



Agenda: Battle Creek City Commission

Meeting Date: May 5, 2026 - 7:00 PM
Location: City Commission Chambers
Chair: Mayor Mark A. Behnke
Title: Battle Creek City Hall - City Commission Chambers - 3rd Floor

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

PROCLAMATIONS AWARDS

Proclamation for Professional Municipal Clerks Week 2026

Proclamation for Childcare Provider Appreciation Day 2026

Proclamation for Police Officer Memorial Week and Police Officer Memorial Day 2026

CHAIR NOTES ADDED OR DELETED RESOLUTIONS

PETITIONS COMMUNICATIONS REPORTS

PUBLIC COMMENT REGARDING ANY REMAINING AGENDA ITEMS

INTRODUCTION OF ORDINANCES

#12-2026 - A Proposed Ordinance, 12-2026, to amend Chapter 1281 of Title Six — Zoning of the Code of Ordinances to make text corrections, clarify requirements, correct formatting and make changes substantive in nature to Sections 1281.01(k)(8)B., 1281.01(k)(10), 1281.04(c)(1)A&B and 1280.01(g)A.

#13-2026 - A Proposed Ordinance, 13-2026 to rezone the properties located at 14 Yuba St. (Parcel #8040-00-147-0), 175 Main St. (Parcel #0890-00-075-0), and 169 Main St. (Parcel #0890-00-075-0) from MFR High-Density Multiple Family District to T-3 Neighborhood Commercial District for the purpose of converting an existing vacant single-family residence on the site into an office building to support organization operations. It should be noted that 175 Main St. and 169 Main St. share a common parcel but are separate in their addresses.

COMMISSION COMMENT REGARDING MEETING BUSINESS

CONSENT AGENDA

Minutes

Minutes for the April 21, 2026 City Commission Regular Meeting

Petitions, Communications, Reports

City Manager's Report for May 5, 2026

Planning and Zoning Division 2025 Annual Report

Proclamations Awards

Proclamation for Mental Health Month 2026

Resolutions

374 - A Resolution authorizing a change order to purchase order 20260268 with Stantec Consulting Group, Inc. for additional work on the City's utility rate study in a not-to-exceed amount of \$6,375.00.

375 - A Resolution seeking acceptance of the lowest responsive, responsible bid for Verona Equipment and Painting project from Miller-Davis Company in a not-to-exceed amount of \$91,400.00.

PULLED - 376 - A Resolution appointing Assistant City Manager Marcie Gillette as an alternate representative for the City of Battle Creek on the Firekeepers Local Revenue Sharing Board.

RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA

377 - A Resolution seeking authorization for legal signatures in the absence of the City Manager.

378 - A Resolution approving Retention of Outside Counsel for Fire Truck Antitrust Litigation.

379 - A Resolution seeking authorization for the City Manager to sign a contract for the purchase of information technology infrastructure hardware from People Driven Technology, Inc. in an estimated amount of \$1,789,364.00, with unit prices prevailing.

380 - A Resolution seeking acceptance of the lowest responsive, responsible bid for Verona Pumping Station Reroof project from Royalty Roofing USA LLC d/b/a Division 7 Building Contractors in a not-to-exceed amount of \$297,950.00.

381 - A Resolution to approve Petition PSUP26-0001, a special use permit for the expansion of the Sunset Gardens cemetery located at 15769 S Helmer Rd. onto the unaddressed Parcel #0066-00-110-0. The cemetery expansion will include the opening of a new natural burial garden on the cemetery property on Parcel #0066-00-110-0. No new parking will be included with the expansion, as the existing road at Sunset Gardens will provide parking for the expansion with widened cutouts in select areas.

GENERAL PUBLIC COMMENT

(Limited to three minutes per individual)

COMMISSION COMMENTS

ADJOURNMENT

It is the desire of the City Commission to encourage public expression in the course of its meetings. Such expression can be integral to the decision-making process of the City Commission. It is the intention of the City Commission to respect the rights of persons addressing the Commission. Public comment periods are a time for citizens to make comments; they are not intended as a forum for debate or to engage in question-answer dialogues with the Commission or staff. Commissioners are encouraged not to directly respond to speakers during public comment periods. At the conclusion of the speaker's remarks, the Mayor or individual Commissioners may refer a question to City staff, if appropriate. Also, individual Commissioners may choose to respond to speakers during the "Commission Comment" period.

It is with these aims in mind, so as to promote decorum and civility and an orderly process for conducting its public business meetings, that the following rules concerning public comments, consistent with applicable law, are adopted by the City Commission.

(1) Persons attending a regular or special Commission Meeting shall be permitted to address the City Commission in conformity with this rule. The opportunity to address the Commission shall be limited to the following:

(a) Persons desiring to address the City Commission are encouraged, but shall not be required, to fill out and turn in to either the City Clerk, Mayor, or presiding Commissioner, prior to the meeting, a comment card disclosing the following information: The person's name, address, and telephone number; the specific issue, topic or resolution the individual wishes to address.

(b) During public hearings when scheduled, but only when the law requires a separate period of public comment, speakers may present facts and opinions on the specific matter being heard by the Commission. A three-minute time limit is imposed per speaker. In the discretion of the Mayor or presiding officer, the time limit for individual speakers may be lengthened or shortened when appropriate.

(c) During the public comment period on any specific agenda item, whether it be a public hearing, an ordinance introduction or adoption, a consent agenda item, or a resolution not on the consent agenda, each speaker may address the Commission once, regarding anything on the meeting agenda, for a total not to exceed four minutes regardless of how many agenda items the speaker is addressing, which time period may be lengthened or shortened by the Mayor or presiding officer when appropriate.

(d) During the General Public Comment portion of the meeting, speakers may address the City Commission on any matter within the control and jurisdiction of the City of Battle Creek. A speaker shall be permitted to address the City Commission once, for up to three minutes, during this portion of the meeting.

(e) Applicants or Appellants, as defined below, or an attorney retained to represent them, are not bound by the specific time limitations set out above but may have the amount of

time deemed reasonably necessary by the Mayor or presiding official to present their case to the City Commission without violating the rules set out below in subsection 4(a) through (g), with which they are obligated to comply.

(i) Applicant is defined an individual or business entity seeking a City Commission final decision on a matter for which the individual has made application to the City based upon a specific provision in a City Ordinance or state statute for permission to take a specific action;

(ii) Appellant is an individual appealing a decision of a City official or an inferior body based upon a specific provision in City ordinances entitling the individual to appeal the decision to the City Commission.

(2) An individual wishing to address the City Commission shall wait to be recognized by the Mayor or presiding Commissioner before speaking. An individual who has not filled out a card requesting to address the City Commission shall raise their hand and wait to be recognized by the Mayor or presiding Commissioner before speaking and shall identify themselves by name and address and, if appropriate, group affiliation for the record.

(3) Speakers shall address all remarks to the Mayor, or the presiding Commissioner or official, and not to individual Commissioners or staff members. Speakers shall not address their remarks to members of the public in attendance at the meeting.

(4) A speaker will be ruled out-of-order by the Mayor or presiding Commissioner and the Commission will continue with its business, and the speaker may be required to leave the meeting after having been ruled out-of-order for a breach of the peace committed at the meeting as permitted by the OMA, when the speaker violates above sub-section 3 or the following:

(a) Becomes repetitive or speaks longer than the allotted time;

(b) Attempts to yield any unused portion of time to other speakers;

(c) Engages in a personal attack upon a city employee, administrator or Commissioner only if the personal attack is totally unrelated to the manner in which the employee, administrator or Commissioner carries out their public duties or office;

(d) Uses obscene or profane language;

(e) Engages in slanderous or defamatory speech;

(f) Uses derogatory racial, sexual or ethnic slurs or epithets relating to any individual or category of persons; or

(g) Engages in conduct that interrupts or disrupts the meeting.

(5) Individuals attending City Commission meetings or workshops, excluding City staff, shall not pass the commission chambers bar upon which the podium is affixed (and which divides the audience section from the well of the chambers) without having been invited to do so by the Mayor or official presiding over the meeting, or after requesting and explicitly being granted permission to do so. Any individual violating this subsection will be ruled out-of-order by the Mayor or presiding official and the individual may be required to leave the

meeting for a breach of the peace committed at the meeting as permitted by the OMA.

Proclamation

- WHEREAS,** Professional Municipal Clerks are a time-honored and vital part of local government, existing throughout the world; and
- WHEREAS,** the Office of the Professional Municipal Clerk is the oldest among public servants; and
- WHEREAS,** the Office of the Professional Municipal Clerk provides the professional link between neighbors, the local governing bodies, and agencies of government at all levels; and
- WHEREAS,** Professional Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and
- WHEREAS,** Professional Municipal Clerks serve as information centers on the functions of local government and community; and
- WHEREAS,** Professional Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Professional Municipal Clerk through participation in education programs, seminars, workshops, and the annual meetings of the state, province, county, and international professional organizations; and
- WHEREAS,** it is most appropriate that we recognize the yearly accomplishments of the Office of the Professional Municipal Clerk for the City of Battle Creek which include the processing of license/permit applications; facilitation and approval of special event and block party permits, tax abatement applications; management of 3 municipal cemeteries; managing the City's historical records; registration of new voters; facilitating annual elections; coordination of the establishment and running of the Municipal Early Voting Site, facilitating 9 days of early voting for 4 municipalities, serving more than 60,000 voters; certifying more than 300 Election Inspectors each election cycle to serve voters during the 9 days of early voting and at the City's Election Day precincts, while processing Absentee ballots;

NOW, THEREFORE, I, Mark A. Behnke, Mayor of the City of Battle Creek, Michigan, do hereby proclaim the *week of May 3-9, 2026*, as

“PROFESSIONAL MUNICIPAL CLERKS WEEK”

in the Greater Battle Creek Area and extend appreciation to our Professional Municipal Clerk, Victoria Houser, her staff, and all Professional Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Logo of the City of Battle Creek, Michigan, to be affixed this 5th day of May 2026.



Mark A. Behnke, Mayor

Proclamation

- WHEREAS,** high-quality child care is essential to the well-being of children, families, employers, and the broader community; and
- WHEREAS,** child care providers in Battle Creek play a critical role in supporting early childhood development by fostering safe, nurturing, and enriching environments where children can learn, grow, and thrive; and
- WHEREAS,** the first years of a child’s life are foundational to future success in school and in life, and child care professionals are among the earliest educators, shaping cognitive, social, and emotional development; and
- WHEREAS,** child care providers support working families by enabling parents and caregivers to participate in the workforce, thereby strengthening local businesses and contributing to the economic vitality of the City of Battle Creek; and
- WHEREAS,** despite their essential role, many child care professionals face significant challenges, including workforce shortages, rising costs, and limited resources, yet continue to show unwavering dedication to the children and families they serve; and Child Care Provider Appreciation Day, celebrated annually on the Friday before Mother’s Day, offers an opportunity to recognize and honor the invaluable contributions of child care providers in our community and across the nation;
- NOW, THEREFORE,** I, Mark A. Behnke, Mayor of the City of Battle Creek, Michigan, in conjunction with others across the United States of America, acknowledge and do hereby proclaim, *May 8, 2026* as

“CHILDCARE PROVIDER APPRECIATION DAY”

and urge all neighbors in our community, and communities across the country, to recognize Childcare Providers for all they do to ensure the best quality of life for both the child and the family.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Logo of the City of Battle Creek, Michigan, to be affixed this 5th day of May, 2026.



A handwritten signature in black ink that reads 'Mark A. Behnke'. The signature is written in a cursive style and is positioned above a horizontal line.

Mark A. Behnke, Mayor

Proclamation

WHEREAS, the Police Officers of America have worked devotedly and selflessly to safeguard the lives and properties of their fellow citizens regardless of the hazards to themselves; and

WHEREAS, by the enforcement of our laws, these same dedicated Police Officers have provided our country with an outstanding record of performance in securing social freedom and protecting the rights of all individuals; and

WHEREAS, these men and women, by their public service and their dedicated efforts, have earned the respect and gratitude of the Nation; and

WHEREAS, many of these guardians of public safety have served beyond the call of duty; 111 law enforcement fatalities occurred in the United States in 2025, 1 of them occurring mid-2025 in Michigan. It is fitting that we set aside a time to honor their memory;

NOW, THEREFORE, I, Mark A. Behnke, Mayor of the City of Battle Creek, Michigan, do hereby proclaim the *week of May 10-16, 2026*, as

“POLICE MEMORIAL WEEK”

and further proclaim *Friday, May 15, 2026*, as

“POLICE OFFICER MEMORIAL DAY”

in the Greater Battle Creek Area and urge all neighbors to honor those police officers who are providing dedicated, effective, and fair law enforcement service and to participate in the tributes to the memory of those officers who have passed on.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Logo of the City of Battle Creek, Michigan, to be affixed this 5th day of May 2026.


Mark A. Behnke, Mayor



Ordinance No: 12-2026

#12-2026 - A Proposed Ordinance, 12-2026, to amend Chapter 1281 of Title Six — Zoning of the Code of Ordinances to make text corrections, clarify requirements, correct formatting and make changes substantive in nature to Sections 1281.01(k)(8)B., 1281.01(k)(10), 1281.04(c)(1)A&B and 1280.01(g)A.

Battle Creek City Commission

Action Summary

Staff Member: Darcy Schmitt, Planning Supervisor

Department: Planning

Summary

ORDINANCE NO. 12-2026

The City of Battle Creek Ordains:

That the following sections are introduced:

Section 1. A Proposed Ordinance, 12-2026, to amend Chapter 1281 of Title Six — Zoning of the Code of Ordinances to make text corrections, clarify requirements, correct formatting and make changes substantive in nature to Sections 1281.01(k)(8)B., 1281.01(k)(10), 1281.04(c)(1)A&B and 1280.01(g)A.

Section 2. Should any section, clause or phrase of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 3. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed, saving any prosecution, criminal or administrative appeal pending on, or violation cited on or before the effective date of this Ordinance, which shall remain subject to the Ordinance provision existing at the time of the alleged violation.

Section 4. Except as otherwise provided by law, this Ordinance shall take effect seven (7) days

from the date of its publication, in accordance with the provisions of Section 401 of the Michigan Zoning Enabling Act.

Budgetary Considerations

None.

History, Background and Discussion

Staff is continuing the process of cleaning up the zoning code by making text corrections, clarifying requirements, and correcting formatting. While the majority of the proposed amendments to Chapter 1281 are not substantive in nature, those that are more impactful are explained in further detail below:

- **Section 1281.01(k)(8)B.**

Added language clarifying the terms “substantial progress” and “bona fide development” relating to the expiration of an approved conditional rezoning.

- **Section 1281.01(k)(10)**

Added language clarifying that minor amendments that do not change the zoning and conditions that were offered and approved are exempt from going through the same process as a new rezoning with conditions.

- **Section 1281.04(c)(1)A&B**

Added language clarifying that only single units of single-family and two-family dwellings are exempt from site plan review. This does not exempt a residential development that requires streets and other infrastructure to be designed and installed by the developer.

- **Section 1280.01(g)A.**

Removed language that requires a second public notice be placed in a newspaper of general circulation prior to the City Commission meeting for all zoning code map and text amendments. This practice has not increased the public attendance at City Commission meetings where action is taken on zoning code amendments in the last three years. Community members that attend the Planning Commission meetings where these amendments are discussed and recommendations are made aware of the date and time the City Commission takes action on the ordinances. Staff believes that the extra public notices do not benefit the community and add additional costs incurred by the city.

Since there are text amendments proposed that are regulatory in nature, a short summary is provided for each section with the substantive changes. However, the summary does not include details relating to scrivener errors or clarifying amendments.

Chapter 1281 Zoning Ordinance/Map Amendments: Amendments to Chapter 1281 focus on

clarification of definitions, noticing procedures for public hearings at the Planning Commission level, the elimination of the additional 5-day notice requirement for City Commission consideration of a proposed amendment, which requires that a notice be published in a newspaper of general circulation at least 5-days prior to consideration of a proposed amendment by the City Commission. Additional amendments to Chapter 1281 include the various punctuation, capitalization and wording changes intended to improve readability and create greater consistency throughout the ordinance, as well as amendments to the conditional rezoning process which seek to clarify steps in the process and to bring the zoning ordinance language into compliance with requirements of the Michigan Zoning Enabling Act.

As required by the Zoning Enabling Act of 2006, as amended, a public hearing is required for an ordinance amendment, and a notice listing the date, time, and subject of a public hearing is required to be advertised no less than fifteen days prior to the hearing. This request was scheduled for the April 22, 2026, Planning Commission meeting, with notice of the hearing published in the April 2, 2026, edition of the Battle Creek Shopper.

Positions

Staff finds that the proposed amendments to the zoning ordinance are needed to fix errors, improve clarification and provide consistency with requirements of the Michigan Zoning Enabling Act.

The Planning Commission held a public hearing on April 22, 2026, and after much discussion, voted to recommend that the City Commission approve the amendments to Chapter 1281. **Based upon findings detailed in this staff report, as described in the attached memorandum and the recommendation of the Planning Commission, staff recommend approval.**

Attachments

- | | | |
|----|--|--|
| 1. | Staff Report-Text Amendment | Staff Report-Text Amendment.pdf |
| 2. | Chapter 1281 Mark Up | Chapter 1281 Mark Up.pdf |
| 3. | Chapter 1281 Clean Copy | Chapter 1281 Clean Copy.pdf |
| 4. | 04.22.2026 Planning Commission Meeting Minutes | 04.22.2026 Planning Commission Meeting Minutes.pdf |



Battle Creek City Planning Commission

Staff report for the April 22, 2026 regular meeting

To: Planning Commissioners

From: Travis Sullivan, Planning and Zoning Administrator

Subject: Request from the City of Battle Creek to consider amendments to Chapter 1281 of the Battle Creek Zoning Code.

Summary

Request from the City of Battle Creek to consider amendments to various sections of Chapter 1281 of the City of Battle Creek zoning code pursuant to Section 1281.01.

Background

Staff is continuing the process of cleaning up the zoning code by making text corrections, clarifying requirements, and correcting formatting. While the majority of the proposed amendments to Chapter 1281 are not substantive in nature, those that are more impactful are explained in further detail below:

- **Section 1281.01(k)(8)B.**
Added language clarifying the terms “substantial progress” and “bona fide development” relating to the expiration of an approved conditional rezoning.
- **Section 1281.01(k)(10)**
Added language clarifying that minor amendments that do not change the zoning and conditions that were offered and approved are exempt from going through the same process as a new rezoning with conditions.
- **Section 1281.04(c)(1)A&B**
Added language clarifying that only single units of single-family and two-family dwellings are exempt from site plan review. This does not exempt a residential development that requires streets and other infrastructure to be designed and installed by the developer.
- **Section 1280.01(g)A.**
Remove language that requires a second public notice be placed in a newspaper of general circulation prior to the City Commission meeting for all zoning code map and text amendments. This practice has not increased the public attendance at City Commission meetings where action is taken on zoning code amendments in the last three years. Community members that attend the Planning Commission meetings where these amendments are discussed and recommendations are made are made aware of the date and time the City

Commission take action on the ordinances. Staff believes that the extra public notices do not benefit the community and add additional cost incurred by the city.

Proposed Zoning Ordinance Text Amendments

Since there are text amendments proposed that are regulatory in nature, a short summary is provided for each section with the substantive changes. However, the summary does not include details relating to scrivener errors or clarifying amendments.

Chapter 1281 Zoning Ordinance/Map Amendments: Amendments to Chapter 1281 focus on clarification of definitions, noticing procedures for public hearings at the Planning Commission level, the elimination of the additional 5-day notice requirement for City Commission consideration of a proposed amendment, which required that a notice be published in a newspaper of general circulation at least 5-days prior to consideration of a proposed amendment by the City Commission. Additional amendments to Chapter 1281 include the various punctuation, capitalization and wording changes intended to improve readability and create greater consistency throughout the ordinance, as well as amendments to the conditional rezoning process which seek to clarify steps in the process and to bring the zoning ordinance language into compliance with requirements of the Michigan Zoning Enabling Act.

Public Hearing and Notice Requirements

As required by the Zoning Enabling Act of 2006, as amended, a public hearing is required for an ordinance amendment, and a notice listing the date, time, and subject of a public hearing is required to be advertised no less than fifteen days prior to the hearing. This request has been scheduled for the April 22, 2026 Planning Commission meeting, with notice of the hearing published in the April 2, 2026 edition of the Battle Creek Shopper.

Staff Recommendation

Staff finds that the proposed amendments to the zoning ordinance are needed to fix errors, improve clarification and provide consistency with requirements of the Michigan Zoning Enabling Act.

Should the Planning Commission have no concerns with the proposed text amendments, staff recommends that the Planning Commission recommend to the City Commission approval of the proposed text amendments **based upon findings detailed in this staff report, as described in this memorandum and in the attached documents.**

Support Material

Chapter 1281 proposed text amendment markup

Chapter 1281 proposed text amendment clean copy

CHAPTER 1281
Administrative Procedures

1281.01 ZONING ORDINANCE/ MAP AMENDMENTS.

(a) Initiation. The City Commission may amend, supplement or change the regulations or the district boundaries of this Zoning Code pursuant to the authority and according to the procedure set forth in The Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq. Changes in the text of this Zoning Code may be proposed by:

- (1) The City Commission;
- (2) The Planning Commission; or
- (3) Any interested person or organization through a petition, which shall not be initiated for the same property more often than once every twelve months.

Changes in zoning district boundaries may be proposed by:

- (1) The City Commission;
- (2) The Planning Commission;
- (3) The owner(s) of the premises concerned; or
- (4) The designated agent of a person having an ownership interest in the property.

(b) Definition. An amendment to ~~the this~~ Zoning Code shall be deemed to be any change to the text or ~~to the official~~ map, including:

- ~~(1) — (1) —~~ Petitions for zoning code ordinance amendments; ~~or~~
- (2) rezoning; or
- ~~(32)~~ Conditional rezonings.

(c) Amendment Applications and Review Procedures. The amendment, be it a text or a map amendment, and application materials shall be prepared in accordance with the provisions of this section, and shall be reviewed in accordance with the following procedures. ~~Amendments or A~~Application materials that do not meet the stipulated requirements under Section 1281.01(c)(1), shall be considered incomplete and shall not be eligible for consideration by the Planning Commission.

- (1) Application. (underlined)
 - A. Survey and legal description of the property.
 - B. An affidavit authorizing an applicant to act on behalf of the owner if the petitioner is not the owner.

Payment of non-refundable application fee.

(d) Technical review. Prior to Planning Commission consideration, the ~~proposed amendment and~~ application materials for the proposed amendment shall be distributed to appropriate City departments, ~~and~~ divisions and staff for review and comment. The ~~proposed amendment and~~ application materials may also be distributed to applicable outside agencies and designated City consultants for review.

—(e2) Public hearing. A public hearing shall be held by the Planning Commission for all proposed amendments in accordance with the procedures set forth in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq., before it is sent to the City Commission for action. Public hearing notice requirements are as summarized below:

—A. ~~On any amendment to this Zoning Code, the Planning Commission shall hold a public hearing prior to the amendment being referred to the City Commission for action. A record of the comments received at the public hearing shall become a part of the Planning Commission report and recommendation to the City Commission. The following requirements shall pertain to public hearings held before the Planning Commission:~~

—(1.) Not less than a fifteen-day notice of the date, time and place of the hearing shall be published in a newspaper of general circulation in the City.

—(2.) Not less than fifteen-day notice of the date, time and place of the hearing shall be given, by regular mail, to each public utility company and to each railroad company owning or operating any public utility or railroad within the City that registers its name and mailing address with the City Clerk for the purpose of receiving such notices.

—(3.) Not less than fifteen-day notice shall be given, by regular mail, to the owners of property that is the subject of the request. Notice shall also be given to all persons to whom real property is assessed within 300 feet of the subject property affected by the amendment, as listed in the most current assessment roll and to the occupants of all structures with 300 feet of the subject property regardless whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, then notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

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

intended recipient of the notice. However, failure of property owners to receive such notice, shall not invalidate the amendment.

—(5.) A notice under this section shall do all of the following:

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

—(6.) For any group of adjacent properties numbering eleven or more that is proposed for rezoning, the requirements of above subsection iii), and the requirement of above subsection 5.b., that street addresses be listed do not apply to that group of adjacent properties.

—(f3) Planning Commission consideration of proposed amendment. The Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies, and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this section, and shall report its findings and recommendation to the City Commission.

—(g4) City Commission action on proposed amendment. Upon receipt of the report and recommendation from the Planning Commission, the City Commission may approve or deny the proposed amendment. If determined to be necessary, the City Commission may refer the amendment back to the Planning Commission for further consideration. In the case of an amendment to the ~~official~~ Zoning Mmap, the City Commission shall approve or deny the amendment, based upon its consideration of the criteria contained in the ~~is~~ Zoning Code under Section 1281.01(h)(7-12).

~~A. The City Commission, upon receipt of the Planning Commission study and report, shall publish a notice indicating the proposed amendment, proposed use and affected property in a newspaper of general circulation in the City. Such notice shall be published at least five days before the City Commission meeting, and shall indicate the time, date and place of such meeting.~~

(hd) Standards of Review for Amendments. In considering any petition for an amendment to the text of ~~the this~~ Zoning Code or to the Zoning Mmap, the Planning Commission and City Commission shall consider the following criteria that apply to the application in making findings, recommendations, and a decision. The Planning Commission and City Commission may also take into account other factors or considerations that are applicable to the application but are not listed below.

(1) Consistency with the goals, policies and objectives of the master plan and any sub-area plans. If conditions have changed since the master plan was adopted, consistency with recent development trends in the area shall be considered.

(2) Consistency with the basic intent and purpose of ~~the this~~ Zoning Code.

(3) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

(4) The capacity of the City's utilities and services are sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.

(5) That conditions have changed since the Zoning Code was adopted or there was an error in the Zoning Code that justifies the amendment.

(6) That the amendment will not be expected to result in exclusionary zoning or spot zoning.

(7) If a ~~rezoning map amendment~~ is requested, compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

(8) If a ~~rezoning map amendment~~ is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

(9) If a ~~map amendment rezoning~~ is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.

(10) If a ~~map amendment rezoning~~ is requested, the requested zoning district is considered to be more appropriate from the City's perspective than another zoning district.

(11) If a ~~map amendment rezoning~~ is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.

(12) If a ~~map amendment rezoning~~ is requested, the requested ~~rezoning~~ will not create an isolated or incompatible zone in the neighborhood.

(~~ie~~) ~~Notice of Adoption for of Amendment~~. Following adoption of an amendment by the City Commission, one notice of adoption shall be filed with the City Clerk and one notice shall be published in a newspaper of general circulation in the City within fifteen days after adoption, in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq. A record of all amendments shall be maintained by the City Clerk. A Zoning Map shall be maintained by the City Clerk, which shall identify all map amendments. The required notice of adoption shall be

maintained by the Planning and Zoning Administrator and include all of the following information:

(1) In the case of a newly adopted Zoning ~~Code Ordinance~~, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the City of Battle Creek."

(2) In the case of an amendment(s) to the existing Zoning ~~Code Ordinance~~, either a summary of the regulatory effect of the amendment(s), including the geographic area affected, or the text of the amendment(s).

~~(j)~~ Referendum.

(1) Within seven days after publication of the Zoning ~~Code Ordinance~~, a registered elector residing in the zoning jurisdiction of the City may file with the City Clerk a notice of intent to file a petition under this section, in accordance with Section 401 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3401.

(2) If a notice of intent is filed under subsection (1) above, the petitioner shall have thirty days following the publication of the zoning ordinance to file a petition signed by a number of registered electors residing in the zoning jurisdiction of the City not less than 15% of the total vote cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, with the City Clerk requesting the submission of the zoning ordinance or part of the zoning ordinance to the electors residing in the zoning jurisdiction of the City for their approval, in accordance with Section 402 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3402.

(3) Whenever there is a conflict between this ~~section Chapter~~ of the Zoning ~~Code Ordinance and or~~ the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq., the later shall govern.

~~(k)~~ Conditional Rezoning.

(1) Intent. The Planning Commission and City Commission recognize that, in certain instances, it would be an advantage to both the City and to a property owner seeking rezoning if the property owner proposes certain conditions and limitations as part of a petition for rezoning. Therefore, it is the intent of this section to provide a process consistent with the provision of Section 405 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3405, to permit property owners to offer conditions regarding the use and/or development of land as part of the rezoning request. It is the further intent of this Zoning Code to accomplish, among other things, the objectives of ~~the zoning ordinance and~~ the master plan and to achieve integration of the proposed land development project with the characteristics of the surrounding area.

(2) Definitions. The following definitions shall apply in the interpretation of this Section:

A. "Rezoning Conditions" shall mean conditions regarding the development and use of property proposed by the applicant and approved by the City as part of an approval under ~~this Section~~ 1281.01(k), including review and recommendation by the Planning Commission.

B. "Rezoning with Conditions Agreement" shall mean a written agreement approved and executed by the City and property owner setting forth the conditions attached to the rezoning pursuant to MCL 125.3405 (as amended) and any other terms mutually agreed upon by the parties relative to land for which the City has approved a rezoning with conditions.

C. "Rezoning with Conditions Plan" shall mean a plan of the property which is the subject of a rezoning with conditions, prepared by a Michigan licensed civil engineer or architect, that may show the location, size, height, design, architecture or other measure or feature for and/or of buildings, structures, improvements and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the rezoning with conditions plan shall be determined by the applicant, subject to approval of the City Commission after recommendation by the Planning Commission.

D. "Rezoning" shall mean the amendment of ~~the this~~ Zoning Code to change the zoning map classification on property from its existing district to a new district classification.

(3) Authorization and eligibility.

A. The standards ~~described under of this~~ Section 1281.01(h) shall grant a property owner the option of voluntarily proposing conditions for the development and use of property in connection with a submission of a petition seeking a rezoning. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.

B. In order to be eligible for consideration of a rezoning with conditions, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific conditions (to be set forth in a rezoning with conditions agreement) that are more strict or limiting than the regulations that would apply to the land under the proposed new zoning district. Such conditions may include, but are not limited to, the following:

1. The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other physical features of the proposed development.

2. Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use. For example: units per acre, maximum usable floor area, or hours of operation.

3. Preservation of open space, natural resources and/or natural features.

4. Improvements to address traffic issues, including paving, substantial improvements to or funding of improvements to major roads to the benefit of the entire City.

5. Site improvements such as signage, lighting, landscaping, building materials for the exterior of some or all structures above and beyond what would otherwise be required by City ordinance.

6. Limitations on permissible uses of the property.

7. Any other conditions that may be voluntarily proposed by the property owner.

(4) Application and review procedures.

A. Application.

1. At the time of making application for amendment of ~~the this~~-Zoning Code seeking a rezoning of property, or at a later time during the process of City consideration of such rezoning a property owner may submit a complete application for approval of a rezoning with conditions to apply in conjunction with the rezoning.

2. The application, which may be amended by the applicant during the process of consideration, shall specify the rezoning conditions proposed by the applicant, recognizing that rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning.

3. An application for a rezoning with conditions shall include ~~the proposed a rezoning with and the conditions agreement (“the agreement”). The agreement shall set forth the rezoning conditions~~ and may incorporate a rezoning with conditions site plan.

4. The application shall include a notarized signature of the property owner indicating that the conditions attached to the rezoning are voluntarily offered.

B. Planning Commission review.

1. The proposed rezoning with conditions shall be noticed for a public hearing before the Planning Commission as described under Section 1281.01(e)(1-6).as a proposed legislative amendment of the zoning ordinance.

2. Following the public hearing, and further deliberations as deemed appropriate by the Planning Commission, the Planning Commission shall make a recommendation to the City Commission on the proposed rezoning with conditions.

C. City Commission review. Upon recommendation by the Planning Commission, the City Commission shall make a final determination to approve or deny the rezoning with conditions as offered by the applicant. The City Commission may only consider the conditions offered by the applicant, and may not attach any other conditions to the rezoning other than those offered by the applicant. The City Commission's deliberations shall include, but not be limited to, ~~a~~-consideration of the review criteria for a rezoning with conditions as described under Section 1281.01(k)(5)A-J.

(5) Review criteria. A rezoning with conditions shall only be approved if it meets the following requirements and standards:

A. The proposed rezoning with conditions will further the goals and objectives of the city master plan.

B. Rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the rezoning with conditions agreement).

C. The use of the property in question shall be in complete conformity with all regulations governing development and use within the zoning district to which the property is proposed to be rezoned, including, without limitation, permitted uses, lot area and width, setbacks, height limits, required facilities, buffers, open space areas, and land use density; provided, however, the following shall apply:

1. Development and use of the property shall be subject to the more restrictive requirements shown or specified in the rezoning with conditions agreement, and/or in other conditions and provisions set forth in the rezoning with conditions agreement required as part of the rezoning with conditions approval. Such rezoning with conditions agreement shall supersede all inconsistent regulations otherwise applicable under the zoning ordinance.

2. As part of the grant of final approval of a rezoning with conditions, the City Commission shall be authorized to grant modifications to the strict terms of the zoning ordinance governing dimensional requirements on the property; provided, such authorization to grant modifications shall be conditioned upon the City Commission finding that each zoning ~~code ordinance~~-provision sought to be modified will result in an enhancement of the development that would be in the public interest, and that approving the modification would be consistent with the city master plan and compatible with the surrounding area.

D. The proposed rezoning with conditions will result in integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area as compared to the existing zoning, and such enhancement would be unlikely to be achieved or would not be assured in the absence ~~o~~ of the use of a rezoning with conditions.

E. As compared to the existing zoning and considering the site-specific conditions and/or land use proposed by the applicant, it would be in the public interest to grant the rezoning with conditions. In determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against and be found to clearly outweigh the reasonably foreseeable detriments, taking into consideration reasonably accepted planning, engineering, environmental and other principles, and also taking into consideration the special knowledge and understanding of the City by the City Commission and Planning Commission.

F. The proposed conditions will not preclude future zoning and planning actions by or on behalf of the municipality.

G. Existing and available public services will be capable of serving proposed or potential development that will occur as a result of the rezoning with conditions without negatively impacting the delivery of public services to other properties in the City, or the conditions will ensure that public services will be sufficient to serve both the site and other properties in the City.

H. The offered condition(s) are beneficial to the public good and likely to be enforceable.

I. The condition does not have the same effect as a use variance.

J. The proposed conditions do not relieve the applicant of the responsibility of securing any applicable site plan, plat, condominium, or special land use approvals.

(6) Effect of approval. Approval of the rezoning with conditions and rezoning with conditions agreement confirms only the rezoning of the property, subject to any conditions reflected in the rezoning with conditions agreement and after recordation as set forth in subsection (8) below. Any applicable site plan, plat, condominium, special land use, or variance approvals shall be required before any improvements to the property may be undertaken.

If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "CR Rezoning with Conditions". The zoning map shall specify the new zoning district plus a reference to "CR" e.g., the district classification for the property might be "B-1, Corridor Commercial District (CR, Rezoning with Conditions)", with a zoning map designation of "B-1/CR." Use of the property so classified and approved shall comply with the conditions set forth in the rezoning with conditions agreement. No development or use of the land inconsistent with the conditions of the rezoning with conditions agreement shall be permitted.

(7) Compliance with conditions.

A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the rezoning with conditions agreement. Any failure to comply with a condition contained within the rezoning with conditions agreement shall constitute a violation of this Zoning Code and shall be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

B. No permit or approval shall be granted under this Zoning Code for any use or development that is contrary to an applicable rezoning with conditions agreement.

(8) Period of approval.

A. The rezoning with conditions and agreement shall expire after a period of one year from the effective date of the rezoning unless substantial progress towards obtaining site plan and other required approvals has been made, and shall expire after a period of two years unless development of the property is substantially begun within such two--year period and proceeds diligently and in good faith as required by ordinance to completion.

B. In the event substantial progress towards obtaining site plan approval and other required approvals such as, but not limited to, having concept plans available to participating in a predevelopment meeting with the city, or land survey work underway has not commenced within one year and bona fide development, such as but not limited to, earthwork, utility work, or foundation installation has not commenced within two years from the effective date of the rezoning, the rezoning with conditions and the rezoning with conditions agreement shall be void and of no effect.

C. The property owner may apply for a one--year extension two times. The request must be submitted to the Planning and Zoning Division before the approval time limit expires. The property owner must demonstrate why the extension should be granted, and must also demonstrate that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently thereafter to completion, and if the City Commission finds that there has not been a change in circumstances that would render the rezoning with conditions incompatible with adjacent or nearby use and zoning of land or is otherwise inconsistent with sound zoning policy.

An extension request shall be considered by the City Commission ~~following a recommendation by the Planning Commission.~~

D. If the rezoning with conditions becomes void in the manner provided in this section, the following procedures shall apply:

1. The property owner may seek a new rezoning of the property within thirty days of the expiration of the period of approval.

2. If no application is made for a new rezoning of the property, the land shall revert to its former zoning classification as set forth in MCL 124.3405(2)(as amended). The City Commission shall direct the Planning Commission to proceed with consideration of rezoning the land to its former zoning designation following the standard rezoning procedures set forth in this Zoning Code.

3. Until such time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.

(9) Rezoning with conditions agreement requirements. A rezoning with conditions agreement shall be executed between the applicant and the City at the time of City Commission approval of a rezoning with conditions.

A. Rezoning with conditions agreements shall, at a minimum, contain all of the following items:

1. Identification of the requested zoning district and a listing of the conditions offered by the applicant.

2. A statement acknowledging that the rezoning with conditions was proposed by the applicant, and, further agreement and acknowledgment that the conditions and rezoning with conditions agreement are authorized by all applicable state and federal law and constitution, and that the agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the City.

3. Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the rezoning with conditions agreement.

4. Agreement and understanding that the approval and rezoning with conditions agreement shall be binding upon and inure to the benefit of the property owner and City, and their respective heirs, successors, assigns, and transferees.

5. The date upon which the rezoning with conditions becomes void, as specified in Section 1281.01(kg)(8). If the City Council grants an extension of approval, a new rezoning with conditions agreement with the new expiration date shall be recorded.

6. Agreement and understanding that, if a rezoning with conditions becomes void in the manner provided in Section 1281.01(kg)(8), no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.

7. Agreement and understanding that each of the requirements and conditions in the rezoning with conditions agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved rezoning with conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.

8. A legal description of the property affected by the rezoning with conditions.

9. Development regulations affected by the conditions of rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, etc.

10. Revocation of approval provisions returning the property to its original zoning designation if the developer violates the terms of the agreement.

B. A rezoning with conditions plan may be included as an exhibit to the agreement. The rezoning with conditions plan may show the conceptual layout of the proposed development or use, along with any other information deemed relevant by the applicant. Inclusion of a rezoning with conditions plan as an exhibit to a rezoning with conditions agreement shall not replace the requirement for preliminary and final site plan, subdivision, condominium, special land use or variance review and approval.

(10) Amendment of rezoning with conditions agreement. Amendment of a rezoning with conditions agreement shall be proposed, reviewed and approved in the same manner as a new rezoning with conditions. This section does not apply to minor amendments that do not change the approved zoning or conditions that were offered.

(11) Recordation of rezoning with conditions agreement. A rezoning with conditions shall become effective following publication in the manner provided by law, ~~or and,~~ after recordation of the rezoning with conditions agreement, whichever is later. All rezoning with conditions agreements shall be recorded with the Calhoun County Register of Deeds.

(12) Termination. The City Commission shall be the only body with the authority to terminate a rezoning with conditions agreement. The consideration to terminate the agreement shall be for reasons of expiration of the agreement, discovery of false information upon which the initial approval was based, or the existence or discovery of new information that alters the viability of the approved rezoning. The termination shall comply with any applicable provisions of this Zoning Code or the rezoning with conditions agreement. If the agreement is terminated, the City shall follow the procedures in Section 1281.01-~~(kg)~~(8)D.

(13) City right to rezone. Nothing in the rezoning with conditions agreement or in the provisions of this section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a rezoning with conditions to another zoning classification. Any such rezoning shall be conducted in compliance with this Zoning Code and the Michigan Zoning Enabling Act.

(14) If land that is subject to a rezoning with conditions agreement is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no rezoning with conditions agreement, the rezoning with conditions agreement attached to the former zoning classification shall cease to be in effect. In such a case, the Planning and Zoning Administrator or their designee shall record with the Calhoun County Register of Deeds a notice that the rezoning with conditions is no longer in effect upon the property owner's written request.

(h) Fees. Petitions for an amendment to this Zoning Code shall be accompanied by a fee as prescribed in the schedule provided for in Section 802.24-. Such fee is applicable when filing a petition for zoning reclassification ~~or special use permits~~ and is nonrefundable.

(i) Protest Petition. An amendment to a zoning ordinance is subject to a protest petition under Section 1281.08-.

(j) An amendment to conform a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the City Commission and the notice of the adopted amendment published without referring the amendment to any other board provided for under this chapter.

1281.02 CERTIFICATES OF OCCUPANCY.

(a) Subsequent to the effective date of this Zoning Code (Adopted on November 24, 2020), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Chief Building Official or their designee or agent. Such a certificate shall state that the new occupancy complies with this Zoning Code.

(b) No permit for excavation, or the erection or alteration of, any building or premise shall be issued before the application has been approved for such activities, and no building or premises shall be occupied until a certificate of occupancy is issued by the Chief Building Official or their designee or agent.

(c) A record of all certificates of occupancy shall be kept on file in the Inspections Division office. Copies shall be furnished on request to any person having a proprietary or tenancy interest in land or in buildings affected by such certificates.

1281.03 APPLICATIONS FOR BUILDING PERMITS AND ZONING PERMITS; RECORDS.

(a) It shall be unlawful for any person to commence excavation for construction of any building or structure, structural changes or repairs in any existing building, a change in use, or moving of an existing building without first obtaining a zoning permit and/or building permit from the City of Battle Creek. No permit shall be issued for construction, alteration or remodeling of any building or structure, or change in use, until an application has been submitted in accordance with the provision of this Zoning Code showing that the construction proposed is in compliance with the provisions of this Zoning Code and with the Building Code adopted by the City. "Alteration" or "repair" of an existing building or structure, shall include any changes in structural members, stairways, basic construction type, kind or class of occupancy, light or ventilation, means of egress and ingress, use, or any other changes regulated by the Building Code of the City, the Housing Law of Michigan, Public Act 167 of 1917, as amended, being MCL 125.401 et seq., this Zoning Code, except for minor repairs or changes not involving any of the aforesaid provisions.

(b) Each application for a zoning permit shall contain all required information specified in Section 1281.04(d). A record of applications and plot plans shall be kept in the offices of the Planning and Zoning Division.

(c) Zoning permits are required for activities detailed in Section 1281.04(c), and as otherwise specified in this Zoning Code.

(d) No building, plumbing, electrical, drainage or other permit shall be issued until the City of Battle Creek has determined that the plans and designated use indicate that the proposed structure and lot will conform to the provisions of this Zoning Code.

1281.04 SITE PLAN REVIEW.

(a) Purpose. It is the purpose of this chapter to require site plan review approval for certain buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. Site plan approval shall be required before building permits are granted by the City for parcels subject to this ~~C~~chapter. The regulations contained in this ~~C~~chapter are intended to promote:

- (1) Safe and convenient vehicle and pedestrian traffic movements, both within a site and in relation to access streets;
- (2) Harmonious relationships between buildings, structures and uses, both within a site and within adjacent sites;
- (3) Conservation of natural amenities and resources; and
- (4) Compliance with all other applicable regulations of this Zoning Code.

(b) Application.

(1) Applications for site plan approval shall be available at the Planning and Zoning Division. ~~and a complete application packet shall be filed with the Inspections Division.~~

~~(2)~~ A complete application packet shall consist of an ~~completed~~ application form with all required information, a ~~digital format of the site plan that includes at a minimum the required information under Section 1281.04(d)(1-22)~~ and other applicable drawings, supporting documents information necessary to meet the requirements of the Zoning Code, and the review fee established by Section 802.24. Application packets shall be filed with the Planning and Zoning Division. Incomplete applications will not be accepted.

~~—(2) All requirements for site plan approval shall be filed with the Inspections Division at one time, as a complete single submittal.~~

(3) Once a complete application, site plan, and other materials are submitted, the Planning and Zoning Administrator or their designee will schedule a review at the earliest possible date.

(4) Any additional information requested by city staff must be submitted no later than 180 days from the date a complete application is filed. The application shall expire if the requested additional information is not received by the end of the 180-day period. An applicant may submit a new application and fee.

(c) Required Review Based on Proposed Activity. The table below details which type of reviews are required based on the proposed activity.

| Proposed Activity | Administrative Review of Site Plan Per Section 1281.04 | Administrative Review of Building and Zoning Permits Per Section 1281.03 | Planning/City Commission Review Per Section 1281.05 |
|--|---|--|--|
| Any proposed new building or parking area or where an alteration, addition, or expansion of existing developments constitute an increase or reduction to the existing buildings or parking area of more than ten percent (10%) | ● | | |
| Projects where less than a ten percent (10%) increase or reduction of the building or parking will occur shall adhere to review requirements as outlined in the Stormwater Management Program Technical Reference Manual. | | ● | |
| Planned Unit Developments | ● | | ● |
| Parking lot mill and repave projects where an approved site plan is not on file | ● | | |
| Special land uses | ● | | ● |
| Adult Use Marihuana Microbusiness located in B-1, B-2, I-1 and I-2 | ● | | |
| Adult Use Marihuana Microbusiness located in T-3 | ● | | ● |
| Adult Use Marihuana Retailers located in B-1, B-2, T-4, T-5, I-1, and I-2 | ● | | |
| Adult Use Marihuana Retailers located in T-3 | ● | | ● |
| Medical Marihuana Provisioning Center located in B-1, B-2, T-4, T-5, I-1, and I-2 | ● | | |
| Medical Marihuana Provisioning Center located in T-3 | ● | | ● |

| | | | |
|--|---|---|--|
| Medical and Adult Use Marihuana Grow Operation located in I-1 and I-2 | ● | | |
| Medical and Adult Use Marihuana Processing Facility located in I-1 and I-2 | ● | | |
| Medical and Adult Use Safety Compliance Facility located in B-1, I-1 and 1-2 | ● | | |
| Medical and Adult Use Secure Transporter located in B-1, I-1 and I-2 | ● | | |
| Medical and Adult Use Excess Grow Operation located in I-1 and I-2 | ● | | |
| Driveway or curb cut relocation where the new driveway will be relocated within 25 feet of the existing driveway location or where a driveway or curb cut is being totally eliminated | | ● | |
| Construction and development on any parcel of land proposing or having <u>multiple single family or two-family dwellings, or</u> multi-family, commercial, or industrial uses | ● | | |
| Site improvements that include landscaping, lighting, site access, and parking lot grading, layout, and new off-street parking | ● | | |
| Landscaping that is less than 25% of the parcel size or 5,000 square feet, whichever is less | | ● | |
| Re-paving of an off-street parking lot, provided there are no grading changes and no changes to the configuration of the parking lot layout | | ● | |
| Construction of and/or the conversion of an existing structure to one (1) or more units meeting the definition of a State Licensed Residential Facility | | ● | |
| Construction or replacement of a fence, shed, signage, or driveway | | ● | |

(1) Site plan review shall not be required for the following:

- A. ~~A single D~~detached single-family dwelling unit housing and related parking;
- B. ~~A single t~~Two-family dwelling units and related parking;
- C. Agricultural uses; and
- D. Nonresidential accessory buildings no more than 120 square feet in area and all residential accessory buildings.

(2) No grading, removal of trees or other vegetation, land-filling or construction of improvements shall commence for any project which requires site plan approval until a site plan is approved and is in effect, and any other applicable permits are obtained.

(d) Site Development Plans. All site development plans shall be prepared on standard twenty-four inch by thirty-six inch, or thirty-six inch by forty-two inch, architectural or engineering sheets, and are required to incorporate the following information, unless waived by the Planning and Zoning Administrator or their designee:

Site Plan Required Information:

- (1) The title of the proposed project;
- (2) The name of the property owner, proprietor or project director;
- (3) The location of the project, the street name and the address;
- (4) Professional seal of the architect, engineer or designer, and their name, address, phone number, and email address, if available;
- (5) The date drawn and subsequent revision dates;
- (6) The scale of the drawing, the north directional arrow, and vicinity map showing location of project;
- (7) Provide all dimensions, including property lines, easements and rights-of-way, existing and proposed buildings building setback lines, site improvements; gross and net acreage, and zoning classification of the site and adjacent properties;
- (8) Location of adjacent property lines, buildings and structures, sidewalks, parking lots, rights-of-ways, abutting streets, curb cuts, and access easements within 100 feet of the subject property;
- (9) Existing man-made or natural features such as wetlands, waterways, woodlands, and areas with slopes greater than 10%, with an indication of which features will be retained or removed;
- (10) The topography, existing and proposed, including contours with a maximum of two-foot contours, or spot elevations sufficient to determine the topography of the site, so as to clearly indicate required cutting, filling, and grading. The site plan shall contain arrows indicating direction of drainage and stormwater calculations;
- (11) Location and dimension of existing and proposed buildings or structures, including intended uses, floor area, number of floors, width, length, height, number of types of dwelling units (where applicable), and setback distances;
- (12) The location of sidewalks, rights-of-ways, abutting streets, curb cuts, and access easements, ingress and egress drives, both existing and proposed, to thoroughfares, showing traffic patterns into the site from the same, including ultimate pavement width, deceleration lanes and the like; the location of private and public pedestrian walkways;

(13) On-site traffic circulation and parking areas, including the number and size of parking bays, width of maneuvering aisles, designation of fire lanes, the location and size of handicapped parking, surface materials and striping of the parking lot surface to delineate parking bays and individual spaces;

(14) The location of loading berths, truck docks, truck wells, service drives and exterior parking lot lighting, including photometric plan;

(15) The location and size of all existing and proposed public and private utilities above and below ground proposed to service the project and the location of any public or private utility easements, to include water, gas, electric, cable, stormwater, ~~stormsewer~~storm sewer, catch basins, and fire hydrants;

(16) The spatial relationship of buildings on the site, including pedestrian walkways, protective or retaining walls, fences, landscaped buffers, either existing or proposed, and the materials to be utilized, if required;

(17) The location of signs, either existing or proposed, and an indication of their size, height and design pursuant to City sign regulations;

(18) A landscaping plan of the site, including greenbelts or buffers if required, and the identification of all plant and landscape material to be utilized as to type, size and location;

(19) The location and proposed method of screening trash ~~refuse~~ receptacles;

(20) Location of outdoor storage/display areas including a description of the items to be located outdoors, as well as the location and description of required screening;

(21) Storage and containment areas if the use of hazardous substances is involved; and

(22) Any additional information as may be required of the applicant to properly evaluate the proposed development.

(e) Standards for Consideration. The following shall be the standards for consideration of all plans for developments submitted for site plan approval:

(1) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjacent properties and the type and size of buildings.

(2) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal and by topographic modifications, which result in maximum harmony with adjacent areas.

(3) The site plan shall provide reasonable visual and sound privacy for all occupants located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

(4) All buildings or groups of buildings shall be so arranged as to permit emergency vehicles access by some practical means to all sides as may be required by the Building and/or Fire Code.

(5) Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.

(6) There shall be provided a pedestrian circulation system which is insulated as completely as is reasonably possible from the vehicular circulation system.

(7) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are a part of an existing or planned street pattern which serves an adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified by the City Engineer and/or any other entity having authority over said roadway.

(8) Where the Planning Division, City Engineer, or Traffic Engineer finds that an excessive number of ingress and/or egress points may occur with relation to major or secondary thoroughfares, thereby diminishing the carrying capacity of the thoroughfare, they shall require marginal access drives as follows:

A. For a narrow frontage of less than 120 feet, the design will require a single outlet.

B. For a series of adjacent frontages in a developing area, a service road shall be constructed and a single marginal access drive shall serve all establishments fronting thereon, with road cuts not closer than 330 feet centerline to centerline, or 330 feet from a street intersection.

C. The overall design of a marginal access drive shall uphold the purposes of this chapter, promote the public safety, and serve the public interest.

D. Marginal access drives shall be required only if the concept is reasonable in terms of the land available for such an improvement.

(9) All site plans shall be designed in accordance with the City of Battle Creek Stormwater Management Program Technical Reference Manual. All stormwater shall be detained on site for controlled release. Attention shall be given to proper site drainage to ensure neighboring properties will not be adversely affected.

(10) Loading and unloading areas and outside storage areas which face or are visible from residential uses or districts or public thoroughfares, shall be screened by a six-foot solid screening fence (concealment screening) and plant materials no less than six feet in height.

(11) Trash containers must be stored in a trash enclosure constructed of solid screening fence (concealment screening) on all four sides from four inches above the ground to six inches above the trash container. The enclosure shall not be located in the

front yard unless the Planning and Zoning Administrator or their designee finds that there is no other feasible location.

(12) Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.

(13) Development occurring within the City of Battle Creek wellhead protection area, in accordance with Chapter 1041, shall comply with the requirements established in the performance standards as administered by the Department of Public Works.

(f) Decisions and approval.

(1) The Planning Division, the Inspection Division, and the Department of Public Works shall be responsible for reviewing site plans, and the Planning and Zoning Administrator or their designee shall be responsible for granting approval. A decision approving, conditionally approving, or rejecting a site plan shall be based upon requirements and standards contained in the zoning ordinance, other statutorily authorized and properly adopted City planning documents, other applicable ordinances, and state and federal statutes.

(2) Any revisions to the site plan shall be submitted in accordance with Section 1281.04(b).

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

(4) A site plan approved under this section shall be valid for a period of one year. If construction has not commenced within this time period, or if construction has ceased for more than one year, the site plan shall become null and void. ~~Thirty days P~~prior to the expiration of an approved final site plan, an applicant may make application for a six-month extension of the site plan. The extension shall be granted if the Planning and Zoning Administrator or designee finds good cause for the extension and that zoning regulations and site conditions of the subject property and adjacent properties have not changed since the approval.

(5) Performance guarantee. In accordance with the Michigan Zoning Enabling Act, the City may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the City, in an amount to cover the estimated cost of the improvements associated with the project, be deposited with the City Clerk to insure faithful completion of the improvements as set out in the site plan approved by the Planning and Zoning Administrator or their designee. If the City has required a performance guarantee, then it shall be subject to the following terms and conditions:

A. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The City may not require the deposit of the performance guarantee until it is prepared to issue the permit.

B. Rebates of cash deposits. Where the performance guarantee has been made in the form of a cash deposit, the performance guarantor shall be entitled to a rebate of the cash deposit in reasonable proportion to the ratio of work completed on the required improvements as satisfactory work progresses. The performance guarantor may request the rebates in three equal installments each time one-third of the entire required work has been satisfactorily completed in accordance with the final approved site plan, including any approved amendments.

C. Failure to complete improvements. If the performance guarantor fails to complete the improvements as approved in the final approved site plan within such time period as is required by the conditions or guarantees as outlined above, then the City may proceed to have such work completed and shall reimburse itself for the cost thereof by appropriating the cash deposit, certified check, or surety bond or by drawing upon the irrevocable letter of credit, or shall take the necessary steps to require performance by the bonding company.

(g) Appeals. An appeal may be taken to the Zoning Board of Appeals by any person aggrieved by a decision of the Planning Division, the City Engineer or the Traffic Engineer as it relates to this chapter. Such appeal shall be taken within such time as is prescribed by Section 1280.03.

(h) Amendments. All site improvements shall conform to the final site plan. A site plan may be amended upon application and in accordance with the procedure herein. The Planning and Zoning Administrator or their designee shall have the authority to determine if a proposed change requires an amendment to an approved final site plan, provided that a revised final site drawing be submitted showing such minor changes, for purposes of record.

(i) As-Built Plan. After construction has concluded, as-built plans shall be submitted to ensure compliance with final site plan approval.

(j) Violations and Penalties.

(1) All site improvements shall conform to the final approved site plan, unless an amendment has been approved by the Planning and Zoning Administrator or their designee. If an amendment has not been approved, the Planning Division may require the applicant to correct any physical changes to the site that were completed without proper approval so as to conform to the approved final site plan.

(2) Stop work order. If improvements and/or construction is being undertaken contrary to this Chapter or the final approved site plan, including any approved amendments, the Planning and Zoning Administrator or their designee shall give written notice to the holder of the building permit, or if a building permit has not been issued, then to the person doing the construction and/or improvements, notifying them of the violation of this Chapter, or other applicable laws and ordinances. If the person doing the construction is not known, or cannot be located with reasonable effort, then the notice may be delivered to the person in charge of, or apparently in charge of, the construction/improvements. If the holder of the permit or the person doing the construction or improvements fails to correspond with the City to show good cause

within one full working day after notice is delivered, the Planning and Zoning Administrator or their designee shall cause a written order to stop construction and/or improvements to be posted on the premises. A person shall not continue, or cause or allow to be continued, construction and/or improvements in violation of a stop work order, except with permission of the Zoning Administrator or their designee to abate the dangerous condition or remove the violation, or except by court order. If an order to stop construction and/or improvements is not obeyed, the Planning and Zoning Administrator or their designee may apply to the Calhoun County circuit court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal prosecution for failure to obey the order.

(3) A person who violates or fails to comply with any of the provisions of this Zoning Code is responsible for a Class C Municipal civil infraction and shall be subject to the civil infraction fines provided in Section 202.98.

1281.05 SPECIAL LAND USES.

(a) Application for Special Uses; Certificates of Occupancy. An application to build or occupy any of the special uses described in Section 1240.02 shall be submitted in accordance with the following procedure:

(1) Applications shall be submitted through the Planning Division to the Planning Commission. A copy of the application shall be forwarded to the City Commission. Each application shall be accompanied by a nonrefundable filing fee as established in the fee, bond and insurance schedule.

(2) Every application shall be accompanied by the following information and data:

A. A special use petition form supplied by the Planning Division;

B. A site plan, plot plan or development plan, drawn to a readable scale, of the total property involved showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their proposed uses;

C. Preliminary plans and specifications of the proposed development and for all intended construction; and

D. A statement with supporting evidence regarding the required findings specified in Section 1281.05(c).

(3) Before authorization by the City Commission of any of the special uses referred to in this chapter, the Planning Commission shall cause a study and report concerning the effect of the proposed use on the master plan and on the character and development of the neighborhood.

(4) The Planning Commission may recommend, and the City Commission may impose, such conditions or restrictions upon the construction, location and operation of a special use as is deemed necessary to secure the general objectives of this Zoning Code and to preserve the value of property in the neighborhood. Any proposed special

use shall otherwise comply with all of the requirements set forth in this Zoning Code for the district in which the use is located, except that the City Planning Commission may permit hospitals and institutions to exceed the height limitations of such district.

(5) A special uses permit shall be valid for a period established by the City Planning Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Special use permits shall expire after one year if the use is not under construction or operational. For good cause shown and upon written application, the City Commission may extend a special use permit for six months. The written application to request a six-month extension shall be filed with the Planning and Zoning Division no later than 360 days prior to expiration.

(b) Hearings and Notices. (Requirements for public hearing and hearing notices are the same as for an amendment to the Zoning Code as specified in Section 1281.01 ~~(ee)~~(1-62)).

(c) Decision on Application; Basis for Determination.

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

(2) Before approving, or approving with conditions, a request for a special land use, the Planning Commission and the City Commission shall establish that the general standards specified in the following shall be satisfied by the completion and operation of a proposed development:

A. The use will be harmonious with and in accordance with the general objectives of the master plan.

B. The use will be designed, constructed, operated and maintained so as to be compatible with adjacent uses of land, the natural environment, and harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.

C. The use will not be hazardous or disturbing to existing or future neighboring uses.

D. The use will be an improvement to property in the immediate vicinity and to the community as a whole.

E. The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.

F. The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

G. The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

H. The use will be consistent with the intent and purpose of this Zoning Code.

(3) A request for approval of a special land use shall be approved (except requests for approval of a group child care home, which are discretionary approvals) if the request is in compliance with the standards stated in this ordinance, the conditions imposed under this Zoning Code and other applicable ordinances, and state and federal statutes.

(d) Approval of Special Land Use with Conditions.

(1) Reasonable conditions may be required with the approval of a special land use. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all the following requirements:

A. Be designed to protect the natural resources, the health, safety, and welfare, as well as the social and economic wellbeing, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

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

C. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in this zoning ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

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

(3) To ensure compliance with any conditions imposed pursuant to the section, the City may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the City covering the estimated cost of necessary improvements be deposited with the City Clerk to insure faithful completion of the improvements relative to the imposed conditions. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the special use. Refer to Section 1281.04(f)(4).

(e) Reapplication.

(1) No application for a special use permit shall be submitted for the same property, or any part thereof, or as part of a larger parcel, for a period of six months from the date of Planning Commission decision on a special use application for the property, except on grounds of newly discovered evidence or proof of changed conditions found, in the discretion of the Planning Commission, to be sufficient to justify a reconsideration.

(2) As used in this section, “newly discovered evidence” means a finding that the evidence itself, not merely its materiality, is newly discovered; that the evidence is not cumulative; that the evidence is such as to render a different result probable on rehearing; and that the evidence could not, with reasonable diligence, have been discovered and produced at the time of the original hearing.

(3) For purposes of this section, “proof of changed conditions” shall not include an application for another or different special use than that originally requested.

1281.06 ENFORCEMENT BY ZONING ADMINISTRATOR; APPEALS.

The Planning and Zoning Administrator or their designee shall enforce this Zoning Code. The officers and employees of the City, especially all of the members of the Police Department, shall assist the Planning and Zoning Administrator or their designee by reporting to the Administrator upon observing new construction, reconstruction or land uses or upon observed violations. An appeal from a decision of the Planning and Zoning Administrator or their designee may be made to the Zoning Board of Appeals as provided in Section 1280.03.

1281.07 INTERPRETATION, PURPOSE AND CONFLICTS.

In interpreting and applying the provisions of this Zoning Code, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. This Zoning Code is not intended to interfere with, abrogate or annul any ordinance, rule, regulation or permit previously adopted or issued and not in conflict with any of the provisions of this Zoning Code, or which shall be adopted or issued pursuant to a law relating to the use of buildings or premises and likewise not in conflict with any of the provisions of this Zoning Code, nor is this Zoning Code intended to interfere with, abrogate or annul any easement, covenant or other agreement between parties, provided that where this Zoning Code imposes a greater restriction upon the use of buildings or requires larger open spaces or larger lot areas than are imposed or required by such ordinances or agreements, the provisions of this Zoning Code shall control.

1281.08 PROTEST PETITION, SUBMISSION OF ORDINANCES TO ELECTORS.

(a) An amendment to the zoning ordinance is subject to a protest petition as required by this subsection. If a protest petition is filed, then approval of the amendment to the zoning ordinance shall require a 2/3 vote of the City Commission. The protest petition shall be presented to the City Commission before final legislative action on the amendment and shall be signed by one or more of the following:

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

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

(b) Publicly owned land shall be excluded in calculating the 20% land area requirement under subsection (a) above.

1281.09 REQUIREMENT OF PAYMENT OF FEES.

The City may require the payment of reasonable fees for zoning permits as a condition to the granting of authority to use, erect, alter, or locate dwellings, buildings, and structures, including tents and recreational vehicles, within a zoning district established under this act.

1281.10 TRANSFER OF OWNERSHIP.

It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

CHAPTER 1281
Administrative Procedures

1281.01 ZONING ORDINANCE/ MAP AMENDMENTS.

(a) Initiation. The City Commission may amend, supplement or change the regulations or the district boundaries of this Zoning Code pursuant to the authority and according to the procedure set forth in The Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq. Changes in the text of this Zoning Code may be proposed by:

- (1) The City Commission;
- (2) The Planning Commission; or
- (3) Any interested person or organization through a petition, which shall not be initiated for the same property more often than once every twelve months.

Changes in zoning district boundaries may be proposed by:

- (1) The City Commission;
- (2) The Planning Commission;
- (3) The owner(s) of the premises concerned; or
- (4) The designated agent of a person having an ownership interest in the property.

(b) Definition. An amendment to the Zoning Code shall be deemed to be any change to the text or map, including:

- (1) Petition for zoning code amendment;
- (2) rezoning; or
- (3) Conditional rezoning.

(c) Amendment Applications and Review Procedures. The amendment, be it a text or a map amendment, and application materials shall be prepared in accordance with the provisions of this section, and shall be reviewed in accordance with the following procedures. Application materials that do not meet the requirements under Section 1281.01(c)(1). shall be considered incomplete and shall not be eligible for consideration by the Planning Commission.

- (1) Application. (underlined)
 - A. Survey and legal description of the property.
 - B. An affidavit authorizing an applicant to act on behalf of the owner if the petitioner is not the owner.

Payment of non-refundable application fee.

(d) Technical review. Prior to Planning Commission consideration, the application materials for the proposed amendment shall be distributed to appropriate City departments, divisions and staff for review and comment. The application materials may also be distributed to applicable outside agencies and designated City consultants for review.

(e) Public hearing. A public hearing shall be held by the Planning Commission for all proposed amendments in accordance with the procedures set forth in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq., before it is sent to the City Commission for action. Public hearing notice requirements are summarized below:

(1.) Not less than a fifteen-day notice of the date, time and place of the hearing shall be published in a newspaper of general circulation in the City.

(2.) Not less than fifteen-day notice of the date, time and place of the hearing shall be given, by regular mail, to each public utility company and to each railroad company owning or operating any public utility or railroad within the City that registers its name and mailing address with the City Clerk for the purpose of receiving such notices.

(3.) Not less than fifteen-day notice shall be given, by regular mail, to the owners of property that is the subject of the request. Notice shall also be given to all persons to whom real property is assessed within 300 feet of the subject property affected by the amendment, as listed in the most current assessment roll and to the occupants of all structures with 300 feet of the subject property regardless whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, then notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

(4.) The notice under subsection (3.) above is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than fifteen days before the date the request will be considered. If the name of the occupant is not known, then the term "occupant" may be used for the intended recipient of the notice. However, failure of property owners to receive such notice, shall not invalidate the amendment.

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

a. Describe the nature of the request.

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

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

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

(6.) For any group of adjacent properties numbering eleven or more that is proposed for rezoning, the requirements of above subsection iii), and the requirement of above subsection 5.b., that street addresses be listed do not apply to that group of adjacent properties.

(f) Planning Commission consideration of proposed amendment. The Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies, and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this section, and shall report its findings and recommendation to the City Commission.

(g) City Commission action on proposed amendment. Upon receipt of the report and recommendation from the Planning Commission, the City Commission may approve or deny the proposed amendment. If determined to be necessary, the City Commission may refer the amendment back to the Planning Commission for further consideration. In the case of an amendment to the Zoning Map, the City Commission shall approve or deny the amendment, based upon its consideration of the criteria contained in the Zoning Code under Section 1281.01(h)(7-12).

(h) Standards of Review for Amendments. In considering any petition for an amendment to the text of the Zoning Code or to the Zoning Map, the Planning Commission and City Commission shall consider the following criteria that apply to the application in making findings, recommendations, and a decision. The Planning Commission and City Commission may also take into account other factors or considerations that are applicable to the application but are not listed below.

(1) Consistency with the goals, policies and objectives of the master plan and any sub-area plans. If conditions have changed since the master plan was adopted, consistency with recent development trends in the area shall be considered.

(2) Consistency with the basic intent and purpose of the Zoning Code.

(3) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

(4) The capacity of the City's utilities and services are sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.

(5) That conditions have changed since the Zoning Code was adopted or there was an error in the Zoning Code that justifies the amendment.

(6) That the amendment will not be expected to result in exclusionary zoning or spot zoning.

(7) If a map amendment is requested, compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

(8) If a map amendment is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

(9) If a map amendment is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.

(10) If a map amendment is requested, the requested zoning district is considered to be more appropriate from the City's perspective than another zoning district.

(11) If a map amendment is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.

(12) If a map amendment is requested, the requested zoning will not create an isolated or incompatible zone in the neighborhood.

(i) Notice of Adoption for Amendment. Following adoption of an amendment by the City Commission, one notice of adoption shall be filed with the City Clerk and one notice shall be published in a newspaper of general circulation in the City within fifteen days after adoption, in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq. A record of all amendments shall be maintained by the City Clerk. A Zoning Map shall be maintained by the City Clerk, which shall identify all map amendments. The required notice of adoption shall be maintained by the Planning and Zoning Administrator and include all of the following information:

(1) In the case of a newly adopted Zoning Code, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the City of Battle Creek."

(2) In the case of an amendment(s) to the existing Zoning Code, either a summary of the regulatory effect of the amendment(s), including the geographic area affected, or the text of the amendment(s).

(j) Referendum.

(1) Within seven days after publication of the Zoning Code, a registered elector residing in the zoning jurisdiction of the City may file with the City Clerk a notice of intent to file a petition under this section, in accordance with Section 401 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3401.

(2) If a notice of intent is filed under subsection (1) above, the petitioner shall have thirty days following the publication of the zoning ordinance to file a petition signed by a number of registered electors residing in the zoning jurisdiction of the City not less than 15% of the total vote cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, with the City Clerk requesting the submission of the zoning ordinance or part of the zoning ordinance to the electors residing in the zoning jurisdiction of the City for their approval,, in accordance with Section 402 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3402.

(3) Whenever there is a conflict between this Chapter of the Zoning Code and the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq., the later shall govern.

(k) Conditional Rezoning.

(1) Intent. The Planning Commission and City Commission recognize that, in certain instances, it would be an advantage to both the City and to a property owner seeking rezoning if the property owner proposes certain conditions and limitations as part of a petition for rezoning. Therefore, it is the intent of this section to provide a process consistent with the provision of Section 405 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3405, to permit property owners to offer conditions regarding the use and/or development of land as part of the rezoning request. It is the further intent of this Zoning Code to accomplish, among other things, the objectives of the master plan and to achieve integration of the proposed land development project with the characteristics of the surrounding area.

(2) Definitions. The following definitions shall apply in the interpretation of this Section:

A. "Rezoning Conditions" shall mean conditions regarding the development and use of property proposed by the applicant and approved by the City as part of an approval under Section 1281.01(k), including review and recommendation by the Planning Commission.

B. "Rezoning with Conditions Agreement" shall mean a written agreement approved and executed by the City and property owner setting forth the conditions attached to the rezoning pursuant to MCL 125.3405 (as amended) and any other terms mutually agreed upon by the parties relative to land for which the City has approved a rezoning with conditions.

C. "Rezoning with Conditions Plan" shall mean a plan of the property which is the subject of a rezoning with conditions, prepared by a Michigan licensed civil engineer or

architect, that may show the location, size, height, design, architecture or other measure or feature for and/or of buildings, structures, improvements and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the rezoning with conditions plan shall be determined by the applicant, subject to approval of the City Commission after recommendation by the Planning Commission.

D. "Rezoning" shall mean the amendment of the Zoning Code to change the zoning map classification on property from its existing district to a new district classification.

(3) Authorization and eligibility.

A. The standards described under Section 1281.01(h) shall grant a property owner the option of voluntarily proposing conditions for the development and use of property in connection with a submission of a petition seeking a rezoning. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.

B. In order to be eligible for consideration of a rezoning with conditions, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific conditions (to be set forth in a rezoning with conditions agreement) that are more strict or limiting than the regulations that would apply to the land under the proposed new zoning district. Such conditions may include, but are not limited to, the following:

1. The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other physical features of the proposed development.

2. Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use. For example: units per acre, maximum usable floor area, or hours of operation.

3. Preservation of open space, natural resources and/or natural features.

4. Improvements to address traffic issues, including paving, substantial improvements to or funding of improvements to major roads to the benefit of the entire City.

5. Site improvements such as signage, lighting, landscaping, building materials for the exterior of some or all structures above and beyond what would otherwise be required by City ordinance.

6. Limitations on permissible uses of the property.

7. Any other conditions that may be voluntarily proposed by the property owner.

(4) Application and review procedures.

A. Application.

1. At the time of making application for amendment of the Zoning Code seeking a rezoning of property, or at a later time during the process of City consideration of such rezoning a property owner may submit a complete application for approval of a rezoning with conditions to apply in conjunction with the rezoning.

2. The application, which may be amended by the applicant during the process of consideration, shall specify the rezoning conditions proposed by the applicant, recognizing that rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning.

3. An application for a rezoning with conditions shall include the proposed rezoning and the conditions .. and may incorporate a rezoning with conditions site plan.

4. The application shall include a notarized signature of the property owner indicating that the conditions attached to the rezoning are voluntarily offered.

B. Planning Commission review.

1. The proposed rezoning with conditions shall be noticed for a public hearing before the Planning Commission as described under Section 1281.01(e)(1-6).

2. Following the public hearing, and further deliberations as deemed appropriate by the Planning Commission, the Planning Commission shall make a recommendation to the City Commission on the proposed rezoning with conditions.

C. City Commission review. Upon recommendation by the Planning Commission, the City Commission shall make a final determination to approve or deny the rezoning with conditions as offered by the applicant. The City Commission may only consider the conditions offered by the applicant, and may not attach any other conditions to the rezoning other than those offered by the applicant. The City Commission's deliberations shall include, but not be limited to, consideration of the review criteria for a rezoning with conditions as described under Section 1281.01(k)(5)A-J.

(5) Review criteria. A rezoning with conditions shall only be approved if it meets the following requirements and standards:

A. The proposed rezoning with conditions will further the goals and objectives of the city master plan.

B. Rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the rezoning with conditions agreement).

C. The use of the property in question shall be in complete conformity with all regulations governing development and use within the zoning district to which the property is proposed to be rezoned, including, without limitation, permitted uses, lot area and width, setbacks, height limits, required facilities, buffers, open space areas, and land use density; provided, however, the following shall apply:

1. Development and use of the property shall be subject to the more restrictive requirements shown or specified in the rezoning with conditions agreement, and/or in

other conditions and provisions set forth in the rezoning with conditions agreement required as part of the rezoning with conditions approval. Such rezoning with conditions agreement shall supersede all inconsistent regulations otherwise applicable under the zoning ordinance.

2. As part of the grant of final approval of a rezoning with conditions, the City Commission shall be authorized to grant modifications to the strict terms of the zoning ordinance governing dimensional requirements on the property; provided, such authorization to grant modifications shall be conditioned upon the City Commission finding that each zoning code provision sought to be modified will result in an enhancement of the development that would be in the public interest, and that approving the modification would be consistent with the city master plan and compatible with the surrounding area.

D. The proposed rezoning with conditions will result in integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area as compared to the existing zoning, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the use of a rezoning with conditions.

E. As compared to the existing zoning and considering the site-specific conditions and/or land use proposed by the applicant, it would be in the public interest to grant the rezoning with conditions. In determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against and be found to clearly outweigh the reasonably foreseeable detriments, taking into consideration reasonably accepted planning, engineering, environmental and other principles, and also taking into consideration the special knowledge and understanding of the City by the City Commission and Planning Commission.

F. The proposed conditions will not preclude future zoning and planning actions by or on behalf of the municipality.

G. Existing and available public services will be capable of serving proposed or potential development that will occur as a result of the rezoning with conditions without negatively impacting the delivery of public services to other properties in the City, or the conditions will ensure that public services will be sufficient to serve both the site and other properties in the City.

H. The offered condition(s) are beneficial to the public good and likely to be enforceable.

I. The condition does not have the same effect as a use variance.

J. The proposed conditions do not relieve the applicant of the responsibility of securing any applicable site plan, plat, condominium, or special land use approvals.

(6) Effect of approval. Approval of the rezoning with conditions and rezoning with conditions agreement confirms only the rezoning of the property, subject to any conditions reflected in the rezoning with conditions agreement and after recordation as

set forth in subsection (8) below. Any applicable site plan, plat, condominium, special land use, or variance approvals shall be required before any improvements to the property may be undertaken.

If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "CR Rezoning with Conditions". The zoning map shall specify the new zoning district plus a reference to "CR" e.g., the district classification for the property might be "B-1, Corridor Commercial District (CR, Rezoning with Conditions)", with a zoning map designation of "B-1/CR." Use of the property so classified and approved shall comply with the conditions set forth in the rezoning with conditions agreement. No development or use of the land inconsistent with the conditions of the rezoning with conditions agreement shall be permitted.

(7) Compliance with conditions.

A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the rezoning with conditions agreement. Any failure to comply with a condition contained within the rezoning with conditions agreement shall constitute a violation of this Zoning Code and shall be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

B. No permit or approval shall be granted under this Zoning Code for any use or development that is contrary to an applicable rezoning with conditions agreement.

(8) Period of approval.

A. The rezoning with conditions and agreement shall expire after a period of one year from the effective date of the rezoning unless substantial progress towards obtaining site plan and other required approvals has been made, and shall expire after a period of two years unless development of the property is substantially begun within such two-year period and proceeds diligently and in good faith as required by ordinance to completion.

B. In the event substantial progress towards obtaining site plan approval such as, but not limited to, having concept plans available to participating in a predevelopment meeting with the city, or land survey work underway has not commenced within one year and bona fide development, such as but not limited to, earthwork, utility work, or foundation installation has not commenced within two years from the effective date of the rezoning, the rezoning with conditions and the rezoning with conditions agreement shall be void and of no effect.

C. The property owner may apply for a one-year extension two times. The request must be submitted to the Planning and Zoning Division before the approval time limit expires. The property owner must demonstrate why the extension should be granted, and must also demonstrate that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently

thereafter to completion, and if the City Commission finds that there has not been a change in circumstances that would render the rezoning with conditions incompatible with adjacent or nearby use and zoning of land or is otherwise inconsistent with sound zoning policy. An extension request shall be considered by the City Commission.

D. If the rezoning with conditions becomes void in the manner provided in this section, the following procedures shall apply:

1. The property owner may seek a new rezoning of the property within thirty days of the expiration of the period of approval.

2. If no application is made for a new rezoning of the property, the land shall revert to its former zoning classification as set forth in MCL 124.3405(2)(as amended). The City Commission shall direct the Planning Commission to proceed with consideration of rezoning the land to its former zoning designation following the standard rezoning procedures set forth in this Zoning Code.

3. Until such time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.

(9) Rezoning with conditions agreement requirements. A rezoning with conditions agreement shall be executed between the applicant and the City at the time of City Commission approval of a rezoning with conditions.

A. Rezoning with conditions agreements shall, at a minimum, contain all of the following items:

1. Identification of the requested zoning district and a listing of the conditions offered by the applicant.

2. A statement acknowledging that the rezoning with conditions was proposed by the applicant, and, further agreement and acknowledgment that the conditions and rezoning with conditions agreement are authorized by all applicable state and federal law and constitution, and that the agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the City.

3. Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the rezoning with conditions agreement.

4. Agreement and understanding that the approval and rezoning with conditions agreement shall be binding upon and inure to the benefit of the property owner and City, and their respective heirs, successors, assigns, and transferees.

5. The date upon which the rezoning with conditions becomes void, as specified in Section 1281.01(k)(8). If the City Council grants an extension of approval, a new rezoning with conditions agreement with the new expiration date shall be recorded.

6. Agreement and understanding that, if a rezoning with conditions becomes void in the manner provided in Section 1281.01(k)(8), no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.

7. Agreement and understanding that each of the requirements and conditions in the rezoning with conditions agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved rezoning with conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.

8. A legal description of the property affected by the rezoning with conditions.

9. Development regulations affected by the conditions of rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, etc.

10. Revocation of approval provisions returning the property to its original zoning designation if the developer violates the terms of the agreement.

B. A rezoning with conditions plan may be included as an exhibit to the agreement. The rezoning with conditions plan may show the conceptual layout of the proposed development or use, along with any other information deemed relevant by the applicant. Inclusion of a rezoning with conditions plan as an exhibit to a rezoning with conditions agreement shall not replace the requirement for preliminary and final site plan, subdivision, condominium, special land use or variance review and approval.

(10) Amendment of rezoning with conditions agreement. Amendment of a rezoning with conditions agreement shall be proposed, reviewed and approved in the same manner as a new rezoning with conditions. This section does not apply to minor amendments that do not change the approved zoning or conditions that were offered.

(11) Recordation of rezoning with conditions agreement. A rezoning with conditions shall become effective following publication in the manner provided by law, or after recordation of the rezoning with conditions agreement, whichever is later. All rezoning with conditions agreements shall be recorded with the Calhoun County Register of Deeds.

(12) Termination. The City Commission shall be the only body with the authority to terminate a rezoning with conditions agreement. The consideration to terminate the agreement shall be for reasons of expiration of the agreement, discovery of false information upon which the initial approval was based, or the existence or discovery of new information that alters the viability of the approved rezoning. The termination shall comply with any applicable provisions of this Zoning Code or the rezoning with conditions agreement. If the agreement is terminated, the City shall follow the procedures in Section 1281.01(k)(8)D.

(13) City right to rezone. Nothing in the rezoning with conditions agreement or in the provisions of this section shall be deemed to prohibit the City from rezoning all or

any portion of land that is subject to a rezoning with conditions to another zoning classification. Any such rezoning shall be conducted in compliance with this Zoning Code and the Michigan Zoning Enabling Act.

(14) If land that is subject to a rezoning with conditions agreement is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no rezoning with conditions agreement, the rezoning with conditions agreement attached to the former zoning classification shall cease to be in effect. In such a case, the Planning and Zoning Administrator or their designee shall record with the Calhoun County Register of Deeds a notice that the rezoning with conditions is no longer in effect upon the property owner's written request.

(h) Fees. Petitions for an amendment to this Zoning Code shall be accompanied by a fee as prescribed in the schedule provided for in Section 802.24. Such fee is applicable when filing a petition for zoning reclassification and is nonrefundable.

(i) Protest Petition. An amendment to a zoning ordinance is subject to a protest petition under Section 1281.08.

(j) An amendment to conform a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the City Commission and the notice of the adopted amendment published without referring the amendment to any other board provided for under this chapter.

1281.02 CERTIFICATES OF OCCUPANCY.

(a) Subsequent to the effective date of this Zoning Code (Adopted on November 24, 2020), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Chief Building Official or their designee or agent. Such a certificate shall state that the new occupancy complies with this Zoning Code.

(b) No permit for excavation, or the erection or alteration of, any building or premise shall be issued before the application has been approved for such activities, and no building or premises shall be occupied until a certificate of occupancy is issued by the Chief Building Official or their designee or agent.

(c) A record of all certificates of occupancy shall be kept on file in the Inspections Division office. Copies shall be furnished on request to any person having a proprietary or tenancy interest in land or in buildings affected by such certificates.

1281.03 APPLICATIONS FOR BUILDING PERMITS AND ZONING PERMITS; RECORDS.

(a) It shall be unlawful for any person to commence excavation for construction of any building or structure, structural changes or repairs in any existing building, a change

in use, or moving of an existing building without first obtaining a zoning permit and/or building permit from the City of Battle Creek. No permit shall be issued for construction, alteration or remodeling of any building or structure, or change in use, until an application has been submitted in accordance with the provision of this Zoning Code showing that the construction proposed is in compliance with the provisions of this Zoning Code and with the Building Code adopted by the City. "Alteration" or "repair" of an existing building or structure, shall include any changes in structural members, stairways, basic construction type, kind or class of occupancy, light or ventilation, means of egress and ingress, use, or any other changes regulated by the Building Code of the City, the Housing Law of Michigan, Public Act 167 of 1917, as amended, being MCL 125.401 et seq., this Zoning Code, except for minor repairs or changes not involving any of the aforesaid provisions.

(b) Each application for a zoning permit shall contain all required information specified in Section 1281.04(d). A record of applications and plot plans shall be kept in the offices of the Planning and Zoning Division.

(c) Zoning permits are required for activities detailed in Section 1281.04(c), and as otherwise specified in this Zoning Code.

(d) No building, plumbing, electrical, drainage or other permit shall be issued until the City of Battle Creek has determined that the plans and designated use indicate that the proposed structure and lot will conform to the provisions of this Zoning Code.

1281.04 SITE PLAN REVIEW.

(a) Purpose. It is the purpose of this chapter to require site plan review approval for certain buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. Site plan approval shall be required before building permits are granted by the City for parcels subject to this Chapter. The regulations contained in this Chapter are intended to promote:

- (1) Safe and convenient vehicle and pedestrian traffic movements, both within a site and in relation to access streets;
- (2) Harmonious relationships between buildings, structures and uses, both within a site and within adjacent sites;
- (3) Conservation of natural amenities and resources; and
- (4) Compliance with all other applicable regulations of this Zoning Code.

(b) Application.

(1) Applications for site plan approval shall be available at the Planning and Zoning Division.

(2) A complete application packet shall consist of an application form with all required information, a site plan that includes at a minimum the required information under Section 1281.04(d)(1-22) and other supporting documents necessary to meet the requirements of the Zoning Code, and the review fee established by Section 802.24. Application packets shall be filed with the Planning and Zoning Division. Incomplete applications will not be accepted.

(3) Once a complete application, site plan, and other materials are submitted, the Planning and Zoning Administrator or their designee will schedule a review at the earliest possible date.

(4) Any additional information requested by city staff must be submitted no later than 180 days from the date a complete application is filed. The application shall expire if the requested additional information is not received by the end of the 180-day period. An applicant may submit a new application and fee.

(c) Required Review Based on Proposed Activity. The table below details which type of reviews are required based on the proposed activity.

| Proposed Activity | Administrative Review of Site Plan Per Section 1281.04 | Administrative Review of Building and Zoning Permits Per Section 1281.03 | Planning/City Commission Review Per Section 1281.05 |
|--|---|--|--|
| Any proposed new building or parking area or where an alteration, addition, or expansion of existing developments constitute an increase or reduction to the existing buildings or parking area of more than ten percent (10%) | ● | | |
| Projects where less than a ten percent (10%) increase or reduction of the building or parking will occur shall adhere to review requirements as outlined in the Stormwater Management Program Technical Reference Manual. | | ● | |

| | | | |
|---|---|---|---|
| Planned Unit Developments | ● | | ● |
| Parking lot mill and repave projects where an approved site plan is not on file | ● | | |
| Special land uses | ● | | ● |
| Adult Use Marihuana Microbusiness located in B-1, B-2, I-1 and I-2 | ● | | |
| Adult Use Marihuana Microbusiness located in T-3 | ● | | ● |
| Adult Use Marihuana Retailers located in B-1, B-2, T-4, T-5, I-1, and I-2 | ● | | |
| Adult Use Marihuana Retailers located in T-3 | ● | | ● |
| Medical Marihuana Provisioning Center located in B-1, B-2, T-4, T-5, I-1, and I-2 | ● | | |
| Medical Marihuana Provisioning Center located in T-3 | ● | | ● |
| Medical and Adult Use Marihuana Grow Operation located in I-1 and I-2 | ● | | |
| Medical and Adult Use Marihuana Processing Facility located in I-1 and I-2 | ● | | |
| Medical and Adult Use Safety Compliance Facility located in B-1, I-1 and I-2 | ● | | |
| Medical and Adult Use Secure Transporter located in B-1, I-1 and I-2 | ● | | |
| Medical and Adult Use Excess Grow Operation located in I-1 and I-2 | ● | | |
| Driveway or curb cut relocation where the new driveway will be relocated within 25 feet of the existing driveway location or where a driveway or curb cut is being eliminated | | ● | |
| Construction and development on any parcel of land proposing or having multiple single family or two-family dwellings, or multi-family, commercial, or industrial uses | ● | | |
| Site improvements that include landscaping, lighting, site access, and parking lot grading, layout, and new off-street parking | ● | | |
| Landscaping that is less than 25% of the parcel size or 5,000 square feet, whichever is less | | ● | |

| | | | |
|---|--|---|--|
| Re-paving of an off-street parking lot, provided there are no grading changes and no changes to the configuration of the parking lot layout | | ● | |
| Construction of and/or the conversion of an existing structure to one (1) or more units meeting the definition of a State Licensed Residential Facility | | ● | |
| Construction or replacement of a fence, shed, signage, or driveway | | ● | |

(1) Site plan review shall not be required for the following:

- A. A single detached single-family dwelling unit and related parking;
- B. A single two-family dwelling unit and related parking;
- C. Agricultural uses; and

D. Nonresidential accessory buildings no more than 120 square feet in area and all residential accessory buildings.

(2) No grading, removal of trees or other vegetation, land-filling or construction of improvements shall commence for any project which requires site plan approval until a site plan is approved and is in effect, and any other applicable permits are obtained.

(d) Site Development Plans. All site development plans shall be prepared on standard twenty-four inch by thirty-six inch, or thirty-six inch by forty-two inch, architectural or engineering sheets, and are required to incorporate the following information, unless waived by the Planning and Zoning Administrator or their designee:

Site Plan Required Information:

- (1) The title of the proposed project;
- (2) The name of the property owner, proprietor or project director;
- (3) The location of the project, the street name and the address;
- (4) Professional seal of the architect, engineer or designer, and their name, address, phone number, and email address, if available;
- (5) The date drawn and subsequent revision dates;
- (6) The scale of the drawing, the north directional arrow, and vicinity map showing location of project;
- (7) Provide all dimensions, including property lines, easements and rights-of-way, existing and proposed buildings building setback lines, site improvements; gross and net acreage, and zoning classification of the site and adjacent properties;

(8) Location of adjacent property lines, buildings and structures, sidewalks, parking lots, rights-of-ways, abutting streets, curb cuts, and access easements within 100 feet of the subject property;

(9) Existing man-made or natural features such as wetlands, waterways, woodlands, and areas with slopes greater than 10%, with an indication of which features will be retained or removed;

(10) The topography, existing and proposed, including contours with a maximum of two-foot contours, or spot elevations sufficient to determine the topography of the site, so as to clearly indicate required cutting, filling, and grading. The site plan shall contain arrows indicating direction of drainage and stormwater calculations;

(11) Location and dimension of existing and proposed buildings or structures, including intended uses, floor area, number of floors, width, length, height, number of types of dwelling units (where applicable), and setback distances;

(12) The location of sidewalks, rights-of-ways, abutting streets, curb cuts, and access easements, ingress and egress drives, both existing and proposed, to thoroughfares, showing traffic patterns into the site from the same, including ultimate pavement width, deceleration lanes and the like; the location of private and public pedestrian walkways;

(13) On-site traffic circulation and parking areas, including the number and size of parking bays, width of maneuvering aisles, designation of fire lanes, the location and size of handicapped parking, surface materials and striping of the parking lot surface to delineate parking bays and individual spaces;

(14) The location of loading berths, truck docks, truck wells, service drives and exterior parking lot lighting, including photometric plan;

(15) The location and size of all existing and proposed public and private utilities above and below ground proposed to service the project and the location of any public or private utility easements, to include water, gas, electric, cable, stormwater, storm sewer, catch basins, and fire hydrants;

(16) The spatial relationship of buildings on the site, including pedestrian walkways, protective or retaining walls, fences, landscaped buffers, either existing or proposed, and the materials to be utilized, if required;

(17) The location of signs, either existing or proposed, and an indication of their size, height and design pursuant to City sign regulations;

(18) A landscaping plan of the site, including greenbelts or buffers if required, and the identification of all plant and landscape material to be utilized as to type, size and location;

(19) The location and proposed method of screening trash . receptacles;

(20) Location of outdoor storage/display areas including a description of the items to be located outdoors, as well as the location and description of required screening;

(21) Storage and containment areas if the use of hazardous substances is involved; and

(22) Any additional information as may be required of the applicant to properly evaluate the proposed development.

(e) Standards for Consideration. The following shall be the standards for consideration of all plans for developments submitted for site plan approval:

(1) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjacent properties and the type and size of buildings.

(2) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal and by topographic modifications, which result in maximum harmony with adjacent areas.

(3) The site plan shall provide reasonable visual and sound privacy for all occupants located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

(4) All buildings or groups of buildings shall be so arranged as to permit emergency vehicles access by some practical means to all sides as may be required by the Building and/or Fire Code.

(5) Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.

(6) There shall be provided a pedestrian circulation system which is insulated as completely as is reasonably possible from the vehicular circulation system.

(7) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are a part of an existing or planned street pattern which serves an adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified by the City Engineer and/or any other entity having authority over said roadway.

(8) Where the Planning Division, City Engineer, or Traffic Engineer finds that an excessive number of ingress and/or egress points may occur with relation to major or secondary thoroughfares, thereby diminishing the carrying capacity of the thoroughfare, they shall require marginal access drives as follows:

A. For a narrow frontage of less than 120 feet, the design will require a single outlet.

B. For a series of adjacent frontages in a developing area, a service road shall be constructed and a single marginal access drive shall serve all establishments

fronting thereon, with road cuts not closer than 330 feet centerline to centerline, or 330 feet from a street intersection.

C. The overall design of a marginal access drive shall uphold the purposes of this chapter, promote the public safety, and serve the public interest.

D. Marginal access drives shall be required only if the concept is reasonable in terms of the land available for such an improvement.

(9) All site plans shall be designed in accordance with the City of Battle Creek Stormwater Management Program Technical Reference Manual. All stormwater shall be detained on site for controlled release. Attention shall be given to proper site drainage to ensure neighboring properties will not be adversely affected.

(10) Loading and unloading areas and outside storage areas which face or are visible from residential uses or districts or public thoroughfares, shall be screened by a six-foot solid screening fence (concealment screening) and plant materials no less than six feet in height.

(11) Trash containers must be stored in a trash enclosure constructed of solid screening fence (concealment screening) on all four sides from four inches above the ground to six inches above the trash container. The enclosure shall not be located in the front yard unless the Planning and Zoning Administrator or their designee finds that there is no other feasible location.

(12) Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.

(13) Development occurring within the City of Battle Creek wellhead protection area, in accordance with Chapter 1041, shall comply with the requirements established in the performance standards as administered by the Department of Public Works.

(f) Decisions and approval.

(1) The Planning Division, the Inspection Division, and the Department of Public Works shall be responsible for reviewing site plans, and the Planning and Zoning Administrator or their designee shall be responsible for granting approval. A decision approving, conditionally approving, or rejecting a site plan shall be based upon requirements and standards contained in the zoning ordinance, other statutorily authorized and properly adopted City planning documents, other applicable ordinances, and state and federal statutes.

(2) Any revisions to the site plan shall be submitted in accordance with Section 1281.04(b).

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

(4) A site plan approved under this section shall be valid for a period of one year. If construction has not commenced within this time period, or if construction has ceased for more than one year, the site plan shall become null and void. Prior to the expiration of an approved final site plan, an applicant may make application for a six-month extension of the site plan. The extension shall be granted if the Planning and Zoning Administrator or designee finds good cause for the extension and that zoning regulations and site conditions of the subject property and adjacent properties have not changed since the approval.

(5) Performance guarantee. In accordance with the Michigan Zoning Enabling Act, the City may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the City, in an amount to cover the estimated cost of the improvements associated with the project, be deposited with the City Clerk to insure faithful completion of the improvements as set out in the site plan approved by the Planning and Zoning Administrator or their designee. If the City has required a performance guarantee, then it shall be subject to the following terms and conditions:

A. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The City may not require the deposit of the performance guarantee until it is prepared to issue the permit.

B. Rebates of cash deposits. Where the performance guarantee has been made in the form of a cash deposit, the performance guarantor shall be entitled to a rebate of the cash deposit in reasonable proportion to the ratio of work completed on the required improvements as satisfactory work progresses. The performance guarantor may request the rebates in three equal installments each time one-third of the entire required work has been satisfactorily completed in accordance with the final approved site plan, including any approved amendments.

C. Failure to complete improvements. If the performance guarantor fails to complete the improvements as approved in the final approved site plan within such time period as is required by the conditions or guarantees as outlined above, then the City may proceed to have such work completed and shall reimburse itself for the cost thereof by appropriating the cash deposit, certified check, or surety bond or by drawing upon the irrevocable letter of credit, or shall take the necessary steps to require performance by the bonding company.

(g) Appeals. An appeal may be taken to the Zoning Board of Appeals by any person aggrieved by a decision of the Planning Division, the City Engineer or the Traffic Engineer as it relates to this chapter. Such appeal shall be taken within such time as is prescribed by Section 1280.03.

(h) Amendments. All site improvements shall conform to the final site plan. A site plan may be amended upon application and in accordance with the procedure herein. The Planning and Zoning Administrator or their designee shall have the authority to determine if a proposed change requires an amendment to an approved final site plan, provided that a revised final site drawing be submitted showing such minor changes, for purposes of record.

(i) As-Built Plan. After construction has concluded, as-built plans shall be submitted to ensure compliance with final site plan approval.

(j) Violations and Penalties.

(1) All site improvements shall conform to the final approved site plan, unless an amendment has been approved by the Planning and Zoning Administrator or their designee. If an amendment has not been approved, the Planning Division may require the applicant to correct any physical changes to the site that were completed without proper approval so as to conform to the approved final site plan.

(2) Stop work order. If improvements and/or construction is being undertaken contrary to this Chapter or the final approved site plan, including any approved amendments, the Planning and Zoning Administrator or their designee shall give written notice to the holder of the building permit, or if a building permit has not been issued, then to the person doing the construction and/or improvements, notifying them of the violation of this Chapter, or other applicable laws and ordinances. If the person doing the construction is not known, or cannot be located with reasonable effort, then the notice may be delivered to the person in charge of, or apparently in charge of, the construction/improvements. If the holder of the permit or the person doing the construction or improvements fails to correspond with the City to show good cause within one full working day after notice is delivered, the Planning and Zoning Administrator or their designee shall cause a written order to stop construction and/or improvements to be posted on the premises. A person shall not continue, or cause or allow to be continued, construction and/or improvements in violation of a stop work order, except with permission of the Zoning Administrator or their designee to abate the dangerous condition or remove the violation, or except by court order. If an order to stop construction and/or improvements is not obeyed, the Planning and Zoning Administrator or their designee may apply to the Calhoun County circuit court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal prosecution for failure to obey the order.

(3) A person who violates or fails to comply with any of the provisions of this Zoning Code is responsible for a Class C Municipal civil infraction and shall be subject to the civil infraction fines provided in Section 202.98.

1281.05 SPECIAL LAND USES.

(a) Application for Special Uses; Certificates of Occupancy. An application to build or occupy any of the special uses described in Section 1240.02 shall be submitted in accordance with the following procedure:

(1) Applications shall be submitted through the Planning Division to the Planning Commission. A copy of the application shall be forwarded to the City Commission. Each application shall be accompanied by a nonrefundable filing fee as established in the fee, bond and insurance schedule.

(2) Every application shall be accompanied by the following information and data:

- A. A special use petition form supplied by the Planning Division;
- B. A site plan, plot plan or development plan, drawn to a readable scale, of the total property involved showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their proposed uses;
- C. Preliminary plans and specifications of the proposed development and for all intended construction; and
- D. A statement with supporting evidence regarding the required findings specified in Section 1281.05(c).

(3) Before authorization by the City Commission of any of the special uses referred to in this chapter, the Planning Commission shall cause a study and report concerning the effect of the proposed use on the master plan and on the character and development of the neighborhood.

(4) The Planning Commission may recommend, and the City Commission may impose, such conditions or restrictions upon the construction, location and operation of a special use as is deemed necessary to secure the general objectives of this Zoning Code and to preserve the value of property in the neighborhood. Any proposed special use shall otherwise comply with all of the requirements set forth in this Zoning Code for the district in which the use is located, except that the City Planning Commission may permit hospitals and institutions to exceed the height limitations of such district.

(5) A special uses permit shall be valid for a period established by the City Planning Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Special use permits shall expire after one year if the use is not under construction or operational. For good cause shown and upon written application, the City Commission may extend a special use permit for six months. The written application to request a six-month extension shall be filed with the Planning and Zoning Division no later than 30 days prior to expiration.

(b) Hearings and Notices. (Requirements for public hearing and hearing notices are the same as for an amendment to the Zoning Code as specified in Section 1281.01 (e)(1-6).

(c) Decision on Application; Basis for Determination.

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

(2) Before approving, or approving with conditions, a request for a special land use, the Planning Commission and the City Commission shall establish that the general standards specified in the following shall be satisfied by the completion and operation of a proposed development:

A. The use will be harmonious with and in accordance with the general objectives of the master plan.

B. The use will be designed, constructed, operated and maintained so as to be compatible with adjacent uses of land, the natural environment, and harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.

C. The use will not be hazardous or disturbing to existing or future neighboring uses.

D. The use will be an improvement to property in the immediate vicinity and to the community as a whole.

E. The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.

F. The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

G. The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

H. The use will be consistent with the intent and purpose of this Zoning Code.

(3) A request for approval of a special land use shall be approved (except requests for approval of a group child care home, which are discretionary approvals) if the request is in compliance with the standards stated in this ordinance, the conditions imposed under this Zoning Code and other applicable ordinances, and state and federal statutes.

(d) Approval of Special Land Use with Conditions.

(1) Reasonable conditions may be required with the approval of a special land use. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all the following requirements:

A. Be designed to protect the natural resources, the health, safety, and welfare, as well as the social and economic wellbeing, of those who will use the land use or

activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

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

C. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in this zoning ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

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

(3) To ensure compliance with any conditions imposed pursuant to the section, the City may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the City covering the estimated cost of necessary improvements be deposited with the City Clerk to insure faithful completion of the improvements relative to the imposed conditions. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the special use. Refer to Section 1281.04(f)(4).

(e) Reapplication.

(1) No application for a special use permit shall be submitted for the same property, or any part thereof, or as part of a larger parcel, for a period of six months from the date of Planning Commission decision on a special use application for the property, except on grounds of newly discovered evidence or proof of changed conditions found, in the discretion of the Planning Commission, to be sufficient to justify a reconsideration.

(2) As used in this section, “newly discovered evidence” means a finding that the evidence itself, not merely its materiality, is newly discovered; that the evidence is not cumulative; that the evidence is such as to render a different result probable on rehearing; and that the evidence could not, with reasonable diligence, have been discovered and produced at the time of the original hearing.

(3) For purposes of this section, “proof of changed conditions” shall not include an application for another or different special use than that originally requested.

1281.06 ENFORCEMENT BY ZONING ADMINISTRATOR; APPEALS.

The Planning and Zoning Administrator or their designee shall enforce this Zoning Code. The officers and employees of the City, especially all of the members of the Police Department, shall assist the Planning and Zoning Administrator or their designee by reporting to the Administrator upon observing new construction, reconstruction or land uses or upon observed violations. An appeal from a decision of the Planning and Zoning Administrator or their designee may be made to the Zoning Board of Appeals as provided in Section 1280.03.

1281.07 INTERPRETATION, PURPOSE AND CONFLICTS.

In interpreting and applying the provisions of this Zoning Code, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. This Zoning Code is not intended to interfere with, abrogate or annul any ordinance, rule, regulation or permit previously adopted or issued and not in conflict with any of the provisions of this Zoning Code, or which shall be adopted or issued pursuant to a law relating to the use of buildings or premises and likewise not in conflict with any of the provisions of this Zoning Code, nor is this Zoning Code intended to interfere with, abrogate or annul any easement, covenant or other agreement between parties, provided that where this Zoning Code imposes a greater restriction upon the use of buildings or requires larger open spaces or larger lot areas than are imposed or required by such ordinances or agreements, the provisions of this Zoning Code shall control.

1281.08 PROTEST PETITION, SUBMISSION OF ORDINANCES TO ELECTORS.

(a) An amendment to the zoning ordinance is subject to a protest petition as required by this subsection. If a protest petition is filed, then approval of the amendment to the zoning ordinance shall require a 2/3 vote of the City Commission. The protest petition shall be presented to the City Commission before final legislative action on the amendment and shall be signed by one or more of the following:

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

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

(b) Publicly owned land shall be excluded in calculating the 20% land area requirement under subsection (a) above.

1281.09 REQUIREMENT OF PAYMENT OF FEES.

The City may require the payment of reasonable fees for zoning permits as a condition to the granting of authority to use, erect, alter, or locate dwellings, buildings, and structures, including tents and recreational vehicles, within a zoning district established under this act.

1281.10 TRANSFER OF OWNERSHIP.

It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the compliance order or

notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order of notice of violation.

**CITY OF BATTLE CREEK
PLANNING COMMISSION
10 North Division, Battle Creek, MI 49014
Minutes for April 22, 2026**

MEETING CALLED TO ORDER: By Chairman Hughes at 4:02 p.m.

ATTENDANCE: Roll call was taken.

Chairperson Hughes, present
Vice Chairperson O'Donnell, present
Commissioner Morris, present
Commissioner Gray, present
Commissioner Furmato, present

Commissioner Denison, present
Commissioner Moton, absent
Mayor Behnke, present
Commissioner White, present

Staff Present: Travis Sullivan, Planning Administrator, Adam Jenks, Planner, Melody Carlsen, Administrative Assistant, Patrick Batterson, Assistant City Attorney.

APPROVAL OF MINUTES: March 25, 2026.

MOTION MADE BY COMMISSIONER MAYOR BEHNKE TO APPROVE THE MARCH 25, 2026 MEETING MINUTES. MOTION SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: Chairperson Hughes asked everyone in favor to signify by saying "aye".

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CORRESPONDENCE: None.

ADDITIONS/DELETIONS: None.

PUBLIC HEARINGS/DELIBERATIONS:

A. SPECIAL USE PERMIT REQUEST #PSUP26-0001:

Petition from Battle Creek Memorial Park Association for a special use permit to allow for the expansion of the Memorial Park Cemetery, to include the plotting of a new burial garden upon the unaddressed parcel identified as Parcel #0066-00-110-0 to the west of Helmer Rd. S within the I-1 Light Industrial zoning district. Pursuant to Section 1281.05 of the Zoning Code.

Staff Presentation: Travis Sullivan gave the staff report for #PSUP-0001.

Applicant Presentation: Alexander Yost was present to speak and answer questions.

Questions by Commissioners:

Mayor Behnke asked what a "natural burial is". Mr. Yost responded and explained.

MOTION MADE BY COMMISSIONER GRAY TO APPROVE ITEM PSUP26-0001 WITH THE STAFF RECOMMENDATIONS AS PRESENTED. SECONDED BY COMMISSIONER WHITE.

ROLL VOTE: Chairman Hughes asked for a roll vote.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

B. REZONING REQUEST #PRZ26-0001:

Petition from Community Action Agency, as well as on behalf of Michael T Moore to rezone the properties located at the following addresses from their current zoning classification of MFR High-Density Multiple Family District to T-3 Neighborhood Commercial District, pursuant to Section 1240.13 and Section 1281.01 of the Zoning Code. Addresses included within this rezoning request include:

| | |
|--------------|-----------------------|
| 14 Yuba St. | Parcel #8040-00-147-0 |
| 175 Main St. | Parcel #0890-00-075-0 |
| 169 Main St. | Parcel #0890-00-075-0 |

Staff Presentation: Travis Sullivan gave the staff report for PRZ26-0001.

Applicant Presentation: Joshua Reetz was present to speak.

Public Comment:

James Moreno, 451 Main Steet, asked a clarifying question regarding the current zoning and what the proposed use of the home on Yuba Street would be and if the entirety of the parcels would be T-3. Chairman Hughes and staff responded.

Questions from Commissioners:

Commissioner White asked what the most significant difference between MFR and T-3 was. Ms. White also asked if the applicant has talked to the local residence. Staff responded.

MOTION MADE BY COMMISSIONER GRAY TO APPROVE ITEM PRZ26-0001 WITH THE STAFF RECOMMENDATIONS AS PRESENTED. SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: Chairman Hughes asked for a roll vote.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

C. ZONING ORDINANCE TEXT AMENDMENTS #A26-02

Petition from the City of Battle Creek to amend various sections of Chapter 1281 (Administrative Procedures) of the zoning ordinance. Pursuant to Section 1281.01 of the Zoning Code.

Staff Presentation: Travis Sullivan gave the staff report for #A26-02.

Questions from Commissioners:

Commissioner Gray asked if the City has considered any economical ways to publish if the required 5-day public meeting notice before a City Commission meeting is no longer required by the Planning Commission. Asked staff if we should include cost saving ways to duplicate the public notice requirement in the motion. Mr. Batterson responded to not include the cost saving recommendations in the motion, staff will make a note of them.

Commissioner White feels more information is better than less, has concerns that residence are not being notified because they do not live within the 300 feet buffer, would like to see some kind of notification still going out to residents, feels that applicants should meet with Neighborhood Planning Counsels before coming to the Planning Commission. Asked about clarifying the motion and the staff recommendation listed in the staff report to take out the requirement for the 5-day public meeting notice. Would like to see this item not taken out, can the motion be everything but the part around notices. Mr. Batterson responded.

Commissioner O'Donnell mentioned the Facebook notices that the City Commission uses and wondered if Planning Commission can do that or if there was an app we could use to get information out.

MOTION MADE BY COMMISSIONER GRAY TO APPROVE #A26-02 WITH THE RECOMMENDATIONS AS PRESENTED BY STAFF. SECONDED BY COMMISSIONER MORRIS.

Commissioner Gray wanted to point out that if this motion is passed, she would like to see the City find ways that do not cost more but are available through other platforms that we may already have access to make sure that we are reaching as many people as possible but still look like the 5-day meeting notice.

Chairman Hughes asked if it was possible to have staff research cost effect ways as an alternative to the 5-day public notice requirement.

ROLL VOTE: Chairman Hughes asked for a roll vote.

SEVEN IN FAVOR, ONE OPPOSED, MOTION APPROVED.

D. ZONING ORDINANCE TEXT AMENDMENT #A25-01;

Petition from the City of Battle Creek to consider an amendment to Section 1262.02 of the zoning code to require yards be improved with either natural or living groundcover including grass, plant material, rocks, stones, mulch, etc. in residential districts. Pursuant to Section 1281.01 of the Zoning Code.

Staff Presentation: Travis Sullivan gave the staff report for #A25-01.

Questions from Commissioners:

Commissioner White asked what would happen if someone did not want to plant grass seed or find an alternative to grass, if this item is approved what would the enforcement look like, what happens if a residents cannot afford grass seed, is the city going to pay for it. Asked about enforcement; do you just provide tickets, what's the worse case scenario, can the city take their home. Asked if the commission has to take action on this item right now, feels there is a missing pieces to this.

Commissioner O'Donnell wanted to clarify that the current ordinance reads all other zoning districts except the single family and two-family residents zoning districts, follow this landscaping ordinance, and is already enforced and that we are just changing the language to ensure it is enforceable and usable for the whole city. Mr. Sullivan responded that this is correct. Commissioner O'Donnell asked if not using grass, do resident just need to use some type of ground cover; cedar, rocks, etc. and they can make it a driveway if they follow the zoning rules.

Chairman Hughes agrees that some sort of front lawn cover is needed but has concerns over how it all would be managed and to what extent are we going to be able to keep it under control. It appears there is some leniency in the existing ordinance; the city will work with individuals if they receive a violation. Asked a clarifying questions regarding this item being back up for reconsideration; do the proposed changes in the staff report from last July still apply and if there had been any additional changes within the new staff report.

Commissioner Furrato mentioned the paint program that the city offers and wondered if there could be a plan for grass seed as well.

Mayor Behnke asked Mr. Sullivan why staff has not made a recommendation on this item and asked if this ordinance change was the result of a property located within the Brewer neighborhood. Mr. Sullivan responded to both questions.

Commissioner Denison one thing to think about is that if we are going to enforce grass, it will have to be kept up, there is more to this then what we are talking about, and what kind of burden would this be on the city.

Public Comment:

James Moreno, 1451 Main St, has concerns that the commission does not have a clear look of this issue within the city, has concerns about vacant parcels being used a private driveway. Feels landlords should be held responsible. If we are trying to improve the community as a hole, we need to act now, and we need to help ourselves as a community, if you are property own, you have a responsibility to take care of your property. Chairman Hughes asked Mr. Moreno what feedback he had heard during his NPC meeting regarding the proposed lawn ordinance.

Commissioner Gray asked what the typical number of warnings/notices are received before a citation is moved to the court. Mr. Sullivan responded.

MOTION MADE BY COMMISSIONER WHITE TO POSEPONE ITEM #A25-01 UNTIL THE MAY 27, 2026 PLANNING COMMISSION MEETING. SECONDED BY MAYOR BEHNKE.

ROLL VOTE: Chairman Hughes asked for a roll vote.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

OLD BUSINESS: None.

NEW BUSINESS: None.

COMMENTS BY THE PUBLIC:

Stella Duckett of 349 Robertson Avenue, had concerns and questions regarding a variance for a sign within 300 feet from her home, also has concerns with the type of business (truck stop) being proposed at this location.

James Moreno of 451 Main Street, had a comment regarding processes. Applicants should make sure they are going to NPC meetings before going to a board/commissions. This way the process is being used like it is supposed to.

COMMENTS FROM COMMISSION MEMBERS AND STAFF:

Commissioner Gray had a process question. It would be nice to have staff present at our next meeting the process of applicants going to NPC's prior to board/commissions meetings. Is there a process written anywhere to require this item. Strongly recommends a closer look at this so that we can look at citizens comments in a formal way. Asked what the current process is. Mr. Sullivan responded.

Chairman Hughes has concerns of formalizing the concern of an applicant going to NPC meeting prior to board/commission meeting. There may be a concern of holding up development. The Chairman also asked if there was anything the planning commission could do about neighborhoods hooking up to city water.

Commissioner White shared thoughts on the process or protocols with applicants going to NPC meetings. Asked about traffic studies and who will review those.

Mayor Behnke thanked the commissioners for being in attendance.

ADJOURNMENT: Chairman Hughes adjourned the meeting at 5:48

Submitted by: Melody Carlsen, Administrative Assistant, Planning & Zoning Division.



Ordinance No: 13-2026

#13-2026 - A Proposed Ordinance, 13-2026 to rezone the properties located at 14 Yuba St. (Parcel #8040-00-147-0), 175 Main St. (Parcel #0890-00-075-0), and 169 Main St. (Parcel #0890-00-075-0) from MFR High-Density Multiple Family District to T-3 Neighborhood Commercial District for the purpose of converting an existing vacant single-family residence on the site into an office building to support organization operations. It should be noted that 175 Main St. and 169 Main St. share a common parcel but are separate in their addresses.

Battle Creek City Commission

Action Summary

Staff Member: Darcy Schmitt, Planning Supervisor

Department: Planning

Summary

ORDINANCE NO. 13-2026

The City of Battle Creek Ordains:

That the following is introduced:

Section 1. An Ordinance to rezone the properties located at 14 Yuba St. (Parcel #8040-00-147-0), 175 Main St. (Parcel #0890-00-075-0), and 169 Main St. (Parcel #0890-00-075-0) from MFR High-Density Multiple Family District to T-3 Neighborhood Commercial District for the purpose of converting an existing vacant single-family residence on the site into an office building to support organization operations. It should be noted that 175 Main St. and 169 Main St. share a common parcel, but are separate in their addresses.

Section 2. Should any section, clause or phrase of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 3. All ordinances or parts of ordinances in conflict with any of the provisions of this

Ordinance are hereby repealed, saving any prosecution, criminal or administrative appeal pending on, or violation cited on or before the effective date of this Ordinance, which shall remain subject to the Ordinance provision existing at the time of the alleged violation.

Section 4. Except as otherwise provided by law, this Ordinance shall take effect seven (7) days from the date of its publication, in accordance with the provisions of Section 401 of the Michigan Zoning Enabling Act.

Budgetary Considerations

None.

History, Background and Discussion

The City of Battle Creek was approached by the applicant, Community Action Agency, regarding interest in establishing an office space at 14 Yuba Street. The subject parcels are owned by Michael T. Moore at 14 Yuba Street and Community Action Agency at 175 and 169 Main Street. Michael T. Moore provided a signed affidavit for Community Action Agency to apply for the rezoning of his property at 14 Yuba St. The three properties (two parcels) are contiguous and are currently zoned MFR High-Density Multiple Family District. Figure 1 below illustrates parcels owned by Michael T. Moore and Community Action Agency. The two parcels currently zoned MFR High-Density Multiple Family District are outlined in red, with the property currently owned by Community Action Agency and zoned T-3 Neighborhood Commercial District in green.

Figure 1 below displays an aerial view of the subject properties and surrounding area. Figure 2 displays the current zoning of the subject parcels.



Figure 1: Aerial view of the subject parcels and those within the immediate vicinity. The subject parcels at 14 Yuba St., 175 Main St, and 169 Main St. are outlined in red, while the additional parcel under Community Action Agency’s ownership is outlined in green.

In order to consolidate the properties in question into Community Action Agency ownership and with the desired uses, 14 Yuba Street, 175 Main St., and 169 Main St. require a zoning change

from their current MFR High-Density Multiple Family District status to T-3 Neighborhood Commercial District status. Should the rezoning application be approved, the applicant would then combine the two parcels prior to their application for site plan review for the construction of an office.

The parcel at 14 Yuba St. currently contains a vacant single-family residence. Should the rezoning be approved, the applicant intends to convert the residence at the site into an office building for Community Action Agency operations.

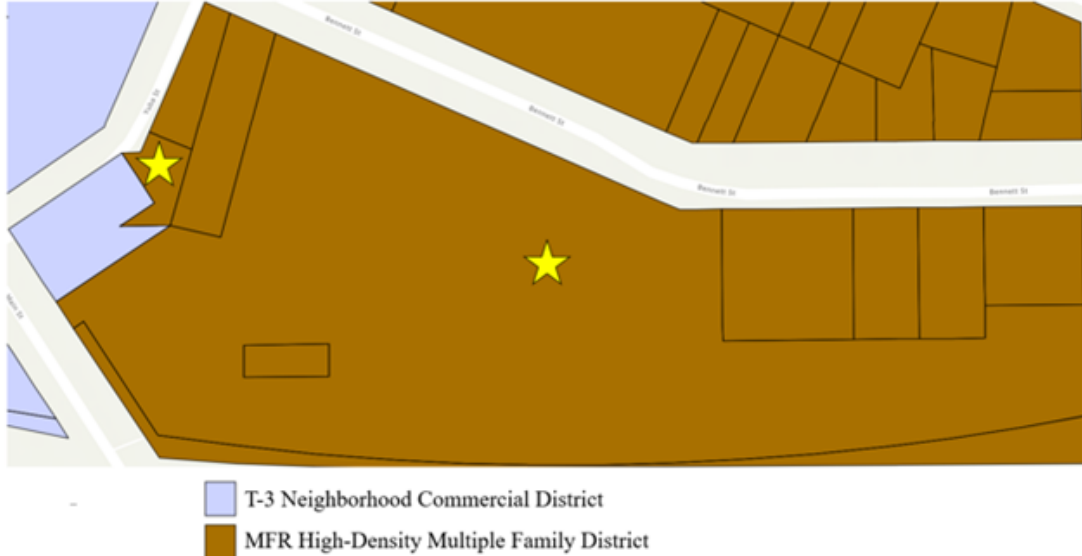


Figure 2: Current zoning of the subject parcels and the surrounding area. A yellow star indicates the location of the subject parcels. Lavender parcels indicate property currently zoned T-3 Neighborhood Commercial District, while brown parcels indicate property currently zoned MFR High-Density Multiple Family District.

Applicable Zoning Ordinance Provisions

If approved, the proposed rezoning would change the subject parcels to the T-3 Neighborhood Commercial District classification, availing the parcels to the permitted uses and dimensional requirements as proscribed by Section 1240.13 (T-3 Neighborhood Commercial District).

The purpose of the T-3 Neighborhood Commercial District is as follows:

“It is the purpose of this district to establish and preserve areas for those commercial uses and facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they serve.”

Section 1281.01 details the regulations and process related to zoning ordinance and map amendments, and is attached as a supporting document to this staff report. In brief summary, Section 1281.01 requires that a public hearing as required under the Michigan Zoning Enabling Act be sufficiently noticed and held by the Planning Commission, at which time a recommendation is made to the City Commission regarding the amendment. Following the public hearing, the recommendation of the Planning Commission and all pertinent documents are

forwarded to the City Commission for consideration, which includes a process requiring two meetings (introduction of the proposed amendment, followed by Commission action on the proposed amendment at the following meeting).

Master Plan

The Planning Enabling Act of 2008 requires a Master Plan be prepared and adopted that will “guide and accomplish development that is coordinated, adjusted, harmonious, efficient, and economical; that considers the character of the planning jurisdiction and its suitability for particular uses, judged in terms of such factors as trends in land and population development; and will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare.”

The Master Plan focuses on desired land use patterns for typically a twenty-year time frame, and the enabling legislation and case law require that zoning be based upon this Master Plan. The City of Battle Creek Master Plan was adopted in 2018, and includes a Future Land Use Plan, which is intended to guide decision-making with regard to planning and future land use patterns. Additional guidance should come from the goals and vision articulated in the Master Plan.

Figure 3 below is a portion of the Future Land Use Plan depicting the subject property, the surrounding area, and the corresponding legend:

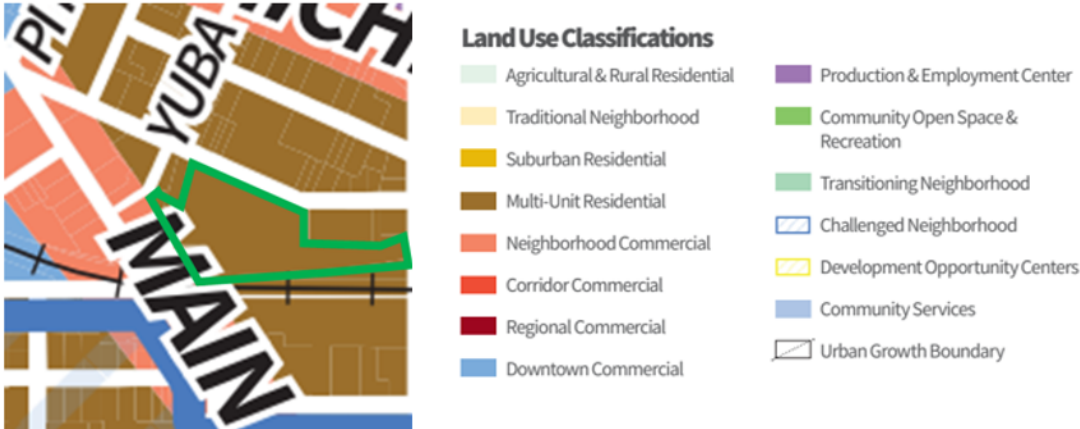


Figure 3: Section of the 2018 Future Land Use Plan depicting the subject properties and surrounding area. The green outline on the map indicates the approximate location of the subject parcels.

The parcels which are the subject of this application are classified as “Multi-Unit Residential” on the Future Land Use Map. While the Future Land Use classification and the applicant’s proposed zoning district (T-3 Neighborhood Commercial) do not align exactly, the proposed rezoning would allow for the continued development and expansion of the Community Action Agency campus and services. Such a rezoning would allow for additional investment in an area which lies geographically near to “Challenged Neighborhood,” as described in the approved Master Plan document. “Challenged Neighborhoods,” in short, according to the Master Plan, are “residential areas of Battle Creek that contain or demonstrate early indicators of blight and disinvestment. Further, these areas are defined by certain conditions that will challenge their

ability to attract new investment and revitalization in the future.”

Community Action Agency intends to purchase the property located at 14 Yuba St., contingent upon the successful rezoning, in order to rehabilitate the currently vacant residence and convert the building to allow for additional office space to accommodate five additional employees on the campus. Continued improvement within an area which has struggled to attract new investment, as well as the conversion of a currently vacant residential structure to a new commercial use in support of the existing services offered by Community Action Agency represent a substantial improvement, and aligns directly with Goal #2 as stated in the Master Plan (repositioning land use to reflect the anticipated needs of the community), Goal #5 (elevate downtown as an energetic community focal point and center of government and commerce), and Goal #7 (improve the overall appearance of the community and inspire pride in Battle Creek).

Positions

After reviewing the applicant’s proposed use for the properties at 14 Yuba St., 175 Main St., and 169 Main St., staff believes that the request presents an opportunity to convert the use of a vacant residential structure that would likely otherwise require monitoring and potential future action at the expense of the city, while also allowing for needed office space for the continuation of services provided by Community Action Agency.

The proposed rezoning would also maintain a contiguous zoning district with the T-3 zoning to the west and north of the subject parcels, as well maintain consistency with the commercial zoning and development immediately to the west of Yuba St. Please refer back to Figure 1, which illustrates the existing T-3-zoned parcel directly at the northeast corner of Main St. and Yuba St., which is also currently owned by Community Action Agency (and includes a portion of their parking lot).

This request went before the Planning Commission at their April 22, 2026 meeting, with notice of the hearing published in the April 2, 2026 edition of the Battle Creek Shopper. Appropriate notices were also mailed to all property owners within a 300-foot radius of the subject parcel no fewer than 15 days prior to the hearing. Both requirements pursuant to the Zoning Enabling Act of 2006, as amended, have been met.

While the applicant has not yet spoken with NPC #1 (Post-Franklin) regarding the proposed rezoning and redevelopment, staff has assisted the applicant with securing time on NPC #1’s May 7, 2026 agenda. Feedback from the meeting will be forwarded to the City Commission for their consideration of final action on the item.

As this is a rezoning request, consideration should be given to the existing zoning district and the potential effect on the neighborhood, the proposed uses allowed by the new zoning classification as it relates to the surrounding zoning and land uses, existing infrastructure, and consistency with the Master Plan. Staff findings include the following:

- The proposed rezoning of the parcels located at 14 Yuba St., 175 Main St., and 169 Main St. from their current classification of MFR High-Density Multiple Family District to T-3 Neighborhood Commercial District, while not aligning directly with the Future Land Use Map, does help in furthering multiple goals and objectives of the Master Plan document. It is also important for commissioners to note that while direct alignment between the Future Land Use Map and any proposed rezoning is preferred, the Future Land Use Map is not a binding document. Trends in development and the evolving needs of a neighborhood or specific geographical area to be served should also be considered by the commission in weighing their decision on the application.
- The existing infrastructure is unlikely to be impacted by the proposed rezoning. Existing water and sewer utilities are available to service the building, and an increase in operations of a total of five additional employees is not anticipated to have additional impacts on the city’s established street system, which is intended to serve both the current use of the subject property and its conversion to a new office building.

At their April 22, 2026 meeting, based on the above findings, the Planning Commission voted to recommend the City Commission approve Petition PZR26-0001.

Attachments

- | | |
|---|---|
| 1. 14 Yuba St Rezoning_Staff Report | 1. 14 Yuba St Rezoning_Staff Report.pdf |
| 2. Yuba St 14_Rezoning Redacted Application | 2. Yuba St 14_Rezoning Redacted Application.pdf |
| 3. Yube St 14_Owner Affidavit | 3. Yube St 14_Owner Affidavit.pdf |
| 4. Section 1240.13 | 4. Section 1240.13.pdf |
| 5. Section 1281.01 | 5. Section 1281.01.pdf |
| 6. 04.22.2026 Planning Commission Meeting Minutes | 6. 04.22.2026 Planning Commission Meeting Minutes.pdf |



Battle Creek City Planning Commission

Staff report for the April 22, 2026 regular meeting

To: Planning Commissioners

From: Adam Jenks, Planner

Subject: Petition PRZ26-0001 Petition from Community Action Agency, as well as on behalf of Michael T. Moore to rezone the properties located at the following addresses from their current zoning classification of MFR High-Density Multiple Family District to T-3 Neighborhood Commercial District. Addresses included within this rezoning request include:

| | |
|--------------|-----------------------|
| 14 Yuba St. | Parcel #8040-00-147-0 |
| 175 Main St. | Parcel #0890-00-075-0 |
| 169 Main St. | Parcel #0890-00-075-0 |

Summary

Petition from Community Action Agency requesting a rezoning of the properties located at 14 Yuba St. (Parcel #8040-00-147-0), 175 Main St. (Parcel #0890-00-075-0), and 169 Main St. (Parcel #0890-00-075-0) from MFR High-Density Multiple Family District to T-3 Neighborhood Commercial District for the purpose of converting an existing vacant single-family residence on the site into an office building to support organization operations. It should be noted that 175 Main St. and 169 Main St. share a common parcel, but are separate in their addresses.

Background/Property Information

The City of Battle Creek has been approached by the applicant, Community Action Agency, regarding interest in establishing an office space at 14 Yuba Street. The subject parcels are owned by Michael T. Moore at 14 Yuba Street and Community Action Agency at 175 and 169 Main Street. Michael T. Moore provided a signed affidavit for Community Action Agency to apply for the rezoning of his property at 14 Yuba St. The three properties (two parcels) are contiguous and are currently zoned MFR High-Density Multiple Family District. Figure 1 below illustrates parcels owned by Michael T. Moore and Community Action Agency. The two parcels currently zoned MFR High-Density Multiple Family District are outlined in red, with the property currently owned by Community Action Agency and zoned T-3 Neighborhood Commercial District in green.

In order to consolidate the properties in question into Community Action Agency ownership and with the desired uses, 14 Yuba Street, 175 Main St., and 169 Main St. require a zoning change from their current MFR High-Density Multiple Family District status to T-3 Neighborhood Commercial District

status. Should the rezoning application be approved, the applicant would then combine the two parcels prior to their application for site plan review for the construction of an office.

The parcel at 14 Yuba St. currently contains a vacant single-family residence. Should the rezoning be approved, the applicant intends to convert the residence at the site into an office building for Community Action Agency operations.

Figure 1 below displays an aerial view of the subject properties and surrounding area. Figure 2 displays the current zoning of the subject parcels.



Figure 1: Aerial view of the subject parcels and those within the immediate vicinity. The subject parcels at 14 Yuba St., 175 Main St, and 169 Main St. are outlined in red, while the additional parcel under Community Action Agency’s ownership is outlined in green.

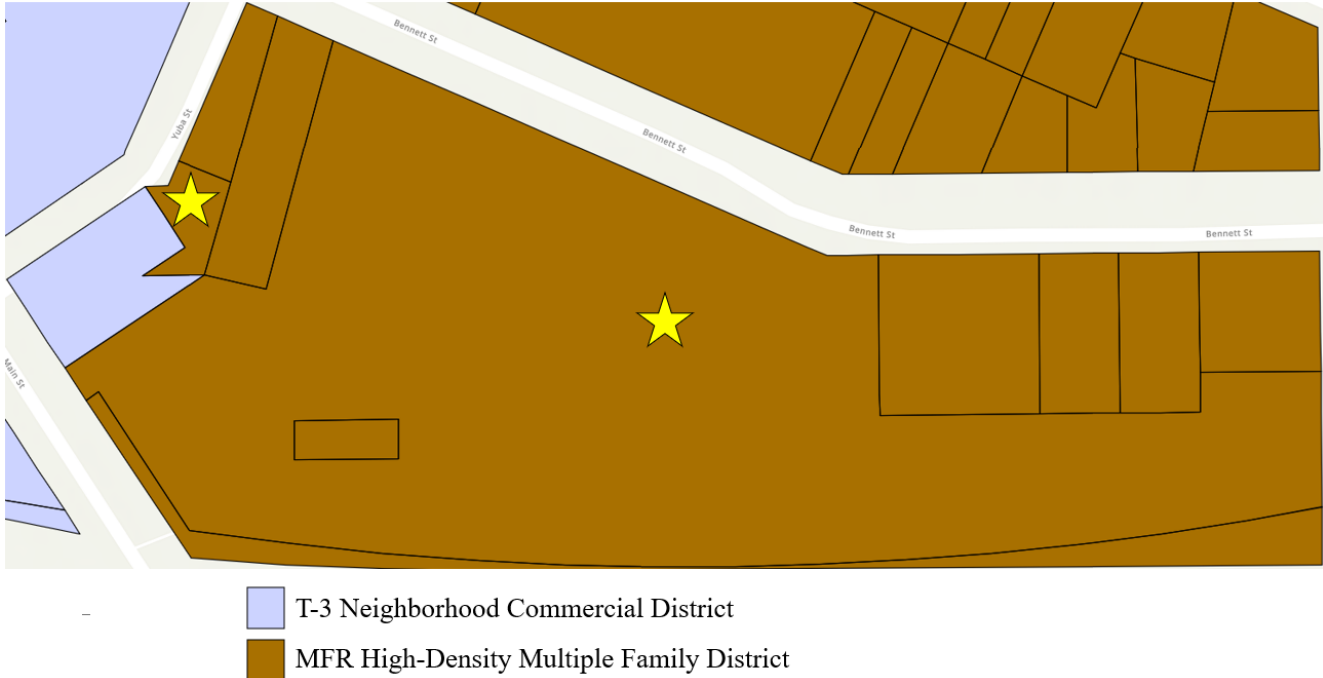


Figure 2: Current zoning of the subject parcels and the surrounding area. Yellow star indicates the location of the subject parcels. Lavender parcels indicate property currently zoned T-3 Neighborhood Commercial District, brown parcels indicate property currently zoned MFR High-Density Multiple Family District.

Applicable Zoning Ordinance Provisions

If approved, the proposed rezoning would change the subject parcels to the T-3 Neighborhood Commercial District classification, availing the parcels to the permitted uses and dimensional requirements as proscribed by Section 1240.13 (T-3 Neighborhood Commercial District).

The purpose of the T-3 Neighborhood Commercial District is as follows:

“It is the purpose of this district to establish and preserve areas for those commercial uses and facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they serve.”

Section 1281.01 details the regulations and process related to zoning ordinance and map amendments, and is attached as a supporting document to this staff report. In brief summary, Section 1281.01 requires that a public hearing as required under the Michigan Zoning Enabling Act be sufficiently noticed and held by the Planning Commission, at which time a recommendation is made to the City Commission regarding the amendment. Following the public hearing, the recommendation of the Planning Commission and all pertinent documents are forwarded to the City Commission for consideration, which includes a process requiring two meetings (introduction of the proposed amendment, followed by Commission action on the proposed amendment at the following meeting).

Master Plan

The Planning Enabling Act of 2008 requires a master plan be prepared and adopted that will “guide and accomplish development that is coordinated, adjusted, harmonious, efficient, and economical; that considers the character of the planning jurisdiction and its suitability for particular uses, judged in terms

of such factors as trends in land and population development; and will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare.”

The master plan focuses on desired land use patterns for typically a twenty-year time frame, and the enabling legislation and case law require that zoning be based upon this master plan. The City of Battle Creek Master Plan was adopted in 2018, and includes a Future Land Use Plan, which is intended to guide decision making with regard to planning and future land use patterns. Additional guidance should come from the goals and vision articulated in the Master Plan.

Figure 3 below is a portion of the Future Land Use Plan depicting the subject property, the surrounding area, and the corresponding legend:



Figure 3: Section of the 2018 Future Land Use Plan depicting the subject properties and surrounding area. The green outline on the map indicates the approximate location of the subject parcels.

The parcels which are the subject of this application are classified as “Multi-Unit Residential” on the Future Land Use Map. While the Future Land Use classification and the applicant’s proposed zoning district (T-3 Neighborhood Commercial) do not align exactly, the proposed rezoning would allow for the continued development and expansion of the Community Action Agency campus and services. Such a rezoning would allow for additional investment in an area which lies geographically near to

“Challenged Neighborhood,” as described in the approved Master Plan document. “Challenged Neighborhoods,” in short according to the Master Plan, are “residential areas of Battle Creek that contain or demonstrate early indicators of blight and disinvestment. Further, these areas are defined by certain conditions that will challenge their ability to attract new investment and revitalization in the future.”

Community Action Agency intends to purchase the property located at 14 Yuba St., contingent upon the successful rezoning, in order to rehabilitate the currently vacant residence and convert the building to allow for additional office space to accommodate five additional employees at the campus. Continued improvement within an area which has struggled to attract new investment, as well as the conversion of a currently vacant residential structure to a new commercial use in support of the existing services offered by Community Action Agency represent a substantial improvement, and aligns directly with Goal #2 as stated in the Master Plan (repositoining land use to reflect the anticipated needs of the community), Goal #5 (elevate downtown as an energetic community focal point and center of government and commerce), and Goal #7 (improve the overall appearance of the communtiy and inspire pride in Battle Creek).

Request for Rezoning

After review of the applicant’s proposed use for the properties at 14 Yuba St., 175 Main St., and 169 Main St., staff believes that the request presents an opportunity to convert the use of a vacant residential structure that would likely otherwise require monitoring and potential future action at the expense of the city, while also allowing for needed office space for the continuation of services provided by Community Action Agency.

The proposed rezoning would also maintain a contiguous zoning district with the T-3 zoning to the west and north of the subject parcels, as well maintain consistency with the commercial zoning and development immediately to the west of Yuba St. Please refer back to Figure 1, which illustrates the existing T-3-zoned parcel directly at the northeast corner of Main St. and Yuba St., which is also currently owned by Community Action Agency (and includes a portion of their parking lot).

Public Hearing and Notice Requirements

This request has been scheduled for the April 22, 2026 Planning Commission meeting, with notice of the hearing published in the April 2, 2026 edition of the Battle Creek Shopper. Appropriate notices were also mailed to all property owners within a 300-foot radius of the subject parcel no fewer than 15 days prior to the hearing. Both requirements pursuant to the Zoning Enabling Act of 2006, as amended, have been met.

As of April 15, 2026, no comment has been received related to this request.

Neighborhood Outreach

While the applicant has not yet spoken with NPC #1 (Post-Franklin) regarding the proposed rezoning and redevelopment, staff has assisted the applicant with securing time on NPC #1’s May 7, 2026 agenda. Feedback from the meeting will be forwarded to the City Commission in their consideration of final action on the item.

Analysis and Recommendation

As this is a rezoning request, consideration should be given to the existing zoning district and the potential effect on the neighborhood, the proposed uses allowed by the new zoning classification as it relates to the surrounding zoning and land uses, existing infrastructure, and consistency with the Master Plan. Staff findings include the following:

- The proposed rezoning of the parcels located at 14 Yuba St., 175 Main St., and 169 Main St. from their current classification of MFR High-Density Multiple Family District to T-3 Neighborhood Commercial District, while not aligning directly with the Future Land Use Map, does help in furthering multiple goals and objectives of the Master Plan document. It is also important for commissioners to note that while direct alignment between the Future Land Use Map and any proposed rezoning is preferred, the Future Land Use Map is not a binding document. Trends in development and the evolving needs of a neighborhood or specific geographical area to be served should also be considered by the commission in weighing their decision on the application.
- The existing infrastructure is unlikely to be impacted by the proposed rezoning. Existing water and sewer utilities are available to service the building, and an increase in operations of a total of five additional employees is not anticipated to create additional impacts on the city's established street system, which is intended to serve both the current use of the subject property as well as its conversion to a new office building.

Based on the above findings, planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition PRZ26-0001, request for rezoning of the properties located at 14 Yuba St., 175 Main St., and 169 Main St. (Parcel #8040-00-147-0 and Parcel #0890-00-075-0), currently zoned MFR High-Density Multiple Family District to the T-3 Neighborhood Commercial District.

Support Material

Rezoning Application

Affidavit of Owner's Consent and Authorization for Rezoning Application

[Current Zoning Map](#)

Section 1240.13 (T-3 Neighborhood Commercial District)

Section 1281.01 (Zoning Ordinance/Map Amendments)



CITY OF BATTLE CREEK

COMMUNITY SERVICES DEPARTMENT - PLANNING AND ZONING

Rezoning Application

Straight Rezoning
(to new zoning district)

Conditional Rezoning
(to allow specific use/development)

Petition No. _____

Date Received: _____

APPLICANT

Name: _____

Address: _____

Phone: _____ Fax: _____

Email: _____

OWNER (if different from Applicant)

Name: _____

Address: _____

Phone: _____ Fax: N/A

Email: _____

**** If the applicant is not the property owner, a letter signed by the owner agreeing to the rezoning must be included with the application.**

EXISTING CONDITIONS

Address(es) of property for which the request is being sought: 14 Yuba St, 175

Man St, 169 Man St.

Current use of the property: 14 Yuba St: Residential

175 Man St: Commercial

169 Man St: Commercial

10 N. DIVISION ST. P.O. Box 1717 BATTLE CREEK MICHIGAN 49016-1717
PHONE (269) 966-3 320 FAX (269) 966- 3555 WWW.BATTLECREEKMI.GOV

List existing structures on the property, size, and the approximate age of each: 14 Yuba St

is one home @ 1760 sq FT. Built in 1900. 175 Main St is

one commercial building @ ^{16,500} 7503 sq FT built in 1906. 169 Main St
is one commercial building @ 12,314 sq FT built in 1990.

Has the property involved ever been the subject of a previous application? If yes, please list each one and

the date the request came before the Planning Commission: NO

FOR STRAIGHT REZONING REQUESTS ONLY:

Current zoning of the property: MFR

Requested zoning district: T3

Describe land uses surrounding the subject property and those in the vicinity: Residential

homes, business, school, park

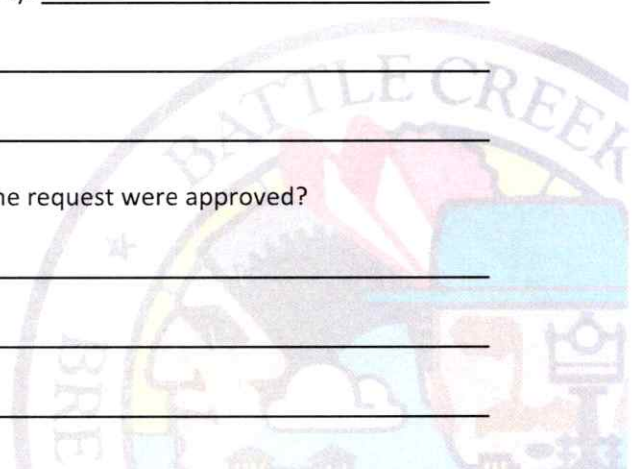
Would the rezoning place excess demands on public resources including roads, utilities, public safety, etc.?

NO

FOR CONDITIONAL REZONING REQUESTS ONLY (please attach extra pages if necessary):

What is the proposed use of the property that warrants the request? Provide specific details as to the use including square footage of each uses proposed for the property: _____

Please list all activities that will take place on the property if the request were approved?



How many employees currently work on the property? How many will be added if the request is approved, and what days/times will they be onsite? 14 Yuba = 0, If approved

Community Action would purchase and convert to office space
Number of employees = 5, Monday - Friday 8am - 5pm

Will the approval of the proposed use necessitate changes to the property, i.e., building construction, additional parking, landscaping, driveways, fencing? If yes, please provide a list of property improvements that will be associated with the development and attach a site plan/building elevations showing existing and proposed improvements. What is the cost of investment proposed if the development were approved?

N/A

What are the proposed hours of operation? Please indicate if the proposed use will be temporary, seasonal, or long-term in nature, providing dates and timeframes if applicable: Long term

if purchased by Community Action
Monday - Friday 8am - 5pm

Explain the basis for which you feel this application should be approved: Community Action
being able to expand their presence and service delivery
in Battle Creek helps the City's most vulnerable citizens.

SUBMITTAL REQUIREMENTS

Each request requires the following items to be submitted along with the completed application; incomplete applications will not be forwarded to the Planning Commission.


1. Payment of a non-refundable \$600.00 filing fee, made payable to the City of Battle Creek.
2. An affidavit authorizing an applicant to act on behalf of the owner if the petitioner is not the owner.
3. Legal description of subject property and a list of all deed restrictions.
4. Property Site Plan, if site changes are proposed.
5. Building Elevations, if building elevation improvements are proposed.

APPLICANT SIGNATURE


By signing this application, the applicant hereby declares that all answers given herein are true to the best of their knowledge, and confirms that all information required for submission of a rezoning application have been submitted. Furthermore, the applicant understands that any approval is based upon the contents of

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PHONE (269) 966-3320 FAX (269) 966-3555 WWW.BATTLECREEKMI.GOV

the submitted application and any future proposed change must be reviewed with the Planning Department and may be subject to approval of a revision of the rezoning by the Planning Commission and City Commission.




(Signature of the Applicant)

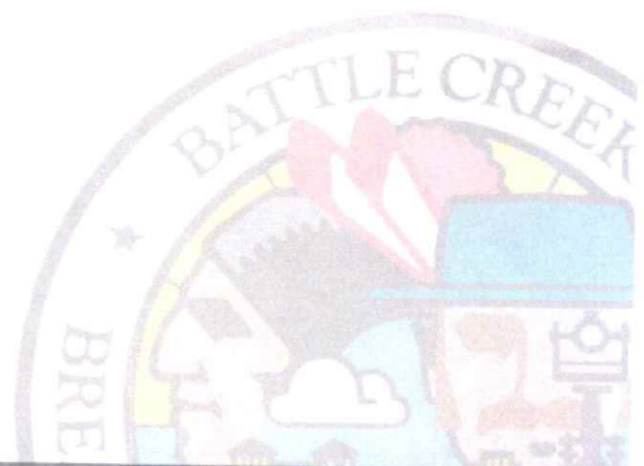


(Printed Name of the Applicant)

3/11/26

(Date)





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PHONE (269) 966-3320 FAX (269) 966-3555 WWW.BATTLECREEKMI.GOV

AFFIDAVIT OF OWNER'S CONSENT AND AUTHORIZATION FOR REZONING APPLICATION

STATE OF MICHIGAN COUNTY OF CALHOUN

I/We, [Michael T Moore], being first duly sworn, depose and state as follows:

1. I am/We are the record owner(s) in fee simple of the real property commonly known as [14 Yuba St, Battle Creek, MI, 49014], and legally described as [ASSRS PLAT OF SOUTH EAST BATTLE CREEK LOT 145, or 52-8040-00-147-0].
2. I/We understand that "Community Action Agency of South Central Michigan," hereinafter referred to as the "Applicant," intends to file an application for rezoning with the City of Battle Creek Community Services Department – Planning and Zoning to change the zoning classification of the above-described property from its current zoning district "MFR" to "T3".
3. I/We have reviewed the proposed rezoning application and consent to the filing and processing of said application.
4. I/We hereby authorize and grant permission to the Applicant, Community Action to act as my/our agent and representative for the purpose of submitting, pursuing, and prosecuting the rezoning application on my/our behalf, including but not limited to signing necessary forms (where permitted), attending meetings or hearings, providing information, and taking all actions necessary in connection with the application before the Planning Commission, Zoning Board, City Council, or any other reviewing body.
5. This authorization is given voluntarily and is effective until the rezoning application is finally acted upon (approved, denied, or withdrawn), or until revoked in writing by me/us and delivered to the Applicant and the local zoning authority.
6. I/We understand that approval of the rezoning is not guaranteed and that this consent does not obligate me/us to sell the property or accept any terms of sale.
7. I/We make this affidavit for the purpose of complying with local zoning application requirements and certify that the statements herein are true and correct to the best of my/our knowledge and belief.

[Signature of Owner]
[Signature of Owner]

Michael Moore
[Printed Name of Owner]

3-11-26
[Date]

[Signature of CA Rep]
[Signature of CA Rep]

Joshua Reetz
[Printed Name of CA Rep]

3/11/2026
[Date]

NOTARY PUBLIC ACKNOWLEDGEMENT:

Michigan
State of

Calhoun
County of

(seal)

I hereby certify that Michael T. Moore (name) appeared before me on this

11th day of March, 2026, and signed this form in my presence

[Notary Public Signature]
[Notary Public Signature]

L. JONES
Notary Public, State of Michigan
County of Calhoun
My Commission Expires 08-17-2026
Acting in the County of Calhoun

3/11/2026
[Date]

1240.13 T-3 NEIGHBORHOOD COMMERCIAL DISTRICT.

| |
|-------------|
| (a) Purpose |
|-------------|

| |
|--|
| It is the purpose of this district to establish and preserve areas for those commercial uses and facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they serve. |
|--|

| | |
|--------------------|-----------------------|
| (b) Permitted Uses | (c) Special Land Uses |
|--------------------|-----------------------|

- Assisted Senior Living (Section 1251.03)
- Banquet and Meeting Hall < 100 capacity (Section 1251.08)
- Bed and Breakfast (Section 1251.09)
- Bookstore
- Catering Businesses
- Child Care Centers
- Community Garden (Section 1251.12)
- Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13)
- Essential Services
- Financial Institutions
- Government/Public Uses (Section 1251.14)
- Indoor Recreation
- Independent Senior Living with Services (Section 1251.21)
- Medical or Dental Clinic < 5,000 sq. ft.
- Multi-Family Dwelling Units (Section 1251.33)
- Office < 17,000 sq.ft.
- Outdoor Recreation/ Public (Section 1251.36)
- Personal-Scale Wind Energy Facility (Section 1251.39)
- Personal Service Establishments (Section 1251.40)
- Private Club
- Public K-12 Schools
- Religious Institutions (Section 1251.42)
- Restaurant
 - o Carry-Out
 - o Drive-In
 - o Full Service
 - o Limited Service
- Retail Sales < 17,000 sq.ft.
- Single Family Dwelling Unit Attached
- Single Family Dwelling Unit Detached
- Two-Family Dwelling Units
- State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 persons (Section 1251.47)
- Transitional and Supportive Home, 1-6 persons (Section 1251.49)
- Transitional and Supportive Home, more than 6 persons (Section 1251.50)

- Adaptive Reuse (Section 1251.01)
- Artisan/Maker Space
- Bar, Tavern, or Saloon
- Brewpub
- Cemetery (Section 1251.11)
- Distillery, Winery - w/ or w/o food
- Drive Thru Business (Section 1251.14)
- Farmers' Market (Section 1251.15)
- Funeral Homes, Mortuaries
- Hotel
- Institutions of Higher Education
- Pawn Broker
- Private K-12 Schools
- Marihuana: Medical Marihuana Provisioning Center (Section 1251.24) (Section 1251.30)
- Marihuana: Adult-Use Marihuana Retailers (Section 1251.24) (Section 1251.25)
- Marihuana: Adult-Use Marihuana Microbusiness (Section 1251.24) (Section 1251.26)
- Marinas
- Medical or Dental Clinic 5,000 to < 20,000 sq.ft.
- Microbrewery
- Motel (Section 1251.20)
- Nightclub
- Office >, = 17,000 sq.ft.
- Restaurant
 - o Drive-Thru (Section 1251.14)
- Retail Sales > or = 17,000 sq.ft.

Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses. Refer to Section 1250.04, Form Based Development Standards for the T-3, T-5, and T-5 Districts for additional development requirements.

(d) Accessory Uses

- Accessory Buildings (Section 1260.02)
- Food Truck
- Accessory Dwelling Unit attached or detached from the primary dwelling
- Farmers Market (Section 1251.15)

- Private Gardens (Section 1251.41)
- State Licensed Child Care Family Home, 1-7 Children (Section 1251.45)
- State Licensed Child Care Group Home, 8-14 Children (Section 1251.46)

| (e) Dimension Regulations | |
|--|-----------------------------|
| Lot Standards | T-3 |
| Minimum Lot Area (sq. ft.) | Not Required |
| Maximum Residential Units Per Acre | 20(d) |
| Minimum Lot Width (ft.) | 30 |
| Minimum Lot Depth (ft.) | 100 (Section 1240.21(a)(7)) |
| Maximum Percent of Building Coverage | 40 |
| Primary Dwelling Setback Requirements | |
| Attached accessory dwellings shall comply with the primary dwelling setback requirements | |
| Front Yard Setback (ft.) | See Section 1250.04(d)(1)A. |
| Rear Yard Setback (ft.) | 20(h) |
| Side Yard Setback (ft.) | 10(g) |
| Primary Dwelling Height Requirement | |
| Attached accessory dwellings shall comply with the primary dwelling height requirements | |
| Maximum Building Height | 36 feet, 3 stories |
| Detached Accessory Dwelling Setback Requirements | |
| Detached accessory dwellings shall be located in the rear yard. | |
| Rear Yard Setback (ft.) | 8 |
| Side Yard Setback (ft.) | 8 |
| Detached Accessory Dwelling Height Requirement | |
| Maximum Building Height | 20 ft., 1.5 stories |

Footnotes: Refer to Section 1241.03 wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21; Ord. 03-2023. Passed 5-2-23; Ord. 12-2023. Passed 10-17-23; Ord. 02-2024. Passed 4-2-24; Ord. 11-2024. Passed 7-16-24.)

1281.01 ZONING ORDINANCE/ MAP AMENDMENTS.

(a) Initiation. The City Commission may amend, supplement or change the regulations or the district boundaries of this Zoning Code pursuant to the authority and according to the procedure set forth in The Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq. Changes in the text of this Zoning Code may be proposed by:

- (1) The City Commission;
- (2) The Planning Commission; or
- (3) Any interested person or organization through a petition, which shall not be initiated for the same property more often than once every twelve months.

Changes in zoning district boundaries may be proposed by:

- (1) The City Commission;
- (2) The Planning Commission;
- (3) The owner(s) of the premises concerned; or
- (4) The designated agent of a person having an ownership interest in the property.

(b) Definition. An amendment to this Zoning Code shall be deemed to be any change to the text or to the official map, including:

- (1) Petitions for zoning ordinance amendments; or
- (2) Conditional rezonings.

(c) Amendment Review Procedures. The amendment, be it a text or a map amendment, and application materials shall be prepared in accordance with the provisions of this section, and shall be reviewed in accordance with the following procedure. Amendments or application materials that do not meet the stipulated requirements shall be considered incomplete and shall not be eligible for consideration by the Planning Commission.

(1) Technical review. Prior to Planning Commission consideration, the proposed amendment and application materials shall be distributed to appropriate City departments and divisions and staff for review and comment. The proposed amendment and application materials may also be distributed to applicable outside agencies and designated City consultants for review.

(2) Public hearing. A public hearing shall be held for all proposed amendments in accordance with the procedures set forth in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq., as summarized below:

A. On any amendment to this Zoning Code, the Planning Commission shall hold a public hearing prior to the amendment being referred to the City Commission for action. A record of the comments received at the public hearing shall become a part of the Planning Commission report and recommendation to the City Commission. The following requirements shall pertain to public hearings held before the Planning Commission:

1. Not less than fifteen-day notice of the date, time and place of the hearing shall be published in a newspaper of general circulation in the City.

2. Not less than fifteen-day notice of the date, time and place of the hearing shall be given, by regular mail, to each public utility company and to each railroad company owning or operating any public utility or railroad within the City that registers its name and mailing address with the City Clerk for the purpose of receiving such notices.

3. Not less than fifteen-day notice shall be given, by regular mail, to the owners of property that is the subject of the request. Notice shall also be given to all persons to whom real property is assessed within 300 feet

of the subject property affected by the amendment, as listed in the most current assessment roll and to the occupants of all structures with 300 feet of the subject property regardless whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, then notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

4. The notice under subsection 3. above is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than fifteen days before the date the request will be considered. If the name of the occupant is not known, then the term “occupant” may be used for the intended recipient of the notice. However, failure of property owners to receive such notice, shall not invalidate the amendment.

5. A notice under this section shall do all of the following:

a. Describe the nature of the request.

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

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

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

6. For any group of adjacent properties numbering eleven or more that is proposed for rezoning, the requirements of above subsection iii), and the requirement of above subsection 5.b., that street addresses be listed do not apply to that group of adjacent properties.

(3) Planning Commission consideration of proposed amendment. The Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies, and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this section, and shall report its findings and recommendation to the City Commission.

(4) City Commission action on proposed amendment. Upon receipt of the report and recommendation from the Planning Commission, the City Commission may approve or deny the proposed amendment. If determined to be necessary, the City Commission may refer the amendment back to the Planning Commission for further consideration. In the case of an amendment to the official zoning map, the City Commission shall approve or deny the amendment, based upon its consideration of the criteria contained in this Zoning Code.

A. The City Commission, upon receipt of the Planning Commission study and report, shall publish a notice indicating the proposed amendment, proposed use and affected property in a newspaper of general circulation in the City. Such notice shall be published at least five days before the City Commission meeting, and shall indicate the time, date and place of such meeting.

(d) Standards of Review for Amendments. In considering any petition for an amendment to the text of this Zoning Code or to the zoning map, the Planning Commission and City Commission shall consider the following criteria that apply to the application in making findings, recommendations, and a decision. The Planning Commission and City Commission may also take into account other factors or considerations that are applicable to the application but are not listed below.

(1) Consistency with the goals, policies and objectives of the master plan and any sub-area plans. If conditions have changed since the master plan was adopted, consistency with recent development trends in the

area shall be considered.

(2) Consistency with the basic intent and purpose of this Zoning Code.

(3) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

(4) The capacity of the City's utilities and services are sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.

(5) That conditions have changed since the Zoning Code was adopted or there was an error in the Zoning Code that justifies the amendment.

(6) That the amendment will not be expected to result in exclusionary zoning or spot zoning.

(7) If a rezoning is requested, compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

(8) If a rezoning is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

(9) If a rezoning is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.

(10) If a rezoning is requested, the requested zoning district is considered to be more appropriate from the City's perspective than another zoning district.

(11) If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.

(12) If a rezoning is requested, the requested rezoning will not create an isolated or incompatible zone in the neighborhood.

(e) Notice of Adoption of Amendment. Following adoption of an amendment by the City Commission, one notice of adoption shall be filed with the City Clerk and one notice shall be published in a newspaper of general circulation in the City within fifteen days after adoption, in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq. A record of all amendments shall be maintained by the City Clerk. A Zoning Map shall be maintained by the City Clerk, which shall identify all map amendments. The required notice of adoption shall be maintained by the Planning and Zoning Administrator and include all of the following information:

(1) In the case of a newly adopted Zoning Ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the City of Battle Creek."

(2) In the case of an amendment(s) to the existing Zoning Ordinance, either a summary of the regulatory effect of the amendment(s), including the geographic area affected, or the text of the amendment(s).

(f) Referendum.

(1) Within seven days after publication of the Zoning Ordinance, a registered elector residing in the zoning jurisdiction of the City may file with the City Clerk a notice of intent to file a petition under this section, in accordance with Section 401 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3401.

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

Clerk requesting the submission of the zoning ordinance or part of the zoning ordinance to the electors residing in the zoning jurisdiction of the City for their approval, in accordance with Section 402 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3402.

(3) Whenever there is a conflict between this section of the Zoning Ordinance or the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq., shall govern.

(g) Conditional Rezoning.

(1) Intent. The Planning Commission and City Commission recognize that, in certain instances, it would be an advantage to both the City and to a property owner seeking rezoning if the property owner proposes certain conditions and limitations as part of a petition for rezoning. Therefore, it is the intent of this section to provide a process consistent with the provision of Section 405 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3405, to permit property owners to offer conditions regarding the use and/or development of land as part of the rezoning request. It is the further intent of this Zoning Code to accomplish, among other things, the objectives of the zoning ordinance and the master plan to achieve integration of the proposed land development project with the characteristics of the surrounding area.

(2) Definitions. The following definitions shall apply in the interpretation of this Section:

A. “Rezoning Conditions” shall mean conditions regarding the development and use of property proposed by the applicant and approved by the City as part of an approval under this section, including review and recommendation by the Planning Commission.

B. “Rezoning with Conditions Agreement” shall mean a written agreement approved and executed by the City and property owner setting forth the conditions attached to the rezoning pursuant to MCL 125.3405 (as amended) and any other terms mutually agreed upon by the parties relative to land for which the City has approved a rezoning with conditions.

C. “Rezoning with Conditions Plan” shall mean a plan of the property which is the subject of a rezoning with conditions, prepared by a Michigan licensed civil engineer or architect, that may show the location, size, height, design, architecture or other measure or feature for and/or of buildings, structures, improvements and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the rezoning with conditions plan shall be determined by the applicant, subject to approval of the City Commission after recommendation by the Planning Commission.

D. “Rezoning” shall mean the amendment of this Zoning Code to change the zoning map classification on property from its existing district to a new district classification.

(3) Authorization and eligibility.

A. The standards of this Section shall grant a property owner the option of voluntarily proposing conditions for the development and use of property in connection with a submission of a petition seeking a rezoning. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.

B. In order to be eligible for consideration of a rezoning with conditions, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific conditions (to be set forth in a rezoning with conditions agreement) that are more strict or limiting than the regulations that would apply to the land under the proposed new zoning district. Such conditions may include, but are not limited to, the following:

1. The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other physical features of the proposed development.

2. Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use. For example: units per acre, maximum usable floor area, or hours of operation.

3. Preservation of open space, natural resources and/or natural features.
4. Improvements to address traffic issues, including paving, substantial improvements to or funding of improvements to major roads to the benefit of the entire City.
5. Site improvements such as signage, lighting, landscaping, building materials for the exterior of some or all structures above and beyond what would otherwise be required by City ordinance.
6. Limitations on permissible uses of the property.
7. Any other conditions that may be voluntarily proposed by the property owner.

(4) Application and review procedures.

A. Application.

1. At the time of making application for amendment of this Zoning Code seeking a rezoning of property, or at a later time during the process of City consideration of such rezoning a property owner may submit a complete application for approval of a rezoning with conditions to apply in conjunction with the rezoning.
2. The application, which may be amended by the applicant during the process of consideration, shall specify the rezoning conditions proposed by the applicant, recognizing that rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning.
3. An application for a rezoning with conditions shall include a rezoning with conditions agreement (“the agreement”). The agreement shall set forth the rezoning conditions and may incorporate a rezoning with conditions plan.
4. The application shall include a notarized signature of the property owner indicating that the conditions attached to the rezoning are voluntarily offered.

B. Planning Commission review.

1. The proposed rezoning with conditions shall be noticed for public hearing before the Planning Commission as a proposed legislative amendment of the zoning ordinance.
2. Following the public hearing, and further deliberations as deemed appropriate by the Planning Commission, the Planning Commission shall make a recommendation to the City Commission on the proposed rezoning with conditions.

C. City Commission review. Upon recommendation by the Planning Commission, the City Commission shall make a final determination to approve or deny the rezoning with conditions as offered by the applicant. The City Commission may only consider the conditions offered by the applicant, and may not attach any other conditions to the rezoning other than those offered by the applicant. The City Commission's deliberations shall include, but not be limited to, a consideration of the review criteria for a rezoning with conditions.

(5) Review criteria. A rezoning with conditions shall only be approved if it meets the following requirements and standards:

- A. The proposed rezoning with conditions will further the goals and objectives of the city master plan.
- B. Rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the rezoning with conditions agreement).
- C. The use of the property in question shall be in complete conformity with all regulations governing development and use within the zoning district to which the property is proposed to be rezoned, including, without limitation, permitted uses, lot area and width, setbacks, height limits, required facilities, buffers, open space areas, and land use density; provided, however, the following shall apply:

1. Development and use of the property shall be subject to the more restrictive requirements shown or specified in the rezoning with conditions agreement, and/or in other conditions and provisions set forth in the rezoning with conditions agreement required as part of the rezoning with conditions approval. Such rezoning with conditions agreement shall supersede all inconsistent regulations otherwise applicable under the zoning ordinance.

2. As part of the grant of final approval of a rezoning with conditions, the City Commission shall be authorized to grant modifications to the strict terms of the zoning ordinance governing dimensional requirements on the property; provided, such authorization to grant modifications shall be conditioned upon the City Commission finding that each zoning ordinance provision sought to be modified will result in an enhancement of the development that would be in the public interest, and that approving the modification would be consistent with the city master plan and compatible with the surrounding area.

D. The proposed rezoning with conditions will result in integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area as compared to the existing zoning, and such enhancement would be unlikely to be achieved or would not be assured in the absence Of the use of a rezoning with conditions.

E. As compared to the existing zoning and considering the site-specific conditions and/or land use proposed by the applicant, it would be in the public interest to grant the rezoning with conditions. In determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against and be found to clearly outweigh the reasonably foreseeable detriments, taking into consideration reasonably accepted planning, engineering, environmental and other principles, and also taking into consideration the special knowledge and understanding of the City by the City Commission and Planning Commission.

F. The proposed conditions will not preclude future zoning and planning actions by or on behalf of the municipality.

G. Existing and available public services will be capable of serving proposed or potential development that will occur as a result of the rezoning with conditions without negatively impacting the delivery of public services to other properties in the City, or the conditions will ensure that public services will be sufficient to serve both the site and other properties in the City.

H. The offered condition(s) are beneficial to the public good and likely to be enforceable.

I. The condition does not have the same effect as a use variance.

J. The proposed conditions do not relieve the applicant of the responsibility of securing any applicable site plan, plat, condominium, or special land use approvals.

(6) Effect of approval. Approval of the rezoning with conditions and rezoning with conditions agreement confirms only the rezoning of the property, subject to any conditions reflected in the rezoning with conditions agreement and after recordation as set forth in subsection (8) below. Any applicable site plan, plat, condominium, special land use, or variance approvals shall be required before any improvements to the property may be undertaken.

If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "CR Rezoning with Conditions". The zoning map shall specify the new zoning district plus a reference to "CR" e.g., the district classification for the property might be "B-1, Corridor Commercial District (CR, Rezoning with Conditions)", with a zoning map designation of "B-1/CR." Use of the property so classified and approved shall comply with the conditions set Forth in the rezoning with conditions agreement. No development or use of the land inconsistent with the conditions of the rezoning with conditions agreement shall be permitted.

(7) Compliance with conditions.

A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the rezoning with conditions agreement. Any failure to comply with a condition contained within the rezoning with conditions agreement shall constitute a violation of this Zoning Code and shall be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

B. No permit or approval shall be granted under this Zoning Code for any use or development that is contrary to an applicable rezoning with conditions agreement.

(8) Period of approval.

A. The rezoning with conditions and agreement shall expire after a period of one year from the effective date of the rezoning unless substantial progress towards obtaining site plan and other required approvals has been made, and shall expire after a period of two years unless development of the property is substantially begun within such two year period and proceeds diligently and in good faith as required by ordinance to completion.

B. In the event substantial progress towards obtaining site plan and other required approvals has not commenced within one year and bona fide development has not commenced within two years from the effective date of the rezoning, the rezoning with conditions and the rezoning with conditions agreement shall be void and of no effect.

C. The property owner may apply for a one year extension two times. The request must be submitted to the Planning Division before the approval time limit expires. The property owner must demonstrate why the extension should be granted, and must also demonstrate that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently thereafter to completion, and if the City Commission finds that there has not been a change in circumstances that would render the rezoning with conditions incompatible with adjacent or nearby use and zoning of land or is otherwise inconsistent with sound zoning policy.

An extension request shall be considered by the City Commission following a recommendation by the Planning Commission.

D. If the rezoning with conditions becomes void in the manner provided in this section, the following procedures shall apply:

1. The property owner may seek a new rezoning of the property within thirty days of the expiration of the period of approval.

2. If no application is made for a new rezoning of the property, the land shall revert to its former zoning classification as set forth in MCL 124.3405(2) (as amended). The City Commission shall direct the Planning Commission to proceed with consideration of rezoning the land to its former zoning designation following the standard rezoning procedures set forth in this Zoning Code.

3. Until such time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.

(9) Rezoning with conditions agreement requirements. A rezoning with conditions agreement shall be executed between the applicant and the City at the time of City Commission approval of a rezoning with conditions.

A. Rezoning with conditions agreements shall, at a minimum, contain all of the following items:

1. Identification of the requested zoning district and a listing of the conditions offered by the applicant.

2. A statement acknowledging that the rezoning with conditions was proposed by the applicant, and, further agreement and acknowledgment that the conditions and rezoning with conditions agreement are authorized by all applicable state and federal law and constitution, and that the agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the City.

3. Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the rezoning with conditions agreement.
4. Agreement and understanding that the approval and rezoning with conditions agreement shall be binding upon and inure to the benefit of the property owner and City, and their respective heirs, successors, assigns, and transferees.
5. The date upon which the rezoning with conditions becomes void, as specified in Section 1281.01(g)(8). If the City Council grants an extension of approval, a new rezoning with conditions agreement with the new expiration date shall be recorded.
6. Agreement and understanding that, if a rezoning with conditions becomes void in the manner provided in Section 1281.01(g)(8), no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.
7. Agreement and understanding that each of the requirements and conditions in the rezoning with conditions agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved rezoning with conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.
8. A legal description of the property affected by the rezoning with conditions.
9. Development regulations affected by the conditions of rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, etc.
10. Revocation of approval provisions returning the property to its original zoning designation if the developer violates the terms of the agreement.

B. A rezoning with conditions plan may be included as an exhibit to the agreement. The rezoning with conditions plan may show the conceptual layout of the proposed development or use, along with any other information deemed relevant by the applicant. Inclusion of a rezoning with conditions plan as an exhibit to a rezoning with conditions agreement shall not replace the requirement for preliminary and final site plan, subdivision, condominium, special land use or variance review and approval.

(10) Amendment of rezoning with conditions agreement. Amendment of a rezoning with conditions agreement shall be proposed, reviewed and approved in the same manner as a new rezoning with conditions.

(11) Recordation of rezoning with conditions agreement. A rezoning with conditions shall become effective following publication in the manner provided by law, and, after recordation of the rezoning with conditions agreement, whichever is later. All rezoning with conditions agreements shall be recorded with the Calhoun County Register of Deeds.

(12) Termination. The City Commission shall be the only body with the authority to terminate a rezoning with conditions agreement. The consideration to terminate the agreement shall be for reasons of expiration of the agreement, discovery of false information upon which the initial approval was based, or the existence or discovery of new information that alters the viability of the approved rezoning. The termination shall comply with any applicable provisions of this Zoning Code or the rezoning with conditions agreement. If the agreement is terminated, the City shall follow the procedures in Section 1281.01 (g)(8)D.

(13) City right to rezone. Nothing in the rezoning with conditions agreement or in the provisions of this section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a rezoning with conditions to another zoning classification. Any such rezoning shall be conducted in compliance with this Zoning Code and the Michigan Zoning Enabling Act.

(14) If land that is subject to a rezoning with conditions agreement is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no rezoning with conditions agreement, the rezoning with conditions agreement attached to the former zoning classification shall cease to be

in effect. In such a case, the Planning and Zoning Administrator or their designee shall record with the Calhoun County Register of Deeds a notice that the rezoning with conditions is no longer in effect upon the property owner's written request.

(h) Fees. Petitions for an amendment to this Zoning Code shall be accompanied by a fee as prescribed in the schedule provided for in Section 802.24 . Such fee is applicable when filing a petition for zoning reclassification or special use permits and is nonrefundable.

(i) Protest Petition. An amendment to a zoning ordinance is subject to a protest petition under Section 1281.08 .

(j) An amendment to conform a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the City Commission and the notice of the adopted amendment published without referring the amendment to any other board provided for under this chapter.

(Ord. 10-2020. Passed 11-24-20; Ord. 12-2023. Passed 10-17-23.)

**CITY OF BATTLE CREEK
PLANNING COMMISSION
10 North Division, Battle Creek, MI 49014
Minutes for April 22, 2026**

MEETING CALLED TO ORDER: By Chairman Hughes at 4:02 p.m.

ATTENDANCE: Roll call was taken.

Chairperson Hughes, present
Vice Chairperson O’Donnell, present
Commissioner Morris, present
Commissioner Gray, present
Commissioner Furmato, present

Commissioner Denison, present
Commissioner Moton, absent
Mayor Behnke, present
Commissioner White, present

Staff Present: Travis Sullivan, Planning Administrator, Adam Jenks, Planner, Melody Carlsen, Administrative Assistant, Patrick Batterson, Assistant City Attorney.

APPROVAL OF MINUTES: March 25, 2026.

MOTION MADE BY COMMISSIONER MAYOR BEHNKE TO APPROVE THE MARCH 25, 2026 MEETING MINUTES. MOTION SECONDED BY COMMISSIONER O’DONNELL.

ROLL VOTE: Chairperson Hughes asked everyone in favor to signify by saying “aye”.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CORRESPONDENCE: None.

ADDITIONS/DELETIONS: None.

PUBLIC HEARINGS/DELIBERATIONS:

A. SPECIAL USE PERMIT REQUEST #PSUP26-0001:

Petition from Battle Creek Memorial Park Association for a special use permit to allow for the expansion of the Memorial Park Cemetery, to include the plotting of a new burial garden upon the unaddressed parcel identified as Parcel #0066-00-110-0 to the west of Helmer Rd. S within the I-1 Light Industrial zoning district. Pursuant to Section 1281.05 of the Zoning Code.

Staff Presentation: Travis Sullivan gave the staff report for #PSUP-0001.

Applicant Presentation: Alexander Yost was present to speak and answer questions.

Questions by Commissioners:

Mayor Behnke asked what a “natural burial is”. Mr. Yost responded and explained.

MOTION MADE BY COMMISSIONER GRAY TO APPROVE ITEM PSUP26-0001 WITH THE STAFF RECOMMENDATIONS AS PRESENTED. SECONDED BY COMMISSIONER WHITE.

ROLL VOTE: Chairman Hughes asked for a roll vote.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

B. REZONING REQUEST #PRZ26-0001:

Petition from Community Action Agency, as well as on behalf of Michael T Moore to rezone the properties located at the following addresses from their current zoning classification of MFR High-Density Multiple Family District to T-3 Neighborhood Commercial District, pursuant to Section 1240.13 and Section 1281.01 of the Zoning Code. Addresses included within this rezoning request include:

| | |
|--------------|-----------------------|
| 14 Yuba St. | Parcel #8040-00-147-0 |
| 175 Main St. | Parcel #0890-00-075-0 |
| 169 Main St. | Parcel #0890-00-075-0 |

Staff Presentation: Travis Sullivan gave the staff report for PRZ26-0001.

Applicant Presentation: Joshua Reetz was present to speak.

Public Comment:

James Moreno, 451 Main Steet, asked a clarifying question regarding the current zoning and what the proposed use of the home on Yuba Street would be and if the entirety of the parcels would be T-3. Chairman Hughes and staff responded.

Questions from Commissioners:

Commissioner White asked what the most significant difference between MFR and T-3 was. Ms. White also asked if the applicant has talked to the local residence. Staff responded.

MOTION MADE BY COMMISSIONER GRAY TO APPROVE ITEM PRZ26-0001 WITH THE STAFF RECOMMENDATIONS AS PRESENTED. SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: Chairman Hughes asked for a roll vote.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

C. ZONING ORDINANCE TEXT AMENDMENTS #A26-02

Petition from the City of Battle Creek to amend various sections of Chapter 1281 (Administrative Procedures) of the zoning ordinance. Pursuant to Section 1281.01 of the Zoning Code.

Staff Presentation: Travis Sullivan gave the staff report for #A26-02.

Questions from Commissioners:

Commissioner Gray asked if the City has considered any economical ways to publish if the required 5-day public meeting notice before a City Commission meeting is no longer required by the Planning Commission. Asked staff if we should include cost saving ways to duplicate the public notice requirement in the motion. Mr. Batterson responded to not include the cost saving recommendations in the motion, staff will make a note of them.

Commissioner White feels more information is better than less, has concerns that residence are not being notified because they do not live within the 300 feet buffer, would like to see some kind of notification still going out to residents, feels that applicants should meet with Neighborhood Planning Counsels before coming to the Planning Commission. Asked about clarifying the motion and the staff recommendation listed in the staff report to take out the requirement for the 5-day public meeting notice. Would like to see this item not taken out, can the motion be everything but the part around notices. Mr. Batterson responded.

Commissioner O'Donnell mentioned the Facebook notices that the City Commission uses and wondered if Planning Commission can do that or if there was an app we could use to get information out.

MOTION MADE BY COMMISSIONER GRAY TO APPROVE #A26-02 WITH THE RECOMMENDATIONS AS PRESENTED BY STAFF. SECONDED BY COMMISSIONER MORRIS.

Commissioner Gray wanted to point out that if this motion is passed, she would like to see the City find ways that do not cost more but are available through other platforms that we may already have access to make sure that we are reaching as many people as possible but still look like the 5-day meeting notice.

Chairman Hughes asked if it was possible to have staff research cost effect ways as an alternative to the 5-day public notice requirement.

ROLL VOTE: Chairman Hughes asked for a roll vote.

SEVEN IN FAVOR, ONE OPPOSED, MOTION APPROVED.

D. ZONING ORDINANCE TEXT AMENDMENT #A25-01;

Petition from the City of Battle Creek to consider an amendment to Section 1262.02 of the zoning code to require yards be improved with either natural or living groundcover including grass, plant material, rocks, stones, mulch, etc. in residential districts. Pursuant to Section 1281.01 of the Zoning Code.

Staff Presentation: Travis Sullivan gave the staff report for #A25-01.

Questions from Commissioners:

Commissioner White asked what would happen if someone did not want to plant grass seed or find an alternative to grass, if this item is approved what would the enforcement look like, what happens if a residents cannot afford grass seed, is the city going to pay for it. Asked about enforcement; do you just provide tickets, what's the worse case scenario, can the city take their home. Asked if the commission has to take action on this item right now, feels there is a missing pieces to this.

Commissioner O'Donnell wanted to clarify that the current ordinance reads all other zoning districts except the single family and two-family residents zoning districts, follow this landscaping ordinance, and is already enforced and that we are just changing the language to ensure it is enforceable and usable for the whole city. Mr. Sullivan responded that this is correct. Commissioner O'Donnell asked if not using grass, do resident just need to use some type of ground cover; cedar, rocks, etc. and they can make it a driveway if they follow the zoning rules.

Chairman Hughes agrees that some sort of front lawn cover is needed but has concerns over how it all would be managed and to what extent are we going to be able to keep it under control. It appears there is some leniency in the existing ordinance; the city will work with individuals if they receive a violation. Asked a clarifying questions regarding this item being back up for reconsideration; do the proposed changes in the staff report from last July still apply and if there had been any additional changes within the new staff report.

Commissioner Furrato mentioned the paint program that the city offers and wondered if there could be a plan for grass seed as well.

Mayor Behnke asked Mr. Sullivan why staff has not made a recommendation on this item and asked if this ordinance change was the result of a property located within the Brewer neighborhood. Mr. Sullivan responded to both questions.

Commissioner Denison one thing to think about is that if we are going to enforce grass, it will have to be kept up, there is more to this then what we are talking about, and what kind of burden would this be on the city.

Public Comment:

James Moreno, 1451 Main St, has concerns that the commission does not have a clear look of this issue within the city, has concerns about vacant parcels being used a private driveway. Feels landlords should be held responsible. If we are trying to improve the community as a hole, we need to act now, and we need to help ourselves as a community, if you are property own, you have a responsibility to take care of your property. Chairman Hughes asked Mr. Moreno what feedback he had heard during his NPC meeting regarding the proposed lawn ordinance.

Commissioner Gray asked what the typical number of warnings/notices are received before a citation is moved to the court. Mr. Sullivan responded.

MOTION MADE BY COMMISSIONER WHITE TO POSEPONE ITEM #A25-01 UNTIL THE MAY 27, 2026 PLANNING COMMISSION MEETING. SECONDED BY MAYOR BEHNKE.

ROLL VOTE: Chairman Hughes asked for a roll vote.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

OLD BUSINESS: None.

NEW BUSINESS: None.

COMMENTS BY THE PUBLIC:

Stella Duckett of 349 Robertson Avenue, had concerns and questions regarding a variance for a sign within 300 feet from her home, also has concerns with the type of business (truck stop) being proposed at this location.

James Moreno of 451 Main Street, had a comment regarding processes. Applicants should make sure they are going to NPC meetings before going to a board/commissions. This way the process is being used like it is supposed to.

COMMENTS FROM COMMISSION MEMBERS AND STAFF:

Commissioner Gray had a process question. It would be nice to have staff present at our next meeting the process of applicants going to NPC's prior to board/commissions meetings. Is there a process written anywhere to require this item. Strongly recommends a closer look at this so that we can look at citizens comments in a formal way. Asked what the current process is. Mr. Sullivan responded.

Chairman Hughes has concerns of formalizing the concern of an applicant going to NPC meeting prior to board/commission meeting. There may be a concern of holding up development. The Chairman also asked if there was anything the planning commission could do about neighborhoods hooking up to city water.

Commissioner White shared thoughts on the process or protocols with applicants going to NPC meetings. Asked about traffic studies and who will review those.

Mayor Behnke thanked the commissioners for being in attendance.

ADJOURNMENT: Chairman Hughes adjourned the meeting at 5:48

Submitted by: Melody Carlsen, Administrative Assistant, Planning & Zoning Division.



Agenda: Battle Creek City Commission

Meeting Date: April 21, 2026 - 7:00 PM
Location: City Commission Chambers
Chair: Mayor Mark A. Behnke
Title: Battle Creek City Hall - City Commission Chambers - 3rd Floor

INVOCATION

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Comm. O'Donnell.

ROLL CALL

City Commission

| | |
|--|------------------------------------|
| Mayor Mark Behnke | Commissioner Paige Katsarsky-Smith |
| Commissioner Jessica LaCosse | Commissioner Jim Lance |
| Commissioner Jenasia Morris | Commissioner Carla Reynolds |
| Commissioner Patrick O'Donnell | Vice Mayor Sherry Sofia |
| Commissioner Christopher Simmons, attending remotely | |

City Staff

| | |
|-------------------------------------|---|
| Amanda Zimmerlin, City Manager | William Kim, City Attorney |
| Ted Dearing, Assistant City Manager | Victoria Houser, City Clerk |
| Shannon Bagley, Police Chief | Steve Skalski, Public Works Director |
| Bush McCarthy, Fire Chief | Kimberly Holley, Organizational Development |

PROCLAMATIONS AWARDS

Beautiful Battle Creek Awards for April 2026

Mayor Behnke presented the Beautiful Battle Creek Awards.

Proclamation for Arbor Day 2026

Mayor Behnke presented a proclamation declaring April 24, 2026 as "Arbor Day" in the greater Battle Creek area, encouraging all neighbors to recognize, plant and care for trees at their homes and places of work.

Bessie Ploeg, Asst. to Field Services, reminded everyone that they will be planting trees on Friday, April 24th at McCrea Park. Ms. Ploeg also shared that Battle Creek has been recognized as a Certified Tree City, noting over 2,500 trees were planted by volunteers who contributed over 300 hours in 2025.

Proclamation for Workers Memorial Day 2026

Mayor Behnke presented a proclamation declaring April 28, 2026 as "Workers Memorial Day" in the City of Battle Creek area, urging everyone to recognize and honor the contributions of Michigan's workforce and calls for increased workplace safety standards.

CHAIR NOTES ADDED OR DELETED RESOLUTIONS

There were no added or deleted resolutions.

PETITIONS COMMUNICATIONS REPORTS

There were no petitions, communications or reports.

PUBLIC COMMENT REGARDING ANY REMAINING AGENDA ITEMS

There were no public comments.

COMMISSION COMMENT REGARDING MEETING BUSINESS

There were no Commission comments.

CONSENT AGENDA

Motion/Vote 1

Motion to Approve

Moved By: Jenasia Morris

Supported By: Patrick O'Donnell

Ayes: Paige Katsarky-Smith, Jessica Lacosse, Jenasia Morris, Patrick O'Donnell, Carla Reynolds, Christopher Simmons, Sherry Sofia, James Lance

Nays: None

Abstain: None

MOTION Passed

Minutes

Minutes for the April 7, 2026 City Commission Regular Meeting

Petitions, Communications, Reports

City Manager's Report for April 21, 2026

Review Committee Meeting Minutes for April 14, 2026

Travel Synopsis, MML Convention 2025, Commissioner Katsarsky-Smith

Ambulance Report for March 2026

Resolutions

366 - A Resolution appointing Kimberly Holley as the Federal Highway Administration (FHWA) Title VI Coordinator for the City of Battle Creek, replacing Ted Dearing.

Motion/Vote 1

Motion to Approve

Moved By: Jenasia Morris

Supported By: Patrick O'Donnell

Ayes: Paige Katsarky-Smith, Jessica Lacosse, Jenasia Morris, Mark Behnke, Patrick O'Donnell, Carla Reynolds, Christopher Simmons, Sherry Sofia, James Lance

Nays: None

Abstain: None

MOTION Passed

367 - A Resolution appointing Jennifer Rosa as a new member to the BCTIFA / Brownfield Redevelopment Authority.

Motion/Vote 1

Motion to Approve

Moved By: Jenasia Morris

Supported By: Patrick O'Donnell

Ayes: Paige Katsarky-Smith, Jessica Lacosse, Jenasia Morris, Mark Behnke, Patrick O'Donnell, Carla Reynolds, Christopher Simmons, Sherry Sofia, James Lance

Nays: None

Abstain: None

MOTION Passed

368 - A Resolution appointing Jackson Bredehoft, Stephen Herbstreith and Jamie McCaulley as new members and reappointing Bryan Babel, Paul Conkey, Robert Corder, Linda Freybler, John Hart and Kelly Walden to the Downtown Parking System Advisory Committee.

Motion/Vote 1

Motion to Approve

Moved By: Jenasia Morris

Supported By: Patrick O'Donnell

Ayes: Paige Katsarky-Smith, Jessica Lacosse, Jenasia Morris, Mark Behnke, Patrick O'Donnell, Carla Reynolds, Christopher Simmons, Sherry Sofia, James Lance

Nays: None

Abstain: None

MOTION Passed

369 - A Resolution appointing Jackson Bredehoft as a new member to the Sustainable Battle Creek Committee.

Motion/Vote 1

Motion to Approve

Moved By: Jenasia Morris

Supported By: Patrick O'Donnell

Ayes: Paige Katsarky-Smith, Jessica Lacosse, Jenasia Morris, Mark Behnke, Patrick O'Donnell, Carla Reynolds, Christopher Simmons, Sherry Sofia, James Lance

Nays: None

Abstain: None

MOTION Passed

370 - A Resolution seeking approval to declare Tuesday, April 28, 2026 as Workers Memorial Day in the City of Battle Creek.

Motion/Vote 1

Motion to Approve

Moved By: Jenasia Morris

Supported By: Patrick O'Donnell

Ayes: Paige Katsarky-Smith, Jessica Lacosse, Jenasia Morris, Mark Behnke, Patrick O'Donnell, Carla Reynolds, Christopher Simmons, Sherry Sofia, James Lance

Nays: None

Abstain: None

MOTION Passed

RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA

371 - A Resolution approving updates to the Title VI Non-Discrimination Plan and the Limited English Proficiency Plan.

Motion/Vote 1

Motion to Approve

Moved By: Jenasia Morris

Supported By: Patrick O'Donnell

Ayes: Paige Katsarky-Smith, Jessica Lacosse, Jenasia Morris, Patrick O'Donnell, Carla Reynolds, Christopher Simmons, Sherry Sofia, James Lance

Nays: None

Abstain: None

MOTION Passed

372 - A Resolution seeking approval for the submission of the Water Resources Division Grant Application to Michigan Department of Environment, Great Lakes, and Energy (EGLE) for Dickman Area Storm Water Improvements.

Steve Skalski, Director of Public works, responding to Comm. LaCosse, confirmed this resolution included 80% grant funding, with a 20% match to be paid by Battle Creek and Springfield cities.

Motion/Vote 1

Motion to Approve

Moved By: Jenasia Morris

Supported By: Patrick O'Donnell

Ayes: Paige Katsarky-Smith, Jessica Lacosse, Jenasia Morris, Mark Behnke, Patrick O'Donnell, Carla Reynolds, Christopher Simmons, Sherry Sofia, James Lance

Nays: None

Abstain: None

MOTION Passed

373 - A Resolution seeking authorization for the City Manager to sign a contract for bus advertisements with Mesmerize Media, LLC for lead poisoning prevention funded by the HUD Lead Hazard Reduction Grant for a total of \$65,800.

Motion/Vote 1

Motion to Approve

Moved By: Jenasia Morris

Supported By: Patrick O'Donnell

Ayes: Paige Katsarky-Smith, Jessica Lacosse, Jenasia Morris, Mark Behnke, Patrick O'Donnell, Carla Reynolds, Christopher Simmons, Sherry Sofia, James Lance

Nays: None

Abstain: None

MOTION Passed

GENERAL PUBLIC COMMENT

(Limited to three minutes per individual)

David Moore congratulated Mr. Dearing on his retirement, thanking him for his service as Commissioner and Mayor previously, and as Assistant City Manager, wishing him well.

Kathy Antaya provided information about the Share Center, thanking the Commission and Director Elchert for pursuing the emergency shelter designation, also noting the many volunteering opportunities.

John Kenefick commented on recent flooding in Cadillac, commenting on the City's concrete channel, also commenting on the longer distance to the Post - Franklin neighborhood from the proposed new fire station.

Joe Harris commented on the City's commemorative flag policy, asking the Commission to consider changing the policy.

COMMISSION COMMENTS

Vice Mayor Sofia read a poem celebrating Mr. Dearing's service to the City of Battle Creek as an elected official and as Assistant City Manager.

Comm. LaCosse thanked Mr. Dearing for his support to new commissioners. Comm. LaCosse also commented on Starbase, located at the MI Air National Guard Base, sharing information about their program.

Comm. Reynolds congratulate and thanked Mr. Dearing for his service, expressing appreciation for his kindness, thoughtfulness and knowledge.

Comm. O'Donnell clarified that there is no Early Voting for the May 5th Special Election, also stating Battle Creek was one of only a few cities with 2 year terms, that most have 4 years terms, which is what the ballot proposal was seeking. Comm. O'Donnell encouraged everyone to participate with their NPCs and the good work they do. Comm. O'Donnell thanked Mr. Dearing for his continued service and constant support of Battle Creek.

Comm. Katsarsky Smith thanked Mr. Dearing for always being available to inform and assist the commissioners.

Comm. Morris thanked Mr. Dearing for his willingness to always help, stating this made her a good commissioner.

Comm. Lance congratulated Mr. Dearing on his retirement, stating he has been an unbelievable resource for the commission and the city, the backbone of the city, stating he will be missed.

Mayor Behnke reviewed Mr. Dearing's many years of service to the City, beginning with his election as a commissioner in 1993, and the 68th Mayor of the City. Mayor Behnke also acknowledged Mr. Dearing's contributions to economic growth in the city, noting many projects he helped to complete.

Comm. Simmons wished Mr. Dearing the very best, thanking him for his patience working with commissioners, and always being very diplomatic, stating Mr. Dearing will be missed.

ADJOURNMENT

Mayor Behnke adjourned the meeting at 7:54 pm.



DATE: 04/30/2026
TO: Mayor, Vice Mayor and City Commissioners
FROM: Amanda Zimmerlin, City Manager
RE: City Manager's Report – May 5, 2026, Regular Meeting Agenda

12-2026 **A Proposed Ordinance, 12-2026, to amend Chapter 1281 of Title Six — Zoning of the Code of Ordinances to make text corrections, clarify requirements, correct formatting and make changes substantive in nature to Sections 1281.01(k)(8)B., 1281.01(k)(10), 1281.04(c)(1)A&B and 1280.01(g)A.**

This Proposed Ordinance, if introduced, would amend Chapter 1281 of Title Six –Zoning of the Code or Ordinances to make text corrections, clarify requirements, correct formatting. This Ordinance would also make substantive changes to Section 1281.01(k)(8)B to clarify what qualifies as “substantial progress” and “bona fide development” for purposes of determining when an approved conditional rezoning expires. Section 1281.01(k)(10): to clarify that minor amendments that do not change the approved zoning or offered conditions are exempt from the full conditional rezoning process. Section 1281.04(c)(1)A & B: to clarify that the site plan review exemption applies only to single units of single-family and two-family dwellings, and does not exempt larger residential developments that require developer-installed streets or infrastructure. Section 1280.01(g)A: would remove the requirement for a second newspaper public notice before the City Commission meeting for zoning map/text amendments, since it has not increased attendance and adds unnecessary cost. **Introduction is Recommended.**

13-2026 **A Proposed Ordinance, 13-2026 to rezone the properties located at 14 Yuba St. (Parcel #8040-00-147-0), 175 Main St. (Parcel #0890-00-075-0), and 169 Main St. (Parcel #0890-00-075-0) from MFR High-Density Multiple Family District to T-3 Neighborhood Commercial District for the purpose of converting an existing vacant single-family residence on the site into an office building to support organization operations. It should be noted that 175 Main St. and 169 Main St. share a common parcel but are separate in their addresses.**

This Proposed Ordinance, if introduced, would rezone the properties located at 14 Yuba Street, 175 Main Street, and 169 Main Street from MFR High- Density Multi Family District to T-3 Neighborhood Commercial District to allow the conversion of an existing vacant single family home to be converted into an office building in support of the Community Action Partnership organization. **Introduction is Recommended.**

377 **A Resolution seeking authorization for legal signatures in the absence of the City Manager.**

If approved, this Resolution would authorize Marcie Gillette, Assistant City Manager; Aaron Kuhn, Revenue Services Director; or Michelle Hull, Human Resources Director, to execute any and all documents on behalf of the City Manager during any period in which the City Manager is absent from the City. **Approval is Recommended.**

378 **A Resolution approving Retention of Outside Counsel for Fire Truck Antitrust Litigation.**

This Resolution, if approved, would permit the City Attorney to utilize outside counsel Baron & Budd, P.C., Simonsen Sussman, LLP, and Young & Partners, LLP as outside counsel to represent the City of Battle Creek in litigation arising from injuries and damages related to and caused by fire truck manufacturers and other Defendants' unfair and anti-competitive business practices in violation of antitrust laws. **Approval is Recommended.**

379 **A Resolution seeking authorization for the City Manager to sign a contract for the purchase of information technology infrastructure hardware from People Driven Technology, Inc. in an estimated amount of \$1,789,364.00, with unit prices prevailing.**

This Resolution, if approved, would authorize the City Manager to execute a contract with People Driven Technology, Inc. through the G2G Cooperative purchasing agreement administered by Oakland County. The City's current infrastructure was last replaced in 2018 and is coming to end of life. **Approval is Recommended.**

380 **A Resolution seeking acceptance of the lowest responsive, responsible bid for Verona Pumping Station Reroof project from Royalty Roofing USA LLC d/b/a Division 7 Building Contractors in a not-to-exceed amount of \$297,950.00.**

This Resolution, if approved, would authorize the City Manager to execute a contract with the lowest responsible bidder for the Verona pumping station reroof and authorizes the City Manager or her designee to approve change orders for up to 15% in aggregate for City initiated and pre-approved changes for unforeseen field conditions that are not itemized in the contract. **Approval is Recommended.**

381 **A Resolution to approve Petition PSUP26-0001, a special use permit for the expansion of the Sunset Gardens cemetery located at 15769 S Helmer Rd. onto the unaddressed Parcel #0066-00-110-0. The cemetery expansion will include the opening of a new natural burial garden on the cemetery property on Parcel #0066-00-110-0. No new parking will be included with the expansion, as the existing road at Sunset Gardens will provide parking for the expansion with widened cutouts in select areas.**

This Resolution, if approved, would approve a special use permit for the expansion of Sunset Gardens cemetery located at 15769 S Helmer Road onto the unaddressed Parcel #0066-00-110-0. The property is zoned I-1 Light Industrial, which allows for the operation of cemeteries with an approved special use permit. **Approval is Recommended.**

City of Battle Creek
Planning / Zoning Div.
ANNUAL REPORT

2025

An annual report of the activities and business of the City of Battle Creek Planning Commission, Zoning Board of Appeals, and the Historic District Commission, including departmental responsibilities relative to planning and zoning.



To: Amanda Zimmerlin, City Manager
 William Kim, City Attorney
 Members of the City Commission
 Members of the City Planning Commission
 Members of the Zoning Board of Appeals
 Members of the Historic District Commission

2025 Annual Report of the Planning Department

The Michigan Planning Enabling Act, PA 33 of 2008, as amended, requires that an annual report of Planning Commission activities be prepared for the legislative body that reflects the administration and enforcement of the master plan and zoning ordinance, including recommendations for amendments or supplements to the ordinance.

The Planning and Zoning Division administers the activities and business for three boards/commissions, all of which are related to goals and objectives in the Master Plan. As such, this report was prepared to highlight the activities of all three boards/commissions, as well as division responsibilities and activities relative to planning and zoning. The report includes the following information as follows:

- Introduction.....1**
- Boards/Commissions..... 1**
 - ❖ **Planning Commission..... 1**
 - ❖ **Zoning Board of Appeals..... 8**
 - ❖ **Historic District Commission.....11**
- Other Division Activities16**
 - ❖ **Current and Ongoing Planning Initiatives 16**
 - ❖ **Ordinance Implementation/Enforcement 17**
 - **Site Plan Review..... 17**
 - **Zoning Enforcement..... 18**
 - **Miscellaneous.....18**
- Summary..... 19**

The statute does not require approval of this report but simply that it is filed with the City Commission.

With this report, we would like to express our sincere appreciation to the citizen volunteers who are an integral part of the City Government and dedicate their time without compensation to make Battle Creek’s government reflective of the attitudes and beliefs of all of its residents.

Marcie Gillette
 Community Services Director

INTRODUCTION

In 2025, the Planning and Zoning Division staff included a Planning Supervisor, Planning and Zoning Administrator, Planner, Cannabis Coordinator and Administrative Assistant.

The Planning and Zoning Division’s primary focus is on short and long-range planning pertaining to growth and development in the city, particularly around land use, neighborhoods, commerce, industry, infrastructure, natural resources, transportation, and recreation. The Planning and Zoning Division is also responsible for the licensing of medical and adult use marihuana businesses under Chapters 833 Medical Marihuana Facilities and 835 Adult Use Marihuana Establishments.

The information for 2025 outlined herein is summarized in order of the appropriate board/commission and five-year historical data is included for each type of request. Additional activities and responsibilities that support the implementation of the goals and objectives of the 2018 Master Plan are included at the end of the report.

BOARDS/COMMISSIONS

The Planning and Zoning Division staff are liaisons to the Planning Commission, Zoning Board of Appeals, and the Historic District Commission. This report provides a description of each board and commission and presents five-year historical data on the number and type of petitions each board and commission review.

Planning Commission

The Planning Commission is a nine-member volunteer board appointed by the Mayor and approved by the City Commission. They are responsible for planning the future growth of the community and review of specific development projects including special use permits, zoning ordinance amendments, and property rezoning requests. The Planning Commission also adopts plans for the city including the Master Plan and makes a recommendation to the City Commission on the Capital Improvement Plan.

The Planning Commission serves in an advisory capacity to the City Commission by holding a public hearing on each request requiring City Commission approval, deliberating on each around a set of standards, and providing a recommendation to the City Commission.

Planning enabling legislation outlines that the Planning Commission should represent a broad spectrum of interests, including industry, transportation, commerce, education, agriculture, etc.; this same statute outlines that the Commission should represent various geographic areas of the city. As provided for by statute, there are two City Commission members appointed to the Planning Commission, each with voting rights, and one member of the Planning Commission that also may serve on the Zoning Board of Appeals, though in 2025 this was not the case. A Planning and Zoning Division staff member serves as the Recording Secretary to the Planning Commission and has no voting rights.

| Name | Term Expiration |
|---------------------------------|-----------------|
| Bill Morris | 1/1/2028 |
| John Godfrey | 1/1/2026 |
| Patrick O’Donnell (Vice Chair) | 1/1/2027 |
| John Hughes (Chair & Secretary) | 1/1/2026 |
| Mayor Behnke | 1/1/2026 |
| Kristyn Denison | 1/1/2027 |
| Tommy Moton | 1/1/2027 |

| | |
|----------------|----------|
| Alana White | 1/1/2027 |
| Lynn Ward Gray | 1/1/2027 |

Table 1. Lists the members of the Planning Commission at the end of 2025.

Chart 1 and Table 2 summarize the number and type of petitions received in 2025 and compares them with data from the past four years.

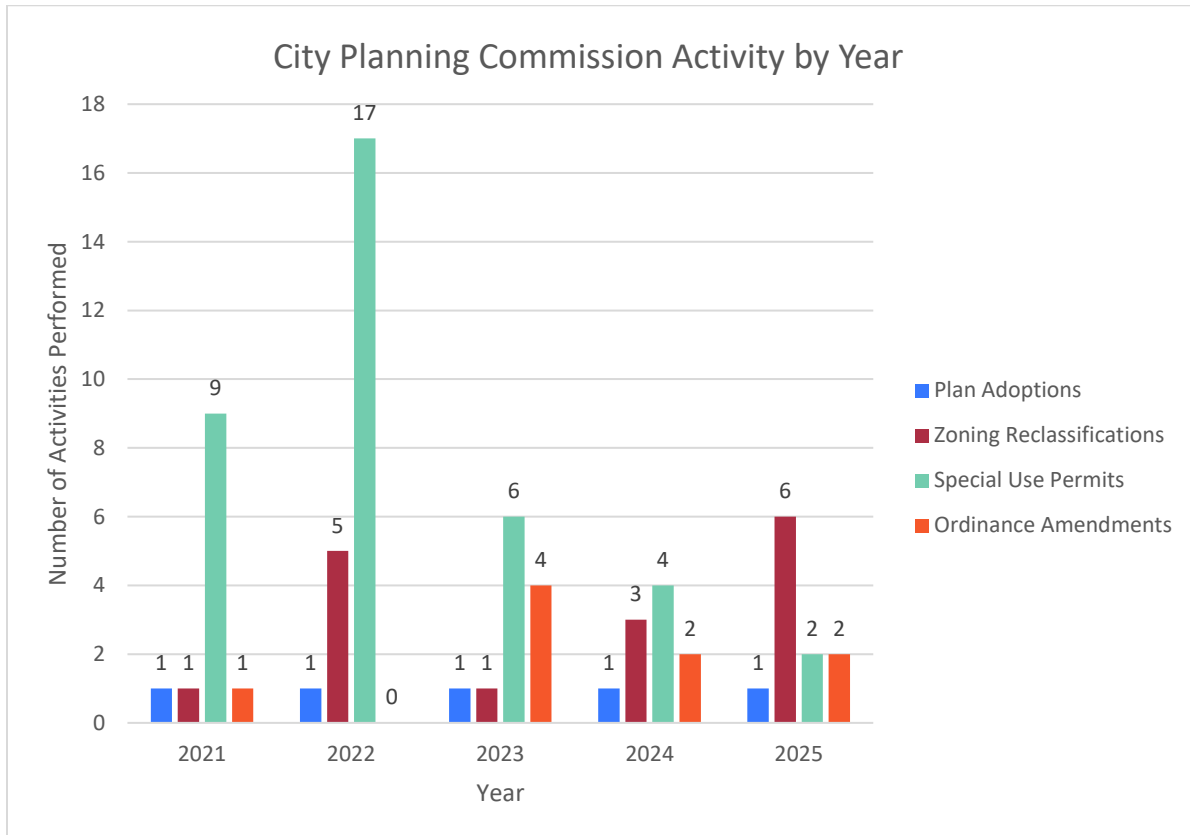


Chart 1. Number and type of petitions received by the Planning Commission from 2021 to 2025.

| | 2021 | 2022 | 2023 | 2024 | 2025 |
|--------------------------|-----------|-----------|-----------|-----------|-----------|
| Plan Adoptions | 1 | 1 | 1 | 1 | 2 |
| Zoning Reclassifications | 1 | 5 | 1 | 3 | 7 |
| Special Use Permits | 9 | 17 | 6 | 4 | 0 |
| Ordinance Amendments | 1 | 0 | 4 | 2 | 2 |
| Total | 12 | 23 | 12 | 10 | 11 |

Table 2. Number and type of petitions received by the Planning Commission from 2021 to 2025.

The overall number of petitions reviewed by the Planning Commission has remained relatively consistent between 2023, 2024 and 2025. The continued decrease in special use permits is a result of the ordinance amendments proposed and adopted in 2023 and 2024 that allowed for more uses by right (not requiring review and recommendation by the Planning Commission and approval of the City Commission), given their frequency, as well as the reduced amount of marihuana applications since 2022.

Pages 5-7 of this document provides details for the petitions shown in the above charts and tables. The types of petitions are discussed in detail below.

Special Use Permits

Each zoning district in the zoning ordinance outlines the land uses permitted by right in each district, this means that the land uses do not require review and recommendation by the Planning Commission and approval by the City Commission. The zoning ordinance also lists special land uses that require special use permits in each district. Special land uses are those uses of land that may be incompatible with the uses permitted in each zoning district, therefore requiring review to ensure compatibility with surrounding land uses and additional oversight as to how they are implemented.

Special use permits are subject to a public hearing at the Planning Commission where the Planning Commission makes a recommendation to the City Commission. The zoning ordinance authorizes the City Commission to make final determinations as to the approval, approval with conditions, or denial of special use permits. Special use permits are reviewed for compliance with the eight standards outlined in the ordinance to ensure compliance.

There were no requests for special use permits in 2025 (see pages 5-9 for details).

Rezoning Requests

A rezoning request may be initiated by a property owner or the city. A rezoning petition is evaluated according to many different factors that are listed in the standards of review in the zoning ordinance. The most important factors are determining whether allowed uses under the proposed rezoning align with the uses of the surrounding properties and the Master Plan's Future Land Use Plan.

Conditions cannot be placed on a traditional rezoning request. However, in 2006, the State amended the Michigan Zoning Enabling Act 110 to allow for conditional rezoning in Michigan communities under specified circumstances. A conditional rezoning allows for the applicant to voluntarily offer conditions on a rezoning request as long as the conditions are more restrictive than what is allowed by the requested zoning district. The use of this type zoning request is typically made on properties in a transitional area between two zoning districts.

There were six requests for rezoning in 2025 (see pages 5-7 for details).

Ordinance Amendments

Many ordinance amendments are a result of the goals and objectives established in the Master Plan. However, the public, City Commission or staff may also propose an ordinance amendment. Proposals are vetted through the proper channels before they are forwarded on to the Planning Commission and City Commission for consideration. Vetting can take different forms, depending on the type of change proposed, including significant public outreach.

Ordinance amendments proposed by staff typically are a result of recognizing various ordinance conflicts during day-to-day tasks working with the community, developers and business owners. The bulk of these amendments are necessary for clarification and consistency purposes. Based on the upcoming Master Plan update, staff expects additional amendments will be proposed to the zoning ordinance in the future.

In 2025, there were two proposals to amend the text of the zoning ordinance and/or other planning related sections of the city code (see pages 5-7 for details).

Capital Improvement Program

Planning enabling legislation requires the preparation and use of a Capital Improvement Plan (CIP) to determine and prioritize the anticipated needs of the city for a six-year minimum time period. Planning Commission review ensures projects are consistent with the goals and objectives of the Master Plan and to reflect the city's most pressing needs. The approval of the CIP does not place any particular project into the budget but serves as a guideline to determine future budgeting needs. The CIP must be updated every year and it is used to assist the City Commission in making budget decisions related to Capital Improvements.

The preparation of the CIP begins with the engagement of city staff from various departments in a series of meetings intended to evaluate proposed project's compliance and relevance with the goals and objectives of the adopted Master Plan. Each project is evaluated using a scoring matrix intended to accurately prioritize the most needed and relevant projects proposed.

At the end of 2025, the Planning Commission and City Commission received a presentation on the proposed 2027-2032 CIP. At the December 2025 regular meeting of the Planning Commission, there was unanimous approval from the Planning Commission to recommend approval of the 2027-2032 CIP to the City Commission.

**Planning Commission
 Summary of Year 2025**

| Monthly Meeting | Appeal # | Request | Applicant | PC Action | CC Action |
|------------------------|---------------------------------|---|--|------------------|------------------|
| February 26, 2025 | R01-25 | Request to rezone the property located at 80 N 20th Street from to R-1B Single-Family Residential District to T-3 Neighborhood Commercial District. | Titus LLC, Michael Gothberg | Denied | Denied |
| | Lakeview District Corridor Plan | Seeking approval to send the Lakeview District-Corridor Plan to the City Commission to begin the final public input process prior to plan adoption. | | | |
| April 23, 2025 | Lakeview District-Corridor Plan | Request to hold a public hearing on the proposed plan, after which a recommendation to the City Commission is requested. | Planning & Zoning Division | Approved | Approved |
| May 28, 2025 | R01-25(b) | Request to rezone the unaddressed property located along W Columbia Ave., Parcel #0619-41-700-0 zoned R-1A, Single Family Residential District to I-2 Heavy Industrial District, due to the existing character. | Planning & Zoning Division | Approved | Denied |
| June 25, 2025 | RPRZ25-0002 | Request to conditionally rezone five parcels to the south of W. Columbia Avenue and between S Helmer Rd. to the east and Stone Jug Road to the west. | West Michigan Land Holding Company, LLC and BCTIFA | Approved | Approved |
| July 23, 2025 | PRZ25-0004 | Request to rezone 26 Harvard Street from R2 Two-Family Residential to T-3 Neighborhood Commercial District. | Raymond Yager | Approved | Approved |

| | | | | | |
|-----------------|---|--|----------------------------|-----------|--------------------|
| | R1-25 | Request to consider an amendment to Section 1262.02 of the zoning code to require yards be improved with either natural or living groundcover including grass, plant material, rocks, stones, mulch, etc. in residential districts. | Planning & Zoning Division | Postponed | Not yet considered |
| | SUP08-23 (Continuation from 2023 tentative approval) | Petition from Scott Ganton, 14661 Helmer Rd. requesting a Planned Unit Residential Development final approval which would allow for the construction of 14 new duplexes for use as a residential senior independent living complex. | Scott Ganton | Approved | Approved |
| August 27, 2025 | PRZ25-0005 | Request to rezone property located within the area bounded by Jay St. to the north, Main St. to the east, Bartlett St. to the west and Willis St. to the south from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District. | Planning & Zoning Division | Approved | Approved |
| | A2-25 | Request to consider various amendments to Chapter 1263 (Signs) of the zoning code, including amendments allowing for flexibility with regard to sign sizes within the area known as the Motor Mile (W Dickman Rd. from the western border between the City of Springfield and the City of Battle Creek and McCamly St. S). | Planning & Zoning Division | Approved | Approved |

| | | | | | |
|--------------------|--|---|------------------------------|---------------------|---------------------|
| September 24, 2025 | PRZ25-0006 | Request from Interstate Capital to conditionally rezone the property located at 245 E Columbia Ave. (Parcel #0063-00-100-0), commonly known as Riverside Golf Club and Banquet Center, from its current split-zoned classification of R-1B on the north side of E Columbia Ave. and R-1A on the south side of E Columbia Ave. to a variety of industrial and commercial zoning districts. | Interstate Capital | Denied | Denied |
| | FY2026-FY2031 Capital Improvement Program Review | Request for the Planning Commission to review the approved FY2026-FY2031 Capital Improvement Program and to provide recommendations for any additional items to be included in the upcoming FY2027-FY2032 document. | Planning and Zoning Division | No action required. | No action required. |
| December 17, 2025 | PRZ25-0006 | Request to rezone properties located to the South of Beckley Rd. along M-66 from B-2 Regional Commercial District to MFR High-Density Multiple-Family Residential District. | Planning & Zoning Division | Approved | Approved |
| | 2027-2032 Capital Improvement Program | Public hearing and consideration of a recommendation for approval to the City Commission of the 2027-2032 Capital Improvement Program. | City of Battle Creek | Approved | Approved |

Zoning Board of Appeals

The Zoning Board of Appeals (ZBA) consists of seven regular members and up to two alternate members who may stand in for regular members unable to attend a meeting. Members are appointed by the Mayor and approved by the City Commission for three-year, staggered terms. They review and consider all petitions for appeals or variances to the requirements of the zoning ordinance. Variance requests include dimensional variances, such as requests for signage in excess of that which is permitted, reductions in parking or setback requirements, and buildings in excess of the size permitted by the ordinance. The other type of variance request is for a use variance, when one is asking for approval to use the property for something not otherwise permitted by right.

A dimensional variance can be approved by a simple majority of the members of the ZBA, but a use variance requires a two-thirds approval vote from its members. Based on State statute and subsequent case law, persons applying for variances must be able to prove to the ZBA that a “*practical difficulty*” exists if they are compelled to follow the ordinance as it relates to dimensional variances and that an “*unnecessary hardship*” exists in order to qualify for a use variance. The ZBA is also authorized to review appeals from an aggrieved party regarding a decision of the Planning and Zoning Administrator to determine if an interpretation or ruling was sufficient. Under State law, an individual’s appeal of a decision of the Zoning Board of Appeals must be filed in Circuit Court.

The Michigan Zoning Enabling Act of 2006, as amended, allows for one member of the Planning Commission to act as a member of the Zoning Board of Appeals. State zoning legislation also provides for the opportunity to appoint two additional “alternate” members of which one may be a City Commissioner.

| Name | Term Expiration |
|------------------------|-----------------|
| Noris Lindsey | 1/1/2027 |
| James Moreno (Chair) | 1/1/2026 |
| Janine Reed | 1/1/2026 |
| Vacant Seat | 1/1/2026 |
| Jack McCulley | 1/1/2027 |
| Todd Artis (Alternate) | 1/1/2027 |
| Michael Delaware | 1/1/2027 |
| Chris Rogers | 1/1/2027 |

Table 3. Lists the members of the Zoning Board of Appeals at the end of 2025.

Chart 2 and Table 4 summarize the number and type of petitions received in 2025 and compares them with data from the past four years.

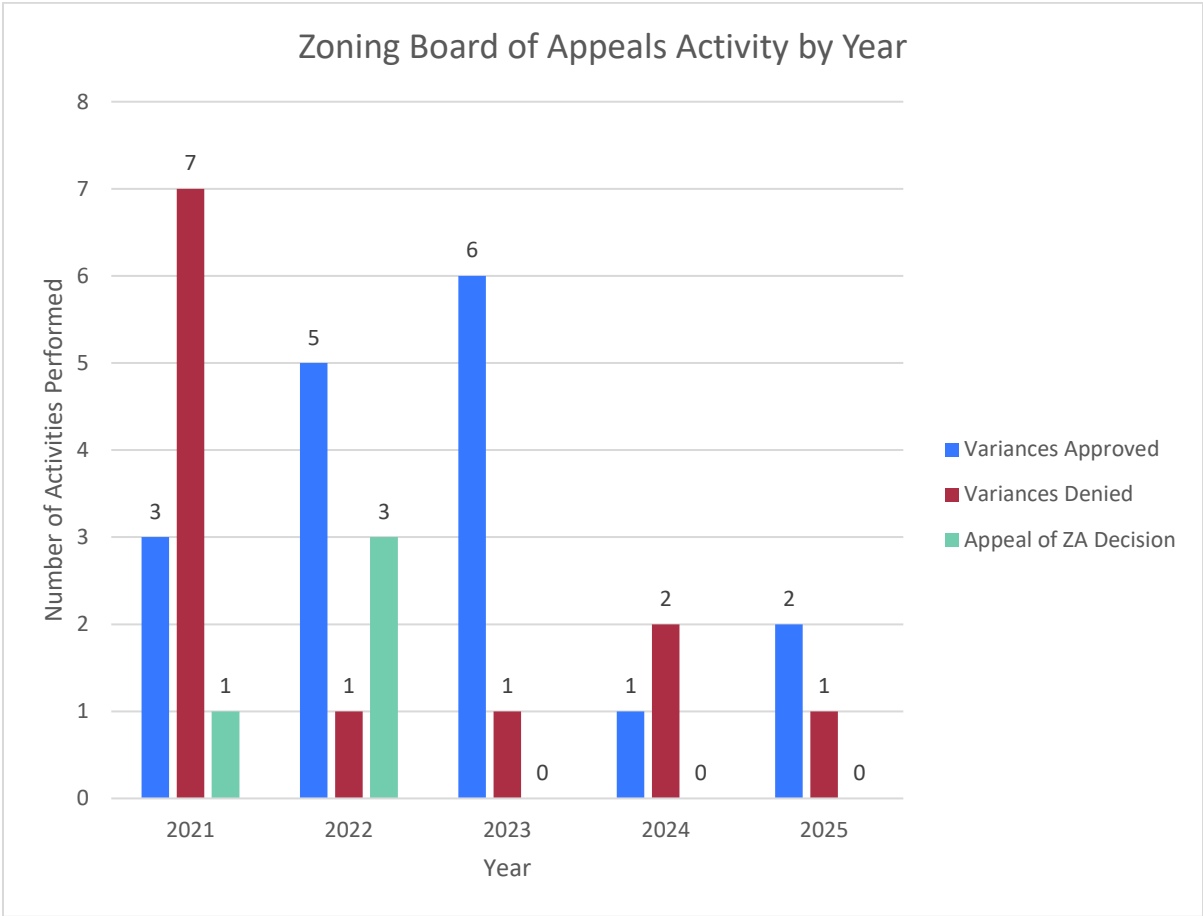


Chart 2. Number and type of petitions received by the Zoning Board of Appeals from 2021 to 2025.

| | 2021 | 2022 | 2023 | 2024 | 2025 |
|-----------------------|------|------|------|------|------|
| Variances Approved | 3 | 5 | 6 | 1 | 2 |
| Variances Denied | 7 | 1 | 1 | 2 | 1 |
| Appeal of ZA Decision | 1 | 3 | 0 | 0 | 0 |

Table 4. Number and type of petitions received by the Zoning Board of Appeals from 2021 to 2025.

The spreadsheet on page 10 documents the activities of the Zoning Board of Appeals in 2025.

**Zoning Board of Appeals
 Summary of Year 2025**

| Monthly Meeting | Permit # | Request | Applicant | ZBA Action |
|------------------------|---|---|--|-------------------|
| February 11, 2025 | Z01-25 | Request for a dimensional/non-use variance for the placement of a generator within the street side front yard of the property. | Steve Bulson/Kelley Moody | Approved |
| July 8, 2025 | Z02-25 | Request for a dimensional/nonuse variance for the placement of a new freestanding sign in excess of the maximum square footage permitted by the sign ordinance. | Seelye Auto Group/Seelye Kia of Battle Creek | Postponed |
| | Z03-25 | Request for a dimensional/non-use variance from the thirty-foot (30') front-yard setback requirement. | Grosteffon Trust, c/o Linnell & Associates, PLLC | Denied |
| August 12, 2025 | Z02-25 (Continued from July 8, 2025 meeting) | Request for a dimensional/nonuse variance for the placement of a new freestanding sign in excess of the maximum square footage permitted by the sign ordinance. | Seelye Auto Group/Seelye Kia of Battle Creek | Approved |

Historic District Commission

The Historic District Commission (HDC) consists of seven members appointed by the Mayor and approved by the City Commission for three-year, staggered terms and one City Commission member. The primary responsibility of the Historic District Commission is to review applications and plans for the construction, alteration, repair, moving or demolition affecting the exterior appearance of a historic or non-historic resource within any of the five local Historic Districts. They may also propose to create or modify existing historic districts, and can create a study committee to analyze requests for historic designation of specific properties within or outside of historic districts.

State law and local ordinance reflect some specific membership qualifications for the Historic District Commission, including for example that one member, if available, shall be a graduate of an accredited school of architecture, have at least two years of architectural experience, or be an architect registered in the state.

| Name | Term Expiration |
|-----------------------------------|-----------------|
| Ross Simpson – Chair | 1/1/2028 |
| Kurt Thornton – Vice Chair | 1/1/2026 |
| Geradyne Drozdowski | 1/1/2027 |
| Deborah Sallee | 1/1/2026 |
| Jana Davis | 1/1/2027 |
| Mark Steinbrunner | 1/1/2026 |
| Randy Case (Architect) | 1/1/2027 |
| Jessica Lacosse (City Commission) | |

Table 5. Lists the members of the Historic District Commission at the end of 2025.

In late 2010, the HDC passed a resolution authorizing staff approval of minor classes of work in order to expedite approval times for certain types of projects; 17 projects were approved administratively in 2025. These projects are presented to the HDC during the year through quarterly reports.

Chart 3 and Table 6. Summarize the number and type of petitions received in 2025 and compares them with data from the past four years.

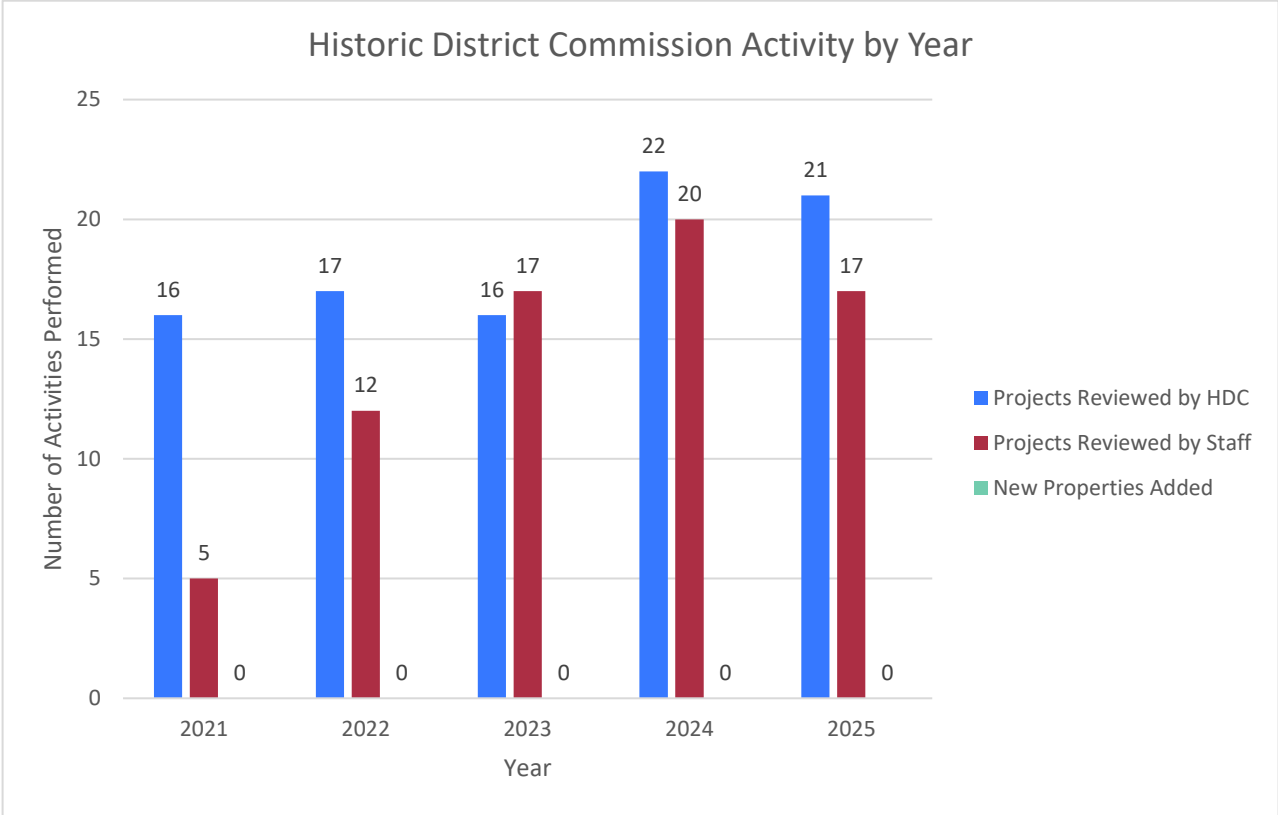


Chart 3. Number and type of petitions reviewed by the Historic District Commission from 2021 to 2025.

| | 2021 | 2022 | 2023 | 2024 | 2025 |
|----------------------------|------|------|------|------|------|
| Projects Reviewed by HDC | 16 | 17 | 16 | 22 | 21 |
| Projects Reviewed by Staff | 5 | 12 | 17 | 20 | 17 |
| New Properties Added | 0 | 0 | 0 | 0 | 0 |

Table 6. Number and type of petitions reviewed by the Historic District Commission.

The spreadsheet on pages 13-15 documents the activities of the Historic District Commission in 2025.

**Historic District Commission
 Summary of Year 2025**

| Monthly Meeting | Permit # | Request | Applicant | HDC Action |
|------------------------|--|---|--------------------------|---|
| January 13, 2025 | H22-24 (Continued from December 2024) | Petition for a Certificate of Appropriateness for the property located at 99 W Michigan Ave., filed by Cody Newman for the addition of a second floor to the building that will become residential units with a brick façade in the rear of the building, an addition of a third floor and rooftop deck that will be masonry on the front and rear facades. | Cody Newman | Approved |
| January 13, 2025 | H01-25 | Petition for a Certificate of Appropriateness for the property located at 238 NE Capital Ave, for the construction of a carport for residential use, reconstruction of the sidewalk, and replacement of the stairs with formal painted concrete. | Donald McClellan | Approved all work except the carport, which was postponed |
| | H02-25 | Petition for a Certificate of Appropriateness for the property located at 252 Chestnut St for the removal and replacement of roofing, to include the replacement of 3 tab asphalt shingles and replacement of the cooper flat roofing. | Olmstead Construction | Approved |
| February 10, 2025 | H03-25 | Petition for a Certificate of Appropriateness for the property located at 123 W Manchester Street for the rehabilitation of the home, to include the replacement and wrapping of the windows on the home, the exterior doors, and the fascia as well as replacing the siding and installing new soffits where needed. | Calhoun County Land Bank | Postponed |
| | H04-25 | Petition for a Certificate of Appropriateness for the property located 263 N Washington Ave for the re-siding and for the replacement of the existing asphalt shingled roof with a new metal roofing system. | Donita Moye | Approved with Conditions |
| March 10, 2025 | H03-25 | Petition for a Certificate of Appropriateness for the property located at 123 W Manchester Street the rehabilitation of the home, to include the replacement and wrapping of the windows on the home, the exterior doors, and the fascia as well as replacing the siding and installing new soffits where needed. | Calhoun County Land Bank | Denied |
| | H01-25 | Continuation of H01-25 from the January 13, 2025 meeting to further consider the proposed carport. | Donald McClellan | Denied |
| April 14, 2025 | H05-25 | Petition for a Certificate of Appropriateness for the property located 263 N Washington Ave for the replacement of cedar shake in the peaks of the exterior siding. | Donita Moye | Approved |

| | | | | |
|-------------------|--------|---|---|--------------------------|
| | H06-25 | Petition for a Certificate of Appropriateness for the property located at 123 W Manchester Street for the rehabilitation of the home, to include the replacement and wrapping of the windows on the home, the exterior doors, and the fascia as well as replacing the siding and installing new soffits where needed. | Calhoun County Land Bank | Approved with Conditions |
| | H07-25 | Petition for a Certificate of Appropriateness for the property located at 119 W Michigan Ave for the installation of one internally illuminated sign cabinet and two nonilluminated blade sign. | Burkett Signs, Inc. | Approved |
| | H08-25 | Petition for a Certificate of Appropriateness for the property located at 9 Wilkes St for the repair of fencing and addition of a new gates. | Justice Fence | Approved |
| | H09-25 | Petition for a Certificate of Appropriateness for the property location at 171 W Manchester St for the addition of a lean-to style addition, siding repair, roof replacement and window restoration. | Daniel Peterson | Approved with Conditions |
| | H10-25 | Petition for a Certificate of Appropriateness for the property located at 63 N Wood St for window restorations. | Daniel Peterson | Approved |
| May 12, 2025 | H11-25 | Petition for a Certificate of Appropriateness for the property located at 16 Ann Ave for the addition of an open porch on the back of the house. | Clara Hernandez | Approved with Conditions |
| June 9, 2025 | H12-25 | Petition for a Certificate of Appropriateness for the property located at 50 W Jackson St for the placement of two new wall signs on the building located at 50 W Jackson St. | Cody Newman on behalf of Battle Creek Unlimited | Approved |
| July 14, 2025 | H13-25 | Petition for a Certificate of Appropriateness for the construction of a new 6-foot tall white vinyl fence located at 94 Walter Ave. | Jose Ortiz | Denied |
| | H14-25 | Petition for a Notice to Proceed for the removal of the ADA ramp along the side of the building located at 200 NE Capital Ave. | City of Battle Creek Planning and Zoning Division | Approved |
| August 11, 2025 | H15-25 | Petition for a Certificate of Appropriateness filed by Monty H. Bishop for the construction of a new 6-foot-tall wood fence located along the side and back yard at 211 NE Capital Ave. | Monty H. Bishop | Approved |
| September 8, 2025 | H16-25 | Petition for a Notice to Proceed for the demolition of the main building located at 160 N Washington Ave. | Grace Health | Approved |
| October 13, 2025 | H17-25 | Petition for a Certificate of Appropriateness for the property located at 50 W Jackson Street for the installation of an exterior wall sign. | Aaron Gibson of Battle Creek Unlimited | Approved |

| | | | | |
|-------------------|--------|---|----------------------------|----------|
| | H18-25 | Petition for a Certificate of Appropriateness for the property located at 127 Ann Ave for the installation of a temporary wooden wheelchair ramp to the front of the home. | Milestone Senior Services | Approved |
| November 10, 2025 | H19-25 | Petition for a Certificate of Appropriateness for the property located at 40 Ann Ave for the addition of a sunroom to the back of the house. | Arnold Payne & Venus Payne | Approved |
| | H20-25 | Petition for a Certificate of Appropriateness for the property located at 66 W Michigan Ave for the removal of a tee in the rear of the building to prevent damage to the foundation. | Natanael Robles | Approved |

OTHER DIVISION ACTIVITIES

Current and Ongoing Planning Initiatives

Redevelopment Ready Communities (RRC)

Redevelopment Ready Communities (RRC) is a certification program that promotes communities that are competitive and ready for redevelopment. The process and certification ensures that a community is transparent, predictable, and efficient in their daily development practices, which includes having a streamlined development review process. In March 2018, the City of Battle Creek received its certification as a Redevelopment Ready Community. As part of maintaining the certification, the city is required to update several documents on an annual basis.

The certification granted in 2018 is due for renewal in 2026, meaning required updates to previously approved documents and requirements for new documents. The new documents developed throughout 2025, such as, a Guide to Development, Internal Review Processes, Marketing Plan, Housing Strategy, and Public Participation Plan will be submitted for review and approval during the first quarter of 2026. In addition, annual update requirements to specific documents are complete and approved for 2025 with the exception of this document which is typically reviewed during the first quarter of the following year.

Zoning Ordinances Amendment Recommendations

Planning and zoning staff proposed amendments to Sections 1262 and 1263 during the year 2025. The Planning Commission recommended approval to the City Commission, and City Commission subsequently approved proposed amendment to Sections 220 and 1263. Proposed amendments to Section 1262 (Landscaping) will be addressed during the year 2026, as additional feedback regarding the amendment was sought by the Planning Commission.

Master Plan Update

Planning and zoning staff worked on the Housing Strategy for most of 2025. This included working with a steering committee made up of Planning Commissioners, a City Commissioner, Neighborhood Planning Council Presidents, and representatives of several organizations working with the city in partnership to have safe, affordable, and equitable housing opportunities for existing and future Battle Creek residents.

Several public engagement sessions were held from September through November of 2025 and continued into 2026. Interviews were also held with several organizations representing populations not often represented during public engagement session.

Grant Acquisition and Management

In early 2025, the City of Battle Creek applied for and was awarded a \$50,000 grant through the Michigan State Housing Authority's (MSHDA) Housing Readiness Initiative (HRI) to hire a consultant to assist the Planning and Zoning Division with the public outreach for and development of the Housing Strategy plan a subplan of the Master Plan.

It should also be noted that during 2025, the City of Battle Creek applied for and was awarded a \$50,000 Certified Local Government (CLG) grant from the State Historic Preservation Office (SHPO) to provide funding for the city to hire a consultant to help design and draft a set of historic district design guidelines and economic and technical feasibility documents for the city. This set of design guidelines will be drafted during the year's 2026 and 2027, with an anticipated completion during the 3rd quarter of 2027.

Ordinance Implementation & Enforcement

Site Plan Review

The zoning ordinance requires that a sealed site plan be submitted and approved for all development or redevelopment of multiple-family, commercial, and industrial structures and/or off-street parking lots (new or expansions). The primary intent of the review is to ensure that the proposed development complies with regulations in the zoning ordinance as well as to insure proper infrastructure is in place to support the project and that appropriate pedestrian flow, vehicular traffic flow, and storm water management is provided. The Planning and Zoning Division manage the site plan submittal and the Planning and Zoning Division and Department of Public Works review the plans for compliance with the city’s code requirements.

A site plan is a legally binding document, and therefore, the Planning and Zoning staff inspect the property prior to a certificate of occupancy being granted to ensure compliance with the approved site plan.

Table 7 shows the 14 projects that were submitted for site plan review in 2025.

| 2025 Site Plan Applications | | | |
|------------------------------------|--------------------------------|---------------------|--|
| Permit No. | Business Name | Address | Description |
| PSPR25-0001 | R&L Carriers | 2979 W Columbia Ave | Improvements to existing LTL truck freight facility in preparation for future expansion. |
| PSPR25-0002 | Lakeview School District | 15060 S Helmer Rd | High school parking lot improvements (site plan determined to be not necessary after submittal) |
| PSPR25-0003 | The Haven of Rest | 11 Green St | Construction of new 1 story addition. |
| PSPR25-0004 | Comerica Bank/Car Rental | 192 E Columbia Ave | Convert bank to a car rental facility, remove drive throughs, new parking lot. |
| PSPR25-0005 | Jimmy Johns | 5719 Beckley Rd | New restaurant build. |
| PSPR25-0006 | Lakeview Townhouses | 0072-00-615-0 | New independent living townhouses. |
| PSPR25-0007 | Red White & Bloom | 160 E Columbia Ave | No proposed changes to the property. |
| PSPR25-0008 | 200 Capital Ave Apartments | 200 SW Capital Ave | 4 story, 80 apartment building, 10,000 sq ft multi-use building to include 2,000 sq ft community center. |
| PSPR25-0009 | Paving Project/Damron Brothers | 3480 SW Capital Ave | Adding 75’ by 60’ parking lot |
| PSPR25-0010 | KCCU | 3160 Watkins Rd | New office building and related site development. |
| PSPR25-0011 | FCIP South Park Phase 2B | 201 Watkins Rd | Expansion to the Watkins Rd industrial projects. |
| PSPR25-0012 | St. Marks Lutheran Church | 114 E Minges Rd | New addition to church and parking lot, new drainage. |
| PSPR25-0013 | Bennett Crossing Limited | 92 Main St | 47-unit new construction, multifamily development. |

| | | | |
|--------------------|-----------------------------|-------------------|--|
| PSPR25-0014 | New Level Sports Ministries | 410 W VanBuren St | Childcare center, new building addition to existing structure, new surface parking lot, child play area. |
|--------------------|-----------------------------|-------------------|--|

Table 7. Description of each site plan review file for the year 2025.

Zoning Enforcement

The Planning and Zoning Division is responsible for implementation and enforcement of zoning ordinance regulations. Enforcement action is a result of complaints received as well as proactive efforts in the community such as the required property survey inspections conducted every three years for all city properties. In 2025, there were 92 zoning complaints/enforcements recorded, which is moderately lower than 2024. The majority of violations require at least two inspections, one to verify and document the violation and another to ensure compliance. Following is a summary and count of zoning enforcements this division addressed in 2025.

Non-Conforming Investigations (0) and Illegal Use Investigations (16)

The Planning and Zoning Division receives a number of inquiries as to the legal use of a property. There are many situations where the current use of a property is not permitted by the current zoning district, and in these instances, an investigation into the historical use and zoning of the property is needed in order to determine if the current use can be considered legal nonconforming. These investigations are very time intensive as each requires a thorough investigation into all historical records the city maintains on a property, as well as a review of historical zoning maps and ordinances since 1924 when the city first adopted a zoning ordinance. With these documents, staff analyzes the historic use of a property in comparison to uses allowed by the historical zoning maps/ordinances to determine if the use has existed lawfully. If so, although not allowed by the current zoning regulations, this use would be allowed to continue as a legal nonconforming use.

In the instance where the current use of a property is not allowed by the zoning, and the use was never lawfully created at the property, the division will proceed with enforcement if necessary to ensure the structure complies with the current zoning regulations.

The greatest number of these requests arises from rental registration permit applications where the applicant is seeking multiple units when the current zoning may only allow one or two units. There are also frequent inquiries from appraisers and realtors inquiring as to the appropriate use of a property. There is currently no fee for this investigation as we want to encourage property owners and other parties to actively seek the legal use of a property.

Miscellaneous Enforcement (214)

Typical enforcements include, but are not limited to, fences, parking and recreational vehicle use, and zoning review for multi-unit rental regulation.

Miscellaneous

Building/Zoning Permit Application Review (1490) Effective November 2009, the Planning and Zoning Division has reviewed all submitted building, demolition, signage, and fencing permits to ensure compliance with zoning regulations. Each request is reviewed based on the submitted facts included on the permit application as well as how the existing and proposed structures are situated on the property. In 2025, 1559 permits were reviewed by the Planning and Zoning Division. Where applications were noncompliant with zoning regulations, contact was made with the applicant to assist them with changes necessary for the project to be compliant.

City Business License Application Review (76)

The Planning and Zoning Division reviews each license request for liquor licenses (new and renewal), used car sales, secondhand good/junk facilities, and donation drop boxes for compliance with the zoning ordinance as well

as general code compliance. This review ensures the request is compliant with the zoning district in which the property is located and that there are no open zoning violations of any nature.

Marijuana Establishment Licenses

During the year 2025, the city issued a total of 34 marijuana facilities licenses for businesses, which included renewals and transfers of existing licenses, as well as new licenses issued. As part of the application review and approval, sites must be in compliance with all site plan requirements. It is also necessary for each applicant to provide proof of payment for any outstanding taxes, utilities, liens, etc. to ensure there is no outstanding debt owed to the City of Battle Creek.

SUMMARY

The number of petitions the Planning and Zoning Division has received for the city's boards and commissions for review has remained relatively consistent between 2024 and 2025. Considering the last five years, the overall trend for petitions decreases for the Planning Commission and Zoning Board of Appeals and increases for the Historic District Commission.

It is likely that the consistently lower number of petitions to both the Planning Commission and the Zoning Board of Appeals can be attributed to the continued work in amending the zoning ordinance to accommodate recent trends in development and proposed uses throughout the city. The increase in petitions to the Historic District Commission can likely be attributed to the educational campaign that the Community Services Department has engaged in over the past two years. Outreach and informational efforts have included the mailing of information to property owners within the city's local historic districts, as well the addition of street signage denoting the boundaries of each of the local historic districts. Continued outreach is intended to occur during the year 2026.

Additional improvements in these regards, as well as revisions and adjustments to regulations and ordinances, aim to address all concerns in a fair manner that aligns with the goals set forth in the upcoming update to the Master Plan.

Proclamation

- WHEREAS,** nearly 1 in 5 American adults experience a mental health condition in any given year; and
- WHEREAS,** over 23% of adults in the United States experience some sort of mental illness every year with anxiety and depression being the most common mental health conditions; and
- WHEREAS,** the average delay between the onset of mental illness symptoms and treatment is 11 years; and
- WHEREAS,** early intervention is the key to improved outcomes for people with mental health challenges; and
- WHEREAS,** recovery from a mental health condition or challenge is achievable and attainable for many people; and
- WHEREAS,** every member of our community can play a role in promoting treatment for good mental health. Observing May as Mental Health Awareness Month provides an excellent opportunity to increase awareness of mental health issues and, therefore, empower the community to normalize good mental health awareness and practices and take meaningful action to support those neighbors accessing care to achieve better mental health; and
- WHEREAS,** Mental Health Awareness Month is also a yearly reminder of the importance of organizations like Summit Pointe in Calhoun County which provide crisis intervention services as well as training such as Mental Health First Aid, Crisis Intervention for our Law Enforcement units and QPR Gatekeeper Training so that all neighbors are able to recognize signs and symptoms of poor mental health and reduce the time between diagnosis and treatment, thereby strengthening the health of our community;

NOW, THEREFORE, I, Mark A. Behnke, Mayor of the City of Battle Creek, Michigan, do hereby proclaim the month of May 2026, as

“MENTAL HEALTH AWARENESS MONTH”

in the Greater Battle Creek Area and urge all neighbors to do their part to normalize good mental health practices by working together and supporting their communities' efforts to educate themselves as much as possible to recognize signs and symptoms of mental health challenges thereby shortening the time between onset and treatment and giving everyone the opportunity to maximize their potential.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Logo of the City of Battle Creek, Michigan, to be affixed this 5th day of May 2026.

A handwritten signature in black ink that reads "Mark A. Behnke".

Mark A. Behnke, Mayor



Resolution No: 374
City Commission Meeting 5/5/2026

374 - A Resolution authorizing a change order to purchase order 20260268 with Stantec Consulting Group, Inc. for additional work on the City’s utility rate study in a not-to-exceed amount of \$6,375.00.

Battle Creek City Commission
Action Summary

Staff Member: Chris Huff, Purchasing Agent

Department: Purchasing

Summary

RESOLUTION NO. 374

Resolved by the Commission of the City of Battle Creek:

That the City Manager or her designee is authorized to execute a change order to purchase order 20260268 with Stantec Consulting Group, Inc. for additional work on the City’s utility rate study in a not-to-exceed amount of \$6,375.00.

This will be split between accounts 590.537.5800.801010 and 591.536.5560.801010.

Budgetary Considerations

History, Background and Discussion

History:

Contract 2020-059R was awarded to Stantec in 2020 to conduct a utility rate study. Though professional services are exempt from the competitive sealed bid/proposal process, the contract award was the result of an RFP, the final rankings below:

| Score | Vendor | Price |
|--------------|---------------|--------------|
| 84 | Stantec | \$ 42,875.00 |
| 84 | NewGen | \$ 54,280.00 |
| 84 | Raftelis | \$ 79,858.00 |

| | | |
|----|---------------|--------------|
| 84 | Jones & Henry | \$ 99,773.00 |
| 69 | MGT | \$ 28,900.00 |
| 62 | Baker Tilly | \$ 95,650.00 |

The committee shortlisted the top four vendors that were tied to provide additional information, sample studies, and an opportunity to provide a Best and Final Offer (BAFO). No vendor changed their prices, so those remained the same. Since the vendors were tied going into final scoring, it made sense to start with the lowest priced vendor (Stantec) and evaluate on a pass/fail basis, moving to the next low, etc., after that. The committee unanimously agreed that Stantec had the experience necessary to provide the rate study and rate structure recommendation. The selection committee at the time was:

Carl Fedders, Public Works Director
Linda Morrison, Finance Director
Perry Hart, Utility Administrator Water Distribution
Kevin Catlin, Springfield City Manager
Randy Ramsey, President, Civil Engineers, Inc.

2026 Utility Rate Study

The City again decided to use Stantec for the new utility rate study. Purchase order 20260268 was issued on November 10, 2025, for Stantec to do this study and recommendation in the amount of \$44,930. No RFP was necessary for this professional service, and being less than \$50,000, it did not require Commission approval.

The City later requested work beyond the original scope. This included additional required meetings to discuss water capital improvement projects and impacts to rates, a presentation to the Technical Review Committee, and work completed to answer follow-up questions from the Connected Jurisdictions. The cost of this additional work is \$6,375.00.

As this additional work put the purchase order total at \$51,305, we need Commission approval in order to pay the final invoice because Commission approval is needed for any amount beyond \$50,000. Approval of this Resolution closes the administrative process.

Positions

Attachments



Resolution No: 375
City Commission Meeting 5/5/2026

375 - A Resolution seeking acceptance of the lowest responsive, responsible bid for Verona Equipment and Painting project from Miller-Davis Company in a not-to-exceed amount of \$91,400.00.

Battle Creek City Commission
Action Summary

Staff Member: Chris Huff, Purchasing Agent

Department: Purchasing

Summary

RESOLUTION NO. 375

Resolved by the Commission of the City of Battle Creek:

That the lowest responsive, responsible bid for Verona Equipment and Painting project is accepted from Miller-Davis Company in a not-to-exceed amount of \$91,400.00. The City Manager is authorized to execute Contract No. 2026-064B, which will be paid from:

CIP PROJCT-WATER-VERONA ROO-CONTRACT - 591.901.5877.801310

The City Manager or her designee is also authorized to approve change orders for up to 10% in aggregate for City-initiated and pre-approved changes for unforeseen field conditions that are not itemized in the contract.

Budgetary Considerations

History, Background and Discussion

The solicitation was issued March 23, 2026, for the above-mentioned project. This project consists of the repainting of exterior metal components including door frames, window frames, and decorative metal panels. The removal and replacement of a dock leveler and hoist way access hatch. Repairs to spalled concrete slabs including a new epoxy finish.

As with all trade contracts over \$50,000, this is a prevailing wage job and all the standard contract protections are in place.

Copies of the IFB were provided to all contractors registered for this service in our vendor database and four construction plan houses. Construction companies and the trades subscribe to planhouses to be aware of all jobs being bid around the region. In addition, an advertisement was placed on the City’s website and the Battle Creek Shopper.

There was an advertised pre-bid conference held on April 10, 2026, in which contractors could ask the engineer (Wightman) questions and also see the site.

Bid responses were due on April 23, 2026, and were submitted via our secure online bid management system.

Bids were opened live via zoom at the due date/time. The bids were as follows:

- \$91,400 Miller-Davis Company
- \$163,378 Shouldice Industrial Manufacturers and Contractors

Miller-Davis provided all proper submittals, and their bid was within the engineer’s estimate. They’re a well-established company that has done work for us in the past, most recently the Kingman Museum project.

A recommendation was made to accept the lowest, responsive, responsible bid from the above-mentioned company. I concur with the department’s recommendation that the contract awarded to this firm would be in the best interest of the City of Battle Creek.

Positions

Attachments



Resolution No: PULLED - 376

City Commission Meeting 5/5/2026

PULLED - 376 - A Resolution appointing Assistant City Manager Marcie Gillette as an alternate representative for the City of Battle Creek on the Firekeepers Local Revenue Sharing Board.

Battle Creek City Commission

Action Summary

Staff Member: Rebecca Forbes, Executive Assistant

Department: City Manager's Office

Summary

PULLED - RESOLUTION NO. 376

Resolved by the Commission of the City of Battle Creek:

That Assistant City Manager Marcie Gillette is appointed as an alternate representative for the City of Battle Creek on the Firekeepers Local Revenue Sharing Board.

Budgetary Considerations

History, Background and Discussion

Prior to the opening of the new Firekeepers Casino, the Nottawaseppi Huron Band of Potawatomi Indians reached an agreement with the State of Michigan on an amendment to their Tribal Gaming Compact, but the details of that amendment were not released to the public by the Tribe or the State until mid-September.

One of the amendments was the expansion of the Local Revenue Sharing Board (LRSB) from 3 members to 6 members. In the original version of the Compact, the LRSB, which is allowed to be created to receive and direct the disbursement of revenue to local units of government generated from electronic gaming (slot machines) at the casino, was to have 3 members. Those members were to be representatives from Calhoun County, Emmett Township, and a third unit of government selected by the other 2 members.

As a result of the amendment, the membership of the LRSB will be increased to 6 (assuming each specified unit of government desires to participate), with the following units of government identified: Calhoun County, Emmett Township, City of Battle Creek, City of Marshall, Athens Township, and the Tribe itself. The Compact amendment requires that the governing body of each of these units of government select their representative.

Positions

Actions of the Firekeepers Local Revenue Sharing Board require the unanimous consent of all board members. As a result, it is imperative that the City have a representative at each board meeting. To ensure that this is the case, staff is requesting that Assistant City Manager Marcie Gillette be added as an alternate in addition to alternate representative Revenue Services Director Aaron Kuhn.

Attachments



Resolution No: 377
City Commission Meeting 5/5/2026

377 - A Resolution seeking authorization for legal signatures in the absence of the City Manager.

Battle Creek City Commission
Action Summary

Staff Member: Rebecca Forbes, Executive Assistant

Department: City Manager's Office

Summary

RESOLUTION NO. 377

Resolved by the Commission of the City of Battle Creek:

That Marcie Gillette-Assistant City Manager, Aaron Kuhn-Revenue Services Director, or Michelle Hull-Human Resources Director are authorized, respectively, to sign any and all documents on behalf of the City Manager during any period she is absent from the City, effective May 6, 2026.

Budgetary Considerations

History, Background and Discussion

Administration needs authorization in place for legal signatures on behalf of the City in the absence of the City Manager.

Positions

Attachments



Resolution No: 378
City Commission Meeting 5/5/2026

378 - A Resolution approving Retention of Outside Counsel for Fire Truck Antitrust Litigation.

Battle Creek City Commission
Action Summary

Staff Member: William Kim, City Attorney

Department: City Attorney's Office

Summary

RESOLUTION NO. 378

Resolved by the Commission of the City of Battle Creek:

That a preliminary analysis by City staff indicates that the City of Battle Creek may have viable antitrust claims against various manufacturers and sellers of fire apparatus purchased by the City in the last four years; and

The City lacks the capacity and specialized knowledge necessary to effectively prosecute litigation of this nature, which is projected to involve complex, multi-district litigation that will likely occur outside the state of Michigan; and

Section 232.02 of the Battle Creek Code of Ordinances requires the City Attorney to obtain Commission authorization to utilize outside counsel where the matter exceeds \$20,000; and

Retainer of outside counsel, on a contingency basis, will likely exceed that statutory threshold; and

BE IT RESOLVED that the Battle Creek City Commission authorizes that City Attorney to retain Baron & Budd, P.C., Simonsen Sussman, LLP, and Young & Partners, LLP as outside counsel to represent it in litigation arising from injuries and damages related to and caused by fire truck manufacturers and other Defendants' unfair and anti-competitive business practices in violation of antitrust laws.

Budgetary Considerations

The proposed retainer agreement retains outside counsel on a contingency basis, so there would be no out-of-pocket costs to the City.

History, Background and Discussion

In recent years, firms such as American Industrial Partners have acquired and consolidated manufacturers, leaving just three companies – REV Group, Oshkosh, and Rosenbauer – controlling more than 70% of the U.S. market. The average price of an engine has surged from \$300,000 – \$500,000 in the mid-2010s to more than \$1 million today, with ladder trucks now costing as much as \$2 million. Delivery can now take up to four-and-a-half years. This significant increase in cost and the consolidation of fire truck manufacturing was the subject of a recent hearing in the United States Senate's Subcommittee on Disaster Management.

The City of Battle Creek has spent over \$1 million in the past four years to purchase fire trucks at these likely artificially inflated prices. Based on an initial review by City staff, engaging in antitrust litigation may allow the City to recover some of the artificially and illegally increased acquisition costs. The City Attorney's Office does not have the capacity to engage in complex, multi-district litigation of this nature, and retention of outside counsel will allow the City to ensure that it maximizes any potential recovery.

The proposed retainer agreement provides for a contingency-fee arrangement, where the City will pay outside counsel a portion (30%) of any recovery as attorney's fees, plus litigation costs. While any potential recovery is speculative, it is likely that any recovery would result in attorney's fees that exceed the \$20,000 threshold set by ordinance, and so Commission authorization is requested.

Positions

The City Attorney recommends adoption of this Resolution.

Attachments

- 1. Confidential- BB SS Y Representation Agreement- City of Battle Creek MI Confidential- BB SS Y Representation Agreement- City of Battle Creek MI.pdf

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT (“Contract”) is entered into by and between the City of Battle Creek, a political subdivision of the State of Michigan, (“Client”), on the one hand, and Baron & Budd, P.C. (“Baron & Budd”) Simonsen Sussman, LLP, and Young & Partners, LLP (collectively and individually, “Attorneys”), on the other hand. Hereinafter, the Client and Attorneys may be referred to individually as “Party” and collectively as “Parties.”

RECITALS

WHEREAS, the Client wishes to retain outside counsel to represent it in litigation arising from injuries and damages related to and caused by fire truck manufacturer and other Defendants’ unfair and anti-competitive business practices in violation of antitrust laws; and

WHEREAS, Attorneys are willing to provide such specialized services to Client under the terms and conditions set forth herein.

TERMS

NOW, THEREFORE, the Client hereby engages the services of Attorneys, and Attorneys agree to provide professional services to Client in accordance with the terms and conditions set forth herein:

1. **CONDITIONS.** This Agreement will not take effect, and Attorneys will have no obligation to provide legal services, until Client returns a signed copy of this Agreement.
2. **AUTHORIZED REPRESENTATIVE OF CLIENT.**

A. **CLIENT REPRESENTATIVES.** Client designates Ian D. Wright [Office of City Attorney] or his designee, (“City Counsel”) as the authorized representatives to direct Attorneys and to be the primary individuals to communicate with Attorneys regarding the subject matter of Attorneys’ representation of Client under this Agreement. The designation is intended to establish a clear line of authority and to minimize potential uncertainty but not to preclude communication between Attorneys and other representatives of Client.

B. **ATTORNEY REPRESENTATIVES.** John Fiske and Lindsay Stevens of Baron & Budd, P.C., Catherine Simonsen, Shaoul Sussman, Victoria Sims and Nicolas Stebinger of Simonsen Sussman LLP, and Tom Young and Patrick Mickler of Young & Partners, LLP will be primarily responsible for the work, either performing it himself/herself or delegating it to others as may be appropriate. The Client shall have the right to approve or veto the involvement of each of the attorneys on its

cases. Attorneys will be added or deleted from the list only upon prior Client approval.

3. SCOPE OF SERVICES AND DUTIES. Client hires Attorneys to provide, and Attorneys shall provide, all legal services (the “Services”) necessary for the investigation, analysis, preparation, filing, service, prosecution, handling, and collection on a judgment or monetary recovery of any amounts established under antitrust laws as owing to the Client in an antitrust and unfair competition lawsuit to be brought by Attorneys on Client’s behalf against defendants REV Group, Inc., Oshkosh Corporation, Pierce Manufacturing, Inc., and their companies and any other potentially liable entities (collectively “Defendants”), and pursuit of any and all other available remedies to Clients within the scope of antitrust and unfair competition law damages, which resulted from anticompetitive practices of Defendants (the “Action”).

Attorneys shall provide all legal services reasonably required to represent Client in connection with the Action and shall take reasonable steps to keep Client informed of progress and to respond to Client’s inquiries. Client shall be truthful with Attorneys, cooperate with Attorneys, and keep Attorneys informed of developments. Attorneys shall be truthful with Client, cooperate with Client, and keep Client informed of developments.

4. CLIENT RETAINS DECISION MAKING AUTHORITY. Client retains complete control of all decisions in the case. Client in no way assigns its prosecutorial discretion to Attorneys and retains all of its inherent powers related to prosecutorial discretion, judgment, control and decision making related to the Action. This authority and controls include but are not limited to:
 - (a) Decisions regarding settlement of the case are reserved exclusively to the discretion of the Client, as communicated directly to the Attorneys by City Counsel.
 - (b) Any defendant that is the subject of such litigation may contact the City Counsel directly, without having to confer with or get permission to do so from Attorneys;
 - (c) Client or City Counsel will retain complete control over the course and conduct of the case;
 - (d) Client and/or City Counsel retains a veto power over any decisions made by Attorneys; and
 - (e) City Counsel has supervisory authority and shall be personally involved in overseeing the litigation.

These provisions are not meant to be exhaustive, and the parties agree that at all times related to the Client's interest in the litigation will remain vested in the City Counsel. It is the intent of the parties that this paragraph be construed broadly to effectuate the parties' intent that the Counsel exercise control over the course and conduct of the Action as they relate to the Client's interests and that the City Counsel have the final decision-making authority over all aspects of the litigation strategy as it relates to the Client.

5. LEGAL SERVICES SPECIFICALLY EXCLUDED. Unless otherwise agreed in writing by Client and Attorneys, Attorneys will not provide legal services with respect to (a) defending any legal proceeding or claim against the Client commenced by any person unless such proceeding or claim is filed against the Client in the Action or (b) proceedings before any federal or state administrative or governmental agency, department, or board. With Client's permission, however, Attorneys may elect to appear at such administrative proceedings to protect Client's rights. If Client wishes to retain Attorneys to provide any legal services not provided under this Agreement for additional compensation, a separate written agreement between Attorneys and Client will be required.
6. FEES. Client will pay attorneys' fees to Attorneys as follows:
 - (a) CONTINGENCY FEE. The Parties agree that Attorneys shall be compensated solely (except in the limited circumstances expressly provided below) on a contingency fee basis. The contingency fee shall be based on thirty percent (30%) of any net settlement or net recovery that Attorneys obtain for Client. Fees shall be based on a percentage of any settlement or recovery after the deduction of any expense or cost, i.e., the "net" recovery. Contingency fee rates are not set by law, but have been negotiated. **If no recovery is made, no fees will be charged or received by Attorneys.** The terms "net settlement" or "net recovery" shall include, without limitation, the then present value of any monetary payments agreed or ordered to be made by the Defendants or their insurance carriers as a result of the Services, whether by settlement, arbitration award, court judgment (after all appeals exhausted), or otherwise. Any attorneys' fee paid by Defendants shall be included in calculating the gross recovery.
 - i. "Net recovery," if by settlement, also includes (1) the then-present value of any monetary payments to be made to the Client; and (2) the fair market value of any non-monetary property and/or services to be transferred and/or rendered for the benefit of the Client; and (3) any attorney's fees and costs recovered by the Client as part of any cause of action that provides a basis for such an award. "Recovery" may come

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from any source, including, but not limited to, the adverse parties to the Client and/or their insurance carriers and/or any third party, whether or not a party to formal litigation. The contingent fee is calculated by multiplying the net recovery by the fee percentage. This calculation is performed on the net recovery amount after the deduction of expenses or costs as provided below.

- ii. Attorneys are not entitled to recover any fees or costs unless Attorneys are successful in obtaining a net recovery on the Client's behalf as a result of the Services.
- iii. Attorneys agree that Client is not obligated to pay attorneys' fees from any existing or future public fund or funds and that attorneys' fees will be paid solely from amounts recovered from the Defendants, their insurance companies, or third-party liable companies.
- iv. In-Kind Benefits- The Client and Attorney agree that Defendants may attempt to offer an "in-kind" benefit in lieu of monetary payment during resolution efforts. Should the Defendant offer the Client an "in-kind" benefit, and should Client choose to accept an "in-kind" benefit after consulting with Attorney, in lieu of monetary payment, Client and Attorney agree that Attorneys' Fees equal to thirty percent (30%) of the value of the "in-kind" benefit is owing. An "in-kind" benefit as used herein is a benefit that is proposed in lieu of or as a replacement for damages or other monetary relief.
- v. The contingent fee amount which Attorneys are entitled to receive shall be calculated by multiplying the Net Recovery by thirty percent (30%).
- vi. If Client and Attorneys disagree as to the fair market value of any non-monetary property or services as described above, Attorneys and Client agree that a binding appraisal will be conducted to determine this value by an appraiser to be mutually selected by Attorneys and Client.
- vii. It is possible that payment to the Client by Defendants or their insurance carrier(s) or any third-party may be deferred, as in the case of an annuity, a structured settlement, or periodic payments. In such event, net recovery will consist of the initial lump sum payment plus the present value (as of the time of the settlement) of the total of all payments to be received thereafter. The contingent fee is calculated, as described above, by multiplying the net recovery by the fee percentage of thirty percent (30%). The Attorney's fees will be paid out of the initial lump-sum

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payment, to the extent that it can, and/or by the Defendant at the time of settlement or initial recovery. Any fees not paid by the initial lump-sum payment will be paid in the second or subsequent payment(s). In no event will the Client be required to pay Attorney's fees out of any public funds as described in subsection (c).

- (b) Reasonable Fee if Contingent Fee is Unenforceable or if Attorney is Discharged Before Any Recovery.

In the event that the contingent fee portion of this Contract is determined by a court of competent jurisdiction to be unenforceable for any reason, or if the Attorneys are discharged by Client before any net recovery is received, and/or if Attorneys are otherwise prevented by the court from representing Client on a contingent fee basis, Client agrees to pay a reasonable fee for the Services rendered. If the Parties are unable to agree on a reasonable fee for the Services rendered, Attorneys and Client agree that the fee will be determined by arbitration proceedings before a mutually agreed-upon neutral affiliated with either the Judicial Arbitration and Mediation Services (JAMS) or Judicate West (JW). The Parties agree that such compensation based on the reasonable value of Attorneys' services shall be payable solely out of any net recovery received by the Client from Defendants in the Action and in any event shall not exceed thirty percent (30%) of the net recovery as defined above.

No General Fund Payments.

Notwithstanding any other provision in this Contract, in no event will the Client be required to pay legal fees or any litigation costs out of any public fund or funds other than the monies recovered from Defendants, their insurance companies, or third-party liable companies, in the Action.

- (c) Attorney Fee Sharing: The total contingency fee shall be apportioned among three law firms as follows, which in no way increases the contingency fee percentage. Pursuant to California Rule of Professional Conduct 1.5.1, Client agrees that the fee will be shared as follows:

| | |
|----------------------------|--------|
| i. Baron & Budd, P.C. | 43.75% |
| ii. Simonsen Sussman LLP | 26.30% |
| iii. Young & Partners, LLP | 30% |

7. COSTS AND EXPENSES.

- (a) **GENERAL PROVISION:** Baron & Budd shall advance and pay any and all litigation costs, third party fees and expenses (“Litigation Costs”) necessary for handling and prosecution of the Action. In addition to Client’s obligation to pay Attorneys for their Services through the contingency fee of thirty percent (30%) of any net recovery, Client shall reimburse Baron & Budd, solely from any recovery obtained by Attorneys for Client from Defendants, for all Litigation Costs incurred, advanced and paid by Baron & Budd in connection with the Action. Such Litigation Costs that are subject to reimbursement to Baron & Budd from the recovery include but are not limited to the following: process servers’ fees, fees fixed by law or assessed by courts or other agencies, court reporters’ fees, document managements costs (described in further detail below), messenger and other delivery fees, parking, investigation expenses, consultants’ fees, expert witness fees, and other similar items, that are actually incurred and paid by Baron & Budd. Prior Client approval is required before Attorneys hire any investigators, consultants, or expert witnesses reasonably necessary for handling of the Action in Attorney’s judgment. Prior Client approval does not apply to experts hired by Attorneys prior to the execution of this Contract. In addition to the above, City Counsel litigation fees and costs directly attributable to the Action shall be reimbursed, up to one hundred and fifty thousand dollars (\$150,000) only, to the Client as a litigation cost and deducted from the total gross recovery. If there is no recovery from Defendants, Client will not be required to reimburse Baron & Budd for any Litigation Costs. In the event recovery from Defendants is less than the total of the Litigation Costs incurred and paid by Baron & Budd, Client will not be required to reimburse Baron & Budd for any amount of Litigation Costs that exceed the funds available from the recovery from Defendants.
- (b) **DOCUMENT MANAGEMENT COSTS:** It is Attorneys’ obligation to minimize the costs/expenses advanced for both efficiency and practical considerations of modern large volume electronic discovery. In doing so, Attorneys have analyzed the most efficient way to meet their legal obligations while minimizing the costs of doing so. Two options exist:
- i. *Outside vendor (outsource).* In most cases where the document volume is much less, Attorneys have outside vendors whose responsibility is to assist in the collection of the documents in question, copy those documents, and provide a storage mechanism (either electronic, paper or both) for them. Such costs are advanced by the firm but ultimately reimbursed by you in the

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event there is a recovery. Based upon the massive volume of potential litigation documents, Attorneys do not believe this is the most efficient or realistic method.

- ii. *Creation of internal electronic discovery processing.* Create an electronic discovery data processing mechanism where the firm obtains computer software, hardware, and related resources reasonably necessary to procure, organize and produce litigation documents and data. Such a mechanism would obviate the need to outsource these services. Attorneys have priced the costs charged by competent contractors who provide this service and believe that we can provide that service internally at a lower cost to the Client, in the event of a recovery.

The Parties agree that effective document management is critical to successful resolution of the Action. Attorneys' intention in this Contract is to promote efficiency, save Client costs, and limit legal expenses to those directly attributable to the Action for the Client. With respect to document management, Attorneys represent that internal electronic discovery processing is the best option to meet those goals. Therefore, Attorneys plan to add the resources necessary to provide that service necessary in the Action subject to cost review and approval by Client. Attorneys also reserve the right, with consent from Client's Counsel (which shall not be unreasonably withheld), to use outside vendors where costs and circumstances warrant. Internal Document Management costs include document management costs, such as processing and hosting, incurred after the effective date of this agreement and exclude hardware and software costs. Attorneys agree to provide quarterly reporting regarding costs, including for document management.

As with all other expenses, these document-related costs will be advanced by Baron & Budd, but reimbursed by Client only in the event of recovery.

- (c) SHARED EXPENSES: Client understands that Baron & Budd may incur certain expenses that jointly benefit multiple clients, including, for example, expenses for travel, experts, and copying. Client agrees that Baron & Budd shall divide such expenses pro rata among all clients, including individual clients, business clients, and public entity clients, and deduct Client's portion of those expenses from Client's share of any recovery. Prior Client approval is required for shared expenses, with the exception of those experts retained prior to the execution of this Contract.

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Below in section “(c) i-iv.” is the method by which costs and expert fees will be allocated among the clients for the Action.

- i. Shared expenses will be divided among clients on a pro rata basis. Pro rata means a percentage or ratio based on recovery. In the pro rata calculation, the ratio numerator is the total amount/value of the Client’s individual recovery; the ratio denominator is the total amount/value of all clients’ recovery in the litigation. The pro rata ratio is applied to the shared expenses to calculate each Client’s portion of the shared expenses.
 - ii. Shared expenses can include those necessary to prove liability against Defendants generally, including proving that the various practices and conduct identified in the Action were anticompetitive and defining and proving relevant markets. Such general liability expenses will be divided among all clients pro rata.
 - iii. Shared expenses do not include those expenses necessary to prove client-specific damages.
- (d) TRAVEL EXPENSE WAIVER: Notwithstanding the above, Attorneys agree to waive all travel expenses, including but not limited to transportation and lodging, and including but not limited to and from cause and origin areas, Client offices, and the court in the Action and agree not to seek reimbursement from any recovery for any travel expenses.
- (e) FEDERAL MDL AND STATE COORDINATION FEE ASSESSMENTS: In the event there is a Federal Multidistrict Litigation (MDL), or any State Court coordinated proceedings, there may be a court ordered assessment or agreement for fees and costs required to be paid to the MDL or State Court coordinated proceedings. Any costs required to be paid under such an assessment or agreement will be paid from Client’s share of any settlement proceeds as part of the costs and expenses advanced, pursuant to section 7. At this time, Attorneys cannot determine what fees and costs, if any, will be paid to a Federal Multidistrict litigation or to a State Court coordinated proceeding. Additionally, members of Attorneys frequently serve on plaintiffs’ management or executive committees in MDL and/or state court coordinated proceedings and perform work which benefits our clients as well as clients of other attorneys involved in similar litigation. As a result, the court or courts where the cases are pending may order that Attorneys are to receive additional compensation for our time and effort which has benefitted all claimants. Compensation for this work and effort,

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which is known as “common benefit,” may be awarded to Attorneys by a court or courts directly from the assessments paid by the Client and others who have filed claims in this litigation, and will not in any way reduce the amount of fees owed under this Contract.

8. LIEN. In the event any third party attempts to lien any proceeds recovered from a recovery in the Action, Client hereby grants, and agrees, to the extent permitted by applicable law, that Attorneys hold a first priority and superior lien on any and all proceeds recovered from Defendants in the Action in the amount of the Attorneys’ fees and costs that the Attorneys are entitled to, under this Contract. This lien right is limited to only those monies recovered from Defendants and in no way affects any other rights of the Client in any way whatsoever.
9. CLIENT’S DUTY OF GOOD FAITH AND CANDOR. Client has a duty of honesty and candor to Attorneys. If, at any point, Attorneys incur expenses or costs as a result of Client’s failure to provide attorney with complete and accurate information related to the subject litigation, Client shall be liable for all such expenses and costs incurred by Attorneys. Moreover, Client hereby agrees that Attorneys may withdraw at any point if Attorneys have good cause to believe that Client has breached his/her duty of honesty and candor to Attorneys.
10. MALPRACTICE INSURANCE. Attorney maintains errors and omissions (malpractice) coverage and has lodged proof of this coverage with the California State Bar. Said information will be provided to Client upon reasonable request.
11. DISCHARGE AND WITHDRAWAL.
 - A. Client may discharge Attorneys at any time. After receiving notice of discharge, Attorneys shall stop services on the date and to the extent specified by the notice of discharge, and deliver to Client all evidence, files and attorney work product for the Action. This includes any computerized indices, programs and document retrieval systems created or used for the Action.
 - B. Attorneys may withdraw with Client’s consent or for good cause. Good Cause includes Client’s breach of this Agreement, Client’s refusal to cooperate with Attorneys, or any other fact or circumstance that would render Attorneys’ continuing representation unlawful or unethical. Attorneys may also discharge Client if Client at any time is dishonest with Attorneys, or fails to provide relevant information to Attorneys.
12. AUTHORITY OF ATTORNEY. Attorneys may with prior Client approval

associate co-counsel if the Attorneys believe it advisable or necessary for the proper handling of Attorneys claim, and expressly authorize the Attorneys to divide any attorneys' fees that may eventually be earned with co-counsel so associated for the handling of Attorneys claim. Attorneys understand that the amount of attorneys' fees which Attorneys pay will not be increased by the work of co-counsel associated to assist with the handling of Attorneys claim, and that such associated co-counsel will be paid by the Attorneys out of the attorneys' fees Attorneys pay to the Attorneys.

13. **DISCLAIMER OF GUARANTEE.** Nothing in this Contract and nothing in Attorneys' statements to Client will be construed as a promise or guarantee about the outcome of Client's matter. Attorneys make no such promises or guarantees. Attorneys' comments about the outcome of Client's matter are expressions of opinion only.
14. **MULTIPLE REPRESENTATIONS:** The Client understands that Attorneys do or may represent many other individuals/entities with actual or potential litigation claims. Attorneys' representation of multiple claimants at the same time may create certain actual or potential conflicts of interest in that the interests and objectives of each client individually on certain issues are, or may become, inconsistent with the interests and objectives of the other. As attorneys, Attorneys are governed by specific rules and regulations relating to Attorneys professional responsibility in Attorneys representation of clients, and especially where conflicts of interest may arise from Attorneys representation of multiple clients against the same or similar defendants, Attorneys are required to advise Attorneys clients of any actual or potential conflicts of interest and obtain their informed written consent to Attorneys representation when actual, present, or potential conflicts of interest exist. By signing this agreement The Client is acknowledging that they have been advised of the potential conflicts of interest which may be or are associated with Attorneys representation of The Client and other multiple claimants and that The Client nevertheless want Attorneys to represent Client, and that The Client consents to Attorneys' representation of others in connection with the litigation.
15. **AGGREGATE SETTLEMENTS:** Often times in cases where Attorneys represent multiple clients in similar litigation, the opposing parties or defendants attempt to settle or otherwise resolve the cases in a group or groups, by making a single settlement offer to settle a number of cases simultaneously. There exists a potential conflict of interest whenever a lawyer represents multiple clients in a settlement of this type because it necessitates choices concerning the allocation of limited settlement amounts among the multiple clients. However, if all clients consent, a group settlement can be accomplished and a single offer can be fairly distributed among the clients by assigning settlement amounts based upon the strengths and

weaknesses of each case, the relative nature, severity and extent of injuries, and individual case evaluations. In the event of a group or aggregate settlement proposal, Attorneys may implement a settlement program, overseen by a referee or special master, who may be appointed by a court, designed to ensure consistency and fairness for all claimants, and which will assign various settlement values and amounts to each client's case depending upon the facts and circumstances of each individual case. Client authorizes Attorney to enter into and engage in group settlement discussions and agreements which may include Client's individual claims. Although Client authorizes Attorney to engage in such group settlement discussions and agreements, Client will still retain the right to approve, and Attorneys are required to obtain Client's approval of, any settlement of Client's case.

16. APPEALS. Should the representation result in an adverse ruling or rulings, Attorneys may elect not to represent Client in an appeal. Should this issue arise, it will be discussed between Client and Attorneys.

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- 17. EFFECTIVE DATE AND TERM. This Agreement will take effect upon execution by Client and Attorneys and shall remain in effect through the pendency of the action unless terminated sooner pursuant to the terms of this Agreement.
- 18. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same instrument. Facsimile or pdf versions of this Agreement shall have the same force and effect as signature of the original.

The above is approved and agreed upon by all parties.

Dated: _____

Print Name:
Baron & Budd, P.C.

Dated: _____

Print Name:
Simonsen Sussman LLP

Dated: _____

Print Name:
Young & Partners, LLP

Dated: _____

Print Name:
City Attorney, City of Battle Creek, MI



Resolution No: 379
City Commission Meeting 5/5/2026

379 - A Resolution seeking authorization for the City Manager to sign a contract for the purchase of information technology infrastructure hardware from People Driven Technology, Inc. in an estimated amount of \$1,789,364.00, with unit prices prevailing.

Battle Creek City Commission
Action Summary

Staff Member: Nils Vos, Sr. Buyer

Department: Purchasing

Summary

RESOLUTION NO. 379

Resolved by the Commission of the City of Battle Creek:

That the City Manager is authorized to execute contract number 2026-076C for the purchase of information technology infrastructure hardware from People Driven Technology, Inc. in an estimated amount of \$1,789,364.00 with unit prices prevailing which will be paid for by account# 671.10.0000.973510 - Computer Technology Computer Equipment.

Budgetary Considerations

History, Background and Discussion

The following contracts have previously been approved for the purchase of computer hardware products using the Oakland County Government G2G cooperative purchasing contract:

Resolution #568, dated October 15, 2024, for the purchase of laptop computers in the amount of \$110,592.00

Resolution #515, dated October 18, 2022, for the purchase of laptop computers in the amount of \$60,360.00

Resolution #227, dated November 10, 2020, for the lease of copiers and printers in the amount of \$159,600.00

The Information Technology Department is now requesting authorization to again use the Oakland County Government G2G cooperative purchasing contract for the procurement of information technology infrastructure from People Driven Technology, Inc.

Please refer to the attached memorandum from Chad Frein, IT Director, for additional background information on this project and his recommendation.

By using the G2G cooperative purchasing agreement, the IT Department seeks to acquire information technology infrastructure through a competitively bid contract administered by Oakland County. This cooperative purchasing model enables participating government agencies to benefit from economies of scale and favorable pricing achieved through consolidated competitive bidding.

The City's Administrative Code permits purchases outside the City's bidding process if it benefits the City. However, purchases exceeding \$50,000 require City Commission approval. Contracting with People Driven Technology, Inc., aligns with our best interests as their prices were competitively bid through Oakland County.

Positions

Attachments

- 1. Chad Frein Memo_IT Infrastructure Chad Frein Memo_IT Infrastructure Replacement Replacement.pdf

MEMORANDUM

To: Nils Vos, Purchasing Agent

From: Chad Frein, IT Director

Date: March 23, 2026

Subject: IT Information Technology Infrastructure hardware replacement request

Nils,

City of Battle Creek Information Technology Department is requesting the purchase of Information Technology Infrastructure hardware.

Our current infrastructure replaced in 2018 is coming to end of life. This presents increasing risks related to system performance, reliability, security, and supportability. The replacement will include hardware to provide data replication for redundancy and improvement on the current data backup solution.

The City will be using Information Technology Department funds from GL 671.10.0000.973510 for the purchase of Logicalis Professional Services.



Resolution No: 380
City Commission Meeting 5/5/2026

380 - A Resolution seeking acceptance of the lowest responsive, responsible bid for Verona Pumping Station Reroof project from Royalty Roofing USA LLC d/b/a Division 7 Building Contractors in a not-to-exceed amount of \$297,950.00.

Battle Creek City Commission
Action Summary

Staff Member: Chris Huff, Purchasing Agent

Department: Purchasing

Summary

RESOLUTION NO. 380

Resolved by the Commission of the City of Battle Creek:

That the lowest responsive, responsible bid for Verona Pumping Station Reroof project is accepted from Royalty Roofing USA LLC d/b/a Division 7 Building Contractors in a not-to-exceed amount of \$297,950.00. The City Manager is authorized to execute Contract No. 2026-062B, which will be paid from:

CIP PROJCT-WATER-VERONA ROO-CONTRACT - 591.901.5877.801310

The City Manager or her designee is also authorized to approve change orders for up to 15% in aggregate for City-initiated and pre-approved changes for unforeseen field conditions that are not itemized in the contract.

Budgetary Considerations

History, Background and Discussion

The solicitation was issued March 23, 2026, for the above-mentioned project. This project consists of the complete removal and replacement of the roofing system (insulation, cover board, membrane, and flashing components) for a 9,000 square foot +/- facility. The roofing system is supported by a metal deck, and some patching will be required at locations where abandoned

equipment is to be removed. The remaining mechanical components are to be removed and reinstalled in-place.

As with all trade contracts over \$50,000, this is a prevailing wage job and all the standard contract protections are in place.

Copies of the IFB were provided to all contractors registered for this service in our vendor database and four construction plan houses. Construction companies and the trades subscribe to planhouses to be aware of all jobs being bid around the region. In addition, an advertisement was placed on the City’s website and the Battle Creek Shopper.

There was an advertised pre-bid conference held on April 10, 2026, in which contractors could ask the engineer (Wightman) questions and also see the site.

Bid responses were due on April 23, 2026, and were submitted via our secure online bid management system.

Bids were opened live via zoom at the due date/time. The bids were as follows:

- \$275,605 Skyproof (non-responsive)
- \$297,950 Royalty Roofing USA LLC d/b/a Division 7 Building Contractors
- \$300,790 Great Lakes Systems
- \$313,152 Sherriff Goslin Roofing
- \$352,037 Bloom Roofing
- \$374,500 Hoekstra Roofing
- \$650,000 Duke Roofing Company

In order to determine the lowest responsive/responsible bidder, we start with low bid.

Skyproof’s bid was non-responsive, meaning their bid didn’t comply as to form. They did not submit: our price page, signature page, responsibility criteria (requested company background). They did not acknowledge Addendum 1 and Addendum 2. They wrote out a list of specifications instead of submitting a price that conforms with the engineer’s specifications and drawings. They referred to the project as the “Verona Plumbing Station” project instead of the “Verona Pumping Station Reroof” project. The project number, 2026-062B, is not referred to anywhere. There is no indication that they read the Invitation for Bid or specifications/drawings.

We moved to second low for bid evaluation. Royalty Roofing USA LLC d/b/a Division 7 Building Contractors provided all requested documentation, acknowledged all addenda, and did not deviate from the specification. Their price was within the engineer’s estimate. As we do not have experience with this company, the Purchasing Office contacted three references, and those were extremely favorable.

A recommendation was made to accept the lowest, responsive, responsible bid from the above-mentioned company. I concur with the department’s recommendation that the contract awarded to this firm would be in the best interest of the City of Battle Creek.

Positions

Attachments



Resolution No: 381
City Commission Meeting 5/5/2026

381 - A Resolution to approve Petition PSUP26-0001, a special use permit for the expansion of the Sunset Gardens cemetery located at 15769 S Helmer Rd. onto the unaddressed Parcel #0066-00-110-0. The cemetery expansion will include the opening of a new natural burial garden on the cemetery property on Parcel #0066-00-110-0. No new parking will be included with the expansion, as the existing road at Sunset Gardens will provide parking for the expansion with widened cutouts in select areas.

Battle Creek City Commission
Action Summary

Staff Member: Darcy Schmitt, Planning Supervisor

Department: Planning

Summary

RESOLUTION NO. 381

Resolved by the Commission of the City of Battle Creek:

That Petition PSUP26-0001, a special use permit for the expansion of the Sunset Gardens cemetery located at 15769 S Helmer Rd. onto the unaddressed Parcel #0066-00-110-0 is approved.

Budgetary Considerations

None

History, Background and Discussion

A petition from Alexander Yost of Battle Creek Memorial Park on behalf of the Kiwanis Club of Battle Creek (please note that city records indicate that Battle Creek Memorial Park is the owner and taxpayer for the subject parcel) for the expansion of the Sunset Gardens cemetery located at 15769 S Helmer Rd. onto the unaddressed Parcel #0066-00-110-0. The cemetery expansion will include the opening of a new natural burial garden on the cemetery property on Parcel #0066-00-110-0. No new parking will be included with the expansion, as the existing road at Sunset Gardens will provide parking for the expansion with widened cutouts in select areas.

The proposal has been reviewed in accordance with City of Battle Creek Section 1281.05 “Special Land Uses” pursuant to State of Michigan MCL Act 110 of 2006 Section 125.3502 to determine consistency with the City of Battle Creek Master Plan and Zoning Code, effects on public services, and impacts on the neighborhood. It is staff’s recommendation that the Special Use Permit for the proposed cemetery expansion be approved.

The subject site is located at the unaddressed Parcel #0066-00-110-0, immediately adjacent to the south and under common ownership of the Sunset Gardens cemetery located at 15769 S Helmer Rd. The property is zoned I-1 Light Industrial, which allows for the operation of cemeteries with an approved special use permit. The subject site currently contains no buildings or other structures, and the applicant intends to construct only additional natural burial sites, with no new structures proposed.

The site survey attached to this report indicates the addition of 159 new burial plots, with the site serviced by a gravel drive from the paved drive on the Sunset Gardens site to the north. The survey plan indicates that a new point of ingress/egress will be sought allowing direct access to S Helmer Rd. This aspect of the project will require the applicant to receive approvals from the Michigan Department of Transportation, which the applicant would need to seek following special use approval and during the site plan review process.

Figure 1 below provides an aerial view of the subject site at Parcel #0066-00-110-0.



Figure 1: Aerial view of the subject site at the unaddressed Parcel #0066-00-110-0. Note that the applicant is proposing the development of only the northeastern-most portion of the parcel in accordance with the attached survey plan to allow for the addition of 159 natural burial plots. Photo courtesy of the City of Battle Creek’s BS&A system.

The following chart provides information regarding the intended future land use category, the current zoning district classification, and the existing use of the subject parcel as well as the immediately adjacent parcels surrounding the subject site.

| | SUBJECT PROPERTY | NORT | SOUTH | EAST | WEST |
|-----------------|----------------------------------|----------------------------------|---|-------------------------------------|----------------------------------|
| FUTURE LAND USE | Production and Employment Center | Production and Employment Center | Corridor Commercial | Community Open Space and Recreation | Production and Employment Center |
| ZONING DISTRICT | I-1 Light Industrial District | I-1 Light Industrial District | B-1 Corridor Commercial District | G Green District | I-1 Light Industrial District |
| EXISTING USE | Vacant | Cemetery | Self-Storage Facility / Batteries + Bulbs | Cemetery | Vacant |

The applicant has filed a Special Use Permit application to utilize the subject property for the expansion of the Sunset Gardens cemetery immediately to the north. The expansion would consist of the creation of 159 additional natural burial plots in accordance with the attached survey plan, with a gravel drive providing vehicular access to the site. No buildings or structures are proposed as part of the plan.

Work at the site in preparation for the expansion is expected to include the clearing of some of the existing vegetation on the site, as well as the construction of the gravel drive. Commissioners will want to note that while there currently is access to the site directly off of S Helmer Rd. through a curb cut and concrete skirt, the applicant will need to work with the Michigan Department of Transportation (MDOT) to secure any additional approvals required as a part of this proposal.

Section 1281.05 “Special Land Uses”, the City of Battle Creek establishes procedures to review unique development by requiring those uses to be reviewed through a Special Use Permit by the Planning Commission and City Commission. Approval of such permit is based upon meeting specific criteria, including consistency with the City’s Master Plan and Zoning Code. These two documents are discussed below.

Master Plan, City of Battle Creek

The Michigan Planning Enabling Act (MCL 125.3881-3851) authorizes local governments to adopt a Master Plan to address physical development within its jurisdiction. The 2018 City of Battle Creek Master Plan serves as the City’s official policy guide for land use and development over the next 10-20 years. It details a long-term vision and policy agenda for critical issues like land use, housing, parks, infrastructure, transportation, and more. To address those issues, the Plan sets forth goals and land use classifications to facilitate what Battle Creek should look like in the future.

The Master Plan’s land use classification of the subject site is “Production and Employment Center”, which encourages the development of properties for industrial-type operations which would likely result in significant additional employment opportunities within the city.

The Master Plan also lists short- and long-term goals to address issues and improve various community elements. The following goals are applicable to the subject proposal.

Goal 12: Continue to provide adequate infrastructure and deliver high-quality city services.

The proposed special use permit would allow for the expansion of the privately owned Sunset Gardens cemetery immediately to the north of the subject site. While neither Sunset Gardens nor the proposed expansion would be owned or operated by the City of Battle Creek, continued availability of burial sites remains a necessity in any community.

Expansion of the Sunset Gardens cemetery would help to ensure current and future availability of needed burial plots in order to serve city and local residents as well as their families in addressing end-of-life issues.

It is not anticipated that the proposed use will have any impact on existing or future proposed infrastructure (utility service, transportation, etc.) within the city.

Through the State of Michigan MCL Act 110 of 2006 Section 125.3502, local units of government may establish special land uses and associated permitting procedures and processes to facilitate unique development that ensures consistency with the local Master Plan and zoning ordinance, and preserve neighborhood harmony. Further, conditions may be added to a project to ensure such consistency and preservation. As stated earlier, Section 1281.05 “Special Land Uses” establishes procedures for review of unique development, and approval of such development is based upon meeting specific criteria.

The subject site is currently zoned I-1 Light Industrial District. This zoning classification allows for cemeteries as a special use.

Additionally, Section 1251.11 provides additional regulations for cemeteries. These requirements include both a minimum lot size of 20 acres, and a requirement which states that no building or structure may be closer than 50 feet from any property line. The proposed cemetery expansion is compliant with both provisions, as the parcel proposed to contain the site consists of more than 20 acres, as well as the fact that the expansion does not include the construction of any new buildings or structures.

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Battle Creek Shopper on April 2, 2026, and notices of the public hearing were sent by regular mail to owners and occupants of properties located within 300 feet of the subject parcels.

As of April 15, 2026, there has been no correspondence regarding this proposal.

This property is located within NPC 10: Westlake Prairievew. NPC 10 has been working over the past 6–8 months to reconstitute its membership and establish a quorum for its regular meetings. At this point, the NPC has not been on a regular monthly meeting schedule, and the applicant has not yet had the opportunity to present its plans. However, staff will be coordinating with the applicant to allow for presentation to NPC 10 during the site plan review process.

The proposed special use permit would result in the subject property being utilized to allow for the expansion of the existing Sunset Gardens cemetery immediately adjacent to the north, to include the addition of 159 natural burial plots with an associated gravel drive. No additional buildings or structures are proposed as part of this expansion.

Given the nature and scale of the proposed use, no additional impact is anticipated upon existing infrastructure and utilities. Any increase in traffic volume as a result of the expansion is expected to be minimal.

Positions

The Planning Commission is charged with reviewing each Special Use Permit request to determine any effects the proposed use would have on the Master Plan and impacts on the character and development of the neighborhood. The ordinance and enabling legislation allow the Planning Commission and the City Commission to impose any conditions upon the request that would ensure the general objectives of the zoning ordinance are met and to preserve property values in the neighborhood.

The request was reviewed using the following standards listed in Section 1281.05 (C)(2) Basis for Determination (for Special Use Permits):

(a) The use will be harmonious with and in accordance with the general objectives of the Master Plan.

The proposed special use permit would allow for the expansion of the existing Sunset Gardens cemetery immediately to the north of the subject site. Cemetery plots adequate to serve the community can be viewed as necessary infrastructure, whether owned and managed directly by the city or privately. Such an expansion would align with Goal 12 of the 2018 Master Plan, which was discussed previously in this report.

(b) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.

While the proposed use will require the clearing of some of the existing trees and vegetation on the vacant site, the use is expected to be appropriate to the existing or intended character of the general vicinity. As has been stated, approval of this special use permit would allow for the expansion of the existing cemetery directly adjacent to the north of the subject site. Additionally, it should be noted that the subject site is located directly to the west across S Helmer Rd. from the Memorial Park cemetery (which is under common ownership).

(c) The use will not be hazardous or disturbing to existing or future neighboring uses.

The proposed use would not result in any notable increase in intensity from the subject parcel's currently vacant status. The proposed expansion of the Sunset Gardens cemetery to the north is not anticipated to result in any notable change to the subject site from a visual standpoint, nor from any additional traffic created as a result of the expansion. It should also be noted that the

site is accessed directly from S Helmer Rd., which is a major thoroughfare through the city and is intended to service the volume of traffic that would result from the expansion of the existing cemetery.

It is also important to note that the State of Michigan requires permitting and registration of all cemeteries within the state, ensuring that each is operated in a manner which will not create hazardous conditions for neighboring properties in the vicinity.

(d) The use will be a substantial improvement to the property in the immediate vicinity and to the community as a whole.

The proposed use would represent an improvement to the property by putting a portion of the vacant subject parcel to use, which would allow for the expansion of the existing cemetery to the north.

Adequate numbers of burial plots are required of any community, and the proposed expansion provides the opportunity to address this aspect of essential infrastructure without resulting in an increase in maintenance or financial responsibilities on the part of the city.

(e) The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.

The existing use is adequately served by city water and sewer utilities in the area. There is not expected to be increased traffic demand from the proposal that cannot be accommodated by the existing street network. Local police, fire protection, and other emergency services are established within the City and can quickly reach the subject site.

(f) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

The proposed use is not expected to result in high demands on city utilities, infrastructure (i.e., water, sewer, stormwater, and streets), or services. Therefore, the project will not be detrimental to the economic welfare of the community.

(g) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

There will be no activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

All cemeteries within the State of Michigan are required to obtain a state-issued permit and to regularly renew their registration. The proposed cemetery would be required to operate within

the rules and regulations established by the State of Michigan for such use.

(h) The use will be consistent with the intent and purpose of this Zoning Code.

The project will not result in negatively impacting the general character of the area; not result in high demands on public services, infrastructure, or utilities; and not result in noxious elements such as noise, odors, or dust levels.

Pursuant to Section 1281.05(D)(1), conditions may be placed on a special land use to generally ensure public facilities are not negatively impacted, natural environments are protected, promote the use of land in a socially/economically desirable manner, and is related to the valid exercise of the police powers. Conditions imposed shall meet all the following requirements:

a) Be designed to protect the natural resources, the health, safety, and welfare, as well as the social and economic wellbeing, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

Staff’s recommended conditions detailed within the recommendation section are intended to protect the health, safety, and welfare of those who will use the subject property and the overall community as a whole.

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

The recommended conditions are a valid exercise of the police power and the purposes of the City of Battle Creek authority to approve and enforce land use development standards.

c) Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in this zoning ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

The intent and purpose of the zoning code and zoning districts are provided earlier in the subject memorandum. Staff’s recommended conditions will ensure the project meets the standards of a typical special use request.

Staff has reviewed the application and finds that it meets the requirements for approval, with recommended conditions as follows:

1. All necessary approvals, including site plan review and any required permits shall be obtained if required by ordinance, and maintained if applicable, from the appropriate agencies, including but not limited to the State of Michigan, Department of Public Works, and Inspections Department prior to issuance of a Certificate of Occupancy.
2. Pursuant to Section 1281.02(a), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Chief Building Official or their designee or agent. Such a certificate shall state that

the new occupancy complies with all provisions of the Zoning Code.

3. Pursuant to Section 1281.05(5), certificates of occupancy for special uses shall be valid for a period established by the City Planning Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Special use permits shall expire after one year if the use is not under construction or operational. For good cause shown and upon written application, the City Commission may extend a special use permit for six months.

On April 22, 2026, the Planning Commission voted to recommend the City Commission approve Petition #PSUP 26-0001 with the aforementioned conditions.

Attachments

1. S Helmer Rd Cemetery_SUP Staff Report S Helmer Rd Cemetery_SUP Staff Report.pdf
2. Parcel 0066-00-110-0 Special Use PermitParcel 0066-00-110-0 Special Use Permit Application 03.04.2026 Application 03.04.2026.pdf
3. Site Survey Plan Site Survey Plan.pdf
4. Sunset Trails Section Sunset Trails Section.pdf
5. 04.22.2026 Planning Commission Meeting04.22.2026 Planning Commission Meeting Minutes Minutes.pdf



Battle Creek City Planning Commission

Staff report for the April 22, 2026 meeting

To: Planning Commissioners

From: Travis Sullivan, Planning and Zoning Administrator

Date: April 15, 2026

Subject: Petition PSUP26-0001, Special Use Permit for the expansion of the Sunset Gardens cemetery (located at 15769 S Helmer Rd.) onto the unaddressed Parcel #0066-00-110-0. The cemetery expansion will include the opening of a new natural burial garden on the cemetery property on Parcel #0066-00-110-0. No new parking will be included with the expansion, as the existing road at Sunset Gardens will provide parking for the expansion with widened cutouts in select areas.

Summary

A petition from Alexander Yost of Battle Creek Memorial Park on behalf of the Kiwanis Club of Battle Creek (please note that city records indicate that Battle Creek Memorial Park is the owner and taxpayer for the subject parcel) for the expansion of the Sunset Gardens cemetery located at 15769 S Helmer Rd. onto the unaddressed Parcel #0066-00-110-0. The cemetery expansion will include the opening of a new natural burial garden on the cemetery property on Parcel #0066-00-110-0. No new parking will be included with the expansion, as the existing road at Sunset Gardens will provide parking for the expansion with widened cutouts in select areas.

The proposal has been reviewed in accordance with City of Battle Creek Section 1281.05 “Special Land Uses” pursuant to State of Michigan MCL Act 110 of 2006 Section 125.3502 to determine consistency with the City of Battle Creek Master Plan and Zoning Code, effects to public services, and impacts on the neighborhood. It is staff’s recommendation that the Special Use Permit for the proposed cemetery expansion be approved.

Background/Property Information

The subject site is located at the unaddressed Parcel #0066-00-110-0, immediately adjacent to the south and under common ownership of the Sunset Gardens cemetery located at 15769 S Helmer Rd. The property is zoned I-1 Light Industrial, which allows for the operation of cemeteries with an approved special use permit. The subject site currently contains no buildings or other structures, and the applicant intends to construct only additional natural burial sites, with no new structures proposed.

The site survey attached to this report indicates the addition of 159 new burial plots, with the site serviced by a gravel drive from the paved drive on the Sunset Gardens site to the north. The survey

plan indicates that a new point of ingress/egress will be sought allowing from direct access to S Helmer Rd. This aspect of the project will require the applicant to receive approvals from the Michigan Department of Transportation, which the applicant would need to seek following special use approval and during the site plan review process.

Figure 1 below provides an aerial view of the subject site at Parcel #0066-00-110-0.

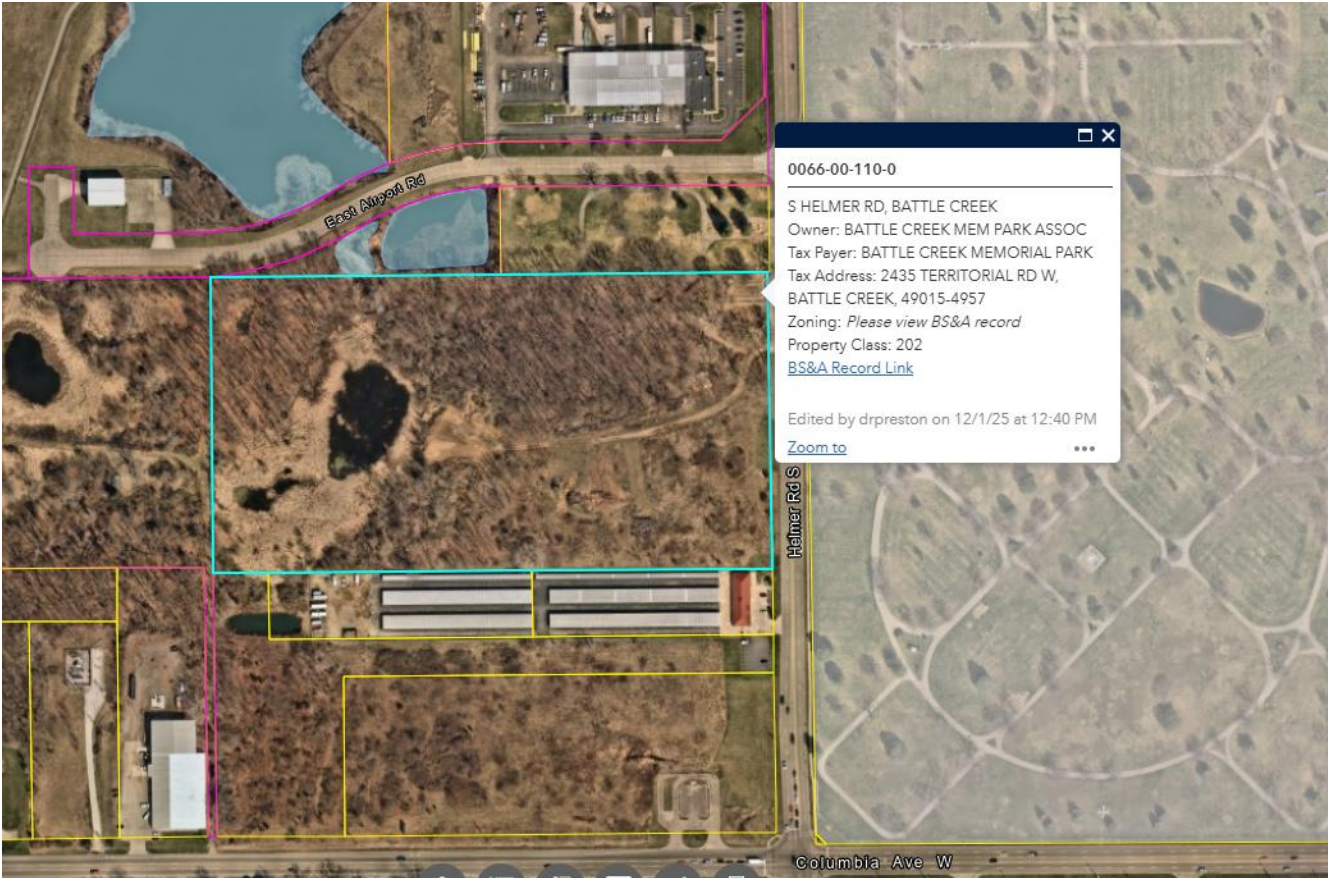


Figure 1: Aerial view of the subject site at the unaddressed Parcel #0066-00-110-0. Note that the applicant is proposing the development of only the northeastern-most portion of the parcel in accordance with attached survey plan to allow for the addition of 159 natural burial plots. Photo courtesy of the City of Battle Creek’s BS&A system.

Surrounding Land Use / Zoning / Existing Uses

The following chart provides information regarding the intended future land use category, the current zoning district classification, and the existing use of the subject parcel as well as the immediately adjacent parcels surrounding the subject site.

| | SUBJECT PROPERTY | NORTH | SOUTH | EAST | WEST |
|------------------------|----------------------------------|----------------------------------|-------------------------|-------------------------------------|----------------------------------|
| FUTURE LAND USE | Production and Employment Center | Production and Employment Center | Corridor Commercial | Community Open Space and Recreation | Production and Employment Center |
| ZONING DISTRICT | I-1 Light Industrial | I-1 Light Industrial | B-1 Corridor Commercial | G Green District | I-1 Light Industrial District |

| | | | | | |
|---------------------|----------|----------|---|----------|--------|
| | District | District | District | | |
| EXISTING USE | Vacant | Cemetery | Self-Storage Facility / Batteries + Bulbs | Cemetery | Vacant |

Project Description

The applicant has filed a Special Use Permit application to utilize the subject property for the expansion of the Sunset Gardens cemetery immediately to the north. The expansion would consist of the creation of 159 additional natural burial plots in accordance with the attached survey plan, with a gravel drive providing vehicular access to the site. No buildings or structures are proposed as part of the plan.

Work at the site in preparation for the expansion is expected to include the clearing of some of the existing vegetation on the site, as well as the construction of the gravel drive. Commissioners will want to note that while there currently is access to the site directly off of S Helmer Rd. through a curb cut and concrete skirt, the applicant will need to work with the Michigan Department of Transportation (MDOT) to secure any additional approvals required as a part of this proposal.

Applicable Ordinance Provisions

Section 1281.05 “Special Land Uses”, the City of Battle Creek establishes procedures to review unique development by requiring those uses to be reviewed through a Special Use Permit by the Planning Commission and City Commission. Approval of such permit is based upon meeting specific criteria, including consistency with the City’s Master Plan and Zoning Code. These two documents are discussed below.

Master Plan, City of Battle Creek

The Michigan Planning Enabling Act (MCL 125.3881-3851) authorizes local governments to adopt a Master Plan to address physical development within its jurisdiction. The 2018 City of Battle Creek Master Plan serves as the City’s official policy guide for land use and development over the next 10-20 years. It details a long-term vision and policy agenda for critical issues like land use, housing, parks, infrastructure, transportation, and more. To address those issues, the Plan sets forth goals and land use classifications to facilitate what Battle Creek should look like in the future.

The Master Plan’s land use classification of the subject site is “Production and Employment Center”, which encourages the development of properties for industrial-type operations which would likely result in significant additional employment opportunities within the city.

The Master Plan also lists short- and long-term goals to address issues and improve various community elements. The following goals are applicable to the subject proposal.

Goal 12: Continue to provide adequate infrastructure and deliver high-quality city services.

The proposed special use permit would allow for the expansion of the privately owned Sunset Gardens cemetery immediately to the north of the subject site. While neither Sunset Gardens nor the proposed expansion would be owned or operated by the City of Battle Creek, continued availability of burial sites remain a necessity in any community. Expansion of the Sunset Gardens cemetery would help to ensure current and future availability of needed burial plots in order to serve city and local residents as well as their families in addressing end-of-life issues.

It is not anticipated that the proposed use will present any impact to existing or future proposed infrastructure (utility service, transportation, etc.) within the city.

Zoning Code, City of Battle Creek

Through the State of Michigan MCL Act 110 of 2006 Section 125.3502, local units of government may establish special land uses and associated permitting procedure and process to facilitate unique development that ensure consistency with the local Master Plan and zoning ordinance, and preserves neighborhood harmony. Further, conditions may be added to a project to ensure such consistencies and preservation. As stated earlier, Section 1281.05 “Special Land Uses” establishes procedures for review of unique development, and approval of such development is based upon meeting specific criteria.

The subject site is currently zoned I-1 Light Industrial District. This zoning classification allows for cemeteries as a special use.

Additionally, Section 1251.11 provides additional regulations for cemeteries. These requirements include both a minimum lot size of 20 acres, as well as a requirement which states that no building or structure may be closer than 50 feet from any property line. The proposed cemetery expansion is compliant with both provisions, as the parcel proposed to contain the site consists of more than 20 acres, as well as the fact that the expansion does not include the construction of any new buildings or structures.

Public Hearing and Notice Requirements

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Battle Creek Shopper on April 2, 2026 and notices of the public hearing were sent by regular mail to owners and occupants of properties located within 300 feet of the subject parcels.

As of April 15, 2026 there has been no correspondence regarding this proposal.

Neighborhood Outreach

This property is located in NPC 10: Westlake Prairieview. NPC 10 has been working over the past 6-8 months to reconstitute its membership and establish quorum for its regular meetings. At this point the NPC has not been on a regular monthly meeting schedule, and the applicant has not yet had the opportunity to present its plans. However, staff will be coordinating with the applicant to allow for presentation to NPC 10 during the site plan review process.

Analysis

The proposed special use permit would result in the subject property being utilized to allow for the expansion of the existing Sunset Gardens cemetery immediately adjacent to north, to include the addition of 159 natural burial plots with an associated gravel drive. No additional buildings or structures are proposed as part of this expansion.

Given the nature and scale of the proposed use, no additional impact is anticipated upon existing infrastructure and utilities. Any increase in traffic volume as a result of the expansion is expected to be minimal.

The proposed use complies with each applicable section of the of the zoning ordinance, as well as aligns with Goal 12 of the adopted 2018 Master Plan.

Section 1281.05 (C) Special Use Permit; Decision on Application; Basis For Determination

The Planning Commission is charged with reviewing each Special Use Permit request to determine any effects the proposed use would have on the Master Plan and impacts to the character and development of the neighborhood. The ordinance and enabling legislation allow the Planning Commission and the City Commission to impose any conditions upon the request that would ensure the general objectives of the zoning ordinance are met and to preserve property values in the neighborhood.

The request shall be reviewed using the following standards listed in Section 1281.05 (C)(2) Basis for Determination (for Special Use Permits):

(a) The use will be harmonious with and in accordance with the general objectives of the Master Plan.

The proposed special use permit would allow for the expansion of the existing Sunset Gardens cemetery immediately to the north of the subject site. Cemetery plots adequate to serve the community can be viewed as necessary infrastructure, whether owned and managed directly by the city or privately. Such an expansion would align with Goal 12 of the 2018 Master Plan, which was discussed previously in this report.

(b) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.

While the proposed use will require the clearing of some of the existing trees and vegetation on the vacant site, the use is expected to appropriate with the existing or intended character of the general vicinity. As has been stated, approval of this special use permit would allow for the expansion of the existing cemetery directly adjacent to the north of the subject site. Additionally, it should be noted that the subject site is located directly to the west across S Helmer Rd. from the Memorial Park cemetery (which is under common ownership).

(c) The use will not be hazardous or disturbing to existing or future neighboring uses.

The proposed use would not result in any notable increase in intensity from the subject parcel's currently vacant status. The proposed expansion of the Sunset Gardens cemetery to the north is not anticipated to result in any notable change to the subject site from a visual standpoint, nor from any additional traffic created as a result of the expansion. It should also be noted that the site is accessed directly from S Helmer Rd., which is a major thoroughfare through the city and is intended to service the volume of traffic that would result from the expansion of the existing cemetery.

It is also important to note that the State of Michigan requires permitting and registration of all cemeteries within the state, ensuring that each is operated in a manner which will not create hazardous conditions for neighboring properties in the vicinity.

(d) The use will be a substantial improvement to the property in the immediate vicinity and to the community as a whole.

The proposed use would represent an improvement to the property by putting a portion of the vacant subject parcel to use which would allow for the expansion of the existing cemetery to the north.

Adequate numbers of burial plots are required of any community, and the proposed expansion provides the opportunity to address to this aspect of essential infrastructure without resulting in an increase in maintenance or financial responsibilities on the part of the city.

(e) The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.

The existing use is adequately served by city water and sewer utilities in the area. There is not expected to be increased traffic demand from the proposal that cannot be accommodated by the existing street network. Local police, fire protection, and other emergency services are established within the City and can quickly reach the subject site.

(f) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

The proposed use is not expected to result in high demands on city utilities, infrastructure (i.e., water, sewer, stormwater, and streets), or services. Therefore, the project will not be detrimental to the economic welfare of the community.

(g) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

There will be no activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

All cemeteries within the State of Michigan are required to obtain a state-issued permit and to regularly renew their registration. The proposed cemetery would be required to operate within the rules and regulations established by the State of Michigan for such use.

(h) The use will be consistent with the intent and purpose of this Zoning Code.

The project will not result in negatively impacting the general character of the area; not result in high demands on public services, infrastructure, or utilities; and not result in noxious elements such as noise, odors, or dust levels.

Section 1281.05(D) Conditions.

Pursuant to Section 1281.05(D)(1), conditions may be placed on a special land use to generally ensure public facilities are not negatively impacted, natural environments are protected, promote the use of land in a socially/economically desirable manner, and is related to the valid exercise of the police powers. Conditions imposed shall meet all the following requirements:

a) Be designed to protect the natural resources, the health, safety, and welfare, as well as the social and economic wellbeing, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

Staff's recommended conditions detailed within the recommendation section are intended to protect the health, safety, and welfare of those who will use the subject property and the overall community as a whole.

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

The recommended conditions are a valid exercise of the police power and purposes of the City of Battle Creek authority to approve and enforce land use development standards.

c) Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in this zoning ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

The intent and purpose of the zoning code and zoning districts are provided earlier in the subject memorandum. Staff's recommended conditions will ensure the project meets the standards of a typical special use request.

Recommendation

Staff has reviewed the application and finds that it meets the requirements for approval, with recommended conditions as follows:

1. All necessary approvals, including site plan review and any required permits shall be obtained if required by ordinance, and maintained if applicable, from the appropriate agencies, including but not limited to the State of Michigan, Department of Public Works, and Inspections Department prior to issuance of a Certificate of Occupancy.
2. Pursuant to Section 1281.02(a), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Chief Building

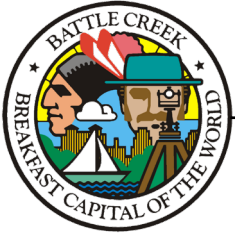
Official or their designee or agent. Such a certificate shall state that the new occupancy complies with all provisions of the Zoning Code.

3. Pursuant to Section 1281.05(5), certificates of occupancy for special uses shall be valid for a period established by the City Planning Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Special use permits shall expire after one year if the use is not under construction or operational. For good cause shown and upon written application, the City Commission may extend a special use permit for six months.

Therefore, with the aforementioned conditions, staff recommends approval of Petition #PSUP26-0001, a special use permit for the proposed use of the unaddressed Parcel #0066-00-110-0 for the expansion of the existing Sunset Garden cemetery to the north.

Attachments

Special Use Permit Application Form (Petition #PSUP26-0001)



CITY OF BATTLE CREEK
COMMUNITY SERVICES DEPARTMENT – PLANNING AND ZONING

Site Plan Review Application

Date: 3/4/2026
 Name of Business to Occupy Site: Battle Creek Memorial Park
 Site Address: 52-0066-00-110-0

Site Plan Fee: \$300 for properties under five acres and \$400 for five acres or more

| | |
|-----------------|--|
| Applicant: | <input checked="" type="checkbox"/> check if primary contact |
| Name: | Alexander Yost |
| Firm: | Battle Creek Memorial Park |
| Address: | 2435 Territorial Road W |
| City/State/Zip: | Battle Creek, MI 49015 |
| Phone: | 269-963-7577 |
| Email: | director@bcmemorialpark.org |

| | |
|-----------------|---|
| Property Owner: | <input type="checkbox"/> check if primary contact |
| Name: | Kiwanis Club of Battle Creek |
| Firm: | Kiwanis Club of Battle Creek |
| Address: | 2435 Territorial Rd W |
| City/State/Zip: | Battle Creek, MI 49015 |
| Phone: | 269-963-7577 |
| Email: | |

| | |
|---------------------|---|
| Architect/Engineer: | <input type="checkbox"/> check if primary contact |
| Name: | |
| Firm: | |
| Address: | |
| City/State/Zip: | |
| Phone: | |
| Email: | |

Project Description

Briefly describe the general character of the proposed development: _____
 Opening a new natural burial garden on the cemetery property.

Are there any past or present zoning variances, easements, or deed restrictions on the property? If so, please explain. _____

What is the total size of the property in square feet or acreage? 86 acres

How much of the property is currently developed by impervious surface in square feet and percentage? There is approximately 3 miles of asphalt roads on the main campus

At the end of the project, how much of the property will be developed with impervious surface in square feet and percent? 0

List the existing structures on the property, their square footage, and existing and proposed use.
None

What is the size of the existing parking area in square feet? The nearest parking area is the road at sunset gardens

How many existing parking spaces are on the site? What changes are proposed for the existing parking (removal, reconstruction, seal and stripe)? No official parking spots, the road at sunset gardens will act as parking. This will be widened with cutouts in select areas

Is there any new parking area proposed to be added? If so, how many square feet and how many parking spaces? No official parking spots are being added

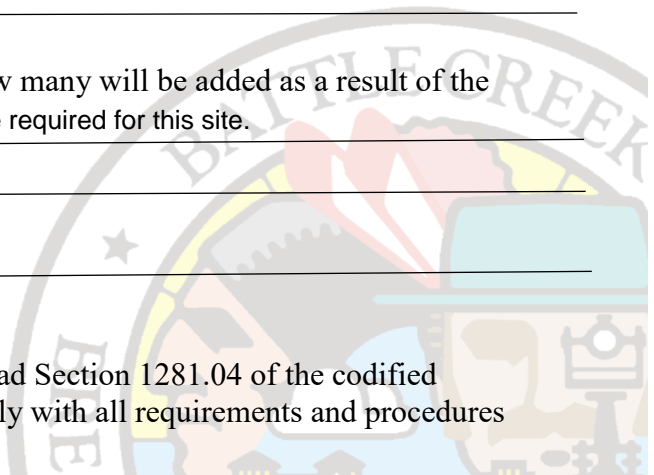
Are there any changes proposed in the rights-of-way? Is new water service or a new sewer service required? No

What is the estimated construction cost? \$18,000.

How many people are currently employed on site, and how many will be added as a result of the project? Currently 3 grounds workers. No extra employees are required for this site.

Is there a flood plain? If yes, what zone? No

By signing this application below the applicant agrees to the following. The applicant has read Section 1281.04 of the codified ordinances of the City of Battle Creek and agrees to comply with all requirements and procedures



for the site plan review. The applicant understands that the approved site plan is a legally binding document and any modification from an approved site plan must be authorized by the Planning and Zoning Division prior to implementation.

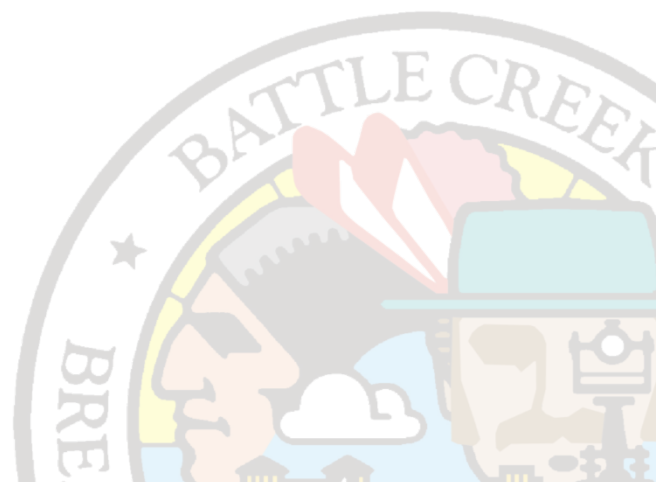
Alexander Yost

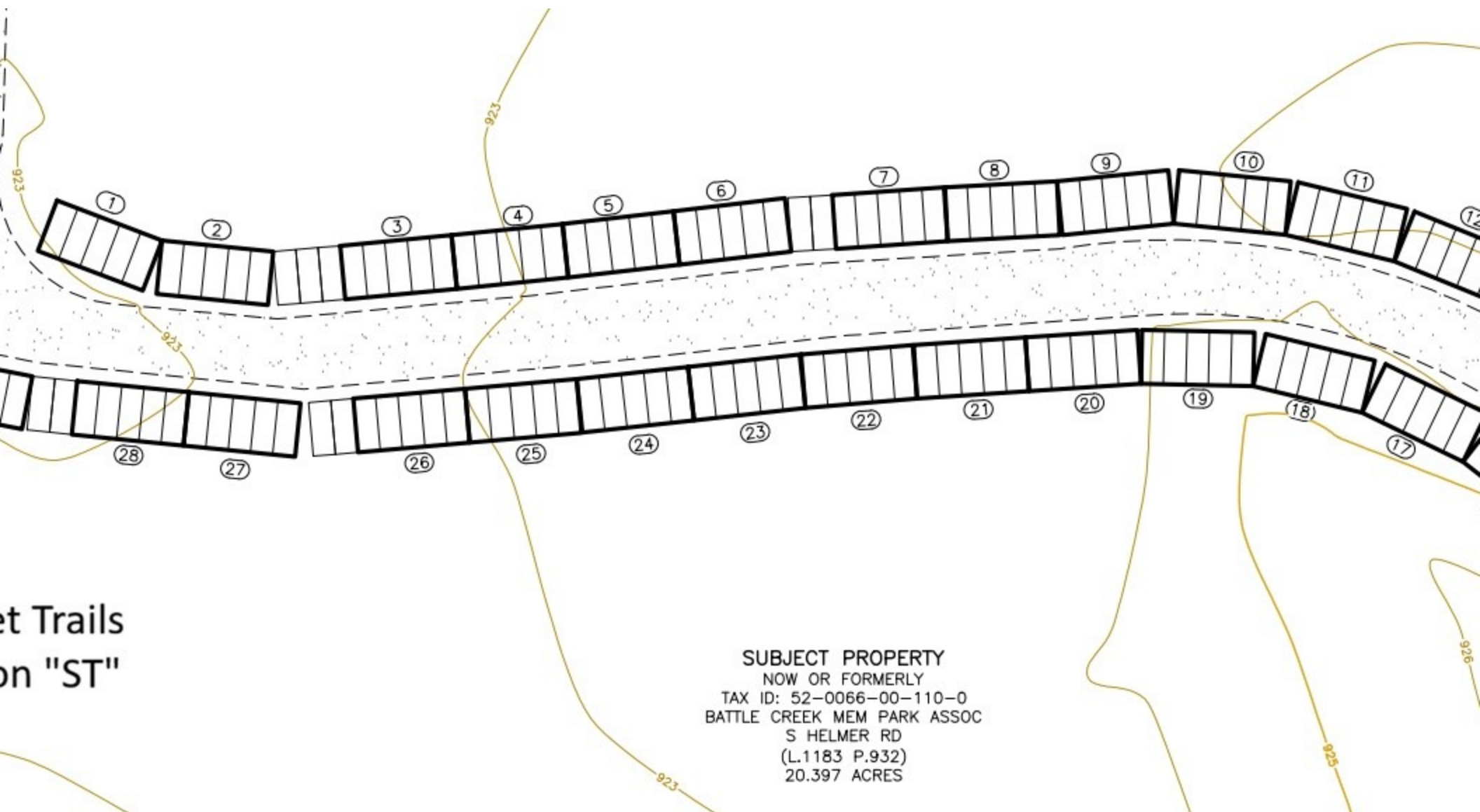
Digitally signed by Alexander Yost
DN: cn=Alexander Yost, o=United States, ou=US, ou=Battle Creek Memorial Park,
e=director@bomemorialpark.org
Reason: I am the author of this document
Location:
Date: 2026-03-17 12:13:04-00

Signature of Applicant

3/4/2026

Date





et Trails
on "ST"

SUBJECT PROPERTY
NOW OR FORMERLY
TAX ID: 52-0066-00-110-0
BATTLE CREEK MEM PARK ASSOC
S HELMER RD
(L.1183 P.932)
20.397 ACRES

CITY OF BATTLE CREEK
PLANNING COMMISSION
10 North Division, Battle Creek, MI 49014
Minutes for April 22, 2026

MEETING CALLED TO ORDER: By Chairman Hughes at 4:02 p.m.

ATTENDANCE: Roll call was taken.

Chairperson Hughes, present
Vice Chairperson O'Donnell, present
Commissioner Morris, present
Commissioner Gray, present
Commissioner Furrato, present

Commissioner Denison, present
Commissioner Moton, absent
Mayor Behnke, present
Commissioner White, present

Staff Present: Travis Sullivan, Planning Administrator, Adam Jenks, Planner, Melody Carlsen, Administrative Assistant, Patrick Batterson, Assistant City Attorney.

APPROVAL OF MINUTES: March 25, 2026.

MOTION MADE BY COMMISSIONER MAYOR BEHNKE TO APPROVE THE MARCH 25, 2026 MEETING MINUTES. MOTION SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: Chairperson Hughes asked everyone in favor to signify by saying "aye".

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CORRESPONDENCE: None.

ADDITIONS/DELETIONS: None.

PUBLIC HEARINGS/DELIBERATIONS:

A. SPECIAL USE PERMIT REQUEST #PSUP26-0001:

Petition from Battle Creek Memorial Park Association for a special use permit to allow for the expansion of the Memorial Park Cemetery, to include the plotting of a new burial garden upon the unaddressed parcel identified as Parcel #0066-00-110-0 to the west of Helmer Rd. S within the I-1 Light Industrial zoning district. Pursuant to Section 1281.05 of the Zoning Code.

Staff Presentation: Travis Sullivan gave the staff report for #PSUP-0001.

Applicant Presentation: Alexander Yost was present to speak and answer questions.

Questions by Commissioners:

Mayor Behnke asked what a "natural burial is". Mr. Yost responded and explained.

MOTION MADE BY COMMISSIONER GRAY TO APPROVE ITEM PSUP26-0001 WITH THE STAFF RECOMMENDATIONS AS PRESENTED. SECONDED BY COMMISSIONER WHITE.

ROLL VOTE: Chairman Hughes asked for a roll vote.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

B. REZONING REQUEST #PRZ26-0001:

Petition from Community Action Agency, as well as on behalf of Michael T Moore to rezone the properties located at the following addresses from their current zoning classification of MFR High-Density Multiple Family District to T-3 Neighborhood Commercial District, pursuant to Section 1240.13 and Section 1281.01 of the Zoning Code. Addresses included within this rezoning request include:

| | |
|--------------|-----------------------|
| 14 Yuba St. | Parcel #8040-00-147-0 |
| 175 Main St. | Parcel #0890-00-075-0 |
| 169 Main St. | Parcel #0890-00-075-0 |

Staff Presentation: Travis Sullivan gave the staff report for PRZ26-0001.

Applicant Presentation: Joshua Reetz was present to speak.

Public Comment:

James Moreno, 451 Main Steet, asked a clarifying question regarding the current zoning and what the proposed use of the home on Yuba Street would be and if the entirety of the parcels would be T-3. Chairman Hughes and staff responded.

Questions from Commissioners:

Commissioner White asked what the most significant difference between MFR and T-3 was. Ms. White also asked if the applicant has talked to the local residence. Staff responded.

MOTION MADE BY COMMISSIONER GRAY TO APPROVE ITEM PRZ26-0001 WITH THE STAFF RECOMMENDATIONS AS PRESENTED. SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: Chairman Hughes asked for a roll vote.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

C. ZONING ORDINANCE TEXT AMENDMENTS #A26-02

Petition from the City of Battle Creek to amend various sections of Chapter 1281 (Administrative Procedures) of the zoning ordinance. Pursuant to Section 1281.01 of the Zoning Code.

Staff Presentation: Travis Sullivan gave the staff report for #A26-02.

Questions from Commissioners:

Commissioner Gray asked if the City has considered any economical ways to publish if the required 5-day public meeting notice before a City Commission meeting is no longer required by the Planning Commission. Asked staff if we should include cost saving ways to duplicate the public notice requirement in the motion. Mr. Batterson responded to not include the cost saving recommendations in the motion, staff will make a note of them.

Commissioner White feels more information is better than less, has concerns that residence are not being notified because they do not live within the 300 feet buffer, would like to see some kind of notification still going out to residents, feels that applicants should meet with Neighborhood Planning Counsels before coming to the Planning Commission. Asked about clarifying the motion and the staff recommendation listed in the staff report to take out the requirement for the 5-day public meeting notice. Would like to see this item not taken out, can the motion be everything but the part around notices. Mr. Batterson responded.

Commissioner O'Donnell mentioned the Facebook notices that the City Commission uses and wondered if Planning Commission can do that or if there was an app we could use to get information out.

MOTION MADE BY COMMISSIONER GRAY TO APPROVE #A26-02 WITH THE RECOMMENDATIONS AS PRESENTED BY STAFF. SECONDED BY COMMISSIONER MORRIS.

Commissioner Gray wanted to point out that if this motion is passed, she would like to see the City find ways that do not cost more but are available through other platforms that we may already have access to make sure that we are reaching as many people as possible but still look like the 5-day meeting notice.

Chairman Hughes asked if it was possible to have staff research cost effect ways as an alternative to the 5-day public notice requirement.

ROLL VOTE: Chairman Hughes asked for a roll vote.

SEVEN IN FAVOR, ONE OPPOSED, MOTION APPROVED.

D. ZONING ORDINANCE TEXT AMENDMENT #A25-01;

Petition from the City of Battle Creek to consider an amendment to Section 1262.02 of the zoning code to require yards be improved with either natural or living groundcover including grass, plant material, rocks, stones, mulch, etc. in residential districts. Pursuant to Section 1281.01 of the Zoning Code.

Staff Presentation: Travis Sullivan gave the staff report for #A25-01.

Questions from Commissioners:

Commissioner White asked what would happen if someone did not want to plant grass seed or find an alternative to grass, if this item is approved what would the enforcement look like, what happens if a residents cannot afford grass seed, is the city going to pay for it. Asked about enforcement; do you just provide tickets, what's the worse case scenario, can the city take their home. Asked if the commission has to take action on this item right now, feels there is a missing pieces to this.

Commissioner O'Donnell wanted to clarify that the current ordinance reads all other zoning districts except the single family and two-family residents zoning districts, follow this landscaping ordinance, and is already enforced and that we are just changing the language to ensure it is enforceable and usable for the whole city. Mr. Sullivan responded that this is correct. Commissioner O'Donnell asked if not using grass, do resident just need to use some type of ground cover; cedar, rocks, etc. and they can make it a driveway if they follow the zoning rules.

Chairman Hughes agrees that some sort of front lawn cover is needed but has concerns over how it all would be managed and to what extent are we going to be able to keep it under control. It appears there is some leniency in the existing ordinance; the city will work with individuals if they receive a violation. Asked a clarifying questions regarding this item being back up for reconsideration; do the proposed changes in the staff report from last July still apply and if there had been any additional changes within the new staff report.

Commissioner Furmato mentioned the paint program that the city offers and wondered if there could be a plan for grass seed as well.

Mayor Behnke asked Mr. Sullivan why staff has not made a recommendation on this item and asked if this ordinance change was the result of a property located within the Brewer neighborhood. Mr. Sullivan responded to both questions.

Commissioner Denison one thing to think about is that if we are going to enforce grass, it will have to be kept up, there is more to this then what we are talking about, and what kind of burden would this be on the city.

Public Comment:

James Moreno, 1451 Main St, has concerns that the commission does not have a clear look of this issue within the city, has concerns about vacant parcels being used a private driveway. Feels landlords should be held responsible. If we are trying to improve the community as a hole, we need to act now, and we need to help ourselves as a community, if you are property own, you have a responsibility to take care of your property. Chairman Hughes asked Mr. Moreno what feedback he had heard during his NPC meeting regarding the proposed lawn ordinance.

Commissioner Gray asked what the typical number of warnings/notices are received before a citation is moved to the court. Mr. Sullivan responded.

MOTION MADE BY COMMISSIONER WHITE TO POSEPONE ITEM #A25-01 UNTIL THE MAY 27, 2026 PLANNING COMMISSION MEETING. SECONDED BY MAYOR BEHNKE.

ROLL VOTE: Chairman Hughes asked for a roll vote.

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

OLD BUSINESS: None.

NEW BUSINESS: None.

COMMENTS BY THE PUBLIC:

Stella Duckett of 349 Robertson Avenue, had concerns and questions regarding a variance for a sign within 300 feet from her home, also has concerns with the type of business (truck stop) being proposed at this location.

James Moreno of 451 Main Street, had a comment regarding processes. Applicants should make sure they are going to NPC meetings before going to a board/commissions. This way the process is being used like it is supposed to.

COMMENTS FROM COMMISSION MEMBERS AND STAFF:

Commissioner Gray had a process question. It would be nice to have staff present at our next meeting the process of applicants going to NPC's prior to board/commissions meetings. Is there a process written anywhere to require this item. Strongly recommends a closer look at this so that we can look at citizens comments in a formal way. Asked what the current process is. Mr. Sullivan responded.

Chairman Hughes has concerns of formalizing the concern of an applicant going to NPC meeting prior to board/commission meeting. There may be a concern of holding up development. The Chairman also asked if there was anything the planning commission could do about neighborhoods hooking up to city water.

Commissioner White shared thoughts on the process or protocols with applicants going to NPC meetings. Asked about traffic studies and who will review those.

Mayor Behnke thanked the commissioners for being in attendance.

ADJOURNMENT: Chairman Hughes adjourned the meeting at 5:48

Submitted by: Melody Carlsen, Administrative Assistant, Planning & Zoning Division.