



PLANNING COMMISSION

May 15, 2018, Council Chambers, 6:30 pm
201 West Ash Street, Mason, MI

AGENDA

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT

4. APPROVAL OF MINUTES (April 10, 2018 and April 24, 2018)

5. PUBLIC HEARING

A. Ordinance 217 - Amend Section 94-173 to delete Subsection (i)e. which states that the maximum building height for hotel, motel, transient lodging facilities shall not exceed two stories or 35 feet

B. Ordinance 218 - to Amend Section 94-131 and Subsection 94-132 of Chapter 94 – Zoning – of the Code of the City of Mason to allow residential uses

C. Ordinance 219: Introduction and First Reading of Ordinance 219 to Amend Chapter 94 – Zoning – of the Code of the City of Mason by repealing and replacing Article XI Zoning Board of Appeals (ZBA)

D. Ordinance 220: Introduction and First Reading of Ordinance 220 to Amend the Mason Zoning Map by rezoning parcels 33-19-10-08-240-015 and 33-19-10-08-240-016 (440 and 448 S. Jefferson) from an O-1: General office district to a C-1: Central business district

6. UNFINISHED BUSINESS

A. Development Update – Administrators Report

B. Workplan Update

7. NEW BUSINESS

A. Site Plan Review (SPR) – 830 Kerns Road (Angel House) requesting a preliminary and final site plan approval for the construction of various site improvements including an update to the existing play area; the addition of a running/walking track; a basketball court; pavilion; storage area; and, ten (10) new parking spaces. Angel House is located on Kerns Road approximately 500 feet south of Howell Road and approximately 1,450 north of Cedar Street (M-36). The parcel is zoned M-2 General Manufacturing.

8. LIAISON REPORT

9. ADJOURN

**CITY OF MASON
REGULAR PLANNING COMMISSION MEETING
MINUTES OF April 10, 2018
DRAFT**

Sabbadin called the meeting to order at 6:32 p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan.

Present: Commissioners: Barna, Droscha, Feintuch, Hagle, Howe, Reeser, Sabbadin, Waxman (8)
Absent: Commissioners: (0)
Also present: Elizabeth A. Hude, AICP, Community Development Director

PUBLIC COMMENT

None.

APPROVAL OF MINUTES

MOTION by Howe, second by Waxman, to approve the Planning Commission meeting minutes from March 13, 2018.

Yes (8)

No (0)

Abstain (0)

MOTION PASSED

PUBLIC HEARING

A. Pat McCaffrey, President, Mason Hospitality Group LLC is seeking approval of a Special Use Permit and Preliminary Site Plan Review for permission to construct a private road with access to a new four-story, 44,376 sq. ft., 84-room hotel and conference center on vacant property located on the north side of West Kipp Road and west of US-127. The parcel is zoned C-2 General Commercial District.

Howe disclosed that his employer, DART Bank, had a financial interest in the project and asked if he should abstain. Sabbadin asked commissioners if there were concerns and for a motion asking Howe to abstain. No concerns were raised and no motion was offered. Howe remained as a voting member.

Chair Sabbadin opened the public hearing at 6:40 p.m.

Pat McCaffery, applicant, gave a brief introduction to the project and how it came about. He was approached by Ron Fors after a feasibility study was done demonstrating a hotel could be supported in the area. Choice hotels had also approached him with interest in building hotels. He felt this was a good location and is proposing the hotel in Mason as presented in the application materials.

Fred Fruehauf, 1005 Franklin Farm Drive stated his opposition to the project and concerns about lower property values as a result of the hotel. He is concerned that the project will wreck the whole neighborhood due to the lights, noise, car doors slamming and fights in the parking lot.

Steve Hubbard, 608 S. Lansing Street, asked if the city would have capacity with water/sewer

plant to support the hotel, and if the fire department had sufficient apparatus to reach the 4th floor. Mr. McCaffery responded that he had confirmed the answer to be yes to both questions in preparing the submittal. Mr. Hubbard also asked what happened to the connection through on Franklin Farm Drive? Reeser explained that it did not move forward due to issues with DEQ permits over the creek. Mr. Hubbard stated that Lansing and South Street were more congested as a result of traffic coming from the subdivision that would have otherwise used the road.

Jack Schripsema, President, Greater Lansing Convention & Visitors Bureau, spoke in support of the hotel project. He noted that the region has seen an explosion in demand for lodging. The Greater Lansing Area is now at the top of the list of areas in demand. Mason is underserved and will benefit from the project.

Fred Fruehauf, 1005 Franklin Farm Drive, repeated his opposition and cited the old hotels in Lansing that are full of drugs and prostitution. Debate took place as to the subjectivity of his statement. Sabbaddin gave him a warning regarding foul language.

Susan Naird, 1761 Tuttle, stated that she had moved here from Sterling Heights where she served as a zoning commissioner for eight years. She stated that commissioners should be careful in setting precedents as their decisions affect the future of the community.

Dennis Bradley, 570 Beacon Lake, Lifelong resident of the area, stated support for the hotel. Mason needs this project to support local businesses and restaurants. DART and other employers currently use hotels in Lansing and Okemos.

Kelly Sairls, 656 Kipp Road, grew up in Dansville, worked in Mason, recently moved from south side of Holt to Mason so her kids could go to schools here. She is opposed to the hotel in that location, behind her house. She asked why it couldn't be 2 stories instead of 4, that the traffic would be right next to her house. She is concerned about the clientele and the future management, citing Causeway Bay as an example. There are already several accidents on the curve. She asked if there would be 72 or 84 rooms, both were noted in the application. There is significant flooding in the lot, full of wildlife and ducks. She feels it is not a feasible location due to the wetlands and residential area.

Dorey Brown, 636 Kipp Road, stated opposition to the project. She is concerned about the noise and traffic. Kipp Road is dangerous, at least one car a month ends up in her driveway and she already has many other incidents of undesirable activity that she deals with on a regular basis there. When the field across the street is planted with corn, it reduces visibility. The flooding and drainage create icy conditions in the winter.

Fred Freuhauf, 1005 Franklin Farm Drive, stated concern about the city's lack of follow through on his street regarding sidewalks and trees. There are three to four vacant lots and no sidewalks in front of those.

Keith Hein, 1002 Eugenia Drive, stated when he moved to town he looked at the master plan and zoning and the Franklin Farms development of 300+ units was designated as greenspace/park. He is concerned about the through connection to Franklin Farms Drive north of the creek. He led the initiative to prevent that road from going through previously and would fight it if it came up again. He asked if there were adequate emergency services to serve the hotel now, does not want to see this as an excuse to connect the road. He believes the precedent for the 4-story hotel manipulates the commission to get the road. The city picked that location for the hotel to push the road.

Mr. McCaffery responded that the city had zero input on location. The concrete/steel building will be sprinkled and water service will be sufficient to serve the fire suppression system.

Ms. Sairls asked if there were any lawsuits against the property? She doesn't want the hotel in her backyard. How will her safety be ensured, privacy in her back yard? What will developers do for

them? Will there be sidewalks on Kipp Road, can the road handle the additional traffic?

Mr. McCaffery responded that there were no lawsuits against the property. There is a portion of the land that cannot be used for development that he is willing to give back to the community. They are also looking at a walkway along the east of the property. He recognized that she was upset and this was a tough situation.

Steve Hubbard, 608 S. Lansing, stated that this hotel would be Heb's death warrant. He wondered why the developer didn't go down Jewett Road where 140 acres were available. Alternative routes will be important in the future.

Keith Hein, 1002 Eugenia Drive, stated he was encouraged by the dialogue, the developers were trying, that this was not a 'take it or leave it' conversation. Previous administration told him in the past that the Franklin Farms subdivision was a 'done deal' and he could do nothing about it. He reiterated his position on the Franklin Farms Drive connection and asked that the matter not be brought up again.

Chair Sabbadin closed the public hearing at 7:25 p.m.

Sabbadin asked Hude to read written comments received into the record that were received during the open houses on Saturday and prior to the Tuesday public hearing. The four comments expressed support for the hotel and were received by John Brittain, Maureen Brittain, Becky Clinton, and one without a signature.

Waxman motioned to approve Resolution 2018-03, Reeser seconded. The following discussion took place:

Waxman recognized the concerns of residents, that this was a very big project, change is difficult. He stated this was the beginning of a process and that concerns needed to be addressed regarding the road extension and the water. Sidewalks were also important especially on Kipp Road.

Feintuch stated that every action is a precedent and this one involved four stories. She is in favor of the hotel and understands the need in the area. She operated a Bed and Breakfast and was full all of the time. Her concerns with the hotel relate to flooding, lights and the four stories. It is important to listen to the community.

Reeser stated that in all his years on the commission he did not feel that they were ever pushed around or had arms twisted. He pointed out the work on the master plan and specifically effort made on Temple Street and the studies over the years for different matters such as the food truck.

Sabbadin asked for confirmation about where water was coming from and if hydrants would be added. The water will come from service at the end of Franklin Farms Drive or Eugenia and hydrants will be added.

Discussion took place confirming that the site would be served by sanitary sewer line that runs parallel to US 127, and that storm runoff would be directed to a detention pond that would then flow to Willow Creek.

Barna asked for confirmation of handicap spaces to serve the needs of users including our aging population – a total of 7 will be provided.

Feintuch asked for clarification of why other Sleep Inns are two stories, but this is four. McCaffery explained that Choice Hotels won't allow two stories, and four is the only feasible way to make the proposed lot work given the floodplain issues.

Droscha motioned to amend the original motion and defer the discussion to the May 8 meeting, Waxman seconded.

Barna questioned the need to continue given that this was a preliminary site plan. Howe supported

Barna's statement.

Feintuch asked if this was similar basis as Klavon's – it must be approved if it meets requirements regardless of public comment. Hude stated that yes, if the commission had information to determine it met requirements, it could be approved.

Waxman stated concern about requiring sidewalks on Kipp. Hude explained that the developer could not be required to make public improvements offsite, the city would be responsible for sidewalks on Kipp Rd. Deb Stuart, City Administrator, clarified the city's policy on new sidewalks and that the cost for those improvements would be assessed to property owners. The sidewalk program will focus on improvements for the southwest quadrant of the city in 2022-23 but is only for repair of existing sidewalks.

Discussion took place on the creation of pedestrian access along the east of the property out to Kipp which would require crossing MDOT right of way for a stretch of 47 feet. MDOT requires a permit and the developer has looked into this, it is costly. McCaffery would like to give floodplain portion of the lot back to the city.

Note: Barna left the room.

Sabbadin asked for a vote to approve motion to postpone discussion to May 8.

Yes (5) Droscha, Feintuch, Hagle, Howe, Reeser, Sabbadin, Waxman

No (2) Howe, Reeser

Absent (1) Barna

MOTION PASSED

UNFINISHED BUSINESS

- A. Development Updates – The Administrators Report was distributed.
- B. Workplan Update – Public hearings for ordinance amendments were shifted from April to May due to the public hearing this evening.

NEW BUSINESS

- A. Discussion: Zoning Ordinance Text Amendment – Sec. 94-173(i) Hotel, motel, transient lodging facilities.

Hude provided a brief overview of the ordinance and recommended change to the ordinance that would allow a four-story hotel, up to 45 feet. The height restriction in a C-2 district is 45 feet but this is reduced for hotels.

Waxman proposed striking the sentence that references a height restriction and that an office building could be four stories. Feintuch stated that the use of the building was a factor. Office workers leave at 5 p.m. when adjacent residents are returning home. With a hotel, users are still in the building in the evening which could potentially impact privacy to residents.

Reeser offered that the age of the zoning may be a factor, that it was based on the old model for hotels, which were primarily two stories. Barna noted that the residential lots in this location were consistent with traditional country road development – lots on the edge of farmland, and that this could be a difficult transition.

Howe stated that this ordinance change would apply to any location where a hotel would be allowed, not just this site.

Feintuch stated that users are transient, in contrast to employees of an office building who are regular users. Three stories would be better for privacy. Does not feel the current four-story proposal fits in this spot and that we should listen to the community.

Waxman stated that the issue was about height anywhere, not just in this area.

Reeser stated that this was a good quality development, a national chain prototype, restricting the height could result in a lower grade hotel.

Discussion continued regarding examples of hotels in other communities, Meridian Township in particular where older hotels are two-three stories and newer hotels are being built at four stories. Everyone agreed it was an important discussion. The consensus was to prepare a draft for public hearing that struck the sentence in Sec 94-173(i)(2)e. completely.

LIAISON REPORT

Droscha provided an update on City Council meeting including a change to allow solid waste receptacles to be placed after 5pm the evening before pick-up, and that a workshop was held regarding Code of Conduct based on a session from the MML conference.

ADJOURN

The meeting adjourned at 8:38 p.m.

Lori Hagle, Secretary

**CITY OF MASON
SPECIAL PLANNING COMMISSION MEETING
MINUTES OF April 24, 2018
DRAFT**

Sabbadin called the meeting to order at 7:00 p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan.

Present: Commissioners: (6) Barna, Droscha, Feintuch, Hagle, Howe, Sabbadin
Absent: Commissioners: (2) Reeser, Waxman
Also present: Elizabeth A. Hude, AICP, Community Development Director

PUBLIC COMMENT

Steve Howard, 608 S. Lansing Street asked why the hotel development needed a private road? Hude responded that it was necessary to create the required frontage and access to the property from Kipp Road.

Deb Stuart, City Administrator and resident at 502 Riverwalk, stated that the hotel development was consistent with the city's economic development strategy. A feasibility study done based on business travel to the area was sufficient to support a national chain hotel, which are typically four stories. The use is consistent with the findings of the study and she encourages support.

Keith Hein, 1002 Eugenia Drive raised questions about the reason for the road and if it was necessary to unlock the land or if the intent was to put a road through to the north. He fought the road going through 20 years ago. As part of the changing of the ordinance, did we review the masterplan? Staff confirmed that a review of the masterplan was a part of the process for changing the ordinance.

UNFINISHED BUSINESS

- A. Mason Hospitality Group LLC is seeking approval of a Special Use Permit and Preliminary Site Plan Review for permission to construct a private road with access to a new four-story, 44,376 sq. ft., 72-room hotel and conference center on vacant property located on the north side of West Kipp Road and west of US-127. The parcel is zoned C-2 General Commercial District.
 - 1) Resolution 2018-03 – Approve Special Use Permit and Preliminary Site Plan Review to Construct a Private Road with Access to a New Four-story, 44,373 sq. ft., 72-room Hotel and Conference Center on Vacant Property Located on the North Side of West Kipp Road and West of US-127

Bob Ford provided an overview of the new information provided to staff and the Planning Commission since the last meeting – traffic data, a drawing revision correcting an error at the intersection of Kipp Road and Franklin Farms Drive, water line connection to Eugenia Drive.

Droscha motioned to approve Resolution 2018-03. Howe seconded.

As part of the discussion, staff read letters received from commissioners Reeser, Waxman and the Chamber of Commerce supporting the approval of the hotel.

Barna stated that this is a preliminary plan, the major issues have been addressed and the developer will have the opportunity to address the smaller issues as noted in the LandPlan report at the final site plan review. She would like to see the plan for a safe way to walk to other locations

and businesses in the final site plan. She is not recommending this as a condition, just stating a preference.

Yes (6) Barna, Droscha, Feintuch, Hagle, Howe, Sabbadin

No (0)

Absent (2) Waxman, Reeser

MOTION PASSED

NEW BUSINESS

ADJOURN

The meeting adjourned at 7:24 p.m.

Lori Hagle, Secretary



TO: Planning Commission

FROM: Elizabeth A. Hude, AICP - Community Development Director

SUBJECT: Public Hearings

DATE: May 11, 2018

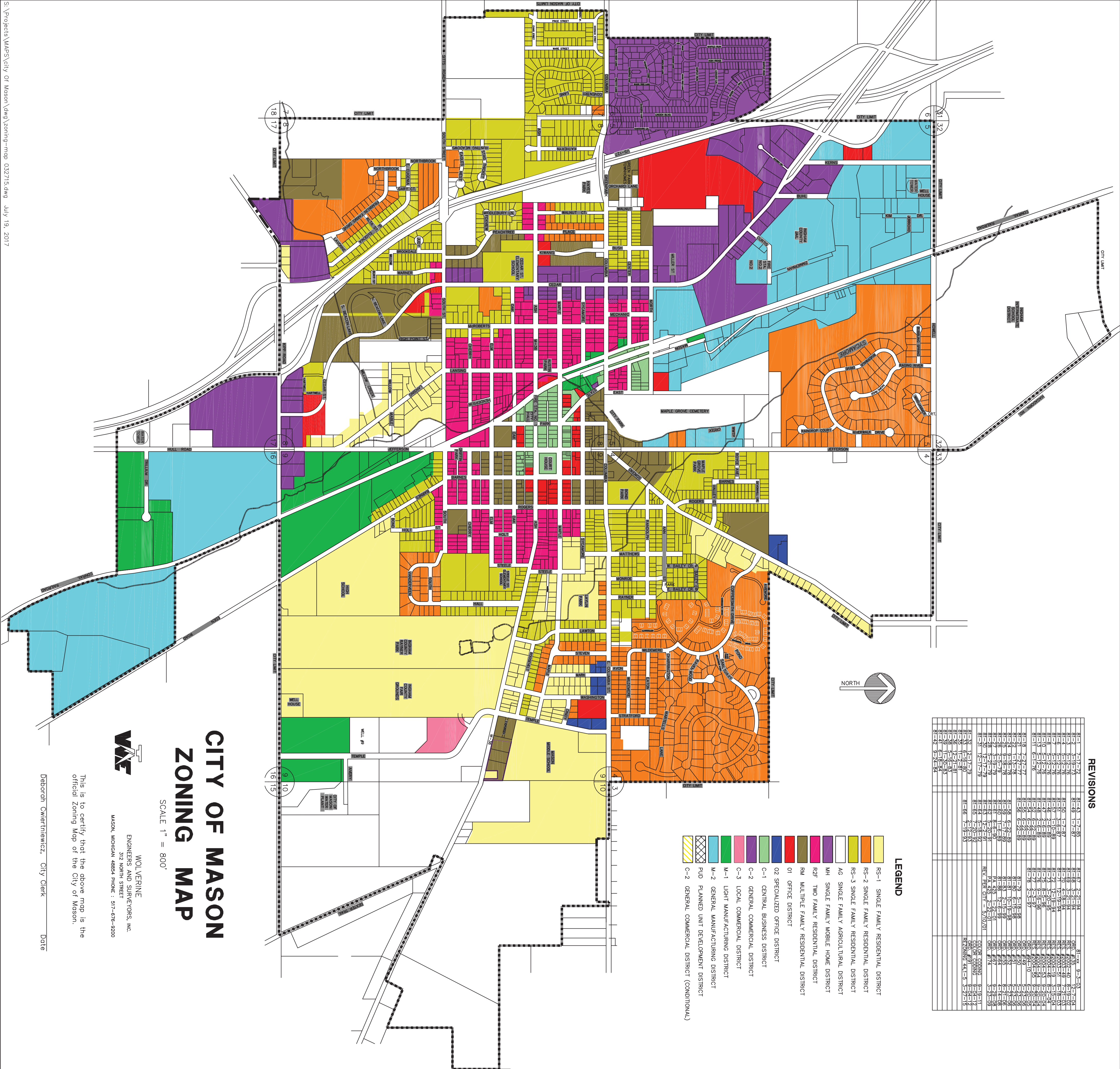
The attached summaries are provided for your consideration of the proposed zoning ordinance and map amendments:

- A. Ordinance 217 - Amend Section 94-173 to delete Subsection (i)e. which states that the maximum building height for hotel, motel, transient lodging facilities shall not exceed two stories or 35 feet
- B. Ordinance 218 - to Amend Section 94-131 and Subsection 94-132 of Chapter 94 – Zoning – of the Code of the City of Mason to allow residential uses
- C. Ordinance 219: Introduction and First Reading of Ordinance 219 to Amend Chapter 94 – Zoning – of the Code of the City of Mason by repealing and replacing Article XI Zoning Board of Appeals (ZBA)
- D. Ordinance 220: Introduction and First Reading of Ordinance 220 to Amend the Mason Zoning Map by rezoning parcels 33-19-10-08-240-015 and 33-19-10-08-240-016 (440 and 448 S. Jefferson) from an O-1: General office district to a C-1: Central business district

The current zoning map and future land use map are also included here for your reference.

| REVISIONS | |
|-----------|---------|
| 81-1 | 7-15-73 |
| 81-2 | 7-15-73 |
| 81-3 | 7-15-73 |
| 81-4 | 7-15-73 |
| 81-5 | 7-15-73 |
| 81-6 | 7-15-73 |
| 81-7 | 7-15-73 |
| 81-8 | 7-15-73 |
| 81-9 | 7-15-73 |
| 81-10 | 7-15-73 |
| 81-11 | 7-15-73 |
| 81-12 | 7-15-73 |
| 81-13 | 7-15-73 |
| 81-14 | 7-15-73 |
| 81-15 | 7-15-73 |
| 81-16 | 7-15-73 |
| 81-17 | 7-15-73 |
| 81-18 | 7-15-73 |
| 81-19 | 7-15-73 |
| 81-20 | 7-15-73 |
| 81-21 | 7-15-73 |
| 81-22 | 7-15-73 |
| 81-23 | 7-15-73 |
| 81-24 | 7-15-73 |
| 81-25 | 7-15-73 |
| 81-26 | 7-15-73 |
| 81-27 | 7-15-73 |
| 81-28 | 7-15-73 |
| 81-29 | 7-15-73 |
| 81-30 | 7-15-73 |
| 81-31 | 7-15-73 |
| 81-32 | 7-15-73 |
| 81-33 | 7-15-73 |
| 81-34 | 7-15-73 |
| 81-35 | 7-15-73 |
| 81-36 | 7-15-73 |
| 81-37 | 7-15-73 |
| 81-38 | 7-15-73 |
| 81-39 | 7-15-73 |
| 81-40 | 7-15-73 |
| 81-41 | 7-15-73 |
| 81-42 | 7-15-73 |
| 81-43 | 7-15-73 |
| 81-44 | 7-15-73 |
| 81-45 | 7-15-73 |
| 81-46 | 7-15-73 |
| 81-47 | 7-15-73 |
| 81-48 | 7-15-73 |
| 81-49 | 7-15-73 |
| 81-50 | 7-15-73 |
| 81-51 | 7-15-73 |
| 81-52 | 7-15-73 |
| 81-53 | 7-15-73 |
| 81-54 | 7-15-73 |
| 81-55 | 7-15-73 |
| 81-56 | 7-15-73 |
| 81-57 | 7-15-73 |
| 81-58 | 7-15-73 |
| 81-59 | 7-15-73 |
| 81-60 | 7-15-73 |
| 81-61 | 7-15-73 |
| 81-62 | 7-15-73 |
| 81-63 | 7-15-73 |
| 81-64 | 7-15-73 |
| 81-65 | 7-15-73 |
| 81-66 | 7-15-73 |
| 81-67 | 7-15-73 |
| 81-68 | 7-15-73 |
| 81-69 | 7-15-73 |
| 81-70 | 7-15-73 |
| 81-71 | 7-15-73 |
| 81-72 | 7-15-73 |
| 81-73 | 7-15-73 |
| 81-74 | 7-15-73 |
| 81-75 | 7-15-73 |
| 81-76 | 7-15-73 |
| 81-77 | 7-15-73 |
| 81-78 | 7-15-73 |
| 81-79 | 7-15-73 |
| 81-80 | 7-15-73 |
| 81-81 | 7-15-73 |
| 81-82 | 7-15-73 |
| 81-83 | 7-15-73 |
| 81-84 | 7-15-73 |
| 81-85 | 7-15-73 |
| 81-86 | 7-15-73 |
| 81-87 | 7-15-73 |
| 81-88 | 7-15-73 |
| 81-89 | 7-15-73 |
| 81-90 | 7-15-73 |
| 81-91 | 7-15-73 |
| 81-92 | 7-15-73 |
| 81-93 | 7-15-73 |
| 81-94 | 7-15-73 |
| 81-95 | 7-15-73 |
| 81-96 | 7-15-73 |
| 81-97 | 7-15-73 |
| 81-98 | 7-15-73 |
| 81-99 | 7-15-73 |
| 81-100 | 7-15-73 |

- LEGEND**
- RS-1 SINGLE FAMILY RESIDENTIAL DISTRICT
 - RS-2 SINGLE FAMILY RESIDENTIAL DISTRICT
 - RS-3 SINGLE FAMILY RESIDENTIAL DISTRICT
 - AG SINGLE FAMILY AGRICULTURAL DISTRICT
 - MH SINGLE FAMILY MOBILE HOME DISTRICT
 - R2F TWO FAMILY RESIDENTIAL DISTRICT
 - RM MULTIPLE FAMILY RESIDENTIAL DISTRICT
 - O1 OFFICE DISTRICT
 - O2 SPECIALIZED OFFICE DISTRICT
 - C-1 GENERAL BUSINESS DISTRICT
 - C-2 GENERAL COMMERCIAL DISTRICT
 - C-3 LOCAL COMMERCIAL DISTRICT
 - M-1 LIGHT MANUFACTURING DISTRICT
 - M-2 GENERAL MANUFACTURING DISTRICT
 - PUD PLANNED UNIT DEVELOPMENT DISTRICT
 - C-2 GENERAL COMMERCIAL DISTRICT (CONDITIONAL)



Future Land Use Mason Planning Area



Commercial



Industrial



Mixed Use



Public



Residential



City of Mason



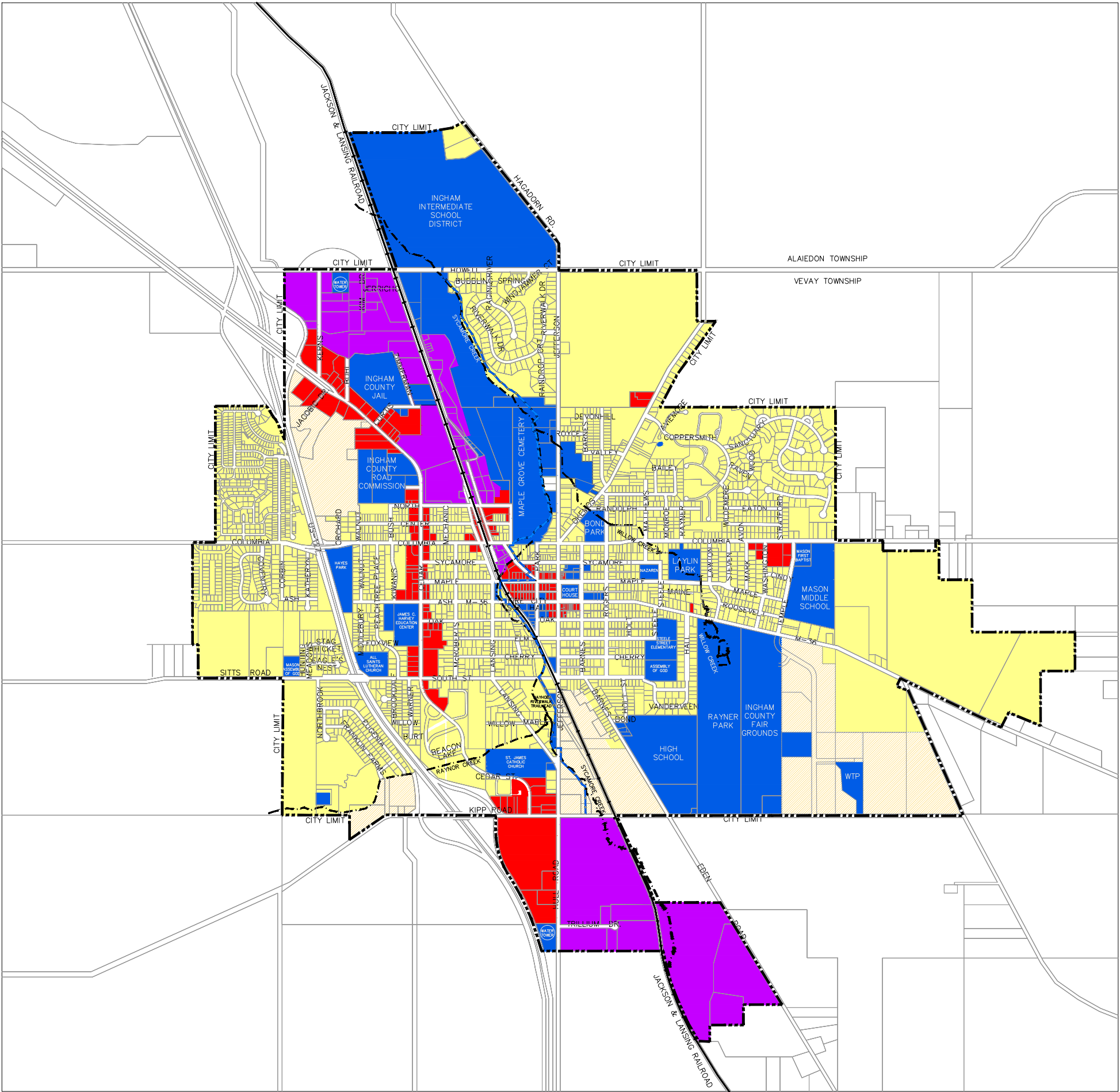
Hayhoe Riverwalk

Land use areas outside the City limits have not been included. To view these areas please refer to the corresponding township master plan.

Produced by:
Tri-County Regional Planning Commission
August 25, 2003 (rev.5)

Revised by:
Wolverine Engineers & Surveyors, Inc.
March 22, 2013

Source:
City of Mason Planning Commission





STAFF AGENDA REPORT TO PLANNING COMMISSION

Meeting: May 15, 2018

Agenda Item: 5A

AGENDA ITEM:

Ordinance – Public Hearing for Ordinance 217 to Amend Section 94-173 to delete Subsection (i)e. which states that the maximum building height for hotel, motel, transient lodging facilities shall not exceed two stories or 35 feet.

RECOMMENDED ACTION

Move to approve resolution no. 2018-04 to recommend City Council adopt proposed ordinance 217 amending the text of Section 94-173 Subsection (i)e.

HISTORY

Hotel, motel, transient lodging facilities are only allowed in the C-2 General Commercial Zoning District by way of a Special Use Permit. Chapter 94, Table 100-2 Building Dimensional Regulations shows that principal structures in the C-2 Zoning District may be up to 45 feet in height. Section 94-173 subsection (i)e. states an exception to the height limit for hotel, motel, transient lodging facilities, restricting them to a maximum building height not to exceed two stories or 35 feet.

A recent feasibility study demonstrated that the business development in and around the City of Mason were sufficient to support one hotel. The Planning Commission has recently reviewed and approved a Special Use Permit and Preliminary Site Plan for a hotel in a C-2 zoning district on W. Kipp Road proposed to be four stories and 45 feet in height. The Planning Commission's approval included the condition that an amendment to Section 94-173 Subsection (i)e be approved before the Final Site Plan can be approved.

SUMMARY

Authority

Chapter 94 Article XII. Amendments of the Mason Code Section 94-132 provides for amendments to be made to the zoning chapter initiated by the city council or by the planning commission.

The City of Mason Master Plan, Economic Development Objective #2 states calls for the reevaluation of zoning regulations that impede reasonable commercial and industrial development.

Urgency

The Planning Commission anticipates the submittal of a Final Site Plan for a hotel that is four stories and 45 feet in height to be reviewed at their regular meeting on June 12, 2018. In order for the project to move forward, an amendment to the ordinance removing the restriction on height for the hotel must be made.

Relation to Other Actions

An amendment to Section 94-173 Subsection (i)e must be approved before the Final Site Plan can be approved for a currently proposed four-story, 45-foot tall hotel in a C-2 zoning district on W. Kipp Road.

FISCAL IMPACT

Current budget: No impact.

Future budget: A hotel will also diversify the City of Mason's tax base leading to a more resilient and sustainable economic future. The addition of a hotel in the City of Mason will provide significant benefits to the businesses and families who are currently sending staff, clients and family members out of town to Lansing or Okemos for hotel stays and conference meetings/events. By providing a quality hotel venue with a conference center, those hotel nights and related spending stays in our community. Reducing travel miles for hotel stays out of the area is also a cost savings to travelers, and also

results in environmental benefits through reduced emissions.

ADDITIONAL MATERIAL

Proposed Ordinance 217

Planning Commission Resolution No. 2018-04

Map highlighting properties zoned C-2 General Commercial.

City of Mason Zoning Brochure

City of Mason Future Land Use Map

**CITY OF MASON
PLANNING COMMISSION RESOLUTION NO. 2018-04**

**A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL
ADOPT ORDINANCE NO 217 – AN ORDINANCE TO AMEND
CHAPTER 94 – ZONING – BY DELETING SEC. 94-173(i)e –
WHICH STATES THAT THE MAXIMUM BUILDING HEIGHT FOR
HOTEL, MOTEL, TRANSIENT LODGING FACILITIES IS NOT TO
EXCEED TWO STORIES OR 35 FEET.**

May 15, 2018

WHEREAS, the Community Development Director has requested an amendment to the Mason Code to amend Chapter 94 – ZONING – by deleting Sec. 94-173(i)e; and

WHEREAS, the Planning Commission finds that proposed Ordinance 217 is consistent with the Section 94-396(a) and offers the following as findings of fact:

- 1. Compliance with the Master Plan of the city.** The proposed amendment supports Objectives #1, 3, 4, 5, 6, and 16 of the Growth Management, Public Services and Quality of Life Goal; Objectives 1, and 5 of the Community Character Goal; and Objectives 1-6 of the Economic Development Goal listed in Chapter Two, Planning Issues, Goals and Objectives, of the Mason Master Plan.
- 2. What, if any, identifiable conditions related to the proposed amendment have changed which justify the proposed amendment?** There does not appear to be any changes in the vicinity.
- 3. What, if any, error in judgment, procedure or administration was made in the original chapter which justifies the petitioner's change in zoning?** There is no known error of this sort.
- 4. What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?** This will allow hotels to be built to the same height as is currently allowed in the C-2 General Commercial Zoning District by way of a Special Use Permit.
- 5. What is the impact of the amendment on the ability of the City and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the petition is approved?** There is no impact. The sites affected are currently served with public utilities.
- 6. Does the proposed amendment adversely affect the value of the surrounding property?** The proposed amendment does not appear to adversely affect the value of the surrounding property. Additional impact analysis will be made as part of any future Special Use Permit review.
- 7. Are there any significant environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built?** There are no known significant environmental impacts associated with the proposed amendment.
- 8. The ability of the property in question to be put to a reasonable economic use in**

the zoning district in which it is presently located. The amendment will improve the ability for properties to be put to a reasonable economic use in the C-2 zoning district.

NOW THEREFORE BE IT RESOLVED, that the City of Mason Planning Commission does hereby recommend that the City Council adopt Ordinance No. 217 – an ordinance to amend Chapter 94 – ZONING – by deleting Sec. 94-173(i)e.

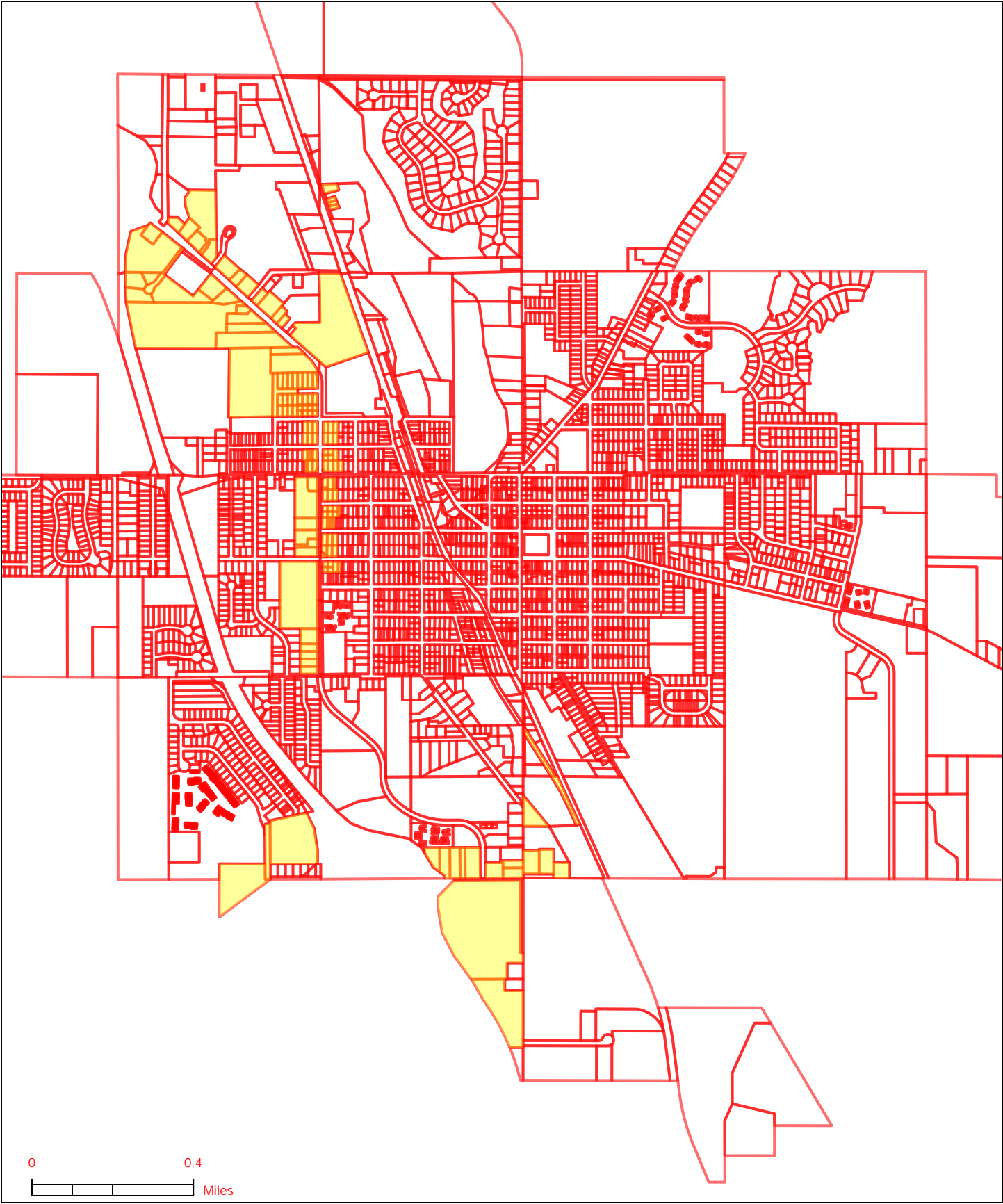
Yes ()

No ()

Absent ()

Sarah J. Jarvis, City Clerk
City of Mason
Ingham County, Michigan

MASON C2



Sec. 94-173. Supplemental use regulations.

(i) Hotel, motel, transient lodging facilities.

(1) *Intent.* The following shall set forth the requirements for construction and site development of transient housing accommodations within the city.

(2) Standards.

a. Minimum floor area for each guest unit shall contain not less than 250 square feet.

b. The minimum lot area shall be one acre with a minimum width of 150 feet, provided that there shall be at least 800 square feet of lot area for each guest.

c. The maximum lot coverage of all buildings, including accessory building shall not exceed more than 25 percent of the area within the boundary lines of land developed at any one time.

d. Minimum yard dimensions. All buildings shall observe a setback of not less than 75 feet from any road right-of-way, and not less than 40 feet from any side or rear property line.

~~e. The maximum building height shall not exceed two stories or 35 feet.~~

e.f. Site screening. The site may be enclosed by open structure wood or wire fences, shrubs and/or trees which, along any yard line, shall not exceed six feet in height. No screening shall impair safe vertical or horizontal sight distance for any moving vehicles. Screening at least four feet high shall be erected to prevent headlight glare on adjacent residential or agricultural property. No screening shall be closer than 50 feet to any street line, except headlight screening shall not be closer than 30 feet.

f.g. Lighting. All outdoor lighting shall be arranged so that it is deflected from adjacent properties, streets and thoroughfares, and shall not impair the safe movement of traffic.

(3) *Accessory uses.* Accessory uses such as meeting rooms, taverns, bars, or similar uses are permitted provided such shall be conducted within the same building as the principal use. A caretaker or proprietor's residence shall be permitted as an accessory use.

(4) Motor vehicle access.

a. *Site plans.* All site plan proposals submitted for this use shall provide for the proper handling of traffic on the highway, frontage road, or street giving access to the district. No access by motor vehicles, other than stated herein, shall be permitted to a minor or residential street. All points of entrance or exit shall be no closer than 50 feet from the intersection of the right-of-way lines of two streets.

b. *Interstate or interchange site location.* Whenever a proposed use is located adjacent to or within one-half mile of an existing, or planned state or interstate limited access highway interchange, it shall be incumbent upon the applicant to show that the proposed site location shall not cause unsafe traffic congestion resulting at or in conjunction with said limited access interchange, and the applicant shall request and submit with the application a written recommendation from the Traffic Division of the Michigan Department of State Highways. In no case, shall private access drives be less than 200 feet from an interchange.

(5) Signs shall be those identifying any of the permitted uses within the zoning district and shall be in accordance with the provisions of any applicable city chapter.

(6) Off-street parking and loading requirements shall be in accordance with the provisions of article IX of this chapter except that required parking shall be furnished on the immediate premises.

(7) The storage of refuse and space required for the accumulation and out loading of garbage, trash, scrap, waste, and containers therefore shall comply with the standards in section [94-173\(b\)](#).

Introduced: May 7, 2018
First Reading: May 7, 2018
Second Reading: _____
Adopted: _____
Effective: _____

CITY OF MASON

SUPPLEMENTAL USE REGULATION - HOTEL, MOTEL, TRANSIENT LODGING FACILITIES ORDINANCE

AN ORDINANCE TO AMEND CHAPTER 94 – ZONING – BY
DELETING SEC. 94-173(i)e – WHICH STATES THAT THE
MAXIMUM BUILDING HEIGHT FOR HOTEL, MOTEL,
TRANSIENT LODGING FACILITIES IS NOT TO EXCEED
TWO STORIES OR 35 FEET.

THE CITY OF MASON ORDAINS:

Chapter 94 of the Mason City Code is hereby amended by deleting Sec. 94-173(i)e which states that the maximum building height for hotel, motel, transient lodging facilities, is not to exceed two stories or 35 feet, which amended, article shall read as follows:

Chapter 94 Zoning

Sec. 94-173. Supplemental use regulations.

(i) Hotel, motel, transient lodging facilities.

(1) Intent. The following shall set forth the requirements for construction and site development of transient housing accommodations within the city.

(2) Standards.

a. Minimum floor area for each guest unit shall contain not less than 250 square feet.
b. The minimum lot area shall be one acre with a minimum width of 150 feet, provided that there shall be at least 800 square feet of lot area for each guest.

c. The maximum lot coverage of all buildings, including accessory building shall not exceed more than 25 percent of the area within the boundary lines of land developed at any one time.

d. Minimum yard dimensions. All buildings shall observe a setback of not less than 75 feet from any road right-of-way, and not less than 40 feet from any side or rear property line.

e. Site screening. The site may be enclosed by open structure wood or wire fences, shrubs and/or trees which, along any yard line, shall not exceed six feet in height. No screening shall impair safe vertical or horizontal sight distance for any moving vehicles. Screening at least four feet high shall be erected to prevent headlight glare on adjacent residential or agricultural property. No screening shall be closer than 50 feet to any street line, except headlight screening shall not be closer than 30 feet.

f. Lighting. All outdoor lighting shall be arranged so that it is deflected from adjacent properties, streets and thoroughfares, and shall not impair the safe movement of traffic.

(3) Accessory uses. Accessory uses such as meeting rooms, taverns, bars, or similar uses are permitted provided such shall be conducted within the same building as the principal use. A caretaker or proprietor's residence shall be permitted as an accessory use.

(4) Motor vehicle access.

a. Site plans. All site plan proposals submitted for this use shall provide for the proper handling of traffic on the highway, frontage road, or street giving access to the district. No access by motor vehicles, other than stated herein, shall be permitted to a minor or residential street. All points of entrance or exit shall be no closer than 50 feet from the intersection of the right-of-way lines of two streets.

b. Interstate or interchange site location. Whenever a proposed use is located adjacent to or within one-half mile of an existing, or planned state or interstate limited access highway interchange, it shall be incumbent upon the applicant to show that the proposed site location shall not cause unsafe traffic congestion resulting at or in conjunction with said limited access interchange, and the applicant shall request and submit with the application a written recommendation from the Traffic Division of the Michigan Department of State Highways. In no case, shall private access drives be less than 200 feet from an interchange.

(5) Signs shall be those identifying any of the permitted uses within the zoning district and shall be in accordance with the provisions of any applicable city chapter.

(6) Off-street parking and loading requirements shall be in accordance with the provisions of article IX of this chapter except that required parking shall be furnished on the immediate premises.

(7) The storage of refuse and space required for the accumulation and out loading of garbage, trash, scrap, waste, and containers therefore shall comply with the standards in section 94-173(b).

Sunset Provision. None.

Effective Date. This ordinance shall take effect immediately upon publication of the notice of adoption in a newspaper of general circulation within the city.

The foregoing Ordinance was moved for adoption by Council Member _____ and supported by Council Member _____, with a vote thereon being: YES () NO (), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the ____ day of _____, 2018. Ordinance No. 217 declared adopted this ____ day of _____, 2018.

Russell Whipple, Mayor

Sarah J. Jarvis, City Clerk

Thomas M. Hitch (P25558)
Mason City Attorney
601 Abbot Road, PO Box 2502
East Lansing, MI 48826-2502



STAFF AGENDA REPORT TO PLANNING COMMISSION

Meeting: May 15, 2018

Agenda Item: 5B

AGENDA ITEM:

Public Hearing for Ordinance 218 to Amend Section 94-131 and Subsection 94-132 of Chapter 94 – Zoning – of the Code of the City of Mason to allow residential uses.

RECOMMENDED ACTION

Move to approve Resolution No. 2018-05 recommending City Council adopt ordinance 218 amending the text of Sections 94-131 and 94-132.

HISTORY

The Community Development Director is requesting a text amendment to the Mason Zoning Ordinance that will allow residential uses in the O-1 General Office District and the O-2 Specialized Office District. Over the course of the past 6 months, staff has had several inquiries about residential uses in office buildings. After some research it became apparent that many buildings in those districts were built and in use as residential, a pre-existing non-conforming use. The designation as a non-conforming use limit's a resident's ability to invest in any type of expansion of their home for residential purposes.

The proposed ordinance amendment to 94-131, the O-1 Office District, would allow residential uses by right consistent with the RS-1, RS-2, RS-3 Single family residential districts and R2F Two-family residential district. Residential uses consistent with the RM Multiple Family Residential district would be allowed by way of a Special Use Permit.

The proposed ordinance amendment to 94-132, the O-2 Specialized Office District would allow residential uses by right consistent with the RS-1, RS-2, RS-3 Single family residential districts. Residential uses consistent with the R2F Two-family Residential district would be allowed by way of a Special Use Permit. Sec. 94-132(d)(2) will be deleted as it is no longer needed if the residential uses are allowed by right.

SUMMARY

Authority

Chapter 94 Article XII. Amendments of the Mason Code Section 94-391 provides for amendments to this chapter initiated by the city council or by the planning commission.

The proposed amendments support the City of Mason Master Plan goals for Growth Management, Community Character, and Residential Development.

Urgency

City Council will proceed with a second reading and consideration of the Planning Commission's recommendation at the next meeting following the Planning Commission's decision.

Relation to Other Actions: None.

FISCAL IMPACT

Current budget: None.

Future budget: The proposed amendments will improve the economic viability of properties in the O-1 and O-2 districts.

ADDITIONAL MATERIAL

Proposed Ordinance 218

Planning Commission Resolution No. 2018-05

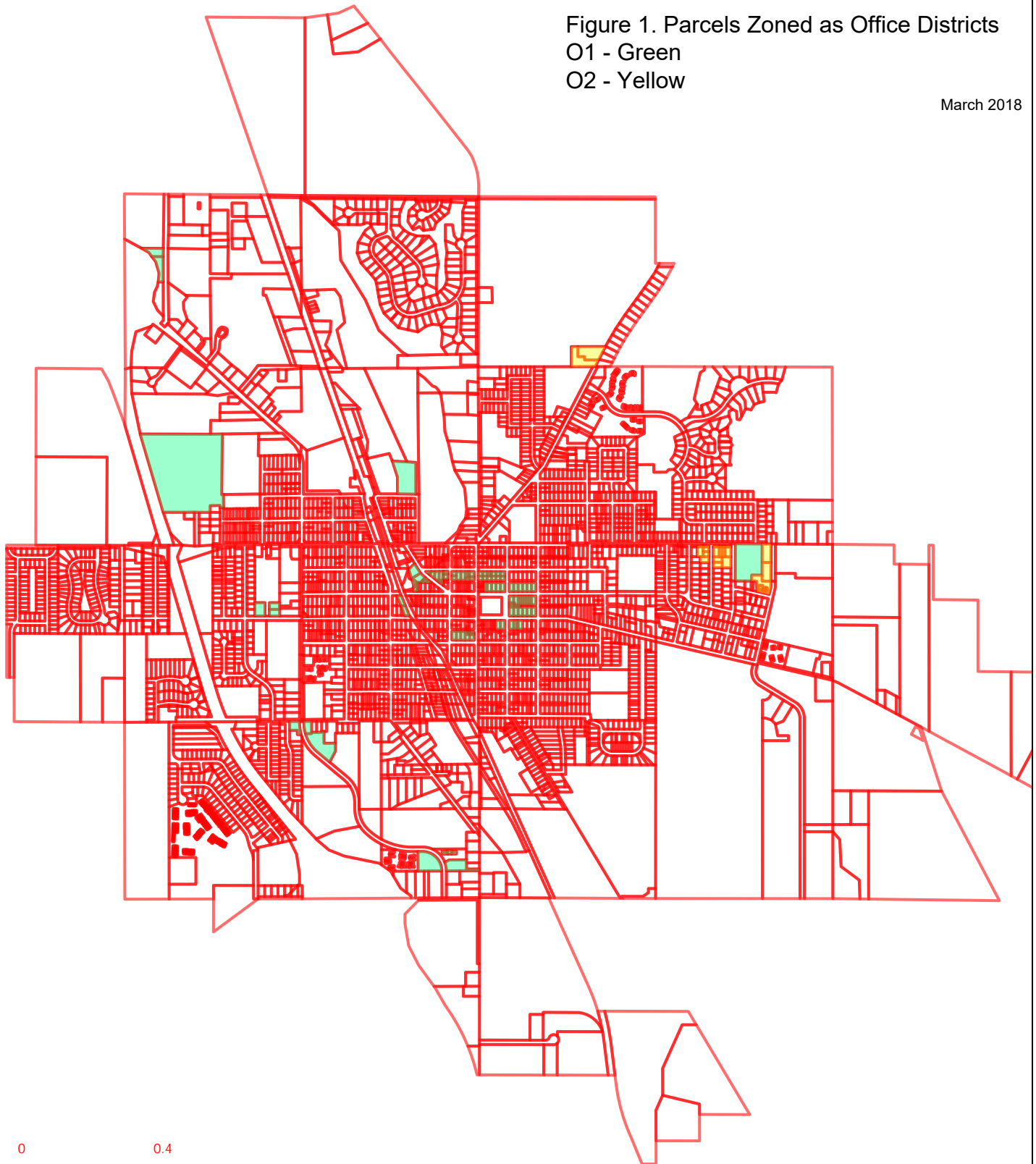
Map showing O-1 and O-2 Districts

Zoning Map Brochure

MASON

Figure 1. Parcels Zoned as Office Districts
O1 - Green
O2 - Yellow

March 2018



**CITY OF MASON
PLANNING COMMISSION RESOLUTION NO. 2018-05**

**A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT
ORDINANCE NO 218 – AN ORDINANCE TO AMEND CHAPTER 94-131
– O-1: GENERAL OFFICE DISTRICT OF CHAPTER 94 – ZONING – OF
THE CODE OF THE CITY OF MASON AND TO AMEND CHAPTER 94-
132 - O-2 SPECIALIZED OFFICE DISTRICT OF CHAPTER 94 – ZONING
– OF THE CODE OF THE CITY OF MASON TO ALLOW FOR
RESIDENTIAL USES.**

May 15, 2018

WHEREAS, the Community Development Director has requested an amendment to the Mason Zoning Ordinance to amend the O-1: General office and O-2: Specialized office zoning districts; and

WHEREAS, the Planning Commission finds that proposed Ordinance 218 is consistent with the Section 94-396(a) and offers the following as findings of fact:

- 1. Compliance with the Master Plan of the City.** The proposed amendment supports Objectives #1, 3, 5, 6, and 16 of the Growth Management, Public Services and Quality of Life Goal; Objectives 1, 2, 3, 4, and 5 of the Community Character Goal; and Objectives 1, 2, 4, and 9 of the Residential Development Goal listed in Chapter Two, Planning Issues, Goals and Objectives, of the Mason Master Plan.
- 2. What, if any, identifiable conditions related to the proposed amendment have changed which justify the proposed amendment?** There do not appear to be any changes in the vicinity.
- 3. What, if any, error in judgment, procedure or administration was made in the original chapter which justifies the petitioner's change in zoning?** Many of the properties affected were originally built and used as residential. The current zoning text does not allow them to revert back to residential from an office use. It is possible that this was an unintended consequence of the original chapter.
- 4. What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?** This will allow properties that are currently vacant or underutilized to be occupied.
- 5. What is the impact of the amendment on the ability of the City and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the petition is approved?** There is no impact. The sites affected are currently served with the public utilities.
- 6. Does the proposed amendment adversely affect the value of the surrounding property?** The proposed amendment will not adversely affect the value of the surrounding property.
- 7. Are there any significant environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built?** There are no known environmental impacts associated with the proposed amendment.

8. **The ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located.** Adding residential uses will improve the ability of the properties to be put to a reasonable economic use in these zoning districts.

NOW THEREFORE BE IT RESOLVED, that the City of Mason Planning Commission does hereby recommend that the City Council adopt Ordinance No. 218 – an ordinance to amend Sections 94-131 and 94-132 of Chapter 94 – Zoning – of the Code of the City of Mason to allow residential uses.

Yes ()

No ()

Absent ()

Sarah J. Jarvis, City Clerk
City of Mason
Ingham County, Michigan

Introduced: May 7, 2018
First Reading: May 7, 2018
Second Reading: _____
Adopted: _____
Effective: _____

CITY OF MASON

OFFICE DISTRICT REGULATION

AN ORDINANCE TO AMEND CHAPTER 94 – ZONING – BY ADDING RESIDENTIAL USES TO O-1 GENERAL OFFICE AND O-2 SPECIALIZED OFFICE ZONING DISTRICTS

THE CITY OF MASON ORDAINS:

Chapter 94 of the Mason City Code is hereby amended by adding residential uses to Sec. 94-131 and Sec. 94-132, which amended, article shall read as follows:

Chapter 94 Zoning

Sec. 94-131. 0-1: General office district

- (a) *Intent and purpose.* It is the primary purpose of this district to provide opportunities for business establishments that are predominantly comprised of professional offices, medical offices, administrative offices, and other businesses of a similar office character.
- (b) *Uses permitted by right.*
- (1) Offices for attorneys, accountants, architects, engineers, and similar professions.
 - (2) Offices for financial institutions, real estate offices, insurance offices, investment brokers, credit reporting agencies, business management and consulting, information technology services and consulting, and similar business offices.
 - (3) Photographic studios.
 - (4) Professional services establishments providing human health care on an outpatient basis.
 - (5) Medical, optical and dental offices and laboratories.
 - (6) Offices for non-profit organizations, professional associations, labor unions, civic-social-fraternal organizations, political organizations, and religious organizations.
 - (7) Music, dance, or performing arts studios.
 - (8) Personal service establishments.
 - (9) Single family residences (refer to section 94-123)**
 - (10) Two-family residences (refer to section 94-124).**
- (c) *Permitted accessory uses.*
- (1) Accessory uses and structures as defined in this chapter.
 - (2) Automatic teller machines (walk-up only).
- (d) *Uses authorized by special use permit.*
- (1) Religious institutions and structures for religious worship (refer to section [94-192\(8\)](#)).
 - (2) Day care facility or foster care facility providing care for more than six but not more than 12 individuals in a state licensed residential facility, except adult foster care facilities for care and

treatment of persons released from or assigned to or at adult correctional facilities (refer to section [94-192\(8\)](#)).

- (3) Public buildings including nonresidential governmental, utility, or public service use excluding storage yards, transformer stations, and substations (refer to section [94-192\(8\)](#)).
- (4) Public or private educational structures or uses (refer to section [94-192\(8\)](#)).
- (5) Mortuaries and funeral homes (not including crematories).
- (6) Research, development, and prototype manufacturing.
- (7) Any use permitted in this district involving one or more structures that occupy, either individually or collectively, more than 15,000 square feet of gross floor area.

(8) Multiple-family residences (refer to section 94-125).

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section [94-121\(c\)](#) of this chapter

Sec. 94-132. O-2: Specialized office district.

(a) *Intent and purpose.* It is the primary purpose of this district to provide in areas of a predominantly residential character, opportunities for office establishments which, because of the uses authorized and the required site development standards, are deemed compatible with such residential areas and which may be a benefit to such areas as a result of the services provided.

(b) *Uses permitted by right.*

- (1) Offices for professional practitioners in the component fields of medicine, dentistry, psychiatry, and psychology including practitioners committed to ministering to individual and community health. These offices can include group or clinical practice and therapeutic paramedical services.
- (2) Offices for the practice of law, professional services, business services, scientific endeavors, creative activities, and the operation of professional associations, societies, and institutes.

(3) Single family residences (refer to section 94-123).

(c) *Permitted accessory uses.* Accessory uses and structures as defined in this chapter.

(d) *Uses authorized by special use permit.*

- (1) Day care facility or foster care facility providing care for more than six but not more than 12 individuals in a state licensed residential facility, except adult foster care facilities for care and treatment of persons released from or assigned to or at adult correctional facilities (refer to section [94-192\(8\)](#)).

(2) Two-family residences (refer to section 94-124)

~~(2) Owner occupied single family residential use when attached to a permitted office use.~~

- (3) Bed and breakfast (refer to section [94-192\(7\)](#)).

- (4) Any use permitted in this district involving one or more structures that occupy, either individually or collectively, more than 15,000 square feet of gross floor area.

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section [94-121\(c\)](#) of this chapter.

(f) *Uses specifically prohibited.* Consistent with the specialized purpose of this district, the following uses are specifically prohibited.

- (1) Veterinary clinics.
- (2) Hospitals, sanitariums, nursing homes, adult foster care large group home (13 to 20 individuals), and adult foster care congregate facility (more than 20 individuals).
- (3) Retail sales and services.
- (4) Personal services such as hair, cosmetic, and body care.

- (5) Materials processing such as photo labs, chemical and testing labs.
- (6) Mortuaries and funeral homes.
- (7) Any land use which produces noise, glare, vibration, or odor at the property line.
- (8) Any land use which generates vehicular and/or pedestrian movement in excess of that which is normally prevailing in the district or adjoining districts.

Sunset Provision. None.

Effective Date. This ordinance shall take effect immediately upon publication of the notice of adoption in a newspaper of general circulation within the city.

The foregoing Ordinance was moved for adoption by Council Member _____ and supported by Council Member _____, with a vote thereon being: YES () NO (), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the _____ day of _____, 2018. Ordinance No. 218 declared adopted this _____ day of _____, 2018.

Russell Whipple, Mayor

Sarah J. Jarvis, City Clerk

Introduced: May 7, 2018
First Reading: May 7, 2018
Second Reading: _____
Adopted: _____
Effective: _____

CITY OF MASON

OFFICE DISTRICT REGULATION

AN ORDINANCE TO AMEND CHAPTER 94 – ZONING – BY ADDING RESIDENTIAL USES TO O-1 GENERAL OFFICE AND O-2 SPECIALIZED OFFICE ZONING DISTRICTS

THE CITY OF MASON ORDAINS:

Chapter 94 of the Mason City Code is hereby amended by adding residential uses to Sec. 94-131 and Sec. 94-132, which amended, article shall read as follows:

Chapter 94 Zoning

Sec. 94-131. 0-1: General office district

- (a) *Intent and purpose.* It is the primary purpose of this district to provide opportunities for business establishments that are predominantly comprised of professional offices, medical offices, administrative offices, and other businesses of a similar office character.
- (b) *Uses permitted by right.*
- (1) Offices for attorneys, accountants, architects, engineers, and similar professions.
 - (2) Offices for financial institutions, real estate offices, insurance offices, investment brokers, credit reporting agencies, business management and consulting, information technology services and consulting, and similar business offices.
 - (3) Photographic studios.
 - (4) Professional services establishments providing human health care on an outpatient basis.
 - (5) Medical, optical and dental offices and laboratories.
 - (6) Offices for non-profit organizations, professional associations, labor unions, civic-social-fraternal organizations, political organizations, and religious organizations.
 - (7) Music, dance, or performing arts studios.
 - (8) Personal service establishments.
 - (9) Single family residences (refer to section 94-123)
 - (10) Two-family residences (refer to section 94-124).
- (c) *Permitted accessory uses.*
- (1) Accessory uses and structures as defined in this chapter.
 - (2) Automatic teller machines (walk-up only).
- (d) *Uses authorized by special use permit.*
- (1) Religious institutions and structures for religious worship (refer to section [94-192\(8\)](#)).
 - (2) Day care facility or foster care facility providing care for more than six but not more than 12 individuals in a state licensed residential facility, except adult foster care facilities for care and

treatment of persons released from or assigned to or at adult correctional facilities (refer to section [94-192\(8\)](#)).

- (3) Public buildings including nonresidential governmental, utility, or public service use excluding storage yards, transformer stations, and substations (refer to section [94-192\(8\)](#)).
- (4) Public or private educational structures or uses (refer to section [94-192\(8\)](#)).
- (5) Mortuaries and funeral homes (not including crematories).
- (6) Research, development, and prototype manufacturing.
- (7) Any use permitted in this district involving one or more structures that occupy, either individually or collectively, more than 15,000 square feet of gross floor area.
- (8) Multiple-family residences (refer to section 94-125).

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section [94-121\(c\)](#) of this chapter

Sec. 94-132. O-2: Specialized office district.

(a) *Intent and purpose.* It is the primary purpose of this district to provide in areas of a predominantly residential character, opportunities for office establishments which, because of the uses authorized and the required site development standards, are deemed compatible with such residential areas and which may be a benefit to such areas as a result of the services provided.

(b) *Uses permitted by right.*

- (1) Offices for professional practitioners in the component fields of medicine, dentistry, psychiatry, and psychology including practitioners committed to ministering to individual and community health. These offices can include group or clinical practice and therapeutic paramedical services.
- (2) Offices for the practice of law, professional services, business services, scientific endeavors, creative activities, and the operation of professional associations, societies, and institutes.
- (3) Single family residences (refer to section 94-123).

(c) *Permitted accessory uses.* Accessory uses and structures as defined in this chapter.

(d) *Uses authorized by special use permit.*

- (1) Day care facility or foster care facility providing care for more than six but not more than 12 individuals in a state licensed residential facility, except adult foster care facilities for care and treatment of persons released from or assigned to or at adult correctional facilities (refer to section [94-192\(8\)](#)).
- (2) Two-family residences (refer to section 94-124)
- (3) Bed and breakfast (refer to section [94-192\(7\)](#)).
- (4) Any use permitted in this district involving one or more structures that occupy, either individually or collectively, more than 15,000 square feet of gross floor area.

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter.

(f) *Uses specifically prohibited.* Consistent with the specialized purpose of this district, the following uses are specifically prohibited.

- (1) Veterinary clinics.
- (2) Hospitals, sanitariums, nursing homes, adult foster care large group home (13 to 20 individuals), and adult foster care congregate facility (more than 20 individuals).
- (3) Retail sales and services.
- (4) Personal services such as hair, cosmetic, and body care.
- (5) Materials processing such as photo labs, chemical and testing labs.

- (6) Mortuaries and funeral homes.
- (7) Any land use which produces noise, glare, vibration, or odor at the property line.
- (8) Any land use which generates vehicular and/or pedestrian movement in excess of that which is normally prevailing in the district or adjoining districts.

Sunset Provision. None.

Effective Date. This ordinance shall take effect immediately upon publication of the notice of adoption in a newspaper of general circulation within the city.

The foregoing Ordinance was moved for adoption by Council Member _____ and supported by Council Member _____, with a vote thereon being: YES () NO (), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the _____ day of _____, 2018. Ordinance No. 218 declared adopted this _____ day of _____, 2018.

Russell Whipple, Mayor

Sarah J. Jarvis, City Clerk



STAFF AGENDA REPORT TO PLANNING COMMISSION

Meeting: May 15, 2018

Agenda Item: 5C

AGENDA ITEM:

Public Hearing for Ordinance 219 to Amend Chapter 94 – Zoning – of the Code of the City of Mason by repealing and replacing Article XI Zoning Board of Appeals (ZBA).

RECOMMENDED ACTION

Move to approve Resolution No. 2018-06 recommending City Council adopt ordinance 219 amending the text of Chapter 94 Article XI Zoning Board of Appeals (ZBA).

HISTORY

The Community Development Director is requesting an amendment to the Mason Zoning Ordinance that will repeal and replace Article XI Zoning Board of Appeals (ZBA).

As stated in the Landplan report dated November 22, 2017 (attached), “the overall intent of this updated Article is to provide City/ZBA officials, applicants and the general public with a clearer set of ZBA procedures and standards of review, and to address important matters about which the current Article XI is silent. An effort has been made to make the provisions more concise where practical and to expand the provisions where deemed beneficial. Draft Sections 94-365, 94-366 and 94-367 address, in a consistent and systematic manner and format, the authority, procedures and standards for the consideration of appeals of administrative decisions, interpretations, and variances – the three principal duties of the ZBA.”

The new Article XI will be more consistent with the Michigan Zoning Enabling Act and result in more legally defensible ZBA decisions should they be challenged.

SUMMARY

Authority

Chapter 94 Article XII. Amendments of the Mason Code Section 94-391 provides for amendments to the zoning chapter initiated by the city council or by the planning commission.

The Michigan Zoning Enabling Act, which the City of Mason has adopted, authorizes municipalities to adopt and amend zoning ordinances.

Urgency: None

Relation to Other Actions: City Council will proceed with a second reading and consideration of the Planning Commission’s recommendation at the next meeting following the Planning Commission’s decision.

FISCAL IMPACT

Current Budget: None.

Future Budget: None.

ADDITIONAL MATERIAL

Proposed Ordinance 219

Planning Commission Resolution No. 2018-06

Landplan Summary date November 22, 2017

**CITY OF MASON
PLANNING COMMISSION RESOLUTION NO. 2018-06**

**A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT
ORDINANCE NO 219 – AN ORDINANCE TO AMEND CHAPTER 94—
ZONING – OF THE CODE OF THE CITY OF MASON TO REPEAL AND
REPLACE ARTICLE XI ZONING BOARD OF APPEALS (ZBA).**

May 15, 2018

WHEREAS, the Community Development Director has requested an amendment to the Mason Zoning Ordinance to repeal and replace Chapter 94-Zoning Article XI Zoning Board of Appeals (ZBA); and

WHEREAS, the Planning Commission finds that proposed Ordinance 219 is consistent with the Section 94-396(a) and offers the following as findings of fact:

- 1. Compliance with the Master Plan of the city.** The proposed amendment will improve transparency and be more consistent with the Michigan Zoning Enabling Act which grants the City of Mason its authority to carry out the implementation and enforcement of the Master Plan through the development of a zoning ordinance and zoning districts.
- 2. What, if any, identifiable conditions related to the proposed amendment have changed which justify the proposed amendment?** There does not appear to be any changes in the vicinity.
- 3. What, if any, error in judgment, procedure or administration was made in the original chapter which justifies the petitioner's change in zoning?** There is no known error of this sort.
- 4. What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?** The proposed amendment will be more consistent with the Michigan Zoning Enabling Act and provide a clearer set of ZBA procedures and standards of review for the City/ZBA, officials, applicants and the general public. This in turn will strengthen the decisions of the ZBA should they face legal challenges.
- 5. What is the impact of the amendment on the ability of the City and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the petition is approved?** There are no known impacts.
- 6. Does the proposed amendment adversely affect the value of the surrounding property?** The proposed amendment is not site specific.
- 7. Are there any significant environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built?** There are no known environmental impacts associated with the proposed amendment.
- 8. The ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located.** The proposed amendment is not site specific.

NOW THEREFORE BE IT RESOLVED, that the City of Mason Planning Commission does hereby recommend that the City Council adopt Ordinance No. 219 – an ordinance to amend Chapter 94 – Zoning – of the Code of the City of Mason to repeal and replace Article XI Zoning Board of Appeals (ZBA).

Yes ()

No ()

Absent ()

Sarah J. Jarvis, City Clerk
City of Mason
Ingham County, Michigan

Date: November 22, 2017

To: Elizabeth Hude, AICP, City of Mason Community Development Director

From: Mark A. Eidelson, AICP

Re: ***Zoning Ordinance Amendment – Article XI, Zoning Board of Appeals (ZBA)***

The following presents an initial draft of a new Article XI of the Zoning Ordinance, addressing the Zoning Board of Appeals (ZBA). The overall intent of this updated Article is to provide City/ZBA officials, applicants and the general public with a clearer set of ZBA procedures and standards of review, and to address important matters about which the current Article XI is silent. An effort has been made to make the provisions more concise where practical and to expand the provisions where deemed beneficial. Draft Sections 94-365, 94-366 and 94-367 address, in a consistent and systematic manner and format, the authority, procedures and standards for the consideration of appeals of administrative decisions, interpretations, and variances – the three principal duties of the ZBA.

Please note the following:

- 1) In all relevant subsections of this updated Article, the draft provisions require the submittal of a minimum of ten copies of an application except where the Community Development Director permits a lesser number. The current Article XI is silent on this matter.
- 2) Draft Sec. 94-361 presents a purpose statement for the Article, something that is recommended for all major sections of a zoning ordinance but which the current Zoning Ordinance does on a sporadic basis. The current Article XI is void of a purpose statement.
- 3) Draft Sec. 94-362 and Sec. 94-363 incorporate the Michigan Zoning Enabling Act's (MZEA) requirements regarding ZBA membership, meetings, conflict of interest, alternate members and other general matters. The provisions carry forward the current sitting ZBA. The provisions are substantively similar to the current Sections 94-361 and Sec. 94-362 except as follows:
 - The substance of current Sec. 94-361(4), regarding participation by dual members, has been relocated to draft Sec. 94-365(c)(5), which addresses administrative appeals specifically. This dual participation matter is specific to administrative appeals and it is for this reason that these provisions have been placed in draft Sec. 94-365(c)(5).
 - Draft Sec. 94-363(a) requires that the ZBA adopt rules of procedures (bylaws). The MZEA implies that such rules may be adopted but does not require so. The draft provisions make it mandatory because of the importance of having an official set of procedures to ensure consistency in operations including meetings, hearings, addressing conflicts of interest, and related matters.
 - Draft Sec. 94-363(a) requires that ZBA to annually elect a chairperson, vice-chairperson, and secretary, a matter about which the current ZBA provisions are silent. The MZEA implies that a chairperson will be selected but makes no specific requirements for the election of any officers. It is recommended to elect a chairperson, vice-chairperson, and secretary.

- Draft Sec. 94-363(b) requires that ZBA meetings comply with the Open Meetings Act, a matter about which the current ZBA provisions are silent.
 - Draft Sec. 94-363(e) does not require that the record of a case include an affidavit of publication of a hearing notice as this is no longer required by the MZEA. The city is free to continue this practice but it may not want to make it mandatory under the Article as it currently does.
 - Draft Sec. 94-363(g) requires that the ZBA must act on a complete application within 60 days. The current provisions merely provide that action shall occur “*within a reasonable time.*” The proposed text is clearer, not open to variable interpretations, and better ensures reasonable due process.
- 4) Draft Sec. 94-365 addresses administrative appeals. These provisions are substantively similar to the current Section 94-364 except as follows:
- Draft Sec. 94-365(a) specifies certain minimum information that must be submitted as part of an application, a matter about which the current Article XI is silent.
 - Draft Sec. 94-365(b) presents standards by which an administrative appeal is to be evaluated. The current provisions are silent on the matter of standards. The standards are based on case law.
 - Draft Sec. 94-365(c)(3)(a) prohibits the ZBA from considering new information which had not been presented to the administrative official or body that made the decision subject to the appeal, except only after the ZBA first remands the matter back to the body that made the original administrative decision. The current Article XI is silent on this matter.
- 5) Draft Sec. 94-366 addresses ZBA interpretations, a matter about which the current Article XI is largely silent despite interpretations being one of the primary responsibilities of the ZBA.
- 6) Draft Sec. 94-367 addresses variances. These provisions are substantively similar to the current Section 94-365 except as follows:
- The variance approval standards are more developed in the draft Sec. 94-367(b). This includes more descriptive text in the case of some of the standards as well as the introduction of two new standards – a variance shall apply only to the property described in the application and that, without the requested variance, the owner would be prohibited from using the property for a permitted purpose.
 - Draft Sec. 94-367(c) specifies certain minimum information that must be submitted as part of an application, a matter about which the current Article XI is silent. The draft provisions also emphasize the applicant’s responsibility to submit information in support of the application.
 - Draft Sec. 94-367(c)(3) specifies the minimum requirements for the content of a motion on the variance application.
 - Draft Sec. 94-367(c)(3) provides a more comprehensive set of provisions regarding the placement of conditions on an approval of a variance as compared to the current Sec. 94-365(d)(1). These provisions are largely excerpts from the MZEA.
 - Draft Sec. 94-367(d) provides that a variance shall become null and void unless the construction authorized by such variance has been commenced within 180 days after the granting of the variance, and there is a continuous good faith intention to continue construction to completion. The current Article XI is silent on this matter.
 - Draft Sec. 94-367(e) prohibits the resubmittal of a variance application following the initial denial for a minimum period on one year. The current provisions are silent on this matter.

- 7) Draft Sec. 94-368 is an excerpt from the MZEA and is included to highlight the significance of the ZBA's actions and the circuit court's responsibility when reviewing a ZBA decision. The current Article XI does not address this matter nor is it required to do so. The draft provisions apply irrespective of whether the Ordinance includes the provisions because the provisions are dictated by the MZEA.

I am available to meet with you and/or other city officials to review this material and respond to any questions and/or otherwise address revision issues.

Article XI

ZONING BOARD of APPEALS (ZBA)

Sec. 94-361. Purpose.

The purpose of this Article is to establish a Zoning Board of Appeals (ZBA) pursuant to Public Act 110 of 2006, as amended, including its responsibilities, procedures, and standards of review, to ensure that the objectives of this Ordinance are fully and equitably achieved.

Sec. 94-362. Creation and Membership.

(a) *Establishment and Appointment of Members:* The ZBA previously created under the City of Mason Zoning Ordinance, Ord. 152 of 2006, as amended, shall continue to function under this Ordinance, and each member shall remain in office until such time that the member is not reappointed or otherwise no longer eligible to serve. The ZBA is retained in accordance with Public Act 110 of 2006 as amended. The ZBA shall consist of seven (7) members, appointed by the City Council by majority vote. One (1) of the members shall be a member of the Planning Commission. One (1) regular or alternate member of a ZBA may be a member of the City Council but shall not serve as the chairperson. The remaining regular members, and any alternate members, shall be selected from the electors of the City residing within. The members selected shall be representative of the population distribution and of the various interests present in the City. An employee or contractor of the City Council may not serve as a member of the ZBA.

(b) *Alternate Members:* The City Council may appoint not more than two (2) alternate members to the ZBA. The alternate members shall be called on a rotating basis to sit as regular members of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings of the ZBA. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member shall serve on a case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the ZBA.

(c) *Terms of Appointment:* ZBA members, including alternate members, shall be appointed for three (3) year terms except in the case of a Planning Commission and/or City Council member serving on the ZBA, whose terms on the ZBA shall be limited to the time they are members of the Planning Commission or City Council. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired.

(d) *Removal from Office / Conflict of Interest:* A member of the ZBA may be removed by the City Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest constitutes malfeasance in office.

Sec. 94–363. Organization and General Procedures.

- (a) *Rules of Procedure and Officers:* The ZBA shall adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The ZBA shall annually elect from its members a chairperson, vice-chairperson, and secretary.
- (b) *Meetings and Quorum:* Meetings of the ZBA shall be held at the call of the chairperson and at such other times as the ZBA in its rules of procedure may specify. A majority of the regular membership of the ZBA shall comprise a quorum, being four (4) members, which may include an alternate member(s) sitting in for a regular member(s). The ZBA shall not conduct official business unless a quorum is present. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act, Public Act 267 of 1976, as amended.
- (c) *Oaths and Witnesses:* The chairperson may administer oaths and compel the attendance of witnesses.
- (d) *Minutes:* Minutes of all meetings shall be recorded and made available in accordance with the Michigan Open Meetings Act (MCL 15.261 et seq.) and shall contain the grounds of every determination made by the ZBA including all evidence and data considered, all findings of fact and conclusions drawn, the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the city clerk and shall be available to the public.
- (e) *Records:* The ZBA shall maintain a record of its proceedings which shall be filed in the office of the City Clerk, and shall be a public record according to the Freedom of Information Act. The record of proceedings for the ZBA shall contain the following information as applicable:
- (1) Minutes for all meetings during which an application is considered and a record of testimony heard and evidence or documents presented including any reports, plans, surveys and photos. See Sec. 94-363(d) regarding required content of minutes.
 - (2) The completed application for an appeal, variance, or interpretation.
 - (3) Notice of the public hearing.
 - (4) Letter from the zoning official granting or denying the application or referring it to the zoning board of appeals and all other relevant records related to the case.
 - (5) A copy of relevant sections of the zoning ordinance that may be in question.
 - (6) Briefs, correspondence or other communications made to the zoning board of appeals.
 - (7) A copy of correspondences to the appellant regarding the request.
- (f) *Legal Counsel:* The city attorney shall provide legal counsel to the ZBA when requested. The ZBA may retain other specialized legal counsel as it may deem necessary following approval by the city council.
- (g) *Timely Decisions and Effective Date:* The ZBA shall take action on an application within sixty (60) days of the receipt of a complete application except where the applicant and ZBA mutually agree to an extended time period, such as in the case of the need for additional information from the applicant. A decision of the ZBA shall not become final until the expiration of five days from the date of the decision unless the ZBA shall find the immediate effect of the decision is necessary to adequately preserve public health, safety and/or welfare, including the applicant specifically.
- (h) *Deferment of Decision:* When considering an appeal pursuant to subsection 94-365 or a variance pursuant to subsection 94-367, the ZBA shall defer all proceedings upon the request of the applicant when less than six members of the ZBA are present for consideration of and voting on said appeal or variance. The right of deferment shall be considered waived by the applicant if deferment is not requested immediately upon the opening of the hearing on the matter. When deferment is requested as required, the ZBA shall, at that time, determine the date of a future regular or special meeting for the continuation of the hearing and consideration of the matter. Notice of the rescheduled meeting and hearing made available during the initial meeting at which action is deferred shall constitute notice of the future hearing date with no further notice required except as may be otherwise required by the Open Meetings Act.

Sec. 94–364. Jurisdiction.

The ZBA shall act upon questions as they arise in the administration of this Ordinance and take other actions as specified in this Ordinance. The ZBA shall perform its duties and exercise its powers as provided in Public Act 110 of 2006, as amended. The ZBA shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but shall have the power to act on those matters so specified in this Ordinance including Ordinance interpretations, variances, and the review of an order, requirement, decision, or determination made by an administrative official or body charged with the administration or enforcement of this Ordinance.

Sec. 94–365. Appeals for Administrative Reviews

(a) *Authority:* The ZBA shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, or decision by the Zoning Administrator or by any other body or official in administering or enforcing the provisions of this Ordinance. Within this capacity the ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of such body or official. The ZBA shall have all the powers of the body or official that made the decision subject to the appeal. This authority shall not extend to decisions on Special Land Use applications and ordinance amendment petitions.

(b) *Standards:* The ZBA shall reverse or otherwise modify the decision of such body or official from whom the appeal is taken only if it finds that the action or decision appealed meets one (1) or more of the following:

- (1) Was arbitrary or capricious.
- (2) Was based upon an erroneous finding of a material fact.
- (3) Constituted an abuse of discretion.
- (4) Was based upon erroneous interpretation of the Zoning Ordinance or zoning law.
- (5) Did not follow required procedures.

(c) *Procedures:*

(1) *Application Requirements:*

a. *Processing:* A written application for an appeal shall be filed with the Community Development Director on a form established for such purpose, along with a fee as established by resolution of the city council. The application shall be submitted within twenty-one (21) days after the date of the meeting during which the meeting minutes addressing the decision being appealed was approved. The Director shall determine, pursuant to this Article, if the application is sufficiently complete including the required data and fee. If the application is determined to be incomplete, the Community Development Director shall return the application and fee to the applicant within seven days of receipt of the application, along with a written explanation of the application's deficiency. The Community Development Director shall forward complete applications to the ZBA.

b. *Content and Copies:* Application for an administrative review shall specify, at a minimum, the name, address, and phone number of the applicant; the decision being appealed; the basis for the appeal; and any additional information as may be required on the application form. A minimum of ten copies of the application shall be submitted unless the Community Development Director approves a lesser number.

(2) *Stay:* An appeal of an administrative decision shall stay all proceedings in furtherance of the action appealed unless the officer or body from whom the appeal is taken certifies to the ZBA, after the notice of appeal is filed, that by reason of facts stated in the certification, a stay would, in the opinion of the officer or body, cause imminent peril to life or property. If such a certification is filed, the proceedings shall only be stayed by a restraining order. A restraining order may be granted by the ZBA or by the circuit court, on application, on satisfactory demonstration of due cause.

(3) *Record of Facts / Transmission of Record:* Upon receipt of an application for administrative review, the Community Development Director shall transmit to the ZBA all papers constituting the record associated with the decision being appealed. In hearing and deciding administrative appeals, the ZBA's

review shall be based upon the record of the administrative decision being appealed.

a. The ZBA shall not consider new information which had not been presented to the administrative official or body that made the decision subject to the appeal except where the ZBA first remands the matter back to the body that made the original administrative decision with an order to consider the new information and affirm or modify its original decision.

(4) *Hearing:* Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Sec. 94-101. Upon the hearing, any party may appear in person or by agent or attorney. See subsection (5) regarding participation at the hearing by a member of the ZBA who is also a member of the Planning Commission or the City Council.

(5) *Decision:* The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA and basis for such determination, and shall be made part of the meeting minutes. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse or otherwise modify the action subject to the appeal. A member of the ZBA who is also a member of the Planning Commission or the City Council shall not participate in a public hearing, deliberation, or vote, on the same matter that the member voted on as a member of the Planning Commission or the City Council. However, the member may consider and vote on other unrelated matters involving the same property.

Sec. 94-366. Interpretations

(a) *Authority:* The ZBA shall hear and decide upon requests to interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning, including the determination of the precise location of the boundary lines between zoning districts, application of off-street parking requirements for a specific use, and whether a particular use is authorized in a particular district.

(b) *Standards:* In deciding on an interpretation, the ZBA shall be guided by the following:

(1) All interpretations shall take into account any relevant interpretations previously issued by the ZBA and any relevant past ordinance administration practices.

(2) Prior to deciding a request for an interpretation, the ZBA may confer with City staff and consultants to gain insight into the provision subject to interpretation and any consequences that may result from differing decisions.

(3) An interpretation shall be consistent with the intent and purpose of the Ordinance and the specific Article in which the language in question is contained.

(4) A text interpretation shall apply to the specific provision for which the interpretation is requested, and shall not extend to matters beyond such specific provision.

(5) A zoning district boundary interpretation shall be guided by the following:

a. Boundaries indicated as approximately following roads or highway shall be construed as following the center lines of said roads or highways.

b. Boundaries indicated as approximately following section lines, quarter section lines, quarter-quarter section lines, or lot lines shall be construed as following such lines.

c. Boundaries indicated as approximately following City boundary lines shall be construed as following such boundary lines.

d. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance there from as indicated on the Official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Official Zoning Map.

e. Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines. In the event of change in the shoreline, the boundary shall be construed as

moving with the actual shoreline. Boundaries indicated as approximately following the centerlines of streams, canals, or other water courses shall be construed to follow such centerlines.

f. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) districts, the subject land area shall be construed to be located in the “more restrictive district” and the regulations of such district shall govern. The “more restrictive district” shall be the district that places greater restrictions on development based on such factors as the scope of authorized uses, setbacks, lot coverage, and related development standards.

(c) Procedures:

(1) *Application Requirements:*

a. *Processing:* A written application for an interpretation shall be filed with the Community Development Director on a form established for such purpose, along with a fee as established by resolution of the city council. The Community Development Director shall determine, pursuant to this Article, if the application is sufficiently complete including the required data and fee. If the application is determined to be incomplete, Director shall return the application and fee to the applicant within seven days of receipt of the application, along with a written explanation of the application’s deficiency. The Director shall forward complete applications to the ZBA.

b. *Content and Copies:* Application for an interpretation shall specify, at a minimum, the name, address, and phone number of the applicant; the standard, regulation or provision requiring an interpretation; a plot plan, site plan, or similar drawing illustrating the application or relevance of such interpretation; and any additional information as may be required on the application form. A minimum of ten copies of the application shall be submitted unless the Community Development Director approves a lesser number.

(2) *Hearing:* Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Sec. 94-101. Upon the hearing, any party may appear in person or by agent or attorney.

(3) *Decision:* The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA, and basis for such determination, and shall be made part of the meeting minutes. The concurring vote of a majority of the members of the ZBA shall be necessary to make an interpretation. A decision providing an interpretation may be accompanied by a recommendation to the Planning Commission for consideration of an amendment of the Ordinance to address what the ZBA may find is a problematic aspect of the Ordinance.

Sec. 94–367. Variances

(a) *Authority:* The ZBA shall have the power to authorize specific variances from specific site development standards of this Ordinance, such as lot area and width requirements, building height and setback requirements, yard width and depth requirements, lot depth to width ratio requirements, off-street parking and loading space requirements, and sign requirements. The ZBA shall not have the power to authorize variances pertaining to permitted uses of land in a District.

(b) *Standards:* The ZBA shall have the power to authorize variances from specific site development requirements provided that all of the standards listed below are met and the record of proceedings of the ZBA contains evidence supporting each conclusion.

(1) That there are practical difficulties that prevent carrying out the strict letter of this Ordinance due to unique circumstances specific to the property such as its narrowness, shallowness, shape, or topography, that do not generally apply to other property or uses in the same district, and shall not be recurrent in nature. These difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular property.

(2) That the practical difficulty or special circumstance is not a result of the actions of the applicant.

- (3) That the variance will relate only to property described in the variance application.
- (4) That the variance will be in harmony with the purpose of this Ordinance and the intent of the District, including the protection of public health, safety and welfare in general and vehicular and pedestrian circulation specifically.
- (5) That the variance will not cause a substantial adverse effect upon surrounding property including property values and the development, use and enjoyment of property in the neighborhood or District.
- (6) That strict compliance with the site development requirement in question would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
- (7) That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the practical difficulty.

(c) *Procedures*

(1) *Application Requirements:*

a. *Processing:* A written application for a variance shall be filed with the Community Development Director on a form established for such purpose, along with a fee as established by resolution of the city council. The Community Development Director shall determine, pursuant to this Article, if the application is sufficiently complete including the required data and fee. If the application is determined to be incomplete, the Director shall return the application and fee to the applicant within seven days of receipt of the application, along with a written explanation of the application's deficiency. The Director shall forward complete applications to the ZBA.

b. *Content and Copies:* Application for a variance shall specify, at a minimum, the name, address, and phone number of the applicant; the legal description for the lot subject to the variance; a specification of the Ordinance's standards for which a variance is sought and the specific variance being requested; and a plot plan, site plan, elevation drawing or similar drawing prepared by a registered land surveyor or registered engineer that clearly illustrates property lines, property line bearings and dimensions, existing buildings and structures; the proposed improvements to the lot for which the variance is requested; and any additional information as may be required on the application form. A minimum of ten copies of the application shall be submitted unless the Community Development Director approves a lesser number.

c. *Applicant's Responsibility:* It shall be the responsibility of the applicant to provide any information the applicant may find beneficial in demonstrating conformance with the standards of subsection 94-367(b).

(2) *Hearing:* Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Sec. 94-101. Upon the hearing, any party may appear in person or by agent or attorney.

(3) *Decision:* The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA, and basis for such determination, and shall be made part of the meeting minutes. The concurring vote of a majority of the members of the ZBA shall be necessary to grant a variance.

a. *Conditions:* In granting a variance, the ZBA may prescribe appropriate conditions the conditions may be intended to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. All conditions shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the ZBA and the applicant. The ZBA shall maintain a record of conditions that are changed. Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

b. *Performance Guarantee:* The ZBA may require that a performance guarantee be furnished as a condition of approval in granting a variance, in accordance with section 94-100.

(d) *Time Restriction/Voidance:* A variance shall become null and void unless the construction authorized by such variance has been commenced within one-hundred eighty (180) days after the granting of the variance, and there is a continuous good faith intention to continue construction to completion. The ZBA may extend this time limit upon its finding that no substantial changes have occurred to ordinance regulations, abutting properties, or other conditions that undermine the basis for the original issuance of the variance.

(e) *Resubmittal:* No application for a variance that has been acted upon shall be resubmitted for a period of one (1) year from the date of denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the original denial, in the discretion of the ZBA.

Section 94-368 Review by Circuit Court

(a) *Circuit Court Review:* The decision of the ZBA shall be final. However, any party aggrieved by an order, determination or decision of the ZBA may obtain a review thereof in the Circuit Court provided that application is made to the Court within thirty (30) days after the ZBA issues its decision in writing signed by the chairperson, or within twenty-one (21) days after the ZBA approves the minutes of its decision. The Circuit Court shall review the record and decision of the ZBA to insure that the decision:

- (1) Complies with the constitution and laws of the State.
- (2) Is based upon proper procedure.
- (3) Is supported by competent, material, and substantial evidence on the record.
- (4) Represents the reasonable exercise of discretion granted by law to the ZBA.

| | |
|-----------------|-------------|
| Introduced: | May 7, 2018 |
| First Reading: | May 7, 2018 |
| Second Reading: | _____ |
| Adopted: | _____ |
| Effective: | _____ |

CITY OF MASON

ZONING BOARD OF APPEALS REGULATION

AN ORDINANCE TO AMEND CHAPTER 94 – ZONING – BY
REPEALING AND REPLACING ARTICLE XI – ZONING
BOARD OF APPEALS (ZBA).

THE CITY OF MASON ORDAINS:

Chapter 94 of the Mason City Code is hereby amended by repealing the current Article XI in full and replacing it in full, which amended, article shall read as follows:

Article XI ZONING BOARD of APPEALS (ZBA)

Sec. 94–361. Purpose.

The purpose of this Article is to establish a Zoning Board of Appeals (ZBA) pursuant to Public Act 110 of 2006, as amended, including its responsibilities, procedures, and standards of review, to ensure that the objectives of this Ordinance are fully and equitably achieved.

Sec. 94–362. Creation and Membership.

(a) *Establishment and Appointment of Members:* The ZBA previously created under the City of Mason Zoning Ordinance, Ord. 152 of 2006, as amended, shall continue to function under this Ordinance, and each member shall remain in office until such time that the member is not reappointed or otherwise no longer eligible to serve. The ZBA is retained in accordance with Public Act 110 of 2006 as amended. The ZBA shall consist of seven (7) members, appointed by the City Council by majority vote. One (1) of the members shall be a member of the Planning Commission. One (1) regular or alternate member of a ZBA may be a member of the City Council but shall not serve as the chairperson. The remaining regular members, and any alternate members, shall be selected from the electors of the City residing within. The members selected shall be representative of the population distribution and of the various interests present in the City. An employee or contractor of the City Council may not serve as a member of the ZBA.

(b) *Alternate Members:* The City Council may appoint not more than two (2) alternate members to the ZBA. The alternate members shall be called on a rotating basis to sit as regular members of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings of the ZBA. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member shall serve on a case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the ZBA.

(c) *Terms of Appointment:* ZBA members, including alternate members, shall be appointed for three (3) year terms except in the case of a Planning Commission and/or City Council member serving on the ZBA, whose terms on the ZBA shall be limited to the time they are members of the Planning Commission

or City Council. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired.

(d) *Removal from Office / Conflict of Interest:* A member of the ZBA may be removed by the City Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest constitutes malfeasance in office.

Sec. 94-363. Organization and General Procedures.

(a) *Rules of Procedure and Officers:* The ZBA shall adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The ZBA shall annually elect from its members a chairperson, vice-chairperson, and secretary.

(b) *Meetings and Quorum:* Meetings of the ZBA shall be held at the call of the chairperson and at such other times as the ZBA in its rules of procedure may specify. A majority of the regular membership of the ZBA shall comprise a quorum, being four (4) members, which may include an alternate member(s) sitting in for a regular member(s). The ZBA shall not conduct official business unless a quorum is present. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act, Public Act 267 of 1976, as amended.

(c) *Oaths and Witnesses:* The chairperson may administer oaths and compel the attendance of witnesses.

(d) *Minutes:* Minutes of all meetings shall be recorded and made available in accordance with the Michigan Open Meetings Act (MCL 15.261 et seq.) and shall contain the grounds of every determination made by the ZBA including all evidence and data considered, all findings of fact and conclusions drawn, the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the city clerk and shall be available to the public.

(e) *Records:* The ZBA shall maintain a record of its proceedings which shall be filed in the office of the City Clerk, and shall be a public record according to the Freedom of Information Act. The record of proceedings for the ZBA shall contain the following information as applicable:

- (1) Minutes for all meetings during which an application is considered and a record of testimony heard and evidence or documents presented including any reports, plans, surveys and photos. See Sec. 94-363(d) regarding required content of minutes.
- (2) The completed application for an appeal, variance, or interpretation.
- (3) Notice of the public hearing.
- (4) Letter from the zoning official granting or denying the application or referring it to the zoning board of appeals and all other relevant records related to the case.
- (5) A copy of relevant sections of the zoning ordinance that may be in question.
- (6) Briefs, correspondence or other communications made to the zoning board of appeals.
- (7) A copy of correspondences to the appellant regarding the request.

(f) *Legal Counsel:* The city attorney shall provide legal counsel to the ZBA when requested. The ZBA may retain other specialized legal counsel as it may deem necessary following approval by the city council.

(g) *Timely Decisions and Effective Date:* The ZBA shall take action on an application within sixty (60) days of the receipt of a complete application except where the applicant and ZBA mutually agree to an extended time period, such as in the case of the need for additional information from the applicant. A decision of the ZBA shall not become final until the expiration of five days from the date of the decision unless the ZBA shall find the immediate effect of the decision is necessary to adequately preserve public health, safety and/or welfare, including the applicant specifically.

(h) *Deferment of Decision:* When considering an appeal pursuant to subsection 94-365 or a variance pursuant to subsection 94-367, the ZBA shall defer all proceedings upon the request of the applicant when less than six members of the ZBA are present for consideration of and voting on said appeal or variance. The right of deferment shall be considered waived by the applicant if deferment is not requested immediately upon the opening of the hearing on the matter. When deferment is requested as required, the ZBA shall, at that time, determine the date of a future regular or special meeting for the continuation of the hearing and consideration of the matter. Notice of the rescheduled meeting and hearing made available during the initial meeting at which action is deferred shall constitute notice of the future hearing date with no further notice required except as may be otherwise required by the Open Meetings Act.

Sec. 94-364. Jurisdiction.

The ZBA shall act upon questions as they arise in the administration of this Ordinance and take other actions as specified in this Ordinance. The ZBA shall perform its duties and exercise its powers as provided in Public Act 110 of 2006, as amended. The ZBA shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but shall have the power to act on those matters so specified in this Ordinance including Ordinance interpretations, variances, and the review of an order, requirement, decision, or determination made by an administrative official or body charged with the administration or enforcement of this Ordinance.

Sec. 94-365. Appeals for Administrative Reviews

(a) *Authority:* The ZBA shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, or decision by the Zoning Administrator or by any other body or official in administering or enforcing the provisions of this Ordinance. Within this capacity the ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of such body or official. The ZBA shall have all the powers of the body or official that made the decision subject to the appeal. This authority shall not extend to decisions on Special Land Use applications and ordinance amendment petitions.

(b) *Standards:* The ZBA shall reverse or otherwise modify the decision of such body or official from whom the appeal is taken only if it finds that the action or decision appealed meets one (1) or more of the following:

- (1) Was arbitrary or capricious.
- (2) Was based upon an erroneous finding of a material fact.
- (3) Constituted an abuse of discretion.
- (4) Was based upon erroneous interpretation of the Zoning Ordinance or zoning law.
- (5) Did not follow required procedures.

(c) *Procedures:*

(1) *Application Requirements:*

a. *Processing:* A written application for an appeal shall be filed with the Community Development Director on a form established for such purpose, along with a fee as established by resolution of the city council. The application shall be submitted within twenty-one (21) days after the date of the meeting during which the meeting minutes addressing the decision being appealed was approved. The Director shall determine, pursuant to this Article, if the application is sufficiently complete including the required data and fee. If the application is determined to be incomplete, the Community Development Director shall return the application and fee to the applicant within seven days of receipt of the application, along with a written explanation of the application's deficiency. The Community Development Director shall forward complete applications to the ZBA.

- b. *Content and Copies:* Application for an administrative review shall specify, at a minimum, the name, address, and phone number of the applicant; the decision being appealed; the basis for the appeal; and any additional information as may be required on the application form. A minimum of ten copies of the application shall be submitted unless the Community Development Director approves a lesser number.
- (2) *Stay:* An appeal of an administrative decision shall stay all proceedings in furtherance of the action appealed unless the officer or body from whom the appeal is taken certifies to the ZBA, after the notice of appeal is filed, that by reason of facts stated in the certification, a stay would, in the opinion of the officer or body, cause imminent peril to life or property. If such a certification is filed, the proceedings shall only be stayed by a restraining order. A restraining order may be granted by the ZBA or by the circuit court, on application, on satisfactory demonstration of due cause.
- (3) *Record of Facts / Transmission of Record:* Upon receipt of an application for administrative review, the Community Development Director shall transmit to the ZBA all papers constituting the record associated with the decision being appealed. In hearing and deciding administrative appeals, the ZBA's review shall be based upon the record of the administrative decision being appealed.
- a. The ZBA shall not consider new information which had not been presented to the administrative official or body that made the decision subject to the appeal except where the ZBA first remands the matter back to the body that made the original administrative decision with an order to consider the new information and affirm or modify its original decision.
- (4) *Hearing:* Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Sec. 94-101. Upon the hearing, any party may appear in person or by agent or attorney. See subsection (5) regarding participation at the hearing by a member of the ZBA who is also a member of the Planning Commission or the City Council.
- (5) *Decision:* The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA and basis for such determination, and shall be made part of the meeting minutes. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse or otherwise modify the action subject to the appeal. A member of the ZBA who is also a member of the Planning Commission or the City Council shall not participate in a public hearing, deliberation, or vote, on the same matter that the member voted on as a member of the Planning Commission or the City Council. However, the member may consider and vote on other unrelated matters involving the same property.

Sec. 94-366. Interpretations

- (a) *Authority:* The ZBA shall hear and decide upon requests to interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning, including the determination of the precise location of the boundary lines between zoning districts, application of off-street parking requirements for a specific use, and whether a particular use is authorized in a particular district.
- (b) *Standards:* In deciding on an interpretation, the ZBA shall be guided by the following:
- (1) All interpretations shall take into account any relevant interpretations previously issued by the ZBA and any relevant past ordinance administration practices.
- (2) Prior to deciding a request for an interpretation, the ZBA may confer with City staff and consultants to gain insight into the provision subject to interpretation and any consequences that may result from differing decisions.
- (3) An interpretation shall be consistent with the intent and purpose of the Ordinance and the specific Article in which the language in question is contained.

- (4) A text interpretation shall apply to the specific provision for which the interpretation is requested, and shall not extend to matters beyond such specific provision.
- (5) A zoning district boundary interpretation shall be guided by the following:
- a. Boundaries indicated as approximately following roads or highway shall be construed as following the center lines of said roads or highways.
 - b. Boundaries indicated as approximately following section lines, quarter section lines, quarter-quarter section lines, or lot lines shall be construed as following such lines.
 - c. Boundaries indicated as approximately following City boundary lines shall be construed as following such boundary lines.
 - d. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance there from as indicated on the Official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Official Zoning Map.
 - e. Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines. In the event of change in the shoreline, the boundary shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerlines of streams, canals, or other water courses shall be construed to follow such centerlines.
 - f. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) districts, the subject land area shall be construed to be located in the “more restrictive district” and the regulations of such district shall govern. The “more restrictive district” shall be the district that places greater restrictions on development based on such factors as the scope of authorized uses, setbacks, lot coverage, and related development standards.

(c) Procedures:

(1) *Application Requirements:*

- a. *Processing:* A written application for an interpretation shall be filed with the Community Development Director on a form established for such purpose, along with a fee as established by resolution of the city council. The Community Development Director shall determine, pursuant to this Article, if the application is sufficiently complete including the required data and fee. If the application is determined to be incomplete, Director shall return the application and fee to the applicant within seven days of receipt of the application, along with a written explanation of the application’s deficiency. The Director shall forward complete applications to the ZBA.
 - b. *Content and Copies:* Application for an interpretation shall specify, at a minimum, the name, address, and phone number of the applicant; the standard, regulation or provision requiring an interpretation; a plot plan, site plan, or similar drawing illustrating the application or relevance of such interpretation; and any additional information as may be required on the application form. A minimum of ten copies of the application shall be submitted unless the Community Development Director approves a lesser number.
- (2) *Hearing:* Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Sec. 94-101. Upon the hearing, any party may appear in person or by agent or attorney.
- (3) *Decision:* The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA, and basis for such determination, and shall be made part of the meeting minutes. The concurring vote of a majority of the members of the ZBA shall be necessary to make an interpretation. A decision providing an interpretation may be accompanied

by a recommendation to the Planning Commission for consideration of an amendment of the Ordinance to address what the ZBA may find is a problematic aspect of the Ordinance.

Sec. 94–367. Variances

(a) *Authority:* The ZBA shall have the power to authorize specific variances from specific site development standards of this Ordinance, such as lot area and width requirements, building height and setback requirements, yard width and depth requirements, lot depth to width ratio requirements, off-street parking and loading space requirements, and sign requirements. The ZBA shall not have the power to authorize variances pertaining to permitted uses of land in a District.

(b) *Standards:* The ZBA shall have the power to authorize variances from specific site development requirements provided that all of the standards listed below are met and the record of proceedings of the ZBA contains evidence supporting each conclusion.

(1) That there are practical difficulties that prevent carrying out the strict letter of this Ordinance due to unique circumstances specific to the property such as its narrowness, shallowness, shape, or topography, that do not generally apply to other property or uses in the same district, and shall not be recurrent in nature. These difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular property.

(2) That the practical difficulty or special circumstance is not a result of the actions of the applicant.

(3) That the variance will relate only to property described in the variance application.

(4) That the variance will be in harmony with the purpose of this Ordinance and the intent of the District, including the protection of public health, safety and welfare in general and vehicular and pedestrian circulation specifically.

(5) That the variance will not cause a substantial adverse effect upon surrounding property including property values and the development, use and enjoyment of property in the neighborhood or District.

(6) That strict compliance with the site development requirement in question would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

(7) That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the practical difficulty.

(c) *Procedures*

(1) *Application Requirements:*

a. *Processing:* A written application for a variance shall be filed with the Community Development Director on a form established for such purpose, along with a fee as established by resolution of the city council. The Community Development Director shall determine, pursuant to this Article, if the application is sufficiently complete including the required data and fee. If the application is determined to be incomplete, the Director shall return the application and fee to the applicant within seven days of receipt of the application, along with a written explanation of the application's deficiency. The Director shall forward complete applications to the ZBA.

b. *Content and Copies:* Application for a variance shall specify, at a minimum, the name, address, and phone number of the applicant; the legal description for the lot subject to the variance; a specification of the Ordinance's standards for which a variance is sought and the specific variance being requested; and a plot plan, site plan, elevation drawing or similar drawing prepared by a registered land surveyor or registered engineer that clearly illustrates property lines, property line bearings and dimensions, existing buildings and structures; the proposed improvements to the lot for which the variance is requested; and any additional

information as may be required on the application form. A minimum of ten copies of the application shall be submitted unless the Community Development Director approves a lesser number.

c. *Applicant's Responsibility:* It shall be the responsibility of the applicant to provide any information the applicant may find beneficial in demonstrating conformance with the standards of subsection 94-367(b).

(2) *Hearing:* Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Sec. 94-101. Upon the hearing, any party may appear in person or by agent or attorney.

(3) *Decision:* The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA, and basis for such determination, and shall be made part of the meeting minutes. The concurring vote of a majority of the members of the ZBA shall be necessary to grant a variance.

a. *Conditions:* In granting a variance, the ZBA may prescribe appropriate conditions the conditions may be intended to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. All conditions shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the ZBA and the applicant. The ZBA shall maintain a record of conditions that are changed. Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

b. *Performance Guarantee:* The ZBA may require that a performance guarantee be furnished as a condition of approval in granting a variance, in accordance with section 94-100.

(d) *Time Restriction/Voidance:* A variance shall become null and void unless the construction authorized by such variance has been commenced within one-hundred eighty (180) days after the granting of the variance, and there is a continuous good faith intention to continue construction to completion. The ZBA may extend this time limit upon its finding that no substantial changes have occurred to ordinance regulations, abutting properties, or other conditions that undermine the basis for the original issuance of the variance.

(e) *Resubmittal:* No application for a variance that has been acted upon shall be resubmitted for a period of one (1) year from the date of denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the original denial, in the discretion of the ZBA.

Section 94-368 Review by Circuit Court

(a) *Circuit Court Review:* The decision of the ZBA shall be final. However, any party aggrieved by an order, determination or decision of the ZBA may obtain a review thereof in the Circuit Court provided that application is made to the Court within thirty (30) days after the ZBA issues its decision in writing

signed by the chairperson, or within twenty-one (21) days after the ZBA approves the minutes of its decision. The Circuit Court shall review the record and decision of the ZBA to insure that the decision:

- (1) Complies with the constitution and laws of the State.
- (2) Is based upon proper procedure.
- (3) Is supported by competent, material, and substantial evidence on the record.
- (4) Represents the reasonable exercise of discretion granted by law to the ZBA.

Sunset Provision. None.

Effective Date. This ordinance shall take effect immediately upon publication of the notice of adoption in a newspaper of general circulation within the city.

The foregoing Ordinance was moved for adoption by Council Member _____ and supported by Council Member _____, with a vote thereon being: YES () NO (), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the _____ day of _____, 2018. Ordinance No. 219 declared adopted this _____ day of _____, 2018.

Russell Whipple, Mayor

Sarah J. Jarvis, City Clerk

Thomas M. Hitch (P25558)
Mason City Attorney
601 Abbot Road, PO Box 2502
East Lansing, MI 48826-2502



STAFF AGENDA REPORT TO PLANNING COMMISSION

Meeting: May 15, 2018

Agenda Item: 5D

AGENDA ITEM:

Public Hearing for Ordinance 220 to Amend the Mason Zoning Map by rezoning parcels 33-19-10-08-240-015 and 33-19-10-08-240-016 (440 and 448 S. Jefferson) from an O-1: General office district to a C-1: Central business district.

RECOMMENDED ACTION

Move to approve Resolution No. 2018-07 recommending City Council adopt ordinance 220 amending the Zoning Map by rezoning parcels 33-19-10-08-240-015 and 33-19-10-08-240-016 (440 and 448 S. Jefferson) from an O-1: General office district to a C-1: Central business district.

HISTORY

Bad Brew inquired about a building expansion. It was discovered through the review of the City's zoning requirements that the parcels are currently zoned O1: General office district. This results in both the building and use (restaurant) being non-conforming. By re-zoning the parcels, both the building and use will be conforming and any expansion of either the building or use would be allowable by-right.

SUMMARY

Authority

Chapter 94 Article XII. Amendments of the Mason Code Section 94-391 provides for amendments to this chapter initiated by the city council or by the planning commission.

The Michigan Zoning Enabling Act, which the City of Mason has adopted, authorizes municipalities to adopt and amend zoning ordinances and districts.

Urgency

The property owner is interested in a building expansion as soon as possible. The Planning Commission has scheduled a public hearing at their regular meeting on May 15, 2018 for the amendment.

Relation to Other Actions

Re-zoning is necessary in order for the property owner to pursue zoning and building permits.

FISCAL IMPACT

The property owner is interested in investing in the property for expansion of the restaurant which will result in a higher, more marketable property value.

ADDITIONAL MATERIAL

Proposed Ordinance 220

Planning Commission Resolution No. 2018-07

Zoning Map

**CITY OF MASON
PLANNING COMMISSION RESOLUTION NO. 2018-07**

**A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT
ORDINANCE NO 220 – AN ORDINANCE TO AMEND THE MASON
ZONING MAP.**

May 15, 2018

WHEREAS, the Community Development Director has requested an amendment to the Mason Zoning Map to rezone Parcel 33-19-10-08-240-015, .050 acres, and Parcel 33-19-10-08-240-016, .060 acres, referenced also as 440 and 448 S. Jefferson Street in downtown Mason are to be rezoned from an O-1: General office district to a C-1: Central business district.

WHEREAS, the Planning Commission finds that proposed Ordinance 220 is consistent with the Section 94-396(a) and offers the following as findings of fact:

- 1. Compliance with the Master Plan of the city.** The proposed amendment supports and Objectives 1-6 of the Economic Development Goal listed in Chapter Two, Planning Issues, Goals and Objectives, of the Mason Master Plan.
- 2. What, if any, identifiable conditions related to the proposed amendment have changed which justify the proposed amendment?** There does not appear to be any changes in the vicinity.
- 3. What, if any, error in judgment, procedure or administration was made in the original chapter which justifies the petitioner's change in zoning?** It appears that the property was initially and continuously used for many years in a manner consistent with the C1 Central business district, while the zoning map was not updated to reflect these uses.
- 4. What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?** Approval of the amendment will allow the current business to continue operating and expand.
- 5. What is the impact of the amendment on the ability of the City and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the petition is approved?** There is no impact. The sites affected are currently served with the public utilities.
- 6. Does the proposed amendment adversely affect the value of the surrounding property?** The proposed amendment will not adversely affect the value of the surrounding property as they are also zoned C1 Central business district.
- 7. Are there any significant environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built?** There are no known environmental impacts associated with the proposed amendment.
- 8. The ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located.** The rezoning is critical to the ability of the property to continue and grow as a reasonable economic use in the zoning district.

NOW THEREFORE BE IT RESOLVED, that the City of Mason Planning Commission does hereby recommend that the City Council adopt Ordinance No. 220 – an ordinance to amend the Mason Zoning Map to rezone Parcel 33-19-10-08-240-015, .050 acres, and Parcel 33-19-10-08-240-016, .060 acres, referenced also as 440 and 448 S. Jefferson Street in downtown Mason are to be rezoned from an O-1: General office district to a C-1: Central business district.

Yes ()

No ()

Absent ()

Sarah J. Jarvis, City Clerk
City of Mason
Ingham County, Michigan

Introduced: May 7, 2018
First Reading: May 7, 2018
Second Reading: _____
Adopted: _____
Effective: _____

CITY OF MASON

MASON ZONING MAP

AN ORDINANCE TO AMEND THE MASON ZONING MAP.

THE CITY OF MASON ORDAINS:

The Mason Zoning Map is hereby amended as follows:

Parcel 33-19-10-08-240-015, .050 acres, and Parcel 33-19-10-08-240-016, .060 acres, referenced also as 440 and 448 S. Jefferson Street in downtown Mason are to be rezoned from an O-1: General office district to a C-1: Central business district.

Sunset Provision. None.

Effective Date. This ordinance shall take effect immediately upon publication of the notice of adoption in a newspaper of general circulation within the city.

The foregoing Ordinance was moved for adoption by Council Member _____ and supported by Council Member _____, with a vote thereon being: YES () NO (), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the _____ day of _____, 2018. Ordinance No. 220 declared adopted this _____ day of _____, 2018.

Russell Whipple, Mayor

Sarah J. Jarvis, City Clerk

Thomas M. Hitch (P25558)
Mason City Attorney
601 Abbot Road, PO Box 2502
East Lansing, MI 48826-2502



City of Mason Planning Commission

Staff Report

TO: City of Mason Planning Commission

FROM: Elizabeth A. Hude, AICP - Community Development Director

SUBJECT: Angel House – 830 Kerns Road

DATE: May 10, 2018

Child and Family Charities/Angel House is requesting preliminary and final site plan approval for the construction of various site improvements including an update to the existing play area; the addition of a running/walking track; a basketball court; a 300 sq. ft. pavilion/storage area; and, ten (10) new parking spaces. Angel House is located at 830 Kerns Road approximately 500 feet south of Howell Road and approximately 1,450 north of Cedar Street (M-36). The parcel is zoned M-2 General Manufacturing.

“Angel House is a residential program for up to 12 pregnant and parenting teen mothers and their babies. Originally built as a respite shelter for children to be placed in foster care, the program now requires more staff support than its original purpose. Thus, the current number of parking spaces is inadequate for the number of staff and support personnel for this program. Currently, the staff and support personnel often park alongside of the buildings entrance drive.”

LAND USE AND ZONING:

| Direction | Current Land Use | Zoning | Future Land Use | Landscape Buffer Req. |
|-----------|-------------------|--------|-----------------|-----------------------|
| North | Undeveloped | M-2 | Industrial | B |
| South | Veterinary Clinic | M-2 | Industrial | B |
| East | Cartage Transfer | M-2 | Industrial | B |
| West | Vacant | M-2 | Industrial | B |

In accordance with Sec. 94-222, uses in the M-2 zoning district are subject to site plan review. Further, Sec. 94-223(1) and (2) states that the application requires review and approval by the planning commission for an increase in the use/footprint for an accessory structure and an increase in parking spaces exceeding two.

During the course of review, it was discovered that the current use as transitional housing for young mothers and their children is a pre-existing, non-conforming use permitted as follows:

- On May 13, 2003, Planning Commission Resolution No. 2003-07 approved the Special Use Permit and preliminary site plan for Angel House. At that time, the zoning ordinance permitted licensed foster care facilities in the M-2 zoning district.
- On June 10, 2003, Planning Commission Resolution No. 2003-09 approved the Final Site Plan for Angel House with the acknowledgement that that Angel House was located within the M-2 General Manufacturing zoning district.
- In the 2006 zoning ordinance update, all residential land uses were eliminated from the M-2 zoning district making Angel House a non-conforming use.
- On January 11, 2011, Planning Commission Resolution No. 2011-02 approved a Special Use Permit to allow the use of land to change from one non-conforming status to another non-conforming status as allowed in Sec. 94-325.

While this appears to be an expansion of a non-conforming use through the addition of an accessory structure of approximately 300 sq. ft. and ten parking spaces, neither the actual use nor the principal structure is being altered or expanded. Additional parking spaces are necessary to accommodate staff vehicles that are currently parking on grass. The accessory structure is customary in nature and intended to serve as storage for playground equipment used by the mothers and children living there. The 2011 Special Use Permit typically affords some measure of 'by-right' status (Sec 94-191(I)). Staff views the accessory structure and parking as customary in their association with the principle use and therefore allowed by-right.

SITE PLAN REVIEW:

The following comments are related specifically to the site plan:

- Lot Dimensional Requirements
 - Table 100-1. Lot Dimensional Requirements of the City of Mason Ordinances, sets forth the M-2 district requirements for the maximums and minimums of a parcel. The site is not compliant with the requirements of Table 100-1 for the Minimum Lot Width of 200 feet. *This is a pre-existing, non-conforming condition. The proposed improvements will meet the required set-backs.*
- Front Yard
 - Pursuant to the Code of Ordinances, Section 1-2. Definitions. Front yard means an open, unoccupied space extending the full width of the lot between the front lot line and the nearest line of the principal building on the lot (See figure 100-101 in ch. 100). The depth of the front yard shall be measured at right angles to the property line in the case of a straight property line and radial to the property line in the case of a curved property line. On a corner lot, the front yard shall be the yard fronting on a street with the largest setback.

- A pavilion, storage and parking are proposed in the front yard. While Sec 94-172(d) Site development regulations appear to prohibit structures in a residential front yard, the property is zoned M-2 General Manufacturing, a non-residential use. Therefore, staff accepts the proposed location of the pavilion. Topography in the rear yard is a limiting factor for both the location of parking and the pavilion.
- Sidewalks
 - Staff has noted that the Hayhoe Riverwalk Trail will be extended along Kerns Road in 2019-2020. Staff would like to work with the applicant as that project moves forward to determine how the extension can be designed to support the applicant's goals for the walking track on site.
- Parking

Table 100-5 of the City of Mason Ordinances sets forth Parking Space Requirements for various uses. Staff used the parking calculation for Foster Care Facilities to determine the required number of spaces. One parking space per three residents is required. The 2011 Special Use Permit was granted for up to 25 residents. This would require eight spaces. The applicant is requesting a total of 23 and is, therefore, in compliance with the Zoning Ordinance.

The site improvements call for the ten new parking spaces in the front yard parking. Topography in the rear yard is a limiting factor for both the location of parking and the pavilion. The Planning Commission will need to find that such parking is a critical component of the operation of Angel House as stated in Section 94-292. General off-street parking requirements, (j) Site development standards, Paragraph (1), *"Front yard parking in the C-2, C-3, M-1, and M-2 districts is prohibited except upon a finding by the planning commission that such parking is a critical component of the operation of the particular use and that adequate provisions are included for the screening and landscaping of such parking area."*
- Site Lighting
 - No site lighting is indicated or proposed on the site plan. Staff recommends the applicant consider additional lighting in the new parking area for safety and security purposes.
- Site Drainage
 - The site appears to be graded such that all storm water will remain on-site; The site naturally drains to a low area in the east end of the site. See plan attached page C1.2. Storm Water calculations have not been provided.
- Sanitary Sewer
 - The site is served by public sanitary sewer located in the Kerns Road right-of-way. No additional sewer capacity is necessitated by the proposed improvements.

- Water Main
 - The site is currently served by public water main located in the Kerns Road right-of-way. No additional capacity is necessitated by the proposed improvements.
- Landscaping -- *The site plan is not in compliance with this requirement.*

The applicant is not proposing any additional landscaping. Pursuant to Sec. 94-241(e)(6), landscaping requirements may be waived or otherwise modified through site plan review and approval provided the approving body determines that specific characteristics of the site or site vicinity make such requirements unnecessary, inappropriate, or ineffective, or that such requirements would cause impaired vision at a driveway or street intersection.

- All property lines require Buffer Yard B
- The north and east property lines are currently heavily vegetated and are not proposed to be disturbed by construction.
- The south property line adjacent to Veterinary Clinic – Buffer Yard B Required
 - The length of this segment is 513.90 feet
 - Minimum Buffer Yard width – 10 feet
 - 103 shrubs or 18 trees with at least one-half, nine (9) trees being canopy trees are required
 - The plan does not indicate any proposed plantings
- Off Street Parking Landscaping- Pursuant to Section 94.241(i)1, the parking areas containing six (6) or more parking spaces shall contain one (1) canopy tree and 50 sq. ft. of landscaped area per six (6) spaces.
- Landscaping Recommendation:
 - *North and East property lines - It is recommended the requirements be waived as due to existing vegetation. Further, it is recommended the existing vegetation be pruned and/or trimmed to remove any unsightly or unhealthy vegetation.*
 - *South property lines - It is recommended the requirements be met as set forth in Section 94.241. Landscape, screening and buffer requirements of the Zoning Ordinance.*
 - *Off street Parking Landscaping – It is recommended that the requirements be met as set forth in Section 94.241. Landscape, screening and buffer requirements of the Zoning Ordinance.*
- Signage (Chapter 58)
 - Any future sign shall conform to all requirements set forth in Chapter 58 – Signs of the City of Mason Ordinances.

Agency Comments:

| | |
|---|---|
| Fire Department – Chief Kerry Minshall | No concerns. |
| Police Department – Chief Don Hanson | Recommends lighting in all parking areas. |
| Superintendent Public Works – Ken Baker, Director | No concerns. |
| Wastewater/Storm water – City Engineer | No concerns. |
| Ingham County Road Department | No concerns. |

Other Comments:

- Plan sheets should be reviewed for spelling errors and revised as necessary.

Site Plan Review Standards:

As set forth in Section 94-227. Standards for site plan review and approval, the proposed site plan for the Angel House appears to meet the following conditions:

- (1) The site is proposed to be developed so that all elements shall be harmoniously and efficiently organized in relation to the size, shape, type and topography of the site and surrounding property.
- (2) The site is proposed to be developed so as not to impede the normal and orderly development, improvement, and use of surrounding property.
- (3) All building(s) are proposed to be arranged to permit emergency vehicle access.
- (4) Every structure is proposed to have direct access to a public street.
- (5) Appropriate measures are proposed to ensure that the addition or removal of surface waters will not adversely affect neighboring properties, that controls are in place to minimize sedimentation and erosion, and that topographic alterations are minimized to accommodate storm water management.
- (6) Provisions are proposed for the construction of storm sewer facilities including grading, gutters, piping, on-site storage, and treatment of turf as required to handle storm water and prevent erosion.
- (8) Exterior lighting is proposed and located so that the source of illumination is directed away from adjacent properties, the intensity of lighting is the minimum necessary, and the direction of lighting is downward as much as is possible and appropriate for the project.
- (9) All loading and unloading areas and refuse receptacles are proposed to be screened from casual view from the public rights-of-way and adjoining land uses.
- (10) The site plan meets the driveway, traffic safety, and parking standards of the city in such manner as necessary to address the following:

a. Safe and efficient vehicular and non-vehicular circulation, including parking areas, non-motorized linkages to abutting parcels, uses, sidewalks, and trails.

b. Adequate and properly located utilities.

(11) Provisions are incorporated for proposed common areas and public features to be reasonably maintained.

(12) The site plan submittal shall demonstrate compliance with all applicable requirements of this chapter, Chapters 58 and 74, the building code, and county, state, and federal law.

STAFF RECOMMENDATION:

The planning commission may approve, approve with conditions, or deny any site plan when referred and reviewed in accordance with the requirements of Chapter 94-Zoning.

Staff offers the following motion for consideration:

Motion to approve Resolution No. 2018-08.

Attachments:

1. Resolution No. 2018-08
2. Application
3. Site Plan:
 - a. Site Plan, Child & Family Services, Angel House Improvements, Issue Date 05/10/2018, sheet C1.1
 - b. Site Drainage, Child & Family Services, Angel House Improvements, Issue Date 05/10/2018, sheet C1.2
 - c. Site Plan – Elevations, Child & Family Services, Angel House Improvements, Issue Date 04/07/2018, sheet C1.1

**CITY OF MASON
PLANNING COMMISSION RESOLUTION NO. 2018-08**

**A RESOLUTION APPROVING A PRELIMINARY AND FINAL SITE PLAN AND
SPECIAL USE PERMIT TO CONSTRUCT VARIOUS SITE IMPROVEMENTS
INCLUDING AN UPDATE TO THE EXISTING PLAY AREA; THE ADDITION OF A
RUNNING/WALKING TRACK; A BASKETBALL COURT; A 300 SQ. FT.
PAVILION/STORAGE AREA; AND, TEN (10) NEW PARKING SPACES ON
PROPERTY LOCATED AT 830 KERNS ROAD**

May 15, 2018

WHEREAS, a request has been received from Child and Family Charities/Angel House for preliminary and final site plan approval to be allowed to construct various site improvements including an update to the existing play area; the addition of a running/walking track; a basketball court; a 300 sq. ft. pavilion/storage area; and, ten (10) new parking spaces on property located at 830 Kerns Road; and

WHEREAS, a site plan was submitted dated April 7, 2018 and revised May 10, 2018; pages C1.1 (Site Plan) and C1.2 (Site Plan-Drainage) and C1.1 (Details) submitted April 7, 2018; and

WHEREAS, the subject property is further described as COM AT NW COR OF SEC 5, S88D56'58"E 661.5 FT ALNG N SEC LN, S0D23'42"W 450 FT ALNG E LN OF KERNS RD TO POB, S0D23'42"W 171.3 FT ALNG SD E LN, S89D 16'18"E 513.9 FT, N0D23'8"E 168.41 FT, N88D56'58"W 513.9 FT TO POB ON NW 1/4 OF SEC 5 T2NR1W, CITY OF MASON. 2AC. SPLIT ON 02/21/2004 FROM 33-19-10-05-102-003;; and

WHEREAS, the parcel is zoned M-2 (General Manufacturing district); and

WHEREAS, Section 94-222 states that any use within the M-2 zoning district requires site plan review; and

WHEREAS, Section 94-152. M-2 General Manufacturing district (c) Permitted accessory uses. indicate that the proposed accessory structure is permitted by right as a customary use incidental to the principal use; and

WHEREAS, Section 94-292. General Off Street Parking Requirements, the Planning Commission finds that front yard parking is a critical component of the operation of the particular use; and

WHEREAS with the waivers and conditions listed herein, the plans will comply with the site plan review standards listed in Section 94-227 of the Mason Code; and

WHEREAS, approval is granted with the following waivers and conditions:

- The buffer requirement along the north and east property lines is waived pursuant to Section 94-241(e)(6); and
- A revised site plan showing the required buffer along the south property line and the required parking landscaping will be submitted to staff for final administrative site plan review

NOW THEREFORE BE IT BE RESOLVED, that the Mason Planning Commission does hereby approve a Preliminary and Final Site Plan to construct various site improvements including an update to the existing play area; the addition of a running/walking track; a basketball court; a 300 sq. ft. pavilion/storage area; and, ten (10) new parking spaces on property located at 830 Kerns Road based on the site plan dated April 7, 2018 and revised May 10, 2018.

Yes ()

No ()

Sarah J. Jarvis, City Clerk
City of Mason
Ingham County, Michigan



APPLICATION – SITE PLAN REVIEW/SPECIAL USE PERMIT

City of Mason

Planning Department • 201 W. Ash Street • Mason, MI 48854

Phone: 517/676-9155 • Fax: 517/676-1330

www.mason.mi.us

Applicant– Please check one of the following:

- | | |
|-------------------------------------|------------------------------|
| <input checked="" type="checkbox"/> | Preliminary Site Plan Review |
| <input type="checkbox"/> | Final Site Plan Review |
| <input type="checkbox"/> | Special Use Permit* |
| <input type="checkbox"/> | Administrative Review |

* includes Preliminary Site Plan Review

PLANNING DEPARTMENT USE ONLY

Application Received: _____

Tax ID: _____

Fee: _____

Receipt #: _____

I. APPLICANT INFORMATION

Name Julie Thomasma, Ph. D., CEO

Organization Child and Family Charities/Angel House

Address 4287 Five Oaks Drive, Lansing, MI 48911

Telephone Number 517-882-4000, ext. 122 Facsimile Number (517) 882-3506

Interest in Property (owner, tenant, option, etc.) Owner

Note: If applicant is anyone other than owner, request must be accompanied by a signed letter of authorization from the owner.

II. PROPERTY INFORMATION

Owner Child and Family Charities Telephone Number 517-882-4000, ext. 122

Property Address 830 Kerns Road, Mason, MI 48854

Legal Description: If in a Subdivision: Subdivision Name _____ Lot Number 33-19-10-05-102-010

If Metes and Bounds (can be provided on separate sheet):

PARCEL A: A parcel of land in Section 5, T2N, R1W, Vevay Township, Ingham County, Michigan; the surveyed boundary of said parcel being described as commencing at the Northwest corner of said Section 5; thence S88°56'58"E along the North line of said Section 5 a distance of 661.50 feet to the extended East line of Kerns Road; thence S00°23'42"W along the extended Easterly line of Kerns Road a distance of 33.00 feet to the Southerly right of way line of Howell Road; thence S00°3'42"W continuing along the Easterly right of way line of Kerns Road a distance of 417.00 feet to the point of beginning; thence continuing along the Easterly right of way line of Kerns Road a distance of 171.30 feet; thence S89°16'18"E 513.90 feet; thence N00°23'08"E 168.41 feet; thence N88°56'58"W 513.90 feet to the point of beginning, containing 2.00 acres of land, more or less, and subject to any easements or rights of way of record.

APPLICANT CERTIFICATION

By execution of this application, the person signing represents that the information provided and the accompanying documentation is, to the best of his/her knowledge, true and accurate. In addition, the person signing represents that he or she is authorized and does hereby grant a right of entry to City officials for the purpose of inspecting the premises and uses thereon to verify compliance with the terms and conditions of any Special Use Permit and/or Site Plan approval issued as a result of this application.

Signature  Date April 9, 2018

III. REQUEST DESCRIPTION

A. Written Description – Please use this section to describe the use or uses proposed. Attach additional pages, if necessary.

The project will include an update to the existing play/recreational area for the Angel House clients. The project will include the following: addition of a walking/running track around the current recreational area, basketball court, pavillion, and storage area. In addition to this, plans will include additional paving to add parking spaces for building.

Angel House is a residential program for up to 12 pregnant and parenting teen mothers and their babies. Originally built as a respite shelter for children to be placed in foster care, the program now requires more staff support than its original purpose. Thus, the current number of parking spaces is inadequate for the number of staff and support personnel for this program. Currently, the staff and support personnel often park alongside of the buildings entrance drive.

B. Available Services

Public Water ☒ YES ☐ NO
Public Sanitary Sewer ☒ YES ☐ NO

Paved Road (Asphalt or Concrete) ☒ YES ☐ NO
Public Storm Sewer ☒ YES ☐ NO

C. Estimate the Following

Traffic Generated No expected increase

Total Employees 30 Shifts 7.5 hr/24/7

Population Increase No expected increase

Employees in Peak Shift 8:30 a.m. and 5:00 p.m.

Hours of Operation 12 AM to 12 PM

Total Bldg. Area Proposed 10'x30' = 300 sq.ft. Pavilion

24 day through 7 day

Parking Spaces Provided 10 Existing + 14 New = 23 Total
Includes 1 Accessible Space & Aisle

D. Project Phasing

This project will be completed in: One Phase ☒ Multiple Phases – Total No. of Phases: 2

Note: The phases of construction for multi-phase projects must be shown on the site plan

IV. APPLICATION MATERIALS

The following are checklists of items that generally must be submitted with applications for Preliminary Site Plan Review, Final Site Plan Review, and Special Use Permits. Applicants should review Articles VI and VII of Chapter 94 of the Mason Code for a complete listing of application requirements. All site plan drawings must comply with the requirements of Section 94-226(d) of the Zoning Ordinance. Incomplete applications will not be processed.

- ☒ Completed application form
- ☒ 20 copies of site plan drawings is larger than 11" x 17" (**30 copies for Special Use Permits**)
- ☒ 1 – 11" x 17" copy of the site plan
- ☒ Plans submitted on CD (Commercial only)
- ☒ Legal description
- ☒ Proof of ownership/owner authorization
- ☒ Construction schedule for proposed project
- ☒ Construction calculations for utilities
- ☒ Fee (see below)
- ☒ Any other information deemed necessary

Application Fee – all requests must be accompanied by a fee, as established by the City Council. The fee schedule for Preliminary Site Plan Reviews, Final Site Plan Reviews, and Special Use Permits is as follows (As of October 16, 2006):

| | |
|--|-----------|
| <u>Administrative Reviews</u> | \$70.00 |
| <u>Preliminary Site Plan Reviews</u> | \$200.00 |
| <u>Final Site Plan Review</u> | \$100.00 |
| <u>Special Use Permits</u> (includes preliminary site plan review) | \$275.00 |
| <u>Engineering Review</u> | \$220.00* |

***Two-hour minimum fee for projects increasing demand on public utilities. Actual fees incurred are billed to applicant upon completion of review.**

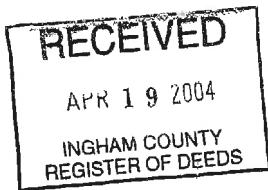
V. APPLICATION DEADLINES

Preliminary Site Plan/Special Use Permit Review – Applications for Preliminary Site Plan Review may be submitted at any time. Complete applications must be received a minimum four (4) weeks prior to a Planning Commission meeting to be placed on the agenda. Upon receipt of a complete application, a public hearing will be scheduled for the next regularly scheduled meeting (for Special Use Permits only). The Planning Commission has the final authority to approve, approve with conditions or deny an application for Preliminary Site Plan/Special Use Permit Review. The Planning Department staff will issue a letter to the applicant advising of any changes or revisions that may be necessary prior to making application for Final Site Plan Review.

Final Site Plan Review – Complete applications must be received a minimum of four (4) weeks prior to a Planning Commission meeting to be placed on an agenda. The Planning Commission has the final authority to approve, approve with conditions or deny an application for Final Site Plan Review. Planning Commission meetings are held on the second Tuesday after the first Monday of every month, unless the Tuesday is a Township recognized holiday, in which case the meeting is held on the following day (Wednesday).

VI. STAFF REPORT

The Planning Department Staff will prepare a report to the Planning Commission regarding an application for Preliminary Site Plan Review, Final Site Plan Review or Special Use Permit. The report will explain the request and review whether it complies with the zoning standards of the Mason Code. Staff will present the findings of that report during the Planning Commission meeting. An applicant who wishes to obtain one (1) copy of that report, at no cost, prior to the meeting must provide a written request to the Planning Department. The report is generally complete on the Friday before the meeting and can be mailed to the applicant or picked up by the applicant in the Planning Department.



Paula Johnson-
INGHAM COUNTY
REGISTER OF DEEDS
OFFICIAL SEAL



L-3104 P-1036
101 18.00 2004-026128

INGHAM COUNTY TREASURER'S CERTIFICATE
I HEREBY CERTIFY that there are no TAX LIENS or TITLES held
by the state or any individual against the within description, and all
TAXES on same are paid for five years previous to the date of this
instrument as appears by the records of this office except as stated.
4-20-04-04
Eric Schertzberg, Ingham County Treasurer
Sec. 145, Act 206, 1893 as amended

WARRANTY DEED FOR CORPORATION

KNOW ALL MEN BY THESE PRESENTS: That DART PROPERTIES INCORPORATED

a Michigan corporation, whose address is 600 Dart Road, Mason, Michigan 48854

conveys and warrants to CHILD & FAMILY SERVICES, CAPITAL AREA, a Michigan Non-profit Corporation

whose address is 4287 Five Oaks Drive, Lansing, Michigan 48911

the following described premises situated in the Township of Vevay,
County of Clinton, and State of Michigan, to wit:

SEE EXHIBIT A ATTACHED HERETO:

Grantor conveys the property set forth on Exhibit A for the specific purpose of the construction and operation of a children's shelter and assessment center known as Angel House. If construction of the Angel house project is not commenced within three years of the date of this deed, title to the property shall immediately revert to Grantor.

This property may be within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors and other associated conditions may be used and are protected by the Michigan Right to Farm Act MCL 560.109(4)

Grantor grants to the Grantee the right to make no divisions under Section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967, as amended.

together with all singular the tenements, hereditament and appurtenances thereunto belonging or in anywise

appertaining, for the sum of One Dollar (\$1.00)

EXEMPT FROM TRANSFER TAX PER
MCL 207.505(a)

Dated this 19TH day of December, 2003

Signed in presence of:

Signed by:

DART PROPERTIES INCORPORATED

By

William L. Myers
WILLIAM L. MYERS
Its VICE PRESIDENT

and

Its

STATE OF MICHIGAN
COUNTY OF } SS.



2004-026128
Page: 1 of 2
04/27/2004 08:35 A

The foregoing instrument was acknowledged before me this day of December, 2003,
by William L. Myers, Vice President

(Individual Name(s) and Office(s) Held)

of Dart Properties Incorporated

(Corporate Name)

a Michigan corporation, on behalf of the corporation,

(State of Incorporation)

Janis L. Sampson

Notary Public

Ingham County, Michigan

My commission expires July 13, 2006

Notary Public, Ingham

My commission expires: July 13, 2006

County, Michigan

County Treasurer's Certificate

City Treasurer's Certificate

When Recorded Return To:
Child Family Services, Capital Area
Name
4287 Five Oaks Drive
Street Address
Lansing, Michigan 48911

Send Subsequent Tax Bills To:
Child Family Services, Capital Area
4287 Five Oaks Drive
Lansing, Michigan 48911

Drafted By:
JoAnne E. Williams
Attorney at Law
Business Address:
500 Hogsback Road
Mason, Michigan 48854

351910-05-102-00507.04

EXHIBIT A

PARCEL A: A parcel of land in Section 5, T2N, R1 W, Vevay Township, Ingham County, Michigan; the surveyed boundary of said parcel being described as commencing at the Northwest corner of said Section 5; thence S88° 56'58"E along the North line of said Section 5 a distance of 661.50 feet to the extended East line of Kerns Road; thence S00° 23'42"W along the extended Easterly line of Kerns Road a distance of 33.00 feet to the Southerly right of way line of Howell Road; thence S00° 23'42"W continuing along the Easterly right of way line of Kerns Road a distance of 417.00 feet to the point of beginning; thence continuing along the Easterly right of way line of Kerns Road a distance of 171.30 feet; thence S89° 16'18"E 513.90 feet; thence N00° 23'08"E 168.41 feet; thence N88° 56'58"W 513.90 feet to the point of beginning, containing 2.00 acres of land, more or less, and subject to any easements or rights of way of record. ALSO:

PARCEL B (THIS IS A NON-BUILDABLE PARCEL): A parcel of land in Section 5, T2N, R1 W, Vevay Township, Ingham County, Michigan; the surveyed boundary of said parcel being described as commencing at the Northwest corner of said Section 5; thence S88° 56'58"E along the North line of said Section 5 a distance of 661.50 feet to the extended East line of Kerns Road; thence S00° 23'42"W along the extended Easterly line of Kerns Road a distance of 33.00 feet to the Southerly right of way line of Howell Road; thence S00° 23'42"W continuing along the Easterly right of way line of Kerns Road a distance of 588.30 feet; thence S89° 16'18"E 513.90 feet to the point of beginning; thence continuing S89° 16'18"E 124.26 feet; thence N00° 23'25"E 167.71 feet; thence N88° 56'58"W 124.28 feet; thence S00° 23'08"W 168.41 feet to the point of beginning, containing 0.48 acres of land, more or less, and subject to any easements or rights of way of record.

GRANTOR: DART PROPERTIES INCORPORATED

GRANTEE: CHILD & FAMILY SERVICES, CAPITAL AREA

331910-05-102-003



(Corporate Name)

a Michigan corporation, on behalf of the corporation
(State of Incorporation)

Janis L. Sampson
Notary Public
Ingham County, Michigan
My commission expires July 13, 2006

Janis L. Sampson
Notary Public, Ingham County, Michigan
My commission expires: *July 13, 2006*

County Treasurer's Certificate

City Treasurer's Certificate

When Recorded Return To:
Child Family Servies, Capital Area
Name
4287 Five Oaks Drive
Street Address
Lansing, Michigan 48911

Send Subsequent Tax Bills To:
Child Family Services, Capital Area
4287 Five Oaks Drive
Lansing, Michigan 48911

Drafted By:
JoAnne E. Williams
Attorney at Law
Business Address:
500 Hogsback Road
Mason, Michigan 48854

331910-05-102-003 p. 04

Plot Scale: 1/8" = 1'-0" PLOT DATE & TIME: Saturday, April 7, 2018 3:11 PM

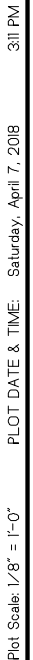
Drawing File: D:\Projects\Clients\18\18-16\18-16 C100.aec

Plot Scale: 1/8" = 1'-0"

- Drawing File: D:\Projects\Clients\18\18-16\18-16 C100.aec

Plot Scale: 1/8" = 1'-0" PLOT DATE & TIME: Saturday, April 7, 2018 3:11 PM

- Drawing File: D:\Projects\Clients\18\18-16\18-16 C100.aec



Plot Scale: 1/8" = 1'-0" PLOT DATE & TIME: Saturday, April 7, 2018 3:11 PM

Plot Scale: 1/8" = 1'-0" PLOT DATE & TIME: Saturday, April 7, 2018 3:11 PM

Plot Scale: 1/8" = 1'-0" PLOT DATE & TIME: Saturday, April 7, 2018 3:11 PM

Plot Scale: 1/8" = 1'-0" PLOT DATE & TIME: Saturday, April 7, 2018 3:11 PM

Plot Scale: 1/8" = 1'-0" PLOT DATE & TIME: Saturday, April 7, 2018 3:11 PM

Plot Scale: 1/8" = 1'-0" PLOT DATE & TIME: Saturday, April 7, 2018 3:11 PM

Plot Scale: 1/8" = 1'-0" PLOT DATE & TIME: Saturday, April 7, 2018 3:11 PM

LEGAL DESCRIPTION

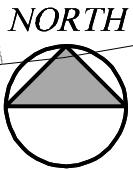
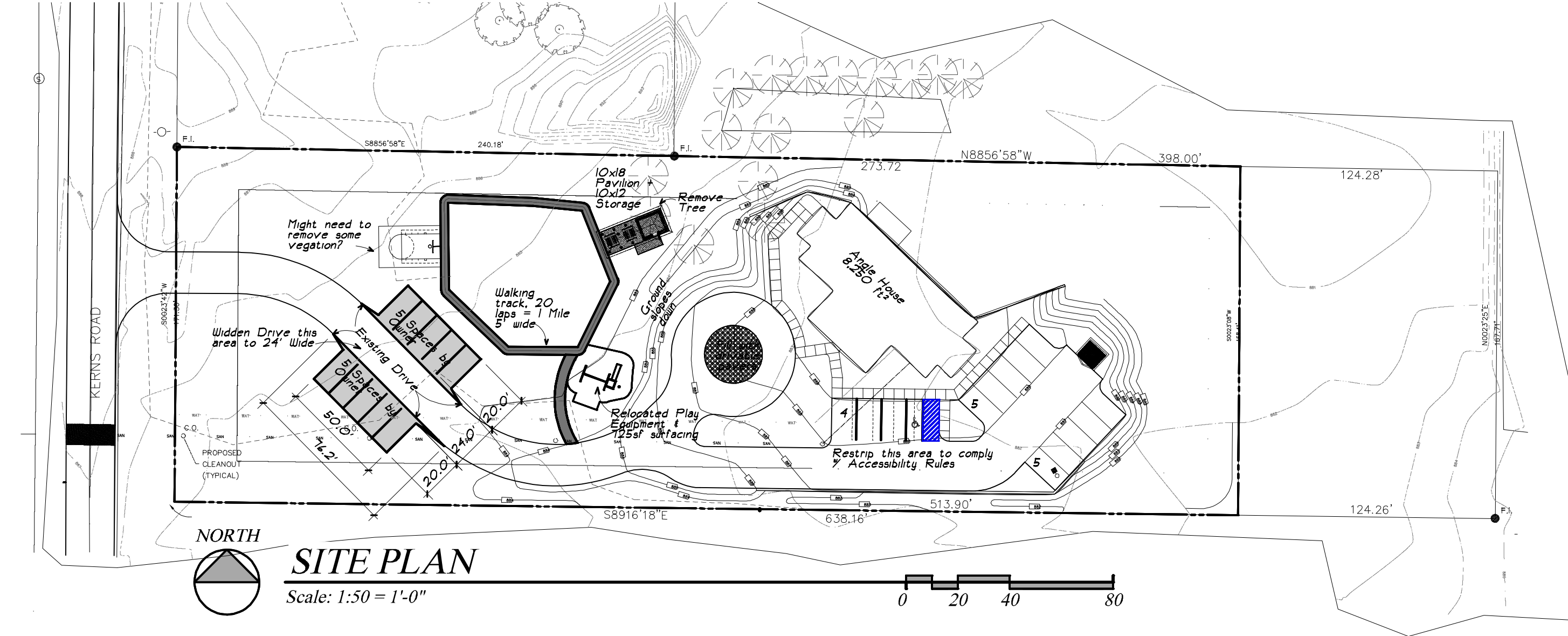
PARCEL A: A parcel of land in Section 5, T2N, R1W, Vevay Township, Ingham County, Michigan; the surveyed boundary of said parcel being described as commencing at the Northwest corner of said Section 5; thence S88°56'58"E along the North line of said Section 5 a distance of 661.50 feet to the extended East line of Kerns Road; thence S00°23'42"W along the extended Easterly line of Kerns Road a distance of 33.00 feet to the Southerly right of way line of Howell Road; thence S00°3'42"W continuing along the Easterly right of way line of Kerns Road a distance of 417.00 feet to the point of beginning; thence continuing along the Easterly right of way line of Kerns Road a distance of 171.30 feet; thence S89°16'18"E 513.90 feet; thence N00°23'08"E 128.41 feet; thence N88°56'58"W 513.90 feet to the point of beginning, containing 2.00 acres of land, more or less, and subject to any easements or rights of way of record.

CONSTRUCTION NOTES:

1. Construction Schedule. Project might be completed over next 2 summers depending on funding.
 - A. Construct Pavilion
 - B. Walking Path & Parking.
 - C. Move Play structure and provide proper surfacing.
2. Utility Calculations. Utilities will be unchanged from existing.
3. New Paving to be flush with existing grade so no change in drainage or topography.
4. Walking Path, remove 7" depth of soils, compact sub base and Provide new 4" sand base, and (2) 1 1/2" lifts of Asphaltic Paving (3" total depth).
5. Parking area, remove 10" depth of soils, compact sub base and Provide new 6" gravel base, and (2) 2" lifts of Asphaltic Paving (4" total depth).
6. Excess soils to be removed from site.

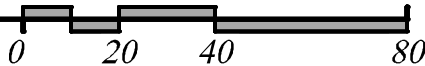
SOIL EROSION NOTES:

1. Soil Erosion Control Measures shall be installed and maintained by the Paving Contractor. Control measures shall be inspected daily or after heavy rain and repaired as required.
2. All Temporary Sediment Control Measures are to be installed prior to or at commencement of construction activity, checked daily for effectiveness, and repaired as needed. a drain commission inspector is to verify proper installation of these measures prior to earth disturbance.
3. All required SESC measures are to be installed and maintained following generally accepted guidelines as outlined in the Michigan Department of Environmental Quality's "Guidebook of BMP's for Michigan Watersheds", except as amended in writing by the Ingham County Drain Commissioner's office.
4. The Soil Erosion Permit is to be posted at the construction entrance of the site until the land is permanently stabilized and the permit is closed.
5. Seeding shall be done in accordance with MDEQ "guidebook of BMP's for Michigan Watersheds".



SITE PLAN

Scale: 1:50 = 1'-0"



PROJECT NO.
18-14

These plans are prepared and are subject to change without notice. The user assumes all responsibility for the use of these plans. The user agrees to indemnify and hold the architect harmless from all claims, damages, and expenses, including reasonable attorneys' fees, arising from the use of these plans. The architect's liability is limited to the amount of the fee paid for the services rendered. The architect's work is not to be construed as a warranty of any kind. The architect's work is not to be construed as a representation of any kind. The architect's work is not to be construed as a statement of opinion of any kind. The architect's work is not to be construed as a statement of fact of any kind. The architect's work is not to be construed as a statement of value of any kind. The architect's work is not to be construed as a statement of quality of any kind. The architect's work is not to be construed as a statement of quantity of any kind. The architect's work is not to be construed as a statement of condition of any kind. The architect's work is not to be construed as a statement of performance of any kind. The architect's work is not to be construed as a statement of result of any kind. The architect's work is not to be construed as a statement of any kind.

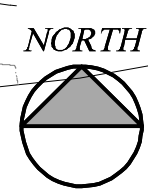
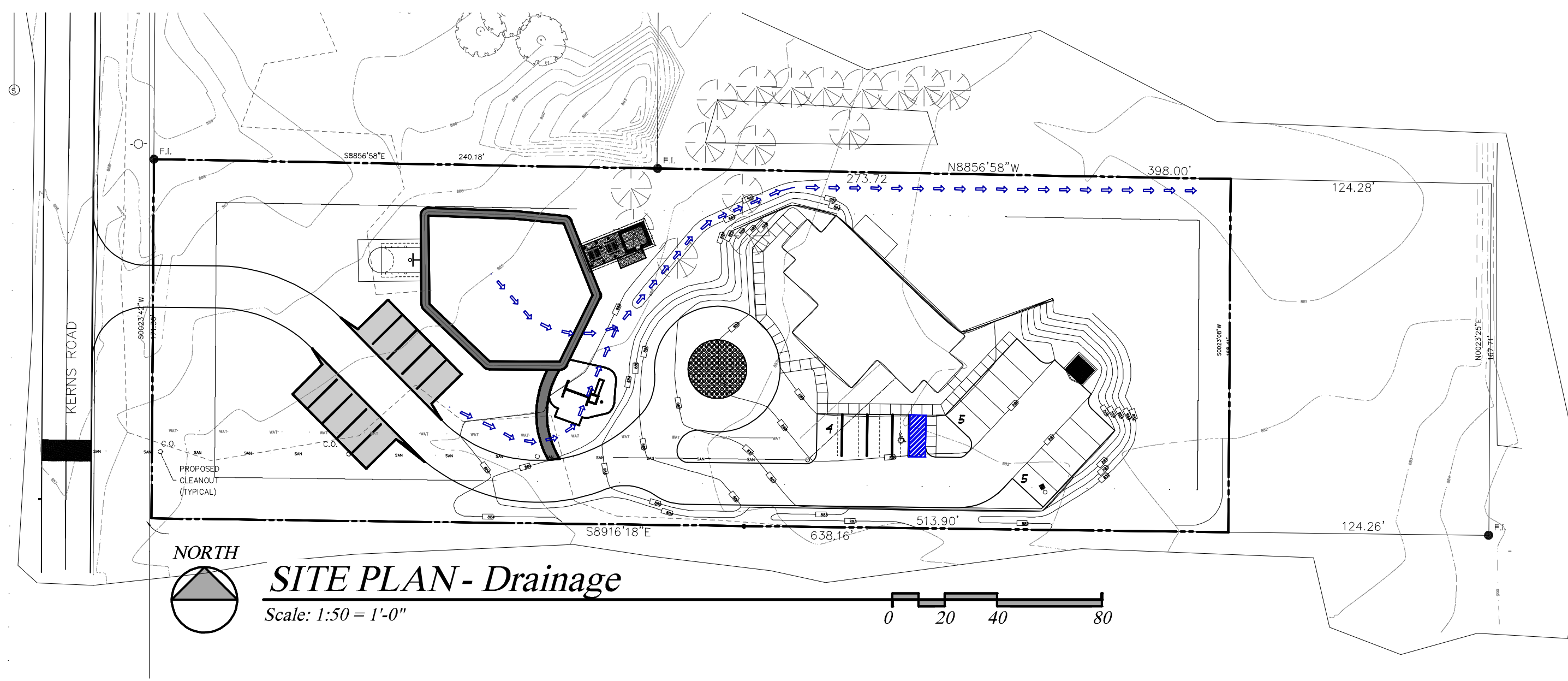
ROGER L. DONALDSON, AIA P.L.L.C.
ARCHITECT
4291 Tarter Lane
Mason, Michigan 48854
Phone: 517-694-0311
Email: Roger@rldon.com

Child & Family Services
Angle House Site Improvements
830 Kerns Road
City of Mason, Eaton County
Mason, Michigan 48854

Site Plan

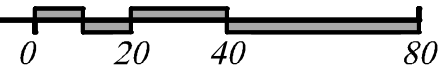
ISSUE DATE:
05/10/2018

C1.1
SHEET NUMBER
FILE NO.
18-14 C100



SITE PLAN- Drainage

Scale: 1:50 = 1'-0"



PROJECT NO.
18-16

These plans are designed and are subject to copyright protection as an "architectural work" under the Copyright Act of 1976, as amended. The copyright in these plans is owned by Roger L. Donaldson, AIA P.L.C. The protection of these plans is not limited to the overall form as well as the arrangement and composition of spaces and elements of the design. Under such protection, unauthorized use of these plans, work or home representation, can legally result in the creation of construction or building being used and/or monetary compensation to Roger L. Donaldson, AIA P.L.C. These comments are not intended to be used for any other projects or in other jurisdictions without the approval and participation of the architect. Reproduction is prohibited. © 2018

ROGER L. DONALDSON, AIA P.L.C.
ARCHITECT
4797 Taylor Lane
Mason, Michigan 48854
Tel: 517.692-0311
Fax: 517.692-0355
Email: RogerL@rldesigner.net

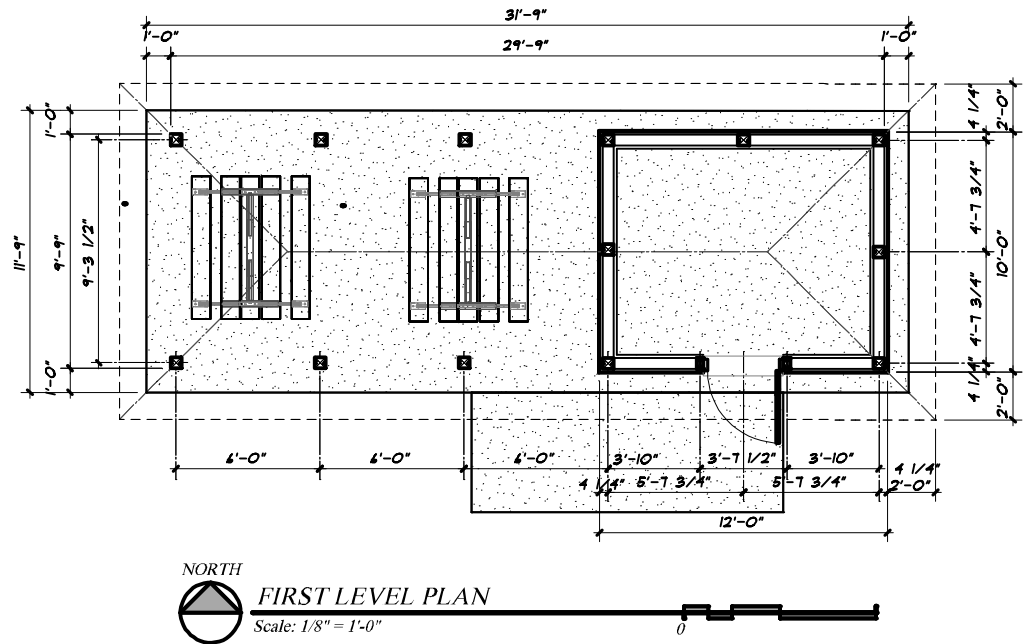
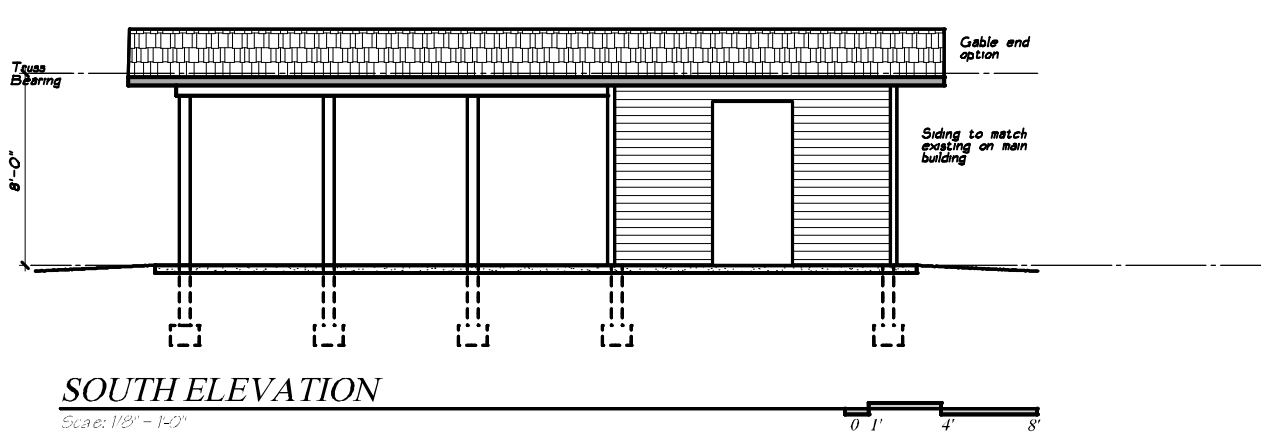
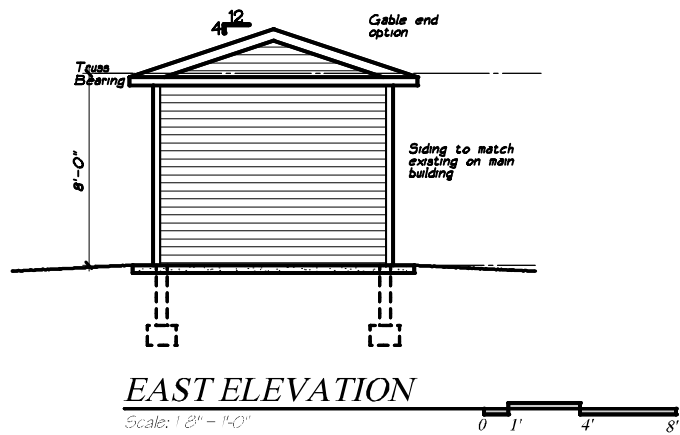
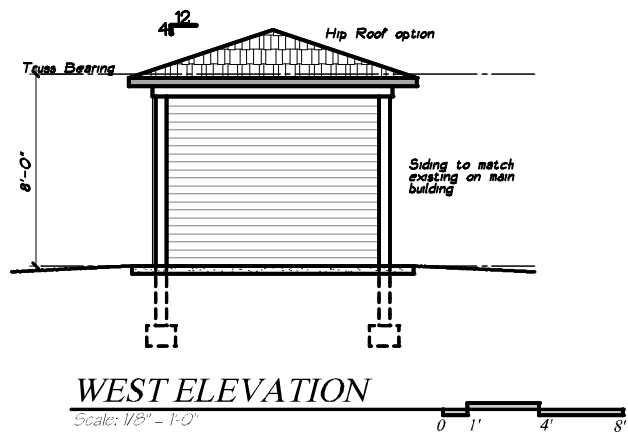
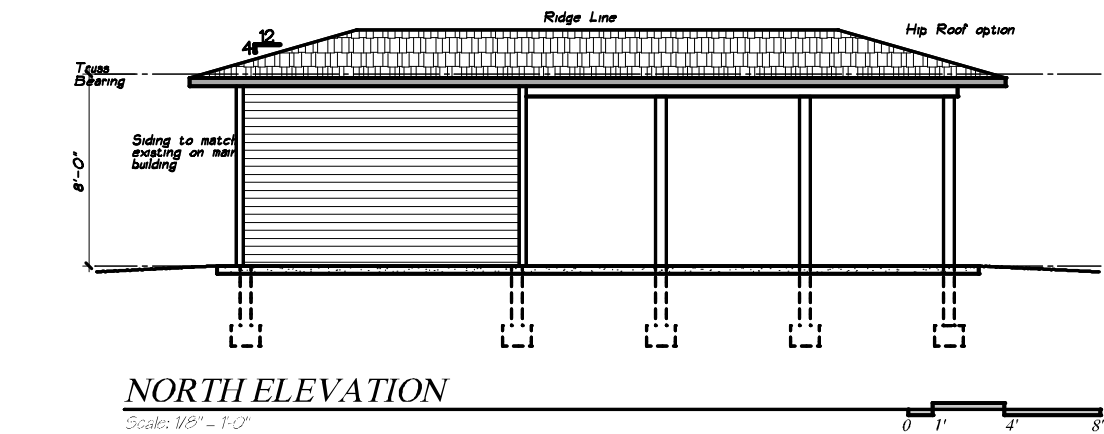
Child & Family Services
Angle House Site Improvements
830 Kerns Road
City of Mason, Eaton County
Mason, Michigan 48854

SITE DRAINAGE

ISSUE DATE:
05/10/2018

C1.2
SHEET NUMBER
FILE NO.
18-16 C100

Drawing File: D:\Projects\Clients\B-18-16-C100a.ec
Plot Scale: 1/8" = 1'-0"
PLOT DATE & TIME: Saturday, April 7, 2018 3:11 PM



PROJECT NO.
18-16

These plans are copyrighted and are subject to copyright protection as an "architectural work" under Sec. 102 of the Copyright Act of 1976, as amended. The protection is known as Architectural Works Copyright Protection Act of 1990. The protection includes but is not limited to the overall form as well as the arrangement and composition of spaces and elements of the design. Under such protection, unauthorized use of these plans, work or home represented, can legally result in the cessation of construction or buildings being sited and/or monetary compensation to Roger L. Donaldson, AIA P.L.L.C. These documents are not suitable for use on other projects or in other jurisdictions without the approval and participation of the architect. Reproduction is prohibited. © 2018

ROGER L. DONALDSON, AIA P.L.L.C.
ARCHITECT
4797 Tarter Lane
Mason, Michigan 48854
Phone: 248.694.0311
Email: RogerL@rldon.com

Child & Family Services
Angle House Site Improvements
830 Kerns Road
City of Mason, Eaton County
Mason, Michigan 48854

Site Plan

ISSUE DATE:
04/07/2018

C1.1
SHEET NUMBER
FILE NO.
18-16 C100



City of Mason Planning Commission

Staff Report

TO: Planning Commission
FROM: Elizabeth A. Hude, AICP - Community Development Director
SUBJECT: Workplan update for Planning Projects beginning in FY18-19
DATE: May 11, 2018

Over the next six fiscal years, the City of Mason will invest \$240,000 in the community decision making process for future land use, economic and infrastructure needs. The Parks/Recreation Plan and sub-area studies will feed into the overall Master Plan. The collective outcome of these efforts is to ensure Mason evolves in a manner consistent with the community's vision, and that our policies and budgets are aligned to support that vision.

| CIP* # | SCOPE | FISCAL YEAR (FY) | BUDGET | FY18-19 | FY19-20 | FY20-21 | FY21-22 | FY22-23 | FY23-24 |
|----------|---|------------------|---------------|---------|---------|---------|---------|---------|---------|
| 2018-P3 | Parks/Rec Plan Update (minor) | FY18-19 | \$ 5,000.00 | | | | | | |
| 2018-B7 | Sub-area Study: Cedar/127 Corridor | FY18-19 | \$ 50,000.00 | | | | | | |
| 2018-B11 | Sub-area Study: Kipp/Temple Corridor | FY19-20 | \$ 30,000.00 | | | | | | |
| 2018-B23 | Master Plan 5-yr update (2019): Phase I – community engagement/data collection | FY20-21 | \$ 25,000.00 | | | | | | |
| 2018-B23 | Master Plan 5-yr update (2019): Phase II – technical analysis/draft codes | FY21-22 | \$ 100,000.00 | | | | | | |
| 2018-B23 | Master Plan 5-yr update (2019): Phase III – finalize/adopt new codes, update CIP | FY22-23 | \$ 25,000.00 | | | | | | |
| 2018-P3 | Parks/Rec Plan Update (major) | FY18-19 | \$ 5,000.00 | | | | | | |

*Capital Improvement Program (CIP)

Total Planning Investment \$ 240,000.00