

Lockport Township

Michigan

State Boundary Commission File # 16-AR-1

Rebuttal

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Office of Land Survey &
Remonumentation

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September 16, 2016

State Boundary Commission
C/O Office of Land Survey and Remonumentation
Department of Licensing and Regulatory Affairs
P.O. Box 30254
Lansing, Mi. 48909

RE: Case # 16-AR-1

I am writing on behalf of Lockport Township. I serve as the Lockport Township Zoning Administrator and Code Compliance Officer. I am writing a rebuttal to the information that has been submitted by the City of Three Rivers, in an effort for you to hear both sides of this issue.

First of all such request is not a mutual agreement request, but more so of an unreceptive annexation that has divided two communities. It is my understanding that the hearing scheduled for October 12, 2016 is one to determine if substantial information has been provided to move forward with this process. Whereas the information that has been provided may at face value appear to be substantial, some of the information provided is blatantly incorrect.

When this first came about this was presented that such project would be a part of the River Country Recreation Authority, and the following units of government would be participants in this agreement.

- City of Three Rivers
- Fabius Township
- Lockport Township
- Park Township

After the units were asked to join this River Country Recreation Authority further research was conducted only to find that the information presented, and the factual information was dissimilar. It was due to the fact that the actual agreement actually included a portion that stated that if the financial obligations could not be met by the authority that those municipal members of the River Country Recreation Authority would be accountable for such debt, but when presented to the municipal units they were advised that they would not be accountable for any debts but merely wanting their support. With that information and even though this agreement

was never officially binding because proper steps were not followed both Lockport Township and Park Township removed themselves from this agreement, and to date do not consider themselves members of that authority. Both Lockport Township and Park Township had extreme concerns due to the fact the price tag for the multi-million dollar sports complex had not even been established yet, and the projected cost of operating this complex is \$82,720 annually. Even divided out four ways, this could cause a \$20,680.00 strain onto each of the units budgets, in an era where most municipalities are struggling to maintain what they have without being required to reduce services. In the rural area in which we are in, this added amount to a budget annually could be devastating.

Estimated Financial Operations

Operating Costs

Sports Complex Yearly Maintenance

DRAFT

Maintenance			
1	Mowing	\$	30,000
2	Field Lining	\$	- By Organizations
3	Trash	\$	5,000
4	Permits	\$	200
5	Snow Plow	\$	5,000
6	Genral Mechanical, Electrical, Plumbing Issues	\$	5,000
7	Part Time Employee	\$	25,000
8	Irrigation Repair	\$	5,000
Sub-total Construction		\$	75,200
Contingency 10%		\$	7,520
TOTAL MAINTENANCE		\$	82,720

The City of Three Rivers has submitted a timeline which in fact is also incorrect. I will identify those issue:

Timeline entry 3-20-2015 *The City Manager met with the Lockport Township Supervisor to discuss Sports Complex project options.* Whereas this meeting may have happened it would have been merely an informal meeting as it was not with the full township board and the entire board was not aware of this discussion and never took any action on it.

Timeline entry 04-13-2015 This is a correct statement, but due to inconsistent and conflicting information, the Lockport Township Board elected to resolve themselves form such agreement.

Timeline entry 07-13-2015 The City of Three Rivers has never requested a Public Act 425 request for this property or any property regarding a sports complex. Mr. Thomas Meyers who owns some property nearby requested such agreement to in turn sell the property to the City of Three Rivers for the sports complex and Lockport Township denied such request as this is commercially zoned property, and a prime area for commercial growth within the township. Additionally Lockport Township does not have much if any other area within the township that would allow for commercial growth, and therefore the township did not want to release this property. It is interesting to note that Mr. Meyers has no issues with requesting this 425 agreement for this piece of land so that he could seek a financial gain for the sale of this property, but indicated in his sales agreement to the City of Three Rivers that if the City of Three Rivers in turn would annex the remaining portion of the developed land adjacent to this property

that Mr. Meyer's owns into the city within 25 years from the sale of the land, that the City of Three Rivers would be responsible to pay either him or the current owner the sum of \$300,000.00. It appears to be quite apparent that Mr. Meyer's has concerns of the City of Three Rivers continuing to annex property into the City of Three Rivers and is quite apparent that this is something that he is not interested in.

Timeline entry 09-14-2015 Yes the City of Three Rivers did request for an Urban Agreement for the use of this land. Unfortunately, what they fail to mention is that they are calling this a public park, and therefore there would not be any tax revenue to the township under such agreement. In addition it is not mentioned that the condition was that they would leave the property in the Township, but that it would be controlled 100% by the City of Three Rivers Zoning so merely the township would be just giving the property to the City of Three Rivers. Based on that information, such request was denied as well.

Timeline 09-25-2015 The City of Three Rivers did extend such offer. The township indicated to them that if they had other plans we would be willing to talk to them but when information was presented to them by their presenters they only wanted you to agree with them and were not receptive to other options.

Timeline 09-25-2015 Of all of the information presented, this is probably the largest of all blatant incorrect information that has been provided.

Please understand that the parcel in question is located in the Single Family Residential Zoning District. Before the City came to the township with this request, the Lockport Township Zoning Ordinance read

Sec. 4.02. A building may be erected, altered, or used, and a lot may be used or occupied, for any of the following purposes and no other:

A. *Permitted uses.*

- (1) Single-family detached dwelling units which meet the requirements of the BOCA building and construction codes;
- (2) Publicly owned parks and playgrounds without buildings;
- (3) Accessory Uses;
- (4) Home occupations, as defined in Section 1.12, and subject to the following additional specific conditions in the Single-Family Residential District:
 - a. Said home occupation shall not exceed 30 percent of the gross floor area of the residential structure.
 - b. There shall be no alteration in the residential character or function of the premise in connection herewith, nor shall any garage or parking area be used in connection herewith.
 - c. Signs and advertising devices shall be in accordance with Section 12.17(B) of this Ordinance.
 - d. There shall be no commodity or stock in trade sold or stored upon the premises.

Additionally the Lockport Township Zoning Ordinance failed to have a definition of a park.

Therefor based on that language such complex would not have been permitted at all. Understanding that if this park was to be a reality, we would have to make changes to the Lockport Township Zoning Ordinance as we were fully aware that they planned to have buildings on the property.

Today the Lockport Township Zoning Ordinance reads:

Definitions:

Park or Preserve Public: *An area of land, usually in a largely natural state, for the enjoyment of the public.*

Community Park Public *An area of land usually in a largely natural state, for the enjoyment of the public. Such park may contain approved playground equipment, pavilions, restrooms and storage facilities.*

Sports Complex or Athletic Complex: *A group or groups of sports facilities. For example, there are track and field areas, football fields, baseball fields, soccer fields, swimming pools, exercise areas, walking trails. All defined areas shall be outdoors any buildings or structures shall be limited to storage facilities, and restroom facilities. Any building or structure housing any of these activities (exception storage facilities and restrooms) shall be considered as a business and shall be located in the appropriate zoning district.*

Sec. 4.02. A building may be erected, altered, or used, and a lot may be used or occupied, for any of the following purposes and no other:

- A. *Permitted uses.*
 - (1) Single-family detached dwelling units shall comply in all respects to those standards and regulations for construction as imposed by the State Construction Code and any Federal or State standard or regulation in effect; (amended Ord. No. 2015-01, 1-20-15).
 - (2) Reserved
 - (3) Accessory Uses;
 - (4) Home occupations, as defined in Section 1.12, and subject to the following additional specific conditions in the Single-Family Residential District:
 - a. Said home occupation shall not exceed 30 percent of the gross floor area of the residential structure.
 - b. There shall be no alteration in the residential character or function of the premise in connection herewith, nor shall any garage or parking area be used in connection herewith.
 - c. Signs and advertising devices shall be in accordance with Section 12.17(B) of this Ordinance.
 - d. There shall be no commodity or stock in trade sold or stored upon the premises.
 - e. Not more than one assistant or employee shall be employed in connection with the home occupations provided that family members shall not be counted as employed.
 - f. There shall be no equipment or machinery used in connection with a home occupation which is industrial in nature.
 - (5) Community facilities and public utility uses directly related to and necessary for essential services within the district or township.
- B. *Special uses by permit.* (amended Ord. No. 2006-03, §X, 12-11-06)
 - (1) Churches, Parish Houses, Schools, educational and Philanthropic Institutions;
 - (2) The use of open lands and waters for privately owned and operated parks,

picnic groves, golf courses and similar facilities for outdoor exercise and recreation but not including race tracks or miniature golf courses;

- (3) Boat liveries;
- (4) Professional offices;
- (5) Two Family Dwelling;
- (6) Stabling and pasturing of horses and other similar large animals excluding livestock on unplatted parcels of five or more acres
- (7) Publicly owned parks and playgrounds without buildings;
- (8) Publicly owned parks and playgrounds with any type of buildings or structures.
- (9) Sports Complex, athletic complex, public event or gathering center.

(Amended: Ord. No. 2-87, 5-12-87; Ord. of 6-10-91, § 4; Ord. of 7-29-92; § 1; Ord. No. 12-97B, 12-8-97; Ord. No. 2004-03, §§ I, II, 11-8-04; Ord. No. 2006-03, § X, 12-11-06, Ord. No. 2012-01, §V,9-10-12)

So as you can see such claim by the City of Three Rivers is blatantly incorrect. All of these changes were done without being requested and at the cost of Lockport Township due to the understanding of the desires of this project.

Timeline entry 12-03-2015 This is a correct statement whereas the Home City Rule Public Act 279 was adopted in 1909 and affords cities to take land from other jurisdictions without consent of that jurisdiction one might conclude that a law that is of that vintage and still makes reference to "territory" rather than parcels, lots or plats as we have today may be out of date, but is still in effect and the township wanted to protect itself from future hostile takings by the City of Three Rivers. The township does have the obligation to protect the citizens within the township.

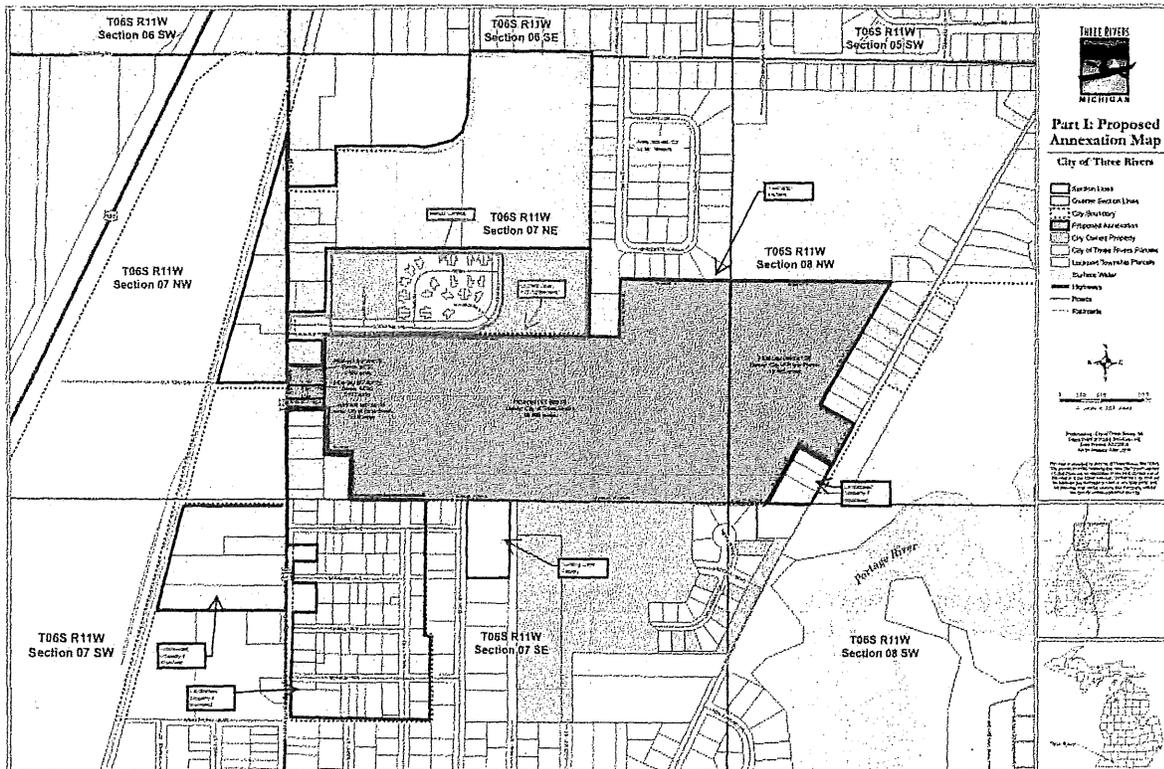
(8) Where the territory proposed to be annexed to any city is adjacent to the city and consists of a park or vacant property located in a township and owned by the city annexing the territory, and there is no one residing in the territory, the territory may be annexed to the city solely by resolution of the city council of the city. In any case where the territory proposed to be annexed is adjacent to the city and consists of property owned by the city or consists of fractional parts of platted subdivision lots, located in an adjoining city, village, or township, the annexation may also be accomplished by the majority vote of the legislative body of the city and the approval of the legislative body of the adjoining city, village, or township. As an alternate method, where there are no qualified electors residing in the territory proposed to be annexed to the city, other than the person or persons petitioning, a petition signed by a person or persons, firms, corporations, the United States government, or the state or any of its subdivisions who collectively hold the equitable title as a vendee under a recorded land contract or memorandum of land contract, or record legal title to more than 1/2 of the area of the land in the territory to be annexed is filed with the city council of the city and with the township board of the township in which the territory is situated, the annexation may be accomplished by the affirmative majority vote of the city council of the city and the approval of the township board of the township. At least 10 days prior to the approval by the township board, the township treasurer shall notify, personally or by registered mail with return receipt demanded, the owners of all real property in the territory to be annexed as shown on the assessment rolls of the township at the last known address on file with the township treasurer. Except as otherwise provided, this section shall not be construed to give any city the authority to attach territory from any other city unless the question relative to the territory has been voted upon by the voters of the entire cities affected where the territory proposed to be annexed is adjacent to a city and consists of property owned by the city or consists of fractional parts of platted subdivision lots, located in an adjoining city.

It can clearly be indicated that this is currently not a park as most recently it had crops planted in it. Additionally the township does not consider this parcel as vacant as it has a large water main on the parcel with a value of over \$366,000.00 that supplies water to several homes in an area south of the parcel in question. The water main was offset on the property as this property has already had a site plan layout for single family homes as it is zoned for.

The following is the map that was submitted in the petition. It has had color enhancements for better reference.

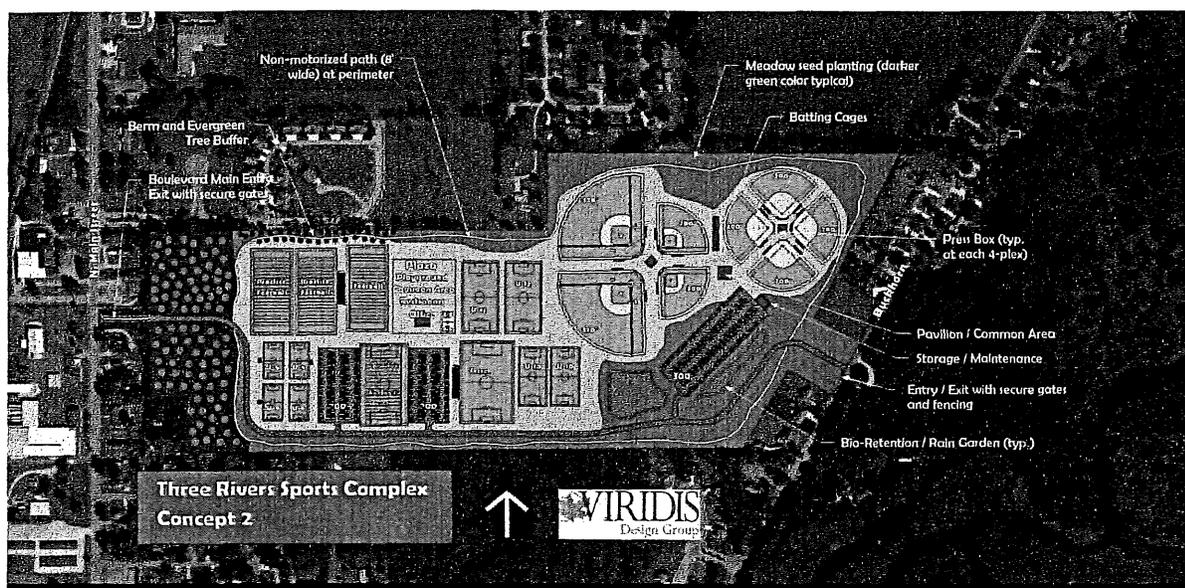
The following is a legend for that map.

-  Area that is adjacent to township property.
-  Area adjacent to an open 425 agreement between the Township and the City.
-  This is the area that Mr. Meyer's not the City of Three Rivers requested a 425 agreement.
-  This is the area where individuals over 55 years of age, a condominium site is located. Each unit is owned by the individual.
-  This is the location of a nursing care facility.
-  If approved, this area would be landlocked or create an enclave. These areas are serviced by the Lockport Water system, the majority is not all serviced by the water main located on the property in question.



Under the Home City Rule, it states “and there is no one residing in the territory” When one looks up the definition of the word “territory, it states that it is an area of land or sometimes seas that is considered as belonging to or connected with a particular country or person. Therefore if one looked at the area of this request, I think that it can be strongly argued that this area is not vacant as it is populated by dense areas of single family homes in this area.

Below is a conceptual drawing of this complex that is being proposed. This complex is planned to park hundreds of vehicles along with hundreds of participants on the complex.



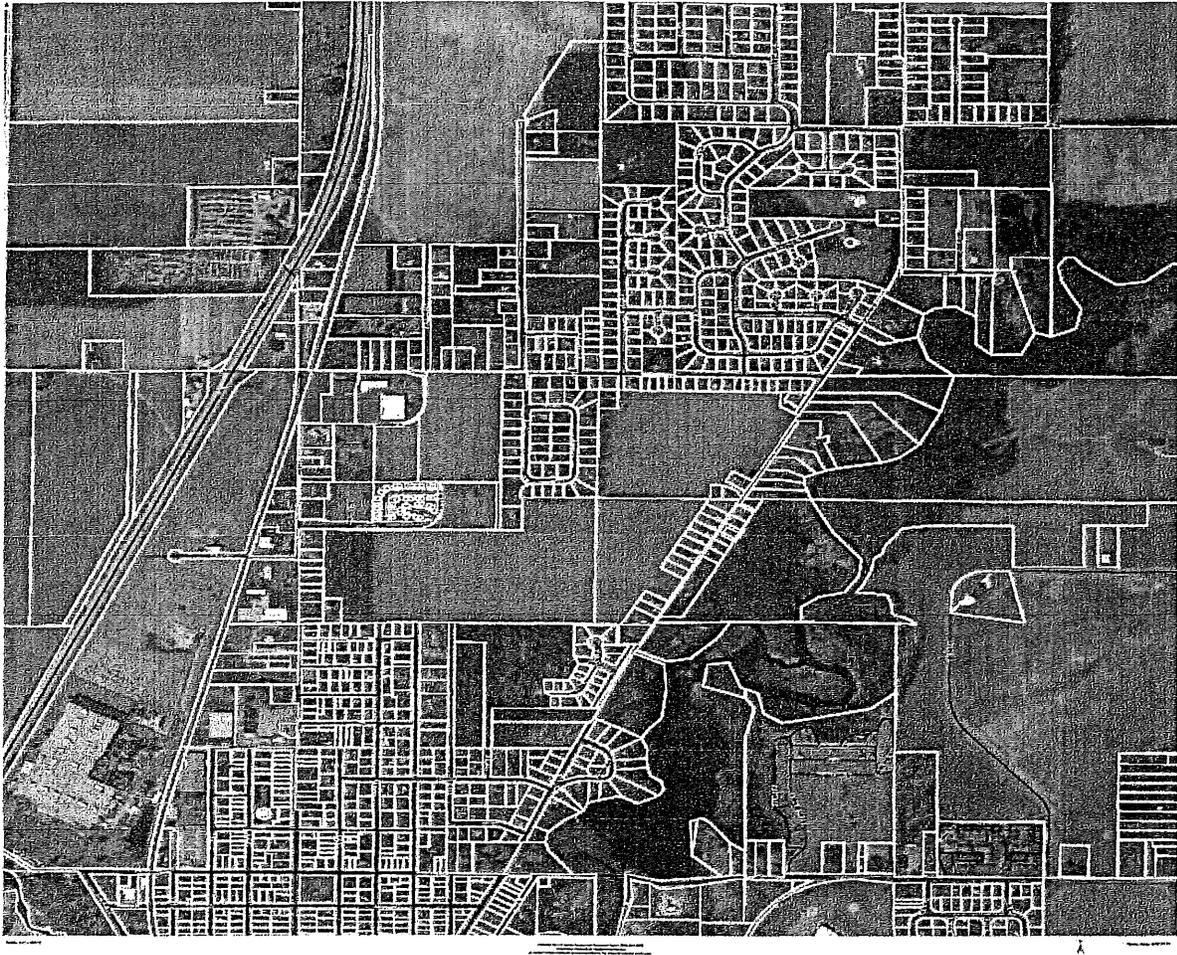
Whereas we recognize and acknowledge that several people in the area and the county have shown support to this concept, approximately 100 signatures have been submitted of families that live adjacent and in the immediate vicinity of the proposed complex that are opposed to this. These people are opposed for the following reasons:

- Directly affects their quality of life.
- Bright lights
- Loud Noise
- Traffic Congestion
- Trespassing
- Litter

It should also be noted that they released a plan that only was to annex a core within the center of the property to prevent enclaves, but that meant that they pass through township property and that was going to create a zoning violation.

The following is a map that has the majority of but not all of the property owners that have signed a petition indicating that they are opposed to this complex being located at this location. Not all of the residents were available for comments.

Petition Signers



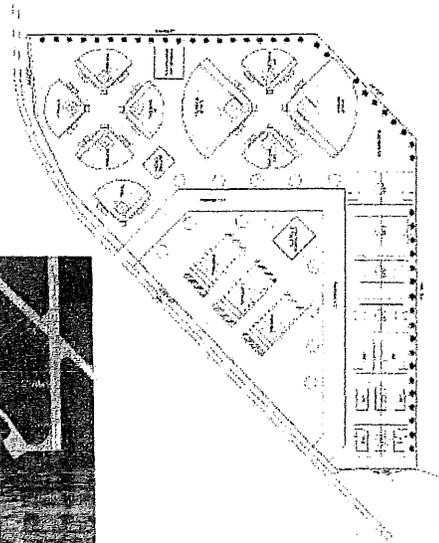
It is for that reason that the Lockport Township Planning Commission when they amended the Lockport Township Zoning Ordinance to allow for such activity, that such plans would also require a public hearing so that those residents that are in the immediate area that would have their quality of life compromised by this complex get to lend input in the matter.

Below please find other sites that the committee reviewed. As you find some of them are already designed to be on city owned property that would not require the need to take land from the township. It should also be noted that the city has several hundreds of acres of vacant land that they have already taken into the city via 425 agreements or annexations most of which is from Lockport Township that remains vacant today. When challenged to use this land, the response is that the area proposed is designed for some other use. It is a sad thought that the city can take land from others for their desires, but the township is stripped of their plans for development and economic growth.

It is important to note that with "Plan C" shown below that they even indicate that there would be very limited potential for residential communities to object. I believe that it is evident from this information that the concerns from the Lockport residents surrounding their proposed plan have valid concerns about their quality of life.

Site Option C - Airport

- Partnership with City
- No need to purchase land
- Limited size; no room for expansion
- Easy to locate
- Significant tree removal required



Quote "This property east of the Dr. Haines Three Rivers Municipal Airport provides many advantages for the multisport complex project development. The location is easy to locate for out of town guests, the site is less than a half of a mile from the middle school and high school. There are no existing structures that require demolitions, there would be no or limited impact on adjacent land uses, and there is very limited potential for nearby residential communities to object to the use of the site. There would be no cost to the land and the area could be expanded to include parking on other portions of the airport."

Site Option C – School

- Partnership with school
- Limited available space
- Competing schedules with school activities
- Close proximity to middle and high school



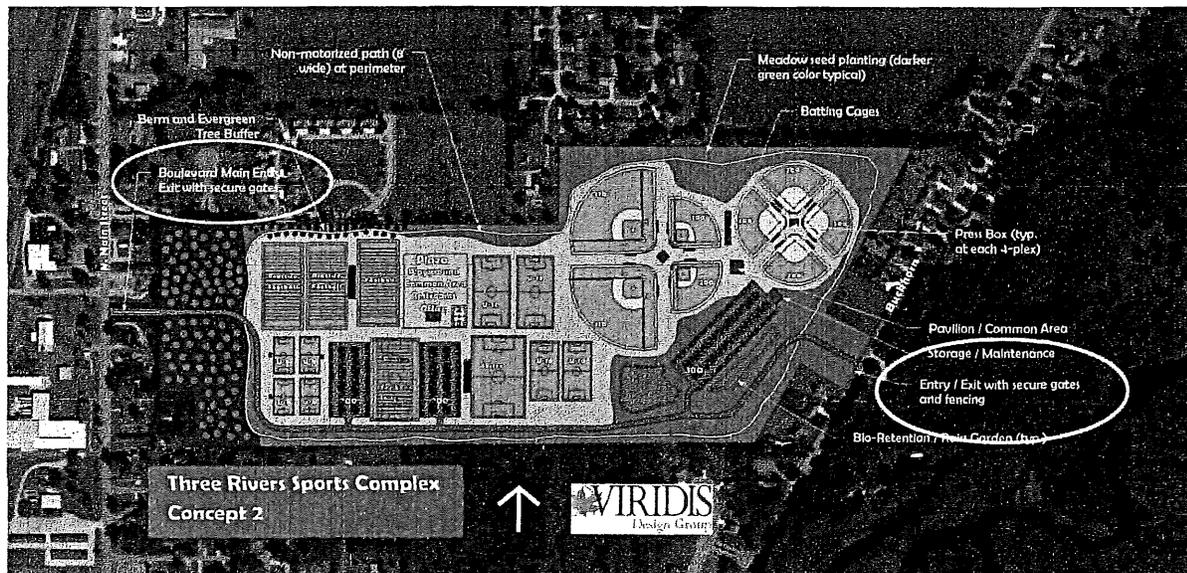
In the information provided below, I think it makes it quite apparent that this is more than a public park. This is a business, when the youth football, soccer and baseball organizations have to pay to play and are holding tournaments to make money, having rental income and reservation fees, and seeking advertisements, I think that it is hard pressed to consider this as a public park but more so as a business venture.

Revenue Opportunities - Operations

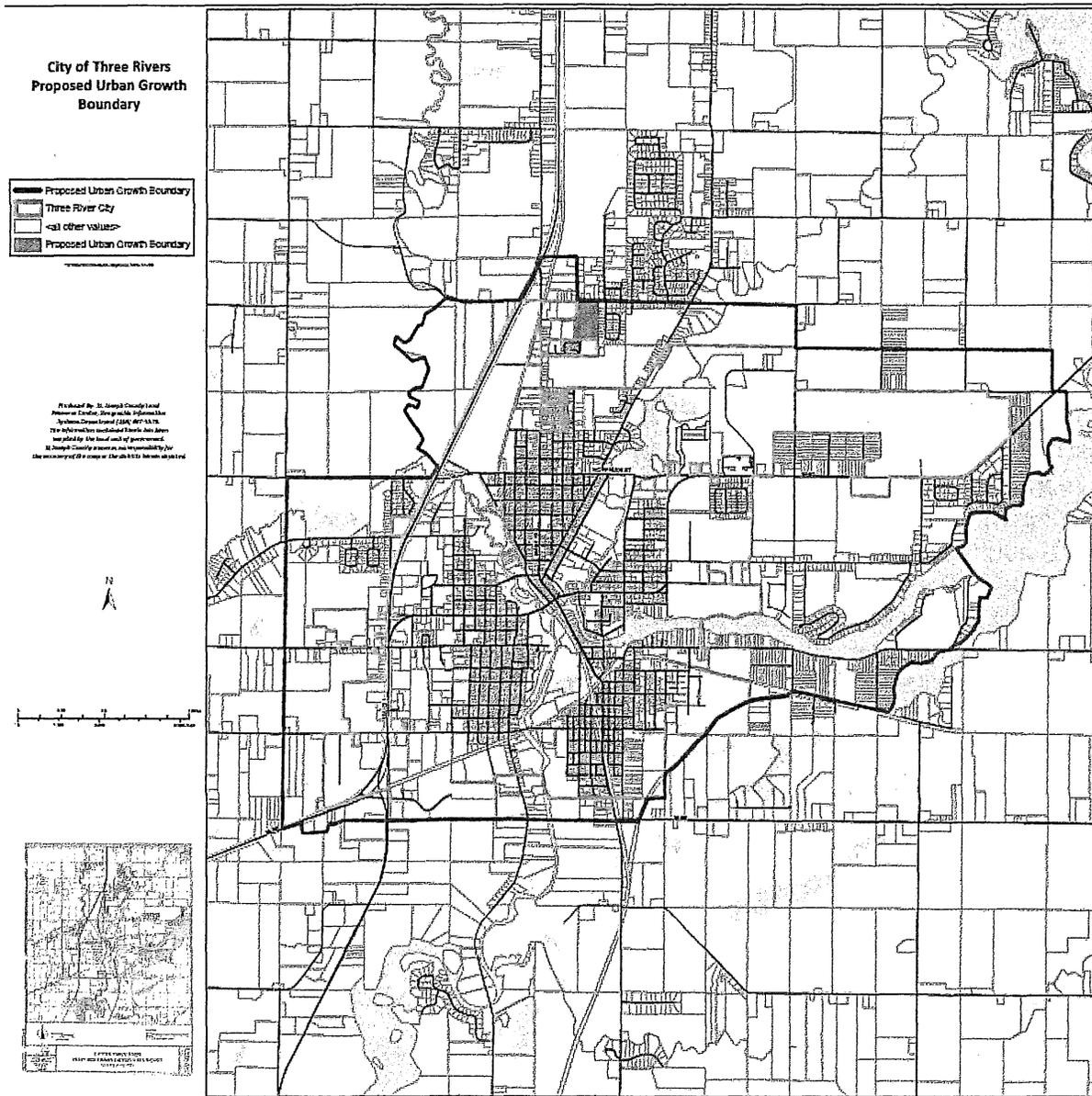
- Registration fees
- Advertising
- Tournament fees
- Concessions
- Rental income
- Reservation fee
- Recreation Millage



It is also quite difficult to understand the concept of a public park when it clearly indicates on the plans that there will be secured gates at both entrances of the complex. But yet when the St. Joseph County Board of Commissioners granted the 2.8 million dollars and placed a mortgage on this property they indicated that it would be a public park to be used by all.



As it relates to annexations, it is quite apparent by the growth map that has been created by the City of Three Rivers that the intent is to continue to remove a large area of land from the township to the city. The financial burden that this could have on Lockport Township by not only taking areas of developed land, but also vacant land that would include any of the township's prime commercial areas would be catastrophic to the township and take away most if not all economic growth from the township.



In the past several months township residents have attend the Three Rivers City commission meetings and on more than one occasion it has been announced by members of the city staff or commission that they were not to consider the comments of those people as they don't even live in the city. It is quite evident that the City of Three Rivers has a total disregard for the residents of Lockport Township, Lockport Township Officials, and any city residents in that area. Most disturbing is the disregard for the over 55 year old residents that purchased a condominium with the thought of having their retirement years be peaceful, and the residents of the nursing care facility that already have struggles in life to be disturbed by noises and bright lights and other items.

This case has already been appealed to the appellate court in Grand Rapids Michigan and is waiting on a court date. After that action was filed it is then when the City of Three Rivers filed a petition to your agency. It is lending the appearance of the scenario of a child going and asking both mom and dad for the same thing hoping that one of them is going to say yes and then play one parent for the other I would hope that you would find these actions insulting.

In closing, on behalf of the Lockport Township Officials and the residents of Lockport Township we plead that your agency would find that although substantial evidence may have been submitted for review in this case that the evidence that has been submitted by the City of Three Rivers is tainted with imprecise information and deny this request and recognize that Lockport Township was engaging to assist in the process not to prevent the process. I think that it has been clearly stated by many that they are not opposed to such a complex, but feel that the area in which they would like to locate is not a choice location and that the committee themselves have proved that there are other areas which would be suitable for such a complex. Therefore any empathy should be disallowed to the fact that the City of Three Rivers spent \$755,000.00 on land for a project that they had knowledge well in advance that there were large amounts of oppositions and concerns from residents in the immediate vicinity and even residents within the county that have been assured that this will be a public park for everyone to enjoy as to why it would not be more centrally located within the county and how the cost to maintain a complex of this size without it becoming a financial burden to the taxpayers of the county. In addition if this multi-million dollar sports complex should fail then there would be no remedy for this land to be returned back into the township and the city would then reap the benefits of any of the financial benefits for any future development. On behalf of the township we appreciate the time that you have taken to review our information and are in hopes that your decision will be to support Lockport Township and its residents as we highly object such annexation.

If you have any questions, feel free to contact me.

Respectfully Submitted,



Douglas M. Kuhlman
Zoning Administrator