



CITY OF MADISON HEIGHTS
COUNCIL CHAMBERS - CITY HALL, 300 W. 13 MILE RD.
PLANNING COMMISSION MEETING AGENDA
SEPTEMBER 22, 2026 AT 5:30 PM

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

1. Additions/Deletions

APPROVAL OF MINUTES

- [2.](#) August 25th, 2026 Special Meeting Minutes

PUBLIC HEARING

- [3.](#) City-Initiated Rezoning - PRZN 26-02 - 27431 Hales - R-3 to N-P

MEETING OPEN TO THE PUBLIC: Items not listed on agenda

UNFINISHED BUSINESS

NEW BUSINESS

MEMBER UPDATES

PLANNER UPDATES

ADJOURNMENT

NOTICE: Persons with disabilities needing accommodations for effective participation through electronic means in this meeting should contact the City Clerk at (248) 583-0826 or by email: clerks@madison-heights.org at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

Planning Commission Meeting (Special Meeting) **DRAFT**
Madison Heights, Michigan
August 25, 2026

A Planning Commission Meeting (Special Meeting) was held on Tuesday, August 25, 2026 at 5:30 PM at Council Chambers - City Hall, 300 W. 13 Mile Rd.

CALL TO ORDER

Chair Champagne called the meeting of the Madison Heights Planning Commission to order at 5:30 pm.

ROLL CALL

PRESENT

Chair Josh Champagne
Mayor Corey Haines
Commissioner Sean Fleming
Commissioner Ryan Fox
Commissioner Melissa Marsh
Commissioner Clifford Oglesby
Commissioner Matthew Christopher Olson

ABSENT

Commissioner Eric Graettinger
Commissioner Christopher Molencupp

OTHERS PRESENT:

City Planner Matt Lonnerstater
City Clerk Mary Daley
City Attorney Tim Burns

PC 26-26. Excuse Absent Members

Motion to excuse Commissioners Graettinger and Mollencupp.

Motion made by Commissioner Marsh, Seconded by Mayor Haines.

Voting Yea: Chair Champagne, Mayor Haines, Commissioner Fleming, Commissioner Fox, Commissioner Marsh, Commissioner Oglesby, Commissioner Olson

Motion carried unanimously.

APPROVAL OF MINUTES

PC 26-27. July 20, 2026 Meeting minutes.

Motion made by Commissioner Fox, seconded by Commissioner Olson to approve the minutes of the regular Planning Commission meeting of July 20, 2026.

Voting Yea: Chair Champagne, Mayor Haines, Commissioner Fleming, Commissioner Fox, Commissioner Marsh, Commissioner Oglesby, Commissioner Olson

Motion carried unanimously.

PUBLIC HEARING:**Special Land Use PSP 26-05 - 30159 Brush St. - Major Home Occupation (Dog Boarding)**

City Planner Matt Lonnerstater introduced the request for Special Land Use approval submitted by Hali Fortuna to operate a major home occupation dog boarding business at 30159 Brush Street, zoned R-3 Single-Family Residential.

Per the applicant, Ms. Fortuna would be the sole employee, boarding dogs within the home and the fenced-in backyard. The applicant specified one client at a time with pick-up/drop-off in the driveway. Because the business involves routine client visits and outdoor activity in the backyard, staff classified the request as a Major Home Occupation under the Zoning Ordinance, which requires Special Land Use approval.

Planner Lonnerstater reviewed the applicable standards as detailed in the packet.

Additionally, Planner Lonnerstater highlighted that the general Special Land Use standards require protecting public health, safety, and welfare, and compatibility with the neighborhood character and noted that Article 5 of the Code of Ordinances limits pets to a maximum of three dogs or cats per residence.

Chair Champagne opened the floor for public comment at 5:36 p.m.

Letters Read into the Record have been attached to the minutes. City Clerk Daley read written correspondences received in opposition to the request from:

Mr. Stephen Essenmacher

Mr. Eric Braun

Collette LeClair (email)

The following public speakers spoke in opposition to the special use:

Ernest – resident on Brush Street

Mr. and Mrs. McGillivray – residents on Brush Street

Seeing no further speakers, Chair Champagne closed the public comment portion at 5:44 p.m.

Chair Champagne invited the applicant, Hali Fortuna, to the podium to address the Planning Commission. She briefly noted that she would host one client at a time.

During discussion, Planning Commissioner Marsh asked for clarification pertaining to "one client." Per Ms. Fortuna, one client refers to one additional dog, as the applicant currently has two dogs of her own.

Attorney Burns clarifies that if animals are being housed for a fee, it would qualify as a commercial business. The city regulates and licenses such operations under local business licensing as a "kennel" to ensure oversight, but places strict conditions through the Special Land Use.

Planner Lonnerstater clarified that any single-family resident may keep up to three personal dogs, and noise complaints are handled by the Police Department under the general noise ordinance.

Commissioner Olson expressed strong concerns regarding neighborhood impacts and that granting a Special Land Use would make it extremely difficult for adjacent neighbors to seek relief from future disturbances.

Mayor Haines expressed that owning three personal pets is not equivalent to a commercial boarding business of unfamiliar dogs due to the vaccination, health, and disease control risks.

Commissioner Fox stated that he supports the entrepreneurial nature of this request.

PC 26-28. Special Land Use PSP 26-05 - 30159 Brush St. - Major Home Occupation (Dog Boarding)

MOTION MADE BY COMMISSIONER MARSH, SECONDED BY COMMISSIONER OLSON THAT, FOLLOWING THE REQUIRED PUBLIC HEARING, THE PLANNING COMMISSION HEREBY RECOMMENDS THAT CITY COUNCIL DENY SPECIAL LAND USE REQUEST NUMBER PSP 26-05 FOR A MAJOR HOME OCCUPATION IN THE FORM OF A DOG BOARDING BUSINESS AT 30159 BRUSH STREET BASED UPON THE FOLLOWING FINDINGS:

1. The applicant requests Special Land Use approval for a dog boarding Major Home Occupation at 30159 Brush Street.
2. The Planning Commission held a public hearing for PSP 26-05 at their August 25th, 2026 special meeting.
3. The proposed dog boarding Major Home Occupation use is not consistent with the Special Land Use review standards and criteria set forth in Section 15.05.3. In particular:
 - a. The use is not designed, located and proposed to be operated in a way that protects the public health, safety and welfare.
 - b. The Special Land Use will involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any person, property, the neighborhood, or the general welfare of the neighbors and noise in the general area.
 - c. The use is incompatible with the surrounding neighborhood.
4. The use is not consistent with the intent and purpose of the R-3 zoning district in which it is proposed.

Voting Yea: Mayor Haines, Commissioner Fleming, Commissioner Marsh, Commissioner Oglesby, Commissioner Olson

Voting Nay: Chair Champagne, Commissioner Fox

Motion carries 5-2.

Special Land Use PSP 26-06 - 26126 Groveland St. - Major Home Occupation (Licensed Massage Therapy)

Conflict of Interest Recusal: Commissioner Cliff Oglesby declared a conflict of interest because he resides directly adjacent to the subject property. Commissioner Oglesby recused himself and left the room at 6:00 p.m.

City Planner Lonnerstater introduced the request for Special Land Use approval submitted by Tonya Cole (represented by Martino Tomas) to operate a major home occupation for a licensed massage therapy business within a detached accessory shed in the rear yard of 26126 Groveland Street. The property features a single-family home with a detached garage and is zoned R-3 Single-Family Residential.

Per the applicant's application, the massage therapy services would be conducted on a one-on-one, appointment-only basis inside the detached shed. Proposed hours of operation were 8:00 a.m. to 9:00 p.m., with 4 to 8 clients per day, parking on the driveway, and one employee (the applicant). Because the business involves routine client visits and operates out of an accessory structure, staff classified it as a Major Home Occupation.

Planner Lonnerstater reported an extensive code enforcement and violation history on the property as detailed in the packet. He also clarified the requirements under the Zoning Ordinance, "licensed massage therapists" as opposed to Unlicensed massage therapists. Ms. Cole provided the required state license and American Bodywork and Massage Professionals Association membership.

Chair Champagne opened the floor for public comment at 6:15 p.m.

Letters Read into the Record: City Clerk Daley read written correspondences received in opposition to the application from the following who requested them to be read aloud:

Shari Macleod
Kim Derocher
Wendell Smith

It was also noted that additional letters of opposition were printed and provided to the Commission from: Mr. & Mrs. Barrett, Mr. Elliot Bedell, and an anonymous resident. Letters are attached to the minutes.

Seeing no further speakers, Chair Champagne closed the public comment portion at 6:35 p.m.

Chair Champagne invited the applicant, Tonya Cole, to the podium to address the Planning Commission. Speaking on her behalf was Martino Tomas. He spoke favorably on the applicant and highlighted her licensing.

Discussion continued surrounding the zoning and permitting history of this property.

Assistant City Attorney Burns reported on the legal and prosecution history involving the applicant. He advised the Commission that they are legally permitted to consider an applicant's past actions and record of compliance when evaluating their credibility to follow Special Land Use conditions.

PC 26-29. Special Land Use PSP 26-06 - 26126 Groveland St. - Major Home Occupation (Licensed Massage Therapy)

MOTION MADE BY MAYOR HAINES, SECONDED BY COMMISSIONER FOX THAT, FOLLOWING THE REQUIRED PUBLIC HEARING, THE PLANNING COMMISSION HEREBY RECOMMENDS THAT CITY COUNCIL DENY SPECIAL LAND USE REQUEST NUMBER PSP 26-06 FOR A MAJOR HOME OCCUPATION IN THE FORM OF A LICENSED MASSAGE THERAPY BUSINESS AT 26126 GROVELAND STREET BASED UPON THE FOLLOWING FINDINGS:

1. The applicant requests Special Land Use approval for a massage therapy Major Home Occupation at 26126 Groveland Street.
2. The Planning Commission held a public hearing for PSP 26-06 at their August 25th, 2026 special meeting.
3. The proposed massage therapy Major Home Occupation use is not consistent with the Special Land Use review standards and criteria set forth in Section 15.05.3. In particular:
 - a. The Special Land Use will involve uses, activities, processes, materials, and equipment or conditions of operation that are inconsistent with the ordinances.
 - b. The use is incompatible with the surrounding properties, neighborhood, and vicinity in the following manners:
 - i. Conformance with the Master Plan and future land use map for the area as adopted by the Planning Commission;

- ii. Compatibility with the permitted principal uses allowed in the zoning district where the Special Land Use is requested, and consistency with the intent of the zoning district.
- 4. The use is not consistent with the intent and purpose of the R-3 zoning district in which it is proposed.
- 5. The use does not satisfy the use-specific standards for Major Home Occupations as contained in Section 7.03.18 of the Zoning Ordinance
 - a. It is not located within the principal dwelling.
 - b. There would be a negative impact on surrounding residential properties.

Voting Yea: Chair Champagne, Mayor Haines, Commissioner Fleming, Commissioner Fox, Commissioner Marsh, Commissioner Olson

Abstaining: Commissioner Oglesby
Motion carries.

MEMBER UPDATES:

Commissioner Fox commended Council's actions at their last meeting regarding the Data Center moratorium.

PLANNER UPDATES:

Planner Lonnerstater updated the Planning Commission on the one-year data center moratorium. This will allow Staff one year to research and draft a zoning amendment.

ADJOURNMENT:

Chair Champagne adjourned the meeting at 6:50 p.m.



MEMORANDUM

Date: September 16th, 2026
To: City of Madison Heights Planning Commission
Meeting Date: September 22nd, 2026
From: Matt Lonnerstater, AICP – City Planner
Subject: Rezoning Request PRZN 26-02– City-Initiated Rezonings of 27431 Hales Street [R-3 to N-P]

Introduction

The City of Madison Heights is initiating a rezoning of one (1) parcel of land at 27431 Hales Street (TM# 44-25-13-401-021) from R-3, One-Family Residential, to N-P, Natural Preservation and Recreation. The property is 1.74 acres in size and is surrounded by Rosie's Park, which is owned by the City.

The subject property is owned by the Federal Aviation Administration (FAA) of the U.S. government who operated and maintained a small structure/facility on the parcel; this structure has since been demolished. The city is in discussions with the FAA to purchase the property and formally combine it with the adjacent Rosie's Park property. To avoid split-zoning, the City is initiating a rezoning to the N-P, Natural Preservation and Recreation district which is consistent with the remainder of the city-owned Rosie's Park property.

Background

The U.S. Federal Aviation Administration (FAA) owns the subject parcel and operated/maintained a small structure and fenced compound on the parcel. Based on aerial photographs, the structure was demolished sometime between 2020 and 2023, but the fence is currently still standing. With the exception of the area interior to the fence, the remainder of the property acts as an extension of Rosie's Park. As the property is no longer used by the FAA, the City is interested in purchasing the property and formally consolidating it into Rosie's Park. The subject property is currently zoned R-3, One-Family Residential, while Rosie's Park is zoned N-P, Natural Preservation and Recreation. To avoid split zoning and to facilitate the purchase of the property, the City is requesting a rezoning to N-P.

Subject Parcel with Remnants of FAA Compound



Map Amendment (Rezoning) Review Standards

Section 15.07 of the Madison Heights Zoning Ordinance contains standards that the Planning Commission and City Council shall consider when reviewing and acting upon a rezoning request:

- (1) *Compatibility of the site’s physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.*
- (2) *Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.*
- (3) *Consistency with the goals, policies, and objectives of the Master Plan (including the Future Land Use Plan), and any sub-area or corridor plans. If conditions have changed since such plans were adopted, consistency with recent development trends in the area shall be considered.*
- (4) *The boundaries of the requested zoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.*
- (5) *The requested zoning district is considered to be more appropriate from the city’s perspective than another zoning district.*
- (6) *If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.*
- (7) *The requested rezoning will not create an isolated or incompatible zone in the neighborhood.*
- (8) *The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.*
- (9) *That the amendment will not be expected to result in exclusionary zoning.*

Zoning and Land Use Considerations

Per the Zoning Ordinance, the intent of the existing **R-3, One-Family Residential district** is to, “provide for one-family dwelling sites and residentially-related uses in keeping with the Master Plan of residential development in the City of Madison Heights.”

The intent of the proposed **N-P, Natural Preservation and Recreation District** is to:

- *Protect and sustain those lands and water bodies most suitable for public recreational purposes and the preservation of natural features.*
- *Provide for the protection, preservation, proper maintenance and use of trees, woodlands and other natural lands located in the City of Madison Heights in order to minimize disturbance to them and to prevent damage from erosion and siltation, a loss of wildlife and vegetation, and/or from the destruction of the natural habitat.*
- *Protect the woodlands (including trees and other form of vegetation) of this city for their economic support of local property values when allowed to remain uncleared and/or unharvested and for their natural beauty, wilderness, character, or geological, ecological, or historical significances.*
- *Provide for the paramount public concern for those natural resources in the interest of health, safety, and general welfare of the residents of the city.*

While the city intends to purchase the property, combine it with Rosie’s Park, and maintain it for park purposes, the Planning Commission should consider all of the potential uses that could be developed on this site if it were to be rezoned to N-P. The Planning Commission should also consider the list of R-3 residential uses currently allowed on-site which would no longer be permitted in an N-P district. Some of these more intense uses and significant use departures are highlighted in the table below:

USE	R-3	N-P
CURRENT USE: De-commissioned FAA compound (Essential Public Utility Services)	P	P
PROPOSED USE: Public Park	P	P
Residential Uses		
One-Family Dwelling	P	S
Child Family Day Care Homes	P	P
Child Group Day Care Homes	S	S
Foster Care Family Homes	P	P
Foster Care Group Homes	S	S
Public & Quasi-Public Uses		
Public Library, Museum, Art Center, Community Center	P	S
Government Office Building, Courthouse, Public Police and Fire Services	P	P
Religious Institutions, Private Clubs and Lodges	S	
K-12 Schools, Public or Private	S	
Public Parks	P	P
Essential Public Utility Services	P	P

P = Permitted by Right S = Special Approval Required Blank = Not Permitted

The full Permitted Use Table is attached to this memorandum. While the list of permitted uses in both districts is limited, it is important to note that one-family dwellings require Special Land Use approval in the N-P district, whereas they are permitted by right in the R-3 district.

Existing Land Use and Zoning

Existing adjacent land uses and zoning designations are denoted in the table below:

Existing Land Uses and Zoning

	Existing Land Use	Existing Zoning
Site	Park/Decommissioned FAA Facility	R-3, One Family Residential
North	Rosie’s Park	N-P, Natural Preservation and Recreation
South	Rosie’s Park	N-P, Natural Preservation and Recreation
East (across Hales)	Single-Family Residential	R-3, One Family Residential
West	Rosie’s Park	N-P, Natural Preservation and Recreation

The property is surrounded by Rosie’s Park, zoned N-P. The properties across Hales Street are zoned R-3 and improved with single-family detached homes.

Future Land Use and Master Plan

Adjacent future land uses, as envisioned by the 2021 Madison Heights Master Plan, are denoted in the table below:

Future Land Use

	Future Land Use
Site	Recreation
North	Recreation
South	Recreation
East	Single-Family Residential
West	Recreation

The future land use designation of the subject site is *Recreation*. Per the Master Plan, the Recreation designation is intended to continue the established system of neighborhood parks, community parks and playfields, and the recreation corridor associated with the Red Run Drain. These areas are envisioned to continue as recreation areas and are maintained and improved as noted in the city's Recreation Plan.

Pertinent Goals & Objectives from the Master Plan include:

Public Services & Facilities

- Expand the range of recreational opportunities and facilities in Madison Heights in accordance with residents' needs and abilities.
- Replace aging infrastructure, as necessary, with technologically advanced, state of the art infrastructure and materials.

Staff Discussion and Policy Analysis

In practice, the subject parcel currently acts as a part of Rosie's Park despite its separate ownership. Staff is in support of this city-initiated rezoning to help facilitate the transfer of property ownership to the City, combine the property with Rosie's Park, and ensure a consistent zoning designation. Further, the rezoning is fully compatible with the property's recreational future land use designation.

Next Step

After the public hearing and discussion, the Planning Commission may make a recommendation on the proposed rezoning to City Council. **Any motion which includes a recommendation to City Council shall include concise findings of facts.**

A template motion is provided on the following page.

Template Motion | Findings and Recommendations to City Council

A template motions for recommendations of approval, including findings of fact, is provided below.

APPROVAL

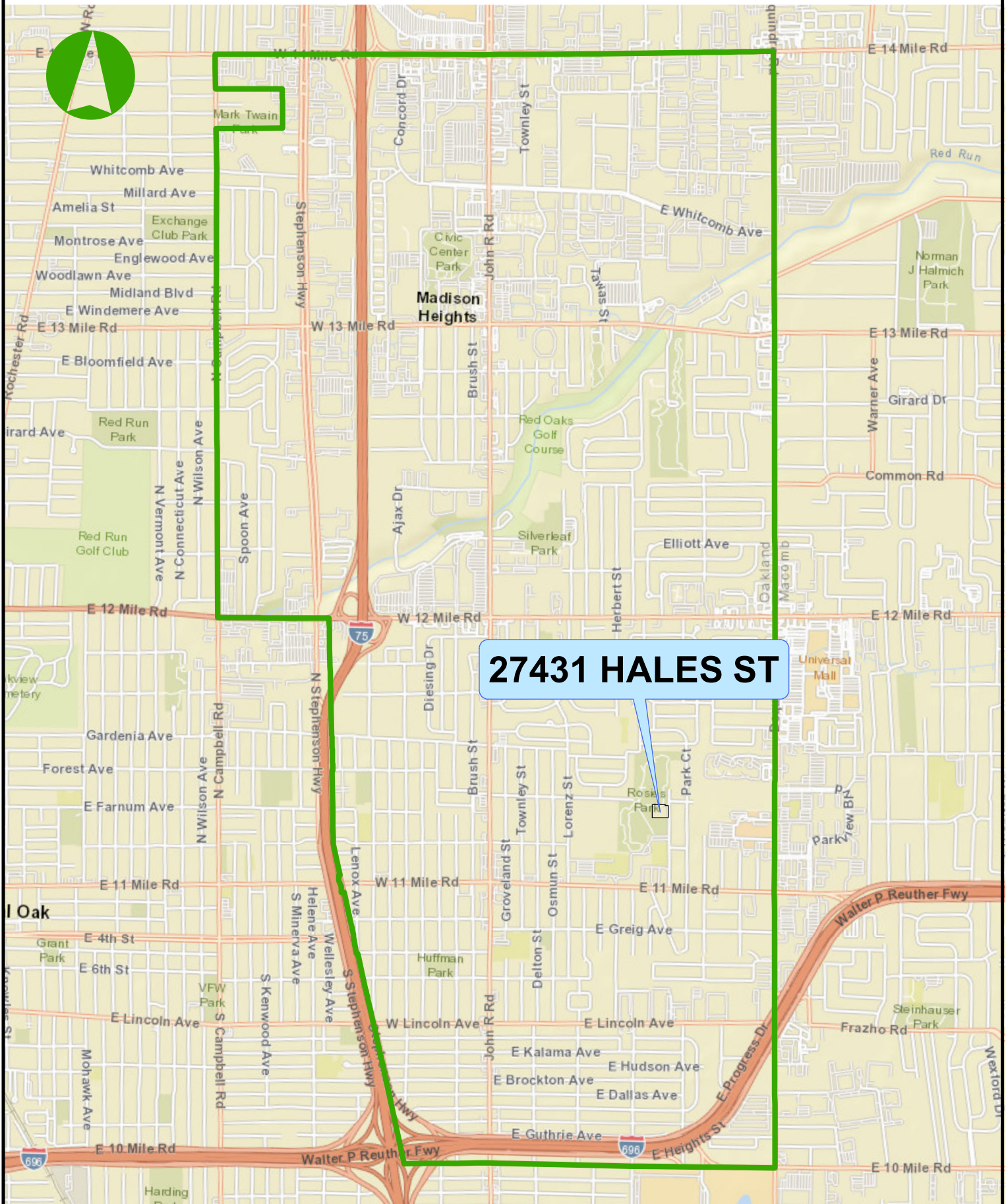
I move to recommend that City Council approve the rezoning of 27431 Hales Street, parcel # 44-25-13-401-021, from R-3, One-Family Residential, to N-P, Natural Preservation and Recreation, after the required public hearing, based upon the following findings:

Rezoning to N-P satisfies the map amendment review standards contained in Section 15.07 of the Zoning Ordinance. In particular, the Planning Commission finds that a rezoning to N-P satisfies the following standards:

- a. The site is compatible with the physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.*
- b. The uses allowed in the proposed N-P district are compatible with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.*
- c. The proposed zoning district is compatible with the goals, policies, and objectives of the Master Plan (including the Future Land Use Plan) and the “Recreation” future land use category.*
- d. The boundaries of the N-P district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.*
- e. The proposed district is considered to be more appropriate from the city’s perspective than the existing R-3 district.*
- f. Rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.*

Attachments

- Compiled Maps
- Section 3.06 – Permitted Use Table
- Section 3.19 – Natural Preservation and Recreation District – Schedule of Regulations
- Section 15.07 – Zoning Ordinance Amendments (Map and Text)
- Public Hearing Notice

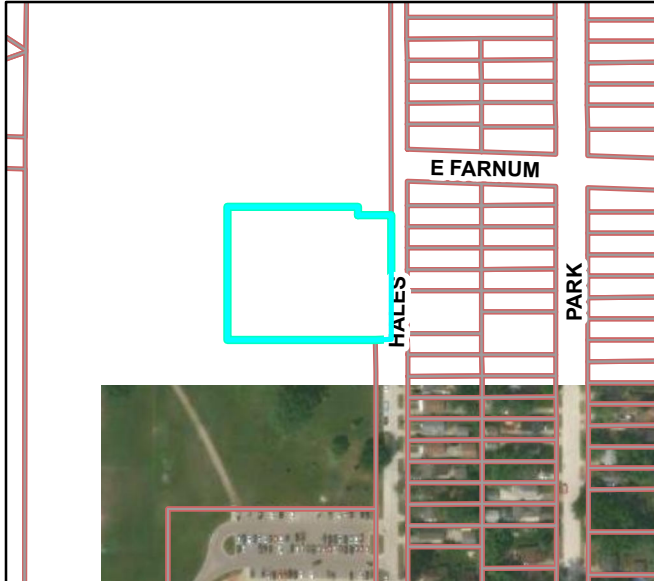


Site Address: 27431 Hales St



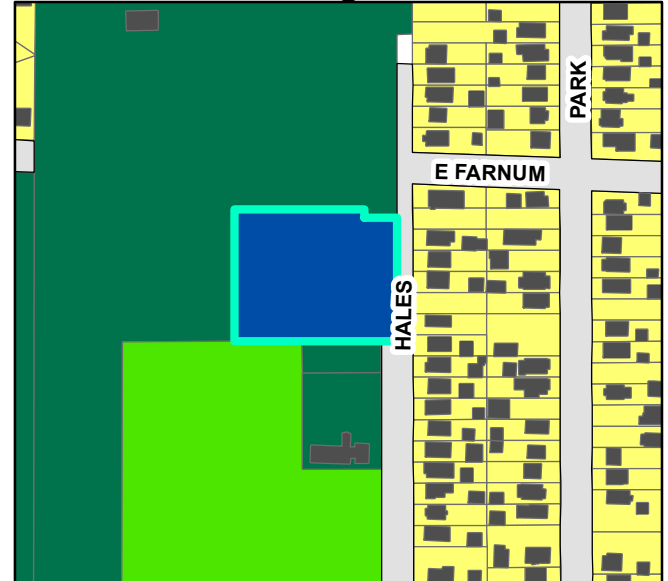
Click for maps

Aerial



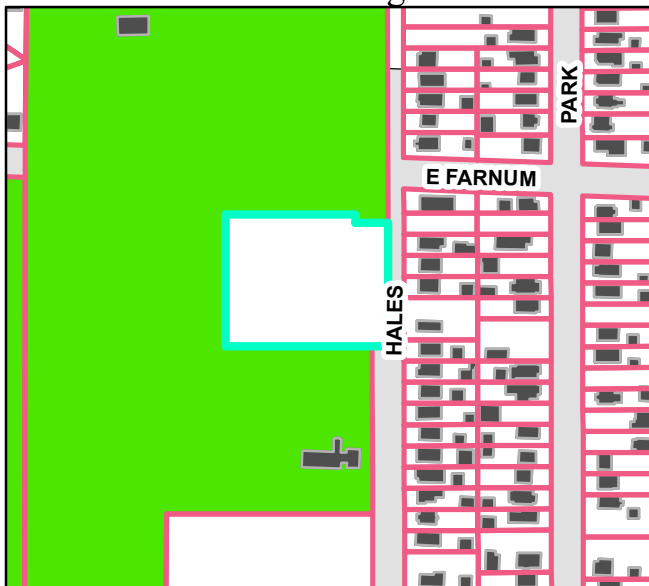
27431 Hales St Parcels

Existing Land Use



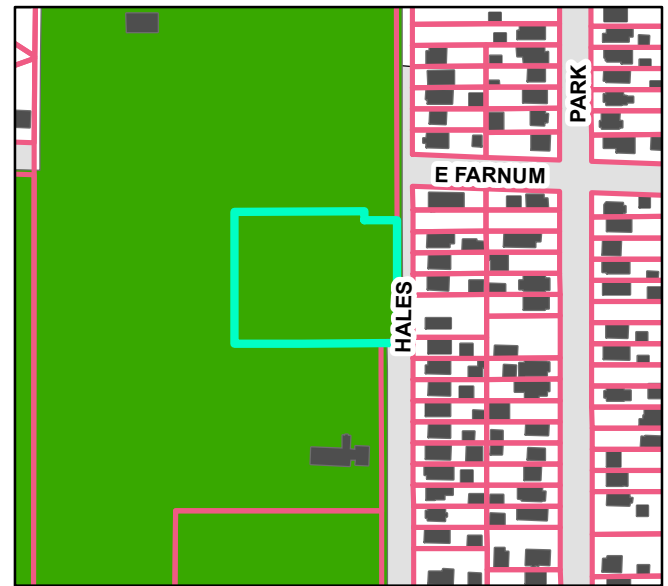
27431 Hales St Recreation
 Single and Two Family Public
 School

Zoning



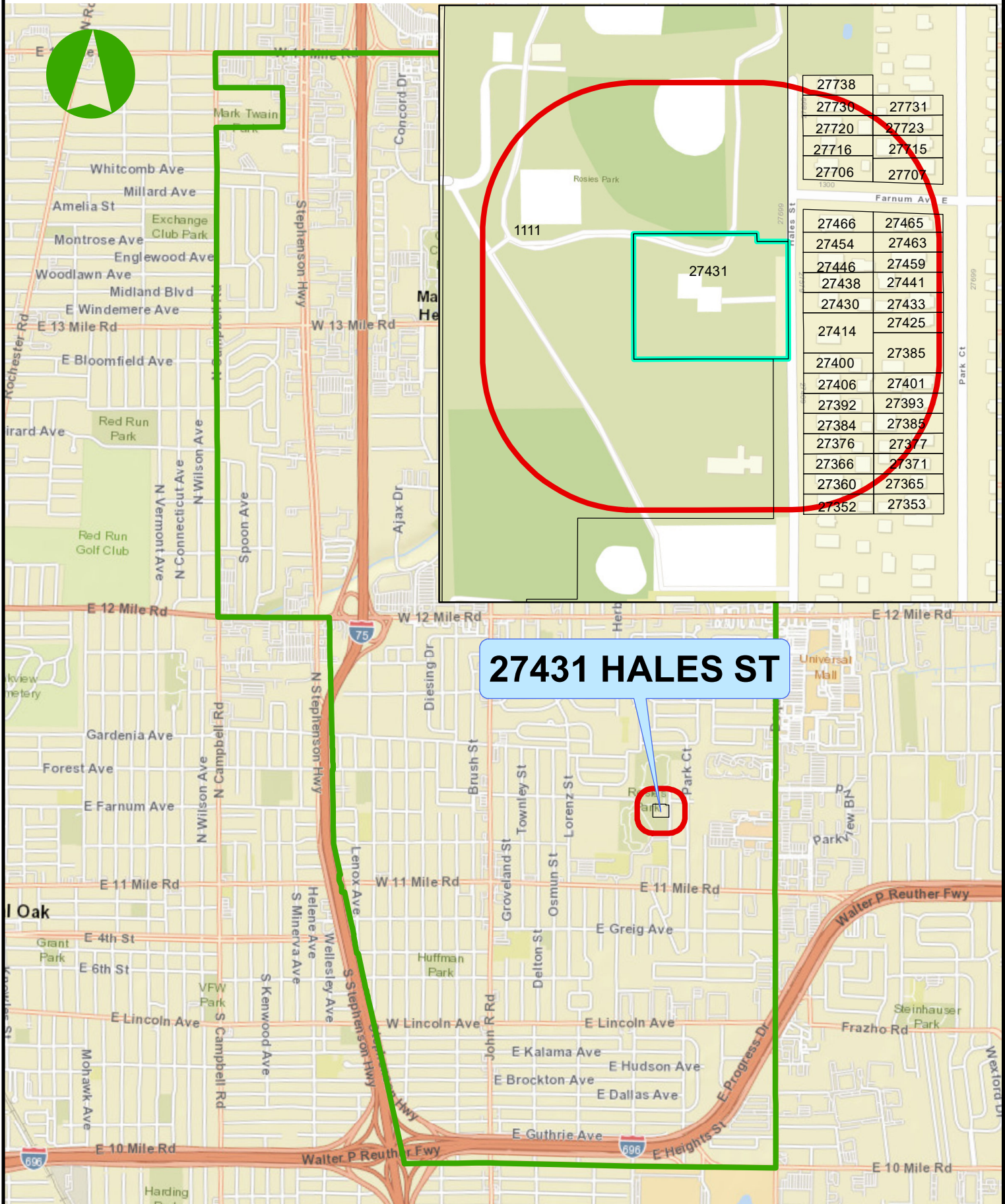
27431 Hales St R-3 Residential
 N-P

Future Land Use



27431 Hales St Single Family
 Conservation

PRZN 26-02 : 27431 HALES ST BUFFER 300 FT



NOTICE OF PUBLIC HEARING

Notice is hereby given that the **Planning Commission** for the City of Madison Heights will hold a public hearing on **Tuesday, September 22nd at 5:30 p.m.** in the City Hall Council Chambers, 300 West Thirteen Mile Road, Madison Heights, Michigan 48071, to consider the following rezoning request(s):

Rezoning Request No. PRZN 26-02 by the City of Madison Heights to rezone one (1) parcel of land located at 27431 Hales Street (TM# 44-25-13-401-021) from R-3, One-Family Residential, to N-P, Natural Preservation and Recreation.

The application and any supporting documents can be viewed during regular business hours at the Community and Economic Development Department. In addition, the agenda item can be viewed online after 4:00 p.m. on the Friday prior to the meeting at www.madisonheightsmi.gov on the Agenda & Minutes web page.

For further information, please contact the Community and Economic Development Department at (248) 583-0831.

**MADISON HEIGHTS COMMUNITY & ECONOMIC DEVELOPMENT
DEPARTMENT (248) 583-0831**

Section 3.06 Permitted Use Table

Uses not listed in a particular Zoning District but permitted elsewhere in the Zoning Ordinance shall be considered prohibited in that Zoning District. However, the Planning and Zoning Administrator or their designee may determine that a use which is not specifically mentioned in this Ordinance is comparable to a permitted or prohibited use in any district, either by right or as a Special Land Use. The Planning and Zoning Administrator may refer a use interpretation to the Zoning Board of Appeals.

The City Center Zoning District is regulated in [City Center District, Section 6.02](#)

Key:

P = Principal Uses Permitted By-Right

S = Uses Permitted on Special Land Use Approval

A = Permitted as an Accessory Use

P/S = May be Permitted By-Right or as a Special Land Use. Refer to use-specific standards

A+S = Permitted as an Accessory Use upon Special Land Use Approval

[blank] = Not Permitted

* = Refer to City Center, [Section 6.02](#), for additional use matrix based on building type.

† = Only permitted in Primary Caregiver Marihuana Grow Overlay District, [Section 5.01](#)

Land Use	R-1	R-2	R-3	R-MN	R-MF	O-1	B-1	B-2	B-3	CC*	MUI-1	MUI-2	M-1	M-2	H-M	N-P	Use Standards (Section No.)
Residential Uses																	
Accessory Dwelling Unit	A	A	A	A	A												7.03(1)
Detached One-Family Dwelling	P	P	P	P	P											S	7.03(10)
Townhomes, Attached One-Family Dwellings				P	P						P	P					7.03(45)
Duplexes				P	P												7.03(12)
Multiplexes				P	P												7.03(29)
Multi-Family Dwellings					P					P*		P					7.03(30)
Residential/Commercial Mixed-Use							P	P	P	P*	P	P					7.02(2)
Live/Work				S	S		P				P	P					7.03(23)
Manufactured Homes															P		3.12
Senior Housing, Assisted					S	S						S					7.03(41)
Senior Housing, Independent					P					P*		P					7.03(42)
Child Family Day Care Homes	P	P	P	P	P						P	P				P	7.03(7)
Child Group Day Care Homes	S	S	S	S	S						S	S				S	7.03(7)
Foster Care Family Homes	P	P	P	P	P						P	P				P	7.03(14)
Foster Care Group Homes	S	S	S	S	S						S	S				S	7.03(14)
Commercial Uses																	
Artist Studio						P	P	P	P	P*	P	P	P	P			
Auto Repair and Service (Minor)								S	P		S		S	S			7.03(2)
Auto Repair and Service (Major)								S	S		S		S	S			7.03(2)
Auto Sales (New and Used) and Rental								S	S		S	S	P/S	P/S			7.03(3)
Auto Wash									S								7.03(4)
Banquet/Assembly/Meeting Halls (less than 75 persons)						S	S	P	P	P/S*	P	P	P	P			7.03(5)
Banquet/Assembly/Meeting Halls (greater than 75 persons)								P	P	P/S*	S	P					7.03(5)
Bars and Taprooms							S	P	P	P/S*	P	P	P	P			
Business or Trade Schools						P	S	P	P	P*	S	P	P	P			

Land Use	R-1	R-2	R-3	R-MN	R-MF	O-1	B-1	B-2	B-3	CC*	MU-1	MU-2	M-1	M-2	H-M	N-P	Use Standards (Section No.)
Child/Adult Day Care Center and Preschools	S	S	S	S	S	P	P	P	P	P*	S	P					7.03(6)
Commercial Kennels and Boarding Facilities								S	S			S	S	S			7.03(8)
Drive-Through Facilities						A+S	A+S	A	A		A+S	A					7.03(11)
Financial Institutions						P	P	P	P	P*	P	P	P	P			
Firearm Retail Sales								P	P				A	A			7.03(13)
Funeral Homes						S		S	S			S					7.03(15)
Gasoline/Recharging Stations								S	S								7.03(16)
General Retail, Small to Mid-Format (up to 30,000 sq. ft.)							P	P	P	P*	P	P					
General Retail, Large Format (>30,000 sq. ft.)								P	P		S	S					
Home Improvement Centers and Garden Centers, Small to Mid-Format (up to 30,000 sq. ft.)							P	P	P	P/S*	P	P	S	S			7.03(17)
Home Improvement Centers and Garden Centers, Large Format (>30,000 sq. ft.)								P	P		S	S	S	S			7.03(17)
Hotels and Lodging Facilities								S	P	P/S*	S	P					7.03(20)
Incubator Kitchen or Catering Facility						S	P	P	P	P*	P	P	P	P			
Indoor Recreational Business							P/S	P	P	P/S*	P/S	P/S	P	P			7.03(21)
Indoor Shooting Range									S				S	S			7.03(22)
Medical Office						P	P	P	P	P*	P	P					
Microbreweries, Wineries and Distilleries							S	P	P	P*	P	P	P	P			
Mobile Food Court (Principal Use)										S*	S	S					7.03(27)
Mobile Food Site (Accessory Use)										A*	A	A					7.03(28)
Outdoor Dining and Seating						A	A	A	A	A*	A	A	A	A			7.03(31)
Outdoor Recreational Business								S	S			S					7.03(32)
Outdoor Sales and Display						A+S	A+S	A	A	A*	A	A	A	A			7.03(33)

Land Use	R-1	R-2	R-3	R-MN	R-MF	O-1	B-1	B-2	B-3	CC*	MUI-1	MUI-2	M-1	M-2	H-M	N-P	Use Standards (Section No.)
Personal Service Establishments						P	P	P	P	P*	P	P					
Pharmacy						P	P	P	P	P*	P	P					
Professional Office						P	P	P	P	P*	P	P	P	P			
Restaurant						P	P	P	P	P*	P	P	P	P			
Self-Storage Facility									S				S	S			<u>7.03(40)</u>
Tutoring and Instructional Services						P	P	P	P	P*	P	P					
Tobacco/Smoke Shop or Smoke Lounge								P	P	S*	S	P					<u>7.03(44)</u>
Theater							S	P	P	P*	P	P					
Veterinary Clinic or Animal Grooming						S	S	P	P	P*	P	P					<u>7.03(46)</u>
Industrial Uses																	
Artisan Manufacturing/Makerspace										P*	P	P	P	P			
Contractor's Office						P	P	P	P	P*	P	P	P	P			<u>7.03(9)</u>
Light Industrial, Assembly, Repair and Manufacturing											P		P	P			
Heavy Industrial, Assembly, Repair and Manufacturing														P			
Lumber Yard													S	S			<u>7.03(17)</u>
Fleet Vehicle and Trucking Storage Yard. Commercial Storage of Boats, Trailers, Recreational Vehicles, or other Operable Vehicles or Equipment.													S	S			
Research, Development and Testing Facilities										S*	P		P	P			
General Warehouse and Distribution											P		P	P			
Wholesale Sales/Retail									P		S	S	S	S			
Industrial Tool and Equipment Sales, Rental, Service, Storage and Distribution								P	P	S*	S	P	P	P			
Incubator Workspaces								P	P	P*	P	P	P	P			
Yard Waste Transfer and Composting Facilities														S			
Junk, Tow, or Salvage Yard														S			

Land Use	R-1	R-2	R-3	R-MN	R-MF	O-1	B-1	B-2	B-3	CC*	MUI-1	MUI-2	M-1	M-2	H-M	N-P	Use Standards (Section No.)
Recycling Drop Off Centers													S	S			
Recycling Transfer and Processing Facilities														S			
Public & Quasi-Public Uses																	
Hospital						S		S	S								7.03(19)
Public Library, Museum, Art Center, Community Center	S	S	S	S	S	P	P	P	P	P*	P	P	P	P	S	S	
Government Office Building/Courthouse/Public Police and Fire Services	P	P	P	P	P	P	P	P	P	P*	P	P	P	P	P	P	
Post Office					P	P	P	P	P	P*	P	P	P	P			
Religious Institutions, Private Clubs, and Lodges (less than 75 persons)	S	S	S	S	S	S	S	P	P	P*	P	P	P	P			7.03(39)
Religious Institutions, Private Clubs, and Lodges (greater than 75 persons)	S	S	S	S	S			P	P	S*	S	P					7.03(39)
K-12 Schools, Public or Private	S	S	S	S	S	P	S	S	S	S*	S	S					
Institutions of Higher Learning						P	S	P	P	S*	P	P					
Public Parks	P	P	P	P	P	P	P	P	P	P*	P	P	P	P	P	P	
Cemetery	S	S															
Essential Public Utility Services	P	P	P	P	P	P	P	P	P	P*	P	P	P	P	P	P	
Other Uses																	
Accessory Buildings, Structures and Uses	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	8.03
Temporary Buildings/Uses	P	P	P	P	P	P	P	P	P	P*	P	P	P	P	P	P	7.03(43)
Home Occupation, Minor	A	A	A	A	A					A*	A	A			A	A	7.03(18)
Home Occupation, Major	A+S	A+S	A+S	A+S	A+S					A+S*	A+S	A+S			A+S	A+S	7.03(18)
Parking as a Principal Use	S	S	S	S	S	S	S	S	S	S*	S	S	S	S	S		7.03(34)
Regulated Uses								S	S								7.03(38)
Wireless Communication Facilities	Refer to Section 7.03(47)																
Medical Marihuana Caregiver											P ⁺	P ⁺	P ⁺	P ⁺			7.03(24)
Medical Marihuana and Adult Use Marihuana Safety Compliance Facility						P					P	P	P	P			7.03(25)

Land Use	R-1	R-2	R-3	R-MN	R-MF	O-1	B-1	B-2	B-3	CC*	MUI-1	MUI-2	M-1	M-2	H-M	N-P	Use Standards (Section No.)
Medical Marihuana and Adult Use Marihuana Facilities	Refer to Section 7.03(26)																

Section 3.19 N-P Natural Preservation and Recreation District

PREAMBLE

The purposes of this Zoning District are:

2. To protect and sustain those lands and water bodies most suitable for public recreational purposes and the preservation of natural features.
3. To provide for the protection, preservation, proper maintenance and use of trees, woodlands and other natural lands located in the City of Madison Heights in order to minimize disturbance to them and to prevent damage from erosion and siltation, a loss of wildlife and vegetation, and/or from the destruction of the natural habitat.
4. To protect the woodlands (including trees and other form of vegetation) of this city for their economic support of local property values when allowed to remain uncleared and/or unharvested and for their natural beauty, wilderness character, or geological, ecological, or historical significances.
5. To provide for the paramount public concern for these natural resources in the interest of health, safety, and general welfare of the residents of this city.

REQUIRED CONDITIONS

The following specific standards are hereby established to guide the use and development of woodlands and other natural areas designated as N-P in this city, including the spacing of trees, the clearing of shrubs and brush, the density of vegetation growth and preservation per acre, forestry, and tree replacement practices. However, since the environmental values, soil characteristics, tree growth, and related natural resource parameters will remain unique for each parcel of land and for each development application, each site shall be reviewed on an individual basis. Nonetheless, the following criteria must be considered and balanced with respect to each proposal under this Ordinance:

1. Residential living units shall blend into the natural setting of the landscape for the enhancement of sound, orderly economic growth, and development and for the protection of property values in this city.
2. The preservation of woodlands, trees, similar wood vegetation and related natural resources and values shall take priority over all forms of development.
3. The protection and conservation of irreplaceable natural resources from pollution, impairment or destruction shall remain the paramount factor.
4. No proposal shall be denied solely on the basis that some trees are growing on the private or public property under consideration. Other factors which demonstrate a public need for woodland preservation must be stated.
5. The total acreage of woodlands and other natural areas per capita existing in the city shall be considered.
6. The relationship of streets, highways and other transportation corridors to the natural area shall be considered, along with alternatives for new transportation routes and for the location of the proposed development.

PERMITTED USES	SPECIAL LAND USES	ACCESSORY USES
• Child Family Day Care Homes 7.03(7) • Essential Public Utility Services • Foster Care Family Homes 7.03(14) • Government Office Building/Courthouse/Public Police and Fire Services • Public Parks • Temporary Buildings and Uses 7.03(43)	• Child Group Day Care Homes 7.03(7) • Detached One-Family Dwelling 7.03(10) • Foster Care Group Homes 7.03(14) • Home Occupation, Major 7.03(18) • Public Library, Museum, Art Center, Community Center	• Accessory Buildings, Structures and Uses Section 8.03 • Home Occupation, Major 7.03(18) • Home Occupation, Minor 7.03(18)

The above list is a summary of Principal Permitted Uses, Special Land Uses, and Accessory Uses in the district. Uses provided with a section reference indicates uses that have specific use standards. Refer to [Article 2](#) for definitions of uses.

DIMENSION REGULATIONS			
Lot Standards		Minimum Setbacks	
Min. Lot Area (sq. ft.)	43,560 sq. ft.	Front Yard (ft.)	25 ft.
Min. Lot Width (ft.)	150 ft.	Side Yard (one) (ft.)	10 ft.
Max. Lot Coverage	20%	Side Yard (total of 2) (ft.)	25 ft.
Min. Floor Area/Unit	--	Street Sides (ft.)	10 ft.
Max. Building Height (ft.)	25 ft.	Rear Yard (ft.)	50 ft.
Max. Building Height (stories)	--		
Footnotes: Refer to Section 4.02 wherever a footnote is referenced in parentheses after one of the design regulations.			

- C. That plight of the owner is due to the unique circumstances of the property, such as the shape of the parcel, unique topographic or environmental conditions, or any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be extraordinary; and
- D. That the requested variance is the minimum amount necessary to permit reasonable use of the land, building or structure; and
- E. That the authorization of such variance will not be of substantial detriment to adjacent properties and will not materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community; and
- F. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance, provided that said conditions:

- (1) Are designed to protect natural resources, the health, safety, and welfare and social and economic well-being of the public; and
- (2) Are necessary to meet the intent and purpose of this Ordinance, are related to the standards established in the section for the land use or activity under consideration and are necessary to ensure compliance with those standards.

- 3. **Use Variances Prohibited.** The Zoning Board of Appeals shall not have the authority to grant a use variance to permit a use that is not permitted in a zoning district. However, the Zoning Board of Appeals may consider expansions or alterations of non-conforming uses in accordance with [Section 13.01](#).
- 4. **Approval Period.**
 - A. No order of the Zoning Board of Appeals permitting the erection or alteration of buildings shall be valid for a period longer than one year unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to completion in accordance with the terms of such permit.
 - B. No order of the Zoning Board of Appeals permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, however, that the use of such permit is dependent upon the erection or alteration of a building, such order shall continue in full force and effect if a building permit for such use, erection or alteration is obtained within such period and such erections or alterations are commenced and proceed to completion in accordance with the terms of such permit.
- 5. **Appeals of Decisions to Circuit Court.** The decision of the ZBA shall be final. An appeal of a decision of the Zoning Board of Appeals shall be taken to the Oakland County Circuit Court within a time period specified in the Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended) and by such persons permitted by State statute and common law. Upon appeal, the court shall review the record and decision of the ZBA to ensure that the decision complies with the constitution and laws of the state, is based upon proper procedure, is supported by competent, material, and substantial evidence on the record and represents the reasonable exercise of discretion granted by law to the ZBA. As a result of this review required by this Section, the court may affirm or modify the decision of the ZBA.
- 6. **Resubmittal.** No application for a variance which has been denied in whole or in part by the Zoning Board of Appeals shall be re-submitted for a period of three hundred sixty five (365) days from such denial, except on the ground of new evidence or proof of changed conditions found by the Zoning Board of Appeals to be valid.

Section 15.07 Zoning Ordinance Amendments (Map and Text)

The City Council may amend, supplement, or change the regulations or the district boundaries of this Ordinance pursuant to the authority and according to the procedure set forth in Act 110, of the Public Acts of 2006, as amended. Changes in the text or zoning district boundaries of this Ordinance may be proposed by the Planning Commission, Planning and Zoning Administrator, other City Staff, or any interested person or organization.

1. **Application for Amendment.** An application for an amendment to the text of this Ordinance or an amendment to change the zoning classification of a particular property shall be commenced by filing an application with the Community and Economic Development Department on the forms provided by the Department and accompanied by the fees specified. The application shall describe the proposed amendment and shall be signed by the applicant. Applications for rezoning of a specific site shall be accompanied by a plot plan or survey which specifies the boundaries and legal description of the site. The Planning and Zoning Administrator, Planning Commission, and City Council may request additional information with the application.
2. **Amendment Review Procedures.** The amendment, be it a text or a map amendment, and application materials shall be prepared in accordance with the provisions of this Article and shall be reviewed in accordance with the following procedure. Amendments or application materials that do not meet the stipulated requirements shall be considered incomplete and shall not be eligible for consideration by the Planning Commission:
 - A. **Technical Review.** Prior to Planning Commission consideration, the proposed amendment and application materials shall be distributed to the Technical Review Committee for review, comment, and recommendations. The proposed amendment and application materials may also be distributed to applicable outside agencies and designated city consultants for review.
 - B. **Public Hearing.** A public hearing shall be held at a Planning Commission meeting in accordance with [Section 15.01](#)
 - C. **Planning Commission Consideration of the Proposed Amendment.** The Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies, and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this Section, and shall report its findings and recommendation to the City Council.
 - D. **City Council Action on the Proposed Amendment.** Upon receipt of the report and recommendation from the Planning Commission, the City Council may approve or deny the proposed amendment. If determined to be necessary, the City Council may refer the amendment back to the Planning Commission for further consideration. City Council may, but is not required to, hold an additional public hearing. In the case of an amendment to the official Zoning Map, the City Council shall approve or deny the amendment, based upon its consideration of the criteria contained in this Ordinance.
3. **Standards of Review for Amendments.**
 - A. **Text Amendments.** In considering any petition for an amendment to the text of this Ordinance, the Planning Commission and City Council shall consider the following criteria in making findings, recommendations, and a decision. The Planning Commission and City Council may also take into account other factors or considerations that are applicable to the application but are not listed below.
 - (1) Consistency with the goals, policies and objectives of the Master Plan and any sub-area or corridor plans. If conditions have changed since such plans were adopted, consistent with recent development trends in the area shall be considered.
 - (2) Consistency with the basic intent and purpose of this Zoning Ordinance.
 - (3) Consideration of changing conditions since the Zoning Ordinance was adopted or a finding that there is an error in the Zoning Ordinance that justifies the amendment.
 - B. **Map Amendments.** In considering any petition for an amendment to the Zoning Map, the Planning Commission and City Council shall consider the following criteria in making findings, recommendations, and a decision. The Planning Commission and City Council may also take into account other factors or considerations that are applicable to the application but are not listed below.
 - (1) Compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.
 - (2) Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

- (3) Consistency with the goals, policies and objectives of the Master Plan (including the Future Land Use Plan), and any sub-area or corridor plans. If conditions have changed since such plans were adopted, consistent with recent development trends in the area shall be considered.
- (4) The boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.
- (5) The requested zoning district is considered to be more appropriate from the city's perspective than another zoning district.
- (6) If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.
- (7) The requested rezoning will not create an isolated or incompatible zone in the neighborhood.
- (8) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
- (9) That the amendment will not be expected to result in exclusionary zoning.

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

(1) **Authorization and Eligibility.**

- (a) The standards of this Section shall grant a property owner the option of voluntarily proposing conditions for the development and use of property in connection with the submission of a petition seeking a rezoning. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.
- (b) In order to be eligible for consideration of a Rezoning with Conditions, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific conditions (to be set forth in a Rezoning with Conditions Agreement) that are more strict or limiting than the regulations that would apply to the land under the proposed new zoning district. Such conditions may include, but are not limited to, the following:
 - (i) The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other physical features of the proposed development.
 - (ii) Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use. For example: units per acre, maximum usable floor area, or hours of operation.
 - (iii) Preservation of open space, natural resources and/or natural features.
 - (iv) Improvements to address traffic issues, including paving, substantial improvements to or funding of improvements to major roads to the benefit of the entire City.
 - (v) Site improvements such as signage, lighting, landscaping, building materials for the exterior of some or all structures above and beyond what would otherwise be required by City Ordinance.
 - (vi) Limitations on permissible uses of the property.
 - (vii) Any other conditions that may be voluntarily proposed by the property owner.

(2) **Application and Review Procedures.**

- (a) Application.

- (i) At the time of making application for amendment of this ordinance seeking a rezoning of property, or at a later time during the process of City consideration of such rezoning a property owner may submit a complete application for approval of a Rezoning with Conditions to apply in conjunction with the rezoning.
 - (ii) The application, which may be amended by the applicant during the process of consideration, shall specify the Rezoning Conditions proposed by the applicant, recognizing that Rezoning Conditions shall not authorize uses or development not permitted in the district proposed by the rezoning.
 - (iii) An application for a Rezoning with Conditions shall include a Rezoning with Conditions Agreement ("the Agreement"). The Agreement shall set forth the rezoning conditions and may incorporate a Rezoning with Conditions Plan.
 - (iv) The application shall include a notarized signature of the property owner indicating that the conditions attached to the rezoning are voluntarily offered.
 - (b) Technical Review Committee Review. The proposed Rezoning with Conditions will become an agenda item for the Technical Review Committee, with comments forwarded to the Planning Commission.
 - (c) Planning Commission Review.
 - (i) The proposed Rezoning with Conditions shall be noticed for public hearing in accordance with Section 15.01 before the Planning Commission as a proposed legislative amendment of the Zoning Ordinance.
 - (ii) Following the public hearing, and further deliberations as deemed appropriate by the Planning Commission, the Planning Commission shall make a recommendation to the City Council on the proposed Rezoning with Conditions.
 - (d) City Council Review. Upon recommendation by the Planning Commission, the City Council shall make a final determination to approve or deny the Rezoning with Conditions as offered by the applicant. The City Council may only consider the conditions offered by the applicant and may not attach any other conditions to the rezoning other than those offered by the applicant. Any new conditions voluntarily offered by the applicant shall require Planning Commission review and a new public hearing. The City Council's deliberations shall include, but not be limited to, a consideration of the review criteria for a Rezoning with Conditions.
- (3) **Review Criteria.** A Rezoning with Conditions shall only be approved if it meets the following requirements and standards:
- (a) The proposed Rezoning with Conditions will further the goals and objectives of the City Master Plan.
 - (b) Rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the Rezoning with Conditions Agreement).
 - (c) The use of the property in question shall be in complete conformity with all regulations governing development and use within the zoning district to which the property is proposed to be rezoned, including, without limitation, permitted uses, lot area and width, setbacks, height limits, required facilities, buffers, open space areas, and land use density; provided, however, the following shall apply:
 - (i) Development and use of the property shall be subject to the more restrictive requirements shown or specified in the Rezoning with Conditions Agreement, and/or in other conditions and provisions set forth in the Rezoning with Conditions Agreement required as part of the Rezoning with Conditions approval. Such Rezoning with Conditions Agreement shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.
 - (d) The proposed Rezoning with Conditions will result in integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area as compared to the existing zoning, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the use of a Rezoning with Conditions.
 - (e) As compared to the existing zoning and considering the site-specific conditions and/or land use proposed by the applicant, it would be in the public interest to grant the Rezoning with Conditions. In determining whether approval of a proposed application would be in the public interest, the benefits

which would reasonably be expected to accrue from the proposal shall be balanced against and be found to clearly outweigh the reasonably foreseeable detriments, taking into consideration reasonably accepted planning, engineering, environmental and other principles, and also taking into consideration the special knowledge and understanding of the City by the City Council and Planning Commission.

- (f) The proposed conditions will not preclude future zoning and planning actions by or on behalf of the municipality.
 - (g) Existing and available public services will be capable of serving proposed or potential development that will occur as a result of the Rezoning with Conditions without negatively impacting the delivery of public services to other properties in the City, or the conditions will ensure that public services will be sufficient to serve both the site and other properties in the City.
 - (h) The offered condition(s) are beneficial to the public good and likely to be enforceable.
 - (i) The condition does not have the same effect as a use variance.
 - (j) The proposed conditions do not relieve the applicant of the responsibility of securing any applicable site plan, plat, condominium, or special land use approvals.
- (4) **Effect of Approval.** Approval of the Rezoning with Conditions and Rezoning with Conditions Agreement confirms only the rezoning of the property, subject to any conditions reflected in the Rezoning with Conditions Agreement. Any applicable site plan, plat, condominium, special land use, or variance approvals shall be required before any improvements to the property may be undertaken.

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

(5) **Compliance with Conditions.**

- (a) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Rezoning with Conditions Agreement. Any failure to comply with a condition contained within the Rezoning with Conditions Agreement shall constitute a violation of this Zoning Ordinance and shall be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
- (b) No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Rezoning with Conditions Agreement.

(6) **Period of Approval.**

- (a) The Rezoning with Conditions and Agreement shall expire after a period of one (1) year from the effective date of the Rezoning unless substantial progress towards obtaining site plan and other required approvals has been made, and shall expire after a period of two (2) years unless development of the property is substantially begun within such two (2) year period and proceeds diligently and in good faith as required by ordinance to completion.
- (b) In the event substantial progress towards obtaining site plan and other required approvals has not commenced within one (1) year and bona fide development has not commenced within two (2) years from the effective date of the rezoning, the Rezoning with Conditions and the Rezoning with Conditions Agreement shall be void and of no effect.
- (c) The property owner may apply for a one (1) year extension two (2) times. The request must be submitted to the Community and Economic Development Department before the approval time limit expires. The property owner must demonstrate why the extension should be granted, and must also demonstrate that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently thereafter to completion, and if the City Council finds that there has not been a change

in circumstances that would render the Rezoning with Conditions incompatible with adjacent or nearby use and zoning of land or is otherwise inconsistent with sound zoning policy.

- (d) An extension request shall be considered by the City Council following a recommendation by the Planning Commission.
- (e) If the Rezoning with Conditions becomes void in the manner provided in this section, the following procedures shall apply:
 - (i) The property owner may seek a new rezoning of the property within thirty (30) days of the expiration of the period of approval.
 - (ii) If no application is made for a new rezoning of the property, the land shall revert to its former zoning classification as set forth in MCL 124.286i (as amended). The City Council shall direct the Planning Commission to proceed with consideration of rezoning the land to its former zoning designation following the standard rezoning procedures set forth in this Zoning Ordinance.
 - (iii) Until such time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.
- (7) **Rezoning with Conditions Agreement Requirements.** A Rezoning with Conditions Agreement shall be executed between the applicant and the City at the time of City Council approval of a Rezoning with Conditions.
 - (a) Rezoning with Conditions Agreements shall, at a minimum, contain all of the following items:
 - (i) Identification of the requested zoning district and a listing of the conditions offered by the applicant.
 - (ii) A statement acknowledging that the Rezoning with Conditions was proposed by the applicant, and further agreement and acknowledgment that the conditions and Rezoning with Conditions Agreement are authorized by all applicable state and federal law and constitution, and that the Agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the City.
 - (iii) Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the Rezoning with Conditions Agreement.
 - (iv) Agreement and understanding that the approval and Rezoning with Conditions Agreement shall be binding upon and inure to the benefit of the property owner and City, and their respective heirs, successors, assigns, and transferees.
 - (v) If the City Council grants an extension of approval, a new Rezoning with Conditions Agreement with the new expiration date shall be recorded.
 - (vi) Agreement and understanding that, if a Rezoning with Conditions becomes void, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.
 - (vii) Agreement and understanding that each of the requirements and conditions in the Rezoning with Conditions Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved Rezoning with Conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.
 - (viii) A legal description of the property affected by the Rezoning with Conditions.
 - (ix) Development regulations affected by the conditions of rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, etc.
 - (x) Revocation of approval provisions returning the property to its original zoning designation if the developer violates the terms of the Agreement. A Rezoning with Conditions Plan may be included as an exhibit to the Agreement.
 - (b) The Rezoning with Conditions Plan may show the conceptual layout of the proposed development or use, along with any other information deemed relevant by the applicant. Inclusion of a Rezoning with Conditions Plan as an exhibit to a Rezoning with Conditions Agreement shall not replace the

requirement for preliminary and final site plan, subdivision, condominium, special land use or variance review and approval.

- (8) **Amendment of Rezoning with Conditions Agreement.** Amendment of a Rezoning with Conditions Agreement shall be proposed, reviewed and approved in the same manner as a new Rezoning with Conditions.
 - (9) **Recordation of Rezoning with Conditions Agreement.** A Rezoning with Conditions shall become effective following publication in the manner provided by law, and, after recordation of the Rezoning with Conditions Agreement, whichever is later.
 - (10) **Termination.** The City Council shall be the only body with the authority to terminate a Rezoning with Conditions agreement. The consideration to terminate the agreement shall be for reasons of expiration of the agreement, discovery of false information upon which the initial approval was based, or the existence or discovery of new information that alters the viability of the approved rezoning. The Termination shall comply with any applicable provisions of this ordinance or the Rezoning with Conditions Agreement.
 - (11) **City Right to Rezone.** Nothing in the Rezoning with Conditions Agreement or in the provisions of this Section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a Rezoning with Conditions to another zoning classification. Any such rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act.
 - (12) If land that is subject to a Rezoning with Conditions Agreement is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Rezoning with Conditions Agreement, the Rezoning with Conditions Agreement attached to the former zoning classification shall cease to be in effect.
4. **Notice of Adoption of Amendment.** Following adoption of an amendment by the City Council, one (1) notice of adoption shall be filed with the City Clerk and one (1) notice shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption, in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. A record of all amendments shall be maintained by the City Clerk. A Zoning Map shall be maintained by the City Clerk, which shall identify all map amendments. The required notice of adoption shall include all of the following information:
- A. In the case of a newly adopted Zoning Ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the City of Madison Heights."
 - B. In the case of an amendment(s) to the existing Zoning Ordinance, either a summary of the regulatory effect of the amendment(s), including the geographic area affected, or the text of the amendment(s).

Section 15.08 Temporary Use Permits

1. **Purpose.** This section sets forth the requirements for the application, review, approval, and enforcement of temporary use permits in the City of Madison Heights. Temporary use permits may be reviewed and acted upon by the Planning and Zoning Administrator, Technical Review Committee, or Planning Commission.
2. **Use-Specific Standards.** Temporary uses are subject to the use-specific standards of [Section 7.03\(43\)](#)
3. **Planning and Zoning Administrator/Technical Review Committee Review.** The Planning and Zoning Administrator may review and approve certain temporary uses addressed in Section 7.03(XXXX). The Planning and Zoning Administrator reserves the right to refer any request for a temporary use permit to the Technical Review Committee or Planning Commission for review and approval.
4. **Planning Commission Review.** The Planning Commission shall review and act upon temporary use permit requests where the applicant seeks approval for a time period longer than otherwise allowed by [Section 7.03\(43\)](#) or for a temporary use not specifically permitted in [Section 7.03\(43\)](#) nor deemed similar by the Planning and Zoning Administrator; provided, that the temporary use complies with all other relevant development and operational standards for the use as provided in this Zoning Ordinance.