

**SUPERIOR CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
3040 N. PROSPECT RD., YPSILANTI, MI 48198**

**WEDNESDAY
MARCH 30, 2022
7:00 P.M.
AGENDA**

1. CALL TO ORDER
2. ROLL CALL
3. ADOPTION OF AGENDA
4. APPROVAL OF MINUTES
 - A. Approval of the January 12, 2022 minutes
5. CITIZEN PARTICIPATION
6. COMMUNICATIONS
7. PUBLIC HEARINGS AND CONSIDERATION OF APPEALS
 - A. **ZBA #22-01 Secrest Nature Preserve**
Variance from Section 8.06C1 (Design Requirements for Parking Areas) for a parking area proposed to be located in the front yard setback.
 - B. **ZBA #22-02 8414 Joy Road – Green**
Variance from Section 3.101 (Dimensional Standards) for an addition to existing single-family dwelling in the front yard setback.
8. OLD BUSINESS
 - A. **ZBA #21-05 5766 Geddes Road - Schuster**
Request for seven separate Zoning Ordinance interpretations and an appeal of the decision of the Township Zoning Administrator.
9. OTHER BUSINESS AS NECESSARY
10. ADJOURNMENT

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1. CALL TO ORDER

The meeting of the Superior Charter Township Zoning Board of Appeals was called to order by Vice-Chairman Dail at 7:00 p.m.

2. ROLL CALL

The Zoning Board of Appeals members present were Brennan, Craigmile, Dail, Parm. Deeds and Heningburg were absent. Rick Mayernik, Building and Zoning Official, was also in attendance. A quorum was present.

3. ADOPTION OF AGENDA

A motion was made by Member Parm and supported by Member Brennan to adopt the agenda as presented. The motion carried.

4. APPROVAL OF MINUTES

A motion was made by Member Parm and supported by Member Brennan to approve the minutes of September 29, 2021. The motion carried.

5. CITIZEN PARTICIPATION

None.

6. COMMUNICATIONS

Public comment from Aneel Kanani and Ruth Langs in opposition to ZBA 21-06.

A four-page letter dated January 12, 2022 along with several attachments addressed to the ZBA members from Mr. Schuster.

Motion by Member Brennan, supported by Member Parm to receive and file the communications.

7. PUBLIC HEARINGS AND CONSIDERATION OF APPEALS

- A. ZBA #21-05 – 5766 Geddes Road - Schuster
Request for seven separate Zoning Ordinance interpretations and an appeal of the decision of the Township Zoning Administrator.

Motion by Member and supported by Member to open the public hearing.
The motion carried.

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Mr. Schuster provided the ZBA members with a printout of PowerPoint Slides regarding his appeal. He then gave background information on his previous ZBA submittals and interpretation requests.

Mr. Schuster explained that he is asking the Zoning Board of Appeals to interpret seven portions of the Zoning Ordinance as well as appealing the decision of Mr. Mayernik as Zoning Official. Mr. Schuster briefly explained the seven interpretations and why he is requesting an interpretation of the parts of the Zoning Ordinance.

Mr. Schuster stated he does not want the Zoning Ordinance to be amended, he wants an interpretation of items of the ordinance. The goal is to protect the community, residents, and the environment. He also noted concerns with impact of the project on the Huron River Watershed.

He is also requesting to overturn the building permit that was issued. He noted that he feels unsafe due to the undercuts and steep grades surrounding the parcel.

Member Dail stated that the ZBA gets authority from the Zoning Ordinance and operates within the confines of the authority granted here. He continued to read through section 13.07 of the Zoning Ordinance as well as the purpose of the R-1 Zoning District.

Member Dail stated that when it comes to development in the Township, there are several different controlling factors: the Zoning Ordinance, Building Code, and Township Engineering Standards.

Member Dail informed Mr. Schuster that as the ZBA looks at the requested interpretations, he'd like Mr. Schuster to tell the Board why each is necessary and why it is a subject of the Zoning Ordinance and not the Building Code.

Mr. Schuster stated that placement of guard rails and fences generally cannot be on the lot line or on the neighbor's lot. He went on to state that a fence has been installed on his property due to the retaining wall, and a fence cannot be placed on someone else's property. He questioned if a fence is synonymous with a guard rail or if it is an interchangeable term. He also noted that a Certificate of Zoning Compliance is required for fences in the Township.

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Mr. Schuster spoke to his second interpretation request regarding retaining walls. He shared concerns that the retaining walls can impact wetlands and the runoff by creating landings. He continued to explain that heights of walls are specified, and the question is: is a retaining wall a “wall” and does it observe setbacks?

Member Dail stated that Mr. Schuster mentioned mass grading. As a Civil Engineer, Member Dail understands mass grading to be taking a large area and reshaping a surface to be compatible with plans you’re trying to develop. He has never heard of mass grading applied to a single lot.

Mr. Schuster replied that the term is in the Zoning Ordinance as construction. The term construction includes the mass grading in preparation for a new use, and that term is not found in the Ordinance definitions. He stated he is trying to figure out the reason that term is specifically in the Ordinance. If it doesn’t have any practical meaning, that is functionally cutting it out of the Ordinance without amending it. That is why he is asking for an interpretation of mass grading.

Mr. Schuster detailed his third interpretation request – retaining wall height. He explained that wall height is a term defined in the Zoning Ordinance and there is a section on fence height that overlapped with retaining wall. He questioned from which side the retaining wall would be measured. He feels that in theory, a retaining wall height could be limitless because it is not regulated.

Member Dail stated that anyone can develop hypothetical situations of any issue they want to. He questioned if the ZBA was trying to address a hypothetical problem that doesn’t exist, and if it could have unintended consequences.

Mr. Schuster replied that there is a ten-foot unsupported earthen wall on his property that it is real, and happened.

Member Dail acknowledged that what is happening at the site is a “real mess”. He went on to question, if the ZBA had the interpretation that Mr. Schuster seeks, would that have prevented the ten-foot wall? Or, would it still be there? He went on to say that it (the construction) is a work in progress that needs to be resolved.

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Mr. Schuster replied that it sounds like it would be subject to a variance request.

Regarding his fourth interpretation request, Mr. Schuster asked “what does an approved road mean?” He questioned if you could build on a lot that has a grandfathered road, or if it must be reviewed.

Mr. Schuster stated that his fifth interpretation request goes back to other uses on a parcel and goes back to whether a retaining wall is an accessory structure. And are accessory structures allowed in the setback?

Member Dail explained that accessory structure matters come before the Zoning Board of Appeals frequently. He continued to state that it is usually a small shed or barn involving the property lines and the principal structure. It’s always in the form of an actual structure, not in the form of a linear structure.

Mr. Schuster explained that when he wanted to add an accessory structure it needed to be 60 feet away from the property line, but the retaining wall could be right at the property line. He is questioning if a retaining wall is an accessory structure and if it is allowed in the setback.

The sixth interpretation Mr. Schuster is requesting comes back to construction in the easements, and if a building permit is needed for a structure that is not relating to the parcel it is on. He continued to explain that a private road generally has an operating agreement, but in this case, there isn’t one. If you need a structure on a second parcel, you’re impacting the stormwater and grading over two lots.

Member Dail replied that if the interpretation was made the way Mr. Schuster is requesting, anyone involved in this would need to go through the site plan process with the Planning Commission, which is a fairly involved, lengthy, expensive process.

Mr. Schuster responded he believes it would protect the natural resources in the district. If you’re paving and constructing over two or more parcels, who is bearing cost for maintenance and what happens if there’s a failure? He added it is not a simple item that should be glossed over.

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The seventh interpretation is regarding mass grading. Mr. Schuster stated this involves what can be permitted and allowed. He continued that mass grading is construction, and if it needs a permit, is it conforming with the intent of the ordinance?

Mr. Mayernik stated he reviewed the interpretation requests and provided a lengthy response. He also included a letter from the Township Attorney. He reiterated that the Zoning Official is charged with interpreting the provisions of the Ordinance, while the ZBA has the authority to interpret the text of the ordinance. He explained Mr. Schuster is asking for the interpretation of a retaining wall, improved road, mass grading, and a method of retaining wall height calculations. Mr. Mayernik asked if these are requests that the ZBA has the authority to interpret, or if these matters should be in front of the Planning Commission and the BOT to amend the Zoning Ordinance. He noted it seems like we are creating text and not interpreting text in some of these cases.

Mr. Mayernik went on to state these issues are relating to a single-family lot and a 66-foot-wide easement. He stated that Mr. Schuster made comments about the Rock properties and Eyde properties, but he does not see the similarities between a proposed 2,000 home development and a single-family lot.

In response to the first interpretation request, Mr. Mayernik explained that the Zoning Ordinance defines what a fence is, but not a guard. The building code defines a guard, but the building code specifically prohibits any jurisdiction from creating anything that overrides any provision of the building code. He continued that guards are a safety device, and the building code tells you where a guard must be located, whereas fences are not meant for safety. He added that clearly fences and guards are not the same thing, and he would like the ZBA to interpret that guards required by the building code are not fences and cannot be regulated by the Zoning Ordinance.

In response to the second interpretation request, Mr. Mayernik explained that accessory structures are not allowed to be in the front yard of any residential lot. To call a retaining wall an accessory structure would prohibit anyone from having a retaining wall in their front yard. He believes the definition should be akin to what is discussed in the Zoning Ordinance as it is creating a separation between differential grades.

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In response to the third interpretation request, Mr. Mayernik stated that being that retaining walls are not a defined term, if the Zoning Ordinance did not relate the height of retaining walls to fences, theoretically, one could create a retaining wall that retained two feet of dirt on one side and that retaining wall could go thirty feet in the air, and it would be unregulated by the Township Zoning Ordinance. He stated that is why within the Zoning Ordinance there is a correlation between retaining walls height above the upper grade and fences. Mr. Mayernik went on to state that the idea of a retaining wall that would be placed within a right-of-way that was necessary for the construction of a roadway or a driveway seems perfectly normal to him. Mr. Mayernik asked the ZBA to affirm that retaining wall heights from the lowest to the highest elevations are unregulated and find that retaining wall heights above the higher elevation of the grade be regulated as fences as described within Article 6 of the Township Zoning Ordinance.

Member Dail stated that a retaining wall is a very expensive engineered structure that serves a purpose, whereas a fence serves a decorative purpose. He cannot imagine anyone building a retaining wall higher than absolutely necessary.

In response to the fourth interpretation request, Mr. Mayernik explained that he looked at three separate situations to how he'd interpret an improved road. Public and private roads are approved by the Planning Commission and the Washtenaw County Road Commission. Private roads are applied for and constructed in accordance with the private road ordinance. Lastly, prior to the enactment of the Private Road Ordinance, the requirement of land divisions and lots to be on a public or private street. Up until it was adopted, the applicant showed the lots to be divided and the 66-foot right-of-way. Whether the road was constructed or not, the easement is there. Also, prior to the issuance of the Certificate of Occupancy of the house, the construction of that road is reviewed by the Building Official and the Fire Chief.

In response to the fifth interpretation request, Mr. Mayernik explained that the applicant is asking that accessory structures be placed only on the lot relating to the construction at hand. Mr. Mayernik believes Mr. Schuster's thought is that a retaining wall is an accessory structure, and the point he may be asking for is that the person whose land the easement goes through would have controlling say over whether the retaining wall could be placed within the right-of-way. Mr. Mayernik went on to state that he does not agree with that interpretation. He believes

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the retaining wall is necessary for the construction of the road for grades and keep the road safe and level. He thinks the terms of whatever easement was granted may dictate different things, but those are legal battles to be fought elsewhere. As far as Mr. Mayernik's interpretation, he stated retaining walls or other structures necessary for construction of private drives or roads located in a right-of-way should be exempt.

In response to the sixth interpretation request, Mr. Mayernik stated that Mr. Schuster believes that because the Mouliere's would have to traverse across Mr. Schuster's property to get to their property, the construction affects two lots and not one. As such, should come before the Planning Commission for review. Mr. Mayernik disagrees on several levels. He explained that there are many metes and bounds divisions across the township where the property line of each lot goes to the center of the road. Therefore, the person at the end of a cul-de-sac goes across several lots to get to their house. He does not believe making every one of those homeowners come before the ZBA would be the intent of the Zoning Ordinance. He went on to state that throughout many of the rural roads in the township, many of the parcel boundaries go to the center of the public road. Mr. Mayernik believes that single family lots should be exempt from going to the Planning Commission.

In response to the seventh interpretation request, Mr. Mayernik stated that he has not heard of mass grading applied to a single-family lot. He explained that at one time the Township adopted a soil movement and deposit ordinance, but it was rescinded. Currently, filling, grading and other earthwork is regulated by the Soil Erosion Division of Washtenaw County. Given that the Township doesn't regulate soil movement and deposit, there is no need to create a definition of mass grading.

Lastly, Mr. Mayernik spoke regarding the appeal of his decision not to issue a Certificate of Zoning Compliance for the building permit relating to the roadway. He explained that permits are not required for the construction of driveways. He noted that the State has chosen to modify the language from the International Code Council and completely exempts driveways and sidewalks from Building Code. The Building Code has no language identifying materials or methods to construct a driveway or road. He explained about steep slopes and differential of grade, noting that if the differential of grade is over 30 inches a permit is needed. He explained that statement is included in the Building Code because in other areas of the code, any differential of grade 30 inches or more, adjacent to a walking surface would require a guard.

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Mr. Mayernik described that in this case, grading was created, and the driveway is next to steep slopes in several areas. From a technical standpoint, the steep slopes exceed some of the dimensions required by the Building Code at the portions exceeding 30 inches. Mr. Schuster first sent Mr. Mayernik emails stating he found these sections and wanted Mr. Mayernik to look at them because he thought a permit was required. At first, Mr. Mayernik thought it was too technical and not necessarily totally applicable, but he could see Mr. Schuster's point and he issued the permit. Now Mr. Schuster is requesting that same permit be rescinded because Mr. Mayernik did not issue a Certificate of Zoning Compliance for what would be the installation of safety guard rails.

Mr. Mayernik went on to discuss that in the Zoning Ordinance where it says if you're issuing a Building Permit you need a Certificate of Zoning Compliance. He believes this relates to houses, sheds, and fences, and interprets that a Certificate of Zoning Compliance is required to issues germane to the Zoning Ordinance. He does not see the point in issuing one for a guard rail of this nature.

Member Dail stated that the ZBA has 180 days to make a decision and he would like to take more time as it is a lot of information to take in.

Motion by Member Brennan, supported by Member Parm, to postpone action on ZBA 21-05 5766 Geddes Road – Schuster, a request for eight separate Zoning Ordinance interpretations and an appeal of the decision of the Township Zoning Administrator.

Roll Call:

Yes: Brennan, Craigmile, Dail, Parm.
No: None.
Abstain: None.
Absent: Deeds, Heningburg.

The motion carried.

- B. ZBA #21-06 5728 Geddes Road - Mouliere
Variance from Section 3.101 (Dimensional Standards) for setbacks from the private road right-of-way.

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Motion by Member Parm, supported by Member Brennan to open the public hearing.

Adam Behrendt, attorney for the homeowners of 5728 Geddes Road from Bodman Law, stated that the applicant is requesting a variance to permit a 60-foot relaxation of the setback requirement that will allow the Mouliere's to construct their home. He added that the reasons for the request are set forth in their statement included in the packet. Mr. Behrendt went on to explain that the property is enveloped in wetlands and steep grade and the location shown on the site plan is the only place the home structure can be erected and it will be within that 60-feet. He added that the ultimate use is to make a single-family home, and the variance request is not due to an issue of the applicant's own creation.

Member Dail explained that there are standards of review that the ZBA must affirm in order to grant the variance. He added that he fully understands the frustration of Mr. Schuster.

Mr. Behrendt stated that this is the last step before starting construction and getting it wrapped up is very important to the process.

Mr. Mayernik explained he prepared a short memo for ZBA members and also provided a copy of the building permit denial letter and a copy of the land division from 1996. He explained that Mr. Schuster's parcel is labeled Parcel A and the Mouliere's parcel is B and C. Also attached was a drawing from Atwell showing approximately where the house is located.

Mr. Schuster submitted additional paperwork and it was given to the ZBA members the evening of the meeting. He also provided a copy of alternative locations for the home that wouldn't infringe on the Zoning Ordinance.

Member Dail stated that he looked at the location sketch provided by Mr. Schuster and recalled it showed a footprint for an 8,000 square foot structure, which would fit at the site. He added that based on the drawing provided by Mr. Schuster, he effectively moved that structure to the east almost directly in front of his own home.

Mr. Schuster replied that his concern is for the topography of the land, the wetlands and the Huron River Watershed. He acknowledged that it is not in his personal best interest, but there are natural features that are worth protecting. He feels that the application hasn't addressed the

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environmental concerns that would be needed in order to grant a variance.

Mr. Behrendt replied that the applicant has full soil erosion for the site, and they have taken that very seriously.

Member Dail reviewed the Standards of Review set forth in Section 13.08B of the Zoning Ordinance:

1. Special conditions and circumstances exist that are unique to the land, structures, or buildings involved, and are not applicable to other lands, structures, or buildings in the same district, subject to the following:
 - a. The existence of nonconforming dwellings, lots of record, structures, uses, or sites on neighboring lands in the same zoning district or other zoning districts shall not be considered grounds for a variance.
 - b. The special conditions and circumstances on which the variance request is based do not result from the actions of the applicant.
2. Literal interpretation of this Ordinance would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this Ordinance.
3. Granting the variance requested would not confer upon the applicant any special privilege that is denied by the Ordinance to other lands, structures, or buildings in the same district.
4. A variance granted shall be the minimum that will make possible a reasonable use of the land, building, or structure. The Board of Appeals may consider lesser variances than that requested by an applicant.
5. The variance granted shall be in harmony with the intent of this Ordinance and will not be injurious to the environment, neighborhood, or otherwise detrimental to the public interest.

The ZBA found the variance met all five Standards of Review set forth in Section 13.08B of the Zoning Ordinance.

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Ms. Dieck, Bodman Law, stated that the applicant and builder looked at many places for the house to be situated. She explained that the septic field can only be in certain places based on the soils in the area.

Motion by Member Brennan, supported by Member Parm to approve ZBA 21-06 5728 Geddes Road – Mouliere, variance from section 3.101 for setbacks from the private road right-of-way, having found that it complies with the standards set forth in section 13.08B of the Superior Township Zoning Ordinance.

Roll Call:

Yes: Brennan, Craigmile, Dail, Parm.
No: None.
Abstain: None.
Absent: Deeds, Heningburg.

The motion carried.

8. OLD BUSINESS

None.

9. OTHER BUSINESS AS NECESSARY

A. Election of Officers

It was determined by the present ZBA members that election of officers would wait until all members of the ZBA were present.

Motion by Member Parm, supported by Member Brennan to postpone the Election of Officers for 2022.

The motion carried.

10. ADJOURNMENT

A motion was made by Member Brennan and supported by Member Craigmile to adjourn the meeting at 9:01 p.m.

Respectfully submitted,

Doug Dail, Chairman Zoning Board of Appeals

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Laura Bennett, Recording Secretary
Superior Charter Township
3040 N. Prospect, Ypsilanti, MI 48198

DRAFT

**ZONING BOARD OF APPEALS
SUPERIOR CHARTER TOWNSHIP
SUPERIOR TOWNSHIP HALL
3040 N. PROSPECT, YPSILANTI, MI 48198
WEDNESDAY, MARCH 30, 2022
7:00 p.m.**

ZBA #22-01

The Superior Township Zoning Board of Appeals will hold a public hearing on **Wednesday, March 30, 2022, at 7:00 p.m.** at the Superior Township Hall, 3040 N. Prospect, on a request for the following variance from the Superior Township Zoning Ordinance:

Variance from Section 8.06C1 (Design Requirements for Parking Areas) for a parking area proposed to be located in the front yard setback.

The property is located on Berry Road and is zoned A-1 (Agricultural District).

Parcel ID # J-10-10-400-001

A complete copy of the petition for variance is available for inspection or copying at the Township Hall 9:00 a.m. – 4:00 p.m. weekdays. Persons wishing to express their views may do so in person at the public hearing, or in writing addressed to the Zoning Board of Appeals at the above address. Superior Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities upon four (4) business days notice to the Township. Individuals requiring auxiliary aids or services should contact Superior Charter Township by writing the Township Clerk.

Laura Bennett, Planning/Zoning Clerk
3040 N. Prospect
Ypsilanti, MI 48198
734-482-6099

ZONING BOARD OF APPEALS APPLICATION

(This application must be typewritten or printed. All questions must be answered.)

Request is hereby made for one of the following:

☒ Variance from the requirements of the following Zoning Ordinance
Section(s): Section 8.06C1

☐ Appeal of the decision of the Township Zoning Official

APPLICANT INFORMATION

Name Southeast Michigan Land Conservancy; c/o Jill Lewis, its Executive Director

Address 8383 Vreeland Road, Superior Twp, MI 48198

Phone Number 734-484-6565

Email jlewis@smicland.org

Is the property owned by the applicant? ☒ YES ☐ NO

If "NO", what is the applicant's interest in the property? _____

Name, address and telephone number of owner(s): _____

DESCRIPTION OF THE PROPERTY

Address Secrest Nature Preserve - Berry Rd.

Parcel ID# J-10-10-400-001

Parcel size 80 acres

Size of the proposed building or addition, if any N/A - proposal is for a parking area for public access to the property

Use of existing building (if any) and property Natural areas preservation and recreation

Zoning classification of property A-1

If a new building is proposed, has the Building Inspection department examined the plans for the proposed building? ☐ YES ☐ NO

Has the department refused a permit? ☐ YES ☒ NO

Has there been any previous land use application involving this property? YES NO ☒

If "YES", state the date of filing, the character of appeal and the disposition.

INFORMATION REQUIRED TO BE SUBMITTED WITH APPEAL

The following must attached and submitted with the application:

- Ten (10) sets of drawings, all on sheets 8 ½ inches by 11 inches or 8 ½ inches by 14 inches, drawn to scale and showing all measurements, features and structures, including the general location of all natural features on the property, measurements to show distances between structures, measurements between structures and property lines, measurements for lot width and lot area, and height of structures. Rights-of-way and easements must also be shown.
- A letter of authority, or power of attorney, in the event the appeal is being made by a person other than the actual owner of the property.
- A complete legal description of the premises (as stated on the property deed or property tax bill.)

APPLICANT'S DEPOSITION – Must be completed by applicant.

I hereby state that all of the statements and information contained in this application and the supporting documents herewith are true and correct.

Signature of applicant Jill A. Lewis Date 2-9-22

NOTARY PUBLIC – Applicant's signature must be notarized.

Sworn to before me this 9th day of February 20 22
My commission expires 06/28/2024
(Notary Public, Washtenaw County, Michigan)

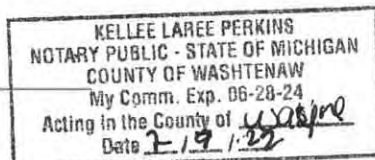
To be filled in by Township Clerk (or designated Township Officer/Personnel)

I hereby state that this petition was properly received and filed on 2/9/22 (date)

Signature of Clerk (or designee)

Kelley Lane Perkins

Fee paid _____



DESCRIBE THE REASONS FOR YOUR APPEAL

Note: The Zoning Board of Appeals is required to use the standards listed in Section 13.08(B) of the Zoning Ordinance when considering an appeal. It is recommended that applicants review these standards and consider them in preparing a description of why the variance is needed. A copy of the standards is attached to the application.

Please see attached.

YOU MAY WISH TO ASK YOUR NEIGHBORS TO SIGN THE FOLLOWING SECTION IF THEY HAVE NO OBJECTION TO THE APPEAL YOU ARE MAKING.

We the undersigned, as owners of property any part of which is located within 300 feet of any part of the property involved in this appeal, have no objections to the granting of the request made in this appeal:

NAME (PLEASE PRINT)	SIGNATURE	STREET ADDRESS
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Notice to Applicants for the Zoning Board of Appeals

Filing Applications

You must call and schedule an appointment with the Township Zoning Official Richard Mayernik to file an application. He may be reached at the Township Office at (734) 482-6099.

Meeting Schedule

The Zoning Board of Appeals does not have a regular meeting schedule. Meetings are called whenever there is an application for a variance. Because variance requests require a public hearing, it generally takes four (4) weeks from the date an application is received until a meeting of Zoning Board of Appeals can be held. This time is needed to schedule the meeting date and to mail out notices of the public hearing.

Reasons for the Appeal

The Zoning Board of Appeals is required to use the standards listed in Section 13.08 of the Zoning Ordinance when considering the appeals. It is recommended that applicants review these standards and consider them in preparing a description of why the variance is needed.

Site Visits

Filing an application gives the implied consent for Township officials and/or consultants to visit the subject site.

Application Fees

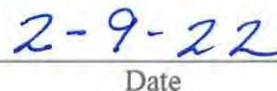
An application fee must be paid when you file your application. The fees are as follows:

1. Appeals brought by the owner of a single-family dwelling for a variance from density and height regulations of the Zoning Ordinance = **\$175.00**
2. Any other appeal = **\$500.00**

Applicant's Acknowledgement

I hereby acknowledge that I have read and agree to the above and that I have been given a copy of this notice.


Signature


Date



Mission

The Southeast Michigan Land Conservancy conserves natural land and open space - including forests, wetlands, meadows, agricultural lands, and places of scenic beauty - to provide habitat for wildlife and to enrich the lives of people.

SMLC Local Chapters

Monroe County Chapter
Superior Township Chapter

Southeast Michigan Land Conservancy

8383 Vreeland Road
Superior Twp., MI 48198
734.484.6565
734.484.0617 (fax)
www.smlcand.org

SETBACK VARIANCE APPLICATION

Secrest Nature Preserve

Legal Description: *OLD SID - J 10-010-040-00 SU 10-14 E 1/2 OF SE 1/4 SEC. 10 T2S R7E 80.00 AC.

The Southeast Michigan Land Conservancy (SMLC) desires to construct a small parking area for its new Secrest Nature Preserve (the Nature Preserve) on Berry Road. SMLC has several concerns related to the Township's requirement of a 75' front-yard setback for its parking area and respectfully request a variance to reduce the setback to 15'. SMLC requests this reduction to reduce the disturbance of the property's natural areas and to promote the visibility of the parking area from Berry Road.

The Nature Preserve is an undeveloped 80-acre parcel on the Northeast corner of Berry Road and Ford Road. The Nature Preserve will be maintained in its natural state and is open to the public for passive recreation and the enjoyment of nature. Thus, there is a need for a safe parking area for visitors. The Nature Preserve is comprised of relatively undisturbed forest (the northern 1/3) and former agricultural land (southern part) that is currently overgrown upland meadows and wetlands. The southern wetlands form part of the headwaters of the Rouge River.

The Nature Preserve is protected by a conservation easement that restricts construction to certain small areas of the property and is intended to preserve the existing and potential natural features (also called conservation values) in perpetuity. As such, SMLC would like to keep the amount of disturbance to a minimum. A 75' setback would effectively double the footprint of disturbed area for the parking area, which would include clearing of vegetation, wildlife habitat, and several established trees that contribute to the forest canopy. Additionally, the 75' setback would place the parking lot approximately 20' uphill of wetlands identified on Washtenaw County's wetland maps. While the footprint of the parking lot should not be within the bounds of any delineated wetlands, their close proximity downhill is a concern due to the potential for invasive species that are frequently carried on vehicles to be washed into these valuable ecosystems. With a reduced setback, there is an increased upland buffer that would intercept any seeds and allow for effective management of invasive species with minimal impact on the wetlands.

Another significant concern is that the stipulated setback will greatly reduce visibility of the parking area from Berry Road to the detriment of the Nature Preserve, its neighbors, and the Township. SMLC already contends with illegal dumping at other preserves throughout the Township and is concerned that reducing visibility from the road would promote that and other undesirable behavior at this preserve as well. SMLC's parking areas are unattended and closed at dusk. Thus, SMLC desires that its parking areas be visible from the road to minimize vandalism and trespass. This allows authorities, e.g., Police, to quickly check the parking areas for unauthorized use, as they do at other SMLC preserves in the Township. The lack of visibility is compounded by the grade of the site -- which slopes away from the road. The 75' setback would place the parking lot approximately 3' lower than the road, which would further shield it from view.

An additional issue to note is that SMLC, the County and the Township have several nature preserves located throughout the Township (in the Superior Greenway). Most of the existing parking areas for these preserves do not meet this 75' setback. For instance, the parking area at the Township's Schroeter Park – immediately to the North of the Nature Preserve (through the County's Weatherbee Woods Preserve) has perpendicular parking directly on Warren Road. Thus, there is significant precedent throughout the Township for a minimal setback, if any, for parking areas that serve nature preserves.

Finally, the Nature Preserve's neighbors (across Berry Road) have had problems with visitors to the Nature Preserve inadvertently passing the trailhead entrance and using their private driveway as a turn around. Thus, SMLC has worked diligently to make the trailhead entrance more clearly visible and mark temporary parking locations – both of which have helped resolve this issue. A 75' setback from the right-of-way will reduce visibility of the parking area and lead to an increase in visitors passing the parking area entrance – potentially causing significant disruption to the property's neighbors.

SMLC believes that the risks that a 75' setback imposes will be ameliorated by a decreased setback, and it respectfully requests that it be reduced to 15' to minimize the environmental disturbance and problems associated with visibility from the road.

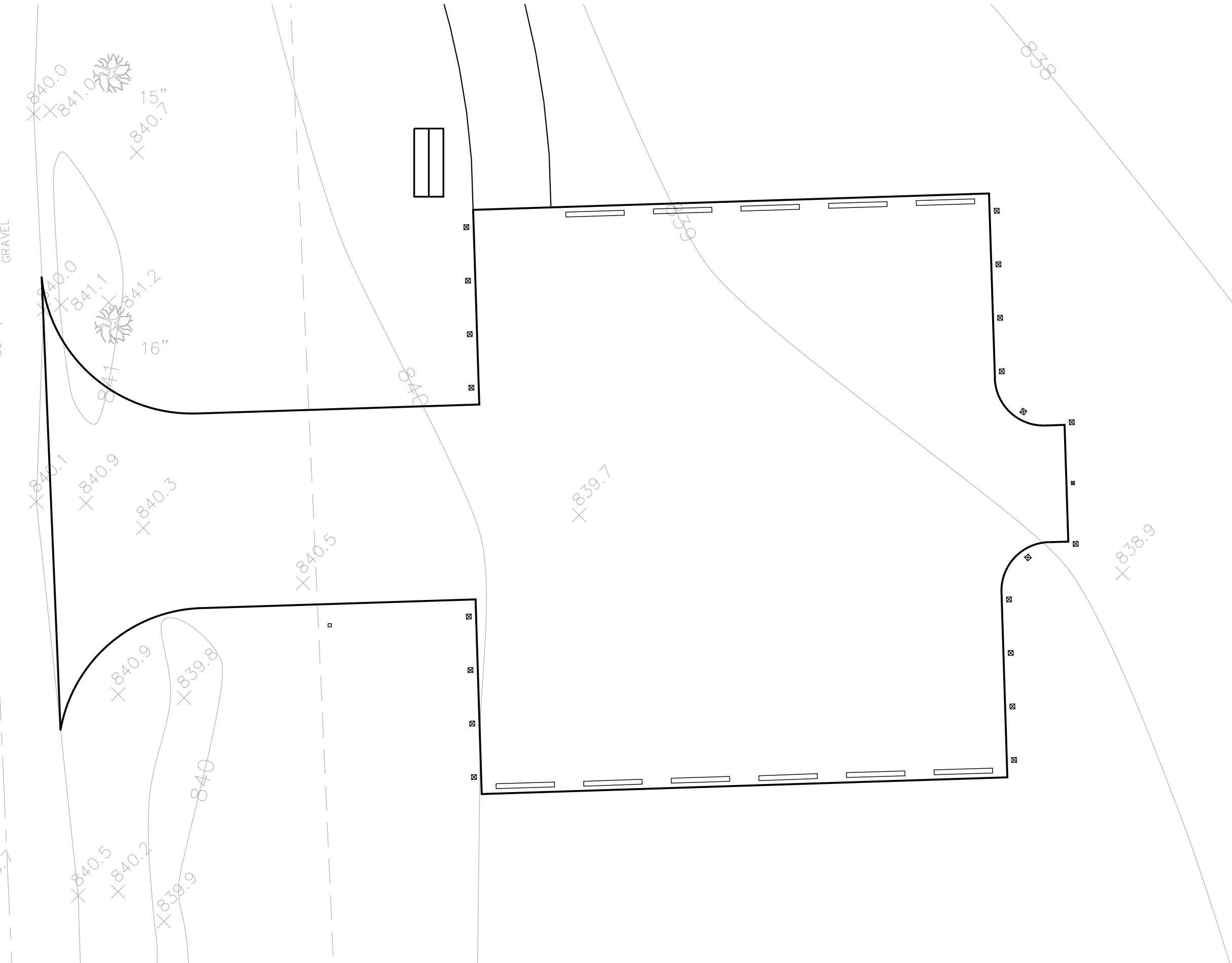
Thank you for your time and attention in considering this request.

SECREST NATURE PRESERVE PARKING AREA

SOUTHEAST MICHIGAN LAND CONSERVANCY

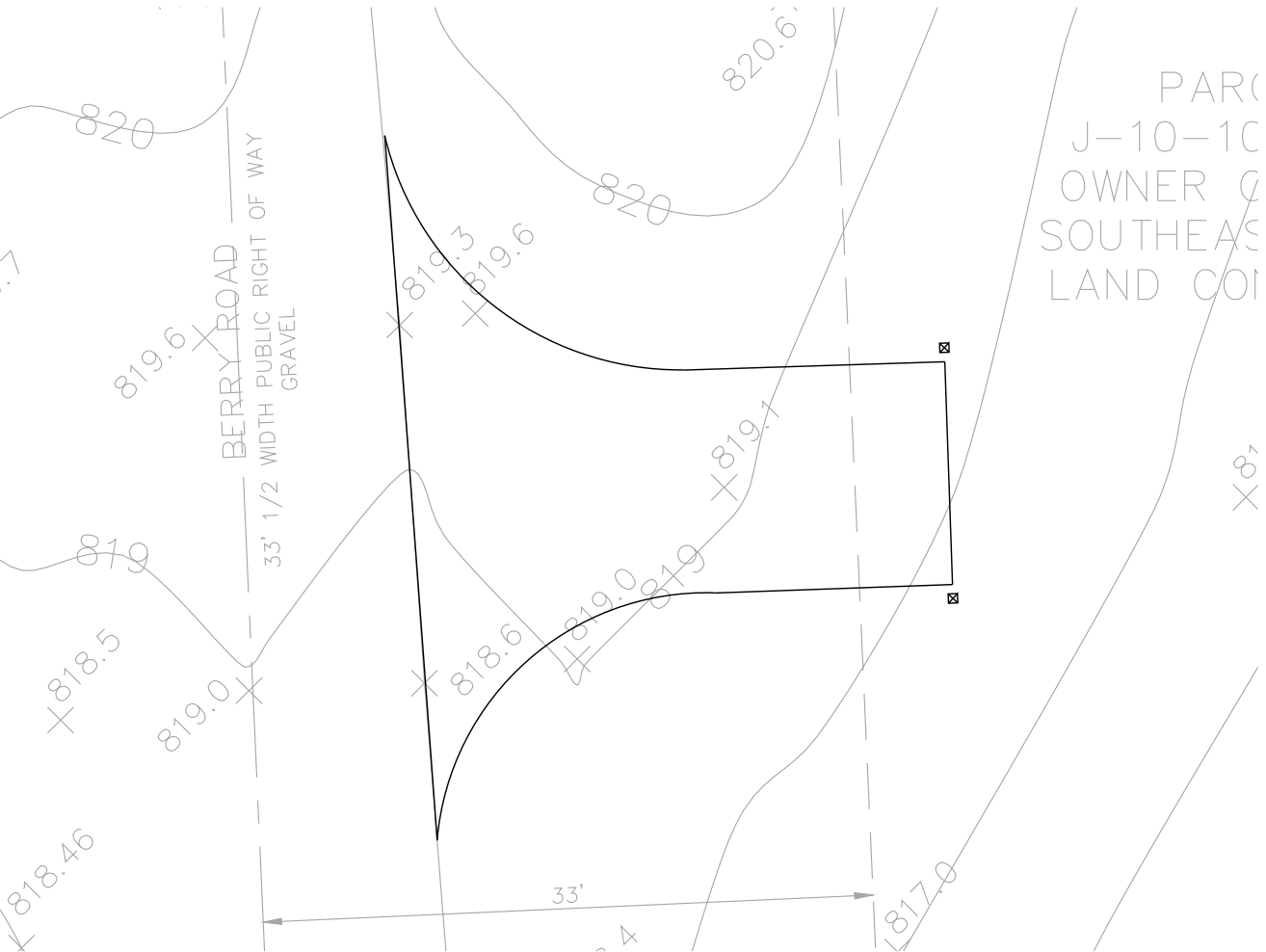
THE SECREST NATURE PRESERVE PARKING AREA PROJECT INVOLVES CONSTRUCTION OF A DRIVEWAY APPROACH AND GRAVEL PARKING LOT TO PROVIDE PUBLIC ACCESS TO RECREATIONAL NATURE TRAILS.

NOTE:
THROUGH DISCUSSIONS WITH THE WASHTENAW COUNTY WATER RESOURCES COMMISSIONER AND THE SUPERIOR TOWNSHIP BUILDING AND ZONING ADMINISTRATOR, IT HAS BEEN DETERMINED THAT THIS PROJECT IS NOT SUBJECT TO SITE PLAN APPROVAL OR STORMWATER MANAGEMENT REQUIREMENTS.



PARKING LOT

SCALE: 1" = 10'-0"



MAINTENANCE ACCESS

SCALE: 1" = 10'-0"

PROJECT ADDRESS:

SECREST NATURE PRESERVE
BERRY RD
SUPERIOR TOWNSHIP, MI 48198

OWNER:

SOUTHEAST MICHIGAN LAND CONSERVANCY
CONTACT: JILL LEWIS
8383 VREELAND ROAD
SUPERIOR TOWNSHIP, MI 48198
PHONE: 734-484-6565
EMAIL: jlewis@smlcland.org

LANDSCAPE ARCHITECT:

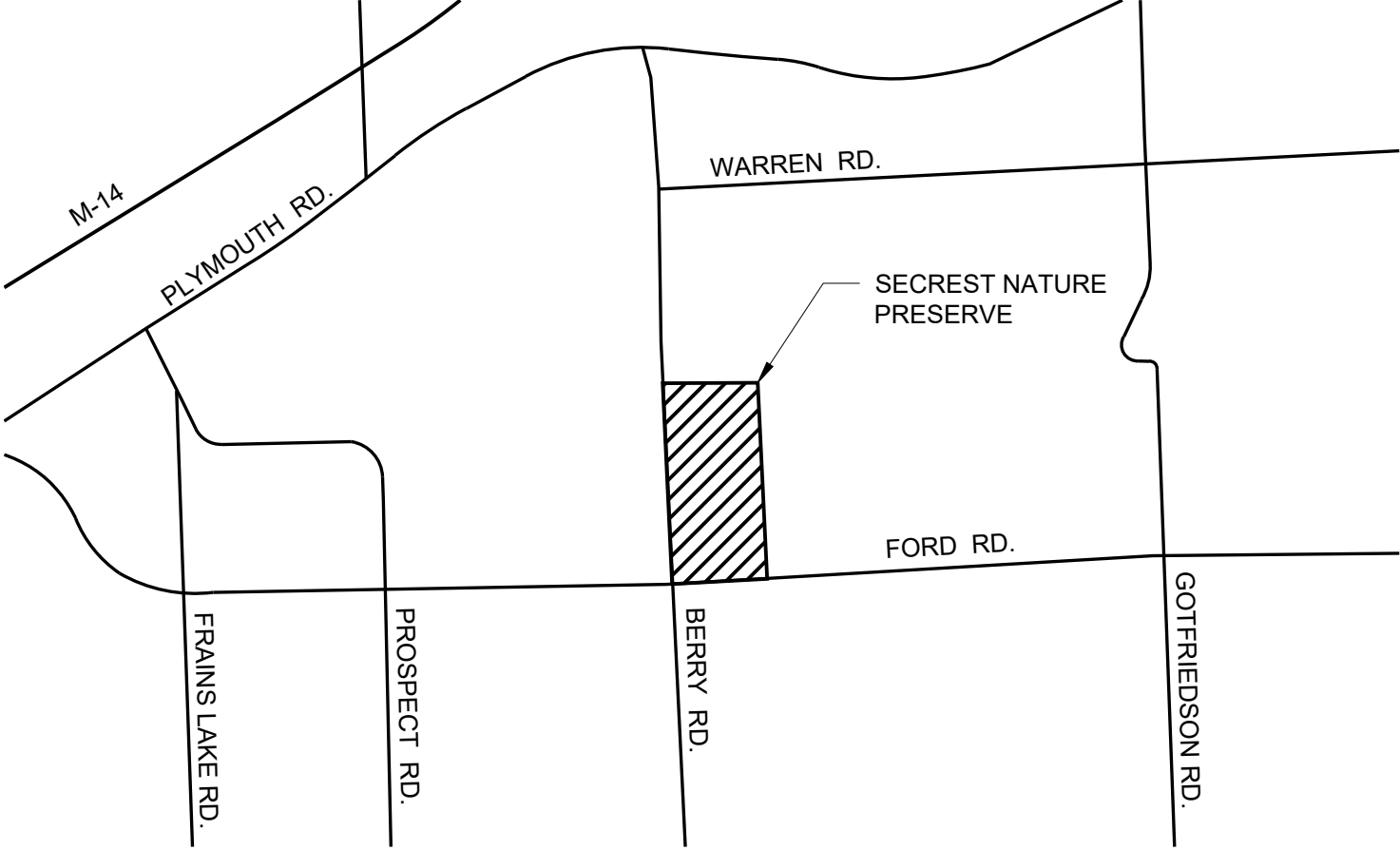
JOHNSON HILL LAND ETHICS STUDIO
CONTACT: TYLER SPRAGUE
412 LONGSHORE DRIVE
ANN ARBOR, MICHIGAN 48105
PHONE: 734.668.7416
EMAIL: tsprague@jhle-studio.com

SHEET INDEX:

G000	COVER SHEET
L100:	SESC PLAN
L200:	CLEARING PLAN
L300:	SITE PLAN
L310:	SIGN PLAN
L320:	GRADING PLAN
L400:	CONSTRUCTION DETAILS

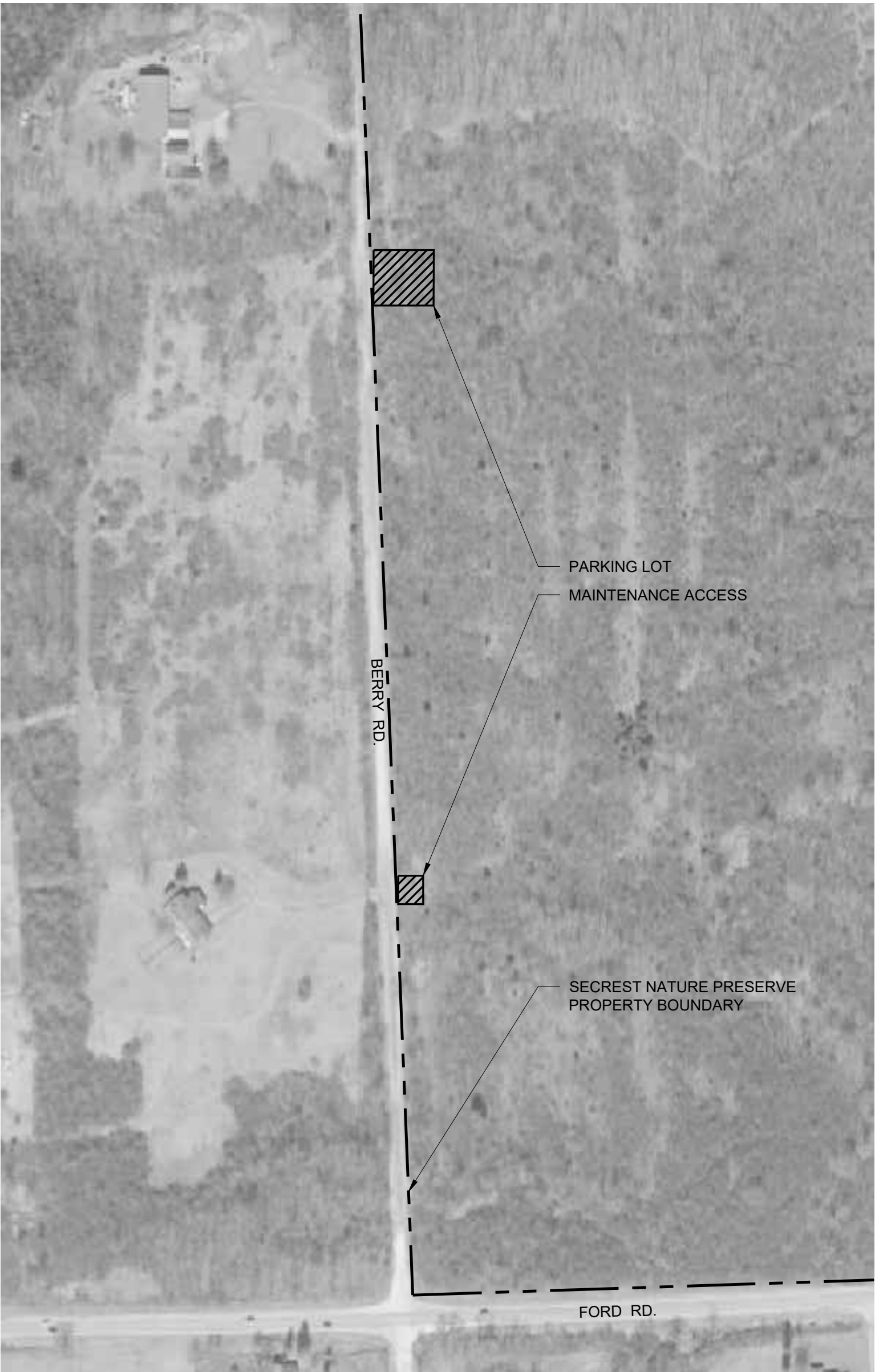
CONTRACTOR RESPONSIBILITIES THROUGHOUT THE PROJECT

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACTING AND COORDINATING WITH ALL PERTINENT UTILITY COMPANIES 72 HOURS IN ADVANCE OF ANY DIGGING TO FAMILIARIZE HIMSELF/HERSELF WITH ALL UNDERGROUND UTILITIES, PIPES AND STRUCTURES. THE CONTRACTOR SHALL ASSUME SOLE RESPONSIBILITY FOR ANY COST INCURRED DUE TO DAMAGE OF ANY UTILITIES.
2. THE CONTRACTOR SHALL NOT WILLFULLY PROCEED WITH THE CONSTRUCTION AS DESIGNED WHEN IT IS OBVIOUS THAT UNKNOWN OBSTRUCTION AND / OR GRADE DIFFERENCES EXIST. SUCH CONDITIONS SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF THE LANDSCAPE ARCHITECT. THE CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR ALL NECESSARY REVISIONS DUE TO FAILURE TO GIVE SUCH NOTIFICATION.
3. ANY DISCREPANCIES BETWEEN DIMENSIONED LAYOUT AND ACTUAL FIELD CONDITIONS SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF THE LANDSCAPE ARCHITECT/OWNER. THE CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR ALL NECESSARY REVISIONS DUE TO FAILURE TO GIVE SUCH NOTIFICATION.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY COORDINATION WITH SUBCONTRACTORS AS REQUIRED TO ACCOMPLISH CONSTRUCTION AND INSTALLATION OPERATIONS.
5. THE CONTRACTOR SHALL PROVIDE AND MAINTAIN POSITIVE SURFACE DRAINAGE.
6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY EXISTING AND NEW MATERIALS AND CONSTRUCTED ELEMENTS THAT ARE DAMAGED DURING CONSTRUCTION.



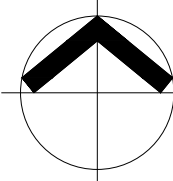
PRESERVE LOCATION MAP

NOT TO SCALE



PROJECT LOCATION MAP

NOT TO SCALE



NORTH



NOT TO SCALE

DATE:	ISSUED FOR:
2021-12-8	90% CD REVIEW

DRAWN	SES
CHECKED	TRS

JOB NO.
21SML02

TITLE
COVER

SEAL

PRELIMINARY
NOT FOR CONSTRUCTION

SHEET

G000

SOIL EROSION AND SEDIMENTATION CONTROL NOTES:

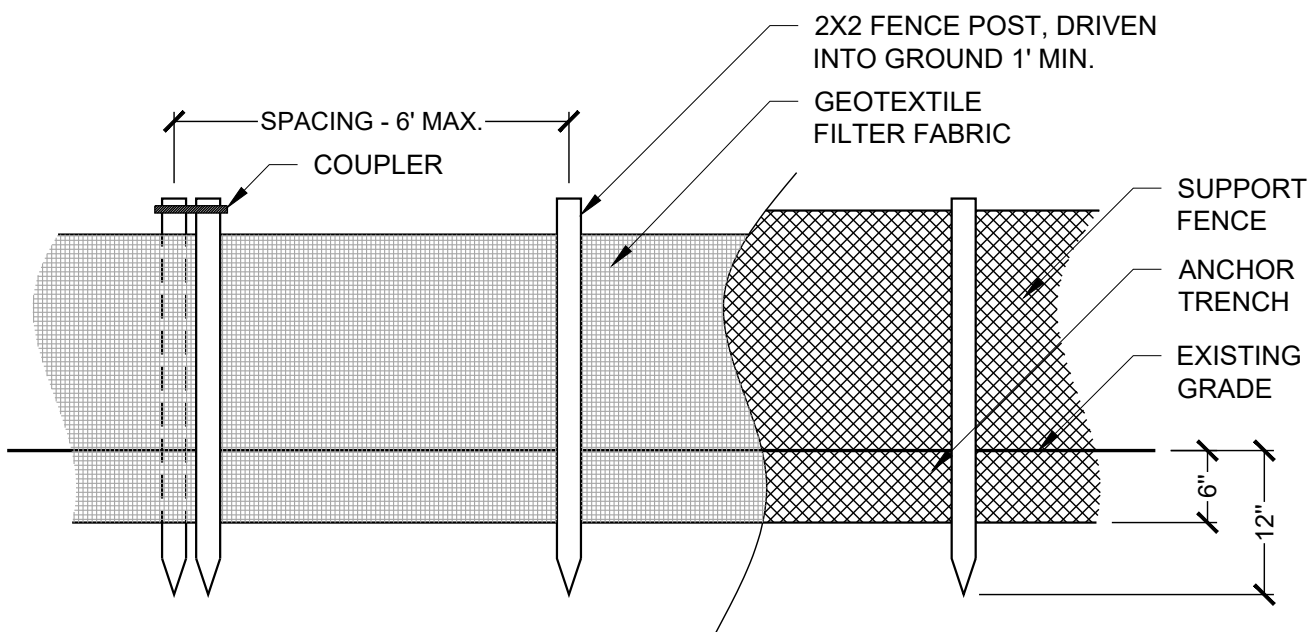
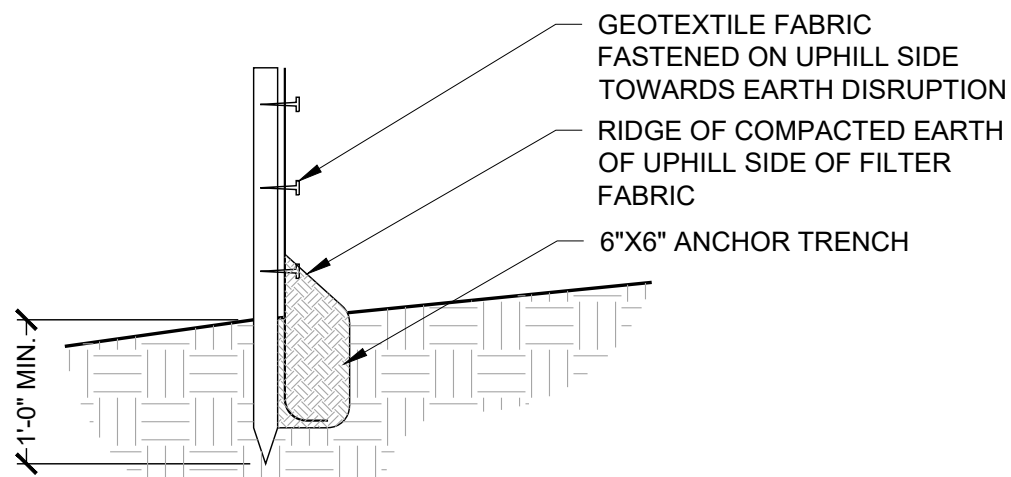
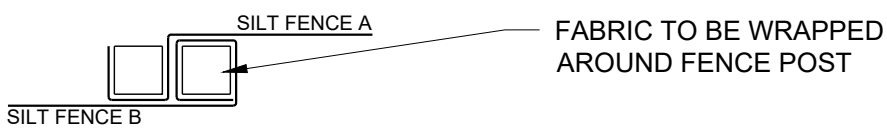
1. SOIL EROSION PROTECTION MEASURES MUST BE INSPECTED FOR PROPER LOCATION AND INSTALLATION PRIOR TO ANY EARTH DISTURBANCE ON THE SITE.
2. THE CONTRACTOR SHALL IMPLEMENT AND MAINTAIN THE SOIL EROSION CONTROL MEASURES AS SHOWN ON THE PLANS AT ALL TIMES DURING CONSTRUCTION OF THIS PROJECT. ANY MODIFICATIONS OR ADDITIONS TO THE SOIL EROSION CONTROL MEASURES DUE TO CONSTRUCTION OR CHANGED CONDITIONS SHALL BE COMPLIED WITH AS REQUIRED OR DIRECTED BY THE REGULATORY AUTHORITY, THE OWNER, PROJECT ENGINEER, OR LANDSCAPE ARCHITECT.
3. THE INSTALLATION AND LOCATION OF SILT FENCING IS SUBJECT TO CHANGE BASED ON CONSTRUCTION SEQUENCING. CONTRACTOR SHALL COORDINATE WITH THE REGULATORY AUTHORITY AS NECESSARY.
4. ORANGE CONSTRUCTION FENCING (IF REQUIRED) ASSOCIATED WITH SILT FENCING SHALL BE INSTALLED AT THE SAME TIME AS THE SILT FENCING.
5. ALL SOIL EROSION AND SEDIMENTATION CONTROL WORK SHALL CONFORM WITH ALL RELEVANT PERMIT REQUIREMENTS AND THE LAWS OF THE STATE OF MICHIGAN.
6. DAILY INSPECTIONS SHALL BE MADE BY THE CONTRACTOR. PERIODIC INSPECTIONS MAY BE MADE BY THE REGULATORY AUTHORITY AND/OR THE OWNER/PROJECT ENGINEER TO DETERMINE THE EFFECTIVENESS OF EROSION AND SEDIMENTATION CONTROL MEASURES. ANY NECESSARY CORRECTIONS SHALL BE MADE WITHOUT DELAY.
7. EROSION AND SEDIMENTATION FROM ON THE SITE SHALL BE CONTAINED ON THE SITE AND NOT BE ALLOWED TO COLLECT ON ANY OFF-SITE AREAS, IN WATERWAYS, OR IN DRAINAGE SWALES, OR OTHER DRAINAGE APPURTENANCES.
8. ALL MUD/DIRT TRACKED ONTO EXTERNAL ROADS FROM THE SITE SHALL BE IMMEDIATELY REMOVED BY THE CONTRACTOR.
9. ALL DISTURBED AREAS MUST BE STABILIZED BY SOD OR HYDROSEEDING/SEEDING, AND INSTALLATION OF BIODEGRADABLE SOIL EROSION CONTROL BLANKETS IMMEDIATELY FOLLOWING COMPLETION OF WORK.
10. SPECIAL PRECAUTIONS WILL BE TAKEN IN THE USE OF CONSTRUCTION EQUIPMENT TO PREVENT SITUATIONS THAT PROMOTE EROSION.
11. THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING ALL TEMPORARY SOIL EROSION CONTROL MEASURES AND REMOVAL OF SAME UPON COMPLETION OF THE PROJECT. COMPLETION OF THE PROJECT WILL NOT BE AUTHORIZED UNTIL ALL SITE WORK IS COMPLETE AND ALL SOILS ARE STABILIZED.
12. PERMANENT STABILIZATION MUST BE ESTABLISHED PRIOR TO A FINAL ENVIRONMENTAL APPROVAL.

SEEDING NOTES:

1. SEED ALL NON-NATIVE DISTURBED AREAS UNLESS OTHERWISE NOTED WITH:
EARTH CARPET QUICK TO GROW LAWN SEED MIXTURE
25% PERENNIAL RYEGRASS
25% KENTUCKY BLUEGRASS
25% ANNUAL RYEGRASS
25% CREEPING RED FESCUE

APPLY AT THE RATE OF 5-6 POUNDS PER 1,000 SF

CONSTRUCTION SCHEDULE																																
	APRIL				MAY				JUNE				JULY				AUG.				SEPT.				OCT.				NOV.			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4				
INSTALL SESC MEASURES					X																											
CLEARING					X	X																										
GRADING						X	X					X																				
CONSTRUCTION								X	X	X	X																					
RESTORATION												X																				
REMOVE SESC MEASURES													X																			



S51 SILT FENCE
NOT TO SCALE

PROJECT ADDRESS:
SECREST NATURE PRESERVE
BERRY RD
SUPERIOR TOWNSHIP, MI 48198

OWNER:
SOUTHEAST MICHIGAN LAND CONSERVANCY
CONTACT: JILL LEWIS
8383 VREELAND ROAD
SUPERIOR TOWNSHIP, MI 48198
PHONE: 734-484-6565
EMAIL: jlewis@smicland.org

LEGAL DESCRIPTION:

*OLD SID - J 10-010-040-00 SU 10-14 E 1/2 OF SE 1/4 SEC. 10 T2S R7E
80.00 AC.

SOILS:

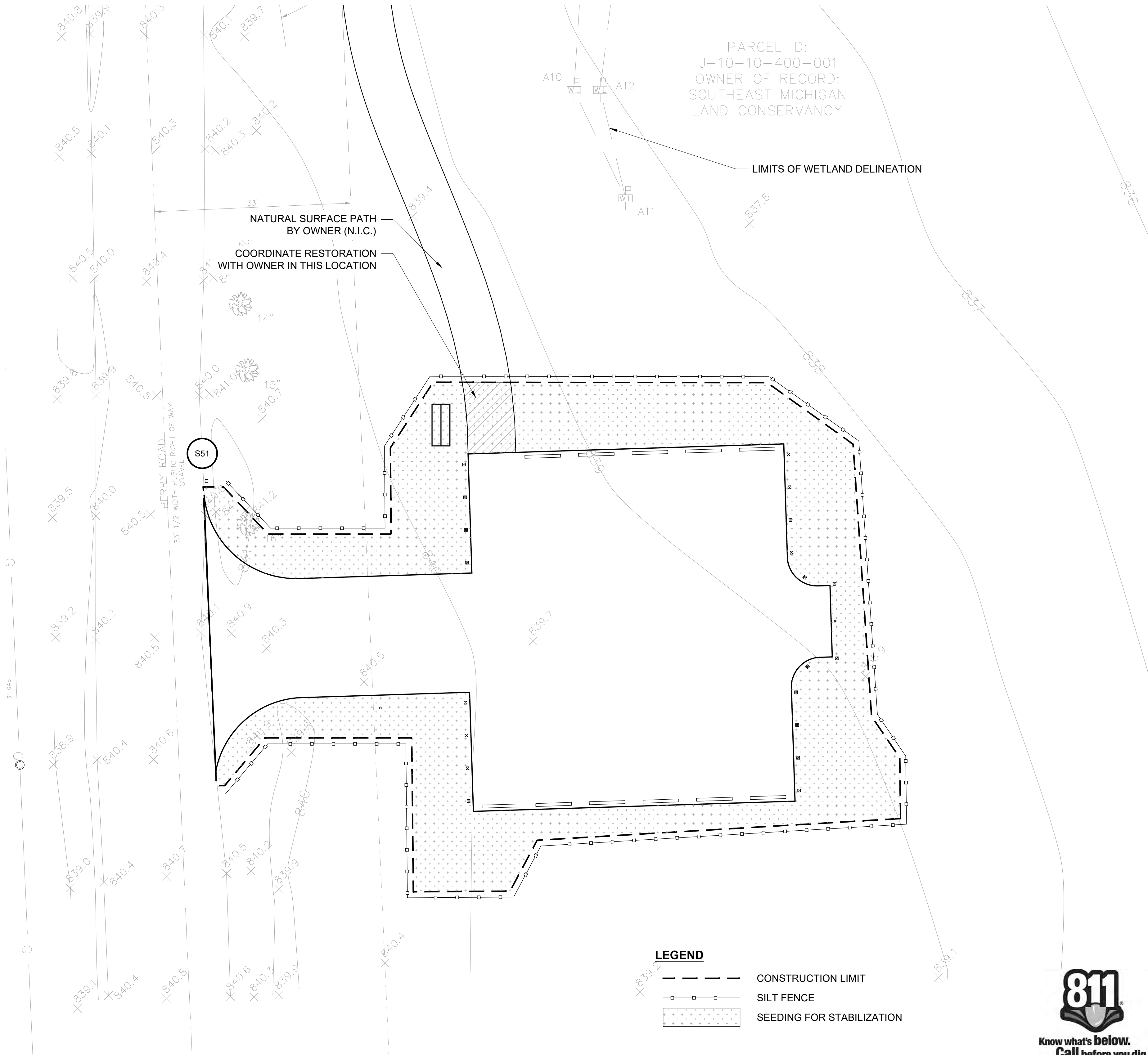
BASED ON THE NATURAL RESOURCE CONSERVATION SERVICE'S
WEB SOIL SURVEY, THE SITE CONSISTS PREDOMINATELY OF ST.
CLAIR CLAY LOAM.

MICHIGAN DEPARTMENT OF MANAGEMENT AND BUDGET
SESC KEYING SYSTEM

BEST MANAGEMENT PRACTICES	SYMBOL	WHERE USED
S51	SILT FENCE	Use adjacent to critical areas, to prevent sediment laden sheet flow from entering these areas.

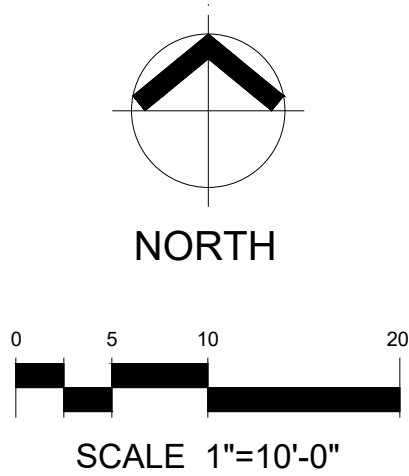
THIS PROJECT SHALL BE CONSTRUCTED IN COMPLIANCE WITH PART 91 OF ACT 851 OF 1994, AS AMENDED, THE SOIL EROSION AND SEDIMENT CONTROL ACT AND THE OAKLAND COUNTY SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE.

THE SOUTHEAST MICHIGAN LAND CONSERVANCY IS RESPONSIBLE FOR THE CONTINUED MAINTENANCE OF ALL PERMANENT SESC MEASURES THAT REMAIN AFTER PROJECT COMPLETION.





SECRET NATURE PRESERVE
PARKING LOT
SOUTHEAST MICHIGAN LAND CONSERVANCY
SUPERIOR CHARTER TOWNSHIP, MICHIGAN



DATE:	ISSUED FOR:
2021-12-8	90% CD REVIEW
DRAWN	SES
CHECKED	TRS

JOB NO.
21SML02

TITLE
CLEARING PLAN

SEAL

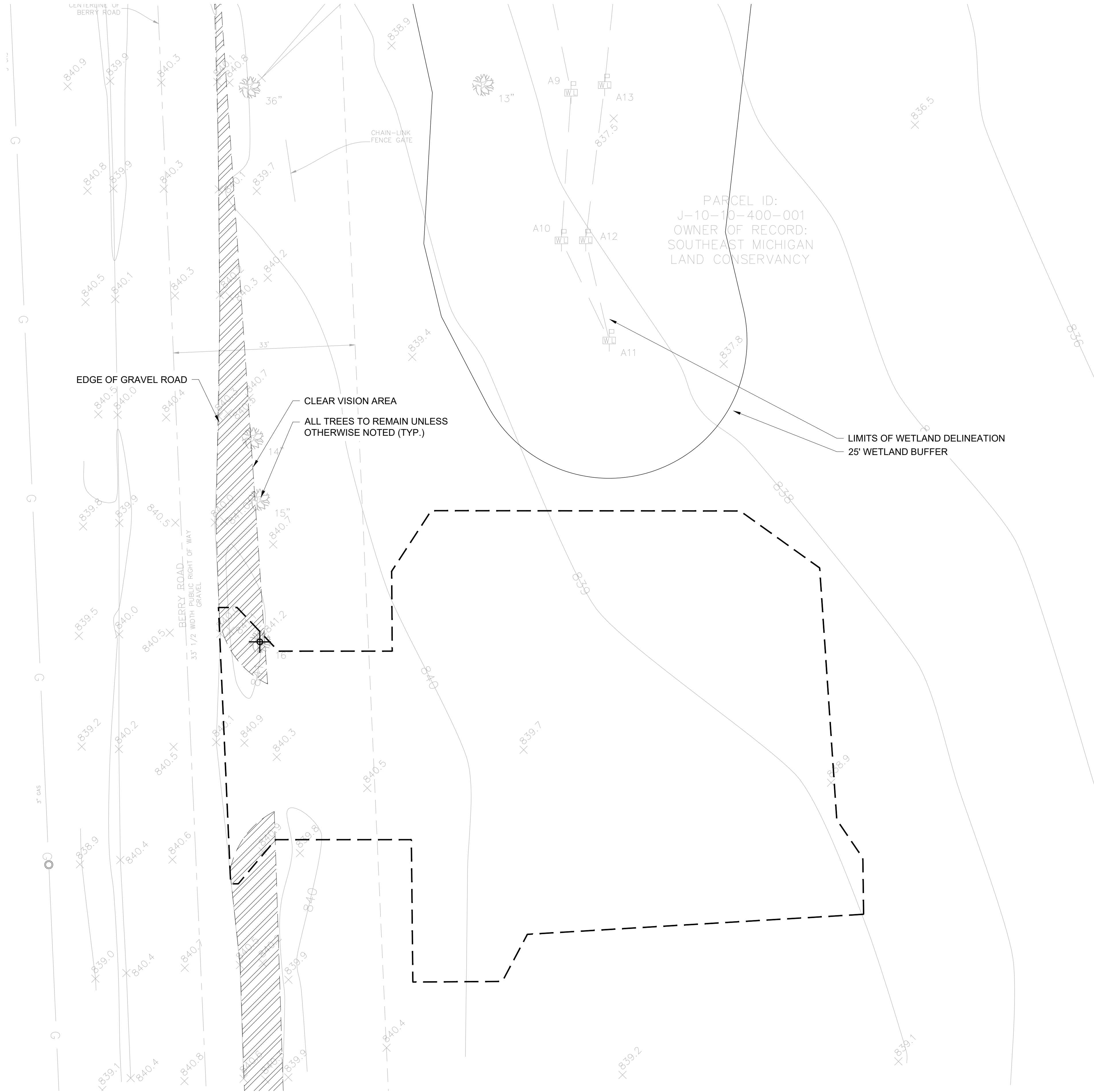
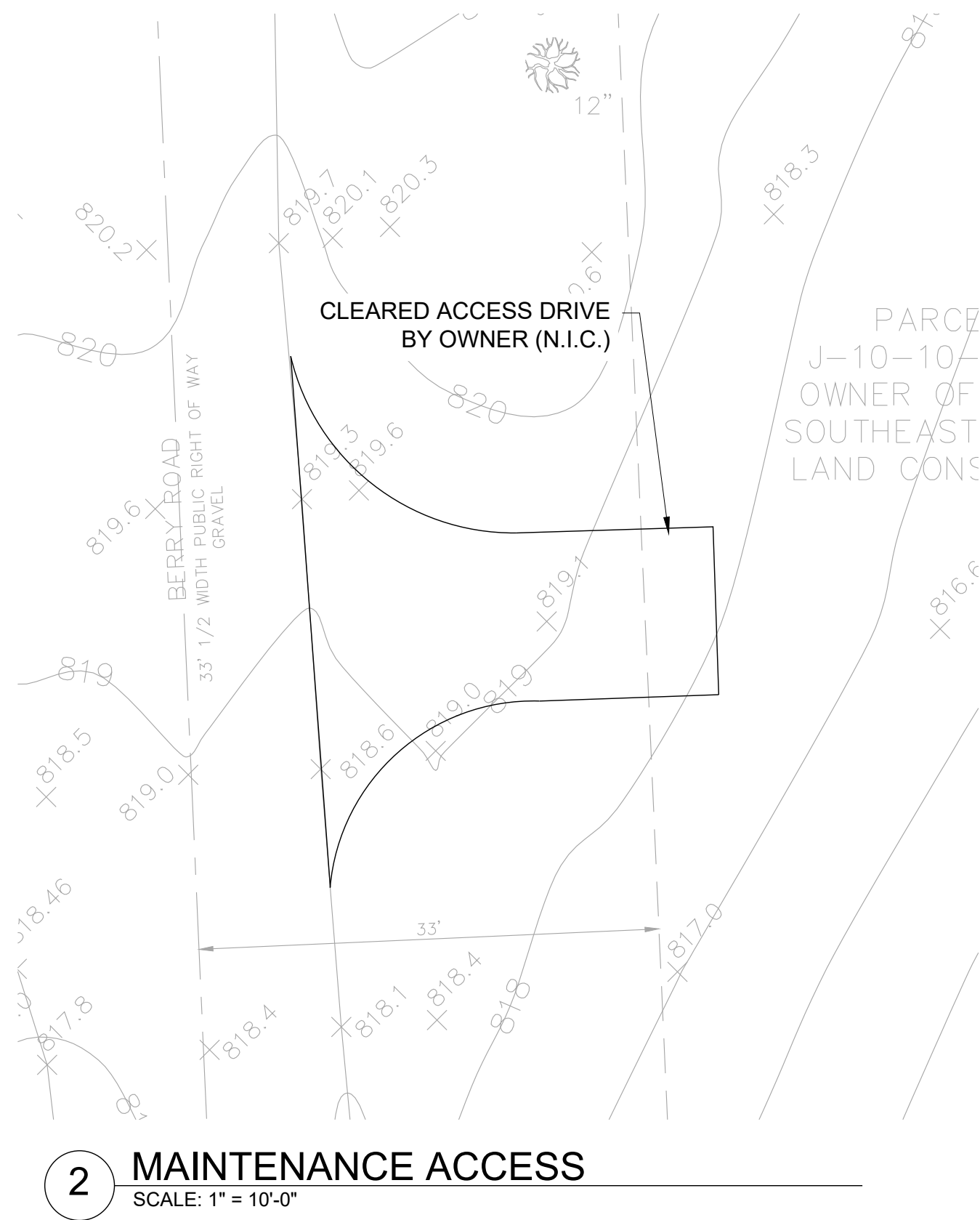


SHEET

L200

NOTES:

1. ALL NECESSARY TRAFFIC CONTROL MEASURES REQUIRED DURING CLEARING ACTIVITIES ALONG BERRY ROAD SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND CONFORM TO WCRS STANDARDS.
2. ALL VEGETATION TALLER THAN 3'-0" IN HEIGHT LOCATED IN THE CLEAR VISION AREA SHALL BE REMOVED. ALL TREES GREATER THAN 8" IN DIAMETER LOCATED IN THE CLEAR VISION AREA SHALL BE FLAGGED AND REVIEWED IN THE FIELD PRIOR TO REMOVAL.
3. THE CLEAR VISION AREA ALONG BERRY ROAD IS BASED ON SIGHT DISTANCE CALCULATIONS AT SPEEDS OF 55 MPH (530' TO THE LEFT, 610' TO THE RIGHT).
4. TREE/BRUSH CLEARING AT THE PROPOSED PARKING LOT LOCATION WAS PREVIOUSLY COMPLETED BY THE OWNER IN SUMMER 2021. CONTRACTOR SHALL BE RESPONSIBLE FOR REVIEWING THE SITE PRIOR TO BIDDING TO DETERMINE THE EXTENT OF ADDITIONAL CLEARING (IF ANY) IN THIS LOCATION.



1 PARKING LOT
SCALE: 1" = 10'-0"

LEGEND

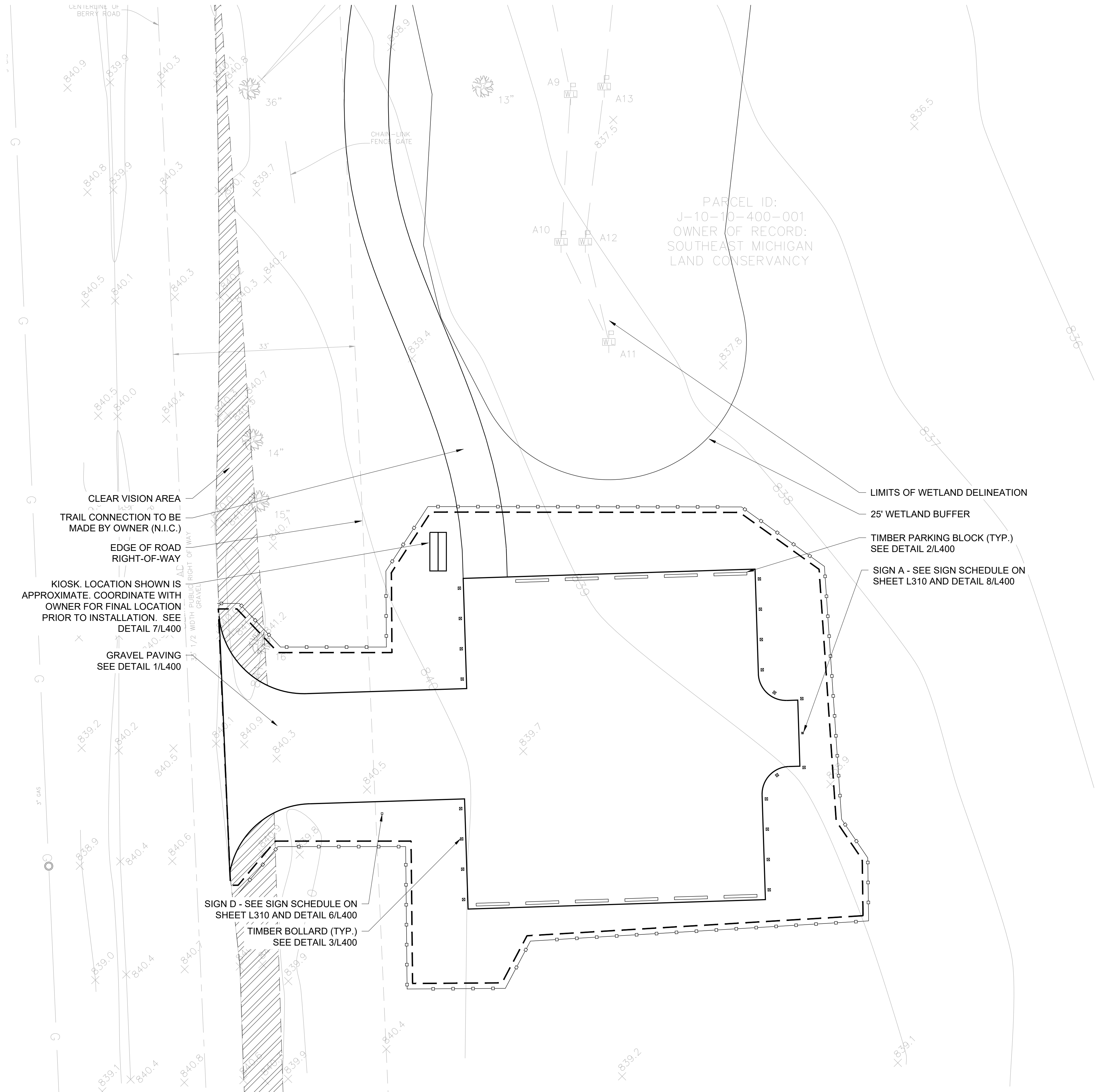
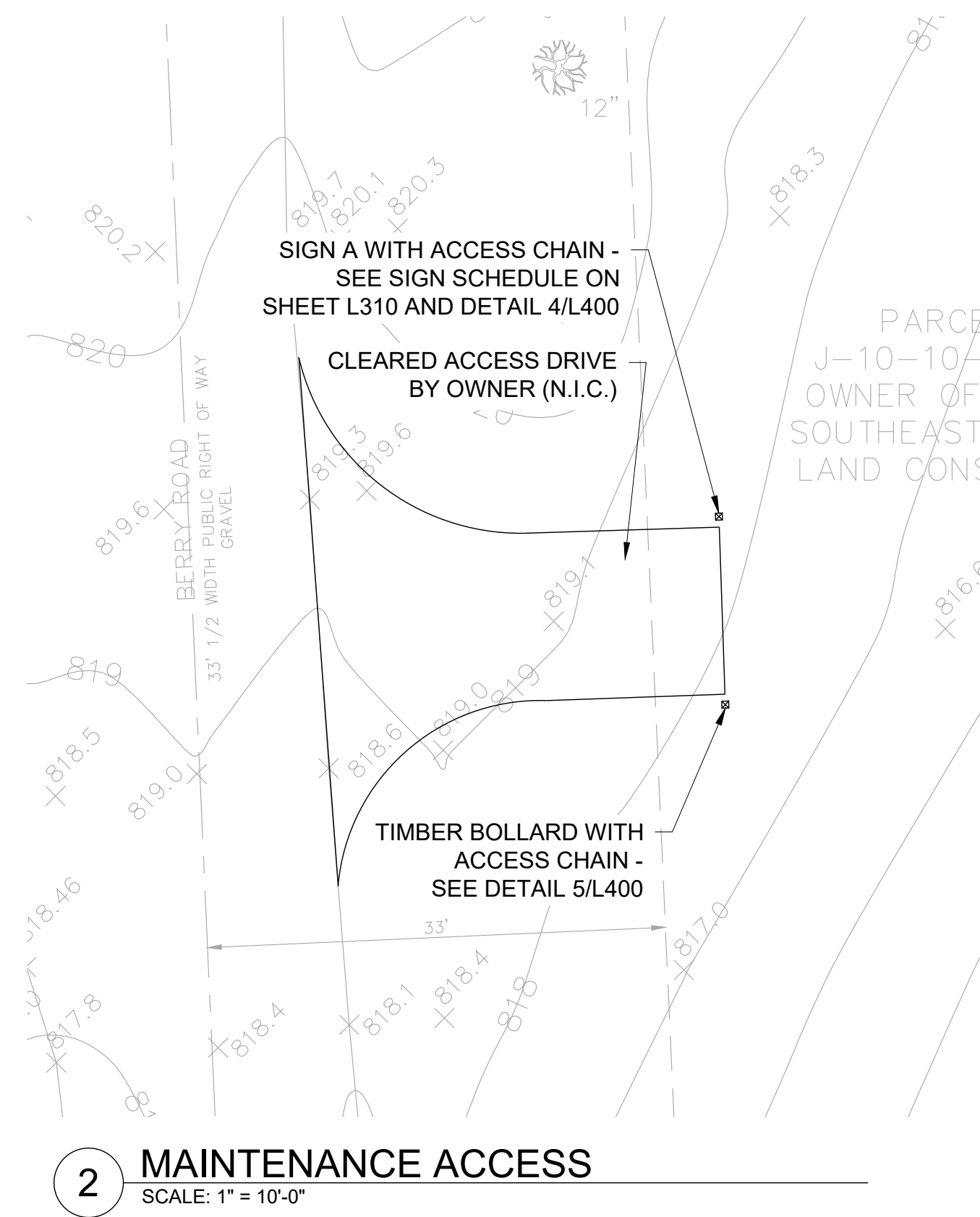
- CONSTRUCTION LIMIT
 ⊕ TREES TO BE REMOVED



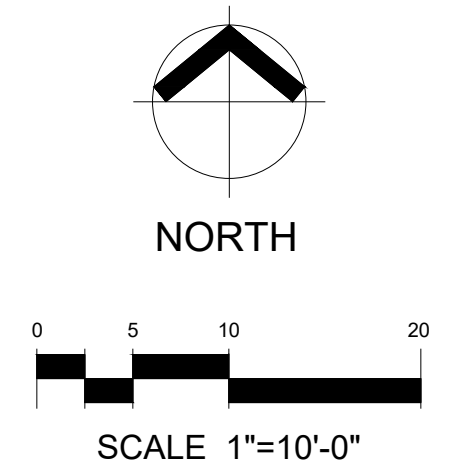


NOTES:

1. NO DISTURBANCE SHALL OCCUR WITHIN THE 25' WETLAND BUFFER ZONE.



SECRET NATURE PRESERVE
PARKING LOT
SOUTHEAST MICHIGAN LAND CONSERVANCY
SUPERIOR CHARTER TOWNSHIP, MICHIGAN

[illegible]

JOB NO.
21SML02

TITLE

SITE PLAN

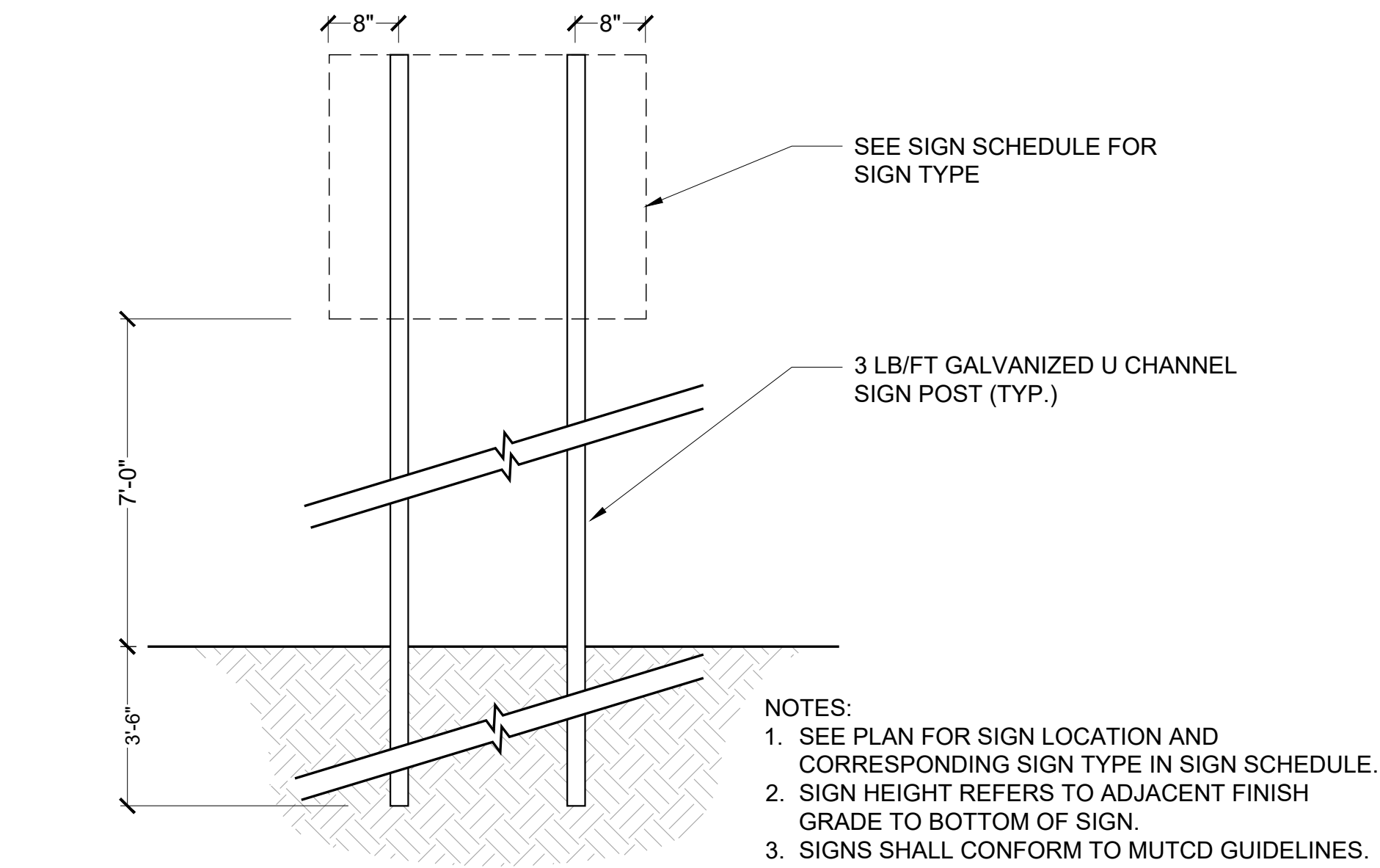
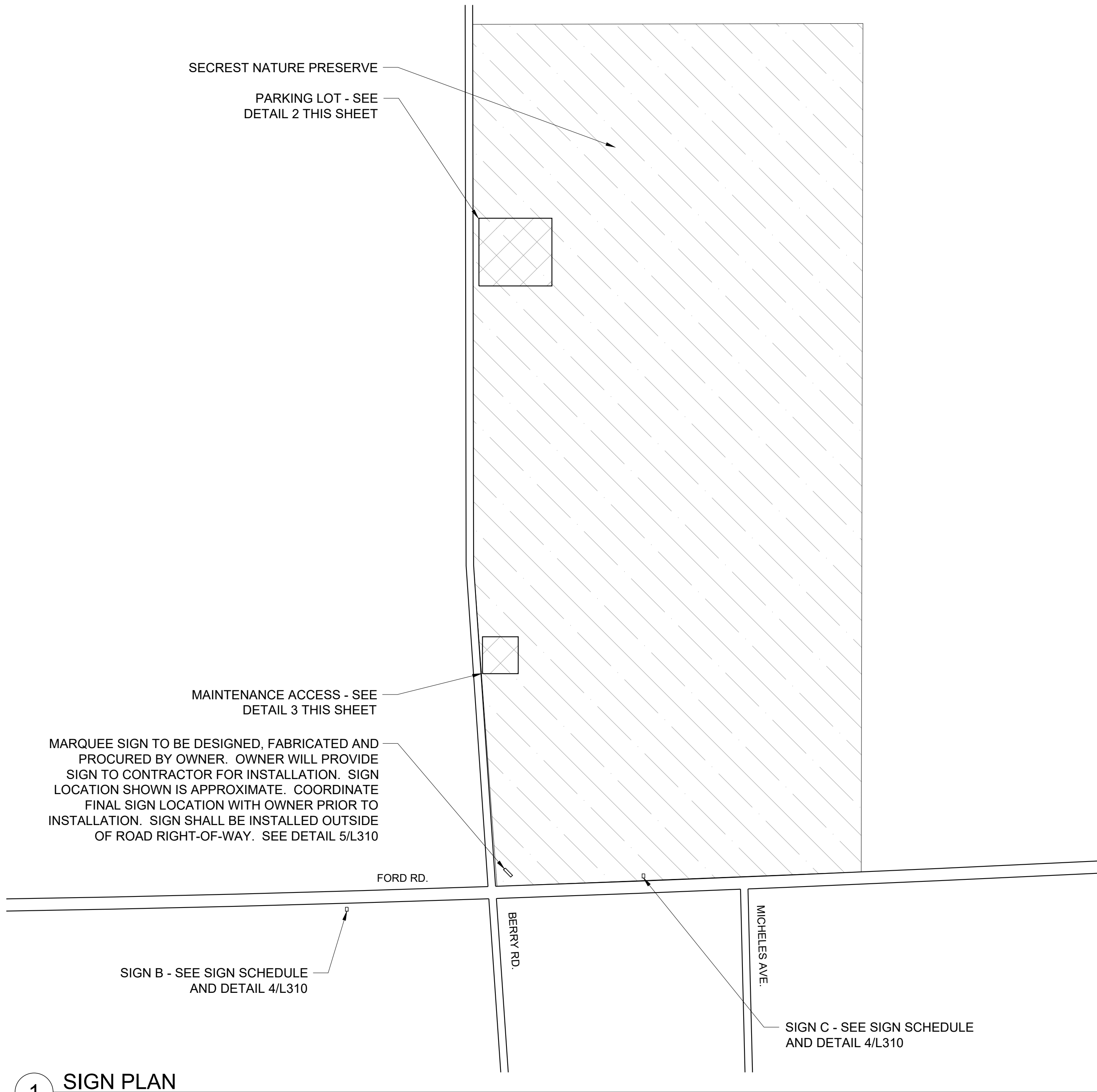
SEAL



SHEET

L300



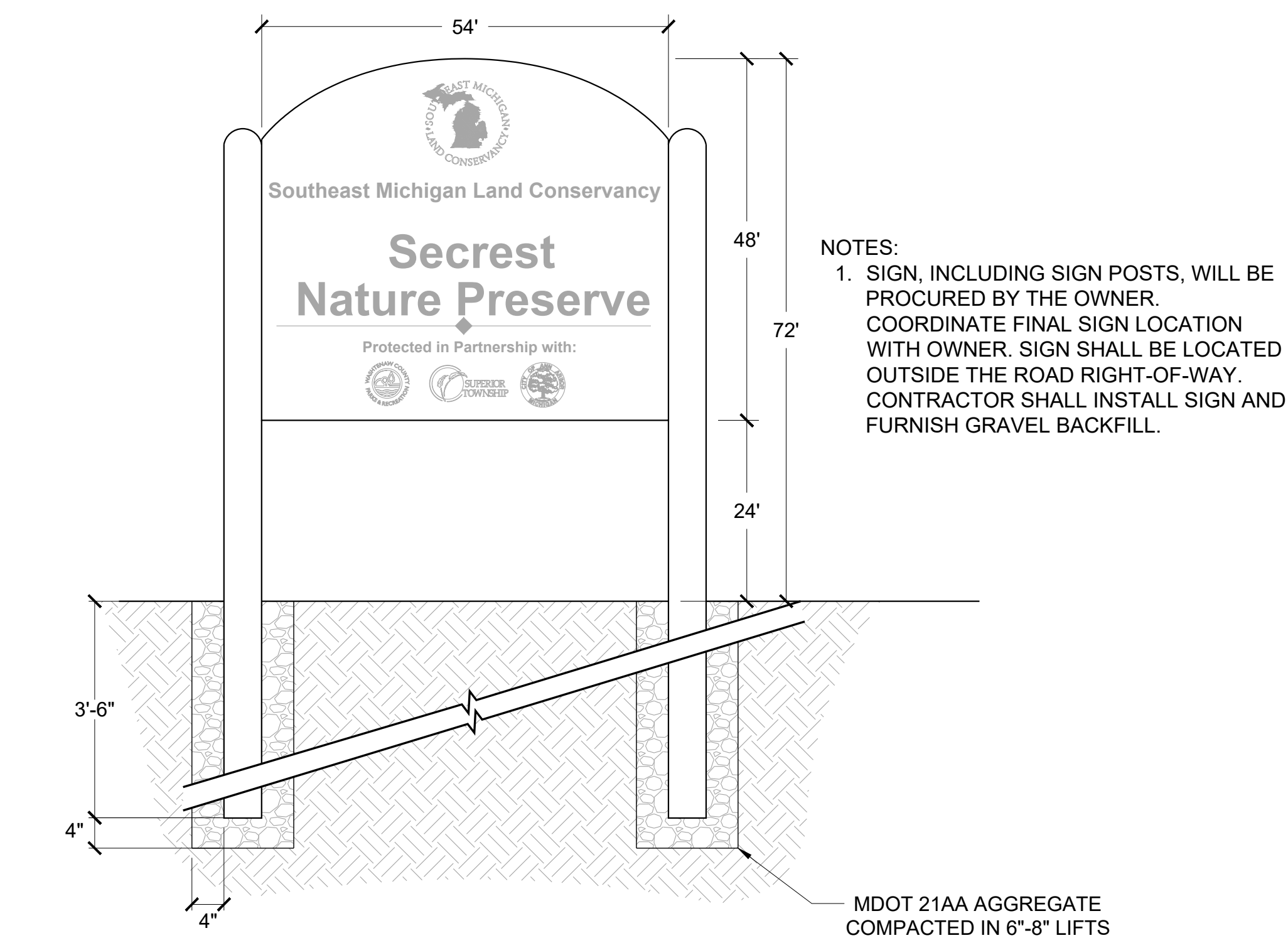
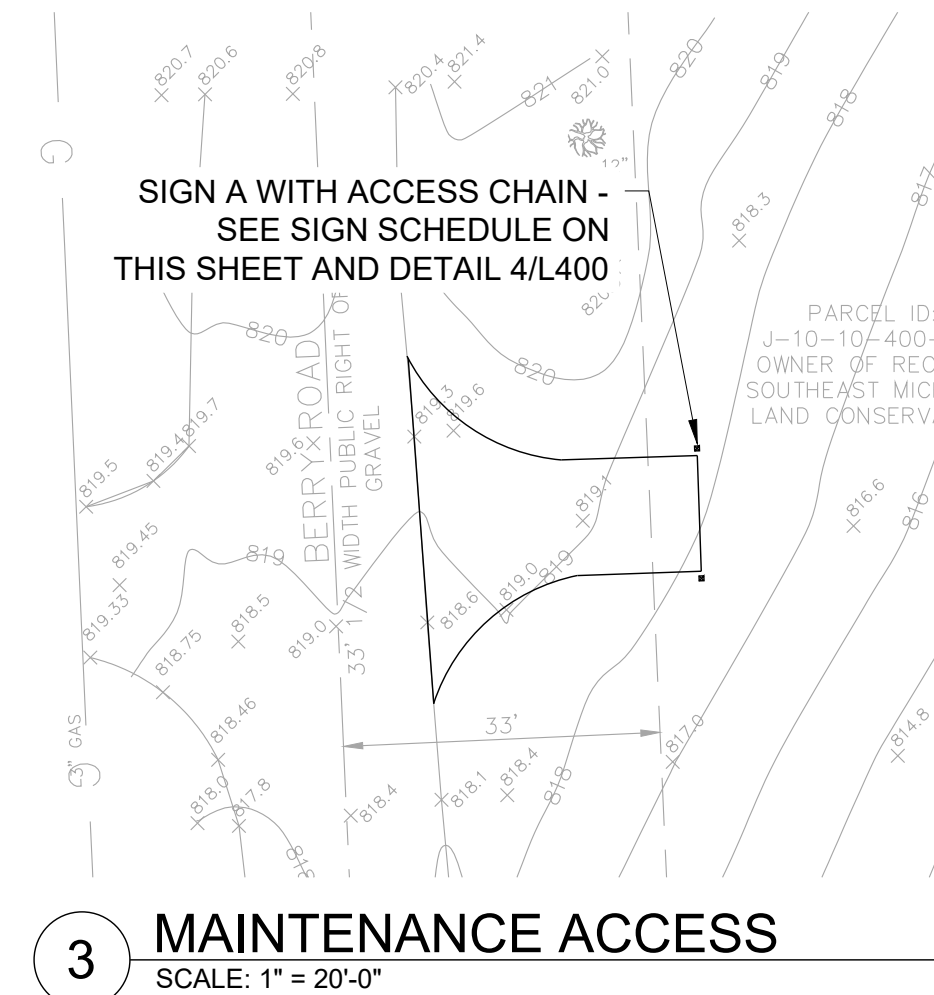
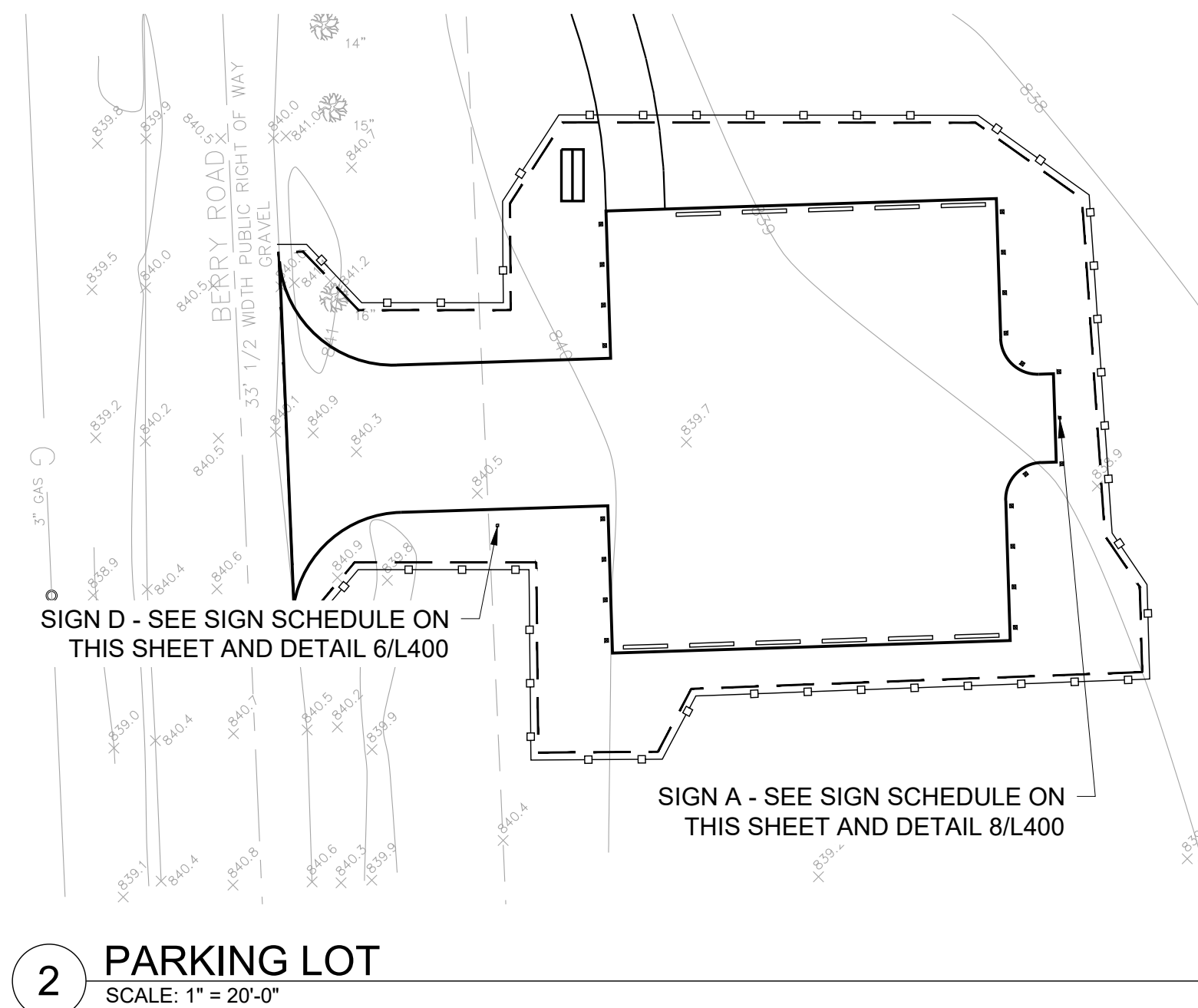


4 ROADSIDE GUIDE SIGN
SCALE: 3/4" = 1'-0"

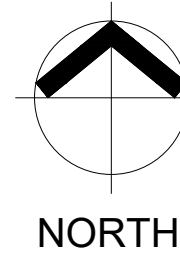
SIGN SCHEDULE

SIGN	TYPE	IMAGE	PRODUCT INFORMATION	SIZE	MOUNTING HEIGHT*	NOTES
A	NO PARKING (SYMBOL)		R8-3	12"x12"	5'-0"	LOCATE SIGN AS SHOWN ON PLAN.
B	DESTINATION GUIDE SIGN (LEFT ARROW)		D7-2 - RECTANGLE	36"x30"	7'-0"	LOCATE SIGN AS SHOWN ON PLAN. SIGN SHALL BE 500' FROM INTERSECTION. EDGE OF SIGN SHALL BE 6' FROM ROAD EDGE.
C	DESTINATION GUIDE SIGN (RIGHT ARROW)		D7-2 - RECTANGLE	36"x30"	7'-0"	LOCATE SIGN AS SHOWN ON PLAN. SIGN SHALL BE 500' FROM INTERSECTION. EDGE OF SIGN SHALL BE 6' FROM ROAD EDGE.
D	NAME SIGN		PROVIDED BY OWNER	12"x18"	5'-0"	LOCATE SIGN AS SHOWN ON PLAN.

* MOUNTING HEIGHT IS MEASURED FROM ADJACENT FINISH GRADE TO BOTTOM OF SIGN



5 MARQUEE SIGN
SCALE: 3/4" = 1'



SCALE VARIES
SEE DRAWING

DATE:	ISSUED FOR:
2021-12-8	90% CD REVIEW
2021-12-16	TWP SUBMITTAL

DRAWN	SES
CHECKED	TRS

JOB NO.
21SML02

TITLE
SIGN PLAN

SEAL

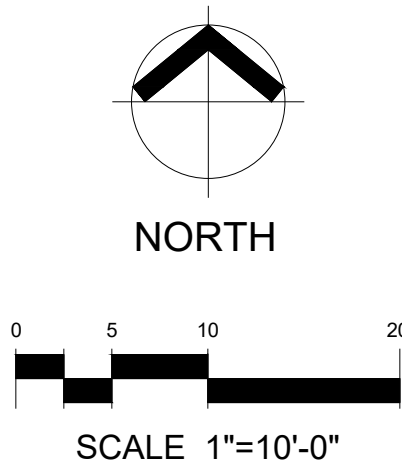
PRELIMINARY
NOT FOR CONSTRUCTION

SHEET

L310



SECRET NATURE PRESERVE
PARKING LOT
SOUTHEAST MICHIGAN LAND CONSERVANCY
SUPERIOR CHARTER TOWNSHIP, MICHIGAN

[illegible]

JOB NO.
21SML02

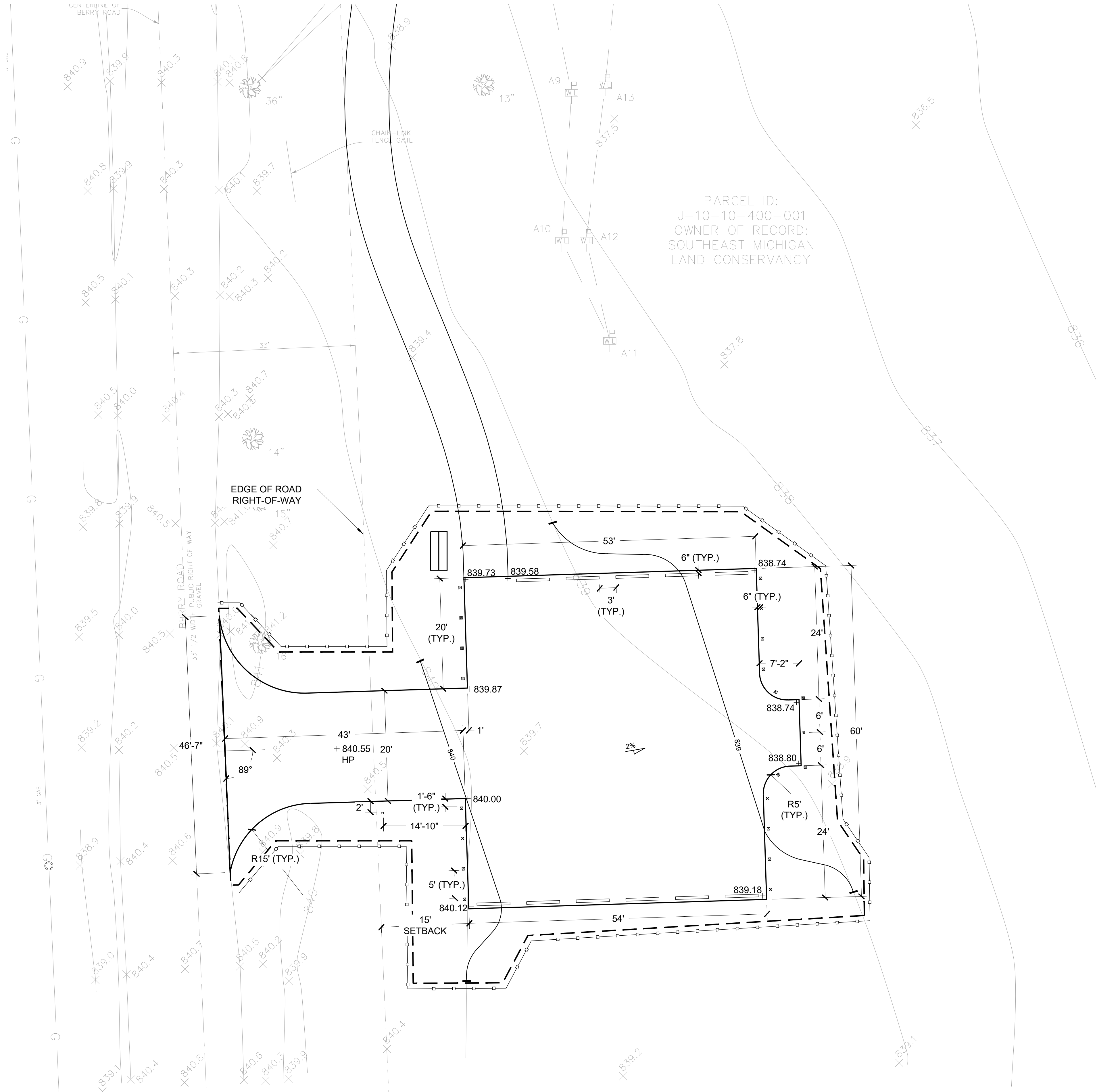
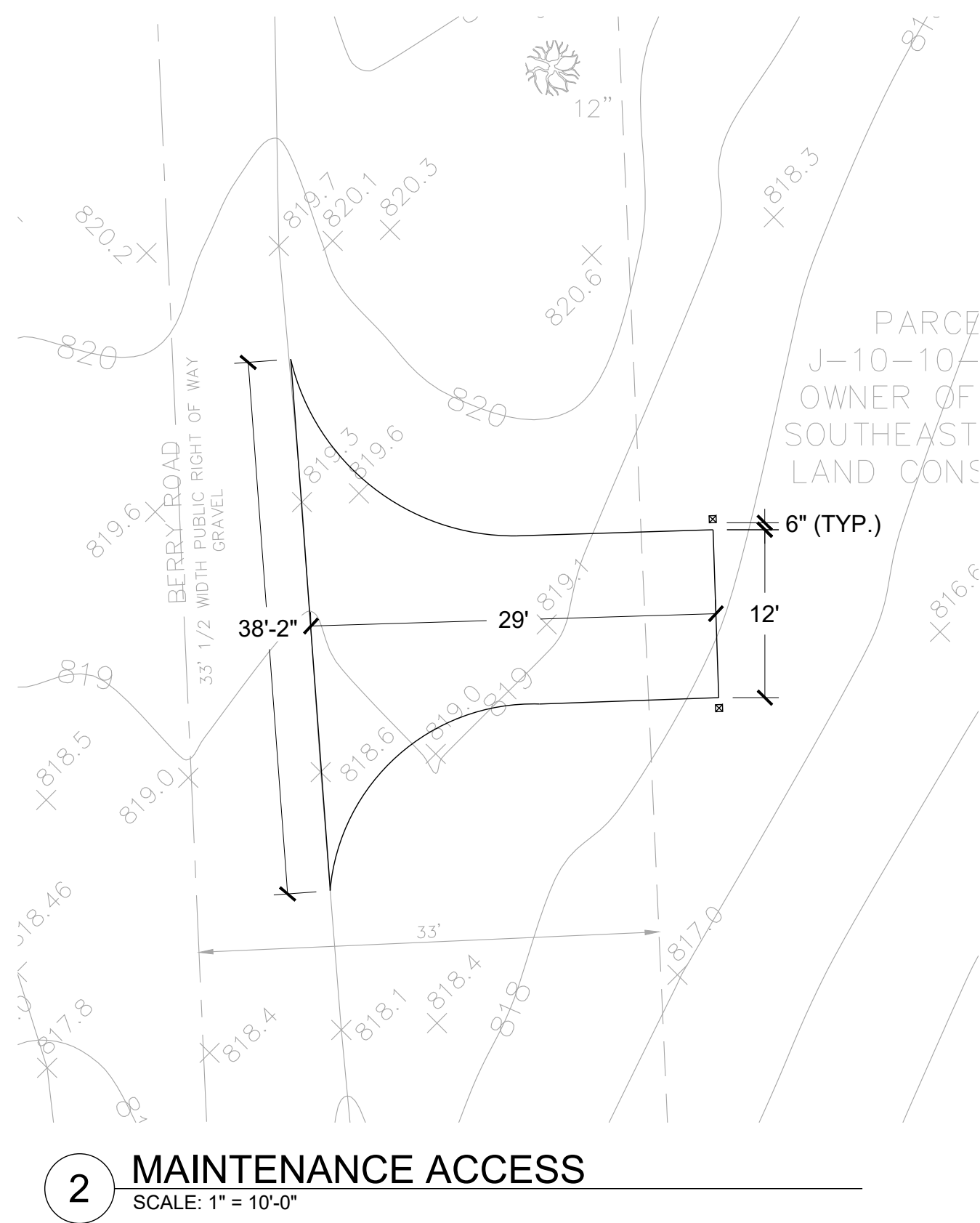
TITLE

GRADING &
STAKING PLAN

SEAL

SHEET

L320

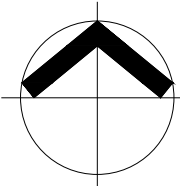


LEGEND

— — — — CONSTRUCTION LIMIT

—□—□—□— SILT FENCE

SECRET NATURE PRESERVE
PARKING LOT
SOUTHEAST MICHIGAN LAND CONSERVANCY
SUPERIOR CHARTER TOWNSHIP, MICHIGAN



NORTH

SCALE VARIES
SEE DRAWING

DATE: 2021-12-8 ISSUED FOR: 90% CD REVIEW

DRAWN: SES CHECKED: TRS

JOB NO.
21SML02

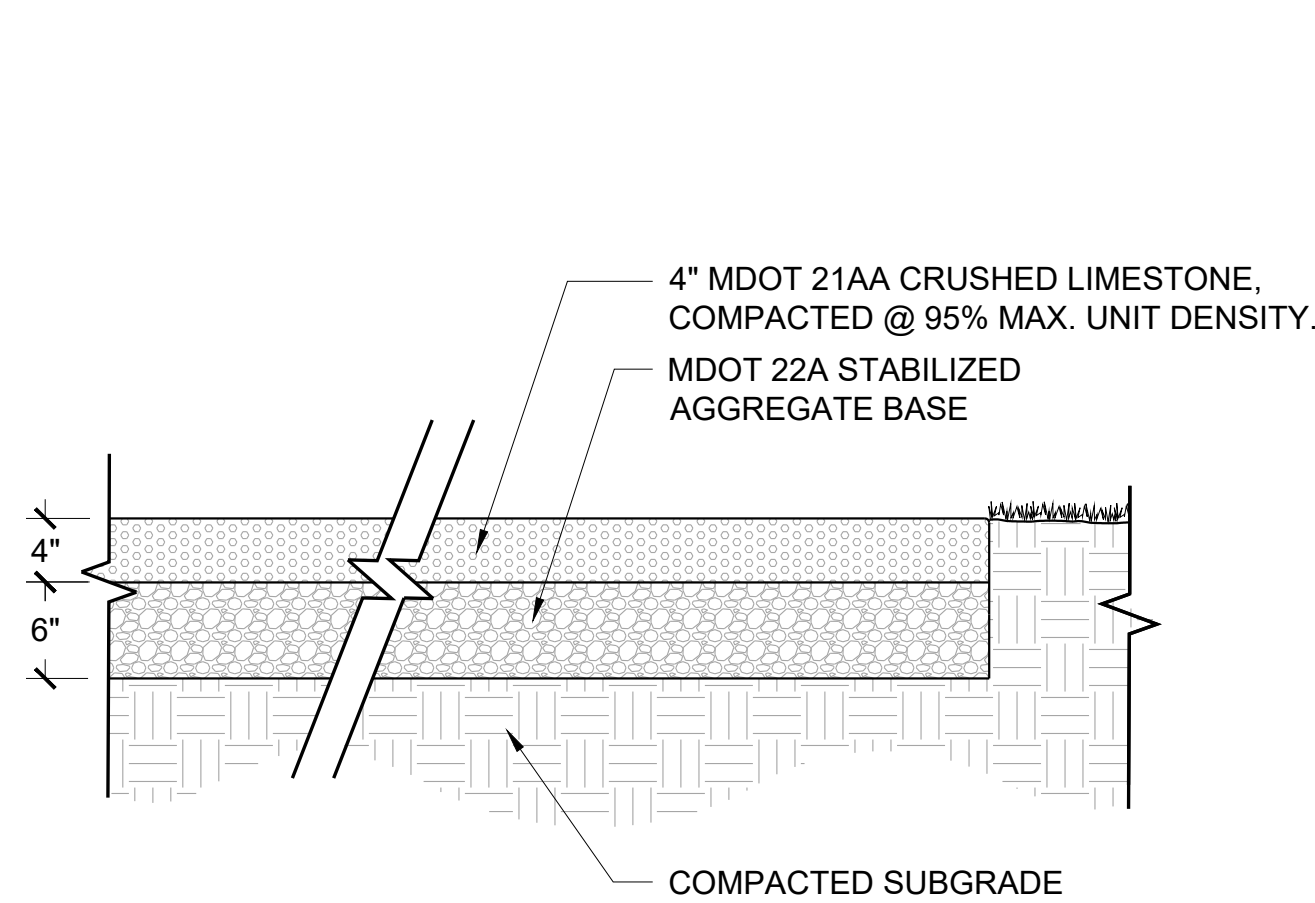
TITLE
DETAILS

SEAL

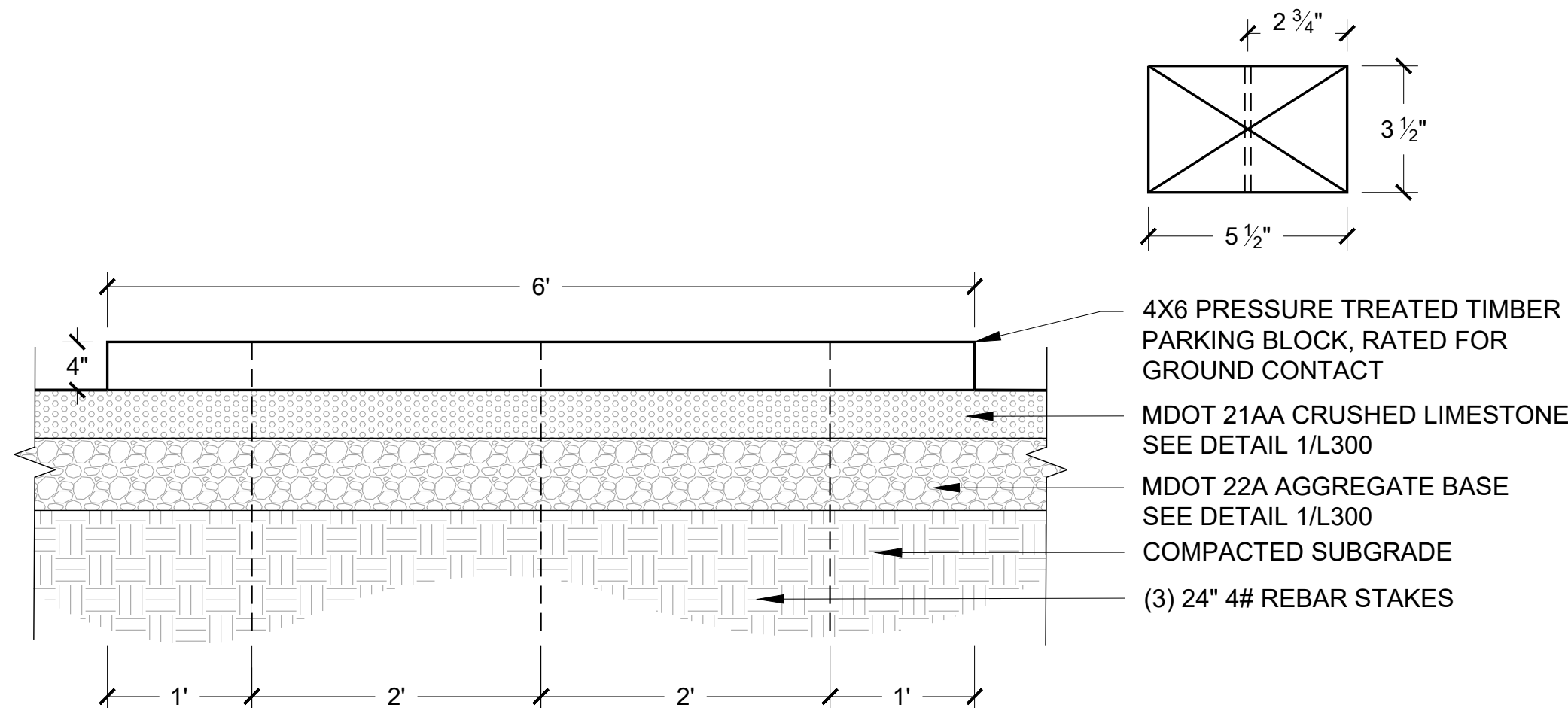
PRELIMINARY
NOT FOR CONSTRUCTION

SHEET

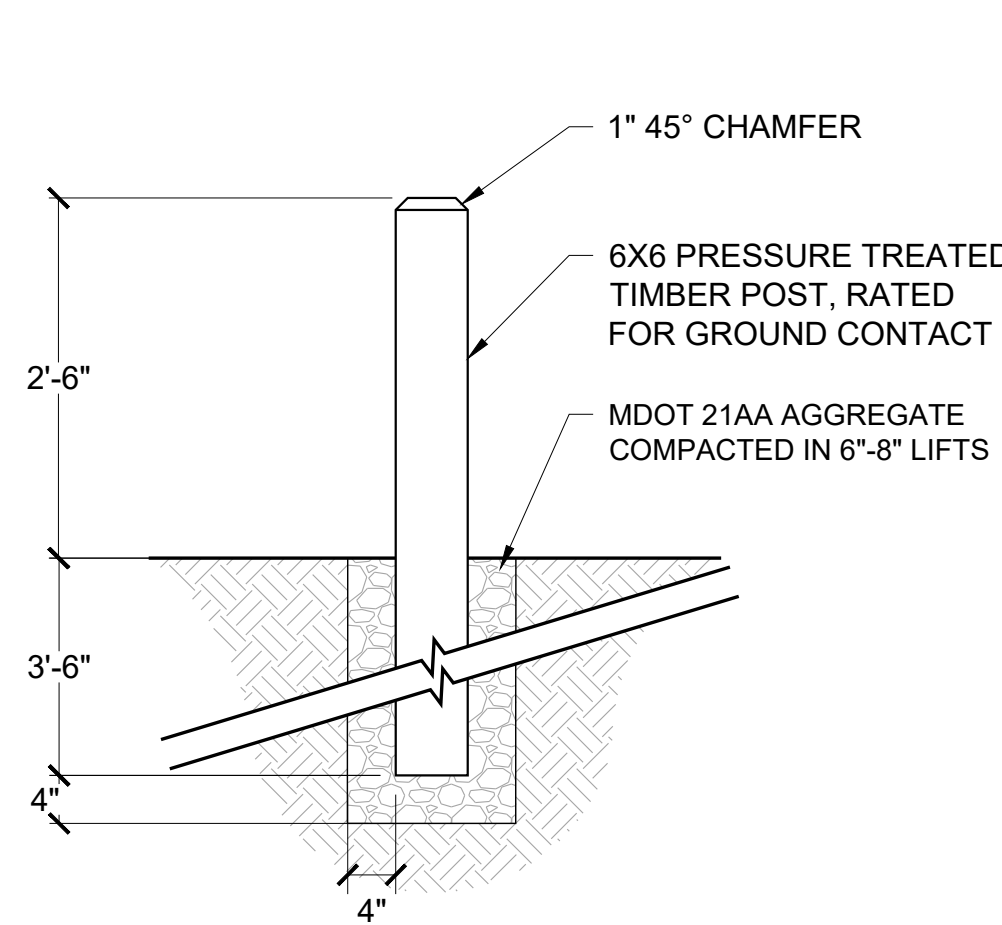
L400



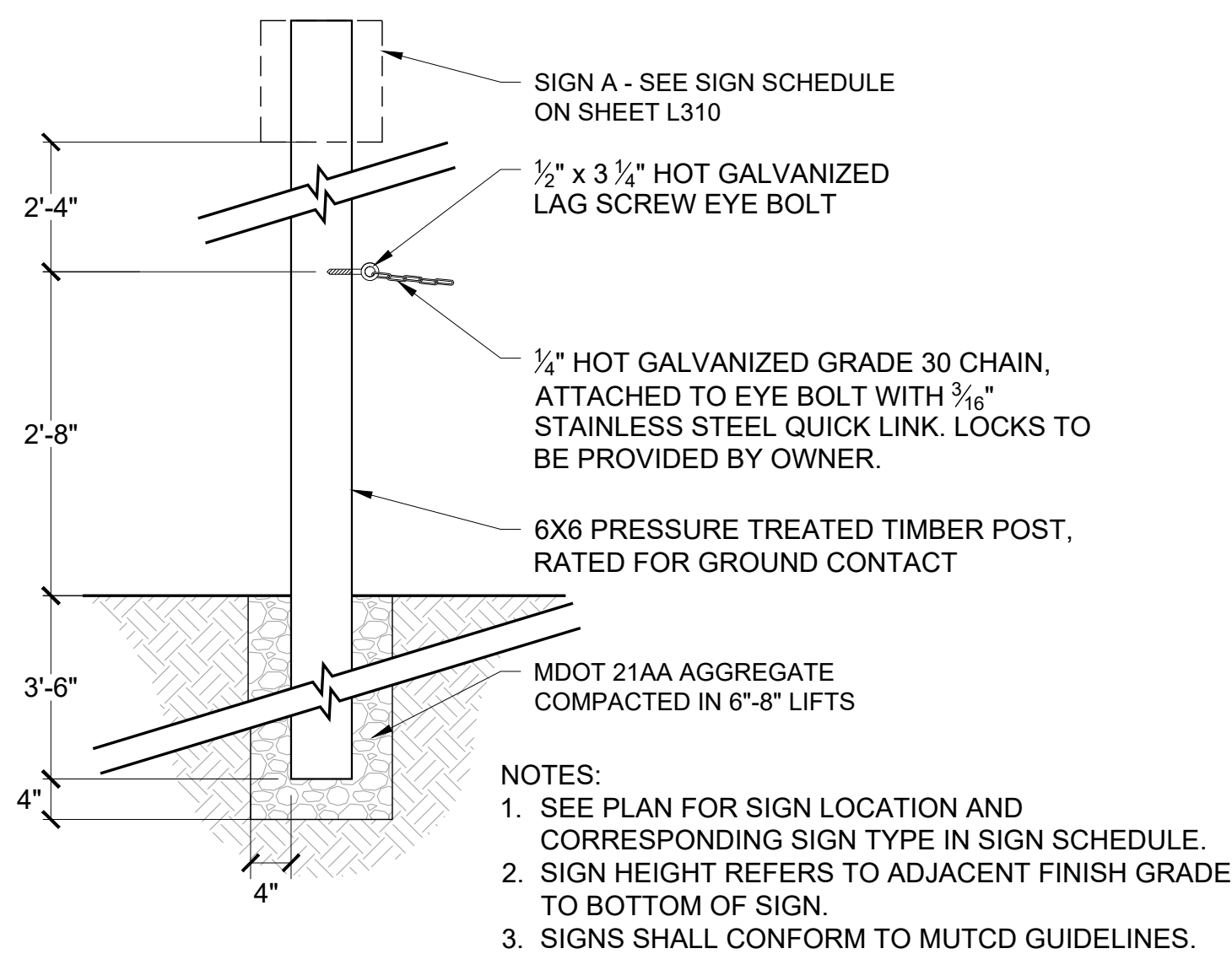
1 GRAVEL PAVING
SCALE: 1" = 1'-0"



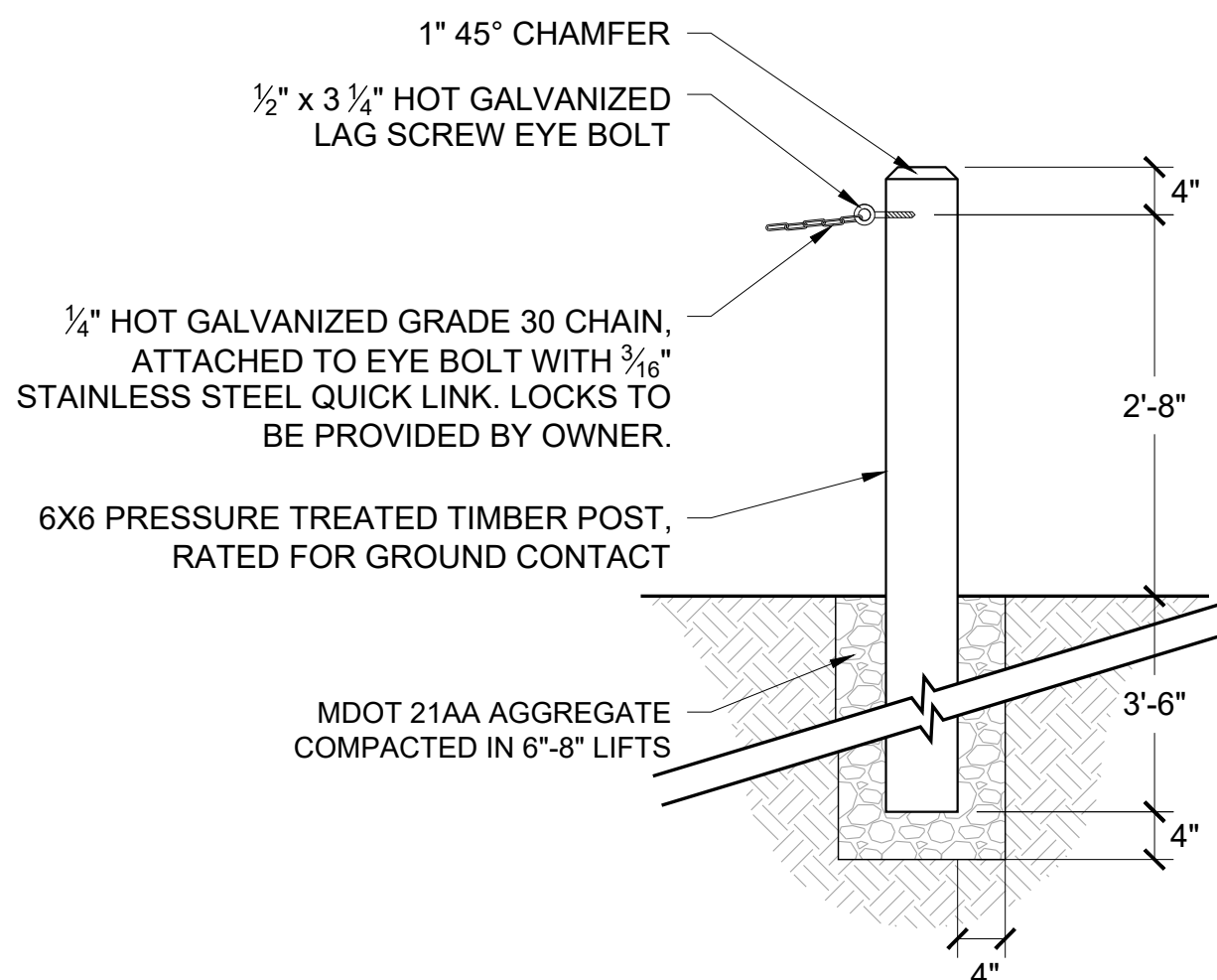
2 TIMBER PARKING BLOCK
SCALE: 1" = 1'-0"



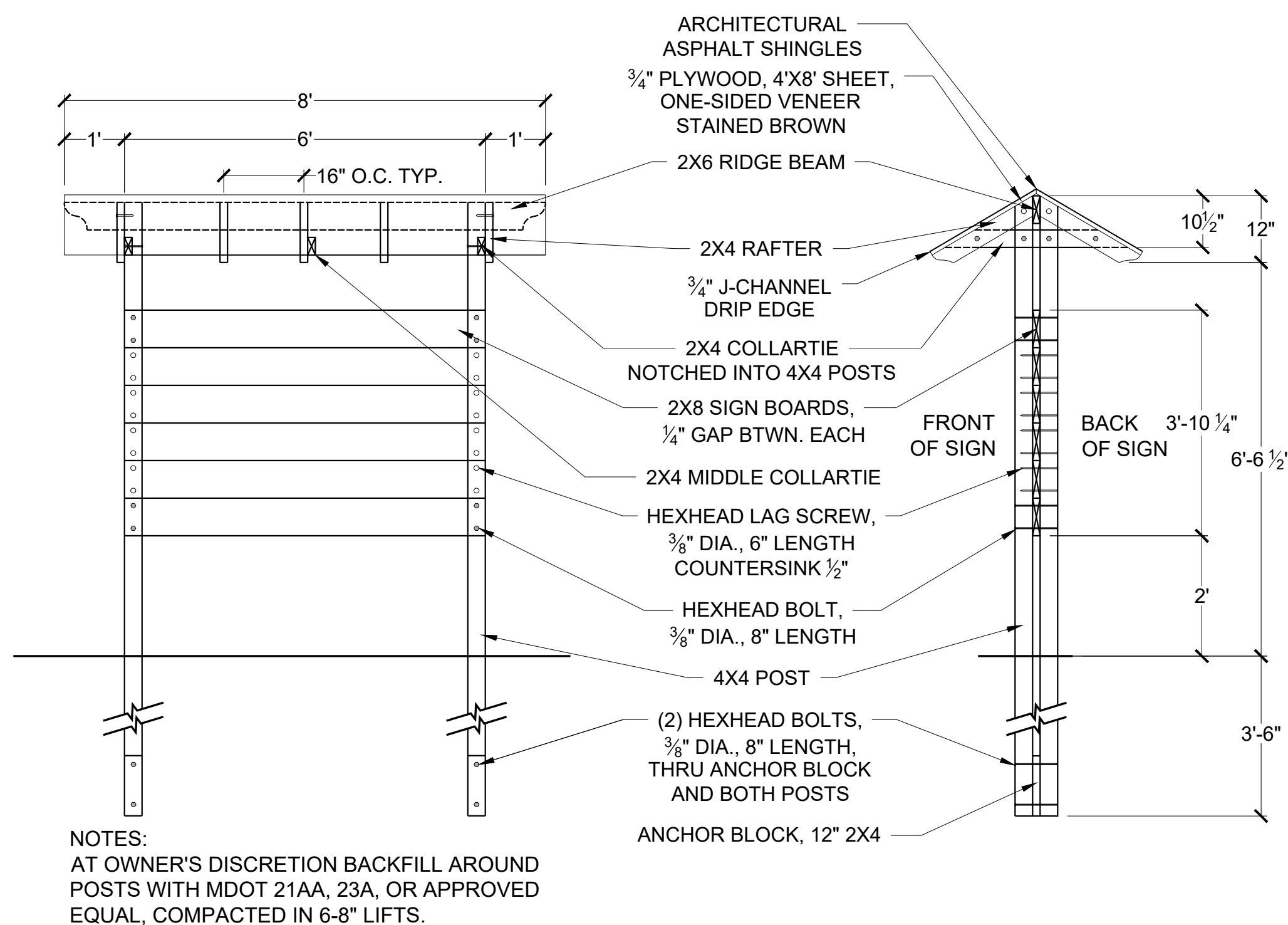
3 TIMBER BOLLARD
SCALE: 3/4" = 1'-0"



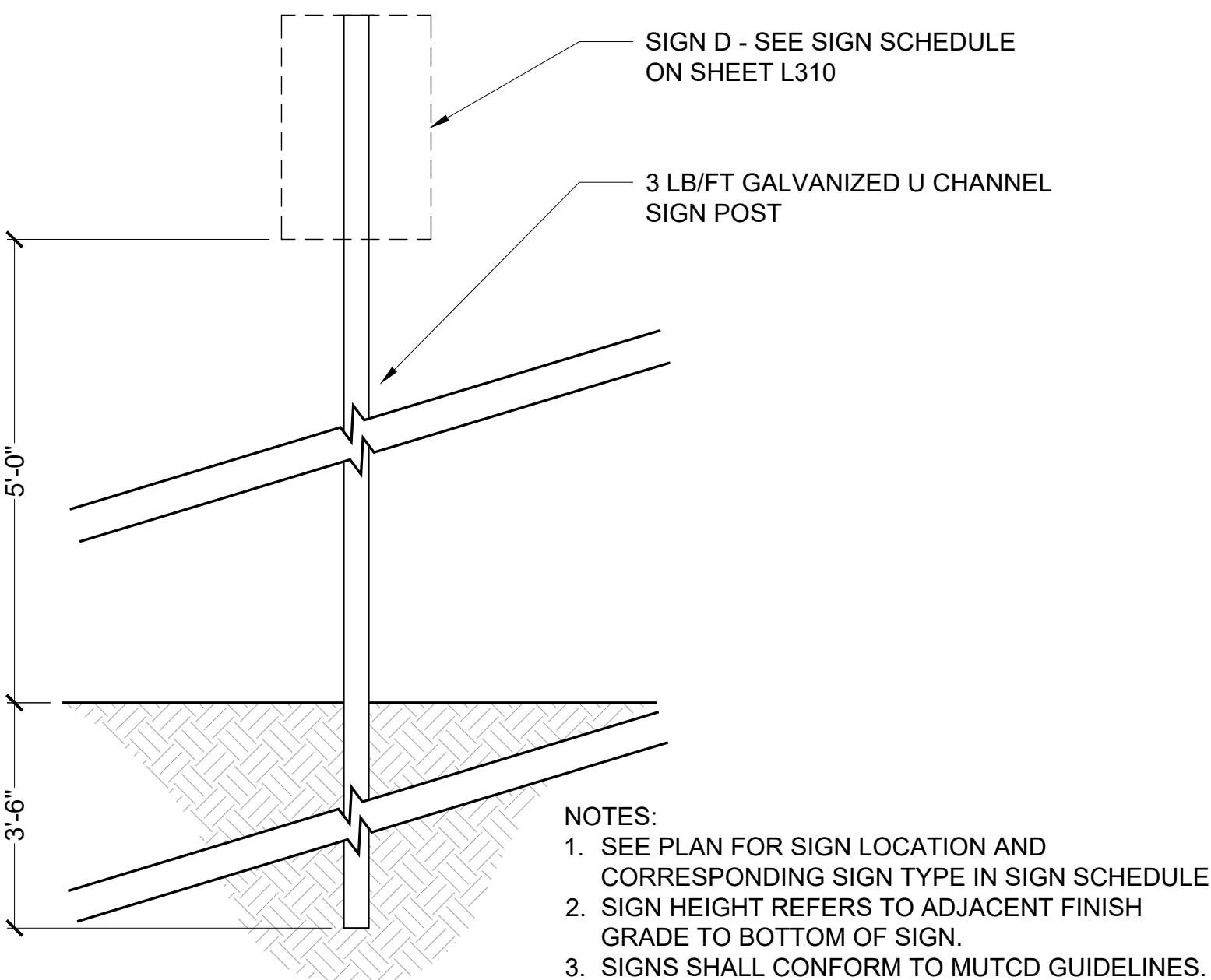
4 NO PARKING SIGN WITH ACCESS CHAIN
SCALE: 3/4" = 1'-0"



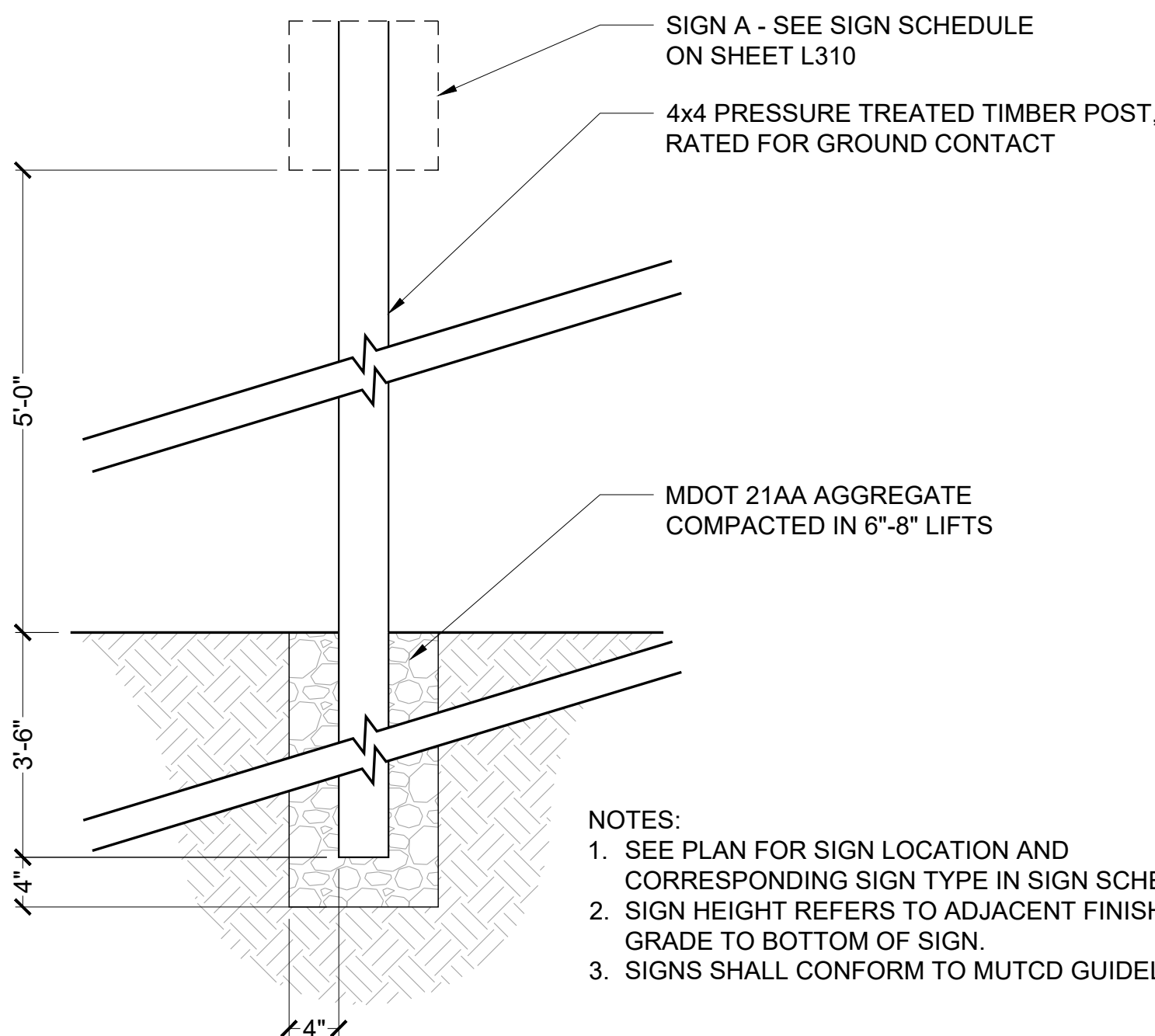
5 TIMBER BOLLARD WITH ACCESS CHAIN
SCALE: 3/4" = 1'-0"



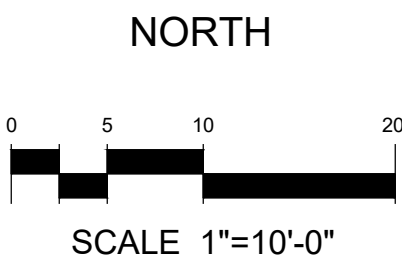
7 KIOSK
SCALE: 1/2" = 1'-0"



6 NAME SIGN
SCALE: 1" = 1'-0"

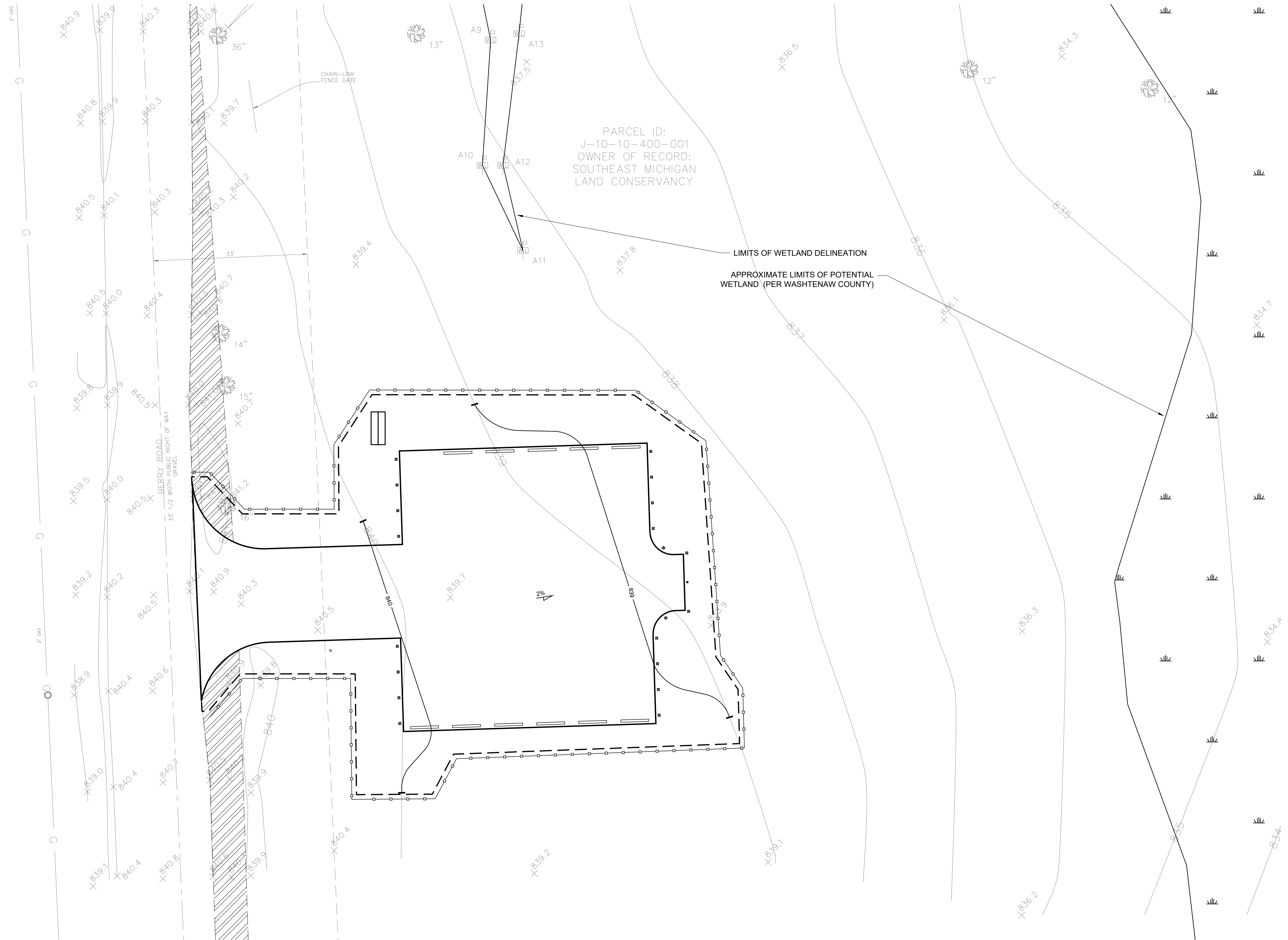


8 NO PARKING SIGN
SCALE: 1" = 1'-0"



JOB NO.
21SML02

TITLE
WETLANDS



Rick Mayernik

From: Rick Mayernik
Sent: Monday, December 20, 2021 5:59 PM
To: 'ssteenbergh@jhle-studio.com'
Subject: Secrest Nature Preserve Parking Lot
Attachments: 4550_001.pdf

Sara,

Please find the attached denial of your Certificate of Zoning Compliance for the Secrest Parking Lot. I have attached Section 8.06C1 of the Zoning Ordinance which prohibits parking lot locations in the required front yard setback. The property in question is zoned A-1 and has a 75 foot setback requirement (see attached Article 3 Dimensional Standards). The 75 foot setback is measured from the edge of the road right-of-way (usually 66 foot wide). In addition, I have attached a GIS map which shows that the 100 year floodplain encroaches onto the north west side of the property. Please confirm the location of the parking lot in relation to the floodplain.

Please contact me with any questions.

Regards,

Richard Mayernik
734-896-3531

SUPERIOR CHARTER TOWNSHIP
3040 NORTH PROSPECT, YPSILANTI, MI 48198
TELEPHONE (734) 482-6099 FAX (734) 482-3842

DEC 17 2021

Certificate of Zoning Compliance

This application must be accompanied by a site plan which is drawn to scale and contains the following information: 1) scale, date and north point. 2) location, shape and dimensions of the lot. 3) dimensioned location, outline and dimensions of all existing and proposed structures, and location and extent of uses not involving structures.

Address of Property: Secrest Nature Preserve - Berry Road, Superior Township, MI 48198

Applicant Name: Jill Lewis - Southeast Michigan Land Conservancy

Address: 8383 Vreeland Road

City, State, Zip Code: Superior Township, MI 48198

Phone Number: 734-484-6565 Alternate Number: _____

Provide a complete description of existing and intended uses of the property and structures, existing and proposed:

This property is an 80 acre nature preserve with unimproved trails. We will be adding an
11-car gravel parking lot and information kiosk as well as signage at the intersection of Berry
Rd and Ford Rd.

The undersigned certifies that he/she is the owner or agent of the owner authorized to submit this application.

Jill A. Lewis
Applicant Signature

12-16-21
Date

Township Use Only

Parcel Number: J-10-10-400-001

Site Plan Number: N/A

Parcel Zoning District: A-1

Zoning Administrator: R. MAYERNIK

☐ Zoning Compliance Approved

☒ Zoning Compliance Denied

Reason for Denial: PARKING LOT LOCATED WITHIN
REQUIRED FRONT YARD SET BACK SEC. 8.06(C)(1)
ALSO, SEE ATTACHED 100 YEAR FLOODPLAIN
GIS MAP. CONFIRM PARKING LOT LOCATION
RELATIVE TO FLOODPLAIN.

Section 8.06 Design Requirements for Parking Areas.

Every parcel of land hereafter used for public or private off-street parking facilities a parking area shall be designed, constructed, and maintained in accordance with the following:

A. Barrier-Free Parking Requirements.

Barrier-free parking spaces shall be provided at conveniently accessible locations within each parking area built to accommodate five (5) or more vehicles per the State Construction Code and the following (see illustration):

Number of Parking Spaces Provided	Minimum Number of Barrier-Free Spaces Required	Van Accessible Parking Spaces Required	Accessible Parking Spaces Required
Up to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1,000	2% of total parking provided in each lot	1 out of every 8 accessible spaces	7 out of every 8 accessible spaces
1,001 and over	20 plus 1 per 100 spaces over 1,000	1 out of every 8 accessible spaces	7 out of every 8 accessible spaces

B. Landscaping and Screening.

Any off-street parking area providing spaces for five (5) or more vehicles shall be landscaped, and effectively screened from all lot boundaries and road rights-of-way, in accordance with Section 14.10E (Parking Lot Landscaping and Perimeter Screening).

C. Setback.

Off-street parking facilities shall conform to the following minimum setback requirements:

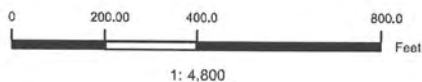
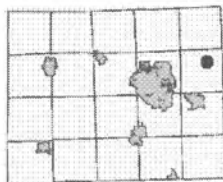
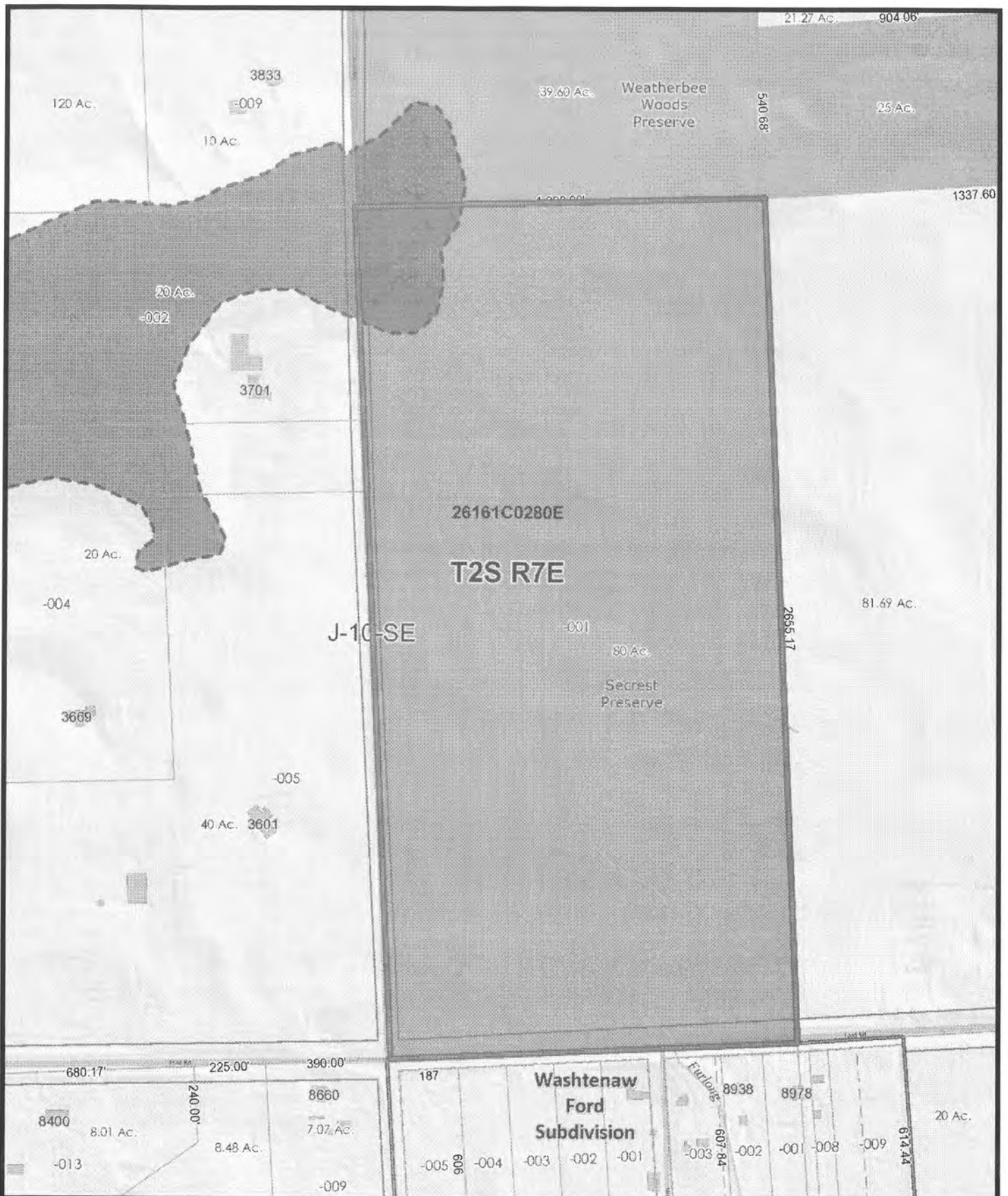
1. Off-street parking spaces shall not be located in any required front yard. When the lot is a corner lot, the parking spaces shall not be located within the required yard along either road right-of-way.

ARTICLE 3

DIMENSIONAL STANDARDS

Section 3.101 Table of Dimensional Standards by District.

Dimensional Standards			Districts																		Additional Standards		
			Rural			Rural Residential		Urban Residential			Business			Other	Special								
			R-C	A-1	A-2	R-1	R-2	R-3	R-4	R-6	R-7	C-1	C-2	O-1	PSP	PC	NSC	VC	MS	PM		OSP	
Maximum Building Height		Feet	35	40	40	35	35	35	35	see Section 5.205 (Manufactured Housing Park Standards)	35	35	35	35	35	see Article 7.0 (Special District Regulations)	30	35	see Article 7.0 (Special District Regulations)	35	see Article 7.0 (Special District Regulations)	Section 3.201	
		Stories	2.5	3.0	3.0	2.5	2.5	2.5	2.5		2.5	2.5	2.5	2.5	2.5		2.0	2.5		3.0			
Lot Standards	Minimum Width (feet)		225	225	225	200	150	100	60		125	150	150	100	150		250	100		150			Section 3.202
	Minimum Depth (feet)							150	120														
	Minimum Area (acres or square-feet)		5.0 acres	5.0 acres	2.0 acres	2.0 acres	1.0 acre	21,780	7,200		21,780	10,500	20,000	20,000	20,000		3.0 acres	20,000		2.0 acres			
Yard/Setback Standards (feet)	Front Yard	Minimum	60	75	75	60	50	35	25		35	20	35	20	20		50	20		50		Section 3.203	
		Maximum															35						
	Minimum Side Yard	One Side Yard	30	30	30	20	15	10	6		15	15	20	10	20		25	10		10			
		Total of Two	60	60	60	60	50	25	16		35	30	40	20	40		50	20		20			
	Minimum Rear Yard		50	50	50	50	50	50	35		35	35	35	35	35		25	35		35			
Maximum Ground Floor Coverage (GFC)			5%	5%	5%	10%	15%	20%	25%		20%	20%	25%	25%	25%		20%	25%		20%			Section 3.203E
Maximum Floor Area Ratio (FAR)			0.05	0.05	0.05	0.10	0.15	0.25	0.40		0.30	0.30	0.50	0.50	0.50		0.20	0.50		0.40			Section 3.203E
Maximum Net Dwelling Unit Density (units per acre)			0.2	0.2	0.5	0.5	1.0	2.0	4.0		8.0												Section 3.204



12/20/2021

THIS MAP REPRESENTS PARCELS AT THE TIME OF PRINTING. THE OFFICIAL PARCEL TAX MAPS ARE MAINTAINED SOLELY BY THE WASHTENAW COUNTY EQUALIZATION DEPARTMENT AND CAN BE OBTAINED BY CONTACTING THAT OFFICE AT 734-222-8662.



NOTE: Parcels may not be to scale.

The information contained in this cadastral map is used to locate, identify and inventory parcels of land in Washtenaw County for appraisal and taxing purposes only and is not to be construed as a "survey description". The information is provided with the understanding that the conclusions drawn from such information are solely the responsibility of the user. Any assumption of legal status of this data is hereby disclaimed.

**ZONING BOARD OF APPEALS
SUPERIOR CHARTER TOWNSHIP
SUPERIOR TOWNSHIP HALL
3040 N. PROSPECT, YPSILANTI, MI 48198
WEDNESDAY, MARCH 30, 2022
7:00 p.m.**

ZBA #22-02

The Superior Township Zoning Board of Appeals will hold a public hearing on **Wednesday, March 30, 2022, at 7:00 p.m.** at the Superior Township Hall, 3040 N. Prospect, on a request for the following variance from the Superior Township Zoning Ordinance:

Variance from Section 3.101 (Dimensional Standards) for an addition to existing single-family dwelling in the front yard setback.

The property is located at 8414 Joy Road and is zoned A-1 (Agricultural District).

Parcel ID # J-10-03-200-008

A complete copy of the petition for variance is available for inspection or copying at the Township Hall 9:00 a.m. – 4:00 p.m. weekdays. Persons wishing to express their views may do so in person at the public hearing, or in writing addressed to the Zoning Board of Appeals at the above address. Superior Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities upon four (4) business days notice to the Township. Individuals requiring auxiliary aids or services should contact Superior Charter Township by writing the Township Clerk.

Laura Bennett, Planning & Zoning Administrator
3040 N. Prospect
Ypsilanti, MI 48198
734-482-6099

From: [Duane Scherbarth](#)
To: [Laura Bennett](#)
Subject: Scherbarth - Secrest Nature Preserve Concerns.
Date: Thursday, March 24, 2022 10:07:34 AM

You don't often get email from duane.scherbarth@gmail.com. [Learn why this is important](#)

Laura Bennett,

My father and I bought 60 acres on the corner of Ford and Berry 35 years ago. I have had the joy of raising my family here and now to see a 4th generation of my family on this land. We support the moves that Superior Township has made to create a greenbelt between Canton, Ypsilanti and Ann Arbor.

However, we have concerns about the Secrest Nature Preserve. Since the limited time it's been open, this has changed the way of our life and the community on Berry Road.

- We have had abundantly more trash on the roads
- We have seen people dropping off significantly more wild animals (Racoons, Possums, Skunks) which later end up attacking our chickens.
- We have had people trespassing on our property
- Some individuals do not keep their dogs on a leash and allow them to chase wildlife on our property.
- We have been verbally threatened by a person parked in front of our property.
- We have had people parked at the park at night with music turned up at the entrance of the preserve.
- People park their vehicles on the side of the road in front of our house.
- People in their vehicles with their headlights shining on my house in the middle of the night.

From a Safety standpoint Berry road has a 55 MPH speed limit, having parked cars protruding into the street does not allow feasible passing room, making it dangerous to maneuver your car around these vehicles while incoming traffic could be coming up the hill. The nature preserve put up no parking signs in that area, yet they are not followed by individuals visiting the park.

The current proposal plans for a 11-car parking lot (which is over double the size of every other preserve of the Superior Greenway) and a maintenance access (or commonly overflow / 2nd parking lot / turn around point) directly across from mine and my neighbor's driveway. From my perspective this is very inconsiderate, We moved to Superior Township to enjoy the quietness of this area, not to have individuals meeting up at the end of my driveway to walk the nature preserve and headlights beaming into my house at the end of the day.

From our perspective this Nature Preserve appears to be commercial property with people coming and going at all times and should be held to the same standards. This park should not be operational until it's safe for the community (people living on Berry Road).

I'm sorry that we cannot be in attendance to this meeting, this is our first family vacation since the start of the pandemic. If possible I recommend postponing this proposal until I can make the meeting.

Thank you,

Duane Scherbarth

3669 & 3601 Berry Rd, Ypsilanti MI 48198

From: [Shane Scherbarth](#)
To: [Laura Bennett](#)
Subject: Shane Scherbarth - Secrest Nature Preserve
Date: Thursday, March 24, 2022 11:10:28 AM

You don't often get email from shane.scherbarth@gmail.com. [Learn why this is important](#)

Laura Bennett,

Hello, I'm Shane Scherbarth. I was raised on the corner of Ford and Berry and in the process of buying my grandfather's old house from father at 3601 Berry. 9 years ago, when I started looking to purchase my first home to start my family, I was steadfast on purchasing a house in Superior Township. I eventually purchased a house at 4037 Gotfredson Rd. Moving to today, I now am raising 3 wonderful children in Superior Township and can't think of a better area for this. I'm planning on staying on this property for the rest of my life and passing it on through the generations of my family.

Growing up on the corner of Berry and Ford, I have learned to appreciate the quietness of the country, because of this I believe that the Superior Greenway is a great feature for our community. However, I'm having trouble understanding the rationale of creating a 11-spot parking lot in the middle of a secluded nature area.

We have proven across the county that parks and nature preserves do not require abundant parking. Other Nature preserves that have substantially more acreage still don't require much parking.

Map Number	Property	Acres	Parking Spots
1	Nature Preserve	53	1
2	Conservation Easement	40	
3	Conservation Easement	3	
4	LeFurge Woods Nature Preserve	325	4
5a	Farm Easement	158	
5b	Farm Easement	136	
5c	Farm Easement	369	
6	Conservation Easement	129	
7	Meyer Preserve	183	0
8	Conservancy Farm	99	
9	Jack R. Smiley Nature Preserve	100	0
10	Matthaei Botanical Gardens	194	
11	Cherry Hill Nature Preserve	160	2
12	Conservation Easements (3)	35	
13	Kosch Headwater Preserve	160	5
14	Springhill Nature Preserve	30	0
15	North Prospect Park	15	0
16	Secrest Nature Preserve	80	11?
17	Conservation Easement	82	
18	Weatherbee Woods Preserve	84	0
19	Schroeter Park	33	4
20	Staebler Farm	99	
21	Wing Nature Preserve	2	
22	Farm Easements (2)	165	
23	Conservation Easements (2)	43	

correspond to map located https://www.smlcland.org/documents/Superior_Greenway_Brochure_2018.pdf

Let's keep the Nature Preserve a natural nature preserve, instead of installing a convenience store sized parking lot. Looking at the nature preserves, most have maintenance access at the main entrance. This allows the land to be more natural from the road, and to not disturb unnecessary areas with additional entrances.

Let's be strategic and considerate with adding additional parking lots and access points if we are going to add them and centralize it with Schroeter Park, Weatherbee Woods Preserve and Secrest Nature Preserve. This would allow the nature preserve to remain more natural with quiet trails and still access to the open field of Schroeter park.

I appreciate the time you took to read my email and understand my concerns,

Thank you,

Shane Scherbarth

3601 Berry Rd, Ypsilanti MI 48198

PS: I will be out of town from 3/24 to 4/4. If you have any questions regarding my email or have additional questions please feel free to contact me at 734-320-9867.

From: [Mike Spelman](#)
To: [Laura Bennett](#)
Subject: Superior Township Planning and Zoning
Date: Monday, March 21, 2022 11:19:10 AM

You don't often get email from michaelspelman1986@gmail.com. [Learn why this is important](#)

Laura Bennett,

My family has lived in Superior Township for 4 generations and appreciate the diligent and thoughtfulness our township has on our planning and zoning proposals.

I'm concerned that not many individuals have spoken up regarding the Secrest Nature Preserve. This proposal is adding a substantial (11 spot) parking lot similar in size to the Michigan Folk School and a Maintenance access in a quiet area directly across the street from individuals' houses. I assume that these individuals, much like me enjoy living in Superior Township for the quietness and not to have headlights beaming into their houses at all times of the evening.

We have proven with the Weatherbee Woods Preserve, that all Nature preserves do not require parking lots. Schroeter Park, Weatherbee Woods Preserve and Secrest Nature Preserve are essentially now all connected. From a cost effective and efficiency standpoint, it makes most sense to have a single parking area to reduce maintenance and cost for the township instead of multiple parking lots. Trails could lead between Schroeter Park, Weatherbee Woods Preserve and Secrest Nature Preserve.

The Schroeter Park parking lot can be the access point for all parks and preserves. If we are wanting to spend money to optimize this, looking from an aerial view a parking lot should be near Weatherbee Woods Preserve (across the farm field not interfering with other driveways) allowing easy access to the large field of Schroeter Park and keeping the trails more secluded and natural. Understanding that each park is a separate entity signs can be placed strategically on the trail paths to denote each park or preserve.

Let's continue the great work that we have already done with the consideration to our community.

Thank you,

Michael Spelman

6955 Plymouth, Ann Arbor, MI 48105

--

Mike Spelman

Email: Michaelspelman1986@gmail.com

ZONING BOARD OF APPEALS APPLICATION

(This application must be typewritten or printed. All questions must be answered.)

Request is hereby made for one of the following:

☐ Interpretation of the Zoning Ordinance/Official Zoning Map (Section 13.07)

☒ Variance from the requirements of the following Zoning Ordinance
Section(s): 3.101 (Dimensional Standards)

☐ Appeal of the decision of the Township Zoning Official

APPLICANT INFORMATION

Name Guy Green

Address 8414 Joy Road

Phone Number (734) 673-4904 Email guy.a.green33@gmail.com

Is the property owned by the applicant? ☒ YES ☐ NO

If "NO", what is the applicant's interest in the property? _____

Name, address and telephone number of owner(s): _____

DESCRIPTION OF THE PROPERTY

Address 8414 Joy Road

Parcel ID# _____ Parcel size _____

Size of the proposed building or addition, if any 6 X 26.6

Use of existing building (if any) and property Residence

Zoning classification of property _____

If a new building is proposed, has the Building Inspection department examined the plans for the proposed building? ☐ YES ☐ NO

Has the department refused a permit? ☐ YES ☐ NO

Has there been any previous land use application involving this property? YES (NO)

If "YES", state the date of filing, the character of appeal and the disposition.

DESCRIBE THE REASONS FOR YOUR APPEAL

Note: The Zoning Board of Appeals is required to use the standards listed in Section 13.08(B) of the Zoning Ordinance when considering an appeal. It is recommended that applicants review these standards and consider them in preparing a description of why the variance is needed. A copy of the standards is attached to the application.

Add 6 Feet To Existing House in order To Enlarge Bathroom
To make Wheelchair Accessible For Disabled Mother.
Extending Towards Right of Way is the only Feasible option
Due To Lay-out of house and Bedrooms

YOU MAY WISH TO ASK YOUR NEIGHBORS TO SIGN THE FOLLOWING SECTION IF THEY HAVE NO OBJECTION TO THE APPEAL YOU ARE MAKING.

We the undersigned, as owners of property any part of which is located within 300 feet of any part of the property involved in this appeal, have no objections to the granting of the request made in this appeal:

NAME (PLEASE PRINT)

SIGNATURE

STREET ADDRESS

INFORMATION REQUIRED TO BE SUBMITTED WITH APPEAL

The following must attached and submitted with the application:

- Ten (10) sets of drawings, all on sheets 8 ½ inches by 11 inches or 8 ½ inches by 14 inches, drawn to scale and showing all measurements, features and structures, including the general location of all natural features on the property, measurements to show distances between structures, measurements between structures and property lines, measurements for lot width and lot area, and height of structures. Rights-of-way and easements must also be shown.
- A letter of authority, or power of attorney, in the event the appeal is being made by a person other than the actual owner of the property.
- A complete legal description of the premises (as stated on the property deed or property tax bill.)

APPLICANT'S DEPOSITION – Must be completed by applicant.

I hereby state that all of the statements and information contained in this application and the supporting documents herewith are true and correct.

Signature of applicant  Date March 7 2022

NOTARY PUBLIC – Applicant's signature must be notarized.

Sworn to before me this 7 day of March 2022

My commission expires 
(Notary Public, Washtenaw County, Michigan)

SARAH COLLIER
NOTARY PUBLIC, STATE OF MI
COUNTY OF WASHTENAW
MY COMMISSION EXPIRES Apr 15, 2028
ACTING IN COUNTY OF Washtenaw

To be filled in by Township Clerk (or designated Township Officer/Personnel)

I hereby state that this petition was properly received and filed on 3/7/22 (date)

Signature of Clerk (or designee)



Fee paid \$175.00

Notice to Applicants for the Zoning Board of Appeals

Filing Applications

You must call and schedule an appointment with the Township Zoning Official Richard Mayernik to file an application. He may be reached at the Township Office at (734) 482-6099.

Meeting Schedule

The Zoning Board of Appeals does not have a regular meeting schedule. Meetings are called whenever there is an application for a variance. Because variance requests require a public hearing, it generally takes four (4) weeks from the date an application is received until a meeting of Zoning Board of Appeals can be held. This time is needed to schedule the meeting date and to mail out notices of the public hearing.

Reasons for the Appeal

The Zoning Board of Appeals is required to use the standards listed in Section 13.08 of the Zoning Ordinance when considering the appeals. It is recommended that applicants review these standards and consider them in preparing a description of why the variance is needed.

Site Visits

Filing an application gives the implied consent for Township officials and/or consultants to visit the subject site.

Application Fees

An application fee must be paid when you file your application. The fees are as follows:

1. Appeals brought by the owner of a single-family dwelling for a variance from density and height regulations of the Zoning Ordinance = **\$175.00**
2. Any other appeal = **\$500.00**

Applicant's Acknowledgement

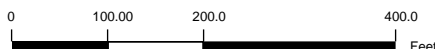
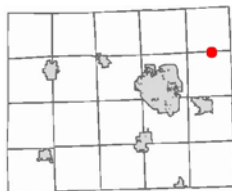
I hereby acknowledge that I have read and agree to the above and that I have been given a copy of this notice.



Signature

March 7th 2022

Date



1: 2,400

3/24/2022



NOTE: Parcels may not be to scale.

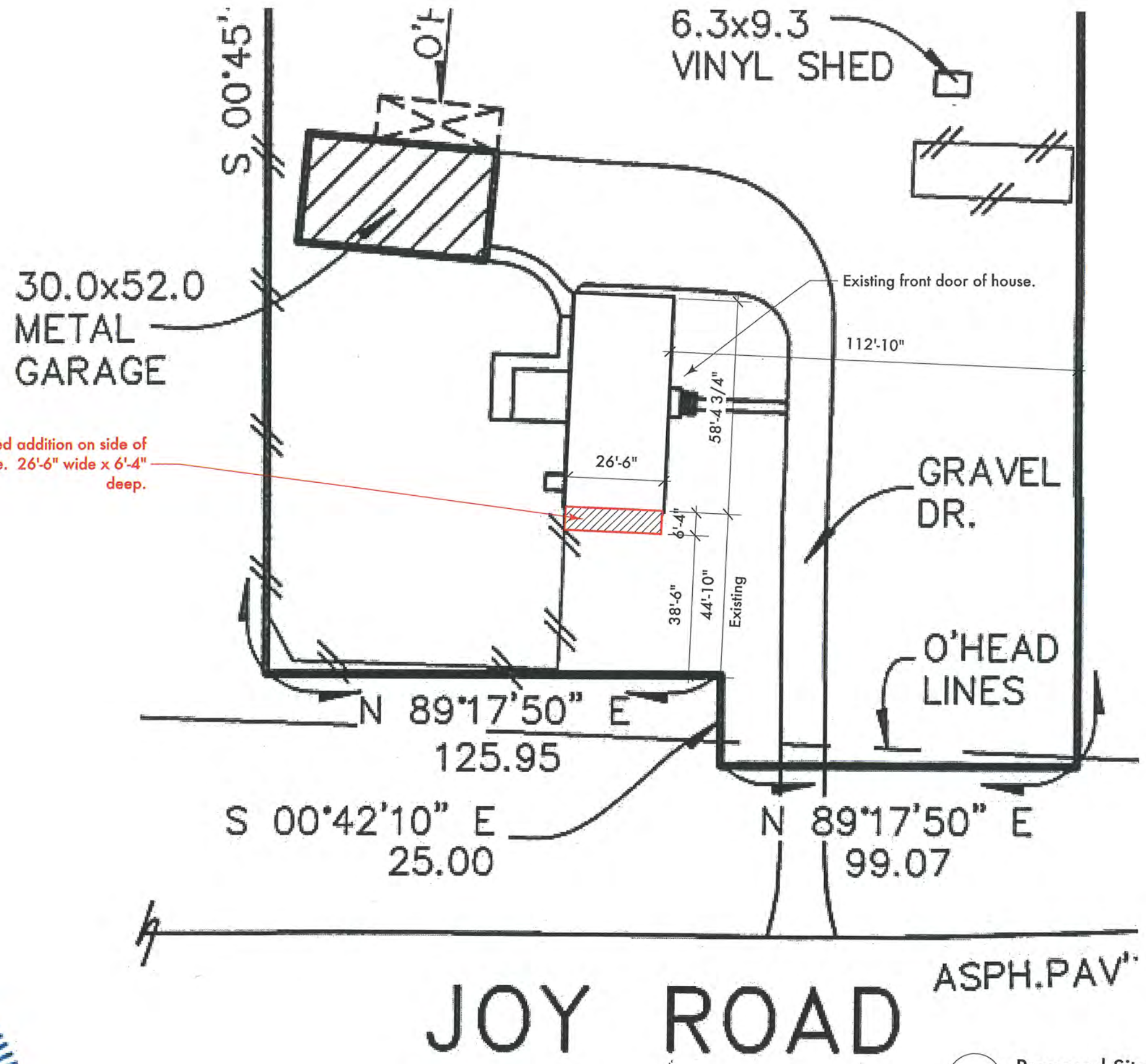
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MEMO

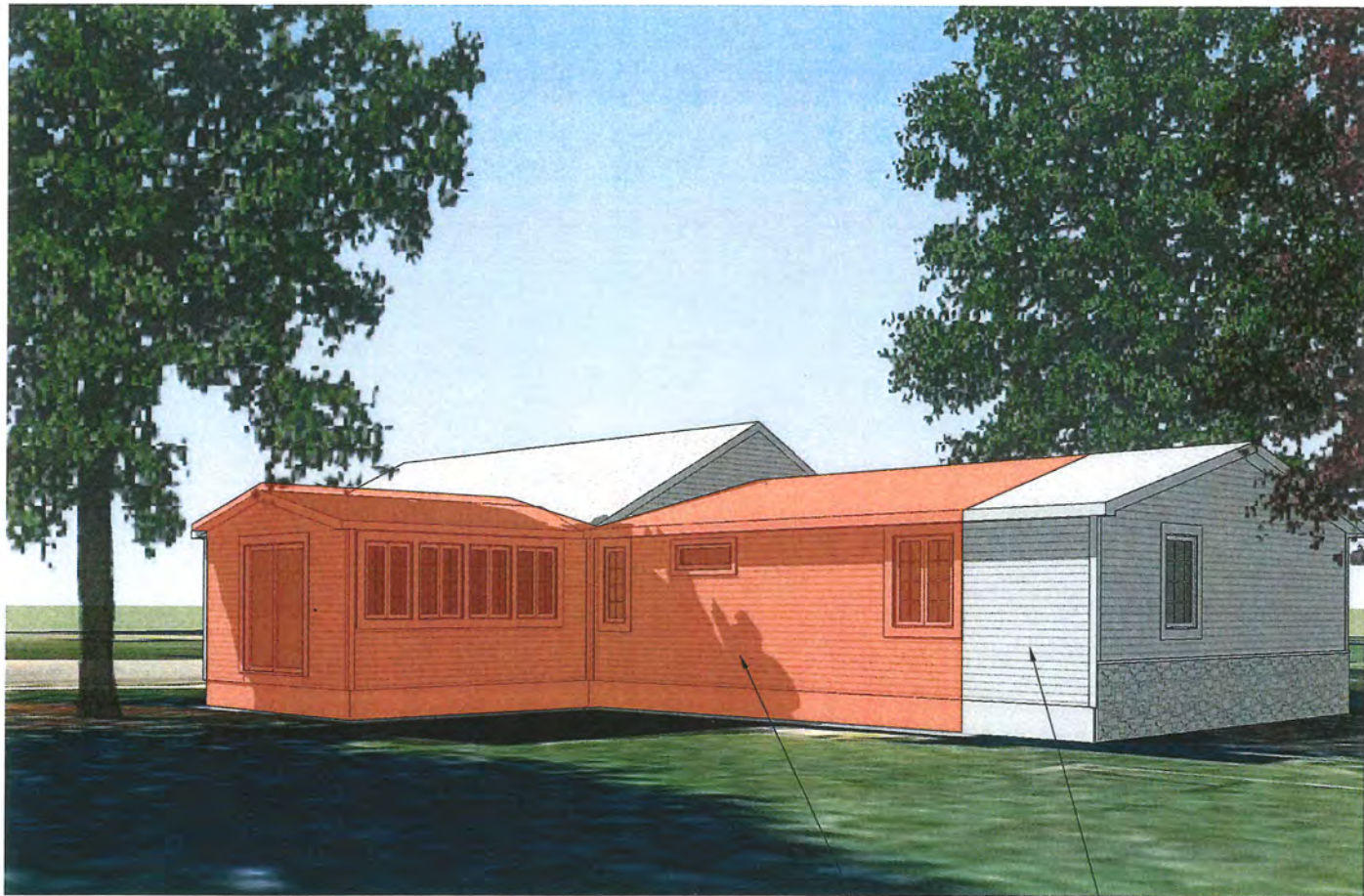
TO: Superior Township Zoning Board of Appeals
FROM: Laura Bennett, Planning & Zoning Administrator
DATE: March 24, 2022
RE: ZBA 22-02, 8414 Joy Road

The subject property, located at 8414 Joy Road, is zoned A-1 (Agricultural District). According to Superior Township Assessing records the home was built in 1981. At the time of original construction, the 1978 Zoning Ordinance was in effect with a 60' minimum front yard setback. It is unclear why the 1981 construction had a setback of 44' 10" from the right-of-way. As shown on the site plan, the parcel is unique in that the road right-of-way increases to a larger width midway along the parcel.

GAN



1 Proposed Site Plan - Addition Shown on Survey
Scale: 1" = 30 ft



Back Yard View - Proposed (deck and basement access hatch omitted from rendering)

Red overlay shows existing house to remain

Addition on north end of house



Back Yard View - Existing



Lake Side View - Proposed



Lake Side View - Existing

Project Summary.
This is an addition and renovation to an existing, one story home.

Two thirds of the existing roof will be removed and replaced with cathedral trusses with a 6:12 pitch.

Two small additions will be made to the existing footprint of the house:

1. The first floor will be extended to the north by approximately six feet.
2. A new entry foyer and front porch will be added to the west side of the house.

Both additions will be over crawl spaces with new, 12" wide trench footings poured to 42" below grade.

The floor plan will be revised to include a new bathroom and relocated basement stairs.

The entire home will have new siding and the remaining roof will have new shingles to match the new roof.

Energy Code Notes:
Walls - R20 (or 13+5)
Ceiling - R38
Crawl Space Walls - R15 continuous

List of Drawings

A0	Cover Page
A1.0	Demo Plan, Foundation Plan
A1.1	First Floor Plan, Roof Plan
A1.2	Framing Plans - Door and Window Schedules
A1.3	Electrical and Lighting Plans
A2.0	Elevations - Door and Window Schedules
A2.1	Elevations
A3.0	Building Sections
A4.0	Details and Sections



Document Date:
Oct 29th, 2021

Document Phase:
Review

rev. date remark

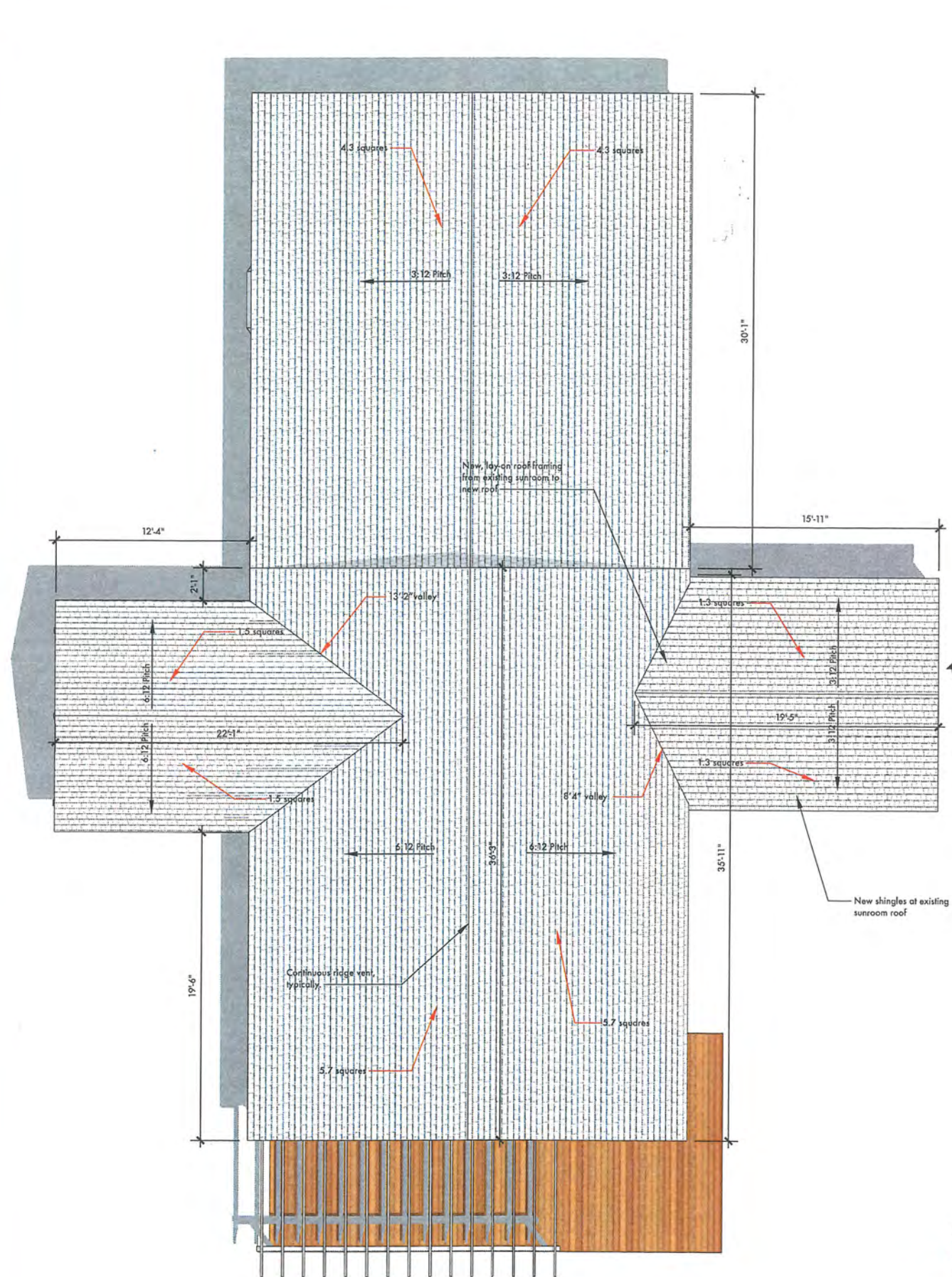


Green Residence

8414 Joy Road
Plymouth, MI 48170

Cover Page
Project Summary
List of Drawings

A0

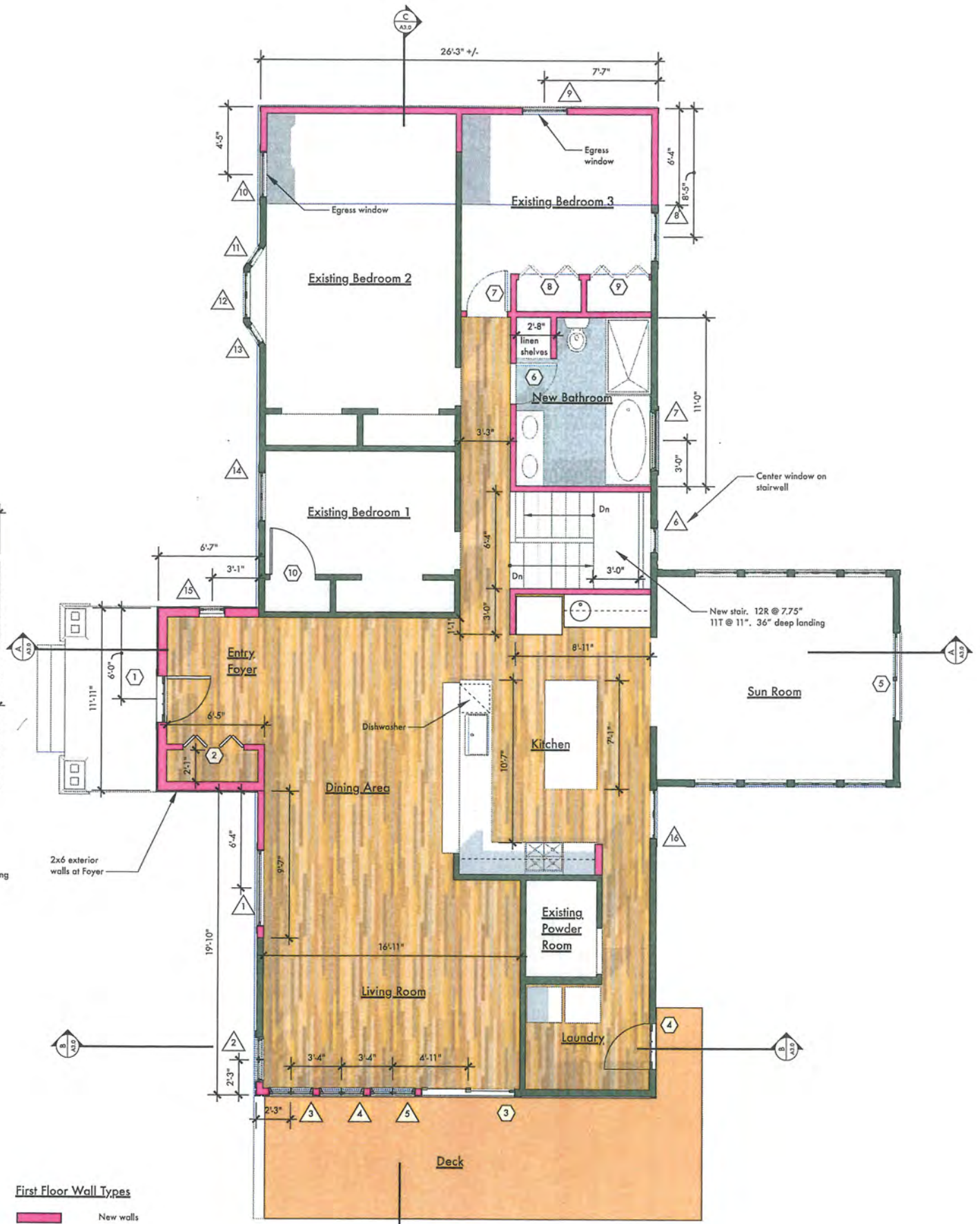


2 Roof Plan
A1.1 1/4" = 1' - 0"

First Floor Wall Types

New walls

Existing walls - interior and exterior



1 First Floor Plan
A1.1 1/4" = 1' - 0"



Document Date:
October 29th, 2021

Document Phase:
Review

rev. date remark



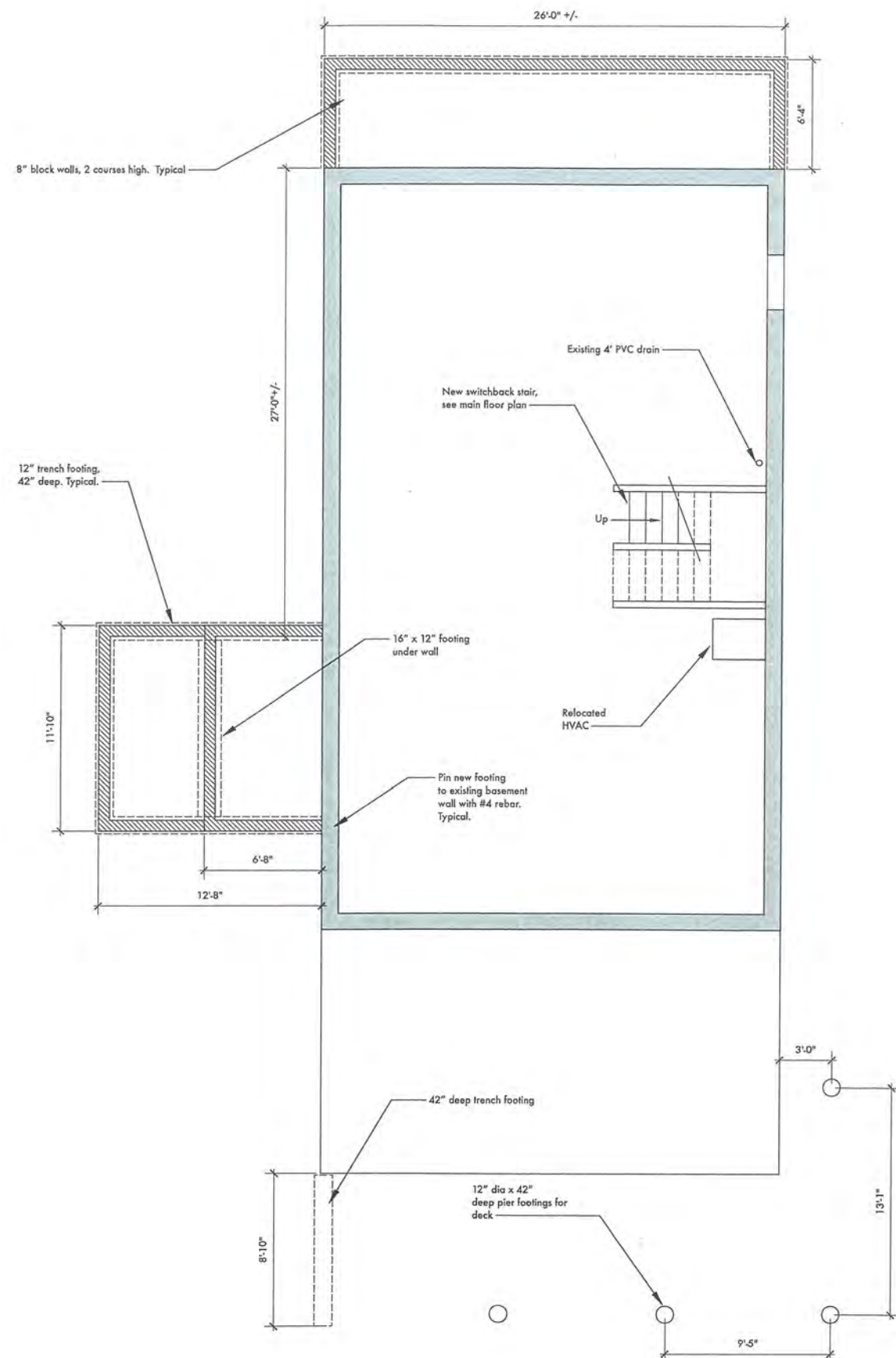
Green Residence

8414 Joy Road
Plymouth, MI 48170

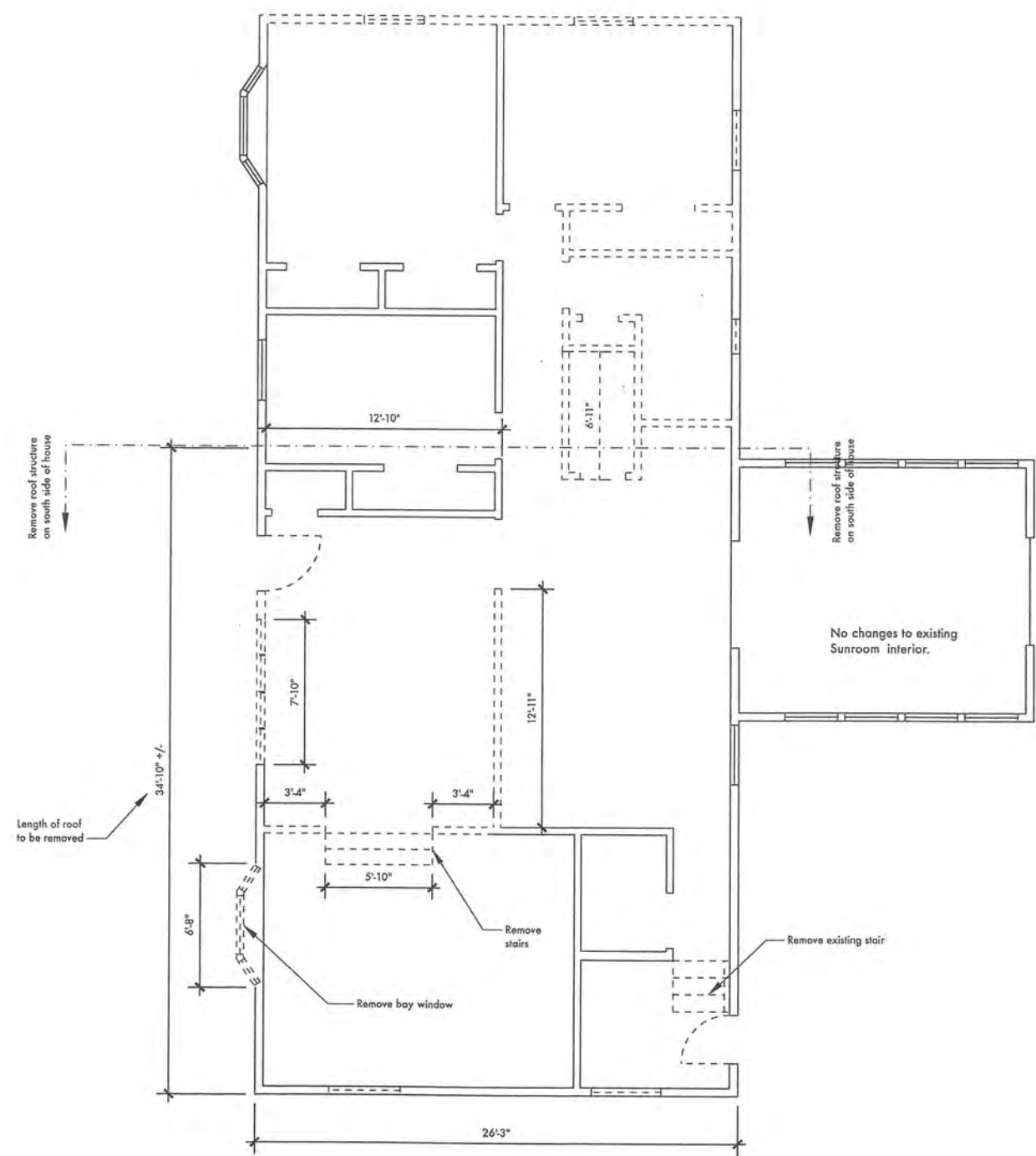
First Floor Plan
Roof Plan

A1.1

**FOR PERMITTING AND
BIDDING PURPOSES ONLY**



2 Foundation Plan/Basement
A1 1/4" = 1' - 0"



- Demo Notes:**
1. Remove all existing siding.
 2. Remove roof structure as indicated.
 3. Remove existing roofing on roofs to remain.
 4. Remove all existing windows and exterior doors (except for Sunroom)

1 Demo Plan
A1 1/4" = 1' - 0"



Document Date:
October 29th, 2021

Document Phase:
Review

rev. date remark



Green Residence

8414 Joy Road
Plymouth, MI 48170

Demo Plan
Foundation Plan

A1.0

**FOR PERMITTING AND
BIDDING PURPOSES ONLY**

CHARTER TOWNSHIP OF SUPERIOR
WASHTENAW COUNTY, MICHIGAN

February 28, 2022

Mr. Guy Green
8414 Joy Road
Plymouth, MI 48170

Mr. Green,

Section R105.3.1 of the Michigan Residential Code (MRC) indicates that applications shall be rejected unless they conform to all applicable laws and ordinances.

Reviewing your application and drawings, an addition is proposed in the front yard. The existing home is non-conforming as the required front yard setback in the A-1 district is seventy-five' foot and the home is currently located 44'-10" from the right-of-way. The proposed addition would encroach an additional 6'-4" into the setback.

Per Section R105.3.1 of the MRC, your building permit application has been rejected for non-compliance with the Township Zoning Ordinance Section 3.101 (Dimensional Standards).

As we discussed, you can appeal to the Zoning Board of Appeals and request a variance. Please contact me if you have any questions.

Regards,



Richard Mayernik, Building Official

The following five documents are portions of the January 12, 2022, Zoning Board of Appeals packet. The documents include:

- Application from Mr. Schuster received November 30, 2021
- Application from Mr. Schuster received October 21, 2021
- Memo from Rick Mayernik dated December 21, 2021
- Letter from Fred Lucas, Township Attorney, dated January 3, 2022
- Memo from Rick Mayernik dated December 21, 2021

ZONING BOARD OF APPEALS APPLICATION

(This application must be typewritten or printed. All questions must be answered.)

Request is hereby made for one of the following:

Request for Interpretations

☐ Variance from the requirements of the following Zoning Ordinance
Section(s): _____

☒ Appeal of the decision of the Township Zoning Official

APPLICANT INFORMATION

Name Matthew Schuster

Address 5766 Geddes Rd

Phone Number 248 790-5650 Email mattaschuster@yahoo.com

Is the property owned by the applicant? ☐ YES ☒ NO

If "NO", what is the applicant's interest in the property? neighbor

Name, address and telephone number of owner(s): 5728 Geddes Rd, Superior township,
MI, 48105. phone number unknown to applicant

DESCRIPTION OF THE PROPERTY

Address N/A and 5728 Geddes Rd

Parcel ID# J-10-30-400-061

Parcel size 4.6 ac

Size of the proposed building or addition, if any unknown

Use of existing building (if any) and property vacant

Zoning classification of property R-1

If a new building is proposed, has the Building Inspection department examined the plans for the proposed building? ☒ YES ☐ NO

Has the department refused a permit? ☐ YES ☐ NO

Has there been any previous land use application involving this property? YES NO

If "YES", state the date of filing, the character of appeal and the disposition.



DESCRIBE THE REASONS FOR YOUR APPEAL

Note: The Zoning Board of Appeals is required to use the standards listed in Section 13.08(B) of the Zoning Ordinance when considering an appeal. It is recommended that applicants review these standards and consider them in preparing a description of why the variance is needed. A copy of the standards is attached to the application.

I am applying to the ZBA for interpretations of the ordinance. There are terms used

in the Zoning Ordinance that are either not defined or provided context for evaluation.

* This is updated from original 12/21 application to include an appeal of decision *

Please See Attached for more detail

YOU MAY WISH TO ASK YOUR NEIGHBORS TO SIGN THE FOLLOWING SECTION IF THEY HAVE NO OBJECTION TO THE APPEAL YOU ARE MAKING.

We the undersigned, as owners of property any part of which is located within 300 feet of any part of the property involved in this appeal, have no objections to the granting of the request made in this appeal:

NAME (PLEASE PRINT)

SIGNATURE

STREET ADDRESS

INFORMATION REQUIRED TO BE SUBMITTED WITH APPEAL

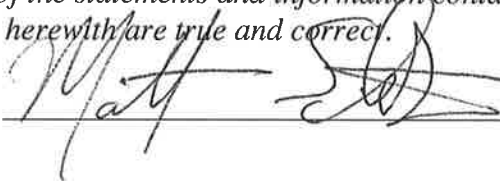
The following must attached and submitted with the application:

- Ten (10) sets of drawings, all on sheets 8 ½ inches by 11 inches or 8 ½ inches by 14 inches, drawn to scale and showing all measurements, features and structures, including the general location of all natural features on the property, measurements to show distances between structures, measurements between structures and property lines, measurements for lot width and lot area, and height of structures. Rights-of-way and easements must also be shown.
- A letter of authority, or power of attorney, in the event the appeal is being made by a person other than the actual owner of the property.
- A complete legal description of the premises (as stated on the property deed or property tax bill.)

APPLICANT'S DEPOSITION – Must be completed by applicant.

I hereby state that all of the statements and information contained in this application and the supporting documents herewith are true and correct.

Signature of applicant

 Date 11/29/21

NOTARY PUBLIC – Applicant's signature must be notarized.

CODI KING
Notary Public - State of Michigan
County of MONROE
My Commission Expires 1/24/2027

Sworn to before me this 29 day of November 2021

My commission expires 01/24/2027
(Notary Public, Washtenaw County, Michigan)

Monroe

To be filled in by Township Clerk (or designated Township Officer/Personnel)

I hereby state that this petition was properly received and filed on 11/30/21 (date)

Signature of Clerk (or designee)



Fee paid \$ 500

Notice to Applicants for the Zoning Board of Appeals

Filing Applications

You must call and schedule an appointment with the Township Zoning Official Richard Mayernik to file an application. He may be reached at the Township Office at (734) 482-6099.

Meeting Schedule

The Zoning Board of Appeals does not have a regular meeting schedule. Meetings are called whenever there is an application for a variance. Because variance requests require a public hearing, it generally takes four (4) weeks from the date an application is received until a meeting of Zoning Board of Appeals can be held. This time is needed to schedule the meeting date and to mail out notices of the public hearing.

Reasons for the Appeal

The Zoning Board of Appeals is required to use the standards listed in Section 13.08 of the Zoning Ordinance when considering the appeals. It is recommended that applicants review these standards and consider them in preparing a description of why the variance is needed.

Site Visits

Filing an application gives the implied consent for Township officials and/or consultants to visit the subject site.

Application Fees

An application fee must be paid when you file your application. The fees are as follows:

1. Appeals brought by the owner of a single-family dwelling for a variance from density and height regulations of the Zoning Ordinance = **\$175.00**
2. Any other appeal = **\$500.00**

Applicant's Acknowledgement

I hereby acknowledge that I have read and agree to the above and that I have been given a copy of this notice.



Signature



Date

This appeal to the ZBA is in request for interpretations of the Zoning Ordinance text.

The ZBA is an independent body from the Building and Zoning Department and is charged under the Michigan Zoning and Enabling Act as well as the Zoning Ordinance of Superior Township (#174) with interpreting the zoning ordinance.

Section 13.04 Powers and Duties.

The Board of Appeals shall hear and decide and rule on the following as provided herein:

1. The Board of Appeals shall hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the text and the Official Zoning Map.

The applicant believes it is important that all pending and future ordinance reviews and plan approvals to operate from consistent interpretations to avoid unsafe situations or cases which impair the development goals specified in the township master plan. We believe that all residents should be equally protected by consistent application of standards under the Michigan Zoning Enabling Act. We believe that every word in the ordinance has a purpose and must be reviewed thusly. Accordingly, we ask the ZBA to perform its independent duties in relation to interpreting the following portions of the zoning ordinance to facilitate that end.

Several, but not all, of these zoning ordinance text interpretations were referenced in a prior ZBA appeal (September included here by reference on the assumption its materials will append this record) but were barred from consideration on grounds that the appeal pertained to permit issuance. Those materials are hereby incorporated by reference. We can provide a copy of those materials separately if the township would like them resubmitted.

Request for zoning ordinance interpretation #1

Guard Rails, Guards, Railings (indications in article 6.01B5 and 6.01B6, etc)

Requested interpretation that fences, guards, guard rails, or other named protective structures required under the state building code or BOCA around construction sites, atop grade differentials, or retaining walls must comply with the Superior Township Zoning Ordinance including provisions governing structures and certificates of zoning compliance

Request for interpretation #2

Retaining wall definition (article 17, article 3, article 6, etc)

Retaining wall is not defined in the ordinance

Request that the ZBA interpret a retaining wall as a wall and structure under the zoning ordinance (subject to ordinance restrictions such as article 3 and certificates of zoning compliance) consistent with the Superior Township engineering standards and/or 2015 State of MI Building Code:

Any wall separating a differential grade of more than 12" shall be considered a retaining wall and a structure.

Request for interpretation #3

Retaining wall height (article 17, article 3, article 6)

Retaining wall height calculation is not directly specified in the ordinance, although it is found in the State Building Code and Superior Township Engineering Standards Manual

Given request #2 above, we recommend that retaining wall height be interpreted consistent with any wall height under the ordinance, from the bottom of the wall to the top of the wall. In no event should the height of the retaining wall be measured as less than the differential between the lower and upper grade, nor the differential between the upper grade of any retaining wall within 2 feet of another retaining wall and the lower walls lowest grade, which should be correctly measured as a single unit if engineered together due to grade differential.

-Note - there are conditional provisions for fence height determinations of retaining walls in the zoning ordinance article 6 which may result in determining the most restrictive height calculation (consistent with ordinance 1.04.1), not a replacement calculation of lesser value, which should be specified by the ZBA.

Request for interpretation #4

Approved Road (article 3)

The 2008 zoning ordinance in section 3.207 states:

Section 3.207 Access to Streets.

No dwelling shall be built on any lot that does not abut and have direct frontage on an APPROVED ROAD. Access to streets shall be subject to the following....

No definition of “approved road” is given.

We request that the ordinance provision be interpreted as a road having record of approval in Superior Township for its width, grade, construction, and maintenance details.

Request for interpretation #5

Accessory Structure (Article 17)

The definition of accessory structure raises questions about interpretations of structures that span 2 lots of record. It is conceivable that structures crossing lot lines may benefit only one impacted lot.

We request that accessory structure definition be interpreted to preclude structures placed on a lot other than the lot of its builder, sponsor, or dependent related primary use. We request that the exclusive use provision be determined for any structure meant to span a lot line be interpreted as unrelated to any lot that does not participate in its construction or require its presence for that lots primary use.

Request for interpretation #6

Site Plan Exemption Criteria (10.02.A.3.a)

The ordinance specifies exemption for certain projects from site plan review:

3. All RESIDENTIAL USES, as specified in Article 4.0 (Land Use Table), for which site plan approval is required per Article 5.0 (Use Standards). The following RESIDENTIAL USES shall be exempt from site plan approval:

a. One (1) single-family detached dwelling and customary accessory structures on an existing residential lot of record.

We request that 10.02.A.3.a be interpreted to require that exclusion only applies to a residential development if it involves structures and uses exclusively contained on a single lot of record, not related uses or structures spanning multiple lots of record or present across or upon lots under disparate ownership.

Request for interpretation #7

Definition of Mass Grading (Article 17) within construction definition 42

The definition of mass grading is not given in the ordinance

42. Construction. The mass grading and similar site work conducted upon land in preparation for a new use, establishment of necessary site improvements for a new use, and development of a new structure, relocation of a structure, or addition to an existing structure on land in the Township.

we request that mass grading be interpreted to be grade elevation changes of more than 30" or represented by earth removal or fill of more than 50 cubic yards.

Request for zoning ordinance interpretation #1

Guard Rails, Guards, Railings (indications in article 6.01B5 and 6.01B6, etc)

Requested interpretation that fences, guards, guard rails, or other named protective structures required under the state building code or BOCA around construction sites, atop grade differentials, or retaining walls must comply with the Superior Township Zoning Ordinance including provisions governing structures and certificates of zoning compliance.

6.01B5Fences shall be required on top of retaining walls when required by the State Construction Code.

State building code or BOCA references alternative names from fences, and this ambiguity should be resolved. Given that regulations are listed within the ordinance for fences AND that these installations meet the definition of a fence in the ordinance:

Fence. Linear structures or partitions of definite height and location erected upon or near the dividing line between adjoining owners intended to serve as: a physical barrier to ingress or egress; a screen from objectionable vista or noise; a marker; an enclosure in carrying out the requirements of this Ordinance; or for decorative use.

We request an interpretation that guards, guardrails, railings, or similar protective items required under state building code, BOCA, or other state requirements be found generally to be fences and structures under the Zoning Ordinance and governed by all fence requirements, including article 6m article 3, and certificates of zoning compliance.

Request for interpretation #2

Retaining wall definition (article 17, article 3, article 6, etc)

Retaining wall is not defined within the ordinance

Request that the ZBA interpret a retaining wall as both a wall and structure under the Zoning Ordinance (subject to ordinance restrictions such as article 3 and requiring certificates of zoning compliance) consistent with the Superior Township engineering standards and/or 2015 State of MI Building Code:

Retaining walls have been in discussion at the township recently and are not clearly defined within the ordinance. It is well understood that retaining walls present notable safety risk of both fall injuries and wall collapse, which is why regulations under the Michigan State Building Code, BOCA, and other regulatory agencies specify construction standards and protective measures. We believe all residents must be equally protected by definitions and standards under Michigan Law, and seek to harmonize the interpretation to ensure those mandated protections. It is important to note that some residents are already benefitted from the definition of retaining wall found in the engineering standards.

A conditional description of a retaining wall being classified as a fence is found in the fence section ONLY pertaining to retaining walls extending at least 30" above the upper grade. This does not apply to most retaining walls and should be limited to consideration as defined in the fence section to those elevated structures.

6.01B6 (Fence Standards by Use) Retaining walls. Retaining walls shall be considered fences subject to the provisions of this Section **IF** the wall extends more than 30 inches above the adjacent ground level. Fences shall be required on top of retaining walls when required by the State Construction Code.

This is not a definition, as it is circular and fails on multiple levels without further examination as it presumes knowledge of the term not defined and precludes most applications of the wall.

Merriam Webster Defines a retaining wall (as is commonly understood) as:
"a wall that is built to keep the land behind it from sliding"

First and foremost in addition to being named a wall, it fits the Zoning Ordinance definition of a wall and structure in general under the ordinance:

226. Wall. A screening structure of definite height and location constructed of a masonry, concrete, rock or similar material.

also

since a retaining wall is a technical term regulated under state law by the Building Code and the township in the engineering standards and the ordinance specifies in 17.02.1:

"technical words and phrases which have acquired a particular and appropriate meaning in the law or within this Ordinance shall be construed and understood according to such particular and appropriate meaning."

under the state building code 2015

[RB] Wall, Retaining. A wall not laterally supported at the top, that resists lateral soil load and other imposed loads

Or

on the technical basis it is most relevant to adopt township language from the Superior Township Engineering Standards Manual. Since this manual is itself referenced and therefor included within the Zoning Ordinance, we request this interpretation be adopted

VIII (Grading).A.7

Any wall separating a differential grade of more than 12" shall be considered a retaining wall.

Request that the ZBA interpret and define a retaining wall as a wall and structure under the zoning ordinance (subject to ordinance restrictions such as article 3 and certificates of zoning compliance) consistent with the Superior Township engineering standards and/or 2015 State of MI Building Code:

Any wall separating a differential grade of more than 12" shall be considered a retaining wall.

Request for interpretation #3

Retaining wall height (article 17, article 3, article 6)

Retaining wall height calculation is not directly specified in the Zoning Ordinance, although it is found in the State Building Code and Superior Township Engineering Standards Manual

Retaining walls have been in discussion at the township recently and are not clearly defined within the ordinance (see #2) for application of zoning conformance and public safety. It is well understood that retaining walls present notable safety risk of both fall injuries and wall failure, which is why regulations under the Michigan State Building Code, BOCA, and other regulatory agencies specify construction standards and protective measures. We believe all residents must be equally protected by definitions and standards under Michigan law, and seek to harmonize the interpretation to ensure those mandated protections. Measurement for their dimensions is critical for proper engineering and zoning compliance efforts for health, safety, and welfare.

A conditional description of retaining wall height is found in the fence section **ONLY** pertaining to retaining walls extending at least 30" above the upper grade. This does not apply to most retaining walls and should be limited to consideration as defined in the fence section to those elevated structures.

6.01B6 (Fence Standards by Use) Retaining walls. Retaining walls shall be considered fences subject to the provisions of this Section **IF** the wall extends more than 30 inches above the adjacent ground level. Fences shall be required on top of retaining walls when required by the State Construction Code.

Further, on the matter of **WALL** height (since a retaining wall is always a wall regardless of whether also a fence) the Zoning Ordinance defines height:

Height. The vertical distance measured from the grade of the building to the top of the highest roof beams of a flat roof, to the deck line for mansard roofs and to the mean height level (between eaves and ridges) for gable, hip and gambrel roofs. Where a building is located upon a terrace, the height may be measured from the average grade of the terrace at the building wall. When a building faces on more than one road, the height shall be measured from the average of the grades at the center of each road front (see "Building Height" illustration).

This could be interpreted as meaning a wall is measured from the lowest grade (bottom) to the upper point of the structure (which is consistent with State Building Code methodology)

As noted, the Zoning Ordinance recognizes the possibility of overlapping requirements and specifies that the result is determined as the most restrictive measure

1.04.1 Minimum requirements. The provisions of this Ordinance shall be held to be the minimum required for promoting and protecting the public health, safety, and general welfare, and shall be uniform for each class of land, buildings, structures, or uses throughout each zoning district. Wherever the requirements of this Ordinance are at variance with the requirements of any other adopted rules, regulations, or ordinances, the most restrictive or those imposing the higher standards shall govern.

Definitions for retaining wall height are common due to its deep connection of safety concerns since a retaining wall is a technical term regulated under state law by the Building Code and the ordinance specifies in 17.02.1:

“technical words and phrases which have acquired a particular and appropriate meaning in the law or within this Ordinance shall be construed and understood according to such particular and appropriate meaning.”

we could also adopt the retaining wall height as provided by the state building code being “from the bottom of the footing to the top of the wall” (R105.2a(iii)). Although there are additional requirements for stacking of retaining walls and sloped grades at the top and bottom of the retaining wall.

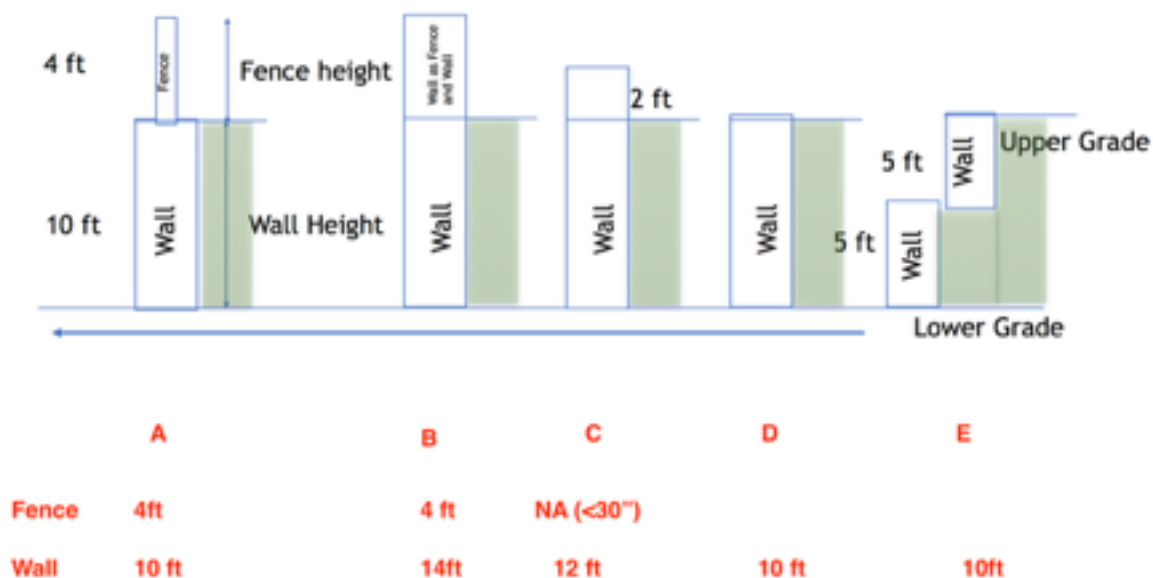
or more relevantly we could adopt the definition adopted by the Superior Township Engineering Manual (VIII A Grading) which itself is included in the Zoning Ordinance by reference and already used to protect some township residents:

- 8. Where retaining walls with differences in grade on either side of the wall in excess of 4 feet are located

Therefore retaining wall height could also be defined by the grade differences on either side of the wall to protect the safety of the public. Per 1.04.1, the most restrictive measurement should govern to protect the public, and not just residents of subdivisions already governed by the Engineering Standards.

We request that retaining wall height be interpreted consistent with any wall height under the ordinance, from the bottom of the wall to the top of the wall. In no event should the height of the retaining wall be measured as less than the differential between the lower and upper grade, nor the differential between the upper grade of any retaining wall within 2 feet of another retaining wall and the lower walls lowest grade, which should be correctly measured as a single unit if engineered together due to grade differential.

Attached is a graphic for discussion and consideration of implications as well as our requested interpreted wall heights.



Request for interpretation #4

Approved Road

The 2008 Zoning Ordinance in section 3.207 states:

Section 3.207 Access to Streets.

No dwelling shall be built on any lot that does not abut and have direct frontage on an APPROVED ROAD. Access to streets shall be subject to the following....

No definition of approved road is given. Further, the text does not substitute right of way, easement, or access for 'road' and does not specify 'allowed' or some other grandfathered provision as enabling new construction.

The definition of road is provided:

185. Road. A public or private thoroughfare or way, other than public alley, which affords principal means of access to adjacent land.

And is distinct (for example) from a right of way (also given)

184 Right-Of-Way. A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied, or occupied by, a road, utility, and other similar uses.

Since section 3.207 is clearly referencing new dwelling construction (not any particular grandfathered activity) and continues on to specify demands for emergency services and safety, we request that the ZBA interpret the ordinance for the sake of public safety as requiring that any lot to be built upon for a dwelling must have a record of a Superior Township approval for the frontage road as well as approval by the fire marshal.

Absent these indications, presumed roads could be unsafe for new dwelling construction in keeping with current ordinance standards and would not possess an approval meeting the ordinance requirement.

We request that the ordinance provision 3.207 'Approved Road' be interpreted as requiring a road having record of an approval in Superior Township.

Request for interpretation #5

Accessory Structure (Article 17)

The ordinance defines accessory structure as:

4. Accessory Use, Building, or Structure. A use, building, or structure which is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same zoning lot as the principal use to which it is exclusively related. An accessory structure shall not include dwellings, or be used for residential or lodging purposes or sleeping quarters for human beings.

The definition of accessory structure raises questions about interpretations of structures that span 2 lots of record. It is conceivable that structures crossing lot lines may benefit only one of the impacted lots. In designing structures which have safety concerns or could impact environmental issues such as stormwater management the design, construction and maintenance of shared structures would be important to consider in order to protect residents and meet the purpose of the Zoning Ordinance. The presence of setback requirements, ownership rights, and esthetic concerns of multi-lot structure construction is an issue that could be critical to long term protection of the natural resources in the township.

The common language in the definition above indicates an intent to limit accessory structure definitions to a single principal use exclusively. In the event that multi-lot structures are contemplated, a finding of exclusive use, not benefiting a use on another lot, is indicated as required.

We request that accessory structure definition be interpreted to preclude structures placed on a lot other than the lot of its builder, sponsor, or dependent related primary use. We request that the exclusive use provision be determined for any structure meant to span a lot line be interpreted as unrelated to any lot that does not participate in its construction or require its presence for that lots primary use.

Request for interpretation #6
Site Plan Exemption Criteria (10.02.A.3.a)

The ordinance specifies exemption for certain projects from site plan review:

3. All RESIDENTIAL USES, as specified in Article 4.0 (Land Use Table), for which site plan approval is required per Article 5.0 (Use Standards). The following RESIDENTIAL USES shall be exempt from site plan approval:
 - a. One (1) single-family detached dwelling and customary accessory structures on an existing residential lot of record.

As evaluated in request for interpretation #5 above, situations may arise in the township where a development or structure construction (primary or accessory) could be proposed spanning multiple lots. In the event that multiple lots are involved, the language in the ordinance is plain in excluding plurality in lot of record and specifying “an”. It is not constructed to exempt from site plan review a dwelling or its planned and related accessory structures if there is a condition impacting multiple lots or a structure continues across lot lines. These circumstances would present complications requiring more thorough analysis to protect the purpose of the ordinance and review under site plan including setbacks.

We request that 10.02.A.3.a be interpreted to require that site plan exemption only applies to a residential development if it involves structures and uses exclusively contained on a single lot of record, not uses or structures spanning multiple lots of record or uses reliant on structures present and across or upon lots under disparate ownership.

Request for interpretation #7

Definition of Mass Grading (Article 17) within construction definition

42. Construction. The mass grading and similar site work conducted upon land in preparation for a new use, establishment of necessary site improvements for a new use, and development of a new structure, relocation of a structure, or addition to an existing structure on land in the Township.

Mass grading is not defined within the ordinance. Construction is an activity that is limited in scope within the township under article 3 without a permit. Given the limits on site modifications in article 3, a common interpretation for mass grading would be useful for future development in the township. Another limit present in the township and state Building Code is 4 ft for the construction of retaining walls (Michigan Building Code) without a permit. Grade changes beyond 30" for a driveway or walkway are also not allowed without a permit.

Similarly, excavation is defined under erection in article 17 and limited by article 3 without a permit.

68. Excavation. Any act by which an amount in excess of fifty (50) cubic yards of any soil or rock which is cut into, dug, quarried, uncovered, removed, displaced, or relocated in any calendar year is excavated or removed except excavation in connection with the construction of a building or within public highway rights-of-way.

In order to harmonize interpreted limitations of site modifications without a permit and contrast it from standard landscaping tasks without permit requirements,

we request that MASS GRADING be interpreted to be grade elevation changes of more than 30 inches or represented by earth removal or fill of more than 50 cubic yards.

This appeal to the ZBA is an appeal of the decision by Building Official / Zoning Administrator to issue building permit PB21-0218

This application seeks the ZBA to overturn the issuance of a building permit for a dangerous driveway without plan approval or issuance of a certificate of zoning compliance in violation of the superior township zoning ordinance.

On 11/4/21, Mr. Mayernik issued building permit PB21-0218 for "Driveway Construction. The scope of of this permit is limited to portions of the driveway which will exceed 30" above grade. Once constructed, temporary guards are required until such time as permits for the construction of the home are issued and work has commenced."

I have conducted multiple FOIA upon the township to remain informed about construction at the site of 5728 Geddes Rd. As recently as 11/10/21, there has been no approved and active Certificate of Zoning Compliance for the site at 5728 Geddes Rd in pursuit of construction of a residence.

Superior Township Zoning Ordinance 1.07G2 states "Any Certificate issued shall become invalid if the authorized work is suspended or abandoned for a period of 180 calendar days after time of commencing work". This indicates that no prior certificates (relating to land division or combination) are in force.

The Superior Township Ordinance states

1.06E.1.a Zoning Inspector Duties and Responsibilities

1. The Zoning Inspector shall administer and enforce this Ordinance precisely as written, and shall not modify, vary or ignore the terms of this Ordinance nor grant exceptions to the actual meaning of any clause, order or regulation.

a. It shall be unlawful for the Zoning Inspector to approve any plans or issue any permits, certificates of zoning compliance or other approvals under this Ordinance unless such plans have been determined to conform to all applicable provisions of this Ordinance.

1.07 Certificates of Zoning Compliance

B. Where Building Permit is Required.

All plans to be submitted to the Building Inspector for a building permit under the State Construction Code shall first be submitted for review and approval by the Zoning Inspector with respect to the requirements of this Ordinance. **No building permit shall be issued** unless a Certificate of Zoning Compliance has been issued by the Zoning Inspector for the same development and is in effect.

In short, given the uncertain nature of the proposed development at 5728 Geddes Rd, there is no authority granted to the building official or zoning administrator under the Zoning Ordinance for allowing a building permit for the site prior to issuance of a certificate of zoning compliance. The ordinance is not ambiguous. No building permit shall be issued.

We request that the driveway building permit be revoked, any and all violations of state building code (and/or township zoning ordinance) be noted and cited including findings of nuisances-per-say, and appropriate remedial action be ordered to return site conditions to their pre-construction conditions unless and until verification of zoning compliance can be ascertained. The con-

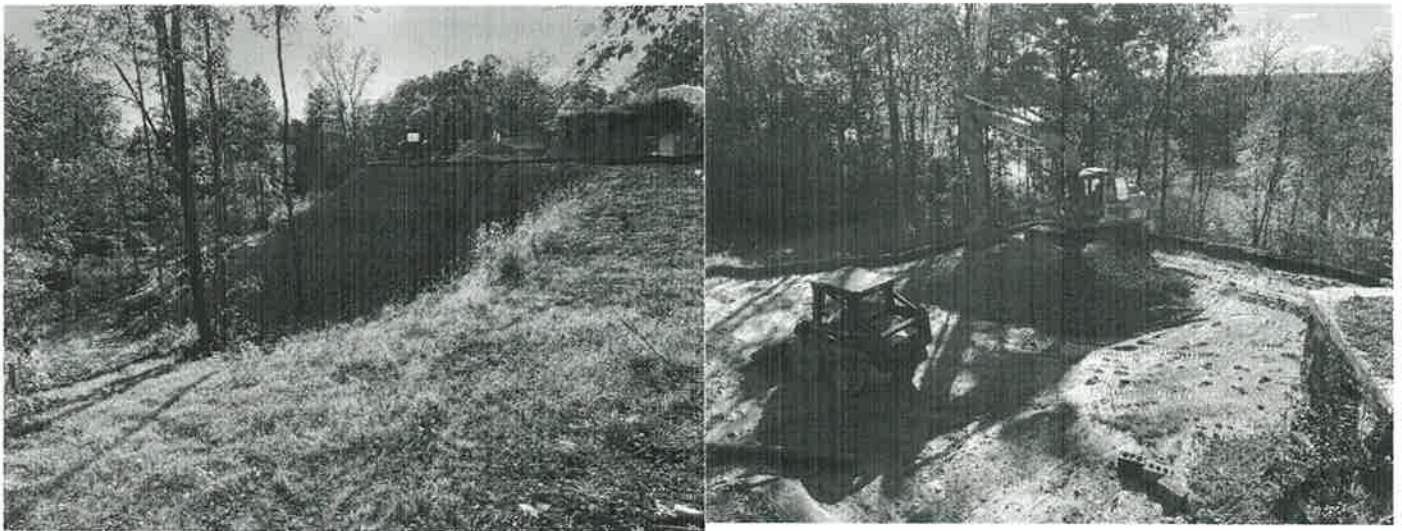
ditions onsite are not safe for humans nor the environment. It appears under the ordinance to be a nuisance per se. Unsupported walls have been noted onsite since at least June, 2021. Any further delays jeopardizes the public welfare and places undue risk upon township residents.

For history,

On or about 10/14/21, the zoning administrator was made aware of construction at 5728 Geddes Road that had been conducted without a building permit in violation of Michigan Building Code R105.2 - construction of a driveway in excess of 30" above adjacent grade

On 10/28/21, Mr. Mayernik acknowledged the presence of driveway construction at the site in excess of 30" above adjacent grade without a building permit requiring mitigation, stating "it would appear the height of the driveway surface exceeds 30" above grade at 36" horizontally." *see attached*

Mr Mayernik also possessed evidence that significant weight surcharge was frequently being placed upon this constructed elevated driveway without proven capacity and plan approval - demonstrated by photographs such as below showing massive construction equipment placed on unsupported/unretained elevated surfaces without guards. The exposed corner shown is perched above regulated wetlands. This surcharge presents a danger and a nuisance on the unpermitted construction.



On 11/2/21, Mr. Mayernik received a building permit application stating the scope of work as only "driveway" from an agent for 5728 Geddes Rd.

On 11/2/21, Mr. Mayernik also received a report from the Superior Township Planner at Carlisle Wortman (attached) stating that the site demonstrated that "complete failure of the upper retaining wall area seems appears possible" [sic] and continuing that "Lacking any engineering plans,

we agree that concerns about the environmental impact of construction on this site are warranted".

Despite the fact of completed construction prior to 11/2/21, the lack of an approved plan or zoning compliance for residence construction, and the presence of safety and environmental hazards at 5728 Geddes Rd, a building permit was issued without authority under the Superior Township Zoning Ordinance



BUILDING PERMIT APPLICATION (revised 3-3-14)

Charter Township of Superior
3040 N. Prospect, Ypsilanti, MI 48198
(734) 482-6099

Applicant to Complete All Items in Sections I, II, III, IV and V

NOTE: Separate Applications Must Be Completed for Plumbing, Mechanical, & Electrical

I. JOB LOCATION	
Street Address of Job 5728 Geddes Rd Ann Arbor MI 48105	Project Name/Subdivision Mouliere

II. IDENTIFICATION			
A. OWNER OR LESSEE			
Name Jean Marie Mouliere		Address 2107 Will St.	
City Ann Arbor	State MI	Zip Code 48104	Phone 734 545-4810

B. APPLICANT INFORMATION			
<input type="checkbox"/> HOMEOWNER	<input checked="" type="checkbox"/> CONTRACTOR	<input type="checkbox"/> ARCHITECT/ENGINEER	<input type="checkbox"/> AGENT
Name/ Company Name Snyder Contracting LLC		License Number 2102206239	Expiration Date 05/22
Address 8650 Haven River Dr		City Dexter	State MI
Telephone Number (Include Area Code) (734) 545-4840		Zip Code 48130	
Federal Employer ID Number (or reason for exemption) 40-0915638		Worker's Compensation Insurance Carrier (or reason for exemption) Accident Fund Insurance Company of America	
MESC Employer Number (or reason for exemption) No Employees			


III. TYPE OF IMPROVEMENT AND PLAN REVIEW			
A. PROPOSED USE OF BUILDING AND TYPE OF IMPROVEMENT			
<input checked="" type="checkbox"/> RESIDENTIAL	<input type="checkbox"/> NON-RESIDENTIAL		
<input type="checkbox"/> New Building	<input type="checkbox"/> Addition	<input type="checkbox"/> Mobile Home	
<input type="checkbox"/> Alteration	<input type="checkbox"/> Repair	<input type="checkbox"/> Demolition	

IF RESIDENTIAL-describe in detail scope of work; IF NONRESIDENTIAL-describe proposed use of building, e.g. food processing plant, machine shop, laundry building at hospital, elementary school, college parking garage, rental office building. If use of existing building is being changed, enter proposed use.

Driveway

APPLICATION FOR BUILDING PERMIT AND PLAN EXAMINATION - PAGE TWO

IV. CHARACTERISTICS OF BUILDING			
A. TYPE OF WATER SUPPLY AND SEWAGE DISPOSAL			
<input type="checkbox"/> Public Water	<input type="checkbox"/> Public Sewer	<input type="checkbox"/> Private Well	<input type="checkbox"/> Septic System
B. DIMENSION/DATA			
<u>Floor Area</u>	<u>Alteration</u>	<u>New</u>	
Basement	_____	_____	Construction Cost (or submit copy of contract) _____
1st & 2nd Floor	_____	_____	

V. SIGNATURE	
<p>I HEREBY CERTIFY THAT THE PROPOSED WORK IS AUTHORIZED BY THE OWNER OF RECORD AND THAT I HAVE BEEN AUTHORIZED BY THE OWNER TO MAKE THIS APPLICATION AS HIS/HER AUTHORIZED AGENT, AND WE AGREE TO CONFORM TO ALL APPLICABLE LAWS OF THE STATE OF MICHIGAN. ALL INFORMATION SUBMITTED ON OR WITH THIS APPLICATION IS ACCURATE TO THE BEST OF MY KNOWLEDGE.</p>	
<p>Section 23a of the state construction code act of 1972, 1972 PA 230, MCL 125.1523A, prohibits a person from conspiring to circumvent the licensing requirements of this state relating to persons who are to perform work on a residential building or a residential structure. Violator's of section 23a are subject to civil fines.</p>	
APPLICANT SIGNATURE: 	DATE: 11/2/21
PRINT NAME: <u>John Smith</u> <u>Daniel Snyder</u>	

BUILDING DEPARTMENT USE ONLY				
	REQUIRED?		RECEIVED	NOTES
A. Zoning Review	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/>	
B. Well/Septic Permit	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/>	
C. Driveway Permit	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/>	
D. Soil Erosion	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/>	
E. Utility Charges	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/>	
F. Wetlands	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/>	
Data _____				
Construction Type	Use Group	Square Footage		Occupant Load
Parcel Number	Valuation		Zoning District	
Approval Signature		Date	Permit Fee	

SUPERIOR CHARTER TOWNSHIP**Building Permit No: PB21-0218**

Building and Zoning Department

3040 North Prospect

Ypsilanti, Michigan 48198

Phone: (734) 482-6099

Fax: (734) 482-3842

Hours: Monday-Friday 8:30 am - 4:30 pm

5728 GEDDES RD

Location

J -10-30-400-061

MOULIERE JEAN-MARIE L & INGRID D

Owner

2107 HILL ST

ANN ARBOR

MI

48104

Issued: 11/04/21***PLEASE CALL (734) 482-6099 FOR AN
INSPECTION 24 HOURS IN ADVANCE.***

Snyder Contracting LLC

Contractor

8650 Huron River Dr

Dexter

MI

48130

Work Description: Driveway construction. The scope of this permit is limited to portions of the driveway which will exceed 30" above grade. Once constructed, temporary guards are required until such time as permits for the construction of the home are issued and work has commenced.

Permit Item

Work Type

No. of Items

Item Total

Minimum Permit Fee

Permit Fee

1.00

\$100.00

Richard Mayernik - Building Official**Fee Total: \$100.00**

I agree this permit is only for the work described, and does not grant permission for additional or related work which requires separate permits. I understand that this permit will expire, and become null and void if work is not started within 180 days, or if work is suspended or abandoned for a period of 180 days at any time after work has commenced; and, that I am responsible for assuring all required inspections are requested in conformance with the applicable code. I hereby certify that the proposed work is authorized by the owner, and that I am authorized by the owner to make this application as his authorized agent. I agree to conform to all applicable laws of the State of Michigan and the local jurisdiction. All information on the permit application is accurate to the best of my knowledge.

Payment of permit fee constitutes acceptance of the above terms.

RE: Report a Violation of State Building Code / Nuisance

+
exhibit

From: Rick Mayernik (rmayernik@superior-twp.org)

To: mattaschuster@yahoo.com

Date: Thursday, October 28, 2021, 1:15 PM EDT

Mr. Schuster,

The 2015 Michigan Residential Code Section R105.2(a)(v) exempts sidewalks and driveways from permit requirements where they are less than 30" above the adjacent grade. This 30" provision of the Code relates to other portions of the Code which require guards where open floor areas exceed 30" above adjacent floor levels or grade. While a measurement method is not addressed in R105.2(a)(v), the adjacent grade for guards is established as 36" horizontally from the walking surface. While I did not make any site measurements, it would appear the height of the driveway surface exceeds 30" above grade at 36" horizontally. The obvious intent of the State's revision of the ICC language (ICC exempts all sidewalks and drives without exception) is to address guards for safety. Other than the permit requirement, the Michigan Residential Code is silent on any materials and methods of driveway construction.

As you well know, this driveway construction is a portion of a larger project in which the current drop off will be mitigated. While a building permit application for the home at 5728 Geddes has been received, its issuance is not assured. As such and prior to the issuance of a full permit, I will require a building permit application be submitted for portions of the driveway where the adjacent grade drop off at 36" horizontally exceeds 30".

Richard Mayernik

From: Matt Schuster <mattaschuster@yahoo.com>

Sent: Wednesday, October 27, 2021 6:24 PM

To: Rick Mayernik <rmayernik@superior-twp.org>

Subject: Re: Report a Violation of State Building Code / Nuisance

Mr. Mayernik,

I wanted to follow up on my email to you dated 11/14, to which I have not yet received a response as requested.

At the time, I was reporting construction in violation of the state building code which has continued to this day. As I indicated, the state building code prohibits construction of a driveway more than 30" above adjacent grade without a permit.

Beyond the previous activities I cited, the neighboring parcel has continued to park on the surface (see attached photo).

They have also submitted to you an incomplete set of drawings/permit application (not approved) clearly indicating the area under construction is indeed a driveway as well as showing the grade differential exceeding state building code limits without a permit.

Today, again without permit, they have spread the gravel stored on the driveway to completely cover the driveway area shown within the plans.

At this point, construction is functionally complete for a gravel driveway that clearly violates building code. It appears to be intentional that they are acting without either a certificate of zoning compliance or building permit. This appears to be a violation of township ordinance 1.07.

This surface is both a safety risk and a nuisance that should be abated. Please advise me of your findings, I am concerned someone will be injured on the non-compliant conditions and I fear further delays will increase personal risk with freezing temperatures and frost already present locally.

Matt Schuster

248 790-5650

On Thursday, October 14, 2021, 1:04:09 PM EDT, Matt Schuster <mattaschuster@yahoo.com> wrote:

Mr. Mayernik,

I know that you have not been receiving regular plans to review for the activities at 5728 Geddes Rd, but I wanted to provide you notice of a concern about the site as the Superior Township Building Official. To the best of my knowledge, the builder/owners have not applied for building permits. I received the attached Soil and Erosion Control Plans that were submitted to Washtenaw County in July 2021, and I am unsure if you previously received a copy.

Upon review of it and recent work completed onsite, I felt the need to report a building code violation to you. I am not an expert on state building code, and there are likely other

As you are likely aware, driveway and walkway construction is generally an exempt activity under the MI state building code and township zoning ordinance. There is an important exception in the state building code: R105.2 limits the exemption from requiring a building permit to "A sidewalk or driveway that is not more than 30 inches (762 mm) above adjacent grade....". This driveway elevation limit is also recognized at the township on the document titled "Permits Not Required for the Following Work Relating to One and Two Family Dwellings" where #5 mentions the limit of less than 30 inches above adjacent grade (attached). The state building code infraction about adjacent grade is not dependent on a retaining wall, which is a separate/distinct structure limited exclusion also mentioned under R105.2.

I marked a red X on the soil and erosion plan showing where the property at 5728 has initiated construction of a driveway or walkway well beyond 30" above adjacent grade. On the site plan, this section is labelled 'future permanent driveway' and has been shown in several preliminary plans I am aware of as requiring retaining walls materially beyond 4' in height. It is clearly their demonstrated intent that this is a driveway, and I believe they have purposely attempted to circumvent the state building code by misrepresenting (as recently as July) its construction status. Work has clearly been conducted. The only remaining incomplete portion of the driveway construction appears to be final surfacing. I have numerous photographs and evidence of the efforts creating the driveway, as well as surveyed elevations.

I included lateral photographs and overhead photos showing that they have begun depositing gravel in this area and parking equipment on the constructed driveway, which is well in excess of 30" above adjacent grade. At various points in the past two months they have parked passenger vehicles, a skid loader, a bulldozer, a dump truck, and/or trailers on this location for multiple day periods. It is in active use as a driveway.

These un-stabilized sheer surfaces present a danger of collapse. Already, deep erosion can be seen in their surfaces. This area is readily accessible to township residents and the unmarked drop-off represents a significant safety hazard and a nuisance, particularly as we head into winter. These surfaces are in close proximity to the state and township regulated wetlands, and any degradation onsite will impact these wetlands and therefore the Huron river. It is important to note that erosion control components reflected in the plan (strawbale retaining walls, erosion control blanketing, and grass plantings) were never undertaken in favor or continued work on these elevated surfaces - increasing the erosion concerns.

I believe the lack of approved plans and permitting for the construction efforts onsite is in clear violation of the state building code, which is intended to protect the public. I believe these activities are a Nuisance per Se and should be cited as a violation for abatement to protect the public. I ask for your review of this matter as the Superior Township Building Official, and would appreciate an update of your findings.



Carlisle | Wortman

ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

To: Rick Mayernik, Superior Township Building and Zoning Official
From: Chris Nordstrom, Township Wetland Consultant
Ben Carlisle, Township Planner
Date: November 2, 2021
RE: Construction Impact Inspection for 5728 Geddes Road

As requested by the Township, Chris Nordstrom of CWA completed a site inspection on Tuesday, October 26, 2021, to evaluate the environmental impact of construction on wetlands on the site and on the Huron River. Chris was accompanied by Mr. Mayernik.

The contractors have properly installed silt erosion fencing throughout the site to help mitigate the erosion, both at the point of the construction and near the wetland edge at the bottom of the slope. Delays in completing the construction, combined with heavy rains throughout the summer, have led to significant erosion. In some spots, the silt fencing is in danger of complete failure, with silt runoff at or near the top of the fence. Erosion is evident throughout the site and unless remediation measures are implemented quickly, complete failure of the upper retaining wall area seems appears possible.

The site is challenging, with slopes of around 37% at the steepest points. It may be possible to construct a retaining wall system that would both hold the existing soil in place and control stormwater runoff. To the best of our knowledge, the Township has not received any engineering drawings showing the configuration of the proposed retaining wall and stormwater control system. Lacking any engineering plans, we agree that concerns about the environmental impact of construction on this site are warranted.

Please let me know if you have any questions.

CARLISLE/WORTMAN ASSOC., INC.
Chris Nordstrom, PLA, ASLA
Landscape Architect



Photo 1: Silt fence failure at bottom of slope



Photo 2: Erosion along slope (typical)



Photo 3: Erosion along slope

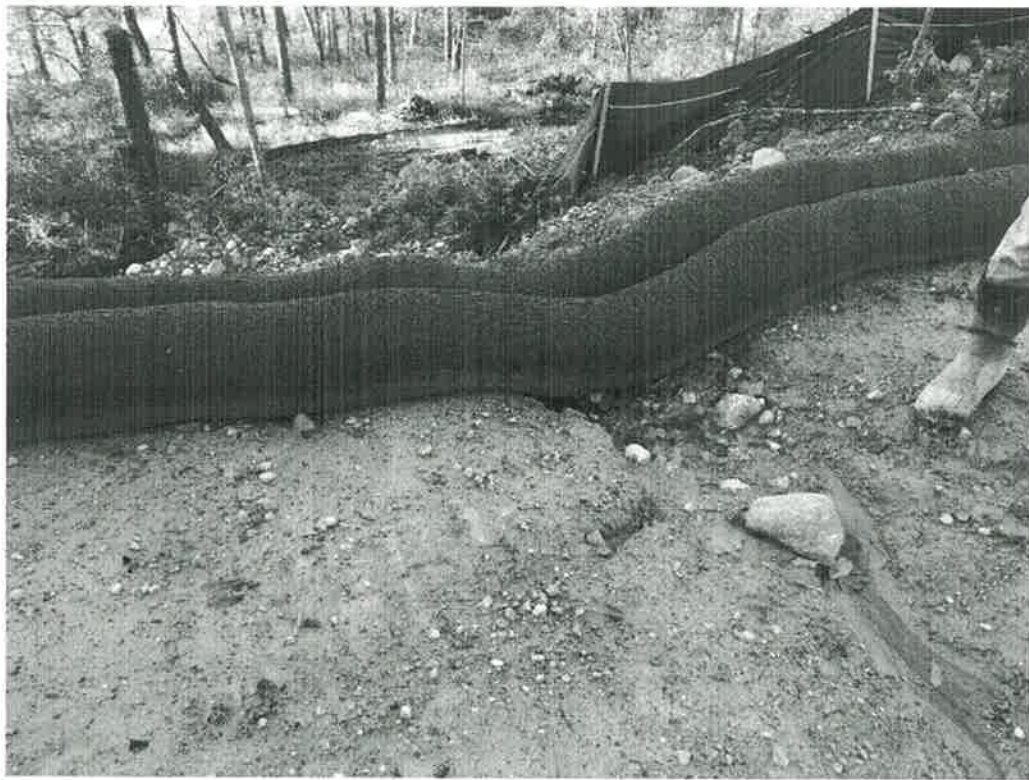


Photo 4: Runoff undercutting silt fencing

ZONING BOARD OF APPEALS APPLICATION

(This application must be typewritten or printed. All questions must be answered.)

Request is hereby made for one of the following:

- ☒ Request for Interpretation of text of the Zoning Ordinance
☐ Variance from the requirements of the following Zoning Ordinance
Section(s): _____

- ☐ Appeal of the decision of the Township Zoning Official

APPLICANT INFORMATIONName Matthew SchusterAddress 5766 Geddes RdPhone Number 248 790-5650Email mattaschuster@yahoo.comIs the property owned by the applicant? ☒ YES ☐ NO

If "NO", what is the applicant's interest in the property? _____

Name, address and telephone number of owner(s): _____

DESCRIPTION OF THE PROPERTYAddress N/A

Parcel ID# _____

Parcel size _____

Size of the proposed building or addition, if any _____

Use of existing building (if any) and property _____

Zoning classification of property _____

If a new building is proposed, has the Building Inspection department examined the plans for the proposed building? ☐ YES ☒ NOHas the department refused a permit? ☐ YES ☒ NO

Has there been any previous land use application involving this property? YES NO

If "YES", state the date of filing, the character of appeal and the disposition. _____



DESCRIBE THE REASONS FOR YOUR APPEAL

Note: The Zoning Board of Appeals is required to use the standards listed in Section 13.08(B) of the Zoning Ordinance when considering an appeal. It is recommended that applicants review these standards and consider them in preparing a description of why the variance is needed. A copy of the standards is attached to the application.

I am applying to the ZBA for interpretations of the ordinance. There are terms used in the Zoning Ordinance that are either not defined or provided context for evaluation.

Please See Attached for more detail"

YOU MAY WISH TO ASK YOUR NEIGHBORS TO SIGN THE FOLLOWING SECTION IF THEY HAVE NO OBJECTION TO THE APPEAL YOU ARE MAKING.

We the undersigned, as owners of property any part of which is located within 300 feet of any part of the property involved in this appeal, have no objections to the granting of the request made in this appeal:

NAME (PLEASE PRINT)	SIGNATURE	STREET ADDRESS
---------------------	-----------	----------------

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____



INFORMATION REQUIRED TO BE SUBMITTED WITH APPEAL

The following must attached and submitted with the application:

- Ten (10) sets of drawings, all on sheets 8 ½ inches by 11 inches or 8 ½ inches by 14 inches, drawn to scale and showing all measurements, features and structures, including the general location of all natural features on the property, measurements to show distances between structures, measurements between structures and property lines, measurements for lot width and lot area, and height of structures. Rights-of-way and easements must also be shown.
- A letter of authority, or power of attorney, in the event the appeal is being made by a person other than the actual owner of the property.
- A complete legal description of the premises (as stated on the property deed or property tax bill.)

APPLICANT'S DEPOSITION – Must be completed by applicant.

I hereby state that all of the statements and information contained in this application and the supporting documents herewith are true and correct.

Signature of applicant

Date

10/21/21

NOTARY PUBLIC – Applicant's signature must be notarized.

Sworn to before me this 21 day of OCTOBER 2021

My commission expires

10/05/2027
(Notary Public, Washtenaw County, Michigan)

Carissa
KRUSZEWSKI

Carissa Kruszewski
Notary Public - State of Michigan
County of Lenawee
My Commission Expires 10/05/2027

To be filled in by Township Clerk (or designated Township Officer/Personnel)

I hereby state that this petition was properly received and filed on _____ (date)

Signature of Clerk (or designee)

Fee paid _____



Notice to Applicants for the Zoning Board of Appeals

Filing Applications

You must call and schedule an appointment with the Township Zoning Official Richard Mayernik to file an application. He may be reached at the Township Office at (734) 482-6099.

Meeting Schedule

The Zoning Board of Appeals does not have a regular meeting schedule. Meetings are called whenever there is an application for a variance. Because variance requests require a public hearing, it generally takes four (4) weeks from the date an application is received until a meeting of Zoning Board of Appeals can be held. This time is needed to schedule the meeting date and to mail out notices of the public hearing.

Reasons for the Appeal

The Zoning Board of Appeals is required to use the standards listed in Section 13.08 of the Zoning Ordinance when considering the appeals. It is recommended that applicants review these standards and consider them in preparing a description of why the variance is needed.

Site Visits

Filing an application gives the implied consent for Township officials and/or consultants to visit the subject site.

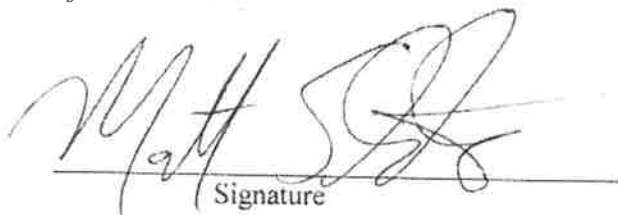
Application Fees

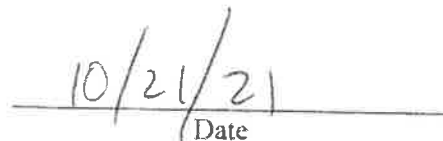
An application fee must be paid when you file your application. The fees are as follows:

1. Appeals brought by the owner of a single-family dwelling for a variance from density and height regulations of the Zoning Ordinance = **\$175.00**
2. Any other appeal = **\$500.00**

Applicant's Acknowledgement

I hereby acknowledge that I have read and agree to the above and that I have been given a copy of this notice.


Signature


Date



This appeal to the ZBA is in request for interpretations of the Zoning Ordinance text.

The ZBA is an independent body from the Building and Zoning Department and is charged under the Michigan Zoning and Enabling Act as well as the Zoning Ordinance of Superior Township (#174) with interpreting the zoning ordinance.

Section 13.04 Powers and Duties.

The Board of Appeals shall hear and decide and rule on the following as provided herein:

1. The Board of Appeals shall hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the text and the Official Zoning Map.

The applicant believes it is important that all pending and future ordinance reviews and plan approvals to operate from consistent interpretations to avoid unsafe situations or cases which impair the development goals specified in the township master plan. We believe that all residents should be equally protected by consistent application of standards under the Michigan Zoning Enabling Act. We believe that every word in the ordinance has a purpose and must be reviewed thusly. Accordingly, we ask the ZBA to perform its independent duties in relation to interpreting the following portions of the zoning ordinance to facilitate that end.

Several, but not all, of these zoning ordinance text interpretations were referenced in a prior ZBA appeal (September included here by reference on the assumption its materials will append this record) but were barred from consideration on grounds that the appeal pertained to permit issuance. Those materials are hereby incorporated by reference. We can provide a copy of those materials separately if the township would like them resubmitted.

Request for zoning ordinance interpretation #1

Guard Rails, Guards, Railings (indications in article 6.01B5 and 6.01B6, etc)

Requested interpretation that fences, guards, guard rails, or other named protective structures required under the state building code or BOCA around construction sites, atop grade differentials, or retaining walls must comply with the Superior Township Zoning Ordinance including provisions governing structures and certificates of zoning compliance

Request for interpretation #2

Retaining wall definition (article 17, article 3, article 6, etc)

Retaining wall is not defined in the ordinance

Request that the ZBA interpret a retaining wall as a wall and structure under the zoning ordinance (subject to ordinance restrictions such as article 3 and certificates of zoning compliance) consistent with the Superior Township engineering standards and/or 2015 State of MI Building Code:

Any wall separating a differential grade of more than 12" shall be considered a retaining wall and a structure.

Request for interpretation #3

Retaining wall height (article 17, article 3, article 6)

Retaining wall height calculation is not directly specified in the ordinance, although it is found in the State Building Code and Superior Township Engineering Standards Manual



Given request #2 above, we recommend that retaining wall height be interpreted consistent with any wall height under the ordinance, from the bottom of the wall to the top of the wall. In no event should the height of the retaining wall be measured as less than the differential between the lower and upper grade, nor the differential between the upper grade of any retaining wall within 2 feet of another retaining wall and the lower walls lowest grade, which should be correctly measured as a single unit if engineered together due to grade differential.

-Note - there are conditional provisions for fence height determinations of retaining walls in the zoning ordinance article 6 which may result in determining the most restrictive height calculation (consistent with ordinance 1.04.1), not a replacement calculation of lesser value, which should be specified by the ZBA.

Request for interpretation #4 Approved Road (article 3)

The 2008 zoning ordinance in section 3.207 states:

Section 3.207 Access to Streets.

No dwelling shall be built on any lot that does not abut and have direct frontage on an APPROVED ROAD. Access to streets shall be subject to the following....

No definition of "approved road" is given.

We request that the ordinance provision be interpreted as a road having record of approval in Superior Township for its width, grade, construction, and maintenance details.

Request for interpretation #5 Accessory Structure (Article 17)

The definition of accessory structure raises questions about interpretations of structures that span 2 lots of record. It is conceivable that structures crossing lot lines may benefit only one impacted lot.

We request that accessory structure definition be interpreted to preclude structures placed on a lot other than the lot of its builder, sponsor, or dependent related primary use. We request that the exclusive use provision be determined for any structure meant to span a lot line be interpreted as unrelated to any lot that does not participate in its construction or require its presence for that lots primary use.

Request for interpretation #6 Site Plan Exemption Criteria (10.02.A.3.a)

The ordinance specifies exemption for certain projects from site plan review:

3. All RESIDENTIAL USES, as specified in Article 4.0 (Land Use Table), for which site plan approval is required per Article 5.0 (Use Standards). The following RESIDENTIAL USES shall be exempt from site plan approval:

a. One (1) single-family detached dwelling and customary accessory structures on an existing residential lot of record.



We request that 10.02.A.3.a be interpreted to require that exclusion only applies to a residential development if it involves structures and uses exclusively contained on a single lot of record, not related uses or structures spanning multiple lots of record or present across or upon lots under disparate ownership.

Request for interpretation #7

Definition of Mass Grading (Article 17) within construction definition 42

The definition of mass grading is not given in the ordinance

42. Construction. The mass grading and similar site work conducted upon land in preparation for a new use, establishment of necessary site improvements for a new use, and development of a new structure, relocation of a structure, or addition to an existing structure on land in the Township.

we request that mass grading be interpreted to be grade elevation changes of more than 30" or represented by earth removal or fill of more than 50 cubic yards.



Request for zoning ordinance interpretation #1

Guard Rails, Guards, Railings (indications in article 6.01B5 and 6.01B6, etc)

Requested interpretation that fences, guards, guard rails, or other named protective structures required under the state building code or BOCA around construction sites, atop grade differentials, or retaining walls must comply with the Superior Township Zoning Ordinance including provisions governing structures and certificates of zoning compliance.

6.01B5Fences shall be required on top of retaining walls when required by the State Construction Code.

State building code or BOCA references alternative names from fences, and this ambiguity should be resolved. Given that regulations are listed within the ordinance for fences AND that these installations meet the definition of a fence in the ordinance:

Fence. Linear structures or partitions of definite height and location erected upon or near the dividing line between adjoining owners intended to serve as: a physical barrier to ingress or egress; a screen from objectionable vista or noise; a marker; an enclosure in carrying out the requirements of this Ordinance; or for decorative use.

We request an interpretation that guards, guardrails, railings, or similar protective items required under state building code, BOCA, or other state requirements be found generally to be fences and structures under the Zoning Ordinance and governed by all fence requirements, including article 6m article 3, and certificates of zoning compliance.



Request for interpretation #2

Retaining wall definition (article 17, article 3, article 6, etc)

Retaining wall is not defined within the ordinance

Request that the ZBA interpret a retaining wall as both a wall and structure under the Zoning Ordinance (subject to ordinance restrictions such as article 3 and requiring certificates of zoning compliance) consistent with the Superior Township engineering standards and/or 2015 State of MI Building Code:

Retaining walls have been in discussion at the township recently and are not clearly defined within the ordinance. It is well understood that retaining walls present notable safety risk of both fall injuries and wall collapse, which is why regulations under the Michigan State Building Code, BOCA, and other regulatory agencies specify construction standards and protective measures. We believe all residents must be equally protected by definitions and standards under Michigan Law, and seek to harmonize the interpretation to ensure those mandated protections. It is important to note that some residents are already benefitted from the definition of retaining wall found in the engineering standards.

A conditional description of a retaining wall being classified as a fence is found in the fence section ONLY pertaining to retaining walls extending at least 30" above the upper grade. This does not apply to most retaining walls and should be limited to consideration as defined in the fence section to those elevated structures.

6.01B6 (Fence Standards by Use) Retaining walls. Retaining walls shall be considered fences subject to the provisions of this Section **IF** the wall extends more than 30 inches above the adjacent ground level. Fences shall be required on top of retaining walls when required by the State Construction Code.

This is not a definition, as it is circular and fails on multiple levels without further examination as it presumes knowledge of the term not defined and precludes most applications of the wall.

Merriam Webster Defines a retaining wall (as is commonly understood) as:
"a wall that is built to keep the land behind it from sliding"

First and foremost in addition to being named a wall, it fits the Zoning Ordinance definition of a wall and structure in general under the ordinance:

226. Wall. A screening structure of definite height and location constructed of a masonry, concrete, rock or similar material.

also

since a retaining wall is a technical term regulated under state law by the Building Code and the township in the engineering standards and the ordinance specifies in 17.02.1:

"technical words and phrases which have acquired a particular and appropriate meaning in the law or within this Ordinance shall be construed and understood according to such particular and appropriate meaning."

under the state building code 2015



[RB] Wall, Retaining. A wall not laterally supported at the top, that resists lateral soil load and other imposed loads

Or

on the technical basis it is most relevant to adopt township language from the Superior Township Engineering Standards Manual. Since this manual is itself referenced and therefor included within the Zoning Ordinance, we request this interpretation be adopted

VIII (Grading).A.7

Any wall separating a differential grade of more than 12" shall be considered a retaining wall.

Request that the ZBA interpret and define a retaining wall as a wall and structure under the zoning ordinance (subject to ordinance restrictions such as article 3 and certificates of zoning compliance) consistent with the Superior Township engineering standards and/or 2015 State of MI Building Code:

Any wall separating a differential grade of more than 12" shall be considered a retaining wall.



Request for interpretation #3

Retaining wall height (article 17, article 3, article 6)

Retaining wall height calculation is not directly specified in the Zoning Ordinance, although it is found in the State Building Code and Superior Township Engineering Standards Manual

Retaining walls have been in discussion at the township recently and are not clearly defined within the ordinance (see #2) for application of zoning conformance and public safety. It is well understood that retaining walls present notable safety risk of both fall injuries and wall failure, which is why regulations under the Michigan State Building Code, BOCA, and other regulatory agencies specify construction standards and protective measures. We believe all residents must be equally protected by definitions and standards under Michigan law, and seek to harmonize the interpretation to ensure those mandated protections. Measurement for their dimensions is critical for proper engineering and zoning compliance efforts for health, safety, and welfare.

A conditional description of retaining wall height is found in the fence section **ONLY** pertaining to retaining walls extending at least 30" above the upper grade. This does not apply to most retaining walls and should be limited to consideration as defined in the fence section to those elevated structures.

6.01B6 (Fence Standards by Use) Retaining walls. Retaining walls shall be considered fences subject to the provisions of this Section **IF** the wall extends more than 30 inches above the adjacent ground level. Fences shall be required on top of retaining walls when required by the State Construction Code.

Further, on the matter of **WALL** height (since a retaining wall is always a wall regardless of whether also a fence) the Zoning Ordinance defines height:

Height. The vertical distance measured from the grade of the building to the top of the highest roof beams of a flat roof, to the deck line for mansard roofs and to the mean height level (between eaves and ridges) for gable, hip and gambrel roofs. Where a building is located upon a terrace, the height may be measured from the average grade of the terrace at the building wall. When a building faces on more than one road, the height shall be measured from the average of the grades at the center of each road front (see "Building Height" illustration).

This could be interpreted as meaning a wall is measured from the lowest grade (bottom) to the upper point of the structure (which is consistent with State Building Code methodology)

As noted, the Zoning Ordinance recognizes the possibility of overlapping requirements and specifies that the result is determined as the most restrictive measure

1.04.1 Minimum requirements. The provisions of this Ordinance shall be held to be the minimum required for promoting and protecting the public health, safety, and general welfare, and shall be uniform for each class of land, buildings, structures, or uses throughout each zoning district. Wherever the requirements of this Ordinance are at variance with the requirements of any other adopted rules, regulations, or ordinances, the most restrictive or those imposing the higher standards shall govern.



Definitions for retaining wall height are common due to its deep connection of safety concerns since a retaining wall is a technical term regulated under state law by the Building Code and the ordinance specifies in 17.02.1:

“technical words and phrases which have acquired a particular and appropriate meaning in the law or within this Ordinance shall be construed and understood according to such particular and appropriate meaning.”

we could also adopt the retaining wall height as provided by the state building code being “from the bottom of the footing to the top of the wall” (R105.2a(iii)). Although there are additional requirements for stacking of retaining walls and sloped grades at the top and bottom of the retaining wall.

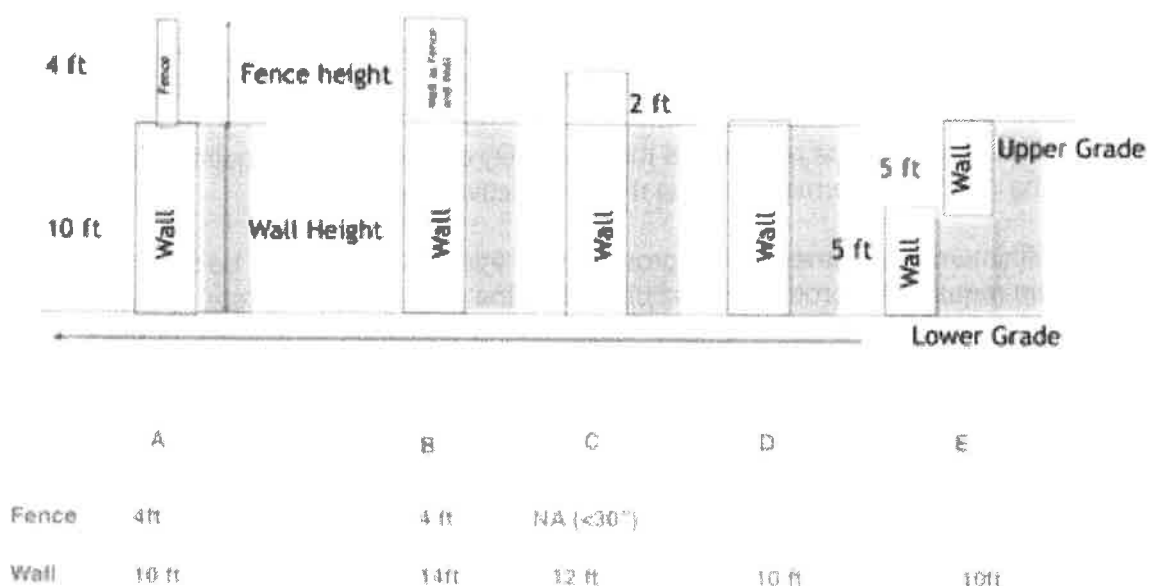
or more relevantly we could adopt the definition adopted by the Superior Township Engineering Manual (VIII A Grading) which itself is included in the Zoning Ordinance by reference and already used to protect some township residents:

- 8. Where retaining walls with differences in grade on either side of the wall in excess of 4 feet are located

Therefore retaining wall height could also be defined by the grade differences on either side of the wall to protect the safety of the public. Per 1.04.1, the most restrictive measurement should govern to protect the public, and not just residents of subdivisions already governed by the Engineering Standards.

We request that retaining wall height be interpreted consistent with any wall height under the ordinance, from the bottom of the wall to the top of the wall. In no event should the height of the retaining wall be measured as less than the differential between the lower and upper grade, nor the differential between the upper grade of any retaining wall within 2 feet of another retaining wall and the lower walls lowest grade, which should be correctly measured as a single unit if engineered together due to grade differential.

Attached is a graphic for discussion and consideration of implications as well as our requested interpreted wall heights.





Request for interpretation #4

Approved Road

The 2008 Zoning Ordinance in section 3.207 states:

Section 3.207 Access to Streets.

No dwelling shall be built on any lot that does not abut and have direct frontage on an APPROVED ROAD. Access to streets shall be subject to the following....

No definition of approved road is given. Further, the text does not substitute right of way, easement, or access for 'road' and does not specify 'allowed' or some other grandfathered provision as enabling new construction.

The definition of road is provided:

185. Road. A public or private thoroughfare or way, other than public alley, which affords principal means of access to adjacent land.

And is distinct (for example) from a right of way (also given)

184 Right-Of-Way. A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied, or occupied by, a road, utility, and other similar uses.

Since section 3.207 is clearly referencing new dwelling construction (not any particular grandfathered activity) and continues on to specify demands for emergency services and safety, we request that the ZBA interpret the ordinance for the sake of public safety as requiring that any lot to be built upon for a dwelling must have a record of a Superior Township approval for the frontage road as well as approval by the fire marshal.

Absent these indications, presumed roads could be unsafe for new dwelling construction in keeping with current ordinance standards and would not possess an approval meeting the ordinance requirement.

We request that the ordinance provision 3.207 'Approved Road' be interpreted as requiring a road having record of an approval in Superior Township.

Request for interpretation #5 Accessory Structure (Article 17)

The ordinance defines accessory structure as:

4. Accessory Use, Building, or Structure. A use, building, or structure which is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same zoning lot as the principal use to which it is exclusively related. An accessory structure shall not include dwellings, or be used for residential or lodging purposes or sleeping quarters for human beings.

The definition of accessory structure raises questions about interpretations of structures that span 2 lots of record. It is conceivable that structures crossing lot lines may benefit only one of the impacted lots. In designing structures which have safety concerns or could impact environmental issues such as stormwater management the design, construction and maintenance of shared structures would be important to consider in order to protect residents and meet the purpose of the Zoning Ordinance. The presence of setback requirements, ownership rights, and esthetic concerns of multi-lot structure construction is an issue that could be critical to long term protection of the natural resources in the township.

The common language in the definition above indicates an intent to limit accessory structure definitions to a single principal use exclusively. In the event that multi-lot structures are contemplated, a finding of exclusive use, not benefiting a use on another lot, is indicated as required.

We request that accessory structure definition be interpreted to preclude structures placed on a lot other than the lot of its builder, sponsor, or dependent related primary use. We request that the exclusive use provision be determined for any structure meant to span a lot line be interpreted as unrelated to any lot that does not participate in its construction or require its presence for that lots primary use.



Request for interpretation #6
Site Plan Exemption Criteria (10.02.A.3.a)

The ordinance specifies exemption for certain projects from site plan review:

3. All RESIDENTIAL USES, as specified in Article 4.0 (Land Use Table), for which site plan approval is required per Article 5.0 (Use Standards). The following RESIDENTIAL USES shall be exempt from site plan approval:

- a. One (1) single-family detached dwelling and customary accessory structures on an existing residential lot of record.

As evaluated in request for interpretation #5 above, situations may arise in the township where a development or structure construction (primary or accessory) could be proposed spanning multiple lots. In the event that multiple lots are involved, the language in the ordinance is plain in excluding plurality in lot of record and specifying "an". It is not constructed to exempt from site plan review a dwelling or its planned and related accessory structures if there is a condition impacting multiple lots or a structure continues across lot lines. These circumstances would present complications requiring more thorough analysis to protect the purpose of the ordinance and review under site plan including setbacks.

We request that 10.02.A.3.a be interpreted to require that site plan exemption only applies to a residential development if it involves structures and uses exclusively contained on a single lot of record, not uses or structures spanning multiple lots of record or uses reliant on structures present and across or upon lots under disparate ownership.



Request for interpretation #7

Definition of Mass Grading (Article 17) within construction definition

42. Construction. The mass grading and similar site work conducted upon land in preparation for a new use, establishment of necessary site improvements for a new use, and development of a new structure, relocation of a structure, or addition to an existing structure on land in the Township.

Mass grading is not defined within the ordinance. Construction is an activity that is limited in scope within the township under article 3 without a permit. Given the limits on site modifications in article 3, a common interpretation for mass grading would be useful for future development in the township. Another limit present in the township and state Building Code is 4 ft for the construction of retaining walls (Michigan Building Code) without a permit. Grade changes beyond 30" for a driveway or walkway are also not allowed without a permit.

Similarly, excavation is defined under erection in article 17 and limited by article 3 without a permit.

68. Excavation. Any act by which an amount in excess of fifty (50) cubic yards of any soil or rock which is cut into, dug, quarried, uncovered, removed, displaced, or relocated in any calendar year is excavated or removed except excavation in connection with the construction of a building or within public highway rights-of-way.

In order to harmonize interpreted limitations of site modifications without a permit and contrast it from standard landscaping tasks without permit requirements,

we request that MASS GRADING be interpreted to be grade elevation changes of more than 30 inches or represented by earth removal or fill of more than 50 cubic yards.

MEMO

DATE: December 21, 2021

TO: Charter Township of Superior Zoning Board of Appeals

FROM: Richard Mayernik, Building/Zoning Official

A handwritten signature in black ink, appearing to be 'RM', enclosed within a circular scribble.

RE: Matthew Schuster ZBA Interpretation Request

The applicant (Mr. Schuster) has requested the Zoning Board of Appeal to provide interpretations of the Zoning Ordinance for seven (7) questions. The following pages include my comments related to each question.

Request for zoning ordinance interpretation #1 Guard Rails, Guards, Railings (indications in article 6.01B5 and 6.01B6, etc)

Requested interpretation that fences, guards, guard rails, or other named protective structures required under the state building code or BOCA around construction sites, atop grade differentials, or retaining walls must comply with the Superior Township Zoning Ordinance including provisions governing structures and certificates of zoning compliance

Response:

On the attached pages, is the definition of a “guard” from page 18 of the 2015 Michigan Residential Code (MRC) and the definition of “fence” found on page 17-22 of the Zoning Ordinance. The term “guard” is not defined within the Zoning Ordinance and likewise, the term “fence” is not defined within the MRC.

The differences between the definitions is clear; guards are for safety and to “minimize the possibility of a fall” whereas fences serve as a physical barrier to ingress/egress or as a screen or enclosure.

Unlike guards, fences are not mandatory at certain locations (see page 70 MRC) and fences do not have specific structural loading as do guards (see page 53 MRC). For the Zoning Ordinance to prohibit or otherwise regulate guards required by the MRC is contrary to the intent of the Zoning Ordinance and violates the Stille-Derossett-Hale Single State Construction Code Act 230 of 1972.

For the above listed reasons, I ask that the ZBA find that guards required by the MRC are not fences and are not regulated by the Zoning Ordinance.

DEFINITIONS

FURNACE. A vented heating *appliance* designed or arranged to discharge heated air into a *conditioned space* or through a duct or ducts.

[RB] GLAZING AREA. The interior surface area of all glazed fenestration, including the area of sash, curbing or other framing elements, that enclose *conditioned space*. Includes the area of glazed fenestration assemblies in walls bounding conditioned *basements*.

[RB] GRADE. The finished ground level adjoining the building at all *exterior walls*.

[RB] GRADE FLOOR OPENING. A window or other opening located such that the sill height of the opening is not more than 44 inches (1118 mm) above or below the finished ground level adjacent to the opening.

GRADE, PIPING. See "Slope."

[RB] GRADE PLANE. A reference plane representing the average of the finished ground level adjoining the building at all *exterior walls*. Where the finished ground level slopes away from the *exterior walls*, the reference plane shall be established by the lowest points within the area between the building and the *lot line* or, where the *lot line* is more than 6 feet (1829 mm) from the building between the structure and a point 6 feet (1829 mm) from the building.

GRAY WATER. Waste discharged from lavatories, bathtubs, showers, clothes washers and laundry trays.

GRIDDED WATER DISTRIBUTION SYSTEM. A water distribution system where every water distribution pipe is interconnected so as to provide two or more paths to each fixture supply pipe.

[RB] GROSS AREA OF EXTERIOR WALLS. The normal projection of all *exterior walls*, including the area of all windows and doors installed therein.

GROUND-SOURCE HEAT PUMP LOOP SYSTEM. Piping buried in horizontal or vertical excavations or placed in a body of water for the purpose of transporting heat transfer liquid to and from a heat pump. Included in this definition are closed loop systems in which the liquid is recirculated and open loop systems in which the liquid is drawn from a well or other source.

[RB] GUARD. A building component or a system of building components located near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to the lower level.

[RB] GUESTROOM. Any room or rooms used or intended to be used by one or more guests for living or sleeping purposes.

[RB] GYPSUM BOARD. The generic name for a family of sheet products consisting of a noncombustible core primarily of gypsum with paper surfacing. Gypsum wallboard, gypsum sheathing, gypsum base for gypsum *veneer* plaster, exterior gypsum soffit board, predecorated gypsum board and water-resistant gypsum backing board complying with the standards listed in Section R702.3 and Part IX of this code are types of gypsum board.

[RB] GYPSUM PANEL PRODUCT. The general name for a family of sheet products consisting essentially of gypsum.

[RB] HABITABLE SPACE. A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered *habitable spaces*.

[RB] HANDRAIL. A horizontal or sloping rail intended for grasping by the hand for guidance or support.

HANGERS. See "Supports."

HAZARDOUS LOCATION. Any location considered to be a fire hazard for flammable vapors, dust, combustible fibers or other highly combustible substances.

HEAT PUMP. An *appliance* having heating or heating and cooling capability and that uses refrigerants to extract heat from air, liquid or other sources.

[RE] HEATING DEGREE DAYS (HDD). The sum, on an annual basis, of the difference between 65°F (18°C) and the mean temperature for each day as determined from "NOAA Annual Degree Days to Selected Bases Derived from the 1960-1990 Normals" or other weather data sources acceptable to the code official.

[RB] HEIGHT, BUILDING. The vertical distance from *grade plane* to the average height of the highest roof surface.

[RB] HEIGHT, STORY. The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost *story*, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

[RE] HIGH-EFFICACY LAMPS. See Section N1101.6 for definition applicable in Chapter 11.

HIGH-TEMPERATURE (H.T.) CHIMNEY. A high temperature chimney complying with the requirements of UL 103. A Type H.T. chimney is identifiable by the markings "Type H.T." on each chimney pipe section.

[RB] HILL. With respect to topographic wind effects, a land surface characterized by strong relief in any horizontal direction.

[RB] HISTORIC BUILDING. Buildings that are listed in or eligible for listing in the National Register of Historic Places, or designated as historic under an appropriate state or local law.

HORIZONTAL BRANCH, DRAINAGE. A drain pipe extending laterally from a soil or waste stack or *building drain*, that receives the discharge from one or more *fixture drains*.

HORIZONTAL PIPE. Any pipe or fitting that makes an angle of less than 45 degrees (0.79 rad) with the horizontal.

HOT WATER. Water at a temperature greater than or equal to 110°F (43°C).

[RB] HURRICANE-PRONE REGIONS. Areas vulnerable to hurricanes, defined as the U.S. Atlantic Ocean and Gulf of Mexico coasts where the ultimate design wind speed, V_{ult} , is greater than 115 miles per hour (51 m/s), and Hawaii, Puerto Rico, Guam, Virgin Islands and America Samoa.

HYDROGEN-GENERATING APPLIANCE. A self-contained package or factory-matched packages of integrated

including barns, silo, granary, milkhouse, and similar structures, but not including any building used as a dwelling.

- c. **Farm Labor Housing.** Temporary facilities provided for the housing of workers who are employed in the seasonal planting, harvesting, or processing of crops. This term is synonymous with "migratory labor camp."
- d. **Feed Lot.** Includes any of the following facilities:
 - (1) any tract of land or structure wherein any type of fowl or the by-products thereof are raised for sale at wholesale or retail; and
 - (2) any structure, pen, or corral wherein cattle, horses, sheep, goats, or swine are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.
- e. **Livestock or Farm Animals.** Animals used for human food and fiber or animals used for service to humans, including cattle, swine, sheep, llamas, goats, bison, equine, poultry, and rabbits. Farm animals do not include companion animals, such as dogs and cats, which are capable of being trained and adapting to living in a human environment.

78. **Fence.** Linear structures or partitions of definite height and location erected upon or near the dividing line between adjoining owners intended to serve as: a physical barrier to ingress or egress; a screen from objectionable vista or noise; a marker; an enclosure in carrying out the requirements of this Ordinance; or for decorative use.

- a. **Chain-link fence.** A fence constructed of galvanized steel or similar materials as approved by the Building Inspector for the purpose of enclosing or securing an area.
- b. **Ornamental fence.** A fence consisting of wrought iron, galvanized steel, aluminum, vinyl, wood or similar materials fabricated into a design with specific pattern elements or ornamentation, and which does not block vision to an extent greater than fifty percent (50%). Ornamental fences shall not include chain-link or wire fences or fences of similar construction.
- c. **Privacy fence.** A fence constructed of wood, vinyl or similar materials that blocks vision to an extent greater than fifty percent (50%) for the purpose of obscuring or screening an area from public view.
- d. **Rail fence.** A fence constructed of wood, vinyl or similar materials and consisting of one (1) to four (4) horizontal rails connecting to vertical posts spaced a minimum of six (6) feet apart, and which does not block vision to an extent greater than fifty percent (50%).
- e. **Temporary fence.** A fence constructed of canvas, plastic, chain-link, wood or similar material for the purpose of enclosing or securing an area for a limited period of time; for securing a construction site against unauthorized access; or for public safety at a special event [amended 4/1/2011, Ord. 174-05].

R311.7.12 Ships ladders. Ships ladders shall not be used as an element of a means of egress. Ships ladders shall be permitted provided that a required means of egress stairway or ramp serves the same space at each adjoining level or where a means of egress is not required. The clear width at and below the handrails shall be not less than 20 inches.

R311.7.12.1 Treads of ships ladders. Treads shall have a depth of not less than 5 inches (127 mm). The tread shall be projected such that the total of the tread depth plus the nosing projection is not less than 8½ inches (216 mm). The riser height shall be not more than 9½ inches (241 mm).

R311.7.12.2 Handrails of ships ladders. Handrails shall be provided on both sides of ships ladders and shall comply with Sections R311.7.8.2 to R311.7.8.4. Handrail height shall be uniform, not less than 30 inches (762 mm) and not more than 34 inches (864 mm).

R311.8 Ramps.

R311.8.1 Maximum slope. Ramps serving the egress door required by Section R311.2 shall have a slope of not more than 1 unit vertical in 12 units horizontal (8.3-percent slope). All other ramps shall have a maximum slope of 1 unit vertical in 8 units horizontal (12.5 percent).

Exception: Where it is technically infeasible to comply because of site constraints, ramps shall have a slope of not more than 1 unit vertical in 8 units horizontal (12.5 percent).

R311.8.2 Landings required. There shall be a floor or landing at the top and bottom of each ramp, where doors open onto ramps, and where ramps change directions. The width of the landing perpendicular to the ramp slope shall be not less than 36 inches (914 mm).

R311.8.3 Handrails required. Handrails shall be provided on not less than one side of ramps exceeding a slope of one unit vertical in 12 units horizontal (8.33-percent slope).

R311.8.3.1 Height. Handrail height, measured above the finished surface of the ramp slope, shall be not less than 34 inches (864 mm) and not more than 38 inches (965 mm).

R311.8.3.2 Grip size. Handrails on ramps shall comply with Section R311.7.8.3.

R311.8.3.3 Continuity. Handrails where required on ramps shall be continuous for the full length of the ramp. Handrail ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1½ inches (38 mm) between the wall and the handrails.

SECTION R312

GUARDS AND WINDOW FALL PROTECTION

R312.1 Guards. Guards shall be provided in accordance with Sections R312.1.1 through R312.1.4.

R312.1.1 Where required. Guards shall be located along open-sided walking surfaces, including stairs, ramps and

landings, that are located more than 30 inches (762 mm) measured vertically to the floor or *grade* below at any point within 36 inches (914 mm) horizontally to the edge of the open side. Insect screening shall not be considered as a *guard*.

R312.1.2 Height. Required *guards* at open-sided walking surfaces, including stairs, porches, balconies or landings, shall be not less than 36 inches (914 mm) in height as measured vertically above the adjacent walking surface or the line connecting the leading edges of the treads.

Exceptions:

1. *Guards* on the open sides of stairs shall have a height not less than 34 inches (864 mm) measured vertically from a line connecting the leading edges of the treads.
2. Where the top of the *guard* serves as a handrail on the open sides of stairs, the top of the *guard* shall be not less than 34 inches (864 mm) and not more than 38 inches (965 mm) as measured vertically from a line connecting the leading edges of the treads.

R312.1.3 Opening limitations. Required *guards* shall not have openings from the walking surface to the required *guard* height that allow passage of a sphere 4 inches (102 mm) in diameter.

Exceptions:

1. The triangular openings at the open side of stair, formed by the riser, tread and bottom rail of a *guard*, shall not allow passage of a sphere 6 inches (153 mm) in diameter.
2. *Guards* on the open side of stairs shall not have openings that allow passage of a sphere 4¾ inches (111 mm) in diameter.

R312.1.4 Exterior plastic composite guards. Plastic composite exterior *guards* shall comply with the requirements of Section R317.4.

R312.2 Window fall protection. Window fall protection shall be provided in accordance with Sections R312.2.1 and R312.2.2.

R312.2.1 Window sills. In dwelling units, where the top of the sill of an operable window opening is located less than 24 inches (610 mm) above the finished floor and greater than 72 inches (1829 mm) above the finished *grade* or other surface below on the exterior of the building, the operable window shall comply with one of the following:

1. Operable windows with openings that will not allow a 4-inch-diameter (102 mm) sphere to pass through the opening where the opening is in its largest opened position.
2. Operable windows that are provided with window fall prevention devices that comply with ASTM F2090.
3. Operable windows that are provided with window opening control devices that comply with Section R312.2.2.

R312.2.2 Window opening control devices. Window opening control devices shall comply with ASTM F2090.

dance with Section R322. Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area. Buildings and structures located in whole or in part in identified floodways shall be designed and constructed in accordance with ASCE 24.

R301.2.4.1 Alternative provisions. As an alternative to the requirements in Section R322, ASCE 24 is permitted subject to the limitations of this code and the limitations therein.

R301.3 Story height. The wind and seismic provisions of this code shall apply to buildings with *story heights* not exceeding the following:

1. For wood wall framing, the *story height* shall not exceed 11 feet 7 inches (3531 mm) and the laterally unsupported bearing wall stud height permitted by Table R602.3(5).
2. For cold-formed steel wall framing, the *story height* shall be not more than 11 feet 7 inches (3531 mm) and the unsupported bearing wall stud height shall be not more than 10 feet (3048 mm).
3. For masonry walls, the *story height* shall be not more than 13 feet 7 inches (4140 mm) and the bearing wall clear height shall be not greater than 12 feet (3658 mm).

Exception: An additional 8 feet (2438 mm) of bearing wall clear height is permitted for gable end walls.

4. For insulating concrete form walls, the maximum *story height* shall not exceed 11 feet 7 inches (3531 mm) and the maximum unsupported wall height per *story* as permitted by Section R608 tables shall not exceed 10 feet (3048 mm).
5. For structural insulated panel (SIP) walls, the *story height* shall be not greater than 11 feet 7 inches (3531 mm) and the bearing wall height per *story* as permitted by Section R610 tables shall not exceed 10 feet (3048 mm).

Individual walls or wall studs shall be permitted to exceed these limits as permitted by Chapter 6 provisions, provided that *story heights* are not exceeded. An engineered design shall be provided for the wall or wall framing members where the limits of Chapter 6 are exceeded. Where the *story height* limits of this section are exceeded, the design of the building, or the noncompliant portions thereof, to resist wind and seismic loads shall be in accordance with the *International Building Code*.

R301.4 Dead load. The actual weights of materials and construction shall be used for determining dead load with consideration for the dead load of fixed service *equipment*.

R301.5 Live load. The minimum uniformly distributed live load shall be as provided in Table R301.5.

TABLE R301.5
MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS
(in pounds per square foot)

USE	LIVE LOAD
Uninhabitable attics without storage ^b	10
Uninhabitable attics with limited storage ^{b, g}	20
Habitable attics and attics served with fixed stairs	30
Balconies (exterior) and decks ^e	40
Fire escapes	40
Guards and handrails ^d	200 ^h
Guard in-fill components ^f	50 ^h
Passenger vehicle garages ^a	50 ^a
Rooms other than sleeping rooms	40
Sleeping rooms	30
Stairs	40 ^c

For SI: 1 pound per square foot = 0.0479 kPa, 1 square inch = 645 mm²,
1 pound = 4.45 N.

- a. Elevated garage floors shall be capable of supporting a 2,000-pound load applied over a 20-square-inch area.
- b. Uninhabitable *attics* without storage are those where the clear height between joists and rafters is not more than 42 inches, or where there are not two or more adjacent trusses with web configurations capable of accommodating an assumed rectangle 42 inches in height by 24 inches in width, or greater, within the plane of the trusses. This live load need not be assumed to act concurrently with any other live load requirements.
- c. Individual stair treads shall be designed for the uniformly distributed live load or a 300-pound concentrated load acting over an area of 4 square inches, whichever produces the greater stresses.
- d. A single concentrated load applied in any direction at any point along the top.
- e. See Section R507.1 for decks attached to *exterior walls*.
- f. *Guard in-fill components* (all those except the handrail), balusters and panel fillers shall be designed to withstand a horizontally applied normal load of 50 pounds on an area equal to 1 square foot. This load need not be assumed to act concurrently with any other live load requirement.
- g. Uninhabitable *attics* with limited storage are those where the clear height between joists and rafters is not greater than 42 inches, or where there are two or more adjacent trusses with web configurations capable of accommodating an assumed rectangle 42 inches in height by 24 inches in width, or greater, within the plane of the trusses.

The live load need only be applied to those portions of the joists or truss bottom chords where all of the following conditions are met:

1. The *attic* area is accessible from an opening not less than 20 inches in width by 30 inches in length that is located where the clear height in the *attic* is not less than 30 inches.
2. The slopes of the joists or truss bottom chords are not greater than 2 inches vertical to 12 units horizontal.
3. Required insulation depth is less than the joist or truss bottom chord member depth.

The remaining portions of the joists or truss bottom chords shall be designed for a uniformly distributed concurrent live load of not less than 10 pounds per square foot.

- h. Glazing used in handrail assemblies and *guards* shall be designed with a safety factor of 4. The safety factor shall be applied to each of the concentrated loads applied to the top of the rail, and to the load on the in-fill components. These loads shall be determined independent of one another, and loads are assumed not to occur with any other live load.

Request for interpretation #2 Retaining wall definition (article 17, article 3, article 6, etc).
Retaining wall is not defined in the ordinance

Request that the ZBA interpret a retaining wall as a wall and structure under the zoning ordinance (subject to ordinance restrictions such as article 3 and certificates of zoning compliance) consistent with the Superior Township engineering standards and/or 2015 State of MI Building Code:

Any wall separating a differential grade of more than 12" shall be considered a retaining wall and a structure.

Response:

Section 17.02.226 defines a wall as “screening structure of definite height and location constructed of a masonry, concrete, rock or similar material”. Section 17.02.207 defines a structure as “anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, mobile homes, aboveground swimming pools, radio towers, sheds, signs and storage bins, but excluding sidewalks and paving on roads, driveways, parking areas and patios”.

The applicant is correct that “retaining wall” is not a defined term within the Zoning Ordinance. While I agree that a retaining wall meets the definition of a “wall” and is a constructed on the ground, a retaining wall is more akin to a paving on a road in that both serve a similar purpose and therefore should be excluded from the definition of a structure. To interpret retaining walls as requested by the applicant would severely limit their locations. I contend that this is not the intent of the Zoning Ordinance.

The ZBA should adopt MRC definition of “wall, retaining” to mean to walls separating differential grades. I further ask that the ZBA interpret that retaining walls are “Permitted Yard Encroachments” per Section 3.203(G)(1) unless such retaining walls exceed 4 feet in height measured from the ground level at the higher side of the wall and that retaining walls located within the right-of-way easement for public or private roads that are necessary for the construction of such roads, be exempt from setback requirements.

Finally, since the definition of “Accessory Use, Building or Structure” limits a structure to be located “on the same zoning lot as the principal use”, if the ZBA adopts my recommendation that a retaining wall not be treated as a “structure” this restriction would not be applicable. If a retaining wall is located within right-of-way easements and is necessary for the construction of the road/drive it should not be treated as a structure and therefore be exempt from being located entirely on the same zoning lot as the principal use.

225. **Viewshed.** The total physiographic area, composed of land, water, biotic, and other environmental and cultural elements, visible from one (1) or more fixed vantage points (such as a series of views along a roadway, or the view from the perspective of one riverfront dwelling).
- 225a. **Volatile Farm-Based Biofuel Production Facility.** An accessory use, clearly incidental and subordinate to an active farm operation lawfully operating on the same zoning lot, in which biofuel (as defined in this Section) is derived from recently living organisms or their metabolic by-products. This term shall include all equipment, storage tanks, and other improvements needed to produce, store, and transport the biofuel in a manner that meets all federal, state, and Township standards and limitations [amended 12/16/2013, Ord. 174-14].
226. **Wall.** A screening structure of definite height and location constructed of a masonry, concrete, rock or similar material.
227. **Warehouse.** A building used for short- and/or long-term storage in connection with production and marketing or in connection with manufacturing, freight handling, wholesaling, and retailing. See also "**Distribution Center**" and "**Truck Terminal**."
228. **Watercourse.** Any waterway including a river, stream, lake, pond or any body of surface water having definite banks, a bed and visible evidence of a continued flow or continued occurrence of water.
229. **Water Supply System.** Facilities for collection, transportation, processing, or distribution of sanitary drinking water serving or intended to serve more than one principal dwelling unit, principal use, or principal building; including all potable water sources, treatment and purification facilities, pumps, lines, and appurtenances.
- a. **Publicly-Owned and Operated Water System.** A water supply system owned and operated by one or more governmental entities.
- b. **Community Well.** A water supply system serving more than one (1) dwelling that is owned by a non-governmental entity.
230. **Wetland.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the land surface or the land is saturated with or covered by water. Some wetland areas are more commonly referred to as bogs, swamps or marshlands. Wetlands shall also have one (1) or more of the following attributes:
- a. At least periodically, the land supports predominantly hydrophytes.
- b. The substrate is predominantly un-drained hydric soil.
- c. The substrate is saturated with water or covered by shallow water at some time during the growing season of each year.
231. **Wetland Ordinance.** Ordinance No. 135, duly adopted by the Superior Charter Township Board, entitled "Wetland and Watercourse Protection and Restoration."
232. **Wetland, Regulated.** Certain wetlands as regulated by the Michigan Department of Environmental Quality (MDEQ) or the Township's Wetland Ordinance.

of Michigan under the Adult Foster Care Facility Licensing Act (P.A. 218 of 1979, as amended) or Child Care Organizations Act (P.A. 116 of 1973, as amended).

203. **Steep Slopes.** A rise of 25 feet or more over a distance of 100 feet, or any existing slope of twenty five percent (25%) or greater.
204. **Story.** That part of a building, except a basement or mezzanine as defined herein, included between the upper surface of any floor and the upper surface of the floor or roof next above it (see "**Basic Structural Terms**" illustration).
- a. A mezzanine shall be deemed a full story when it covers more than one-third (1/3) of the area of the story underneath, or, if the vertical distance from the floor next below the mezzanine to the floor above it is 24 feet or more.
 - b. A basement shall be deemed a full story when the vertical distance from the average grade to the floor below is half than the vertical distance from the average grade to the ceiling.
205. **Story, Half.** An uppermost story lying under a sloping roof having an area of at least 200 square feet in area with a clear ceiling height of seven (7) feet six (6) inches. For the purposes of this ordinance, the usable floor area is only that area having at least five (5) feet clear height between floor and ceiling.
206. **Street.** See "**Road.**"
207. **Structure.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, mobile homes, aboveground swimming pools, radio towers, sheds, signs and storage bins, but excluding sidewalks and paving on roads, driveways, parking areas and patios.
- a. **Temporary Structure.** A structure permitted to exist during periods of construction, special events, and other limited time periods.
208. **Subdivision Plat.** The division of a tract of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development, in accordance with the Land Division Act (P.A. 288 of 1967, as amended), and the Superior Charter Township Subdivision Control Ordinance, as amended.
209. **Swimming Pool.** Any structure or container located above or below grade designed to hold water to a depth of greater than two (2) feet and intended for swimming or bathing. A swimming pool is an accessory structure for purposes of this Ordinance.
210. **Tavern.** An establishment licensed by the State of Michigan to sell at retail and serve alcoholic beverages on the premises where less than thirty percent (30%) of the gross floor area is made up of a bar, being a barrier or counter at which any alcoholic beverages are sold or served to and consumed by customers, and also including areas dedicated for the use of stages, dance floors, standing-room areas, pool tables, and other amusement devices.

DEFINITIONS

VACUUM BREAKER. A device that prevents back-siphonage of water by admitting atmospheric pressure through ports to the discharge side of the device.

[RB] VAPOR PERMEABLE. The property of having a moisture vapor permeance rating of 5 perms (2.9×10^{-10} kg/Pa · s · m²) or greater, where tested in accordance with the desiccant method using Procedure A of ASTM E96. A vapor permeable material permits the passage of moisture vapor.

[RB] VAPOR RETARDER CLASS. A measure of the ability of a material or assembly to limit the amount of moisture that passes through that material or assembly. Vapor retarder class shall be defined using the desiccant method with Procedure A of ASTM E96 as follows:

Class I: 0.1 perm or less

Class II: $0.1 < \text{perm} \leq 1.0$ perm

Class III: $1.0 < \text{perm} \leq 10$ perm

VENT. A passageway for conveying flue gases from fuel-fired *appliances*, or their vent connectors, to the outside atmosphere.

VENT COLLAR. See "Flue collar."

VENT CONNECTOR. That portion of a venting system that connects the flue collar or draft hood of an *appliance* to a vent.

VENT DAMPER DEVICE, AUTOMATIC. A device intended for installation in the venting system, in the outlet of an individual, automatically operated fuel burning *appliance* and that is designed to open the venting system automatically where the *appliance* is in operation and to close off the venting system automatically where the *appliance* is in a standby or shutdown condition.

VENT GASES. Products of combustion from fuel-burning *appliances*, plus excess air and dilution air, in the venting system above the draft hood or draft regulator.

VENT STACK. A vertical vent pipe installed to provide circulation of air to and from the drainage system and that extends through one or more stories.

VENT SYSTEM. Piping installed to equalize pneumatic pressure in a drainage system to prevent trap seal loss or blow-back due to siphonage or back pressure.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

For definition applicable in Chapter 11, see Section N1101.6.

VENTING. Removal of combustion products to the outdoors.

VENTING SYSTEM. A continuous open passageway from the flue collar of an *appliance* to the outside atmosphere for the purpose of removing flue or vent gases. A venting system is usually composed of a vent or a chimney and vent connector, if used, assembled to form the open passageway.

VERTICAL PIPE. Any pipe or fitting that makes an angle of 45 degrees (0.79 rad) or more with the horizontal.

[RB] VINYL SIDING. A shaped material, made principally from rigid polyvinyl chloride (PVC), that is used to cover exterior walls of buildings.

[RB] WALL, RETAINING. A wall not laterally supported at the top, that resists lateral soil load and other imposed loads.

[RB] WALLS. Walls shall be defined as follows:

Load-bearing wall. A wall supporting any vertical load in addition to its own weight.

Nonbearing wall. A wall which does not support vertical loads other than its own weight.

WASTE. Liquid-borne waste that is free of fecal matter.

WASTE PIPE OR STACK. Piping that conveys only liquid sewage not containing fecal material.

WASTE RECEPTOR. A floor sink, standpipe, hub drain or a floor drain that receives the discharge of one or more indirect waste pipes.

WATER DISTRIBUTION SYSTEM. Piping that conveys water from the service to the plumbing fixtures, *appliances*, appurtenances, *equipment*, devices or other systems served, including fittings and control valves.

WATER HEATER. Any heating *appliance* or *equipment* that heats potable water and supplies such water to the potable hot water distribution system.

WATER MAIN. A water supply pipe for public use.

WATER OUTLET. A valved discharge opening, including a hose bibb, through which water is removed from the potable water system supplying water to a plumbing fixture or plumbing *appliance* that requires either an *air gap* or back-flow prevention device for protection of the supply system.

[RB] WATER-RESISTIVE BARRIER. A material behind an *exterior wall* covering that is intended to resist liquid water that has penetrated behind the exterior covering from further intruding into the *exterior wall* assembly.

WATER SERVICE PIPE. The outside pipe from the water main or other source of potable water supply to the water distribution system inside the building, terminating at the service valve.

WATER SUPPLY SYSTEM. The water service pipe, the water-distributing pipes and the necessary connecting pipes, fittings, control valves and appurtenances in or adjacent to the building or premises.

WET VENT. A vent that receives the discharge of wastes from other fixtures.

WHOLE-HOUSE MECHANICAL VENTILATION SYSTEM. An exhaust system, supply system, or combination thereof that is designed to mechanically exchange indoor air for outdoor air where operating continuously or through a programmed intermittent schedule to satisfy the whole-house ventilation rate.

For definition applicable in Chapter 11, see Section N1101.6.

Request for interpretation #3. Retaining wall height (article 17, article 3, article 6)

Retaining wall height calculation is not directly specified in the ordinance, although it is found in the State Building Code and Superior Township Engineering Standards Manual

Given request #2 above, we recommend that retaining wall height be interpreted consistent with any wall height under the ordinance, from the bottom of the wall to the top of the wall. In no event should the height of the retaining wall be measured as less than the differential between the lower and upper grade, nor the differential between the upper grade of any retaining wall within 2 feet of another retaining wall and the lower walls lowest grade, which should be correctly measured as a single unit if engineered together due to grade differential.

-Note - there are conditional provisions for fence height determinations of retaining walls in the zoning ordinance article 6 which may result in determining the most restrictive height calculation (consistent with ordinance 1.04.1), not a replacement calculation of lesser value, which should be specified by the ZBA.

Response:

As noted above, the Zoning Ordinance does not define “retaining walls” and further, only discusses retaining wall height measurements in those situations where retaining walls treated as fences. (Section 6.01(B)(6) and 6.01(C) attached). Without correlating retaining wall heights to fence heights, retaining wall heights above the upper grade elevation would be unlimited. These restrictions make perfect sense viewed in that light.

The Ordinance is intentionally silent on defining or limiting the overall height of retaining walls from the lower to the upper grade. The project engineer will design the wall based on the needs of the development at hand. An example would be the retaining wall constructed at the western side of the Woodlands at Geddes Glen development. That retaining wall height is approximately 15 feet from lower to higher elevations directly adjacent to the U of M Golf Course property. Defining retaining wall height in the manner the applicant proposes would prohibit any retaining walls that exceed 4 foot in height (lower to upper elevation) from being located within any required yard setback. See Section 3.203(G)(1) (copy attached).

I ask that the ZBA affirm that retaining wall heights from lower to higher elevations are unregulated by the Zoning Ordinance and further that retaining wall heights above the higher grade are regulated as fences and are measured exactly as prescribed in Sections 6.01B6 and 6.01C.

following completion of construction activity on the site. The Zoning Inspector may order the removal of temporary construction fences by a date certain where such fences have remained in place for a period exceeding 545 calendar days.

6. **Retaining walls.** Retaining walls shall be considered fences subject to the provisions of this Section if the wall extends more than 30 inches above the adjacent ground level. Fences shall be required on top of retaining walls when required by the State Construction Code.

C. Height Measurements.

The height of a fence shall be measured from the ground level at the lowest grade within four (4) feet of any side of a fence post, except that the height of a retaining wall, or a fence located on top of a retaining wall, shall be measured from the ground level at the higher side of the wall (see illustration).

D. Maintenance.

Fences shall be maintained so as not to endanger life or property. Any fence that endangers life or property through lack of repair, type, or construction, or otherwise is hereby deemed a nuisance. If an unsafe condition exists in regard to a fence, the Zoning Inspector shall serve written notice to the owner, agent, or person in control of the property upon which such fence is located.

1. The notice shall describe the unsafe condition(s), shall specify the repairs or modifications required to make the fence safe, and shall require an unsafe fence or portions thereof to be removed. The notice shall provide a time limit for such repairs, modifications, or removal.
2. Failure to make repairs or modifications or to remove the fence within the time limit specified in the notice shall constitute a violation of this Ordinance and shall be punishable in accordance with the provisions of Section 1.13 (Violations and Penalties).

E. Approval Required.

It shall be unlawful for any person to construct or cause to be constructed a fence in the Township without having first obtained all necessary permits or approvals in accordance with this Section and Ordinance.

Section 6.02 Swimming Pools.

Outdoor swimming pools, spas, and hot tubs erected or maintained in the Township with a diameter exceeding twelve (12) feet, a depth exceeding two (2) feet or an area exceeding 100 square feet permanently or temporarily placed in, on or above the ground shall be permitted as an accessory structure in all zoning districts shall comply with the following requirements:

1. The pool or its fence shall not be located within any required front yard, or within any yard area between a road right-of-way and front building line of a dwelling.

Request for interpretation #4. Approved Road (article 3)

The 2008 zoning ordinance in section 3.207 states:

Section 3.207 Access to Streets.

No dwelling shall be built on any lot that does not abut and have direct frontage on an APPROVED ROAD. Access to streets shall be subject to the following....

No definition of “approved road” is given.

We request that the ordinance provision be interpreted as a road having record of approval in Superior Township for its width, grade, construction, and maintenance details.

Response:

I would ask that the ZBA interpret an “approved road” to mean the following:

- For public and private roads within developments subject to Planning Commission review, “approved roads” shall mean roadways approved through the planning process and further approved by the Township Engineer and Washtenaw County Road Commission or MDOT as applicable.
- For new private roads not subject to Planning Commission review, “approved roads” shall mean roadways which have obtained a Private Road Permit per Ordinance #163 (Private Road Ordinance). Further, that per Ordinance #163, prior to the issuance of any building permit for any dwellings, the approved road must be constructed, and that construction shall be approved by the Building Official and, at the Building Officials discretion, the Township Engineer or Fire Chief.
- For existing lots, rights-of-way, easements and drives created prior to the 2004 enactment of Ordinance #163, “approved road” shall mean an easement, right-of-way or drive created in accordance with the provisions of the Zoning Ordinance in effect at the time of creation or division of property. Examples of the 1997 and the 1978 Zoning Ordinance provisions are attached. Approval would generally be evidenced by the Zoning Officials review and approval of the plot plans showing the lots and easement width. The roadway would not need to have been constructed to be considered “approved”. Prior to the issuance of a Certificate of Occupancy for a home, the roadway shall be constructed, and that construction shall be approved by the Building Official and/or the Fire Chief.

GENERAL PROVISIONS

SECTION 3.03 ACCESS TO STREETS

A. Access to Public or Private Streets

In any district, every lot created and every principal use or structure which is established after the effective date of adoption or amendment of this Ordinance shall be on a lot or parcel which abuts a public or private street by the entire width of the lot. Such street shall have a right-of-way at least sixty-six (66) feet wide unless a lesser width has been established and recorded prior to the effective date of this Ordinance.

B. Access for Emergency Services and Parking and Loading Areas

Every building and structure located or relocated after the effective date of adoption or amendment of this Ordinance shall be so located on lots as to provide safe and convenient access for emergency purposes and fire protection vehicles, and for required off-street parking and loading areas.

C. Access to Uses Not Permitted in Residential Districts

1. No land in a Residential District shall be used for vehicular or pedestrian access to land or structures in other districts used for any purpose not permitted in the Residential District except as provided in Paragraph 2 below or otherwise authorized by this Ordinance.
2. Where provision does not exist for safe access for emergency and public service vehicles and such access is not reasonably feasible except through privately-owned residentially zoned land, access reserved for and limited to such vehicles may be authorized by the Planning Commission, subject to such conditions and safeguards as the Planning Commission deems necessary to protect the tranquility and character of the residential lands so traversed.

SECTION 3.04 COMPLETION OF CONSTRUCTION

A. Where Actual Construction Was Lawfully Begun

Nothing in this Ordinance shall require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance.

1997 - ZONING ORD. # 134

SECTION 3.12 ACCESS TO STREETS

- A. In any district, every lot created and every principal use or principal structure which is established after the effective date of adoption or amendment of this ordinance shall be on a lot or parcel which abuts a public or private street by the entire width of the lot. Such street shall have a right-of-way at least sixty-six (66) feet wide unless a lesser width has been established and recorded prior to the effective date of this ordinance. Or such lot, use or structure shall abut, by the entire width of the lot a private street with an easement at least sixty-six (66) feet wide and width conforms to the Superior Township Private Street Ordinance. The private street easement shall not be included in the required minimum area of the lot.
- B. Every building and structure constructed or relocated after the effective date of adoption or amendment of this ordinance shall be so located on lots as to provide safe and convenient access for fire protection vehicles and required off-street parking and loading areas.

SECTION 3.13 ZONING BOARD

All powers, duties and responsibilities for a zoning board as provided by Act 184 of the Public Acts of 1943, as amended are hereby transferred to the Township Planner Commission in accordance with Section 11 of Act 168 of the Public Acts of 1959, as amended.

SECTION 3.14 SEWER AND WATER FACILITIES

All dwelling units constructed or put into place on or after the effective date of adoption or amendment of this ordinance in any urban residence district (R-3 through R-8, except R-5, where on-site services are permitted) or business district (C-1 through C-3 and 0) and all buildings in a special district shall be connected to public sanitary sewer and water supply systems. On-site facilities and privately owned and operated community systems are prohibited in such districts for service of dwelling units. Single family detached dwelling units in a PC district that is located in areas designated for rural residential use is adopted general development plan shall be exempt from this section, provided each such dwelling unit is connected to a water well and septic tank/drainfield approved by the Washtenaw County Health Department.

SECTION 3.15 RAISING AND KEEPING OF ANIMALS

The raising and keeping of fowl and similar small animals where permitted as an accessory use, shall be on a lot with a minimum area of one (1) acre. The raising and keeping of horses, cows, and similar domestic animals, where permitted as an accessory use, shall be on a lot with a minimum area of four (4) acres. All animals shall be property housed and fenced so as not to be a public nuisance.

Request for interpretation #5. Accessory Structure (Article 17)

The definition of accessory structure raises questions about interpretations of structures that span 2 lots of record. It is conceivable that structures crossing lot lines may benefit only one impacted lot.

We request that accessory structure definition be interpreted to preclude structures placed on a lot other than the lot of its builder, sponsor, or dependent related primary use. We request that the exclusive use provision be determined for any structure meant to span a lot line be interpreted as unrelated to any lot that does not participate in its construction or require its presence for that lots primary use.

Response:

The Zoning ordinance defines a structure as “anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, mobile homes, aboveground swimming pools, radio towers, sheds, signs and storage bins, but excluding sidewalks and paving on roads, driveways, parking areas and patios.” Section 17.02.207.

While a retaining wall is constructed or erecting on the ground, it is more akin to paving on a road or parking area, which are specifically exempted from this definition and therefore should not be treated in the same manner as a building or shed or the other structures specifically identified in as structures in the definition.

I ask that the ZBA interpret and confirm that accessory structures are to be located on the same zoning lot as the principal use except for retaining walls and other structures necessary for the construction of drives or private roads when such structures are located within the right-of-way or easement.

Request for interpretation #6. Site Plan Exemption Criteria (10.02.A.3.a)

The ordinance specifies exemption for certain projects from site plan review:

3. All RESIDENTIAL USES, as specified in Article 4.0 (Land Use Table), for which site plan approval is required per Article 5.0 (Use Standards). The following RESIDENTIAL USES shall be exempt from site plan approval:

a. One (1) single-family detached dwelling and customary accessory structures on an existing residential lot of record.

We request that 10.02.A.3.a be interpreted to require that exclusion only applies to a residential development if it involves structures and uses exclusively contained on a single lot of record, not related uses or structures spanning multiple lots of record or present across or upon lots under disparate ownership.

Response:

The specifics of this request relate to the private road easement that traverses the applicant's property and terminates at the adjacent property where a single-family dwelling is proposed. Interpreting the Zoning Ordinance section in the manner the applicant suggests would effectively require Planning Commission approval of every residential lot created by metes and bounds divisions where property lines are centered in the road right-of-way. Also, presumably every lot located on a public road where the property lines are centered in the road would also be subject to Planning Commission site plan review.

Consistent with the past practices of the Township, single lots of record accessed by public or private roads, easements or drives should continue to be exempt from Planning Commission review.

Request for interpretation #7. Definition of Mass Grading (Article 17) within construction definition 42

The definition of mass grading is not given in the ordinance:

42. Construction. The mass grading and similar site work conducted upon land in preparation for a new use, establishment of necessary site improvements for a new use, and development of a new structure, relocation of a structure, or addition to an existing structure on land in the Township.

We request that mass grading be interpreted to be grade elevation changes of more than 30" or represented by earth removal or fill of more than 50 cubic yards.

Response:

"Mass grading" is a term generally accepted describe the movement or redistribution of large quantities of earth over large areas. This term is commonly applied to earthwork relating to large residential or commercial developments and would not normally be associated with grading for a single dwelling on one lot.

In February of 1999, the Township adopted Ordinance #147 (Soil Removal and Deposit) which regulated the removal and deposit of soil material by providing for licensing, procedures, fees, inspections, enforcement, etc. In February of 2008, the Board repealed Ordinance #147 by adopting Ordinance #171. Currently, filling, grading and other earthwork is regulated by the Washtenaw County Water Resources Soil Erosion Division.

Since the Township does not to regulate soil deposit and removal, there is no need to define the term "mass grading".



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January 3, 2022

Zoning Board of Appeals
Charter Township of Superior
3040 North Prospect Road
Ypsilanti, MI 48198

Re: Request for interpretation

This document is subject to the attorney-client privilege, exempt from disclosure pursuant to MCL§15.243(h), and may be considered in closed session under MCL§15.268(h).

Dear Board Member:

At the direction of the Township supervisor, I have reviewed to the request for interpretations submitted by Matthew Schuster to the Township's Zoning Board of Appeals and Richard Mayernik's responses to those requests.

Based on my review of the ordinance and my discussions with Mr. Mayernik, I concur with his responses to Schuster's request and would urge the ZBA to adopt those interpretations on behalf of the Township.

Sincerely,
LUCAS LAW, PC

A handwritten signature in dark ink, appearing to read 'Frederick Lucas', is written over a light blue horizontal line.

Frederick Lucas
Attorney at Law

cc: Richard Mayernik, Kenneth Schwartz

MEMO

DATE: December 21, 2021

TO: Charter Township of Superior Zoning Board of Appeals

FROM: Richard Mayernik, Building/Zoning Official

RE: Matthew Schuster ZBA Appeal the decision of the Zoning Official

The owners of 5728 Geddes Rd. (Mouliere's) have applied for a building permit for the construction of a new single-family dwelling at the property. On November 23, 2021, I advised the owners agent (Snyder Contracting) that his permit application was denied and noted twelve items that needed to be addressed. One of the items (setback) is the subject of a variance request at tonight's meeting. Snyder Contracting has commenced driveway construction work at the site prior to the issuance of a building permit for the dwelling. Mr. Schuster has appealed the decision that a Private Road Permit is not required for the construction of the drive. The Township Board heard the appeal and has upheld the decision that a Private Road Permit is not required. Mr. Schuster has made previous appeals to the ZBA, Wetlands Board, and County Soil Erosion Division relating to various aspects of the driveway and boardwalk construction.

Reading thru the documents in Mr. Schuster's appeal, ZBA members will find emails from Mr. Schuster to myself dated October 14, 2021, and October 27, 2021, which report violations of the Building Code and reference that driveways which exceed 30 inches above adjacent grade are not exempt from obtaining building permits. On November 4, 2021, building permit PB21-0218 was issued relating to the driveway. Now, in his appeal, Mr. Schuster insists that the same permit he indicated was required, be revoked.

As background information relating to the Building Code, the 2015 Michigan Residential Code is a document based upon the 2015 International Residential Code published by the International Code Council (ICC). Michigan adopts the ICC document and makes deletions, additions and modifications. The ICC document exempts all sidewalks and driveways from permit requirements. Michigan modified the ICC language to indicate that sidewalks and driveways "*...not more than 30 inches above adjacent grade...*" were exempt from obtaining permits. The State added the additional language to the Code based on the requirement that open sided walking surfaces located more than 30 inches above grade require guards.

The driveway, in its current condition, has areas to the south where steep slopes have been created that would exceed the 30-inch dimension. The construction of the home would be adjacent to the drive and mitigate the current steep area however, the permit for the home has not yet been issued. While the current steep slope will not be the permanent condition, I felt it prudent to require the building permit although its issuance was somewhat of a technicality with

the homes permit pending. It should be noted that the scope of the permit is limited only to portions of the drive where the adjacent grade elevation exceeds 30 inches above the driveway.

Mr. Schuster indicates that the building permit was issued without authority under the Zoning Ordinance and therefore should be revoked. It is my opinion that the Zoning Official has the duty to interpret the provisions of the Zoning Ordinance (1.06(E)(2)). I have interpreted that a Certificate of Zoning Compliance is not required for the issuance of all building permits. For example, interior structural and non-structural alterations, basement waterproofing, and other work not related to zoning or structures. The Zoning Ordinance does not prescribe materials and methods required for the construction of drives. Likewise, the Building Code is silent relating to construction methods for driveways. As such, the only provision of the code applicable is related to guards which, in this case, would apply to limited portions of the drive and, will be moot after the home's construction commences. For these reasons, I would ask the ZBA to uphold my decision in this case.

The following four documents were provided by Mr. Schuster on March 24, 2022.
They are identified as:

1. Rebuttals to Building Department Responses
2. ZBA Rebuttal Exhibits
3. Attorney Participation and Contradiction
4. ZBA Attorney Request

Rebuttals to Building Department responses

Interpretation #1

The placement within the township of all objects meeting the ordinance definition of “Structure” or “Fence” is governed by the zoning ordinance. The intent of the ordinance makes clear - the Most Restrictive and Highest standard SHALL apply. The ordinance is not simply pre-empted by the building code deferentially.

The zoning ordinance references protection required by the state building code multiple times (see section 6.01B5 and 6.01B6). It is specifically, clearly regulated by the ordinance using the term fence. The implication is that if the protection is required, it must be provided and governed in placement by the zoning ordinance - however - the construction (including excavations per the definition of construction in the ordinance) requiring the protection must also comply to ordinance standards. If a structure is proposed (requiring protection) that violates ordinance standards, it should not be built without a variance.

If it is protection or a guard meeting the ordinance definition of ‘fence’ this is also defined to be a structure.

****The administrator and township attorney documented the term fence, protection, and guard interchangeability in a June 10th letter where the admin stated ‘Section 6.01B5 of the zoning ordinance requires protection (guards) that comply with the state construction code....’ The ordinance actually states fences. The administrator should explain the contradiction as all residents deserve equal protection of the ordinance****

The ordinance restrictions can be appealed to the ZBA if it is a practical difficulty in order to get a variance.

Interpretation #2

It appears the township agrees that the Michigan residential code would be an adequate definition for “walls, retaining” - however conspicuously leaves its actual text out and ad libs something else.

the specific definition in the code is:

“Walls, Retaining. A wall not laterally supported at the top that resists lateral soil load and other imposed loads”

For clarity, the existing Michigan State residential code (2015 international now) should be referenced to indicate future revisions are automatically incorporated.

Walls are already specifically defined as structures by the zoning ordinance. The ZBA should confirm this without further ordinance alteration or creation of exceptions - which is not the authority of the ZBA. 4 ft walls (of any kind) are structures per the ordinance text subject to existing text of the ordinance.

Deviations from the language of ordinance and code should be avoided. References to 3.203G1 are not relevant for interpretation. If a full analysis of the ordinance is requested by the building official - he should also review 6.08 which specifically limits pavement height to 18" above grade to be not considered a structure. Retaining walls typically exceed 18" above grade and are therefore not exempt from the definition of structure for pavement.

This is a special inconsistent request by the administrator and counsel which directly contradicts their own formal written opinion dated 7/6/21 where they specifically identify retaining walls as both structures and accessory. This contradiction deserves to be addressed by the administrator as all residents deserve equal protection of the ordinance

Interpretation #3

It is clear and agreed upon that the definition of retaining walls was omitted from the ordinance. It is not in any way indicated that the height of a retaining wall was INTENTIONALLY silent on definition or calculation. The ordinance states its intent (1.03.7) as fixing reasonable standards to which structures and other site improvements shall conform.

to that end (for example) limits in required yards are listed as
-walls of 4ft or less
-fences of 6 ft or less
-terraces or paving limited to 18" or less

The assumption that retaining walls are height UNLIMITED despite the ordinance (or the administrator) citing retaining walls as being one of the above structures is disingenuous and dangerous. Retaining walls (per michigan residential code R404.4) are susceptible to overturning, sliding, excessive foundation pressure and water uplift. Ordinance 1.04.1 directs 'Wherever the requirements of this Ordinance are at variance with the requirements of any other adopted rules, regulations, or ordinances, the most restrictive or those imposing the higher standards shall govern'

Freestanding wall height is not defined in the ordinance either. Height references include measures to roof structure or joists. Despite this, a wall is universally understood (and codified in construction code) to be measured from the lower point to

the higher point - not unlimited because it doesn't fit the fence ordinance (as it is always a wall).

The ordinance is specifically meant to restrict development, and as already indicated the construction of definitions specifically mentions that 'technical words and phrases which have acquired a particular and appropriate meaning in the law or within this Ordinance shall be construed and understood according to such particular and appropriate meaning'. Given that retaining walls are technical terms defined by law everywhere in the state of Michigan under the building code which is adopted by Superior Township, the height definition detailed in Michigan State residential code (2015 international now) should govern as a technical term.

"height measured from the bottom of the footing to the top of the wall" Mich. Admin. Code R. 408.30505"

If a zoning compliance violation resulted in a permit denial but was due to a practical difficulty, the ZBA was created by statute to evaluate the practical difficulty and issue variances. The cited extreme case of the 15' wall at the woodlands at Geddes Glen may well have qualified as a practical difficulty and been granted a variance - but does not protect the goals of the zoning ordinance to allow it along any lot line a person desires with impunity.

The assertion that walls taller than many township homes must be allowed unregulated by height for the convenience of any resident is preposterous. Retaining walls as stated are technical challenges and present personal safety and fall risk in addition to the failure modes previously discussed. There are legal requirements beyond the ordinance and the most restrictive measure must govern by ordinance intent - not the LEAST restrictive conceivable loophole.

The state building code also stipulates:

R404.4 Retaining Walls

Retaining walls that are not laterally supported at the top and that retain in excess of 48 inches (1219 mm) of unbalanced fill, or retaining walls exceeding 24 inches (610 mm) in height that resist lateral loads in addition to soil, shall be designed in accordance with accepted engineering practice to ensure stability against overturning, sliding, excessive foundation pressure and water uplift. Retaining walls shall be designed for a safety factor of 1.5 against lateral sliding and overturning. This section shall not apply to foundation walls supporting buildings.

Not requiring review, documentation, and proper design for a retaining wall (including surcharge bearing walls over 24 inches) violates the 2015 residential state building code. The township is generally aware of this fact and that is why there is a form for certification of retaining walls (provided) highlighting safety concerns.

Interestingly, the building permit exemption list on the township website is inadequate and does not match state code. It does not highlight the statute required measurement from foundation bottom to top of wall NOR highlight that the presence of any surcharge

requires a permit. This deficiency and safety risk should be corrected immediately for health, safety, and welfare of the community lest someone rely upon it in constructing a 4ft load bearing retaining wall without a specific review and permit - creating a safety risk and potential liability for the township.

The ZBA may expose the township to liability by adopting a less restrictive standard for retaining wall height that permitted under state building code and R 408.30505 R105.2(iii). The ZBA should consult independent counsel.

Interpretation #4

I sought an interpretation of essentially the word 'approved'

The comments by the administrator reflect significant commentary and exceeds language in the ordinance OR technical terms common in law. It appears to be a re-write more than a clarification of standard technical term adoption.

It appears an attempt to significantly alter the ordinance, yet is still not comprehensive. It does not cover exemptions, loss of exemptions, legal non-conformities, and loss of legal non-conformities. If the description requirements as desired by the administrator are so vast, the township should seek to amend the ordinance.

Interpretation #5

The administrator and township counsel are seeking a revision of the language of the ordinance. Per ordinance 6.08 (Access Through Yards), terraces or other pavement serving a like function are limited to 18" above grade to be permitted in a required yard except a rear yard. Walls typically exceed 18" in height and are specifically defined to be structures by the ordinance and meet the terms of accessory structure. Further, incorporation of retaining walls with driveways begs questions of whether it is a raised drive or sunken drive, which present load (surcharge) issues as previously discussed.

Maintenance obligations of structures crossing lot lines as well as liabilities are unclear and potentially burdensome if a responsible party does not meet requirements and would create nuisances. Special risks of retaining walls (sliding, overturning, and uplift) are noted in the residential code and state statute as posing safety risks - which are all essentially not found on horizontal pavement (even at 18" above grade).

The ZBA is not authorized to create exemptions or make opinions on what is 'akin' something else and therefore foster a new exemption - especially without considering statute and building code. Given that the ordinance specifically defines walls as

structures and appear to agree that retaining walls are walls using the Michigan residential code, this new requested exemption does not follow.

This is a special request by the administrator and counsel which directly contradicts their own formal written opinion dated 7/6/21 where they SPECIFICALLY identify retaining walls as both structures and accessory. This contradiction deserves to be addressed by the zoning administrator as all township residents deserve equal protection of the ordinance

Interpretation #6

My interest in this exemption is broad as dense residential development threatens encroaching near multiple real estate holdings of mine. As highlighted earlier, accessory structures pose maintenance obligations. Structures crossing lot lines require maintenance as well as risk liabilities which are tremendously unclear and potentially burdensome if a responsible party does not meet requirements and would create nuisances.

If discrete placement of a structure crosses multiple lots of record as part of a plan review - the ordinance requires site plan review due to the loss of the exemption for single lot containment. As indicated previously - this is particularly concerning for large grading changes and retaining walls. State residential construction code R404.4 Retaining Walls requires engineering on surcharge load bearing walls as low as 24" due to safety.

Further, accessory structures are specifically prohibited from being within 5 ft from rear and side lot lines by 6.03(2). Bridging structures across lot lines would violate the setback compulsion on each parcel within the 5 ft lot line.

Required permits for structures located on lands outside the single lot line of a parcel under development without required documented management and maintenance agreements would be inconclusive and contrary to the intent of the site plan exclusion, which reflects developments not bearing significant shared interest among unrelated parties for stormwater management, public safety, permitting and maintenance agreements, and liability. These measures are critical intent per the zoning ordinance and are best served through thorough review of developments of any nature crossing lot lines.

Interpretation #7

The definition of construction is applicable everywhere in the township. Grading of surfaces without a permit can create fall risks requiring protection (state building code

and township 6.01B5), could create terraces in elevation violating 6.08, create retaining walls violating state building code and 6.01B6.

The meaning of the mass grading intent applies equally to single parcels and large developments and I request it be interpreted and defined such that fall hazards, surfaces requiring protection under the state building code and township zoning ordinance are considered.

Appeal of Decision - Update

As indicated in the appeal, the granting of a permit for the driveway being created at 5728 Geddes without a certificate of zoning compliance is improper as the ordinance is explicit.

No considerations were made that this elevated surface is also a zoning violation of 6.01B5 and 6.08. These issues are unexplored since a building permit was issued without a certificate of zoning compliance.

The elevated surface is also a terrace by common definition and is more than 18 inches above grade in a required yard. As such, any paving of this terrace located in the required rear yard could violate ordinance. This is not simply a 'technical' handrail violation, but also raises significant compliance issues even if (as the administrator requests) retaining walls are 'akin' to paving on a walk or drive. Access drives as listed are not allowed by ordinance in a required rear yard setback and might require a variance. Elevation beyond 18" above grade would eliminate its permitted yard encroachment. These questions are required by ordinance to be answered prior to issuance of a building permit.

The surface is unsafe and should be considered a nuisance per se and abated as it was built in violation of the state building code.

ARTICLE 1

ADMINISTRATION AND ENFORCEMENT

Section 1.01 Short Title.

This Ordinance shall be known and may be cited as the Superior Charter Township Zoning Ordinance, and shall be referred to herein as "this Ordinance."

Section 1.02 Enabling Authority.

This Ordinance has been prepared for and adopted by the Township Board of Superior Charter Township under the authority of the Michigan Zoning Enabling Act, following compliance with all procedures required by this Act.

Section 1.03 Intent and Purpose.

This Ordinance has been prepared and adopted for the purpose of providing standards and regulations for land development, for the use of land and structures, and for all other purposes described in Section 201 of the Michigan Zoning Enabling Act. This Ordinance is based on the Township's Growth Management Plan, and is intended to carry out the objectives of the plan. This Ordinance has further been established for the purposes of:

1. Promoting and protecting the public health, safety, and general welfare;
2. Protecting the character and stability of agricultural, residential, commercial, and industrial areas of the Township; and promoting the orderly and beneficial development of such areas;
3. Regulating the intensity of land use; and determining lot areas and open spaces necessary to surround buildings to provide adequate light and air;
4. Lessening and minimizing congestion and conflicts on public roads and highways;
5. Providing for the needs of agriculture, recreation, residences, commerce, and industry in future growth;
6. Providing adequate light, air, privacy and convenience of access to property, and promoting healthful surroundings for family life in residential and rural areas;
7. Fixing reasonable standards to which structures and other site improvements shall conform, and prohibiting uses or structures that are incompatible with the character of development or the uses or structures permitted in specific districts;

8. Protecting against fire, explosion, noxious fumes, odors, heat, dust, smoke, light pollution, glare, noise, vibration, radioactivity, and other nuisances and hazards;
9. Preventing the overcrowding of land and undue concentration of buildings so far as is possible and appropriate in each zoning district by regulating the use, height, location, and bulk of buildings in relation to the surrounding land; and
10. Providing for the completion, restoration, reconstruction, extension or substitution of nonconforming uses.

Section 1.04 Scope.

The standards and regulations of this Ordinance shall apply to all land, structures, uses, and land development projects established or commenced after the effective date of this Ordinance. Accordingly, no lots or parcels may be created or altered, nor any land use be established, changed or commenced, nor any structure constructed, altered, or extended, except in compliance with this Ordinance.

1. **Minimum requirements.** The provisions of this Ordinance shall be held to be the minimum required for promoting and protecting the public health, safety, and general welfare, and shall be uniform for each class of land, buildings, structures, or uses throughout each zoning district. Wherever the requirements of this Ordinance are at variance with the requirements of any other adopted rules, regulations, or ordinances, the most restrictive or those imposing the higher standards shall govern.
2. **Relationship to other ordinances or agreements.** This Ordinance is not intended to repeal or annul any ordinance, rule, regulation or permit previously adopted, issued, or entered into and not in conflict with this Ordinance.
3. **Unlawful uses, structures, and other site improvements.** A use, structure or other site improvement not lawfully existing prior to adoption of this Ordinance shall not be made lawful by adoption of this Ordinance.
4. **Vested right.** Nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein. Such rights as may exist through enforcement of this Ordinance are hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the preservation, protection or promotion of the public health, safety, convenience, comfort or general welfare.

Section 1.05 Compliance Required.

No structure, site or part thereof shall be constructed, altered or maintained and no use of any structure or land shall be established, maintained, altered or expanded except in conformity with this Ordinance.

1. Ensure that all notices required by these regulations are published and distributed in accordance with this Ordinance and the Michigan Zoning Enabling Act, and ensure that a record is kept of such notices.
2. Maintain official records and file all official minutes and documents in an orderly fashion.
3. Perform other related duties required to administer these regulations.

E. Zoning Inspector Duties and Responsibilities.

The provisions of this Ordinance shall be administered and enforced by the Zoning Inspector, and any other ordinance enforcement officials as designated and authorized by the Township Board. The Township Board shall appoint the Zoning Inspector, who shall have the following duties and responsibilities:

1. The Zoning Inspector shall administer and enforce this Ordinance precisely as written, and shall not modify, vary or ignore the terms of this Ordinance nor grant exceptions to the actual meaning of any clause, order or regulation.
 - a. It shall be unlawful for the Zoning Inspector to approve any plans or issue any permits, certificates of zoning compliance or other approvals under this Ordinance unless such plans have been determined to conform to all applicable provisions of this Ordinance.
 - b. The Zoning Inspector shall not refuse to approve a zoning permit or certificate of zoning compliance upon determination that the applicant has complied with all conditions imposed by this Ordinance, despite any violations of private contracts, covenants or agreements that may result from work performed or improvements made under the approved permit or certificate.
2. The Zoning Inspector shall interpret all provisions of this Ordinance in such a way as to preserve and promote the character of the zoning district in question, and carry out the intent and purposes of this Ordinance and the Township's Growth Management Plan.
3. The Zoning Inspector shall enforce all provisions of this Ordinance and shall issue all necessary notices or orders to ensure compliance with these provisions.
4. The Zoning Inspector shall provide citizens and public officials with information relative to these regulations and related matters, and shall assist applicants in completing appropriate forms and following zoning approval procedures.
5. The Zoning Inspector shall receive applications for and issue Certificates of Zoning Compliance in accordance with this Ordinance and shall sign Certificates of Occupancy as required herein.

ARTICLE 6

GENERAL PROVISIONS

Section 6.01 Fence Regulations.

All fences and similar enclosures shall conform to the following:

A. General Standards.

The following shall apply to fences in all zoning districts:

1. **Corner clearance.** Fences shall comply with the unobstructed sight distance standards of Section 3.208 (Corner Clearance Zones).
2. **Materials.** It shall be unlawful to erect a fence consisting of tires, vehicle parts, pallets, trash or any materials capable of providing habitat for pests or vermin. Use of razor or barbed wire, electrified fences, spikes, and similar security materials on any fence shall be prohibited, except as follows:
 - a. The Planning Commission may approve use of razor or barbed wire, electrified fences, spikes, and similar security materials on any fence subject to approval per Article 10.0 (Site Plan Review), where deemed necessary for security purposes or public safety.
 - b. Barbed wire fences shall be permitted accessory to permitted public utility facilities and essential service uses in any zoning district.
 - c. Barbed wire and electrically charged fence wires shall be permitted accessory to permitted RURAL USES or on parcels where keeping of livestock is legally permitted under this Ordinance. Such fences shall be subject to the following:
 - (1) On boundary fences, the electrically charged wires shall be located on the inside face of the fence posts.
 - (2) Interior fencing, such as fencing located within the boundaries of the property and used for the purpose of protecting small livestock or fowl from predators, may utilize electrically-charged wires on the outside of said fencing, provided it does not create a hazard for neighboring properties.
 - (3) All electrically charged fences shall be of a type and make approved by the Underwriters Laboratories.
3. **Security fences.** Fencing used for security purposes shall not be permitted in any front yard, and any part of a yard forward of the rear wall of the principal building nearest to the road right-of-way.
4. **Existing fences.** Fences lawfully erected prior to the effective date of adoption or amendment of this Ordinance that do not conform with provisions of this

building line of the dwelling. Such fences shall not exceed six (6) feet in height.

- c. **Orientation.** Where one side of a fence or wall in the Urban Residential Districts has a more finished appearance than the other, the side with the more finished appearance shall face the road or adjacent lots (see illustration).
 - d. **Approval required.** Construction, alteration or relocation of fences exceeding ten (10) feet in length in the Rural Residential and Urban Residential Districts, or accessory to RESIDENTIAL USES, shall be subject to Zoning Inspector approval per Section 1.07 (Certificates of Zoning Compliance). Township approval shall not be required for alteration or relocation of fences of ten (10) feet or less in length, provided that such fences shall conform to the requirements of this Section [amended 4/1/2011, Ord. 174-05].
3. **Non-residential fences.** Fences accessory to OFFICE, SERVICE, AND COMMUNITY USES, COMMERCIAL USES, INDUSTRIAL, RESEARCH, AND LABORATORY USES, and OTHER USES in any zoning district shall be subject to the following:
- a. **Location.** Such fences may be located within any required yard, subject to height, corner clearance zones, and other applicable regulations of this Ordinance.
 - b. **Height.** Such fences shall not exceed six (6) feet in height, except where otherwise provided for in Article 5.0 (Use Standards).
 - c. **Approval required.** Construction, alteration or relocation of fences accessory to OFFICE, SERVICE, AND COMMUNITY USES, COMMERCIAL USES, INDUSTRIAL, RESEARCH, AND LABORATORY USES, and OTHER USES shall be subject to approval of a minor site plan per Article 10.0 (Site Plan Review).
4. **Fences on public lands and enclosing public utilities.** Fences that enclose public parks, playgrounds, and buildings; and public utility and essential service facilities shall be subject to the following:
- a. Fences that enclose public parks, playgrounds, and buildings shall be permitted in any required yard in any zoning district.
 - b. Fences that enclose public utility and essential service facilities shall not be permitted in a required side yard in the Urban Residential Districts, but may be permitted in any required yard of any other zoning district.
 - c. Such fences shall not exceed shall not exceed a maximum of eight (8) feet in height, unless the Zoning Inspector determines that a higher fence is necessary for safety reasons.
5. **Temporary construction fences.** Temporary construction fences, and fences required for protection around excavations, shall comply with the State Construction Code. Such fences shall be removed within 14 calendar days following completion of construction activity on the site. The Zoning Inspector

may order the removal of temporary construction fences by a date certain where such fences have remained in place for a period exceeding 545 calendar days.

6. **Retaining walls.** Retaining walls shall be considered fences subject to the provisions of this Section if the wall extends more than 30 inches above the adjacent ground level. Fences shall be required on top of retaining walls when required by the State Construction Code.

C. Height Measurements.

The height of a fence shall be measured from the ground level at the lowest grade within four (4) feet of any side of a fence post, except that the height of a retaining wall, or a fence located on top of a retaining wall, shall be measured from the ground level at the higher side of the wall (see illustration).

D. Maintenance.

Fences shall be maintained so as not to endanger life or property. Any fence that endangers life or property through lack of repair, type, or construction, or otherwise is hereby deemed a nuisance. If an unsafe condition exists in regard to a fence, the Zoning Inspector shall serve written notice to the owner, agent, or person in control of the property upon which such fence is located.

1. The notice shall describe the unsafe condition(s), shall specify the repairs or modifications required to make the fence safe, and shall require an unsafe fence or portions thereof to be removed. The notice shall provide a time limit for such repairs, modifications, or removal.
2. Failure to make repairs or modifications or to remove the fence within the time limit specified in the notice shall constitute a violation of this Ordinance and shall be punishable in accordance with the provisions of Section 1.13 (Violations and Penalties).

E. Approval Required.

It shall be unlawful for any person to construct or cause to be constructed a fence in the Township without having first obtained all necessary permits or approvals in accordance with this Section and Ordinance.

Section 6.02 Swimming Pools.

Outdoor swimming pools, spas, and hot tubs erected or maintained in the Township with a diameter exceeding twelve (12) feet, a depth exceeding two (2) feet or an area exceeding 100 square feet permanently or temporarily placed in, on or above the ground shall be permitted as an accessory structure in all zoning districts shall comply with the following requirements:

1. The pool or its fence shall not be located within any required front yard, or within any yard area between a road right-of-way and front building line of a dwelling.

ARTICLE 17

DEFINITIONS

Section 17.01 Purpose.

For the purpose of this Ordinance certain terms are herewith defined.

Section 17.02 Rules of Construction.

The following rules of construction apply to the text of this Ordinance:

1. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases which have acquired a particular and appropriate meaning in the law or within this Ordinance shall be construed and understood according to such particular and appropriate meaning.
2. The particular shall control the general.
3. Words used in the present tense shall include the future; words used in the singular number shall include the plural; and the plural shall include the singular, unless the context clearly indicates the contrary.
4. The word "shall" is always mandatory and not discretionary. The word "may" is permissive as determined by the Planning Commission.
5. All measurements shall be to the nearest integer, unless otherwise specified herein.
6. The phrase "used for" includes "arranged for," "designed for," "intended for," "occupied for," and "maintained for."
7. The word "building" includes the word "structure." The word "build" includes the words "erect" and "construct." A "building" or "structure" includes any part thereof.
8. The word "dwelling" includes the word "residence," and the word "lot" includes the words "plot" or "parcel."
9. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any similar entity.
10. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as defined herein. Any term not defined herein shall have the meaning of common or standard use.
11. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," "and/or," or "either/or," the conjunction shall be interpreted as follows:

- a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. "Either/or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
 - d. "And/or" indicates that either the conjunctive or the disjunctive may apply, as appropriate in the circumstances.
- 12. Words or phrases in headings shall in no way by their presence or absence limit or affect the meaning of this Ordinance.
 - 13. Where an illustration accompanies any item within this Ordinance, the written text shall have precedence over said illustrations.
 - 14. In computing a period of days in connection with petitioner or applicant submissions, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

Section 17.03 Definitions.

Whenever used in this Ordinance, the following words and phrases shall have the meaning ascribed to them in this Section:

- 1. **Access Drive.** A private way or improvement designed to provide a physical connection for vehicles from a public road to a developed site.
- 2. **Access Management.** A technique to improve traffic operations along a major roadway and decrease the potential for accidents through the control of driveway locations and design; consideration of the relationship of traffic activity for lots adjacent to, and across from, one another; and the promotion of alternatives to direct access.
- 3. **Access, Reasonable.** A property owner's legal right, incident to property ownership, to access a public road right-of-way. Reasonable access may be indirect and certain turning movements may be prohibited for improved safety and traffic operations.
- 4. **Accessory Use, Building, or Structure.** A use, building, or structure which is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same zoning lot as the principal use to which it is exclusively related. An accessory structure shall not include dwellings, or be used for residential or lodging purposes or sleeping quarters for human beings.

of Michigan under the Adult Foster Care Facility Licensing Act (P.A. 218 of 1979, as amended) or Child Care Organizations Act (P.A. 116 of 1973, as amended).

203. **Steep Slopes.** A rise of 25 feet or more over a distance of 100 feet, or any existing slope of twenty five percent (25%) or greater.
204. **Story.** That part of a building, except a basement or mezzanine as defined herein, included between the upper surface of any floor and the upper surface of the floor or roof next above it (see "**Basic Structural Terms**" illustration).
- a. A mezzanine shall be deemed a full story when it covers more than one-third (1/3) of the area of the story underneath, or, if the vertical distance from the floor next below the mezzanine to the floor above it is 24 feet or more.
 - b. A basement shall be deemed a full story when the vertical distance from the average grade to the floor below is half than the vertical distance from the average grade to the ceiling.
205. **Story, Half.** An uppermost story lying under a sloping roof having an area of at least 200 square feet in area with a clear ceiling height of seven (7) feet six (6) inches. For the purposes of this ordinance, the usable floor area is only that area having at least five (5) feet clear height between floor and ceiling.
206. **Street.** See "**Road.**"
207. **Structure.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, mobile homes, aboveground swimming pools, radio towers, sheds, signs and storage bins, but excluding sidewalks and paving on roads, driveways, parking areas and patios.
- a. **Temporary Structure.** A structure permitted to exist during periods of construction, special events, and other limited time periods.
208. **Subdivision Plat.** The division of a tract of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development, in accordance with the Land Division Act (P.A. 288 of 1967, as amended), and the Superior Charter Township Subdivision Control Ordinance, as amended.
209. **Swimming Pool.** Any structure or container located above or below grade designed to hold water to a depth of greater than two (2) feet and intended for swimming or bathing. A swimming pool is an accessory structure for purposes of this Ordinance.
210. **Tavern.** An establishment licensed by the State of Michigan to sell at retail and serve alcoholic beverages on the premises where less than thirty percent (30%) of the gross floor area is made up of a bar, being a barrier or counter at which any alcoholic beverages are sold or served to and consumed by customers, and also including areas dedicated for the use of stages, dance floors, standing-room areas, pool tables, and other amusement devices.

- a. Publicly owned and operated or municipal water distribution and sanitary sewer systems, and stormwater drainage facilities under the jurisdiction of the Washtenaw County Drain Commissioner, shall also be considered public utilities.
 - b. Such uses as wind energy conversion systems (WECS), community wells, private community wastewater treatment and disposal systems (PCWS), radio stations, and wireless communication facilities shall not be considered public utilities under this Ordinance.
222. **Variable Costs and Expenses.** Monetary charges incurred by the Township that do not meet the definition of fixed costs and expenses; including items which vary depending upon the scope of the project, such as advisory services from the Township Engineer, Township Planner, and other designated Township consultants, attorney fees, inspection costs, recording fees, and testing or laboratory costs.
223. **Variance.** A modification of the literal provisions of this Ordinance granted by the Zoning Board of Appeals.
224. **Veterinary Clinic Or Hospital.** An office of a duly licensed veterinary professional for diagnosis, treatment, surgery and other veterinary care of domestic animals, horses, livestock and other animals.
225. **Viewshed.** The total physiographic area, composed of land, water, biotic, and other environmental and cultural elements, visible from one (1) or more fixed vantage points (such as a series of views along a roadway, or the view from the perspective of one riverfront dwelling).
- 225a. **Volatile Farm-Based Biofuel Production Facility.** An accessory use, clearly incidental and subordinate to an active farm operation lawfully operating on the same zoning lot, in which biofuel (as defined in this Section) is derived from recently living organisms or their metabolic by-products. This term shall include all equipment, storage tanks, and other improvements needed to produce, store, and transport the biofuel in a manner that meets all federal, state, and Township standards and limitations [amended 12/16/2013, Ord. 174-14].
226. **Wall.** A screening structure of definite height and location constructed of a masonry, concrete, rock or similar material.
227. **Warehouse.** A building used for short- and/or long-term storage in connection with production and marketing or in connection with manufacturing, freight handling, wholesaling, and retailing. See also "**Distribution Center**" and "**Truck Terminal**."
228. **Watercourse.** Any waterway including a river, stream, lake, pond or any body of surface water having definite banks, a bed and visible evidence of a continued flow or continued occurrence of water.
229. **Water Supply System.** Facilities for collection, transportation, processing, or distribution of sanitary drinking water serving or intended to serve more than one principal dwelling unit, principal use, or principal building; including all potable water sources, treatment and purification facilities, pumps, lines, and appurtenances.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CONSTRUCTION CODE

(By authority conferred on the director of the department of licensing and regulatory affairs by section 4 of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 2003-1, 2008-4, and 2011-4, MCL 445.2011, 445.2025, and 445.2030)

PART 5. RESIDENTIAL CODE

R 408.30500 Applicable code.

Rule 500. The provisions of the international residential code, 2015 edition, including appendices A, B, C, D, E, F, G, J, K, N, O, P, R, and S except for Sections R 104.2, R 104.3, R 104.5, R 104.7, R 104.8, R 104.8.1, R 105.3, R 105.3.1, R 105.3.2, R 105.6, R 105.9, R 108.3, R 108.4, R 108.5, R 108.6, R 109.1, R 112.2, R 112.3, R 112.4, R 113.1 to R 113.3, R 113.4, R 114.1 and R 114.2, R 313.1.1 to R 313.2.1, R 602.11, R 602.12, N1102.3.2, tables R 507.2.3, N1101.12.3(3) and figure R 507.2.1(2), R 507.2.3(1), R 507.2.3(2), and R 507.2.4, sections M1411.8, G2411.1.1.1 to G2411.1.1.5, G2439.7.2, P2503.9, P2709.2.3, P2904.1.1 to P2904.8.2, P2905.1, P2905.2, figure P2904.2.4.2, table P2904.2.2, tables P2904.6.2(1) to P2904.6.2(9), P3009.1 to P3009.11.1, E3902.15, E3902.16, E3902.17, and AJ102.4, the IBC-2015, IECC-2015, IMC-2015, IPC-2015, NFPA 70-2014 listed in chapter 44 govern the construction, alteration, relocation, demolition, use, and occupancy of buildings and structures, and, with the exceptions noted, the international residential code is adopted by reference in these rules. All references to the International Building Code, International Residential Code, International Energy Conservation Code, National Electrical Code, International Existing Building Code, International Mechanical Code, and International Plumbing Code mean the Michigan Building Code, Michigan Residential Code, Michigan Energy Code, Michigan Electrical Code, Michigan Rehabilitation Code for Existing Buildings, Michigan Mechanical Code, and Michigan Plumbing Code, respectively. The code is available for inspection and purchase at the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, 611 W. Ottawa St., 1st Floor Ottawa Building, Lansing, Michigan 48933. The code may be purchased from the International Code Council, through the bureau's website at www.michigan.gov/bcc, at a cost as of the time of adoption of these rules of \$118.00.

History: 2015 AACs; 2021 AACs; 2022 MR 2, Eff. Feb. 8, 2022.

R 408.30501 Title.

Rule 501. Section R101.1 of the code is amended to read as follows:

international fire code, or as allowed under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to MCL 125.1531.

History: 2021 MR 11, Eff. Oct. 4, 2021.

R 408.30502 Rescinded.

History: 2001 AACCS; 2011 AACCS.

R 408.30503 Approved materials and equipment.

Rule 503. Sections R104.9 of the code is amended to read as follows:

R104.9. Approved materials and equipment. Materials, equipment, and devices shall be constructed or installed in accordance with approvals granted under the act or by the building official. The building official shall review reports prepared by recognized evaluation services and determine if the intent of the code is met.

History: 2001 AACCS; 2004 AACCS; 2008 AACCS.

R 408.30504 Duties and powers of building official.

Rule 504. Sections R104.6 of the code are amended to read as follows:

R104.6. Right of entry. If a building or premises is occupied, the code official shall present his or her credentials to the occupant and request entry. If a building or premises is unoccupied, the code official shall first make a reasonable effort to locate either the owner, the owner's authorized agent or other person having care or control of the building or premises and request entry. If entry is refused, the code official has recourse to every remedy provided by law to secure entry.

When a code official has first obtained a proper inspection warrant or other remedy provided by law to secure entry, the owner, owner's authorized agent or occupant or person having charge, care or control of the building or premises shall not fail or neglect, after a proper request is made as provided in this rule, to permit the code official prompt entry into the building or premises to inspect or examine the building or premises pursuant to this code.

History: 2001 AACCS; 2008 AACCS; 2010 AACCS; 2021 MR 11, Eff. Oct. 4, 2021.

R 408.30505 Work exempt from permit.

Rule 505. Section R105.2 of the code is amended to read as follows:

R105.2. Work exempt from permit. Exemption from the permit requirements of the code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the code or any other laws or ordinances of this jurisdiction. Permits are not required for any of the following:

- (a) Building permits shall not be required for any of the following:
 - (i) One-story detached accessory structures, if the floor area does not exceed 200

square feet (18.58 m²).

(ii) A fence that is not more than 7 feet (2 134 mm) high.

(iii) A retaining wall that is not more than 4 feet (1 219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.

(iv) A water tank supported directly upon grade if the capacity is not more than 5,000 gallons (18 927 L) and the ratio of height to diameter or width is not greater than 2

to 1.

(v) A sidewalk and driveway not more than 30 inches (762 mm) above adjacent grade and not over any basement or story below and not part of an accessible route.

(vi) Painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.

(vii) A prefabricated swimming pool that is less than 24 inches (610 mm) deep, and not greater than 5,000 gallons (18 925 L), and is installed entirely above ground.

(viii) Swings and other playground equipment accessory to detached 1- or 2-family dwellings.

(ix) Window awnings in group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1 372 mm) from the exterior wall and do not require additional support, as applicable in Section 101.2 and group U occupancies.

(x) Decks, porches, patios, landings, or similar structures not exceeding 200 square feet (18.58 m²) in area, that are not more than 30 inches (762 mm) above grade at any point as prescribed by Section R312.1.1, are not attached to a dwelling or its accessory structures, are not within 36 inches (914 mm) of a dwelling or its accessory structures, and do not serve any ingress or egress door of the dwelling or its accessory structures.

(b) Electrical permits shall not be required, as in accordance with the Michigan electrical code, R 408.30801 to R 408.30880, for any of the following:

(i) Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

(ii) Radio and television transmitting stations: The provisions of the code do not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for power supply and to the installation of towers and antennas.

(iii) Temporary testing systems: A permit is not required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

(c) Mechanical permits shall not be required for any of the following:

(i) A portable heating or gas appliance that has inputs of less than 30,000 BTU's per hour.

(ii) Portable ventilation appliances and equipment.

(iii) A portable cooling unit.

(iv) Steam, hot water, or chilled water piping within any heating or cooling equipment or appliances regulated by this code.

(v) Replacement of any minor part that does not alter the approval of equipment or an appliance or make such equipment or appliance unsafe.

(vi) A portable evaporative cooler.

R404.4 Retaining Walls

Retaining walls that are not laterally supported at the top and that retain in excess of 48 inches (1219 mm) of unbalanced fill, or retaining walls exceeding 24 inches (610 mm) in height that resist lateral loads in addition to soil, shall be designed in accordance with accepted engineering practice to ensure stability against overturning, sliding, excessive foundation pressure and water uplift. Retaining walls shall be designed for a safety factor of 1.5 against lateral sliding and overturning. This section shall not apply to foundation walls supporting buildings.

Date: _____

Richard Mayernik, C.B.O.
Charter township of Superior
3040 N. Prospect
Ypsilanti, Michigan 48198

Regarding: Retaining Wall Review for: _____
S.T.P.C. #: _____
Sidwell #: _____

Design Engineer and Firm: _____

Address: _____

Phone: _____ Fax: _____

A retaining wall(s) is proposed for the above referenced site. The wall(s) was designed to applicable standards, and all necessary loads (including vehicular surcharge) have been incorporated into the design. In addition, the wall meets minimum factors of safety against both overturning and sliding.

A retaining wall detail has been incorporated into the drawings and has been submitted for review.

Seal

Sincerely,

Printed Name of Professional Engineer

Signature



Cc: Damon Garrett, Orchard, Hiltz & McCliment, Inc., 34935 Schoolcraft Road, Livonia, Michigan 48150



Building Department
3040 N. Prospect Rd.
Ypsilanti, MI 48198
(734) 482-6099

Permits Not Required for the Following Work Relating to One and Two Family Dwellings

1. **Accessory structures** (one story detached) with floor area less than 200 square feet.
(A *Certificate of Zoning Compliance* is required.)
2. **Fences** not more than 7 feet in height. (A *Certificate of Zoning Compliance* is required.)
3. **Roofing, siding, gutters and trim** where the work does not include removal or replacement of any structural elements (studs, rafters, sheathing etc.)
4. **Retaining walls** less than 4 feet in height.
5. **Sidewalks and driveways** which are not more than 30 inches above adjacent grade and not over any basement or story below. Driveway approaches may require a permit from the Washtenaw County Road Commission.
6. **Painting, papering, tiling, carpet, cabinets, countertops and similar finish work.**
(Not to include construction or demolition of any wall.)
7. **Prefabricated above ground swimming pools** less than 24 inches in depth and not greater than 5000 gallons.
8. **Window and door replacement** where the structural opening is not modified.
9. **Window awnings** supported by the exterior wall that do not project more than 54 inches.
10. **Minor electrical repair** work including replacement of lamps or installation of portable equipment to approved, permanently installed receptacles.
11. **Minor mechanical repair** work and installation of clothes drying appliances and portable cooking, heating and cooling appliances.
12. **Minor plumbing repairs**, clearing of stoppages or the repair of leaks, removal and reinstallation of water closets providing the repairs do not involve the replacement or rearrangement of valves, pipes or fixtures.

2. Rear and side yard setbacks shall be a minimum of ten (10) feet between the property line and the outside wall of the pool or its enclosing fence or deck.
3. There shall be a distance of not less than ten (10) feet between the outside wall of a swimming pool and any principal building on the same lot. This requirement shall not apply to spas or hot tubs.
4. Such pools shall not be located directly under utility wires or electrical service leads. A minimum ten (10) foot horizontal setback shall be maintained from the pool perimeter to the vertical plane of the overhead wire. Such pools shall be located outside of any easement area.
5. To prevent unauthorized access and protect the general public, swimming pools, spas, and hot tubs shall be secured in accordance with the requirements of the Michigan Residential Code.
6. Construction, alteration or relocation of such pools shall be subject to Zoning Inspector approval per Section 1.07 (Certificates of Zoning Compliance).

Section 6.03 Accessory Structures and Uses.

Where a lot is devoted to a permitted principal use or an approved conditional use, accessory uses are permitted if specifically listed as accessory uses in the applicable zoning district, or if substantially similar to such listed uses. Accessory uses shall be secondary and incidental to the principal use(s) of the parcel. Accessory structures and uses shall be subject to the following:

1. Where the accessory structure is attached to the principal building, the accessory structure shall be subject to all regulations of the district in which it is located.
2. In the Rural, Rural Residential, and Urban Residential Districts, detached accessory structures shall be set back behind the rear line of the principal building, and shall be set back a minimum of five (5) feet from interior side or rear property lines, except as follows:
 - a. In the case of a corner lot in the Urban Residential Districts, a detached accessory structure shall be set back behind the rear building line opposite the primary front entrance to the principal building, and shall be set back behind the front building line for the second road frontage (see "Accessory Structure Location on Corner Lot" illustration).
 - b. In the Rural and Rural Residential Districts, accessory structures shall be set back behind the front building line of the principal building, except when all of the following conditions have been met:
 - (1) The accessory structure shall be located on a lot with a minimum lot area of 10.0 acres;
 - (2) The accessory structure shall be set back a minimum of 300 feet from all front lot boundaries and road rights-of-way, and a minimum of 75 feet from all side lot boundaries;

- (3) The accessory structure shall be screened from all road rights-of-way and from dwellings on adjoining lots by any combination of topography, existing vegetation, fences permitted per Section 6.01 (Fence Regulations), other permitted structures, or the installation of additional landscaping elements per Section 14.10D (Methods of Screening); and
 - (4) The accessory structure and any additional screening shall be subject to review and approval by the Zoning Inspector per Section 1.07 (Certificates of Zoning Compliance).
 - c. In the Rural and Rural Residential Districts, accessory structures shall not encroach into the minimum required side yard.
 - d. Detached accessory structures in the Rural Districts larger than 832 square feet in floor area shall comply with the minimum required yard setback standards for the zoning district.
- 3. In any zoning district, a detached accessory structure shall not exceed fifteen (15) feet in height, except as follows:
 - a. In the Rural Districts and R-1 (Single-Family Residential) zoning district, non-farm accessory structure height shall not exceed 20 feet.
 - b. Structures accessory to farms, agricultural operations, and other RURAL USES governed by the Right to Farm Act (P.A. 93 of 1981, as amended) shall be exempt from these requirements.
 - c. Other accessory structure height exceptions as permitted per Section 3.201 (Height Exceptions).
- 4. In the Rural Residential and Urban Residential Districts, not more than twenty-five percent (25%) of the area of the minimum required rear yard may be occupied by accessory structures.
- 5. In any Business District, any accessory use or structure not attached to the principal building shall comply with all area, placement, and height regulations of the district in which it is located.
- 6. In any zoning district, the ground floor area of all detached accessory structures except farm structures, private stables, and riding arenas shall not exceed the ground floor area of the principal building, subject to the following:
 - a. In the Rural Districts and R-1 (Single-Family Residential) zoning district, the ground floor area of such accessory structures shall not exceed one and one-half (1-1/2) times the ground floor area of the principal building, up to a maximum of 4,000 square feet.
 - b. In the Rural Residential and Urban Residential Districts, the floor area of a residential garage shall not exceed the habitable floor area, not including basement floor area, of the principal dwelling.
 - c. In no case shall such accessory structures exceed 4,000 square feet.

adoption or amendment of this Ordinance, or the activity shall lose its status as actual construction and shall not be entitled to the protections of this Section.

2. Where a building permit has been issued within 365 calendar days of such effective date and diligently pursued to completion, the structure may be completed in accordance with the approved plans on the basis of which the building permit was issued, and may be occupied by the use for which it was originally designed, subject thereafter to the provisions of Article 16.0 (Nonconformities), if applicable.

Section 6.08 Access Through Yards.

For the purpose of this Ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures. Any walk, terrace or other pavement serving a like function and not in excess of 18 inches above grade shall be permitted in any required yard and not be considered to be a structure.

Section 6.09 Property Maintenance.

Each property owner shall be responsible for keeping their lot and buildings clean and free of any accumulation or infestation of dirt, filth, rubbish, garbage, vermin or other matter in accordance with this Ordinance and the Township's adopted property maintenance code. Any hazardous places on a lot shall be fenced and secured.

Section 6.10 Property Between the Lot Line and Road.

The area between the lot line and edge of road pavement shall be maintained with grass or other suitable groundcover. Property owners shall be responsible for the condition, cleanliness and maintenance of the areas within the road right-of-way in front of their lot between their lot lines and the pavement edge.

Section 6.11 Voting Place.

The provisions of this Ordinance shall not be construed to interfere with the temporary use of any property as a voting place in connection with any public election.

Section 6.12 Essential Services.

Essential services shall be subject to federal, state, county, and local regulations, and shall be consistent with the list of uses permitted in each zoning district. It is the intent of this Section to ensure conformity of all structures, uses, and storage yards to the requirements of this Ordinance wherever such conformity shall be practicable and not in conflict with the specific requirements of such franchise, state legislation, or Township ordinance.

7577 US Highway 12, Suite A
Onsted, MI 49265

Frederick Lucas
Attorney at Law

Main: 517.467.4000
Direct: 517.252.6846
Fax: 517.858.0190

lucas@lucaslawpc.com

January 3, 2022

Zoning Board of Appeals
Charter Township of Superior
3040 North Prospect Road
Ypsilanti, MI 48198

Re: Request for interpretation

This document is subject to the attorney-client privilege, exempt from disclosure pursuant to MCL§15.243(h), and may be considered in closed session under MCL§15.268(h).

Dear Board Member:

At the direction of the Township supervisor, I have reviewed to the request for interpretations submitted by Matthew Schuster to the Township's Zoning Board of Appeals and Richard Mayernik's responses to those requests.

Based on my review of the ordinance and my discussions with Mr. Mayernik, I concur with his responses to Schuster's request and would urge the ZBA to adopt those interpretations on behalf of the Township.

Sincerely,
LUCAS LAW, PC

Frederick Lucas
Attorney at Law

cc: Richard Mayernik, Kenneth Schwartz

From: Rick Mayemik
To: ~~Ken Schwartz~~
Cc: Laura Bennett
Subject: 2021.12.21 Mayemick response to request for Interpretations PL
Date: Monday, January 3, 2022 1:18:14 PM
Attachments: 2021.12.21 Mayemick response to request for interpretations FL.pdf

Ken,

Attached are the responses to Schuster's requests for interpretations. Fred has reviewed and the attached memo includes his revisions.

Are you ok with the memo coming from both Fred and myself?? Or, from me and indicating reviewed by Fred? I think the ZBA would be more comfortable if we indicate Fred has reviewed with as complex as the issues are.

Rick

REQUEST FOR INTERPRETATION # 3: Site plan review is required.

Response: Section 10.02(A)(3)(a) indicates the following is excepted from Planning Commission site plan review: "One (1) single-family detached dwelling and customary accessory structures on an existing lot of record." The Mouliere parcel is an existing residential lot of record. The Schuster parcel is an existing residential lot of record. As such, structures such as retaining walls can be constructed on either lot and those structures would be considered accessory to each individual lot and would be exempt from Planning Commission site plan review. If the Schusters disagree with the Township's interpretation, they can appeal the decision to the ZBA.

As a side note, in conversation with the Moulieres' builder, he indicated they expect to submit complete drawings and permit applications in a couple of weeks. Without drawings, I do not know the exact location or construction methods proposed for the proposed home, retaining walls etc. At this point, the Township's review (other than the boardwalk construction) has been limited to determining that the limits of site work will not encroach into the wetland setback. While the Township would have preferred that the contractor have approached this project differently and can understand the Schuster's concern regarding the excavation on site which is substantial, the Township does not believe that its ordinances have been violated at this time. This could of course change as the project progresses.

Sincerely,
LUCAS LAW, PC



Frederick Lucas
Attorney at Law

cc: Rick Mayernik

CHARTER TOWNSHIP OF SUPERIOR
WASHTENAW COUNTY, MICHIGAN

June 10, 2021

Snyder Contracting LLC
8650 Huron River Dr.
Dexter, MI 48130

Re: 5728 Geddes Road

Mr. Snyder,

During a site visit, it was noted that driveway excavation work created an 8' to 10' drop off in some areas directly adjacent to the property to the north. Per our phone call, this letter is your notification that Section 6.01 B5 of the Zoning Ordinance requires protection (guards) that comply with the State Construction Code to be installed at the locations where the grade drop off exceeds 30". This work should begin immediately.

Please contact me to inspect once the guards are in place.



Richard Mayernik, CBO
Building/Zoning Official
734-482-6099

Electronic CC: K. Schwartz
F. Lucas

To: Superior Township ZBA

From: Matt Schuster

3/24/22

As you are aware, I have made the appeal to the Zoning Board of Appeals (ZBA) for several interpretations of the Superior Township Zoning Ordinance, including definitions. This is a task and responsibility of the ZBA under the Michigan Zoning Enabling Act and creates binding opinions that govern the subsequent enforcement of the Zoning Ordinance in the Township. The ZBA is not at the discretion of the township zoning department and is meant to review the decisions of the township. The ZBA is an independent body that has its own legal obligations under the act and Superior Township ordinance in support of all residents and the Township, not only in any single zoning classification. The purpose and scope of the ordinance (and its definitions and language) is the same in every zoning district and property.

As a property owner in multiple zoning districts/classifications in the Township, I was concerned based upon personal experience about the varying interpretations and unequal risks and protections across the districts with development of sensitive lands in the Township. Parcels I own in the Township (Rural residential and Agricultural Zoning) are directly adjacent to: wetlands, highly erodible steep slopes, natural woodlands and agricultural fields. Development pressure on my neighboring parcels indicates *documented* proposed uses including: residential, mixed residential, retail, village commercial, and public recreation - in short, nearly every use/district in the township. These adjacent parcels including property owned by private parties, Eyde, Rock, and now Superior Township. I have sought the interpretations to clarify the zoning ordinance adopted by the Township and its zoning department to ensure equal protection and enforcement for residents in all areas and all zoning districts of the Township for the benefit of the entire Township to protect public health, safety, and general welfare.

This request for interpretation has been pursued specifically due to personally experienced shifting interpretations and unsupported assertions driving perceived loopholes to avoid enforcement in protection of personal safety and environmental review. It may be based on my experiences, but targeted to protect and equalize all zoning classifications.

Given the task at hand for the ZBA, I had requested that the Township Trustees provide the ZBA with independent representation of an attorney knowledgeable in their role, to support the administration of their duties. The counsel would ideally be available to you at the meeting while deliberating hearing duties to answer questions. I am concerned that in the lack of independent counsel, the ZBA may be forced to rely only upon the standing Township attorney who is actively involved in multiple Township zoning department initiatives. The existing counsel has had a direct personal (documented) role in drafting some of the very materials/positions that the ZBA is deliberating. ZBA members may have already sought support of counsel given the complexity of the matters during the break in proceedings.

All ordinance interpretations have unintended consequences in Township administration of the zoning ordinances, and I recognize it is a difficult task. No ordinance is perfect, and some of these deliberations may even prompt future revisions of the ordinance text to better clarify intent and protect Township residents and natural resources (which I highly suggest). In particular, some of the requested interpretations relate to retaining walls, fences, and exemptions. The zoning ordinance in these areas is particularly awkward, and previous documentation by the zoning department has yielded multiple methods of determining

retaining wall heights, fence placements, and the recognition of 'accessory structures' allowed in required yards. These interpretations directly impact development intensity across the Township - not just single family residential. It has also come to my review that township building department documentation needs to be updated to match Michigan statutory requirements.

Existing Township counsel has specifically assisted in the direct drafting of positions (examples and confirmation is attached) on some of these matters with the zoning and building departments and documented conflicting interpretations:

- asserting that a retaining wall IS an accessory structure (7/6/21) and IS NOT an accessory structure (1/22)
- alternating whether the Fence section of the ordinance (section 6.01) governs BOCA guards or not, (6/21) and (1/22) respectively
- enforcing a height standard for a fence to govern how all retaining walls are measured which specifically states it only applies if retaining walls exceed 30 inches above the upper grade (very uncommon) and reflects a contrary method to state building code which is UNLIMITED and clearly more permissive and less restrictive than state code (contrary to ordinance 1.04.1).

these examples including documents directly before the ZBA. Given how closely the Township requires its counsel support, it would be prudent and safest to have independent counsel represent the quasi-judicial body of the ZBA in its deliberations of Township materials and free Fred Lucas (who has already documented he is not impartial in these interpretations) to support the broader township.

I am willing to entertain a short additional delay in proceedings (if the ZBA feels it is necessary) under certain conditions if additional time is needed to retain and consult an independent counsel.

Matt Schuster
5766 Geddes Rd
6049 Geddes Rd

Memorandum

To: Zoning Board of Appeal
Organization: Superior Charter Township
From: Frederick Lucas
Date: March 15, 2022
Subject: Aggrieved Party Status

This document is subject to the attorney-client privilege, exempt from disclosure pursuant to MCL§15.243(g), and may be considered in closed session under MCL§15.268(h).

In their application to the ZBA the Schusters are asking to appeal a decision of the Zoning Administrator to grant the Moulieres a building permit.

Section 13.06(1) of the Zoning Ordinance provides that:

Appeals may be taken to the Board of Appeals by a person, firm or corporation aggrieved by the order, requirement, decision or determination; or by an officer, department, board, commission or bureau of the Township, county, state, or federal governments. Such appeals shall be filed within 60 calendar days of the order, requirement, decision or determination in question.

Since the permit in question was issued to the Moulieres and not the Schusters the first question that must be answered is whether the Schusters are an aggrieved party entitled to file this appeal.

The ZBA lacks jurisdiction over this appeal because Appellants are not "aggrieved parties" under Michigan law.

To have the status of "aggrieved party" "a party must allege and prove that he or she has suffered some special damages not common to other property owners similarly situated." Ansell, 332 Mich App at 459 (emphasis added) (quoting *Olsen v Chikaming Twp*, 325 Mich App 170, 185, 924 NW2d 889 (2018)). In other words, "there must be a unique harm, dissimilar from the effect that other similarly situated property owners may experience." *Olsen*, 325 Mich App at 185. The Schusters have alleged no such unique harms.

A "neighboring landowner alleging increased traffic volume, loss of aesthetic value, or general economic loss has not sufficiently alleged special damages to become an aggrieved party because those generalized concerns are not sufficient to demonstrate harm different from that suffered by people in the community generally." *Olsen*, 325 Mich

App at 183. In other words, a party's allegation that a zoning official's decision impacts the nature or value of their property more than others in the community is not sufficient to establish "aggrieved party" status.

In *Grandview Beach Assn v Co of Cheboygan*, an unpublished opinion of the Court of Appeals, issued March, 18, 2021 (Docket No. 350352), 2021 WL 1049882, p *4, the Court of Appeals recently held that similar claims of special damages—i.e., that the zoning decision impacted certain properties more than others—did not establish "aggrieved party" status because they are simply claims relying on mere ownership of nearby parcels of land and based on impacts that affect people in the community generally. In *Grandview Beach Assn*, the Court of Appeals held:

The Association maintains that the Commission's decision to grant the special use permit for the Farm will cause special damages to the Association's members given that the property on which the Farm will be located is surrounded by properties owned by members of the Association, and the Association further asserts that the Farm will adversely affect the residential character of the surrounding properties, the use and enjoyment of Association members' property, property values in the area, the local environment and wildlife, storm-water-discharge and water-treatment systems, traffic flow, the degree of noise and light in the area, and the safety and security of the area due to the "treatment of patients who suffer from major mental illness."

Because Appellants have not established that they are "aggrieved parties," this ZBA lacks jurisdiction to hear the appeal on this issue and must dismiss the appeal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Frederick Lucas", written in a cursive style.

Frederick Lucas
Attorney at Law