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June 26, 2019

CONFIDENTIAL – SUBJECT TO ATTORNEY-CLIENT PRIVILEGE

Huron County Board of Commissioners
c/o Stephen J. Allen, Corporation Counsel
250 East Huron Avenue
Bad Axe, Michigan 48413

Re: **2018/2019 Draft Master Plan – Wind Energy Repowering, Nonconforming Use and Wind Energy Zoning Issues**

Dear Commissioners and Mr. Allen:

I. INTRODUCTION

Huron County (“County”) has 472 wind energy systems¹ (wind turbines), 287 of which are located in townships covered by the County Zoning Ordinance (“Zoning Ordinance”). Many of these turbines first became operational in 2008.² The original cost of each wind turbine typically exceeds \$2,000,000 or more. The Zoning Ordinance was last amended in 2015 at which time substantial revisions were made to Article X of the Zoning Ordinance (Huron County Wind Energy Conversion Facility Overlay Zoning Ordinance), including changes to setbacks, sound prohibitions and shadow flicker. Eleven wind parks were developed under ordinances prior to 2015. As a result of the 2015 amendments, a substantial number of wind turbines currently located in the County likely do not fully comply with the current Zoning Ordinance and, therefore, would be considered nonconforming uses and/or

¹ MCL 211.8(1) defines a “wind energy system” (“WES”) as “an integrated unit consisting of a wind turbine composed of a rotor, an electrical generator, a control system, an inverter or other power conditioning unit, and a tower, which uses moving air to produce power.” A group of wind turbines owned by one owner are typically referred to as a “wind park.” The owner of a wind park may be referred to as the “owner,” “developer” or “taxpayer.” A wind park includes underground connection lines, a transformer, substations and an operations and maintenance (“O&M”) building, and sometimes a MET tower. A WES is classified as personal property. MCL 211.8. The Michigan State Tax Commission (“STC”), pursuant to STC Memorandum dated May 13, 2008, specifically classifies a WES as industrial personal property. See, MCL 211.34c(3)(e), which defines industrial personal property. The cables leading away from the WES that transmit electricity (underground connection lines) are classified as utility personal property by the STC. See, STC March 1, 2011 Tip (Dear STaCy letter). As industrial personal property, a WES is exempt from school millage and the state education tax. The owner typically enters into leases or easements with landowners of farm property.

² See Table 27, Wind Turbine Summary, at page 58 of the Spicer Group Draft Plan.

nonconforming buildings or structures. In compliance with MCL 125.3208(1), the Zoning Ordinance generally provides for the continuation of nonconformities but does not encourage their expansion or survival beyond their present level of development. Further, restoration and repairs are permitted but no structural alterations "beyond its natural life".

On August 22, 2018, Spicer Group, Inc. ("Spicer") submitted a proposed draft revised master plan ("Draft Plan") to the County. The Draft Plan, once approved, would replace the July 14, 1993 Huron County Master Plan which has been amended from time to time. The Draft Plan introduces for the first time the concept of repowering (defined at page 7 below) of wind turbines, encourages the County to address repowering in a revised zoning ordinance and makes certain recommendations supporting repowering. These recommendations are made in the context that repowering has become a major focus of wind developers across the country, in part, because many turbines in the United States are reaching the end of their useful life. More importantly, Spicer is well aware that current owners/developers in the County have entered into easements and other agreements with landowners which, through the exercise of options, can extend well past the original useful life of a wind turbine, presumably in contemplation of repowering. The Draft Plan, at page 104, specifically provides that any repowering would require a new permit and compliance with the requirements of the current zoning ordinance.

At least one major utility developer has already expressed concerns regarding its repowering rights under the current zoning ordinance and in the future. We have communicated a number of times with counsel for DTE who originally intended to provide a written communication outlining DTE's specific concerns and recommendations. Due to the complexity of the matter, they have elected to weigh in later as the planning commission continues with its review of the Draft Plan. DTE is very interested in meeting to discuss their unique issues and concerns and to maintain an open dialogue. (A planning commission is required to provide a copy of a proposed master plan "for review and comment" to each public utility within the county. MCL 125.3833(2)(f)).

Corporation Counsel has timely and appropriately raised concerns regarding the potential liability of the County for money damages related to existing or future restrictions on repowering whether prior to or at the end of the useful life of a wind turbine. There have been several zoning related cases over the years in Michigan where zoning missteps have resulting in millions of dollars of damages leveled against a municipality. The existing Zoning Ordinance, including the nonconforming use provisions, is devoid of references to repowering and, therefore, revisions would be prudent. Spicer and the County are looking for guidance relative to balancing the rights of the County to control nonconforming uses and zoning generally to protect the public versus some recognition of the investment-backed expectations of the wind park developers and their underlying landowners who have granted easements or leases to wind park developers.

We have been requested to advise the County as to its potential liability regarding treatment of existing nonconforming wind turbines as well as likely amendments to the overlay Zoning Ordinance relative to nonconforming use claims. In that connection, we have reviewed pertinent background information and summarized areas of concern and, in some cases, made recommendations regarding the following: (1) Existing agreements between landowners and wind park developers, (2) wind turbine useful lives, (3) wind turbine repowering, (4) power purchase agreements, (5) preemptions concerns, (6) repowering provisions in the Draft Plan, (7) existing provisions in the nonconforming use portion of the Zoning Ordinance and Draft Plan, and (8) cases where municipalities have been suffered major awards against them related to municipal mishandling of zoning matters. Further, this letter reviews potential claims a property owner, such as a wind farm owner, could bring against a municipality which enacted zoning regulations intended to or having the effect of limiting or prohibiting the expansion of existing wind farms within its jurisdiction. Potential claims would most likely arise under Michigan's Zoning

Enabling Act (2006 PA 110; MCL 125.3101, *et seq.*) (“ZEA”) and relate to the regulations’ impact on nonconforming uses or their exclusionary effect, or take the form of due process, equal protection or takings challenges under state or federal constitutions. This opinion will also discuss a property owner’s potential recourse for recovering damages pursuant to these claims.

II. DOCUMENT REVIEW

In our capacity as counsel, we have reviewed the following documents:

1. The Zoning Ordinance which includes amendments thru November 27, 2015, in particular, the following:
 - a. Wind Energy Conversion Facility Overlay Zoning Ordinance (2015), Article X, pp. 49-64 of the Zoning Ordinance (“Overlay”) (Exhibit 1) for off-site customers; and
 - b. Nonconforming Use Provisions of Zoning Ordinance, Article XIV, Section 14.03, pp. 88-92 of the Zoning Ordinance, (Exhibit 2).
2. Draft Plan prepared by Spicer dated August 22, 2018 (Exhibit 3);
3. Existing/Current Huron County Master Plan dated July 14, 1993;
4. Huron County Moratorium Resolutions; and
5. Additional materials as outlined in the Bibliography attached as Exhibit 4.

We have not reviewed any documents other than the documents listed above or documents, cases and pleadings otherwise referenced in this opinion letter. We have not been made aware of any development agreements or contracts between the County and any wind developer wherein the County has granted rights in addition to or different than as provided in the Zoning Ordinance or other County ordinance or code. We have not reviewed Section 14.29 of the Zoning Ordinance pertaining to On-Site Wind Energy Exclusion (pp. 120-128 of the Zoning Ordinance).

III. INVESTMENT-BACKED EXPECTATIONS OF OWNERS OF WIND ENERGY SYSTEMS IN HURON COUNTY

In reviewing possible constitutional claims, the courts will consider the nature of the property interests allegedly being protected or interfered with. With respect to existing wind parks, those interests would include the developer’s agreements with local landowners, as well as any agreements between the developer and the municipality. Our focus is repowering rights. Of interest are existing easements and related agreements, the useful life of a wind turbine and the terms of typical power purchase agreements.

A. Typical Easements and Agreements with Landowners.

Regarding agreements with existing landowners, we reviewed a number of generic wind easement agreements from various counties pertaining to DTE, Consumers and other developers and owners. The DTE easements do not specifically mention “repowering,” however, they do include the right to construct, install, operate, repair, maintain, alter, replace, improve, restore and remove. Initial terms are for 20 years. The Consumer easements specifically include a reference to “re-powering” as

well as maintaining, constructing, repairing, upgrading, improving and replacing. Further, they prohibit the grantor of the easement from opposing the re-granting, re-issuance, renewal or extension of any regulatory, administrative or other governmental permits, licenses, authorizations and approvals. Notably, the easements require the developer to comply with “applicable laws” or “all present and future laws, rules or regulations of any governmental agency...” The term of the easements can run from 20 years to over 60 years if extended per the terms of the agreements. The precise duration of each easement in terms of length and options to renew or extend is not in the public record. This information should be requested of the developer during the master planning process. As mentioned in *Tuscola Wind III, LLC v Almer Township*, 327 F Supp 3d 1028, 1034 (2018), Tuscola Wind utilizes an easement for an initial term of 35 years from the date of first commercial operation of the wind park with the right to extend another 30 years.

DTE also utilizes a so-called participation option agreement (“POA”) which provides for participation payments to landowners who are in the vicinity of wind turbines but do not have a wind turbine on their property. This allows for greater community benefits. However, in return, the landowner is granting an easement over his/her entire property for wind non-obstruction and releasing claims related to sounds, noise, light, flicker, shadow, vibration, electromagnetic and RF and EF interference. These agreements can continue for 65 years or more. Presumably the POA parcels are treated as “participating parcels” as that term is defined in the Wind Energy Conversion Facility Overlay Zoning Ordinance. All POA parcels should be disclosed by DTE given that these parcels would potentially be impacted by County decisions with respect to nonconforming WES.

As mentioned above, in terms of any agreements between a developer and the County, we are not aware of any separate development agreements which would grant rights or put limitations on repowering different than those contained in the Zoning Ordinance.

B. Useful Life.

When addressing repowering issues, determining the useful life or average life of a wind turbine becomes important. Numbers range from 20 to 40 years with individual components of a WES lasting 50 years or more. The Zoning Ordinance does not reference useful or average life instead referring to “natural life” and “probable duration”. (Sections 14.03(3) (1) and 14.03(4)).

The useful life of a wind turbine per the Michigan Public Service Commission (“MPSC”) is 30-31 years. This determination by the MPSC pertained to depreciation and accounting concerns over which the MPSC has some control. Similarly, Nextera, a significant wind developer in the United States, has, in its filed SEC filings and reports to shareholders, declared that its wind farms have a useful life of 30 years.

Over the past eight years there have been a number of submissions by Michigan-based public utilities and intervening parties in MPSC depreciation cases suggesting a useful life of between 20 to well over 30 years. For example, in connection with the MPSC’s first renewable energy plant depreciation case (MPSC Case No. U-16991), the MPSC took testimony regarding the average life of a WES. This test case involved DTE and the Gratiot Wind Park. Attached is Exhibit 5 is a Wind Plant Summary for the Gratiot Wind Park submitted by DTE breaking down the cost of the key WES components as well as their “average lives.” The main frame, nacelle housing and tower have an average life of 25 years. The foundations and easement and roads have an average life of 50 years. The converter, generator, bearings, rotor hub and power converter have a useful life of 20 years, while the gears and bearing only have a useful life of 10 years.

While a wind park may have a useful life of 30 years, as noted above, the individual components may have a useful life much shorter or longer than that average. Over the 30-plus year useful life of a WES, various major components will need to be replaced to maintain the integrity and performance of the system. As has been seen in Michigan, various components fail typically making the local or even national news. Blades have broken, towers have collapsed and nacelles and their interior components have burned. Bearings require replacement. Computer systems often require upgrades. Catastrophic events can lead to repowering decisions as well as useful life end. Ultimately though wind park owners will continuously evaluate whether to replace all or a portion of the existing systems.

C. Power Purchase Agreements.

All non-utility wind park developers must enter into a power purchase agreement (“PPA”) with some entity for the sale of electricity to be generated. Most of these agreements are with DTE or Consumers who are the “buyer” under the PPA. In some cases, a municipality or power co-op such as Wolverine Power Coop will purchase the electricity. The MPSC must approve any PPA. DTE and Consumers-owned wind parks do not have PPAs but their costs and charges are regulated and approved by the MPSC as well.

In a PPA, the supplier (wind park owner) agrees to supply and deliver energy to the buyer (e.g., DTE) in amounts specified in the PPA. In the PPA, the supplier agrees to an annual supply amount and estimated monthly deliveries of energy which total the annual supply amount. Allowances are made for 10% increases or decreases to the annual supply amount. In the case of DTE and Consumers, one major purpose of the PPA is to enable them to satisfy a portion of their obligations to comply with the requirements of Michigan’s Clean and Renewable Energy and Energy Waste Reduction Act (MCL 460.1001-MCL 460.1211) (“P.A. 295”) and its renewable energy standards (“RES”). Arguably, shortages of delivery of energy for any reason could impact a buyer’s ability to comply with its RES requirements.

The wind park owner is expressly required to “operate, maintain and repair” the wind turbines during the typically 20-year term of the PPA. If there are changes in availability of energy, then the buyer must be notified. Importantly, the supplier/owner is required to comply with all “laws” which would include local ordinances such as zoning ordinances. In the event of a *force majeure* incident, the supplier must expeditiously take action to correct the problem and must take all commercially reasonable efforts to limit any damages. The supplier is also required to obtain and maintain for construction and operation all manner of permits including, but not limited to, a wind energy site plan review permit, building permit and electrical permits.

In sum, the PPA is just one more agreement that places obligations on the wind park owner, which obligations have a significant financial impact to the owner potentially impacted by decisions by the County under its Zoning Ordinance. Certainly, any owner/developer in the context of a nonconforming use dispute would point to these obligations under its PPA in support of a claim for damages. In any litigation with the County for a taking or similar claim, damages (if available) might include any damages suffered by an energy buyer under the PPA for failure to deliver energy and any consequential damages that might be conjured up in that litigation. The *theoretical* exposure is high.

IV. PREEMPTION – PAST AND FUTURE CONCERNS

In connection with any interpretation or amendment of the Zoning Ordinance relative to nonconforming uses and repowering, it is worthwhile to consider what our Michigan legislature may do in response to allegedly intemperate decisions by the County. Of course the County must consider the concerns and wishes of its constituents yet their concerns may be negatively impacted should the

legislature arbitrarily act to, for example, allow repowering of any kind without input from the local municipality. Our legislature and governors have supported increased renewable energy standards (with the input of DTE and Consumers seeking to further develop a robust rate base). Yet, notwithstanding the complaints by the utilities and others regarding moratoriums, litigation and adverse zoning, the legislature has not chosen to preempt the siting of wind turbines. Should they do so, the consensus is that siting review would be given to the MPSC who would be given exclusive control subject to perfunctory public hearings. In other words, any attempt to unreasonably restrict repowering *may* give an owner a basis to demand legislative relief.³ This could be accomplished by amendments to the ZEA and P.A. 295. While not formally raised yet, an owner could seek legislative relief claiming that wind is a form of natural resource, that this wind resource is most available only in certain areas of the state (the County in particular), that utilizing this resource as much as possible is consistent with the green energy goals of this administration and RES and restrictions on repowering, for example, would substantially interfere with those goals and objectives.

Currently, the MPSC does not exercise authority over local zoning of wind turbines and wind parks. The MPSC can, however, consider applications for expedited siting certificates for transmission lines. Other states have taken local control in whole or in part from the local communities relative to wind parks. For example, Minnesota allows statewide preemption of local regulation for good cause. New York allows preemption if local regulation is unreasonably burdensome while Ohio has superagency regulatory and siting authority with only some local input allowed at public hearings or by intervention. See, generally DuVivier, K.K. and Witt, Thomas, NIMBY TO NOPE—OR YESS?, 38 Cardozo L. Rev 1453, 1480-1494 April, 2017. RES requirements are on the minds of leadership in Michigan based on the recent (May 2019) announcement that solar parks would be permitted on Public Act 116 protected lands. Wind turbines on Public Act 116 lands were permitted in 2017.

Importantly and for the time-being, Section 54 (MCL 460.1054) of P.A. 295 expressly provides that “[n]othing in this subpart abrogates the powers granted to local units of government under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702.” This could easily change.

Without belaboring the point, our legislature has full or partially preempted local zoning in numerous instances including the following (1) Wireless communications equipment (MCL 125.3205(1)(c) and MCL 125.3514), (2) electric transmission lines (MCL 125.3205(1)(a) and MCL 460.561-575), (3) oil and gas wells (MCL 125.3205(2)), (4) amateur radio service stations (MCL 125.3205a), (4) biofuel production (MCL 125.3513) and (5) siting of high schools (MCL 380.1263(3)).

One relevant case in particular is illustrative of how limited preemption and local zoning can conflict for the siting of a new wind park with the state agency prevailing in the end. In *In the Matter of the Application of AWA Goodhue Wind, LLC*, No. A11-2229, 2012 WL 23690004 (Minn. Public Utilities Commission, June 25, 2012) (unpublished opinion for site permit and certificate of need), the Minnesota Public Utilities Commission (“MPUC”) found good cause not to follow a county’s more restrictive wind turbine setbacks finding that such setbacks “could severely hinder the implementation of state renewable energy policies,” and that the setbacks were “unnecessary to protect human health, safety, and quality of life. In Minnesota, the MPUC has exclusive permitting authority for a large WES but must apply a county’s ordinance unless the MPUC finds good cause not to do so. The county imposed 10 RD (rotor diameter) setbacks (271 feet times 10). The MPUC determined that 43 of the 50 proposed wind turbines

³ Consumers, in its 2018 Integrated Resource Plan (“IRP”) filed with the MPSC, cited to changed zoning requirements and wind moratoriums as potentially impacting their future renewable energy build (page 91 of IRP).

would have been prohibited. After considering the testimony of industry experts, the MPUC chose setbacks much more to the liking of the developer. See Exhibit 6.

V. REPOWERING

Repowering is the replacement of an old power generation system with a newer system which is more efficient and/or has a higher nameplate capacity. In the case of wind parks, it is estimated that U.S. wind repowering investments may exceed \$25,000,000,000 by 2030. Repowering can be economical after only 10 or 12 years of operation (e.g., Sweetwater 1 and 2 wind farms in Texas). Eight to ten year major hardware upgrades are predicted to become common. As a wind park ages, operation and maintenance costs typically increase substantially. At some point, the owner will consider decommissioning the park and retiring the assets. Full decommissioning has been the traditional end of useful life approach. Now there are viable alternatives. Technologies for wind turbines have improved substantially over the last ten years and the costs of new wind energy systems have decreased as well. Increasing rotor diameters can result in significant production increases. Upgrading drivetrains and gearboxes and installing better control systems and larger generators are also typical. Consequently, owners can now realistically consider full repowering or partial repowering to extend the useful life of their existing wind farms.

A full repowering involves the decommissioning of the wind park (or individual WES) and the redevelopment of the site with new equipment. Partial repowering involves the replacement of some of the parts of the WES with more efficient systems. This could include blade replacement, updated computer systems or improved gear boxes. The goal for any form of repowering is to extend the useful life of the system, improve efficiency and reduce costs. Ultimately, the owner will do a cost analysis to determine whether the cost of any new investment can be recovered over the new calculated useful life and then determine whether the return on investment justifies the new expense. Factors will include the then current levelized cost of energy, market prices, transmission line capacity, existing interconnection agreements, existing agreements with landowners, any new environmental issues and the cost of new improved equipment. Existing permits and new permitting requirements will be a major concern, not to mention concerns raised by adjoining landowners. Setbacks of ten times the tip height established in Bavaria have been cited as a major obstacle to repowering in that region. See, Ziegler, Lisa; Gonzalez, Elena; Rubert, Tim; Smolka, Ursula and Melero, Julio J., "Lifetime extension of onshore wind turbines: A review covering Germany, Spain, Denmark, and the UK," Elsevier B.V. Another very interesting study was published involving repowering schemes in the Czech Republic. See, Frantal, Bohumil, *Have Local Government and Public Expectations of Wind Energy Projects Benefits Been Met? Implications for Repowering Schemes*, Journal of Environmental Policy & Planning, Vol. 17, Issue 2, 2015.

Repowering can include the following benefits:

- A. Increased renewable energy production due to higher capacity factors to meet the ever increasing Michigan RES requirements;
- B. Typically, existing infrastructure is used reducing the need for new green field locations;
- C. Repowering is one answer to the reduced availability of productive wind sites in Michigan;
- D. New replacement equipment *may* result in higher personal property taxes based upon a new original cost at or near 100% replacing more fully depreciated units which may be assessed at only 30% of original cost. On this point caution is advised. At least one

owner in Huron County is challenging this position claiming that any replacements should not be reported to the local assessor and not depreciated from its new higher replacement cost;

- E. Possible improvements aesthetically (e.g., color; new lighting arrangements);
- F. Possible reductions in number of turbines to accomplish the same output as originally planned (see, Nextera Golden Hills North Wind Energy Center project in California where fewer turbines with higher output replaced large numbers of old turbines);
- G. New permitting process to address old and new issues such as setbacks, shadow flicker, sound and blade throw with possibly modified spacing to accommodate new wakes; and
- H. Slower rotation speeds in newer systems can be quieter and encounter less avian mortality.

Current Trends: To date, no Michigan wind parks have been fully repowered or re-powered in any significant way. Due to their commercial operation date in 2008, it would seem that the Exelon-developed Michigan Wind and Harvest Wind Parks would be repowered first. Full repowering has been most common in California and Iowa. The trend is happening worldwide. Examples of repowering approvals of California and Texas sites are available online (See also, "Repowering Projects Breathe New Life Into Altamont Area," *North American Wind Power*, October 2017, at <https://issues.nawindpower.com/article/repowering-projects-breathe-new-life-altamont-area>). Notably, those repowerings require a new full permitting process and review. According to GE, repowering can increase fleet output by up to 25% and add 20 years to turbine life ("Repowering wind turbines adds generating capacity at existing sites," *U.S. Energy Information Administration*, November 6, 2017). See generally, the repowering articles included in the Bibliography (Exhibit 4). This is a hot topic and an entire industry is developing promoting repowering.

We have also examined the current Michigan literature to see whether repowering has been discussed. The MPSC has considered no repowering issues with respect to wind in Michigan. It has had some input regarding repowering of non-wind projects in other states but only related to rate issues. P.A. 295 does not mention repowering. Neither the Consumers nor DTE Integrated Resource Plans submitted to the MPSC specifically reference repowering although zoning issues generally are mentioned.

There is no mention of repowering in the Final Report of the Michigan Wind Energy Resource Zone Board dated October 15, 2009 issued for the Wind Energy Resource Zone Board which was created by MPSC order dated December 4, 2008 in MPSC Case No. U-15899. Repowering was mentioned in the "Lessons Learned Community Engagement for Wind Energy Development in Michigan" dated January 2018. This document was drafted by a Wind Energy Stakeholder Committee with numerous meetings in 2017. DTE, Consumers, Tradewind Energy, Geronimo Energy, Michigan Renewable Energy Collaborative, Michigan Townships Association, Michigan Association of Counties and many other municipal representatives participated. Decommissioning concerns were discussed. Repowering was mentioned only briefly under "Zoning and Site Plan Requirements: Will Developers Offer Customers the Option for Repowering?" The term was defined as follows: "Repowering a wind farm would enable the wind farm to keep operating. Updates to technology and turbines may be required. Repowering would be initiated by either extension of an existing contract or creation of a new contract between the same parties." Zoning implications including nonconforming uses analysis were not mentioned.

In July of 2017, the Minnesota Department of Commerce issued its “Minnesota Local Government Wind Toolkit.” The toolkit included a model wind energy conversion system ordinance including decommissioning procedures. In terms of repowering, the toolkit allowed repowering as an alternative to decommissioning at the end of a turbine’s life provided repowering must not change any regulated component or design element of the turbine, as originally approved in the conditional use permit. The toolkit further recommended that communities consider how to address repowering of approved wind energy conversion systems. Toolkit, page 14.

The Presque Isle County Michigan Zoning Ordinance was amended in 2018 (<http://presqueislecounty.org/2018%20Mins/Ordinance%202018-02.pdf>). It provided that any decommissioning plan should include the anticipated life of the project. It also provided the following:

Technological Advances and Design Standards Flexibility.

The County recognizes the accelerated pace at which the technology of wind energy generation is constantly evolving, and the impact these technological changes may have on the use and placement of wind energy systems within the County. Consequently, in order to effectively incorporate new technology that may outpace the regulations established herein, the Planning Commission may approve wind energy systems that do not fully comply with the strict development standards of these regulations, if in the opinion of the Commission they comply with the intent of the regulations and do not create significant adverse impacts on the petitioned property, abutting properties or the immediate neighborhood.

Equipment Replacement. The wind turbine generator in its entirety or major components of the wind turbine generator may be replaced without a modification of the Special Use permit provided all regulations contained herein are adhered to.

In 2019, Morgan County, Illinois is considering the update of its wind ordinance with specific provisions pertaining to nonconforming use and structures and wind turbines. See **Exhibit 7** attached. This draft is clearly a work in process but it shows the complexity of the issues.

Also of interest is the Michigan State University Extension Land Use Series publication “Sample Zoning for Wind Energy Systems” revised through November 16, 2017. No specific reference to repowering is included in the sample ordinance. The need for a decommission plan is referenced at page 30. An overview of key zoning concerns in Michigan relative to wind energy projects is included at pages 3-8. With respect to nonconformities: “Local zoning must allow the continuation of nonconforming use and expansion of nonconforming use (an existing building or use of land that lawfully existed prior to zoning or prior to a zoning amendment). However, the ordinance can provide for reasonable terms for restoration, reconstruction, extension, substitution, and acquiring of nonconforming uses that may limit their life span” (page 6).

VI. REVIEW OF THE PLANNING ACT AND THE DRAFT PLAN (REPOWERING PROVISIONS)

A. Michigan Planning Enabling Act Provisions.

The Michigan Planning Enabling Act (“Planning Act”) (MCL 125.3801-125.3885) defines the procedures for adopting a new master plan as well as the required contents and review procedures applicable to adoption of a county plan. The Planning Act provides that a planning commission shall

make and approve a master plan as a guide for development within the planning jurisdiction. MCL 125.3831(1). A master plan may project 20 years or more into the future to address land use and infrastructure issues. MCL 125.3833(1). A master plan shall include recommendations for implementing any of the master plan's proposals. MCL 125.3833(2)(e).

The Draft Plan complies with the Planning Act. It considers the character of the County and its suitability for particular uses in terms of trends in land development. MCL 125.3807(2)(b). Based upon resident input relative to wind matters, it also provides a plan that takes into consideration present and future needs that "best promote public health, safety, morals, order, convenience, prosperity, and general welfare." MCL 125.3897(2)(c). The Draft Plan considers the 20- plus year life of wind turbines and directly addresses the wind turbine land use and infrastructure issue pertaining to repowering. Spicer's Action Plan (quoted below) outlines their recommendations for amendments to the Zoning Ordinance to address the repowering issue following the general rule that conflicts between master plans and local ordinances are to be avoided⁴.

B. Key Draft Plan Provisions.

The Draft Plan extensively identifies all of the utility scale wind turbines located within Huron County as well as their commercial operation dates (see Table 27, Wind Turbine Summary, p. 58 of the Draft Plan attached as Exhibit 3). The Draft Plan indicates that the residents of Huron County are "evenly split" in terms of wind energy development (Draft Plan, pp. 83, 89) and that wind energy development is one of the main challenges facing Huron County (Draft Plan, p. 101).

The Draft Plan introduces a Utility Scale Wind Energy policy (see pp. 103-105 of the Draft Plan). It is here that the concept of repowering of existing wind turbines has been introduced. The following are excerpts from the Draft Plan specific to repowering:

Utility-Scale Wind Energy.

This policy is intended to allow wind energy facilities a transition toward becoming a more welcoming presence in Huron County. It takes the long-term view and accounts for the permits and approvals for existing wind energy facilities while balancing the need to improve the overall health, safety, and welfare of Huron County residents by limiting the future development of new wind energy facilities". (Emphasis in original; Draft Plan, p. 103.)

*** On one hand, the zoning map defines where wind energy facilities can be located in Huron County by the placement of the various existing overlays, which can be amended to add more overlays. On the other hand, each wind energy facility has a useful life, and if such facilities are not repowered at the end of their useful life, they will need to be decommissioned, and once decommissioning is completed, the Huron County zoning map can be amended to remove any associated overlays.

Repowering a wind energy facility would allow the operator to modernize and update the wind turbines and related infrastructure. Repowering would allow the associated overlay to remain on the zoning map, however, new permits would have to be issued by the County. Further, any wind energy facility that is repowered would have to comply with

⁴ A zoning ordinance shall be based upon a plan. MCL 125.3203(1).

all current zoning ordinance requirements. Repowering could entail the removal of the original wind turbines and related infrastructure, in part or in whole, and be replaced with new wind turbines and related infrastructure. Repowering involves the operator of the wind energy facility to submit a plan showing the removal of the wind energy facility, whether in part or in whole, and its replacement in which it is demonstrated that compliance with current zoning ordinance requirements is met by the repowered facility. Such a repowering plan shall maintain the use of the existing associated wind overlay.

Decommissioning a wind energy facility would encompass its removal. Decommissioning never precedes repowering. A triggering event, as described in the facility's approved decommissioning plan, necessitates the removal of the wind energy facility. Such a triggering event might be the time when a portion of the facility ceases to generate electric power for a specified period, or it might be a timeframe specified within the power purchase agreement with the utility. Decommissioning does not involve the issuance of any new permits for the operation of a wind energy facility. In order to ensure a full and complete decommissioning, at the discretion of the Huron County Board of Commissioners, the zoning map can be amended to remove the associated overlay for the former facility.

In terms of utility-scale wind energy, the Draft Plan (pp 104-105) concludes with an Action Plan to address repowering concerns which includes possible amendments to the existing Zoning Ordinance.

Action Plan for Utility-Scale Wind Energy:

1. Modify zoning ordinance provisions for wind energy facilities to incorporate options for repowering.
2. Maintain database of wind energy facilities in operation in the County and track the commercial operation date with anticipated timeframes related to the PPA.
3. Review individual decommissioning agreements.
4. For each individual wind energy facility, outline a schedule for anticipated decommissioning or repowering.
5. One year prior to the anticipated end of useful life, engage the operator in a discussion of options for repowering or for decommissioning.
6. If the operation is repowered, then new permits will need to be obtained that demonstrate compliance with current zoning ordinance requirements.
7. If the operation will be decommissioned, then allow the operator to initiate the decommissioning process. If not initiated on time, the County may initiate the process, per applicable zoning ordinance requirements. Removal of the associated overlay on the zoning map can be initiated through the zoning amendment process.
8. If the operation is damaged and subsequently inoperative because of an inclement weather event, a tornado, wildfire, or other unforeseen hazard(s), the operator may choose to rebuild damaged structures or components under the

terms of existing permits, or the operator may choose to repower which would then necessitate the process to obtain new approvals to demonstrate compliance with current zoning ordinance requirements. It should be recognized that if a portion of the operation is damaged and inoperative, the operator may elect to remove that portion of the operation as long as overall energy production and related agreements are not compromised.

9. For any nonconforming wind energy facility, it may continue per the requirements for nonconforming uses in Section 14.03 of the zoning ordinance. (Draft Plan, pp. 104-105.)

VII. REVIEW OF 2015 ZONING ORDINANCE AND OVERLAY-NONCONFORMING USE PROVISIONS

A. Introduction.

We reviewed the Zoning Ordinance focusing on the nonconforming use provisions at Article XVI, Section 14.03, the Overlay as it may relate to nonconforming uses, as well as key definitions in the Zoning Ordinance. The key provisions will be discussed below in the context of anticipated partial or full repowering requests in the near future. In addition, we make recommendations regarding amendments to Article XVI, Section 14.03, to better account for repowering.

B. Key Zoning Ordinance and Overlay Definitions:

1. (21) Building: Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter, or enclosure of persons, animals, chattels, or property of any kind. (Zoning Ordinance, Section 2.02, p. 5.)
2. (48) Essential Services: The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals and hydrants and other similar equipment, and applicable accessories reasonably necessary for the furnishing of adequate service by such public utility or municipal department for the public health, safety, and welfare in connection therewith, but not including buildings other than such buildings which are primarily enclosures or shelters for essential services equipment or service personnel. (Zoning Ordinance, Section 2.02, p. 9.)⁵

⁵ We are not aware of DTE's or Consumers' (both public utilities) attempts to claim zoning priorities as an "essential service" as defined above or as discussed in Section 16.02 of the Zoning Ordinance. Ordinarily, WES are not considered transmission or distributions systems with the exception of the underground collection lines (distribution). In our opinion, under the Zoning Ordinance, a WES is not an essential service, however, there is case law to the contrary in other states. See, *Matter of West Beekmantown Neighborhood Assn, Inc v Zoning Bd. of*

3. (98) Nonconforming Building or Structure: A building or structure or portion thereof lawfully existing on the effective date of this Ordinance, or amendments thereto, and that does not conform to the provisions of the Ordinance in the district in which it is located. (Zoning Ordinance, Section 2.02, p. 14.)
4. (99) Nonconforming Use: A use which lawfully occupied a building or land on the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the district in which it is located. (Zoning Ordinance, Section 2.02, p. 15.)
5. (108) Public Utility: A person or firm, or corporation, municipal or county department, board or commission duly authorized to furnish and furnishing under Federal, State or Municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water. (Zoning Ordinance, Section 2.02, p. 15.)
6. (122) Structure: Means a walled and roofed building that is principally above ground, including gas or liquid storage facilities, and mobile homes. (Zoning Ordinance, Section 2.02, p. 17.)
7. (126) Use: The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied. (Zoning Ordinance, Section 2.02, p. 17.)
8. **End of Useful Life** shall mean the Wind Energy Conversion Facility, or a portion thereof, such as one or more individual wind turbines, that have not produced electrical energy for twelve (12) consecutive months (Overlay Exhibit 1, p. 2; Zoning Ordinance, Article X, p. 50.)
9. **Non-participating parcel** means a parcel of real property which is not under lease or other property agreement with a Wind Energy Conversion Facility (WECF) owner/operator. (Overlay Exhibit 1, p. 3; Zoning Ordinance, Article X, page 51.)
10. **Participating parcel** means a parcel of real property which is under lease or other property agreement with a Wind Energy Conversion Facility (WECF) owner/operator. (Overlay Exhibit 1, p. 3; Zoning Ordinance, Article X, page 51.)

C. **Discussion**

Appeals of Town of Beekmantown, 53 A.D.3d 954, 956, 861 N.Y.S.2d 864 (3d Dep't 2008) where the court upheld the finding of the zoning board of appeal's decision that the proposed wind farm was an "essential service" under the local zoning law. See also, *Wind Power Ethics Group (WPEG) v Zoning Bd of Appeals of Town of Cape Vincent*, 60 AD 3d 1282, 875 NYS2d 359 (4th Dep't 2009) The court upheld the finding of the town's zoning board that the proposed wind generation project qualified as a utility permitting its location in an agricultural and residential district. We recommend that any revised ordinance make it clear that WES wind farms are not considered essential services.

In light of the 2015 Overlay, it is assumed that a large number of WES which were installed or approved for construction prior to November 27, 2015 constitute a nonconforming use and/or a nonconforming structure or building governed by the nonconforming use and structure provisions of Section 14.03 of the Zoning Ordinance. It is assumed that the majority of the nonconformities pertain to setbacks. Section 14.03 was drafted to meet the requirement of MCL 125.3208(1), which provides that “[i]f the use of a dwelling, building or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment.” MCL 125.3208(1). MCL 125.3208 further provides that:

1. A legislative body *may* provide in a zoning ordinance for the completion, resumption, restoration, reconstruction, extension, or *substitution* of nonconforming uses or structures upon terms and conditions provided in the zoning ordinance. (Emphasis added) MCL 125.3208(2).
2. The elimination of nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. MCL 125.3208(4).

The Draft Plan (p. 105) confirms the right to continue operation of a nonconforming WES simply stating that for any nonconforming wind energy facility, it may continue per the requirements for nonconforming uses in Section 14.03 of the zoning ordinance. Application of the nonconforming use provisions of Section 14.03 will be discussed below but two other sections of the Zoning Ordinance provide protection and control to the County and limit the expectation interests of an owner.

Article XX of the Zoning Ordinance (p. 150) provides as follows:

INTERPRETATION

In interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of law or Ordinance, with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this ordinance imposes a greater restriction than is required by existing ordinances or by rules, regulations or permits, the provisions of this Ordinance shall control. *** (Zoning Ordinance, p. 150.)

Article XXI of the Zoning Ordinance (p. 150) provides as follow:

VESTED RIGHTS

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare. (Zoning Ordinance, p. 150.)

With specific reference to nonconforming uses and consistent with MCL 125.3208(2), the Zoning Ordinance enumerates various terms and conditions which provide for the continued use of a nonconforming use or structure. Section 14.03(2). While these nonconformities may continue "until they are removed," it is intended by the Zoning Ordinance "not to encourage their expansion or survival beyond their present level of development." Section 14.03(1). If the nonconformity is based upon setback, height or area, any extension, enlargement, alteration, remodeling or modernization must be in compliance with all current regulations. Section 14.03(3). A nonconforming structure may, however, be altered to "decrease its nonconformity." Section 14.03(3)(B). The removal or destruction of a nonconforming building or structure would eliminate the nonconforming status of land where the destruction constitutes damage to "an extent of more than 50% of the replacement cost at the time of destruction." Section 14.03(3)(F). "Replacement cost" is the cost of restoring the building or structure to its original condition. Section 14.03(6).

Repairs and maintenance work "required to keep a nonconforming building or structure in sound condition may be made, but it shall not be structurally altered to permit the use of such building or structure beyond its natural life." Section 14.03(4). Natural life is not defined. Further, in the event any nonconforming building or structure is damaged by fire, wind, Act of God, public enemy or other cause, it may be rebuilt or restored if the cost thereof does not exceed fifty (50) percent of the value of the nonconforming building or structure after the rebuilding or restoration is complete. Section 14.03(4). However, if the nonconformity is by reason of height, lot area, width, or yard requirements (no mention of setback) and there is damage by fire, wind, Act of God, public enemy or other cause, the building or structure may be rebuilt or restored as a matter of right regarding of value after the rebuilding or restoration. Section 14.03(4) (last sentence). In certain situations (which may not be applicable to WES as written), certain expansions, extensions, enlargements, rebuilding or restoration may be authorized by the County Zoning Board of Appeals taking into consideration whether the expansions, extensions, enlargements, rebuilding or restoration "will substantially extend the probable duration of the nonconforming use." Section 14.03(4)(1). A nonconforming use or structure may not be reestablished after the discontinuance, lack of operation, or otherwise for a period of twelve months. Section 14.03(5)(1). Finally, the County is required to notify the owner that his property constitutes a nonconforming use so that the owner may apply for a certificate of occupancy for that nonconforming use. Section 14.03(10)(A).

How would Section 14.03 apply to existing nonconforming WES and repowering demands?

Building, Use or Structure

Is a nonconforming WES (e.g. due to setback changes) a nonconforming building, structure or a nonconforming use? In order to constitute a building, under the Zoning Ordinance a roof is required and it must shelter persons or property. A structure is a walled or roofed building. In ordinary parlance, a WES is not a building or a structure as there is no roof as we commonly understand what a roof looks like. On the other hand, a WES has a door and an enclosed interior walled area containing personal property (computers, ladders, lifts), allows for human activity and the interior area is protected by a very tall, hollow enclosed tube performing the same function as a roof. While the ordinance should be amended to specifically state for purposes of Section 14.03 that a WES constitutes a building and/or structure, it is our opinion that a court would rule that a WES is a building or structure or both.

Is a nonconforming WES (again due to setbacks but within the non-redesigned overlay district) a nonconforming use? A nonconforming use is a use which lawfully occupied a building or land on the effective date of the Zoning Ordinance, or amendments thereto, and that does not conform to the use regulations of the district in which it is located. (Zoning Ordinance, Section 2.02, p. 15.). Absent a

change in the overlay, an electrical generation use is permitted but arguably that use does not conform to the use regulations in the district it is located in to the extent that a setback is a use regulation. We believe it is. Consequently, it is our opinion that a nonconforming WES (due to improper setbacks) is both a nonconforming use and a nonconforming building or structure. Designation as both may be advantageous should litigation arise. An example of the complexity of determining whether a nonconformity is a use or structural nonconformity may be found in *Century Cellnet of Southern Michigan Cellular, Limited Partnership v Summit Township*, 250 Mich App 543 (2002). Century Cellnet owned a communications tower which became a nonconforming use in a C-2 district. Century wanted to replace six antennae with smaller, more powerful antennas and install three additional antennas on the tower. The court of appeals found that the additional three antennas would constitute an impermissible expansion of the nonconforming use by increasing the number of antennas present. Of interest in footnote one is the court's comment that the record was not clear whether the tower may also have been a nonconforming structure. (See Exhibit 8).

Given that a WES is likely both a nonconforming use and a nonconforming structure and building, we are of the opinion that Section 14.03 should be applied as follows. .

1. The existing WES are nonconformities that enjoy the protection of MCL 125.3208(1) and Section 14.03(2) and may continue to operate notwithstanding the 2015 revision to the Zoning Ordinance.
2. That such use may continue for the "natural life" of the WES. As discussed above, a typical PPA is for 20 years. The useful life of a PPA can be 30 years. It is likely that at some point, the cost of maintaining the WES will compel a decommissioning decision. This will likely occur near the end of the term of the PPA. If a new PPA will not cover the continued costs of operation of an old WES the WES will be removed consistent with the gradual elimination goals of the ordinance which is also a public purpose. MCL 125.3208(4). The owners should be engaged to determine their opinion of what the natural life of their WES is.
3. The vested rights of the WES owners are protected not only for use but for repairs and maintenance to keep the WES in "sound condition". Section 14.03(4). Consequently, damaged blades and nacelles may be repaired or replaced. While the replacing of a blade or nacelle may constitute a "structural alteration" it would not extend the natural life of the WES. See, *Madison Heights v Manto*, 359 Mich 244 (1960) discussed infra.
4. In the event a WES is damaged by fire, wind, Act of God, public enemy or other cause, Section 14.03(4) allows rebuilding or restoring provided the cost does not exceed 50% of the value of the nonconforming building or structure after the rebuilding or restoration is complete. The term "or other cause" is quite broad and could cover externally caused damage or simply defective construction or design. The value of a WES after rebuilding or restoration is highly fact based and will be debated. Merely replacing a blade or nacelle or interior components will likely not violate the 50% limitation. Replacing a tower, blades and nacelle would violate the 50% limitation. We recommend that any new zoning ordinance outline permissible rebuilding and restoration rights for WES.
5. Computer components and computer programs are routinely updated either because of failures or due to greater efficiencies. This should be allowed because they are not structural alterations, could fall under maintenance but would not extend the natural life of the WES.

6. Many of the above acceptable scenarios could be considered partial repowering. We are of the opinion that increasing the tower height or extending the length of the blades (both a partial repowering) would not be permitted under Section 14.03. Such alterations or modernization would likely increase the nonconformity of the WES which is prohibited under Section 14.03(3) B.
7. We are of the opinion that a full repowering (new tower, nacelle, blades etc.) is not permitted without complying with the 2015 amendments. A full repowering would not be permitted under Section 14.03. There is no statutory requirement compelling approval of repowering of a nonconforming WES. The County was authorized to allow a "substitution" of a nonconforming structure, however, the Zoning Ordinance does not so provide. MCL 125.3208(2). While such a provision is allowed, it is not mandatory under the ZEA or case law. The Zoning Ordinance simply does not require it or permit it. Notwithstanding the fact that easements may be extended, we are not aware of any agreements between the County and the owners that the owners could rely on to seek enforcement. Further, the County has a rational basis to support more stringent setbacks and other protections.
8. Section 14.03 B allows alterations intended to decrease a nonconformity. Consequently, any alteration which could reduce flicker or noise nonconformities may be allowed. Whether a WES could be moved to satisfy a setback nonconformity would require more consideration. The cost of moving an existing WES would likely eliminate this as an option.
9. Potentially, an owner may challenge the natural life or probable duration language in the ordinance as an impermissible amortization of a nonconforming use under Michigan law. We are not of the opinion that such a claim would be successful. The Zoning Ordinance allows the WES to remain for its natural life. This allows for the full economic use of the WES and full economic depreciation to occur. We believe the impermissible amortization rule cannot be extended to permit a full repowering. See the discussion beginning at page 17 of this letter and footnote 9. See also Lawrence, Michael A., A PROPOSAL TO AMEND THE MICHIGAN ZONING ENABLING ACT TO ALLOW AMORTIZATION OF NONCONFORMING USES, Det. C. L. Mich. St. U. L. Rev. 653, Fall 1998 for a full discussion of the amortization rules in Michigan.
10. We are not aware of any foundation replacements for any WES in Michigan. If the same tower, blades and nacelle are used after replacement of the foundation for repair or maintenance purposes, we believe that a foundation replacement is permitted under the Zoning Ordinance.
11. Removal of a nonconforming WES constitutes elimination. Section 14.03(3) F. Any attempt to do a full repowering of a WES (except as allowed above) without County approvals and without full compliance with the 2015 regulations is prohibited.
12. Potentially there are other scenarios that an owner may present different than those above. The owners should be invited to enumerate them and they could be considered on an individual basis.

VIII. RECOMMENDATIONS FOR ZONING ORDINANCE AND OVERLAY ORDINANCE REVISIONS

A. Recommendations for Revisions to the Zoning Ordinance

1. Complete an inventory of all nonconforming WES specifying all nonconformities.
2. Provide notice to owners so they can comply with Section 14.03(10) of the Overlay requiring the Owner to apply for a certificate of compliance within 30 days.
3. List examples of WES routine repair and maintenance work that can be performed that would comply with Section 14.03(4). Solicit input from owners in this regard.
4. Define "natural life" as used in Section 14.03(4) of the Overlay. Consider input from the owners where they identify what the natural life of an existing (unaltered) WES is.
5. List repairs and modifications (if any) that would require new approvals.
6. Define "or other cause" in Section 14.03(4).
7. Identify typical performance upgrades that would not extend useful or natural life.
8. Require owner to report all WES modifications to the County and to the local assessor providing cost information. Some owners are already improperly failing to report such additions and losses to the local assessors.
9. Have the owners identify all participating parcels for each wind park and identify the specific contract rights with each landowner. Identify what the initial term of each easement is and identify whether any options to extend the easement have been exercised.
10. The Action Plan in the Draft Plan (pages 104-105) appears reasonable.

IX. LEGAL ANALYSIS AND REVIEW OF AUTHORITY

A. Continuation of an Existing Nonconforming Use and Ultra Vires Ordinance Restrictions.

1. Regulation and Elimination of Nonconforming Uses Through Municipal Zoning Ordinances.

Under MCL 125.3208(1) of the ZEA, "[i]f the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment." Municipalities are permitted to "provide in a zoning ordinance for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures

upon terms and conditions provided in the zoning ordinance.” MCL 125.3208(2). Thus nonconforming uses which predate ordinance enactment are permitted to continue. Generally speaking, however, “nonconforming uses may not expand, and one of the goals of zoning is that nonconforming uses be gradually eliminated.” *Jerome Twp v Melchi*, 184 Mich App 228, 231 (1990). The continuation of a nonconforming use must therefore “be substantially the same size and same essential nature as the use existing at the time of passage of a valid zoning ordinance.” *Id.*

Zoning ordinances typically reflect this way of addressing nonconforming uses. In *Cole v Battle Creek*, 298 Mich 98, 100-101 (1941), for instance, plaintiff sought to tear down a nonconforming greenhouse and appurtenant buildings in order to build two new wings onto one of the structures. The defendant’s Zoning Board of Appeals denied an application for the project as the property was zoned residential and the proposed construction “would unduly prolong the life of the nonconforming use now existing on the premises.” *Id.* In criticizing the trial court’s focus on the nonconforming use’s square feet as a method for determining if such use would be expanded, the court stated that “[t]he proper test is whether an existing nonconforming use is extended and the life of the existing nonconforming building prolonged.” *Id.* at 103. The court relied on the ordinance for the meaning of “alteration” to determine what type of activity or change was permitted, and noted that “[i]f plaintiff merely wanted to install a new front on an existing building . . . that might be a permissible alteration,” but that the “structural alterations in and additions to” the nonconforming use were not permitted by the ordinance.⁶ *Id.*

The court in *Cole* cited *Austin v Older*, 283 Mich 667 (1938) as analogous. *Austin* involved a plaintiff who constructed a building and appurtenances for a gas station on property later zoned as residential. *Id.* at 670. Plaintiff sought a permit to remodel and modernize his gasoline station, in part by filling in a pit used principally for draining and lubricating automobiles and extending a bay window, while also doubling the size of his building for a “lubritorium.” *Id.* The plaintiff claimed there would be no change in the use of the property, and no more of the premises would be used. *Id.* at 671. The court found that the change contemplated by plaintiff was “one in the structural quality of the building” and plaintiff did not “have the right to modernize the building by erecting a substantial addition” without complying with the ordinance requirements, even if the improvements were “in order to meet competition.” *Id.* at 672-73. Thus “[e]ven though, through normal business competition, the denial of the

⁶ See also *Lafayette Mkt & Sales Co v Detroit*, 43 Mich App 129, 130-31 (1972) (holding that a nonconforming business operation in an area zoned for residential uses could not add a second story); *Norton Shores v Carr*, 81 Mich App 715, 720 (1978) (holding that a nonconforming landscaping business could not expand past the area utilized prior to the enactment of the municipality’s zoning ordinance, because “[t]he nonconforming use is restricted to the area that was nonconforming at the time the ordinance was enacted”); *White Lake Twp v Lustig*, 10 Mich App 665, 668-69, 674-75 (1968) (holding that because “it is the law of Michigan that the continuation of a nonconforming use must be substantially of the same size and same essential nature as the use existing at the time of passage of a valid zoning ordinance and that the use must be within the same spatial confines that the prior use occupied,” when a vehicle junkyard and salvage business increased from a few cars to up to 200 and added new buildings as well as areas and hours of operation, “the operations and use of the land have been expanded, are different in nature, and occupy a greater area than that determined by the prior use”); *Century Cellnet of Southern Michigan Cellular v Summit Twp*, 250 Mich App 543, 546-48 (2002) (holding that where plaintiff sought to replace six panel antennas on a telecommunications tower with smaller but more powerful antennas and add three additional antennas to the tower, “their addition would clearly increase the number of antennas present” and “would change the positioning of all antennas on the tower and would increase the density of antennas present,” which would effectively expand the nonconforming use).

permit may eventually cause plaintiff's property to be of little or no value . . . , he still may use it for purposes permitted by the zoning ordinance." *Id.* at 676-77. Therefore, while he "may be deprived of some property rights . . . , the due process clause does not prevent a valid exercise of the police power." *Id.* at 677. The court did state, however, by way of qualifying the municipality's power, that "[a]n ordinance requiring an immediate cessation of a nonconforming use may be held to be unconstitutional because it brings about a deprivation of property rights out of proportion to the public benefit obtained." *Id.* at 676; see also *Gackler Land Co, Inc v Yankee Springs Twp*, 427 Mich 562, 574 (1986) ("A prior nonconforming use is a vested right to continue the lawful use of real estate in the manner it was used prior to the adoption of a zoning ordinance" and "[a] zoning ordinance cannot operate to oust the property owner of his vested right even through the ordinance is reasonable"); *Heath Twp v Sall*, 442 Mich 434, 439 (1993) ("Once a nonconforming use is established, a subsequently enacted zoning restriction, although reasonable, will not divest the property owner of the vested right . . . Thus a prior nonconforming use is an exception to zoning's general principle that certain uses should be confined to certain localities"); *Belydere Twp v Heinze*, 241 Mich App 324, 328 (2000).

A prior nonconforming use therefore provides a vested right to use property in a way that does not conform to zoning restrictions, although expansion is severely restricted. *Century Cellumet of Southern Michigan Cellular, Limited Partnership v Summit Township*, 250 Mich App 543, 546-548 (2002). As illustrated above, "expansion" of a use can be interpreted to include both geographic additions and more intensive operations. Thus the expansion of a nonconforming use's footprint or the nature of its operation may be regulated, while the nonconforming use as existing at the time of the ordinance may not be effectively prohibited. The outlines of these concepts are further explored below. Under the *Cole* test no full repowering would be allowed.

2. Municipal Ordinances and Alterations of a Nonconforming Use Which Are Not Expansions or Extensions.

Projects related to a nonconforming use which do not expand or extend that use are permitted. In *Paye v Grosse Pointe*, 279 Mich 254, 259-60 (1937), for instance, plaintiffs owned a nonconforming commercial building which they sought to modify by removing the existing fronts and installing one made of modern plate glass. A city ordinance stated that nonconforming uses could "neither be structurally altered or enlarged unless such altered or enlarged part shall conform to the provisions of this ordinance for the district in which it is located." *Id.* The court held that "[i]f nonconforming uses of property within the City of Grosse Pointe are to be allowed and they are permitted under certain conditions by the ordinance, the right of the owner to repair should not be unreasonably curtailed by judicial construction." *Id.* at 259. The court further held that as used in the ordinance, the "permissive language" indicated that the use of "structurally altered" was meant to prohibit changes which "would convert an existing building into a different structure." *Id.* at 260. Because the proposed alteration did not "change the form or character of the building, its general appearance, or structural quality," and instead merely substituted "new windows and doors for the old ones" and did not enlarge the size of the store, which would "perhaps be made more modern and attractive," the installation of a new front was not a structural alteration within the meaning of the ordinance and was permitted. *Id.*

This issue was also addressed in *Horowitz v Dearborn Twp*, 332 Mich 623 (1952), where plaintiffs used their property for carnival purposes in nonconformity with the local zoning ordinance. Plaintiffs sought to change the tents and structures on their property from canvas to aluminum, to which the township objected. *Id.* at 624. The court noted "that the area covered by the aluminum structure is the same as theretofore," and "no additional land [was] being used and the location remain[ed] the same," meaning no change had "taken place in the scope of the use as a result of the substitution of aluminum for canvas" and "the type of the buildings was not changed nor their size increased by the use of aluminum

instead of canvas.” *Id.* at 625. Indeed, “the change was an improvement from the standpoint of appearance, fire hazard, safety, sanitation and better operation of the business as a whole.” *Id.* Thus under the terms of the ordinance at issue the alteration of the nonconforming use was permitted because while the buildings’ material was changed, their type and size were not.⁷

Madison Heights v Manto, 359 Mich 244 (1960) involved improvements necessary for the continuation of a nonconforming use, specifically a trailer park in an area classified for residential one family dwellings. The trailer park sought to correct and improve its sewage disposal facilities, which had previously consisted of a septic tank. *Id.* at 246. The city argued that state policy favors the gradual elimination of nonconforming uses, citing *Cole*, 298 Mich 98; *Paye*, 279 Mich 254; and *Austin*, 283 Mich 667. Defendants countered that contrary to the circumstances in *Cole*, this proposal had nothing to do with an inability to meet competition, and only involved “ordinary maintenance, not such construction as to amount to a change in the fundamental purpose of the premises . . . nor, in fact, even an ‘extension’ of the nonconforming use.” *Id.* at 249. The court noted that the septic tank tile field system at issue presented “a constant maintenance problem” and “[t]he life expectancy of such fields varies,” but when “the field ‘fails’ . . . a nuisance may and probably will result unless the field is relocated.” *Id.* Thus “the system wears out, or exhausts its usefulness, much as water pipes may ultimately become clogged due to impurities in the water.” *Id.* The proposed project, which entailed the relocation of the septic fields, or devices to permit them to operate more efficiently, in no way effected “any change in the fundamental nature of the operation” and “the acreage devoted to the project” remained unchanged, as did “the number of trailer units licensed.” *Id.* at 250. As such, the court found that there was “no more here than routine repair made necessary by deterioration” and “[s]uch ordinary maintenance is within the right of the owner of property upon which there exists a nonconforming use and is not a prohibited expansion or enlargement of such use.” *Id.* In other words, maintenance of the septic system which serviced the nonconforming use did not amount to an expansion of that use.

This issue was also discussed in *Palmer v Detroit*, 306 Mich 449, 454 (1943), which addressed a proposed change in a nonconforming use, from a 24-hour per day manufacturing site to a cartage business. The court in *Palmer* stated the following in ultimately overturning the city’s denial of the plaintiff’s proposed new use:

May the building be used for almost the same purposes for which it was designed and built, but for a nonconforming use of a higher grade than the one it was used for when the zoning ordinance went into effect? A higher nonconforming use is one not as objectionable as the former one. While it does not conform, it, however, does so in a greater degree than the use to which the property was formerly put to when the zoning ordinance was adopted. No structural changes or additions of any kind are being asked for. No alterations of any kind that would prolong the life of the building are sought.

...

⁷ The relevant ordinance here stated as follows: “Nonconforming Uses. The lawful use of premises existing at the time of the adoption of this ordinance may be continued, although such use does not conform with the provisions hereof, and such use may be continued throughout the building, provided no structural alterations or changes are made therein except those required by law or ordinance or such as may be required for safety, or such as may be necessary to secure or insure the continued advantageous use of the building during its natural life.” *Id.* at 237.

The real question is, whether the ordinance is reasonable in not permitting a higher grade nonconforming use and thus preventing total uselessness of plaintiff's property and the destruction of the large investment therein. It is our judgment that if the ordinance is construed so as to prevent such a use under the particular facts of the case, it is not reasonable. *Id.* at 455-56.

In essence, therefore, it was not reasonable for the ordinance to prevent the change in use that was contemplated, as it was not an expansion but was instead simply a change in use "to substantially that for which the building is designed, a nonconforming use, but of a higher grade than the manufacture of metal products for 24 hours a day." *Id.* at 456.

Also relevant is *Eveline Twp v H & D Trucking Co*, 181 Mich App 25, 29-30 (1989), in which a nonconforming site used as a deep water port was leveled and graded without a permit from the plaintiff's zoning board. The court held that the site had been leveled and graded multiple times after the enactment of the relevant zoning ordinance "to increase usable storage space on the site," although "the entire property had been leased and used for marine dockage and material storage prior to the passage of the ordinance, and that this use was not restricted to certain portions of the property." *Id.* at 30. Thus "[m]erely because the site was improved in" multiple years subsequent to the ordinance's enactment "does not lead to the conclusion that the use would be substantially increased past" the levels existing at that time. *Id.* In other words, while the site had been improved to increase usable storage space on the property, that increase was still within the area contemplated for the nonconforming use at the time the ordinance was passed and did not therefore constitute an expansion.

A similar situation was presented in *Independence Twp v Eghigian*, 161 Mich App 110, 112-13 (1987) where defendants had parked a 1967 dump truck in their residential driveway prior to a zoning ordinance which made such action nonconforming. After passage of the ordinance, defendants replaced their 1967 dump truck with a larger dump truck, which plaintiff township challenged as an ordinance violation. *Id.* The court stated that "[a] 'nonconforming use' comprehends the physical characteristics, dimensions, or location of a structure as well as the functional use thereof or of the premises on which it is located." *Id.* at 115 (citations omitted). Under this analysis, the court found that even though "the defendants' present truck has one more axle and weighs more, it is substantially the same size as the former truck and serves the same purpose" and therefore there was "no unlawful extension" of the nonconforming use. *Id.* at 116.

A nonconforming use's maintenance, upkeep, or improvement is therefore protected from regulation so long as such actions do not expand the use by increasing its size or nature. A nonconforming use which is essentially maintained or improved without expansion is therefore exempt from subsequent regulation which would interfere with its operation and existence.

3. Nonconforming Uses and Property Rights.

As suggested in *Cole*, the permitted continuance of nonconforming uses is essentially premised on the notion that termination of the same would impair vested property rights.⁸ 283 Mich at 676. Stated

⁸ See e.g. *De Mull v Lowell*, 368 Mich 242, 250 (1962), which stated that "the fact remains that the cities of Michigan have not as yet been authorized, by requisite legislative act, to terminate nonconforming uses by ordinance of time limitation." The court in *De Mull* quoted an Attorney General opinion regarding the City and Village Zoning Act, which was effectively repealed and replaced by the ZEA, to show that the legislation removed language which would have permitted a municipality to establish amortization

another way, “[t]he continuation of a nonconforming use under the zoning ordinance is for the purpose of avoiding the imposition of a hardship upon the owner of the property with a view to the gradual elimination of such nonconforming use.” *Redford Moving & Storage Co v Detroit*, 336 Mich 702, 711 (1953) (quoting *Palmer*, 306 Mich at 454). In *Redford*, for instance, the defendant sought to zone property with a long history of commercial use as noncommercial, which change plaintiff sought to enjoin as it would interfere with the property’s use for a moving and storage business. The court stated that “[w]hat would amount to an immediate, not a gradual, elimination of such nonconforming use is insisted upon by defendant even though this would amount to the destruction of the use of property.” *Id.* As such, plaintiff was permitted to continue the use that it was making of its property. *Id.* at 712.

Therefore, as stated in *Kopietz v Zoning Bd of Appeals for Clarkston*, 211 Mich App 666, 674–76 (1995), “the most that an ordinance can accomplish is a limited restriction on the owner’s rights, pursuant to the police power, to prevent the expansion of nonconforming uses.” *Kopietz* presented a situation similar to that found in *Palmer*, as it involved a city’s denial of plaintiffs’ attempt to transition a nonconforming funeral home into a nonconforming bed and breakfast, despite the fact that no structural alterations would be made. The court cited MCL 125.583a(2)⁹ as the Legislature’s attempt “to assist the zoning authorities in not acting unconstitutionally” by allowing “establishment by ordinance of the requirements regarding resumption, restoration, reconstruction, extension, or substitution of nonconforming uses and structures.” *Id.* at 675. This permitted municipalities to “properly prohibit the enlargement, expansion, or extension of nonconforming uses but also provide[d] for the diminution of nonconforming uses without requiring cessation.” *Id.* The court stated that this approach strikes the “proper balance . . . between the municipality’s interest in gradually eliminating nonconforming uses and the property owner’s constitutionally protected rights in the use of his property.” *Id.* Essentially, “not every change in a nonconforming use constitutes an extension of a prior nonconforming use” and “the rule is that when the proposed use does not expand or extend the nonconformity, the property owner or his successors can continue the nonconforming use.” *Id.* at 676. The property’s use as a bed and breakfast was therefore permitted to proceed.

This is similarly evidenced by the decision in *Orion Twp v Weber*, 83 Mich App 712, 720–22 (1978). This case involved a specific factual inquiry to determine whether an ordinance would improperly result in the termination of defendant’s vested right to a nonconforming use, specifically the use of its property as a gravel mining operation. The court found that the ordinance in question required a certain estimate by a civil engineer in order to obtain a permit for carrying on a sand and gravel business. *Id.* at 722. This estimate would require “quite a bit of data relative to the soil types and it would involve a significant amount of soil borings” at a cost “in excess of \$100,000.” *Id.* The court noted that the “question of regulation of a nonconforming use is not an easy one to resolve because of the competing interests involved.” *Id.* at 720. For instance, “the general health, safety, and welfare of the general

periods for nonconforming uses. *Id.* at 250-52. Thus “[s]o far the legislature has permitted ordinances providing only for resumption, restoration, reconstruction, extension or substitution of nonconforming uses” and “has withheld permission to destroy them, by time limitation or otherwise.” *Id.* at 252; *Central Advertising Co v Ann Arbor*, 42 Mich App 59, 73 (1972) (holding that a sign ordinance which required certain uses to be phased out on certain time schedules was invalid as “amortization of nonconforming uses is improper”); *Expert Steel Treating Co v Clawson*, 368 Mich 619, 624–25 (1962).

⁹ This statutory section of the City and Village Zoning Act, like its corresponding section in the Township Zoning Act (MCL 125.286(2)), was repealed and effectively restated in the ZEA at MCL 125.3208(2) using permissive, rather than mandatory language, such that municipalities “may” provide for alterations of nonconforming uses. See MCL 125.3702.

populace would seem to demand that a nonconforming use be made to keep pace with existing technology, despite the fact that changes of that sort might result in financial outlay which might have the effect of diminishing the value of the use to some degree," although "because a nonconforming use represents a statutorily vested right . . . regulation cannot be so onerous as to be confiscatory in nature." *Id.* The court stated that requiring this cost for an annual permit under the ordinance was unreasonable and "in effect, prevents any application from getting a permit unless they" obtain the requisite documents. *Id.* at 723-24. The court found that this was "confiscatory regarding a nonconforming use, and accordingly invalid." *Id.* at 724.

This analysis was also presented in *Wolverine Sign Works v Bloomfield Hills*, 279 Mich 205, 207 (1937). Here a city ordinance prohibited maintenance of billboards without a permit, which permit was not going to be granted despite the relevant billboard predating the ordinance. The court determined that this regulation subjected the property owner "to the penal provisions for violation, destroy[ed] the lease use, a property right, and incidentally [took] from the owner of the land the right of such rental." *Id.* at 207. Ultimately the court held that while "[t]he city may establish zones and prohibit the erection of billboards therein and may, to promote public health, safety, and general welfare, within reasonable considerations, regulate the maintenance of billboards," it could not "arbitrarily strike down the maintenance of erected billboards or vest such power of arbitrary action in municipal officers." *Id.* The court believed that the ordinance here ran afoul of that restriction and was therefore invalid.

A property owner's ability to continue a nonconforming use is therefore a constitutionally protected right. Courts have continually overturned municipalities' attempts to interfere with or eradicate such uses by preventing maintenance or alterations that align with the nonconforming use as it existed when subsequent regulation was enacted. Instead, municipalities are only permitted to regulate the expansion or extension of such uses. We are of the opinion that Section 14.03 of the zoning ordinance complies with Michigan law, is not an illegal amortization of a nonconforming use and it allows the full use of a nonconforming use/structure for the natural life of the WES.

B. Exclusionary Zoning.

Under MCL 125.3207, a zoning ordinance may not totally prohibit the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful. See also *Kyser v Twp*, 286 Mich 514, 541-42 (2010) (stating that the ZEA "applies to all land uses within the community and precludes the zoning power from completely prohibiting a lawful land use where there is a demonstrated need for that land use within a jurisdiction").

This provision's application to wind turbines was considered in *Tuscola Wind III, LLC v Almer Charter Twp*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued November 3, 2017 (Case No. 17-cv-10497), p 24-25 (2017 WL 5022640), where plaintiffs alleged that a township's ordinance "would make development of commercial wind energy in the Township impossible because a single wind turbine could not be sited" in accordance with the ordinance's location requirements. The court stated that "[e]ven assuming that the Township Board's interpretation of the ordinance completely excludes wind energy development in the Township," the plaintiff "made no attempt to show that there is a 'demonstrated public need' for wind turbines in Almer Township, and the Court cannot comprehend why such a need would exist." *Id.* at 25. The court determined that although "[w]ind turbines produce energy, which is, of course, needed by the Almer Township community," the plaintiff did not "reasonably argue that the Township will have inadequate access to energy absent the wind energy project." *Id.* Thus, because "to show demonstrated public need,

the plaintiff must do more than show that ‘residents of the township would *benefit* from’ the excluded use,” regulation that would effectively bar wind turbines from the township did not violate MCL 125.3207.¹⁰

The court in *Eveline Twp*, 181 Mich App at 31, also addressed whether the zoning ordinance was invalid with regard to defendant’s deep water port because it was improperly exclusionary. Here the court noted that based on MCL 125.297a, which was effectively repealed and replaced by the ZEA, “[a] local government entity may not use its zoning ordinance to totally prohibit an otherwise lawful land use from the land contained within its boundaries.” *Id.* at 31-32; see MCL 125.3702; MCL 125.3207. Here the court found that “the port was lawful and appropriate to the site, and that there was a demonstrated need for this port in the area,” and that the zoning ordinance had the effect of totally prohibiting a commercial

¹⁰ This case also noted the proposition that “Michigan Courts have repeatedly confirmed that courts should defer to municipal interpretations of zoning ordinances.” *Id.* at 18. In a similar case, the Township of Ellington enacted a zoning ordinance which included a sound pressure limitation at inhabited structures, a setback requirement based on turbine heights, and a shadow flicker limit. *Tuscola Wind III, LLC v Ellington Twp*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued March 13, 2018 (Case No. 17-cv-11025), p 7-11 (2018 WL 1291161); Complaint at ¶ 28. This was after an election in which plaintiff alleged there was a coordinated anti-wind campaign that resulted in the board members hiring a “wind lawyer” to draft a moratorium on all wind energy projects. Complaint at ¶ 1. This campaign was alleged to have included comments in public meetings “that the Township should model its setback and sound requirements to those found in the recently amended wind ordinance in neighboring Huron County.” Complaint at ¶ 41. In moving forward with its application for a Special Land Use Permit (“SLUP”) prior to the moratorium, in fact, plaintiff agreed to adhere to the sound and setback requirements in Huron County’s ordinance, which were more strict than those in defendant’s ordinance. Complaint at ¶ 52-55. In response to the moratorium, plaintiff filed a complaint alleging violations of the ZEA, Open Meetings Act, substantive due process, and procedural due process. The court granted plaintiff’s motion for judgment on the pleadings as to the ZEA count, finding that the moratorium had not been adopted in accordance with ZEA procedures and was an impermissible attempt to suspend an ordinance using a resolution. The remedy ordered was for the plaintiffs to have their permit application considered under the ordinance existing prior to the moratorium, although because the ordinance contained no deadlines for such consideration, “the appropriate timeline for consideration of Tuscola SLUP application is uncertain.” 2018 WL 1291161 at 11. This case also addressed whether municipalities can enact moratoria and found that they had such power, although the moratoria must be the legislative equivalent of the ordinance they suspend, meaning their passage must conform to the same procedural requirements which governed the passage of the ordinance being suspended. *Id.* at 8-11. In a later order, the court dismissed the remaining counts as moot because “[i]n its complaint, Tuscola seeks only injunctive relief” and that requested injunctive relief had already been granted, meaning that “[a] judgment in favor of Tuscola on any [remaining] claims would change nothing about any parties’ legal rights or expectations.” *Tuscola Wind III, LLC v Ellington Twp*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued July 27, 2018 (Case No. 17-cv-11025), p 9 (2018 WL 3609550). The court did entertain the possibility that the “due process claims could, perhaps be construed as alleging that [plaintiff’s] due process rights have been violated by the Township’s failure to *consider* the SLUP application in a timely manner (or at all),” but found that plaintiff had no protected property interest in the zoning application procedures and, “[g]iven the Township’s inherent discretion regarding whether to grant or deny a SLUP application, Tuscola cannot reasonably assert a right to its approval.” *Id.*

port facility within the township, meaning it constituted unlawful exclusionary zoning. *Id.* at 32. The court also addressed the township's argument that since the port "was a prior nonconforming use, its ordinance cannot be said to improperly totally prohibit defendant's port" because lawful land uses "which existed prior to passage of a zoning ordinance may be continued although they do not conform to the ordinance," *Id.* at 33. The court stated that this "does not mean that such uses are sanctioned under the zoning ordinance," but rather "that preexisting nonconforming uses are merely to be tolerated until it is possible to replace them with uses which conform to the local zoning ordinance." *Id.* at 33-34. In other words, even if the ordinance tolerated plaintiff's nonconforming use, it was still exclusionary given its effect on the type of use generally.

Also relevant is *International Outdoor, Inc v Livonia*, unpublished per curiam opinion of the Court of Appeals, issued June 14, 2016 (Docket No. 325243), p 10 (2016 WL 3298229) and the cases it cited as precedent. In this case the defendant's zoning ordinance banned new billboards which, due to the eventual elimination of old billboards, had the effect "of totally banning billboards in the city." *Id.* at 10. The court first considered Michigan's common law principle addressing exclusionary zoning, which states that "a community cannot effectively zone out legal businesses." *Id.* at 3 (quoting *Truckor v Erie Twp.*, 283 Mich App 154, 164 (2009)). The court found that the ordinance did not "zone out" a legal business because "[t]he ban on erecting new billboards does not prevent advertisers who use billboards in their course of business from soliciting and serving clients with businesses within defendant's jurisdiction or performing the day-to-day operations of their businesses within defendant's city limits;" instead it only prohibited "the actual construction of new billboards inside defendant's borders." *Id.* at 4.

The court also pointed to an important distinction between banning a use in its totality, and banning new iterations of that use while allowing for the maintenance and repair of the existing nonconforming iterations of that use. *Id.* at 5 (citing *Adams Outdoor Advertising, Inc v Holland*, 234 Mich App 681, 689-90 (1999) ("Although new billboards are banned and existing billboards are deemed nonconforming, defendant's ordinance provides that 'signs may be maintained and repaired so as to continue the useful life of the sign'"); *Adams Outdoor Advertising, Inc v Holland*, 463 Mich 675, 685 (2001) ("Moreover, on its face, the challenged ordinance sections do not currently completely prohibit billboards" because "[w]hile new billboards are banned, current billboards may remain" as the regulation "specifically permits a billboard owner to maintain and repair existing signs so as to continue their useful life" and "authorizes a billboard owner to remove a sign from its location for repair and maintenance and then to replace it," meaning that "although the ordinance sections do limit the number of billboards within the city, they do not constitute an impermissible total prohibition of billboards"). Thus where an ordinance does not technically constitute "a total prohibition on the proposed use" by allowing for the maintenance and repair of existing nonconforming uses, new installations of which are banned, an exclusionary zoning claim will fail. *Adams Outdoor*, 463 Mich at 685;¹¹ *Landon Holdings*, 257 Mich App 154, 168 (2003) ("Cases interpreting the statutory total prohibition requirement have generally involved uses that already existed in the township and the courts have found no total prohibition"). The court also found that the ordinance did not run afoul of MCL 125.3207, as plaintiff could not show a demonstrated need for the billboards in the city or the surrounding area because "the billboards permitted by other surrounding communities adequately addressed any such need." *Id.* at 9-10. Plaintiff therefore "failed to

¹¹ The court in *Adams Outdoor* stated that if, in the passage of time, the ordinance effectively eliminated all billboards, the opinion "should not be construed as foreclosing an 'as applied' challenge to the ordinance." 463 at 685 n 11. However, such a claim would effectively be reviewed as an equal protection claim, as stated in *International Outdoor*. 2016 WL 3298229, p 6 (citing *Kropf*, 391 Mich at 155-56; *Countrywide Condominiums*, 221 Mich App at 23-24). Such claims are addressed below.

demonstrate that there is a *public need* for billboards *within defendant's boundaries*," and its exclusionary zoning claim was rejected. *Id.* at 10.

The ZEA's exclusionary zoning provision was also considered in a decision which marked a change in case law analysis of zoning ordinances' regulation of natural resource development. In *Kyser*, 486 Mich 514, plaintiff claimed the defendant violated her due process by denying her request to have her property rezoned for gravel extraction. The court noted that previous decisions had held that "regulations which prevent the extraction of natural resources are invalid unless 'very serious consequences' will result from the proposed extraction," which served as an exception to the general "reasonableness" test for assessing the constitutionality of zoning regulations. *Id.* at 523-24 (citation omitted). In reviewing the decisions which advanced this rule, the court found that it originated as "one factor to consider when assessing whether a zoning ordinance was reasonable."¹² *Id.* Thus the "'no serious consequences' rule originated . . . as but a single factor in determining whether a zoning ordinance that regulates the extraction of natural resources is reasonable." *Id.* at 529. The court also noted that "there is no obvious difference in kind between being prevented from extracting resources and being prevented from using the land in any other way," meaning that natural resource extraction is not to be considered a preferred land use. *Id.* at 530-31, n 11, 536; see also *Kropf v Sterling Heights*, 391 Mich 139 (1974). Furthermore, the rule was "superseded by the exclusionary zoning provision" of the ZEA. *Id.* at 517, 540-43.

Thus "[a] wide array of land uses that are viewed as reasonable in general, including uses that are well-suited to a particular property, can be excluded on the basis of a zoning ordinance, provided that the ordinance is reasonable." *Id.* at 531. For instance, "[w]hen compared with any other unique, and potentially valuable, attributes of a particular property—its location, its view, its size or configuration, its terrain, its lakes and ponds and wildlife—minerals on a property do not render it any more unique or valuable in a way that would justify elevating mineral extraction to a specially protected land use by judicial decree." *Id.* Furthermore, the "no very serious consequences" rule was built on the flawed premise that natural resources "are *always* in demand by the public, and, therefore, unless there are 'very serious consequences,' local governments must always defer to the property owner where a zoning regulation affects natural resource extraction." *Id.* This case belied that assumption, as "large quantities of gravel were available from other sources within the township." *Id.* In addition, while preventing the extraction of natural resources may harm the interest of the public as well as those of the property owner by making natural resources more expensive, the court here did not find "any legal authority for the proposition that a constitutional standard that is less deferential to the zoning authority is required whenever a regulation makes a natural resource, or any other product, more or less expensive." *Id.* at 533 n 13. Thus this one public interest consideration should not be elevated above any others by the judiciary. Indeed, the ZEA "intended that localities would be responsible for regulating the extractions of natural resources within their boundaries," which power is not exempt from application to natural resources, and therefore it is contrary to the ZEA to dictate "that a single consideration, the extraction of natural resources, will always carry the highest priority in the land-use process." *Id.* at 542-43.

¹² The court in *North Muskegon v Miller*, 249 Mich 52, 57 (1929), stated that "courts have particularly stressed the importance of not destroying or withholding the right to secure oil, gravel, or mineral from one's property, through zoning ordinances, unless some very serious consequence will follow therefrom." As the court in *Kyser* pointed out, however, this statement was part of the *North Muskegon* court's finding that "the property in question is almost worthless if its use is to be restricted as provided in the zoning ordinance" and the effect of the zoning ordinance amounted almost to a confiscation of the property. *Id.* The *Kyser* decision effectively overruled *Silva v Ada Twp*, 416 Mich 153 (1982) as it pertained to the analysis of zoning ordinances which restrict the extraction of natural resources. 486 Mich at 534 n 15.

Exclusionary zoning claims therefore require plaintiffs meet the elements of MCL 125.3207 or show that a legal business has effectively and unreasonably been zoned out of a municipality's jurisdiction. As shown above, this case is difficult to make if existing nonconforming uses are permitted to continue in their current form and there is no actual need for the proposed land use within the specific jurisdiction. We are of the opinion that Section 14.03 of the Zoning Ordinance does not constitute exclusionary zoning.

C. Taking.

Both the United States and Michigan constitutions limit a municipality's power to regulate land use and require just compensation when private property is effectively taken by municipal regulation.¹³ US Const, Am V; Const 1963, art 10, § 2. The substantive requirements of the Michigan Takings Clause are indistinguishable from those of the Fifth Amendment. *Anderson v Ypsilanti*, 266 F3d 487 (6th Cir 2001); *Adams Outdoor*, 463 Mich at 23 ; *K & K Constr, Inc v Dep't of Environmental Quality*, 267 Mich App 523 (2005). While all taking cases require a case-specific inquiry, courts have found that land use regulations effectuate a taking where the regulation denies an owner economically viable use of his land or where its implementation adversely affects the value of private property or restricts a landowner's use of their property to such an extent that the burden of the restriction should be borne by the public. *K&K*, 456 Mich at 576; *Lingle v Chevron USA Inc*, 544 US 528 (2008) (narrowing the basis for such claims to regulations that deprive economically beneficial or productive use of the property, as the "substantially advances . . . formula prescribes an inquiry in the nature of a due process, not a takings test"); see *Penn Central Transp Co v New York*, 438 US 104, 148 (1978) (citation omitted). A reduction in value alone, however, is insufficient by itself to establish a compensable regulatory taking. *K&K*, 267 Mich App at 526. The most relevant forms of taking at issue here are therefore: (1) per se takings, in which regulation effectively denies *all* economically beneficial or productive use of land; and (2) a taking under the balancing test set forth in *Penn Central*, which considers various factors relating to the governmental action and its impact on the affected property owner.

¹³ Under both authorities the taking claim must be ripe, meaning that: (1) the appropriate administrative authority has made a "final decision" with respect to the extent of the development that will be allowed on property and (2) either the party asserting the claim has previously pursued available state procedures for obtaining just compensation or the state's procedure is inadequate or nonexistent. See *Williamson County Reg'l Planning Comm'n v Hamilton Bank of Johnson City*, 473 US 172, 187-98 (1985) (1997); *Paragon Props Co v Novi*, 206 Mich App 74, 75-77 (1994) (holding that after being denied rezoning, the property owner must request a use variance from a zoning board of appeal); cf *Miller Bros v Dep't of Natural Resources*, 203 Mich App 674, 681 (1994) (stating that plaintiffs were not "required to apply for drilling permits or appeal the director's decision [to deny a drilling permit] before claiming their property had been taken" because such action "would have been a futile gesture" and "[p]laintiffs are not required to pursue futile remedies"). Note: We have not reviewed the implications *Knick v Twp. of Scott*, Pennsylvania (U. S. Supr. Court; 2019 WL 2552486) which overruled *Williamson*.

Lilly Investments v City of Rochester, 674 Fed Appx 523 (2017). In Lilly, the plaintiff sought to rehabilitate a historic building in the City of Rochester for use as a dental clinic. Ultimately, disputes arose and the City issued a stop work order claiming the work done was not compliant with city requirements. Thereafter, when Lilly sought to resolve the stop work issue, the city chose to impose various hurdles and obstacles to continued construction including requiring that Lilly deposit \$40,000 into a historic preservation fund and waive certain claims before the city would proceed to review site plans. Seeing little progress and refusing to pay into the fund, Lilly filed its complaint for “taking/inverse condemnation, due process violations and other claims seeking injunctive relief and money damage. Unknown to Lilly at the time of filing of the case was that a city approved third-party umpire/expert had reviewed the status of the project development and determined that the project was “reasonably compliant”. Notwithstanding that critical fact, the city continued to oppose Lilly’s claims arguing that Lilly’s claims were not ripe and that Lilly could not satisfy the finality and exhaustion requirements for a regulatory taking. The circuit court reversed the district court finding that both the finality and exhaustion requires had been satisfied. The court adopted the finding of the magistrate judge that “the approving body cannot implement a vague standard, refuse to define it, fail to vote on an applicant’ compliance with the standard, and then fault the applicant for not receiving a final decision on its compliance.” 674 Fed. Appx 523, at 529. The case was remanded back to the district court. Thereafter, the parties agreed to mediate. Ultimately, a mediation in favor of the owner/plaintiff was reached. The result: A \$2.5 million dollar settlement and free parking for 10 years as reported in Michigan Lawyers Weekly, May 15, 2019. The takeaway is this. In this case, clear standards for repowering should be established, including pertinent definitions and reasonably prompt action taken. In our opinion, based upon a review of the pertinent takings cases herein, Section 14.03 of the Zoning Ordinance, as applied, should not constitute a compensable taking by the County.

1. Complete Elimination of Value.

For the court to find a per se taking, there must be a complete elimination of value or a total loss. *Lucas v South Carolina Coastal Council*, 505 US 1003, 1019-20 (1992); *Tahoe-Sierra Pres Council, Inc v Tahoe Reg’l Planning Agency*, 535 US 302, 330 (2002). Thus “compensation is required when a regulation deprives an owner of ‘all economically beneficial uses of his land’” and “wholly eliminate[s] the value” of title. *Tahoe-Sierra Pres Council*, 535 US at 330. This is an “extraordinary circumstance when no productive or economically beneficial use of land is permitted.” *Id.* (citation omitted). For instance, “the categorical rule would not apply if the diminution of value were 95% instead of 100%” and “[a]nything less than a ‘complete elimination of value,’ or a ‘total loss’” would require a *Penn Central* analysis. *Id.* (citation omitted). As considered in *Cummins v Robinson Twp*, 283 Mich App 677, 705 (2009), this analysis takes a holistic view of property uses. In *Cummins*, plaintiffs argued, inter alia, that in order to meet township building requirements plaintiffs were required to increase the debt on their home in excess of their equity, resulting in a taking. *Id.* The court held that “even with a negative equity, plaintiffs are still able to use their property as a residence, and the property still retains some value even if its market value has declined.” *Id.* at 710. “The fact that using their property as a residence is more costly in the face of the necessity to repair repeated flood damage” in accordance with the regulation “does not establish a taking” because “[t]he Takings Clause does not guarantee property owners an economic profit from the use of their land.” *Id.* (citation omitted).

Furthermore, when reviewing whether a regulation denies an owner economically viable use of its land, courts examine the property as a whole. *See Tahoe-Sierra Pres Council*, 535 US at 327. For instance, *Penn Central* held that courts must examine the impact of governmental regulations on the entire property to determine if a regulatory taking has occurred, as takings jurisprudence does not divide a single parcel into discrete segments and attempt to determine whether rights in a particular segment have been entirely abrogated. 438 US at 130-31. In deciding whether a particular governmental action has

affected a taking, courts therefore focus both on the character of the action and on the nature and extent of the interference with rights in the parcel as a whole. *Id.* Thus generally “a person’s property should be considered as a whole when deciding whether a regulatory taking has occurred.” *Bevan v Brandown Twp*, 438 Mich 385, 393 (1991). In other words, “[w]here an owner possesses a full ‘bundle’ of property rights, the destruction of one ‘strand’ of the bundle is not a taking because the aggregate must be viewed in its entirety.” *Keystone Bituminous Coal Ass’n v DeBenedictis*, 480 US 470, 497 (1987).

In some instances, however, certain distinct interests may be considered when they are the only interests a property owner possesses. In *Miller Bros*, for example, involving plaintiffs who owned oil and gas rights, the court held that where “[p]laintiffs’ mineral interests . . . had one, and only one, economically viable use: the extraction of any oil or gas that might be found under the land,” and plaintiffs were denied a permit to extract the same, “by the exercise of its regulatory power, the government has so restricted the use of plaintiffs’ property rights that plaintiffs had been deprived of all economically viable use.” 203 Mich App at 680-81. Thus this case was “not similar to the cases . . . wherein development of a portion of a parcel of land was limited or restricted” because “[i]n this case, development of thousands of acres of property was totally prohibited” in the sense that plaintiffs’ only interest was extinguished, *Id.* at 681. Of course, as noted in *Schmude Oil, Inc v Dep’t of Environmental Quality*, 306 Mich App 35, 51-52 (2014), *Miller Bros* is somewhat unique in that “plaintiffs had one, and only one, interest and viable economic use in the land—the extraction of oil and gas,” meaning the “denial of permits denied the plaintiffs this only viable economic use.” Where property owners were denied permits for certain wells but could “still operate wells in the limited development region” and “utilize horizontal drilling,” even though it would increase costs, no taking would be found. *Id.* at 52. In other words “[w]hen the land still has some economic value, even if a fraction of the economic value that could have been realized, there is no categorical taking.” *Id.*

2. Penn Central Balancing Test.

Where the government’s action merely diminishes the owner’s ability to freely use his land, the *Penn Central* balancing test must be applied to determine whether the owner is entitled to compensation for a regulatory taking. *Dorman v Clinton*, 269 Mich App 638, 646 (2006). This test considers: (1) the character of the government’s action; (2) the economic impact on the landowner; and (3) whether the regulation interfered with the landowner’s distinct investment-backed expectations. *Penn Central*, 438 US at 124. Under this analysis, there is no set formula for determining when a taking has occurred; instead, the outcome depends on the particular circumstances of each case. *Tahoe-Sierra Pres Council*, 535 US at 336; *Barbican v Panagis*, 694 F2d 476, 485 (7th Cir 1982) (“The Supreme Court, in considering these factors, has recognized that none is necessarily paramount”). The *Penn Central* factors focus on the severity of the burden imposed by the government. *Lingle*, 544 US at 539. This balancing test turns in large part, but not exclusively, on the magnitude of the regulation’s economic impact and the degree to which it interferes with the landowner’s distinct investment-backed expectations. *Id.* at 540. The test was expounded upon, although slightly rearranged, in *K&K*, 267 Mich App at 528-29:

Penn Central and its progeny require[] that our courts consider the following factors in deciding whether a “regulatory taking” claim is compensable: (1) what is the average reciprocity of advantage, in other words, is the aggrieved property owner singled out to pay for the public good, or is the land-use regulation so universal and ubiquitous that the benefits and burdens of the land-use regulation fall relatively equally among all, including the complaining party; (2) what use could the landowner reasonably expect to make of the land given the state of the land-use regulations at the time of acquisition (as part of this inquiry, it is necessary to take into account whether the landowner knew, or should have known, of the land-use regulation at the time of purchase); and (3) did the

specific, challenged application of the land-use regulation leave the property owner valuable land use rights or did it instead render the land virtually worthless?

As stated another way in *K&K*, compensation is likely not required if: (1) the regulation is comprehensive and universal so that the private property owner is relatively equally benefited and burdened by the challenged regulation as other similarly situated property owners; (2) the owner purchased with knowledge of the regulatory scheme so that it is fair to conclude that the cost to the owner factored in the effect of the regulations on the return on investment; and (3) despite the regulation, the owner can make valuable use of his or her land. *Id.* at 529.

(a) **The Character of the Government's Action.**

This factor considers whether government action singles a plaintiff out "to bear the burden for the public good and whether the regulation being challenged 'is a comprehensive, broadly based regulatory scheme that burdens and benefits all citizens relatively equally.'" *Cummins*, 283 Mich App at 720. An instructive example of this factor is provided by *K&K*. That case concerned a wetland regulation, which the court stated was "all but ubiquitous" and benefited "all the people of this state," meaning that "[l]ike zoning regulations, wetland regulations place a burden on some property owners, but this burden ultimately benefits all property owners, including those who claim they are unfairly burdened," 267 Mich App at 530-31. Where such regulations are "comprehensive, universal, and ubiquitous, and provide an 'average reciprocity of advantage' for all property owners, including plaintiffs," as zoning ordinances generally do, the first element of the *Penn Central* test will not indicate a regulatory taking. *Id.*

Conversely, where it appears municipal action under ordinances which are "part of a broad-based regulatory scheme that burdens and benefits all citizens equally" are in fact "directed solely at [plaintiff's] property," the government may be found to have singled out that individual. *Kalkman v Village of Douglas*, unpublished per curiam opinion of the Court of Appeals, issued September 20, 2012 (Docket No. 306051), p 5 (2012 WL 4215834) (finding a temporary taking where a stop work order was directed solely at plaintiff's property after the municipality first determined that relevant setbacks complied with the municipality's regulatory scheme). Such specific regulatory targeting will indicate a taking under this factor.

(b) **Economic Impact On Landowner.**

The second element, concerning the economic impact on the landowner, is more nuanced. Review of this element requires a comparison of the property value removed by the regulation and the value that remains. *Id.* at 540. In Michigan, however, the property owner must show that the property is either unsuitable for use as zoned or unmarketable as zoned, meaning that if an ordinance precludes a property's use for all purposes to which it is reasonably adapted, it will be deemed confiscatory.¹⁴ *Selective Group, Inc v Farmington Hills*, 180 Mich App 595, 602 (1989); *Bell River Associates v China Charter Twp*, 223 Mich App 124, 133 (1997). Thus as noted above, a municipality is not required to allow a property's most profitable use and a mere diminution in value does not amount to a taking.

¹⁴ In *Bell River*, for instance, plaintiff sought to build a mobile home park on land zoned for agricultural use and sued to compel a zoning change that would allow multifamily residential uses. 223 Mich App 126-27. The court found that plaintiff had not established that its property could not be used for other adaptable purposes, such as single-family residential, or other special uses available under the defendant's zoning ordinance, and thus failed to establish a taking. *Id.* at 133-34.

Dorman, 269 Mich. App at 647-48. Indeed, particularly under federal case law, there is therefore no precise minimum threshold, and small decreases in value are within the range of permissible land-use regulations that fall far short of a constitutional taking. *Laurel Park Community LLC v Tumwater*, 698 F3d 1180, 1189 (9th Cir 2012).

Instead, “[w]hat has evolved in the [federal] case law is a threshold requirement that plaintiffs show ‘serious financial loss’ from the regulatory imposition in order to merit compensation.” *Cienega Gardens v US*, 331 F3d 1319, 1340-41 (Fed Cir 2003). There is no “automatic numerical barrier preventing compensation, as a matter of law, in cases involving a smaller percentage diminution of value;” rather courts may properly weigh “all the relevant considerations, including percentage diminution in value” to determine if the property owner has “suffered severe economic impact.” *Yancey v US*, 915 F2d 1534, 1541 (Fed Cir 1990) (holding that plaintiffs experienced a taking when, as a result of a federal quarantine, plaintiffs “had no choice but to sell their [turkey breeder stock] for substantially less than their value”); see *Loveladies Harbor, Inc v US*, 21 Cl Ct 153, 160; 31 ERC 1847 (Cl Ct 1990) (stating that a taking determination “ultimately calls as much for the exercise of judgment as for the application of logic” and finding that a diminution in value of over 99% was “drastic” and constituted a taking). For instance, in *Cienega Gardens*, developers were required by Congress to remain in certain mortgages, rather than prepay them as was originally permitted. 331 F3d at 1327. The court found that by doing so, the developers lost out on returns approximately 28 times greater than those they received by being forced to stay in the mortgages, meaning they “earned a return that was about 96% less than what they could have earned by investing their money elsewhere.” *Id.* at 1343. This 96% loss of return on equity was held to be a “sufficient economic impact to merit compensation even under stringent conceptions in the case law of the percent diminution necessary to merit compensation.” *Id.* In other words, the high cost imposed by regulations “could support a finding that there was a regulatory taking.” *Adamson Companies v Malibu*, 854 F Supp 1476, 1500-01 (CD Cal 1994).

More instructive under Michigan law is *Schoolcraft Egg, Inc v Schoolcraft Twp*, unpublished per curiam opinion of the Court of Appeals, issued August 11, 2000 (Docket No. 216268), p 5-6 (2000 WL 33409627), where defendant passed an ordinance which restricted plaintiff’s chicken house, which had grown to 200,000 egg-laying chickens, to 125,000 chickens, and established additional minimum acreage and setback requirements. Plaintiff’s use was therefore nonconforming, but his desire to expand to 400,000 chickens was precluded by the ordinance, and future owners would be required to comply with the ordinance unless they obtained a variance. In this case plaintiff presented testimony “that an egg production and marketing operation limited to 125,000 hens” was not economically viable because it was “not of a sufficient size to take advantage of the economies to scale,” and that under the ordinance “plaintiff was ‘too small’ to remain economically viable.” *Id.* at 5. Specifically, because “the egg production industry in this country had ‘gotten larger and more consolidated’” plaintiff was too small to stay competitive, and “a company with 200,000 hens without the capacity to expand was not salable.” *Id.* The court found that this evidence presented “more than a mere diminution in value because of the ordinance limitation on the number of chickens that [plaintiff] can have on its property.” *Id.* at 6. Additional testimony provided “that most chicken houses have at least 200,000 chickens, and that with a 125,000 chicken maximum, ‘nobody would build chicken houses in Schoolcraft Township period.’” *Id.* Based on this testimony the court found that plaintiff presented evidence that the property was

unmarketable as zoned,¹⁵ rather than suffering a mere diminution in value because of the ordinance restrictions.¹⁶ *Id.*

Kalkman is also instructive, as a zoning ordinance required certain setbacks which, “considering the unique dimensions of the property,” would have rendered plaintiff’s residentially-zoned property wholly unsuitable for that use. 2012 WL 4215834, p 6. Furthermore, the municipality “had not identified any economically beneficial use of the property other than as a residential site” and “the City had not shown where a dwelling could have been placed without a change in the setback.” *Id.* *Land Development Corp v Bloomfield Twp*, 55 Mich App 438 (1974) also addressed a zoning ordinance which was effectively confiscatory. Here property was zoned for one-family residential use despite being surrounded by commercial and office uses. *Id.* at 439-40. Plaintiff sought to have it rezoned as multiple-family residential, which the defendant’s own zoning ordinance described as “a transition between single-residential and nonresidential uses.” *Id.* at 440. The court cited evidence that plaintiff’s property could not be reasonably, economically, or practically used for single-residential purposes because “if the land was subdivided and sold as single-family residential lots in accordance with its present zoning classification, the cost of development would exceed the sales price.” *Id.* at 441. This was due to a number of factors, including that: (i) the property was located on a heavily-travelled thoroughfare and was adjoined by properties zoned for commercial and office use, thus rendering it less attractive to prospective home buyers; (ii) the rear portion of the parcel was traversed by a deep ravine which rendered between one-fourth and one-third of the land unsuitable for building; and (iii) the township zoning ordinance imposed minimum floor space requirements which would necessitate the construction of large and relatively expensive homes. *Id.* Because the property could not be practically, economically or reasonably used as zoned, the zoning ordinance was effectively confiscatory and unconstitutional as it effectively “accomplished the destruction of all usable value” and precluded “the use of the property ‘for any purpose to which it [wa]s reasonably adapted.’” *Id.* at 443-44.

Extraordinary compliance costs caused by the ordinance may therefore indicate a taking under federal law such as *Cienega Gardens*. Under Michigan law, however, zoning regulations must effectively prohibit a property owner from viably using his land as zoned, or in the manner for which it’s suited. If alternative uses are available, even if they’re not profitable, the economic impact of the regulation will likely not weigh in favor of a taking.

¹⁵ This case also found that the ordinance did not constitute exclusionary zoning, because plaintiff did not demonstrate a need for egg production and marketing in the township or surrounding area, and the ordinance simply restricted the size and location of such operations, rather than totally excluding them. *Id.* Furthermore, exclusion as a practical matter by making it difficult for such facilities to operate profitably did not constitute exclusionary zoning. *Id.*

¹⁶ Cf *Chestnut Development, LLC v Marion*, unpublished per curiam opinion of the Court of Appeals, issued June 22, 2010 (Docket Nos. 287312, 292894), p 7 (2010 WL 2505905) (finding that although plaintiff presented evidence that it was “not economically beneficial to develop the property as zoned, with single-family homes utilizing septic systems,” plaintiff “did not establish that it considered other uses for the property, such as applying for a PUD under the SR zoning classification, or that it attempted to market the property for sale,” and “plaintiff’s own conduct in purchasing the property for a substantial price, with knowledge of the soil conditions and zoning classification,” belied the notion that the property lacked value or that defendant’s decision, leaving plaintiff in exactly the same position it was in when it purchased the property, deprived plaintiff of existing economic value, as opposed to value that could be obtained if the property could be developed under a different classification.

(c) **Investment-Backed Expectations.**

This element considers the circumstances existing at the time of investment, namely when such investment was made relative to the onset of the land use regulations, to determine if the property owner bought the property “in reliance on a state of affairs that did not include the challenged regulatory regime.” *Cienega*, 331 F3d at 1346 (citation omitted). In other words, this factor considers whether there was a “legislative abrogation of the key rule of a pre-existing regime” and what “a reasonable developer confronted with the particular circumstances” would have expected. *Id.*

In *Sakawa Grand/Sakawa Macomb Airport v Macomb*, unpublished per curiam opinion of the Court of Appeals, issued June 7, 2005 (Docket No. 256013) (2005 WL 1335428), for instance, although the zoning classification did not permit plaintiffs to use their land for the purpose they preferred, the court did not find sufficient support for the argument that “defendant’s choice to zone plaintiffs’ property for industrial use negatively impacted the economical viable use of the property or that the regulation [] interfered with distinct, investment-backed expectations” because plaintiffs were aware of the zoning classification when the property was purchased. 2005 WL 1335428, p 9. Thus “[w]hile plaintiffs’ emphasize their inability to make a profit, distribute dividends, or sell the property as currently zoned, ‘the Taking Clause does not guarantee property owners an economic profit from the use of their land’ . . . [n]or does the mere diminution of property value by application of regulations, without more, amount to an unconstitutional taking.” *Id.* In other words, the regulatory circumstances had not changed and the property owner’s expectations should have incorporated and considered the existing land use restrictions.

Kalkman is also instructive here, as plaintiff purchased residentially-zoned property for the purpose of constructing a residential dwelling and then, upon receiving zoning approval and a building permit for that construction, invested approximately \$65,000 in making improvements. 2012 WL 4215834, p 6. The court determined that a subsequent stop work order pertaining to setbacks which could not reasonably be applied to the property, due to its unique shape, did interfere with plaintiff’s distinct, investment backed expectations. *Id.*

Also relevant is *Pulte Land Co, LLC v Alpine Twp*, unpublished per curiam opinion of the Court of Appeals, issued September 12, 2006 (Docket Nos. 259759, 261199) (2006 WL 2613450), in which plaintiff owned agricultural property that she sold to Pulte for residential development. Pulte’s application to defendant to have the property rezoned for residential development (in accordance with the defendant’s master plan) was ultimately denied, as was a request for a variance. The court found that Pulte’s proposed zoning was “consistent with the township’s master plan, which the township board relied on heavily as a general matter and which Pulte was also aware of when it purchased the property.” *Id.* at 6. Furthermore, “[g]iven the long-established plan by the community as a whole to permit development of the property, as reflected by a document that was to be given considerable deference by the community, Pulte would have been entirely reasonable in expecting the property to be rezoned for development upon request.” *Id.* Lastly, given the fact that plaintiff “received the property as an inheritance that she and her husband could use for their support after her in-laws’ deaths” and her “testimony that no one indicated to her an interest in purchasing the property as a farm,” the trial court’s finding that the zoning ordinance interfered with her investment-backed expectations was not clearly erroneous. *Id.*

This element of the takings analysis therefore considers the circumstances at the time the investment was made, including existing regulations and those that are proposed or expected to apply. When a property owner’s reasonable expectations are thwarted by land use regulation changes which were not known or foreseen, it is more likely a taking will be found. In the case of WES, notwithstanding easements which could be extended beyond 20 years by exercise of an option to extend, the reasonable

economic expectation of the owners was the ability to operate their WES for the 20 year term of their PPAs or their natural life as contemplated in Section 14.03 of the Zoning Ordinance. That expectation has been satisfied and will be satisfied under the existing ordinance. The Zoning Ordinance does not provide a vested right for full repowering.

D. Due Process.

I. Substantive Due Process.¹⁷

The Due Process Clauses of the Fourteenth Amendment and the Michigan Constitution guarantee substantive due process to landowners, and the due process guarantee of the Michigan Constitution is coextensive with its federal counterpart. US Const, Am XIV; Const 1963, art 1, §17; *Grimes v Van Hook-Williams*, 302 Mich App 521, 530 (2013). Substantive due process claims require a plaintiff identify a constitutionally protected property or liberty interest¹⁸ and show that the defendant's actions in infringing on that interest were arbitrary and capricious in the strict sense, meaning that there is no rational basis for the decision. *Hillside Productions, Inc. v Duchane*, 247 FSupp2d 880, 899 (ED Mich 2013) (citation omitted). In Michigan, courts have held that a landowner must prove: (1) that there is no reasonable governmental interest being advanced; or (2) that an ordinance is unreasonable because of a purely arbitrary, capricious, and unfounded exclusion of other types of legitimate land use from the area in question.¹⁹ *Frericks*, 228 Mich App at 594; *Kroppf*, 391 Mich 139; *Dorman v Clinton*, 269 Mich App 638, 651 (2006). In other words, "[a] zoning ordinance may be unreasonable either because it does not advance a reasonable governmental interest or because it does so unreasonably," meaning the ordinance serves no

¹⁷ All "as applied" constitutional claims, which challenge "present infringement or denial of a specific right or of a particular injury in the process of execution of government action," are subject to the rule of finality in order to be ripe for judicial review. *Frericks v Highland Twp*, 228 Mich App 575, 595 (1998); *Hendee v Putnam Twp*, 486 Mich 556, 590 (2010) CORRIGAN, J. concurring ("Whether it is analyzed under 42 U.S.C. 1983 as a denial of equal protection, as a deprivation of due process under the Fourteenth Amendment, or as a taking under the Just Compensation Clause of the Fifth Amendment, an as applied challenge is subject to the rule of finality").

¹⁸ Michigan cases appear to assume that landowners or developers have a protected property interest in the context of land use planning and zoning cases, although this threshold requirement for substantive due process requires "a reasonable expectation of entitlement." *Mettler Walloon, LLC v Melrose*, 281 Mich App 184, 208-209 (2008). This can be derived from "existing rules or understandings that stem from an independent source such as state law." *Id.* at 209 (citation omitted). See also *Tuscola Wind III, LLC v Almer Charter Twp*, 327 FSupp3d 1028 (ED Mich 2018), discussed below.

¹⁹ Furthermore, while an "as applied" challenge alleges a present infringement or denial of a specific right or of a particular injury in process of actual execution" a "facial challenge alleges that the mere existence and threatened enforcement of the ordinance materially and adversely affects values and curtails opportunities of all property regulated in the market," *Dorman*, 269 Mich App at 651 (citations omitted). Thus in addition to showing that an ordinance "serves no rational relation to the public health, safety, welfare and prosperity of the community," a facial challenge must specifically show that the ordinance totally excludes the proposed use in the municipality and that the ordinance precludes any use on the property "to which it is reasonably adapted." *Id.* (citations omitted).

rational relation to the public health, safety, welfare and prosperity of the community.²⁰ *Conlin v Seio Twp*, 262 Mich App 379, 389 (2004); *Dorman*, 269 Mich App at 651 (citations omitted). Therefore “[i]t must appear that the clause attacked is an arbitrary fiat, a whimsical *ipse dixit*, and that there is no room for a legitimate difference of opinion concerning its reasonableness.”²¹ See *Alderton v Saginaw*, 367 Mich 28, 33-34 (1962). Property owners face a heavy burden in proving a violation of substantive due process, as ordinances are presumed to be valid where there is a rational relation to the public health, safety, welfare and prosperity of the community.²² *Frericks*, 228 Mich App 575; *Borner v Brighton*, 495 Mich 209, 227 (2014); *Robinson v Bloomfield Hills*, 350 Mich 425 (1957).

Thus while a regulation must be based on a legitimate governmental interest and the regulatory means selected by the government must have a real and substantial relationship to the object sought to be attained, an ordinance will pass “constitutional muster if the legislative judgment is supported by any set of facts, either known or which could reasonably be assumed, even if such facts may be debatable.” *Conlin*, 262 Mich App at 390 (citation omitted). Indeed, plaintiffs must negate “every conceivable basis” supporting an ordinance, “or show that it is based solely on reasons totally unrelated to the pursuit of the State’s goals.”²³ *Id.* at 391 (citation omitted). This places the burden on the property owner, as to “sustain

²⁰ The analysis of a substantive due process claim under the federal constitution is effectively the same, as “the constitutional guarantee of substantive due process protects a person with an interest in property from arbitrary or irrational governmental action depriving the person of that interest,” meaning a plaintiff must establish that a regulation “bears no rational relationship to any legitimate governmental purpose.” *Ecogen, LLC v Italy*, 438 FSupp2d 149, 156-59 (WDNY 2006) (upholding a temporary moratorium on the construction of “wind turbine towers, relay stations, and/or other support facilities” as such prohibition was “rationally related” to the defendant’s “interest in preserving its aesthetic character”).

²¹ When considering an ordinance’s reasonableness, the court gives “consideration to the character of the district, its peculiar suitability for particular uses, the conservation of property values and the general trend and character of building and population development; unsuitability for [specific] purposes; lack of market for such purpose and whether the land will become ‘dead land’ or nonincome-producing land without [] value.” *Alderton*, 367 Mich at 33-34.

²² For instance, “federal courts . . . are not zoning boards of appeal” and “local land-use decisions are entitled to great deference when constitutional claims are raised in federal court.” *CEnergy-Glenmore Wind Farm No 1, LLC v Glenmore*, 769 F3d 485, 487-88 (7th Cir 2014) (holding that defendant’s “decision to delay action on [plaintiff’s] building permit requests could not have been arbitrary in the constitutional sense” because “[a]s far as the Constitution is concerned, popular opposition to a proposed land development plan is a rational and legitimate reason for a legislature to delay making a decision”); see also *Heritage Hill Ass’n, Inc v Grand Rapids*, 48 Mich App 765, 769 (1973) (stating that “it is well settled that appellate courts do not sit as a final zoning board . . . inasmuch as our review is constitutionally limited to ascertaining whether there was competent, material, and substantial evidence on the whole record to support the zoning appeal board’s decision”).

²³ Indeed, “facial challenges are difficult to mount successfully, and that holds true in the context of zoning and land use regulation as well,” as “[g]enerally a municipal zoning ordinance is presumed be valid, and will not be held unconstitutional if its wisdom is at least fairly debatable and it bears a rational relationship to a permissible state objective.” *Ecogen*, 438 FSupp2d at 157. For instance density restrictions aimed at avoiding overcrowding and preserving open space have been considered legitimate exercises of municipal authority. *Conlin*, 262 Mich App at 394. Furthermore, federal case law has also stated that under the Fourteenth Amendment, “it is not necessary for defendants to enunciate *any* purpose for the” regulation and “the proper inquiry is concerned with the *existence* of a conceivably rational basis,

a substantive due process claim against municipal actors, the governmental conduct must be so arbitrary and capricious as to shock the conscience.” *Mettler*, 281 Mich App at 198. Only the most egregious official conduct can be said to be arbitrary in the constitutional sense.²⁴ *Id.* at 198-99. This encompasses conduct which violates the decencies of civilized conduct and is so brutal and offensive that it does not comport with traditional ideas of fair play and decency. *Id.* at 199 (citations omitted). Both federal and state land use planning cases have applied the shocks-the-conscience standard. *Id.* at 201. Building permit denials or delays, as well as zoning ordinance decisions, for instance, have not met this standard, as “even a violation of state law in the land use planning process does not amount to a federal substantive due process violation.”²⁵ *Id.* at 201-13.

Thus it takes “[m]alicious, irrational and arbitrary governmental actions which place restraints on an individuals’ property rights” to “violate substantive due process.” *Sandstone Associates Ltd Partnership-A v Novi*, unpublished per curiam opinion of the Court of Appeals, issued January 21, 1999 (Docket No. 95-501532) (1999 WL 34966603). In *Sandstone*, for instance, a municipality barred access to plaintiffs’ property and failed to abide by certain contractual obligations while both dissembling on the underlying pretext and legal authority for doing so, and failing to show its actions were needed to protect against the harm that provided the basis for the applicable ordinance. *Id.* The municipality also arbitrarily withheld permits despite prerequisites being met, which the court found to be motivated by the improper purpose of delaying development, and violated a court order regarding the placement of certain road signs. *Id.* The court therefore found that the municipality “repeatedly used its governmental powers and ordinances to impeded Plaintiff’s right to develop its land” in a “vindictive struggle by Defendant [municipality] to ‘beat’ Plaintiff.” *Id.* The “ammunition used was the arbitrary and capricious application of the city’s laws and ordinances” which “is the very situation which the Constitutional right to substantive due process was designed to remedy.” *Id.*

Hillsdale also provides guidance. There the court found evidence of “vindictive retaliatory action” where the municipality engaged in “a relentless pattern of harassment and vindictiveness” toward a music venue, including “the ratcheting up of demands” relating to operation, an “unjustified administrative enforcement hearing and nuisance determination,” the denial of a special liquor licenses, a search for irregularities or “false representations” in the operation’s documentation, the denial of building permits to complete certain construction, an “excessive police presence during concerts,” a “refusal to provide backup documentation for alleged noise and invoice violations,” and “deliberate distortion of the

not whether that basis was actually considered by the legislative body.” *Ecogen*, 438 FSupp2d at 157 (citation omitted). Thus under this analysis plaintiffs have “the heavy burden ‘to negate every conceivable basis which might support’” the regulation. *Id.* at 158. (citation omitted).

²⁴ Determining whether conduct is “so egregious that it can be said to be arbitrary in a constitutional sense,” meaning it shocks the conscience, “is a fact-specific inquiry.” *Harris v Milled*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued February 14, 2008 (Case No. 17-10415)), p.2. This is an “incredibly high standard.” *Id.*

²⁵ See also *ABD Monroe, Inc v Monroe*, unpublished opinion of the United States District Court for the District of New Jersey, issued January 3, 2008 (Case No. 04-1412(WHW)), p. 6-8 (2008 WL 58876) (holding that “the imposition of various fees which [plaintiff] was required to pay if it wanted to continue construction” was a deprivation of a protected property right, but that it was not conscience-shocking because a “‘bad faith violation of state law remains only a violation of state law’ and does not rise to the conscience-shocking level of substantive due process violation” and “[i]n run of the mill land use disputes, courts seldom find that the conduct of the municipality reaches conscience-shocking levels”).

terms and conditions of” an operating agreement and the settlement terms of a previous litigation, 249 FSupp2d at 898-99. As such, the court found it likely the venue operators would succeed on a substantive due process claim.²⁶

A substantive due process claim was also raised in *Grand/Sakawa Macomb Airport v Macomb*, unpublished per curiam opinion of the Court of Appeals, issued June 7, 2005 (Docket No. 256013) (2005 WL 1335428), where a plaintiff bought property based on the contingency that it would be able to have the property rezoned from an industrial to a commercial and residential designation. Plaintiffs submitted such request to the local planning commission, which recommended denial of plaintiffs’ zoning request, stating that the existing zoning classifications were in accordance with its master plan, and advanced an interest in planning for future industrial development and employment by separating incompatible land uses, providing a tax base that created more revenue than residential development, and maintaining the faith of its residents who made commitments on the basis of the existing zoning. The court held that the municipality’s master plan did not reflect current economic and development trends and stated that the municipality “had demonstrated a significant willingness to modify or deviate from the master plan on an inconsistent basis, as most significantly demonstrated by the already existing incompatible land classifications adjacent to the subject property.” *Id.* at 7.

Importantly, the court stated that a master plan “must take into account existing circumstances” and other pertinent factors, “including, the stability of the master plan, the extent to which the goals of the master plan are advanced, and the extent to which the master plan constitutes a coherent development plan taking into account legitimate expectations.” *Id.* The incongruous and inconsistent use of surrounding properties and the municipality’s actions regarding the same (e.g. the industrial development contemplated in the plan was incompatible with residential development that had already and continued to occur in the areas surrounding the site) demonstrated that the ordinance was not reasonable given the current land uses in the area, as the master plan neither took into account existing circumstances nor exhibited a stability or coherence in the plan of development. *Id.* The court also found the municipality’s contentions that its ordinance planned for future development and separate land uses to be wanting, given the economic and development trends in the area. *Id.* at 8. In particular, the court found that the residential growth of the township would create demand for and support the commercial developments and growth proposed by plaintiffs, and the township had updated its master plan “with the intention to create an obstacle to plaintiffs’ proposed rezoning.” *Id.* As such, the township’s enforcement of the existing ordinance was a violation of plaintiff’s substantive due process rights.

As indicated above, zoning regulations are presumed valid, and showing that a zoning regulation does not involve a reasonable governmental interest, or that it is not rationally related to advancing that interest, can be a difficult task. Indeed, the behavior being alleged must typically be significantly egregious and targeted toward the property owner or out of step with current objective reality regarding existing land uses and development patterns. As courts appear deferential with regard to the legitimate governmental interests at issue, these claims have succeeded when there is an obvious and unreasonable or irrational disconnect between that interest and the municipal actions which are meant to further the

²⁶ In a later appeal (*Hillside Productions, Inc v Macomb*, 389 FedAppx 449, 456-57 (6th Cir 2010)), the court found that with regard to the defendants’ collection of parking revenue, there was little evidence of improper motive because only one witness testified that defendants voted to collect parking revenue to force concessions on certain contracts, while others testified that they voted in favor of the collection without intending to injure Plaintiffs.

same. We are of the opinion that the 2015 amendments are valid and support a reasonable governmental interest.

2. Procedural Due Process.

The United States and Michigan Constitutions preclude the government from depriving a person of life, liberty, or property without due process of law. US Const, Am XIV; Const 1963, art 1, § 17. The due process guarantee of the Michigan Constitution is coextensive with its federal counterpart. *Grimes v Van Hook-Williams*, 302 Mich App 521, 530 (2013). At a minimum, due process of law requires that deprivation of life, liberty, or property rights or interest be preceded by notice and an opportunity to be heard. *By Lo Oil Co v Dep't of Treasury*, 267 Mich App 19, 32-33 (2005). To comport with these procedural safeguards, the opportunity to be heard must be granted at a meaningful time and in a meaningful manner. *Id.* Specifically, to prevail on a due process claim plaintiffs must show: (1) they have a life, liberty, or property interest protected by the Due Process Clause; (2) that they were deprived of this protected interest within the meaning of the Due Process Clause; and (3) that the state did not afford them adequate procedural rights prior to depriving them of their protected interest. *Hillside Productions*, 249 FSupp2d at 893.

In *Hillside*, for instance, plaintiffs' property interest was "based on their already approved Special Approval Land Use," which constituted a property interest because the landowner had a right to it and a municipal decision-maker lacked the discretion to deny the same. *Id.* ("Under Michigan law, absent a specific grant of authority in either the [municipality's] Zoning Ordinance or the enabling state statute which gives the [municipality] the right to create 'Special Land Uses,' the Planning Commission is powerless to revoke a previously approved Special Land Use").²⁷ Plaintiffs also had a liberty interest, "i.e., the freedom to engage in their chosen business . . . activities." *Id.* at 897. Because "[i]t is well established that the freedom to choose and pursue a career, to engage in any of the common occupations of life, qualifies as a liberty interest which may not be arbitrarily denied by the State," plaintiffs were likely to prevail in showing they had a liberty interest in the continued operation of the music venue, into which they invested "considerable time, energy and money." *Id.* Lastly, the municipality did not afford adequate process prior to denial of plaintiff's use, as the "revocation hearing" (which the municipality lacked authority to conduct) was undertaken in front of the biased Planning Commission, rather than a neutral, impartial tribunal.²⁸ *Id.* at 896.

A later decision in the *Tuscola* case also addressed plaintiff's procedural due process claim with regard to the first element of the analysis, plaintiff's interest. 327 FSupp3d 1028. The court here made

²⁷ Cf *Dorman*, 269 Mich App at 654 (holding that "plaintiff did not have a vested interest in the prior zoning classification," meaning plaintiff's procedural due process claim lacked merit).

²⁸ "Rather than use established enforcement procedures; i.e., ordinance violations, citations, and state court appeals, that would provide Plaintiffs with the procedural due process rights to which they were entitled, Defendants . . . without adequate notice or opportunity to respond, built a contrived case of noncompliance with the conditions of Hillside's SALU and presented it in a revocation proceeding they had no authority to conduct." 249 F.Supp.2d at 896. However, in the later appeal on the parking revenue issue, the court found that the vote on depriving plaintiffs of parking revenue did not deny plaintiffs their procedural due process rights because the deprivation would not occur until parking revenue had been collected, divided, and paid, plaintiffs had the opportunity to challenge the vote before it went into effect, and the municipality proposed a meeting on the issue where the vote could have been rescinded. 389 FedAppx 449 at 462.

clear that to have a property interest in a benefit, “a person clearly must have more than an abstract need or desire for it” and “must likewise possess ‘more than a unilateral expectation’ of the benefit.” *Id.* at 1041 (citations omitted). Rather, the individual must “have a legitimate claim of entitlement” meaning, in the context of planned construction or rezoning requests, “that a building permit and some substantial construction must have commenced before property rights can vest,” and there is “no protected property interest in the” zoning application procedures themselves. *Id.* at 1041-42 (citations omitted). As such, “a pending application for a building permit does not create a property interest where the zoning authorities have discretion to deny the application or limit the use of property.” *Id.* at 1042. However, “if the board’s discretion were so circumscribed that approval of the plaintiff’s proposed use of the property became mandatory once [it] complied with the minimal requirements,” then a property interest would exist. *Id.* Here, the court found that in addition to the defendant’s zoning ordinance vesting defendant with discretion to deny the requested approval, the plaintiff had not obtained a building permit, nor had it completed substantial construction. *Id.* at 1043. As such, regardless of the fact that plaintiff had secured leases to develop and use the parcels covered in its application, it could not establish a property interest in the special land use permit at issue. *Id.*

Also instructive here regarding the right to be meaningfully heard is *Nasierowski Bros Inv Co v Sterling Heights*, 949 F2d 890, 891 (6th Cir 1991), where plaintiff purchased certain property on the express contingency that his proposed warehouse use would be permitted under the defendant City’s zoning regulations. The City “responded favorably and informed [plaintiff] that the parcel” was zoned to permit said use, which representation the plaintiff relied upon before purchasing the property and commencing architectural and engineering site plans. *Id.* The City then stated that certain access road improvements would be required in order for plaintiff to obtain site plan approval and, at a hearing on the same, a councilman expressed personal opposition to the proposal and suggested the affected parcel be rezoned for residential use. *Id.* Ultimately the City denied plaintiff’s request for a variance from the improvement requirements and drafted a zoning plan which, after the expiration of notice and comment periods, the previously-objecting councilman altered by rezoning plaintiff’s property to a more restrictive classification that would not permit plaintiff’s desired warehouse use. *Id.* at 892. As a result, plaintiff’s preliminary site plan approval was rescinded. *Id.* at 893. Plaintiff filed suit, arguing he was denied procedural due process because he was not afforded an opportunity to be heard regarding his property’s rezoning. *Id.* As the court explained, plaintiff was on the verge of receiving a building permit under the authority of the applicable zoning classification “that everyone, including employees of the City’s planning and engineering departments, had concluded was applicable,” when the councilman’s “legally questionable conduct and problematic, self-interested political maneuvering” left plaintiff “with a parcel of property that he would never have purchased but for the City’s assurances that it could be developed

for retail and warehousing purposes.”²⁹ *Id.* at 894. Due to the councilman’s late-stage activity, plaintiff “was not provided with notice of a proposed change in the zoning ordinance, a change that would exert a severely detrimental impact on his ability to use the property in a manner consistent with his legitimate expectations-expectations that the City, itself, had encouraged.” *Id.* at 895.

The key to plaintiff’s claim here was the targeted specificity of defendant’s actions. This is because while “[g]overnmental determinations of a general nature that affect all equally do not give rise to a due process right to be heard . . . when a relatively small number of persons are affected on individual grounds, the right to a hearing is triggered.” *Id.* at 896. The court considered the latter situation present here, “where, during the amendment process, a governmental unit singles out and specifically targets an individual’s property for a zoning change after notice of a general plan of amendment has been published.” *Id.* The councilman’s effort to rezone plaintiff’s property “did not reflect a good faith policy determination, but rather was the result of [the councilman’s] autocratic exercise of elected office for the achievement of a personal objective.” *Id.* Furthermore, “the Council’s action clearly resulted in a differentiable impact on a specifiable individual, thus triggering a right to a hearing” because it “was patently calculated to inflict a disproportionately detrimental injury upon only *one* landowner.” *Id.*

Procedural due process claims therefore hinge on what has been promised or issued to the landowner and his or her ability to respond to any changes which would alter the same. In other words, if the landowner has received no approvals or indication that the same are forthcoming, or the municipal entity maintains the discretion to alter a decision, the landowner will not have a right entitled to due process protection. Furthermore, if the landowner has such a right, the municipality must provide notice and an opportunity to be heard at a meaningful time and in a meaningful manner before interfering with that right.

3. Damages

In *Sandstone*, the court found that the municipality committed breaches of its contracts with the plaintiff and both committed an uncompensated, unconstitutional taking, and violated plaintiff’s substantive due process rights. 1999 WL 34966603. As a result, “plaintiff’s development was destroyed” by obstruction and delay. The court found that “the damages for each separate claim are seamlessly

²⁹ Thus, unlike *Dorman*, here “[i]n the absence of these assurances, and in the absence of the City’s conferral of preliminary approval on the project, [plaintiff] would not have materially changed his position, to his significant detriment, by purchasing the land.” *Id.* at 894. Indeed, plaintiff “actively pursued and completed a course of action of an inarguably substantial character in an effort to construct a retail and warehouse development on the property.” *Id.* at 897. This was done by first expressly conditioning “the purchase of the property on his obtaining a favorable zoning opinion from the City,” meaning plaintiff “would *not* have purchased the land unless the City had first advised him that, as of right, he was authorized to develop the parcel along the proposed lines.” *Id.* This “acquisition of the land was, in and of itself, a *substantial* act undertaken exclusively upon the City’s approval and affirmative encouragement of the proposal.” *Id.* Plaintiff also “expended considerable money and effort in drafting a site plan, submitting it to the City for preliminary approval, petitioning the City for a variance from the specific site plan requirements, and negotiating with the City’s planners and engineers in an effort to resolve minor disputes over relatively insignificant matters.” *Id.* These actions established that plaintiff “had a property interest in the old zoning classification within which his development was permitted” which interest “was securely vested by [plaintiff]’s engagement in substantial acts taken in reliance, to his detriment, on representations from and affirmative actions by the City.” *Id.*

interwoven and, with one exception, are calculable as a whole.” Specifically, the court found that “Plaintiff is entitled to be placed in the position it would have been in but for the breach” and was “entitled to compensation for the value of the property taken when access was denied and the loss of business revenue which resulted.” Furthermore, “[b]ecause the measure of damages for all of the prevailing claims together cover the complete loss of Plaintiff’s development,” Plaintiff was to be compensated in an amount equal to the projected value of the development had it proceeded unhindered. See also *The Vogue v Shopping Centers, Inc*, 402 Mich 546, 550 (1978) (holding that “a new business may recover damages through lost profits through a breach of a lease” pursuant to a promissory estoppel claim); *In re Acquisition of Billboard Leases and Easements*, 205 Mich App 659, 662 (1994) (holding that “income capitalization is a proper method of estimating the value of income-producing real property” when analyzing a taking claim). This amount was based on a projection established by CPAs specializing in real estate and construction businesses, and ultimately came to \$38,876,201.00.

In *Lilly Investments v City of Rochester*, 674 Fed. Appx. 523 (2017), the plaintiff sought to rehabilitate a historic building in the City of Rochester for use as a dental clinic. Ultimately, disputes arose and the City issued a stop work order claiming the work done was not compliant with city requirements. Thereafter, when Lilly sought to resolve the stop work issue, the city chose to impose various hurdles and obstacles to continued construction including requiring that Lilly deposit \$40,000 into a historic preservation fund and waive certain claims before the city would proceed to review site plans. Seeing little progress and refusing to pay into the fund, Lilly filed its complaint for “taking/inverse condemnation, due process violations and other claims seeking injunctive relief and money damage. Unknown to Lilly at the time of filing of the case was that a city approved third-party umpire/expert had reviewed the status of the project development and determined that the project was “reasonably compliant”. Notwithstanding that critical fact, the city continued to oppose Lilly’s claims arguing that Lilly’s claims were not ripe and that Lilly could not satisfy the finality and exhaustion requirements for a regulatory taking. The circuit court reversed the district court finding that both the finality and exhaustion requires had been satisfied. The court adopted the finding of the magistrate judge that “the approving body cannot implement a vague standard, refuse to define it, fail to vote on an applicant’s compliance with the standard, and then fault the applicant for not receiving a final decision on its compliance.” 674 Fed. Appx 523, at 529. The case was remanded back to the district court. Thereafter, the parties agreed to mediate. Ultimately, a mediation in favor of the owner/plaintiff was reached. The result: A \$2.5 million dollar settlement and free parking for 10 years. As reported in Michigan Lawyers Weekly, May 15, 2019. The takeaway is this. In this case, clear standards for repowering should be established, including pertinent definitions and reasonably prompt action taken.

Poirier v Grand Blanc Twp, 192 Mich App 539, 542, 549–50 (1992) involved the calculation of damages for a temporary taking resulting from the plaintiff’s property being rezoned by referendum. The court noted that “[g]overnment taking of private property without just compensation is prohibited” and “just compensation is compensation that places the property owner in as good a condition as he would have been had the injury not occurred.” *Id.* at 543. The court here held that “a flexible approach to the award of compensation in cases involving temporary takings is the best approach” and approvingly recited an Arizona Supreme Court decision that considered “rental return, option price, interest on lost profits, before-after valuation, and benefit to the government.” *Id.* at 544-45. Ultimately the court found that it was appropriate to award “plaintiff actual damages for increased construction costs and loss of income,” while denying “plaintiff’s claim for lost profits on the ground that it was speculative.” *Id.* at 545. The court admitted that the damages awarded “are analogous to tort damages,” but concluded “that application of the ‘fair market value rate of return’ theory . . . would not place plaintiff in as good a position as he would have been had no taking occurred.” *Id.* With regard to the time frame by which to measure the temporary taking, the court noted that “[w]here government activities have effected a taking of private property, the property owner is entitled to compensation for the period during which the taking

was effective.” *Id.* at 548. In this case that period began on “the date the referendum vote overturned the grant of rezoning” and ended “the date the trial court entered its order to rezone the property.” *Id.* With regard to plaintiff’s claim for lost profits, the court stated that “[b]efore lost profits are recoverable, they must be proven with a reasonable degree of certainty as opposed to being based on mere conjecture or speculation,” although “the law does not require impossibilities and does not require a higher degree of certainty than the nature of the case permits.” *Id.* at 550 (citing *Body Rustproofing, Inc v Michigan Bell Telephone Co*, 149 Mich App 385, 390 (1986)).

Kalkman, which involved a temporary taking as described above, also addressed a property owner’s entitlement “to compensation for the period within which the taking was effective.” 2012 WL 4215834, p 6. The court noted that “courts should be flexible and compensate a person for the losses he has actually suffered by the taking,” and that “[j]ust compensation is compensation that places the property owner in as good a condition as he would have been had the injury not occurred,” meaning it should “neither enrich the individual at the expense of the public nor the public at the expense of the individual.” *Id.* at 6-7. Thus while “[t]here is no formula or artificial measure of damages applicable to all condemnation cases” and “the amount to be recovered by the property owner is generally left to determination by the trier of fact,” damages “may not be speculative.” *Id.* at 7 (citations omitted). The award must therefore “only be for *actual damages*” which “must be provable to a reasonable certainty similar to common law tort damages” in order to “compensate for losses actually suffered while avoiding the threat of windfalls to plaintiffs at the expense of substantial government liability.” *Id.* (citations omitted). In this case, that included “property tax and interest expenses for the property taken, the costs to restore the construction to its state as of the date of the issuance of the stop work order, and [plaintiff’s] expert witness fees.” *Id.* at 8. The court also considered it appropriate to award plaintiff “damages for the diminution in the value of the property during the period in which the stop work order was in effect” as evidence established that the property would have been worth more had it been completed before the stop work order, rather than after the date the court enjoined its progress. *Id.* The court did not, however, award lost income and profits for plaintiff’s projects other than the residence, which plaintiff anticipated making after the sale of the residence, as the court stated that “the property owner is only entitled to recover actual damages provable to a reasonable certainty; speculative claims for lost profits are not permissible.” *Id.* In other words, profits plaintiff “hoped to earn on the building and sale of projects other than the residence” were based on “optimistic expectations” as to “what he might have done had everything gone according to plan,” which was speculative and somewhat rebutted by a decline in plaintiff’s income in the three years preceding the stop work order, as well as the significant decline in the real estate market shortly thereafter. *Id.* at 9.

While there are a handful of zoning cases in Michigan resulting in extraordinary awards against a municipality each of these cases involved extraordinary facts, obstinate, vindictive and irrational action on the part of the municipality and a complete failure to respect the rights of the landowner. Nothing on the part of Huron County in connection with wind parks, the Draft Plan or Section 14.03 approach this level of concern.

E. Equal Protection.

The United States and Michigan constitutions provide that no person shall be denied equal protection of the laws. US Am XIV; Const 1963, art 1, §2. Despite the differences in their language, Michigan’s equal protection provision is coextensive with the federal constitution’s Equal Protection Clause. *Harville v State Plumbing and Heating, Inc*, 218 Mich App 302, 310 (1996). Essentially, equal protection requires that persons in similar circumstances be treated similarly. *Arlington Heights v*

Metropolitan Hous Dev Corp, 429 US 252 (1977); *Snowden v Hughes*, 321 US 1 (1944). Absent a claim based on membership in a protected class or infringement of a fundamental constitutional right,³⁰ a landowner must show that he was treated “differently from others similarly situated and that there is no rational basis for such difference in treatment.”³¹ *Warren v Athens*, 411 F3d 697, 710 (6th Cir 2005); *Houdek v Centerville Twp*, 276 Mich App 568, 598 (2007) (“Where the proponent of an equal protection argument is not a member of a protected class, or does not allege violation of a fundamental right, the equal protection claim is reviewed using the rational basis test”). Specifically, when challenging a governmental regulation on equal protection grounds, a two-part test is applied: (1) Are the enactment’s classifications based on natural distinguishing characteristics and do they bear a reasonable relationship to the object of the legislation?; and (2) Are all persons of the same class included and affected alike or are immunities or privileges extended to an arbitrary or unreasonable class while denied to others of like kind? *Houdek*, 276 Mich App at 598-99 (citation omitted). With regard to the second element “[t]he standard of rationality requires that persons within a class be treated objectively and reasonably,” although reasonable “does not mean exact.” *Brittany Park Apartments v Harrison Charter Twp*, 432 Mich 798, 805 (1989). Municipal ordinances enjoy a presumption of constitutionality under this analysis, as a landowner is required to show a lack of rational basis for the governmental action or regulation by disproving “every conceivable basis which might support the government action or by demonstrating that the challenged government action was motivated by animus or ill-will.” *Warren*, 411 F3d at 711 (citation omitted); see also *Conlin*, 262 Mich App at 391; *Atlas Valley Golf and Country Club, Inc v Goodrich*, 227 Mich App 14, 26 (1997).

Tuscola, 327 FSupp3d at 1043, for instance, involved an equal protection claim based on the plaintiff’s allegation that the defendant required a localized property value analysis for WES applications, but not for other land uses. As plaintiff was not within a suspect class and was not seeking to exercise a fundamental right, the court analyzed this claim under the “class-of-one” theory, “where the plaintiff alleges that the state treated the plaintiff differently from others similarly situated and that there is no

³⁰ In *Hillsdale* the court found the municipality’s evidence of “vindictive retaliatory action” and “relentless pattern of harassment and vindictiveness” could sustain an equal protection action as municipal action taken in response to plaintiff’s attempt to exercise its rights, namely access to the courts and petitioning the government. *Id.* at 898-99.

³¹ Social and economic legislation is typically subject to the rational basis test. *Stegeman v City of Ann Arbor*, 213 Mich App 487, 492 (1995). In other words, when no suspect class is involved and a use is not completely excluded, the analyses for substantive due process and equal protection claims end up being essentially the same. *Conlin v Scio Township*, 262 Mich App 379, 391 n 2 (2004); *Pearson v Grand Blanc*, 961 F2d 1211, 1216 (6th Cir 1992). See, e.g., *Countrywalk Condominiums, Inc v Orchard Lake Village*, 221 Mich App 19, 23 (1997), which involved substantive due process and equal protection challenges to an ordinance which did not set aside any area within a city for multiple family dwellings and classified the only existing multiple family dwelling as a nonconforming use. The court stated that because the ordinance totally excluded “a use recognized by the constitution or other laws of the state,” it carried “a strong taint of unlawful discrimination and a denial of equal protection of the law.” *Id.* However, the court stated that “[a]lthough not presumed valid, because it totally excludes multiple dwellings, the ordinance will be declared valid if the exclusion has a reasonable relationship to the health, safety, or general welfare of the community,” which burden of proof was shifted to defendant given the total exclusion. *Id.* at 24. Here the court found that sufficient evidence existed to show “that the area was zoned primarily for single family residences because of traffic and safety concerns,” and that plaintiff did not then meet its burden to show “that the ordinance does not bear a real and substantial relationship to the safety or welfare of the public.” *Id.* Therefore, the ordinance was upheld.

rational basis for such difference in treatment.” *Id.* at 1044. As such, plaintiff was required to show that the government treated the plaintiff differently from a similarly situated party and had no rational basis for doing so. *Id.* (citation omitted). In considering the first element, the court noted that “courts should not demand exact correlation, but should instead seek relevant similarity.” *Id.* (citation omitted). As for the second element, the court stated that a “plaintiff may demonstrate that a government action lacks a rational basis in one of two ways: either by ‘negati[ng] every conceivable basis which might support’ the government action or by demonstrating that the challenged government action was motivated by animus or ill-will.” *Id.* (citation omitted).

The court here noted that, at least at the federal level, plaintiffs “must overcome a ‘heavy burden’ to prevail based on the class-of-one theory” because “such claims have the potential to turn into an exercise in which juries are second-guessing the legislative process.” *Id.* (citation omitted). In this case, for instance, “planning commission members wield a considerable amount of discretion in considering SLUP applications for wind energy conversion systems” as well as “SLUP applications generally,” and under its ordinance defendant had “absolute discretion” to require an application “demonstrate that the special use will not ‘substantially diminish and impair property values within its neighborhood.’” *Id.* at 1045. As plaintiff could only point to two instances in which SLUP applications were approved without requiring a property value or economic impact study (both for communications towers), it could not “establish a statistically significant trend, much less the kind of ‘clear standard’ the Supreme Court” has required for a class-of-one equal protection claim to proceed. *Id.* at 1046. As such, the “significant discretion entrusted to the Township and the extremely limited number of specifically identified comparable data points” highlighted “the unsuitability of the class-of-one theory in this situation.” *Id.* Instead, the claim would invite the Court “to serve as a ‘general-purpose second-guesser[] or the reasonableness of the Township’s SLUP review process.” *Id.* at 1046-47. In other words, the lack of comparable situations essentially precluded the equal protection claim. Despite this view, the court still proceeded to review plaintiff’s equal protection claim under the traditional standard.

With regard to the first element, the plaintiff had the “burden of demonstrating that [it] was treated differently than other property owners who were similarly situated in *all material respects.*” *Id.* at 1047. Under federal precedent “[m]ateriality is an integral element of the rational basis inquiry” because “[d]isparate treatment of similarly situated persons who are dissimilar only in immaterial respects is not rational” while “disparate treatment of persons is reasonably justified if they are dissimilar in some material respect.” *Id.* (citation omitted). This is typically a factual issue for a jury, and timing and context are especially relevant. For instance, the election of new political leaders with new priorities may result in developers no longer being similarly situated, given the prerogatives of the municipal representatives. *Id.*; *Taylor Acquisitions, LLC v Taylor*, 313 FApp’x 826, 837 (6th Cir 2009) Here plaintiff “provided no information regarding the companies which submitted the SLUP application for” the communication towers which were the subject of the other SLUP approvals, “nor any information regarding the SLUP application themselves.” *Id.* at 1048. Furthermore, there were “clear and obvious differences between SLUP applications for leave to construct nineteen wind turbines and SLUP applications to construct one cell tower” including the number of facilities, the footprint of the project, and the fact that the latter is static while the former has large, audible, moving parts. *Id.* Plaintiff therefore fell short of satisfying the “heavy burden” of showing it was treated differently from those similarly situated in all material respects. *Id.*

The court also reviewed whether any differential treatment here would have a rational basis. *Id.* at 1049. As the court noted, “[s]tatutes are invalidated for lacking a rational basis only extremely rarely” as “[e]ven foolish and misdirected provisions are generally valid if subject only to rational basis review.” *Id.* (citations omitted). Indeed, “[a] proffered [sic] explanation for the statute need not be supported by an exquisite evidentiary record; rather we will be satisfied with the government’s ‘rational speculation’

linking the regulation to a legitimate purpose, even ‘unsupported by evidence or empirical data.’” *Id.* (citation omitted). The court here found “numerous rational bases on which the Township could have based its decision to require Tuscola to submit an economic impact report but not require similar reports from other SLUP applicants,” such as the distinguishing characteristics described above. *Id.* The court also considered, however, whether the defendant’s decision was motivated by animus, although plaintiff was required to identify “animus directed against it, not just against the idea of having a wind energy development in the Township,” because if plaintiff was not required to “identify personal animus unrelated to official duties or policy . . . the federal courts would be drawn deep into the local enforcement of petty state and local laws.” *Id.* at 1049-50. Ultimately the court found that plaintiff “identified no evidence which suggests that any Township official possessed animus against the company specifically which was unrelated to an opposition to wind energy generally or their official duty to ensure compliance with the zoning ordinance.” *Id.* at 1050. Indeed, evidence that merely demonstrated “that members of the Township Board are ideologically opposed to wind energy” was “unremarkable” as “vehement and heated disputes over the efficacy and wisdom of certain policies are an expected, natural part of the democratic process.” *Id.* Instead, the evidence presented by plaintiff that some members of the defendant’s board were opposed to wind energy could “be traced to Tuscola’s desire to build a wind energy development and the Township Board’s opposition to wind energy,” meaning plaintiff “identified no ‘personal malice unrelated to the defendant’s official duties’” and plaintiff’s equal protection claim could not succeed. *Id.* at 1050-51.

International Outdoor also involved an equal protection claim. Here the court noted that “a zoning ordinance that totally excludes a particular use recognized by Michigan law is not presumed valid, and the burden shifts to the defendant to establish the reasonableness of the ordinance,” although the standard for the claim remains the same, i.e., the ordinance must reasonably advance a legitimate governmental interest. 2016 WL 3298229, p 7 (citing *Kroppf*, 391 Mich at 155-56 (“On its face, an ordinance which totally excludes from a municipality a use recognized by the Constitution or other laws of this State as legitimate also carries with it a strong taint of unlawful discrimination and a denial of equal protection of the law as to the excluded use”); *Landon Holdings*, 257 Mich App at 174-76). Here the court found that the billboard ordinance was meant to promote legitimate governmental interests, including aesthetic features such as the prevention of visual blight, and reduce traffic hazards, and the ordinance would sufficiently advance the same. *Id.* at 8.

In the context of land use regulations that do not implicate protected classes, equal protection claims are evaluated by determining if the landowner was treated differently from others who were similarly situated, and whether the government had a rational basis for doing so. As indicated above, regulation meant to eradicate wind turbines has been considered valid under both prongs of the equal protection analysis, as it can be difficult to find land uses which are truly similarly situated and the governmental entities can typically point to rational bases for treating wind turbines differently from other uses. Indeed, the analysis here closely follows that utilized for substantive due process claims, including the consideration of the governmental interest meant to be advanced by the regulation. We see no basis for equal protection liability against Huron given the ruling and analysis in the *Tuscola* cases.

F. Constitutional Claims and Damages.

In *Jones v Powell*, 462 Mich 329, 335 (2000), the Michigan Supreme Court held that Michigan case law “provides no support for inferring a damage remedy for a violation of the Michigan Constitution in an action against a municipality or an individual government employee.” Thus, while prior decisions “recognized a narrow remedy against the state on the basis of the unavailability of any other remedy,” such “concerns are inapplicable in actions against a municipality or an individual defendant,” as “[u]nlike states and state officials sued in an official capacity, municipalities are not protected by the Eleventh

Amendment.” *Id.* at 337. Thus because “[a] plaintiff may sue a municipality in federal or state court under 42 U.S.C. § 1983 to redress a violation of a federal constitutional right” and “may bring an action against an individual defendant under § 1983 and common-law tort theories,” plaintiffs do not have a damage remedy for municipal violations of the Michigan Constitution. *Id.*; see *Bonner v Rowell*, unpublished per curiam decision of the Court of Appeals, issued December 4, 2012 (Docket No. 303814) (2012 WL 6035161) (“[P]laintiffs’ claims for money damages arising out of alleged violations of procedural and substantive due process rights under the Michigan Constitution fail as a matter of law”); *Bennett v Detroit Police Chief*, 274 Mich App 307, 316 n 3 (2006) (“[O]ur Supreme Court has held that there is no cause of action for damages against entities other than the state for a violation of state constitutional rights”); *Patriot Ambulance Serv, Inc v Genesee Co*, 666 FSupp2d 712, 717 (ED Mich 2009) (“[A] plaintiff may not seek money damages from a municipality for its violation of the Michigan Constitution, because money damages are ordinarily reserved for a plaintiff who lacks an alternative remedy, and a municipality’s violation of the federal constitution carries with it the ability to recover damages from the municipality or individual government employees under 42 U.S.C. § 1983”).

Of course, this makes clear that actions brought pursuant to 42 USC 1983 and the federal counterparts to Michigan’s Due Process and Equal Protection Clauses do provide a basis for recovering damages. Under 42 USC 1983, any person who, under color of state law, deprives another of rights protected by the constitution or laws of the United States, is liable for damages. *Morden v Grand Traverse Co*, 275 Mich App 325, 332 (2007). As noted above, the Due Process and Equal Protection Clauses of the Michigan Constitution have been interpreted to be coextensive with their federal counterparts. When plaintiffs seek damages for violations of constitutional rights under 42 USC 1983, the “level of damages is ordinarily determined according to principles derived from the common law of torts,” meaning they are “designed to provide ‘compensation for the injury caused to plaintiff by defendant’s breach of duty.’” *Memphis Community Sch Dist v Staehura*, 477 US 299, 306 (1986) (citation omitted). As such, “compensatory damages may include not only out-of-pocket loss and other monetary harms, but also such injuries as ‘impairment of reputation’” and other less obviously quantifiable harms such as “personal humiliation, and mental anguish and suffering.” *Id.* (citation omitted). Furthermore, deterrence is an important purpose of the system, “but it operates the mechanism of damages that are *compensatory*—damages grounded in determinations of plaintiffs’ actual losses,”³² *Id.* Thus a plaintiff must “prove actual injury caused by the violation,” although “[w]hen it is difficult to quantify precisely the damages caused by that injury, presumed damages may be awarded, but ‘the award must focus on *the real injury sustained* and not on either the abstract value of the constitutional right at issue . . . or the importance of the right in our system of government.’” *King v Zamirah*, 788 F3d 207, 213-14 (6th Cir 2015) (citation omitted).³³ A court’s “finding of fact on the issue of compensatory damages is not

³² “Under federal law, a plaintiff who proves a cause of action under § 1983 may recover punitive damages whenever compensatory damages are established, even if nominal.” *Moreno v Hughes*, 157 FSupp3d 687, 692 (ED Mich 2016). However, “an award of punitive damages against a municipality ‘punishes’ only the taxpayers, who took no part in the commission of the tort” and therefore “a municipality is immune from punitive damages under 42 U.S.C. § 1983.” *Newport v Fast Concerts, Inc*, 453 US 247, 267, 271 (1981). This immunity does not extend to individuals who are sued in that capacity. *Id.*; see *Smith v Wade*, 461 US 30, 36 n 5 (1983).

³³ In *King*, for instance, as a result of an unconstitutional restriction on plaintiff’s door-to-door soliciting operation, plaintiff was able to collect not only lost revenues but also damages based on less quantifiable injuries including: (1) its inability to recruit new members; (2) its inability to disseminate its views; and (3) its inability to encourage citizens to support certain positions on various issues by signing petitions or contacting local legislators. *Id.* at 214. Thus even though the “compensatory damages for specific, actual

reversible error unless it manifests plain injustice, or is so grossly excessive as to be clearly erroneous.” *Id.* at 215 (citation omitted).

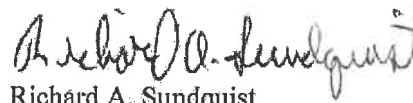
A violation of federal constitutional rights may therefore result in compensatory damages under 42 USC 1983 in an amount necessary to compensate plaintiff for its actual losses. As noted above, this analysis requires damages be proven with a reasonable degree of certainty and cannot be based on mere conjecture or speculation, but does allow for recovery of less quantifiable harms so long as the damages are focused on the injury and approximate the value of the harm suffered.

X. CONCLUSION

We trust that this opinion is responsive to your inquiries. Should you have any questions, or if we can provide further assistance, please contact us. This opinion is confidential and may be considered in a closed session by the County Board of Commissioners pursuant to Section 8(h) of the Open Meetings Act.

Based upon our review of the Zoning Ordinance, the Draft Plan, Section 14.03 of the Zoning Ordinance, as well as all key zoning cases involving major monetary awards we are of the opinion that the Zoning Ordinance does not permit full repowering without full compliance with new setback and other regulation under the 2015 amendment. The nonconforming status of the WES, even taken in light of the supposed economic expectations of the WES owners, does not change this conclusion. A refusal to allow a full repowering should not result in a viable claim by an owner against the County whether based upon the ZEA or under the law of takings or otherwise. The owners vested rights are protected under the existing Zoning Ordinance. While it is possible for zoning regulations to run afoul of the ZEA or the state or federal constitutions, it is also possible to promulgate an ordinance which prohibits the expansion or extension of a nonconforming use without stripping a property owner of a vested right or improperly excluding needed, lawful business from a municipality’s jurisdiction. That is the case here. Furthermore, as long as that ordinance is reasonable and rationally related to a legitimate governmental interest, without singling any specific use out for particular vindictive or negative treatment, and does not completely eliminate a property’s value, it will also survive relevant constitutional challenges.

Very truly yours,



Richard A. Sundquist

RAS/gs

injuries” suffered could not be “easily quantified,” the court “was careful to focus on approximating the value of the harm” the plaintiff actually suffered on the facts of the case. *Id.* at 215.

EXHIBIT 1

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*Wind Energy Facility Overlay Zoning
Revised Ordinance V5_PH*

Adopted November 10, 2015; Eff. November 27, 2015

*ADOPTED BY HURON COUNTY BOARD OF COMMISSIONERS, TUESDAY, NOVEMBER 10, 2015
RESOLUTION IN ORDINANCE FORM NO. 15-154, ZA 2015 -04 WITH EFF. DATE NOVEMBER 27, 2015*

**ARTICLE X. HURON COUNTY WIND ENERGY CONVERSION FACILITY OVERLAY ZONING
ORDINANCE**

SECTION 1. PURPOSE AND INTENT

The purpose of this Article is to provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of Wind Energy Conversion Facilities (Wind Energy Facilities) in Huron County, to meet the needs of the County's citizens for energy and other natural resources, places of safe residence, recreation, industry, trade, service, tourism, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to facilitate adequate and efficient provision for water, energy, recreation, including habitat for wildlife, and other public service and facility requirements; and to promote and protect the health, welfare, safety, and quality of life of the general public, and to ensure compatible land uses in the vicinity of the areas affected by wind energy facilities. A Wind Energy Facility Overlay District shall be considered a map amendment, wherein lands so classified shall become pre-qualified for a Wind Energy Facility with construction of such facility approved pursuant to Section 5 Wind Energy Facility Site Plan Review, of this Article. It is further recognized that a Wind Energy Facility Overlay District is intended as an agricultural preservation measure.

SECTION 2. DEFINITIONS

As used in this Article, the following terms shall have the meaning indicated:

Airport Zoning Ordinance shall mean the Huron County Memorial Airport Zoning Ordinance.

Ambient Sound shall mean the all-encompassing sound associated with a given environment, being usually a composite of sound from many sources near and far, as defined by ANSI S12.9 Part 3.

A-weighted sound level shall mean the sound pressure level in decibels as measured on a sound level meter using the A-weighting network, a method for weighting the frequency spectrum to mimic the human ear. Expressed as dB(A) or dBA.

ANSI shall mean the American National Standards Institute. The current revision of each referenced standard shall be used.

ASTM shall mean the American Society for Testing and Materials.

Background Sound shall mean the all-encompassing sound associated with a given environment without contribution from the source or sources of interest, as defined by ANSI S12.9 Part 3.

Board of Commissioners shall mean the Huron County Board of Commissioners.

Commission shall mean the Huron County Planning Commission.

County (County Zoned Township) shall mean the County of Huron.

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Continuous Background Sound shall mean background sound measured during a measurement period, after excluding the contribution of transient background sounds, as defined by ANSI S12.9 Part 3.

Decibel: see **Sound Pressure Level and Sound Power Level**

Downwind shall mean a position where the direction of the wind vector is within an angle of $\pm 45^\circ$ of the direction connecting the center of the sound source and the center of the specified receiver area, as defined by ANSI S12.18.

End of Useful Life shall mean the Wind Energy Conversion Facility, or a portion thereof, such as one or more individual wind turbines, that have not produced electrical energy for twelve (12) consecutive months.

Equivalent A-weighted Continuous Sound Level shall mean the level of a steady sound which, in a stated time period and at a stated location, has the same A-weighted sound energy as the time varying sound, denoted as $L_{eq A}$, and expressed as dBA.

FAA shall mean the Federal Aviation Administration.

FERC means the Federal Energy Regulatory Commission.

Frequency shall mean the number of oscillations or cycles per unit of time, expressed as Hertz (Hz).

Hertz means the frequency of sound expressed by cycles per second.

Hub Height shall mean, when referring to a Wind Turbine, the distance measured from ground level to the center of the turbine hub.

IEC means the International Electrotechnical Commission. The current revision of each referenced standard shall be used.

ISO means the International Organization for Standardization. The current revision of each referenced standard shall be used.

INCE means the Institute of Noise Control Engineering.

Inhabited means to live or reside in.

Inhabited Structure means a structure designed for human occupancy and provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

MET Tower shall mean a meteorological tower used for the measurement of wind speed.

Michigan Tall Structure Act (Act 259 of 1959) shall govern the height of structures in proximity to airport related uses and is included as a standard in this Article by reference.

NERC means the North American Electric Reliability Corporation.

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Noise Sensitive Facility means an inhabited structure, school, hospital, church, public library, or other area designated by the Planning Commission.

Non-participating parcel means a parcel of real property which is not under lease or other property agreement with a Wind Energy Conversion Facility (WECF) owner/operator.

Octave Band shall mean the frequency interval where the upper frequency is twice the lower frequency.

One-Third Octave Band shall mean the frequency interval where the upper frequency is the lower frequency times the cube root of two.

Participating parcel means a parcel of real property which is under lease or other property agreement with a Wind Energy Conversion Facility (WECF) owner/operator.

Rotor means an element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

SCADA shall mean supervisory control and data acquisition, a computer system for gathering and analyzing real time data.

Shadow Flicker shall mean alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.

Sound Power shall mean the rate per unit time at which sound energy is radiated, expressed as watts (W).

Sound Power Level shall mean ten times the logarithm to the base 10, of the ratio of a given sound power to the reference sound power of 1 picowatt, expressed as decibels (dB).

Sound Pressure shall mean the difference at a given point between the pressure produced by sound energy and the atmospheric pressure, expressed as pascals (Pa).

Sound Pressure Level shall mean twenty times the logarithm to the base 10, of the ratio of the root-mean-square sound pressure to the reference pressure of twenty micropascals, expressed as decibels (dB). Note that, unless expressed with reference to a specific weighing network (such as dBA), the unit dB shall refer to an un-weighted measurement.

Tip Height means the distance measured from ground level to the furthest vertical extension of the rotor and blade.

Transient Background Sound shall mean background sound associated with one or more sound events which occur infrequently during the basic measurement period, a measurement interval with or without the source operating, as defined by ANSI S12.9 Part 3.

Wind Energy Conversion Facility (WECF) or Wind Energy Facility shall mean an electricity generating facility consisting of one or more wind turbines under common ownership or operation control, and includes substations, MET Towers, cables/wires and other buildings accessory

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to such facility, located on private land which is under lease or other property agreement with a WECF owner/operator, whose main purpose is to supply electricity to off-site customers(s). It includes substations, MET towers, cables and wires and other buildings accessory to such facility. Wind Energy Conversion Facility accessory structures shall comply with the requirements of the Agricultural (AGR) zoning district in addition to the area, height, bulk and placement provisions as required by Article IX, Schedule of Regulations, of this Ordinance.

Wind Energy Facility Site Permit is a zoning permit issued upon compliance with standards of this Article.

Wind Energy Facility Site Plan Review is the process used to review a proposed Wind Energy Facility.

Wind Energy Overlay Districts are districts created by the Huron County Board of Commissioners, upon receiving a recommendation of the Planning Commission, by identifying specific areas within the Agricultural District best situated for development of wind energy facilities and adopting specific provisions that apply in that area in addition to other provisions of the zoning ordinance.

Wind Turbine shall mean a wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator, and includes the turbine, blade, tower, base and pad transformer, if any; provided that such a system shall only be a wind turbine for purposes of this Article if it both has a total height greater than 150 feet and nameplate capacity of greater than 100 kilowatts.

SECTION 3. REGULATORY FRAMEWORK

3.1 Zoning

A Wind Energy Facility may be constructed on land that is zoned Agricultural and within an area designated as a Wind Energy Facility Overlay District on the official zoning map for the County, subject to provisions and standards of Section 5 Wind Energy Facility Site Plan Review of this Article.

3.2 Principal or Accessory Use

Wind Energy Facility and related accessory uses may be considered either principal or accessory uses. A different existing use or an existing structure on the same parcel shall not preclude the installation of a Wind Energy Facility or a part of such facility on such parcel. Wind Energy Facilities that are constructed and installed in accordance with the provisions of this Article shall not be deemed to constitute the expansion of a nonconforming use or structure. Wind Energy Facilities shall be reviewed and approved pursuant to Section 5 of this Article.

After designation as a Wind Energy Overlay District, new structures and uses within the "overlay" area shall be limited to those uses identified within Article IV. Agricultural District and wind energy facilities, subject to any additional standards of this Article.

SECTION 4.0 APPLICABILITY

A Wind Energy Conversion Facility (WECF) or Wind Energy Facility (WEF) shall be permitted in Agricultural Districts with a Wind Energy Facility Overlay District Classification. Wind Energy Facility Site Plan Review standards shall be used when reviewing an application for wind energy facility permit.

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SECTION 4.1 PRIOR APPROVALS

Wind Energy Conversion Facilities which had site plan review applications pending before the Planning Commission on or before February 10, 2015, and which subsequently received site plan approval are exempt from the provisions of this Article X and such facilities shall be constructed and operated in accordance with the provisions of Article X: Huron County Wind Energy Conversion Facility Overlay Zoning Ordinance dated June 1, 2010.

SECTION 5.0 WIND ENERGY FACILITIES SITE PLAN REVIEW PROCEDURE (Adopted as of November 10, 2015)

The following process shall be utilized when reviewing an application for a Wind Energy Facility Permit: Within an Agricultural District, a Wind Energy Facility Overlay District shall be created based on “attributes” and “limitations” identified in the Huron County Master Plan. A “Wind Energy Overlay District” classification is a prerequisite to developing a Wind Energy Facility. It is the intent of this “overlay district” to identify agricultural land eligible for commercial, large-scale wind energy conversion facilities and, at the same time, provide for maximizing and preserving agricultural activity.

5.1 Site Plan Review Required.

Wind Energy Conversion Facilities shall not be located, constructed, erected, altered, or used without first obtaining a Wind Energy Facilities Permit pursuant to this Article. The Wind Energy Facilities Site Plan must be reviewed and approved by the Huron County Planning Commission pursuant to standards contained herein, and in conjunction with Article XIV Section 14.28. An applicant proposing a Wind Energy Facility must submit the following site plan materials:

1. Survey of the property showing existing features such as contours, large trees, buildings, structures, roads (rights-of-way), utility easements, land use, zoning district, ownership of property, and vehicular access;
2. Plan(s) showing the location of proposed turbine towers, underground and overhead wiring (including depth of underground wiring), access roads (including width), substations and accessory structures;
3. A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary in the County to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the Wind Energy Facility;
4. Engineering data concerning construction of the tower and its base or foundation, which must be engineered and constructed in such a manner that upon removal of said tower, the soil will be restored to its original condition to a depth of (4) feet from established ground level;
5. Anticipated construction schedule;
6. Description of operations, including anticipated regular and unscheduled maintenance;
7. Digital versions of all planning and construction documents required pursuant to Section 5.1 Site Plan Review. Digital submittals are in addition to paper plans and do not replace any current submission requirements. Digital versions shall be submitted in PDF (Adobe Acrobat/Portable Document File) format.

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8. Plan(s), permits, and/or data showing compliance with the Huron County Memorial Airport Zoning Ordinance.

5.2 Application Fee: An applicant for a Wind Energy Facility shall remit an application fee to the County in the amount specified in the fee schedule adopted by resolution of the Huron County Board of Commissioners. Payment shall be made at time of application submission.

5.3-Application Material. The following shall be included and/or be utilized as standards when preparing, submitting and reviewing an application for a Wind Energy Facility.

A. Avian Analysis. The applicant shall submit an avian study to assess the potential impact of proposed Wind Energy Facilities upon bird and bat species. The avian study shall at a minimum report on a literature survey for threatened and endangered species, and any information on critical flyways. The applicant must identify any plans for post-construction monitoring or studies. The analysis should also include an explanation of potential impacts and propose a mitigation plan, if necessary. The applicant shall include documentation pertaining to compliance with the U.S. Fish and Wildlife Service voluntary Land-Based Wind Energy Guidelines, as amended. Developer shall provide affidavit of delivery (i.e. USPS Return Receipt) of any documentation requested by the U.S. Fish and Wildlife Service and the applicant's response.

B. Visual Appearance; Lighting; Powerlines. The applicant shall use measures to reduce the visual impact of wind turbines to the extent possible, utilizing the following:

1) Wind turbines shall be mounted on tubular towers, painted a non-reflective, non-obtrusive color. The appearance of turbines, towers and buildings shall be maintained throughout the life of the wind energy facility pursuant to industry standards (i.e., condition of exterior paint, signs, landscaping, etc.). A certified registered engineer and authorized factory representative shall certify that the construction and installation of the wind energy conversion system meets or exceeds the manufacturer's construction and installation standards.

2) The design of the Wind Energy Facility's buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend facility components with the natural setting and then existing environment.

3) Wind Energy Facilities shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.

4) Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Wind Energy Facility.

5) The electrical collection system shall be placed underground within the interior of each parcel at a minimum burial depth of five (5) feet. The communication system shall be placed underground within the interior of each parcel at a minimum burial depth of four (4) feet. The final location of the electrical collection system installation shall be identified by GPS location. The actual installed burial depth of underground wiring shall be verified by the developer of the wind energy facility. The developer shall provide certification from the installing contractor of the actual installed burial depth of all underground wiring. Such certification shall be under the penalty of perjury. The collection system may be placed overhead adjacent to County roadways, near substations or points of interconnection to the electric grid or in other areas as necessary.

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6) **Shadow Flicker:** The allowable shadow flicker measured at the nearest external wall or walls of participating inhabited structures shall be limited to a maximum of 30 hours per year. Shadow flicker measured at the nearest external wall or walls of non-participating inhabited structures shall be limited to 30 hours per year. In the event shadow flicker from the Wind Energy Facility exceeds the limits stated above, a waiver to said limits may be approved provided that the following has been accomplished:

- (a) Written consent from the affected property owner(s) has been obtained stating that they are aware of the Wind Energy Facility and the shadow flicker limitations imposed by this Article, and that consent is granted to allow shadow flicker limits to exceed the maximum limits otherwise allowed; and
- (b) A shadow flicker impact easement shall be recorded with the Huron County Register of Deeds office which describes the benefitted and burdened properties and which advises all subsequent owners of the burdened property that shadow flicker limits in excess of those otherwise permitted by the ordinance may exist on or at the burdened property.

C. Setbacks, Separation and Security. The following setbacks and separation requirements shall apply to all wind turbines within a Wind Energy Facility;

1) Inhabited structures: On a participating parcel, each wind turbine shall be set back from the nearest inhabited structure a distance of no less than 1320 feet. Regarding a non-participating parcel, each wind turbine shall be set back from the nearest inhabited structure a distance of no less than 1640 feet. A lesser setback may be approved pursuant to Section 5.1 of this Article if the intent of this Article would be better served thereby. A reduced setback shall be considered only with written approval from the owner of the inhabited structure. Where a turbine within a Wind Energy Facility is located in the vicinity of a school, hospital, church, public library, city, village, or self-zoned township, a setback of 1320 feet from the structure and/or boundary shall be required. Where a turbine location is proposed nearer to an inhabited structure than allowed by this section, an easement shall be established on the affected parcel(s), recorded with the Huron County Register of Deeds.

2) Property line setbacks: Excepting locations of public roads (see below), drain rights-of-way and parcels with inhabited structures, wind turbines shall not be subject to property line setbacks on participating parcels within the Wind Energy Facility Overlay District. Along the border of the Wind Energy Facility Overlay District, there shall be a setback distance equal to 1320 feet measured from the nearest wind turbine. Wind turbines and access roads shall be located so as to minimize the disruption to agricultural activity and, therefore, the location of towers and access routes is encouraged along internal participating property lines. Where a turbine location is proposed nearer to a non-participating internal property line than one and one-half (1.5) times the tip of the blade at its highest position [max height 499'], an easement shall be established on the abutting parcel(s).

3) Public Roads: Each wind turbine shall be set back from the nearest public road a distance no less than 500 feet or 1.5 times its Hub Height, whichever is greater, determined at the nearest boundary of the underlying right-of-way for such public road.

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4) Communication and electrical lines: Each wind turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 500 feet or 1.5 times its Hub Height, whichever is greater, determined from the existing power line or telephone line.

5) Tower separation: Turbine/tower separation shall be based on 1) industry standards, and 2) manufacturer certification. At a minimum, there shall be a separation between towers of not less than 3 times the turbine (rotor) diameter; and, the Wind Energy Facility shall be designed to minimize disruption to farmland activity. Documents shall be submitted by the developer/manufacturer confirming specifications for turbine/tower separation.

6) Following the completion of construction, the applicant shall certify that all construction is completed pursuant to the Wind Energy Site Permit and, in addition, that appropriate security will be in place to restrict unauthorized access to Wind Energy Facilities.

7) Shoreline Protection: A Wind Energy Turbine/Tower shall be located at least three (3) miles from the ordinary high water mark of the Lake Huron/Saginaw Bay shoreline, as established by the Michigan Department of Environmental Quality MCL 324.32502.

D. Wind Turbine/Tower Height (Total Height): The total height of a wind turbine shall be a maximum of 499 feet. The applicant shall demonstrate compliance with the Michigan Tall Structure Act (Act 259 of 1959, as amended) and FAA guidelines as part of the approval process.

E. Sound (developed by Acoustics by Design)

1) The audible sound from a Wind Energy Facility at a Noise Sensitive Facility may not exceed the Equivalent A-weighted Continuous Sound Level (L_{eq}) limits set forth in Table 1, measured in accordance with the methodology described in Sections (6) and (7).

Table 1 –Equivalent A-weighted Continuous Sound Level (L_{eq}) Limits

| Zone | Time | Equivalent A-weighted Continuous Sound Level (dBA) |
|--------------------------|-------------------|--|
| Participating parcel | 7 a.m. to 10 p.m. | 50 |
| | 10 p.m. to 7 a.m. | 45 |
| Non-participating parcel | 7 a.m. to 10 p.m. | 45 |
| | 10 p.m. to 7 a.m. | 45 |

2) In the event audible noise from the operation of the Wind Energy Facility contains a prominent discrete tone, the limits set forth in Table 1 shall be reduced by five (5) dBA. For a prominent discrete tone to be identified as present, the equivalent-continuous sound pressure level in the one-third octave band of interest is required to exceed the arithmetic average of the equivalent-continuous sound pressure level for the two adjacent one-third octave bands by five (5) dB for center frequencies of five hundred (500) Hz and above, by eight (8) dB for center frequencies between one hundred and sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dB for center frequencies between twenty five (25) and one hundred and twenty-five (125) Hz as specified by ANSI S12.9 Part 3, Annex B.

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- 3) Any noise level falling between two whole decibels shall be rounded to the nearest whole number.
- 4) In the event the noise levels resulting from the Wind Energy Facility exceed the criteria listed above, a waiver to said levels may be approved provided that the following has been accomplished:
- (a) Written consent from the affected property owner(s) has been obtained stating that they are aware of the Wind Energy Facility and the noise limitations imposed by this Article, and that consent is granted to allow noise levels to exceed the maximum limits otherwise allowed; and
 - (b) A noise impact easement shall be recorded in the Huron County Register of Deeds office which describes the benefitted and burdened properties and which advises all subsequent owners of the burdened property that noise levels in excess of those otherwise permitted by the ordinance may exist on or at the burdened property.

5) **Sound Modeling Study** – The applicant shall provide a predictive sound modeling study of all turbine noise for a Wind Energy Facility to verify that ordinance requirements can be met for the Equivalent A-weighted Continuous Sound Level limits in Table 1. The sound modeling must follow International Standard, ISO 9613-2 “Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation.” The sound modeling study shall use the maximum apparent wind turbine sound power levels as determined by measurement according to IEC 61400 – Part 11, or as determined by analytical calculations according to the manufacturer, plus 2 dB to each frequency band. The sound power source shall be modeled at hub height. Modeling shall include topographical information and assume hard ground ($G=0$) for all large areas of pavement and water, and mixed ground ($G=0.5$) for all other land. The sound modeling study shall include a map with all proposed wind turbine locations, all Noise Sensitive Facilities, and all participating and non-participating parcels. The sound study map shall be overlaid with sound contour lines extending out to the 30 dBA sound contour line, at 5 dBA intervals from the center of the proposed Wind Energy Facility.

6) **Post Construction Sound Survey** – The applicant shall complete a post construction sound survey within 12 months of the commencement of the operation of the project. The applicant shall be able to determine compliance with the Equivalent A-weighted Continuous sound level limits set forth in Sections (1) and (2). The measurements and the reporting of the data shall be conducted in accordance with Section (6)(a) through Section (6)(c). The survey shall address noise complaints on file with the County and may require additional measurement locations as deemed necessary by the Planning Commission. Should the sound survey indicate a non-compliant measurement, the owner of the Wind Energy Facility will be required to obtain compliance through mitigation or other measures.

(a) **Methodology**

- i) Refer to Section (8) for measurement personnel and instrumentation requirements.
- ii) A calibration check shall be performed and recorded before and after each measurement period.
- iii) The nighttime measurement period shall be 2 hours minimum and shall be continuously observed by a trained attendant. Sound level data shall be aggregated in 10-minute measurement intervals within the nighttime compliance measurement period (nighttime: 10:00 pm to 7:00 am).

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- iv) The daytime measurement period shall be 2 hours minimum and shall be continuously observed by a trained attendant. Sound level data shall be aggregated in 10-minute measurement intervals within the daytime compliance measurement period (daytime: 7:00 am to 10:00 pm). Because compliance with nighttime noise limits presumes compliance with the less stringent daytime noise limits, this requirement may be waived by the Planning Commission.
- v) Compliance will be demonstrated when the Equivalent A-weighted Continuous Sound Level of every twelve representative 10-minute measurement interval is less than or equal to the Equivalent A-weighted Continuous sound level limits as set forth in Sections (1) and (2) of this rule. Representative intervals are defined as:
 - a. Periods complying with the general method for routine measurements of ANSI S12.18. Measurements shall be made either downwind as defined in ANSI S12.18, or if the atmospheric conditions are such that the direction of the wind vector is within an angle of ± 45 degrees of the annual prevailing wind direction.
 - b. Periods where the concurrent turbine hub-elevation wind speeds are sufficient to generate within 1 dB of the maximum continuous rated sound power from the nearest wind turbine to the measurement location.
 - c. Periods where ground level gusts are equal to or less than 7 m/s (15.66 mph).
- vi) The sound level measured in each 10-minute measurement interval above may be corrected for transient background sound and continuous background sound, according to ANSI S12.9 Part 3.

(b) Measurement Locations

- i) The measurement locations shall be chosen by the developers' Measurement Personnel and by the Planning Commission prior to the Post Construction Sound Survey.
- ii) The measurement locations shall be performed at Noise Sensitive Facilities in close proximity to one or multiple wind turbines and/or locations which have modeled sound levels closest to limits identified in Table 1. A 3:1 ratio (wind turbines to measurement locations) will be used to determine the number of measurement locations, with a minimum of 8 measurement locations. The measurement locations shall include, but are not limited to, the following:
 - a. A minimum of four measurements of different non-participating parcels. The measurement location shall be at the Noise Sensitive Facility, measured 50 feet from the façade nearest the closest wind turbine of the Wind Energy Facility.
 - b. A minimum of two measurements of different participating parcels. The measurement location shall be at the Noise Sensitive Facility, measured 50 feet from the façade nearest the closest wind turbine of the Wind Energy Facility.
 - c. Any measurement location determined necessary by the Measurement Personnel and Planning Commission. If both parties agree, a measurement location deemed unnecessary may be omitted from the required locations.

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- iii) The microphone shall be positioned at a height of 5 feet \pm 1 foot above the ground, and oriented in accordance with the characteristics of the microphone so that the frequency response is as flat as possible.
 - iv) To the greatest extent possible, measurement locations should be located away from potential contaminating sources of noise such as major highways, industrial facilities and urban areas.
 - v) To the greatest extent possible, measurement locations shall be at the center of unobstructed areas that are maintained free of vegetation and other structures or material that is greater than 2 feet in height for a 50-foot radius around the sound monitoring equipment.
 - vi) To the greatest extent possible, measurement locations should be at least 50 feet from any known sound source.
 - vii) Meteorological measurements of the surface wind speed and direction shall be collected using anemometers at a height of 6.6 foot \pm 0.7 foot above the ground, near each noise measurement location. Care should be taken to avoid noise measurement contamination from the anemometer operation.
- (c) **Reporting of Measurement Data** Measurement Reports shall be submitted to the Planning Commission within 45 days of completion of the post-construction survey and shall include, at a minimum, the following:
- i) A narrative description of the sound from the Wind Energy Facility for the compliance measurement period result.
 - ii) A narrative description of the sound measurements collected.
 - iii) A map showing the wind turbine locations, noise measurement locations, and all Noise Sensitive Facilities.
 - iv) The dates, days of the week and hours of the day when measurements were made.
 - v) The wind direction and speed, temperature, precipitation, and sky condition for each 10-minute measurement interval. Meteorological measurements of the wind speed and direction will be reported at both the surface height, and at hub level (to be provided by the Wind Energy Facility from the closest wind turbine), based on five second integration intervals. Both the average and maximum wind speeds for each 10- minute measurement interval shall be reported.
 - vi) The wind energy output for each 10- minute measurement interval for the closest wind turbine.
 - vii) Identification of all measurement equipment by make, model and serial number.
 - viii) All meteorological, sound, windscreen and audio instrumentation specifications and calibrations.
 - ix) All A-weighted equivalent sound levels for each 10-minute measurement interval.
 - x) All 1/3 octave band linear equivalent sound levels for each 10-minute measurement interval and identification of tonal periods.

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- xi) All attendant's notes and observations.
- xii) All concurrent time stamped turbine operational data including the date, time and duration of any noise reduction operation or other interruptions in operations if present.
- xiii) All periods removed from the data due to temperatures above or below manufacturer specifications, wind speeds above ANSI S12.18 limits.
- xiv) All corrections for transient background and continuous background sound according to ANSI S12.9 Part 3. All methodology, data, field notes, and calculations shall be included. Audio recordings may be submitted for identification of intrusive noise events. Audio collection shall occur through the same microphone/sound meter as the measurement data. Audio recordings shall be time stamped (hh:mm:ss), at an adequate quality for identifying events, and in mp3 format.
- xv) All other information determined necessary by the Planning Commission.

7) Measurement of the Sound from Routine Operation of the Developments – Measurements of the sound from routine operation of completed Wind Energy Facilities are generally necessary only for specific compliance testing purposes in the event that community complaints result from operation of the development, for validation of an applicant's calculated sound levels when requested by the Planning Commission, or for enforcement by the Department. The applicant shall be able to determine compliance with the Equivalent A-weighted Continuous sound level limits set forth in Sections (1) and (2). The measurements and the reporting of the data shall be conducted in accordance with Section (7)(a) through Section (7)(c). Should the measurements indicate a non-compliant measurement, the owner of the Wind Energy Facility will be required to obtain compliance through mitigation or other measures.

(a) **Methodology** - Refer to Section (6)(a).

(b) **Measurement Locations**

- i) Measurement locations shall be conducted at the property of the complainant and chosen by the Measurement Personnel and by the Planning Commission beforehand. The measurement locations shall include, but are not limited to, the following representative locations:
 - a. A minimum of one measurement location at the Noise Sensitive Facility of the complainant, measured 50 feet from the façade nearest the closest wind turbine of the Wind Energy Facility.
 - b. Any measurement location determined necessary by the Measurement Personnel and Planning Commission.
- ii) The microphone shall be positioned at a height of 5 feet ± 1 foot above the ground, and oriented in accordance with the characteristics of the microphone so that the frequency response is as flat as possible.
- iii) To the greatest extent possible, measurement locations should be located away from potential contaminating sources of noise such as major highways, industrial facilities and urban areas.

- iv) To the greatest extent possible, measurement locations shall be at the center of unobstructed areas that are maintained free of vegetation and other structures or material that is greater than 2 feet in height for a 50-foot radius around the sound monitoring equipment.
 - v) To the greatest extent possible, measurement locations should be at least 50 feet from any known sound source.
 - vi) Meteorological measurements of the surface wind speed and direction shall be collected using anemometers at a height of 6.6 foot \pm 0.7 foot above the ground, near each noise measurement location. Care should be taken to avoid noise measurement contamination from the anemometer operation.
- (c) **Reporting of Measurement Data** Measurement Reports shall be submitted to the Planning Commission within 45 days of completion and shall include, at a minimum, the following:
- i) Refer to Section (6)(c)(i) through Section (6)(c)(xv)

8) General Sound Survey Methodology

- (a) **Measurement Personnel.** Measurements shall be supervised by personnel who are independent of the Wind Energy Facility, well qualified by training and experience in measurement and evaluation of environmental sound, and are Board Certified members of the Institute of Noise Control Engineering (INCE).
- (b) **Measurement Instrumentation.** Measurement devices shall comply with the following requirements:
- i) A sound level meter or alternative sound level measurement system used shall meet all of the Type 1 performance requirements of American National Standard Specifications for Sound Level Meters, ANSI S1.4.
 - ii) An integrating sound level meter (or measurement system) shall also meet the Class 1 performance requirements for integrating/averaging in the International Electrotechnical Commission Sound Level Meters, IEC Publication 61672-1.
 - iii) A filter for determining the existence of tonal sounds shall meet all of the Class 1 performance requirements of American National Standard Specification for Octave- Band and Fractional Octave-Band Analog and Digital Filters, ANSI S1.11.
 - iv) An acoustical calibrator shall be used of a type recommended by the manufacturer of the sound level meter and that meets the Type 1 performance requirements of American National Standard Specification for Acoustical Calibrators, ANSI S1.40.
 - v) A microphone windscreen shall be used of a type that meets or exceeds the recommendations of manufacturer of the sound level meter.
 - vi) The sound level meter shall have been calibrated by a laboratory within 24 months of the measurement, and the microphone's response shall be traceable to the National Bureau of Standards.

*Wind Energy Facility Overlay Zoning
Revised Ordinance V5_PH*

Adopted November 10, 2015; Eff. November 27, 2015

- vii) The sound level meter shall be used with the fast meter response and sampling frequency of one sample per second.
- viii) Anemometer(s) used for surface wind speeds shall have a minimum manufacturer specified accuracy of ± 1 mph providing data in five second integrations.
- ix) Compass used for surface wind direction shall have a minimum manufacturer specified accuracy of $\pm 3^\circ$ providing data in five second integrations.
- x) Thermometer used for surface temperature shall have a minimum manufacturer specified accuracy of $\pm 2^\circ\text{C}$ providing data in five second integrations.
- xi) A digital recording device used to store the time waveform of the sound pressure levels shall comply with the requirements of ANSI/ASA S1.13.

G. Minimum Ground Clearance

The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of not less than seventy-five (75) feet.

H. Signal Interference

No Wind Energy Facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No Wind Energy Facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

I. Safety

- 1) All collection system wiring shall comply with all applicable safety and stray voltage standards.
- 2) Wind Turbine towers shall not be climbable on the exterior.
- 3) All access doors to wind turbine towers and electrical equipment shall be lockable.
- 4) Appropriate warning signs shall be placed on wind turbine towers, electrical equipment, and Wind Energy Facility entrances.

5.4-Site Plan Approval, Amendments, Expiration and Revocation.

A Wind Energy Conversion Facility Site Plan shall be permitted to be approved, approved with conditions, or denied. Site plans must also comply with Article XIV, Section 14.28 Site Plan Review (All Districts). An approved site plan and/or "conditionally approved" site plans are valid for 12 months from date of approval by the planning commission. The approved site plan shall be considered exercised once a building permit has been issued and substantial construction commenced. Any amendments to an approved site plan, accompanied by supporting documentation, shall be submitted to the planning commission prior to permit issuance. The planning commission shall review the amendment and may grant, deny or amend such amendment as deemed necessary. An approved site plan shall be revoked if the applicant fails to comply with conditions imposed by the planning commission, Article X provisions, and Section 14.28 of this Ordinance.

SECTION 6.0 CERTIFICATION. Operation of a wind energy facility shall require certification of compliance; a certification report from the wind facility's owner/operator is required within twelve (12) months of the facility's initial operation (start-up) date. The post-construction certification report shall confirm the project's compliance with provisions of this code as well as all other all applicable laws and conformity with wind industry practices.

"As Built List"

1. "As-built" construction plans
2. Digital version
3. Paper Copy

SECTION 7.0 INSPECTIONS. The applicant (owner/operator) shall submit annual reports to the Planning Commission or its designated officer confirming continued compliance with applicable county codes or ordinances. This requirement shall not preclude the county from undertaking a separate compliance report, where confirmation of data provided by the facility's operator is desired. The cost of a county-sponsored report shall be reimbursed to the county by the facility's owner/operator through an escrow fund established pursuant to the 'schedule of fees for wind energy facilities', adopted from time-to-time by the Board of Commissioners.

SECTION 7.01 COMPLAINT RESOLUTION. The Michigan Zoning Enabling Act allows a local unit of government to enact through ordinance regulations to achieve specific land management objectives and avert or solve specific land use problems; see MCL 125.3201(3). The Thumb area has been designated as a primary wind zone area and as a result it is anticipated that Huron County will experience substantial growth in wind energy facilities. In light of the foregoing, the County has developed a process for the resolution of complaints unique to wind energy systems. A description of a complaint resolution process shall be established by an applicant of a wind energy facility permit as part of its initial application for zoning approval. The process is intended to facilitate resolution of complaints concerning the construction or operation of the wind energy facility from nearby residents and/or property owners. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. A complaint resolution process approved through a wind energy facility permit shall be prepared utilizing, at a minimum, guidelines which are established by resolution of the Board of Commissioners after recommendation by the Planning Commission; and, said process shall not preclude the county from pursuing any and all appropriate legal action on a complaint.

SECTION 7.02 FALSE REPORT OF OFFICIAL COMPLAINT. Any person who intentionally makes a false complaint or intentionally causes a false report of a complaint or violation of Article X to the official in charge of enforcing the Wind Energy Facility Overlay Zoning Ordinance, knowing the report is false, is guilty of a civil infraction, and upon a finding of responsibility is subject to a fine of up to \$500.00 for each violation and all costs associated with the investigation and prosecution thereof.

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SECTION 8.0 DECOMMISSIONING. The applicant shall submit a plan describing the intended disposition of the Wind Energy Facilities and/or individual wind turbines at the end of their useful life, and shall describe any agreement with the landowner regarding equipment removal upon termination of the lease. A performance bond or equivalent financial instrument shall be posted in an amount determined by the County (to be utilized in the event the decommissioning plan needs to be enforced with respect to tower removal, site restoration, etc.). The bond shall be in favor of Huron County, and may be provided jointly as a single instrument for multiple townships within a single wind farm, provided that any such single instrument shall be in an amount of at least \$1 million and shall contain a replenishment obligation. The replenishment obligation shall be satisfied with other additional documentation determined by the County, if the bond is not replenishable. The County reserves the right to review the decommissioning plan every 5 years, and revise requirements as necessary.

SECTION 9.0. A moratorium adopted by the Huron County Board of Commissioners, adopted April 14, 2015, effective May 1, 2015, for a 90 day period, with a provision for a one-time 90 day extension, which became effective on July 30, 2015, which expired on October 27, 2015, and is no longer in effect due to the sunset provision.

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EXHIBIT 2

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Zoning Ordinance of Huron County, Michigan December 1, 2010
ARTICLE XIV. -GENERAL PROVISIONS Continued.

SECTION 14.03 NONCONFORMING USES, BUILDINGS, STRUCTURES, OR
PARCELS. (ZA#99-2A; eff. 5/1/99):

All nonconforming uses, buildings, structures or parcels shall be administered pursuant to the Michigan Zoning Enabling Act, as amended (12/1/2010).

Section 14.03 (1) **Description and Purpose.** Within the districts established by this ordinance or amendments thereto, there exists uses, buildings, structures, parcels and characteristics of uses which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this ordinance or an amendment thereto. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their expansion or survival beyond their present level of development.

Section 14.03 (2) **Continuance of Nonconforming Uses, Buildings, Structures or Premises.** Except where specifically provided to the contrary and subject to the provisions of this section, the lawful use of any building or structure, or of any land or premises, which is existing and lawful on the effective date of this ordinance, or in the case of an amendment of this ordinance then on the effective date of such amendment, may be continued, although such use does not conform with the provisions of this ordinance or any amendment thereto. In addition, except where specifically provided to the contrary and subject to the provisions of this section, a building or structure which is existing and lawful on the effective date of this ordinance, or in the case of an amendment, may be maintained and continued, although such building or structure does not conform with the provisions of this ordinance or any amendment thereto.

Section 14.03 (3) **Expansions.** Structures or buildings nonconforming by reason of height, area, setback and/or parking/loading space provisions only may be extended, enlarged, altered, remodeled or modernized provided there is compliance with all height, area, setback, and or parking/loading provisions with respect to such extension, enlargement, alteration, remodeling or modernization.

Any use of a building or structure, which is nonconforming by reason of parking/loading provisions and which is thereafter made conforming or less nonconforming by the addition of parking/loading space, shall not thereafter be permitted to use such additionally acquired parking/loading space to meet requirements for any extension, enlargement or change of use which requires greater areas for parking/loading space.

A. Unless otherwise provided in this section, no existing building, structure or parcel devoted to a use not permitted by this ordinance, in the district in which it is located, shall be extended, enlarged, altered, remodeled, modernized, or moved, except in changing the use of a building, structure or parcel to a use permitted in the district in which it is located.

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Zoning Ordinance of Huron County, Michigan December 1, 2010
ARTICLE XIV. -GENERAL PROVISIONS Continued.

SECTION 14.03 NONCONFORMING USES, BUILDINGS, STRUCTURES, OR
PARCELS. (ZA#99-2A; eff. 5/1/99) continued:

Section 14.03 (3) Expansions Continued.

B. Unless otherwise provided in this section, no nonconforming structure may be extended, enlarged, altered, remodeled or modernized in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

C. Should a nonconforming building or structure be moved for any reason, for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

D. A nonconforming use may be extended throughout any part of a building or structure so long as any part of the building or structure was manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance. However, at no time shall such use be extended to occupy any land outside such building.

E. A structure or building, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district; and, the nonconforming use may not thereafter be resumed.

F. Where nonconforming use status applies to a building or structure, or land in combination, removal or destruction of a building or structure shall eliminate the nonconforming status of land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50% of the replacement cost at the time of destruction.

G. A nonconforming use of a building, structure or land may be changed to another nonconforming use of a more restricted nature and classification.

H. A nonconforming use of any building or structure, or of any land or premises which is nonconforming for reasons other than height, area, setback, and/or parking/loading space provisions, may hereafter be expanded, extended or enlarged provided:

- 1) All expansions, extensions, or enlargements shall not exceed 50% of the area of the original nonconforming building or use;
- 2) Such expansions, extensions, or enlargements are authorized by the Zoning Board of Appeals.

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Zoning Ordinance of Huron County, Michigan December 1, 2010
ARTICLE XIV. -GENERAL PROVISIONS Continued.

SECTION 14.03 NONCONFORMING USES, BUILDINGS, STRUCTURES, OR PARCELS.
(ZA#99-2A;eff.5/1/99)continued:

Section 14.03 (3) Expansions Continued.

In considering such authorization, the Zoning Board of Appeals shall consider the following standards:

- 1) Whether the extension or enlargement will substantially extend the probable duration of such nonconforming use.
- 2) Whether the extension or enlargement will interfere with the use of other properties in the surrounding neighborhood for the uses for which they have been zoned or with the use of such other properties in compliance with the provisions of the ordinance. In considering the request, the Zoning Board of Appeals shall make a determination that the expansion would not be contrary to public health, safety or welfare, or the spirit of the (zoning) ordinance, that the use or structure does not and is not likely to significantly depress the value of nearby properties, that the use or structure was lawful at the time of its inception and that no useful purpose would be served by strict application of the provisions or requirements of the ordinance with which the use or structure does not conform.

Section 14.03 (4) **Restoration and Repair.** All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made, but it shall not be structurally altered to permit the use of such building or structure beyond its natural life. In the event any nonconforming building or structure is damaged by fire, wind, Act of God, public enemy, or other cause, it may be rebuilt or restored if the cost thereof does not exceed fifty (50) percent of the value of the nonconforming building or structure after the rebuilding or restoration is complete. In the event any nonconforming building or structure is damaged by fire, wind, Act of God, or public enemy, and the cost of rebuilding or restoration exceeds one-half (½) the floor area of the building or structure after rebuilding or restoration is complete, then such rebuilding or restoration shall only be permitted when first authorized by the Zoning Board of Appeals. In considering such authorization, the Zoning Board of Appeals shall consider the following standards:

- 1) Whether such rebuilding or restoration will substantially extend the probable duration of the nonconforming use.
- 2) Whether or not the land previously occupied by the nonconforming use can be advantageously used for a use permitted in the applicable zoning district. In considering the request, the Zoning Board of Appeals shall also make a determination that the restoration of the nonconforming use would not be contrary to public health, safety or welfare, or the spirit of the (zoning) ordinance, that the use or structure does not and is not likely to significantly depress the value of nearby properties, that the use or structure was lawful at the time of its inception and that no useful purpose would be served by strict application of the provisions or requirements of the ordinance with which the use or structure does not conform.

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Zoning Ordinance of Huron County, Michigan December 1, 2010
ARTICLE XIV. -GENERAL PROVISIONS Continued.

SECTION 14.03 NONCONFORMING USES, BUILDINGS, STRUCTURES, OR PARCELS.
(ZA#99-2A; eff. 5/1/99) continued:

Section 14.03 (4) **Restoration and Repair** continued.

A building or structure on an existing lot of record in the district which is nonconforming by reason of height, lot area, width, yard requirements and/or parking/loading space provisions only, which is damaged by fire, wind, Act of God, or public enemy, may be rebuilt or restored as a matter of right, regardless of the value of the building or structure after rebuilding or restoration is complete.

Section 14.03 (5) **Change or Discontinuance.** The nonconforming use of a building or structure or of any parcel shall not be:

- 1) Reestablished after a discontinuance, vacancy, lack of operation, or otherwise for a period of twelve (12) consecutive months.
- 2) Reestablished after it has been changed to a conforming use.

Section 14.03 (6) **Replacement Cost.** Replacement cost as used in this section is the cost of restoring the building or structure to its original condition as determined by the Building Inspector.

Section 14.03 (7) **Removal of Nonconforming Status.** A nonconforming building, structure or parcel may be made conforming by appropriate action or modifications which cause the building, structure or parcel to fulfill the requirements of the district in which it is located. In the case of a nonconformity which would be permitted as a special use by the ordinance, the nonconforming status may be removed upon issuance of a special use permit after the appropriate action has been taken in accordance with the provisions of this ordinance.

Section 14.03 (8) **Building or Structure Under Construction on Effective Date of Ordinance.** Any building or structure shall be considered existing and lawful, if, on the effective date of this ordinance or amendment thereto, a building permit has been issued, a substantial start has been made toward construction, and construction is thereafter pursued diligently to conclusion.

Section 14.03 (9) **County Zoning of Townships Previously Zoned.** Whenever a Township within Huron County elects to rescind zoning regulations developed in accordance with the Provisions of P.A. 184 of 1943, as amended, or PA 110 of 2006, as amended (being the Michigan Zoning Enabling Act), and formally requests that such territory be regulated by the provisions of this ordinance, the Huron County Planning Commission shall accommodate such request, including the establishment of zoning district boundaries. The effective date of all amendatory actions to the Zoning Ordinance of Huron County shall correspond with effective dates of all actions performed by the Township to rescind local zoning regulations. Amendments to either ordinance (Township or County) shall be done pursuant to provisions of the Michigan Zoning Enabling Act.

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Zoning Ordinance of Huron County, Michigan December 1, 2010
ARTICLE XIV. -GENERAL PROVISIONS Continued.

SECTION 14.03 NONCONFORMING USES, BUILDINGS, STRUCTURES, OR PARCELS.
(ZA#99-2A:eff.5/1/99) continued:

Section 14.03 (10) Certificate of Occupancy.

A. At any time after the adoption of this Section should the County become aware of a nonconforming use, the owner of said nonconforming use shall be notified by the Zoning Administrator of the provisions of this section, and that the property constitutes a nonconforming use. Within thirty (30) days after receipt of said notice, the owner shall apply for and be issued a certificate of occupancy for the nonconforming use. The application for such certificate shall designate the details as may be necessary for the issuance of the certificate of occupancy. Nonconforming uses that were issued a certificate under the December 1, 1995 Zoning Ordinance are exempt from this requirement.

If the owner of a nonconforming use fails to apply for a certificate of occupancy within thirty (30) days after receipt of the foregoing notice, the use ceases to be nonconforming and is hereby declared to be in violation of this Section. The Zoning Administrator and Corporate Counsel for the County shall take appropriate action to enjoin such violation.

B. If the Zoning Administrator shall find, upon reviewing the application for a certificate of occupancy, that the existing use is illegal or in violation of any other ordinance or law or, if he finds that the building for which the certificate is requested has been constructed or altered for the existing use or any other use without full compliance with the Building Code or the Zoning Ordinance in effect at the time of construction or alteration, he shall not issue the Certificate of Occupancy but shall declare such use to be in violation of this Section.

C. After the adoption of this Section, or any amendments thereto, the Zoning Administrator shall prepare a record of all known nonconforming uses and occupations of lands, buildings and structures, including tents, mobile homes, travel trailers, and motor homes, existing at the time of such Section or amendment. Such record shall contain the names and addresses of the owners of record of such nonconforming use and of any occupant, other than the owner, the legal description of the land and the nature and extent of use. Such list shall be available at all times in the office of the Zoning Administrator.

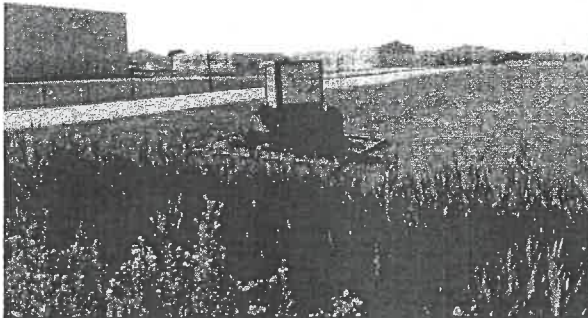
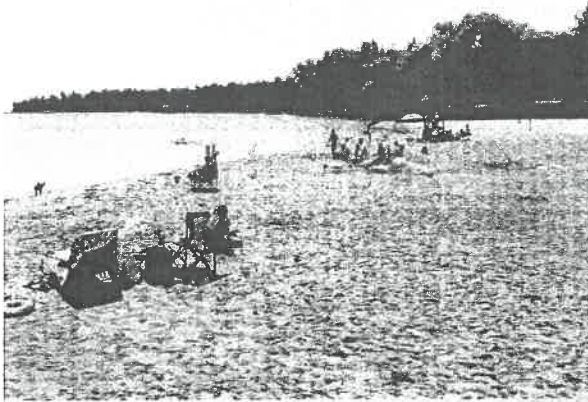
Section 14.03 [11] Plans Already Filed. In any case where plans and specifications for a building or structure have been filed, which would conform with the Zoning Regulations effective at the date of such filing but not with the regulations of this Section, and where a building permit for such building or structure has been issued and construction work started at the effective date of this Section, such work may proceed provided it is completed within one year of said date.

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EXHIBIT 3

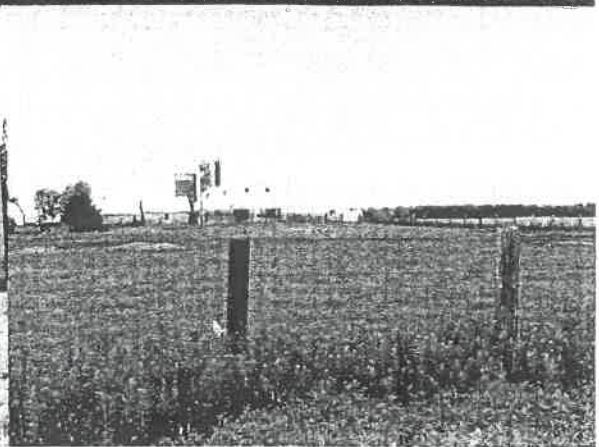
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Part 1
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Huron County Master Plan

Draft – August 22, 2018



CONFIDENTIAL

Huron County Master Plan

Board of Commissioners

Planning Commission

The Huron County Master Plan was approved by the Huron County Planning Commission on MONTH 00, 2018, and adopted by the Huron County Board of Commissioners on DATE 00, 2018, by authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, after holding a public hearing for this Master Plan on DATE 00, 2018.

Huron County

250 E Huron Ave #102
Bad Axe, MI
48413

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Introduction

What is a Master Plan?

The Master Plan is a document created by the Planning Commission and adopted by the County Board of Commissioners to guide the future growth, development, and redevelopment of the County. A Master Plan that is thorough, well thought out, and consistent is a document which helps ensure that Huron County continues to be a desirable region in which to live and work. A County Master Plan differs from a local Master Plan in that, is that it tends to focus on policy, not individual properties or developments:

The Master Plan investigates and examines a variety of issues, both tangible and intangible. Within the document, the way the County has grown and changed will be examined. This will include detailed discussion on items ranging from who lives on the County, to where in the County they live, and what they do for a living. Items that have remained constant or have not experienced significant changes will also be discussed. This includes the location of natural features, like water bodies and soils types, along with items like the transportation network.

In addition to these tangible items, opinions and desires are also considered. Residents and other stakeholders were asked for the thoughts on the Huron County community, and their vision for the County to be in five, ten, or twenty years.

A County's Master Plan is unique in that it must function as an umbrella document, addressing plans and studies from other communities, and presenting a vision of growth, preservation, and development that dovetails with the planning documents of other jurisdictions in the County. The Plan provides overall guidance to manage the growth and development of the 16 Townships that rely on zoning authority from Huron County.

The Master Plan is intended to act as a guide for future decisions by the County Planning Commission, the Board of Commissioners, staff, residents, and developers. It is designed as a map to direct and encourage development, redevelopment, and other improvements. The plan, used in conjunction with the County Zoning Ordinance, will assist in guiding future land use decisions in the County. The legal basis and rationale for the Master Plan are outlined in the Michigan Planning Enabling Act PA 33 of 2008, as amended (MPEA). Huron County has developed this plan by requesting participation and cooperation from neighboring communities, jurisdictions, and utilities that have an interest within the County.



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The Difference Between a Master Plan and Zoning Ordinance

Often Master Plans and Zoning Ordinances are thought of as the same document, however a more accurate description would be that they are two different sets of tools that, when used in conjunction with one another, work toward the same purpose and goals. Even though the documents are working toward the same goals, they are actually somewhat different.

The Zoning Ordinance is the law, it regulates the use and development of land as it exists in the present. The Master Plan is policy and should therefore be used as a guide to the future use of land and overall development in the Township. While the Master Plan outlines a community's vision for the future, the Zoning Ordinance contains the rules that govern the path to that vision.

The Michigan Zoning Enabling Act requires that a Zoning Ordinance be based on an adopted Master Plan. Often, once a community has updated their Master Plan, they will also review their Zoning Ordinance to ensure it aligns with the goals of the Master Plan.

Table 1 Master Plan Vs Zoning Ordinance

| Master Plan | Zoning Ordinance |
|---|--|
| Provides general policies, a guide. | Provides specific regulations, the law. |
| Describes what should happen in the future -- Recommends land use for the next 20 years, not necessarily the recommended use for today. | Describes what is and what is not allowed today, based on existing conditions. |
| Includes recommendations that involve other agencies and groups. | Deals only with development-related issues under Township control. |
| Flexible to respond to changing conditions. | Fairly rigid, requires formal amendments to change. |

Planning Process

The Master Plan is constructed from a number of various components, including a community and regional profile, natural resources inventory, existing land use, community input, goals and objectives, and a future land use plan. The initial inventories, regional profile, natural resources, and existing land use, serve as an analytical tool to review the current conditions in the County. One of the most important sections of the plan is the public input, which is an important tool to guide future decision-making and developing goals. Finally, the goals and future land use plan, strive to improve and strengthen areas of the region that the residents enjoy, and improve areas and issues that have been identified as a concern.

The main purpose of the Master Plan is to guide and enable the County to establish the direction of development. Specifically, the Planning Act gives communities the authority to adopt an official Master Plan to serve as a guide for local officials when considering land development matters. The Master Plan considers all of the information listed above, and as such aims to:

- Guide the use of limited resources in an efficient manner.
- Promote public health, safety, and welfare.
- Preserve the quality of the environment.
- Guide future zoning decisions.

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The process to update the Huron County Master Plan began in March of 2016. The County contracted Spicer Group of Saginaw to assist the Planning Commission in the preparation of this Master Plan. The Planning Commission met with the Spicer Group Planning Consultants 10 times between March of 2016 and August of 2018 to work on the plan. As required by the MPEA, the County required the procedures for notifying neighboring communities and registered entities so that each interested party was made aware of the ongoing planning effort and was provided an opportunity to comment on the Master Plan.

To ensure the Master Plan is current, and adheres to the flux of social and economic trends, the plan must be periodically reviewed. The MPEA requires that a Master Plan be reviewed by the County every five years.

The following steps were followed in the creation of the Huron County Master Plan:

- Learning about Huron County - A review and analysis of the current trends and demographic conditions in the County.
- Listening to Huron County - Community input was sought via an online survey. The feedback collected from the community and the pertinent background data form the basis of the goals and objectives for the Master Plan.
- The Vision for Huron County - All of the information gathered from the analysis of the survey became the baseline for goals and objectives which guide the future polices and decisions.
- Land Use in Huron County - The development of the future land use map and describe the rationale for placement of various land uses within the County.
- Action Plan for Huron County's Future- The action plan will be a proposed action checklist with a detailed list of specific action items to measure progress.

Community input was sought through an online survey. Feedback from the community, as well as inventory data collected at the beginning of the process was the basis for the goals, objectives, and action items outlined in this plan. A draft of this document was prepared in August 2018 and delivered to the Planning Commission for review. On DATE, the County Board submitted the draft plan to neighboring jurisdictions as required by the Planning Enabling Act. On DATE, the Planning Commission held a public hearing on the Master Plan, required by the Planning Enabling Act. This provided an additional opportunity for public input on the Master Plan. The final Master Plan was adopted on DATE.

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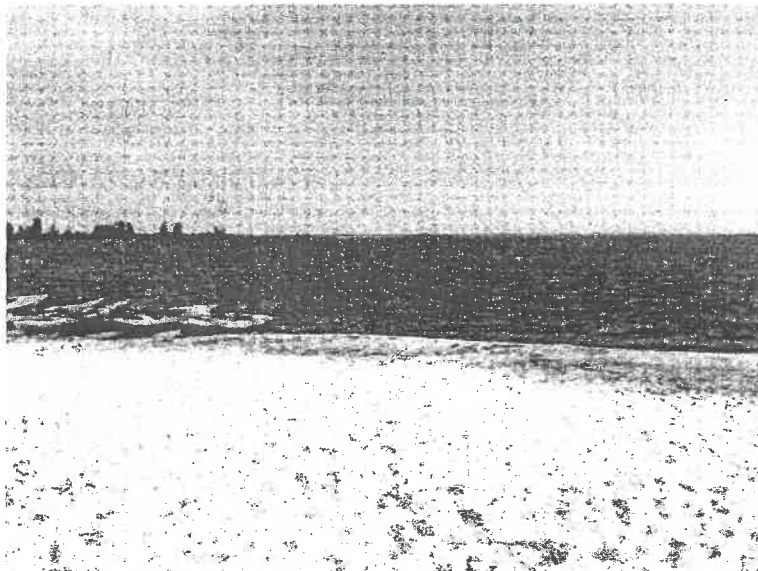
Using the Master Plan

The Master Plan will be used primarily by the County Board of Commissioners, the Planning Commission, and the Zoning Board of Appeals as a guide to supplement their decisions on matters relating to land use. Applicants seeking approval from any of these bodies will also find the Master Plan to be a valuable tool for understanding the long-term goals of the County. Likewise, the Master Plan can be used by other citizen committees to assist them in their review of land use related issues.

The Master Plan also acts as the starting point for all Zoning Ordinance updates and amendments. Michigan State Law requires that the Zoning Ordinance and zoning amendments be based upon a Master Plan. The Master Plan gives a legal basis for zoning and identifies how the community is protecting the health, safety, and welfare of the population. In the event that either the Zoning Ordinance or a decision of the Planning Commission is challenged in court, the Master Plan will help provide the planning rationale to support land use regulation.

The County Board, Planning Commission, and the public should continuously reference the Master plan in order to:

- Review development proposals – to confirm any given proposal meets the goals and objectives of the Master Plan.
- Review rezoning requests – to confirm that the request is consistent with the future land use map, and to review potential impacts on the County.
- Provide a basis for amendments to the zoning ordinance and zoning map which helps realize and enforce plan goals.
- Understand expectations for the future land use patterns and desired land use types in the community – to inform potential residents and businesses about Huron County and its future.
- Identify and recommend physical improvements – to provide direction for provision of roadways, entryways, non-motorized paths, parks, and community facilities.
- Provide specific design standards related to buildings, landscaping, and other site improvements – to guide development and redevelopment throughout the region.
-



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County Zoning

While this document is called the Huron County Master Plan, it is important to remember that the County does not have zoning authority in all the jurisdictions located within its geographical boundaries. The Michigan Zoning Enabling Act allows any local jurisdiction the authority to enact their own zoning ordinance, therefore a jurisdiction can be governed under County or local zoning policies, dependent upon their preference. Therefore, this master planning effort, the goals, strategies, and implementation items, are only specific to County-zoned Townships. The County does not have the authority to implement zoning regulations outside of the County-zoned Townships listed below, or within any incorporated City or Village limits. Of the 28 townships in Huron County, the County currently has zoning jurisdiction over 16. In 2016 and 2017, Lincoln and Sherman Township residents voted establish Planning Commissions. During the Master Planning process, both Townships had yet to officially pull out of County zoning. Therefore, they are still governed by the County zoning rules and are included in this Master Plan. Eventually, they will no longer be a part of the 16 County-zoned townships, but in order for this Master Plan to accurately represent the current conditions, both are included throughout the plan. Map 1 shows which Townships in the County have local zoning compared to townships which fall under County Zoning. The following list also highlights which townships have County or local zoning:

County Zoning

1. Bingham Township
2. Bloomfield Township
3. Brookfield Township
4. Dwight Township
5. Fairhaven Township
6. Gore Township
7. Grant Township
8. Hume Township
9. Lincoln Township
10. McKinley Township
11. Rubicon Township
12. Sebewaing Township
13. Sheridan Township
14. Sherman Township
15. Sigel Township
16. Winsor Township

Local Zoning

1. Pointe Aux Barques Township
2. Port Austin Township
3. Huron Township
4. Lake Township
5. Caseville Township
6. Chandler Township
7. Meade Township
8. Sand Beach Township
9. Verona Township
10. Colfax Township
11. Oliver Township
12. Paris Township

While this plan may not apply to all Townships in the County, it is important to consider the trends and land use patterns of the surrounding jurisdictions when making land use policy decisions. Therefore, whenever there is a table or map referencing all the jurisdictions in the County, the Townships under County zoning will always be bold, as a visual cue to a reader of the Master Plan.

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MAP 1 - ZONING AND LAND USE MANAGEMENT HURON COUNTY, MICHIGAN

In 2016 and 2017, Lincoln and Sherman Township residents voted to become self-zoned townships. They currently have a Planning Commission, but have not adopted a zoning ordinance.



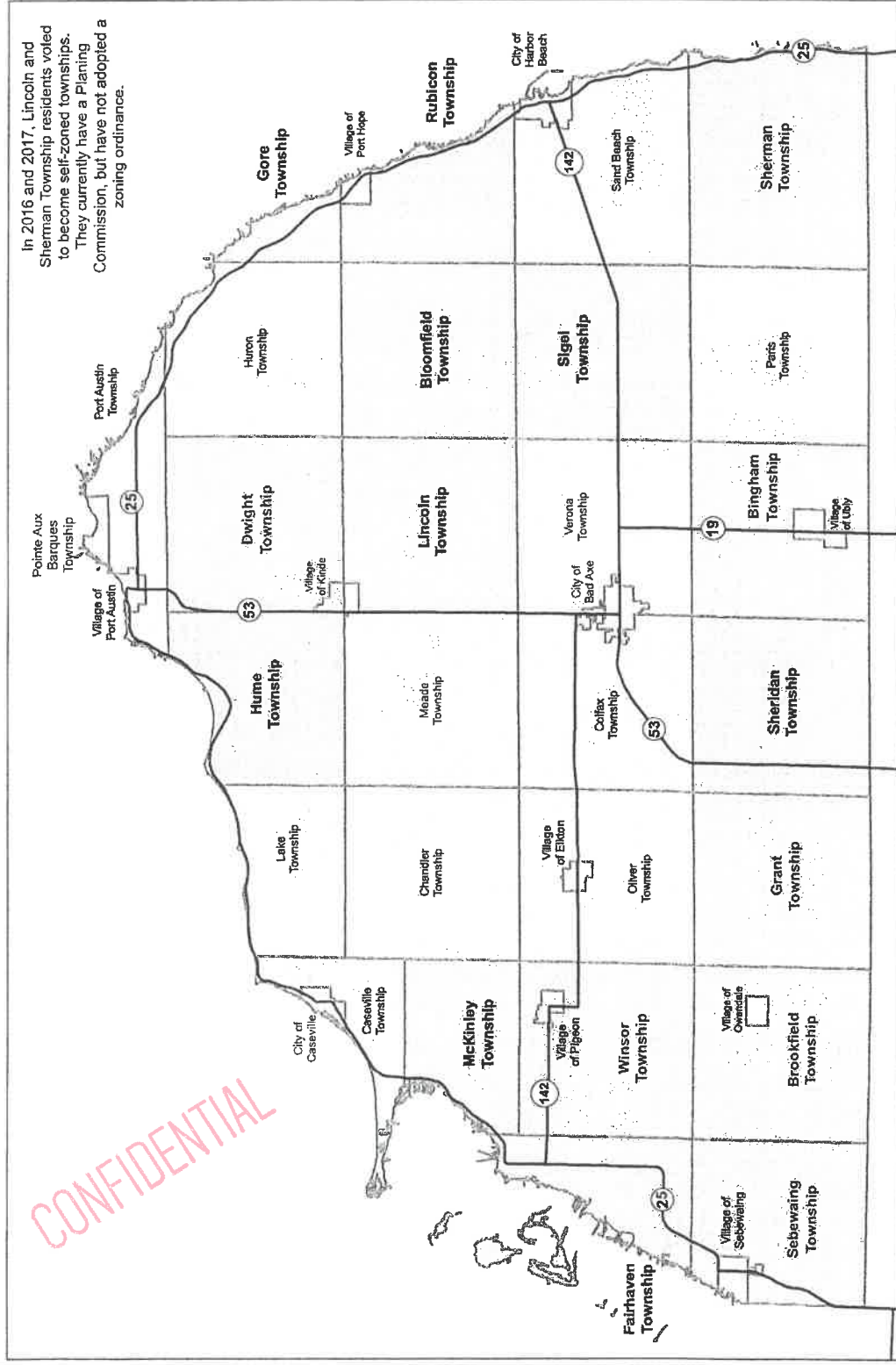
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LEGEND

County Zoning

Local Zoning



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Date August 2018

Learning About Huron County

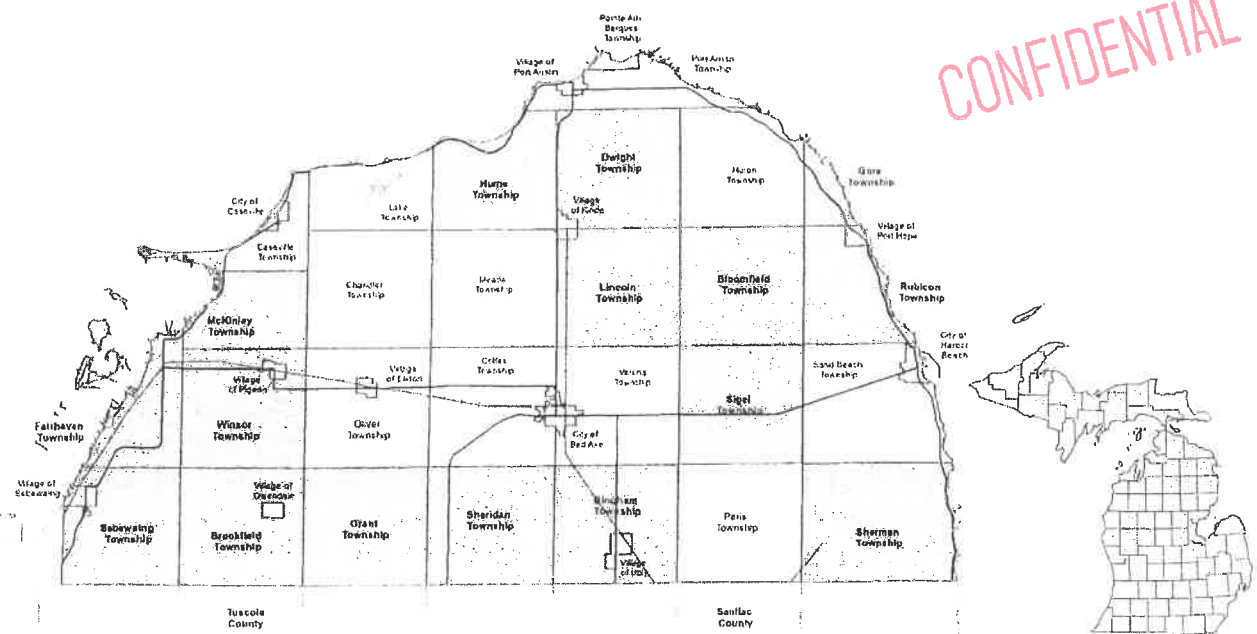
About Huron County

Huron County is the northernmost county in the tip of the Thumb of Michigan, see Map 2 below. The County is a peninsula and bordered to the northeast by Lake Huron, Saginaw Bay to the northwest, Sanilac County to the southeast, and Tuscola County to the southwest. The County covers an area of 838 square miles, making it one of the larger counties in the Lower Peninsula. Huron County has very different natural landscapes. The County about 90 miles of Lake Huron shoreline of wooded shoreline and the interior is largely agricultural, known for its flat, fertile farmland.

Huron County is organized into 28 Townships, 3 cities, and 8 villages. There are four state highways which provide access throughout County, these include M-25, M-53, M-19, and M-142. M-25 provides access to I-75 to southwest of the County at Bay City. The County seat is the City of Bad Axe, located in the center of the County. The County was originally settled in 1849 and was officially organized in 1860. The name Huron was derived from the phrase "Inelles hures" meaning "what heads". This was applied to the Wyandotte and Huron Indians by the astonished French travelers on seeing the Indians' fantastic dressing of their hair.

Upon organization of the County in 1859, Sand Beach (presently Harbor Beach), became to first County seat. After a fire in 1864 the seat was moved to Port Austin. Finally, in 1873 the seat was moved to Bad Axe, which is the current County seat. The County was originally settled by various Native American tribes and in the 1840's the area was settled by colonists. The settlers were engaged in fishing, trapping, and lumbering. The timber industry was a large factor in attracting many new settlers. In two large forest fires in 1871 and 1881, most of the timber was destroyed, agriculture soon replaced the timber industry and remains the dominant economic force today, in addition to tourism along the lake shore.

Map 2 Location Map



Demographics

Background information from the U.S. Census is used to analyze a community's current demographic conditions. In the following sections, Census-based data on overall population trends, housing characteristics, and economic information Huron County is analyzed.

The information presented uses Census Data from the 2000 and 2010 Census and the 2014 American Community Survey (ACS). Appendix A contains a summary table of U.S. Census demographic data for Huron County, the State of Michigan, and the United States. This table is for comparison purposes.

The following points highlight and summarize major shifts in the County since the 1990s.

1. In the past 15 years, the County has experienced a decline of population from 36,024 people in 2000 to 33,118 people in 2015, which is a decrease of 2,906 people. All of the Cities and Villages in Huron County experienced a decrease in population from 2000-2010, this is also true for the time period from 1990 to 2010. The only differences were the Villages of Pigeon and Ubyly, which saw increases in population over the same 20 year period. The same trend is true for the Townships in Huron County. Aside from Fairhaven, Gore, Huron, and Pointe Aux Barques all of the Townships saw a decrease in population from 2000 to 2010. However, over the 20 year period from 1990 to 2010, there were several more Townships that experienced population growth. These include: Bingham, Caseville, Gore, Grant, Hume, Huron, Lake, Sheridan, and Verona.
2. Huron County and Michigan are aging at almost the same rate, the County is aging at a rate of one percent greater than the State. However compared to the Nation, Huron County is aging at a rate doubly as fast. It should be noted that just because the State and County are aging at the same rate, it does not mean that their ages are the same. The median age for the County is 8 years older than that of the State, and 9 years older than that of the Nation.
3. The overall population of the County is aging, this is illustrated in the age ranges 45-64 and 65+, because they were the only groups to have an increase in population, even though the County as a whole lost population. The younger age groups have similar trends to one another. Each group lost over at least 10% of their population. The loss is most reflected in the 25-44 and 5-9 age groups, which have experienced losses over 20%. When comparing the age ranges throughout the County, the largest population of residents, (30.8%) is in the 45-64 age group, which experienced a 14.7% increase in population from the 2000 figures.
4. The County has high vacancies rates, which are indicative of large amounts of seasonal housing. In 2010, 67.7% of the housing in the County was occupied and 32.3% was vacant. While high seasonal vacancy rates are not true for all of the communities in the Township, they are for some. This trend is most apparent when vacancy rates are compared against the State and Nation rates. The communities which are inland and do not have large seasonal housing numbers compare more closely to the State and Country rates. These both have occupancy percentage rates in the high eighties and vacancy percentage rates in the low teens. The high vacancy rates are most noticeable on the Townships along the coast, where vacancy rates range from mid twenty percent range all the way to 90%, with the average falling in the high 40% range.

5. In the County, there are a total of 14,348 full-time occupied housing units. In Huron County, the number of owner occupied housing units is 81.8%, this is significantly higher than the 72.1% of the State, and 65.1% of the Nation as a whole. It is worth noting that the lowest percentage of owner occupied housing is 60.8%, in the City of Bad Axe, and the highest is Lake Township at 93.4%, with several other Townships also in the 90% range.
6. Both manufacturing and educational services, and health care and social assistance are the largest employment industries in the County representing 20% of the population each. The third largest industry is retail trade at 10.7%, and agriculture, forestry, fishing and hunting and mining is fourth with 9.1%.

Population

Population information is presented in this report using the most recent U.S. Census Data (2000 and 2010 U.S. Census Data and the 2014 American Community 5-Year Estimates) and Historic Census Data. To review a more in depth comparison for many of the demographic characteristics that will be discussed in the following sections, reference the chart located in Appendix A of this document.

Population Trends

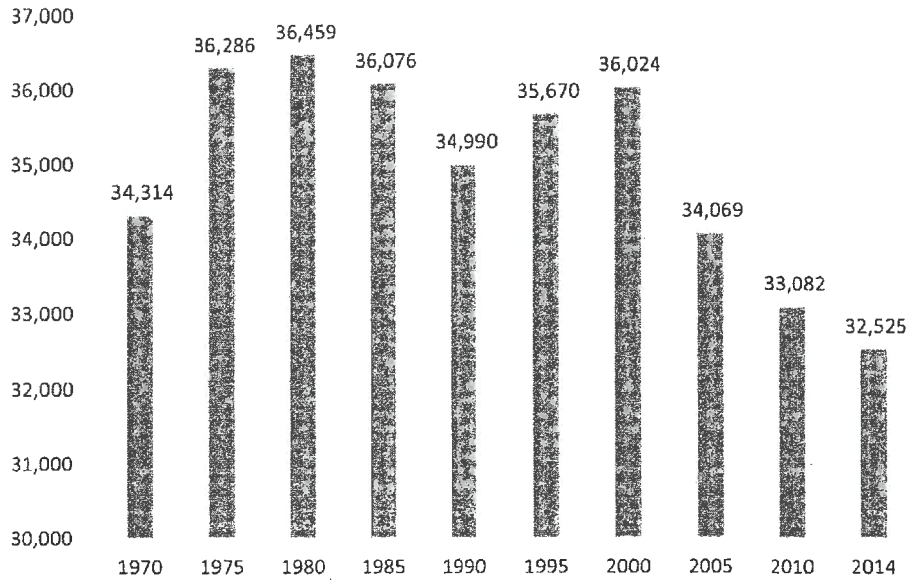
Population change influences land use decisions, therefore it's important to know the trends in order to be prepared for the future.

For the past five decades, the County has experienced many fluctuations in population. Figure 1 illustrates the population changes every 5 years beginning in 1970. From 1970 to 1980, the population in the County grew by 2,145 people. This was the period with the largest population growth in the timeframe outlined in Figure 1. Then, over the next decade, there was a period of population decline. The population decreased by 1,469 people (-3.0%). Between 1990 and 2000, the County had another period of growth, with an increase of 1,304 people, or 2.98%. Finally, between 2000 and 2010, there has been a sharp decline of population from 36,024 people to 33,082 people, a decrease of 2,942 people, or -8.2%. According to the 2014 ACS, the population in Huron County is 32,525. This is a decrease from the 2010 Census. However, it is important to remember ACS data is estimate data and the Decennial Census is a full population count. The County will not have another full population count until the 2020 Census. Until that time, the County should consider the trends indicated by the ACS data, but should not rely on them.

The extent of the population loss in Huron County from 2000 to 2010 is highly likely attributable to Michigan's one-state recession that ran from 2001 to 2010.

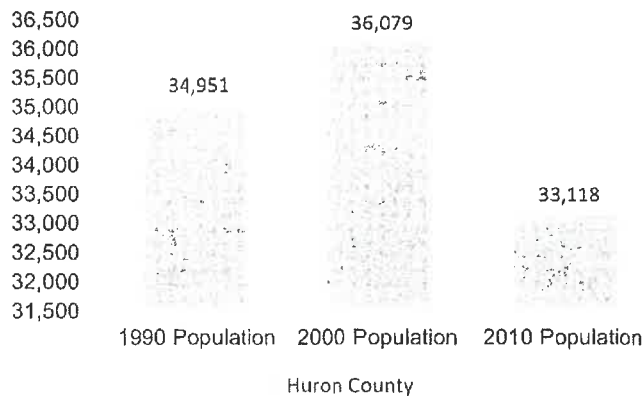
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Figure 1 County Population Trends



County population grew from 34,951 to 36,079, between 1990 and 2000, and then decreased by 8.21% between 2000 and 2010. In the past two decades the overall population change in Huron County has decreased by 5.24%. This means the population in Huron County is below the 1990 level. This is different from both Michigan and the Country, which had population increases. All of the Cities and Villages in Huron County experienced a decrease in population from 2000 - 2010, this is also true for the time period from 1990 to 2010. The only differences were the Villages of Pigeon and Ubly, which saw increases in population over the same 20-year period. The same trend is true for the Townships in Huron County. Aside from Fairhaven, Gore, Huron, and Pointe Aux Barques all of the Townships in the County had population decline between 2000 to 2010. However, over the 20-year period from 1990 to 2010, there were several Townships that experienced population growth. These include: Bingham, Caseville, Gore, Grant, Hume, Huron, Lake, Sheridan, and Verona. Tables 2a through 2d below, depict the population change per jurisdiction over the past 20 years.

Figure 2 County Population (1990, 2000, and 2010 Census)



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Table 2a Population Trends by Jurisdictions, Overall (1990, 2000, and 2010 Census)

| Jurisdiction | 1990 Population | 2000 Population | 2010 Population | 2000-2010 % of Population Change | 1990-2010 % of Population Change |
|---------------|-----------------|-----------------|-----------------|----------------------------------|----------------------------------|
| Huron County | 34,951 | 36,079 | 33,118 | -8.21% | -5.24% |
| Michigan | 9,295,297 | 9,938,444 | 9,883,640 | -0.55% | 6.33% |
| United States | 248,708,873 | 281,421,906 | 308,745,538 | 9.71% | 24.14% |

Table 2b Population Trends by Jurisdictions, by City (1990, 2000, and 2010 Census)

| Jurisdiction | 1990 Population | 2000 Population | 2010 Population | 2000-2010 % of Population Change | 1990-2010 % of Population Change |
|--------------|-----------------|-----------------|-----------------|----------------------------------|----------------------------------|
| Bad Axe | 3,484 | 3,462 | 3,129 | -9.62% | -10.20% |
| Caseville | 857 | 896 | 749 | -16.40% | -12.60% |
| Harbor Beach | 2,089 | 1,837 | 1,703 | -7.30% | -18.47% |

Table 2c Population Trends by Jurisdictions, by Village (1990, 2000, and 2010 Census)

| Jurisdiction | 1990 Population | 2000 Population | 2010 Population | 2000-2010 % of Population Change | 1990-2010 % of Population Change |
|--------------|-----------------|-----------------|-----------------|----------------------------------|----------------------------------|
| Elkton | 958 | 863 | 808 | -0.06% | -15.66% |
| Kinde | 473 | 534 | 448 | -0.16% | -5.28% |
| Owendale | 285 | 296 | 241 | -0.16% | -15.43% |
| Pigeon | 1,207 | 1,207 | 1,208 | -0.00008 | 0.08% |
| Port Austin | 815 | 737 | 664 | -9.91% | -18.52% |
| Port Hope | 313 | 310 | 267 | -13.87% | -14.69% |
| Sebewaing | 1,923 | 1,974 | 1,759 | -10.89% | -8.52% |
| Ubyly | 821 | 873 | 858 | -1.72% | 4.50% |

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Table 2d Population Trends by Jurisdictions, by Township (1990, 2000, and 2010 Census)

| Jurisdiction | 1990 Population | 2000 Population | 2010 Population | 2000-2010 % of Population Change | 1990-2010 % of Population Change |
|--------------------|-----------------|-----------------|-----------------|----------------------------------|----------------------------------|
| Bingham | 1,617 | 1,751 | 1,709 | -2.40% | 5.69% |
| Bloomfield | 563 | 535 | 455 | -14.95% | -19.18% |
| Brookfield | 947 | 914 | 760 | -16.85% | -19.74% |
| Caseville | 2,139 | 2,723 | 2,570 | -5.62% | 20.14% |
| Chandler | 509 | 501 | 472 | -5.79% | -7.26% |
| Colfax | 1,936 | 1,954 | 1,884 | -3.58% | -2.68% |
| Dwight | 917 | 930 | 758 | -18.49% | -17.33% |
| Fairhaven | 1,250 | 1,259 | 1,107 | -12.07% | -11.44% |
| Gore | 125 | 139 | 144 | 3.60% | 15.20% |
| Grant | 778 | 833 | 913 | 9.60% | 17.35% |
| Hume | 714 | 801 | 749 | -6.49% | 4.90% |
| Huron | 376 | 423 | 437 | 3.31% | 16.22% |
| Lake | 800 | 996 | 855 | -14.16% | 6.87% |
| Lincoln | 868 | 873 | 807 | -7.56% | -7.02% |
| McKinley | 527 | 503 | 445 | -11.53% | -24.09% |
| Meade | 777 | 799 | 720 | -9.89% | -7.33% |
| Oliver | 1,685 | 1,626 | 1,483 | -8.79% | -11.98% |
| Paris | 624 | 557 | 481 | -13.64% | -22.91% |
| Pointe Aux Barques | 15 | 10 | 10 | 0.00% | -33.33% |
| Port Austin | 1,474 | 1,591 | 1,424 | -10.50% | -3.39% |
| Rubicon | 766 | 778 | 732 | -5.91% | -4.43% |
| Sand Beach | 1,358 | 1,470 | 1,221 | -16.94% | -10.08% |
| Sebewaing | 2,937 | 2,944 | 2,724 | -7.47% | -7.25% |
| Sheridan | 694 | 736 | 712 | -3.26% | 2.59% |
| Sherman | 1,155 | 1,165 | 1,083 | -7.04% | -6.23% |
| Sigel | 599 | 576 | 465 | -19.27% | -22.37% |
| Verona | 1,196 | 1,349 | 1,259 | -6.67% | 5.26% |
| Winsor | 2,032 | 2,044 | 1,907 | -6.70% | -6.15% |

Median Age

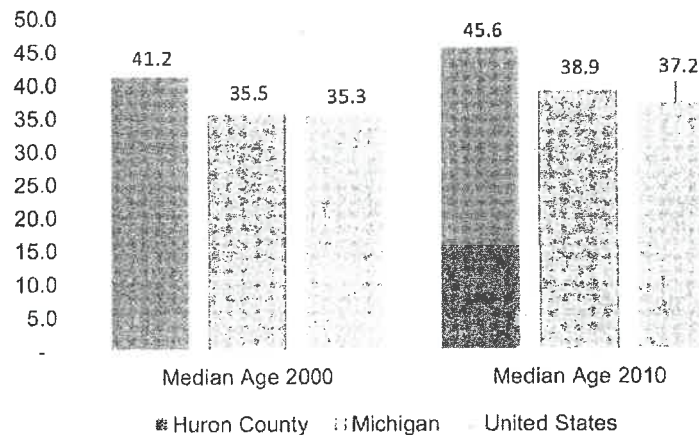
The median age of a community is another tool which can be used to analyze the overall age of a population. Even more insightful, is the change of the median age over a period of time. It is a good indicator of how fast or slow a population is aging. Referencing Table 3a, Huron County and Michigan are aging at a similar rate, the County is aging at a rate of one percent greater than the State. The median age in Huron County grew from 41.2 years in 2000 to 45.6 years in 2010. Even though the State and County are aging at the same rate, it does not mean that their ages are the same. The median age for the County is 8 years older than that of the State, and 9 years older

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than that of the Country. Compared to the Country, Huron County is aging at a rate doubly as fast and the rest of the United States.

An aging community has very different needs than a young community. Housing needs for a young community that is in the family starting age are often single family homes, while an aging community requires condos or apartments with less maintenance or assisted living facilities. They may also require public transportation and advanced health care facilities.

Figure 3 Median Age (2000 and 2010 Census)



When analyzing at the change in median age per community from the years 2000 to 2010, it is clear that Huron County is aging quickly. This creates special concerns when considering land use planning in the future. All but four of the Townships in Huron County have aged at rates higher than 10%. The outlier, Pointe Aux Barques Township has aged by 75%, but aside from that the highest rate in the Townships was 24%. When comparing the aging rate of the Cities and Villages to that of the Townships, the changes are not as drastic but some Cities and Villages are still aging fast. See Tables 3a through 3d for information for each jurisdiction.

Table 3a Median Age Overall (2000 and 2010 Census)

| Jurisdiction | Median Age 2000 | Median Age 2010 | % Change from 2000-2010 |
|---------------|-----------------|-----------------|-------------------------|
| Huron County | 41.2 | 45.6 | 10.67% |
| Michigan | 35.5 | 38.9 | 9.6% |
| United States | 35.3 | 37.2 | 5.4% |

Table 3b Median Age by City (2000 and 2010 Census)

| Jurisdiction | Median Age 2000 | Median Age 2010 | % Change from 2000-2010 |
|--------------|-----------------|-----------------|-------------------------|
| Bad Axe | 38.7 | 39.8 | 2.48% |
| Caseville | 48.8 | 55.1 | 12.90% |
| Harbor Beach | 41.9 | 47.7 | 13.84% |

Table 3c Median Age by Village (2000 and 2010 Census)

| Jurisdiction | Median Age 2000 | Median Age 2010 | % Change from 2000-2010 |
|--------------|-----------------|-----------------|-------------------------|
| Elkton | 35.6 | 36.3 | 1.96% |
| Kinde | 33.6 | 40.0 | 19.04% |
| Owendale | 34.0 | 35.5 | 4.40% |
| Pigeon | 42.1 | 47.2 | 12.11% |
| Port Austin | 52.4 | 55.4 | 5.72% |
| Port Hope | 48.0 | 54.9 | 14.37% |
| Sebewaing | 40.9 | 44.9 | 9.77% |
| Ubyly | 38.5 | 40.8 | 5.97% |

Table 3d Median Age by Township (2000 and 2010 Census)

| Jurisdiction | Median Age 2000 | Median Age 2010 | % Change from 2000-2010 |
|--------------------|-----------------|-----------------|-------------------------|
| Bingham | 36.2 | 40.9 | 12.98% |
| Bloomfield | 38.0 | 45.4 | 19.47% |
| Brookfield | 39.0 | 44.3 | 13.58% |
| Caseville | 51.9 | 57.2 | 10.21% |
| Chandler | 37.8 | 42.1 | 11.37% |
| Colfax | 40.6 | 45.0 | 10.83% |
| Dwight | 37.1 | 44.9 | 21.00% |
| Fairhaven | 39.5 | 46.2 | 16.96% |
| Gore | 49.3 | 61.4 | 24.54% |
| Grant | 35.2 | 39.9 | 13.30% |
| Hume | 46.9 | 52.3 | 11.51% |
| Huron | 51.1 | 54.3 | 6.26% |
| Lake | 56.0 | 60.3 | 7.67% |
| Lincoln | 38.2 | 42.9 | 12.30% |
| McKinley | 44.6 | 50.1 | 12.33% |
| Meade | 40.6 | 45.5 | 12.06% |
| Oliver | 35.3 | 39.5 | 11.89% |
| Paris | 35.9 | 41.3 | 15.04% |
| Pointe Aux Barques | 39.5 | 69.5 | 75.94% |
| Port Austin | 52.0 | 55.5 | 6.73% |
| Rubicon | 43.3 | 50.7 | 17.09% |
| Sand Beach | 40.5 | 46.7 | 15.30% |
| Sebewaing | 40.9 | 44.7 | 9.29% |
| Sheridan | 36.3 | 42.3 | 16.52% |
| Sherman | 38.7 | 44.3 | 14.47% |
| Sigel | 33.6 | 41.4 | 23.21% |
| Verona | 38.3 | 45.5 | 17.26% |
| Winsor | 40.5 | 47.6 | 17.53% |

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Age Distribution

Over the past decade, the age distribution of the population in Huron County has changed significantly. The overall population in the County is aging, this is illustrated in the age ranges 45-64 and 65+, because they were the only groups to have an increase in population between 2000 to 2010, even though the County lost population. The younger age groups have similar trends to one another, in that each group lost over 10% of their population. The loss is most reflected in the 25-44 and 5-9 age groups, which have experienced losses over 20%. When comparing the age ranges throughout the County, the largest population of residents, (30.8%) is in the 45-64 age group, which experienced a 14.7% increase in population from the 2000 figures. These figures can be found in Table 4.

Table 4 County Population by Age and Sex (2000 and 2010 Census)

| | 2000 | | | | 2010 | | | | % Change 2000-2010 |
|-------------|--------|--------|--------|------------|--------|--------|--------|------------|--------------------|
| | Male | Female | Total | % of Total | Male | Female | Total | % of Total | |
| Under 5 | 1,002 | 984 | 1,986 | 5.5% | 828 | 801 | 1,629 | 4.9% | -18.0% |
| Age 5 - 19 | 3,876 | 3,627 | 7,503 | 20.8% | 3,004 | 2,872 | 5,876 | 17.7% | -21.7% |
| Age 20 - 24 | 880 | 756 | 1,636 | 4.5% | 773 | 679 | 1,452 | 4.4% | -11.2% |
| Age 25 - 44 | 4,571 | 4,460 | 9,031 | 25.0% | 3,471 | 3,289 | 6,760 | 20.4% | -25.1% |
| Age 45 - 64 | 4,470 | 4,429 | 8,899 | 24.7% | 5,165 | 5,038 | 10,203 | 30.8% | 14.7% |
| Age 65+ | 3,028 | 3,996 | 7,024 | 19.5% | 3,197 | 4,001 | 7,198 | 21.7% | 2.5% |
| Total | 17,827 | 18,252 | 36,079 | | 16,438 | 16,680 | 33,118 | | -8.2% |

To see a further breakdown of age groups by community for 2010, please reference Tables 5a through 5d, on the following pages. These tables also illustrate the percentage of the population in each community that is under the age of 19 and above the age of 65. Figure 4 illustrates those numbers below as well. Compared to the State and Country, Huron County has a smaller number of residents younger than 19, and a significantly larger number of residents who are older than 65. It can be assumed that there is a larger population of elderly and retirement aged people because they are choosing to age in place. Another possibility may be an influx of new permanent residents as people who have second homes choose to retire in Huron County. The percentage of residents over 65 in each jurisdiction varies widely. When comparing the Townships, Pointe Aux Barques Township stands out with 60% of the residents older than 5 and no residents younger than 19. The other townships with a larger population older than 65 are Lake, Fairhaven, and Caseville. The Townships with the largest population of kids younger than 19 are Grant (30%) and Paris, Oliver, Bingham, and Sheridan all have 27%.

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Figure 4 Percent of population younger than 19 and older than 65 (2010 Census)

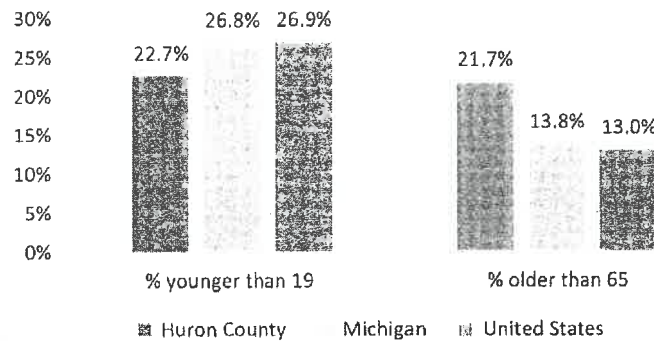


Table 5a Population by Age and Sex and Jurisdiction Overall (2010 Census)

| Jurisdiction | Age Distribution | | | | | | % younger than 19 | % older than 65 |
|---------------|------------------|--------------|---------------|---------------|---------------|------------|-------------------|-----------------|
| | Under 5 years | 5 - 19 years | 20 - 24 years | 25 - 44 years | 45 - 64 years | 65+ years | | |
| Huron County | 1,629 | 5,876 | 1,452 | 6,760 | 10,203 | 7,198 | 22.7% | 21.7% |
| Michigan | 596,286 | 2,052,599 | 699,072 | 2,442,123 | 2,762,030 | 1,361,530 | 26.8% | 13.8% |
| United States | 20,201,362 | 63,066,194 | 21,585,999 | 82,134,554 | 81,489,445 | 40,267,984 | 26.9% | 13.0% |

Table 5b Population by Age and Sex and Jurisdiction by City (2010 Census)

| Jurisdiction | Age Distribution | | | | | | % younger than 19 | % older than 65 |
|--------------|------------------|--------------|---------------|---------------|---------------|-----------|-------------------|-----------------|
| | Under 5 years | 5 - 19 years | 20 - 24 years | 25 - 44 years | 45 - 64 years | 65+ years | | |
| Bad Axe | 188 | 557 | 185 | 725 | 833 | 641 | 23.8% | 20.5% |
| Caseville | 26 | 75 | 32 | 138 | 285 | 221 | 13.0% | 28.4% |
| Harbor Beach | 94 | 288 | 91 | 333 | 511 | 386 | 22.4% | 22.7% |

Table 5c Population by Age and Sex and Jurisdiction by Village (2010 Census)

| Jurisdiction | Age Distribution | | | | | | % younger than 19 | % older than 65 |
|--------------|------------------|--------------|---------------|---------------|---------------|-----------|-------------------|-----------------|
| | Under 5 years | 5 - 19 years | 20 - 24 years | 25 - 44 years | 45 - 64 years | 65+ years | | |
| Elkton | 63 | 167 | 46 | 215 | 192 | 125 | 28.5% | 15.5% |
| Kinde | 36 | 80 | 26 | 112 | 113 | 81 | 25.9% | 18.1% |
| Owendale | 15 | 56 | 14 | 63 | 57 | 36 | 29.5% | 14.9% |
| Pigeon | 69 | 193 | 57 | 247 | 301 | 341 | 24.2% | 28.2% |
| Port Austin | 29 | 73 | 23 | 107 | 231 | 201 | 15.4% | 30.3% |
| Port Hope | 8 | 40 | 10 | 39 | 78 | 92 | 18.0% | 34.5% |
| Sebewaing | 95 | 309 | 84 | 394 | 512 | 365 | 23.0% | 20.8% |
| Ubly | 51 | 163 | 54 | 210 | 215 | 165 | 24.9% | 19.2% |

Table 5d Population by Age and Sex and Jurisdiction by Township (2010 Census)

| Jurisdiction | Age Distribution | | | | | | % younger than 19 | % older than 65 |
|--------------------|------------------|--------------|---------------|---------------|---------------|-----------|-------------------|-----------------|
| | Under 5 years | 5 - 19 years | 20 - 24 years | 25 - 44 years | 45 - 64 years | 65+ years | | |
| Bingham | 86 | 376 | 94 | 399 | 480 | 274 | 27.0% | 16.0% |
| Bloomfield | 19 | 92 | 16 | 97 | 141 | 90 | 24.4% | 19.8% |
| Brookfield | 34 | 147 | 37 | 174 | 229 | 139 | 23.8% | 18.3% |
| Caseville | 89 | 310 | 75 | 379 | 851 | 866 | 15.5% | 33.7% |
| Chandler | 26 | 98 | 19 | 116 | 150 | 63 | 26.3% | 13.3% |
| Colfax | 116 | 355 | 69 | 402 | 551 | 391 | 25.0% | 20.8% |
| Dwight | 38 | 143 | 46 | 153 | 255 | 123 | 23.9% | 16.2% |
| Fairhaven | 48 | 183 | 77 | 224 | 366 | 209 | 20.9% | 18.9% |
| Gore | 3 | 12 | 4 | 15 | 59 | 51 | 10.4% | 35.4% |
| Grant | 62 | 217 | 35 | 215 | 266 | 118 | 30.6% | 12.9% |
| Hume | 30 | 90 | 25 | 129 | 300 | 175 | 16.0% | 23.4% |
| Huron | 17 | 67 | 11 | 71 | 134 | 137 | 19.2% | 31.4% |
| Lake | 26 | 69 | 11 | 101 | 307 | 341 | 11.1% | 39.9% |
| Lincoln | 59 | 158 | 26 | 181 | 237 | 146 | 26.9% | 18.1% |
| McKinley | 17 | 66 | 22 | 81 | 152 | 107 | 18.2% | 23.5% |
| Meade | 32 | 137 | 27 | 160 | 246 | 118 | 23.5% | 16.4% |
| Oliver | 92 | 312 | 76 | 375 | 403 | 225 | 27.2% | 15.2% |
| Paris | 13 | 121 | 25 | 111 | 119 | 92 | 27.9% | 19.1% |
| Pointe Aux Barques | 0 | 0 | 0 | 1 | 3 | 6 | 0.0% | 60.0% |
| Port Austin | 44 | 159 | 43 | 210 | 530 | 438 | 14.3% | 30.8% |
| Rubicon | 28 | 118 | 34 | 121 | 233 | 198 | 19.9% | 27.0% |
| Sand Beach | 67 | 236 | 50 | 235 | 373 | 260 | 24.8% | 21.3% |
| Sebewaing | 146 | 509 | 119 | 600 | 824 | 526 | 23.9% | 19.2% |
| Sheridan | 48 | 144 | 33 | 160 | 204 | 123 | 27.0% | 17.3% |
| Sherman | 55 | 213 | 57 | 228 | 316 | 214 | 24.7% | 19.8% |
| Sigel | 22 | 101 | 26 | 111 | 123 | 82 | 26.5% | 17.6% |
| Verona | 48 | 263 | 37 | 268 | 440 | 203 | 24.7% | 16.1% |
| Winsor | 82 | 335 | 82 | 385 | 567 | 456 | 21.9% | 23.9% |

Household Characteristics

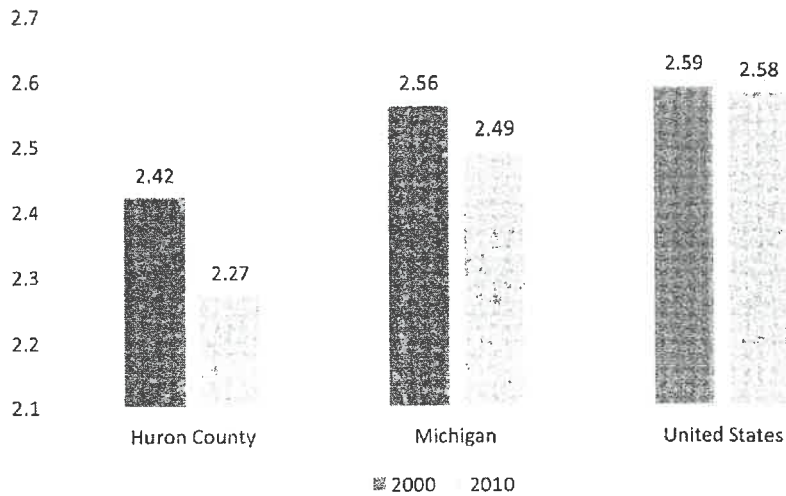
In addition to population demographics, the Census also measures various household and housing characteristics. The household characteristics analyze the human element of each household. These characteristics give a community a broader understanding of who lives within their jurisdiction, how they live there, and what family structures are present. In comparison, housing characteristics include information like the occupancy, number, type, ownership, and value of the housing units within a jurisdiction.

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Average Household Size

From 2000 to 2010, the average household size in the County decreased from 2.42 to 2.27. This is similar to the decrease in the State of Michigan, but significantly more than that of the Country. These figures are depicted in Figure 5 and Table 6a through 6d, where average household size is illustrated for each jurisdiction in the County. Aside from Grant and Huron Townships, every jurisdiction had a decrease in average household size. This trend could be happening for many reasons, but with a large elderly population there are often smaller household sizes because there is an increase in single-persons living alone or other non-family structures. With a large elderly population, and a declining group of residents in the family storage of life it is also safe to assume there are fewer families in Huron County. Correlating to the increasing size of empty nesters and retirees living alone. These trends require specific types of housing that the County and local jurisdictions will need to consider. For example, if more people are living alone and there are fewer families, the demand for single-family housing structures could be less than the demand for apartments or condos. Grant, Sigel, and Sheridan Townships all have the largest average household size as compared to the other jurisdictions in the County. The jurisdictions with the smallest average household size are Pointe Aux Barques, Caseville, and Lake Townships.

Figure 5 Average Household Size (2000 and 2010 Census)



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Table 6a Average Household Size by Jurisdiction Overall (2000 and 2010 Census)

| Jurisdiction | 2000 | 2010 | Change from 2000 - 2010 |
|---------------------|-------------|-------------|-------------------------|
| Huron County | 2.42 | 2.27 | -0.15 |
| Michigan | 2.56 | 2.49 | -0.07 |
| United States | 2.59 | 2.58 | -0.01 |

Table 6b Average Household Size by Jurisdiction by City (2000 and 2010 Census)

| Jurisdiction | 2000 | 2010 | Change from 2000 - 2010 |
|--------------|------|------|-------------------------|
| Bad Axe | 2.31 | 2.16 | -0.15 |
| Caseville | 2.01 | 1.84 | -0.17 |
| Harbor Beach | 2.31 | 2.14 | -0.17 |

Table 6c Average Household Size by Jurisdiction by Village (2000 and 2010 Census)

| Jurisdiction | 2000 | 2010 | Change from 2000 - 2010 |
|--------------|------|------|-------------------------|
| Elkton | 2.35 | 2.32 | -0.03 |
| Kinde | 2.55 | 2.30 | -0.25 |
| Owendale | 2.52 | 2.43 | -0.09 |
| Pigeon | 2.33 | 2.13 | -0.20 |
| Port Austin | 1.94 | 1.91 | -0.03 |
| Port Hope | 2.32 | 2.01 | -0.31 |
| Sebewaing | 2.27 | 2.19 | -0.08 |
| Ubley | 2.30 | 2.22 | -0.08 |

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Table 6d Average Household Size by Jurisdiction by Township (2000 and 2010 Census)

| Jurisdiction | 2000 | 2010 | Change from 2000 - 2010 |
|--------------------|-------------|-------------|-------------------------|
| Bingham | 2.55 | 2.44 | -0.11 |
| Bloomfield | 2.80 | 2.43 | -0.37 |
| Brookfield | 2.53 | 2.35 | -0.18 |
| Caseville | 2.10 | 1.98 | -0.12 |
| Chandler | 2.84 | 2.61 | -0.23 |
| Colfax | 2.59 | 2.43 | -0.16 |
| Dwight | 2.61 | 2.29 | -0.32 |
| Fairhaven | 2.33 | 2.20 | -0.13 |
| Gore | 2.21 | 2.01 | -0.20 |
| Grant | 2.69 | 2.74 | 0.05 |
| Hume | 2.17 | 2.07 | -0.10 |
| Huron | 2.21 | 2.24 | 0.03 |
| Lake | 2.06 | 1.95 | -0.11 |
| Lincoln | 2.59 | 2.46 | -0.13 |
| McKinley | 2.50 | 2.24 | -0.26 |
| Meade | 2.59 | 2.35 | -0.24 |
| Oliver | 2.48 | 2.39 | -0.09 |
| Paris | 2.73 | 2.56 | -0.17 |
| Pointe Aux Barques | 2.00 | 1.67 | -0.33 |
| Port Austin | 2.07 | 1.96 | -0.11 |
| Rubicon | 2.44 | 2.22 | -0.22 |
| Sand Beach | 2.61 | 2.43 | -0.18 |
| Sebewaing | 2.35 | 2.30 | -0.05 |
| Sheridan | 2.82 | 2.62 | -0.20 |
| Sherman | 2.62 | 2.44 | -0.18 |
| Sigel | 3.13 | 2.64 | -0.49 |
| Verona | 2.76 | 2.48 | -0.28 |
| Winsor | 2.51 | 2.24 | -0.27 |

Type of Household

The following information categorizes the type of family unit that lives in each household. The U.S. Census breaks families into 2 categories, which have several sub-categories. The first category is family households, which includes the sub-categories: married couple families, male householder, and female householder. The second category is nonfamily households, which includes the sub-categories: living alone and not living alone. The 2000 and 2010 Census counted types of family units in different ways. In 2010, the new category “male householder” was added, and this addition accounts for the differences in Table 7.

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In Huron County, 65% of households are considered to be family households. Of the 65%, 53% are married couple families, 8% are female householders, and 4% are male householders. Between 2000 and 2010 the number of family households decreased by almost 5%. Between 2000 and 2010, nonfamily households increased by 5%. Nonfamily households are defined as people living together who are not related by blood or marriage. Table 7 illustrates these changes.

Table 7 Type of Household in County (2000 and 2010 Census)

| | 2000 | 2010 |
|--|--------------|------------|
| Family Households | 69.5% | 65% |
| <i>Married-Couple Family</i> | 58.6% | 52.7% |
| <i>Female Householder (no husband)</i> | 7.4% | 8.1% |
| <i>Male Householder (no wife)</i> | - | 4.2% |
| Nonfamily Households | 30.5% | 35% |
| <i>Householder Living Alone</i> | 27.3% | 30.7% |
| <i>Householder Not Living Alone</i> | 3.2% | 4.3% |

Housing Characteristics

In addition to household characteristics, the U.S. Census also measures housing characteristics such as the occupancy, number, type, ownership, and value of the housing units within a jurisdiction. Once a community understands the way their population is changing, and the needs of the shifting population, then it is important to understand what housing options are available to County residents. Analyzing this information allows the County to see where there is a lack or gap of a certain type of housing, the conditions of the housing stock, and the cost of living. Understanding these changes will help Huron County plan for changes in the future.

Housing Occupancy

The Census measures the total housing units in a jurisdiction and categorizes them in to two categories, occupied or vacant. In 2010, there were 21,199 housing units in Huron County. Of those, 14,348 units, or 67.7%, were occupied and 6,851, and 32.3% of the units were vacant. These percentages are very different than that of the State and Country, which both have similar occupancy rates in the mid to high 80% range. The jurisdictions with the largest percentage of occupied units are Colfax, Elkton, and Verona

To the residents of Huron County it is common knowledge that many of the homes along the lake and bay are seasonal. If a housing unit is only seasonally occupied the Census considers it vacant, therefore the high vacancy rates in the County can be explained by the large amount of seasonal housing units. High seasonal vacancy rates are not a reality for all Huron County communities, and this trend is most apparent when the vacancy rates in each township, city, and village are compared individually against the State and Country rates. The communities that do not have a large number of seasonal housing units compare more closely to the percentages of the State and Country. The majority of the inland Cities, Villages, and Townships in Huron County have rates that are comparable to the State, and the high vacancy rates are most noticeable in the Townships along the coastline. Here, vacancy rates range from the mid 20% range all the way to 90%, with the average falling in the high 40% range. These figures are represented in Tables 9a through 9d.

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To corroborate the seasonal vacancy analysis above, the U.S Census breaks down vacant units into the following categories: seasonal, for rent, rented, but unoccupied, for sale only, sold but unoccupied, for migratory workers, or other vacant. Tables 10a through 10d breakdown the vacancies by jurisdiction. These charts only further emphasize the seasonal use of the majority of the vacant housing in the County.

Figure 6 Housing Occupancy (2010 Census)

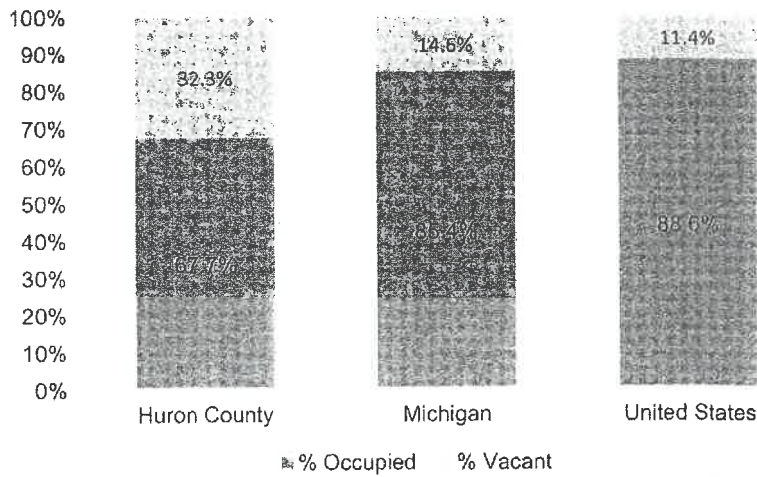


Table 8a Housing Occupancy by Jurisdiction Overall (2010 Census)

| 2010 | Total Housing Units | Occupied | Vacant | % Occupied | % Vacant |
|---------------------|---------------------|---------------|--------------|--------------|--------------|
| Huron County | 21,199 | 14,348 | 6,851 | 67.7% | 32.3% |
| Michigan | 4,532,233 | 3,872,508 | 659,725 | 85.4% | 14.6% |
| United States | 131,704,730 | 116,716,292 | 14,988,438 | 88.6% | 11.4% |

Table 8b Housing Occupancy by Jurisdiction by City (2010 Census)

| 2010 | Total Housing Units | Occupied | Vacant | % Occupied | % Vacant |
|--------------|---------------------|----------|--------|------------|----------|
| Bad Axe | 1,546 | 1,358 | 188 | 87.8% | 12.2% |
| Caseville | 837 | 422 | 415 | 50.4% | 49.6% |
| Harbor Beach | 975 | 774 | 201 | 79.4% | 20.6% |

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Huron County Master Plan

Table 8c Housing Occupancy by Jurisdiction by Village (2010 Census)

| 2010 | Total Housing Units | Occupied | Vacant | % Occupied | % Vacant |
|-------------|---------------------|----------|--------|------------|----------|
| Elkton | 387 | 349 | 38 | 90.2% | 9.8% |
| Kinde | 223 | 195 | 28 | 87.4% | 12.6% |
| Owendale | 116 | 99 | 17 | 85.3% | 14.7% |
| Pigeon | 621 | 551 | 70 | 88.7% | 11.3% |
| Port Austin | 724 | 338 | 386 | 46.7% | 53.3% |
| Port Hope | 201 | 133 | 68 | 66.2% | 33.8% |
| Sebewaing | 201 | 133 | 68 | 66.2% | 33.8% |
| Ubly | 418 | 382 | 36 | 91.4% | 8.6% |

Table 8d Housing Occupancy by Jurisdiction by Township (2010 Census)

| 2010 | Total Housing Units | Occupied | Vacant | % Occupied | % Vacant |
|--------------------|---------------------|--------------|------------|--------------|--------------|
| Bingham | 776 | 696 | 80 | 89.7% | 10.3% |
| Bloomfield | 225 | 187 | 38 | 83.1% | 16.9% |
| Brookfield | 358 | 314 | 44 | 87.7% | 12.3% |
| Caseville | 2,848 | 1,295 | 1,533 | 45.5% | 54.5% |
| Chandler | 203 | 181 | 22 | 89.2% | 10.8% |
| Colfax | 799 | 727 | 72 | 91.0% | 9.0% |
| Dwight | 406 | 329 | 77 | 81.0% | 19.0% |
| Fairhaven | 772 | 503 | 269 | 65.2% | 34.8% |
| Gore | 187 | 70 | 117 | 37.4% | 62.6% |
| Grant | 360 | 330 | 30 | 91.7% | 8.3% |
| Hume | 872 | 361 | 511 | 41.4% | 58.6% |
| Huron | 427 | 195 | 232 | 45.7% | 54.3% |
| Lake | 1,413 | 438 | 975 | 31.0% | 69.0% |
| Lincoln | 373 | 325 | 48 | 87.1% | 12.9% |
| McKinley | 292 | 199 | 93 | 68.2% | 31.8% |
| Meade | 365 | 306 | 59 | 83.8% | 16.2% |
| Oliver | 690 | 621 | 69 | 90.0% | 10.0% |
| Paris | 230 | 188 | 42 | 81.7% | 18.3% |
| Pointe Aux Barques | 71 | 6 | 65 | 8.5% | 91.5% |
| Port Austin | 1,741 | 715 | 1,026 | 44.1% | 58.9% |
| Rubicon | 561 | 329 | 232 | 58.6% | 41.4% |
| Sand Beach | 708 | 503 | 205 | 71.0% | 29.0% |
| Sebewaing | 1,342 | 1,185 | 157 | 88.3% | 11.7% |
| Sheridan | 298 | 267 | 31 | 89.6% | 10.4% |
| Sherman | 672 | 444 | 228 | 66.1% | 33.9% |
| Sigel | 206 | 176 | 30 | 85.4% | 14.6% |
| Verona | 548 | 49 | 54 | 90.1% | 9.9% |
| Winsor | 935 | 832 | 103 | 89.0% | 11.0% |

Huron County Master Plan

Overall the following charts highlight the seasonal nature of Huron County's vacant housing stock. The Townships with the highest percentage of seasonal housing is Pointe Aux Barques (100%), Lake Township (94.5%), and the City of Caseville, Caseville Township, and Gore Township (88.9% each). Other Townships with high rates of seasonal housing are Huron, Port Austin, and Hume.

Table 9a Structures by Vacancy type and Jurisdiction Overall (2010 Census)

| | Total Housing Units | Total Vacant Units | % of Units Vacant | Seasonal, Recreational, or Occasional Use | For Rent | Rented, Unoccupied | For Sale Only | Sold, Unoccupied | For Migratory Workers | Other Vacant |
|---------------|---------------------|--------------------|-------------------|---|----------|--------------------|---------------|------------------|-----------------------|--------------|
| Huron County | 21,199 | 6,851 | 32.3% | 75.2% | 5.7% | 0.3% | 5.4% | 1.2% | 0.1% | 12.1% |
| Michigan | 4,532,233 | 659,725 | 14.6% | 39.9% | 21.5% | 0.1% | 11.7% | 2.7% | 0.3% | 23.0% |
| United States | 131,704,730 | 14,988,438 | 11.4% | 31.0% | 27.6% | 1.4% | 12.7% | 2.8% | 0.2% | 24.4% |

Table 9b Structures by Vacancy type and Jurisdiction by City (2010 Census)

| | Total Housing Units | Total Vacant Units | % of Units Vacant | Seasonal, Recreational, or Occasional Use | For Rent | Rented, Unoccupied | For Sale Only | Sold, Unoccupied | For Migratory Workers | Other Vacant |
|--------------|---------------------|--------------------|-------------------|---|----------|--------------------|---------------|------------------|-----------------------|--------------|
| Bad Axe | 1,546 | 188 | 12.20% | 12.80% | 23.90% | 2.10% | 28.20% | 5.90% | 0.00% | 27.10% |
| Caseville | 2,848 | 1,553 | 54.50% | 88.90% | 3.80% | 0.10% | 3.70% | 0.40% | 0.10% | 3.00% |
| Harbor Beach | 975 | 201 | 20.60% | 45.30% | 20.90% | 1.00% | 8.50% | 4.00% | 0.00% | 20.40% |

Table 9c Structures by Vacancy type and Jurisdiction by Village (2010 Census)

| | Total Housing Units | Total Vacant Units | % of Units Vacant | Seasonal, Recreational, or Occasional Use | For Rent | Rented, Unoccupied | For Sale Only | Sold, Unoccupied | For Migratory Workers | Other Vacant |
|-------------|---------------------|--------------------|-------------------|---|----------|--------------------|---------------|------------------|-----------------------|--------------|
| Elkton | 387 | 38 | 9.8% | 5.3% | 26.3% | 0.0% | 23.7% | 2.6% | 0.0% | 42.1% |
| Kinde | 223 | 28 | 12.6% | 35.7% | 17.9% | 3.6% | 21.4% | 7.1% | 0.0% | 14.3% |
| Owendale | 116 | 17 | 14.7% | 5.9% | 47.1% | 0.0% | 17.6% | 5.9% | 0.0% | 23.5% |
| Pigeon | 621 | 70 | 11.3% | 8.6% | 41.4% | 4.3% | 11.4% | 4.3% | 0.0% | 30.0% |
| Port Austin | 724 | 386 | 53.3% | 77.5% | 6.0% | 0.3% | 6.5% | 0.0% | 0.0% | 9.8% |
| Port Hope | 201 | 68 | 33.8% | 75.0% | 1.5% | 0.0% | 8.8% | 0.0% | 0.0% | 14.7% |
| Sebewaing | 917 | 115 | 12.5% | 7.0% | 35.7% | 0.9% | 22.6% | 1.7% | 0.0% | 32.2% |
| Ubyly | 418 | 36 | 8.6% | 25.0% | 41.7% | 0.0% | 16.7% | 5.6% | 0.0% | 11.1% |

Table 9d Structures by Vacancy type and Jurisdiction by Township (2010 Census)

| | Total Housing Units | Total Vacant Units | % of Units Vacant | Seasonal, Recreational, or Occasional Use | For Rent | Rented, Unoccupied | For Sale Only | Sold, Unoccupied | For Migratory Workers | Other Vacant |
|--------------------|---------------------|--------------------|-------------------|---|----------|--------------------|---------------|------------------|-----------------------|--------------|
| Bingham | 776 | 80 | 10.3% | 31.3% | 20.0% | 1.3% | 8.8% | 5.0% | 0.0% | 33.8% |
| Bloomfield | 225 | 38 | 16.9% | 31.6% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 68.4% |
| Brookfield | 358 | 44 | 12.3% | 15.9% | 20.5% | 0.0% | 6.8% | 15.9% | 2.3% | 38.6% |
| Caseville | 2848 | 1553 | 54.5% | 88.9% | 3.8% | 0.1% | 3.7% | 0.4% | 0.1% | 3.0% |
| Chandler | 203 | 22 | 10.8% | 40.9% | 18.2% | 0.0% | 9.1% | 4.5% | 0.0% | 27.3% |
| Colfax | 799 | 72 | 9.0% | 31.9% | 12.5% | 0.0% | 19.4% | 15.3% | 0.0% | 20.8% |
| Dwight | 406 | 77 | 19.0% | 32.5% | 6.5% | 1.3% | 6.5% | 6.5% | 0.0% | 46.8% |
| Fairhaven | 772 | 269 | 34.8% | 78.1% | 4.1% | 0.7% | 5.9% | 0.4% | 0.0% | 10.8% |
| Gore | 187 | 117 | 62.6% | 88.9% | 0.0% | 0.9% | 0.9% | 0.0% | 0.0% | 9.4% |
| Grant | 360 | 30 | 8.3% | 30.0% | 10.0% | 0.0% | 13.3% | 3.3% | 0.0% | 43.3% |
| Hume | 872 | 511 | 58.6% | 86.5% | 4.3% | 0.2% | 2.7% | 0.2% | 0.0% | 6.1% |
| Huron | 427 | 232 | 54.3% | 87.5% | 0.0% | 0.0% | 1.3% | 0.4% | 0.0% | 10.8% |
| Lake | 1413 | 975 | 69.0% | 94.5% | 2.2% | 0.1% | 1.7% | 0.0% | 0.0% | 1.5% |
| Lincoln | 373 | 48 | 12.9% | 47.9% | 6.3% | 0.0% | 12.5% | 0.0% | 0.0% | 33.3% |
| McKinley | 292 | 93 | 31.8% | 73.1% | 4.3% | 0.0% | 3.2% | 1.1% | 0.0% | 18.3% |
| Meade | 365 | 59 | 16.2% | 35.6% | 6.8% | 0.0% | 3.4% | 0.0% | 0.0% | 54.2% |
| Oliver | 690 | 69 | 10.0% | 17.4% | 20.3% | 0.0% | 20.3% | 14.0% | 0.0% | 40.6% |
| Paris | 230 | 42 | 18.3% | 38.1% | 2.4% | 0.0% | 9.5% | 2.4% | 0.0% | 47.6% |
| Pointe Aux Barques | 71 | 65 | 91.5% | 100.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| Port Austin | 1741 | 1026 | 58.9% | 87.2% | 3.0% | 0.1% | 3.5% | 0.0% | 0.0% | 6.1% |
| Rubicon | 561 | 232 | 41.4% | 80.6% | 0.9% | 0.0% | 3.9% | 0.4% | 0.4% | 13.8% |
| Sand Beach | 708 | 205 | 29.0% | 73.7% | 1.5% | 0.0% | 4.4% | 0.0% | 0.0% | 20.5% |
| Sebewaing | 1342 | 157 | 11.7% | 8.9% | 26.8% | 0.6% | 22.3% | 3.2% | 0.6% | 37.6% |
| Sheridan | 298 | 31 | 10.4% | 51.6% | 3.2% | 3.2% | 6.5% | 9.7% | 0.0% | 25.8% |
| Sherman | 672 | 228 | 33.9% | 75.9% | 0.9% | 0.0% | 4.8% | 0.4% | 0.0% | 18.0% |
| Sigel | 206 | 30 | 14.6% | 16.7% | 3.3% | 0.0% | 6.7% | 0.0% | 0.0% | 73.3% |
| Verona | 548 | 54 | 9.9% | 20.4% | 3.7% | 1.9% | 18.5% | 14.8% | 1.9% | 38.9% |
| Winsor | 935 | 103 | 11.0% | 11.7% | 31.1% | 2.9% | 10.7% | 3.9% | 1.9% | 37.9% |

Housing Tenure

Now that there is an understanding of the housing units in the County, it will be important to analyze housing tenure, or ownership, of the occupied units. The following set of charts and tables depict housing tenure and the percentage of home ownership rates in the County over the past 10 years. Of the 21,199 housing units in the County, 14,348 units are occupied. Of the 14,348 occupied units, 81% are owner-occupied and 18% are renter-occupied. In Huron County, the rate of owner occupied housing units in the County is significantly higher than that of the State (72.1%) and the Country (65%). This means there are significantly less renters in Huron County. The housing tenure breakdown per jurisdiction can be found in Tables 11a through 11d. It is worth noting that the lowest percentage of owner occupied housing is 60.8%, in the City of Bad Axe, and the highest is Lake Township at 93.4%, with several other Townships falling in the 90% range, including Chandler, Grant, Hume, Lincoln, McKinley, Meade, Sand Beach, Sherman, and Verona.

Which means there are 10 townships in Huron County with ownership rates higher than 90% - this is a very high number for housing tenure in Michigan.

Table 10a Housing Tenure by Jurisdiction Overall (2010 Census)

| 2010 | Occupied | Owner Occupied | Renter Occupied | % Owner Occupied | % Renter Occupied |
|---------------|-------------|----------------|-----------------|------------------|-------------------|
| Huron County | 14,348 | 11,736 | 2,612 | 81.8% | 18.2% |
| Michigan | 3,872,508 | 2,793,342 | 1,079,166 | 72.1% | 27.9% |
| United States | 116,716,292 | 75,986,074 | 40,730,218 | 65.1% | 34.9% |

Table 10b Housing Tenure by Jurisdiction by City (2010 Census)

| 2010 | Occupied | Owner Occupied | Renter Occupied | % Owner Occupied | % Renter Occupied |
|--------------|----------|----------------|-----------------|------------------|-------------------|
| Bad Axe | 1,358 | 828 | 532 | 60.8% | 39.2% |
| Caseville | 422 | 282 | 140 | 66.8% | 33.2% |
| Harbor Beach | 774 | 553 | 221 | 71.4% | 28.6% |

Table 10c Housing Tenure by Jurisdiction by Village (2010 Census)

| 2010 | Occupied | Owner Occupied | Renter Occupied | % Owner Occupied | % Renter Occupied |
|-------------|----------|----------------|-----------------|------------------|-------------------|
| Elkton | 349 | 238 | 111 | 68.2% | 31.8% |
| Kinde | 195 | 159 | 36 | 81.5% | 18.5% |
| Owendale | 99 | 82 | 17 | 82.8% | 17.2% |
| Pigeon | 551 | 374 | 177 | 67.9% | 32.1% |
| Port Austin | 338 | 256 | 82 | 75.7% | 24.3% |
| Port Hope | 133 | 114 | 19 | 85.7% | 14.3% |
| Sebewaing | 133 | 114 | 19 | 85.7% | 14.3% |
| Ubly | 382 | 280 | 102 | 73.3% | 26.7% |

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Table 10d Housing Tenure by Jurisdiction by Township (2010 Census)

| 2010 | Occupied | Owner Occupied | Renter Occupied | % Owner Occupied | % Renter Occupied |
|--------------------|----------|----------------|-----------------|------------------|-------------------|
| Bingham | 696 | 568 | 128 | 81.6% | 18.4% |
| Bloomfield | 187 | 162 | 25 | 86.6% | 13.4% |
| Brookfield | 314 | 259 | 55 | 82.5% | 17.5% |
| Caseville | 1,295 | 1,075 | 220 | 83.0% | 17.0% |
| Chandler | 181 | 165 | 16 | 91.2% | 8.8% |
| Colfax | 727 | 632 | 95 | 86.9% | 13.1% |
| Dwight | 329 | 274 | 55 | 83.3% | 16.7% |
| Fairhaven | 503 | 420 | 83 | 83.5% | 16.5% |
| Gore | 70 | 61 | 9 | 87.1% | 12.9% |
| Grant | 330 | 297 | 33 | 90.0% | 10.0% |
| Hume | 361 | 328 | 33 | 90.9% | 9.1% |
| Huron | 195 | 173 | 22 | 88.7% | 11.3% |
| Lake | 438 | 409 | 29 | 93.4% | 6.6% |
| Lincoln | 325 | 296 | 29 | 91.1% | 8.9% |
| McKinley | 199 | 179 | 20 | 89.9% | 10.1% |
| Meade | 306 | 279 | 27 | 91.2% | 8.8% |
| Oliver | 621 | 468 | 153 | 75.4% | 24.6% |
| Paris | 188 | 159 | 29 | 84.6% | 15.4% |
| Pointe Aux Barques | 6 | 5 | 1 | 83.3% | 16.7% |
| Port Austin | 715 | 595 | 120 | 83.2% | 16.8% |
| Rubicon | 329 | 294 | 35 | 89.4% | 10.6% |
| Sand Beach | 503 | 458 | 45 | 91.1% | 8.9% |
| Sebewaing | 1,185 | 927 | 258 | 78.2% | 21.8% |
| Sheridan | 267 | 234 | 33 | 87.6% | 12.4% |
| Sherman | 444 | 400 | 44 | 90.1% | 9.9% |
| Sigel | 176 | 158 | 18 | 89.8% | 10.2% |
| Verona | 49 | 456 | 38 | 92.3% | 7.7% |
| Winsor | 832 | 626 | 206 | 75.2% | 24.8% |

Another factor to consider is the change in homeownership between 2000 and 2010. All but 14 of the jurisdictions have seen a decrease in the percentage of owner occupied homes since 2000. The percentage change in owner occupied units in Huron County and the Country are almost the exact same percentage as compared to Michigan, which had a much larger decrease in owner occupied housing over the same 10-year period. The comparison between the regions is shown in Figure 7, and the information by jurisdiction is shown in Tables 11a through 11d. Overall, the largest increase in homeownership rates was in Pointe Aux Barques with 43% more homes owner-occupied in 2010 as compared to 2000. The other three jurisdictions with a significant amount of home ownership are the Village of Sebewaing, Sand Beach Township, Chandler Township, which all range from 5% to 10% increases.

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Huron County Master Plan

Figure 7 2000 – 2010 % Change in Owner Occupied Housing (2000 and 2010 Census)

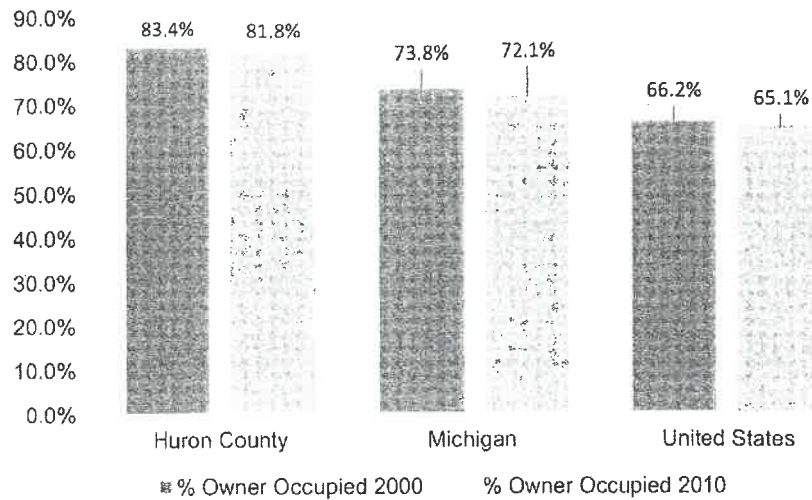


Table 11a 2000 – 2010 % Change in Owner Occupied Housing by Jurisdiction Overall (2000 and 2010 Census)

| | % Owner Occupied 2000 | % Owner Occupied 2010 | % Change |
|---------------------|-----------------------|-----------------------|---------------|
| Huron County | 83.4% | 81.8% | -1.60% |
| Michigan | 73.8% | 72.1% | -2.31% |
| United States | 66.2% | 65.1% | -1.66% |

Table 11b 2000 – 2010 % Change in Owner Occupied Housing by Jurisdiction by City (2000 and 2010 Census)

| | % Owner Occupied 2000 | % Owner Occupied 2010 | % Change |
|--------------|-----------------------|-----------------------|----------|
| Bad Axe | 68.2% | 60.8% | -7.40% |
| Caseville | 73.1% | 66.8% | -6.30% |
| Harbor Beach | 76.6% | 71.4% | -5.20% |

Table 11c 2000 – 2010 % Change in Owner Occupied Housing by Jurisdiction by Village (2000 and 2010 Census)

| | % Owner Occupied 2000 | % Owner Occupied 2010 | % Change |
|-------------|-----------------------|-----------------------|----------|
| Elkton | 73.4% | 68.2% | -5.20% |
| Kinde | 80.9% | 81.5% | 0.60% |
| Owendale | 85.1% | 82.8% | -2.30% |
| Pigeon | 76.8% | 67.9% | -8.90% |
| Port Austin | 77.8% | 75.7% | -2.10% |
| Port Hope | 86.4% | 85.7% | -0.70% |
| Sebewaing | 74.2% | 85.7% | 11.50% |
| Ubyly | 82.1% | 73.3% | -8.80% |

Table 11d 2000 – 2010 % Change in Owner Occupied Housing by Jurisdiction by Township (2000 and 2010 Census)

| | % Owner Occupied 2000 | % Owner Occupied 2010 | % Change |
|--------------------|-----------------------|-----------------------|----------|
| Bingham | 86.2% | 81.6% | -4.60% |
| Bloomfield | 90.1% | 86.6% | -3.50% |
| Brookfield | 84.5% | 82.5% | -2.00% |
| Caseville | 85.2% | 83.0% | -2.20% |
| Chandler | 85.8% | 91.2% | 5.40% |
| Colfax | 84.5% | 86.9% | 2.40% |
| Dwight | 81.4% | 83.3% | 1.90% |
| Fairhaven | 85.3% | 83.5% | -1.80% |
| Gore | 96.8% | 87.1% | -9.70% |
| Grant | 87.4% | 90.0% | 2.60% |
| Hume | 91.1% | 90.9% | -0.20% |
| Huron | 92.7% | 88.7% | -4.00% |
| Lake | 93.2% | 93.4% | 0.20% |
| Lincoln | 93.1% | 91.1% | -2.00% |
| McKinley | 87.6% | 89.9% | 2.30% |
| Meade | 89.1% | 91.2% | 2.10% |
| Oliver | 79.2% | 75.4% | -3.80% |
| Paris | 87.3% | 84.6% | -2.70% |
| Pointe Aux Barques | 40.0% | 83.3% | 43.30% |
| Port Austin | 85.7% | 83.2% | -2.50% |
| Rubicon | 89.6% | 89.4% | -0.20% |
| Sand Beach | 81.0% | 91.1% | 10.10% |
| Sebewaing | 79.2% | 78.2% | -1.00% |
| Sheridan | 87.5% | 87.6% | 0.10% |
| Sherman | 90.5% | 90.1% | -0.40% |
| Sigel | 88.0% | 89.8% | 1.80% |
| Verona | 91.5% | 92.3% | 0.80% |
| Winsor | 80.7% | 75.2% | -5.50% |

Housing Value

The median housing value in Huron County is \$92,100, which is less than both the State (\$119,200) and the Country (\$174,600). There are various reasons for this and one major contributing factor is that almost a third of the housing stock in the County is seasonal homes. Table 12 illustrates the values of owner occupied housing units in Huron County.

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Table 12 Owner Occupied Housing Values (2014 ACS)

| Owner-Occupied Units | Number | Percent |
|------------------------|--------|---------|
| Less than \$50,000 | 2,007 | 17.7% |
| \$50,000 to \$99,999 | 4,210 | 37.1% |
| \$100,000 to \$149,999 | 2,014 | 17.7% |
| \$150,000 to \$199,999 | 1,445 | 12.7% |
| \$200,000 to \$299,999 | 866 | 7.6% |
| \$300,000 to \$499,999 | 518 | 4.6% |
| \$500,000 to \$999,999 | 238 | 2.1% |
| \$1,000,000 or more | 60 | 0.5% |

Housing Units

Table 13 depicts the different types of housing units. For reference, a 1 Unit, Detached housing unit is a typical single-family home, and a 1-Unit, attached structure is a single-family housing unit attached to several other single-family housing units (such as townhomes or rowhouses), but is a separate unit from the adjoining neighbors. There is a total of 21,162 housing units in the County. Of those, 81.8% are 1-Unit, Detached structures. In Huron County, the second most prevalent form of housing is Mobile Homes, at 9.8%. All of the multi-family housing units are all relatively equal across the different types, each just over 1% of the total housing stock. These kinds of housing characteristics are a way for the County to evaluate the existing structures and determine if the housing needs of the residents are being met.

Table 13 Housing Units in County (2010 Census)

| Units in Structure | # of Units | % of Total |
|--------------------|------------|------------|
| 1-Unit, Detached | 17,171 | 81.8% |
| 1-Unit, Attached | 267 | 1.3% |
| 2 Units | 313 | 1.5% |
| 3 or 4 units | 248 | 1.2% |
| 5 to 9 Units | 477 | 2.3% |
| 10 to 19 Units | 363 | 1.7% |
| 20 or More Units | 230 | 1.1% |
| Mobile Home | 2,081 | 9.8% |
| Boat, RV, Van etc | 12 | 0.1% |
| Total | 21,162 | |

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Housing Costs as a Percent of Income

A conventional indication of housing quality is the percent of income spent on housing. Housing expenditures that exceed 30% of household income are viewed by planners as an indicator of a housing affordability problem for residents. Sixty-seven percent of homeowners in Huron County spend less than 30% of their income on monthly housing costs. This means 33% of homeowners spend more the 30% of their income on monthly housing costs. In comparison, 73% homeowners pay less than 30% of their income in the State and the same is true for 70% of homeowners across the Country.

Table 14 – Selected Monthly Owner Costs as a Percentage of Household Income (2014 ACS)

| | Huron County | Michigan | United States |
|------------------|--------------|-----------|---------------|
| Total Units | 5,262 | 1,679,548 | 47,766,759 |
| Less than 30% | 66.6% | 73.4% | 69.5% |
| Greater than 30% | 33.3% | 26.6% | 30.8% |

The same consideration is true for renters as homeowners, housing expenditures that exceed 30% of a household income are viewed as an indicator of housing affordability issues. In Huron County 50% of renters spend less than 30% of their income on rent, which is a higher percentage than both the State (48%), and the Country (49%). This means more renters in Huron county spend less money on rent as compared to the other jurisdictions.

Table 15 – Gross Rent as a Percentage of Household Income (2014 ACS)

| | Huron County | Michigan | United States |
|------------------|--------------|-----------|---------------|
| Total Units | 2,240 | 1,037,848 | 39,628,951 |
| Less than 30% | 50.4% | 48.4% | 48.9% |
| Greater than 30% | 49.6% | 51.7% | 51.0% |

When comparing homeowner costs to renter costs in Huron County, 33% of homeowners pay greater than 30% of their income on housing, and 50% of renters pay more than 30% of their income on housing, which is an indication of higher rental costs compares to homeownership. This trend is also true in the State and Country, where 52% of renters in Michigan pay more than 30% of their income on rent and 27% of homeowners pay the same.

Economy

Economic characteristics comprise a major part of Census data. It is important to examine the economic quality of a community to determine the ability to support future commercial, residential, and industrial development. The data exposes the strengths and weaknesses of a community while alluding to trends that may aid or hurt the economic future of the community. This economic analysis will utilize 2000 and 2010 U.S. Census data and 2014 American Community Survey 5-Year Estimates

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Education

Educational attainment measures the education level of a community. It allows for analysis of the skills and capabilities of the labor force and the economic vitality of the community. The level of educational attainment achieved within a community illustrates the types of jobs that are suitable or necessary for citizens.

The U.S. Census Bureau reports on all levels of education attainment including those who did not complete high school, those who earned a high school diploma or an equivalent, those that attended some college, earned an associate degree, and those who earned a bachelor's degree or higher.

As illustrated in Figure 8, Huron County has the largest percentage of individuals with high school diplomas, as compared to the State and Country, and has the least number of residents who earned a Bachelor's Degree or higher when compared to both geographies. Tables 16a through 16d, illustrate the educational attainment for each community in Huron County. The communities with the most people who have earned a bachelor's Degree are Pointe Aux Barques (41%), Elkton (16%), and Pigeon (15%). Most jurisdictions in the County have a percentage of residents with a bachelor's degree ranging from 9% - 11%. Only Pointe Aux Barques has a population greater than 10% who have earned the graduate or professional degree.

Figure 8 Educational Attainment (2014 ACS)

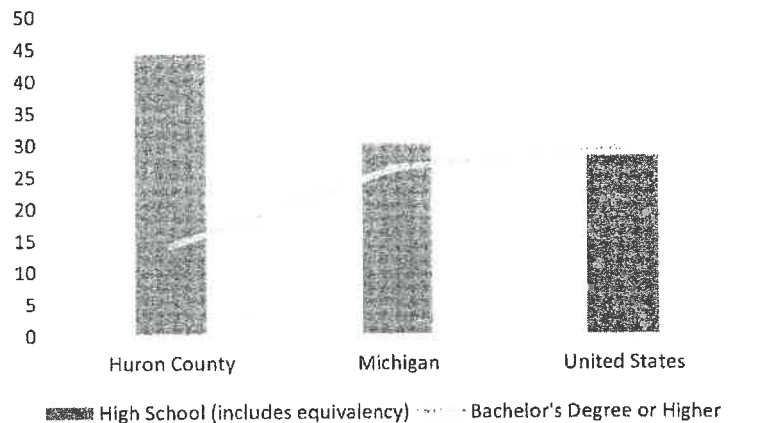


Table 16a Percent Educational Attainment by Jurisdiction Overall (2014 ACS)

| | Less than 9th grade | High School, no Diploma | High School (includes equivalency) | Some College, no degree | Associate's Degree | Bachelor's Degree | Graduate or Professional Degree |
|---------------------|---------------------|-------------------------|------------------------------------|-------------------------|--------------------|-------------------|---------------------------------|
| Huron County | 4.5% | 8% | 44.3% | 20% | 9% | 9.5% | 4.6% |
| Michigan | 3.3% | 7.4% | 30.2% | 23.9% | 8.8% | 16.1% | 10.3% |
| United States | 5.8% | 7.8% | 28% | 21.1% | 7.9% | 18.3% | 11% |

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Table 16b Percent Educational Attainment by Jurisdiction by City (2014 ACS)

| | Less than 9th grade | High School, no Diploma | High School (includes equivalency) | Some College, no degree | Associate's Degree | Bachelor's Degree | Graduate or Professional Degree |
|--------------|---------------------|-------------------------|------------------------------------|-------------------------|--------------------|-------------------|---------------------------------|
| Bad Axe | 5.6% | 2.2% | 46.6% | 20.6% | 8.7% | 11.3% | 5.1% |
| Caseville | 3.4% | 17% | 34% | 23.3% | 6.9% | 10.1% | 5.2% |
| Harbor Beach | 5% | 8.1% | 42.1% | 21.6% | 7.3% | 11.7% | 4.1% |

Table 16c Percent Educational Attainment by Jurisdiction by Village (2014 ACS)

| | Less than 9th grade | High School, no Diploma | High School (includes equivalency) | Some College, no degree | Associate's Degree | Bachelor's Degree | Graduate or Professional Degree |
|-------------|---------------------|-------------------------|------------------------------------|-------------------------|--------------------|-------------------|---------------------------------|
| Elkton | 2.1% | 9.6% | 38.6% | 22.8% | 9.8% | 16.2% | 0.9% |
| Kinde | 7.4% | 14.7% | 39.7% | 20.3% | 12.1% | 2.6% | 3.2% |
| Owendale | 2.2% | 5.5% | 72% | 11% | 4.9% | 3.8% | 0.5% |
| Pigeon | 3.3% | 6.4% | 38.4% | 17.4% | 10.8% | 15.3% | 8.4% |
| Port Austin | 3.9% | 10.3% | 30.1% | 29.2% | 6.5% | 11.7% | 8.3% |
| Port Hope | 2% | 13.1% | 59.1% | 10.6% | 5.6% | 7.1% | 2.5% |
| Sebewaing | 5.2% | 7% | 46.2% | 21.1% | 7.8% | 7.8% | 4.9% |
| Ubly | 5.2% | 3.3% | 46.7% | 19.6% | 7.2% | 14.1% | 3.9% |

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Table 16d Percent Educational Attainment by Jurisdiction by Township (2014 ACS)

| | Less than 9th grade | High School, no Diploma | High School (includes equivalency) | Some College, no degree | Associate's Degree | Bachelor's Degree | Graduate or Professional Degree |
|--------------------|---------------------|-------------------------|------------------------------------|-------------------------|--------------------|-------------------|---------------------------------|
| Bingham | 5.6% | 2.2% | 46.6% | 20.6% | 8.7% | 11.3% | 5.1% |
| Bloomfield | 8.2% | 7.2% | 54.8% | 14.4% | 10.1% | 4.3% | 1.1% |
| Brookfield | 2.4% | 10.2% | 55.4% | 9% | 13% | 7.3% | 2.8% |
| Caseville | 0.5% | 6.4% | 36.8% | 24.9% | 13.5% | 11.4% | 6.6% |
| Chandler | 2.4% | 8.3% | 41.9% | 25.4% | 8.9% | 10.7% | 2.4% |
| Colfax | 5% | 8% | 43.8% | 18.7% | 8.4% | 11.6% | 4.4% |
| Dwight | 7.2% | 12.8% | 42.3% | 18.7% | 11.8% | 3.4% | 3.9% |
| Fairhaven | 1.8% | 10.7% | 44% | 22% | 11.1% | 8.7% | 1.7% |
| Gore | 4% | 9.8% | 44.5% | 21.4% | 6.4% | 10.4% | 3.5% |
| Grant | 5.1% | 7.4% | 55.2% | 18.4% | 6.1% | 7.2% | 0.5% |
| Hume | 3.8% | 6.6% | 41.4% | 21% | 8% | 10.4% | 8.8% |
| Huron | 9% | 4.7% | 51.6% | 13.7% | 9.3% | 8.7% | 3.1% |
| Lake | 1.1% | 9% | 42.7% | 27.2% | 7.7% | 9.2% | 3.1% |
| Lincoln | 5.7% | 4.9% | 47.2% | 17.1% | 11.1% | 9.7% | 4.2% |
| McKinley | 2.1% | 10.3% | 45.8% | 19.6% | 10.3% | 7.7% | 4.2% |
| Meade | 2% | 8.2% | 48.3% | 16.3% | 12.1% | 10.1% | 3% |
| Oliver | 2.1% | 8.6% | 41.8% | 25.1% | 8.1% | 13.4% | 0.9% |
| Paris | 9.5% | 8.9% | 50.6% | 12.3% | 6.7% | 7.1% | 4.9% |
| Pointe Aux Barques | 0% | 0% | 17.6% | 29.4% | 0% | 41.2% | 11.8% |
| Port Austin | 4.4% | 8.8% | 36.6% | 25.7% | 7.7% | 8.8% | 8% |
| Rubicon | 2.3% | 9% | 46.6% | 20.6% | 8.4% | 8.3% | 4.9% |
| Sand Beach | 6.2% | 9.8% | 43% | 17.2% | 10.1% | 10.5% | 3.4% |
| Sebewaing | 3.8% | 6% | 47% | 21% | 9.4% | 9.3% | 3.5% |
| Sheridan | 6.5% | 7.4% | 47% | 18.4% | 10.8% | 9.5% | 0.4% |
| Sherman | 8.2% | 7.5% | 53.4% | 12.7% | 9.4% | 5.9% | 2.9% |
| Sigel | 6.6% | 7.2% | 49.8% | 15.7% | 6.6% | 11.1% | 3% |
| Verona | 6.1% | 6.2% | 42.6% | 16.4% | 11.1% | 12.8% | 4.7% |
| Winsor | 3.5% | 7.9% | 43.6% | 17.5% | 8.7% | 12.5% | 6.2% |

In addition to educational attainment, the State of Michigan measures enrollment data for all school districts K through 12. Within Huron County there are 14 different school districts. The make-up of these districts is unique to that of other surrounding jurisdictions because 5 of these districts are one room schoolhouses which teach under 30 students grades K through 8. In the 2015-2016 school year, there were approximately 4,200 students enrolled in Huron County Schools. This number is down from approximately 4,500 students from the 2010-2011 school year. This trend is illustrated in Figure 9 and Table 17 below, which indicates the number of students enrolled in each district.

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Figure 9 Huron County School Enrollment Trends (Michigan Department of Education)

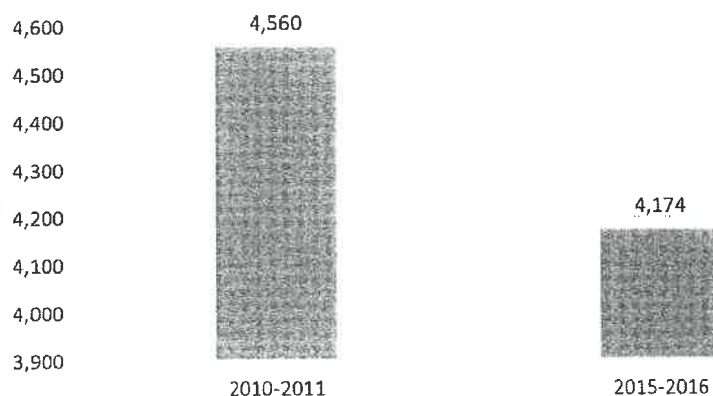


Table 17 Huron County School Enrollment (Michigan Department of Education)

| Enrollment | | |
|--|-----------|-----------|
| District | 2010-2011 | 2015-2016 |
| Bad Axe Public Schools | 1,194 | 1,013 |
| Bloomfield S/D #7F | Closed | Closed |
| Caseville Public Schools | 265 | 310 |
| Church School District | 24 | 18 |
| Colfax Township S/D #1F | 23 | 26 |
| Elkton-Pigeon-Bay Port Laker Schools | 909 | 891 |
| Harbor Beach Community Schools | 547 | 508 |
| North Huron School District | 450 | 463 |
| Owendale Gagetown Area School District | 205 | 158 |
| Port Hope Community Schools | 82 | Closed |
| Sigel Township S/D #3F | 10 | 15 |
| Sigel Township S/D #4F | 18 | 28 |
| Sigel Township S/D #6 | 9 | 8 |
| Ubyly Community Schools | 798 | 713 |
| Verona Township S/D #1F | 26 | 23 |

As indicated in the table above, Bad Axe Public Schools has the largest amount of students enrolled, with a total of 1,013 students. Over the past 5 years, 5 of the school districts have had increases in enrollment, they include: Caseville Public Schools, Colfax Township S/D #1F, North Huron School District, Sigel Township S/D #3F, and Sigel Township S/D #4F. Three of the 5 schools that had increases were the one-room schoolhouses. Caseville Public Schools' enrollment increased by 45 students and North Huron School District increased by 13 students. Bad Axe Public Schools lost the 181 students, the most of any district in Huron County. Map 3 depicts the school district boundaries in the County. The Port Hope Community School District was closed in 2015, merging with the North Huron School District.

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Income

Median household income is a way to measure wealth that shows a relative measure of a population’s willingness and/or ability to pay for infrastructure, housing, and discretionary municipal services. Tables 18a through 18d, are an illustration of the median household income and the per capita income for each community in the County. The per capita income is a measure of the income from all sources in a community. This figure reflects what all people in a community would make if income was equal and is a good indicator of the wealth of a population. Understanding this data allows planners to compare income among communities, estimate the poverty rate, and gauge low-income housing needs.

Table 18a *Income by Jurisdiction Overall (2014 ACS)*

| | Median Household Income (\$) | Per Capita Income (\$) |
|---------------------|------------------------------|------------------------|
| Huron County | 41,290 | 22,793 |
| Michigan | 47,145 | 24,997 |
| United States | 51,771 | 27,385 |

Table 18b *Income by Jurisdiction by City (2014 ACS)*

| | Median Household Income (\$) | Per Capita Income (\$) |
|--------------|------------------------------|------------------------|
| Bad Axe | 30,675 | 19,000 |
| Caseville | 31,786 | 27,081 |
| Harbor Beach | 32,257 | 20,104 |

Table 18c *Income by Jurisdiction by Village (2014 ACS)*

| | Median Household Income (\$) | Per Capita Income (\$) |
|-------------|------------------------------|------------------------|
| Elkton | 35,526 | 20,659 |
| Kinde | 31,354 | 15,158 |
| Owendale | 35,833 | 15,301 |
| Pigeon | 36,827 | 22,718 |
| Port Austin | 29,079 | 19,692 |
| Port Hope | 36,607 | 23,048 |
| Sebewaing | 44,107 | 22,953 |
| Ubyly | 37,135 | 21,384 |

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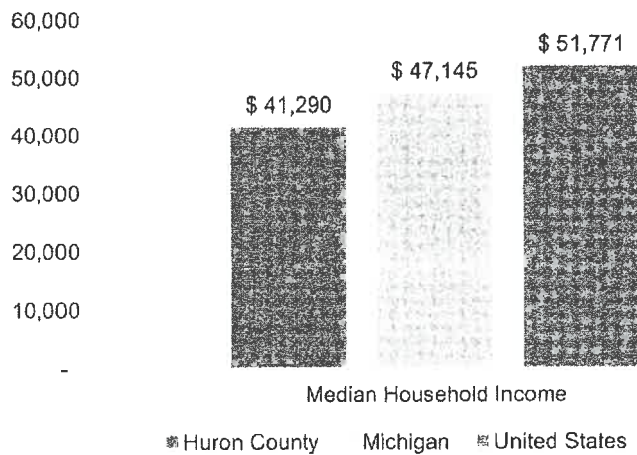
Table 18d Income by Jurisdiction by Township (2014 ACS)

| | Median Household Income (\$) | Per Capita Income (\$) |
|--------------------|------------------------------|------------------------|
| Bingham | 42,981 | 22,414 |
| Bloomfield | 38,958 | 23,000 |
| Brookfield | 41,042 | 24,016 |
| Caseville | 44,306 | 26,547 |
| Chandler | 50,417 | 21,608 |
| Colfax | 47,083 | 23,185 |
| Dwight | 32,135 | 19,078 |
| Fairhaven | 35,833 | 20,674 |
| Gore | 42,500 | 23,384 |
| Grant | 46,250 | 18,790 |
| Hume | 44,342 | 25,421 |
| Huron | 37,000 | 22,004 |
| Lake | 36,500 | 22,689 |
| Lincoln | 36,734 | 25,224 |
| McKinley | 45,875 | 24,982 |
| Meade | 52,500 | 23,512 |
| Oliver | 37,650 | 19,375 |
| Paris | 47,083 | 22,749 |
| Pointe Aux Barques | 43,125 | 42,076 |
| Port Austin | 37,273 | 23,785 |
| Rubicon | 39,643 | 23,155 |
| Sand Beach | 44,773 | 23,138 |
| Sebewaing | 47,527 | 23,594 |
| Sheridan | 53,125 | 21,772 |
| Sherman | 43,224 | 26,169 |
| Sigel | 49,917 | 26,369 |
| Verona | 57,578 | 24,463 |
| Winsor | 40,714 | 23,647 |

The communities in Huron County with the highest median housing income are Verona, Sheridan, and Meade Townships. In contrast, the communities with the smallest median household income are the Village of Port Austin, the Village of Kinde, and the City of Bad Axe. The median household income for the County is approximately \$6,000 less than the State, and \$10,000 less than the Country. Figure 10 on the following page is a comparison of these three geographic locations.

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Figure 10 Median Household Income (2014 ACS)



Individuals with Income Assistance

In addition to the previous income measurements, another measure of income is to analyze residents who are collecting social security or on government assistance programs. These numbers represent segments of the population that are older or do not have a large household income, which could highlight trends such as willingness to pay for certain services, like road millages or parks and recreation.

Overall, Huron County is very similar to the State and Country pertaining to income assistance, the largest difference being the percentage of residents with social security income. Forty-two percent of the population has a social security income, as compared to 33% at the State level, and 29% across the Country. This can be attributed to the larger elderly/retiree population Huron County. Otherwise, the County has the smallest percentage of residents with cash public assistance income and with food stamps.

Table 19 – Income Assistance (2014 ACS)

| | Huron County | | Michigan | | United States | |
|------------------------------------|--------------|---------|-----------|---------|---------------|---------|
| | Number | Percent | Number | Percent | Number | Percent |
| With Social Security Income | 5,890 | 42.4% | 1,264,143 | 33.0% | 34,082,501 | 29.3% |
| With Retirement Income | 3,333 | 24.0% | 871,667 | 22.8% | 20,738,512 | 17.8% |
| With Supplemental Security Income | 821 | 5.9% | 231,867 | 6.1% | 6,160,788 | 5.3% |
| With Cash Public Assistance Income | 341 | 2.5% | 141,242 | 3.7% | 3,274,407 | 2.8% |
| With Food Stamps/SNAP Benefits | 1,713 | 12.3% | 653,958 | 17.1% | 15,089,358 | 13.0% |

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Poverty

Poverty is another factor used in determining the relative economic health of a region. Increases in income can show economic success while increases in the percent of individuals below the poverty level can show economic failure. Income levels are generally related to a community's educational attainment level. Recall from earlier, in Figure 17a, Huron County contained the lowest percentage of citizens who have obtained a bachelor's degree or higher, and earns the least amount of income (Table 19a)

In 2010, 15.5% of the individuals in Huron County lived below the poverty line. This is less than the State of Michigan (17.3%), but more than the United States as a whole (14.1%). The poverty line is a threshold defined by the Census based on an individual's income and household. Tables 20a through 20d depict the percentage of individuals who live in poverty in each jurisdiction in Huron County. Overall, the majority of poverty levels throughout the County range from the single digits to the low 20%. The jurisdiction with the highest percentage of people who live in poverty is the Village of Port Austin at 35.1%, and the lowest is Pointe Aux Barques Township at 0%.

These factors must be analyzed by a community in order to identify the special needs of the citizens and provide the appropriate public services.

Table 20a Percent Below Poverty Level by Jurisdiction Overall (2014 ACS)

| | Percent Below Poverty Level |
|---------------|-----------------------------|
| Huron County | 15.5% |
| Michigan | 17.3% |
| United States | 14.1% |

Table 20b Percent Below Poverty Level by Jurisdiction by City (2014 ACS)

| | Percent Below Poverty Level |
|--------------|-----------------------------|
| Bad Axe | 30.1% |
| Caseville | 10.6% |
| Harbor Beach | 23.7% |

Table 20c Percent Below Poverty Level by Jurisdiction by Village (2014 ACS)

| | Percent Below Poverty Level |
|-------------|-----------------------------|
| Elkton | 25.2% |
| Kinde | 28.2% |
| Owendale | 33.6% |
| Pigeon | 19.3% |
| Port Austin | 35.1% |
| Port Hope | 15.2% |
| Sebewaing | 11.1% |
| Ubyly | 10.7% |

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Table 20d *Percent Below Poverty Level by Jurisdiction by Township (2014 ACS)*

| | Percent Below Poverty Level |
|--------------------|------------------------------------|
| Bingham | 9.6% |
| Bloomfield | 11.4% |
| Brookfield | 16.2% |
| Caseville | 13.6% |
| Chandler | 5.6% |
| Colfax | 9.4% |
| Dwight | 27.8% |
| Fairhaven | 14% |
| Gore | 23.9% |
| Grant | 12% |
| Hume | 10.2% |
| Huron | 17% |
| Lake | 12.2% |
| Lincoln | 12.1% |
| McKinley | 18.8% |
| Meade | 12.4% |
| Oliver | 21.9% |
| Paris | 11.3% |
| Pointe Aux Barques | 0% |
| Port Austin | 22.2% |
| Rubicon | 10.3% |
| Sand Beach | 18.1% |
| Sebewaing | 9.7% |
| Sheridan | 11.7% |
| Sherman | 13.1% |
| Sigel | 8.7% |
| Verona | 6.3% |
| Winsor | 13.2% |

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Employment

Labor force characteristics depicts how people report their current work status, as well as their intended work status. Labor force characteristics also contribute to land use decisions. The greater percentage of the population working, the more need for connectivity in the road system, and alternative housing types for those who do not want traditional home ownership responsibilities. It is important to note that labor force and income do not always vary directly and the percentage of unemployed does not necessarily indicate a lower income community.

The population of the Huron County labor force that is over 16 years of age is made up of 15,228, or 56.8%, of the County population, the remaining 43.2% are individuals who are not in the labor force. This is another indication of the high proportion of senior citizen and retirees in Huron County.

Employment by industry measures the type of industry present in a community and the people who travel to a specific destination, such as a large industrial site, or who do not travel at all, such as farmers. From a land planning standpoint, these figures show trends in housing and traffic needs over time. Table 21 indicates the employment by industry for Huron County. Both manufacturing and educational services, and health care and social assistance are the largest employment industries in the County representing 20% of the population each. Retail trade is the third largest industry at 10.7%, and agriculture, forestry, fishing and hunting and mining is fourth at 9.1%.

Table 21 *Employment by Industry (2014 ACS)*

| | Number | Percent |
|--|---------------|----------------|
| Educational services, and health care and social assistance | 2,874 | 20.90% |
| Manufacturing | 2,847 | 20.70% |
| Retail trade | 1,466 | 10.70% |
| Agriculture, forestry, fishing and hunting, and mining | 1,252 | 9.10% |
| Arts, entertainment, and recreation, and accommodation and food services | 912 | 6.60% |
| Construction | 841 | 6.10% |
| Professional, scientific, and management, and administrative and waste management services | 698 | 5.10% |
| Transportation and warehousing, and utilities | 656 | 4.80% |
| Public administration | 609 | 4.40% |
| Other services, except public administration | 590 | 4.30% |
| Finance and insurance, and real estate and rental and leasing | 528 | 3.80% |
| Wholesale trade | 271 | 2.00% |
| Information | 185 | 1.30% |

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The following Tables 22 and 23 represent the top 10 industrial employers in the County, and Table 24 shows the top 10 service/retail employers in the County. This data is current as of May 2017. Michigan Sugar, Tower Automotive, Huron Casting, Inc., Scheurer Hospital, and Huron Medical Center are the top 5 employers in the County.

Table 22 Top 10 Industrial Employers (Huron County Economic Development Corporation)

| Ranking | Employer | Employees |
|---------|--------------------------------|-----------|
| 1 | Michigan Sugar | 550 |
| 2 | Tower Automotive | 482 |
| 3 | Huron Casting, Inc. | 452 |
| 4 | Valley Enterprises | 261 |
| 5 | Gemini Plastics | 251 |
| 6 | Thumb Tool & Engineering | 226 |
| 7 | Blue Diamond Steel Casting LLC | 223 |
| 8 | GPMI | 155 |
| 9 | Dow AgroSciences | 140 |
| 10 | Regency Plastics | 136 |

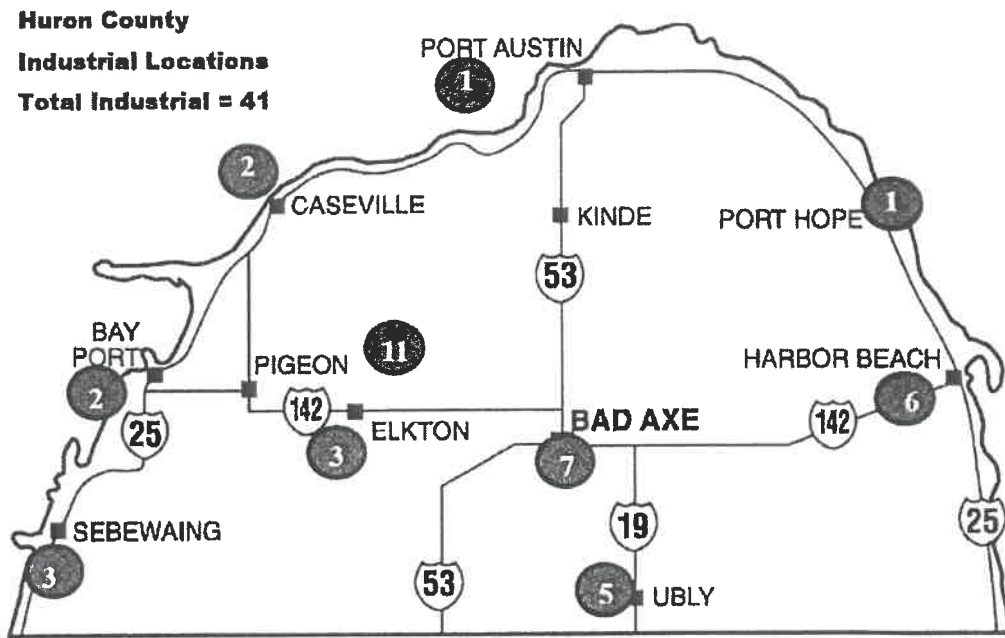
Table 23 Top 10 Service/Retail Employers (Huron County Economic Development Corporation)

| Ranking | Employer | Employees |
|---------|------------------------------------|-----------|
| 1 | Scheurer Hospital | 408 |
| 2 | Huron Medical Center | 392 |
| 3 | Wal-Mart | 255 |
| 4 | Huron County Medical Care Facility | 227 |
| 5 | Harbor Beach Community Hospital | 178 |
| 6 | Huron County Building | 163 |
| 7 | Huron Intermediate School District | 131 |
| 8 | Northstar Bank | 110 |
| 9 | Huron County Road Commission | 96 |
| 10 | Huron Behavioral Health | 92 |

There are a total of 41 industrial locations in Huron County, the top three jurisdictions with the largest amount of industrial locations are the Village of Pigeon (11), the City of Bad Axe (7), and the City of Harbor Beach (6). Figure 11, on the following page, is a map from Huron County illustrating the location of the industrial sites throughout the County.

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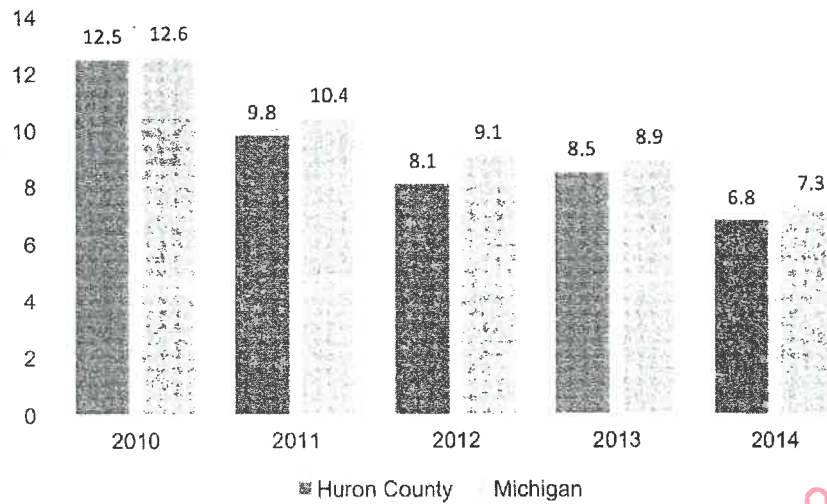
Map 4 - Huron County Industrial Sites



Unemployment

A second measure of the economic health of a region is the unemployment rates. It can show a dissatisfaction or frustration with a geography and may lead to a more transient population as people move as they look for work. Over the past 5 years, the overall unemployment trends in Huron County have reflected those of the State of Michigan. Fortunately, Huron County has always had an unemployment rate that was less than the State, which is illustrated in Figure 11.

Figure 11 Unemployment Rates Percentage (Michigan Department of Technology, Management, and Budget)



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State Equalized Value (SEV)

The following section discusses the State Equalized Value (SEV) of property. This is a measure of the taxable value and property values. SEV is determined by assessing 50% of the property's market value. The basis for SEV is supported in Article IX, Section 3 of the Michigan Constitution, which states that the proportion of true cash value at which property shall be assessed shall not exceed 50%. Property tax values are important indicators of the relative strength of different sectors of the local tax base. Real Property is any property that is fixed like land or buildings, and Personal Property is any property that is movable like belongings exclusive of real property. Appendix B is a chart with a more in-depth SEV analysis.

The following information is from the Michigan Department of Treasury as of July 2016. Figures 12 and 13 are a breakdown of both the Real and Personal Property in Huron County for 2010 and 2015. Referencing Real Property, agriculture had the largest increase, the other three categories all have a negative trend in taxable value, with residential decreasing the most, at a rate of -10.1%. Overall real property had an increase in 30.2% of value from 2010 to 2015. Over the past 5 years, personal property experienced an exponential rate of growth, increasing by 465.4% from \$109,548,200 to \$619,397,450. Overall, the total of real and personal property increased by 51.3%.

The following two figures represent the real property by tax class, Figure 13 is for 2010, and Figure 14 represents 2015. They highlight the changes described above.

Figure 12 2010 Real Property by Tax Class

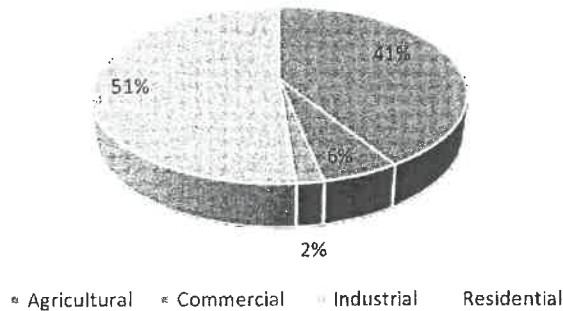
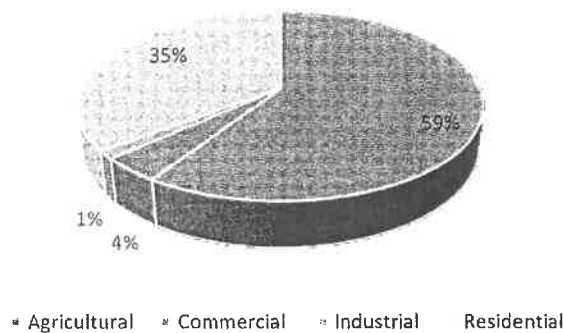


Figure 13 2015 Real Property by Tax Class



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The top five jurisdictions with the overall highest real property value of all the tax classes combined are: Caseville Township, Winsor Township, Sherman Township, Port Austin Township, and Sand Beach Township. The following is a listing of the top three jurisdictions which have the highest dollar amount of real property in each tax class as of 2015.

Real Agricultural Property

1. Sherman Township (\$130,556,100)
2. Winsor Township (\$98,305,500)
3. Verona Township (\$89,544,700)

Real Commercial Property

1. City of Bad Axe (\$35,988,900)
2. Dwight Township (\$11,298,500)
3. City of Caseville (\$10,075,100)

Real Residential Property

1. Caseville Township (\$190,549,300)
2. Port Austin Township (\$103,275,900)
3. Lake Township (\$98,154,000)

Real Industrial Property

1. City of Harbor Beach (\$12,375,000)
2. Winsor Township (\$8,650,400)
3. Oliver Township (\$3,997,700)

In regards to tax classes of real property, agriculture was the only class not to have any decrease in value over the past 5 years. The majority of the jurisdictions in Huron County almost doubled their agricultural values from 2010. The majority of the jurisdictions had a decrease in residential values, Bingham Township, Pointe Aux Barques Township, a Lincoln Township, Chandler Township, and Sigel Township were the only jurisdictions with increases in residential property. Commercial changes were split down the middle with jurisdictions that had increases or decreases, however Bloomfield Township had the largest increase at 198%. The industrial tax class was also split down the middle for jurisdictions with increases or decreases, but most notably Colfax Township had an increase of 4,344.4% and Sigel Township had an increase of 572.2%.

In regards to the largest value of personal property, the top three jurisdictions are:

1. Chandler Township
2. Winsor Township
3. Sigel Township
4. Oliver Township
5. Brookfield Township

There were several jurisdictions that had over a 1000% increase and several communities with increases over 100% in personal values from 2010 to 2015. The top three were:

1. Chandler Township (24,097.2%)
2. Sigel Township (6,034.8%)
3. Brookfield Township (4,299.8%)

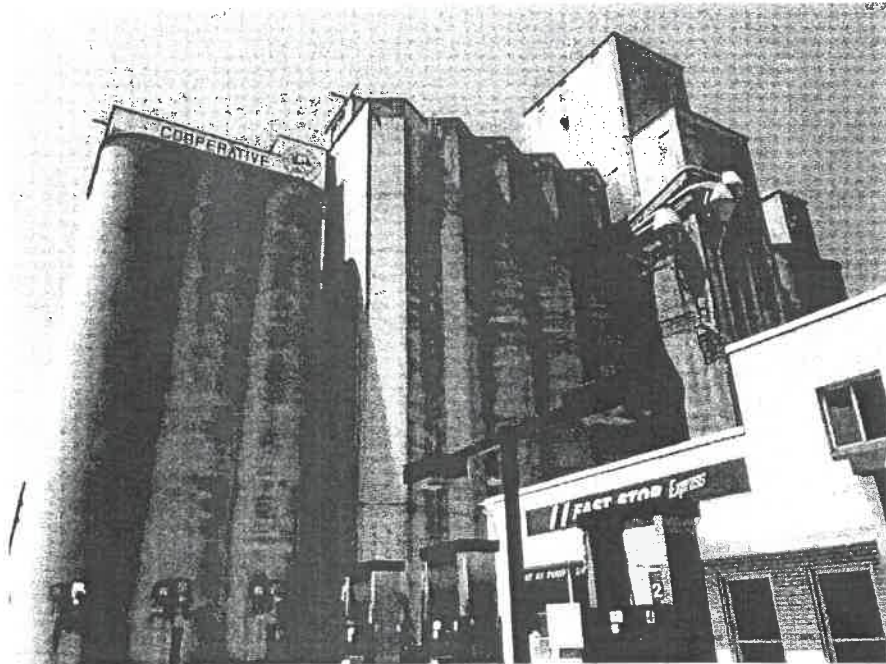
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Finally, the top three jurisdictions with the highest dollar value of real and personal property combined are:

1. Chandler Township
2. Winsor Township
3. Caseville Township

The top three jurisdictions with the largest percent change of real and personal property combined are:

1. Chandler Township (321.7%)
2. Sigel Township (222.1%)
3. Brookfield Township (178.8%)



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Community Infrastructure, Services, and Facilities

Every community is responsible for providing basic services to the residents such as water, wastewater, police, fire, transportation, and recreational facilities. These public facilities are the foundation of a safe and healthy home for residents and businesses alike. The location of these services, particularly the water and wastewater options, are important for growth because often new business will require these services and it will be difficult for them to locate in a place where they are not available. In the future, the permanent residents, seasonal residents, tourists and any new business will need adequate facilities for future growth and without these facilities it will be difficult for the County to attract new opportunities. In addition to public utilities, the County is responsible for providing a safe, efficient, and well maintained transportation network including rail, airports, highways, and harbors all of which are important for new business and are important considerations for the development of industry.

Public Services

Water and Wastewater

Public water service is available in almost all of the Villages and Cities in Huron County, each is maintained by a local DPW department and serves the local jurisdiction. In some cases, the water system extends outside of the municipality boundaries. In those instances, this results in water services for the following townships: Caseville, Gore, Huron, Pointe Aux Barques, Port Austin, Rubicon, Sand Beach, and Sebewaing. All the other areas in the Townships are served by private wells. In the past, there has been discussion on extending the existing water systems further along the coast to serve the large residential population along M-25. In the future, if there were ever to be an expansion of water services in the County, these are the areas in which it would most likely occur.

Public wastewater systems are less readily available in the County. Almost all of the Cities and Village have their own wastewater systems. However, none of the Townships in the County have any. All residents and businesses outside of a City or Village limit are served by personal septic systems. There are no plans to expand wastewater systems into any new Townships in the future.

Table 24 illustrates which community provides each service.

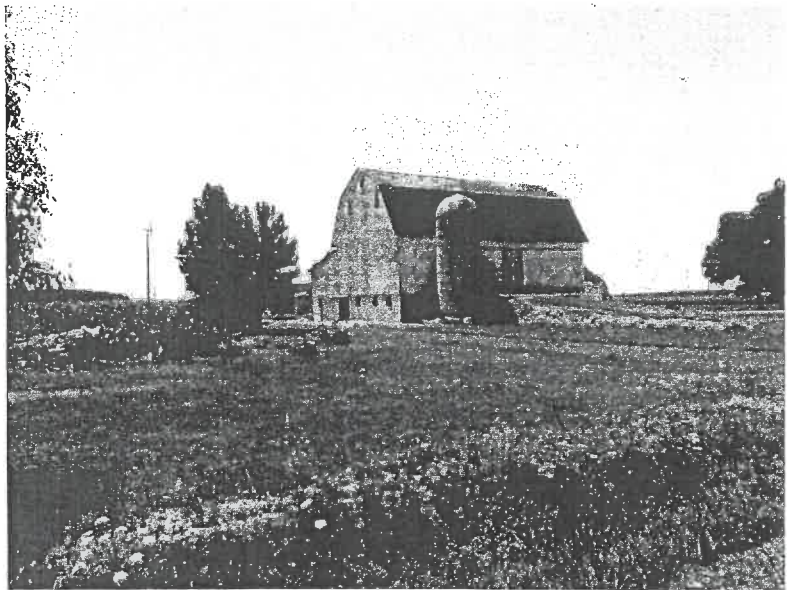


Table 24 Existing City and Water Systems

| Community | Water | Sewer |
|----------------------------|-------|-------|
| Cities and Villages | | |
| Bad Axe | ✓ | ✓ |
| Caseville | ✓ | ✓ |
| Harbor Beach | ✓ | ✓ |
| Elkton | ✓ | ✓ |
| Kinde | ✓ | ✓ |
| Owendale | ✓ | ✓ |
| Pigeon | ✓ | ✓ |
| Port Austin | ✓ | ✓ |
| Port Hope | ✓ | ✓ |
| Sebewaing | ✓ | ✓ |
| Ubley | ✓ | |

| Community | Water | Sewer |
|--------------------|-------|-------|
| Townships | | |
| Bingham | | |
| Bloomfield | | |
| Brookfield | | |
| Caseville | ✓ | |
| Chandler | | |
| Colfax | | |
| Dwight | | |
| Fairhaven | | |
| Gore | ✓ | |
| Grant | | |
| Hume | | |
| Huron | ✓ | |
| Lake | | |
| Lincoln | | |
| McKinley | | |
| Meade | | |
| Oliver | | |
| Paris | | |
| Pointe Aux Barques | ✓ | |
| Port Austin | ✓ | |
| Rubicon | ✓ | |
| Sand Beach | ✓ | |
| Sebewaing | ✓ | |
| Sheridan | | |
| Sherman | | |
| Sigel | | |
| Verona | | |
| Winsor | | |

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Police Service

Police protection is provided by several different agencies throughout the County including the Sheriff's Department, which is responsible for all of Huron County, and the smaller local departments which work with only a few communities. The Huron County Sheriff's Department provides services throughout the County and is also responsible for other duties such as the County Jail, working with the Court systems, and patrol of the land and water. The Sheriff's department is located in Bad Axe, and they have small satellite stations in _____. In addition to regular patrol, the Sheriff's Department also has a safety education program, full-time jail staff, a detective bureau, marine patrol, and a dive team. The Huron County Jail is located downtown Bad Axe, next to the County municipal offices. In addition to the services offered by the Sheriff's Department, there's are a Crime Stopper and Sheriff's Office tip line. The Crime Stoppers tip line is part of the Crime Stoppers Alliance and is a public-private partnership with input from law enforcement, citizens, and the business community.

In addition to the Sheriff's Department, there are various other Cities and Villages in the County that have their own police services. Often these departments contract with the surrounding townships and provide services to that geographical area. These departments are an additional police presence on top of the work done by the Sheriff Department.

In addition to police services, there are also various fire departments located throughout the County. Unlike the police, there is no overarching agent, instead each local unit is responsible for their own fire protection. Small communities often contract with adjacent townships to provide services to a coalition of communities. Table 25 illustrates which jurisdictions have a police or fire service station within their boundaries. If a community is not listed on the chart as having fire services, it does not mean they don't provide the option to residents and businesses, instead they contract with other jurisdictions and the fire department is located within the other jurisdictional borders. Further, if a community is not indicated to have fire service on the following chart it does not mean they do not provide that service to their residents, or have service provided through an agreement with a different community.

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Table 25 Existing Police and Fire Services

| Community | Police | Fire |
|-----------------|--------|------|
| Cities | | |
| Bad Axe | ✓ | ✓ |
| Caseville | ✓ | ✓ |
| Harbor Beach | ✓ | ✓ |
| Villages | | |
| Elkton | ✓ | ✓ |
| Kinde | ✓ | ✓ |
| Owendale | ✓ | ✓ |
| Pigeon | ✓ | ✓ |
| Port Austin | ✓ | ✓ |
| Port Hope | ✓ | ✓ |
| Sebewaing | ✓ | ✓ |
| Ubley | ✓ | ✓ |

| Community | Police | Sewer |
|--------------------|--------|-------|
| Townships | | |
| Bingham | | ✓ |
| Bloomfield | | |
| Brookfield | | |
| Caseville | | |
| Chandler | | |
| Colfax | | |
| Dwight | | |
| Fairhaven | ✓ | ✓ |
| Gore | | |
| Grant | | |
| Hume | | |
| Huron | | |
| Lake | | |
| Lincoln | | |
| McKinley | | |
| Meade | | |
| Oliver | | ✓ |
| Paris | | |
| Pointe Aux Barques | | |
| Port Austin | | |
| Rubicon | | |
| Sand Beach | | |
| Sebewaing | | ✓ |
| Sheridan | | |
| Sherman | | ✓ |
| Sigel | | ✓ |
| Verona | | |
| Winsor | | ✓ |

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Hospitals

There are three hospitals in Huron County, McLaren Thumb Region in Bad Axe, Scheurer Hospital in Pigeon, and Harbor Beach Community Hospital in Harbor Beach. McLaren Thumb Region is located in Bad Axe and is the only fully licensed acute care hospital in Huron County. The facility has 58 beds and is the only obstetrical facility in the upper thumb region. In 2017, the Huron Medical Center (now McLaren Thumb Region), was scored in the top 100 of rural and community hospitals according to the iVantage Health Analytics



Hospital Strength Index, and was given a national recognition award in Outcomes, and is a Blue Distinction Center for Maternity Care from Blue Cross Blue Shield. In May of 2018, the Huron Medical Center became a subsidiary of the McLaren Health Care System. Scheurer Hospital is located in Pigeon and has satellite medical campuses in Caseville, Sebawaing, and Elkton. In addition to these, the hospital is also home to four retail pharmacies, a vision center, and two health and wellness centers, and 44 patient beds. The third hospital in the County is Harbor Beach Community Hospital located in Harbor Beach, MI. This hospital has 55 beds and is a critical access hospital licensed by the Centers for Medicare and Medicaid Services.

Transportation

The transportation network in Huron County includes roads, airports, and ports/marinas. It is the responsibility of a community to provide a safe transportation network because this is how residents and visitors move through Huron County. The systems should be functional, safe, and in good repair. Map 4 is a depiction of the transportation system in the County, showing roads, rail, airports, and marinas.

Roads

The road network of Huron County is laid out in the traditional square mile grid like many other Michigan Counties and Townships. Huron County is served by several MDOT roads which provide access to the overall region, county roads, and local roads. The major thoroughfares in the County are the State Routes which include M-25, M-53, M-142, and M-19. M-25 follows the shoreline of Huron County crossing into the County in the southeast and southwest corner, the major north-south road is M-53 which traverses the center of the County from Port Austin to Bad Axe, where it jogs west and then continues south out of the County. The major east-west road is M-142 which begins south of Bay Port and traverses through Bad Axe to Harbor Beach on the eastern shores of the County. Finally, M-19 which travels through Ubyly north to dead end into M-142 east of Bad Axe. These roads carry most travelers and seasonal residents to the various destinations throughout the County. Other major east-west roads in the County include Sebawaing Road,

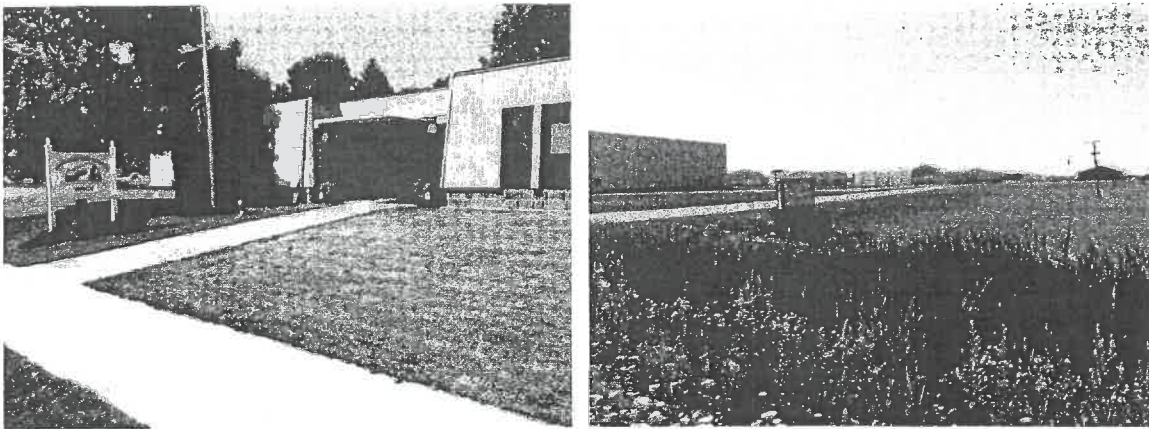
Huron County Master Plan

Atwater Road, Fillon Road, and Kinde Road, and other major north-south roads in the County include Caseville Road, Elkton Road, Pinnebog Road, and Ruth Road.

The Huron County Road Commission is responsible for both the MDOT and County Roads, while Townships and Cities and Villages are responsible for their local roads. The Road Commission is responsible for the construction, maintenance, and improvements of 344 miles of primary roads and 1,279 miles of local roads that lie within 27 Townships. The road commission also maintains 341 miles of state trunk lines under contract with MDOT. Individual Townships use road millages for funding improvements to the various local roads within their jurisdictions. According to the MDOT 2016-2020 5 Year Transportation Program, there are not any planned improvement projects for Huron County.

Map 4 classifies the roads in Huron County and annotates the Average Daily Traffic (ADT) Counts on each of the County and MDOT roads. ADT is a count used to measure the total volume of vehicle traffic on a highway or road for an average day of the year. These numbers are from MDOT and the County Road Commission.

The traffic volumes of the state trunk lines range from just over 5,000 vehicles to 7000 vehicles. Volumes of the county roads are estimated between 100 to 3,000 vehicles. It should be noted that these figures are average volumes and that there are days where the traffic volume could be 20 - 40% more on various sections of roads. These estimates can provide a preliminary indication of how well a roadway is operating. More comprehensive data is needed to make a complete determination if a roadway is operating past capacity. The County Road Commission should consult with the Planning Commission and periodically revisit the Master Plan to guide future action items or policy directions regarding any existing problems areas or future improvements.



Airports

Huron County has 5 airports of varying sizes and capacities. They are located in Sebewaing, Caseville, Port Austin, Bad Axe, and Port Hope. The Huron County Memorial Airport is located south of the City of Bad Axe. It is a county-owned public airport and is characterized as a general aviation airport, meaning all air operations aside from scheduled flights and transportation, are for hire. The airport has 2 paved runways, averages 103 flights per week, and has 21 aircraft based on the field. Sebewaing Airport is another publicly-owned airport located to the east of the Village Of Sebewaing it has 1 paved runway and 1 turf runway, averages 34 flights per week, and has 6 aircraft based in the field. Farver Field Airport is a privately-owned airport located south of

Caseville. It has one turf runway and 3 planes based at the field. The fourth airport is Grindstone Air Harbor, which is located east of Port Austin. It is privately owned and open to the public. The airport has 1 turf runway and does 50 operations per year. Finally, there is an airport southwest of Port Hope which is private, and it has one asphalt runway. These airports provide opportunities for commercial and private air service in the County.

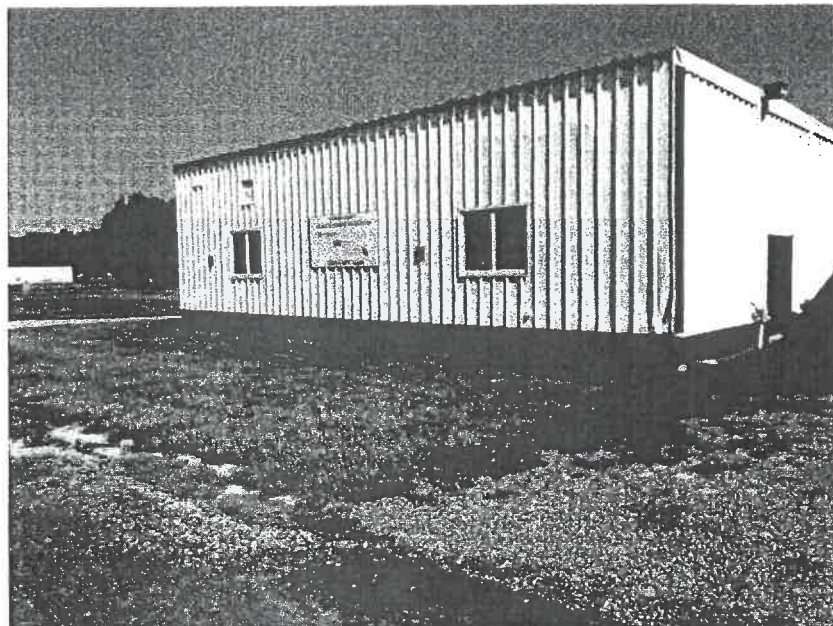
Marinas

There are several marinas located along the Huron County shoreline, while these are not deep water ports for shipping, there are several commercial fishing operations located in the County which take advantage of these marinas. In addition to commercial fishing, the various marinas and launches are crucial to the recreation infrastructure in the County. They provide boaters from the area and from other regions a means to visit in Huron County via the water, give tourists who would like to stay in the area a place to dock, and provide seasonal dockage for full-time or part-time residents. The following is list of marinas in the County:

- Bayshore Marina
- Brush’s Campground and Marina
- Beadle Bay Marina
- Caseville Municipal Harbor
- Eagle’s Marina
- Port Austin Harbor
- Harbor Beach Marina
- Off Shore Marina
- Harbor Marina

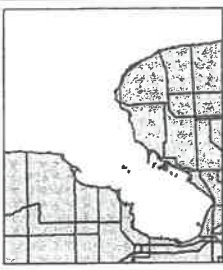
Public Transportation

The Thumb Area Transit is the only public transportation system in Huron County. The system serves residents of Huron County on an on call basis operating Monday – Saturday. Thumb Area Transit also provides bus shuttles during the Cheeseburger festival in Caseville. In 2016, Thumb Area Transit provided 386,676 rides.



MAP 4 - TRANSPORTATION (ADT) HURON COUNTY, MICHIGAN

In 2016 and 2017, Lincoln and Sherman Township residents voted to become self-zoned townships. They currently have a Planning Commission, but have not adopted a zoning ordinance.



AREA MAP
NOT TO SCALE



LEGEND

- Airports
- Manina
- State Roads
- Major Arterial
- Minor Arterial
- Roads
- Railroad

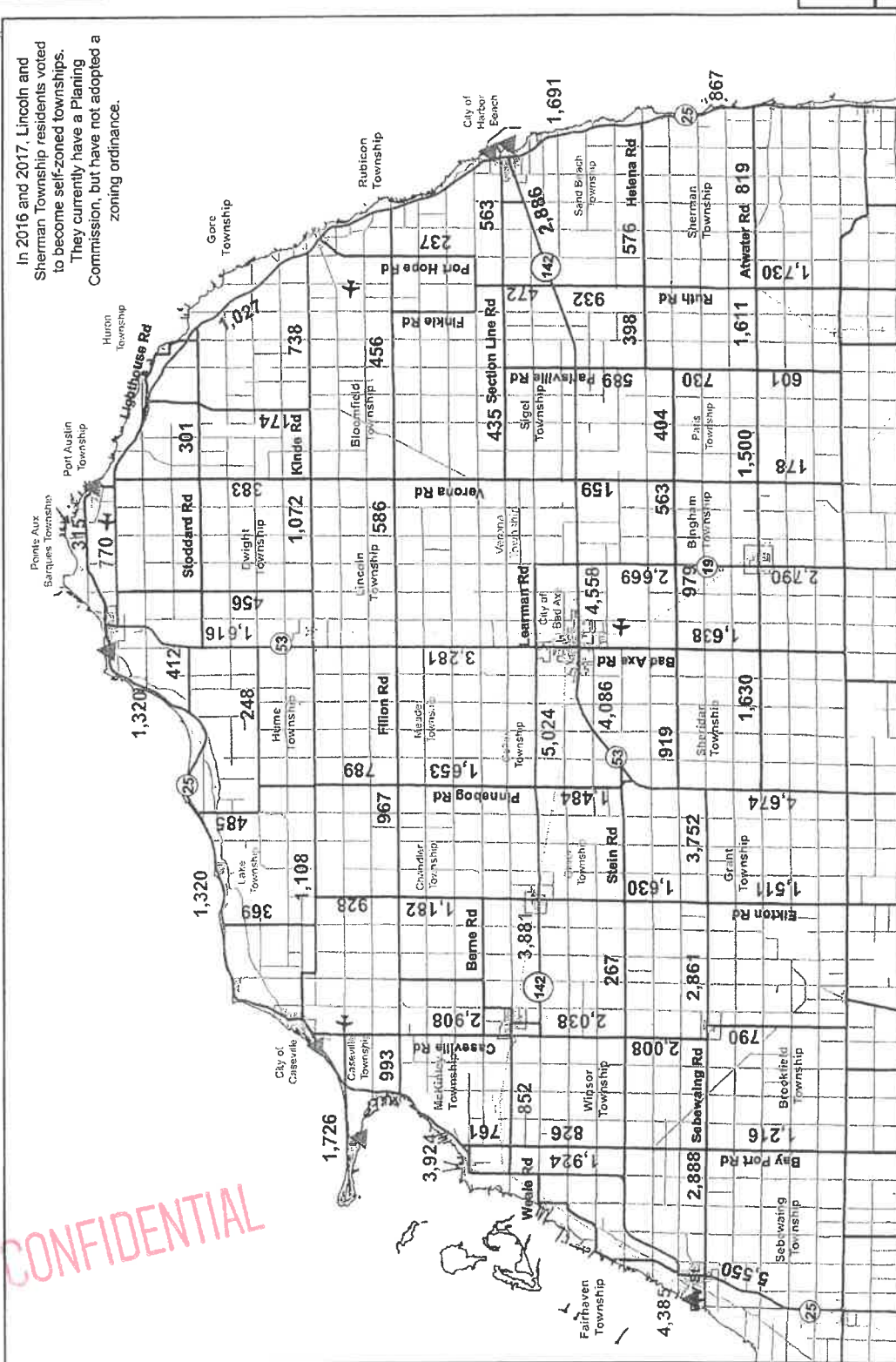
ADT (Average Daily Traffic) is used to measure the total volume of vehicle traffic on a highway or road on an average day of the year.

Key:
Black Numbers: 2014 Huron County Road Commission
Red Labels: MDOT (2016).

Sources:
Michigan Geographic Data Library,
Huron County Road Commission,
& MDOT



Date: August 2018



Utility Scale Wind Turbines and Related Facilities

Utility Scale Wind Turbines are a prominent land use throughout Huron County. Map 5 depicts the existing utility-scale wind turbines, Thumb Loop 345 kV transmission line, and substations. As of July 2018, Huron County is home to a total of 472 operational wind turbines, totaling 878 megawatts. The County 32 miles of 345 kV transmission line.

While there are 472 turbines in the County, there are 289 turbines in the County-zoned Townships, meaning 61.2% of the turbines in Huron County are located in County-zoned Townships. The other 38.8% of the turbines are located in locally-zoned townships. The County zoned townships with the most turbines are Winsor (61), Bingham (41), Bloomfield (41), Dwight (35), and Brookfield (32). All of the wind projects in Huron County are rated to generate 878 MW. The County-zoned turbines generate 559.2 MW. Table 26 depicts the operational number of turbines per township as of July 2018. While Winsor Township has the most turbines in the County-zoned Townships, Chandler Township, a locally-zoned township, has the most turbines in the County at 87.

Table 26 Turbines Per Township

| Total Number of Operational Turbines Per Township | Current Total July 2018 |
|---|-------------------------|
| Bingham Township | 41 |
| Bloomfield Township | 41 |
| Brookfield Township | 32 |
| Chandler Township | 87 |
| Colfax Township | 17 |
| Dwight Township | 35 |
| Fairhaven Township | 3 |
| Grant Township | 4 |
| Huron Township | 25 |
| Lincoln Township | 1 |
| McKinley Township | 15 |
| Oliver Township | 56 |
| Rubicon Township | 10 |
| Sebewaing Township | 15 |
| Sheridan Township | 5 |
| Sigel Township | 24 |
| Winsor Township | 61 |
| Total Operational | 472 |

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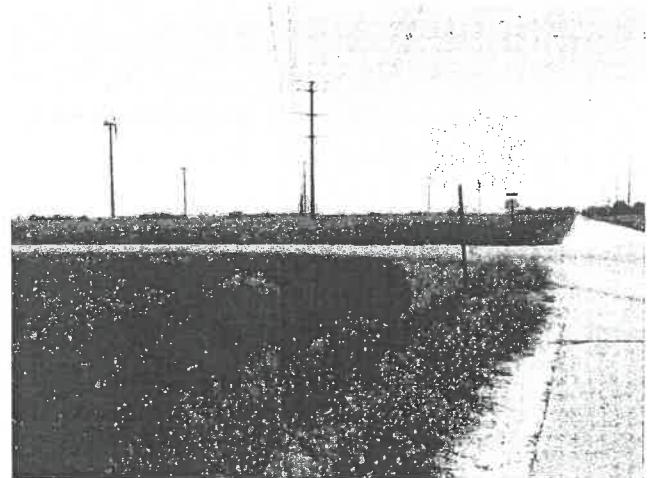
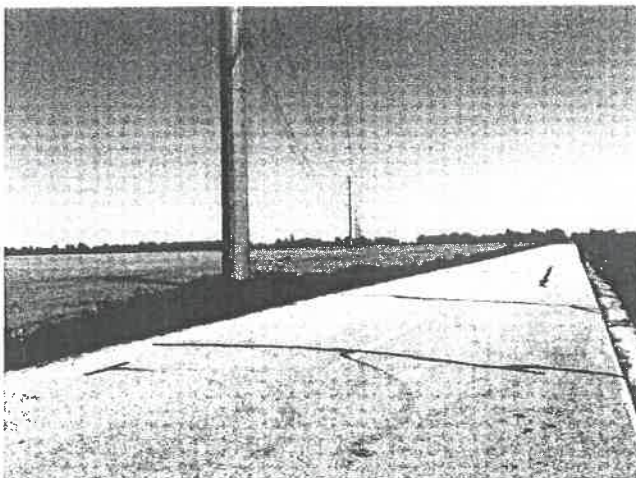
Throughout Huron County there are a total of 13 wind facilities. Of those, 11 are located within or partially within County-zoned Townships. A full list of projects can be reviewed in Table 29. The County-zoned projects include:

- Apple Blossom
- Big Turtle I
- Big Turtle II
- Deerfield Wind
- DTE Brookfield
- DTE Echo
- DTE McKinley
- DTE Sigel
- Harvest Wind II
- Michigan Wind I
- Pheasant Run Wind

The three power companies operating the wind facilities in Huron County are Consumers Energy, Wolverine, and DTE. However, the facilities are not all owned and operated by the same entity. Other wind facility owners include: Exelon, NextEra, Heritage Sustainable, Terrapin, Algonquin, and Sempra. In Table 27, if the power purchaser is labeled N/A, the owner of that facility is also the power supplier. Table 27 provides greater detail on all the wind facilities operating in Huron County.

In addition to the 472 wind turbines in the County, there is approximately 32 miles of a double circuit 345,000 volt (345 kV) transmission line which was constructed by the International Transmission Company (ITC) as part of the Thumb Loop project. ITC is the owner/operator of the Thumb Loop and does not construct or maintain wind turbines in Huron County.

The Thumb Loop project, completed in 2015, is comprised of 140 miles of a 345 kV transmission line and four substations. The line traverses Tuscola, Huron, Sanilac, and St. Clair Counties. The line passes through Winsor, Oliver, Colfax, Verona, Sigel, and Paris Townships in Huron County. This project connects into the overall electrical transmission grid. As part of its transmission planning process for the multi-state region that includes Michigan, the Midwest Independent Transmission System Operator (MISO), approved the Thumb Loop project in 2010.



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Table 27 Wind Turbine Summary as Of January 2018
Huron County Wind Turbine Summary

| Project Name | Township | Number of Turbines | Turbine Size (Mw) | Capacity (Mw) | Turbine Manufacturer | Developer Owner | Power Purchaser | Commercial Operation Date |
|--|------------|--------------------|-------------------|---------------|----------------------|-----------------|-----------------|---------------------------|
| Michigan Wind 1 69 MW: 46 Turbines | Bingham | 41 | 1.5 | 61.5 | GE 1.5 SLE | Exelon | Consumers | 2008 |
| Harvest 1 52.8 MW: 31 Turbines | Sheridan | 5 | 1.5 | 7.5 | GE 1.5 SLE | Exelon | Consumers | 2008 |
| Harvest 2 59.4 MW: 33 Turbines | Chandler | 5 | 1.65 | 8.25 | Vestas V-82 | Exelon | Wolverine | 2008 |
| | Oliver | 26 | 1.65 | 42.9 | Vestas V-82 | Exelon | Wolverine | 2008 |
| | Chandler | 13 | 1.8 | 23.4 | Vestas V-100 | Exelon | Consumers | Nov-2012 |
| | Oliver | 15 | 1.8 | 27 | Vestas V-100 | Exelon | Consumers | Nov-2012 |
| | McKinley | 5 | 1.8 | 9 | Vestas V-100 | Exelon | Consumers | Nov-2012 |
| DTE McKinley 14.4 MW: 9 Turbines | McKinley | 9 | 1.6 | 14.4 | GE 1.6-100 | DTE | N/A | Dec-2012 |
| DTE Sigel 64 MW: 40 Turbines | Bloomfield | 16 | 1.6 | 25.6 | GE 1.6-100 | DTE | N/A | Dec-2012 |
| | Sigel | 24 | 1.6 | 38.4 | GE 1.6-100 | DTE | N/A | Dec-2012 |
| Pheasant Run 74.8 MW: 44 Turbines | Brookfield | 3 | 1.7 | 5.1 | GE 1.7-100 | NextEra | DTE | Dec-13 |
| | Fairhaven | 3 | 1.7 | 5.1 | GE 1.7-100 | NextEra | DTE | Dec-2013 |
| | Oliver | 2 | 1.7 | 3.4 | GE 1.7-100 | NextEra | DTE | Dec-2013 |
| | Sebewainig | 5 | 1.7 | 8.5 | GE 1.7-100 | NextEra | DTE | Dec-2013 |
| | Winsor | 31 | 1.7 | 8.5 | GE 1.7-100 | NextEra | DTE | Dec-2013 |
| DTE Brookfield 74.8 MW: 44 Turbines | Brookfield | 29 | 1.7 | 49.3 | GE 1.7-100 | DTE | N/A | Feb-2014 |
| | Grant | 4 | 1.7 | 6.8 | GE 1.7-100 | DTE | N/A | Feb-2014 |
| | Sebewainig | 10 | 1.7 | 17 | GE 1.7-100 | DTE | N/A | Feb-2014 |
| | Winsor | 1 | 1.7 | 52.7 | GE 1.7-100 | DTE | N/A | Feb-2014 |

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Huron County Master Plan

| | | | | | | | | |
|---------------------------------------|------------|-----|------|--------|------------------|-----------|-----------|----------|
| DTE Echo 112 MW: 70 Turbines | Chandler | 61 | 1.6 | 97.6 | GE 1.6-100 | DTE | N/A | Sep-2014 |
| | Oliver | 8 | 1.6 | 12.8 | GE 1.6-100 | DTE | N/A | Sep-2014 |
| | McKinley | 1 | 1.6 | 1.6 | GE 1.6-100 | DTE | N/A | Sep-2014 |
| Big Turtle 1 20 MW: 10 Turbines | Rubicon | 10 | 2 | 20 | Gamesa G114-2.0 | Heritage | DTE | Dec-2014 |
| DTE Pinnebog 50 MW: 30 Turbines | Chandler | 8 | 1.7 | 13.6 | GE 1.7-100 | DTE | N/A | Sep-2016 |
| | Colfax | 17 | 1.7 | 28.9 | GE 1.7-100 | DTE | N/A | Sep-2016 |
| | Oliver | 5 | 1.7 | 8.5 | GE 1.7-100 | DTE | N/A | Sep-2016 |
| Big Turtle 2 30 MW: 14 Turbines | Bloomfield | 14 | 2.1 | 29.4 | Gamesa G114-2.1 | Terrapin | Open Mkt | Dec-2016 |
| Deerfield Wind 150 MW: 72 Turbines | Bloomfield | 11 | 2.1 | 23.1 | Vestas V110-2.0 | Algonquin | Wolverine | Feb-2017 |
| | Dwight | 35 | 2.1 | 73.5 | Vestas V110-2.0 | Algonquin | Wolverine | Feb-2017 |
| | Huron | 25 | 2.1 | 52.5 | Vestas V110-2.0 | Algonquin | Wolverine | Feb-2017 |
| | Lincoln | 1 | 2.1 | 2.1 | Vestas V110-2.0 | Algonquin | Wolverine | Feb-2017 |
| Apple Blossom 100 MW: 29 Turbines | Winsor | 29 | 3.45 | 100.05 | Vestas V126-3.45 | Sempra | Consumers | Nov-2017 |
| Total Operational Megawatts: | | | | 878 | | | | |
| Total Number Operational Turbines: | | 472 | | | | | | |

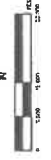
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MAP 5 - WIND ENERGY FACILITIES HURON COUNTY, MICHIGAN

In 2016 and 2017 Lincoln and Sherman Township residents voted to become self-zoned townships. They currently have a Planning Commission, but have not yet adopted a zoning ordinance.



AREA MAP
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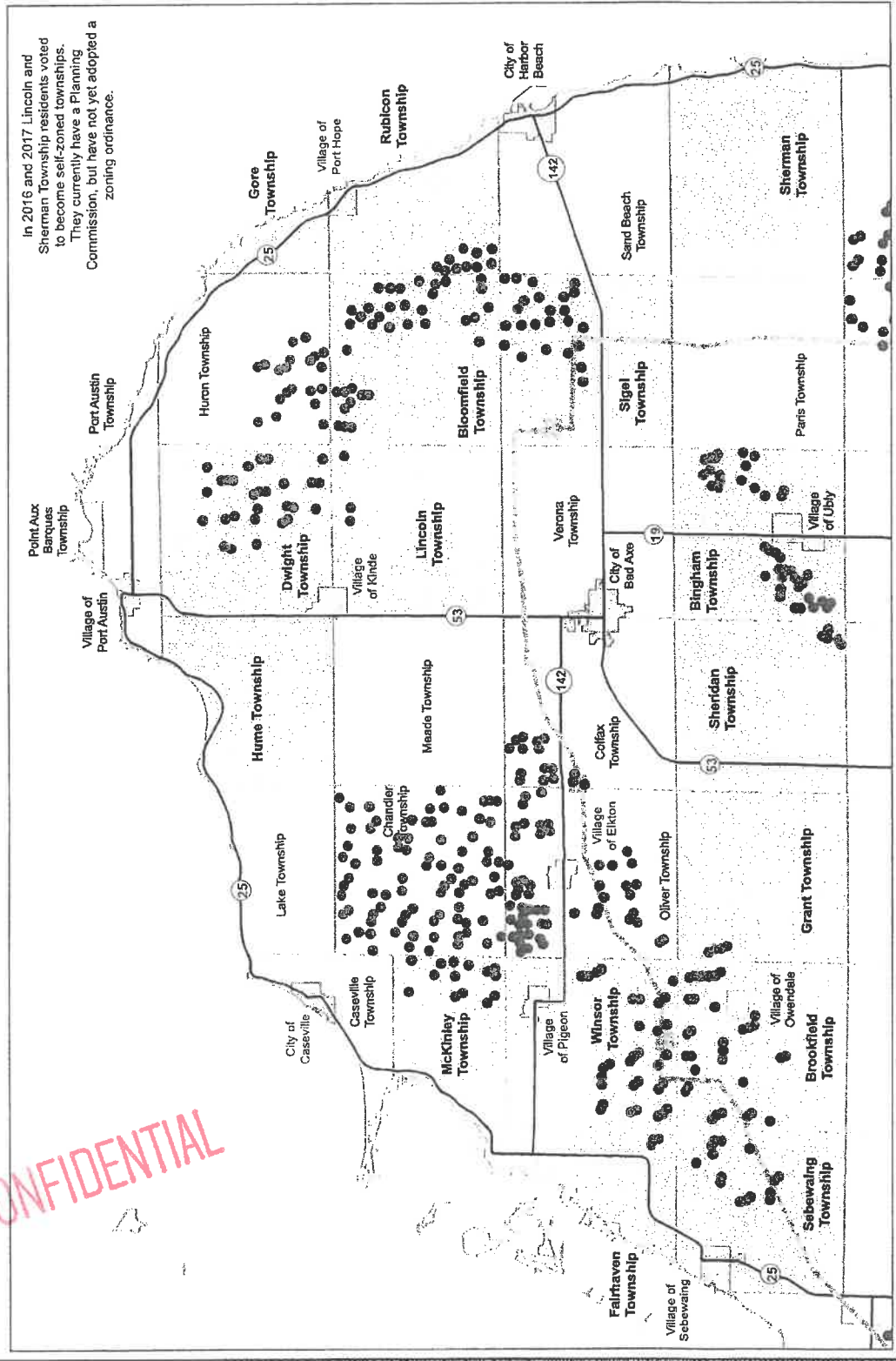
LEGEND

- Wind Turbines
- ⊕ ITC Substation
- ⊕ ITC Thumb Loop
- ▭ Wind Energy Overlay
- ▭ County Zoning

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Recreation Facilities

Huron County contains ample natural amenities such as lakes, beaches, rivers, and woodlands. Much of the land along the shoreline is wooded and there are numerous beaches. There are also several parks located throughout the County. A more in depth description can be found in the County's Recreation Plan, but the following is a listing of the recreation opportunities available in the County. Map 6 shows where these facilities are located.

County Parks

- Sebewaing County Park
- Caseville County Park
- Philip County Park
- Oak Beach County Park
- McGraw County Park
- Bird Creek County Park
- Lighthouse County Park
- Stafford County Park
- Wagener County Park
- Huron County Nature Center

City and Village Parks

- Bad Axe City Park
- Caseville Village Park
- Ackerman Memorial Park
- Owendale Village Park
- Kinde Park
- Memorial Park of Harbor Beach
- Pigeon Recreation Park
- Port Austin Picnic Park
- Sebewaing Park
- Ubyly's Veterans Memorial Park

State Parks

- Sleeper State Park
- Port Crescent State Park
- Rush Lake State Game Area
- Brown Roadside Park
- Caseville Harbor
- Jenks Roadside Park
- Harbor Beach Marina
- Tip of the Thumb Heritage Water Trail



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MAP 6 - RECREATION OPPORTUNITIES HURON COUNTY, MICHIGAN

Note: The Tip of the Thumb Heritage Water Trail follows the entire coastline of Huron County. Along the County's coast there are several access points and rest stop locations.

In 2016 and 2017, Lincoln and Sherman Township residents voted to become self-zoned townships. They currently have a Planning Commission, but have not adopted a zoning ordinance.



AREA MAP
NOT TO SCALE



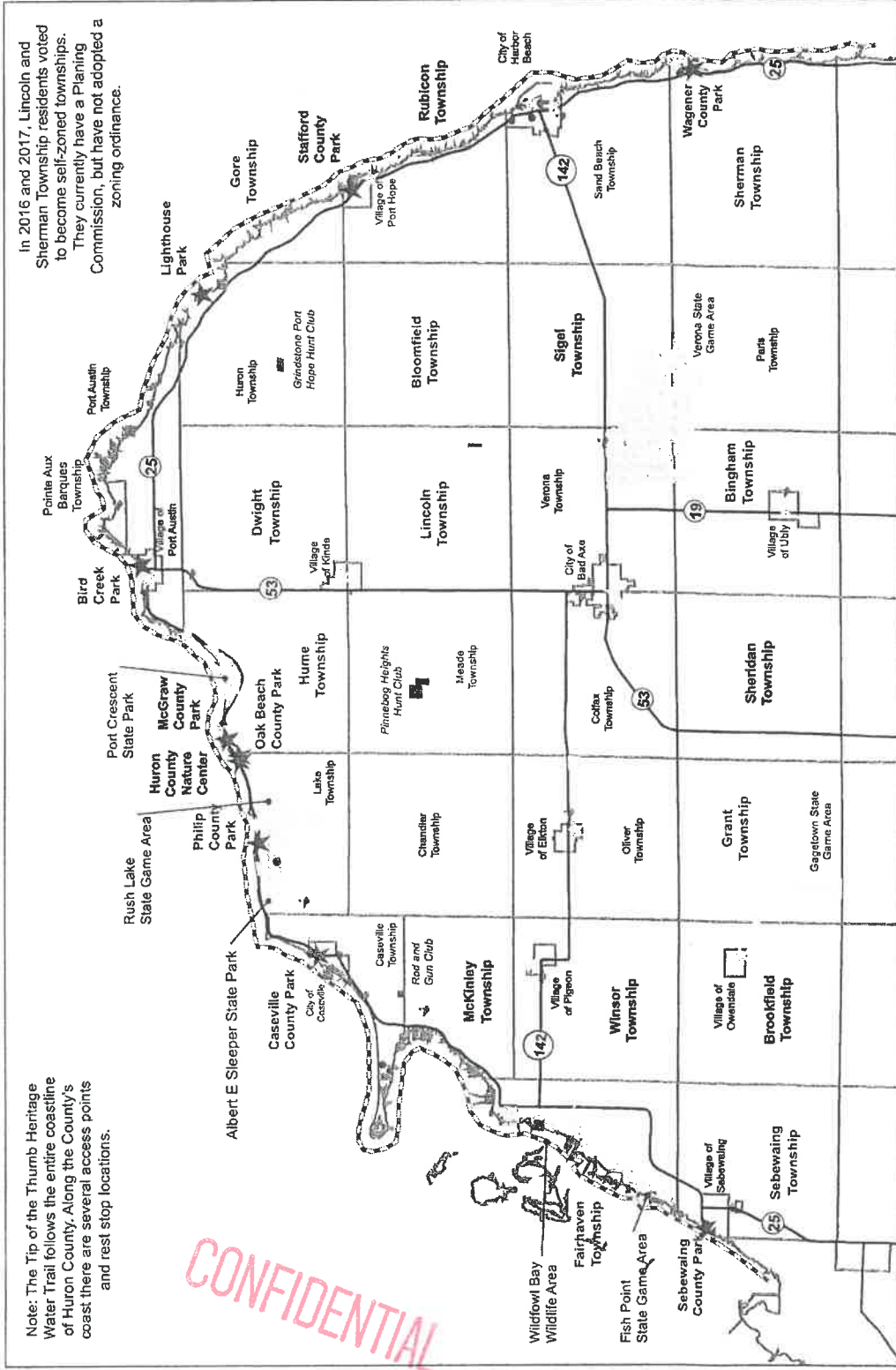
LEGEND

- ★ County Parks
- Local Parks
- Access Point/ Boat Launch
- Marina
- Campground
- Water Trail
- Hunt Club
- State Land

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Natural Features

The natural environment has plays a significant role in the development of Huron County, it provides unique features offering rolling terrain, access to the Saginaw Bay, woodlands and state land, and wide open agricultural spaces. It is this combination of options that provide the specific character that residents who choose to live here seek. It is important for a community to analyze the land before beginning development, because the natural environment can significantly impact development, or vice versa.

Huron County contains ample natural amenities. These resources provide residents a clean water supply, and a strong base for tourism and agriculture. The County wishes to preserve natural features while utilizing them for recreation and relaxation. This section will analyze the natural features that are located throughout the County, and the maps referenced throughout the text can be found at the end of this chapter.

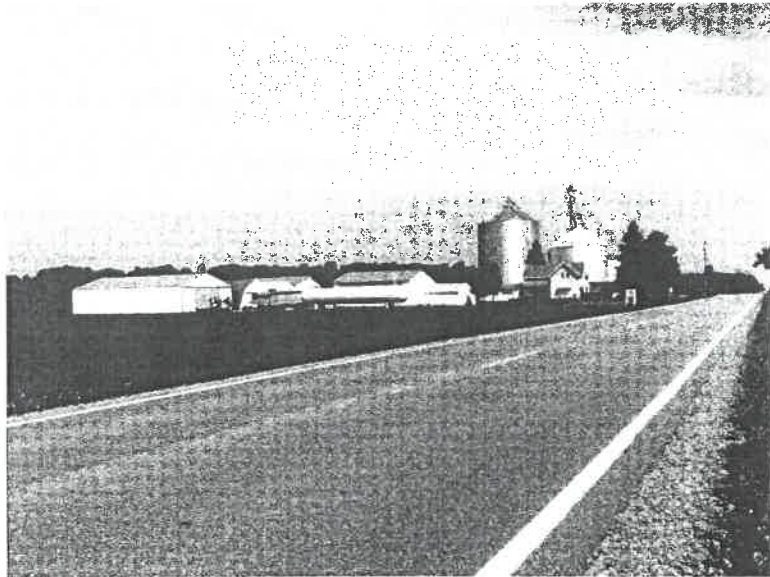
Topography and Soils

The topography of Huron County is generally flat to gently rolling, which is illustrated on Map 7. The southeast and eastern portions of the County have the highest elevation, and the lowest elevations can be found along the shoreline. Also, there are slight changes in elevation around the water features in the inland portion of the County.

Map 8 depicts the different soil types within Huron County. In each of these different types there are various soil

associations. For the purpose of this plan, the map illustrates the qualities of the soil, rather than the specific names. In regards to development, it is important to understand qualities such as drainage, runoff potential, and sand content. The information for this map was compiled using the USDA, Soil Conservation Service (now the Natural Resources Conservation Service), and Michigan Agricultural Experiment Station 1980 Soil Survey for Huron County.

The majority of the soils in Huron County are of a loam variety, are vary from somewhat poorly drained to poorly drained. Agriculture is an integral component to Huron County, and the best farming land in the county is found in the loam variety of soils. The second most common type of soil is the sand varieties, and third is the various varieties of muck which can be found along the coastline and in wetlands. Sandy soils allow surface drainage to penetrate ground water tables, therefore the County should remain alert to the protection of ground water supplies in relation to proposed development. Finally, muck soils which have high concentrations of organic material, and are very poorly drained and are often wet areas.



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Map 9 illustrates a further review of soils in Huron County, by examining soils that are prime for farming, or have the potential to be prime farmland, if they are drained. According to the National Resources Conservation Service, Prime Farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and is also available for these uses. These soils are of the highest quality and can economically produce sustained high yields of crops when treated and managed according to acceptable farming methods. Very specific technical criteria were established by Congress to identify prime farmland soils. In general, the criteria reflects adequate natural moisture content; specific soil temperature range; pH between 4.5 and 8.4 in the rooting zone; low susceptibility to flooding; low risk to wind and water erosion; minimum permeability rates; and low rock fragment content. Therefore the soil indicated as prime farmland, if drained, does not naturally fit under the specified criteria, but would if it was cultivated using modern agricultural practices. Map 9 illustrates that there are small pockets of prime farmland throughout the County, with the largest and most continuous section located in Paris and Sherman Townships. Even though the vast majority of the County is not considered to be prime farmland, it does have the potential to be which is why agriculture is such a large part of Huron County's economy and way of life, and is important to consider in any master planning effort.

Climate

The climate of Huron County is considered to be a humid continental climate with warm summers and no dry season. The warm season has an average daily temperature of 69 degrees with temperatures topping out at 86 degrees and the cold season has an average daily temperature of 37 degrees with the coldest temperatures in the low teens. The annual precipitation is 33 inches and the annual snowfall is around 50 inches.



Woodlands

While agricultural land and water seem to dominate the natural features in Huron County, there are also large swatches of woodlands, which provide even more natural and recreational features within the County. There are small stands of woodlands scattered throughout the County, as common with an agricultural landscape. There are also much more substantial woodlands located along the shoreline on Saginaw Bay and Lake Huron, these are known as an important aspect of the natural features in the County. Woodlands can also be found several miles inland along the eastern side of the County, around the wetlands, and around the various natural and preserved lands in the center of the County. Map 10 depicts the woodlands in the County.

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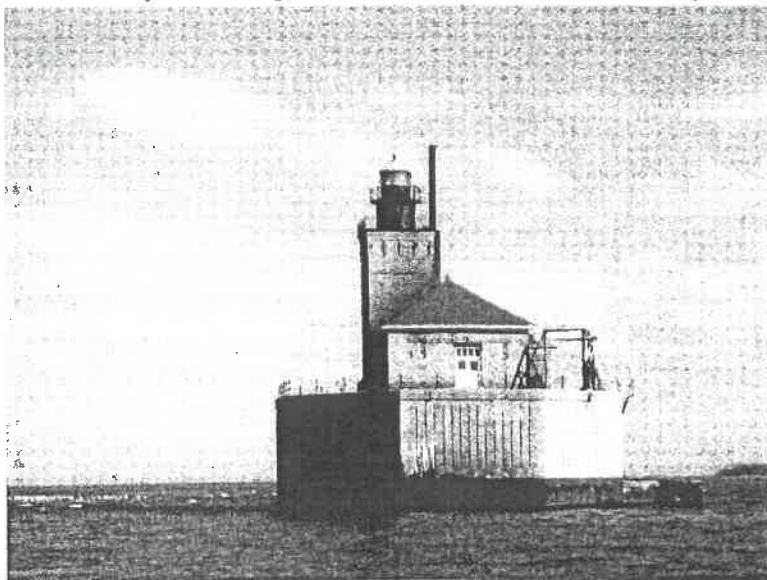
Wetlands and Waterways

According to the National Wetlands Inventory, Huron County contains a vast network of wetlands, which is logical due to the low elevation and the location of numerous rivers and streams and well as the adjacency to the Great Lakes. Map 11 depicts the wetlands and waterways in Huron County. The wetlands in Huron County can be found along the coast of the County, to the south and southeast of Bad Axe, throughout the center of the southern portion of the county, and pockets scattered throughout



the rest of the County. Wetlands are considered to be lands defined by the existence of water, either on or near the surface, during a portion of the year. In the future it will be important for the County to consider wetlands when faced with development opportunities because these ecosystems are a vital part of the natural water cycle. When they are affected, without proper mitigation, many problems such as water filtration and flooding will occur in unexpected areas. Therefore, wetlands are limiting to development, and each type and extent must be carefully examined before proceeding with any type of development.

At the heart of Michigan's wetland regulatory program is Part 303, Wetland Protection, of the Natural Resources and Environmental Protection Act (Act 451 of 1994), formerly referred to as the Goemaere-Anderson Wetlands Protection Act, P.A. 203 or 1979. The Michigan Department of Environmental Quality Land and Water Management Division administers the permit program. This legislation was passed to protect wetlands by restricting their use to certain activities only after permit approval by the State of Michigan. Permits are approved only upon a review of an environmental assessment filed by the petitioner that shows the avoidance of wetland resources to the greatest extent possible and minimization of unavoidable wetland impacts.



Huron County Master Plan

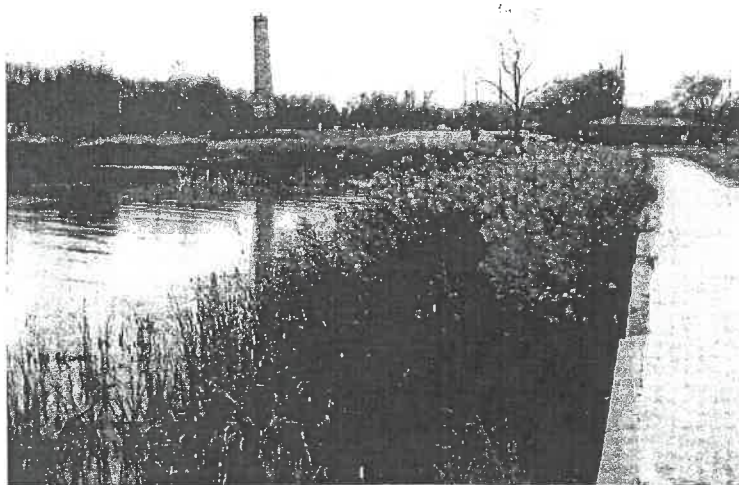
Under the Act, the following wetlands are protected:

- Wetlands contiguous to an inland land, pond, river, stream, or similar water course.
- Wetlands adjacent to the drains, creeks, and rivers in Huron County would fall in this category.
- Wetlands five acres in size, or larger, in counties that contain a population of at least 100,000 people. Since Huron County has less than 100,000 people, this category does not apply.

There is an extensive network of water features throughout Huron County. Lake Huron borders the eastern tip of the Thumb and Saginaw Bay borders the western tip, and in addition to the vast amounts of coast there are also 942 miles of inland rivers and streams. The coast serves as a natural draw for tourism, the rivers and streams are also popular for fishing, canoeing, or kayaking. The majority of Huron County's watershed flows to Lake Huron/ Saginaw Bay watershed. A small section in the south central portion of the county drains to the Cass River. The quality of groundwater, surface water, and wetlands directly correlates to the quality of the runoff for the entire watershed. Because Huron County is such an environmentally sensitive area, where the most highly desired places are also the most environmentally sensitive places, is it essential to consider the impacts developments will have on the water within the region.

Floodplains

The Federal Emergency Management Association (FEMA), defines floodplain areas based on hydrological and topographical surveys, as well as, soil studies and land cover characteristics. The result of this research is a statistical model that indicates an area vulnerable to the "100-year flood". This is the elevation that has a 1% chance of being equaled or exceeded each year. It is also referred to as the "1% annual chance flood."



The 100-year flood, which is the standard used by most federal and state agencies, is used by the National Flood Insurance Program (NFIP) as the standard for floodplain management and to determine the need for flood insurance. Structures located in the flood hazard area have a 26% chance of suffering flood damage during the term of a 30-year mortgage. This means a home in the mapped flood hazard area is five times more likely to be damaged by flood than to have a major fire.

The flooding of land adjoining the normal course of a stream or river is a natural occurrence. However, development around natural water courses has increased the potential for serious flooding. Rainfall that would naturally soak into the ground or take several days to reach a river or stream, now quickly runs off streets, parking lots, rooftops, and through man-made channels and pipes. Development that encroaches on the floodplain impedes the carrying capacity of the water

Huron County Master Plan

drainage basin and exacerbates flooding. Damage could be more easily avoided if, floodplain areas were left in their natural state.

Floodprone areas are found throughout the State, as every lake, river, stream and County drain has a floodplain. The type of development that exists within the floodplain will determine whether or not flooding will cause damage. This holds true for Huron County, the majority of the floodplain is found along the Lake and Bay shoreline and surrounding the major natural and man-made watercourses. Other floodprone areas in the County are the low-lying areas around lakes in Caseville and Lake Townships, and northern sections of Hume Township. To see more detailed information on the floodplain in Huron County please reference Map 12. Planning efforts need to account for the floodprone areas in the County, not to add stress on the existing natural environment and the current infrastructure.

Farmland and Open Space Preservation Program

Agriculture land is of a high importance to Huron County. It takes up more than 80% of the land in the County, it is an economic driving force, and it has a direct influence on the natural features and character of the County. Because these lands are so important, it is crucial that they are protected from incompatible land uses.

Many farmers in Huron County understand the importance of protecting their land for the future, and have enrolled in the Farmland and Open Space Preservation Program. Formerly known as the Farmland Preservation Program (PA 116), this state program focuses on preserving farmland and open space through the following 5 methods:

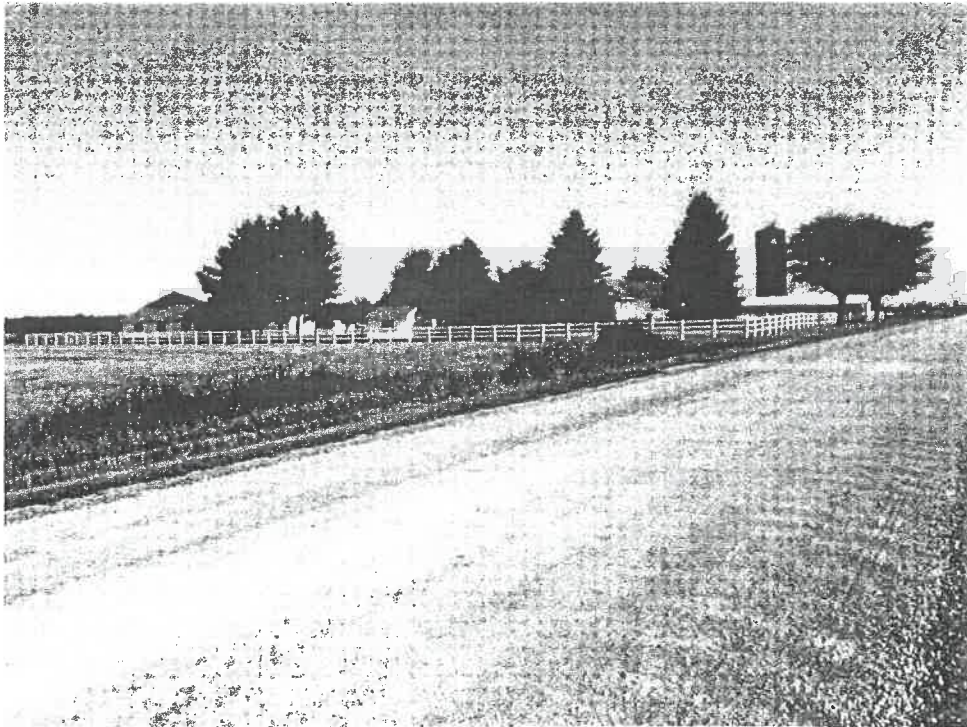
- Farmland Development Rights Agreements
- Conservation Easement Donations
- Agricultural Preservation Fund
- Local Open Space Easement
- Designated Open Space Easement
- Purchase of Development Rights

The first method, Farmland Development Rights Agreements is the most common type of agreement for the majority of the lands in Huron County enrolled in this program. This means there is a temporary restriction of land between the state and a landowner, preserving their land for agriculture in exchange for certain tax benefits and exemptions for various special assessments. Map 13 illustrates the acreage per Township enrolled in this program. There is a total of 536,320 acres of land in Huron County. Of that, 340,917 acres (63.5%) is a part of the PA 116 program. More specifically, there are 16 Townships which participate in County zoning. These townships make up 320,141 acres of land in the County. Of the 320,141 acres, 216,071 acres are enrolled in PA 116, which is approximately 67% of



the land area for the County-zoned Townships. Of the County-zoned Townships, the three townships with the largest percentage of land enrolled in the program are Brookfield (90%), Sebawaing (80%), and Bloomfield (78%).

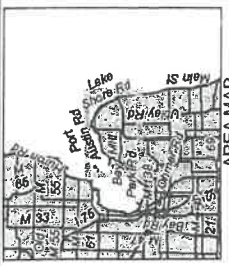
Chandler and Brookfield Townships have the most land enrolled totaling over 20,000 acres each. There are 8 Townships that have between 10,001 – 15,000 acres enrolled, and 10 Townships that have between 15,001 – 20,000 acres enrolled. This data was provided by the Michigan Department of Agriculture and Rural Development, and is current as of May 2016.



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MAP 8 - SOIL TYPE HURON COUNTY, MICHIGAN

In 2016 and 2017, Lincoln and Sherman Township residents voted to become self-zoned townships. They currently have a Planning Commission, but have not adopted a zoning ordinance.

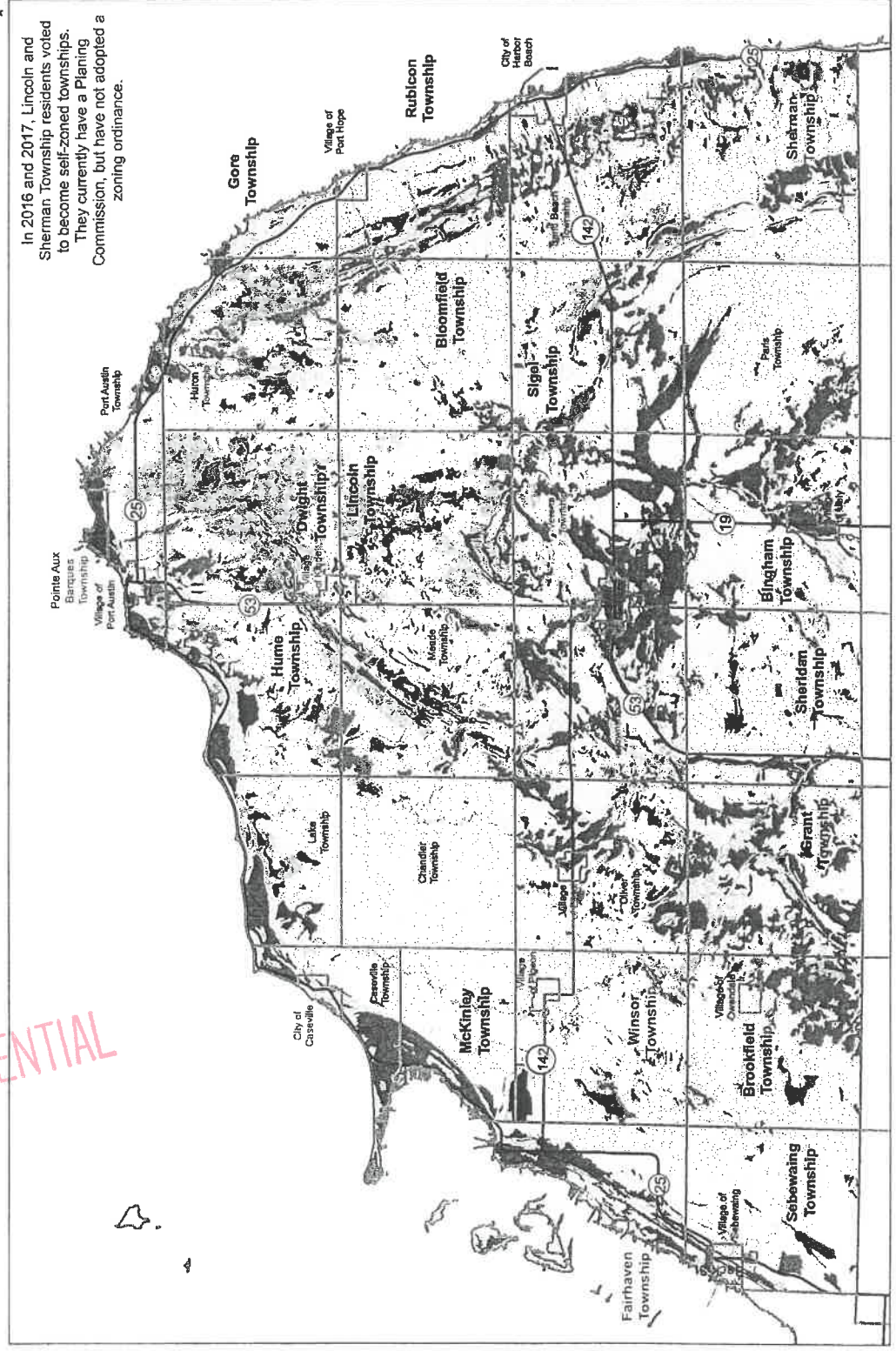


- LEGEND**
- Aquents and Histosols, ponded
 - Aurellus Muck
 - Bouldery Sandy Loam
 - Cobbly Loam
 - Cobbly Sandy Loam
 - Fine Sandy Loam
 - Fluvents, loamy
 - Gravelly Loamy Sand
 - Loam
 - Loamy Sand
 - Muck
 - Mucky Sandy Loam
 - Pits
 - Sand
 - Sandy Loam
 - Sandy Muck
 - Silt Loam
 - Silty Clay Loam
 - Stony Loam
 - Udipisements
 - Water

Source: Michigan Geographic Data Library



Date August 2018



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MAP 9 - PRIME FARMLAND HURON COUNTY, MICHIGAN

In 2016 and 2017, Lincoln and Sherman Township residents voted to become self-zoned townships. They currently have a Planning Commission, but have not adopted a zoning ordinance.

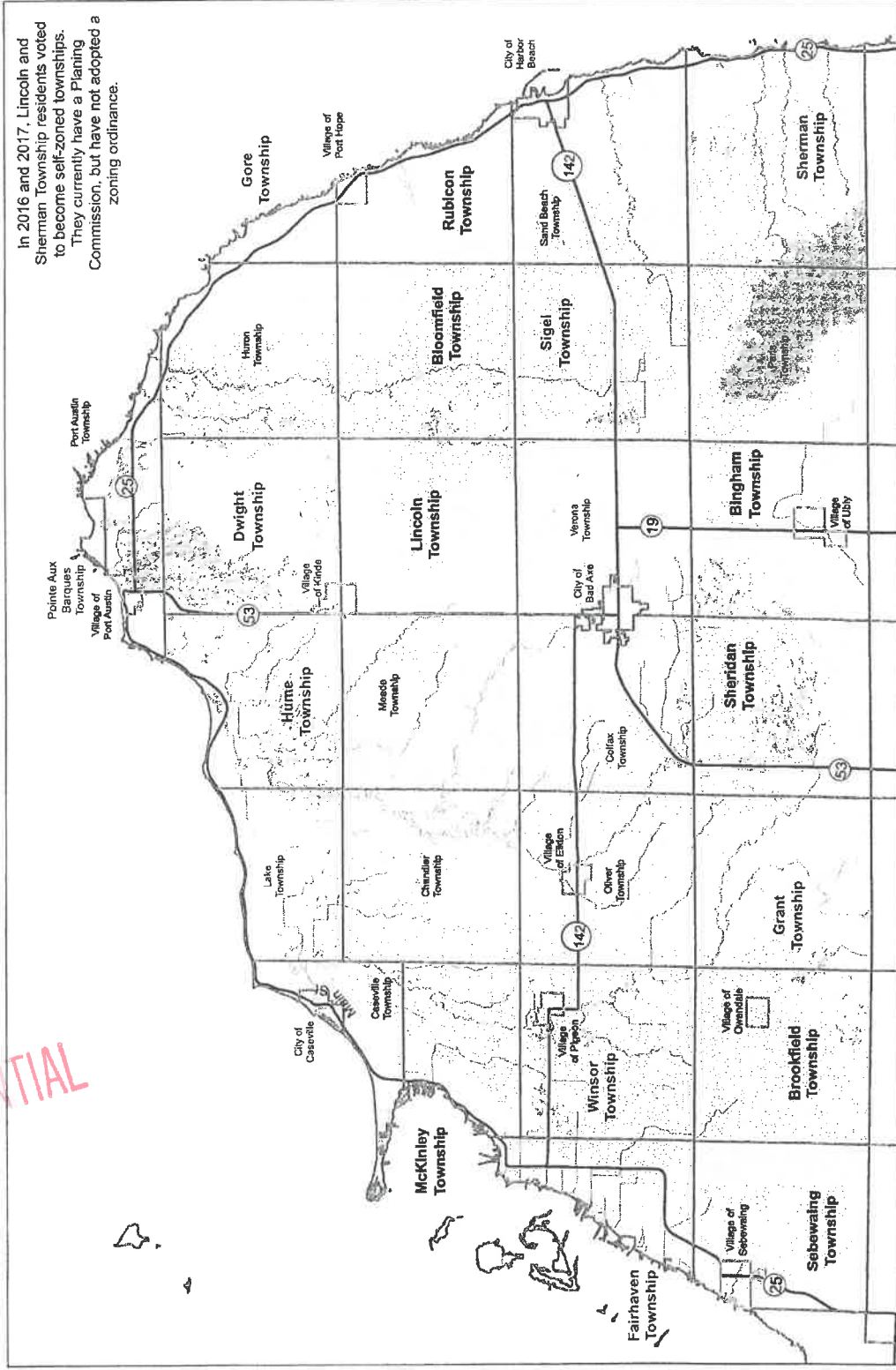


AREA MAP
NOT TO SCALE



LEGEND

- Prime Farmland
- Prime farmland, if drained



Source: Soil Survey Geographic Database



Date: August 2016

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MAP 10 - NATURAL FEATURES HURON COUNTY, MICHIGAN

In 2016 and 2017 Lincoln and Sherman Township residents voted to become self-zoned townships. They currently have a Planning Commission, but have not adopted a zoning ordinance.



AREA MAP
NOT TO SCALE



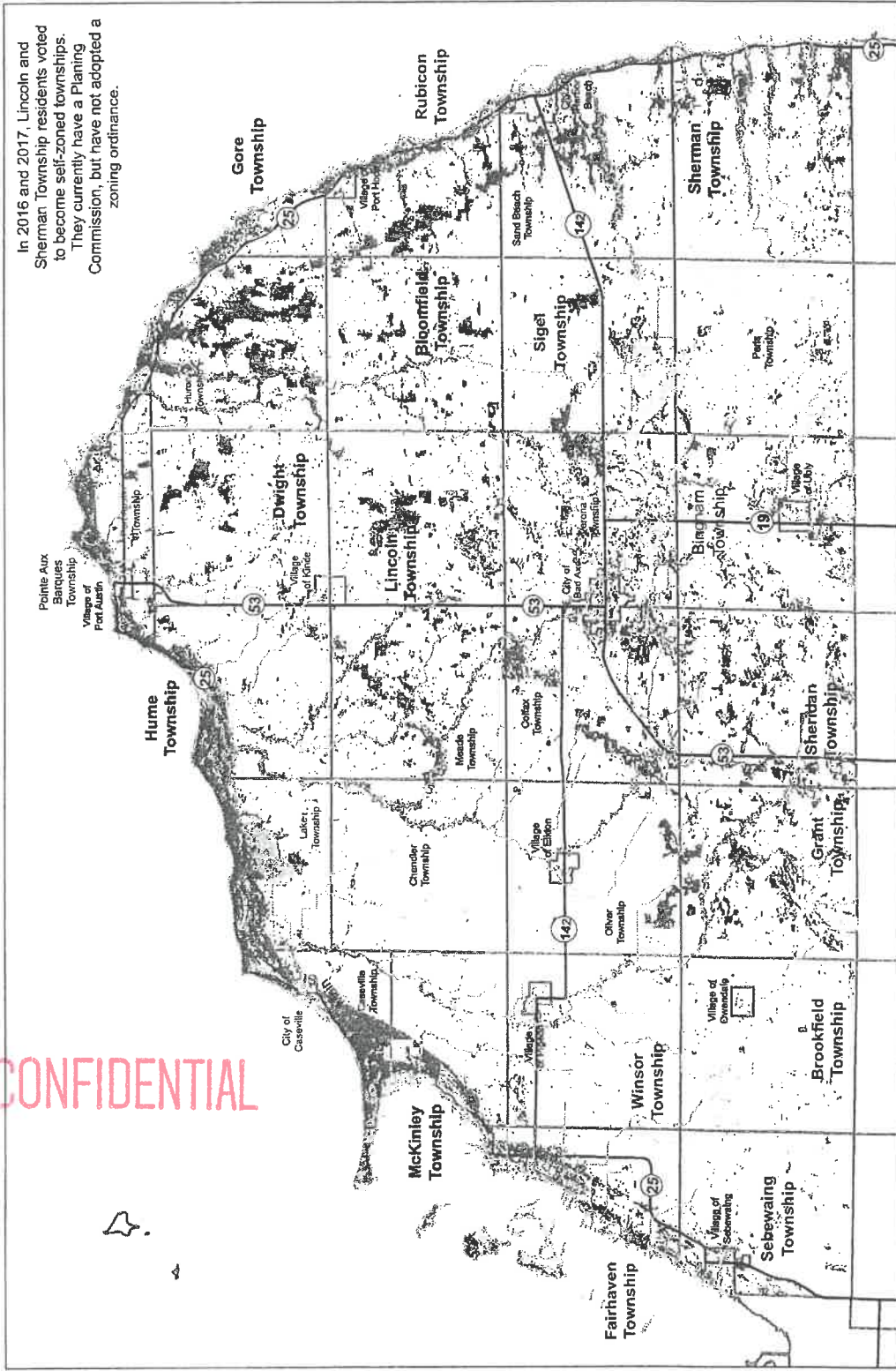
LEGEND

- Water Features
- Woodlands
- Wetlands

Source: Michigan Geographic Data Library



Date August 2016

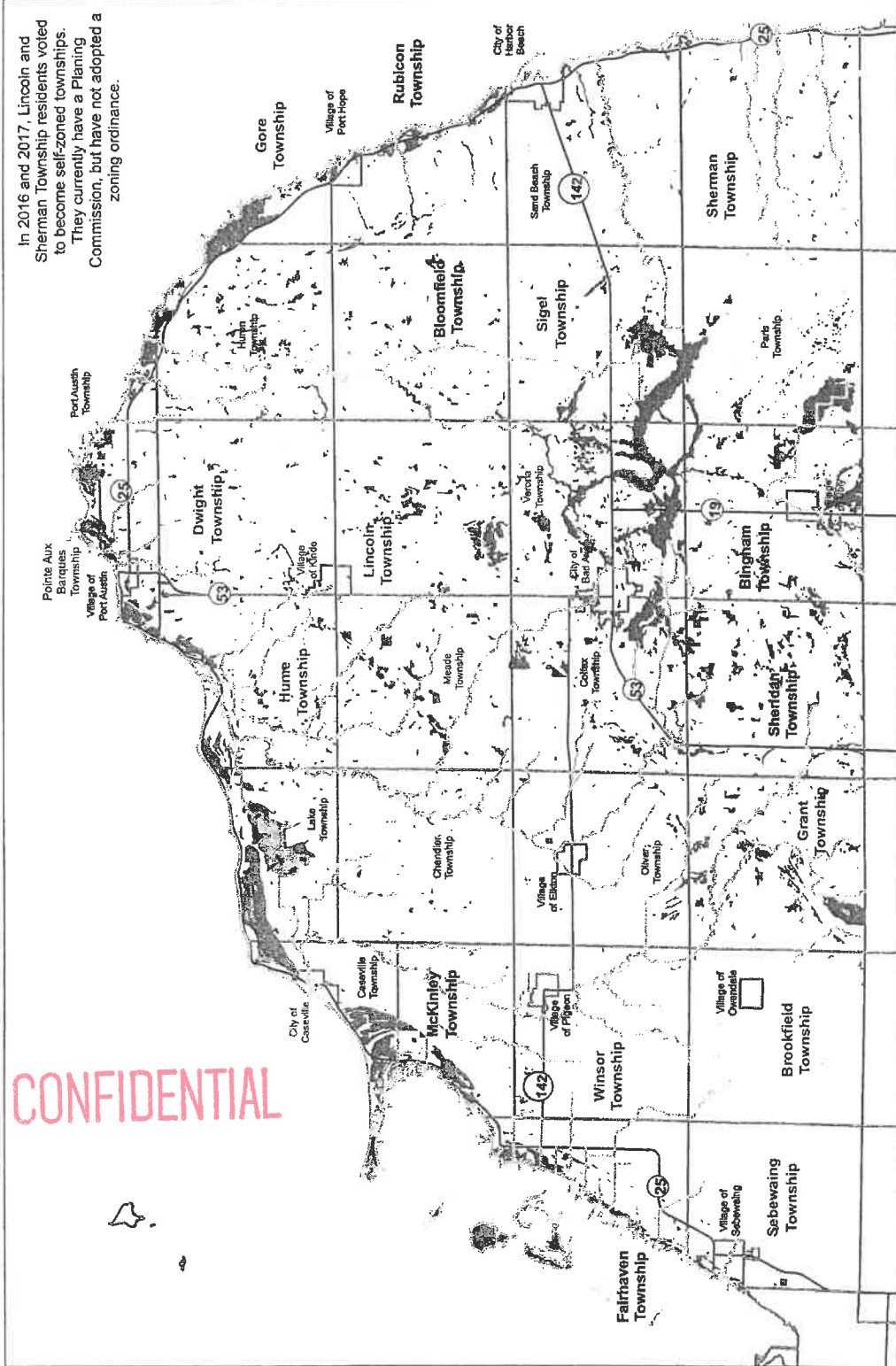


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MAP 11 - WETLANDS AND WATERWAYS HURON COUNTY, MICHIGAN

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In 2016 and 2017, Lincoln and Sherman Township residents voted to become self-zoned townships. They currently have a Planning Commission, but have not adopted a zoning ordinance.



AREA MAP
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LEGEND

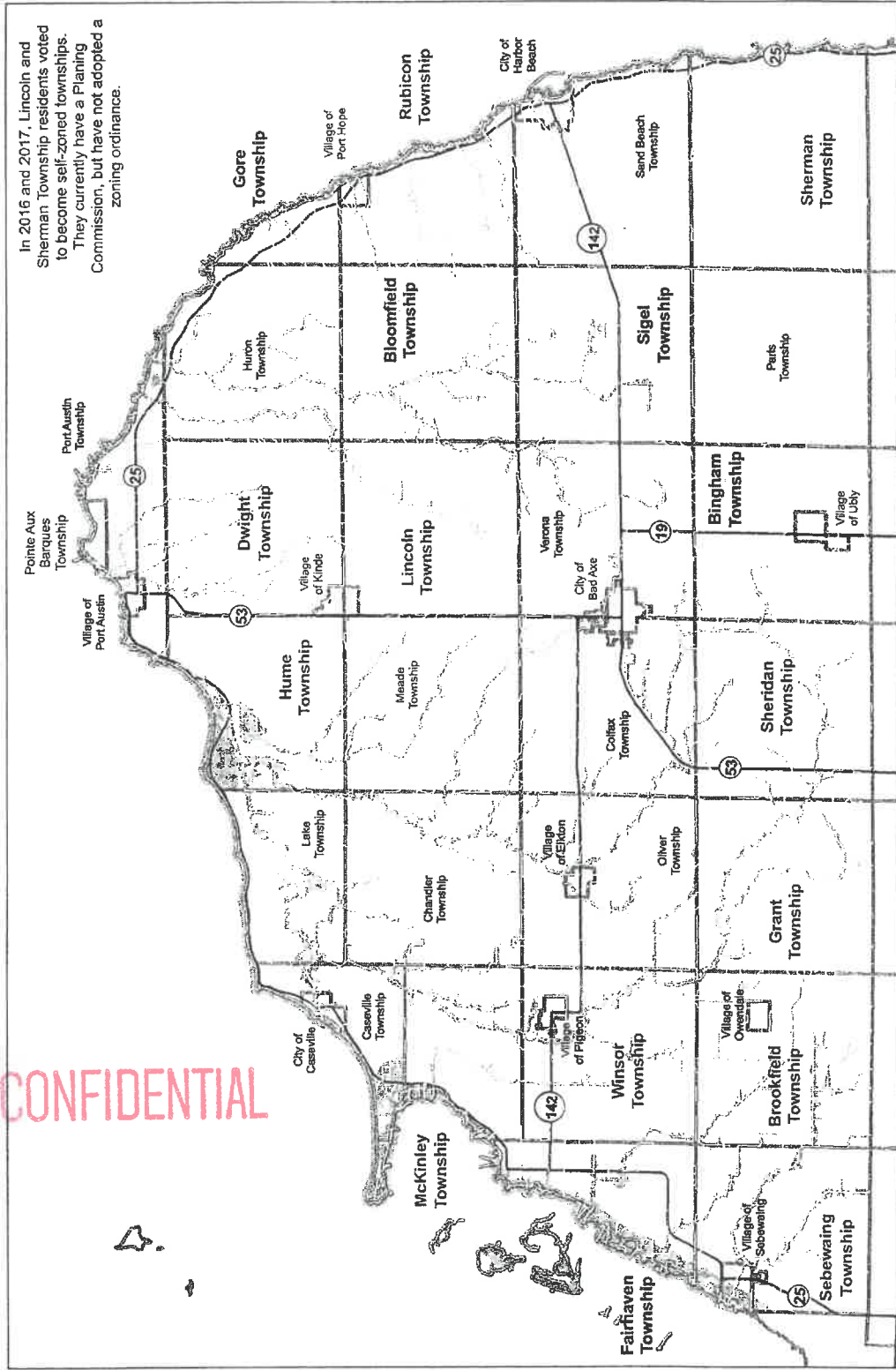
- Wetlands
- Water Features

Source: Michigan Geographic Data Library

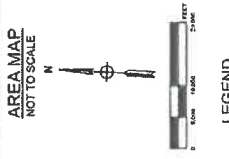
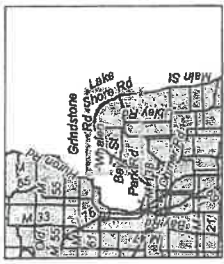


Date: August 2018

MAP 12 - FEMA 100 YEAR FLOOD ZONES HURON COUNTY, MICHIGAN



In 2016 and 2017, Lincoln and Sherman Township residents voted to become self-zoned townships. They currently have a Planning Commission, but have not adopted a zoning ordinance.



LEGEND

- Water Features
- Drains
- 100 Year Flood Zones

Source: Federal Emergency Management Agency
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MAP 13 - ENROLLED IN THE FARMLAND OPEN SPACE PRESERVATION PROGRAM HURON COUNTY, MICHIGAN

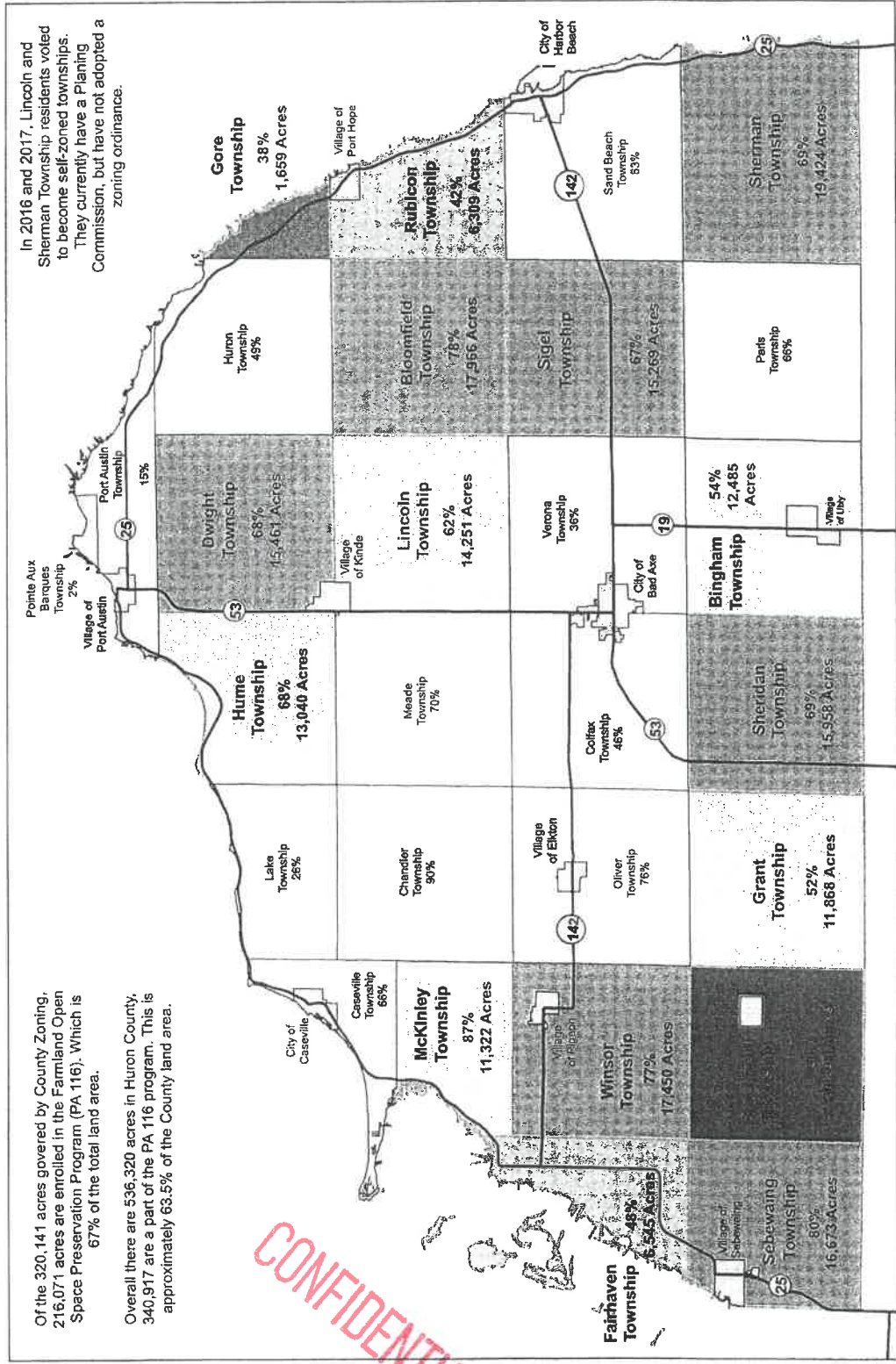
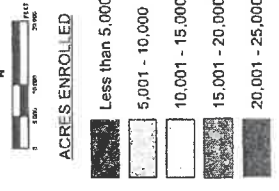
In 2016 and 2017, Lincoln and Sherman Township residents voted to become self-zoned townships. They currently have a Planning Commission, but have not adopted a zoning ordinance.

Of the 320,141 acres governed by County Zoning, 216,071 acres are enrolled in the Farmland Open Space Preservation Program (PA 116). Which is 67% of the total land area.

Overall there are 536,320 acres in Huron County, 340,917 are a part of the PA 116 program. This is approximately 63.5% of the County land area.



AREA MAP
NOT TO SCALE



Source: Michigan Department of Agriculture and Rural Development
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Existing Land Use

One of the most important outcomes of a community's Master Plan is creating a Future Land Use map. Before the Future Land Use map can be created, the existing conditions and relations between land uses must be examined and understood. This knowledge aids in the decision-making process concerning future agricultural, residential, commercial, industrial, and public land use activities.

AN existing land use map (Map 14) provides a picture of how land in the County is used. It is important to recognize the difference between land use and zoning. Existing land use is not zoning. Each zoning district allows different uses by right or by special use permit. Zoning regulations are law and define minimum development standards. The existing land use map aims to be more specific than a zoning map, and illustrates what land use is actually at property. There are many more land use categories than there are zoning districts, because the analysis was based on how the property is used irrespective of its zoning designation.

Existing land use is determined using several techniques. In Huron County, given the extant and area of the County, aerial photos and the 1992 National Land Cover Data was used. In this dataset, there are ten classifications of land uses for Huron County. Each is described in the following section. Table 28 shows the acreage and percentage of the land cover of all land uses in the County.

Table 28 Existing Land Use Calculations

| Land Use | Average | Percentage |
|--------------------------------------|-------------------|-------------|
| Agriculture | 452,815.70 | 84.43% |
| Woodlands | 45,336.52 | 8.45% |
| Wetlands | 30,766.10 | 5.74% |
| Residential | 3,659.68 | 0.68% |
| Open Water | 1,866.51 | 0.35% |
| Commercial/Industrial/Transportation | 1,093.52 | 0.20% |
| Grasslands | 366.73 | 0.07% |
| Gravel Pits | 258.42 | 0.05% |
| Bare Rock/Sand | 153.45 | 0.03% |
| Transitional | 3.56 | 0.001% |
| Total | 536,320.19 | 100% |

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Agriculture

Agricultural land includes land being utilized for agricultural purposes such as crop production, land lying fallow, pasture and grazing land, sod farming and orchards. It also includes farmsteads and related agricultural buildings or single-family homes. This land use makes up approximately 452,815 acres or 84% of the land in Huron County. Agriculture land can be found in almost all of the County aside from City and Village municipality limits, along the shoreline, and at recreation areas.

Woodlands

Those areas that are forested and covered with trees are categorized as woodlands. In Huron County, the majority of the wooded land is located along the shoreline, however, there are some inland pockets, an inland ring that is parallel to the eastern shoreline of Lake Huron, lines along natural water features, and in preserved state land areas. Overall, wooded lands make up 45,336 acres, which is 8.4% of the total land area of the County.

Wetlands

Wetlands are areas where the soil or substrate is periodically saturated with or covered with water for part of the year. Wetlands can be classified as shrub/scrub, forested and emergent. The wetlands in Huron County are primarily found along the coast, however there are also larger concentrations in the central and southern portions of the County. A number of the wetland areas correspond to state forest land. It is important to understand where wetlands are because they can be limiting to potential development, and harmful to successful agricultural operations. Wetlands is the third largest land use category in Huron County making up approximately 30,766 acres, or 5.7% of the land.

Residential

The residential land use category is for all types of residential uses, ranging from single-family homes to apartment complexes. In general, residential uses in Huron County are clustered around the Cities, Villages, and shoreline. There are pockets of residential uses scattered throughout the County, especially along larger transportation corridors. There are also single-family homes located in the vast interior agricultural land uses of Huron County, however, those farm homes do not make up the principal land use on the farming acreage and are considered a part of the agricultural use. They are not accounted for in the existing land use chart on the previous page. Overall, residential uses make up 3,659 acres of land, or 0.68% of the total land use in the County.



Open Water

As mentioned throughout this document, Huron County contains ample rivers and waterways. There is more than 90 miles of coastline along the Saginaw Bay and Lake Huron. These natural features are very important to the County for drainage, environmental preservation, and recreation purposes. Approximately, 1,866 acres of land in Huron County is made up of water resources. This total accounts for approximately 0.35% of the County. Please note, this only includes the inland lakes, rivers, and streams and does not account for the shoreline.

Commercial/Industrial/Transportation

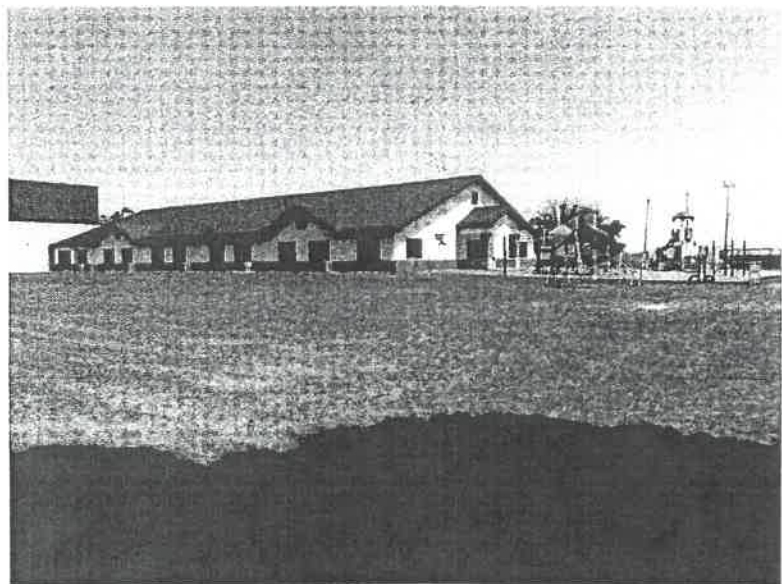
This land use category includes all areas used for commercial facilities, industrial facilities, and transportation. Commercial land uses include retail areas, which are most commonly found in the traditional downtown core of the Cities and Villages in Huron County. These areas often extend past these municipal boundaries along major transportation corridors. Industrial land follows a similar pattern, with the majority of the land located within the limits of a City or Village and then extending out along the corridors. Industrial land is used for processing, manufacturing, fabricating, assembling materials, or for the outside storage of equipment and materials. Finally transportation, meaning all road right of ways. Overall, commercial, industrial, and transportation makes up 1,093 acres or 0.2% of the County.

Grasslands

These areas are dominated by grasses and open space. They are generally used for recreation purposes like park land or can be grazing areas for animals. The majority of these areas are located in Cities or Villages, and represents parks, yards, vacant land, landscaping, or open areas. There are some areas outside of the Cities and Villages which include private recreation land. This land use makes up 366 acres, or 0.07% of the County.

Gravel Pits

Gravel pits are areas of extractive mining activities with significant surface disturbance. In Huron County, there is one mining operation located in the northeast corner of Winsor Township, and another new smaller mining operation to be located in Sheridan Township. These two operations make up 258 acres, or 0.05%.



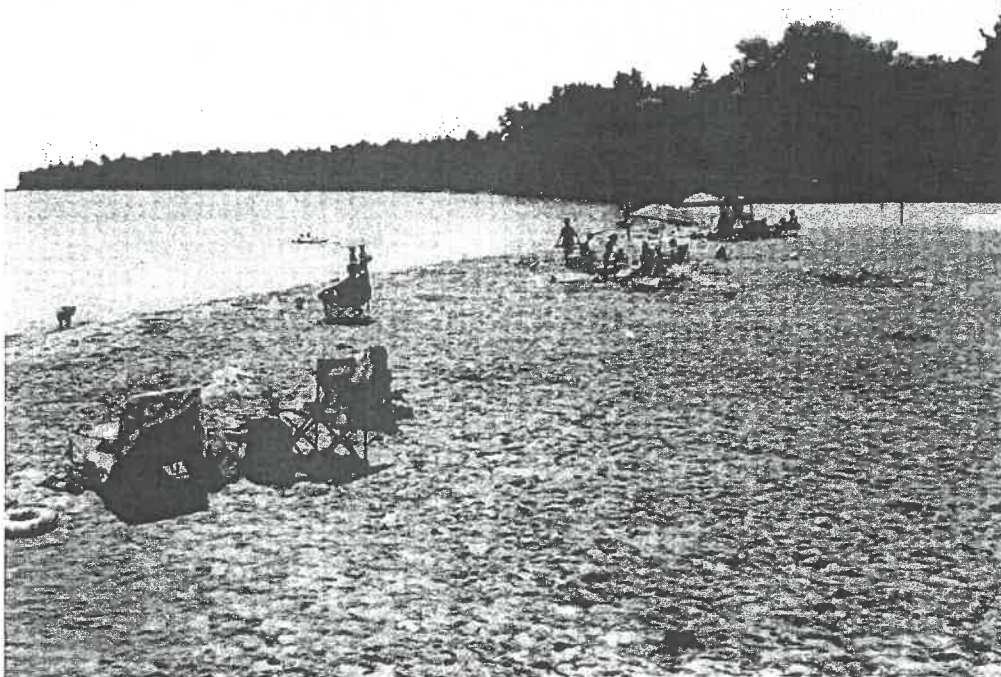
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Bare Rock/Sand

This area is characterized by perennially barren areas of bedrock, slides, beaches, and other accumulations of earthen material. In Huron County, this land mostly consists of beaches along the shoreline. It is approximately 153 acres, or 0.03% of the land.

Transitional

Transitional land has sparse vegetative cover. It can be characterized by changing from one land cover to another, often because of land use activities. Examples include forest clear-cuts, a transition phase between forest and agricultural land, the temporary clearing of vegetation, and changes due to natural causes (fire, flood, etc.). Transitional land uses in Huron County are very minimal, they make up 3.56 acres, or 0.001%.



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Listening to Huron County

Basis for Community Input

To be effective, a Master Plan should incorporate the input and ideas of residents. By basing the Master Plan on the goals and objectives on the opinions of the residents, land use management decisions become politically feasible and represent the intents and vision of the community. In Huron County, citizens were given the opportunity to participate in an online community input survey.

Online Survey

The online survey was made available from September 10, 2016 through October 17, 2016, complete with 32 questions each of which can be seen in Appendix C of this document. There were a total of 1,241 responses. The intent of the survey was to establish an easy means of communication where residents and stakeholders of Huron County could provide input about the existing community conditions and the need for future improvements. The survey would be taken online at huroncountysurvey.com. In addition, the County promoted a press release announcing the launch of the online survey. The press release announced the web domain of the survey, as well as information about the Master Plan update process. Paper copies of the survey were also distributed to all Huron County libraries, and available at the County Building. Additionally, leaflet flyers were distributed in the local paper to further promote the survey.

Survey Summary

During the public input period, the County collected many insightful ideas and suggestions for land use, housing improvements, economic development, protection of natural features, and the overall quality of life in Huron County. The following information is a summary of the major ideas the County received from the online survey. A complete set of survey data is included in Appendix C of this document.



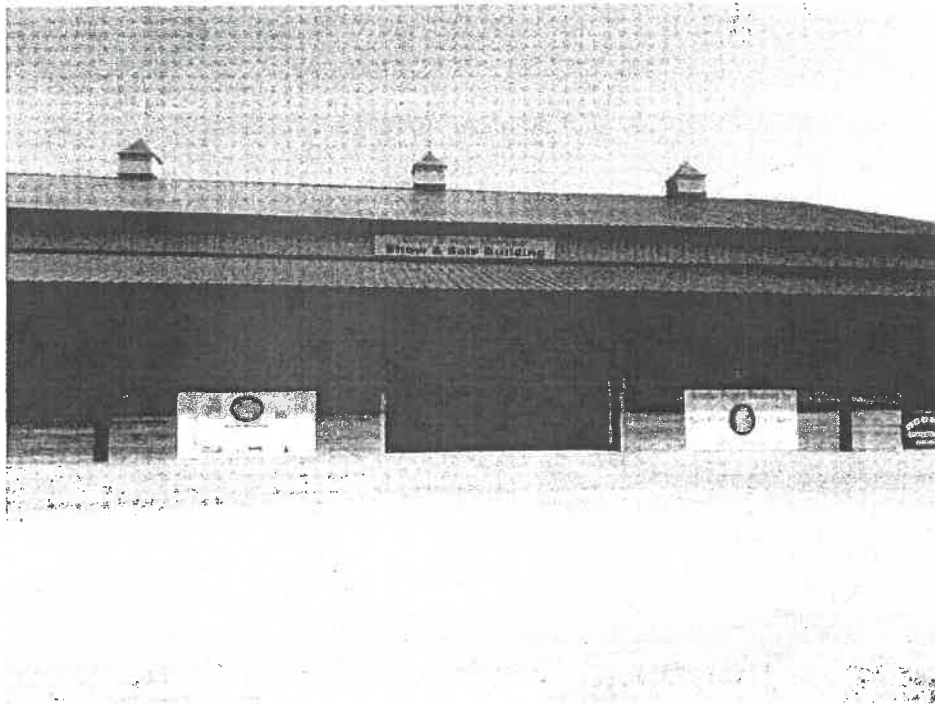
Huron County Master Plan

Getting to Know the Respondents

Three of the survey questions asked respondents about their age, residential status, and relationship to the Huron County. These questions were intended to give County officials an idea of who was taking the survey. Below are some key findings about the survey respondents:

- Almost all the respondents, (92%) indicated that they live in Huron County. The remaining 8% of respondents do not live in the County, but indicated they work, own a business, or own property in the County.
- Of the respondents who live in the County, there were at least 2 responses from each jurisdiction. The following communities had the most responses: City of Bad Axe, Colfax Township, Port Austin Township, City of Harbor beach, Lincoln Township, Verona Township, Sand Beach Township, Caseville Township, Meade Township, and the Village of Port Austin.
- Of all the respondents, 67.5% indicated they did not own agricultural land or farm in the County. The following is a breakdown of respondent employment and status: retired (28%), agricultural related (13%), business (12%), healthcare (9%), government (8%), and other (16%).
- Approximately 46% of the respondents were between the ages of 45 – 64, 23% of respondents were between the ages of 25-44, 23% of respondents were 65 and older, and only 7% of all respondents were under 25 years old.
- The top three answers for why residents live in the Thumb is that they were born and raised here, live close to family and friends, and like rural living.

Overall, survey responses came from every jurisdiction in the County, and the average survey respondent was about the same age as the community as a whole.



Summary of Key Points

Quality of Life

- The general perspective regarding quality of life in Huron County is that it is generally good, but could teeter towards deteriorating conditions.
- The three major challenges facing Huron County today are: crime and drug abuse, wind energy development, and unemployment.
- Aesthetics and blight has worsened over the past ten years.

Economy

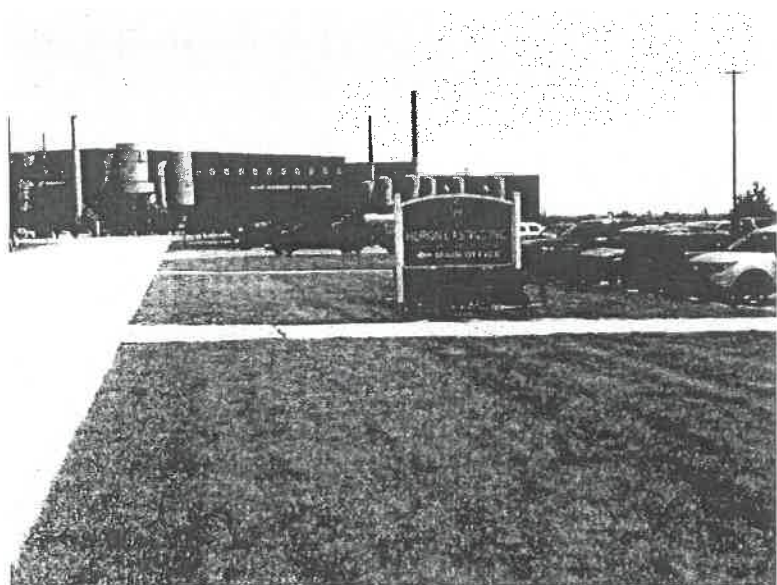
- Business development in Huron County has worsened over the past ten years.
- Economic development and job creation is important to Huron County's future.
- In terms of economic development, attracting and retaining a skilled workforce is a key issue.

Education

- Educational options are important to the County's future.
- Trade schools and/or trade school partnerships that can provide opportunities for Huron County's high schoolers are desired.

Land Use

- There is strong and broad support to maintain and continue to use agricultural land for agricultural purposes for the long term.
- There is little support to convert agricultural land into more intensive uses.
- More commercial services are desired in Huron County, mostly to be located in existing cities and villages and along major road corridors.
- The desired type of housing trends toward single-family homes.
- Existing housing stock should be preserved, maintained, and improved; blight needs to be addressed as well.
- There is very little support for "fracking" in Huron County.
- In terms of wind energy development, Huron County is evenly split on this issue.
- Regarding land use along the shoreline, survey respondents would like to see those public parks improved and updated, including the preservation of scenic vistas and open space.

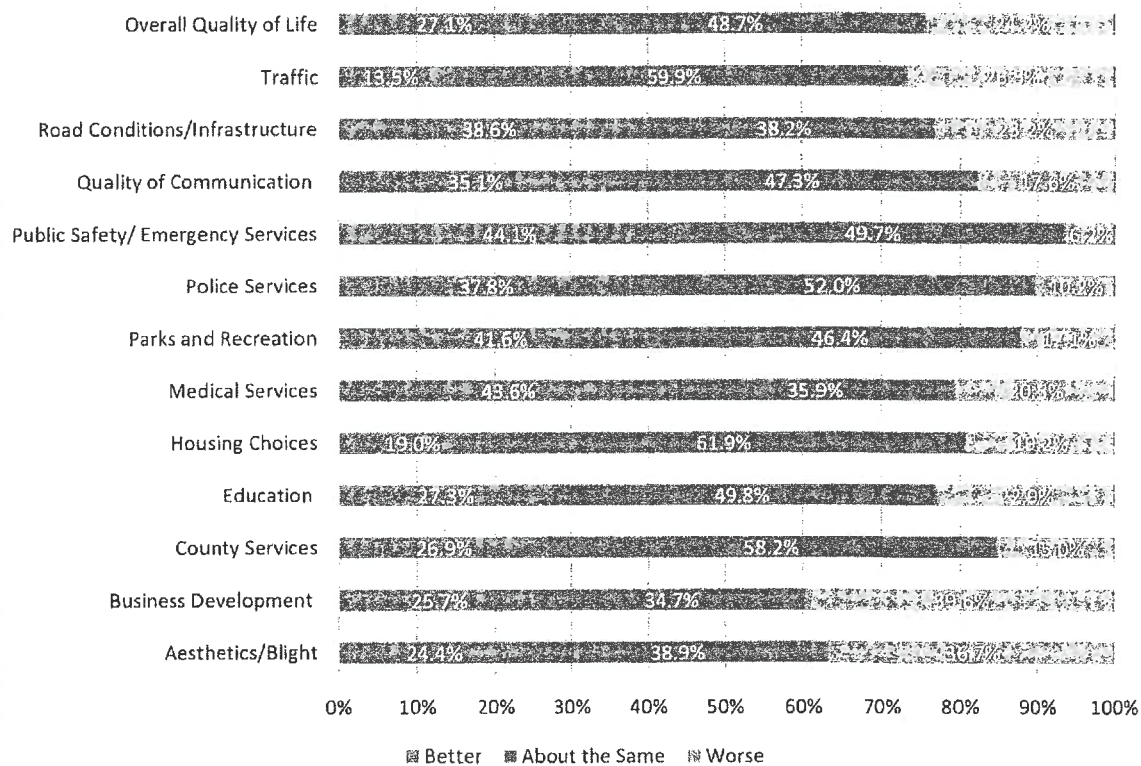


Quality of Life

Overall, 35% of respondents believe quality of life in Huron County is the best or one of the best in the thumb, and 33% of respondents believe the quality of life in Huron County is generally good. And 80% of respondents state that they still see themselves in the Thumb five years from now.

The survey asked respondents to evaluate different components of their overall quality of life in Huron County. The question listed 13 factors and asked respondents to rate how they have changed in the past 10 years. Figure 14 below, is an overall depiction of each category and response.

Figure 14 Components to Quality of Life



Overall over 40% of respondents believed that medical services, parks and recreation, and public safety/emergency services were better. Conversely, the two categories which stand out as potential areas of improvement are aesthetics/blight and business development. More than a quarter of the respondents believe both of these categories are worse. However, respondents generally felt that things are about the same as they were 10 years ago.

When asked 5 things that would improve residents' quality of life, the following themes were the most common answers: more/better paying jobs, consistent access to quality medical care, post high school education and training options, improved infrastructure, more shopping options, especially grocery stores, a route based transit system, a community recreation center, walking and biking trails, and activities for young kids. To see the full list of 497 responses please reference the full input report in Appendix C.

Agricultural Land Use

Overall, respondents feel agriculture is extremely important to Huron County. Ninety-six percent believe it is an important aspect of the Huron County economy, 91% believe it is an important aspect of the Huron County landscape, and 86% believe the County should preserve agricultural land. Finally, only 44% of respondents believe using agricultural land for development is an appropriate way to accommodate growth.

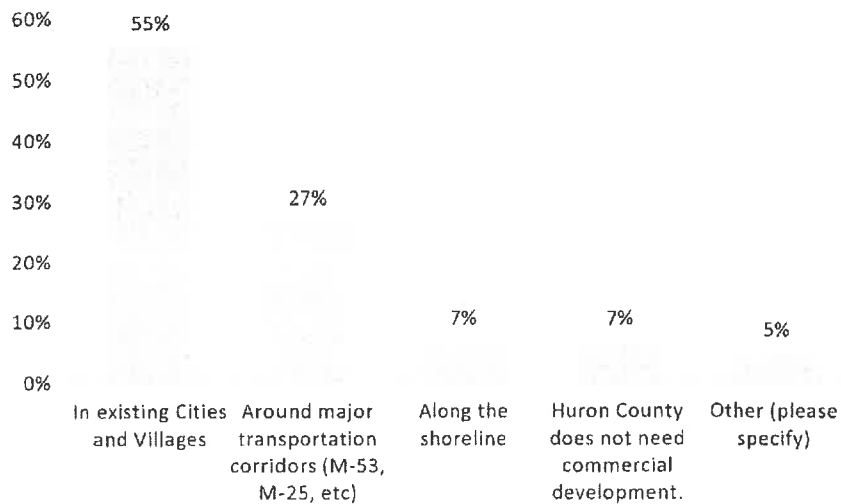
To further this point, when asked what agricultural land should be allowed to be used for, 95% of respondents said agricultural uses, 50% said recreational uses, 46% said residential uses, 38% alternative energy uses, 27% said commercial uses, and 23% industrial uses. This means respondents do not believe any growth or development should greatly encroach on the existing agriculture lands in the County.

Commercial Land Use

Overall, 63% of respondents believe the County needs more commercial services, and 40% of respondents think that the development should be focused on the tourist industry. However, 35% are neutral to development focusing on tourism, and 25% are against tourist industry development.

Figure 15 below, illustrates where respondents believe future commercial development should occur in the County. Fifty-five percent of respondents say in existing Cities and Villages, and 27% say around major transportation corridors.

Figure 15 Location of Commercial Development



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Looking to have an understanding of where residents do their shopping, the final commercial land use question asked residents where they go for shopping outside of the County and what they are shopping for. The following lists indicate the top locations and products/services.

Where do you go for services:

- | | |
|---------------|--------------|
| 1. Bay City | 5. Midland |
| 2. Saginaw | 6. Ann Arbor |
| 3. Port Huron | 7. Lansing |
| 4. Detroit | 8. Birch Run |

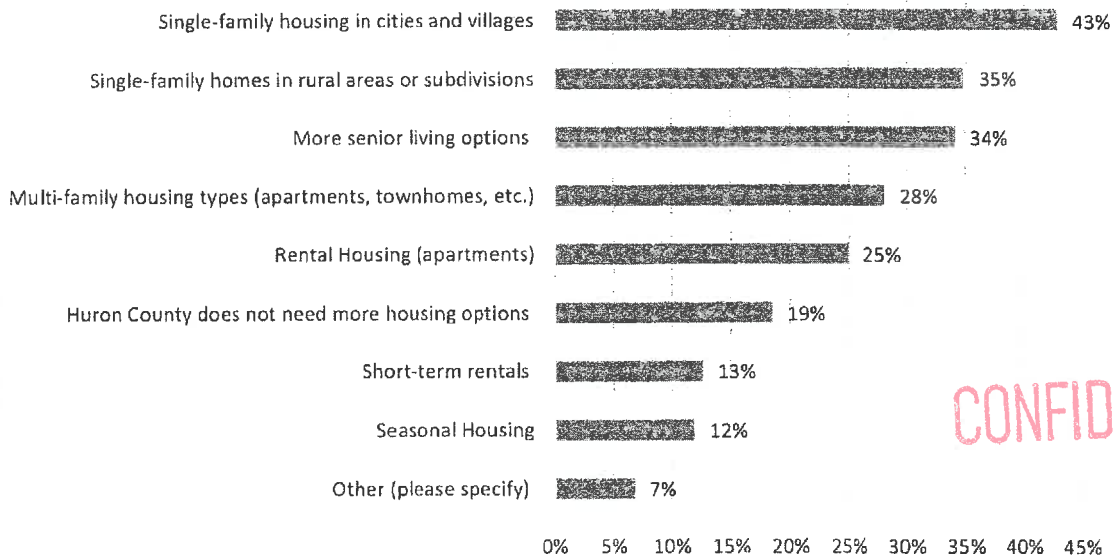
What services or products you are looking for:

- | | |
|---------------------------------------|------------------------------------|
| 1. Medical services and Doctors (293) | 6. Cars/ Mechanics (74) |
| 2. Clothes (210) | 7. Home Improvement/Furniture (72) |
| 3. Shopping (160) | 8. Entertainment/Culture (65) |
| 4. Variety (110) | 9. Affordability (35) |
| 5. Restaurants (85) | |

Residential Land Use

The next group of questions pertained to residential land use. When asked what an important strategy for housing was, respondents answered that preserving, maintaining, and improving existing housing stock and addressing blighted or substandard housing stock are the most important. Respondents were also asked what type of housing was needed in the County. Figure 16 below represents the answers, with single-family housing in cities and villages (43%), single-family homes in rural areas or subdivisions (35%), and more senior options (34%) being the most popular answers.

Figure 16 Housing Types

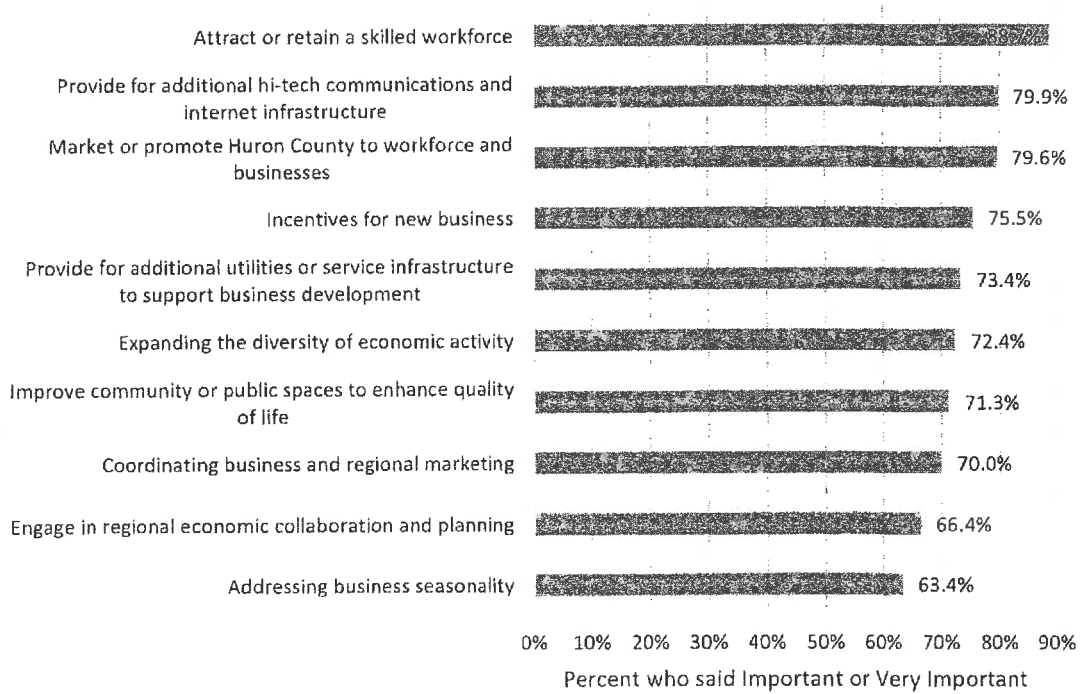


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Industrial Land Use and Economic Development

Seventy-four percent of respondents indicated that they believe the County needs a larger industrial base to grow the economy and provide jobs. Figure 17 below, indicates the percent of respondents who believe these economic development strategies are Important or Very Important. According to respondents, the top three priorities are retaining a skilled workforce, adding additional hi-tech communication infrastructure, and marketing the County workforce to businesses.

Figure 17 Economic Development Strategies

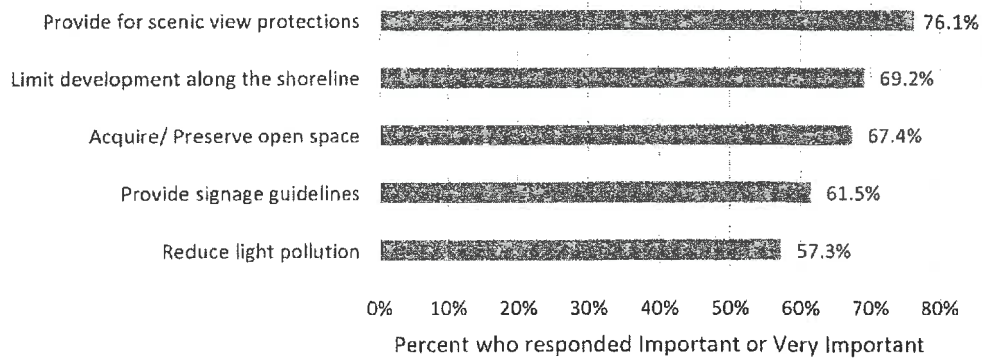


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Natural Resources

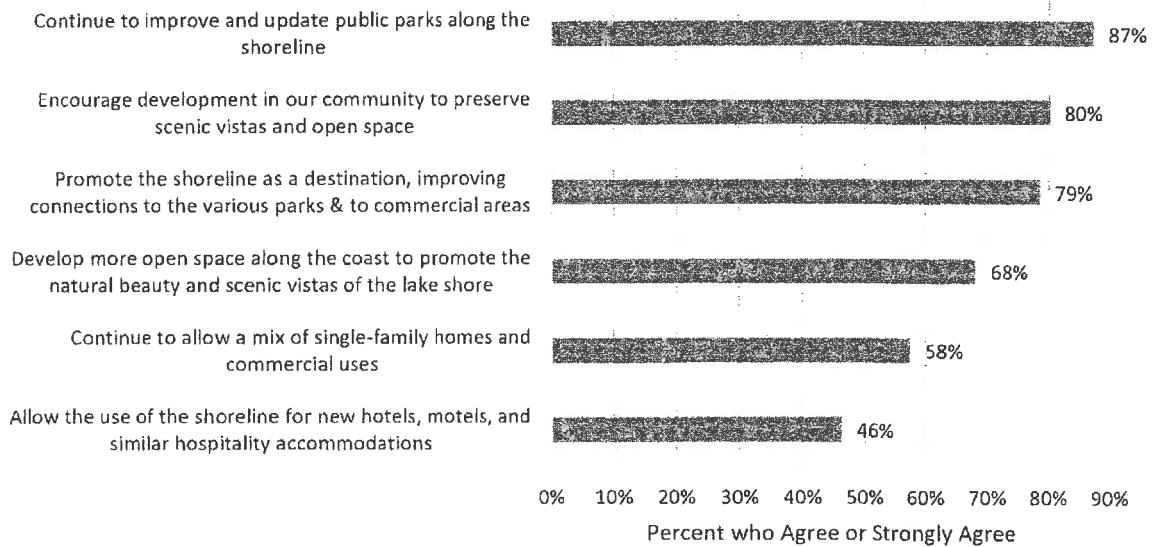
The County residents have indicated natural resources are very important to their way of life, and therefore strategies to protect them are very important. Figure 18 represents the respondents who believe it is Important or Very Important to use these strategies to protect the natural resources in the County. The most important strategy was to provide for scenic view protections and limit development along the shoreline.

Figure 18 Natural Resource Protection



The majority of respondents think continuing to improve and update public parks along the shoreline is most important strategy for development. Respondents do not want to see hotels, motels, hospitality accommodations along the shoreline, see Figure 19.

Figure 19 Development along Shoreline

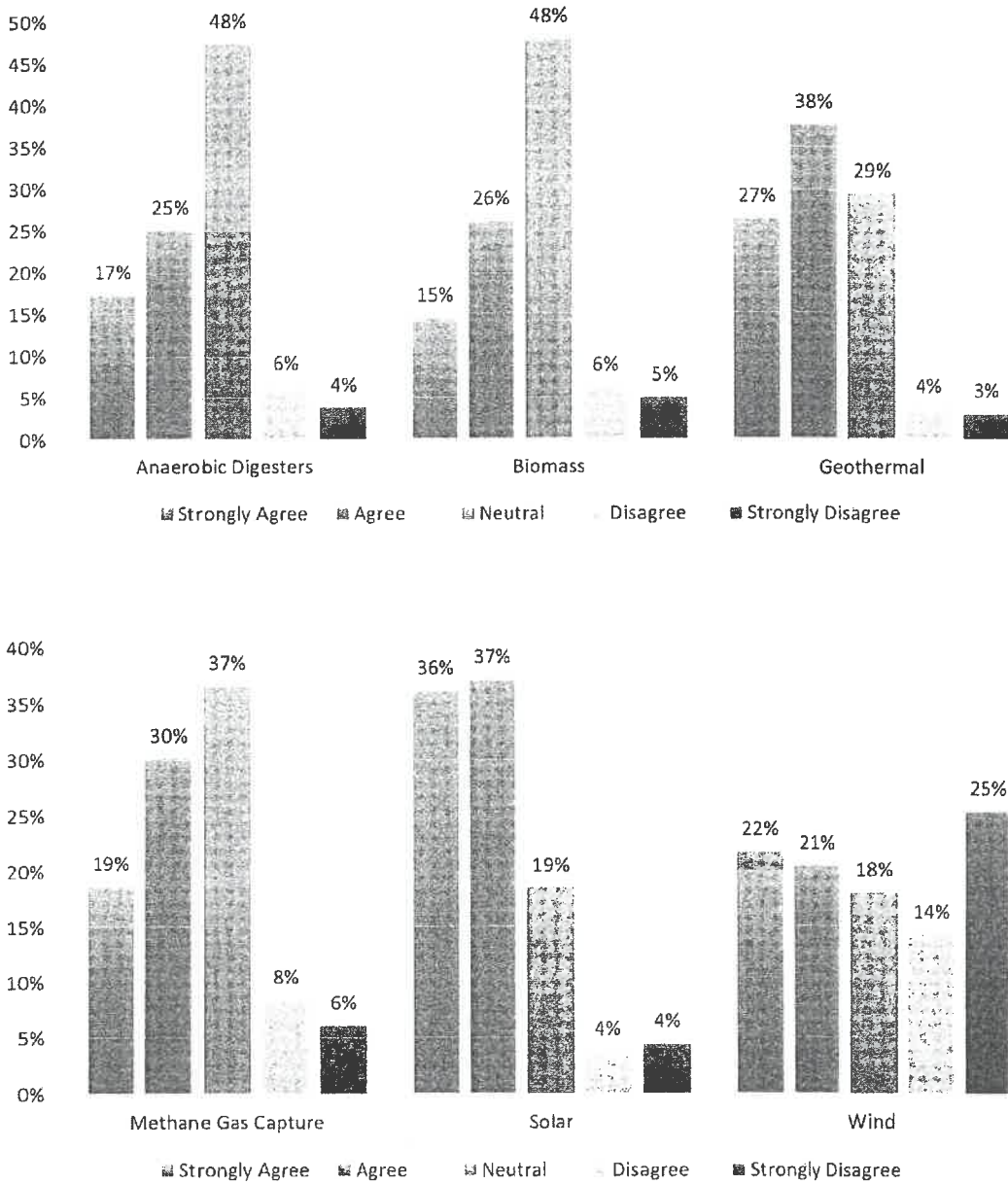


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Alternative Energy

The County is interested in what alternative energy operations residents would welcome in the County. The survey listed six choices and asked respondents to rank them from Strongly Agree to Strongly Disagree. Figures 20 and 21 below show a breakdown of responses for each alternative energy type. The most popular options are solar and geothermal, while the least popular options were wind and methane gas capture.

Figure 20 & 21 Alternative Energy Options

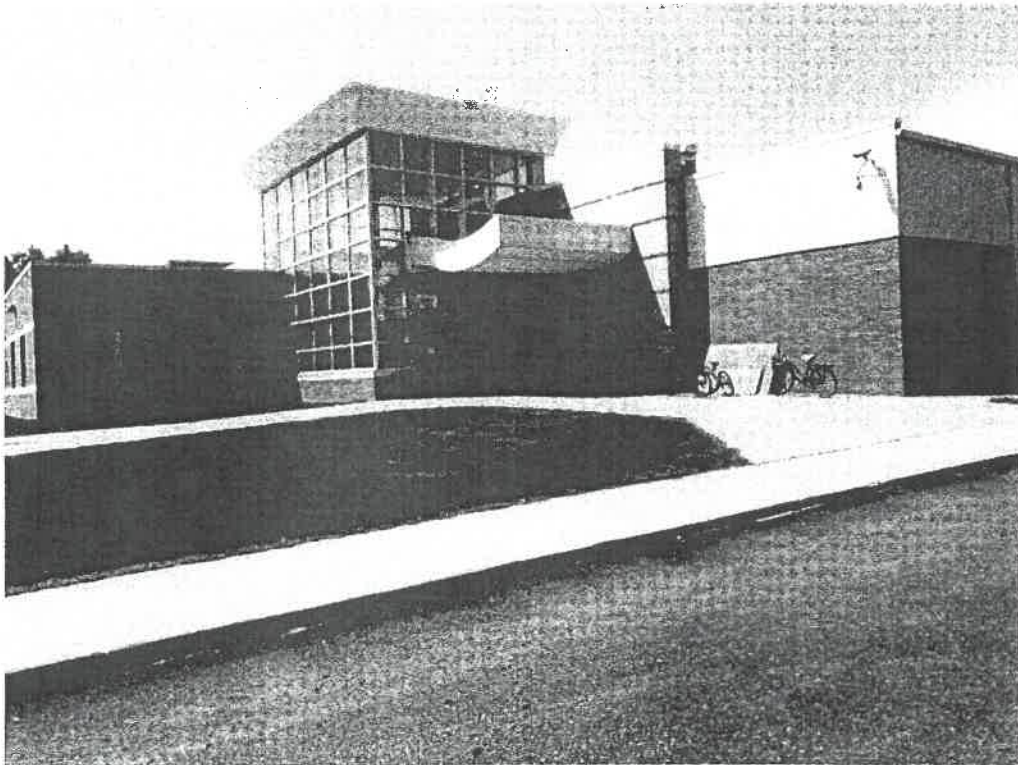


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Open-Ended Questions

At the end of the survey, respondents were asked what they like best about the County, and what they would do to improve the County. Each question had over 520 responses. The most common themes people like best about Huron county include: the rural nature of the county, the small town feel, the friendly community, the cost of living, the recreation opportunities and natural beauty, and the peace and quiet of the countryside.

The most common themes people would do to improve Huron county include: create good jobs, promote economic growth, support small businesses, work with universities and other skilled trades to provide education options to the youth, provide more recreation choices particularly regional trails, work with medical professionals to address drug problems, and capitalize on the tourist industry.



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The Vision for Huron County

Goals and Action Items

Huron County residents, businesses, and visitors have diverse needs, desires, and dreams, and satisfying them is a big challenge for any community.

The purpose of this section is to describe the long-term vision for Huron County, with enough detail to highlight likely outcomes for the County yet be flexible in order to address changing conditions and adapt to the changing wants and needs of its current and future residents, landowners, and other stakeholders.

It should go without saying that determining the direction for Huron County for the next five to twenty years is a challenge. Determining what needs to be improved, what should be preserved, and what should be substantially changed is successful only when based on sound public participation and detailed analyses. Setting the goals for Huron County was a process accomplished by the thorough review of existing characteristics in the County and the results of the community input survey. Based upon this information, goals were established and are a major component of this Master Plan, which is intended to be the primary policy document for County officials when considering matters related to land use and development proposals.

The goals in this section are divided into broad categories and relate directly to these and other issues identified as priorities by the residents and the Planning Commission. These broad categories were devised to be clear and intentional, with a vision of bringing strength and stability to Huron County. The goal categories are meant to succinctly address issues related to quality of life, economic development, tourism, agriculture, housing, and renewable energy. After the goals, a number of action items are listed that support the implementation of Huron County's goals.



A goal is a destination, a final purpose which the County seeks to attain. It is a broad, general statement expressing Huron County's intent. It is written in a general way so that it includes many ideas that support principles valued by Huron County. An action item is the means for attaining a goal. One goal can have many supporting action items. Each action item is a future task that should be undertaken and will assist in the implementation of this Master Plan.

What follows then, are the goals and action items that represent the overall vision for Huron County. They will serve as the foundation for preparing concise and well-thought-out community improvements for the life of this Master Plan. The goals will also be the guiding principles for future land use decisions by County officials and should guide rezoning decisions and other land use questions that arise from time to time.

Implementation of the County's goals is a multifaceted effort that will likely involve the zoning ordinance, other County ordinances, various County departments, and other community plans.

Huron County Master Plan

Therefore, the Huron County Planning Commission establishes the following list of goals and policies.

Quality of Life Goals

When it comes to community planning, quality of life can be described as how satisfied an individual is with their community, and how well it fits their "happiness needs." Several national publications annually review and rate the best and worst places to live. Rankings include a range of factors, such as access to a clean and healthy environment, quality education, financial security, ample and accessible employment opportunities, a diversity of entertainment, cultural, and recreational amenities, and availability of quality health care. Communities perceived to have a good quality of life are typically safe, have available jobs and good schools, plenty of access to parks, a clean environment, and abundant cultural and entertainment opportunities.

In Huron County, residents desire a high quality of life. Results from the survey show that residents place a high value on the rural life that is afforded to them in this part of Michigan. They view area schools as a strong community asset.

Senior Citizens are valued throughout Huron County, as the Huron County Older Citizens millage provides funds to assist seniors, including providing funds for seniors who receive home-delivered meals.

Huron County is home to three hospitals: Huron Medical Center (McLaren Thumb Region) in Bad Axe, Harbor Beach Community Hospital, and Scheurer Hospital in Pigeon.



And yet, the perspective from the survey shows the quality of life in Huron County, while generally good, is at tipping point where deteriorating conditions seem more common than before. Further, based on what respondents said in the survey, there are three major challenges facing Huron County today. According to the survey respondents, these challenges are crime and drug abuse, wind energy development, and unemployment. In addition to these challenges, the survey also shows respondents detect that overall aesthetics and blight has worsened.

Another impact to Huron County are its changing demographics. Over the past 15 years, Huron County has experienced a noticeable population decline, dropping from 36,024 people in 2000 to 33,118 in 2015, a decrease of 2,906 people (8.1%). Part of this decline can be attributed to an aging population. According to Census 2010 data, the median age for Huron County was 45.6 years, while Michigan as whole was six years younger with a median age of 38.9 years. The Census in 2000 had Huron County at 41.2 years, and Michigan was at 35.5 years. During the same ten-year period, the proportion of the population aged 65 and over grew from 19.5% of the County population in 2000 to 21.7% in 2010. Also indicative of the aging of Huron County is the decline of the proportion of the population aged 19 and under which fell from 26.3% of the Huron County population in 2000 to 22.6% in 2010.

Huron County will need to adjust to these changes, all of which point toward overall decline in demand for services, while, paradoxically, highlight a potential greater demand for services that address older residents' needs, such as access to health care and changing housing needs.

However, an increasing demand for services catering to an aging population would likely impact the level of existing services currently addressing the needs of youth and young families, such as access to day care, quality schools, and recreational activities.

Taken together, this all shows the extent to which the challenge of maintaining the existing quality of life in Huron County will be in the future. Further highlighting this challenge are the specific kinds of changes that survey respondents said are needed throughout Huron County, all of which were mentioned multiple times:

- More better paying jobs,
- More activities for youth,
- Recreational improvements such as bike paths and indoor recreational destinations,
- More choices to shop, with additional dining and entertainment options,
- Better health care closer to home,
- Post-secondary educational opportunities, and
- Better access to mental health care to help combat the drug problem.

To address these issues that impact the quality of life in Huron County, the following goals were developed. After the goals, an action plan is described that supports the implementation of these goals.

Goals for Quality of Life:

1. To preserve and enhance the quality of life for residents of Huron County.
2. Provide quality education and training to the people of Huron County.
3. Provide a positive lifestyle, including first rate education, recreation opportunities, and strong sense of community for youth in Huron County.
4. Maintain quality health care for all residents of Huron County.
5. Maintain a support services network to assure good quality of life for the elderly.

Action Plan for Quality of Life:

- A. Maintain the Rural Character of the Community
 1. Create balance between industry, tourism, residential and agriculture development.
 2. Provide programs which help to develop sense of community.
 3. Support youth and senior programs, school programs, and historical programs.
- B. Proactive Government
 1. Provide information and communication to the community on governmental activities.
 2. Promote citizen participation and involvement.
 3. Support an open-door policy in the Huron County government. Support projects like FetchGIS which provides citizens easy access to important County information.
- C. Preserve School System
 1. Support residential and parental involvement in all segments of the education system.

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Huron County Master Plan

D. Safety

1. Coordinate neighborhood watch programs.
2. Monitor crime rates and the types of crimes.

E. Post-Secondary Education

1. Identify education needs of residents.
2. Provide access to higher education and college alternatives for Huron County residents.
3. Support Huron County's libraries.

F. Training/Retraining

1. Working with Michigan Works, identify the job training needs of residents.
2. Identify training needs within existing companies and employers.
3. Provide linkages between available jobs in the area and residents.
4. Coordinate activities of local education, higher education, and regional industry.

G. Place High Emphasis on Coordination of Service Programs and Facilities for Elderly Persons

1. Support agencies in Huron County that provide services to senior citizens, such as the Huron County Council on Aging's Senior Council, the Human Development Commission, Region VII Area on Aging, and Huron County Health Department's Geriatric Program.

H. Youth Activities

1. Expand youth activities including recreation programs and activities.
2. Encourage the coordination of a youth/elderly program.
3. Involve youth in social, cultural, and historical programs to help them develop a sense of community and community pride.

I. Coordinate Existing Health Care Programs for Seniors and Youth

1. Support first responders, EMS, and fire services, all of which are critical services throughout Huron County.
2. Allow for new senior housing options in the zoning ordinance, giving consideration for uses, where appropriate, such as granny flats (accessory dwelling units), assisted living facilities, conversion of single-family homes into apartment, and other aging in place options.
3. Promote support of veterans through the Huron County Veterans Affairs Office.

Role of the Planning Commission:

- Create balance between industry, tourism, residential, and agriculture development using the statutorily-enabled planning and zoning tools available to the Planning Commission.
- Support the goals and action items listed in the current Huron County Recreation Plan.
- Review all park plans and grant applications to ensure compliance with both the Master Plan and the Recreation Plan. Written review notes should be forwarded to the Road Commission (the Huron County Road Commissioners are Park Trustees for the Huron County park system and are appointed by the Board of Commissioners) and the County Board of Commissioners.

- Communicate regularly with the public through various formats, including regular Planning Commission meetings, newspaper columns, general mailings, and possibly via social media outlets.
- Encourage a part-time jobs program for area youth in conjunction with local school administrators and the Economic Development Corporation.
- All proposed facilities intended to serve elderly persons including public funds should be reviewed by the Planning Commission.
- Facilitate an ad hoc group of citizens and organizations involved in service to the elderly to evaluate existing services and facilities, and to present a "citizen's report on Huron County Elderly Services" complete with future recommended actions.
- Work with Intermediate and local school districts to encourage creation of mentor program with industrial, professional, retail and service business operators to create career exposure for Huron County's youth.
- Review all health care related proposals and development applications in the county and either endorse them or offer alternative recommendations.

Economic Development Goals

The goals of economic development efforts should include more jobs and better paying jobs, a growing property and sales tax base, the reduction of poverty, a more stable and diversified economy, and improved public services. It is a continual process and requires many resources and assets to be successful.

The Planning Commission's partner in economic development initiatives in Huron County is the Huron County Economic Development Corporation (EDC). It was established in 1982 as a public non-profit organization and strives to develop, maintain, and enhance the economic base and quality of life in Huron County. The EDC accomplishes this by marketing the area, assisting businesses to start up or expand, consulting with local governments and organizations on development issues, and acting as a catalyst for projects.

Oftentimes projects that the EDC has assisted with will eventually need to go before the Huron County Planning Commission for site plan review and other zoning approvals. No doubt that today and for the foreseeable future the work the EDC and the Planning Commission do will be in a constant state of change. According to the 2010 Census, both *Manufacturing and Educational services and health care and social assistance* were tied as the largest employment industries in Huron County, each representing 20% of the population. The third largest industry was *Retail trade* at 10.7%, and *Agriculture, forestry, fishing and hunting and mining* was fourth at 9.1%. For comparison, just ten years prior, *Manufacturing* was up to 28.1% and *Agriculture, forestry, fishing and hunting and mining* was only 7.9%. In today's economic climate in Huron County, it can be said there is less manufacturing and more farming.

While these changes aren't too extreme, it does point toward a future where high-paying manufacturing jobs will likely be scarcer. Survey respondents seem to indicate an awareness of this shift. They note throughout the survey that business development in the County has worsened. Respondents note that unemployment is a major challenge facing the County. In terms of strategies to address economic development, respondents indicated that attracting or retaining a skilled workforce should be a priority.

The long-term process of economic development will certainly bring about change in how residents will earn a living in Huron County. Integrating economic development into this Master Plan will bring awareness to the process and will help local leaders and residents anticipate change and deal with transition as smoothly as possible.

Goals for Economic Development:

1. Maintain a strong local and regional economic base and to provide jobs for all residents of Huron County.
2. Support water system improvements in the communities of Bad Axe, Port Austin, Pigeon, and Harbor Beach.
3. Support improvements to community sewer systems.

Action Plan for Economic Development:

- A. Economic Development
 1. Determine economic development priorities (agri-business, light industry, tourism, retail development, renewable energy, etc.)
- B. Business Attraction
 1. Work with regional economic development organizations to attract private business firms.
 2. Identify target markets.
 3. Identify potential development sites.
 4. Identify and use financial incentives for business attraction.
- C. Business Retention and Expansion
 1. Identify training needs of existing companies.
 2. Assist in land assembly and zoning for company expansions.
 3. Develop company website/networking system to communicate with local employers.
 4. Identify training needs and address
- D. Small Business Development/Entrepreneurship
 1. Coordinate with existing entrepreneur programs.
 2. Use existing small business development programs for financing, business plans.
 3. Promote education and training
- E. Community Support
 1. Develop community support, understanding, and education on economic development programs and issues.
- F. Intergovernmental Cooperation
 1. Involve Tuscola and Sanilac Counties in economic development efforts especially infrastructure improvements.
 2. Coordinate education with employees
 3. Support the development of trade school partnerships.

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Role of the Planning Commission:

- Work in conjunction with the Economic Development Corporation to set economic development priorities.
- Planning Commission to have representation on the Economic Development Corporation board.
- Develop a system under which the County Planning Commission will review and make recommendation on all economic development proposals in the County.
- Continue training for planning commissioners from within the County. These sessions should be designed to discuss planning and zoning issues, upcoming development and to encourage inter-governmental cooperation.

Tourism Goals

The 93-mile Lake Huron shoreline is a natural tourism draw for Huron County. For those interested in beaches, camping, boating, and fishing, Huron County is a great destination. To support these activities, there are several public facilities along the shoreline.



Huron County has nine parks along the shoreline. Six of them offer overnight camping. In total, there are about 600 campsites in the six County-owned parks. It should go without saying that these campgrounds are a large tourism draw.

County parks also ensure public access to the area's recreational resources and which is an important tourist attraction for visitors to Huron County. Several of the parks have sandy beaches which allow for swimming and related beach activities. Other parks have rocky or stony beaches which limit swimming and lend themselves better to pursuits not directly associated with the sand, such as fishing, boating, scuba diving, hiking, camping, hunting, nature study, and field sports.

The State of Michigan owns several significant recreational tracts of land in Huron County. Sleeper State Park and Port Crescent State Park are located on the sandy shoreline of Saginaw Bay between Caseville and Port Austin. Both are popular camping and day use destinations. The Rush Lake State Game Area is in Lake Township. The Verona State Game Area is located east of Bad Axe and the northern portion of the Gagetown State Game Area is located east and south of Owendale. There are also several small tracts of state forest reserve in Fairhaven Township in the Wildfowl Bay area. These state lands serve as wildlife habitat and hunting grounds in Huron County.

Survey respondents show support in promoting tourism in Huron County, especially promoting the shoreline as a destination. They want scenic views along the shoreline to be protected. Ways to protect the views would be to limit development along the shoreline and the acquisition and preservation of open space. Ultimately, they want improvements and updates to public parks along the shoreline to continue.

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The County is also home to a large amount of seasonal housing. According to the 2010 Census, about 68% of the homes in the County were occupied. This means 32% were vacant. A typical community in Michigan has a vacancy rate between 5% and 10%. A deeper look into the vacancy data shows the vacancies in Huron County are mostly seasonal homes. Interestingly, the data show Huron County's interior communities do not have large seasonal housing numbers. But along the shoreline, the Townships there have vacancy rates that range from 25% to 90%, with the average falling in the high 40% range.

These data demonstrate the attractiveness of the shoreline and that it is a unique feature in Huron County that many seek to experience it in whatever way they can.

Goals for Tourism:

1. Provide reasonable access for residents to all parks, water, and recreational facilities and promote a variety of tourism options for those residing in and out of Huron County.
2. Protect the viewshed afforded by the Lake Huron shoreline.

Action Plan for Tourism:

- A. Focus Tourism Efforts
 1. Determine specific areas for tourism and focus efforts.
- B. Encourage Four-Seasons Tourism
 1. Develop and promote year-round tourist activities.
 2. Investigate possibilities of obtaining funds for cross country skiing and four-season non-motorized pathways and trails.
 3. Explore possible winter festival event.
 4. Promote and expand year-round lodging in existing towns.
- C. Public Access
 1. Encourage development practices and policies to ensure public access to the shore (lakes and inland lakes).
- D. Funding
 1. Maintain an updated MDNR-approved five-year Recreation Plan and be informed of current funding priorities to pursue grants.

Role of the Planning Commission:

- Review all development proposals in the County to ensure compliance with both the Master Plan and the Recreation Plan.
- Review all development proposals to ensure scenic vistas and open spaces are preserved.
- Implement pathway and non-motorized transportation routes in development proposals, where appropriate.

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Agriculture Goals

Agriculture has played, and continues to play, an important role in the economic and social history of Huron County.

Currently, agricultural land comprises approximately 452,815 acres, or 84%, of the land in Huron County. Overall, there are 536,320 acres in Huron County, of which 340,917 acres are enrolled in Michigan's Farmland and Open Space Preservation Program (PA 116), which represents about 64% of the total land area in Huron County.

According to the 2012 USDA Census of Agriculture, Huron County ranked first out of all Michigan's counties for total value of agricultural products sold. Nationally, Huron County was ranked 56th. The average size of a farm in Huron County was 375 acres and the average market value of products sold at a farm was \$543,207. The total market value of products sold at farms in Huron County was \$654,564,000 (crop sales was 51%, livestock sales was 49%).

From the survey, there is strong and broad support to maintain and continue to use agricultural land for agricultural purposes for the long term. There is little support to convert agricultural land into more intensive uses. Overall, one of main reasons people stay in Huron County is due to its rural character. Further, Huron County is a farming-dependent county with agribusiness – the business of agricultural production – as the dominant industry. To preserve this character, Huron County desires to strengthen and support agricultural activities.

Goals for Agriculture:

1. To promote agriculture and to encourage expansion into new markets.
2. Promote GAAMPs – generally accepted agricultural and management practices as set forth from the Michigan Right to Farm Act (PA 93 of 1981) – compliance throughout Huron County.

Action Plan for Agriculture:

- A. Agricultural Processing
 1. Identify crops which are grown in Huron County and could be processed in the County.
 2. Identify companies currently involved in agricultural processing, specifically canning.
 3. Develop programs to attract existing agricultural processors.
 4. Develop programs to encourage agricultural processing entrepreneurship within the County, especially near communities where water systems have excess capacity.
 5. Identify new markets for agricultural products.
- B. Environment
 1. Support and encourage best management practices for agriculture which respect the environment.
 2. Wetlands represent water recharge areas and the filling and/or draining of these areas for development should be discouraged.

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Role of the Planning Commission:

- Utilize the site plan review process to ensure groundwater protection.
- Using digital aerial imagery wetland maps from the Michigan Department of Natural Resources, prepare and adopt site plan review regulations for wetlands protection.
- Regular reporting to the Board of Commissioners detailing potential for agricultural processing in the County.
- Assume a leadership role in studies, data collection, etc, with respect to agricultural processing.
- Support agricultural interests by protecting active agricultural lands identified in the Master Plan and by buffering agriculture from encroachment by other land uses.

Housing Goals

In general, throughout Huron County, housing is affordable. The median housing value in the County is \$92,000, and for comparison, the median for all the homes in the State of Michigan is \$122,000. The majority of housing units in Huron County are single-family detached units (82%). Survey respondents have indicated that housing choice has remained constant over the past ten years, signaling general satisfaction with the County's housing market. Respondents would like to see improvements to the existing housing stock, as well as actions to address blighted or substandard housing stock. Overall, there appears to be general satisfaction with Huron County's housing.

Goals for Housing:

1. To provide quality and affordable housing for all residents of Huron County.

Action Plan for Housing:

- A. Project Existing Housing Stock
 1. Protect existing residential areas from incompatible uses.
 2. Enforce zoning and building codes.
 3. Encourage the renewal and revitalization of residential areas of the County through code compliance activities.
 4. Implement County housing code, intended to encourage proper maintenance and rehabilitation of rental housing.
 5. Encourage and promote safety, compliance to existing codes and ordinances, and property maintenance.
 6. Encourage the installation of smoke detectors.
 7. County to assist with homebuyers on appropriate property purchase disclosures and related information.
- B. Housing for the Elderly
 1. Encourage development of senior housing.
 2. Conduct market and wage study to determine housing affordability for residents over 65.

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Role of the Planning Commission:

- Coordinate public financing assistance for new housing for all types. Work with MSHDA, MEDC, and Huron County EDC
- Coordinate and/or administer county-wide housing rehabilitation program using publicly sponsored low-interest loans and grants.
- Promote the availability of such grants and opportunities.
- Review zoning ordinance to address residential housing that is appropriate for rural areas, ensuring that density would not be in conflict with agricultural operations.
- Assist communities in Huron County with State programs, acting as a conduit to provide community information to MEDC regarding Redevelopment Ready Communities (RRC) involvement

Renewable Energy Goals

The community input survey provided helpful information about how Huron County should move forward on the development of utility-scale wind and commercial solar energy facilities. The following are key points from the survey:

- Wind energy development is one of the main challenges facing Huron County.
- In terms of wind energy development, Huron County is evenly split on this issue.
- There is support for the development of solar in Huron County, but only when sited in appropriate areas.
- Regarding land use along the shoreline, survey respondents would like to see those public parks improved and updated, including the preservation of scenic vistas and open space.

During the development of this Master Plan, the Planning Commission worked diligently for over a year on drafting policies for the appropriate development of utility-scale wind and commercial solar energy facilities in order to guide the County in the foreseeable future. The results of the community input survey were consulted a number of times, including the development of various maps to analyze existing conditions and ground features to assess how policies could shape future development of these facilities. The results of that work follows and shall guide Huron County on how to proceed with utility-scale wind and commercial solar energy facilities in the near-term, as well as for the long-term.

Commercial Solar Energy:

This policy is intended to guide the Huron County Planning Commission on the development of zoning ordinance regulations that will permit responsible commercial solar energy projects that can be developed in appropriate locations.

A Commercial Solar Energy Facility is a large-scale energy facility which occupies an area of land principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more ground-mounted solar photovoltaic installations that primarily sell electricity to be used off site. It is a solar energy system that is primarily used for generating electricity for sale and distribution to an authorized public utility and is not considered an accessory use or structure. It is essentially a grid-connected system. Developers have stated that it takes about 20 to 150 continuous acres to create a viable large-scale, commercial solar energy project.

Huron County Master Plan

Currently, developers are securing leases throughout Huron County for large-scale, commercial solar energy facilities to be developed on property that is zoned for agricultural use.

The Huron County zoning ordinance lacks regulations for large-scale, commercial solar energy facilities.

Of the 452,000 acres of agricultural land in Huron County, 75% is enrolled in the Farmland and Open Space Preservation Program, commonly known as the PA 116 Program.

According to a fact sheet issued in May 2017 by the Michigan Department of Agriculture & Rural Development, entitled "Commercial Solar Facilities on PA 116 Land," a commercial solar panel operation is not permitted on land enrolled in a Farmland Development Rights Agreement under the PA 116 Program. The fact sheet states that a commercial solar energy facility is not considered an agricultural land use, and therefore, any land used for a commercial solar energy facility would need to be removed from the PA 116 program prior to the construction of such a facility. However, land may be released from the PA 116 program due to public interest if the land is rezoned commercial or industrial.

Because agriculture plays such an important role in the economic and social fabric of Huron County, with farming and agri-business as the dominant industries, agriculture is vital to the County's future. With the expanse of agricultural land available in the County, installation of commercial solar energy facilities is a serious threat to the viability of the County's agricultural economy as it has the potential to remove large-scale swathes of productive agricultural land from the PA 116 program. It is the goal of Huron County to ensure that lands already enrolled in the PA 116 program remain in the program while directing the development of commercial solar energy facilities to marginal lands. This can be accomplished by drafting zoning ordinance regulations that permit commercial solar energy projects to be developed in a way so there are no unacceptable adverse impacts on:

- Overall health, safety, and welfare of Huron County residents,
- Visual amenity and landscape character,
- Biodiversity or nature conservation,
- Local natural resources, such as air quality or water quality, and
- Public access and enjoyment of the Lake Huron shoreline and public parks.

Action Plan for Commercial Solar Energy:

1. Add provisions to the zoning ordinance that will permit responsible commercial solar energy projects that can be developed in appropriate locations.
 - a. Such regulations should ensure that certain areas are excluded from commercial solar energy development including:
 - All parcels that are residentially-zoned,
 - Prime farmland, per NRCS (not to include "prime farmland, if drained"),
 - Wetlands,
 - Lakes/water features,
 - Sand/gravel pits, and
 - Woodlands.
 - b. When developing zoning ordinance provisions, the Planning Commission should consider appropriate setbacks for the following:

- Non-participating property lines,
 - Homes on non-participating parcels,
 - Participating property lines,
 - Homes on participating parcels,
 - Cities and villages,
 - Townships that are not County-zoned,
 - Parks,
 - State land,
 - Wind turbines, and
 - Lake Huron shoreline.
- c. A commercial solar energy facility is allowed as a special land use in the agricultural, business, and industrial zoning districts as of the effective date of this Master Plan.
 - d. Land enrolled in the PA 116 program is not eligible to be used for Solar Energy Facilities. Huron County does not want to encourage agriculturally-zoned land to be disenrolled from the PA 116 program, thereby inadvertently necessitating widespread undesirable spot-rezonings to commercial and/or industrial zoning districts.
 - e. A commercial solar energy facility shall be screened along its perimeter with landscaping that obscures views of the solar energy facility from the Lake Huron shoreline and from residential areas, incorporating evergreen trees with a height, at the time of planting, in excess of eight feet. All landscaping shall be incorporated into a perimeter buffer of no less than 20-feet in width.
 - f. Ground-mounted solar photovoltaic panel installations and associated racking shall not exceed 12-feet in height and should be structurally designed to prevent wind lift.
 - g. A commercial solar energy facility shall be sited and designed to minimize glint and glare effects on roadway users, nearby residences, commercial areas, and other highly sensitive viewing locations and all applications shall contain a glint and glare study that accurately assesses and quantifies potential glint and glare effects and to determine the potential health, safety, and visual impacts associated with a proposed project.
 - h. Regulations should incorporate decommissioning requirements to ensure proper disposition of the facility at the end of its useful life.

Utility-Scale Wind Energy:

This policy is intended to allow wind energy facilities a transition toward becoming a more welcoming presence in Huron County. It takes the long-term view and accounts for the permits and approvals for existing wind energy facilities while balancing the need to improve the overall health, safety, and welfare of Huron County residents by limiting the future development of new wind energy facilities.

Since 2005, with the adoption of the *Agricultural Preservation & Alternative Energy Resource/Wind Energy Planning* amendment to the 1993 Huron County Master Plan, and through the *Wind Energy Facility Overlay* regulations in the zoning ordinance, the Huron County Planning Commission has permitted the construction of 287 wind turbines. In total, there are 472 wind turbines in Huron County.

The first utility-scale wind energy facility constructed with the approval of the Huron County Planning Commission was in 2008, which was the 46-turbine, 96-megawatt Michigan Wind I

project located in Bingham and Sheridan Townships. Leading up to today, an additional 241 wind turbines have been constructed alongside the 185 turbines built in Townships with their own zoning regulations. As each new wind turbine was constructed, the landscape of Huron County had seemingly changed. With this change came a noticeable shift in attitude and public opinion about wind turbines and their effect on the overall character of Huron County. Even though wind turbines generate significant tax revenue for various entities throughout the County, support for the development of new County-based wind energy facilities grew to a tipping point in 2017 with the rejection of two wind energy zoning overlays at the polls. In addition, the survey conducted in September and October of 2016 for this Master Plan did not indicate a majority support for the development of wind energy facilities.

With this shift in attitude, the County needs to strike a balance with the potential development of future wind energy facilities. On one hand, the zoning map defines where wind energy facilities can be located in Huron County by the placement of the various existing overlays, which can be amended to add more overlays. On the other hand, each wind energy facility has a useful life, and if such facilities are not repowered at the end of their useful life, they will need to be decommissioned, and once decommissioning is completed, the Huron County zoning map can be amended to remove any associated overlays.

Repowering a wind energy facility would allow the operator to modernize and update the wind turbines and related infrastructure. Repowering would allow the associated overlay to remain on the zoning map, however, new permits would have to be issued by the County. Further, any wind energy facility that is repowered would have to comply with all current zoning ordinance requirements. Repowering could entail the removal of the original wind turbines and related infrastructure, in part or in whole, and be replaced with new wind turbines and related infrastructure. Repowering involves the operator of the wind energy facility to submit a plan showing the removal of the wind energy facility, whether in part or in whole, and its replacement in which it is demonstrated that compliance with current zoning ordinance requirements is met by the repowered facility. Such a repowering plan shall maintain the use of the existing associated wind overlay.

Decommissioning a wind energy facility would encompass its removal. Decommissioning never precedes repowering. A triggering event, as described in the facility's approved decommissioning plan, necessitates the removal of the wind energy facility. Such a triggering event might be the time when a portion of the facility ceases to generate electric power for a specified period, or it might be a timeframe specified within the power purchase agreement with the utility. Decommissioning does not involve the issuance of any new permits for the operation of a wind energy facility. In order to ensure a full and complete decommissioning, at the discretion of the Huron County Board of Commissioners, the zoning map can be amended to remove the associated overlay for the former facility.

Action Plan for Utility-Scale Wind Energy:

1. Modify zoning ordinance provisions for wind energy facilities to incorporate options for repowering.
2. Maintain database of wind energy facilities in operation in the County and track the commercial operation date with anticipated timeframes related to the power purchase agreement.

3. Review individual decommissioning agreements.
4. For each individual wind energy facility, outline a schedule for anticipated decommissioning or repowering.
5. One year prior to the anticipated end of useful life, engage the operator in a discussion of options for repowering or for decommissioning.
6. If the operation is repowered, then new permits will need to be obtained that demonstrate compliance with current zoning ordinance requirements.
7. If the operation will be decommissioned, then allow the operator to initiate the decommissioning process. If not initiated on time, the County may initiate the process, per applicable zoning ordinance requirements. Removal of the associated overlay on the zoning map can be initiated through the zoning amendment process.
8. If the operation is damaged and subsequently inoperative because of an inclement weather event, a tornado, wildfire, or other unforeseen hazard(s), the operator may choose to rebuild damaged structures or components under the terms of existing permits, or the operator may choose to repower which would then necessitate the process to obtain new approvals to demonstrate compliance with current zoning ordinance requirements. It should be recognized that if a portion of the operation is damaged and inoperative, the operator may elect to remove that portion of the operation as long as overall energy production and related agreements are not compromised.
9. For any nonconforming wind energy facility, it may continue per the requirements for nonconforming uses in Section 14.03 of the zoning ordinance.

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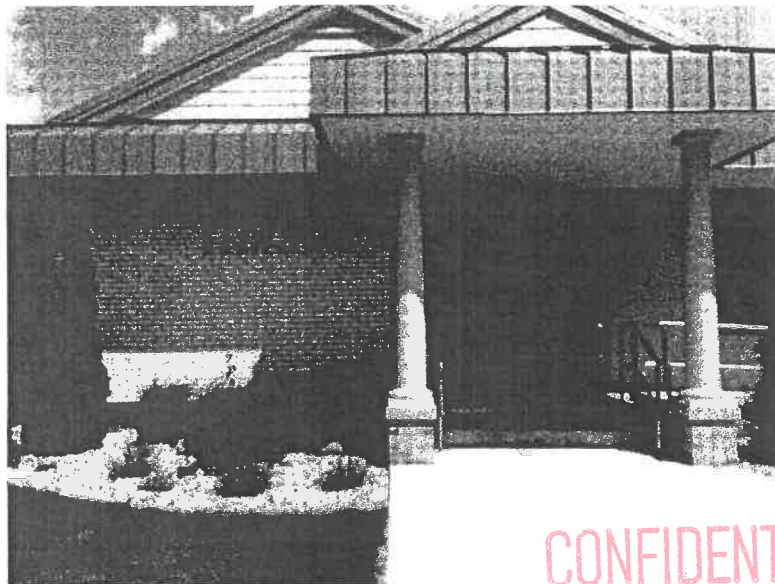
Land Use in Huron County

One of the purposes of a Master Plan is to incorporate a future land use plan that will guide the next 10 to 20 years of development in the County. The land use plan outlined in this section of the Master Plan serves to reflect the community's desire to promote growth in specific areas while maintaining, enhancing, and protecting the natural resources present throughout the County.

The future land use map transforms the County's goals into a graphic guide for land development and management. The future land use map serves as a guide to decision making - it attempts to translate future land use categories and the broad guiding principles of those categories to specific geographic areas, which will then work as a guide for future zoning decisions. This provides a framework for the Planning Commission when reviewing land use or zoning decisions.

As an example of how future land use relates to zoning, the Future Land Use Map may indicate commercial or industrial land, but until that property owner requests a zoning change, and the County adopts that request, the parcel will continue to be zoned as is. In other cases, the Future Land Use Map may indicate a category that is not specific to a certain zoning district. In this case, the parcel will continue to be zoned as is, but when an opportunity for a rezoning comes up, the Planning Commission will be able to reference the guiding principles of that future land use category to determine if a zoning change aligns with the development goals of the County.

The future land use categories on the future land use map are slightly different from the existing land use categories. This difference is attributed to the fact that future land use is developed with an eye toward the zoning classification that will be needed to actually move toward the implementation of this plan. For example, while the existing land use map describes wooded uses, this land use will not be included on the future land use map. The existing land uses are combined into various other future land use categories which are representative of the Township's zoning districts. Ultimately, the recommendations shown on the future land use map are intended to help County officials, property owners, and residents make zoning and development decisions that are in the best interest of the community. The future land use map seeks to guide residential, commercial, and industrial development into appropriate locations, while maintaining the overall character and appearance of the County.



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County Zoning

As mentioned in the introduction of this Master Plan, the County does not have zoning authority in all Huron County jurisdictions. Therefore, the County may not implement zoning regulations within incorporated City and Village limits and certain Townships. Huron County has jurisdiction over 16 townships. These 16 townships include Lincoln and Sherman Townships who have both voted to become self-zoned. However, when the Planning Commission began the Master Plan, both Townships were still governed by County-zoning rules. Therefore, they are included in the future land use discussion. The following list highlights which Townships have County zoning:

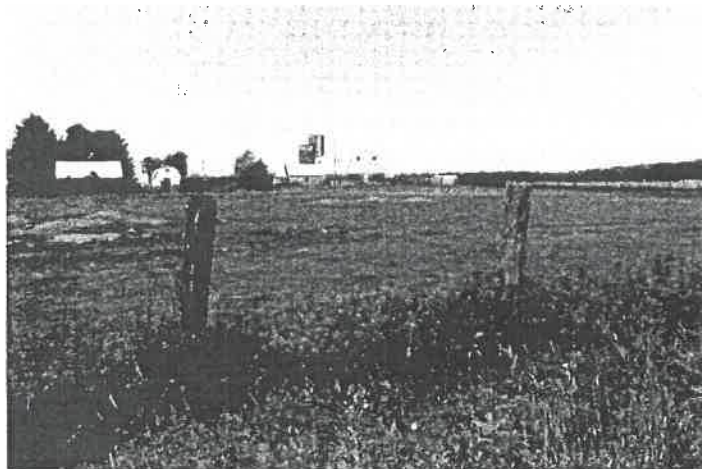
County Zoning in Effect

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Bingham Township 2. Bloomfield Township 3. Brookfield Township 4. Dwight Township 5. Fairhaven Township 6. Gore Township 7. Grant Township 8. Hume Township | <ol style="list-style-type: none"> 9. Lincoln Township* 10. McKinley Township 11. Rubicon Township 12. Sebewaing Township 13. Sheridan Township 14. Sherman Township* 15. Sigel Township 16. Winsor Township |
|---|--|

Future Land Use Categories

Agricultural

Agricultural land is the backbone of Huron County, it dominates the County landscape, supports the economy, and represents a way of life that County residents are proud of. Because farming is such an important way of life, County residents feel strongly about protecting it. When asked, 86% survey respondents stated agriculture land should only be used for agriculture purposes. The Agricultural future land use category directly relates to the Agriculture zoning district, which is intended to protect the agricultural way of life in the County. This includes land historically used for farming and animal husbandry, dairying, horticulture, agri-businesses, and other agricultural activities. While providing more flexibility by allowing single family, non-farming dwellings and related residential uses on larger parcels.



The majority of the agriculture land in the County-zoned townships is enrolled in the PA 116, which ensures the land stays agricultural. The future land use map aims to protect agricultural land in Huron County, while providing opportunities for business growth and development in key areas. In general, the agricultural land makes up the majority of each Township, and can be found throughout all the rural areas, some exceptions to this include locations where there is state land, or existing commercial and industrial businesses, along the shoreline, and along some state roads. There are several townships which are almost all agricultural land such as Brookfield, Sheridan, Sherman, and Bloomfield.

General Single-Family Residential

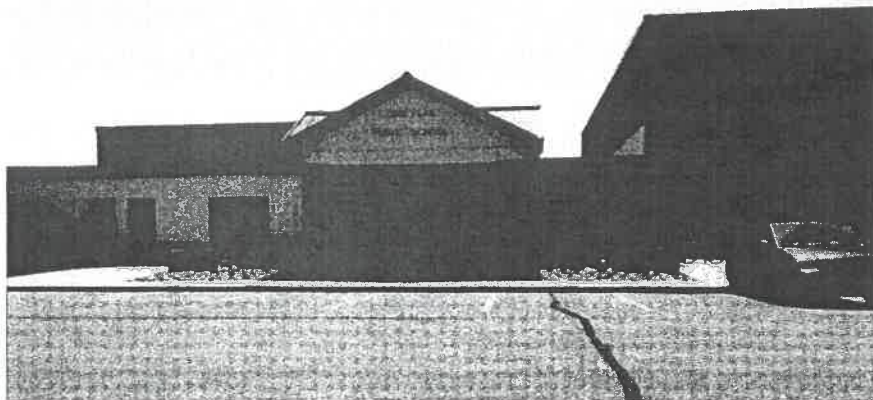
The residential land use patterns in Huron County are largely low-density single family homes. While there is housing located throughout to County, along rural roads and associated with agricultural operations, these homes are in the agricultural zoning district. The general single-family residential district is mostly located along the lakeshore between the water and M-25. There are also various other locations where this type of residential land use is highlighted on the future land use map, they include areas outside of cities and villages, and along the southern side of M-25 in Hume Township. The residents of Huron County appreciate the low-density housing located throughout the County. This future land use category correlates to the R-1 zoning district, predominantly allow low-density, one-family detached dwellings along with other residentially related facilities which serve the residents in the district. Certain complimentary religious, educational, recreational and cultural facilities as well as two family dwellings may also be permitted as special uses.

Single-Family Residential (small structures)

The other single-family future land use category is for single-family homes on smaller lots, while Huron County is very agricultural, the areas along the shoreline cater more toward tourism and seasonal homes. This is also an important segment of the population and seasonal lakefront homeowners have very different needs than the full-time residents who reside in the interior of the County. Traditionally these lakefront homes have been smaller cottages. This future land use category is only present in the Townships along the coast, with larger concentrations in Fairhaven, Gore, and Rubicon Townships, and corresponds to the R-2 zoning district.

Multiple-Family Residential

The third residential land use category is for multiple family homes and corresponds to the R-3 zoning district (multiple-family residential district). It is the only district that allows multiple-family land uses as a use by right and serves as a transition zone between the nonresidential districts and lower density Single-Family Districts. While the County has a low-density land use pattern, and the residents have indicated they prefer low density housing, they recognize the need for this type of housing. It provides a wider variety of housing options for residents in the County, especially for individuals who would prefer to live in a Township but need to rent or do not want to own a home. The only Township in the County with this future land use category is Hume.



Business

Huron County understands the importance of supporting a healthy business community. Overall survey respondents all agreed that supporting business, economic development, and growth in the County would be beneficial. The business future land use category relates directly to the General Business District zoning district and is designed to meet the day-to-day convenience shopping and service needs of persons residing in nearby residential areas. The future land use map identifies several key areas in each Township where commercial businesses would be appropriate. Generally, these locations are along major roads, the coastline, and right outside of any City or Village limit. It is the intention of the future land use map to allow and encourage growth around the towns in the County, but also protect the existing farmland, by keeping any future development close to the existing municipal boundaries. There are also several locations where the County has identified commercial areas along the state highway system, examples include commercial uses along M-53 between Bad Axe and Kinde or a commercial area south of Sebawaing along M-25 and various other locations along the coast. There are some instances of commercial development that appear on the future land use map and are not adjacent to any of the conditions outlined above, those areas are existing commercial uses.

Industrial

In addition to supporting commercial development, the County also understands what a strong industrial base can do to support a regional economy. Huron County residents believe economic development is important for the County and are looking for a steady source of employment for the future generations. In the survey, one of the most common recurring themes was a need for well-paying steady jobs, much like large industry supplies. The industrial future land use category corresponds to the industrial zoning district, which is intended to accommodate wholesale activities, warehousing and light industrial facilities as uses by right and the more intense, heavy industrial facilities as uses authorized by special approval. The industrial future land use category is similar to the business category, in that the County wants to support this development in appropriate locations and does not want to adversely affect large areas of successful agricultural land. The majority of the areas that allow industrial land uses on the future land use map are located outside of cities or villages. Industrial operations will likely require city services such as water and wastewater facilities, therefore it makes the most sense to encourage those uses where those facilities are available. There are also several industrial locations in other parts of the county in Winsor, Sheridan, Sherman and Bloomfield. These are locations of existing industrial operations.



State Land

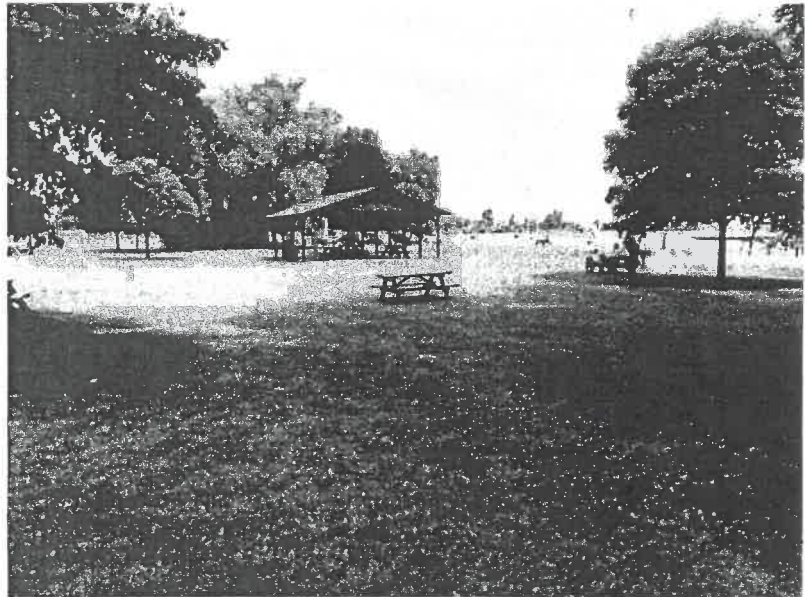
In addition to the land use categories above, there are 9,700 acres of state land in County-zoned townships. It is important to include this land on the future land use map and in future development decisions because it will likely not disappear in the near future. This land is part of the Verona State Game Area, Gagetown State Game Area, Fish Point State Game Area, Wildfowl Bay Wildlife Area, and other smaller unnamed state land areas. The lands are located throughout the County, with large stands in Sigel, Grant, Fairhaven, and Hume Townships. Regarding zoning, the majority of this land is part of the state game area zoning district, but some can be found in the agricultural or R-1 zoning districts. The intention of this future land use category is to keep this land wild and undeveloped, by preserving the woodlands and natural wildlife habitats that exist within them, while also providing recreational opportunities such as hunting and fishing.

County Parks

The Huron County Road Commission is responsible for providing parks and recreation services to County residents and visitors. In total, there are 10 County parks located throughout the County, and 5 are located in County-zoned Townships. These parks are along the coastline and are valuable resources for Huron County residents and businesses. These land uses will most likely not be changing in the future and are points of interest to be considered when there is a land use change on the future land use map. Planned improvements to County Parks are documented in the County Recreation Plan.

Airport

The Huron County Memorial Airport is a County-owned publicly used airport located south of the City of Bad Axe. The airport has been in operation since 1949 and has 4 asphalt runways. The airport has its own zoning ordinance to provide additional safety and protections to the airport users and residents in the vicinity of the airport. The zone outlines a 10-mile radius within Huron County, where there are restrictions to the development of hazards to aircraft landing



and taking off on the flight paths connected to airport runways. The ordinance establishes permitting standards to structures depending on their distance from the airport. The airport is located in Verona Township, and is not under County zoning jurisdiction, however the height restrictions outlined in the airport zoning ordinance could have an effect on Sigel, Bingham, and Sheridan Townships therefore it is important to consider its location in the future land use planning effort.

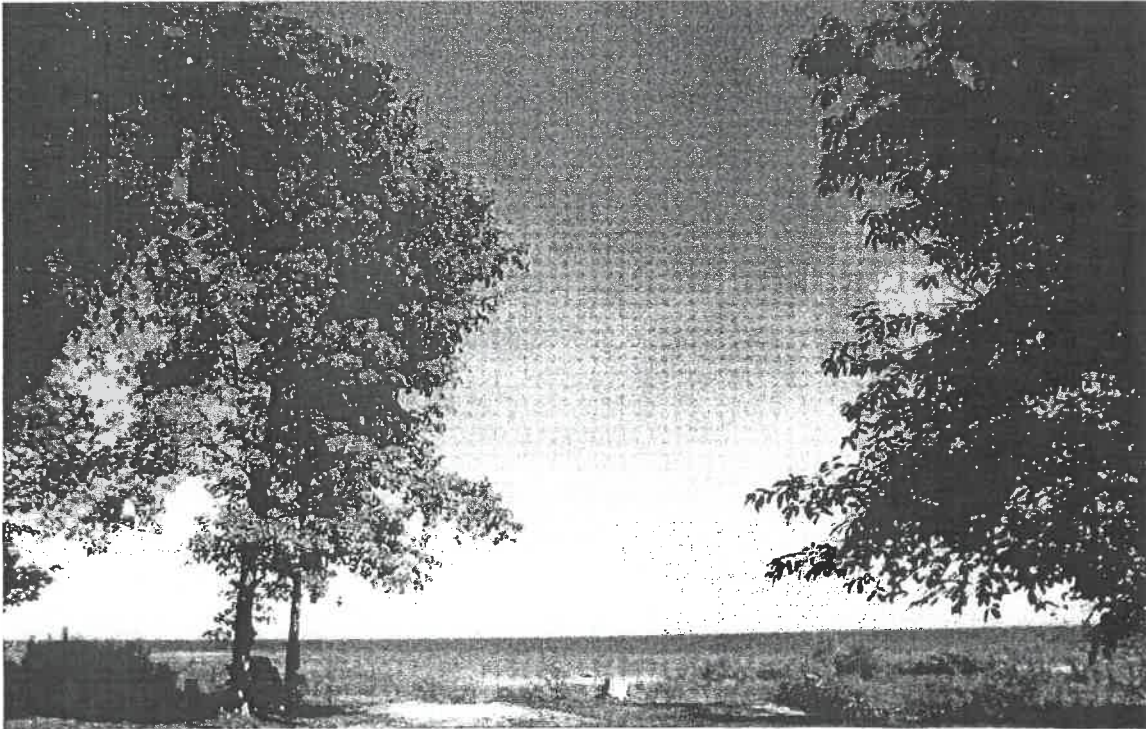
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ITC Thumb Loop

The ITC Thumb Loop traverses four county zoned townships, including Sebewaing, Brookfield, Winsor, and Sigel. The Thumb Loop is a 345kV electrical transmission line that was recently installed in Huron County to support the new electrical generation due to wind energy development. This transmission line is an important part of Michigan's energy grid and represents a large investment in the County for future energy generation.

Water Lines

The Cities and Villages of Huron County provide municipal water to residents within, or just outside their jurisdictional boundaries. There are several instances where a City or Village also provides water to homes or businesses in the surrounding townships, but each case is based on location and proximity to a municipality. In the past, the County put together an ad-hoc water committee to determine any possibility of expansion of water services. The committee concluded that there were three separate regions which could be connected with water service and that the expansion would assist in providing a convenient location for large development outside of the local municipalities and creating more opportunities in the County. However, the County does not have any jurisdictional authority over installing new water systems in local municipalities. Therefore, the future land use map identifies areas where new water systems may be beneficial to development.



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FUTURE LAND USE HURON COUNTY, MICHIGAN

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DTE and the Thumb Electric Co-Operative are the primary electricity provider in the County.

In 2016 and 2017 Lincoln and Sherman Township residents voted to become self-zoned townships. They currently have a Planning Commission, but have not adopted a zoning ordinance.



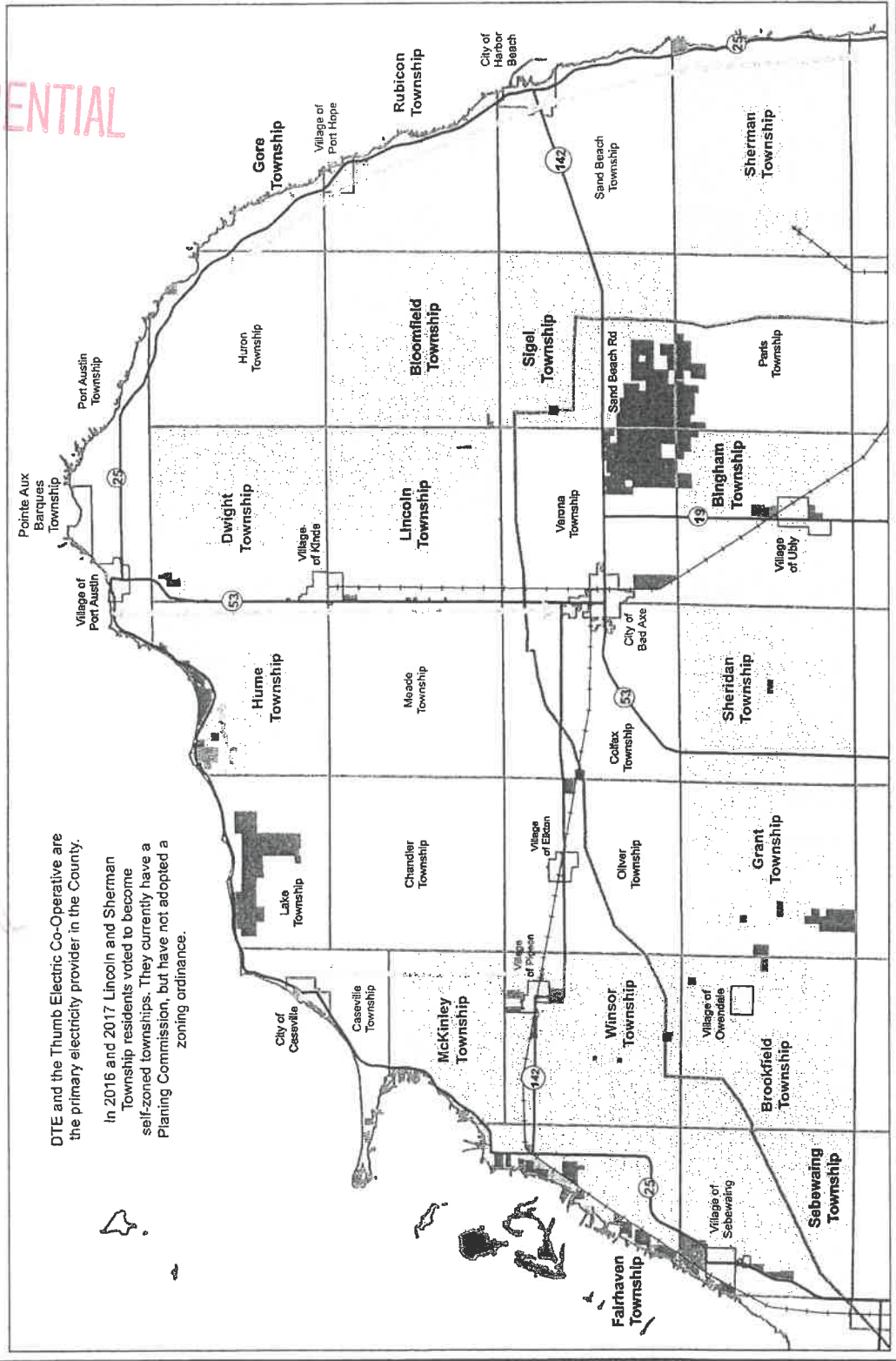
LEGEND

- Agricultural
- Business
- Industrial
- General Single-Family Residential
- Single Family Residential (small structures)
- Multiple Family Residential
- County Parks
- State Land
- Airport
- Water Lines (approximate location)
- ITC Thumb Loop
- ITC Substation

Spicer
group

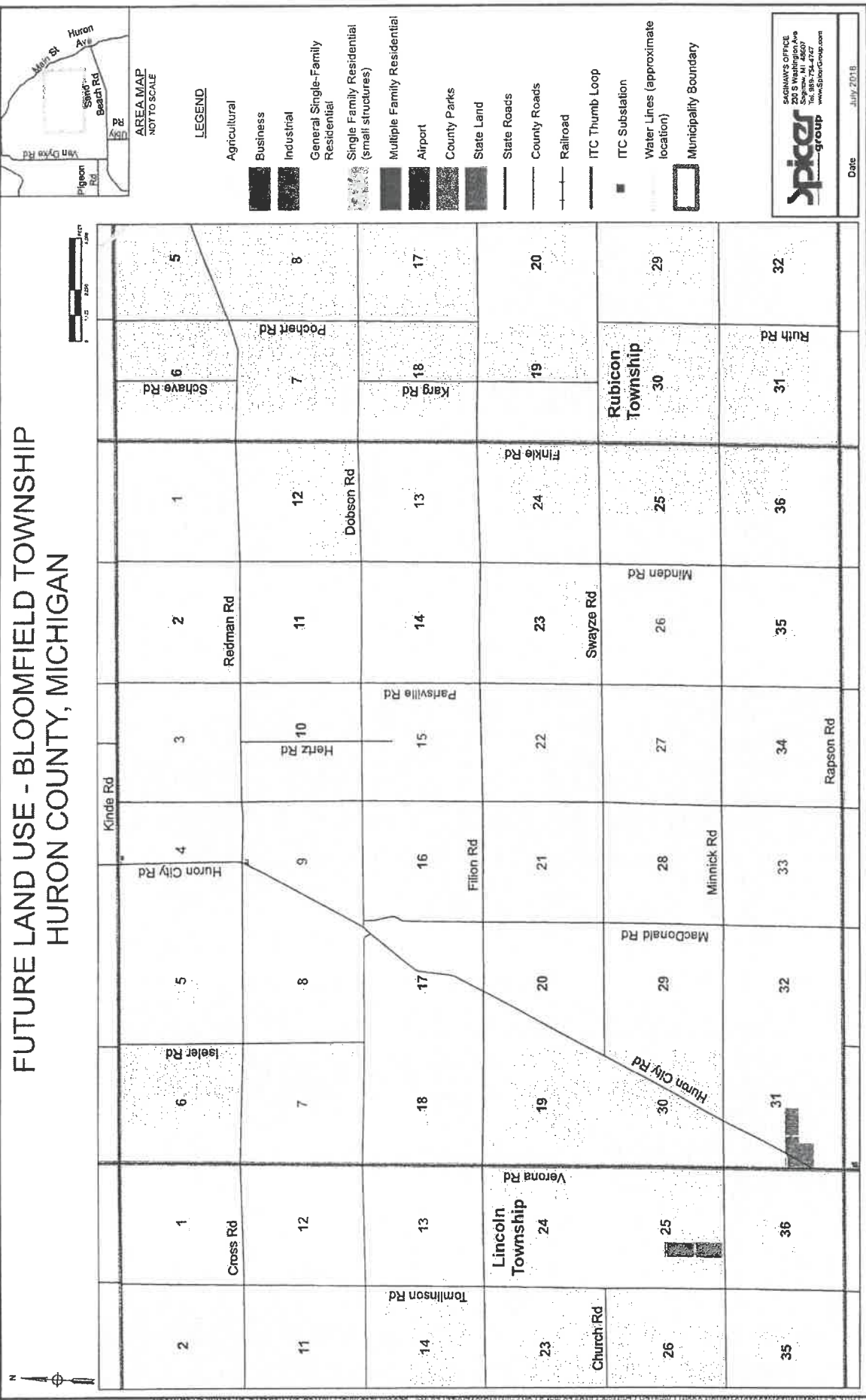
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Date August 2018



M:\HURON\011213\2018\HURON COUNTY\MAPS\LEGEND\LEGEND.DWG (REV. 08/14/18) - JENNIFER CLAWSON

FUTURE LAND USE - BLOOMFIELD TOWNSHIP HURON COUNTY, MICHIGAN



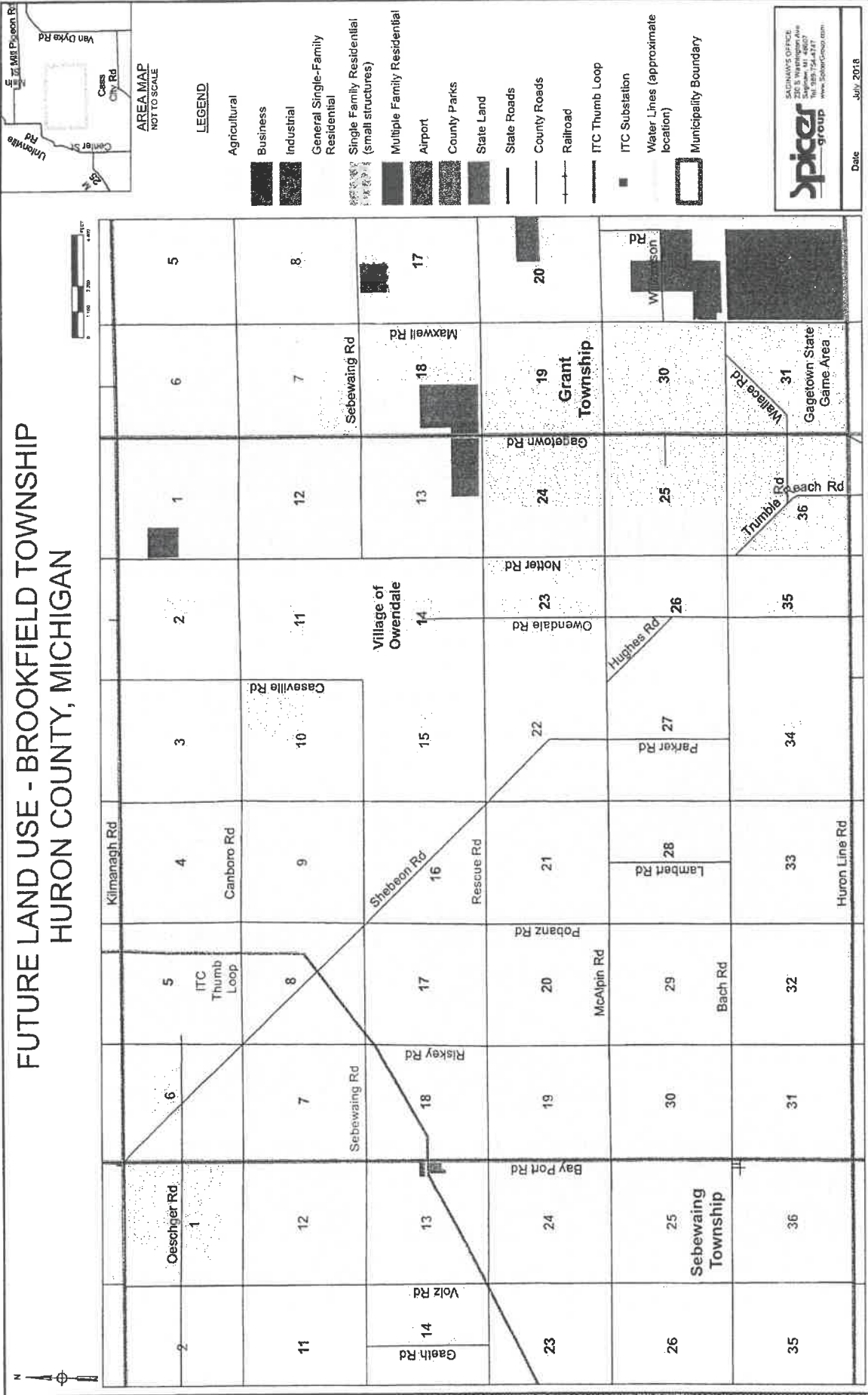
SPICER GROUP

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Date: July 2018

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FUTURE LAND USE - BROOKFIELD TOWNSHIP HURON COUNTY, MICHIGAN



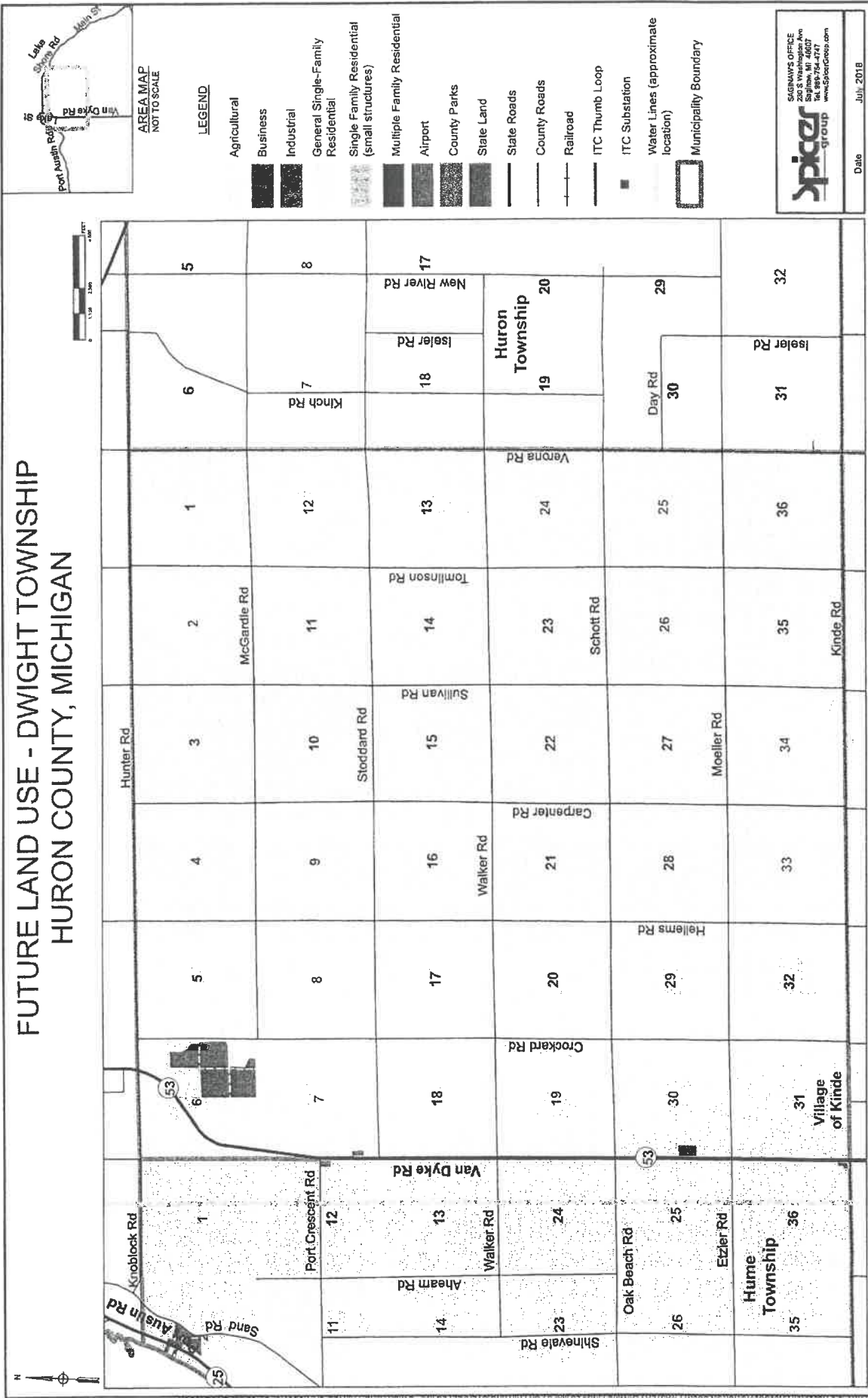
Date July 2018

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FUTURE LAND USE - DWIGHT TOWNSHIP HURON COUNTY, MICHIGAN



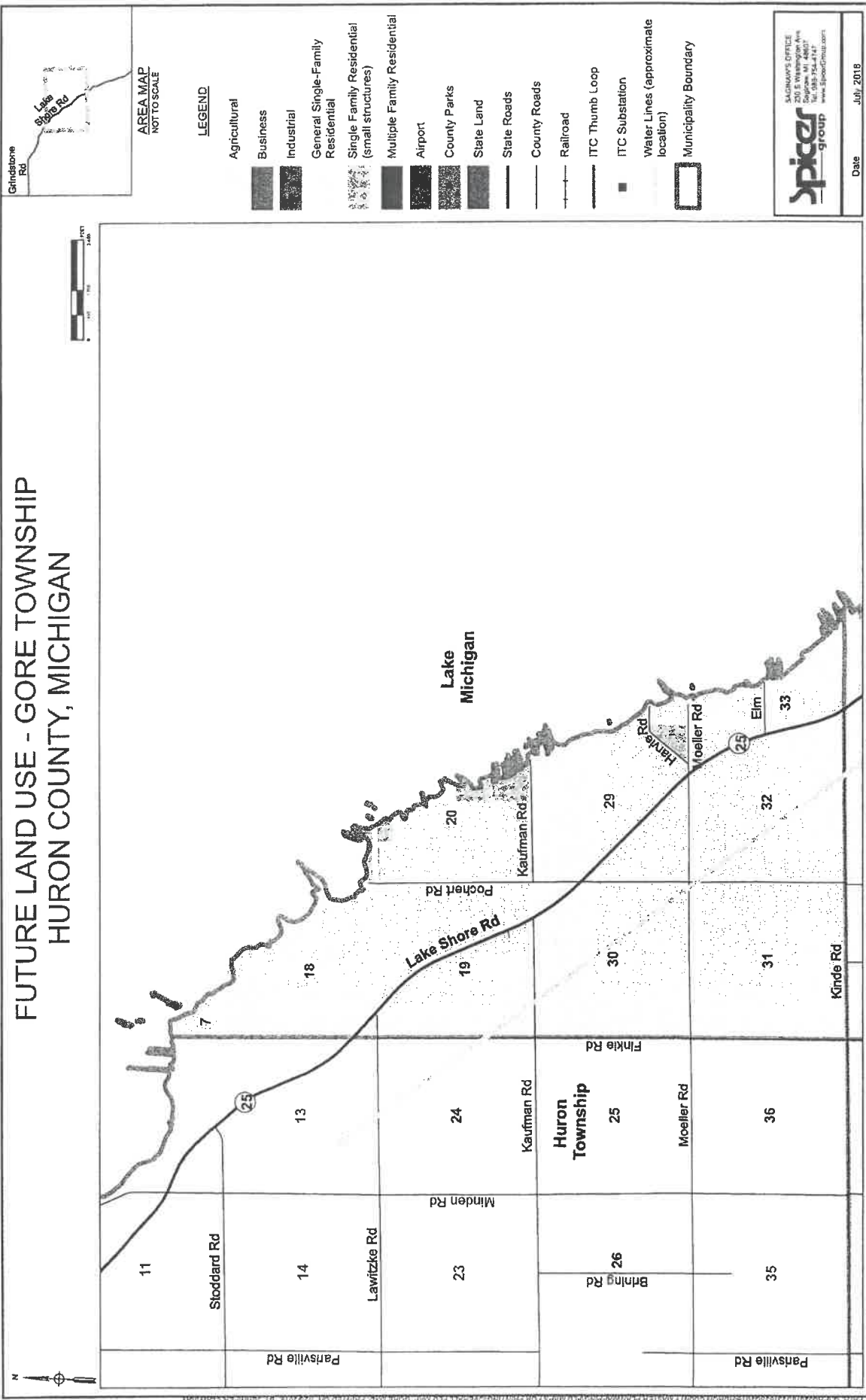
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FUTURE LAND USE - GORE TOWNSHIP HURON COUNTY, MICHIGAN



AREA MAP
NOT TO SCALE

LEGEND

- Agricultural
- Business
- Industrial
- General Single-Family Residential
- Single Family Residential (small structures)
- Multiple Family Residential
- Airport
- County Parks
- State Land
- State Roads
- County Roads
- Railroad
- ITC Thumb Loop
- ITC Substation
- Water Lines (approximate location)
- Municipality Boundary

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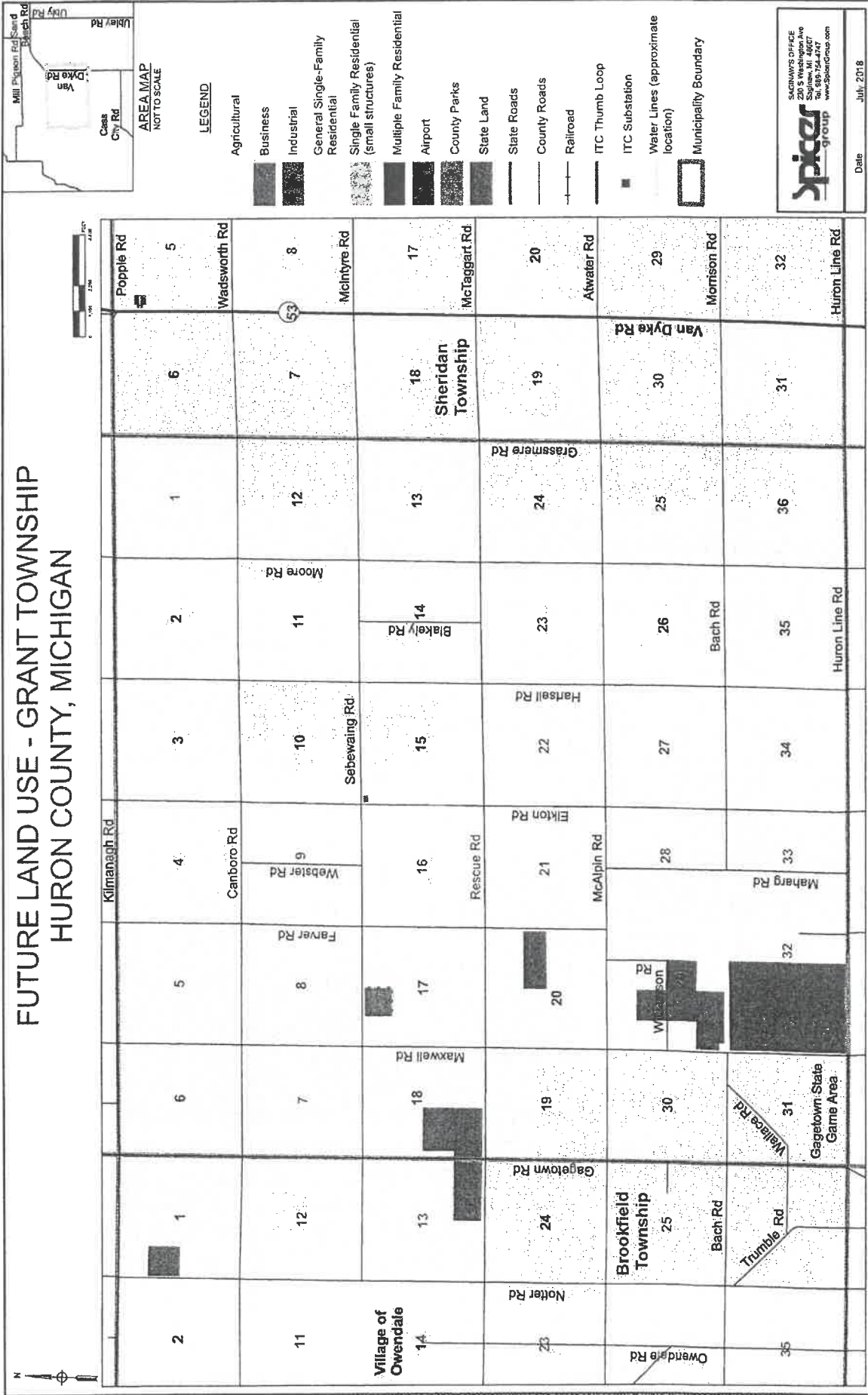
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PART 9: PROPOSED FUTURE LAND USE ZONES FOR GORE TOWNSHIP, HURON COUNTY, MICHIGAN. PREPARED BY: JEFFREY CLAWSON, JEFFREY CLAWSON & ASSOCIATES, INC. DATE: JULY 2019.

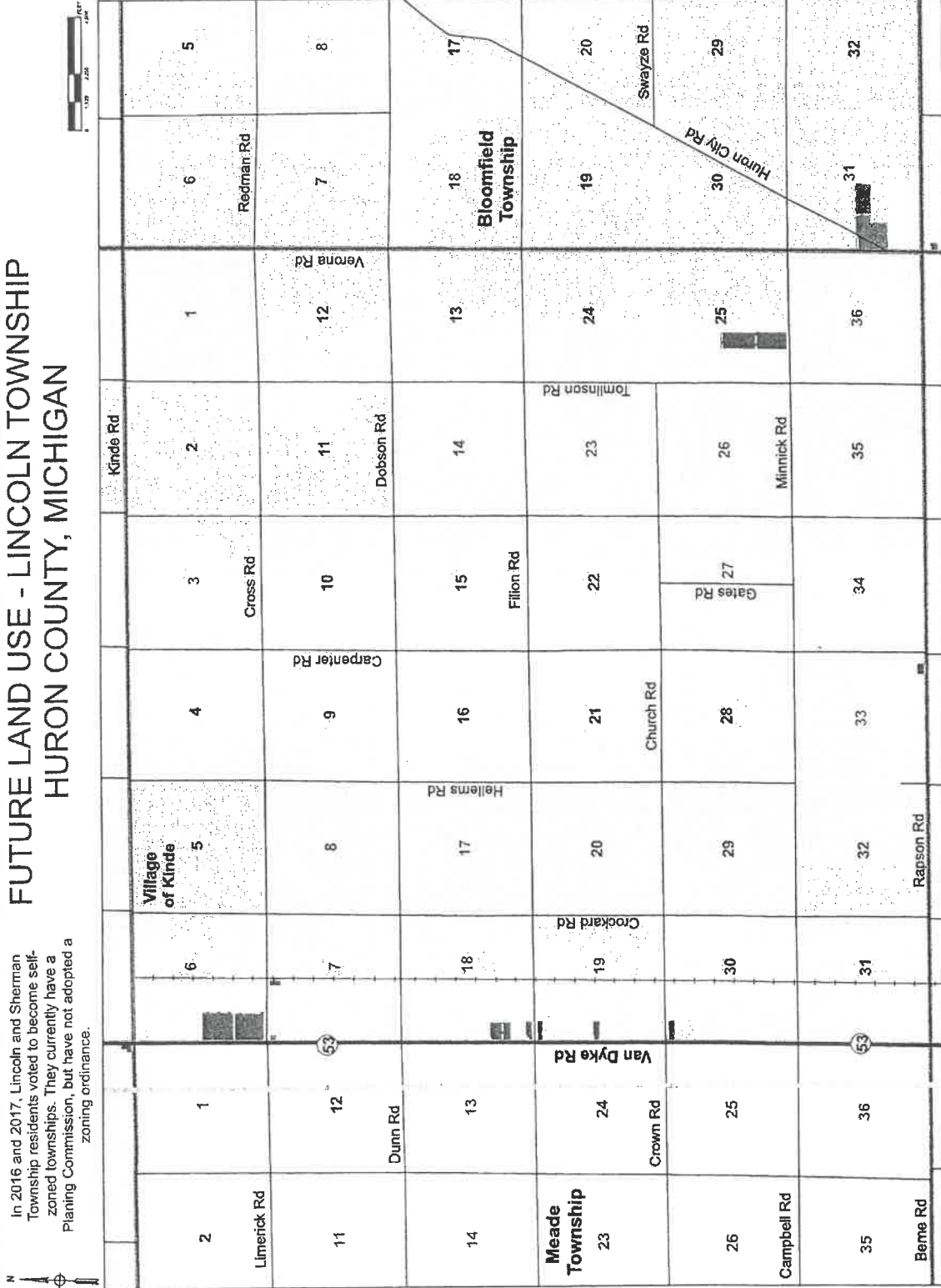
FUTURE LAND USE - GRANT TOWNSHIP HURON COUNTY, MICHIGAN



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In 2016 and 2017, Lincoln and Sherman Township residents voted to become self-zoned townships. They currently have a Planning Commission, but have not adopted a zoning ordinance.

FUTURE LAND USE - LINCOLN TOWNSHIP HURON COUNTY, MICHIGAN



AREA MAP
NOT TO SCALE

- LEGEND**
- Agricultural
 - Business
 - Industrial
 - General Single-Family Residential
 - Single Family Residential (small structures)
 - Multiple Family Residential
 - Airport
 - County Parks
 - State Land
 - State Roads
 - County Roads
 - Railroad
 - ITC Thumb Loop
 - ITC Substation
 - Water Lines (approximate location)
 - Municipality Boundary

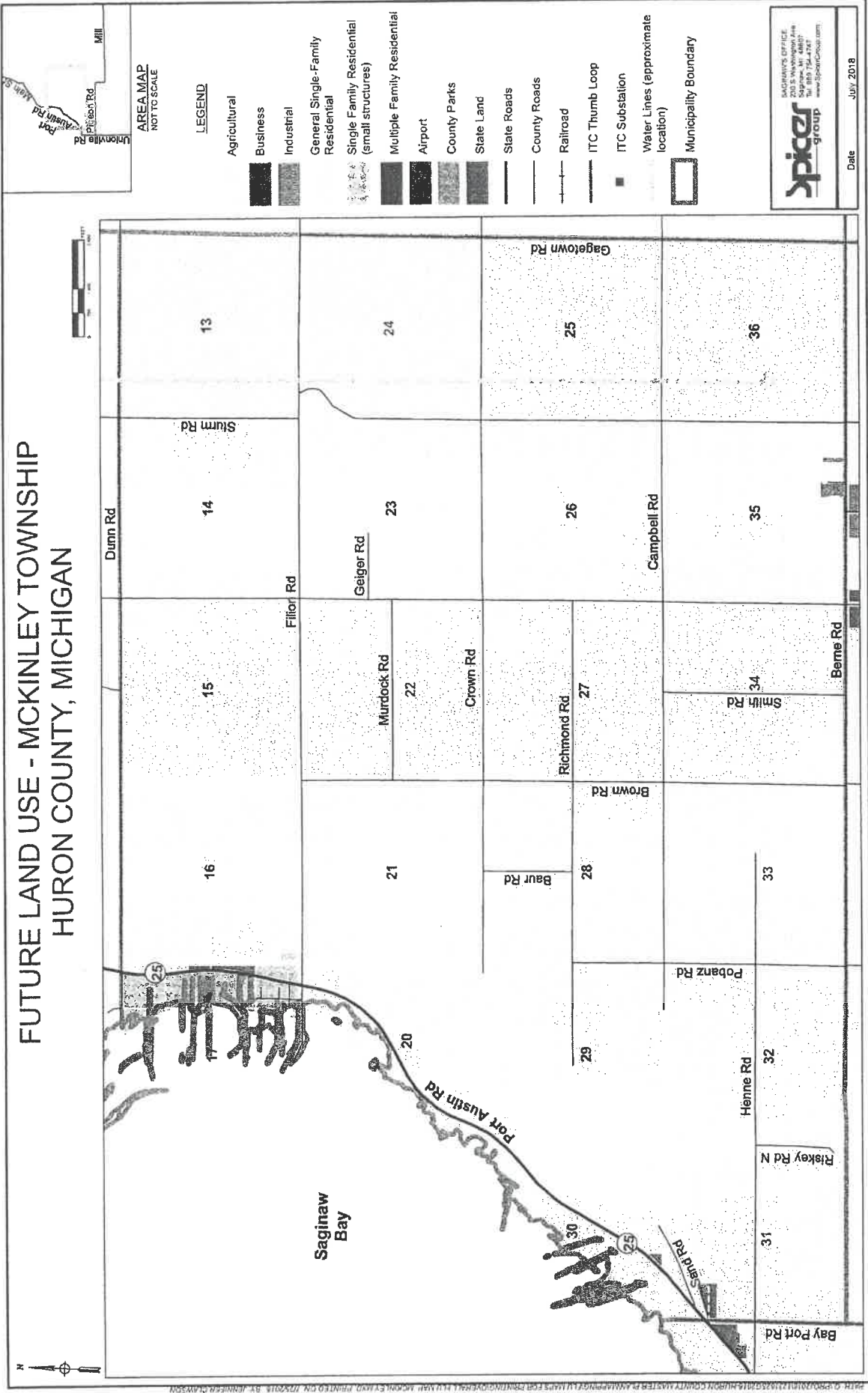
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FUTURE LAND USE - MCKINLEY TOWNSHIP HURON COUNTY, MICHIGAN



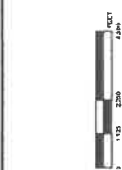
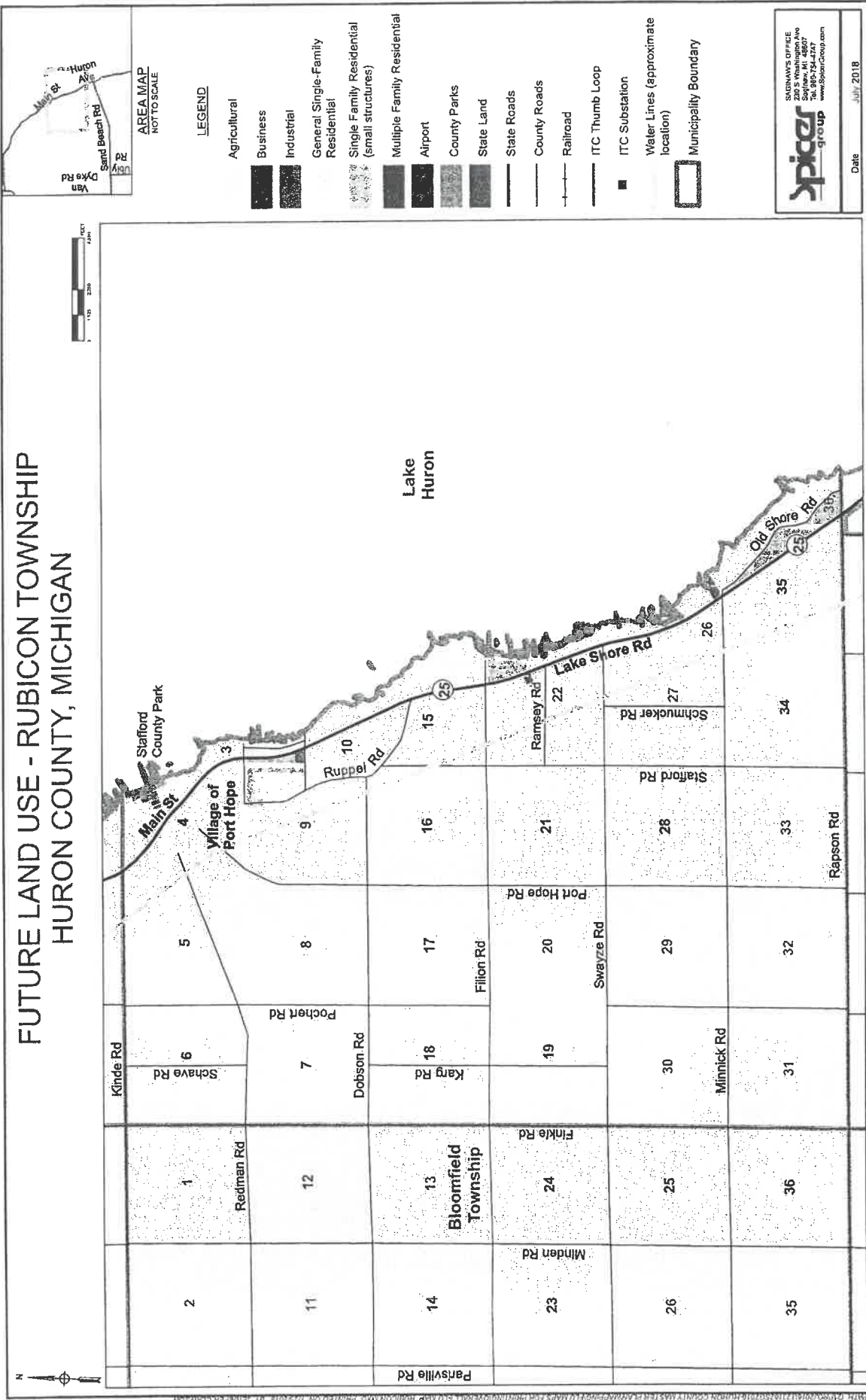

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PART 9: 8/20/2018 11:53:20 AM HURON COUNTY MASTER PLANNING (L) MAPS FOR FUTURE DEVELOPMENT, HURON COUNTY, MICHIGAN, PRINTED ON 7/20/18 BY JENNIFER CLAWSON

FUTURE LAND USE - RUBICON TOWNSHIP HURON COUNTY, MICHIGAN



LEGEND

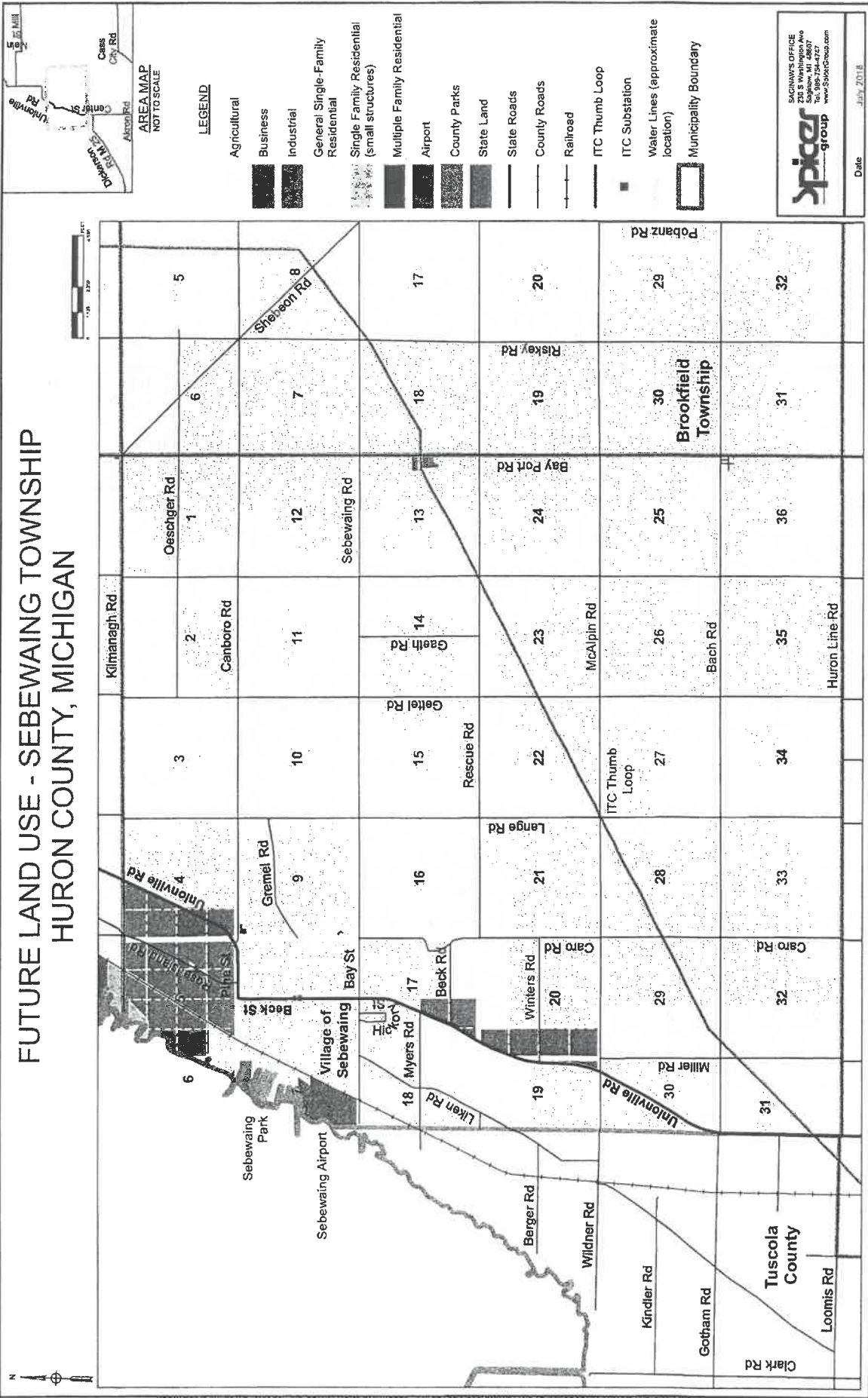
- Agricultural
- Business
- Industrial
- General Single-Family Residential
- Single Family Residential (small structures)
- Multiple Family Residential
- Airport
- County Parks
- State Land
- State Roads
- County Roads
- Railroad
- ITC Thumb Loop
- ITC Substation
- Water Lines (approximate location)
- Municipality Boundary

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FUTURE LAND USE - SEBEWAING TOWNSHIP HURON COUNTY, MICHIGAN



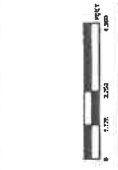


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FUTURE LAND USE - SHERIDAN TOWNSHIP HURON COUNTY, MICHIGAN



| | | | | | | | | |
|----|----|----|----|----|----|----|----|----|
| 2 | 1 | 5 | 4 | 3 | 2 | 1 | 6 | 5 |
| 11 | 12 | 7 | 8 | 10 | 11 | 12 | 7 | 8 |
| 23 | 13 | 18 | 17 | 15 | 14 | 13 | 18 | 17 |
| 26 | 24 | 19 | 20 | 21 | 22 | 23 | 19 | 20 |
| 35 | 36 | 31 | 32 | 33 | 34 | 35 | 31 | 32 |

- LEGEND**
- Agricultural
 - Business
 - Industrial
 - General Single-Family Residential
 - Single Family Residential (small structures)
 - Multiple Family Residential
 - Airport
 - County Parks
 - State Land
 - State Roads
 - County Roads
 - Railroad
 - ITC Thumb Loop
 - ITC Substation
 - Water Lines (approximate location)
 - Municipality Boundary

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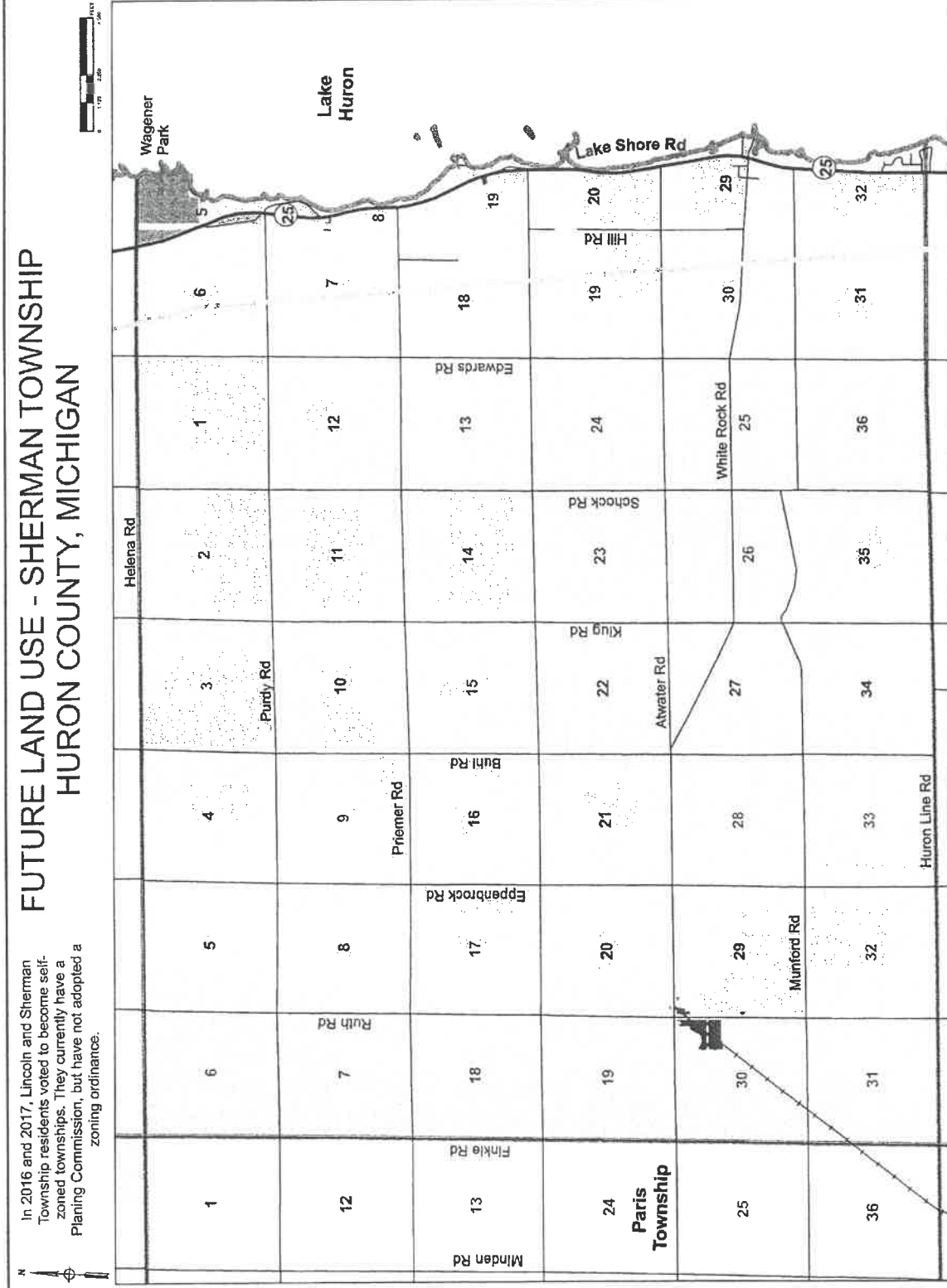
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DATE: 07/20/2018 11:17:53 AM HURON COUNTY MASTER PLAN (SHERIDAN TWP) MAPS FOR PRINTING OVERALL TWP MAP: SHERIDAN TWP. PRINTED ON: 7/20/18 BY: JENNIFER CLAWSON

FUTURE LAND USE - SHERMAN TOWNSHIP HURON COUNTY, MICHIGAN

In 2016 and 2017, Lincoln and Sherman Township residents voted to become self-zoned townships. They currently have a Planning Commission, but have not adopted a zoning ordinance.



AREA MAP
NOT TO SCALE

LEGEND

- Agricultural
- Business
- Industrial
- General Single-Family Residential
- Single Family Residential (small structures)
- Multiple Family Residential
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- County Roads
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- ITC Thumb Loop
- ITC Substation
- Water Lines (approximate location)
- Municipality Boundary



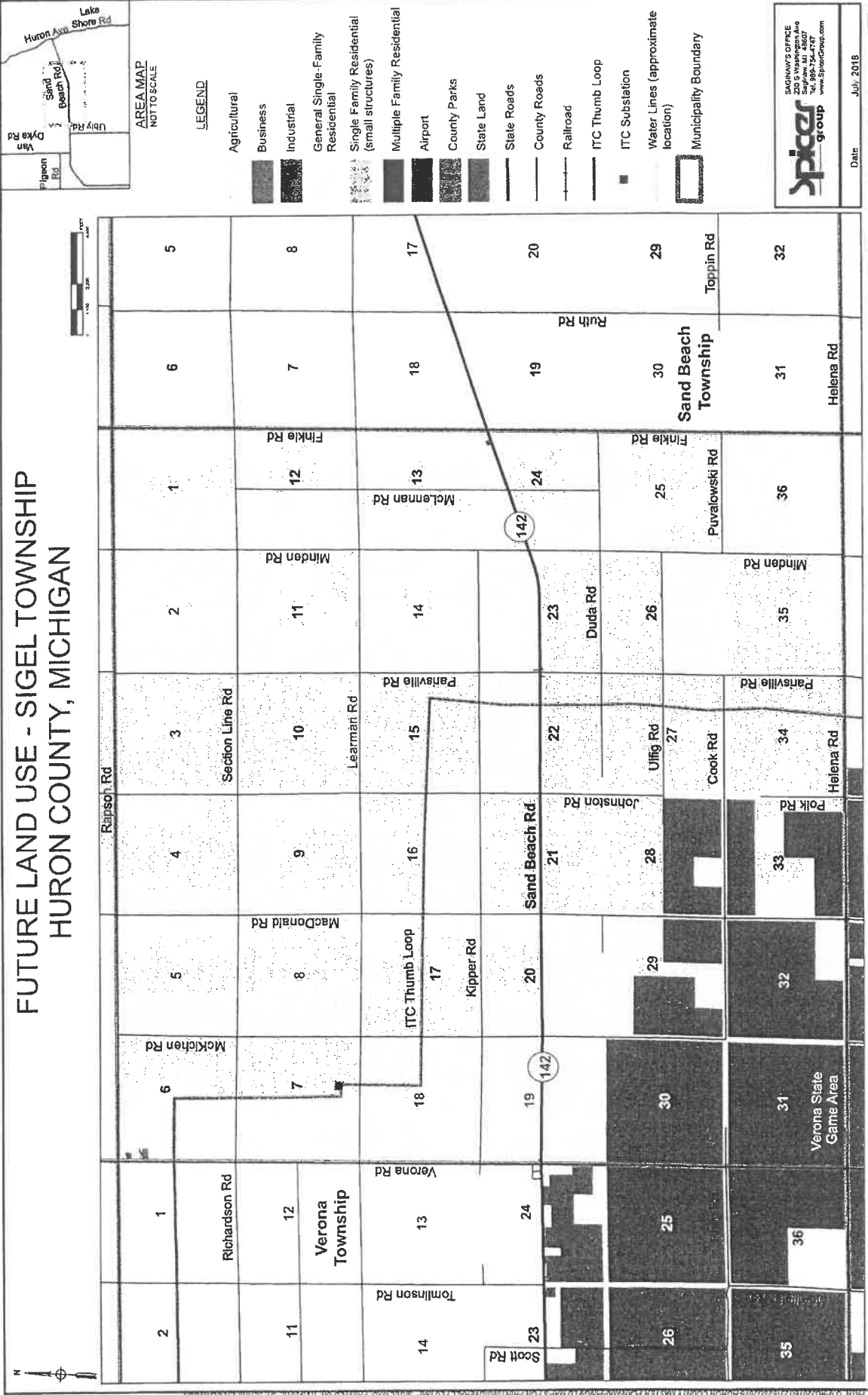
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FUTURE LAND USE - SIGEL TOWNSHIP HURON COUNTY, MICHIGAN




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Plan Implementation

Master planning should be a continuous process. The objectives, policies, and recommended actions are based on the community's understanding of today's problems, technology and implementation procedures. A plan review and update procedure are necessary to address changes in community values, living patterns and perception. Therefore, the Plan will be monitored annually, updated periodically, and evaluated at a minimum of every five (5) years. The only way to make a plan truly work is to use the plan, to reference it, and to correct it or change it when it is not accurately reflecting current changes and conditions.

The stakeholders in the monitoring and update process should include the Planning Commission, County Board of Commissioners, staff, and a representative sample of interested citizens. Just as citizen involvement was an integral part of the process that culminated the Plan, it continues to be necessary if the Plan is to remain relevant to the aspirations and needs of the community. Representatives from the schools, business and development communities, and other public agencies and groups concerned with the County should also be included in the review process.

The monitoring process to be conducted annually, involves assessing factors such as socioeconomic data, development activity, changes in technology, and indicators of public opinion. An evaluation of the relevancy of the Plan in light of changing conditions is performed, and the results of the monitoring are reported in the Planning Commission's Annual Report. When the monitoring process reveals changes in the community to a degree that seriously impacts the relevance of the Plan, the Planning Commission will suggest a Plan update. The update is intended to address only those aspects of the Plan found to be outdated and no longer relevant.

Updates will be performed as needed, indicated through the monitoring process. At five-year intervals, a thorough review of the Plan will be performed to evaluate its effectiveness. The main feature of this review would be a study of all the action recommendations. Each recommendation will be examined for continuing relevance and success in implementation. The evaluation will involve two considerations. First, the effectiveness of the technique by which the recommendations were implemented will be examined. Then the action itself will be studied to determine whether the action achieved the desired objective. Those recommended actions not implemented will also be reviewed for continuing relevance and probability of implementation. This review will help the Planning Commission adjust the Plan to better achieve the goals and objectives, implement County policies, and maintain the credibility of the Plan.



Implementation: Additional Resources

The key to a well-planned community is the actual day-to-day use of planning documents, like this Master Plan. Because this Plan is to be the basis for future zoning and planning decisions, it is imperative that the Plan be available to County staff, elected and appointed officials, as well as business owners, developers, stakeholders from the region, and the general public.

The implementation of this Master Plan depends on its continual use by the Planning Commission and the Board of Commissioners. In its best form, implementation of this Plan will result in the achievement of the goals. Implementation is often the most difficult portion of the planning process because, while the intentions of the County, its residents, and stakeholders are clear, the legal ways and available planning tools are often not. The following provides a review of additional tools available to the County and the ways in which they can be used to ensure that the goals of this Plan are met.

Zoning Changes and Ordinance Updates

Zoning is integral to implementing the goals and actions of this Master Plan in part by providing the legal and spatial framework which promotes the orderly development of a community. With a new Master Plan in place, the County has an opportunity to update its current zoning ordinance to reflect the goals adopted in this Plan. Many of the changes may be minor but provide a substantial benefit. For example, the Planning Commission may redefine permitted land uses in certain zoning districts, and review how the zoning ordinance is actually used and find ways to make it a more user-friendly document through the use of graphics and images. Another step may be to review the cases that have come before the Planning Commission to determine if there are trends that may need to be addressed in the zoning ordinance itself.

Code Enforcement

The administration and enforcement of the zoning ordinance by County officials is integral to its effectiveness, as with all County codes. Enforcement must be thorough and consistent. Procedures such as building inspections, site plan review, and other ordinance administration tasks should be assigned to responsible entities, whereas more discretionary review authority should be assigned to the Planning Commission and more nondiscretionary measures may be assigned to the Zoning Administrator. All ordinance enforcement should be done regularly and thoroughly, and resourced with the staff levels and/or consulting assistance necessary to fulfill day-to-day functions.



Identifying and Pursuing Capital Improvements

According to state law, the County can form and implement a capital improvements program (CIP). Given the reality of limited available funding at any time, and if the various County departments would collaboratively, prioritize specific projects, and create implementation schedules, the process for long-range planning would be a coordinated effort. A Capital Improvements Program which serves as a schedule for implementing public capital improvements, which acknowledges current and anticipated demands, and which recognizes present and potential financial resources available to the County, could be regularly implemented by the various departments in the County. Long-range programming of public improvements should prioritize projects on the basis of community need, be developed within the County's financial constraints, be based upon a sound financial plan, and allow for program flexibility. Per the Planning Act, the Planning Commission would be the coordinating arm works the various agencies in this process. The Planning Commission should also continually evaluate community conditions and development factors, and continually review proposed improvements and related expenditures. With a clear understanding of the development and land use changes in the County, the Planning Commission could review projects to assure conformity with the Master Plan and make recommendations regarding prioritizing projects and methods of financing.

Grant Opportunities to Support Proposed Capital Improvements

This Master Plan can be used to identify potential funding sources to support proposed capital improvement projects, such as grant and loan programs to help fund priorities. At the Federal level, there is the Housing and Community Facilities Programs, the Public Works and Economic Development Program, Rural Business Enterprise Grants, and the USDA Rural Development Water and Wastewater Program, to name a few. At the State level, a funding source may be the Michigan Department of Natural Resources, which offers grants from the Land and Water Conservation Fund, and the Michigan Natural Resources Trust Fund, and the Michigan Department of Environmental Quality State Revolving Loan Fund (SRF/DWRF). Finally, the Michigan Department of Transportation also administers Federal funds appropriated under the Moving Ahead for Progress in the 21st Century Act (Public Law 112-141, MAP-21).

Regional Cooperation

Development, growth, and changes in all of the municipalizes in Huron County will affect quality of life and growth within the County-zoned Townships. All of the communities are interrelated in that trends in overall population loss and declining housing value affect the entire area. The County has the opportunity to pursue cooperative and mutually beneficial relationships with all the communities in and surrounding Huron County, including Sanilac and Tuscola Counties. Cooperative relationships can provide an opportunity for the full impact of new or expanding developments to be considered as well as provide an opportunity for communities to pool resources and skills to tackle similar challenges. At the least, the County zoned Townships should actively participate in reviewing and evaluating their neighboring communities' Master Plans. Further, the County should invite comment and suggestions from the other Huron County communities on major developments within County-zoned Townships.

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Local Planning Capacity

Good planning practice and State law requires the County to review its Plan every five years and update it if necessary. A cursory review of the Plan should take place annually by both the Planning Commission and the Board of Commissioners. This provides an opportunity to consider the goals and intent of the Plan against pending capital improvements, budget requests, and other developments that may impact the County. The County provides important planning and development services with limited staff. When change confronts the County, it will be necessary to review the time and effort expended to address development proposals. Adjustments in fees and changes in the application processes may be necessary in order to cover the costs associated with new or expanding development.

Additional Implementation Tasks

Many of the steps necessary to ensure the successful implementation of this Master Plan might not be obvious or are not part of an established County fund. The implementation efforts that have been described in this section focus on the residents, landowners, and other stakeholders in County-zoned Townships. To date, Huron County has taken steps to keep residents and others involved and informed. The successful implementation of this Plan depends greatly on County officials using the Plan and residents being aware of the Plan, knowing its purpose, and understanding how they might be able to use it. This can be accomplished by consistently referring to the document when making zoning decisions and even referencing the Plan, when appropriate, during site plan reviews and variance decisions. Further, the County should keep a copy of the Future Land Use map on display and provide a copy of the Plan for review at all times. Citizen participation should be strongly encouraged in a continuing planning process. The successful implementation of planning proposals will require citizen understanding and support.

Conclusion

The Huron County Planning Commission has discussed and examined issues regarding the future of the County, in addition to receiving valuable input from County residents in the form of a public survey.

As a result, the Planning Commission has compiled a complete, carefully prepared document that represents the data, efforts, and collective thoughts of Huron County residents. This Master Plan is only the beginning of a program of action for the next 10 to 20 years. Because the future well-being of Huron County depends upon rational, coordinated action, the County stands ready to meet with any person or group interested in the future development of the area. The County will be available to help and guide those who need advice or wish to be part of the Master Plan when acted upon.

Carrying out the Master Plan is a task which is led by County officials and the Planning Commission but is also dependent upon every responsible citizen of the County. By working together, Huron County will continue to be a desirable, attractive, convenient, and welcoming community.

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Appendix A – Master Demographics

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Huron County: Comparative community data with the State of Michigan, and the United States

| | Huron County | | Michigan | | United States | |
|--|--------------|---------|----------|---------|---------------|--------|
| | 2010 | 2000 | 2010 | 2000 | 2010 | 2000 |
| POPULATION | | | | | | |
| % Change to Population, 2000 - 2010 | 3.1% | 3.07% | 0.6% | 9.9% | 9.7% | NA |
| Population age 5 years and younger | 1,069 | 1,989 | 6.0% | 6.8% | 6.5% | 6.8% |
| 5 to 19 | 5,876 | 7,548 | 20.9% | 22.2% | 20.4% | 21.8% |
| 20 to 24 | 1,652 | 1,544 | 4.3% | 6.8% | 7.0% | 6.7% |
| 25 to 44 | 2,472 | 9,051 | 25.3% | 24.7% | 26.6% | 30.2% |
| 45 to 64 | 10,338 | 8,936 | 24.9% | 27.8% | 26.4% | 22.0% |
| 65+ | 23,995 | 7,006 | 37.4% | 33.8% | 33.0% | 14.4% |
| Population age 19 and younger | 22,071 | 9,537 | 26.4% | 29.9% | 23.9% | 26.6% |
| Median Age | 46.5 | 41.2 | NA | 35.5 | 37.2 | NA |
| Average Household Size | 2.27 | 2.56 | NA | 2.49 | 2.58 | NA |
| Black & Hispanic Population | 779 | 660 | 1.8% | 1.7% | 2.5% | 2.9% |
| Foreign Born Population* | 494 | 408 | 1.1% | 5.3% | 5.3% | 11.1% |
| Total Housing Units | 21,199 | 20,430 | 100.0% | 100.0% | 100.0% | 100.0% |
| Occupied | 14,246 | 14,597 | 75.4% | 85.4% | 88.6% | 91.0% |
| Vacant | 6,953 | 5,833 | 32.6% | 28.6% | 11.4% | 9.0% |
| Owner-occupied | 11,726 | 13,174 | 82.4% | 72.1% | 73.8% | 66.2% |
| Renter-occupied | 2,520 | 2,423 | 16.6% | 27.9% | 26.2% | 33.8% |
| Median Rounding Value (\$)* | 92,100 | 104,900 | NA | 115,600 | 115,600 | NA |
| Median Rounding Value (\$) (adjusted for 2010 US Dollars)* | 92,100 | 132,824 | NA | 146,384 | 174,600 | NA |
| AGE OF HOUSING STRUCTURE* | | | | | | |
| 2010+ | 33 | NA | 0.2% | NA | 0.5% | NA |
| 2000-2009 | 1,480 | 8,510 | 6.9% | 41.6% | 14.9% | NA |
| 1990-1999 | 2,852 | 12,212 | 13.4% | 60.3% | 18.2% | 17.0% |
| 1980-1989 | 3,139 | 2,486 | 14.8% | 12.0% | 13.8% | 15.8% |
| 1970-1979 | 2,159 | 3,368 | 10.2% | 16.3% | 13.3% | 18.5% |
| 1960-1969 | 2,159 | 2,244 | 10.2% | 10.9% | 11.1% | 13.7% |
| 1950-1959 | 4,023 | 4,833 | 18.9% | 23.7% | 16.4% | 20.0% |
| 1939 or earlier | 4,464 | 5,013 | 21.2% | 24.5% | 13.5% | 15.0% |
| % Housing units built prior to 1980 | 14,581 | 15,458 | 68.9% | 74.7% | 56.9% | 67.2% |
| EDUCATIONAL ATTAINMENT: 25 years and older* | | | | | | |
| Bachelors or higher | 3,956 | 2,710 | 10.9% | 14.9% | 13.6% | 24.4% |
| Some college or associate's | 1,856 | 6,102 | 5.7% | 24.5% | 29.5% | 27.3% |
| High school | 10,563 | 10,712 | 43.9% | 43.9% | 31.3% | 28.6% |
| No High School diploma | 2,978 | 5,422 | 11.5% | 21.7% | 16.6% | 19.6% |
| Median Household Income (\$)* | 41,290 | 35,315 | NA | 47,375 | 51,771 | NA |
| Median Household Income (\$), adjusted for 2010 US Dollars | 41,290 | 44,719 | NA | 58,562 | 51,771 | NA |
| Per Capita Income (\$) | 28,798 | 17,851 | NA | 22,188 | 27,386 | NA |
| Individuals below Poverty Level (%) | 5.3% | 3.6% | 10.1% | 10.5% | 15.7% | 12.4% |
| OCCUPATION BY INDUSTRY* | | | | | | |
| Agriculture, forestry, fishing and hunting, and mining | 3,252 | 1,231 | 7.9% | 5.6% | 1.9% | 1.9% |
| Construction | 841 | 913 | 5.9% | 2.0% | 6.2% | 6.8% |
| Manufacturing | 2,947 | 4,372 | 13.9% | 21.5% | 10.4% | 14.1% |
| Wholesale trade | 371 | 311 | 1.7% | 1.5% | 2.8% | 3.6% |
| Retail trade | 1,366 | 1,679 | 6.4% | 7.7% | 11.0% | 11.7% |
| Transportation and warehousing, and utilities | 859 | 615 | 4.0% | 2.9% | 4.9% | 4.1% |
| Information | 183 | 319 | 0.8% | 1.5% | 2.1% | 2.1% |
| Finance, insurance, real estate, and rental and leasing | 243 | 605 | 1.1% | 1.7% | 4.9% | 6.4% |
| Professional, scientific, management, administrative, and waste management | 9,783 | 11,116 | 46.2% | 53.3% | 30.7% | 33.8% |
| Arts, entertainment, recreation, accommodation and food services | 5,700 | 6,822 | 27.0% | 32.5% | 19.8% | 19.9% |
| Public administration | 500 | 697 | 2.4% | 3.4% | 5.0% | 4.9% |
| Mean commute time (minutes)* | 20.4 | 20.8 | NA | 24.1 | 25.5 | NA |
| TRANSPORTATION BEHAVIOR* | | | | | | |
| Drove alone | 10,045 | 13,001 | 76.3% | 82.6% | 76.6% | 75.7% |
| Public transit | 1,276 | 1,253 | 8.4% | 6.9% | 5.0% | 4.2% |
| Walked | 42 | 96 | 0.3% | 0.6% | 0.3% | 0.7% |
| Other | 492 | 667 | 3.0% | 4.7% | 1.8% | 1.2% |
| Worked at home | 344 | 130 | 1.6% | 0.8% | 1.2% | 0.3% |
| | 554 | 836 | 2.6% | 5.4% | 4.3% | 3.3% |

*These data are from the U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimates.

Appendix B – State Equalized Value

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SEV by Tax Class by Jurisdiction in Huron County, 2010 and 2015

| Area City | Agriculture | | | Residential | | | Commercial | | | Industrial | | | Total Real Property | | | Total Personal Property | | | Total Real and Personal | | |
|---------------------|--------------------|----------------------|--------------|----------------------|--------------------|---------------|--------------------|--------------------|--------------|-------------------|-------------------|--------------|----------------------|----------------------|--------------|-------------------------|--------------------|---------------|-------------------------|----------------------|--------------|
| | 2010 (\$) | 2015 (\$) | % Change | 2010 (\$) | 2015 (\$) | % Change | 2010 (\$) | 2015 (\$) | % Change | 2010 (\$) | 2015 (\$) | % Change | 2010 (\$) | 2015 (\$) | % Change | 2010 (\$) | 2015 (\$) | % Change | 2010 (\$) | 2015 (\$) | % Change |
| Bar Ab | 115,100 | 86,900 | -10.3% | 40,037,200 | 34,560,000 | -13.7% | 30,811,100 | 35,998,000 | 16.2% | 2,886,600 | 2,194,400 | -23.9% | 82,740,300 | 72,840,300 | -11.9% | 10,519,300 | 6,898,600 | -33.3% | 92,234,600 | 81,538,100 | -11.7% |
| Hatke Beach | | 240,800 | 100.0% | 26,980,500 | 25,762,400 | -4.5% | 4,977,600 | 18,487,000 | 270.7% | 16,487,000 | 12,975,000 | -21.3% | 42,374,800 | 42,374,800 | 0.0% | 18,176,600 | 23,110,200 | 27.0% | 71,256,800 | 66,434,800 | -6.8% |
| Cassville | | | | 34,741,800 | 34,741,800 | 0.0% | -10,076,100 | -10,076,100 | 0.0% | 31,600 | 31,600 | 0.0% | 44,848,300 | 44,848,300 | 0.0% | 1,341,300 | 1,341,300 | 0.0% | 46,189,600 | 46,189,600 | 0.0% |
| Township | | | | | | | | | | | | | | | | | | | | | |
| Bingham | 36,511,600 | 38,671,600 | 5.8% | 28,537,300 | 32,651,975 | 14.4% | 3,948,300 | 4,095,000 | 14.2% | 2,059,900 | 2,047,500 | -0.6% | 71,057,100 | 97,105,775 | 36.7% | 5,836,200 | 7,752,100 | 32.9% | 76,893,300 | 104,857,875 | 36.4% |
| Bloomfield | 41,228,000 | 76,978,900 | 86.5% | 4,980,800 | 4,783,600 | -3.8% | 268,000 | 803,000 | 189.2% | 2,886,600 | 2,194,400 | -23.9% | 46,475,600 | 82,475,600 | 77.5% | 738,200 | 2,495,900 | 313.0% | 47,223,600 | 106,971,500 | 128.3% |
| Brookfield | 43,729,800 | 88,535,700 | 101.1% | 9,675,300 | 7,702,900 | -20.5% | 508,600 | 768,900 | 50.9% | 311,800 | 155,400 | -49.8% | 53,226,600 | 98,175,000 | 84.4% | 1,219,200 | 53,642,100 | 4,299.8% | 54,445,800 | 151,805,500 | 178.8% |
| Cassville | 7,029,800 | 14,063,700 | 100.2% | 282,475,500 | 190,549,300 | -32.5% | 13,365,700 | 4,461,900 | -66.7% | 351,000 | 172,900 | -48.2% | 283,222,189 | 209,266,700 | -26.1% | 4,207,300 | 3,315,800 | -21.2% | 287,429,489 | 212,582,500 | -26.0% |
| Chandler | 43,898,500 | 82,488,200 | 88.5% | 8,902,600 | 6,647,700 | -25.4% | 69,000 | 94,500 | 37.0% | 178,400 | 178,400 | 0.0% | 50,311,300 | 88,408,800 | 77.7% | 5,108,700 | 124,654,300 | 2,402.2% | 50,827,700 | 214,381,100 | 321.7% |
| Colfax | 45,473,500 | 76,613,000 | 69.5% | 34,686,800 | 31,462,600 | -9.3% | 11,573,000 | 11,285,500 | -2.4% | 8,900 | 440,000 | 4,944.4% | 92,045,900 | 119,833,900 | 30.2% | 5,108,700 | 22,163,400 | 331.9% | 87,173,700 | 141,997,300 | 48.1% |
| Dwight | 46,191,400 | 72,692,200 | 57.2% | 11,124,700 | 9,222,700 | -17.3% | 34,246,900 | 1,455,800 | -4.9% | 175,700 | 249,700 | 37.0% | 53,540,500 | 85,095,000 | 56.8% | 623,800 | 930,900 | 49.3% | 54,164,300 | 86,015,900 | 57.0% |
| Fair Haven | 16,023,100 | 29,868,000 | 86.5% | 11,124,700 | 9,222,700 | -17.3% | 1,685,900 | 1,764,400 | 4.6% | 3,200 | 4,500 | 40.6% | 53,540,500 | 85,095,000 | 56.8% | 623,800 | 930,900 | 49.3% | 54,164,300 | 86,015,900 | 57.0% |
| Grant | 30,896,600 | 7,697,000 | -75.1% | 11,124,700 | 9,222,700 | -17.3% | 245,400 | 385,500 | 55.4% | 175,700 | 249,700 | 37.0% | 53,540,500 | 85,095,000 | 56.8% | 623,800 | 930,900 | 49.3% | 54,164,300 | 86,015,900 | 57.0% |
| Huron | 36,628,500 | 51,889,800 | 71.4% | 17,229,900 | 16,029,200 | -6.9% | 2,784,800 | 2,127,200 | -23.9% | 11,500 | 9,700 | -15.7% | 58,192,700 | 107,521,300 | 11.3% | 1,152,300 | 1,868,300 | 62.8% | 67,191,600 | 109,026,800 | 60.9% |
| Lincoln | 13,117,600 | 25,671,800 | 95.7% | 20,123,900 | 18,071,700 | -10.2% | 707,000 | 295,200 | -57.2% | 689,100 | 295,200 | -57.2% | 120,390,700 | 124,621,600 | 3.5% | 1,152,300 | 1,868,300 | 62.8% | 121,548,000 | 126,892,800 | 4.5% |
| Lake | 37,556,300 | 67,298,200 | 79.2% | 106,565,900 | 98,154,000 | -7.9% | 2,541,200 | 2,742,400 | 7.9% | 21,039 | 30,100 | 37.4% | 53,426,400 | 83,511,600 | 54.8% | 2,091,500 | 2,893,900 | 38.2% | 55,517,900 | 86,405,500 | 54.7% |
| McKinley | 21,878,200 | 42,536,800 | 94.4% | 12,894,600 | 11,744,100 | -8.9% | 878,800 | 794,700 | -9.4% | 537,900 | 1,184,300 | 120.6% | 36,199,800 | 56,272,900 | 55.2% | 897,300 | 2,893,900 | 291.0% | 37,088,100 | 63,262,200 | 69.7% |
| Maize | 36,811,600 | 65,894,000 | 78.6% | 14,690,100 | 13,657,400 | -6.9% | 770,000 | 629,300 | -18.3% | 417,900 | 388,300 | -6.9% | 52,079,600 | 60,399,800 | 15.2% | 664,700 | 719,600 | 8.3% | 53,344,300 | 61,089,200 | 15.0% |
| Oliver | 41,310,200 | 89,544,700 | 116.8% | 18,871,350 | 16,882,900 | -10.6% | 3,021,800 | 2,976,400 | -1.5% | 5,210,600 | 3,097,700 | -40.3% | 66,514,400 | 172,871,700 | 64.7% | 9,321,600 | 60,826,400 | 552.5% | 77,196,050 | 173,698,100 | 123.2% |
| Paris | 43,634,900 | 83,413,100 | 81.2% | 6,281,000 | 7,144,600 | 13.7% | 227,000 | 229,500 | 1.1% | 227,000 | 229,500 | 1.1% | 50,143,000 | 90,798,600 | 81.1% | 568,900 | 4,203,900 | 641.6% | 50,708,900 | 94,999,500 | 87.3% |
| Points Aux Barques | | | | 27,875,000 | 25,784,900 | -7.5% | 450,400 | 145,100 | -68.6% | - | - | - | 28,325,400 | 25,337,300 | -10.9% | 188,200 | 135,200 | -28.5% | 28,514,600 | 26,072,200 | -8.6% |
| Port Austin | 11,216,500 | 21,038,600 | 87.6% | 106,877,000 | 103,275,900 | -3.4% | 9,551,000 | 8,243,100 | -13.2% | 301,500 | 246,800 | -16.1% | 127,865,900 | 132,805,300 | 3.9% | 2,551,500 | 2,707,700 | 6.1% | 130,437,400 | 135,513,000 | 3.9% |
| Rubicon | 20,572,000 | 36,996,600 | 78.9% | 32,832,200 | 26,233,500 | -20.1% | 1,649,100 | 1,015,800 | -38.4% | 251,000 | 315,400 | 25.3% | 97,710,000 | 132,866,600 | 36.2% | 1,046,700 | 19,488,200 | 1,819.2% | 98,756,700 | 152,301,600 | 53.5% |
| Sand Beach | 45,074,400 | 87,388,900 | 93.7% | 43,684,600 | 37,817,400 | -13.6% | 1,499,200 | 1,445,100 | -3.6% | 251,000 | 315,400 | 25.3% | 97,710,000 | 132,866,600 | 36.2% | 1,046,700 | 19,488,200 | 1,819.2% | 98,756,700 | 152,301,600 | 53.5% |
| Schwanitz | 39,401,200 | 78,010,670 | 98.0% | 35,462,600 | 35,468,205 | 0.0% | 6,842,800 | 6,899,916 | 0.8% | 3,428,800 | 2,551,000 | -25.6% | 66,155,400 | 123,727,911 | 45.6% | 7,881,600 | 38,381,750 | 380.4% | 74,037,000 | 162,118,541 | 117.2% |
| Shelburne | 41,700,600 | 70,241,200 | 64.3% | 8,278,200 | 7,247,200 | -11.2% | 934,400 | 826,800 | -12.2% | 3,428,800 | 2,551,000 | -25.6% | 50,953,200 | 78,469,200 | 53.9% | 860,700 | 6,191,000 | 544.4% | 51,813,900 | 84,600,200 | 63.0% |
| Sherran | 51,284,400 | 103,556,100 | 101.9% | 32,671,200 | 30,728,500 | -5.9% | 456,700 | 483,300 | 5.9% | 833,400 | 833,100 | -0.0% | 63,235,700 | 132,630,000 | 58.1% | 2,111,300 | 2,326,800 | 10.2% | 65,347,000 | 134,956,800 | 105.9% |
| Stigl | 41,423,400 | 81,035,100 | 97.1% | 5,767,400 | 5,896,800 | 2.2% | 149,000 | 137,400 | -8.4% | 198,600 | 1,321,600 | 572.2% | 47,336,700 | 88,990,000 | 87.2% | 1,103,600 | 87,703,400 | 603.8% | 48,440,300 | 137,697,800 | 183.2% |
| Verona | 26,234,700 | 41,841,300 | 59.5% | 31,427,000 | 31,093,050 | -1.1% | 6,217,000 | 5,986,100 | -3.7% | 1,350,900 | 1,029,100 | -23.8% | 65,209,900 | 78,990,160 | 20.6% | 12,418,700 | 22,845,200 | 84.0% | 77,642,300 | 102,785,850 | 32.4% |
| Winnebago | 41,588,100 | 99,305,500 | 139.5% | 32,321,800 | 28,620,500 | -11.1% | 5,594,300 | 5,773,200 | 3.2% | 8,650,700 | 6,650,400 | -23.1% | 87,248,900 | 139,549,600 | 59.5% | 12,468,100 | 74,623,900 | 497.6% | 96,726,000 | 214,173,500 | 114.7% |
| County Total | 888,460,800 | 1,663,208,070 | 87.2% | 1,104,616,339 | 983,120,710 | -10.1% | 123,044,700 | 110,794,216 | -9.6% | 42,514,100 | 38,449,500 | -9.6% | 2,158,837,939 | 2,811,572,895 | 30.2% | 109,548,300 | 619,397,450 | 465.4% | 2,268,386,139 | 3,430,970,446 | 51.3% |

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Appendix C – Community Input Results

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HURON COUNTY MASTER PLAN

Community Input Survey

Statistics

- Survey available from 9-22-16 to 11-3-16
- 1,241 people responded to the survey
- 793 completed it to the end and hit "submit"

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About the Respondents

- 92% of the respondents lived in Huron County
- At least two responses were received from EVERY political jurisdiction in the County
- Communities with the most responses:
 - Bad Axe 94
 - Colfax Township 71
 - Port Austin Township 60
 - Harbor Beach 54
 - Lincoln Township 54
 - Verona Township 52
 - Sand Beach Township 51
 - Caseville Township 50
 - Meade Township 43
 - Port Austin 49

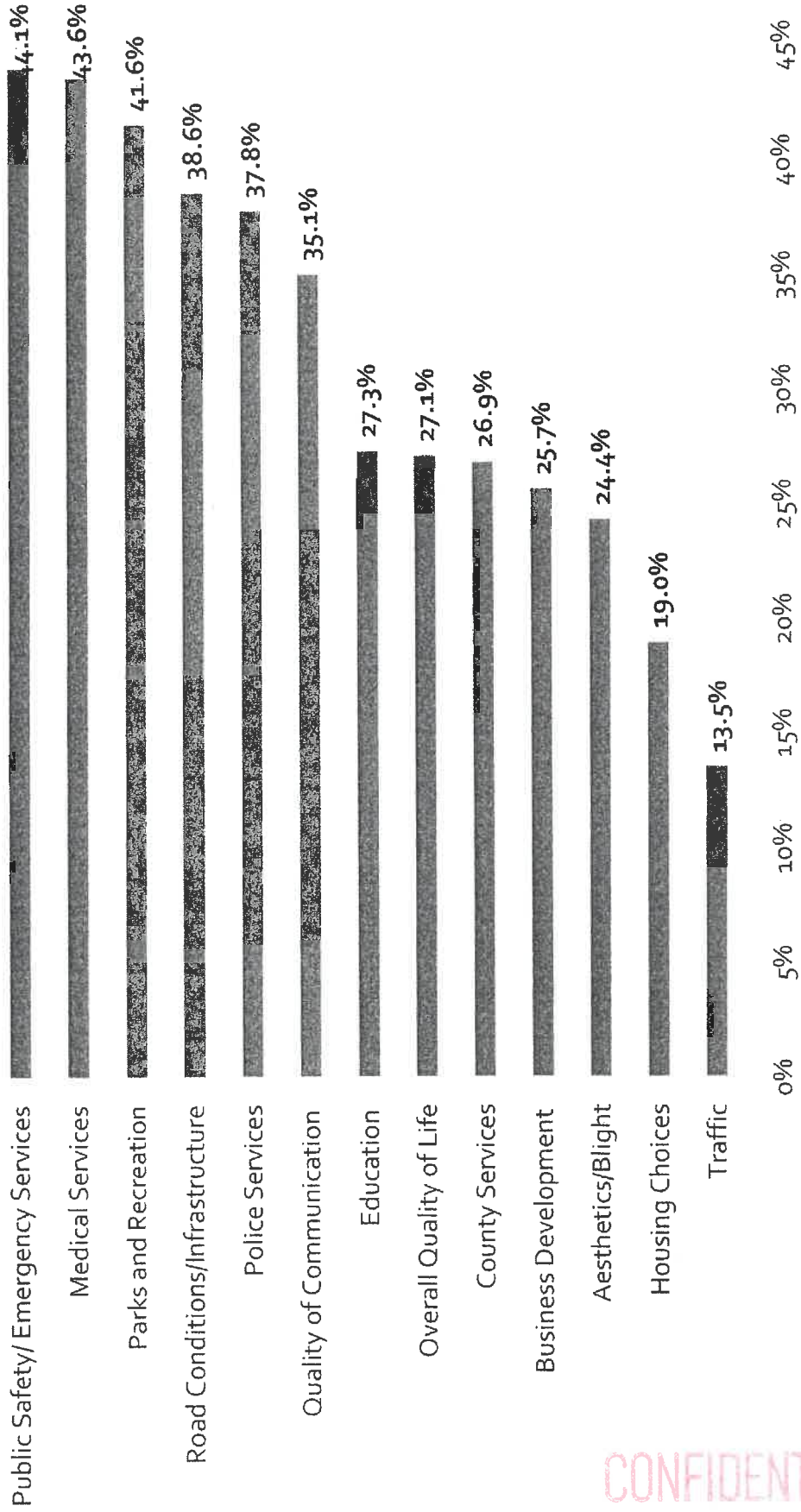
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About the Respondents

- 67.5% of the respondents do not own agricultural property or actively farm in Huron County
- 51.2% of the respondents were age 55 and older
- 26.5% were between the ages of 18 and 44
- Main occupations:
 - 28% - Retired
 - 13% - Agriculture Related
 - 12% - Business
 - 9% - Healthcare
 - 8% - Government
 - (16% - Other)

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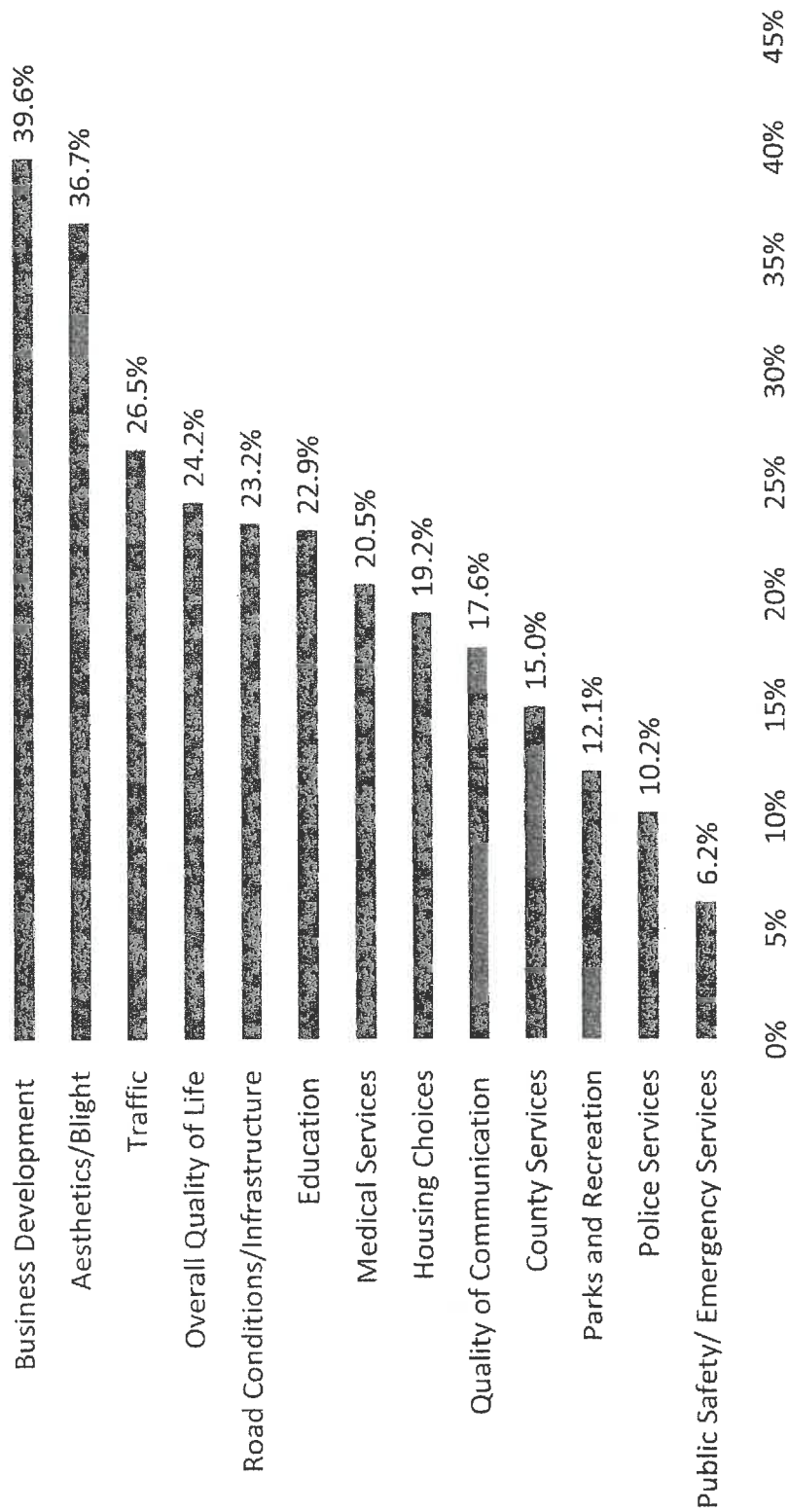
How has Huron County changed in the past 10 years?



Q1 – % who responded “Better” or “Much Better”

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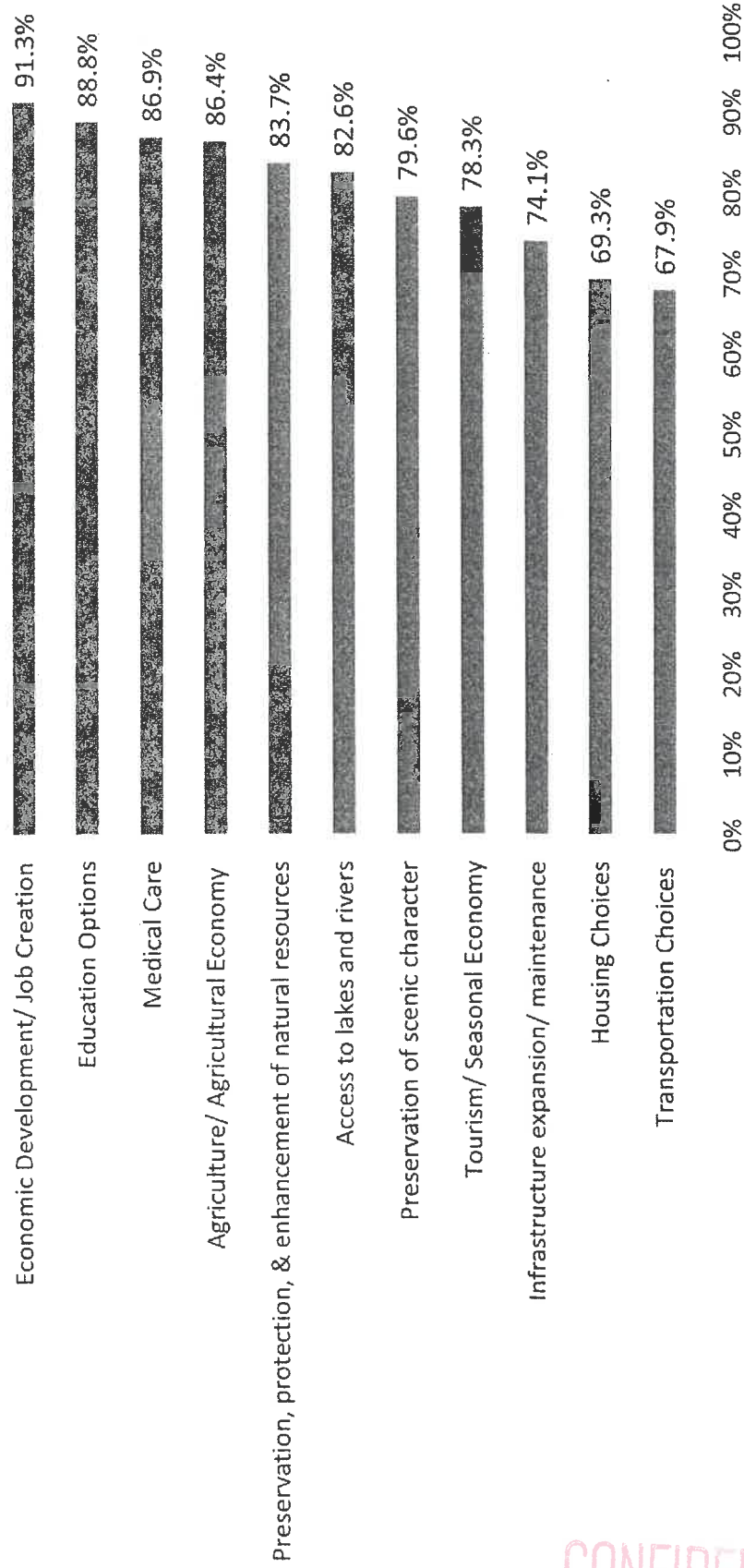
How has Huron County changed in the past 10 years?



Q1 – % who responded “Worse” or “Much Worse”

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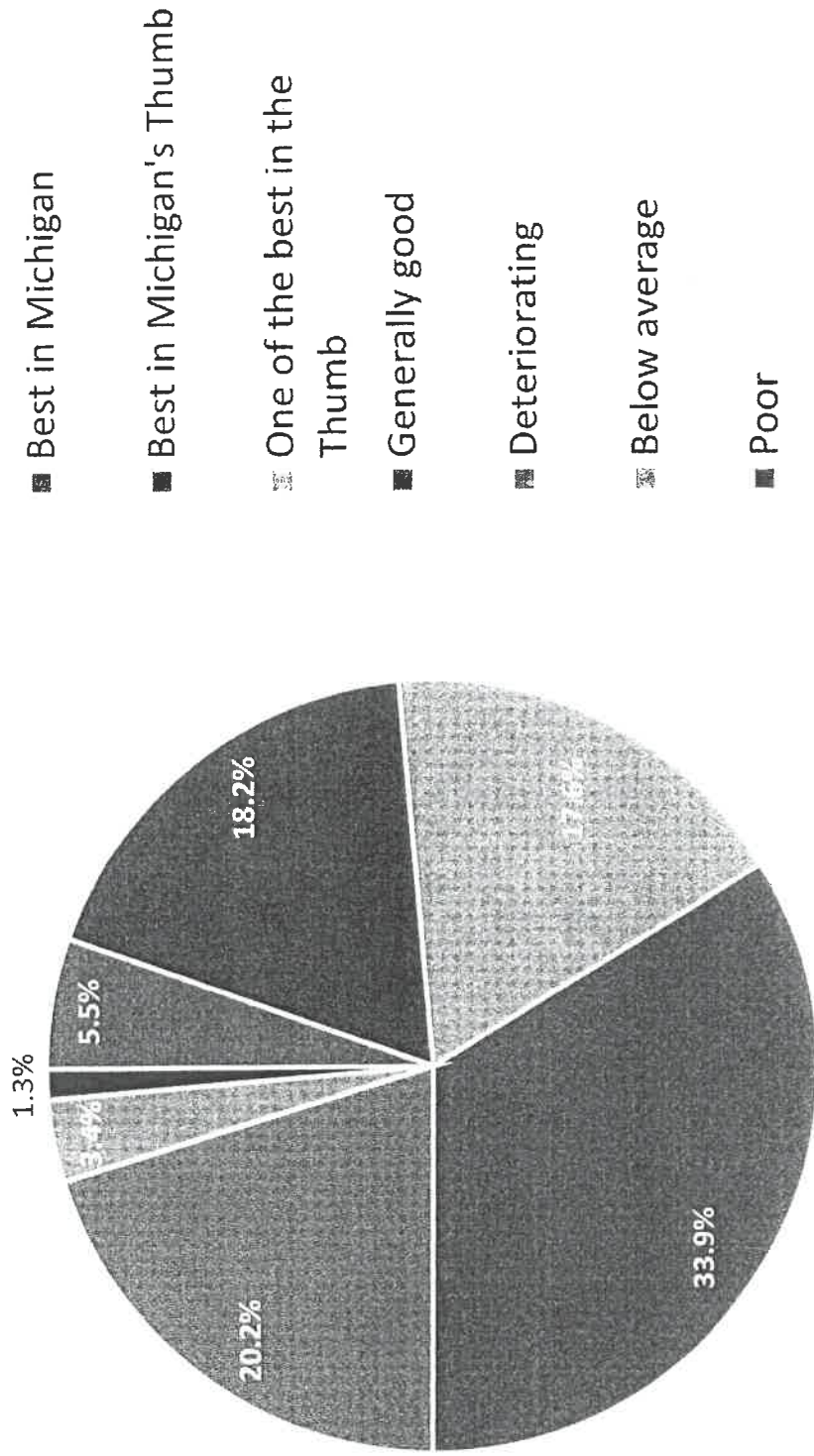
Considering the future of Huron County, how important are the following issues?



Q2 – % who responded “Important” or “Very Important”

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How would you characterize the quality of life in Huron County?



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Are there any other attributes in Huron County that are crucial to your quality of life?

Bus Service **Safety** **Education System**
Lakes and Streams **Doctors** **Port Austin**
Bring People **Peace and Quiet**
Noise Pollution
Quality of Life **Huron County** **Businesses**
Love **Medical** **Wind Turbines** **Natural Reserve**
Stores **Preserve Nature** **Stop Signs**
Working Locally
Low Crime **Places to Shop** **Safe Housing**
Noisy Turbines

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List five things that you would like to have available in Huron County that would improve your quality of life.

New Ice Rink
Year Round
Splash Park

Affordable

Huron County
Small Towns
Bad Axe Family

Clean Air

Support

Bay City

Wind Mills

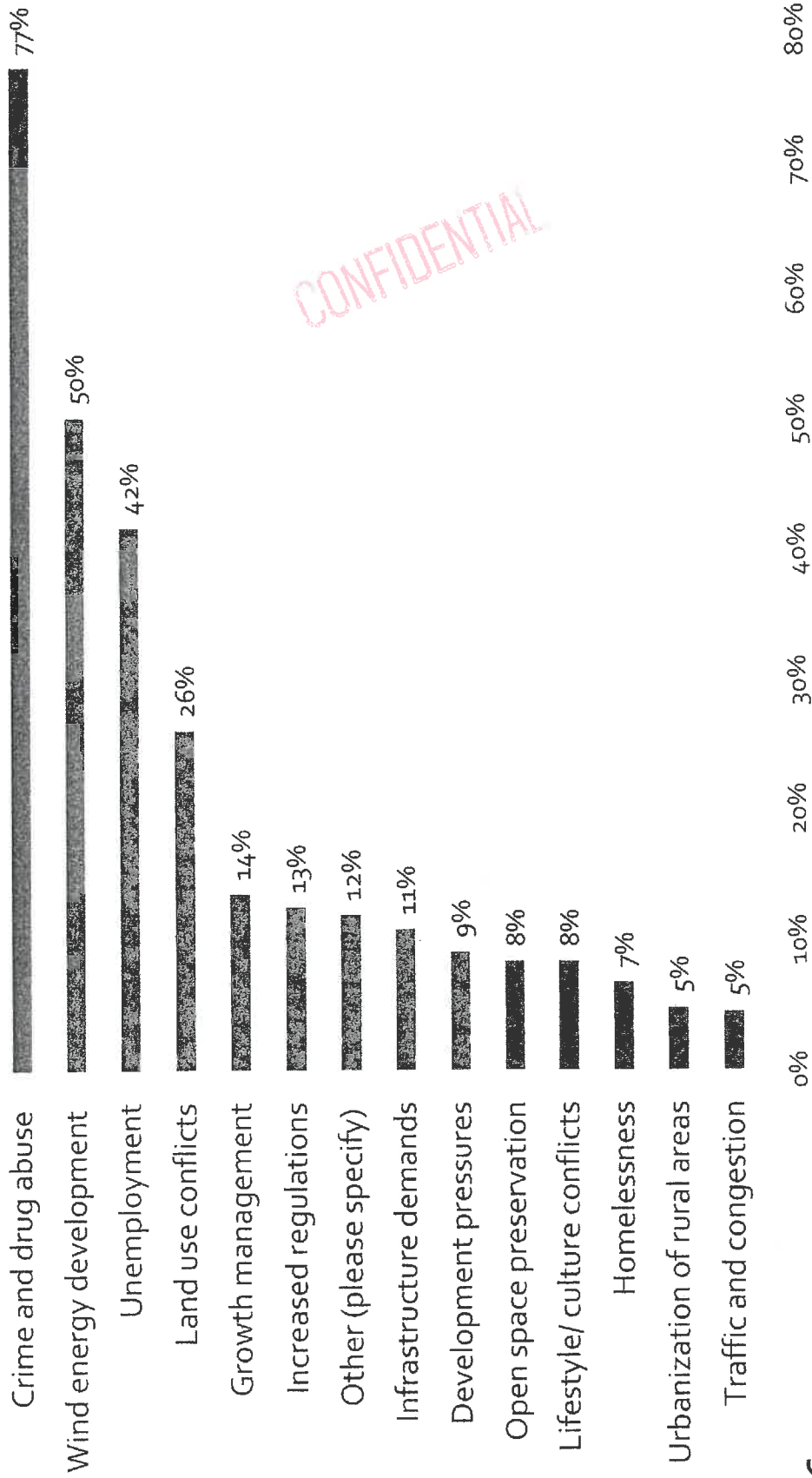
Grocery
Events

Quality of Life

Swimming Pool
Advanced Medical

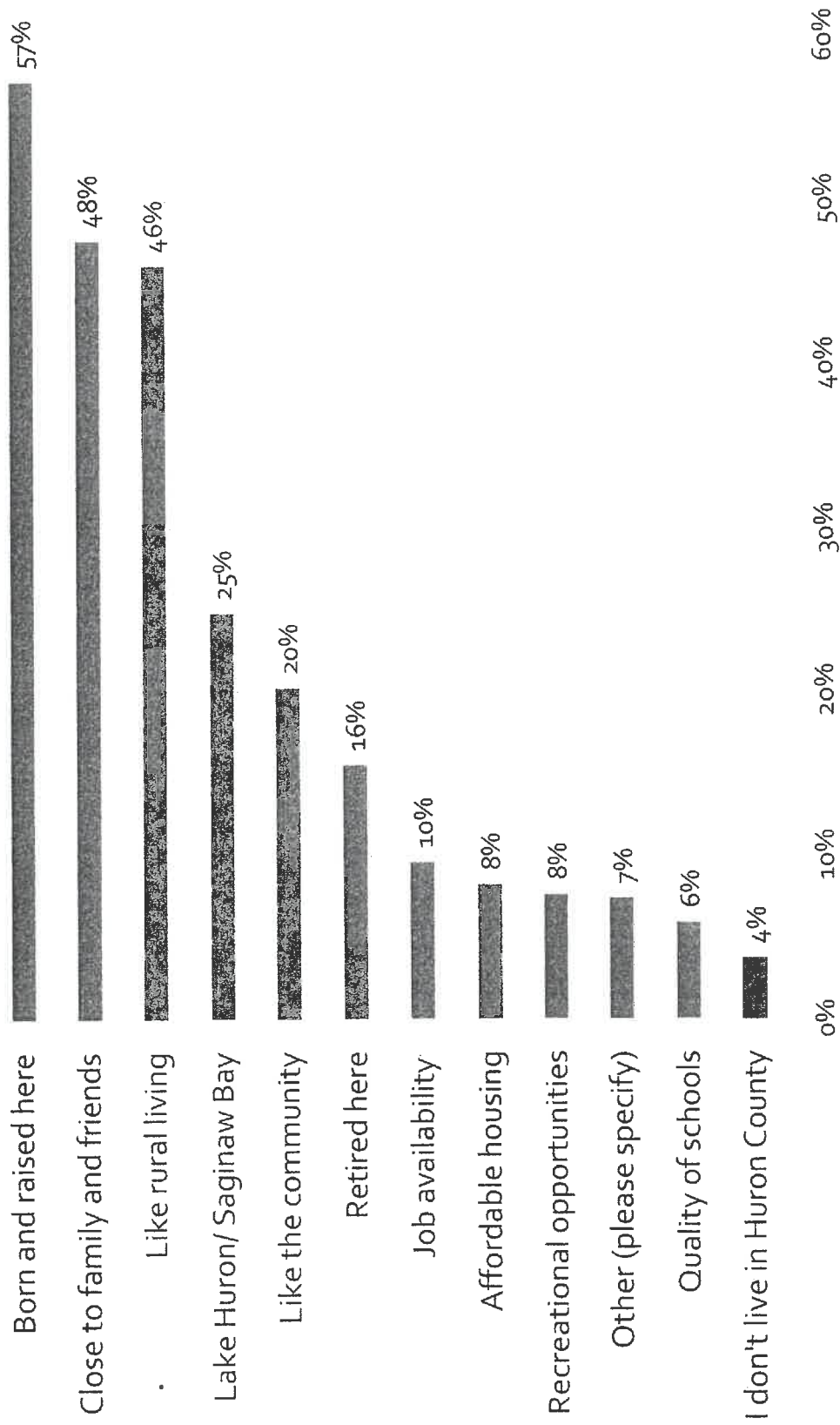
CONFIDENTIAL

What do you believe are the 3 major challenges Huron County is facing today?



Ednot 7
PML

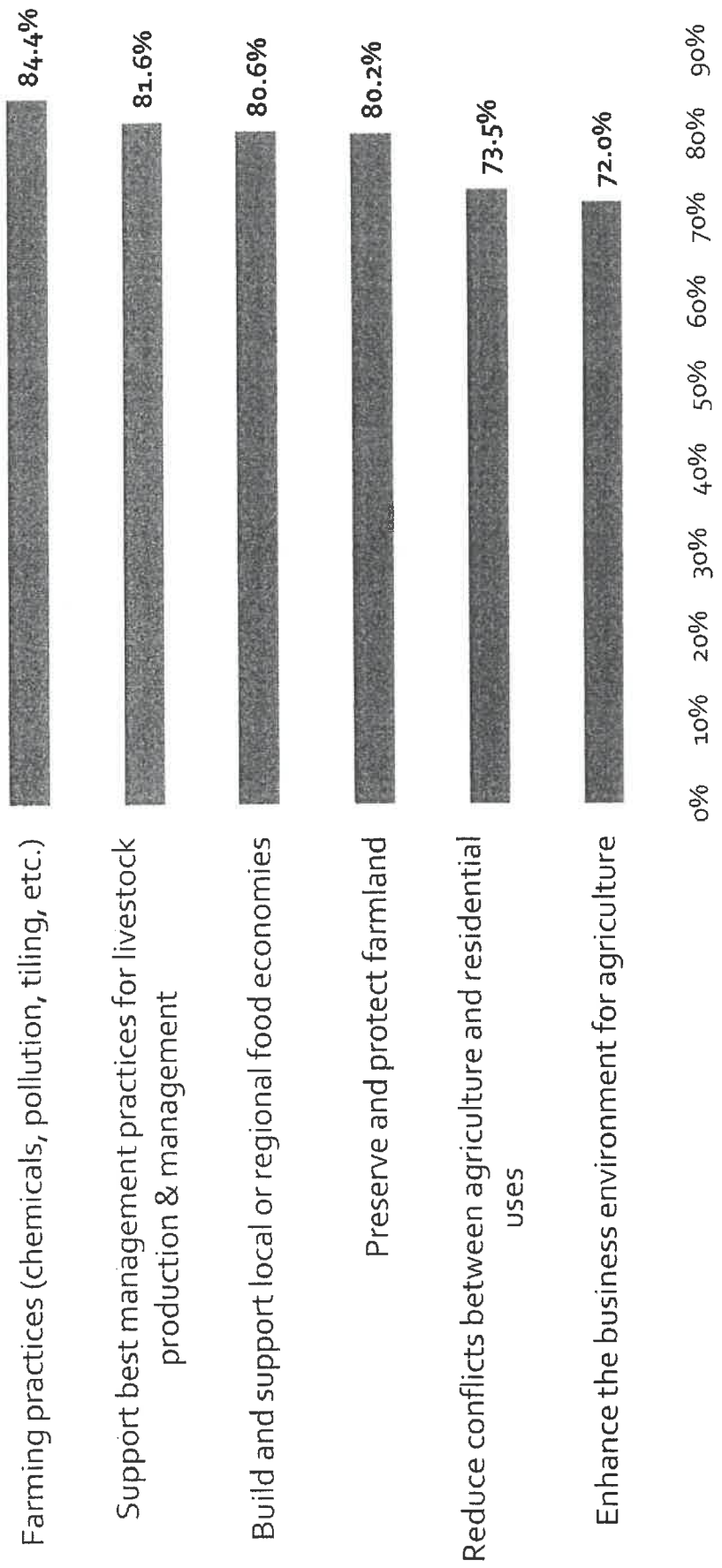
Why do you live in Huron County?



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How important are the following strategies in addressing issues related to agriculture in Huron County?

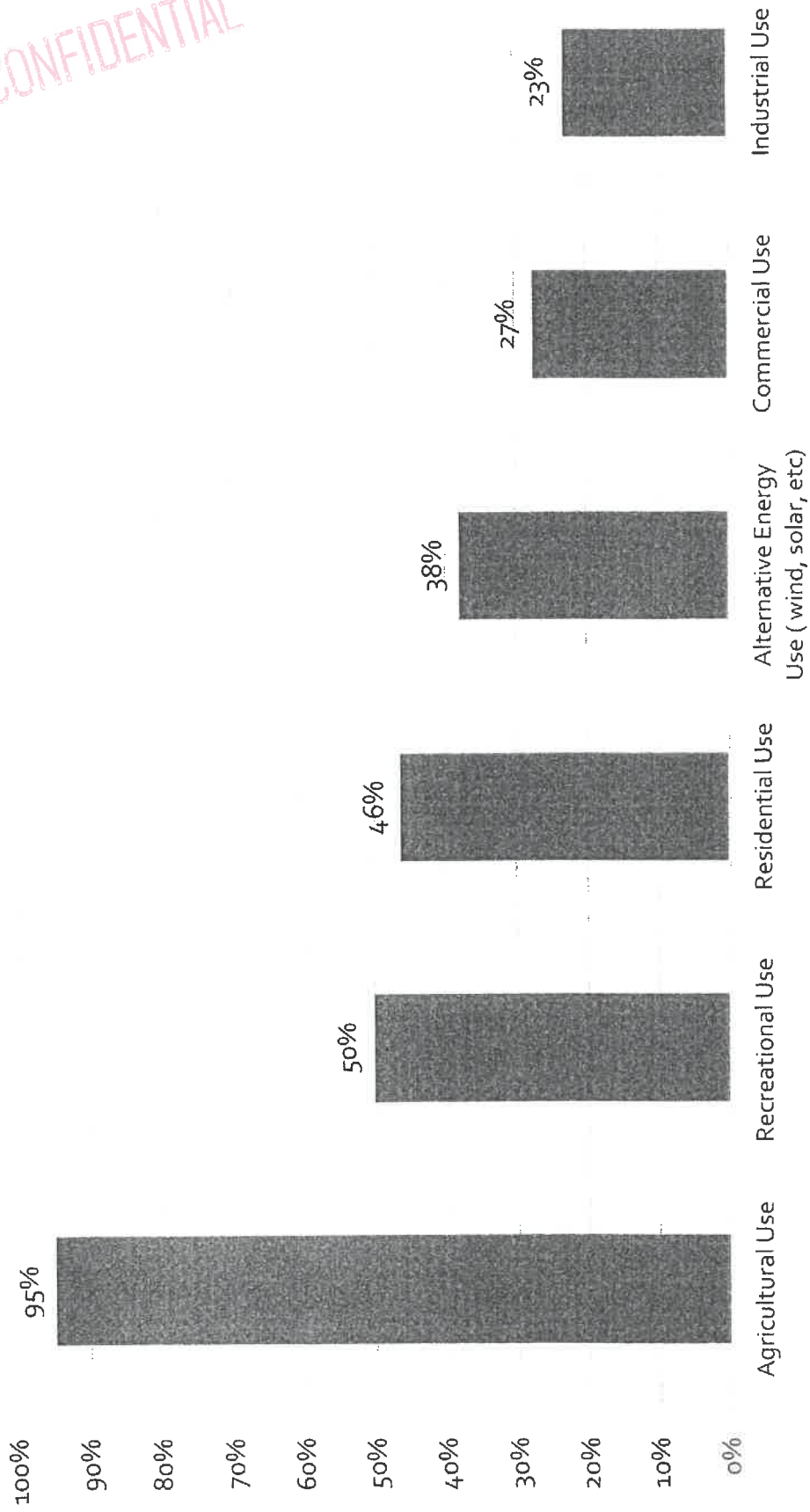
CONFIDENTIAL



% who said Important or Very Important

Agricultural land should be allowed to be used for?

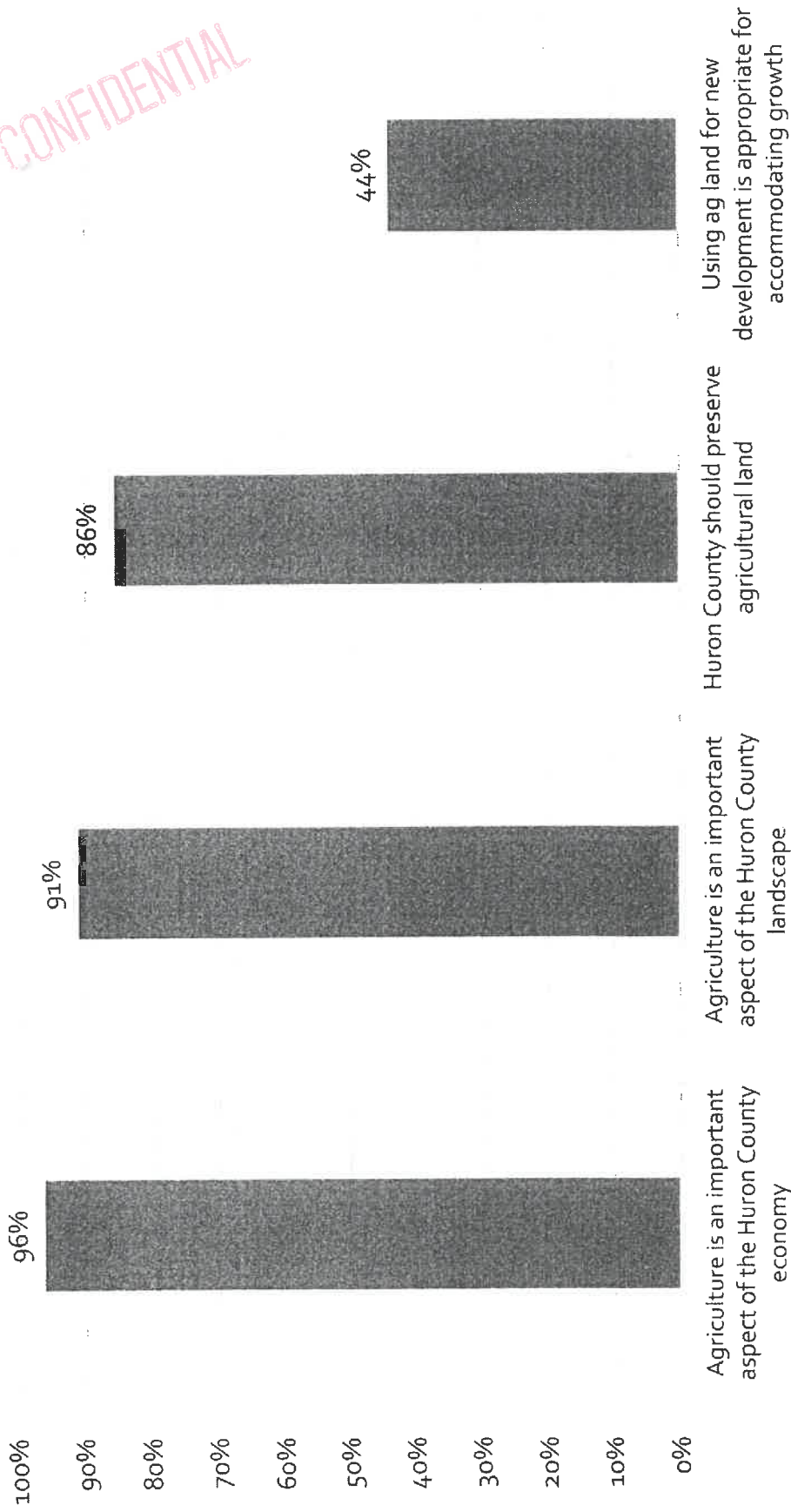
CONFIDENTIAL



% who responded "Agreed" or "Strongly Agreed"

What are your feelings regarding the agricultural land use statements below?

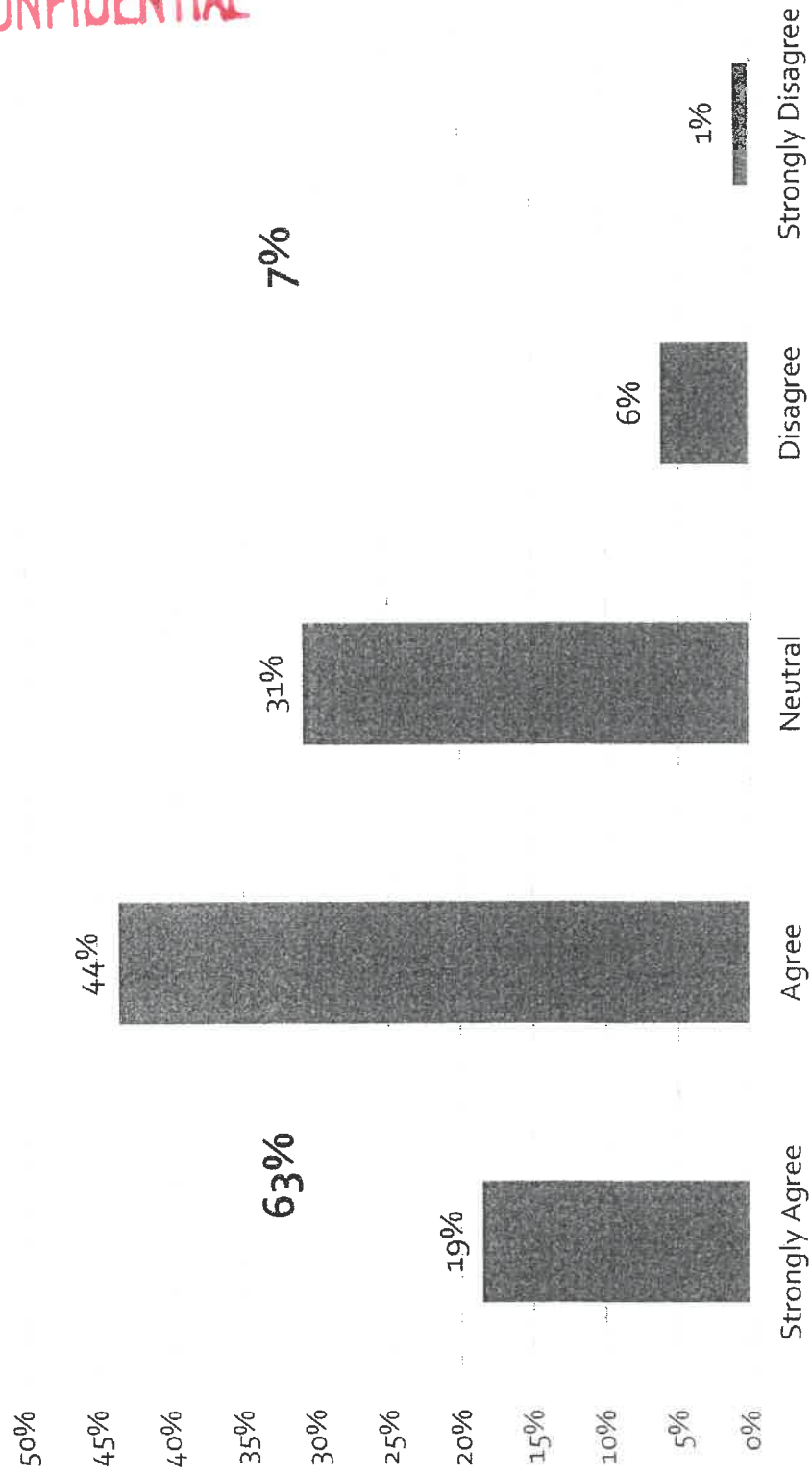
CONFIDENTIAL



% who responded "Agreed" or "Strongly Agreed"

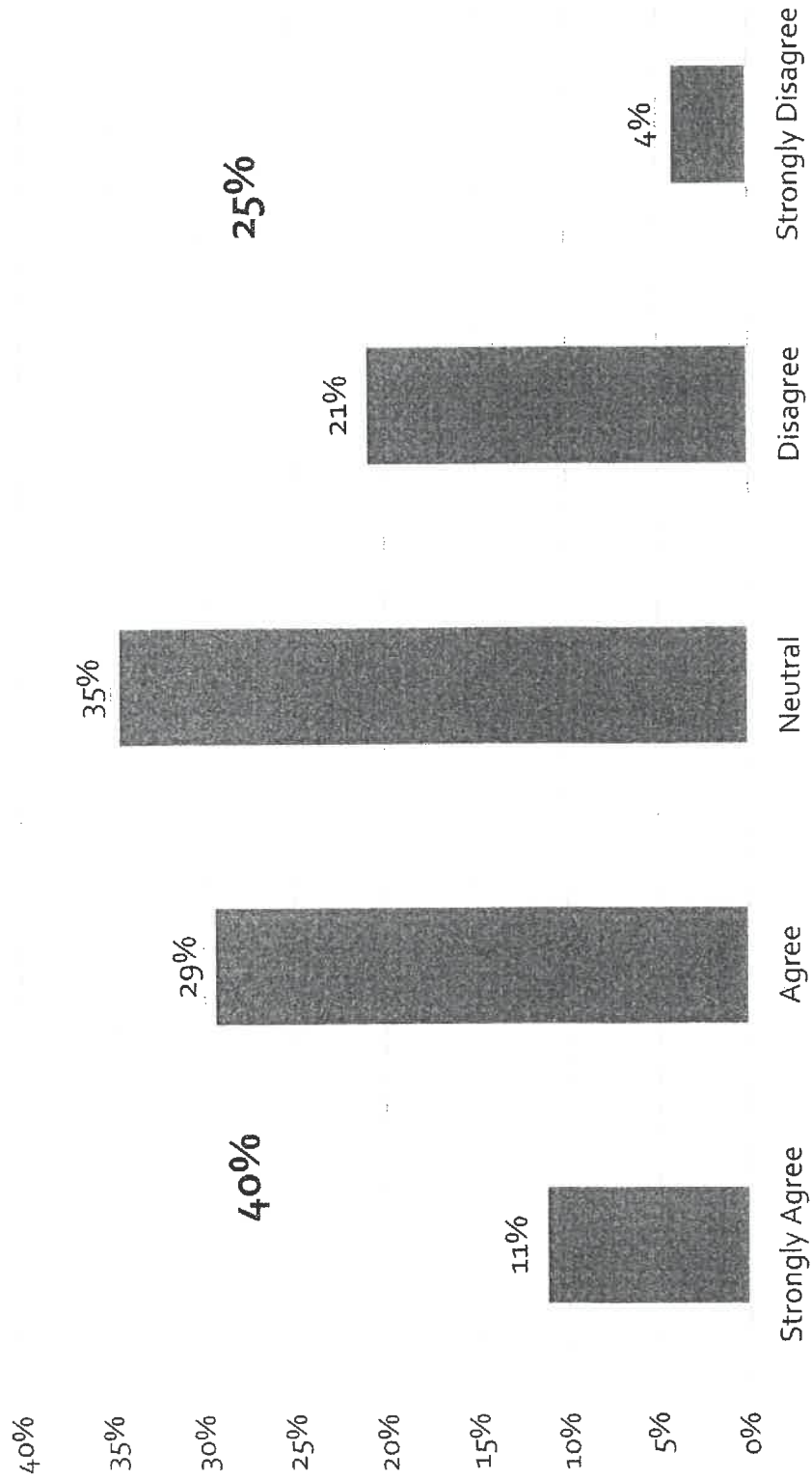
Huron County needs more commercial services

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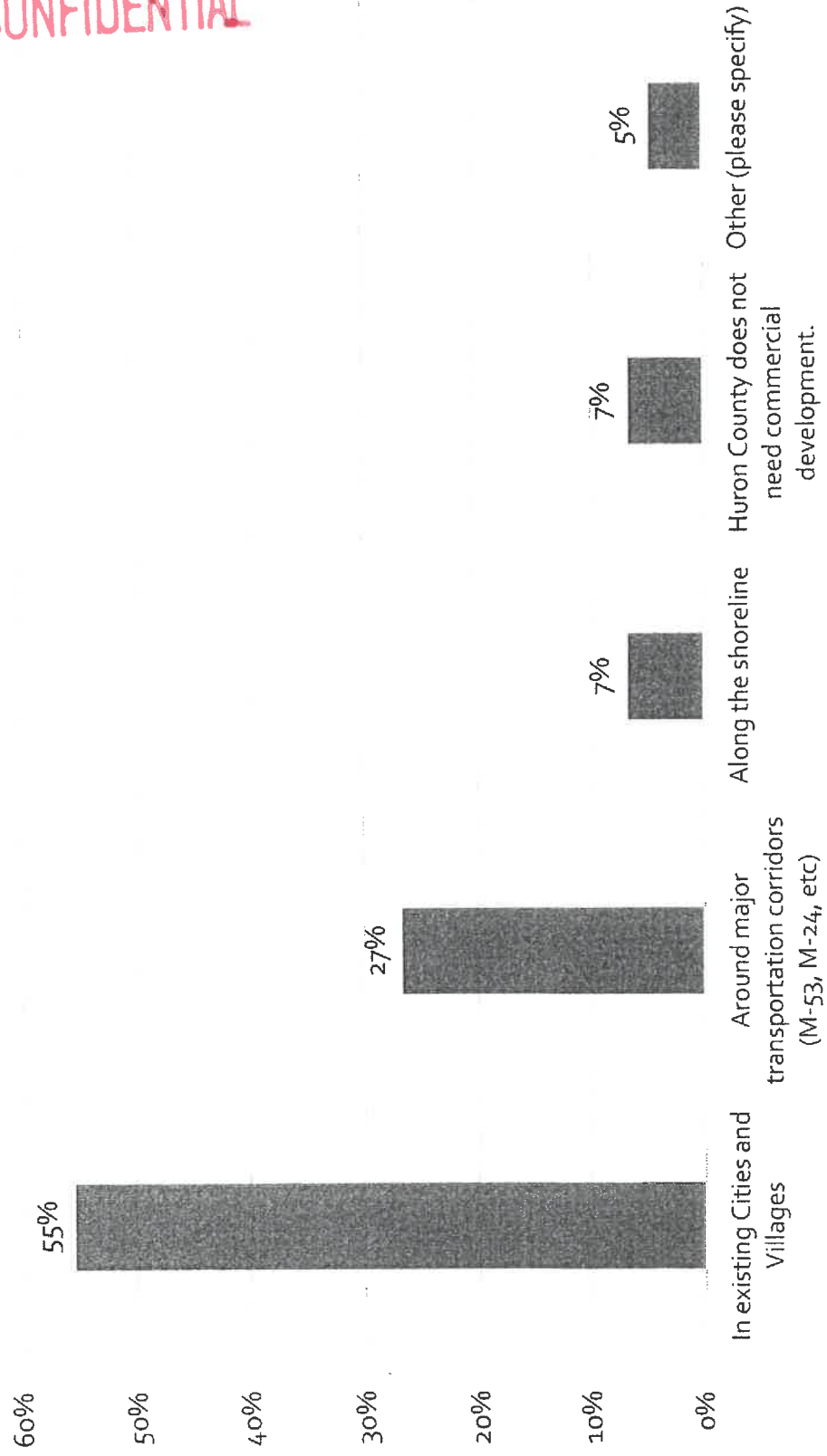
Future commercial development should be focused on the tourist industry

CONFIDENTIAL



Future commercial development should be targeted in these areas:

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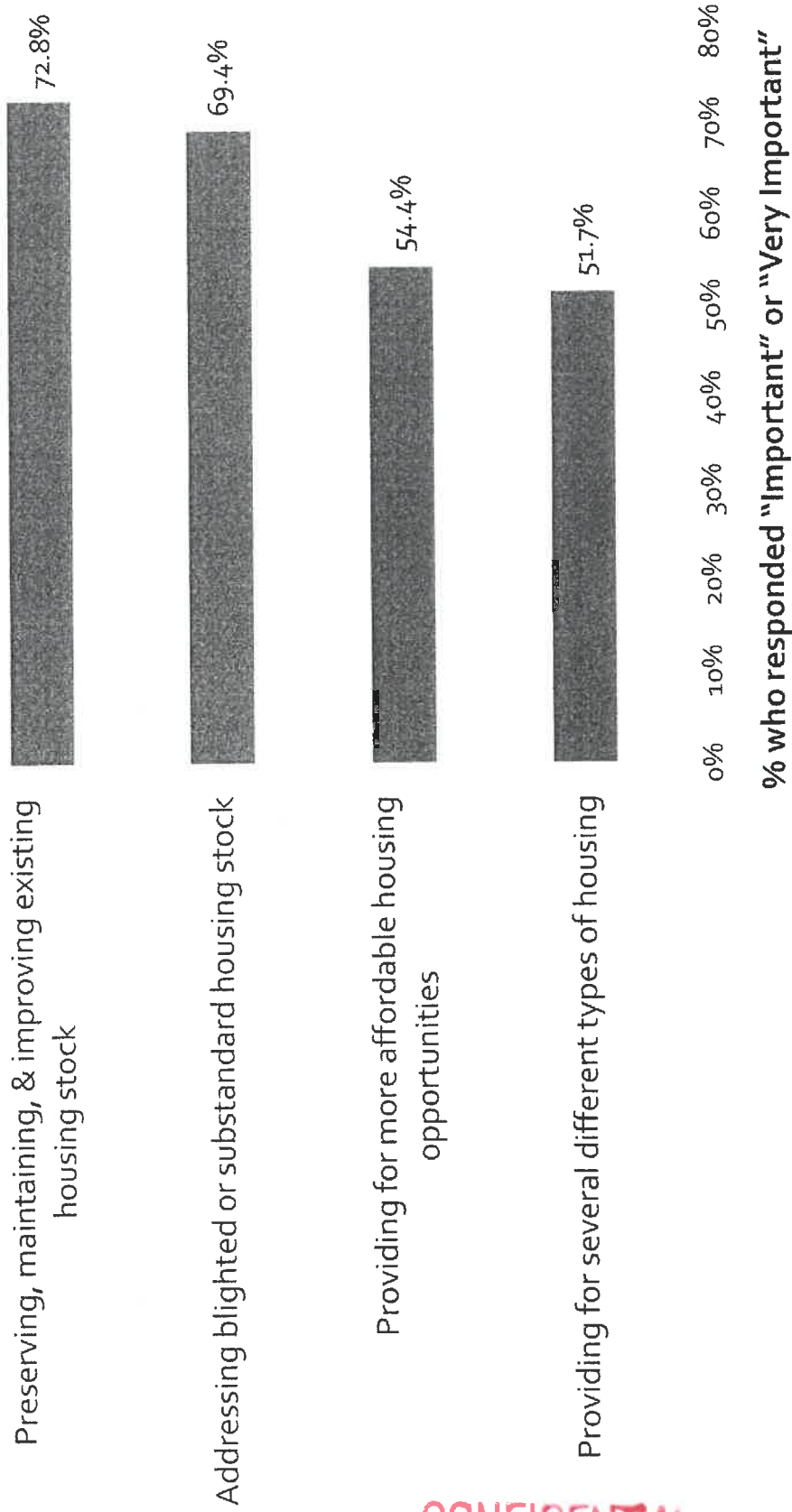


If you leave the County for certain services/
products, what are you looking for and where
do you go?

Greater
Usually
Shopping Bay City
Clothes Saginaw
Bay City Saginaw
Health Depot **Leads Looking**
Better Jobs **Building Materials**
Options **Ticket Items**
Live Entertainment

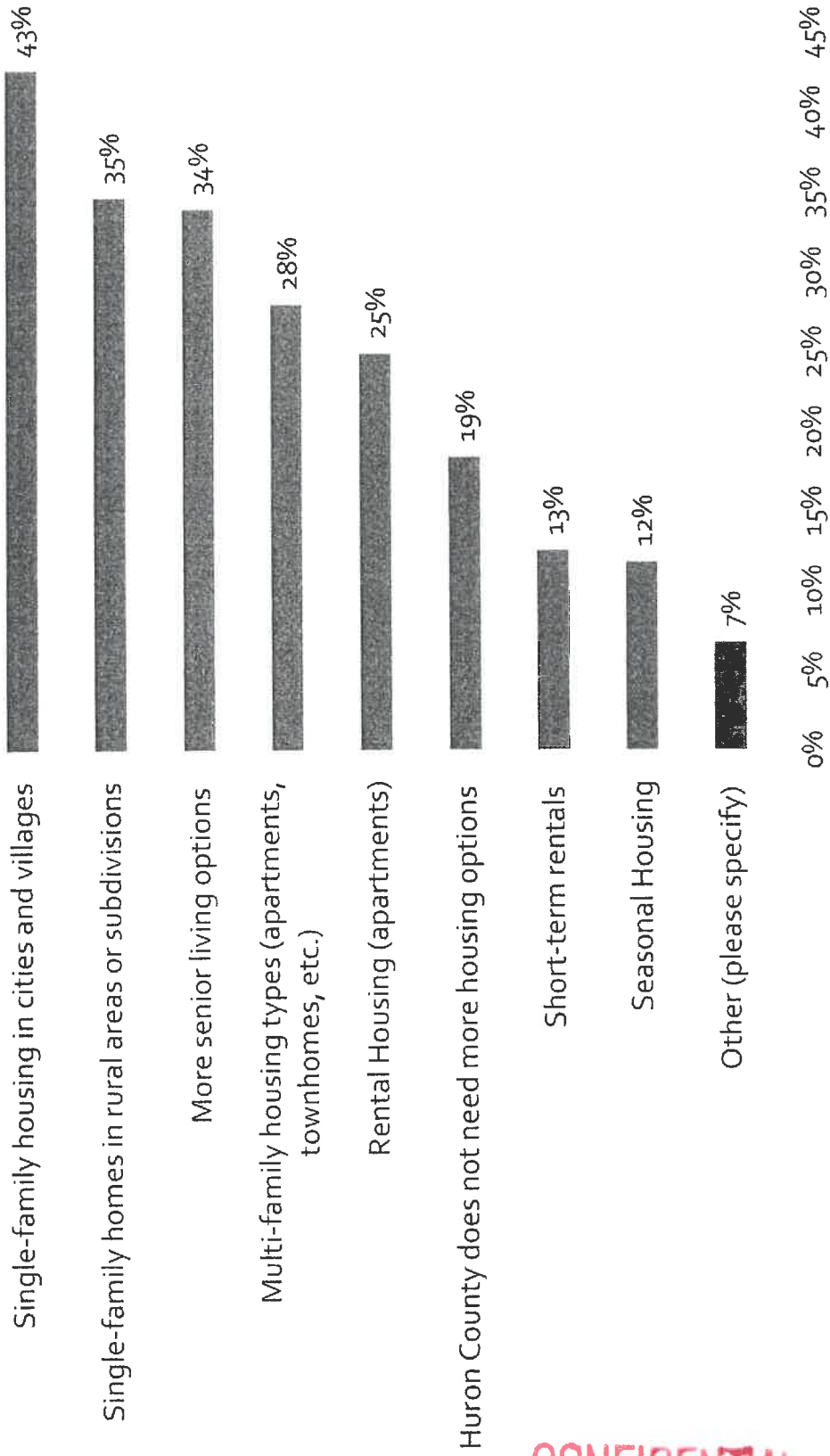
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How important are the following strategies in addressing issues related to housing?



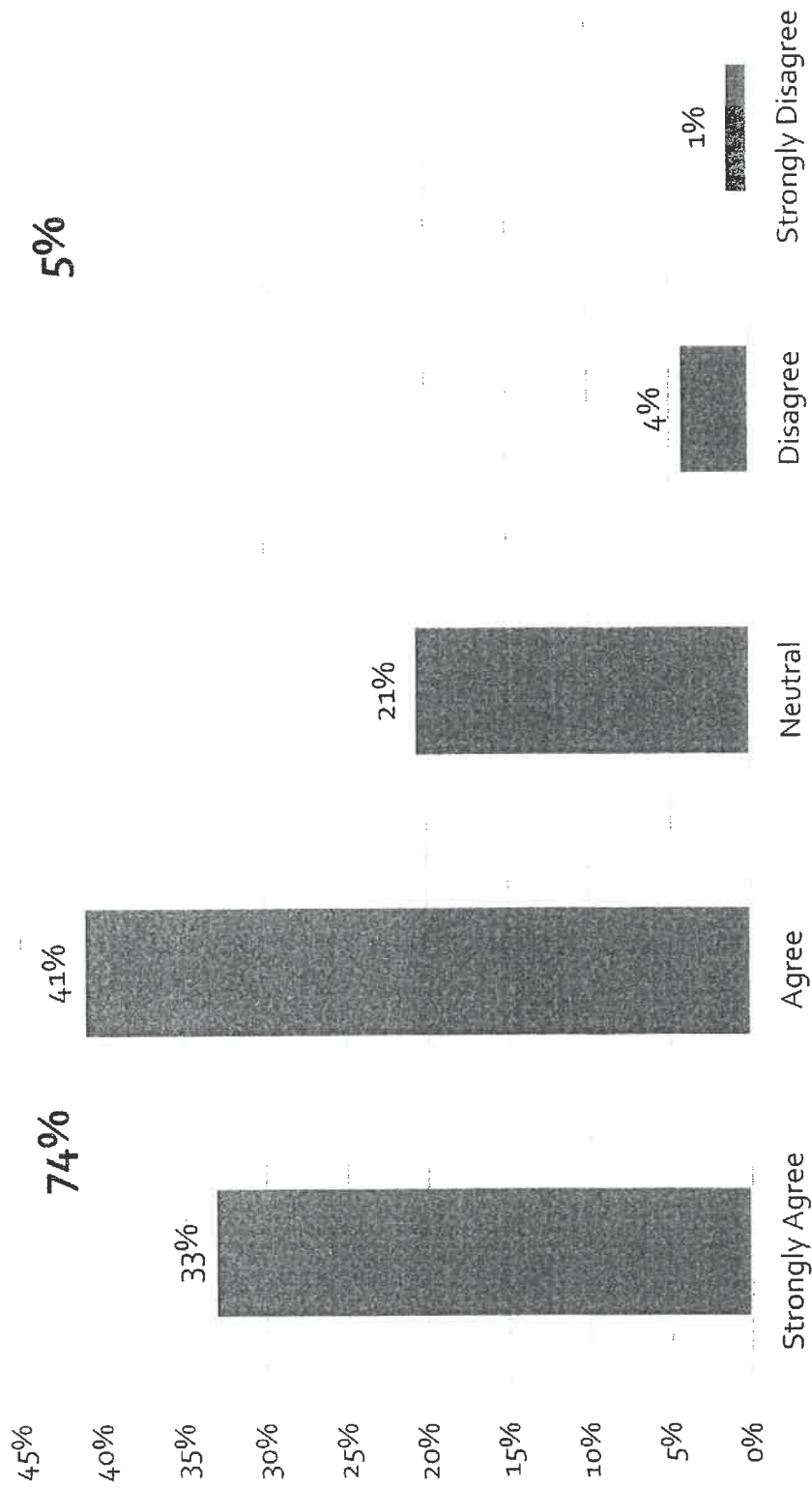
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What type of housing does Huron County need?



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The County needs a more diverse industrial base in order to grow its economy and provide more jobs.



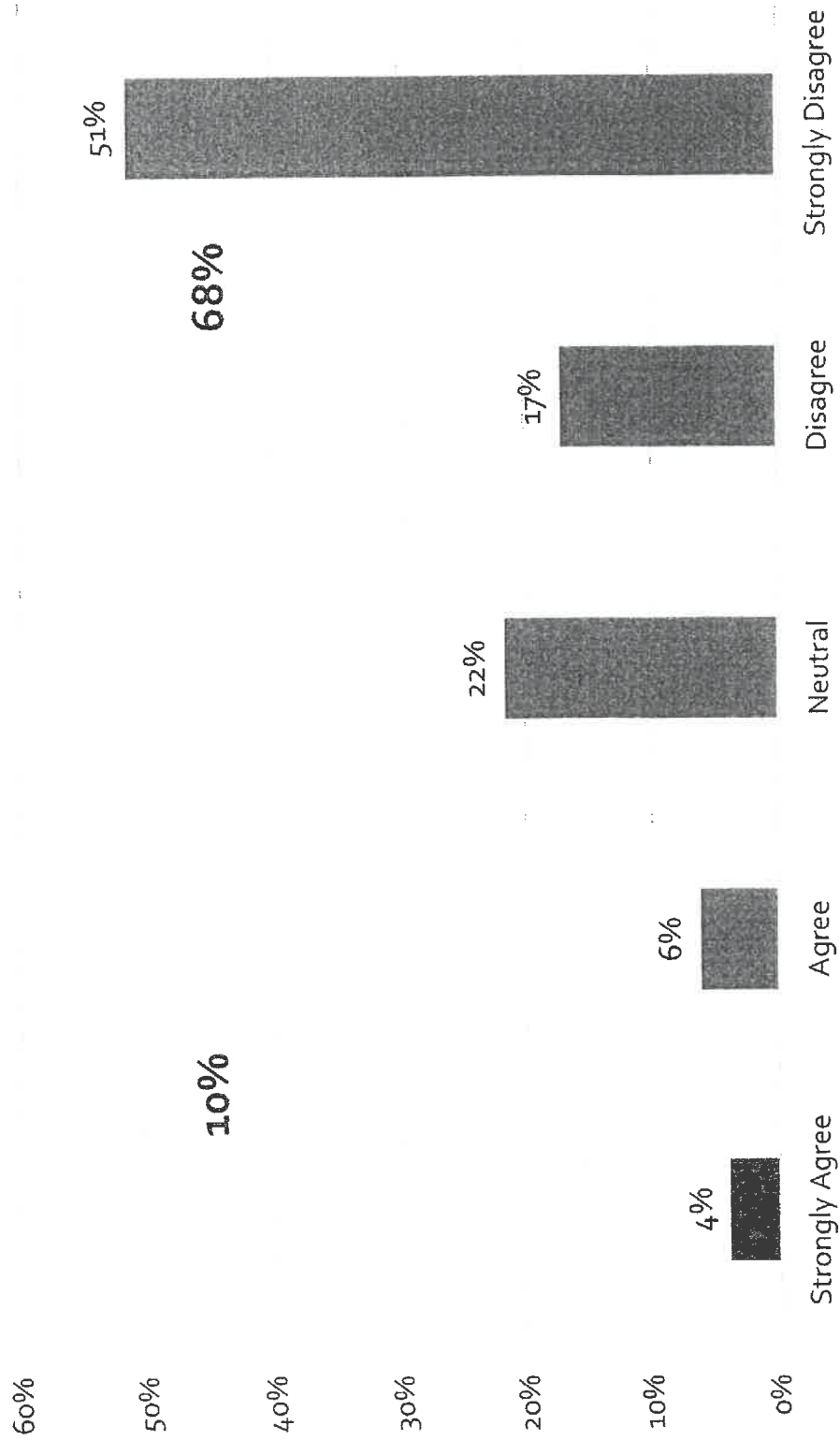
CONFIDENTIAL

Based on the previous question, what type of industry would be best for Huron County?



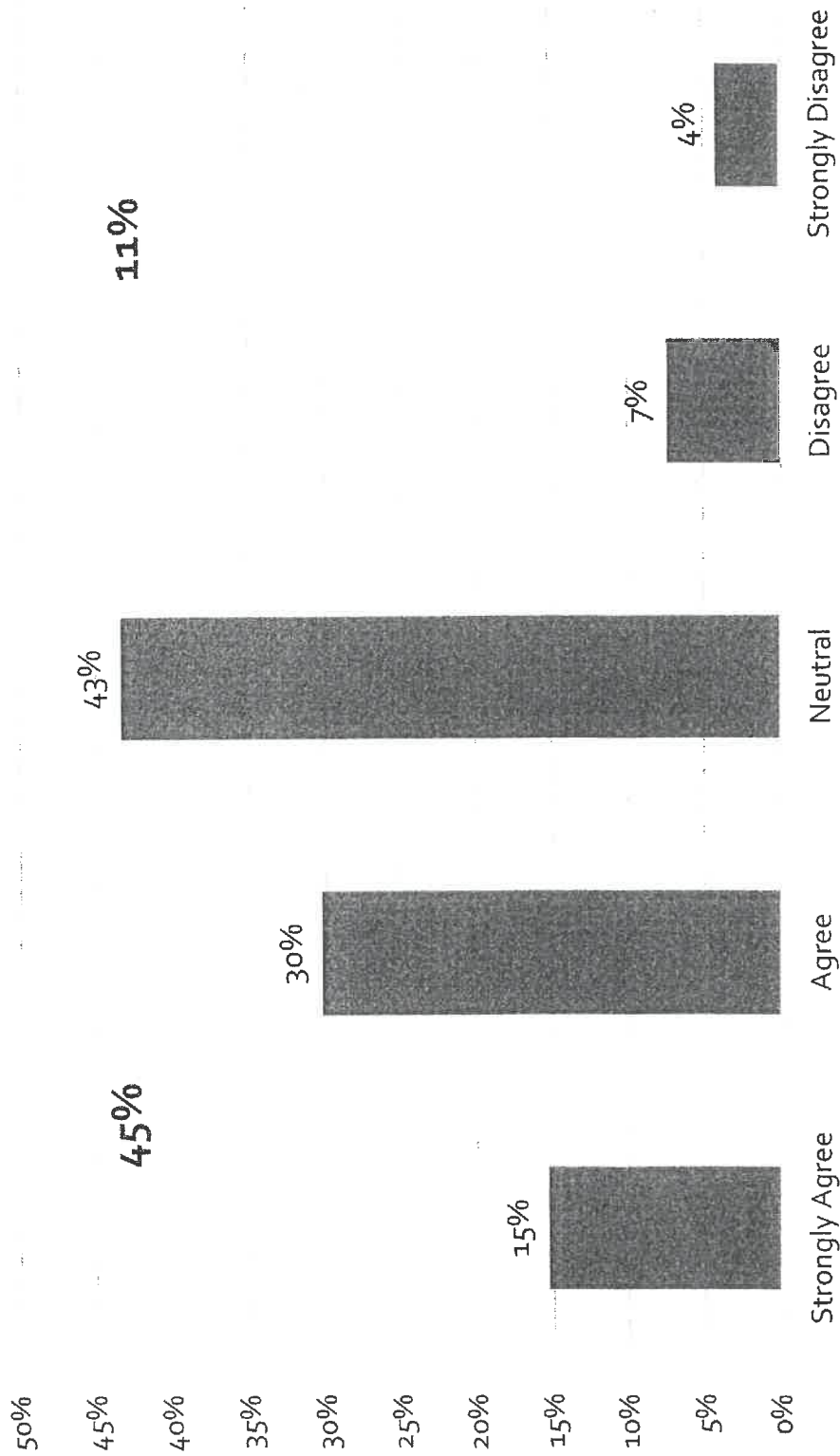
CONFIDENTIAL

I support fracking (hydraulic fracturing) in Huron County



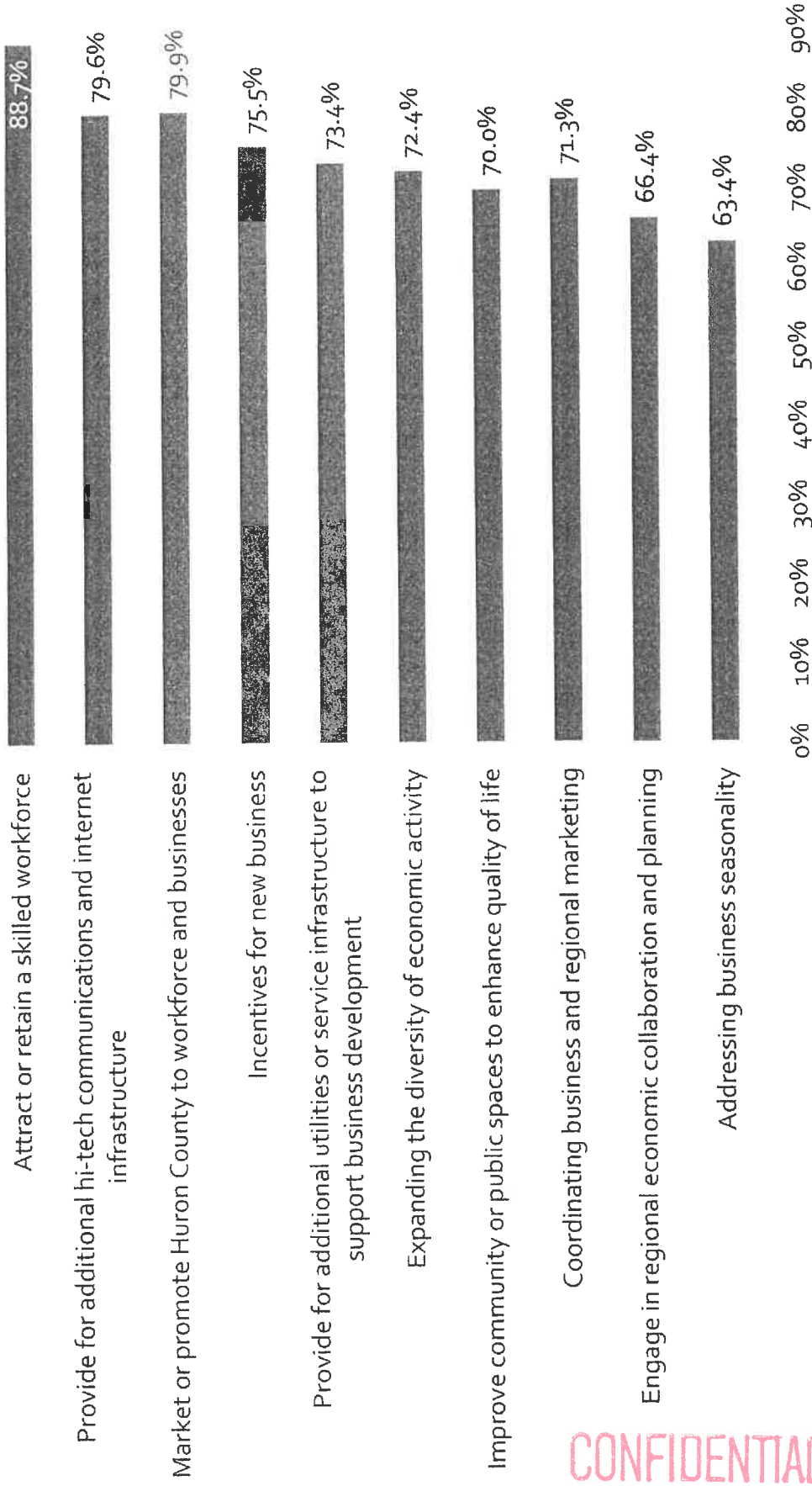
CONFIDENTIAL

Huron County should update the zoning ordinance to better address the reclamation and re-utilization of mining, sand, and gravel operations



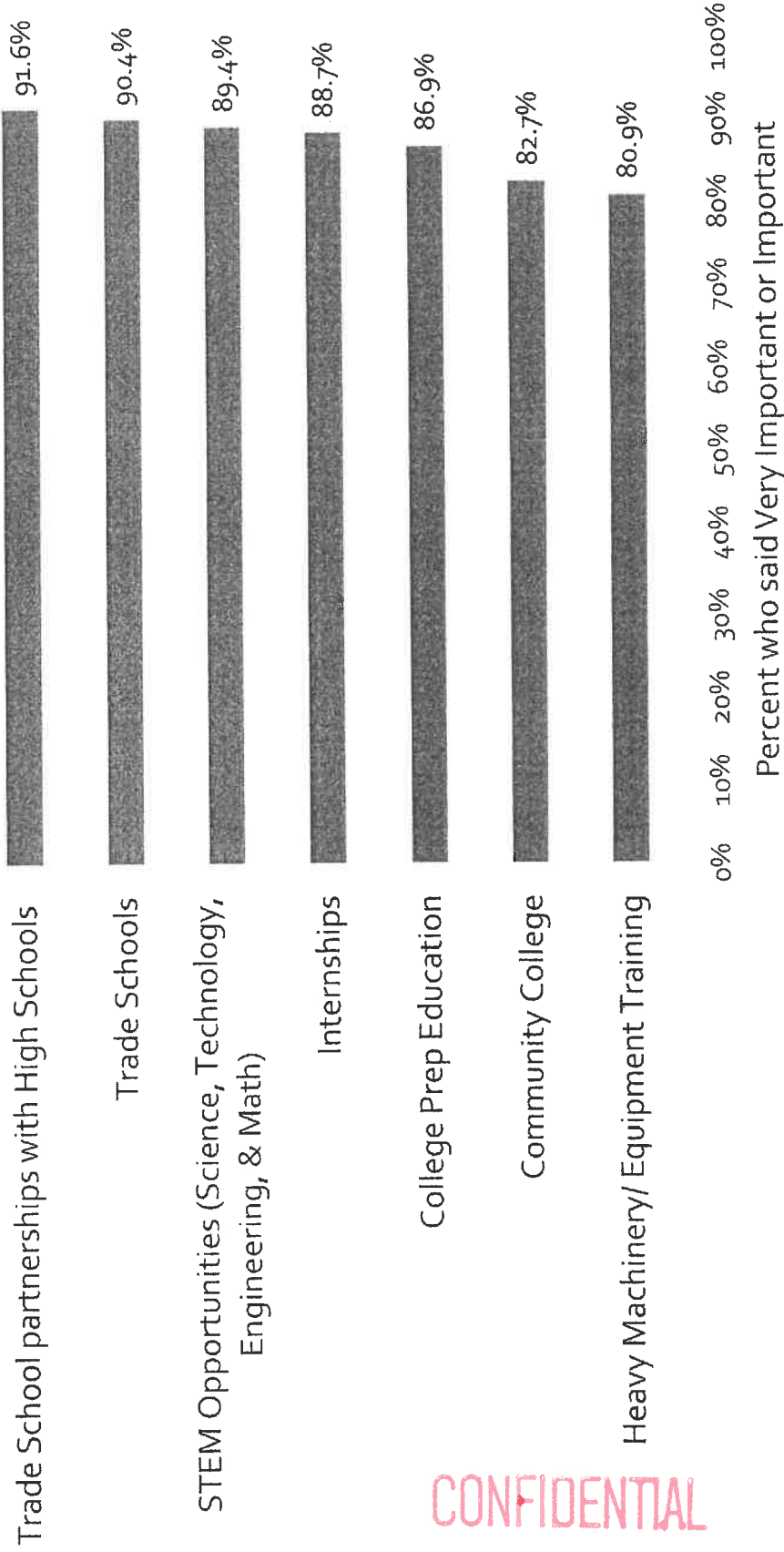
CONFIDENTIAL

How important are the following strategies in addressing issues related to economic development?



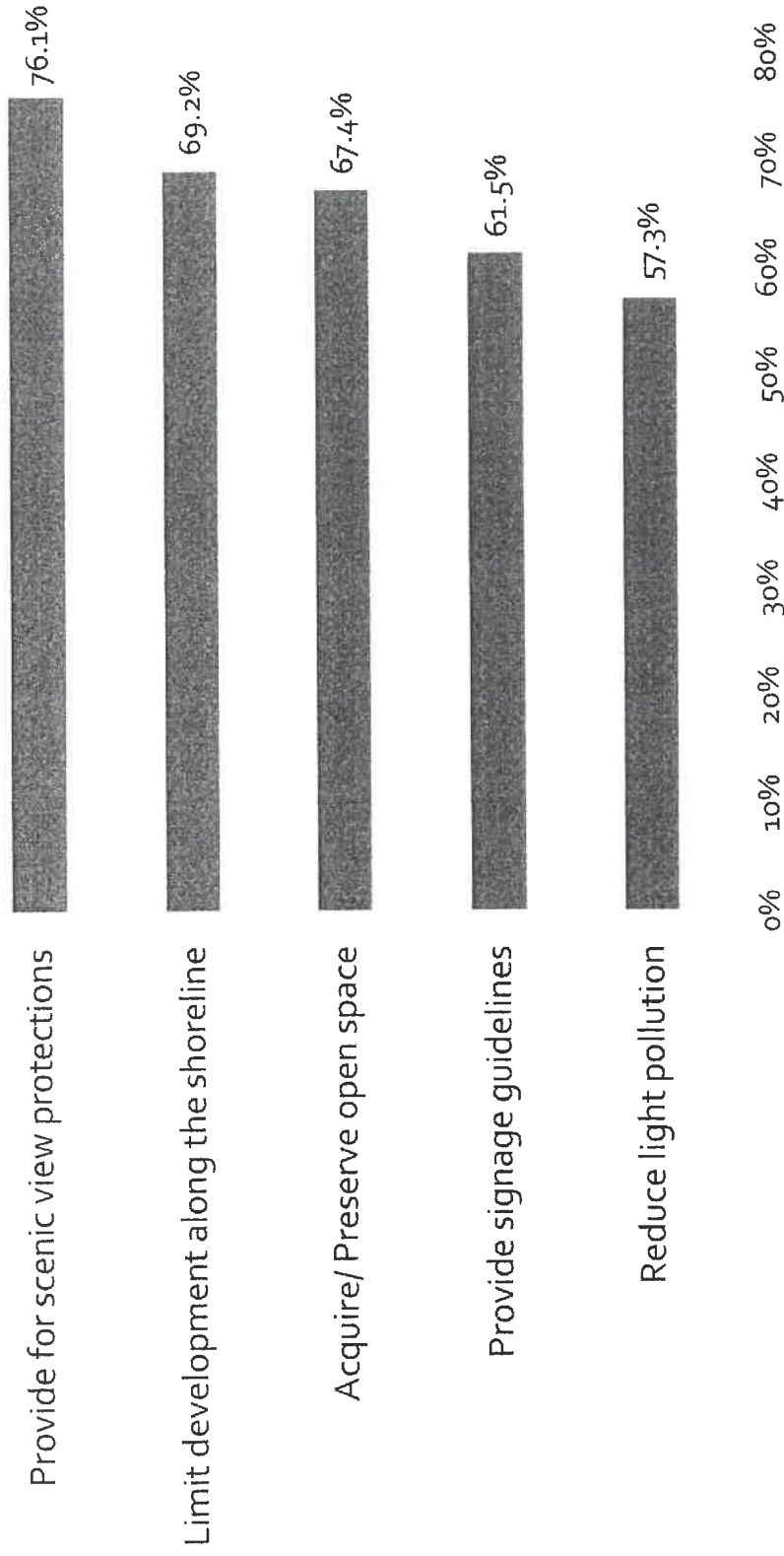
CONFIDENTIAL

High schoolers in Huron County would be better prepared for the future if the following options were available to them here:



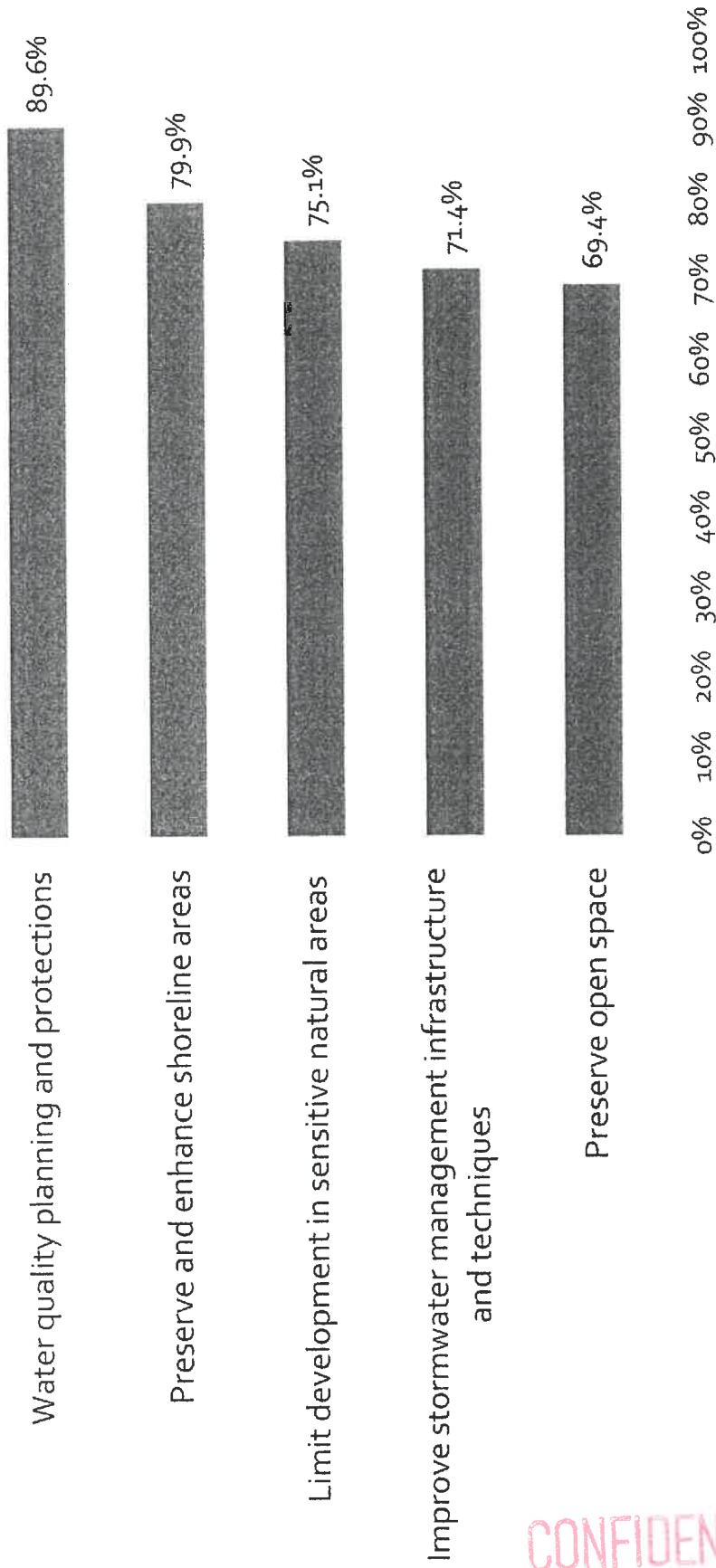
CONFIDENTIAL

How important are the following strategies in addressing issues related to the preservation of scenic character?



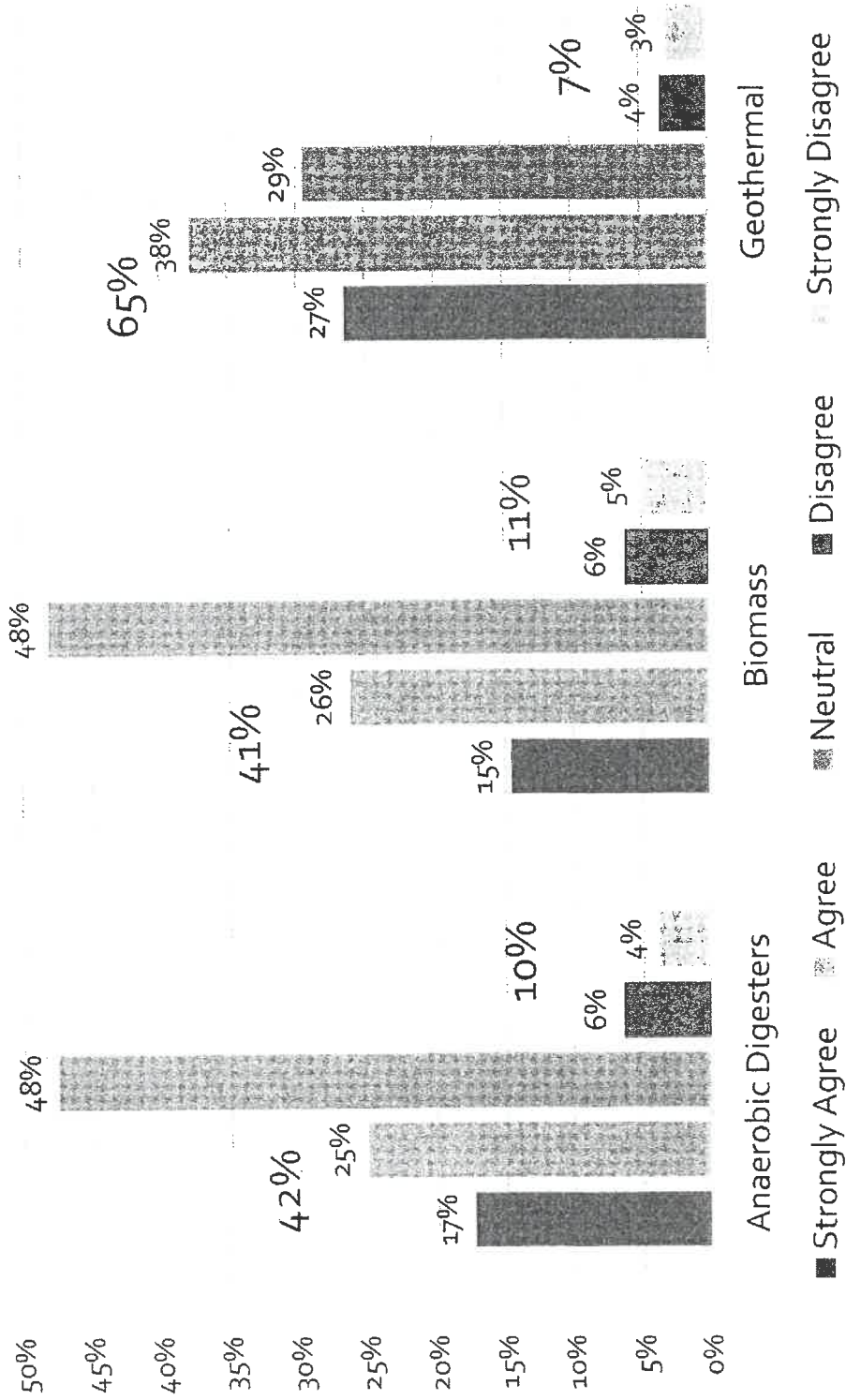
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How important are the following strategies in addressing issues related to natural resources protection?



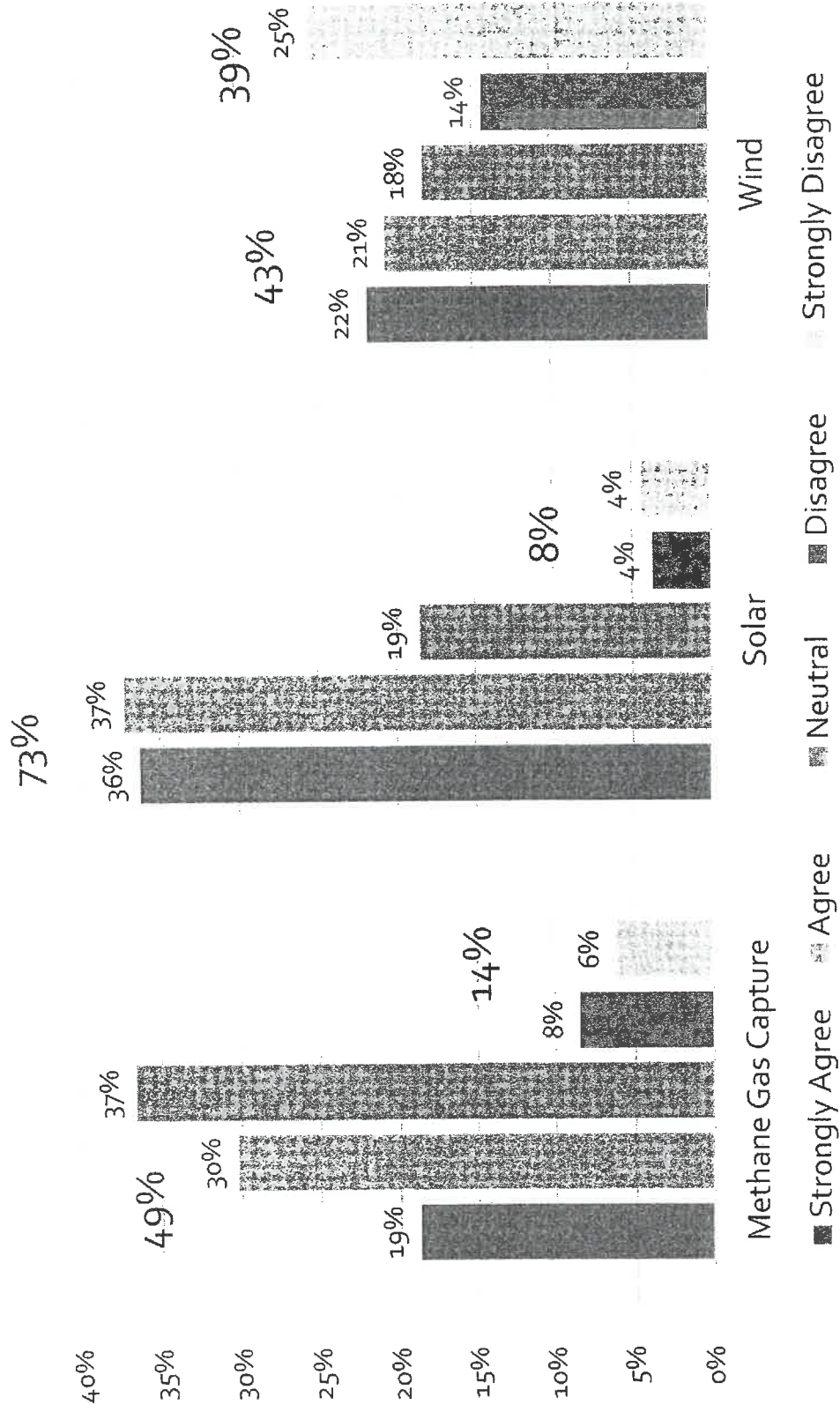
CONFIDENTIAL

Through the zoning ordinance, Huron County should provide avenues to pursue the following alternative energy development:



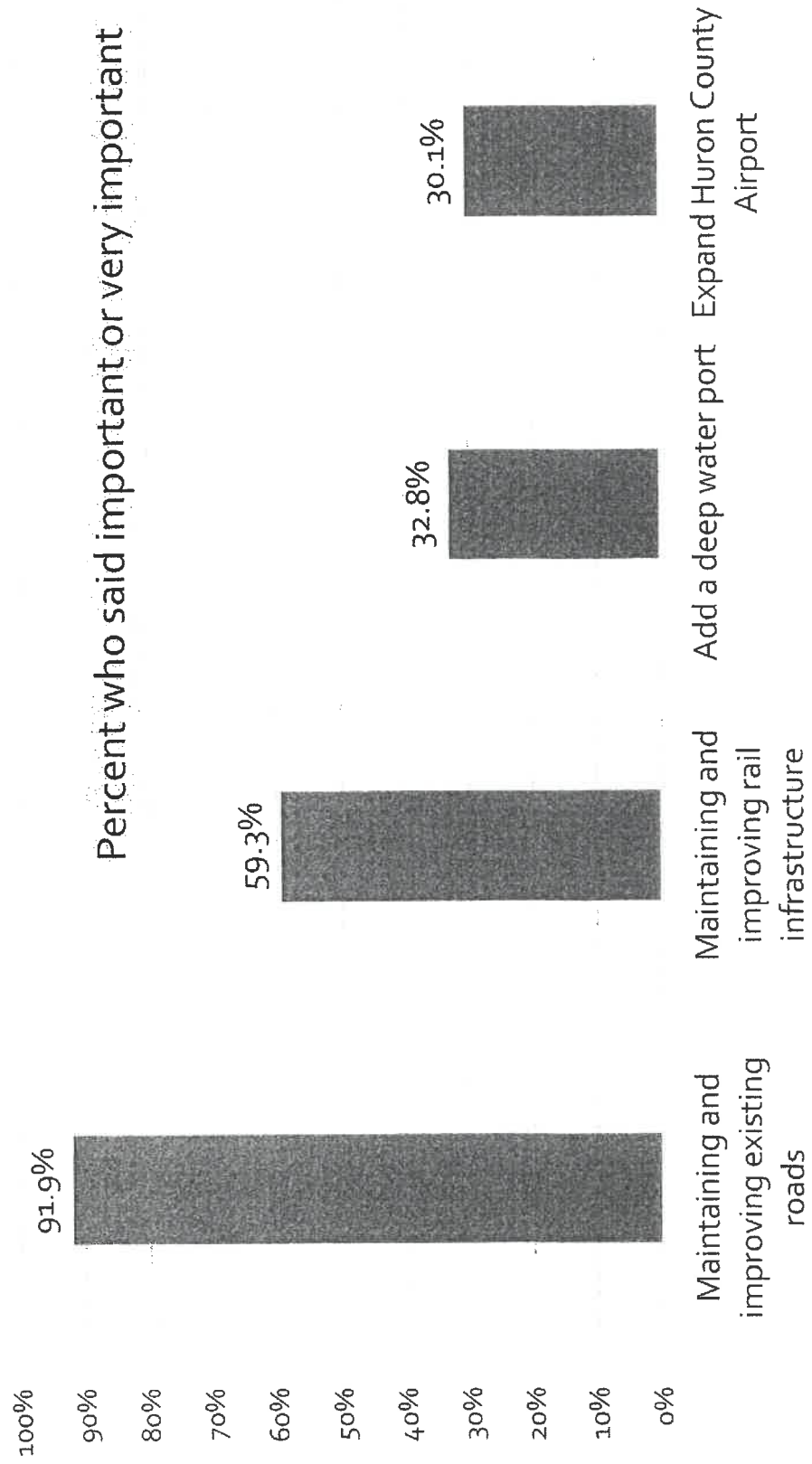
CONFIDENTIAL

Through the zoning ordinance, Huron County should provide avenues to pursue the following alternative energy development:



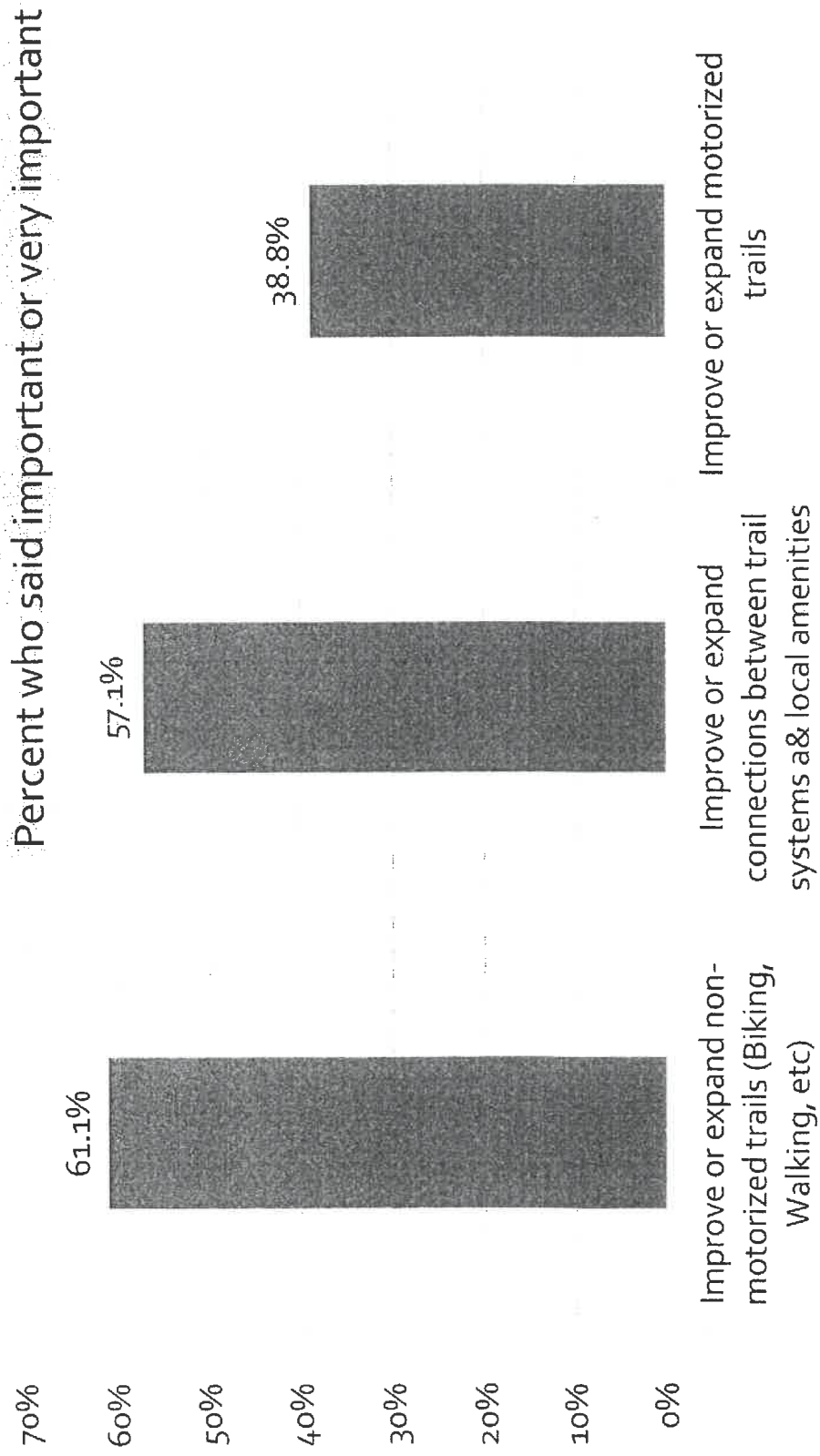
CONFIDENTIAL

How important are the following strategies in addressing general issues related to transportation?



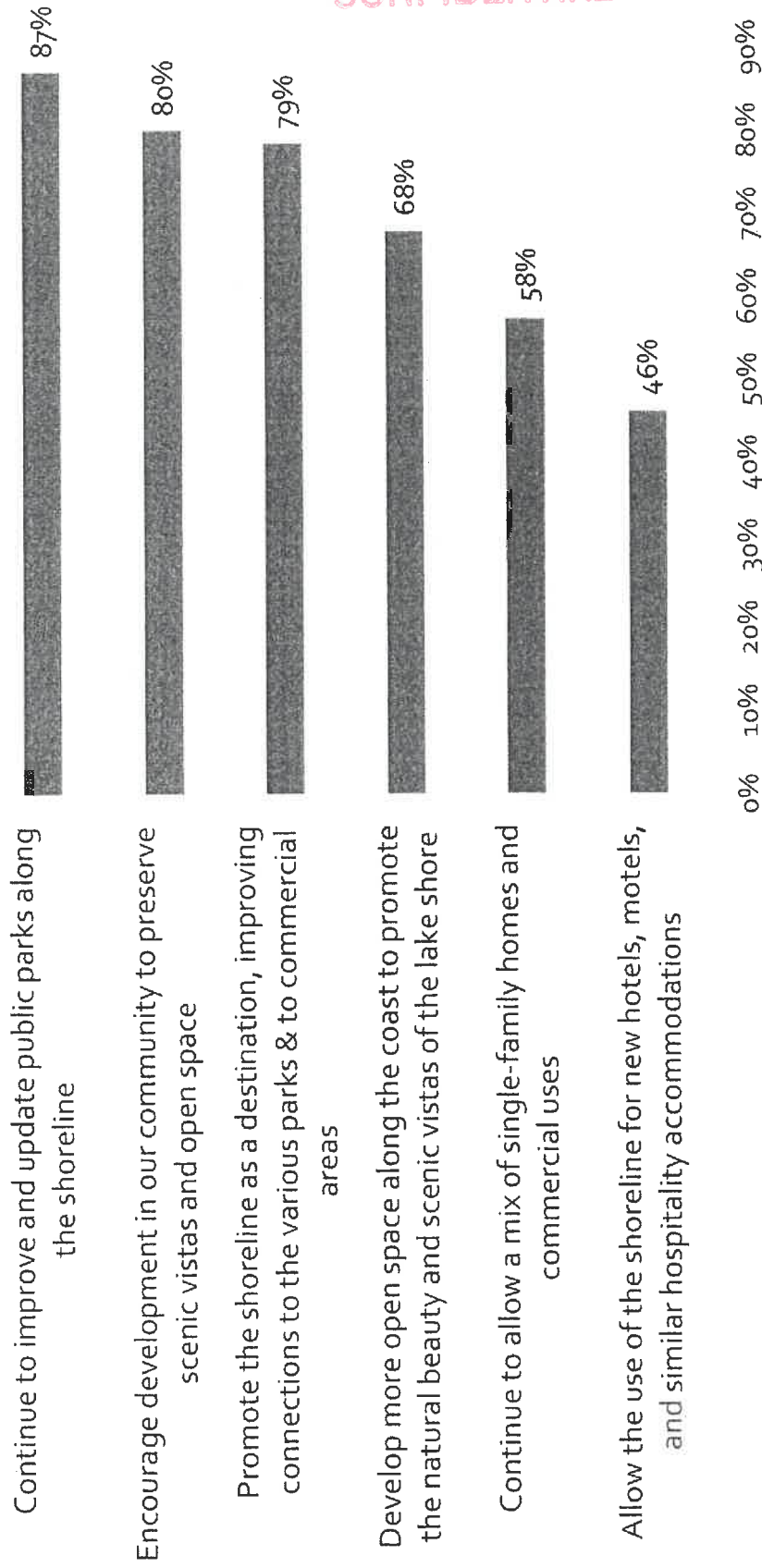
CONFIDENTIAL

How important are the following strategies in addressing recreation-based transportation issues?



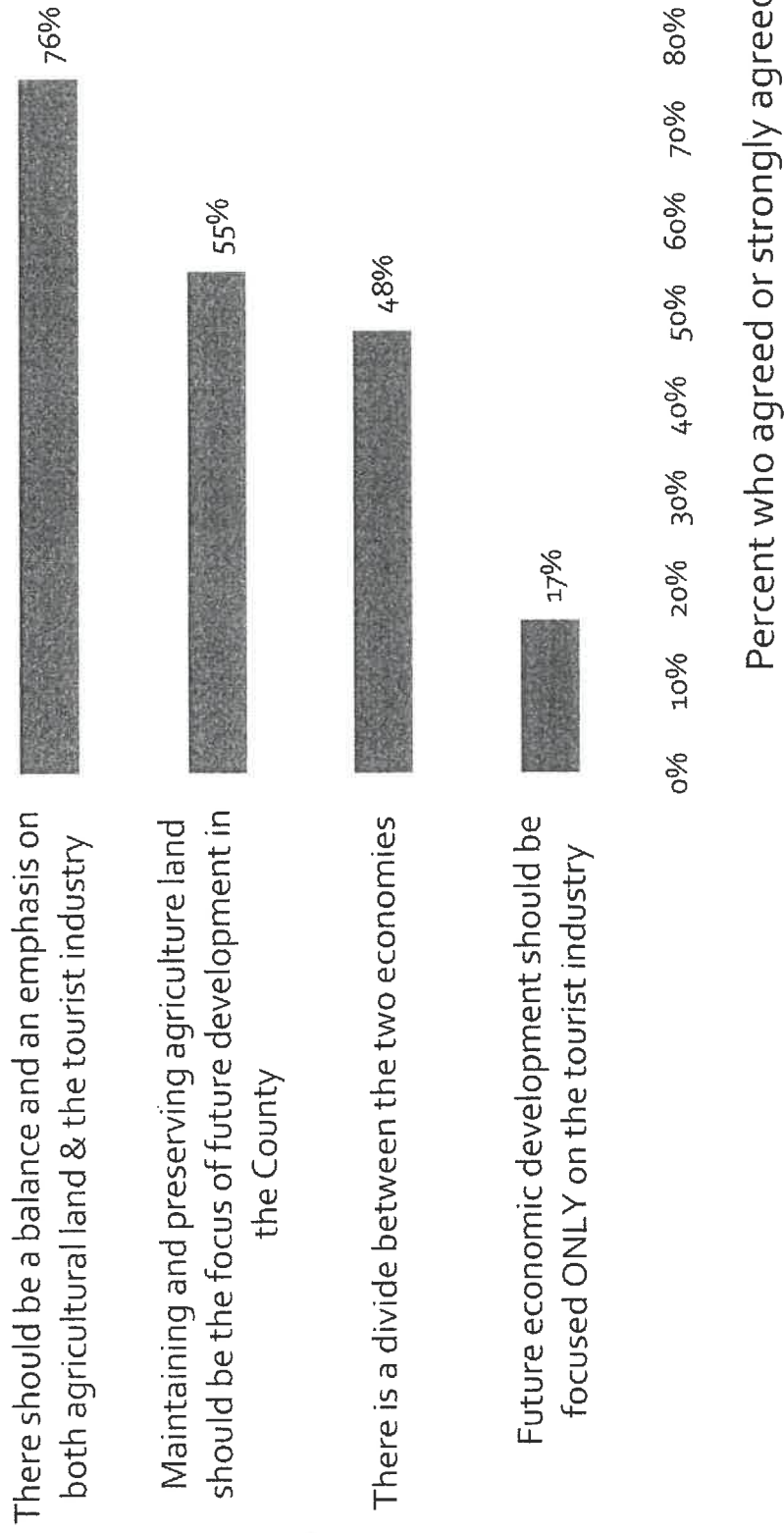
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Please indicate your opinion about shoreline land use.



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Agriculture and Tourist Economies



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What do you like best
about living in Huron County?



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What would you do to improve Huron County in the next 5 to 10 years?

Promote Economic Growth

Pay Taxes

Creating Jobs

Things for Families

Fix Roads

Stop Wind Limit

Year Round

Senior Services

Good Work

Huron County

Good Jobs Way Agriculture

Wind Energy

Allow Huron County

Young Adults

Able to make a living

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EXHIBIT 4

CONFIDENTIAL

EXHIBIT 4

CONFIDENTIAL

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EXHIBIT 5

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| Line No. | (a) Plant Account | (b) Account Description | (c) Component | (d) Total Project Depreciable Plant | (e) Accumulated Depreciation Reserve at 12/31/11 | (f) Net Plant at 12/31/11 | (g) Removal Costs in 2011 \$ | (h) Salvage Costs in 2011 \$ | Proposed Average Lives (yrs) | Proposed Average Life Source |
|----------|-------------------|-----------------------------|---|-------------------------------------|--|---------------------------|------------------------------|------------------------------|------------------------------|------------------------------|
| 1 | 346 | Miscellaneous | Tower | \$ 88,240,721 | \$ 2,206,018 | 86,034,703 | \$ 3,967,641 | \$ 4,676,688 | 25 | (i) |
| 2 | | | Blade | 48,836,668 | 1,220,917 | 47,615,752 | | | 10 | (i) |
| 3 | | | Gears and Bearings/Cooling | 25,735,517 | 643,388 | 25,092,129 | | | 20 | (i) |
| 4 | | | Generator | 5,197,630 | 129,941 | 5,067,689 | | | 50 | (i) |
| 5 | | | Foundations | 2,998,057 | 19,984 | 2,978,073 | 342,174 | 26,013 | 50 | (i) |
| 6 | | | Easements and Road Ways | 5,411,167 | 135,279 | 5,275,887 | 2,115,613 | 38,281 | 50 | (i) |
| 7 | | | Rotor Hub, Bearings, Generator, Yaw, Pitch, Power Converter, Brakes, Lighting, Climb Assist, UPS, | 25,916,322 | 647,908 | 25,268,414 | 2,181,017 | 2,141,811 | 20 | (i) |
| 8 | | | Main Frame | 4,230,629 | 105,766 | 4,124,863 | | | 25 | (i) |
| 9 | | | Nacelle housing | 2,039,768 | 50,994 | 1,988,773 | | | 25 | (i) |
| 10 | | | TOTAL | 208,006,479 | 5,160,134 | 202,846,284 | 8,606,445 | 6,882,793 | | |
| 11 | | | Control House-Substation | 212,832 | 1,900 | 210,932 | | | # | |
| 12 | 361 | Structures and Improvements | Relays | 168,526 | 2,217 | 166,309 | | | # | |
| 13 | | | Transformer-Padmount | 4,107,578 | 54,047 | 4,053,531 | | | # | |
| 14 | 362 | Station Equipment | Transformer (Substation) #1 (DTE OWNED 100%) | 2,453,036 | 32,277 | 2,420,759 | | | # | |
| 15 | | | Breaker | 563,841 | 7,418.95 | 556,422 | | | # | |
| 16 | | | Bus | 140,960 | 1,854.74 | 139,105 | | | # | |
| 17 | | | Cable at Substation | 1,404,204 | 18,476.37 | 1,385,728 | | | # | |
| 18 | | | Other Shared Facilities Components | 404,974 | 5,328.61 | 399,645 | | | # | |
| 19 | | | TOTAL | 9,243,119 | 121,620 | 9,121,499 | | | # | |
| 20 | | | Steel Poles | 506,935 | 12,673 | 494,261 | | | # | |
| 21 | | | Wire | 816,051 | 20,401 | 795,650 | | | # | |
| 22 | | | TOTAL | 1,322,986 | 33,075 | 1,289,911 | | | # | |
| 23 | 364 | Distribution | Cable (turbine site) | 12,637,832 | 216,772 | 12,421,060 | | | # | |
| 24 | | | Collector System | 3,317,511 | 56,904 | 3,260,607 | | | # | |
| 25 | | | GRAND TOTAL | 234,740,758 | 5,590,466 | 229,150,292 | | | # | |

Composite Life (yrs): 22
 Composite Accrual Rate: 4.47% (ii)

ESCALATION RATES:

Material: 2.28%
 Labor: 2.90%

Sources

- (i) Witness Konjathy, Exhibit A-3, Column b
- (ii) Witness White, Exhibit A-6, Statement A, Column E
- Removal Costs Witness Ocran
- Salvage Costs Witness Ocran

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EXHIBIT 6

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2012 WL 2369004

Only the Westlaw citation is currently available.

NOTICE: THIS OPINION IS DESIGNATED AS UNPUBLISHED AND MAY NOT BE CITED EXCEPT AS PROVIDED BY MINN. ST. SEC. 480A.08(3).

Court of Appeals of Minnesota.

In the Matter of the Application of AWA GOODHUE WIND, LLC for a Certificate of Need for a 78 MW Wind Project and Associated Facilities in Goodhue County
In the Matter of the Application of AWA Goodhue Wind, LLC for a Site Permit for a 78 Megawatt Large Wind Energy Conversion System Project in Goodhue County.

No. A11-2229.

June 25, 2012.

Minnesota Public Utilities Commission, File No. IP-6701/WS-08-1233.

Attorneys and Law Firms

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Lori Swanson, Attorney General, Anna E. Jenks, Gary R. Cunningham, Assistant Attorneys General, St. Paul, MN, for respondent Minnesota Public Utilities Commission.

Todd Guerrero, Sten-Erik Hoidal, Christina K. Brusven, Fredrikson & Byron, P.A., Minneapolis, MN, for respondent AWA Goodhue Wind, LLC.

Carol A. Overland, Legalectric, Red Wing, MN, for amicus Goodhue Wind Truth.

Considered and decided by HALBROOKS, Presiding Judge; WORKE, Judge; and BJORKMAN, Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge.

*1 Appellant challenges the Minnesota Public Utilities Commission's (MPUC's) determination that there is good cause to disregard one of Goodhue County's setback ordinances for wind energy projects. Because substantial evidence supports the MPUC's factual findings and those facts constitute good cause to disregard the setback, we affirm.

FACTS

In 2009, respondent AWA Goodhue Wind, LLC (AWA) filed a revised site permit application to construct a large wind energy conversion system (LWECS) in Goodhue County. Pursuant to a contract with Xcel Energy, AWA sought to generate 78 megawatts (MW) of power, using 50 wind turbines, each 397 feet tall with a 271-foot rotor diameter (RD). Respondent MPUC approved the contract under Minn.Stat. § 216B.1612 (2010).

An administrative-law judge (ALJ) presided over the permit hearings in July 2010 and submitted a summary of public testimony to the MPUC the following September. Less than one month later, the county adopted a stringent LWECS ordinance, which would prohibit the siting of all 50 turbines in AWA's proposed project. Among other things, the ordinance requires that turbines be set back at least the length of 10 RDs from each residence not participating in the project, absent a waiver from the owner of the residence.

The MPUC referred the matter of the ordinance's applicability to an ALJ for contested-case proceedings. The ALJ presided over a three-day public hearing that included oral testimony from 56 witnesses and thousands of pages of exhibits and expert reports. The ALJ issued findings, conclusions, and recommendations, including the determination that there is good cause to disregard the 10-RD setback ordinance and instead apply AWA's proposed 1,500-foot setback. The county and numerous intervenors, including relator Coalition for Sensible Siting (CSS) and amicus curiae Goodhue Wind Truth (GWT), filed exceptions to the ALJ's report.

In August 2011, the MPUC issued a site permit to AWA. In doing so, the MPUC concurred with the ALJ that there is good cause not to apply the 10-RD setback and instead imposed a 6-RD (1,626-foot) setback. Additionally, the MPUC required AWA to make a good-faith effort

to comply with the 10-RD setback and accommodate the county's concerns about turbine noise and shadow flicker (alternating changes in light intensity caused by moving rotor blades). The county, CSS, and GWT filed petitions for reconsideration, which the MPUC denied. This certiorari appeal follows.

DECISION

The MPUC is the exclusive permitting authority for LWECs that exceed a 25-MW capacity. Minn.Stat. §§ 216F.04, .07, .08 (2010). But the MPUC must apply a county's LWEC ordinance unless it finds good cause not to do so:

A county may adopt by ordinance standards for LWECs that are more stringent than standards in commission rules or in the commission's permit standards. The commission, in considering a permit application for LWECs in a county that has adopted more stringent standards, shall consider and apply those more stringent standards, *unless the commission finds good cause not to apply the standards.*

*2 Minn.Stat. § 216F.081 (2010) (emphasis added). Whether a permit applicant has shown good cause to disregard an ordinance is a mixed question of fact (what facts have been shown) and law (whether the facts constitute good cause). See *Averbeck v. State*, 791 N.W.2d 559, 560–61 (Minn.App.2010) (describing the good-cause standard); *In re Minn. Pub. Utils. Comm'n*, 365 N.W.2d 341, 343 (Minn.App.1985) (describing the burden of proof), *review denied* (Minn. May 31, 1985). We therefore review the MPUC's factual findings for substantial evidence but review its good-cause determination *de novo*. See *In re Excelsior Energy, Inc.*, 782 N.W.2d 282, 289–90 (Minn.App.2010).

I. Substantial evidence supports the MPUC's factual findings.

The MPUC based its determination that there is good cause to disregard the 10-RD setback on the following facts: (1) the 10-RD setback is unnecessary to protect human health, safety, and quality of life, and the proposed project presents “no reasonable likelihood of adverse health impacts”; (2) the 10-RD setback is designed to eliminate all human exposure to noise and shadow flicker; (3) the 10-RD setback “may preclude the entire project”; and (4) the application of a 10-RD setback “could severely hinder the implementation of state renewable energy policies.”

CSS does not argue that any particular factual finding is unsupported by substantial evidence, and our review of the record reveals ample support for each finding. First, AWA presented modeling studies performed by an engineering consulting firm demonstrating that the anticipated turbine noise and shadow flicker would be minimal; no more than 43 decibels of noise (below state noise standards) and 33 hours and 11 minutes of shadow flicker per year (less than 1% of daylight hours). Second, AWA submitted expert testimony and scientific reports from the Minnesota Commissioner of Public Health, the Wisconsin State Health Officer, the Ontario Chief Medical Officer of Health, the Wisconsin Public Service Commission, and the American Wind Energy Association, indicating that there is no reliable scientific research demonstrating that noise generated by wind turbines or shadow flicker cause adverse health conditions. Third, county officials testified that the county adopted the 10-RD setback to eliminate all noise and flicker exposure in order to avoid the costs of modeling and measuring actual noise and flicker effects. Fourth, AWA representatives testified that the 10-RD setback would preclude the placement of 43 out of the 50 proposed turbines, effectively prohibiting the project, and alternative project designs are not geographically or economically feasible. And fifth, modeling studies show that the 10-RD setback would essentially prevent all wind energy projects in Goodhue County—an ideal location for wind development—and, if applied throughout the state, would preclude wind development in the vast majority of Minnesota and thereby drive up the cost of wind power.

*3 In the face of this substantial evidentiary support for the MPUC's findings of fact, CSS advances what is essentially a legal argument. It maintains that the MPUC erred in basing its findings of fact on the evidence presented in the contested-case proceeding

because Minn.Stat. § 216F.081 requires the MPUC to accept and defer to the facts the county relied on in establishing the ordinance, namely, reports from the Minnesota Department of Health and the World Health Organization that allegedly recommend a 10-RD setback. We disagree. Section 216F.081 creates a presumption in favor of applying the county's ordinance; it does not require the MPUC to adopt or defer to the factual allegations the county accepted in passing the ordinance. Indeed, an "agency decision-maker owes no deference to any party in an administrative proceeding" and must "weigh all of the evidence presented and come to an independent decision." *In re Excess Surplus Status of Blue Cross & Blue Shield of Minn.*, 624 N.W.2d 264, 278 (Minn.2001). Based on our independent review of the record, we conclude that the MPUC correctly relied on evidence developed in the contested-case proceeding and that substantial evidence supports the MPUC's fact-finding.

II. The MPUC correctly determined that there is good cause to disregard the 10-RD setback.

The permit applicant—in this case, AWA—has the burden of establishing that there is good cause to disregard the county's ordinance standards. *See In re Minn. Pub. Utils. Comm'n*, 365 N.W.2d at 343. Good cause is a "reason for taking an action that ... is justified in the context of surrounding circumstances." *See Averbeck*, 791 N.W.2d at 561.

CSS and GWT argue that the MPUC shifted the burden of proof to the county to justify the 10-RD setback and show that it was necessary to protect human health and safety. We are not persuaded. The MPUC did not base its decision on the county's failure to produce evidence to justify the 10-RD setback. Instead, the MPUC based its decision on evidence produced by AWA not only that the 10-RD setback is unnecessary to protect human health, but also that such an extensive setback requirement would likely prevent the proposed project and hinder the development of renewable energy in Minnesota. This analysis correctly placed the burden of proof on AWA.

Additionally, CSS asserts that the MPUC failed to give proper deference to the county's authority to set LWECS

standards. Again, we disagree. Although the legislature gave counties the opportunity to establish siting standards through ordinances, it vested the MPUC with the ultimate authority to issue permits for LWECSs of the capacity involved here. Minn.Stat. §§ 216F.04, .07, .08, .081. In doing so, the legislature did not require the MPUC to defer to the county's process of setting standards but instead charged the MPUC with determining whether, as a substantive matter, there is good cause to disregard those standards. The MPUC's conclusion that the good-cause standard was met here does not undermine the county's authority to establish LWECS standards.

*4 Finally, CSS argues that the state's policy of promoting renewable energy cannot be the only factor in the MPUC's good-cause determination. We agree. The good-cause determination involves a multi-factor analysis of all relevant considerations, including health, safety, and the legislative policy goals of encouraging county participation in LWECS siting, increasing the use of wind energy, and "sit[ing] LWECS in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources." Minn.Stat. §§ 216B.1691, 216F.03, .081 (2010). Application of this multi-factor analysis of the surrounding circumstances, as found by the MPUC, reveals good cause to disregard the 10-RD setback. As noted above, substantial evidence demonstrates that AWA's proposed siting does not present adverse health or safety impacts due to turbine noise or shadow flicker.¹ Accordingly, the 10-RD setback—based on a zero-exposure standard—is unnecessary. And on the other hand, imposition of the county's 10-RD setback threatens AWA's private interest in wind development and the state's public interest in promoting wind development as a sustainable source of energy. On this record, there is good cause to disregard the 10-RD setback.

Affirmed.

All Citations

Not Reported in N.W.2d, 2012 WL 2369004

Footnotes

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- 1 CSS argues that there was no "decisive" evidence that the proposed project would not pose stray voltage risks or diminish property values. But because CSS makes this point without any analysis or indication that the 10-RD setback addresses these concerns, CSS has waived the argument. See *In re Irwin*, 529 N.W.2d 366, 373 (Minn.App.1995) (deeming issues waived because they were not adequately argued or briefed), *review denied* (Minn. May 16, 1995).

End of Document

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EXHIBIT 7

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MORGAN COUNTY, ILLINOIS

ORDINANCE NO. 2019 - _____

WIND ENERGY CONVERSION SYSTEMS SITING REGULATIONS ORDINANCE

- I. INTRODUCTION
 - A. TITLE
 - B. AUTHORITY AND ADOPTION
 - C. FINDINGS AND PURPOSE
- II. DEFINITIONS
- III. APPLICABILITY
- IV. PROHIBITION
- V. SITING APPROVAL PERMIT APPLICATION
- VI. DESIGN AND INSTALLATION
 - A. DESIGN SAFETY CERTIFICATION
 - B. CONTROLS AND BRAKES
 - C. ELECTRICAL COMPONENTS
 - D. AESTHETICS AND LIGHTING
 - E. COMPLIANCE WITH THE FEDERAL AVIATION ADMINISTRATION
 - F. WARNINGS
 - G. CLIMB PREVENTION
 - H. SETBACK REQUIREMENTS
 - I. COMPLIANCE WITH ADDITIONAL REGULATIONS
 - J. USE OF PUBLIC ROADS
 - K. SITE ASSESSMENT
 - L. COMMUNICATIONS ANALYSIS; INTERFERENCE
 - M. NOISE LEVELS
 - N. AGRICULTURAL IMPACT MITIGATION
 - O. AVIAN AND WILDLIFE IMPACT STUDY
 - P. HEIGHT
 - Q. AS-BUILT MAP AND PLANS
 - R. ENGINEER'S CERTIFICATE
 - S. CERTIFICATE OF UTILITY POWER CONTRACTS
 - T. CONFORMANCE WITH APPROVED APPLICATION AND PLANS
 - U. SITING APPROVAL PERMIT FOR WECS PROJECTS
 - V. ADDITIONAL TERMS AND CONDITIONS
 - W. NONCONFORMING USE AND STRUCTURES
- VII. OPERATION
 - A. MAINTENANCE
 - B. COORDINATION WITH EMERGENCY RESPONDERS
 - C. WATER, SEWER, MATERIALS HANDLING, STORAGE AND DISPOSAL
 - D. SHADOW FLICKER
 - E. SIGNAGE
 - F. DRAINAGE SYSTEMS
 - G. COMPLAINT RESOLUTION
- VIII. RESERVED

4. The Special Approval Permit granted to the Applicant, Owner and/or Operator of the WECS Project shall bind and inure to the benefit of the Applicant, Owner and/or Operator, its successors and assigns. If any provision in this Ordinance is held invalid, such invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision and, to this end, the provisions in this Ordinance are severable.
5. A violation of the terms and conditions herein shall constitute a violation of the Siting Approval Permit granted herein and shall be grounds for revocation of the Siting Approval Permit by the County Board.
6. The Applicant, Owner and/or Operator of the WECS Project shall supply written proof of an approved entrance from the appropriate governing road and highway jurisdictions or the Illinois Department of Transportation, to the Regional Planner prior to the issuance of any site development permit or construction s for the proposed WECS Project.
7. The County Engineer shall determine which WECSs would be required to have necessary ice sensors installed.
8. No wind turbine generator shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. The wind turbine generator shall not be installed in a location along the major axis of existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

Nonconforming Use and Structures

This Ordinance has established specific requirements for WECS which must be satisfied before the County Board may approve a WECS Project siting approval permit application. However, it is understood and anticipated that circumstances beyond the control of the Owner or Operator of the WECS may cause the WECS to become noncompliant with the provisions of this Ordinance. Recognizing both the legitimate interest of those who lawfully established such a nonconformity and the need to protect the public health, safety, comfort, and general welfare, the provisions of this subchapter are intended to provide for the regulation of nonconforming uses, lots and structures within the following:

- a. It is the intent of this subchapter to permit nonconforming uses to continue until they are removed or until they become a risk to public safety and/or health.
- b. It is the intent of this subchapter that nonconforming structures shall not be enlarged upon, expanded or extended, unless they are brought into compliance with then-current regulations, subject to reasonable exceptions listed below.

2. Any nonconforming structure which received a Siting Approval Permit from the County Board prior to becoming nonconforming, may be continued only in accordance with the following:
 - a. Nonconforming Structures: No nonconforming structures shall be:
 - i. Added to or enlarged in any manner that increases the nonconformity, except as allowed under the exceptions below;
 - ii. Moved or relocated, in whole or in part, that increases the nonconformity, except as allowed under the exceptions below; or
 - iii. Renewed if abandoned for a period of twelve (12) continuous months. The term "abandoned" does not apply to any structure that is not in use or operation due to on-going construction, maintenance, repair or replacement work.
 - b. Nonconforming Use of a Structure: Nonconforming use of a structure may be:
 - i. Used for its intended uses and operations, subject to the provisions of this subsection.
 - ii.
 - c. Damage: Restoration or Reconstruction. A nonconforming structure may be:
 - i. Restored or reconstructed to its original size, height and dimensions, if damaged or destroyed, subject to compliance with applicable then-current state or federal laws governing the construction and operation of WECS. Said restoration or reconstruction shall be upon (a) the original foundation, if feasible, or (b) the location of the original foundation, or (c) a new location that does not increase the nonconformity.
 - ii. A WECS Tower may be restored or reconstructed at its original location where it existed prior to a non-participating property owner constructing his/her/its Primary Structure within the fifteen hundred feet (1,500) setback requirement or a participating property owner constructing his/her/its Primary Structure within the one thousand three hundred twenty feet (1,320) setback requirement of Section VI (Design and Installation), Subsection H (Setback) above, subject to compliance with applicable then-current state or federal laws governing the construction and operation of WECS.
 - d. Exceptions:
 - i. Structural alterations or repairs of a nonconforming structure required by law shall be permitted.

- ii. No nonconforming structure shall be structurally altered or enlarged in such a manner that would further increase the nonconformity, except that structural alterations or operational components related with normal maintenance, repairs and replacements may be permitted where there is no increase in the existing encroachments or the increase results in a *de minimis* (two (2) percent (2%) expansion of the encroachments.
- iii. Provided that the result is to change the status of a structure or use from nonconforming to conforming, such structure or use may be:
 - a. Structurally altered;
 - b. Added to or enlarged;
 - c. Moved or relocated, in whole or in part;
 - d. Expanded or extended;
 - e. Changed; or
 - f. Restored or reconstructed.

VII. OPERATION

A. Maintenance

1. Annual Report. The Owner or Operator of the WECS must submit, on an annual basis on the anniversary date of the siting approval application, an operation and maintenance report to the County. The report shall contain the following information: (i) a description of any physical repairs, replacements or modification(s) to the WECS and/or its infrastructure; (ii) complaints pertaining to setbacks, noise, appearance, safety, lighting and use of any public roads received by the Owner and/or Operator concerning the WECS and the resolution of such complaints; (iii) calls for emergency services, including the nature of the emergency and how it was resolved; (iv) status of liability insurance; (v) a summary of repairs, maintenance and service calls to the WECS; (vi) copies of any new structural engineering reports issued for the WECS; and (vii) any other information that the County might reasonably request.
2. Annual Project Review; Fee. Within thirty (30) calendar days of the receipt of each annual report, the Regional Planner, or his/her designee, shall review it, conduct an on-site field inspection of the WECS Project and within sixty (60) calendar days of the receipt of the report, provide a summary of the report and its on-site field inspection to the Board or any successor committee designated to oversee zoning issues. The County shall charge a fee for this annual review in the amount of Five Hundred Dollars (\$500.00) per WECS Project. This fee shall be paid by the Applicant, Owner or Operator at the time of the annual report submission. Failure to provide the annual report and the required fee shall be considered a cessation of operations. The Applicant, Owner or Operator of a WECS Project shall provide the Regional Planner, or his/her designee, with access to the WECS Project for the purposes of required

EXHIBIT 8

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250 Mich.App. 543
Court of Appeals of Michigan.

CENTURY CELLUNET OF SOUTHERN
MICHIGAN CELLULAR, LIMITED
PARTNERSHIP, Petitioner-Appellant,

v.

SUMMIT TOWNSHIP, Defendant-Appellee,
and

Lee Brown and Janet Brown, Intervenor-Appellees.

Docket No. 225713.

Submitted Nov. 14, 2001, at Lansing.

Decided March 29, 2002, at 9:15 a.m.

Released for Publication July 11, 2002.

Synopsis

Wireless telephone services provider appealed decision of township zoning board of appeals denying its application for permission to replace existing antennas and to install additional antennas on its telecommunications tower. The Circuit Court, Jackson County, Alexander C. Perlos, J., affirmed. Provider appealed by leave granted. The Court of Appeals, Smolenski, J., held that: (1) provider's application constituted a request to extend or expand a nonconforming use, but (2) township zoning ordinance which completely prohibited extension or expansion of nonconforming use violated Township Zoning Act.

Reversed and remanded.

West Headnotes (5)

[1] Zoning and Planning

↔ Nonconforming Uses

A prior nonconforming use is a vested right in the use of particular property that does not conform to zoning restrictions, but is protected because it lawfully existed before the zoning regulation's effective date.

5 Cases that cite this headnote

[2] Zoning and Planning

↔ Nonconforming Uses

Zoning and Planning

↔ Enlargement or Extension of Use

Generally speaking, nonconforming uses may not be expanded, and one of the goals of local zoning is the gradual elimination of nonconforming uses.

6 Cases that cite this headnote

[3] Zoning and Planning

↔ Increase in amount or intensity of use

Wireless telephone services provider's request for permission to replace existing antennas on its telecommunications tower with smaller but more powerful antennas and to install three additional antennas on the tower constituted request to extend or expand a nonconforming use, despite provider's argument that total size of the nine new antennas would be smaller than total size of six existing antennas; provider's proposed changes would increase number and density of antennas present.

2 Cases that cite this headnote

[4] Zoning and Planning

↔ Enlargement or Extension of Use

Township zoning ordinance which prohibited the enlargement, expansion, extension or alteration of nonconforming uses, except in changing the use of a structure to a use permitted within the zoning district, violated the Township Zoning Act when standing alone. M.C.L.A. § 125.286.

5 Cases that cite this headnote

[5] Zoning and Planning

↔ Enlargement or Extension of Use

A township zoning ordinance that completely prohibits the extension or expansion of a nonconforming use violates the terms of the Township Zoning Act. M.C.L.A. § 125.286.

4 Cases that cite this headnote

Attorneys and Law Firms

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William A. Thompson, Jackson, for Summit Township.

Brian E. Thiede, Parma, for Lee and Janet Brown.

Before: O'CONNELL, P.J., and SAWYER and SMOLENSKI, JJ.

Opinion

SMOLENSKI, J.

Petitioner appeals by leave granted the circuit court's order affirming the decision of the Summit Township Zoning Board of Appeals (ZBA). The ZBA denied petitioner's application to modify the nonconforming use of its telecommunications tower. We conclude that the ZBA correctly characterized petitioner's application as a request to extend or expand a nonconforming use. However, we also conclude that Summit Township's zoning ordinance violates the Township Zoning Act, M.C.L. § 125.286, to the extent that the ordinance completely prohibits the extension or expansion of a nonconforming use. We reverse and remand for further proceedings before the ZBA.

****247** I. Factual and Procedural Background

In 1996, petitioner constructed a telecommunications tower in Summit Township. The tower supported six panel antennas designed to facilitate wireless telephone services. When petitioner constructed the tower, the township zoning ordinance allowed its ***545** construction and operation in the C-2 general commercial district, as a matter of right. However, in 1997, the township amended the zoning ordinance and the operation of petitioner's tower became a nonconforming use in the C-2 district. In 1999, petitioner requested the township's permission to replace the six existing antennas with smaller but more powerful antennas. At the same time, petitioner requested

the township's permission to install three additional antennas on the tower. The additional antennas were intended to facilitate personal communications services, which were not supported by the existing antennas on the tower.

The ZBA treated petitioner's request as an application to expand a nonconforming use and denied that application under § 5.7.3 of the Summit Township zoning ordinance, explaining its reasoning as follows:

1. Based on the record as a whole, the Board is satisfied that the variance applied for should be denied based on Section 5.7.3(a) of the Summit Township Zoning Ordinance.

2. The above-cited Section provides, in its entirety, as follows:

“No non-conforming use of a structure shall be enlarged, expanded, extended, or altered except in changing the use of such structure to a use permitted in the district in which such structure is located.”

3. It is the position of a majority of the members of the Board that the use of the applicant's structure, as distinguished from the structure itself, is nonconforming, and that the applicant was requesting an enlargement, expansion, or alteration of such nonconforming use which is prohibited pursuant to the provisions of the above-cited section.

Petitioner appealed the ZBA's decision to the circuit court, which affirmed. Petitioner now appeals from ***546** the circuit court's decision by leave granted. On appeal, we will affirm the decision of a township zoning board unless it is (1) contrary to law, (2) based on improper procedure, (3) not supported by competent, material, and substantial evidence on the record, or (4) an abuse of discretion. Const. 1963, art. 6, § 28; MCL 125.293a; *Johnson v. Robinson Twp.*, 420 Mich. 115, 124, 359 N.W.2d 526 (1984); *Reenders v. Parker*, 217 Mich.App. 373, 378, 551 N.W.2d 474 (1996).

II. Nonconforming Uses

[1] [2] "A prior nonconforming use is a vested right in the use of particular property that does not conform to zoning restrictions, but is protected because it lawfully existed before the zoning regulation's effective date." *Belvidere Twp. v. Heinze*, 241 Mich.App. 324, 328, 615 N.W.2d 250 (2000). Generally speaking, nonconforming uses may not be expanded, and one of the goals of local zoning is the gradual elimination of nonconforming uses. *City of Troy v. Papadelis (On Remand)*, 226 Mich.App. 90, 95, 572 N.W.2d 246 (1997). In *Norton Shores v. Carr*, 81 Mich.App. 715, 720, 265 N.W.2d 802 (1978), this Court explained:

Expansion of a nonconforming use is severely restricted. One of the goals of zoning is the eventual elimination of nonconforming uses, so that growth and development sought by ordinances can be achieved. Generally speaking, therefore, nonconforming uses may not expand. The policy of the law is against **248 the extension or enlargement of nonconforming uses, and zoning regulations should be strictly construed with respect to expansion.

"[I]t is the law of Michigan that the continuation of a nonconforming use must be substantially of the same size and the same essential nature as the use existing at the time of passage of a valid zoning ordinance.' "

*547 The nonconforming use is restricted to the area that was nonconforming at the time the ordinance was enacted. [Citations omitted.]

III. Summit Township Zoning Ordinance

The Summit Township Zoning Ordinance contains several provisions relating to the expansion of nonconforming uses. First, the ordinance describes the township's general policy regarding nonconforming uses. Section 5.7 provides, in pertinent part:

Where within the districts established by this Ordinance, or by amendments, there exists lots, structures, and uses of land and structures which were lawful before this Ordinance was adopted or amended and which would be prohibited, regulated, or restricted under the terms of this Ordinance, or future amendment; it is the intent of this Ordinance to permit these nonconformities to continue until they are discontinued, damaged, or removed but not to encourage their survival. These nonconformities are declared by this Ordinance to be incompatible with the lots, structures, and uses permitted by this Ordinance in certain districts. It is further the intent of this Ordinance that such nonconformity's [sic] shall not be enlarged, expanded, or extended except as provided herein; nor be used as ground for adding other lots, structures, or uses prohibited elsewhere in the same district.

Next, the ordinance distinguishes between nonconforming structures and nonconforming uses. Section 5.7.2, which governs nonconforming structures, provides, in pertinent part:

Where, on the effective date of adoption or amendment of this Ordinance, a lawful structure exists that could not be built under the regulations of this Ordinance by reason of restrictions upon lot area, lot width, lot coverage, height, open spaces, or other characteristics of such structure or *548 its location upon a lot, such structure may be continued so long as it remains otherwise lawful subject to the following provisions:

a. No such structure shall be enlarged, expanded, extended, or altered in a way which increases its non-conformance.

Finally, § 5.7.3, which governs nonconforming uses, provides, in pertinent part:

Where, on the date of adoption or amendment of this Ordinance, a lawful use of a structure exists that is no longer permissible under the regulations of this Ordinance, such use may be continued so long as it remains otherwise lawful subject to the following provisions:

a. No non-conforming use of a structure shall be enlarged, expanded, extended, or altered except in changing the use of such structure to a use permitted in the district in which such structure is located.

* * *

c. Any structure devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not to exceed ten (10) per cent of the then current replacement value of **249 the structure, provided that the volume of such structure or the number of families housed therein as it existed on the date of adoption or amendment of this Ordinance shall not be increased.

The ZBA determined, as a factual matter, that petitioner's telecommunications tower qualified as a nonconforming use under § 5.7.3.¹ Applying that section *549 of the zoning ordinance, the ZBA concluded that petitioner was requesting an "enlargement, expansion, or alteration" of its nonconforming use. Furthermore, the ZBA concluded that the ordinance prohibited petitioner's proposed alterations, which would not have changed the use of the tower to a use permitted in a C-2 district.

[3] Petitioner argues that the ZBA erroneously denied its application because its proposed changes to the tower did not constitute an "expansion" of petitioner's nonconforming use. To support this argument, petitioner points to the fact that the total size of the nine new antennas would be smaller than the total size of the six existing antennas. We conclude that petitioner's argument is without merit. Petitioner's proposal includes the addition of three new antennas to its tower. Despite the fact that these antennas would be smaller than the antennas currently attached to the tower, their addition

would clearly increase the number of antennas present. Furthermore, their addition would change the positioning of all the antennas on the tower and would increase the density of the antennas present. Given petitioner's request to add three new antennas to its tower array, the ZBA's decision that petitioner sought to expand its nonconforming use was supported by competent, material, and substantial evidence. *Reenders, supra* at 378, 551 N.W.2d 474.

IV. The Township Zoning Act

[4] Petitioner next argues that the Township Zoning Act, M.C.L. § 125.286, recognizes a property owner's right *550 to "reconstruction, extension, or substitution of nonconforming uses upon reasonable terms," and mandates that local zoning ordinances preserve that right. We agree. As interpreted by existing case law, the act requires townships to enact ordinances that provide for the possibility of extending a nonconforming use. Section 5.7.3 of the Summit Township Ordinance does not provide for such a possibility. Instead, the ordinance completely prohibits the extension or expansion of a nonconforming use. Therefore, we conclude that § 5.7.3, standing alone, violates the Township Zoning Act. However, because another provision may exist in the instant township's zoning ordinance that may resolve the statutory violation, we must remand to the ZBA for further proceedings.

The Township Zoning Act, M.C.L. § 125.286, provides, in pertinent part:

(1) The lawful use of a dwelling, building, or structure and of land or a premise as existing and lawful at the time of enactment of a zoning ordinance, or, in the case of an amendment of an ordinance, then at the time of the amendment, may be continued although the use does not conform with the ordinance or amendment.

(2) *The township board shall provide in a zoning ordinance for the completion, restoration, reconstruction, extension, or substitution of nonconforming **250 uses upon reasonable terms set forth in the zoning ordinance.* In establishing terms for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses different classes of nonconforming uses may be established in the ordinance with different requirements applicable to each class. [Emphasis added.]

In the present case, we must decide whether the statutory language requires a township to *permit* completion, restoration, reconstruction, extension, or *551 substitution of nonconforming uses upon reasonable terms. In *Rasmussen v. Pennfield Twp.*, 104 Mich.App. 361, 365-366, 304 N.W.2d 581 (1981), this Court addressed that question and examined the requirements of M.C.L. § 125.286 in the context of township zoning ordinances that prohibit extensions, changes, alterations, or enlargements of nonconforming uses:

Since this section of the statute *requires* that any township zoning ordinance provide for the extension of nonconforming uses upon such terms as may be reasonable, it would seem that §§ 7.02 and 7.03 of the Pennfield Township Zoning Ordinance, which effectively preclude the extension of nonconforming uses, are, as the trial court ruled, in direct conflict with the statute and therefore invalid. [Emphasis in original.]

[5] As with the situation presented in *Rasmussen, supra* at 364, 304 N.W.2d 581, the effect of Summit Township zoning ordinance § 5.7.3 is to preclude a nonconforming use from being “enlarged, expanded, extended, or altered,” unless the change would completely eliminate the nonconforming nature of the use. We conclude that § 5.7.3 of the Summit Township ordinance, standing alone, violates M.C.L. § 125.286. We recognize that Michigan law generally disfavors the expansion of nonconforming uses. *Norton Shores, supra* at 720, 265 N.W.2d 802. Nevertheless, we must give force and effect to the intent of the Legislature, as expressed

in the Township Zoning Act. That act mandates that townships “shall provide” in a zoning ordinance “for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses upon reasonable terms.” MCL 125.286. We conclude that a township zoning ordinance that completely prohibits the extension *552 or expansion of a nonconforming use violates the terms of the act.

However, the *Rasmussen* Court concluded that the township zoning ordinances under review in that case did not conflict with the statute because the township had enacted a provision allowing its zoning board to “modify any of its rules, regulations or provisions,” in order to observe the spirit of the zoning ordinances and to secure public safety and substantial justice. *Id.* at 366, 304 N.W.2d 581. Therefore, the Pennfield Township zoning board possessed authority to grant a property owner’s request to extend or expand a nonconforming use, in certain circumstances. *Id.* In the present case, the record does not reveal whether Summit Township has enacted an analogous ordinance. We must therefore remand this matter to the ZBA in order for the board to proceed with a new hearing pursuant to § 5.7.3 and any other township zoning ordinance that, taken in conjunction with § 5.7.3, would allow for the possibility that petitioner could modify the nonconforming use of its telecommunications tower. If the Summit Township ordinance does not contain any provisions that would allow the ZBA to grant an application for an extension or expansion of a nonconforming use, under any circumstances, then the ZBA shall consider whether a denial of petitioner’s request would cause any practical difficulties **251 or unnecessary hardships under M.C.L. § 125.293, because § 5.7.3 cannot be considered standing alone.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

All Citations

250 Mich.App. 543, 655 N.W.2d 245

Footnotes

- 1 The record does not clearly indicate whether petitioner’s tower qualified as a nonconforming structure under township zoning ordinance § 5.7.2, particularly in light of the requirements for such towers contained in ordinance § 5.5.9(g). However, the ZBA chose to base its decision solely on § 5.7.3, rather than § 5.7.2. Petitioner does not argue that its tower was not a nonconforming use under § 5.7.3.

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