



**AGENDA
CITY OF LAPEER
JOINT MEETING
LAPEER CITY COMMISSION,
PLANNING COMMISSION,
DOWNTOWN DEVELOPMENT AUTHORITY,
AND ZONING BOARD OF APPEALS
COMMUNITY CENTER, LOWER LEVEL
880 S. SAGINAW ST., LAPEER, MI 48446
AUGUST 12, 2024
5:30 P.M.**

CALL TO ORDER

- A. Roll Call
- B. Introductions
- C. Training Session
 - a. Presentation on Housing Trends
 - b. Presentation on Nonconforming uses of structures and land
 - 1. Zoning: Nonconforming Buildings and Uses MML Fact Sheet
 - 2. Understanding nonconformity: Are you 'grandfathered' in?
 - 3. The Law of Nonconforming Uses by Clifford Bloom
 - 4. Lapeer Ordinance 7-20.01 et seq. Nonconformities
 - c. Presentation on Lapeer Marihuana Ordinance changes update
 - 1. Current All Marihuana business buffer zone map
 - 2. Draft Marihuana Growers buffer zone map
 - 3. Lapeer Zoning Map
- D. Review of 2023 Public Input
2024 Public Input
- E. Public Comments

ADJOURNMENT

Notice:

Persons with disabilities needing accommodations for effective participation through electronic means in this meeting should contact the City Clerk at (810) 664-5231 or by email at clerk@ci.lapeer.mi.us at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.



City of Lapeer

Summary of Current Housing Trends

August 2024: Alex C. Hritcu, AICP



540 Saginaw St #200, Flint, MI 48502 | (810) 341-7500

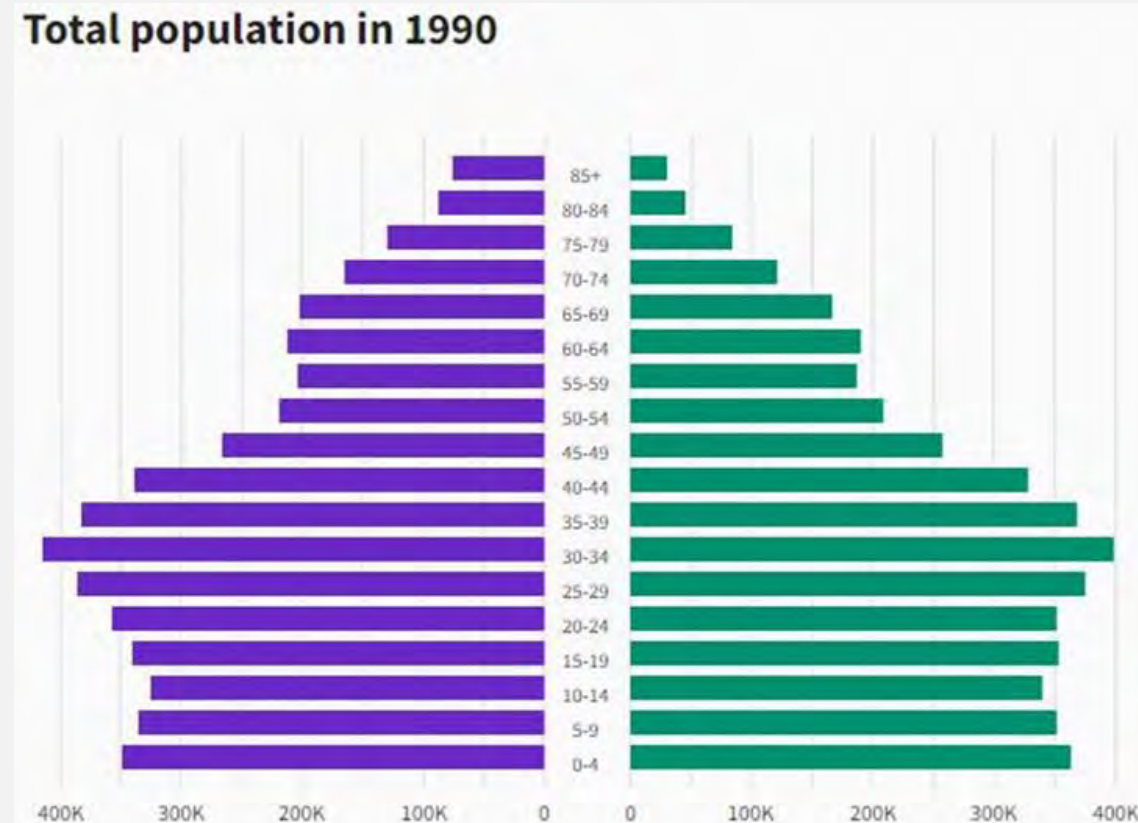


Planning





1990 Michigan Population Pyramid



Source: US Facts US Census



2000 Michigan Population Pyramid

Total population in 2000

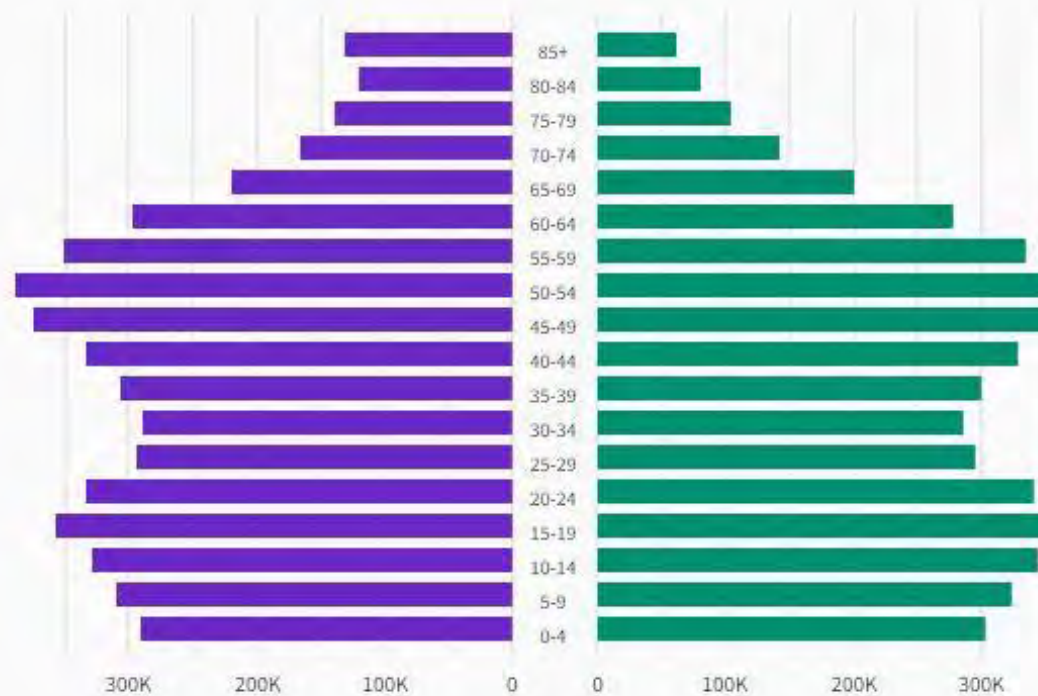


Source: US Facts US Census



2010 Michigan Population Pyramid

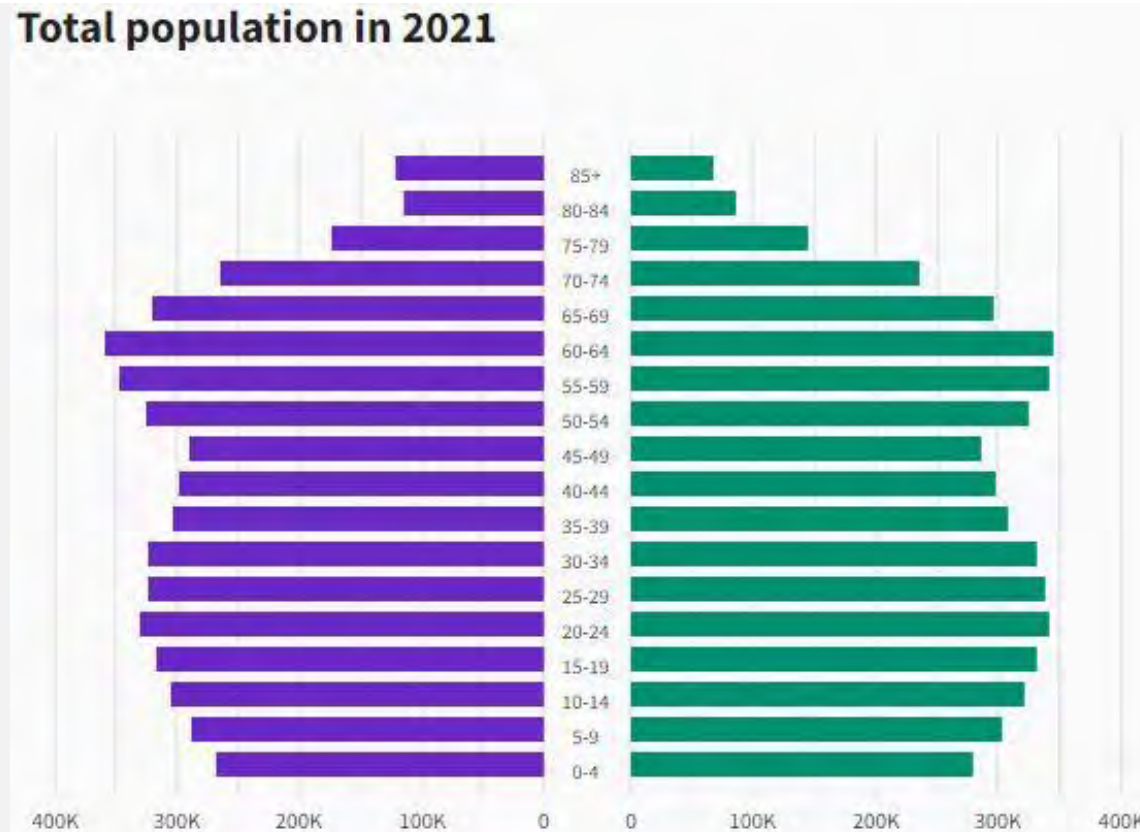
Total population in 2010



Source: US Facts US Census



2021 Michigan Population Pyramid

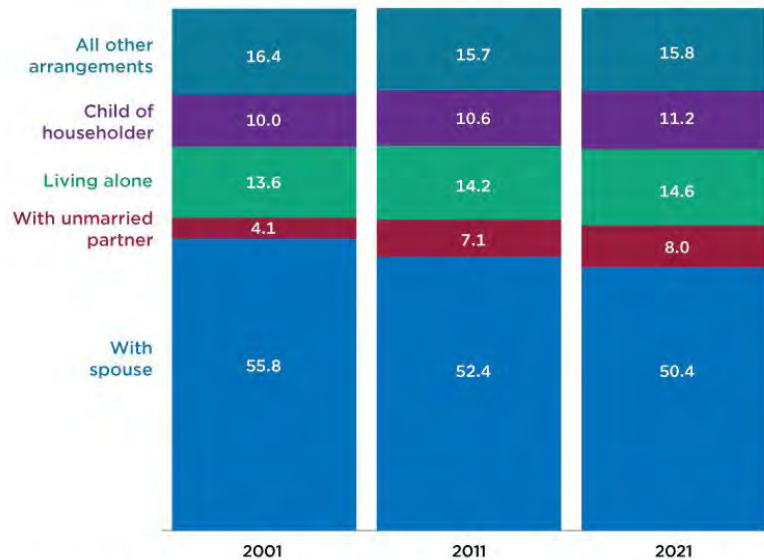


Source: US Facts US Census



Living Arrangements Over the Decades

Percentage of Adults Age 18 and Older



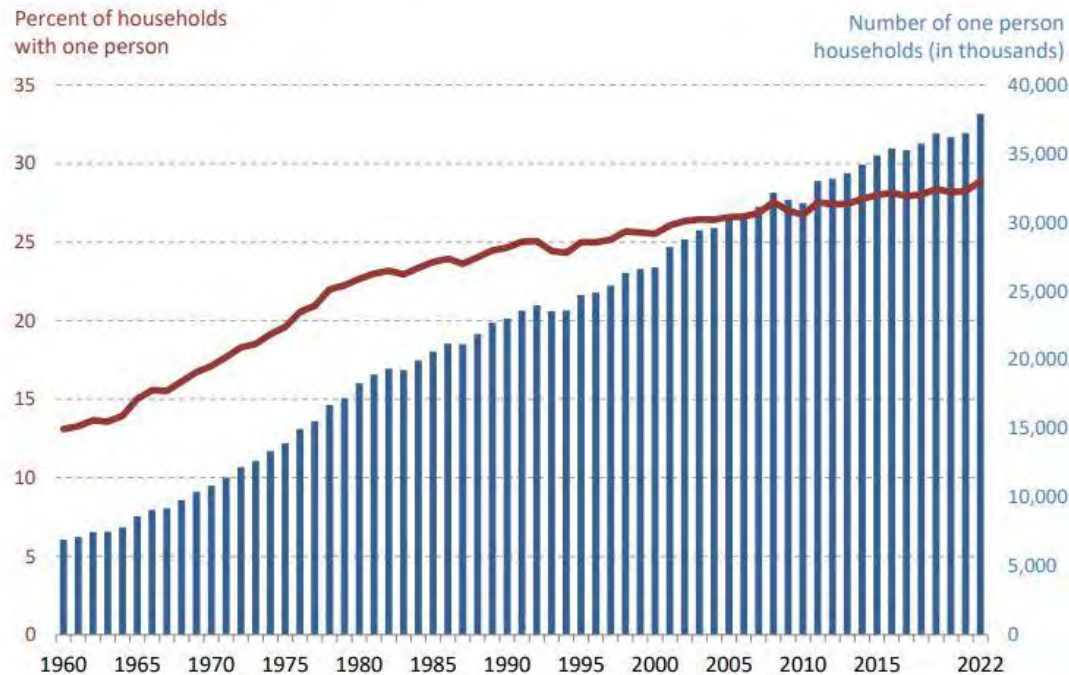
Note: Adults are considered as living "with spouse" or "with unmarried partner" even if they are also the child of the householder.

- The number of families with their own children under age 18 in the household declined over the last two decades. In 2021, 40% of all U.S. families lived with their own children, compared to 44% in 2011 and 48% in 2001

- Households are getting smaller. The second biggest household type is couples living together with no children, which comprise one-quarter (25%) of all households. (Empty Nesters)

Source: US Census

Figure HH-4
The rise of living alone



Source: U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplements, 1960 to 2022.

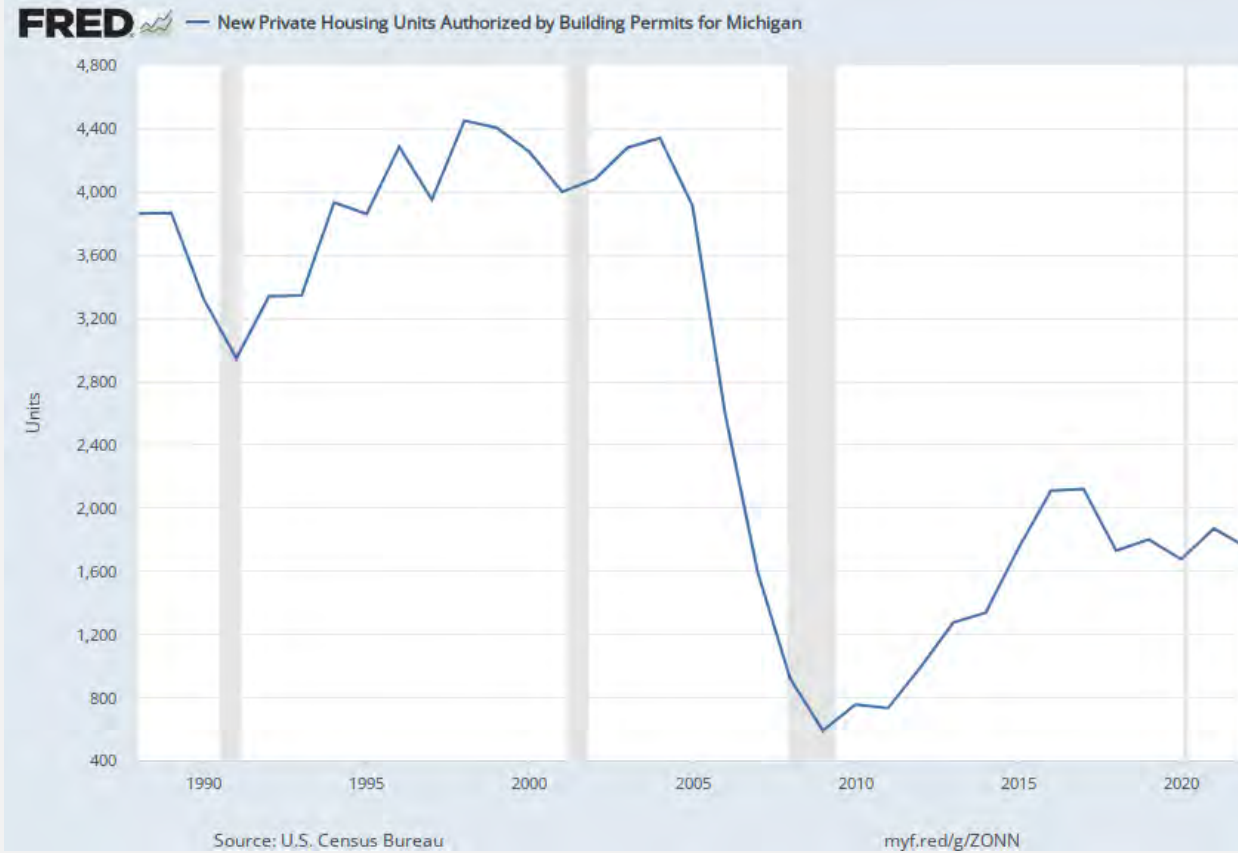
- There were 37 million one-person households in 2021, or 28% of all U.S. households. In 1960, one-person households represented only 13% of all households.

- Meanwhile, the average household size continues to shrink – from 4.5 individuals in the 1960s to 2.5 individuals in the 2020s.

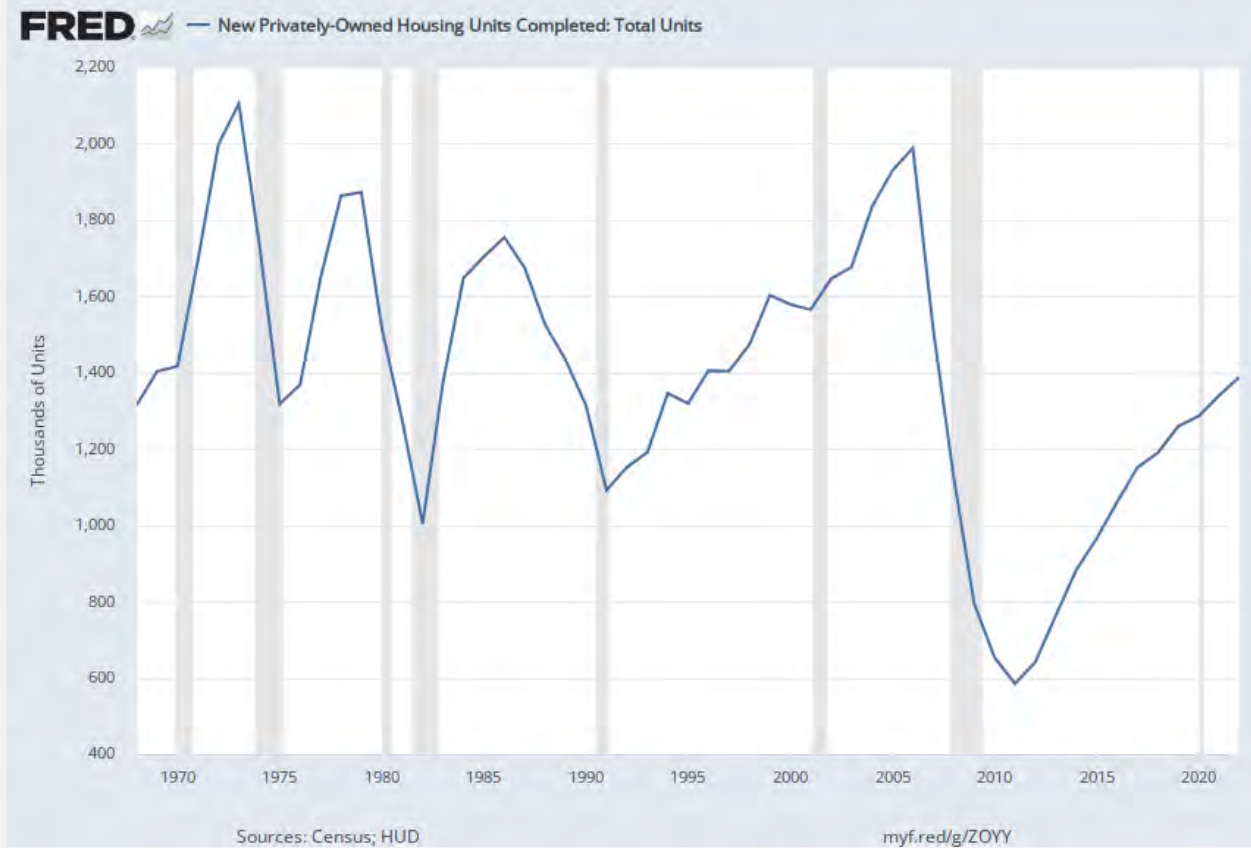


Source: US Facts US Census

New Housing Building Permits in Michigan

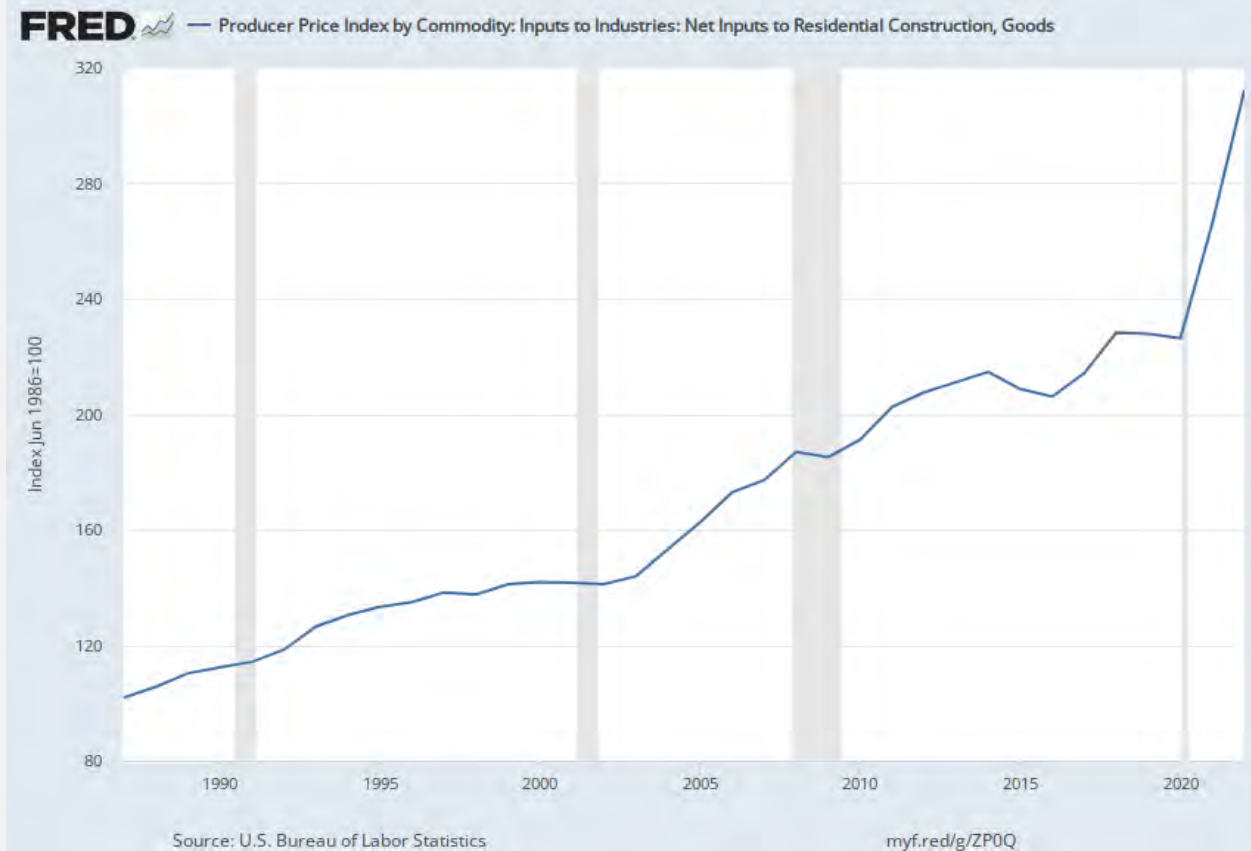


US Housing Completions

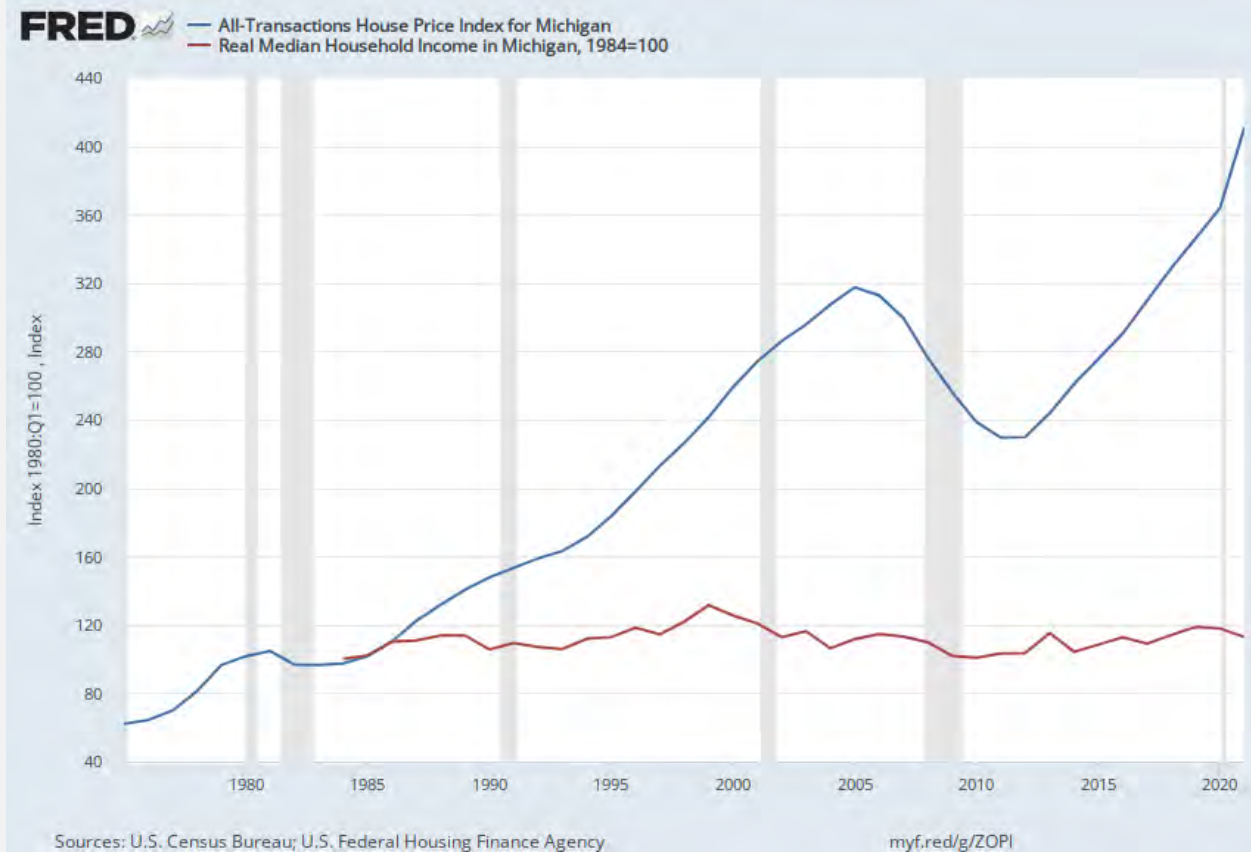




Commodity Inputs to Residential Construction



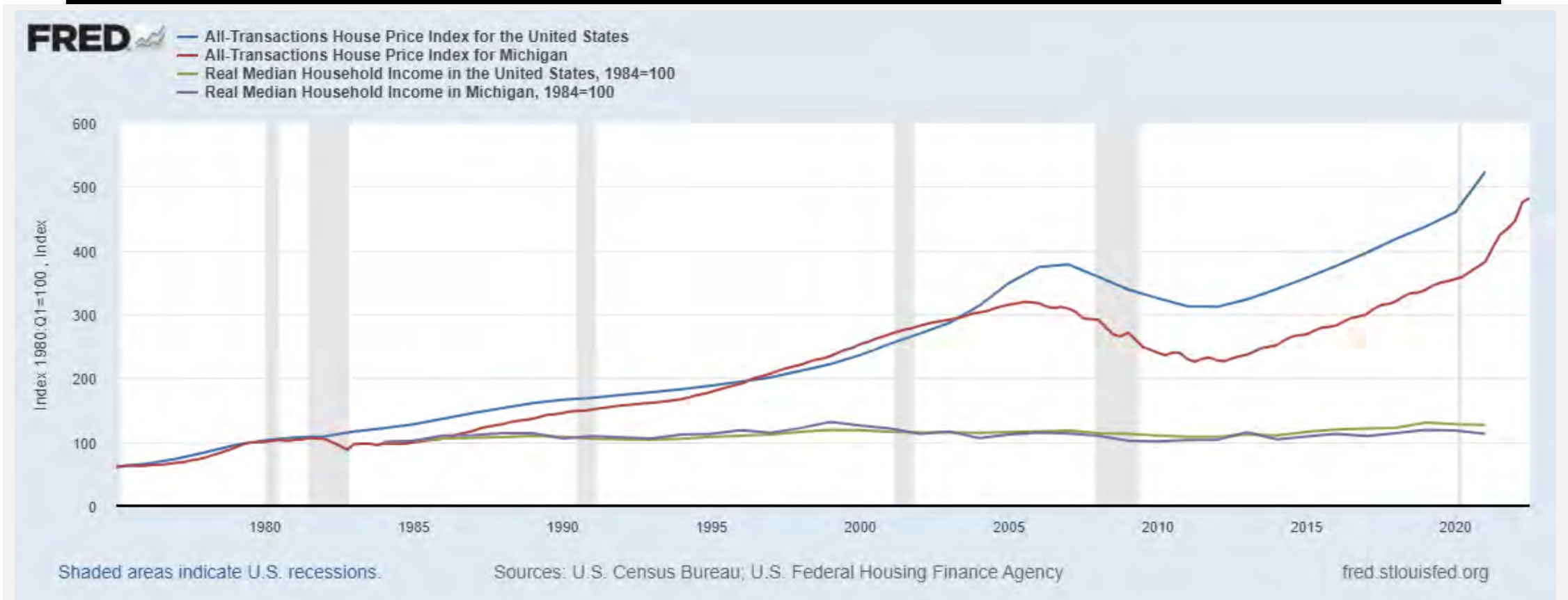
Home Prices Vs Real Median Household income in Michigan





Planning

Home Prices Vs Real Median Household income in Michigan and Nationally





Figures

- o Home building rates still have not returned to pre- Great Recession levels.
- o In Michigan, state population grew by only 2% between 2010-2020, but households projected to increase by 3.7% by 2030.
- o Compared to rate of 1968-2000, from 2000- 2020, an additional 5.5 million housing units should have been constructed nationwide.
- o Shortage of at least 150,000 housing units in Michigan by 2045 if trends continue.

Source: MAP and MML

Only a little more than 1/4 of all households have children at home.

- o Nearly 1/3rd of Michigan households are comprised of people living alone.
- o More than half of our households are two adults without children at home.



Source: MAP and MML

Multi-generational households are increasing

- Between 2000 and 2017, the share of young adults (ages 25-34) living with their parents almost doubled, from 12% to 22%.
- At the same time, the number of Americans living in **multi-generational households** has **increased to almost 20%** of the population, up from the lowest share in 1980 at 12%.



Source: MAP and MML

Baby Boomers would like to age in place

A report by the AARP, Making Room for a Changing America (2019), found that:

- o 77% of people aged 50 or older said they wanted to stay in their current community for as long as possible
- o 76% want to stay in their current residence as long as possible.
- o Of people aged 65 or older, 86% want to remain in their current community and home.

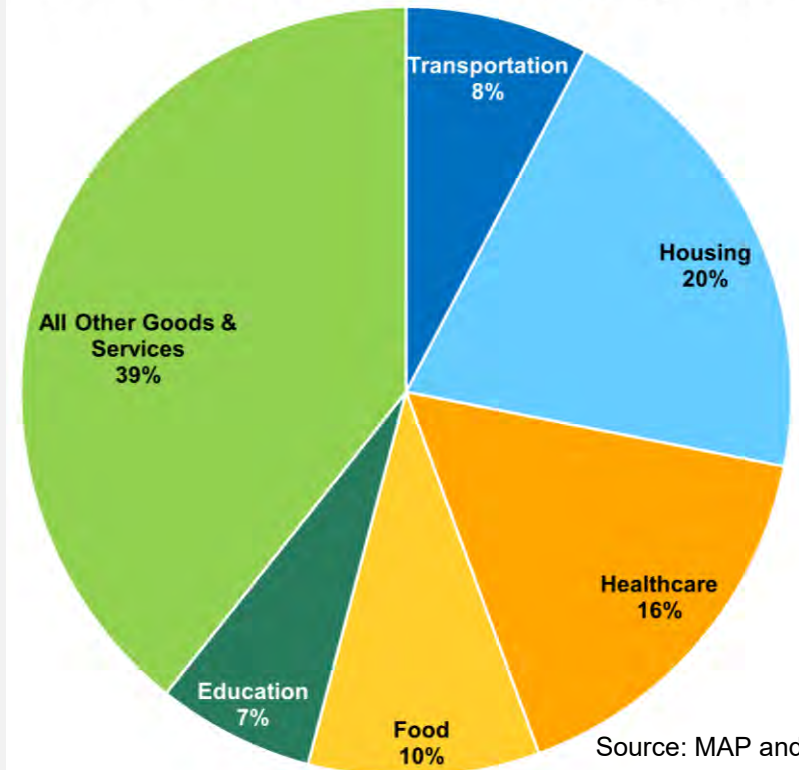


Source: MAP and MML

WHY DOES THIS MATTER?

- o Housing shortage strangles economic growth.
- o Spending within the housing market accounted for 20% GDP in 2020.

Contributions to GDP by Category, 2020



Source: MAP and MML
Chart: Department of Energy

Influencing Factors

The combination of the **Four L's** all play a role in the current housing crisis

○ Labor

- Skills and Wages

○ Lumber

- Cost of Materials and infrastructure
- Supply Chain Disruption

○ Land

- Market Constraints
- Environmental Conditions

○ Laws

- Zoning, Codes, and Regulations

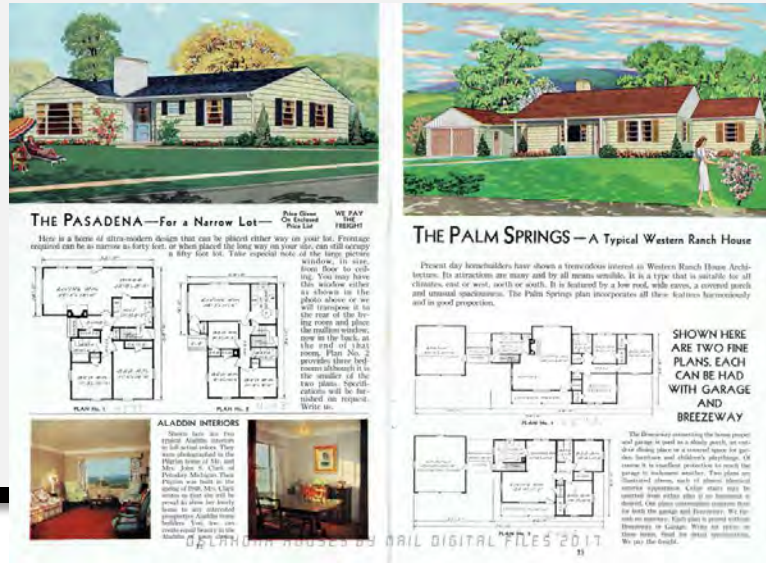


Source: MAP and MML

Traditional Housing Solutions and Alternatives

o Single Family Home

- o 1949 the average size single family home was 909 sq ft.
- o 2021 the average size single family home was 2,480 sq ft.





Planning

Traditional Housing

○ Aladdin Homes Bay City, MI



THE BRISTOL—Brilliantly Modern American—

Price Given
On Enclosed
Price List

WE PAY THE
FREIGHT

The Bristol is embellished with two typically Colonial features, the front entrance and the bay window in the dining room. Plated pilasters bordering each side of the front door, are topped by a leaf casing designed with dentils. This beautifully proportioned ensemble is of true Colonial inspiration, and affords a genuine welcome to those who enter its portals. The Bristol has proven very popular and has received loud praises of its beauty, convenience and economy from those who have built it. Its interior arrangement includes very desirable features of the ultra modern American home. The Plan B arrangement provides 3 bedrooms of a commodious size that will take care of the needs of the average family. The 2 bedroom arrangement, which is the Bristol, Plan A, provides dining room accommodations. Each plan surely deserves a careful study to be fully appreciated. We will be glad to discuss with you further details of your individual wishes. Write us for detail specifications.

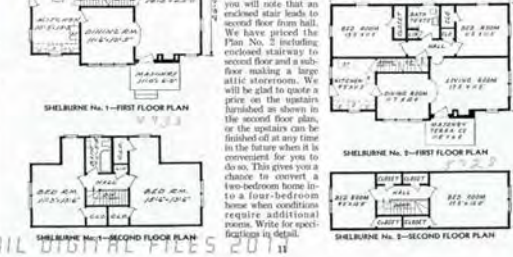


THE SHELburne—Fascinating in Detail—

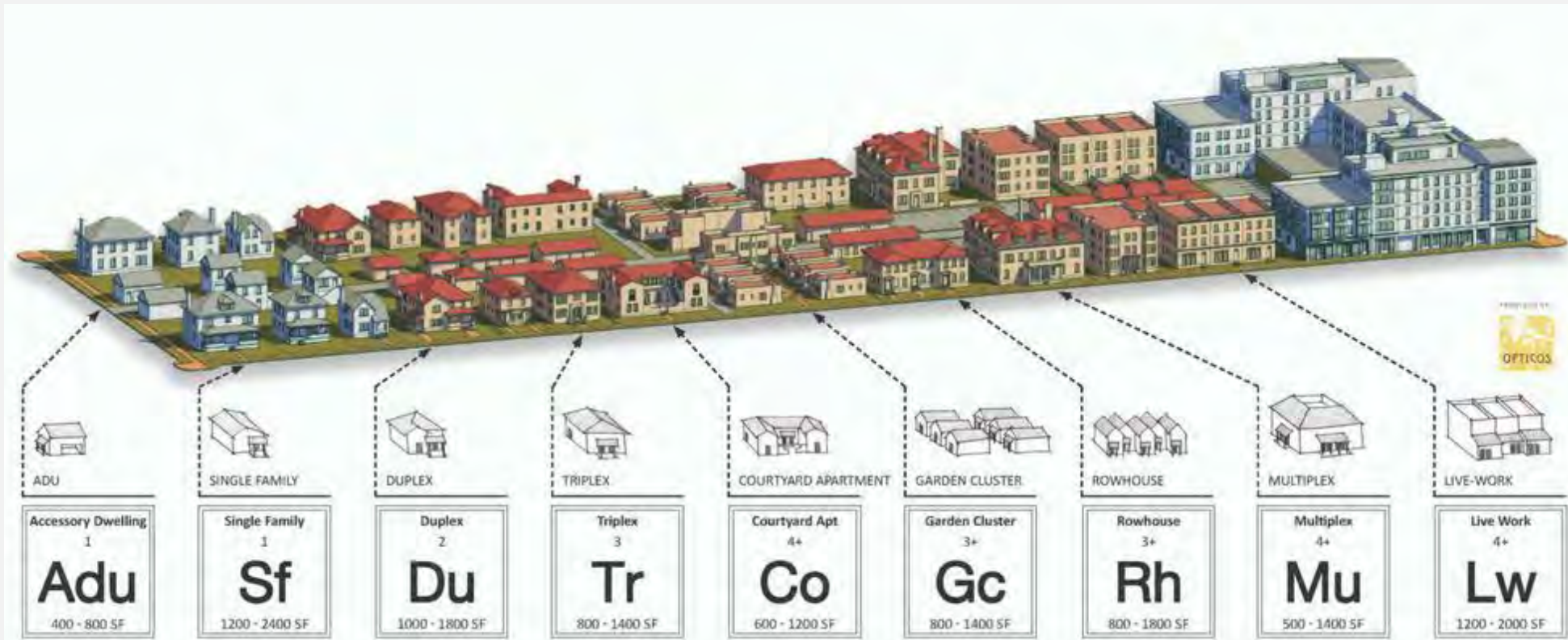
Price Given
On Enclosed
Price List

WE PAY THE
FREIGHT

The Shelburne was first erected in Bay City and opened to the public by Aladdin as a Model Home. Public approval was instant and unanimous and confirmed the good judgment of our designers. It is modeled along ultra modern lines, strong colors and contrast in the chimney, relieving the picture from the approach. An intriguing front door, with circle top and embellished with large antique hammered hinges adding distinction to the entrance. The No. 1 Plan is priced with two large bedrooms and bath on second floor making this a three bedroom home. In Plan No. 2 you will note that an enclosed stair leads to second floor from hall. We have priced the Plan No. 2 including enclosed stairway to second floor and a sub-basement making a large attic storeroom. We will be glad to quote a price on the upstairs furnished as shown in the second floor plan, or the upstairs can be finished off at any time in the future when it is convenient for you to do so. This gives you a chance to convert a two-bedroom home into a four-bedroom home when conditions require additional space. Write for specifications in detail.



Missing Middle Homes



Credit: Opticos Design

Accessory dwelling units (ADUs)

- o Known as granny flats, mother-in-law apartments or carriage houses.



Source: MSU Extension and MLive

Accessory dwelling units (ADUs)



Source: Skyline Champion Corporation and URBANEER, Inc.

\$2,297⁰⁰

**Honor Bill
MODERN HOME
No. C247**

For \$2,297.00 we will furnish all the material to build this Two-story Modern Apartment Building, consisting of Mill Work, Flooring, Ceiling, Siding, Finishing Lumber, Building Paper, Roofing, Pipes, Gutters, Sash, Windows, Hardware, Mantels, Painting Material, Lumber and Lath. NO EXTRAS, as we guarantee enough material at the above price to build this home according to our plans.

Inside floors, trim, doors, etc., furnished in clear oak and for \$352.00 extra.

Pipes does not include cement, brick or plaster.

For Our Office of Free Plans See Page 6.

A FOUR-FAMILY apartment home with two rooms and bathroom for each family, that can be built at a very low cost and will make an exceptionally good paying investment. A light shaft to the rear gives light and ventilation for the baths and bedrooms. A private porch provides for each family.

Double floor up and down stairs.

First Floor Plan.

\$2,632⁰⁰

**Honor Bill
MODERN HOME
No. C154**

For \$2,632.00 we will furnish all the material to build this Fourteen Room Double House, consisting of Mill Work, Ceiling, Siding, Finishing Lumber, Building Paper, Roofing, Pipes, Gutters, Sash, Windows, Hardware, Mantels, Painting Material, Lumber and Lath and Shingles. NO EXTRAS, as we guarantee enough material at the above price to build this home according to our plans.

Price does not include cement, brick or plaster.

For Our Office of Free Plans See Page 6.

First Floor.
Front door, zinc sheet with level plate glass; Sealed windows are glass reinforced; front steps, finished open stairways. Bathing room, built up above the kitchen. Building has a central hall to the rear. Front porch, covered gallery with dining room. Kitchen and bath, with level plate glass in rock glass. Porch and stairs.

Second Floor Plan.

25

Duplex and Fourplex Homes



Source: MSU Extension and MML

Spot the Missing Middle Housing



Source: AARP ILLUSTRATION: DANIEL
PAROLEK/ISLAND PRESS

15 TOOLS TO REFORM ZONING		
Zone Districts	Form and Context	Processes
Collapse Zone Districts	Reduce Minimum Lot Width and Area	Eliminate or Reduce Elected Body Approval
Rezone for Mixed-Use / Multi-family in Commercial Districts	Reduce or Eliminate Minimum Dwelling Unit Size	Expand Administrative Review
Expand Allowable Uses	Reduce or Eliminate Minimum Parking Requirements	Pre-approved Plans
Performance Standards for Uses	Missing Middle Housing (Including ADUs)	More Flexible Approach to Nonconformities
	Density / Height Bonuses	Police Power Ordinances for Nuisance

Source: MAP



QUESTIONS

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Zoning: Nonconforming Buildings and Uses

Introduction

According to the Michigan Zoning Enabling Act (PA 110 of 2006), "if the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment."

What does nonconforming mean?

A nonconforming building or use is one that, when created, met the requirements of the zoning ordinance in effect at that time, but, as a result of a situation beyond the control of the owner, does not comply with the current ordinance.

The basic rule regarding nonconformities is that if the use or building was legal when constructed, it must be allowed to continue to exist.

What is a nonconforming building?

Most municipal zoning ordinances will not permit a nonconforming building to be enlarged or expanded beyond its existing external footprint. However, regulations may be adopted that permit some degree of expansion, but approval by the zoning board of appeals is usually necessary to do so.

What is a nonconforming use?

Nonconforming uses are most often created when a property is rezoned or changes are made to the uses allowed in a district. This can be a problem when residentially developed areas are rezoned to commercial. Most municipal zoning ordinances will not permit a nonconforming use to increase its area of nonconformity.

Unlike nonconforming buildings, which may be restricted once destroyed to some degree, the only way nonconforming uses can be eliminated (absent a purchase by the community) is if the owner intentionally abandons the use.

Reprinted in part, with permission, from Zoning Tips, Langworthy Strader LeBlanc & Associates, Inc.

Understanding nonconformity: Are you 'grandfathered' in?

Ryan Coffey<coffeyry@msu.edu>, [Michigan State University Extension](#) - April 04, 2013

Properties that qualify as nonconforming often have particular regulations that affect how an owner can make changes to the property. Understanding these regulations is important in order to avoid potential conflict with local government.

A nonconforming use, building or parcel is a use of land, a structure, or a parcel that was lawfully in existence prior to the adoption or amendment of the zoning ordinance that made it nonconforming. These are often referred to as *grandfathered in* or *grandparented in*.

In communities across Michigan, there are many homes, businesses, and parcels that have been grandfathered in under nonconforming status, since they were built or established prior to zoning taking effect. If you own a nonconforming use, structure or parcel, there are a few things you should know and consider before planning or making any changes.

Nonconformities are allowed to continue into the future in the same manner and same extent as they existed at the time they became nonconforming. A nonconforming property can be sold and the new owner is permitted to continue its use in the same fashion as the previous owner without any new zoning approvals. However, if a change in a nonconforming use, building, or parcel is proposed, it must conform to ordinance requirements. The ordinance should have established standards and procedures for treatment of nonconformities (the basic objective is gradual elimination of nonconformities). The three most basic types of regulation address enlargement, reconstruction and substitution.

Enlargement, expansion or extension of nonconforming uses is generally restricted because each is usually contrary to the intent of the ordinance. Many communities prohibit any enlargement or expansion of nonconforming uses because that usually entrenches the use, when the ordinance objective is for nonconforming uses to either go away, or even better, changed to conform to the ordinance.

Reconstruction of a nonconforming building is usually prohibited if it is damaged greater than 50 percent. There are various ways of measuring damage and the method selected should be clearly spelled out in the zoning ordinance. This method provides a great opportunity for reconstruction in a manner that conforms to the ordinance and therefore replaces a nonconforming building with a conforming one.

Substitution of one nonconforming use for another is usually allowed if the change is *more conforming* or *no less conforming*, allowing for the property to move closer to conformity over time with district requirements.

Most nonconforming provisions are administered by your local zoning administrator. Ordinances, however, vary dramatically with regard to nonconforming requirements. Consequently, it is important to become familiar with the unique requirements in your zoning ordinance by reading the ordinance and speaking with your zoning administrator about the particulars of your nonconforming status. Michigan State University Extension's nationally recognized Michigan Citizen Planner program addresses nonconformity in greater detail.

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THE LAW OF NONCONFORMING USES

By Clifford H. Bloom
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Bridgewater Place
333 Bridge Street NW, Suite 800
Grand Rapids, Michigan 49504
May, 2001

THE LAW OF NONCONFORMING USES

A. Identifying and Handling Nonconforming Uses

1. **The Meaning of “Grandparented” Uses.** A nonconforming use is a use that was legal at the time it was created but which has since become impermissible because of a subsequent modification or adoption of a zoning ordinance. This is sometimes referred to as a “grandparented” use meaning that it was a use which was allowed before the law was changed to prohibit it. For example, a two-family home may be built and utilized in a multiple family area which is subsequently rezoned to single family. Another example would be a restaurant built in an area that was not zoned at all but subsequently became zoned for residential uses. In either instance, the use can continue as is. Eveline Twp v H & D Trucking, 181 Mich App 25 (1989). There is case law which suggests that an ordinance which required the immediate elimination of a nonconforming use would be an unconstitutional deprivation of property without compensation (i.e. a “taking”). Austin v Older, 283 Mich 667 (1938). In addition, the various Michigan Zoning Enabling Acts are arguably not broad enough to support an ordinance which would require the immediate elimination of a nonconforming use.

There are three Zoning and Enabling Acts in Michigan which apply to the area of nonconforming uses:

- (a) The City or Village Zoning Act, MCL 125.583(a).
- (b) The Township Rural Zoning Act, MCL 125.286.
- (c) The County Rural Zoning Enabling Act, MCL 125.216.

All of these statutes provide for the regulation by ordinance of nonconforming uses. They authorize the elimination of nonconforming uses only through voluntary purchase or condemnation proceedings.

Nonconforming uses run with the land. The sale or lease of property to another party that continues the same use does not extinguish the right to use the property for the nonconforming use. Civic Assoc v Horowitz, 318 Mich 333 (1947). Nonconforming uses are not transferable to another location, however. Gackler Land Co v Yankee Springs Twp, 138 Mich App 1 (1984); affirmed, 427 Mich 562 (1986).

One final issue must be noted. In order to obtain a vested interest, the use must have been legal before it was made nonconforming. In fact, the term “nonconforming use” is actually shorthand for “vested lawful prior nonconforming use.” An illegal use cannot obtain status as a nonconforming use. Wyoming v Herwever, 321 Mich 611 (1948).

A question sometimes arises as to whether a landowner has obtained vested rights in a use prior to a change in the ordinance. A case which addresses this issue is Heath Twp v Sall, 191 Mich App 716 (1991). The Defendants obtained a rezoning of property from a classification which did not allow a mobile home park to one which did. Township residents dissatisfied with the rezoning successfully pursued a referendum which overturned the new zoning. Prior to the vote, Defendants had made tangible changes to the land including paving a roadway and installing a well. The Court of Appeals held that Defendants held a vested right in the use of the property for a mobile home park. Therefore, their rights could not be divested by the referendum vote.

2. **The Expansion or Enlargement of Nonconforming Uses.** Most zoning ordinances provide that nonconforming uses may continue in their present form and scope, but that they will not be allowed to expand. Eveline Twp v H & D Trucking, above. Alternatively, some ordinances provide that expansion is permitted in a limited fashion but only after a specific zoning approval has been obtained from the municipality.

In those municipalities where expansion is prohibited by the zoning ordinance, a variance is necessary in order to allow expansion. Expanding a nonconforming use by variance normally involves a “use variance.” *Rathkopf, The Law of Zoning and Planning*, Section 51A.05. In theory and normally in practice as well, use variances are difficult to obtain. In order to be entitled to a use variance, the applicant must show that there is an unnecessary hardship which justifies the granting of the variance. This requires the applicant to prove that the property cannot be used as presently zoned, in addition to proving that the other variance standards exist. This is an extremely difficult standard which essentially requires the municipality to admit that there is an error in its zoning ordinance. The situation is even more severe in counties and townships. The County Rural Zoning Act and the Township Rural Zoning Act do not expressly provide for use variances and some land use attorneys argue that use variances are not available in a county or township. In fact, most county and township zoning ordinances do not contain a specific procedure for granting use variances. Most municipal attorneys believe, however, that the zoning enabling legislation for counties and townships is broad enough to allow these entities to grant use variances. There are also reported cases involving use variances in townships.

In applying for a variance, the applicant should remember that since the general policy of the law favors the elimination of nonconforming uses, most municipalities will look with disfavor upon any activities which would expand a nonconforming use.

In some municipalities the zoning regulations expressly provide that limited expansions may be approved (i.e. a fifty percent (50%) expansion of floor space) so long as approval is obtained from the municipality and certain standards (which are usually less stringent than variance standards) are met. For example, the City of Walker Code provides that an expansion of a nonconforming use can occur if the Zoning Board of Appeals finds (1) that such expansion is made on adjoining land, (2) such expansion could not exceed fifty percent (50%) of the floor area of the nonconforming use, and (3) a reasonable need for expansion exists and an absence of an injurious effect on contiguous property is shown.

Even when limited expansion is allowed by a zoning ordinance, questions can arise regarding compliance with the ordinance. A case of local significance will illustrate this problem. In High v Cascade Hills Country Club, 173 Mich App 622 (1988); 434 Mich 556 (1990), the country club pursued what it believed to be a legitimate expansion of its operations. It built a maintenance shed for its golf carts pursuant to a township ordinance which allowed an expansion of up to fifty percent (50%) of the floor area of an existing building devoted to a nonconforming use. The new maintenance building was completely separate from and not physically attached to any other country club building, however. Grand Rapids Township had determined that the new building was a lawful extension of an existing nonconforming use. The Kent County Circuit Court agreed with this decision. The Michigan Court of Appeals reversed the trial court's holding. The

Appellate Court held that the erection of a new building was not a permitted enlargement or extension of a nonconforming use, but rather the new building was a completely separate and distinct structure serving a whole new use. This case illustrates how strictly the law regarding nonconforming uses may be construed.

One of the toughest issues regarding nonconforming uses is what constitutes an expansion of the use. Recent case law has held that mere changes in technology would not necessarily be treated as an expansion. Independence Twp v Eghigian, 161 Mich App 110; lv app den, 429 Mich 871 (1987). In that case, the court found that the applicant was able to store a larger truck than he had previously owned on his residentially zoned property because trucks were now bigger than they use to be.

The decisions become even more difficult when the expansion occurs slowly and over time. For example, the party with a nonconforming use may have five trucks in one year, six trucks the next, and seven the year thereafter. In any one year, the difference does not seem substantial. Over a period of ten years, however, the difference may, in fact, be significant.

There are other examples of how difficult it can be to determine whether a use has been expanded. For instance, would changing the hours of operation of an establishment be treated as an expansion of a nonconforming use? In Garb-Ko v Carrollton Twp, 86 Mich App 350 (1978), the Michigan Court of Appeals upheld the trial court's finding that the extension of operating hours constituted an expansion of a nonconforming use. This ruling was based upon a series of Michigan cases which have held that the continuation of a nonconforming use must be of substantially the same size, intensity and essential nature as

the use which existed at the time of passage of a valid zoning ordinance or amendment thereto. Deardon v Detroit, 70 Mich App 163 (1976); Norton Shores v Carr, 81 Mich App 715 (1978). Even extending a roof over an existing patio to allow year-round use has been found to constitute an expansion of a nonconforming use. Jobert v Morant, 192 A2d 553 (Conn 1963).

3. **What Constitutes a “Change of Use”.** Related to the issue of expansion of a nonconforming use is the issue of a change of use. The Michigan Zoning and Enabling Acts permit municipalities to adopt regulations regarding the substitution of nonconforming uses. Such ordinances will normally allow a change to use that is more appropriate to the district in which it is located than the existing nonconforming use. An example would be a change of use from an office use that generated significant traffic, such as a doctor’s office, to an office use which generated very little traffic, such as an insurance broker that did not deal with the general public. While the ordinance will normally require that the permission of the municipality be obtained to change the use, such permission is usually freely given on the basis that the “new use” is a move toward the eventual elimination of a nonconformity.

Many changes of use are prohibited by local ordinances as they would be treated as establishing a new nonconforming use. It is not always easy to determine whether a change of use has occurred, though. For example, if a restaurant is operating as a nonconforming use, would it be a change of use for that restaurant to obtain a liquor license? No Michigan case has addressed this question, but the courts in New York, Connecticut, and Massachusetts have all found that obtaining a liquor license was a change in use which

would require a variance. Would it be a change of use for a nonconforming hardware store to begin to sell an expanded product line? It might be, but it could also be considered a change in technology such as the change that was condoned in the Eghigian case noted above.

A 1991 Michigan Court of Appeals decision illustrates how confusing decisions in this area can be. In Rochester Hills v SOCRRA, 192 Mich App 380 (1991); reversed in 440 Mich 852 (1992), the Defendant obtained a license to operate a landfill in 1958 at a time that its land was zoned agricultural. The property subsequently underwent several zoning changes which made the operation of the landfill a lawful nonconforming use. In 1971 the defendant started to compost leaves, and in 1988 the composting of lawn clippings began. The Court of Appeals held that the landowner could not change the nature of the nonconforming use and that the ordinances allowing nonconforming uses protected only those uses which were legally established before the zoning change in question. Of particular significance in this decision was the fact that the defendant's landfill operation was coming to a close at a time that the composting operations were greatly increasing in size and could continue indefinitely. Since the law favors the eventual elimination of nonconforming uses, this change of use was considered a significant extension of the preexisting nonconforming use and therefore was not allowed. Ultimately, the Michigan Supreme Court reversed the Court of Appeals, thus demonstrating the difficulty of what really constitutes a substantial change of use.

4. **Dealing with Abandonment or Discontinuance.** Ordinances will often provide that a nonconforming use cannot be resumed after discontinuance

or abandonment. Sometimes a specific time frame is provided by ordinance. Courts are often reluctant to enforce such provisions, however. Even when the time frame contained in the ordinance to evidence discontinuance has been exceeded by several months, courts will generally require some proof of affirmative interest to abandon the nonconforming use before holding that the use cannot be resumed. Case law dictates that it is necessary to show more than mere nonuser. The burden is on the municipality to show abandonment. Rudnik v Mayers, 387 Mich 379 (1972); Dusdal v Warren, 387 Mich 354 (1972). This puts a substantial burden upon the municipality because it may be difficult to show in many instances that the property owner clearly intended to abandon the nonconforming use unless there has been a substantial physical alteration which would signal an end to the use. Please note that there is some older case law that indicates that discontinuance combined with substitution of a conforming use may eliminate the right to continue the nonconforming use. Howell v Kaal, 341 Mich 585 (1954).

The case law in this area can be extremely frustrating to a municipality. If the nonconforming use has existed for many years, there may be numerous activities which would be considered nonconforming. Arguably, the property owner may revive any of these activities at any time if he or she has not clearly manifested a voluntary decision to abandon the use. Barring substantial physical changes to the property, the ability to show an intention to abandon may be extremely difficult. Accordingly, it is not uncommon for a municipality to rely upon the time frames contained in the municipality's ordinance as an

indication of intent to abandon. This may well result in a court action to determine whether the nonconforming use has actually been abandoned so that it can no longer be revived.

5. Modifying the Use - Receiving Administrative Approval. As noted in subsection 2 above, some ordinances allow limited expansion of nonconforming uses if specified standards are met. In certain instances, this approval may be granted administratively by the building inspector or zoning administrator. Such personnel may also have the authority under local ordinance to approve changes of use where the new use is more appropriate than the former use. Not all municipalities have ordinances which contain these provisions. If modification of an existing nonconforming use is desired, it is certainly appropriate to first check with the municipality to see what approval process will be required to modify the use. In those instances where administrative approval is permissible, the applicant's chances for successfully modifying the use are greatly increased.

B. Distinguishing Nonconforming Lots and Structures

1. Similarities and Differences From Nonconforming Use. A nonconforming structure is a structure which was lawfully in existence at the time the zoning regulations were adopted or amended and which no longer conforms to the new zoning regulations. The structure might be nonconforming because it is too close to the lot line or because the structure takes up too much lot area. A nonconforming lot is a lot which previously met the zone district requirements or was platted before the area was zoned but is now too small for the zone district or has some other dimensional problem. In either instance, the similarity with a nonconforming use is that the structure or lot conformed with

local regulations at one time but has become nonconforming because of a change in the zoning regulations.

It is quite possible that the use carried on in a nonconforming structure is still permitted in the zone district and that it is only the structure itself which is not in compliance with the new regulations. It is also possible that both the use and the structure would not be permitted by the new zoning regulation.

Both ordinances and case law have tended to view nonconforming structures less critically than nonconforming uses. The ability to expand a nonconforming structure by variance is normally easier than a nonconforming use because the test which is applied to review the expansion application is less stringent. This will be discussed below.

It is sometimes difficult to determine whether an expansion constitutes an impermissible expansion of a nonconforming structure. For example, there is case law which indicates that the installation of a roof deck which did not increase the physical nonconformity of a structure would not be treated as an expansion of a nonconforming structure but would still be treated as the extension or expansion of a nonconforming use. Shackford v Kennebunk, 46 A2d 102 (ME 1984). Had there not been a nonconforming structure involved in that case, the construction of that same roof deck would not have required a variance because the increase in the deck did not increase the physical nonconformity of the building. The problem with the building was not its height, but its location to the property line which involved an infringement into a required setback area.

Distinguishing between whether a change is change of use or a structural type change is not always as easy as it may sound. For example, a store may be located in a

residentially zoned district. The store can continue to operate as is because it preexisted the zoning ordinance and is a legal nonconforming use. Under the local zoning ordinance, however, legal nonconforming uses cannot be changed or expanded in any manner without either rezoning the property or obtaining a variance. If the store owner wants to add an addition onto the building and if the addition would encroach into the required side yard setback (i.e., the addition would make the building too close to the lot line), would the variance request involving the setback line be a use or a nonuse variance? The store owner will assert that it is a nonuse variance since he or she is already lawfully operating the store and is simply requesting a setback variance. However, since the store use is not normally permitted in that district and since the store owner is attempting to add floor space to a use which is otherwise prohibited (i. e., expanding a nonconforming use), many experts would argue that the store owner is asking for a use variance. Legal authorities are split over whether this would constitute a use or nonuse variance, although most would probably agree that it is both.

2. Applying Local Ordinances - Expansion or Enlargement of Nonconforming Structures. Many ordinances prohibit the expansion of a nonconforming structure unless prior approval is obtained. Interestingly enough, most ordinances will allow an applicant to expand a nonconforming use within the confines of an existing structure (within the existing “footprint”), even if that existing structure is nonconforming itself. There are sometimes limitations on this expansion, however, such as the requirement that the proposed use was contemplated at the time the structure was built.

Almost any type of physical expansion of a nonconforming structure is considered an extension or expansion. For example, extending a roof over a patio to allow year around use has been found to be an expansion of a nonconforming use. Jobert v Morart, 192 A2d 553 (Conn 1963).

The expansion of a nonconforming structure is normally accomplished through the filing of a variance. The type of variance which is granted is termed a nonuse variance. The burden on the applicant to obtain a nonuse variance is lower than the burden of obtaining a use variance. The standard for granting a nonuse variance is “practical difficulty,” that is, whether the literal application of the zoning ordinance provision would cause practical difficulty. Generally, this would involve showing (1) whether compliance with the restrictions of the zoning ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would be unduly burdensome, (2) whether a grant of the variance would do substantial justice to the applicant as well as other property owners, and (3) whether relief can be granted in such a fashion that the spirit of the ordinance will be observed and public safety and welfare will be secured.

Some common examples of nonuse variances are requests to build within required setback areas and relief from restrictions on fence height. In industrial and commercial areas, there are often requests to exceed maximum lot coverage requirements which may exist or to obtain relief from parking requirements.

3. **Eliminating Nonconforming Lots - Merger of Lots.** In many older communities, areas were platted before they were zoned or at least before newer zoning ordinances were adopted which require larger lots. This leads to

situations where the platted lots which exist are smaller (sometimes significantly) than what the present zone district requires. In order to address this discrepancy, many municipalities have adopted ordinance provisions which require nonconforming lots to be merged when possible to meet the zone district requirements.

Merger requirements are placed only on lots which are in common ownership since the land owner who owns a single nonconforming lot should be allowed to use that lot under the general rules of nonconforming uses and lots discussed above. The person who owns multiple contiguous lots is not so fortunate, however. Merger ordinance provisions require that person to combine those lots in order to meet the underlying zone district requirements. For example, if a person owns 3 platted 50-foot lots and the zoning ordinance now requires a minimum lot width of 75 feet, that person will have to divide the middle lot in half in order to create 2 conforming 75-foot lots. Such provisions foster the municipality's policy of eliminating nonconforming situations. These provisions have often made unsuspecting landowners upset, however. Referring to the above example, if the three 50-foot lots were owned by 3 different individuals, they would be developed as 3 building sites. The mere fact that one person has acquired all three lots has suddenly changed the nature of the lots from three building sites into two. If an area is substantially developed with the smaller lot size, it is not uncommon for such a landowner to seek a variance on the basis that the rest of the neighborhood is already developed with 50-foot lots so that there is no detriment to the community in allowing that property owner's lots to be developed likewise. If the area is not well developed, however, or if the area has already developed through numerous combinations of lots, the ability of the landowner to obtain such a variance will be severely

limited. The Michigan Supreme Court has upheld a municipality's right to enforce a merger ordinance finding that such an ordinance did not result in a regulatory taking without just compensation. Bevan v Brandon Twp, 438 Mich 385 (1991).

You should also realize that merger statutes can sometimes create very harsh results. If the property owner noted above owned two 50-foot lots instead of three, that property owner would be required to use both lots to meet the zone district requirements and thereby have a lot with an extra 25 feet.

In representing purchasers of property it is always wise to know what the zoning requirements for an area are. The purchaser should be certain that he or she will be able to use or sell separate lots as building sites if that is his or her intention. It is very unpleasant and costly for the purchaser to find out after purchase that some merger of lots may be required. It is equally important for the purchaser to be certain that the proposed use of those lots is allowed by the zoning ordinance.

4. When the Structure Becomes Abandoned—Voluntarily or Through Destruction. The rules governing abandonment of nonconforming structures are somewhat different than those which deal with the abandonment of nonconforming uses. In the case of a nonconforming structure, the only way to abandon the nonconformity is to bring it into compliance with the zone district requirements. Once this has occurred, no nonconformity remains. Once such a structure has been brought into compliance, almost all ordinances will require that the structure remain in compliance. Since it is obvious in the case of a physical alteration whether a nonconformity has been abandoned, the proof problems associated with the abandonment of a nonconforming use are not present.

Likewise, if a structure is destroyed most ordinances will require that any new structure be built in compliance with the zone district requirements. This is consistent with the theory of the law that eventually nonconformities will be brought into compliance through attrition. It is always possible for a homeowner to seek a variance if the application of this rule will result in a hardship.

5. When the Property Owner is Denied—Seeking Relief Through Variance Appeals and Other Administrative Avenues. Unlike the nonconforming use area where some zoning ordinances provide for limited expansion so long as certain tests are met that can be determined by the zoning administrator, physical additions to nonconforming structures are generally not permitted without a variance. The one exception to this rule is in the area of nonconforming lots. Most zoning ordinances do allow construction on nonconforming lots so long as certain limitations are met with regard to the use of the lot. For instance, there may be lot coverage requirements which would generally not be applicable to a conforming lot. There may also be reduced setback requirements. The zoning administrator or building inspector would be authorized to review plans and allow construction so long as the ordinance requirements are met. It should be noted that the provisions which deal with the use of a nonconforming lot will often relax some of the restrictions to fit the lot size. For example, required side yards may be reduced in proportion to the amount by which the lot does not meet the zone district requirements.

It is interesting that expansion of a nonconforming structure generally is not allowed administratively even though a nonconforming use may sometimes be expanded without

obtaining a variance. Since a variance is basically a license to violate the law, the distinction which has arisen is that in certain instances expansion of a nonconforming use is permissible so long as certain requirements are met. This is somewhat akin to the area of special uses whereby certain land uses are authorized in a zoning district under certain circumstances even though such uses would otherwise be prohibited. The further expansion of a structure which is nonconforming is not likewise tolerated perhaps because the expansion will physically increase the existing nonconformity.

As noted in Section 2 above, the property owner may seek a variance to expand the nonconforming structure which would be considered a nonuse variance so long as the use contained inside the structure is a conforming use. If the use itself is also nonconforming, any expansion will likely be treated as the expansion of a nonconforming use and require a use variance unless expansion of such use is allowed by ordinance. In analyzing any expansion request, be certain to determine whether the expansion is merely a structural one or also is an expansion of an area where the use which is not permitted by the zoning ordinance will be conducted.

C. Regulating Nonconforming Uses by Means of a Police Power Ordinance. Although the Michigan appellate courts have long held that nonconforming uses cannot generally be eliminated or prohibited by means of zoning regulations, prior lawful nonconforming uses normally can be regulated and even eliminated by means of general police power ordinances. In other words, if a land use regulation (i.e., zoning regulation) is involved, “grandparented” structures and uses must be protected. If an

activity is sought to be regulated, however, it can normally be regulated or even prohibited so long as a general police power ordinance is utilized.

In Natural Aggregates Corp v Brighton Twp, 213 Mich App 287 (1995), Brighton Township sought to eliminate or restrict mineral extraction operations by means of zoning regulations. The township was unsuccessful where nonconforming mineral extraction operations were involved. Thereafter, the township enacted a general police power ordinance which regulated numerous aspects of a mineral extraction operation, including imposing permit requirements. The Michigan Court of Appeals generally upheld the separate police power ordinance and confirmed that property owners cannot normally utilize the nonconforming use defense if the ordinance involved is not a zoning regulation.

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ARTICLE XX
Nonconformities

§ 7-20.01. Intent.

- A. It is the intent of this chapter to permit legal nonconforming lots, structures, or uses to continue until they are removed but not to encourage their survival.
- B. For definitions and illustrations of nonconforming lots, structures, and uses, see Article XXIV, Definitions.

§ 7-20.02. Class A and Class B nonconforming uses or structures.

Although it is the intent of this chapter to discourage the continuation of nonconforming uses and structures, it is recognized that allowing the continuation of certain nonconformities may be appropriate. To address these circumstances, the Zoning Ordinance establishes procedures for the Planning Commission to designate specific nonconforming uses or structures as "Class A." Such uses or structures will have less stringent standards for expansion or resumption.

- A. Class A nonconforming uses or structures.

(1) Effect of Class A designation.

- (a) Class A nonconforming uses may be reestablished if the structure housing it is damaged or destroyed.
- (b) Class A nonconforming uses may be reestablished when otherwise meeting the criteria in § 7-20.07, Standards for determining abandonment. The Class A nonconforming use may not be reestablished if it is replaced with a conforming use.
- (c) Class A nonconforming uses, structures housing nonconforming uses and nonconforming structures may be expanded or improved, after review and approval by the Planning Commission.
- (d) Class A nonconforming structures may be rebuilt if the structure is damaged or destroyed.
- (e) Rights granted nonconforming uses and structures listed above are contingent on compliance with any standards imposed by the Planning Commission as part of the Class A designation, including compliance with any approved site plan.

(2) Class A designation process.

- (a) An applicant for Class A designation shall submit a request in writing to the Planning Department.
- (b) Notice of a public hearing shall be provided as outlined in § 7-21.07 of this chapter.
- (c) The Planning Commission shall hold a public hearing on the Class A designation.
- (d) The Planning Commission shall approve, approve with conditions or deny the

request for Class A designation.

- (e) The Planning Commission may impose conditions on an approval. The condition may include compliance with a site plan of the site.
- (3) Standards for approval of Class A designation. In order to approve a use for Class A designation, the use or structure must have been lawful at its inception. In addition, the following criteria shall be used by the Planning Commission in evaluating a use to determine if continuation of the use or structure would be appropriate:
 - (a) Continuance of the use or structure does not significantly depress property values of nearby properties.
 - (b) Continuance of the use or structure would not be contrary to the public health, safety or welfare or the spirit of the chapter.
 - (c) No useful purpose would be served by strict application of the provisions of this chapter with which the use or structure does not conform.
 - (d) The property cannot be reasonably used as currently zoned.
- (4) Revocation of Class A designation.
 - (a) Revocation of a Class A designation may be initiated by the Planning Department or the Planning Commission.
 - (b) Revocation of Class A designation shall comply with the procedures outlined in § 7-20.02A(2) of this chapter.
 - (c) Class A designation may only be revoked if the nonconforming use or structure violated a condition of approval.
- B. Class B nonconforming uses or structures. All nonconforming uses or structures, not designated Class A, shall be Class B, nonconforming uses or structures. Class B nonconforming uses and structures shall comply with all the provisions of this chapter relative to nonconforming uses and structures set forth hereinafter.

§ 7-20.03. Nonconforming lots.

- A. Single-family dwellings. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the Zoning Board of Appeals.
- B. Changes in nonconforming lots. A nonconforming lot may not be modified in a way that increases its nonconformity.

- C. Contiguous nonconforming lots. Where two or more nonconforming lots of record are adjacent and under the same ownership as of the date of this chapter, they shall be considered one parcel and may not be divided except in compliance with this chapter.
- D. Determining lots of record. The City Assessor shall have the power to make "Lot of Record" determinations in accordance with the following:
 - (1) Upon application of any person claiming to be the owner of the legal or equitable title to a parcel of land which was the subject to a deed or land contract, not recorded in the Office of the Register of Deeds on the effective date of this chapter, the City Assessor is authorized to determine whether an owner is entitled to have the parcel treated as a "Lot of Record" in accordance with § 7-20.03A of this chapter.
 - (2) The City Assessor shall allow the parcel to be treated as a "Lot of Record" when he/she finds by a preponderance of the evidence that the instrument purporting to transfer title to the parcel of said owner was executed prior to the effective date of this chapter. In making his/her determination, the Assessor is authorized to consider all matters it deems relevant, including but not limited to the tax roll of the City, the relationship of the parties to the purported transfer, the degree of formality of the purported document of transfer, and the testimony of the applicant and his witnesses.
 - (3) Such a determination shall have only the effect of equating such an owner with the owner of a lot of record and shall not relieve such owner from complying with the other conditions set forth in this chapter.

§ 7-20.04. Nonconforming uses of land.

Except as provided under the provisions of § 7-20.02, where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. Expansion. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter. Expansion includes the addition of accessory structures, including signs.
- B. Moving use. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
- C. Abandonment. A use that the ZBA has determined is abandoned following the standards in § 7-20.07 of this chapter shall not be reestablished and any new use must comply with the Zoning Ordinance.
- D. Change in use. A nonconforming use of land may be changed to another nonconforming use of land use that the ZBA has determined is not more nonconforming than the current use following the standards in § 7-20.08 of this chapter and does not require expansion of the area of land used for the use. A nonconforming use that changes to a conforming use may not revert back to a nonconforming use.

E. Medical marihuana nonconforming use. **[Added 2-19-2018]**

- (1) No marihuana facility operating or purporting to operate prior to February 19, 2018, shall be deemed to have been a legally existing use, nor shall the operation of such marihuana facility be deemed a legal nonconforming use under this chapter.
- (2) A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this chapter or any amendment thereto.
- (3) Discontinuation of a state medical marihuana facility license shall constitute prima facie evidence that a nonconformity has been discontinued.

F. Recreational marihuana nonconforming use. **[Added 10-5-2020]**

- (1) No marihuana facility operating or purporting to operate prior to October 5, 2020, shall be deemed to have been a legally existing use nor shall the operation of such marihuana facility be deemed a legal nonconforming use under this chapter.
- (2) In accordance with Michigan law and this chapter, a property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this chapter or any amendment thereto.
- (3) Discontinuation of a state license shall constitute prima facie evidence that a nonconformity has been discontinued.

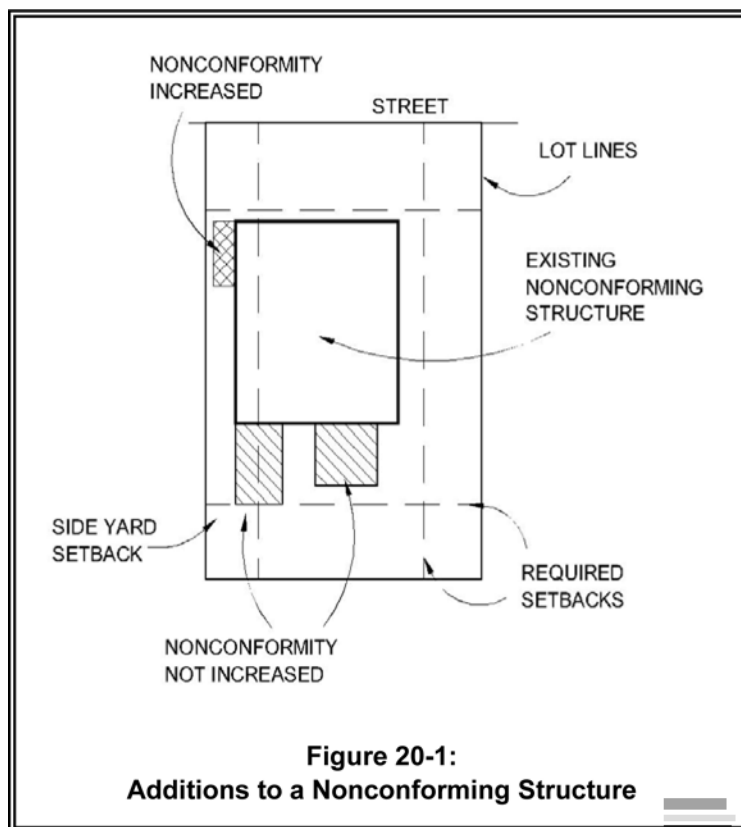
§ 7-20.05. Nonconforming structures.

Except as provided under the provisions of § 7-20.02, where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. Definition of structure. For the purpose of this section:

STRUCTURE — Includes both permanent physical improvements such as buildings and fences, and other improvements such as driveway, parking spaces and landscaping.

B. Expansion or alteration. No nonconforming structure may be enlarged or altered in a way which increases its nonconformity. An increase in nonconformity would be a change that increases the bulk of the structure encroaching on setbacks or exceeding maximum height or lot coverage requirements. Nonconforming structures may be enlarged or altered in a way which does not increase its nonconformity. (See Figure 20-1.)



- C. Moving structure. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.
- D. Destruction of structure. Should such structure be destroyed by any means to an extent of more than 60% of its replacement costs, exclusive of the foundations, it shall be reconstructed only in conformity with the provisions of this chapter. This provision does not apply to nonconforming single-family homes, which may be replaced even if completely destroyed, provided the new structure does not increase the nonconformity. Construction to repair or replace a nonconforming structure must commence within one year of its destruction.

§ 7-20.06. Nonconforming uses of structures and land.

Except as provided under the provisions of § 7-20.02, if a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this chapter, that would not be permitted in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. Expansion or alteration. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

- B. Extending use. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any additional land outside such building.
- C. Change in use. A nonconforming use of a structure, or structure and land in combination, may be changed to another nonconforming use of land use that the ZBA has determined is not more nonconforming than the current use following the standards in § 7-20.08 of this chapter and does not require expansion of the area of land used for the use. A nonconforming use that changes to a conforming use may not revert back to a nonconforming use.
- D. Abandonment. A use that the ZBA has determined is abandoned following the standards in § 7-20.07 of this chapter shall not be reestablished and any new use must comply with the Zoning Ordinance.
- E. Destruction of structure. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure to an extent of more than 60% of its replacement costs, exclusive of the foundations shall eliminate the nonconforming status of the land. Construction to repair or replace a structure housing a nonconforming use must commence within one year of its destruction.

§ 7-20.07. Standards for determining abandonment.

If the Planning Department identifies a legal nonconforming use that they believe has been abandoned, they shall submit the property to the ZBA for a determination of abandonment. The ZBA shall hold a public hearing, following notice as outlined in § 7-21.07 of this chapter. The ZBA shall determine whether or not intent to abandon the nonconforming use was demonstrated based on a preponderance of the following factors:

- A. Reports such as from the building inspection or health department indicating the property is or has not been suitable for occupation.
- B. Disconnection of utilities.
- C. Evidence that the use was relocated to a new site.
- D. Evidence of a "going out of business" sale.
- E. Signs advertising the business has been removed.
- F. The use has been discontinued for one year, except where government action such as road construction has prevented access to the premises, or where a clear intent to discontinue has not been demonstrated.
- G. Removal of the equipment or fixtures necessary for the operation of the nonconforming use.
- H. Request by the property owner for changes in their property tax designation inconsistent with the nonconforming use.
- I. Other actions by the property owner or lessee that demonstrates an intent to abandon the nonconforming use.

§ 7-20.08. Standards for allowing change in nonconforming use.

A property owner may request approval from the ZBA to change a nonconforming use to another nonconforming use. The ZBA shall hold a public hearing following notice as outlined in § 7-21.07 of this chapter. The ZBA shall approve the request if it determines that the proposed use is not more nonconforming than the current use based on the following factors:

- A. The similarity of zoning districts each use is permitted in and whether they are permitted by right or by special land use (SLU).
- B. The anticipated off-site impact of each use due to traffic, hours of operation, and generation of noise, dust or odors or general intensity of the proposed use.

§ 7-20.09. Repairs and maintenance.

- A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of one year on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50% of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased.
- B. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

§ 7-20.10. Status of uses requiring special land use approval.

A use established legally without special land use approval which now requires SLU approval due to a text change or rezoning is a nonconforming use until it receives SLU approval. Any existing use approved as a special exception previously under this chapter shall be deemed a conforming use.

§ 7-20.11. Change of tenancy or ownership.

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, of structures or of structures and land in combination.

§ 7-20.12. Purchase or condemnation.

In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the City of Lapeer, pursuant to Section 208, Public Act 110 of 2006, as amended,¹ may, but is not required to, acquire by purchase, condemnation or otherwise, private property for the purpose of removal of nonconforming uses.

1. Editor's Note: See MCLA § 125.3208.



August 5th, 2024

**Re: Proposed Lapeer
Marihuana Ordinance changes**

City Commission,

I am nearing completion of my draft rewrite of the City's marihuana ordinances, and I wanted to make you aware of some of the major changes that I will be proposing to the regulatory and zoning aspects of those existing ordinances. These are not all of the changes being proposed, but they represent the most impactful of the proposed changes. At this stage, these proposals have not been reviewed or approved by City Attorney, the City Commission or the Planning Commission so they may change between now and final approval.

Here are some of the changes that I am proposing that the City make to its marihuana ordinances:

1. The current adult-use ordinance allows:

- 6 Retailers
- Unlimited Growers
- Unlimited Excess Growers
- Unlimited Processors
- Unlimited Safety Compliance Facilities
- Unlimited Secure Transporters

I am proposing the City change that to:

- 6 Retailers
- 8 Growers
- 0 Excess Growers
- 5 Processors
- Unlimited Safety Compliance Facilities
- 0 Secure Transporters

These numbers represent the currently existing adult-use marihuana licenses with the elimination of Secure Transporters as a permissible use. There exist only 6 Safety Compliance Facilities in the entire State of Michigan so it is very unlikely that one will ever open here, but they are a good business to have located in the community.

2. Require and clarify the language that all adult-use retailers must co-locate with a medical-use provisioning center and vice-versa.
3. The current medical marihuana ordinance allows:

- 6 provisioning centers
- Unlimited Growers
- Unlimited Processors
- Unlimited Safety Compliance Facilities
- Unlimited Secure Transporter

I am proposing to change that to:

- 6 provisioning centers
- 2 Growers
- 3 Processors
- Unlimited Safety Compliance Facilities
- 0 Secure Transporter

These numbers represent the currently existing medical marihuana licenses with the elimination of Secure Transporters as a permissible use. There exist only 6 Safety Compliance Facilities in the entire State of Michigan so it is very unlikely that one will ever open here, but they are a good business to have located in the community.

4. Prohibiting all marihuana businesses in the Central Business District and the Downtown Development Authority district.
5. Prohibit the storage of any marihuana waste or byproduct out of doors except minimum time necessary to be picked up by a licensed trash hauler, no longer than 12 hours maximum.
6. Create a new 1500-foot buffer zone between all marihuana grower operations and all R-1 Residential zoned properties.
7. Add new requirement that all marihuana odor control systems must be designed and stamped by a Michigan licensed engineer that specializes in odor control
8. Clarify and strengthen language that marihuana businesses are under a continuous obligation to control and prevent marihuana odor from leaving their property.

9. Prohibit any marihuana business from opening in the Business and Office Zoning Districts (OS-1, B-1, B-2, B-3)
10. Prohibit any Industrial uses or any marihuana businesses from opening in the Mixed-Use Overlay Zoning District (MU)
11. Allow all permitted Growers only to open in the Industrial I-2 Zoning District and allow all other permitted marihuana businesses to open either in the Industrial I-1 or I-2 zoning districts.
12. Make all marihuana businesses Special Land Uses, no marihuana business would be permitted by right.

To be clear, there are now two different maps for required buffer zones, one for Grower businesses and a different one for all other marihuana businesses, I will attach the existing map and the new proposed map for all Growers to this memo. The new map that applies to all new Grower operations incorporates the new 1500 foot buffer zone from all R-1 Residential zoned properties.

Mike Womack

City Manager

City of Lapeer

576 Liberty Park, Lapeer MI 48446

810-664-5231

mwomack@ci.lapeer.mi.us

BUFFER LEGEND

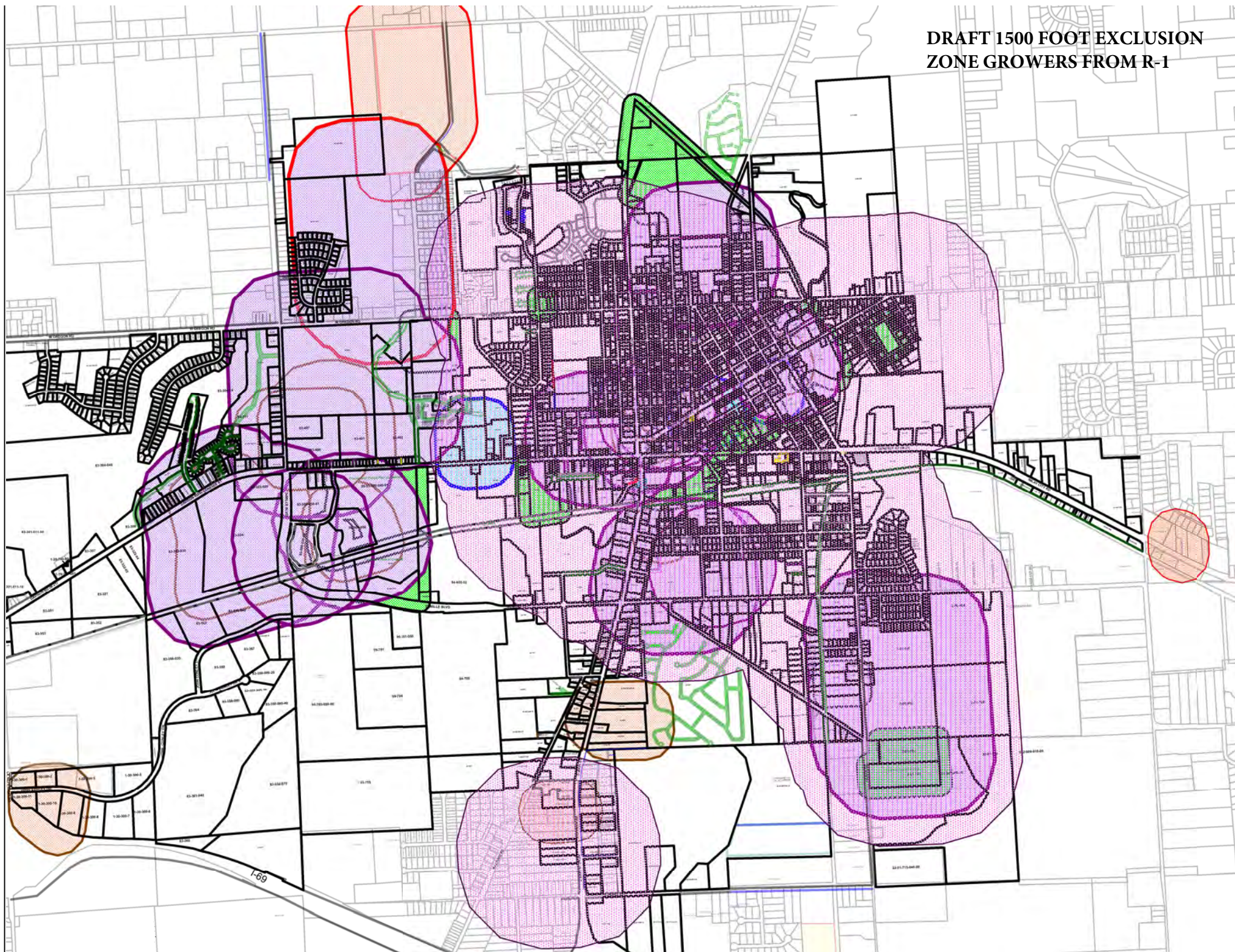
-  Federal 500Ft Buffer
-  Park 200Ft Buffer
-  Daycare/ Pre-K 500Ft Buffer
-  School 1,000Ft Buffer

FINAL - APPROVED

BY LAPEER CITY COMMISSION
ON FEBRUARY 19, 2018

DISCLAIMER
The information presented on this map has been compiled using sources that are believed to be accurate. The City of Lapeer assumes no legal liability for information shown on this map.

**DRAFT 1500 FOOT EXCLUSION
ZONE GROWERS FROM R-1**





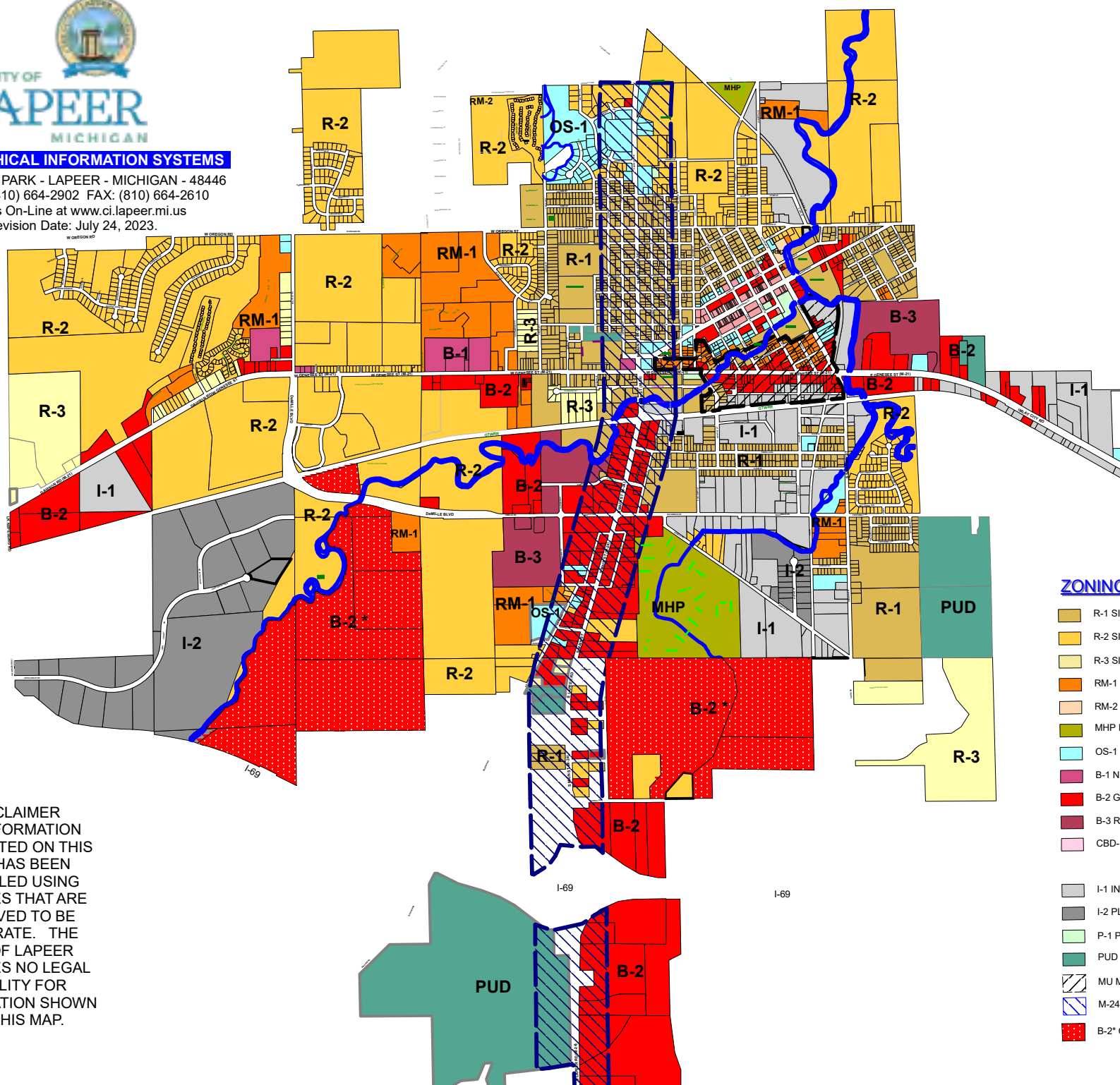
GEOGRAPHICAL INFORMATION SYSTEMS

576 LIBERTY PARK - LAPEER - MICHIGAN - 48446

PHONE: (810) 664-2902 FAX: (810) 664-2610

Visit Us On-Line at www.ci.lapeer.mi.us

Revision Date: July 24, 2023.



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THE INFORMATION
PRESENTED ON THIS
MAP HAS BEEN
COMPILED USING
SOURCES THAT ARE
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LIABILITY FOR
INFORMATION SHOWN
ON THIS MAP.

NRG Floating Ladder - \$8,544



See Saw Snake - \$10,320



Hoop Alley - \$10,230



Sway Net - \$7,669



Web Crawler - \$10,127



Other:

- ^{Signage} Lincoln & Harrison on Genesee → one way missing.
- EV Charging Stations. ●●●
- Ped Crossing at Court & Nepessing (exp). ●
- Wayfinding Signage for parks to DDA. ●●●●●
- Public Restroom DDA.
- Beautify the City. ●●●●●
- Same Lighting.

Staff is amazing! ☺ ●●

Parking Lots:

●●● Lot behind Bus, on N side Nepepping (park St.) ●●

• Center Building - parking lot ●●●●

• Housing Comm. - Riverview Towers → Signage

• Parking Lot #5 (Choice One Bank) ●●●●●

• Crampton Park

• Rowden Park

PARKS:

- White Jr. High - Big Park
- 2nd Disc Golf → Oakdale trails ●●●
- Pickle Ball Courts
- Zip lines ● ●
- Police to Patrol (on bikes) Parks, ●●●●●●●
- More trees, flowers, etc. ●●●●●●
- Trees near WWTP path ●●●
- Ped X-ing (more) ●

ROADS:

●●●● Court St. → McCormick & Elm ●

● Mason St → Nepessing & Oregon

● Law → M-24 & Calhoun

● 2nd St. →

W. Genesee → Harrison

● 1st St. →

Turrit St.

● Pine → Oregon → Park ☺

● East St. →

● West St. →

Park St. →

* Concrete Colars → M-24 *

● Road behind LA Auto - Pope St

Mocking Bird Rd