

Zoning Board of Appeals (ZBA) Handbook



Village of Decatur, Michigan

January 2, 2024



Zoning Board of Appeals Roles & Responsibilities

- Regular attendance of meetings
- Advanced preparation and review of materials
- Observe and model decorum at all times
- Follow parliamentary procedure to conduct meetings
- Make recommendations to Village Council as required by law or upon request
- Refrain from discussion and voting on issues that present a conflict of interest for the board/commission member
- Abide by the requirements of the Open Meetings Act
- A quorum is required to conduct business and is defined as a majority of the members appointed and serving
- Members must either contact the Board Chair and/or staff if they are unable to attend so that the presence of a quorum can be determined

Newly Appointed Boards & Commissions Members Education and Training

Newly appointed board/commission members will be:

- Invited to participate in collaborative work sessions between boards and commissions, including joint trainings on development topics
- Provided with Newly Elected or Appointed Officials Training (e.g., MML)
- Notified of additional trainings relevant to accomplishing stated goals and objectives
- Provided with notes from trainings by a member of their board or commission
- Able to request additional trainings

Helpful Resources

- Village of Decatur Website www.decatirmi.org
- Village of Decatur Zoning Ordinance [Mini TOC: Chapter 42 - ZONING | Code of Ordinances | Decatur, MI | Municode Library](#)
- Village of Decatur ZBA Bylaws [Decatur - ZBA Rules of Procedure \(Bylaws\) \(2\).doc \(live.com\)](#)
- Michigan Municipal League- Planning & Zoning [Planning/Zoning - Michigan Municipal League \(mml.org\)](http://Planning/Zoning - Michigan Municipal League (mml.org))
- Michigan Zoning Enabling Act [mcl-Act-110-of-2006.pdf \(mi.gov\)](#)



Zoning Board of Appeals Members

2024

Ali Elwaer
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Term Expires: November 2024

Charlene Jackson
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Term Expires: November 2026

Cindy Pachner
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Harvey Beute
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Term Expires: November 2024

VILLAGE OF DECATUR

COUNTY OF VAN BUREN

STATE OF MICHIGAN

RESOLUTION 2023-014: VILLAGE OF DECATUR PUBLIC MEETING SCHEDULE FOR 2024.

WHEREAS, a local Municipality has the right to set their own Regular Meeting schedule by Resolution; and

WHEREAS, The Village of Decatur is required by law to have one Regular Meeting every month; and

WHEREAS, The Regular Meeting Schedule will be posted at Village Offices throughout the duration of the 2024 Calendar Year. The Village of Decatur Trustee's meet at 7:00PM on the first Monday of each month unless otherwise posted. Meetings are held in the Council Chambers of the Decatur Village Hall, 114 N. Phelps Street, Decatur, Michigan. The Village Council may also from time to time meet electronically allowable under PA 228 of 2020.

January 8, 2024	February 5, 2024	March 4, 2024	April 1, 2024
May 6, 2024	June 3, 2024	July 1, 2024	August 5, 2024
September 9, 2024	October 7, 2024	November 4, 2024	December 2, 2024

DOWNTOWN DEVELOPMENT AUTHORITY

The Decatur Village DDA meets on the second Wednesday of each month, at 1:00 P.M. unless otherwise posted. Meetings are held in the Council Chambers of the Decatur Village Hall, 114 N. Phelps, Decatur, MI 49045.

PLANNING COMMISSION

The Decatur Village Planning Commission meets on the third Thursday of each month, at 1:00 P.M. unless otherwise posted. Meetings are held in the Council Chambers of the Decatur Hall, 114 N. Phelps, Decatur, MI 49045.

ZONING BOARD OF APPEALS

The Zoning Board of Appeals meets as needed on the first Monday of each month, at 6:00 P.M. unless otherwise posted. Meetings are held in the Council Chambers of the Decatur Village Hall, 114 N. Phelps, Decatur, MI 49045.

PARKS AND RECREATION COMMITTEE

The Parks and Recreation Committee meets on the third Monday of each month, at 4:30 P.M. unless otherwise posted. Meetings are held in the Council Chambers of the Decatur Village Hall, 114 N. Phelps, Decatur, MI 49045.

NOW, THEREFORE, BE IT RESOLVED, the following is the current Regular Meeting Schedule for the 2024 Calendar Year for The Village of Decatur.

AYES:

NAYES:

ABSENT:

I HEREBY CERTIFY, that the foregoing is a Resolution duly made and passed by _____ of the Village of Decatur at their regular meeting held on December 4, 2023, at 7:00 p.m. at 114 North Phelps Street, Decatur, MI 49045, with a quorum present.

Megan Duncan, Clerk

Date

RESOLUTION DECLARED ADOPTED, this 4th day of December 2023.



Guidelines and Policies for Boards, Commissions, & Committees

The Village of Decatur Boards, Commissions and Committees provide a way that residents can participate in their government. According to the Code of Ordinances, the Village Council creates, regulates, sets terms of offices, and establishes the duties for Boards, Commissions and Committees as needed. Village Boards, Commissions and Committees can best serve the Village when they are fully aware of the missions and priorities of the Village Council.

Membership: The Village President traditionally appoints Members with concurrence of the Village Council. Announcement of vacancies will be made at the Council meeting preceding that at which the appointment will be made. This allows interested citizens to submit their name and qualifications for consideration. The manager may appoint Ex-Officio representatives of the Village administration to serve as advisors and provide liaison.

Conflict Of Interest: A member of the Village Board, Commission and Committee serves the people and shall not receive personal or business benefit as a result of serving. A member who has a financial interest in the outcome of a particular matter before the Board, Commission and Committee should be excused from deliberations. If the member does not announce her/his own conflict of interest, another member may request that the involved person not participate in discussion nor vote on the issue over which there is a conflict of interest.

Length Of Term: Length of terms varies with the particular Board or Commission. A member may be reappointed for additional terms. Consult the Village Clerk regarding length of term of a specific Board, Commission and Committee that are advisory in nature unless otherwise specified.

Powers: The powers of such Boards and Commissions are delegated to them by Council resolution, Charter, ordinance, or state law. Village Boards, Commissions and Committees are advisory in nature unless otherwise specified.

Removal From Office: Members may be removed because of poor attendance, malfeasance, conflict of interest or conduct that might damage the reputation of the Village or the individual on the respective Board, Commission, or Committee.

Meeting Of the Board, Commission Or Committee: Notices of the meetings for calendar year are posted and provided to the Village Manager's Office in early January. The notice shall include date, place, time and handicapped accessibility information. Any deviations from these posted notices are to be reported at least 18 hours before the meeting. For committees who meet "at the call of the chair", the notices shall be posted and forwarded to the Village Manager's Office no later than 18 hours before the meeting.



Responsibility of Board, Commission Or Committee

1. A person often seeks appointment to a Village Board, Commission or Committee because of her or his involvement with a particular activity, or because she or he has a specific interest or expertise in the focus of that Board, Commission or Committee. However, it must be remembered that the member represents all people and the entire Village and not that special interest when serving on that Board, Commission or Committee.
2. Minutes of every meeting held by a Village Board, Commission or Committee are to be approved by that Village Board, Commission or Committee.
3. Boards, Commissions or Committees shall consult with the Village Manager or his designated representative (such as department head) before taking action which will be legally binding on the Village or obligate the Village financially.
4. The respective Department Head should be kept informed about actions being considered by the Board, Commission or Committee.
5. Press releases from a Board, Commission or Committee shall be released through the Village Manager for review by the Village Council in advance of the release to the public. The Village Manager may determine that some releases are routine and do not need advance notice. For example, library hours and the opening date of the beach.

Policy for Appointments to Board and Commissions

1. a person shall be appointed by the Village President for a Board, Commission, or Committee.
2. Unless otherwise specified by law, the term may vary per Board, Commission, or Committee.
3. Any person appointed to fill a vacancy may be eligible for reappointment following the by-laws to the Board, Commission, or Committee.

Zoning Board of Appeals Handbook

Published by the Michigan Municipal League

Written by Steve Langworthy
LSL Planning
Community Planning Consultants

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About the Author:

Steve Langworthy is retired from the firm of LSL Planning. His more than 25 years of planning experience includes six years as the Planning Director and Zoning Administrator for the city of Kentwood and extensive experience in a variety of communities as a consulting planner. Steve authored numerous master plans, zoning ordinances, and special studies for communities of all sizes and levels of government.

Forward:

Along with the other appointed and elected municipal officials in your community, members of a zoning board of appeals accept responsibility to protect the personality and vitality of your community. To carry out their duties, these volunteers must digest a mountain of information and negotiate a maze of delicate situations.

This handbook was written to help new zoning board of appeals members understand the scope of their role and responsibilities, and to provide them with a basis of understanding in order to capably perform their duties within the law. Topics covered include: the role of the zoning board of appeals as a whole and the roles and responsibilities of individual members; an explanation of the Michigan Zoning Enabling Act; the ZBA's relationship to other municipal bodies and individuals; how to identify and handle conflicts of interest; how to interpret a zoning ordinance; types of variances; preparing for and conducting meetings; and guidelines for making tough decisions.

As the state association of cities and villages, the Michigan Municipal League is committed to providing a variety of educational resources for both elected and appointed municipal officials to assist them in doing their jobs. The League is a non-partisan, nonprofit association working through cooperative effort to strengthen the quality of municipal government and administration.

This handbook is the latest step in our continuing effort to help municipalities meet the daily challenges of governing. Our thanks go to community planning consultant Steve Langworthy of LSL Planning for developing this text. His knowledge, creativity, insight and patience are most appreciated. Contributing to the legal accuracy of this book were attorney Gerald A. Fisher of Kohl, Secrest, Wardle, Lynch, Clark & Hampton and League Associate General Counsel Sue Jeffers. The Information and Publications staff of the League added a measure of common sense and smooth flavor.

The League's goal is to produce publications that will help to make your job easier. We welcome suggestions for additions to this publication and your comments in regard to all of our publications. Let us know how we are doing and how we can be of further assistance.

Daniel P. Gilmartin
Executive Director

Introduction—The Job

Congratulations!

§ 1 Your appointment to the zoning board of appeals (ZBA) is one that carries a significant responsibility for protecting your community and its future.

This handbook will provide you with some hints about how to be an effective member of the zoning board of appeals. It will tell you about the laws and regulations governing zoning and provide information about some of the expectations and methods you may use to prepare, make and enforce your decisions.

During your term you will encounter a wide variety of zoning related problems. Knowing some of the intricacies of zoning is only a part of your responsibilities. You will also learn how to deal with people, both applicants and neighbors, with patience, tact and diplomacy. Knowing how to act in stressful circumstances is one of the most important parts of the job, and one that is best learned through experience. The *Zoning Board of Appeals Handbook* is your head start on learning how to deal with these difficult situations.

You are encouraged to seek other sources for learning about the technical details of zoning and related topics. These, too, will be a significant part of your job as a member of the zoning board of appeals. The Michigan Municipal League can suggest a number of documents that can help you on your way, as well as an ongoing series of courses you may find helpful.

What's in a Name?

§ 2 Your zoning ordinance may have given a different name to your board than the zoning board of appeals, such as the Board of Appeals, Board of Zoning Appeals, Board of Appeals and Adjustment or some other

similar name. In townships this should not be confused with the Zoning Commission, which is a derivative of a planning commission. Regardless of the name, the duties and authority of the ZBA are largely the same.

The Job

§ 3 The future of your community will be greatly affected by the decisions you make as a member of the zoning board of appeals. Few voluntary, non-elected appointments have the kind of power granted to the ZBA. This is because it is one of only a few bodies that can permit someone to legally avoid compliance with an adopted ordinance. The exercise of this power is restricted by standards discussed in greater detail below that are to be applied in decision making.

It Begins with a Philosophy

§ 4 Becoming an effective ZBA member begins with a clear philosophy of your approach to the task. Perhaps you had a desire to give something back to the community, or something happened in your neighborhood that disturbed you or you wanted to help people. Most likely, you did not get into the job for the money (you did volunteer, after all).

Regardless of why you decided to accept the appointment, to be an effective member, your participation will require a serious commitment of time and energy, and a serious commitment to the laws governing the decisions of the ZBA.

It may help to understand why the job of the zoning board of appeals was created in the first place.

What is a Zoning Board of Appeals?

§ 5 Early in the history of zoning it was recognized that it was nearly impossible to write a set of regulations affecting the development of land that could be universally applied. Many communities in Michigan and throughout the country had hundreds or thousands of parcels of land to which zoning standards had to be applied. As a result, it was clear that a means of providing relief from the strict requirements of the zoning ordinance was needed for property owners with unique conditions related to their property.

To provide an avenue of appeal, each state's zoning enabling acts required that any community which adopted a zoning ordinance have a zoning board of appeals. The function of the ZBA was to be a quasi-judicial body, to carry out two principal functions:

1. To hear and decide appeals of administrative decisions made in implementing the zoning ordinance; and
2. To hear and decide requests for variances from the strict terms of the zoning ordinance. In addition, the ZBA is occasionally called upon to interpret the provisions of the zoning ordinance.

The Role of the ZBA

§ 6 As a member of the zoning board of appeals, you will be dealing with one of the most enduring elements of society – land. Decisions based on the land nearly always last forever because they are in place regardless of the owner. Therefore, your decisions can have a serious effect on the use and value of land.

At the same time, you will be dealing with people, both applicants and neighbors affected by your decisions. You will find that this can create uniquely challenging

situations. Consequently, your actions must be based on the long-term interests of the community which, in turn, must be guided by the decision-making standards of the zoning ordinance.

Every person who can meet the criteria for relief has the right to seek relief from a zoning ordinance requirement. If the standards used by the ZBA are carefully considered and followed, the integrity of the ordinance should be maintained. However, not following such standards leads to problems. Too often variances are granted simply because no one sees any harm. The ZBA soon gains a reputation for not following its ordinance. One merely has to go to the zoning board of appeals to obtain relief from the ordinance—getting a variance is no problem. Eventually, the offhand granting of variances harms the community's ability to enforce the ordinance. Moreover, poorly supported decisions can, over time, destroy the credibility of the zoning ordinance. It is up to the members of the zoning board of appeals to prevent this by strictly applying the standards of the ordinance.

These decisions will not always be easy. In some instances, you will know the land owners, neighbors or applicants personally. The key to acting in a responsible manner is to act in ways that will allow you to treat each person and property in a fair and consistent manner.

Chapter 1 The Basics

§ 7 In the Introduction we noted that being an effective ZBA member begins with a clear understanding of the job and each member's approach to it. Two important aspects with which you should be familiar are the legal basis for the zoning board of appeals and the relationship between the ZBA and other bodies and officials dealing with the zoning process.

The Zoning Enabling Act

§ 8 All zoning authority is granted by the state through the new Michigan Zoning Enabling Act, (PA 110 of 2006). Counties that have adopted a zoning ordinance have zoning authority over townships (but not over cities or villages) which do not have their own zoning ordinance. Cities, villages and townships that have their own zoning ordinances do not fall under county authority.

The zoning enabling act defines the membership, responsibilities and authority of the ZBA. It also describes general rules for the formation and operation of a zoning board of appeals. The chart on the following page outlines some of the differences in the organization of the ZBA at various levels of government.

Membership

§ 9 Qualifications for membership are generally minimal. Members are only required to be an elector and be representative of the population distribution and the "various interests present" in the community."

Although less common, but still practiced, legislative bodies may also act as the ZBA, but only in cities and villages. In townships, an elected official may be a

member of the ZBA, but cannot be the chair.

In addition to regular members, up to two alternates may be appointed to the ZBA. Alternates serve in the event of a declared conflict of interest or absence of a regular member. When called, alternates serve until the application(s) is resolved. In the case of an absence, the alternate stays with the cases heard even if the absent member returns.

Bylaws

§ 10 The enabling act also permits the zoning board of appeals to adopt rules governing their operation, commonly referred to as bylaws. The bylaws should specify certain responsibilities, such as defining officers and their duties, quorum rules, special meeting procedures, conflict of interest procedures, and other aspects of the ZBA's operation. Bylaws are not part of the zoning ordinance but are adopted by the ZBA as its rules for operation.

Relationship to Other Bodies/Individuals

§ 11 It is also important to understand the relationship between the zoning board of appeals and others with responsibility in the zoning process. Zoning responsibilities are divided between several individuals and bodies.

<p>Zoning Act: Michigan Zoning Enabling Act 2006 PA 110 MCL 125.3101 et seq.</p>
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	Community
Number of members	Less than 5,000 population—not less than 3 members
	5,000 or more population—not less than 5 members
Membership	Planning commission member must be on the ZBA; elected official may be on ZBA. In cities and villages, the elected body may act as the ZBA.

Planning Act:

Municipal Planning Enabling Act
2008 PA 33
MCL 125.3081 et seq.

Purpose: to codify the laws regarding and to provide for county, township, city, and village planning; to provide for the creation, organization, powers, and duties of local planning commissions; to provide for the powers and duties of certain state and local governmental officers and agencies; to provide for the regulation and subdivision of land.

The Planning Commission

§ 12 The planning commission is given the responsibility of drafting the master plan; the legislative body must “approve the plan for distribution,” and may elect to become the adopting authority for the plan. After preparing a proposed plan, the planning commission must submit the proposed plan to the legislative body for review and comment. Before the adoption process can proceed, the legislative body must approve the distribution of the proposed plan. If it does not, it must return the plan to the commission with its objections. The

commission must then revise the plan until it is accepted by the legislative body.

The long-term effect of this change to the adoption process will have to be determined. But even if the planning commission is delegated the responsibility of completing and adopting the master plan, the legislative body should be involved in all of the critical steps of the process in order for the plan to be effectively implemented.

The master plan is intended to serve as a guide for the future development of the community. The plan is used to indicate locations for new development where natural features and the environment are not at risk, where community character will not be diminished, and where expenses for new roads and services will be at a minimum. It is essential that any action related to zoning, including those actions taken by the zoning board of appeals, should take into consideration the master plan.

The planning commission is also responsible for writing the first draft of the zoning ordinance. This was done to ensure a direct connection between the master plan and zoning ordinance. Local control of the use of land (with some exceptions, such as some state land uses and federal land

uses) is an accepted legal principle. Land use is controlled through the separation of land into various use areas, called zoning districts. The rules governing these districts are found in the zoning ordinance, which contains provisions controlling the type and intensity of development allowed.

The zoning ordinance should be established and amended as guided by the master plan. The future land use classifications of the ordinance's zoning districts are depicted on the zoning map that is part of the ordinance. The density and intensity planned for the land use districts are translated to the uses permitted, lot sizes and other regulations.

The courts of the State of Michigan do not recognize the master plan as authorizing land uses on its own. This authorization is contained in the zoning ordinance. However, the courts do lend much more credibility to land use actions supported by careful planning than those actions that appear to have been taken arbitrarily against an individual property owner.

The Legislative Body

§ 13 The elected governing body of the community has several responsibilities related to the zoning board of appeals. First, and most obvious, the members of the ZBA are appointed or approved by them, unless the legislative body itself decides to act as the ZBA (cities and villages only). Second, the legislative body is responsible for providing the funds necessary for the operation of the ZBA. This includes per diem (or per meeting) payments to members and other expenses such as mileage for site visits, attendance at conferences and training sessions, educational materials and other costs associated with the ZBA.

Finally, the legislative body is required to adopt the zoning ordinance and any

subsequent amendments, based on a recommendation from the planning commission. Ultimately, the legislative body decides what zoning regulations and policies will be adopted and followed by the community.

It is especially important for the ZBA to recognize its role in relation to the planning commission and legislative body, particularly with respect to the writing and adoption of the master plan and zoning ordinance. There is no formal process for the zoning board of appeals to play an advisory role in determining planning policies or zoning regulations. Accordingly, it is not the role of the ZBA to attempt to change those regulations or policies through their actions. This, of course, does not prevent the ZBA from communicating their thoughts regarding the ordinance during the course of performing its functions.

The Zoning Administrator

§ 14 The zoning administrator is the individual responsible for the day-to-day administration and enforcement of the zoning ordinance. In many communities the zoning administrator is a valuable contact between the ZBA and the applicant, ensuring that all relevant materials are provided, offering advice in filling out application forms, and advising the ZBA on important factual matters pertaining to the requests before them. In some communities the administrator is asked to provide written, advisory recommendations regarding applications.

In communities where staff or other assistance is available, some of the roles filled by the zoning administrator, including submission of recommendations, may be complemented or completed by these other individuals.

Duties and Responsibilities of the Zoning Board of Appeals

§ 15 The zoning board of appeals exercises three basic roles or functions. These include:

- a) Interpreting the ordinance (text and map),
- b) Deciding appeals from administrative decisions, and
- c) Granting variances (use and non-use).

The terms *appeal* and *variance* are often used interchangeably, but in fact are two entirely different concepts.

A variance, if granted, allows a departure from a particular requirement of the zoning ordinance.

An appeal is based on the fact that someone has made a decision related to the zoning ordinance, and another person disagrees with that decision.

Conflicts of Interest

§ 16 Knowing about conflicts of interest is important since the zoning act requires the use of an alternate when a member has a conflict. In some instances, failure to declare a conflict of interest may result in the removal of a ZBA member.

What Constitutes a Conflict of Interest?

§ 17 You probably have a conflict of interest if:

- you are the applicant;
- a close relative is the applicant;
- a business associate, lender or renter is the applicant;
- the proposal could allow you or a business associate to receive a financial gain or benefit;
- you are a planning commission representative to the zoning board of appeals and the matter to be heard is an appeal from a previous

planning commission decision in which you participated; or

If you have to ask...chances are others are asking as well. If you are in doubt about whether or not you have a conflict, it is often advisable to take a conservative approach and declare a conflict. This helps to avoid a public appearance of unfairness.

You may also consider the possibility of declaring a conflict of interest if your home falls within a notification radius used by your community for zoning board of appeals' actions. Since the sending of the notice automatically presumes some degree of interest, this fact should be recognized by declaring a conflict, particularly if a financial impact is likely.

Ultimately, the declaration of a conflict of interest becomes a personal issue and one that should be honored by the other members. If in doubt about whether a conflict of interest is present, it will generally be better to avoid the perception of a conflict, even though an individual member may conclude that a conflict does not exist.

What to Do

§ 18 In order to maintain public trust and insure fairness, it is important to follow some simple steps if a conflict is present. The ZBA bylaws should address fully those actions to be taken in the event of a conflict of interest. Suggested actions are:

1. Declare the apparent conflict of interest. If a member is aware of a conflict prior to the meeting, the staff/chair should be notified in order to allow an alternate to be called. If an alternate is called in, he or she serves on that case until it is completed.
2. Generally, voting by the other members on a conflict of interest is not necessary. However, if the ZBA adheres strictly to Robert's Rules of Order for all meeting procedures (not

just conflicts), members should be excused through a vote. However, declaring a conflict of interest should not be used as a means of avoiding a difficult or uncomfortable decision.

3. Abstain from voting and do not participate in deliberations, either as a member of the ZBA, or as a citizen. Although no one can be prohibited from speaking as a citizen, the comments from a fellow ZBA member will likely be viewed by the audience as being very influential and have the appearance of bias. This does not prevent the member from being represented by an attorney, family member or friend.
4. Once the conflict is declared, you may wish (but have no obligation) to leave the room. This will be a clear indication to the audience that the member has no part in the deliberation or decision, and it avoids any perception by the audience that the member is attempting to influence the others. By all means, the member with a conflict should vacate his or her seat during all proceedings involving the case.

Some Don'ts

§ 19 if you have a conflict of interest, Don't discuss the proposal, either formally or informally with any of the other members.

Don't use inside knowledge and contacts. Make sure that minutes, staff materials, etc., are obtained through the same procedures as any other applicant. It is best to have someone else collect this information.

Don't represent yourself if you are the applicant. Have someone else perform that function. It is acceptable to have other family members, an attorney or a personal representative speak for the member.

Interpretations

§ 20 The ZBA is authorized to issue an official interpretation of the zoning ordinance. Interpretations may be related to either the text of the zoning ordinance or to the boundaries of the zoning map. Unlike legal opinions or recommendations of consultants, an interpretation by the ZBA establishes the meaning of the matter being interpreted and is deemed to be the actual meaning of the ordinance from that point forward, unless the ZBA's interpretation is appealed to the courts.

Several rules of thumb may help in making interpretations.

a) Base map interpretations on the zoning ordinance itself and any relevant historical information. Commonly, these rules are of the "walk like a duck" variety. In other words, if it appears as though the zoning boundary follows a river, it should be assumed to follow the river, or a road right-of-way, or some other physical feature. Where the boundary is unclear, the ZBA should take into account past zoning history (if any) and the potential effect of a determination on surrounding properties.

b) Interpret the text of the zoning ordinance based on a thorough reading of the ordinance in order not to have the effect of amending the ordinance.

c) Give weight to reasonable practical interpretations by administrative officials if applied consistently over a long period of time.

d) Keep records of all interpretations. Once an interpretation is rendered, it is the official position of the community as to that provision. Consistency in decision making is important for the long-term.

e) Generally, if equally convincing points are put forth by the zoning administrator and an individual affected by an interpretation, fairness dictates that the person most affected by the interpretation should prevail. In other words, where two

interpretations are reasonably equal, the benefit of the doubt should be given to the property owner rather than the zoning administrator.

Once an interpretation is made, it is advisable for the planning commission to review the matter to determine whether or not an amendment to the ordinance is needed to further clarify the language (for a text interpretation), or to review the zoning map to determine a specific location of a zoning boundary (for a map interpretation).

Appeals

§ 21 The zoning board of appeals is empowered to hear and decide appeals from any person aggrieved by an administrative decision. An administrative decision is one made by a zoning administrator or the planning commission, or by the legislative body when they are acting in an administrative capacity, (if, for example, the legislative body approved all site plans). Most often, appeals are the result of a disagreement with a decision of the zoning administrator, or, in some cases, a person aggrieved by a site plan review decision by the planning commission. Appeals may be required to be filed within a specific time period set in the zoning ordinance.

The ZBA cannot hear two types of zoning decisions. The first is an amendment to the zoning ordinance (rezoning or text change)—this is reserved for the legislative body. The second type of decision is for special land uses and planned unit developments, which can only be heard by the ZBA if the zoning ordinance specifically allows for an appeal.

Although the ZBA may reverse or affirm, wholly or partly, or may modify a prior decision, its powers are generally limited to determining whether or not the official or body making the administrative

decision acted properly. The ZBA must recognize that the zoning administrator or planning commission has already made a decision regarding the issue as part of its delegated duties. The role of the ZBA is to determine whether the decision was authorized or supported by the zoning ordinance.

In addition, the ZBA should not treat the appeal as a new decision. Rather, review of the decision should be limited to the information that was available to the body or person who made the decision initially. Allowing testimony or evidence in addition to that previously submitted is inappropriate, unless the zoning ordinance directs otherwise.

In those instances where the official or body used proper procedures and standards, the ZBA should uphold the decision, even if the members personally disagree with the result.

Some communities attempt to make appeals and variances the same by allowing an application to the zoning board of appeals only after the denial of a requested permit, such as a building permit or zoning compliance permit. This can be an inefficient and cumbersome procedure since a permit application may require submission of a full application for the permit, even when it is obvious that some requirement of the zoning ordinance is not met and a variance will be needed before a permit can be issued.

Variances

§ 22 A variance grants permission to depart from a requirement or limitation of the zoning ordinance. There are two types of variances:

- a) Nonuse variances (dimensional variances)
- b) Use variances

Nonuse or Dimensional Variances

§ 23 A nonuse variance, also known as a dimensional variance, is a modification of a provision or requirement of the zoning ordinance authorized by the zoning board of appeals when the strict or literal application of the ordinance would cause “practical difficulties” for the applicant. Nonuse variance requests are typically associated with modifications of required yard setbacks, building heights, parking requirements, landscaping or buffering restrictions and related building or facility placement provisions.

To obtain a nonuse variance, the applicant must show that a *practical difficulty* exists on the property by demonstrating that the applicable review standards are met. A detailed examination of these standards is provided in Chapter 3.

Use Variances

§ 24 A use variance allows a use of land that is not permitted in the district in which the property is placed. Granting of a use variance requires that the applicant demonstrate that an “unnecessary hardship” would be imposed if the owner cannot use the property as requested.

Use variances are permitted in cities and villages but limited in townships and counties. According to the Michigan Zoning Enabling Act, only the following townships and counties are eligible to hear use variances:

1. Those that as of February 15, 2006 had an ordinance that used the phrase “use variance” or “variances from uses of land” to expressly authorize the granting of use variances; and

2. Those that granted a use variance before February 15, 2006.

However, even if permitted and eligible to hear use variances, the Zoning Enabling

Act allows community opt out of this procedure.

To prohibit use variances the community must adopt zoning ordinance language that prohibits submission of use variance requests.

From a community planning perspective, the indiscriminate granting of use variances is a poor zoning and planning practice. Given the long-term implications, it is important that the ZBA understand the ultimate effects of use variances on the master plan or zoning plan for the community. Approval of a use variance can change the overall land use character of a particular area. That is why strict attention to the use variance standards is necessary.

Following the Rules

§ 25 It is especially important that the zoning board of appeals establish a consistent method of processing applications, conducting meetings and handling other procedures. As noted earlier, the ZBA should have a set of written procedures, or bylaws, for those rules of operation not covered in the zoning ordinance.

Some common considerations follow.

- Incomplete applications (inadequate site plan, fee unpaid, etc.) should not be accepted, i.e., should not be placed on an agenda.
- If public notice was not properly completed, the process must be stopped and a new process begun using a correct notice as to form, content and publication.
- Action should not be taken on any application unless the applicant or a representative is present (unless legal time limits dictate otherwise).

Conclusion

§ 26 Variances are not intended to relieve requirements of the zoning ordinance that are simply preventing applicants from doing what they wish.

Instead, the zoning board of appeals was intended to serve as a safety valve in those relatively rare circumstances where the application of the zoning requirements results in a practical difficulty (for nonuse variances) or unnecessary hardship (for use variances). However, variances approved without sufficient justification can turn the safety valve into a leak. Eventually, this will erode the overall purpose and effectiveness of the zoning ordinance, particularly when it is commonly known that the ZBA is likely to approve virtually any request.

Chapter 2

Preparing for and Conducting Meetings

§ 27 Membership on the zoning board of appeals can mean either just showing up for the meeting or being prepared to make informed decisions. While it is difficult to ask a volunteer to put forth an extra effort, your agreement to serve is also a commitment to do the best possible job for your community.

It is difficult for any member of the ZBA to reach a fair and impartial result without a firm base of knowledge about the matters on which he or she is asked to decide. To gain this knowledge, you will need assistance from the community's staff, the applicant and each member. There are some positive "fact finding" steps you can take to make sure you are ready to make the best possible decision.

Information

§ 28 In order to prepare properly for a meeting, you must review all available and relevant information. At a minimum, this will include copies of applications, site plans and other supporting material. This material should reach you early enough to allow adequate time to study and prepare, normally, at least one week before the meeting.

Public Hearing Notices

§ 29 A public hearing is required for all ZBA approvals (variances, interpretations, and appeals). The notices differ slightly.

For variances, a notice of the request must be published in a newspaper of general circulation.

Notice shall also be sent by mail or personal delivery to the owners of property for

which approval is being considered, to all persons to whom real property is assessed within 300 feet of the property, and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the community. If the name of the occupant is not known, the term occupant may be used in making notification.

The notice shall be given not less than 15 days before the date the application will be considered for approval. The notice shall do all of the following:

(a) Describe the nature of the request.

(b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

c) State when and where the request will be considered.

(d) Indicate when and where written comments will be received concerning the request.

Public hearings for interpretations and appeals are the same, except that notices to individual property owners other than the applicant is necessary only if a specific property is involved in the interpretation or appeal.

Site Visits

§ 30 Visiting the site is a critical step in the decision making process. Even if you have lived in the community all your life, a site will look different to you when a specific request is made. Prior to the site visit you should review any site plans or sketches submitted as part of the application. This review will allow you to gain a proper perspective on the request and how it relates to surrounding properties and to the standards of review you are required to use to reach your decision.

Some precautions must be taken when doing site visits. First, all such visits should always be made individually rather than as a group. Meeting on site (even with less than a quorum) presents several potential problems.

- A site visit by a majority of the membership of a decision making body is a “meeting,” and must be advertised in accordance with the Michigan Open Meetings Act, MCL 15.261 et seq., and the requirements of the Americans With Disabilities Act (ADA) must be met.
- Practically, it is hard for the visiting members to avoid talking among themselves about the proposal. Such discussions can violate the spirit as well as the letter of the Open Meetings Act.

Second, do not go onto the site unless the property owner has granted specific written permission or unless the site is otherwise available to the public (such as an existing shopping center). Verbal approvals should not be relied upon as sufficient permission. Written permission helps avoid misunderstandings and problems with trespassing accusations.

Refusal by the applicant to allow you on the site can not influence your decision.

Many people are concerned about liability or are simply determined to protect their privacy.

The Michigan Open Meetings Act, MCL 15.261 et seq., was intended to make sure that the decision making process followed by government bodies always takes place under the watchful eye of the public. Even though you can simply meet the *letter* of the act, it is just as important that the *spirit* of open meetings be observed. *Don't look for ways around the act; look for ways you can make it work better.*

If permission has not been granted and you feel as though your decision cannot be made without viewing the site, look for other ways to get the same information. This might include aerial photos or surveys. You may also request that the applicant submit photographs, slides or video tape particularly for larger, inaccessible sites. This information may be available from community staff or you may ask for it from the applicant. There are many ways to gather the necessary information and you should not make a decision until it is obtained.

TIP: Consider adding a line to your application form that allows the applicant the option to grant permission for the members to conduct a site visit.

You may feel free to request information from the community's staff. Make sure whatever information you receive is also distributed to each of the other members. Similarly, written materials received at home from applicants or others

should be provided to the community's staff⁶ for distribution to the rest of the members.

Finally, do not talk to the property owner, neighbors or applicant outside of the meeting. The intent of information gathering is to ensure that everyone has the same information on which to base a decision. This is not possible if individual members contact or are contacted by others outside of the meeting.

If the applicant or others contact you, be prepared to tell them that you are required to conduct all of your discussions only when the other members of the ZBA are present. Encourage them to come to the meeting (tell them when and where) or ask them to submit their comments in writing (tell them to whom and by what date). If contact cannot be avoided, it should be reported to the rest of the members during the meeting, along with the general content of the conversation.

Remember - you are only one person on the ZBA; the only time you should act as a member of the zoning board of appeals is in the presence of the other members at a posted meeting.

Before Leaving Home

§ 31 Make sure you have everything. Follow this checklist.

1. Do you have your zoning ordinance and other applicable ordinances, if any?
2. Have you examined the agenda and related materials?
3. Have you written down your questions?
4. Have you completed the site visit? If not, at least drive by the site on the way to the meeting.
5. Have you reviewed the standards that will be used for each decision?

6. Remind yourself that the purpose of preparing for the meeting is not to make a decision; it is only to gather the information needed to prepare you for the decision that is to come.

Meeting the Public

§ 32 Land use issues, as you will no doubt discover, can bring out strong emotions. Faced with a roomful of angry and concerned people, you may sometimes find it difficult to maintain the decorum and professionalism needed. Although many zoning boards of appeal follow Robert's Rules of Order in one form or another, there are other, more subtle aspects that, while not unique to zoning, nevertheless are important.

Being Fair

§ 33 The foremost concern of any member of a public body should be to ensure fairness for all concerned. To accomplish this, it is helpful to keep some simple things in mind.

- Everyone must have the opportunity to speak and present evidence at public hearings. While some limitations may be placed on this right, as described later, no action should be taken that would deprive a person of his or her right to be heard within the confines of applicable rules of procedure.
- Recognize emotional responses and treat them with concern and understanding. Strong responses, within limits, should be expected and understood. Controlling your own emotions is essential, even if the comments get personal.
- One of mankind's greatest fears is public speaking. Make an effort to look beyond the mannerisms

and nervousness to find the speaker's message.

- Regardless of how many people show up to oppose or support a request, you must represent the long term interests of the entire community, not just those at the public hearing. Further discussion of this issue is presented later in this chapter.
- Listen. Public meetings are your chance to take the pulse of the community and to learn more about the neighborhood in which a request is pending. Take advantage of the efforts that those attending the meeting have made and learn as much as you can.

Follow the Rules

§ 34 Playing fair means playing by the rules. Having an effective set of meeting rules helps provide a sense of professionalism and ensures that meetings are orderly. Rules do not need to be rigid. Nor should they be too confining. Occasionally agendas will need to be altered to take unanticipated events into account.

Keeping a subtle balance between the degree of formality required and the informality that is sometimes needed is a learned art. For example, applicants should not be called by their first names. Doing so gives the impression of favoritism, that the person is "connected" in the community. Hearing rules should be made a part of the bylaws of the ZBA and a summary of those rules printed on the back of the meeting agenda so that everyone is aware of them.

Rules for Speakers

§ 35 You will soon learn that people do not often come to a meeting in support of a particular project. Most people have concerns they wish to address, while others are simply opposed to change in their

neighborhood. Having meeting rules for speakers are especially valuable when there are many people who wish to speak. Without a few basic rules (which should be approved by vote of the ZBA) it would be easy for one or two people to dominate the meeting, thus depriving others of the chance to speak their minds.

- Direct comments to the chair. This rule can help avoid debates between members of the audience, between the presenter and the audience, and between ZBA members and the audience or presenter. It also helps ensure that the chair controls the meeting.
- Limit speaking time, when necessary. If there are many people who wish to speak, it is appropriate to limit the time of each speaker to 3-5 minutes, with the exception of the applicant. The applicant should be given as much time as needed, within reason, to present his or her case. During the public comment period, the applicant may wish to respond to individual issues or questions raised. It is generally best to ask that the applicant respond to (or rebut) those questions after all comments have been received.
- Limit the number of times one person may speak. Generally, each person needs to be given only a single opportunity to speak. At the discretion of the chair, persons may be allowed to speak a second time to respond to earlier comments. However, the chair should emphasize that repeat comments are not desired. Your rules may also require a sign-up sheet for those persons wishing to speak, with

- the chair only recognizing those who have signed the sheet.
- The chair may also ask if there is a spokesperson for the audience, and ask that the spokesperson speak for others present who agree with his or her point of view. The chair should allow those for whom the spokesperson is speaking to be recognized, either through a show of hands or by standing. The spokesperson may be given additional time in recognition of his or her role.
 - After the public hearing is closed, it should remain closed. Further comments should not be accepted unless specifically requested by a member of the ZBA.

And the Applause Meter Says...

§ 36 Zoning cannot be a popularity contest, decided by a show of hands in the audience or names on a petition. Many zoning approvals require public input, usually in the form of a hearing. The dilemma in which most decision makers find themselves is trying to determine what weight to give public comments and complaints.

It will quickly be obvious to you that most people do not generally come to a meeting in support of a particular project. Most have concerns they wish addressed or they may simply oppose any development. Some may come to complain about things having little or nothing to do with the issue at hand.

While public input is a valuable part of decision making, the ZBA cannot simply mirror the wishes of those who come to the meeting or send letters. Your job is to follow the standards and requirements of the zoning ordinance. You are obligated to protect the interests of the applicant, those having a direct interest, and the entire

community, not simply the desires of those who happen to attend the meeting.

If it were simply a matter of counting hands in the audience, only one ZBA member would be needed to count the votes or read the applause meter. Simply because a roomful of people shows up to oppose a project, this is not a reason for denial. Similarly, petitions, letters and other written expressions of concern are useful, but only to the point where they provide relevant information.

Ultimately, the role of the public is to provide information to the decision maker. The public can provide a unique perspective on an issue, which may create the need for further study by the community or identify additional information to be provided by the applicant.

Making everyone happy in most cases is impossible, and probably shouldn't be tried. One of the most difficult aspects of planning and zoning is the need to balance the various, often competing, interests of property owners and residents. Michigan law dictates that the public has a legitimate interest in maintaining the important health, safety and welfare aspects of their neighborhood and in having their property values protected.

"My home is my castle" is not an idle remark. Those who follow the NIMBY and BANANA principles sometimes represent this view. The *NIMBYs* believe that the project is well designed, and needed, but located in the wrong place. Not In My Back Yard is their battle cry.

Others may believe that the project should not be built anywhere in their community, or perhaps anywhere at all. Their motto is Build Absolutely Nothing Anywhere Near Anything—*BANANA*.

On the other hand, we are also told that owners of property have a right to a reasonable return on their investment and

that zoning cannot unreasonably deprive the owners of that return.

Satisfying all of these conflicting views is simply not possible. The intent of zoning is to avoid the necessity of trying to judge between them. Instead, zoning decisions should treat each person, property, and point of view in a fair and consistent manner. It is not the responsibility of the ZBA to create zoning classifications for rezoning property. Rather, the ZBA must merely determine whether, after considering all evidence presented, the applicant has satisfied the necessary level of proofs for the particular case in order to be entitled to relief.

Rules for ZBA Members

§ 37 As members of a public body, you should follow the same set of rules when presenting yourselves to the public.

- All comments should be directed through the chair. Just as the audience must be recognized by the chair, so too should the members. Not only does this respect the role of the chair, it also sets an example for the audience to follow.
- All deliberations should be in the open. This is a strict legal requirement. It is important that the citizens view the zoning board of appeals as an open, fair and deliberative body. Remember, people are generally suspicious of government. Don't add substance to that perception.
- Stay in the public eye. Do not hold private conferences prior to meeting. Don't meet in a group in a small room or other place outside the meeting chamber. When arriving at the meeting, stay in the chamber. While socializing is acceptable, make

sure the citizens do not get the wrong impression.

- Speak up. Make all of your comments aloud during the deliberations. If you have a question, ask the applicant or the chair, rather than your neighbor. Don't allow yourself to be caught up in private discussions with other members.
- Make all of your comments loudly enough so everyone can hear.
- Express your opinions. Don't just vote without letting everyone know why you are voting, whether for or against the issue. Your comments may help others decide (or change their vote). It also lets the applicant and the audience know the strengths or weaknesses of the proposal. Moreover, it may add to the record if the case goes to court.
- Do not always attempt to answer every question. Some comments cannot be answered and may be asked just to express frustration. When this happens, calmly try to narrow questions down to specifics. Once you get a handle on the real problem, you may be able to suggest a solution.

It is also important that neither the chair nor members of the ZBA attempt to answer questions from audience members that are better answered by the applicant.

- If things get out of hand, take a recess. Long evenings and emotional topics can make for short tempers. A breather may be helpful.

- Do not feel compelled to make a hasty decision the night of the hearing. Everyone should feel comfortable with his or her vote. If he or she does not, obtain whatever additional information is needed before proceeding with the decision.
- Always use the review standards of the zoning ordinance. The standards are your guarantee of reaching fair, consistent and reasonable decisions. Failing to follow the standards of review can easily lead to discriminatory, subjective and inconsistent decisions.

The Experts Say...

§ 38 The question may also arise about how much influence staff reports and opinions should have on a decision. In most cases, staff members are trained in their various fields and are providing their professional opinion. Consequently, their advice and direction are likely to be useful and should be taken seriously. However, that advice and direction should be supported by the facts and by application of the ordinance standards just as the ZBA's decisions are expected to be. The professional's opinions of how the facts relate to the standards may differ from the ZBA's. But ultimately, it is the decision of the zoning board of appeals that will stand.

Keeper of the Gavel

§ 39 The chair is entrusted with enforcing meeting rules. Having a strong chair is important both to the operation of the ZBA and to public's perception of their professionalism. The role of the chair is to maintain order throughout the meeting. The chair should announce each agenda item and note the rules that apply to the hearing. During the meeting, the chair

should ensure that courtesy is maintained and that speakers are not interrupted.

Keeping Faith with the Public

§ 40 Too often, people feel that government works against them rather than in their best interests. While you will not always be able to satisfy everyone, you can make sure that the public knows that they have been heard and that you are acting responsibly. Following rules of fairness, preparing for meetings and making effective decisions can affirm the confidence placed in you by those who appointed you and those whom you serve.

Making Your Decisions Stick

§ 41 It won't matter how much attention is paid to the principles of the previous chapters if the decisions made are not properly documented. New members may have a tendency to rely on those who have the most experience to remember past actions. There is no doubt that their memories are valuable, but their recall may not be complete. The only reliable method of documenting actions is the written word and exhibits.

Meeting Minutes

§ 42 In smaller communities, keeping minutes may be one of the least glamorous parts of building a written record. The task of keeping minutes should be taken seriously. There are no firm rules or formats for minutes, but there are some basic principles. As a minimum, section 9 of the Open Meetings Act, MCL 15.269, requires the minutes to show the date, time, place, members present, members absent, any decisions made and all roll call votes taken. In general, minutes should contain enough detail so that a person not present can understand:

- What matters were discussed (the nature of the request, applicant, location);

- Receipt of any correspondence or other communications on the matter (including name and address, if known, and general content);
- Who spoke at the meeting and the general content of his or her comments (including name and address);
- What action was taken by the ZBA (including the motion, vote and any conditions attached to approved applications); and
- Why an action was taken and how the standards of review of the zoning ordinance were or were not met, i.e., the detailed findings that support the decision.

One of the reasons that minutes are especially important has to do with the appeal procedure that occurs once the ZBA has made its decision. As noted earlier, there are no other levels of review by the community itself after the zoning board of appeals. The next avenue of appeal is to the circuit court of the county in which the property is located.

The zoning enabling act directs the circuit court to decide an appeal on the basis of the record presented by the ZBA and the applicant. In other words, the only information seen by the court will be the written record created at the ZBA hearing. Accordingly, it is essential that the ZBA provide a suitable written record of the proceedings.

Motions

§ 43 One of the important features of documenting decisions is the record of the action taken, as evidenced by the specific motion and vote. There are several essential elements of a motion:

- a maker and seconder;
- a description of the nature of the request;

- the action taken (approval, approval with conditions, denial, postponement of the decision);
- any conditions attached to affirmative decisions; and,
- the reasons for the action taken (the standards of review and how they were or were not satisfied) based upon the facts and evidence presented at the hearing—the findings that support the decision.

Some ZBAs have found it useful to have a blank format to help them word their motions. This can be an effective practice, as long as the motions are not completed prior to the meeting. Having staff or legal counsel prepare a motion or several motions in advance can create the perception that decisions have already been made if a case is highly controversial, and is likely to go to court, there may be a desire to have legal counsel assist in formulating the language of the decision. If such assistance does occur, consideration should be given to seeking such assistance on a decision granting the relief requested as well as a decision denying the relief.

Some hints about motions:

§ 44

- Be sure everyone is clear on the motion by restating it. Do not ask the person writing the minutes to “clean it up later,” or say, “you know what we want to say.” Take the time to get the wording right. Have the person who is writing down the motion read it back to ensure its accuracy.
- Include specific references to the ordinance’s review standards. If discussion on the issue is thoroughly documented and referenced in the minutes, they may be adequate to represent information related to

compliance with the standards of the ordinance. Otherwise, a summary of the discussion on the standards is appropriate.

- Properly stated and supported motions are particularly important. Simply referring to the standards of review is not enough; saying a standard is met doesn't make it so. A motion that states "this variance is approved (or denied) because it meets (or does not meet) the standards of Section ____" is not sufficient. There must be enough information presented to indicate specifically which standards were or were not met, and the reasons, in terms of the specific facts and evidence presented, the ZBA made the finding.
- Conditions may be imposed on any affirmative decision. Conditions attached to a decision should have a clear purpose: to ensure that the standards used to make the decision are met. In other words, the condition should strengthen the decision to grant relief. Any condition placed on an approval must have a direct relationship to one or more of the specifications stated in the zoning enabling act for conditions.

One informal way to test the appropriateness of a proposed condition is to review the decision without the condition in place. For example, one of the review standards noted in Chapter 3 is "(T)he variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare." If, during their deliberations, the board members become concerned that the approval of a variance could have an adverse affect on adjacent

properties, a possible condition might be a requirement that a fence or landscaping be installed. If the fence or landscaping were not required, this review standard would not be met. Accordingly, this condition would be an appropriate one to attach to the approval.

- If the motion includes the need for further action, it should state who will be responsible to see that action completed. For example, the required landscaping shall be reviewed and approved by the zoning administrator."

Findings of Fact

§ 45 It is worth emphasizing the obligation to make Findings of Fact. Findings of Fact are embodied in a concise statement of the action taken by the members, and include the reasons for the decision, including the specific facts and evidence supporting the decision. In the absence of such findings, it is quite difficult for a reviewing court to sustain the decision of the ZBA.

The Findings, which are part of the minutes, are not official until reviewed and adopted by the ZBA at the next meeting, or certified as approved at the same meeting. One reason this is important is that the applicant or other person disagreeing with the decision has a specific time limit in which to file an appeal to the circuit court (30 days). The clock on the time limit does not begin ticking until the minutes of the meeting at which the action was taken are officially approved.

If the ZBA only meets on demand, or infrequently, another option would be to schedule a meeting after the minutes are completed to review and adopt them.

Post-Decision Documentation

§ 46 Once the decision is made, some administrative steps should be taken to help complete the record. The applicant and

secretary of the ZBA should each sign and date 2-3 copies of the site plan or sketch submitted as part of the application. The applicant should keep one copy and the community at least one other. This provides a record of what was approved and when.

A copy of the minutes should be sent to the applicant following review by the approving bodies along with a letter specifically noting the action taken by the ZBA, including any conditions placed on the approval, if appropriate.

This letter may include further instructions regarding the proposal. For example, if a variance was granted, the letter may state that a site plan approval by the planning commission is necessary prior to issuance of a building permit.

Record Retention

§ 47 The community's records for each application should include, at a minimum:

- Relevant pages of minutes at which the proposal was discussed;
- Staff notes, meeting notes, correspondence, telephone conversation notes, etc.;
- Copy of the application and supporting material;
- Approved/signed copy of the site plan; and
- Follow-up correspondence (as noted above).

If You Build It, We Will Come...

§ 48 ...to make sure it complies with the approvals that were granted. Someone should be given the direct responsibility to make sure that any conditions or changes required by the zoning board of appeals are accomplished. Sending the building official and zoning administrator a copy of the approved application and meeting minutes could help this process.

Remember, building a complete record is important. Should a decision be legally

challenged, the written record will provide the background needed to help defend the decision of the ZBA. Also, a suitable record of past actions is needed to ensure that decisions are implemented and that they are enforced over a long period of time.

Reliance on someone with a good memory is not enough.

Chapter 3 - Making the Tough Decisions

§ 49 In these days of increasing litigation and public participation, it is not enough to approve or deny an application for a variance or appeal because of a vague notion that the request is or is not a good idea, or that it will hurt the neighborhood, or make things better. If challenged, any decision must have a solid, well-supported foundation.

Decisions related to zoning are rarely easy. And, they are not usually a matter of right or wrong. The duties of the zoning board of appeals require a balancing of the needs of the community and the rights of a private property owner.

- The community has a strong interest in maintaining the integrity of the rules under which zoning operates, through the zoning ordinance. Variances granted without proper foundation can eventually, or even quickly in some cases, lead to a weakening of the ordinance.
- On the other hand, private property owners do have certain rights to use their property and the inappropriate application of the zoning ordinance to that property should not deprive them of those rights.

Proper decision making starts with the basics: knowledge of the zoning ordinance, knowledge of relevant case facts and using review standards to reach a decision.

Knowledge of the zoning ordinance

§ 50 While it is not necessary for each member to know the intimate workings and details of a zoning ordinance, they must

be familiar with the relevant parts of the ordinance when reviewing applications. But more important, it is essential that each member understands the purpose and need for the regulation being discussed.

Intent and Purpose

A front yard setback variance is being considered by the ZBA. A new member asks, "Why can't the building be built all the way to the property line?" What would be your answer?

One of the standards of review typically applied to variance requests asks that the decision not impair the intent and purpose of the ordinance. If the intent and purpose of the regulation would be materially affected, it is possible that the variance would not be appropriate. For example, one of the recognized purposes of a side yard setback is to provide access for safety personnel to the rear of a building. Should a variance be permitted that eliminates this access, the intent and purpose of the ordinance would not be fulfilled.

Knowledge of Relevant Case Facts

§ 51 Facts are critical to good decision making. Sources of facts include:

- a) The application and supporting materials;
- b) The master plan or other relevant governmental plans;
- c) Staff and agency reports regarding impacts on public services, natural resources, character of the area, traffic and parking, and others;

- d) A visit to the site to see the physical characteristics of the property and adjacent parcels (see Chapter 2) and;
- e) Public hearing comments.

However, what is a fact is not always clear. Sometimes it will be necessary for the members to use their own experience and common sense (a concept not often applied to zoning).

Use of Ordinance Standards

§ 52 Following an effective and consistent decision making process is one of the most important methods of supporting your decisions. Proper and consistent use of the standards of the zoning ordinance or other ordinances is essential. If all ordinance standards and state law standards are met, the application must be approved. Before any variance should be approved, the applicant should be required to demonstrate that either a practical difficulty or unnecessary hardship exists. While these terms are sometimes used interchangeably, they are, in fact, distinct and different terms.

- *Practical difficulty* is applied only to nonuse, or dimensional variances;
- *Unnecessary hardship* is relevant only for use variances.

The wording and number of standards will often differ from one community to another, but the following standards have been considered by various court decisions and are common to ordinances.

Standards for Nonuse or Dimensional Variances

§ 53 Granting of a nonuse variance requires the existence of a practical difficulty, which is demonstrated by showing that:

1. *Special or unique conditions and circumstances exist which are peculiar to the land, structure, or*

building involved and which are not generally applicable to other lands, structures, or buildings in the same district.

§ 54 Meeting this standard requires the requested variance to be related to the characteristics of the property and not to the personal situation of the applicant. Should a variance be granted because of a perceived special condition related to the applicant, that condition would no longer exist if the applicant leaves the property. But the variance remains with the land.

Similarly, trying to distinguish between individual circumstances related to individuals is nearly impossible. Nearly every person has some situation that may consider unique. You are not expected to be able to draw a line between various applicants' special conditions.

This dilemma cannot be resolved by restricting the approval to a particular individual. Variances, like other zoning approvals, cannot be restricted solely to the benefit of or use by a specific person. Variances, once granted, run with the land, not with the property owner.

Special conditions or circumstances that are related to the property are generally physical characteristics that may normally include:

- exceptional narrowness, shallowness or shape;
- exceptional topographic conditions or other extraordinary situations related to the property; or
- use or development of the property immediately adjoining the property in question.

Also, the characteristics of the property asserted as the basis for relief must not be common among other properties in the same district or vicinity. As with all

variances, the principle is that the variance is needed to relieve a practical difficulty caused by the unique conditions present on the land. Common conditions or situations should be addressed by a change in the text of the ordinance, rather than by the granting of individual variance applications.

2. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; and that the variance is the minimum necessary.

§ 55 Property owners are given certain rights to use their property within the limits allowed by the zoning ordinance. If the conditions present on the property are such that owners are deprived of these rights, the zoning board of appeals should find this standard (but not necessarily the variance) in favor of the applicant. However, this does not entitle the applicant to the maximum benefit that might be available. For example, while the ordinance provides that property owners may have accessory buildings, it does not grant the authority to allow any size building desired by the applicant.

This standard also permits the ZBA to modify the request of the applicant to accommodate the special condition or circumstance but only approve the amount of variance that is necessary to do so. For example, an applicant may wish to construct a garage closer to the lot line to avoid a large tree. The ZBA could approve a variance that would miss the tree, but in order to protect an adjoining property, not come as close to the property line as requested.

3. The special conditions and circumstances do not result from the actions of the applicant.

§ 56 This standard, often referred to as self-created, is often misunderstood and the subject of differing opinions. There are circumstances when the applicant has clearly taken some action creating a need for the variance. For example, if an applicant splits a lot which previously conformed to the requirements of the zoning ordinance into two smaller ones, one or both of which then do not meet the ordinance, the action is clearly self-created.

On the other hand, a buyer of a lot that cannot be developed without a variance may ask that the ZBA grant a variance to allow use of the lot. In this case, the applicant did not take an affirmative action by creating the lot. Accordingly, this standard should not be used as a reason for denial (although the variance still must meet the other standards of the ordinance).

4. The granting of the variance will be in harmony with the general purpose and intent of this ordinance.

§ 57 While the intent and purpose portion of this standard may sometimes seem like a catchall phrase, it does have meaning. The construction of the zoning ordinance was a carefully considered process that was begun by the planning commission, reviewed by the public and adopted by the legislative body. Each provision of the ordinance has a reason for its existence and it is important that the ZBA understand that reason and not act to impair that purpose.

Whether the ZBA agrees or disagrees with any provision in the ordinance is irrelevant. The ZBA's function is to enforce the provisions of the ordinance, except in very specific instances where conditions

exist that would make compliance with the requirements impractical. Those conditions are defined by the review standards of the ordinance.

It is equally important that the zoning ordinance be reviewed frequently to ensure it is kept current and relevant to today's conditions. This includes making sure that binding court rulings are included and new legislation recognized. Often, an outdated ordinance will tend to generate additional variance requests.

One way the ZBA can help keep the ordinance current is to review its decisions at the end of each year to determine if there are provisions of the ordinance that are consistently being requested for variances. If the review highlights some particular parts of the ordinance, it may be an indication that these provisions need to be updated.

A joint meeting with the planning commission to discuss these provisions will be useful. One of two outcomes is possible. The planning commission may agree that a provision needs updating and begin the actions necessary to amend the ordinance. Or, the commission may determine that the ordinance does not need to be updated and that the provision should remain unchanged. If this is the outcome, the ZBA should respect that decision and only approve variances in those cases where the standards of review are clearly met.

5. The variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare.

§ 58 As with any zoning action, the result of the proposed variance should not be harmful to adjacent properties. Potential harm could be in the form of restricted access or view, noise, lights or any other effect not normally experienced by property owners in similar circumstances.

While the opinions of surrounding property owners are useful, they should not be given absolute weight. The role of the public is not to give their blessing or veto, but to provide the ZBA with information useful to its decision making process. As an illustration, a current adjoining property owner may be a relative or close friend and not object to a variance. But since the variance goes with the land, the next property owners may find themselves with an objectionable situation.

On the other hand, it is appropriate for the ZBA to take the comments of the public into consideration to determine whether or not the variance may adversely affect nearby property or the neighborhood. (See Chapter 2.) Note, however, that simply because a variance is not harmful to the neighborhood does not mean that it meets all of the other applicable standards.

6. The spirit of this ordinance shall be observed, public safety secured and substantial justice done.

§ 59 The concepts of this standard, though broad, are important. Observing the spirit of the ordinance will mean that the ZBA understands the potential effects one or several variances could have on the effectiveness of the zoning ordinance. For example, if the ZBA's reputation is one of easy approvals, applicants are more likely to seek variances in other than special conditions and circumstances.

"Public safety secured" indicates that the variance, if approved, will not create an unsafe condition.

While "substantial justice" directly addresses fairness to the applicant, it also applies to others who might be affected by the variance, such as neighboring property owners. Often the initial expectations of neighbors are that the ZBA will follow the

requirements of the zoning ordinance. The substantial justice requirement dictates that the variance should not be granted if it would undermine the purpose and intent of the zoning ordinance as it relates to adjoining properties. This includes a consideration of the extent of variance to be granted. In this context, substantial justice requires the variance to be the minimum necessary to afford relief.

The ZBA's Reputation

A zoning board of appeals known for easy approvals may find itself barraged with variance requests. As the word spreads that the ZBA grants almost any variance, the attitude among builders, attorneys, planners, and others who frequently advise property owners is, "Don't bother trying to meet the zoning ordinance, All you need to do is apply for a variance and you will get it."

Standards for Use Variances

§ 60 As noted in Chapter 1, a use variance allows a use of land that is not permitted in the district in which the property is placed. Because this type of relief is so significant, granting of a use variance requires the existence of an unnecessary hardship, which is demonstrated by showing that:

1. *The property could not be used (be put to a reasonable use) for the purposes permitted in that zone district.*

§ 61 The principle behind a use variance is that it is necessary because the property is not usable as it is zoned. Therefore, a thorough review is needed to first establish that none of the uses currently allowed in the district, either as permitted by right or through a special land use, are appropriate

for the property. While it is true that financial considerations are not generally the subject of review for variances, this standard may be satisfied by a finding that the property would essentially be valueless if an attempt were made to develop it as zoned.

Part of this review will require determining if the property can be reasonably used for any of the uses permitted in the district. This does not mean that the use has to be the most profitable, or the use proposed by the applicant. It only requires a finding that there is one or more uses permitted in the district which could reasonably be placed on the property.

2. *The plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions.*

§ 62 This standard is generally similar to that for nonuse variances, particularly with respect to the necessity for having unique circumstances that are specific to a property and not related to the applicant's personal situation. The other important aspect is the requirement that the situation on the property not be common in the area. If conditions are common to the area, a use variance would not be appropriate because the area should be reviewed by the planning commission to determine if the zoning for the entire area should be changed. But that is the function of the planning commission and not that of the zoning board of appeals.

The use would not alter the essential character of the area.

§ 63 Probably the most difficult aspect of this standard is determining what the essential character of an area is, and if the

use variance is approved, what effect might the variance have on that character.

One of the easiest ways to determine the essential character of an area is through a site visit to examine the area and see the various land uses that exist.

In some cases the character may be evidenced simply by the dominance of one land use over any others. In others it may not be as obvious. For example, some areas may have a wide variety of uses, occupying different sizes of lots. Viewing the area may not directly lead to a conclusion as to the character of the area and may require some degree of judgement.

*What is the “area”
affected by a use variance?*

The “area” which may be affected by a use variance will depend on the nature of the request and the size of the property that is the subject of the requested use variance. For example, a small residential lot requesting a use variance for an office will affect a smaller area than a request on a large site for an intensive commercial use.

Another way to determine the character of an area and the possible effect of a use variance is to examine the community’s master plan. The plan may clearly indicate the existing or intended character of an area. The ZBA may also seek the advice of the planning commission to help interpret the master plan, or to provide guidance when there is no plan or if it is out-of-date. Any opinion of the commission is simply advice, and should be considered only as input to the ZBA’s deliberations.

After determining the essential character, the next step is to evaluate

whether or not approval of the use variance would alter that character. This decision might hinge on whether or not the proposed use variance may tip the scales in one direction or another. If an area appears to be in transition from a residential to commercial area, for example, a commercial use variance may be appropriate. However, if the specific character of the area is unclear, a use variance may not be appropriate since it could tend to establish a specific character. This type of decision will require the exercise of discretion by members of the ZBA, as assisted by staff and consultants.

4. The problem is not self-created.

§ 64 This standard is essentially the same as that for nonuse variances. If the applicant created a particular situation that made a property essentially unusable as zoned, that applicant would not be entitled to relief by approval of a use variance. For example, if a property owner subdivides a large, residentially zoned property, leaving a corner lot as an isolated parcel, an argument that the parcel should only be used for nonresidential purposes could fail because the parcel was created by the direct action of the applicant.

5. The other general requirements are met.

§ 65 As in the case of nonuse variances, an applicant must show that the variance meets the state law requirements, that the spirit of the ordinance shall be observed, public safety secured and substantial justice done.

Use Variances and Rezonings - The Paragon Rule

§ 66 Understanding use variances was made

more important by a 1996 decision of the Michigan Supreme Court, *Paragon Properties Company v City of Novi*, (452 Mich 568, 550 NW2d 772 (1996)) in which the court required a “final decision” of the municipality. Under the *Paragon* decision, it will not be deemed that a final decision has been rendered by the municipality until the property owner seeks a use variance from the zoning board of appeals. The *Paragon* decision, therefore, requires submission of a use variance application following a rezoning request denial by the legislative body before any legal disputes may be brought before the court.

The Michigan Zoning Enabling Act allows a community to choose whether or not it wishes to have a use variance procedure in its ordinance. Therefore, if the use variance procedure was not available, the applicant would not have to exhaust this remedy, and *Paragon* would not apply.

Even if provided for by statute, some communities have language in their zoning ordinances that prohibits consideration of use variances. Often this language is in the form of not permitting the zoning board of appeals to hear variances that would have the effect of changing land use or zoning.

For those communities that continue to hear use variances further definition of the meaning of the *Paragon* decision will likely require additional litigation and clarification.

In general, the full effect of this decision has yet to be felt and the interpretation of its language will likely result in some confusion as individual county circuit courts utilize this case.

What about precedents?

§ 67 One of the concerns often expressed by ZBA members is the fear that by approving or not approving a request they may be setting or violating a precedent. This concern can be real if the ZBA is not

using the standards of review of the zoning ordinance. Failure to use these standards consistently requires the ZBA to make up the rules as they go. As a result, future applicants gain the right to be considered by the same considerations used by the ZBA in previous meetings.

Consequently, the way to avoid setting a precedent is to base every decision on the standards of review of the zoning ordinance, and include findings of fact that distinguish cases from one another. When the standards are used and findings made consistently, the ZBA is less likely to be bound by past decisions because the facts of each case are different. On the other hand, where the facts are very similar the same decision should be reached, not because of a precedent but because the same facts were applied against a consistent set of review standards.

Therefore, consistent and faithful use of the review standards for variances allows the ZBA to reach decisions based on the facts of each individual case. This, together with the detailed findings of fact, helps ensure consistency and fair treatment for every applicant by avoiding the arbitrary and capricious labels often given to zoning decisions that are not well supported.

As each application is debated, each of the applicable standards should be specifically reviewed and individual findings made for each. No approvals should be granted until the members clearly agree that all the standards of review are satisfied. Zoning decisions are permanent. Care must be taken to ensure that each decision is well supported. It is essential that the decisions are well documented and that the records pertaining to all applications are complete.

How to Avoid Litigation

§ 68 The short answer to avoiding litigation is simple—you can't! Governments are

always open to lawsuits, regardless of the quality of their decisions. Far too often, disappointed applicants or neighbors look to the courts to solve their problems. As a result, the ZBA cannot be overly influenced by threats or concerns about whether a decision will result in a lawsuit, provided, of course, that the ZBA has acted properly and thoroughly supported and documented the decision.

However, there are some actions that can strengthen the ZBA's legal position should any decision be challenged.

- Follow a standard decision making process. The zoning process involves a wide variety of technical, administrative and judgmental factors. Making sure that the requirements of the ordinance are followed, including proper notices, use of standards of review and proper documentation of decisions is a good start.
- Use review standards and make findings. The most important step you can take is the proper use of the review standards provided in the zoning ordinance to guide your decisions. These standards outline a clear path to reaching fair and consistent decisions. All decisions must be based on these standards and the facts that are used to apply them. Therefore, apply and make findings on each review standard.
- Follow proper procedures. The community should ensure that adequate procedures are in place to ensure that application procedures are clear, notices are properly completed, and adequate records are kept. The ZBA should ensure that proper hearing procedures are followed.

This includes creating a suitable record of the actions taken and the reasons for those actions as part of the ZBA minutes.

**VILLAGE OF DECATUR
VAN BUREN COUNTY, MICHIGAN**

Council Member _____, supported by Council Member _____, moved adoption of the following resolution:

RESOLUTION NO. 2022-008

**RESOLUTION TO AUTHORIZE THE VILLAGE COUNCIL TO SERVE AS THE
ZONING BOARD OF APPEALS**

WHEREAS, the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (the “MZEA”), provides that “[t]he legislative body of a city or village may act as a zoning board of appeals and may establish rules to govern its procedure as a zoning board of appeals.”

WHEREAS, Section 42-330(b)(1) implements the above-referenced section of the MZEA by providing that “[t]he village council may serve as the zoning board of appeals.”

WHEREAS, after a thorough review of Village records, the Village Manager has determined that all existing seats on the zoning board of appeals are currently vacant.

WHEREAS, the Village Council anticipates that it would be difficult to fill the vacant seats with appointed citizen volunteers due to the small size of the community and the demands of ZBA membership.

WHEREAS, in light of the above, the Village Council wishes to exercise its authority to act as a zoning board of appeals.

Now, it is therefore resolved that:

1. The Village Council is hereby designated to serve as the Zoning Board of Appeals and to carry out all duties assigned to zoning boards of appeals in the MZEA, Public Act No. 110 of 2006 (MCL 125.3101 et seq.).
2. The Village President shall serve as the chairperson of the board.
3. The Village Council may in the future adopt rules to govern its procedures when acting as the Zoning Board of Appeals.
4. In the absence of such rules, the Village Council shall follow the same rules and procedures as it does when conducting its ordinary business.
5. All resolutions and parts of resolutions are, to the extent of any conflict with this resolution, rescinded.

YEAS: Council Members _____

NAYS: Council Members _____

ABSTAIN: Council Members _____

ABSENT: Council Members _____

CERTIFICATION

As its Clerk, I certify that this is a true and complete copy of a resolution adopted by the Village Council for the Village of Decatur, Van Buren County, Michigan, at a regular meeting held on _____, 2022.

Megan Duncan, Clerk

Section 2: Roles and Responsibilities

Chapter 9: Planning and Zoning

A Balancing of Interests

Perhaps one of the most difficult aspects of planning and zoning is the need to balance the various, often competing, interests of property owners and residents. These competing interests are represented through the concept of property rights. Local decision makers are required to balance the interests of private property rights against the need to protect the public interest. In other words, how much regulation is enough to protect the public and at what point does that regulation begin to infringe on property rights?

In the midst of these sometimes competing interests and views are the local authorities for zoning; the zoning administrator, the planning commission, the zoning board of appeals, and the city or village council. Dealing with each of these conflicting perspectives is simply not possible, and the intent of zoning is to avoid conflicts that arise. Instead, zoning follows some basic principles and procedures designed to treat each person, property, and point of view fairly and consistently.

Legal Framework

Local planning and zoning authority is based in two statutes, the Michigan Zoning Enabling Act (MZEA) (PA 110 of 2006) and the Michigan Planning Enabling Act (MPEA) (PA 33 of 2008). These laws consolidated and updated various older enabling statutes, and should be referenced when adopting or updating local planning and zoning documents, as they address topics like:

- The creation and membership of the planning commission and zoning board of appeals (ZBA);
- The division of responsibilities between these appointed bodies and the local legislative body;
- Requirements for adopting a master plan and zoning ordinance; and

- Minimum standards for public notices and processes around planning and zoning decisions

If your community has not yet reviewed its ordinances against these new statutes, it is critical to undertake that review, to ensure that you are on solid legal footing.

The Planning Team

The laws that originally set up the land use planning and zoning system for Michigan anticipated the need for the three bodies most involved to work closely together to coordinate their efforts.

The planning commission, an appointed body, was originally given the responsibility of writing and adopting the master plan. This was done to ensure some degree of independence from the political arena, which had plagued the planning process in earlier years. In 2002, this requirement was changed to include more involvement by the legislative body in the planning and adoption process. The planning commission was also given the duty of writing the first draft of the zoning ordinance. This was done to ensure a direct connection between the master plan and zoning ordinance.

The village council may choose to be the adopting authority of the master plan, but is required to adopt the zoning ordinance because it is the law.

The zoning board of appeals was granted the authority to waive certain zoning ordinance requirements where conditions of the ordinance deprived property owners of the right to develop their property.

There are, however, situations where this delicate balance fails. For example:

- The planning commission adopts a master plan with which the legislative body has fundamental differences. The legislative body may refuse to allow the plan to be adopted by the planning commission, or the legislative body may itself refuse to adopt

the plan. Accordingly, any attempt to implement the plan through the zoning ordinance may then fail when the legislative body refused to adopt either the plan or the ordinance. To reduce the chance of conflict, the legislative body and planning commission should work together on strategic goal setting early in a master planning process; and

- The ZBA grants variances without sufficient justification, which detracts from the ordinance's effectiveness. In extreme cases, such actions might allow the ZBA to, in effect, take over the zoning policy-making function that is normally reserved for the planning commission and legislative body. If the ZBA believes the zoning ordinance is generally flawed, rather than a unique situation with a particular property, it should communicate with the planning commission to address the issue.

The legislative body, planning commission, and ZBA may find periodic joint meetings or other formal communications helpful: all have an interest in keeping the master plan, as a policy document, the zoning ordinance, as a law, and the administrative and quasi-judicial decisions made on individual applications in alignment.

The Master Plan

Policies regarding land use are expressed through the master plan. A master plan will include a description of the community, outline goals and objectives and map areas of different land uses, ranging from residential to industrial. The master plan must constantly be reviewed to make sure that the new growth conforms to what was planned. But as events unfold, these plans may change to take unanticipated events into account. While a master plan typically considers a timeframe of decades, the MPEA requires a community to formally review its plan at least every five years.

While the planning commission is responsible for drafting the master plan, the legislative body must "approve the plan for distribution," and may elect to become the adopting authority for the plan. After preparing a

proposed plan, the planning commission must submit the proposed plan to the legislative body for review and comment. Before the adoption process can proceed, the legislative body must approve the distribution of the proposed plan. If it does not, it must return the plan to the commission with its objections. The commission must then revise the plan until it is accepted by the legislative body.

The long-term effect of this change to the adoption process will have to be determined. But even if the planning commission is delegated the responsibility of completing and adopting the master plan, the legislative body should be involved in all of the critical steps of the process in order for the plan to be effectively implemented.

Developing a master plan is a reasonably logical process. It consists of:

- identifying community issues;
- collecting information regarding those issues;
- determining the direction in which the community wants to develop;
- deciding how to proceed in that direction;
- adopting the plan;
- fashioning a method of implementation; and
- reviewing the plan periodically.

Of these, perhaps the most important is determining the direction of the community through the development of a community vision and setting goals that will achieve that vision. To begin this process, the planning commission and legislative body should discuss philosophical, broad-ranging questions related to growth and community character. These might include such questions as, "Do we want to grow?" or "What does 'small town character' mean to us?"

Once the master plan is in place the normal reaction is a let-down; the planning commission's hard work has paid off and the plan is completed and ready to be filed. But, in reality, the work has just begun. All too often, the plan sits on a shelf and collects dust.

A plan which is not actively followed and implemented may lead to problems for the community in the future. Failure to follow the plan may discredit any attempt to use the plan as a defense for actions which may be challenged by property owners or developers.

The Zoning Ordinance

Local control of the use of land (with some exceptions, such as state and federal land uses) is an accepted legal principle. Land use is traditionally controlled through the separation of land into various use areas, called zoning districts. The rules governing these districts are contained in a zoning ordinance which includes provisions controlling the type and intensity of development allowed.

Communities often have to wrestle with complex zoning and growth policy issues brought on by new development. The need to provide flexibility, coupled with the desire to maintain some degree of control, has created the need to find innovative zoning and land use policy solutions. Some of these include:

- A planned unit development (PUD) process offers the opportunity to review large or complex developments for their ability to better meet the intent of the zoning ordinance than the strict application of the ordinance provisions. The MZEA introduced the ability for a PUD to take place on noncontiguous properties. In all cases, the zoning ordinance must enable and define the process for a PUD before one may be considered;
- A form-based code (FBC) places focus on the shape, size, and arrangement of buildings or other improvements on a property, with the activity happening on the property a secondary consideration—some communities find this approach is better able to manage community character and impact of development than a focus on traditional divisions of residential, commercial, etc., activity. Note that the MZEA does not explicitly discuss or authorize FBCs separately from more traditional zoning;
- Two or more communities may form a joint planning commission, to facilitate coordination of development across jurisdictions; and
- The MZEA introduced the option for an applicant to offer conditions to a rezoning request, such as limiting

permitted uses under the rezoning to only some of the uses permitted in the target district. Note that municipalities are clearly forbidden from requesting conditions or amending the conditions proposed—this option should be used carefully, if at all.

The Zoning Board of Appeals

A community that has established a zoning ordinance must have a zoning board of appeals (ZBA). A city council may act as the ZBA, or a separate board of not less than five members may be appointed. The Zoning Board of Appeals has a quasi-judicial function and must act objectively when evaluating an appeal. If the elected body also serves as the ZBA, it may become difficult to remain an objective evaluator when an individual is also an elected official.

The number of members is based on population; less than 5,000 must have at least three members. More than 5,000 must have at least five members. The only appointment guidelines are residency, population distribution, and representation for the various interests in the community (residential, commercial, industrial, education, etc.). All members serve three-year terms. Two alternate members may be appointed and serve in the case of an absence or in the case of a conflict of interest with one of the regular members. The alternate, if called, serves on a case until a decision is reached, even if called on the basis of an absence of the regular member, and even if that member returns.

The board has the responsibility for ensuring that the zoning ordinance is properly and fairly applied. The need for the ZBA is based on the realization that a single set of regulations cannot anticipate every potential condition related to individual properties and uses. The most common action by the board is the consideration of variances.

A **variance** is permission to waive or alter a requirement or limitation of the zoning ordinance. There are two types of variances.

A **use variance** permits a use of land that is otherwise not allowed in that district. A use variance is a modification of the literal provisions of the zoning ordinance that may be

authorized by the board when strict enforcement of the ordinance would cause *unnecessary hardship* for the property owner due to circumstances unique to the property. To obtain a use variance, the applicant must demonstrate through review standards that the unnecessary hardship related to the use of the property exists. The community may choose to exclude the consideration of use variance in its zoning ordinance.

A **nonuse variance**, also known as a dimensional variance, is a modification of the literal provisions of the zoning ordinance that may be authorized by the board when strict enforcement of the ordinance would cause *practical difficulties* for the property owner due to circumstances unique to the property. Nonuse variance requests are typically associated with modifications of required yard setbacks, building heights, parking requirements, landscaping or buffering restrictions, and related building or facility placement matters and sizes.

Every person has the right to seek relief from a zoning ordinance requirement. If the standards used by the board are carefully considered and followed, the integrity of the ordinance will be maintained. But too often variances are granted because no one sees any harm in doing so, rather than carefully considering the ordinance standards. The board soon gains a reputation for not following its ordinance; one merely has to go to the ZBA to obtain relief from the ordinance.

Eventually, the offhand granting of variances harms the community's ability to enforce the ordinance. Moreover, poorly supported decisions can, over time, have the effect of destroying the credibility of the zoning ordinance as well as the ZBA. It is up to the members to prevent this by strictly applying the review standards of the ordinance necessary to obtain a variance: variances create an exception from the ordinance, and should be exceptional, rather than routine.

Procedures and Processes

Foremost among today's planning and zoning issues is the need to have specific, written procedures for handling planning and zoning matters. The entire zoning process, from the time that a person first approaches the

municipality to the issuance of the occupancy permit or possible sanction of violations, should be clearly understood by all parties involved. Some basic rules:

- Proper forms should be in place to document applications and permits;
- Meetings should be governed by consistent rules;
- All actions should be clearly and thoroughly documented;
- Applications should not be accepted if incomplete (inadequate site plan, fee unpaid, etc.);
- If required public notices were not sent or were published improperly, stop the process and start over; and
- Action on any application should be delayed until the applicant or a representative is present (unless legal time limits dictate otherwise).

Another important aspect is keeping good records. One test of record-keeping is the ability to pick any application that has been approved and constructed and be able to follow each step, from the first contact of the application to the last permit, by the records kept for that application. Project files should include, at a minimum:

- relevant pages of minutes at which the proposal was discussed,
- staff notes, meeting notes, correspondence, telephone conversation notes, etc.,
- copy of the application and supporting material, and
- approved/signed copy of the site plan.

Making Effective Decisions

Following an effective decision-making process is one of the most important methods of avoiding, or at least surviving, challenges to decisions. Careful consideration and support of decisions through the use of the standards of the zoning ordinance is important. These standards must be written into the ordinance and if all standards are met, the application must be approved.

If the decision is challenged, the importance of using the ordinance's standards becomes self-evident. A well-supported decision provides the background needed to build a solid legal

foundation for the decision. The use of standards will help avoid the “arbitrary and capricious” label often given to zoning decisions that are not well supported.

The record must show sufficient facts to back up the findings made according to the ordinance standards. Some simple considerations:

- It is not enough to deny an application because of a vague notion that the use is not a “good idea,” or that it will “harm the neighborhood;”
- The presence of a roomful of people opposing the project is not sufficient reason to deny an application;
- The past performance of the applicant should not be used as a basis for a denial. If there are doubts about performance, make proper use of conditional approvals, performance bonds, and proper documentation;
- Approvals and denials should each be thoroughly documented on the record, clearly stating how the ordinance standards were, or were not met; and
- Questions of doubt should be resolved before taking action; do not act hastily. Zoning decisions are permanent; take care that the decision is the best that can be made given the information available.

The Role of the Public

Having noted the need for objectivity, the question arises as to what role the public should play. Various zoning approvals require participation by the public in the decision-making process, usually in the form of public hearings. The dilemma in which most decision makers find themselves is trying to determine what weight to give the comments (and complaints) of the public.

People do not generally come to a meeting in support of a particular project; most have concerns that they wish addressed, many are simply opposed to what is proposed. The foremost concern that any decision maker should have is to ensure fairness for all concerned; the applicant as well as the public.

To ensure fairness, keep some simple things in mind.

- Everyone must have the opportunity to speak and present evidence at public hearings. While some limitations may be placed on this right, no action should be taken that would deprive a person of their right to be heard.
- Most people are uncomfortable speaking in public. While the chair cannot make everyone effective speakers, he/she can make sure that meeting rules are followed and order maintained. Keeping a subtle balance between the degree of formality required, and the degree of informality that is sometimes needed is a learned art.
- Recognize emotional responses and treat them with concern and understanding. Land use issues can elicit strong emotions. Strong responses, within limits, should be expected and understood. Decision makers must learn to control their emotions, even when the comments get personal.
- The chair can help maintain order by following meeting rules and requiring that comments are made only on the subject at hand. It is often helpful to point out what request is being made and to ensure that the public understands the limitations of the board or commission.

Enforcement

No matter how well written the zoning ordinance may be, it is essentially made meaningless unless the community has an effective enforcement process. Creating and maintaining an effective enforcement program requires a good COP (Commitment, Ordinances, Process):

Commitment: The community, including its enforcement officials, administration and legislative body, needs to have a firm commitment to the enforcement of its ordinances. This means providing the necessary resources to monitor and penalize. It also means ensuring that enforcement officials are not subject to interference from the administration and legislative body members.

Ordinances: Ordinances must be clearly written and be able to be reasonably monitored and enforced. Each time a new regulation is drafted, it would be useful to ask the enforcement officials how they may go about monitoring and implementing the various ordinance provisions. Ordinances that require unreasonable actions on the part of enforcement officers are less likely to be properly administered.

Process: Finally, it is important that there be a consistent, well documented enforcement process. For example, a follow up to a violation might be similar to this:

1. Verbal notification is sent to the property owner, followed up by a written notice.
2. If not corrected, a second notice (usually worded somewhat more forcefully) may be sent.
3. If not corrected after the second notice, a citation is issued.

(Note: The procedures for each community will be different, and may depend on whether the ordinance violation requires a civil or criminal action.)

How to Avoid Litigation

The short answer to avoiding litigation is simple. You can't! Governments are always open to lawsuits, regardless of the methods used to reach a decision. Disappointed applicants and neighbors far too often look to the courts to make a decision favorable to their position. However, there are some actions that you may take to strengthen your legal position.

The first way to avoid a legal challenge to your decisions is to follow the procedures and principles outlined in this chapter. As many members have already experienced, the zoning process involves a wide variety of technical, administrative, and discretionary factors. The technical factors may include compliance with the specific requirements of the zoning ordinance, such as setbacks, height, parking, etc. The administrative requirements may include ensuring that notices are mailed and published,

meeting procedures followed, and other similar actions.

Finally, and probably most important, are the judgmental factors that are required in making effective zoning decisions. The standards provided in the zoning ordinance for various types of decisions are the clearest guide given to decision makers. All decisions should be based on these standards and the facts that are used to apply them.

Other factors that should be remembered:

- Keep the master plan and zoning ordinance up-to-date. A current plan and ordinance can bolster an effective defense. An outdated plan or ordinance is subject to attack as not relevant to today's conditions.
- Recognize the landowner's right to a reasonable rate of return, although that may not be the use that provides the highest profit or "highest and best use," not a term applicable to zoning.
- Do not exclude lawful land uses if there is a demand and an appropriate location in the community.
- Base decisions on the ordinances and facts rather than emotions or opinions of the applicant.
- Make decisions using the written standards of the zoning ordinance.
- Know the rules of procedure and follow them consistently.
- Resolve questions of doubt before taking action; do not act hastily. Zoning decisions are permanent; try to get it right the first time.
- Know the limits of the community's authority and act in good faith.
- Correct immediately any situations that could be/are found liable.
If sued, hire competent legal counsel familiar with the type of litigation involved.

Chapter by League staff based on materials provided by **Steve Langworthy**, retired partner with LSL Planning.

**VILLAGE OF DECATUR
ZONING BOARD OF APPEALS RULES OF PROCEDURE (BYLAWS)**

**ARTICLE I
AUTHORITY**

1.1. Authority. These Rules of Procedure, otherwise known as the ZBA Bylaws, are adopted by the Village of Decatur Zoning Board of Appeals (hereinafter referred to as the ZBA) pursuant to Public Act 33 of 2008, as amended (the Michigan Planning Enabling Act), Public Act 110 of 2006, as amended (the Michigan Zoning Enabling Act), the Village of Decatur Zoning Ordinance, as amended.

**ARTICLE II
COMPOSITION AND OFFICERS**

2.1. Composition. The Decatur Village Council has been designated to serve as the ZBA and to carry out all duties assigned to zoning boards of appeals in the Michigan Zoning Enabling Act. Accordingly, the ZBA shall consist of the 7 members of the Village Council sitting in an *ex officio* capacity.

2.2. Officers

- a. The Village President shall serve as the Chairperson of the ZBA, and the Village President Pro Tem shall serve as the Vice-Chairperson of the ZBA.
- b. The Chairperson shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein. The Vice-Chairperson shall act in the capacity of the Chairperson in the absence of the Chairperson.

**ARTICLE III
MEETING PROCEDURE**

3.1. Meetings.

- a. Meetings of the ZBA shall be held at Village Hall at such times as shall be prescribed by the Chairperson.
- b. Notice of any meetings shall be given in accordance with the Open Meetings Act (Act No. 267 of the Public Acts of 1976). Notices shall be posted at the offices of the Village in the manner and time provided under that Act. Any changes in the date, time or location of the regular meetings shall be posted and noticed in the same manner as originally established.
- c. A quorum as defined by the Michigan Zoning Enabling Act shall consist of four of the seven total members. No business may be conducted or official action taken except to adjourn the meeting if a quorum cannot be met.
- d. Except to the extent of any conflict with these rules or any applicable provision of the zoning ordinance or state statute, meetings shall be conducted in accordance with Robert's Rules of Order, Newly Revised (12th ed).

3.2. Applicant Attendance and Participation. The applicant or his/her representative shall be present at the meeting when their application is heard and discussed. Failure of the applicant or

representative to appear at the hearing will cause the ZBA to postpone any action on the request until such time as the applicant or a representative is present. If the applicant or representative fails to make attendance for two consecutive hearings without notifying the ZBA or Village staff, the application shall be dismissed. The Chairperson shall give the applicant/representative adequate time during the meeting to present his or her case to the ZBA. Such time may exceed the 3-minute limitation provided for general public comment (as provided in section 3.3 below) and shall be determined based on the complexity of the case.

3.3. Hearings.

a. The Village shall provide for notification of public hearings in a local newspaper and by direct mailings as required under the Michigan Zoning Enabling Act.

b. The Chairperson shall announce the matter of business to be considered and open the hearing on the matter for receipt of public comment on the subject, which shall be governed by the following rules:

1. Only comments regarding the subject of the hearing will be accepted.

2. All persons wishing to comment shall be given an opportunity to do so.

3. Any person wishing to speak shall first be recognized by the ZBA Chairperson.

4. Speakers shall stand, if able, be formally recognized by the Chairperson, state their full name and address, and make comments directly to the Chairperson. Any questions shall also be directed to the Chairperson.

5. Members of the public, other than the applicant, shall limit their comments to three (3) minutes. The owner of the subject property and the party that filed the application (in situations where the owner is not the applicant) shall be given fifteen (15) minutes to speak.

6. The Chairperson has the authority to order a person to conclude comments that are irrelevant, misleading, repetitious of comments made by other commenters, or in excess of their allotted time limits. The Chairperson may also grant extensions of time, or allow ZBA members to ask questions of speakers beyond the allotted time limit, upon determining that doing so would assist the ZBA in resolving the issues presented.

7. Once all public comments have been received or if, at any time, during the hearing, a ZBA members feels no other relevant or non-repetitious comments are being presented, a motion to close the public hearing may be made, or the Chairperson may advise that such a motion would be entertained.

d. During the hearing the Chairperson shall acknowledge any correspondence received.

3.4. Motions. Motions shall be restated by the Chairperson before a vote is taken. The name of the maker and supporters of the motions shall be recorded.

3.5. Voting. An affirmative vote of four (4) ZBA members shall be required to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in

favor of the applicant on a matter upon which the ZBA is required to pass under the zoning ordinance, or to grant a variance (other than a use variance) from the zoning ordinance. Voting shall be ordinarily accomplished by voice vote; provided, that the roll call shall be required if requested by any ZBA member or directed by the ZBA Chairperson. A Use Variance may only be granted if authorized by the zoning ordinance and upon the affirmative vote of five (5) ZBA members.

3.6. Secretarial Duties. Secretarial duties for the ZBA shall be performed by Village staff personnel as designated by the Village Manager. Such staff personnel shall be responsible for preparation of minutes, keeping of pertinent records, delivering communications, petitions, reports, other related items of business to the ZBA, issuing notices of public hearings, and performing related administrative staff duties to assure efficient and informed ZBA operations.

ARTICLE IV DUTIES OF THE ZBA

4.1. Duties. The ZBA shall perform all duties proscribed under the Michigan Zoning Enabling Act or the Village's zoning ordinance.

ARTICLE V OPEN MEETINGS AND FREEDOM OF INFORMATION COMPLIANCE

5.1. Compliance with Acts.

- a. Meeting notices and in-meeting deliberations and decisions of the ZBA are governed by the Michigan Open Meetings Act, Act 267 of the Michigan Public Acts of 1976, as amended, MCL 15.261 et seq.
- b. Records, files, correspondence, and other materials pertaining to ZBA agenda topics are available to the public for reading, copying, and other valid purposes as governed by the Michigan Freedom of Information Act, Act 442 of the Michigan Public Acts of 1976, as amended, MCL 15.231 et seq.

ARTICLE VI CONFLICTS OF INTEREST

6.1. Conflicts of Interest.

- a. For purposes of these bylaws, a conflict of interest is defined as, and a ZBA member shall declare a conflict of interest and abstain from participating in ZBA deliberations and voting on a request, when:
 1. An immediate family member is involved in any request for which the ZBA is asked to make a decision. "Immediate family member" is defined as an individual's father, mother, son, daughter, brother, sister, and spouse and a relative of any degree residing in the same household as that individual.
 2. The ZBA member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant's company, agency or association.
 3. The ZBA member owns or has a financial interest in a property abutting

the property involved in the request. For purposes of this section, a lot shall be considered with another lot if it shares a common property line or would share a common property line if not for an intervening public right-of-way. (In other words, a lot immediately across the street from another lot shall be considered abutting).

b. The procedure for handling conflicts of interest shall be as follow:

1. If a member has a conflict of interest, he or she shall disclose that interest during a ZBA meeting prior to any discussion on the item to which it pertains, and shall then remove himself or herself from the hearing, discussions and decision-making process until the matter is over. Physical removal minimizes any public perception that the member with the conflict of interest is unduly influencing his or her fellow members by the member's physical presence.

2. If a member is aware of circumstances that a reasonable person may consider to create an appearance of a conflict of interest, he or she shall disclose that interest during a ZBA meeting prior to any discussion on the item to which it pertains. The remaining members of the ZBA shall then take a vote to determine whether or not to require the member to abstain from participating on that item.

ARTICLE VII EX PARTE COMMUNICATIONS

7.1 Ex Parte Communications.

a. The ZBA must act as a board and not as individuals.

b. Communication of any kind (other than at ZBA meetings or hearings) ("Ex Parte Communications") by members of the ZBA with applicants, developers, applicant's or developer's representatives, or interested neighbors regarding a matter to come before the ZBA is to be avoided, except for limited necessary contact during fact-finding site visits.

c. Members may view sites only if they can do so without any unnecessary contact with the applicant, developer, applicant's or developer's representatives, or interested neighbors and for the specific purpose of gathering physical facts or data.

d. If a member is contacted by an applicant, developer, or their representatives, or an interested neighbor, the member shall promptly inform that party that he or she will not discuss the matter or have any contact other than at a ZBA hearing or meeting except for site visits. The member shall then immediately welcome the party to attend the ZBA meetings to discuss their views, wishes, etc. or to deliver written comments to the Village Clerk for distribution to ZBA members.

ARTICLE VIII AMENDMENTS

8.1 Amendments. The ZBA may amend these bylaws by a majority vote of the members, provided that all members have received a copy of the proposed amendments at least 3 days prior to the meeting at which such amendments are to be considered.

I HEREBY CERTIFY that the above Bylaws, as amended, were adopted on _____, 2022.

_____, Chairperson

MICHIGAN ZONING ENABLING ACT
Act 110 of 2006

AN ACT to codify the laws regarding local units of government regulating the development and use of land; to provide for the adoption of zoning ordinances; to provide for the establishment in counties, townships, cities, and villages of zoning districts; to prescribe the powers and duties of certain officials; to provide for the assessment and collection of fees; to authorize the issuance of bonds and notes; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

History: 2006, Act 110, Eff. July 1, 2006.

The People of the State of Michigan enact:

ARTICLE I
GENERAL PROVISIONS

125.3101 Short title.

Sec. 101. This act shall be known and may be cited as the "Michigan zoning enabling act".

History: 2006, Act 110, Eff. July 1, 2006.

125.3102 Definitions.

Sec. 102. As used in this act:

(a) "Agricultural land" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

(b) "Airport" means an airport licensed under section 86 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.86.

(c) "Airport approach plan" and "airport layout plan" mean a plan, or an amendment to a plan, filed with the zoning commission under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.

(d) "Airport manager" means that term as defined in section 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(e) "Airport zoning regulations" means airport zoning regulations under the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act.

(f) "Conservation easement" means that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

(g) "Coordinating zoning committee" means a coordinating zoning committee as described under section 307.

(h) "Development rights" means the rights to develop land to the maximum intensity of development authorized by law.

(i) "Development rights ordinance" means an ordinance, which may comprise part of a zoning ordinance, adopted under section 507.

(j) "Family child care home" and "group child care home" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group child care home.

(k) "Greenway" means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

(l) "Improvements" means those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.

(m) "Intensity of development" means the height, bulk, area, density, setback, use, and other similar characteristics of development.

(n) "Legislative body" means the county board of commissioners of a county, the board of trustees of a township, or the council or other similar elected governing body of a city or village.

- (o) "Local unit of government" means a county, township, city, or village.
- (p) "Other eligible land" means land that has a common property line with agricultural land from which development rights have been purchased and is not divided from that agricultural land by a state or federal limited access highway.
- (q) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.
- (r) "Population" means the population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is later.
- (s) "Qualified residential treatment program" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.
- (t) "Site plan" includes the documents and drawings required by the zoning ordinance to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.
- (u) "State licensed residential facility" means a structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer individuals under 24-hour supervision or care.
- (v) "Undeveloped state" means a natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.
- (w) "Zoning commission" means a zoning commission as described under section 301.
- (x) "Zoning jurisdiction" means the area encompassed by the legal boundaries of a city or village or the area encompassed by the legal boundaries of a county or township outside the limits of incorporated cities and villages. The zoning jurisdiction of a county does not include the areas subject to a township zoning ordinance.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2007, Act 219, Imd. Eff. Dec. 28, 2007;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008;—Am. 2022, Act 206, Imd. Eff. Oct. 7, 2022.

125.3103 Notice; publication; mail or personal delivery; requirements.

Sec. 103. (1) Except as otherwise provided under this act, if a local unit of government conducts a public hearing required under this act, the local unit of government shall publish notice of the hearing in a newspaper of general circulation in the local unit of government not less than 15 days before the date of the hearing.

(2) Notice required under this act shall be given as provided under subsection (3) to the owners of property that is the subject of the request. Notice shall also be given as provided under subsection (3) to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different persons, 1 occupant of each unit or spatial area shall be given notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

(3) The notice under subsection (2) is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.

(4) A notice under this section shall do all of the following:

- (a) Describe the nature of the request.
- (b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
- (c) State when and where the request will be considered.
- (d) Indicate when and where written comments will be received concerning the request.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

ARTICLE II
ZONING AUTHORIZATION AND INITIATION

125.3201 Regulation of land development and establishment of districts; provisions; uniformity of regulations; designations; limitations.

Sec. 201. (1) A local unit of government may provide by zoning ordinance for the regulation of land development and the establishment of 1 or more districts within its zoning jurisdiction which regulate the use of land and structures to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare.

(2) Except as otherwise provided under this act, the regulations shall be uniform for each class of land or buildings, dwellings, and structures within a district.

(3) A local unit of government may provide under the zoning ordinance for the regulation of land development and the establishment of districts which apply only to land areas and activities involved in a special program to achieve specific land management objectives and avert or solve specific land use problems, including the regulation of land development and the establishment of districts in areas subject to damage from flooding or beach erosion.

(4) A local unit of government may adopt land development regulations under the zoning ordinance designating or limiting the location, height, bulk, number of stories, uses, and size of dwellings, buildings, and structures that may be erected or altered, including tents and recreational vehicles.

History: 2006, Act 110, Eff. July 1, 2006.

125.3202 Zoning ordinance; determination by local legislative body; amendments or supplements; notice of proposed rezoning.

Sec. 202. (1) The legislative body of a local unit of government may provide by ordinance for the manner in which the regulations and boundaries of districts or zones shall be determined and enforced or amended or supplemented. Amendments or supplements to the zoning ordinance shall be adopted in the same manner as provided under this act for the adoption of the original ordinance.

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

(3) For any group of adjacent properties numbering 11 or more that is proposed for rezoning, the requirements of section 103(2) and the requirement of section 103(4)(b) that street addresses be listed do not apply to that group of adjacent properties.

(4) An amendment to a zoning ordinance by a city or village is subject to a protest petition under section 403.

(5) An amendment to conform a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the legislative body and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for under this act.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

125.3203 Zoning ordinance; plan; incorporation of airport layout plan or airport approach plan; zoning ordinance adopted before or after March 28, 2001; applicability of public transportation facilities.

Sec. 203. (1) A zoning ordinance shall be based upon a plan designed to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability, to limit the improper use of land, to conserve natural resources and energy, to meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that uses of the land shall be situated in appropriate locations and relationships, to avoid the overcrowding of population, to provide adequate light and air, to lessen congestion on the public roads and streets, to reduce hazards to life and property, to facilitate adequate provision for a system of transportation including, subject to subsection (5), public transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements, and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and

properties. A zoning ordinance shall be made with reasonable consideration of the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.

(2) If a local unit of government adopts or revises a plan required under subsection (1) after an airport layout plan or airport approach plan has been filed with the local unit of government, the local unit of government shall incorporate the airport layout plan or airport approach plan into the plan adopted under subsection (1).

(3) In addition to the requirements of subsection (1), a zoning ordinance adopted after March 28, 2001 shall be adopted after reasonable consideration of both of the following:

(a) The environs of any airport within a district.

(b) Comments received at or before a public hearing under section 306 from the airport manager of any airport.

(4) If a zoning ordinance was adopted before March 28, 2001, the zoning ordinance is not required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. A zoning ordinance amendment adopted or variance granted after March 28, 2001 shall not increase any inconsistency that may exist between the zoning ordinance or structures or uses and any airport zoning regulations, airport layout plan, or airport approach plan. This section does not limit the right to petition for submission of a zoning ordinance amendment to the electors under section 402 or the right to file a protest petition under section 403.

(5) The reference to public transportation facilities in subsection (1) only applies to a plan that is adopted or substantively amended more than 90 days after the effective date of the amendatory act that added this subsection.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2010, Act 305, Imd. Eff. Dec. 17, 2010.

125.3204 Single-family residence; instruction in craft or fine art as home occupation.

Sec. 204. A zoning ordinance adopted under this act shall provide for the use of a single-family residence by an occupant of that residence for a home occupation to give instruction in a craft or fine art within the residence. This section does not prohibit the regulation of noise, advertising, traffic, hours of operation, or other conditions that may accompany the use of a residence under this section.

History: 2006, Act 110, Eff. July 1, 2006.

***** 125.3205 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 13, 2024: See 125.3205.amended *****

125.3205 Zoning ordinance subject to certain acts; regulation or control of oil or gas wells; prohibition; extraction of valuable natural resource; challenge to zoning decision; serious consequences resulting from extraction; factors; regulations not limited.

Sec. 205. (1) A zoning ordinance is subject to all of the following:

(a) The electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575.

(b) The regional transit authority act, 2012 PA 387, MCL 124.541 to 124.558.

(c) The small wireless communications facilities deployment act.

(2) A county or township shall not regulate or control the drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes and shall not have jurisdiction with reference to the issuance of permits for the location, drilling, completion, operation, or abandonment of such wells.

(3) An ordinance shall not prevent the extraction, by mining, of valuable natural resources from any property unless very serious consequences would result from the extraction of those natural resources. Natural resources shall be considered valuable for the purposes of this section if a person, by extracting the natural resources, can receive revenue and reasonably expect to operate at a profit.

(4) A person challenging a zoning decision under subsection (3) has the initial burden of showing that there are valuable natural resources located on the relevant property, that there is a need for the natural resources by the person or in the market served by the person, and that no very serious consequences would result from the extraction, by mining, of the natural resources.

(5) In determining under this section whether very serious consequences would result from the extraction, by mining, of natural resources, the standards set forth in *Silva v Ada Township*, 416 Mich 153 (1982), shall be applied and all of the following factors may be considered, if applicable:

(a) The relationship of extraction and associated activities with existing land uses.

(b) The impact on existing land uses in the vicinity of the property.

(c) The impact on property values in the vicinity of the property and along the proposed hauling route

serving the property, based on credible evidence.

(d) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.

(e) The impact on other identifiable health, safety, and welfare interests in the local unit of government.

(f) The overall public interest in the extraction of the specific natural resources on the property.

(6) Subsections (3) to (5) do not limit a local unit of government's reasonable regulation of hours of operation, blasting hours, noise levels, dust control measures, and traffic, not preempted by part 632 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.63201 to 324.63223. However, such regulation shall be reasonable in accommodating customary mining operations.

(7) This act does not limit state regulatory authority under other statutes or rules.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2011, Act 113, Imd. Eff. July 20, 2011;—Am. 2012, Act 389, Eff. Mar. 28, 2013;—Am. 2018, Act 366, Eff. Mar. 12, 2019.

***** 125.3205.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 13, 2024 *****

125.3205.amended Zoning ordinance subject to certain acts; regulation or control of oil or gas wells; prohibition; extraction of valuable natural resource; challenge to zoning decision; serious consequences resulting from extraction; factors; regulations not limited.

Sec. 205. (1) A zoning ordinance is subject to all of the following:

(a) The electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575.

(b) The regional transit authority act, 2012 PA 387, MCL 124.541 to 124.558.

(c) The small wireless communications facilities deployment act, 2018 PA 365, MCL 460.1301 to 460.1339.

(d) Part 8 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1221 to 460.1232.

(2) A county or township shall not regulate or control the drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes and does not have jurisdiction with reference to the issuance of permits for the location, drilling, completion, operation, or abandonment of such wells.

(3) An ordinance shall not prevent the extraction, by mining, of valuable natural resources from any property unless very serious consequences would result from the extraction of those natural resources. Natural resources shall be considered valuable for the purposes of this section if a person, by extracting the natural resources, can receive revenue and reasonably expect to operate at a profit.

(4) A person challenging a zoning decision under subsection (3) has the initial burden of showing that there are valuable natural resources located on the relevant property, that there is a need for the natural resources by the person or in the market served by the person, and that no very serious consequences would result from the extraction, by mining, of the natural resources.

(5) In determining under this section whether very serious consequences would result from the extraction, by mining, of natural resources, the standards set forth in *Silva v Ada Township*, 416 Mich 153 (1982), shall be applied and all of the following factors may be considered, if applicable:

(a) The relationship of extraction and associated activities with existing land uses.

(b) The impact on existing land uses in the vicinity of the property.

(c) The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.

(d) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.

(e) The impact on other identifiable health, safety, and welfare interests in the local unit of government.

(f) The overall public interest in the extraction of the specific natural resources on the property.

(6) Subsections (3) to (5) do not limit a local unit of government's reasonable regulation of hours of operation, blasting hours, noise levels, dust control measures, and traffic, not preempted by part 632 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.63201 to 324.63223. However, such regulation shall be reasonable in accommodating customary mining operations.

(7) A renewable energy project that received special land use approval under section 502 on or after January 1, 2021 is considered to be a prior nonconforming use and the special land use approval shall not be revoked or modified if substantial construction has occurred or if an expenditure equal to 10% of the project construction costs or \$10,000.00, whichever is less, has been made.

(8) This act does not limit state regulatory authority under other statutes or rules.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2011, Act 113, Imd. Eff. July 20, 2011;—Am. 2012, Act 389, Eff. Mar. 28, 2013;—Am. 2018, Act 366, Eff. Mar. 12, 2019;—Am. 2023, Act 234, Eff. Feb. 13, 2024.

125.3205a Amateur radio service station antenna structures.

Sec. 205a. (1) 47 CFR 97.15 provides that owners of certain amateur radio service station antenna structures more than 60.96 meters (200 feet) above ground level at the site or located near or at a public use airport must notify the federal aviation administration and register with the federal communications commission as required by 47 CFR part 17.

(2) An amateur radio service station antenna structure may be erected at heights and dimensions sufficient to accommodate amateur radio service communications. Regulation of an amateur radio service station antenna structure by a local unit of government must not preclude amateur radio service communications. Rather, it must reasonably accommodate those communications and must constitute the minimum practicable regulation to accomplish the local unit of government's legitimate purpose.

(3) To obtain information about the regulation of amateur radio service station antenna structures, a person may contact any advisory board that is jointly established by the Michigan section of the American radio relay league and 1 or more state organizations representing local units of government.

History: Add. 2014, Act 556, Imd. Eff. Jan. 15, 2014.

125.3205d Zoning ordinance; prohibition or regulation of commemorative signs.

Sec. 205d. (1) A zoning ordinance shall not regulate or prohibit a sign that is located on or within a building and that commemorates any of the following:

(a) Any of the following who die in the line of duty:

(i) Police officers.

(ii) Firefighters.

(iii) Medical first responders.

(iv) Members of the United States Armed Forces.

(v) Corrections officers.

(b) Veterans of the United States Armed Forces.

(2) As used in this section, "medical first responder" means that term as defined in section 20906 of the public health code, 1978 PA 368, MCL 333.20906.

History: Add. 2018, Act 506, Eff. Mar. 28, 2019.

125.3206 Residential use of property; adult foster care facilities; family, group child care homes, or qualified residential treatment programs.

Sec. 206. (1) Except as provided in subsection (2), each of the following is a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone:

(a) A state licensed residential facility.

(b) A facility in use as described in section 3(4)(k) of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(c) A qualified residential treatment program that provides services for 10 or fewer individuals.

(2) Subsection (1) does not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

(3) For a county or township, a family child care home is a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

(4) For a county or township, a group child care home shall be issued a special use permit, conditional use permit, or other similar permit if the group child care home meets all of the following standards:

(a) Is located not closer than 1,500 feet to any of the following:

(i) Another licensed group child care home.

(ii) An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(iii) A facility offering substance use disorder services to 7 or more people that is licensed under part 62 of the public health code, 1978 PA 368, MCL 333.6230 to 333.6251.

(iv) A community correction center, resident home, halfway house, or other similar facility that houses an inmate population under the jurisdiction of the department of corrections.

(b) Has appropriate fencing for the safety of the children in the group child care home as determined by the local unit of government.

(c) Maintains the property consistent with the visible characteristics of the neighborhood.

(d) Does not exceed 16 hours of operation during a 24-hour period. The local unit of government may limit but not prohibit the operation of a group child care home between the hours of 10 p.m. and 6 a.m.

(e) Meets regulations, if any, governing signs used by a group child care home to identify itself.

(f) Meets regulations, if any, requiring a group child care home operator to provide off-street parking accommodations for his or her employees.

(5) For a city or village, a group child care home may be issued a special use permit, conditional use permit, or other similar permit.

(6) A licensed or registered family or group child care home that operated before March 30, 1989 is not required to comply with this section.

(7) This section does not prohibit a local unit of government from inspecting a family or group child care home for the home's compliance with and enforcing the local unit of government's zoning ordinance. For a county or township, an ordinance shall not be more restrictive for a family or group child care home than 1973 PA 116, MCL 722.111 to 722.128.

(8) The establishment of any of the facilities listed under subsection (4)(a) after issuance of a special use permit, conditional use permit, or other similar permit pertaining to the group child care home does not affect renewal of that permit.

(9) This section does not prohibit a local unit of government from issuing a special use permit, conditional use permit, or other similar permit to a licensed group child care home that does not meet the standards listed under subsection (4).

(10) The distances required under subsection (4)(a) shall be measured along a road, street, or place maintained by this state or a local unit of government and generally open to the public as a matter of right for the purpose of vehicular traffic, not including an alley.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2007, Act 219, Imd. Eff. Dec. 28, 2007;—Am. 2018, Act 513, Eff. Mar. 28, 2019;—Am. 2022, Act 206, Imd. Eff. Oct. 7, 2022.

125.3207 Zoning ordinance or decision; effect as prohibiting establishment of land use.

Sec. 207. A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.

History: 2006, Act 110, Eff. July 1, 2006.

125.3208 Nonconforming uses or structures.

Sec. 208. (1) If the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment. This subsection is intended to codify the law as it existed before July 1, 2006 in section 16(1) of the former county zoning act, 1943 PA 183, section 16(1) of the former township zoning act, 1943 PA 184, and section 3a(1) of the former city and village zoning act, 1921 PA 207, as they applied to counties, townships, and cities and villages, respectively, and shall be construed as a continuation of those laws and not as a new enactment.

(2) The legislative body may provide in a zoning ordinance for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures upon terms and conditions provided in the zoning ordinance. In establishing terms for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures, different classes of nonconforming uses may be established in the zoning ordinance with different requirements applicable to each class.

(3) The legislative body may acquire, by purchase, condemnation, or otherwise, private property or an interest in private property for the removal of nonconforming uses and structures. The legislative body may provide that the cost and expense of acquiring private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in local units of government. Property acquired under this subsection by a city or village shall not be used for public housing.

(4) The elimination of the nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The legislative body may institute proceedings for condemnation of nonconforming uses and structures under 1911 PA 149, MCL 213.21 to 213.25.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008;—Am. 2010, Act 330, Imd. Eff. Dec. 21, 2010.

125.3209 Township zoning ordinance not subject to county ordinance, rule, or regulation.

Sec. 209. Except as otherwise provided under this act, a township that has enacted a zoning ordinance under this act is not subject to an ordinance, rule, or regulation adopted by a county under this act.

History: 2006, Act 110, Eff. July 1, 2006.

125.3210 Ordinance as controlling.

Sec. 210. Except as otherwise provided under this act, an ordinance adopted under this act shall be controlling in the case of any inconsistencies between the ordinance and an ordinance adopted under any other law.

History: 2006, Act 110, Eff. July 1, 2006.

125.3211 Appointment of zoning commission by legislative body; purposes; petition; initiation of action to formulate zoning commission and zoning ordinance.

Sec. 211. (1) The legislative body may proceed with the adoption of a zoning ordinance containing land development regulations and establishing zoning districts under this act upon appointment of a zoning commission as provided in section 301.

(2) The legislative body may appoint a zoning commission for purposes of formulating a zoning ordinance on its own initiative or upon receipt of a petition requesting that action as provided under subsection (3).

(3) Upon receipt of a petition signed by a number of qualified and registered voters residing in the zoning jurisdiction equal to not less than 8% of the total votes cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, filed with the clerk of the local unit of government requesting the legislative body to appoint a zoning commission for purposes of formulating a zoning ordinance, the legislative body, at the next regular meeting, may initiate action to formulate a zoning commission and zoning ordinance under this act.

History: 2006, Act 110, Eff. July 1, 2006.

ARTICLE III
ZONING COMMISSION

125.3301 Zoning commission; creation; transfer of powers to planning commission; resolution; membership; terms; successors; vacancy; limitation; removal of member; officers.

Sec. 301. (1) Each local unit of government in which the legislative body exercises authority under this act shall create a zoning commission unless 1 of the following applies:

(a) A county zoning commission created under former 1943 PA 183, a township zoning board created under former 1943 PA 184, or a city or village zoning commission created under former 1921 PA 207 was in existence in the local unit of government as of June 30, 2006. Unless abolished by the legislative body, that existing board or commission shall continue as and exercise the powers and perform the duties of a zoning commission under this act, subject to a transfer of power under subsection (2).

(b) A planning commission was, as of June 30, 2006, in existence in the local unit of government and pursuant to the applicable planning enabling act exercising the powers and performing the duties of a county zoning commission created under former 1943 PA 185, of a township zoning board created under former 1943 PA 184, or of a city or village zoning commission created under former 1921 PA 207. Unless abolished by the legislative body, that existing planning commission shall continue and exercise the powers and perform the duties of a zoning commission under this act.

(c) The local unit of government has created a planning commission on or after July 1, 2006 and transferred the powers and duties of a zoning commission to the planning commission pursuant to the applicable planning enabling act.

(2) Except as otherwise provided under this subsection, if the powers and duties of the zoning commission have been transferred to the planning commission as provided by law, the planning commission shall function as the zoning commission of the local unit of government. By July 1, 2011, the legislative body shall transfer the powers and duties of the zoning commission to the planning commission. Except as provided under this subsection, beginning July 1, 2011, a zoning commission's powers or duties under this act or an ordinance adopted under this act shall only be exercised or performed by a planning commission.

(3) If a zoning commission is created on or after July 1, 2006, the zoning commission shall be created by resolution and be composed of not fewer than 5 or more than 11 members appointed by the legislative body. Not fewer than 2 of the members of a county zoning commission shall be recommended for membership by

the legislative bodies of townships that are, or will be, subject to the county zoning ordinance. This requirement may be met as vacancies occur on a county zoning commission that existed on June 30, 2006.

(4) The members of a zoning commission shall be selected upon the basis of the members' qualifications and fitness to serve as members of a zoning commission.

(5) The first zoning commission appointed under subsection (3) shall be divided as nearly as possible into 3 equal groups, with terms of each group as follows:

(a) One group for 1 year.

(b) One group for 2 years.

(c) One group for 3 years.

(6) Upon the expiration of the terms of the members first appointed, successors shall be appointed in the same manner for terms of 3 years each. A member of the zoning commission shall serve until a successor is appointed and has been qualified.

(7) A vacancy on a zoning commission shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(8) An elected officer of a local unit of government shall not serve simultaneously as a member or an employee of the zoning commission of that local unit of government, except that 1 member of the legislative body may be a member of the zoning commission.

(9) The legislative body shall provide for the removal of a member of a zoning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing.

(10) A zoning commission shall elect from its members a chairperson, a secretary, and other officers and establish such committees it considers necessary and may engage any employees, including for technical assistance, it requires. The election of officers shall be held not less than once in every 2-year period.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

125.3302 Expenses; compensation.

Sec. 302. Members of the zoning commission may be reimbursed for reasonable expenses actually incurred in the discharge of their duties and may receive compensation as fixed by the legislative body.

History: 2006, Act 110, Eff. July 1, 2006.

125.3303 Planning expert; compensation.

Sec. 303. (1) With the approval of the legislative body, the zoning commission may engage the services of a planning expert. Compensation for the planning expert shall be paid by the legislative body.

(2) The zoning commission shall consider any information and recommendations furnished by appropriate public officials, departments, or agencies.

History: 2006, Act 110, Eff. July 1, 2006.

125.3304 Regular meetings; notice; zoning commission subject to open meetings act.

Sec. 304. The zoning commission shall hold a minimum of 2 regular meetings annually, giving notice of the time and place by publication in a newspaper of general circulation in the zoning jurisdiction. Notice shall be given not less than 15 days before the meeting. The zoning commission is subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

History: 2006, Act 110, Eff. July 1, 2006.

125.3305 Recommendations of zoning commission; adoption and filing.

Sec. 305. The zoning commission shall adopt and file with the legislative body the following recommendations:

(a) A zoning plan for the areas subject to zoning of the local unit of government.

(b) The establishment of zoning districts, including the boundaries of those districts.

(c) The text of a zoning ordinance with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole.

(d) The manner of administering and enforcing the zoning ordinance.

History: 2006, Act 110, Eff. July 1, 2006.

125.3306 Recommendations of zoning commission; submission to legislative body; public hearing; notice; examination of proposed text and maps.

Sec. 306. (1) Before submitting its recommendations for a proposed zoning ordinance to the legislative body, the zoning commission shall hold at least 1 public hearing. Notice of the time and place of the public hearing shall be given in the same manner as required under section 103(1) for the initial adoption of a zoning

ordinance or section 202 for any other subsequent zoning text or map amendments.

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

(3) The notices required under this section shall include the places and times at which the proposed text and any maps of the zoning ordinance may be examined.

History: 2006, Act 110, Eff. July 1, 2006.

125.3307 Review and recommendations after hearing; submission to township; submission to coordinating zoning committee; waiver of right to review.

Sec. 307. (1) Following the hearing required in section 306, a township shall submit for review and recommendation the proposed zoning ordinance, including any zoning maps, to the zoning commission of the county in which the township is situated if a county zoning commission has been appointed as provided under this act.

(2) If there is not a county zoning commission or county planning commission, the proposed zoning ordinance shall be submitted to the coordinating zoning committee. The coordinating zoning committee shall be composed of either 3 or 5 members appointed by the legislative body of the county for the purpose of coordinating the zoning ordinances proposed for adoption under this act with the zoning ordinances of a township, city, or village having a common boundary with the township.

(3) The county will have waived its right for review and recommendation of an ordinance if the recommendation of the county zoning commission, planning commission, or coordinating zoning committee has not been received by the township within 30 days from the date the proposed ordinance is received by the county.

(4) The legislative body of a county by resolution may waive its right to review township ordinances and amendments under this section.

History: 2006, Act 110, Eff. July 1, 2006.

125.3308 Summary of public hearing comments; transmission to legislative body by zoning commission; report.

Sec. 308. (1) Following the required public hearing under section 306, the zoning commission shall transmit a summary of comments received at the hearing and its proposed zoning ordinance, including any zoning maps and recommendations, to the legislative body of the local unit of government.

(2) Following the enactment of the zoning ordinance, the zoning commission shall at least once per year prepare for the legislative body a report on the administration and enforcement of the zoning ordinance and recommendations for amendments or supplements to the ordinance.

History: 2006, Act 110, Eff. July 1, 2006.

ARTICLE IV

ZONING ADOPTION AND ENFORCEMENT

125.3401 Public hearing to be held by legislative body; conditions; notice; approval of zoning ordinance and amendments by legislative body; filing; notice of ordinance adoption; notice mailed to airport manager; information to be included in notice; other statutory requirements superseded.

Sec. 401. (1) After receiving a zoning ordinance under section 308(1) or an amendment under sections 202 and 308(1), the legislative body may hold a public hearing if it considers it necessary or if otherwise required.

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

(3) The legislative body may refer any proposed amendments to the zoning commission for consideration and comment within a time specified by the legislative body.

(4) The legislative body shall grant a hearing on a proposed ordinance provision to an interested property owner who requests a hearing by certified mail, addressed to the clerk of the legislative body. A hearing under this subsection is not subject to the requirements of section 103, except that notice of the hearing shall be given to the interested property owner in the manner required in section 103(3) and (4).

(5) After any proceedings under subsections (1) to (4), the legislative body shall consider and vote upon the adoption of a zoning ordinance, with or without amendments. A zoning ordinance and any amendments

shall be approved by a majority vote of the members of the legislative body.

(6) Except as otherwise provided under section 402, a zoning ordinance shall take effect upon the expiration of 7 days after publication as required by subsection (7) or at such later date after publication as may be specified by the legislative body or charter.

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

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

(9) The notice required under this section shall include all of the following information:

(a) In the case of a newly adopted zoning ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the legislative body of the [county, township, city, or village] of _____."

(b) In the case of an amendment to an existing zoning ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

(c) The effective date of the ordinance or amendment.

(d) The place where and time when a copy of the ordinance or amendment may be purchased or inspected.

(10) The filing and publication requirements under this section supersede any other statutory or charter requirements relating to the filing and publication of county, township, city, or village ordinances.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

125.3402 Notice of intent to file petition.

Sec. 402. (1) Within 7 days after publication of a zoning ordinance under section 401, a registered elector residing in the zoning jurisdiction of a county or township may file with the clerk of the legislative body a notice of intent to file a petition under this section.

(2) If a notice of intent is filed under subsection (1), the petitioner shall have 30 days following the publication of the zoning ordinance to file a petition signed by a number of registered electors residing in the zoning jurisdiction not less than 15% of the total vote cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, with the clerk of the legislative body requesting the submission of a zoning ordinance or part of a zoning ordinance to the electors residing in the zoning jurisdiction for their approval.

(3) Upon the filing of a notice of intent under subsection (1), the zoning ordinance or part of the zoning ordinance adopted by the legislative body shall not take effect until 1 of the following occurs:

(a) The expiration of 30 days after publication of the ordinance, if a petition is not filed within that time.

(b) If a petition is filed within 30 days after publication of the ordinance, the clerk of the legislative body determines that the petition is inadequate.

(c) If a petition is filed within 30 days after publication of the ordinance, the clerk of the legislative body determines that the petition is adequate and the ordinance or part of the ordinance is approved by a majority of the registered electors residing in the zoning jurisdiction voting on the petition at the next regular election or at any special election called for that purpose. The legislative body shall provide the manner of submitting the zoning ordinance or part of the zoning ordinance to the electors for their approval or rejection and determining the result of the election.

(4) A petition and an election under this section are subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: 2006, Act 110, Eff. July 1, 2006.

125.3403 Amendment to zoning ordinance; filing of protest petition; vote.

Sec. 403. (1) An amendment to a zoning ordinance by a city or village is subject to a protest petition as required by this subsection. If a protest petition is filed, approval of the amendment to the zoning ordinance shall require a 2/3 vote of the legislative body, unless a larger vote, not to exceed a 3/4 vote, is required by ordinance or charter. The protest petition shall be presented to the legislative body of the city or village before final legislative action on the amendment and shall be signed by 1 or more of the following:

(a) The owners of at least 20% of the area of land included in the proposed change.

(b) The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

(2) Publicly owned land shall be excluded in calculating the 20% land area requirement under subsection (1).

History: 2006, Act 110, Eff. July 1, 2006.

125.3404 Interim zoning ordinance.

Sec. 404. (1) To protect the public health, safety, and general welfare of the inhabitants and the lands and resources of a local unit of government during the period required for the preparation and enactment of an initial zoning ordinance under this act, the legislative body of a local unit of government may direct the zoning commission to submit, within a specified period of time, recommendations as to the provisions of an interim zoning ordinance.

(2) Before presenting its recommendations to the legislative body, the zoning commission of a township shall submit the interim zoning ordinance, or an amendment to the ordinance, to the county zoning commission or the coordinating zoning committee, for the purpose of coordinating the zoning ordinance with the zoning ordinances of a township, city, or village having a common boundary with the township. The ordinance shall be considered approved 15 days from the date the zoning ordinance is submitted to the legislative body.

(3) After approval, the legislative body, by majority vote of its members, may give the interim ordinance or amendments to the interim ordinance immediate effect. An interim ordinance and subsequent amendments shall be filed and published as required under section 401.

(4) The interim ordinance, including any amendments, shall be limited to 1 year from the effective date and to not more than 2 years of renewal thereafter by resolution of the local unit of government.

History: 2006, Act 110, Eff. July 1, 2006.

125.3405 Use and development of land as condition to rezoning.

Sec. 405. (1) An owner of land may voluntarily offer in writing, and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.

(2) In approving the conditions under subsection (1), the local unit of government may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

(3) The local government shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2) of this section.

(4) The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the local unit of government.

(5) A local unit of government shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the local unit of government, or any other laws of this state.

History: 2006, Act 110, Eff. July 1, 2006.

125.3406 Zoning permits; fees; effect of delinquent payment of fine, costs, or assessment.

Sec. 406. (1) The legislative body may charge reasonable fees for zoning permits as a condition of granting authority to use, erect, alter, or locate dwellings, buildings, and structures, including tents and recreational vehicles, within a zoning district established under this act.

(2) A zoning ordinance adopted by a city may provide that a person is not eligible to apply for a rezoning, site plan approval, special land use approval, planned unit development approval, variance, or other zoning authorization if the person is delinquent in paying a civil fine, costs, or a justice system assessment imposed by an administrative hearings bureau established in that city pursuant to section 4q of the home rule city act, 1909 PA 279, MCL 117.4q.

(3) A zoning ordinance provision adopted under subsection (2) does not apply to an applicant for a zoning authorization if the applicant became the owner of the property by foreclosure or by taking a deed in lieu of foreclosure and is 1 of the following:

(a) A government-sponsored enterprise. As used in this subdivision, "government-sponsored enterprise" means that term as defined in 2 USC 622(8), or the Michigan state housing development authority created under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(b) A financial institution. As used in this subdivision, "financial institution" means that term as defined in section 4(c) of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004.

(c) A mortgage servicer, as that term is defined in section 1a of the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651a, that is subject to the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(d) A credit union service organization that is organized under the laws of this state or the United States.

(4) Subsection (2) does not apply to a zoning authorization if the authorization will correct, in whole or in part, the blight violation that was the subject of the delinquent payment referred to in subsection (2).

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2013, Act 189, Eff. Mar. 14, 2014.

125.3407 Certain violations as nuisance per se.

Sec. 407. Except as otherwise provided by law, a use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted in violation of a zoning ordinance or regulation adopted under this act is a nuisance per se. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se. The legislative body shall in the zoning ordinance enacted under this act designate the proper official or officials who shall administer and enforce the zoning ordinance and do 1 of the following for each violation of the zoning ordinance:

(a) Impose a penalty for the violation.

(b) Designate the violation as a municipal civil infraction and impose a civil fine for the violation.

(c) Designate the violation as a blight violation and impose a civil fine or other sanction authorized by law. This subdivision applies only to a city that establishes an administrative hearings bureau pursuant to section 4q of the home rule city act, 1909 PA 279, MCL 117.4q.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

ARTICLE V SPECIAL ZONING PROVISIONS

125.3501 Submission and approval of site plan; procedures and requirements.

Sec. 501. (1) The local unit of government may require the submission and approval of a site plan before authorization of a land use or activity regulated by a zoning ordinance. The zoning ordinance shall specify the body or official responsible for reviewing site plans and granting approval.

(2) If a zoning ordinance requires site plan approval, the site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance is agreed to by the landowner and the body or official that initially approved the site plan.

(3) The procedures and requirements for the submission and approval of site plans shall be specified in the zoning ordinance. Site plan submission, review, and approval shall be required for special land uses and planned unit developments.

(4) A decision rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.

(5) A site plan shall be approved if it contains the information required by the zoning ordinance and is in compliance with the conditions imposed under the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

125.3502 Special land uses; review and approval; application; notice of request; public hearing; incorporation of decision in statement of findings and conclusions.

Sec. 502. (1) The legislative body may provide in a zoning ordinance for special land uses in a zoning district. A special land use shall be subject to the review and approval of the zoning commission, the planning commission, an official charged with administering the zoning ordinance, or the legislative body as required by the zoning ordinance. The zoning ordinance shall specify all of the following:

(a) The special land uses and activities eligible for approval and the body or official responsible for reviewing and granting approval.

(b) The requirements and standards for approving a request for a special land use.

(c) The procedures and supporting materials required for the application, review, and approval of a special land use.

(2) Upon receipt of an application for a special land use which requires a discretionary decision, the local unit of government shall provide notice of the request as required under section 103. The notice shall indicate that a public hearing on the special land use request may be requested by any property owner or the occupant

of any structure located within 300 feet of the property being considered for a special land use regardless of whether the property or occupant is located in the zoning jurisdiction.

(3) At the initiative of the body or official responsible for approving the special land use or upon the request of the applicant, a real property owner whose real property is assessed within 300 feet of the property, or the occupant of a structure located within 300 feet of the property, a public hearing shall be held before a discretionary decision is made on the special land use request.

(4) The body or official designated to review and approve special land uses may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

History: 2006, Act 110, Eff. July 1, 2006.

125.3503 Planned unit development.

Sec. 503. (1) As used in this section, "planned unit development" includes such terms as cluster zoning, planned development, community unit plan, and planned residential development and other terminology denoting zoning requirements designed to accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

(2) The legislative body may establish planned unit development requirements in a zoning ordinance that permit flexibility in the regulation of land development, encourage innovation in land use and variety in design, layout, and type of structures constructed, achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities, encourage useful open space, and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of this state. The review and approval of planned unit developments shall be by the zoning commission, an individual charged with administration of the zoning ordinance, or the legislative body, as specified in the zoning ordinance.

(3) Within a land development project designated as a planned unit development, regulations relating to the use of land, including, but not limited to, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density, shall be determined in accordance with the planned unit development regulations specified in the zoning ordinance. The planned unit development regulations need not be uniform with regard to each type of land use if equitable procedures recognizing due process principles and avoiding arbitrary decisions are followed in making regulatory decisions. Unless explicitly prohibited by the planned unit development regulations, if requested by the landowner, a local unit of government may approve a planned unit development with open space that is not contiguous with the rest of the planned unit development.

(4) The planned unit development regulations established by the local unit of government shall specify all of the following:

(a) The body or official responsible for the review and approval of planned unit development requests.

(b) The conditions that create planned unit development eligibility, the participants in the review process, and the requirements and standards upon which applicants will be reviewed and approval granted.

(c) The procedures required for application, review, and approval.

(5) Following receipt of a request to approve a planned unit development, the body or official responsible for the review and approval shall hold at least 1 public hearing on the request. A zoning ordinance may provide for preapplication conferences before submission of a planned unit development request and the submission of preliminary site plans before the public hearing. Notification of the public hearing shall be given in the same manner as required under section 103.

(6) Within a reasonable time following the public hearing, the body or official responsible for approving planned unit developments shall meet for final consideration of the request and deny, approve, or approve with conditions the request. The body or official shall prepare a report stating its conclusions, its decision, the basis for its decision, and any conditions imposed on an affirmative decision.

(7) If amendment of a zoning ordinance is required by the planned unit development regulations of a zoning ordinance, the requirements of this act for amendment of a zoning ordinance shall be followed, except that the hearing and notice required by this section shall fulfill the public hearing and notice requirements of section 306.

(8) If the planned unit development regulations of a zoning ordinance do not require amendment of the zoning ordinance to authorize a planned unit development, the body or official responsible for review and approval shall approve, approve with conditions, or deny a request.

(9) Final approval may be granted on each phase of a multiphased planned unit development if each phase

contains the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area.

(10) In establishing planned unit development requirements, a local unit of government may incorporate by reference other ordinances or statutes which regulate land development. The planned unit development regulations contained in zoning ordinances shall encourage complementary relationships between zoning regulations and other regulations affecting the development of land.

History: 2006, Act 110, Eff. July 1, 2006.

125.3504 Special land uses; regulations and standards; compliance; conditions; record of conditions.

Sec. 504. (1) If the zoning ordinance authorizes the consideration and approval of special land uses or planned unit developments under section 502 or 503 or otherwise provides for discretionary decisions, the regulations and standards upon which those decisions are made shall be specified in the zoning ordinance.

(2) The standards shall be consistent with and promote the intent and purpose of the zoning ordinance and shall insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The standards shall also insure that the land use or activity is consistent with the public health, safety, and welfare of the local unit of government.

(3) A request for approval of a land use or activity shall be approved if the request is in compliance with the standards stated in the zoning ordinance, the conditions imposed under the zoning ordinance, other applicable ordinances, and state and federal statutes.

(4) Reasonable conditions may be required with the approval of a special land use, planned unit development, or other land uses or activities permitted by discretionary decision. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, 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. Conditions imposed shall meet all of the following requirements:

(a) 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.

(b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

(c) 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.

(5) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of conditions which are changed.

History: 2006, Act 110, Eff. July 1, 2006.

125.3505 Performance guarantee.

Sec. 505. (1) To ensure compliance with a zoning ordinance and any conditions imposed under a zoning ordinance, a local unit of government may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the local unit of government covering the estimated cost of improvements be deposited with the clerk of the legislative body to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The local unit of government may not require the deposit of the performance guarantee until it is prepared to issue the permit. The local unit of government shall establish procedures by which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements shall be made as work progresses.

(2) This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited under the land division act, 1967 PA 288, MCL 560.101 to 560.293.

History: 2006, Act 110, Eff. July 1, 2006.

125.3506 Open space preservation.

Sec. 506. (1) Subject to subsection (4) and section 402, a qualified local unit of government shall provide in its zoning ordinance that land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land than specified in the zoning ordinance, but not more than 50% for a county or township or 80% for a city or village, that could otherwise be developed, as determined by the local unit of government under existing ordinances, laws, and rules on the entire land area, if all of the following apply:

(a) The land is zoned at a density equivalent to 2 or fewer dwelling units per acre or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre.

(b) A percentage of the land area specified in the zoning ordinance, but not less than 50% for a county or township or 20% for a city or village, will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, as prescribed by the zoning ordinance.

(c) The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this subsection would also depend upon the extension.

(d) The option provided under this subsection has not previously been exercised with respect to that land.

(2) After a landowner exercises the option provided under subsection (1), the land may be rezoned accordingly.

(3) The development of land under subsection (1) is subject to other applicable ordinances, laws, and rules, including rules relating to suitability of groundwater for on-site water supply for land not served by public water and rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.

(4) Subsection (1) does not apply to a qualified local unit of government if both of the following apply:

(a) On or before October 1, 2001, the local unit of government had in effect a zoning ordinance provision providing for both of the following:

(i) Land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land that, as determined by the local unit of government, could otherwise be developed under existing ordinances, laws, and rules on the entire land area.

(ii) If the landowner exercises the option provided by subparagraph (i), the portion of the land not developed will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land.

(b) On or before December 15, 2001, a landowner exercised the option provided under the zoning ordinance provision referred to in subdivision (a) with at least 50% of the land area for a county or township or 20% of the land area for a city or village, remaining perpetually in an undeveloped state.

(5) The zoning ordinance provisions required by subsection (1) shall be cited as the "open space preservation" provisions of the zoning ordinance.

(6) As used in this section, "qualified local unit of government" means a county, township, city, or village that meets all of the following requirements:

(a) Has adopted a zoning ordinance.

(b) Has a population of 1,800 or more.

(c) Has land that is not developed and that is zoned for residential development at a density described in subsection (1)(a).

History: 2006, Act 110, Eff. July 1, 2006.

125.3507 Purchase of development rights program; adoption of ordinance; limitations; agreements with other local governments.

Sec. 507. (1) As used in this section and sections 508 and 509, "PDR program" means a purchase of development rights program.

(2) The legislative body may adopt a development rights ordinance limited to the establishment, financing, and administration of a PDR program, as provided under this section and sections 508 and 509. The PDR program may be used only to protect agricultural land and other eligible land. This section and sections 508 and 509 do not expand the condemnation authority of a local unit of government as otherwise provided for in this act.

(3) A PDR program shall not acquire development rights by condemnation. This section and sections 508 and 509 do not limit any authority that may otherwise be provided by law for a local unit of government to protect natural resources, preserve open space, provide for historic preservation, or accomplish similar purposes.

(4) A legislative body shall not establish, finance, or administer a PDR program unless the legislative body adopts a development rights ordinance. If the local unit of government has a zoning ordinance, the

development rights ordinance may be adopted as part of the zoning ordinance under the procedures for a zoning ordinance under this act. A local unit of government may adopt a development rights ordinance in the same manner as required for a zoning ordinance.

(5) A legislative body may promote and enter into agreements with other local units of government for the purchase of development rights, including cross-jurisdictional purchases, subject to applicable development rights ordinances.

History: 2006, Act 110, Eff. July 1, 2006.

125.3508 PDR program; purchase of development rights by local unit of government; conveyance; notice; requirements for certain purchases.

Sec. 508. (1) A development rights ordinance shall provide for a PDR program. Under a PDR program, the local unit of government purchases development rights, but only from a willing landowner. A development rights ordinance providing for a PDR program shall specify all of the following:

(a) The public benefits that the local unit of government may seek through the purchase of development rights.

(b) The procedure by which the local unit of government or a landowner may by application initiate purchase of development rights.

(c) The development rights authorized to be purchased subject to a determination under standards and procedures required by subdivision (d).

(d) The standards and procedures to be followed by the legislative body for approving, modifying, or rejecting an application to purchase development rights, including the determination of all the following:

(i) Whether to purchase development rights.

(ii) Which development rights to purchase.

(iii) The intensity of development permitted after the purchase on the land from which the development rights are purchased.

(iv) The price at which development rights will be purchased and the method of payment.

(v) The procedure for ensuring that the purchase or sale of development rights is legally fixed so as to run with the land.

(e) The circumstances under which an owner of land from which development rights have been purchased under a PDR program may repurchase those development rights and how the proceeds of the purchase are to be used by the local unit of government.

(2) If the local unit of government has a zoning ordinance, the purchase of development rights shall be consistent with the plan referred to in section 203 upon which the zoning ordinance is based.

(3) Development rights acquired under a PDR program may be conveyed only as provided under subsection (1)(e).

(4) A county shall notify each township, city, or village, and a township shall notify each village, in which is located land from which development rights are proposed to be purchased of the receipt of an application for the purchase of development rights and shall notify each township, city, or village of the disposition of that application.

(5) A county shall not purchase development rights under a development rights ordinance from land subject to a township, city, or village zoning ordinance unless all of the following requirements are met:

(a) The development rights ordinance provisions for the PDR program are consistent with the plan upon which the township, city, or village zoning is based.

(b) The legislative body of the township, city, or village adopts a resolution authorizing the PDR program to apply in the township, city, or village.

(c) As part of the application procedure for the specific proposed purchase of development rights, the township, city, or village provides the county with written approval of the purchase.

History: 2006, Act 110, Eff. July 1, 2006.

125.3509 PDR program; financing sources; bonds or notes; special assessments.

Sec. 509. (1) A PDR program may be financed through 1 or more of the following sources:

(a) General appropriations by the local unit of government.

(b) Proceeds from the sale of development rights by the local unit of government subject to section 508(3).

(c) Grants.

(d) Donations.

(e) Bonds or notes issued under subsections (2) to (5).

(f) General fund revenue.

(g) Special assessments under subsection (6).

(h) Other sources approved by the legislative body and permitted by law.

(2) The legislative body may borrow money and issue bonds or notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, subject to the general debt limit applicable to the local unit of government. The bonds or notes may be revenue bonds or notes, general obligation limited tax bonds or notes, or, subject to section 6 of article IX of the state constitution of 1963, general obligation unlimited tax bonds or notes.

(3) The legislative body may secure bonds or notes issued under this section by mortgage, assignment, or pledge of property, including, but not limited to, anticipated tax collections, revenue sharing payments, or special assessment revenues. A pledge made by the legislative body is valid and binding from the time the pledge is made. The pledge immediately shall be subject to the lien of the pledge without a filing or further act. The lien of the pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the local unit of government, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(4) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state.

(5) The bonds and notes issued under this section may be invested in by the state treasurer and all other public officers, state agencies, and political subdivisions, insurance companies, financial institutions, investment companies, and fiduciaries and trustees and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is in addition to all other authority granted by law.

(6) A development rights ordinance may authorize the legislative body to finance a PDR program by special assessments. In addition to meeting the requirements of section 508, the development rights ordinance shall include in the procedure to approve and establish a special assessment district both of the following:

(a) The requirement that there be filed with the legislative body a petition containing all of the following:

(i) A description of the development rights to be purchased, including a legal description of the land from which the purchase is to be made.

(ii) A description of the proposed special assessment district.

(iii) The signatures of the owners of at least 66% of the land area in the proposed special assessment district.

(iv) The amount and duration of the proposed special assessments.

(b) The requirement that the legislative body specify how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.

History: 2006, Act 110, Eff. July 1, 2006.

125.3513 Biofuel production facility as permitted use of property; requirements; special land use approval; application; hearing; conditions; applicability of subsections (2) to (5); authority of local unit of government; definitions.

Sec. 513. (1) A biofuel production facility with an annual production capacity of not more than 100,000 gallons of biofuel is a permitted use of property and is not subject to special land use approval if all of the following requirements are met:

(a) The biofuel production facility is located on a farm.

(b) The biofuel production facility is located not less than 100 feet from the boundary of any contiguous property under different ownership than the property on which the biofuel production facility is located and meets all applicable setback requirements of the zoning ordinance.

(c) On an annual basis, not less than 75% of the feedstock for the biofuel production facility is produced on the farm where the biofuel production facility is located, and not less than 75% of the biofuel or another product or by-product produced by the biofuel production facility is used on that farm.

(2) Subject to subsections (6) and (7), each of the following is a permitted use of property if it receives special land use approval under subsections (3) to (5):

(a) A biofuel production facility with an annual production capacity of not more than 100,000 gallons of biofuel that meets the requirements of subsection (1)(a) and (b) but that does not meet the requirements of subsection (1)(c).

(b) A biofuel production facility with an annual production capacity of more than 100,000 gallons but not more than 500,000 gallons of biofuel that meets the requirements of subsection (1)(a) and (b).

(3) An application for special land use approval for a biofuel production facility described in subsection (2) shall include all of the following:

(a) A site plan as required under section 501, including a map of the property and existing and proposed buildings and other facilities.

(b) A description of the process to be used to produce biofuel.

(c) The number of gallons of biofuel anticipated to be produced annually.

(d) An emergency access and fire protection plan that has been reviewed and approved by the appropriate responding police and fire departments.

(e) For an ethanol production facility that will produce more than 10,000 proof gallons annually, completed United States department of the treasury, alcohol and tobacco tax and trade bureau, forms 5000.29 (environmental information) and 5000.30 (supplemental information on water quality considerations under 33 USC 1341(a)), or successor forms, required to implement regulations under the national environmental policy act of 1969, 42 USC 4321 to 4347, and the federal water pollution control act, 33 USC 1251 to 1387.

(f) Information that demonstrates that the biofuel production facility will comply with the requirements of subsections (2) and (5).

(g) Any additional information requested by the body or official responsible for granting special land use approval and relevant to compliance with a zoning ordinance provision described in section 502(1) or 504.

(4) A local unit of government shall hold a hearing on an application for special land use approval under subsection (2) not more than 60 days after the application is filed. For the purposes of this section, the notice required under section 502(2) shall provide notice of the hearing, rather than notice of a right to request a hearing.

(5) Special land use approval of a biofuel production facility described in subsection (2) shall be made expressly conditional on the facility's meeting all of the following requirements before the facility begins operation and no additional requirements:

(a) Buildings, facilities, and equipment used in the production or storage of biofuel comply with local, state, and federal laws.

(b) The owner or operator of the biofuel production facility provides the local unit of government with proof that all necessary approvals have been obtained from the department of environmental quality and other state and federal agencies that are involved in permitting any of the following aspects of biofuel production:

(i) Air pollution emissions.

(ii) Transportation of biofuel or additional products resulting from biofuel production.

(iii) Use or reuse of additional products resulting from biofuel production.

(iv) Storage of raw materials, fuel, or additional products used in, or resulting from, biofuel production.

(c) The biofuel production facility includes sufficient storage for both of the following:

(i) Raw materials and fuel.

(ii) Additional products resulting from biofuel production or the capacity to dispose of additional products through land application, livestock consumption, sale, or other legal use.

(6) Subsections (2) to (5) do not apply to a biofuel production facility if the zoning ordinance provides different criteria for special land use approval of a biofuel production facility located on a farm. An amendment to a zoning ordinance adopted only to provide such criteria is not subject to a protest petition under section 403.

(7) A local unit of government may authorize a biofuel production facility described in subsection (2) as a permitted use of property not subject to a special land use approval.

(8) This section does not affect the authority of a local unit of government to prohibit or authorize biofuel production facilities that are not located on farms.

(9) As used in this section:

(a) "Biofuel" means any renewable fuel product, whether solid, liquid, or gas, that is derived from recently living organisms or their metabolic by-products and meets applicable quality standards, including, but not limited to, ethanol and biodiesel. Biofuel does not include methane or any other fuel product from an anaerobic digester.

(b) "Ethanol" means a substance that meets the ASTM international standard in effect on the effective date of this section as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.

(c) "Farm" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(d) "Proof gallon" means that term as defined in 27 CFR 19.907.

History: Add. 2011, Act 97, Imd. Eff. July 19, 2011.

125.3514 Wireless communications equipment as permitted use of property; application for special land use approval; approval or denial; authorization by local unit of government; definitions; applicability to small cell wireless communications facilities.

Sec. 514. (1) Wireless communications equipment is a permitted use of property and is not subject to special land use approval or any other approval under this act if all of the following requirements are met:

(a) The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.

(b) The existing wireless communications support structure or existing equipment compound is in compliance with the local unit of government's zoning ordinance or was approved by the appropriate zoning body or official for the local unit of government.

(c) The proposed collocation will not do any of the following:

(i) Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.

(ii) Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.

(iii) Increase the area of the existing equipment compound to greater than 2,500 square feet.

(d) The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the appropriate zoning body or official of the local unit of government.

(2) Wireless communications equipment that meets the requirements of subsection (1)(a) and (b) but does not meet the requirements of subsection (1)(c) or (d) is a permitted use of property if it receives special land use approval under subsections (3) to (6).

(3) An application for special land use approval of wireless communications equipment described in subsection (2) shall include all of the following:

(a) A site plan as required under section 501, including a map of the property and existing and proposed buildings and other facilities.

(b) Any additional relevant information that is specifically required by a zoning ordinance provision described in section 502(1) or 504.

(4) After an application for a special land use approval is filed with the body or official responsible for approving special land uses, the body or official shall determine whether the application is administratively complete. Unless the body or official proceeds as provided under subsection (5), the application shall be considered to be administratively complete when the body or official makes that determination or 14 business days after the body or official receives the application, whichever is first.

(5) If, before the expiration of the 14-day period under subsection (4), the body or official responsible for approving special land uses notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14-day period under subsection (4) is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification. A fee required to accompany any application shall not exceed the local unit of government's actual, reasonable costs to review and process the application or \$1,000.00, whichever is less.

(6) The body or official responsible for approving special land uses shall approve or deny the application not more than 60 days after the application is considered to be administratively complete. If the body or official fails to timely approve or deny the application, the application shall be considered approved and the body or official shall be considered to have made any determination required for approval.

(7) Special land use approval of wireless communications equipment described in subsection (2) may be made expressly conditional only on the wireless communications equipment's meeting the requirements of other local ordinances and of federal and state laws before the wireless communications equipment begins operation.

(8) If a local unit of government requires special land use approval for wireless communications equipment that does not meet the requirements of subsection (1)(a) or for a wireless communications support structure, subsections (4) to (6) apply to the special land use approval process, except that the period for approval or denial under subsection (6) is 90 days.

(9) A local unit of government may authorize wireless communications equipment as a permitted use of property not subject to a special land use approval.

(10) This section does not apply to an activity or use that is regulated by the small cell wireless communications facilities deployment act.

(11) As used in this section:

(a) "Colocate" means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Collocation" has a corresponding meaning.

(b) "Equipment compound" means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.

(c) "Wireless communications equipment" means the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.

(d) "Wireless communications support structure" means a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.

History: Add. 2012, Act 143, Imd. Eff. May 24, 2012;—Am. 2018, Act 366, Eff. Mar. 12, 2019.

ARTICLE VI ZONING BOARD OF APPEALS

125.3601 Zoning board of appeals; appointment; procedural rules; membership; composition; alternate member; per diem; expenses; removal; terms of office; vacancies; conduct of meetings; conflict of interest.

Sec. 601. (1) A zoning ordinance shall create a zoning board of appeals. A zoning board of appeals in existence on June 30, 2006 may continue to act as the zoning board of appeals subject to this act. Subject to subsection (2), members of a zoning board of appeals shall be appointed by majority vote of the members of the legislative body serving.

(2) The legislative body of a city or village may act as a zoning board of appeals and may establish rules to govern its procedure as a zoning board of appeals.

(3) A zoning board of appeals shall be composed of not fewer than 5 members if the local unit of government has a population of 5,000 or more or not fewer than 3 members if the local unit of government has a population of less than 5,000. The number of members of the zoning board of appeals shall be specified in the zoning ordinance.

(4) In a county or township, 1 of the regular members of the zoning board of appeals shall be a member of the zoning commission, or of the planning commission if the planning commission is functioning as the zoning commission. In a city or village, 1 of the regular members of the zoning board of appeals may be a member of the zoning commission, or of the planning commission if the planning commission is functioning as the zoning commission, unless the legislative body acts as the zoning board of appeals under subsection (2). A decision made by a city or village zoning board of appeals before February 29, 2008 is not invalidated by the failure of the zoning board of appeals to include a member of the city or village zoning commission or planning commission, as was required by this subsection before that date.

(5) The remaining regular members of a zoning board of appeals, and any alternate members under subsection (7), shall be selected from the electors of the local unit of government residing within the zoning jurisdiction of that local unit of government or, in the case of a county, residing within the county but outside of any city or village. The members selected shall be representative of the population distribution and of the various interests present in the local unit of government.

(6) Subject to subsection (2), 1 regular or alternate member of a zoning board of appeals may be a member of the legislative body. Such a member shall not serve as chairperson of the zoning board of appeals. An employee or contractor of the legislative body may not serve as a member of the zoning board of appeals.

(7) The legislative body may appoint to the zoning board of appeals not more than 2 alternate members for the same term as regular members. An alternate member may be called as specified in the zoning ordinance to serve as a member of the zoning board of appeals in the absence of a regular member if the regular member will be unable to attend 1 or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the zoning board of appeals has the same voting rights as a regular member.

(8) A member of the zoning board of appeals may be paid a reasonable per diem and reimbursed for expenses actually incurred in the discharge of his or her duties.

(9) A member of the zoning board of appeals may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

(10) The terms of office for an appointed member of the zoning board of appeals shall be 3 years, except

for a member serving because of his or her membership on the zoning commission or legislative body, whose term shall be limited to the time he or she is a member of that body. When members are first appointed, appointments may be for less than 3 years to provide for staggered terms. A successor shall be appointed not more than 1 month after the term of the preceding member has expired.

(11) A vacancy on the zoning board of appeals shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(12) A zoning board of appeals shall not conduct business unless a majority of the regular members of the zoning board of appeals are present.

(13) A member of the zoning board of appeals who is also a member of the zoning commission, the planning commission, or the legislative body shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the zoning commission, the planning commission, or the legislative body. However, the member may consider and vote on other unrelated matters involving the same property.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008;—Am. 2010, Act 330, Imd. Eff. Dec. 21, 2010.

125.3602 Meetings; call of the chairperson; oaths; attendance of witnesses; record of proceedings.

Sec. 602. (1) Meetings of the zoning board of appeals shall be held at the call of the chairperson and at other times as the zoning board of appeals in its rules of procedure may specify. The chairperson or, in his or her absence, the acting chairperson may administer oaths and compel the attendance of witnesses.

(2) The zoning board of appeals shall maintain a record of its proceedings which shall be filed in the office of the clerk of the legislative body.

History: 2006, Act 110, Eff. July 1, 2006.

125.3603 Zoning board of appeals; powers; concurring vote of majority of members.

Sec. 603. (1) The zoning board of appeals shall hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the zoning maps, and may adopt rules to govern its procedures sitting as a zoning board of appeals. The zoning board of appeals shall also hear and decide on matters referred to the zoning board of appeals or upon which the zoning board of appeals is required to pass under a zoning ordinance adopted under this act. It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance adopted under this act. For special land use and planned unit development decisions, an appeal may be taken to the zoning board of appeals only if provided for in the zoning ordinance.

(2) The concurring vote of a majority of the members of the zoning board of appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the zoning board of appeals is required to pass under the zoning ordinance, or to grant a variance in the zoning ordinance.

History: 2006, Act 110, Eff. July 1, 2006.

125.3604 Zoning board of appeals; procedures.

Sec. 604. (1) An appeal to the zoning board of appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of this state or the local unit of government. In addition, a variance in the zoning ordinance may be applied for and granted under section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and as provided under this act. The zoning board of appeals shall state the grounds of any determination made by the board.

(2) An appeal under this section shall be taken within such time as prescribed by the zoning board of appeals by general rule, by filing with the body or officer from whom the appeal is taken and with the zoning board of appeals a notice of appeal specifying the grounds for the appeal. The body or officer from whom the appeal is taken shall immediately transmit to the zoning board of appeals all of the papers constituting the record upon which the action appealed from was taken.

(3) An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies to the zoning board of appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the zoning board of appeals or a circuit court.

(4) Following receipt of a written request for a variance, the zoning board of appeals shall fix a reasonable

time for the hearing of the request and give notice as provided in section 103.

(5) If the zoning board of appeals receives a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, the zoning board of appeals shall conduct a public hearing on the request. Notice shall be given as required under section 103. However, if the request does not involve a specific parcel of property, notice need only be published as provided in section 103(1) and given to the person making the request as provided in section 103(3).

(6) At a hearing under subsection (5), a party may appear personally or by agent or attorney. The zoning board of appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

(7) If there are practical difficulties for nonuse variances as provided in subsection (8) or unnecessary hardship for use variances as provided in subsection (9) in the way of carrying out the strict letter of the zoning ordinance, the zoning board of appeals may grant a variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The ordinance shall establish procedures for the review and standards for approval of all types of variances. The zoning board of appeals may impose conditions as otherwise allowed under this act.

(8) The zoning board of appeals of all local units of government shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance.

(9) The authority to grant variances from uses of land is limited to the following:

(a) Cities and villages.

(b) Townships and counties that as of February 15, 2006 had an ordinance that uses the phrase "use variance" or "variances from uses of land" to expressly authorize the granting of use variances by the zoning board of appeals.

(c) Townships and counties that granted a use variance before February 15, 2006.

(10) The authority granted under subsection (9) is subject to the zoning ordinance of the local unit of government otherwise being in compliance with subsection (7) and having an ordinance provision that requires a vote of 2/3 of the members of the zoning board of appeals to approve a use variance.

(11) The authority to grant use variances under subsection (9) is permissive, and this section does not require a local unit of government to adopt ordinance provisions to allow for the granting of use variances.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

125.3605 Decision as final; appeal to circuit court.

Sec. 605. The decision of the zoning board of appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for the county in which the property is located as provided under section 606.

History: 2006, Act 110, Eff. July 1, 2006.

125.3606 Circuit court; review; duties.

Sec. 606. (1) Any party aggrieved by a decision of the zoning board of appeals may appeal to the circuit court for the county in which the property is located. The circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:

(a) Complies with the constitution and laws of the state.

(b) Is based upon proper procedure.

(c) Is supported by competent, material, and substantial evidence on the record.

(d) Represents the reasonable exercise of discretion granted by law to the zoning board of appeals.

(2) If the court finds the record inadequate to make the review required by this section or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The zoning board of appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.

(3) An appeal from a decision of a zoning board of appeals shall be filed within whichever of the following deadlines comes first:

(a) Thirty days after the zoning board of appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the zoning board of appeals, if there is no chairperson.

(b) Twenty-one days after the zoning board of appeals approves the minutes of its decision.

(4) The court may affirm, reverse, or modify the decision of the zoning board of appeals. The court may make other orders as justice requires.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008;—Am. 2010, Act 330, Imd. Eff. Dec. 21, 2010;—Am. 2023, Act 10, Imd. Eff. Jan. 1, 2023.

2010.

125.3607 Party aggrieved by order, determination, or decision; circuit court review; proper party.

Sec. 607. (1) Any party aggrieved by any order, determination, or decision of any officer, agency, board, commission, zoning board of appeals, or legislative body of any local unit of government made under section 208 may obtain a review in the circuit court for the county in which the property is located. The review shall be in accordance with section 606.

(2) Any person required to be given notice under section 604(4) of the appeal of any order, determination, or decision made under section 208 shall be a proper party to any action for review under this section.

History: 2006, Act 110, Eff. July 1, 2006.

ARTICLE VII
STATUTORY COMPLIANCE AND REPEALER

125.3701 Compliance with open meetings act; availability of writings to public.

Sec. 701. (1) All meetings subject to this act shall be conducted in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) A writing prepared, owned, used, in the possession of, or retained as required by this act shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2006, Act 110, Eff. July 1, 2006.

125.3702 Repeal of MCL 125.581 to 125.600, 125.201 to 125.240, and 125.271 to 125.310; construction of section.

Sec. 702. (1) The following acts and parts of acts are repealed:

(a) The city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600.

(b) The county zoning act, 1943 PA 183, MCL 125.201 to 125.240.

(c) The township zoning act, 1943 PA 184, MCL 125.271 to 125.310.

(2) This section does not alter, limit, void, affect, or abate any pending litigation, administrative proceeding, or appeal that existed on June 30, 2006 or any ordinance, order, permit, or decision that was based on the acts repealed under subsection (1). The zoning ordinance need not be readopted but is subject to the requirements of this act, including, but not limited to, the amendment procedures set forth in this act.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

Chapter 42 - ZONING

Footnotes:

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State Law reference— *Michigan zoning enabling act, MCL 125.3101 et seq.; Michigan planning enabling act, MCL 125.3801 et seq.*

ARTICLE I. - IN GENERAL

Sec. 42-1. - Title.

The village, in accordance with the enabling legislation for municipal zoning as provided in Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and Public Act No. 33 of 2008 (MCL 125.3801 et seq.), hereby provides as follows: a zoning ordinance which shall be known as and may be cited as the "Village of Decatur Zoning Ordinance," as amended, and is referred to as the "zoning ordinance."

(Ord. No. 202, § 1.1, 11-6-2017)

Sec. 42-2. - Area of jurisdiction.

The provisions of this chapter apply to all development, public and private, throughout the incorporated areas of the village, to the extent permitted by law.

(Ord. No. 202, § 1.2, 11-6-2017)

Sec. 42-3. - Purpose.

The purpose of this chapter is to promote the public health, safety, and general welfare of the residents of the village. This chapter shall serve the general good of the community in accordance with the adopted Village of Decatur Master Plan and any additions and amendments as may be approved by the village.

(Ord. No. 202, § 1.3, 11-6-2017)

Sec. 42-4. - Interpretation and relationship to other regulations.

In interpreting and applying the provisions of this chapter, these provisions must be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants, restrictions established by other ordinances or statutes, or agreements between private parties. However, where this chapter imposes a greater restriction upon the use of buildings or lots or upon the

height of buildings, or requires larger open spaces than are imposed or required by any other applicable rule, covenant or law, the provisions of this chapter shall govern. The village has no responsibility or authority for enforcing private agreements or covenants.

(Ord. No. 202, § 1.4, 11-6-2017)

Sec. 42-5. - Conflict with state or federal regulations.

If the provisions of this chapter are inconsistent with those of the state or federal government, the more restrictive provisions will control, to the extent permitted by law.

(Ord. No. 202, § 1.5, 11-6-2017)

Sec. 42-6. - Official zoning map.

The boundaries of the zoning districts established by the zoning ordinance are shown on a map or series of maps designated the "Official Zoning Map." The official zoning map, including all notations, references, data and other information shown therein, is adopted and made a part of this chapter as fully as if it were contained within the pages of this chapter.

- (1) *Location.* The official zoning map is filed in the office of the village clerk.
- (2) *Updates.* The village planning commission is responsible for updating the official zoning map to reflect amendments adopted by the village board.
- (3) *Zoning district boundaries.* Where uncertainty exists with respect to the boundaries of the various districts, the following rules shall apply:
 - a. The district boundaries are public rights-of-way including either streets, places or alleys unless otherwise shown; where the districts designated on the official zoning map are approximately bounded by street, road, place or alley lines, the same shall be construed to be the boundary of the district.
 - b. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines; where districts designated on the official zoning map are approximately bounded by lot lines, the same shall be construed to be the boundary of the districts, unless otherwise indicated on the official zoning map.
 - c. Whenever any street, road, alley, place or other public way is officially vacated by the village or county road commission, the district adjoining each side thereof shall be automatically extended to the center of such vacation and all area included in the vacation shall thereafter be subject to all appropriate regulations of the extended districts.
 - d.

Where physical or natural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (3)a through c of this section, the zoning administrator shall interpret the boundaries.

- e. Any dispute in the determination of the zoning district boundaries shall be heard by the board of zoning appeals.

(Ord. No. 202, § 1.6, 11-6-2017)

Sec. 42-7. - Validity.

This chapter in various parts, sections, subsections, sentences, paragraphs, phrases, and clauses thereof are hereby declared severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this chapter shall not be affected thereby. The village board hereby declares that it would have passed the ordinance from which this chapter is derived and each part, section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

(Ord. No. 202, § 1.7, 11-6-2017)

Sec. 42-8. - Repeal.

This chapter repeals and replaces any previous village zoning ordinance in its entirety.

(Ord. No. 202, § 1.8, 11-6-2017)

Sec. 42-9. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a subordinate building which is incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use.

Accessory use means a subordinate use which is incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use.

Adult cabaret means a nightclub, bar restaurant, or similar commercial establishment that regularly features:

- (1) Persons who appear in a state of nudity;
- (2) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities;

- (3) Films, motion pictures, videocassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
- (4) Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Alley means a way which affords only a secondary means of access to property abutting thereon.

Apartment means a room or suite of rooms intended, designed, or used as a residence by a single family.

Assembly and manufacturing means the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, including, but not limited to, oils, plastics, resins, etc.

Basement means a story having part but not more than one-half of its height below grade. A basement is counted as a story for the purpose of height regulation if subdivided and used for dwelling purposes other than by a janitor employed on the premises.

Billboard means a sign which directs attention to a business, commodity, service, or entertainment conducted, sold or offered elsewhere than upon the same lot.

Boardinghouse. See *Lodginghouse*.

Buildable width means the width of the lot left to be built upon after the side yards are provided.

Building means any structure having a roof supported by columns or walls built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind, but not including any vehicle, trailer (with or without wheels), nor any moveable device, such as furniture, machinery, or equipment. The term "building" shall include the term "structure."

Building, height of, means the vertical distance from the grade to the highest point of the coping of a flat roof, or the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, bib, and gambrel roof.

Cellar means a story having more than one-half of its height below grade.

Clinic, medical, means an establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together.

Club means a building or portion thereof or premises owned and operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Commercial medical marihuana facility (or facility) may include any of the following:

Provisioning center, as that term is defined in the Medical Marihuana Facilities Licensing Act (MMFLA) and authorize by Ordinance No. 2019-001.

- (2) *Grower facility*, as that term is defined in the Medical Marihuana Facilities Licensing Act (MMFLA) and authorized by Ordinance No. 2019-001.
- (3) *Processor facility*, as that term is defined in the MMFLA and authorized by Ordinance No. 2019-001.
- (4) *Safety compliance facility*, as that term is defined in the MMFLA and authorized by Ordinance No. 2019-001.
- (5) *Secure transporter facility*, as that term is defined in the MMFLA and authorized by Ordinance No. 2019-001.

Dwelling unit means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Dwelling, multiple, means a building designed for or occupied exclusively by more than two families living independently of each other.

Dwelling, single-family, means a building designed for or occupied exclusively by one family.

Dwelling, two-family, means a building designed for or occupied exclusively by two families living independently of each other.

Family means one or more persons related by blood, marriage, or adoption, occupying a dwelling unit as an individual housekeeping organization. A family may include not more than two persons not related by blood, marriage, or adoption.

Filling station means any building or premises used for the sale, at retail, of motor vehicle fuels, oils, or accessories, or for servicing or lubricating motor vehicles or installing or repairing parts and accessories, but not including the repairing or replacement of motors, bodies, or fenders of motor vehicles, or painting motor vehicles, and excluding commercial garages.

Floor area means the total number of square feet of floor space within the exterior walls of a building, not including space in cellars or basements; however, if the cellar or basement is used for business or commercial purposes, it shall be counted as floor area in computing off-street parking requirements.

Frontage means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

Garage, commercial, means any building or premises, except those used as a private or storage garage, used for equipping, repairing, hiring, selling, or storing motor driven vehicles. The term "repairing" shall not include the rebuilding, dismantling or storage of wrecked or junked vehicles.

Garage, private, means a detached accessory building or portion of the main building, housing the automobiles of the occupants of the premises.

General service and repair means an establishment primarily engaged in the repair or maintenance of motor vehicles, trailers, and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups, and transmission work, provided it is conducted within a completely enclosed building.

Grade means the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Grocery store means a retail establishment primarily selling prepackaged and perishable food as well as other convenience and household goods.

Home occupation means any occupation or profession carried on by a member of the immediate family, residing on the premises, in connection with which there is used no sign other than a name plate no larger than four square feet in area, or no display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling; there is no commodity sold upon the premises; no person is employed other than a member of the immediate family residing on the premises; and no mechanical equipment is used except such as is permissible for domestic household purposes.

Hospital means an institution providing health services primarily for human inpatient or medical or surgical care for the sick or injured, and including the related facilities such as laboratories, outpatient departments, training facilities, central service facilities, and staff offices which are integral parts of the facilities.

Hotel means a building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, in contradistinction to a boardinghouse or lodginghouse as herein defined.

Institution means a building occupied by a nonprofit corporation or a nonprofit establishment for public use.

Kennel means an establishment where dogs or other pets are boarded for compensation or bred or raised on a commercial scale.

Laundromat means a business that provides home-type washing, drying, or ironing machines for hire to be used by customers on the premises.

Loading space means a space within the main building or on the same lot providing for the standing, loading, or unloading of trucks, having a minimum width of 12 feet, a minimum depth of 45 feet, and a vertical clearance of at least 14.5 feet, and connected with a street or road serving the premises.

Lodginghouse means a building or place where lodging and boarding is provided (or which is equipped regularly to provide lodging and boarding by prearrangement for definite periods), for compensation, for three or more, but not to exceed 12, individuals. Such lodginghouse or boardinghouse shall not be open to transient guests, in contradistinction to a hotel as is herein defined.

Lot means a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building together with its accessory buildings, open spaces and parking spaces required by this chapter, and having its principal frontage upon a street.

Lot, corner, means a lot abutting upon two or more streets at their intersection.

Lot, depth of, means the mean horizontal distance between the front and rear lot lines.

Lot, double frontage, means a lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

Lot of record means a lot or parcel of land, the plat or deed of which has been recorded in the office of the county register of deeds prior to the adoption of the ordinance from which this chapter is derived.

Marihuana establishment (or adult-use/recreational marihuana facility): the term may include any of the following:

- (1) *Marihuana retailer*, as that term is defined in the Michigan Regulation and Taxation of Marihuana Act (MRTMA) and authorized by Ordinance No. 2019-004.
- (2) *Marihuana microbusiness*, as that term is defined in the Michigan Regulation and Taxation of Marihuana Act (MRTMA) and authorized by Ordinance No. 2019-004.
- (3) *Marihuana grower*, as that term is defined in the MRTMA and authorized by Ordinance No. 2019-004.
- (4) *Marihuana processor*, as that term is defined in the MRTMA and authorized by Ordinance No. 2019-004.
- (5) *Marihuana safety compliance facility*, as that term is defined in the MRTMA and authorized by Ordinance No. 2019-004.
- (6) *Marihuana secure transporter*, as that term is defined in the MRTMA and authorized by Ordinance No. 2019-004.

Mobile home or house trailer means a structure, transportable in one or more sections, which is built or transported on a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. A mobile home does not include a recreational vehicle. A mobile home can be classified as a dwelling or dwelling unit only after meeting the requirements and standards of article IX of this chapter and being approved by the village council.

Motel, motor court, motor lodge, or tourist court means any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used or intended wholly or in part for the accommodation of automobile transients.

Multiple-family. Multifamily residential is a classification of housing where multiple separate housing units for residential inhabitants are contained within one building or several buildings within one complex. Forms of multiple-family may include apartment buildings, stacked flats, cluster housing, and attached single-family residential units.

Nonconforming use means any building or land lawfully occupied by a use at the time of passage of the ordinance from which this chapter is derived or amendment thereto which does not conform after the passage of the ordinance from which this chapter is derived or amendment thereto with the use regulations of the district in which it is situated.

Parking space, off-street, means an area, enclosed or unenclosed, having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile, and connected with a street or alley or a surfaced driveway which affords ingress and egress for automobiles.

Patio or terrace means an area, improved with concrete, brick or other hard surface, adjacent to a dwelling and used by occupants of the dwelling for leisure time activities, but not used for vehicle parking or storage.

Retail use means the selling of goods, wares, or merchandise directly to the ultimate consumer or persons.

Sand and gravel operations means use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operation, mining, and soil mining. Specifically excluded from this use is grading and removal of dirt associated with an approved site plan or subdivision.

Sign means an identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land and which directs attention to a product, place, activity, person, institution, or business.

Story means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, half, means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than 60 percent of the floor area is finished off for use. A half story may be used for occupancy only in conjunction with and by the

occupancy of the floor immediately below.

Street means a public way which affords the principal means of access to abutting property.

Structural alterations means any change, except those required by law or ordinance, that would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders, not including openings in bearing walls as permitted by other ordinances.

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attached to something having permanent location on the ground and including, but not limiting, the generality of the foregoing, advertising signs, billboards, backstops for tennis courts, and pergolas.

Taverns, breweries, and distilleries means establishments that are licensed by the state for the production and on-site tasting and sales of alcoholic beverages.

Trailer or mobile home. See *Mobile home*.

Trailer or mobile home park means an area where one or more trailers can be or are intended to be parked and designed or intended to be used as living facilities for one or more families.

Yard means an open space on the same lot with a building unoccupied and unobstructed by any portion of the structure from the ground level upward, except as otherwise provided in this chapter.

Yard, front, means a yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

Yard, rear, means a yard extending the full width of the lot from the rear line of the main building to the rear lot line.

Yard, side, means a yard between the main building and the side line of the lot, and extending from the front yard line to the rear yard line.

(Ord. No. 202, art. 2, 11-6-2017; Ord. No. 2019-002, § I, 9-9-2019; Ord. No. 2019-005, § IA, 10-7-2019)

Sec. 42-10. - Buildings and lots.

- (a) No building or structure shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or land be used, except for the uses permitted in the district in which the building or land is located.
- (b) No building or structure shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, except in conformity with the height, yard, area per family, parking and other regulations prescribed herein for the district in which the building is located.
- (c) The minimum parking, yards, and other open spaces, including lot areas per family required by this chapter, shall be provided for each and every building or structure hereafter erected, and such minimum parking, yards, open spaces, and lot areas for each and every building of structure

whether existing at the time of passage of the ordinance from which this chapter is derived or hereafter erected shall not be encroached upon or be considered as a yard or open space requirement for any other building or structure.

- (d) Where a lot has less area than the minimum requirements for the district within which the lot is located and was a lot of record at the time of passage of the ordinance from which this chapter is derived, that lot may be used for any purpose permitted in the district within which such lot is located.
- (e) Every building hereafter erected or structurally altered shall be located on a lot as herein defined, and in no case shall there be more than one main building on one lot unless otherwise provided in this chapter.
- (f) Every lot or other parcel of land which is occupied or intended for occupancy by a use permitted in this chapter shall adjoin and have direct access to a public street.
- (g) All dwelling units hereinafter erected in the village shall be erected with the front entrance of the dwelling unit facing the public street adjoining the lot or other parcel of land upon which the dwelling unit is erected.
- (h) All dwelling units or other buildings, hereinafter erected in the village, which require water and/or emanates sewage shall be connected to the village public water and sanitary sewer systems if same are available, and if not available, to such private water well and septic systems as shall be approved by the county health department.

(Ord. No. 202, art. 3, § 1, 11-6-2017)

Sec. 42-11. - Public streets.

All streets constructed in the village shall be public streets having a 66-foot right-of-way, the traveled portion of which shall be paved with bituminous asphalt, and said streets shall be constructed pursuant to the specifications of the village.

(Ord. No. 202, art. 3, § 2, 11-6-2017)

Sec. 42-12. - Public infrastructure.

In the event public improvements for water and sanitary sewer systems and/or public streets must be constructed to serve a building, satisfactory performance guarantees or bonds shall be required from the developer of the land located in the village before any building permits for construction of such building shall be issued.

(Ord. No. 202, art. 3, § 3, 11-6-2017)

Sec. 42-13. - Accessory buildings.

- (a) Authorized accessory buildings shall be erected only on the same lot as the principal building and may be connected to the principal building by a roofed porch, patio, breezeway or similar structure or may be completely detached from the principal building.
- (b) Where any accessory building is attached to the side or front of a principal building, such accessory building shall be considered part of the principal building for purposes of determining yard dimensions.
- (c) A detached accessory building shall be located no closer to a front, side or rear lot line than the permitted distance for the principal structure on the same lot.
- (d) An accessory building shall be allowed as a principal use provided it is not used for dwelling, lodging or sleeping purposes and the structure is located no closer to a front, side or rear lot line than the permitted distance for a principal structure on the same lot.

(Ord. No. 202, art. 3, § 4, 11-6-2017)

Sec. 42-14. - Essential services.

- (a) The erection, construction, alteration, maintenance, and operation by utilities or municipal departments or commissions, of overhead or underground gas, electrical, steam or water distribution, transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, hydrants, structures, towers, poles, electrical substations, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission, or for the public health or safety or general welfare, shall be permitted as authorized or regulated by any laws and the ordinances of the village in any use district.
- (b) Telecommunication towers, alternative tower structures, antennas, wind turbine generators, and anemometer towers shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities or private utilities.

(Ord. No. 202, art. 3, § 5, 11-6-2017)

Sec. 42-15. - Animals.

The keeping of poultry, pigs, hogs, horses or other such livestock are prohibited within the village.

(Ord. No. 202, art. 3, § 6, 11-6-2017)

Sec. 42-16. - Home business, home occupations and cottage industries.

While the village recognizes that many residents feel the necessity to work at home, the village also recognizes the rights of all residents to be free from actual or potential nuisance which may be caused by nonresidential activities conducted in a residential zone. The intent of this section is to provide standards to ensure home occupations and cottage industries are compatible with other allowed uses in residential districts, and thus to maintain and preserve the residential character of the neighborhood.

(1) *Home occupations.*

- a. Home occupations are permitted in all zoning districts in which single-family dwellings are permitted as a matter of right. A zoning permit is required.
- b. Home occupations shall be operated in their entirety within the dwelling (not within an attached or detached garage or accessory building) and shall occupy no more than 25 percent of the dwelling's ground floor area. Attached and detached residential garages may be used for incidental storage.
- c. Home occupations shall be conducted primarily by the persons occupying the premises as their principal residence. Not more than one nonresident person shall be employed to assist with the business.
- d. Additions to a dwelling for the purpose of conducting a home occupation shall be of an architectural style that is compatible with the architecture of the dwelling and shall be designed so that the addition can be used for dwelling purposes if the home occupation is discontinued.
- e. Home occupations shall be incidental and subordinate to the principal use of the dwelling for residential purposes and shall not detract from the residential character of the premises or neighborhood.
- f. Home occupations shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the village as a whole. Any machinery, mechanical devices, or equipment employed in the conduct of a home occupation based business shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not typically associated with the use of the dwelling for residential purposes.
- g. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses.
- h. The outdoor storage of goods and/or materials of any kind is prohibited. No goods or materials shall be sold that are not produced through the conduct of the home occupation.
- i. There shall be no parking permitted within any setback areas.
- j. No process, chemicals, or materials shall be used which are contrary to any applicable state or federal laws.

(2) *Cottage industries.*

- a. Cottage industries may be permitted as a special use in any zoning district in which single-family dwellings are permitted, subject to review and approval by the planning commission. Cottage industries shall be allowed on the basis of individual merit, a periodic review of each cottage industry shall be performed to ensure the conditions of approval are adhered to. If a premises is sold, leased, or rented to a party other than the applicant, the permit shall be reviewed for compliance with the original permit by the zoning administrator. If any changes are necessary, the request will be reheard by the planning commission.
- b. Cottage industries shall be incidental and subordinate to the use of the premises for residential purposes and shall not detract from the residential character of the premises or neighborhood. There shall be no exterior evidence of such industry.
- c. A cottage industry shall occupy not more than one building. The floor area of such buildings shall not exceed 2,400 square feet.
- d. The outdoor storage of goods and/or materials of any kind is prohibited unless screened (by a tight-board wood fence, landscaped buffer, landscaped berm, etc.) from view from neighboring property and road rights-of-way. If required, the type of screening shall be determined at the discretion of the planning commission.
- e. Cottage industries shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the surrounding zoning district. Any machinery, mechanical devices or equipment employed in the conduct of a cottage industry shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not typically associated with the use of the premises for residential purposes.
- f. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses.
- g. Cottage industries shall be conducted only by the persons residing on the premises. The planning commission may allow up to two additional employees or assistants.
- h. To ensure that the cottage industry is compatible with surrounding residential use, a "not-to-exceed" number of vehicles that may be parked at any given time during business operations shall be established by the planning commission during the review and approval process.
- i. Hours of operation shall be approved by the planning commission.

(Ord. No. 202, art. 3, § 7, 11-6-2017)

Sec. 42-17. - Stormwater retention.

Stormwater drainage in excess of natural conditions shall be retained on site. This provision may require stormwater retention ponds where appropriate and the use of low impact development techniques, such as rain gardens, green roofs, bioswales, pervious pavement, and native, non-invasive landscaping. An exception may be made for water leaving the site via an adequately sized existing stormwater ditch, stormwater pipe or through other stormwater facilities that will be developed at the same time as the proposed new use. Stormwater management efforts shall be consistent with the provisions of the Van Buren County Stormwater and Soil Erosion Control Program. In the case of conflicting regulations, between the village zoning ordinance and the Van Buren County Stormwater and Erosion Control Program, the more stringent of the two shall apply. Written approval from the Michigan Department of Transportation (MDOT) shall be required for an additional site run-off directed into a state trunkline ditch.

(Ord. No. 202, art. 3, § 8, 11-6-2017)

Sec. 42-18. - Hazardous substances.

All businesses or industries that store, use or generate hazardous substances, as defined in this chapter, shall meet all state and federal requirements for storage, spill prevention, recordkeeping, emergency response, transport and disposal of said hazardous substances. No discharge to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

(Ord. No. 202, art. 3, § 9, 11-6-2017)

Sec. 42-19. - Outdoor lighting.

- (a) All outdoor lighting, whether for illuminating sites, parking areas, buildings, signs and/or other structures, shall be shielded, shaded, designed and/or directed away from all adjacent districts and uses; and further shall not glare upon or interfere with persons and vehicles using public streets. Lighting fixtures are to be of the full cut-off design with horizontally aligned flush mounted (non-protruding) lens, directing light on-site only, and no more than 20 feet in height.
- (b) The planning commission may permit taller or require shorter fixtures only when the planning commission determines that unique conditions exist and where a waiver would reduce the number or size of light fixtures; not adversely impact neighboring properties; and permit fixtures in proportion to height and bulk of nearby buildings and other fixtures. Site lighting shall not exceed 20 footcandles as measured three feet above the ground surface, directly under the fixture.

(Ord. No. 202, art. 3, § 10, 11-6-2017)

Secs. 42-20—42-41. - Reserved.

ARTICLE II. - ZONING DISTRICTS AND ZONING MAP

Sec. 42-42. - Relationship of chapter to community master plan.

This chapter is enacted to regulate the use of private and public property and structures with the purpose of protecting public health, safety and welfare. Standards and regulations within this chapter regulate the amount, type and use of a building allowable on a piece of land. This chapter is a tool used by the community to effectuate the recommendations of the community master plan, which is a guide for the long-term physical development of the village.

(Ord. No. 202, art. 4, § 1, 11-6-2017)

Sec. 42-43. - Districts established.

The village is hereby divided into the following districts, which shall be known as:

R-1	One and Two Family Residential
R-2	Multiple Family
B-1	Central Business District
B-2	General Business District
I	Industrial District

(Ord. No. 202, art. 4, § 2, 11-6-2017)

Sec. 42-44. - One and Two Family Residential (R-1).

The purpose of this district is to provide for one- and two-family residential development of spacious character, together with such churches, recreational facilities, and accessory uses as may be necessary or are normally compatible with residential surroundings and, at the same time, to preserve open spaces. This district is located to protect existing development and contains vacant land considered appropriate for such residential development in the future.

(Ord. No. 202, art. 4, § 3, 11-6-2017)

Sec. 42-45. - Multiple Family District (R-2).

The purpose of this district is to maintain a residential environment while permitting a wide variety of dwelling types. Single-family, two-family, and multiple-family dwelling units are permitted on medium sized lots, together with such churches, recreational facilities, and accessory uses as may be necessary or are normally compatible with residential surroundings. Population densities and height of buildings permitted are low enough to be generally compatible with single-family development in the same general neighborhood.

(Ord. No. 202, art. 4, § 4, 11-6-2017)

Sec. 42-46. - Central Business District (B-1).

The purpose of this district is to encompass the retail service and office area of the central business district and permit a wide variety of uses to provide basic trade and services to the village and the area surrounding the village. This district is intended to provide a centralized location for trade and service activities having regional influence.

(Ord. No. 202, art. 4, § 5, 11-6-2017)

Sec. 42-47. - General Business District (B-2).

The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of commercial and miscellaneous service activities, including certain uses requiring large land areas which are not desirable in the central business district. These uses are located particularly along certain existing major thoroughfares where a general mixture of commercial and service activity now exists, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or the nuisance factors of dust, odor and noise, associated with manufacturing.

(Ord. No. 202, art. 4, § 6, 11-6-2017)

Sec. 42-48. - Industrial District (I).

The purpose of this district is to provide for a wide variety of light manufacturing, fabricating, processing wholesale distributing, and warehousing uses appropriately located for access by major thoroughfares or railroads. Commercial uses and open storage of materials are permitted but new residential development is excluded.

(Ord. No. 202, art. 4, § 7, 11-6-2017)

Sec. 42-49. - Compliance with district regulations.

Compliance with district regulations shall be required as follows:

- (1) No building or structure shall be erected, converted, enlarged, reconstructed, relocated or structurally altered, nor shall any building or land be used, except for a purpose or use permitted in the district in which the building or land is located, nor in excess of the height and bulk limits established for such district.
- (2) No building or structure intended for a dwelling use shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the floor area regulations of the district in which it is located.
- (3) No building or structure shall be erected, converted, enlarged, reconstructed, relocated or structurally altered except in conformity with the yard and lot area regulations and the off-street parking and loading regulations of the district in which such building is located.
- (4) The minimum yards, parking space and other open spaces, including lot area per family, required by this chapter for any building hereafter erected or structurally altered, shall not be encroached upon or considered open space or lot area requirement for any other building, nor shall any other lot area be reduced beyond the district requirements of this chapter.
- (5) Every building or structure hereafter erected or structurally altered shall be located on a lot as defined, and in no case shall there be more than one main building on one lot, except as provided in parts of this chapter.

(Ord. No. 202, art. 4, § 8, 11-6-2017)

Sec. 42-50. - Map.

The boundaries of these districts are shown upon the zoning district map which accompanies and is made a part of this chapter. Said map and all the information shown thereon shall have the same force and effect as if all were fully set forth or described herein. The original of this is properly attested and is on file with the village clerk.

(Ord. No. 202, art. 4, § 9, 11-6-2017)

Sec. 42-51. - Annexed territory.

All territory which may hereafter be annexed to the village shall be classified in the R-1 Residential District, until, within a reasonable time after annexation, the annexed territory shall be appropriately classified by ordinance, in accordance with article XI of this chapter.

(Ord. No. 202, art. 4, § 10, 11-6-2017)

Sec. 42-52. - Vacated street or public way.

Whenever any street or other public way is vacated by official action of the village, the zoning district adjoining each side of such street or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

(Ord. No. 202, art. 4, § 11, 11-6-2017)

Sec. 42-53. - Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning district map, the following rules shall apply:

- (1) Where a boundary line is given a position within a street, alley or non-navigable stream, it shall be deemed to be in the center of the street, alley, or stream, and if the actual location of such street, alley, or stream varies slightly from the location as shown on the zoning district map, then the actual location shall control.
- (2) Where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
- (3) Where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from a railroad shall be measured from the center of the designated main line track.
- (4) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, such boundaries shall be construed to be the lot lines and where the districts are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the map.
- (5) In un-subdivided property, unless otherwise indicated, the district boundary line shall be determined by the use of the scale contained on such map.

(Ord. No. 202, art. 4, § 12, 11-6-2017)

Sec. 42-54. - Properties with multiple zoning designations.

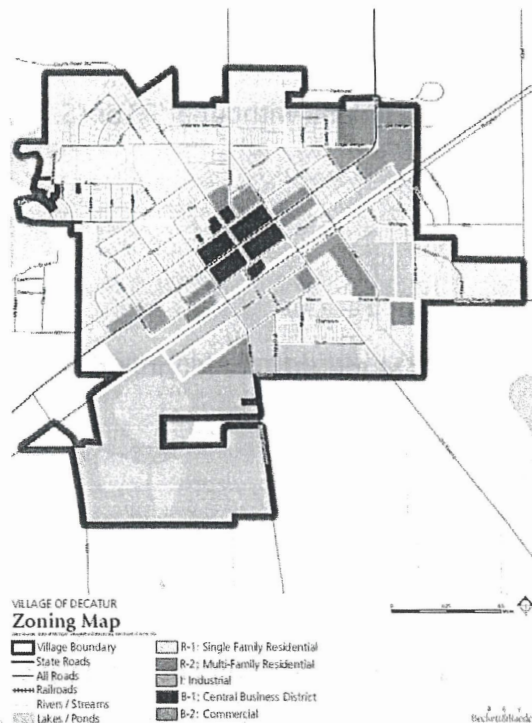
When an individual recorded parcel, which exists at the time of adoption of the ordinance from which this chapter is derived, has more than one zoning classification, the zoning designation which comprises the majority of the parcel area shall be applied to the entire parcel.

(Ord. No. 202, art. 4, § 13, 11-6-2017)

Sec. 42-55. - Uses contrary to federal, state or local statutes, laws, and/or ordinances.

Uses for enterprises or purposes that are contrary to federal, state, and village statutes, laws, and/or ordinances are prohibited.

(Ord. No. 202, art. 4, § 14, 11-6-2017)



Secs. 42-56—42-83. - Reserved.

ARTICLE III. - REGULATED USES AND DIMENSIONAL REGULATIONS

Sec. 42-84. - Land use and zoning district table.

The use table in this article lists by land use type (i.e., residential, residential preservation, etc.) where a particular land use is allowed in a respective base zoning district.

(Ord. No. 202, art. 5, § 1, 11-6-2017)

Sec. 42-85. - Permitted uses (P).

If a land use is permitted by-right in a base zoning district, it is identified by the symbol "P."

(Ord. No. 202, art. 5, § 2, 11-6-2017)

Sec. 42-86. - Special land use (S).

The symbol "S" is noted if a land use is permitted after review and approval as a special land use in accordance with this chapter.

(Ord. No. 202, art. 5, § 3, 11-6-2017)

Sec. 42-87. - Uses not allowed.

If a land use type is not allowed in a base zoning district, it is blank without a "P" or "S."

(Ord. No. 202, art. 5, § 4, 11-6-2017)

Sec. 42-88. - Site-specific standards.

Land use types that are further regulated with site-specific standards are identified in article IV of this chapter.

(Ord. No. 202, art. 5, § 5, 11-6-2017)

Sec. 42-89. - Unlisted uses.

If an application is submitted for a use type that is not classified in the land use table in section 42-91 and proven to be a need in the village, the planning commission is authorized to classify the new or unlisted use type into an existing land use category that most closely fits the new or unlisted use. If no similar use determination can be made, the planning commission may initiate an amendment to the text of the zoning ordinance.

(Ord. No. 202, art. 5, § 6, 11-6-2017)

Sec. 42-90. - Land use type.

Land use types listed in the land use and base zoning district table are defined in section 42-9.

(Ord. No. 202, art. 5, § 7, 11-6-2017)

Sec. 42-91. - Land use and base zoning district table.

	R-1	R-2	B-1	B-2	I
Uses Allowed in All Districts					

Accessory buildings	P	P	P	P	P
Residential Land Uses					
Boarding and lodging facilities		P			
Cemetery or mausoleum	S				
Churches	P	P			
Country clubs and golf course	P	P			
Gardens	P	P			
Home occupations	P	P			
Public and private schools K—12	P	P			
Public buildings and parks	P	P			
Single-family dwellings	P	P			
Two-family dwellings	P	P			
Multiple-family dwellings		P	P	P	
Mobile home parks		S			
Residential units above nonresidential uses			P	P	
Commercial Land Uses					
Auto and vehicle repair garage			S	P	P
Automobile parking lot			P	P	P

Adult cabarets				S	S
Banks and financial office			P	P	P
Commercial garages				P	P
Drive-in restaurants				P	P
Farm implement, sale or repair				P	P
Food storage lockers				P	P
Funeral home and mortuaries				P	P
Greenhouse and nursery			S	S	P
Grocery stores and meat markets			P	P	P
Hospital				S	
Laboratories and research				P	P
Marihuana microbusiness			P	P	P
Marihuana retailer			P	P	P
Medical clinics				P	P
Motels and hotels				P	P
Personal services			P	P	P
Printing establishments				P	P
Private clubs and lodges				P	P
Professional and medical offices			P	P	P

Provisioning center			P	P	P
Restaurants			P	P	P
Retail use			P	P	P
Taverns, breweries, and distilleries			P	P	P
Veterinary clinics without kennels				P	P
Industrial Land Uses					
Assembly and manufacturing					P
Coal, coke, wood, lumber yard					P
Contractor yard					P
Feed grain and grain storage facility					P
General service and repair					P
Grower facility					P
Kennels					P
Manufacture of household goods					P
Manufacture and storage of food products					P
Marihuana grower—Class A, Class B, and Class C					S
Marihuana processor					P
Marihuana safety compliance facility					P

Marihuana secure transporter					P
Processor facility					P
Safety compliance facility					P
Sand and gravel operations					S
Secure transporter facility					P
Trucking terminal					P
Wholesale and storage					P

(Ord. No. 202, art. 5, § 8, 11-6-2017; Ord. No. 2019-002, § II, 9-9-2019; Ord. No. 2019-005, §§ IIA, B, 10-7-2019)

Sec. 42-92. - Height and area requirements.

The placement of land uses (permitted, special use or conditional) are regulated by the zoning district. The table in section 42-100 enumerates by zoning district the dimensional requirements.

(Ord. No. 202, art. 5, § 9, 11-6-2017)

Sec. 42-93. - Height.

- (a) Public, semipublic, or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding 60 feet if the building is set back from each yard line at least one foot for each two feet of additional building height above the height limit otherwise provided in the district in which the building is located.
- (b) Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, spires, wireless towers, grain elevators, or necessary mechanical appurtenances may be erected to such height as may be authorized by the village council, but not to exceed 150 feet.

(Ord. No. 202, art. 5, § 10, 11-6-2017)

Sec. 42-94. - Front yards.

- (a) When 40 percent or more of the frontage on one side of the street between two intersecting streets is improved with buildings that have a front yard which is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided, however, that a front yard depth shall not be required to exceed 50 percent in excess of the front yard otherwise required in the district in which the lot is located.
- (b) An open unenclosed porch or paved terrace may project into a front yard for a distance not exceeding ten feet. An unenclosed vestibule containing not more than 40 square feet may project into a front yard for a distance not to exceed four feet.
- (c) Where lots have double frontage, the required front yard shall be provided on both streets.
- (d) Parking of vehicles shall not be permitted in front yards except that vehicles may be parked on driveways connecting garages, carports, or rear yard parking spaces with the street.

(Ord. No. 202, art. 5, § 11, 11-6-2017)

Sec. 42-95. - Side yards.

- (a) For the purpose of side yard regulations, a two-family dwelling, or multiple dwelling, shall be considered as one building occupying one lot.
- (b) Whenever a lot at the effective date of the ordinance from which this chapter is derived has a width of less than 60 feet, each side yard may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall a side yard be less than three feet.
- (c) The required side yard on the street side of a corner lot shall be the same as the required front yard on such street, except that the buildable width shall not be reduced to less than 32 feet, and no accessory building shall project beyond the required front yard on either street.
- (d) Where dwelling units are erected above a commercial establishment, no side yard is required except when required for the commercial building on the side of a lot adjoining a residential district.
- (e) Terraces, uncovered porches, platforms, and ornamental features which do not extend more than three feet above the floor level of the ground story may project into a required yard, provided these projections be at least two feet from the adjacent side lot line.

(Ord. No. 202, art. 5, § 12, 11-6-2017)

Sec. 42-96. - Rear yards.

- (a) Open-lattice enclosed fire escapes, fireproof outside, stairways, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted for a distance of not more than 3½ feet and where the same are so placed as not to obstruct light and ventilation.

- (b) Not more than 20 percent of the required rear yard area may be occupied by unenclosed parking spaces; except in R-2 districts, where not more than 50 percent of required rear yards may be occupied as unenclosed parking spaces.

(Ord. No. 202, art. 5, § 13, 11-6-2017)

Sec. 42-97. - Buildings and accessory buildings.

- (a) Where a lot or tract is used for a commercial or industrial purpose, more than one main building may be located upon the lot or tract, but only when such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.
- (b) In the event that a lot is to be occupied by a group of two or more related buildings to be used for multiple dwellings, institutional, motel or hotel purposes, there may be more than one main building on the lot; provided, however, that the open spaces between buildings that are parallel, or within 45 degrees of being parallel, shall have a minimum dimension of 20 feet for one-story buildings, 30 feet for two-story buildings, and 40 feet for three- or four-story buildings.
- (c) Accessory buildings may be built in a required yard but such accessory buildings shall not occupy more than 30 percent of a required rear yard and shall not be nearer than two feet to any side or rear lot line, except that when a garage is entered from an alley, it shall not be located closer than ten feet to the alley line. If a garage is located closer than ten feet to the main building, the garage shall be regarded as part of the main building for the purposes of determining side and rear yards.
- (d) No accessory buildings shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes.

(Ord. No. 202, art. 5, § 14, 11-6-2017)

Sec. 42-98. - Open space.

- (a) Every part of a required yard shall be open to the sky, unobstructed by any structure, except for the ordinary projection of sills, belt courses, cornices, and ornamental features which may extend to a distance not to exceed 18 inches into any required yard. Roofs and eaves may extend not more than 30 inches into any required yard.
- (b) Where open space is more than 75 percent surrounded by a building, the minimum width of the open space shall be at least 20 feet for one-story buildings, 30 feet for two-story buildings, and 40 feet for three- or four-story buildings.

(Ord. No. 202, art. 5, § 15, 11-6-2017)

Sec. 42-99. - Minimum dwelling unit floor area.

- (a) Every dwelling unit which shall hereafter be constructed, reconstructed or converted at any location in the village shall have a minimum width across the front, sides and rear of 20 feet and shall comply with the minimum square feet requirements hereinafter set forth and with the state construction code as promulgated by the state construction code commission under the provisions of Public Act No. 230 of 1972, as amended.
- (b) Every dwelling unit above the grade shall contain the following minimum square feet of living area, measured around the exterior of the dwelling, and excluding porches, patios, decks, garages, breezeways, and carports, to-wit:
- (1) Single-family dwelling unit: 864 square feet.
 - (2) Two-family dwelling units: 1,728 square feet.
- (c) For buildings having more than two dwelling units an additional 700 square feet of living area shall be required for each dwelling unit in excess of two.

(Ord. No. 202, art. 5, § 16, 11-6-2017)

Sec. 42-100. - Dimensional requirements table.

<i>District</i>	<i>Maximum Height Lot of Buildings</i>		<i>Minimum Yard Requirements in Feet</i>			<i>Minimum Lot Area per Family in Square Feet</i>	<i>Minimum Residential Widths in Feet</i>
	<i>Stories</i>	<i>Feet***</i>	<i>Front</i>	<i>Side</i>	<i>Rear</i>		
R-1 Residential	2	35	30	<u>8</u>	25	10,000 one-family	80
						5,000 two- family	80
R-2 Residential	3	45	25	<u>6</u>	25	7,500 one- family	60
						3,750 two- family	60

						2,500 multiple- family	60
B-1 Central District	3	45	—	10 *	20 *	Same as R- 2 **	Same as R- 2 **
B-2 General District	3	45	25	10 *	20 *	Same as R- 2 **	Same as R- 2 **
I-Industrial	3	45	25	10 *	30 *	Residences not permitted	Residences not permitted

Notes:

* A side or rear yard is required on a commercial or industrial lot abutting a residential district, otherwise, no side or rear yard is required.

** Minimum lot area and minimum lot width requirements do not apply to commercial uses.

*** Except as provided in section 42-93.

(Ord. No. 202, art. 5, § 17, 11-6-2017)

Secs. 42-101—42-116. - Reserved.

ARTICLE VI. - OVERLAY DISTRICT

Sec. 42-117. - Commercial Marihuana Facilities Overlay District.

- (a) *Purpose.* The Commercial Marihuana Facilities (CMF) Overlay District is intended to identify certain areas of the B-1, B-2, and I Districts where commercial marihuana facilities are permitted to locate. This district is applied over the B-1, B-2, and I Districts and allows for permissions and/or restrictions in addition to those of the underlying B-1, B-2, and I District.

(b) *Overlay District Requirements.* All uses, structures, and development within the CMF District shall be subject to all the requirements of the respective B-1, B-2, and I Districts within which the parcel is located. In addition, any property in the CMF District containing a principal use in conformance with the requirements of this Article (including nonconforming uses or structures as regulated by Article 11) shall be in accordance with Article 7, Section 13 as amended.

(c) *Map.* The boundaries of this district are shown upon the CMF District Map which accompanies and is made a part of this article. Said map and all information shown thereon shall have the same force and effect as if all were fully set forth or described herein. The original of this is properly attested and is on file with the village clerk.

(Ord. No. 2019-002, § III(1), 9-9-2019)

Secs. 42-118—42-128. - Reserved.

ARTICLE IV. - SPECIAL USE PERMIT

Sec. 42-129. - Purpose.

The formulation and enactment of this chapter is based upon the division of the village into districts, each which may permit specific uses, which are mutually compatible, and special land uses. Special land uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the natural environment of the site, the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this article is to establish equitable procedures and criteria, which shall be applied in the determination of requests to establish special land uses. The standards for approval and requirements provided for under the provisions of this article shall be in addition to others required elsewhere in this chapter and at the same time provide to the planning commission and the property owner some latitude to address site issues in an innovative manner.

(Ord. No. 202, art. 7, § 1, 11-6-2017)

Sec. 42-130. - General provisions.

- (a) *Authority to grant permits.* The planning commission as hereinafter provided shall have the authority to approve, deny, or approve with conditions, as specified in section 42-131, special land uses.
- (b) *Application.* Application for any special land use permit permissible under the provision of this chapter shall be made to the planning commission through the zoning administrator by filing an official special land use permit application form and submitting a site plan along with the

application fee.

- (c) *Public hearing for special land uses.* After a preliminary review of the site plan and an application for a special land use permit, the planning commission shall hold a hearing on the site plan and special land use permit in accord with the Michigan Zoning Enabling Act, Public Act No. 110 of 2006, MCL 125.3103 and 125.3502.
- (d) *Requirements prior to recommendation.* Before formulating recommendations for a special land use application, the planning commission shall require that both the following general standards in section 42-131 and any specific standards for uses listed in section 42-133 be satisfied. The planning commission shall review each application for the purpose of determining that each proposed use meets the following standards.

(Ord. No. 202, art. 7, § 2, 11-6-2017)

Sec. 42-131. - Required standards and findings for making determinations.

The planning commission shall review the particular circumstances of the special land use request under consideration in accordance with the requirements for a site plan review, and shall approve the special land use request only upon approval of the site plan and finding of compliance with the following standards:

(1) Standards for approval.

- a. 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.
- b. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- c. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
- d. Be consistent with the intent, purpose and recommendations in the master plan.
- e. The proposed use will not have adverse impacts or be disturbing to existing or future neighboring uses.
- f. The proposed use will not create excessive additional requirements at public cost for public facilities, utilities and services.
- g. Meet the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured.

(2)

Public hearing. On the appointed date and time the planning commission shall conduct the public hearing on the proposed special use. The hearing may be adjourned to a date certain within a reasonable time for additional fact finding.

- (3) Action of the planning commission. Upon completion of the planning commissions review and upon completion of the public hearing the planning commission may consider a motion for approval, approval with conditions, or denial of the special use application and site plan request. The planning commission may postpone a request to a date certain to allow verification, compilation or submission of additional or supplemental information or to address other concerns or issues. Announcement of the date for the commission to decide upon the matter shall be announced in accord with the provisions of this chapter and the Open Meeting Act, Public Act No. 267 of 1976, as amended.
- (4) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of conditions which are changed.
- (5) The planning commission may recommend the imposition of the conditions in approving special uses that it deems necessary to fulfill the purpose and requirements of this chapter. The conditions may include those necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating any increased service and facility loads caused by the special land use or any activity connected with it, to protect the natural environment, conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the arrangement of the use of land in a socially and economically desirable manner.
- (6) Expiration of special land use permits, extension.
 - a. An approved special land use permit shall expire two years following approval by the planning commission. Upon written request stating the reasons therefor, the planning commission shall extend a special land use permit for an additional one-year period if the evidence shows the following:
 1. The conditions necessitating the delay in the construction and compilation of the project are reasonably beyond the control of the applicant.
 2. The requirements and standards, including those of this chapter that reasonably related to the development, have not changed.
 3. Development or redevelopment in the proximity of the approved special land use permit has not changed conditions impacting the site.
 - 4.

There has not been a change in state or federal law, local Charter, or other local ordinance prohibiting the construction or further construction of the approved project.

- b. An application for an extension of a special land use permit must be filed at least 60 days prior to the expiration of the original special land use permit or the expiration of any extension previously approved by the village, whichever is applicable. The application form for requesting an extension shall be provided by the village and can be obtained from the zoning administrator. An application fee for an extension is required and is nonrefundable. The village board shall, by resolution, establish the amount of the application fee for the renewal. The renewal is only applicable to the property subject to the originally approved special land use permit.
- c. Any such recommendation for an extension is subject to reasonable conditions requested by the planning commission, including, if necessary, the implementation of a new or additional performance guarantee requirement pursuant to article X of this chapter.
- d. If a special land use permit expires pursuant to the above, no work pursuant to a special land use permit may be undertaken until a new special land use permit is obtained from the planning commission following the procedures contained in the zoning ordinance for a new special land use permit.

(Ord. No. 202, art. 7, § 3, 11-6-2017)

Sec. 42-132. - Amendments, denial or appeal of a special land use; determination and imposition of conditions.

A review of an application and site plan requesting a special land use permit shall be made by the planning commission in accordance with the procedures and standards specified in this chapter. If a submitted application and site plan does not meet the requirements of this chapter, they shall not be approved. However, if the applicant agrees to make changes to the site plan and application in order to bring them into compliance with this chapter, such changes shall be allowed and shall be either noted on the application or site plan itself, or attached to it, or these documents shall be resubmitted incorporating said changes. If the facts in the case do not establish competent material and substantial evidence that the standards set forth in this chapter will apply to the proposed special land use, the planning commission shall not grant a special land use permit. The planning commission may impose conditions with the approval of a special land use permit application and site plan which are necessary to ensure compliance with the standards for approval stated in this section and any other applicable standards contained in this chapter or other applicable ordinances and regulations. Such conditions shall be considered an integral part of the special land use permit and approved site plan and shall be enforced by the zoning administrator. These conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused

by the land use or activity to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

(Ord. No. 202, art. 7, § 4, 11-6-2017)

Sec. 42-133. - Validity and revocation of special land use permits.

- (a) *Validity of permit.* Once the special land use is established and the conditions of the permit are fulfilled, the special land use permit shall be valid until such time that there is a change of conditions or use related to the permit as permitted by the planning commission. The planning commission reserves the right to review, with the applicant and the zoning administrator, the status of special land use permits on an annual basis.
- (b) *Permit revocation.* The planning commission shall have the authority to revoke special land use permits which have been approved following a public hearing which allows both the village and the applicant to argue and present evidence regarding whether the special land use permit should be revoked, if construction of the approved improvements does not proceed in conformance with the approval of the site plan and/or the property is not utilized in a manner which complies with the special land use permit. Upon discovery of a violation, the zoning administrator shall issue a stop-work order for any construction not in compliance with the permit and/or a notice to appear for a hearing before the planning commission. Notice of the hearing date shall be provided to the applicant no less than ten days prior to the date of the hearing.

(Ord. No. 202, art. 7, § 5, 11-6-2017)

Sec. 42-134. - Amendments and/or modifications to a special land use permit.

- (a) The zoning administrator may authorize insignificant deviations in special use permits if the resulting use will still meet all applicable standards and requirements of this chapter. A deviation is insignificant if the zoning administrator determines it will result in no discernible changes to or impact on neighboring properties, the general public, or those intended to occupy or use the proposed development and will not noticeably change or relocate the proposed improvements to the property.
- (b) The planning commission may permit minor modifications in special use permits if the resulting use will still meet all applicable standards and requirements of this chapter. The planning commission may decide minor modifications without a formal application, public hearing, or payment of an additional fee. For purposes of this subsection, minor modifications are those the zoning administrator determines have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

- (c) All other requests for amendments to special use permits shall be processed in the same manner as new special use permit applications. The village may impose new conditions on the approval of an amendment request if such conditions are warranted. The holder of the special use permit may reject such additional conditions by withdrawing the request for an amendment and proceeding under the existing special use permit.
- (d) The holder of a special use permit may request changes under this section by making the request in writing to the zoning administrator. Approval of all changes must be given in writing.

(Ord. No. 202, art. 7, § 6, 11-6-2017)

Sec. 42-135. - Land uses requiring additional standards.

The following land uses have been determined to be those that serve an area larger than the village and as a result require additional standards for approval in addition to those addressed.

(Ord. No. 202, art. 7, § 7, 11-6-2017)

Sec. 42-136. - Junk yards.

- (a) All junk yard uses shall be established and maintained in accordance with all applicable state statutes.
- (b) The applicant shall be required to file a cash bond, performance bond or irrevocable letter of credit of sufficient amount, or other guarantees, to assure reclamation of the site.
- (c) The site shall be a minimum of ten acres in size.
- (d) A solid fence or wall at least eight feet in height shall be provided around the entire periphery of the site.
- (e) All activities, equipment, or material shall be confined within the fenced-in area and there shall be no stacking of material above the height of the fence, or wall.
- (f) All fenced-in areas shall be set back at least 100 feet from the front street or highway right-of-way line. Such front yard setback shall be landscaped with plant materials as approved by the planning commission to minimize the appearance of the installation.
- (g) No open burning shall be permitted.
- (h) Whenever the installation abuts upon property within a residential district, a transition strip at least 200 feet in width shall be provided between the fenced-in area and the property within a residential district. Such strip shall contain plant materials, grass, and structural screens of a type approved by the planning commission to effectively minimize the appearance of the installation.
- (i) The use shall not be located in such a manner that the yard is below the grade of the highway or the adjacent property owner where the fence specified in subsection (d) of this section is rendered useless for screening the junk yard.

(Ord. No. 202, art. 7, § 8, 11-6-2017)

Sec. 42-137. - Mobile home park.

- (a) The number of mobile homes shall not exceed the number obtained by dividing the total square foot area of the mobile home park by 3,200.
- (b) Twenty-five feet shall be maintained between mobile homes, and between mobile homes and buildings.
- (c) Each mobile home site shall abut or face a concrete or asphalt surfaced driveway, roadway, or street of not less than 24 feet in width, which shall have unobstructed access to a public highway or street.
- (d) Each mobile home park providing more than four mobile home sites shall provide suitable playground area of not less than 300 square feet per mobile home.
- (e) Each mobile home park shall provide sanitary facilities and water supply in accordance with the standards of and meeting the approval of the state board of health and of the village engineer. No special permit for mobile home parks shall be granted until approved by the state board of health and the village engineer.
- (f) Electrical facilities provided to each lot must meet the electrical code requirements. Mobile home parks having ten or more lots must provide an overhead street light or night light operating at night. One street light must be provided for each ten lots or portion thereof within the park.
- (g) No certificate of occupancy shall be granted until after certification of compliance with the requirements of the village engineer. All special permits of mobile home parks shall be temporary and shall be valid only during the period that the park complies with the requirements of the village engineer.
- (h) Said mobile home park shall comply with all other applicable state statutes, rules and regulations.

(Ord. No. 202, art. 7, § 9, 11-6-2017)

Sec. 42-138. - Sand and gravel extraction.

- (a) From and after the effective date of the ordinance from which this chapter is derived, it shall be unlawful for any person, firm, corporation, partnership, or any other organization or entity to strip greater than 2,000 cubic yards of topsoil, sand, clay and gravel or similar material, or to use lands for filling within the village without first submitting a site plan and procuring approval from the planning commission.
- (b) A separate site plan approval will not be required for excavation or fill activities associated with building construction pursuant to a duly issued building permit. However, where sand, gravel, topsoil, or other substances are removed from the site where found and taken to another site, site plan approval is needed for the receiving site.

- (c) Site plan application. A separate site plan shall be required for each separate excavation or fill site, in addition to the site plan requirements listed in article VII of this chapter.
- (d) Site plan review (all districts); site plan data required. A site plan prepared under this section shall also include:
 - (1) Names and addresses of parties interested in said premises setting forth their legal interest in said premises.
 - (2) Full legal description of the premises where operations are proposed.
 - (3) Detailed proposal as to method of operation, what type of machinery or equipment will be used, and estimated period of time that such operation will cover.
 - (4) Detailed statement as to exactly what type of material is proposed to be extracted or deposited.
 - (5) Proposed method of filling excavation and/or other means to be used to allow for the reclamation of lands to a usable purpose.
 - (6) Such other information as may be reasonably required by the planning commission to base an opinion as to whether the site plan should be approved or not.
- (e) The sand and gravel operations application shall provide information to confirm compliance with the following standards:
 - (1) *Hours of operation.* The operation of mechanical equipment of any kind shall be limited by the day and/or the hour. Site specific hours of operation for mining, processing and reclamation activities must be approved, but shall not exceed the following schedule Monday through Saturday, excluding legal holidays, during the following times:
 - a. Mining or extracting operations, and processing and stockpiling of aggregates shall occur only between the hours of 7:00 a.m. and 6:00 p.m.
 - b. Loading and hauling operations shall occur only between the hours of 7:00 a.m. and 8:00 p.m.
 - c. Equipment maintenance and repair shall occur only between the hours of 7:00 a.m. and 9:00 p.m.
- (f) Screening. Fences, berms, walls, and visual screening devices may be required, if necessary, in the opinion of the planning commission, to protect adjoining properties and/or ensure the health, safety and welfare of persons near the site. Factors of safety and aesthetics shall be addressed.
- (g) Noise, dust, debris. All processing equipment and activities and all storage areas shall be treated, covered, muffled, or otherwise controlled to prevent excessive dust, debris, or other impacts beyond the property line. Noise levels shall not exceed 70 dBA at the property line. Any trucks

hauling material to or from the site shall be enclosed or covered to prevent materials from blowing or falling out of the trucks.

- (h) Groundwater impact. Extractive operations shall be managed and designed so as to not cause any negative impact on groundwater and potable water supply, whether as a result of contamination or reduction in the rate and volume of flow.
- (i) Road impact. Extractive operations shall be managed and designed to have minimum negative impact on existing roadways. The truck route to be utilized in the accessing of the extraction site shall be designated and subject to approval by the planning commission. Dust caused by truck traffic of the entrance drive is to be treated as needed with dust suppression material.

(Ord. No. 202, art. 7, § 10, 11-6-2017)

Sec. 42-139. - Sexually oriented business.

The purpose and intent of this sections pertains to the regulation of sexually oriented businesses and their location and operation of, but not to exclude, sexually oriented businesses within the village, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting and downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of village residents. The provisions of this section are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this section to legitimize activities which are prohibited by village ordinance, state or federal law. If any portion of this section relating to the regulation of sexually oriented businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the village intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The village further states that it would have passed and adopted what remains of any portion of this section relating to regulation of sexually oriented businesses following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.

- (1) No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within 1,000 feet of any principal or accessory structure of another sexually oriented business.
- (2) No sexually oriented business shall be established on a parcel which is within 1,000 feet of any parcel zoned R-1 or R-2.
- (3)

No sexually oriented business shall be established on a parcel within 1,000 feet of any residence, park, school, child care organization, or place of worship, or other sexually oriented business. This distance shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the residence, school, child care organization, place of worship, or other sexually oriented business.

- (4) The proposed use shall conform to all specific density and setback regulations, etc., of the zoning district in which it is located.
- (5) The proposed use must meet all applicable written and duly promulgated standards of the village and other governments or governmental agencies having jurisdiction, and to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.
- (6) The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not be visible from neighboring properties or adjacent roadways.
- (7) Any sign proposed for the sexually oriented business must comply with the provisions of this chapter, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
- (8) Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two inches in height that:
 - a. "Persons under the age of 18 are not permitted to enter the premises"; and
 - b. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
- (9) No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
- (10) Hours of operation shall be limited to 8:00 a.m. to 12:00 midnight.
- (11) All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one hour after the business closes.
- (12) Any booth, room or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of specified anatomical areas or specified sexual activities:
 - a. Is handicap accessible to the extent required by the Americans With Disabilities Act;
 - b. Is unobstructed by any door, lock or other entrance and exit control device;
 - c. Has at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;

- d. Is illuminated by a light bulb of wattage of no less than 25 watts; and
- e. Has no holes or openings in any side or rear walls.

(Ord. No. 202, art. 7, § 11, 11-6-2017)

Sec. 42-140. - Transmission and communication towers (commercial), public utility microwaves and public utility T.V. or radio transmitting towers.

- (a) Transmission and communication towers, public utility microwaves and public utility T.V. or radio transmitting towers, and their attendant facilities, shall be permitted by the planning commission after a public hearing when all standards of this section are met. All guy wires/cables and anchors associated with a proposed tower shall comply with the setback regulations of the zoning district in which located. Safety markings and/or physical barriers for all guy wires and anchors may be required by the planning commission, upon a finding that such safety markings and/or physical barriers are necessary for the public safety or for the safety of the occupants of the property on which the guy wires or anchors will be located. In addition, except as provided herein, each such proposed tower shall be set back from a public or private road right-of-way and shall be set back from a lot line a distance equal to the tower safety zone. The planning commission, however, may reduce the setback distance, but in no event less than the applicable setback requirement for structures in the zoning district in which located, if it finds all of the following standards are met:
 - (1) The established tower safety zone shall not extend into a public or private road right-of-way or onto an adjacent lot in an area where an existing residential structure is located under the requirements of this chapter.
 - (2) If any portion of the established tower safety zone is located on an adjacent lot, the owners of the adjacent lot shall consent in writing to the reduced setback and shall agree to record deed restrictions acknowledging and accepting the potential increased risk, due to the reduced setback. Such deed restrictions shall run with the adjacent lot for as long as the tower is erected. The deed restrictions shall be in recordable form and shall be subject to the approval of the village attorney.
 - (3) Due to existing topography, existing structures, vegetation or other existing natural or human-made features, the proposed location of the tower with the reduced setback shall be no more visually obtrusive than the location of the tower under the normal setback regulations.
- (b) Transmission and communication towers, public utility microwaves and public utility T.V. or radio transmitting towers shall be constructed as freestanding structures (monopole or lattice towers, as approved by the planning commission) unless the applicant can demonstrate that such a

structure cannot accommodate the user or future co-locators. Towers shall have a neutral surface finish color to reduce the visual obtrusiveness, except as otherwise required by a state or federal agency.

- (c) Transmission and communication towers, public utility microwaves and public utility T.V. or radio transmitting towers shall not be used for advertising purposes nor shall such tower display any signs other than one sign, not to exceed two square feet, which identifies the service provider and an emergency telephone number. These restrictions shall not apply to any safety signs placed on the security fence or tower.
- (d) Transmission and communication towers, public utility microwaves and public utility T.V. or radio transmitting towers, and their attendant facilities, shall be enclosed by a security fence not less than six feet in height. The planning commission shall review the need for the installation of anti-climbing devices and make a determination based on adjacent land use and zoning patterns.
- (e) Transmission and communication towers, public utility microwaves and public utility T.V. or radio transmitting towers, and their attendant facilities, shall be effectively screened to obscure views of the tower base, shelter, security fencing or guy wire anchors from adjacent uses and public rights-of-way.
- (f) Transmission and communication towers, public utility microwaves and public utility T.V. or radio transmitting towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternative approved by the planning commission shall cause the least disturbance possible.
- (g) The approval for any of the above-mentioned towers shall cease when the tower is no longer used for the purpose for which the permit was initially granted.
- (h) The applicant shall be responsible for the maintenance of any permitted tower, in a safe condition, for as long as the tower remains in operation, and shall dismantle the tower within nine months after operations cease. The applicant shall post a bond for the dismantling of the tower, the amount of which shall be based on the size and type of tower.
- (i) The multiple-use of each tower shall be encouraged to limit the number of towers within the village. The village reserves the right to deny a permit for a new tower if any existing tower can be adapted to serve the expressed need.
- (j) No antenna or similar sending/receiving devices appended to the tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower, thereby jeopardizing the tower's structural integrity.
- (k) The installation and/or operation of the above-mentioned towers, antennas or facilities shall not interfere with normal radio/television reception in the area. In the event interference occurs, it shall be the sole responsibility of the owner to rectify the situation with the parties involved.
- (l)

The maximum height for a transmission and communication tower, utility microwave, and public utility T.V. or radio transmitting tower shall be 99 feet. The planning commission may approve an increased height for these towers, not to exceed 300 feet, if both of the following conditions are met:

- (1) The need for the increased height is the result of a stand of trees, existing land forms, or structures that would substantially hinder the reception/transmission of an antenna on the tower.
- (2) The increased height is the minimum necessary to achieve a reasonable level of antenna reception/transmission on the tower. A reasonable level of antenna reception is not equivalent to maximizing the antenna reception. The planning commission shall not grant the increased height if the reasonable level of antenna reception/transmission is not met due to the use of inefficient equipment that does not utilize current commercial technologies.

(Ord. No. 202, art. 7, § 12, 11-6-2017)

Sec. 42-141. - Commercial medical marihuana facilities.

- (a) A commercial medical marihuana facility may be authorized to operate within the village by the holder of a state operating license, pursuant to PA 281 of 2016, as may be amended, the rules promulgated thereunder, and all applicable local ordinances.
- (b) No commercial medical marihuana facility shall be located within 1,000 feet of any school, with the minimum distance being measured along the center line of the street or streets of address between two fixed points on the center line determined by projecting straight lines, at right angles, to the center line, from the part of the school building nearest to the contemplated location and from the part of the contemplated location nearest to the school.
- (c) All commercial medical marihuana facilities shall be located within the boundaries of the commercial marijuana facilities (CMF) overlay district as defined and authorized under this section as amended.
- (d) Outdoor trash containers or dumpsters may be required to control the disposal of waste or by-products from any facility operation. When required, an outdoor trash container or dumpster shall be subject to the following:
 - (1) The placement of the container shall be subject to site plan review.
 - (2) Adequate vehicular access shall be provided to the container which does not conflict with the use of the parking areas or access drives.
 - (3) All containers shall rest on a concrete pad.
 - (4) A solid ornamental screening wall or fence shall be provided around all sides of the container and shall include an access gate. The screening wall or fence and gate shall be of sufficient height to completely screen the container.
 - (5)

The container, screening wall or fence, and gate shall be maintained in a neat and orderly manner, free from debris.

(e) A commercial medical marihuana facility shall be reviewed in consideration of the following:

- (1) *Lighting.* The placement and arrangement of outdoor lighting serving the facility shall provide adequate security and visibility.
- (2) *Noise.* Noise and vibration shall be minimized in their effect upon the surrounding area by the utilization of modern equipment designed to accomplish such minimization and the use of walls and vegetative buffers/screens.
- (3) *Odor.* Odor shall be minimized in its effect upon the surrounding area by the utilization of a modern odor control system designed to accomplish such minimization and operational procedures.
- (4) *Environmental.* Information on the storage and use of products, water and energy consumption, and waste disposal associated with a facility will be required to allow for an assessment of potential impacts on the site and surrounding area and the applicability of state and local regulations.
- (5) *Traffic.* A facility shall be located in consideration of the ingress/egress, loading and travel patterns of the traffic associated with the operation of the facility, with specific attention toward avoiding the creation of traffic through a predominantly residential area.
- (6) *Security.* Security measures, such as fencing, access controls, and video surveillance, will be considered in determining the ability of the facility to adequately provide for public safety.
- (7) *Impact on neighboring property.* Barriers and/or buffers, facility separations, and/or operational requirements may be applied to minimize identified injurious or annoying impacts on surrounding properties.
- (8) *Annual review.* A facility shall be subject to an annual review by the Planning Commission to confirm compliance with the Special Land Use Permit and the provisions of this article.

(Ord. No. 2019-002, § IV, 9-9-2019)

Sec. 42-142. - Adult-use (recreational) marihuana facilities.

- (a) A marihuana establishment may be authorized to operate within the village by the holder of a state operating license, pursuant to PA 281 of 2016, as may be amended, the Rules promulgated thereunder, and all applicable local ordinances.
- (b) No marihuana establishment shall be located within 1,000 feet of any school, with the minimum distance being measured along the centerline of the street or streets of address between two fixed points on the centerline determined by projecting straight lines, at right angles, to the centerline, from the part of the school building nearest to the contemplated location and from the part of the contemplated location nearest to the school.

- (c) All marihuana establishments shall be located within the boundaries of the commercial marijuana facilities (CMF) overlay district as defined and authorized under Article 6, Section 1 as amended.
- (d) Outdoor trash containers or dumpsters may be required to control the disposal of waste or by-products from any facility operation. When required, an outdoor trash container or dumpster shall be subject to the following:
 - (1) The placement of the container shall be subject to site plan review.
 - (2) Adequate vehicular access shall be provided to the container which does not conflict with the use of the parking areas or access drives.
 - (3) All containers shall rest on a concrete pad.
 - (4) A solid ornamental screening wall or fence shall be provided around all sides of the container and shall include an access gate. The screening wall or fence and gate shall be of sufficient height to completely screen the container.
 - (5) The container, screening wall, fence, and gate shall be maintained in a neat and orderly manner, free from debris.
- (e) A marihuana establishment shall be reviewed in consideration of the following:
 - (1) *Lighting*. The placement and arrangement of outdoor lighting serving the facility shall provide adequate security and visibility.
 - (2) *Noise*. Noise and vibration shall be minimized in their effect upon the surrounding area by the utilization of modern equipment designed to accomplish such minimization and the use of walls and vegetative buffers/screens.
 - (3) *Odor*. Odor shall be minimized in its effect upon the surrounding area by the utilization of a modern odor control system designed to accomplish such minimization and operational procedures.
 - (4) *Environmental*. Information on the storage and use of products, water and energy consumption, and waste disposal associated with a facility will be required to allow for an assessment of potential impacts on the site and surrounding area and the applicability of state and local regulations.
 - (5) *Traffic*. A facility shall be located in consideration of the ingress/egress, loading and travel patterns of the traffic associated with the operation of the facility, with specific attention toward avoiding the creation of traffic through a predominantly residential area.
 - (6) *Security*. Security measures, such as fencing, access controls, and video surveillance, will be considered in determining the ability of the facility to adequately provide for public safety.
 - (7)

Impact on neighboring property. Barriers and/or buffers, facility separations, and/or operational requirements may be applied to minimize identified injurious or annoying impacts on surrounding properties.

- (8) *Annual review.* A facility shall be subject to an annual review by the planning commission to confirm compliance with the special land use permit and the provisions of this section.

(Ord. No. 2019-005, § IIIA, 10-7-2019)

Editor's note— Ord. No. 2019-005, § IIIA, adopted October 7, 2019, added provisions that were not specifically amendatory. At the editor's discretion, said provisions have been added as § 42-142.

Secs. 42-143—42-162. - Reserved.

ARTICLE V. - SITE DEVELOPMENT STANDARDS

Sec. 42-163. - General.

This article addresses site elements such as, but not limited to, parking, loading and unloading space, landscaping, fences and drives. In addition to requirements prescribed in this article, the provisions of article I of this chapter also apply.

(Ord. No. 202, art. 8(intro. ¶), 11-6-2017)

Sec. 42-164. - Parking and loading regulations.

It is the intent of this chapter that parking spaces shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles for the use of occupants, employees and patrons of each building and premises constructed, altered or enlarged under the provisions of this chapter. All vehicles shall be stored on the premises occupied by the principal building, but may be stored on premises located outside the premises within specifically limited walking distances as specified in this article.

(Ord. No. 202, art. 8, § 1, 11-6-2017)

Sec. 42-165. - Requirements.

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The proper number of parking spaces for any given use as specified in this article shall be provided.

Required off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve.

- (2) Location of off-street parking for other than residential use shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant on the site plan.
- (3) The number of required off-street parking spaces may be reduced by the number of on-street parking spaces directly in front of the subject property.
- (4) The joint use of parking facilities in a PD shall be approved by the planning commission as part of the PD review and approval process, all other joint use of parking facilities by two or more uses may be granted by the planning commission whenever such use is practical and satisfactory to each of the uses intended to be served, and when all requirements for location, design, and construction are met.
 - a. The total number of parking spaces shall not be less than the sum of the requirements of the space requirements computed separately and discounted based on the table in section 42-166.
 - b. A copy of an agreement between joint users shall be filed with the application for a building permit and recorded with the register of deeds of the county. The agreement shall include a guarantee for continued long-term use and maintenance of the parking facility by each party.
- (5) In cases of uses not specifically mentioned, the requirements of off-street parking spaces shall be in accord with the use which the zoning administrator considers is similar in type. The zoning administrator may consult parking standards publications from the American Planning Association and other parking ordinances from adjacent communities in making a determination.
- (6) Off-street parking areas shall not be used for commercial repair work, storage of merchandise, or servicing or selling of trucks or motor vehicles. Parking space shall be used only for the parking of vehicles used to service the establishment to which it is accessory and by its patrons, unless a dual use agreement is in place as provided in subsection (4) of this section.
- (7) Whenever a use requiring off-street parking is increased in floor area, or when interior building modifications result in an increase in capacity for any premises use, additional parking shall be provided and maintained in the proper ratio to the use change increased floor area or capacity. Additional parking shall be provided at the time of enlargement and prior to receipt of a certificate of zoning compliance.
- (8)

The outdoor parking of motor vehicles in residential districts shall be limited to registered and licensed passenger vehicles and commercial vehicles built on a chassis which is rated one ton or less and not exceeding 10,000 pounds in gross vehicle weight, except when said vehicles are associated with the use permitted by a special use permit pursuant to article IV of this chapter.

- (9) No parking area or parking space or loading area which exists at the time this section becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this chapter shall thereafter be relinquished or reduced in any manner below the requirements established by this chapter unless and until equal or better facilities are approved and provided.
- (10) The right-of-way of any village street or state highway shall not be used for off-street parking or loading without the written permission of the county road commission for county roads, the village for local streets or the state department of transportation for state highways, as applicable.

(Ord. No. 202, art. 8, § 2, 11-6-2017)

Sec. 42-166. - Parking space requirements.

- (a) All land uses shall provide parking spaces that conform with the requirements of this section.
- (b) Definitions. The following terms used in this section have special definitions as provided below:
 - (1) Requirements for parking stated in terms of "employees" shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
 - (2) The term "floor area" is as defined in section 42-9.
 - (3) "Fractional spaces." When units of measurement determining the number of required parking spaces result in a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.
 - (4) The term "parking" includes the surface area required for the parking space as specified in Table 8-1, and is in addition to that surface area required for maneuvering lanes in Table 8-1.
 - (5) "Seating capacity." When benches, pews or other similar seating is used, each 18 inches of said seating shall be counted as one seat, unless the standard specifies otherwise.
- (c) Table 8-1 provides the specific off-street parking space requirements for each common land use.

Table 8-1. Off-Street Parking Requirements

	<i>Minimum</i>	<i>Maximum</i>	<i>Measurement</i>
<i>Residential</i>			

Single-family dwelling	2	N.A.	Per unit
Multiple-family dwelling	1.5	1.5	Per unit
<i>Nonresidential</i>			
Agricultural uses	Exempt		
Automotive sale and services	3.5	4	Per 1,000 GFA
Consumer/personal services	2	3	Per 1,000 GFA
Eating and drinking establishments	1	1.5	Per 3 seats
Office uses	2.5	3	Per 1,000 GFA
Places of assembly	1	1	Per 3 seats or number permitted by Fire Code
Commercial and retail business uses	3	4	Per 1,000 GFA
Schools	1	1	Per classroom
<i>Plus</i>	1	1	Per each ten seats in auditorium
Other uses not listed or classified	Determined by planning commission		

Sec. 42-167. - Parking site requirements.

All off-street parking areas shall be designed, constructed and maintained in accordance with the following standards and requirements:

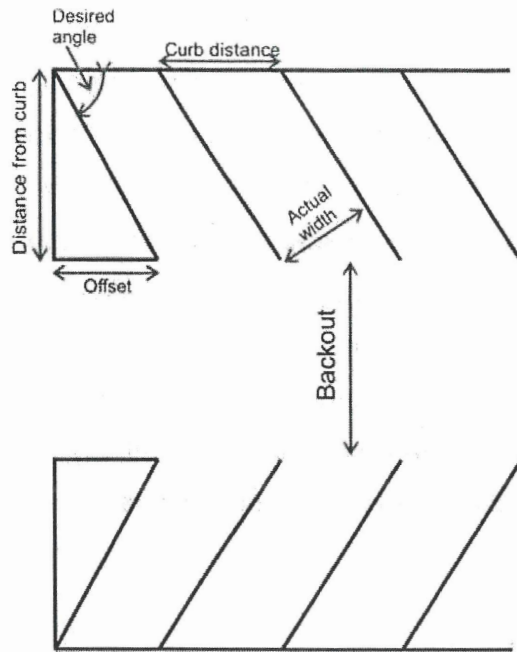
- (1) No parking lot shall be constructed until a permit therefor is issued by the zoning administrator and by the soil erosion and sedimentation control agent.
- (2) Before such permit is issued, plans and specifications shall be submitted to the zoning administrator showing the location, capacity, size, site, design, surfacing, marking, lighting, drainage, curb cuts, entrances, exits, landscaping and any other detailed features essential to the design and construction of the proposed parking facility.
 - a. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements of Table 8-2.
 - b. Parking spaces are designed to yield a parking space nine feet by 18 feet with adequate room for maneuvering in and out of the space.

Table 8-2. Layout of Off-Street Parking Facilities

<i>Angle</i>	<i>From Base Line</i>	<i>Along Curb</i>	<i>Offset</i>	<i>Backout</i>
90 degrees	18'	9'	0'	24'
75 degrees	17'	9'4"	4'6"	22'
60 degrees	16'	10'4"	9'	20'
45 degrees	15'	12'7"	15'	19'

- c. All parking spaces shall be provided access by means of maneuvering lanes. Backing directly onto a street shall be prohibited. The width of required maneuvering lanes may vary depending upon the proposed parking pattern as follows and illustrated on Figure 8-1:
 1. For parallel parking, one-way drives or boulevards, the maneuvering lane width shall be a minimum of 12 feet.
 2. All maneuvering lane widths shall permit one-way traffic movement, except for the 90 degree pattern, which may provide for two-way traffic movement.

3. For parallel parking, one-way.



- d. Adequate ingress and egress to the parking lot by means of clearly-defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use. Access management requirements in article I of this chapter shall also be conformed with.
- e. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least 25 feet distant from adjacent property located in any single-family residential district.
- f. All off-street parking areas abutting residential districts shall be provided with an obscuring fence no less than four feet in height. Such fences shall be constructed of materials approved by the permit issuing authority and shall be durable, weather-resistant and easily maintained.
- g. Except for single-family and two-family residential lots, all parking areas, including parking spaces, maneuvering lanes and access drives, shall be provided with a durable, smooth and dustless surface; and shall be graded and drained to dispose of all collected surface water.
- h. Except for single-family residential lots, all parking areas with a capacity of six or more vehicles shall provide adequate lighting throughout the hours when the parking areas are in operation. All lighting shall be installed as to be confined and directed into the parking area only with applicable lighting requirements.
- i.

A no-building buffer strip not less than ten feet wide shall be required on the perimeter of all parking lots. Said buffer strip shall be used for landscaping, screening or drainage as required herein.

- (3) All parking areas containing over 2,700 square feet or more of parking areas, including access drives thereto, shall be effectively landscaped with planting strips on all sides adjacent to or visible from surrounding properties and on all sides of a public street.
- (4) Whenever a development requiring off-street parking has parking areas containing over 2,700 square feet or more, provision shall be made for on-site snow storage area in addition to the required parking lot area. Snow storage shall be provided on the ratio of 15 square feet per 100 square feet of parking lot surface area. Snow storage areas shall be located in such manner that when utilized they do not interfere with clear visibility of traffic or adjacent streets and highways and the landscaping is protected from damage.

(Ord. No. 202, art. 8, § 4, 11-6-2017)

Sec. 42-168. - Loading and unloading requirements.

- (a) On the same premises with every building, structure, or part thereof involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated public streets. Such space shall be provided as follows:
 - (1) Loading space required under this section shall be provided as areas additional to the off-street parking space required in section 42-166 and shall not be considered as supplying off-street parking space.
 - (2) There shall be provided adequate space for standing, loading and unloading services not less than 12 feet in width, 25 feet in length and 14 feet in height (open or enclosed) for all uses listed in Table 8-1 or for similar uses involving the receipt or distribution by vehicles of materials or merchandise.
 - (3) In all nonresidential districts, off-street loading and unloading shall be provided according to the following provisions:
 - a. For office buildings of less than 20,000 square feet in gross floor area, at least one loading space with minimum dimensions of ten feet by 20 feet, separate from off-street parking, shall be provided and may be located in any yard except the front yard.
 - b. For office buildings greater than 20,000 square feet, loading shall be provided at the ratio of one space for each 40,000 square feet above 20,000 square feet.
 - c. For commercial uses, loading shall be provided as set forth in subsection (a)(3)a of this section, or at a ratio of ten square feet per front foot of building, whichever is the lesser amount.
 - d.

For automobile service stations, required loading space may be located in any yard except the front yard.

(4) Access to a truck standing, loading, and unloading space shall be provided directly from a public street or alley and such space shall be so arranged to provide sufficient off-street maneuvering space as well as adequate ingress and egress to and from a street or alley as determined by the site plan review committee.

(b) Off-street loading spaces and access drives shall be paved, drained, and shall have appropriate bumper or wheel guards where needed. Any light used for illumination shall be so arranged as to reflect the light away from adjoining premises and streets. Where any off-street loading space adjoins or abuts a lot or premises used for residential, educational, recreational, or religious purposes, or abuts a residential district, there shall be provided a masonry wall or solid fence not less than four feet in height between the off-street loading space and said residential, educational, recreational, or religious premises or residential zone.

(Ord. No. 202, art. 8, § 5, 11-6-2017)

Sec. 42-169. - Landscaping, buffering and screening.

The purpose of this article is to provide regulations and requirements for fencing, landscaping, berming or screening of the perimeter of certain activities in order to protect the character of the surrounding area, prevent trespassing into unsafe areas, discourage theft, stabilize soils, control wind-blown dust and debris, prevent light from glaring onto adjoining properties, reduce stormwater runoff, increase groundwater infiltration and reduce noise.

(Ord. No. 202, art. 8, § 6, 11-6-2017)

Sec. 42-170. - Right-of-way protection and public safety.

No trees or shrubs shall be planted within a public right-of-way without the prior written consent of the appropriate public agency responsible for maintaining the right-of-way. Landscaping shall not interfere with public safety, and shall not interfere with the safe movement of motor vehicles, bicycles, or pedestrians. Landscape materials shall not obstruct the operation of fire hydrants, electrical or other utility lines or facilities.

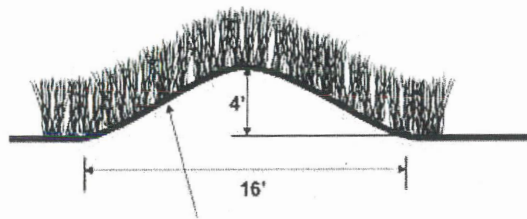
(Ord. No. 202, art. 8, § 7, 11-6-2017)

Sec. 42-171. - Required vegetation.

A greenbelt, buffer strip, or berm, as required by this chapter or as a condition to the approval of a site plan, special use permit, planning unit development permit or variance, shall be installed and maintained in a healthy living condition for the duration of the use of property in accordance with the following requirements:

- (1) *Greenbelts.* A greenbelt shall consist of an open space strip running along the property line at least 30 feet in width, seeded and maintained as grass or other plant ground cover. Trees or shrubs may be planted at the discretion of the landowner.
- (2) *Buffer strips.* A buffer strip shall consist of a landscaped strip at least 15 feet in width containing at least two trees plus one additional tree for each 20 feet in length of the buffer strip. Said trees shall be at least 1¾ inches in caliper measured six inches above ground level. Dead or dying trees shall be replaced within eight months. Grass or other plant ground cover, mulch, or ornamental bark or stone, shall completely cover the area not planted in trees or shrubs.
- (3) *Berms.* A berm shall consist of a linear mound of earthen material rising to a height of at least four feet with a minimum base of 16 feet covered and maintained as grass, ground cover, shrubs or other approved vegetation and constructed in accordance with the diagram below, or with a base of at least four times the desired height of the berm. See Figure 8-2.

BERM DIMENSIONS



- (4) Plant material spacing.
 - a. Except as provided below, plant materials shall not be placed closer than four feet from the fence line property line.
 - b. Where plant materials are placed in two or more rows, plantings shall be staggered in rows.
 - c. Evergreen trees shall be planted not more than 20 feet on centers, and shall be not less than five feet in height, nor closer than five feet to an adjoining property line.
 - d. Narrow evergreens shall be planted not more than six feet on centers, and shall not be less than three feet in height.
 - e. Tree-like shrubs shall be planted not more than ten feet on centers, and shall be not less than four feet in height.
 - f. Large deciduous shrubs shall be planted not more than four feet on centers, and shall not be less than six feet in height.
 - g. Large deciduous trees shall be planted not more than 20 feet on centers, and shall not be less than eight feet in height, nor closer than ten feet to an adjoining property line, unless approved by the neighboring property owner.

- (5) *Required plant materials.* Only those plant materials listed on the "Recommended Plant List" from the Northwest Michigan Invasive Species Network, as amended, shall be used for greenbelts, buffer strips, berms, and general landscaping.

(Ord. No. 202, art. 8, § 8, 11-6-2017)

Sec. 42-172. - Drives and accessways.

Necessary drives and accessways from public rights-of-way through such buffer strips shall be permitted, provided that such accessways shall not be subtracted from the lineal dimension used to determine the required number of plants.

(Ord. No. 202, art. 8, § 9, 11-6-2017)

Sec. 42-173. - Side and rear yard landscaping and fencing options.

In any situation requiring either a greenbelt, buffer strip or berm to meet the requirements, the landowner has the option in fulfilling landscaping requirements with a fence approved by the zoning administrator.

(Ord. No. 202, art. 8, § 10, 11-6-2017)

Sec. 42-174. - Parking lot landscaping and loading space fencing.

- (a) Separate landscaped areas shall be required either within or at the perimeter of parking lots. There shall be one tree for every eight parking spaces, with minimum landscaped space within a designated parking area of 50 square feet. A minimum distance of three feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of the pavement. This distance shall be increased if the volume of snow to be plowed from the parking lot requires a larger storage area.
- (b) Landscaping along the perimeter of the parking lot shall meet the requirements for a buffer strip.
- (c) Where any off-street loading space adjoins or abuts a lot or premises used for residential, educational, recreational, or religious purposes, or abuts a residential district, there shall be provided a masonry wall or solid fence not less than four feet in height between the off-street loading space and said residential, educational, recreational, or religious premises or residential zone.

(Ord. No. 202, art. 8, § 11, 11-6-2017)

Sec. 42-175. - Landscaping for all other properties requiring site plan review.

- (a) In addition to any greenbelt, buffer strip, berm and/or parking lot landscaping required by this article, ten percent of the site area, excluding existing thoroughfare rights-of-way, shall be landscaped.
- (b) Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area not to exceed five percent of the site area.

(Ord. No. 202, art. 8, § 12, 11-6-2017)

Sec. 42-176. - Screening of trash.

All areas used for the storage of trash or rubbish, including dumpsters and other commercial containers, shall be screened by a solid fence or dense plant materials no less than six feet in height. If a fence is used, view-obstructing doors at least six feet in height shall be installed and kept closed except when accessing.

(Ord. No. 202, art. 8, § 13, 11-6-2017)

Sec. 42-177. - Existing screening.

Any fence, landscape screen, wall or hedge which does not conform to this chapter and which is legally existing at the effective date of the ordinance from which this chapter is derived may be continued and maintained, provided there is not physical change other than necessary maintenance and repair; unless otherwise regulated by this chapter.

(Ord. No. 202, art. 8, § 14, 11-6-2017)

Sec. 42-178. - Maintenance.

It shall be the owner's responsibility to see that the landscaping is maintained in a neat, clean, orderly and healthful condition. This includes, among other things, proper pruning, mowing of lawns, weeding, removal of litter, replacement of plants when necessary, and the regular watering of all plants.

(Ord. No. 202, art. 8, § 15, 11-6-2017)

Sec. 42-179. - Fences, walls and screens.

Fence, wall and screen requirements are as follows:

- (1) Whenever a use is established or substantially improved in a nonresidential district and the lot abuts a residential district, a fence at least six feet in height shall be erected along the common lot by the nonresidential use unless the abutting lot owner in the residential district signs a waiver for this requirement and a buffer strip or berm shall be installed instead.

- (2) Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard shall not exceed six feet in height, measured from the surface of the ground. Fences located in the front yard or beyond the front of the dwelling unit shall not exceed three feet in height, measured from the surface of the ground, and shall have at least a 75 percent open area. No fence, wall, planting or structure shall, within ten feet of any public or private right-of-way, be of such a nature as will impede clear vision of an intersecting sidewalk, street, alley or driveway. All fences shall be constructed so as to allow the passage of air through the fence to an adjacent dwelling.
- (3) Fences, walls, or obscuring walls shall not contain barbed wire, electric current or charge of electricity (except in the "I" district), glass, spikes, or other sharp protruding objects.
- (4) Notwithstanding subsection (3) of this section, security fences six feet high or more may include up to 18 inches of barbed wire in an industrial area, surrounding a public utility, or around a police or corrections facility.
- (5) All fences shall have the finish side facing out, away from the property on which the fence is located.
- (6) Fences are structures that may be erected along property lines or within yards, irrespective of the setback requirements of this chapter. No site plan review is required for a fence which conforms with chapter standards. The zoning administrator may waive site plan review for a fence in any other district if no other structural changes or changes in the design or layout of the site are proposed.
- (7) The zoning administrator may require the removal, reconstruction or repair of any fence, wall or screen not in good condition.
- (8) The location, design and construction of the fence shall not hinder emergency response.

(Ord. No. 202, art. 8, § 16, 11-6-2017)

Sec. 42-180. - Time to complete and performance guarantee.

- (a) *Time period to complete.* The required improvements are to be completed within one year of the issuance of the zoning permit. In the event of unusual delays, or adverse weather conditions that make it impossible to plant, the planning commission may grant a single extension of the time limit for a further period of not more than six months.
- (b) *Occupancy.* No occupancy of land shall occur unless the parking and landscape improvements have been completed or a performance guarantee to cover the cost of the contemplated improvements, as estimated by the zoning administrator, has been deposited with the village pursuant to the requirements of this chapter.
- (c)

Performance guarantee. The planning commission may, on multiple-family residential properties, PDs and nonresidential land properties, due to weather conditions, seasonal availability of plant materials, or other factors, require a performance guarantee equal to the estimated cost of the plant material and installation cost. Such performance guarantee shall be related to the various vegetation or planting plans shown on the site plan. Such performance guarantee shall be processed according to the requirements of this chapter.

(Ord. No. 202, art. 8, § 17, 11-6-2017)

Sec. 42-181. - Waiver or modification of landscaping, buffering and fencing regulations.

Any of the requirements of this article may be waived or modified through site plan approval, provided the planning commission makes a written finding that specifically identified characteristics of the site or site vicinity would make required landscaping, fencing, buffering or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.

(Ord. No. 202, art. 8, § 18, 11-6-2017)

Sec. 42-182. - Bicycle parking requirements.

- (a) *Scope of regulations.* Bicycle parking facilities, which include bicycle parking spaces and access aisles, shall be provided as required for all new structures and uses established or for changes in use as of the effective date of this provision.
- (b) *Size.* Required bicycle parking spaces shall be at least two feet by six feet. An access aisle of at least five feet shall be provided in each bicycle parking facility. Such space shall have a vertical clearance of at least six feet.
- (c) *Design and maintenance.* Accessory off-street parking for bicycle parking shall include provisions for secure storage of bicycles. Such facilities shall provide lockable enclosed lockers or racks or equivalent structures in or upon which the bicycle may be locked by the user. Structures that require a user-supplied locking device shall be designed to accommodate U-shaped locking devices. All lockers and racks must be securely anchored to the ground or the building structure to prevent the racks and lockers from being removed from the location. The surfacing of such facilities shall be designed and maintained to be mud and dust free.
- (d) *Location.* Bicycle parking facilities shall be located in a clearly designated safe and convenient location. The design and location of such facility shall be harmonious with the surrounding environment. The facility location shall be at least as convenient as the majority of automobile parking spaces provided.
- (e) *Schedule of required off-street bicycle parking facilities.* Bicycle parking facility spaces shall be provided in adequate number as determined by the zoning administrator. In making the determination, the zoning administrator shall consider, when appropriate, the number of

dwelling units or lodging rooms, the number of employees, and the number of automobile parking spaces in accordance with the following guidelines:

Table 8-3. Bicycle Requirements

<i>Land Use</i>	<i>Bike Space</i>
Bed and breakfast and tourist homes	One per three lodging rooms
Hotels and motels	One per 20 employees and one per ten rental rooms
Places of assembly, recreation, entertainment, and amusement	One per ten automobile parking places
Commercial establishments	One per 15 automobile parking places; up to a maximum of ten bicycle parking spaces

(Ord. No. 202, art. 8, § 19, 11-6-2017)

Sec. 42-183. - Signage.

- (a) The purpose of this section is to regulate commercial and noncommercial outdoor signs in a manner which recognizes the communication needs of both businesses and other parties; protects property values and neighborhood character; creates a more attractive business climate; promotes pedestrian and traffic safety by reducing sign distractions, obstructions and other hazards; and promotes pleasing community environmental aesthetics.
- (b) Compliance with this chapter does not relieve the applicant of the responsibility for compliance with other village, state or federal sign regulations, nor does the issuance of a zoning permit grant permission to the applicant to place signs on any property, including road rights-of-way, other than property owned or otherwise legally under the control of the applicant. The issuance of a zoning permit only assures the applicant that the sign meets the requirements of this chapter.
- (c) Except as otherwise provided in this section, no sign may be constructed, erected, moved, enlarged, illuminated or substantially altered unless a zoning permit has been issued in accordance with the provisions of this chapter. Mere repainting or changing the message of a sign shall not in and of itself be considered a substantial alteration.

- (d) The following signs are permitted without a zoning permit, but shall conform to the requirements set forth herein as well as all other applicable requirements of this article:
- (1) One sign not exceeding six square feet in sign face area that is customarily associated with residential use and that is not of a commercial nature, such as signs giving property identification.
 - (2) Signs not exceeding 2½ square feet in sign face, on mailboxes or newspaper tubes, and signs posted on private property relating to private parking, or warning the public against trespassing or danger from animals.
 - (3) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification, and informational signs, including historical markers, traffic, directional, and regulatory signs.
 - (4) Official signs of a noncommercial nature erected by public utilities.
 - (5) Flags, or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising service.
 - (6) Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
 - (7) Signs directing and guiding traffic on private property that do not exceed four square feet each and that bear no advertising matter.
 - (8) Informational signs not exceeding one square foot in sign face.
 - (9) A total of two banners, one banner and one commercial advertising flag, or two commercial advertising flags, each such banner or commercial advertising flag not to exceed 24 square feet in sign face, used to attract attention to a community activity or event.
 - (10) Street name signs located in accord with the village and/or county road commission standards at street intersections, not to exceed one square foot in sign face.
- (e) For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign.
- (f) A two-sided or multi-sided sign shall be regarded as one sign so long as:
- (1) With respect to a V-type sign, the two sides are at no point separated by a distance that exceeds five feet; and
 - (2) With respect to double-faced (back to back) signs, the distance between the backs of each face of the sign does not exceed three feet.
- (g) Table 8-4 includes the type and size of sign by zoning district.

Table 8-4. Signs Requiring Permit

<i>Zoning District</i>	<i>Freestanding Ground Sign not higher than 6 feet above grade</i>	<i>Wall Sign; wall or projecting</i>	<i>Percent of Windows Used for Signs</i>
All Zoning Districts	32 square feet per sign face; maximum 2 sign faces	32 square feet for wall sign; 16 square feet for projecting sign with maximum of 2 sign faces	0%

- (h) Off-premises highway advertising signs are those signs and sign structures which are defined and regulated by the state department of transportation pursuant to the Highway Advertising Act of 1972, Public Act No. 106 of 1972, as amended, and as further regulated by this chapter. Permits are required from MDOT for signs along state and federal highways.
- (i) Prohibited signs. The following signs shall not be allowed in any district:
- (1) Signs that are not consistent with the standards of this chapter;
 - (2) Signs which are not clean or in good repair;
 - (3) Signs that are not securely affixed to a substantial structure;
 - (4) Signs that resemble any official traffic sign or appear to attempt to direct the movement of traffic, or are located where they interfere with motorist's view of intersections or driveways;
 - (5) Revolving, moving, or flashing signs (except time, date and weather signs), pennants, streamers, and airborne devices;
 - (6) Signs other than utility company signs attached to utility poles; and
 - (7) Portable signs.
- (j) Signs remaining after a business or activity has terminated must be removed within 90 days.
- (k) Sign setbacks and height requirements shall comply with the following:
- (1) Setbacks. For the purpose of establishing sign setback requirements from an abutting roadway, signs shall meet or exceed the front yard setback for the respective zoning district.
 - (2) No sign may extend above any parapet or be placed upon any roof surface, except that, for purposes of this section, roof surfaces constructed at an angle of 75 degrees or more from horizontal shall be regarded as wall space. This subsection shall not apply to displays,

including lighting, erected in connection with the observation of holidays on the roofs of residential structures.

(3) No wall sign attached to a building may project more than 12 inches from the building wall.

(l) Sign illumination shall comply with the following requirements:

(1) Unless otherwise prohibited by this chapter, signs may be illuminated if such illumination is in accordance with this subsection (l).

(2) No sign within 150 feet of a residential zone may be illuminated between the hours of 12:00 midnight and 6:00 a.m.

(3) Except as herein provided, illuminated signs are not permissible in the residential zoning districts.

(4) Illuminated tubing or strings of lights that outline property lines, building facades, sign faces, sales areas, roof lines, doors, windows, or similar areas are prohibited.

(5) No sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date or weather conditions.

(6) Subsections (l)(4) and (5) do not apply to temporary signs erected in connection with the observance of holidays.

(Ord. No. 202, art. 8, § 20, 11-6-2017)

Secs. 42-184—42-203. - Reserved.

ARTICLE VI. - LAND DEVELOPMENT OPTIONS

Sec. 42-204. - Purpose.

- (a) The purpose of this article is to allow and encourage alternative designs for residential developments, site condominiums or subdivisions in order to maintain the open and natural space and protect the small-town character of the village.
- (b) The village encourages use of land development options to conventional developments because they promote the location of dwelling units to be sited on those portions of a property most suitable for development, while leaving substantial portions as undeveloped open space. These developments may also include a variety of lot sizes ranging from large farm or estate lots to small lots resulting in the preservation of contiguous open space and important environmental resources.
- (c) The standards for permitted uses in each district are designed to protect these features. By allowing the use and application of flexible development standards, developments shall be designed to protect and enhance the natural features to an equal or greater degree than if the

development were to proceed under the standard guidelines for permitted uses in each underlying land use district. Provisions outlined in this article are adopted pursuant to Public Act No. 110 of 2006, known as the Michigan Zoning Enabling Act.

- (d) Subject to section 42-217, property owners can utilize either the cluster housing or planned development provisions to develop their property as residential. Planned development provisions may also be used for nonresidential developments pursuant to the provisions of this section.

(Ord. No. 202, art. 9(intro. ¶), 11-6-2017)

Sec. 42-205. - Planned development.

The planned development (PD) option is intended to allow, with village approval, private or public development, which is substantially in accord with the goals and objectives of the village master plan and future land use map. In reviewing a PD plan, the planning commission shall consider the following objectives:

- (1) The development allowed under this article shall be considered as an optional means of development in the village.
- (2) Use of the PD option will allow flexibility in the control of land development by encouraging innovation through an overall development plan to provide variety in design and layout; to achieve economy and efficiency in the use of land, natural resources, energy and in the provision of public services and utilities; to encourage useful open spaces suited to the needs of the parcel in question; and provide proper housing including workforce housing, employment, service and shopping opportunities suited to the needs of the residents of the village.
- (3) It is further intended the planned development may be used to allow nonresidential uses of residentially zoned areas; to allow residential uses of nonresidential zoned areas; to permit densities or lot sizes which are different from the applicable district; and to allow the mixing of land uses that would otherwise not be allowed, provided other community objectives are met and the resulting development would promote the public health, safety and welfare, reduce sprawl, and be consistent with the village master plan and future land use plan map.
- (4) It is further intended the development will be laid out so the various land uses and building bulk will relate to one another and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.

(Ord. No. 202, art. 9, § 1, 11-6-2017)

Sec. 42-206. - Criteria for qualifications.

To qualify for the planned development option, it must be demonstrated that all the following criteria will be met:

- (1) The use of a planned development shall not be for the sole purpose of avoiding the applicable zoning requirements. Any permission given for any activity or building or use not normally allowed shall result in an improvement to the public health, safety and welfare in the area affected.
- (2) The planned development shall not be used where the same land use objectives can be carried out by the application of conventional zoning provisions or standards. Problems or constraints presented by applicable zoning provisions shall be identified in the PD application.
- (3) The planned development option may be granted only when the proposed land use will not materially add service and facility loads beyond those considered in the village master plan, and other public agency plans, unless the proponent can prove to the sole satisfaction of the village that such added loads will be accommodated or mitigated by the proponent as part of the planned development.
- (4) The planned development must promote the goals and objectives of the village master plan and meet any combination of four of the following objectives:
 - a. To permanently preserve open space or natural features because of their exceptional characteristics or because they can provide a permanent transition or buffer between land uses.
 - b. To permanently establish land use patterns which are compatible or which will protect existing or planned uses.
 - c. To accept dedication or set aside open space areas in perpetuity.
 - d. To provide alternative uses for parcels which can provide transition buffers to residential areas.
 - e. To foster the aesthetic appearance of the village through quality building design and site development, provide trees and landscaping beyond minimum requirements; the preservation of unique and/or historic sites or structures; and the provision of open space or other desirable features of a site beyond minimum requirements.
 - f. To bring about redevelopment of sites where an orderly change of use or requirements is determined to be desirable.
 - g. To promote the use of smart growth designs such as Traditional Neighborhood Design (TND) consistent with the principles of the Congress for New Urbanism.
 - h. To promote sustainable development especially on parcels with active farmland and orchards as defined by MCL 324.36201(h).

(Ord. No. 202, art. 9, § 2, 11-6-2017)

Sec. 42-207. - Submittal and request for qualification.

- (a) Any person **owning** or controlling land in the village may make application for consideration of a planned **development**. Such application shall be made by presenting a request for a preliminary determination **to** whether a parcel qualifies for the PD option.
- (b) A request shall **be** submitted to the village. The submission shall include the information required below.
- (c) Based on the **documentation** presented, the village planning commission shall make a preliminary **determination**, within 45 days from receipt of the application, about whether a parcel qualifies for the **PD** option under section 42-206. The submittal must include:
 - (1) Proof the **criteria** set forth in section 42-206, are or will be met.
 - (2) A schematic **land** use plan containing enough detail to explain the role of open space; site drainage and **stormwater** mitigation, location of land use areas, streets providing access to the site, **pedestrian** and vehicular circulation within the site; dwelling unit density and types; and buildings **or** floor areas contemplated, as applicable.
 - (3) A plan to **protect** natural features or preservation of open space or greenbelts.
- (d) The village **planning** commission shall review the applicant's request for qualification. If approved, the applicant **may** then continue to prepare a PD plan on which a final determination will be determined.

(Ord. No. 202, art. 9, § 3, 11-6-2017)

Sec. 42-208. - Uses permitted.

- (a) A land use plan **shall** be proposed for the area to be included within the PD. The land use plan shall be defined **by** the zoning ordinance districts that are most applicable to the various land use areas of the PD.
- (b) Uses permitted **and** uses permitted subject to special land use in this chapter may be allowed within the districts **identified** on the PD plan. Conditions applicable to uses permitted subject to special approval **shall** be used as guidelines for design and layout but may be varied by the village planning **commission** provided such conditions are indicated on the PD plan.

(Ord. No. 202, art. 9, § 4, 11-6-2017)

Sec. 42-209. - Height, bulk, **density** and area standards.

The standards about **height**, bulk, density, and setbacks of each district shall be applicable within each district area designated on **the** plan except as specifically modified and noted on the PD plan.

(Ord. No. 202, art. 9, § 5, 11-6-2017)

- (a) The application, reports, and drawings shall be filed in paper and digital format. All drawings shall be provided to the village in the most recent release of a computer aided design format acceptable to the village planning commission. Other graphics and exhibits, text and tabular information shall be provided in a pdf format. The site plans must meet the scale requirements in article VII of this chapter and all submittal requirements in article VII of this chapter.
- (b) Submittal of proposed PD plan. An application shall be made to the village for review and recommendation by the village planning commission of the following:
 - (1) A boundary survey of the exact acreage prepared by a registered land surveyor or civil engineer.
 - (2) A topographic map of the entire area at a contour interval of not more than two feet. This map shall show all major stands of trees, bodies of water, wetlands and unbuildable areas. Should the topography of the site have significant slope, the village planning commission may increase the contour interval to no more than five feet; however, the integrity and intent of the map may not be compromised due to this interval change.
 - (3) A proposed development plan showing the following:
 - a. Land use areas.
 - b. Vehicular circulation including major drives and location of vehicular access including cross sections of public streets or private places.
 - c. Transition treatment, including minimum building setbacks to land adjoining the PD and between different land use areas within the PD.
 - d. The general location of nonresidential buildings and parking areas, estimated floor areas, building coverage and number of stories or height.
 - e. The general location of residential unit types and densities and lot sizes by area.
 - f. Location of all wetlands, water and watercourses, proposed water detention areas and depth to groundwater.
 - g. The boundaries of open space areas that are to be preserved or reserved and an indication of the proposed ownership.
 - h. A schematic landscape treatment plan for open space areas, streets and border/transition areas to adjoining properties.
 - i. A preliminary grading plan, showing the extent of grading and delineating any areas which are not to be graded or disturbed.
 - j. A public or private water distribution, storm and sanitary sewer plan.
 - k.

A written statement explaining in detail the full intent of the applicant, showing dwelling unit types or uses contemplated and resultant population, floor area, parking and supporting documentation, including the intended schedule of development.

- I. Written documentation from the village fire department acknowledging their review of the plans and outlining any recommendations for modifications, if any.

(4) If requested by the village planning commission, the applicant shall submit the following:

- a. *Market study.* Components of this study should include a definition of the market, analysis of data pertaining to the market problem, the type and amount of market supportable real estate, and absorption rate(s) needed to sell and/or occupy the property within the project.
- b. *Traffic impact study.* Components of this study should include an assessment of existing traffic counts and movements, forecast of additional traffic based on ITE traffic/trip generation manual, and improvements necessary to accommodate and/or mitigate the increased traffic resulting from the proposed project.
- c. *Environmental impact assessment.* Components of this study should include a statement of the purpose and need of the proposed project, description of the affected environment, range of alternatives to the proposed action, analysis of environmental impacts such as threatened or endangered species, air and water quality impacts, impacts to historic and cultural sites, and social and economic impacts.

(5) A pattern book or design guidelines manual if requested by the village planning commission.

(Ord. No. 202, art. 9, § 6, 11-6-2017)

Sec. 42-211. - Approval of planned development.

- (a) On receiving the report and recommendation of the village planning commission, and after a public hearing, the village planning commissions attorney will prepare a contract setting forth the conditions on which such approval is based. Once the contract is prepared it shall be signed by the village and the applicant.
- (b) The agreement shall become effective on execution after its approval. The agreement shall be recorded at the county register of deeds office.
- (c) Once an area has been included with a plan for PD and the village has approved such plan, no development may take place in such area nor may any use of it be made except under such plan or under an approved amendment, unless the plan is terminated.
- (d) An approved plan may be terminated by the applicant or the applicant's successors or assigns, before any development within the area involved, by filing with the village and recording in the county records an affidavit so stating. The approval of the plan shall terminate on such recording.
- (e)

No approved plan shall be terminated after development begins except with the approval of the village planning commission and of all parties in interest in the land.

- (f) Within one year following approval of the PD contract by the village planning commission, final plats or site plans for an area embraced within the PD must be filed as provided. If such plats or plans have not been filed within the one-year period, the right to develop under the approved plan may be terminated by the village.
- (g) Approval of PD by the village planning commission shall also constitute an approved revision of the official zoning map, which shall delineate the boundaries of the approved PD and its date of approval.

(Ord. No. 202, art. 9, § 7, 11-6-2017)

Sec. 42-212. - Submission of final plat, site plans.

Before any permits are issued for the PD, final plats or site plans and open space plans for a project area shall be submitted to the village for review and approval based on the requirements outlined in article VII of this chapter.

(Ord. No. 202, art. 9, § 8, 11-6-2017)

Sec. 42-213. - Fees.

Fees for review of PD plans under this article shall be established by resolution of the village board.

(Ord. No. 202, art. 9, § 9, 11-6-2017)

Sec. 42-214. - Interpretation of approval.

Approval of a PD under this article shall be considered an optional method of development and improvement of property subject to the mutual agreement of the village and the applicant.

(Ord. No. 202, art. 9, § 10, 11-6-2017)

Sec. 42-215. - Amendments to PD plan.

Proposed amendments or changes to an approved PD plan shall be presented to the village planning commission. The commission shall decide whether the proposed modification is of such minor nature as not to violate the area and density requirements or to affect the overall character of the plan and, in such event, may approve or deny the proposed amendment. If the commission decides the proposed amendment is material in nature, the commission shall review the amendment under the provisions and procedures of this article as they relate to final approval of the planned development.

(Ord. No. 202, art. 9, § 11, 11-6-2017)

Sec. 42-216. - Cluster housing.

The intent of this section is to permit development of single-family residential subdivisions allowing for a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision and 50 percent of the resultant land area will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, or other legal means that runs with the land, as prescribed by the village.

(Ord. No. 202, art. 9, § 12, 11-6-2017)

Sec. 42-217. - Conditions and qualifications.

- (a) The village may approve the clustering or attaching of buildings on parcels of land under single ownership and control, which have characteristics that would make sound physical development under the normal subdivision approach impracticable because of parcel size, shape or dimension or the site has natural characteristics that are worth preserving or that make platting difficult. In approving an area for cluster development, the subject property shall meet all of the following conditions:
 - (1) A percentage of the land area specified in the zoning ordinance, but not less than 50 percent, will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, or other legal means that runs with the land, as prescribed by this chapter.
 - (2) The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this subsection would also depend upon the extension.
 - (3) The parcel to be developed contains a minimum of two contiguous acres.
 - (4) Development of the parcel will not promote sprawl and is consistent with the intent of the village master plan and future land use map.
- (b) To qualify a parcel for development for cluster housing, the village shall determine that the parcel has met the "conditions" as stated above and the request shall be supported by written and graphic documentation, prepared by a landscape architect, engineer, professional community planner, or architect.

(Ord. No. 202, art. 9, § 13, 11-6-2017)

Sec. 42-218. - Permitted densities.

- (a) The number of dwelling units within the cluster housing development shall not exceed the permitted number of dwelling units if developed as a conventional subdivision pursuant to applicable local, state and federal regulations.
- (b) Up to 50 percent of water bodies, if any, within the parcel may be included in the calculation of gross site acreage provided the land bordering to the water is substantially left as open space.
- (c) Parcels where 50 percent or more of the land will remain as active farmland or orchard, as defined by MCL 324.36201(h), would be entitled to a dwelling unit bonus of 20 percent.

(Ord. No. 202, art. 9, § 14, 11-6-2017)

Sec. 42-219. - Siting criteria.

Diversity and originality in parcel layout shall be encouraged to achieve the best possible relationship between buildable and open space (defined as open space, active agricultural and/or orchard areas). The village planning commission shall evaluate proposals to determine whether the proposed site plan meets the following site design and layout objectives:

- (1) As practical, preserves and maintains existing fields, meadows, and creates sufficient buffer areas to minimize conflicts between residential and nonresidential land uses.
- (2) Designs around and preserves sites of historic, archaeological, or cultural value, insofar as needed to safeguard the character of the feature.

(Ord. No. 202, art. 9, § 15, 11-6-2017)

Sec. 42-220. - Open space and transition.

- (a) The area in open space (including recreation areas and water as mentioned above) accomplished by using one-family cluster development shall represent at least 50 percent of the total parcel area.
- (b) Ownership of open space may remain with the owner of the parent parcel, a homeowners' association made up of parcel owners in the development, the village, or another entity selected by the property owner and approved by the village.
 - (1) A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, recreation, protection of natural resources, or similar conservation purposes, pursuant to MCL 324.2140—324.2144, shall be granted to the village, with the approval of the board of trustees. The board may require that the conservation easement be enforceable by the village if the municipality is not the holder of

the conservation easement. The conservation easement shall be recorded in the office of the register of deeds prior to or simultaneously with the recording of any plat or master deed in the office of the register of deeds.

- (2) The conservation easement shall prohibit residential, industrial, or commercial use on the open space land (except in connection with agriculture, forestry, and recreation).

(Ord. No. 202, art. 9, § 16, 11-6-2017)

Sec. 42-221. - Site plan.

After approval of a preliminary plan and cluster option, a final site plan shall be submitted conforming to the requirements of article VII of this chapter.

(Ord. No. 202, art. 9, § 17, 11-6-2017)

Secs. 42-222—42-250. - Reserved.

ARTICLE VII. - SITE PLAN AND PLOT PLANS

Sec. 42-251. - Purpose.

It is the purpose of this article to specify standards, data requirements and the review process which shall be followed in the preparation of site plans, plot plans, and special land uses as required by this chapter. A site plan contains comprehensive and detailed information about improvements proposed on the site and is required for special land use permits. Plot plans are less detailed plans pertaining to improvements proposed on the site and are required for less complex developments such as single-family and two-family dwellings.

(Ord. No. 202, art. 10, § 1, 11-6-2017)

Sec. 42-252. - Approval of site plan or plot plan required.

- (a) Site plan approval is required by the planning commission, prior to the issuance of a zoning permit, unless required otherwise by this chapter, for the following uses:
 - (1) All uses for which this chapter requires at least three or more off-street parking spaces.
 - (2) All special land uses.
- (b) Prior to the issuance of a zoning permit, plot plan approval is required by the zoning administrator for all other uses not listed above. The commission shall review such plans in accordance with the same procedures, requirements and standards used by the municipality as specified in this article.

Sec. 42-253. - Site plans for administrative review.

Site plans for uses that are permitted by right in all zoning districts are processed by administrative review and shall follow the requirements, except if the proposed site plan generates 500 or more trips ends as determined by proposed land use activity based on the most recent edition of the trip generation manual published by the Institute of Transportation Engineers. Under this exception the site plan shall be reviewed under section 42-255.

- (1) The administrative review committee shall consist of three members: the zoning administrator, chairman of the planning commission or their designee, and a planning commissioner. The planning commission shall also select a member to be an alternate to the administrative review committee. The alternate shall attend if the chairman or planning commission member cannot attend the review meeting.
- (2) The planning commission shall make these appointments to the administrative review committee at the same annual meeting where the planning commission elects its officers.

(Ord. No. 202, art. 10, § 3, 11-6-2017)

Sec. 42-254. - Optional sketch plan review.

Prior to submitting an application or site plan for a land use permit, an applicant may choose to submit a sketch plan for review by the zoning administrator and/or the planning commission. The sketch plan may be superimposed on an air photo of the parcel or shall be a scaled drawing of the parcel showing the location of existing and proposed structures, parcel boundaries, all structures, natural features, all improvements, streets, sidewalks, easements and drainage systems. The review shall be informal and advisory only, and not constituting any form of approval or authorization of granting and type of permit. The review shall be done without cost to the applicant, but must be scheduled as an item of business on the commission's agenda if the sketch plan is to be reviewed by the commission.

(Ord. No. 202, art. 10, § 4, 11-6-2017)

Sec. 42-255. - Required data for plot plans.

The following data shall be submitted with applications for zoning and/or land use permits for uses requiring a plot plan: An accurate, readable, scale drawing showing the following shall be required except in the case of minor alterations, repair and demolitions as determined by the planning commission. The commission may establish and make available written guidelines as to the scale and level of detail needed

for applications for various types of uses requiring a zoning permit or for information to be submitted to the board of zoning appeals in order to make a decision on an appeal or request for zoning ordinance interpretation or variance.

- (1) Name, address and telephone number of the applicants (and owners if different).
- (2) The location, shape, area and dimension of the lot.
- (3) The location, dimensions, height and bulk of the existing and/or proposed structures to be erected, altered or moved on the lot.
- (4) A description of proposed use of the buildings, land or structures.
- (5) The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users.
- (6) The yard, open space, parking lot and space dimensions and number of spaces.
- (7) A vicinity sketch showing the location of the site in relation to the surrounding street system and adjacent land uses within 500 feet in every direction, including on the opposite side of any public street.
- (8) Location of any septic system or drain field and well.
- (9) Configuration of the driveway and parking.
- (10) Drains and site drainage patterns, and on-site stormwater management.
- (11) Existing public rights-of-way or easements.
- (12) All public utilities.
- (13) Any other information deemed necessary by the planning commission to determine and provide for the enforcement of this chapter.

(Ord. No. 202, art. 10, § 5, 11-6-2017)

Sec. 42-256. - Site plan review.

Site plan review shall be undertaken by the planning commission in accordance with the following requirements and procedures.

(Ord. No. 202, art. 10, § 6, 11-6-2017)

Sec. 42-257. - Data required for site plan.

Each site plan, as may be required by this chapter, shall be provided on a professional quality drawing of scale not less than one inch equals 50 feet. All information depicted shall be designed and sealed by an engineer, architect or landscape architect licensed in the state. In addition to the applicant's full name, address, phone number, cell phone number, and e-mail address, the following data shall be submitted with applications for zoning permits for uses requiring a site plan:

- (1) A survey showing property dimensions and legal description, including angles, lot area and dimensions and an arrow pointing north.
- (2) A project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, carports or garages, employees by shift, amount of recreational and open space, type of recreation facilities to be provided and related information as pertinent or otherwise required by this chapter.
- (3) A plan showing the location of all buildings and structures existing and proposed on the site including building elevation drawings and all of the following listed items:
 - a. All applicable general provisions referenced in article I of this chapter.
 - b. The natural features such as woodlands, streams, floodplains, drains, ponds, topography (at two foot intervals on-site and within 150 feet of the site) and manmade features such as existing roads and structures, with indication as to which are to be retained and which removed or altered.
 - c. The existing public rights-of-way, private easements, private places of record and deed restrictions.
 - d. The proposed streets and alleys, including cross sections, acceleration, deceleration or right-turn lanes, driveways, parking spaces and sidewalks with indication of the direction of travel and the inside radii of all curves including driveway curb returns. The width of streets, driveways and sidewalks, the total number of parking spaces, the dimensions of a typical individual parking space and associated aisles. Proposed traffic control measures including signs and proposed street or road names shall also be indicated.
 - e. A vicinity sketch showing the location of the site in relation to the surrounding street system and other land uses within 300 feet in every direction of the proposed use including land uses on the opposite side of any public street.
 - f. The location of utilities, water supply and the location and design of wastewater systems as well as any easements that exist or are proposed to be established for installation, repair and maintenance of utilities.
 - g. The proposed location of trash receptacles, accessory buildings and uses and signs.
 - h. A landscaping plan indicating the locations of plant materials to be preserved and locations of proposed planting and screening, fencing and lighting in compliance with the requirements of this chapter. Also, the plan must include the proposed locations of common open spaces, if applicable.
 - i. A storm drainage and stormwater management plan for all streets and impervious surfaces.
 - j.

The location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials or hazardous materials as well as any containment structures or clear zones required by government authorities.

- k. The location of exterior drains, dry wells, catch basins, retention and/or detention areas, sumps and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall also be specified on the site plan.
- l. A statement from the applicant identifying all federal, state and local permits required, if any.
- m. Such other information and/or assessments as is necessary to enable the municipality to determine whether the proposed site plan will conform to the provisions of this chapter.

(Ord. No. 202, art. 10, § 7, 11-6-2017)

Sec. 42-258. - Submittal and distribution of site plans.

At least six copies of the application and site plan shall be submitted to the planning commission at least 20 days prior to the commission's regularly-scheduled meeting. Six copies shall be on 11-inch by 17-inch paper reduced from original drawing. In addition, all site plans and documents shall be submitted on a compact disk or memory stick in pdf format. The zoning administrator shall review the application and site plans for completeness and, if such application or plans are not complete, the plans shall be returned to the applicant with a written notice identifying the plans' inadequacies. Upon receipt of an adequately completed application and plans, the zoning administrator shall record the date of their receipt.

(Ord. No. 202, art. 10, § 8, 11-6-2017)

Sec. 42-259. - Completeness of the site plan application.

The planning commission shall review the application and plans and determine their conformity with the applicable provisions of this chapter. The commission may, at its discretion, delay deliberating upon a site plan at its next regularly-scheduled or special meeting unless the site plan and all supporting documents, including a zoning permit application form and escrow payment, have been received by the village at least seven business days prior to such meeting.

(Ord. No. 202, art. 10, § 9, 11-6-2017)

Sec. 42-260. - Planning commission review and action.

After conducting a review, the planning commission shall recommend to the board of trustees to reject, approve or conditionally approve the site plan as it pertains to requirements and standards contained in this chapter. Any conditions required by the commission for approval shall be stated in writing, together

with the reasons, and delivered to the applicant. Decisions and recommendations by the commission shall be by the planning commission, unless an extension of time is necessary to adequately collect and review information pertinent to a decision or recommendation. A site plan shall be approved by the commission if it contains the information required by and is in compliance with this chapter, the conditions imposed pursuant to this chapter, other planning documents, other applicable codes and county, state and federal laws and statutes.

(Ord. No. 202, art. 10, § 10, 11-6-2017)

Sec. 42-261. - Approved site plans.

Three copies of the approved site plan, with any conditions contained required, shall be maintained as part of the planning commissions records for future review and enforcement. One copy shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the chairman and secretary of the planning commission. If any variances from this chapter have been obtained from the board of zoning appeals, the minutes concerning the variances, duly signed, shall also be filed with the commission's records as a part of the site plan and delivered to the applicant for information and direction.

(Ord. No. 202, art. 10, § 11, 11-6-2017)

Sec. 42-262. - Site plan approval criteria.

Each site plan shall conform to the applicable provisions of this chapter and the following criteria in addition to any conditions imposed by the planning commission:

- (1) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.
- (2) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree, other vegetative material and soil removal and by topographic modifications which result in maximum harmony with adjacent areas. Landscape elements shall minimize negative impacts and allow for the appropriate blending of the site plan with the surrounding community and, in the case of parking lots, provide directional guidance to drivers. Landscaping, buffering and screening shall conform to the requirements of this chapter.
- (3) Special attention shall be given to proper site drainage so that removal of stormwaters will not increase off-site sedimentation or otherwise adversely affect neighboring properties, Lake of the Woods and Mud Lake.
- (4)

The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Special attention shall be given to ensure the peaceful surroundings of any nearby dwellings or other types of communities so as to lend continuity and that adequate natural light that may be currently enjoyed and continued to be enjoyed by the surrounding structures. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

- (5) All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides. This review shall be conducted by the fire department fire marshal.
- (6) Every structure or dwelling unit shall have access to a public street, private easement, private place, walkway or other area dedicated to common use.
- (7) A pedestrian circulation system shall be provided which is insulated as completely as reasonably possible from the vehicular circulation system.
- (8) Exterior lighting shall be designed and arranged so that it is deflected away from adjacent streets and adjoining properties. Flashing, twinkling or intermittent lights shall not be permitted.
- (9) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way according to the standards used by the village.
- (10) All roads dedicated to public use shall be developed in accordance with village specifications.
- (11) All parking areas shall be so designed to facilitate efficient and safe vehicular and pedestrian circulation, minimize congestion at ingress and egress points to intersecting roads, including the use of service drives as appropriate, and minimize the negative visual impact of such parking areas.
- (12) Residential and nonresidential development shall not include unnecessary curb cuts and commercial service drives shall be used where the opportunity exists.
- (13) The site plan shall provide for the appropriate location of all necessary and proposed utilities. Locational requirements shall include underground facilities to the greatest extent feasible.
- (14) Site plans shall conform to all applicable requirements of state and federal statutes (i.e., soil and sedimentation control, wetlands, etc.) and approval may be conditioned on the applicant receiving necessary state and federal permits before the site plan approval is granted.
- (15) The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous materials from entering the environment including:
 - a.

Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substances for the maximum anticipated period of time necessary for the recovery of any released substances.

- b. State and federal agency requirements for storage, spill prevention, recordkeeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

- (16) Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, or wetlands.

(Ord. No. 202, art. 10, § 12, 11-6-2017)

Sec. 42-263. - Conformity to approved site plans.

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received approval from the body which had approved the original site plan. If construction and development does not conform with such approved plans, the approval and associated permits shall be revoked. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation.

(Ord. No. 202, art. 10, § 13, 11-6-2017)

Sec. 42-264. - Amendment to a site plan.

No changes shall be made to an approved site plan prior to or during construction except where the planning commission and applicant mutually agree according to the following procedures:

- (1) *Minor changes.* Minor changes to an approved site plan involving changes of less than five feet in the location of walkways, vehicular circulation ways and parking areas or exterior building and structure walls; adjustment of utilities; and similar minor changes as may be approved by the village.
- (2) *Major changes.* Major changes or amendments to an approved site plan involving changes in excess of five feet in the location of walkways, vehicular circulation ways and parking areas or exterior building and structure walls; the number and location of accesses to public streets and alleys; a reduction in the number of parking spaces; an increase in the gross floor area or heights of buildings; a reduction in the open space; and similar major changes, shall require

the approval of the planning commission, or in the case of a planned unit development project, in the same manner as the original application was submitted, reviewed and approved and subject to the finding of all of the following:

- a. Such changes will not adversely affect the initial basis for granting approval;
- b. Such changes will not adversely affect the overall project in light of the intent and purpose of such development as set forth in this article; and
- c. Such changes shall not result in the reduction of open space area as required herein.

(Ord. No. 202, art. 10, § 14, 11-6-2017)

Sec. 42-265. - Amendments to a plot plan.

The zoning administrator shall review proposed changes to an approved plot plan in accordance with the same procedures, requirements and standards used by the planning commission. Changes to a plot plan which contain elements which require site plan approval shall require that the entire project be processed as a site plan according to the procedures of this article.

(Ord. No. 202, art. 10, § 15, 11-6-2017)

Sec. 42-266. - Appeals.

With regards to the site plan and plot plan approval decisions, an appeal may be taken to the circuit court.

(Ord. No. 202, art. 10, § 16, 11-6-2017)

Sec. 42-267. - Review fees.

If the planning commission or zoning board of appeals determines that the zoning fees will not cover the actual costs of the application review or appeal, or if the planning commission or zoning board of appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the village treasurer such additional zoning fees in an amount determined by the planning commission or zoning board of appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent of the initial escrow deposit or less than ten percent of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the planning commission or zoning board of appeals may require the applicant to deposit additional fees into escrow in an amount determined by the planning commission or zoning board of appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this section shall be deemed to make the application

incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the village in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

(Ord. No. 202, art. 10, § 17, 11-6-2017)

Sec. 42-268. - Security requirement.

To ensure compliance with the site plan and this chapter and any conditions, limitations or requirements imposed, the zoning administrator or the planning commission shall require a performance guarantee pursuant to section 42-380.

(Ord. No. 202, art. 10, § 18, 11-6-2017)

Secs. 42-269—42-299. - Reserved.

ARTICLE VIII. - NONCONFORMING USES

Sec. 42-300. - Purpose.

- (a) It is the intent of this chapter to permit legal nonconforming lots, structures, or uses to continue until they are removed consistent with the provisions in the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3208).
- (b) It is recognized that there exists within the districts established by this chapter and subsequent amendments, lots, structures, and uses of land and structures which were lawful before the ordinance from which this chapter is derived was passed or amended which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- (c) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of the ordinance from which this chapter is derived by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.
- (d)

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designed use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the ordinance from which this chapter is derived, and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

(Ord. No. 202, art. 11, § 1, 11-6-2017)

Sec. 42-301. - Nonconforming uses of land.

Where, at the effective date of adoption or amendment of the ordinance from which this chapter is derived, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance from which this chapter is derived;
- (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of the ordinance from which this chapter is derived;
- (3) If there is evidence that a nonconforming use of land has been abandoned, any subsequent use of such land must conform to the regulations specified by this chapter for the district in which such land is located.

(Ord. No. 202, art. 11, § 2, 11-6-2017)

Sec. 42-302. - Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of the ordinance from which this chapter is derived that could not be built under the terms of this chapter by reason of restriction on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such structure may be enlarged or altered in a way which increases its nonconformity.
- (2) Should such structure be voluntarily destroyed by any means to an extent of more than 50 percent of its replacement cost, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this chapter.

- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.

(Ord. No. 202, art. 11, § 3, 11-6-2017)

Sec. 42-303. - Nonconforming uses of structures and land.

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of the ordinance from which this chapter is derived, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of the ordinance from which this chapter is derived, but no such use shall be extended to occupy any land outside such building.
- (3) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- (4) If there is evidence that a nonconforming use of land and structure has been abandoned, any subsequent use of such land must conform to the regulations specified by this chapter for the district in which such land is located.
- (5) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(Ord. No. 202, art. 11, § 4, 11-6-2017)

Sec. 42-304. - Repairs and maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the cubic content of the building, as it existed at the time of passage or amendment of the ordinance from which this chapter is derived, shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

(Ord. No. 202, art. 11, § 5, 11-6-2017)

Sec. 42-305. - Change of tenancy or ownership.

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures, and premises provided there is no change in the nature or character of such nonconforming uses except in conformity with the provisions of this chapter.

(Ord. No. 202, art. 11, § 6, 11-6-2017)

Secs. 42-306—42-328. - Reserved.

ARTICLE IX. - ZONING BOARD OF APPEALS

Sec. 42-329. - Purpose and scope.

It is the purpose of this article to create a zoning board of appeals, to establish its responsibilities and to establish standards for its operation.

(Ord. No. 202, art. 12, § 1, 11-6-2017)

Sec. 42-330. - Creation of zoning board of appeals.

- (a) *Establishment.* There is hereby established a zoning board of appeals in accordance with the Michigan Zoning Enabling Act, Public Act No. 110 of 2006, as amended. The zoning board of appeals shall perform its duties and exercise its powers so that the health, safety and welfare of the public may be secured; and that substantial justice be done.
- (b) *Membership, term of office of the zoning board of appeals.*
 - (1) The zoning board of appeals shall consist of not less than three and not more than seven members who shall be appointed and shall serve in accordance with the Michigan Zoning Enabling Act, Public Act No. 110 of 2006, as amended. The village council may serve as the zoning board of appeals.
 - (2) The membership of the zoning board of appeals shall be as representative as possible. One member of the zoning board of appeals shall be a member of the village planning commission.
- (c) *Powers.* The zoning board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end, shall have all the powers of the office or body from whom the appeal was taken, and may issue or direct the issuance of a permit. The zoning board of appeals shall have the

power to make final determinations, within its jurisdiction and duties herein prescribed, in such a way that the objectives of this chapter may be equitably achieved in order for there to be uniform interpretation and flexibility in the enforcement of this chapter or to fulfill any other responsibilities bestowed upon the zoning board of appeals by this chapter.

(Ord. No. 202, art. 12, § 2, 11-6-2017)

Sec. 42-331. - Rules, limits on authority of the zoning board of appeals, and use variances.

- (a) The zoning board of appeals shall fix rules of procedure or bylaws to govern its procedures. The board shall choose its own chairman, and in his absence, an acting chairman, who may administer oaths and compel the attendance of witnesses.
- (b) The concurring vote of a majority of the members of the zoning board of appeals shall be necessary to reverse an order, requirement, decision or determination of the administrative official or body, or to decide in favor of the applicant any matter upon which they are required to pass or to effect any variation under this chapter.
- (c) The zoning board of appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms or intent of this chapter; these powers are reserved to the governing body.

(Ord. No. 202, art. 12, § 3, 11-6-2017)

Sec. 42-332. - Zoning appeals.

The zoning board of appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the zoning administrator or by any other official in administering or enforcing any provisions of this chapter. The procedure for appealing to the zoning board of appeals, or requesting a variance, ordinance interpretation or filing any other request is as follows:

- (1) The appeal shall be taken within such time as prescribed by the rules or bylaws of the zoning board of appeals.
- (2) A fee, prescribed by the village board, shall be submitted to the zoning administrator at the time of the filing of the application form.
- (3) The person, firm, agent, or attorney thereof making the appeal shall file by completing and signing the application form provided by the village.
- (4) All persons shall file a written statement signed by the principal stating the agent's right to act upon their behalf.
- (5)

A completed application form shall be submitted to the zoning administrator. The application shall state the reasons for the appeal and the order or ruling appealed from. When applicable, the legal description of the property involved shall be stated in the notice of appeal. Before the appeal is processed, the fees shall be collected. If the zoning administrator determines that the application does not fully comply with the submittal requirements, the application shall be returned to the applicant. If the application is approved, the zoning administrator shall forthwith transmit to the recording secretary for the zoning board of appeals the application and all papers constituting the record from which the appeal was taken.

- (6) An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the zoning board of appeals after the application of appeal shall have been filed, that by reason of facts stated in the appeal application, a stay would in his opinion cause imminent peril to life and property.
- (7) When a properly executed application form has been filed, the recording secretary, upon consultation with the chairman for the zoning board of appeals, shall schedule the matter for a public hearing.
- (8) Notice shall be provided per section 103 of Public Act No. 110 of 2006.
- (9) Once all the necessary information has been received, the zoning board of appeals shall return a decision on a case in a timely manner, or if timeframes are included within its rules of procedure, then within the time specified in the rules of procedure.
- (10) No zoning permit shall be issued by the zoning administrator based on a decision of the zoning board of appeals before eight days have expired.

(Ord. No. 202, art. 12, § 4, 11-6-2017)

Sec. 42-333. - Variances.

The zoning board of appeals shall have the power to authorize, upon appeal, a dimensional non-use variance from requirements of this chapter, provided the applicant has proven a "practical difficulty," by demonstrating as follows:

- (1) That strict compliance with this chapter would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such restrictions unnecessarily burdensome;
- (2) That the problem is due to a unique circumstance of the property;
- (3) That the specific conditions relating to the property are not so general or recurrent in nature, in the zoning district, so as to require an amendment to this chapter, instead of a variance;
- (4) That the property problem was not created by the action of the applicant;
- (5)

That the granting of the variance will not cause a substantial adverse effect upon property values in the immediate vicinity, or in the district in which the property of the applicant is located;

- (6) That the requested variance will relate only to the property under the control of the applicant;
- (7) That the nonconforming dimensions of other lands, structures, or buildings in the same zoning district shall not be considered grounds for the issuance of a variance;
- (8) That the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located;
- (9) That the proposed use of the premises is in accord with this chapter;
- (10) That the variance would do substantial justice to the applicant as well as to other property owners in the district;
- (11) That the granting of the variance will ensure that the spirit of this chapter is observed, public safety secured and substantial justice applied;
- (12) That the requested variance shall not amend the permitted uses of the zoning district in which it is located.

(Ord. No. 202, art. 12, § 5, 11-6-2017)

Sec. 42-334. - Rules for granting variances.

The following rules shall be applied in the granting of a variance:

- (1) The zoning board of appeals shall specify, in writing, such conditions regarding the character, location, and other features which will, in its judgment, secure the objectives and intent of this chapter, provided there is an applicable standard in this chapter to serve as the basis for such condition. The breach of such condition shall automatically invalidate the permit granted.
- (2) Each variance granted under the provisions of this chapter shall become null and void unless the construction authorized has been commenced within one year after the hearing date when the variance was granted.

(Ord. No. 202, art. 12, § 6, 11-6-2017)

Sec. 42-335. - Interpretation and other powers.

The zoning board of appeals shall have the power to:

- (1) Interpret, upon request, the provisions of this chapter in such a way as to carry out the intent and purpose of this chapter.
- (2) Determine the precise location of the boundary lines between zoning districts.
- (3)

Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. The classification of the unmentioned use does not automatically permit the use, it only identifies the district in which it may be located and the zoning regulations with which it must conform.

- (4) Determine the signage, landscaping, buffering, off-street parking and loading space requirements of any use not specifically mentioned in this chapter, by applying the most comparable provisions for other similar uses.
- (5) When making an interpretation, the zoning board of appeals shall carefully consider the definitions in section 42-9, the meaning of all the relevant sections in this chapter, past decisions of the zoning board of appeals on similar matters, research and any conclusions by the zoning administrator, consultant or attorney paid by the village, and shall make a decision on the narrowest grounds feasible so as not to upset the meaning and application of this chapter.

(Ord. No. 202, art. 12, § 7, 11-6-2017)

Sec. 42-336. - Determination of a lot of record.

The zoning board of appeals shall have the power to make "lot of record" determinations in accordance with the following procedure:

- (1) Upon application of any person claiming to be the owner of the legal or equitable title to a parcel of land which was the subject to a deed or land contract, not recorded in the office of the register of deeds on the effective date of the ordinance from which this chapter is derived, the zoning board of appeals is authorized to conduct a hearing to determine whether a variance should be granted to such owner entitling him to have the parcel treated as a "lot of record" as provided for in this chapter.
- (2) The board shall grant said variance when it finds by a preponderance of the evidence that the instrument purporting to transfer title to the parcel of said owner was executed prior to the effective date of the ordinance from which this chapter is derived. In making its determination, the board is authorized to consider all matters it deems relevant, including, but not limited to, the tax roll of the village, the relationship of the parties to the purported transfer, the degree of formality of the purported document of transfer, and the testimony of the applicant and his witnesses.
- (3) Such a determination shall have only the effect of equating such an owner with the owner of a lot of record and shall not relieve such owner from complying with the other requirements set forth in this chapter.

(Ord. No. 202, art. 12, § 8, 11-6-2017)

Sec. 42-337. - Nonconformity appeals.

Nonconforming buildings or structures may be structurally changed, altered, or enlarged upon appeal in cases of hardship or other extenuating circumstances, and when approval of said appeal will not have an adverse effect on surrounding property, and when consistent with the requirements of this chapter.

(Ord. No. 202, art. 12, § 9, 11-6-2017)

Sec. 42-338. - Findings of fact.

- (a) The zoning board of appeals shall grant no variance or make any determination on an appeal, ordinance interpretation or other issue requested of it unless the board records specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards imposed by the requirements of this chapter have been met.
- (b) Said findings of fact shall include, but not be limited to, the following information:
 - (1) How the application of this chapter creates unnecessary hardship or practical difficulty in the use of the petitioner's property.
 - (2) Identify the unique physical circumstances or conditions or exceptional topography that create practical difficulties.
 - (3) Specific findings (characteristics of the land) showing that because of physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of this chapter.
 - (4) That the authorization of a variance is, therefore, necessary to enable the reasonable use of the property and that the condition is specific to this property and not general to other properties in the area.
 - (5) Finding that the practical difficulty was not created by the appellant and is related only to property that is owned or occupied by the appellant.
 - (6) A statement of the impacts of the variance if authorized, the property values, use and enjoyment of the property in the neighborhood or district, and on the public, health, safety and welfare.
 - (7) The proposed variance does not permit the establishment of any use which is not permitted by right within the district or any use or dimensional variance for which a special use permit is necessary.
 - (8) Findings on whether the proposed development complies with the requirements, standards or procedures given in this chapter or an interpretation of the disputed chapter provisions, if applicable.
 - (9)

Findings on any error in judgment or procedure in the administration of the relevant zoning provisions.

(10) The possible precedents or affects which might result from the approval or denial or the appeal.

(11) Findings on the impact if the appeal is approved, on the ability of the village or other governmental agency to provide adequate public services and facilities and/or programs that might reasonably be required in the future if the appeal is approved.

(Ord. No. 202, art. 12, § 10, 11-6-2017)

Sec. 42-339. - Burden of proof in appeals and variances.

When an appeal is taken to the zoning board of appeals, the applicant shall have the burden of presenting to the board sufficient evidence and argument to justify the requested order or decision.

(Ord. No. 202, art. 12, § 11, 11-6-2017)

Sec. 42-340. - Reapplications and rehearings.

(a) Any request for reapplication or rehearing may be submitted to the zoning board of appeals. If the zoning board of appeals votes to consider a reapplication or to grant a rehearing, the board shall then, at the same hearing, proceed with the appeal, variance or interpretation without charging the applicant a second fee.

(b) A request for rehearing shall be made within eight days from the meeting at which the original decision was made.

(Ord. No. 202, art. 12, § 12, 11-6-2017)

Sec. 42-341. - Bond authorized.

In authorizing any variance, the zoning board of appeals may require that a bond or other performance guarantee be furnished to ensure compliance with the requirements, specifications and conditions imposed with the granting of a variance.

(Ord. No. 202, art. 12, § 13, 11-6-2017)

Secs. 42-342—42-370. - Reserved.

ARTICLE X. - ADMINISTRATION AND ENFORCEMENT

Sec. 42-371. - Enforcement.

The provisions of this chapter shall be administered and enforced by the zoning administrator or by such deputies of this department as the zoning administrator may delegate to enforce the provisions of this chapter.

(Ord. No. 202, art. 13, § 1, 11-6-2017)

Sec. 42-372. - Duties of zoning administrator.

- (a) The zoning administrator shall have the power to grant zoning compliance and occupancy permits, and to make inspections of buildings or premises necessary to carry out their duties in the enforcement of this chapter. It shall be unlawful for the zoning administrator to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this chapter.
- (b) The zoning administrator shall record all nonconforming uses existing at the effective date of the ordinance from which this chapter is derived for the purpose of carrying out the provisions of article IX of this chapter.
- (c) The zoning administrator shall not refuse to issue a permit whenever all conditions and requirements imposed by this chapter are complied with.
- (d) The zoning administrator shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

(Ord. No. 202, art. 13, § 2, 11-6-2017)

Sec. 42-373. - Plot plan.

The zoning administrator shall require that all applications for land use permits shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:

- (1) The actual shape, location, and dimensions of the lot.
- (2) The shape, size, and location of all buildings, accessory buildings and structures, driveways and curb cuts, or other improvements to be erected, altered or moved, and of any building or other structures already on the lot.
- (3) The location and type of vegetation to be removed or planted.
- (4) Areas that will be graded or subject to the removal of soil noting the existing and proposed elevations.
- (5) The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
- (6)

Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.

(Ord. No. 202, art. 13, § 3, 11-6-2017)

Sec. 42-374. - Permits.

The following shall apply in the issuance of any permit:

- (1) *Permits not to be issued.* No land use permit shall be issued for the erection, alteration, or use of any building or structure, or part thereof, or for the use of any land which is not in accordance with all provisions of this chapter.
- (2) *Permits for new use or alterations of land.* No land heretofore vacant or undisturbed shall hereafter be used, or an existing use of land be hereafter changed to a use of a different class or type, or physically altered, unless a land use permit is first obtained.
- (3) *Permits for new use of buildings.* No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a land use permit is first obtained for the new or different use.
- (4) *Permits required for the erection, alteration or repair of buildings.* No building or structure, or part thereof, shall be hereafter erected, altered, moved, or repaired unless a land use permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the state construction building code, Housing Law, or this chapter, except for minor repairs or changes not involving any of the aforesaid features.
- (5) *Permits for wrecking buildings.* Before a building or structure can be wrecked, the owner, wrecking company, or person who secures the permit shall notify all utilities having service connections within the building, such as water, electric, gas, sewer, and other connections. A permit to wreck a building shall not be issued unless a release is obtained from the utilities stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed and/or sealed and plugged in a safe manner; nor shall a wrecking permit be issued until a report has been received from the public utility companies concerned, that said wrecking operations may be accomplished in such a manner as not to create a hazardous condition as a result of the proximity of such public utility installations.
 - a. Before a permit is issued for the wrecking of any building, such application for permit shall be referred to the zoning administrator for examination of the premises to determine whether or not rodent and/or insect extermination procedures are necessary.
 - b.

The wrecking company, or person who secures the permit for the razing of the structure, will be held responsible for the compliance with these regulations and other laws and ordinances covering this subject. He will also be held responsible and liable for the acts of subcontractors or other persons who do any work of removal or destruction in the wrecking of the building. The methods to be used in wrecking shall not involve undue hazards to the public or unnecessary danger to the workmen and shall be in accordance with good practice. Crane, back hoe, bulldozer, high loader, ball, clam-bucket, chain, cable, and other similar mechanical devices shall not be used to wreck buildings or structures except in individual cases wherein detailed plans and proposed procedures are submitted with the application for wrecking permit and are approved by the building official. Suitable provision shall be made for the disposal of materials which are accumulated during the wrecking operations. No part of the structure shall be overloaded by excessive storage of materials or debris. Chutes, scaffolds, derricks, and hoists shall be strong and substantial, and safe for the purpose for which they are intended. Materials which, in their removal, would cause an excessive amount of dust, shall be well wet down to prevent the creation of a nuisance. No open fires or other sources of flame except necessary cutting torches will be permitted on the inside of the building which is being wrecked, not in close proximity to flammable materials outside of the building, and every precaution shall be taken to prevent the possibility of fire.

- c. Blasting and use of explosives shall be done only by a person licensed by the state and approved by the fire marshal and zoning administrator to perform such work and notification shall be given to the village and surrounding property owners within 300 feet of the site and within five calendar days of the work.
 - d. The requirements of this section are designated as the minimum necessary for average conditions and, in the case of unusual or dangerous situations, adequate provision shall be made and every precaution taken to protect the safety of the public and workmen. All abandoned basements or cellars and holes shall be filled to grade, and all excess materials, rubbish, and debris shall not be permitted to remain on the premises above grade. The fire department shall be notified before removing standpipes, sprinklers, or fire protection water supplies.
- (6) *Expiration of land use permit.* If the work described in any land use permit has not begun within 12 months from the date of issuance thereof, said permit shall expire; it shall be canceled by the zoning administrator, and written notice thereof shall be given to the persons affected. If the work described in any land use permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be canceled by the zoning administrator, and written notice thereof shall be given to the persons affected, together with notice that further work, as described in the canceled permit, shall not proceed unless, and until, a new land use permit has been obtained.
- (7) *Timing of permits.*
- a.

The zoning administrator or appropriate governing body has the power to require a permit to be obtained on a promptly basis.

- b. The zoning administrator or appropriate governing body may require construction to commence within a specified date from the date of issuance of the permit, that the construction be pursued in a diligent manner, and that the construction be completed by a specified date.
- c. Any time periods specified in this chapter for the start and completion of a project may be modified by the applicable body as a condition of project approval.

(Ord. No. 202, art. 13, § 4, 11-6-2017)

Sec. 42-375. - Certificates.

- (a) No land, building, or part thereof, shall be occupied by, or for any use, unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate:
 - (1) *Certificates not to be issued.* No certificate of land use compliance shall be issued for any building, structure or part thereof, or for the use of any land which is not in accordance with all the provisions of this chapter or for which a variance has been granted.
 - (2) *Certificates required.* No building or structure, or parts thereof, which is hereafter erected, or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of land use compliance shall have been issued for such building or structure.
 - (3) *Record of certificates.* A record of all certificates issued shall be kept on file in the office of the zoning administrator, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.
 - (4) *Application for certificates.* Application for certificate of land use permit compliance shall be made, in writing, to the zoning administrator on forms furnished by that department, and such certificates shall be issued within five days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this chapter. If such certificate is refused for cause, the applicant therefor shall be notified of such refusal and cause thereof, within the aforesaid five-day period.
- (b) A certificate of land use permit compliance for any improvement will not be issued nor shall the property be used or occupied in any way until the required physical site improvements are fulfilled. In instances where all improvements as required by this chapter are not completed and a temporary certificate of occupancy is requested, the cost of such remaining improvements shall be estimated by the zoning administrator, taking into account the criteria listed above. The zoning administrator may grant temporary occupancy if use of the premises does not constitute a hazard or nuisance. Temporary occupancy will not be granted until satisfactory cash bond or

irrevocable letter of credit in the amount of the estimated cost of completion is filed with the village planning commission. If the work is not completed by the date specified on the temporary occupancy permit, the commission may use the cash, surety bond or irrevocable letter of credit to complete the improvements.

(Ord. No. 202, art. 13, § 5, 11-6-2017)

Sec. 42-376. - Fees.

Fees for inspection and the issuance of permits or certificates of copies thereof, required or issued under the provisions of this chapter, may be collected by the zoning administrator in advance of issuance. The amount of such fees shall be established by resolution of the village board and shall cover the cost of inspection and supervision resulting from enforcement of this chapter.

(Ord. No. 202, art. 13, § 6, 11-6-2017)

Sec. 42-377. - Requests for information and complaints.

Any request for information and/or complaint regarding an interpretation of a zoning provision, administrative or enforcement of any provisions shall be submitted to the village in writing for review and action. Only written communication will be considered.

(Ord. No. 202, art. 13, § 7, 11-6-2017)

Sec. 42-378. - Violations and penalties.

- (a) *Nuisance per se.* Any land, dwellings, buildings or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this chapter or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this chapter are hereby declared to be a nuisance per se.
- (b) *Inspection.* The zoning administrator shall have the duty to investigate each alleged violation and shall have the right to inspect any property for which a zoning permit has been issued to ensure compliance with the plans and conditions of the zoning permit or approved site plan.
- (c) *Penalties.*
 - (1) Any person, partnership, limited liability company, corporation, or association who creates or maintains a nuisance per se or who violates or fails to comply with this chapter or any permit issued pursuant to this chapter shall be responsible for a municipal civil infraction as defined in Public Act No. 12 of 1994, amending Public Act No. 236 of 1961, being MCL 600.101—600.9939, and shall be subject to a fine of not more than \$500.00. Every day that such

violation continues shall constitute a separate and distinct offense under the provisions of this chapter. Nothing in this section shall exempt the offender from compliance with provisions of this chapter.

- (2) The village zoning administrator is hereby designated as the authorized village official to issue municipal civil infraction citations directing alleged violators of this chapter to appear in court.
- (3) In addition to enforcing this chapter, as a municipal civil infraction, the village may initiate proceedings in the circuit court to abate or eliminate the nuisance per se or any other violation of this chapter.

(Ord. No. 202, art. 13, § 8, 11-6-2017)

Sec. 42-379. - Rights and remedies are cumulative.

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(Ord. No. 202, art. 13, § 9, 11-6-2017)

Sec. 42-380. - Performance guarantee.

- (a) Where in this chapter there is delegated to the zoning board of appeals and the planning commission the function of establishing certain physical site improvements as a contingency to securing a zoning amendment, site plan approval, special approval or variance, the zoning board of appeals or planning commission shall, to ensure strict compliance with any regulation contained herein or required as a condition of the issuance of a permit, require a cash, performance or surety bond executed by a reputable surety company authorized to do business in the state, or irrevocable letter of credit, in an amount determined by the zoning board of appeals or the planning commission to be reasonably necessary to ensure compliance hereunder; provided, however, that in fixing the amount of such cash, performance, surety bond or irrevocable letter of credit, consideration shall be given to the size and scope of the proposed improvement project, current prevailing cost of rehabilitating the premises upon default of the operator, estimated expenses to compel the operator to comply by court decree, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.
- (b) The performance guarantee shall be deposited with the planning commission at the time of the issuance of the permit authorizing the activity or project.
- (c) The planning commission shall establish procedures whereby a rebate of cash deposits, in reasonable proportion to the ratio of work completed on the required improvements, will be made as work progresses.
- (d)

As used in this section, the term "improvements" means those features and actions associated with a project which are considered necessary by the body or official granting approval to protect natural resources or the health, safety and welfare of the residents of the village and future users or inhabitants of the proposed project or project area, including, but not limited to, roadways, paving, walls, curbing, striping, lighting utilities, sidewalks, screening landscaping and drainage.

- (e) Objection to a performance guarantee requirement must be in writing and filed with the planning commission within 30 days of notice of the requirement. The determination of the commission shall be final.

(Ord. No. 202, art. 13, § 10, 11-6-2017)

Secs. 42-381—42-403. - Reserved.

ARTICLE XI. - CHANGES AND AMENDMENTS

Sec. 42-404. - Purpose.

The village may, from time to time, on recommendation from the planning commission, its own initiative or on petition, amend, supplement or change the district boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Public Act No. 110 of 2006, as amended.

(Ord. No. 202, art. 14, § 1, 11-6-2017)

Sec. 42-405. - Petition for amendments.

- (a) An amendment to this chapter is subject to a protest petition. If a protest petition is filed, approval of the amendment to this chapter shall require a two-thirds vote of the planning commission, unless a larger vote, but not to exceed three-quarters vote, is required by ordinance or Charter. The protest petition shall be presented to the planning commission before final legislative action on the amendment, and shall be signed by one or more of the following:
 - (1) The owners of at least 20 percent of the area of land included in the proposed change.
 - (2) The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.
- (b) For the purposes of this section, publicly owned land shall be excluded in calculating the 20 percent land area requirement.

(Ord. No. 202, art. 14, § 2, 11-6-2017)

Sec. 42-406. - Conditional rezoning.

It is recognized that there are certain instances where it would be in the best interests of the municipality, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for rezoning. It is the intent of this section to follow the provisions of section 405, Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

(Ord. No. 202, art. 14, § 3, 11-6-2017)

Secs. 42-407—42-425. - Reserved.

ARTICLE XII. - PUBLIC HEARINGS AND NOTIFICATION PROCEDURES

Sec. 42-426. - Public notice.

All applicants for development approval requiring a public hearing, regardless of whether or not action to be taken is by the planning commission or zoning board of appeals, shall comply with the Michigan Zoning Enabling Act, Public Act No. 110 of 2006, section 103, MCL 125.3103, with regard to public notification.

(Ord. No. 202, art. 15, § 1, 11-6-2017)

Secs. 42-427—42-450. - Reserved.

ARTICLE XIII. - INTERPRETATION AND CONFLICT

Sec. 42-451. - Interpretation.

In the interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. It is not intended by this chapter to repeal, abrogate, annul, or in any way impair or interfere with any existing provision of law or ordinance other than the above-described zoning ordinance, or with any rules, regulations, or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this chapter imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this chapter shall control.

(Ord. No. 202, art. 16, § 1, 11-6-2017)

Sec. 42-452. - Vested right.

Nothing in this chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein, and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

(Ord. No. 202, art. 16, § 2, 11-6-2017)

VILLAGE OF DECATUR
DECATUR TOWNSHIP
HAMILTON TOWNSHIP

Joint Comprehensive Plan

2017



Hamilton Township



Village of Decatur



Decatur Township

Adopted:

Decatur Village – May 1, 2017

Decatur Township – May 11, 2017

Hamilton Township – May 9, 2017

This plan was developed by a joint planning committee with representatives from Decatur Village, Decatur Township and Hamilton Township. The Southwest Michigan Planning Commission assisted the committee.

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Introduction

Overview

The Decatur-Hamilton Area Master Plan is a joint effort by the Village of Decatur, Decatur Township, and Hamilton Township to guide the future growth and development of the area for the benefit of all three communities. The basis for the development of this Master Plan is the desire on the part of the residents, appointed Board and Commission members, and elected officials to ensure that the Decatur-Hamilton area retains the features and characteristics which they treasure and continues to prosper well into the future. The strong agricultural heritage of both townships, the center of commerce found in the Village, and the high quality of life found throughout the entire area are but a few of the attributes which exemplify that which all three communities desire for the future.

The Master Plan is designed to identify and clarify the goals of the communities, develop strategies for land use, and define a clear and concise implementation plan to help each community achieve success. The process that is employed in this undertaking is to gather and analyze pertinent information that yields a “snapshot” of existing conditions as they exist within the community today.

This snapshot includes information relative to natural features, socio-economic characteristics, and land use.

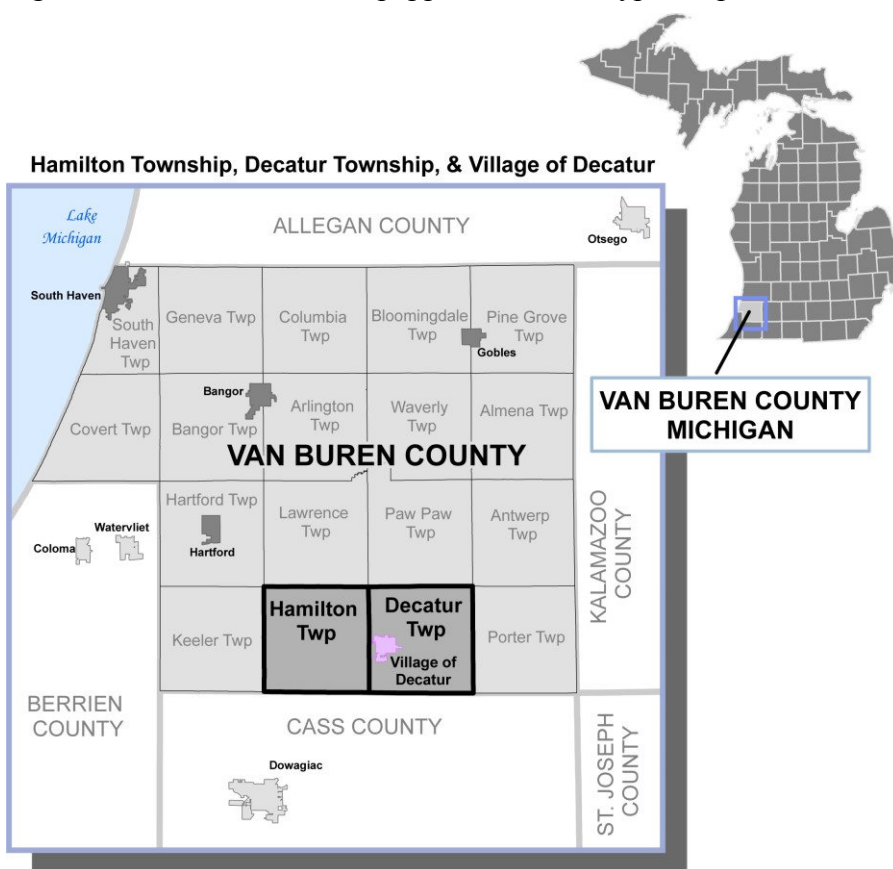
Identification of existing conditions is followed by clarifying the visions and goals of the local communities. This is achieved through the use of community surveys, visioning sessions, and discussions with a wide cross-section of community members. From this step a series of goals are developed that are then combined with the existing conditions to shape alternative responses or strategies for the future growth and development of the community. These alternatives help to clarify how the community will strive to achieve its goals in the areas of residential, commercial, and industrial development, community facilities services, parks and recreation, transportation, natural features, farmland, open space and housing development. The process concludes with an in-depth identification of the methods that may be employed to implement the identified development alternative. Implementation methods may include education and outreach efforts, public policy and

regulatory actions, public facility improvements, and economic development efforts. It is through the successful implementation of the development alternatives that the visions and goals identified by the communities can be achieved over time.

Regional Context

The Decatur-Hamilton area, which for the purposes of this plan is defined to include the Village of Decatur, Hamilton Township, and Decatur Township, is located in the extreme southern portion of Van Buren County, in the southwestern section of Michigan's Lower Peninsula. The area is located approximately forty miles from Kalamazoo, South Bend, Indiana, and Benton Harbor. Due to the distances from each of these communities, none have historically exerted significant development pressures on the Decatur-Hamilton area, though increasingly they provide opportunities for area residents to seek employment, shopping opportunities, and entertainment opportunities.

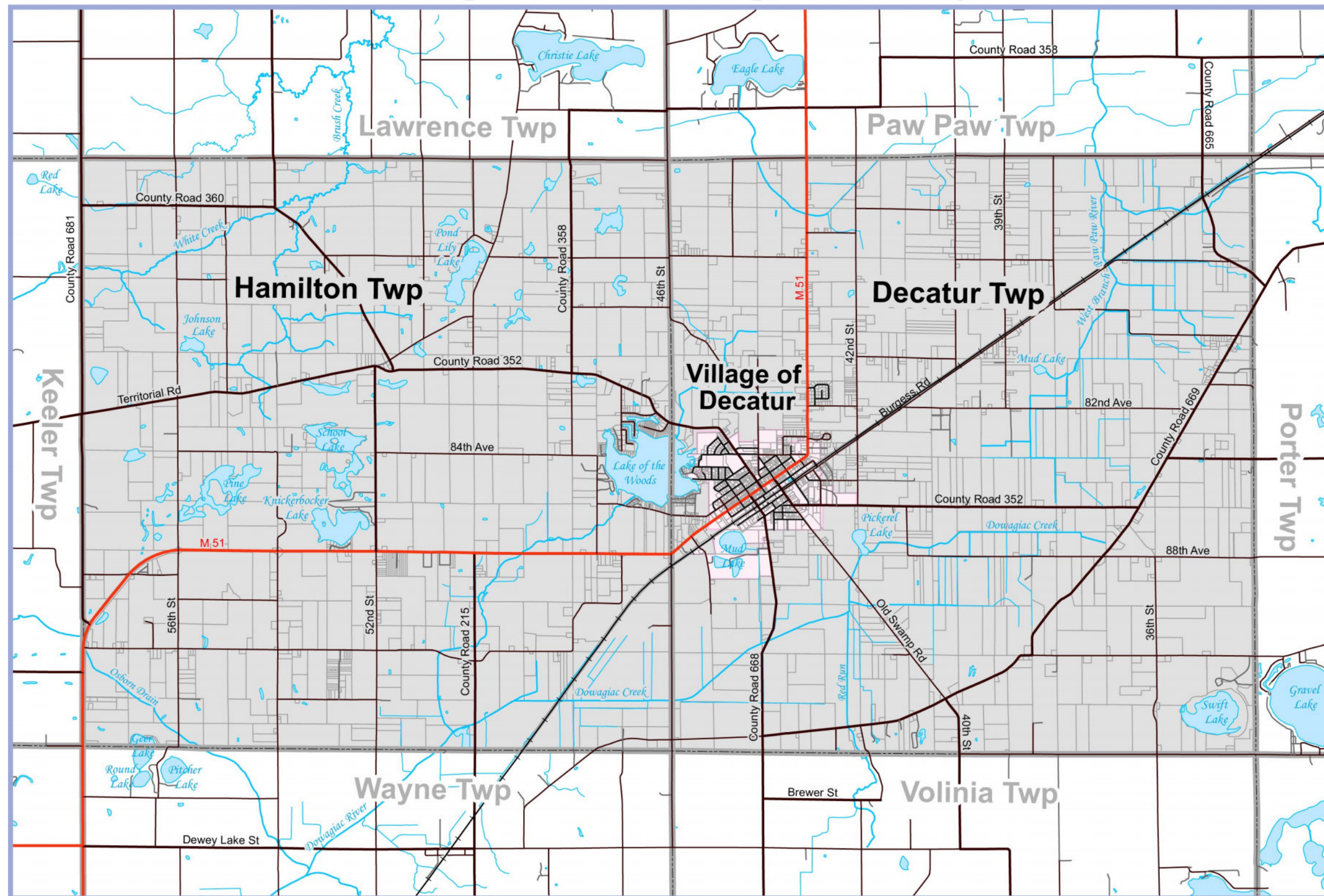
The area lies in what is referred to as Michigan's "Fruit Belt". The farms in the Decatur-Hamilton area tend to focus on crops including strawberries, cucumbers, peppers and other types of produce. Historically, it is the agricultural activities that have had the greatest influence on the character and development pattern of the Decatur-Hamilton area. Historic and contemporary agricultural activities contributed significantly to the development of the Village of Decatur as a commercial center and to the rural character of both Decatur and Hamilton townships.



Southwest Michigan Planning Commission

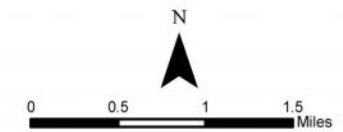
The Decatur-Hamilton area lies within the Southwest Michigan Planning Commission (SWMPC) jurisdictional area. The SWMPC is one of fourteen planning and development regions in the State of Michigan, servicing local communities and private entities within Berrien, Cass, and Van Buren Counties through the provision of technical services, staff support, and information for a variety of Federal, state, and local programs. Economic development planning, grant writing, master planning, and zoning ordinance development are some examples of the range of services provided by SWMPC. For more information about SWMPC visit www.swmpc.org.

Hamilton Township, Decatur Township, & the Village of Decatur



Legend

- Township
- Parcel



Data Sources

Base Map: Michigan Center for Geographic Information
Parcel: Van Buren County

Prepared April 2009

Southwest Michigan Planning Commission

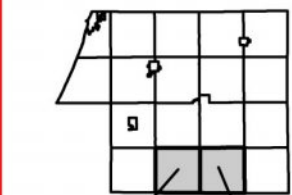
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Van Buren County



Hamilton Township

Decatur Township



Van Buren County

The Van Buren County Planning Commission was established in 1968 under Public Act 282 of 1946, as amended. The Planning Commission is authorized under the Act to develop a County Plan to assist in guiding and accomplishing coordinated, adjusted, and harmonious development of the County. The Van Buren County Planning Commission is responsible for reviewing all zoning ordinance amendments, new and revised master plans, and P.A. 116 agreements in all townships in the County. The Decatur-Hamilton Joint Master Plan will be reviewed by the Van Buren County Planning Commission for consistency with the Van Buren County Comprehensive Plan. The 2006 plan seeks to accomplish this charge by providing a process to help local governments in the County develop specific land use objectives compatible with surrounding areas. The County utilizes the Guiding Principles adopted by the Michigan Society of Planning (MSP). The MSP Community Planning Principles have also been adopted by both the Decatur and Hamilton Township Planning Commissions are included in the Appendix of this plan. The county plan is meant to serve as a guide that facilitates land use decisions in Van Buren County. The plan provides the following guiding statements:

Value Statement

- Protect rural character
- Promote sustainable development
- Save unique natural features
- Maintain agricultural heritage
- Demonstrate respect for local control
- Ensure future quality of life

Vision Statement

Van Buren County will have development that meets the needs of the present without compromising resources necessary for future generations.

Mission Statement

The Mission of the Van Buren County Planning Commission is to facilitate a consistent and sustainable land use pattern in the County.

Primarily, the Van Buren County Planning Commission views its role as serving as an advocate for

Another county plan that is of importance is the Hazard Mitigation Plan developed by the Emergency Preparedness Office of the Sherriff. This plan addresses natural and man-made hazards threatening the county. This county plan must be updated every 5 years and approved by each local unit of government.

Decatur and Hamilton Townships were both formally organized as townships in 1837. Settlers first arrived in Decatur Township in 1829 and in Hamilton Township in 1833, following occupation by

[illegible]

Brush Creek. His mill supplied the lumber to build railroads and many houses and barns. The first cargo of walnut lumber ever shipped around the Cape Horn to California was a product of Hamilton forests and Mr. Nesbitt's mill. In 1837, Henry Coleman built a hotel and general store east of the intersection of Territorial Road and what is now County Road 215. He also established a post office. This hotel, later known as Brown's Tavern was a main stop on the stage run to St. Joseph. The completion of the Michigan Central Railroad caused the demise of the stage lines. Henry Fritz

bought the property in 1890 and built a new store. His store became the telephone and post office. The area was renamed Fritzburg, the store is long gone, but the name still remains on some maps.

The first school known as the Red School House located near Brown's Tavern was opened with 20 students in 1837. This later became known as the Barber School. Other schools including the Nesbitt School and the Corwin School followed. In 1856, Mr. Nesbitt built a flourmill near his sawmill. This mill was later sold to John Wassman and continued in operation until it burned down in 1914.

The Hamilton Grange was started at a meeting in the Red School in 1874. The members built a hall in 1875. This Grange Hall became the social center of the area and was where the township meetings were held until the new township hall was built. The first meeting in the new Hamilton Township Hall was in November of 1999. The grounds around the Grange Hall were the site of the Hamilton (Donnybrook) Fair. The Fair had up to 5000 visitors each season and was active until the County Fair was established in Hartford in 1913.

In 1847, land speculators from New York City acquired a government land grant of 5,000 acres and the town of Decatur was laid out in anticipation of the arrival of the railroad. The Michigan Central Railroad arrived in the area in 1848 and the Village was formally platted in 1849, with incorporation following on October 11, 1859.

By 1880, the population of the Village of Decatur had approached 2,000 persons. In its earliest years, the Decatur-Hamilton area was noted for its wood products which included wood staves and barrels. These industries benefited from the abundant forests that covered a great deal of the Decatur-Hamilton area. Near the latter part of the nineteenth century, most of the forests had been cut and the businesses that depended on them began to close and move away. With the cleared land and the rich soil that covered much of the area, farmers began to clear the remaining trees and drain the wetlands in the area.

By the turn of the century, the Decatur-Hamilton area was a leader in agricultural production. Large

crops of peppermint, celery, grapes, potatoes, and onions were grown throughout the area. The area had become so prosperous and well known that Decatur actively competed with Kalamazoo in trying to lure the Western Michigan Normal School, which would later become Western Michigan University, to the banks of Lake of the Woods. By 1927, more than 11,000 acres of land in the Decatur-Hamilton area were dedicated to the raising of peppermint and grapes, with an additional 5,000 dedicated to raising celery.

This prosperity continued throughout much of the twentieth century. During the 1950 decade, new businesses including a modern grocery store and an automobile dealership were opening businesses in the Village of Decatur. Though agriculture remains a vital component of the local economy, the decades of the 1970's, 1980's, and 1990's saw farmers struggle with maintaining an active livelihood in farming. At the same time, the area began to see an increase in the number of new homes, with residents attracted to the rural character of the area and its close proximity to surrounding metropolitan areas.

Increasingly, residents of the Decatur-Hamilton area have pursued their occupations outside of the area. At the same time, the Village business district has experienced a decline in economic activity as people who work outside of the area began to also shop outside of the area. However, due to its strategic location near the metropolitan areas of Kalamazoo, South Bend, and South Haven, its high quality of life, and its strong agricultural base, the Village of Decatur, Decatur Township, and Hamilton Township continue to experience prosperity and a promising future.

Strategic Issues

An evaluation of the Decatur-Hamilton area in terms of its regional location, historic development pattern, economic situation, and natural features begins to reveal several key strategic issues that begin to frame the identification of goals and objectives, the Master Plan, and the Future Land Use Plan. These issues are presented in the following and will be discussed further throughout this plan:

Land Use Issues

Protection of Farmland and Open Space

A significant portion of the Decatur-Hamilton area is comprised of agricultural lands and open space. Agricultural activities continue to account for millions of dollars in local economic activity. Hundreds of residents continue to depend upon agricultural activities for at least a portion of their income. Several large sections of the Decatur-Hamilton area contain soils that are considered prime agricultural land by the Natural Resource Conservation Service, and thus represent a significant resource for the local and regional economies.

Preservation of Rural Character

As mentioned previously, a significant portion of both Decatur Township and Hamilton Township remains in open lands or is actively farmed. The physical character associated with this historical pattern (open land, very low density residential development, presence of agricultural activities, etc.) constitutes a powerful visual image of the Decatur-Hamilton area.

Reinforcement of the Village of Decatur as the Economic Center of the Area

Historically, the Village of Decatur has functioned as the economic center of the Decatur-Hamilton area, which is the location where the majority of economic transactions occurred. The Village remains a classic example of traditional neighborhood development, where homes, businesses, and public institutions are located in close proximity to one another and surrounded by large areas of open space. In recent decades however, Decatur's role as the economic center has begun to diminish, with residents of the Decatur-Hamilton area traveling outside of the area for shopping and employment.

Preservation of Historic Sites and Features Significant to the Heritage of the Decatur-Hamilton Area

The Decatur-Hamilton area has a long history of human settlement. Numerous artifacts remain of this history and heritage, ranging from vernacular farmhouses to mill sites. In addition, an artifact museum is housed in the Decatur Township hall. In many ways, these artifacts represent the last links to the past development and land use practices associated with the Decatur-Hamilton area.

Economic Issues

Increase in Shopping Opportunities

As mentioned previously, the Village of Decatur historically serves as the center for commerce activities for the surrounding area. However as consumer preferences change and mobility increases, the need for additional shopping opportunities has become evident. Currently many of these shopping needs are being met outside of the area in locations such as Paw Paw and Kalamazoo. There is a desire for Decatur to continue offering small local business shopping opportunities in the downtown.

Increase in Employment Opportunities

Historically, farming represented the primary occupation of residents in the Decatur-Hamilton area. As the economy shifted toward manufacturing and service occupations, the residents in the area followed jobs to locations generally outside of the Decatur-Hamilton area, to locations such as Kalamazoo or South Bend, Indiana. Decatur wants to continue to support and expand family farming and manufacturing employment opportunities.

Natural Features

Protection and Enhancement of Water Quality (wetlands, lakes, streams, groundwater) The Decatur-Hamilton area's unique position at the upper reaches of the Dowagiac and Paw Paw River watersheds and its continued reliance on groundwater as a drinking water supply, require that greater attention be given to the protection and enhancement of water quality and to those activities or items that contribute positively or negatively to it. Lakes and streams play an integral role in the Decatur-Hamilton area. Several lakes and the Dowagiac River, Brush Creek and The West Branch of the Paw Paw River are surrounded by valuable housing and provide recreational opportunities for residents and visitors alike. It will be important to encourage landowners to develop/maintain natural shorelines along these lakes to ensure water and habitat quality are optimal. There is increasing concern that sanitary sewer is needed around Lake of the Woods to protect the water quality of the lake. The lakes, streams, and wetlands also provide valuable wildlife and aquatic plant habitats. Furthermore, each contributes significantly to flood control, improving water quality, and to the area's sense of place or character. Attention should

be given to the continued protection and enhancement of these valuable features.

Protection of Open Space

Large areas of both Decatur and Hamilton Township are currently open space. Much of this land is active agricultural land, though stands of trees, lakes, and wetlands are also found. These open spaces are vulnerable to impacts from development or changes in land use. Attention should be given to the protection of significant areas of open space, particularly relative to the agricultural landscape and to those areas that contribute to the rural character of the townships.

Community Facilities and Utilities

Expansion of Public Drinking Water Supply and Wastewater Treatment

Historically, the Decatur-Hamilton area has relied on ground water for its drinking water supply, typically in the form of individual on-site wells. Likewise, residents in the area (outside of the Village) typically rely upon on-site treatment (septic tanks and drain fields) for wastewater disposal. This remains the case for the vast majority of the area, with only the Village of Decatur utilizing a public water supply and distribution system as well as a community wastewater collection and treatment system. As the population continues to grow, densities intensify, it may compromise the groundwater for safe drinking. There may become a need to consider the expansion of public systems for drinking water supply and wastewater treatment. The need for expanding sanitary sewer to properties around Lake of the Woods may be needed to protect the water quality of the lake and for public safety. In the meantime, residents should be encouraged to maintain and pump out septic systems regularly. The Village has a wellhead protection program to protect drinking water supplies. The Village and Townships may consider a joint public safety department to provide services more effectively and efficiently.

Provision of Adequate Recreational Facilities

Increasingly, communities are recognizing the value of sufficient recreational facilities. Recreational opportunities in the Decatur-Hamilton area are limited and typically are found within the Village. Additional recreational facilities are beginning to be developed in the townships and are designed to

complement the offerings found in the Village and include larger scale recreational facilities such as hiking and snowmobile trails. The major issue is maintaining and upgrading current facilities. The Village has a current Recreation Plan that guides the provision of recreation facilities in the Village.

Summary:

- The Decatur-Hamilton area is located in a region of southwestern Michigan with a strong heritage of agricultural activities.
- Previous regional planning activities have occurred in specific areas and help to facilitate an understanding of the issues surrounding growth management, protection of natural features, and intergovernmental cooperation.
- As land use patterns have changed over time, issues such as farmland preservation, protection of rural character, increasing economic opportunities, and strengthening the Village's position in the area, have increasingly grown in importance.

Survey and Analysis

Overview

Identifying and analyzing existing resources, facilities, and services is an integral part of gaining knowledge about the existing conditions of a community. It is this base of knowledge that combined with historical development patterns, current and projected trends, and a community's wishes and aspirations that will facilitate the development of alternative development patterns. The following seeks to provide this information base in as comprehensive a manner as possible while retaining a relevancy to the effort being undertaken.



Land Features

The natural features such as views of active farms and undeveloped open space that are present in and around the Village of Decatur, Decatur Township, and Hamilton Township have for centuries influenced greatly the type and location of development in the area. Natural features remain a significant determinant of the location, quantity, and more often, quality of future development.

Geology¹ and Topography²

The Decatur-Hamilton area is located in Van Buren County in the southwestern portion of Michigan. The landscape of Van Buren County was formed by action of the Lake Michigan Lobe of the Wisconsin glacial ice sheet. This glacial action resulted in five dominant landscape features found in the County; moraines, till plains, outwash plains, lake plains, and drainage ways including areas where muck and silt were deposited by ponded water on till plains. Some areas of the moraines have, over time been modified by windblown sand and ponded water. Three major moraines (ridges) traverse the county in a generally northeast-southwest line. The Kalamazoo morainic system is in the southeastern corner of the County and passes through Decatur Township.

¹ Soil Survey of Van Buren County, USDA

² United States Geologic Survey Topographical Quadrangle Maps, Van Buren County

Topography in Van Buren County ranges from knobby ridges and basin like depressions in the terminal moraine areas to gentle slopes and flat bottom land on the outwash and river flood plains. The hills of the Kalamazoo moraine rise 160 to 190 feet above the till plain. The internal relief on the moraine is 50 to 75 feet. The basins are 25 feet or more below the outwash level. The hills of the Valparaiso moraine rise as much as 150 feet above the surrounding areas. Relief however, on this moraine, varies considerably across the County. Within Decatur Township and Hamilton Township, there is very little change in topography with the exception of that area south of Valley Road. In this area, it is an example of a terminal moraine rising dramatically above the flat bottom land. The area on top of this ridge is extremely important for groundwater recharge in the area below.

Soils³

The General Soil Classification for the area that includes the Village of Decatur, Decatur Township, and Hamilton Township is primarily the Coloma-Spinks-Oshtemo association. Also present are the Adrian-Edwards-Houghton association, the Gilford association, and the Oshtemo-Kalamazoo association.

The Coloma-Spinks-Oshtemo association represents soils that are nearly level to hilly, somewhat excessively drained and well drained, sandy and loamy soils on outwash plains and moraines. The soils in this association range from well suited to generally unsuited for building site development and septic tank absorption fields, with the nearly level and undulating soils well suited and the slope of the gently rolling to hilly soils and sandy soils being a concern.

The Adrian-Edwards-Houghton association represents soils that are nearly level, very poorly drained, mucky soils in old glacial lakebeds, on flood plains, and in drainageways. The soils in this association are generally unsuited to building site development and septic tank absorption fields, with water ponding and general wetness being the major concerns. The soils in this association, if

³ Soil Survey of Van Buren County, USDA

drained are well suited for cropland and fairly well suited for woodland.

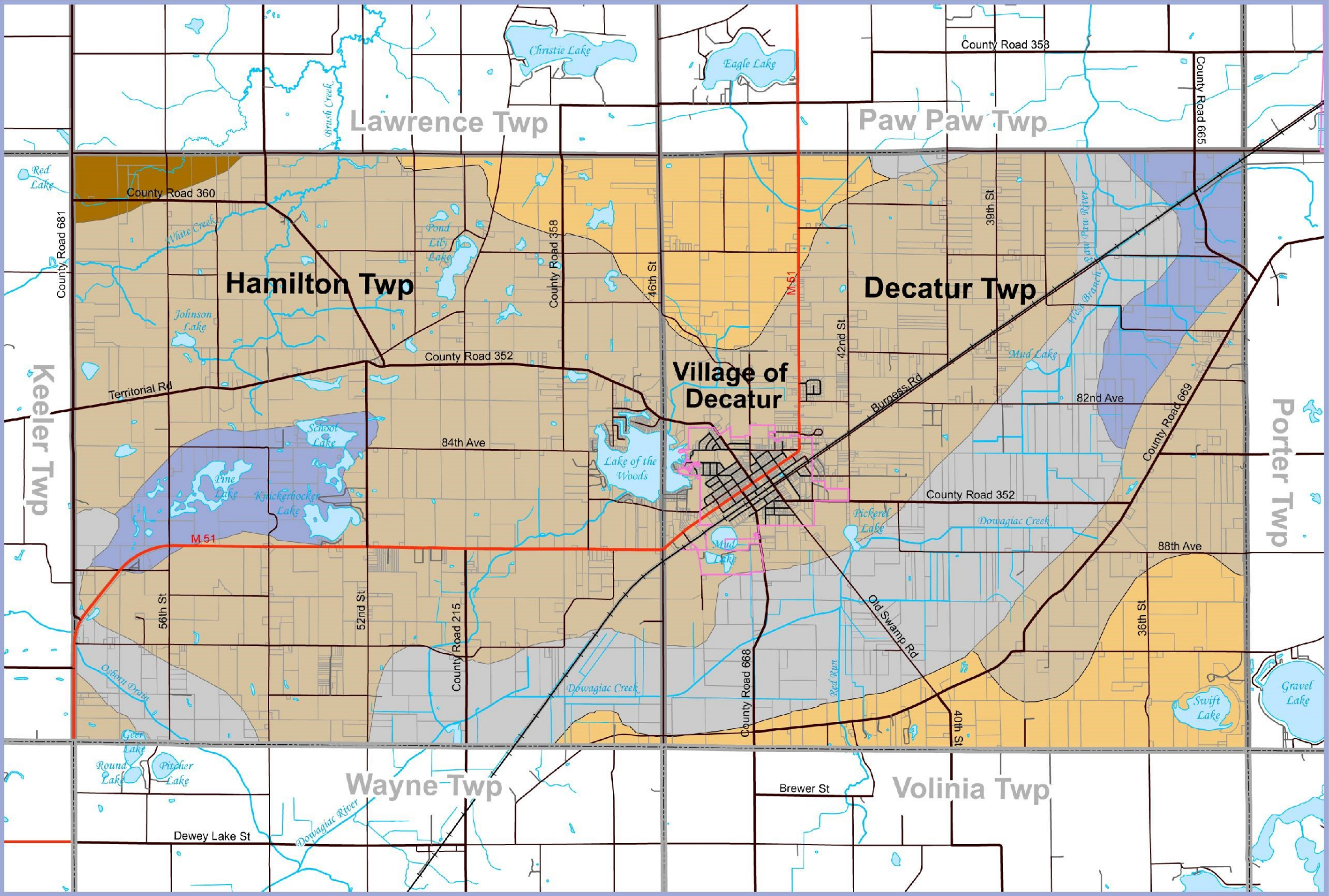
The Gilford association represents soils that are nearly level, very poorly drained, loamy soils on outwash plains. The soils in this association are generally unsuited to building site development and septic tank absorption fields, with water ponding, poor filtering capacity, and seepage being the major concerns. The soils in this association are generally unsuited to cultivated crops due to the difficulty associated with drainage, though they are generally well suited or fairly well suited for woodland.

The Oshtemo-Kalamazoo association represents soils that are nearly level to gently rolling, well drained, loamy soils on outwash plains. The soils in this association are well suited or fairly well suited to building site development and septic tank absorption fields, with only the slope of the gently rolling soils being of concern. The General Soil Associations map identifies the general soils found in the Decatur-Hamilton area.

The characteristics of soils found within the Decatur-Hamilton area have greatly influenced the historical land use patterns. The characteristics are likely to continue to influence development patterns into the future, though perhaps to less of an extent than in the past. Soils with desirable characteristics for agricultural activities are found throughout Decatur and Hamilton Township. The USDA recommends that communities plan for the efficient use and protection of these valuable lands due to the limited supply of high quality farmland and the development pressures often placed upon them.

Soils may also exhibit characteristics which are limiting to intense development. In particular soils which are susceptible to inundation by flood waters or those that are difficult to utilize for waste disposal present significant obstacles to intensive development. In the Decatur-Hamilton area, such soils are found generally along the Dowagiac River, the West Branch of the Paw Paw River, the Lawton Drain, and in the vicinities of Lake of the Woods and Knickerbocker Lake.

General Soils



Legend

Township

Parcel

Soils (General)

- CAPAC-RIDDLES-SELFRIDGE
- COLOMA-SPINKS-OSHTEMO
- GRANBY-GILFORD-THETFORD
- HOUGHTON-CARLISLE-ADRIAN
- OSHTEMO-KALAMAZOO-HOUGHTON

N

0 0.5 1 1.5 Miles

Data Sources

Base Map and Soil: Michigan Center for Geographic Information

Parcel: Van Buren County

Prepared April 2009

Southwest Michigan Planning Commission

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Email: swmpc@swmpc.org

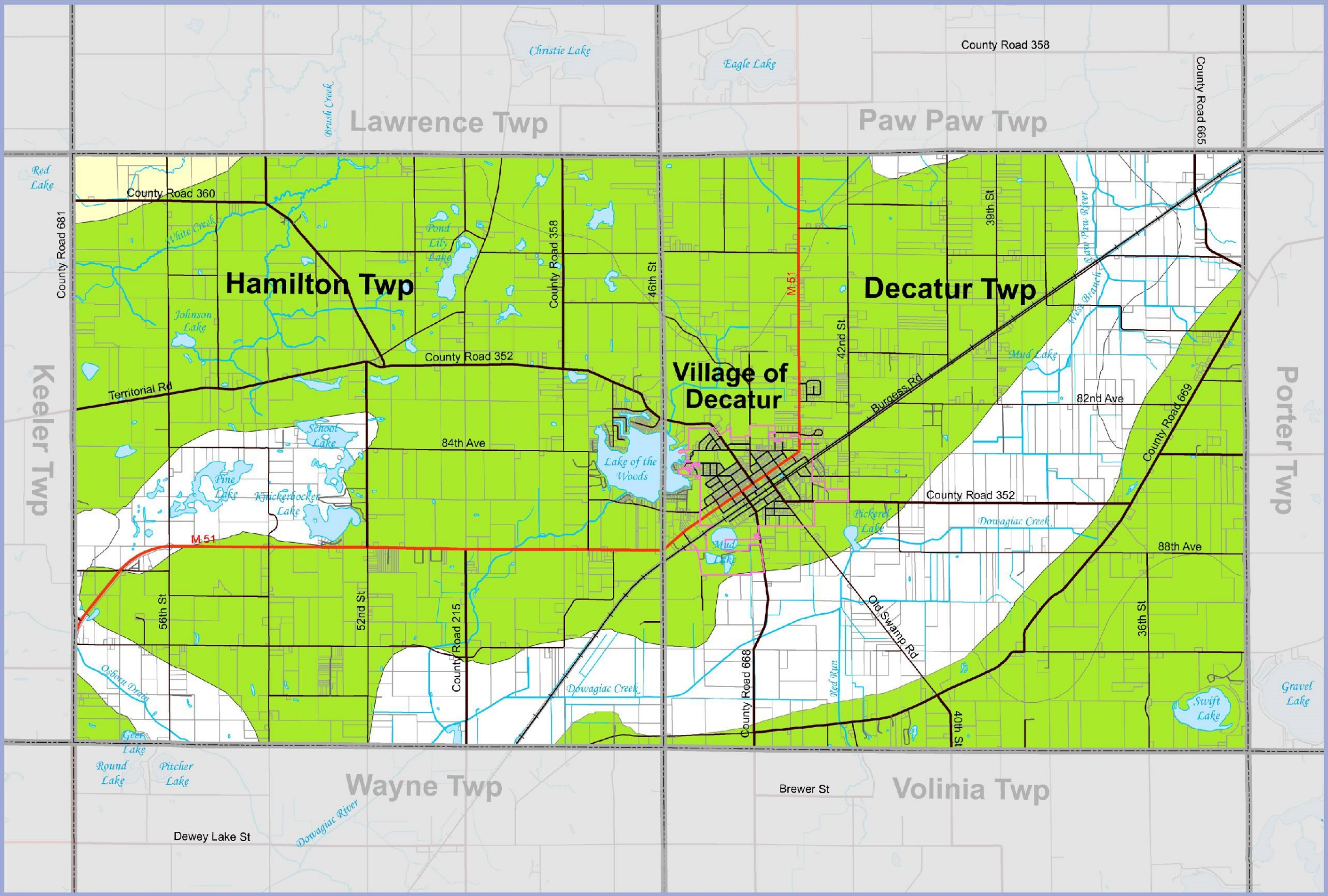
Website: www.swmpc.org

Van Buren County

Hamilton Township

Decatur Township

Prime Farmland



Legend

Township

Parcel

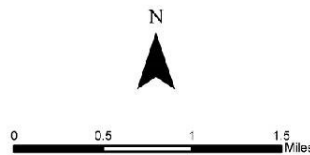
Prime Farmland

Prime Farm

Prime if Drained

Not Prime

Not Shown



Data Sources

Base Map and Farmland: Michigan Center for Geographic Information
Parcel: Van Buren County

Prepared April 2009

Southwest Michigan Planning Commission

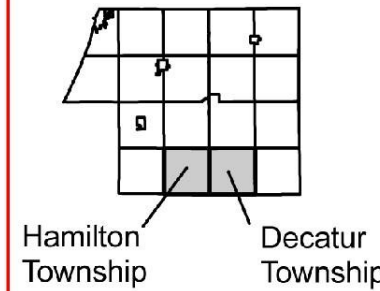
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Van Buren County



Water Features

There is an integral relationship between water resources, water quality, and land use. People use water for everyday uses. People also live by bodies of water for aesthetics and recreational purposes. Farmers use water bodies as part of their farming activities and industry uses water for processing and wastewater discharge. The variety of applications for water means that there is constant pressure from different user groups on how to allocate this valuable resource. Water resources are vital to planning and guiding land use decisions. Certain land uses require access to water; others isolation from it. Individual landowners, whether residential, agricultural, or industrial, are rarely aware of the complexity of water resources or of the effect that their actions may have. This lack of awareness, coupled with the economic and cultural value of water resources, creates a need for action by the community.

Water quality is a term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose such as drinking, swimming, fishing, etc.

The preservation and conservation of water quality is important for economic development, property values, tourism and recreation, drinking water supplies and plant and animal life. Proactive and effective planning can be a step in the right direction for the future of water quality within a community. A combination of poor soils unsuitable for septic systems, a high water table, and an increasing amount of rural development resulting in increased runoff may begin to threaten the quality of an area's water supplies. Specific local regulations, such as those pertaining to site plan review standards, encouraging open space developments with incentives, increasing water body setbacks, maintaining buffers around streams and wetlands, protecting floodplains, instituting proper impervious cover standards, using overlay districts to protect natural features and reducing density in areas with soil limitations for septic systems are among the techniques that can assist in protecting surface and ground water quality.

The following table illustrates practices that will protect or improve water quality.

BEST MANAGEMENT PRACTICES OPTIONS FOR PROTECTING WATER QUALITY			
Homeowners	Agriculture Landowners	Developers/Builders	Municipalities
Use native plants in landscaping	Leave vegetated strips along water bodies	Use low impact development techniques	Enact ordinances protecting water and natural resources
Protect special natural features (especially riparian areas)	Use conservation tillage	Use porous pavements	Describe the value of water and natural resources in the master plan
Use porous pavement	Use fertilizer management	Cluster developments and preserve open spaces	Ensure zoning and future land use maps direct development towards existing development and infrastructure
Install rain barrels	Use animal waste management	Minimize impervious areas to allow for infiltration	Direct high density development away from natural areas and unsuitable soils
Reduce or eliminate fertilizer/pesticide use		Use native plants in landscaping	

Watersheds

The Decatur area is located within a unique area that includes three important watersheds: the Dowagiac River Watershed (located in Hamilton Township, Decatur Township and Decatur Village) and the Paw Paw River Watershed (located in Hamilton Township and Decatur Township). Both the Paw Paw and Dowagiac River Watersheds are part of the larger St. Joseph River Watershed and the

Lake Michigan Watershed. The location of these communities affords it a wealth of natural waterways such as rivers, lakes and streams. Watershed Management Plans have been developed for all these watersheds.

A watershed is an area of land that drains to common body of water. Decatur Township, Hamilton Township and the Village of Decatur are part of the Dowagiac River Watershed, Paw Paw River Watershed and the St. Joseph River Watershed. All land in the townships and village eventually drain to Lake Michigan.

Dowagiac River Watershed Management Plan

The Dowagiac River watershed is located in southwestern Michigan, encompassing a total area of 287 square miles. The Dowagiac River is one of the most heavily groundwater-fed rivers of its size in Michigan. The nature of the groundwater-fed river system provides consistently cold year-round water temperatures and stable water flows. The majority of the Decatur-Hamilton area is located in the upper reaches of the Dowagiac River watershed. In its entirety, the watershed includes parts of three counties (Berrien, Cass, and Van Buren Counties) and contains in whole or in part, sixteen townships, two cities, and two villages.

A watershed management plan was developed for the Dowagiac River by the Cass County Conservation District. The plan promotes cooperative land use decisions and policies that will protect and improve the water quality of the watershed. The watershed management plan was developed with input from a Watershed Stewardship Team made up of local government officials, county drain commissioners, interested citizens, Cass County Conservation District, and the Michigan Department of Environmental Quality.

Decatur Township, Hamilton Township, and the Village of Decatur were active participants in the Dowagiac River Watershed Project. The Decatur-Hamilton Area Joint Master Plan has been developed to be consistent with the purpose and intent of the Dowagiac River Watershed Project and Watershed Management Plan.

Paw Paw River Watershed Management Plan

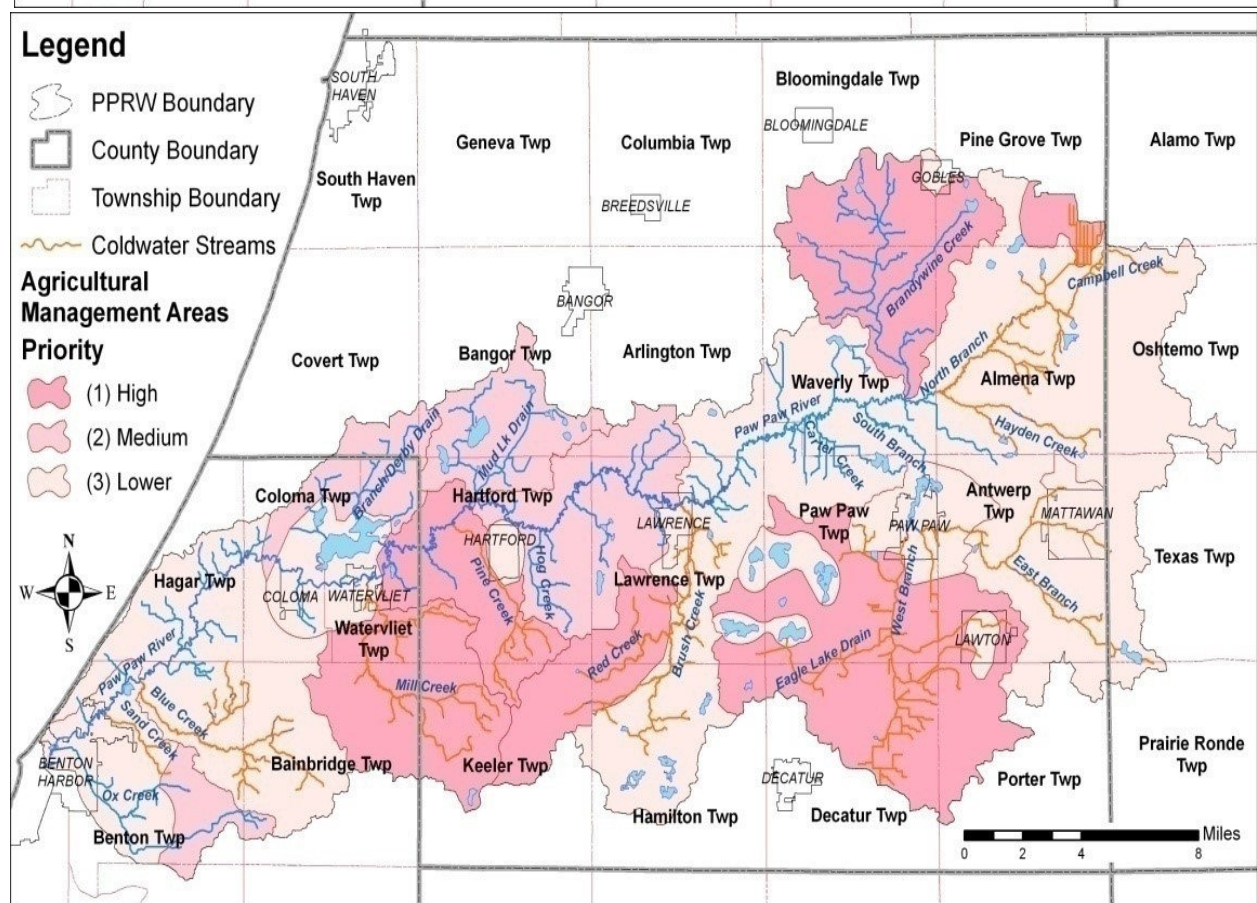
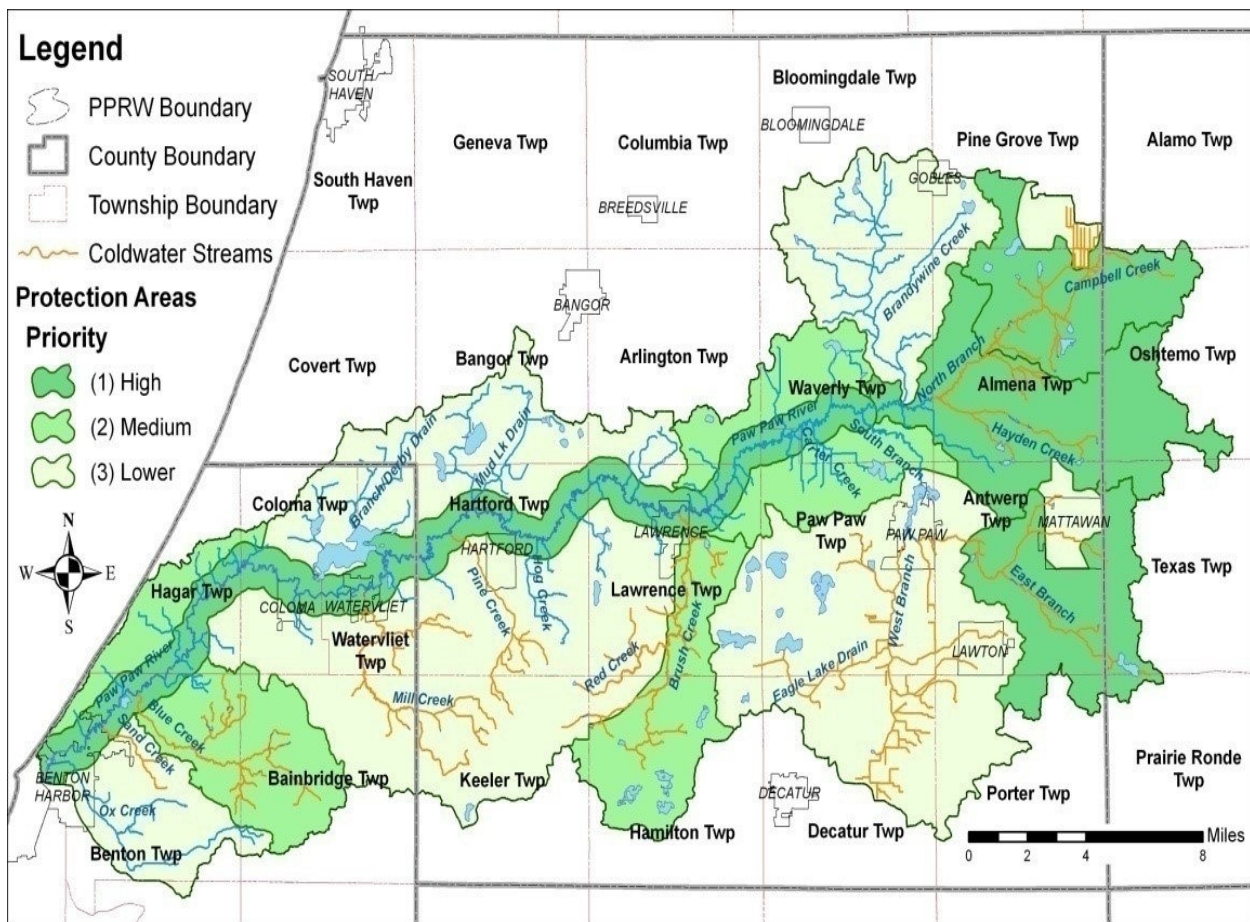
The PPRW encompasses approximately 285,557 acres (446 square miles) in Kalamazoo, Van Buren and Berrien Counties. The largest portion of the watershed lies in Van Buren County, with approximately 203,720 acres. Decatur and Hamilton Township have approximately 4,400 acres within the Paw Paw River Watershed.

The PPRW is a priority for protection and preservation among southern Michigan watersheds because a relatively high percentage of its natural land cover remains in spite of increasing development pressure throughout the region.

The PPRW Management Plan is intended to guide individuals, businesses, organizations and municipalities working cooperatively to build more environmentally and economically sustainable communities within the PPRW. The plan can be used to educate watershed residents on how they can improve and protect water quality, encourage and direct natural resource protection and preservation, and develop land use planning and zoning that will protect water quality in the future. Implementation of the plan will require stakeholders to work across township, county, and other political boundaries.

The majority of land in Hamilton Township in the PPRW is designated as a medium priority for protection in the PPRW Management Plan. The area around Brush Creek still offers great natural features that are important not only for wildlife, but also for maintaining water quality. The entire area in Decatur Township in the PPRW is designated as a high priority for agricultural management efforts to improve water quality. The streams in this area are heavily impacted by agricultural activities and the implementation of best management practices would improve water quality.

For more on the Paw Paw River Watershed Management Plan visit www.swmpc.org/pprw.org.



St. Joseph River Watershed Plan

“The St. Joseph River Watershed, located in the southwest portion of the lower peninsula of Michigan and northwestern portion of Indiana, is the third largest river basin in Michigan. Beginning in Michigan’s Hillsdale County at Baw Beese Lake, it spans the Michigan-Indiana border and empties into Lake Michigan at St. Joseph, Michigan. The watershed drains 4,685 square miles from 15 counties: Berrien, Branch, Calhoun, Cass, Hillsdale, Kalamazoo, St. Joseph and Van Buren in Michigan and De Kalb, Elkhart, Kosciusko, Lagrange, Noble, St. Joseph and Steuben in Indiana. The main stem is 210 miles long.



The watershed includes 3,742 river miles and flows through and near the Kalamazoo-Portage, Elkhart-Goshen, South Bend-Mishawaka, and St. Joseph/Benton Harbor metropolitan areas. Major tributaries include the Prairie, Pigeon, Fawn, Portage, Coldwater, Elkhart, **Dowagiac**, and **Paw Paw** rivers and Nottawa Creek. For more on the St. Joseph River Watershed visit www.fotsjr.org.

Water Bodies

The lakes in the Decatur area are what draw many people to the community. Decatur and Hamilton Townships have over 280 acres of lakes that contribute to the unique quality of the community. The largest lake in the area is Lake of the Woods located near the Village of Decatur in both Hamilton and Decatur Township. Other sizeable lakes include; Knickerbocker Lake, Swift Lake, Pond Lily Lake, Mud Lake and School Lake. Table 1 lists the lakes within the Townships and their size.

Table 1. Area Lakes and Acreage

LAKE NAME	ACRES
Dowagiac River Watershed	
Lake of the Woods	300
Geer Lake	15
Knickerbocker Lake	82
Johnson Lake	16
Paw Paw River Watershed	
Swift Lake	106
Pond Lily Lake	66
Mud Lake	30
Pickeral Lake	16
School Lake	63

The most significant drains in the area are the Lake of the Woods Drain and a portion of the Eagle Lake Drain. The **Dowagiac River** headwaters are in both Hamilton and Decatur Townships. Lake of the Woods also feeds into the Dowagiac River by the Lake of the Woods Drain. The **West Branch of the Paw Paw River** and **Eagle Lake Drain** are in Decatur and Hamilton Townships. **Brush, Red and White Creeks** are in Hamilton Township. All of these streams and drains experience water quality problems associated with sediment.

The value of lakes and streams is often taken for granted by those who enjoy them, and many people assume that the value of "clean water" is obvious. Local officials and property owners, who make the bulk of the land-use decisions, which affect water quality, need to understand the value of clean water. The water bodies in the community provide multiple values to the landowners living on them, the visitors to the region and to the local government and economy. Water bodies are magnets for recreation such as boating and fishing. In addition, water bodies and their associated wetlands provide great wildlife habitat. For lakes, the most significant feature which affects people's enjoyment is water clarity. A decline in water clarity can reduce property values by as much as \$200 per frontage foot, representing large losses in property value. Surveys show that water clarity, quality of swimming, and scenic beauty are important to most people when they choose which lake to visit or where to buy property. Because of the significant value that water bodies have in the

community, protecting water quality must be at the forefront of all land use decisions.

Natural Shorelines are a key component of a healthy lake, stream, drain or river. The conversion of shorelines to turf grass and/or seawalls is the most destructive action for lake ecosystems. Turf grass provides little habitat (except for geese) and has shorter and weaker root systems compared to native plants. The short roots of turf grass provide less protection from eroding forces of wave and ice action.

Below are some tips for the Michigan Natural Shoreline Partnership. You can find more information at <http://www.mishorelinepartnership.org/>.

Protecting the Shoreline

Prevention:

- 1) Site your house a minimum of 100 ft away from the lake (if building new)
- 2) For reconstruction - keep the footprint of the house the same.
- 3) Minimize impervious (hard surfaces).
- 2) Keep it natural! Do not remove the trees, shrubs and other vegetation to put in a lawn.
- 3) Keep stormwater from running directly into the lake.
- 4) Keep some woody branches in the lake to provide habitat.
- 5) Keep the native plants in the lake or only remove a limited amount for boating access or swimming.
- 6) Don't put in a seawall - *there are alternatives*.

Restore:

- 1) Replace as much turf grass as you can with native vegetation. You can have fun and create some beautiful landscapes
- 2) Erosion Control: Different sites require different solutions. The lower the energy at your site generally the easier and less complex of a solution. Some sites will only need to have the plants restored some will require more complex techniques using a system of coir fiber logs and plants and some will require the use of rock as well.
- 3) Restore the near shore areas (littoral zone): Share the space with the plants and provide safe havens for frogs, turtles and fish. Plants in the water along the shore help protect the shoreline by absorbing wave energy as waves come into the shore.

Riparian Buffers

One of the most important things a community or property owner can do to protect water quality is to maintain a vegetated riparian buffer along streams, ditches, rivers, lakes and wetlands. Many

Stream corridors help absorb floodwaters, stabilize streambanks, and filter sediments and polluted runoff. Stream corridors also provide critical habitat for a variety of species. Riparian areas are important for water quality, plant species, wildlife species, and fisheries.

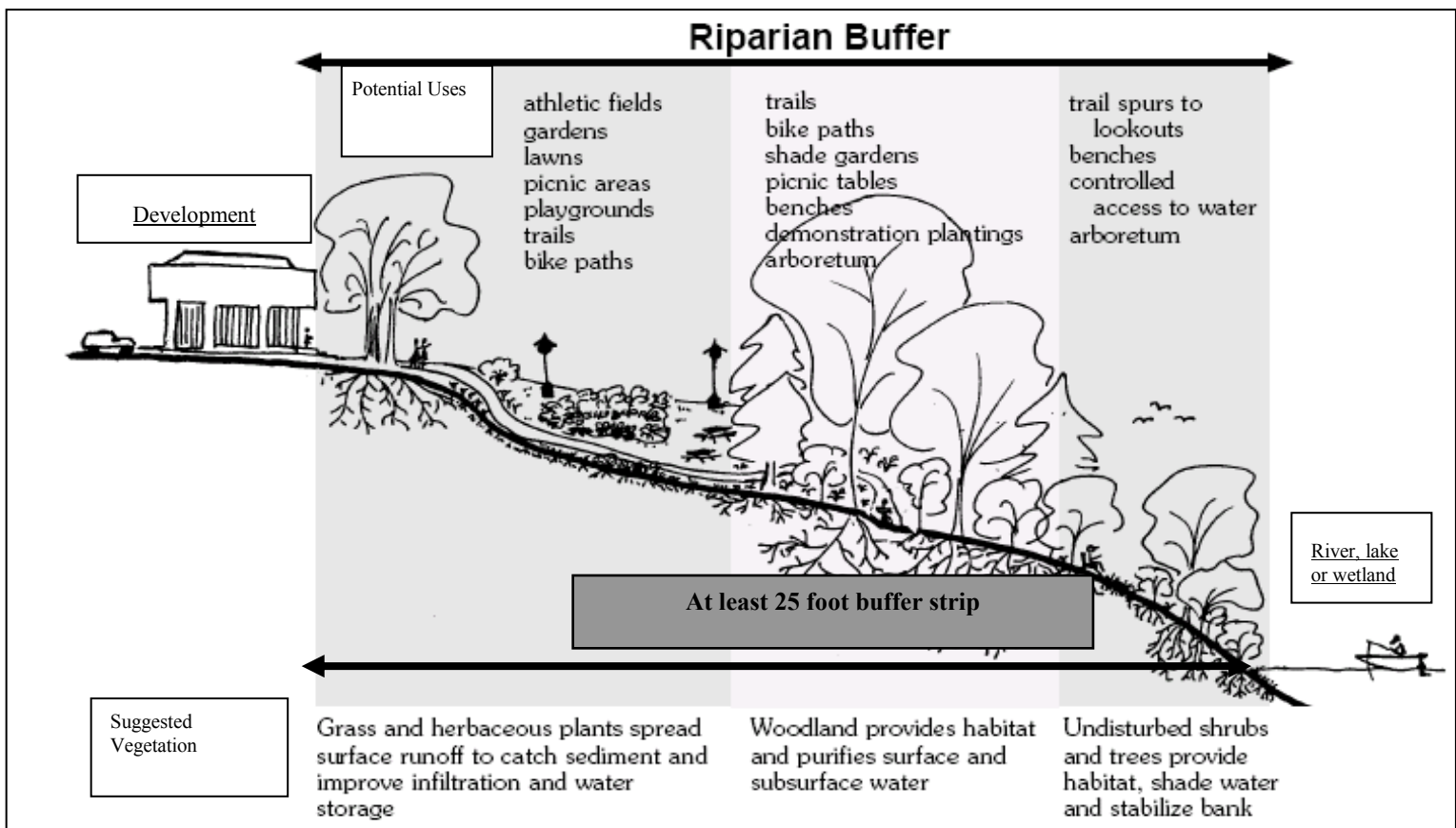
stream or lake edges are currently mowed on a periodic basis for a manicured-lawn or park like setting. Although this may be aesthetically pleasing to certain residents, this practice is detrimental to water quality and the fish community. A *riparian buffer* or buffer zone is a corridor of vegetation along rivers, streams, or wetlands, which help to protect water quality by providing a transition between upland development and adjoining surface waters. The native vegetation strip should be at least 30 to 100 feet to improve the water quality of runoff. Setbacks of buildings should be at least 100 feet, but may be more if wetlands, floodplains or steep slopes are present along streams, rivers or lakes.

Benefits of vegetated riparian buffers include:

- Reduce erosion and stabilize stream banks;
- Encourage infiltration of stormwater runoff and minimize public investment for stormwater management efforts;
- Filter and reduce pollution and sediment;
- Provide storage for floodwaters;
- Shade and cool the water;
- Provide wildlife habitat
- Offer scenic value and recreational opportunities for trails and greenways;
- Filter air and noise pollution; and
- Protect property from flood damage and shoreline erosion hazards.

Buffers Protect Property

Streamside land is a high-risk area for development even above flood elevation. Using vegetated buffers to set back human developments and land uses from shorelines is cost effective protection against the hazards caused by flooding, shoreline erosion and moving streams.



Wetlands/Floodplains

Wetlands and floodplains are extremely valuable resources. Decatur and Hamilton Townships have wetlands that are scattered throughout the area. There is a significant area of wetlands in the townships that amount to over 200 acres. Concentrations of wetlands are located throughout the western portion of Hamilton Township, particularly south of Territorial Road. Concentrations in Decatur Township are located in the northwestern and extreme northeastern and southeastern portions of the township.

Of the estimated 11 million acres of wetlands that were in Michigan 150 years ago, only 3 million acres remain.

The Natural Resources and Environmental Protection Act (NREPA) defines a wetland as *“land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh...”* "Wetland" is the collective term for marshes, swamps, bogs, and similar areas often found between open water and upland areas. All wetlands located within five-hundred (500) feet of a lake, stream, or river are regulated by the State of Michigan Department of Environmental Quality, as well as those in excess of five (5) acres in size which are not contiguous or located within five-hundred (500) feet of a lake, stream, or river.

A river, stream, lake, or drain may on occasion overflow onto the surrounding banks and inundate adjacent land areas with floodwater. The land that is inundated by water is defined as a floodplain. In Michigan, the term floodplain has come to mean the land area that will be inundated by the overflow of water resulting from a 100-year flood (a flood which has a 1% chance of occurring any given year).

In the past, people viewed wetlands and floodplains as wastelands --sources of mosquitoes, flies, and unpleasant odors. They believed wetlands and floodplains should be avoided, or better yet, eliminated. This negative view, combined with the demand for more developable land, resulted in the destruction of large areas of wetlands and floodplains. Owners and developers drained lands, and converted them to farmland, or

Wetlands and floodplain hold excess water allowing it to be slowly released into rivers, lakes and seep into groundwater aquifers. Wetlands and floodplains also give time for sediment to settle out, thereby keeping it out of water bodies. Wetlands and floodplains support important wildlife habitat and are frequently used by humans as recreation areas.

filled them for housing developments or industrial facilities.

Attitudes today towards wetlands and floodplains have changed with the discovery that they are valuable natural resources providing many important benefits to people, wildlife and water quality.

Acre for acre, wetlands produce more wildlife and plants than any other natural area.

Wetlands and floodplains:

- provide storage areas for water,
- filter pollutants before entering lakes, rivers, and streams
- lessen the impacts of flooding after large rain events
- provide wildlife habitat

How land is developed impacts the quality and quantity of our water. Land uses from any part of the watershed, such as polluted runoff from homes and farms, eventually affect the health of the whole watershed.

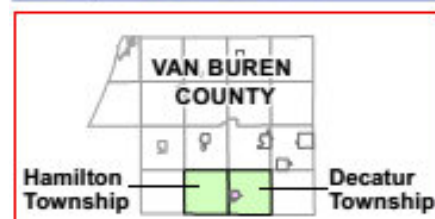
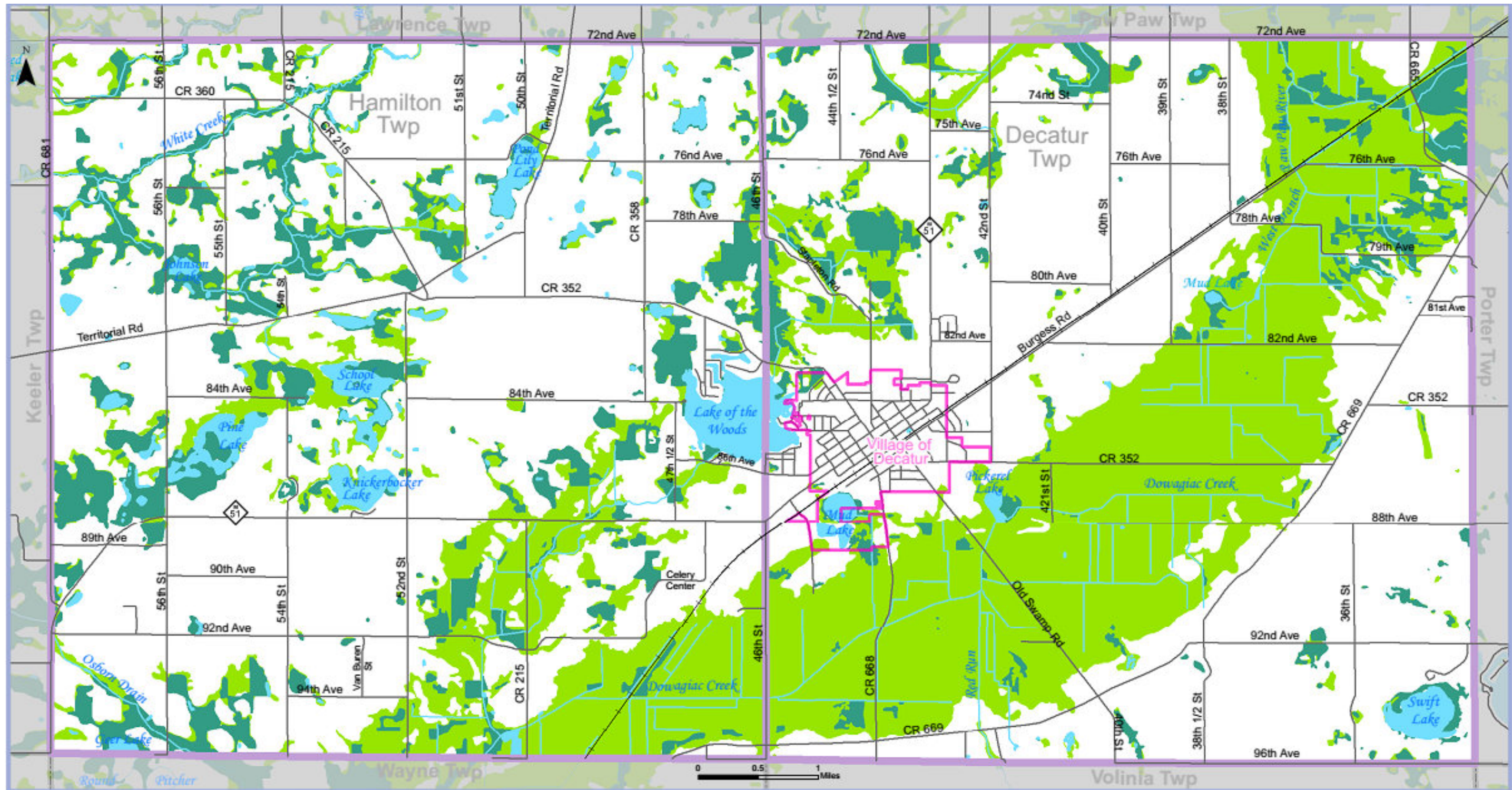
As development encroaches upon wetland and floodplain areas, the safety and welfare of residents and visitors are in jeopardy. With increasing development in the floodplain, open spaces, and wetlands, our land has lost the ability to soak up rain. Buildings and pavement that have made the land increasingly impervious are now replacing areas that were once effective sponges storing precipitation. As a result, floods are becoming larger and more frequent.

Wetland and floodplain protection is extremely important for the health, safety and welfare of residents. Especially because so many wetlands have been lost since pre-settlement times, with Hamilton Township at 55%, Decatur Township at 85% and Decatur Village at 47%. This loss of wetlands has had severe negative effects on the water quality and the ability to mitigate flooding.

Table 2. Wetlands

WETLANDS			
	HAMILTON TWP	DECATUR TWP	DECATUR VILL
Existing Wetland Acres (2010)	3,010.28	1,435.81	54.53
Lost Wetland Acres (since pre-settlement)	3,630.15	7,958.04	48.16
Total Wetlands	6,640.43	9,393.85	102.69
Percent Loss Since Pre-settlement	55%	85%	47%

The following maps show the lost and existing wetlands and which wetlands which are and were significant for filtering sediment and nutrients (that cause algae and nuisance weed growth in the lakes) and for mitigating flooding. With this much loss of wetland acres and wetland functions, additional wetland loss will be extremely detrimental in these communities causing increased water pollution and more flooding.



Legend

Existing Wetland

Lost Wetland*

*Lost wetlands were identified according to hydric soils and presettlement wetland data.



Township



Village



Water

WETLANDS

Decatur & Hamilton Township

Village of Decatur

Data Sources

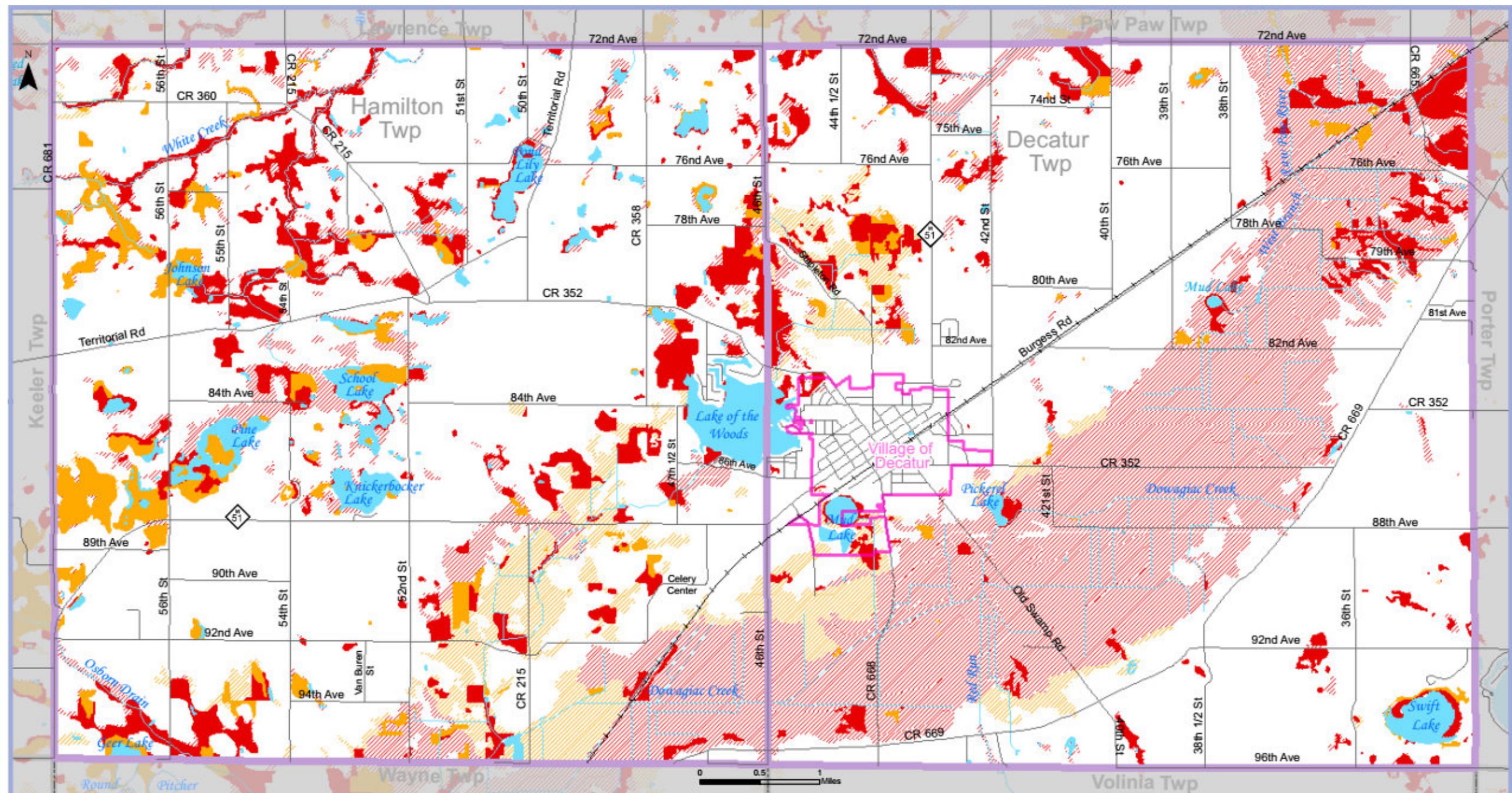
Base Map: Michigan Center for Geographic Information Framework14v
Wetland: MDEQ, Land and Water Management Division, 2007

Southwest Michigan Planning Commission
www.swmpc.org

The use of this map is for general reference purposes. It is not a legal document.

December 02, 2015

1541FigWetland



Sediment Retention & Nutrient Transformation

Existing Wetlands

- High Significance
- Medium Significance

Lost Wetlands

- ▨ High Significance
- ▨ Medium Significance

- Water
- Village
- Township

Wetland Functional Assessment*

SEDIMENT RETENTION & NUTRIENT TRANSFORMATION

Decatur & Hamilton Township Village of Decatur

*Wetland Functional Assessment rates wetlands according to its ability to perform specific ecological functions. Shown on this map are wetlands that function at higher levels to store nutrients and other particulate matter or wetlands that capture and transform nutrients.

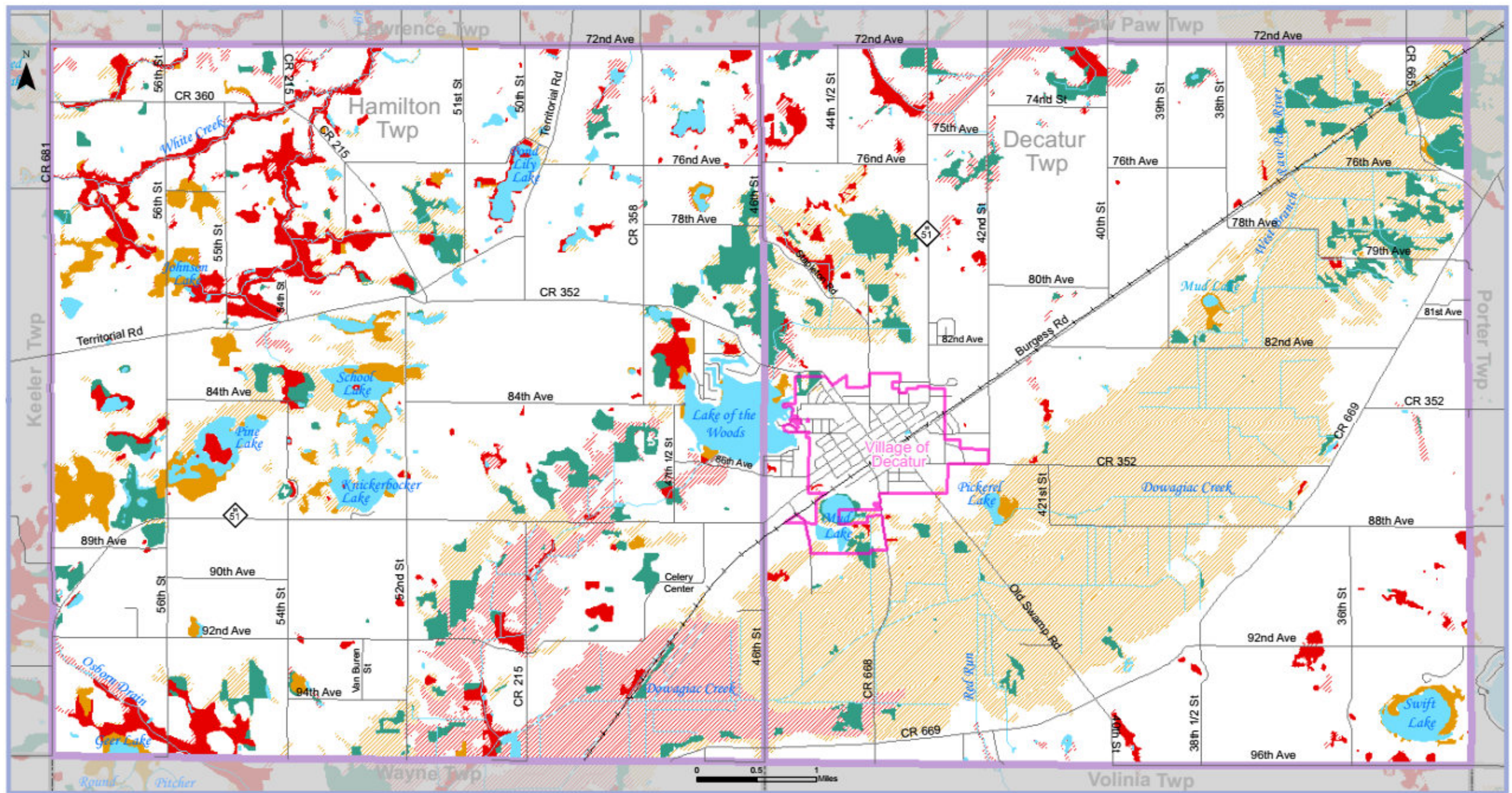
December 08, 2015

Southwest Michigan Planning Commission
www.swmpc.org

The use of this map is for general reference purposes. It is not a legal document.

Data Sources:
Base Map: MCGI14v
Wetland: MDEQ, 2012

1541FigNutrientSediment



Flood Water Retention

Existing Wetlands

- High Significance
- Medium Significance

Lost Wetlands

- High Significance
- Medium Significance

Water

Current Wetland**

**All other wetlands not shown in the Wetland Functional Assessment.

Wetland Functional Assessment*

FLOOD WATER RETENTION

Decatur & Hamilton Township

Village of Decatur

*Wetland Functional Assessment rates wetlands according to its ability to perform specific ecological functions. Shown on this map are wetlands that function at higher levels to retain flood water.

December 08, 2015

Southwest Michigan Planning Commission
www.swmpc.org

The use of this map is for general reference purposes. It is not a legal document.

Data Sources:
Base Map: MCGI14v
Wetland: MDEQ, 2012

154151nFlow

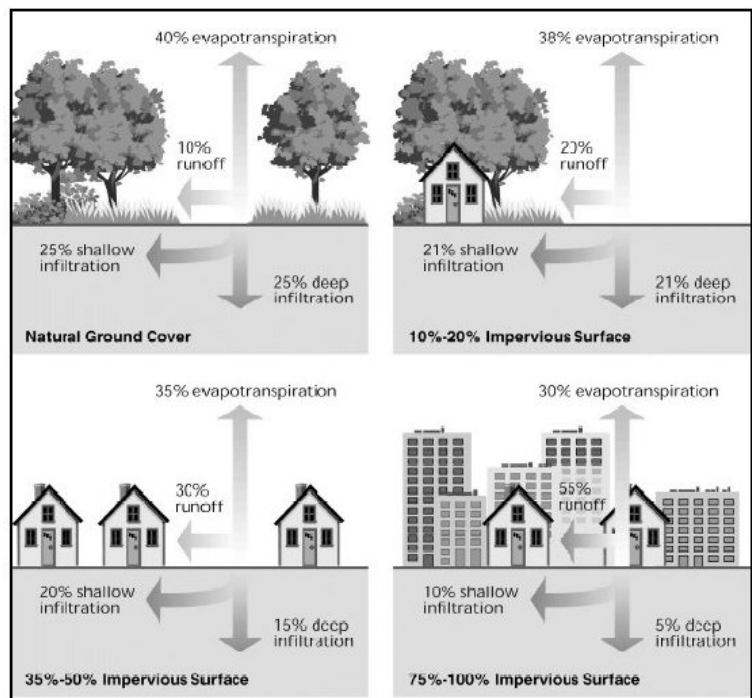
Stormwater Management

As development and imperviousness increase (due to construction of roads, roof tops and parking lots), the area available for infiltration decreases. Consequently, more rainfall becomes **stormwater runoff**, which can cause erosion of land areas and stream banks and increased flooding. Stormwater runoff can have negative impacts on our water quality. When chemicals, oil, grease, salt, etc.

Impervious surfaces are mainly constructed surfaces - rooftops, sidewalks, roads, and parking lots - covered by impenetrable materials such as asphalt, concrete, brick, and stone. These materials seal surfaces, repel water and prevent precipitation and melt water from infiltrating soils. Soils compacted by new construction are also highly impervious.

are carried into our rivers, lakes, and streams, all of these bodies of water become polluted. Pollution of our water may not be immediate, but as the pollutants keep washing into our water, they may become unusable for fishing, swimming, canoeing, etc. Even drinking water can be affected.

Impervious surfaces may cover anywhere from five to ten percent or more of a site. Smaller sites may have significantly higher coverage, particularly those with commercial and industrial uses with large parking areas. The increase in the amount of paved surfaces leads to a drastic rise in the amount of runoff and a decrease in the amount of deep infiltration that is being infiltrated back into the ground to provide drinking water supplies. With greater runoff, the amount of water that is able to filter down back into our groundwater supply becomes smaller and smaller. Not only quantity, but also quality of runoff from normal precipitation may change



The diagram shows what happens when natural ground covers, such as native plants and trees, are removed and replaced with impervious surfaces.

considerably, as lawns, roads, and parking lots rinse clean. Other unnatural water sources are added, such as construction cleanup, car washing or lawn watering. This threat to water quality is an issue

that directly affects the health, vitality and quality of life of our citizens and businesses.

Stormwater management should be concerned with controlling both the quality and quantity of water moving off a developed site. Low Impact Development techniques should be utilized to first protect natural features, natural drainage ways and existing topography.

The amount of impervious surfaces in new construction and redevelopment projects should be minimized

whenever possible to protect water quality. Second, LID techniques should be used to slow and reduce runoff by maximizing opportunities for filtration and infiltration of water throughout the site.

This will decrease the need for large detention or retention. See www.swmpc.org/lid.asp for information on implementing LID in new and redevelopments.

Traditional attitudes about managing stormwater were to move the water off the site as quickly as possible with curbs, gutters, and storm sewers. *Today*, effective stormwater management practices include **decreasing the total amount of stormwater, slowing down the flow of the stormwater and allowing as much of the water to soak naturally into the ground** by using low impact development practices such as native plants, rain gardens, and riparian buffers.

Erosion and Sedimentation Control

There is a need to control erosion and sedimentation from entering our bodies of water to protect the quality of water for residents and tourists in the community. Erosion and sedimentation are most widely linked to new development, re-development, and agricultural production. Each type of activity poses unique challenges and threats to water quality that can also threaten public health and safety.



This shows sedimentation of a river from a small tributary.

Erosion and sedimentation are closely linked. Erosion occurs when vegetation is removed from the land surface and water washes away the topsoil, and then comes the effects of sedimentation. Sedimentation occurs after the topsoil has been washed into water bodies and begins to build up sediment layers in the bottom of streams, rivers and lakes. We have all seen this happen around our region. A new home is being built or a farm is recently plowed, a heavy rain comes through the area

and the loose soil is washed away. You can see the build up of sediment in rivers, lakes and harbors. There are simple measures that residents, developers and municipalities can take to control for erosion and sedimentation.

1. Properly install silt fencing during construction.
2. Ensure all construction and clearing near water bodies has appropriate county and state permits.
3. Limit or phase the clearing of construction sites.
4. Leave existing vegetation and trees on construction sites as much as possible.
5. Leave vegetated buffers along streams, rivers and wetlands.
6. Incorporate native vegetation into the landscape.

Green Infrastructure

There are features in any community that many residents would readily recognize as important to the character of the area and to their personal quality of life. Some of these features may be cultural, such as a downtown business district, historic buildings, lighthouses, or other similar man-made features. Other features used to connect a community to its residents will be natural resources such as lakes, woods, wildlife, scenic views, and other similar features. How these elements are included in the fabric of a community can have a profound influence on their value. Clearly there are some resources, which, if lost, would significantly detract from the environment and the community as a whole.

Natural features such as native vegetation, woodlands, wildlife habitat and wildlife corridors add to the natural features that lure people to the Decatur-Hamilton community. Removing these natural features will not only alter the landscape of a community but it can also lead to

water quality issues such as increased runoff, erosion and flooding.

Development should be discouraged where significant natural features exist.

Green infrastructure is a connected network of natural areas and other open spaces planned and managed to conserve natural ecosystems and the services that they

Natural resource areas perform important functions such as:

- filtering out water pollutants,
- recharging groundwater supplies
- removing air pollutants
- providing recreational opportunities
- providing wildlife habitat
- enhancing the overall quality of life of a community

provide. These lands provide multiple benefits to people and wildlife such as maintaining clean air and water, providing areas for recreation and providing wildlife habitat. Green infrastructure elements can be in urban, suburban and rural areas and may or may not be open to the public. **Green infrastructure is essential to the health, safety and welfare of the area residents.**

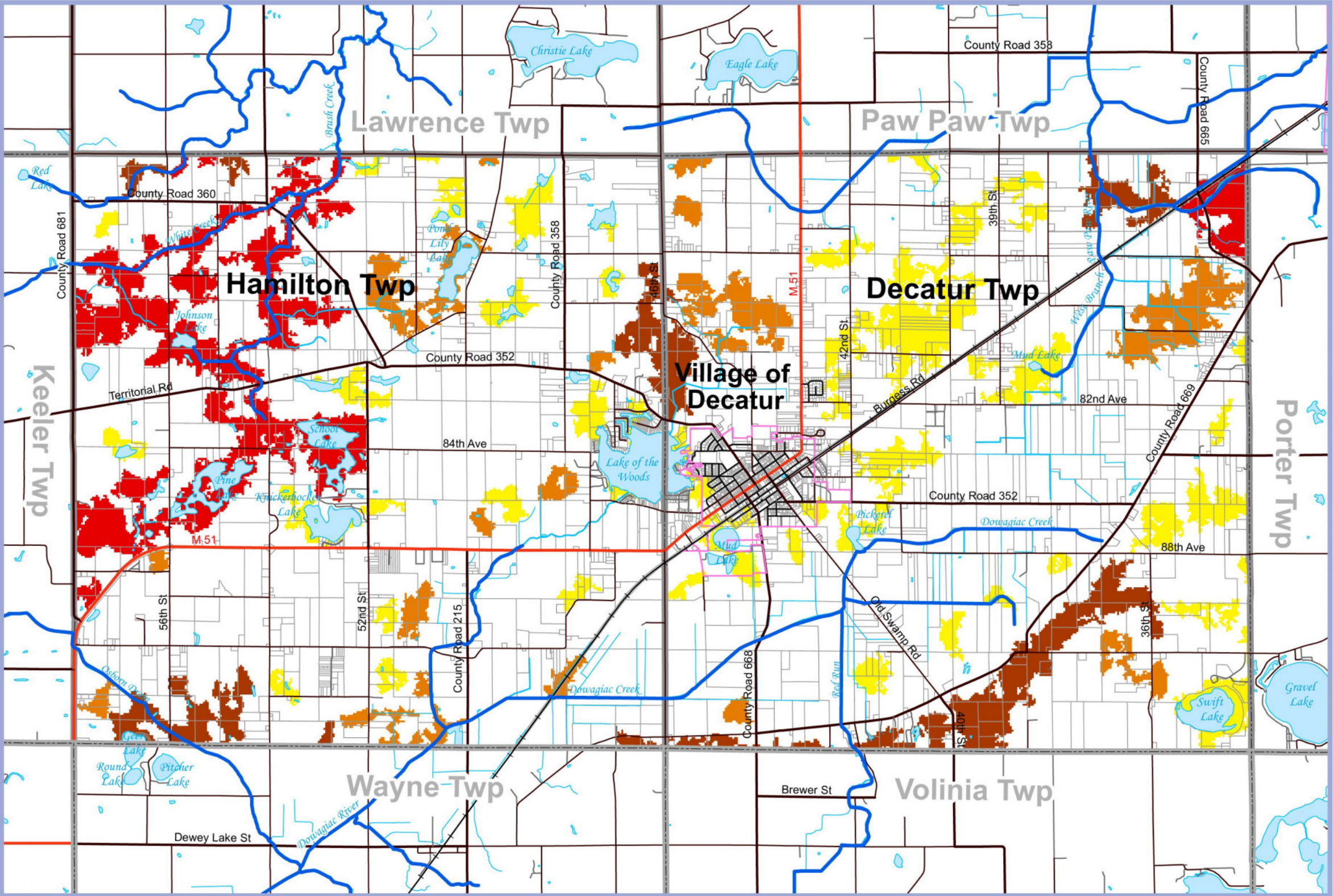
Natural resource conservation is a fundamental component of a community's long-term environmental and economic health. Communities that incorporate both the built and natural environment into their future land use map or vision will ensure that the areas that provide important natural functions such as filtering drinking water supplies, recreational opportunities for residents and habitats for wildlife, will be protected. In effect, the features that the community has grown to enjoy will be there for generations to come. A community with a clean environment, clean water, green spaces and trails will be the community that has a stable, sustainable future and offers a high quality of life for its residents and visitors. Communities that provide this high quality of life will be able to retain talented workers and attract new residents and businesses.

The Potential Conservation Areas map represents the last remaining remnants of the area's ecosystems and natural plant communities. The map ranks areas where the landscape is dominated by native vegetation that has various levels of potential for harboring high quality natural areas and unique natural features. In addition,

Potential Conservation Areas (PCAs) are defined as places on the landscape dominated by native vegetation that have various levels of potential for harboring high quality natural areas and unique natural features. Scoring criteria to prioritize areas included: total size, size of core area, length of stream corridor, landscape connectivity, restorability of surrounding land, vegetation quality and biological rarity score.

these areas provide critical ecological services such as maintaining water quality and quantity, soil development and stabilization, habitat for pollinators of cropland, wildlife travel corridors, stopover sites for migratory birds, sources of genetic diversity and floodwater retention. Consequently, it is to a community's advantage that these sites be carefully integrated into the planning for future development. Striking a balance between development and natural resource conservation and preservation is critical if the Decatur-Hamilton area is to maintain its unique natural heritage.

Potential Conservation Area (PCA)



Legend

- Township
- Parcel
- Trout Stream

PCA Score RANK

- Highest
- Higher
- High
- Medium

Data Sources

Base Map and Trout Streams:
Michigan Center and Geographic Information
PCA: Michigan National Features Inventory
Parcel: Van Buren County

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Van Buren County

Hamilton Township Decatur Township

Native Vegetation

Native vegetation refers to the plant life that exists as a natural part of the landscape. It is increasingly recommended that native plants (vegetation that grows naturally in particular climates or regions) be used because of their performance, site enhancement, and life cycle cost benefits.

Native plants typically cost more initially (depending on local availability); however, they are more cost-effective in the long run because they require less water and fertilizer, and are more resistant to local pests and diseases than non-native ornamentals. Native plants are



also known to be very effective in managing storm water because many species have deep root systems which stabilize soil and facilitate the infiltration of storm water runoff. Native plants provide habitat for birds, butterflies and other wildlife, help to buffer noise pollution, filter air pollution and provide us with stunning landscapes.

Native plants can be incorporated into individual home sites, commercial sites, and industrial sites to add water quality recharge benefits as well as aesthetic benefits to the landscape.

Woodlands

Woodlands are important to the communities' quality of life. Woodlands and agricultural lands comprise approximately 20,000 acres. This is over 31 square miles, a very significant amount given the Townships have 36 square miles! Much of the woodlands within the Townships lie either in small parcels, usually left from agricultural clearing, or in larger areas where farms have not been established and

Values of Woodlands

1. Provide a varied and rich environment for plants and animals.
2. Provide breeding, feeding, and refuge areas for many species of insects, birds, and mammals.
3. Protect watersheds and soils.
4. Moderate the effects of winds and storms, stabilizes and enriches the soil, and slows runoff, allowing the forest floor to filter groundwater.
5. Serve as buffers to the sights, sounds, and odors of civilization.
6. Mute noise from freeways and factories and absorb air pollutants.
7. Provide visual relief along roadways.

where intensive development has not yet occurred. Various species of hardwoods exist, including Ash, Beech, Oak, Elm, Hickory, Maple, Walnut and Pine. These hardwoods are mainly second growth, and found on poorly drained mineral soils that were not well suited for agriculture.

Aesthetically pleasing roadways with natural vegetation tend to be more popular than those with little vegetation or highway clutter. Trees within the public domain should be managed for their aesthetic and critical role that they play in air quality mitigation, cooling of streets and the filtering of air and noise pollution. Mature roadside trees are sometimes considered hazardous, but always seen as attractive and valuable and should be managed and maintained as part of the community identity. To the extent possible, road improvements should respect and maintain these important landmarks, and their contribution to community identity.

Wildlife Habitat

A rich variety of wildlife is present in Decatur and Hamilton Townships, providing a truly valuable living classroom of diversity that includes fish, mussels, frogs, rabbits, white-tailed deer, squirrels, bats, pheasants, fox and a variety of waterfowl species. Michigan's wildlife is one of its most precious resources. Surveys consistently show that residents value wildlife as part of their quality of life. In addition, wildlife is valued throughout Michigan for the contribution it makes to tourism, recreation, hunting, and fishing. As a result, there is an increasing appreciation of the role that wildlife contributes to the economy and quality of life of Michigan residents.

A wildlife habitat is an area that offers feeding, roosting, breeding, nesting, and refuge areas for a variety of bird and mammal species native to the southwestern Michigan region.

As with other natural features, it is important to remember that wildlife does not respect jurisdictional boundaries. As a result, it is important to coordinate activities with other local governments on the basis of biological or geographical boundaries rather than on purely political ones. In rural areas, there are significant opportunities for wildlife management, simply because of already existing, abundant wildlife habitat. This makes planning for wildlife habitat protection possible, by identifying areas of high wildlife value and encouraging development elsewhere. Even with the development of scattered rural areas, large open spaces still may be found throughout the

Townships. This means that there is ample opportunity for movement of wildlife among habitat locations. It will require strong coordination of local governments and private landowners to ensure that wildlife considerations are included in the review of development plans.

Wildlife Corridors

The threat of fragmented habitats, due in part to strong development pressures in natural areas, can act as a motivator for the Townships to establish a framework for the protection of these critical areas. These areas contribute to the Townships' rural setting and community identity. The goal of establishing wildlife corridors is to maintain as nearly a contiguous greenway of native vegetation as possible, averaging 200 feet wide between various habitats. Some interruptions in the corridors are inevitable because of existing roadways interposed between the

Wildlife Corridor

A wildlife corridor is a continuous natural protected pathway along which native wildlife species can move in relative security between high quality natural wildlife habitats. The land through which wildlife must pass when transiting between these habitats may, at times, consist of platted lots in private ownership and public roads and rights-of-way. Corridors work best when sparsely developed.

habitats. Within this limitation, the objective is to locate corridor connectors to minimize the number of road crossings and maximize the green space available for protected wildlife transit. Wherever possible, the corridor should follow natural drainage corridors since this land offers more habitat value, is important for natural stormwater drainage, and is generally more difficult to develop.

Wildlife corridors can also be developed in coordination with construction projects. For example, a utility corridor could be planned to provide a more natural system, rather than a swath of land devoid of natural features. Where it exists, native vegetation should be left undisturbed. In areas with exotic vegetation, undesirable plants should be removed and native trees, shrubs, grasses, etc. (as appropriate), planted and maintained.

Agricultural Lands

Agricultural, Open Space, and Vacant lands make up approximately 68% of the land in the townships and Village. The climate, terrain and variety of soils make several areas in Van Buren County well suited for agriculture. Open space lands including woodlands, wetlands and other environmentally significant areas are features normally associated with farmlands and agricultural

areas. These lands provide unique and economic benefits to the citizens of the Decatur area and are an important part of the community's natural and agricultural heritage. Agriculture also contributes to the local economy in direct sales of agricultural products. Many of the agricultural activities in the area provide the opportunity to harvest locally grown foods to sell at roadside stands, farmers markets and local retail food stores to increase tourism and the economic impact of agriculture.

Agriculture is an important economic activity for Van Buren County (statistics of economic impact at the township level are not available). In 2012, Van Buren County ranked 1st in blueberry production state and nationally. In 2012, Van Buren County ranked 5th in the state for vegetables, melons, potatoes, and sweet potatoes. In 2012, there were 1,113 farms in Van Buren County of these 158 are orchards and 98 are vegetable farms. There were a total of 175,121 acres of land in farms with 9,480 acres in orchards, 7,242 acres in vegetables, 31,870 acres in grain corn and 29,321 in soybeans. The average size of a farm in Van Buren County in 2012 was 157 acres. In 2012, in Van Buren County the average market value of agricultural products sold per farm is \$174,900 with the total market value of agricultural products in the County valued at \$194,664,000.

The Decatur area is very diverse in crop production. The Decatur area is known for its muck soils. Many of the muck soils have been drained and are being used for agricultural production. The Decatur area has a very diverse crop production including vegetable crops, such as onions, radishes, carrots, celery, cabbage, cauliflower, green beans and sweet corn. Pickles and peppers are also important vegetable crops in the area. Grain crops include corn, soybeans, wheat, oats, barley and rye. Alfalfa represents the primary hay crop in the area. Corn is the primary grain grown in the Decatur area. Additionally, there is a large sod farm on County Road 352. The remainder of the agricultural activities in the area consists of various livestock operations, which tend to be mainly hogs, beef cattle and dairy cows. Some sheep and poultry are also raised in the area.

Table 3. Van Buren County Farmland and Agricultural Statistics, 1987-2012

	1987	1992	1997	2002	2007	2012
Total Acres of Farmland	190,251	206,781	189,432	176,260	185,343	175,121
Acres in Orchards	18,663	19,232	15,480	10,281	10,312	9,480
Acres in Vegetables	14,853	13,734	12,069	10,553	8,509	7,242
Acres in Corn (for grain)	35,282	38,255	34,695	31,870	44,259	55,362
Acres in Soybeans	9,684	23,679	24,702	29,321	26,843	18,730
Total Number of farms	1,278	1,164	1,217	1,160	1,232	1,113
Number of Orchards	373	312	256	188	177	158
Number of Vegetable Farms	201	158	104	91	85	98
Average Size of Farm	149	178	156	152	150	157
Median Size of Farm	N	N	73	70	N	N
Total Market Value of Agricultural Products (\$)	69,624,000	84,931,000	104,868,000	96,724,000	173,472,000	194,664,000
Average Market Value of Agricultural Products per Farm (\$)	54,479	72,965	86,169	83,382	140,805	174,900
Hogs and Pigs Inventory (farms)	147	119	68	36	45	21
Hogs and Pigs Inventory (number)	56,167	52,055	29,477	24,985	20,075	4,655
Hogs and Pigs Sold (farms)	152	116	64	41	51	33
Hogs and Pigs Sold (number)	84,358	103,464	56,245	67,997	50,275	(D)*

N-no data Source: US Department of Agriculture, 1987, 1997, 2002, 2007, 2012 Census of Agriculture

**(D)- Withheld to avoid disclosing data for individual farms.*

The 2014 Crop Data Layer map from USDA shows the different crops being grown in the area.

Table 4. Cropland Data Layer 2014 – Total for Townships and Village

Category	ACRES	PERCENT
Developed	2821.51	6%
Corn/Soybean/Grains	20377.96	45%
Vegetable	501.94	1%
Pasture/Hay/Grassland	5775.13	13%
Orchards/Vineyard/Berries	2785.71	6.2%
Wetland	4931.81	11%
Forests	7429.96	17%
Water	528.41	0.1%
TOTAL ACRES	45,152.43	

Table 5. Cropland Data Layer 2014 – Total for Hamilton Township

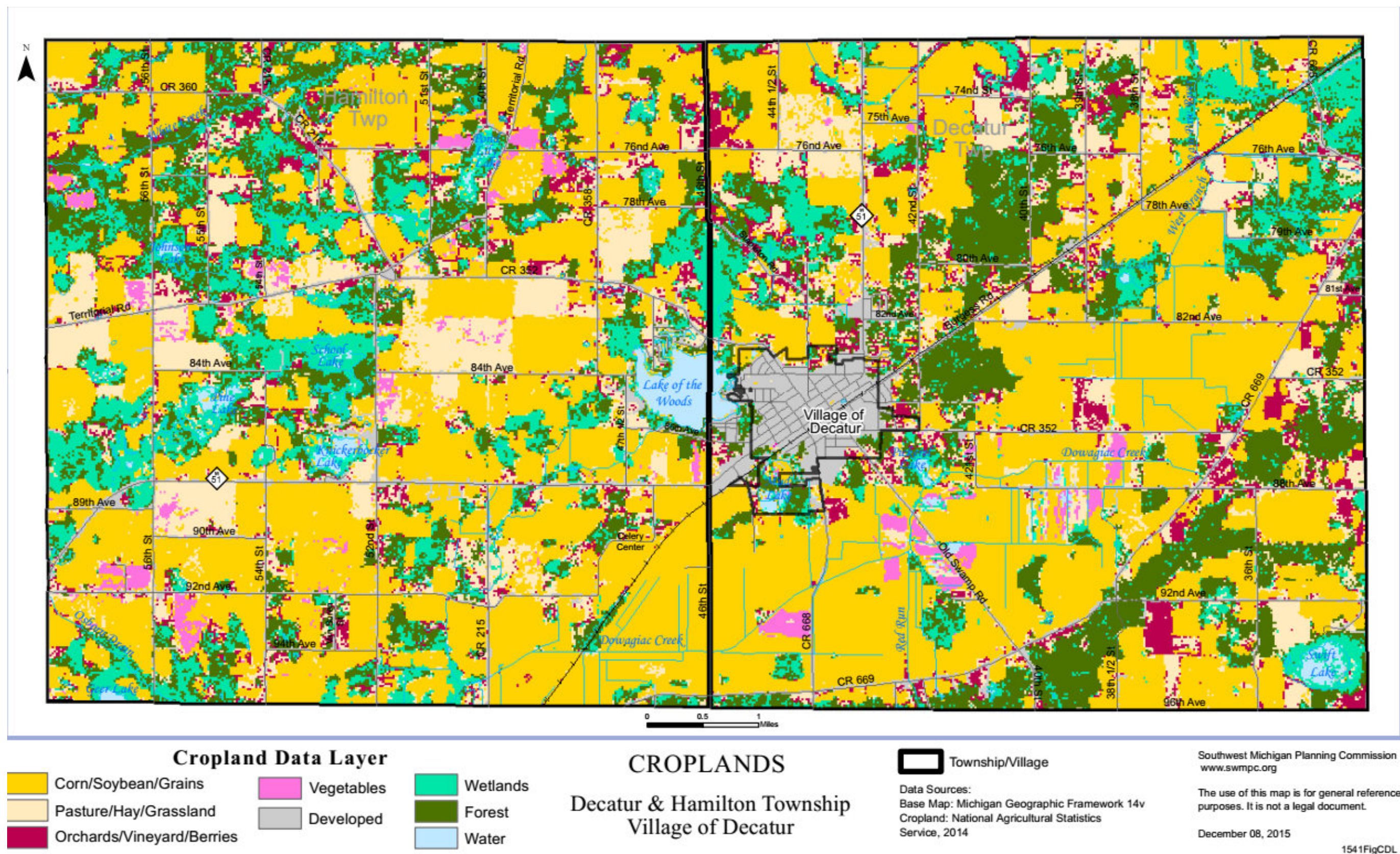
Category	ACRES	PERCENT
Developed	1188.92	5%
Corn/Soybean/Grains	10154.95	45%
Vegetable	225.73	1.0%
Pasture/Hay/Grassland	3180.01	14%
Orchards/Vineyard/Berries	1346.60	6%
Wetland	3052.80	13%
Forests	3233.83	14%
Water	347.82	1.5%
<i>TOTAL ACRES</i>	<i>22,730.67</i>	

Table 6. Cropland Data Layer 2014 – Total for Hamilton Township

Category	ACRES	PERCENT
Developed	1,307.01	6%
Corn/Soybean/Grains	10,168.74	47%
Vegetable	272.66	1.3%
Pasture/Hay/Grassland	2,559.98	12%
Orchards/Vineyard/Berries	1,411.09	6.5%
Wetland	1,850.54	8.5%
Forests	4,090.94	19%
Water	159.68	0.7%
<i>TOTAL ACRES</i>	<i>21,820.63</i>	

Table 7. Cropland Data Layer 2014 – Total for Decatur Village

Category	ACRES	PERCENT
Developed	325.58	35%
Corn/Soybean/Grains	54.26	6%
Vegetable	3.56	0.4%
Pasture/Hay/Grassland	35.14	4%
Orchards/Vineyard/Berries	28.02	3%
Wetland	28.47	3%
Forests	105.19	11%
Water	20.91	2%
Developed Open Space	325.81	35%
<i>TOTAL ACRES</i>	<i>926.94</i>	



Farmland Protection Benefits

Farming creates jobs, provides a product for sale, and provides vast areas of open space and scenic corridors. Farmland also provides substantial environmental benefits, including floodplain protection, groundwater recharge, and wildlife habitat. In addition, the tradition of family owned farms has been passed down from generation to generation; supporting a strong social structure focused on community and family.

Based upon agricultural statistics for Van Buren County, agriculture will continue to be a prominent economic force in the region. In evaluating the value of farmland, there must be a basic assumption that farmland is worth saving. The Decatur-Hamilton community recognizes the significance of agriculture in their Joint Comprehensive Plan. There was a 6% loss of farmland in Van Buren County from 2007 and 2012 (Census of Agriculture). The Hamilton and Decatur community realizes the following benefits from farming:

Economic Benefits

- Strengthens the agricultural economy
- Strengthens the total economy through diversification
- Increases the long-term sustainability of farming
- Lowers infrastructure costs to taxpayers
- Increases property values
- Reduces the trade deficit
- Allows growth and development to continue in specified areas
- Maintains or increases tourism related to open space, wildlife and farming
- Local economic development
- Provides a long-term business environment for agriculture
- Less service costs to taxpayers
- Provides opportunities for alternative energy

Environmental Benefits

- Controls flooding and erosion
- Protects water quality
- Provides wildlife habitat
- Protects drinking water and aquifer recharge areas

- Preserves land, a limited resource
- Provides renewable resource/clean fuel, alternative energy
- Retains natural character

Social Benefits

- Strengthens and preserves farming communities
- Provides a future for young farmers
- Preserves scenic open space
- Encourages revitalization of cities
- Reduces traffic congestion
- Provides a local fresh food supply
- Provides a safe, high-quality food supply
- Preserves existing urban and rural communities
- Preserves our rural heritage in the state and the nation
- Provides recreational opportunities
- Improves the aesthetic quality of our rural and urban lives; saves beautiful land in rural areas, encourages saving beautiful buildings in cities
- Provides for a higher quality of life in a community
- Encourages a sense of community

Implications for Development

Van Buren County and the Decatur area are experiencing residential development. Historically, many areas in Van Buren County were predominantly farming communities; however, increasing growth pressure is resulting in farmland being developed and fragmented. The fragmentation of farmland will make it increasingly difficult for remaining farming operations to remain viable. The land that is suitable for farming is an irreplaceable natural resource that cannot be regained once it has been lost to development. Farmland is an important part of Van Buren County and the Decatur area history, culture and economic structure.

Several programs and zoning strategies are available to manage growth and preserve farmland. Four options for preserving agricultural lands are: 1) purchase of development rights programs (such as Van Buren County's Purchase of Development Rights Program), 2) right to farm laws, 3) agricultural buffer zoning requirements to protect existing farming operations from residential sprawl, and 4) zoning techniques to reduce fragmentation.

Land Protection Options

The protection and preservation of prime agricultural lands along with natural features and open spaces within the community will ensure that these important assets and resources remain available to the people of Decatur - Hamilton community. Therefore, tools will be utilized to acquire and protect these resources that can include the following: Transfer of Development Rights, Purchase of Development Rights, Conservation Easements, etc. The townships and village can also utilize open space developments to ensure habitats are left intact. Land Trusts also exist that communities, businesses and individuals can work with such as the Southwest Michigan Land Conservancy and The Nature Conservancy. Individuals who are interested in protecting their land have several options available to them. A summary of these options can be found in the Appendix 2.

Summary:

- The primary environmental constraints to development found in the Decatur-Hamilton area are wetlands and poorly drained soils.
- There is little change in topography throughout most of the Decatur-Hamilton area, with the exception of the extreme southeastern portion of Decatur Township, adjoining the Cass County line, where there exists a significant rise in elevation. The top of the ridge is an important area for groundwater recharge.
- Because the Decatur-Hamilton area is at the headwaters of the Dowagiac River and Paw Paw River watersheds, current and future use of land could have significant impact on the water quality of these rivers downstream. Stormwater management must address water quantity and quality.
- The area is blessed with many lakes, streams, wetlands, natural shoreline, natural areas and open space which attract residents and visitors to the area. It will be important to encourage natural shorelines to protect these waterbodies.
- A large portion of the Decatur-Hamilton area contains soils that have been classified by the United States Department of Agriculture as “prime agricultural soils.” Agricultural activities continue to be important to the local economy.

Population & Housing

Gaining insight to current demographic information pertaining to the Village of Decatur, Decatur Township, and Hamilton Township can help increase understanding of past trends, projected trends, and the impact of both on the growth and development of the communities. In this section a number of variables are estimated and projected and compared to the same for surrounding communities.



Population Estimates and Projections

In 2010, populations are as follows: Village of Decatur - 1,819, Decatur Township – 3,726, and Hamilton Township - 1,489. The current population in 2010 for Van Buren County is 76,258. The current population indicates a small decline in growth rate for Decatur Township of one percent over the past ten years. During the same period, Hamilton Township has decreased by more than seventeen percent and the Village of Decatur has decreased by more than four percent. These trends differ with Van Buren County which has experienced flat or no growth rate over the same time period ten year period.

Table 8. Population; Village of Decatur and Nearby Municipalities; 2000-2010.

Year	Village of Decatur	Village of Lawton	Village of Lawrence	Village of Paw Paw	City of Dowagiac
2000	1,838	1,859	1,059	3,363	6,147
2010	1,819	1,900	996	3,534	5,879
% Change 2000-2010	-1.03%	2.2 %	-5.95 %	5.08 %	-4.36%

Source: U.S. Census

Table 9. Population; Decatur, Hamilton and Surrounding Townships; 2000-2010

Year	Decatur Township	Hamilton Township	Keeler Township	Lawrence Township	Paw Paw Township	Porter Township	Volinia Township	Wayne Township
2000	3,916	1,797	2,601	3,341	7,091	2,406	1,174	2,861
2010	3,726	1,489	2,169	3,259	7,041	2,466	1,112	2,654
% Change 2000-2010	-4.85 %	-17.14%	-16.6%	-2.45%	-0.7%	2.49%	-5.28%	-7.23%

Source: U.S. Census

Table 10. Population; Van Buren, Cass and Berrien County; 2000-2010

	Van Buren County	Cass County	Berrien County
2000	76,263	51,104	162,453
2010	76,258	52,293	156,813
% Change 2000-2010	-.006%	2.32%	-3.47%

Source: U.S. Census

Comparison of Age Groups 2010

Consistent with national trends, the percent of the population over age twenty continued to increase in the Village of Decatur, Decatur Township, Hamilton Township, and Van Buren County. The Village of Decatur has over half of the population twenty years old or older. Village of Lawton had the highest percentage of its population at age 65 or over, with more than 19.1% of its population falling into that category.

Table 11. Age Characteristics; Village of Decatur and Nearby Municipalities; 2010

Community	<5 Yrs. Of Age	5 to 19 Yrs. Of Age	20 to 64 Yrs. Of Age	65> Yrs. Of Age
Village of Decatur	7.8%	23.4%	55.3%	13.5%
Village of Lawton	5.2%	22.8%	52.9%	19.1%
Village of Lawrence	8%	27.4%	55.3%	9.1%
Village of Paw Paw	6.7%	20.1%	59.4%	13.8%
City of Dowagiac	9.4%	22.5%	55.6%	12.5%

Source: U.S. Census.

Table 12. Age Characteristics; Decatur, Hamilton and Surrounding Townships: 2010

Community	< 5 Yrs. Of Age	5 to 19 Yrs. Of Age	20 to 64 Yrs. of Age	65> Yrs. of Age
Decatur Township	7.1%	21.5%	57.4%	14%
Hamilton Township	5%	21.7%	58.8%	14.5%
Keeler Township	6.2%	19.7%	57.6%	16.5%
Lawrence Township	6.4%	22.7%	58.1%	12.8%
Paw Paw Township	5.8%	19.8%	59.7%	14.7%
Porter Township	4.7%	20%	59.6%	15.7%
Volinia Township	5.1%	22%	58.1%	15.7%
Wayne Township	4.6%	18.7%	60.4%	16.3%

Source: U.S. Census

Table 13. Age Characteristics; Van Buren, Cass and Berrien County; 2010

Community	<5 Yrs. Of Age	5 to 19 Yrs. Of Age	20 to 64 Yrs. Of Age	65> Yrs. Of Age
Van Buren County	6.4%	21.7%	58.1%	13.8%
Cass County	5.8%	20.4%	57.8%	16%
Berrien County	6.1%	20.1%	57.5%	16.3%

Source: U.S. Census

Race

A diverse population exists within the Decatur-Hamilton area. The largest race in 2010 for the Decatur- Hamilton community was white. The next largest group was Hispanic or Latino with 645. National estimates suggest that the Hispanic or Latino population will become the largest minority group in years to come.

Table 14. Population by Race; Planning Area, Van Buren County, Michigan; 2010

COMMUNITY	WHITE	BLACK/AFRICAN AMERICAN	AMERICAN INDIAN AND ALASKAN NATIVE	ASIAN	NATIVE HAWAIIAN/PACIFIC ISLANDER	SOME OTHER RACE	TWO OR MORE RACES	HISPANIC OR LATINO (OF ANY RACE)
Village of Decatur	1,594	49	22	6	1	75	72	171
Decatur Township	3,317	85	47	11	1	131	134	310
Hamilton Township	1,295	32	21	12	0	101	28	164
Total	6206	166	90	29	2	307	234	645
Van Buren County	66,126	3,100	669	313	17	3999	2031	7,758
Michigan	7,803,120	1,400,362	62,007	238,199	2,604	147,029	230,133	436,358

Source: US Census

Educational Attainment

Consistent with trends throughout Michigan and the nation, educational attainment has a high percentage in the Village of Lawton, Village of Lawrence, City of Dowagiac, Porter Township, Volinia Township, and Van Buren County. Hamilton Township, Village of Decatur and Keeler Township displayed a low in the percentage of its population holding high school diplomas or higher education, though the percentage was quite small. Van Buren County as a whole and Decatur Township continued to outpace the Village of Decatur and Hamilton Township in educational attainment as was the case in 2013.

Table 15. Educational Attainment Estimates; Village of Decatur and Surrounding Municipalities; 2013

Community	Percent High School Graduate or Higher	Percent Bachelor's Degree of Higher
Village of Decatur	80.6% (+/-4.6)	12.3% (+/-3.0)
Village of Lawton	89.6% (+/-5.2)	15.3% (+/-4.0)
Village of Lawrence	86.4% (+/-7.1)	11.8% (+/-4.6)
Village of Paw Paw	81.9% (+/-5.4)	14.1% (+/-5.0)
City of Dowagiac	87.9% (+/-4.5)	7.7% (+/-3.1)

Source: U.S. Census 2009-2013 American Community Survey 5-Year Estimates.

Table 16. Educational Attainment Estimates; Decatur, Hamilton and Surrounding Townships; 2013

Community	Percent High School Graduate or Higher	Percent Bachelor's Degree of Higher
Decatur Township	82.8% (+/-4.3)	10.8% (+/-2.8)
Hamilton Township	80.5% (+/-6.1)	14.2% (+/-3.5)
Keeler Township	74.2% (+/-13.9)	9.6% (+/-3.9)
Lawrence Township	84.4% (+/-5.2)	13.7% (+/-3.7)
Paw Paw Township	85.9% (+/-3.3)	19.9% (+/-4.2)
Porter Township	91.5% (+/-4.5)	20.1% (+/-4.8)
Volinia Township	92.2% (+/-3.2)	15.8% (+/-4.4)
Wayne Township	87.7% (+/-3.5)	11.8% (+/-4.2)

Source: U.S. Census 2009-2013 American Community Survey 5-Year Estimates.

Table 17. Educational Attainment Estimates; Van Buren, Cass, and Berrien County; 2013

Community	Percent High School Graduate or Higher	Percent Bachelor's Degree of Higher
Van Buren County	85.3% (+/-0.9)	17.9% (+/-1.1)
Cass County	87.2% (+/-1.1)	16.2% (+/-1.3)
Berrien County	87.4% (+/-0.6)	24.2% (+/-0.8)

Source: U.S. Census 2009-2013 American Community Survey 5-Year Estimates.

Total Number of Housing Units

The total number of housing units in the Village of Decatur in 2000 was 707 units and in 2010 were 781 units. In Decatur Township were 1,611 in 2000 and were 1,623 in 2010. In Hamilton Township were 723 units in 2000 and 728 units in 2010. The total number of housing units in Van Buren County in 2000 was 33,975 and 36,785 in 2010.

Table 18. Housing Units; Village of Decatur and Surrounding Municipalities; 2000-2010

Community	Number of Housing Units		
	2000	2010	% Change 2000-2010
Village of Decatur	707	781	10.46%
Village of Lawton	668	788	17.96%
Village of Lawrence	434	436	0.46%
Village of Paw Paw	1,511	1,674	10.78%
City of Dowagiac	2,631	2,674	1.63%

Source: U.S. Census

Table 19. Housing Units; Decatur, Hamilton and Surrounding Townships; 2000 - 2010

Community	Number of Housing Units		
	2000	2010	% Change 2000 - 2010
Decatur Township	1,611	1623	0.74%
Hamilton Township	723	728	0.69%
Keeler Township	1,562	1,629	4.29%
Lawrence Township	1,516	1,588	4.75%
Paw Paw Township	3,248	3,505	7.91%
Porter Township	1,380	1,424	3.18%
Volinia Township	588	614	4.42%
Wayne Township	1231	1,311	6.49%

Source: U.S. Census

Table 20. Housing Units; Van Buren, Cass and Berrien County; 2000-2010

Community	Number of Housing Units		
	2000	2010	% Change 2000-2010
Van Buren County	33,975	36,785	8.27%
Cass County	23,884	25,887	8.38 %
Berrien County	73,445	76,922	4.71%

Source: U.S. Census and Claritas, Inc.

Tenancy Status of Housing Units

The majority of housing units located in the Village of Decatur, Decatur Township, Hamilton Township, and Van Buren County are owner-occupied. In 2010, the percentage of homes that were owner occupied in the Village of Decatur lagged behind both townships and the county, which is quite common in urban communities with an aging housing stock. Hamilton Township, in 2010 had the highest percentage of owner-occupied homes, outpacing the County figure by just fewer than four percent.

Table 21. Tenancy Status; Planning Area and Van Buren County; 2010

% of Owner-Occupied Homes	
Community	2010
Village of Decatur	63.9%
Decatur Township	73.5%
Hamilton Township	87.1%
Van Buren County	77.9%

Source: U.S. Census

Housing Values

Similar to the characteristics for the percentage of owner occupied housing, the Village of Decatur has the lowest median home value having experienced an increase of slightly less than 50% between 2000 and 2014. Again, this is quite common in urban areas with an aging housing stock. Comparatively, Decatur Township, Hamilton Township, and Van Buren County have experienced varied increases in median home values, with Decatur Township's median value increasing by more since 2000. However, the median home value in the Village of Decatur and Decatur Township fall below that for the overall County. Hamilton Township has the largest increase in value almost doubling in the past 14 years.

Table 22. Owner Occupied Median Home Values Estimates; Planning Area and Van Buren County; 1990-2014

Community	1990	2000	2014
Village of Decatur	\$32,600	\$48,121	\$74,100 (+/- \$5,336)
Decatur Township	\$35,200	\$56,674	\$81,500 (+/- \$13,448)
Hamilton Township	\$45,600	\$69,141	\$111,600 (+/- \$9,286)
Van Buren County	\$48,000	\$72,554	\$119,200 (+/- \$3,047)

Source: U.S. Census and U.S. Census 2010-2014 American Community Survey 5-Year Estimates.

Table 23, Decatur Village, Decatur Township, Hamilton Township Housing Value Estimates; 2014

Housing Value in 2014	Decatur Village			Decatur Township			Hamilton Township		
	Estimate	Percent	Margin of Error	Estimate	Percent	Margin of Error	Estimate	Percent	Margin of Error
Less than \$50,000	112	23.7%	+/-5.6	173	18.6%	+/-5.2	70	15.6%	+/-6.0
\$50,000 to \$99,999	248	52.4%	+/-7.3	390	42.0%	+/-8.7	109	24.3%	+/-8.8
\$100,000 to \$149,999	68	14.4%	+/-5.0	144	15.5%	+/-4.9	136	30.4%	+/-7.9
\$150,000 to \$199,999	29	6.1%	+/-4.3	92	9.9%	+/-5.4	57	12.7%	+/-5.5
\$200,000 to \$299,999	10	2.1%	+/-1.7	66	7.1%	+/-4.0	44	9.8%	+/-4.6
\$300,000 to \$499,999	3	0.6%	+/-0.9	10	1.1%	+/-1.4	21	4.7%	+/-2.7
\$500,000 to \$999,999	3	0.6%	+/-1.0	53	5.7%	+/-6.3	11	2.5%	+/-2.1
\$1,000,000 or more	0	0.0%	+/-4.6	0	0.0%	+/-2.4	0	0.0%	+/-4.9

Source: U.S. Census 2010-2014 American Community Survey 5-Year Estimates.

Table 24, Van Buren County Housing Value Estimates; 2014

Van Buren County, Michigan			
Housing Value in 2014	Estimate	Percent	Percent Margin of Error
Less than \$50,000	2,915	13.2%	+/-1.1
\$50,000 to \$99,999	5,953	27.0%	+/-1.5
\$100,000 to \$149,999	4,677	21.2%	+/-1.3
\$150,000 to \$199,999	3,839	17.4%	+/-1.3
\$200,000 to \$299,999	2,685	12.2%	+/-1.2
\$300,000 to \$499,999	1,364	6.2%	+/-1.0
\$500,000 to \$999,999	489	2.2%	+/-0.6
\$1,000,000 or more	96	0.4%	+/-0.3

Source: U.S. Census 2010-2014 American Community Survey 5-Year Estimates.

Age of Housing

The Village of Decatur has a higher percentage of homes built in 1939 or earlier. More than 32% of the homes in the Village of Decatur were built in 1939 or earlier. Hamilton Township had the lowest percentage of homes built 1939 or earlier with less than one-fourth falling into this category. This is reflected in the percentage of owner-occupied homes and the median home value, both of which are higher in Hamilton Township.

Table 25. Percentage of Housing Built 1939 or Earlier Estimates; Planning Area and Van Buren County; 2013

Community	2013
Village of Decatur	32.3% (+/-5.6)
Decatur Township	22.7% (+/-4.7)
Hamilton Township	13.9% (+/-4.3)
Van Buren County	16.9% (+/-1.1)

Source: U.S. Census 2009-2013 American Community Survey 5-Year Estimates.

Village Neighborhood Analysis

In this section, the existing neighborhoods in the Village are evaluated in terms of their consistency with the principles of good neighborhood development. These principles are based upon the ideas expressed in the neighborhood unit concept, which represents the physical arrangement of many neighborhoods built prior to World War II, and the more recent Traditional Neighborhood Design or New Urbanism movement. Essentially, the principles espoused in these concepts are as follow:

- Recognition of the neighborhood unit as the basic building block of the community
- Neighborhoods should be compact and walkable
- Neighborhoods should have clearly defined edges and be connected to well-defined centers
- Community centers should be typically no more than one-quarter of a mile or five minute walk from the neighborhoods
- Pedestrian access throughout the neighborhood and connecting to the center should be a priority
- Streets should be laid out as an interconnected network to form coherent blocks
- A diverse mix of residences, shops, schools, workplaces, and parks should occur in close

- proximity to one another
- Open spaces such as parks should be provided in convenient locations throughout each neighborhood
- A wide spectrum of housing options accommodating people of a range of incomes, ages, and family types should be available in each neighborhood

For the purposes of this Master Plan, the individual neighborhoods were defined for the Village of Decatur (see Neighborhood Analysis map), and were then evaluated based upon these principles.

Delineation of the neighborhoods was achieved through use of the following methodology:

- Use of previously documented neighborhood delineations, such as that in any previous Master Plans or as devised by the Village for other purposes.
- Identification and recognition of distinct areas that are bounded by recognizable physical edges, such as roads, natural features, substantial changes in land use, etc.
- Consideration of the ultimate maximum size of any area relative to its ability to function as a unified neighborhood.

Each neighborhood was then evaluated against the afore-mentioned principles of traditional neighborhood development and the results are presented in a table below. A brief description of the features follows:

Compactness. Well-defined neighborhoods that have recognizable edges and which are relatively high in density, that is the number of homes per acre help to define a unique sense of place and contribute to interaction among neighbors and contribute to the relative quality of life in the neighborhood.

Walkability. The presence of sidewalks, houses oriented to the street, tree lined streets, and traffic “calmed” by on-street parking are a few of the variables that are considered in this measure. As with compactness, the walkability of a neighborhood can contribute to the neighborhood’s sense of place and contribute to the interaction among neighbors and contribute to the relative quality of life in the neighborhood.

Civic and Institutional Uses. The presence of churches, parks, and government facilities can

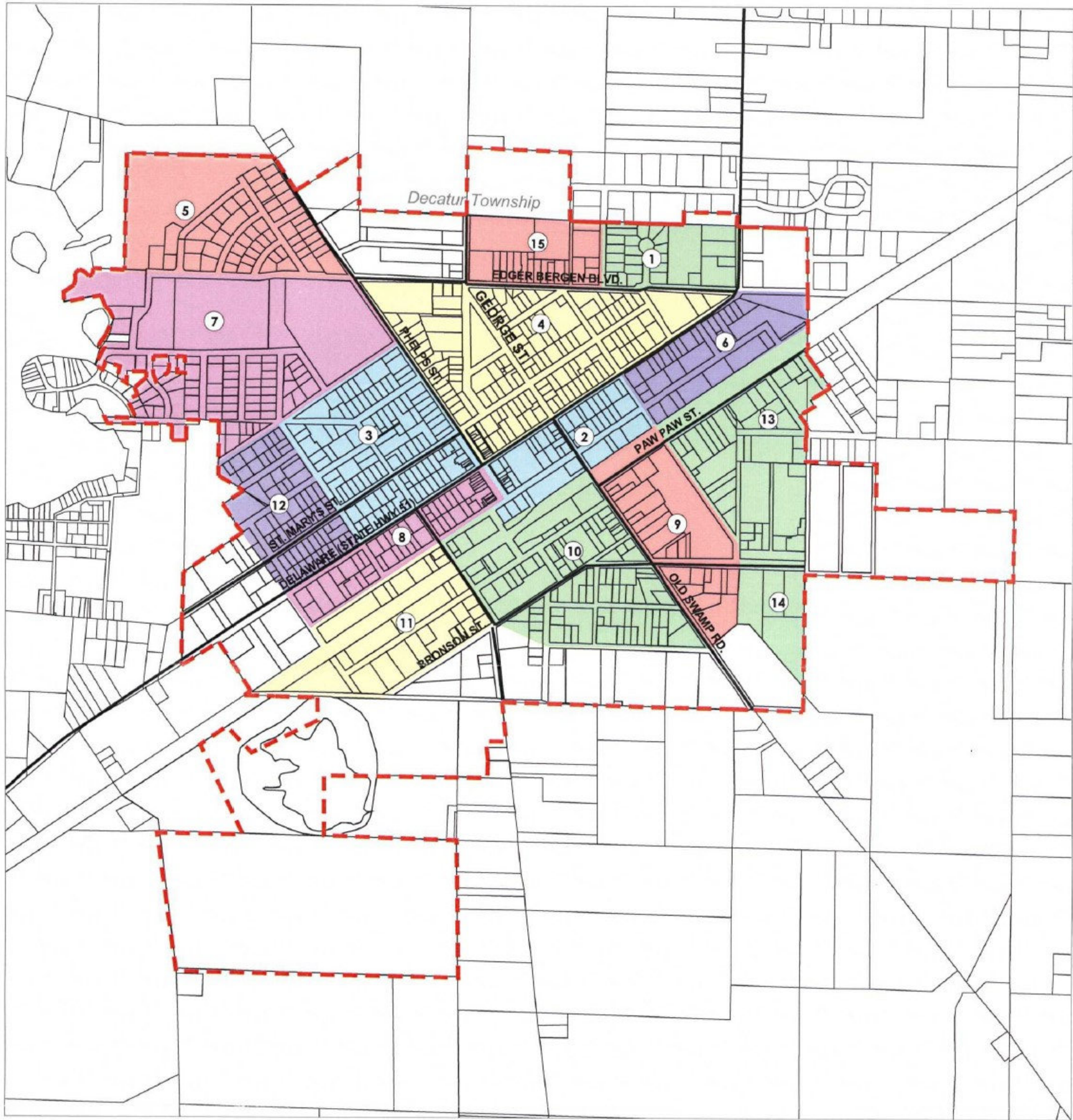
contribute positively to a neighborhood's identity and character. Such facilities generally contribute positively to the neighborhood offering opportunities for both formal and informal gathering of neighbors, addressing many of the social needs of the community within walking distance of homes, and serving as a stabilizing factor in the neighborhood.


Commercial Uses. The presence of appropriately scaled business activities in a neighborhood can provide residents with access to convenience shopping goods and services, often within walking distance of their homes. Additionally, neighborhood businesses offer employment opportunities for neighborhood youths and elderly persons who may be unable or unwilling to travel great distances for employment.

Schools. Schools within walking distance are one of the most beneficial features of traditional neighborhood design. In many communities schools serve as the central location of neighborhood or community activities. Generally, such facilities are used by the surrounding neighborhood throughout the day and evening. Schools located within walking distance contribute significantly to a neighborhood's sense of place and to the positive quality of life for the surrounding residents. Since Decatur Village is small almost the entire population can walk to a school; however, it is key to know if that walk can be done safely. Are improvements needed such as street crossing upgrades?

Mixed Uses. The mixing of uses, residential with compatible non-residential and single family with multiple-family can play several vital roles. These roles include providing housing in a single neighborhood for the entire economic and life cycle of local residents, thus enabling first-time home buyers, traditional families, single residents, and the elderly all a place to live within the same neighborhood. As previously discussed, the presence of appropriately scaled non-residential uses in the neighborhood can provide shopping and employment opportunities near where residents live. It is vitally important that uses be limited to those that are compatible and that sound site development standards are in place to ensure that the mix of uses contributes positively to the character of the neighborhood.

Interconnected Streets. Historically, communities were built with a series of interconnected grid streets. These streets facilitated relatively easy movement through cities and villages and helped to limit congestion as many routes to and from homes, businesses, etc. existed. Over time, a preference emerged for living along streets that did not carry through traffic and thus were at least in theory safer for children and pedestrians. Often the introduction of cul-de-sacs, and dead-end streets were a response to the lack of parks, schools, sidewalks, etc in the neighborhood that forced streets to become the only available location for pedestrian and play activities. Interconnected streets, whether on a grid pattern or some other patterns, are vital features of a strong neighborhood. As in the past, such a street pattern allows ease of movement for automobiles and pedestrians and helps to alleviate congestion in the community.




Municipal Boundary

Evaluation of Traditional Neighborhoods

Basemap Source: Van Buren County, Michigan
 Data Source: McKenna Associates, Inc.



Table 26. Evaluation of Neighborhoods Based Upon Traditional Neighborhood Features

Traditional Neighborhood Feature	Evaluation Scoring (1= Weak, 5 = Strong)													
	Neighborhood													
	1	2	3	4	5	6	7	8	9	10	11	12	13	14
Compactness	4	4	4	5	3	5	3	3	4	4	3	1	1	1
Walkability	4	4	4	2	3	5	3	3	3	3	3	2	1	2
Presence of Civic & Institutional Uses	3	3	4	4	3	4	2	2	2	4	3	2	1	3
Concentration of Commercial Uses Nearby	1	1	3	5	4	5	2	2	3	5	3	2	2	2
Safe Walk to School	5	5	3	3	2	5	3	3	2	3	1	1	1	1
Mixed Uses	2	2	3	4	4	4	2	4	3	4	2	2	2	3
Interconnected Streets	4	4	5	5	2	5	3	2	3	4	3	2	1	2

Source: McKA, Inc.

As this analysis reveals, the neighborhoods exhibiting the strongest presence of traditional neighborhoods are generally located in the older platted portions of the Village. However, neighborhood 1 is a good example of newer construction exhibiting several of these features just northwest of the high school. Generally, the most common missing or weak features include walkability, presence of civic, institutional uses, and commercial uses, and the proximity of schools. It is generally advisable that the community takes steps to protect and enhance desirable existing features, expand or improve areas where weaknesses exist, and take steps to ensure that new development incorporates as many of the features as appropriate.

Economy

In this section, a number of different aspects of the Hamilton-Decatur area's economy is analyzed. Employment within the village and townships is reviewed and compared to the same for surrounding communities and the counties. Household income and expenditure patterns are also reviewed and compared to the surrounding communities. Additionally, a general evaluation of the Central Business District is conducted.

The majority of those employed in the Village of Decatur are employed in the Management, business, science, and arts occupations, with an estimated 25% in such occupations. This is followed by those employed in production, transportation, and material moving occupations, representing slightly less than 21% of those employed. This characteristic is true in both Decatur Township as well, with 23% of those employed in Management, business, science, and arts occupations. Hamilton Township and Van Buren County, however have more of their population employed in Production, transportation, and material moving occupations with the percentages being 24% and 28%, respectively. As seen in table 21 below.

Table 27. Occupations for Planning Area and Van Buren County estimated number of employees; 2010

	Village of Decatur	Decatur Township	Hamilton Township	Van Buren County
Civilian employed population 16 years and over estimates	766	1457	843	33,682
Management, business, science, and arts occupations:	193	338	196	9,090
Education, legal, community service, arts, and media occupations:	78	111	43	2,991
Healthcare practitioner and technical occupations:	23	43	45	1,418
Service occupations:	144	298	85	5,995
Sales and office occupations:	148	254	190	7,823
Natural resources, construction, and maintenance occupations:	114	253	173	4,335
Production, transportation, and material moving occupations:	167	314	199	9,439

Source: U.S. Census (American Community Survey 5 year estimates)

Median Household Income

Median household income has continued to increase in all of the areas under consideration. The greatest increase occurs in Hamilton Township that experienced a 47% increase between 2000 and 2010. This compares to a 21% increase in the Village of Decatur, with only a 8% increase in Decatur Township, and nearly a 25 % increase for Van Buren County, in its entirety.

Table 28. Median Household Income; Planning Area and Van Buren County; 1990 - 2010

	1990	2000	2010
Village of Decatur	\$19,129	\$26,729	\$32,304
Decatur Township	\$21,604	\$31,304	\$33,859
Hamilton Township	\$21,047	\$30,504	\$44,844
Van Buren County	\$25,491	\$35,579	\$44,435

Source: U.S. Census.

Central Business District Evaluation

Historically, the central business district or “downtown Decatur” met the shopping needs of most of the area residents. Following World War II, this role began to wane, with businesses located in strips along major roadways gaining prominence. This can be seen in the communities surrounding Decatur with the growth of business districts along state highways and in the vicinity of interstate interchanges. Often, this shift of economic activity left central business districts vacant and underutilized. More recently, central business districts have experienced a resurgence, with the introduction of specialty shopping opportunities and service businesses locating in downtown.

In general, this pattern has been influenced only by the marketplace with little intervention by the local government. The formation of downtown development authorities, establishments of tax increment financing authorities, and the introduction of Main Street programs are recent initiatives by local governmental bodies to balance market influences. The Village of Decatur has had a Downtown Development Authority (DDA) for several years, charged with enhancing and improving the physical and economic environment of downtown.

Typically, communities seek to accomplish protection and enhancement of the downtown in a variety of ways including maintaining a focus on four areas: Physical Design, Economic Restructuring, Organization and Promotion.

This section evaluates the progress made in these four areas. This section is not intended to be a comprehensive downtown development plan or business development plan, rather it is intended to provide enough data and analysis to assist in developing appropriate responses in the master plan.

Physical Design

The Village is conducting a Downtown Improvement Plan to improve the physical design of downtown. Efforts to date that have been undertaken have generally included public investment in capital projects such as Phelps Street reconstruction and streetscape improvements including placement of street furniture and period lighting. Additionally, a small pocket park was constructed on Phelps Street across from Village Hall.

The Downtown Improvement Plan will address remaining challenges including the continuation of streetscape improvements, facade renovation and upgrade efforts, improvement in signage in the downtown, creation of site development standards that ensure that new construction or major renovation in the downtown is completed in a manner that enhances the character of the area, improvement of the entrances into downtown, and generation of additional sources of revenue to implement improvement efforts.

Economic Restructuring

There have been essentially no organized efforts at economic restructuring in the downtown. Typically such efforts include the organized collection and dissemination of relevant market data and providing assistance to local merchants to enable them to reposition themselves to be more competitive and successful.

Remaining challenges and opportunities include the establishment of a focused and coordinated

business development plan, business recruitment and retention efforts, market data collection and distribution, and generation of additional sources of revenue to implement restructuring efforts.

Organization

There have been very limited efforts at organizing around downtown issues. The presence of the Downtown Development Authority and the Chamber of Commerce represent the organizational efforts to date. It is necessary to build upon these existing organizations to increase the focus on downtown.

Remaining challenges and opportunities include the expansion of the DDA to include committees or task forces that are organized around elements essential to the success of downtown, such as physical design, economic restructuring, and promotion. An enhanced level of coordination and cooperation among the various stakeholders in the community is another opportunity that remains to be addressed for downtown Decatur.

Promotion

There is very little attention paid to the promotion of downtown Decatur as a whole as well as in the joint advertising of businesses located in the downtown. In general marketing is left up to the individual merchant alone. Similarly there are few events and activities that assist in promoting downtown as a destination for visitors and customers.

Remaining challenges and opportunities include expanding the promotional and marketing efforts in Decatur. This should include actively promoting individual business, clusters of similar business, and the community as a whole.

Summary:

- Village of Decatur has experienced a small decrease in population from 2000 to 2010.
- Decatur and Hamilton Townships have also experienced decreases in population from 2000 to 2010, as have most surrounding townships.
- Hamilton Township has a slightly higher percentage of its population with ages 65 or over than both Decatur Village and Decatur Township, though no greater than in

surrounding villages and cities.

- More than three-fourths of the population in the Decatur-Hamilton area has graduated from high school.
- The vast majority of the homes in the Decatur-Hamilton area are owner occupied, with the Village having the lowest percentage.
- The median value of houses in the Village of Decatur and Decatur Township were less than in Van Buren County overall. While Hamilton Township had a higher value than in Van Buren County overall. Hamilton Township had the largest increase in value almost doubling in the past 10 years.
- More than one-third of the homes in the Village of Decatur and one-fourth of the Decatur Township were built in 1939 or earlier. Approximately fourteen percent of the homes in Hamilton Township were built in 1939 or earlier.
- Several of the neighborhoods located in the Village exhibit many traditional neighborhood features that should be protected and enhanced. Other neighborhoods exhibit such features to a lesser degree and should be considered for either re-development or enhancement.
- The majority of residents in the Decatur-Hamilton area are occupied in Management, business, science, and arts occupations.
- The majority of business establishments in the Decatur-Hamilton area are in retail trade or service establishments.
- An increased focus on addressing issues and opportunities specific to downtown in the areas of physical design, economic restructuring, organization, and promotion needs to be undertaken to maintain its character and vitality.
- Median household income in the Village of Decatur and Decatur Township area lags behind that of Van Buren County overall, with the residents of the Village being one-third less that of the County. While Hamilton Township has a similar median house household income to the county.

Transportation/Mobility

An integral and highly visible part of any community's infrastructure is the transportation system. The condition of the roads, the amount of congestion, and the ease with which one can move around the community are all issues of significant concern to residents, visitors, and businesses.

Highway System

The transportation system serving the study area is designated as rural and functions at a much lesser capacity than an urbanized area. This is because the rural road system has a limited ability to support large traffic volumes since it is intended to serve the comparatively low traffic volumes generated by a smaller and more dispersed population than urbanized areas.

The road and highway system serving the study area includes an interstate highway, numbered state highways, county and local roads. An examination of the traffic volumes, access points, and conditions of the street network is an integral part of understanding the issues and opportunities that may exist within a community and to formulate goals and strategies relative to transportation improvements. One method of evaluating the existing transportation system is to determine how well each street serves its purpose, intended or otherwise. Streets are generally classified by the function they serve. This is known as "Functional Classification". This classification is generally broken into the following classifications:

- State Trunkline/Major Arterial
- County Primary/Minor Arterial
- Major Streets/Collectors
- Local Streets

State Trunkline/Major Arterial

The primary function of the a major arterial is to accommodate longer distance travel between communities to expressway interchanges and within the village and townships; access to land uses is secondary. Major arterials are usually state trunk lines and the "mile" roads and typically have posted speed limits of 35-45 miles per hour, and 55 mph in rural areas.

Only one major arterial passes through the Village of Decatur and Decatur and Hamilton Townships that is M-51. M-51 provides movement through the village, serves as the primary access for many of the businesses in its business district, and provides a direct link to the surrounding area and to Interstate 94.

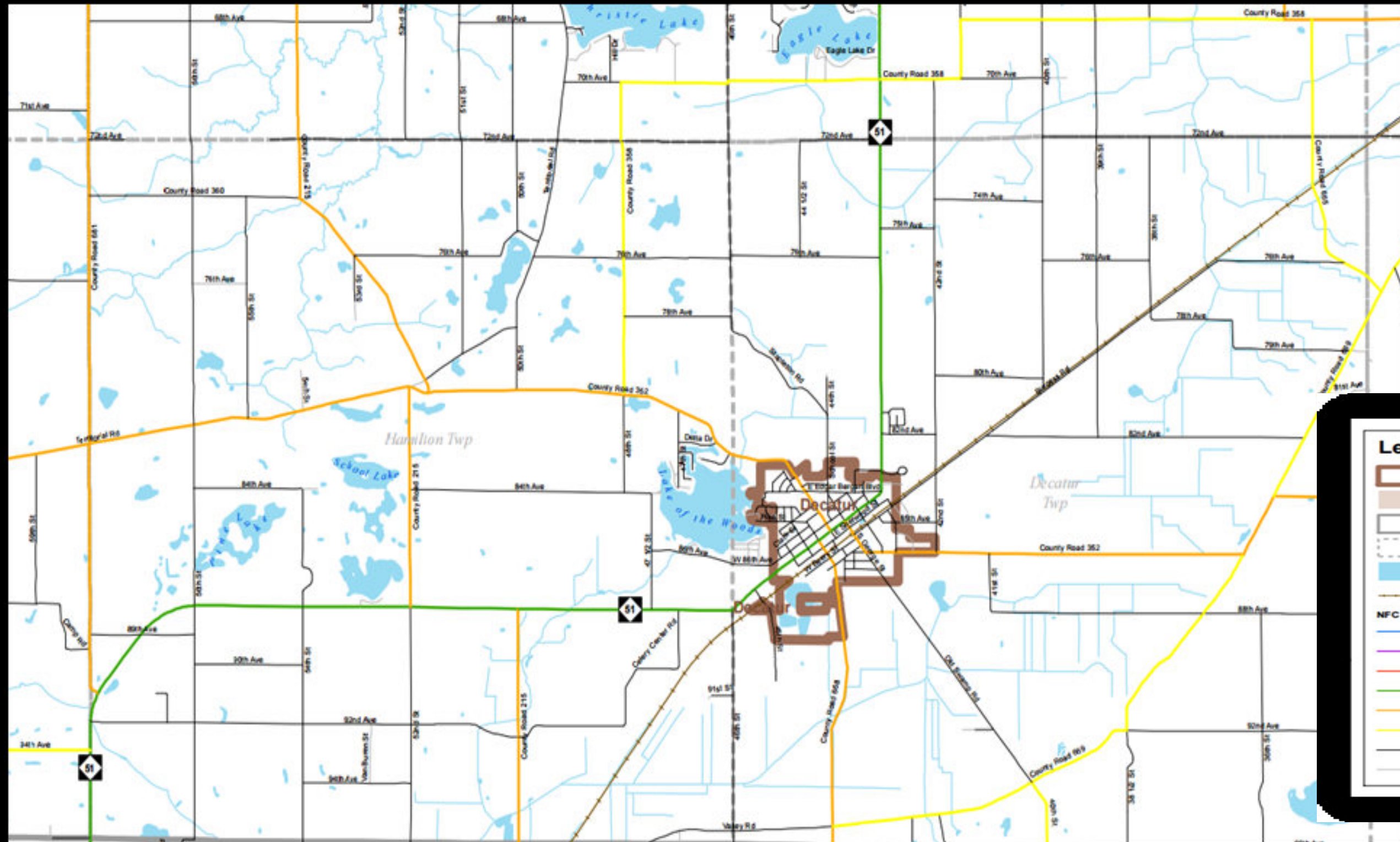
County Primary/Minor Arterial

The primary function of a minor arterial is to move traffic within the community, rather than connections to other communities or expressway interchanges. Access to adjacent land uses is as important as function, so speeds are usually slower than with a major arterial.

Two minor arterials are located in the Village of Decatur. The minor arterials include County Roads 352 and 668. County Road 352 connects to M-51, serves as a primary access for many of the businesses located in the village's business district, and provides a connection to Hamilton Township and to the remainder of the western portion of the county. County Road 668 also connects to M-51 and provides access to the southern portion of Van Buren County and into the northern portions of Cass County.

Several minor arterials are located in Decatur Township. The minor arterials include County Roads 352, 669, 665, and 668. County Road 352 provides east-west movement through the township and provides a direct connection to the Village of Decatur. County Roads 669, 665, and 668 generally provide north-south movement through the township with connections to the Village of Decatur and indirectly, Interstate 94.

Several minor arterials are located in Hamilton Township. The minor arterials include County Roads 358, 352, 360, 215, and 681. County Roads 681, 215, and 358 provide north-south movement through the township and indirect access to Interstate 94 and the surrounding communities. County Roads 352 and 360 provide east-west movement through the township and indirect access to adjoining communities



Major Streets/Collectors

The main function of collectors is to collect traffic from nearby local streets and link it with the surrounding arterial street system. Generally, collectors are not intended for through traffic, but may be forced into this role if arterials become congested. Speed limits are usually 25-35 miles per hour; on street-parking may be permitted. Rights of way are typically less than on arterials, but greater than local streets.

Several collectors are located in the Village of Decatur and include the various avenues and numbered streets (i.e., 86th Avenue and 44th Street). The collectors provide movement throughout the village and connections to the minor and major arterials located within the village.

Numerous collectors are located in Decatur Township. The collectors include the various avenues and numbered streets (i.e., 92nd Avenue, 39th Street). The collectors provide east-west and north-south movement throughout the community and connections to minor and major arterials located within the township.

Numerous collectors are located in Hamilton Township. The collectors include the various avenues and numbered streets (i.e., 90th Avenue, 52nd Street). The collectors provide east-west and north-south movement throughout the community and connections to the minor and major arterials located within the township.

Local Streets

The primary function of local streets is to provide access to adjacent land uses and ensure through traffic is discouraged. The remaining streets in the village and townships function as local streets, providing direct access to adjacent land uses.

Maintenance of Roadways

The federal aid eligible roadways (See above Map) are monitored on a semi- annual basis through a PASER rating system. The results of this monitoring are reported to the Asset

Management Council on an annual basis. Within the study area there are is a mix of Federal Aid Eligible roads that are in poor to fair condition. A small portion of County Road 665 and 88th Street are classified as good. The Village of Decatur has an asset management plan in place for their roadways. The remaining roads are managed by the Van Buren County Road Commission with the exception of M51 which is maintained by the Michigan Department of Transportation.

Road Funding

There are several sources of funding for roads within the study area depending on the classification and geographic location of the roadway. Many roadways qualify for multiple sources of funding. The table below outlines the various funding sources available to road infrastructure projects within the study area.

Table 29. Funding for Roads

	Local Roads	Federal Aid Eligible	All Season Roads
Van Buren Road Millage Funds	X	X (Match)	X
Act 51 State Funding	X		
State D Funding		X	X
STP-R Funding		X	
CMAQ Funding		X	
TAP Funding		X	
Safe Routes to School Funding	X	X	X

Van Buren County has a local county-wide road millage which is 0.9769-mills which was renewed in 2016 for four years. In 2015, Hamilton Township renewed a road millage of 1-mill for three years. Decatur Township has 2-mill road improvement in place and it is renewable every 5 years - last renewed in August 2014. Millage funds are first utilized to leverage Federal and State funds to do larger, more expensive road and bridge projects. Projects that qualify for Federal and/or State Aid are typically paid at the rate of 90% State/Federal funds, and 10% Local funds. By taking advantage of this funding, when available, the Road Commission is able to accomplish many projects it would, more than likely, never accomplish without county-wide millage funds. Millage funds are also used to accomplish many other annual improvements and upgrades to the county-wide road system through a selection process that takes into consideration asset management, budget constraints, traffic volumes, and township priorities.

Act 51 Funding:

Act 51 authorizes designation of jurisdictional road networks: county roads and city and village streets. These “legal systems” fix which road is under which agency’s jurisdiction, and determine funding. The Act sets criteria for those designations and allows for the transfer of mileage between systems. Act 51 assigns responsibility for maintenance, construction, and improvement of those roads to the various governmental bodies. Maintenance includes snow removal, cleaning, patching, signing, and marking, in addition to preservation, reconstruction, resurfacing, restoration and rehabilitation.

State D Funding:

To provide funding for transportation projects which complement the existing state trunkline system with improvements on connecting local routes that have high commercial traffic. Eligible applicants are county, city, or village road agencies and transit agencies in counties with a population of less than 400,000.

In order to be eligible for Category D funding:

- The project must be essential to the creation of an all-season road system
- The project must be located on a rural primary road or major street in a small city or village (population of 5,000 or less) in counties with a population of less than 400,000
- Unless waived by the Rural Task Force, the project must be eligible for federal-aid and must be for road improvements on existing hard surface roads
- The project must meet all-season standards
- Projects will be coordinated with TEDF-Category F projects to establish all-season system continuity within cities and villages
- Priority routes must begin and end at an existing all-season road or highway or a point-of-loading origin

STP-R Funding:

The STP-Rural Program provides funding to improve roads and streets in rural areas functionally classified as principal arterial, minor arterial or major collector. A special Moving Ahead for

Progress in the 21st Century Transportation Act (MAP-21) rule allows states to use up to 15 percent of funds sub-allocated for areas with a population of 5,000 or less on rural minor collectors at state discretion. The Region 4 Rural Task Force manages these funds for Van Buren County. The Southwest Michigan Planning Commission provides administrative support for this task force. <http://www.swmpc.org/rtf.asp>

CMAQ Funding:

The Congestion Mitigation and Air Quality Improvement (CMAQ) Program provides a flexible funding source for transportation projects and programs that help improve air quality and reduce congestion. State and local governments can use CMAQ funds to support efforts to meet National Ambient Air Quality Standards (NAAQS) under the Clean Air Act in both nonattainment and maintenance areas for carbon monoxide, ozone, and particulate matter.

- *Nonattainment areas* are those where air pollution levels exceed NAAQS.
- *Maintenance areas* are those that were out of compliance with NAAQS for these pollutants but now meet the standards.

TAP Funding:

Transportation Alternatives Program (TAP) TAP is a competitive grant program that funds projects like bike paths, streetscapes, and historic preservation of transportation facilities that enhance Michigan's intermodal transportation system and provide safe alternative transportation options. These investments support place-based economic development by offering transportation choices, promoting walkability, and improving the quality of life.

Safe Routes to School Funding:

Federal law provides funding for infrastructure projects, law enforcement, education, and encouragement activities aimed at enabling and encouraging children to walk and bike to school.

This encourages a healthy and active lifestyle at an early age, and improves safety, as well as reducing traffic, fuel consumption, and air pollution in the vicinity of elementary and middle schools. Schools serving children in grades K-8 are eligible for SRTS funding, which is available on a competitive grant basis.

Pedestrian

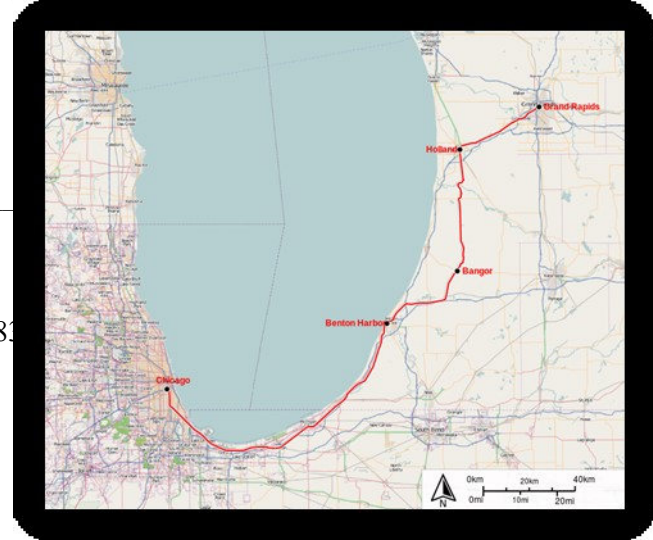
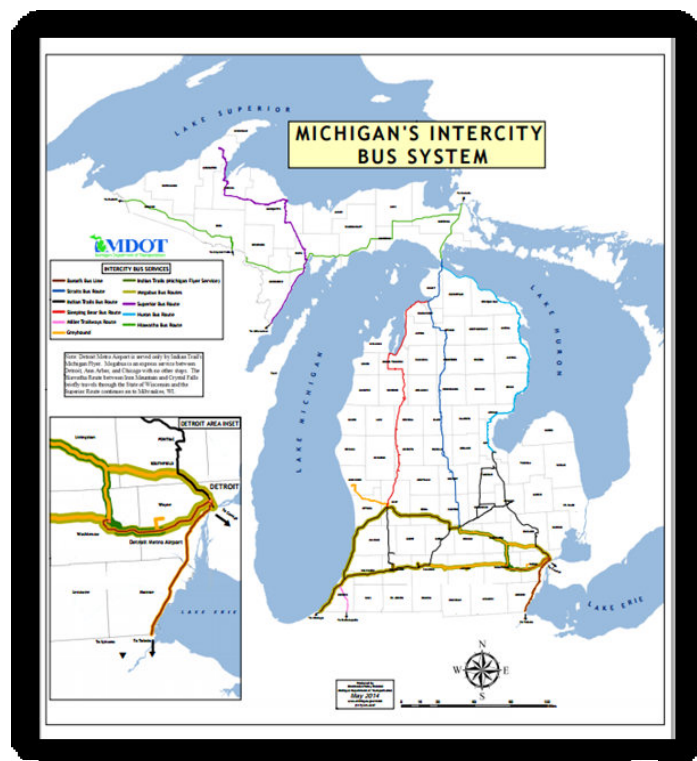
The majority of the Village of Decatur is served by sidewalks enabling pedestrian movement throughout the residential areas and the business district. Generally, sidewalks are not present in either Decatur Township or Hamilton Township, due to the relatively low density of development found in these areas. There is a recreational trail in Hamilton Township adjacent to the Grange Hall or Old Township Hall.

Intercity Bus Service

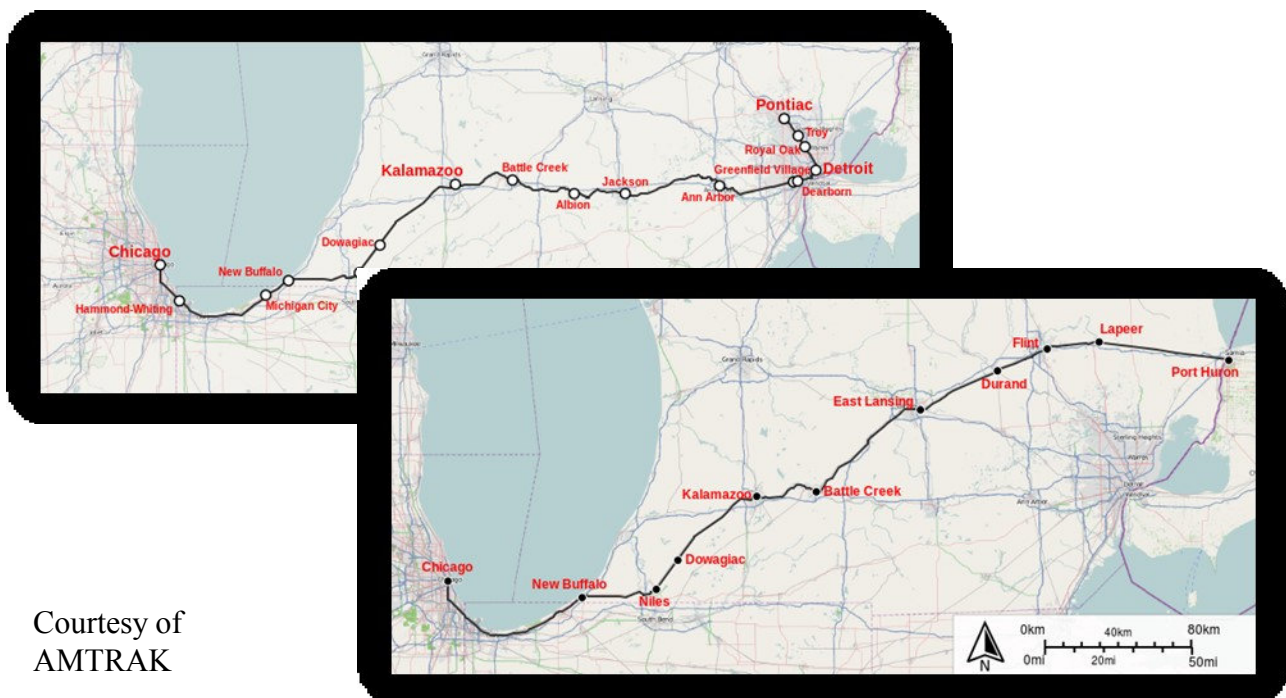
Within the study area there is one intercity bus provider. Typically intercity bus service provides scheduled service to cities over much longer distances than local transit agencies. Greyhound has scheduled stops in the Village of Paw Paw. The bus station is located within the downtown at 217 Michigan Avenue. From this location people have access to daily service to larger urban destinations that include Kalamazoo, Battle Creek, Detroit, Grand Rapids, and Chicago.

Passenger Rail

Within a 30 minute drive from Hamilton and Decatur Townships Amtrak provides daily service from Bangor in Van Buren County



and Dowagiac in Cass County. The **Pere Marquette** runs once daily between Grand Rapids and Chicago with five stops including one in Bangor. The **Wolverine Service** runs three times daily with service between Chicago and Pontiac with 16 stops, including one in Dowagiac. **Blue Water Service** runs once daily between Chicago and Port Huron and has 11 stops, including one in Dowagiac.



Public Transit

Van Buren Public Transit provides countywide curb-to-curb, advance reservation transportation as well as very limited transportation to medical facilities outside the county including Kalamazoo and Battle Creek. The roundtrip fare for out-of-county service to Kalamazoo and Battle Creek is \$20.00. Travel within the county from origins in Hamilton or Decatur Township require a minimum 24 hour

advance reservation. Countywide service operates from 6:00 am-5:00 pm Monday through Friday, however pickup times are based on availability. The roundtrip cost for traveling within the county of Van Buren is \$12.00 and half fare for older adults over the age of sixty or people with a documented disability.

The closest activity center is the Village of Paw Paw which is home to larger big box stores, hospital and medical facilities, Van Buren County Mental Health and various other human service agencies. Van Buren Public Transit offers an affordable flex route in the Village of Paw Paw. The Concord Loop route offers the reliability of scheduled service to and from designated bus stops and the flexibility of being able to request a stop or a pickup from places along the route. The service operates Monday- Friday between 8 am - 5pm and Saturdays from 10am - 3pm on Saturdays. The fare for the Concord Loop is \$1.00.

Senior Transportation

Van Buren County Senior Services coordinates countywide transportation with Van Buren Public Transit for rides to and from the central and satellite locations. Transportation is also available if an older adult desires to attend programs at meal sites throughout the county. Service locations currently include: the Warren Senior Center in South Haven, the Simpson Methodist Church in Bangor, Black River Commons in Bangor, Harbor View in South Haven, Columbia Township Hall, and other locations as scheduled. (See Table) The Van Buren Senior Services also provides qualifying seniors with transportation to and from medical care appointments by connecting seniors with volunteer drivers or handicap-accessible rides through Van Buren Emergency Medical Services and Van Buren Public Transit, as funds allow.

Table 30. Van Buren County Senior Service Transportation and Senior Center Meal Sites

Agency Name	Origins	Destinations	Center Hours	Number of Vehicles
Van Buren County Senior Services	Van Buren County	Van Buren County St. Joseph County Grand Rapids Kalamazoo	Tuesday and Wednesday 10:00 am - 2:00 pm	30 volunteer drivers No lifts (Also contracts out with Van Buren Public Transit)
Senior Center & Meal Sites			Center Hours	
Antwerp Senior Center			Tuesday and Wednesday 10:00 am - 2:00 pm	
Bloomington Senior Center			Friday 10am-2pm	
Decatur Senior Center			Tues 10am-2pm (Noon Lunch)	
Gobles Senior Center United Methodist Church			3 rd Thurs of the month 10am-2pm	
Hartford Senior Center			Monday & Tuesday, 12:30-3:30 PM	
Keeler Senior Center			3 rd Wed of each month 9am-10:30am	
Lawrence Senior Center			2 nd and 4 th Thursdays at 1pm	
Lawton Senior Center			Mon 10am-2pm (Noon Lunch)	
Paw Paw Senior Center			Mon, Tues, & Thurs- 10am-2pm Wed- 8am-11am (Breakfast 8am-10am)	
Warren Senior Center South Haven, Michigan			Mon-Fri 9am-4pm (Noon Lunch)	
Woodside Comprehensive Plan Woodside Apartments Hartford, Michigan			Mon and Tues 12:30pm-3:30pm	

Private Transportation Providers

There are very few affordable accessible private transportation options for people using a wheelchair who have to travel out of county or the state in the study area. There are several non-emergency medical transportation (NEMT) providers that have accessible vehicles; many times the cost for this service is not affordable for people on a fixed income or for someone that has to use the service on a regular basis. People living within the study area can often have a 40-100 mile round trip commute to access specialized medical care in Kalamazoo, Grand Rapids or Battle Creek. The costs for a hundred mile round trip can be as much as \$150.00. Van Buren Public Transit and the Disabled American Veterans offer very limited transportation to Kalamazoo and Battle Creek.

Shared Ride Programs

The Southwest Michigan Planning Commission manages the Go! RideShare program which includes a secure free on-line commuter matching service available to anyone who lives in Berrien, Cass or Van Buren Counties who is interested in sharing the ride to work. Commuters who register with Go! RideShare are sent an email once a match is found of people or co-workers who are going the same direction at approximately the same time of day. The agency also manages the School Pool shared ride program designed to assist in the creation of carpools. Modeled after the successful Michigan Rideshare Program, School Pool will connect parents with other families in order to share commuting needs.

Passenger Air

Within a thirty minute drive of the study area Kalamazoo Battle Creek Airport offers daily service to Chicago and Detroit where passengers can connect to destinations around the world. Within a one hour drive South Bend International Airport offers non-stop service to ten destinations and connections to Chicago and Detroit.

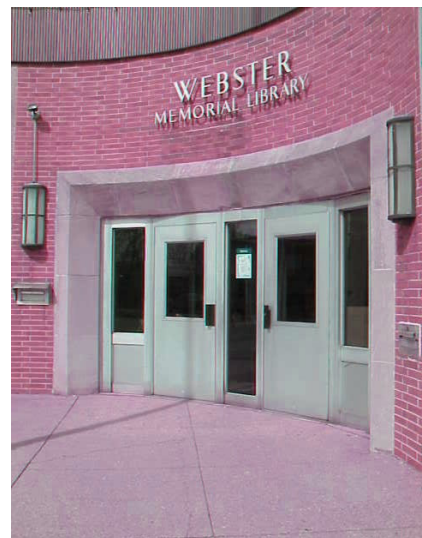
Summary:

- All of the roads in the Decatur-Hamilton area can be classified as either a major arterial, minor arterial, collector, or local street.
- Most of the roads in Decatur and Hamilton Townships are collectors or minor arterials. Most of the roads in the Village of Decatur are local streets.
- Most of the roads in Decatur and Hamilton Townships are maintained by the County Road Commission. Most of the roads in the Village of Decatur are maintained by the village.
- M-51 is the most heavily traveled in the Decatur-Hamilton area and provides access to Interstate 94 and to Cass County.
- Other forms of transportation are limited in the Decatur-Hamilton area. Public transportation is provided by Van Buren Public Transit in the Decatur-Hamilton area. Pedestrian facilities are generally only present in the Village of Decatur. Railroad use is increasing in the Decatur area. Air service is available in adjoining communities including South Bend, Indiana and Kalamazoo.

Community Facilities**Schools & Libraries**

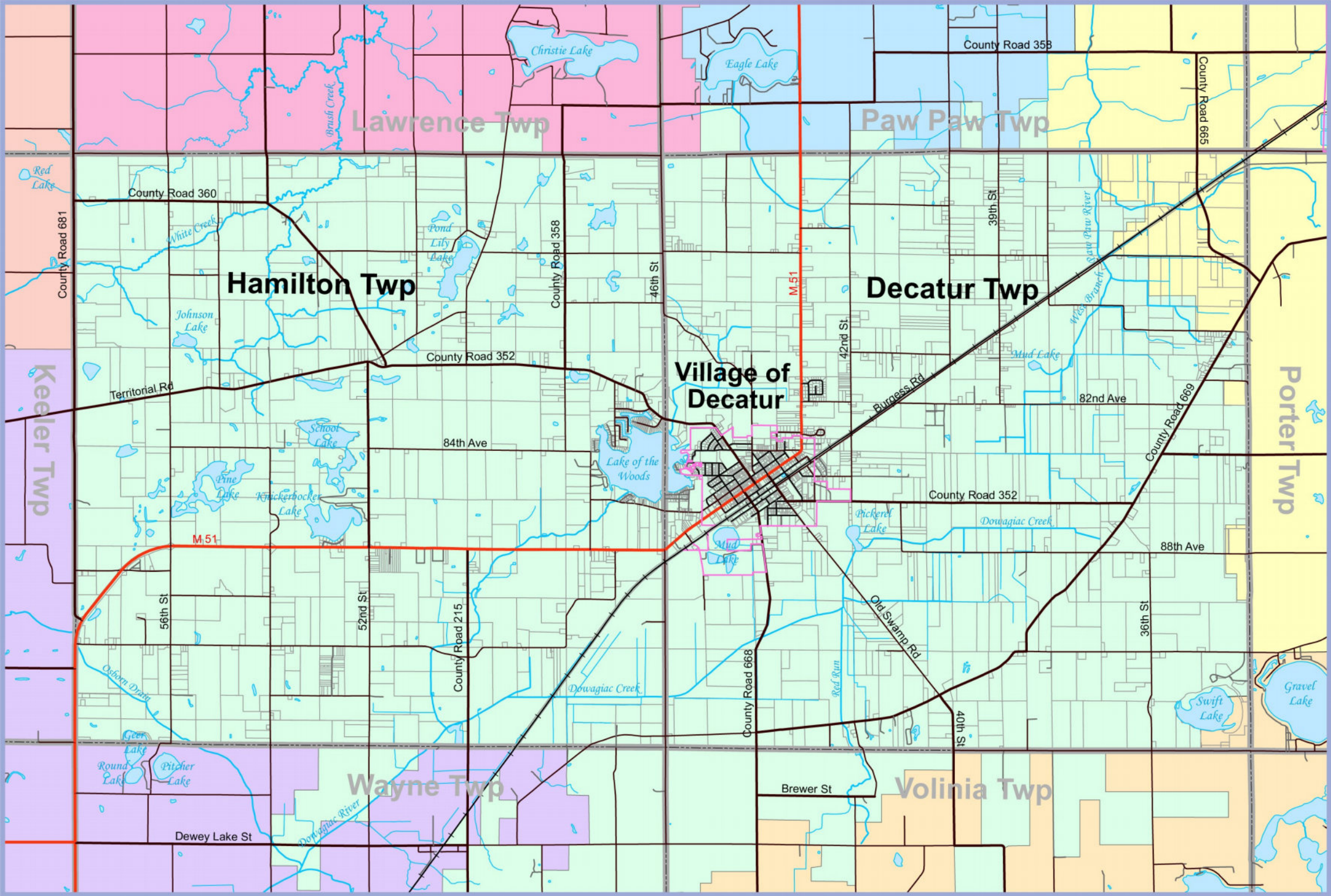
The Decatur-Hamilton area is served by the Decatur, Lawton, Marcellus Public School systems. The Decatur school system includes one elementary school, one middle school and one high school. All Decatur schools are on one campus, located at the western edge of the Village's central business district. In the Fall of 2015, 835 students were attending the schools within the Decatur Public School System. The area is also served by Southwestern Michigan College in Dowagiac.

The Van Buren District Library headquarters is at the Webster Memorial Library Building in Decatur. A large local history and genealogy collection is maintained in the Local History Room at



the Webster Memorial Library Building in Decatur. The Local History Room contains over 3,000 library items, including local and family history materials for Southwest Michigan and general genealogical items for the United States and some foreign countries. The Bess Britton One-Room Schoolhouse Collection was recently added to these materials, consisting of 20 notebooks of history concerning nearly 600 of Michigan's historic one-room schoolhouses. The collection was donated by Mrs. Bess Britton of rural Decatur Township, Van Buren County. The Local History Room also houses another 600 plus items from the Van Buren Regional Genealogical Society.

School Districts



Legend

- Township
- Parcel

School Districts

- Decatur Public
- Dowagiac Union
- Hartford Public
- Lawrence Public
- Lawton Community
- Marcellus Community
- Paw Paw Public

N

0 0.5 1 1.5 Miles

Data Sources
Base Map and Districts: Michigan Center for Geographic Information
Parcel: Van Buren County

Prepared April 2009
Southwest Michigan Planning Commission
Tel: 269-925-1137
Fax: 269-925-0288
Email: swmpc@swmpc.org
Website: www.swmpc.org

Van Buren County

Hamilton Township Decatur Township

Administrative Buildings

The Village of Decatur operates out of the Village Hall, which is located at 114 North Phelps in the Village of Decatur. The Village Hall provides the offices for the village administrative staff including the Village Manager, the Village Clerk, and the Village Police Department. The Village Hall serves as the meeting location for the various boards and commission formed in the Village. The Village Hall was expanded several years ago and should adequately serve the needs of the residents for the timeframe covered in this plan.

Decatur Township operates out of the Town Hall located on M-51 in the Village of Decatur. The Town Hall provides the offices for the township elected and appointed staff, including the Township Supervisor. The Town Hall serves as the meeting location for the various boards and commissions formed in the township. The Decatur Township Hall has been in the same location for nearly 100 years and has undergone significant renovations since 2014. The Township invested \$50,000 to make the facility handicap accessible with a ramp, electric door, new restroom, and raising the floor in the foyer to make the two offices handicap accessible. The exterior brick work was tuck pointed and sealed. Continued improvements are being scheduled. The Township received a \$15,000 grant from Help America Vote to fund the improvements along with the Township's hall restoration/improvement reserved funds.

Hamilton Township operates out of a newly built Town Hall located on County Road 352. The Township Hall provides the offices for the township elected and appointed staff including the Township Supervisor. The Town Hall serves as the meeting location for the various boards and commissions formed in the township. With the completion of the new Town Hall, the building should adequately serve the needs of the residents for the time-frame covered in this plan.

Public Safety Facilities

The Decatur - Hamilton area is served by the Decatur Hamilton Fire Department, which operates out of a fire house located in the southern portion of the Village of Decatur along M-51. Currently there are thirty volunteer fire fighters. Dispatching is provided to the Department by the Van Buren County 911 Central Dispatch.

The Village of Decatur is served by the Village of Decatur Police Department. The department operates out of the Village Hall and includes a Chief of Police, Police Sergeant, and two Patrolmen. Police dispatching is provided to the village by the Van Buren County 911 Central Dispatch.

Decatur and Hamilton Townships rely on the Van Buren County Sheriff's Department for law enforcement. Currently, the Sheriff's Department provides limited patrols on a daily basis. Police dispatching is provided to the Sheriff's Department by the Van Buren County 911 Central Dispatch.

Summary:

- The majority of community services are located in the Village of Decatur.
- Both Hamilton Township and the Village of Decatur are served by relatively new or recently remodeled government offices. Decatur Township is served by a town hall that remains functional, though due to its age and current configuration, may need additional maintenance in the future.
- There are discussions to offer more coordinated services such as the police and blight enforcement.

Parks and Recreational Facilities

Existing Recreation Facilities

The majority of recreational facilities and services available to residents of the Decatur-Hamilton area are located in the Village and either owned and maintained by the village or the Decatur school district. The Village operates and maintains five parks. Recreational facilities located in the village include:

Red Woolfe Park

This park is located on Lake of the Woods and provides public access to the lake. The park includes the only public beach on Lake of the Woods and also has a playground, picnic shelter, grills, restroom, shower and volleyball facility.

Raider Romp

The Raider Romp Park has a playground and a pavilion with picnic tables and grills. The park is located on the northern edge of the village and was constructed following an extensive and successful community fund-raising effort.

Southside Skate Park

The Village of Decatur created a concrete skate park located on South Williams and Beers Street. The park serves as the major recreational opportunity on the south side of the Village. Along with the skate park there is a basketball court.

DDA Park

This small downtown park has a gazebo with benches and is used for the farmer's market.

Fire State Park

This park offers a playground, small pavilion with picnic tables and grill, restrooms and 2 tennis courts,

High School Facilities

The junior high - senior high school campus includes associated athletic activity areas. These areas include baseball and softball fields, football field, and track. Because of its placement in the center of the village, the track and fields are used frequently by residents in the adjoining neighborhoods.

Elementary Facilities

The new Decatur Elementary School includes an associated play area. This area includes playground equipment and benches as part of the new school campus. With the placement of the school campus in the fabric of the community, the play area will be used frequently by residents in the adjoining neighborhoods.

Other

In addition to these facilities there is a recreational trail located adjacent to the Grange Hall in Hamilton Township. It is a 1.6 mile trail on 79 acres which is owned by the Michigan Nature Association. This trail was recently established and is designed for nature walking and exercise. There is also a public boat launch on the west end of Lake of the Woods. The Van Buren Conservation District owns Hayden Woods in Hamilton Township which is open to the public for passive recreational activities.

There also exists a series of snowmobile trails through both Decatur Township and Hamilton Township on private lands. In total there exist several miles of snowmobile trails in the area that connect to a network of trails providing access to areas throughout southwestern Michigan. Additional recreation opportunities in the surrounding area include those operated and maintained by adjoining local jurisdictions, the State of Michigan, and private interests. These include private campgrounds, state park facilities, and other municipal parks.

Existing Recreation Programs

Organized recreation programs are limited generally to those programs affiliated with the local school district, private organizations, churches, etc.

Analysis of Current Facilities and Programs

Neither of the townships have currently have a parks and recreation plan to assist in the planning and development of future parks and recreation facilities. However, the village does maintain a current five-year Community Parks and Recreation Plan. Typically, a parks and recreation plan provides a detailed inventory of existing recreation facilities, an in-depth analysis of any deficiencies that may exist, and an action plan for capital improvements to existing facilities or for the acquisition and construction of new facilities. Currently, the Michigan Department of Natural Resources (MDNR) requires such a plan be in place and updated every five years for the community to be eligible for grants administered by the MDNR. Such a plan also assists the community in being more responsive to the changing recreation needs of the community.

While a comprehensive parks and recreation plan is beyond the scope of this Master Plan, some basic information can be provided relative to the sufficiency of current facilities and programs. The Michigan Department of Natural Resources suggests that communities strive to provide park land at a ratio of ten acres per each 1,000 persons, in an effort to satisfy all forms of recreation needs. Based on the 2010 populations of the Village and the Townships a total of approximately 71 acres of park land should be available. With the current acreage dedicated to parks and recreational opportunities it appears that the amount is deficient. This deficiency is most pronounced in the townships and was reflected in the community surveys that indicated a desire for additional recreational opportunities.

Based upon the population projections for the Decatur-Hamilton area it can be determined that a demand for an additional five to ten acres may exist by 2020. Again, based on the current parks and recreational offerings, it would appear that the current deficiency will continue into the future, unless additional land is developed for such purposes.

In addition to the quantity of park land, equally important is the location of these facilities. Often the location of such parks can be used to determine how adequately specific neighborhoods are served. Generally, parks should be conveniently located so that they are easily accessible to the residents they are intended to serve. The degree of accessibility is generally a function of the type and purpose of the park. For simplicity, the parks within the Decatur-Hamilton area can be viewed as falling into one of four specific categories. These categories are Community Parks, Neighborhood Parks, Mini-Parks and Special Purpose Parks.

Community Parks

A community park offers areas of diverse environmental quality and may include areas suited for intense recreation facilities, such as athletic fields and picnic area. A community park may also feature an area of natural quality for passive recreation, such as sitting and viewing. The athletic fields located at the junior high/high school campus and the Red Woolfe Park is the closest facilities that the Decatur-Hamilton areas have to community parks.

Neighborhood Parks

These parks are intended to be recreation areas to serve the immediate neighborhoods in which they are located. Neighborhood parks typically offer such recreation activities as field games, court games, playground equipment, and picnicking. They should be easily accessible to residents of the neighborhood, with special consideration given to pedestrian and bicycle safety. Elementary school playgrounds often serve in this capacity. Another example of a neighborhood park is the park adjacent to the fire department.

Mini-Parks

Mini-parks is small, specialized parks, typically less than one acre in size, generally intended to serve the needs of the residents in the surrounding area. A mini-park may contain a children's play lot, serve as a greenbelt, or provide a sitting area. The park in the central business district functions as a mini-park.

Special-Purpose Parks

Special purpose parks are generally those that offer a unique feature that often serves a regional population. Examples typically include greenways, boat launches, backpacking trails, etc. Both the trail at the Grange Hall in Hamilton Township and the snowmobile trails function as special purpose parks.

Ideally, each neighborhood located in the village should contain a recreational open space. It is best if this space is located within a five minute walk, where pedestrians would not encounter barriers such as creeks, major roads, or railroads, which may inhibit access to the facility. The neighborhoods which appear to lack access to such facilities are those that are in the southeastern portion of the Village.

Due to their more rural nature and lower population densities, it is neither appropriate nor necessary to expect each neighborhood within Decatur and Hamilton Townships to have direct access to a recreational open space. However, access to such opportunities, within a reasonable distance is

necessary. The central location of the village and its facilities addresses many of the recreational needs of the townships, however portions of the townships remain a considerable distance away from any facilities and can only reach them through use of an automobile. Opportunities exist within the townships for the provision of additional special purpose parks or community parks. Specific opportunities include greenway development along creeks, development of a community park in the vicinity of the Hamilton Township Hall, acquisition of land for wildlife viewing, hiking, hunting, etc.

Summary:

- The Decatur-Hamilton area could benefit from a joint parks and recreation plan that provides a detailed inventory of facilities, analysis of current facilities, and a five-year action program for capital improvements. See the Village Parks and Recreation Plan for more information on Village resident's priorities for parks and recreation.
- The analysis provided in this Master Plan indicates that the current acreage of park facilities is deficient for both the current population and the projected population, particularly in the townships.
- The analysis provided in this Master Plan indicates a need for additional parks space in the southeastern portions of the Village, in part due to the barriers that limit accessibility to existing facilities.
- The analysis provided in this Master Plan indicates that it may be appropriate to pursue the development of additional park facilities in the townships, particularly of facilities that take advantage of the natural features present in the townships, but may not be available in the village, such as nature trails, cross country skiing, hunting, and wildlife viewing.

Utilities

Sewer and Water

Only the Village of Decatur owns and operates a source of public drinking water and wastewater treatment. Residents and businesses in both Decatur Township and Hamilton Township, generally rely upon private wells for drinking water supply and individual on-site wastewater treatment systems (septic tanks) for waste disposal.

The Village owns and operates a public drinking water system which includes three wells with a total capacity of 251,500 gallons of potable water per day. The system also includes a water tower located

on Eli Street capable of storing 200,000 gallons of water. The water supply is distributed throughout the Village through a variety of mains ranging in size from 4 inches to 16 inches, with all current 4 inch pipes to be replaced with 6 inch pipes. The current usage of the system is approximately 200,000 gallons per day, yielding an excess capacity of 51,500 gallons per day.

The Village owns and operates a wastewater treatment facility consisting of three treatment lagoons with a treatment capacity of 1.19 million gallons per day. Wastewater is collected throughout the Village through gravity mains and force mains of various sizes. The current usage of the system is 0.15 million gallons per day, yielding an excess capacity of 1.04 million gallons per day. Any extension of utilities should be done in cooperation with the townships.

Electric and Natural Gas

Homes and businesses in the Decatur-Hamilton area are provided electric and natural gas service by Midwest Energy Cooperative, Consumers Energy and Indiana Michigan Power. The service is generally considered adequate for current and projected residential and business needs.

Telecommunications

Homes and businesses in the Decatur-Hamilton area are provided telecommunications services by a variety of service providers. Service is provided through transmission lines and telecommunication towers and antennas. Local calls are now available to Dowagiac, Hartford, Lawrence, Lawton, Marcellus and Paw Paw. The Decatur-Hamilton area does not have affordable high speed Internet options.

Summary:

- Water and public sewer facilities are generally only currently available to the residents and businesses in the Village.
- A large amount of excess capacity exists relative to the Village's water supply and wastewater treatment.
- The Decatur-Hamilton area is generally well served by utilities, except for high speed Internet options.

Existing Land Use/Cover

General Overview

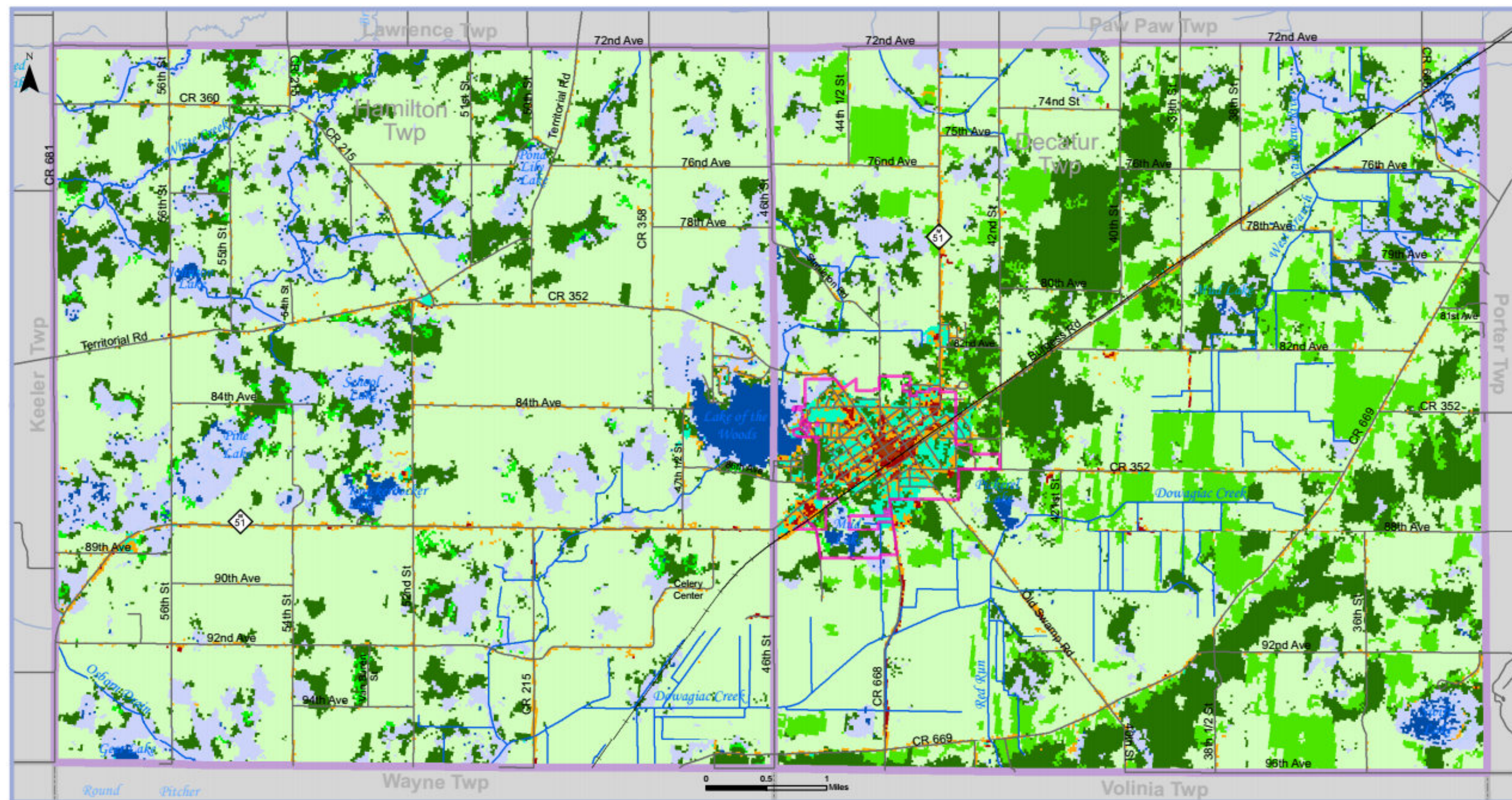
The Village of Decatur, Decatur Township, and Hamilton Township are located in the extreme southern portion of Van Buren County. The Village of Decatur has historically served as the area's economic center containing the majority of the area businesses, industry, and community facilities. Similarly, until recently the village has housed the majority of the area's population. Decatur Township and Hamilton Township have historically served as an agricultural center, predominantly producing a variety of produce and grain products.

Land Use Classifications

The following section outlines in more detail the location and characteristics of particular land cover and uses within the Village of Decatur, Decatur Township, and Hamilton Township. Existing land cover gives an indication of the amount of land that is agricultural, open or natural. Only about 3% of planning area (Decatur Village, Decatur and Hamilton Townships) is classified as urban lands. The remaining lands are agricultural, open space, natural areas and water.

Table 31: Land Cover/Land Use; Planning Area; 2010

	Acres	Percent
High Intensity/Medium Intensity	178	0.4
Low Intensity	1,157	2.5
Developed Open Space	347	0.8
Cropland	24,124	53
Pasture/Hay/Grassland	6,817	15
Forest	7,191	16
Wetland	5,092	11
Water	618	1.4
<i>TOTAL ACRES</i>	45,527	



LAND USE/LAND COVER

- Low Intensity Developed
- High & Medium Intensity Developed
- Developed Open Space

- Cropland
- Pasture, Hay & Grassland
- Forest

- Wetland
- Water*

BASE LAYER

- Township
- Village

*A layer of "Lake, Streams & Drains" (MCGI, 14v) are included in the LULC data (C-CAP).

LAND USE/LAND COVER Decatur & Hamilton Township Village of Decatur

Data Sources

Base Map: Michigan Center for Geographic Information Framework14v
Land Use/Cover: Western Great Lakes C-CAP 2010 Land Cover Data, NOAA's Ocean Service, Coastal Services Center (CSC), 2012

Southwest Michigan Planning Commission
www.swmpc.org

The use of this map is for general reference purposes. It is not a legal document.

December 04, 2015 1541FigLULC

Table 32. Land Use/Cover by Municipality; 2010

	Decatur Township		Hamilton Township		Decatur Village	
CLASS	ACRES	PERCENT	ACRES	PERCENT	ACRES	PERCENT
High Intensity Medium Intensity	62	0.3%	18	0.1%	98	11%
Low Intensity	488	2%	451	2%	218	23%
Developed Open Space	92	0.4%	26	0.1%	230	25%
Cropland	12,039	55%	11,974	53%	111	12%
Pasture/Hay/Grassland	3,069	14%	3,729	16%	18	2%
Forest	4,311	19%	2,712	12%	168	18%
Wetland	1,607	7%	3,424	15%	61	7%
Water	173	0.8%	423	2%	22	2%
TOTAL ACRES	21,842		22,758		927	

Agricultural (Cropland/Pasture/Hay/Grassland)

For the purposes of this analysis, agricultural land has been defined as any land that is being used for cropland or pasture/hay/grassland. These activities occupy approximately 30,941 acres or 68% of the total area. Broken down further, there are approximately 129 acres in the Village of Decatur, 15,108 acres in Decatur Township, and 15,703 acres in Hamilton Township.

Urban (High, Medium and Low Intensity Developed and Developed Open Space)**Single Family Residential**

Single family residential is the second largest land use in the Decatur-Hamilton area, the largest land use in the Village of Decatur. Single family residences are located in the Decatur-Hamilton area in primarily three development patterns. These include; a traditional village pattern within the Village of Decatur, concentrated suburban patterns of development such as that located along Lake of the Woods, and scattered rural residential throughout both townships.

Though a significant portion of the land in both Decatur Township and Hamilton Township remains in agricultural production, the pattern of development (scattered single family homes fronting the major roadways) gives the area a more suburban character. The vast majority of this use occurs in a

traditional residential pattern that includes small lots, high density, a variety of architectural styles, interconnected streets, sidewalks, and close proximity to public facilities and shopping opportunities.

Multiple Family Residential

Multiple family residential areas are found only in the village and occupy approximately 8 acres. These areas are generally newer construction and do not share the same characteristics as the single family residential areas, such as proximity to public facilities and interconnection into the grid street pattern of a neighborhood.

Commercial/Industrial

Commercial development in the Decatur-Hamilton area is primarily located in the Village of Decatur and along the fringes of the village. Additional commercial uses are found scattered throughout both townships, though they remain few in number. The commercial uses located in the Village of Decatur consist largely of retail operations that cater to the convenience needs of local residents. These include grocery stores, hardware stores, and gas stations. Banks, insurance offices, real estate offices, and restaurants constitute the remainder of the commercial uses in the village.

Commercial uses in the village occupy approximately 27 acres or 4% of the land area. The majority of these uses are concentrated in the central business district or in the area immediately adjoining. Industrial uses in the village occupy approximately 31 acres or 4% of the land area. The majority of these uses occur in the southeastern portion of the village. Several of these areas are currently underutilized and represent a re-development opportunity for the village.

Public/Semi-Public

Any use that is owned or operated to provide services to the general public and citizens of the community is considered public or quasi-public use. These include schools, parks, libraries, fire stations, churches, Village Hall, and both Town Halls. Public and semi-public uses occupy approximately 176 acres or less than 1% of the total area. Public and semi-public land uses occupy a

significant portion of the Village of Decatur. Approximately 95 acres or 13% of the land in the village is dedicated to activities that include schools, churches, and cemeteries.

Natural (Forest, Wetland, Water)

Decatur Village and the Townships have a total of 12,901 acres of natural lands. This is 28% of the planning area. These natural lands combined with the agricultural lands contribute to the rural character of the area that so many residents cherish and even base their decision to live in this area. Decatur Township has over 4,300 acres of forest which accounts for almost 20% of the Township area. This is a very significant amount of forested lands most of which are un-fragmented. These lands are an incredible resource for area wildlife and for protecting water quality. For each municipality, Decatur Township has 6,091 of natural lands (with 4,311 being forests) which is 26.8%, Hamilton Township has 6,559 acres of natural lands at 29% of its area and Decatur Village has 251 acres of natural lands at 27%. Each municipality has about a quarter of its area in natural land cover.

Summary:

- The majority of land in the townships is used for agricultural activities (68%).
- There are significant intact natural lands (28%), especially with 4,300 acres of forest lands in Decatur Township. Each community has about 25% of natural lands.
- The majority of land in the Village is used for residential activities.
- Land use development patterns for the Decatur-Hamilton area have changed since 1978, primarily with continued expansion of residential activities along the major roadways and with conversion of specific agricultural activities into other activities.
- Land use in the Village has been fairly stable since 1978, though there has been a reduction in some industrial activities, and increase in residential activities, and an increase in commercial activities, especially along M-51.

Goals and Objectives

Overview

One of the primary elements of any master plan is the formulation of community goals and objectives. Goal establishment helps to determine the direction that the community seeks to pursue in future growth and development. Objectives are more specific, “action-oriented” items that are intended to assist in the eventual fulfillment of the stated goals. Both goals and objectives are essential to the success of the planning process, in that they provide a significant portion of the framework within which the plan is developed.

This section of the plan summarizes the efforts undertaken to arrive at the stated community goals and objectives for the future physical development of the community. To that end, the goals and objectives identified herein are intended to:

1. reflect the land use priorities of the community,
2. give direction to development and re-development efforts regarding the townships’ and village’s physical environment, and
3. establish stated policies to assist the Planning Commissions, Township and Village staff, and other boards and commissions in assessing the impact of their planning decisions.

The stated community goals and objectives further have the following purposes:

- To guide the Planning Commissions, Village Council and Township Boards when considering requests for changes in zoning. The Planning Commissions, Village Council and Township Boards should reference the plan’s goals and objectives when considering zoning change requests, to ensure consistency with the policies and intents of the land use plan.
- To guide the Village Council and Township Boards and other boards and commission when considering capital improvements. Again, the goals and objectives stated in the Master Plan should be referenced when considering major investment in infrastructure, buildings, services, etc., to ensure consistency with the policies and intents of the land use plan.

- To assist the Decatur-Hamilton area residents in expressing their local expectations and plans for the future growth and development of the Village and Townships to adjoining municipalities, the county, and the region.

It is important to note that community goals and objectives while never final or complete, they should regularly be reviewed by the Planning Commission to ensure that the intent and purpose of the goals remain current and valid. In such instances, it may again require the Planning Commission to carefully review current circumstances, existing trends, and community perceptions and preferences.

Community Survey

Total Responses 152

I live/own property in:

Decatur Township 62 | Hamilton Township 57 | Decatur Village 36 | No answer 2

I work in:

Decatur Township 7 | Hamilton Township 10 | Decatur Village 17 | No answer 122

I own a business in:

Decatur Township 5 | Hamilton Township 8 | Decatur Village 7 | No answer 132

How many years have you and your family resided /owned property in the community?

less than a year 3 | 1-5 years 11 | 6-20 years 26 | more than 20 years 105 | No answer 7

Table 33. Survey Results 2015

How much do you agree or disagree with the following statements:	1 strongly agree	2 agree	3 no opin ion	4 disagree	5 strongly disagree	No answer
Develop standards for new development that will protect wetlands, rivers, streams and lakes by reducing polluted runoff.	67	52	16	9	2	6
Recognize farming as an essential economic activity and support voluntary preservation of farmland and open space.	66	61	19	0	1	5
Focus on encouraging additional employment opportunities in the area.	61	65	16	2	3	5
Expand high speed internet options to the area.	61	47	32	5	1	6
Provide more effective enforcement of codes and ordinances to eliminate blight.	61	44	32	5	5	5
Develop a short and long range plan to prioritize road improvements.	53	76	10	3	4	6
Focus on encouraging additional shopping opportunities in the Village.	45	68	28	3	3	5
Concentrate new business, industry and residential development in or near the village.	45	62	29	7	4	5
Ensure neighborhoods in the Village have adequate sidewalks and pedestrian access to downtown, schools and parks.	41	73	22	6	5	5
Improve the quality of the drinking water supplied by the Village.	42	43	52	7	2	6
Keep residential densities low in the Township to maintain rural character.	34	44	40	23	5	6

How much do you agree or disagree with the following statements:	1 strongly agree	2 agree	3 no opinion	4 disagree	5 strongly disagree	No answer
Establish a joint police department that serves Decatur Village, Decatur Township and Hamilton Township.	32	45	33	22	14	6
Limit the expansion of municipal sewer and water services to serve only the areas surrounding the Village.	29	40	41	24	12	6
Improve roads to provide bike lanes or paved shoulders for pedestrians and bicyclists.	28	33	46	16	24	5
Improve the signage and landscaping at the entrances to the Village.	20	49	55	17	6	5

Community Goals and Objectives

For the sake of simplicity and to facilitate a better understanding of their intent, the community goals and objectives are presented under the heading of broad categories such as housing development and community facilities and services. It should be noted however, that many of the goals and objectives touch upon more than one category, thus demonstrating their complexity and interrelatedness regarding the preferred future growth and development of the Decatur-Hamilton area.

Natural Features and Open Space

Goal: The Decatur-Hamilton area will be a community that preserves and enhances its natural features.

Objectives:

- Identify key natural features including local lakes, the Dowagiac River, Brush Creek, West Branch, wetlands, and woodlands, and develop specific strategies to protect and enhance each of these features. Encourage natural shorelines along lakes, rivers and streams.
- Utilize land use regulatory measures and development standards that promote the protection and enhancement of key natural features.
- Encourage development techniques that retain large, un-fragmented parcels in the townships for open space and agricultural uses, where appropriate.
- Support the Growing Greener in Southwest Michigan Initiative by helping to educate residents about the important functions that natural systems provide to the residents and the community. (www.swmpc.org/growgreen.asp)

Goal: Decatur-Hamilton Township will seek to increase the use of conservation easements, and other measures to conserve the open space and greenways within the joint community areas.

Objectives:

- Update zoning ordinance to require open spaces in PUDs to be consolidated into larger contiguous units whenever feasible. (Hamilton Township has done this.)
- Utilize the Potential Conservation Area Map to determine which lands should not be zoned for high intensity uses.
- Work with Southwest Michigan Land Conservancy to advise landowners of land protection options (options are detailed in Appendix 2).

Water Quality Protection

Goal: The Decatur-Hamilton area will strive to reduce the amount of impervious surface within all residential, commercial and industrial developments.

Objectives:

- Changes to the Zoning Ordinance should include:
 - Include all impervious surfaces in the calculation of lot coverage (building, pavement, etc).
 - Review and change lot coverage percentages if necessary.
 - Encourage use of native plants in all development types.
 - In large parking areas, require parking lot islands that provide for stormwater storage and filtration.
 - Allow and encourage alternatives to traditional pavement (such as pervious pavements and gravel) for driveways and parking lots .
 - Allow for smaller parking spaces.
 - Review and change parking space requirements for multi-family residential, commercial and industrial uses.
 - Encourage shared parking whenever feasible.

Goal: The Decatur-Hamilton area will strive to reduce the amount of non-point source pollutants that enter the communities' waterways through best management and stormwater management practices that seek to preserve the natural features and drainage patterns of the area.

Objectives:

- Changes to the Zoning Ordinance should include
 - Require waterbody setbacks for building and require natural vegetated buffers to be left when new development occurs along waterbodies (streams, drains, rivers, lakes) and wetlands.
 - Prohibit development in floodplain areas.
- Implement Low Impact Development techniques in new and redevelopments

(www.swmpc.org/lid.asp).

- Work with Drain Commissioner to send information to property owners along drains.
- Work with the Drain Commissioner to ensure drain maintenance projects are done in a manner that protects and improves water quality.

Farmland Preservation

Goal: Decatur and Hamilton Townships will continue to be communities with viable agricultural enterprises and working landscapes.

Objectives:

- Discourage fragmentation of viable agricultural lands through the use of zoning techniques such as exclusive agriculture or sliding scale zoning.
- Participate in the Van Buren County Farmland and Open Space Protection Program.
- Require any new housing development abutting agricultural activities to have an adequate setback and a buffer to reduce conflicts.
- Recognize farming as an essential economic activity to the Decatur-Hamilton area and the region.
- Avoid rural-urban land use conflicts by encouraging very low density, dispersed, residential uses, or open space development adjacent to existing rural areas.
- Identify areas that are to be permanently retained as productive agricultural lands.
- Explore the use of various planning programs to preserve existing agricultural lands, including, the purchase of development rights, and the transfer of development rights, agricultural protection zones, and purchase of conservation easements.
- Explore the use of various economic tools that may be available to preserve and enhance agricultural activities including, tax relief, value added opportunities, and others.

Housing Development and Improvement

Goal: The Decatur-Hamilton area will continue to preserve, enhance, and create satisfying living environments throughout the townships and village.

Objectives:

- Encourage a variety of available housing options to serve a broad spectrum of preferences and income levels which preserve and enhance the area's rural character and existing neighborhoods.
- Seek to ensure that residential densities in the townships continue to reflect the rural character of the community.
- Encourage the use of development techniques for new housing that promote the rational use of land and the preservation of natural features.
- Stabilize and improve the condition of the current housing stock in the Village.
- Provide opportunities to improve streets, street trees, sidewalks, and other public infrastructure to enhance and strengthen existing neighborhood character in the Village.
- Focus higher density residential development opportunities on improvement or re-development of existing residential areas and development on vacant lots currently existing

- within the village and adjacent to the village limits.
- Coordinate residential development activities to ensure compatibility of land uses.

Commercial Development

Goal: The Decatur-Hamilton area will protect and expand a strong diversified retail base with a focus on meeting the consumer needs of area residents.

Objectives:

- Provide opportunities to strengthen and enhance locally owned businesses and to encourage them to locate in the Central Business District.
- Provide opportunities to retain and attract appropriately-scaled commercial enterprises that draw patrons from areas outside of the village.
- Coordinate commercial development activities to ensure compatibility of land uses.

Technological and Energy Innovation

Goal: The Decatur-Hamilton area will encourage advances in technology for communications and energy.

Objectives:

- Continue to expand high speed Internet service options to the area.
- Explore and promote a variety of energy sources that promote clean and renewable energy sources such as wind, solar, etc.

Industrial Development

Goal: The Decatur-Hamilton area will create new industrial opportunities where appropriate that will strengthen the area's tax base and provide new employment opportunities for area residents.

Objectives:

- Strive for balance between the economic benefits of industrial development and the types and locations of industry that are compatible with the stated community goals and that are consistent with the preferred development pattern.
- Seek opportunities to expand industrial activities near existing industrial activities that would not otherwise impose additional negative impacts on established residential neighborhoods.
- Seek opportunities to expand industrial activities that are based upon the current resources and skills present in the community.
- Coordinate industrial development activities to ensure they can be readily served by public utilities and the transportation network and that they will be compatible with adjoining land uses.
- Create the availability for high speed Internet services to the industries in the village and townships.

Community Facilities & Services

Goal: The Decatur-Hamilton area will maintain and enhance existing public facilities and services with a focus on providing high quality and professional facilities and services in an efficient and cost-effective manner, in recognition of the preferred development pattern.

Objectives:

- Ensure that the village's water supply and distribution system and wastewater collection and treatment system maintain adequate capacity to serve the residents and businesses located both in the village and in areas contiguous to the village boundaries, planned for development.
- Evaluate the sufficiency of existing public facilities and the feasibility of rehabilitation, expansion, or replacement where appropriate.
- Investigate the feasibility of a joint police department for Decatur Township, Decatur Village and Hamilton Township.
- Increase overall public safety by investigating the feasibility and best practices for a joint public safety department.

Transportation

Goal: The Decatur-Hamilton area will maintain and enhance the transportation system in a manner that will effectively serve the community's preferred development pattern and provide residents with safe and efficient linkages within the community and to the broader region.

Objectives:

- Continue routine maintenance and replacement of streets and sidewalks to ensure they continue to provide safe and efficient linkages to the remainder of the community.
- Carefully manage access (driveways) along major roads, particularly commercial access or other generators of high volumes.
- Work with the Van Buren County Road Commission to improve the quality of maintenance on trees bordering roads in the townships.
- Work with the Van Buren County Road Commission in prioritizing improvements to existing roadways, based on safety and availability of funds.
- Prioritize road improvements in the village based on traffic volumes, safety, development pressure, and availability of funds.
- Evaluate alternative transportation methods, including paths, trails, and sidewalks, and pursue their development where appropriate.
- Ensure that new development provide connections (streets, sidewalks, trails, etc) to the existing facilities.
 - Promote use of RideShare Program for school children, carpooling, and use of non-motorized methods of transportation (walking, biking).
 - Promote use of public transportation (Van Buren County Public Transit).
 - Investigate participating in Safe Routes to School efforts.

Local Government

Goal: The Decatur-Hamilton area will maintain and enhance the communication and coordination between the Townships and the Village and between the Decatur-Hamilton area and the County and region.

Objectives:

- Continue and enhance the working relationship between the townships and village.
- Strengthen the working relationship with the adjoining townships and the county to better coordinate planning activities.
- Continue to participate in regional initiatives such as the efforts associated with the continued restoration of the Dowagiac River Watershed Project, Paw Paw River Watershed and St. Joseph River Watershed and Meeting the Ecological and Agricultural Needs of the Dowagiac River System (MEANDRS).

Community Design and Image

Goal: The Decatur-Hamilton area will continue to protect and enhance the area's unique character with a focus on protecting existing residential neighborhoods, the central business district, and the working landscape found in the rural areas.

Objectives:

- Increase code enforcement efforts to reduce visual blight in residential and business areas and to encourage a higher level of responsible property maintenance and land use.
- Promote the local foods program to community members and civic leaders to ensure that fresh and local produce is being consumed.
- Ensure that area's unique character is enhanced as new developments and buildings are constructed or as re-development occurs, through good development, site, and building design practices.
- Pursue ideas about hotel/motel, bed and breakfast and additional retail stores.
- Promote compact development near the village limits.
- Continue to cooperate to hire and fund a blight enforcement officer that will work for Decatur Township, Hamilton Township and Decatur Village.
- In the zoning ordinance require Low Impact Development techniques to limit the impacts of development on natural and water resources.
- Continue to increase awareness of the natural features in the area, particularly the farmlands, wetlands and the Dowagiac River and the Paw Paw River Watersheds.
- Provide opportunities to improve the design quality of the business areas of the Village.
- Increase awareness of the historical resources present in the community and their contribution to the character of the area.
- Continue to increase awareness of the natural features in the area, particularly the farmlands, wetlands, and the Dowagiac River.

Goal: The Village of Decatur will develop, adopt, and enforce land use management tools (e.g., zoning) to implement the policies of its land use plan.

Objectives:

- Update the Village Zoning Ordinance to include regulations that advance home ownership and reduce absentee ownership.
- Develop zoning regulations which promote the sense of place, neighborhood, and community.

Parks and Recreation

Goal: The Decatur-Hamilton area will continue to maintain and enhance the passive and active recreation opportunities in the area with a focus on improved opportunities at existing parks and facilities and additional opportunities in the townships.

Objectives:

- Develop a joint parks and recreation plan for the area.
- Evaluate the current offerings at the village facilities and investigate the feasibility of rehabilitation, expansion, or replacement, where appropriate.
- Consider creation of a joint parks commission.

Diversity

Goal: The Decatur-Hamilton area will welcome the growing ethnic diversity within the community.

Objectives:

- Employees and elected officials should attend diversity training on a yearly basis.
- Develop a program in conjunction with the schools that highlights diversity.
- Create a festival that celebrates diversity.

Analysis of Alternative Land Use Patterns

Overview

To arrive at an idea of how the community would like to see the Decatur-Hamilton area change over time, a preferred development pattern with associated policies and strategies needs to be defined. For the purposes of this plan resources and constraints present in the communities were identified and discussed and three separate and distinct development alternatives were evaluated as part of this process. The following information is presented relative to this process:

Resources and Constraints

The Master Plan and Future Land Use Map for the Decatur-Hamilton area should reflect the patterns of existing uses; in addition this plan must recognize the natural and man-made constraints of the community. Likewise, the Decatur-Hamilton area possesses a number of resources, both natural and man-made which are valuable in a variety of ways including their contribution to the unique character of the communities. The challenge associated with the Master Plan is to identify a development pattern that accomplishes the communities' stated goals and capitalizes on their resources or opportunities in recognition of existing constraints.

Resources

Community Neighborhoods

The Village of Decatur contains several well-established neighborhoods. The strength of this resource lies in its physical, aesthetic, and economic value. Elements such as well-maintained homes, street trees, connectivity to public facilities and business enterprises, all contribute positively to the character and sense of place associated with the Village of Decatur.

Rural Residential Areas

Rural residential areas are located throughout Decatur and Hamilton Townships. These areas range from single family homes on large lots to farmhouses located on active farm operations. The strength of this resource lies in its contribution to the local sense of place and in its provision of an alternative form of housing for the Decatur-Hamilton area. Elements such as large lots, abundance of open space, gravel roads and low density all contribute positively to the character and sense of place associated with Decatur-Hamilton Townships.

Farmland

Large portions of Decatur and Hamilton Townships contain prime soils for agricultural activities. The majority of both townships remain active working landscapes where a variety of agricultural products are raised or grown including hogs, cucumbers, and grapes. The strength of this resource lies both in its economic value and in its contribution to the local sense of place. Employment opportunities and the economic value of the products grown or raised along with the abundance of open space, agricultural buildings, and farm houses are all positive contributions to the Decatur-Hamilton area.

Central Business District

The central business district in the Village of Decatur, though confronted with challenges including competition, high building maintenance costs, etc., continues to contribute strongly to the Decatur-Hamilton area's economy, unique character, and sense of place. The CBD remains a viable business location for many businesses and plays a pivotal role in the provision of goods and services for residents in the surrounding area.

M-51

M-51 represents a significant resource for the Decatur-Hamilton area. M-51 provides easy access to Interstate 94 and to US 31/33, which enables local residents to commute to Kalamazoo, South Bend, Indiana, and Benton Harbor for employment and shopping opportunities. M-51 also enables easy access for truck traffic to service the industries and businesses located in Decatur-Hamilton area.

Lakes and Wetlands

The Decatur-Hamilton area contains numerous lakes, the most notable being Lake of the Woods. Large areas of wetlands are also located throughout the area. The lakes provide recreational opportunities and have historically provided attractive residential development potential. Wetlands contribute positively both to the character of the area as well as to the provision of habitat for a variety of wildlife.

Intergovernmental Cooperation

The Decatur-Hamilton area benefits from a long history of cooperation among the Village and the Townships. This cooperation has resulted in a strong regional school system, strong fire protection, compatible land use policies, and general cooperative spirit. This cooperation contributes significantly to the quality of life both through the provision of practical services such as that mentioned previously and through contribution to a solid sense of community.

Development and Re-development Potential

An abundance of vacant land, the availability of urban services, and a cooperative spirit between the village and townships, facilitates a variety of opportunities for new development and re-development of existing properties. Specific opportunities include the downtown area, industrial park and along M-51.

Other Resources

Other resources of importance in the Decatur-Hamilton area include the local branch of the Van Buren County library, the Decatur-Hamilton School District, and the Village of Decatur Park system.

Constraints

Loss of farmland

The loss of farmland either through development or through abandonment is a concern for the Decatur-Hamilton area. Though conversion of some land to non-agricultural activities is expected and appropriate, the loss of prime agricultural lands and family owned and operated farms is disconcerting due to the potential economic impact, loss of future farming opportunities, and a loss of historic development pattern and character. Though the loss of farm land to abandonment does not necessarily result in the loss of open space or the potential for future farming opportunities, it does result in underutilization of an existing resource, which in many cases has taken decades of investment in both time and money to develop.

Wetlands

Though wetlands contribute positively to the character of the area, are critical for maintaining water quality and mitigating flooding and provide habitat for a variety of wildlife, they represent a

constraint to development potential. With significant wetland loss already, any remaining wetlands are invaluable. This constraint affects essentially all forms of land use including agricultural activities, residential development, and non-residential development. The abundance of wetlands and poorly drained soils throughout the Decatur-Hamilton area will continue to constrain the development potential of large portions of the area.

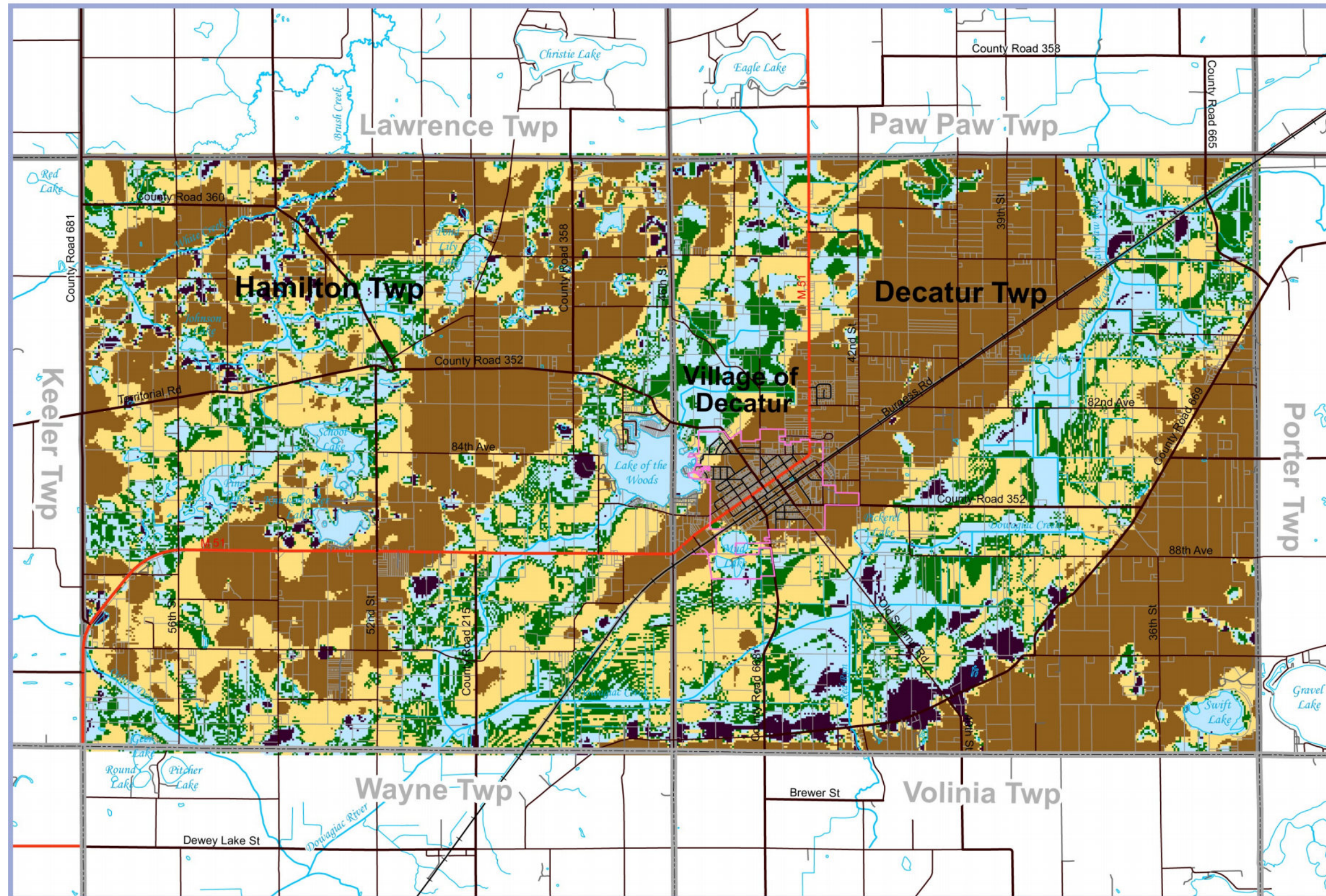
Presence of Incompatible Uses

In several locations throughout the area there are land uses adjacent to one another that are not compatible for a variety of reasons, including impact on quality of life and economic value of property. Such incompatible uses may include residential areas adjacent to industrial uses and residential uses adjacent to large farming operations. The Decatur-Hamilton area must address this issue, taking steps to correct previous incidents of such incompatibility and ensuring that future land use does not further such a trend.

Modest Development Activities

Many would consider limited development pressure a positive trend. However, if a community ceases to attract new investment and development or re-development, it may suffer. Without such investment, local residents and business people can expect a loss of opportunities, options, and wealth. This new investment need not be in the form of growth and expansion in a manner that results in the loss of open space or the loss of locally owned and operated businesses. Carefully managed growth and development can result in new housing options, increased wealth for area residents, new employment and shopping opportunities, new customer bases for local businesses, and protection of open space and farm land.

Depth to High Water Table



Legend

Township

Parcel

Depth to Water Table

No Data

Water at Surface

1 ft from Surface

2-6 ft from Surface

>6 ft from Surface



0 0.5 1 1.5 Miles

Data Sources

Base Map and Water Table: Michigan Center for Geographic Information
Parcel: Van Buren County

Prepared April 2009

Southwest Michigan Planning Commission

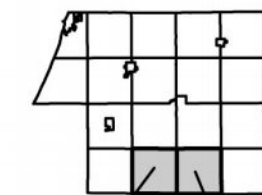
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Fax: 269-925-0288

Email: swmpc@swmpc.org

Website: www.swmpc.org

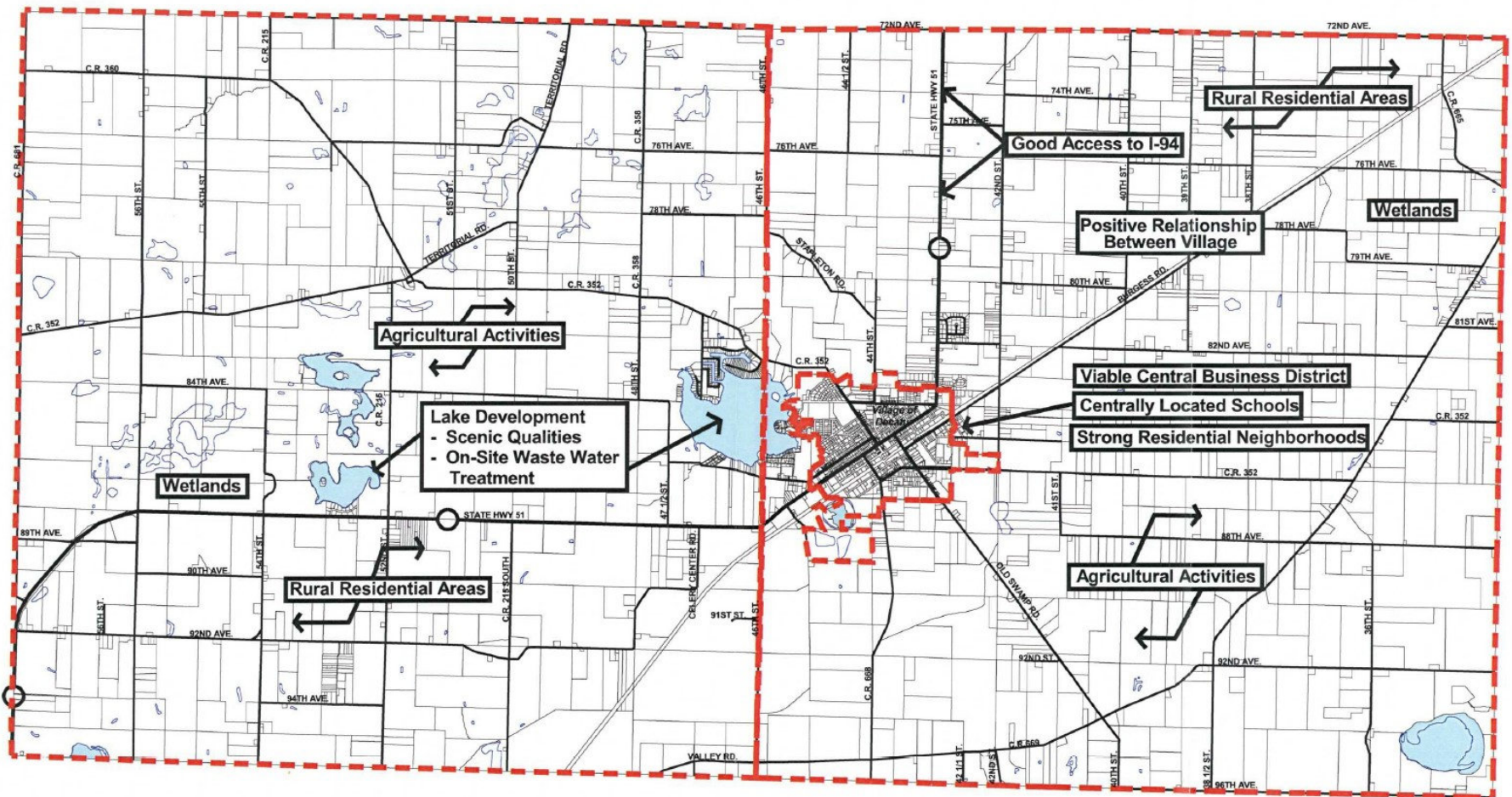
Van Buren County



Hamilton Township

Decatur Township

Hamilton Township, Decatur Township, & Village of Decatur, Michigan



Resources & Constraints

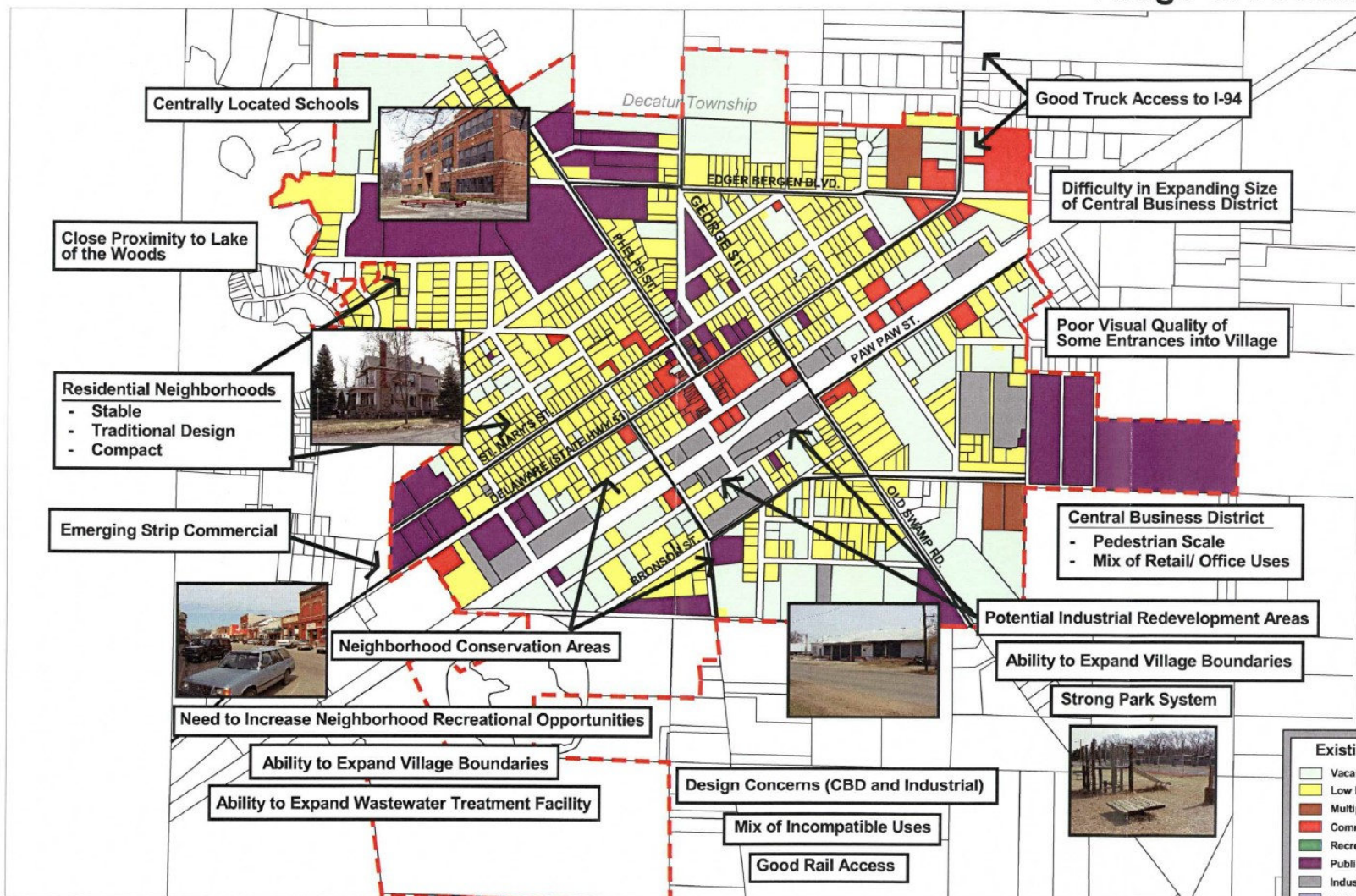
Source: Hamilton Township, Decatur Township, & Village of Decatur, Michigan

0 Ft. 4500 Ft.
2250 Ft.



8/2002

Village of Decatur, Michigan



Existing Land Use

- Vacant
- Low Density Residential
- Multiple Family Residential
- Commercial
- Recreation
- Public/Semi-Public
- Industrial
- Utility/Railroad

Basemap Source: Village of Decatur, Michigan
Data Source: McKenna Associates, Inc.

0 Ft. 1000 Ft.
500 Ft.



7/2001

Resources and Constraints

Alternative Development Patterns

The alternative development patterns analyzed in this plan include development as currently permitted by each community's zoning ordinance, development based on continuation of current trends, and development based on a managed or phased pattern. A build-out analysis was prepared for each of the alternatives, which depicted the ultimate impact associated with each pattern.

The alternatives and the associated build-out analyses were presented to each of the communities to discuss their merits and limitations. A preferred development pattern was identified from this discussion and constitutes the Future Land Use Plan. The following is a brief description of the development alternatives that were considered, their merits and limitations and an overview of the preferred development pattern.

Zoning Build-Out

The first build-out analysis was based upon the township's and village's current zoning ordinance and corresponding zoning maps. This analysis yields the following information:

Village of Decatur

This analysis yields a build-out population of between 2,543 and 5,269, dependent upon the ultimate density of future development. Additionally, the analysis reveals an availability of approximately 3,861,381 square feet or 89 acres of commercial land and 5,555,813 square feet or 128 acres of industrial land.

Hamilton Township

This analysis yields a build-out population of approximately 42,279. Additionally, the analysis reveals an availability of approximately 38,250,000 square feet or 878 acres of commercial land and 18,000,000 square feet or 413 acres of industrial land.

Decatur Township

This analysis yields a build-out population of between 41,585 and 60,382, dependent upon the ultimate density of future development. Additionally, the analysis reveals an availability of approximately 23,017,978 square feet or 528 acres of commercial land and 17,524,103 square feet or 402 acres of industrial land.

Summary:

This development pattern:

- Fails to achieve many of the stated community goals
- Would permit complete development of township as low density residential at full build-out
- Would permit strip commercial development along the entirety of M-51
- Fails to recognize opportunities and constraints present in the community
- Would undermine the village's role as the commercial center for the area
- Would increase the likelihood of land use conflicts
- Would make planned expansion and/or extension of public facilities or services difficult
- Would result in a dramatic change in community character
- Would result in limited restriction on land development

Current Trends Build-Out

The second build-out analysis was based upon current development trends in the townships and the village. This analysis yields the following information:

Village of Decatur

This analysis yields a population of near 2,000 in 20 years, the availability of 30 to 40 acres of commercial land and 30 to 40 acres of industrial land during the same time period.

Hamilton Township

This analysis yields a population of near 2,400 in 20 years, the availability of 150 to 160 acres of commercial land and 100 to 110 acres of industrial land during the same time period.

Decatur Township

This analysis yields a population of more than 2,500 in 20 years, the availability of 150 to 160 acres of commercial land and 100 to 110 acres of industrial land during the same time period.

Summary:

This development pattern:

- Fails to achieve many of the stated community goals
- Would permit scattered low density single family development throughout the townships
- Would permit scattered commercial activities along M-51
- Fails to recognize opportunities and constraints present in the community
- Would undermine the village's role as the commercial center for the area

- Would increase the likelihood of land use conflicts
- Would make planned expansion and/or extension of public facilities or services difficult
- Would over time, erode the character of the community
- Would result in limited restriction on land development

Phased Development Build-Out

The third build-out analysis was based upon a phased development pattern, where future development was both guided and constrained based on natural resource constraints and the extension or lack of public services. This analysis yields the following information:

Village of Decatur

This analysis yields a population of between 2,000 and 3,000 in the next 20 years, the availability of 40 acres of commercial land and 80 acres of industrial land during the same time period.

Hamilton Township

This analysis yields a population of between 1,800 and 2,500 in the next 20 years, the availability of up to 160 acres of commercial land and up to 110 acres of industrial land during the same time period.

Decatur Township

This analysis yields a population of between 2,100 and 3,000 in the next 20 years, the availability of up to 200 acres of commercial land and up to 150 acres of industrial land during the same time period.

Summary:

This development pattern:

- Would achieve many of the community's stated goals
- Would stimulate managed development and expansion
- Would concentrate new residential development in the Village of Decatur and near its edges
- Would concentrate new commercial development in the Village of Decatur and near its edges
- Acknowledges the opportunities and constraints present in the community
- Strengthens the village's role as the commercial center for the area
- Minimizes the potential for land use conflicts
- Facilitates the planned expansion of public facilities and services

- Reinforces the prevailing character of the area
- Places restrictions on land development

Preferred Development Pattern

Following a thorough review of the alternative development patterns described previously, identifying existing development patterns, recognizing current opportunities and constraints, and developing community goals and objectives a preferred development pattern can be developed and refined. The preferred development pattern that has been identified for the Decatur-Hamilton area contains the following essential elements:

- Future growth and development will be based upon the historical development pattern.
- Intensive development will be focused in the area surrounding the Village of Decatur, on lands with minimal physical constraints and access to public services and utilities.
- The vast majority of lands in Decatur Township and Hamilton Township will remain rural, comprised mainly of active agricultural lands and open space.
- Growth and extension of public utilities will be phased over time in a manner that will encourage a compact development pattern and discourage a sprawling pattern.
- Future growth, economic expansion, and natural resource protection efforts will be stimulated in a managed manner through strategic implementation of development incentives, land use regulations, and capital improvements.

This preferred development pattern is portrayed graphically in the Future Land Use Map and further described in the text accompanying the Map.

Future Land Use Plan

Overview

The Master Plan is intended to assist decision makers in ensuring that the future use of land is consistent with the goals of the communities. The Master Plan should act as a guide in evaluating all future development within the Decatur-Hamilton area. Any future changes to the zoning ordinance text and maps of the communities and capital investments by the same should also be evaluated to ensure consistency with the goals, objectives, and preferred development patterns established in this Master Plan.

The Future Land Use Plan has two main objectives. First, it is useful as a means of identification of where certain types of land uses are most appropriate. This is largely accomplished by the Future Land Use Map. Second, it also demonstrates how the proposed land uses will be arranged on a specific piece of property.

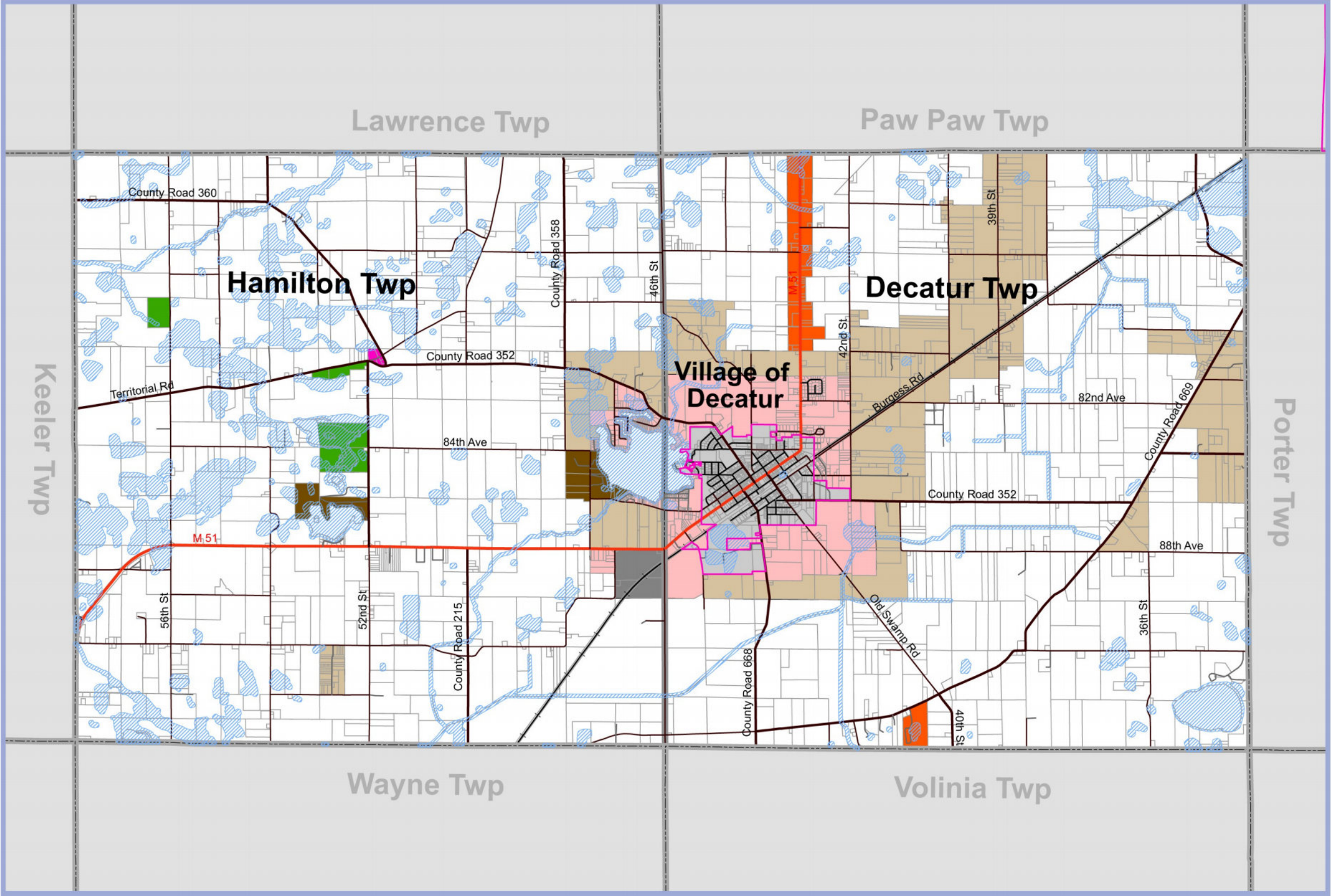
The Future Land Use Map and the land use design guidelines are based on a firm understanding of the strategic issues present in the Decatur-Hamilton area, identification and analysis of the existing conditions present in the communities, recognition of the opportunities and constraints present in the communities, and an understanding of the stated community goals and objectives.

The Future Land Use Map is intended to represent the ultimate build-out for the Decatur-Hamilton area. In order for the communities to protect their rural character and the economic viability of the Village, it is necessary to define the extent of the intensely developed area which, if not constrained could undermine these fundamental goals for the area. While it will likely take a considerable amount of time for the communities to reach this ultimate build-out, by identifying the extent of development now, tools and techniques can be developed or expanded which will insure any area developed in the future will be utilized in accordance with the Master Plan.

The Future Land Use Plan for the area is comprised of seven land use categories which delineate

areas of the Village of Decatur, Decatur Township, or Hamilton Township for particular types of land uses. There is also a surface water quality overlay district which lies over the other districts and is meant to provide provisions in these sensitive areas to protect water resources. There is also a more detailed future land use map for the Village. The following section describes the characteristics of each land use designation, the methodology for defining the area, and recommendations for implementation.

Future Land Use



Legend

- Surface Water Protection Overlay
- Township
- Parcel
- Future Land Use**
 - Industrial
 - Primary Growth Area
 - Neighborhood Commercial
 - Mixed Use
 - Rural Residential
 - Campground Resort
 - Public Land/Park/Open Space
 - Agriculture Protection Area
 - Not Shown

0 0.5 1 1.5 Miles

Data Sources
Base Map: Michigan Center for Geographic Information
Parcel and Future Land Use: Van Buren County

Prepared April 2009

Southwest Michigan Planning Commission

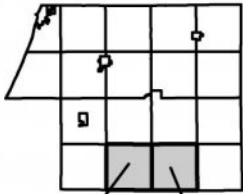
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Email: swmpc@swmpc.org

Website: www.swmpc.org

Van Buren County

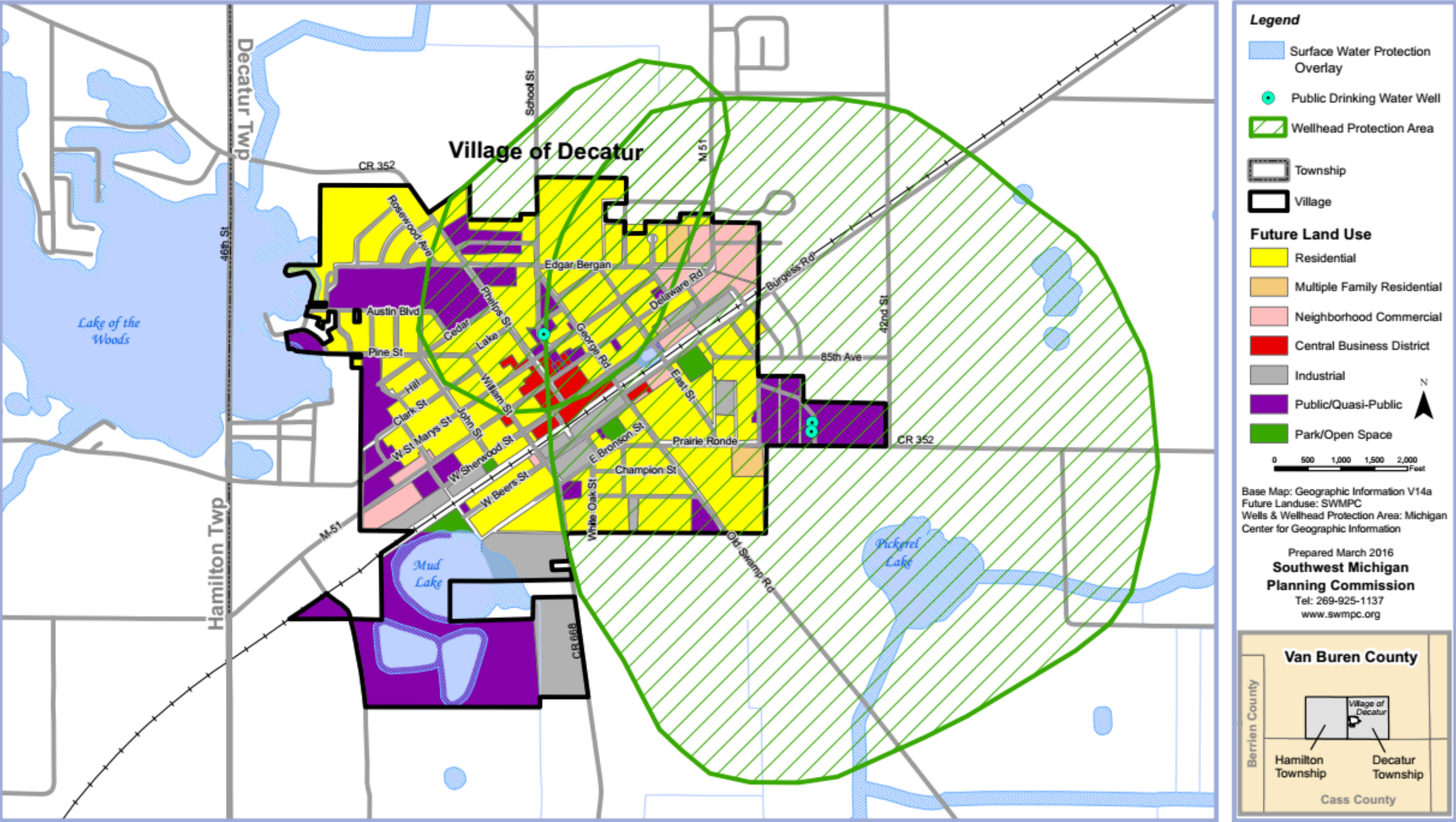


Hamilton Township

Decatur Township

Decatur-Hamilton Area
Joint Comprehensive Plan
Future Land Use Plan

Future Land Use



Decatur-Hamilton Area
Joint Comprehensive Plan
Future Land Use Plan

Agriculture Protection Area

A major planned future land use for both Decatur Township and Hamilton Township is agricultural uses, comprising more than 71% of the total area of Decatur Township and 93% of the total area of Hamilton Township. Agricultural lands include farming (the production of crops, livestock, and related goods), orchards, nurseries, vineyards, farmsteads, and other activities directly associated with agriculture. Active agricultural land uses are fundamental to the communities' efforts to preserve the viability of the working landscape and the rural character established in the Decatur-Hamilton area.

The desired density within the agricultural land uses is planned for an average of one dwelling unit for every 10 acres, or four persons per 10 acres. This density is necessary to ensure that densities are low enough to accommodate agricultural uses that can be economically viable and to minimize the potential for conflict between active agricultural operations and residential uses. Individual lot sizes will be dependent upon a variety of variables including current farming practices and soil characteristics. However, 10 acre parcels are not encouraged. Open space or cluster zoning can encourage smaller building sites on parts of a farm which are not conducive to production.

These areas were defined using the following methodology:

- Identification of prime agricultural soils and unique farmland as indicated in the soil survey for Van Buren County compiled by the United States Department of Agriculture.
- Recognition of lands with active farming activities. This information was gathered through use of the land use cover maps created by Western Michigan University based on 1996 aerial photography.
- Identification of large parcels. Parcel size and shape have an important influence on the continued viability of agricultural activities. Large parcels with regular shapes lend themselves more readily to farming activities than do parcels that are small or irregular in shape. Generally, parcels that are 20 or more acres in size can accommodate viable commercial farming activities. This value is increased considerably where such parcels are contiguous to one another to form a "block" of agricultural lands.

- Recognition of lands enrolled in the P.A. 116 Program. In 1974, the Farmland and Open Space Preservation Act, P.A. 116, was enacted by the State of Michigan. This Act allows landowners to enter into a developments right agreement with the state, by which they receive specific tax benefits in return for maintaining their land in agricultural or open space purposes for a specified period of time.

Another characteristic within the agricultural land use is the general lack of “urban” infrastructure that is paved roads and centralized sewer and water. Paved roads often can lead to higher speeds and tend to attract additional development thus increasing the traffic volume. This detracts from the general rural character of the area and negatively impacts agricultural operations. Gravel roads however; tend to reduce speeds and the attractiveness of additional development. Major road improvements should be undertaken in agricultural areas primarily to address safety issues and to ensure access for emergency vehicles. The extension or construction of utilities, particularly water and sewer, has impacts similar to improved roads, which are they tend to attract additional development. Furthermore due to the high costs of building and operating such facilities, the density or total number of homes tends to increase in an effort to spread the costs out among many homeowners. This suburban style development within areas that are currently rural will, overtime erode the existing rural character of the area and make economically viable agriculture more difficult. Water and sewer lines should not be extended into the Agriculture Protection Area unless they are necessary to protect the health, safety, and welfare of the existing residents of the area.

Implementation Recommendations

As discussed previously in this plan, the prime agricultural areas are intended to foster an environment conducive to viable agricultural enterprises. The area is to be characterized by large, contiguous blocks of productive agricultural land with limited residential development. As such, development densities in these areas should be kept very low, lot sizes should remain quite large and infrastructure such as paved roads or municipal water and sewer should not be extended to these areas. As development does occur in the area, the townships should take steps to ensure that large, contiguous blocks of productive agricultural lands remain intact and viable. Specific techniques in

the zoning ordinance will help to accomplish this. Two zoning options should be considered - exclusive agricultural zoning or sliding scale zoning. In addition, the zoning ordinance should require agricultural buffers between residential and agricultural uses. Further, the Townships should participate in the County's Farmland and Open Space Preservation Program. For more information on the county's program visit www.vbco.org.

1. Exclusive Agriculture Zoning

Exclusive agricultural zoning is an alternative to sliding scale zoning and is useful to limit the amount of non-farm development in agricultural protection areas. This type of zoning avoids the problem of leapfrog development. Development is also kept at a distance limiting potential conflicts between farms and nonfarm neighbors. The goal is to balance the long-term protection of farmland with some nonfarm development. The minimum parcel size in exclusive agricultural zones is usually set at 40 acres. The owners of land in the exclusive agricultural district are allowed to build additional dwelling units that serve as places of residence for owners and employees of farm operation or for family members. Currently Wayne Township in Cass County utilizes exclusive agricultural zoning.

2. Sliding Scale Zoning

Sliding scale zoning limits the number of times that a parent parcel (a parcel existing on the date of ordinance adoption) can be split, based on its size, i.e., the larger the parcel the more splits that may occur, up to a maximum number established (as shown on the example chart). A larger minimum parcel size is also established.

Sliding Scale (Example)	
Area of Lot of Record	Maximum Additional Lots Permitted
1 to 10 acres	1
10.1 to 20 acres	2
20.1 to 40 acres	3
40.1 to 80 acres	4
80.1 to 160 acres	5
160.1 to 320 acres	6
over 320.1 acres	7

Unlike exclusive use zoning, sliding scale zoning allows some non-farm residential development without a special land use or other reviews. Sliding scale zoning can be useful in agricultural areas where there are significant development pressures and land speculation. The use of sliding scale zoning is most effective in areas where a wide range of

parcel sizes exist and non-farm residential development has already begun to occur.

Minimum and maximum building lot sizes can be used to encourage the location of non-farm development on less productive farmland and/or in areas where development is more concentrated to direct growth onto already fragmented land. The use of buffer areas (see later discussion) is highly recommended to avoid land use conflicts between new residential development and agriculture fields. Since this method does permit some use of land for non-agricultural uses, it allows communities to more effectively avoid a claim that land has been "taken" without compensation.

3. Agriculture Buffers

Balancing the need to continue agricultural practices and the desire to develop land for non-agricultural purposes can be challenging. Buffers between active agricultural areas and other uses, such as residential development, can help reduce land use conflicts, particularly where residential and agricultural conflicts are occurring with greater frequency. The use of buffers can aid in easing land use conflicts and improving the relationship of agricultural uses and new residents. Agricultural buffers should be used with both options - the exclusive agricultural zoning and the sliding scale zoning.

Buffers are generally imposed on residential developments, rather than on farming operations, principally because the farm was probably the first use in place. Buffers should be sufficiently wide to protect the farming operation from lawn fertilizers, playing children, and other conflicts. At the same time, they cannot be so burdensome as to require excessive land commitments from residential property owners.

Buffers are most effective if a "no-disturb" zone is provided between residential properties and farmland. This requirement should be tied to subdivision, site condominium, planned unit development, or land division approval. It should also be required that the buffer be described in the property deed to alert potential buyers of the need to honor the no-disturb area.

Rural Residential

The rural residential designation for the Decatur-Hamilton area is a low density pattern that is typically planned for areas outside of the village and not part of either the primary growth area or the agriculture protection area. The rural residential land use is planned to occupy approximately 18% of the total land area in Decatur Township and 3% of the land area in Hamilton Township.

The desired density within the rural residential area is planned for no more than one dwelling unit for every acre (1DU/Acre). However, some of the soils in the rural residential areas may not be able to sustain an operational septic system. If this is the case, larger parcels may be required. The use of open space developments is highly encouraged in the rural residential areas to maintain the rural character and to preserve the natural features. Further, open space developments could ensure adequate buffers are in place between farming operations and residential areas. Individual lot sizes will be dependent upon a variety of variables including natural features and ability to treat wastewater.

These areas were defined using the following methodology:

- Identification of lands located adjacent to the primary growth areas.
- Identification of transition areas between the agriculture protection and primary growth areas.
- Identification of areas where most parcel sizes varied and are already too small to sustain farming operations.

Implementation Recommendations

The Rural Residential Areas are intended to accommodate development at a low density and in a manner that retains the rural character of the area. As such, those features that contribute to the rural character of the area must be protected. These features include large areas of open space, wetlands, woodlots, etc. Specific guidelines, requirements, standards, and incentives should be established that will assist in ensuring that these features remain protected through the use of open space developments.

Clustering of home sites and the permanent protection of rural character features is the preferred method of fulfilling the preferred development pattern for these areas. The Townships should take steps to ensure that the rural character remains intact. Further, low impact development techniques should be encouraged to protect water quality and natural features. Rural residential areas will serve as an area of transition between the higher density development located in the Village of Decatur and agriculture protection areas.

Campground/Resort

Approximately 233 acres or 1% of the total land area of Hamilton Township is planned for campground/resort. This district is intended to preserve and enhance the water and scenic quality of the lakes and wildlife found in Decatur and Hamilton Townships, the investment in lake property, the quality of lakefront living, and the natural environment.

These areas were defined using the following methodology:

- Existing pockets of this designation were already established on zoning maps

Implementation Recommendations

These areas should be developed in a manner that protects the natural and water features associated with these developments. Low Impact Development techniques should be utilized to protect water quality and natural features.

Public Land/Park/Open Space

Approximately 234 acres or about 1% of the total land area of Hamilton Township and 200 acres in Decatur Village (about 29% of the total Village land area) is planned for public facilities, parks and open space. This designation documents where the area parks/open spaces, government offices, schools and public facilities are located. This includes active recreational uses such as athletic fields, playgrounds, trails, and swimming as well as areas for more passive activities such as bird and wildlife watching, relaxing and enjoying views. These passive activities also promote the protection of open space, significant views and natural areas.

These areas were defined using the following methodology:

- Identification of areas in public ownership.
- Identification of areas close to high density residential areas to ensure that people of all ages have access to this type of land within a short walking or driving distance.
- Identification of large blocks of natural areas to encourage the permanent preservation of these areas.

Implementation Recommendations

Recreational facilities need not have access to urban infrastructure, indeed in many instances they benefit from a lack of such services, contributing to their natural appeal. However, in instances where active facilities are proposed, they are best located in close proximity to concentrations of the population to accommodate easy access by local residents and to both strengthen the role of the Village and preserve the agricultural character of the rural areas.

Parks should be placed and designed with respect to their intended purpose. For example, neighborhood parks should be intertwined into the fabric of the various neighborhoods in the area. Such parks should be modest in size, accessible on foot or by bicycle, and offer close to home recreational opportunities. Community or regional parks, however may be located on the edge of neighborhoods, should be large enough to accommodate a diversity of uses and features, and may be accessed by pedestrians, on bicycles, or in an automobile.

The steps that the village and townships may consider in further protection of open spaces include:

1. Acquisition by the village or township.
2. Dedication of open space or recreation area by developers.
3. Establishment of development regulations to include incentives for providing recreational areas in a development,
4. Requirements for open space and parks in Planned Unit Developments.
5. Working with landowners and land trusts, such as the Southwest Michigan Land Conservancy, to place easements on properties with significant natural features.

Due to their more rural nature and lower population densities, it is neither appropriate nor is it necessary to expect each neighborhood within Decatur and Hamilton Townships to have direct access to designated recreational open space. However, access to such opportunities, within a reasonable distance is necessary. The central location of the village and its facilities addresses many of the recreational needs of the townships, however portions of the townships remain a considerable distance away from any facilities and they can only be reached by automobile. Opportunities exist within the townships for the provision of additional special purpose parks or community parks. Specific opportunities include greenway development along creeks, development of a community park in the vicinity of the Hamilton Township Hall, acquisition of land for wildlife viewing, hiking, hunting, etc.

Primary Growth Area

Approximately 1636 acres (7%) of land in Decatur Township and 233 acres (1%) of land in Hamilton Township is planned for the Primary Growth Area. The Primary Growth Area is intended to accommodate development at urban densities and in a manner that reinforces the traditional development characteristics present in the Village. These characteristics include sidewalks, a grid or interconnected street pattern, street trees, modest lot sizes, a diversity of architectural styles, etc. The primary growth area incorporates residential multiple family residential, manufactured housing communities, neighborhood commercial, central business district, commercial and industrial districts which are described below.

Manufactured housing communities, (previously referred to as mobile home parks) are likely to have densities slightly higher than five units per acre. However, if site characteristics, transportation accessibility availability of public infrastructure and services, and land use compatibility are found to support such development, it is within the primary growth area that manufactured housing communities could be located. The Plan does not identify particular sites for manufactured housing developments. It provides development guidelines for locating housing developments of a moderately high density.

These areas were defined using the following methodology:

- Identification of lands on the fringe of the Village that are either served or could easily be served by municipal sewer and water.

Implementation Recommendations

Specific guidelines, requirements, standards, and incentives should be established that will assist in ensuring that the characteristics of traditional neighborhoods are respected and complemented.

The village and townships should take steps to ensure that these characteristics are reinforced. These steps can include:

1. Revision of ordinances to include site plan review, alternative design options (PUD, etc)
2. Adoption of form based zoning codes

A. Residential

Approximately 376 acres or 54% of the total land area of the Village of Decatur is designated for Residential. It is anticipated that the primary growth areas will accommodate the majority of residences in the Decatur-Hamilton area as well as offer the greatest diversity in housing types and costs. These areas are characterized by a high level of urban infrastructure and services as well as a high level of accessibility to employment and shopping opportunities. Generally, it is favorable to have urban services in these areas, as the potential for failure of on-site wastewater treatment is high as is the potential for contamination of drinking water in areas of such density. Likewise, the overall density often necessitates the presence of paved roadways to accommodate the number of vehicle trips associated with such areas.

The desired density within the growth areas and the Village of Decatur is planned for two to five dwelling units per acre. This density capitalizes on the existing and planned public infrastructure and services, and provides opportunities to offer a variety of housing styles and prices.

Individual lot sizes will be dependent upon a variety of variables including current development pattern, presence of natural features, and adequacy of public infrastructure.

Implementation Recommendations

These areas should have the following characteristics:

1. Diverse housing options
2. Neighborhoods should be compact and walkable
3. Neighborhoods should have clearly defined edges and be connected to well-defined centers
4. Pedestrian access throughout the neighborhood and connecting to the center should be a priority
5. Use of previously documented neighborhood delineations, such as that in any previous Master Plans or as devised by the Village for other purposes.

B. Multiple-Family Residential

Approximately 8 acres or 1.2% of the total land area in the Village is planned for multiple-family residential. The principal use is for two-family and multi-family dwellings; single family dwellings are also permitted. Recommended uses within Multi-Family Residential areas include a variety of multiple-family developments such as apartments, loft apartments, duplexes, townhouses, condominiums, stacked condominiums, and elderly and assisted-use housing.

Implementation Recommendations

These areas should provide a diverse housing stock to meet the needs of various types of housing demands. A wide spectrum of housing options will accommodate people of a range of incomes, ages, and family types in each neighborhood. The majority of Multi-Family Residential sites in the Village have already been developed. Zoning ordinances related to the redevelopment of these Multi-Family Residential areas should encourage design diversity and modernization while assuring that the building's mass remains relatively in character with the neighborhood's bulk characteristics

C. Neighborhood Commercial

Approximately 15 acres (0.1%) of the total land area of Hamilton Township and 34 acres (5%) of the total land area of the Village is planned for neighborhood commercial. There is a small

neighborhood commercial area in Hamilton Township at the intersection of Territorial and County Road 215. The principal use is to provide a wide variety of retail opportunities (including those often found in Commercial districts) such as, office space, parking, and personal business services of all kinds typically found in a traditional downtown setting satisfying the needs of residents in the community and outlying areas. Some retail commercial uses typically found in Commercial districts may also be compatible with this classification. This classification allows and encourages the mix of residential and commercial uses. Consideration of pedestrian and non-motorized traffic in these areas is critical in development decisions. The cohesive appearance of buildings in the downtown area and those in outlying commercial areas greatly maximizes the appeal and vitality of the Village as a whole as does the capability for pedestrian connectivity between residential and commercial areas.

Implementation Recommendations

These areas should provide for small commercial businesses that would fit within a residential setting and be a transition between the centralized business district and the residential areas. The following characteristics should be encouraged in these areas:

- Neighborhoods should be compact and walkable.
- Neighborhoods should have clearly defined edges and be connected to well-defined centers.
- Community centers should be typically no more than one-quarter of a mile or five minute walk from the neighborhoods.
- Pedestrian access throughout the neighborhood and connecting to the center should be a priority.
- A diverse mix of residences, shops, schools, workplaces, and parks should occur in close proximity to one another.

D. Central Business District

Approximately 17 acres or 2.5% of the total land area of the Village is planned for the central business district. The Central Business District is intended to promote efficient and livable forms of development in the downtown core of the Village. With attractive and inviting patterns of

development along and off of the main streets, higher density residential and commercial uses here allow for a secure and safe living and shopping environment. This land use designation is meant to serve the planning area communities with goods and services while developing in accord with the surrounding residential and residually mixed neighborhoods. Finally, this district is meant to serve as a social gathering place for area residents, as the Village Hall and the Van Buren District Library are all located here. Access to downtown for residents is provided via connector streets. The key to distinguishing the Central Business District from the other land use classifications in the Village of Decatur is the high-density mixed uses of residential and commercial. Planned uses in this district include, but are not limited to, commercial, office, entertainment, civic, high-density residential, and pocket parks. Industrial uses are to be discouraged in the Central Business District, as they may generate impacts that conflict with the residential, commercial and recreational uses.

The majority of planned commercial uses are located in the Village of Decatur or immediately adjacent to the Village. The majority of the uses are intended to serve the daily shopping needs of local residents. This would include the provision of such items as groceries, pharmacies, restaurants, car washes, Laundromats, department stores and auto repair. These uses are intended to be accommodated in the central business district in the village or are to be accommodated in compact developments near the village. This development pattern is designed to accommodate arrival of patrons either in personal vehicles or on foot and ensuring that the normal associated impacts (traffic generation, noise, etc), are minimized as much as practical.

Implementation Recommendations

Commercial areas should be designed to interact in a positive manner with both existing and future residential neighborhoods and to reinforce the historic role of the village as the center of commerce for the area. Typical commercial developments create strip development along major roads with unimaginative architecture and a limited life span. Through the encouragement of commercial development that utilizes small building footprints, small gross floor areas, classic architectural details and site placement, the Decatur-Hamilton area can take positive steps toward ensuring that

new commercial development adds to the quality and character of the area rather than detracts from it. Commercial development within these areas should also be designed in a manner to enhance the local street network currently in place. As such, connections between existing and future residential areas and commercial areas would reduce the traffic impact that such developments would have as well as increasing accessibility for local residents. Care should also be exercised in the management of access along primary roads, which are intended to carry large volumes of traffic. The use of shared access, access from secondary roads, and limits on the number of curb cuts are but a few techniques that can be exercised to effectively manage access issues.

Uses should be designed to positively contribute to the character and function of the Village, and should be compatible with adjacent land uses. Specific issues include architectural compatibility, access management, shared parking, etc. Specific guidelines, requirements, standards, and incentives should be established that will assist in ensuring that these issues are addressed in a positive manner. The Village could revise ordinances to include site plan review, development standards, performance measures and access management guidelines to accomplish these characteristics.

E. Industrial

Industrial land uses are planned for 159 acres (0.7%) in Hamilton Township and 47 acres (7%) in the Village. Generally, it is proposed that these uses be located in or near the Village of Decatur to take advantage of available public utilities, the existing street network, and available work force in close proximity. However, in some instances it may be appropriate to locate agriculturally related industrial uses, such as processing plants, in areas designated for agricultural protection. Such uses should be located in these areas only if they are necessary due to the proximity of a locally raised or grown product, and should be developed in a way that they do not negatively impact either the ability to continue productive agricultural activities on adjoining properties or adjoining residences.

Implementation Recommendations

As in the case of commercial development, it is imperative that industrial uses be developed in a manner that contributes to the overall success and livability of the area. This can be achieved by

placing limitations on the specific types of industrial activities that are permitted, the provision of sufficient buffering and screening between industrial and residential uses, and management of the issues associated with access to the existing transportation system.

The majority of industrial land uses will continue to be located in the village and should be compatible with adjoining land uses. As such, uses should be designed with sufficient buffering and landscaping, should minimize negative impacts in the area, etc. Specific guidelines, requirements, standards, and incentives should be established that will assist in ensuring that these issues are addressed in a positive manner. The Village could revise ordinances to include site plan review, development standards and performance measures.

Mixed Use

Approximately 389 acres or 1.7% of Decatur Township is planned for mixed use development. The density of development in this area will be dependent on the soils and the natural features on the property. Development should be encouraged in nodes or centers and not spread along the entire length of a transportation corridor as that will increase congestion and cause traffic safety issues. The purpose of Mixed-Use is to encourage the development of a compatible mixture of land uses which may include residential, retail, offices, recreational, entertainment, create community centers, integrate gathering places, and to promote long-term viability in the established settlement areas.

Implementation Recommendations

The designation will additionally provide for a land use transition between the settlement areas and the more rural areas of the communities that provide for:

1. A more pedestrian-oriented nonautomotive environment and flexibility in the design of land uses and structures than are provided by single purpose zoning districts, including but not limited to shared parking;
2. The enhancement and preservation of property and structures with historical or architectural merit, unique topographic, landscape or water areas, or other features

- requiring special treatment or protection;
3. Recreation areas that are most accessible to both the planning area's inhabitants and other residents;
 4. Environment that is more conducive to mutual interdependence in terms of living, working, shopping, entertainment and recreation.

Any leap frog development should be discouraged in this district. The development should occur in nodes or centers to create walkable and easily accessible retail/office areas along with residential uses.

Transportation

Local roads, collectors, and arterials will continue to occupy approximately 12% of the total land area in the Decatur-Hamilton area. There are no plans to either build new roads or dramatically increase the width or capacity of existing roads. It is necessary for the village and the townships to regularly monitor the condition of roads in the area. In the Townships, the responsibility of maintaining the roads is with the Michigan Department of Transportation or the Van Buren County Road Commission. The village should continue to provide regular maintenance and upgrades of roads that remain their responsibility.

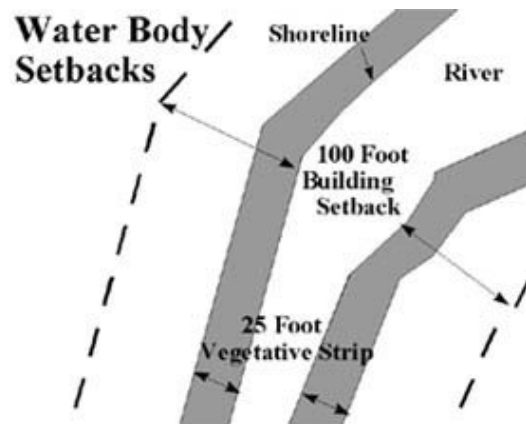
The Village of Decatur has an active railroad that provides extensive shipping of agricultural products for local producers. With so much agricultural production in the surrounding townships, the railroad provides an affordable way to move products. The current goal is for a new railroad spur to hold 60 cars so that commodity products that can be traded and moved quickly and efficiently using the existing transportation networks. One rail spur is currently open which crosses George Street and may eventually split into 4 spurs.

Surface Water Quality Protection Overlay/Wellhead Protection Area

Approximately 3826 acres in Hamilton Township, 1585 acres in Decatur Township and 70 acres in Decatur Village are designated as a water quality protection overlay area. Development and activities in these areas can directly impact the quality of water resources. Overlay zones are special

districts that supplement, but do not replace, the existing applicable zoning regulations. Overlay zones can be used for any number of objectives, ranging from commercial corridor improvement to river protection efforts. Overlay zones are especially useful when an area containing unique opportunities or constraints under several different zoning designations.

Water Quality Overlay District should require vegetated greenbelts around waterbodies and setbacks for buildings. Greenbelts or vegetated buffers are an effective way to address soil erosion and reduce the effects of runoff on surface water quality. The attraction of surface water for residential or other land uses often leads to the desire for additional views to the water by clearing vegetation along streambanks and lake shorelines. This clearing contributes to reduced water quality and may lead to the eventual loss of aesthetic value.



These areas were defined using the following methodology:

- Identification of wetlands and a 100 foot buffer area around wetlands
- Identification of 100 foot buffer along waterbodies (lakes, rivers, and major streams and drains)

Implementation Recommendations

Important elements of overlay zones for natural resources protection include: protection of vegetation and trees; setbacks from sensitive areas such as wetlands and streams; percentage requirements for open space preservation; and avoidance of critical habitat areas.

Zoning ordinances should include water body setbacks from water



bodies with a portion of the setback areas reserved for a native vegetative strip to filter pollutants and sediment.

Setbacks from inland lakes and streams can be established through the zoning ordinance. Regulations may specify a minimum 100-foot setback for structures and septic systems from the shoreline. Setbacks will generally mirror the minimum requirements of the Natural Rivers Act, which provides a basis for setbacks.

Setback requirements may include the preservation of at least a 25-foot wide native, un-cleared vegetation buffer strip immediately adjacent to the shoreline. Boat storage and dock facilities may also be regulated.

In general, smaller buffers may be adequate when the buffer is in good condition (e.g. dense native vegetation, undisturbed soils), when the water body or resource is of low functional value (highly disturbed, invaded by non-native species such as purple loosestrife), and the adjacent land use has low impact potential (park land or very low density residential development). Larger buffers will provide water quality protection for high impact land uses such as highly developed commercial areas dominated by large parking lots (highly impervious surfaces).



Example:

Building setback for lots, including all appurtenances and accessory buildings, shall be a minimum of 75 feet from the ordinary high watermark on the main stream, north branch and south branch, and 50 feet on all other designated tributaries. The setback may be decreased 1 foot for every 1 foot rise in bank height to a minimum of 60 feet from the ordinary high watermark on the main stream, north branch and south branch, and to a minimum of 40 feet from the ordinary high watermark on all other designated tributaries. Buildings and appurtenances shall be set back not less than 25 feet from the top of a bluff on the non-cutting edge of a stream and not less than

40 feet from the top of a bluff on the cutting edge of a stream. Building shall not take place on land that is subject to flooding.

For additional information on how local governments can protect inland lakes visit - http://vanburencd.org/wp-content/uploads/2013/10/VBCD_InlandLakesBooklet_low-res_FINAL.pdf

Wellhead Protection

The Village of Decatur and the Townships rely exclusively on groundwater for its drinking water source. In response to the concern over safety of public water supplies, the Village has instituted a Wellhead Protection Program (WHPP). WHPPs develop long-term strategies aimed at protecting community drinking water supplies. The purpose of developing a WHPP is to identify the Wellhead Protection Area (WHPA) and develop long-term strategies aimed at safeguarding the area from contamination. A WHPA is defined as the surface and subsurface areas surrounding a water well or well field, which supplies a public water system, and through which contaminants are reasonably likely to move toward and reach the water well or well field within a 10-year time-of-travel. The State of Michigan requires communities to identify seven elements to be included in the WHPP. These elements along with a brief description are below.

- **Roles and Responsibilities** – Identify individuals responsible for the development, implementation, and long-term maintenance of the local WHPP.
- **WHPA Delineation** – Determine that area which contributes groundwater to the public water supply wells.
- **Contaminant Source Inventory** – Identify known and potential sites of contamination within the WHPA and include in a contaminant source inventory list and map.
- **Management Strategies** – Provide mechanisms which will reduce the risk of existing and potential sources of contamination from reaching the public water supply wells or well field.
- **Contingency Planning** – Develop an effective contingency plan in case of a water supply emergency.

- **Siting of New Wells** – Provide information on existing groundwater availability, the ability of the PWSS to meet present and future demands and the vulnerability of the existing wells to contamination.
- **Public Education and Outreach** – Generate community awareness in the WHPP by focusing on public education and the dissemination of WHPP information.

It is the intent of this Master Plan to encourage protection of the Village's public water supply wells through the establishment of a Wellhead Protection Zoning Ordinance. Within the ordinance, zoning regulations will limit land uses and practices that may degrade groundwater quality within and outside the WHPA.

The most significant sources of water supply contamination are landfills, surface impoundment areas, subsurface percolation from septic tanks and cesspools, open dumps, uncapped or improperly capped abandoned wells, injection wells and underground storage tanks. These uses represent both *point* and *non-point* contamination sources. Point source is the term used to describe contaminants, which originate in the immediate area of the well or tap. All of the above, if located in close proximity to the water supply source, are examples of potential point source polluters. Contaminants from these uses may seep directly down through the soil to the water source.

Non-point source contamination is much more difficult to control because the cause of the problem may actually be located a considerable distance from the well. This type of contamination is caused by pollutants that filter into an underground aquifer and then migrate slowly through the groundwater aquifer to off-site wells and water sources. Prevention of this type of contamination must involve a collective effort on the part of property owners and local officials from a large geographic area. It is the recommendation of this Plan that all existing and future wells be protected from both point and non-point source contamination to the greatest degree possible. It is also the intent of this Plan to recognize the importance of groundwater

protection within the Village of Decatur and the Townships.

The goals from the 2015 Wellhead Protection Plan are as follows:

- Provide the local governmental framework, such as regulations and policies, to prevent groundwater contamination from occurring at businesses and industries which store, use or generate quantities of hazardous wastes in the WHPA.
- Provide for the protection of Decatur's drinking water supply through comprehensive planning provisions for the Village.
- Enhance communication and coordination between local and state agencies on pollution incidents to assure adequate cleanup for natural resource and public health protection.
- Work with local, state and federal agencies to ensure identified contamination sites do not impact groundwater resources.
- Implement a public education program to inform residents, businesses and farmers on the importance of groundwater protection and what they can do to protect their drinking water.
- Establish a WHPA based on the 10 year capture zone identified in the delineation process when new wells are developed (if necessary). The Village will first plan to work with the Michigan Department of Environmental Quality to develop a provisional WHPA.
- Update the inventory and mapping of all potential sources of contamination within the WHPA every six years.
- Monitor existing and future activities within the WHPA that have been identified as potential sources of contamination.
- Maintain an up-to-date emergency response plan for alternative drinking water supplies to help mitigate contamination of the current water supply.
- Site new wells properly to maximize yield and minimize potential contamination.
- Educate property owners within the WHPA to assure that land uses on their property do not threaten the drinking water supply.

Implementation Strategies

Overview

Implementation strategies are an integral component of any master plan. They determine how the Plan's guidelines and recommendations are to be put into practice and become reality. To implement the goals and objectives provided in this plan and to achieve the preferred development alternative, it will be necessary for leadership of each of the communities to be forward thinking and committed. The following strategies may be used as individual efforts or combined with others to achieve the desired results. Likewise, one community may find a particular strategy more appropriate than another. The key is to define those strategies, which will best implement the master plan at any given time, under specific circumstances, and to then proceed with those strategies.

Public Information and Education

A successful master plan must educate the citizens of the community on both the goals for each of the communities and the individual regulatory and incentive measures that are needed to actually implement the plan and realize the stated goals. An informed and involved citizenry can then offer its support and assistance in working toward the community they desire to have in the future.

An example of appropriate public information and education is in educating the public in the importance of natural features to the preservation of both rural character and a healthy environment. Through such efforts, the local government is far more likely to initiate efforts for wetlands protection, woodlands protection, etc. Offering information to the public concerning the benefits of natural features and ways that they can effectively utilize their property, gives citizens the opportunity to make informed decisions regarding new incentives, regulations, or standards. The following outlines examples of programs that can be undertaken to help inform the public about important land use goals and implementation techniques:

Condensed Version of the Future Land Use Plan

Few community members will likely take the time to read a large comprehensive document. However, a reduced version of the plan, focusing on the issues, community goals, and the

implementation program could make an attractive alternative. This condensed plan could be distributed directly to residents and business owners. Additional copies could be made available at the various community buildings throughout the area.

Informational Brochures

A series of informational brochures on various topics important to the village and townships could be developed. A starting point could be the development of such brochures relative to the strategic issues identified in the plan. The purpose of these brochures would be to further educate and inform local residents and business owners about a specific topic and about the possible actions relative to that topic. These brochures could be distributed directly to residents and business owners. Additional copies could be made available at the various community buildings throughout the area.

Programs in the School System Concerning Land Use Issues

A series of informational programs or activities could be developed that introduce land use issues and alternative solutions to area students. Regional and national planning organizations have several programs that would prove valuable in such efforts.

Regular Informational Sessions Conducted by the Village Council and the Township Boards

The plan should be an active document that is continually reviewed and updated where necessary. An annual joint meeting among the three communities involved in the development of the plan should be held to discuss the progress of the plan and identify any areas where adjustments may need to be made.

Community Surveys

Each of the communities may wish to conduct regular community surveys that seek to monitor the community's attitudes and priorities, looking for any changes. These surveys can be conducted in a variety of ways including mail-back surveys sent directly to all residents, telephone surveys, or surveys inserted in the local newspaper.

Public Policy and Administrative Action

A successful master plan identifies the general policies of the community regarding future growth and development. More specific policies and administrative actions must be identified and developed that will ensure implementation of this community vision. Such efforts will serve to move the planning process from the discussion stage to the action stage.

The following outlines examples of policy and administrative actions that can be undertaken in an effort to implement the plan:

Continued Cooperation Between Units of Government

A strength that the Decatur-Hamilton area possesses is its willingness for the townships and village to plan and work in a coordinated and cooperative manner. Steps should be taken to ensure that this cooperation is maintained and enhanced. Further, this spirit of cooperation should be broadened to include involvement of county, regional, and state governments and organizations.

Establishing Priorities

The Master Plan contains a number of recommendations and policy guidance. Within the Decatur-Hamilton area, there are limited resources in terms of staff, volunteer time, and funds to implement all of the recommendations simultaneously. Consequently, a process for establishing priorities must be established. The Action Program that follows this section sets the groundwork for this effort, but a more detailed process must be undertaken as soon as possible after adoption of the plan. Participants involved in setting priorities should include village and township staff, the planning commissions, village council and township board members, business owners, and other appropriate stakeholders. It is recommended that the priorities be reviewed and updated annually to ensure that progress is made.

Annexation

Though on occasion, not a popular technique among municipal and township officials, annexation provides an opportunity for the Village to continue to grow and for property owners to receive

municipal services including water and sewer. Generally, it is recommended that extension of a municipality's utility be tied directly with a property owners and townships willingness to allow the property in question to be incorporated into the municipality, either through direct annexation or through the establishment of a P.A. 425 agreement.

P.A. 425 Agreement

Public Act 425 of 1984 deals with intergovernmental land transfer for economic development or other projects, in a much less stringent manner than through annexation. Implementation of Act 425 permits the transfer of property from a township to a village or city on a conditional basis, whereby a written contract is entered into between the township and village or city. The act allows two or more units of government to actually share a given land area and tax revenues.

The sharing may involve public services, taxes, and other generated revenue, as provided for by the contract, rather than the all or nothing approach offered by annexation.

Development Controls and Standards

One of the most influential strategies that can be used to implement a Master Plan is the regulatory measures established by the community to guide future development and land use. These regulations include the zoning ordinance, land division controls, and development standards. However, simply creating and using such regulations is not sufficient to actually implement the master plan. The ordinances must contain specific procedures and techniques that are created to achieve the objectives and eventually the goals, of the future land use plan.

The future land use categories in the Master Plan provide the foundation for evaluating future zoning change requests. Zoning actions that are consistent with the Future Land Use Map usually receive deferential and favorable review, if legally challenged. The Master Plan should always be the principal source of information in the evaluation of zoning change requests.

The village and townships should critically evaluate all ordinances to determine if they effectively

implement the objectives of the master plan in their related areas. Recently the Southwest Michigan Planning Commission reviewed and commented on how well the zoning ordinance protects water quality and natural resources. The following improvements could be made to ensure better protection of the resources in the community.

1. Require naturally vegetated buffers along drainage corridors and wetlands
2. Require water body building setbacks along rivers/drains
3. Enact floodplain protection regulations
4. Require a portion of large parking lots to be planted with vegetation
5. Require stormwater treatment for parking lots
6. Require parking lots islands to be used for retention/infiltration areas
7. Have a maximum on parking space size
8. Have limits on impervious cover and lawn areas in rural areas
9. Require open spaces in PUDs to be consolidated into larger units (contiguous)
10. Implement a zoning technique to limit fragmentation of prime farmland, such as an exclusive agriculture zone
11. Require any new housing development abutting agriculture to put in a landscaping screen and have an adequate setback from agricultural production areas
12. Require the use of native plants in landscaping plans for large developments
13. Require bonds for infrastructure and changes in topography

In addition, the following, in particular should be evaluated to determine their appropriateness for the Decatur-Hamilton area:

Subdivision Regulations

Subdivision control ordinances typically require the appropriate design of lots and blocks, subdivision access, and such necessary internal improvements such as streets, drainage, and water and sewer facilities. Such ordinances are possible pursuant to the Land Division Act (Public Act 288 as amended). Though the Act places restrictions on the power of a municipality to approve or reject plats, indicating that a rejection may not be based on any requirement other than those included in the Act, it is generally believed that the Act gives municipalities much greater authority than that typically exercised.

Both townships should consider pursuing the establishment of subdivision regulations in an effort to

increase local review authority and to gain better control over design guidelines. The village should consider amending its current subdivision regulations to better clarify the desired design criteria and standards.

Zoning Regulations

Zoning is the primary tool used by communities to implement the Master Plan. According to both the City and Village Zoning Act and the zoning ordinance and specific zoning regulations applied to property shall be based upon a plan designed to protect the health, safety, and general welfare of the community.

- **Rezoning to Implement the Master Plan.** The land use classifications on the Future Land Use Map provide the basis for evaluating future changes in zoning. Zoning changes that are consistent with the Future Land Use Map generally receive deferential and favorable judicial review if challenged. The Master Plan should be the principal source of information in the evaluation of all requests to change zoning.
- **Performance Zoning.** Rather than simply regulate development on the basis of dimensional standards, many communities have established performance standards to regulate development based on the permissible effects or impacts of a proposed use. Performance standards should be used to supplement conventional zoning standards for the purposes of regulating such items as noise, dust, vibration, glare and heat, safety hazards, and environmental impacts. Defined standards can be particularly useful in achieving environmental and resource protection goals. If based on a strong body of research, standards can be developed that relate to critical natural resources and environmental areas such as floodplains, wetlands, and groundwater recharge areas.
- **Incentive Zoning.** Incentive zoning allows a developer to alter the dimensional limitations in the zoning ordinance if the developer agrees to fulfill conditions stated in the Ordinance. Incentive zoning should be considered to promote innovative land planning techniques. For example, a “density bonus” can be used as an incentive for residential development that

includes larger areas of useable open space or that includes specific features associated with traditional neighborhood development.

- **Planned Development.** Planned development involves the use of special zoning requirements and review procedures that provide design and regulatory flexibility, so as to encourage innovation in land use planning and design. Planned developments should achieve a higher quality of development than might otherwise be possible. If applied judiciously, an effective zoning technique to achieve development in accordance with the goals and objectives of the Master Plan. Planned developments can be used to encourage rural open space or cluster developments and to facilitate re-development in and around the central business district. Planned developments typically include an incentive component.
- **Overlay Zoning.** Overlay zoning allows the communities to impose a new set of regulations on a special area within an existing zoning district. In an area where an overlay zone is established, the property is placed simultaneously in two zones, and the property may be developed only under the applicable conditions and requirements of both zones. Overlay zoning has been used in other communities to address special conditions and features, such as historic areas, environmentally sensitive areas, and mixed use corridors, without disrupting the underlying zoning plan.

Zoning Districts and Permitted Uses

To implement the master plan, it is essential that the placement and regulations within each zoning district (such as permitted uses, setbacks, density, etc) help to further the goals and objectives of the Master Plan. The presence of distinct commercial districts such as central business district, neighborhood business, and general business should be considered to enable location of appropriately scaled business enterprises while limiting the uses and possible conflicts with adjoining uses. Both townships and the village should consider the inclusion of a neighborhood business district to permit small-scale low impact businesses in appropriate areas. Further, the village should consider the creation of a zoning district that permits single-family residences, while

prohibiting two-family or multiple family homes, in an effort to strengthen single-family neighborhoods.

Other considerations should include the creation of manufactured housing districts and the addition of less intense industrial zoning districts to allow placement of less intensive operations in appropriate locations, while not introducing heavy industrial uses that may be incompatible with adjoining uses. A similar evaluation should be conducted relative to the specific permitted and special land uses listed for each zoning district to ensure they are compatible with the goals and objectives of the plan and the specific intent of the zoning district.

Public Facility Improvements

The construction and expansion of public facilities can be one of the most powerful influences in future growth and development. Quite often, development will follow public improvement such as roads and sewers. In a similar manner, re-development can often be stimulated through public improvements and investments. Some of the specific programs and techniques that may be utilized include the following:

Capital Improvements Program

Capital programming influences land development decisions. It is the strategic management of such investments and the resulting development pattern that forms a cornerstone of this Master Plan. By properly coordinating utility extensions and other capital improvements with the planning and growth management efforts, the village and townships can more directly control the direction and pace of development. Capital programming should be viewed as more than just an administrative task. Using the Master Plan to identify the location and development desired and the Capital Improvements Program to schedule the provision of services, the townships and village can inform developers when and how development or re-development of particular parcels will be encouraged and the type of development that is sought.

Continuous Planning

A primary role of the Planning Commission is to provide planning recommendations to elected officials. This planning function is a continuous process, which does not terminate upon completion of this plan. Communities are in a constant state of evolution and planning should be an on-going process of identification, adjustment, and resolution of identified concerns, problems, and challenges. To pursue this role to its fullest extent the Planning Commissions should review and update this plan on a regular basis. Furthermore, the Planning Commissions may wish to pursue planning efforts with a more specific focus, such as:

Open Space, Parks and Recreation Plan

The village has a 2015-2019 parks and recreation plan; however, the Townships do not have a recreation plan. Forming a joint commission to develop a plan has merit. Such a plan can help identify the current and future recreational needs of the community and identify areas where the communities may be deficient in meeting such needs. Further, the plan can be used to secure financial assistance from a variety of agencies, including the Michigan Department of Natural Resources.

Business Development Plan

Expanding employment and shopping opportunities ranked very high on the community surveys and visioning sessions. Such an undertaking can be furthered through the development of a business development plan that has as its central focus, identification of current market conditions and recommendations of how the local community can mobilize its resources to fill market voids. This plan can be used to strategically target capital improvements, efforts at marketing and promotion, and guide future decision-making by the downtown development authority among others.

Re-development Plans

Several properties that may offer opportunities for re-development and thus economic expansion may contain a variety of contaminants and may face a variety of other challenges. Undertaking a re-development plan can address such issues and offer solutions that will result in the economic re-use of the property. This plan is often required to secure funds under a variety of state and federal

programs designed to assist in the cleanup of contaminated sites. The Village of Decatur should consider becoming a redevelopment ready community and focus efforts on downtown, the industrial park and along M-51.

http://www.michiganbusiness.org/cm/Files/Redevelopment_Ready_Communities/RRC-Best-Practices.pdf

Agricultural Preservation

The Master Plan establishes the foundation for agricultural preservation in the community. The goal should be to preserve large contiguous blocks of agricultural lands and should therefore be a coordinated effort with adjoining communities and the county. The Township and Village should ensure that landowners are aware of the County's Purchase of Development Rights program and give guidance on how to participate in the program. The community could consider a dedicated millage to ensure that the local match for the acquisition of easements or fee simple purchases is available.

Agricultural Business Development Plan

As in the case of locally owned businesses located within villages and cities on "Main Streets" farmers increasingly face challenges and obstacles in increasing revenue and generating wealth. Such challenges have been met head on in many central business districts with downtown development authorities, tax increment financing, etc. The most successful of these efforts identifies and analyzes its local market, defines market niches, and establishes strategic actions to address these market voids. Similar efforts are often lacking in farming activities. More often local farmers are left "competing" with very large corporate farms, international agribusiness enterprises, and increasingly other farmers located in distant locations elsewhere in the world.

An agricultural business development plan would identify and critically evaluate the capacity of local farms, the products that could be raised, the services that could be offered, the potential markets, and the obstacles to filling apparent market voids. The plan should then establish strategic actions that are to be undertaken by local farmers, organizations positioned to assist farmers, and local units of

government. This plan should move beyond conventional solutions and address issues such as agricultural enterprise zones, value added opportunities, community supported agriculture, agricultural tourism, etc. This plan should be viewed as a complement to the other efforts focused on protecting farmland from encroachment by incompatible uses and the preservation of prime agricultural lands for future farming activities.

Action Program

The following information is provided to assist the communities of Decatur Township, Hamilton Township, and the Village of Decatur in their initial implementation efforts. The time frame of this action program is three years. It is anticipated that every year this action plan will be reviewed and updated as needed.

Action Plan

As mentioned previously, it is expected that each year the action program will be reviewed at the annual meeting of the Joint Planning Commission to ensure that the implementation program always continues to look at least three years into the future. The action program should be based on the Master Plan and the results of any subsequent planning efforts. In this manner, the long-range vision and goals are established through the planning process and the short-range implementation activities are guided by the Action Program.

Seizing upon the opportunity to continue to the working relationship established in the development of this plan and in recognition of the need for coordination and cooperation in many of the implementation strategies; it is recommended that a permanent steering committee be established. There are a number of ways in which this committee can be operated. It may simply be an informal group with representatives from each of the Planning Commissions, the Township Boards, and the Village Council or it may be more formalized as a “Council of Governments”.

The primary purpose of such a committee will be to keep a unified focus on regional planning issues and on implementation of the joint Master Plan. This committee will serve as the custodian of the regional viewpoint that is stressed in the Master Plan. It is strongly recommended that agreement be reached on the form of such a committee and consensus on its role and membership be achieved prior to implementing any of the recommendations contained in this plan.

Table 34. Action Plan

Action	Lead Organization	Potential Funding	End Product / Performance Measure	Occurrence
Ensure updated master plan is available on each community and the county's website	Planning Commissions	None needed	Publicly accessible master plan.	Year 1 (continually updated as needed)
Publish an article in the newspaper about the master plan (include link to plan) and announce an annual joint meeting about the master plan (invite planning commissions, boards/councils)	Planning Commissions, Township Boards, and Village Council	None needed	Informed public (include future land use map, describe main goals, compact development, farmland and natural resources preservation and business retention) Evaluate progress, revisit priorities, discuss village boundaries and water/sewer expansion plans, evaluate if the master plan needs to be updated. Consensus on Where, When, and How development will occur	Annually (along with joint board meeting in June)
Update Zoning Ordinance (add districts in Master Plan, surface water quality protection overlay district and standards, agricultural zoning technique to reduce fragmentation)	Planning Commissions	General Revenue	Updated Ordinances and Regulations, which are consistent with the Master Plan.	Year 1 and as needed
Develop a Capital Improvement Program (address roads and drains)	Planning Commissions, Township Boards, Village Council	General Revenue	Capital Improvements to be Implemented for the next 1-3 years	Year 1 (annually review and update)

Action	Lead Organization	Potential Funding	End Product / Performance Measure	Occurrence
Continue to support agricultural businesses in the community	Village Council, Township Boards, Chamber of Commerce, DDA, Village Manager	General Revenue	Strategies and programs, such as Farmers Market, to Strengthen Local Agricultural Economy	Year 2 (on-going)
Ensure businesses get support needed and be proactive in business retention	Village Manager, DDA, Chamber of Commerce	General Revenue	Strategies and Programs to Strengthen Downtown Economy	Year 1 (ongoing)
Offer and publicize a suggestion box at the Township and Village Halls	Village Council, Township Boards	General Revenue	Improved communication between public and elected and appointed officials	Year 1
Pursue the attraction and development of the following businesses: hotel, bed and breakfast, and a clothing store.	Village Manager, DDA, Chamber of Commerce, County Economic Development	General Revenue	Program to attract and/or develop key businesses to community.	Year 2
Develop a business incubator.	Village Manager, DDA, Chamber of Commerce, County Economic Development	General Revenue	Program to encourage small business start ups.	Year 3
Develop a joint code enforcement program for Townships and Village	Village Council, Township Boards	General Revenue	A unified code enforcement program	Year 1 (evaluate after Year 2)
Identify Infrastructure Projects and Pursue Funding such as CDBG Funds	Village Manager, Village Council	General Revenue. Special Assessments CDBG	Adequate infrastructure for business retention and attraction	As needed

Action	Lead Organization	Potential Funding	End Product / Performance Measure	Occurrence
Develop a Joint Parks and Recreation Committee (investigate trail projects)	Village Council, Township Boards	General Revenue	A committee which can discuss a joint recreation plan for the Village and Townships. A plan to maintain, expand and fund parks and recreation for the area.	Year 2
Study Feasibility of Joint Public Safety and Code Enforcement Department	Village Council, Village Manager, Township Boards, Police Chief, County Sheriff	General Revenue	A determination if a joint police department is feasible and needed to improve service	Year 2
Identify and Pursue Housing Assistance and Rehabilitation Programs	Planning Commissions, Township Boards, Village Council	General Revenue, CDBG, MSHDA	Eligible Housing Assistance Programs	As needed
Investigate funding options for treatment of wastewater for residents around Lake of Woods	Village Council and Township Boards	General Revenue	Funding opportunities identified	To Be Determined
Ensure the Village is redevelopment ready for the downtown, industrial park and along M-51	Village Manager and Council	General Revenue, DDA	Listed as a Redevelopment Ready Community by the State of Michigan*	As soon as possible

* <http://www.michiganbusiness.org/cm/files/fact-sheets/redevelopmentreadycommunitiesprogram.pdf?rnd=1464922786730>

Financing options for many of these programs can be found in Appendix 3.

APPENDIX 1: 2015 Community Survey Results

Decatur Village, Decatur Township and Hamilton Township Community Survey

We want your opinions for updating the joint master plan for Decatur Village, Decatur Township and Hamilton Township. Please complete and return this survey by AUGUST 1, 2015. You can also take this survey on-line at

www.surveymonkey.com/s/DDHCommunitysurvey.

I live/own property in ____ Decatur Township; ____ Decatur Village; ____ Hamilton Township

I work in ____ Decatur Township; ____ Decatur Village; ____ Hamilton Township; ____ other

I own a business in ____ Decatur Township; ____ Decatur Village; ____ Hamilton Township

How many years have you and your family resided/owned property in the community? ____

How much do you agree or disagree with the following Statements (circle one answer):

1. Concentrate new business, industry and residential development in or near the village.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

2. Focus on encouraging additional shopping opportunities in the Village.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

3. Focus on encouraging additional employment opportunities in the area.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

4. Recognize farming as an essential economic activity and support voluntary preservation of farmland and open space.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

5. Keep residential densities low in the Township to maintain rural character.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

6. Limit the expansion of municipal sewer and water services to serve only the areas surrounding the Village.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

7. Provide more effective enforcement of codes and ordinances to eliminate blight.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

8. Develop a short and long range plan to prioritize road improvements.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

9. Improve roads to provide bike lanes or paved shoulders for pedestrians and bicyclists.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

10. Ensure neighborhoods in the Village have adequate sidewalks and pedestrian access to downtown, schools and parks.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

11. Develop standards for new development that will protect wetlands, rivers, streams and lakes by reducing polluted runoff.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

12. Expand high speed internet options to the area.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

13. Establish a joint police department that serves Decatur Village, Decatur Township and Hamilton Township.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

14. Improve the signage and landscaping at the entrances to the Village.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

15. Improve the quality of the drinking water supplied by the Village.

1= Strongly Agree 2= Agree 3= No Opinion 4= Disagree 5 = Strongly Disagree

List specific improvements you would like to see at area parks:

Firehouse Park on M-51 _____

DDA Park at Phelps and St. Mary's Street _____
 Red Woolfe Park _____
 Raider Romp _____
 Village Skate Park _____
 Grange Hall, Hamilton Township _____
 Other Parks/ Recreation Improvements _____

General Comments: _____

SURVEY RESULTS

Total Responses 152

I live/own property in:

Decatur Township 62 | Hamilton Township 57 | Decatur Village 36 | No answer 2

I work in:

Decatur Township 7 | Hamilton Township 10 | Decatur Village 17 | No answer 122

I own a business in:

Decatur Township 5 | Hamilton Township 8 | Decatur Village 7 | No answer 132

How many years have you and your family resided /owned property in the community?

less than a year 3 | 1-5 years 11 | 6-20 years 26 | more than 20 years 105 | No answer 7

How much do you agree or disagree with the following statements:	1 strongly agree	2 agree	3 no opinion	4 disagree	5 strongly disagree	No answer
11. Develop standards for new development that will protect wetlands, rivers, streams and lakes by reducing polluted runoff.	67	52	16	9	2	6
4. Recognize farming as an essential economic activity and support voluntary preservation of farmland and open space.	66	61	19	0	1	5
3. Focus on encouraging additional employment opportunities in the area.	61	65	16	2	3	5

How much do you agree or disagree with the following statements:	1 strongly agree	2 agree	3 no opinion	4 disagree	5 strongly disagree	No answer
12. Expand high speed internet options to the area.	61	47	32	5	1	6
7. Provide more effective enforcement of codes and ordinances to eliminate blight.	61	44	32	5	5	5
8. Develop a short and long range plan to prioritize road improvements.	53	76	10	3	4	6
2. Focus on encouraging additional shopping opportunities in the Village.	45	68	28	3	3	5
1. Concentrate new business, industry and residential development in or near the village.	45	62	29	7	4	5
10. Ensure neighborhoods in the Village have adequate sidewalks and pedestrian access to downtown, schools and parks.	41	73	22	6	5	5
15. Improve the quality of the drinking water supplied by the Village.	42	43	52	7	2	6
5. Keep residential densities low in the Township to maintain rural character.	34	44	40	23	5	6
13. Establish a joint police department that serves Decatur Village, Decatur Township and Hamilton Township.	32	45	33	22	14	6
6. Limit the expansion of municipal sewer and water services to serve only the areas surrounding the Village.	29	40	41	24	12	6
9. Improve roads to provide bike lanes or paved shoulders for pedestrians and bicyclists.	28	33	46	16	24	5
14. Improve the signage and landscaping at the entrances to the Village.	20	49	55	17	6	5

Survey Comments Regarding Parks

Firehouse Park on M-51

Decatur-Hamilton Area
Joint Comprehensive Plan
Appendix

- 7 - no improvements needed
- 4 - fix tennis courts
- 1 - fix tennis courts or take them out
- 1 - take out tennis/basketball courts
- 2 - improve playground (more swings, more equipment)

Other Comments

It could use some work.
Landscaping
no opinion
children friendly
Add trees to block the storage buildings

DDA Park at Phelps and St. Mary's Street

- 6 - no improvements needed

Other Comments

It could use some work.
Keep it cleaned and well maintained
Need less trees
no opinion
more welcoming
Agree
Improved pavilion

Red Woolfe Park

- 6- no improvements needed

Other Comments

Could be made more attractive
upgrade and keep nice ; put some fill so it will not flood with every rain
make it more user friendly/policed
get some one to run concession stand with ice cream. Otherwise its very nice needs up keep.
This one should look the best of any of them. Its where visitors come to enjoy a day at the lake

More updated playground equipment, larger beach area
Remove cannon to VFW or downtown park
Get rid of the fence
no opinion
supervision-hangout-strange men right now
I would like improvements to this park.
New concession and restrooms

Raider Romp

6 - no improvements needed

Other Comments

It could use some work.
keep it cleaned and well maintained
Needs upgrade
Upkeep Clean Bathrooms
Additional Cleanup
no opinion
just for toddlers right now
wish the bathrooms could be open more
Needs shade so playground equipment is not too hot to use during the day

Village Skate Park

7 - no improvements needed

2- eliminate

3- waste of money/mistake

Other Comments

Landscape
no opinion

Grange Hall, Hamilton Township

4 - no improvements needed

Other Comments

It could use some work
make it more useful

Already restored open it up free to residents for family gatherings with deposit to leave it clean as they found it.

Development of Stage

Yes

Plow parking area for winter access

This is improving but needs more

no opinion

Develop old race track into a walking/running track

Other Parks/ Recreation Improvements

5 - no improvements needed

3 - maintenance needed

Other Comments

I do not use the parks so am not aware of what may be needed.

Roads and sewers are more important

I appreciate seeing tree and grassy areas

limit the number of parks to two

No tax hikes, try to fund the parks through fundraising

remove big rocks at Lake of the Woods P.A.

Assure there are bikes racks at every park.

General Comments

- I don't live here i just own the property.

- I will not be returning to Mich.
- Need a volunteer structured program to assist residents to maintain their homes for limited income/disabilities/aging they provide volunteer time in trade for labor if able to.
- The grain elevators in the downtown sky-line is terrible mistake-not charming! Letting the old school stop falling into disrepair.
- Landlords to be more aware of what is happening at their properties and better upkeep.
- In reference to question #4 about focusing on additional employment opportunities in the area: focus on economic development encourage only "triple bottom line" businesses that address environmental, social justice and economics.
- In reference to question #5 encourage small family farms - discourage agribusiness, diversity, decentralize, & localize.
- In reference to question #9 maintenance vs expansion - avoid unnecessary removal of trees and rural character- CR 352.
- Eliminate topless bar.
- Created strict dog regulations and enforce them. Example: fenced/leashed with strong penalties for loose dogs so citizens are safe to walk and bike. Local police should be able to pick up loose dogs.
- Sewer system around Lake of the Woods to improve lake quality and values very important now!
- Get some people in office who care about Decatur Area. Ones who will spend the funds wisely and make the best of the situation at hand. Leave Decatur the rural community it already is.
- When a creek clean up is assess the taxpayers don't maintain if property then it has to be done again. Utilize the jail program of free help.
- * You were out-of-line to send survey with taxes then expect the tax payers to spend 49 cents to mail it back
- In reference to #8 short & long range plan to prioritize road improvements: people in charge need to spend funds wisely .
- In reference to #10 adequate sidewalks and pedestrian access: The ones in place are not kept up... why add more.
- In reference to #12 expand high speed internet options to the area: the ones in place don't work well...
- In reference to #13 establish a joint police department: never seen them doing a lot!!
- In reference to # 14 improve signage and landscaping: What for? People come to Decatur when they need to. There are not "sights" to see.
- In reference to #15 Improve the quality of drinking water: It is what it is.
- Do more active controlling of drug use and dealings in & around community no matter who's toes get stepped on. Lets not be know as SW Mich drug capitol.
- In reference to #13 about establish a joint police department: They don't do much enforcement work now not easily accessible or bold to handle actual crimes.
- In reference to #14 about improved the signage and landscaping: Perhaps these monies could be used more proficiently.

- Need sewers around lake of the woods.
- Have the air quality in Decatur Tested/monitored. It has been bad since the corn silos/dryer were constructed.
- Water and its quality are of utmost importance. Requires better filtering systems on them.
- In regards to Question #1 on only environmentally safe company's.
- In regards to question # 15 eliminate the rust in the water supply.
- Decatur Township is rural. But don't try & take away good farming will take care of itself. Voluntary protection is fine as long as the tax payers don't subsidize preservation.

No restrictions open space non farm ground, we don't have a problem. Don't put restrictions on building sites.

- On question # 1 Industrial and business yes but not residential development.
- On question #5 depends how low perhaps minimal lot size = 1.5 acres.
- A location for the disposal of leaves, grass clippings, and other yard waste in the fall for Decatur township residents.
- Plating of trees when take out which was wrong.
- I would like to see less development where trees are torn down. Widening of roads by tearing down trees and developing wooded lots ruins the country atmosphere and the natural beauty.
- Everything seems in good shape.
- Protect lake of the woods install sewers
- The county is moving fast on the internet
- We need a sewer around the lake of the woods
- More Eateries
- The police need to stop the harassment specifically
- We need road improvements more than we need a bike or pedestrian path
- Encourage more restaurants
- I don't use the parks at all so I can't help you with that.
- I believe village and township leadership are doing a good job!
- Already paying too high of taxes for poor drinking water, had to buy bottled. Won't even give my pets the water here.
- Need large clear signs directing semis to Midwest Fasteners
- I Wendall Tyler don't own this property, I just pay the taxes
- My taxes have been raised every year
- Fire permits exemption for those without violations

- Being an absentee land owner affects my answers.
- All need to be maintained and cleaned-especially restrooms regularly.
- Everything seems ok!
- This is such a nice area, we need to focus on sales
- Blight is getting out of hand.
- Try to keep the cost down
- Eliminate blight issues in Decatur & Hamilton Townships.
- It would be nice to have a sidewalk from around the lake to town walking on Territorial & Phelps isn't too safe!
- #7 should be enforced to a greater degree the corner lot next to our property has been an eyesore for years but nothing is done about it.
 - Roadside litter along the southern must end of C.R. 681 is horrible. Can this be cleaned up?
 - Keep the sewer lines in the township
 - Clean up run-down areas in town
 - No other lake within 60 miles closes for 2/3 of the year!!! That park should be usable 365 days. What is with this town & fences??
 - #3 Encourage only "triple bottom-line" business that address environment, social justice, & economics.
 - #4 encourage small family farms discourage agribusinesses.
 - #8 Maintenance good, expansion back avoid unnecessary removal of trees & rural character (CR 352) Small businesses locals want.
 - A few of these I have no opinions one way or the other. I know in Marquette where I am at the moment. They get lots of grants from blight and other things and I am wondering why Decatur can't get more grants and help that is available.
 - In reference to question #18 They carry the standards too far for water protection when they say we can't clean a ditch on our own farm.
 - Question #6 is confusing- does surrounding the village include Hamilton Township if so we strongly agree.
 - The Lake of the Woods is one Decatur best assets. How about a sewer around the lake? Our lake is slowly dying because of all of the septic systems that are leaching into the lake. Don't wait until it is too late to recover.
 - Decatur/Hamilton Township need to improve time of response for ambulance/EMT arrivals at emergency situations neighbor died had to wait 40 minutes to get ambulance to the scene **unacceptable horrible service.
 - In reference to question #7 enforce what codes and ordinances we have.

- The lakes need a sewer system around in reference to question #6
- In reference to question #10 only if grants are there to support sidewalk and pedestrian access to downtown, schools, and parks.
- In reference to question #12 expand high speed inter options to the area only if a grant pays for it.
- We have a great need for a sewer system.
- Make this a clean environment and rural community that has the best internet options to attract the work from home movement.
- Work on drainage after big rain from farm fields and to grow with out chemicals.
- I would like to see sewers on lakeview drive. Also more Stores in town.
- Provide sidewalks on John street to school. It is a major car and pedestrian route but there are no sidewalks.
- You must realize that improvements to infrastructure require initial and forever capital in the form of increased taxes forever. Leave it all alone and keep it simple. Please.
- Sorry, but being new to the area and not having children, my husband and I have yet to see any of the parks Decatur has to offer.
- Let low income people know by mail that they are eligible for commodities, etc . I know many people that done even know and read about it in the paper the following week about how great human services of Decatur is.
- Make paper bags available for leaf pickup
- Enforcement of care of rental homes within the Village and Township has got to improve or our areas (Village & townships) are not going to attract potential home owners & grow in population of productive citizens. People are not encouraged to buy homes within the Village/Township when they see the disrepair, unkept homes as potential neighbors. It is sad for those of us who have nice homes, yards, and continually improve our homes to be surrounded by slum lord homes which we have to call the Village Office to report issues continually. The fact the rental homes only need to be inspected once every 3 years is really ridiculous. We have a beautiful downtown and so many great things happening in comparison to other Villages our size in the county, let's show our pride by cleaning up the rental homes!
- Village of Decatur should become more bike friendly, and look for opportunities to create a more healthy community.
- Eliminate the multitude of 100-125 decibel sirens in the Independence Day Parade.
- Why has old cars been sitting in a yard on Parkhurst for so long?
- The Village sewer system needs to add the Lake of the Woods properties around the lake. This will help preserve one of the key attractions to the area. The recent flooding highlights the need to minimize septic system runoff into the lake. The current sewer system is more than adequate to add lake properties. In fact, the Village population has declined in the last 10 years.

Visioning Sessions

For the 2000 Master Plan, a set of three Community Visioning Meetings were conducted to elicit ideas regarding the Decatur-Hamilton area that were used in the development of a set of goals and objectives that can be further developed into the land use alternatives and future land use patterns developed later in this Plan.

The meetings served as an opportunity for members of the public to voice their opinions, comments, and suggestions on the current status of the Village of Decatur, Decatur Township, and Hamilton Township as well as to provide insight into the community's desired future.



Visioning meetings were held in the morning and evening of March 20th, 2001 at the VFW Hall in the Village of Decatur and in the evening of March 20th in the Village Hall in Decatur. A total of more than fifty people attended the meetings. Those in attendance at the meetings were divided and seated at tables accommodating four to five people. From these individual tables, the participants were able to ask questions and discuss issues as a small group. Each group was asked for a volunteer for note taking and to speak on behalf of the group during the larger “reporting” session.

Each group was then asked to develop a list of assets, limitations, and strategies relative to the Decatur-Hamilton area. Each group reported these findings, at which time each individual present at the meetings was asked to “vote” for the three issues within each category they felt most important. The votes were then tallied and are highlighted elsewhere in this Plan.

The visioning session is a critical step in the process used to develop an effective land use plan. This section is intended to relate those findings from the visioning sessions that were incorporated into the set of goals and objectives used in the development of the future land use plan contained within this Plan. In addition, the sessions combined with the community surveys represent the primary tools used to include the general public in the discussion regarding future growth and development of the Decatur-Hamilton area.

More significantly, the intent in conducting the visioning sessions was to produce a general consensus on the major issues facing the communities, to generate enthusiasm and support for the planning process and eventual adoption of the village's and townships' future land use plans. Furthermore, the visioning sessions are intended to foster support for the implementation of the Plan's recommendations.

Finally, it is intended that the results of the visioning sessions help to establish an effective mechanism that will help the Village of Decatur, Decatur Township, and Hamilton Township achieve the following:

- Create a sense of “community” among the participants
- Generate participation and interaction between community leaders and citizens
- Facilitate communication and cooperation among community leaders
- Develop a shared “vision” for the community with realistic expectations
- Develop a consensus for future strategies

The following information provides an overview of those issues identified during the Decatur-Hamilton area visioning sessions relative to the assets, opportunities, limitations, threats, future recommendations and strategies, and the level of support generated from the participants for each of the identified issues.

Assets and Opportunities

The participants in the visioning sessions were asked to identify and discuss those aspects of the Decatur-Hamilton area they felt were assets and thus represented opportunities within the community. In other words, what issues, activities, facilities, or services do the residents of the communities feel are most important to the quality of life experienced in the Decatur-Hamilton area. After each group completed its list, the findings were reported to the larger group and recorded on a “master list”. Upon completion of the reporting session, each participant was asked to vote for the three items they felt were the most important among those listed. The items considered the most significant assets or strengths in the community were:

- School System
- Parks and Lake of the Woods
- Land Available for Industry
- Local Newspaper
- Open Spaces and Existing Farmland
- Small Town Atmosphere
- Rural Character
- Land Available for Managed Growth

Limitations and Threats

The participants were asked to identify and discuss those aspects of the Decatur-Hamilton area they felt were limitations present and thus represented potential threats to continued enjoyment of the current quality of life. In other words, what circumstances, problems, lack of services, or desired improvements to existing services or facilities may exist within the communities. As in the case of assets and opportunities, after each group completed its list the findings were reported to the larger group and recorded on a master list. Each participant was asked to vote for the three items they felt were the most significant among those listed. The items considered the most significant limitations

or threats present in the community were:

- Phone Service
- Blight and Lack of Code Enforcement
- Empty Stores
- Lack of Industry and Business Opportunities and Good Wages
- Agricultural Land Property Tax Structure
- Need for Road Improvements
- Loss of Farmland and Open Space
- High Speed Rail and Associated Road Closings

Strategies and Recommendations

Finally, the participants in the visioning session were asked to identify any strategies that they thought might help capitalize on an asset or strength or that may help overcome a limitation or weakness. The strategies discussed included the following:

- Concentrate new business and industry and new residential development in or near the village. Accomplish both in part through the planned extension of utilities (sewer and water) and by focusing any incentives offered in the areas planned for such growth.
- Take active steps for the protection and preservation of farmland and open spaces, making use of as many tools as possible, while respecting the farmer's property rights and need for flexibility in future land use.
- Actively pursue the enforcement of codes and ordinances and the elimination of blighted conditions. This may be best achieved through the cooperative efforts of all three jurisdictions and a focus on priority areas.
- Take steps to increase awareness in the communities relative to the potential for groundwater contamination. This may be best achieved through aggressive outreach and education efforts and through implementation of the recommendations established in projects such as the Paw Paw, Dowagiac and St. Joseph River Watershed Management Plans.
- Take steps to better understand how the road network is currently used and identify areas where improvements may be appropriate. Then develop a short-range plan (capital improvement program) for road improvements based upon the identified priorities.

APPENDIX 2. Summary of Conservation Options

LAND PROTECTION OPTIONS

Land Protection Option	Description	Results	Income Tax Deduction?*	Estate Tax Reduction?*
Conservation easement	Legal agreement between a landowner and a land conservancy or government agency permanently limiting a property's uses.	Important features of the property protected by organization. Owner continues to own, use, and live on land.	Yes	Yes
Outright land donation	Land is donated to the land conservancy.	Organization owns, manages, and protects land.	Yes	Yes
Donation of land by will	Land is specifically designated for donation to the land conservancy.	Organization owns, manages, and protects land.	No	Yes
Donation of remainder interest in land with reserved life estate	Personal residence or farm is donated to the land conservancy, but owner (or others designated) continue to live there, usually until death.	Organization owns remainder interest in the land, but owners (others) continue to live on and manage land during their lifetime subject to a conservation restriction.	Yes	Yes
Bargain sale of land	Land is sold to the land conservancy below fair market value. It provides cash, but may also reduce capital gains tax, and entitle you to an income tax deduction.	Organization owns, manages, and protects land.	Yes	Yes

*In most cases. The amounts of income tax and estate tax reduction depend on a number of factors. Please consult your own professional tax and/or legal advisor.
(Adapted from Conservation Options: A Landowner's Guide, published by the Land Trust Alliance and available at the Southwest Michigan Land Conservancy, (269) 324-1600)

LAND MANAGEMENT OPTIONS**

Land Management Option	Description	Agreement	Landowner reimbursement
Wildlife Habitat Incentive Program (WHIP)	Provides technical and financial assistance to promote wildlife habitat including corridor, riparian buffer and rare species habitat development	Contracts run for a minimum of 5 years and a maximum of 10 years.	Up to 75% of cost of improvements.
Wetland Reserve Program (WRP)	Assists in restoring active agricultural land to natural wetland condition.	Agreements can be 10-year, 30-year or perpetual.	Up to 75% of cost of improvements or 100% for permanent agreements.
Environmental Quality Incentives Program (EQIP)	Assists in restoring agricultural land to wildlife habitat.	Agreements can last 2-10 years.	Up to 75% of cost of improvements.

**These are just a few of many examples. For more information contact Van Buren Conservation District office at 269-657-4030 x5.

APPENDIX 3. Financing Tools

Successful implementation of the Master Plan will depend greatly on the ability of the Decatur-Hamilton area to secure necessary financing. Besides the general fund, the following sources of revenue may be available:

Dedicated Millage

Special millages can be used to generate revenue for specific purposes, such as acquisition of land or easements for open space protection.

Special Assessments

Special assessments are compulsory contributions collected from the owners of property benefited by specific public improvements, such as paving and drainage improvements, to defray the costs of such improvements. Special assessments are apportioned according to the assumed benefits to the property affected.

Michigan State Housing Development Authority (MSHDA)

The Home Improvement Program provides low interest loans for home improvements through local lending institutions. The Home Improvement Program (HIP) is not targeted to any specific area, and could be utilized throughout the entire planning area. Interest rates are related to income and the property must be twenty years or older or in need of repair. The program is intended to correct items that are hazardous to health and safety or for items related to energy conservation.

- * Neighborhood Improvement Program. The Neighborhood Improvement Program (NIP) is another home improvement program managed by MSHDA, but is directed toward specific revitalization areas. Loans, with interest rates dependent on income, are made available to homeowners within such areas. The program operates very similarly to the HIP with local lending institutions participating in the program.
- * Rental Rehabilitation Program. The Rental Rehabilitation Program (RRP) provides funds to rental property owners willing to rent to low and moderate income persons.

The funds must be used for renovation and rehabilitation activities and may be used for freestanding residential buildings as well as the second and third stories of commercial buildings. Restrictions include the income of the tenant, a required funding match by the property owner, and a commitment to rent to low and moderate-income tenants for a period of at least five years.

Community Development Block Grant Funds (CDBG)

The Community Development Block Grant program is an annual allocation of the U.S. Department of Housing and Urban Development to local governments for a wide range of community development activities, including housing rehabilitation, public, and neighborhood improvements and economic development activities which primarily benefit low and moderate income persons.

Local Development Finance Authority (LDFA), P.A. 281 of 1986

Act 281 is the primary means of making tax increment financing procedures available to assist industrial development. The LDFA Act is targeted toward individual eligible properties, rather than toward a development district, as in the case of a Downtown Development Authority. The village could establish an LDFA board, which would then have the power to plan, build public facilities, acquire land, clear and redevelop land, along with other development powers.

Transportation Alternatives Program (TAP)

The Transportation Alternatives Program (TAP) is a competitive grant program that uses federal transportation funds designated by Congress for specific activities that enhance the intermodal transportation system and provide safe alternative transportation options. Locally, this program is administered through the Michigan Department of Transportation with involvement of the local Metropolitan Planning Organization, Southwest Michigan Planning Commission.

Rehabilitation Act

Public Act 344 of 1945 is the basic Michigan rehabilitation statute. It provides powers and procedures for local governments to acquire, assemble, and finance the redevelopment of blighted

areas for general rehabilitation purposes.

HUD Section 202/8

This is a federally sponsored program, which provides mortgage financing and rent subsidies for the construction and maintenance of elderly housing. Only non-profit, private organizations (such as churches, unions, fraternal, and other similar organizations) are eligible sponsors, but local governments usually cooperate in the assembly of land, applications, public improvements, and supportive actions. Such projects are tax-exempt, but the state rebates an equivalent amount to local tax jurisdictions.

Special Assessments

This technique allows for the financing of public improvements, such as roads or streetlights, through the assessing of property taxes, on an equitable basis, to the benefited property owners in a specific district.

Shared Credit Rating Program - Michigan Municipal Bond Authority (MMBA)

This program created under Public Act 227 of 1985 offers municipalities the opportunity to take advantage of the state's improved credit rating. Because the MMBA is authorized to issue bonds to make loans to Michigan municipalities through the purchase of municipal obligations, the Authority allows municipalities to borrow funds for their capital and operating needs without going to the expense or trouble of entering the bond market on their own. Many small communities are at a disadvantage when issuing debt in the bond market because they frequently have no bond ratings and potential investors know little about their finances or economy. In addition, some communities tend to borrow infrequently, and in small amounts. Because such debt issues are not particularly attractive to the financial markets, borrowing costs for such communities can be high.

Bond Programs

Bonds are one of the principal financing tools used by communities to pay for capital improvements. General obligation bonds are issued for specific community projects and are paid off by the general

public with property tax revenues. Revenue bonds are issued for the construction of projects that generate revenue, such as water and sewer projects. The bonds are then retired using income generated by the project.

Tax Increment Financing

The Downtown Development Authority Act and the Local Development Finance Authority Act authorize tax increment financing. When a tax increment district is established, the state equalized value of all properties in the district is recorded. Every year thereafter, the property tax revenue generated by any increase in the total state equalized value is “captured” by the DDA or LDFA to finance the improvements set forth in the development plan. Often revenue bonds are issued to finance the improvements, and the tax increment revenues are used to repay the bonds.

APPENDIX 4 – Public Notices and Adoption Resolutions



Southwest Michigan Planning Commission

To: The Planning Commissions of Cass County, Van Buren County, Wayne Township, Volinia Township, Keeler Township, Lawrence Township, Paw Paw Township, Porter Township

From: Southwest Michigan Planning Commission (on behalf of Decatur Township, Hamilton Township, Village of Decatur (Van Buren County))

Date: January 19, 2016

Re: Notice of Intent to Plan

Decatur Township, Hamilton Township, and the Village of Decatur are updating their Joint Master Plan. A **Joint Master Plan** is a long range-planning tool used to define the three municipalities' joint vision, goals, and policies. An effective plan accurately communicates citizen needs and desires about their communities and recommends specific strategies to achieve those values.

Decatur Township, Hamilton Township, and the Village of Decatur will welcome your cooperation and comments. As required by law, you will receive a copy of the proposed plan for review and comment. The proposed plan will be provided in electronic format, unless otherwise requested.

Sincerely,

Marcy Hamilton

Senior Planner

376 West Main Street, Suite 130 • Benton Harbor, MI 49022-3651

• 269.925.1137 • 269.925.0288 • www.swmpc.org • swmpc@swmpc.org

Planning Commission and Boards/Council
Approve
Distribution of Draft Plan

**Village of Decatur
Planning Commission Minutes
October 20th, 2016**

Meeting called to order by Chairman Blaine Rex at 10:00AM.

Roll Call: Gordon Krum, Larry Ralston, Village Manager Aaron Mitchell, Vice Chairman Ali Elwaer, and Chairman Blaine Rex present. Absent: none.

No additions to the agenda.

There were no guests present. Minutes from the June 1st, 2015 meeting were read by Chairman Rex. Motion to approve the minutes made by Vice Chairman Elwaer, seconded by G. Krum. All in favor, motion carries.

Chairman Rex opened the meeting. G. Krum makes motion for B. Rex to be commissioned Chairman for 2016-2017 year, seconded by Vice Chairman Elwaer. All in favor, motion carries.

Chairman Rex makes motion for A. Elwaer to be commissioned Vice Chairman for 2016-2017 year, seconded by G. Krum. All in favor, motion carries.

Vice Chairman Elwaer makes motion to add L. Ralston to Planning Commission, seconded by G. Krum. All in favor, motion carries.

Chairman Rex makes motion for L. Ralston to accept 3 year term on Planning Commission, seconded by Vice Chairman Elwaer. All in favor, motion carries.

VM Mitchell updates board on Decatur-Hamilton Master Plan. Motion to approve Distribution Draft made by Vice Chairman Elwaer, seconded by G. Krum. All in favor, motion carries.

Vice Chairman Elwaer makes motion to adjourn at 10:20AM, seconded by G. Krum. All in favor, motion carries.

Respectfully Submitted,

Matthew Newton
Village Clerk/Treasurer

Village of Decatur Regular Council Meeting October 3rd, 2016

Village Council President Wickett called the meeting to order at 7:00 p.m. at the Village Hall followed by the Pledge of Allegiance. Roll call taken: Trustee Richardson, Trustee Mead, Trustee Gunther, Trustee Stull, Trustee Heflin, President Pro-Tem Elwaer, and President Wickett present. Chief of Police Dahlquist, Attorney Matthew Cooper, and 20 visitors were also present.

Consent Agenda:

Trustee Stull makes a motion to accept the agenda as amended to include Approval of Distribution of Draft Plan for Southwest Michigan Planning Commission under Ongoing Business, seconded by Trustee Richardson. All in favor, motion carries.

Trustee Mead makes a motion to accept the September meeting minutes as presented, seconded by Trustee Heflin. All in favor, motion carries.

Trustee Richardson makes a motion to accept the bills as presented totaling \$128,670.24, seconded by Trustee Stull. All in favor, motion carries.

Public Participation:

James Abshagen expresses concern over School St. property. He indicates that he feels no one should've been allowed inside building following the Village taking possession due to liability concerns. President Wickett clarifies that Village does have liability coverage, and that Joel Chapman and Mike Siver were allowed in the building to remove their property, under the supervision of the PD, in an effort to reduce required cleanup and costs to Village. VM Mitchell further clarifies equipment removed was not property of Village and would have no value to the Village. VM Mitchell further clarifies that he verified liability insurance with Meadowbrook Liability.

Rosemary Stull expresses concern over Mike Siver being in Edgar Bergan building again today. She also expresses concern over the fact that School Street property has cost the Village thousands of dollars, and emphasizes the impact she feels it has on those with fixed incomes. She indicates that they had 3 months during the redemption period to remove property and she feels that they should not have been given any extra time. Rosemary states that she personally believes that VM Mitchell must ensure focus is on Village matters and ensure campaign does not take precedence. She also states that cars seem to be speeding and not stopping at stop signs along St. Mary's Street and would like the issue to be addressed.

Charlene Jackson asks about progress made on pavers coming up along sidewalk on Phelps St. VM Mitchell explains that some of the issues were addressed earlier in the day and more work will be completed on any remaining pavers that need attention by the end of next week.

Harvey Beute expresses concern over cars speeding on School St.

Jill Hemenway indicates that between 4PM and 5PM one of the political signs she had placed in her yard was removed by someone. She also expresses displeasure over situation with School St. property and that Mike Siver was in building again today. VM Mitchell clarifies that Mike was allowed to remove an organ that would have otherwise required use of DPW employees to remove. VM Mitchell further clarifies that he is handling a difficult situation in the best manner that he can, and reiterates that no Village property was in the building.

Communication:

Thank you card was received from City of Bangor for the DPW employees that the Village sent to help assist with cleanup efforts from the Tornado that occurred in late August.

F. Proposal to authorize Village to allow for Trick-or-Treating hours on October 31st from 5:30PM to 7:00PM. Motion made by Trustee Richardson, seconded by Trustee Gunther. All in favor, motion carries.

G. Proposal to approve Distribution of Draft Plan of Decatur-Hamilton Master Plan for Southwest Michigan Planning Commission. This opens 63-day comment period, after which council will determine if plan is to be accepted. Motion made to approve Distribution of Draft Plan by Trustee Richardson, seconded by Trustee Mead. All in favor, motion carries.

New Business:

A. Proposal to allow VM to create document showing Village's approval for "Girls on the Run" event to be held in May of 2017, which is estimated to have 1,000 to 1,500 participants. Final route will be presented at future council meeting. Motion to allow creation of document to show Village's willingness to host event and offer PD assistance with traffic made by President Pro-Tem Elwaer, seconded by Trustee Richardson. All in favor, motion carries.

B. Proposal to approve use of Village Police Officers and DPW workers to assist with Raider Stomp Race in 2017. Race likely to be held on Friday evening instead of Saturday morning to allow greater participation. Motion to approve made by Trustee Mead, seconded by President Pro-Tem Elwaer. All in favor, motion carries.

Public Participation:

Mike Makay makes presentation regarding his candidacy for Judge.

James Abshagen raises possibility of utilizing jail crew for sidewalk trimming and future clean out of School St. Property. Also, makes comments that stricter blight ordinance is better for Village. He also states that whole School District should be responsible for issue with School St. property. He also makes comment that Village Council is elected to make these type of decisions rather than running special elections.

Council Comment:

President Pro-Tem Elwaer states that all municipalities in School District should have responsibility to address School St. property issue. All should work together to address this issue as a community.

Trustee Richardson commends Chief Dahlquist on progress/performance in PD Department. Trustee Gunther and Trustee Heflin also commend Chief Dahlquist.

Adjournment:

President Pro-Tem Elwaer makes a motion to adjourn, seconded by Trustee Mead. All in favor, motion carries at 8:29 PM.

Respectfully Submitted,

Matthew Newton, Village Clerk/Treasurer

DECATUR TOWNSHIP PLANNING COMMISSION

The Planning Commission met at the Decatur Township Hall, 103 E. Delaware St. at 7 p.m. on Wednesday, September 7, 2016. All members were present.

The meeting was called to order by Chairman Polomcak.

Agenda item: Joint Comprehensive Plan – update. After a discussion on changes and/or corrections motion to submit the Draft Plan to the Decatur Township Board for approval of the required distribution was made by Sue Polomcak and supported by Nick Siskaninetz. Vote, all yes. P.C. Secretary (Township Clerk) Janet Abshagen will submit this recommendation to the Decatur Township Board at their meeting on Thursday, September 8, 2016. (Upon approval of distribution by the Board, the PC Secretary will notify the SWMPC with a copy of Board minutes. After the distribution to required entities {63 days for them to respond} the Joint Planning Committee will meet if there are any changes and respond to comments received. After this is done the PC will adopt a resolution to hold a public comment period and then plan a public hearing on the plan – public hearing is 83 days after the 63 day review period. It is anticipated that there will be a joint public hearing with all 3 municipalities. A copy of the resolution from each PC will be submitted to SWMPC. Notice will then be published not more than 30 days or less than 20 days before the hearing date – 2nd publication not more than 8 days before the hearing date. The Decatur Republican will provide newspaper affidavits. All Commissions and Boards will then pass resolutions to adopt the plan. Copies of all minutes and resolutions are submitted to SWMPC and become part of the Joint Comprehensive Plan.)

Motion by Abshagen and support by Overton to adjourn the meeting at 7:45 p.m.



Janet Abshagen
Planning Commission Secretary

DECATUR TOWNSHIP

The regular Township Board meeting was held on Thursday, September 8, 2016 at the Decatur Township Hall. Trustees Roehm and MacKellar were absent (excused) and there were 16 guests.

The minutes from the August 11, 2016 regular meeting and Public Hearing was reviewed and motion to approve them was made by Kusmack and supported by James Abshagen. Vote, all yes.

There was no correspondence nor and public comments at this time. Current bills were read and motion to approve them for payment was made by James Abshagen and supported by Kusmack. Vote, all yes. The Treasurer read his report and motion to accept it was made by Kusmack and supported by Janet Abshagen. Vote, all yes.

Supervisor Kusmack gave his report – 39th St. is finished with the shoulder work now done. He attended Road meeting where he stressed CR 352 (SE of the village), CR 668 and CR 669 – all in need of attention soon. Kusmack attended the Supervisor's meeting and made their report. Joint Fire report – building repairs done. Special shooter class will be held at the school on 9/26. Bangor and area First Responders met following the tornado in August to review the tremendous response and make improvements countywide for this type of catastrophic event.

James Abshagen gave the Senior Activities report for 2015-16 and it was a very comprehensive report detailing the numbers of Decatur Township seniors that have been served by the Senior Services. They are now working on the Festival of Trees fundraiser, which is a major fundraiser for them. Annual picnic at the Copper Ridge (Carlsen Farm) that was a tremendous success (275 in attendance) at a wonderful facility (located on 96th Ave.). Special thank you to them.

Zoning Administrator/Code Enforcement Officer Tommy Simpson was not present however he reported four Zoning Compliance Permits and the second blight problem went to court and the violator was absent and is held in contempt of court with bench warrant issued.

County Commissioner Don Hanson was present and he gave the County Commissioner report. He advised that there will be a special election in May, 2017 for Jail and Court House massive improvements. He stated they will be seeking .7 mil for a period of 20 years. More information will be forthcoming.

M-51 Rumble Strip: Pete Pfeiffer from MDOT presented background "rumble strip" information, statistics for M-51, reviewed MDOT recommendation for the rumble strips, and showed several slides. He then opened the floor up for questions and discussion. Many of those present were here for this purpose and numerous questions and comments were made. Noise was biggest concern and the effectiveness of the strips

(continued)

Continued (Minutes 9/8/16)

versus this noise was discussed. Roads that currently have rumble strips are breaking up from the center where the strips are cut into the pavement. Normal life of a paved road that was worked on like M-51 is 7 years (1½ inches of asphalt was removed and replaced). The strips would then be cut into this asphalt the entire distance (6 miles) and this work was stopped when the first complaint/concern was submitted by Rajzer Farms. Many more phone calls were then received at MDOT, enough to warrant Mr. Pfeiffer's presence at this meeting. The very high numbers of traffic on this section was discussed, a very large number of this is semi traffic as well as grain vehicles (very large). An average of 6,900 vehicles travel this section of M-51 per day. The concerns regarding the regular maintenance on M-51 in the winter as well as shoulder maintenance year around should be considered as part of the reason for any "crashes", not just the lack of a strip. Cost for the rumble strips is \$30,000 – considered to be a small amount by MDOT. No statistics available for effect on the life of the road because of the moisture freezing and expanding if rumble strips are in place. Several residents present cited accident problems on M-51 was very low shoulder and this causing drivers to loose control and a rumble strip would not have helped them. Comparison to M-51 south of Decatur where traffic is lighter and there are rumble strips in place. Clerk asked for comparison of life of the road, when it was installed and how it is holding up. No input from MDOT on this information. Speed was also listed as the most often reason for accidents, not lack of rumble strips. More speed patrol is needed. After a very lengthy open discussion Supervisor Kusmack asked for a show of hands for either installing the strips or not and three people raised their hand for installing the strips (all 3 do not live on M-51), and the remaining guests all voted NO. Mr. Pfeiffer stated that MDOT would make a decision on the strips very soon with rented extra equipment still in place as a daily expense. The feelings of the public at this meeting are important to him. The Board's opinion is also very important. A Resolution was suggested by James Abshagen and he made a motion to adopt it. Supported by Kusmack. Roll call vote, all yes. Clerk Abshagen will prepare the Resolution and fax it to MDOT on Friday. Supervisor Kusmack thanked Pete for all the information he presented and asked that our feelings please be highly considered when MDOT determines whether or not to install the strips. Question of whether liability would be an issue if no rumble strips are installed was asked and this was discussed. Risk was discussed at length also.

Political Candidate Introductions: Township Clerk Janet Abshagen introduced herself as a candidate for Decatur Township Clerk. She has served for 26 years. Supervisor Kusmack and Treasurer James Abshagen went on record supporting her.

Decatur Planning Commission met on September 7, 2016 with all members present. The Joint Comprehensive (Master) Plan draft has been updated and the PC is requesting that the Township Board authorize the distribution of this draft to all neighboring townships as well as the county. Motion was made by Kusmack and supported by James Abshagen to distribute the draft. Vote, all yes. Clerk Abshagen will contact SWMPC and the next step will be taken.

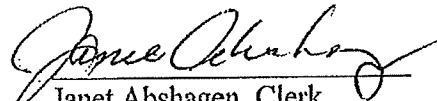
(continued)

Continued (Minutes 9/8/16)

Last day to register for November election is October 11 at 5 p.m. and absentee ballot applications are available. Call the Clerk.

Public Comments: Township Clerk Janet Abshagen stated that she had contacted MTA to clarify supporting a candidate for office and MTA & Janet both concurred that even though a Resolution is legal, it could be a cause for scrutiny that could impact the importance of the "support". They both felt that Public Comments time was the best time to show support for a candidate. Janet then stated that with her past experience with Suzie Roehm, both on the Township Board as Trustee as well as in the County Clerk's Office as Deputy County Clerk she supported Roehm to be the next Van Buren County Clerk. She felt that she was the MOST (and only) qualified candidate for the job. Supervisor Kevin Kusmack then stated he wanted to jump on board with this support statement as well as Treasurer James Abshagen. Suzie will be advised of this support.

With no further business to come before the Board the meeting was adjourned at 830 p.m.


Janet Abshagen, Clerk

(continued)

**Planning Commission Minutes for
December 12, 2016
7:00 p.m. - Hamilton Township Hall**

1. Call to Order

The meeting was called to order at 7:00 p.m. by Chair **Ralph Myrkle**.

2. Roll Call and Recognition of Visitors

Commission members present: **Sherry DeLoach, Jeff Grunden, Bill Lawson, Tina Leary, Ralph Myrkle, Steve Petersen, Craig Rose**.

Public present: Supervisor Carl Druskovich, Zoning Administrator Charlie Goodrich, Lake Association members Dominic Panico and Dan Buenz.

3. Approval of Agenda

Motion by **Lawson**, second by **DeLoach**, to approve the agenda as presented. Motion carried.

4. Approval of Minutes

Motion by **Rose**, second by **Lawson**, to approve the minutes from the September 12, 2016 meeting as presented. Motion carried.

5. Old Business

- Ordinance No. 2000-1 – Riparian Waterfront Land and Lot Use Regulations – Definition of Watercraft – Discussion - The definition of watercraft in this ordinance defines watercraft as motorized or non-motorized craft. It is the consensus of the Commission that this should be changed so that it excludes non-motorized watercraft. Druskovich presented list of topics he would like discussed further: 1)definition of watercraft; 2)60+ days of docking in MI requires watercraft to be registered; 3)that enforcement be complaint based and issue driven; 4)number of days a visitor can dock, cumulative vs successive; 5)registration of all watercraft on dock must be owner of parcel; 6)does access for deeded rights include docks; 7)beach rights – does current ordinance prohibit back lot owners to use a this time
- Review Attorney Letter on Limitation on Number of Watercraft on Docks – No action will be taken to mail out the letter.
- Keyhole Zoning – Update on Discussions with Decatur Township – Supervisor Druskovich reported that Decatur Township's Planning Commission will meet on January 4, 2017 at 7:00 p.m. at the Decatur Township Hall. They have invited him and two members of the Hamilton Planning Commission to attend. Grunden and Myrkle will attend on behalf of the Commission. If there is interest by Decatur Township Planning Commission in meeting jointly for review/revision of lake zoning, meetings between the two commissions will be scheduled in addition to the four regularly scheduled meetings for 2017.
- Joint Comprehensive Plan 2016 (Master Plan) – Recommendation to Township Board – Motion by Petersen, second by Grunden, to recommend submission of the Joint Comprehensive Plan 2016 to the Hamilton Township Board.

6. New Business

- Medical Marijuana Facilities Licensing Act – No action from the Planning Commission is required. The Township Board is responsible for making the decision whether or not any of the five facilities listed in the act will be allowed to be in the Township.
- Meeting Dates for 2017 – Motion by Rose, second by DeLoach, to set the four required meeting dates for 2017 as follows: March 13, June 12, September 11 and December 11. Motion carried.

7. Public Comment

Dominic Panico thanked the Commission for the time and interest the township is putting into the LOW Association's concerns over zoning around the lake.

8. Adjournment

Motion to adjourn by **Lawson**, second by **Grunden**, motion carried.

The meeting was adjourned at 8:22 p.m.

Tina Leary, Secretary

Hamilton Township Board
December 13, 2016
7:00 p.m. - Hamilton Township Hall

1. Call to Order/Pledge

The meeting was called to order at 7:00 p.m. by Supervisor Carl Druskovich. Also Present: Treasurer Sandra Hanson, Trustee Charles Goodrich, Clerk-Elect Tina Leary. Absent: Trustee Craig Rose. There were four guests in attendance.

2. Limited Public Comment

Van Buren District Library Director Ryan Wieber provided an update on programs, budget and statistics for 2016 services.

Deputy Marcus Hamre reported that the Sheriff Department received 35 calls in November. There are still three blight complaints open and he will continue to monitor. With the winter weather and snow cover, he expects things will slow until spring.

Commissioner Don Hanson discussed the recent announcement of the closing of Palisades Nuclear Power Plant in October of 2018 and the impact that it will have on the County. The Jail addition/renovation project is going to run one million over initial budget estimates. County elected officials will be sworn in on December 19th at 4:00 p.m. in the Circuit Courtroom.

3. Additions/Deletion to the Agenda

None.

4. Approval of Agenda

Motion by Goodrich, second by Hanson, to approve the agenda as presented. Motion carried.

5. Consent Agenda

- a) Approval of November 15, 2016 Minutes
- b) Financial Report
- c) Payment of Bills
- d) MDOT – Training Flyer
- e) Road Commission – Winter Plow Rules
- f) Steinkraus Forest Management, LLC – Newsletter
- g) New Clerk – Tina Leary – Insurance Bond Completed

Motion by Goodrich, second by Hanson, to approve the Consent Agenda as presented. Motion carried.

6. Old Business

- a) **NFPI – MAPS** – There is nothing new to report.
- b) **Neighborhood Watch** – There was no December meeting.
- c) **Blight Concerns – 55th Street** – Druskovich stated that he has talked with Deputy Hamre about making contact with the new owner.
- d) **Keyhole Ordinance** – Druskovich provided a list of items to the Planning Commission that he would like discussed further and will help facilitate joint efforts between Decatur and Hamilton Townships and the Lake of the Woods Association. He stated he is planning to meet with Keeler Township Supervisor Bill Kays to discuss zoning and enforcement issues on Keeler Township lakes.
- e) **Cemetery Ordinance** – Attorney Roxanne Seeber is reviewing the ordinance.
- f) **Audit** – Steven Bryer from Siegfried Crandall P.C. reported that the Township had a favorable audit and is in good financial condition.
- g) **Joint Comprehensive Plan 2016 (Master Plan)** – The Planning Commission passed a motion recommending submission of the Plan at their meeting on 12/12/16.

Motion by Goodrich, second by Hanson, to approve the distribution of the draft Joint Comprehensive Plan 2016 by the Southwest Michigan Planning Commission to required entities for review and comment. Motion carried.

- **Assessor** – No report.
- **County Senior Services** – William Lawson reported that he has attended a meeting.
- **Roads** – Druskovich has obtained the maps and will prepare the estimates. He is proposing the same dust control and mowing schedule as last year. There is a drainage issue on 84th Avenue, and 86th Avenue by Lake of the Woods needs attention. He will talk to Decatur Township about coordinating the work schedule.

9. Adjournment

Motion to adjourn by Goodrich, second by Hanson, motion carried.

The meeting was adjourned at 8:20 p.m.

Tina Leary, Clerk-Elect



Southwest Michigan Planning Commission

To: The Planning Commissions of Cass County, Van Buren County, Wayne Township, Volinia Township, Keeler Township, Lawrence Township, Paw Paw Township, Porter Township

From: Southwest Michigan Planning Commission (on behalf of Decatur Township, Hamilton Township, Village of Decatur (Van Buren County))

Date: December 19, 2016

Re: Distribution of Joint Master Plan DRAFT for review

Decatur Township, Hamilton Township, and the Village of Decatur are updating their Joint Master Plan. A **Joint Master Plan** is a long range-planning tool used to define the three municipalities' joint vision, goals, and policies. An effective plan accurately communicates citizen needs and desires about their communities and recommends specific strategies to achieve those values.

Decatur Township, Hamilton Township, and the Village of Decatur have produced a proposed plan for review by the public and by neighboring jurisdictions. Decatur Township, Hamilton Township, and the Village of Decatur will welcome your comments on this draft plan. As required by law, enclosed is the proposed plan for review and comment. The initial letter sent at the beginning of the planning process indicated that the plan would be sent in electronic format unless otherwise requested. Since no requests were received, the plan is provided on a CD-ROM and the file is an Adobe Acrobat file. You will need Adobe Reader to open the file. Adobe Reader is available on-line for free at www.adobe.com/products/reader. To request a paper copy of the proposed plan, please call Marcy at 269-925-1137 x 1525.

Municipalities have 65 days to review and send comments. Municipalities should send comments to both Van Buren County (Ted Thar, Deputy Director of Land Services, 219 Paw Paw St., Suite 302, Paw Paw, MI 49079 or thart@vbco.org) and to Southwest Michigan Planning Commission, attn: Marcy Hamilton, 376 W. Main St, Ste 130, Benton Harbor, MI 49022 or to hamiltonm@swmpc.org. Counties have between the 75th and 95th day after submission to submit its comments to SWMPC, attn: Marcy Hamilton at the email or mailing address above.

Sincerely,

Marcy Hamilton

Senior Planner

Southwest Michigan Planning Commission

376 West Main Street, Suite 130 • Benton Harbor, MI 49022-3651

• 269.925.1137 • 269.925.0288 • www.swmpc.org • swmpc@swmpc.org

Planning Commission Recommends Adoption of Plan

Resolution

Decatur Village Planning Commission Recommend Township Board Adopts

VILLAGE OF DECATUR; DECATUR TOWNSHIP; HAMILTON TOWNSHIP Joint Comprehensive Plan 2017

WHEREAS, Act 33, Public Acts of Michigan 2008, as amended provides for a Village Planning Commission to prepare and recommend adoption of a master plan for the physical development of the Village; and,

WHEREAS, the Decatur Village Council and Planning Commission in cooperation with Hamilton Township and Decatur Township has prepared a plan update in compliance with Act 33; and,

WHEREAS, the Decatur Village Council has passed a resolution asserting the Council's right to adopt the Master Plan and all elements and updates of that plan, as allowed by Act 33, Public Acts of Michigan 2008, as amended; and,

WHEREAS, Decatur Village distributed the draft plan update to the county planning commission and the planning commissions of surrounding units of government, and all other relevant agencies for review and comment in compliance with Act 33; and,

WHEREAS, the Decatur Village Planning Commission held a properly noticed public hearing on the draft plan update on April 25, 2017, in accordance with the requirements of Act 33 and other applicable statutes; and,

WHEREAS, at the public hearing held on April 25, 2017, the citizens of Decatur Village were afforded the opportunity to provide oral and written comments on the draft plan update, which comments the Planning Commission has taken into consideration; and,

NOW, THEREFORE, BE IT RESOLVED, that the Decatur Village Planning Commission recommends that Decatur Village Council adopts the **Joint Comprehensive Plan 2017**.

Offered By: Moelaart

Supported By: Hayes

Yeas: Hayes, Mitchell, Moelaart, Rex

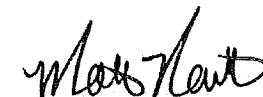
Nays: None

Absent: Krum

CERTIFICATION OF RESOLUTION

I, Matthew Newton, Clerk of the Village of Decatur, Van Buren County, Michigan do hereby certify that the foregoing Resolution is a true and complete copy of the resolution duly adopted by the Decatur Village Planning Commission at Joint Planning Commission meeting held April 25th, 2017.

Dated: April 25th, 2017



Matthew Newton, Village Clerk & Treasurer

RESOLUTION 2017 PC #2

Decatur Township Planning Commission Recommend Township Board Adopts VILLAGE OF DECATUR; DECATUR TOWNSHIP; HAMILTON TOWNSHIP Joint Comprehensive Plan 2017

WHEREAS, Act 33, Public Acts of Michigan 2008, as amended provides for a Township Planning Commission to prepare and recommend adoption of a master plan for the physical development of the Township; and,

WHEREAS, the Decatur Township Board and Planning Commission in cooperation with Hamilton Township and Decatur Village has prepared a plan update in compliance with Act 33; and,

WHEREAS, the Decatur Township Board has passed a resolution asserting the Board's right to adopt the Master Plan and all elements and updates of that plan, as allowed by Act 33, Public Acts of Michigan 2008, as amended; and,

WHEREAS, Decatur Township distributed the draft plan update to the county planning commission and the planning commissions of surrounding units of government, and all other relevant agencies for review and comment in compliance with Act 33; and,

WHEREAS, the Decatur Township Planning Commission held a properly noticed public hearing on the draft plan update on April 25, 2017, in accordance with the requirements of Act 33 and other applicable statutes; and,

WHEREAS, at the public hearing held on April 25, 2017, the citizens of Decatur Township were afforded the opportunity to provide oral and written comments on the draft plan update, which comments the Planning Commission has taken into consideration; and,

NOW, THEREFORE, BE IT RESOLVED, that the Decatur Township Planning Commission recommends that Decatur Township Board adopts the **Joint Comprehensive Plan 2017**.

Offered By: Dick Overton

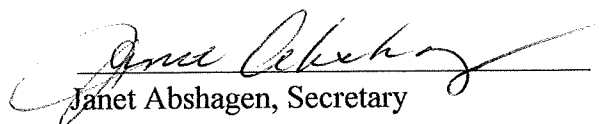
Supported By: Nick Siskanintez

Yeas: Sue Polomcak, Janet Abshagen, Dick Overton, Nick Siskanintez and Ken Wilder

Nays: None

Absent: None

Resolution declared adopted.


Janet Abshagen, Secretary
Decatur Township Planning Commission

Resolution

Hamilton Township Planning Commission Recommend Township Board Adopts VILLAGE OF DECATUR; DECATUR TOWNSHIP; HAMILTON TOWNSHIP Joint Comprehensive Plan 2017

WHEREAS, Act 33, Public Acts of Michigan 2008, as amended provides for a Township Planning Commission to prepare and recommend adoption of a master plan for the physical development of the Township; and,

WHEREAS, the Hamilton Township Board and Planning Commission in cooperation with Decatur Township and Decatur Village has prepared a plan update in compliance with Act 33; and,

WHEREAS, the Hamilton Township Board has passed a resolution asserting the Board's right to adopt the Master Plan and all elements and updates of that plan, as allowed by Act 33, Public Acts of Michigan 2008, as amended; and,

WHEREAS, Hamilton Township distributed the draft plan update to the county planning commission and the planning commissions of surrounding units of government, and all other relevant agencies for review and comment in compliance with Act 33; and,

WHEREAS, the Hamilton Township Planning Commission held a properly noticed public hearing on the draft plan update on April 25, 2017, in accordance with the requirements of Act 33 and other applicable statutes; and,

WHEREAS, at the public hearing held on April 25, 2017, the citizens of Hamilton Township were afforded the opportunity to provide oral and written comments on the draft plan update, which comments the Planning Commission has taken into consideration; and,

NOW, THEREFORE, BE IT RESOLVED, that the Hamilton Township Planning Commission recommends that Hamilton Township Board adopts the **Joint Comprehensive Plan 2017**.

Offered By: GRUNOEN

Supported By: LAWSON

Yeas: 4

Nays: 0

Absent: 1

DATED: 4/25/17

Public Hearing Documents

**Village of Decatur
Planning Commission Minutes
April 3rd, 2017**

Meeting called to order by Chairman Blaine Rex at 4:00 PM.

Roll Call: Gordon Krum, Janet Moelaart, Village Manager Aaron Mitchell, Council Trustee Hayes, and Chairman Blaine Rex present. Absent: none.

No additions to the agenda.

There were no guests present. Minutes from the October 20, 2016 meeting were read by Chairman Rex. Motion to approve the minutes as presented made by G. Krum, seconded by J. Moelaart. All in favor, motion carries.

VM Mitchell makes a motion to approve Council Trustee Kenny Hayes as the Decatur Village Council Representative, seconded by G. Krum. All in favor motion carries.

G. Krum makes a motion to approve J. Moelaart to fill L. Ralston's term after his passing, seconded by K. Hayes. All in favor, motion carries.

New Business:

- a) **Election of a Vice-Chairman**-Motion made by Chairman Rex to make K. Hayes Vice- Chair, seconded by J. Moelaart. All in favor, motion passes.
- b) **Decatur-Hamilton Master Plan**-Motion made by G. Krum to approve the Public Hearing Notice for the Decatur-Hamilton Master Plan set for April 25, 2017 at 6:30 pm at Decatur Township Hall, seconded by J. Moelaart. All in favor motion carries.
- c) **212 W. Delaware St.**-VM Mitchell agrees to explain to the homeowner that spot-zoning has not been done along Delaware St. in the past. The Village will be conducting a zoning update, at that time these considerations will be addressed. Chairman Rex requests for Brown Grosvenor to be involved with zoning review.

G. Krum makes motion to adjourn at 4:20 pm, seconded by J. Moelaart. All in favor, motion carries.

Respectfully Submitted,

Aaron Mitchell
Village Manager

RESOLUTION 2017 P.C. NO. 1

At the regular meeting of the Decatur Township Planning Commission in Van Buren County, Michigan, on January 4, 2017 at 7:00 p.m. at the Decatur Township Hall, 103 E. Delaware St., motion was made by Janet Abshagen and supported by Sue Polomcak to approve the following resolution.

WHEREAS: The Decatur Township Planning Commission has reviewed and made recommendations to the updated Joint Master Plan and the Draft is now ready and being distributed as required by law, and

THEREFORE: The Decatur Township Planning Commission designates April 25, 2017 @ 6:30 p.m. in the Decatur Township Hall to hold a Public Hearing with Hamilton Township and Decatur Village. Following the Public Hearing the Decatur Township Planning Commission will pass a Resolution to recommend that the Decatur Township Board formally adopt the Joint Master Plan at their May regular Township Board meeting.

AYES: Sue Polomcak, Janet Abshagen, Dick Overton, Nick Siskaninetz & Ken Wilder
NAYS: None

Declared adopted January 4, 2017.

CERTIFICATION

I, Janet Abshagen, Secretary for the Decatur Township Planning Commission for Decatur Township, Van Buren County, Michigan, hereby certify that the above is a true and correct copy of the proceedings of the regular Township Planning Commission meeting held on January 4, 2017.


Janet Abshagen, Planning Commission Secretary

**Planning Commission Minutes for
March 13, 2017
7:00 p.m. - Hamilton Township Hall**

1. Call to Order

The meeting was called to order at 7:00 p.m. by Vice Chair **Steve Petersen**.

2. Roll Call and Recognition of Visitors

Commission members present: **Sherry DeLoach, Jeff Grunden, Bill Lawson, Steve Petersen, Craig Rose**. Absent: Ralph Myrkle. There were no visitors present.

Motion by **Lawson**, second by **DeLoach**, to appoint Petersen as Chairperson for the meeting. Motion carried.

Motion by **Rose**, second by **DeLoach**, to approve the agenda as presented. Motion carried.

Minutes from the December 12, 2016 meeting were read and approved with quorum present.

3. Business Required at this Meeting

- Joint Comprehensive Plan 2016 (Master Plan) Public Hearing – Motion by **Rose**, second by **Grunden**, to hold a joint public hearing with Decatur Village and Township to allow for public comment on the updates to the Joint Comprehensive Plan 2016 on **April 25, 2017 at 6:30 p.m.** at the Decatur Township Hall. Motion carried.

4. Public Comment

There was no public comment.

5. Adjournment

Motion to adjourn by **Rose**, second by **DeLoach**, motion carried.

The meeting was adjourned at 7:10 p.m.

Bill Lawson, Acting Secretary

Publisher's Affidavit

STATE OF MICHIGAN }
VAN BUREN COUNTY } SS

David D. Moormann, being first duly sworn, says that he is the Editor of the **DECATUR REPUBLICAN**, a newspaper published in the English language for the dissemination of local

transmitted news and intelligence of a general character, newspaper, and that annexed hereto is taken from said newspaper, in which on:

April 2017
____ 20 ____
____ 20 ____
____ 20 ____
____ 20 ____
____ 20 ____

2702

ubscribed and sworn to before me this

____, 20 ____

____ County, Michigan

NOTICE OF PUBLIC HEARING and PUBLIC COMMENT PERIOD

The Joint Planning Committee and the Planning Commissions for Decatur Village, Decatur Township and Hamilton Township will hold a public comment period ending with a public hearing at 6:30 p.m. on Tuesday, April 25, 2017 at the Decatur Township Hall, 103 E. Delaware Street, Decatur, MI 49045.

The purpose of the comment period and public hearing is to invite and hear comments on the **Proposed Joint Comprehensive Plan for Decatur Village, Decatur Township and Hamilton Township**. At the hearing, all interested parties will be given an opportunity to be heard.

If you cannot attend the public hearing, written comments can be sent to Decatur Village, 114 N. Phelps Street, Decatur, MI 49045 and must be received by April 25, 2017.

The proposed plan can be reviewed at the Decatur Village Hall, Decatur Township Hall, Hamilton Township hall and at the Webster Memorial Library during business hours. The plan can also be reviewed online at <http://swmpc.org/decham.asp>.

**Decatur Township Planning Commission
Hamilton Township Planning Commission
Village of Decatur Planning Commission**

Public Hearing Minutes

DECATUR TOWNSHIP PLANNING COMMISSION

The Planning Commission met at the Decatur Township Hall, 103 E. Delaware St. at 6:30 p.m. on Tuesday, April 25, 2017. All members were present as well as Marcy Hamilton of SWMPC, the Hamilton Township Planning Commission, Decatur Village Planning Commission and 3 guests.

This meeting was the Public Hearing for the update for the Joint Comprehensive Plan 2017. Notice of this public hearing was published and posted in each municipality.

Marcy Hamilton introduced herself and called the public hearing to order. She explained the update procedures to this point, the changes and data updates made, and the next steps to be taken.

The public hearing was open for public comments. There were none. After the required distribution of the Joint Comprehensive Plan there were no comments/changes, etc. received by any of the three Planning Commissions nor SWMPC. Public comments portion of the public hearing was closed.

Resolution 2017 PC No. 2 was read by and motion to adopt it was made by Dick Overton and supported by Nick Siskaninetz. Vote: Yeas – All five members; Nays – None; Absent: None. The Resolution was adopted.

The next step in the process is the Decatur Township Board to pass a resolution at their May 11, 2017 regular board meeting. This resolution will officially adopt the Plan effective on May 11, 2017.

With no further business for the Planning Commission, Polomcak made a motion to adjourn, supported by Abshagen, vote all yes, at 6:40 p.m.



Janet Abshagen
Secretary, Decatur Planning Commission

**Village of Decatur Planning Commission
Joint Planning Commission Meeting
April 25th, 2017**

1. The meeting was called to order at 6:30PM by Marcy Hamilton from the Southwest Michigan Planning Commission. Roll call was taken for the Village of Decatur Planning Commission with Blaine Rex, Janet Moelaart, Ken Hayes, and Village Manager Aaron Mitchell being present. Gordy Krum was absent. This meeting was additionally attended by the Planning Commissions of Hamilton and Decatur Townships. Also in attendance were 2 visitors.
2. Marcy briefly reviewed the process of creating the Joint Comprehensive Plan.
3. Marcy also reviewed revisions, updates, and new items including the addition of the Village's Wellhead Protection Program. In addition, there is a focus on working together with respect to areas like code enforcement and being redevelopment ready.
4. Public hearing on the Decatur-Hamilton Joint Comprehensive Plan was opened.
 - a. No visitors wished to comment.
5. Public Hearing on the Decatur-Hamilton Joint Comprehensive Plan was closed.
6. Moelaart moved, Hayes seconded, CARRIED, to approve Decatur-Hamilton Joint Comprehensive Plan Resolution and recommend approval to Village Council.
Roll Call Vote:
Yea: Moelaart, Hayes, Rex, Mitchell
Nay: None
Abs: Krum
7. Mitchell moved, Rex seconded, CARRIED, to adjourn meeting at 6:41PM. All in favor, motion carried.

Respectfully submitted,

Matthew Newton
Village Clerk & Treasurer

Final Approval of Plan

Decatur Village - May 1, 2017

Decatur Township – May 11, 2017

Hamilton Township – May 9, 2017

RESOLUTION 2017-07 APPROVAL OF JOINT COMPREHENSIVE PLAN 2017

Decatur Village, Van Buren County, MI

**VILLAGE OF DECATUR; DECATUR TOWNSHIP; HAMILTON TOWNSHIP
Joint Comprehensive Plan 2017**

WHEREAS, Act 33, Public Acts of Michigan 2008, as amended provides for a Village Planning Commission to prepare and recommend adoption of a master plan for the physical development of the Village; and,

WHEREAS, the Village Council and Planning Commission in cooperation with Decatur and Hamilton Township has prepared a Master Plan Update in compliance with Act 33; and,

WHEREAS, the Village Council has passed a resolution asserting the Council's right to adopt the Master Plan and all elements and updates of that plan, as allowed by Act 33, Public Acts of Michigan 2008, as amended; and,

WHEREAS, Decatur Village distributed the draft Master Plan Update to the county planning commission and the planning commissions of surrounding units of government, and all other relevant agencies for review and comment in compliance with Act 33; and,

WHEREAS, the Village Planning Commission held a properly noticed public hearing on the draft Master Plan Update on April 25, 2017, in accordance with the requirements of Act 33 and other applicable statutes; and,

WHEREAS, at the public hearing held on April 25, 2017, the citizens of Decatur Village were afforded the opportunity to provide oral and written comments on the draft Master Plan Update, which comments the Planning Commission has taken into consideration; and,

WHEREAS, the Decatur Village Planning Commission has adopted a resolution by majority vote of its membership recommending adoption of the Master Plan Update 2017 to the Village Council;

NOW, THEREFORE, BE IT RESOLVED, that the Decatur Village Council does hereby adopt the **Joint Comprehensive Plan 2017**.

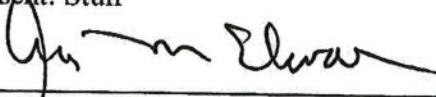
Offered By: Gunther

Supported By: Mead

Yea: Jackson, Hayes, Pachner, Gunther, Mead, Elwaer

Nay: None

Absent: Stull



Ali Elwaer, Village President



Matthew Newton, Village Clerk & Treasurer

CERTIFICATION OF RESOLUTION

I, Matthew Newton, Clerk of the Village of Decatur, Van Buren County, Michigan do hereby certify that the foregoing Resolution is a True and Complete Copy of the Resolution duly adopted by the Village Council of the Village of Decatur, Van Buren County, Michigan, at a regular meeting held May 1st, 2017.

Dated: May 1st, 2017



Matthew Newton, Village Clerk & Treasurer

RESOLUTION 2017 NO. 2

Resolution of Adoption

Decatur Township, Van Buren County, MI

**VILLAGE OF DECATUR; DECATUR TOWNSHIP; HAMILTON TOWNSHIP
Joint Comprehensive Plan 2017**

WHEREAS, Act 33, Public Acts of Michigan 2008, as amended provides for a Township Planning Commission to prepare and recommend adoption of a master plan for the physical development of the Township; and,

WHEREAS, the Decatur Township Board and Planning Commission in cooperation with Hamilton Township and Decatur Village has prepared a Master Plan Update in compliance with Act 33; and,

WHEREAS, the Decatur Township Board has passed a resolution asserting the Board's right to adopt the Master Plan and all elements and updates of that plan, as allowed by Act 33, Public Acts of Michigan 2008, as amended; and,

WHEREAS, Decatur Township distributed the draft Master Plan Update to the county planning commission and the planning commissions of surrounding units of government, and all other relevant agencies for review and comment in compliance with Act 33; and,

WHEREAS, the Decatur Township Planning Commission held a properly noticed public hearing on the draft Master Plan Update on April 25, 2017, in accordance with the requirements of Act 33 and other applicable statutes; and,

WHEREAS, at the public hearing held on April 25, 2017, the citizens of Decatur Township were afforded the opportunity to provide oral and written comments on the draft Master Plan Update, which comments the Planning Commission has taken into consideration; and,

WHEREAS, the Decatur Township Planning Commission has adopted a resolution by majority vote of its membership recommending adoption of the Master Plan Update 2017 to the Township Board;

NOW, THEREFORE, BE IT RESOLVED, that the Decatur Township Board does hereby adopt the **Joint Comprehensive Plan 2017**.

Certification of Adoption:

Offered By: Janet Abshagen

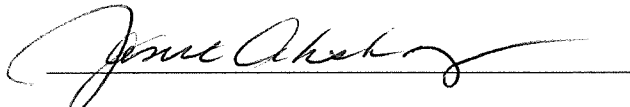
Supported By: Katelin Makay

Yeas: Kevin Kusmack, Janet Abshagen, James Abshagen, Katelin Makay & Paul Makay

Nays: None

Absent: None

Resolution declared adopted on May 11, 2017



Janet Abshagen, Township Clerk

Resolution of Adoption

Hamilton Township, Van Buren County, MI

VILLAGE OF DECATUR; DECATUR TOWNSHIP; HAMILTON TOWNSHIP Joint Comprehensive Plan 2017

WHEREAS, Act 33, Public Acts of Michigan 2008, as amended provides for a Township Planning Commission to prepare and recommend adoption of a master plan for the physical development of the Township; and,

WHEREAS, the Hamilton Township Board and Planning Commission in cooperation with Decatur Township and Decatur Village has prepared a Master Plan Update in compliance with Act 33; and,

WHEREAS, the Hamilton Township Board has passed a resolution asserting the Board's right to adopt the Master Plan and all elements and updates of that plan, as allowed by Act 33, Public Acts of Michigan 2008, as amended; and,

WHEREAS, Hamilton Township distributed the draft Master Plan Update to the county planning commission and the planning commissions of surrounding units of government, and all other relevant agencies for review and comment in compliance with Act 33; and,

WHEREAS, the Hamilton Township Planning Commission held a properly noticed public hearing on the draft Master Plan Update on April 25, 2017, in accordance with the requirements of Act 33 and other applicable statutes; and,

WHEREAS, at the public hearing held on April 25, 2017, the citizens of Hamilton Township were afforded the opportunity to provide oral and written comments on the draft Master Plan Update, which comments the Planning Commission has taken into consideration; and,

WHEREAS, the Hamilton Township Planning Commission has adopted a resolution by majority vote of its membership recommending adoption of the Master Plan Update 2017 to the Township Board;

NOW, THEREFORE, BE IT RESOLVED, that the Hamilton Township Board does hereby adopt the **Joint Comprehensive Plan 2017**.

Certification of Adoption: 5/9/2017

Offered By: → Hanson-Goodrich

Supported By:

Yeas: HANSON, LEARY, DRUSKOVICH, GOODRICH

Nays: 0

Absent: ROSE



Southwest Michigan Planning Commission

To: The Planning Commissions of Cass County, Van Buren County, Wayne Township, Volinia Township, Keeler Township, Lawrence Township, Paw Paw Township, Porter Township

From: Southwest Michigan Planning Commission (on behalf of Decatur Township, Hamilton Township, Village of Decatur (Van Buren County))

Date: August 10, 2017

Re: Distribution of Final Joint Comprehensive Plan

Decatur Township, Hamilton Township, and the Village of Decatur have updated their Joint Comprehensive Plan. A **Joint Comprehensive Plan** is a long range-planning tool used to define the three municipalities' joint vision, goals, and policies. An effective plan accurately communicates citizen needs and desires about their communities and recommends specific strategies to achieve those values.

The initial letter sent at the beginning of the planning process indicated that the plan would be sent in electronic format unless otherwise requested. Since no requests were received, the plan is provided on a CD-ROM and the file is an Adobe Acrobat file. You will need Adobe Reader to open the file. Adobe Reader is available on-line for free at www.adobe.com/products/reader. To request a paper copy of the proposed plan, please call Marcy at 269-925-1137 x 1525.

Sincerely,

Marcy Hamilton

Senior Planner

Southwest Michigan Planning Commission

376 West Main Street, Suite 130 • Benton Harbor, MI 49022-3651

• 269.925.1137 • 269.925.0288 • www.swmpc.org • swmpc@swmpc.org