Whitewater Zoom is inviting you to a scheduled Zoom meeting.

Topic: Planning Commission Meeting
Time: Jun 2, 2021 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting
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+1 301 715 8592 US (Washington DC)
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Passcode: 494269
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WHITEWATER TOWNSHIP PLANNING COMMISSION
AGENDA FOR REGULAR MEETING *June 2, 2021*
7:00 p.m., Whitewater Township Hall
Via ZOOM and in person
5777 Vinton Road, Williamsburg, MI 49690
Phone 231-267-5141/Fax 231-267-9020

1. Call to Order/Pledge Allegiance
2. Roll Call of Commission Members
3. Set/Adjust Meeting Agenda
4. Declaration of Conflict of Interest

5. **Public Comment:** Any person shall be permitted to address a meeting of the Planning Commission. Public comments shall be carried out in accordance with the following rules and procedures:
    a. Comments shall be directed to the Commission, with questions directed to the Chair.
    b. Any person wishing to address the Commission shall speak from the lectern and state his/her name and address.
    c. Persons may address the commission on matters that are relevant to township planning and zoning issues.
    d. No person shall be allowed to speak more than once on the same matter, excluding the time needed to answer Commission members' questions.
    e. Public comment shall be limited to 3 minutes.

6. Public Hearing: None

7. Approval of minutes of May 5, 2021
8. Correspondence:
9. Reports/Presentations/Announcements/Comments
    a. Zoning Administrator, Hall
    b. Chair, Mangus
    c. Township Board Representative, Not Available
    d. ZBA Representative, Not Available

10. Unfinished Business:
    a. Discussion regarding error in April approved minutes
    b. Zoning Ordinance Amendments regarding Marihuana
    c. ~~Review of Township attorney's report regarding Marihuana ZO~~ (not available)
    d. Master Plan consultant
    e. Review / Prioritize tabled items

11. New Business:
    a. Grand Traverse Plastics site plan review

12. Next Meeting July 7, 2021
13. Public Comment
14. Commission Discussion/Comments
15. Continuing Education items included in packet
16. Adjournment

Tabled Items: RC District, Event Barns

Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities who are planning to attend. Contact the township clerk at 231-267-5141 or the TDD at 800-649-3777.

WHITEWATER TOWNSHIP PLANNING COMMISSION
MINUTES FOR REGULAR MEETING
In-person and via ZOOM
May 5, 2021

Call to Order at 7:11 p.m.
Roll Call: In person: Dean, Jacobson, Mangus, Wroubel
No Board Representative or ZBA Representative available

Also in attendance: Zoning Administrator, Hall and Recording Secretary MacLean

Set / Adjust Agenda: Move the Grobbel Master Plan presentation before Old Business

Declaration of Conflict of Interest: None.

Public Comment: None

Public Hearing: None

Approval of Minutes:
MOTION by Dean, second by Jacobson to approve April 7, 2021, Meeting Minutes.
Roll call: Dean-yes; Jacobson-yes; Mangus-yes; Wroubel-yes; All in favor. Motion carried.
MOTION by Dean, second by Jacobson to approve April 22, 2021, Special Meeting Minutes.
Roll call: Jacobson-yes; Mangus-yes; Wroubel-yes; Dean-yes. All in favor. Motion carried.

Correspondence: Linda Slopsema (add to next month's packet)
Reports:
Zoning Administrator Report, Hall: Report in the 5/11 board packet. Receiving lots of calls inquiring of the zoning of land, RV Parks, real estate questions and more.
Whitewater Township is ripe for development. Planned growth is necessary. Water is being looked at to get to Grand Traverse Plastics on Moore Road and possibly further throughout the 'burg.
Receiving calls from realtors regarding short term rentals.
Chair's Report, Mangus: Will send you a link to an article for next month regarding marihuana facilities and building codes. Look at Ag buildings with industrial standards. Does Grand Traverse County have a code to use for a standard?
Township Board Rep,. Not Available
ZBA Representative,: Not Available
Committee Reports: None.
Additional Items: None.

Unfinished Business:
1. Master Plan Presentation by Chris Grobbel.
   Questions: What is the general cost to have an outside source do the update? Depending on what would be done it could be $8,000 to $10,000 to $25,000. Grobbel has a "Not to exceed… contract" and then month to month for continued update services.
   In the current plan Grand Traverse County should have let the PC know that things were missing.
   Have to have very good public input and communication via surveys, outreach sessions and open-house meetings.
   "Picnic table summit" bringing people together in an informal setting.
   Survey: It seems with a survey that wwners of a small percent of the land tells the owners of the majority of the land what they can do with their land.
   Some people will not speak even if they show up at a meeting.
   We have a lot of people who do not want the township to change.
   It is important for the PC to educate the people.
   Mandated to plan 20 years down the road.
   People will be working on-line from home more. Broadband and infrastructure will need to be addressed.

There are things that are required that are not in our current Master Plan.
PC does the leg work and the Board approves.

Recodification of the zoning ordinance is in process. Board has met with the company that has presented the first run through.
STR, water quality, working from home, accessory dwelling units are things that are really hot topics throughout the region.
Infrastructure definitely needs to be addressed.

Will need to discuss the available options. Would like to possibly use a consultant and do some in house.

They (Grobbel's organization) have some standard type surveys.

The PC has a good rep with the public now. We need to address this now.

2. Updated marihuana zoning ordinance regulations: Update did not come back from the attorney yet. Attorney was given the draft on the 29th.

New Business

1. Master Plan Review: What direction do we want to go? This gentleman knows his business. Would be a great asset. We can steer the project. Grobbel would do the work and the PC would advise.
   He would come up with a skeleton plan and then decide on public input.
   Analysis / build out information could be very beneficial.
   Check the budget. Does it have to go out for bid? Move forward with assistance.

MOTION by Wroubel, second by Jacobson to authorize Zoning Administrator Hall to contact the Board to find out about the steps needed to proceed to be able to work with a company to help with the Master Plan review and to set up a consult for Master Plan review.
Roll call: Mangus-yes; Wroubel-yes; Dean-yes; Jacobson-yes. All in favor. Motion carried.

Next Regular Meeting is scheduled for June 2, 2021.
Agenda: Master Plan Review; Marihuana ordinances
Tabled items: RC District review and Event Barns review

Public Comment: Vaughn Harshfield, 4404 Broomhead. Glad you are going to work with the professional. Yes, the atmosphere in the township has changed. You have won confidence. Compliments!
Vern Gutknecht, 6880 Bunkerhill Rd., sincerely agree with the comment that the PC has gained respect. I see that the PC is having open and honest discussion that supports transparency. You guys are doing a great job!

Commission Discussion/Comments: none.

Continuing Education: The whole MP presentation was education!

Adjournment: 9:05 p.m.

Respectfully Submitted
Lois MacLean,
Recording Secretary

4/2/2021

Planning Commission Members:

As I understand it, the only way to reject a SUP for marijuana would be if the proposal specifically was in violation of a requirement in the ordinance.

As such, it is critically important for permit evaluation as well as for permit enforcement that the requirements are very clear and measurable. Generalized terms lack clarity to make consistent decisions and provide a clear basis for enforcement.

For example, a requirement such as "must have a buffer zone" with no dimensions or specifics regarding what a buffer zone is constructed of and what a buffer zone accomplishes (such as preventing view of building from XX feet away) would be wide open to interpretation and argument. I could install some cedar bushes on 10' centers and call it a buffer zone. Therefore, I'm thinking that requirement needs some work such that the requirement is crystal clear to both the township and the applicant.

I'm very concerned about distances to property lines and residential dwellings also - I think you are setting yourself up for trouble if you use the standard 15' setbacks such that a person could find themselves within 30' of a commercial manufacturing operation (growing or processing marijuana) with all the noise, smells, traffic, and light pollution that goes with it.

Specifically, with respect to lighting per Michigan MRA rule 27 Security measures; required plan; video surveillance system:

- 6.a.6: "The entrances and exists to the building must be recorded from both indoor and outdoor vantage points. "
- 7: "A licensee shall install each camera so that it is permanently mounted and in a fixed location. Each camera must be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the marihuana facility, and allows for the clear and certain identification of any person, including facial features, and activities"

This is clear to me that you will need significant lighting to comply. Even if motion activated, this can be a nuisance to neighbors and should be considered when establishing discrete, measurable requirements for buffer zones (such as height of a berm or opaque fence to block the light).

The Township Marijuana ordinances section 6 Operational Requirements item 12 states "no nuisance odor will be detectable at the property line". We need to be realistic that existing minimum spacing of 15' from the property line is likely not sufficient to meet this requirement. Many articles are posted monthly dealing with the odor issues associated with marijuana growing and processing.

After doing some significant research, I would argue marijuana operations are easily as much if not more of a potential nuisance as livestock to neighboring property owners. Our existing zoning ordinance article 10.10.B requires a 100' distance to an adjoining property line or highway right of way for livestock in the A-1 district.

I know this issue of zoning for marijuana is new to everyone and complicated. It is important to do the research and figure out solid requirements to prevent problems in the future.

Thank you for your consideration of my comments.

Linda Slopsema
lindaslopsema@gmail.com

From: Linda Slopsema [mailto:lindaslopsema@gmail.com]
Sent: Tuesday, May 04, 2021 3:59 PM
To: Kim Mangus; loismaclean@sbcglobal.net; pc4@whitewatertownship.org
Subject: Error in PC Packet for 5/5/2021 meeting

pg 7 or packet or pg 2 of the 4/22 minutes incorrectly states "500' from schools, parks, etc., is established by the state." The state law specifies 1000' minimum property line to property line unless a municipality adopts an ordinance to reduce this distance.

Also, the memo I sent to the PC on 4/2/2021 has still not appeared in any minutes or packets. I am attaching it again here. Please let me know if there is a preferred way to assure documents included in the permanent record of the meetings.

thank you

Linda Slopsema
lindaslopsema@gmail.com
517-614-4887 (cell)

Draft Marihuana Zoning Ordinance Amendments

Articles 3, 6, 8, 9, 11, 25, and 37 4/24/21 Mangus

Article 3: Definitions

Residential Developments shall include subdivisions, condominium developments, and Planned Unit Developments (PUD) intended for residential use.

Marihuana Related Definitions:

Shall include all of the definitions contained in the Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, and Michigan Regulation & Taxation of Marihuana Act (MRTMA) and Michigan Department of Licensing and Regulatory Affairs (LARA) Rules and Regulations.

Licensed Marihuana Facility: A facility authorized and defined pursuant to the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, Michigan Regulation and Taxation of Marihuana Act which shall include the following:

a. Residential Cultivation
b. Grower
c. Processor
d. Secure Transporter
e. Provisioning Center
f. Safety Compliance Facility
g. Excess Marihuana Grower

Residential Cultivation is the cultivation of medical marihuana by a Qualifying Patient or Primary Caregiver as defined by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008. See Article 37.60.

Primary Caregiver means a person who has agreed to assist a patient with the medical use of marihuana and has a valid state license to do so. See Article 37.60.

Qualifying Patient is a person who had been diagnosed by a physician as having a debilitating medical condition being treated by marihuana. See Article 37.60

Medical Secure Transport is a commercial entity licensed to store and/or transport marihuana between facilities.

Processer is a commercial entity licensed to purchase marihuana from a grower and extract resin, package, create marijuana-infused products, or similarly prepare marihuana substances for sale.

Grower is a commercial entity licensed to cultivate, dry, trim, or cure and package marihuana for sale to a processor or provisioning center.

Draft Marihuana Zoning Ordinance Amendments

Articles 3, 6, 8, 9, 11, 25, and 37 4/24/21 Mangus

(Note to attorney:

Throughout this document we used the term "Marijuana Establishment". Do we need to use the terms "facility and establishment" together or can you recommend another term that would encompass both? Or should we include our own definition of "Marihuana Establishments".

Do we need any other terms defined here?)

District Amendments

Residential District R1

6.10 Permitted Uses

O. **Residential Cultivation** establishments subject to the standard of Article 37.60.

(Renumber balance of section)

Commercial District

8.11 Uses Permitted by Special Use Permit

Q. Medical Marihuana Grow Facility subject to the standards of Articles 37.60 and 25.22.E.

P. Medical Marihuana Processor Facility subject to the standards of Articles 37.60 and 25.22.E.

S. Recreational Marihuana Grow Establishment subject to the standards of Articles 37.60 and 25.22.E.

T. Recreational Marihuana Processor Establishment subject to the standards of Articles 37.60 and 25.22.E.

(Renumber balance of section)

Industrial

9.11 Uses Permitted by Special Use Permit

E Medical Marihuana Grow Facility subject to the standards of Articles 37.60 and 25.22.E.

F Medical Marihuana Processor Facility subject to the standards of Articles 37.60 and 25.22.E.

G Recreational Marihuana Grow Establishment subject to the standards of Articles 37.60 and 25.22.E.

H Recreational Marihuana Processor Establishment subject to the standards of Articles 37.60 and 25.22.E.

(Renumber balance of section)

Agricultural

10.11 Uses Permitted by Special Use Permit

C Medical Marihuana Grow Facility subject to the standards of Articles 37.60 and 25.22.E.

D Medical Marihuana Processor Facility subject to the standards of Articles 37.60 and 25.22.E.

E Recreational Marihuana Grow Establishment subject to the standards of Articles 37.60 and 25.22.E.

F Recreational Marihuana Processor Establishment subject to the standards of Articles 37.60 and 25.22.E.

(Renumber balance of section)

25.22 E S.U.P. Standards governing location and operation.

E. Marihuana Grow and Process Establishments – Any SUP application in the Commercial C, Industrial (N), or Agricultural (Ag) district and shall comply with the following standards and shall include the following information in addition to the existing requirement for site plan and SUP. All Residential Cultivation shall be governed by the standards in Article 37.60.

1. A waste disposal plan shall be included with all applications detailing plans for solid and liquid, chemical, plant, and byproduct disposal or processing which does not include on site incineration.
2. A security plan including the following:
    a. A plan detailing the establishments plans for 24-hour security monitoring.

   b. A plan which ensures that all marihuana plants or products are contained in an enclosed, locked facility that restricts and prevents access by any unauthorized person and meets all state requirements.

3. Proposed hours of operation shall be specified in the application and are subject to Planning Commission approvals.
4. Lighting Plans detailing compliance with the following standards and those detailed in Article 29, External Lighting Regulations:
   a. A Security Lighting Plan which takes into consideration neighboring properties.
   b. Any artificial lighting must be shielded to prevent glare and light trespass and must not be visible from neighboring properties, adjacent streets or public right of ways.
   c. All lighting, and associated equipment, such as but not limited to lamps, lights, ballasts, switches, controllers, computers, and any and all other electrical, electromechanical, or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission ("FCC"), including but not limited to 47 CFR 15 (FCC Part 15) and 47 CFR 18 (FCC Part 18). Further, there must be no harmful and/or interfering electromagnetic emissions to any one-way or two-way radio communications, on or off the premises. Compliance with FCC Rules and Regulations is a condition of licensure by the Township.
5. No Marihuana Establishment shall be located within five-hundred (500) feet of any licensed educational institution or school, college or university, church or house of worship or other religious facility, or public or private park, if such uses are in existence at the time the Establishment is issued an initial permit, with the minimum distance between uses measured horizontally between the closest edge of any such building or use on the property. (Note: Township Board wording)
6. Any Marihuana Establishments shall comply with the underlying zoning in that district.
7. Any structure housing a Marihuana Establishments in any district shall maintain a total footprint of all buildings equal to or less than a 40% maximum coverage of the property.
8. Signage shall not indicate the nature of the establishment as a marihuana establishment and shall require a use permit unless approved through special use permit process.
9. No equipment or process shall be used which creates noise, dust, vibration, glare, fumes, odor or electrical interference detectable to the normal senses beyond the parcel boundary.
10. Marihuana Establishments shall be the only principal use located on the Permitted Property, except that the co-location of facilities and establishments is permitted, and the stacking of applicable licenses is permitted.
11. Location of all Marihuana Establishments in the **Agricultural District (Ag)** shall be guided by the following additional standards:
    a. Any establishment in the Ag District shall be held to the Exterior Lighting Regulations, Article 29.
    b. Any establishment in the Ag District may be required to include a landscape buffer adhering to the Industrial District Standards as defined in Landscape Standards, Article 33.
    c. Any establishment in the Ag District shall be held to the Industrial standards in Article 34, Off Street Parking and Loading.
    d. All Marihuana Establishment structures and operations shall maintain a two hundred (200) foot set back measured horizontally between the closest edge of any such building

or operation and the boundary line of any existing Residential Development, residential district, or district in which the use is not permitted.

e. All Marihuana Establishment structures and operations shall maintain a three hundred (300) foot set back measured horizontally between the closest edge of any such building or operation and any existing residential dwelling not held in like ownership.

f. Exceptions to the setback requirements may be considered by the planning commission for proposed marihuana facilities operating from an existing structure previously used for a commercial application.

(Note to attorney:

Line #10 Would the removal of this provision cause any legal difficulties? Several commissioners would like to strike #10 to allow a primary residence or possibly farming on the balance of the subject parcel. If this line needs to be included, could you give us an indication why, what does it do or protect?

Line #11 a, b, and c – Do we need to add Ag Marihuana Establishments to Article 29, 33, and 34 or does this address this application.)

Article 37.60 Residential Cultivation

37.60 Residential Cultivation

A. Residential Cultivation by a Qualifying Patient or Primary Caregiver shall be permitted in any district and shall be governed by the following standards:

1. All Commercial Recreational and Medical establishments shall be governed by the Special Use Permit standards in Article 25.22.E.
2. All marihuana plants or product must be contained within the dwelling, or enclosed structure which prevents access by unauthorized persons.
3. Only one individual may operate within a Residential Cultivation establishment.
4. The qualifying patient or Primary Caregiver must possess and maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or their successors.
5. Primary Caregivers shall comply with the standards set forth in accordance with MMA, MCL 33.26421, et seq as to the number of plants, ounces of usable Marihuana, record keeping, and security to prevent theft of stored product.
6. Residential Cultivation establishments shall obtain all necessary building, electrical, plumbing and mechanical permits for work required to house or maintain equipment used to support the cultivation, growing, or harvesting of Marihuana.
7. There shall be no external evidence, signage, odor, or lighting related to the Residential Cultivation operation detectable from the exterior of the property.
8. All lighting, and associated equipment, such as but not limited to lamps, lights, ballasts, switches, controllers, computers, and any and all other electrical,

electromechanical, or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission ("FCC"), including but not limited to 47 CFR 15 (FCC Part 15) and 47 CFR 18 (FCC Part 18). Further, there must be no harmful and/or interfering electromagnetic emissions to any one-way or two-way radio communications, on or off the premises. Compliance with FCC Rules and Regulations is a condition of licensure by the Township.

9. No equipment or process shall be used which creates noise, dust, vibration, glare, fumes, odor or electrical interference detectable to the normal senses beyond the parcel boundary.

(Note to attorney: We did not want to include a requirement for Primary Caregivers to register with the Township. Does this cause a conflict with the requirements outlined in the Township GO 59 and 60 which appear to define a Primary Caregiver as a marihuana establishment and also require all marihuana establishments to have a township permit thus making them illegal if not registered with the township?)

Whitewater Township

5777 Vinton Road | P.O. Box 159

Williamsburg, Michigan 49690

www.whitewatertownship.org zoning@whitewatertownship.org

STAFF REPORT

June 2nd, 2021

Site Plan Review

Applicant:	**Grand Traverse Plastics** GTP Real Estate III LLC 300 Galleria Officentre, Suite 305, Southfield, MI 48304
Address:	5780 Moore Road – P.O. Box 160 Traverse City, Michigan 49649
Phone:	231-267-5221
Agent:	**AMAG, LLC**
Address:	4488 W. Bristol Road, Suite 200 Flint, Michigan 48507
Phone:	810-230-9311
Parcel ID:	28-13-004-012-32, 28-13-004-012-22, and 28-13-004-012-11
Zoning District:	N-Industrial
Use Request:	Applicant requests to expand an existing use subject to Article XXV, Site Plan Review **Expansion of a permitted Use**: Applicant proposes to expand an existing structure on parcel #28-13-004-012-32 by 25,506 square feet.
Summary:	Staff was introduced to this project via a series of ZOOM meetings with the architects representing Grand Traverse Plastics: **04/22/2021-**presentation of the concept and discussion of relevant zoning ordinances **04/29/2021-**concept discussion, sketch plan review, timeline guidance The Whitewater Township Zoning Ordinance is structured in a manner that incorporates uses permitted in one district to be permitted in another simply by reference. In this case, the uses **permitted** in the N-Industrial district also includes: **All** uses permitted and as regulated in the Commercial, Village, and Residential zoning districts. A review of these districts revealed that '***Light Manufacturing***' is

listed as a special use in the V-Village zoning district (Article VIII, Section 8.61.B); therefore a 'permitted' use to be reviewed in accordance with Article XXV[1].

ZONING DISTRICT STANDARDS

1.00 By establishing the parcel location in the N-Industrial zoning district, Article IX, the Building Sizes, Lot Sizes and Yard Requirements of Article XII are applicable.

1.10 Article XII establishes building sizes, lot sizes, and yard requirements for all zoning districts

- The minimum lot width required is 100' (one-hundred) feet – the subject parcel(s) has/have a combined 600' (six hundred) feet of frontage on Moore Road as demonstrated on the provided site plan.
  - 012-32: 275' frontage
  - 012-22: 145' frontage
  - 012-11: 180' frontage
- The minimum lot area required is: **Not Applicable** - The N-Industrial zoning district does not specify a minimum lot size requirement.
- The minimum front yard setback (in this case: Moore Road) required is 50' (fifty) feet. There are no existing structures within and no new construction being proposed in the front yard setback(s) area.
- The minimum side yard setback required is (30% of lot width but not less than) 15' (fifteen) feet. There are no existing structures within and no new construction being proposed in the side yard setback(s) area.
- The minimum rear yard setback required is 30' (thirty) feet. There are no existing structures within and no new construction being proposed in the rear yard setback(s) area.
- Maximum Structure Height: Existing = Proposed:
- Width: Depth Ratio (1:4) Existing =

SITE PLAN REVIEW

2.00 **(Article IX)** of the Whitewater Township Zoning Ordinance declares that all 'applications for new or expanding uses'… are subject to review by the Zoning Administrator, however, in accordance with Article XXV, Section 25.18., this review is directed to the Planning Commission because it exceeds 1000 (one-thousand) square feet.

2.10 This is a FINAL SITE PLAN REVIEW subject to the STANDARDS FOR DECISIONS listed in Article XXV, Section 25.12 (A-R)

Staff Comments: ***The Standards for Decisions (for Site Plan Review) listed in Article XXV, Section 25.12 are, for the most part, discretionary in nature. (The) Zoning Administrator is not permitted to make discretionary determinations. However, after a dutiful review, staff found no immediate concerns related to the standards. Upon Planning Commission review, care should be taken to document any Planning Commission 'condition' related to these standards with actual findings and conclusions that relate back to the zoning ordinance.***

[1] Typically, when there is contradictory language in the text of the zoning ordinance, the particular controls the general. Although Article IX , Section 9.02.B allows for new or expanding uses to be reviewed by the Zoning Administrator, Article XXV, Section 25.18.A.2 requires that site plan review be performed by the Planning Commission due to the proposed addition size.

STAFF RECOMMENDATION(S)

Article XXV, Section 25.10 directs that site plans required to be reviewed by the Planning Commission be submitted along with a recommendation of the Zoning Administrator as to compliance with ordinance standards. In addition, the zoning administrator is to seek the recommendation of other professionals where applicable. ***The applicant was advised on 04/29/2021 that Site Plan Review would also be required by the Whitewater Township Fire Department as a condition of any pending approval.***

SITE PLAN

(25.11.F.2.z) Whitewater Township was provided a full sized, scaled drawing containing the seal

The proposed site plan contains all of the required elements as listed in Article XXV, Section 25.11.F

Notes:

The proposed construction is to be located on an area that is already paved and / or of an impervious material.

The agent of the applicant has been advised that all other general provisions of the zoning ordinance must be complied with such as signage, storm water run-off, lighting, and parking.

The Zoning Administrator would recommend that the Planning Commission make independent findings and conclusions that would support approval of the site plan as presented.

Respectfully submitted for Planning Commission review –

PROPOSED PROJECT FOR:

GRAND TRAVERSE PLASTICS

5814 Moore Rd, Williamsburg, MI 49690

PROJECT TEAM

OWNER:

GRAND TRAVERSE PLASTICS CORP.
5780 MOORE RD, WILLIAMSBURG, MI 49690
PHONE: (231) 267-5221

ARCHITECT:

ASSELIN, MCLANE ARCHITECTURAL GROUP, LLC (AMAG)
4488 WEST BRISTOL ROAD, FLINT, MI 48507
PHONE: (810) 230-9311

CONTRACTOR:

RHOADS & JOHNSON CONSTRUCTION
285 N. ALLOY DRIVE, FENTON, MI 48430
PHONE: (810) 750-7630

PROJECT SCOPE OF WORK

PROPOSED 25,506 SF. ADDITION TO AN EXISTING LIGHT INDUSTRIAL BUILDING. A NEW WATERLINE WILL BE PROVIDE TO PROVIDE FIRE SUPPRESSION TO THE EXISTING BUILDING.

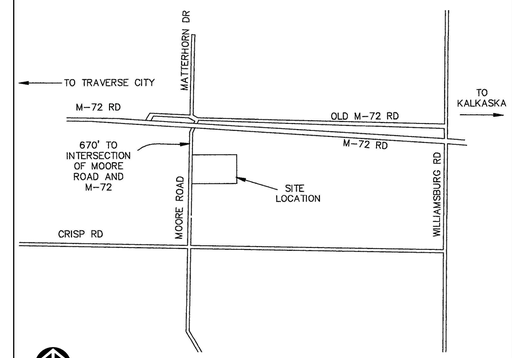
ANTICIPATED COMPLETION AND OCCUPANCY: MARCH 2022

BUILDING CODE INFORMATION

CODE ENFORCED:	MICHIGAN BUILDING CODE 2015 MICHIGAN FIRE CODE 2015 MICHIGAN PLUMBING CODE 2015 MICHIGAN MECHANICAL CODE 2015 NATIONAL ELECTRICAL CODE 2017
USE GROUP	MIXED-USE (B, F-1 & S-1) , SEPARATED
USE SEPARATION	3 HOUR
CONSTRUCTION TYPE:	IIB (602.4 & TABLE 601)

Plotted: 5/5/2021 5:05:26 PM

VICINITY MAP



SCHEDULE OF DRAWINGS

Sht. No.	Sheet Name	Date	Rev.
G000	COVER SHEET		
1 OF 1	SURVEY		
C101	SITE PLAN	05-05-21	1
C102	GRADING & SOIL EROSION PLAN	05-05-21	1
C103	LANDSCAPE PLAN	05-05-21	1
C104	SITE PHOTOMETRIC PLAN	05-05-21	1
C105	CAMPUS SITE PLAN	05-05-21	1
C106	PLANT 2 VEHICLE TRACKING	05-05-21	1
C107	PLANT 1 VEHICLE TRACKING	05-05-21	1
C108	SITE DETAILS	05-05-21	1
A101	FLOOR PLANS	05-05-21	1
A201	EXTERIOR ELEVATIONS	05-05-21	1
A202	EXTERIOR ELEVATIONS	05-05-21	1
A301	BUILDING SECTIONS	05-05-21	1

PLAN DISTRIBUTION LIST

AGENCY	SUBMISSION DATE	STATUS
SITE PLAN REVIEW WHITE WATER TOWNSHIP (231) 267-5141	05-05-21	UNDER REVIEW
LAND USE WHITEWATER TOWNSHIP (231) 267-5141		
BUILDING PERMIT GRAND TRAVERSE COUNTY (231) 995-6044		
SOIL EROSION GRAND TRAVERSE COUNTY (231) 995-6042		
WELL AND SEPTIC PERMIT GRAND TRAVERSE COUNTY (231) 995-6051		
ROAD COMMISION	N/A EXISTING DIRVES	

Know what's below. Call before you dig.

LEGAL DESCRIPTION

PARCEL B:
A parcel of land situated in the Township of Whitewater, County of Grand Traverse, State of Michigan and described as follows to—wit: That part of the Northwest One—quarter of Section 4, Town 27 North, Range 09 West, more fully described as Commencing at the Northwest corner of said Section 4; thence South 00 degree 57 minutes 17 seconds West, (previously recorded as South 0 degree 10 minutes 33 seconds West by Batzer), along the West line of said section, 889.01 feet, to the Point of Beginning; thence South 89 degrees 17 minutes 55 seconds East, 988.89 feet; thence South 00 degree 50 minutes 31 seconds West, 255.72 feet; thence North 89 degrees 16 minutes 11 seconds West, 707.36 feet; thence South 18 degrees 36 minutes 04 seconds West, 20.63 feet; thence North 89 degrees 19 minutes 20 seconds West, 275.78 feet, to the West line of said section; thence North 00 degree 57 minutes 17 seconds East, 275.11 feet, to the Point of Beginning.

SYMBOL LEGEND

SIM / 1 / A101	SECTION REFERENCE	101	DOOR NUMBER
SIM / 1 / A101	DETAIL REFERENCE		SPOT ELEVATION
SIM / 1 / A101	EXTERIOR ELEVATION	Name Elevation	DATUM
Ref / Ref / 1 / A101 / 1 / Ref / Ref	INTERIOR ELEVATION		NORTH ARROW
SIM / 1 / A101	CALLOUT REFERENCE	#	KEYNOTE
Room name / 101	ROOM NAME / NUMBER	B-1	MATERIAL KEYNOTE

ARCHITECT:
AMAG
4488 WEST BRISTOL ROAD, SUITE 200, FLINT, MI 48507 PH: (810) 230-9311

CONTRACTOR:
RHOADS & JOHNSON

PROPOSED PROJECT FOR:
GRAND TRAVERSE PLASTICS
5814 Moore Rd, Williamsburg, MI 49690

Date
Description
Rev.

COVER SHEET

Project number 2108

G000

Scale

ALTA / NSPS
LAND TITLE SURVEY

Notes Corresponding to Schedule B-II (Exceptions)

(10) RIGHT-OF-WAY IN FAVOR OF CHERRYLAND RURAL ELECTRIC CO-OPERATIVE ASSOCIATION AND THE COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED IN INSTRUMENT RECORDED IN liBER 432, PAGE 204, AS TO PARCELS B, C, AND D

(11) RIGHT-OF-WAY IN FAVOR OF MICHIGAN BELL TELEPHONE COMPANY AND THE COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED IN INSTRUMENT RECORDED IN LIBER 168, PAGE 349 AS TO PARCELS B, C, AND D

(12) SURVEY RECORDED IN INSTRUMENT NO. 2013S-00027. AS TO PARCELS B, C AND D

Legal Description of Record

PROPERTY DESCRIBED IN SCHEDULE 'C' OF FIRST AMERICAN TITLE INSURANCE COMPANY, ISSUING FILE No. 806358, COMMITMENT DATE FEBRUARY 26, 2018 8:00 AM:

The land referred to in this policy, situated in the County of Grand Traverse, Township of Whitewater, State of Michigan, is described as follows:

PARCEL B:
A parcel of land situated in the Township of Whitewater, County of Grand Traverse, State of Michigan and described as follows to—wit: That part of the Northwest One—quarter of Section 4, Town 27 North, Range 09 West, more fully described as Commencing at the Northwest corner of said Section 4; thence South 00 degree 57 minutes 17 seconds West, (previously recorded as South 0 degree 10 minutes 33 seconds West by Batzer), along the West line of said section, 889.01 feet, to the Point of Beginning; thence South 89 degrees 17 minutes 55 seconds East, 988.89 feet; thence South 00 degree 50 minutes 31 seconds West, 255.72 feet; thence North 89 degrees 16 minutes 11 seconds West, 707.36 feet; thence South 18 degrees 36 minutes 04 seconds West, 20.63 feet; thence North 89 degrees 19 minutes 20 seconds West, 275.78 feet, to the West line of said section; thence North 00 degree 57 minutes 17 seconds East, 275.11 feet, to the Point of Beginning.

PARCEL C:
A parcel of land situated in the Township of Whitewater, County of Grand Traverse, State of Michigan and described as follows to—wit: That part of the Northwest One—quarter of Section 4, Town 27 North, Range 09 West, more fully described as Commencing at the Northwest corner of said Section 4; thence South 00 degree 57 minutes 17 seconds West, along the West line of said section, 1164.12 feet, to the Point of Beginning; thence South 89 degrees 19 minutes 20 seconds East, 275.78 feet; thence North 18 degrees 36 minutes 04 seconds East, 20.63 feet; thence South 89 degrees 16 minutes 11 seconds East, 707.36 feet; thence South 00 degree 50 minutes 31 seconds West, 344.30 feet, to the North one—eighth line of said section; thence North 89 degrees 17 minutes 13 seconds West, 276.80 feet; thence North 00 degree 56 minutes 51 seconds East, 179.85 feet; thence North 89 degrees 17 minutes 22 seconds West, 713.24 feet; thence North 00 degree 57 minutes 17 seconds East, 144.90 feet, to the Point of Beginning.

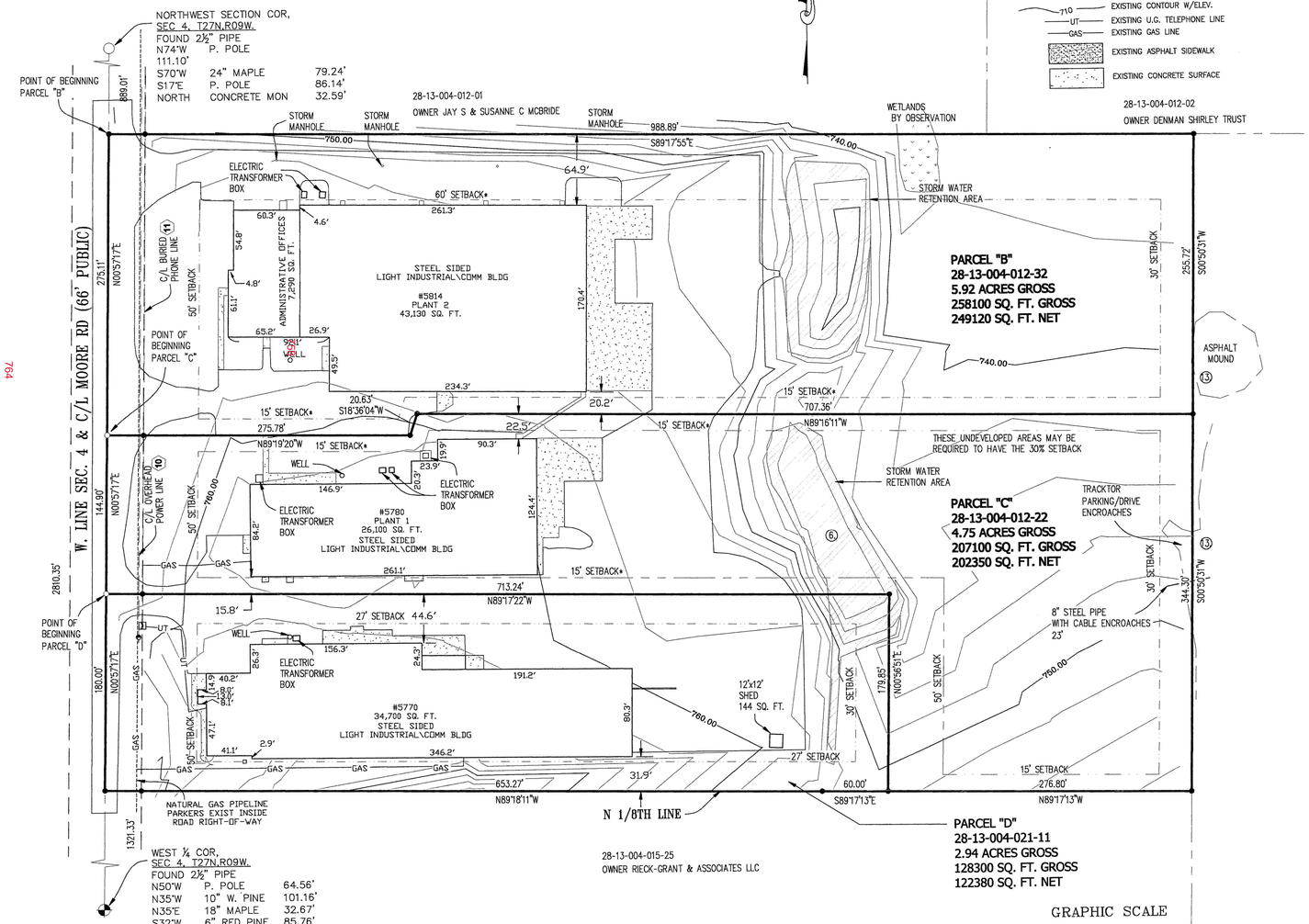
PARCEL D:
A parcel of land situated in the Township of Whitewater, County of Grand Traverse, State of Michigan and described as follows to—wit: That part of the Northwest One—quarter of Section 4, Town 27 North, Range 09 West, more fully described as Commencing at the Northwest corner of said Section 4; thence South 00 degree 57 minutes 17 seconds West, along the West line of said section, 1309.02 feet, to the Point of Beginning; thence South 89 degrees 17 minutes 22 seconds East, 713.24 feet; thence South 00 degree 56 minutes 51 seconds West, 179.85 feet, to the North one—eighth line of said section; thence North 89 degrees 17 minutes 13 seconds West, 60.00 feet; thence North 89 degrees 18 minutes 11 seconds West, 653.27 feet, to the West line of said section; thence North 00 degree 57 minutes 17 seconds East, 180.00 feet, to the Point of Beginning.

Surveyor's Notes

1. NO FEMA FLOOD ZONES EXIST OVER THE PROPERTY. COMMUNITY PANEL NUMBER 260794 0025 A
2. BEARING BASIS: NAD 83 MI CENT SPCS,
3. DATE OF SURVEY: 4—19—18
4. DIMENSIONS ON THIS SURVEY ARE EXPRESSED IN FEET AND DECIMAL PARTS THEREOF UNLESS OTHERWISE NOTED.
5. SQUARE FOOTAGE:
   A. EXTERIOR FOOTPRINT OF ALL BUILDINGS AT GROUND LEVEL:
      PARCEL B 50,420 SQ. FT.
      PARCEL C 26,100 SQ. FT.
      PARCEL D 34,844 SQ. FT.
   B. GROSS FLOOR AREA OF ALL BUILDINGS: **111,320 SQ FEET**
   C. GROSS LAND AREA OF PARCELS: **13.62 ACRES**
6. AS PERTAINING TO TABLE A REQUIREMENTS, ITEM 11(B), APPARENT STORM WATER RETENTION AREA SPANS OVER PARCELS C AND PARCEL D.
7. AS PERTAINING TO TABLE A REQUIREMENTS, ITEM 16, THERE WAS NO OBSERVABLE EVIDENCE AT THE TIME OF SURVEY.
8. AS PERTAINING TO TABLE A REQUIREMENTS, ITEM 18, THERE WERE NO OFFICIAL WETLANDS DELINEATION PERFORMED AT THE TIME OF THIS SURVEY BY THE MDEQ, NO WETLAND WHERE OBSERVED BY JESSE MITCHELL, PS.
9. AS PERTAINING TO GENERAL REQUIREMENTS, 4. RECORDS RESEARCH — THE CURRENT RECORD DESCRIPTIONS OF ADJOINING PROPERTIES, RECORDS WERE NOT PROVIDED.
10. AS PERTAINING TO TABLE A REQUIREMENTS, ITEM 8, FEATURES ARE SHOWN ON THE DRAWINGS.
11. AS PERTAINING TO TABLE A REQUIREMENTS, ITEM 13, ALL ADJOINING LANDOWNERS ARE SHOWN ON THE DRAWINGS. INFORMATION TAKEN FROM GRAND TRAVERSE COUNTY EQUALIZATION WEB SITE.
12. LINE ITEM 6.(a&b) TOWNSHIP ZONING INFORMATION
    ZONING DISTRICT N
    REQUIRED FRONT YARD SETBACK 50'
    REQUIRED SIDE SETBACK 15' (TOTAL 30% OF WIDTH BUT NOT LESS THAN 15 FEET)
    REQUIRED REAR SETBACK 30'
    MAXIMUM STRUCTURAL COVERAGE OF LOT, 40%
    MAXIMUM STRUCTURAL HEIGHT, 35'
    MINIMUM WIDTH: MAXIMUM DEPTH RATIO REGULATING LOT SHAPE, 1:4
    LAND USE REGULATED IN SETBACKS: YES
    *NOTE: 15' SIDE SETBACK SHOWN FROM WHEN PARCEL WAS CREATED AND VERIFIED IN LAND DIVISION OF 2012.
    PARKING SPACES: FROM SECTION 34.70 E. OF WHITEWATER TOWNSHIP ZONING PARKING SPACES REQUIRED
    1. INDUSTRIAL OR MANUFACTURING ESTABLISHMENT, RESEARCH AND TESTING LABS. "TWO FOR EACH THREE EMPLOYEE COMPUTED ON BASIS FOR TOTAL NUMBER OF EMPLOYED ON ALL SHIFTS PLUS ONE FOR EACH COMPANY VEHICLE STORED ON THE PREMISES."
    INFORMATION TAKEN FROM THE WHITEWATER TOWNSHIP ZONING ORDINANCE.

(13) A USE ENCROACHMENT EXIST ON THE EAST PROPERTY LINE. A BURIED PIPE, AS AN ANCHOR POST, WITH A STEEL CABLE, AS A GATE, EXTENDS 23 FEET INTO THE PROPERTY. THERE ALSO APPEARS TO BE A PORTION USED TO DRIVE OVER AND ALSO PARK EXCAVATION EQUIPMENT BEING SOLD BY THE ADJACENT PROPERTY. ALSO THE EDGE OF A LARGE PILE OF ASPHALT IS ON THE LINE.

Note to the client, insurer, and lender — With regard to Table A, item 11, source information from plans and markings will be combined with observed evidence of utilities pursuant to Section 5.E.iv. to develop a view of the underground utilities. However, lacking excavation, the exact location of underground features cannot be accurately, completely, and reliably depicted. In addition, in some jurisdictions, 811 or other similar utility locate requests from surveyors may be ignored or result in an incomplete response, in which case the surveyor shall note on the plat or map how this affected the surveyor's assessment of the location of the utilities. Where additional or more detailed information is required, the client is advised that excavation and/or a private utility locate request may be necessary.



Legend of Symbols & Abbreviations

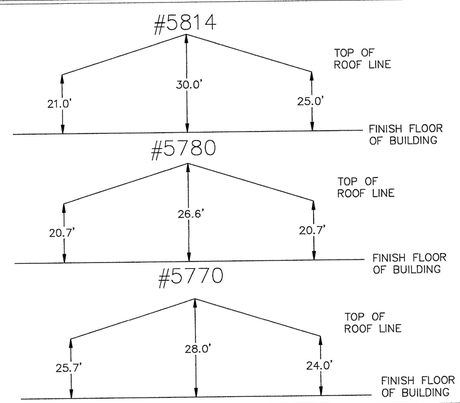
- 1/2"x18" REROD SET
- 1/2"x18" REROD FOUND
- GOVERNMENT 1/4 CORNER
- SECTION CORNER
- POWER POLE
- POWER POLE W/GUY WIRE
- TELEPHONE RISER
- SECTION LINE
- CENTERLINE
- RIGHT—OF—WAY LINE
- PROPERTY LINE
- 710 EXISTING CONTOUR W/ELEV.
- UT EXISTING U.G. TELEPHONE LINE
- GAS EXISTING GAS LINE
- EXISTING ASPHALT SIDEWALK
- EXISTING CONCRETE SURFACE

GRAPHIC SCALE

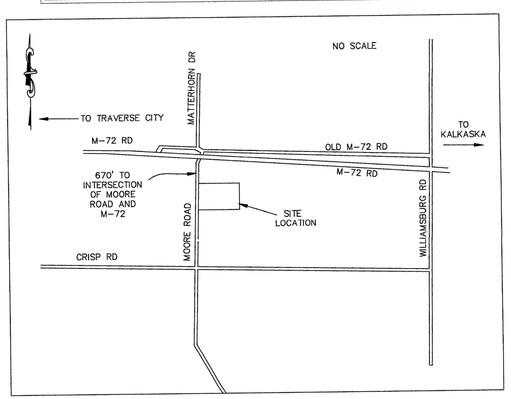
60 0 30 60 120 240

(IN FEET)
1 inch = 60 ft.

BUILDING HEIGHTS FROM EAST SIDE



Site Location Map



ALTA/NSPS Land Title Survey

Based Upon Title Commitment No. 806358
First American Title Insurance Company
Commitment date: February 26, 2018 @ 8:00 am

Surveyor's Certification

Flagstar Bank, FSB; GTP Real Estate I, LLC; GTP Real Estate II, LLC; GTP Real Estate III, LLC; FIRST AMERICAN TITLE INSURANCE COMPANY

This is to certify that this map or plat and the survey on which it is based were made in accordance with the Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS in 2016, and includes items 1-8, 11, 13, 14, 16, 18, 19 and 20 of table A thereof. The field work was completed on 4-19-18.

4/27/2018
Date of Plat or Map

STATE OF MICHIGAN JESSE E. MITCHELL PROFESSIONAL SURVEYOR No. 54433 LICENSED PROFESSIONAL SURVEYOR

Jesse E. Mitchell
Professional License No. 54433

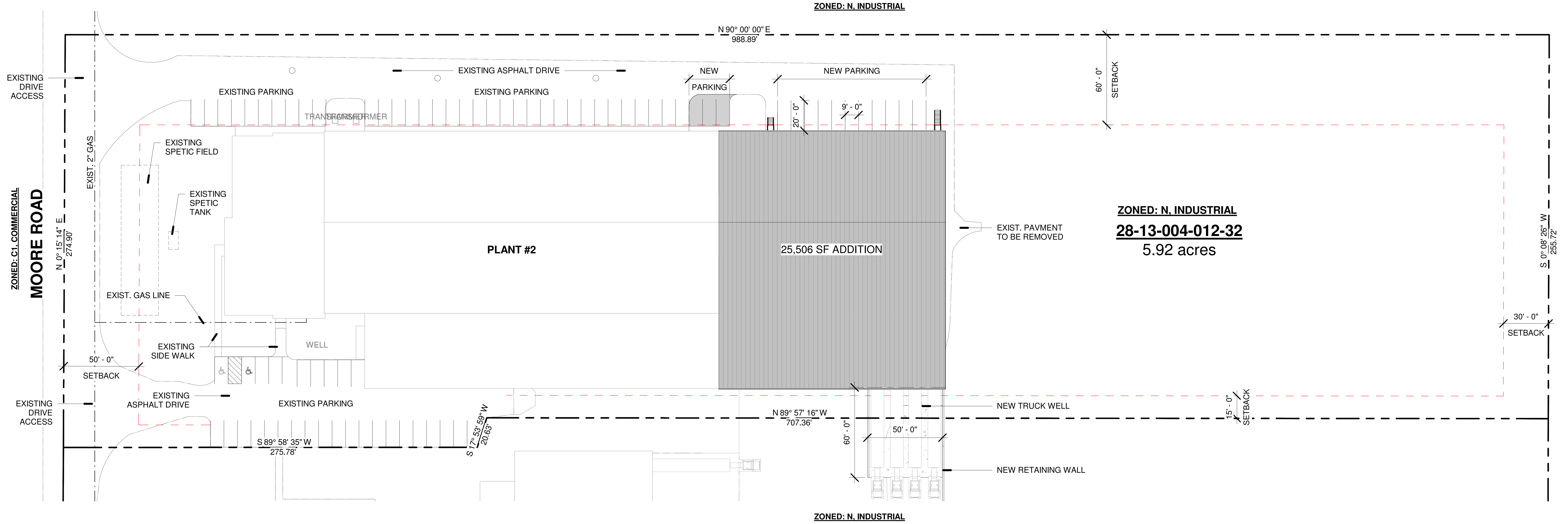
PROJECT: 28-13-004-012-01
OWNER NAME: RIECK-GRANT & ASSOCIATES, L.L.C. & GRANCZYK & ASSOCIATES, LLC
PROPERTY ADDRESS: 5814, 5780, 5770 MOORE ROAD
TRAVERSE CITY, MI 49696
SHEET:

BOB MITCHELL & ASSOCIATES
PLANNING · ENGINEERING · SURVEYING · MANAGEMENT
Northwestern Michigan
404 West Main Street
P.O. Box 348649
Kingsley, MI 49649
(231) 263-5463
FAX (231) 263-7921
Toll Free 1-800-533-6627
E-mail: jesse@nwpcivilsurvey.com

DESCRIPTION: EMAIL TO PETER Final
DATE: 4.23.2018 4.27.2018

FILE NO. 20180079_ALTA
DWG. NAME 20180079.dwg
SCALE: AS NOTED
DWN. TAE | CHK. JEM
DATE fin. rev 4.27.2018 3-16-2018

1 OF 1



SITE PLAN
1" = 40'-0"
NORTH

F. REQUIRED INFORMATION

1. EACH SUBMITTAL FOR SITE PLAN REVIEW SHALL CONTAIN ALL INFORMATION REQUIRED IN THIS ORDINANCE INCLUDING THE FOLLOWING:

A. THE APPLICANT'S NAME, ADDRESS, AND PHONE NUMBER IN FULL. **(PROVIDED, SEE COVER SHEET)**

B. PROOF OF PROPERTY OWNERSHIP, AND WHETHER THERE ARE ANY OPTIONS ON THE PROPERTY, OR LINES AGAINST IT. **(PROVIDED, SEE ATTACHED)**

C. A SIGNED STATEMENT THAT THE APPLICANT IS THE OWNER OF THE PROPERTY OR OFFICIALLY ACTING ON THE OWNER'S BEHALF. **(PROVIDED, SEE ATTACHED)**

D. THE NAME AND ADDRESS OF THE OWNER(S) OF RECORD IF THE APPLICANT IS NOT THE OWNER OF RECORD (OR FIRM OR CORPORATION HAVING A LEGAL OR EQUITABLE INTEREST IN THE LAND) AND THE SIGNATURE OF THE OWNER(S). **(PROVIDED, SEE ATTACHED)**

E. THE ADDRESS AND/OR PARCEL NUMBER OF THE PROPERTY. **(PROVIDED, SEE PLANS)**

F. NAME AND ADDRESS OF THE DEVELOPER (IF DIFFERENT FROM THE APPLICANT). **(PROVIDED, SEE COVER SHEET)**

G. NAME AND ADDRESS OF ENGINEER, ARCHITECT, PLANNER AND/OR LAND SURVEYOR. **(PROVIDED, SEE COVER SHEET)**

H. PROJECT TITLE. **(PROVIDED)**

I. PROJECT DESCRIPTION, INCLUDING THE TOTAL NUMBER OF STRUCTURES, UNITS, BEDROOMS, OFFICES, SQUARE FEET, TOTAL AND USABLE FLOOR AREA, PARKING SPACES, CARPORTS OR GARAGES, EMPLOYEES BY SHIFT, AMOUNT OF RECREATION AND OPEN SPACE, TYPE OF RECREATION FACILITIES TO BE PROVIDED, AND RELATED INFORMATION AS PERTINENT OR OTHERWISE REQUIRED BY THE ORDINANCE. **(PROVIDED, SEE COVER SHEET)**

J. A VICINITY MAP DRAWN AT A SCALE OF 1" = 2000' WITH THE NORTH POINT INDICATED. **(PROVIDED, PLANS)**

K. THE GROSS AND NET ACREAGE OF ALL PARCELS IN THE PROJECT. **(PROVIDED, SEE PLANS)**

L. LAND USES, ZONING CLASSIFICATION AND EXISTING STRUCTURES ON THE SUBJECT PARCEL AND ADJOINING PARCELS WITHIN 300 FEET OF THE SITE. **(PROVIDED, SEE PLANS)**

M. PROJECT COMPLETION SCHEDULE/DEVELOPMENT PHASES. **(OCCUPANCY MARCH 2022)**

N. WRITTEN STATEMENTS RELATIVE TO PROJECT IMPACTS ON EXISTING INFRASTRUCTURE (INCLUDING TRAFFIC CAPACITY OF STREETS, SCHOOLS, AND EXISTING UTILITIES) AND ON THE NATURAL ENVIRONMENT OF THE SITE AND ADJOINING LANDS. A FORMAL IMPACT STATEMENT MAY BE REQUIRED. **(N/A)**

O. A LISTING OF TYPES AND QUANTITIES OF HAZARDOUS SUBSTANCES AND POLLUTING MATERIALS WHICH WILL BE USED, STORED, OR GENERATED ON-SITE AT THE FACILITY, AND COMPLETION OF THE "HAZARDOUS SUBSTANCE REPORTING FORM FOR SITE PLAN REVIEW". **(N/A)**

2. THE SITE PLAN SHALL CONSIST OF AN ACCURATE REPRODUCIBLE DRAWING AT A SCALE OF NOT LESS THAN 1" = 20' OR MORE THAN 1" = 200', SHOWING THE SITE AND ALL THE LAND WITHIN 300' OF THE SITE. IF MULTIPLE SHEETS ARE USED, EACH SHALL BE LABELED, AND THE PREPARER IDENTIFIED. EACH SITE PLAN SHALL DEPICT THE FOLLOWING:

A. LOCATION OF THE PROPOSED AND/OR EXISTING PROPERTY LINES, DIMENSIONS, LEGAL DESCRIPTIONS, SETBACK LINES AND MONUMENT LOCATIONS. **(PROVIDED)**

B. EXISTING TOPOGRAPHIC ELEVATIONS AT TWO-FOOT INTERVALS, PROPOSED GRADES, AND DIRECTION OF DRAINAGE FLOWS. **(PROVIDED)**

C. THE LOCATION AND TYPE OF EXISTING SOILS ON THE SITE AT LEAST TO THE DETAIL PROVIDED BY U.S. SOIL CONSERVATION SERVICE AND ANY CERTIFICATION OF BORINGS. **(PROVIDED)**

D. LOCATION AND TYPE OF SIGNIFICANT EXISTING VEGETATION. **(PROVIDED)**

E. LOCATION AND ELEVATIONS OF EXISTING WATER COURSES AND WATER BODIES, INCLUDING COUNTY DRAINS AND MAN-MADE SURFACE DRAINAGE WAYS, FLOODPLAINS, AND WETLANDS. **(PROVIDED)**

F. LOCATION OF EXISTING AND PROPOSED BUILDINGS AND INTENDED USES THEREOF, AS WELL AS THE LENGTH, WIDTH, AND HEIGHT OF EACH BUILDING AND TYPICAL ELEVATION VIEWS OF PROPOSED STRUCTURES. **(PROVIDED)**

G. PROPOSED LOCATION OF ACCESSORY STRUCTURES, BUILDINGS AND USES, INCLUDING BUT NOT LIMITED TO ALL FLAGPOLES, LIGHT POLES, BULKHEADS, DOCKS, STORAGE SHEDS, TRANSFORMERS, AIR CONDITIONERS, GENERATORS AND SIMILAR EQUIPMENT, AND THE METHOD OF SCREENING WHERE APPLICABLE. **(PROVIDED)**

H. LOCATION OF EXISTING PUBLIC ROADS, RIGHTS-OF-WAY AND PRIVATE EASEMENTS OF RECORD AND ABUTTING STREETS. **(PROVIDED)**

I. LOCATION OF AND DIMENSIONS OF PROPOSED STREETS, DRIVES, CURB CUTS, AND ACCESS EASEMENTS, AS WELL AS ACCELERATION, DECELERATION AND PASSING LANES, (IF ANY) SERVING THE DEVELOPMENT. DETAILS OF ENTRYWAY AND SIGN LOCATIONS SHOULD BE SEPARATELY DEPICTED WITH AN ELEVATION VIEW. **(PROVIDED)**

J. LOCATION, DESIGN, AND DIMENSIONS OF EXISTING AND/OR PROPOSED CURBING, BARRIER FREE ACCESS, CARPORTS, PARKING AREAS (INCLUDING INDICATION OF ALL SPACES AND METHOD OF SURFACING), FIRE LANES AND ALL LIGHTING THEREOF. **(PROVIDED)**

K. LOCATION, SIZE, AND CHARACTERISTICS OF ALL LOADING AND UNLOADING AREAS. **(PROVIDED)**

L. LOCATION AND DESIGN OF ALL SIDEWALKS, WALKWAYS, BICYCLE PATHS AND AREAS FOR PUBLIC USES. **(PROVIDED)**

M. LOCATION, DESIGN AND SPECIFICATIONS OF EXISTING AND PROPOSED SERVICE FACILITIES AND STRUCTURES, ABOVE AND BELOW GROUND, INCLUDING:

a. PUBLIC AND PRIVATE GROUNDWATER SUPPLY WELLS ON-SITE AND RELATED DISTRIBUTION SYSTEMS INCLUDING FIRE HYDRANTS AND SHUT OFF VALVES. **(PROVIDED)**

b. SEPTIC SYSTEMS AND OTHER WASTEWATER TREATMENT SYSTEMS. **(PROVIDED)**

c. AREAS TO BE USED FOR THE STORAGE, USE, LOADING/UNLOADING, RECYCLING, OR DISPOSAL OF HAZARDOUS SUBSTANCES AND POLLUTING MATERIALS, INCLUDING INTERIOR AND EXTERIOR AREAS AS WELL AS ANY CONTAINMENT STRUCTURES OR CLEAR ZONES REQUIRED BY GOVERNMENT REGULATION OR DESIGNED TO MEET THE STANDARDS OF THIS ARTICLE. **(PROVIDED)**

d. UNDERGROUND STORAGE TANK LOCATIONS TOGETHER WITH CONNECTED DISTRIBUTION AND COLLECTION SYSTEMS. **(N/A)**

e. LOCATION OF EXTERIOR DRAINS, DRY WELLS, CATCH BASINS, RETENTION/DETENTION AREAS, SUMPS AND OTHER FACILITIES DESIGNED TO COLLECT, STORE OR TRANSPORT WASTEWATER OR STORMWATER TO THE NATURALLY OCCURRING AQUIFER. THE POINT OF DISCHARGE FOR ALL DRAINS AND PIPES SHALL BE SPECIFIED ON THE SITE PLAN. **(PROVIDED)**

A. LOCATION OF AL OTHER UTILITIES ON THE SITE INCLUDING, BUT NOT LIMITED TO NATURAL GAS, ELECTRIC CABLE TV, TELEPHONE, AND STEAM. **(PROVIDED)**

B. PROPOSED LOCATION DIMENSIONS AND DETAILS OF COMMON OPEN SPACES AND COMMON FACILITIES SUCH AS COMMUNITY BUILDINGS OR SWIMMING POOLS IF APPLICABLE. **(PROVIDED)**

C. LOCATION, SIZE, AND SPECIFICATIONS OF ALL SIGNS, BOTH TEMPORARY AND PERMANENT, AND ADVERTISING FEATURES, WITH CROSS-SECTIONS, IF APPLICABLE. **(PROVIDED)**

D. EXTERIOR LIGHTING LOCATIONS WITH AREA OF ILLUMINATION ILLUSTRATED AS WELL AS THE TYPE OF FIXTURES AND SHIELDING TO BE USED. **(PROVIDED)**

E. LOCATION AND SPECIFICATIONS FOR ALL FENCES, WALLS, AND OTHER SCREENING FEATURES WITH CROSS SECTIONS. **(N/A)**

F. LOCATION AND SPECIFICATIONS FOR ALL PROPOSED PERIMETER AND INTERNAL LANDSCAPING AND OTHER BUFFERING FEATURES. FOR EACH NEW LANDSCAPE MATERIAL, THE PROPOSED SIZE AT THE TIME OF PLANTING MUST BE INDICATED. ALL VEGETATION TO BE RETAINED ON THE SITE MUST ALSO BE INDICATED, AS WELL AS ITS TYPICAL SIZE BY GENERAL LOCATION OR RANGE OF SIZES AS APPROPRIATE. **(PROVIDED; EXISTING TO REMAIN)**

G. LOCATION, SIZE, AND SPECIFICATIONS FOR SCREENING AND FENCING OF ALL TRASH RECEPTACLES AND OTHER SOLID WASTE OR LIQUID WASTE DISPOSAL FACILITIES. **(PROVIDED)**

H. DELINEATION OF AREAS ON THE SITE WHICH ARE KNOWN OR SUSPECTED TO BE CONTAMINATED, TOGETHER WITH A REPORT ON THE STATUS OF SITE CLEAN-UP. **(N/A)**

I. IDENTIFICATION OF ANY SIGNIFICANT SITE AMENITIES OR UNIQUE NATURAL FEATURES. **(PROVIDED)**

J. IDENTIFICATION OF ANY SIGNIFICANT VIEWS ONTO OR FROM THE SITE TO OR FROM ADJOINING AREAS. **(N/A)**

K. A SCALE MODEL OF THE PROPOSED DEVELOPMENT MAY BE REQUIRED FOR ALL PROJECTS GREATER THAN 40 ACRES, WITH MORE THAN 200 DWELLING UNITS, MORE THAN 40,000 SQUARE FEET OF BUILDING SPACE OR A PROPOSED HEIGHT OF A PRINCIPAL STRUCTURE OF GREATER THAN 35 FEET. **(N/A)**

L. NORTH ARROW, SCALE AND DATE OF ORIGINAL SUBMITTAL AND LAST REVISION. **(PROVIDED)**

M. SEAL OF THE REGISTERED ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT, SURVEYOR, OR PLANNER WHO PREPARED THE PLAN. **(PROVIDED)**

GENERAL NOTES:

1. DO NOT SCALE DRAWINGS!!! ALL NECESSITY DIMENSIONS ARE GIVEN. SHOULD ANY QUESTIONS ARISE REGARDING DIMENSIONS THEY SHOULD BE DIRECTED TO THE ATTENTION OF THE ARCHITECT

2. ALL SITE INFORMATION WAS TAKEN FROM AN ARCHITECTURAL SURVEY PERFORMED BY ???

3. ALL WORK TO BE DONE ACCORDING TO ALL APPLICABLE CODES AND ORDINANCES AS WELL AS THE BEST PRACTICE AND STANDARDS OF THE TRADE. ALL SUBCONTRACTORS SHALL BE RESPONSIBLE FOR OBTAINING PROPER PERMITS AND PAYING ALL APPLICABLE FEES.

4. EROSION CONTROL NOTES: DEVELOPER SHALL SUBMIT A DETAILED EROSION CONTROL PLAN AND OBTAIN A PART 91, ACT 451 PERMIT (IF APPLICABLE) PRIOR TO ANY EARTH CHANGES. THE DEVELOPER SHALL PROTECT ALL EXISTING AND PROPOSED STORM SEWER FACILITIES ON AND ADJACENT TO THE SITE DURING EXCAVATION AND CONSTRUCTION.

ZONING INFORMATION

PARCEL #28-13-004-012-32 ZONING: N, INDUSTRIAL

REQUIRED SETBACKS:

FRONT SETBACK REQ. = 50'-0"
PROVIDED = 50'-0"

SIDE SETBACK REQ.= 60'-0" @ NORTH
15'-0" @ SOUTH

PROVIDED = 60'-0" @ NORTH
15'-0" @ SOUTH

REAR SETBACK REQ. = 30'-0"
PROVIDED = 30'-0"

MAX. STRUCTURE HEIGHT ALLOWED = 35'-0"
PROPOSED = 30'-7"

MAX. STRUCTURE LOT COVERAGE ALLOWED = 40%
PROVIDED = 30%

ADJACENT ZONING:

NORTH: N, INDUSTRIAL
SOUTH: N, INDUSTRIAL
EAST: N, INDUSTRIAL
WEST: C1, COMMERCIAL

GENERAL PROJECT INFO

ZONING: N, INDUSTRIAL

SITE AREA: 5.92 ACRES

PROPOSED LAND USE = LIGHT INDUSTRIAL

PARKING REQUIRED:

INDUSTRIAL:

(2) TWO SPACES FOR EACH (3) THREE EMPLOYEE TOTAL ON ALL SHIFTS, PLUS (1) ONE FOR EACH COMPANY VEHICLE STORED ON SITE.

REQUIRED = 76

OFFICES:

(1) ONE FOR EACH 200 SF OF NET USABLE AREA.

@ 80% NUA = 5,658 / 200 = 29

REQUIRED = 29

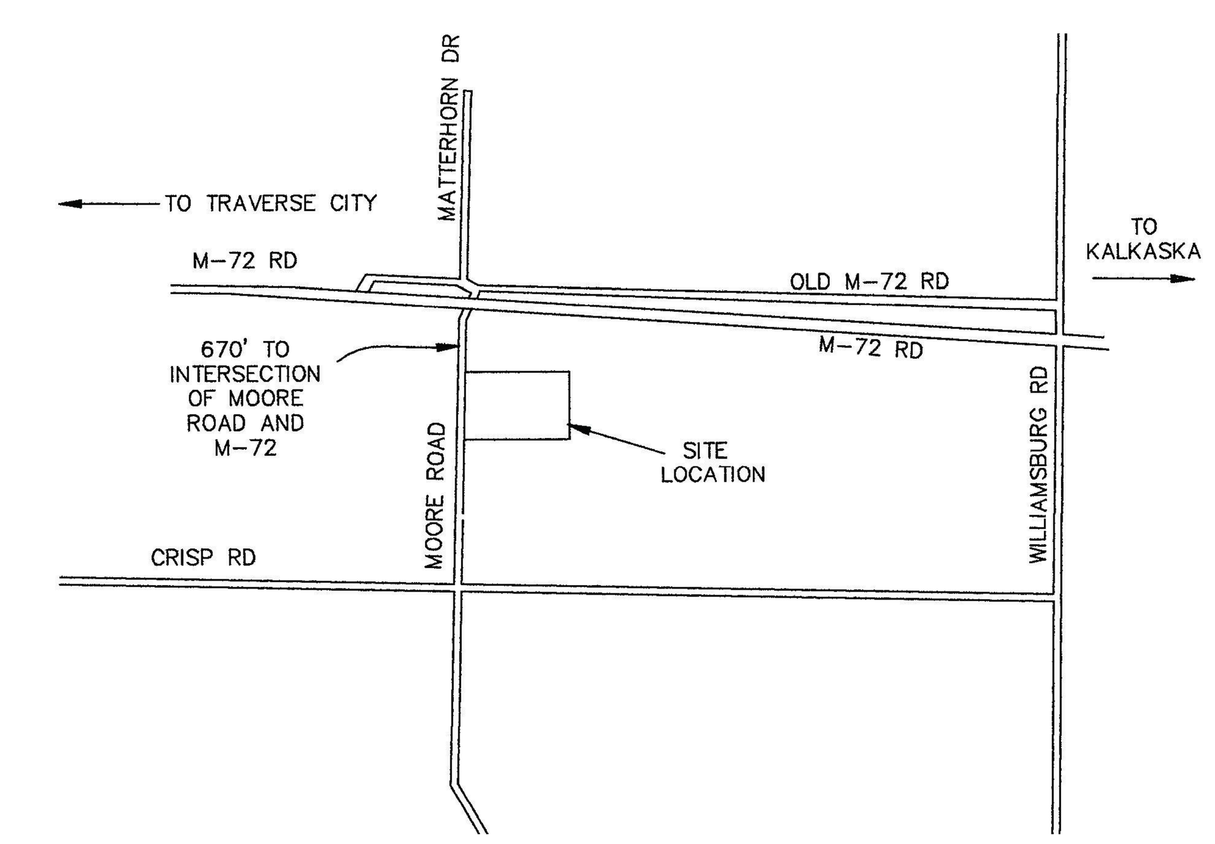
TOTAL REQUIRED = 105

TOTAL PROVIDED: 76 SPACES, INCLUDING 2 BARRIER FREE

CALCULATED AT MAX. TOTAL EMPLOYEES
113 / 3 = 37.67
37.67 x 2 =76 SPACES

EMPLOYEE COUNT

Current = 150				
Plant #	1	2	3	Total
2	39	20	20	79
1	20	15	15	50
3	15	3	3	21
Future = 193				
Plant #	1	2	3	Total
2	53	30	30	113
1	20	15	15	50
3	20	5	5	30



LOCATION MAP
NORTH

WETLAND NOTE

THERE ARE NO WETLANDS AS PER NATIONAL WETLAND INVENTORY MAP

LEGAL DESCRIPTION

PARCEL B:
A parcel of land situated in the Township of Whitewater, County of Grand Traverse, State of Michigan and described as follows to-wit: That part of the Northwest One-quarter of Section 4, Town 27 North, Range 09 West, more fully described as Commencing at the Northwest corner of said Section 4; thence South 00 degree 57 minutes 17 seconds West, (previously recorded as South 0 degree 10 minutes 33 seconds West by Batzer), along the West line of said section, 889.01 feet, to the Point of Beginning; thence South 89 degrees 17 minutes 55 seconds East, 988.89 feet; thence South 00 degree 50 minutes 31 seconds West, 255.72 feet; thence North 89 degrees 16 minutes 11 seconds West, 707.36 feet; thence South 18 degrees 36 minutes 04 seconds West, 20.63 feet; thence North 89 degrees 19 minutes 20 seconds West, 275.78 feet, to the West line of said section; thence North 00 degree 57 minutes 17 seconds East, 275.11 feet, to the Point of Beginning.

C:\Users\rembe\CloudStation\AMAG Jobs\2108 - Grand Traverse Plastics\Revit Model\GTP Campus.rvt

Architect: AMAG
4488 West Bristol Road, Suite 200, Flint, MI 48507 PH: (810) 230-9311

Contractor: RJ RHOADS & JOHNSON

PROPOSED PROJECT FOR:
GRAND TRAVERSE PLASTICS
5814 Moore Rd, Williamsburg, MI 49690

Project Phase:
Design ■
Permit □
Construction □

Date 05-05-21

Rev.	Description
1	SUBMITTED FOR SPR

Revised Last Issue: 5/5/2021 4:57:42 PM

Project # 2108
Drawn by: Author
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SITE PLAN
Sheet
C101

SOIL EROSION AND SEDIMENTATION CONTROL (SESC) NOTES:

1. SOIL EROSION: THE CONTRACTOR SHALL SUBMIT A DETAILED SOIL EROSION AND SEDIMENTATION CONTROL PLAN AND OBTAIN AN ACT 451 PART 91, SOIL EROSION AND SEDIMENTATION CONTROL PERMIT. THIS INCLUDES THE PAYMENT OF FEES AND THE PROVIDING OF NECESSARY BONDS. NO EARTH CHANGES OR EXCAVATION SHALL BE STARTED PRIOR TO THE ISSUANCE OF THIS PERMIT. THE CONTRACTOR SHALL PROTECT ALL EXISTING AND PROPOSED STORM SEWER FACILITIES ON AND ADJACENT TO THE SITE DURING EXCAVATION AND CONSTRUCTION. ALL SEDIMENT SHALL BE CONTAINED ON SITE. ANY SILT IN COUNTY DRAINS, STORM SEWER, CULVERTS, ETC. AS A RESULT OF THIS PROJECT, SHALL BE REMOVED BY THE CONTRACTOR AT THE COST OF THE CONTRACTOR.

2. ALL SOIL EROSION AND SEDIMENTATION CONTROL WORK SHALL CONFORM TO ALL APPLICABLE REQUIREMENTS OF FLINT TOWNSHIP AND THE GENESEE COUNTY DRAIN COMMISSIONERS OFFICE- DIVISION OF WATER & WASTE SERVICES (GCDC-WWS). THE CONTRACTOR SHALL OBTAIN A SOIL EROSION AND SEDIMENTATION CONTROL PERMIT OR WAIVER FROM GCDC-WWS PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL COSTS.

3. SOIL EROSION AND SEDIMENTATION CONTROL MEASURES MUST BE PLACED PRIOR TO OR AS THE FIRST STEP IN CONSTRUCTION. SEDIMENT CONTROL PRACTICES WILL BE APPLIED AS A PERIMETER DEFENSE AGAINST ANY TRANSPORTING OF SILT OFF THE SITE.

4. CONTRACTOR SHALL PLACE AND MAINTAIN ALL TEMPORARY EROSION AND SEDIMENTATION CONTROL MEASURES AS REQUIRED BY FLINT TOWNSHIP AND/OR THE GCDC-WWS, AND AS SHOWN ON THESE PLANS. CONTRACTOR SHALL REMOVE TEMPORARY MEASURES AS SOON AS ALL PERMANENT EROSION CONTROL MEASURES HAVE BEEN COMPLETED AND APPROVED BY FLINT TOWNSHIP, AND/OR THE GCDC-WWS.

5. EROSION AND ANY SEDIMENT CREATED FROM WORK ON THIS SITE SHALL BE CONTAINED ON THE SITE AND NOT ALLOWED TO COLLECT ON ANY OFF-SITE AREAS OR IN ANY DRAINAGE FACILITIES. DRAINAGE FACILITIES INCLUDE BOTH NATURAL AND MAN-MADE OPEN DITCHES, STREAMS, STORM DRAINS, LAKES, AND PONDS.

6. ALL MUD, DIRT, AND DEBRIS TRACKED ONTO EXISTING ROADS FROM THIS SITE SHALL BE PROMPTLY REMOVED BY THE CONTRACTOR. ALL MUD, DIRT, AND DEBRIS TRACKED OR SPILLED ONTO PAVED SURFACES WITHIN THIS SITE SHALL BE PROMPTLY REMOVED BY THE CONTRACTOR.

7. CONTRACTOR MUST IMPLEMENT APPROPRIATE MEASURES AS REQUIRED TO CONTROL DUST AT ALL TIMES, AS APPROVED BY DAVISON TOWNSHIP AND/OR THE GCDC-WWS.

8. DAILY INSPECTIONS SHALL BE MADE BY THE CONTRACTOR TO DETERMINE EFFECTIVENESS OF EROSION AND SEDIMENT CONTROL MEASURES, AND ANY NECESSARY REPAIRS SHALL BE PERFORMED WITHOUT DELAY.

9. FAILURE TO COMPLY WITH ALL APPLICABLE SOIL EROSION AND SEDIMENTATION CONTROL REQUIREMENTS MAY RESULT IN WORK STOPPAGE BY DAVISON TOWNSHIP AND/OR THE GCDC-WWS.

10.CONTRACTOR MUST IMMEDIATELY HAUL AWAY ALL EXCAVATED DIRT TO AN APPROVED OFF SITE LOCATION, OR TEMPORARILY STORE THE MATERIAL ON THE SITE. ALL STORED MATERIAL MUST BE PROTECTED TO PREVENT EROSION.

11.THE CONTRACTOR MUST PROVIDE A WRITTEN SCHEDULE INDICATING THE TIMING AND SEQUENCING OF ALL SOIL EROSION AND SEDIMENTATION CONTROL MEASURES AND CONSTRUCTION ITEMS, INCLUDING THE INSTALLATION OF ALL PERMANENT SOIL EROSION AND SEDIMENTATION CONTROL MEASURES.

12. APPROXIMATELY 4.75 ACRES WILL BE DISTURBED IN CONSTRUCTION OF THIS PROJECT, THEREFORE A NPDES STORM WATER DISCHARGE PERMIT WILL NOT BE REQUIRED.

SESC MAINTENANCE NOTES:

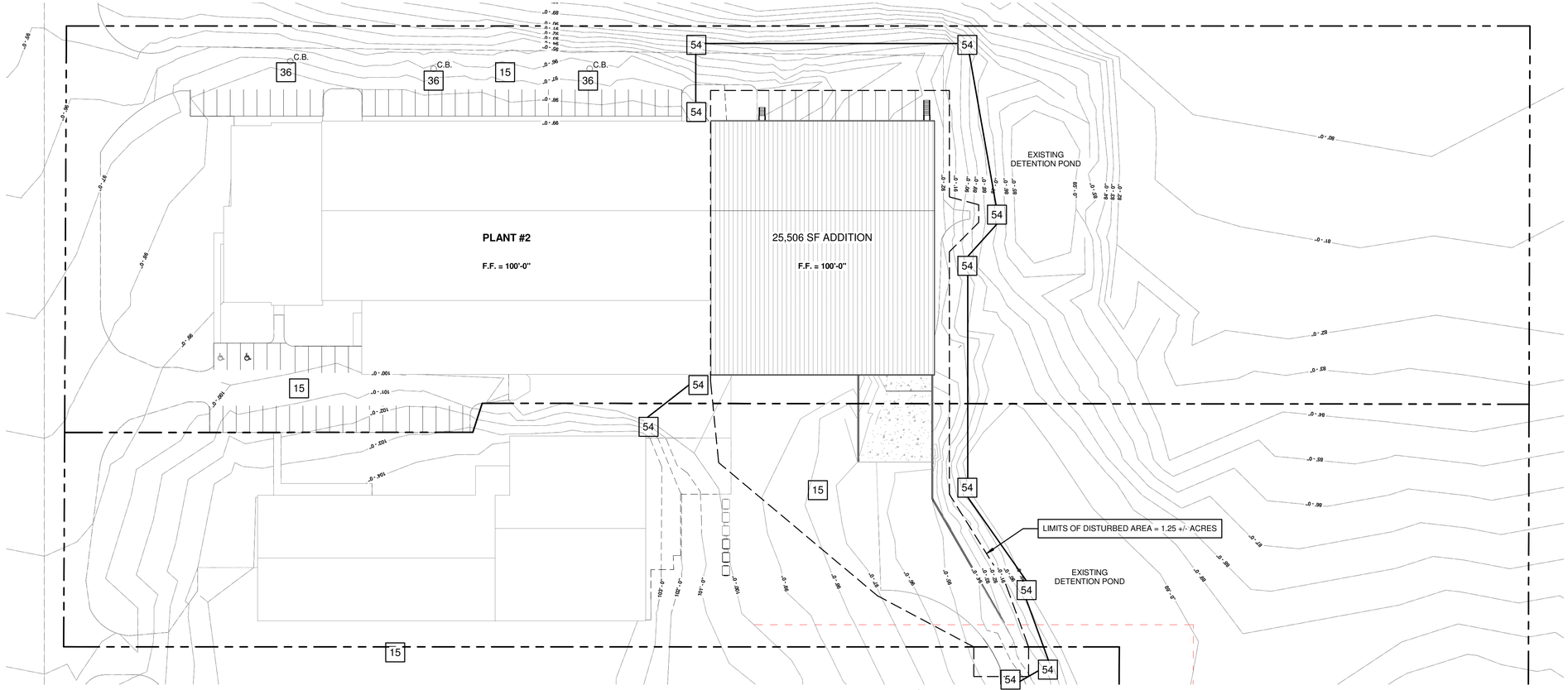
1. FILTER BARRIERS SHALL BE INSPECTED IMMEDIATELY AFTER EACH RAINFALL AND AT LEAST DAILY DURING ANY PROLONGED RAINFALL. ANY REQUIRED REPAIRS SHALL BE MADE IMMEDIATELY.

2. IF THE FABRIC DECOMPOSES OR BECOMES INEFFECTIVE PRIOR TO THE END OF THE EXPECTED USABLE LIFE, AND THE BARRIER IS STILL REQUIRED, THE FABRIC SHALL BE
REPLACED PROMPTLY.

3. ALL TEMPORARY EROSION CONTROL MEASURES SHALL BE CLEANED AND MAINTAINED AS REQUIRED SUCH THAT THE MEASURES ARE EFFECTIVE AND IN PROPER WORKING ORDER AT ALL TIMES.

4. ALL MUD/DIRT TRACKED ONTO ROADS OR THE PARKING LOT FROM THE SITE DUE TO CONSTRUCTION, SHALL BE PROMPTLY REMOVED BY THE CONTRACTOR.

5. ALL SOIL EROSION AND SEDIMENTATION CONTROL MEASURES, BOTH PERMANENT AND TEMPORARY, SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.



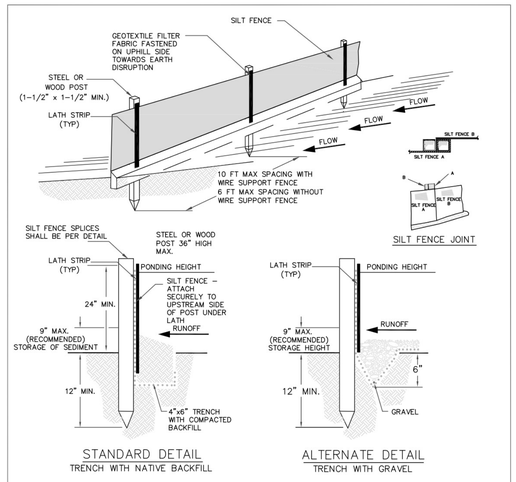
SITE GRADING PLAN
1" = 40'-0"

NORTH

AREA OF DISTURBANCE = 1.25 +/- ACRES

SOIL EROSION CONTROL KEYING SYSTEM

KEY	DETAIL	CHARACTERISTICS
1	STRIPPING & STOCKPILING TOPSOIL	TOPSOIL MAY BE STOCKPILED ABOVE BORROW AREAS TO ACT AS A DIVERSION. STOCKPILE SHOULD BE TEMPORARILY SEEDED
6	SODDING WITH MULCH AND/OR MATTING	FACILITATES ESTABLISHMENT OF VEGETATIVE COVER. EFFECTIVE FOR DRAINAGEWAYS WITH LOW VELOCITY. EASILY PLACED IN SMALL QUANTITIES BY INEXPERIENCED PERSONNEL. SHOULD INCLUDE PREPARED TOPSOIL BED
8	SEEDING	PROVIDES IMMEDIATE PROTECTION. CAN BE USED ON STEEP SLOPES WHERE SEED MAY BE DIFFICULT TO ESTABLISH. EASY TO PLACE, MAY BE REPAIRED IF DAMAGED. SHOULD INCLUDE PREPARED TOPSOIL BED
13	RIPRAP, RUBBLE OR GABIONS	USED WHERE VEGETATION IS NOT EASILY ESTABLISHED. EFFECTIVE FOR HIGH VELOCITIES OR HIGH CONCENTRATIONS. PERMITS RUNOFF TO INFILTRATE SOIL. DISSIPATES ENERGY FLOW AT SYSTEM OUTLETS
14	AGGREGATE COVER	STABILIZES SOIL SURFACE, THUS MINIMIZING EROSION. PERMITS CONSTRUCTION TRAFFIC IN ADVERSE WEATHER. MAY BE USED AS PART OF PERMANENT BASE CONSTRUCTION OF PAVED AREAS
15	PAVING	PROTECTS AREAS WHICH CANNOT OTHERWISE BE PROTECTED, BUT INCREASES RUNOFF VOLUME AND VELOCITY. IRREGULAR SURFACE WILL HELP SLOW VELOCITY
16	CURB AND GUTTER	KEEPS HIGH VELOCITY RUNOFF ON PAVED AREAS FROM LEAVING PAVED SURFACE. COLLECTS AND CONDUCTS RUNOFF TO ENCLOSED DRAINAGE SYSTEM OR PREPARED DRAINAGEWAY
21	FILTER BERM	CONSTRUCTED OF GRAVEL OR STONE. INTERCEPTS AND DIVERTS RUNOFF TO STABILIZED AREAS OR PREPARED DRAINAGE SYSTEMS. SLOWS RUNOFF AND COLLECTS SEDIMENT
24	GRASSED WATERWAY	MUCH MORE STABLE FORM OF DRAINAGE WAY THAN BARE CHANNEL. GRASS TENDS TO SLOW RUNOFF AND FILTER OUT SEDIMENT. USED WHERE BARE CHANNELS WOULD BE ERODED
36	CATCH BASIN DRAIN INLET	COLLECTS HIGH VELOCITY CONCENTRATED RUNOFF. PLACE FILTER RAG UNDER INLET
54	SILT FENCE	USES GEOTEXTILE FABRIC AND POSTS OR POLES. EASY TO CONSTRUCT AND LOCATE AS NECESSARY



STANDARD DETAIL
TRENCH WITH NATIVE BACKFILL

ALTERNATE DETAIL
TRENCH WITH GRAVEL

APPLICATIONS

1. INSTALLED TO REDUCE SEDIMENT LADEN SURFACE RUNOFF FROM LEAVING THE PROPERTY OF A CONSTRUCTION SITE INVOLVING DISTURBED EARTH.
2. DIVERSIONARY STRUCTURE.

DESIGN

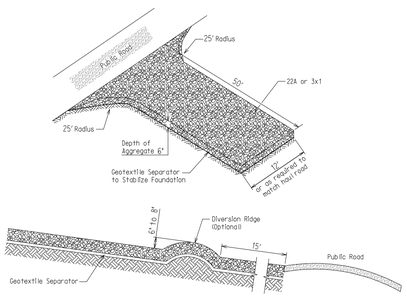
1. INSTALL AROUND THE BASE OF SOIL STOCKPILES.
2. UTILIZE FOR SHEET FLOW ONLY.

DESIGN (CONT)

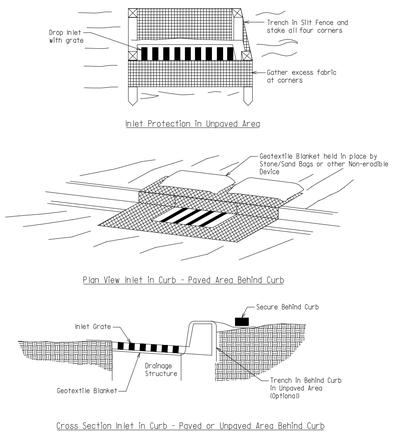
3. INSTALL ON DOWN STREAM SIDE OF CONSTRUCTION.
4. SILT FENCE SHALL BE PLACED ON SLOPE CONTOURS TO MAXIMIZE PONDING EFFICIENCY.
5. IF POSSIBLE LOCATE FENCE 10-FT. FROM TOP OF SLOPE, WETLAND OR WATER BODY.
6. JOIN SECTIONS OF SILT FENCE BY WRAPPING THE ENDS TOGETHER.

SILT FENCE 54

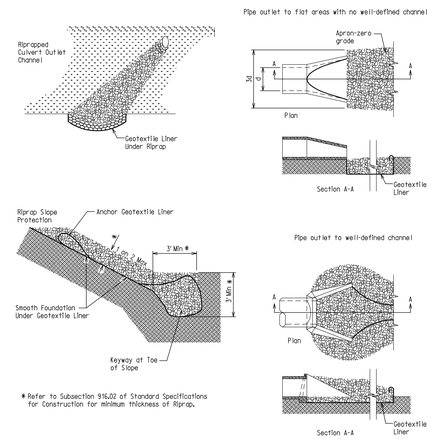
SESC SILT FENCE DETAIL



MUD MAT DETAIL



CATCH BASIN FILTER DETAIL



RIP RAP DETAIL

SOILS MAP

Architect:
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Contractor:
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Revised Last Issue: 5/5/2021 4:57:44 PM

Project # 2108
Drawn by: Author
Checked by: Checker

GRADING & SOIL EROSION PLAN

Sheet
C102

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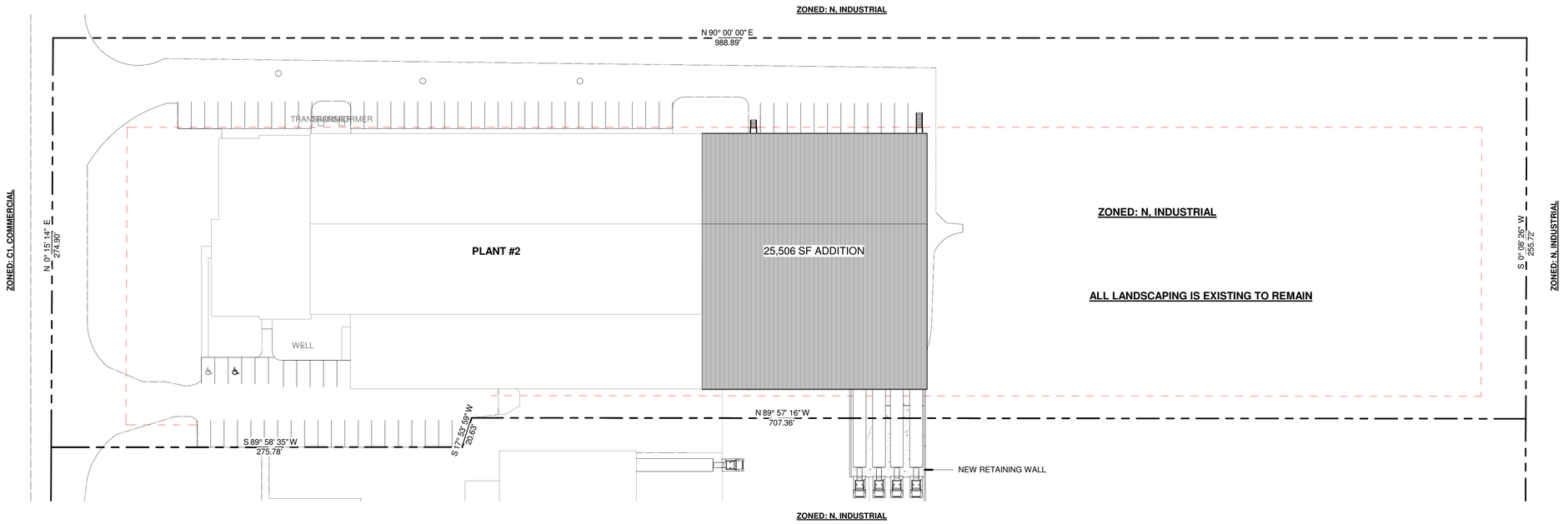
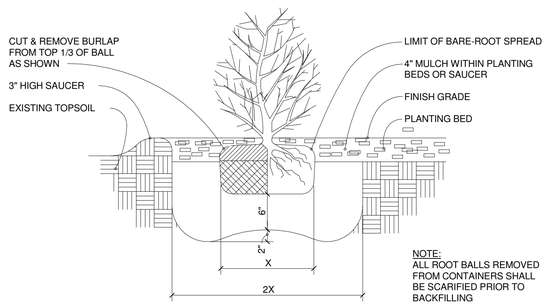
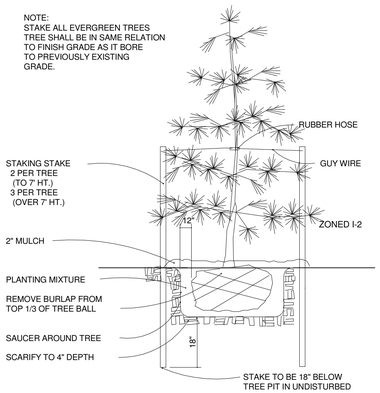


LANDSCAPE PLAN
1" = 40'-0"

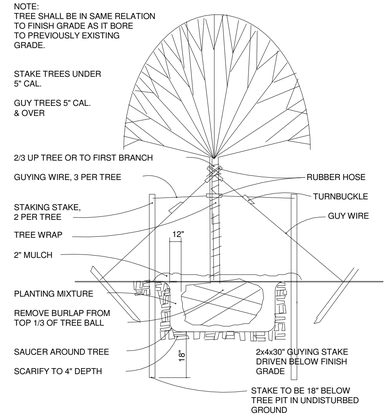
NORTH



1 C103 PLANTING DETAIL 1
6" = 1'-0"



2 C103 PLANTING DETAIL 2
6" = 1'-0"



3 C103 PLANTING DETAIL 3
6" = 1'-0"

Architect:
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Contractor:
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Date
05-05-21

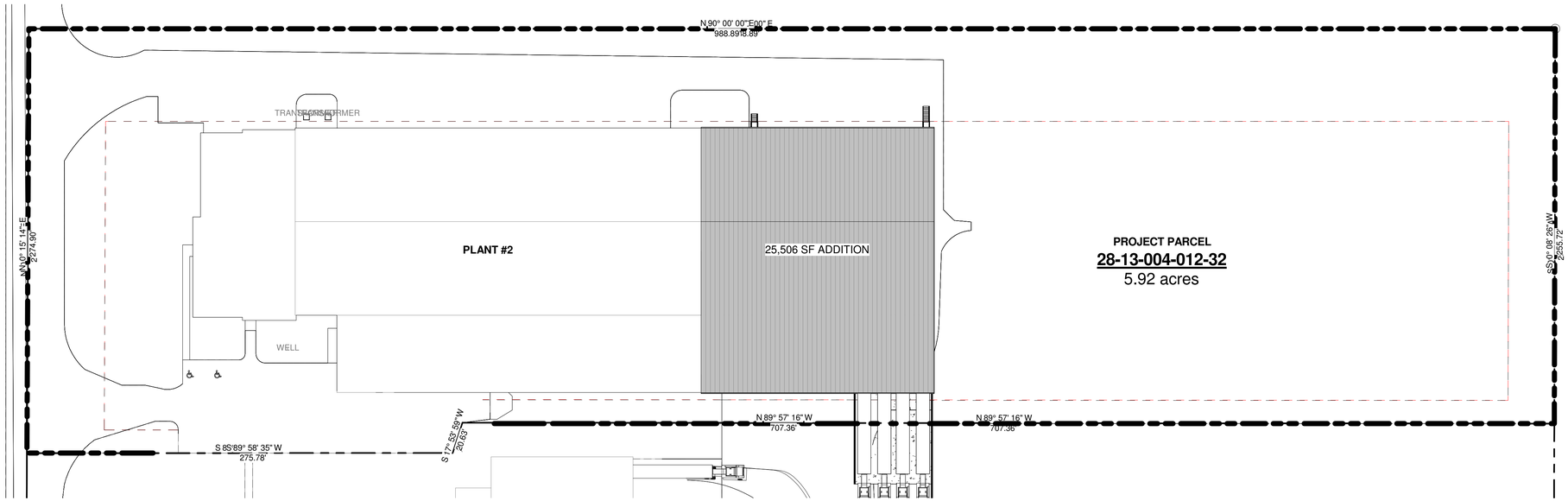
Rev.	Description
1	SUBMITTED FOR SPR

Revised Last Issue: 5/5/2021 4:57:45 PM

Project # 2108
Drawn by: Author
Checked by: Checker

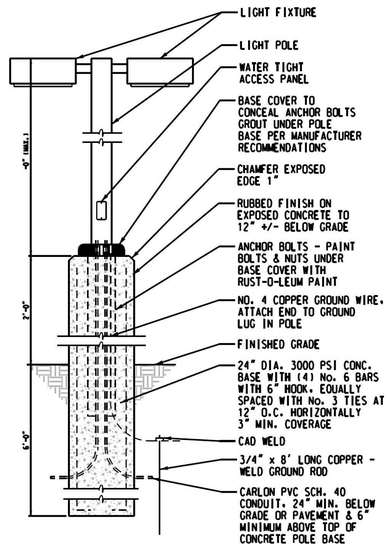
LANDSCAPE PLAN

Sheet
C103



SITE PHOTOMETRIC PLAN
1" = 40'-0"

NORTH



LIGHT POLE DETAIL
NO SCALE

D-Series Size 1
LED Area Luminaire

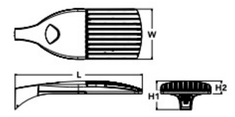
Catalog Number
Notes
Type

Introduction
The modern styling of the D-Series is striking yet unobtrusive - making a bold, progressive statement even as it blends seamlessly with its environment. The D-Series distills the benefits of the latest in LED technology into a high performance, high efficacy, long-life luminaire.

The outstanding photometric performance results in sites with excellent uniformity, greater pole spacing and lower power density. It is ideal for replacing up to 750W metal halide in pedestrian and area lighting applications with typical energy savings of 65% and expected service life of over 100,000 hours.

Specifications

EPA:	1.01 ft² (0.09 m²)
Length:	33" (83.8 cm)
Width:	13" (33.0 cm)
Height H1:	7-1/2" (19.0 cm)
Height H2:	3-1/2"
Weight (max):	27 lbs (12.2 kg)



Ordering Information
EXAMPLE: DSX1 LED P7 40K T3M MVOLT SPA NLTAIR2 PIRHN DDBXD

DSX1 LED

Series	LEDs	Color temperature	Distribution	Voltage	Mounting
DSX1 LED	Forward optics: P1 P4 P7 P2 P5 P8 P3 P6 P9; Rotated optics: P10 P12 P11 P13	30K 3000 K; 40K 4000 K; 50K 5000 K	T1S Type I short; T2S Type II short; T2M Type II medium; T3S Type III short; T3M Type III medium; T4M Type IV medium; TFTM Forward throw medium; T5VS Type V very short; T5S Type V short; T5M Type V medium; T5W Type V wide; BLC Backlight control; LCCO Left corner cutoff; RCCO Right corner cutoff	MVOLT; XVOLT (277V-480V); 120; 208; 240; 277; 347; 480	Shipped included: SPA Square pole mounting; RPA Round pole mounting; WBA Wall bracket; SPUMBA Square pole universal mounting adaptor; RPUMBA Round pole universal mounting adaptor; Shipped separately: KMAB DDBXD U Mast arm mounting bracket adaptor (specify finish)

Control options		Other options	Finish (required)
Shipped installed: NLTAIR2 nLight AIR generation 2 enabled; PIRHN Network, high/low motion/ambient sensor; PER NEMA twist-lock receptacle only (controls ordered separate); PERS Five-pin receptacle only (controls ordered separate); PER7 Seven-pin receptacle only (controls ordered separate); DMG 0-10v dimming wires pulled outside fixture (for use with an external control, ordered separately); DS Dual switching	PIR High/low, motion/ambient sensor, 8-15' mounting height, ambient sensor enabled at 5fc; PIRH High/low, motion/ambient sensor, 15-30' mounting height, ambient sensor enabled at 5fc; PIR1FC3V High/low, motion/ambient sensor, 8-15' mounting height, ambient sensor enabled at 1fc; PIRH1FC3V Bi-level, motion/ambient sensor, 15-30' mounting height, ambient sensor enabled at 1fc; FAO Field adjustable output	Shipped installed: HS House-side shield; SF Single fuse (120, 277, 347V); DF Double fuse (208, 240, 480V); LWA Left rotated optics; RWA Right rotated optics; HA 50°C ambient operations; Shipped separately: BS Bird spikes; EGS External glare shield	DDBXD Dark bronze; DBLXD Black; DNAXD Natural aluminum; DWHXD White; DDBTXD Textured dark bronze; DBLBXD Textured black; DNATXD Textured natural aluminum; DWHGXD Textured white

LITHONIA LIGHTING
COMMERCIAL OUTDOOR

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DSX1-LED
Rev. 11/16/20
Page 1 of 8

Architect:
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05-05-21

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1	SUBMITTED FOR SPR	

Project #	2108
Drawn by:	Author
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SITE PHOTOMETRIC PLAN

Sheet
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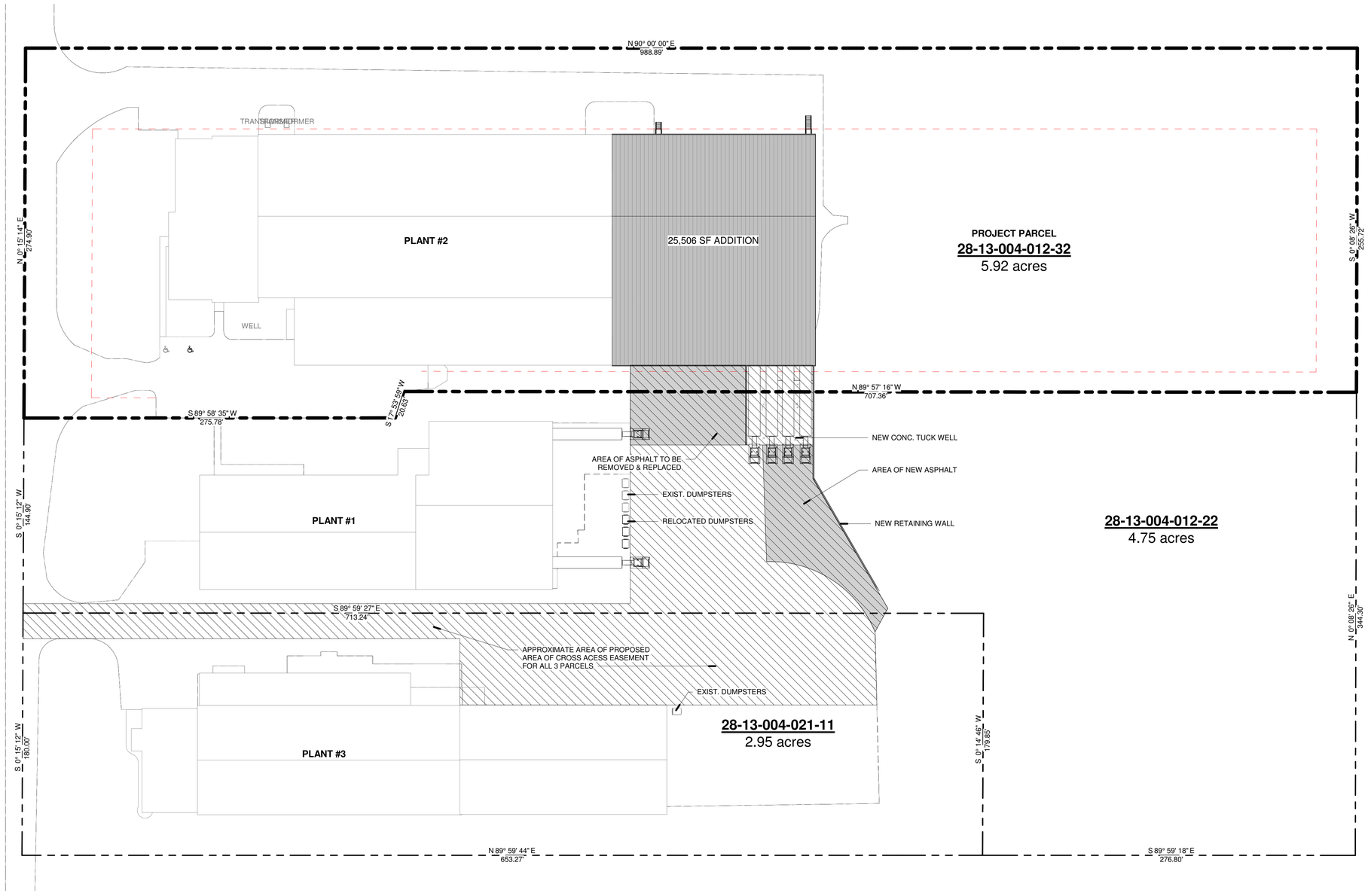

SITE PLAN - CAMPUS

1" = 40'-0"

NORTH

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1	SUBMITTED FOR SPR	

Project #	2108
Drawn by:	Author
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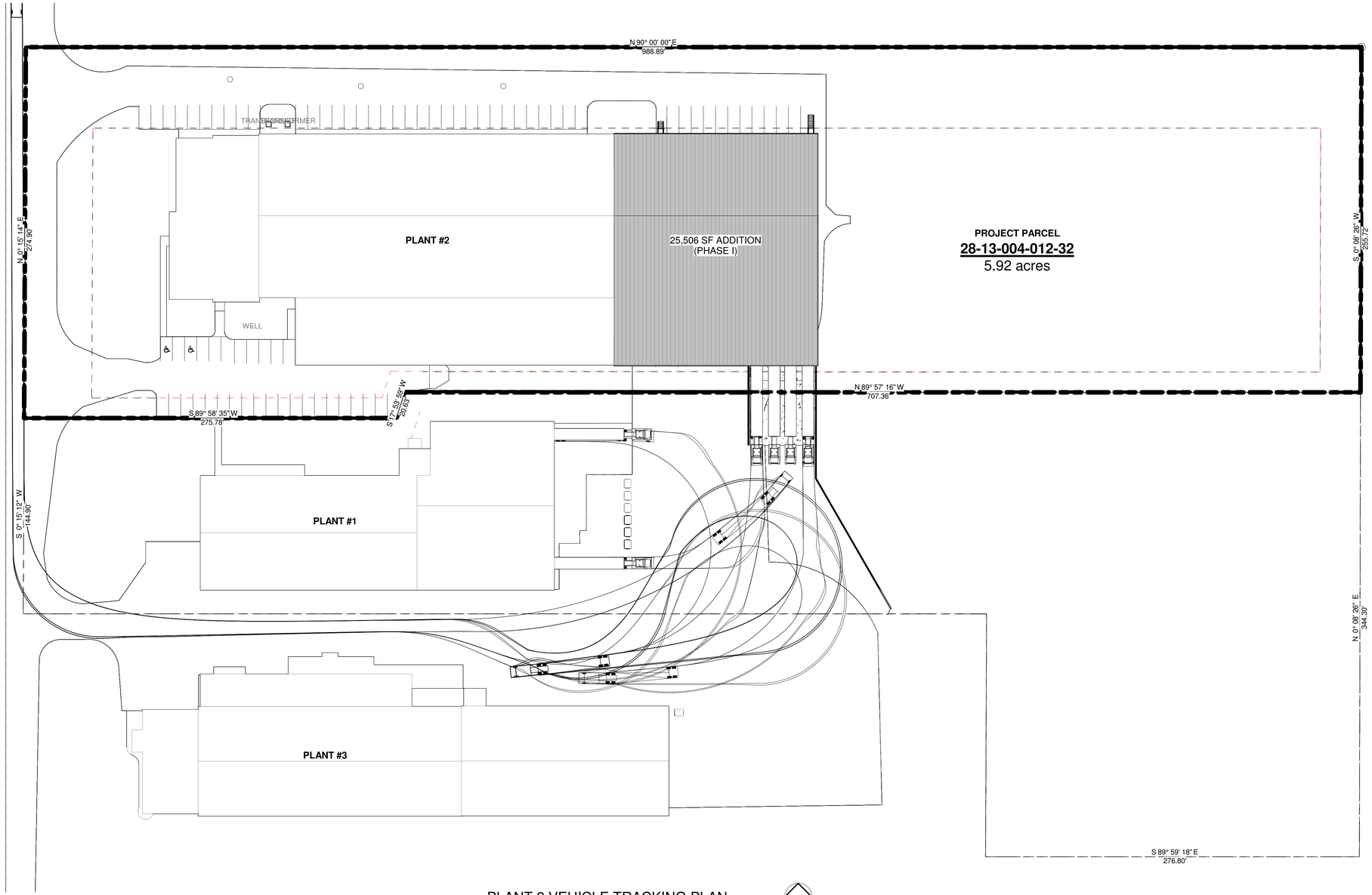
CAMPUS SITE PLAN

Sheet
C105



PLANT 2 VEHICLE TRACKING PLAN

1" = 40'-0"

NORTH

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Date
05-05-21

Rev.	Description
1	SUBMITTED FOR SPR

Revised Last Issue: 5/5/2021 4:57:50 PM

Project # 2108

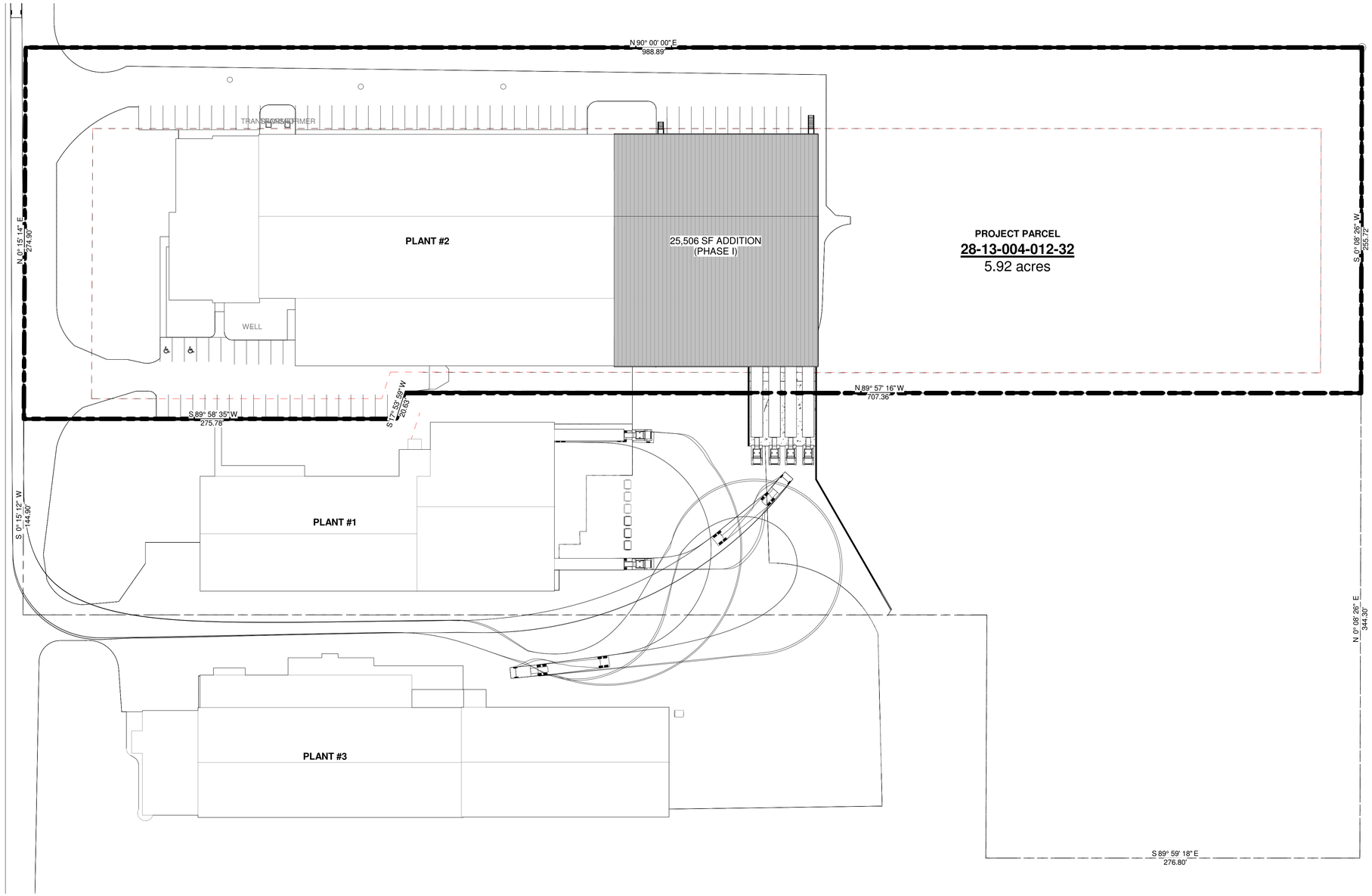
Drawn by: Author

Checked by: Checker

PLANT 2 VEHICLE TRACKING

Sheet

C106



PLANT 1 VEHICLE TRACKING PLAN

1" = 40'-0"

NORTH

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Architect:
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Date
05-05-21

Rev.	Description
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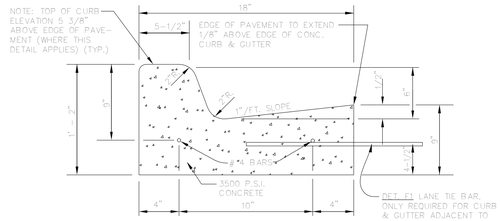
Revised Last Issue: 5/5/2021 4:57:51 PM

Project #	2108
Drawn by:	Author
Checked by:	Checker

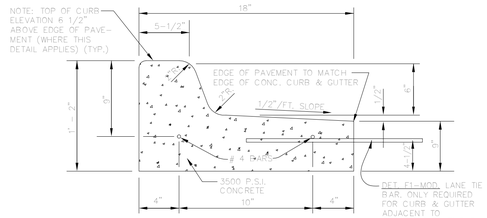
PLANT 1 VEHICLE TRACKING

Sheet

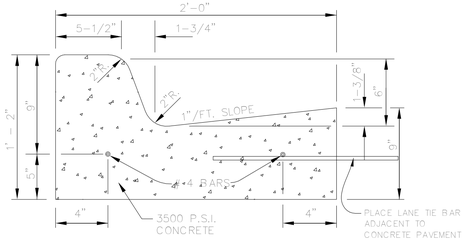
C107



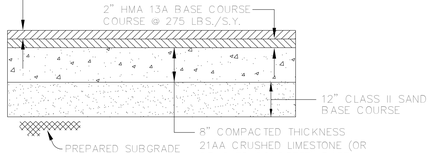
PARKING LOT
CONCRETE CURB & GUTTER DETAIL F2
(W/NORMAL GUTTER GRADE)
APPLIES WHEN GRADE SLOPES TO



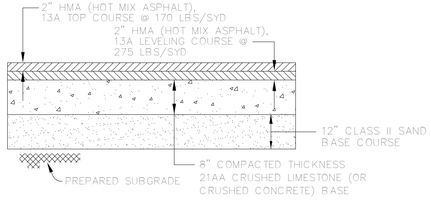
PARKING LOT
CONCRETE CURB & GUTTER DETAIL F2-MOD.
(W/REVERSE GUTTER GRADE)
APPLIES WHEN GRADE SLOPES AWAY



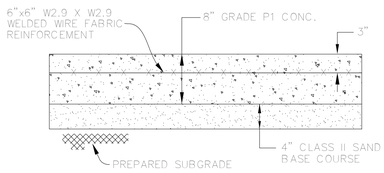
CONCRETE CURB & GUTTER DETAIL F-4
(WITHIN ROAD COMMISSION R.O.W.)



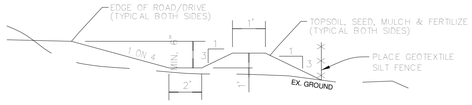
HEAVY DUTY PAVEMENT X-SECTION



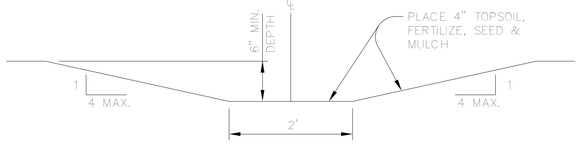
ASPHALT OVER LIMESTONE
PARKING LOT PAVEMENT X-SECTION



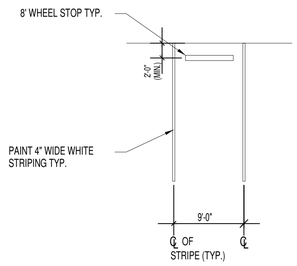
CONCRETE PAVEMENT X-SECTION
AT DUMPSTER LOCATION



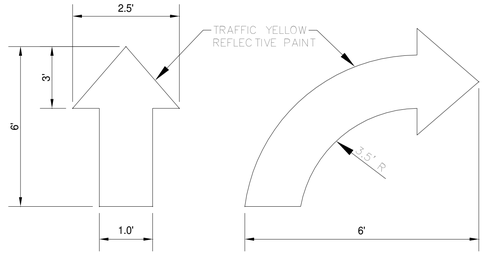
SWALE/BERM DETAIL
ADJACENT TO DRIVEWAY



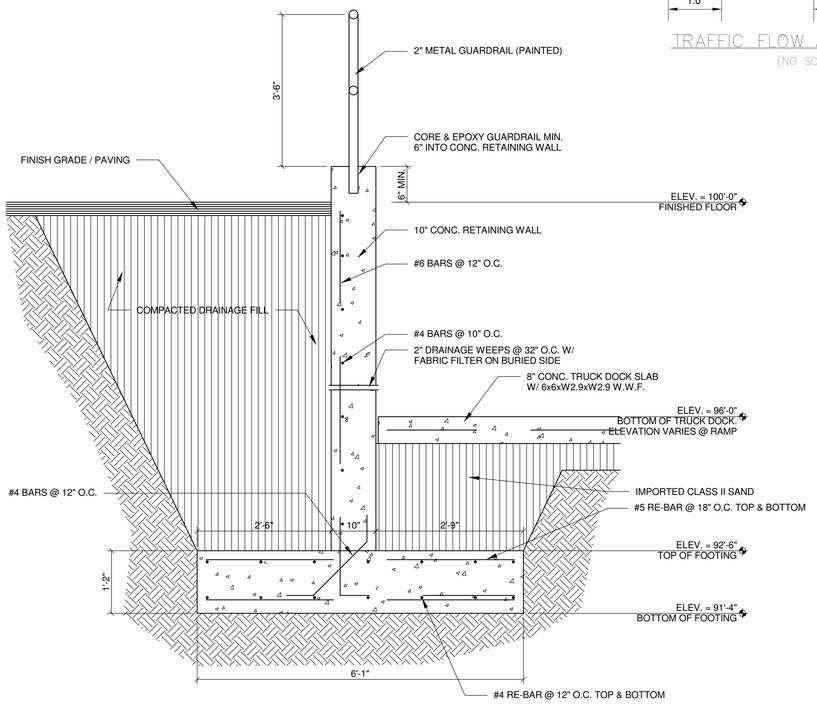
DRAINAGE SWALE DITCH X-SECTION
CONSTRUCT AT 0.40% MIN. SLOPE AT LOCATIONS SHOWN ON PLANS



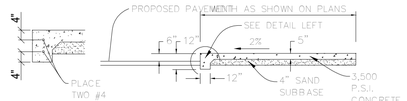
PAVEMENT PARKING
MARKING LAYOUT DETAIL



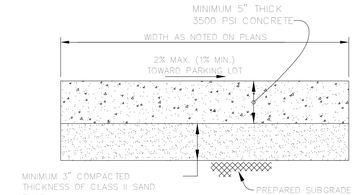
TRAFFIC FLOW ARROW DETAILS
(NO SCALE)



RETAINING WALL DETAIL



PROPOSED THICKENED EDGE
SIDEWALK X-SECTION



CONCRETE SIDEWALK DETAIL

SIDEWALK NOTES:
1. PLACE 1/2" EXPANSION JOINTS AT 50' MAXIMUM INTERVALS.

2. PLACE TRANSVERSE CUT CONSTRUCTION JOINTS AT 5' INTERVALS

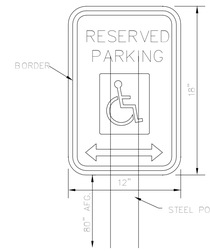
ACCESS RAMP CONSTRUCTION NOTES

1. RAMP SHALL HAVE A 12" WIDE BORDER WITH 1/4" X 1/4" GROOVES @ 3/4" O.C.

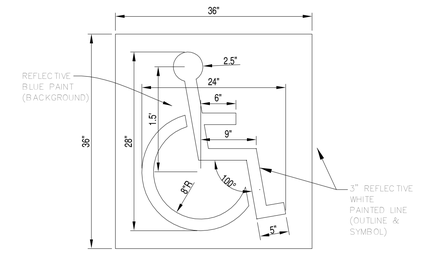
2. THE SURFACE OF THE RAMP SHALL HAVE A TRANSVERSE BROOMED SLIP-RESISTANT SURFACE TEXTURE ROUGHER THAN THE SURROUNDING SIDEWALK.

3. RAMP CONSTRUCTION SHALL COMPLY WITH ALL FEDERAL, STATE AND LOCAL CODES AND REGULATIONS.

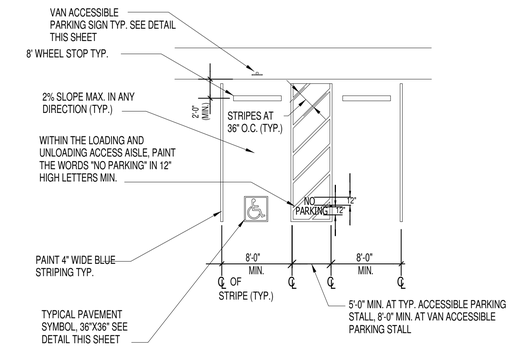
4. THE SIDEWALK RAMP CROSS SECTION SHALL BE A MINIMUM OF 4 INCHES OF 3500 PSI GRADE P1 CONCRETE ON A MINIMUM OF 4 INCHES OF CLASS II SAND SUBBASE.



ACCESSIBLE PKG. SIGN
TYPICAL @ ALL BARRIER FREE STALLS



BARRIER FREE SYMBOL
TYPICAL @ ALL BARRIER FREE STALLS



BARRIER FREE PARKING SPACE
PAVEMENT MARKING LAYOUT DETAIL

Architect:
AMAG
4468 WEST BRISTOL ROAD, SUITE 200, FLINT, MI 48507 PH: (810) 230-1931

Contractor:
RHOADS & JOHNSON

PROPOSED PROJECT FOR:
GRAND TRAVERSE PLASTICS
5814 Moore Rd. Williamsburg, MI 49690

Project Phase:
Design ■
Permit □
Construction □

Date
05-05-21

Rev.	Description	Revised Last Issue: 5/5/2021 4:57:52 PM
1	SUBMITTED FOR SPR	

Project # 2108
Drawn by: Author
Checked by: Checker

SITE DETAILS

Sheet
C108

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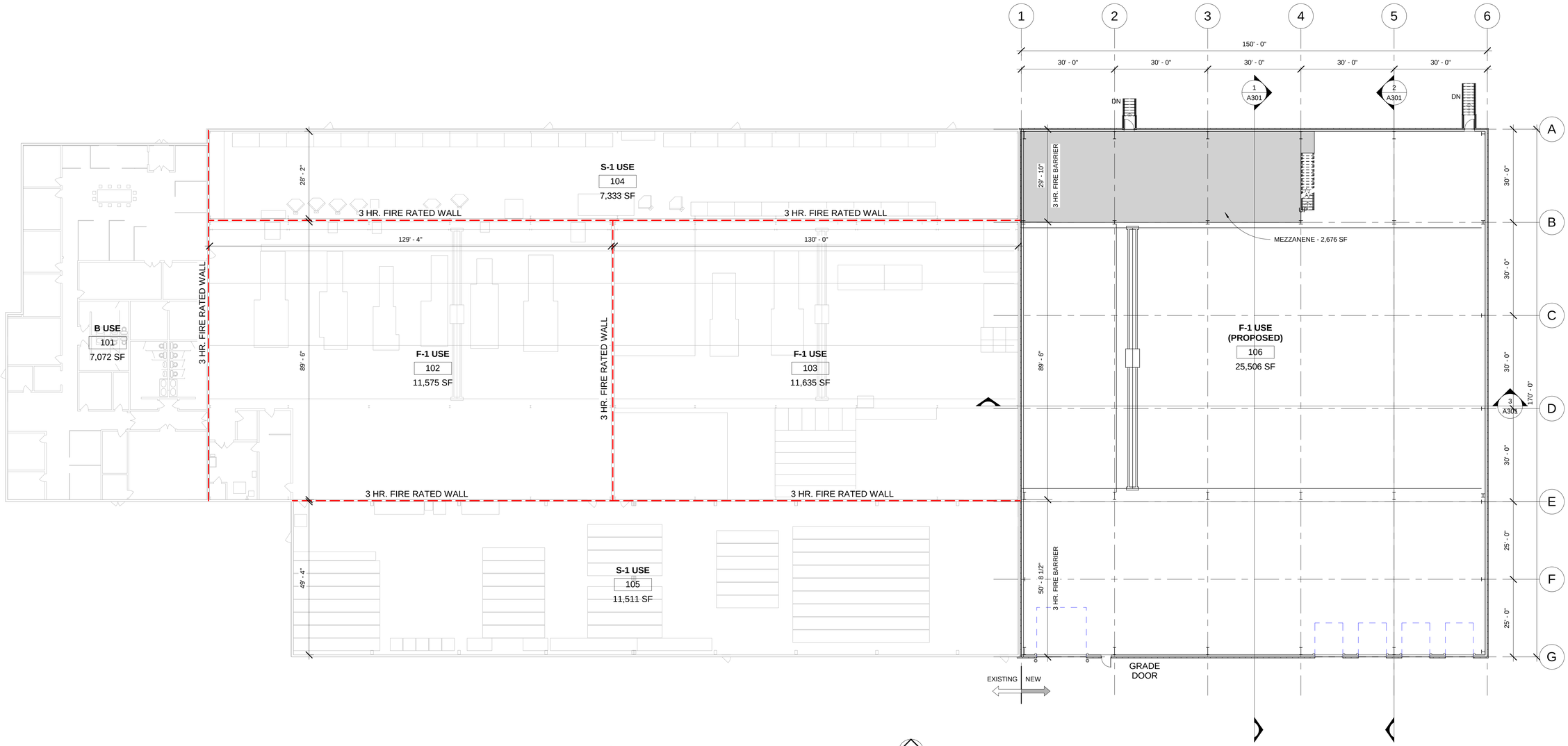

FLOOR PLAN

1/16" = 1'-0"

NORTH

Architect:
AMAG
4488 West Bristol Road, Suite 200, Flint, MI 48507 PH: (810) 230-1931

Contractor:
RHOADS & JOHNSON

PROPOSED PROJECT FOR:

GRAND TRAVERSE PLASTICS, PLANT 2

5814 Moore Rd. Williamsburg, MI 49690

Project Phase:

- Design ■
- Permit □
- Construction □

Date 05-05-21

Rev.	Description	Revised Last Issue: 5/5/2021 4:38:01 PM
1	SUBMITTED FOR SPR	

Project #	2108
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FLOOR PLANS

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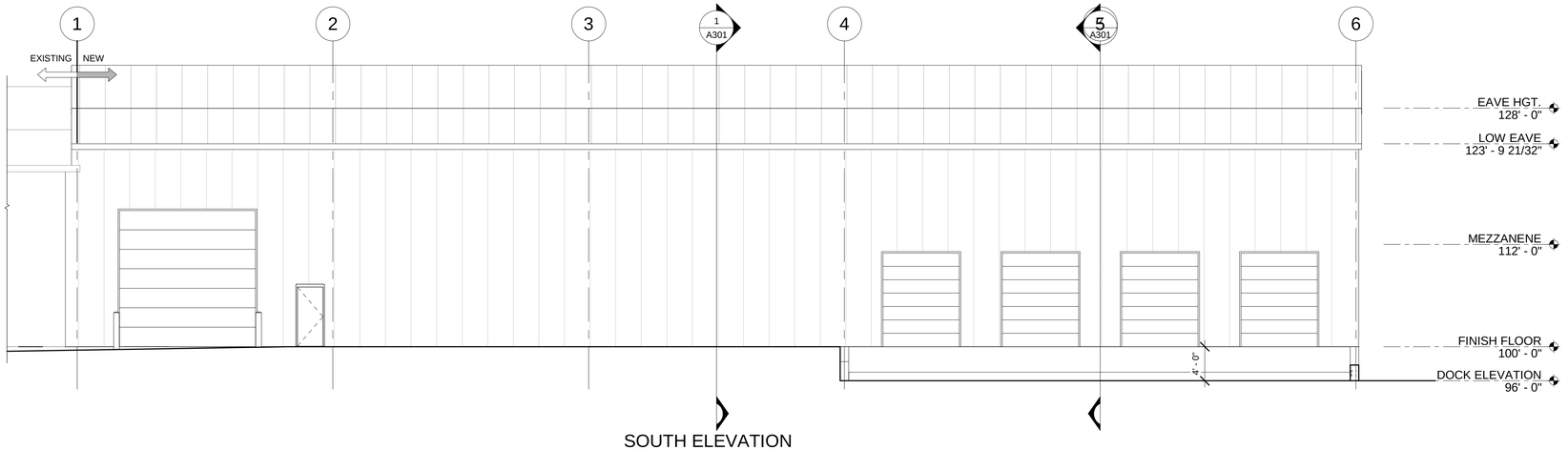
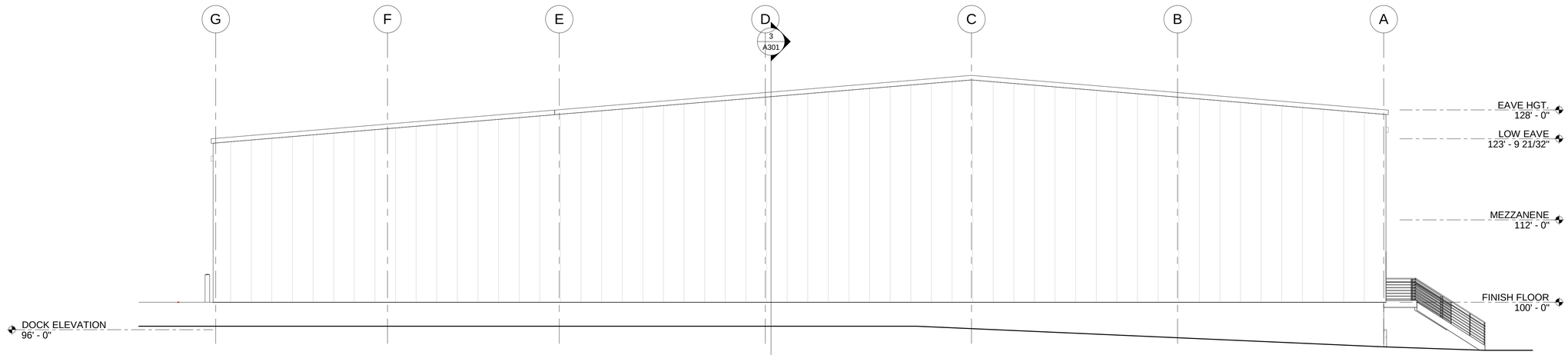
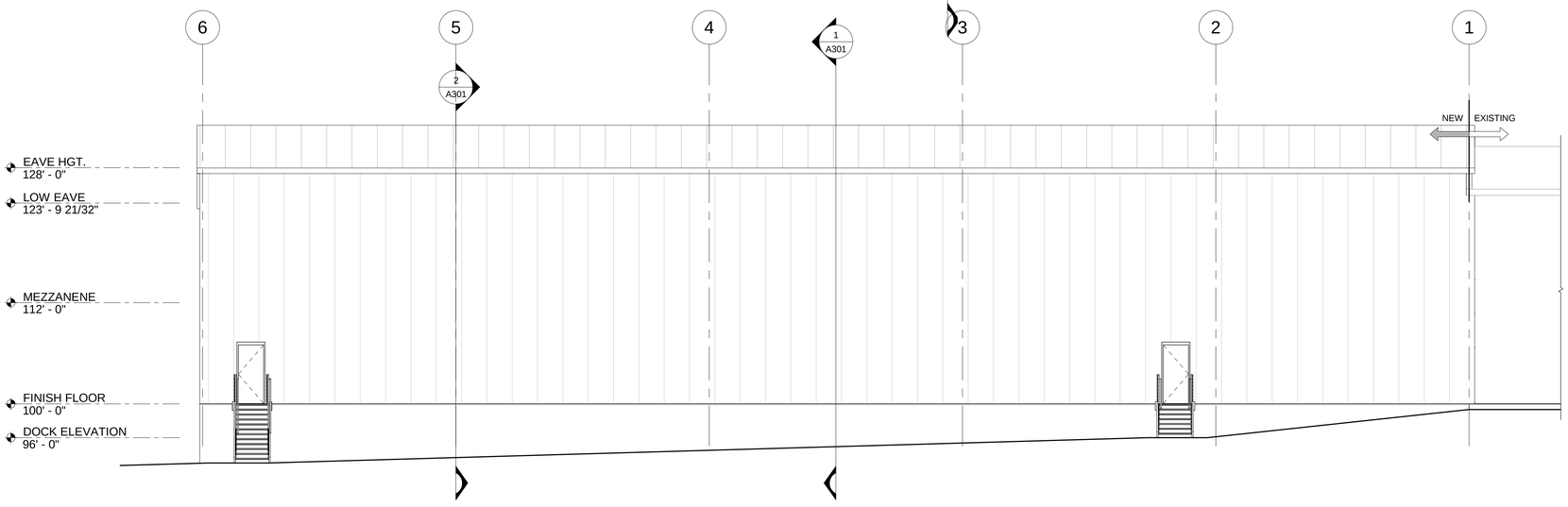
A101



SOUTH ELEVATION
1/8" = 1'-0"



EAST ELEVATION
1/8" = 1'-0"



NORTH ELEVATION
1/8" = 1'-0"

Architect:
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Contractor:
RHOADS & JOHNSON

PROPOSED PROJECT FOR:
GRAND TRAVERSE PLASTICS, PLANT 2
5814 Moore Rd. Williamsburg, MI 49690

Project Phase:
- Design ■
- Permit
- Construction

Date
05-05-21

Rev.	Description	Revised Last Issue: 5/5/2021 4:36:02 PM
1	SUBMITTED FOR SPR	

Project #	2108
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Checked by:	Checker

EXTERIOR ELEVATIONS

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A201

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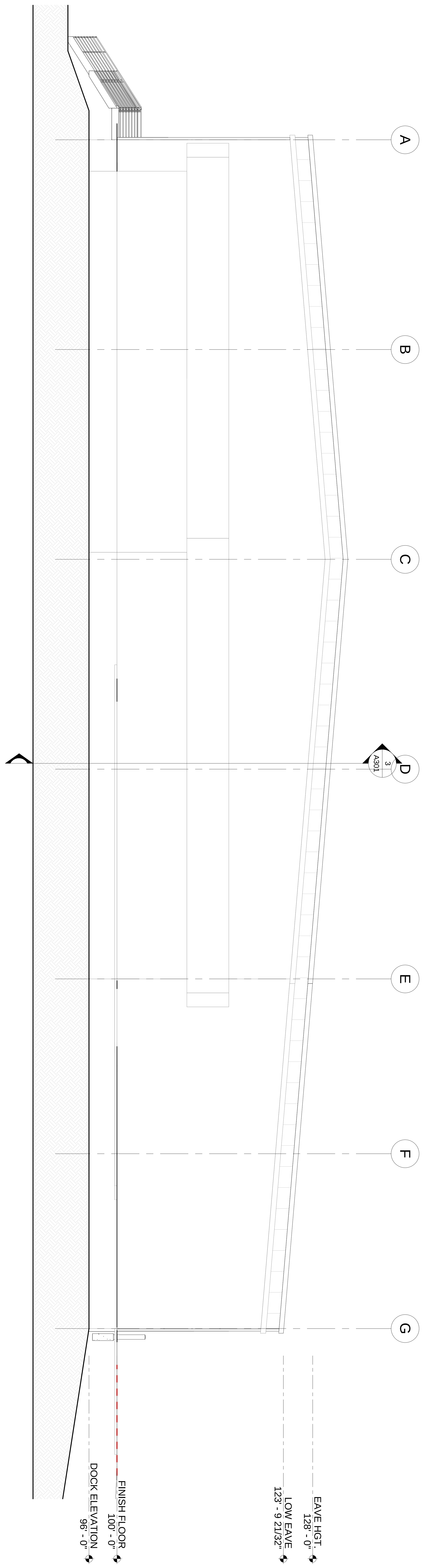
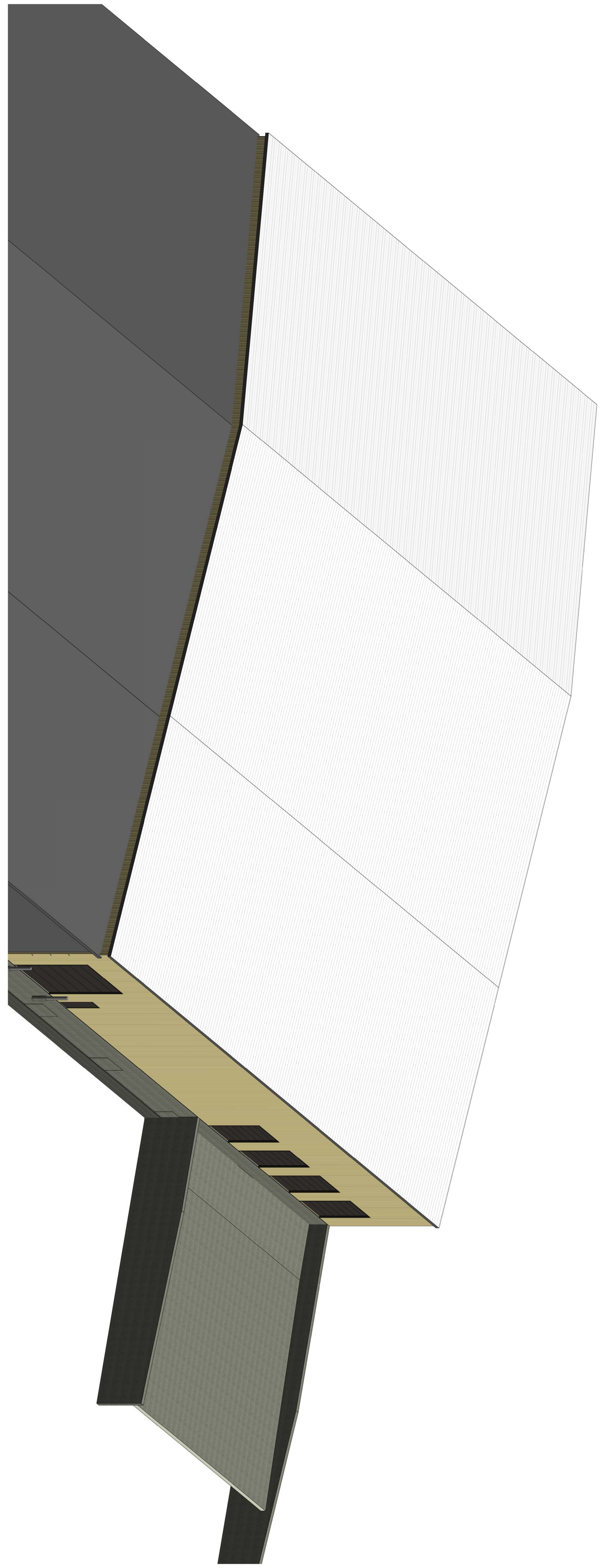


WEST ELEVATION
1/8" = 1'-0"



PERSPECTIVE

Rev.	Description	Date
1	SUBMITTED FOR SPR	05-05-21

Revised Last Issue: 5/5/2021 4:36:17 PM

Project #: 2108
Drawn by: Author
Checked by: Checker

Project Phase: Design / Permit / Construction

PROPOSED PROJECT FOR:

GRAND TRAVERSE PLASTICS, PLANT 2

5814 Moore Rd, Williamsburg, MI 49690

Contractor: RHOADS & JOHNSON

Architect: AMAG
4488 West Bristol Road, Suite 200, Flint, MI 48507 PH: (810) 230-9311
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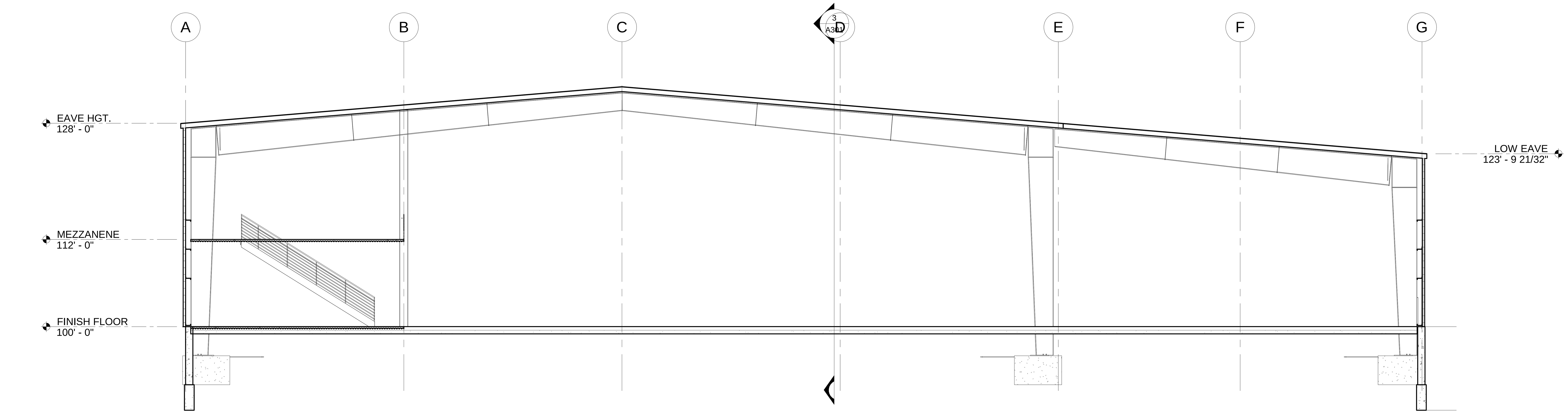
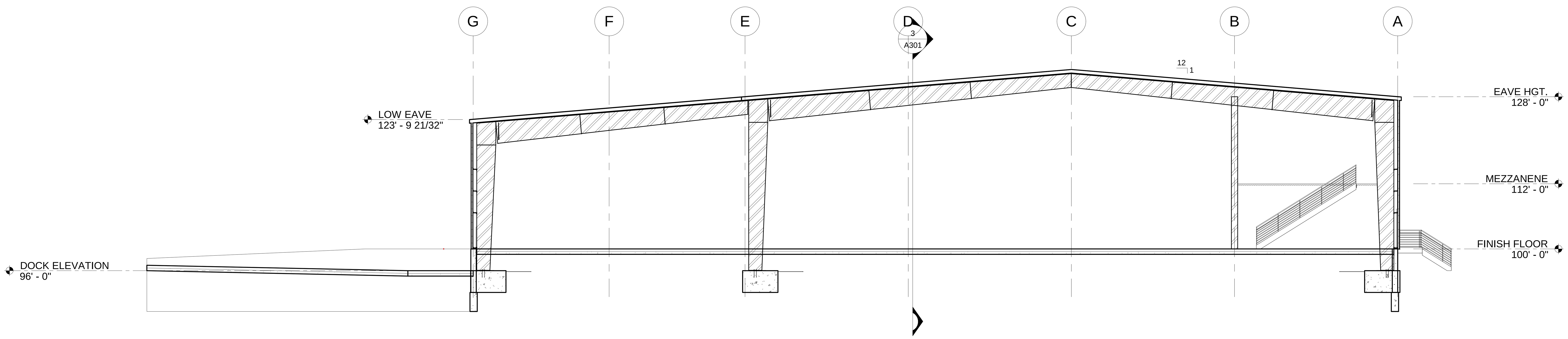
EXTERIOR ELEVATIONS

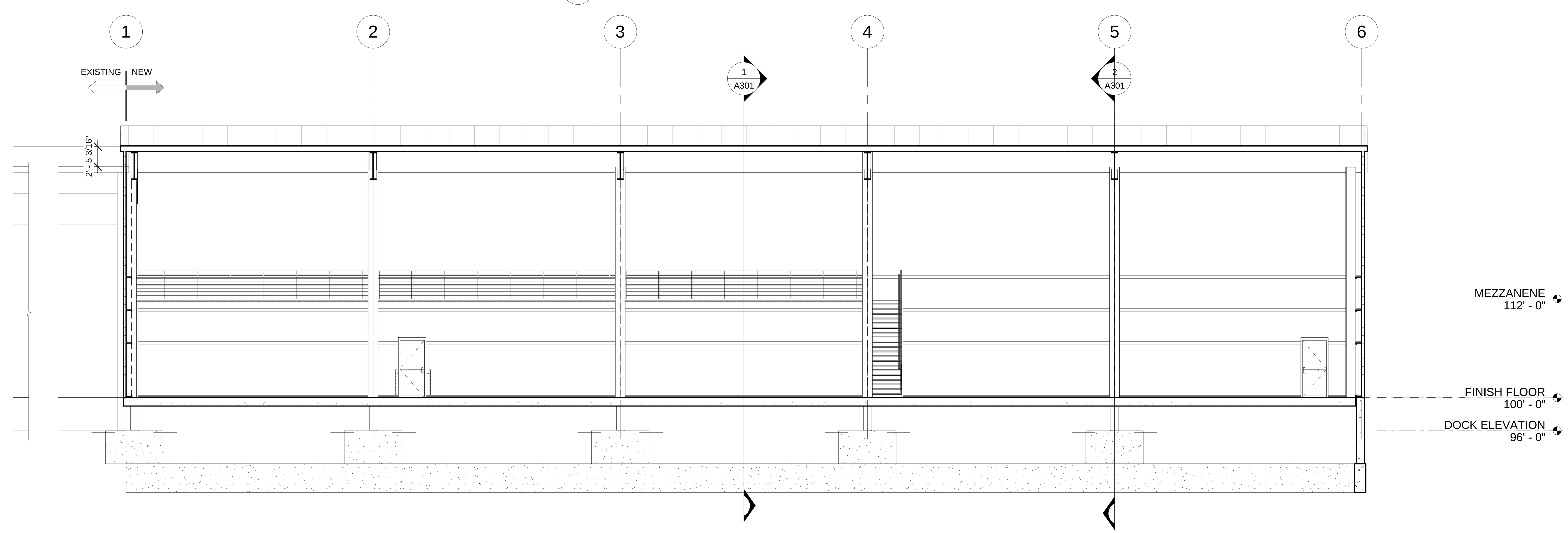
Sheet **A202**



1 A101 A301 BUILDING SECTION
1/8" = 1'-0"



2 A101 A301 BUILDING SECTION
3/32" = 1'-0"



3 A101 A301 BUILDING SECTION
1/8" = 1'-0"

Architect:

AMAG

4488 West Bristol Road, Suite 200, Flint, MI 48507 PH: (810) 230-9311

Contractor:

RHOADS & JOHNSON

PROPOSED PROJECT FOR:

GRAND TRAVERSE PLASTICS, PLANT 2

5814 Moore Rd, Williamsburg, MI 49690

Project Phase:
- Design ■
- Permit □
- Construction □

Date 05-05-21

Rev.	Description
1	SUBMITTED FOR SPR

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Project #	2108
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Checked by:	Checker

BUILDING SECTIONS

Sheet

A301

AIA Trust
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GUIDE TO MARIJUANA FACILITIES DESIGN

PART I: DESIGNING FOR HEDONISM

By Jeffrey Clay Ruebel Esq. & Casey Ann Quillen, Esq.

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Overview

The production and retail sale of alcohol has a long history in the United States, which allows those providing services to assess risks and benefits from engaging in the alcohol industry. The same cannot be said for the marijuana industry. Not only is this new, burgeoning industry struggling with the growing pains faced by any new business opportunity, it is handicapped by the Federal government's position that it is illegal as well as conflicting legal requirements by different states as well as uncertainty on the part of regulatory and safety bodies as to what standards should be applied to the industry. This paper summarizes unique issues in the design and construction of marijuana facilities including the considerations necessary for the safe and efficient delivery of product to the consumer. It will also discuss current and potential legal risks that a design professional may face, arising from work with this industry and highlight code provisions commonly adopted by municipalities where such activities take place.

Federalism

Any discussion of the marijuana industry must start with the problem arising from federalism. The continued illegality of marijuana at the federal level and in some states, while other states have whole-heartedly embraced marijuana decriminalization, has created an uneven legal landscape. The U.S. Department of Justice policy on drug enforcement includes preventing revenue from the sale of marijuana from going to criminal enterprises and preventing the diversion of marijuana from states where it is legal under state law to other states. As a result, marijuana companies face difficulties in their efforts to obtain legal advice, financial and banking services, and insurance coverage for certain types of claims.

Notwithstanding federal policy, many states have acted to decriminalize marijuana products for medicinal purposes and in some instances for recreational purposes. The legal question is whether states can take this action or whether federal law will preempt the states' laws. While the courts have yet to establish the precise contours of federal preemption doctrine, the preemptive reach of the federal Controlled Substances Act is relatively modest.[1]

Yet even if the federal government continues its commitment not to enforce federal drug laws against those complying with state regulatory regimes, the consequences flowing from the continuing federal prohibition remain significant. Concerned about violating federal law, banks, attorneys, insurance companies and others are careful in providing capital, design services, legal advice, or other basic professional services necessary for marijuana businesses to function out of a concern that money from marijuana businesses may be subject to seizure as funds from illegal criminal enterprises.
Notwithstanding the legal issues, it is difficult to believe that an industry generating multiple billions of revenues will be dismantled by federal fiat. This leads to the conclusion that the marijuana industry will survive in some form. Presumably, a compromise solution will be reached which will involve a regulatory scheme combining both federal and state regulation.

Even if heavily regulated, however, we can expect that tort liability will survive as a component of the marijuana business. It is also rational to think that the liquor industry will provide a template for courts as they consider issues of first impression arising out of the marijuana business.

Finally, experience suggests that those involved in the marijuana industry are not reluctant to resort to lawsuits, and those providing services to owners and operators of these businesses need to be prepared for claims of all types.

Special Design Issues of the Marijuana Industry

The typical marijuana business model has three components: a dispensary, where the marijuana is sold; a grow facility, where plants are seeded, grown, and harvested; and infusion facilities, where THC is extracted from plants for use in hash oil, edibles, and other products. Each has its own set of unique risks.

Because marijuana as an industry is relatively new, building, fire and zoning regulators have struggled to identify risks and develop code provisions to ensure public safety. Start-up businesses put a premium on getting their businesses open and operating, and could act with some degree of impunity, as regulations governing the operations had not been developed. Further, each part of the operation is typically a different building site, and as a result, design concerns are also different for each site. However, as the operations started being inspected, common violations have been identified and addressed through regulation. Violations that have been identified include overloaded electrical systems, noncompliant construction (e.g., unpermitted construction, noncompliant locks), using unapproved marijuana extraction equipment, unapproved CO2 enrichment systems, and occupying a space without a certificate of occupancy.

Dispensaries

Dispensaries are not unlike many retail storefronts. However, because the sale of marijuana is not legal under federal law, operators have difficulty obtaining banking services. This has resulted in many dispensaries being all cash businesses in which patrons cannot use credit cards or write checks.

As a result, between marijuana inventory and cash on hand on-site, security is a big concern for retail centers. However, the security measures implemented frequently result in noncompliant means of egress. Deadbolted doors or electronically secured doors are not unusual, but since the premises is a retail space, the space must allow for unfettered egress for occupants at all times. Municipalities, recognizing the problems created by having a retail outlet which has large amounts of cash on the premises, have enacted a variety of code requirements to mitigate the risks associated with dispensary outlets.

Grow Facilities

Plant cultivation locations, or as they are called in slang, "grows," have many safety concerns that are increasingly heavily regulated. Greenhouses are traditionally regulated as U occupancies in the International Building Code; however, the hazards are different in a ‘marijuana grow’ than in a standard vegetable greenhouse. Thus, communities, led by efforts coming out of Denver, are now classifying grows as FI occupancies. The F1 occupancy classification was determined based on high electric demand for grow lamps, fumigation operations, carbon dioxide (CO2) enrichment, mazelike room layouts, and the fact that most grows in Denver are located in former storage occupancies (warehouses) which can potentially affect neighboring tenants.

Growing marijuana is labor intensive; the occupant load of workers is higher than one would expect in a typical U occupancy greenhouse. Larger grow operations can have more than 100 employees, and they operate around the clock. As a result, design professionals must also consider the effect of various systems designed to enhance product growth on a significant work force which will be exposed to those systems.

CO2 enrichment systems found in marijuana grow rooms are different from traditional systems in that they intentionally flood the grow rooms with CO2. These systems present potential asphyxiation hazards and are regulated by operational and system installation permits. These systems require a local CO2 detection system in each enriched room, set to alarm at 5,000 ppm and a master control valve to shut off the flow of CO2 at the source. Warning signs are also required.

Typical CO2 enrichment can be in the form of compressed/liquefied CO2 systems or a CO2 generator supplied by natural gas. Compressed/liquefied CO2 systems can be as small as a few cylinders located inside each grow room or as large as a bulk tank located outdoors. CO2 generators operate from a fuel-fired source that, as a part of the combustion process, off-gases CO2 and carbon monoxide (CO). Because of the CO hazard, this appliance is regulated by the Mechanical Code as a non-vented fuel-fired appliance and requires a CO detector interlocked to an exhaust fan that operates on high levels of CO. Most jurisdictions in Colorado do not permit the use of portable propane tanks and cylinders to supply these generators. If used, they are required to be supplied from the building natural gas system.

Grow facilities have temperature and humidity which have been described as comparable to indoor swimming pool centers. In a grow facility, this leads to fungi and other undesirable results. To control this, growers fumigate the premises. Fumigation is an operation that is now typically regulated and

requires an operational permit to perform. Under this permit, hazard signage is posted at entrances, and the type of occupancy is reviewed for any potential threat to adjacent tenants. This has proven difficult to enforce, as growers sometimes fumigate overnight without the appropriate permits.
The fumigation method of most concern is sulfur burners to control powdery mildew and CO2 fumigation to control pests. Sulfur burners heat elemental sulfur, creating sulfur dioxide. If inhaled, sulfur dioxide can create sulfuric acid in the presence of moisture and can burn the respiratory tract. CO2 can be used to fumigate at levels above OSHA's immediately dangerous to life or health level of 40,000 ppm to control pests. Both of these operations are of concern to workers entering the space, adjacent tenants unaware of this fumigation activity, and first responders entering after hours.

Regulations have also addressed a ‘nuisance problem’ that come from grow facilities. Marijuana plants emit a very strong “skunk like” odor, and local authorities typically require ventilation systems to be installed such that any odors are prevented from leaving the premises. This is usually accomplished by installing a charcoal filter on the discharge of the exhaust duct. Other methods to reduce odors include ozone generators and ionizers.

Electrical demands to serve the numerous grow lamps typically operating at 1,000 watts each are very high. Fires have occurred as a result of the melting of the overhead electrical service. There have been reported instances where the inside electrical system was sized correctly and inspected, but the electric utility service from the transformer was never upgraded. Predictions are that states with vibrant marijuana growth are facing the increased demands for electricity. However, efforts by owners of grow facilities to utilize electricity more efficiently have reduced projections of that need.

Another problem results from efforts to maximize the amount of product grown in the space available. With most growing performed in former warehouse buildings, vertical building height already exists in their space. Growers have now been growing plants “vertically” on tiers of storage racks up to 30 feet in height. This has resulted in a new issue as municipalities are assessing whether to regulate these operations as high-pile storage or to utilize a different code regulation.

Manufacture of Infused Product

After marijuana is harvested, it is processed for sale in another facility. While the sale of marijuana flowers still makes up a majority of the type of product sold, the sale of concentrates is gaining a larger percentage of the total sales every year. These products take many forms, from oils, to vapes, from shatter to edibles.

Concentrates are exactly what the name implies -- a more concentrated form of tetrahydrocannabinol (THC), the principal psychoactive component of the marijuana plant. THC can be extracted in a highly-concentrated oil. Extraction using butane is the most cost effective, yet the most dangerous method used. For this reason, many Fire Codes prohibit open releases of butane to the atmosphere during the extraction.

Several manufacturers produce equipment that cycles butane around a closed loop system passing through the plant material. The butane under pressure in liquid form acts as a solvent and breaks the THC from the plant. The butane is then recollected, and oil can then be retrieved. Currently there is no listings [such as UL] for this equipment. Thus, Denver and other jurisdictions require an engineering analysis of the extraction process, signed and stamped by a professional engineer.

Businesses using this equipment are also required to have a hazardous exhaust system installed to capture any potential release of butane, and the Colorado state marijuana laws require that the operation be in a dedicated room. Additionally, a local hydrocarbon detector is required to alert the operator of butane leaks.
CO2 extraction is another method of producing marijuana oil. The equipment must follow the same approval and permitting process as the butane equipment. Although there is no explosion risk as there is with butane, the systems can run at pressures as high as 10,000 pounds per square inch (psi); consequently, the equipment must be reviewed to ensure it is constructed appropriately. Businesses using this equipment are required to perform the extraction in a dedicated room, and a local CO2 alarm is required to alert of CO2 leaks.

Another extraction method is an alcohol distillation or heated evaporation process. Although alcohol is common, any flammable liquid can be used. Marijuana is soaked in alcohol and then the liquid is boiled off, leaving the oil behind. Larger operations recapture the alcohol in a distillation process for reuse. This process can also be used as a refinement after a CO2 or butane extraction. A number of methods and types of equipment can be used for this extraction process. When employing this process, a hazardous exhaust hood is required over the extraction process to capture any flammable vapors released, and equipment must be rated for heating flammable liquids. The one exception is a piece of equipment called a "solvent distillation unit" that is regulated in International Fire Code 3405 and has a UL listing specifically for distilling solvents.

Process facilities also frequently contain other operations within the same facility which test and certify the safety and potency of the marijuana product.

Common Risk Problems

A design professional providing services in the construction of a grow facility must be aware of a wide variety of risks not necessarily seen in typical construction. These include the following:

Threat of Explosion and Fire
Marijuana facilities face a significant risk of fire or explosion. In 2014, there were 32 reported butane hash-oil explosions in Colorado alone caused by using unapproved butane open-blast extraction. Breweries, too, face a surprising risk of explosion from grain dust.

Municipalities have imposed requirements on marijuana extraction facilities and grow facilities and breweries to reduce the risk of explosion. The special design required in butane-based extraction is

illustrative of the concern municipalities have regarding the unavailability of manufactured equipment that will safely perform the desired process.

Worker Safety

At marijuana grow facilities, workers are also subject to chemical exposure from fertilizers and pesticides, from sulfur dioxide as a result of fumigation, and from carbon dioxide asphyxiation.

Damage to Real Property

Because the business is illegal under Federal law but legal by state law, there is a concern that the federal government will intervene and prosecute owners of grow rooms. For this reason, the facilities that house these grow rooms are frequently leased in most cases. As leased spaces, they are not designed to be used for this purpose. The environment required for a grow room can wreak havoc on a structure built for other enterprises.

The conditions of these grow rooms are nearly identical to those of an indoor pool. Temperatures between 75º and 85°F and relative humidity [RH] values range between 60% and 65%. This elevated level of humidity comes from the natural transpiration of the plants themselves. The high levels of relative humidity can lead to condensation on building components. Many 'big box' buildings have not been designed to handle the resulting temperature gradient, moisture migration via air movement, and vapor diffusion from interior to exterior space. Elevated temperatures, together with the higher RH, are even more detrimental in cold climates where winter temperatures are cooler for longer periods of time. This causes the vapor drive to be directed from inside to outside, where it can be trapped within the wall/roof, or the wall/roof components can be exposed to this condition for a longer period of time before it can naturally dry out.[2]

Elevated temperature and RH can also produce an ideal environment for the propagation of biological growth and an increased likelihood of building material deterioration. This can range from moldy drywall and insulation to deteriorated structural components. This can not only cause health issues from poor indoor air quality but can make the structure susceptible to further damage from the elements.

Finally, with increased moisture also comes an accelerated rate of building material deterioration, including gypsum roofs, wood walls, and insulation.

Electrical Risks

Computerized control systems monitor the environment and operate the equipment to maintain optimum conditions to maximize the crop yield. Failure of the computer system or electoral system can result in compromise of the plants.

Miscellaneous Risks

Means of Egress as required in IBC, Chapter 10 is an important consideration for the facility. Marijuana growers typically do not grow in a building with one large open room. They need to isolate the plants that are at different stages of growth. Large converted warehouses can be maze-like with multiple

rooms. Care must be taken to ensure that egress paths are clear and do not become blocked by equipment or storage containers.

Design Professional Liability Issues

Inadequate design

An improperly designed, constructed, and operate facility can cause damage to the property or the product. Basic design elements are crucial.

1. *Vapor barrier.* The walls and ceiling construction of the room should include vapor barriers and corrosion resistant materials. The walls should have sufficient insulation behind the vapor barrier to minimize the chances of moisture in the air condensing and forming water droplets on the wall.

2. *Plumbing.* Grow rooms should be provided with floor drains to remove spilled water and nutrient solutions. The drains should be trapped and equipped with screens to catch any plant material or other debris. The International Plumbing Code requires that water supply lines used for irrigation purposes be provided with back-flow preventers to protect the domestic water supply from contamination. Environmental contamination is a common problem for these types of facilities.

3. *Electrical.* Grow facilities have a very high electrical demand due to the grow lights, air conditioning units, and other equipment. The electrical system must be sized and installed in accordance with the National Electric Code. Overloaded electrical wiring has caused fires in some marijuana grow facilities. In addition to ensuring that the electrical system inside the building is designed and installed properly, the electric service entrance equipment and conductors for the building need to be evaluated. If the facility was created as a remodel to an existing building, it may be necessary for the electric utility company to upgrade the conductors and/or transformer serving the building. A simple power outage, if prolonged, can cause the loss of a roomful of plants during sensitive phases of the growth cycle.

Product Liability

1. Plants that pass a state-mandated lab test may contain trace amounts of pesticides or mold, potentially exposing the entire chain of distribution – the grower, test lab and retailer -- to product liability suits. Robust humidity can lead to property and product damage from mold on the walls and the structure and to the growth of pathogenic organisms on the product. Fumigation is performed on plants in the grow facility, but the risk nevertheless remains. Contamination of the marijuana product is a valid concern and significant risk.

2. *Edibles.* Edibles, which utilize the oil created during extraction, are not well-regulated. Any user of such a product must realize that it takes at least 1-2 hours to experience the “high,” or euphoria, compared with smoking it. The quality and quantity of THC in an edible is not standardized. Consuming multiple servings, especially at one sitting, has an additive effect for potential psychological effects. Ingesting multiple servings in a short amount of time can also lead to paradoxical or unusual reactions that can trigger intense anxiety, paranoia, or even frank psychosis-

-seen more frequently among first time users (marijuana-naïve). Another issue is quality control of the product. At present, marijuana products are not tested for contaminants or potency and standards are still not established. The safety of edibles could be compromised by potential adulteration with other illicit substances or drugs of abuse.

One can easily envision cases where liability is sought to be imposed against the design professional under either a direct cause of action or a claim for contribution. Indeed, in recent years, the heightened concern for providing the innocent plaintiff with adequate compensation have combined to deny the design professional the traditional shields in negligence actions. Moreover, under the influence of product liability litigation, courts in some circumstances have recognized a right of action against design professionals predicated on the theory of implied warranty, and strict liability.[3] Privity and 'acceptance rule' defenses, in some instances, are slowly being eroded.[4]

Nuisance.

The common law of nuisance may pose liability concerns for the design professional. While CERCLA has been deemed to preempt the federal common law of nuisance as an environmental remedy, the common law of nuisance is still available to private plaintiffs.[5] Private nuisance is the unreasonable interference with the landowner's use and enjoyment of his property. As such, nuisance rests on tort liability. A person interfering with the landowner's use and enjoyment of his property may be liable in nuisance if his actions were intentional, reckless, or negligent.

Environmental contamination of real property can give rise to liability in nuisance.[6] To the extent that the design professional's conduct contributes to the environmental contamination, he too may be liable in nuisance.[7]

A private nuisance—is an interference with the use or enjoyment of land that causes injury in relation to an ownership right in that land. A public nuisance—may be defined as an unlawful act or omission, which is so widespread in range and indiscriminate in its effect that it obstructs, damages, or inconveniences the rights of the community. Generally, public nuisance covers a wide variety of minor crimes (such as carrying on an offensive trade, obstructing the highway, etc.) for which a criminal prosecution may be pursued or, in some circumstances, an injunction sought to restrain the offending activity. A defendant may create a nuisance by negligence – for example, in the case of *Fisk v. Tow of Redding*[8], where a manufacturing operation caused an unnecessary and unreasonable amount of smoke or fumes. Besides liability for a private nuisance, a design professional may face liability for environmental clean-up under the Comprehensive Environmental Response, Compensation and Liability Act [CERCLA] which provides for contribution claims.[9]

Conclusion

Any time a new industry is developed, government entities and those charged with developing safety policies and protocols must review the nascent industry and develop recommendations for the public safety. Legal solutions to the problems inherent in the new industry follow from there. While there

existed guidelines and a sound body of law to draw upon concerning the issues with craft breweries, the problems that arise with the marijuana industry are not so easily addressed, due to the conflict between the approach of the federal government and the approach of states in permitting the industry to develop. While there have been significant strides made in the technical aspects of marijuana facility safety, issues regarding legal and business questions appear to be in limbo and will continue to receive only tenuous resolution until the federalism issue is resolved.

Besides the political question, the industry has only recently developed a consensus on design issues for the three different types of facilities utilized to grow, process, and deliver marijuana to the consumer. Not only must the grow facility maximize the plant growth, but care must be taken to avoid contamination and damage to the building. A design professional must also consider employee safety and minimize the impact of the facilities on the public.

Overall, while a growth industry going forward, marijuana facilities are still relatively new and design professionals must carefully consider potential – and unexpected – liabilities.

APPENDIX A - **Marijuana Facility Code Provisions**

1) Sample code where facilities are not permitted:

> No person shall establish, develop, construct, maintain, or operate a medical marijuana dispensary, and no application for a building permit, use permit, variance, or any other entitlement authorizing the establishment, development, construction, maintenance, or operation of any medical marijuana dispensary shall be approved by xxxxxx or any officer or employee thereof.

2) Examples of code requirements from various Colorado jurisdictions

- Security Plan

Design plan must show the locations of all proposed exterior lighting and light fixture information;
Design plan must show location of cameras, motion detectors, security system computer; and the locations of safes.

- Operation Plan (with attached narrative)

A plan for ventilation of the medical marijuana business that describes the ventilation systems that will be used to prevent any odor of medical marijuana off the premises of the business. For cultivation facilities, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor from leaving the premises.

- Building Guidelines

The building permit application must meet the general building permit submittal requirements. The plans must be prepared by a Colorado Design Professional and must address specific medical marijuana related requirements including the following:

Cultivation facilities must meet International Building Code (IBC) Chapter 3 requirements based on a Use and Occupancy Classification of Factory Industrial, F-1, Moderate-hazard Occupancy (IBC 306.2).

Centers and dispensaries must meet IBC Chapter 3 requirements based on a Use and Occupancy Classification of a Mercantile Occupancy, M, or a Business Occupancy, B depending on the amount and level of treatment services provided (IBC 309.1).

Applicable Means of Egress requirements based on IBC Chapter 10.
Applicable Accessibility requirements based on IBC Chapter 11.
Applicable fire suppression system requirements based on IBC Section 903 and local amendments.

- Mechanical Guidelines

A ventilation system will be required to filter the odor from a business so that it cannot be detected at the exterior of the business or at any adjoining property. The ventilation system for a medical marijuana business requires, at a minimum:
Exhaust systems designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building reference “Contaminant sources,” International Mechanical Code (IMC) 401.6.
Cultivation facilities must have a ventilation rate of 60 cfm/person. Centers and dispensaries must have an outside ventilation rate of 15 cfm/person

Center facility exhaust outlets must be 3 feet from property lines, operable openings into a building and from mechanical air intakes.

A ventilation system will be required to filter the odor from a business so that it cannot be detected at the exterior of the business or at any adjoining property.

Cultivation facility exhaust outlets must be 10 feet from property lines, operable openings into a building and from mechanical air intakes.

- Energy Efficiency Guidelines

Every medical marijuana business shall directly offset 100% of its electricity consumption through the purchase of renewable energy in the form of Colorado Wind Source, a verified subscription in a community solar garden, or renewable energy generated on-site, or an equivalent that is subject to approval by the city.

- Fire Protection

Many jurisdictions utilize NFPA 58 as a basis for regulating extraction facilities, but it is generally acknowledged that this standard is insufficient. The NFPA convened a task group to craft a new chapter for NFPA1, Fire Code on marijuana grow and processing facilities. The committee accepted the draft of the new chapter and the new Chapter 39 “Marijuana Growing, Processing or Extraction Facilities, can be found in the Second Draft Report available online. A publication date of 2018 is expected.

In addition, Denver [and other jurisdictions] have adopted a code requirement that a State licensed design professional shall provide detailed plans and specifications on the process for extracting cannabinoids from marijuana plant products with flammable solvents, gasses, and solids.

Post Construction Guidelines

After receipt of the building permit and no more than 10 days after completion of construction and final inspection by the building department, the applicant shall submit the following:

Complete procedure for monitoring of alarm system, including: 1) Names and emergency contact information of person responsible for notifying Police Department within 12 hours of criminal activity or attempts of criminal activity; and 2) Name and contact information for landlord if applicant rents the business space.

ADDENDUM A: **Evolving Issues in Marijuana Grow Facility Design**
October 4, 2019
By Jeffrey Clay Ruebel, Esq and Sam Andras, AIA

Cannabis production is a relatively new, yet dynamic industry. Given the multiple uses ascribed to hemp, the increasing acceptance of marijuana as having possible medicinal value, and the 'legalization' of marijuana for recreational use, changes in regulation of grow facilities and improvements in production are regularly occurring and promise to continue for some time. This article is intended to update and supplement an earlier article on marijuana design facilities published by the AIA Trust.

Regulatory change

As jurisdictions approve marijuana for medicinal and recreational use, there have been significant changes in the regulatory status of cannabis production. Several countries have legalized medical cannabis, with the result being that Canada and Europe have adopted regulatory constructs for the production of medical cannabis. In the United States, the Food and Drug Administration recommends guidelines for anything food, drug or pharmaceutical related. However, because cannabis remains illegal at the national level, none of the federal agencies that would normally oversee and/or require Good Manufacturing Practice guidelines have done so. As a result, each state where cannabis has been legalized is adopting their own requirements. All of this has resulted in a patchwork of regulations, with some states beginning to reference and/or require compliance with cGMP guidelines.

If the US does move towards a federal legalization, there will be many hurdles to align regulations, both at the state level and internationally to compete with the world's cannabis market. EU jurisdictions classified the product as medical and therefore looked to an already established standard commonly known as the EU-GMP for manufacturing and cultivation while also requiring compliance with the World Health Organization's Good Agricultural and Collection Practices (WHO-GACP). Looking forward, for domestic and international distribution, these are the systems that must be considered and possibly implemented in domestic cannabis production facility. Of course, given the possibility that recreational use may also occur, other changes are also possible. Design professionals should strive to be aware of all regulatory requirements, both nationally and internationally.

Production changes

Not only must design professionals be aware of looming regulatory changes, economics and technology has also resulted in changes in design of grow facilities. Factors which affect the economics of a grow facility, such as the number of plants per square foot in the various stages of cultivation, the height of plants at harvest, the type of lighting, grow medium, and irrigation method are central to the success of any grow facility. As the trend in construction of grow facilities is toward vertically integrated facilities that combine cultivation, extraction, post-processing, consumables manufacture, and quality assurance testing labs, the designer must have an understanding of every step of the process, from bringing seed, or clones, into the facility up through a packaged product leaving the facility. Experience shows that small inefficiencies can easily turn into a large loss of money. A prudent designer must understand the flow of the functions and the required types of spaces as the cannabis plant moves through the production process. Proper spatial relationships are equally important in maximizing yields, and thereby profits.

The architect must be licensed in the state in which the facility is located. A design professional should also have [or consult with] an understanding of what's important to the grower and facility owners. Architects must understand that most owners don't know cultivation and therefore, owners rely on growers for planning facilities. An architect who understands cultivation methodologies can discuss the pros and cons with owners, thereby helping owners make educated decisions on how to develop the cultivation aspect of their operations. Additionally, there are many nuances of cannabis production which architects and engineers may not understand, including planning for cGMP and/or EU-GMP/WHO-GACP guidelines. Aspects to be considered are building materials, clean-ability, equipment & locations, functional flow, cost, and the speed of delivery and installation.

A designer must remember that cultivation is a labor-intensive endeavor. If there are insufficient walk spaces or the walk spaces are not large enough walk spaces to keep flow moving, larger than necessary labor costs will be incurred. Improper ratios of space, irrational flow, and flawed system design will also adversely impact productivity. Various mechanical systems can also have an impact on project cost and revenue. The architect must consider upfront equipment/installation cost, operational cost, and equipment space requirements.

Beyond space design, other factors need to be carefully considered. Zoning regulations can be a huge obstacle, particularly for dispensaries. For example, Brockton, Massachusetts required a proposed facility to be 2,500 feet from schools, houses of worship, or areas of high use by children. Signage is also frequently heavily restricted by local jurisdictions. Translucent or opaque glazing is usually required. Odor mitigation is also becoming a major obstacle in most areas of the country. Michigan regulations require cultivation facilities to operate under negative air pressure. This is counter to good design practices which ensure cultivation is under positive pressure.

Lighting is the single biggest operational cost in cannabis cultivation. Double-ended high-pressure sodium lamps are still the "go-to" lamp in flower rooms, but LEDs are also gaining interest from growers. In other areas of cultivation, LED and LECs, or light-emitting ceramics also known as ceramic metal halide (CMH) lamps, are being utilized to help reduce energy costs. Not only is the type of lamp crucial, but also correctly locating the lighting to ensure plants receive ample light to optimize growth and flowering yet appropriately spaced to ensure plants aren't burnt. The amount of light is not the only consideration when designing the facility, as "spectrum" is also a key to maximizing production.

Experience has taught us that facilities need to be designed with full clean-room protocols. Access to areas of production should be limited. Viewing windows placed in corridors throughout the facility can be used to accommodate visible access for inspectors, investors, etc., while limiting access that can lead to possible contamination of valuable crops. Technologies that can reduce airborne and surface contaminants such as bacteria, viruses, mold and other pathogens should to be used.

Conclusion

In the near term there will not be an alignment of regulations between jurisdictions. The independent evolution of the Canadian system, the state-mandated system within the US and the requirement for EU-GMP and WHO-GACP in the EU countries means that the national and international community will be left with regulatory barriers and having to host multiple regulatory authority inspections for markets where they are able to participate. The driving forces behind the need for implementation of national cGMP are the separately evolving regulatory regimes of numerous countries and states and the drive to trade internationally in a jurisdiction with a higher standard. It would appear likely that since EU countries have a known standard – the EU-GMP and WHO-CACP –as the requirement for production

of medicinal cannabis, the national cGMP will likely adopt large elements of the EU-GMP so as to permit the marijuana industry to partake in international trade of medicinal cannabis. This, along with improving science and technology, place a requirement on designers to be aware of new developments in this dynamic business.

ADDENDUM B: **The Dilemma of Marijuana Legality**
October 4, 2019
By Jeffrey Clay Ruebel, Esq.

An increasing number of states have legalized marijuana for medical and recreational use. The demand for high-tech grow facilities is spreading across the country, creating new and unique opportunities for architects and engineers.

However, marijuana remains a Class I narcotic under the federal Controlled Substance Act. The CSA makes it unlawful to "knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances." Participating in state-legal marijuana economies, even in ancillary ways, remains a felony crime under federal law. Thus, providing design services for a grow facility, while legal under state law, could result in criminal charges under federal law.

Not only could a design professional be criminally liable but providing design services for marijuana facilities could also result disciplinary action against the professional. Under the AIA Ethics Code Rule 2.101, architects can be disciplined for knowingly violating the law in their professional practice. As per the rule's commentary, the violation of *any* law, local, state or federal, is the basis for discipline under this rule. Similarly, under Rule 2.106, members are not to counsel or assist a client in conduct that the architect knows, or reasonably should know, is fraudulent or illegal.

A review of AIA disciplinary proceedings demonstrate that the AIA strictly enforces its rules upon architects who violate the proscription on committing violations of the law.

On the other hand, as states have legalized marijuana, it has become crucial for states to regulate marijuana facilities to ensure the safety of the public. For example, Colorado retail marijuana regulations require a Professional Engineer to certify that applicable local and state building codes for solvent-based retail marijuana content were met (ref. 1 CCR 212-2).

Similarly, the Denver Fire Code has a separate section governing all types of marijuana facilities, including that grow facilities meet F-1 occupancy requirements. The code requires a review of design plans, which plans are to bear the seal and signature of the responsible design professional. Engineering is also crucial to ensure product safety and purity.

Performing these necessary services would arguably fall within the instructions of Canon II of the AIA Code, which states members should promote and serve the public interest in their personal and professional activities. Given the risks that would be potentially inflicted upon the public by refusing or failing to perform these services, an argument can be made that the design professional has an obligation to perform the required services to protect the public.

Another wrinkle has further complicated the issue. In some jurisdictions, unlicensed individuals have served as design professionals for marijuana facilities, a practice vigorously punished by administrative judges. In one instance, the ALJ fined the individual $5,000 per day for a period of 40 days.

It should be noted, however, that the federal government has generally and traditionally relied on state and local authorities to address marijuana. Further, instances of federal action against legal facilities are limited in number, for a variety of legislative and legal reasons. But what is a design professional to do?

There is no clear and ‘safe’ answer. The AIA has not addressed and interpreted its rules on the issue. However, recently the United States 10th Circuit Court of Appeals provided a possible solution to the issue.

In Kenney v. Helix TCS, Inc., (No. 18-1105, Sept. 20, 2019). the Plaintiff was an employee of a state-sanctioned marijuana facility. Kenney filed suit, claiming his employer violated the Fair Labor Standards Act. The employer denied any obligation to comply with the FLSA, arguing the Controlled Substances Act (CSA) ‘repealed’ the FLSA for employers of the marijuana industry. The district court agreed, but the 10th Circuit reversed.

In its opinion, the Court found that the CSA did not directly conflict with the FLSA. It noted that this holding would allow the employer to reap the benefit from its own CSA violation. It noted that employers are not excused from complying with federal laws just because their business practices are federally prohibited. Thus, it held, the focus of regulatory statutes like the FLSA is on the employees’ well-being, and not their activities.

Applying this rationale to the requirements imposed by regulatory agencies on the marijuana industry, any disciplinary action by the AIA [or state regulatory board] would be improper. The purpose of the regulations is not to violate the Controlled Substances Act, but rather to ensure that construction practices are safe and that the public is protected from activities that would otherwise put the public at risk. The higher purpose of protecting the public is the focus of all the regulations, and any conflict between them should be decided with this purpose in mind.

A design professional is advised that engaging in this practice area may have adverse consequences – both criminally and professionally. If the professional chooses to practice in this area, though, one principle that is crucial: Know your potential partners in the cannabis industry to ensure that they fully comply with the drug laws of the state in which they operate and perform the duties imposed on you by law with the safety of the public in mind.

END NOTES

1. Erwin Chemerinsky, Jolene Forman, Allen Hopper & Sam Kamin, *Cooperative Federalism and Marijuana Regulation*, 62 UCLA L. Rev. 74 (2015).
[2] Smoot, *Humidity 'gets high' on Medicinal Marijuana*, Interface, October 2012.
[3] Flatt, THE EXPANDING LIABILITY OF DESIGN PROFESSIONALS, 20 Mem. St. U. L. Rev. 611 (1990).
[4] Id.; *See also Flagstaff Affordable Housing, L.P. v. Design Alliance, Inc. 223 Ariz. 320, 223 P.3d 664* (2010) (holding privity of contract is not required for foreseeable injuries to foreseeable victims)
[5] *Middlesex County Sewerage Authority v. National Sea Clammers Ass'n*, 453 U.S. 1, 101 S. Ct. 2615, 69 L. Ed. 2d 435, 16 Env't. Rep. Cas. (BNA) 1118, 11 Envtl. L. Rep. 20684 (1981)
[6] Kostyal v. Cass, 163 Conn. 92, 302 A.2d 121 (1972) (groundwater contamination)
[7] See *Knabe v. National Supply Division of Armco Steel Corp*., 592 F.2d 841, 13 Env't. Rep. Cas. (BNA) 1119, 9 Envtl. L. Rep. 20257 (5th Cir. 1979).
[8] 164 Conn. App. 647 (2016)
[9] 42 U.S.C. § 9613(f)(1) and §9613(f)(3)(B)

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Medical Facility Licensing Questions

What provisions in the Medical Marihuana Facilities Licensing Act (MMFLA) are relevant to municipalities?

Section 205 of the MMFLA is relevant for municipalities that are considering allowing or restricting medical marijuana facilities' operations within the municipality.

Below are the relevant provisions in the MMFLA related to municipalities. The Marijuana Regulatory Agency (MRA) is unable to provide legal interpretation of statutory provisions that fall under municipal authority. If clarification on any of the provisions below that fall under municipal authority is needed, the MRA recommends that you consider consulting an attorney:

- Sec. 102.(q).: "'Municipality' means a city, township, or village."

- Sec. 201.1: "Except as otherwise provided in this act, if a person has been granted a state operating license and is operating within the scope of the license, the licensee and its agents are not subject to any of the following for engaging in activities described in subsection (2):
  (a) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department."

- Sec. 201.3: "Except as otherwise provided in this act, a person who owns or leases real property upon which a marihuana facility is located and who has no knowledge that the licensee violated this act is not subject to any of the following for owning, leasing, or permitting the operation of a marihuana facility on the real property:
  d) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department."

- Sec. 205.1: "A municipality may adopt an ordinance to authorize 1 or more types of marihuana facilities within its boundaries and to limit the number of each type of marihuana facility. A municipality may adopt other ordinances relating to marihuana facilities within its jurisdiction, including zoning regulations, but shall not impose regulations regarding the purity or pricing of marihuana or interfering or conflicting with this act or rules for licensing marihuana facilities. A municipality that adopts an ordinance under this subsection that authorizes a marihuana facility shall provide the department with all of the following on a form prescribed and provided by the department:
  (a) An attestation that the municipality has adopted an ordinance under this subsection that authorizes the marihuana facility.
  (b) A description of any zoning regulations that apply to the proposed marihuana facility within the municipality
  (c) The signature of the clerk of the municipality or his or her designee.
  (d) Any other information required by the department."

- Sec. 205.2: "A municipal ordinance may establish an annual, nonrefundable fee of not more than $5,000.00 to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality."

- Sec. 205.3: “The department may require a municipality to provide the following information to the department on a form prescribed and provided by the department regarding a licensee who submits an application for license renewal:
  (a) Information that the board declares necessary to determine whether the licensee’s license should be renewed.
  (b) A description of a violation of an ordinance or a zoning regulation adopted under the subsection (1) committed by the licensee, but only if the violation relates to activities licensed under this act and rules or the Michigan Medical Marihuana Act.
  (c) Whether there has been a change to an ordinance or a zoning regulation adopted under subsection (1) since the license was issued to the licensee and a description of the change.”

- Sec. 205.4: “Information a municipality obtains from an applicant under this section is exempt from disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.246. Except as otherwise provided in this subsection, information a municipality provides to the department under this section is subject to disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.”

- Sec. 401.1: “Beginning December 15, 2017, a person may apply to the board for state operating licenses in the categories of class A, B, C grower; processor; provisioning center; secure transporter; and safety compliance facility as provided in this act. The application shall be made under oath on a form provided by the board and shall contain information as prescribed by the board, including, but not limited to, all of the following:
  (j) A paper copy or electronic posting website reference for the ordinance or zoning restriction that the municipality adopted to authorize or restrict operating 1 or more marihuana facilities in the municipality.
  (k) A copy of the notice informing the municipality by registered mail that the applicant has applied for a license under this act. The applicant shall also certify that it has delivered the notice to the municipality or will do so by 10 days after the date the applicant submits the application for a license to the board.”

- Sec. 401.6: “By 10 days after the date the applicant submits an application to the board, the applicant shall notify the municipality by registered mail that it has applied for a license under this act.”

- Sec. 503.1: “A secure transporter license authorizes the license to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee upon request of a person with legal custody of that marihuana or money. It does not authorize transport to a registered qualifying patient or registered primary caregiver. If a secure transporter has its primary place of business in a municipality that has adopted an ordinance under section 205 authorizing that marihuana facility, the secure transporter may travel through any municipality.”

Does a municipal ordinance have to opt in or opt out for medical facilities?

If a municipality intends to authorize the operation of medical marijuana facilities within the municipality, the municipality must adopt an ordinance that specifically authorizes the operation

of medical marijuana facilities within the municipality. If no ordinance is in place, the Marijuana Regulatory Agency will not issue a license to a facility in that municipality.

Can the Marijuana Regulatory Agency (MRA) tell a municipality what should be included in the municipality's ordinance and zoning regulations?

The MRA does not provide legal advice or interpretation regarding issues that fall under municipal authority. Please review Section 205 of the Medical Marihuana Facilities Licensing Act for information about municipal authority regarding ordinance and zoning regulations.

If you still have questions after your review, you may wish to consider consulting with an attorney.

Does the Marihuana Facilities Licensing Act prohibit facilities from being within a certain distance to a school?

No, but the municipality may have ordinance or zoning requirements that require a facility be a certain distance from the school. For more information please review Section 205 of the Medical Marihuana Facilities Licensing Act or contact the municipality where your facility will operate.

Can the municipality charge an application fee?

Yes, pursuant to Section 205.2. of the Medical Marihuana Facilities Licensing Act (MMFLA):

"A municipal ordinance may establish an annual, nonrefundable fee of not more than $5,000.00 to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality."

How does the medical marijuana facility licensing process work?

The medical marijuana facility licensing process is a two process step:

Prequalification (Step 1) Application

The first step in the process is prequalification. During prequalification, the Marijuana Regulatory Agency (MRA) vets the entities and individuals who are applicants for the proposed medical marijuana facility by conducing criminal and financial background checks to verify their eligibility for licensure.

If the applicant is denied for prequalification, the MRA sends the applicant a Notice of Denial letter advising the applicant the prequalification application is denied. Denied applicants have 21 days to request a public investigative hearing. At the hearing, the applicant has an opportunity to demonstrate they are eligible for licensure. After the public investigative hearing, the

Executive Director of the MRA either affirms or reverses the Licensing Division's decision to deny the application. If the Executive Director affirms the decision to deny the application, the applicant has the ability to pursue additional legal action in the courts to reverse the decision.

If the applicant is approved for prequalification, the MRA sends the applicant a Notice of Determination letter advising the applicant that prequalification status has been granted and is approved for two years.

Facility License (Step 2) Application

The second step in the medical marijuana facilities licensing process is the facility license application. During the facility license application process, the MRA reviews the facility license application documents and requests that the MRA Enforcement Division (Field Operations) and the Bureau of Fire Services (BFS), if applicable, inspect the facility.

Facility inspections are conducted after all facility license application deficiencies have been resolved. The MRA will not perform building inspections if Attestation I – Confirmation of Section 205 Compliance - Part 1: Municipality has not been completed by the municipality.

Please note that a facility license application may be denied. Some reasons for denial include, but are not limited to, the applicant's failure to resolve application deficiencies or lack of municipal authorization to operate.

If a facility license application is denied, the MRA sends the applicant a Notice of Denial letter advising the applicant the facility license application is denied. Denied applicants have 21 days to request a public investigative hearing. At the hearing, the applicant has an opportunity to demonstrate they are eligible for licensure. After the public investigative hearing, the Executive Director of the MRA either affirms or reverses the Licensing Division's decision to deny the application. If the Executive Director affirms the decision to deny the application, the applicant has the ability to pursue additional legal action in the courts to reverse the decision.

If the MRA approves the facility license application, a state license will be issued to the applicant after the regulatory assessment fee is paid.

Renewal Application

A medical marijuana facility license is issued for a one-year period from the date of the licensee's original licensure approval. If a licensee decides to renew their license, they will need to submit a renewal application.

During the renewal process, the licensee must submit the licensure fee payment and a renewal application prior to the licensee's expiration date. The MRA reviews the renewal application to ensure the facility is compliant with tax obligations, municipal ordinances, and the MRA's rules and regulations.

If the MRA approves the renewal application, the expiration date of the state license is extended by one year.

What type of licenses are available under the Medical Marihuana Facilities Licensing Act (MMFLA)?

The following licenses types are available under the MMFLA and associated administrative rules:

- Class A Grower (may grow up to 500 marijuana plants)
- Class B Grower (may grow up to 1,000 marijuana plants)
- Class C Grower (may grow up to 1,500 marijuana plants)
- Processor
- Provisioning Center
- Safety Compliance Facility
- Secure Transporter

What are the touchpoints between the Marijuana Regulatory Agency (MRA) and municipalities during the medical marijuana facility licensing process?

The following touchpoints exist between the MRA and municipalities during the medical marijuana facility licensing process:

Attestation I – Confirmation of Section 205 Compliance - Part 1: Municipality

The medical marijuana facility license application (Step 2) requires that Attestation I – Confirmation of Section 205 Compliance - Part 1: Municipality be completed by the municipal clerk or designee of the municipality in which the proposed facility will be located.

After signing the attestation in the presence of a notary, the municipal clerk or designee should return the form to the applicant so the applicant can submit the attestation with their facility license application.

By signing this attestation, the municipality is attesting the municipality has adopted an ordinance authorizing the operation of medical marijuana facilities within the municipality and the proposed facility is in compliance with all municipal regulations and ordinances. The municipality is also confirming that they will report any changes to municipal ordinances adopted under Section 205 of the Medical Marihuana Facilities Act (MMFLA) and will report any violations of municipal regulations or ordinances to MRA-Enforcement@michigan.gov.

If the municipality signs this attestation, the MRA will consider the applicant compliant with all municipal regulations and will approve the applicant for a medical marijuana facility license if all licensing requirements have been met.

If the municipality does not sign this attestation, the MRA will not request or perform the required inspections to determine if the applicant has met all licensing requirements.

Certified Mail Receipt with Letter Sent to Municipality

Section 401.1 (k) of the MMFLA requires that an applicant send the MRA a copy of the notice informing the municipality by registered mail that the applicant has applied for a license under

the MMFLA. The applicant shall also certify that it has delivered the notice to the municipality or will do so by 10 days after the date the applicant submits the application for a license…"

The medical marijuana facility license application checklist states that the MRA requires a copy of the certified mail receipt along with the letter that was sent to the municipality notifying the municipality that the applicant's facility application was submitted to the MRA.

Page 9 of the facility license application, under Part 2, requires the facility's municipality information. This section also asks for information on the certified mail receipt – if the notice was sent and the date the notice was sent to the municipality.

Notification of State Operating License Determination – Granted:

This determination letter is sent to the municipality after the facility license application has been approved, the regulatory assessment fee has been paid, and the license has been issued. This letter is sent by email to the email address provided in the "Clerk (or designee) Email Address" field of Attestation I: Part 1. The subject line of this email will be "Notification of State Operating License Determination – Entity Name**"** (e.g., Notification of State Operating License Determination – Michigan Marijuana LLC). The municipality determination letter of approval will be provided as an attachment.

Notification of State Operating License Determination – Denied:

This determination letter is sent to the municipality after a facility license application has been denied. This letter is sent by email to the email address provided in the "Clerk (or designee) Email Address" field of Attestation I: Part 1. The subject line of this email will be "Notification of State Operating License Determination – Entity Name**"** (e.g., Notification of State Operating License Determination – Michigan Marijuana LLC). The municipality determination letter of denial will be provided as an attachment.

Please note that an application is not officially denied unless an applicant fails to request a public investigative hearing or the applicant has exhausted all administrative remedies and legal appeals for the denial. Therefore, a municipality will not receive this letter until an applicant is officially denied.

Attestation I – Renewal

The medical marijuana facility license renewal application requires that Attestation I – Renewal be completed by the municipal clerk or designee of the municipality in which the licensee is operating. After signing the attestation in the presence of a notary, the municipal clerk or designee should return the form to the licensee so it may be submited with their license renewal application.

Within the attestation, the municipal clerk or designee must indicate if the licensee has or has not violated a municipal ordinance or zoning regulation pursuant to Section 205 of the MMFLA. If a violation has occurred, the municipal clerk or designee should provide an attachment along with the attestation describing the violation.

The municipali clerk or designee must also indiciate if there has been a change to a municipal ordinance or zoning regulation adopted under Section 205 of the MMFLA. If a change has occurred, the municipal clerk or designee should provide an attachment along with the attestation describing the change.

If the municipality signs the this attestation, the MRA will consider the licensee compliant with all municipal regulations and will renew the licensee's medical marijuana facility license if all licensing requirements have been met.

Violations of Municipal Ordinances or Zoning Regulations

The municipality should report any violations of municipal ordinances or zoning regulations by licensees located in the municipality to MRA-Enforcement@michigan.gov.

Changes to Municipal Ordinances or Zoning Regulations

The municipality should report any changes to municipal ordinances or zoning regulations related to medical marijuana facilities to MRA-Enforcement@michigan.gov.

How do municipalities confirm to the Marijuana Regulatory Agency (MRA) that an applicant is authorized to operate a medical facility in the municipality?

Municipalities confirm to the MRA that an applicant is authorized to operate a medical marijuana facility in the municipality by completing Attestation I – Confirmation of Section 205 Compliance - Part 1: Municipality.

If confirmation of municipal compliance is received, the MRA will approve the applicant for a medical marijuana facility license if all licensing requirements have been met.

Does an applicant have to notify the municipality when the applicant submits a facility license (Step 2) application?

Yes. Section 401.1 (k) of the Medical Marihuana Facilities Act (MMFLA) requires that an applicant send the Marijuana Regulatory Agency (MRA) a copy of the notice informing the municipality by registered mail that the applicant has applied for a license under the MMFLA. The applicant shall also certify that it has delivered the notice to the municipality or will do so by 10 days after the date the applicants submits the application for a license…"

The medical marijuana facility license application checklist states that the MRA requires a copy of the certified mail receipt along with the letter that was sent to the municipality notifying the municipality that the applicant's facility application was submitted to MRA.

Page 9 of the facility license application, under Part 2, requires the facility's municipality information. This section also asks for information on the certified mail receipt – if the notice was sent and the date the notice was sent to the municipality.

Is a municipality notified when a facility license (Step 2) application is approved or denied?

Yes. The Marijuana Regulatory Agency will notify the municipality after a facility license application determination has been made. See below for a description of the two letters.

Notification of State Operating License Determination – Granted:

This determination letter is sent to the municipality after the facility license application has been approved, the regulatory assessment fee has been paid, and the license has been issued. This letter is sent by email to the email address provided in the "Clerk (or designee) Email Address" field of Attestation I – Confirmation of Section 205 Compliance - Part 1: Municipality. The subject line of this email will be "Notification of State Operating License Determination – Entity Name**"** (e.g., Notification of State Operating License Determination – Michigan Marijuana LLC). The municipality determination letter of approval will be provided as an attachment.

Notification of State Operating License Determination – Denied:

This determination letter is sent to the municipality after the facility license application has been denied. This letter is sent by email to the email address provided in the "Clerk (or designee) Email Address" field of Attestation I – Confirmation of Section 205 Compliance - Part 1: Municipality. The subject line of this email will be "Notification of State Operating License Determination – Entity Name**"** (e.g., Notification of State Operating License Determination – Michigan Marijuana LLC). The municipality determination letter of denial will be provided as an attachment.

Please note that an application is not officially denied unless an applicant fails to request a public investigative hearing or the applicant has exhausted all administrative remedies and legal appeals for the denial. Therefore, a municipality will not receive this letter until an applicant is officially denied.

When an applicant renews a license, does the applicant have to confirm to the Marijuana Regulatory Agency (MRA) that he or she still has municipal authorization to operate a facility within the municipality?

Yes. The municipality is required to sign Attestation I – Renewal when an applicant renews their medical marijuana facility license. If the municipality signs this attestation, the MRA will consider the licensee compliant with all municipal regulations and will renew the licensee's medical marijuana facility license.

By signing this attestation, the municipality is attesting that they are in compliance with the municipal ordinance requirement of Section 205 of the MMFLA. The municipality is also confirming that they are reporting changes to municipal ordinances adopted under Section 205 of the MMFLA and have reported any violations of municipal regulations or ordinances to MRA-Enforcement@michigan.gov.

After signing the attestation in the presence of a notary, the municipal clerk or designee should return the form to the applicant so the applicant can submit the attestation with the renewal application.

Adult-Use Establishment Licensing Questions

What provisions in the Michigan Regulation and Taxation of Marihuana Act (MRTMA) are relevant to municipalities?

Section 6 of the MRTMA is relevant for municipalities that are considering allowing or restricting adult-use marijuana establishments' operations within the municipality.

Below are the relevant provisions in the MRTMA related to municipalities. The Marijuana Regulatory Agency (MRA) is unable to provide legal interpretation of statutory provisions that fall under municipal authority. If clarification on any of the provisions below that fall under municipal authority is needed, the MRA recommends that you consider consulting an attorney:

- Sec. 3.(q).: "'Municipality' means a city, village, or township."

- Sec. 6.1.: "Except as provided in section 4, a municipality may completely prohibit or limit the number of marihuana establishments within its boundaries."

- Sec. 6.2.: "A municipality may adopt other ordinances that are not unreasonably impracticable and do not conflict with this act or any rule promulgated pursuant to this act and that:
  (b) establish reasonable restrictions on public signs related to marihuana establishments;
  (c) regulate the time, place, and manner of operation of marihuana establishments and of the production, manufacture, sale, or display of marihuana accessories;
  (d) authorize the sale of marihuana for consumption in designated areas that are not accessible to persons under 21 years of age, or at special events in limited areas and for a limited time; and
  (e) designate a violation of the ordinance and provide for a penalty for that violation by a marihuana establishment, provided that such violation is a civil infraction and such penalty is a civil fine of not more than $500."

- Sec. 6.3.: "A municipality may adopt an ordinance requiring a marihuana establishment with a physical location within the municipality to obtain a municipal license, but may not impose qualifications for licensure that conflict with this act or rules promulgated by the department."

- Sec. 6.4.: "A municipality may charge an annual fee of not more than $5,000 to defray application, administrative, and enforcement costs associated with the operation of the marihuana establishment in the municipality."

- Sec. 6.5.: "A municipality may not adopt an ordinance that restricts the transportation of marihuana through the municipality or prohibits a marihuana grower, a marihuana processor, and a marihuana retailer from operating within a single facility or from operation at a location shared with a marihuana facility operating pursuant to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801."

- Sec. 9.1.: "Each application for a state license must be submitted to the department. Upon receipt of a complete application and application fee, the department shall forward a copy of the application to the municipality in which the marihuana establishment is to be located, determine whether the applicant and the premises qualify for the state license and comply with this act, and issue the appropriate state license or send the applicant a notice of

rejection setting forth specific reasons why the department did not approve the state license application within 90 days.

- Sec. 9.3.: "Except as otherwise provided in this section, the department shall approve a state license application and issue a state license if:
  (b) the municipality in which the proposed marihuana establishment will be located does not notify the department that the proposed marihuana establishment is not in compliance with an ordinance consistent with section 6 of this act and in effect at the time of application;
  (c) the property where the proposed marihuana establishment is to be located is not within an area zoned exclusively for residential use and is not within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, unless a municipality adopts an ordinance that reduces this distance requirement;

- Sec. 9.4.: "If a municipality limits the number of marihuana establishments that may be licensed in the municipality pursuant to section 6 of this act and that limit prevents the department from issuing a state license to all applicants who meet the requirements of subsection 3 of this section, the municipality shall decide among competing applications by a competitive process intended to select applicants who are best suited to operate in compliance with this act within the municipality."

- Sec. 14.3.: "The department shall expend money in the [marihuana regulation] fund first for the implementation, administration, and enforcement of this act, and second, until 2022 or for at least two years, to provide $20 million annually to one or more clinical trials that are approved by the United States food and drug administration and sponsored by a non-profit organization or researcher within an academic institution researching the efficacy of marihuana in treating the medical conditions of United States armed services veterans and preventing veteran suicide. Upon appropriation, unexpended balances must be allocated as follows:
  (a) 15% to municipalities in which a marihuana retail store or a marihuana microbusiness is located, allocated in proportion to the number of marihuana retail stores and marihuana microbusinesses within the municipality;

Does a municipal ordinance have to opt in or opt out for adult-use establishments?

To avoid an adult-use establishment license from being issued within the municipality, a municipality must opt out of the Michigan Regulation and Taxation of Marihuana Act (MRTMA) by passing a municipal ordinance that completely prohibits adult-use marijuana establishments.

The municipality is also able to opt in to the MRTMA by passing a municipal ordinance that authorizes the operation of marijuana establishments within the municipality. An authorizing ordinance may also limit the number of marijuana establishments that operate within the municipality.

For further information on municipal ordinances, refer to Section 6 of the MRTMA.

Can the Marijuana Regulatory Agency (MRA) tell a municipality what should be included in the municipality's ordinance and zoning regulations?

The MRA does not provide legal advice or interpretation regarding issues that fall under municipal authority. Please review Section 6 of the Michigan Regulation and Taxation of Marijuana Act for information about municipal authority over adult-use marijuana establishments.

If you still have questions after your review, you may wish to consider consulting with an attorney.

Does the Michigan Regulation and Taxation of Marihuana Act (MRTMA) prohibit adult-use establishments from being within a certain distance to a school?

Yes. Pursuant to Section 9.3.(c) of the MRTMA, the property where the proposed marihuana establishment will be located cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, unless a municipality adopts an ordinance that reduces this distance requirement.

Please note that a municipality may exercise its authority to the reduce the distance via ordinance in two ways:

1) Define the way in the which the distance is measured (e.g. door to door, along streets), OR
2) Reduce the distance the requirement outright (e.g. 500 feet instead of 1,000).

If a municipality has not adopted an ordinance reducing the distance requirement, the Marijuana Regulatory Agency (MRA) will not issue a license for an adult-use establishment that is within 1,000 feet of the school. The MRA will measure the 1,000 feet perimeter as the direct distance from property line to property line when making this determination.

Can the municipality charge an application fee?

Yes. Pursuant to Section 6.4. of the Michigan Regulation and Taxation of Marihuana Act:

"A municipality may charge an annual fee of not more than $5,000 to defray application, administrative, and enforcement costs associated with the operation of the marihuana establishment in the municipality."

Does money collected from adult-use establishments taxes or fees go to municipalities?

Yes, a portion does but not immediately. Money in the fund is first used to repay the initial appropriation from the general fund used to implement the Michigan Regulation and Taxation of Marihuana Act (MRTMA). Next, $20M per year for at least 2 years is used for Food and Drug Administration (FDA) approved clinical trials. After that money is distributed to municipalities, counties, the school aid fund, and the transportation fund. Please see the relevant MRTMA provision below.

Pursuant to Section 14 of the MRTMA:

1. The marihuana regulation fund is created in the state treasury. The department of treasury shall deposit all money collected under section 13 of this act and the department shall deposit all fees collected in the fund. The state treasurer shall direct the investment of the fund and shall credit the fund interest and earnings from fund investments. The department shall administer the fund for auditing purposes. Money in the fund shall not lapse to the general fund.

2. Funds for the initial activities of the department to implement this act shall be appropriated from the general fund. The department shall repay any amount appropriated under this subsection from proceeds in the fund.

3. The department shall expend money in the fund first for the implementation, administration, and enforcement of this act, and second, until 2022 or for at least two years, to provide $20 million annually to one or more clinical trials that are approved by the United States food and drug administration and sponsored by a non-profit organization or researcher within an academic institution researching the efficacy of marihuana in treating the medical conditions of United States armed services veterans and preventing veteran suicide. Upon appropriation, unexpended balances must be allocated as follows:

(a) 15% to municipalities in which a marihuana retail store or a marihuana microbusiness is located, allocated in proportion to the number of marihuana retail stores and marihuana microbusinesses within the municipality;

(b) 15% to counties in which a marihuana retail store or a marihuana microbusiness is located, allocated in proportion to the number of marihuana retail stores and marihuana microbusinesses within the county;

(c) 35% to the school aid fund to be used for K-12 education; and

(d) 35% to the Michigan transportation fund to be used for the repair and maintenance of roads and bridges.

How does the adult-use licensing process work?

The adult-use establishment licensing process is divided into two steps: the prequalification application and the establishment license application.

Prequalification (Step 1) Application

The first step in the process is prequalification. During prequalification, the Marijuana Regulatory Agency (MRA) vets the entities and individuals who are applicants for the proposed adult-use marijuana establishment by conducing criminal and financial background checks to verify their eligibility for licensure.

If the applicant is denied prequalification, the MRA sends the applicant a Notice of Denial letter advising the applicant the prequalification application is denied. Denied applicants have 21 days to request a public investigative hearing. At the hearing, the applicant has an opportunity to demonstrate they are eligible for licensure. After the public investigative hearing, the Executive Director of the MRA either affirms or reverses the Licensing Division's decision to deny the application. If the Executive Director affirms the decision to deny the application, the applicant has the ability to pursue additional legal action in the courts to reverse the decision.

If the applicant is approved for prequalification, the MRA sends the applicant a Notice of Determination letter advising the applicant that prequalification status has been granted and is approved for two years.

Establishment License (Step 2) Application

The second step in the adult-use establishment licensing process is the establishment license application. During the establishment license application process, the MRA reviews the establishment license application documents and requests that the MRA Enforcement Division (Field Operations) and the Bureau of Fire Services (BFS), if applicable, inspect the establishment.

Establishment inspections are conducted after all establishment license application deficiencies have been resolved. The MRA will not perform building inspections if Attestation 2-C - Confirmation of Section 6 Compliance - Part 1: Municipality has not been completed by the municipality.

Please note that an establishment license application may be denied. Some reasons for denial include, but are not limited to, the applicant's failure to resolve application deficiencies or lack of municipal authorization to operate.

If an establishment license application is denied, the MRA sends the applicant a Notice of Denial letter advising the applicant the establishment license application is denied. Denied applicants have 21 days to request a public investigative hearing. At the hearing, the applicant has an opportunity to demonstrate they are eligible for licensure. After the public investigative hearing, the Executive Director of the MRA either affirms or reverses the Licensing Division's decision to deny the application. If the Executive Director affirms the decision to deny the application, the applicant has the ability to pursue additional legal action in the courts to reverse the decision.

If the MRA approves the establishment license application, a state license will be issued to the applicant after the initial licensure fee is paid.

Renewal

An adult-use license is issued for a one-year period from the date of the licensee's original licensure approval. If a licensee decides to renew their license, they must submit a renewal application.

During the renewal process, the licensee must submit the licensure fee payment and a renewal application prior to the licensee's expiration date. The MRA reviews the renewal application to ensure the establishment is compliant with tax obligations, municipal ordinances, and the MRA rules and regulations.

If the MRA approves the renewal application, the expiration date of the state license is extended by one year.

What types of licenses are available under the Michigan Regulation and Taxation of Marihuana Act (MRTMA)?

The following license types are available under the MRTMA and associated administrative rules:

- Class A Marijuana Grower (may grow up to 100 plants)
- Class B Marijuana Grower (may grow up to 500 plants)
- Class C Marijuana Grower (may grow up to 2,000 plants)
- Excess Marijuana Grower (may grow up to 2,000 plants, depending on the adult-use licensee's medical marijuana plant allowance)
- Marijuana Microbusiness (may grow up to 150 plants, process, and retail)
- Marijuana Processor
- Marijuana Retailer
- Marijuana Safety Compliance Facility
- Marijuana Secure Transporter
- Designed Consumption Establishment
- Marijuana Event Organizer
- Temporary Marijuana Event

What are the touchpoints between the Marijuana Regulatory Agency (MRA) and municipalities during the adult-use licensing process?

The following touchpoints exist between the MRA and municipalities during the adult-use licensing process:

Attestation 2-C – Confirmation of Section 6 Compliance - Part 1: Municipality

The adult-use establishment license (Step 2) application requires that Attestation 2-C - Confirmation of Section 6 Compliance - Part 1: Municipality be completed by the municipal clerk or designee of the municipality in which the proposed establishment will be located.

After signing the attestation in the presence of a notary, the municipal clerk or designee should return the form to the applicant so the applicant can submit the attestation with their establishment license application.

By signing this attestation, the municipality is attesting the municipality has not adopted an ordinance prohibiting adult-use marijuana establishments within the municipality and the proposed establishment is in compliance with all municipal ordinances and zoning regulations.

The municipality is also confirming that they will report any changes to municipal ordinances adopted under Section 6 of the Michigan Regulation and Taxation of Marihuana Act (MRTMA) and will report any violations of municipal regulations or ordinances to MRA-Enforcement@michigan.gov.

If the municipality signs this attestation, the MRA will consider the applicant compliant with all municipal regulations and will approve the applicant for an adult-use establishment license if all licensing requirements have been met.

If the municipality does not sign this attestation, the MRA will not request or perform the required inspections to determine if the applicant has met all licensing requirements.

Municipal Notification Letter

After receiving an establishment license application with a completed Attestation 2-C - Confirmation of Section 6 Compliance - Part 1: Municipality, the MRA sends a municipality notification letter by email to the email address provided in the "Clerk (or designee) Email Address" field of this attestation. This email will come from MRA-AdultUseLicensing@michigan.gov. The subject line of this email will be "Municipality Notification – Applicant Name - Application Number" (e.g., Municipality Notification – Michigan Marijuana LLC AU-RA-000099). The municipality notification letter will be provided as an attachment and includes the applicant name, supplemental applicant names, address of the proposed establishment, and the type of marijuana establishment license the applicant applied for. Due to the FOIA provision in Section 9(7) of the the MRTMA *["7. Information obtained from an applicant related to licensure under this act is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246."]*, application records are not disclosed.

After the municipality receives the municipality notification letter, no action is required by the municipality unless the applicant named in the letter is non-compliant with a municipal ordinance adopted under Section 6 of the MRTMA. If the applicant is in violation of a municipal ordinance adopted under Section 6 of the MRTMA, the municipality should notify the MRA pursuant to the instructions provided in the letter.

Confirmation of Municipal Compliance

After an establishment license application has passed the required inspections, the adult-use licensing analyst will request confirmation of municipal compliance to ensure no changes have occurred within the municipality or with the applicant since the Municipal Notification Letter was sent. The email will come from noreply@accela.com with the subject " Confirmation of Municipal Compliance."

Pursuant to the instructions in the email, the municipality must send an email to MRA-AdultUseLicensing@michigan.gov confirming that no ordinances have been adopted prohibiting adult-use marijuana establishments and that the proposed establishment is in compliance with all regulations and ordinances within the municipality. The MRA will not move forward with the application until confirmation of municipal compliance has been received.

Due to the statutory requirement in MRTMA that adult-use marijuana establishment applications must be approved or denied within 90 days of receipt, the adult-use analyst will follow up on the confirmation of municipal compliance email via phone or email as necessary until a response is received.

Municipality Determination Letter

The municipality determination letter is sent to the municipality after the establishment license application determination has been made.

The municipality determination letter is sent by email to the email address provided in the "Clerk (or designee) Email Address" field of Attestation 2-C -Confirmation of Section 6 Compliance - Part 1: Municipality. The subject line of this email will be "Municipality Determination Letter – Applicant Name – Application Number**"** (e.g., Municipality Determination Letter – Michigan Marijuana LLC – AU-RA-001234). The municipality determination letter will be provided as an attachment and will indicate the applicant name, application number, address of the establishment, and whether the license has been approved or the application has been denied.

If the license has been approved, this letter is sent after the initial licensure fee has been paid and the license has been issued. This email will come from MRA-AdultUseLicensing@michigan.gov.

If the license has been denied, this letter is sent if the applicant did not request a public investigative hearing within 21 days the denial determination or if the result of a public investigative hearing remains a denial determination. This email will come from noreply@accela.com.

Please note that an application is not officially denied unless an applicant fails to request a public investigative hearing or the applicant has exhausted all administrative remedies and legal appeals for the denial. Therefore, a municipality will not receive this letter until an applicant is officially denied.

Attestation R-B – Confirmation of Section 6 Compliance

The adult-use establishment license renewal application requires that Attestation R-B – Confirmation of Section 6 Compliance be completed by the municipal clerk or designee of the municipality in which the licensee is operating. After signing the attestation in the presence of a notary, the municipal clerk or designee should return the form to the licensee so it may be submitted with their license renewal application.

Within the attestation, the municipal clerk of designee must indicate if the licensee has or has not violated a municipal ordinance or zoning regulation pursuant to Section 6 of the MRTMA. If a violation has occurred, the municipal clerk or designee should provide an attachment along with the attestation.

The municipal clerk or designee must also indicate if there has been a change to a municipal ordinance or zoning regulation adopted pursuant to Section 6 of the MRTMA. If a change has occurred, the municipal clerk of designee should provide an attachment describing the violation along with the attestation.

If the municipality signs this attestation, the MRA will consider the licensee compliant with all municipal regulations and will renew the licensee's adult-use establishment license if all licensing requirements have been met.

Violations of Municipal Ordinances or Zoning Regulations

The municipality should report any violations of municipal ordinances or zoning regulations by licensees located in the municipality to MRA-Enforcement@michigan.gov.

Changes to Municipal Ordinances or Zoning Regulations

The municipality should report any changes to municipal ordinances or zoning regulations related to adult-use establishments to MRA-Enforcement@michigan.gov.

How do municipalities confirm to the Marijuana Regulatory Agency (MRA) that an adult-use applicant is compliant with municipal ordinances and zoning regulations?

Municipalities confirm to the MRA that an adult-use applicant is in compliance with municipal ordinances and zoning regulations by completing Attestation 2-C -Confirmation of Section 6 Compliance - Part 1: Municipality.

Before a license is issued, the MRA will also send a Confirmation of Municipal Compliance email to the email address provided for the municipal clerk or designee to confirm that the information on the attestation is accurate and that no changes have occurred within the municipality or with the applicant since the attestation was signed.

If confirmation of municipal compliance is received, the MRA will approve the applicant for an adult-use establishment license if all licensing requirements have been met.

What happens after the municipality signs Attestation 2-C – Confirmation of Section 6 Compliance – Part 1: Municipality?

After signing Attestation 2-C -Confirmation of Section 6 Compliance - Part 1: Municipality in the presence of a notary, the municipal clerk or designee should return the form to the applicant so it may be submitted with their establishment license (Step 2) application.

If the municipality signs this attestation, the Marijuana Regulatory Agency (MRA) will consider the applicant compliant with all municipal regulations and will approve the applicant for an adult-use establishment license if all licensing requirements have been met.

If the municipality does not sign this attestation, the MRA will not request or perform the required inspections to determine if the applicant has met all licensing requirements.

Does an applicant have to notify the municipality when they submit an adult-use establishment license (Step 2) application?

No, the applicant is not required to notify the municipality upon submitting an adult-use establishment license application. However, the Marijuana Regulatory Agency will send a

municipal notification letter by email to the email address provided in the “Clerk (or designee) Email Address” field of the completed Attestation 2-C -Confirmation of Section 6 Compliance - Part 1: Municipality notifying the municipality that an adult-use license has been applied for within the municipality.

Is a municipality notified when an adult-use establishment license (Step 2) application is approved or denied?

Yes. The Marjiuana Regulatory Agency will notify the municipality after an establishment license application determination has been made.

This letter will be sent by email to the email address provided in the “Clerk (or designee) Email Address” field of Attestation 2-C -Confirmation of Section 6 Compliance - Part 1: Municipality. The subject line of this email will be “Municipality Determination Letter – Applicant Name – Application Number” (e.g., Municipality Determination Letter – Michigan Marijuana LLC – AU-RA-001234). The municipality determination letter will be provided as an attachment and will indicate the applicant name, application number, address of the establishment, and whether the license has been granted or the application has been denied.

When an adult-use licensee renews a license, do they have to confirm to the Marijuana Regulatory Agency that they are still compliant with municipal ordinances and zoning regulations?

Yes. To confirm that an adult-use licensee is still compliant with municipal ordinances and zoning regulations when renewing an adult-use establishment license, the renewal application requires that Attestation R-B – Confirmation of Section 6 Compliance be completed by the municipal clerk or designee of the municipality in which the licensee is operating.

Enforcement Questions

When does the Marijuana Regulatory Agency (MRA) inspect a proposed marijuana business (medical facility or adult-use establishment) and what is included in the inspection?

The MRA conducts several types of inspections of marijuana businesses:

Pre-Licensure

This inspection occurs after a marijuana business has applied to the MRA for a marijuana license and is in the Step 2 application phase. During this time, the MRA inspectors will communicate with the applicant and conduct an inspection of basic building requirements that need to be met in order to pass the required Pre-Licensure inspection. Some of these requirements include security cameras, partitioning from other businesses in certain cases, and a valid Certificate of Occupancy (or its equivalent) from the local municipality.

Should a business not pass the Pre-Licensure inspection, the MRA inspectors will work with the applicant to bring them into compliance and a passing inspection or advise the MRA Licensing Division that the applicant is unable to pass this requirement. An inspection report is always generated and provided to the applicant after each inspection.

30-Day Post-Licensure

This inspection occurs approximately 30-calendar days after a licensee receives their marijuana license from the MRA. The focus is to bring the licensee into compliance with several functions that can only occur when a business has the license. This includes, but is not limited to, tagging of marijuana products with the statewide monitoring system (Metrc), product labelling compliance, employee suitability for employment and employee training, product storage compliance, adherence to the Executive Orders related to COVID, plant count limits, and more.

The intent of this inspection is to highlight the multitude of rule requirements a new licensee must adhere to in order to remain in compliance with state statutes and rules. Any deficiencies are noted, and a re-inspection will be scheduled until the licensee passes. An inspection report is always generated and provided to the licensee after each inspection.

Semi-Annual

This inspection occurs approximately every six months and is similar to the 30-Day Post-Licensure inspection in detail. This inspection is focused on ensuring the licensee maintains compliance with state statutes and rules. Any deficiencies are noted, and a re-inspection will be scheduled until the licensee passes. An inspection report is always generated and provided to the licensee after each inspection.

Other

This inspection occurs whenever a business reports a need for any change or modification they want to make to the physical structure or equipment at the business. The MRA also uses this inspection type at our discretion to conduct an inspection at a time of our choosing. Any deficiencies are noted, and a re-inspection will be scheduled until the licensee passes. An inspection report is always generated and provided to the licensee after each inspection.

What role does the Bureau of Fires Services have in the Marijuana Regulatory Agency's (MRA) inspection process?

The Bureau of Fire Services (BFS) conducts Pre-Licensure, Semi-Annual, and Other inspections just like the MRA. The BFS utilizes the NFPA 1 of 2018 fire code as a foundation of their inspections. Prior to some inspections, the BFS perform plan reviews of grow, microbusiness, and processor license types due to the fire risks associated with growing and processing marijuana, along with the possible presence of a multitude of chemicals.

Like the MRA, the BFS inspectors and plan reviewers communicate with marijuana business applicants and licensees and perform inspections of the marijuana businesses in an effort to bring them into compliance with the NFPA 1 of 2018. Any deficiencies are noted, and a re-inspection will be scheduled until the licensee passes, or the BFS will advise the MRA that the business is out of compliance.

What role does a municipality play in the inspection process?

The local municipality's main role in state inspections is to issue a Certificate of Occupancy (or its equivalent) for the proposed marijuana business. Municipality personnel are always welcome to join the Marijuana Regulatory Agency and the Bureau of Fire Services inspections and they are always welcome to share any issues, concerns, or business deficiencies to MRA-Enforcement@michigan.gov.

Does a municipality need to provide an applicant for licensure with a certificate of occupancy?

Yes, or its equivalent. This document is required for a proposed marijuana business to pass Pre-Licensure inspections and receive a state license.

After an applicant is granted a license, does the Marijuana Regulatory Agency conduct additional inspections?

Yes. Please see the answer to the FAQ "When does the Marijuana Regulatory Agency (MRA) inspect a facility or establishment and what is included in the inspection?"

If a municipality adopts an ordinance regarding medical facilities or adult-use establishments, should the municipality submit a copy of the ordinance to the Marijuana Regulatory Agency (MRA)?

Yes. The MRA frequently updates documents located at www.michigan.gov/MRA that inform the public what municipalities do, or do not, permit regarding marijuana businesses.

Does the Marijuana Regulatory Agency (MRA) monitor licensees and enforce compliance with municipal and zoning ordinances?

The MRA does not enforce local municipal zoning ordinances. The MRA will, however, receive any report of non-compliance or judgment from local municipalities/courts and that information may have state licensing implications. Feel free to send this information to MRA-Enforcement@michigan.gov.

If a municipality determines that a licensee has violated a municipal ordinance, should the municipality report the violation to the Marijuana Regulatory Agency?

Yes. Please report the violations to MRA-Enforcement@michigan.gov.

Is a municipality responsible for enforcing licensee's compliance with the Medical Marijuana Facilities Licensing Act, Michigan Regulation and Taxation of Marihuana Act, and the administrative rules?

Municipalities can enforce state statutes, the jurisdiction of creating and enforcing the administrative rules is incumbent on the Marijuana Regulatory Agency.

If a municipality becomes aware of unlicensed or illegal marijuana operations, should the municipality report it to the Marijuana Regulatory Agency (MRA) or law enforcement?

The municipality is always free to inform state and local law enforcement. If they inform the MRA, we will forward this information to the Michigan State Police.

FACT SHEET

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Medical Marihuana Facilities Licensing Act (MMFLA) compared with Proposal 1—the Michigan Regulation and Taxation of Marihuana Act (MRTMA)

Votes required for future amendments:

- MMFLA (PA 281 of 2016) requires a simple majority of vote of the Legislature (56 House votes and 20 Senate votes).
- Proposed MRTMA will require a 3/4 vote of the Legislature (83 House votes and 29 Senate votes).

Local Control:

- MMFLA requires municipality to OPT IN.
- Proposed MRTMA requires a municipality to OPT OUT. Municipal decision to limit the number of marihuana establishments or opt out is subject to override by the voters of that municipality through initiative petition.
- MMFLA, a state operating license may not be issued to an applicant unless the municipality in which the proposed facility will be located in has adopted an ordinance authorizing that type of license.
    - If municipality does nothing, no marihuana facilities can be licensed/operate in that municipality.
    - If municipality adopts ordinance (opts in), then it may:
        - Authorize any specific or all license types
        - Limit the number of each license type
- Proposed MRTMA, a state operating license shall be issued to operate in every municipality unless a municipality enacts an ordinance to opt out.
    - Municipality can completely prohibit all license types or limit the types of establishments allowed and the total number of each license type.
    - If the municipal limit on licenses prevents the State from issuing a license to all qualifying applicants, the municipality, not the State, is required to select from the competing applicants using a competitive process intended to identify those who are best suited to operate in compliance with the Act.
- Nothing under the MMFLA nor the proposed MRTMA has direct effect on the Michigan Medical Marihuana Act (MMMA, Initiated Law 1 of 2008; patient caregiver model).
- Proposed MRTMA broadens the prohibition on the separation of plant resin by butane extraction on residential premises under the MMMA to include methods using a substance with a flash point below 100 degrees Fahrenheit within the curtilage of a residence.
- Proposed MRMTA substantially increases the amount of marihuana that may be lawfully possessed from 2.5 ounces and 12 plants by a qualifying patient to 2.5 ounces on one's person, 10 ounces secured in one's residence, and no more than 12 plants at a time.
- While a municipality may regulate the time, place and manner of operation of marihuana establishments, the State must approve and issue a license to a proposed marihuana establishment that is not within an area exclusively zoned for residential use and is not within 1000 feet of a pre-existing K-12 public or private school. A municipality may reduce this distance by ordinance.

License Types:

- MMFLA has five license types:
    1. Grower
        - Class A – 500 plant limit
        - Class B – 1,000 plant limit
        - Class C – 1,500 plant limit

2. Processor
3. Secure transporter
4. Provisioning center
5. Safety compliance facility

• Proposed MRTMA has six "marihuana establishment" license types:
    1. Grower (plant limits are different than MMFLA)
        - Class A – 100 plant limit
        - Class B – 500 plant limit
        - Class C – 2,000 plant limit
    2. Processor
    3. Secure transporter
        - Provides for license, but nowhere in the language is there a requirement that marihuana must only be transported by a secure transporter.
    4. Retailer
        - MMFLA license is a provisioning center, not retailer.
    5. Safety compliance facility
    6. Microbusiness
        - Person licensed to cultivate not more than 150 plants; process and package; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a safety compliance facility, but not to other marihuana establishments.
- MRMTA also defines an "establishment" as, "any other type of marihuana-related business licensed" by the State, which would include licensed "marihuana facilities" under the MMFLA.
- MMFLA prohibits a caregiver from grower, processor, or secure transporter license types.
- Proposed MRTMA does not prohibit a caregiver from holding any of the six license types.
- A person may be licensed under both the MMFLA as well as the proposed MRTMA.

Unreasonably Impracticable:
- MMFLA does not reference this term, found in proposed MRTMA.
- Proposed MRTMA prohibits any administrative rule or municipal ordinance that subjects the licensee to unreasonable risk or requires such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate the marihuana establishment.
    - Any rule or ordinance could be legally challenged if a person considers it to require too much time, money, etc.

Additional information:
- Definitions of key statutory terms are not consistent between the MMFLA and the proposed MRTMA.
- Grower license plant limits are not consistent between the MMFLA and the proposed MRTMA.
- Application process is not consistent between the MMFLA and the proposed MRTMA.
    - If the State does not begin accepting/processing MRTMA applications within one year of the effective date of the Act, applicants can submit an application to a municipality that has not opted out of the act. Municipality shall issue a municipal license to applicant within 90 days. Municipal license has same force and effect as state license, but the municipal license holder is not subject to regulation or enforcement by the State during the municipal license term.
- If proposed MRTMA passes, the MMFLA requirement that a three percent tax is imposed on each provisioning center's gross retail receipts is no longer applicable. However, a 10 percent tax will be imposed on marihuana retailers on sales price of marihuana sold or otherwise transferred to anyone other than a marihuana establishment.
- The percent of the municipal portion of the excise tax collected is reduced from 25 percent under the MMFLA to 15 percent under the MRTMA and is paid only after the State is compensated for its implementation, administration, and enforcement of the Act; and until 2022 or for at least two years, $20 million annually is provided to FDA-approved clinical trials researching the efficacy of marihuana in treating U.S. armed services veterans for medical conditions and suicide prevention.
- If proposed MRTMA passes, it goes in to effect 10 days after the election is certified by the State Board of Canvassers.

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

Key Differences between Medical Marihuana and Recreational Marihuana Statutes

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

Key Differences between Medical Marihuana and Recreational Marihuana Statutes

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

Excerpted from "Recreational Marihuana Proposition," a white paper by Kalamazoo City Attorney Clyde Robinson. The full paper is available at www.mml.org.

Recreational Marihuana Proposition

michigan municipal league

We love where you live.

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

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

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

Other resources

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

Introduction

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

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

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

When would the proposed law become effective if approved?

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

Another constitutional feature of a voter-initiated law is that it can only be amended by a vote of the electors or by ¾ vote of each house of the Legislature. This likely makes amending the statute difficult, but not impossible, as the MMMA has been amended at least twice since its adoption by the voters in 2008.

As for the actual licensure of businesses authorized to grow, process, and sell recreational marihuana, the Act requires that the Michigan Department of Licensing and Regulatory Affairs (LARA) begin accepting applications for state-issued licenses no later than a year after the effective date of the law and issue the appropriate license or notice of rejection within 90 days. (MRTMA § 9) Unlike the MMFLA, there is not a specific licensing board created to review and grant recreational marihuana establishment licenses. Given the deliberate speed of LARA and the Medical Marihuana Licensing Board in processing and authorizing licenses under the MMFLA, it is an open question whether the statutory deadline will be met. If it can't, then the burden of licensing recreational marihuana establishments will fall to local municipalities, because the MRTMA specifically provides that if LARA does not timely promulgate rules or accept or process applications, "beginning one year after the effective date of this act," an applicant may seek licensure directly from the municipality where the marihuana business will be located. (MRTMA § 16)

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

What does the initiated statute seek to do?

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

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

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

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

What the statute permits

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

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

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

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

What is "Not Authorized" under the statute

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

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

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

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

Differences in terminology between statutes addressing medical and recreational marihuana

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

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

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

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

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

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

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

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

What may a municipality do?

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

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

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

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

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

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

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

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

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

1. be content neutral;

2. be narrowly tailored to serve a significant governmental interest; and

3. leave open ample alternative channels for communication.

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

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

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

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

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

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

What limitations on the State are applicable to municipalities?

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

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

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

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

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

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

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

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

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

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

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

Municipality as an employer or landlord

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

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

Municipal share of Marihuana Excise Tax Fund

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

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

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

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

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

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

Conclusion

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

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

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

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

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