioning center/retailer, a grow facility/grower and /or processing center/processor, THERE MAY BE AN EXCEPTION GIVEN TO PERMIT THESE USES ON THAT ONE PARCEL OF LAND (emphasis added). Each facility will provide separate applications and will be given separate consideration along with individual annual fees." Granting the requested variance will not adversely affect the surrounding properties and would increase the parcels taxable value and still adheres to the general principles of the City's zoning ordinances. This situation is different from others seeking a variance to place a marijuana operation within 500 feet of another in several ways. All properties are on one parcel with the exception of 3302 which is across the street. There are two applications for variances, one for 3302 and one for the others which are located on one combined parcel. The Zoning Board of Appeals should grant the variances based upon the unique nature of the request and the language of the ordinance as stated above.

Matt Ovadek is a businessman and has chosen to locate his operations in the City of Burton for approximately 11 years. He runs a pet food and treat business out of 3302 Associates Dr. When the City of Burton legalized recreational marijuana he saw an opportunity to benefit the city and use the other properties he had purchased on Associates drive. These are located across the street from 3302. A tenant with a 15 year lease is at 3323 and has a state marijuana license. He had previously received a variance on the property. The applicant's group has a state license already and it's vision is to rehabilitate the existing buildings around the leased premises and build new structures that will total approximately 80,000 square feet in an 'L' or Horseshoe shaped configuration around the existing licensee as well as place a grow operation in 3302. The property that currently houses a commercial tenant with a marijuana license is already approved for a dispensary so this honorable Board is not being asked to grant a variance to allow a dispensary but only to allow Mr. Ovadek to use his license for that operation. The current tenant, with permission of Mr. Ovadek and the leasing or constructing of a new building, already has approval for that but Mr. Ovadek wants to use their own license. What he is in fact asking is for you to grant a variance on the 500 foot rule to himself, as he is the owner of the property but not the occupant. This is in line with the language of

Attachment: Backup 20-06 (4870 : ZBA #20-06)

157.046(B)(10)(a), (B)(12)(a) and (B)(13)(a). The tenant has invested a large sum of money on his current operation and Mr. Ovadek does not want to displace him in recognition of the investment the tenant has in the property. Mr. Ovadek would rather use their own license on the property and in the properties to be built. Without the variance the properties will not be built.

Associates Drive is a dead-end road with no residential properties. By constructing new buildings of approximately 75,000 square feet Mr. Ovadek is investing hundreds of thousands of dollars in the City of Burton. He will have employees and the operation will bring a great improvement to the street. He has already been approved for the construction by the city and the buildings can be up to 35 feet tall. The construction alone will provide many in the area with jobs. This operation will be a win all around and there are no negatives to the project. There will be two facilities on a parcel but the new construction will separate them and improvements to all of the properties will enhance Associates Drive.

Upon completion of construction plans to fence the property, have a top notch security system in compliance with the state and local laws, state of the art fire suppression and the employ of security guards will occur. Mr. Ovadek is acquainted with many current and retired officers who could provide security if necessary. As the area is not a thoroughfare and is a dead end there is not traffic on the street. This operation would not cause any disruption to any residential neighborhood in the City of Burton.

When recreational marijuana was legalized in Michigan a new industry opened and the amount of tax revenue generated has been staggering. As the property is already licensed for marijuana with a grow license a dispensary could be opened by the current tenant without this variance being granted. Nothing new is added by this variance other than Syko Gardens LLC getting to use it's license rather than the current tenant. It would be a benefit to the City of Burton to have this new construction and business. There will be no future request for a variance from the tenant to allow another dispensary so the Board does not have to worry about entertaining a request in the future.

The ordinances put in place are understandable with the new law for recreational marijuana, but it must be noted that no such prohibitions exist for Liquor stores, stores selling Lottery, bars, or other so called "vices." Sharky's and Puzzlers Pub practically share a parking lot. Without the variance the applicant is unable to construct the new buildings on the properties. New construction would have a positive impact on not only the parcels but on City in general, furthering the goals of the City's zoning ordinances by the exponentially increased the value of the properties affected. We are also requesting a variance on a street zoned light industrial and not commercial retail as you have on Center, Dort and other thoroughfares. This street has no through traffic.

Mr. Ovadek and Syko Gardens LLC is really seeking a variance against themselves. If the tenant was not there the property is already approved for a marijuana license, dispensary and

state licensure. The only thing prohibiting him from commencing construction is the variance needed to place a marijuana operation within 500 feet of the one that is operating on his property by way of a tenant or the determination of this Honorable Board that the exception as stated in the ordinances applies. It would be an undue hardship for him to displace the tenant, more so for the tenant who has poured large sums of money into the operation, and therefore should be granted variances for the one parcel combining all of the properties on east side of the street and for 3302 on the west. This is a unique situation on these properties. As he is the owner and the tenant is merely a tenant, not a fee holder or even a land contract holder, strict enforcement of the 500 foot rule would have the effect of preventing an owner from developing his own property due to a tenancy that was entered into prior to the Recreational Marijuana statute being voted into law in 2019.

The applicant has met his burden of demonstrating that the variance should be granted as a rejection of his application would preclude his reasonable use of the property and the exceptional and unique circumstances of the situation with the ownership of adjacent properties as well as the property which he is requesting a variance from that is leased out long term. If this was a short term lease he could merely not renew it but because of the length of the lease that is not feasible. The project and new buildings will not impair an adequate supply of light and air to adjacent property or increase the congestion of public streets. It will not increase the hazard of fire or flood or endanger the public safety. It will not unreasonably diminish or impair established property values within the surrounding area. Quite the opposite, it will increase them greatly. It will not in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Burton and will not alter the essential character of the neighborhood. It would serve to beautify the area with new buildings replacing the old and a new look to a street that is an Industrial dead end surrounded on either side by a Consumers Energy power station and green spaces. Let's make this area a little greener in many different respects.

We respectfully request that this Honorable Board grant the variances as requested. Thank you.

Respectfully Submitted,



Christopher J. Ebbott, on behalf of the property owner.

Associates Dr

Associates Dr

3302

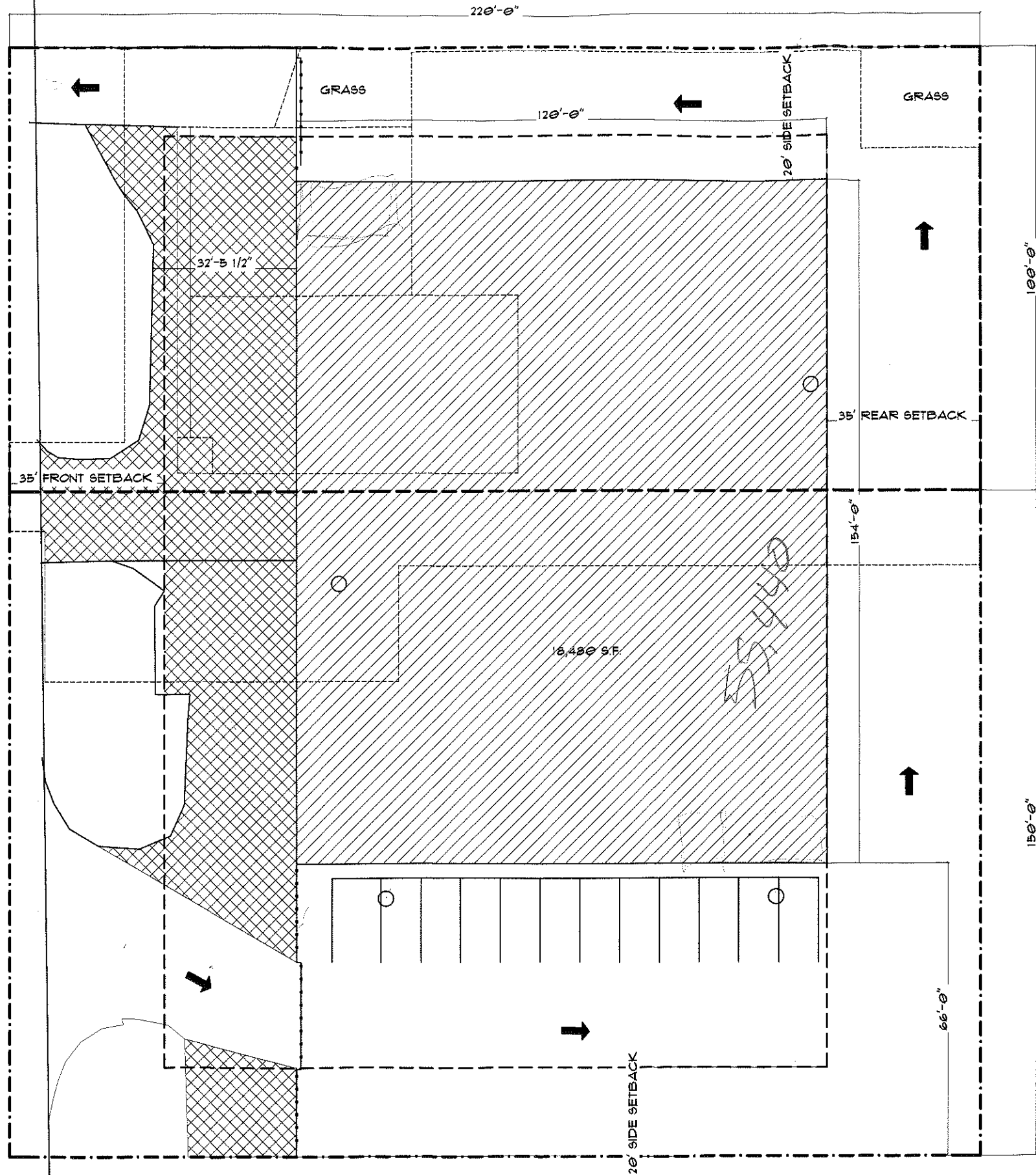
3309

3323

3327

3333

59-29-551-006



SITE PLAN STUDY
1" = 20'

SITE AREA = 55,000 S.F.
ZONED: M-1 LIGHT INDUSTRIAL
BUILDING USE: GROUP "U" UTILITY
ALLOWABLE AREA: 19,000 S.F.
WITH TYPE 2A CONSTRUCTION

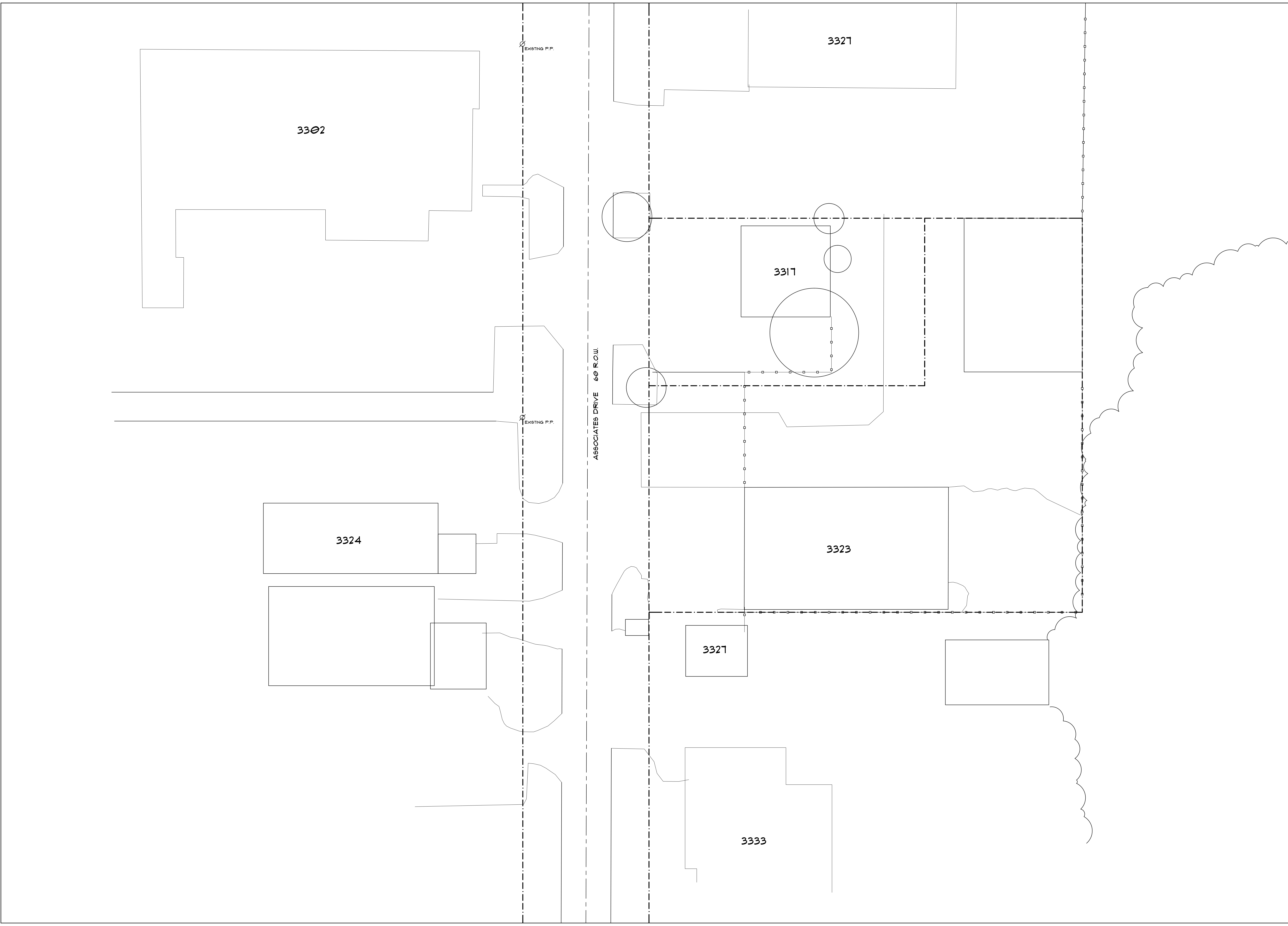
FOOTPRINT AREA = 16,020 S.F.
ALLOWABLE AREA = 16,050 S.F.

EXISTING BLDG. AREA = 10,680 S.F.
NEW BUILDING AREA = 24,960 S.F.
TOTAL BUILDING AREA = 35,640 S.F.

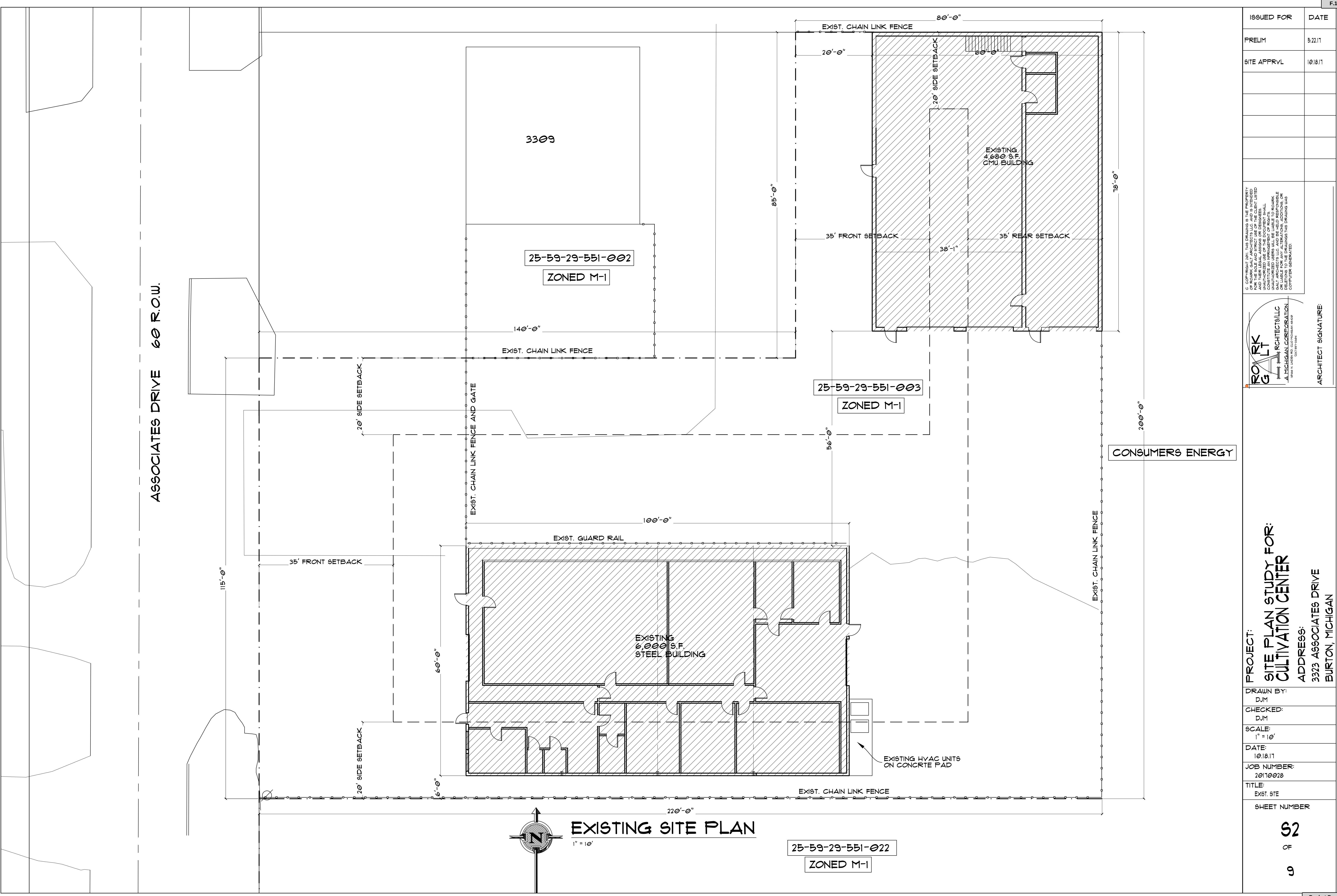
ISSUED FOR		F.1.a	
PRELIM	5.22.11		
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PROJECT: SITE PLAN STUDY FOR: MATT OVADEK ADDRESS: 3333 ASSOCIATES DRIVE BURTON, MICHIGAN		ARCHITECT SIGNATURE	
DRAWN BY: DJM		CHECKED: DJM	
SCALE: 1" = 20'		DATE: 5.23.11	
JOB NUMBER: 20110028		TITLE: SITE PLAN	
SHEET NUMBER		X OF X	



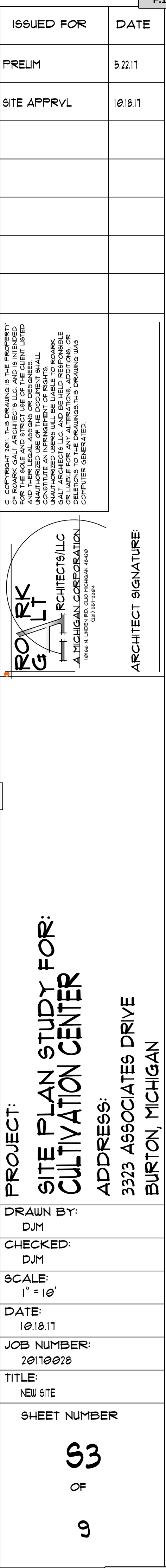
Attachment: Backup 20-06 (4870 : ZBA #20-06)

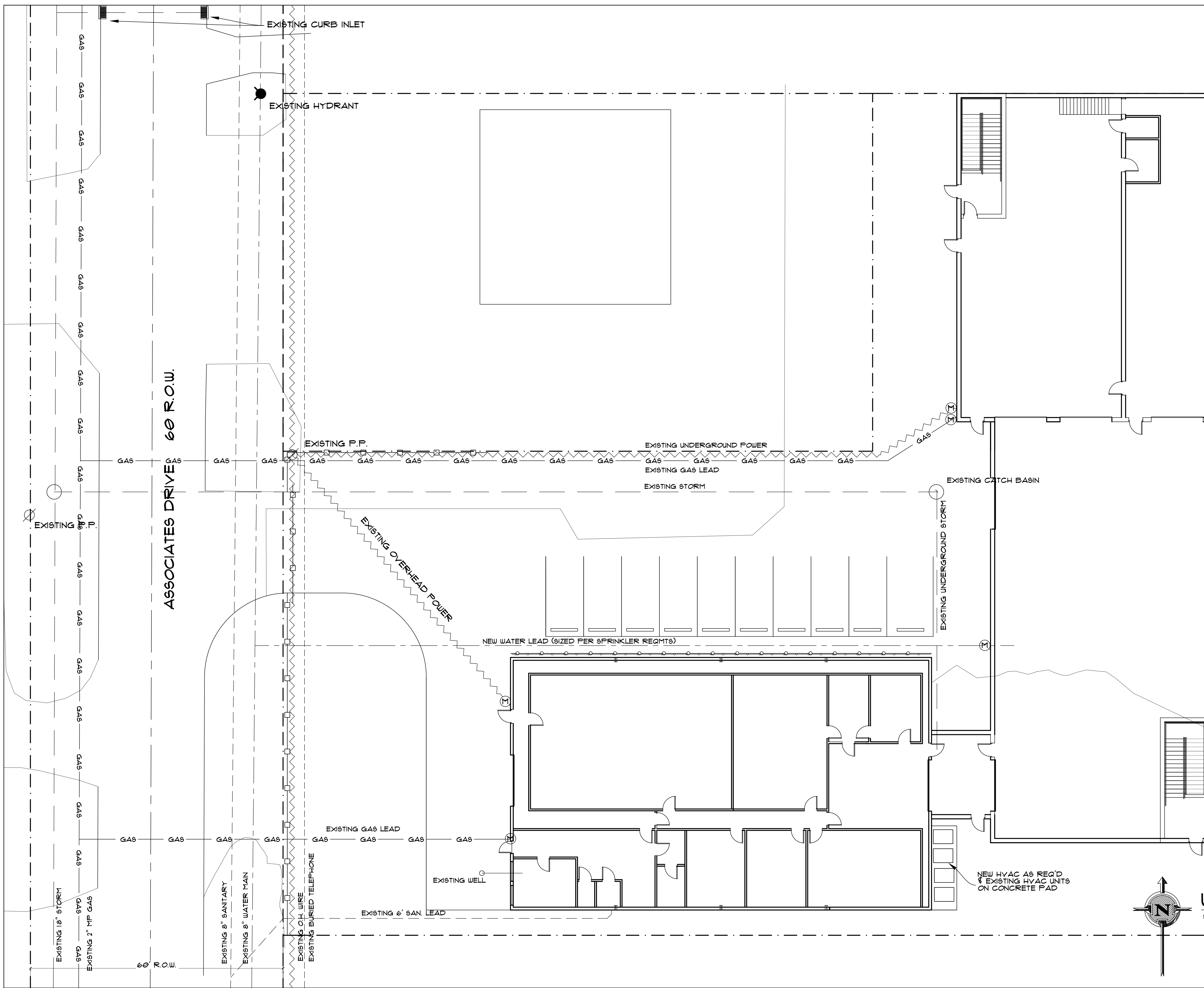


PROJECT: SITE PLAN STUDY FOR: MATT OVADEK ADDRESS: 3323 ASSOCIATES DRIVE BURTON, MICHIGAN		DRAWN BY: DJM CHECKED: DJM SCALE: 1" = 20' DATE: 5.23.17 JOB NUMBER: 20170028 TITLE: SITE PLAN SHEET NUMBER	X OF X	ISSUED FOR	DATE
				PRELIM	5.22.17

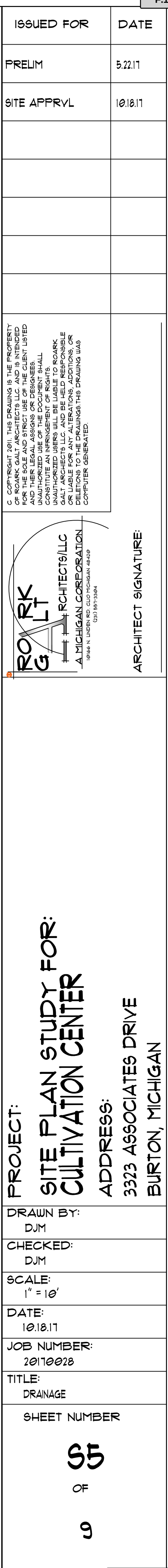


F.1.a	
ISSUED FOR	DATE
PRELIM	5.22.17
SITE APPRVL	10.18.17
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ROARK GALT ARCHITECTS, LLC A MICHIGAN CORPORATION 200 N. ZEEB ROAD, SUITE 200 BURTON, MICHIGAN 48017 (517) 937-1344 ARCHITECT'S SIGNATURE: _____	
PROJECT: SITE PLAN STUDY FOR: CULTIVATION CENTER	
DRAWN BY: DJM	
CHECKED: DJM	
SCALE: 1" = 10'	
DATE: 10.18.17	
JOB NUMBER: 20170028	
TITLE: EXIST. SITE	
SHEET NUMBER	
52 OF 9	





PROJECT: SITE PLAN STUDY FOR: CULTIVATION CENTER		ISSUED FOR PRELIM		DATE 5.22.17	
ADDRESS: 3323 ASSOCIATES DRIVE BURTON, MICHIGAN		DRAWN BY: DJM		SITE APPRVL 10.18.17	
CHECKED: DJM		SCALE: 1" = 10'			
DATE: 10.18.17		JOB NUMBER: 20170028			
TITLE: UTILITY PLAN		SHEET NUMBER 64 OF 9			



Packet Pg. 30

EVERGREEN TREE NOTES

EVERGREEN TREE-
GROUND LINE TO BE THE SAME
AS EXISTED AT THE NURSERY

GARDEN HOSE

3 GUYS OF 10 GAUGE TWISTED
WIRE 120" APART-AROUND
TREE

TURNBUCKLE

4" SOIL SAUCER

24" X 2"X2" STAKE DRIVEN
FLUSH WITH FINISHED GRADE

DECIDUOUS TREE NOTES

DECIDUOUS TREE-PRUNE BACK 1/4" ON-SITE
SPRAY WITH ANTIDESSICANT ACCORDING TO
MANUFACTURER'S INSTRUCTIONS-IF FOLIAGE IS
PRESENT, DOUBLE STRAND OF 10 GAUGE
GALVANIZED WIRE TWISTED

2 1/2" DIA-10' LONG CEDAR STAKE WITH
NOTCHED END (7' EXPOSED)-2 PER TREE

FOLD BACK BURLAP FROM TOP OF BALL

2" MULCH

BACKFILL WITH TOPSOIL AND PEAT MOSS 3:1
RATIO BY VOLUME IN 8" LAYERS. WATER EACH
LAYER UNTIL SETTLED

NOTE: WRAP
DECIDUOUS TREES
OVER 1" CAL. WITH
BURLAP OR ASPHALTIC
KRINKLE KRAFT TREE
WRAP

6" FOR PLANTS UP TO 4'
HEIGHT MIN. 8" FOR PLANTS
OVER 4' HEIGHT MIN.

TREE PLANTING DETAIL

SHRUB PLANTING DETAIL

ASSOCIATES DRIVE 60' R.O.W.

60' R.O.W.

EXISTING

NEW GATE

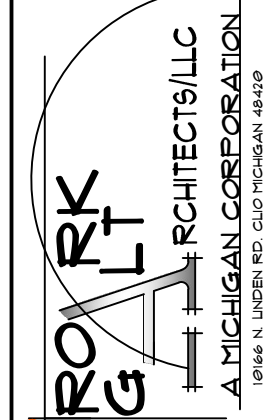
EXISTING

EXISTING

EXISTING

ISSUED FOR	DATE
PRELIM	5.22.17
SITE APPRVL	10.18.17

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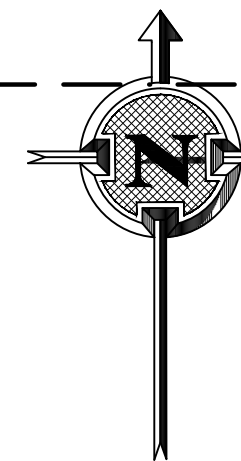
PROJECT:
SITE PLAN STUDY FOR:
CULTIVATION CENTER

ADDRESS:
3323 ASSOCIATES DRIVE
BURTON, MICHIGAN

DRAWN BY: DJM
CHECKED: DJM
SCALE: 1" = 10'
DATE: 10.18.17
JOB NUMBER: 20170028
TITLE: LANDSCAPING
SHEET NUMBER

58
OF
9

SYMBOL	COMMON NAME	SCIENTIFIC NAME	QUAN.	HEIGHT/SIZE
A	BURNING BUSH COMPACTA	EUONYMUS ALATUS 'COMPACTA'	11	2'
B	SPIREA-GOLDMOUND	SPIREA X 'GOLDMOUND'	9	2'
C	PINK FLOWERING DOGWOOD	CORNUS FLORIDA	1	2" CALIPER
D	JAPANESE FLOWERING CRABAPPLE	MALUS FLORIBUNDA	1	2" CALIPER
E	SUGAR MAPLE	FRUNUS SERRULATA	1	2 1/2" CALIPER



LANDSCAPE PLAN
1" = 10'

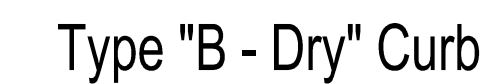


1. PLACE ONE ACCESSIBLE SIGN PER ACCESSIBLE PARKING SPACE.
2. ALL SIGNS SHALL BE ALUMINUM PLATED.
3. SIGN COLORS:
ARROW, LEGEND AND BORDER - GREEN
SYMBOL - WHITE ON BLUE BACKGROUND
BACKGROUND - WHITE
4. SEE ACCESSIBLE STRIPING DETAILS FOR PLACEMENT.
5. VAN ACCESSIBLE SPACE REMOVE ARROW AND REPLACE WITH "VAN ACCESSIBLE".

Diagram illustrating the requirements for a wheelchair accessible parking space:

- 4" WIDE NONREFLECTIVE YELLOW PAINT LINE (TYP.)**: Indicated at the top of the diagram.
- 4" WIDE NONREFLECTIVE BLUE PAINT LINE (TYP.)**: Indicated on the left side of the diagram.
- 36" 0'0"**: Dimension indicating the width of the accessible space.
- SEE SITE PLAN**: Indicated twice at the bottom, referring to the specific location and dimensions of the space.

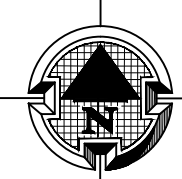
3 PAVEMENT STRIPING



NOTE: in transitions, water shall flow from the gutter of Type "B" curb to the lip of Type "B-Dry" curb at 0.5% min. slope.

9 CURB DETAIL
NO SCALE

Packet Pg. 32

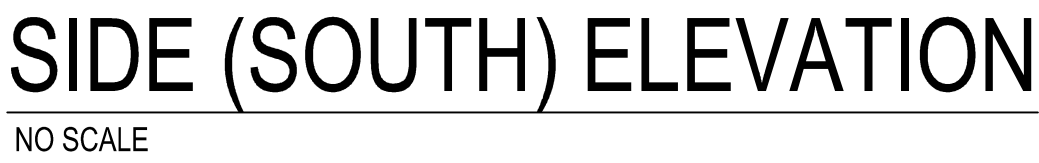
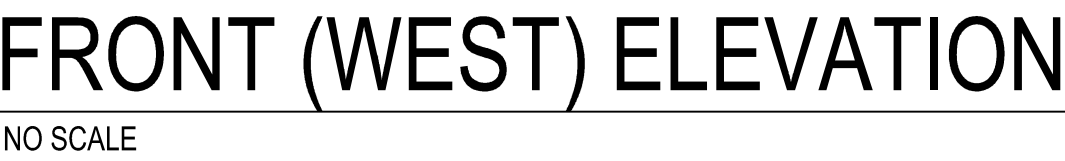


FLOOR PLAN

NO SCALE

PROJECT: SITE PLAN STUDY FOR: CULTIVATION CENTER		ISSUED FOR PRELIM		DATE 5.22.17
DRAWN BY: DJM		SITE APPRVL 10/18/17		
CHECKED: DJM				
SCALE: NONE				
DATE: 10/18/17				
JOB NUMBER: 20170218				
TITLE: FLOOR PLAN				
SHEET NUMBER A1 OF 2				
ADDRESS: 3323 ASSOCIATES DRIVE BURTON, MICHIGAN				
ROARK ARCHITECTS/LLC A MICHIGAN CORPORATION 9000 N. LAMAR RD. SUITE 10000000-0000 BURTON, MI 48017		ARCHITECT SIGNATURE:		
LEGEND: 1. THIS DRAWING IS THE PROPERTY OF ROARK ARCHITECTS/LLC AND IS TO BE USED FOR THE SOLE AND STRICT USE OF THE CLIENT LISTED HEREON. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF ROARK ARCHITECTS/LLC. ANY UNAUTHORIZED USE OF THIS DOCUMENT SHALL CONSTITUTE AN INFRINGEMENT OF RIGHTS. 2. ROARK ARCHITECTS/LLC AND ITS AFFILIATES ARE NOT RESPONSIBLE FOR THE ACCURACY OF ANY INFORMATION OR DATA PROVIDED TO THE DRAWING. THE DRAWING WAS COMPUTER GENERATED.				

PROJECT: SITE PLAN STUDY FOR: CULTIVATION CENTER	
ADDRESS: 3323 ASSOCIATES DRIVE BURTON, MICHIGAN	
DRAWN BY:	DJM
CHECKED:	DJM
SCALE:	NONE
DATE:	10.10.17
JOB NUMBER:	20170023
TITLE:	ELEVATIONS
SHEET NUMBER	
A2 OF 2	



PROJECT: SITE PLAN STUDY FOR:
CULTIVATION CENTER

ADDRESS: 3323 ASSOCIATES DRIVE
BURTON, MICHIGAN

DRAWN BY: DJM
CHECKED: DJM
SCALE: NONE
DATE: 10/18/17
JOB NUMBER: 20170028
TITLE: ELEVATIONS
SHEET NUMBER

A2
OF
2



Burton Zoning Board of Appeals

4303 S. Center Road
Burton, MI 48519

SCHEDULED

AGENDA ITEM (ID # 4871)

Meeting: 09/17/20 05:00 PM
Department: Department of Public Works
Category: Variance
Prepared By: Leandra Swayne
Department Head: Charles Abbey

F.2

DOC ID: 4871

ZBA #20-07

By: Matt Ovadek
1352 S Oak Rd Davison MI 48423

Re: 3302 Associates Dr. Burton MI
Parcel ID 59-29-551-017

For: To conduct a marijuana use within 500 feet of an existing facility

ATTACHMENTS:

- Backup 20-07 (PDF)



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

Date Filed: 7-22-20
 Fee Paid: \$450.00
 Receipt #: _____
 Check #: 2155
 Received by: [Signature]
 Date Mailed: _____

APPLICATION FOR ZONING BOARD OF APPEALS HEARING:

ZBA Case #: 20-07 4 Votes Required

DATE OF ZONING BOARD OF APPEALS HEARING: August 20, 2020 AT _____ P.M.

PLEASE PRINT

APPLICANTS NAME: Matt Oradek

APPLICANTS ADDRESS: 1352 S. Oak Rd

CITY: Davison

APPLICANTS PHONE: 810 6259528

APPLICANTS EMAIL: MattOradek@netzero.net

ADDRESS AND PARCEL OR LOT NUMBER: 3302 Associates Dr
59-29-551-017

NOTE: ZBA meets on the 3rd Thursday of each month. All applications and associated drawings must be on file at least six (6) weeks prior to the meeting. Notification of property within 300' must be postmarked at least 15 days prior to the meeting. Including publication in local newspaper.

VARIANCE REQUESTED: Please see attached, Section III, 157.046

To conduct a marijuana facility and/or establishment
that will be within in 500' of another
existing facility.

I hereby certify that the proposed application is authorized by the owner of record and that I have been authorized by the owner to make this application as his agent. I agree the statements made on the attached application are true, and if found not to be true, any permit that may be issued may be void. Further, I agree to give permission to officials of the City of Burton to enter the property subject to this permit application for the purposes of inspections. Further I understand that this is an application and any fees paid will not be refundable regardless of the decision of the Commission. Mandatory attendance at the above meeting is acknowledged.

APPLICANTS SIGNATURE: [Signature]

8-25-20 @ 10:03 am

Attachment: Backup 20-07 (4871 : ZBA #20-07)

APPLICANT:

Please explain your hardship or reason this variance is needed and attach to the application. Any information provided to the board will be public information and will be given to the board approximately 2 weeks prior to the meeting.

Please see attached

Attachment: Backup 20-07 (4871 : ZBA #20-07)

VARIANCE APPLICATION REQUEST SEC III 157.046

Matt Ovadek is a member of Syko Gardens LLC and is applying for a variance under 157.046. The applicant owns six properties on Associates Drive. The addresses are 3302, 3309, 3323, 3327, 3333, and a parking lot that is parcel number 59-29-551-006 but does not have a street address. The land is zoned M-1 for light industrial use. One of the locations, 3302, has been used as a warehouse for the pet food and treats business owned by the applicant, Matt Ovadek. This application seeks a variance from the requirements found in the local code section 157.046 that states "a marijuana grower, retailer, microbusiness, processor, Safety Compliance Facility, Secure transporter, or Designated Consumption Establishment "shall not be permitted within 500 feet of any other commercial marijuana transaction facility." As the property is zoned M-1 and not C-2, and in a situation where an applicant has "one parcel of land in which they have the ability to co-locate a provisioning center/retailer, a grow facility/grower and /or processing center/processor, THERE MAY BE AN EXCEPTION GIVEN TO PERMIT THESE USES ON THAT ONE PARCEL OF LAND (emphasis added). Each facility will provide separate applications and will be given separate consideration along with individual annual fees." Granting the requested variance will not adversely affect the surrounding properties and would increase the parcels taxable value and still adheres to the general principles of the City's zoning ordinances. This situation is different from others seeking a variance to place a marijuana operation within 500 feet of another in several ways. All properties are on one parcel with the exception of 3302 which is across the street. There are two applications for variances, one for 3302 and one for the others which are located on one combined parcel. The Zoning Board of Appeals should grant the variances based upon the unique nature of the request and the language of the ordinance as stated above.

Matt Ovadek is a businessman and has chosen to locate his operations in the City of Burton for approximately 11 years. He runs a pet food and treat business out of 3302 Associates Dr. When the City of Burton legalized recreational marijuana he saw an opportunity to benefit the city and use the other properties he had purchased on Associates drive. These are located across the street from 3302. A tenant with a 15 year lease is at 3323 and has a state marijuana license. He had previously received a variance on the property. The applicant's group has a state license already and it's vision is to rehabilitate the existing buildings around the leased premises and build new structures that will total approximately 80,000 square feet in an 'L' or Horseshoe shaped configuration around the existing licensee as well as place a grow operation in 3302. The property that currently houses a commercial tenant with a marijuana license is already approved for a dispensary so this honorable Board is not being asked to grant a variance to allow a dispensary but only to allow Mr. Ovadek to use his license for that operation. The current tenant, with permission of Mr. Ovadek and the leasing or constructing of a new building, already has approval for that but Mr. Ovadek wants to use their own license. What he is in fact asking is for you to grant a variance on the 500 foot rule to himself, as he is the owner of the property but not the occupant. This is in line with the language of

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157.046(B)(10)(a), (B)(12)(a) and (B)(13)(a). The tenant has invested a large sum of money on his current operation and Mr. Ovadek does not want to displace him in recognition of the investment the tenant has in the property. Mr. Ovadek would rather use their own license on the property and in the properties to be built. Without the variance the properties will not be built.

Associates Drive is a dead-end road with no residential properties. By constructing new buildings of approximately 75,000 square feet Mr. Ovadek is investing hundreds of thousands of dollars in the City of Burton. He will have employees and the operation will bring a great improvement to the street. He has already been approved for the construction by the city and the buildings can be up to 35 feet tall. The construction alone will provide many in the area with jobs. This operation will be a win all around and there are no negatives to the project. There will be two facilities on a parcel but the new construction will separate them and improvements to all of the properties will enhance Associates Drive.

Upon completion of construction plans to fence the property, have a top notch security system in compliance with the state and local laws, state of the art fire suppression and the employ of security guards will occur. Mr. Ovadek is acquainted with many current and retired officers who could provide security if necessary. As the area is not a thoroughfare and is a dead end there is not traffic on the street. This operation would not cause any disruption to any residential neighborhood in the City of Burton.

When recreational marijuana was legalized in Michigan a new industry opened and the amount of tax revenue generated has been staggering. As the property is already licensed for marijuana with a grow license a dispensary could be opened by the current tenant without this variance being granted. Nothing new is added by this variance other than Syko Gardens LLC getting to use it's license rather than the current tenant. It would be a benefit to the City of Burton to have this new construction and business. There will be no future request for a variance from the tenant to allow another dispensary so the Board does not have to worry about entertaining a request in the future.

The ordinances put in place are understandable with the new law for recreational marijuana, but it must be noted that no such prohibitions exist for Liquor stores, stores selling Lottery, bars, or other so called "vices." Sharky's and Puzzlers Pub practically share a parking lot. Without the variance the applicant is unable to construct the new buildings on the properties. New construction would have a positive impact on not only the parcels but on City in general, furthering the goals of the City's zoning ordinances by the exponentially increased the value of the properties affected. We are also requesting a variance on a street zoned light industrial and not commercial retail as you have on Center, Dort and other thoroughfares. This street has no through traffic.

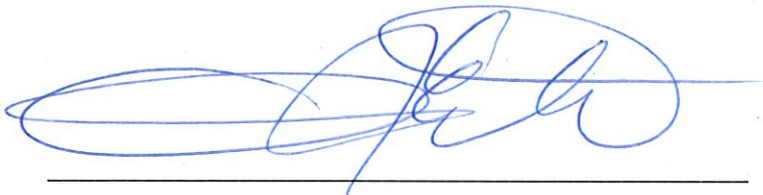
Mr. Ovadek and Syko Gardens LLC is really seeking a variance against themselves. If the tenant was not there the property is already approved for a marijuana license, dispensary and

state licensure. The only thing prohibiting him from commencing construction is the variance needed to place a marijuana operation within 500 feet of the one that is operating on his property by way of a tenant or the determination of this Honorable Board that the exception as stated in the ordinances applies. It would be an undue hardship for him to displace the tenant, more so for the tenant who has poured large sums of money into the operation, and therefore should be granted variances for the one parcel combining all of the properties on east side of the street and for 3302 on the west. This is a unique situation on these properties. As he is the owner and the tenant is merely a tenant, not a fee holder or even a land contract holder, strict enforcement of the 500 foot rule would have the effect of preventing an owner from developing his own property due to a tenancy that was entered into prior to the Recreational Marijuana statute being voted into law in 2019.

The applicant has met his burden of demonstrating that the variance should be granted as a rejection of his application would preclude his reasonable use of the property and the exceptional and unique circumstances of the situation with the ownership of adjacent properties as well as the property which he is requesting a variance from that is leased out long term. If this was a short term lease he could merely not renew it but because of the length of the lease that is not feasible. The project and new buildings will not impair an adequate supply of light and air to adjacent property or increase the congestion of public streets. It will not increase the hazard of fire or flood or endanger the public safety. It will not unreasonably diminish or impair established property values within the surrounding area. Quite the opposite, it will increase them greatly. It will not in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Burton and will not alter the essential character of the neighborhood. It would serve to beautify the area with new buildings replacing the old and a new look to a street that is an Industrial dead end surrounded on either side by a Consumers Energy power station and green spaces. Let's make this area a little greener in many different respects.

We respectfully request that this Honorable Board grant the variances as requested. Thank you.

Respectfully Submitted,



Christopher J. Ebbott, on behalf of the property owner.

Associates Dr

Associates Dr

3302

3309

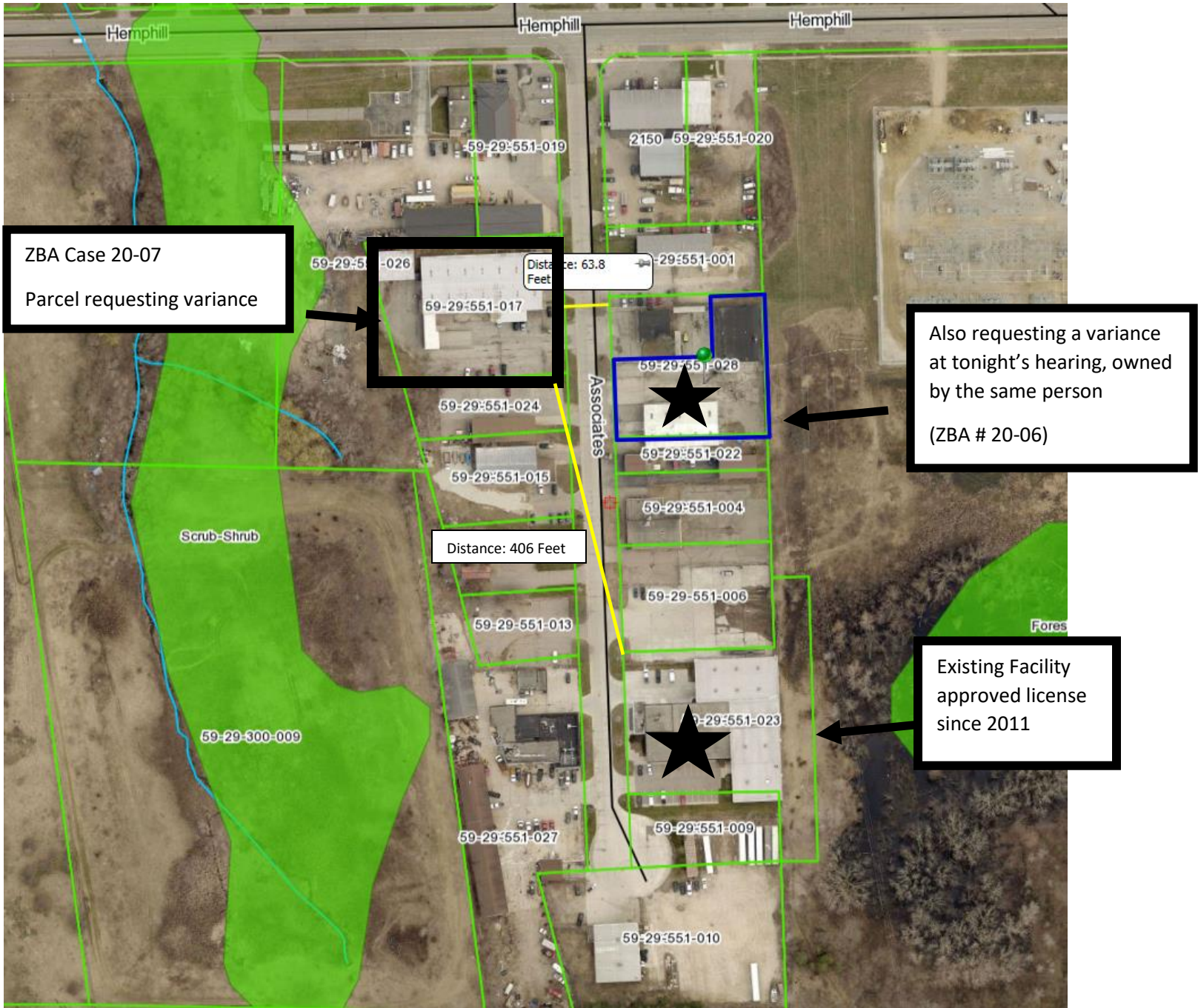
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